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A PROFESSIONAL CORPORATION

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October 1, 2014

### **Via Email**

Jack H. Rubens  
Sheppard, Mullin Richter & Hampton LLP  
333 South Hope Street, 43<sup>rd</sup> Floor  
Los Angeles, CA 90071  
**Email:** [jrubens@sheppardmullin.com](mailto:jrubens@sheppardmullin.com)

### **Re: Kinkisharyo LRV Production Facility**

Dear Mr. Rubens:

Thank you for your September 29 letter setting forth Kinkisharyo's three options for resolving Antelope Valley Residents for Responsible Development's ("AVRRD") appeal of Site Plan Review 14-003 ("SPR Approval") for Kinkisharyo's proposed manufacturing and assembly facility ("Project").

We carefully reviewed your letter. We understand your concern about initiating a new public CEQA process and your two options for constructing the plant in Palmdale. To accommodate your concern and to keep both options available, and in our continuing effort to work towards settling the environmental issues that are the subject of AVRRD's appeal, we propose the following terms. The goal of these terms is to fill the void left by the City of Palmdale ("City's") failure to perform any environmental review of the Project and thus failing to protect air quality, public health, biological resources and supplies of fresh water. These terms would not require the City to prepare a supplemental environmental impact report for the Project, but would instead address the issues in a simplified, focused process that does not create any new public environmental review process. If you agree to this simplified resolution, we would prepare a formal environmental settlement agreement:

### **AIR QUALITY and PUBLIC HEALTH**

- a. Kinkisharyo would retain an independent, air quality consultant, acceptable to AVRRD, to prepare a "Revised Air Quality and Public Health Analysis",

3106-033ev

which includes an analysis of and identification of mitigation for the Project and cumulative air quality and public health impacts and that adheres to current industry and regulatory standards.

- b. The Revised Air Quality and Public Health Analysis would estimate from the Project and, separately, from the Project in combination with the uses evaluated in the 1996 EIR for the Palmdale Business Park Center Specific Plan the following for toxics, volatile organic compounds, greenhouse gases, carbon monoxide, nitrogen oxide, sulfur oxide, PM10, PM2.5, and diesel particulate matter:

	Option 1	Option 2
<b>Construction:</b> On-Site Sources <sup>1</sup> and Mobile Sources <sup>2</sup>		N/A
<b>Operation:</b> On-Site Sources, <sup>3</sup> Off-Site Sources, <sup>4</sup> Mobile Sources <sup>5</sup>		

- c. The Revised Air Quality and Public Health Analysis would analyze and identify mitigation measures for the Project and cumulative impacts on public health from Valley Fever.
- d. The Revised Air Quality and Public Health Analysis would be provided to AVRRD for review and comment at least 30 days prior to approval of the

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<sup>1</sup> Includes emissions from all on-site sources, including during grading, earthmoving and other construction phases, such as during architectural coatings, road paving, construction of rail, etc.

<sup>2</sup> Includes emissions from all mobile sources, such as worker vehicle travel and heavy duty road trucks.

<sup>3</sup> Includes maximum combined short-term and long-term emissions of both on-site permitted stationary sources and on-site non-permitted sources, including non-booth use of solvents, welding, emergency generator, forklifts, etc.

<sup>4</sup> Includes emissions from electricity generation.

<sup>5</sup> Includes on-site and off-site mobile sources.

Project. Any comments would be provided to the consultant at least 14 days prior to Project approval.

- e. The independent consultant would revise the analysis consistent with AVRRD's comments to develop an accurate assessment of air quality and public health impacts and to identify mitigation measures to reduce such impacts and would provide the final Revised Air Quality and Public Health Analysis to AVRRD for review at least 7 days prior to approval of the Project.
- f. AVRRD would determine whether the final Revised Air Quality and Public Health Analysis has incorporated AVRRD's comments and, if it has, would provide the revised analysis to the City at least 4 days prior to approval of the Project.
- g. Concurrent with AVRRD's submission of the revised analysis to the City, Kinkisharyo would request that the City add any additional mitigation measures recommended in the Revised Air Quality and Public Health Analysis as conditions of approval to the SPR Approval.

#### BIOLOGICAL RESOURCES – APPLIES TO OPTION 1 ONLY

- a. Kinkisharyo would either transplant 51 Joshua Trees that its Native Preservation Plan states are suitable for transplanting and provide AVRRD with a Joshua Tree Monitoring Plan that identifies performance standards capable of ensuring the success of the transplanted trees for at least 10 years, or provide compensatory mitigation in the form of land acquisition at a ratio of 2 acres for every 1 acre impacted by the Project.

#### WATER SUPPLY – APPLIES TO OPTION 1 OR 2

- a. Kinkisharyo would provide AVRRD and the City with a letter from AVEK that AVEK has, as provided in the MOU, acquired a new water entitlement for the Project and that explains the source of the new water entitlement for the Project prior to approval of the Project.

#### ACTIONS BY AVRRD

Upon implementation of these provisions and City approval of the additional mitigation measures recommended in the Revised Air Quality and Public Health

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Analysis as conditions of approval to the SPR Approval, AVRRD would not further contest the SPR Approval.

AVRRD is pleased to present this alternative proposal that addresses Kinkisharyo's concerns about initiating a new public environmental review process. If you have any questions, please contact us at your convenience.

Sincerely,



Tanya A. Gulesserian

cc: Don Boss (By Email)  
Coby King (By Email)

TAG:clv