

MEMORANDUM OF LAW

DATE: April 13, 1990

TO: Councilman Ron Roberts

FROM: City Attorney

SUBJECT: Item 152 on Docket of April 16, 1990

Item 152 presents consideration of two (2) items: Subitem A is approving the plan for a short-term disinfection project and Subitem B is certifying that the Environmental Impact Report (E.I.R.) has been completed in compliance with CEQA (California Public Resources Code section 21000 et seq.).

This will confirm my oral advice to you at the Public Services and Safety Committee meeting of April 4, 1990 that certification of the adequacy of the E.I.R. is not the equivalent to or synonymous with approval of the project. *Hixon v. County of Los Angeles*, 38 Cal.App. 3d 370, 374 (1974); Guide to the California Environmental Quality Act, 1990 Edition. Rather, an E.I.R. is an informational document to be considered by public agencies and "certification" is but one step in the process.

15090. Certification of Final EIR.

The lead agency shall certify that:

- (a) The final EIR has been completed in compliance with CEQA; and
- (b) The final EIR was presented to the decision-making body of the lead agency and that the decisionmaking body reviewed and considered the information contained in the final EIR prior to approving the project.

Title 14 Cal. Admin. Code section 15090

Such certification does not circumscribe the agency's discretion in the project. To the contrary, it is after certification with its acknowledgment that all the information has been received that the public agency may proceed to make its final decision.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

TB:mb:605:(x043.2)

ML-90-51