

1 Rebecca L. Reed (Bar No. 275833)  
E-mail: rebecca.reed@procopio.com  
2 Justin M. Fontaine (Bar No. 323357)  
E-mail: justin.fontaine@procopio.com  
3 PROCOPIO, CORY, HARGREAVES  
& SAVITCH LLP  
4 525 B Street, Suite 2200  
San Diego, CA 92101  
5 Telephone: 619.238.1900  
Facsimile: 619.235.0398

6 Attorneys for Plaintiff  
7 Save the Park and Build the School

8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 SAVE THE PARK AND BUILD THE  
11 SCHOOL,

12 Plaintiff,

13 v.

14 NATIONAL PARK SERVICE; DAVID  
L. BERNHARDT, in his official capacity  
as Secretary of the United States  
15 Department of the Interior; DAVID  
VELA, in his official capacity as Director  
16 of the National Park Service; LISA  
MANGAT, in her official capacity as  
17 Director of the California Department of  
Parks and Recreation; and CARDIFF  
18 SCHOOL DISTRICT,

19 Defendants.

Case No. 3:20-cv-01080-LAB-AHG

**OBJECTIONS TO EVIDENCE  
FILED IN SUPPORT OF  
CARDIFF SCHOOL DISTRICT'S  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR PRELIMINARY  
INJUNCTION**

Date: July 20, 2020  
Time: 11:30 a.m.  
Ctrm.: 14A  
Judge: Hon. Larry Alan Burns

Complaint Filed: June 12, 2020  
Trial Date: Not set

1 Plaintiff SAVE THE PARK AND BUILD THE SCHOOL (“Plaintiff” or  
 2 “Save the Park”) respectfully objects to the following evidence filed in support of the  
 3 CARDIFF SCHOOL DISTRICT’s (the “District”) Opposition to Plaintiff’s Motion  
 4 for Preliminary Injunction:

5 **DECLARATION OF RANDAL L. PETERSON**

<b><u>MATERIAL OBJECTED TO:</u></b>	<b><u>GROUND FOR OBJECTION:</u></b>
<p>8 “With regard to the infiltration basins,                  9 these improvements are not just required                  10 for stormwater mitigation purposes. They                  11 have been specifically designed as grassy                  12 bio-swale type improvements that will                  13 both enhance and contribute to the                  14 District’s use of the playfields as well as                  15 recreational uses by the public. Both                  16 students during school hours and the                  17 community members during non-school                  18 hours will be able to play in these                  19 areas except during times of extreme                  20 inclement weather. During a heavy rain                  21 event, stormwater that previously drained                  22 to the entire playfield area, rendering it                  23 unusable, will instead be directed to the                  24 bio-swales, reducing the impact to the                  25 playfields, thus ensuring that the fields                  26 are more quickly available for use. The                  27 bio-swales are designed to temporarily                  28 collect stormwater and allow it to                  percolate into the ground, reducing                  discharge to the streets and adjacent                  ocean and filtering the stormwater                  naturally in the process. In addition, the                  bio-swales have been designed with                  boulders and other physical                  improvements intended to facilitate                  various play activities. These bio-swale                  type improvements are commonplace in                  the design and construction of public                  parks, especially within the City of                  Encinitas. For example, the Encinitas                  Community Park, a 44-acre city park                  built in 2015 and located less than one                  mile from Cardiff School, contains bio-</p>	<p><b>Improper Expert Testimony</b> (Fed. R. Evid. 702). Mr. Peterson is not a qualified expert with respect to the construction and design of stormwater improvements.</p> <p><b>Lacks Personal Knowledge/Lack of Foundation</b> (Fed. R. Evid. 602). Mr. Peterson lacks personal knowledge as to the design of the Encinitas Community Park and has failed to lay any foundation to support his contention that bio-swale improvements are “commonplace in the design and construction of public parks, especially within the City of Encinitas.”</p> <p><b>Irrelevant.</b> (Fed. R. Evid. 402). The stormwater management features at Encinitas Community Park is irrelevant to this action.</p>

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**DECLARATION OF RANDAL L. PETERSON**

<b><u>MATERIAL OBJECTED TO:</u></b>	<b><u>GROUND FOR OBJECTION:</u></b>
<p>swales that are exactly as those planned on the school site because the District has specifically followed the City Engineering Department design and construction standards.”  (Peterson Decl. at ¶ 37, ECF No. 13-2.)</p>	
<p>A true and correct copy of a diagram I created showing the locations of the residences of Plaintiff’s members is attached to the NOL as Exhibit 62.  (Peterson Decl. at ¶ 50.)</p>	<p><b>Lacks Personal Knowledge/Lack of Foundation.</b> (Fed. R. Evid. 602). Mr. Peterson lacks personal knowledge as to the members and/or directors of Save the Park and accordingly, lacks any personal knowledge as to the location of its members’ and directors’ residences.</p> <p><b>Speculative.</b> (Fed. R. Evid. 701). Mr. Peterson’s statements are incorrect and not rationally based on his perception.</p> <p><b>Irrelevant.</b> (Fed. R. Evid. 401, 402). The location of the residences of Plaintiff’s members is irrelevant.</p> <p><b>Prejudicial/Misleading.</b> (Fed. R. Evid. 403). Any probative value as to the location of the residences of Plaintiff’s members and/or directors is substantially outweighed by the undue prejudice to Plaintiff.</p>

**DECLARATION OF JILL VINSON**

<b><u>MATERIAL OBJECTED TO:</u></b>	<b><u>GROUND FOR OBJECTION:</u></b>
<p>Since becoming aware of this lawsuit, the reaction of the District’s parents, staff, and community has been overwhelming in its support for the District, its legal position, and for the safe and secure 21st century learning environment that the Project will provide. These groups have expressed their desire to support the District and the Project, as well as NPS’s approval of the conversion/boundary adjustment for the Project. These</p>	<p><b>Hearsay.</b> (Fed. R. Evid. 801). The statements made by the public, including letters and emails addressed to the District and an email from Nick Goldberg referencing an online petition constitutes inadmissible hearsay.</p> <p><b>Irrelevant.</b> (Fed. R. Evid. 401, 402). The reaction of the District’s parents, staff and community is irrelevant to the issues raised in Plaintiff’s Motion.</p>

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<b><u>DECLARATION OF JILL VINSON</u></b>	
<b><u>MATERIAL OBJECTED TO:</u></b>	<b><u>GROUND FOR OBJECTION:</u></b>
<p>communications have included letters and emails addressed to the District detailing support for the benefits that the Project will provide to both the students and the community, as well as expressing concern for the potential harms any additional Project delay will cause. To date, I have received in excess of 165 such communications from District parents and the community, including an email from Nick Goldberg dated July 9, 2020, that references an online petition supporting the District with over 2,100 signatures. True and correct copies of some of these communications, including Mr. Goldberg’s July 9th email are attached to the NOL as Exhibit 64. (Vinson Decl. at ¶ 35, ECF No. 13-3.)</p>	<p><b>Lack of Personal Knowledge/Lack of Foundation</b> (Fed. R. Evid. 602). Ms. Vinson lacks personal knowledge as to the referenced online petition.</p>

<b><u>NOTICE OF LODGMENT</u></b>	
<b><u>MATERIAL OBJECTED TO:</u></b>	<b><u>GROUND FOR OBJECTION:</u></b>
<p><b>Exhibit 62:</b> Diagram of Cardiff School Site Plan showing the location of the residences of Plaintiff’s members.</p>	<p><b>Authentication/Speculation.</b> (Fed. R. Evid. 901, 602). The diagram showing the residences of Plaintiff’s purported members is based on speculation and not supported by the personal knowledge of Mr. Peterson.</p> <p><b>Prejudicial/Misleading.</b> (Fed. R. Evid. 403). Any probative value as to the location of the residences of Plaintiff’s members and/or directors is substantially outweighed by the undue prejudice to Plaintiff.</p>
<p><b>Exhibit 64:</b> Multiple communications from District parents to Jill Vinson at the District, sent July 2020.</p>	<p><b>Hearsay.</b> (Fed. R. Evid. 801). The communications attached as Exhibit 65 to the District’s Notice of Lodgment constitute inadmissible hearsay.</p> <p><b>Irrelevant.</b> (Fed. R. Evid. 401, 402).</p>

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**NOTICE OF LODGMENT**

**MATERIAL OBJECTED TO:**

**GROUNDS FOR OBJECTION:**

The communications attached as Exhibit 65 to the District’s Notice of Lodgment are irrelevant to the issues raised in Plaintiff’s Motion.

DATED: July 14, 2020

PROCOPIO, CORY, HARGREAVES  
& SAVITCH LLP

By: /s/Rebecca L. Reed

Rebecca L. Reed  
Justin M. Fontaine  
Attorneys for Plaintiff  
Save the Park and Build the School