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December 7, 2016

VIA E-MAIL ONLY

Ronald K. Mullin
Mullin Law Firm
1355 Willow Way
Suite 110
Concord, CA 94520

**Re: Proposed Diablo MX Motocross Park – Noise Mitigation Measures and
Conditions of Approval**

Dear Mr. Mullin:

This matter will be coming back to the Board of Supervisors on December 13. Before that happens, I thought it might be constructive to see if we can make any progress in coming up with reasonable noise mitigation measures that would lessen the severe impacts of the proposed motocross facility on neighboring homes. Such measures would include the following:

1. Reducing the maximum allowable noise levels generated by the project from a DNL of 75 dB to those that were modeled and predicted in the noise study prepared for you by Wilson Irhig Associates, dated March 8, 2016 (the “WI report”). Most of the DNL results modeled by WI are significantly below DNL 75 dB. As you will recall, the WI report was peer reviewed by Illingworth Rodkin, which concluded that “the calculated noise levels were reasonable” based on the operating assumptions detailed in the WI report.

This point is analyzed in greater detail in a December 7, 2016 letter report by Jeremy Decker, P.E. of Charles M. Salter Associates, Inc., which I enclose herewith for your consideration. Based on the data and assumption used in the WI report, the maximum noise impacts of the Diablo MX project on adjacent residences may be limited as follows:

- (a) Limit race days to typical noise levels of DNL of 65 dB and hourly average levels of 70 dB.
 - (b) Limit practice and recreational riding days to typical DNL of 60 dB and hourly average levels of 65 dB; and
 - (c) Review and limit the quantity of simultaneous riders as appropriate to meet these limits.
2. Setting use parameters regarding use of the MX track and the oval track which are consistent with, and do not exceed, the numbers and assumptions that were used in the WI report.

In Sections 4.1 – 4.3 of its report, WI made the following assumptions for purposes of its noise modeling: (a) an average of 15 riders in each race on a weekend race day; (b) an average of 10 riders on the MX track over a period of four hours on a weekend practice day; (c) an average of five riders on the oval track over a period of two hours on a weekend practice day; (d) an average of five riders on the MX track over a period of 1.5 hours on a weekday practice day; and (e) an average of three riders on the oval track for one hour on a weekday practice day. These levels should be adhered to here.

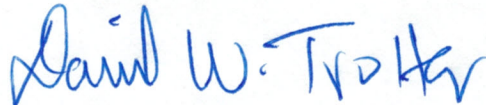
3. With the exception of “Friday and Saturday Night Under the Lights”, setting operating hours for the Diablo MX facility from 9:00 a.m. to 6:00 p.m. or sundown, whichever comes first. This will restore peace and quiet enjoyment to Diablo MX’s neighbors an hour sooner each day. By 6:00 p.m., the residents around the facility will have returned home from work, and should be permitted to venture outside and enjoy their property in a quiet ambient environment after that time.
4. Diablo MX to undertake 24/7 noise monitoring during the first year of operations of the motocross facility, with measurements taken at residential locations adjacent to the Diablo MX property line. My clients are prepared to provide access to their properties for purposes of placing any monitoring equipment.
5. Providing a calendar of racing events to adjacent homeowners at least six months in advance. We would be open to having a discussion about noticing for the rescheduling any racing events that have to be cancelled due to adverse weather conditions.
6. Encouraging use of the motocross facility by quieter electric-powered motorcycles and equipment, and considering a future phase-out of gas-powered motorcycles for practice activities.

7. No use of the Diablo MX facility by motorcycles with much louder, two-stroke engines.
8. Agreeing that there will be no motocross facility operations or riding on APN 003-020-047, which is the parcel adjacent to the Morain/Glennon residence at 130 Walnut Boulevard. That parcel is outside the boundaries of the 1998 County use permit area as well as the current application. It also was the site of the recent fire which was the subject of testimony at the November 15 hearing before the Board of Supervisors. Any existing motocross tracks on APN 003-020-047 are unpermitted and should be removed.

In the proceedings before the County, Diablo MX and its owners have repeatedly expressed a desire to be good neighbors. Agreeing to these or similar noise mitigation conditions would go a long way toward demonstrating that this is a genuine desire on their part.

Please don't hesitate to call me to discuss further. Thank you.

Very truly yours,



David W. Trotter

Enclosure

cc: Hon Mary N. Piepho (w/encl.) – via e-mail
Gary Kupp (w/encl.) – via e-mail
Jeremy Decker, P.E. (w/encl.) – via e-mail
Clients (w/encl.) – via e-mail