Message

From: Gillam, Laura Haynes (EPW) [Laura_Gillam@epw.senate.gov]
Sent: 3/2/2022 10:11:58 PM
To: Gill, Sonam [Gill.Sonam@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Commins, Zac (Padilla) [Zac_Commins@padilla.senate.gov]
CC: Swig, Sarah (Padilla) [Sarah_Swig@padilla.senate.gov]
Subject: RE: Irvine's ongoing public health crisis

I would like a contact for someone in Region 9, who can talk to these folks about options they may have under the Clean Air Act or other options. They seem to have been disappointed with their interactions with SCAQMD, so I'm not sure how connecting them with the SCAQMD communications director would be helpful. Thank you.

From: Gill, Sonam <Gill.Sonam@epa.gov>
Sent: Wednesday, March 2, 2022 5:06 PM
To: Niebling, William <Niebling.William@epa.gov>; Commins, Zac (Padilla) <Zac_Commins@padilla.senate.gov>; Gillam, Laura Haynes (EPW) <Laura_Gillam@epw.senate.gov>
Cc: Swig, Sarah (Padilla) <Sarah_Swig@padilla.senate.gov>
Subject: RE: Irvine's ongoing public health crisis

Hi all,

The best POC's at South Coast are below.

Nahal Mogharabi
Director of Communications
Office: 909-396-3773
Cell: 909-837-2431
E-mail: nmogharabi@aqmd.gov

Kim White
Senior Public Information Officer/Web Development
Office: 909-396-2598
E-mail: kwhite@aqmd.gov

Please let me know if you have any additional questions. Thanks!

Sonam

From: Niebling, William <Niebling.William@epa.gov>
Sent: Wednesday, March 2, 2022 1:35 PM
To: Commins, Zac (Padilla) <Zac_Commins@padilla.senate.gov>; Gillam, Laura Haynes (EPW) <Laura_Gillam@epw.senate.gov>
Cc: Swig, Sarah (Padilla) <Sarah_Swig@padilla.senate.gov>; Gill, Sonam <Gill.Sonam@epa.gov>
Subject: RE: Irvine's ongoing public health crisis

I think that South Coast might be the right place to start. Sonam, copied, can provide contacts if you don't have them.

From: Commins, Zac (Padilla) <Zac_Commins@padilla.senate.gov>
Sent: Wednesday, March 2, 2022 1:49 PM
To: Gillam, Laura Haynes (EPW) <Laura_Gillam@epw.senate.gov>; Niebling, William <Niebling.William@epa.gov>

Cc: Swig, Sarah (Padilla) <Sarah_Swig@padilla.senate.gov>
Subject: RE: Irvine's ongoing public health crisis

Looping in my colleague Sarah.

Zac Commins
Policy Advisor
Office of Senator Alex Padilla
112 Hart Senate Office Building
Washington, DC 20510
202.224.3553

From: Gillam, Laura Haynes (EPW)
Sent: Wednesday, March 2, 2022 1:20 PM
To: Niebling, William <Niebling.William@epa.gov>
Cc: Commins, Zac (Padilla) <Zac_Commins@padilla.senate.gov>
Subject: FW: Irvine's ongoing public health crisis

I'm getting pinged by the folks below, is there anyone in the air office or region office that could reach out to Kim and her group?

From: Kim Konte <kim@nontoxicneighborhoods.org>
Sent: Wednesday, March 2, 2022 1:12 PM
To: Gillam, Laura Haynes (EPW) <Laura_Gillam@epw.senate.gov>
Cc: NTN Advisors <advisors@nontoxicneighborhoods.org>; Lesley Tan <stop.asphalt.pollutants@gmail.com>; Kevin Lien <Ex. 6 Personal Privacy (PP)
Subject: Re: Irvine's ongoing public health crisis

Hi Laura,

AAA's HRA was rejected(again) yet AAA continues to operate with impunity and without consequence other than to our community. We have now had two back-to-back days of noxious asphalt odors flooding our schools and community yet nothing is being done to keep AAA accountable and compliant.

Can you please help us understand what rights the community has against major polluters that fail to be compliant with both the "Hot Spots" Act as well as the Clean Air Act?

We look forward to hearing from you!

In Gratitude,

Kim Konte
NON TOXIC NEIGHBORHOODS | OUR WORK
IG: @nontoxicneighborhoods | FB: nontoxicneighborhoods | M: 843-816-3085

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On Fri, Feb 25, 2022 at 12:27 PM Kim Konte <kim@nontoxicneighborhoods.org> wrote:

Hi Laura,

The air was bad again today and our elected officials from the city level on up have failed to get any safeguards in place from this non-compliant polluter that should have been listed as a Title V Facility per rule 3001 of the Clean Air Act four years ago.

Kids are getting sick and we need help!

We look forward to hearing from you!

In Gratitude,

Kim Konte
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IG: @nontoxicneighborhoods | FB: nontoxicneighborhoods | M: 843-816-3085

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---------- Forwarded message ---------
From: **Kim Konte** <kim@nontoxicneighborhoods.org>
Date: Thu, Feb 24, 2022 at 10:57 AM
Subject: Re: Irvine's ongoing public health crisis
To: <Ex. 6 Personal Privacy (PP)>
Cc: <Laura_Gillam@epw.senate.gov>, <miranda.peterson@mail.house.gov>, Baker, Dean <dbaker@hs.uci.edu>, Falcone, Anthony <Anthony.Falcone@mail.house.gov>, Mendoza, Cody <Cody.Mendoza@mail.house.gov>, Lesley Tan <stop.asphalt.pollutants@gmail.com>, Kevin Lien <Ex. 6 Personal Privacy (PP)>, <dsgamiles@argos-sci.com>

Dear Congresswoman Katie Porter,

In desperation and bewilderment, we are writing to you about the continued lack of response on this issue impacting children and families in your district. As we have shared, AAA received 3 NOVs within 11 days - yet AAA continues to operate with impunity and floods our schools and community with noxious asphalt odors and harmful toxins.

As reported yesterday, we have partnered with Argos Scientific. Argos is the company that provided the residents in Porter Ranch living next door to the nation's worst natural gas leak that provided real-time air monitoring. Argos has generously offered to provide our community with the same. Including an open-path UV DOAS air monitoring system and a meteorological station for the ambient air evaluation of gases including benzene, naphthalene, sulfur dioxide, and other gases commonly associated with emissions from asphalt plants. Argos has found these systems to be quite effective in identifying and quantifying emissions from facilities such as these. Data from the system would be reported in real-time to a public access website specifically designed for the community. To ensure the highest level of confidence in the data collected by the systems, Data Quality Indicators (DQI), including but not limited to detection limits, accuracy, precision, bias, and other relevant parameters, will be based on guidance documents issued by SCAQMD as part of their Rule 1180 refinery fence-line and community air monitoring program. In addition, Argos will provide operational support and a real-time website to the community at no cost.

We have been fighting for air that's safe to breathe now for over three years, and yet we still do not have any safeguards in place for our children. We will be taking the same action as the Porter Ranch community did and will have real-time environmental reporting from the largest non-compliant polluter of group one carcinogens(per SCAQMD) online in four weeks.

Did you see the news concerning the Clean Air Act and Tesla? **Tesla fined $275,000 for violating Clean Air Act at Fremont factory**
The laws Tesla broke are meant to protect people around the nation from hazardous air pollutants that are "known or suspected to cause cancer or other serious health effects," including the coating materials used at Tesla's factory, which contain ***formaldehyde, ethylbenzene, naphthalene, and xylene,*** *the EPA said.*

Please note that AAA emits the same carcinogens into our community - **formaldehyde, ethylbenzene, naphthalene, and xylene! In 2019 alone, AAA's "self-reported"** Formaldehyde Annual Emissions = 202.097 lbs

"***People living in communities that are near sources of hazardous air pollutants may face significant risks to their health and environment,"*** *the EPA said.*
"Today's enforcement action against Tesla reflects EPA's continued commitment to ensure compliance with federal clean air laws," ***said EPA Pacific Southwest Regional Administrator Martha Guzman.*** *"EPA takes seriously every company's obligation to safeguard our environment and protect our most vulnerable communities."*

*"**The Clean Air Act** is emphatically clear that EPA has both the authority and obligation to regulate dangerous air pollution like greenhouse gases and protect public health. Anyone arguing to the contrary is peddling fabrications that dismiss both the text and the history of the law. I'm proud to stand with my colleagues in fighting to uphold the law, the will of Congress, and Americans' right to clean air." - Chair Pallone.*

In Gratitude,

Kim Konte
NON TOXIC NEIGHBORHOODS | OUR WORK
IG: @nontoxicneighborhoods | FB: nontoxicneighborhoods | M: 843-816-3085

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On Tue, Feb 22, 2022 at 8:30 AM Kim Konte <kim@nontoxicneighborhoods.org> wrote:

Dear Congresswoman Katie Porter,

What is the purpose of the Clean Air Act if it's not enforced? Access to air that's safe for our children to breathe should not be a luxury, it should a basic human right.

Best,

Kim Konte
NON TOXIC NEIGHBORHOODS | OUR WORK
IG: @nontoxicneighborhoods | FB: nontoxicneighborhoods | M: 843-816-3085

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On Wed, Jan 26, 2022 at 6:45 AM Kim Konte <kim@nontoxicneighborhoods.org> wrote:

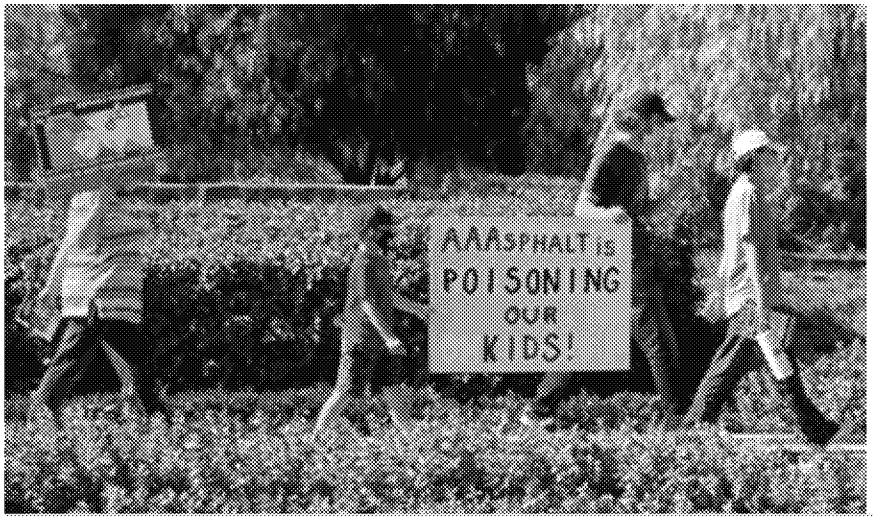
Dear Congresswoman Katie Porter,

We need help! All American Asphalt has received three NOVs in 11 days. Yet AAA continues to operate with impunity and continues to flood our schools and community with noxious asphalt odors and harmful toxins. After three years of fighting for air, that's safe to breathe for our children we still do not have any safeguards in place to protect them! As you know, children are not small adults, and they are at greater risk of environmental harm. Moreover, these exposure events are cumulative and irreversible.

We are writing to you in desperation and in bewilderment at the continued lack of response from you and your office. I have had positive meetings with Anthony regarding utilizing holistic planned grazing as a tool to prevent catastrophic wildfires, including a site visit. Unfortunately, it went nowhere(yet).

This public health crisis is impacting over 30,000 Irvine residents and checks many boxes concerning issues you are passionate about:

- OC Families First are fighting for clean air in your hometown from the largest polluter of group one carcinogens in the City of Irvine(source SCAQMD).
- Keeping Polluters Accountable as chair of the Natural Resources Oversight Subcommittee
- 6PPD Quinone crumb rubber is entering our watersheds and soil in a designated nature preserve as well as our gravity run reservoir that runs directly through AAA.
- **SCAQMD/AAA is multiple years late with their Title V application per rule 3001? AAA's (2018 & 2019 VOC emissions) at the Irvine location alone should have already required AAA to be listed as a Title V Facility! http://www.aqmd.gov/docs/default-source/permitting/title-v/title-v-issued-active-facilities.pdf?sfvrsn=30**
  "Title V is a federal program designed to standardize air quality permits and the permitting process for major sources of emissions across the country. The name "Title V" comes from Title V of the 1990 federal Clean Air Act Amendments, which requires the Environmental Protection Agency (EPA) to establish a national operating permit program. Accordingly, EPA adopted regulations [Title 40 of the Code of Federal Regulations, Chapter 1, Part 70 (Part 70)], which **require states and local permitting authorities to develop and submit a federally enforceable operating permit program for EPA approval.**



SCAQMD Monitored "Large" Facilities in Irvine – 2020 Facility Emissions

Facility	VOCs (tons)	Benzene (lbs)	Chromium Hexavalent (lbs)	Formaldehyde (lbs)
All American Asphalt	7.9	221.6	0.27	1,781.0
Powerman Power	9.0	0	0	1.3
Marutchan	6.4	2.5	0	5.2
Allergan	2.1	2.4	0	17.0
Braun Medical	30.2	10.0	0	440.0
UC Irvine	1.0	0	0	1.3

Source: SCAQMD Facility INformation Detail (F.I.N.D.) Tool

We are not interested in finger-pointing as we do not have time for that. Children are getting sick; the focus needs to be on the action that can be taken today to protect our children from any further exposure events from the largest polluter of known carcinogens in the City of Irvine.

We are asking for your help to lesson this colossal failure of public trust and help with this public health crisis we are living in; we need swift action taken by both the State of California and the Federal Government to finally take action in the right direction concerning this public health crisis. We need the Federal Government and the State of California to help the children and residents impacted by this non-compliant and underregulated major polluter! All American Asphalt should have already been federally regulated since 2019 based on their VOC emissions alone that exceeded the Clean Air Act's thresholds. No amount of regrets can fix the exposure that has already happened; we need concrete action.

The South Coast Air Quality Management District and All American Asphalt are in violation of rule 3001 of the Clean Air Act. This law authorizes the Environmental Protection Agency to establish National Ambient Air Quality Standards to protect public health and public welfare and to regulate emissions of hazardous air pollutants. The EPA's authority under the Clean Air Act federally regulates stationary sources. Specifically, stationary sources that contribute significantly to, endangering public health or welfare. Per rule 3001 of the Clean Air Act, both the South Coast Air Quality Management District and All American Asphalt are in violation of the Clean Air Act's Title V Facility status. **Based on the facility's self-reported emissions through the South Coast AQMD's Annual Emissions Reporting program, the reported emissions in 2018 exceeded the threshold of 10 tons threshold in 2018 with 10.253 tons. SCAQMD needs to be held accountable for failing to notify AAA in a timely matter. SCAQMD waiting until 2/4/2021**

to notify AAA is an example of gross negligence and malfeasance. Failure to be compliant with the Clean Air Act's Title V permitting process deems SCAQMD's permit approval that the Power of Attorney failed to consider, effectively rendering all permits invalid that has been awarded to AAA outside of the Clean Air Act.

SCAQMD and the City of Irvine have made North Irvine a Sacrifice Zone! SCAQMD also "falsified" and covered up AAA's crumb rubber mobile permit and we need your help! This short video highlights what SCAQMD did - https://vimeo.com/646280296

> III. Conclusion
>
> The South Coast AQMD permit approval for the All American Asphalt facility in Irvine was defective and premature at best. Numerous flaws in the SC AQMD permit evaluation, including serious flaws in the sufficiency of the AAA source testing are present. These breaches include:
>
> - failure to source test and evaluate AAA operations at full capacity of production, given the Carbon Adsorber remediation system designed for a much lower capacity
> - failure to test and measure numerous other sources of fugitive emissions, such as outside storage and conveyance systems
> - failure to evaluate the undersized carbon adsorption system for emissions during start-up and shut-down processes and for protections for malfunction emissions;
> - failure to fully evaluate all constituents of toxic emissions (HC, VOCs, sulfurous compounds, PM2.5, metals)
> - Failure to properly consider the impact of so-called short-term but continuous emissions on sensitive populations like children and failure to include meaningful, enforceable conditions for safe transit of AAA's product for children and the community
>
> For the foregoing reasons, this petition should be allowed to proceed to hearing and requests for dismissal be denied.

Access to air that's safe for our children to breathe should not be a luxury, it should a basic human right. We look forward to hearing from you concerning this public health crisis that's impacting children in your hometown!

In Gratitude,

Kim Konte
NON TOXIC NEIGHBORHOODS | OUR WORK
IG: @nontoxicneighborhoods | FB: nontoxicneighborhoods | M: 843-816-3085

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Kevin Lien, MD

Ex. 6 Personal Privacy (PP)

October 2, 2019

U.S. Congresswoman Katie Porter
2151 Michelson Drive
Suite 195
Irvine, CA 92612

Dear Congresswoman Katie Porter:

As concerned and exasperated community members of Irvine, we are seeking advice and advocates on our behalf for two issues: the failure of the home builders and the Irvine Company to disclose to home buyers the proximity of the All American Asphalt plant and the resultant adverse impact on the community, specifically the grave repercussions of the pollutants emanating from the All American Asphalt plant located in the northern part of Irvine as related to the community members' health and quality of life.

My name is Kevin Lien and my family resides here in Eastwood Village. On behalf of other families in this area, including, among others, Eastwood Village, Orchard Hills, Stonegate, Woodbury, and Northwood Pointe, I am writing in regard to the asphalt odors and fumes to which our families have been exposed in the past year. We moved into our new home a year ago in July 2018. We have since been inundated by strong asphalt fumes and other chemical odors. The pollutants predominantly occur after hours, usually after 10 pm and may occur anytime overnight into the early morning hours. These overwhelming, noxious asphalt and chemical odors awaken us at night, flooding our homes and blanketing our neighborhood.

We have invested, at significant cost, in equipment to monitor and mitigate our air quality, including 15 air purifiers, as well as 6 indoor air quality monitors to measure volatile organic compounds (VOCs), which usually measure 700 parts per billion (ppb) to over 1000 ppb when the asphalt odor and fumes enter our house. Studies suggest a causal link between elevated VOCs, especially at levels above 300-500 ppb, and serious health consequences, both immediate and long term, from minor to more serious health issues including respiratory problems, kidney damage, liver disease, and cancer. Likewise, other studies have shown that asphalt fumes do indeed cause adverse health effects, from minor to serious, including cancer. Again, these odors and fumes occur randomly overnight, even on weekends and sometimes during the day. Even if the concentrations of the pollutants in the air are below the threshold of our olfactory system, it does not negate the fact that the pollutants, including carcinogens, are present. In general, most carcinogens are additive; in other words, carcinogens have a lifelong cumulative effect.

Initially, I contacted our homebuilder's customer care representative and the representative of our HOA. Both were purportedly oblivious to this situation and said construction does not occur after hours. After enduring with the incessant fear of unhealthful air and suffering through numerous incidents of intolerably noxious asphalt fumes during the summer and fall, on October 31, 2018, I finally sent out an email to various agencies within the city of Irvine (5 city email addresses: info@cityofirvine.org, cm@cityofirvine.org, pw@cityofirivne.org, cs@cityofirvine.org,

and cd@cityofirvine.org) and to two email addresses at the Irvine Company, from which I obtained on their website (webmaster@irvinecompany.com and info@villagesofirvine.com). Of note, the Irvine Company has never responded to my inquiries. I received responses from three city officials within the next two days, specifically from Pamela Baird of Irvine City Manager John Russo's office, from Charles Kovac who is Acting Code Enforcement Supervisor of Community Development, and from Joe Dillman, who is Street Maintenance Superintendent.

Mr. Dillman ultimately determined that the All American Asphalt company on Jeffrey Road was running operations overnight, resulting in these noxious odors and fumes. I was shocked and bewildered at this information, as I had no previous knowledge of this asphalt plant. We purchased and moved into our house completely unaware of this business entity. No one informed us of this possibility. Frustratingly, the city of Irvine, the home builder, and the HOA have all stated it is not within their purview nor jurisdiction to deal with this.

The city official, Mr. Dillman, contacted the South Coast Air Quality Management District (SCAQMD) on my behalf and directed me to that agency, to whom I have lodged numerous complaints about air quality, at least 40 times, if not more, to no avail. The agency states that they need at least 3 complaints before sending an investigator. By the time they usually get to my home, the odor has dissipated. SCAQMD continues to ask me to lodge complaints whenever this happens. They continue to respond to me by phone and state that they investigate the company, but nothing is rectified. The noxious odors and fumes continue to inundate us, to the detriment of our health and well-being.

I have asked SCAQMD to place air quality monitors in this area, even on my property, to document these adverse events. I have spoken to several inspectors, including Mr. Richard Poon, Mr. P. Homsey, Mr. J. Martinez, and several others. I have also sent an email and have spoken with their supervisor, Crystal Villanueva, at SCAQMD. After speaking with her superiors, they denied my request to place air monitors or to commence actions which will remedy this situation.

Officials at SCAQMD have been so resistant to investigating this further or to setting up air quality monitors. They have stated that there needs to be complaints from other households other than just my family. Hence, I was under the impression that no others were complaining this past year. I'm beginning to question their veracity and integrity since they have repeatedly informed me that I was the only one to have lodged complaints, which is disingenuous of them. I now realize that there are so many others, as demonstrated by several threads on the Nextdoor app as well as on Talk Irvine, an online web blog about the city of Irvine. I've informed SCAQMD of this, but they continue to refuse to proceed with meaningful action. Only recently have the investigators at SCAQMD been more forthright with me when I brought up the fact that there are several online web chat groups complaining about this issue, including almost two hundred people on the WeChat social messaging app who are actively involved in trying to find a remedy to this situation. I have since been in contact with several people who have been impacted by this. They have informed me that they have also been complaining and are actively involved with others who have signed affidavits with SCAQMD pertaining to specific complaints of the asphalt odor and fumes.

I write to you in desperation and in bewilderment at the continued lack of meaningful response from everyone I have contacted. I have spoken numerous times with SCAQMD via phone, as well as in person. Even if inspectors are available, it usually takes over an hour or the next day for them to respond to me by phone. Inspectors have visited my house several times, but each time it took them 2-3 hours to arrive. I do appreciate that inspectors have called and visited the company, but this has not changed the status quo. I don't understand the logic behind this continued nonsensical pursuit of complaints by sending inspectors to verify the odor when it has already

been established and validated numerous times that the odors and fumes exist and that the pollutants originate from the asphalt plant. I myself have lodged more than 40 complaints and spent an immeasurable amount of time communicating with officials at SCAQMD. From my discussions with fellow residents, the complaints must number in the hundreds, if not in the thousands, over the past year or so.

The apathy and indifference of the Irvine Company, the City of Irvine, the SCAQMD, the home builders, and the All American Asphalt company (I have been told by SCAQMD that they have been notified and been issued citations) do not obviate the need for action, since these gases and pollutants pose a health hazard to our communities. I do believe the Irvine Company and the home builders were devious, deceitful, and fraudulent for not disclosing to home buyers the existence of this asphalt plant and the adverse impact the asphalt plant's operations have on the health and well-being of community members.

The Irvine Company and home builders advertise and highlight the beauty, safety, amenities, and educational opportunities afforded to families who live here in Irvine, specifically in the newer developments of Eastwood and Orchard Hills, as well as in the more established communities of Stonegate, Woodbury and Northwood Pointe. Instead of living and flourishing in the idyllic and serene communities of northern Irvine, offering those within a sense of calm and a reprieve from the world's frustrations, as portrayed by the advertisements of the Irvine Company and the home builders, we are continuously exposed to unhealthful and noxious pollutants and are in constant vigilance to protect our families, especially the children. Both the Irvine Company and the home builders never advertised nor informed us of an active asphalt plant so close in proximity with the resultant emanation of toxic gases and pollutants on a near daily basis.

I've looked back at the documents which we signed during our home purchase, specifically the white report where they are required to disclose land uses and hazards. As you may be aware, during the process of purchasing a new home, the home builder is required to disclose certain things, especially issues which will impact the home buyers' health, well-being, and quality of life. However, the sales representatives with whom we worked only highlighted certain things, none of which mentioned the asphalt plant and its continued operations. Speaking with others who have been impacted, no one was aware of the asphalt plant. We buyers were never truly informed buyers. It is deceptive of the home builders and of the Irvine Company for not informing us of this asphalt plant and its detrimental impact on our community and health. We had no idea this company exists just north of Eastwood Village when we purchased our home.

In the disclosure (final white report) given to us by The New Home Company, the only mention of an asphalt plant is under the "Roads and Highways" section in which they mention that Jeffrey, Portola, and Irvine Blvd were used "by numerous trucks traveling to and from the Bowerman Landfill and other commercial operations - such as commercial agricultural operations and an asphalt batch plant - located north of Portola Parkway." I could not find any other information about the asphalt plant and its impact on our community. They do go into great detail about other things in the "Land uses and hazards" section including cell phone towers, power lines, natural gas lines, future roads, former and current agricultural use, detention basin, electrical substation, the landfill, water pump, fire stations, etc. and their potential impacts on health and quality of life. But there is no other mention of this asphalt plant. In reality, we were not given the opportunity to explore in detail what was disclosed during the signing of the documents. Frankly, it was a hurried and very cursory procedure.

This issue continues to negatively affect our health and quality of life in this community. I have urged my neighbors and fellow community members to continue to lodge complaints and to keep

records of each complaint until we can instigate change or until we can formulate a plan to address this issue. However, we are in much need of guidance and assistance in seeking a recourse to push through meaningful action to resolve this situation. The failure to disclose the proximity of this asphalt plant and the resultant adverse impact on the health and quality of life for our entire community are unacceptable. We must address the accountability and liability of those involved in the decision to allow the construction of homes in such close proximity to an asphalt plant, the selling of homes to unsuspecting buyers without full disclosure, and the adverse effects on the community's health and well-being.

Sincerely,

Kevin Lien, MD

Ex. 6 Personal Privacy (PP)

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Kim Konte
NON TOXIC NEIGHBORHOODS | OUR WORK
IG: @nontoxicneighborhoods | FB: nontoxicneighborhoods | M: 843-816-3085

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