

## Jomsky, Mark

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**From:** donald nanney <dcnanney@earthlink.net>  
**Sent:** Friday, May 10, 2019 7:27 PM  
**To:** Tornek, Terry; Hampton, Tyron; McAustin, Margaret; Kennedy, John; Masuda, Gene; Gordo, Victor; Madison, Steve; Wilson, Andy  
**Cc:** Jomsky, Mark  
**Subject:** City Council Agenda Item 17 (May 13, 2019). PLANNED DEVELOPMENT 36 - PASADENA GATEWAY MIXED-USE PROJECT 3200 EAST FOOTHILL BOULEVARD ("SPACE BANK")

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Mayor Tornek and Members of the City Council:

I never thought I would do this – put in a good word for the California Department of Toxic Substances Control (DTSC).

Questions have been raised about the ability of the DTSC to provide competent oversight of environmental response at Space Bank.

Real estate impacted with pollutants has been the focus of my environmental law practice for more than 30 years. I have had the opportunity (but not the pleasure) of working with the DTSC many times. In my experience, the only time the DTSC was not capable was for a site so large that it was taken over by the US EPA and became a federal Superfund Site (i.e., the Omega Chemical Superfund Site in Whittier, CA).

Space Bank is no Superfund Site. It is well within the capability of the DTSC to handle it.

Below is an excerpt from Planning Commission consideration of the Space Bank project a year ago. My views have not changed.

### Planning Commission Audio Transcript May 9, 2018

16:23 – 17:16 [Before start of public comment period]

**Commissioner Nanney:** I'd actually like to supplement the answer to that question since that's my area of law practice is environmental law. All of the documents, all of the studies and reports would be available to anybody online from the DTSC website and it's called the Envirostor, E-n-v-i-r-o-n-m-e-n-t-a-l, I think, Program. And you can see everything, essentially everything of relevance to the environmental conditions and the plans and the requirements that the DTSC is imposing. I would not wish the DTSC on anybody, so I think that it will be done very well to DTSC specifications.

2:02:35 – 2:04:29 [During discussion following public comment period]

**Commissioner Nanney:** Yes, I'd like to comment on the environmental concerns that have been raised in terms of the soil and groundwater contamination in particular, and the involvement of the DTSC. I said before I would not wish the DTSC on anybody. I've dealt with them many times and some of the comments that were made were suggesting that somehow the DTSC would allow unsafe conditions to remain after the remediation efforts such that it would not be suitable for residential use. I don't believe that based on my experience. I would not recommend that a client developer deal with the DTSC if they have a choice unless they really want a project that can be very confidently cleared by the environmental agency. And I don't know which way this applicant came from, whether they had no choice or whether they really wanted good clearance that would be unimpeachable. But I think that's what they'll end up with, with the DTSC. So I have no concerns about this project from the environmental standpoint. All of those conditions are

remediable, mitigatable. It just takes money and apparently they're willing to spend it to get it done. So I'm satisfied with that aspect of this.

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The comment letter recommended by City staff regarding the draft Removal Action Workplan appears to be well done. I support its approval by City Council and submission to DTSC.

Thank you,

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## Jomsky, Mark

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**From:** Ken Kules <kules.ken@gmail.com>  
**Sent:** Thursday, May 09, 2019 6:39 PM  
**To:** Jomsky, Mark  
**Cc:** Mermell, Steve; Bawa, Gurcharan; Dion, Mitch; Masuda, Gene  
**Subject:** May 13, 2019 City Council Agenda Item 17: Pasadena Gateway Mixed-Use Project 3200 E. Foothill Blvd. ("Space Bank")

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Please enter this comment in the administrative record.

The DTSC 12-11-2017 Removal Action Workplan at page 6 says:

*The Jourdan well was taken out of service in 1997 due to perchlorate detections above the Maximum Contaminant Level (Pasadena, 2016).*

I have discussed this with Mr. Ta (DTSC) and he told me that this information is from Pasadena Water and Power's 7-1-2016 Public Health Goals Report that says:

*Jourdan Well and Monte Vista Well exceeded the MCLs for perchlorate and nitrate and therefore were taken out of service and registered as inactive in 1997 and 2007, respectively.*

I have exchanged e-mails with the PWP Assistant General Manager for Water and he has indicated that:

*Jourdan Well was designated "inactive" by the State records in 1995. The earliest that I can find for Pasadena sampling on Perchlorate is 1997.*

Since Pasadena is the cited source in the RAW regarding perchlorate having been the reason for retiring the Jourdan Well and this information could be critical to site remediation strategies, Pasadena should correct the record in its comment letter.