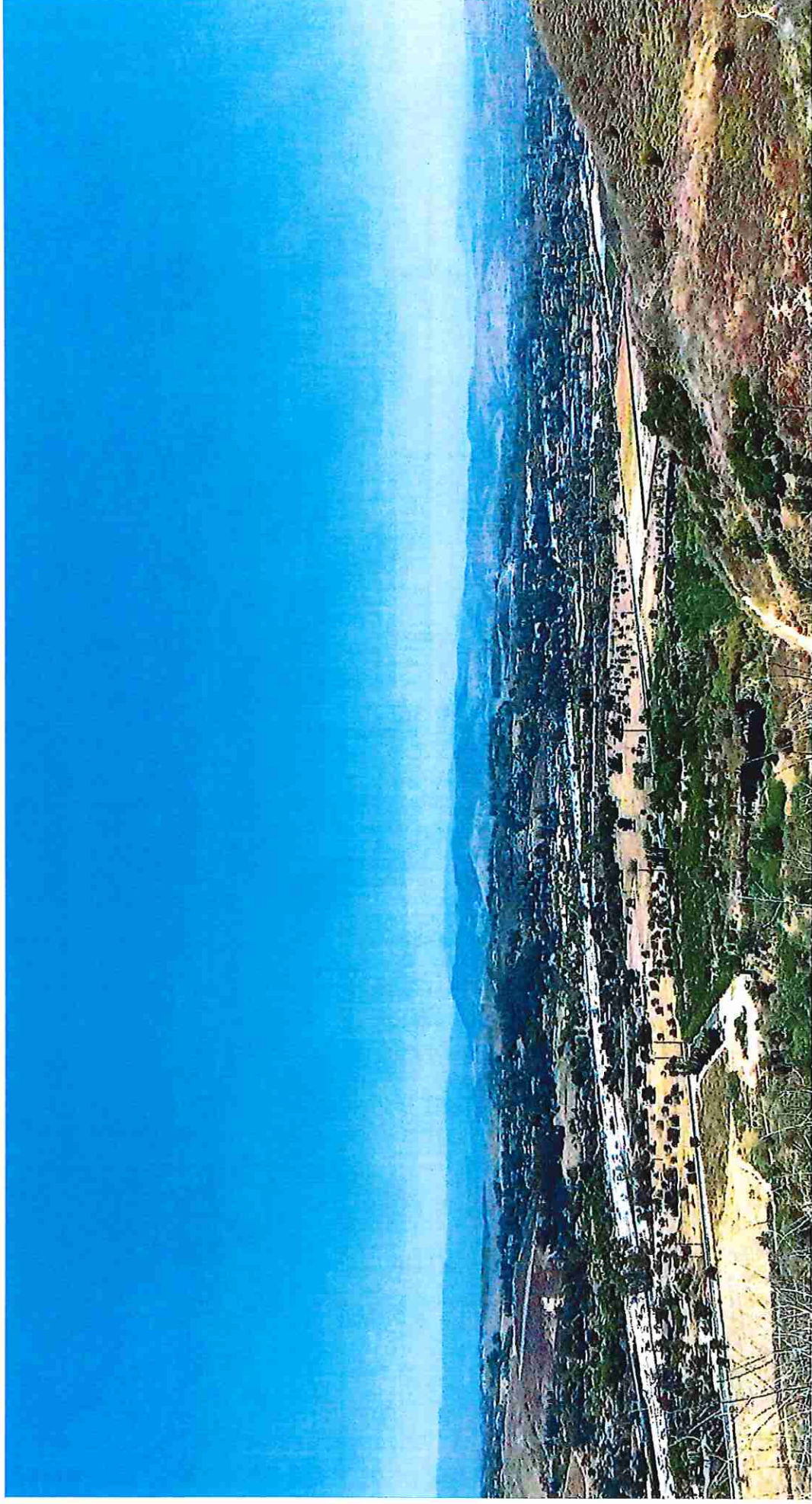
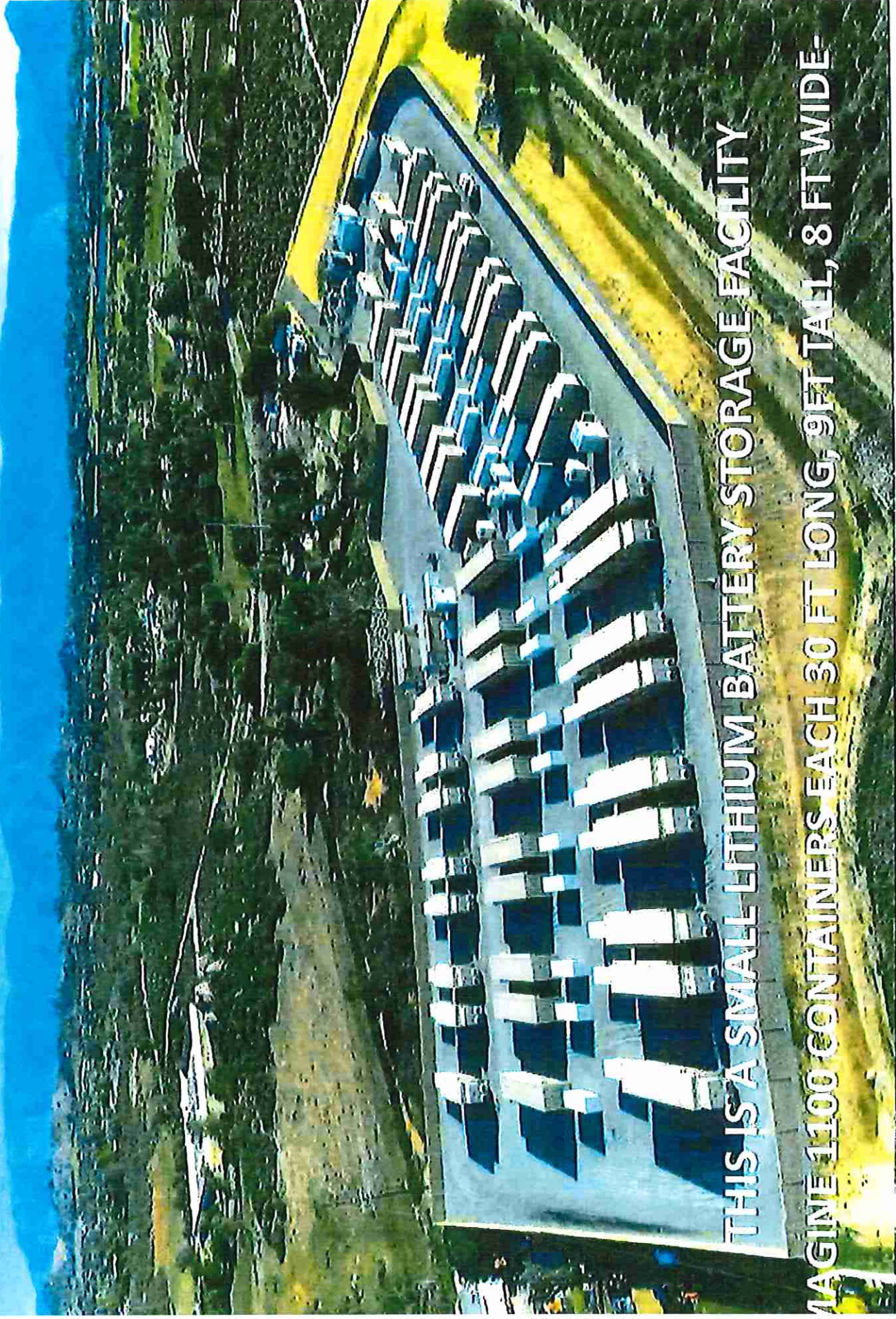


A LITHIUM BATTERY STORAGE FACILITY IN THIS VALLEY?



LITHIUM BATTERY FACILITY IN SAN JUAN CAPISTRANO?

HALF A MILE FROM LAGUNA NIGUEL ?



THIS IS A SMALL LITHIUM BATTERY STORAGE FACILITY

IMAGINE 1100 CONTAINERS EACH 30 FT LONG, 9FT TALL, 8 FT WIDE-

Figure 4
Example Battery Storage Container Illustration

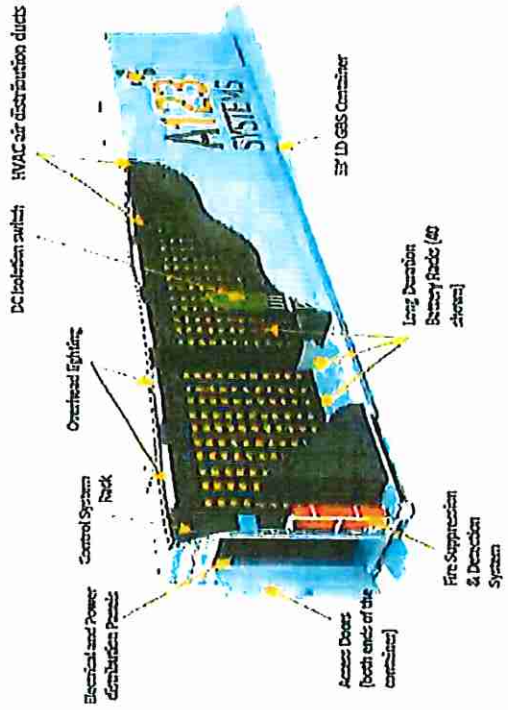


Figure 3 GBS-LD 53' Container Cutaway view (40 racks shown)

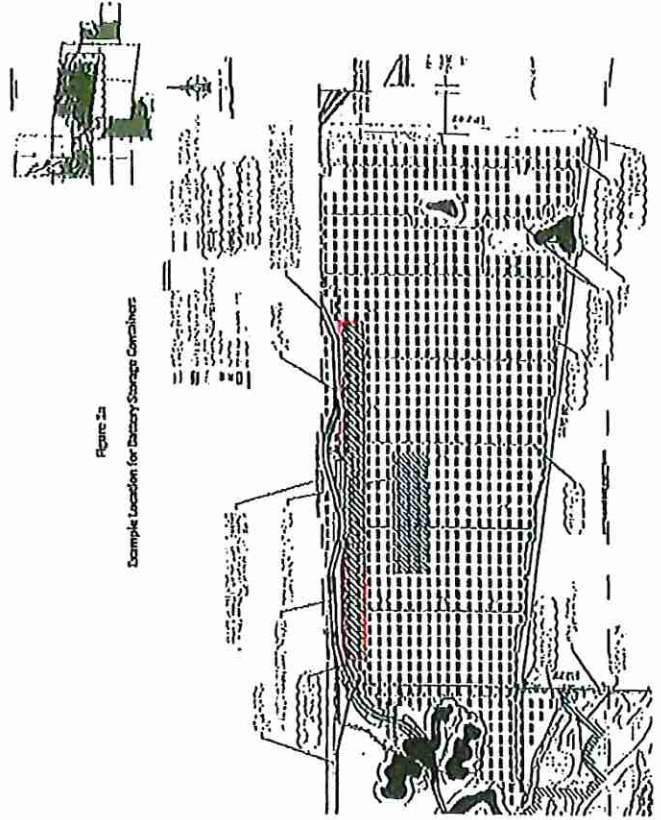
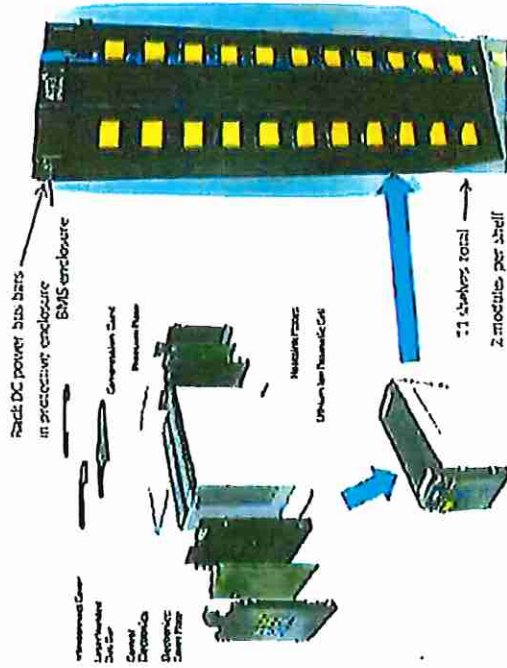


Figure 2a
Example Location for Battery Storage Containers

Figure 5
Lithium Ion Battery Pack (Typical)





What happens within one minute when the Lithium from a AA battery is dropped into water.

The City of San Juan Capistrano received a request for a permit to construct a Lithium Battery Storage Facility on land currently owned by Saddleback Church, situated approximately half a mile from the City of Laguna Niguel city limits, close to residential areas of San Juan Capistrano, schools, and the Mission Basilica San Juan Capistrano and the Doheny Beach. There is open space west of the proposed facility with a history of wildfires.

We are concerned about how a fire would impact the residential areas close by and the Mission Basilica San Juan Capistrano. The Mission Basilica is a historical landmark and a site of religious significance to the Roman Catholic Church in the Archdiocese of Orange and the Archdiocese of Los Angeles. This church is over 200 years old and a cornerstone of faith. We cannot increase its vulnerability to fire.

The proposed system would involve housing Lithium Iron Phosphate batteries in 1100 galvanized steel containers, each measuring 30 feet long, approximately 9 feet tall, and 8 feet wide, placed on a concrete pad. During our Board's interview with the representative from ENGIE North America and the owner of Power Flow Development, it was revealed that they were unaware of the gauge of the steel used to manufacture these containers. It was mentioned that the containers would have air vents for cooling and air-conditioning, and fire hydrants were proposed for fire suppression. They assured us that Lithium Iron Phosphate flames typically reach a height of only two feet. This might extend to acres of two-foot-high flames if the fire spreads.

The representatives told us that 80% of the Lithium can be used for charging for up to 8-10 years. That means 20% eventually cannot be recharged, it will be hazardous waste. 220 30-foot-long containers of Lithium waste at the 8-10 year mark and increasing annually is assumed. There is no way to recycle Lithium batteries.

Our concerns primarily revolve around the flammability and hazardous waste of Lithium-Iron Phosphate. This site will be a significant repository of Lithium waste. In recent memory, this ravine experienced several wildfires, ignited by homeless individuals, recreational activities, or unexplained causes. These fires propagate rapidly up the hillsides, posing risks to first responders and residents. While all previous wildfires have been contained due to the valiant efforts of OCFA, a Lithium-based fire presents unique challenges, as it cannot be extinguished with water and requires specialized extinguishing agents.

Furthermore, galvanized steel, which the containers are made of, is susceptible to rust in salt air environments. Given that this location is just 5 miles from the ocean, very close to Oso Creek which drains to the ocean, and experiences continuous exposure to salt air, salt air fog, and salt air rain, there is a risk of rust formation. Once rust begins to develop, additional openings in the containers would facilitate the entry of flammable materials,

not only through the air vents but also through small rust holes in the containers. The Center for Natural Lands Management is restoring the hillsides with densely-spaced desert sage bushes and other native plants. The current restoration covers tens of acres and will eventually cover over 200 acres. The air is filled with pollen, plant debris, dust, ash, etc. These flammable materials will be deposited into the air vents and holes continuously and will increase as the restoration continues.

If embers fly into a container, a days-long or possibly weeks-long fire could emerge, if multiple containers are lit by flying embers, a catastrophe will emerge. If an explosion occurs, it would be devastating. It is hard to predict what damage this amount of Lithium Iron Phosphate could cause.

Galvanized steel melts, will a Lithium fire melt the actual container? They need to address that.

Fire is a real concern. There are high-fire-risk areas nearby. The two-story homes at the bluff area are on small lots and fire would easily spread. There would be a loss of life at Crystal Cay, the condominium complex next to the Colinas Bluff Trail. There are over 300 one and two-bedroom units with carports and a large open parking lot. Many residents are low-income, Section 8 recipients, and Senior citizens. If fire invades the parking lots, cars will explode. There are carports, not garages, located underneath the units in this community which would create a fire hazard. Many residents are not fluent in English and come from countries where you do not answer the door if a uniformed person bangs on it demanding you leave. There is fear of being arrested. Our first responders would have to break windows or break down doors to rescue people. The stairs are outside and some seniors and Section 8 residents would need to be carried to safety while inhaling toxic smoke. Finally, there is one road with only two exits in this development, and possibly hundreds of cars exiting simultaneously. Loss of life is virtually guaranteed. While hosing down a container or several to prevent embers from flying from a container to other containers or the surrounding Open Space, may have some value, water from a fire hydrant uses potable drinking water. We have none to spare. They would need a utility company-sized storage tank filled with recycled water on site. Weekly hosing down the containers to remove salt deposits, dirt, and debris would be a good idea. Even with dosing the embers flying everywhere, they cannot put out a Lithium Ion fire with water.

Do they have fire insurance for this facility that protects the neighboring communities? My estimate is they would need \$500 million just to cover the private homes and condominiums at the western edge of the Colinas Bluff trail—more for the senior residence community businesses on Camino De Los Padres and more for the San Juan residents.

What about our fire insurance rates and our fire-hazard zones? A Lithium Battery Storage Facility would be a nightmare to the underwriters of an insurance company. The incidence of these fires is increasing. Please read the San Diego Tribune article of October 11, 2023, for details on several Lithium battery fires in storage warehouses and facilities. This facility is not a Lithium Cobalt Battery Facility but Lithium Iron Phosphate does catch fire and the containers have openings for cooling and could allow embers from a fire inside the container.

The California Fair Plan is oversubscribed now. Claims are being denied due to lack of funds. Fires are devastating to property tax revenues for years or even decades in some areas. This is a middle-class area threatened by wildfires coming up through the canyon as it is, 80% of the homes in our tracts have mortgages. We have to have fire insurance. The insurance carriers still underwriting fire insurance in California rely on us to not create more fire hazards. Understandably, they could refuse coverage for areas or cities near a storage facility of this proposed type and size.

Toxic waste is another matter. Every kind of Lithium batteries creates hazardous waste. The Superfund legislation at the Federal level requires polluters to clean up toxic waste. Do they have reserves for this? Have they computed the liability? Is there insurance we could insist they carry? We cannot bear this expense.

Compass/ENGIE plans to buy the Lithium from Asia but declined to name countries. Also, the containers would be sourced outside the USA. Finally, this is a French company. If we had to sue them, where would we sue? Federal Court? International Court? What are the reserves this company carries or will all liability be absorbed by SDG&E, Orange County, and San Juan Capistrano?

The reason we need this facility we were told is to close down a natural gas energy supplier. Natural Gas suppliers can be non-polluting but the association with fossil fuels is enough reason to shut them down. In exchange, we are getting toxic waste and the real possibility of unquenchable fires in a residential area?

We are not opposed to Lithium batteries or storage facilities. We are opposed to Lithium Battery Storage facilities within half a mile of densely populated residential areas, nearby historic sites and our ocean.

Lithium is not recyclable. 20% of these containers will not be usable in 8-10 years, their estimated life cycle according to ENGIE. That is 220 containers each 30' long of lithium batteries. We don't have toxic waste storage facilities or Lithium recycling plants. Lithium battery recycling presents a multifaceted challenge, primarily due to the

complex and costly nature of extracting valuable materials such as Lithium from spent batteries. While Lithium batteries offer undeniable advantages in energy storage, their end-of-life management requires comprehensive solutions to address environmental concerns and resource conservation. The lack of widespread infrastructure and standardized recycling methods further complicates the situation, resulting in a fragmented industry landscape.

The City of San Juan Capistrano voted against providing a permit for this proposed Storage Facility. This city then passed an Ordinance to prohibit the construction of these facilities. After being refused a permit, ENGIE/Compass went to the California Energy Commission to obtain the permit. The California Energy Commission has a site that is open to public comments and is considering issuing a permit:

<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=24-OPT-02>

We cannot permit this facility. There is plenty of desert land, far from the ocean air and densely populated communities. The only task is to connect to the grid. That is easily solved. The cost would add to the expense, but not as much as a Lithium fire would cost. Our community is vulnerable, the cities are vulnerable, the Mission Basilica San Juan Capistrano is vulnerable, and the ocean is vulnerable. This type of storage facility could work well in a desolate area. We are against this proposal for this area.

We implore you to advise the Energy Commission to deny the permit for this facility in this area or anywhere within 50 miles of our coastline or within 50 miles of a large residential community or city. We know we are in desperate need of electric energy suppliers but creating a toxic waste site in vulnerable residential cities is not the answer.

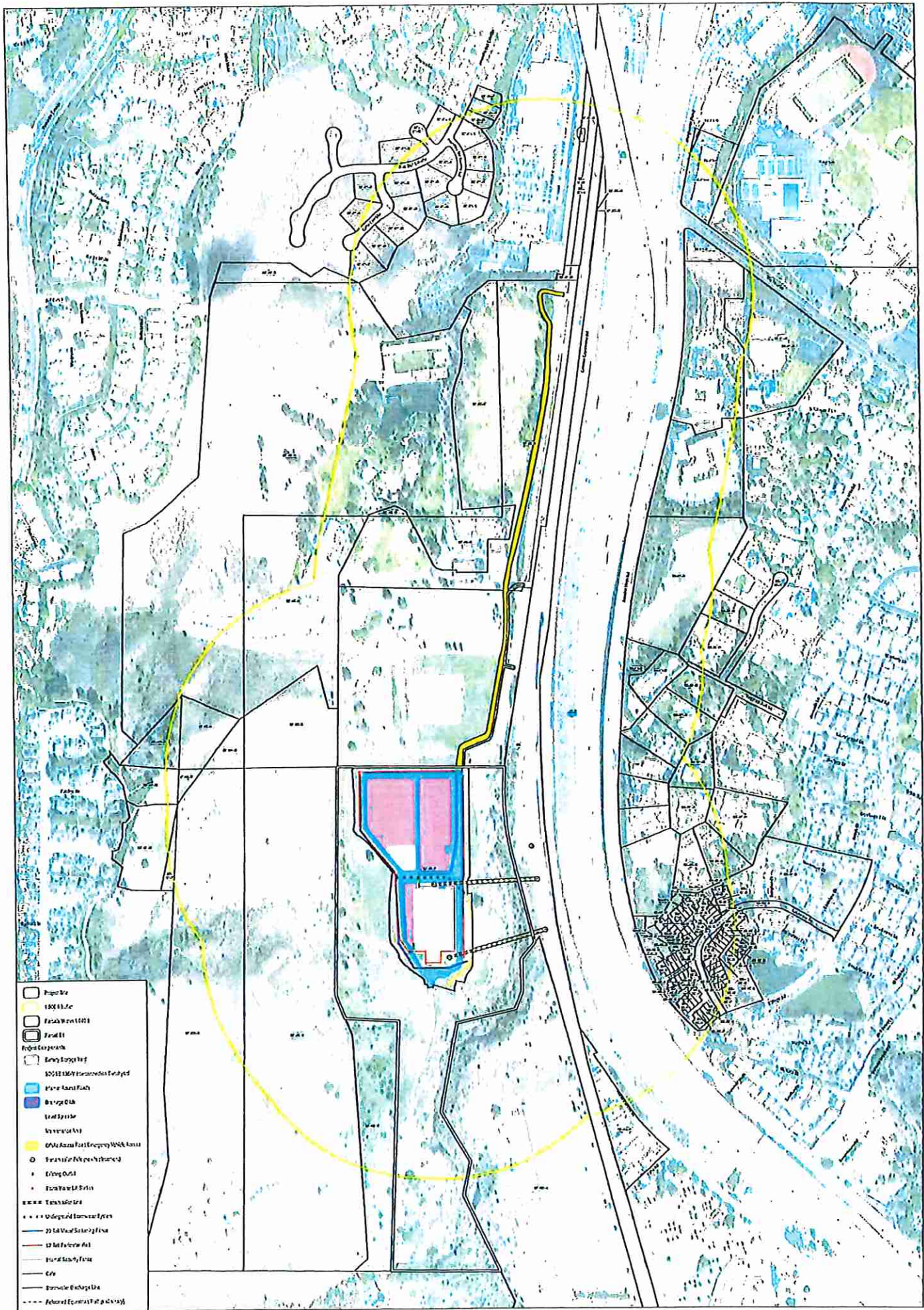
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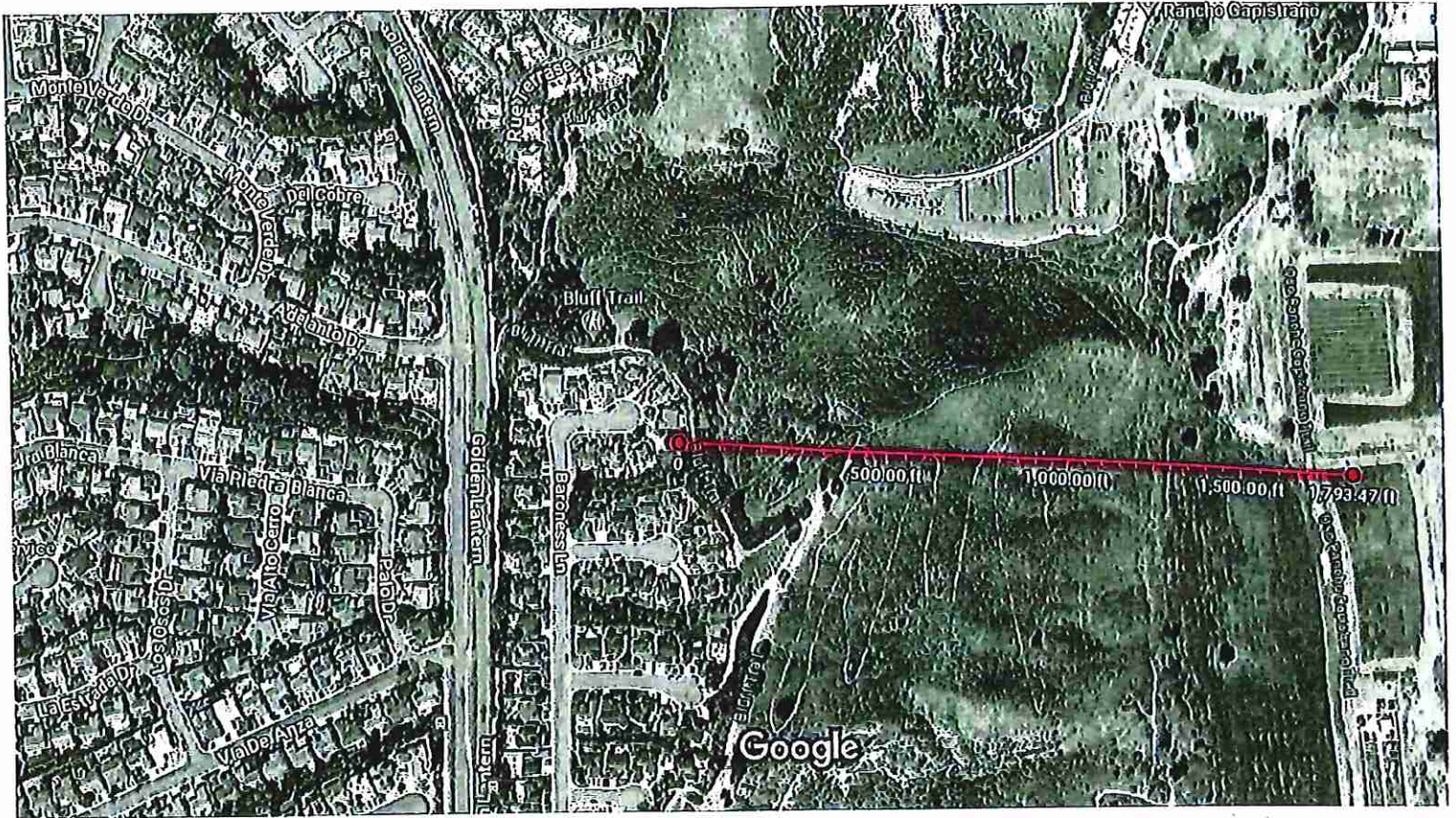
Cathleen Pryor

President

Laguna Heights Community Association, Laguna Niguel, CA 92677

Cathleen@cathleenpryor.com 949 230-1834



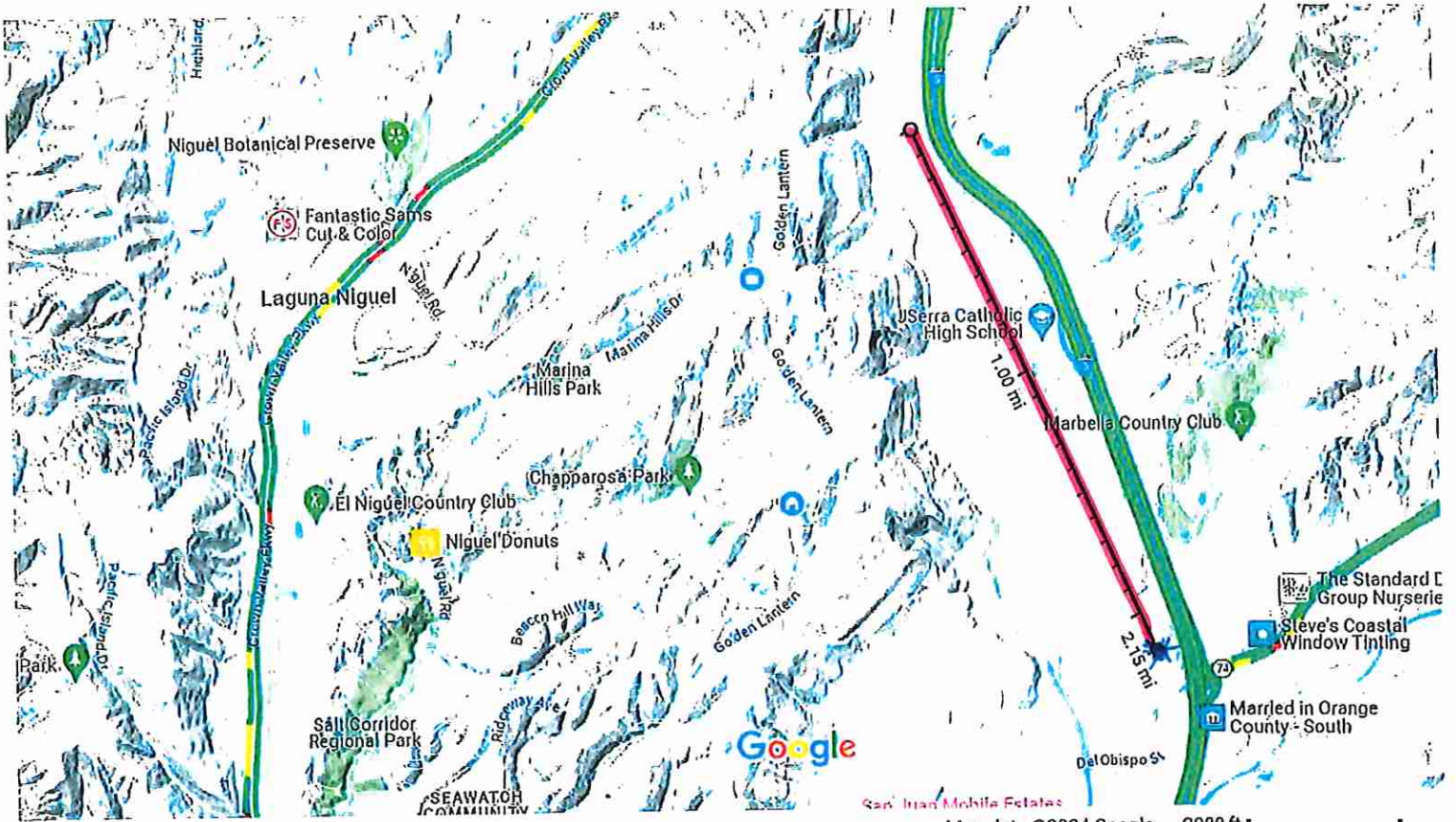


Imagery ©2024 Google, Imagery ©2024 Airbus, Maxar Technologies, Map data ©2024 200 ft

Measure distance

Total distance: 1,793.47 ft (546.65 m)

FROM DENSELY POPULATED TRACTS



Live traffic

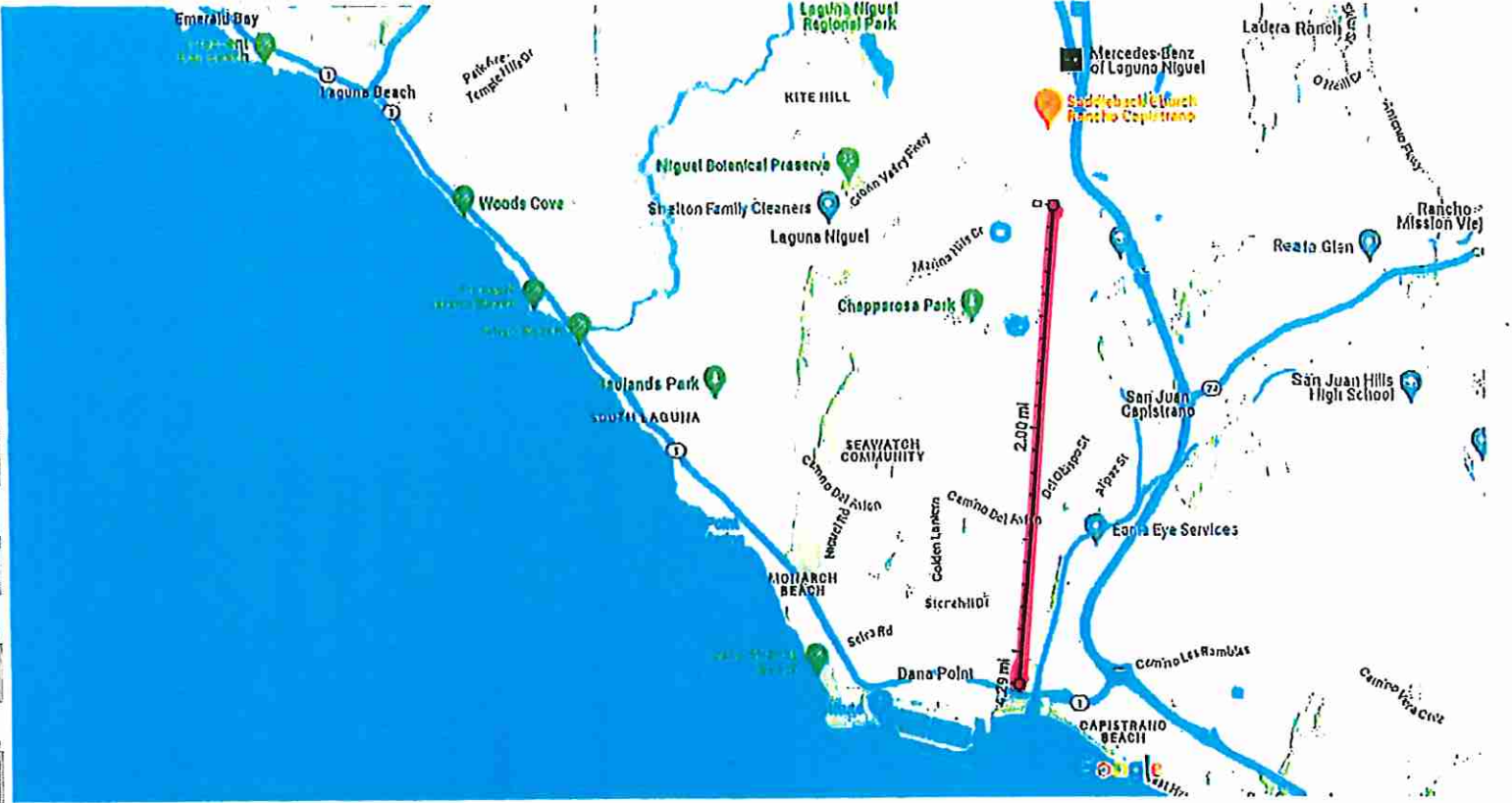
Fast

Slow

BASILICA

Measure distance

Total distance: 2.15 mi (3.47 km)



Map data ©2024 Google 1 mi

OCEAN



Saddleback Church Rancho Capistrano

4.8 ★★★★★ (99)
Church

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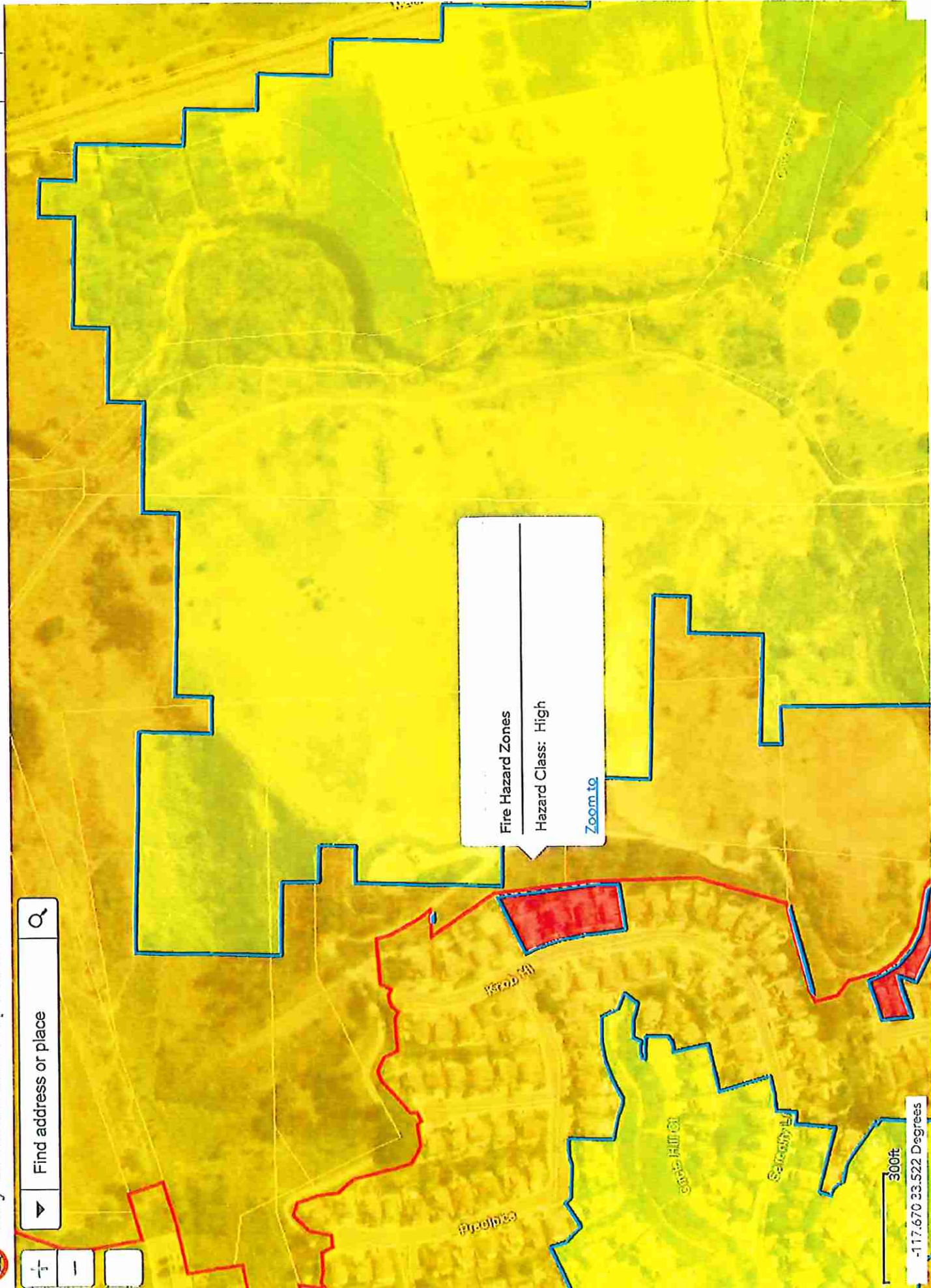
29251 Camino Capistrano, San Juan Capistrano, CA 92675

Opens soon · 9 AM

saddleback.com



Map navigation controls including zoom in (+), zoom out (-), and a search bar with the text "Find address or place" and a magnifying glass icon.



Fire Hazard Zones

Hazard Class: High

[Zoom to](#)

300ft

-117.670 33.522 Degrees

What is and who comprises the Laguna Heights
Homeowners Association?

254.5 ACRES of OPEN SPACE

+

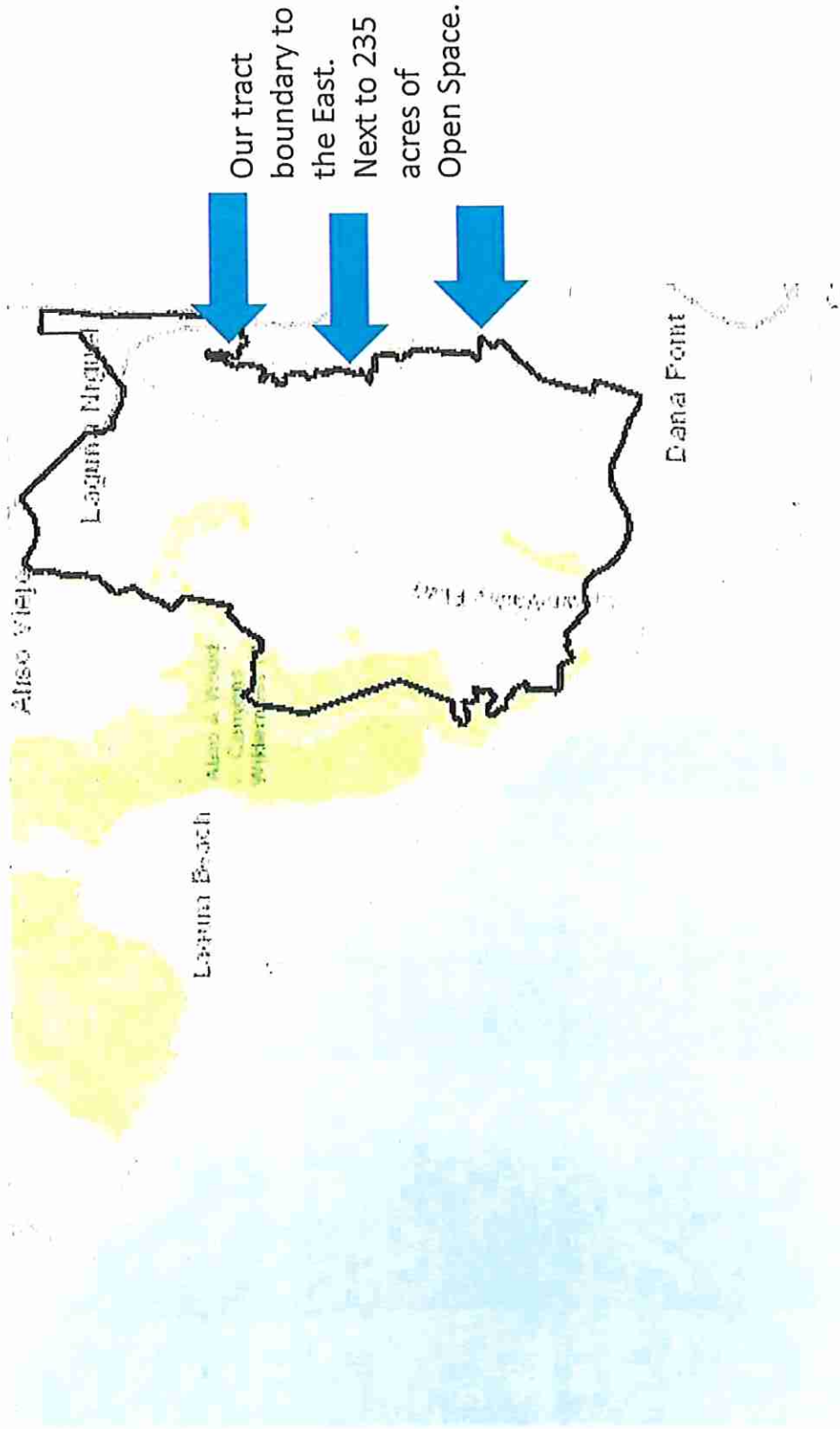
**2500+ RESIDENCES IN MOUTON
NIGUEL WATER DISTRICT**

6000- 7500 VOTERS in LAGUNA NIGUEL

Our Population

- 1200 homes
- 700 condos
- 600 Apartments

The outline of Laguna Niguel



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the

LOCAL STORAGE UNIT

LITHIUM ION BATTERY FIRE



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Yes, lithium batteries are considered hazardous waste and are subject to regulations under the U.S. Department of Transportation's (DOT) Hazardous Materials Regulations (HMR). The HMR apply to materials that the DOT determines could pose an unreasonable risk to health, safety, and property when transported in commerce.

- Environmental Protection Agency (EPA) Used Lithium-Ion Batteries | US EPA
- Environmental Protection Agency (EPA) Lithium-Ion Battery Recycling Frequently Asked Questions | U.S. EPA
- Pipeline and Hazardous Materials Safety Administration (PHMSA) Transporting Lithium Batteries | PHMSA

Show more

Therefore, EPA recommends that all lithium batteries be managed with care during use and at end of life and that businesses consider managing all of their used lithium batteries as hazardous waste under the federal "universal waste" regulations in Title 40 of the Code of Federal Regulations Part 273. Jul 6, 2023

U.S. Environmental Protection Agency (.gov) https://www.epa.gov/lithium-ion-battery-recycling-fre...

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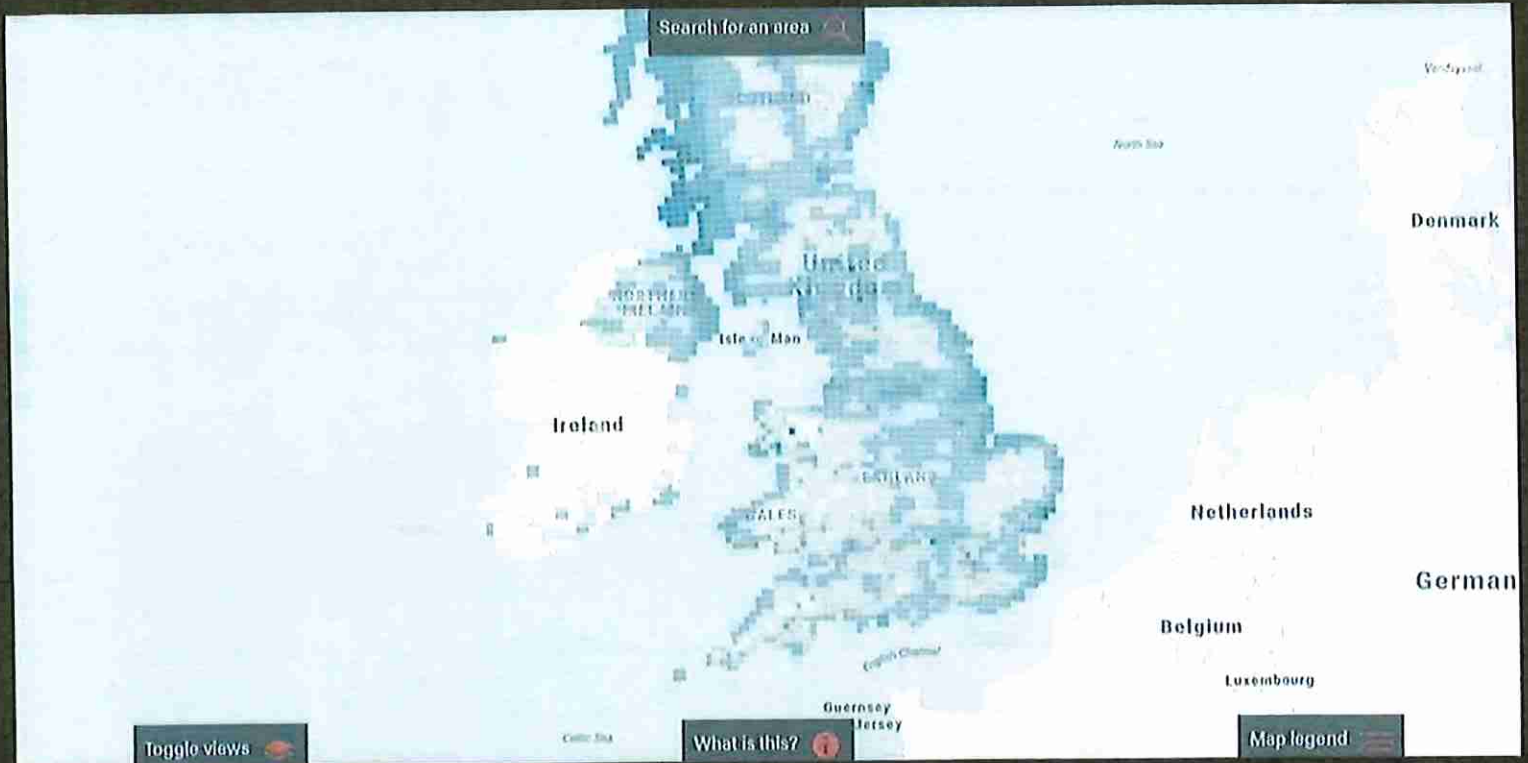
Studies show salt air affects metals more than 50 miles inland

By Jason Poma | July 9th, 2018

Anyone who has ever bought a used car has probably considered how salty environment impacts metal. Salt acts as a corrosion agent, deteriorating metal, paint, and finishes. These salty conditions can have a similar affect on buildings. You can especially see this in coastal areas around the world. But at what the distance from the sea does salt subside? *How many miles inland will salt air travel and corrode metal?*

Sometimes the best way to answer these questions, *is with a map.*

The [Galvanizers Association](#) released a map that measures coastal distance and metal corrosion. While this map is particular to Great Britain, it's also a useful resource worldwide to understand how far inland salt air travels for metal. Also, note that the data didn't include Ireland until recently. This is why Scotland and England show higher corrosion, because for these states, the data goes back several decades.



Coastal map showing how far inland to avoid corrosive aspects of salt courtesy of the [Galvanizers Association](#).

What Distance Inland does Salt Air Impact Metal Building Systems?

As you can see in the map above, rates of corrosion vary in different areas. This is because several factors influence the corrosion rate of salt air on metal. These factors include wind speed and direction, coastal topography, wave height and others. Each of these factors plays a role on determining the distance salty air travels.

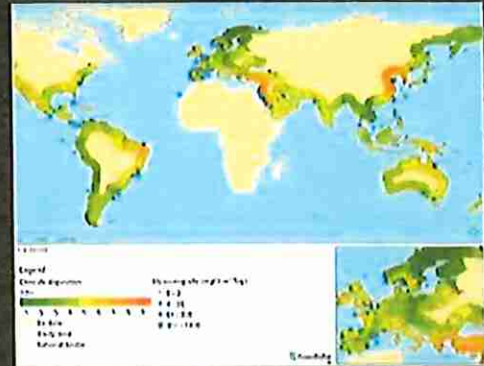
In the map above, the rate of corrosion falls off at about 30 to 50 miles inland. Note that the map *measures general corrosion rates* for zinc-coated or galvanized steel. So the corrosion shows not only the effects of salt, but also industrial and urban pollutants. For this reason, you'll see higher corrosion rates in more polluted industrial cities. Industrial areas such as Liverpool and Manchester get hit harder. (See the [table below](#) for more info on atmospheric pollutants.)

The map above gives a detailed view of coastal corrosion distance rates for metal. But what about the United States? Our [company is based in Palm](#)

chloride-laden (salt) air in the USA and compiled the results below.

Mapping the Salt Air Travel Distance Inland in the United States

One of the most comprehensive studies we found reveals a world-wide map of salt air deposits. As you might have guessed, salt air is strongest around coastal areas. But some coastal areas get hit harder. Areas with high winds such as Florida will see deeper penetration of salt.



Coastal map shows salt air or chloride deposit rates for inland areas. Courtesy of the [Fraunhofer-ISE](#)

[study by the Fraunhofer-ISE](#), research shows that chlorides (salts) deposit up to 1500 mg per meter.

Based on this study, most of America's coast witnesses mild levels of salt intrusion. However, Florida receives the highest rate of salt penetration in the USA, *even up to 100 miles inland*.

The Fraunhofer-ISE put this study together to research salt's effect on photo-voltaic panel systems. However, this research also benefits the metal building industry. Salt air will cause metals to oxidize, and acts as an electrolyte in [galvanic corrosion](#).

Here's another map — this time from the National Atmospheric Deposition Program. This study centers solely on the United States coastal salt deposition. Again, Florida shows deep penetration of coastal salt deposits, measured in kilograms of salt chloride per hectare. In Florida, measurements of deposits of up to 8.6kg per hectare, or 860mg per square meter.

Salt chloride deposition map showing United States how far inland salt air affects these coastal areas. Courtesy of the [National Atmospheric Deposition Program \(NADP\)](#).

atmospheric conditions. This pollutant will compound with other corrosive agents, especially in industrial, coastal cities. The chart below describes some of these other corrosive elements which affect metal building systems.

Types of Atmospheric Corrosive Pollutants for Various Environments

Type of Atmosphere	Condition	Corrosive Pollutants
Coastal/Marine	Severe	Salt air, acid rain, automotive emissions, sulfur-laden water, and animal fluids (i.e. waste from mammals, birds, and insects)
Industrial	Heavy to Severe	Atmospheric pollutants including sulfur oxides and nitrogen oxides (acid rain) and low-pH dew from corrosive agents released into the atmosphere from factories
Marine/Industrial	Severe	Combination of marine and industrial atmospheres often found in industrial coastal locations
Urban	Mild to Heavy	Automotive emissions as well as combustion from heating fuel elevate sulfur dioxide and nitrogen oxide
Suburban/Rural	Mild to Heavy	Automobile emissions, varying levels of ammonia, nitrogen, fertilizers, diesel exhaust, and animal fluids

These atmospheric conditions can intersect to yield caustic environments. For instance, coastal cities such as Miami, Florida will experience a compounded effect. Coastal salts combine with urban pollutants to create a more corrosive environment.

and 1E-3, marked grey and dark grey.) Around these areas, corrosion rates will increase, compounding with the salt air.

Salt Air Travel Distance in Non-Coastal Environments

While coastal environments yield some of the highest salt deposits, non-coastal areas may show surprising deposits, too. In a recent study, [researchers found high salt levels nearly 900 miles inland](#) in Boulder, Colorado. Joel Thornton of the University of Washington atmospheric sciences program led the study.

“We were getting readings of 500 parts per trillion in Boulder,” Thornton recalled. The recorded salt levels turned out to be comparable to what the scientists later recorded on an ocean cruise.

His team's research suggests that nitrogen oxides react with haze particles containing chloride at night. This reaction forms nitryl chloride, which in turn forms chlorine atoms, or salt, in the air. This condition occurs twice daily: once in the morning, and once in the evening. So it's possible that even in non-coastal environments, salt can play a role in considering a building's design.

Additional Resources

[Stainless Steel for Severe Coastal Environments](#) provides guidance on how to identify these environments and provides practical advice and project examples. It also summarizes the findings of on-going coastal corrosion research in the Middle East. While the selection advice in this article is specific to stainless steel, severe environments can cause accelerated deterioration and unexpected failure of any susceptible construction material.

About the Author: [Jason Poma](#)



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high-level operations of all current projects. Working in both the construction and architectural metals divisions, he is responsible for resource allocation and contract oversight.

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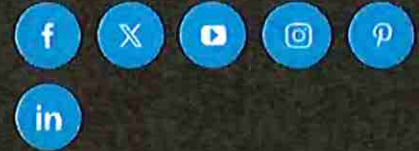
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Does Galvanized Steel Rust

Galvanized steel has been used for almost 2,000 years because of its unrivaled ability to last a very long time and resist rust. Hot dipped galvanized steel and electroplated galvanized steel are made using different methods and their zinc galvanized coatings corrode completely differently. Learn about these [galvanizing processes \(here\)](#) and how [zinc corrosion varies between them \(here\)](#).

Yes, galvanized steel resistance to rust corrosion depends largely on the type and thickness of the protective galvanized zinc coating, but the type of corrosive environment is also a critical factor.

Factors that rust and corrode galvanized steel:

- Relative humidity above 60%
- Sodium chloride (salt) in water or air
- Wet or soaked environments
- Increase in temperature when combined with corrosive factors like humidity and industrial pollution
- Acids; particularly sulfur acids produced by (1) hydrogen sulfide - from volcanoes, hot springs, natural gas, and sewer gas - and (2) sulfur dioxide pollution in the urban atmosphere
- Strong Alkalis
- Plasters and cements (especially Portland cements) containing chlorides and sulfates
- Acid rainwater runoff from roofs with wood shingles
- Moss and lichen
- Contact between galvanized items and copper, pure iron, or steel causes galvanic corrosion. Galvanic (electrochemical) corrosion is an electrolytic corrosion reaction between the zinc coating and dissimilar metals when in the presence of an electrolyte such as rain, dew, fog or condensation.
- Acidic food and drinks ([is galvanized metal safe for food?](#))

Galvanized steel has good resistance to:

- Concrete
- Mortar
- Lead
- Tin
- Zinc
- Aluminum

Galvanized steel is corrosive to all metals except lead, tin, zinc and aluminum.

Although it does not last infinitely, galvanized steel is the unparalleled corrosion-resistant metal. It is worth noting however, that applying a protective coating such as [paint to galvanized steel](#) will alleviate the problems caused by corrosion of the protective zinc coating.

How Long Does Galvanized Steel Last

So how long does it take for a handy new galvanized steel bucket to rust and corrode into a useless heap of metal? It takes a long time. A galvanized steel bucket (produced with any method) can last practically forever if it's gently used and kept dry and out of the rain. But for those galvanized buckets and tubs destined to become garden planters, landscape decorations, animal feeders, and farm water buckets corrosion is inevitable. Galvanized steel intended for prolonged outdoor use should be hot-dipped galvanized steel; which commonly lasts for about 70 years in many different environments.

Table 1 below predicts how long galvanized steel will last based on a 30 month corrosion study of environmental factors like wetness, humidity, and air pollutants in 2004.

Table 1. Prediction of When Zinc Layer will be Consumed on Galvanized Steel

Galvanized Steel kept in the wet or soaked environments	10 Years
with a relative humidity of 100%	34 Years
with a relative humidity below 60%.	211 Years



The corrosion resistance of zinc coatings is determined primarily by the type and thickness of the coating but, varies with the severity of environmental conditions exposed to (as in the table above). **Hot dipped galvanized zinc** coating resistance to corrosion depends primarily on a protective film (patina) formed on its surface.

Read more background:

- **Types of galvanizing**; compare the properties of galvanization methods.
- **Does galvanized zinc rust**; learn how a hot-dipped zinc coating corrodes to form a patina layer that can protect the zinc metal underneath for upwards of 75 years. Zinc corrosion products of hot-dip galvanizing build-up (creating a patina layer) and insolubly cling to the metal in many environments. Thus, the corrosion rate of **hot-dip galvanized steel** may slow as time progresses.

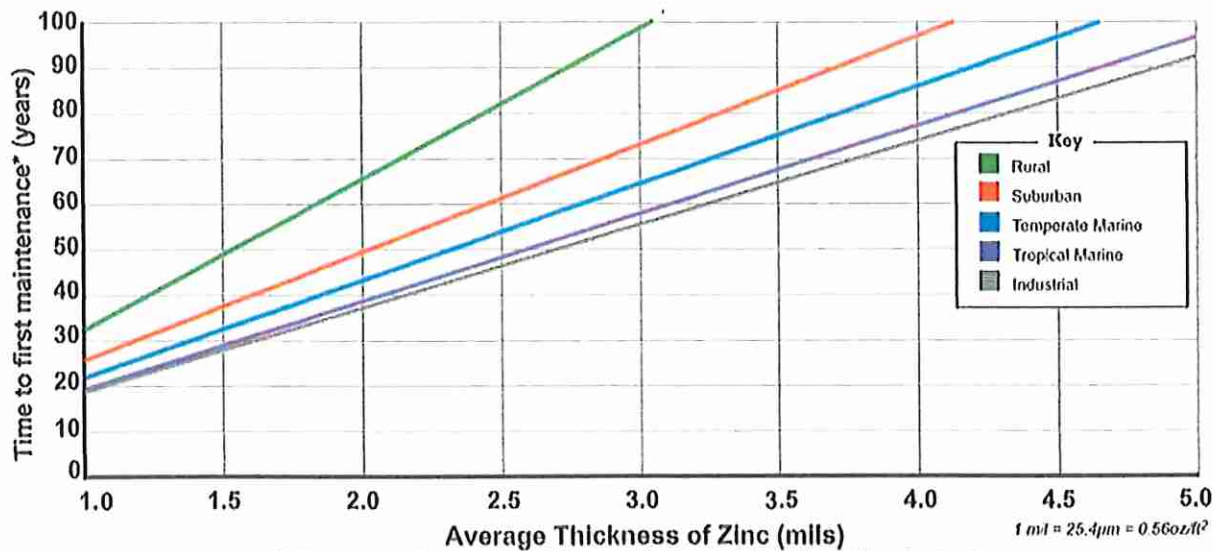
The type of zinc galvanization and how that process controls the way in which the galvanized steel corrodes must be understood first. The environments, elements, and conditions that any given type of galvanized steel is exposed to, nevertheless, indeed determines how long it will last before corrosion.

A 1926 study of galvanized steel corrosion in industrial, rural and sea regions found:

- At any one location the life of the zinc coating is directly proportional to its thickness.
- The most rapid corrosion occurred at the highly industrial locations, and the least rapid at the rural and more arid locations (9).

The handy chart below (from American Galvanizers Association) illustrates how long galvanized steel will last before corroded areas should be maintained to prevent further deterioration. Want to **learn how to refinish galvanized steel**? [Click here](#). Put another way, this chart shows how long it takes for galvanized steel to rust in different environments.

The thicker the zinc coating the longer galvanized steel will last without corrosion. The thickness of zinc is displayed along the horizontal axis (8). As in the chart below and noted in the 1926 study, for each location the corrosion rate is essentially constant with time (9).



*Time to first maintenance is defined as the time to 5% rusting of the steel surface.

Chart 1: Time to first sign of corrosion in various environments

The environments below are listed from the most corrosive to the least corrosive:

Industrial Environments:

- Most city and urban areas as examples of urban environments.
- Generally, the most aggressive corrosive environment.
- Sulfide and phosphate air pollution, from point sources like automobile exhaust, cause galvanized zinc coating consumption.

Tropical Marine Environments

- Regions where the temperature, if ever, falls below freezing.
- Humidity is high and chlorides from nearby water are present in air.
- Almost as corrosive as industrial environments
- Warm temperatures increase the activity level of corrosion elements on the surface of the galvanized zinc.
- Proximity to the coast, wind direction and wind speed also influence the rate of corrosion

Temperate Marine Environments

- Lower temperatures and humidity make temperate marine environments less corrosive to their tropical counterparts.
- Like tropical marine regions, chlorides, distance from the ocean, wind direction, and wind speed shape corrosion rate.

- Residential perimeter communities outside urban areas and cities.

Rural Environments

- Least aggressive corrosive atmosphere
- Air and rain in rural regions contain relatively low levels of sulfur and other corrosive emissions.

Elements and conditions:

Air

Sulphur Dioxide (SO₂) is the most significant atmospheric air pollutant. The presence of SO₂ in the atmosphere largely regulates the atmospheric corrosion rate of zinc. When acids - with a pH below seven - attack and corrode a galvanized zinc coating, the pH decreases and the rate of corrosion increases. In industrial locations mists and dews have been observed having a pH as low as three. It is rational, therefore, to attribute the greater corrosivity of industrial atmospheres to the acid-forming SO₂ pollution contained within them (9).

Results of a galvanized zinc metal corrosion potential study published in 2015 found the highest corrosion impact from SO₂, dust, humidity and CO₂. Concentrations of these pollutants were highest values in winter; when fossil fuel combustion increases. The presence of chlorides in air during also influenced the rate of corrosion (10).

Soil

Just as the acidity of the atmosphere influences the rate of corrosion, so too does the acidity of the soil. The zinc coating of hot-dipped galvanized steel will last in the harshest soil is 35 to 50 years and in less corrosive soil 75 years or more.

Temperature

Although humidity affects corrosion, temperature itself has less of an impact. Galvanized zinc coatings respond well in extreme cold and hot temperatures. There are no significant differences in corrosion rate in temperatures below -40 F for hot-dip galvanized coatings. In higher temperatures the zinc can be impacted. For long-term continuous exposure the maximum recommended temperature is 392 F, according to a publication by American Galvanizers (8). Temperatures this high can cause the outer zinc layer to peel away from the zinc-alloy layers. Although the remaining zinc-alloy layers will provide corrosion protection to the steel, protection will last for less time than if the outer free zinc layer remained intact.

Because the applications of steel are many, hot-dip galvanizing will continue to be called upon to ensure long-lasting and maintenance-free corrosion protection.

What are the best storage conditions for galvanized buckets?

Although these buckets can take a fair amount of abuse, for optimum performance choose a storage area that has adequate ventilation and has a low amount of moisture. Avoid areas that are damp and poorly ventilated.

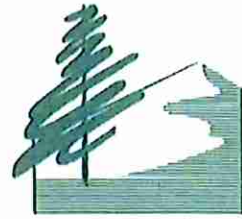
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Center for Natural Lands Management

A non-profit organization for the protection and management of natural resources

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www.cnlm.org



23 January 2023

Laguna Heights Community Association
San Juan Capistrano, CA

Re: Restoration Work in the Northwest Open Space

Dear JF Shea and Laguna Heights Community Association,

The Northwest Open Space (NOS) located in San Juan Capistrano, CA is an important wildlife corridor and ecological refuge that also offers spectacular views and recreational trails. The Center for Natural Lands Management (CNLM) is a nonprofit land trust that holds a conservation easement over and manages an endowment for a mitigation property in the NOS called the Pacifica San Juan Preserve (Preserve). CNLM is also the trustee of an Open Space Fund to be used for restoration, enhancement, and conservation practices on properties adjacent to the Preserve within the NOS to the benefit of the coastal California gnatcatcher (*Polioptila californica californica*; CAGN) and Least Bell's vireo (*Vireo bellii pusillus*; LBVI), both of which are federally protected species. Through collaborations with the U.S. Fish and Wildlife Services, California Department of Fish and Wildlife, the City of San Juan Capistrano and the landowner, CNLM has been working to restore 20 acres of naturalized annual grasslands to the high-quality CAGN habitat. Thanks to the support of the landowner and the recent fee title transfer of parcels adjacent to the Preserve from JF Shea to the Laguna Heights Community Association, CNLM is now working to expand our restoration efforts in the NOS. Recently, we have begun the planning and preparation for restoring a riparian area, an ephemeral drainage of Oso Creek in the San Juan watershed, and to restore a small area of native forb and grassland to benefit LBVI and CAGN.

Collaborations with our partners, including Laguna Heights Community Association and JF Shea, have allowed CNLM to effectively implement restoration activities and expand our work to cover larger sections of the NOS.

Thank you for your support in our mission to conserve and protect rare species and their habitats in perpetuity. I look forward to our continued partnership.

Very Respectfully,

A handwritten signature in black ink, appearing to read 'Korie C. Merrill'.

Korie C. Merrill
Regional Preserve Manager
Center for Natural Lands Management

Pacifica San Juan Preserve and Northwest Open Space
Summary of site conditions as of 19 April 2024.
K. Merrill.

Below is a brief summary of conditions on the Laguna Heights COA property within the Northwest Open Space that CNLM is currently managing.

Pacifica San Juan Preserve – Offsite

- CNLM just completed our first formal vegetation monitoring, and preliminary analysis shows high native plant cover with a variety of species (~30).
- In Fall 2023, about 300 cactus propagules were installed along the Shea trail to help control erosion; about half of those cacti are showing new growth this season already
- This winter and spring treating non-native plants (i.e., weeds) was a major focus of our staff, using mechanical and chemical treatments. Species treated included: artichoke thistle, mustard, yellow star thistle, and prickly sow thistle.
- We have three confirmed CAGN pairs on the preserve, possibly more in the lower slopes near the dirt road.

At the restorations sites

- The site was cleared of invasive plants and thatch in the fall and hydroseeded in December (~3 ac adjacent to Colinas Ridge Trail).
- The grassland area near old gazebo is showing some excellent wildflower growth: poppies, fiddlenecks, lupines, tidy tips, yarrow, and goldfields are all blooming
- There are non-native mustard and artichoke thistle at the site have been spot treated in January and early March, with one more treatment planned in the next few weeks
- In October, 40 invasive tamarisk trees were removed and replaced with native tree container plants in November, including toyon, willow, oak, elderberry, and lemonade berry.
- In addition, native shrubs were also installed in drier areas away from the stream bed
- As of April, container plant survivorship has been >90%.

October 11, 2023

If California is going to meet its ambitious goals to transition from electricity using fossil fuels, the state will need energy storage to shoulder a significant amount of the load.

The number of installations is on the rise, but a persistent problem keeps coming up — fires igniting at battery storage facilities.

Most recently, a fire broke out at the [Valley Center Energy Storage Facility](#) in San Diego County on Sept. 18. Although fire officials said the blaze was put out in about 45 minutes and extinguished by the site's internal fire prevention system, businesses and the small number of homes within a quarter-mile of the industrial park where the facility is located were evacuated and shelter-in-place orders were in effect within a half-mile of the site.

State policymakers are still bullish on battery storage but concede that issues leading to [“thermal runaway”](#) — where excessive heat inside a battery leads to a chemical reaction that spreads to other batteries in a chain reaction — need to be resolved.

“The stakes are high,” said [David Hochschild](#), chair of the California Energy Commission. “We have to have effective storage. Generally, I’m very pleased with the performance of the storage fleet in California, but we cannot have fires on a regular basis.”

Why batteries are important

Energy storage has taken on a higher profile in recent years as more renewable sources of power have come onto California's electric grid.

Solar production may be abundant during the day but practically vanishes after sunset or when smoke and clouds obscure the skies. And when the wind doesn't blow, production from wind farms peters out. Energy storage — particularly from batteries — is seen as a key way to fill the gaps.

Storage systems take solar power generated during the day and discharge the electricity later, especially from 4 to 9 p.m. when California's grid is under the most stress.

Batteries can help replace natural gas "peaker plants" used during those critical hours when customers crank up their air conditioners, helping reduce the risk of rotating power outages.

Battery storage also delivers electricity to areas prone to [Public Safety Power Shutoffs](#) — the practice in which utilities de-energize power circuits, usually in rural and backcountry areas, during windy and dry conditions to reduce the risk of power lines falling and igniting a wildfire.

Bulking up on energy storage is crucial for California to reach its target of deriving 100% of electricity from carbon-free sources by 2045.

Four years ago, the state counted a mere 250 megawatts of battery storage available to the California Independent System Operator, which manages the grid for 80% of the state and a small part of Nevada.

By the end of this year, that number is expected to grow to 8,000 megawatts. And the amount of battery storage integrated fully into the grid is [expected to increase](#) to 19,500 megawatts by 2035 and 52,000 megawatts by 2045.

Building out all that battery storage infrastructure gets passed onto California ratepayers in the monthly utility bills they pay.

What happened at Valley Center?

San Diego-based renewable energy company [Terra-Gen](#) owns and operates the 139-megawatt, 560 megawatt-hour Valley Center Storage Facility that produces enough electricity to power up to 140,000 homes for four hours on a single charge. Located on seven acres in a commercial-industrial zone, the [facility opened in February 2022](#) and delivers energy to a nearby SDG&E substation.

The Sept. 18 fire is under investigation, with fire officials saying they expect a final determination coming in about two months. The storage facility resumed operations the following day.

The LG batteries at the site are made of lithium, nickel, manganese and cobalt, and Terra-Gen officials said the facility has no history of thermal runaway events.

Terra-Gen officials in an email said Valley Center neighbors “should know that the facility’s safety systems are designed to operate 24/7” and are designed to “prevent small events from becoming larger events.”

“Our company goes beyond standard regulatory requirements and conducts emergency response training with first responders on a regular basis,” Terra-Gen spokesperson Amy Roth said.

Other incidents

Lithium-ion batteries that power electronic devices such as smartphones and laptops can pose a fire risk if they [overheat, get damaged or are defective](#).

Battery flaws in [electric vehicles](#) have prompted [carmakers to issue recalls](#). In January, a massive fire broke out at a [warehouse in France](#) that stored thousands of automotive lithium-ion batteries. It took roughly 100 firefighters to douse the blaze.

Many of the same materials in EVs are used at battery energy storage sites.

In September 2022, a Tesla Megapack [caught fire](#) at a battery storage facility operated by Pacific Gas & Electric in the Northern California town of Moss Landing. No injuries were reported, but California Highway Patrol closed a section of Highway 1 and redirected traffic away from the site for hours.

An explosion in 2019 at an [energy storage facility in Surprise, Ariz.](#), injured nine first responders. This summer, fires broke out at [three separate battery projects in New York](#) state, although no injuries were reported.

A fire last month at a [large-scale facility in Australia](#) nicknamed Big Bessie led emergency officials to warn nearby residents to stay indoors to avoid hazardous fumes.

What's causing the fires?

The lithium-ion batteries made with nickel manganese cobalt have high energy density, which makes them attractive for use in storage facilities. But in light of thermal runaway incidents, there's been a [movement toward lithium iron phosphate batteries](#) that operate at lower temperatures and are less prone to fires.

Although changing or adjusting battery chemistry is important, there's also a focus on making sure the battery arrays are properly wired and the fire prevention systems inside the storage containers don't malfunction.

"The industry is learning how to take the basic building blocks with the energy cells, devices and battery management systems and integrating them into complete projects," said [Scott Murtishaw, executive director of the California Energy Storage Alliance](#). "There's going to be learning by doing."

But the problems underscore the arguments made by [critics of battery storage](#), who not only cite fires but point to its relatively high cost compared to conventional sources of power.

A study released in June by the National Renewable Energy Laboratory projected costs in 2030 for four-hour storage ranging from \$245 per kilowatt-hour to \$403. The industry's breakthrough price is generally considered to be about [\\$100 per kilowatt-hour](#).

"There's a huge amount of money going into making better, safer, more energy-dense batteries that can operate at lower temperatures," said Hochschild of the California Energy Commission. "It's definitely a major risk we need to manage and focus on."

News of the Valley Center fire "made me very nervous and scared about the proposed facility here," Laderman said. "It seemed to underscore all of the

points we've made — that these battery energy [projects] really don't belong anywhere near homes and where people live.”

At 400 megawatts and 1,600 megawatt-hours of capacity, the [AES Seguro Storage project](#) would match the [Moss Landing battery storage facility in Monterey County](#) as the largest in the state. It would discharge enough stored energy to power [about 300,000 homes for four hours](#).

“We're not saying that these facilities are a bad thing,” Laderman said, “but there need to be rules and regulations about where they are allowed to be.”

AES officials say they plan to use the most up-to-date technology to ensure the batteries are safe. AES has tentative plans to have the project online by the end of 2026.

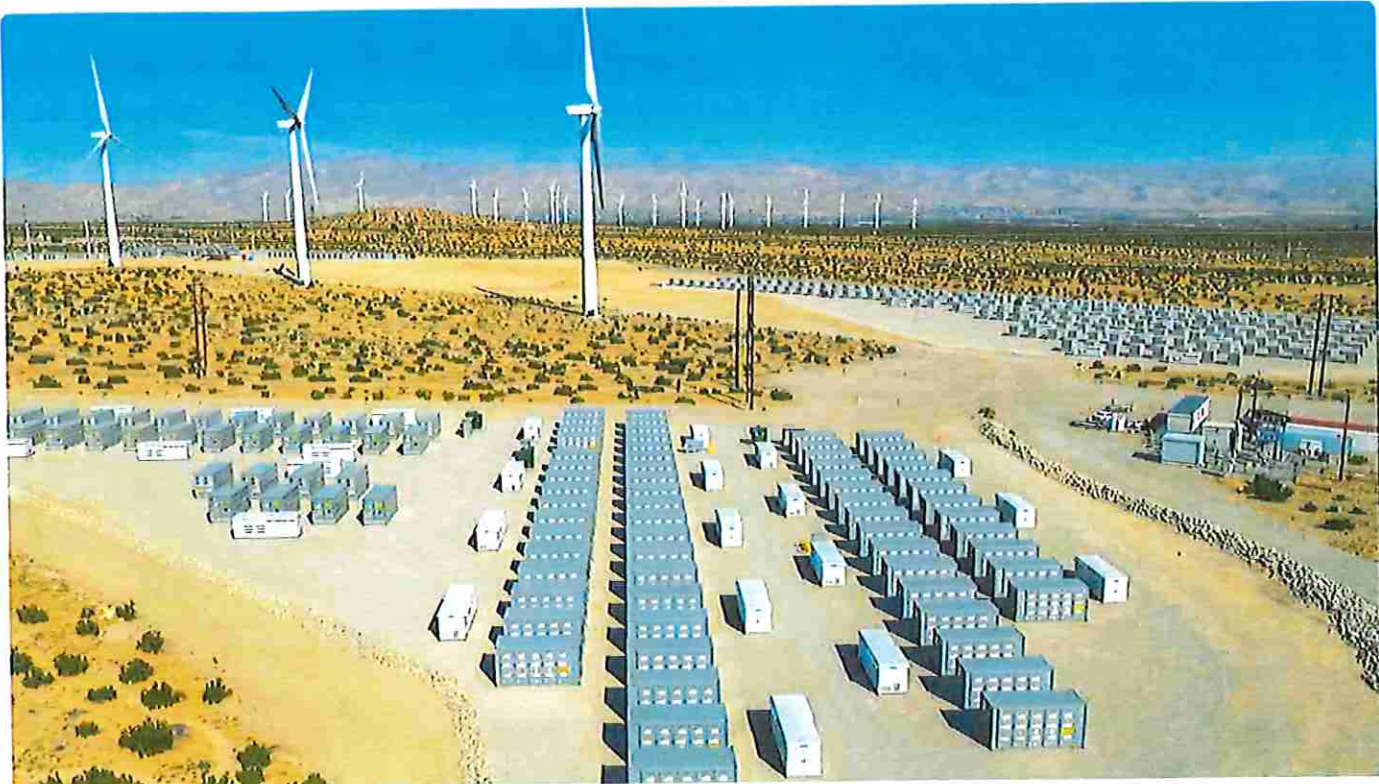
Nikolewski writes for the San Diego Union-Tribune. Union-Tribune staff writer David Garrick contributed to this report. This article was distributed by Tribune Content Agency.

Lithium-Ion Battery Energy Storage Systems (BESS) Risks



By Travelers

🕒 57 minutes



There is growing demand for lithium-ion battery energy storage systems (BESS), and for good reason. Consumers, businesses and public and private organizations can benefit greatly from BESS. Benefits include cost savings through time-shifting (i.e., storing energy when the cost is low for use during times when energy is expensive), improved quality of power supply and availability of emergency backup power.

According to the U.S. Department of Energy, the lithium-ion battery energy storage segment is the fastest-growing rechargeable battery segment worldwide and is projected to make up the majority of energy storage growth across the stationary, transportation and consumer electronics markets by 2030.¹

What is a BESS?

A BESS is a rechargeable system that stores electricity generated by the grid or a renewable energy source for use at a later time. Many types of battery chemistries and technologies are available. In the United States, lithium-ion batteries are the most common, likely due to their high-energy density, efficiency and deep discharge cycle capabilities.

supply. Arrays can also be installed as stand-alone battery storage power stations, typically managed by energy utilities to help with load-shedding on electrical grids.

Prepare to plug into a high-powered opportunity

Listen to this webinar recording for a deeper dive into how to plan for and help mitigate potential hazards of lithium-ion BESS technology and the role insurance can play in the lifecycle of a BESS installation.

[READ TRANSCRIPT](#)



What are the hazards of lithium-ion battery energy storage?

While lithium-ion BESS offer multiple benefits, they can also present significant hazards. Understanding the risks and having a plan in place to address them is an important consideration when adding a BESS to your home or business electrical system.

Fire hazards

Understanding the unique fire risks presented by BESS is critical. Some fire suppression systems may be ineffective, and improper firefighting techniques can worsen the outcome, potentially causing additional harm to people and property.

A battery fire can generate chemical gases with potential to cause an explosion, especially if they are not properly ventilated. If a fire occurs, emergency response efforts must be tailored for the individual BESS site.

Fires in a BESS are often a result of a process called thermal runaway. This occurs when a battery cell creates heat that it cannot adequately dissipate. The resulting dynamic temperature increase in the cell and adjacent cells creates a cascading effect. This phenomenon can occur in a battery cell that has internal defects or mechanical damage, been exposed to heat from an external source or been overcharged, or it may be due to a battery management system failure and/or malfunction.

Key controls for BESS owners to prevent and/or mitigate fire losses include:

- Proper handling and installation.
- Effective operations and maintenance (O&M) performed by qualified personnel.
- Adequate protection from vehicle/equipment damage (e.g., bollards).
- Collaboration with the fire department to develop a fire response plan that accounts for:
 - BESS chemistry

- Effective battery management system (BMS) monitoring.
- Other site-specific considerations.

Chemical release hazards

Chemicals contained within a battery can be released during a fire and may create an explosion. Chemical releases can also contribute to liquid pollution when mixed with firefighting water, potentially contaminating soil or groundwater.

Key controls to help prevent losses related to chemical release include:

- Proper site design that contemplates water management (e.g., berms, dikes, drainage) and equipment location.
- Proactively developing proper containment systems.
- Thorough emergency preplanning.

Stranded energy hazards

When batteries are damaged, they can still contain energy. This “stranded” energy should be dissipated prior to interaction with or removal of impacted cells. If not handled properly, the damaged batteries could cause injury, including electrical shock.

Only qualified personnel should perform maintenance and repair work on BESS. BESS owners consider the following for preventing stranded energy-related losses:

- Proper contractor selection for installation and ongoing O&M (e.g., proper high-voltage training where applicable, effective lockout/tag-out protocols).
- Preventing unauthorized personnel from accessing BESS.

How might lithium-ion BESS hazards affect your organization?

As you weigh the benefits and costs associated with owning and operating a BESS, it's important to consider the potential exposures and how they may impact your organization's personnel and property. Consider working with an insurance carrier that has in-depth experience in the renewable energy industry.

Travelers works with customers across the United States who own and operate battery energy storage systems. Our experienced team of Risk Control professionals is well-versed in both battery risks and fire protection. Through collaboration, we provide customers with tailor-made solutions and services addressing renewable risks and exposures.

Learn more about Travelers' expertise in [renewable energy](#). Ask your insurance agent how a robust insurance program from Travelers can help protect your organization.

Source

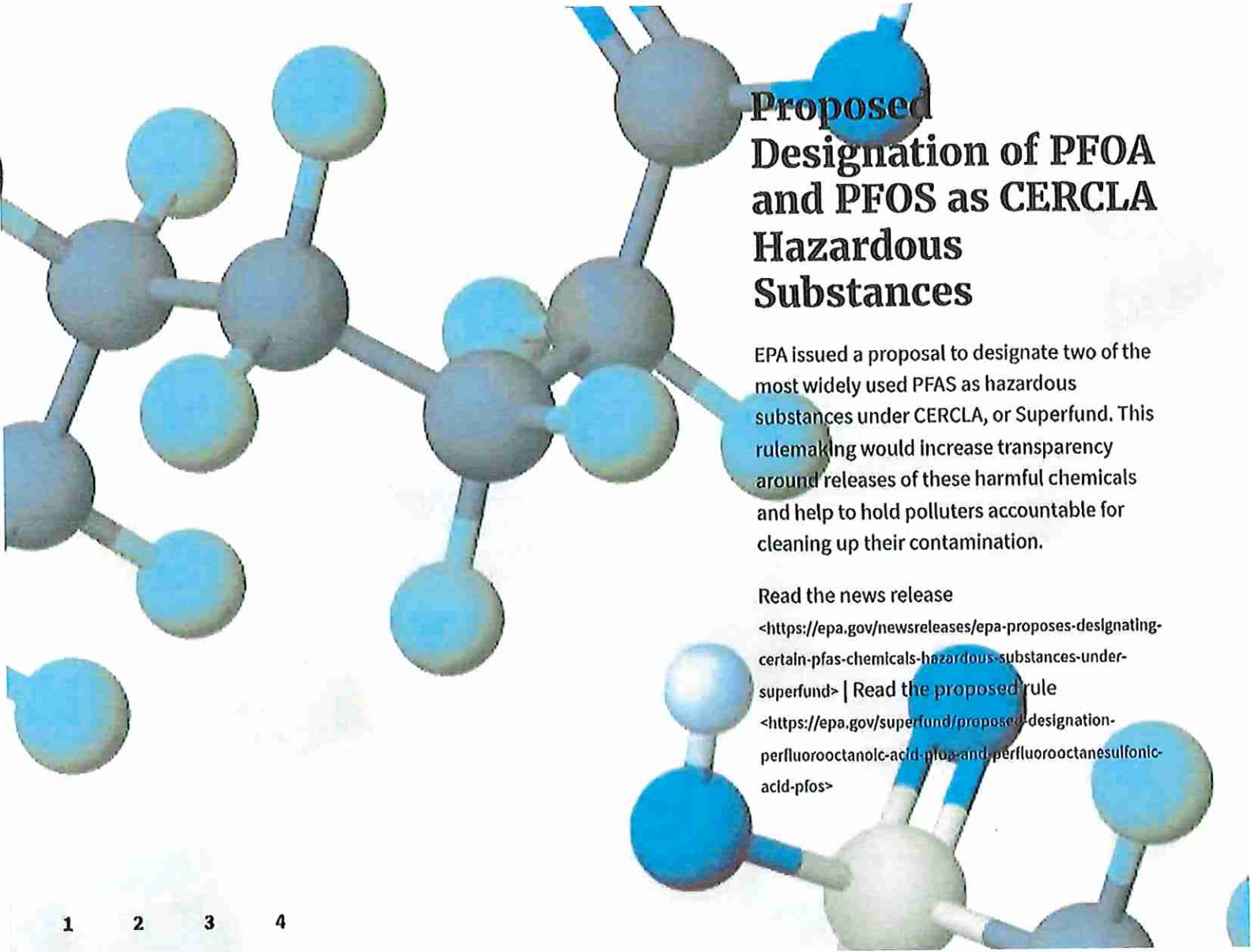
¹ “Energy Storage Grand Challenge: Energy Storage Market Report.” December 2020. U.S. Department of Energy.

<https://www.energy.gov/sites/prod/files/2020/12/f81/Energy%20Storage%20Market%20Report%2>



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Superfund



Proposed Designation of PFOA and PFOS as CERCLA Hazardous Substances

EPA issued a proposal to designate two of the most widely used PFAS as hazardous substances under CERCLA, or Superfund. This rulemaking would increase transparency around releases of these harmful chemicals and help to hold polluters accountable for cleaning up their contamination.

Read the news release

<<https://epa.gov/newsreleases/epa-proposes-designating-certain-pfas-chemicals-hazardous-substances-under-superfund>> | Read the proposed rule

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1 2 3 4

EPA's Superfund program is responsible for cleaning up some of the nation's most contaminated land and responding to environmental emergencies, oil spills and natural disasters. To protect public health and the environment, the Superfund program focuses on making a visible and lasting difference in communities, ensuring that people can live and work in healthy, vibrant places.

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Figure 4

Example Battery Storage Container Illustration

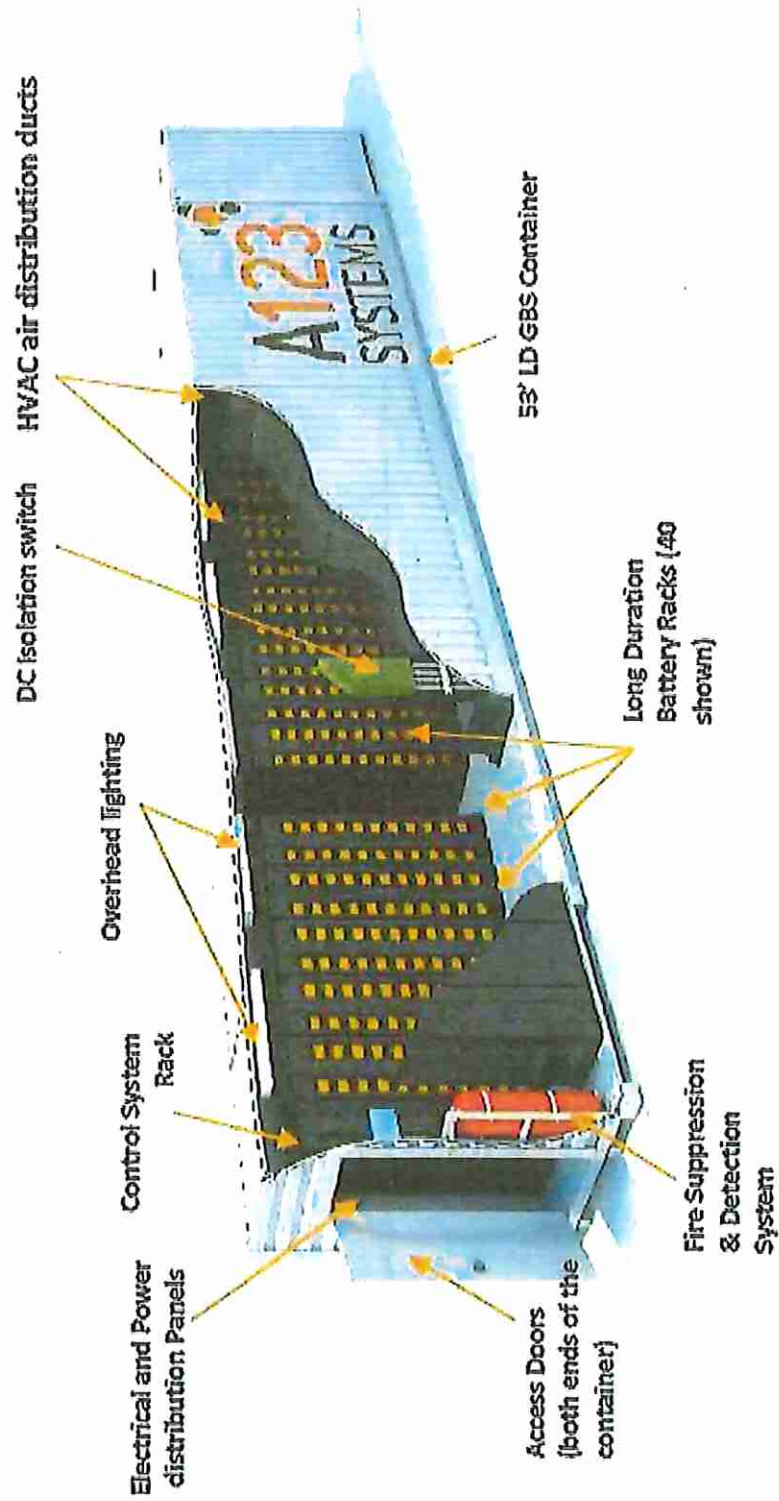


Figure 3 GBS-LD 53' Container Cutaway view (40 racks shown)



5/7/2024

D2

City of San Juan Capistrano Agenda Report

TO: Honorable Mayor and Members of the City Council

FROM: Benjamin Siegel, City Manager

SUBMITTED BY: Joel Rojas, Development Services Director

DATE: May 7, 2024

SUBJECT: Adoption of an Interim Ordinance Extending Urgency Ordinance No. 1116 Prohibiting New Commercial Battery Energy Storage Systems within the City of San Juan Capistrano; Adoption of Report Describing Measures to Alleviate Conditions that Led to Adoption of Urgency Ordinance No. 1116; and a Finding That Said Actions are Categorically Exempt from the California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3) (Common Sense) and, in the Alternative, CEQA Guidelines Section 15307 (Protection of Natural Resources), and, in the Alternative, CEQA Guidelines Section 15308 (Protection of the Environment), and, in the Alternative, Public Resources Code Section 21080(b)(4) and CEQA Guidelines Section 15269 (Emergency Projects)

RECOMMENDATION:

1. Adopt an Interim Ordinance to extend the City's prohibition on new commercial battery energy storage systems within the city for ten months and fifteen days (Attachment 1) to provide staff with additional time to research, study, and prepare recommendations for the Council's consideration.
 2. Adopt a Report describing measures to alleviate conditions that led to adoption of Urgency Ordinance No. 1116 (the "10-Day Report") (Attachment 2).
 3. Find that said actions are exempt from review under CEQA per CEQA Guidelines Section 15061(b)(3) (Common Sense) and, in the Alternative, CEQA Guidelines Section 15307 (Protection of Natural Resources), and, in the Alternative, CEQA Guidelines Section 15308 (Protection of the Environment), and, in the Alternative, Public Resources Code Section 21080(b)(4) and CEQA Guidelines Section 15269 (Emergency Projects).
-

EXECUTIVE SUMMARY:

Engie North America ("Applicant") is proposing to construct a commercial Battery Energy Storage System ("BESS") facility on land currently owned by Saddleback Church, located at the northern end of the city. The City's Land Use Code currently does not contain standards, regulations, or criteria specifically addressing commercial BESS facilities. The potential development for new commercial BESS facilities within the city, without adequate land use policies and standards to ensure public safety and prevent potentially catastrophic impacts, poses an immediate threat to the welfare of San Juan Capistrano and surrounding communities. Consequently, granting use permits, building permits, or any other related entitlements for these facilities under current conditions would threaten public safety and welfare.

At its April 2, 2024, meeting, the City Council adopted an interim ordinance pursuant to Government Code Section 65858(a) prohibiting any use, permit, variance, building permit, business license, or any other entitlement from being approved or issued for the establishment, construction, or operation of a commercial BESS facility within the City's boundaries ("Urgency Ordinance No. 1116"). Urgency Ordinance No. 1116 currently expires on May 17, 2024 (Attachment 3).

Under State law, after notice and a public hearing, an interim ordinance can be extended for ten months and fifteen days following the initial forty-five day period. (See Government Code Section 65858(a).) Upon adoption, this Interim Ordinance (Attachment 1) will extend the provisions of Urgency Ordinance No. 1116 for ten months and fifteen days to provide staff with additional time to study the potential impacts of commercial BESS facilities and measures for mitigating the public safety, health, and welfare concerns described in staff's findings.

Under State law, the City Council must issue a written report describing the measures taken to alleviate the condition which led to the adoption of the initial interim ordinance ten days prior to the expiration of the interim ordinance. (Government Code Section 65858(d).) The 10-Day Report, provided as Attachment 2, has been prepared describing the measures taken to alleviate the condition which led to the adoption of Urgency Ordinance No. 1116, as required by State law.

DISCUSSION/ANALYSIS:

Background

In December 2021, the City received entitlement applications and a letter of intent from the Applicant requesting to establish a commercial BESS facility on an undeveloped portion of the Saddleback Church Rancho Capistrano property. The proposed project is located within the Planned Community ("PC") District zoning designation. The PC District zoning designation allows uses and structures permitted within the city subject to the approval of a Comprehensive Development Plan ("CDP") consistent with the General Plan, pursuant to San Juan Capistrano Municipal Code ("Municipal Code") Section 9-

3.315(b). In the absence of an approved CDP, the PC District zoning designation allows identified interim uses pursuant to Municipal Code Section 9-3.315(c) subject to the development standards for the Agri-Business District, pursuant to Municipal Code Section 9-3.315(e)(3).

The Planning Director also has the authority and responsibility to review uses not listed in the Municipal Code and permit such proposed unlisted uses if they fall within the purpose and intent of the base district, are of a comparable nature to the principal, accessory, or conditional uses set forth in the base district, are not listed in the base district, and will not be detrimental to property in the vicinity of such use pursuant to Municipal Code Section 9-3.203.

The City's current Zoning Regulations do not contain regulations or criteria specifically addressing commercial BESS facilities. On April 29, 2022, the Development Services Director determined that a commercial BESS facility could not be accommodated by an unlisted use determination under Municipal Code Section 9-3.203 as the required findings could not be met. As such, the preparation and approval by the City Council of a CDP would be required to allow the proposed use. Consequently, in September 2022 Saddleback Church submitted a request for the City Council to initiate a Rezone study to establish a CDP that would govern the approximately 161-acre Saddleback Church Rancho Capistrano property.

The proposed CDP would have identified the uses currently operating on the property (i.e. a church use), uses allowed on the property by the General Plan, and a commercial BESS facility use. On November 1, 2022, the City Council denied the initiation of a Rezone study to create the proposed CDP.

In early 2023, the Applicant informed City staff of its intention to forego the City review process and instead pursue State approval via the California Energy Commission ("CEC"), as allowed under fairly recent State legislation designed to facilitate renewable energy projects. In February 2024, the Applicant formally withdrew its City applications. Over the past few months, City staff and a Mayoral Subcommittee comprised of Mayor Pro Tem Bourne and Councilmember Campbell have met with the Applicant and representatives of Saddleback Church to gain a better understanding of the proposed project and discuss potential impacts to San Juan Capistrano and neighboring cities.

Opt-In Application Submitted to CEC

In a letter dated April 18, 2024, the CEC provided notice to the City of the CEC's receipt of an opt-in application for the Compass Battery Energy Storage project (24-OPT-02) (the "Opt-In Notice"). The application seeks to construct, own, and operate an approximately 250-megawatt ("MW") BESS in the City of San Juan Capistrano. The BESS would be capable of storing up to 250 MW of electricity for four hours (up to 1,000 MW hours). The project would be composed of lithium-iron phosphate batteries, or similar technology batteries, inverters, medium voltage transformers, a switchyard, a collector substation, and other associated equipment to interconnect into the existing San Diego Gas & Electric

("SDG&E") Trabuco to Capistrano 138-kilovolt transmission line located approximately 500 feet from the project site and approximately 90 feet from the project property. The project would connect to the SDG&E electric transmission system via a proposed loop-in transmission line that would be constructed to transfer power to and from the proposed project. The loop-in transmission line would be supported by the replacement of two existing transmission poles and construction of one new transmission pole. Electric energy would be transferred from the existing power grid to the project batteries for storage and from the project batteries to the power grid when additional electricity is needed. No off-site transmission upgrades are required for the full capacity of the project, and an interconnection agreement with SDG&E and the California Independent System Operator has been executed. Following the construction of the switchyard by Applicant, ownership and operations would transfer to SDG&E. Once CEC deems the application complete, CEC will be under a 270-day period to certify the project.

This action by the Applicant to file the application with the CEC increases the urgency for the City to evaluate if, how, and where commercial BESS facilities can be accommodated safely within the city.

Public Safety Concerns

State law further requires the Applicant's proposed project to undergo an environmental study pursuant to the California Environmental Quality Act (CEQA) as well as public hearings to ensure comprehensive community engagement. Although local entitlement approvals may not be required for Applicant's proposed project, City personnel identified critical public safety concerns that require detailed examination before any commercial BESS project can move forward within the city.

For instance, there have been several fires at commercial BESS facilities both in California and nationwide. The proposed location of Applicant's project is near established residential neighborhoods in San Juan Capistrano and downslope of several hundred homes in Laguna Niguel, which raises significant safety concerns. Furthermore, its proximity is adjacent to Trabuco Creek which is an environmentally sensitive watercourse that flows to the ocean. Should a fire occur at the proposed commercial BESS site, fire extinguishing compounds used to combat the fire (either from the ground or air) would have the potential of entering the creek and significantly impairing water quality and native flora and fauna.

On October 7, 2023, the Governor of California signed into law Senate Bill 38 to address safety concerns with commercial BESS projects by requiring commercial BESS facilities in California to establish an emergency response and emergency action plan for the facility to protect surrounding residents, neighboring properties, emergency responders, and the environment. The commercial BESS facility owner or operator must coordinate with local emergency management agencies, unified program agencies, and local first responders to develop the plan and submit it to the county and the city where the facility is located.

SB 38 recognizes the many hazards that commercial BESS facilities create. It provides that the mandated emergency response and action plan may consider responses to potential offsite impacts, such as poor air quality, threats to municipal water supplies and water runoff, and threats to natural waterways. The plan may also include procedures related to shelter-in-place orders and road closure notifications.

Adoption of Urgency Ordinance

California Government Code Section 65858 provides that, without following the procedures otherwise required prior to the adoption of a zoning ordinance, an urgency measure in the form of an interim ordinance may be adopted by a four-fifths vote of the City Council to protect the public from a current and immediate threat to the public health, safety, or welfare resulting from a contemplated zoning proposal.

Government Code Section 65868 further provides that such an urgency measure shall expire forty-five days following its adoption, but may be extended beyond the initial forty-five day period, following compliance with Government Code Section 65868, for an additional ten months and fifteen days, and subsequently for an additional twelve months.

Pursuant to Section 65858, the City Council adopted Urgency Ordinance No. 1116 prohibiting any use permit, variance, building permit, business license, or any other entitlement for use from being approved or issued for the establishment, construction, or operation of a commercial BESS facility for any location or property within the city for the immediate preservation of the public health, safety, and welfare based on staff's findings in that interim ordinance. Urgency Ordinance No. 1116 is scheduled to expire on May 17, 2024.

Extension of Urgency Ordinance

Since the adoption of Urgency Ordinance No. 1116 on April 2, 2024, staff has continued to study and consider land use development policies and standards related to commercial BESS facilities that could be added to the City's General Plan and Zoning Regulations. Following further deliberations, staff remains concerned that the absence of adequate land use policies and standards to address commercial BESS facilities, including those necessary to implement Senate Bill 38 and prevent potentially catastrophic impacts to nearby residents and environmental resources, poses a current and immediate threat to the public's safety and welfare. Staff further believes that the approval or issuance of any use permits, building permits, or other applicable entitlements for such uses relating to commercial BESS facilities, particularly in the absence of regulations or criteria specifically addressing such facilities, would result in a threat to public safety and welfare as well.

In light of the significant safety risks associated with commercial BESS facilities, City staff seeks additional time to further investigate these issues, formulate recommendations for City Council consideration, and explore adjustments to the City's General Plan and Zoning Regulations to mitigate the safety risks associated with commercial BESS

facilities. If the current Interim Ordinance (Attachment 1) is adopted by a four-fifths (4/5) vote, it will extend Urgency Ordinance No. 1116 for ten months and fifteen days unless earlier repealed, terminated, or extended by the Council.

Adoption of 10-Day Report

Under State law, the City Council must issue a written report describing the measures taken to alleviate the condition which led to the adoption of the initial interim ordinance ten days prior to the expiration of the interim ordinance. (Government Code Section 65858(d).) A written report (Attachment 2) has been prepared describing the measures taken to alleviate the condition which led to the adoption of Urgency Ordinance No. 1116, as required by State law. As an overview, the City has taken the following steps since adopting Urgency Ordinance No. 1116:

- 1) Staff has taken preliminary steps to study and consider the hazards associated with commercial BESS facilities, land use development policies, and standards relating to commercial BESS facilities to evaluate the potential development of such facilities within the City.
- 2) In collaboration with the City Attorney's office, staff has explored amendments to the City's General Plan and Zoning Regulations aimed at enhancing public safety and mitigating the potentially catastrophic impacts of new commercial BESS facilities in the City and nearby communities in order to accomplish the goals of Urgency Ordinance No. 1116. This includes research into what other cities in California are doing in order to enhance safety standards and environmental safeguards regarding commercial BESS facilities and identify effective legislative frameworks that could be adapted to local needs.
- 3) City staff has engaged with neighboring cities likely to be affected by Applicant's proposed commercial BESS facility to collect their concerns and unique insights that will guide the development of specific regulations and mitigation strategies addressing both community safety and the impact of commercial BESS facilities near residential neighborhoods.
- 4) Recognizing the distinct fire safety risks associated with commercial BESS facilities, staff has taken preliminary steps toward an in-depth review of existing emergency response procedures to enhance emergency preparedness for potential incidents at these sites.

FISCAL IMPACT:

The cost of this continued study and necessary environmental analysis has yet to be determined.

ENVIRONMENTAL IMPACT:

In accordance with CEQA, the recommended action is not subject to the CEQA (Public Resources Code Section 21000, et seq.) pursuant to CEQA Guidelines (Cal. Code Regs., tit. 14, Section 15000 et seq) Section 15060(c)(2) [activity will not result in a direct or reasonably foreseeable indirect physical change in the environment]. Here, this Interim Ordinance is merely extending the current prohibition on certain projects from proceeding for a period of time during which the City will study the potential development. As a result, this Interim Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

Alternatively, this Interim Ordinance is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3) [it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment], and, in the alternative, 15307 [Class 7 categorical exemption for regulatory activity to assure the protection of natural resources], and, in the alternative, 15308 [Class 8 categorical exemption for regulatory activity to assure the protection of the environment]. Here, this Interim Ordinance will extend the current prohibition on certain projects from being able to proceed for a period of time during which the City will study the potential development. This activity is meant to ensure the protection of the environment and natural resources by studying the hazards associated with commercial BESS facilities, such as unique fire and explosion hazards, for potential development of zoning regulations for commercial BESS facilities. Currently, there are no commercial BESS facilities in the city. This Project merely preserves the status quo. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

Alternatively, this Interim Ordinance is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(4) and CEQA Guidelines Section 15269(c) because it prevents a clear and imminent danger that requires immediate action to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services. Here, the Interim Ordinance will extend the current prohibition on certain projects from being able to proceed for a period of time during which the City will study the potential development. This activity is meant to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services by studying the hazards associated with commercial BESS facilities, such as unique fire and explosion hazards, for potential development of zoning regulations for commercial BESS facilities. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

A Notice of Exemption (NOE) will be posted should the City Council adopt the proposed urgency ordinance.

PRIOR CITY COUNCIL REVIEW:

On April 2, 2024, the City Council adopted Urgency Ordinance No. 1116 approving a temporary prohibition on new commercial battery energy storage systems within the City for an initial period of forty-five days.

On November 1, 2022, the City Council denied the initiation of a Rezone study to create Comprehensive Development Plan 22-01 to govern land uses on an approximately 161-acre area, including allowing a commercial BESS facility as a conditional use.

COMMISSION/COMMITTEE/BOARD REVIEW AND RECOMMENDATIONS:

Not applicable.

NOTIFICATION:

Engie North America
Saddleback Church
California Energy Commission
Army Corps of Engineers
California Department of Fish and Wildlife
U.S. Department of Fish and Wildlife
City of Mission Viejo City Manager
City of Laguna Niguel City Manager
Interested Parties Notification List

ATTACHMENT(S):

Attachment 1 – Interim Ordinance Extending Prohibition on Commercial BESS Facilities
Attachment 2 – Ten Day Action Report
Attachment 3 – Urgency Ordinance No. 1116

URGENCY ORDINANCE NO. 1119

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO EXTENDING URGENCY ORDINANCE NO. 1116 PROHIBITING NEW COMMERCIAL BATTERY ENERGY STORAGE SYSTEMS WITHIN THE CITY OF SAN JUAN CAPISTRANO, ADOPTED AS AN URGENCY MEASURE; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA

WHEREAS, the City of San Juan Capistrano, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, in general, a Battery Energy Storage Systems ("BESS") facility collects energy from the grid, stores it, and then discharges that energy later to provide electricity or other grid services when needed, typically at times of high demand; and

WHEREAS, Engie North America ("Applicant") is proposing to construct a BESS facility on land currently owned by Saddleback Church located at the northern end of the city; and

WHEREAS, in December 2021, the City received entitlement applications and a letter of intent from the Applicant requesting to establish a BESS facility within the Planned Community ("PC") District zoning designation; and

WHEREAS, the PC District zoning designation allows uses and structures permitted within the city subject to the approval of a Comprehensive Development Plan ("CDP") consistent with the General Plan, pursuant to San Juan Capistrano Municipal Code ("Municipal Code") Section 9-3.315(b). In the absence of an approved CDP, the PC District zoning designation allows identified interim uses pursuant to Municipal Code Section 9-3.315(c) subject to the development standards for the Agri-Business District, pursuant to Municipal Code Section 9-3.315(e)(3); and

WHEREAS, the Planning Director has the authority and responsibility to review uses not listed in the Municipal Code and permit such proposed unlisted use if it falls within the purpose and intent of the base district, is of a comparable nature to the principal, accessory, or conditional uses set forth in the base district, is not listed in the base district, and will not be detrimental to property in the vicinity of such use pursuant to Municipal Code Section 9-3.203; and

WHEREAS, on April 29, 2022, the Development Services Director determined that a BESS facility cannot be accommodated by an unlisted use determination under Municipal Code Section 9-3.203 as the required findings could not be met. As such, the preparation and approval by the City Council of a CDP would be required to allow the proposed use; and

WHEREAS, in September 2022, Saddleback Church submitted a request for the City Council to initiate a Rezone study to establish a CDP that would govern the

approximately 161-acre Saddleback Church Rancho Capistrano property. On November 1, 2022, the City Council denied the initiation of a Rezone study to create the proposed CDP; and

WHEREAS, the City's current Zoning Regulations do not contain criteria specifically for BESS facilities; and

WHEREAS, pursuant to Assembly Bill 205, an applicant proposing to build a qualifying energy facility may file an "opt-in application for certification" at the California Energy Commission ("CEC") and the CEC's permitting authority over the proposed project is "in lieu of any permit, certificate, or similar document required by a state, local, or regional agency, or federal agency, to the extent permitted by federal law, for those facilities"; and

WHEREAS, in reviewing so-called opt-in projects, the CEC functions as the Lead Agency for purposes of California Environmental Quality Act ("CEQA") review and must make certain findings in certifying an opt-in project; and

WHEREAS, in early 2023, Applicant opted to pursue a State approval process through the CEC, as opposed to seeking local approval through the City Council, and in February 2024, the Applicant formally withdrew its City applications; and

WHEREAS, in a letter dated April 18, 2024, the CEC provided notice to the City of the CEC's receipt of an opt-in application for the Compass Battery Energy Storage project (24-OPT-02) (the "Opt-In Notice"). The application seeks to construct, own, and operate an approximately 250-megawatt ("MW") BESS in the City of San Juan Capistrano. The BESS would be capable of storing up to 250 MW of electricity for four hours (up to 1,000 MW hours). The project would be composed of lithium-iron phosphate batteries, or similar technology batteries, inverters, medium voltage transformers, a switchyard, a collector substation, and other associated equipment to interconnect into the existing San Diego Gas & Electric ("SDG&E") Trabuco to Capistrano 138-kilovolt transmission line located approximately 500 feet from the project site and approximately 90 feet from the project property. The project would connect to the SDG&E electric transmission system via a proposed loop-in transmission line that would be constructed to transfer power to and from the proposed project. The loop-in transmission line would be supported by the replacement of two existing transmission poles and construction of one new transmission pole. Electric energy would be transferred from the existing power grid to the project batteries for storage and from the project batteries to the power grid when additional electricity is needed. No off-site transmission upgrades are required for the full capacity of the project, and an interconnection agreement with SDG&E and the California Independent System Operator has been executed. Following the construction of the switchyard by Applicant, ownership and operations would transfer to SDG&E; and

WHEREAS, this action by the Applicant to file the application with the CEC increases the urgency for the City to evaluate if, how, and where commercial BESS facilities can be accommodated safely within the city; and

WHEREAS, once CEC deems the application complete, CEC will be under a 270-day period to certify the project; and

WHEREAS, while the Applicant's proposed project may no longer require local entitlement approvals, there remain significant public safety-related concerns that must be analyzed prior to any BESS project moving forward within the city; and

WHEREAS, there have been several fires at BESS facilities both in California and nationwide while the proposed location is near established residential neighborhoods in San Juan Capistrano and downslope of several hundred homes in Laguna Niguel; and

WHEREAS, should a fire occur at the proposed BESS site adjacent to Trabuco Creek, an environmentally sensitive watercourse that flows to the ocean, fire extinguishing compounds used to combat the fire (either from the ground or air) would have the potential of entering the creek and significantly impairing water quality and native flora and fauna; and

WHEREAS, Senate Bill 38 ("SB 38") requires every BESS facility in California to coordinate with local emergency management agencies, unified program agencies, and local first responders to develop an emergency response and emergency action plan for the facility to protect surrounding residents, neighboring properties, emergency responders, and the environment, and submit said plan to the county and the city where the facility is located; and

WHEREAS, SB 38 recognizes the many hazards that BESS facilities create, as it provides that the mandated emergency response and action plan may consider responses to potential offsite impacts, such as poor air quality, threats to municipal water supplies and water runoff, and threats to natural waterways. The plan may also include procedures related to shelter-in-place orders and road closure notifications; and

WHEREAS, California Government Code Section 65858 provides that, without following the procedures otherwise required prior to the adoption of a zoning ordinance, an urgency measure in the form of an interim ordinance may be adopted by a four-fifths vote of the City Council to protect the public from a current and immediate threat to the public health, safety, or welfare resulting from a contemplated zoning proposal; and

WHEREAS, Government Code Section 65868 further provides that such an urgency measure shall be effective for only forty-five days following its adoption, but may be extended beyond the initial forty-five day period, following compliance with that Section, for an additional ten months and fifteen days and subsequently for an additional twelve months; and

WHEREAS, at its April 2, 2024, City Council meeting, staff's findings demonstrated that the potential for development of new commercial BESS facilities within the city without adequate land use policies and standards in place to implement SB 38 and to prevent potentially catastrophic interference with nearby communities presents a current and immediate threat to the public's safety and welfare, and the approval of use permits, building permits, or other applicable entitlements for such uses would threaten public

safety and welfare; and

WHEREAS, at its April 2, 2024, meeting, the City Council voted to approve an interim ordinance prohibiting new commercial battery energy storage systems within the city, unless a use permit was approved prior to April 2, 2024, based upon a need for the immediate preservation of the public health, safety, and welfare as set forth herein, for an initial period of forty-five days while staff researched and selected the best recommended course of action to address the safety-related concerns regarding BESS facilities ("Urgency Ordinance No. 1116"); and

WHEREAS, the temporary prohibition on BESS facilities is scheduled to expire on May 17, 2024; and

WHEREAS, staff has issued a written report to the City Council on the progress of its study along with measures taken to alleviate the condition that led to the adoption of Urgency Ordinance No. 1116; and

WHEREAS, City staff is still in the process of conducting research to understand the impacts of BESS facilities and uses on community welfare and explore potential amendments to the City's Municipal Code and General Plan in relation to BESS facilities; and

WHEREAS, staff remains concerned that the absence of adequate land use policies and standards to address BESS facilities, including those necessary to implement SB 38 and prevent potentially catastrophic impacts to nearby residents and environmental resources, poses a current and immediate threat to the public's safety and welfare; and

WHEREAS, in light of the significant safety risks associated with BESS facilities, City staff seeks additional time to further investigate these issues, formulate recommendations for City Council consideration, and explore adjustments to the City's General Plan and Zoning Regulations to mitigate the safety risks associated with BESS facilities.

NOW, THEREFORE, the City Council of the City of San Juan Capistrano does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. This Interim Ordinance is not subject to the CEQA (Public Resources Code §21000, et seq.) pursuant to CEQA Guidelines (Cal. Code Regs., tit. 14, §15000 et seq.) Section 15060(c)(2) [activity will not result in a direct or reasonably foreseeable indirect physical change in the environment]. Here, this Interim Ordinance is merely extending the current prohibition on certain projects from proceeding for a period of time during which the City will study the potential development. As a result, this Interim Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

Alternatively, this Interim Ordinance is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3) [it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment], and, in the alternative, 15307 [Class 7 categorical exemption for regulatory activity to assure the protection of natural resources], and, in the alternative, 15308 [Class 8 categorical exemption for regulatory activity to assure the protection of the environment]. Here, this Interim Ordinance will extend the current prohibition on certain projects from being able to proceed for a period of time during which the City will study the potential development. This activity is meant to assure the protection of the environment and natural resources by studying the hazards associated with BESS facilities, such as unique fire and explosion hazards, for potential development of zoning regulations for BESS facilities. Currently, there are no commercial BESS facilities in the city. This Project merely preserves the status quo. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

Alternatively, this Interim Ordinance is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(4) and CEQA Guidelines Section 15269(c) because it prevents a clear and imminent danger that requires immediate action to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services. Here, this Interim Ordinance will extend the current prohibition on certain projects from being able to proceed for a period of time during which the City will study the potential development. This activity is meant to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services by studying the hazards associated with BESS facilities, such as unique fire and explosion hazards, for potential development of zoning regulations for BESS facilities. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

Section 3. This Interim Ordinance is urgently needed for the immediate preservation of the public health, safety, and welfare based on the findings of this Interim Ordinance and corresponding action report. This Interim Ordinance shall take effect immediately upon adoption.

Section 4. Urgency Ordinance No. 1116 is hereby extended for ten months and fifteen days, unless earlier repealed by the City Council or extended in accordance with the provisions set forth in California Government Code Section 65858.

Section 5. No use permit, variance, building permit, business license, or any other entitlement for use shall be approved or issued for the establishment, construction, or operation of a commercial BESS facility for any location or property within the City of San Juan Capistrano, unless a use permit was approved prior to April 2, 2024, authorizing the establishment, construction, and operation of the commercial BESS facility, in which case the commercial BESS facility may continue in operation as approved but may not be replaced or modified in any manner that would require revision or amendment to the use permit under the City's Zoning Regulations. As used in this ordinance, the term "commercial" means the use of a BESS facility to provide electricity to third parties, for consideration.

Section 6. The penalties for land use violations that are prescribed in Section 9-1.201 of the Municipal Code shall apply to violations of the provisions of this Interim Ordinance.

Section 7. If any provision of this ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

Section 8. The City Council hereby directs staff to prepare, execute, and file with the County of Orange Clerk a notice of exemption within five (5) working days of the adoption of this Ordinance.

Section 9. The Custodian of Records for this Interim Ordinance is the City Clerk and the records comprising the administrative record for this Interim Ordinance are located at 32400 Paseo Adelanto, San Juan Capistrano, CA 92675.

PASSED, APPROVED AND ADOPTED by the City Council of San Juan Capistrano, California, at a regular meeting of the City Council held on the 7th day of May, 2024, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

City of San Juan Capistrano

Sergio Farias, Mayor

ATTEST:

Christy Jakl, Acting City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

Jeff Ballinger, City Attorney

**10-DAY REPORT REGARDING MEASURES TAKEN TO ALLEVIATE
CONDITIONS WHICH LED TO ADOPTION OF URGENCY ORDINANCE NO.
1116 ESTABLISHING A TEMPORARY PROHIBITION ON NEW COMMERCIAL
BATTERY ENERGY STORAGE SYSTEMS WITHIN THE CITY OF SAN JUAN
CAPISTRANO**

I. Background

At its April 2, 2024, meeting, the City Council of the City of San Juan Capistrano ("City") adopted an urgency interim ordinance establishing a temporary prohibition on new commercial battery energy storage systems ("BESS") within the City's boundaries ("Urgency Ordinance No. 1116"). More specifically, Urgency Ordinance No. 1116 prohibits any use permit, variance, building permit, business license, or any other entitlement for use from being approved or issued for the establishment, construction, or operation of a commercial BESS facility for any location or property within the City, unless a use permit was approved prior to April 2, 2024, authorizing the establishment, construction, and operation of the commercial BESS facility, in which case the commercial BESS facility could continue in operation as approved but cannot be replaced or modified in a manner that would require revision or amendment to the use permit under the City's Zoning Regulations.

An interim ordinance takes immediate effect upon adoption and expires forty-five days after adoption, unless extended at a later date after notice and a public hearing for an additional ten months and fifteen days, and subsequently for an additional twelve months. (Government Code Section 65868(a).)

Urgency Ordinance No. 1116 took effect on April 2, 2024, and will expire on May 17, 2024. Government Code Section 65858(d) requires that at least ten days prior to the expiration of an interim ordinance or any extension, the City Council must issue a written report describing the measures taken to alleviate the condition(s) which led to the adoption of the ordinance.

II. Measures Taken Since the Adoption of the Interim Ordinance

As City staff's findings demonstrate, Urgency Ordinance No. 1116 was enacted in order to preserve public health, safety, and welfare of the City, residents, and the local environment based on, among other things, the unique fire and explosion hazards of commercial BESS facilities and the proximity of Applicant's proposed commercial BESS facility to established residential neighborhoods and Trabuco Creek, an environmentally sensitive watercourse.

Since adoption of Urgency Ordinance No. 1116, the City has become aware of an application filed with the California Energy Commission ("CEC") for the Compass Battery Energy Storage project (24-OPT-02) (the "Opt-In Notice"). The application seeks to construct, own, and operate an approximately 250-megawatt ("MW")

BESS in the City of San Juan Capistrano. The BESS would be capable of storing up to 250 MW of electricity for four hours (up to 1,000 MW hours). The project would be composed of lithium-iron phosphate batteries, or similar technology batteries, inverters, medium voltage transformers, a switchyard, a collector substation, and other associated equipment to interconnect into the existing San Diego Gas & Electric ("SDG&E") Trabuco to Capistrano 138-kilovolt transmission line located approximately 500 feet from the project site and approximately 90 feet from the project property. The project would connect to the SDG&E electric transmission system via a proposed loop-in transmission line that would be constructed to transfer power to and from the proposed project. The loop-in transmission line would be supported by the replacement of two existing transmission poles and construction of one new transmission pole. Electric energy would be transferred from the existing power grid to the project batteries for storage and from the project batteries to the power grid when additional electricity is needed. No off-site transmission upgrades are required for the full capacity of the project, and an interconnection agreement with SDG&E and the California Independent System Operator has been executed. Following the construction of the switchyard by Applicant, ownership and operations would transfer to SDG&E. Once the CEC deems the application complete, CEC will be under a 270-day period to certify the project. This action by the Applicant to file the application with the CEC increases the urgency for the City to evaluate if, how, and where commercial BESS facilities can be accommodated safely within the City.

To alleviate the conditions that led to the adoption of Urgency Ordinance No. 1116, the City has taken the following steps since adopting the Interim Ordinance:

- 1) Staff has taken preliminary steps to study and consider the hazards associated with commercial BESS facilities, land use development policies, and standards relating to commercial BESS facilities to evaluate the potential development of such facilities within the City.
- 2) In collaboration with the City Attorney's office, staff has explored amendments to the City's General Plan and Zoning Regulations aimed at enhancing public safety and mitigating the potentially catastrophic impacts of new commercial BESS facilities in the City and nearby communities in order to accomplish the goals of Urgency Ordinance No. 1116. This includes research into what other cities in California are doing in order to enhance safety standards and environmental safeguards regarding commercial BESS facilities and identify effective legislative frameworks that could be adapted to local needs.
- 3) City staff has engaged with neighboring cities likely to be affected by Applicant's proposed commercial BESS facility to collect their concerns and unique insights that will guide the development of specific regulations and mitigation strategies addressing both community safety and the impact of

commercial BESS facilities near residential neighborhoods.

- 4) Recognizing the distinct fire safety risks associated with commercial BESS facilities, staff has taken preliminary steps toward an in-depth review of existing emergency response procedures to enhance emergency preparedness for potential incidents at these sites.

III. Conclusion

The City has not concluded its research and thus has not yet taken any action at this time regarding the form of any permanent regulations pertaining to the establishment or use of commercial BESS facilities. As a result, an extension of Urgency Ordinance No. 1116 is recommended to allow the City the time to effectively study and consider land use development policies and standards related to commercial BESS facilities that should be added to the City's General Plan and Zoning Regulations.

URGENCY ORDINANCE NO. 1116

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO PROHIBITING NEW COMMERCIAL BATTERY ENERGY STORAGE SYSTEMS WITHIN THE CITY OF SAN JUAN CAPISTRANO, ADOPTED AS AN URGENCY MEASURE; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA

WHEREAS, the City of San Juan Capistrano, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, in general, a Battery Energy Storage Systems ("BESS") facility collects energy from the grid, stores it, and then discharges that energy later to provide electricity or other grid services when needed, typically at times of high demand; and

WHEREAS, Engie North America ("Applicant") is proposing to construct a BESS facility on land currently owned by Saddleback Church located at the northern end of the city; and

WHEREAS, in December 2021, the City received entitlement applications and a letter of intent from the Applicant requesting to establish a BESS facility. The proposed project is located within the Planned Community ("PC") District zoning designation. The PC District zoning designation allows uses and structures permitted within the city subject to the approval of a Comprehensive Development Plan ("CDP") consistent with the General Plan, pursuant to San Juan Capistrano Municipal Code ("Municipal Code") Section 9-3.315(b). In the absence of an approved CDP, the PC District zoning designation allows identified interim uses pursuant to Municipal Code Section 9-3.315(c) subject to the development standards for the Agri-Business District, pursuant to Municipal Code Section 9-3.315(e)(3); and

WHEREAS, the Planning Director also has the authority and responsibility to review uses not listed in the Municipal Code and permit such proposed unlisted use if it falls within the purpose and intent of the base district, is of a comparable nature to the principal, accessory, or conditional uses set forth in the base district, is not listed in the base district, and will not be detrimental to property in the vicinity of such use pursuant to Municipal Code Section 9-3.203; and

WHEREAS, on April 29, 2022, the Development Services Director determined that a BESS facility cannot be accommodated by an unlisted use determination under Municipal Code Section 9-3.203 as the required findings could not be met. As such, the preparation and approval by the City Council of a CDP would be required to allow the proposed use. Consequently, in September 2022, Saddleback Church submitted a request for the City Council to initiate a Rezone study to establish a CDP that would govern the approximately 161-acre Saddleback Church Rancho Capistrano property; and

WHEREAS, the proposed CDP would have identified the uses currently operating on the property (i.e. a church use), uses allowed on the property by the General Plan,

and a BESS facility use. On November 1, 2022, the City Council denied the initiation of a Rezone study to create the proposed CDP; and

WHEREAS, the City's current Zoning Regulations do not contain criteria specifically for BESS facilities; and

WHEREAS, in 2022, the Governor signed into law Assembly Bill 205 ("AB 205"), which expands the California Energy Commission's ("CEC") powerplant siting authority—previously limited to thermal powerplants—to certain renewable energy facilities, including energy storage systems (as defined in Pub. Util. Code section 2835) that are capable of storing 200 Megawatt-hours or more of electrical energy; and

WHEREAS, pursuant to AB 205 (as codified at Pub. Res. Code Division 15, Chapter 6.2), an applicant proposing to build a qualifying energy facility may file an "opt-in application for certification" at the CEC and the CEC's permitting authority over the proposed project is "in lieu of any permit, certificate, or similar document required by a state, local, or regional agency, or federal agency, to the extent permitted by federal law, for those facilities"; and

WHEREAS, in reviewing so-called opt-in projects, the CEC functions as the Lead Agency for purposes of California Environmental Quality Act ("CEQA") review. In certifying an opt-in project, the CEC must make certain findings; and

WHEREAS, in early 2023, Applicant informed the City that it has opted to pursue a State approval process through the CEC, as opposed to seeking local approval through the City Council; and

WHEREAS, while the Applicant's proposed project may no longer require local entitlement approvals, there remain significant public safety-related concerns that must be analyzed prior to any BESS project moving forward within San Juan Capistrano, whether at the Saddleback Church site or elsewhere in the community; and

WHEREAS, there have been several fires at BESS facilities both in California and nationwide. BESS facilities that use lithium-ion batteries create particularly unique fire and explosion hazards. Lithium-ion batteries are inherently safe and stable but certain conditions elevate the risk of fire such as impacts, puncture, or mechanical damage, overcharging, overheating, and short circuits. The proposed location is near established residential neighborhoods in San Juan Capistrano and downslope of several hundred homes in Laguna Niguel; and

WHEREAS, the proposed project is located adjacent to Trabuco Creek, which is an environmentally sensitive watercourse that flows to the ocean. Should a fire occur at the proposed BESS site, fire extinguishing compounds used to combat the fire (either from the ground or air) would have the potential of entering the creek and significantly impairing water quality and native flora and fauna; and

WHEREAS, on October 7, 2023, the Governor of California signed into law Senate Bill 38 ("SB 38"), which amends California Public Utilities Code Section 761.3 to address

safety concerns with BESS projects. SB 38 requires every BESS facility in California to establish an emergency response and emergency action plan for the facility to protect surrounding residents, neighboring properties, emergency responders, and the environment. The BESS facility owner or operator must coordinate with local emergency management agencies, unified program agencies, and local first responders to develop the plan, and submit the plan to the county and the city where the facility is located; and

WHEREAS, SB 38 recognizes the many hazards that BESS facilities create. It provides that the mandated emergency response and action plan may consider responses to potential offsite impacts, such as poor air quality, threats to municipal water supplies and water runoff, and threats to natural waterways. The plan may also include procedures related to shelter-in-place orders and road closure notifications; and

WHEREAS, California Government Code Section 65858 provides that, without following the procedures otherwise required prior to the adoption of a zoning ordinance, an urgency measure in the form of an interim ordinance may be adopted by a four-fifths vote of the City Council to protect the public from a current and immediate threat to the public health, safety, or welfare resulting from a contemplated zoning proposal. Government Code Section 65868 further provides that such an urgency measure shall be effective for only 45 days following its adoption, but may be extended beyond the initial 45 day period, following compliance with that Section, for an additional 10 months and 15 days and subsequently for an additional 12 months; and

WHEREAS, the potential for development of new commercial BESS facilities within the City of San Juan Capistrano without adequate land use policies and standards in place to implement SB 38 and to prevent potentially catastrophic interference with nearby communities presents a current and immediate threat to the public's safety and welfare, and the approval of use permits, building permits, or other applicable entitlements for such uses would result in that threat to public safety and welfare; and

WHEREAS, while this interim ordinance is in effect, the City intends to study and consider land use development policies and standards related to BESS facilities that should be added to the City's General Plan and Zoning Regulations.

NOW, THEREFORE, the City Council of the City of San Juan Capistrano does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. This interim ordinance is not subject to the CEQA (Public Resources Code §21000, et seq.) pursuant to CEQA Guidelines (Cal. Code Regs., tit. 14, §15000 et seq.) Section 15060(c)(2) [activity will not result in a direct or reasonably foreseeable indirect physical change in the environment]. Here, the interim ordinance will prohibit certain projects from proceeding for a period of time during which the City will study the potential development. As a result, this interim ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Alternatively, this interim ordinance is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3) [it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment], and, in the alternative, 15307 [Class 7 categorical exemption for regulatory activity to assure the protection of natural resources], and, in the alternative, 15308 [Class 8 categorical exemption for regulatory activity to assure the protection of the environment]. Here, the interim ordinance will prohibit certain projects from proceeding for a period of time during which the City will study the potential development. This activity is meant to assure the protection of the environment and natural resources by studying the hazards associated with BESS facilities, such as unique fire and explosion hazards, for potential development of zoning regulations for BESS facilities.

Alternatively, this interim ordinance is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(4) and CEQA Guidelines Section 15269(c) because it prevents a clear and imminent danger that requires immediate action to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services. Here, the interim ordinance will prohibit certain projects from proceeding for a period of time during which the City will study the potential development. This activity is meant to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services by studying the hazards associated with BESS facilities, such as unique fire and explosion hazards, for potential development of zoning regulations for BESS facilities.

Section 3. From and after the date of enactment of the interim ordinance, no use permit, variance, building permit, business license, or any other entitlement for use shall be approved or issued for the establishment, construction, or operation of a commercial BESS facility for any location or property within the City of San Juan Capistrano, unless a use permit was approved prior to April 2, 2024, authorizing the establishment, construction, and operation of the commercial BESS facility, in which case the commercial BESS facility may continue in operation as approved but may not be replaced or modified in any manner that would require revision or amendment to the use permit under the City's Zoning Regulations. As used in this ordinance, the term "commercial" means the use of a BESS facility to provide electricity to third parties, for consideration.

Section 4. This interim ordinance is urgently needed for the immediate preservation of the public health, safety, and welfare based on the findings in this interim ordinance. It shall take effect immediately upon adoption and shall be of no further force and effect 45 days following the date of its adoption, unless earlier repealed by the City Council or extended in accordance with the provisions set forth in California Government Code Section 65858.

Section 5. The penalties for land use violations that are prescribed in Section 9-1.201 of the Municipal Code shall apply to violations of the provisions of this interim ordinance.

Section 6. If any provision of this ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City

Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

Section 7. The City Council hereby directs staff to prepare, execute, and file with the County of Orange Clerk a notice of exemption within five (5) working days of the adoption of this Ordinance.

Section 8. The Custodian of Records for this Ordinance is the City Clerk and the records comprising the administrative record for this Ordinance are located at 32400 Paseo Adelanto, San Juan Capistrano, CA 92675.

PASSED, APPROVED AND ADOPTED by the City Council of San Juan Capistrano, California, at a regular meeting of the City Council held on the 2nd day of April, 2024.

City of San Juan Capistrano


SERGIO FARIAS, MAYOR

ATTEST:


CHRISTY JAKL, ACTING CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN JUAN CAPISTRANO)

I, **CHRISTY JAKL**, Acting City Clerk of the City of San Juan Capistrano, do hereby certify that the foregoing is a true and correct copy of **Urgency Ordinance No. 1116** was duly adopted and passed at the Regular Meeting of the City Council on the 2nd day of April 2024 by the following vote, to wit:

AYES: COUNCIL MEMBERS: Taylor, Campbell, Hart, Bourne and Mayor Farias
NOES COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: None


CHRISTY JAKL, ACTING CITY CLERK


STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss AFFIDAVIT OF POSTING
 CITY OF SAN JUAN CAPISTRANO)

I, CHRISTY JAKL, declare as follows:

That I am the duly appointed and qualified City Clerk of the City of San Juan Capistrano; That in compliance with State laws, Government Code section 36933(1) of the State of California, on the 28th day of March 2024, at least 5 days prior to the adoption of the ordinance, I caused to be posted a certified copy of the proposed ordinance entitled:

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO PROHIBITING NEW COMMERCIAL BATTERY ENERGY STORAGE SYSTEMS WITHIN THE CITY OF SAN JUAN CAPISTRANO, ADOPTED AS AN URGENCY MEASURE; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA

This document was posted in the Office of the City Clerk



 CHRISTY JAKL, ACTING CITY CLERK
 San Juan Capistrano, California

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss AFFIDAVIT OF POSTING
 CITY OF SAN JUAN CAPISTRANO)

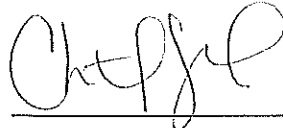
I, CHRISTY JAKL, declare as follows:

That I am the duly appointed and qualified City Clerk of the City of San Juan Capistrano; that in compliance with State laws, Government Code section 36933(1) of the State of California.

On the 11th day of March 2024, I caused to be posted a certified copy of **Urgency Ordinance No. 1116**, adopted by the City Council on April 2, 2024, entitled:

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO PROHIBITING NEW COMMERCIAL BATTERY ENERGY STORAGE SYSTEMS WITHIN THE CITY OF SAN JUAN CAPISTRANO, ADOPTED AS AN URGENCY MEASURE; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA

This document was posted in the Office of the City Clerk



CHRISTY JAKL, ACTING CITY CLERK
San Juan Capistrano, California