

Mayor Mark A. Breceda
Mayor Pro Tem Manuel R. Garcia
Council Member Albert F. Ambriz
Council Member Julian A. Miranda
Council Member H. Manuel Ortiz
City of Irwindale
5050 N. Irwindale Ave.
Irwindale, CA 91706

Re: Proposed CleanTech hazardous waste plant

Honorable Mayor and Councilmembers:

At the last council meeting (3/25/15), you said you would help if you could. You can!! As you are now aware and as we voiced our concerns over, CleanTech Environmental, Inc. is proposing a large hazardous waste facility literally next door to the Santa Fe Dam Recreation Area. This proposed hazardous waste facility violates your zoning code and your general plan. You have the power to stop this project, a project that is bad for the community and bad for the Recreation area.

This new plant would process 1,500,000 gallons of hazardous waste a month literally next door to one of the environmental and community jewels of the City of Irwindale and the entire San Gabriel Valley. Earlier this year, the Department of Toxic Substances Control (DTSC) approved a permit for this hazardous waste facility over strong community objection before requiring the applicant to get required land use approvals from the City of Irwindale.

In the DTSC prepared environmental impact report, DTSC said that they had contacted City staff by phone and were informed that the project is in compliance with the zoning code and that the project will not require a conditional use permit. Nothing could be further from the truth. So DTSC approved a permit for a hazardous waste facility next to an environmentally sensitive habitat area without checking the facts as to the City's zoning and general plan. DTSC only made a phone call to an unnamed individual. DTSC made no independent review of the zoning code or general plan.

The project clearly violates the zoning code.

By the applicant's and DTSC's admission, this proposed project is a recycling facility. The application to DTSC states: "Clean Tech Environmental Inc. will operate a full Non-RCRA permitted Used Oil Recycling Facility." (Part B Application, p. 95.) Similarly, the environmental impact report that DTSC prepared says that the "proposed Project would involve the construction of a used oil recycling facility..." (EIR, p. ES-2.) The City's zoning code specifically regulates recycling facilities in the M2 zone, where the Cleantech plant is proposed. It provides for recycling facilities: "No hazardous materials, including but not limited to, automotive fluids shall be permitted on site. Any hazardous materials inadvertently introduced into the site shall be disposed of immediately per state law requirements." Irwindale Code of Ordinances,

§ 17.56.090(B)(2). In other words, the zoning code explicitly prohibits this project in the M2 zone. It states that hazardous materials are prohibited. Period. The zoning code would need to be amended before the City could allow it.

Even if hazardous waste recycling facilities were allowed in the M2 zone (which they are not), they would require a conditional use permit. In fact, the City's zoning code requires a conditional use permit even for recycling facilities that lawfully existed before the zoning code was amended in 2009 to address recycling facilities: "Existing lawfully established recycling facilities/uses located within the M-2 (heavy manufacturing) zone and all zones within one hundred feet of residential zones shall obtain a conditional use permit by the planning commission pursuant to Irwindale Municipal Code Section 17.56.020." Irwindale Code of Ordinances, § 17.56.100.

In the environmental impact report, DTSC ignored the fact that the project is explicitly prohibited by the zoning code. Inexplicably, the environmental impact report then said there was no conditional use permit required because "The City of Irwindale has categorized the site use to be appropriate for the M-2 zone and has noted that the proposed Project would be considered an intensification of existing use that would not require a conditional use permit." Draft EIR at p. 2-28. That is just plain wrong.

How many different ways can DTSC get it wrong? The law is clear. Even if there are existing operations at the site, a conditional use permit would still be required for any new uses at the site or intensification of use. The project is a new large hazardous waste facility. That is why they had to get the DTSC permit in the first place. This is a new use, not an intensification of an existing use. As such a new use of the site requires a conditional use permit (if it were a permitted use, which it isn't). But even if this were an expansion of the existing use, the zoning code would clearly still require a conditional use permit: "Any request for expansion of an existing facility requires a modification of the previously approved conditional use permit." Irwindale Code of Ordinances, § 17.56.090(B)(21). In all events a conditional use permit is required.

Moreover, the City cannot just waive its zoning requirements. There is no exception in the zoning code that allows new hazardous waste recycling plants, or even expanded plants, without a conditional use permit. Quite the contrary even if the new plant Cleantech seeks to construct were an already existing lawful use (which it is not), the zoning code, as described above, would require a conditional use permit.

The project is inconsistent with the general plan.

The City of Irwindale's general plan explicitly identifies permitted hazardous waste facilities on a general plan map. Page 134 of the general plan states: "Exhibit 6-4 identifies those registered hazardous waste generators and handlers in the City. Because these businesses use hazardous materials, they are required to obtain necessary permits from various public agencies."

The CleanTech hazardous waste facility is not one of the permitted facilities identified on the map on Exhibit 6-4, and is therefore not contemplated or permitted by the

general plan. Before this project can proceed, the City would have to amend its general plan to add it to the map of permitted hazardous waste projects.

In addition, this project is inconsistent with many general plan policies designed to protect the citizens of Irwindale. For example, the project conflicts with the following general plan policies:

- “Resource Management Element Policy 5. The City of Irwindale will maintain and improve the existing park facilities in the City for the benefit and enjoyment of future generations.”

How does placing a large hazardous waste plant next to the Santa Fe Dam Recreation Area “maintain and improve” existing parks? It doesn’t.

- “Resource Management Element Policy 13. The City will encourage environmental considerations and the City's discretionary authority over land use entitlements...”

According to DTSC, City staff said the City of Irwindale has no discretionary permitting role in this project. That is factually wrong. And any such refusal by City staff would be directly contrary to Policy 13. The City should be asserting its authority to protect its residents. We sincerely hope that this was a stray comment by staff, and that the City Council will exercise its authority quickly to correct it.

- “Resource Management Element Policy 19. The City of Irwindale will consider environmental justice issues as they are related to potential health impact associated with air pollution and ensure that all land use decisions, including enforcement actions, are made in an equitable fashion to protect residents, regardless of age, culture, ethnicity, gender, race, socioeconomic status, or geographic location from the health effects of air pollution.”

This project will place a new large hazardous waste facility in the middle of a largely Latino, low-income community and adjacent to the Santa Fe Dam Recreational Area. It is difficult to conceive of a land use decision that could be more harmful to environmental justice.

You do have the power to require land use approvals for this project and to protect the environment and your citizens from this ill-considered hazardous waste facility. In fact, Irwindale’s zoning code and general plan both prohibit this facility, and the City would be violating its own laws that it established to protect people if it does not require the applicant to obtain the necessary approvals before it begins construction.

It is clear that DTSC got it wrong in the environmental impact report. But you are the elected decision makers, and you must follow the City’s zoning code and general plan, which were designed to protect your citizenry.

We ask that the City immediately take the following steps:

- Write a letter informing DTSC that the EIR contains material mistakes regarding the City of Irwindale's land use process, and that the City will require a zoning code amendment, general plan amendment, and conditional use permit before the project can be approved.
- Write a letter to the applicant informing it of the same thing.
- Schedule a community workshop on this project to start soliciting community input.

We need your help, please call Rabbi Klein at (310) 770-5555 to talk at your convenience. The City got off on the wrong track by giving DTSC incorrect information, but it is not too late to do the right thing and protect your citizens and follow the law.

Very truly yours,



Executive Director

Jonathan Klein



Consumer Advocate

Liza Tucker



Angelo Logan



Executive Director

Rev. Tera Little



Southern California Organizer

Walker Foley



Resurrection Church
Rev. Msgr. John Moretta, Pastor
serving East Los Angeles since 1923



Resurrection Church
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Cc

Governor Brown

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Senator Dianne Feinstein

Congresswoman Grace Napolitano

Congresswoman Judy Chu

Senate pro Tem Kevin De León

State Senator Ed Hernandez

Assemblyman Roger Hernandez

Supervisor Hilda Solis

Sections:

17.56.010 - Permitted uses.



No person shall use any portion of any property in a M-2 zone, except as permitted by this chapter. The following uses shall be permitted uses in the M-2 zone:

1. Any use permitted in the M-1 zone, subject to all of the limitations and restrictions imposed by [Chapter 17.52](#), except as expressly provided in this chapter;
2. Horn products, manufacture;
3. Lamp black, manufacture;
4. Oil cloth or linoleum manufacture;
5. Plumbing supply, outside storage screened;
6. Roofing material manufacture;
7. Soda and compound manufacture;
8. Statuary, manufacturing of clay, papier mache, stone statuary and monuments;
9. Stone monuments and tombstone works;
10. Wood products, manufacture (excluding planing mill);
11. Accessory buildings and uses customarily incidental to any of the above uses, when located on the same site with the main building.

(Ord. 571 § 11, 2003; Ord. 323 § 5, 1978; Ord. 216 § 1, 1968; Ord. 177 § 2(part), 1966; prior code § 9490).

17.56.020 - Uses requiring a conditional use permit.



Because of considerations of smoke, fumes, dust, vibration, noise, traffic congestion, or hazard, the establishment and operation of the following uses in the M-2 (heavy manufacturing) zone shall not be permitted unless a conditional use permit authorizing such use has been granted:

1. Acid manufacture;
2. Agricultural contractor equipment, sale or rental or both;
3. Alcohol manufacture, other than for human consumption (excluding beer manufacture);
4. Asphalt plants;
5. Automobile forwarding;
6. Automobile wrecking or dismantling yards;
7. Batching plants;
8. Blacksmith shops;
9. Blast furnaces or coke ovens;
10. Boiler works;

11. Breweries;
12. Brick tile, cement block or terra cotta manufacture;
13. Building material sales and storage yards;
14. Cement, lime, gypsum or plaster of paris manufacture;
15. Concrete and concrete products manufacture;
16. Contractor's storage yards;
17. Distillation of bones;
18. Drop forge industries;
19. Explosives, manufacture or storage;
20. Feed and fuel yards;
21. Gas manufacture or storage;
22. Iron, steel, brass or copper fabrication plants;
23. Iron, steel, brass or copper foundries;
24. Lumber yards (no planing mills or burners);
25. Machinery storage yards;
26. Manufacture of prefabricated buildings;
27. Mills, planing;
28. Oil extraction plants;
29. Paint, oil, shellac, turpentine or varnish manufacture;
30. Paper pulp manufacturing;
31. Petroleum or its fluid products, wholesale storage;
32. Petroleum refining;
33. Plumbing supply yards;
34. Quarries;
35. Recycling facilities;
36. Rubber, reclaiming, or the manufacture of synthetic rubber or its constituents;
37. Steam electric generating stations;
38. Storage space for transit and transportation equipment;
39. Tire rebuilding, recapping and retreading;
40. Truck transportation yards or terminals;
41. Vehicle towing facilities, not a part of service stations or automobile wrecking or dismantling yards;
42. Wineries.

(Ord. 571 § 12, 2003: Ord. 177 § 2(part), 1966: prior code § 9491).

(Ord. No. 636, § 3, 6-10-09)

17.56.030 - Limitation on permitted uses.



Every use permitted in the M-2 zone shall be subject to the following limitations:

- A. When an M-2 lot fronts or sides upon a street, public or private, when adjacent to residential and agricultural zones, there shall be maintained front and side yards of not less than fifty feet in depth along such thoroughfare. When an M-2 lot fronts or sides upon a street, public or private, when adjacent to commercial and M zones, there shall be maintained front and side yards of not less than

1. Eight a.m. to six p.m. Sunday through Friday;
 2. Eight a.m. to nine p.m. on Saturday.
- H. All existing yards shall comply with subsections A through G of this section within one year after the effective date of the ordinance codified in this section, except as follows:
1. Existing yards shall have two years to comply with subsection (B)(3) of this section;
 2. Existing yards that do not have at least a five-foot area per subsection (D)(1) of this section shall landscape only the area between the street and the wall.

(Ord. 444 § 1, 1990; Ord. 286 § 2, 1975; prior code § 9496).

17.56.080 - Recycling facilities—Definitions.



For the purpose of carrying out the purpose of this code, the words, phrases and terms included in this title shall have the meaning ascribed to them in this chapter. The use of the terms "collection facilities" or "processing facilities" herein, whether large or small, shall not apply to either (i) materials recovery facilities and transfer stations (MRF/TS), which are facilities operated by a city-franchised waste hauler for the recovery of recyclable materials from the municipal waste stream, including its city-approved related or incidental uses; (ii) auto dismantling/recycling facilities or junk/salvage/scrap yards; (iii) asphalt plants; (iv) concrete plants; (v) concrete product manufacturing, (vi) rubberized materials/tire recycling and (vii) landfills.

- A. Large Collection Facilities. A center for the acceptance by donation, redemption or purchase of recyclable materials from any person. Such a facility uses power driven processing equipment. Large collection facilities have storage areas that occupy more than five hundred square feet.
- B. Large Processing Facilities. A facility used for the collection and processing of recyclable materials that occupies twenty-five thousand square feet or more of gross collection, processing and storage area.
- C. Small Collection Facilities. A center for the acceptance by donation, redemption or purchase of recyclable materials from the public. Such a facility does not use power driven processing equipment. Small collection facilities have storage areas that occupy no more than five hundred square feet.
- D. Small Processing Facilities. Same as large processing facility, but occupies twenty-four thousand nine hundred ninety-nine square feet or less of gross collection, processing and storage area.

(Ord. No. 636, § 4, 6-10-09)

17.56.090 - Recycling facilities—Criteria and standards.



- A. Collection Facilities.
1. Cannot abut residentially zoned or used property.
 2. Any storage containers or other equipment or materials must be stored behind a solid masonry wall a minimum of six feet zero inches and a maximum of eight feet zero inches in height and adequately screened.
 3. Any storage container must be located a minimum of ten feet from any property line.
 4. Containers must be constructed and maintained with durable waterproof and rustproof materials,

adequately painted and maintained in good condition.

5. Site must be secured and maintained free of litter, debris, noxious odors, pests, vermin or any other undesirable material.
6. Site must maintain a minimum of five feet zero inches landscape buffer between masonry wall and right of way.
7. Provide parking for each commercial vehicle associated with the use.
8. There shall be no more than five outbound truck shipments of material per day. A truck is a commercial motor vehicle weighing ten thousand pounds or more unladen. Truck shipments do not include public drop-off.
9. All outbound truck shipments shall be maintained in a log. The log must contain vehicle type, license plate number, driver's name, registered owner and weight and type of material removed from the facility. Logs shall be subject to city review at any time.
10. No facility shall be located within five hundred feet of property zoned or planned for residential use.
11. Applicant must have all applicable permits from the California Department of Conservation and meet the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986.
12. Site must receive monthly steam cleaning. A valid maintenance contract must be submitted to the planning department for review prior to obtaining a certificate of occupancy and kept in effect at all times.
13. Signs shall be limited to building walls only. No signage shall be placed on any perimeter/free-standing walls or storage containers.
14. The facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation. Identification and informational signs shall be subject to the sign standards applicable to the zone in which the facility is located. Onsite directional signs, bearing no advertising message, may be installed with the approval of the planning director, if necessary, to facilitate traffic circulation or if the facility is not visible from the public right-of-way. Directional signs shall include the city's logo.
15. Provide an extra trash enclosure for waste/non-recyclable materials and excess trash, such as bags used to transport the recyclables.
16. City of Irwindale must receive the source credit for the collections and processing.
17. No after-hours drop off shall be allowed.
18. No hazardous materials, including but not limited to, automotive fluids shall be permitted on site. Any hazardous materials inadvertently introduced into the site shall be disposed of immediately per state law requirements.
19. Facility is subject to annual inspections by the city to verify compliance with approved conditions of approval and applicable law.
20. Facility must submit reports for yearly disposal and diversion amounts to be reviewed by the planning department and finance department. Diversion activities must be in accordance with all applicable federal, state and local requirements.
21. Facility is required to obtain a city business license.
22. All inspections and report reviews are subject to a fee.
23. Except for small quantities of CRV materials, if warranted as determined by the director of planning and in accordance with state law requirements, the facility will be required to maintain a customer log; at which time the customer must show valid identification, such as a state issued driver's license, identification card and/or thumb print where applicable.
24. All portions of the lot shall be paved.
25. The conditional use permit shall be subject to revocation after three substantiated complaints to the city or other regulatory agency in a twelve-month period.
26. Adequate security measures shall be established, including but not limited to cameras with

recording capabilities, motion sensors and lighting.

27. Any request for expansion of an existing facility requires a modification of the previously approved conditional use permit.
28. Recycling facilities shall not be permitted within two thousand feet of any other recycling facility.
29. Hours of operation shall be limited to Monday through Sunday, seven a.m. until seven p.m.
30. Collection shall be limited to the hours of seven a.m. to five p.m.
31. All after-hours operations (five p.m. to seven p.m.) shall be restricted to facility related functions only, including but not limited to clean up, inventory and vehicle parking.
32. No mobile or unattended collection containers shall be permitted.
33. Minor repairs shall be permitted for fleet vehicles and machinery only. All repairs must be done within an enclosed building or shielded from the public right of way and be limited to oil changes, tire changes and the like.
34. Recycling taxes, when applicable should be paid per [Section 3.18.070](#)
35. Recycling activities must be in accordance with all applicable federal, state and local requirements.

B. Processing Facilities.

1. There shall be no more than five outbound truck shipments of material per day. A truck is a commercial motor vehicle weighing ten thousand pounds or more unladen. Truck shipments do not include public drop-off.
2. All outbound truck shipments shall be maintained in a log. The log must contain vehicle type, license plate number, driver's name, registered owner and weight and type of material removed from the facility. Logs shall be subject to city review at any time.
3. Processing is limited to baling, briquetting, crushing, compacting, grinding, shredding, flattening, grinding and sorting of source-separated recyclable materials.
4. The facility shall not shred, compact or bale ferrous metals. Shredding, compacting and baling of materials include, but is not limited to food/beverage and non-food/beverage containers, such as cardboard, paper, cans and polystyrene.
5. No facility shall be located within five hundred feet of property zoned or planned for residential use.
6. Site must receive monthly steam cleaning. A valid maintenance contract must be submitted to the planning department for review prior to obtaining a certificate of occupancy and kept in effect at all times.
7. Site must be secured and maintained free of litter, debris, noxious odors, pests or any other undesirable material.
8. Signs shall be limited to building walls only. No signage shall be placed on any perimeter/free-standing walls or storage containers.
9. The facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation. Identification and informational signs shall be subject to the sign standards applicable to the zone in which the facility is located. Onsite directional signs, bearing no advertising message, may be installed with the approval of the planning director, if necessary, to facilitate traffic circulation or if the facility is not visible from the public right-of-way. Directional signs shall include the city's logo.
10. Provide an extra trash enclosure for waste/non-recyclable materials and excess trash, such as bags used to transport the recyclables.
11. City of Irwindale must receive the source credit for the collections and processing.
12. No after-hours drop off shall be allowed. No hazardous materials, including but not limited to, automotive fluids shall be permitted on site. Any hazardous materials inadvertently introduced into the site shall be disposed of immediately per state law requirements.
13. Facility is subject to annual inspections by the City to verify compliance with approved conditions of approval and applicable law.

14. Facility must submit reports for yearly disposal and diversion amounts to be reviewed by the planning department and finance department. Diversion activities must be in accordance with all applicable federal, state and local requirements.
15. Facility is required to obtain a city business license.
16. All inspections and report reviews are subject to a fee.
17. Except for small quantities of CRV materials, if warranted as determined by the director of planning and in accordance with state law requirements, the facility will be required to maintain a customer log; at Which time the customer must show valid identification, such as a state issued driver's license, identification card and/or thumb print where applicable.
18. All portions of the lot shall be paved.
19. The conditional use permit shall be subject to revocation after three substantiated complaints to the city or other regulatory agency in a twelve-month period.
20. Adequate security measures shall be established, including but not limited to cameras with recording capabilities, motion sensors and lighting.
21. Any request for expansion of an existing facility requires a modification of the previously approved conditional use permit.
22. Recycling facilities shall not be permitted within two thousand feet of any other recycling facility.
23. Hours of operation shall be limited to Monday through Sunday, seven a.m. until seven p.m.
24. Processing shall be limited to the hours of seven a.m. to five p.m.
25. All after-hours operations (five p.m. to seven p.m.) shall be restricted to facility related functions only, including but not limited to clean up, inventory and vehicle parking.
26. Minor repairs shall be permitted for fleet vehicles and machinery only. All repairs must be done within an enclosed building or shielded from the public right of way and be limited to oil changes, tire changes and the like.
27. Recycling taxes, when applicable should be paid per [Section 3.18.070](#)
28. Recycling activities must be in accordance with all applicable federal, State and local requirements.

(Ord. No. 636, § 5, 6-10-09)

17.56.100 - Recycling facilities—Amortization schedule.



- A. Existing lawfully established recycling facilities/uses located within the M-1 (light manufacturing) zone and all zones within one hundred feet of residential zones shall obtain a conditional use permit by the planning commission pursuant to Irwindale Municipal Code [Section 17.56.020](#). An application for a conditional use permit shall be submitted within a two-year period of the effective date of the ordinance codified in this section.
- B. Existing lawfully established recycling facilities/uses located within the M-2 (heavy manufacturing) zone and all zones within one hundred feet of residential zones shall obtain a conditional use permit by the planning commission pursuant to Irwindale Municipal Code [Section 17.56.020](#). An application for a conditional use permit shall be submitted within a five-year period of the effective date of the ordinance codified in this section.
- C. When approving a conditional use permit, the planning commission shall make findings regarding the adequacy of on-site parking and applicable development standards contained in Irwindale Municipal Code [Section 17.64.030](#). The planning commission shall require, as a condition precedent to the continued use of the property under the conditional use permit, that a report be submitted by the applicant, which shall provide and include plans to eliminate or mitigate any building, plumbing, electrical and fire code deficiencies. The planning commission may require additional improvements to the

property, or any buildings or structures thereon, which may include but are not limited to the following:

1. New or rehabilitated landscaping.
 2. Exterior changes to promote compatibility of buildings and structures with design guidelines and surrounding development.
 3. Maintain vehicular maneuvering and parking areas in good repair.
 4. Modifications designed to bring a structure more nearly into compliance with the applicable standards for commercial uses.
- D. All nonconforming structures shall be removed following the amortization period, without compensation from the city, in accordance with state law. Nonconforming structures not removed after the applicable amortization period shall be considered public nuisances subject to immediate abatement.
- E. This section shall not validate any existing recycling facilities/uses. Nor shall any business which is operating in violation of any city code or permit applicable at the time of adoption of this ordinance benefit from the amortization period provided herein.

(Ord. No. 636, § 6, 6-10-09)

CITY OF IRVINDALE CALIFORNIA



LEGEND

- R1 SINGLE FAMILY RESIDENTIAL
- R2 LIGHT MULTIPLE RESIDENTIAL
- R3 HEAVY MULTIPLE RESIDENTIAL
- A1 AGRICULTURAL
- C1 COMMERCIAL - PROFESSIONAL
- C2 NEIGHBORHOOD COMMERCIAL
- C3 HEAVY COMMERCIAL
- M1 COMMERCIAL MANUFACTURING
- M2 LIGHT MANUFACTURING
- M3 HEAVY MANUFACTURING
- Q1 QUARRY ZONE
- S1 SIGN (S) OVERLAY ZONE
- COMMERCIAL - RESIDENTIAL

