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From: Scott Smigel <scottsmigel@gmail.com>
Sent: Thursday, March 30, 2023 6:32 PM
To: Lia Graham; sbcob
Cc: Schmuckal, Christopher
Subject: Highway 101 Widening Segment 4D Appeal, April 4, 2023
Attachments: SB Planning Commission Appeal.pdf

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Good evening.

Please distribute the attached letter to the Board of Supervisors in materials prepared for the above-referenced April 4, 2023 meeting. If possible, could you please also acknowledge your receipt of the attached?

Thank you,

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March 30, 2023

Santa Barbara County Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

SENT VIA E-MAIL

Re: Highway 101 Widening in Montecito Area (Segment 4D) – Pending Appeals
Scheduled for an April 4, 2023 Hearing

Dear Chair Williams and Honorable Supervisors:

The Santa Barbara Planning Commission's approval of the above-referenced matter was error and should be reversed for reasons which include, but are not limited to, the following:

- **The EIR and its amendments are insufficient to address the removal of the sound walls.**

The full EIR for this project was done in 2014 and revised two years later in 2017 – six years ago. The amendments since then have been insufficient and have not addressed the dramatically changed environmental issues presented by the intervening climate, fire, debris flows, ongoing Applicant caused noise dangers and flooding.

Among the reasons CEQA and NEPA require full environmental review of the decision to eliminate sound walls are:

- new significant environmental effects,
- substantial increase in the severity of previously identified significant effects,
- substantial changes with respect to the circumstances under which the project under-taken requiring major revisions to the previous environmental document,
- new information of substantial importance which was previously unknown.

It is obvious from the flooding and debris flow of 2018, and the resulting County adoption of the Recovery Map, that there was significant new environmental information of substantial importance which was not previously known about the project area. We contend that the recovery mapping and its impacts (including the significant and material decision of Applicant to eliminate sound barriers) have triggered the provisions of CEQA and NEPA guidelines and another full EIR is necessary and warranted.

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Applicant contends the project will raise sound levels by only 3-5 decibels. We submit that environmental scrutiny cannot be outmaneuvered by ignoring the cumulative damage and noise increases resulting from decades of small projects, each with “under the radar” sound impacts. Applicant’s prior smaller projects have combined to create a monumental development that measures far above all standards of safe noise levels. The current project is a “small” incremental rise in noise impacts, only when compared to the outrageously high noise impacts of the existing freeway.

- **Reliance on Flood Control’s interpretation of the Recovery Map was error, and the Recovery Map is applied inconsistently.**

Almost five years ago, on June 19, 2018, the County adopted the FIMA Recovery Map as a planning tool. That was only about 7 months after the Thomas fire resulted in the tragic and catastrophic flood and debris flow of January 9, 2018. Tim Ferring of Santa Barbara Flood Control, in his presentation to the Board of Supervisors, characterized the Recovery Map as being necessary “for only a short period of time” designed to meet the waves of applications from homeowners anxious to rebuild their homes. He reminded the Board that FEMA updated its FIRM maps every 3-5 years.

He also shared that the Recovery Map’s ultra-worst case scenario assumptions were suggested by Flood Control and not FEMA, so he saw the map used on a “project by project application” and as a basis for “reasonable decisions.” Staff pointed out that the County Code “impowers discretion” and “variance relief” in the Map’s application. Supervisor Williams admitted the map was “a more useful tool” but added, “can’t say I’m comfortable with the option.”

Discomfort with the Recovery Map option is understandable when the Map:

1. Assumes 100% of all watersheds are fully burned,
2. Assumes all creeks, debris basins and bridges are all 100% blocked or full,
3. Doesn’t consider any of the new debris basins, creek maintenance, or mountain netting, and
4. ignores, ironically, the instant project’s new culverts, larger storm drains, widened bridges and lowered pavement grade.

A Montecito Planning Commissioner was moved to declare that it would be, “wildly foolish to proceed [with the project] without waiting” for the next more realistic mapping.

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When the Recovery Mapping was adopted by the Board of Supervisors in June 2018, the freeway project and its vital sound walls were years in the future. The Recovery Map's application to the project, its sound walls, or anything on its scale, was not anticipated.

Stantec Consulting engineer, Craig Stewart, a contributor to the Recovery Map effort, emphasized in a June 2022 public hearing, that the FEMA Advisory (Recovery) Map was an "interim model" and a "worst case scenario to allow people to rebuild before the new flood mapping was available." The FEMA Advisory (Recovery) Map is "for the short term" and "is an interim recovery mapping," clarified Stewart. "This was only for people who wanted to rebuild quickly," he added.

Given the severity of the noise problem and its resulting well-established danger to human health, the County should consider more realistic assumptions regarding flooding severity and evaluate the impacts of the sound walls on water rise in that scenario.

Unrealistic assumptions, whether too conservative or too optimistic, lead to unreliable, false results. Accordingly, those results should not be allowed to control an aspect of the project as important, substantial, and fundamental as the sound walls.

Sound walls are the only element of the project judged using a FIMA Recovery Map standard.

The project's bridges and culverts are not "sized . . . for that double 100-year flow rate [of the Recovery Map] but by FEMA flows," admitted Stantec's Craig Stewart - Bridges and culverts by one standard (FEMA FIRM Map), Sound walls by another standard (FEMA Recovery Map).

County Flood Control has used the FIRM Map in other locations and projects, but used only the Recovery Map for the sound walls of this 4D Segment.

What Map standard was applied to Montecito's San Ysidro Road roundabout, which also uses walls that violate the "zero flood rise" criteria applied to the sound walls? What Map standard was applied to the wall / barrier constructed on N. Jamison Lane by Caltrans and allowed to remain in place by Flood Control? (See photo – Attachment A)

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• The wording of the SB Planning Commission's condition of approval requiring Applicants' later addition of sound walls is too broad, now outdated, and unenforceable.

After numerous public hearings, the Montecito Planning Commission suggested wording of a sound wall condition in its recommendations to the Santa Barbara County Planning Commission. It was simple, and it was verbally agreed to by Caltrans, SBCAG and SB Flood Control at the final hearing. It was:

- A. If the new watershed study (updated FEMA Effective Map) allows for sound walls, Caltrans shall construct sound walls which will accommodate the passage of water.
- B. Caltrans shall include sound walls in their funding request(s).
- C. The Project shall be designed and constructed such that future sound walls are accommodated.

Wording of the new sound wall condition from the Santa Barbara Planning Commission is diluted, and effectively allows the Applicant to condition the approval condition.

We submit that:

- Caltrans already has the money for sound walls (Joe Erwin, "the money is in hand")
- Flood Control has advised that "it would support walls under the FIRM Map" (2022 MPC hearing)
- The County already has drafts of FEMA's new FIRM mapping, which will supersede the Recovery Mapping used to deny sound walls.
- Construction will continue on **this** project until the end of 2025. Sound walls are one of the last elements to be constructed.

The existing sound wall conditions are unacceptable and do not accurately convey the statements and sentiment expressed by the Santa Barbara County Planning Commission.

The existing sound wall conditions contain confusing time limits which will reduce the likelihood that a mapping change will be relevant, and further seem to be based mostly on the Applicant's project timing.

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The existing sound wall conditions refer to a test of “reasonable and feasible” regarding sound wall construction. We submit that the sound walls passed that test already. The Applicant has made its case for the reasonableness and feasibility of the sound walls for decades. The removed sound walls have met every test of reasonableness and feasibility, other than this local approval. From this point forward, the only test of feasibility should be the County’s interpretation of the pertinent facts. If the County decides to allow sound walls to be built, the Applicant should be required to build the sound walls it’s promised for decades.

A draft of potential sound wall conditions of approval which will reduce the likelihood of confusion and unnecessary delay in the construction of sound walls, when agreeable to the County, are attached to this document as an attachment. I ask they be considered to replace the existing conditions of approval regarding sound walls. (Attachment B)

Thank you for your time and the opportunity to present these grounds of appeal.

Sincerely,

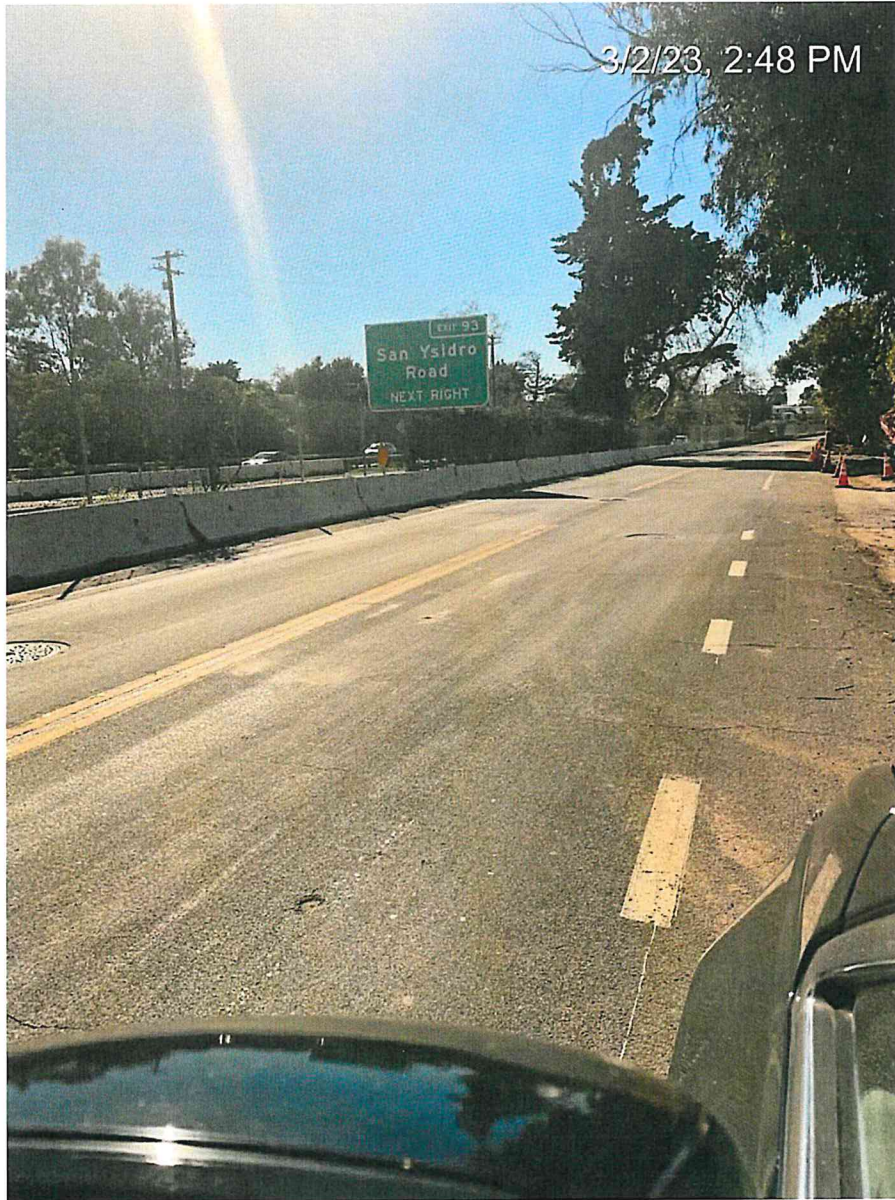


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Attachments

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Attachment A:



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Attachment: B

26. Sound Walls: If the appropriate authorities in Santa Barbara County decide that construction of the sound walls as designed and identified in the initial Coastal Development Permit application for Segment 4D is not prohibited, immediately upon such a determination, County P&D shall contact Caltrans with notification that the construction of the sound walls shall be commenced. Caltrans shall, as soon as possible, submit the appropriate application (SCD, AMD, or RVP, as determined by P&D) and plans to modify the Development Plan to include sound walls, for review and processing by P&D. **MONITORING:** P&D compliance monitoring staff shall confirm construction in the field in compliance with this condition requirement.

27. Future Sound walls Not Precluded: Time is of the Essence. The project shall anticipate the subsequent construction of sound walls and shall be designed, funded and constructed so as not to preclude future construction of sound walls in the areas where sound walls, as were originally proposed. Caltrans shall complete all studies, environmental data, reports, documents, attachments and other application support anticipated to be required by SB County P&D, Flood Control and other pertinent agencies to complete their application. **PLAN REQUIREMENTS:** Caltrans shall design the final project plans so as not to preclude the future construction of sound walls in the areas where sound walls were originally proposed as part of this permit process.