

de la Guerra, Sheila

Ex Parte

LATE
DIST

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From: McShirley, Kadie
Sent: Monday, April 3, 2023 9:56 AM
To: sbcob
Subject: FW: Letter re Montecito Sound Walls -- without photos
Attachments: MONTECITO SAN YSIDRO SOUND WALLS LETTER DROWN(25349724.1)
(25384590.1).docx

Hello! I am sharing the email below as part of ex parte communication for item 10 at tomorrow's meeting. Thank you!

From: Petrovich, Susan <SPetrovich@bhfs.com>
Sent: Thursday, March 30, 2023 10:21 AM
To: McShirley, Kadie <kmcshirley@countyofsb.org>
Cc: Bruce MacKenzie <rbmackzie@gmail.com>
Subject: Letter re Montecito Sound Walls -- without photos

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Brownstein - we're all in.

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**SUSAN F. PETROVICH
100 LA VUELTA ROAD
SANTA BARBARA, CA**

March 29, 2023

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

Re: Highway 101 Widening in Montecito Area – Pending Appeals Scheduled for April 4, 2023 Hearing

Dear Chair Williams and Honorable Supervisors:

I submit this letter, as a Montecito resident and property owner, to raise serious issues pertaining to the discussion of sound walls and flooding in Montecito. This letter also includes suggested compromise conditions that would allow for future construction of sound walls to protect the appellants, who are my neighbors.

I have read the letter submitted by Mr. and Mrs. MacKenzie and I concur with their statements. I also attach a number of photographs taken in January and again in March of 2023. The MacKenzie's have asked that I speak as their agent at your April 4, 2023 hearing and I will refer to those photographs during my comments.

INTRODUCTION

My property, like those of the appellants, is located in the vicinity of the Romero and San Ysidro Creeks and has been subjected to periodic flooding in the past. Neither the debris flow nor the recent "Atmospheric Rivers" have affected my property, but they have seriously damaged my neighbors' homes and properties.

I moved to Santa Barbara in 1965, shortly after the Coyote Fire, and moved into my home on La Vuelta Road in 1978. Even before I moved to Montecito, I (along with various friends) often parked my car on N. Jameson Lane and walked into the San Ysidro Creek, under N. Jameson and under Highway 101 to the beach. I continued to access the beach from this route after I moved into my current home, but ceased using this accessway as the creek bed ceased to be deep enough for me to walk upright. In the early days, County Flood Control was diligent about routinely cleaning out San Ysidro Creek, so there was ample headroom for adults to walk under both bridges without having to stoop or crawl through the creek bed.

Over time, things changed and, for some inexplicable reason, Flood Control not only ceased to regularly clear the Montecito creek beds of debris, but also ceased maintaining the debris basins that provided further protection against flooding. The

result has been periodic flooding in my neighborhood recently. I have heard from two different neighbors that they have heard a Flood Control representative state that County Flood Control wasn't responsible for protecting their properties from flooding or for keeping the creeks – and the bridges over them – clear of debris. That is astounding, given the following statement on the County Flood Control website:

Santa Barbara County Flood Control & Water Conservation District

The primary purpose of the Flood Control is to provide flood protection and to conserve storm, flood and surface waters for beneficial public use. When Flood Control was first created in 1955 by the State legislature in response to severe flooding and damage suffered from storms in the early 1950s, its primary charge was to implement a program of channel maintenance and capital improvements to mitigate the threat to life and property from flooding.

If County Flood Control isn't responsible for controlling flooding and protecting residents and their homes from flooding, what precisely is the agency's purpose and responsibility and why does it have its name and budget?

Shortly after the January 2023 Atmospheric River event, but before the latest two Atmospheric Rivers struck, County Flood Control allowed Caltrans to erect a solid line of K-rails (with sandbags sealing any gaps between the K-rail sections and between the K-rails and the ground) along the south shoulder of North Jameson Lane. This K-rail barrier starts on the east side of San Ysidro Creek and proceeds a substantial distance easterly – in the County right of way. Flood Control crews were onsite when the K-rails were installed. It's difficult to know why this barrier was erected during the rainy season, but it pretty accurately replicates a sound wall with no flood gates. During this same time period, County Flood Control spent weeks cleaning debris from San Ysidro Creek and guess what -- the creek flow has stayed within the creek banks during the last two storms.

The K-rail barrier, replicating a sound wall with no flood release panels, was in place throughout two consecutive Atmospheric Rivers and will be tested again this week, but so far, the K-rails have demonstrated that maintaining the creeks on a regular business will result in less flooding – even with sound walls. Flood Control crews were onsite when the K-rail barriers were installed so they were well aware and observed that their creek work prevented flooding.

The other possibility is that Caltrans installed the K-rail barrier to prevent San Ysidro Creek from flooding Highway 101 with no regard for the potential damage that barrier could cause neighboring' homes, but I prefer to give them the benefit of doubt here – who would purposely allow homes to be flooded repeatedly during a single rainy season?

SAN YSIDRO CREEK “DOG LEG”

Decades ago, I represented the owners of the orchard property that is now Montecito Avocado Ranch. For an unknown reason, San Ysidro Creek, which abuts the Montecito Avocado Ranch, historically was channeled in a manner that created a 90 degree turn immediately north of the N. Jameson Lane bridge. This dog leg frequently caused flooding of N. Jameson Lane and Highway 101 because trees, branches and other debris got trapped at the 90 degree turn, creating a dam that backed up the water and caused the creek to overflow into my neighborhood. A governmental agency (I don't recall which one) made an attempt to slightly straighten the dog leg, while assuring neighbors that when the highway was widened in the future, the bridge also would be widened and, as part of that project, the San Ysidro Creek channel would be straightened and widened to eliminate the dog leg, thereby reducing potential flooding of the neighborhood and the freeway.

Obviously, those promises were forgotten just as the debris basins were neglected. The current freeway widening project includes **no** widening of the bridges on N. Jameson Lane, **no** widening of creek channels, and **no** straightening of the San Ysidro Creek dog leg.

How does the freeway widening bring flood relief to these neighborhoods? It does not. But it could do so if it included widening and straightening the creeks and bridges as long promised.

The proposed Highway 101 project definitely should include widening the highway bridges, which currently are undersized. It is essential that this widening remain a project condition.

THE SOUND WALL ISSUE

Despite the fact that Caltrans was able to accommodate the City of Santa Barbara neighborhood in the vicinity of Salinas Street by including specially engineered self-opening flood release panels in the sound walls, the same engineering is not proposed for Montecito. As discussed in a recent Planning Commission hearing, Caltrans broadcasted on YouTube detailed testimony from Caltrans employee David Beard regarding the amazing flooding technology of the flood release panels installed on the City of Santa Barbara sound walls. To date, no one has explained why these ingenious flood release panels can't be installed on Montecito sound walls. As a result, no sound walls are proposed despite the known significant noise and air quality impacts of widening the freeway.

I also note that the CEQA analysis of potentially significant adverse impacts of the Highway 101 widening project does NOT include a thorough analysis of the health and safety issues associated with highway air quality impacts upon nearby residents – health and safety impacts that can be mitigated or minimized with the erection of 16-foot high sound walls.

Although I continue to believe that the County should include in the project conditions a requirement of 16-foot high sound walls with flood release panels like those along the highway in the City of Santa Barbara, I propose the following conditions that will retain the potential for addition of sound walls:

Caltrans shall include provisions for future sound walls in the pending project as follows:

- a. The pending project shall be designed and constructed such that future sound walls can be accommodated on the north side of Highway 101 between Sheffield and San Ysidro Roads as soon as the sound walls are fiscally and practically possible. Such accommodations shall include: (1) the construction of footings suitable to support future sound walls; and, (2) a wall, no shorter in height than a K-rail barrier, of sufficient strength to withstand a vehicle collision, placed immediately abutting the paved north shoulder of the highway to prevent a vehicle leaving the highway at speed from striking residents/drivers/pedestrians using N. Jameson Lane. At such time in the future that the appropriate authorities in Santa Barbara County decide that construction of the sound walls is feasible, 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 thereafter 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.**
- b. Landscaping and Fencing: In the landscape area included in the plan, a black-coated chain link fence and drought tolerant landscaping shall be installed between the highway and the south border of North Jameson Lane. The landscaping shall include a perpetual water supply to provide uniform and suitable visual screening between N. Jameson Lane and the highway.**
- c. Future Sound walls Not Precluded: Time is of the Essence. The portion of the project budget proposed to construct the sound walls shall be set aside in a separate fund, deposited in a low risk, interest-bearing account, to provide for future sound wall funding when feasible. The project plans 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 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.

- d. The pending project shall include realigning the San Ysidro Creek dog leg to reduce the potential for debris clogging the creek due to the creek alignment immediately upstream from the proposed highway bridge.**

We leave it to the County of Santa Barbara to implement the long-promised plan of replacing the N. Jameson bridges between Sheffield and San Ysidro Roads with wider bridges and widened creek channels sufficient to handle higher creek flows. *The least the County can do immediately is to demand Caltrans remove the K-rail barrier.*

Climate change (whether long term or temporary) must be addressed through actions, not talk. Widening these creek channels where they enter the flood plain is essential to avoid further damage to existing homes and other infrastructure.

CONCLUSION

The County and Caltrans have reached a crossroads. Either they can design the proposed project in a manner that mitigates noise and air quality impacts – now or in the near future – and adopt aggressive creek and floodplain measures to prevent or reduce future flooding or they can allow countless homes to be flooded and their residents exposed to significant adverse noise and air quality impacts. Based upon the evidence currently available, it seems likely that the County's failure to adequately manage Montecito creeks and debris basins will result in one or more Montecito property owners filing claims for inverse condemnation of their properties, particularly if the existing K-rail barrier remains in place.

I do not purport to speak for all of my neighbors, but I hope that the majority of them agree that the inclusion of the conditions set forth above in bold would improve the Caltrans project now proposed.

Sincerely,

Susan F. Petrovich

Attachments:

1. Photograph of MacKenzie home during January 2023 storm
2. San Ysidro Creek dog leg adjacent to bridge
3. North Jameson Lane during January 2023 storm
4. Caltrans K-rail along south side of N. Jameson Lane

de la Guerra, Sheila

From: McShirley, Kadie
Sent: Monday, April 3, 2023 9:57 AM
To: sbcob
Subject: Cathy & Bruce Milner Letter
Attachments: Milner_letter.pdf

Hello! I am sharing the attached letter as part of ex parte communication for item 10 at tomorrow's meeting. Thank you!

7. As reported in the Montecito Journal (3/2/2023), FEMA is currently updating its flood mapping for our area; and the County is working on a feasibility study to look at potential projects on San Ysidro Creek. Shouldn't the findings that form the basis for Caltrans' project reflect current, UPDATED information before going forward? If the new FEMA maps will be ready later this year, isn't it a better use of funds and manpower to wait than to rush to perform extensive work on Hwy 101 in this proposed, yet deficient way? It has been 67 years since Caltrans last did significant work on this stretch of freeway (the current four lane layout and concrete were opened in 1956.)

8. SBC's Montecito Planning Commission recommended that Caltrans shall include sound walls in their funding request, and the project be designed and constructed such that future sound walls can be accommodated as new FEMA maps are available, and flood improvements added to reduce flooding at the freeway. If no possible alternative or partial solutions to these significant health and safety issues are available, then at least require Caltrans' written commitment to these recommendations.

We request that you deny the application by CalTrans SBCAG to eliminate previously approved sound walls along the Montecito corridor, so that the original plans, including sound walls, will be required and retained for the freeway widening project.

Sincerely,



Cathy & Bruce Milner
1426 Greenworth Place
Montecito, CA 93108

cc: Das Williams
Sharon Burns

de la Guerra, Sheila

From: McShirley, Kadie
Sent: Monday, April 3, 2023 10:00 AM
To: sbcob
Subject: FW: Appeal of SB Planning - Caltrans freeway widening
Attachments: Sound wall condition(s) original.docx; Sound wall condition(s)-5th draft.docx

Hello! I am sharing the email below and attachments as part of ex parte communication for item 10 at tomorrow's meeting. Thank you!

From: Scott Smigel <scottsmigel@gmail.com>
Sent: Thursday, March 23, 2023 7:15 PM
To: Spencer Brandt <sbrandt@countyofsb.org>
Subject: Appeal of SB Planning - Caltrans freeway widening

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Hi Spencer,

In my telephone conversation this morning with Supervisor Williams, he requested a copy of my proposed draft of the existing conditions of approval pertinent to the sound walls. In accordance with his request, I'm attaching two documents. The first document is the approval conditions as I received them from SB Planning. The second is my draft.

The intent of my draft is both to eliminate the Applicant, Caltrans, from the decision to build or not to build sound walls, as well as to add time urgency and preparedness to the Applicant's continuing planning and construction. The Applicant has represented the position, without reservation, that it's prepared, willing and able to build the essential sound walls, now or in the future. My draft eliminates their conditional language from the approved condition.

I am optimistic that significant improvements can be made in the existing conditions to approval that seemed "thrown together." I'm looking forward to Supervisor William's perspectives.

Thank you,

Scott Smigel

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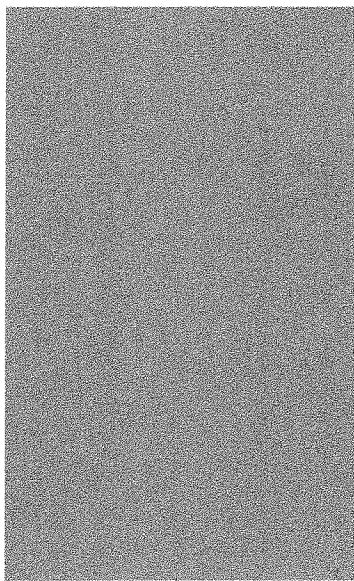
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26. Reanalyze Sound Walls: FEMA is conducting an ongoing effort to update the current FEMA effective maps used to govern development in the HWY 101 Segment 4D area. If the FEMA effective maps are updated and Santa Barbara County adopts the new maps prior to, or during, Segment 4D construction, and the results of the revised FEMA effective maps are that sound walls identified in the initial Coastal Development Permit application for Segment 4D are no longer located in the Flood Hazard Overlay, Caltrans shall re-analyze the feasibility of implementing each soundwall not located in the Flood Hazard Overlay for this project. The analysis shall determine whether the soundwalls are reasonable and feasible to implement, which may result in a change to the Coastal Development Permit via the appropriate application (SCD, AMD, or RVP as determined by P&D) to allow construction of soundwalls.

PLAN REQUIREMENT AND TIMING: Within six months of HWY 101 Segment 4D being fully funded for all phases of construction, Caltrans shall contact County P&D and Flood Control to determine if the triggers specified herein, which will allow the construction of the soundwalls, have been met. In the event that the triggers have been met, and it is reasonable and feasible to add the soundwalls, Caltrans shall submit the appropriate application (SCD, AMD, or RVP, as determined by P&D) and plans to modify the Development Plan to include soundwalls, for review and processing by P&D. In the event the triggers have not been met, the project would be constructed with the design proposed at the time of project approval.

MONITORING: P&D compliance monitoring staff shall confirm construction in the field in compliance with this condition requirement.



27. Future Soundwalls Not Precluded: The project shall be designed and constructed so as not to preclude future construction of soundwalls in the areas where soundwalls were originally proposed.

PLAN REQUIREMENTS: Caltrans shall design the final project plans so as not to preclude the future construction of soundwalls in the areas where soundwalls were originally proposed as part of this permit process.

TIMING: Project plans shall be submitted prior to final Montecito Board of Architectural Review approval.

MONITORING: P&D staff shall review project plans for conformance with this requirement.

1 **26. Sound Walls:** At such time in the future that appropriate authorities in Santa Barbara
2 County decide that the construction of sound walls, as designed and identified in the initial
3 Coastal Development Permit application for Segment 4D, is not prohibited and immediately
4 upon such a determination, County P&D shall contact Caltrans with notification that the
5 construction of the sound walls shall be commenced. Caltrans shall, as soon thereafter as
6 possible, submit the appropriate application (SCD, AMD, or RVP, as determined by P&D) and
7 plans to modify the Development Plan to include sound walls, for review and processing by
8 P&D. In the event sound walls remain prohibited by the County of Santa Barbara, as supported
9 by credible criteria, the project would be constructed with the design proposed at the time of
10 project approval without sound walls, but in all other respects in accordance with these
11 Conditions 26 and 27 of the project approval.

12 **MONITORING:** P&D compliance monitoring staff shall confirm construction in the field in
13 compliance with this condition requirement.

14 **27. Future Sound walls Not Precluded: Time is of the Essence.** The project shall anticipate
15 the future construction of sound walls, and shall be designed, sufficiently funded and
16 constructed (including sufficient foundations and footings) so as not to preclude future
17 construction of sound walls in the areas where sound walls were originally proposed. Caltrans
18 shall complete, and keep current, all studies, environmental data, reports, documents,
19 attachments and other application support anticipated to be required by SB County P&D, Flood
20 Control and other pertinent agencies to complete their application without delay.

21
22 **PLAN REQUIREMENTS:** Caltrans shall design the final project plans so as not to preclude the
23 future construction of sound walls in the areas where sound walls were originally proposed as
24 part of this permit process.