TRANSCRIPT OF AUDIO TAPE

SANTA CLARA VALLEY WATER DISTRICT

BOARD OF DIRECTORS PUBLIC MEETING

WEDNESDAY, JULY 26, 2000

CERTIFIED COPY

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APR

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MS. WHITLOCK: This is a meeting of the Santa Clara Valley Water District Board of Directors on Wednesday, July 26th, at 5750 Omden Expressway, San Jose at 7:00 p.m.

UNIDENTIFIED SPEAKER: Calling the meeting to order. May we have a role call, please, Madam Clerk?

MS. WHITLOCK: Directors Gross?

Judge?

MR. JUDGE: Yes.

MS. WHITLOCK: Kamei?

Sanchez?

MR. SANCHEZ: Yes.

MS. WHITLOCK: Wilson?

MR. WILSON: Here.

MS. WHITLOCK: And Chairman Estremera.

MR. ESTREMERA: As I understand it, I think Director Kamei will be here a little late, but she'll be here. Also expecting Director gross.

We'll start right off with time open for public comment on any subject that's not on the agenda. If there's anybody that's present that might have something to say to us and address us regarding any issue that's not on the agenda, if there is anyone that would like to do that, would they please step forward?

Hearing none, then we'll go right to our public

hearing this evening. I am Vice-Chair of the Board of Directors of the Santa Clara Valley Water District and acting on behalf of the chairman who's not present today.

And firstly, I'd like to let everyone know that we have a Spanish interpreter and a Vietnamese interpreter available if anyone needs a translator.

Let me just take a quick second to introduce Mr. Al Gurevich. And --

MR. GUREVICH: (Speaking in Spanish.)

MR. ESTREMERA: Thank you.

And let me introduce Ms. Phong Bu, and she'll provide Vietnamese language interpretation.

MS. BU: (Speaking in Vietnamese.)

MR. ESTREMERA: Thank you, Ms. Bu.

Now, I'd like to welcome everyone attending the joint public hearing with the U.S. Army Corps of Engineers and our District this evening. As you know, the purpose of tonight's hearing is to receive comments on the Draft Integrated General Re-Evaluation Report, Environmental Impact Report, the Supplemental Environmental Impact Statement for Proposed Modifications to the Guadalupe River Project in downtown San Jose.

Each of us up here have one of those banker's

boxes full of these documents that I just mentioned. They're open and available for your inspection and review. No decision on the project will be made tonight. The Board and the Corps are here to listen to your comments.

During the course of the study, we've held two public meetings in November of 1999 to receive comments from the public about the project. At those meetings we discussed the flood problems, alternative project modifications, and the associated project mitigation objectives. As a result of that public input, the Corps of Engineers and our District worked with federal and state regulatory agencies as well as local environmental community representatives to develop a project that we believe will provide needed, flood protection along with recreational opportunities while minimizing impacts to the natural channel.

The modifications include an underground bypass culvert that would reduce the flows in the natural channel. With these design modifications, the project would effect substantially less shaded rivering aquatic cover than the current authorized project. The public review period for the draft, GRR, EIR, SEIS will be from June 23rd, of the year 2000 to August 9th, of the year 2000. Oral statements and additional written comments

will be accepted tonight at our hearing. Written comments will be accepted through August 9th of 2000. The Board and the Corps of Engineers will make a decision as to whether to proceed with the project after that date based on the written and oral comments that we receive. All written and oral comments on the draft GRR, EIR, SEIS will be responded to in our final document.

Our District is the legal sponsor for the federal Guadalupe River Flood Protection Project which goes from Interstate 880 to Interstate 280 in downtown San Jose. I am pleased that Colonel Michael Walsh, who is the District Commander of the U.S. Army Corps of Engineers and, of course, is -- this is the only person -- oh, there's another person with a uniform in the back. I was going to say he's easily identifiable -- but we welcome Colonel Walsh this evening to be with us during our public hearing.

He is the District Commander of the Army Corps of Engineers, Sacramento District, and he's here this evening for the Corps's support, and I thank him for the Corps's support. The cooperation that we have received throughout this challenging environmental issues that we dealt within the last few years. I think this project is going to be a real asset to the community. Colonel

Walsh will provide some overview remarks to you in just a few minutes.

The key staff that have been working on the project are the following: Miss Kay Whitlock, who is the Assistant General Manager; Mr. Dave Chesterman, who's the manager of the Guadalupe Water Shed; Mr. Joe Chen, who's the Senior Project Manager; Mr. Brandon Muncy, who is the Senior Project Manager with the Corps of Engineers; Terry Neudorf, who is the environmental planner -- Terry is sitting right up front -- Ms. Nina Bicknise, who is the Environmental Manager with the Corps; Mr. Ron Ganzfried, who is the planning manager with the Corps.

Now, at this time, I will appoint the District Chief Operating Officer, Mr. Wadlow, sitting right up here, as the Hearing Officer, and I will now turn the meeting over to him.

Mr. Wadlow?

MR. WADLOW: Thank you, Mr. Estremera.

Good evening. My name is Walt Wadlow, and I will be serving tonight as your hearing officer for tonight's public hearing. At this point in time, it's my pleasure to invite Colonel Walsh to offer his opening remarks.

Colonel?

COLONEL WALSH: Thank you, Walt. And good

evening.

I'm real happy to be here tonight to represent the Army and the federal government. This project started in 1986, and we're finally coming down to the home stretch. A lot of people have spent many years making this project happen. The Santa Clara Valley Water District and their staff have worked tirelessly for this community, also the City of San Jose, and the Redevelopment Agency, the National Heritage Institute, the state and federal resource agencies, and, of course, the local citizens who have gotten involved, and, of course, my staff at the Army Corps of Engineers have all worked hard to make this project a reality.

It takes a lot of people coming together to solve water problems, and accomplishing a water project today has always been a difficult challenge. I was thinking as I was driving down here tonight that I was -- I was deployed to a conflict just five years ago where we brought 500,000 Americans abroad and back in less time than it's taken to get a water project going, especially here in California. But for every person who's attended a meeting or written comments or even objected to particular portions of this project, I'd like to say thank you. Projects like this need to meet the needs of the entire community and not just a few. I want to

1 thank you for hanging in there and working through the
2 difficult issues with us all. It's hard work that will
3 make the City of San Jose better for American families
4 to live and work in the future. I've been to many
5 parts -- I've been to many lands and to many different
6 countries, and I can say after visiting them all, that
7 this is truly one of the greatest countries in the
8 world, and that's because we have public involvement in
9 most of our -- in all of our decisions of public
10 decisions. And that's necessary.
11 When we're done with this project, the level of
12 flood protection will have been significantly increased,
13 recreation will be improved, and the environment will be
14 enhanced. Protecting the nation's wildlife and habitat
15 has been a challenge for the Army. It used to be 100
16 years ago or even 75 years ago where urban rivers was a
17 place where you would put your industry or your light
18 industry and not make it the centerpiece of your city.
19 That's changed. Many rivers in the district I've worked
20 with, not just this one, but many others in the nine
21 states that the district covers, more and more cities
22 are looking to make their urban rivers the centerpieces
23 of their city, and this project is no different. And
24 that's a change, and that change is a reflection of
25 America today, and your participation today is making

1 those changes possible.

2 The Army Corps of Engineers is happy to help

3 communities across America, and we're excited to see

4 this one nearing -- nearing what? Well, it's not the

5 start, and it's not the finish. Perhaps it's the start

6 of the finish as we move forward. I want to thank you

7 all for participating in tonight in making this

8 community a better place. Thank you.

9 Walt?

10 MR. WADLOW: Thank you, Colonel Walsh. I think

11 your comments showed a particular insight into what it

12 takes to get a water project done. As you said, not

13 only here, but in California.

14 At this time, I'd like to ask Dave Chesterman,

15 the District Manager for the Guadalupe Water Shed, to

16 provide us all with an overview of the project.

17 Dave?

18 MR. CHESTERMAN: Thank you, Walt. Before I

19 start, I'd like to introduce Brandon Muncy, the Project

20 Manager from the Corps of Engineers. Brandon has been

21 on this project longer than I have, and he's been a

22 tremendous help for me over the last couple of months

23 coming up to speed on the project. Brandon is here for

24 moral support for me.

25 I wanted to give a quick overview of the project,

first of all describe the project background and the need for the project modifications. Then Terry Neudorf from our staff -- environmental staff -- will provide an overview of the environmental commitments which is an important part of the modifications to this project that we're going to be discussing tonight. Then Walt will then call the public meeting formally to order, and we'll have time for public comments.

Briefly, the project history, this project began a long time ago in the early planning stages, but recently in 1986, we were fortunate to have congress authorize the project for downtown San Jose flood protection.

In 1990, that project was amended by congress to better achieve the recreational and habitat protection goals and, in particular, to have better protections for the fish and to provide a better habitat for the fish. In 1991, the State Water Board issued a conditional water quality certification for the project which allowed the project to move forward with the condition that they develop a mitigation and monitoring plan. And the mitigation and monitoring plan was developed in the next year, and in 1992 construction began.

We were able to construct nearly a mile of the project starting at 880, moving up to Coleman Avenue.

1 And in 1996 the construction came to a halt, primarily
2 due to some concerns that were raised regarding the
3 mitigation and monitoring plan, whether or not that was
4 adequate and whether or not the project beaches were
5 adequately protective of the fish and of the riparian
6 habitat.
7 In 1997, there was an inter-agency effort to
8 modify the project undertaken, and then we're here
9 tonight in the year 2000 with the prepared project
10 modifications for your consideration.
11 Some of the reasons for the project modifications
12 include questions regarding the adequacy of the 1992
13 Monitoring and Mitigation Plan as I mentioned. In
14 particular, there was concerns with whether or not the
15 quality and the quantity of the shaded rivering aquatic
16 cover was adequate, and that's a critical factor for the
17 temperatures for the fish. So another factor that was
18 related to that was whether or not the project would
19 elevate water temperatures.
20 At the same time, there was proposed listing for
21 the chinook Salmon, steelhead trout and red legged frog
22 were listed under the Endangered Species Act, which
23 raised another level of concern about this project.
24 After receipt of intent to sue from four environmental
25 organizations regarding those issues and after

1 reconsidering the project on the Corps of Engineers and
2 the Water District, in light of the new developments,
3 the decision was made to form a collaborative effort to
4 pull together those parties including the resource
5 agencies, the environmental interests that were
6 concerned with the project, as well as the project
7 proponents to work on a modification to the project
8 which would include improvements to the fisheries'
9 benefits.
10 So the objectives of the modified project were to
11 provide for the 100-year flood protection for the
12 downtown San Jose area, which is one of the primary
13 concerns, but while we do that, we wanted to avoid
14 potential adverse impacts to the riparian vegetation
15 and, as I mentioned, the shaded rivering aquatic habitat
16 which we call the SRA habitat. That's become a favorite
17 word of ours and one of the primary concerns and issues
18 that we've been working on with these project
19 modifications.
20 The key to that, again, is that we want to
21 maintain the water temperatures that are cool enough to
22 provide for the fisheries in the stream and to also --
23 we also want to provide for fish passage in the stream.
24 Next, we wanted to compensate for unavoidable impacts on
25 environmental resources, and finally, but not last but

1 not least, we wanted to improve recreational
2 opportunities along the river.
3 Some of the criteria we used to screen
4 alternatives and to develop those alternatives included
5 the concerns that I mentioned about flood protection and
6 recreational, the habitat and fish habitat and passage,
7 operation and maintenance costs and issues related to
8 on-going operations and maintenance costs of the program
9 were concerned. Sediment transport was looked at,
10 right-of-way constraints. Naturally, in downtown San
11 Jose, we have significant constraints in terms of just
12 right-of-way access available for the project.
13 Constructability was an issue, cost-effectiveness
14 schedules, but primarily we wanted to look at a project
15 that was acceptable to the communities, and that's
16 really the reason that we're here tonight to hear your
17 concerns.
18 Over the last couple of years, this collaborative
19 effort that I talked about looked at a wide range of
20 alternatives. It started out with looking at the
21 authorized project with some additional mitigation, but
22 then we looked at a number of different material, that
23 materials including different combinations of channel
24 widening, up-stream detention and bypasses, that
25 narrowed down to a consideration of six different bypass

alternatives, which then was narrowed down to eight different bypass variations of one of those alternatives, which resulted in the proposed action that's before you tonight for your consideration.

This slide shows the reach of the project that is proposed for this evening for discussion. Essentially, the entire project reaches from -- I'm looking for the pointer here -- on the left side of the screen is Highway 280, and on the right side of the screen here is Highway 880. This represents the portion of the channel that's about 2.6 miles long that travels between those two points.

The primary features of the project, as I mentioned before, include a bypass, and it's either a double or a triple box bypass which would bypass the flood waters around the natural portion of the channel that is shown here by the arrow. And the purpose of that is to avoid having to widen and armor that portion of the channel and to leave that channel in as natural a condition as possible.

The flows that we're talking about include about 7,000 CFS from Los Gatos Creek which comes in at this point here, the confluence with Los Gatos, and 10,000 CFS, or cubic feet per second, which is the 100-year flow from Guadalupe River combined for, in this portion

of the channel, 17,000 cubic feet per second.

To put that in perspective, that's about one and a half times the flows that we saw in Guadalupe River in 1995 floods. So it's a very large flow that we're designing this project to handle without any flooding of downtown San Jose.

If you look at the upstream portion of the project, these black, dotted lines represent training walls that will essentially take flood waters from upstream from the project and train them back into the channel so that they're channelized as they pass through downtown San Jose. The reason for those training walls is that we do not have the flood-control improvements built in the upper portion of Guadalupe Creek or Guadalupe River up above Highway 280 yet. We have a project that's proposed; and, in fact, it's out for review right now, and that project will be possible, pending the outcome of the election in November which our board voted for last night to put a special tax on the election in November.

So these training walls are essentially an interim measure until that upper project is built. This will bring those flood waters back into the channel through the downtown portion of the project.

The only other thing I want to mention about the

1 project is shown in red here, are the trails that travel
2 alongside both sides of the channel. These are the
3 trails that are included as part of the project, and
4 basically they fold into an overall trail master plan
5 that's developed for downtown San Jose. We've been
6 working very closely with the Guadalupe Park and Gardens
7 Task Force, and I think -- and the Redevelopment Agency
8 of San Jose to develop a project that will be consistent
9 with their master plan and provide an amenity for the
10 downtown area.
11 With that, I will turn it over to Terry to really
12 talk about some of the important environmental
13 commitments related to this project.
14 Terry?
15 MR. NEUDORF: Thanks, Dave. I'm Terry Neudorf,
16 Environmental Planner with the Santa Clara Valley Water
17 District. I would like to introduce Nina Bicknise, my
18 counterpart at the Army Corps of Engineers.
19 MS. BICKNISE: Thanks, Dave.
20 MR. NEUDORF: As Dave mentioned, the proposed
21 action would include a bypass which would avoid impacts
22 to shaded rivering aquatic habitat, and that would avoid
23 3,500 feet approximately of the shaded rivering aquatic
24 habitat. The SRA, shaded rivering aquatic habitat, is
25 important for steelhead and chinook because it helps to

keep the temperatures low. These fish are adapted to low water temperatures. It also provides a degree of cover protection against predators. It also provides food in the form of insects and other organic matter that enters of the stream. The measures that -- the environmental regulations stress avoidance. And, after avoidance, we are left with some adverse impacts to the project, and those are compensated, or compensation -- or I will refer to it as mitigation later on -- is a process whereby we replace those habitat functions and values which are lost through project impacts, and that's called mitigation, and the mitigation plan is part of the project.

There is also a strong monitoring component of that plan that will guarantee that we do reach the success that we -- objectives and goals that we planned for in the mitigation, and there is adaptive management which will help us if we have to make some changes in the mitigation.

Monitoring will continue for the lifetime of the project. In addition to that, during construction there are potentially some impacts that could occur; however, there are about 10 different specific plans which will cover possible impacts during construction. There will be a vegetation protection plan. We will protect the

1 water. We will ensure that erosion does not occur,
2 storm water pollution prevention plan, toxic materials
3 spill plan. There's also avoidance of the migratory
4 periods for the steelhead and chinook, and in the case
5 that these fish are encountered, we have a fish
6 relocation. We also will take care of the, if possible,
7 air traffic and impacts to cultural resources. This
8 slide quantity identifies the impacts that we had in our
9 proposed project. The beneficial use is the functions
10 and values which are effected, and so -- the main ones
11 here are riparian vegetation and through that impact,
12 wildlife could be effected.
13 Shaded rivering aquatic, which I've talked about
14 as important to Steelhead and salmon, and also spawning
15 gravel, which is also important to the Steelhead and
16 salmon. In the first column, the impacts of our
17 proposed action are listed for riparian vegetation. 5.7
18 acres, about 3,800 hundred linear feet of shaded
19 rivering aquatic and 11,000 square feet of spawning
20 gravel. Because part of the project has been completed,
21 as Dave mentioned, we have a column there that indicates
22 that the total of the projects of the -- of our proposed
23 action and that part of the project that has been
24 completed, and in the last column we have the total
25 mitigation of the proposed action and the part that's

been completed.

I will now show you the locations of that mitigation. We did try to put as much as we could within the project area, so the 21 acres of riparian are occurring within the project area; and, once again, that's between I-880 and 280.

We also have some small amount of SRA we're calling in, fill and that sort of gaps in the near stream riparian corridor. Immediately downstream of our project, downstream of 880, we have an area called Reach A, and we are doing SRA mitigation there. And way up at the upper boundary of Guadalupe River on Guadalupe Creek, we are also doing SRA mitigation. I should mention -- and I don't want to confuse you -- but there is another project that the district has out for environmental review right now, and that's the project between 280 and Blossom Hill, and that's the Upper Guadalupe Project, and tonight we are only talking about the Downtown Guadalupe Project.

Finally, I mentioned before that we would be monitoring the project over the lifetime of 100 years, and the main items that we are monitoring is the riparian vegetation, the 21 acres, the shaded rivering aquatic habitat, the water temperature. We want to ensure that the water temperature is still suitable for

1 the lower temperatures for which the anadromous fish,
2 the steelhead and chinook are adapted, and we are also
3 looking at all of the life stages of the chinook and
4 steelhead all the way from spawning to rearing, and the
5 passing, so we're looking at all the life stages and
6 everything that could effect their success in
7 reproduction.
8 And lastly, we are, because the in-stream
9 structures could -- we know that there is mercury in the
10 system, and they could attract sediment which may have
11 mercury -- we also have a mercury-monitoring transport
12 monitoring component. That concludes my presentation.
13 MR. WADLOW: Thank you, Dave; and thank you,
14 Terry.
15 We also have two individuals with us this evening
16 from organizations that have been working in close
17 collaboration with the Army Corps of Engineers and the
18 District, and they would like to offer some overview
19 comments before we formally open the record for public
20 comment.
21 First, Mark Littlefield, who's the Wetlands
22 Branch Chief with the U.S. Fish and Wildlife Service.
23 Mark?
24 MR. LITTLEFIELD: Thank you, Walt, Members of the
25 Board, thank you. The service has been involved in this

1 project for the better part of a decade in various
2 aspects of it. The -- as of the development as when the
3 collaborative was formed of public agencies and the
4 Corps and the Water Board to try to reach some agreement
5 on how we're going to address the environmental impacts
6 of this project, that started a new role for the service
7 in this project, and we actually, I think, over the
8 course of the last several years, have come to largely
9 agreement with the Water Board and the Corps concerning
10 the need for the project, how the mitigation is going to
11 occur, and our -- in support of the project basically at
12 this time. That does not mean that we do not
13 necessarily have our own disagreements at times.
14 The collaborative process is a collaborative
15 process. We don't always agree with one another at the
16 meetings. But at the same time, what we have come up
17 with through the collaborative process is a level of
18 trust, and I think that is important for everyone to
19 realize where we were 10 years ago on this project,
20 verses where we are today on that level of trust and the
21 service beliefs that the project that's proposed
22 currently is the best we can get. It is the least
23 damaging practicable alternative, if you will, in the
24 lingo of the National Environmental Policy Act and the
25 laws and regulations that we work under. So I think

from that regard, I want to offer my thanks and the Service's thanks to the board members who have supported his collaborative process to the Corps, this process that has not occurred very often in the Corps, and it's been a difficult one. It's been a learning experience for all of us, and we continue to work together. Thanks.

MR. WADLOW: Thank you, Mark.

We also have Mr. Richard Roos-Collins, who's a Senior Attorney with the Natural Heritage Institute.

Richard?

MR. ROOS-COLLINS: Thank you, Walt, Members of the Board. I'm here on behalf of the Guadalupe Coyote Resource Conservation District, Trout Unlimited, and the Pacific Coast Federation of Fishermans' Associations. Four years ago, we filed that notice of citizen suit threatening litigation if the project as proposed was completed. Like the National Marine Fishery Service, I stand here tonight in support of the settlement that we signed in 1998 to complete the project to provide the necessary flood control protection for this city and also to serve the other management objectives including recreation and protection of fish and wildlife.

Like you, we are just beginning our review of this mammoth draft EIS and EIR, and no doubt will submit

1 detailed comments on it. By way of overview, however, I
2 do want to underscore that the draft was written to be
3 consistent, as far as we can tell, with the management
4 objectives that are stated in 1998 settlement.
5 The most important in terms of environmental
6 quality is the objective of no net harm to the fish and
7 the other natural resources of Guadalupe. No net harm.
8 That means more than just mitigation. It means no net
9 harm. The city will have the benefit of flood control
10 protection, but it should not lose any of the
11 environmental quality of that river. And further, the
12 settlement says that the project will contribute to the
13 restoration of the river to the extent feasible.
14 On a personal note, I got involved in this matter
15 in part due to current and former board members of the
16 RCD -- Nancy Bernarde, Libby Lucas, Larry Joeman, and
17 Roger Castillo -- who brought photos to us showing
18 salmon and steelhead in downtown San Jose as recently in
19 the depression in numbers big enough to catch. And we
20 believe the settlement and the draft EIS EIR (tape
21 inaudible) the settlement will contribute to the
22 restoration of that environmental miracle, cold water
23 fish in the heart of Silicone Valley.
24 The second principle really on which that
25 settlement is based is accountability. Most

1 environmental documents are just predictions. We hope
2 that harm will be avoided, and here's what we'll do
3 consistent with that hope. But there's no
4 accountability if the hope proves to be wrong. This
5 settlement's different, and the mitigation plan
6 contained in the draft EIS, EIR is different too. As
7 Terry explained, it contains many specific objectives
8 for the fish and their habitat and for other natural
9 resources. It commits to monitoring to assure those
10 objectives are met, and it commits to a change in
11 project operation and even project works if necessary to
12 assure that all of these objectives are met over the
13 100-year life of this project. That accountability is
14 fundamental to the settlement and, we believe,
15 fundamental to the completion of the project.
16 In closing, I also wish to offer my thanks to
17 this board and to the Army Corps of Engineers for the
18 leadership demonstrated by your entry into the
19 settlement in 1970 -- 1998, excuse me -- and also since
20 then I am presenting the settlement and preparing this
21 draft document.
22 I believe the settlement went beyond your plane
23 legal duties. I believe it reflected your commitment to
24 the public into -- not just in flood control, but in the
25 service of other management objectives including

recreation, fish, wildlife, and water quality. And on behalf of the organizations that I'm proud to represent, I thank you for that.

MR. WADLOW: Thank you, Richard.

Again, on a little bit of a personal note, I have had the pleasure of working with both Mark and Richard in other collaborative efforts to restore fisheries in Santa Clara County and first appreciate your presence here tonight and secondly appreciate the fact that you continue to hold us accountable for making these projects work in the way that they're supposed to.

At this time, I will formally open the record for public comments. The purpose of the public hearing tonight is to receive your comments on the draft report for the proposed modifications to the Guadalupe River Project in downtown San Jose.

We do want to ensure that your comments about the draft report are considered before we complete the final report and before decisions are made to improve and implement the modified project. We are in the middle, at this point, of about a 45-day public review period for this draft report and well into a planning process that is consistent with the National Environmental Policy Act, the California Environmental Quality Act and other related laws and regulations. In addition to the

opportunity to provide your comments here tonight, we will accept your written comments at any time up until the 9th of August this year.

My role tonight as Hearing Officer is to ensure that anyone who wishes to provide oral or written comments for the public record has an opportunity to do so. In order to provide this opportunity, the hearing tonight is not structured as a forum for discussion and is not formatted for interactive questions and answers.

We are recording your comments and will respond to all that are pertinent to the draft report in the preparation of the final report. You are welcome to provide any pertinent comments in writing if you would rather not speak publicly this evening.

Staff is available to provide you with speaker cards which look like this. They're available outside on the table, and Tony, to my left, will make them available if you raise your hand and indicate that you'd like to have one. We also have available for you forms like this outside on the table if you would like to provide written comments to us this evening.

In the interest of time, please try to limit your oral comments to about five minutes, and if you have prepared written comments that you brought, we'd appreciate it if you could summarize those for us orally

1 and then provide us with a copy of your written comments
2 for the record.
3 Finally, when you step to the microphone, if you
4 would please clearly state your name and your address
5 for the record, and with all of those instructions put
6 out there, we'll actually get underway now with the
7 public comment period. So again, as we begin this, if
8 you would like to receive a speaker card, if you could
9 just hold up your hand and Tony will make sure that you
10 get a card to fill out.
11 I do have two cards in front of me already, so
12 anyone else who would like to speak tonight, I would
13 encourage you to go ahead and fill out a card. With
14 that, the first card that I have this evening is from
15 Mr. William Garbette, representing the public.
16 Mr. Garbette?
17 MR. GARBETTE: I'm William J. Garbette
18 representing the public, Post Office Box 36132, San Jose
19 95158-6132.
20 Colonel and Board Members, I've been before you a
21 number of times over the past decades regarding this
22 particular project. Approximately 10 years ago, we had
23 a meeting where the conclusion was made there would be PH-1
24 no box culvert. This came back to haunt us again
25 through your manipulation of NEPA and CEQA on a rule of

1 reason where you stacked the deck where only what
2 someone wants is the only alternative that you consider.
3 For instance, an open bypass channel could have had two
4 entrances and survived your test for CEQA and NEPA very
5 easily. But instead, you only had one inlet with your
6 comparison. This is your rule of reason, stack the deck
7 so it won't be considered. You've had litigation in the
8 past. The only alternative that is acceptable at this
9 point in time is the no project alternative considering
10 the inclusion of your box culvert. That is the only one PH-1
11 acceptable to the community and testimony and past years
12 and in my testimony this evening.
13 You have failed in some respects to basically
14 consider a number of things in your report. By the way,
15 there, I do have to say, you have many good things in
16 your report. Many things that are well written, and
17 it's environmentally sensitive in many respects, so
18 don't let me -- my negative comments overshadow any
19 positive aspects of the work that you've done. The work
20 that you have done is very positive.
21 But the box culvert is one of those things you
22 have not, for instance, considered when the removal of
23 the housing in the downtown areas and the airport PH-2
24 right-of-way. You haven't considered the fact that we
25 have a homeless population. We have a census that is

actually counting those people this year, and they do exist. The homeless will always be with us.

Unfortunately, 25-foot square foot box culvert is not the new motel or hotel we need in town. With flooding, it becomes a deathtrap where you will have loss of life. It is also an attractive public nuisance.

If you think there is a lot of homeless living in the area now, wait till you get a box culvert there. Can you put guards over the entrances and exits? Well, it's like they put a fence up for the railroads. The path is going to be open the following day in almost every aspect. However, when flood waters come without warning, it will certainly mean loss of human life in every instance. PH-2

Unfortunately, we've had too many of our 100-year floods lately, thanks to our engineering that we've had from our water district. Our water district is now seeking refunding. Think about your past history. Do you deserve refunding again?

With this, you have to look a little bit beyond. We had an anadromous fish that you're proposing to introduce to restore the environment. What about our present native fish that are fresh-water fish that remain in the Guadalupe River all year round? Haven't seen any mention of them, any fish counts or any PH-3

1 biological diversities of the species mentioned in your PH-3
2 reports. The biggest fault that you have is, in your
3 release of that report, you have only released Volumes 1
4 and 2 for public circulation. You have kept Volume 3
5 for the Corps of Engineers and the Water District only.
6 Somehow I managed to badger a copy out of you tonight,
7 but in every case that needs to be circulated because
8 all volumes are part of the CEQA and NEPA process. They PH-4
9 are public documents that should freely be circulated to
10 the public. Without these documents, the third volume
11 being in public circulation, this hearing tonight is a
12 farce, and it should be rescheduled at such time when
13 you do release Volume 3 for public viewing and comments.
14 Thank you.
15 MR. WADLOW: Thank you, Mr. Garbette.
16 The second card I have this evening is from M.J.
17 Lowe-Peyton.
18 Did you wish to address this? Thank you.
19 MS. LOWE PEYTON: My name is M.J. Lowe-Peyton. I
20 live at 1547 Oak Canyon Drive, which is in the Guadalupe
21 Creek mitigation area. I have read the report, and I
22 think it's an excellent report, and the proposals for PH-5
23 the downtown area look good. I just had some areas that
24 were a little unclear in the Guadalupe Creek Mitigation
25 Area, which is the little teeny piece that was up on the

map. Specifically, the report had talked about recreation and the need for trails, and there seems to be quite a few trails in downtown. We have the same need in the Guadalupe Creek Mitigation Area. We have a number of homes and families in that area. There will be a lot of planting of plants in that area, and at the time that you're in there planting the trees, it would be very easy to put trails in, and those would be used heavily by the population in that area, and I would urge you to modify the plan, if possible, to add some trails down in that little piece of the project. PH-5

The second thing I had a question about was just in general for the public as you do your construction, and I wanted to know if there was dredging in that area; and, if so, what the hours of the dredging might be, how you might mitigate the noise and the dust that would be from that for our community and our neighborhood since we do have a lot of children and a lot of families. PH-6

And the third thing is that in that Guadalupe Creek Mitigation Area, the report mentioned that the percolation ponds will be allowed to dry up and will not be used up anymore, and I was curious as to how the ground water that would normally have been recharged by those percolation ponds will now get recharged if it will be done in a different area or what exactly is PH-7

1 going to be done to have that ground water recharging,
2 or will we back in the position we were in before we
3 were able to do ground water recharging, and
4 specifically, that will open up a lot of land, and I
5 wanted to know if there was any ideas about the land PH-7
6 being sold or being used for parks or some other idea
7 what might be done with that open land. Those are my
8 questions, and I'm sure they'll be addressed. Thank
9 you.
10 MR. WADLOW: Thank you, Ms. Lowe-Peyton.
11 The third card that I have before me is from Mr.
12 Jim Towery.
13 MR. TOWERY: Members of the Board, Colonel Walsh,
14 my name is Jim Towery. I am President of the Guadalupe
15 Park and Gardens. We are a nonprofit organization. And
16 I think of ourselves as a citizen advocacy group for,
17 number one, the completion of this long gestational
18 park; and, number two, the wide public usage of it. Our
19 organization is particularly proud of the fact that it PH-8
20 was from our ranks that sprang the idea of the
21 collaborative process, and we are extremely pleased that
22 that collaborative process led to a meeting of all of
23 the public partners of this agency and resulted in the
24 settlement agreement.
25 We will be submitting written comments in

1 addition to these oral comments, but I was struck
2 tonight by the comments that Colonel Walsh made at the
3 beginning that it is not unique to San Jose to look at
4 an urban river as a resource. That is clearly a major
5 shift that is occurring in our town, and we appreciate
6 the fact that these project revisions incorporate what
7 should be the multiple uses of this, not only for flood
8 protection and protection of the environment, but for
9 the recreational elements as well, and that is probably
10 the issue that is of greatest interest to us.
11 One of the activities that our organization has
12 been involved in is sponsoring events that bring people
13 to the Guadalupe River -- PH-8
14 (End of Side One.)
15 MR. TOWERY: -- just yesterday, for example, I
16 was watching a troop of Girl Scout Brownie's -- I hope
17 that's not incorrect terminology -- who were
18 participating in an educational program about the water
19 shed that we are putting on, and their enthusiasm was
20 really palpable.
21 Let me turn to our comments on this. First of
22 all, from a broad perspective, our organization is
23 strongly supportive of the modifications set forth in
24 this report. We are pleased that the box culvert
25 collusion solution has addressed the environmental

concerns and the flood control concerns, and we think that it can be well integrated into the necessary recreational uses. PH-8

A couple of specific comments: I think our organization has only recently come to appreciate the massive nature of intake structures, and that is an issue that we hope the designers of the project will give further consideration to. Because of their central location, particularly the intake structure north of Santa Clara Street, we hope that these intake structures can be integrated to the natural landscape to the greatest degree possible. PH-9

We also hope that safety concerns, particularly in light of the fact that there this is an area frequented by children. There are also many homeless this year, that's the safety concerns posed by the inlet structures are an issue that can be addressed. PH-10

One other note, I would like to point out, echoing the comments of the prior speaker, one comment we have consistently had from our board members, from our membership, and from the public is what this park needs is an integrated trail system, and we are very pleased to see in this design such attention given to trails. Our ultimate goal is not only an integrated trail system throughout the reach of the Guadalupe River PH-11

1 Park and one that ties into the lower Guadalupe and goes
2 out to the Bay and ties into the Los Gatos Creek Trail
3 and the Upper Guadalupe as well.
4 We commend the designers of this project for the PH-11
5 attention that has been paid to the trail system, and we
6 would only advocate the early completion of those trails
7 in any way possible.
8 Thank you very much for your attention.
9 MR. WADLOW: Thank you, Mr. Towery.
10 At this point, that's all the cards that I have
11 in advance. Are there any other individuals in the
12 audience who wish to speak before us tonight that have
13 not yet filled out a card? Just raise your hand, and --
14 deliver a card. I see no hands.
15 At this point, I would like to indicate for the
16 formal record that written comments have been received
17 by the Corps of Engineers from Mr. Patrick Piso of San
18 Jose University, and also written comments received from
19 the City of Santa Clara, and those comments will be
20 incorporated with the oral comments tonight and any
21 other written comments that we receive into the formal
22 record.
23 At this point, I'd just like to review for the
24 audience this evening the public comment period that we
25 have in front of us and also indicate to you sources of

1 additional information on this project. As you can see
2 from the screens overhead, written comments will be
3 received until October -- August 9th -- not October
4 9th -- 2000, and the address is on the screen. Please
5 submit your comments to the U.S. Army Corps of
6 Engineers, Sacramento District Planning Division to the
7 attention of Nina Bicknise at 1325 J Street, Sacramento,
8 California 95814-2922, the fax numbers and e-mails are
9 also listed there. All received comments will be
10 reviewed and responded to in the final report, and the
11 final report will be made publicly available, and that's
12 currently scheduled for December 2000.
13 Finally, just for the audience's information, we
14 also have an indication of those locations where the
15 record is available. At the top, you'll see two
16 addresses -- internet addresses where you can access the
17 report. Also listed on the screen -- and we can provide
18 this to you in written form -- is a list of those
19 locations throughout the county, and, in fact, in
20 Sacramento, where you can obtain a copy of the documents
21 that were referred to tonight for your additional
22 information in preparing comments.
23 If there are no further comments for the record
24 this evening, then at this time that closes the formal
25 period for public comment and the hearing, and I will

1 turn it back to our Acting General Manager, Kay
2 Whitlock.
3 MS. WHITLOCK: Yes, I think we have one more item
4 on the agenda.
5 Mr. Estremera?
6 MR. ESTREMERA: Yes, we do. Thank you, Mr.
7 Wadlow, for acting as our hearing officer.
8 I believe there is -- we do have an item
9 regarding a supplemental agenda, a resolution regarding
10 the cancelling of a public hearing that was scheduled
11 for August 1st, at 9:40 a.m. regarding the proposed
12 restoration work within the central zone of Santa Clara
13 Valley Water District.
14 UNKNOWN SPEAKER: Second.
15 MR. ESTREMERA: Any discussion? Those for the
16 motion say, "aye."
17 (Many voices.)
18 MS. WHITLOCK: We need a role call.
19 MR. ESTREMERA: I'm sorry, yes.
20 MS. WHITLOCK: Directors Gross?
21 MR. GROSS: Aye.
22 MS. WHITLOCK: Judge?
23 MR. JUDGE: Yes.
24 MS. WHITLOCK: Kamei?
25 Sanchez?

1 Wilson?

2 MR. WILSON: Yes.

3 MS. WHITLOCK: Zlotnick?

4 And Chairman Estremera?

5 MR. ESTREMERA: Aye.

6 There being no other business, we just have to

7 adjourn the meeting, thank you.

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REPORTER'S CERTIFICATE

I, KERRY L. VIENS, a Certified Shorthand Reporter for the State of California, do hereby certify:

That I am a disinterested person herein; that the tape recording of the foregoing proceeding was reported in shorthand by me, KERRY L. VIENS, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting; that the foregoing is a true and correct record of the tape recording of the proceeding.

IN WITNESS WHEREOF, I hereby certify this transcript at my office in the County of Sacramento, State of California, this 4th day of August, 2000.

KERRY L. VIENS, CSR #11942

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