

Public Hearing Transcript

(beginning on page 25)

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

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

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

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

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

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

22 In the interest of time, please try to limit your
23 oral comments to about five minutes, and if you have
24 prepared written comments that you brought, we'd
25 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
24 no box culvert. This came back to haunt us again
25 through your manipulation of NEPA and CEQA on a rule of

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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
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
24 right-of-way. You haven't considered the fact that we
25 have a homeless population. We have a census that is

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

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

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

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

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

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1 biological diversities of the species mentioned in your
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
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
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

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

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

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

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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
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
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

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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 --

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

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1 concerns and the flood control concerns, and we think
2 that it can be well integrated into the necessary
3 recreational uses.

4 A couple of specific comments: I think our
5 organization has only recently come to appreciate the
6 massive nature of intake structures, and that is an
7 issue that we hope the designers of the project will
8 give further consideration to. Because of their central
9 location, particularly the intake structure north of
10 Santa Clara Street, we hope that these intake structures
11 can be integrated to the natural landscape to the
12 greatest degree possible. We also hope that safety
13 concerns, particularly in light of the fact that there
14 this is an area frequented by children. There are also
15 many homeless this year, that's the safety concerns
16 posed by the inlet structures are an issue that can be
17 addressed.

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

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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
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.