

Santa Rosa City Clerk
Mr. Greg Scoles:
Assistant City Manager
City of Santa Rosa
100 Santa Rosa Ave.
Santa Rosa, CA 94301

Hand Delivered to:
Greg Scoles and
City Clerk
Oct. 16, 2008

Dear Mr. Scoles and Santa Rosa City Clerk:

The purpose of this letter is to inform you that Russian River Watershed Protection Committee (RRWPC) and Friends of Steelhead Beach wish to appeal the decision of the Board of Public Utilities to the Santa Rosa City Council made on Oct. 2, 2008, certifying the Discharge Compliance Project Final EIR.

Santa Rosa City Code provides for appeals...

City Code, Section 1 General Provisions provides that any “final” decision of any Board or Commission is appeal able to the City Council, except as otherwise noted in the Code. We site pertinent code sections below to back up our request.

1-20.010 Applicability

Except where an appeal procedure is otherwise provided in this Code, any person dissatisfied with any final decision of any city Commission, board or official may appeal such final decision to the City Council. Only final decisions may be appealed to the City Council. (Ord. 3687 #1, 2004: Ord. 3664 #1, 2004: prior code #2.400)

Chapter 15 Sewers notes:

15-20.150 Appeals

Any person aggrieved by any decision or determination of the Board of Public Utilities may appeal to the City Council by filing written notice of appeal within 15 days of the date of such decision or determination with the City Clerk. The council shall thereupon fix a time and place for hearing such appeal. The City Clerk shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United State post office, postage prepaid, addressed to such person at his last known address (Ord. 3047 #1 (part) 1993)

Justification and Basis for Appeal....

The Final EIR for the Discharge Compliance Project was released on September 22, 2008. The BPU meeting at which certification would be considered was on October 2, 2008. (Certification did occur by the end of the meeting. See attached signed Resolution.) RRWPC was not able to obtain a hard copy of the DCP FEIR until September 26, 2008. Even though we had submitted about 36 pages of comments and many more pages of attachments, at no time before the Oct. 2, 2008, BPU meeting, did any Santa Rosa staff or consultant mention to myself or anyone else I know, that there had been a major change in the FEIR. The City had many opportunities to inform me, but did not. Neither was the Sonoma County Parks Department, who had previously requested that they be consulted on all aspects of this project, informed of this change. The letter they submitted at the Oct. 2nd meeting expressed great consternation as to this fact.

It was with quite a shock that we learned, only days before the final certification, that the direct discharge site D1 (Steelhead Beach) project description had been considerably altered. During the DEIR comment phase, there had been a public outcry about running the 48" pipeline with the 50' wide work area through the park, down Osprey Trail and to the river. As mitigation, and to address project impacts to some portions of Osprey Trail, a new pipeline route was selected instead. The decision was made, with no opportunity for meaningful public comment (Brief public comments were allowed by Chair Dowd, who clearly indicated that the City was under no obligation to respond.), to run the pipe about ½ mile further down River Rd. and cut through the Park to the river on the western edge of Steelhead Beach Park.

This change in pipeline route did not diminish any of the impacts to the most popular Children's Beach or the west end of both Osprey and Willow trails and actually produced new concerns (see Parks letter). (Construction would eliminate the loop of the two trails for as long as 18 months, a fact that is not clearly pointed out.) While impacts to the park at that new entry point were considered in the FEIR (with no opportunity for meaningful response to public comment), there was absolutely no discussion of traffic or other impacts to that newly added half-mile portion of River Rd.

There's a portion of the Department's letter (attached) that expresses our concerns exactly. It states, *"The Regional Parks Department understands that the FEIR does not identify the Steelhead Beach alternative as the environmentally superior alternative or as the most cost effective alternative. We understand that because of this, Steelhead Beach is unlikely to be recommended as the preferred alternative. However, we are concerned that if the FEIR is certified in its current form, and in the event that the Steelhead Beach Regional Park alternative is selected due to unforeseen circumstances, there could be only limited opportunity to refine the details of the specific combinations of impacts already identified in the environmental analysis before the project moves forward. Our desire is that the FEIR be adequate for the Steelhead Beach Regional Park*

alternative, so that in the unforeseen cast of considering more than the preferred option, the discussion of options can be based upon accurate and adequate information."

RRWPC and others request Certification Delay....

Two days before the BPU meeting, RRWPC emailed a detailed request to Glen Wright asking for delay of Certification. We submitted a five-page letter, which included revisiting concerns about the 18 month construction period in light of this change. A significant portion of the letter also addressed our concerns about the route change to River Rd. (letter attached) Carol Vellutini and at least one other person sent similar requests. City staff acknowledged at the meeting that they received RRWPC's letter, but did not address the specific issues raised.

The County Parks Department presented a letter at the meeting (*attached, Chairman Dowd actually chided Parks Staff for getting the letter to them so late, to which staff replied they had not been given enough time to respond since they had to coordinate with other agencies and department heads, etc. They commented that dealing with bureaucracy is always a slow process.*) There were concerns expressed by the Department that since they are a closely involved Agency, the City should have made efforts to communicate with them over the course of developing this alternative. Apparently there had been minimal contact during the DEIR review and none during the FEIR process. BPU members did not seem particularly sympathetic to the Park's Department concerns.

Several members of the group Friends of Steelhead Beach were also in attendance and added public comments in opposition to this fast track decision.

City staff did not acknowledge receiving the letter from our attorney, Ellison Folk, however, who also requested a delay in certification (also attached). The letter was dated Oct. 1, 2008, and had been sent out the previous day. The next day I learned from Mr. Wright that it had come in late in the day, and was not received by staff until after the BPU certified the document. The extremely short time before FEIR release and the final decision contributed to the mixup.

During my presentation at the BPU Meeting, I provided pictures of River Rd. in the project area (attached). As I describe in my letter, this is a narrow portion of road with many constraints, including thick vegetation, protected plant species, a flood plain that comes up to cover River Rd. at times, a road barrier for about half the distance to protect cars from the steep drop off at the side of the road, and hardly accommodating the 50' width needed to install 48" pipes. This is a high traffic area with many residential communities needing ingress and egress from the main River Rd. artery (map enclosed). This road is one of only two leading to Guerneville, where it converges into one artery to the coast. The potential for frequent road closings and lengthy traffic backups deserves full public input. This did not occur.

The road is extremely dangerous in winter downpours, especially at night. The DEIR did not differentiate problems during the 18-month construction period,

which would involve either two summers or two winters, causing different kinds of problems in either season. Traffic impacts on tourism is not noted, even though Steelhead Beach is more popular than ever with people from the Bay Area since gas prices have gone sky-high. We are particularly concerned about the amount of work area needed, for how long, and what time of year.

Last minute change to final document...

After the public comments period was closed, and before the vote, Director Len Holt presented an additional change (attached: Exhibit A of Final Resolution) to the FEIR which was subsequently passed by the BPU and which the public had no opportunity to review or comment on. It was difficult for the audience to completely follow his recommendations and we did not see his suggestions in writing until after the certification decision was made.

After public comment had ended and the Len Holt amendment discussed, The BPU, staff, attorney, and consultants took about a 30 minute break. When they came back, and without much detail, they stated that they determined that the document as adequate as it stood and that the BPU could certify it. Consultants conveyed that pipeline construction impacts had been fully addressed for other parts of the route. They stated that impacts to this portion of River Rd. were similar and it was not necessary to address it further. Few details were provided and specific issues were unaddressed.

As a result of this action (certification) the public was deprived of the opportunity to comment on addition of this portion of River Road in the project description. I know I would have certainly commented if that had been the case and would have asked others to comment as well. The few people who were able to attend the meeting (held the same night as the only Vice-Presidential debate) expressed their concerns about traffic congestion and safety. Other roadway segments of pipeline identified in DEIR had not concerned us as much because of the greater road width in some places, and the greater distance from our travel use in others.

DEIR Traffic Impact Analysis.....

RRWPC did not examine the Transportation Section of the DEIR carefully when it was first reviewing the document, because we did not think it necessary at the time. Yet after the D1 project description was significantly altered, and since the consultant stated all issues we brought up were covered in the DEIR, we went back to review it. The transportation section talks about temporary impacts and road closures, and barely mentions the 18-month construction period. Of course, pipeline in some road segments would only take a small portion of that time period and would therefore have much less of an impact. Some segments are in open areas that are sparsely developed. Some portions do not even go on roads, but across land.

But the new segment is in an area that contains **many** constraints (narrow road, relatively high population density, dangerous flood impacts in winter, very constrained work area because of narrow shoulder, barriers on side, heavy vegetation including numerous redwood trees, etc.) Because of these constraints, the ongoing work would have a much greater impact for which no mitigations have been noted. The few alternate roads, also not addresses, are also problematic in terms of landslide hazards in winter and other constraints.

We looked up other sections of the DEIR that addressed the pipeline impacts. We discovered that (Table 4.10-19) that the Russian River Discharge Component construction may restrict access to residences, businesses or public facilities and that no mitigations were identified for this significant impact. On page 4.10-54, the chart **lists seven (7) traffic impacts that are significant and unmitigable.**

Furthermore, this analysis does not even address the more serious possible impacts mentioned earlier concerning potential dangers during the rain and flood season. This lack of mitigation and limited analysis is unacceptable and would certainly have been challenged had we realized the ultimate pipeline route for this project.

These unmitigatable impacts may cause, not just inconveniences that include unacceptable lifestyle changes over a long period of time, but possible road hazards as well. The flood issue in relation to the affected road(s) was not addressed at all (that we noticed) in any of the descriptions because it is pretty much an issue only in the newly identified half-mile road segment. This is a very serious aspect of this project and should not be sloughed off with the statement that the impact is not mitigatable. We have many questions about construction impacts on this road segment during floods.

Last minute downgraded impact in Surface Water Quality section....

Finally, we understand that when an impact is downgraded from the DEIR to the FEIR, this calls for recirculation. Such a change is indicated in the Surface Water Quality segment noted in a page handed out at the Oct. 2, 2008, BPU Meeting at which certification took place (attached). The change is noted on the page called "Summary of Significant Impacts: Discharge Compliance Project". (attached)

We hope our comments our adequate to persuade you to hold a City Council meeting on this matter so that we may request that they hear our appeal. In the event this is not considered, we would appreciate a detailed explanation of why it is not.

Sincerely,

Brenda Adelman

CC: Miles Ferris
Glen Wright

List of Attachments:

1. BPU Resolution (10-2-08) #935 (including Exhibit A)
2. RRWPC letter to Glen Wright on FEIR of 9-30-08
3. Google Map of D1 Area and Steelhead Beach Park
4. 2 pictures of River Road (part of altered project description) taken 10-1-08
5. Ellison Folk letter dated 10-1-08
6. Sonoma County Parks Department letter dated 10-2-08 (plus attachment)
7. Document distributed by Santa Rosa consultants at 10-2-08 meeting indicating changed impacts between DEIR and FEIR.