

Received via Email:

From: herb <herb_borock@hotmail.com>

Sent: Thursday, June 8, 2023 7:46 PM

To: Board of Directors <board@valleywater.org>

Cc: Glenna Brambill <GBrambill@valleywater.org>

Subject: June 12, 2023 Valley Water Joint Recycled Water Policy Committee Meeting, Item 4.2: Purified Water Project

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Herb Borock
P. O. Box 632
Palo Alto, CA 94302

June 8, 2023

Joint Recycled Water Policy Committee
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA

**JUNE 12, 2023 JOINT RECYCLED WATER POLICY COMMITTEE MEETING
AGENDA ITEM 4.2: VALLEY WATER'S PURIFIED WATER PROJECT**

Dear Joint Policy Committee:

I urge you to recommend to the Valley Water Board of Directors that they issue a revised California Environmental Quality Act (CEQA) Notice of Preparation (NOP) for the project that identifies the former Los Altos Treatment Plant at 1237 San Antonio Road, Palo Alto as the preferred Project site for the segment of the project that contains the proposed Advanced Water Purification Facility (AWPF), instead of identifying that site as an alternate to the preferred site.

Valley Water issued an NOP for the Purified Water Project in March 2021 and currently intends to issue a Draft EIR for that project in October 2023.

As described more fully in my June 5, 2023 letter to the Palo Alto City Council reproduced below, actions taken to date since the release of the March 2021 NOP for the Purified Water Project

related to project approval of the 1237 San Antonio Road site and before the Draft EIR is released and before Valley Water certifies the Final EIR and approves a project that requires approval of the 1237 San Antonio Road site by Palo Alto as the CEQA Responsible Agency is a prejudicial abuse of discretion and a violation of CEQA.

Taking any other action at your June 12, 2023 meeting besides recommending that the Valley Water Board of Directors issue a revised NOP constitutes one more item that should be added to the chronology in my June 5, 2023 letter to the Palo Alto City Council, and adds further substantial evidence that taking action on site selection for the AWPf before CEQA Final EIR certification and project approval violates CEQA.

Thank you for your consideration of these comments.

Sincerely,

Herb Borock

cc: Glenna Brambill, Valley Water

herb

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To:

- city.council@cityofpaloalto.org;
- city.clerk@cityofpaloalto.org

Mon 6/5/2023 12:32 AM

JUNE 5, 2023 CITY COUNCIL MEETING, AGENDA ITEM #1
1237 SAN ANTONIO ROAD

I urge you to remove this item from your agenda, because the subject proposal and site is a segment and alternative location of the Purified Water Project proposed by the Santa Clara Valley Water District (Valley Water) for which Valley Water has initiated the process for preparing an Environmental Impact Report (EIR) by filing and posting a Notice of Preparation (NOP) of an EIR.

Comments on the project or any of its segments need to be made in accordance with regulations of the California Environmental Quality Act (CEQA).

The City of Palo Alto cannot violate CEQA Regulations by simply amending its zoning ordinance (Title 18 of the Palo Alto Municipal Code) to say that its procedures are in addition to the CEQA Regulations and that if Palo Alto's procedures conflict with CEQA Regulations, that Palo Alto procedures prevail.

CEQA Regulations for the EIR process provide four opportunities for the City Council to comment about a proposed project.

First, during the 30-day period following the posting of the NOP, which Council could have done if staff had placed the subject on Council's agenda during that time period, but staff did not place the item on Council's agenda.

Second, following the publication of the Draft EIR for the project, but that document has not been completed, and the only comments about the EIR from Valley Water are about when it expects to issue the Final EIR, but Valley Water has been silent about its schedule for issuing the Draft EIR.

Third, when the Final EIR is published.

Fourth, if and when project approval and EIR certification have taken place and 1237 San Antonio Road or some other site in Palo Alto is selected as part of the approved CEQA project.

The NOP for Valley Water's Purified Water Project identified the preferred Project for a new advanced water purification facility (AWPF) as a site in San Jose adjacent to the existing Silicon Valley Advanced Water Purification Center, and identified the former Los Altos Treatment Plant site at 1237 San Antonio Road as an alternative site to be evaluated in the EIR.

Despite the fact that the NOP identifies 1237 San Antonio Road as an alternative to the preferred site, actions by Valley Water and the City of Palo Alto after the circulation of the NOP and before the circulation of the Draft EIR assume that 1237 San Antonio Road has already been chosen as the project site as the following chronology indicates:

December 1, 2021: Valley Water's Recycled Water Committee recommended that Valley Water approve 1237 San Antonio as the location.

December 14, 2021: Valley Water's Board of Directors approved the Committee's recommendation and directed its staff to finalize agreements with Palo Alto to locate the Advanced Water Treatment Facility at 1237 San Antonio Road

February 28, 2022: Palo Alto City Council study session on the project that includes 1237 San Antonio Road as the site and includes a timeline in the staff report for that meeting that includes the initiation of a Comprehensive Plan amendment and parcel subdivision prior to the issuing of the Final EIR, but does not include the Draft EIR in the timeline.

April 10, 2023: Palo Alto City Council approves funding agreement with Valley Water for the 1237 San Antonio Road site.

All of the above, including the item on this Council meeting's agenda provide substantial evidence that Valley Water has chosen 1237 San Antonio Road as the site before the Draft EIR has been circulated and that Palo Alto has agreed to that site before Valley Water has certified the Final EIR and approved a project that locates a segment of the project at 1237 San Antonio Road.

The pattern of actions described above constitutes a prejudicial abuse of discretion and a violation of CEQA.

Therefore, I urge to remove this item from your agenda.

Thank you for your consideration of these comments.

Sincerely,

Herb Borock