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SANTA PAULA, CALIFORNIA U.S.A.



August 12, 2020

City of Santa Paula
970 Ventura Street
Santa Paula, CA 93060

ATTN: All City Council Members, City Manager, and City Attorney
RE: City Council Meeting scheduled for August 19, 2020 at 6:30 p.m.

Recently, the City of Santa Paula hired Mr. Jon Turner, PE of Phoenix Civil Engineering, Inc. Why was this expense incurred? Why does the City need to hire a consultant to design an unpaved access on private property (that already exists) and build a drainage swale? When the WRF was built, there were plans for the surrounding area already paid for.

It needs to be very clear, that the Malzacher Ranch did NOT request these so called "improvements". When we first got an email from Mr. Turner, he stated that he was hired by the City because they asked him to assist them with managing the project related to the access road reconstruction/rehabilitation around the percolation ponds at the WRF. In his email he stated that there are improvements there that the City is going to start embarking upon with a design firm and we wanted to reach out to the Lippert's, Westerdale's, and Malzacher's first to discuss the concerns we might have as well as to go over what we are proposing for the designer to include in their design. I have provided a copy of the emails to and from Jon Turner and the residents.

At the meeting with Jon in front our homes, he told us that one of the reasons for "updating" the access at our shared easement is that the City had moved the southern neighbors access and the oil companies to our side when they built the ponds and had removed their original access road. What is important to note is that all of this was done without any notice to the western neighbors (Westerdales, Lipperts, and Malzachers). This bit of information was somewhat dragged out of Jon as he was not as forthcoming as one would have expected him to be about why this meeting was even happening. The design that he talked about is really just moving 4700 cubic yards of dirt to a slightly different location and re-compacting it. At this in person meeting with Jon, we mostly questioned him as to why the original plans were not completed and why not just go back to those original plans instead of spending more of the City of Santa Paula's limited funds?

We had asked Jon Turner why the City is moving forward with any changes to our easement and leased land, as he had stated in an email to us, "Since that time due to its use by the southern

property owners and erosion, the elevation difference between the road and the drainage swale was lost. The proposed improvements will restore the elevation difference between the road and the drainage swale.”

It should be noted that the residents to the west of the treatment plant are NOT in favor of any of the so far proposed changes by Jon Turner, PE of Phoenix Civil Engineering, Inc. It also should be noted that Jon Turner, PE was one of the engineers who fiercely fought any objections or suggestions that we had about the treatment plant being built in the first place back in 2005. When the WFR was built, Mr. Jon Turner worked for Boyle Engineering, the design firm hired by the City of Santa Paula. It is puzzling why Mr. Turner was re-hired when it appears he did not complete the job originally with Boyle.

Jon Turner is one of the engineers who promised us that “We’re planting an orchard between the ponds and them”. It should be noted that NO such orchard has ever existed. Jon Turner actually came to my parent’s house once with Cliff Finley and a few others and sat at our dining room table which had a beautiful view out to the lemon orchards and told us not to worry that they would be planting at least 2-3 rows of avocado trees to hide the view of the perc ponds. I remember this very clearly, as the memory still haunts me! Clearly there was NEVER any mention at the time that the City was designing the new plant that they would be planting “native vegetation”. Just to be clear, your definition of “native vegetation” is by our definition “weeds growing along the berm” which also pose a huge fire threat to our properties!

In Jon Turner’s response to us, he states the following “The intent of the drainage swale plantings with native vegetation is also intended to keep windblown dust down.” It is not going to put the dust down, but rather blow pollen and weed seeds onto our properties. The existing vegetation on the berm has been a headache for the homeowners to the west. Not only does the wind blow the pollen/seeds to our properties, but the residences incur a higher weed abatement cost for Round-Up and labor to cut, spray and manage this “native vegetation” in our orchards, much more than we would have to otherwise have to had it been a beautifully designed and completed landscape.

We would like to bring the following points to your attention in response to the awaited email that finally came from Jon Turner dated August 5, 2020:

1. In response to Jon’s comment, “The proposed elevation difference will also restore the road alignment for those needing to access the southern properties and should dissuade travelers from driving through the drainage swale from your shared (paved) access road.” It should be noted that the only “southern properties or users of the road” would be the oil companies accessing their property down by the river bottom. It should also be noted that it is possible for the oil companies to access their leases using Shell Road. Since it’s private property they are responsible for restricting access. This does not address all of the “traffic” that is currently traveling on this easement. We provided feedback to Jon Turner on this issue again on August 6th in the email attached where we remind the City of Santa Paula again that we believe the City is unaware of what is happening on this easement. There is a lot of traffic on this private access which increases the liability for everyone. (Please see attached email sent to Mr. Turner).
2. Jon Turner stated, “The City will also apply a soil binder to the new road surface to keep it in place and reduce the amount of windblown dust.”

It should be noted, that by “fixing” the dirt road that already exists and putting a binder in, the City of Santa Paula is insuring the future erosion will be on our side, even if the center channel is deeper, it will just flow faster towards us.

3. In response to Jon’s comment, “The City will also apply a soil binder to the new road surface to keep it in place and reduce the amount of windblown dust.”, we want it noted that even if there is a binder in the access road it is still a dirt road and there will still be dust. Nothing that you are doing will help alleviate the dust problem. Again, we ask, what exactly are you trying to achieve? How much is this costing the city?
4. In response to Jon’s comment, “The realigned unpaved access road will be closer to the percolation pond berm,”, we ask, how can the “realigned road” get closer to the berm? It’s already right next to it. It would be cheaper to fence it off along Todd lane so there would be less traffic. There is currently NO control on who drives on the private property. The proof is that unfortunately, our beloved dog was run over last year as a result of someone driving too fast down the access road. There is a constant stream of vehicles and people that are accessing both sides of the easement and they are not just oil company employees. Further, it is important to point out that this is NOT a road, it is a private property access that the City has allowed others to utilize because they built the WRF and blocked the original access points. We did not agree to change the burden on our easement.
5. In response to Jon’s comment, “As noted above and with respect to your concerns about the improvements re-directing drainage toward your property, the City’s design team is obtaining additional topographic survey data to extend the proposed drainage swale an additional 380 feet south of your south property line”. It should be noted, that Mr. Turner really does not understand the magnitude of the flooding that can occur down this access road. Does he even know how much water he is talking about? We believe that he has no idea of the flooding that occurs in this area and has occurred for years. Please see attached pictures when the access road floods. One year the flooding was so bad, that all the residents were picked up via helicopter. Further, it would do you a lot of good to go back and research how we already stated that there was a severe flooding problem here and in the City’s PEIR and EIR, they supposedly mitigated for this. The Malzacher property line goes all the way to the middle of the river. Another 380 feet south would move the flooding into our orchard rather than our house. Currently, one of our biggest concerns about flooding is that the drainage ditch that Bender put in. This drainage ditch currently and really has always been filled with weeds/trees from the bridge to Calpipe Road. From past history and the fact that the water will follow the path of least resistance, all the water that is supposed to go through the water treatment plant will not be able to get there. It will be diverted, and all of that water will now flow directly towards our homes and will reach the river via the current easement, the swale, and our private road. We will have a river right in front of our homes that hopefully does not take out our homes as well. We have pictures to prove that this flooding occurs.
6. In response to Jon’s comment, “This will require the easement to be corrected so that it overlies the new road alignment.” We ask, whose easement is being changed? Can this be unilaterally done, legally? Further, if you go back to original maps of where the treatment

plant would be located, you can clearly see that there was an easement along our road and it is also shown in the deed to our property.

7. In response to Jon's comment, "In the interim, I mentioned the City is also making efforts to keep the dust down, as they understand it is a primary concern for you and your neighbors". The primary concern on a daily basis is trespassing, the green screen was never going to help the dust because the dust came from the dirt road, just another waste of money. If anything, the green screen protected the percolation ponds from dust, not the residences to the west. The green screen, chain link fence and barbed wire were never part of the plans in the first place and further destroyed the view and value of the western neighbors.
8. In response to Jon's comment, "You noted your desire to plant lemon trees in the drainage swale instead of native vegetation. I mentioned that planting trees in the drainage area would create a potential drainage blockage where floating vegetation and debris in a flood event could be snagged by the lemon trees. We therefore cannot allow lemon trees to be planted within the swale." The city already planted avocado trees and then cut the water supply to them so they all died or had already seen that they were not doing well due to the Chloride problem. They residents weren't supposed to see the berm when the treatment plant was completed due to the screening trees. Please see the attached testimony from Cliff Finley at the California Regional Water Quality Control Board's hearing where he "promised" the Board that our concerns should be alleviated because the City was going to plant an orchard between the ponds and the residences. The City of Santa Paula allowed the Malzacher Ranch plant lemon trees along the perimeter of the ponds, which now they are saying we can't even have these on the west side where they would be right in front of our homes.
9. In response to Jon's comment, "The City has no plans to remove the existing lemon trees that were planted along the Calpipe access road. These trees and the existing irrigation system will not be affected by the proposed road and drainage swale improvements." He is stating that the City will not remove our trees that are on the front side of the percolation ponds, but what about all the trees and irrigation lines we have put in on the west side of the percolation ponds. Jon also states that "the City cannot allow lemon trees to be planted". Does that mean that they are going to remove them? Our father already painstakingly planted a row of lemon trees west of the drainage swale. If you are saying you cannot allow them, that means you are going to take them out? What about the thousands of dollars we invested to plant them?

In summary, we don't know who was sold the bill of goods that Jon Turner was actually going to help the City of Santa Paula or that this project as proposed would result in ANY benefit to the Westerdales, Lipperts or Malzachers.

It should be made very clear that letting the weeds continue to grow along the sides of the percolation ponds is NEVER what was agreed upon and certainly we would never agree to "native vegetation". The flooding that will result is another key issue that needs to be addressed. Yes, we want the promised "orchard" in front of our homes. I have attached the transcripts from this hearing that support what I have stated in this letter about the City's promises.

The continual deception by the City of Santa Paula to claim to be doing something that is "helping" us is getting very old. You continued to try to sooth us with lies during my parent's "golden years" while they lived at our ranch just so they would not sue you. This deception was intended to cause us to not bring another suit once we had discovered the actual poisoning of our orchard existed. I have several examples of the City telling us that they will take care of everything as a ploy to keep us under control. We are tired of these shenanigans that the City keeps on pulling.

We would like to invite you all to meet with us at our property to really understand what is happening and see it for yourselves. We will make ourselves available anytime to meet with you and would like to suggest either August 13th, 14th, 16th, 17th, or 18th. I can be reached at 805-656-1760 during the day or you can reach Karoline Connelly at 805-701-9255 as she currently lives at the Malzacher Ranch. We look forward to your reply and clearly some discussion of this matter at the upcoming City Council Meeting on August 19, 2020.

Sincerely

Katherine Malzacher-Maxwell

A handwritten signature in blue ink, appearing to read "Katherine Malzacher-Maxwell". The signature is fluid and cursive, with the first name being the most prominent.

Cc:

John C. Cotti, City Attorney
David Lippert, Neighbor
Marilyn Westerdale, Neighbor