

>>> Stephen Lane <stevemlane@gmail.com> 4/4/2021 11:51 PM >>>
TO: Subdivision Committee and Coastal Permit Administrator
FROM: Stephen M. Lane
DATE: April 4, 2021
RE: Travis Swithenbank, B_2017-0043/Boundary Line Adjustment

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Planning & Building Services

Thank-you for this opportunity to make some on-the-record comments regarding the Swithenbank request for a Coastal Commission boundary-line-adjustment, Case B_2017_0043.

My wife and I live at 32451 Nameless Lane in Cleone, about 350 feet from the eastern edge of the Swithenbank property.

My statements focus on the contamination resulting from the illegal automobile and appliance disposal business run by Mr. Dewey Sprague, a previous owner of the Swithenbank property. I will make clear at the end of this note the relevance of this topic to the Coastal Commission boundary line adjustment decision and the reasons I am asking that the request be denied.

In the process of buying our property on Nameless Lane in 2011 we were informed that Mr. Sprague had been recently cited and ordered to halt an illegal junk car and appliance disposal by burial business. Soil tests showed considerable soil contamination from diesel, gasoline, and motor oil.

We were informed that because our property shared a common aquifer there was the potential threat of water contamination then and in the future. After hundreds of dollars of sensitive tests we detected no contamination in our water but still consider it an ongoing concern.

As far as we know, there is no documentation as to the extent or duration of Mr. Sprague's illegal and perhaps criminal activity. From information obtained from eye witnesses, the quantity of disposed cars and appliances could be characterized as extensive. At least one witness has described how and where Mr. Sprague buried a junked Jeep in a 10-20 ft. deep hole. Mr. Sprague has since passed away so can no longer inform us in these matters.

In 2010, Mr. Sprague was requested by California Regional Water Quality Control Board to halt his disposal activities and perform more extensive testing. He ignored the testing request, leaving the case open to this date. No follow-up was taken by regulators until recently when neighbors brought this to their attention and encouraged them to require further testing before the development application was reviewed.

In 2017, the new property owner, Mr. Swithenbank, applied for permits to adjust the Coastal Commission boundary line and develop an 11-parcel sub-development. In answering the subdivision application question concerning the presence of hazardous waste on the property, he responded NO.

Subsequently Trans Tech Consultants performed testing that consisted of taking 3 samples from each of 4 closely spaced positions at depths of 6, 12, and 18 inches.

When regulators were asked to justify why over a 20 acre property with cars and appliances buried throughout to depths of 20 feet there were only 4 shallow samples, all taken in one small area, we were told that this was 1) standard methodology, 2) it is how it is always done, and 3) their in-house lawyers have approved this protocol. Common sense and our lawyers opinions would suggest otherwise. Also troubling, as the Trans Tech report reveals, is that the property owner, a person who clearly has a conflict of interest, was allowed to select the sampling site. This is a classic case of sampling bias, that is the intentional or unintentional distortion of findings by insufficient or poorly selected sampling locations.

The testing report says that only insignificant amounts of diesel and motor oil contamination were found in two of the samples. Therefore they ask that the case be closed. Online documents from the California Regional Water Quality Control board specify the maximum allowed hydrocarbon contamination in soil be no more than 400 mg/kg. The previous tests showed 20,000 to 30,000 mg/kg. Even with the limited sampling, 2 of the 4 current sampling sites resulted in positive detection of diesel and motor oil contamination at levels up to 66 mg/kg, 16.5% of the allowed maximum. It is a near certainty that if more samples had been obtained throughout the property including those at depths where the actual sources are located, concentrations that exceed the allowed maximum would have been found. In my view, the findings in the Trans Tech report do not justify the dismissal of the case.

One regulator told us they have confidence that there is little or no remaining contamination on the property because the hydrocarbons will have degraded over time. This is true for dispersed refined hydrocarbons in soils, but in all likelihood the gasoline, diesel, and motor oil are still contained intact within fuel tanks and crankcases, which will eventually leak their contents into the soil and water. To make matters even more concerning is the possible lead pollution from the numerous car batteries.

Regulators have stated that even if the development is approved, the developers may be required to bring to the attention of regulators any new discoveries related to contamination. Neighbors noting that the existing contamination was never acknowledged in the original subdivision application along with other irregularities and misstatements give little cause for confidence that such discoveries will be reported.

By no means am I an expert on soil and water testing. But neither am I a non-technical uninformed observer. I worked as a researcher and program manager for 35 years at a large national laboratory and 10 years at the University of California before becoming an independent scientific consultant in 2014. One of my areas of expertise is chemical and biological sensing having numerous peer reviewed publications and patents on these topics.

How does all this relate to the boundary adjustment?

1. The approval of the boundary line adjustment will open the door to the possibility of constructing a large 11-parcel sub-development on top of a buried junk yard. Approval should be withheld until a thorough and unbiased soil and water study has shown it safe to proceed.
2. No tests were performed on the portion of the property to be transferred to the Coastal Commission even-though there is inferential evidence of car disposals in that area.
3. A neighbor knowledgeable in this area has pointed out that the under-grounding of services and grading operations could enhance the above and below surface water flow of contaminants beyond the boundaries of the development and onto other Coastal Commission lands that are downhill to the west of the sub-development.

I believe that any reasonable person understanding the details of these matters would agree that allowing the project to proceed without proper testing would, in this particular case, call into question the Coastal Commission's adherence to its charter of protecting the Californian coastal lands. For these reasons I ask that you deny the boundary line adjustment request.

Respectfully,

Stephen M. Lane, Ph.D.