

THE CRITICAL ROLE OF LOCAL ELECTED OFFICIALS

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Abstract. The growth which fashioned our current megalopoli from once fertile agricultural and scenic areas of the State is now encroaching on the remaining scenic and environmentally rich rural areas. Despite Open Space plans, Coastal Commissions and Agricultural Preserves, fish and wildlife populations in the path of needed and/or speculative land fracture are being exposed to possible decimation and extinction faster than we become aware of the problems that occur as a result of our political decisions. Examples of the present or potential effects of political decisions on fish and wildlife populations in San Luis Obispo County are cited. Concerns about flood control projects in the San Luis Obispo Creek watershed, harbor improvement in Port San Luis, proposed supertanker port construction in Estero Bay, and a wrecking yard almost on the shore of Whale Rock Reservoir are discussed.

Professional fish and wildlife biologists are urged to take an active role in the questioning and exposing of the views of local political candidates regarding their views on fish and wildlife resource conservation.

San Luis Obispo County is a rural County in transition. In 1975 we were the fastest growing county in the State. In 1975 we had more building permit applications than Santa Barbara and Ventura Counties combined. We are struggling with 11 to 14% growth rates in certain parts of our County. Staggering assessments and inflation are accompanying our rapid growth and the rush to sell land and subdivide parcels prematurely impacts on our biological resources. We have many scenic and environmental resources which are spoken of, but not necessarily protected by, the Open Space and Conservation Elements of our County General Plan. In fact, even though 40% of our total County land is under Ag Preserve Zoning, the agricultural and development interests in our County were successful in eliminating the list of areas of critical concern from the adopted Conservation Element. This, of course, nullifies the intended effect of our more recently adopted scenic-sensitive zoning ordinance which zones can only be placed on a property which has been designated as an area of critical concern.

In this Bi-Centennial year, every County in the nation has its economic, environmental and social problems. I would like to introduce you to a few examples, from our County, of how local elected officials play an increasingly more important role in the future of fish and wildlife populations in our environment. It seems imperative to me that during this and future election years, members of your group especially become outspoken in their questioning of local political candidates. Their views of how land-use planning and other decisions relate to fish and wildlife resources must be known and made public before they are elected. Four years from now might be too late for some populations.

San Luis Obispo Creek

It is my understanding that a trout fishing club once graced the banks of the Los Angeles River at the turn of the century. Today, the progressive lowering of ground water tables in Southern California due to agricultural and/or domestic water usage has reduced or eliminated the surface flow of most coastal streams in the southern third of the State, and, as a consequence, the riparian fauna which once enhanced them. San Luis Obispo Creek, on the South Central Coast, has the distinction of being the southernmost stream on the Pacific Coast of North America into which steelhead trout (Salmo gairdneri) still migrate annually and maintain a viable population. In a normal season, the latter weekends in January would find 50 to 60 anglers vying for spots along the lower one mile portion of San Luis Obispo Creek and attempting to hook one of the 28- to 32-inch beauties that run upstream against now unreasonable odds.

San Luis Obispo Creek, in the eight years I have personally known it, has suffered the indignity of an illegally placed dam in the estuary, numerous poisonings with detergents, petro-chemical spills, sewerage overflows, bulldozer crossings, and two 100-year floods. This unique stream, which still flows year-round through the heart of the City of San Luis Obispo, was the main reason the padres chose to locate the Mission of San Luis Obispo here, on its banks. My allegiance in trying to save it for the future brought my name to public light and eventually resulted in my election to the Board of Supervisors in 1972.

Today San Luis Obispo Creek pollution has lessened but the stream is still threatened in a different way. The Regional Water Quality Control Board would have the City of San Luis Obispo purify to tertiary standards or stop dumping the secondary effluent from the City wastewater treatment plant into the creek by April 1, 1979. While this is a laudable goal, it is a debatable issue at this time whether or not stream discharge of the secondary treated effluent would cause more of an environmental impact than discharging it on the land, thereby causing a limited flow or even complete drying up of the riparian habitat downstream for a mile or so.

But perhaps the greatest potential threat to San Luis Obispo Creek and its steelhead population is Flood Control Zone 9, created on June 4, 1974. The taxpayers of the San Luis Obispo watershed narrowly voted to pay an additional 8 cents per \$100 of assessed value for funds for flood control studies (127 votes out of 10,514 would have changed the ballot results). The City and down-stream areas in the flood plain had suffered the ravages of two, 100-year floods within 4 years: one on January 19, 1969, the other on January 18, 1973. Measure B, as it was called, was to accomplish three objectives:

1. Develop a Master Drainage Plan for the watershed and consider corrective and preventive flood control measures;
2. Gather additional hydrologic data for better future decision making;

3. Provide an annual streambed surveillance and streambed clearance program.

In Flood Control Zone 9, ninety percent of the people live in, and 88 percent of the taxes which are generated are paid by residents of, the City of San Luis Obispo. Yet the zone is controlled by the County Board of Supervisors, the majority of which are elected by constituents from districts outside the watershed and hence, outside the Flood Control Zone!

A seven-member Zone 9 Advisory Committee was appointed representing the City of San Luis Obispo, the Community of Avila Beach, Cal Trans, California Polytechnic State University, the agricultural community and one public member at large. Needless to say, three of the appointed members were engineers and none were wildlife or fisheries biologists!

During the past two autumns, the committee has done an outstanding job in directing the clearance of debris from upstream tributaries. The problem comes not from this aspect but from the recently completed engineering consultant studies performed to evaluate alternative flood control measures which would provide varying degrees of protection to inhabitants of the zone.

During the presentations of several alternatives at a public meeting held on December 11, 1975, it was discovered that none of the engineering alternatives proposed achieved a benefit/cost ratio of at least 1.0. They did not, therefore, qualify for federal funding by the Corps of Engineers. Nevertheless, two projects are still being actively considered: one offers a 100-year level of flood protection; the other a 25-year level of flood protection. The 100-year protection, however funded, would require a flood retention dam on the Stenner Creek tributary and on the main branch of San Luis Obispo Creek above the city. Unfortunately, the dams would cover some of the most beautiful native reaches and, especially, the prime steelhead spawning areas in both creeks! Costs would range from \$7.6 million, if both dams were built, to \$5.7 if only the dam above the city was built. The other alternative is for 25-year protection through "local improvements to channels and structures" in San Luis Obispo, Old Garden Farms, and Brizzolari Creeks. Even if federal funding were available, the average Corps of Engineers time involvement in a project, from initiation to completion, is 17.8 years. Therefore, the Zone 9 Advisory Committee is currently being urged to recommend the 25-year level of protection with an eye toward later phasing of the 100-year protection offered by the two upstream retention dams.

Fortunately, the State Department of Fish and Game has become vitally interested in what happens to riparian habitat and especially to the steelhead spawning and nursery areas. Representatives of the department have recently visited the various potential improvement sites or dam sites on San Luis Obispo Creek and its tributaries. They have insisted that the highest degree of protection be afforded the steelhead. This, however, does not guarantee that dams will not be built, only that if they are built, that the highest degree of protection be afforded. There is already talk in the committee minutes of a possible trade-off between the steelhead habitat and potential benefits to a warm water fishery, and that it is possible to develop facilities with "minimum impact on the fishery."

The most recently appointed public member of the Zone 9 Advisory Committee, while a public-minded citizen, has long been an outspoken advocate of flood control dams in the upper reaches of San Luis Obispo Creek. Why we should be spoiling near-pristine upstream areas because of earlier failure to zone property or restrict certain kinds of construction downstream has not been addressed by the Advisory Committee. Whether or not the dam builder, structural improvement mentality prevails over the flood plain zoning, flood proofing, or public floodway easement view will depend to a large part upon

the economic rather than environmental interests represented on the Committee.

The Board of Supervisors will give much credence to the Committee recommendation. Unfortunately, three of the five members of the Board do not live in the watershed and have generally voted against the wishes of the supervisors from the city of San Luis Obispo. The future of the San Luis Obispo Creek steelhead population hangs in a most precarious political balance.

Port San Luis Harbor

In 1954, the Port San Luis Harbor District came into existence as an autonomous government entity. It is controlled by a locally elected governing board of five commissioners. The manner in which the special district was sold to the voters at that time, and the manner in which the harbor commissioners are elected, is a study unto itself. Suffice it to say that two of the original five commissioners still serve while a third has graduated to the Board of Supervisors. The current assessed value of the Harbor District in 1975 was 49.5% of the net assessed value of the County of San Luis Obispo.

The Corps of Engineers, in 1969, completed a grandiose scheme for a \$17.5 million joint federal-state-local project at Port San Luis. It called for extensive new breakwater construction to protect the harbor from winter storms, some 1500 slips for small craft, and 50+ acres of parking. 800,000 tons of rock would have to be quarried from local resources including the unique geological and historical landmarks, the volcanic peaks of the Chorro Valley which are considered to qualify as Areas of Statewide Critical Concern in almost everyone's book.

The local phase of this joint proposal called for a bond issue which was set for election in September, 1971. The voters flatly rejected the issue by a margin of 3.3 to 1. Growth of the community of Avila Beach, traffic patterns, loss of swimming beach, boat waste discharge, lack of figures on the direct effects on crab fishery, other fisheries, and the steelhead migration routes to San Luis Obispo Creek were some of the many questions which were not answered in 1971 and which remain unanswered at the present time.

On November 25, 1975, the Corps of Engineers, at the persistent request of the local Harbor Commissioners, held a public hearing at which six "alternative" plans were presented in lieu of the defeated 1971 proposal. Sensing the current negative mood of the people toward bond issues, Harbor Commissioners proposed a method of financing which does not require district voter approval: they will negotiate directly with the State Department of Ocean Development and Navigation for a loan. Repayment will come from harbor revenues.

The alternatives range from \$6 to 10.3 million and are proposed as justified on the basis of estimated 10-year storm damage losses of \$654,000 since 1965. Incidentally, much of the damage occurred during the two, 100-year floods, in 1969 and 1973. No Environmental Impact Report was available to the public before the November 25th meeting and the members of the Board of Supervisors have not yet received copies of a draft document supposedly in existence.

The 1969 Corps study was based on incomplete fishery data compiled in the mid-1950's. No additional fisheries data are available. However, as a result of the one public hearing held by the Corps on November 25th, the Harbor District Commissioners will receive final recommendations from the Corps of Engineers within the next six months. They will then consider choosing one of the six alternatives and apply for loans without a vote of the people.

A preview of the potential future public outcry was seen at the November 25th hearing. The week-end sailors and sports fishermen looked upon the 800 new slips and breakwater as a panacea for their potential carelessness and the storm-related losses they have suffered. Fishermen of the local commercial fishing fleet, on the other hand, look upon the hordes of valley sailors as a threat to their tenuous livelihood, even greater than that of the offshore foreign fishing vessels.

The whole issue of whether the Harbor District should be dissolved is again open. Residents of the Harbor district pay 17¢ per \$100.00 of Assessed Value for harbor district services. Many feel they receive much more value for the 17¢/\$100.00 they pay for the County Library System or other equivalent services. Local citizen groups have petitioned the Board of Supervisors, various City Councils, and the Harbor District Commissioners to hold an election on the future development of the Port. Thus far, all these bodies have refused or ignored the citizens' pleas. The District Attorney's office has ruled that the voters "can't compel a governing body to call an election unless it is mandated by law." The Chairman of the Harbor Commission (one of the original commissioners) is quoted in the local Telegram-Tribune that the project "might be set back two years" if an election is called. And since the districts application for federal funds is already on file, the Chairman feels that "they'll give it to someone else if we don't move on the harbor now."

Meanwhile, the future of the San Luis Obispo Creek steelhead population and, indeed, the viability of a prime swimming beach, a small community, and a commercial fishing fleet hangs in the balance.

Estero Bay Supertanker Port

On April 28, 1975, Standard Oil of California announced its decision to "indefinitely defer" its proposal to build a supertanker port in Estero Bay. To varying degrees, the offshore monobuoy, onshore port facilities, plus 270 miles of pipeline would have disrupted many different fish and wildlife habitats from the central coast through the Upper Salinas and San Joaquin Valley and inland up to the refinery at Richmond, California.

The surprise announcement to defer came on the eve of a public hearing scheduled by the Morro Bay City Council and just a week prior to when the major government agency responses on the draft Environmental Impact report were expected to be received by the County of San Luis Obispo Environmental Coordinator. The draft EIR was reputed to have cost over \$1.5 million. Therein lies a story. The State Department of Fish and Game, in its portion of the State Resources Agency comment, was about to level a blast regarding the inadequacy of the marine biological aspects of the report and on the potential effects of oil spill on sea otter habitat and open ocean bird area.

My own professional analysis of just two sections, Appendices G & K in Volume 4 (Biology of Estero Bay; Marine Biological Baseline of Estero Bay), led me to conclude the following: 1) the consultant did not establish a biological baseline for fishes; 2) did not research the literature thoroughly, and 3) did not perform field studies on the ichthyofauna of the area claimed! As far as the fishes were concerned, the report was full of platitudes and is of so little baseline value as to border on fraudulency. My opinions were independently confirmed and supported by letters to the Environmental Coordinator from Professors Carl Hubbs and Richard Rosenblatt of Scripps Institution of Oceanography.

As examples of some of the inadequacies in the report I offer the following. The consultants listed no fish species for Morro Bay proper, only birds! They completely missed the main reference to the fishes of Morro Bay (which lists 59 species of bony fishes and 9 elasmobranchs). The draft EIR lists

less than 10% of the known or expected fish fauna of the area that could be affected by an oil spill. Only 32 species in 21 families are listed in total for the entire Estero Bay area and vicinity. Of these, less than half can be said with certainty to even occur in the Estero Bay region! My own study of local fauna, review of the literature, and examination of university collection records, indicates that at least 148 species, in 47 families of bony fishes and elasmobranchs are known to occur in the immediate area. I concur with the sentiments of Professor Rosenblatt, who in his letter to the Environmental Coordinator stated: "If this sort of travesty is acceptable, then there are no standards for EIR's, and they should be abandoned as a waste of time and money."

There are several points to be made here:

1) The County of San Luis Obispo was to be, still could be, the site of the first supertanker port within the Continental limits of the United States;

2) The Environmental Impact Report which cost in excess of \$1 million, was the first ever written on a Supertanker Port yet the marine biological section of the 5-volume draft report was woefully inadequate;

3) On the basis of a voluminous, yet inadequate EIR, local officials were about to make long-ranging policy decisions which could have affected a known biological treasure, Morro Bay, virtually the only remaining viable estuarine habitat between Mission Bay in San Diego and San Francisco to the north;

4) The Morro Bay estuary is of such critical environmental, aesthetic, and economic importance to the people of our County and especially those of the North Coast, that indecision of the District 2 Supervisor in this matter is one of the major reasons being given for his recall election next March.

5) Regardless of what Federal or State energy priorities might be mentioned by the proponents to justify an eventual supertanker port in Estero Bay the land use decisions of the local elected city and especially county officials will, to a great degree determine the fate of this unique biological resource.

Whale Rock Reservoir

On January 19, 1976, the San Luis Obispo County Board of Supervisors voted 3:2 to approve a Conditional Use Permit which was simultaneously a potential environmental disaster (according to some) and a potential environmental blessing (according to others).

The environmentally approved use was a wrecking yard and car-crushing operation. The applicant had established a reputation of picking up non-functional appliances or automobiles from people who had no means of transporting such objects to the local landfill. This recycling effort on the part now of the benevolent local scavenger brought ovations from advisory groups, chambers of commerce, and citizens who simply were happy that his wrecking operation was not located in their part of the County. On the negative side, he had also established a reputation with the local county ordinance enforcement officer for operating his former wrecking yards without proper permits.

The environmentally negative aspect of this particular new use was that it was to be located in a scenic valley, 0.3 miles above a lake, alongside an intermittent stream which is tributary to a permanent stream. The permanent stream is a favorite spawning place of a somewhat unique land-locked variety of steelhead trout (Salmo gairdneri) which annually migrate from the lake

below. The lake below happens to be Whale Rock Reservoir which is a primary domestic water storage facility for the City of San Luis Obispo, California Men's Colony, and California Polytechnic State University. Many of you might know that in its stormy, 12-year history, there has been a legal battle between the local Sportsmen's Association and the State Fish and Game Department, (who wish to open it to public fishing), and the County Health Officer and Pure Water Association persons (who wish to keep the water uncontaminated). None of these persons were present at the public hearing for the wrecking yard use permit. Had they been, I'm sure they might have forgotten their own immediate battle and joined ranks against the granting of a permit for a potentially polluting use.

However that may be, our six-member County Planning Commission, was neither able to decide for approval nor against it. The vote for approval of the wrecking yard so near a stream contained nine conditions which would have monitored, regulated, and somewhat mitigated the use. It failed 3:3. The vote for denial of the use also failed 3:3 also and the undecided issue thereby advanced to the Board of Supervisors for a decision.

Along with it came the environmental impact report (EIR) which pinpointed the main issues of visual pollution and potential water pollution. The State and the County Health Departments deplored the possible contamination of the domestic reservoir by petroleum products and recommended denial. The Regional Water Quality Control Board advised measures whereby the adverse water quality impact might be mitigated. In a gesture of total bureaucrateeze, the Regional Board recommended that "If a discharge does occur" they would request the applicant file a report of waste discharge!

The attorney for the Whale Rock Commission, which operates the reservoir facility, cautiously suggested that if the use were allowed, operation of the wrecking yard be automatically terminated: "if the inspector finds that the petrochemical collection system is not performing its function in a manner that keeps all (100%) of the petrochemical substances from being discharged upon any portion of the watershed."

The immediate surrounding neighbors were against this new use claiming not only visual pollution, but that such an industrial use was incompatible with the rural character of this scenic agricultural area. Nearby neighbors felt the use "would be a deterrent to some potential buyers who are currently interested in the purchase" of their property. The prognosis looked pretty dismal for the applicant about a week before the action came before the Board of Supervisors. But at the Board meeting the applicant presented a petition with more than 700 signatures, collected from persons or groups all over the county who felt that such a recycling effort is ecologically worthwhile (especially if the use wasn't in their community). One prominent, ecologically-minded resident (from another town) complimented the applicant for having recycled over 1000 tons of metal in the past year. Upon direct questioning of County staff, however, it was found that the applicant had no permit for the past year and one-half! The applicant had first applied for this new permit in March 1975!

The applicant's attorney, stimulated by the verbal support of all the citizens who readily approved of this out-of-their-way location, was moved to state that this definitely was "not the traditional wrecking yard."

Since the original EIR was circulated, the State Department of Health reconsidered its previous denial and offered 5 mitigating measures which, if added to those conditions previously suggested by the Planning Department staff, would make the use conditionally acceptable. The Planning staff recommendations (conditions) included a time limit of 3 years, periodic monitoring (every 60 days); aggregate surface of road ways, concrete crushing pads, prohibition of on-site sales, removal of an open burning pit, and several others.

The District Supervisor, whose indecision and maleability in other matters is currently the subject of a recall election in March, felt compelled to honor the wishes of the majority of his supporters present (as compared to the wishes of the immediate neighbors). "We can't all be happy about things like this" he said, and with that moved to approve the conditional use, unconditionally. (Note that since the Planning Commission was unable to pass a motion to approve, the original nine suggested by the Planning Department staff were no longer technically part of the Board of Supervisors consideration).

The Board Chairman, therefore, asked the District Supervisor to list the conditions he wanted to apply to the permit. "That gives me a bit of a problem Mr. Chairman" said the Supervisor (since some one of his supporters had typewritten for him only the motion to approve but had not listed any conditions). The staff was asked to read the conditions suggested by the State Department of Health. He then included these in his motion which was then seconded. I then moved to amend the motion to include the original nine conditions recommended by Planning Staff. The amendment was seconded but failed to muster a majority, even though the State's mitigating measures had undoubtedly assumed the existence of some prior conditions. The main motion passed 3:2 and the use was thereby approved without the basic conditions which would have been supplemented by the mitigation measures contained in the main motion. The end result is a precedent-setting new land use (industrial) in a scenic sensitive, ecologically sensitive, and health sensitive area. The operation is subject to no time or volume limitations, and threatens not only the water supply of a city and two State institutions, but also the migration and spawning pattern of the unique population of Whale Rock steelhead trout. This is but one of many actions taken by a Board of Supervisors which from my point of view gives lip service to but fails in its responsibility to comprehend, the long-term necessity of environmental protection.

In conclusion, therefore, I ask you to be aware of and monitor such situations in your own counties. Above all, do not be timid in educating your local elected officials about their responsibilities to our fish and wildlife resources.