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April 3, 2023

SENT VIA EMAIL

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Chair Varela and Board Members
Santa Clara Valley Water District
5700 Almaden Expressway
San Jose, California 95123

**RE: Statements Made During the March 16, 2023, Board of Directors
Special Meeting**

Dear Chair Varela and Board Members:

This firm represents Stop the Pacheco Dam Project Coalition, an unincorporated association working with conservation and other groups to protect Santa Clara County's ratepayers and the environment, as well as working ranchlands, from the environmentally destructive, high-cost, and high-risk Pacheco Reservoir Expansion Project ("Pacheco Dam"). This letter seeks to correct the record regarding statements made during the March 16, 2023, special meeting that mischaracterized potential flood benefits of a new Pacheco Dam.

Specifically, near the end of the March 16, 2023 Special Meeting, Chair Varela referred to the tragedy of flooding that occurred in early March in the town of Pajaro to pitch unsubstantiated benefits of the Pacheco Dam. The Chair stated that "In [the Army Corps of Engineers'] words the benefit doesn't calculate for a poverty-stricken community to expedite the funding and the process to correct the Pajaro River breach, which has occurred over the past 20 years or 30 years every 5 to 10 years. So had the Pacheco Reservoir been built say maybe 5, 10, 15 years ago the probability, the probability of that flood occurring downstream would not have happened."¹ As explained below, this claim is unsupported by the facts and was misleading to the public.

¹ See March 16, 2023, Meeting Recording, 3:44:15 to 3:45:00, available at: https://scvwd.granicus.com/MediaPlayer.php?view_id=3&clip_id=2078.

Pajaro River Levee Was Not Overtopped, It Failed

First, the levee that failed on March 11, 2023 is located at the very bottom of the entire 1,300 square mile Pajaro River watershed. There are several creeks, streams, and a separate river that ultimately merge to become the Pajaro River prior to reaching the town of Pajaro. Further, the Pajaro River did not overtop the levee at the town of Pajaro; the levee failed catastrophically.² Thus, the flooding was generally not driven by the volume of flow, but was the result of a failure to undertake levee repair and maintenance to ensure a minimum level of flood protection.

According to Mercury News reporting, the Pajaro River only reached a level of 29.2 feet on March 11th. This is more than three feet lower than the documented flood stage, which could have caused the levee to be overtopped.³ Thus, even if a new Pacheco Dam could have provided some flood benefit in this scenario, it is false and irresponsible to suggest that the town would not have flooded if the new dam was built.

In addition, high streamflow events in the lower section of Pacheco Creek (well below the proposed new dam), are not directly related to flood conditions near the town of Pajaro. For instance, on January 9, 2023, the Pacheco Creek streamflow at the Dunneville gage (well downstream of the proposed Pacheco Dam) reached 15,700 cfs.⁴ On March 10th, that number only reached 8,910 cfs.⁵ The Pajaro River gauge at

² On March 12, 2023, the LA Times reported that “The levee failed around midnight. The failure is approximately 300 feet wide and workers are bringing in rocks and other materials to stabilize the breach before the next storm arrives.” This article is available at: <https://www.latimes.com/california/story/2023-03-12/central-coast-and-northern-california-prepare-for-the-next-storm>.

³ The updated March 27, 2023, article from Mercury News compares the height of the river during the four historic floods that overtopped the levee and discusses the recent levee failure. This article is available at: <https://www.mercurynews.com/2023/03/26/monterey-spent-one-fifth-what-santa-cruz-did-on-pajaro-river-flood-control-did-that-contribute-to-catastrophic-levee-break/>

⁴ Stream gauge information for this date and location can be accessed at: <https://waterdata.usgs.gov/monitoring-location/11153000/#parameterCode=00060&startDT=2023-01-01&endDT=2023-01-10>.

⁵ Stream gauge information for this date and location can be accessed at: <https://waterdata.usgs.gov/monitoring-location/11153000/#parameterCode=00060&startDT=2023-03-09&endDT=2023-03-15>.

Chittenden showed 11,100 cfs on January 11th⁶ and 11,900 cfs on March 11th.⁷ This data shows the lack of a direct correlation between flows in even the lower portion of Pacheco Creek and the flows in the Pajaro River. While the flows in Pacheco Creek on January 9th were nearly double those on March 11th, the flows in the Pajaro River only increased by seven percent. Additionally, there was no flooding in the town of Pajaro during the January high flow event.

The Pajaro River Watershed Is Massive and the Pacheco Dam Area Is Small

Second, the relative size of the Pajaro watershed above the proposed dam is less than one percent of the entire Pajaro watershed. While the watershed above the proposed new Pacheco Dam is approximately 66 square miles in area, the Pajaro watershed is approximately 1,300 square miles. That is .05 percent. Thus, Pacheco Dam (if there was capacity) could likely only capture less than 1 percent of the stormwater in the Pajaro watershed. If the new dam had been in place, it would likely have only captured a small fraction of the rainfall from the storm.

Due to the small area that the Pacheco Dam could potentially control, in 2018, the California Water Commission (“Commission”) determined that any flood benefits of a new dam would be incidental. The California Water Storage Investment Program (“WSIP”) Technical Review explained that:

The Santa Clara Valley Water District could not monetize the flood benefits for Pacheco Dam because there is limited residential development in the downstream area of the dam. The most significant development is located further downstream in the city of Watsonville and the town of Pajaro. The proposed dam on the North Fork Pacheco Creek will control only a small portion of the watershed above the towns of Pajaro and Watsonville; the quantifiable flood benefits would be more localized downstream and near the dam.⁸

⁶ Stream gauge information for this date and location can be accessed at: <https://waterdata.usgs.gov/monitoring-location/11159000/#parameterCode=00060&startDT=2023-01-05&endDT=2023-01-12>.

⁷ Stream gauge information for this date and location can be accessed at: <https://waterdata.usgs.gov/monitoring-location/11159000/#parameterCode=00060&startDT=2023-03-06&endDT=2023-03-13>.

⁸ WSIP Technical Review, May 25, 2018, p. 2 of 9, available at: https://cwc.ca.gov/-/media/CWC-Website/Files/Documents/2018/WSIP/TechReview/Pacheco_TechReview.pdf.

Similar to the WSIP determination of no cognizable flood benefits, the Army Corps determined that that upper watershed storage projects were not recommended for flood control on the Pajaro River in 1994 because it “Does not meet project objectives: limited increase in flood risk management. Technically infeasible. Not Economically Justified.”⁹ The Army Corps evaluated the diversion of flood flows into upper basin reservoirs again in 2001 and determined that approach as: “Only addresses limited volumes of water; impractical engineering; economically infeasible.”¹⁰ Therefore, the flood protection benefits of a larger dam at the North Fork Pacheco Creek are not substantiated and should not be provided to the public as a reason to construct the Pacheco Dam.

In Wet Years the Dam May Not Provide Any Relief

During Valley Water’s March 16th meeting, Director Santos asked whether having the Pacheco Dam in place would have lessened the flood impact and likely would not flood at all? Staff stated that there could be some incidental flood protection benefits, but it would ultimately depend on the operation of the reservoir. “In the situation that we are in right now coming off three consecutive dry years there would be more space available to attenuate flows so it could have a significant impact in decreasing downstream flooding.”¹¹ As explained above, the very damaging flooding of the town of Pajaro was not caused primarily by high flows, but by the failure of a levee that had not been properly maintained to meet minimum flood protection standards.

As staff noted, there have been three consecutive dry years. Therefore, theoretically, there might be room in a new reservoir to store water, which could potentially reduce flows if the reservoir had not yet filled. This statement, however, would likely not be valid during consecutive wet years when there is no or limited additional storage available.

⁹ Pajaro River Flood Risk Management Project Santa Cruz and Monterey Counties California (2019), App. A, p. 5. The entire Flood Risk Management document including appendices can be accessed at: <https://www.spn.usace.army.mil/Missions/Projects-and-Programs/Current-Projects/Pajaro-River-I/>.

¹⁰ Pajaro River Flood Risk Management Project Santa Cruz and Monterey Counties California (2019), App. A, p. 8.

¹¹ March 16, 2023, Meeting Recording, at 44:10:30, available at: https://scvwd.granicus.com/MediaPlayer.php?view_id=3&clip_id=2078.

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Conclusion

Several statements made during the March 16th special board meeting were inaccurate and misleading. There has been no information provided to the public to suggest that a new Pacheco Dam would have anything more than incidental flood benefits, and it is unlikely that a new dam would have kept the Town of Pajaro from flooding. The use of this disaster as a means to promote the new dam project was inappropriate and misleading.

Thank you for considering this information and please feel free to contact me (osha@semlawyers.com, 916-455-7300) with any questions.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve