

From: Mark Allen [REDACTED]

Sent: Monday, June 1, 2026 3:04 PM

To: Distrib- City Clerk <city.clerk@cityofsanrafael.org>; Mayor Kate <kate.colin@cityofsanrafael.org>; Maika Llorens Gulati <maika@cityofsanrafael.org>; Eli Hill <Eli.Hill@cityofsanrafael.org>; Maribeth Bushey <maribeth.bushey@cityofsanrafael.org>; Rachel Kertz <rachel.kertz@cityofsanrafael.org>

Subject: Written Observation and Public Comment — Ongoing Encampment Conditions at Highway 101 / Mahon Creek and Andersen Drive; CEQA and Clean Water Act Objections

Dear City Clerk and Honorable Members of the City Council,

I submit this written observation and objection for inclusion in the administrative record of the regular meeting of June 1, 2026, in connection with the City's ongoing enforcement of its camping ordinances, the City's monitoring of environmental conditions at its sanctioned and unsanctioned camping locations, and the foreseeable consideration of camping ordinance amendments at the meeting of June 15, 2026.

Observations as of May 30, 2026.

First, unsanctioned camping has resumed underneath Highway 101 in the vicinity of Mahon Creek. I personally observed encampment activity at this location on May 30, 2026. As the Council is aware, I previously reported encampment activity at this same location, and the City conducted a cleanup in response. The current observation establishes that the conditions have recurred. The campers at this location have no toilet facilities. Human waste from this site, by reason of topography and proximity, is reasonably likely to disperse to Mahon Creek and to discharge into the receiving waters downstream.

Second, encampment-related trash continues to be deposited in the public right-of-way along Andersen Drive. The City's camping regulations, including the prohibition on storage of personal property in the public right-of-way, are not being observed or enforced at this location.

Objections under CEQA.

I respectfully object that the conditions described above are inconsistent with the City's repeated invocation of CEQA Guidelines section 15061(b)(3) (the common-sense exemption) for ordinances and resolutions addressing camping conduct. Section 15061(b)(3) requires that the agency determine "with certainty that there is no possibility" of significant environmental effect. The conditions I have observed, and the City's own contemporaneous acknowledgment in the Staff Report supporting Resolution No. 15494 (adopted January 20, 2026) that camping causes "discharges of untreated wastewater and other pollutants," together establish that the certainty premise of section 15061(b)(3) cannot be satisfied. The City's own enforcement record — demonstrated by its prior cleanup at the Highway 101 / Mahon Creek location and by the recurrence of identical conditions at the same location — confirms both the foreseeability of the violation and its recurring character.

I further object in advance that any amendment to the City's camping ordinance considered at the June 15, 2026, City Council meeting, including any proposal to prohibit camping along Andersen Drive or within a two-thousand-foot radius of the 350 Merrydale interim shelter site, would fail to satisfy section 15061(b)(3) for the additional reason that the displacement effects of such an amendment are reasonably foreseeable. Campers displaced from prohibited locations will, by predictable necessity,

relocate to other public or quasi-public locations, including locations adjacent to or within sensitive environmental areas. The water-quality, wetland, and habitat impacts of that displacement are foreseeable physical environmental effects subject to CEQA review.

Objections under the Clean Water Act.

I respectfully place the City on notice that the conditions described above continue to support the Clean Water Act citizen-suit notice I served on the City on April 24, 2026, pursuant to 33 U.S.C. section 1365. The Highway 101 / Mahon Creek observation, together with prior documented conditions at City-authorized and City-tolerated camping locations, establishes the "ongoing violation" predicate under *Gwaltney of Smithfield v. Chesapeake Bay Foundation*, 484 U.S. 49 (1987). The City's prior cleanup at the same location does not abate the ongoing-violation status; it confirms recurrence at the same location. I will continue to document these conditions for purposes of the federal action.

Reservation.

I expressly reserve all rights, claims, and arguments under the California Environmental Quality Act, the Ralph M. Brown Act, the California Public Records Act, the Clean Water Act, the Endangered Species Act, and applicable California and federal constitutional, statutory, and decisional law. The objections set forth above are intended to ensure that the administrative record reflects fair notice to the City of the specific environmental, water-quality, and enforcement concerns identified, in satisfaction of the exhaustion requirement of Public Resources Code section 21177(a), and to preserve all such concerns for future administrative and judicial review.

Requested action.

I request that the City undertake immediate enforcement and cleanup at the Highway 101 / Mahon Creek location and the Andersen Drive location, and that the City conduct any future consideration of camping ordinance amendments with full CEQA review consistent with the substantial evidence already on the record.

I further request that this written comment be included in full in the administrative record for the meeting of June 1, 2026, and incorporated by reference into the administrative record for the foreseeable June 15, 2026, consideration of camping ordinance amendments.

Thank you for your attention to these matters.

Mark Allen

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