

No. 509**Letter from Marshall W. Pike, Continued**

509-3

The commentor states that the “no action baseline incorrectly starts at the current conditions to measure improvement?” and “...why is the true baseline for analysis of improvements in the conditions of the anadromous runs marginalized by this presentation?”. The No Action Alternative must capture the conditions that would be expected to occur without the project. In the case of the status of the populations of anadromous fisheries or their habitats at RBDD, that condition must be the current time or some reasonably expected time in the future without implementation of the project, and not some time in the past. This is essential so that any measurable changes that can be attributed to a project alternative resulting from the No Action condition can be identified and quantified if possible. This not to say that historical actions that resulted in benefits to the anadromous fisheries were ignored or diminished. They were substantial, and this environmental document simply looks at further feasible improvements. These actions have been included into the No Action Alternative so as to establish the current condition from which to measure impacts or benefits from proposed alternatives. As stated in the DEIS/EIR, page 2-9, the No Action Alternative represents ongoing activities and operations, and corresponds to the No Project definition as outlined in CEQA Guidelines and is a condition that would reasonably be expected to occur if the project were not approved. Those things affecting anadromous fish populations at RBDD included in the DEIS/EIR No Action Alternative (condition) included (but are not limited to) the correct 4-months gates-in operating condition at RBDD, actions that were implemented from the 10-Point Action Program that was identified in Vogel and Hayes (1986), fish ladder improvements, installation of the rotary drum screens at the TC Canal headworks, and relocation of the fish screen bypass outfall, among others.

No. 509**Letter from Marshall W. Pike, Continued**

- 509-4 The commentor states that the biology of three species of concern, green sturgeon, river lamprey, and Pacific lamprey is unknown for some unexplained reason. It is true that knowledge of the life history and ecological requirements of these species is less widely known than other species, such as Pacific salmon. However, it is known that these species are anadromous and migrate through the RBDD reach of the Sacramento River. Furthermore, recent pertinent data have been collected via the juvenile rotary screw trapping program conducted by USFWS at RBDD. From that investigation, knowledge of the downstream timing of young lifestages of these species at RBDD is beginning to be better understood, and these data were used to develop the temporal presence of these species with some measure of confidence, at RBDD. To say that scientists know everything about each of these species would be premature. However, for the purposes of distinguishing differences in the performance of the project alternatives that were evaluated in the DEIS/DEIR, the knowledge gained from these investigations was applied uniformly and is adequate for distinguishing differences in the effects of the proposed alternatives on those species.
- 509-5 In response to the commentor's statement of "gamesmanship with the Endangered Species Act," it is noted that both the federal and state governments are bound to follow federal and state law regarding managing public trust species, including all anadromous fish in the vicinity of RBDD. The management responsibilities and policies of the state and federal governments for those species protected by ESA and CESA are very clear under the law. Under ESA, it is the policy of the Congress that all federal departments and agencies seek to conserve endangered species and threatened species and shall use their authorities in furtherance of the purposes of ESA [Section 2C(1) of ESA]. By law, the policy of Congress is that federal agencies shall cooperate with state and local agencies to resolve water resource issues in concert with conservation of endangered species [Section 2C(2) of ESA]. As stated in Subsection 2055 of the California Fish and Game Code, it is the policy of the state that all state agencies shall seek to conserve endangered and threatened species. In addition to species protected under CESA and economically valuable species such as salmon and steelhead, nongame and noneconomically exploited species such as green sturgeon and river lamprey are managed under the state's natural resources conservation policy. Specifically, the policy of the state is to maintain sufficient populations of all species of aquatic organisms to ensure their continued existence (Subsection 1700[a] of Fish and Game Code).

No. 509

Letter from Marshall W. Pike, Continued

- 509-6 We accept that the commentor might be correct. The DEIS/EIR lists impacts to recreation as significant and unavoidable if Alternative 3 is chosen. In addition, see Response to Comment 9-1. Alternative 3 is not the selected project. As of November 2007, the selected project includes a pumping facility with a maximum capacity of 2,500 cfs. Reclamation anticipates a gates-in period between July 1 and the end of Labor Day weekend; TCCA has no position on changes to gate operations.
- 509-7 Impacts to recreation are significant and unavoidable according to DEIS/EIR Section 4.3 and Table ES-4.
- 509-8 See Response to Comment 509-7.

salmon are not an issue, then the sturgeon will be. If the sturgeon are not proved to be threatened, then the river lamprey will be the next in line, and so on. This sort of gamesmanship with the Endangered Species Act and with the lives and livelihoods of entire communities is one of the most boisterous regulatory environments ever conceived. The decision makers need not be carried along by this tide. A declarative policy to exclude speculation of this type in consideration of the decision at hand would go a long way towards restoring some balance in the process.

509-5, cont'd

Faulty Use of Discredited Recreation Study

The Draft EIS/EIR quoted from the "Red Bluff Diversion Dam Area Recreation Use Study" (published in December 1995 and Revised in January 1996) for the underlying recreation usage of the Sacramento River from the RBDD in Idle Adobe Park in 1995. The Draft EIS/EIR reports 64,000 user days from the study. The Study, presented and then revised indicated in its statement on Data Collection on page 2, "Attendance was not counted at the Boat Drag Races or the 4th of July evening fireworks since the sponsoring agencies already collect this data." The authors of this study, then fail to include the information available from the sponsoring agencies. In order to properly fill this information gap, the City of Red Bluff and the Tehama Local Development Corporation have commissioned a study to be filed during this comment period. I urge full consideration of its findings be included in the Draft EIS/EIR as the conclusions drawn from the presentation may be misleading as to the magnitude of the impact. In addition, the City of Red Bluff Parks and Recreation Department has historical data on the use of River Park by groups over the past several years. Their numbers alone show annual use of 50,000 user days in this one park.

509-6

To compile a lost user day analysis as is presented in the Draft EIS/EIR Figure 3.5-6, Recreation Impacts Summary Matrix, without the full information readily available is negligent. A quick read of the available statistics would easily more than double the lost user days for the 2-month and gates out alternatives as represented in this figure. The socioeconomic impact of the loss of events on Lake Red Bluff must also consider that often these on-water events are coupled with activity in town. Another 3000-5000 persons flock to the "Show and Shine" event held in town on the Thursday before the event that is coupled to the Memorial Day Boat Drag Festival. That these impacts are considered to be "significant and unavoidable" if the 2-month or gates out alternative is selected, is a trite use of the vernacular but apparently that is all that needs to be said.

509-7

The Chino Basin Study was severely criticized when it was first published and to rely on it now is subject. If one elects to use the information provided, however, one could just as accurately contend that since 1980, the per capita use of Lake Red Bluff (number of user-days as a function of the number of months of "gates in" use available) has increased by 78% while our population has only increased by 42%. In other

509-8

No. 509

Letter from Marshall W. Pike, Continued

509-9

The statement made on DEIS/EIR page 3-214 that the likelihood of increased populations of fish is "speculative" refers to the following. One assumption is that improving passage opportunities for anadromous fish might improve access to preferred habitats upstream of RBDD, and that improvement in access might result in population increases. However, it would be speculative to state that improvement of passage conditions would directly result in increased populations. This is because of the many variables affecting and limiting the populations of anadromous species native to the Sacramento River, including variables occurring downstream of RBDD and in the ocean environment. The objective of the project is to improve passage conditions for anadromous species at RBDD. In response to improved passage conditions at RBDD, it is prudent to say that populations of these fish MAY increase, but to say that they WOULD increase and how much they would increase, would be speculative.

509-10

The DEIS/EIR states that losses to recreation and socioeconomics are significant and unavoidable.

words, we are using the lake at nearly double the rate of the amount of use from 1980 to the present. If more recreation was the goal, more months of "gates-in" operation is the solution.
Project Purpose and Need

} 509-8,
cont'd

Finally, I was stunned to see the Draft EIS/EIR finally acknowledge on page 3-214, after taking great pains in the environmental analysis to show the beneficial affect of the 2 months and gates out alternatives to read the following:

"However, the likelihood of increased fish population is considered speculative because of the large number of variables affecting fish populations."

} 509-9

Sure, variables such as: long term climatic swings, changes in offshore currents, levels of sport and commercial fishing offshore, effects of pollution and runoff sedimentation, introduction of non-native parasites in the delta, diversion of CVP water to southern California, drought conditions in the Pacific Northwest requiring additional hydro-electric production at Shasta. The list is endless. My question is this: What is the goal of fish passage improvement if not to increase fish populations? Rhetorically, the answer is there is no imperative for this project ultimately in the fish passage segment of the purpose and need statement.

Analysis of Mitigation Proposals

As you know, I support the Alternative 1A which improves fish passage and provides for the long term needs of the agriculture community by constructing a 1700 cfs pumping plant. All while retaining Lake Red Bluff for 4 months of the year.

Any other decision encumbers significant, lasting and inequitable burdens on the citizens of Red Bluff and Tehama County. Loss of community cohesiveness and quality of life are intangible assets that do not lend themselves to financial measurement. Mitigation must be directed towards replacement of these lost intangibles. Indeed, since the project itself is primarily a growth inducing water conveyance, the mitigation proposals must include features and facets that lend themselves to the future growth of Red Bluff. Simply, proposing to pay for current lost value does nothing to accommodate the loss of future benefit.

} 509-10

For example, removal of the benefit of the lake by shrinking the gates in period to 2 months cannot be convincingly mitigated by some transitional facilitation. The cost of re-creating a July or August event of the size and scope of the Memorial Day event falls to recognize that May, as a productive tourism draw, remains lost. To recreate the benefit, an appropriate water related event in May must be devised from scratch. Seed funds for marketing, identification of participants, determination of the demographic interest, prize purses, regional promotion, ticketing mechanisms, security and crowd controls, private enterprise

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No. 509

Letter from Marshall W. Pike, Continued

opportunities, all must come together in order to successfully establish such an event. The investment of 30 plus years in a festival around boat drags will not be "facilitated" into a successful replacement in 5 years.

509-10, cont'd

The lake bed, now acres of shoreline cobbles at River Park in it's annual winter condition, cannot simply be allowed to return to "woody, stream side riparian growth meant to enhance the feeding sources for fish." Mitigation of this area would require massive excavation and river bed contouring to return the river course bank to bank. One could not simply dig shoreline pools that would quickly turn to putrid algae clogged puddles. It is also important to realize that the eastern shore line must not be left high and dry by redirecting the stream course back to the west side. Removal of cobbles and restoration of the river bed to full width, and likely shallower depth may be required. Whether this allows the jet drive water craft enough draft to maneuver under power would have to be carefully considered as well. The Lake Red Bluff Recreation Area, upstream of the Dam would require similar consideration through dredging of East Sand Slough.

509-11

Since improved fish ladders are a feature of two of the alternatives, no expense should be spared to make them showases for fish viewing opportunities. Below grade windows on the entire length of the ladder, covered for glare to allow a near aquarium like vantage, would be ideal as an attraction to stimulate visitation. State of the art counting and measuring devices, even experimental systems that might use video or scanning technologies should be installed. The center gate installation should be improved as well since the crowning flow study, conducted over the past two years, is demonstrating the efficacy of higher attraction flows to the center of the stream bed. The opportunity for this facility to become a University of California connected, test bed for improving fish passage technology should not be overlooked.

509-12

All current shoreline access facilities that have ramps into the lake, must be designed and extended so that both public and private access remains. The Department of Boating and Waterways and the City of Red Bluff are near completion of a new boating basin and ramp installation at River Park. It is waiting for the spring impoundment to become useful. Without extending that ramp into the main channel, this investment becomes useless. Mitigation to force the same number of boaters into fewer ramps will not provide the capacity requirements of the boating community into the future and is no mitigation at all. Any shoreline enhancement with flow through contouring, must be devised so that people, not just fish, can enjoy the water.

509-13

The USFWS Draft Report included in Appendix I has some disturbing suggestions in its Mitigation section and Recommendations section that should be considered. Regarding the revegetation or enhancement of streamside riverine aquatic (SRA) cover, the only areas not currently in this state that front the main stem of the river between the RBDD and Idé Adobe Park are the backyards of private homes and River Park in the city limits of the City of Red Bluff. To restore SRA cover to these places would create the same

509-14

509-11

Operations of the RBDD gates have been changed from 12 months to the present 4 months over the past 4 decades. With the present operation, the Sacramento River is free-flowing and meanders with changes in flow regime and geomorphology. The DEIS/EIR did not attempt to evaluate any proposed channel mitigation or realignment because no such plan has been proposed to our knowledge. The intent of the proposed action is to return the river to its natural flow regime without attempting to reshape or alter the river channel in the vicinity of Red Bluff.

509-12

The fish passage facilities could provide fish-viewing opportunities and it may be possible to accommodate fish passage viewing into the design of improved fish ladders should one of those alternatives be selected for implementation. Depending on the type of fish ladder or passage facility alternative chosen, opportunities for improving public viewing could be increased. Certain fish ladder designs are amenable to viewing of fish passing through the structure, and others are not. For example, the "Ice Harbor" (vertical slot)-type ladders selected for the north bank fish ladder design at the Anderson-Cottonwood Irrigation District (ACID) Diversion Dam in Redding easily allows for public viewing. However, the pool-and-chute ladder design selected for the south bank at the same diversion facility does not provide opportunities for viewing of passing fish. These considerations would need to be evaluated at the time of final design for any fish passage facility should one of those alternatives be chosen for implementation.

509-13

Thank you for your comment. Your comment has been noted. No response is required.

509-14

See Response to Comment 483-3.

NOV 19 2002 15:56 FAX:530-529-4511

No. 509

Letter from Marshall W. Pike, Continued

- 509-15 The commentor is correct that Tehama County is one of the poorest counties in the state. It is not clear how the beneficiaries of this project would be urban and suburban water districts in the Bay Area. This project is to improve fish passage and provide reliable water to Tehama, Glenn, and Colusa County agricultural users. TCCA is the CEQA lead for this project. There are no Bay Area participants in this project.
- 509-16a No funds have been allocated to mitigation at this time. In fact, this project has not received any construction funding to date. Reclamation will be the entity to determine mitigation.
- 509-16b No funding source has been identified at this time.
- 509-16c We do not understand the question.

conditions as can be found at Dog Island Park for example. This sort of cover would serve to impede human access completely as anyone who has visited Dog Island Park would know. The contention that significant new SRA cover could be established fails to note that in the reduced foot print created by the gates out alternative, the entire eastern shore East Sand Slough is hundreds of yards from the banks of the river and that only a very short stretch of new SRA cover would be created at the confluence of the slough and the river.

In the USFWS statement, they also support the removal of bank revetment and return of natural erodible shoreline under the gates out alternative. It is no surprise that other agencies have a different take on this proposal. The Department of Water Resources in it letter of January 8, 2002 (Appendix G) has correctly noted that revegetation of East Sand Slough would create reduced free flowing flood plain in that area, slowing flood waters down and causing further flooding upstream and directly into the highly developed Antelope Boulevard residential area. DWR suggests that FEMA and the City of Red Bluff would likely have to approve this since flood insurance characteristics would be altered dramatically.

Finally, the impact of selecting the 2 months or gates out alternative are more heavily weighted on the poor and economically disadvantaged. Tehama County is among the lowest in the state in per capita income and every other measure of economic condition. The severest losses would be to the community of Red Bluff and the analysis that no mitigation will be required to offset the losses based on environmental justice is wrong. Any alternative selected that eliminates or reduces the Lake Red Bluff recreation alternatives in order to provide for mitigation called for in the CalFed Management Plan and other plans (as detailed in the Appendix I, Draft Fish and Wildlife Coordination Act Report) and since the beneficiaries will be the urban and suburban water districts of the San Francisco Bay Area and the losses will be carried largely by the low-income population of Red Bluff and Tehama County, then the Environmental Justice provisions of the process concludes that this disproportionate impact must be mitigated.

The point I am trying to make is that creative thought will be required to reach back and regain the community cohesiveness, social fabric and economic base lost with the elimination of Lake Red Bluff. This community deserves a future, brightly lit, and not as an after thought to the water needs of the state.

My final questions:

1. Identification of mitigation must be a community function and must be funded fully. What funds are allocated for the planning of mitigation and what specific entities are involved in the decision on any mitigation plan?
2. What funding source is specifically dedicated to the mitigation?
3. How is the funding source tied to the beneficiaries of the new pumping capacity?

509-14, cont'd

509-15

509-16a

509-16b

509-16c

DATE: 11/19/2002 15:56 FAX: 916/225-5254

No. 509

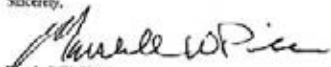
Letter from Marshall W. Pike, Continued

- 509-16d Mitigation costs vary widely from project to project. We are unable to find a definition of water right royalty.
- 509-16e Thank you for your comment. Your comment has been noted. No response is required.

- 4. What level of mitigation is typically project related? What mitigation is ongoing and funded by water right royalties? Who determines the level of royalty? } 509-16d
- 5. The Red Bluff Tehama County Chamber of Commerce and the City of Red Bluff have been required to underwrite significant expenditures in order to prepare qualified environmental and biological opinions to the agencies as a result of the Draft EIS/EIR publication. Reimbursement of the cost of these studies must be included in any mitigation proposal. } 509-16e

I thank you for your consideration and substantive response to each of these remarks.

Sincerely,



Marshall W. Pike
Red Bluff, California

- cc: Senator Barbara Boxer
- Senator Diane Feinstein
- Congressman Doug Ose
- Congressman Wally Herger
- Assemblyman Dick Dickerson
- Assemblyman-elect, Doug LaMalfa
- State Senator Maurice Schwarzen
- State Senator-elect Sam Amentad
- Secretary of the Interior, Gale Norton
- Resource Agency Secretary, Mary Nichols

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No. 510

Page 1 of 2

Subj: Comments on 11/19/2002
 Date: 11/19/2002 1:48:38 PM Pacific Standard Time
 From: mpiko@calparksco.com
 To: tewaterman@aol.com
 Sent from the Internet (Details)

Attention: Mr. Art Bullock, General Manager
 Tehama-Colusa Canal Authority
 P.O. Box 1025
 Willow, CA 95988

RE: Written Comment on the Draft EIS/EIR for the Fish Passage Improvement Project published in the Federal Register on August 30, 2002
 DATE: November 19, 2002

Dear Mr. Bullock:

In the Stakeholder Working Group for this project, many meetings were held over the last 18 months. My comments are intended to address the issue of the restrictive purpose and need statement, developed by this group, as it relates or fails to relate to recreation.

Of the 6 alternatives proposed, I am supporting the Alternative 1a that retains the gates-in 4 months, improves the fish ladders and that also provides for a pumping facility to meet the water needs of the TCCA into the future. } 510-1

I want to draw attention to additional current legislation overlooked in the development of these alternatives. The Omnibus Parks and Land Management Act of 1996, P.L. 104-333, authorized the National Recreation Lakes Study Commission "to review the current and anticipated demand for recreational opportunities at federally managed man-made lakes and reservoirs" and "to develop alternatives for enhanced recreational use of such facilities." The commission's final report, published in June 1999, recommended the establishment of an interagency Federal Lakes Recreation Leadership Council to coordinate recommendations of the Commission; a National Recreation Lakes Demonstration Program; and assessments at Federal lakes to determine customer needs, infrastructure and facility needs, and natural resource capabilities. Member agencies of the Council are the U.S. Fish and Wildlife Service, the Bureau of Reclamation, the USDA Forest Service, and a number of others.

The intent of the legislation was to encourage and authorize cooperating agencies to look more closely at the needs of the public served by federally managed lakes and to specifically address the growing recreational component when considering the project purposes and needs. Congress saw that while originally designed for flood protection, irrigation and power generation, these valuable assets had become the life blood of communities aching for recreational opportunities and relief from the confines of city dwelling.

Any project on a federally managed, man-made lake should take the intrinsic benefits of lake recreation into account in the purpose and need statement for the project. It is only common sense to expect that as our water needs grow, driven by population, so will the need for those same people to have places to enjoy the water.

My specific questions are: Since the Commissioner of the Bureau of Reclamation, John W. Keys, III, is the Co-Chair of the Federal Recreation Lakes Leadership Council, why was the purpose and need statement of this project not modified to include the recreation value of the Federally owned and managed reservoir at Lake Red Bluff? Was the National Recreation Lakes Commission Study formally reviewed for relevance to this project? Specifically, why were repeated attempts to expand the purpose and need statement to include recreation considerations continually rebuffed by the Technical Advisory Group and the Stakeholder Working Group in its initial public process? } 510-2
 } 510-3
 } 510-4

In addition, clarification of the terminology in the limited Purpose and Need Statement is required for substantive analysis. We would like to know the specific meaning and the means to measure the quality: "substantially

Tuesday, November 19, 2002 America Online: Tewaterman

Letter from Marshall Pike, Dated November 19, 2002

- 510-1 Thank you for your comment. Your comment has been noted. No response is required.
- 510-2 DEIS/EIR Section 1.2.3 discusses the legislative and management history of Lake Red Bluff. We are not certain as to the exact request by the commentator. The Sacramento River in Red Bluff has recreational value all year with or without the RBDD gates lowered. See DEIS/EIR Section 3.5, Recreation, for details. Impacts to reservoir-type recreation were included in the DEIS/EIR and found to be significant.
- 510-3 No, the National Recreation Lakes Commission Study was not formally reviewed for relevance to this project.
- 510-4 This project is being driven by ESA and the need to protect threatened species. Fish passage of RBDD may impact recreation depending on the alternative that is chosen. Impacts to recreation could be significant and unavoidable. Recreation is neither the purpose nor the need for this project, but may be directly impacted.

No. 510

Page 2 of 2

improve.* What measures are used to determine when "substantial improvement" is achieved and when it is not? } 510-5
Also what constitutes "reliability" in the context of the Purpose and Need Statement? What is unreliable? Absent } 510-6
these specifics, the success of any alternative will be subject to wide discrepancy and consequently }
unsustainable from a scientific point of view.

Thank you for your attention in this matter.

Marshall Pike
Concerned Citizen, Red Bluff, California

Letter from Marshall Pike, Continued

- 510-5 Fish passage issues are well documented at RBDD. Substantial improvement would mean that all fish species could pass easily without delay both upstream and downstream of the diversion dam and not fall prey to downstream predators because of artificial flow dynamics.
- 510-6 Reliable water supplies are hard to determine; however, it would be difficult to deny that a pumping plant would not improve reliability over the present temporary CHO diversion at Stony Creek.

Tuesday, November 19, 2002 America Online: Tcwaterman

No. 511

Letter from Kirk Willard, Dated November 11, 2002

511-1 This comment letter is duplicate to Comment Letter 429.

Kirk Willard
1446 La Crosse Dr
Sanayvale, CA 94087

11/12/02

Mr. Art Bullock
Tehama-Colusa Canal Authority
5513 Highway 162
Willows, CA 95988

Or P.O. Box 1025

Subject: My enclosed comments pertain to the RBDD EIS/EIR for the TCCA Improvement Project for the Fish Passage at RBDD.

- 1) I believe that properly assessed benefits to the general society and environment, would out weigh the cons of leaving the RBDD gates down for 2 or 4 months per year at the Red Bluff Diversion Dam.
- 2) After reviewing key elements of the draft EIS, I believe the justification for selecting the option of gates up are not justified based on data provided.
- 3) The selection of a "No Action Alternative" under NEPA as well as "existing conditions" under CEQA should be the base alternative selected by the TCCA since they have not justified the #3 -- Gates-out Alternative. One cannot select an alternative with such significant impacts without a better justification.
- 4) I concur with prior commentors that the benefit of having diverted water propelled by gravity due to the dam versus pumped transport is greatly under estimated by the draft EIS. It makes no sense to compare the amount of energy for pumping at this location with the total amount of energy for the state of California which the EIR did.
- 5) The EIR is unacceptable as it completely missed accounting the benefit of groundwater recharge from the expanded lake during gates-down operation. This is not insignificant and is a great benefit for the environment and sustainability of the Northern California communities.
- 6) The EIR is unacceptable as it under-assessed the benefits of gates-down operation on the biota and wildlife due to expanded riparian or river edge areas. This includes many plant and animal species and certainly can be easily documented. This error alone is so grievous as to suggest that lake RB benefits were intentionally minimized.
- 7) The lack of adequate representation of socioeconomics and aesthetics/visual resources as benefits of gates-down operation in the EIR is unacceptable. The draft EIR greatly under estimated these benefits as many other commentors have stated.
- 8) The draft EIR has erred in showing the gates-down benefits in comparison to the whole state of California while the negatives (fish survivability) are only shown in comparisons on the very limited local, time limited resources. Of course, if one wanted to demonstrate the benefits as significant they also could be shown on the local, time limited level and then the benefits would be significantly more important. In summary the EIR's benefits of gates-down operation is under-estimated, derided and naively subjugated to "assumed" un-quantified fish survival benefits. That just flies in the face of decent use of the NEPA or CEQA policies of our state.

The benefits of gates-in operation with fish ladder improvement, greatly exceed the environmental and social costs. The EIR and selected alternative need to be revised.

Sincerely,



Kirk Willard
(Up river landowner, down river citizen, taxpayer, dad, etc.)

511-1

No. 512

Letter from Arnold Wilhelmi

512-1

Thank you for your comment. Your comment has been noted.
No response is required.

512

Arnold Wilhelmi
11859 E Stillwater Way
Redding, CA, 96003

Mr. Art Bullock
Tehama Colusa Canal Authority
P.O. Box 1025
Willows, CA 95988

Dear Sir:

After considerable study and examination of the alternatives for the solution to the many problems of the Red Bluff Diversion Dam, I would be in strong favor of Alternative 3.

Both from an economic and ecological viewpoint, it makes sense to spend some of our tax money to try to establish the Sacramento River ~~as~~^{as} a healthy ecosystem for us and future generations to enjoy and utilize in a sane manner. We can justify this both from an ecological and economic standpoint.

This great river is one of the states greatest natural assets. It is this generation's responsibility to make wise decisions now for all of us and future generations. We don't have the technology to build a Sacramento River if we destroy this one. Sincerely,
Arnold Wilhelmi

512-1

No. 513

Letter from Kenneth Hill, Dated November 14, 2002

Subj: RBDD - Attn: Art Bullock
 Date: 11/14/2002 4:40:51 PM Pacific Standard Time
 From: doahso@snowcrest.net
 To: kwaterman@aol.com
 Sent from the Internet (Details)

Dear Mr. Bullock:

I talked with several government representatives at the Sept 25th meeting held in Red Bluff, possibly I spoke with you at that time. One person manning a chart in the back of the room left quite an impression with several people when he made the statement "Fish are more important than people" when asked where the government's priorities were in regards to the citizens concern about our community and the effect the removal of the RBDD would have on the area. Fish are more important than people? No matter how many times I repeat his statement, it just doesn't seem like the government has it priorities in the proper order. Fish are more important than people! I am a very enthusiastic fisherman. I love to catch fish, I love to eat fish, I love to watch fish in their natural habitat, in fish farms, in fish hatcheries, and in spite of all this admiration, I don't think I will ever be able to say that "Fish are more important than people". Perhaps the government employee just blurted this statement out in the heat of the moment as there were many people disagreeing with his stand on the RBDD's removal. Maybe he knows more about where the revenues come from that support this great nation and that fish do pay taxes. And if he does, I hope he will share the knowledge with an average citizen like myself so I might pass it along to the many others that do not think "Fish are more important than people".

513-1

The citizens of RB have happily lived with the RBDD for over 40 years. The gates were closed for many years after its construction and the fish population remained steady with only the ups and down that go with nature's whims. When first constructed it not only diverted irrigation water but was going to be a strip of the art fish spawning facility. It was locally referred to as the "Fish Ditch" and although many millions of dollars were spend to perfect the spawning areas it was another grand plan that went awunder. You might recall that the gravel cleaning system did not function as planned. The fish that were transplanted into the ditch had to be captured on the east side of the dam and trucked through RB, down HWY 99W, then over to the spawning area. I'm sure there was a good reason for not putting the collecting and counting plant on the west side of the river, we just haven't been advised of it. We also hear that the fish ladders are not adequate, that the fish are having difficulty going up a grand total of 14 feet to the lake area. Possibly the experts from the Columbia River area should have been consulted. They were able to design ladders that enable fish climb up hundreds of feet. Spawning areas that don't spawn and fish ladders are said to be inadequate but seem to work. Another multi-million dollar plan that looked good on paper but didn't pan out. Leave the RBDD in place, improve the fish ladders, consider leaving the gates down 5 month to include May as even your charts show it to be a high need of irrigation water month, and please don't let "Fish be more important than people". We're all God's creatures, at least put us on equal footing to a fish.

513-2

513-3

Sincerely,

Kenneth Hill
 P.O. 815
 Red Bluff, Ca. 96080

- 513-1 Thank you for your comment. Your comment has been noted. No response is required.
- 513-2 See Response to Comment 31-6.
- 513-3 Thank you for your comment. Your comment has been noted. No response is required.

No. 514

Letter from Mrs. John M. Hawker

Mrs. John M. Hawker
180 S Main St Spc 19
Red Bluff CA 96080-3834

514-1 See Response to Comment 2-1.

I live on Reed's Creek opposite the River Park boat ramp and have one of the most beautiful scenes in town when we have water in the river. I really miss it when the water is down--so is Reed's Creek, in case noone has noticed--and hope this little check will help in some small way to let us keep the 4 months water we now have.

I doubt that many people in the area really know how much the river is used by boaters, canoers, rafters, kiakers and those dangerous little jet skiers. Whole families, little groups, singles (most of whom I think of as selfish, want-to-be-alone husbands) are constantly going in and out, starting around 5:30 or 6:00 in the morning and ending with lights on at 9:00 or later.

514-1

People come to the park all day long to watch the water activity, etc., and much more than the lake will be lost if we do lose it.

(My M key is disappearing and turning into N and that is not misspelling.)



No. 515

9-14-02
RED BLUFF

Re: DIVERSION DAM VS FREE FLOW RIVER

Red Bluff Chamber of Commerce
P.O. BOX 850 Red Bluff Ca 96080

Dear Sirs:

as a citizen resident of Red Bluff I strongly object to removal of the Diversion Dam on the following reasons.

- ① Pumping water is costly and wastes power } 515-1
- ② Free flowing river 50 miles will not cure the fish spawning problem. } 515-2
- ③ Red Bluff will suffer economically from a Recreational loss. } 515-3

One solution would be acceptable to me:
Build a fish bypass and sates ques on the Dam operation (4 mo. ops closed 5/15 - 9/15) } 515-4

David Altmann
510 Breakcliffe
Red Bluff

Letter from David Altmann, Dated September 14, 2002

- 515-1 The commentor is correct. Pumping water is one of the largest single power uses in California, and millions of dollars are spent each year to move water throughout the state.
- 515-2 It is unclear what the commentor means when stating that "free flowing river 50 miles will not cure the fish spawning problems." The alternatives analyzed in the DEIS/DEIR were evaluated for their ability to allow free passage of anadromous fish to both habitats upstream and downstream of the RBDD. Upstream of RBDD to Keswick Dam, the barrier to anadromy in the mainstem Sacramento River, there are 59 miles of valuable anadromous fish spawning, incubation, and rearing habitat. These habitats are subject to water temperature-controlled flows released from Shasta Dam, ensuring more optimal habitat conditions for these fish. Since 1993, in those 59 miles of the mainstem Sacramento River, approximately 80 percent of mainstem Sacramento River fall-run Chinook, 97 percent of mainstem Sacramento River late-fall-run Chinook, and nearly 100 percent of Sacramento River endangered winter-run Chinook salmon have been documented to spawn. For spring-run Chinook salmon, numerous tributaries to the mainstem Sacramento River upstream of RBDD contain large areas suitable for these salmon to spawn, incubate, and rear. These tributaries include Battle Creek, where a huge restoration program (>\$100 million dollars) is being planned and implemented. In addition, Clear Creek, another stream undergoing a large restoration project, contributes, or has the potential to contribute, large numbers of naturally spawned fall-, late-fall-, and spring-run Chinook salmon and steelhead to Sacramento River salmonid populations. To say that the RBDD does not affect or "cure the fish spawning for 50 miles of clear flowing river" is inaccurate. Clearly, improving passage for all the anadromous species at RBDD will likely greatly increase opportunities to access historical upstream holding, spawning, and rearing habits as well as improving migratory access to habitats downstream of RBDD and the ocean. Access to these preferred habitats could potentially result in large improvements to these anadromous fish populations.
- 515-3 See Response to Comment 11-1.
- 515-4 Thank you for your comment. Your comment has been noted. No response is required.

No. 516

Letter from James, Nellie, Steven, and Timothy Henson,
Dated September 25, 2002

516-1 See Response to Comment 21-2.

516-2 Table ES-4 indicates that impacts to quality of life could be significant depending on the alternative selected. There is presently no proposal to remove Shasta Dam.



HLP III

September 25, 2002

To: U.S. Senator Diane Feinstein, U.S. Senator Barbara Boxer, Congressman Doug Ose, Congressman Wally Herger, State Senator Maurice Johannessen, Assemblyman Dick Dickerson, Assemblyman Sam Aanesstad, and Candidate for Assembly Doug LaMalfa, Red Bluff-Tehama County Chamber of Commerce

RE: Save Lake Red Bluff!

We believe Lake Red Bluff must be saved. The removal of this lake will have a huge recreational, financial, and esthetic, impact on the community of Red Bluff. As the owners of Rio Vista Estates Mobile Home Park, a retirement mobile home park community built in the environs of Lake Red Bluff, in a park like setting, we know that most of us would agree that the recreational opportunities and the economic benefits we derive from having the lake in the summer months is...."priceless".

} 516-1

We have a marina that is used by our residents the four months out of the year that Lake Red Bluff is full. Most of them look so forward to the water coming up on May 15th getting there fishing poles out, shinning up there boats, maybe you should take a look at the beauty we have to offer? Many of these tenants have relocated to Rio Vista to enjoy Lake Red Bluff and our on site marina. The river is an economic asset that we desperately need in this community. The closure of the diversion dam would be a tremendous loss to our community and the town of Red Bluff. I can't imagine our beautiful park like setting with a dry riverbed running through it. Also, the property values of our retired tenants would be greatly affected.

The federal agencies involved in this move to eliminate Lake Red Bluff should take into consideration the quality of life for the residents of the Red Bluff and surrounding areas. Four month's out of the year is an extremely reasonable amount of time to satisfy the local resident's and the remaining eight month's for the river to flow its normal course. During the four month's it also provides water storage for the farmers and ranchers that provide the backbone of California's economy and resources, Wildlife and game management. If you succeed with removing the Diversion Dam, then what next? The Shasta Dam?

} 516-2

8620 Turley Way
Fair Oaks, CA 95628
Phone: 916-907-4391

No. 516

Letter from James, Nellie, Steven, and Timothy Henson, Continued

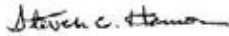
There are other alternatives that should be tried, including review of existing programs to protect the fish. We are in favor of having salmon (and other fishery's) thriving in the Sacramento River. However, removing the dam is not the answer for everyone, it is obvious that there is a design flaw that has hindered our fishery's but it is not the sole reason for depleting number's. Where are all the fish that used to spawn below the dam? The dam did not interfere with their life cycle and yet they have not returned in the numbers of previous years. There are other options to be considered rather than eliminating Lake Red Bluff. } 516-3

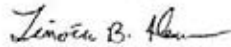
We are writing you to ask for your help in Saving Lake Red Bluff and the quality of life our tenants enjoy as a result of the Sacramento River. There are very few activities for the people in our area and to eliminate the healthy outdoor recreation opportunities provided by Lake Red Bluff would be a real disservice to all the citizens. We are in favor of keeping the Red Bluff Diversion Dam right where it is!

Sincerely,


James R. Henson


Nellie I. Henson


Steven C. Henson


Timothy B. Henson

516-3 Regarding the question as to "where are all the fish that used to spawn below the dam?", the following provides explanation of changes in spawning distributions in the Sacramento River. After RBDD became operational in the 1960s and until the 1980s, the RBDD gates were placed in the down position, creating an impediment to fish passage for a majority of the year. Since 1970, the total annual number of fall-run Chinook salmon spawning in the mainstem Sacramento River has remained relatively constant (approximately 65,000 to 75,000 adults annually). However, when comparing the geographic distribution of Chinook salmon spawning since 1970, changes have occurred. For example, the percentage of fall-run Chinook salmon that spawned upstream and downstream of RBDD from 1970 through 1980, when the RBDD gates were in most months of the year, was 56 percent upstream and 44 percent downstream, respectively. From 1981 through 1992, when gates were removed for up to 6 months per year, the percentage of fall-run Chinook salmon that spawned upstream and downstream of RBDD shifted to 63 percent upstream and 37 percent downstream. Finally, for the years of 1993 through 2005, following the issuance of the NMFS's 1993 BO for Winter-run Chinook Salmon for the CVP/SWP OCAP when the RBDD gates were in just 4 months per year, the percentage of fall-run Chinook salmon that spawned upstream and downstream of RBDD were 80 and 20 percent, respectively. Clearly, during the period from 1970 to 2005, when the RBDD gates were removed for longer and longer durations, greater percentages of fall-run Chinook salmon spawned upstream of RBDD. Despite diminishing total numbers of spawning salmon, similar trends of distributions for spawning spring-run Chinook salmon have been observed for this species as well. The same trend in distribution with fewer total numbers was observed for winter-run Chinook salmon until the period of 1993 through 2005, when the total number of spawners began to increase (in addition to the percentage of those spawning upstream of RBDD increased). Thus, the changes in spawning distribution and total numbers of spawners appear to generally correlate with the gates-out operations of RBDD. Many of those salmon that either were formerly forced or chose to spawn downstream of RBDD are now either spawning upstream of RBDD because of increased opportunities, or that portion of salmon that previously spawned downstream of RBDD no longer exists in the same abundance.

No. 516

Letter from James, Nellie, Steven, and Timothy Henson,
Attachment A

Petition in support of letter dated September 25, 2002, addressed to U.S. Senator Diane Feinstein, U.S. Senator Barbara Boxer, Congressman Doug Ose, Congressman Wally Herger, State Senator Maurice Johannessen, Assemblyman Dick Dickerson, Assemblyman Sam Aanestad, and Candidate for Assembly Doug LaMalfa, Red Bluff-Tehama County Chamber of Commerce, requesting immediate help in Saving Lake Red Bluff and the quality of life we enjoy as a result of the Sacramento River!

Name	Address	Phone #/Email
1 Helen Jaschke	47 Casa Grande Dr. Red Bluff, Ca.	530-529-1192
2 Stephanie Johnson	188 Casa Grande Dr.	530-529-3245
3 Eleanor M. Greiner	120 Casa Grande Dr.	530-529-5437
4 Jeff Davis	109 Casa Grande Dr.	530-527-5858
5 Bob & Nancy	70 Casa Grande Dr.	530-529-2168
6 Fred D. Dehaugh		
7 Carol Walker		529-1952
8 Virginia Dickson		
9 Stuart Macneil	153 Casa Grande Dr. Red Bluff, Ca. 96080	529-3736
10 Nancy Klein	114 Casa Grande Dr.	529-2658
11 Lynn J. Keckler		529-1919
12 D.D. Wood	152 Casa Grande Dr. Red Bluff, Ca. 96080	526-2754
13 Ed Muttler	124 Casa Grande Dr. Red Bluff	527-1712
14 Clarence Phillips	115 Casa Grande	529-1103
15 Marjorie Smith	119 Casa Grande Dr., Red Bluff	530-529-5912 526-0885
16 Melba E. Ford	96 Casa Grande Dr. Red Bluff, Ca.	525-1692
17 Jessie Turner	107 CASA GRANDE	
18 Mr. Muttler	76 CASA GRANDE RIVER	96080
19 Nick Steadard	125 Casa Grande Dr.	P.O. 96080
20 Bob Steadard	"	"
21		

No. 516

Letter from James, Nellie, Steven, and Timothy Henson,
Attachment B



No. 517

Letter from Shelby Ingersoll, Dated November 9, 2002

- 517-1 Thank you for your comment. Your comment has been noted. No response is required.
- 517-2 Thank you for your comment. Responses are only given for comments that directly relate to content in the DEIS/EIR. See DEIS/EIR Section 3.8, Agricultural Resources, for further information pertaining to this comment.

Art Bullock/Tehama-Colusa Canal Authority November 9, 2002
 P O Box 1025
 Willows, Ca 95988

Dear Mr. Bullock:

When I walk the streets of Red Bluff, I see what a depressed area it is, with buildings empty, the river very low, and now it seems that Red Bluff Lake will be empty too.

Red Bluff needs the river for the economic growth. There are jobs provided to people through activities on the river. How can that be discounted? Restaurants on the river don't have the same activity as when the river is full. People don't visit the park area with water not being up to the shore, the river is a great attraction. Other areas and establishments are not frequented as often either. Red Bluff Lake is a draw.

} 517-1

I think Red Bluff needs 'Red Bluff Lake'. There are ladders for the fish; the dam is only closed for those few months in the summer. As many other people have stated "this whole issue is about moving the water south." I hope you will be a partner, and a spokesperson to leave Red Bluff Lake alone.

} 517-2

The community of Red Bluff depends on Lake Red Bluff!

Sincerely,



Shelby Ingersoll
 130 Agua Verdi Drive
 Red Bluff, Ca 96080

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Dated December 6, 2002

518-1

Information regarding the status of the landfill was presented in DEIS/EIR Section 3.7, Geology. At the time of DEIS/EIR publication, the site was identified as a Class III landfill owned and operated by the Pactiv Corporation, and it was noted that additional site characterization was underway as part of a corrective action plan and closure activities - likely through use of a geosynthetic cap or a designated containment zone. Overall, the proposed project was considered to be consistent with these forecast activities. The lead agencies determined that the unpermitted status of the landfill would be resolved through implementation of the corrective action plan or as part of the closure activities. Furthermore, the lead agencies do not intend to operate the site as a landfill in the future. See Response to Comment 454-1 for an updated estimate of excavation volumes.

FROM : CIWMB FAX NO. : 916/3416389 Dec. 06 2002 05:13PM P

California Integrated Waste Management Board

Linda Moulton-Patterson, Chair
 1001 I Street • Sacramento, California 95814 • (916) 341-6000
 Mailing Address: P. O. Box 4025, Sacramento, CA 95817-4025
 www.ciwmb.ca.gov




Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

December 6, 2002

Mr. Art Bullock
Tehama-Colusa Canal Authority
5513 Highway 162
Willows, CA 95986



Clean
10/15/02
late P

Subject: SCH No. 2002042075-Draft Environmental Impact Statement/Environmental Impact Report for the Tehama-Colusa Canal Authority Fish Passage Improvement Project at the Red Bluff Diversion Dam, Tehama County.

Dear Mr. Bullock:

The California Integrated Waste Management Board's (CIWMB or Board) staff has reviewed the environmental document (ED) cited above and offer the following project description, analysis, and our recommendations based on staff's understanding of the project. If the CIWMB project description varies substantially from the project as understood by the Lead Agency, Board staff requests immediate notification of any significant differences. We also request that any Project Description changes be incorporated into the ED prior to certification of the DEIS/DEIR and local approval of the project.

PROJECT DESCRIPTION

According to the DEIS/DEIR, the Fish Passage Improvement Project at the Red Bluff Diversion Dam is in response to the continued well-documented fish passage and agricultural water diversion reliability problems associated with the operation of the Red Bluff Diversion Dam (RBDD). The project would substantially improve the long-term ability to reliably pass anadromous fish and other species of concern, both upstream and downstream, past the RBDD. The project would also substantially improve the long-term ability to reliably and cost-effectively move sufficient water into the Tehama-Colusa Canal and Corning Canal systems to meet the needs of the water districts served by the Tehama Colusa Canal Authority.

Existing Pactiv Corporation Landfill

Page XIV of the DEIS/DEIR Introduction states "Pactiv Corporation (Pactiv) land occupies an 8.3-acre site approximately 1,400 feet upstream of RBDD. The Pactiv Landfill is used for the disposal of dried paper sludge generated at the onsite industrial wastewater treatment facility".

California Environmental Protection Agency

Printed on Recycled Paper

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at <http://www.energy.ca.gov>.

} 518-1

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

FROM : CIWMB FROM NO. : W183416389 Dec. 06 2002 09:13PM P

SCR# 02602042075
 Fish Passage Improvement Project
 December 6, 2002
 Page 2

The CIWMB has no records of this landfill being a permitted solid waste landfill in accordance with Public Resource Code (PRC) 44002 which states "The operation of a solid waste facility by any person, except as authorized pursuant to a solid waste facilities permit issued by the enforcement agency, is prohibited." The Project Description does not include any relevant technical information regarding the physical characteristics of the landfill nor cited investigations. As a responsible agency for the potential permitting and/or closure of the landfill, the CIWMB requests that the lead agency clarify if the existing Factiv Landfill would be affected by the proposed project. Also, specifically describe how the existing Factiv Landfill would be affected by the proposed project.

518-1
 cont'd

Proposed New On-Site Landfill

The proposed fish screen and pumping station described in the various alternatives are partially located on property referred to as the "mill site." According to Section 2.3.1 of the DEIS/DEIR, "Construction of the Mill Site Pump Station would require excavation of a large forebay. Approximately 750,000 CY of material would be excavated under the Gates-out Alternative. It is anticipated that a large portion of that material (approximately 580,000 CY) would be disposed of onsite. The remainder of excavated material would likely be hauled offsite to a disposal facility." Please refer to the Board staff comments below for specific questions regarding these aspects (i.e. onsite and offsite disposal of waste) of the proposed project.

518-2

Findings and Mitigation in the DEIS/DEIR

Potentially significant and unavoidable impacts in the areas of Fishery Resources, Water Resources, Biological Resources, Recreation, Land Use, Geology, Socioeconomic, Cultural Resources, Aesthetics, Air Quality, Traffic and Circulation, have been identified in the DEIS/DEIR. Mitigation measures have been proposed which the lead agency believes will reduce these impacts to a level of less than significant.

Those impacts that are found to be significant and unavoidable would require TCCA to prepare a Statement of Overriding Considerations. The impacts identified as potentially significant and unavoidable include Fishery Resources, Biological Resources, Recreation, Power, Aesthetics, and Land Use.

CIWMB ROLE AS A RESPONSIBLE AGENCY

The CIWMB regulates the permitting of solid waste facilities (landfills, transfer stations and composting operations) in California and would not normally comment on a fish passage improvement project. However, the DEIS/DEIR developed by the lead agency appears to describe a project where each of the four Alternatives includes a pump station to be located on an excavated portion of an existing landfill, making the Board a responsible agency for those activities related to the existing landfill, excavation of the existing landfill, re disposal of the solid waste, closure of the existing landfill, as well as potential development of a new on site landfill. The Board's comments and questions in this letter focus on the on landfill related portions of the proposed project, in order to assist the lead agency in identifying significant environmental issues, and to facilitate the evaluation process under the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

Page 2

518-2 Estimates of the excavated materials and their composition have been revised. See Response to Comment 454-1 for a description of the updated excavation estimates.

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

FROM : CIWMB
 SCIT #2002042075
 Fish Passage Improvement Project
 December 6, 2002
 Page 3

PROJ NO. : 9063416399

Doc. 06 25832 097 1:40 PM

The CIWMB operates in cooperation with local government to assure protection of the public health, safety and the environment from the potentially detrimental effects or improper solid waste management. The CIWMB concurs in the issuance, or revision of a Solid Waste Facilities Permit (SWFP) with Local Enforcement Agencies (LEAs) to assure that a solid waste facility operates in a manner consistent with all applicable laws and regulations.

CIWMB CEQA REVIEW

As a responsible agency under CEQA, CIWMB staff's review and comments on an ED are intended to assist the lead agency in developing an ED that will be as complete and adequate as possible for use by the lead agency and all responsible agencies. Board staff's comments are intended to help decision-makers 1) identify potential impacts from proposed projects; 2) determine whether any such impacts are significant; and 3) ascertain whether significant impacts can be mitigated to a level of insignificance in compliance with the CEQA statutes and guidelines.

When evaluating the adequacy of an ED for purposes of SWFP concurrence, Board staff must compare the design and operation of the facility as described in the proposed SWFP with the project as described and evaluated in the ED cited for CEQA compliance in the proposed SWFP.

In order for CIWMB staff to evaluate and recommend whether or not the ED is adequate for use in the CIWMB permitting process, the proposed project must be described in sufficient detail for staff to understand and evaluate the proposed project, the potential environmental impacts, proposed mitigation measures, and findings as presented by the lead agency.

When performing the initial review of a CEQA document such as a DEIR or Negative Declaration during the circulation process, the first analysis Board staff must make is to evaluate whether or not the proposed CEQA document clearly describes all phases of the project and assesses all potential primary and secondary impacts to the environment and/or public health and safety that could occur if the project is implemented.

When the proposed SWFP is received by the CIWMB along with the citation of evidence of CEQA compliance by the LBA, the second analysis performed by Board staff is to evaluate whether or not the CEQA evaluation in the cited ED supports the requested specifications, revisions, and/or conditions of the proposed SWFP. For instance, does the ED clearly describe and assess the potential air quality, water quality, geological impacts, traffic, noise, dust, vector and other health and safety impacts that can be associated with the proposed solid waste facility or changes in design and/or operation? When this type of information is included and addressed in the ED, the SWFP concurrence process is greatly facilitated.

After comparison of the cited CEQA document with the proposed SWFP, Board staff makes a recommendation to the CIWMB regarding the adequacy of the CEQA document for CIWMB SWFP concurrence purposes. The Board members of CIWMB make the final determination of the adequacy of the CEQA document for SWFP concurrence as well as whether or not to concur in issuance of the SWFP.

Page 3

FROM : CIWMB
 SCH #2002042075
 Fish Passage Improvement Project
 December 6, 2002
 Page 4

PROJ. NO. : 9163416389

Doc. 06 2002 09:15PM

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

CIWMB STAFF COMMENTS AND QUESTIONS

DEIS/DEIR Not Circulated to CIWMB

If Board staff correctly understands the proposed project, then it appears that the Board will be a responsible agency for concurring on a solid waste facilities permit for the permitting, and/or partial or full closure of the existing, apparently un-permitted, possibly illegal Pactiv Landfill, as well as concurring on a solid waste facilities permit for a proposed new onsite Pactiv Landfill.

It appears that the lead agency is/was not aware of the Board's role as a responsible agency for the permitting of and closure of solid waste facilities (i.e. landfills, transfer stations, compost facilities, etc.). The Board did not receive a Notice of Preparation (NOP) for the DEIS/DEIR as required by section 15082 of the CEQA Guidelines. As such, the Board was not afforded the opportunity to comment on the document during the early development stages.

The CIWMB is available to consult with the lead agency to clarify our understanding of the project, the circulation process, adequacy of the document as prepared for the Board's use, and the next steps that the lead agency intends or needs to take.

Information to be added to the DEIS/DEIR Project Description

If the ED is intended to be used for the permitting and/or closure of solid waste facilities, the Board should be listed in Section 1.6 Required Permits and Approvals of the DEIS/DEIR and in a section that appears to be missing from the DEIS/DEIR. CEQA Guidelines section 15124(d)(1)(A) also requires a list of agencies that are expected to use the DEIS/DEIR in their decision-making. Please provide this information in the FEIS/FEIR.

Unclear/Inadequate Project Description

In order for CIWMB staff to evaluate and recommend whether the ED is adequate for use in the CIWMB permitting process, the proposed project must be described in sufficient detail for Board staff to understand and evaluate the proposed project, the potential environmental impacts, proposed mitigation measures, and findings as presented by the lead agency.

Please clarify if the lead agency intends to use the FEIS/FEIR to support the solid waste permitting and/or closure of the existing un-permitted Pactiv Landfill or the solid waste permitting of a proposed new onsite Pactiv Landfill. CEQA requires that the document prepared by the lead agency include "a statement briefly describing the intended uses of the EIR" (CEQA Guidelines section 15124(d)).

If so, Board staff believes this document as written, does not contain a complete Project Description as required in the CEQA Guidelines section 15124. The project description needs to be expanded to include sufficient detail in the following areas:

1. Location and boundaries of the existing Pactiv Landfill and the proposed onsite new Pactiv Landfill. To-scale map(s) should be included that clearly identify the location of the existing and proposed landfill boundaries. Maps should also include a north arrow and relevant topographic, physical features and structures.

- 518-3 The CIWMB will be a responsible agency for permitting the landfill. However, the project does not include operation of the landfill; therefore, no permit will be required of the lead agencies.
- 518-4 The CIWMB has been added to Section 1.6 of the EIS/EIR.
- 518-5 At this time, technical information relating to the landfill is controlled by the landowner, Pactiv. As currently constituted, the EIS/EIR was not intended to support permitting of the landfill closure.
- 518-6 Lead agencies have determined that closure of the landfill is not part of the selected project.

} 518-3

} 518-4

} 518-5

} 518-6

FROM : CIWMB

FAK NO. : 9153416389

Dec. 05 2002 8

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

SCI #2002042075
Fish Passage Improvement Project
December 6, 2002
Page 5

- 2. The project description as contained within the DEIS/DEIR does not include a clear description of the project's technical, economic, and environmental characteristics and associated impacts considering the project's principal engineering proposals, and supporting public service facilities relative to the existing Pactiv Landfill and proposed onsite landfill in accordance with section 15124 of the CEQA Guidelines.

The ED does not fully describe the whole of the project in sufficient detail for the CIWMB's use in the permitting or closure of the existing landfill or permitting of the proposed new onsite landfill. If the document is certified with the current landfill descriptions, Board staff will recommend to the CIWMB that additional CEQA be required for any proposed solid waste facility permits related to this project.

If the draft DEIS/DEIR is intended to be used for the permitting and/or closure of the existing Pactiv Landfill or for the excavation of the existing Pactiv Landfill, or for the construction and development of a new onsite Pactiv Landfill, the DEIS/DEIR must be revised to detail the technical, economic, and environmental characteristics and associated impacts considering the project's principal engineering proposals, and supporting public service facilities for landfill design and operation in order to indicate the ability of the facility(ies) to meet State Minimum Standards for environmental protection (see CCR Title 14, Chapter 3, § 17200, et seq. and CCR Title 27, Division 2, Chapter 1, § 20005, et seq.). The following internet link accesses checklists developed by Board staff as a guide to lead agencies in the preparation of EIRs for landfills, transfer stations, material recovery facilities, and composting facilities:

<http://www.ciwmb.ca.gov/LEACentral/CEQA/disposal.htm>

Each of the Board's checklist items relevant to the proposed project must be addressed in the ED and/or the lead agency incorporate by reference into the ED document(s) that contain project specific information. Board staff recommends that the new information and/or information incorporated by reference into the ED then be re-circulated through the State Clearinghouse (SCH) for public and agency review and comment.

Recirculation of the ED Required Under CEQA Guidelines, section 15088.5(a).

CEQA Guidelines section 15088.5(a) states "A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless

} 518-6, cont'd

518-7 Additional information could be generated for CIWMB permitting by the landfill operator. Lead agencies are not initiating a permit process with CIWMB because they do not propose to operate the landfill.

518-8 Lead agencies do not concur with the commentor's assertion that the EIS/EIR should be recirculated because it has not been demonstrated that the lead agencies will be responsible for closing or permitting the landfill at the Mill Site. However, lead agencies acknowledge that the handling of waste from the landfill will need to be disposed of properly, as disclosed in the EIS/EIR. See Response to Comment 454-1 for an update on the estimates of the volume and character of excavation from the project. Representatives from the Tehama County Landfill have determined that the revised estimates will be acceptable for disposal at the landfill.

} 518-7

}

- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

No. 518

Page 5

SCH #2002042075
Fish Passage Improvement Project
December 6, 2002
Page 6

- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded."

Board staff believe that number (1), (2) and (4) above are reasons for the lead agency to prepare additions to the DEIS/DEIR related to the landfill aspects of the proposed project and recirculate these additions/revisions to the public and government agencies.

The ED as circulated does not contain a description or assessment of potentially significant environmental impacts from the waste proposed for removal from the Pactiv Landfill. Information that needs to be described and impacts assessed include:

- Characterization of waste
- Total quantity of waste to be excavated
- Total excavated waste to be re-disposed of on site versus quantity to be disposed of off site
- Impacts to the permitted capacities of the proposed off site disposal facilities
- Ability of off site disposal facilities to legally receive wastes by type or classification, based on the waste characterization
- Storage of waste material on-site prior to re-disposal in the proposed new on-site landfill
- Final distribution of land ownership for the preferred project alternative as it relates to the environmental liabilities for the waste including existing waste, re-disposed of waste and any newly generated Pactiv waste

Board staff recommends the preparation and recirculation of a revised Project Description in accordance with CEQA Guidelines, section 15088.5 to include a description and analysis of potentially significant impacts from the existing landfill and the excavation, transport, and re-disposal of waste, both on-site and off-site, as well as construction of a new landfill for each of the alternatives identified in the DEIS/DEIR.

It is our understanding from reading the ED, discussions with the Regional Water Quality Control Board, and a phone conference between Board staff and Mike Urkov of CH2M-Hill, that several technical investigation reports exist for the existing landfill and are available for review. Additionally, it was indicated in the ED that the Regional Water Quality Control Board has previously issued Waste Discharge Requirements. Please provide the following documents, and any other relevant technical and/or regulatory documents, as well as incorporate them by reference into the recirculated portions of ED:

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

- 518-9 Lead agencies intend to cooperate with the CIWMB in the characterization of excavated material from the landfill and in determining the process for determining onsite versus offsite disposal of material. Compliance with applicable landfill regulations is the responsibility of the landowners and appropriate regulatory agencies.
- 518-10 Additional characterization of the site is available through coordination with the RWQCB and the current landowners. Some coordination has occurred among the landowners, lead agencies, and their technical representatives.

518-8,
cont'd

518-9

518-10

(1) Pg XX: California [Central Valley] Regional Water Quality Control Board, 1990. Waste Discharge Requirements for Pactiv Company of California, Class III Landfill, Tehama, California. Order No. 91-064, September 12.

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

Page 6

FROM : CIWMB
Fish Passage Improvement Project
December 6, 2002
Page 7

PRJ NO. : 9163416309

Doc. 06 2002 09:17:41

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

- (2) Pg 6-2: California [Central Valley] Regional Water Quality Control Board. 2000. Notice of Violation from RWQCB to Pactiv Corporation re: "Pactiv Paper Sludge Landfill, One Diamond Avenue, Red Bluff, Tehama County." April 24.
- (3) Pg 6-5: Pactiv Corporation. 2001. Work plan for Supplemental Site Characterization, Pactiv Paper Sludge Landfill, Red Bluff, California. February 6.
- (4) Pg 6-8: URS Corporation. 2000. *Groundwater Monitoring Data Report, Pactiv Paper Sludge Landfill*. March.

Permitting of Existing Pactiv Landfill and Proposed New On-Site Landfill

The CIWMB has no record of the existing landfill being a permitted solid waste landfill or of a new solid waste facilities permit application being received by the Local Enforcement Agency (LEA) for a new landfill in accordance with Public Resource Code (PRC) 44002 which states "The operation of a solid waste facility by any person, except as authorized pursuant to a solid waste facilities permit issued by the enforcement agency, is prohibited." The Project Description does not include any relevant technical information regarding the physical characteristics of the landfill nor cited investigations. As a responsible agency for the potential permitting and/or closure of the landfill, the CIWMB requests that the lead agency clarify the technical as well as the potentially significant environmental impacts of the proposed project to the existing Pactiv Landfill.

518-11

518-11 The Local Enforcement Agency is aware of the landfill's current status. The lead agencies will comply with applicable environmental regulations, pursuant to requirements that might arise from title transfer of the landfill. However, the lead agencies do not intend to operate the facility as an active landfill.

518-12 The Local Enforcement Agency has been contacted regarding the proposed project and has determined that a permit could be required if the landfill is formally closed or if landfill material is required to be stored onsite in a manner that would qualify as a constructed landfill. Neither of these activities is proposed as part of the project.

518-13 The lead agencies do not have the authority to compel the landowner to forward a current version of the corrective action plan to the commenter.

Consultation with Local Enforcement Agency (LEA)

Permitting requirements for solid waste facilities are a determination made by the Local Enforcement Agency (LEA) for a given region. The LEA should be consulted to discuss solid waste regulations for landfills in California as well as the requirements for SWFPs for all of the proposed project's landfill related activities. In addition, it is recommended that the lead agency consult with the LEA to address the potential waste types and quantities of waste that are present on site and the possible environmental impacts affecting the permit limits for each landfill. The LEA contact for Tehama County is:

518-12

Allan Fleming
Department of Environmental Health
Courthouse Room 36
633 Washington St
Red Bluff, CA 96080

Christine Karl is the Board permitting staff for Tehama County and is available to assist both the LEA and lead agency address project specific issues if assistance is requested. Christine's phone number is (916) 341- 6405.

Closure of the Existing Landfill

Section 3.7 of the DEIS/DEIR states that Pactiv has completed a corrective action plan in response to the elevated levels of the constituents detected in site wells in October 2000. The corrective action plan indicated that Pactiv intends to close the landfill, possibly by capping the

518-13

FROM : CJLPH
 SCH #20020420/5
 Fish Passage Improvement Project
 December 6, 2002
 Page 8

FA# NO. : 9163416389 Date: 06/2002 09:10PM

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

landfill with a geosynthetic clay liner or designating a containment zone. As outlined in the February 2001 Work Plan, further site characterization is being performed in preparation for site closure. Please provide Board staff with a copy of the corrective action plan.

A preliminary and final closure plan may be required to be submitted to the CIWMB's Closure, Remediation, and Technical Assistance Branch. Whether one or both of these plans will be required is dependent upon the proposed project and the alternative selected, which at this time are not clearly described in the DEIS/DEIR. If partial or full closure is anticipated for the existing landfill, Michael Wochnick of the CIWMB's Remediation, Closure, & Technical Services Branch should be contacted at (916) 341-6318. He will be able to answer technical questions for closure plans, including waste removal, cover material standards, slope stability, seismic issues, post-closure land uses, and other related matters. All questions related to active landfill status should be directed to Christine Karl at the phone number previously identified above or her Supervisor, Sue O'Leary at (916) 341-6334.

Land Use Compatibility

The DEIR/DEIS should identify the proposed project site's surrounding land use. The DEIR/DEIS should be specific regarding the distance to the nearest sensitive receptor(s) and should also indicate site and adjacent property ownership. The surrounding land use must be designated as compatible with the proposed/current land uses at the project sites. The local government, in whose jurisdiction the facilities will be located, must make a finding that the facility is consistent with the General Plan and is identified in the most recent County Integrated/Solid Waste Management Plan [PRC, Section 50001].

Countywide Integrated Waste Management Plan

Please address how the proposed changes in the facility's operation at the Pactiv Landfill will affect the Countywide Integrated Waste Management Plan for Tehama County.

Hazardous Waste

According to the comment letter dated September 26, 2002, from Mey Wong, P.E. with the California Regional Water Quality Control Board, Central Valley Region, a site investigation conducted by CH2MHill found layers of burn ash mixed with paper pulp waste that may contain hazardous materials. Please clarify if hazardous wastes have been discovered on-site, which wastes have been found, and if the lead agency and/or landowner have notified the Department of Toxic Substances Control or any other regulatory agency. Please provide proof of notification and any technical reports relevant to this issue.

Offsite Disposal of Excavated Waste

Please describe in the recirculated ED the proposed final disposal location of all waste to be excavated and disposed of offsite. The ED should analyze for impacts related to offsite disposal of waste. For example, the impacts to the permitted daily capacities (tonnage or cubic yards) of proposed disposal facilities should be considered to understand if the proposed facility has the capability or capacity to accept the waste without violating the terms or conditions of their SWFP. For example, re-disposal of the waste offsite, at either the Tehama County/Red Bluff

- 518-14 For a discussion of surrounding land uses, see DEIS/EIR Section 3.6, Land Use.
- 518-15 Long-term operation of the proposed facility is not anticipated to affect the Integrated Waste Management Plan of Tehama County. During construction, it is anticipated that some proportion of excavated material will be transported to a local landfill, likely either in Tehama County or Shasta County. Specific volumes will be determined following sampling of the excavated material and will be coordinated with landfill representatives to ensure compliance with operational permit requirements. Discussions with representatives of the Tehama County Landfill indicate that the estimated volume of material is within acceptable limits for disposal at the landfill.
- 518-14 518-16 Results of site investigations have been reviewed by the lead agencies in cooperation with the landowners and will form the basis for discussions regarding site acquisition, at which time responsibility for landfill closure will be determined. Results of these investigations form the basis of the projected volume of materials outlined in Response to Comment 454-1.
- 518-15 518-17 At this time, there are no plans to recirculate the environmental document. See Response to Comment 454-1 for the updated estimate of the volume of materials likely to be excavated. Offsite disposal of the materials will be coordinated with the local landfills to ensure compliance with their permitted daily capacities.
- 518-16 518-17

FROM : CLEB
SCH #2002041075
Fish Passage Improvement Project
December 6, 2002
Page 9

PRJ NO. : 9163416389

Dec. 06 2002 09:10AM

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

Landfill or another facility, could potentially create a potentially significant environmental impact to the facilities as the facilities may not be permitted to accept and/or have the capability to handle the quantity of waste, or the type of waste, or be able to handle the condition of the waste (i.e. liquid versus solid, anaerobic, etc.).

} 518-17, cont'd

518-18 See DEIS/EIR Section 4.1 for a discussion of cumulative impacts of the project. Traffic and circulation impacts of the project are discussed in DEIS/EIR Section 3.14.

Cumulative Impacts

It is important that the ED identify potentially significant cumulative impacts resulting from the proposed project (i.e. the existing Pactiv Landfill and the proposed Pactiv Landfill) and any combined projects within the project vicinity as well as those incremental impacts resulting from the proposed project's implementation. For example, cumulative traffic impacts may need to be discussed relative to the construction of the new Pactiv Landfill as well as construction relative to the excavation of the existing Pactiv Landfill and other construction related activities associated with the project or adjacent projects, etc.

} 518-18

518-19 Operation of the facility is not anticipated to result in additional traffic. See DEIS/EIR Section 3.14 for a discussion of the construction-related impacts of the proposed project.
518-20 See DEIS/EIR Section 3.13, Air Quality, for a discussion of the potential impacts to air quality that might result from the project.

Traffic and Related Transportation System Impacts

SWTPs are written for five year intervals thus, traffic volumes (separate and total daily vehicle counts) for construction activities and the project's operational vehicle throughput should be projected for at least the first five years of the project with a projection of the estimated growth rate over the life of the project.

} 518-19

Traffic volumes for construction activities and the project's operational vehicle throughput may not be specifically projected until a specific proposal for a new landfill is proposed and evaluated. However, the existing highway infrastructure should be assessed and evaluated to determine if the system could capably handle an increase in truck traffic and subsequent vehicular impacts from the siting and construction of the proposed new or the excavation of the existing Pactiv Landfill. A traffic study may be necessary to determine whether the existing and planned infrastructure can handle the projected vehicular movement, and whether improvements may be necessary to accommodate increased traffic, including the repair and maintenance on existing roads, additional lighting, turn lanes, and pedestrian walk-ways; as well as cumulative impacts on the circulation within the local vicinity (i.e. ingress and egress).

Air Quality

Local and regional impacts on air quality from direct and indirect source emissions both for the landfill facility construction, excavation, and operations as well as equipment and vehicles accessing the facility should be analyzed in detail, including the potential impact on local and regional air quality management plans. If the facility is located in a "non-attainment" air basin, cumulative impacts affecting the projected attainment dates may be significant. Mitigation measures, which will be employed to address impacts for the facility, should be incorporated into the ED with a description of the "attainment" plan for the air basin(s) quality. The local Air Pollution Control District should be contacted regarding air pollution permits, which may be required to ensure compliance with ambient air quality standards.

} 518-20

Odors from the excavation of existing paper waste/sludge, as well as the drying of paper waste/sludge, may create potentially significant odor problems should it be a proposed part of the project to dry sludge prior to landfilling. Dust particulate generation and control should also be

FROM : CIMPB FAX NO. : 9163416209 Dec. 06 2002 4:51:59PM PM
 SCH #002042075
 Fish Passage Improvement Project
 December 6, 2002
 Page 10

thoroughly described in the ED. The distance to the nearest residential and/or commercial receptors downwind should be identified and analyzed for in the ED.

Surface Drainage

The ED should include a drainage plan, which identifies the proposed new Pactiv Landfill's proposed operating design for surface drainage/runoff and collection as well as proposed drainage controls during the excavation of the existing Pactiv Landfill. The plan should identify surface runoff, creeks, rivers and/or diversion channels in areas adjacent to the project area, and any associated impacts. Indicate the location and permeability of any proposed diversion berm(s), which redirect flow away from/around the proposed facility and any drainage basins to keep drainage on-site. Will the proposed facilities be able to handle a 100-year, 24-hour storm event? Board staff recommends that the Regional Water Quality Control Board (RWQCB) be contacted to determine if a Report of Waste Discharge (ROWD) or National Pollution Discharge Elimination System (NPDES) permits are required for the CLF.

Sensitive Receptors

Please provide information concerning the location, direction and distance to sensitive receptors, including the number of residents so ERS staff can evaluate the project's potential environmental impacts relative to noise, aesthetics, and glare on these receptors.

Noise

Noise impacts from construction and operations of the new Pactiv Landfill as well as excavation and transportation of waste from the existing Pactiv Landfill should be compared to county noise ordinance requirements in order to determine if noise standards are being exceeded. A noise study may be necessary if local receptors are impacted by equipment operations during daytime or nighttime hours, and should be included in the ED. Appropriate noise-attenuating mitigation measures, which can be implemented to reduce noise levels, should be incorporated into the ED. Short term and cumulative impacts should be assessed as well.

Landfill Geology and Hydrogeology

Proposed physical changes for landfill development require site preparation which would involve the excavation and grading of the soil and rock in order to construct a landfill base liner. The permanent alteration of the topographic profile due to landfill development may be considered a potentially significant impact that cannot be mitigated to a less than significant level. The ED should include a site assessment and feasibility survey that includes any soil [and rock] borings to determine the types of landfill waste management units that might be feasibly constructed, and to what depth they might be considered. Unique geological features and valuable groundwater resources should be identified both on and adjacent to the proposed project area. The depth to the groundwater aquifer should be identified as well as the groundwater quality as a drinking or agricultural source. Any perched groundwater discovered during site borings should be disclosed. The amount of clay soil material that can be expected to be excavated during landfill development as well as the clay's general hydraulic conductivity could be very important issues in the development of a landfill and should be disclosed in the ED.

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

- 518-20, cont'd
- 518-21
- 518-22
- 518-21
- 518-22
- 518-23
- 518-24

A new Pactiv landfill is not part of the proposed project.

For a discussion of noise-related impacts, see DEIS/EIR Section 3.15, Noise. For a discussion of aesthetics and visual characteristics of the proposed project, see DEIS/EIR Section 3.12, Aesthetic and Visual Resources.

See DEIS/EIR Section 3.15 for a discussion of noise impacts of the project. Operation of the Pactiv landfill is not part of the proposed action.

See DEIS/EIR Section 3.7 for a discussion of geology and hydrogeology in the project area. Operation of the Pactiv landfill is not part of the proposed action.

FROM : CIWMB PRK NO. : 9163416309 Dec. 06 2002 09:20/11 P
 SCII #2002042075
 Fish Passage Improvement Project
 December 6, 2002
 Page 11

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

Earthquake Faulting and Seismic Stress

Identify in the ED any known earthquake faults on and/or in the vicinity of the proposed project and the frequency of seismic activity as well as a range of most probable earthquake (MPE) magnitudes and maximum ground acceleration (MGA). Please include a map of historic epicenters within a radius of ten miles of the proposed project.

Please include a discussion of the proposed landfill excavation and side slope structural integrity under seismic duress and possible module/lift design development scenarios.

Statement of Overriding Considerations

Please provide Board staff with a copy of any Statement(s) of Overriding Consideration(s) (SOC) for environmental impacts that are found unmitigatable in the Final DEIS/EIR as Board staff will need the SOC(s) for Board concurrence on SWFPs for either the existing Pacific Landfill or for a new on site solid waste facility.

Mitigation Reporting or Monitoring Program (MRMP)

As required by Public Resources Code (PRC) Section 21081.6, the lead agency should submit a MRMP at the time of local certification of the FEIS/EIR. This should identify the environmental impacts associated with the proposed project, identify mitigation measures to reduce impacts to a less than significant level, identify agencies responsible for ensuring the implementation of the proposed mitigations, and specify a monitoring/tracking mechanism. PRC Section 21080 (c)(2) requires that mitigation measures "...avoid the effects or mitigate the effects to the point where clearly no significant effect on the environment would occur." The MRMP is also required to be made a condition of project approval. Recent changes to this Section 21081.6(b) also requires that "A public agency shall provide the measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures."

The MRMP should also indicate that agencies designated to enforce mitigation measures in the DEIS/EIR have reviewed the MRMP and agreed that they have the authority and means to accomplish the designated enforcement responsibilities.

SUMMARY

Board staff hopes that this comment letter will be useful to the lead agency in carrying out their responsibilities in the CEQA/NEPA process. Board staff requests that the lead agency add the Board to its list of responsible agencies and mailing list. In addition, please provide copies of the following documents:

- A hard copy of the DEIS/DEIR as the document was not circulated to the Board for review and comment
- Any subsequent environmental documents for this project, including any newly developed and re-circulated sections of the DEIS/DEIR in accordance with section 15088.5 of the CEQA Guidelines
- The FEIS/EIR

} 518-25
 } 518-26
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 } 518-28

- 518-25 No active faults are within the project vicinity. DEIS/EIR page 3-241 notes that the nearest mapped active fault is 65 miles to the southeast.
- 518-26 Statements of overriding considerations will be available following certification of the FEIS/EIR by the TCCA Board of Directors.
- 518-27 The commentor is correct in asserting that a Mitigation Monitoring Plan will be necessary following certification of the FEIS/EIR.
- 518-28 The commentor has been provided with the requested documents and has been added to the project mailing list. In addition, the CIWMB will be included in consultations regarding the transfer of title for the Mill Site, as that process moves forward.

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

} 518-28,
cont'd

FROM : CIWMB FAX NO. 1 9163416309 Dec. 06 2002 09:21PM

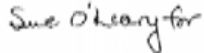
NC11#20#02041075
Fish Passage Improvement Project
December 6, 2002
Page 12

- Copies of public notices
- Revised and final mitigation measures and MRMP and
- Notices of Determination and any Statement of Overriding Consideration prepared for this project.

If the document is to be certified and the project approved during a public hearing, staff requests ten days prior notice of the hearing. If the document is to be certified and the project approved without a public hearing, staff requests ten days prior notification of the date of the adoption and project approval by the decision-making body.

Staff thanks the lead agency for the opportunity to review and comment on this proposed project. If you have any questions on our comments, please contact either Steven Hooper at 916-341-6730 (email - shooper@ciwmb.ca.gov) or Sue O'Leary at (916) 341-6334 (e-mail - soleary@ciwmb.ca.gov).

Sincerely,



Steven Hooper/Teri Wien
Permitting and Inspection Branch
Permitting and Enforcement Division
California Integrated Waste Management Board

cc:

Allan Fleming, LEA
Department of Environmental Health
Courthouse Room 36
633 Washington St
Red Bluff, CA 96080

Alan Abbs, Solid Waste Director
Tehama County / City of Red Bluff
Landfill Management Agency
P.O. Box 8549
Red Bluff, CA 96080

Mike Yrkov, Assistant Project Manager
CH2Mhill
2525 Airpark Drive
Redding, CA 96001

Page 12

FROM : CLPWR

FXR NO. : 9163416309

Dec. 06 2002 09:21PM

No. 518

Letter from Steven Hooper, California Integrated Waste Management Board, Continued

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Fish Passage Improvement Project
December 6, 2002
Page 13

Christine Karl/Sue O'Leary
Permitting and Inspection Branch, Region 3
Permitting and Enforcement Division
California Integrated Waste Management Board

Michael Wochmick
Remediation, Closure, & Technical Services Branch
Permitting and Enforcement Division
California Integrated Waste Management Board

Michael Bledsoe
Staff Counsel
Legal Office
California Integrated Waste Management Board

No. 519**Editorial, Record Searchlight, Dated November 26, 2002****USE CONFLICTS / SACRAMENTO RIVER BASIN****Editorial: Lake Red Bluff should be saved in water shuffle****Redding Record Searchlight - 11/26/02**

The debate raging over the fate of Lake Red Bluff embodies a classic clash of competing interests. Fish, farmers and just everyday residents are vying for one precious commodity — water.

The Tehama-Colusa Canal Authority is collecting comments through Saturday on proposals intended to provide more water for fish and crops. An extreme alternative would dry up Lake Red Bluff, effectively leaving it as a permanent gravel bar, and evicting the Nitro Nationals Drag Boat Festival in the process. We believe the answer lies in sharing what water there is — using the most efficient ways possible — thereby preserving the seasonal lake and the recreation it provides.

} 519-1

The Red Bluff Diversion Dam downstream from Red Bluff is an obvious barrier to the migration of salmon, steelhead and sturgeon. Sea-going fish need to get upstream to spawn and then head back down river to reach the ocean. For most of the year, the fish can swim back and forth when the U.S. Bureau of Reclamation raises the dam's gates. But from mid-May to mid-September, the bureau closes the gates so water can be diverted into irrigation canals for thirsty crops. Restricting the flow also raises the elevation of the Sacramento River, which forms the 6-mile-long Lake Red Bluff.

Migrating fish have three fish ladders available, but they're inadequate during certain times. The water that flows down the Tehama-Colusa and Corning canals irrigates a variety of crops — from almonds to alfalfa — and farmers could use more water.

} 519-2

Lake Red Bluff shouldn't be a casualty in this tug-of-war over water. The lake provides opportunities for swimming, water skiing or a spot to sit and enjoy the outdoors. It's a beautiful setting for picnics, children's birthday parties, band concerts and car shows. Many families have purchased memorial benches along the shore as remembrances to loved ones. The lake serves as the backdrop for Fourth of July celebrations and the popular drag boat festival on Memorial Day.

The Red Bluff community would suffer economically if the lake dried up completely. Revenue from sale taxes and hotel taxes would fall if tourism declined, and homeowners near the lake's shore would see property values drop. In all, the loss could amount to \$4.2 million a year.

} 519-3

We favor Alternative 1A in the environmental report prepared for the Bureau of Reclamation and the Tehama-Colusa Canal Authority. Under this plan, the diversion dam's gates would remain closed four months of the year allowing Lake Red Bluff to fill, the fish ladders would be expanded and improved, and a pumping facility would send more water to farmers. This option would accomplish the goal of helping fish, providing state-of-the-art fish ladders were built and fish screens at the pumping station were properly designed.

} 519-4

The public's comments will be included in the final environmental document. A decision, due in the spring, would require the approval of the Bureau of Reclamation. We hope common sense will prevail. Fish and farmers have needs, but let's not lose sight of the fact that residents have real needs too. #

519-1

See Response to Comment 21-2.

519-2

Thank you for your comment. Responses are only given for comments that directly relate to content in the DEIS/EIR. See DEIS/EIR Section 3.8, Agricultural Resources, for further information pertaining to this comment.

519-3

See Response to Comment 11-1.

519-4

Thank you for your comment. Your comment has been noted. No response is required.

No. 520

Letter from Jay Harn, Red Bluff Tehama County Chamber of Commerce,
Dated August 14, 2007

FYI

-----Original Message-----

From: reception [mailto:rbchamber@tco.net]**Sent:** Wednesday, March 14, 2007 12:19 PM**To:** dbird@tccanal.com**Subject:** Written Comment on the Draft EIS/EIR for the Red Bluff Diversion Dam Fish Passage Improvement Project

Mr. Jeff Sutton, General Manager

Tehama - Colusa Canal Authority

P.O. Box 1025

Willows, CA 95988

Re: Written Comment on the Draft EIS/EIR for the Red Bluff Diversion Dam Fish Passage Improvement Project

Date: August 14, 2007

Dear Mr. Sutton,

On behalf of the 400 plus members of the Red Bluff - Tehama County Chamber of Commerce, I am writing to officially re-affirm our organization's position, and incidentally, that of over 7,000 individuals from throughout Northern California, with respect to the operation of the Red Bluff Diversion Dam.

You will recall that in 2002, our Chamber, the City of Red Bluff, and thousands of individuals and businesses communicated to the Bureau of Reclamation and the Tehama Colusa Canal Authority our collective support of alternate 1-A of the 6 Diversion Dam operation alternatives proposed at that time. 1-A was (and is) the alternative which retains a gates-in operation for 4 months (from May 15 to September 15), improves the fish ladders, and provides for a pumping facility to meet the water needs of the TCCA into the future.

Our position has not changed. We still favor and recommend alternative 1-A and strongly oppose any alternative that reduces the operation of the Diversion Dam below 4 months which would cause an unacceptable level of economic and community development damage extending well beyond the local community and includes: loss of Tourism and the benefit of Tourism expenditures that generate sales tax and occupancy tax revenue to the City of Red Bluff; loss of recreational benefits including popular community events such as the Memorial Day Boat Drags, boat launching activity and shoreline leisure; loss of property value; degradation of the City's main community - gathering park; and negative impacts to the Downtown Red Bluff Revitalization process that includes river front pedestrian/trail access plans.

In that approximately 51% of the 7,000 people who signed petitions supporting the City of Red Bluff's Resolution No. 37-2002 expressing support for Lake Red Bluff, we feel it is extremely important that concern over the loss of Lake Red Bluff goes well beyond the interests of local individuals and businesses. The regional use of this Lake cannot be minimized and its loss affects persons and businesses well beyond the local community. Elimination or reduction in the gates operating period of the Red Bluff Diversion Dam must address the regional impacts, not just the local impacts. We ask what analysis does the DEIS/EIR provide to demonstrate the impacts outside of the local community, and what measures to mitigate regional losses are contemplated?

520-1

Thank you for your comment. Your comment has been noted. Public input received during the scoping and document development phases of the EIS/EIR identified a number of concerns related to potential impacts to recreational resources. In response to these concerns, significance criteria were developed, where applicable, to account for local and regional impacts. DEIS/EIR Section 3.5.2 of the recreation discussion includes significance criteria on page 3-206 in response to public concerns associated with the potential loss of recreational opportunities. Subsequently, DEIS/EIR Section 3.5.2 identifies the anticipated impacts associated with the construction and operation of each alternative (the selected project falls between Alternatives 1 and 2). As described in Section 3.5.2, Alternatives 2A, 2B, and 3 would either reduce or eliminate the amount of time the RBDD gates would be down and, thus, the existence of Lake Red Bluff. Impacts to lake-dependent recreational resources and use are anticipated to be greatest during the operation of these three alternatives and, as identified in Section 3.5.2, would be significant and unavoidable. In addition to the anticipated impacts to recreational uses, operation of many of the alternatives would result in some level of economic impact. As described in Section 3.10, Socioeconomics, potential impacts to the local economy of Red Bluff, and Tehama County in general, were identified as a key concern during the scoping and document development phases of the EIS/EIR. Potential impacts associated with the following key issues/concerns were evaluated: economic losses from reduced lake-dependent recreation and tourism spending (beginning on page 3-307), loss of the Nitro Nationals drag boat races (beginning on page 3-310), property value impacts (beginning on page 3-313), fiscal impacts to City of Red Bluff (beginning on page 3-315), and reduced quality of life and loss of community cohesion (beginning on page 3-317). Potential direct, indirect, and induced effects were evaluated using Implan, a model developed by USFS and commonly used to analyze potential economic impacts. As described on DEIS/EIR pages 3-305 and 3-306, this model was used to evaluate potential economic effects in Tehama County. The anticipated construction and operation impacts associated with each alternative are further discussed beginning on page 3-318 with a summary table of impacts (Table 3.10-14) followed by a discussion by alternative. As discussed on pages 3-319 through 3-322, potential socioeconomic

520-1

520-2

No. 520**Letter from Jay Harn, Red Bluff Tehama County Chamber of Commerce,
Continued**

520-1, impacts associated with each alternative are anticipated to range
cont'd from positive economic benefits, during the construction phase of each alternative, to significant unavoidable impacts for some alternatives during operation. Depending on the alternative, impacts are identified as being less than significant in the context of the local/county economy or, in the case of Alternative 3 (Gates-out Alternative), operations-related socioeconomic impacts would be significant and unavoidable. As identified in Table 3.10-14, the combined impact of reduced recreation and tourism, as well as the loss of the Nitro Nationals, from the operation of Alternative 3 would result in an annual loss of \$4.2 million/year; operation of Alternative 2A or 2B would result in an annual loss of \$3.5 million/year. This loss represents less than 1 percent of annual sales in Tehama County, and approximately 1.9 or 1.1 percent, respectively, of the City of Red Bluff's total revenues from sales and taxes. Although local economic impacts are projected to occur through the loss of sales and employment in the case of Alternatives 2A, 2B, and 3, it is not anticipated that a loss of 1.9 percent of the City of Red Bluff's total revenues from sales and taxes would initiate an economic chain reaction that would cause a large number of business closures. Therefore, no resultant permanent or long-term vacancy of retail space, or eventual physical deterioration, decay, or urban blight within the downtown area is projected. Additionally, as discussed on pages 3-313 through 3-315, property values adjacent to the river where the lake is formed are anticipated to decrease from operation of Alternatives 2A, 2B, or 3, even though the properties will continue to have a direct view of the river. Social impacts under Alternatives 2A, 2B, or 3 are also anticipated. Aesthetic and visual resources were also evaluated in the DEIS/EIR. The Sacramento River and Lake Red Bluff were both identified during the scoping and document development phases of the EIS/EIR as key visual and aesthetic resources of concern. As described in DEIS/EIR Section 3.12.2, potential temporary and operational impacts for each alternative were identified. Although some of the temporary impacts are projected to be less than significant, the majority of anticipated impacts, particularly with respect to operations, are projected to be significant and unavoidable.

520-2 See Response to Comment 520-1.

No. 520

**Letter from Jay Harn, Red Bluff Tehama County Chamber of Commerce,
Continued**

Finally, we respectfully request that the deadline for comments be extended in that the announcement of the re-circulation of the Draft EIS/ER for the Fish Passage Improvement Project at the Red Bluff Diversion Dam for public review occurred during the height of the 2006/07 Holiday Season, public awareness of the availability of the document was (and is) extremely low, and the window of opportunity to comment was extremely short.

} 520-3

520-3

The comment period was extended an additional 30 days from March 16, 2007 to April 17, 2007.

We believe that an extension would provide a greater opportunity for more people to review the issue and provide pertinent input.

Thank you for this opportunity to comment once again on this Draft DEIS/EIR.

Sincerely,

Jay Harn, President-Elect
Red Bluff - Tehama County
Chamber of Commerce

Marshall Pike, Chair
Red Bluff - Tehama County
Convention & Visitors Bureau

cc: Paul Freeman, Bureau of Reclamation
Martin Nichols, City Manager, City of Red Bluff

| March 4~~14~~, 2007**No. 521****Letter from Martin J. Nichols, City of Red Bluff, Dated March 14, 2007**

VIA U.S. MAIL AND E-MAIL

Mr. David Bird
 General Manager
 Tehama-Colusa Canal Authority
 PO Box 1025
 Willows, CA 95988

RE: DRAFT ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL
 IMPACT REPORT FISH PASSAGE IMPROVEMENT PROJECT AT THE
 RED BLUFF DIVERSION DAM

Dear Mr. Bird:

The City of Red Bluff is replying to the Tehama Colusa Canal Authority ("TCCA") and United States Bureau of Reclamation ("USBR") Draft Environmental Impact Statement/ Environmental Impact Report Fish Passage Improvement Project at the Red Bluff Diversion Dam ("DEIS/EIR"). The City finds that the DEIR/EIS does not comply with the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA") in several essential respects. Because the City of Red Bluff and our Attorney of record on this project (Mr. Crabtree) were not noticed on the re-circulated EIS/EIR, we object to the short deadline for comments and request that the comment deadline be extended for 30 days.

} 521-1

The City of Red Bluff believes that the DEIR/EIS fails to meet the requirements of the California Environmental Quality Act and the National Environmental Policy Act. The document should be withdrawn and a revised DEIR/EIS released which adequately addresses all direct and reasonably foreseeable impacts, provides adequate and feasible mitigation, considers the alternatives under the correct assumptions about the current state of fish passage at RBDD and avoids excessive and unnecessary impacts to the City of Red Bluff.

} 521-2

~~The lack of adequate analysis of the DEIR/EIS fails to adequately address the~~ impacts to the City and community of Red Bluff of reducing the gates in period to 2 months including, without limitation, recreational impacts, blighting impacts to existing recreational facilities and areas, aesthetic impacts, safety impacts, and

} 521-3

- 521-1 The comment period was extended an additional 30 days from March 16, 2007 to April 17, 2007.
- 521-2 Your comment has been noted. TCCA and Reclamation believe the DEIS/EIR adequately addresses the requirements and spirit of CEQA and NEPA, respectively. Numerous public meetings were held to solicit public input in the preparation of the EIS/EIR, including the development of alternatives. A broad range of alternatives are included in the document, the impacts of the implementation of each disclosed, and mitigation identified where feasible. TCCA, Reclamation, NMFS, USFWS, DWR, and CDFG have been intimately involved in the development, evaluation, and feasibility of each alternative. These resource agencies are the acknowledged experts in the current state of fish passage with respect to salmon, sturgeon, and other fish in the vicinity of RBDD.
- 521-3 See Response to Comment 520-1.

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

521-4 See Response to Comment 520-1.

521-5 Comments are included in the project’s administrative record. The additional attachment dated November 27, 2002, is duplicate to Comment Letter 463.

economic impacts to Red Bluff. The economic impacts will inevitably lead to physical impacts which are not studied or addressed in the DEIS/EIR. } 521-4

If the draft DEIS/EIR proceeds to the comment response phase please include this letter and the attached letter of November 27, ~~2003~~-2002 (RE: Draft Environmental Impact Statement/Environmental Impact Report Fish Passage Improvement Project at the Red Bluff Diversion Dam) from Mr. Richard Crabtree, in the comments to be addressed in this final EIR/EIR and administrative record on this project. } 521-5

Respectfully submitted,

Martin J. Nichols
City Manager

cc: City Council
City Attorney
Red Bluff Chamber of Commerce
Congressman Wally Herger

|

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

November 27, 2002Via Facsimile & U.S. Mail

Art Bullock
Tehama-Colusa Canal Authority
P.O. Box 1025
Willows, CA 95988
Fax: (530) 934-2355

Re: *Draft Environmental Impact Statement/Environmental Impact Report*
Fish Passage Improvement Project at the Red Bluff Diversion Dam

Dear Mr. Bullock:

This office represents the City of Red Bluff regarding the Tehama Colusa Canal Authority ("TCCA") and United States Bureau of Reclamation ("USBR") *Draft Environmental Impact Statement/ Environmental Impact Report Fish Passage Improvement Project at the Red Bluff Diversion Dam* ("DEIS/EIR"). As explained below, the DEIR/EIS does not comply with the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA") in several essential respects. Please include this letter in the comments to be addressed in the final EIS/EIR, and in the administrative record on this project.

I. The Purpose and Need Statement for the Project is Misleading

The *Purpose and Need Statement* (DEIR/EIS, p. 1-2) states that the "need for the project is in response to the continued and well-documented fish passage and agricultural water supply problems associated with the operation of RBDD [Red Bluff Diversion Dam]." With respect to fish passage, this description of the "need" for the project ignores extensive and significant improvements for downstream fish passage since the time of the cited research in the 1980s. For example, in Appendix B, *Fishery Resources*, the document indicates that the "current" impacts of the RBDD cause serious impediments to fish passage, citing research done in 1982, 1987 and 1988. (DEIR/EIS, p. B-5.) This analysis of fisheries impacts fails to discuss fish passage improvements completed since that time, including, among other things, the installation of a \$15 million fish screen in 1990 and relocation of the fish bypass

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

outfall far downstream of the dam. (See comments on Draft EIR/EIS submitted by David Vogel, Research Scientists, Inc. which are incorporated herein by reference.)

The real and significant improvements to fish passage problems at RBDD over the past two decades are ignored in the Purpose and Need Statement and this results in inaccurate assumptions regarding not only the degree of need for the project but the analysis of the project alternatives, which purport to provide relief for the inaccurately depicted "fish passage problems." Because the baseline conditions are not adequately or accurately identified, the alternatives analysis is flawed.

To highlight the difficulty created by the false assumptions of the seriousness of the fish passage problems at RBDD, one need only look at the preferred alternative selected by TCCA. Selection of the "Gates Out Alternative" occurred in the context of the baseline fish passage conditions as described in the DEIR/EIS; the description that does not acknowledge significant fish passage improvement projects over the past 15 to 20 years. The Introduction section containing the Purpose and Need Statement implies that the Gates Out Alternative would provide the only appreciable improvement to fish passage conditions, and misstates the necessity for removing the gates in light of the true baseline fish passage situation. (DEIR/EIS, p. 1-1.) Additionally, this false inference makes an inappropriate statement of preference for one project alternative during the draft document stage of environmental review, and ignores the staggering impacts on the social, recreational and fiscal well being of the City of Red Bluff. The weighing process conducted by TCCA in selecting its preferred alternative undoubtedly involved consideration of the overstated fish passage problems against the harmful impacts to the City, resulting in an unintentional and unsupported decision that it is necessary to inflict serious harm on the City in a heroic effort to improve fish passage.

The DEIS/EIR states "[a]ll of the impacts associated with the operation of all of the alternatives are beneficial to increased fish passage." (DEIS/EIR, p. X.) Unfortunately, these alternatives are analyzed under the weight of incorrect assumptions regarding the actual and current conditions at the RBDD. If the actual fish passage conditions were properly included in the DEIS/EIR, then the alternatives analysis would look quite different, and the weighing process would include consideration of the already improved fish passage conditions against the gravity of the harm to the environment and the City for some additional increment of improvement.

With respect to NEPA compliance, environmental analyses are to be prepared early in the decision making process so that they can make an important contribution to that process. (40 C.F.R. § 1502.5.) "Ultimately, it is not better documents but

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

better decisions that count. NEPA's purpose is not to generate paper work – even excellent paper work – but to foster excellent action.” (40 C.F.R. 1500.1(b)). In this case, the analysis of the true baseline fish passage conditions has not yet been done, and is so obviously not a part of the decision making process that one of the lead agencies has prematurely identified a preferred alternative with the most egregious environmental impacts. Not only does the omission of true baseline conditions result in an inferior document, it most certainly negates any possibility of excellent action.

In *County of Inyo v. City of Los Angeles* (1977) 71 Cal App.3d 185, 192-193, the court cited a NEPA case and concluded as follows:

“Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the “no project” alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.”

The DEIR/EIS does not provide an accurate view of the project such that the public and decision-makers may balance the project's benefits against its environmental cost. The huge cost that would be borne by the City under the Preferred Alternative should not be measured against an inaccurate and outdated view of the current fish passage conditions at RBDD. To move forward to project approval on the basis of the DEIS/EIR in its current form would prevent the document from fulfilling its purpose of providing relevant information to all interested parties and decision makers.

II. Selection of a Preferred Alternative During the Draft Document Stage Violates the Spirit of CEQA and NEPA

Declaring a preference for the “Gates Out Alternative” before the environmental review process is complete turns the NEPA/CEQA process on its head. NEPA and CEQA are designed to foster informed decision-making. The DEIS/EIR reads like a *post hoc* rationalization argument, attempting to justify a decision already made. CEQA requires the selection of feasible alternatives that lessen the environmental impacts of proposed projects. (Pub. Resources Code § 21002.) Public Resources Code Section 21002 Provides:

“The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

TCCA has already identified the Gates Out Alternative as the Preferred Alternative, and further fouled the preparation of the draft environmental document by stating that its preference is really for the "maximum pumping facility, regardless of gate operations, recognizing that its chief concern was water supply reliability." (DEIS/EIR, p. 1-8.) Thus, one of the co-lead agencies has identified a preferred alternative while completely disregarding CEQA's mandate that the lead agency must systematically identify both the significant effects of the proposed project and the feasible alternatives or mitigation measures which will avoid or substantially lessen such significant effects. It is obvious from the DEIS/EIR that TCCA is determined to approve the project with the "maximum pumping facility" and plans to do so because water supply reliability is TCCA's "chief concern." (DEIS/EIR, p. 1-8.) TCCA's desire for maximum pumping does not nullify CEQA's requirement that the environmentally superior alternative must be identified. (14 Cal. Code Regs. ("CEQA Guidelines") § 15126.6(e)(2).) The DEIS/EIR reads like a rationalization for the selection of the Gates Out Alternative, with the TCCA pretending that the enormous impacts to the City of Red Bluff are small when compared to the benefits of "maximum pumping." This selection of a Preferred Alternative with the water supply interests of TCCA being the only true consideration violates the spirit and the letter of both CEQA and NEPA.

III. The Direct Impacts of the Gates Out Alternative are Not Adequately Addressed

A. Impacts Related to the Mill Site Fish Screen

The Gates Out Alternative contemplates the construction of a new pumping facility at the Mill Site with a pumping capacity of 2,180 cfs. This would require the installation of a massive fish screen. (DEIS/EIR, p. 2-12.) The screen would be approximately 1,000 feet long. (*Id.*) As noted by Dave Vogel in his comments during the public hearing on September 25, 2002, there is a disturbing lack of meaningful information in the DEIS/EIR regarding the large-scale pumping plant on the Sacramento River.

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

It is well documented that fish screens of this magnitude require extremely good control over river channel hydraulics during the life of the project. The document acknowledges that the largest diversion on the Sacramento River occurs at GCID's Hamilton City Pumping Plant, where up to 3,000 cfs is diverted into GCID's main canal. (DEIS/EIR, p. 3-68.) Thus, the proposed pumping plant for the project at the Mill Site, with a pumping capacity of 2,180 cfs, is no small diversion, nearing the capacity of the largest diversion on the River. Construction of the fish screen facility at GCID's Hamilton City Pumping Plant involved, among other things, a multimillion dollar in-river gradient restoration project and flow control structures designed to protect the fish screen from river bypass and to optimize operations by maintaining approach and sweeping velocities consistent with fisheries agencies' fish screen criteria.

Mr. Vogel noted during his comments on September 25, 2002, that he has personally witnessed significant river channel changes at the Mill Site over the past 20 years, and that the downstream end of the site has become shallow, with the river channel changing course from the right to left bank. Mr. Vogel went on to state that he could not envision how fish screens could function without major dredging in the river and the reconfiguration of the existing channel. None of this is addressed in the DEIS/EIR, except to state that the details will be worked out in the final engineering design. (DEIS/EIR pp. 2-12 to 2-18.) This is unacceptable deferral of studies and inquiry that does not satisfy CEQA or NEPA. Additionally, the informational purpose of the document is not fulfilled, given that essential elements of the project, no matter which alternative is selected, have been completely ignored.

The omission of information regarding how the massive fish screen investment would be maintained and protected is a glaring and untenable flaw in the DEIS/EIR. Figure 3.2-1 clearly depicts highly erodible soils and recent channel deposits around the Mill Site, which could easily facilitate river meander and result in the bypassing of the fish screen facility. The natural tendency for river meander could require bank protection upstream and downstream of the new fish screen. Bank protection would result in the destruction of habitat and infringe upon federal and state policies in support of establishing a riparian meanderbelt along the Sacramento River. Further, control over the channel, which will be absolutely necessary to maintain approach velocities consistent with fisheries agencies' criteria, can only be achieved through dredging of the river channel. (Dave Vogel's September 25, 2002 comments.) Dredging will impact species, including the same listed species the project seeks to protect, and annual dredging may or may not be allowed under the federal Clean Water Act or other regulations. Finally, the fish screen would include a fish bypass system (DEIS/EIR, p. 2-17), which would undoubtedly require at least

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

some review and study to ensure proper performance according to the fisheries agencies' criteria. None of these impacts are addressed in the DEIS/EIR. The long-term maintenance, performance review and protection of the fish screen facility is barely mentioned in the document, and this omission must be corrected in order to allow the public and the decision makers to assess the true impacts of the various alternatives.

Another issue raised by the fish screen portion of the project alternatives is whether or not NMFS will grant a "variance" for an exception to the "no pumped fish bypass" criterion. (DEIS/EIR, p. 2-17.) There is no discussion regarding the likelihood of such a variance. The entire fish screen discussion assumes a variance will be granted by NMFS, without inclusion of a contingency plan or discussion of action to be taken in the event NMFS enforces the "no pumped fish bypass" criterion.

Finally, the long-term operation and maintenance of the fish screen will impact fisheries resources. Table ES-4 indicates that impacts to fisheries resources would come only during construction of the new fish screen. There is no information regarding the potential for annual in-river dredging that may be necessary to maintain channel configuration in order to meet approach and sweeping velocity criteria at the fish screen. Further, any bank protection that becomes necessary to protect the fish screen from river meander and to meet criteria would impact riparian habitat, including possible impacts to shaded riverine aquatic cover, VFLB and other resources.

Table ES-4 further says that effects from sediment disturbances and turbidity may occur during construction, but does not mention these effects as they may occur during long-term maintenance of the fish screen facility, which may involve maintenance dredging. Finally, long-term impacts to power supplies, traffic and circulation, noise, aesthetics, land use, recreation, socioeconomics, fishery resources, water resources/quality and biological resources simply are not included in the DEIS/EIR to the extent these impacts will result from long-term maintenance, testing and/or protection of the fish screen facility.

In summary, a complete picture of the project's impacts has not yet been included in the DEIS/EIR. As a result, the document does not satisfy the requirements of NEPA or CEQA.

B. Impacts Related to Reduction in Flood Carrying Capacity of Sacramento River

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

The DEIS/EIR fails to consider other foreseeable impacts from the Gates Out Alternative. Table 1.5-1 indicates that the California Department of Water Resources is concerned that the "[a]dditional riparian growth resulting from the project will reduce the flood-carrying capacity of the Sacramento River in already reduced natural floodplains and bypass channels. This potential impact could increase water surface elevations" and that "[t]he additional vegetation in the floodplain could have significant effects on water surface elevations in the Red Bluff area during high water events. (DEIS/EIR, p. 1-14.) In other words, the Gates Out Alternative will increase flood related risks to Red Bluff residents during high water events. This impact is dismissed in the document and never addressed other than in the list of agency concerns. In fact, Table ES-4 falsely indicates "no negative impacts were identified" for "surface-water hydrology and management."

The DEIS/EIR considered the environmental consequences to water resources, and purports to have considered contacts with resource agencies in the process. (DEIS/EIR, p. 3-85.) The significance criteria states that an impact would be significant if it would "[e]xpose people or structures to a significant risk of loss, injury or death involving flooding." (DEIS/EIR, p. 3-86.) The analysis goes on to conclude that the operation of the Gates Out Alternative would have no significant impact on hydrology – and does not even mention the increased riparian growth that could reduce the flood-carrying capacity of the Sacramento River.

The Department of Water Resources is a "resource agency" contact, and the concern expressed by that agency has been ignored in the document. The impacts related to additional riparian growth in the dry bed of Lake Red Bluff have not been adequately discussed in the DEIS/EIR. Specifically, the document must provide information regarding the degree of increased risk of harm to Red Bluff residents and their property from potential flooding during high water events, and mitigation measures must be included to the extent feasible. In this regard, if the additional riparian growth is to be managed in some way, the impacts to people and resources, including VFLB, should be disclosed.

IV. Analysis of the "Preferred Alternative" Improperly Minimizes Grave Project Impacts to the City of Red Bluff

The DEIS/EIR acknowledges that the Gates Out Alternative "would result in a significant economic impact to the local community." (DEIS/EIR, p. XVI.) The estimated financial impact of \$4.2 million per year represents nearly the entire annual general fund budget of the City of Red Bluff. (DEIR, p. XVI and p. 3-316.) Reductions in property values and income from the Nitro National boat races would result in serious financial impacts to the City. Additionally, the impacts of "reduced

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

quality of life" and "loss of community cohesion" could be devastating. The impacts associated with the Gates Out Alternative are huge and could be disastrous for the City.

To summarize, the Gates Out Alternative would result in recreation and tourism spending losses of \$1,088,000 annually and the loss of 19 tourism related jobs. Losses related to elimination of the Nitro National boat races would be \$3,154,000 annually and the loss of 49 boat racing related jobs. (Table 3.10-14.) Finally, the reduced quality of life and loss of community cohesion impacts from the Gates Out Alternative would be "HIGH." (Id.) "No mitigation is available to offset these impacts." (DEIS/EIR, p. XVI.) The DEIS/EIR glosses over these impacts with little discussion. The disproportionate "cost" of the project should not be borne by the citizens of Red Bluff, who would receive little in the way of benefit from the increased capacity for agricultural water deliveries.

These egregious impacts to the City and its citizens may not be avoidable through mitigation measures, but there is a project alternative available that would meet the project's goals and prevent disproportionate impacts to the City: Alternative 1A. (See DEIS/EIR, p. 3-258 and Table 3.8-2.) In its identification of the Preferred Alternative, the DEIS/EIR does not discuss the weighing of the Gates Out Alternative against the grave harm to the City, nor does it mention the fact that Alternative 1A would avoid these impacts and meet project goals in an obviously environmentally superior way.

V. Alternative 1A is the Best Alternative

Table ES-4 shows that Alternative 1A will have unmitigated significant impacts in only one category, and those impacts are only temporary, associated with construction activities. By contrast, the Gates Out Alternative will result in unmitigated significant impacts in 4 categories (recreation, land use, socioeconomic and aesthetics). Additionally, there is no mitigation available for the socioeconomic impacts of the Gates Out Alternative. (DEIS/EIR, p. 3-332.) Both alternatives 1A and Gates Out meet the goals of the project to improve fish passage conditions and reliability of water supply deliveries (DEIS/EIR, pp. 3-258 to 3-268), but Alternative 1A is obviously the environmentally superior alternative.

"CEQA contains a 'substantive mandate' that public agencies refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects." (Remy, Thomas, Moose & Manley: GUIDE TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, 10th Ed., p. 13.) "CEQA compels

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

government first to identify the environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives" (Sierra Club v. State Bd. of Forestry, 7 Cal 4th 1215, 1233 (1994)). Thus, under the mandates of CEQA, the Gates Out Alternative cannot be selected if there is a feasible alternative with less adverse impacts. Here, that feasible, environmentally superior alternative is Alternative 1A. There is no evidence or analysis in the DEIS/DEIR which supports a conclusion that Alternative 1A is not feasible.

CEQA's substantive mandate that a project not be approved if there are feasible alternatives or mitigation measures differs from the requirements under NEPA. "In requiring the imposition of feasible means of eliminating significant environmental effects, CEQA differs from NEPA. [Citations.] Under CEQA, an agency cannot satisfy the statute simply by considering the environmental impacts of a proposed project." (Remy, Thomas, Moose & Manley: GUIDE TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, 10th Ed., p. 14.) Thus, it is not enough under CEQA to merely consider the impacts of the proposed project. CEQA requires that feasible environmentally superior alternatives be adopted.

Furthermore, under CEQA, physical changes that will cause adverse social or economic effects on people are considered significant environmental impacts. (Guidelines § 15064(e)). CEQA requires that impacts to human beings be given priority. (Guidelines §15065(d)). The negative impacts to human beings associated with the loss of Lake Red Bluff are staggering, as set noted above and shown in the DEIS/EIR. Adequate mitigation and/or adoption of a project alternative to avoid these human impacts must occur under the mandates of CEQA.

All alternatives improve water supply deliveries over the No Action Alternative. The ability of Alternative 1A to meet *maximum* [i.e., worst case scenario] water deliveries *could* be exceeded for 14 days during the irrigation season, between May 1 and May 15. (DEIS/EIR, p. 3-258 to 3-259.) The Gates Out Alternative has a similar possibility of failing to meet maximum estimated demands for one day during the irrigation season. (DEIS/EIR, p. 3-269.) Importantly, however, Alternative 1A has the ability to meet the water needs defined by average and maximum water delivery and average and maximum crop demand "for the majority of the irrigation season, May 15 to September 15." (DEIS/EIR, p. 3-259.) Additionally, the unnecessary human impacts associated with the Gates Out Alternative can and should be avoided by adopting Alternative 1A. It is possible to meet project goals and comply with NEPA and CEQA through this course of action.

No. 521**Letter from Martin J. Nichols, City of Red Bluff, Continued**

Because of the issues raised above, the City of Red Bluff believes that the DEIR/EIS fails to meet the requirements of the California Environmental Quality Act and the National Environmental Policy Act. The document should be withdrawn and a revised DEIR/EIS released which adequately addresses all direct and reasonably foreseeable impacts, provides adequate and feasible mitigation, considers the alternatives under the correct assumptions about

No. 521

Letter from Martin J. Nichols, City of Red Bluff, Continued

the current state of fish passage at RBDD and avoids excessive and unnecessary impacts to the City of Red Bluff.

Very truly yours,

SHEPHERD & CRABTREE

RICHARD L. CRABTREE

RLC:tc

cc: City of Red Bluff

Attention: Susan Price, City Manager