FRIENDS OF THE EEL RIVER

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Re: North Bay Water Recycling Program Draft EIR and Draft EIS

Dear Mr. Bautista:

The following comments on the Draft Environmental Impact Report/Impact Statement ("DEIR/EIS") for the North Bay Water Recycling Program, ("NBWRP" or the "Project") (also known as North San Pablo Restoration and Reuse Project) are submitted on behalf of Friends of the Eel River.

The fundamental point is that the water supplied to and recycled through the Project has to come from somewhere, and that inexorable dependency comes with significant impacts. The Project and its DEIR/EIS consistently fail to recognize and address these larger issues and opportunities for truly sustainable regional solutions to the water supply and watershed restoration problems confronting us now.

This US Bureau of Reclamation (Reclamation) Title XVI Project as proposed with the North Bay Water Reuse Authority (NBWRA) will increase reliance on Eel and Russian River water and Santa Rosa Plain Groundwater (SRPGW) by the members of NBWRA, including Las Gallinas Valley Sanitary District (LGVSD), Novato Sanitary District (NovatoSD), Sonoma Valley County Sanitation District (SVCSD), Napa Sanitation District (NapaSD), and North Marin Water District (NMWD), Napa County, the Sonoma County Water Agency (SCWA) and its contractors, continuing and exacerbating the destruction of the Eel and Russian River's salmon and steelhead fisheries. Yet the DEIR/EIS fails to disclose the true nature of the Project and fails to consider its actual impacts on both the Eel River and the Russian River. The DEIS/EIR instead claims to describe a Project which reduces dependency on surface and groundwater. This is not true for the Eel and Russian Rivers and SRPGW.

M-1

The Project provides recycled water primarily to new customers and agricultural users, particularly grape growers in the southern Sonoma and Napa Valleys, in an effort to reduce current discharges of treated wastewater to San Pablo Bay. The Project's recycled water originates as potable water drawn from the SCWA Russian River Project, which diverts and rediverts water to its Contractors from the Russian River, and also from the Eel River with the diversions through the Potter Valley Project to the Russian River and Lake Mendocino. The potable water supplied by SCWA to its Contractors also includes almost 10% groundwater, drawn from the Santa Rosa Plain through SCWA's pumps.

Thus, the recycled water supplied through the NBWRP Project originates as potable water, supplied to indoor use, and then treated and distributed by Project members to their customers and users. Both the Eel and Russian Rivers are critical habitat for three species of listed salmonids: Coho, Chinook and Steelhead. The Project increases and institutionalizes demands for water withdrawals from these rivers, adding another set of contractual users for this water, yet the DEIR/EIS fails to address these significant issues related to its primary source of water.

M-1 cont.

The DEIR/EIS also fails to analyze alternatives that would shift Reclamation's, NBWRA's and SCWA's emphasis from continued overexploitation of scarce water supplies to comprehensive and mandatory efficiency, conservation and restorative efforts. For these and other reasons detailed below, the DEIR/EIS violates the minimum standards of adequacy under the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and the National Environmental Protection Act ("NEPA").

M-2

The DEIR/EIS for this Project should be of the highest quality, giving both decision makers and the public a full opportunity to understand and analyze environmental repercussions of the Project.

An EIR is "the heart of CEQA." *Laurel Heights Improvement Ass'n v. Regents of University of California*, 47 Cal. 3d 376, 392 (1988) (*Laurel Heights I*). "The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect that a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." Pub. Res. Code § 21061. The EIR "is an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended 'to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.' Because the EIR must be certified or rejected by public officials, it is a document of accountability." *Laurel Heights I*, 47 Cal. 3d at 392 (citations omitted).

Likewise, NEPA requires that federal agencies "consider every significant aspect of the environmental impact of a proposed action… [and] inform the public that [they have] indeed considered environmental concerns in [their] decision-making process[es]." *Earth Island Institute v. US Forest Service,* 351 F.3rd 1291, 1300 (9th Cir. 2003) (citations

M-3

omitted); *see also* 40 C.F.R. § 1500.1.(b) ("NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.")

Unfortunately, the DEIR/EIS fails entirely to live up to this mandate. Reclamation, NBWRA and SCWA have not learned the lessons that the California Court of Appeal clearly sought to convey in striking down SCWA's prior attempt at an EIR for the Water Supply Transmission System Project ("WSTSP"). *See Friends of the Eel River v. Sonoma County Water Agency*, 108 Cal. App. 4th 859 (2003).

Instead of honestly analyzing the Project in the context of ongoing federal and state proceedings that continue to affect both the Eel River and the Russian River, the Project sponsors once again have chosen to play a game of "hide the ball," leaving the public and decision-makers with a profoundly distorted view of the Project and its consequences.

To ensure that both decision-makers and the public have adequate information to consider the effects of the proposed Project, and to comply with CEQA's and NEPA's requirements, SCWA, NBWRA and Reclamation must prepare and recirculate a Revised DEIR/EIS that properly describes the Project, analyzes its impacts, and considers meaningful alternatives and mitigation measures that would help ameliorate those impacts.

M-3 cont.

I. The DEIR/EIS Fails to Substantiate its Demand, Supply, Conservation and Reuse Assumptions.

The DEIR/EIS's fundamental failings begin with its core assumptions regarding water supply, demand, conservation and reuse in its service area.

"1.1.2 Purpose of Proposed Action:
The purpose of the NBWRP is to provide recycled water for agricultural, urban, and environmental uses thereby reducing reliance on local and imported surface and groundwater and reducing the amount of treated effluent releases to San Pablo Bay." (DEIR/EIS, pg. 1-2).

However, the DEIR/EIS does not provide any data, facts or analysis to indicate the basis for what amount of water is 'needed' to be supplied through the Project, nor for the timing of its phases and components, to the ultimate beneficiaries of the Project's recycled water supply. Nor does the DEIR/EIS provide any facts or analysis to substantiate the claims that it is reducing reliance on *imported* surface and groundwater.

Instead, the Project appears to be designed to produce a large amount of saleable recycled water originally derived from, and to the detriment of, the Eel and Russian Rivers, distributed in an inter-basin transfer through a Title XVI Reclamation project.

M-4

The Project claims to be based in part on reducing discharges of treated wastewater to San Pablo Bay. Yet, the Project is not very successful in accomplishing that: the various

M-5

Alternatives still discharge 13,686 AFY (Alt. 1), 10,689 AFY (Alt. 2), or 9,543 AFY (Alt. 3, the largest constructed alternative) to San Pablo Bay, from the Year 2020 projected WWTP inflows of 27,655AFY. (DEIR/EIS, Table 2-2)

M-5 cont.

It appears almost as an afterthought to the Project's design that the waters can be used to flush out two of the Napa Salt Marsh Restoration Area's bittern ponds with fresh water, since the amount of water to be supplied is highly variable depending on the Project Alternative selected. In fact, the DEIR/EIS states (pg. 6-20) that more water would be released for flushing the ponds if the No Action Project alternative is selected than there would be by all but the smallest Alternative 1!

"Additional 3460 AFY release of recycled water to Napa Salt Ponds 7 and 7A, depending upon the year type." – DEIR/EIS Table 2-3. Or, alternatively, the release to Napa Salt Pond 7 and 7A of:

- 5825 AFY recycled water @ Alt. 1 (Basic System)
- 2933AFY recycled water @ Alt. 2 (Partially Connected System)
- 3085AFY recycled water @ Alt. 3 (Fully Connected System, the largest alternative)

M-6

Yet, without the Project, 3257AFY recycled water would be delivered to the Napa Salt Ponds with the No Action Alternative. (See DEIR/EIS, Table 6-11, pg 6-20).

Or, conversely, the Project may have started out originally as a way to provide recycled water to the Napa Salt Marsh restoration, Ponds 7 and 7A, which, while an excellent project, was then substantially expanded and altered to include irrigation of almost 25,000 acres of vineyards which have overdrafted local groundwater or local surface water supplies as the major beneficiaries of the Project's Title XVI public largesse. Apparently the US Army Corps of Engineers (USACE) rejected as infeasible the proposal to build the plumbing and piping project to supply treated waste water to the California Coastal Conservancy's Napa Salt Marsh Restoration Project, yet the DEIR/EIS does not address the problems and objections raised by USACE.

The Project only minimally reduces reliance on local surface and groundwater. The DEIR/EIS acknowledges that prior local projects by NMWD, SVCSD and LGVSD already will be supplying most of the 'urban reuse offset water' for which the Project claims credit, and which would occur independent of Project in the first place, as key components of the so-called Phase 1 or "No Action" construction. The DEIR/EIS fails to provide data to show significant new urban reuse deliveries that are entirely dependent on the Project Alternatives 1, 2 or 3.

M-7

The Project is in fact primarily a NBWRA, SCWA and Reclamation-sponsored interbasin transfer proposal to supply over 90% of its recycled water to new vineyard customers who are not now reliant upon any water from the Eel and Russian Rivers and SRPGW supplies.

M-8

According to Table 2-1, and text at DEIR/EIS pg. 2-6, the proposed Project could supply:

Total Acreage of designated reuse areas:	27,472 acres for recycled water use
Vineyards:	24,929 acres = 90.7% of acreage
Dairy and pasture lands:	1396 acres = 5.1% "
Urban landscaping:	812 acres = 3.0% "
Irrigated farm lands:	336 acres = 1.2% "

Note – not included in Table 2-1 by acreage are these Phase 1 projects already approved:

Peacock Gap Golf Course:	437 AFY
NMWD Urban Reuse Area, landscaping:	1312 AFY

Napa Salt Pond restoration:	9460 acres, @ 2-3000 AFY
"with subsequent agricultural use."	[after <10 years] (DEIR/EIS, pg 2-21)
Variations @ Basic System, Alt 1:	5825 AFY for salt pond restoration
@Partial System, Alt 2:	2933 AFY "
@Full System, Alt 3:	3085 AFY "
@ No action Alt:	3257 AFY "

(DEIR/EIS Table T6-11, pg 6-20)

Further, the Project assumes "approximately 10-12% growth in existing urban centers in the action area by the year 2020 (as compared to 2005 populations)" (DEIR/EIS, pg. 1-12), and "Existing treatment and distribution infrastructure in the action area currently allows for about 7,300 AFY of ***recycled water*** for irrigation and wetlands restoration purposes, which could increase to 11,250 AFY by 2020." (DEIR/EIS, pg. 1-13)

M-8 cont.

The assumption here is that inflows to the various wastewater treatment plants serving the Project will be increasing over the next 10+ years, and that their resulting WWTP discharges would similarly be increasing for increased recycled water use by NBWRP customers.

However, the DEIR/EIS fails to substantiate these assertions that such an increase is either likely, necessary or sustainable over the long term. Given the state, federal and local requirements for water demand and use constraints, conservation, avoidance, increased use of treated wastewater within the Russian River watershed, and mandates for reduced water withdrawals on the Russian and Eel River systems by a host of regulatory agencies (See for example, SWRCB to SCWA re: Water Conservation Efforts, 2/2/05; SWRCB Order WR 2009-0027-DWR, 4/6/09; AB32; AB2121), there is no substantiation that the projected growth in population in the region will result in concurrent and proportional increases in wastewater production or availability for export to the Project.

M-9

II. The DEIR/EIS's Description of the Project is Vague, Incomplete, and Misleading.

The DEIR/EIS proposes a number of separate actions that together constitute the "Project." Yet the DEIR/EIS fails to clearly describe how, whether, and when the various components of the Project will occur. Moreover, the DEIR/EIR's division of the Project into project-level and program-level components is not only confusing but also fundamentally misleading. These deficiencies render the DEIR/EIS inadequate under CEQA and NEPA.

M-10

A. The DEIR/EIS's Description of the Project Is Vague, Shifting, and Inconsistent.

In order for an environmental document to adequately evaluate the environmental ramifications of a project, it must first provide a comprehensive description of the project itself. An EIR must describe a proposed project with sufficient detail and accuracy to permit informed decision-making. *See* CEQA Guidelines §15124. Indeed, "[a]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal.App.4th 713, 730 (1994), quoting *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 193 (1977). As a result, courts have found that, even if an EIR is adequate in all other respects, the use of a "truncated project concept" violates CEQA and mandates the conclusion that the lead agency did not proceed in a manner required by law. *San Joaquin Raptor*, 27 Cal.App.4th at 730. Furthermore, "[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." *Id.* (citation omitted). Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable.

A major failing in the DEIR/EIS's project description is its lack of clarity as to how the Project will develop over time, what components must precede other components, as funding becomes available, and with whatever other agency approvals are necessary to proceed on any particular Project component of Phase 1 and Alternates 1, 2 or 3, or the No Action Alternative. It would be very helpful for the DEIR/EIS to include a critical action timeline for the Project's components.

The DEIR/EIS fails to describe in detail the components of Phase 1 operations and construction in way that allows the public, other agencies, and the decisionmakers a full comprehension of what is proposed. Sufficient detail is lacking, as are timelines, funding sources, future agency approvals and potential limitations if the entire Project beyond Phase 1 is actually built. None of the uncertainties endemic to such a complex and expensive project which depends on funding and approvals from many other agencies are addressed.

M-11

While the DEIR/EIS describes project components in Marin, Sonoma and Napa Counties, the actual NBWRP Congressional legislation speaks to possible components in Solano County as well. Nowhere in the DEIR/EIS is this discrepancy addressed.

SEC. 1651. NORTH BAY WATER REUSE PROGRAM.

`(a) Definitions- In this section:

`(1) ELIGIBLE ENTITY- The term `eligible entity' means a member agency of the North Bay Water Reuse Authority of the State located in the North San Pablo Bay watershed in--

`(A) Marin County;
`(B) Napa County;
`(C) Solano County; or
`(D) Sonoma County.

`(2) WATER RECLAMATION AND REUSE PROJECT- The term `water reclamation and reuse project' means a project carried out by the Secretary and an eligible entity in the North San Pablo Bay watershed relating to--

`(A) water quality improvement;
`(B) wastewater treatment;
`(C) water reclamation and reuse;
`(D) groundwater recharge and protection;
`(E) surface water augmentation; or
`(F) other related improvements.

(*See* Omnibus Public Land Management Act of 2009, Pub.L.111-11, 123 Stat. 991, 1315, § 9110(a) (March 30, 2009).

The DEIR/EIS discusses an alternative of connecting the Project to the North Bay Aqueduct in Solano County, which is later dismissed. However, given that the authorizing Congressional legislation allows the Project to include members or work in Solano County, the DEIR/EIS should definitively either include – or rule out – components or members in Solano County. If anything in Solano County is included in current or future plans, the DEIR/EIS must acknowledge that along with its impacts. M-12

The DEIR/EIS notes that additional water would be flowing through the Project by 2020, yet does not describe how this is possible, nor where the additional flows of treated wastewater would come from. It treats the supply of treated wastewater to be recycled as if there was a magic spigot that is turned on and off at will, but without any idea of what the spigot's pipes are connected to, and who is paying for the plumbing and the water. M-13

Indeed, during many direct conversations with the Project sponsors prior to the issuance of the NOP, FOER was told explicitly that questions about the sources of the water for the Project were beyond the purview and control of the Project sponsors, so that that full description and impacts assessment regarding them would not be included in the DEIR/EIS. [personal communications, Pam Jeane, Renee Webber, Grant Davis (SCWA), Marc Holmes (Bay Institute), John Watts (Sen. Dianne Feinstein)] This is M-14

rather remarkable, considering that the largest NBWRA member is in fact SCWA, which is responsible for supplying most of the potable water to contractors who would sell or distribute the water to the Project. M-14 cont.

There is no disclosure of the proposed or existing arrangements for sale or transfer of the recycled water from the water contractors or purveyors (MMWD, City of San Rafael, NMWD, City of Sonoma, Valley of the Moon WD, SCWA, City of Napa and others) to LGVSD, NovatoSD, SVCSD, NapaSD, SCWA, nor to NBWRA and the Project, nor to the Project's recipients and beneficiaries. The conditions of any such contractual arrangements will make significant differences on the potential and likely impacts from this Project. There is no governance, monitoring and oversight structures proposed in any detail to assure accountability to the public, ratepayers and regulatory agencies that the environment and Public Trust resources will not be harmed over the lifespan of the Project. NEPA requires that an EIS analyze the social and economic impacts of a federal action. *See* 40 C.F.R. *§* 1508.8. The DEIR/EIS fails to comply with this requirement. M-15

There is no clear disclosure or proposal for how the Project would be funded, both for Phase 1 or any of the Alternatives, making its fiscal, economic and environmental feasibility unknowable. There is no description of the relationship between funding sources and amounts for Phase 1, Alternates 1, 2 and 3 or the No Action project. M-16

Project costs range from over $105,000,000 for Phase 1 implementations and O&M, to somewhere over $570,000,000 for implementation, O&M and life cycle costs of Alternate 3, yet no funding sources, user fees, ratepayer implications or any other analysis is disclosed in the DEIR/EIS. (DEIR/EIS, Table 6-10). Confusingly, the Life Cycle Cost Analysis at Table 6-10 has costs distributed for Phase 1over each of the three Alternatives, but the DEIR/EIS does not have comparable data comparing costs of construction, implementation and O&M for Alternatives 1, 2 and 3.

Using projected quantities of available recycled water for sale with the three Alternatives, the calculated costs for the recycled water would be from $1339/AF to $1377/AF. M-17

Nowhere does the DEIR/EIS discuss the probability or likelihood that there are purchasers for the recycled water at these prices, which far exceed the costs of potable water or pumping from local sources. The DEIR/EIS minimizes the potential impacts of using recycled water for growing grapes in a competitive world-class marketplace, where several countries and regions prohibit its use. There are built-in institutional barriers to full use of the Project's water capacities, but there is no discussion of means to penetrate the market price, trade and perception barriers. M-18 M-19

There is no listing or mapping of actual parcels that have indicated likely acceptance of recycled water from the Project, and no way to judge their feasibility or impacts. The implications for the success or failure of the Project are immense, and the implications for successful avoidance or mitigation of environmental impacts are similarly unknown. The DEIR/EIS is frustratingly silent on these critical issues. M-20

There are no discussions regarding the length of the actual recycled water contracts to the ultimate recipients and customers of NBWRP, nor is there a balance sheet showing who would pay what share of what parts of the Project for how long. There is no discussion or analysis of what costs that other ratepayers – whether potable water or wastewater customers – would be expected to carry or to subsidize any revenue shortfalls for the Project. M-21

The length of contracts for recycled water becomes extremely important given likely changes in source water availability. As SCWA Prime Contractors (including Sonoma and Valley of the Moon Water District) are required, by law, contract, regulation, costs or other environmental mandates, to decrease their dependency on the SCWA Russian River Project's supplies, the demands and necessity of using more of their own recycled water within their own local service area will increase. This will make future deliveries of wastewater to the NBWRA's treatment plants less reliable and predictable, and thus future deliveries of water to the Project's customers equally unreliable and unpredictable. The DEIR/EIS fails to disclose or discuss any of these critical issues, as if there is no question about any of their supply, demands, projections or funding. M-22

How will the contracts relate to reduced recycled water availability? There is no discussion of what happens if the needs for recycling water derived from the SCWA Contractors within the Russian River Watershed are increased over time, but conflict with longer term contracts for delivery of recycled water to beneficiaries outside the Russian River Watershed, or even outside the SCWA service area, such as in Napa or Solano County. M-23

There is no sinking fund or other financing vehicle proposed for dismantling the Project when its lifespan, practicality or utility is over. M-24

Finally, there is absolutely no explanation for what happens to the 18" pipeline and pump stations built to supply recycled water to the Napa Salt Marsh Restoration Project after that fresh-water flushing and restoration activity is complete, some 8-10 years after initiation of the Project. Almost parenthetically, the DEIR/EIS states that this massive pipeline will provide recycled water to the Napa Salt Marsh, but notes, "with subsequent agricultural use." (DEIR/EIS, pg 2-21) What does that mean? The DEIR/EIS is hopelessly ambiguous and incomplete on this part of the Project, and should be corrected, revised and recirculated. M-25

Indeed, these very components, the usually critical "dotting of the i and crossing the t" components that can make or break this Project, are missing from the public review and scrutiny.

All that the DEIR/EIS gives are vague and incomplete assurances: M-26

"All of the Member Agencies already have existing recycled water programs. The NBWRA anticipates that provision of recycled water from the Proposed Action will be made available for use to new and existing water customers on reasonable terms and

conditions. As appropriate, fee structures for recycled water have been or will be developed by Member Agencies within the context of each agency's rules, regulations and financial planning." (DEIR/EIS pg. ES-3)
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M-26 cont.

These glaring omissions illustrates why a stable and accurate project description is essential to analysis of environmental impacts.

B. The DEIR/EIS's Division of the Project Into Project-Level and Program-Level Components Is Inconsistent, Confusing and Misleading.

The DEIR/EIS states that it is intended to serve as both a project and a program EIR. This is not, however, a typical program EIR/EIS, from which later analysis of specific projects will be tiered.

Program EIR/EISs usually address broad planning documents, such as general plans, that then provide a framework for later analysis of specific projects. This DEIR/EIS, in contrast, contemplates a number of specific actions and facilities, applying different labels to each based on the depth of analysis provided. Thus the "program-level" analysis in the DEIR does not address a program; instead, it addresses specific projects, but only in a superficial manner. The DEIR/EIS's approach is inconsistent with CEQA and NEPA. The activities evaluated at a "program" level in the DEIR are not "programs" within the meaning of the CEQA Guidelines. *See* CEQA Guidelines § 15168 (authorizing program EIR for evaluation of "a series of actions that can be characterized as one large project").

For example, one of the major "program" activities identified in the DEIR/EIS for Program Alternative 2, the Partially Connected System, is the Petaluma River Pipeline, a major pipeline and pump station that would run across or under the Petaluma River from the proposed Novato Urban Recycled Water Project Service Area combined in a pipeline with water from the LGVSD to the Sears Point Service Area. The project would include conversion of a 0.5MG drinking water reservoir in Ignacio to recycled water use, and construction of a new 0.5MG storage reservoir. (DEIR/EIS, pg. 2-38), and would serve 1236 acres of vineyards, 326 acres of dairy/pasture land, and 76 acres of irrigated farm land. (DEIR/EIS pg. 2-6).

M-27

Even if NBWRA or SCWA's plans for this project are not well-developed, it is nonetheless a specific project, and not a program. So-called "program-level" analysis may not be invoked as an excuse for inadequate analysis. *See Friends of Mammoth v. Town of Mammoth Lakes Redev. Agency*, 82 Cal. App. 4th 511, 533 (2000) ("Designating an EIR as a program EIR . . .does not by itself decrease the level of analysis otherwise required in the EIR."); CEQA Guidelines § 15146.

The DEIR/EIS also uses the "project-level" and "program-level" labels in a vague and confusing manner. The DEIR/EIS never explains clearly what portions of the provision of recycled water to end-use customers could be accomplished via NBWRA member or SCWA's existing facilities, versus new facilities. For instance, the 3.8 mile pipeline to be built to provide the Napa Salt Marsh ponds with recycled water from SVCSD, which is to be accomplished with Phase 1 "project-level" analysis and information is sized at 24" -- until it connects to the 18" 4.5 mile link to convey the water to the Salt Pond headworks facilities. However, there is no explanation as a "project level analysis" why the initial 3.8 miles of pipeline is of substantially larger capacity than the actual delivery pipeline. Clearly, there are project-level plans afoot in sizing the pipeline, but the DEIR/EIS fails to elucidate on this important point.

As a result, the DEIR/EIS cannot and does not address the impacts of this increased delivery capability, or what else might be ultimately connected to the 24" pipeline. This is not "project level" analysis, or even "program-level" analysis. This is a failure of analysis.

M-28

It might well be understood that the DEIR appears to use the "project-level" and "program level" distinction to affirmatively mislead readers about the potential impacts of such changes in pipeline size and current vs. future deliveries, especially since the DEIR/EIS notes briefly that the deliveries of recycled water to the Napa Salt Marsh project are only for less than a 10 year lifespan. (DEIR/EIS, pg. 2-31) After that, the DEIR/EIS alternatively describes "additional recycled water will be required for pond and habitat maintenance" (pg. 2-31) or, in contrast, that the water would be used for "subsequent agricultural uses." (pg. 6-20)

The DEIR thus uses the "project-level" and "program-level" distinction to obscure or rig the outcome of its impacts analysis. By assuming that the Petaluma/ Sears Point Pipeline will be built, while declining to perform any credible analysis of its impacts, the DEIR attempts to claim all of the benefits of the pipeline for the Project without acknowledging any of its true nature, costs or impacts. This is fundamentally misleading and contrary to CEQA. Furthermore, this misleading approach highlights the DEIR/EIS's complete failure to analyze what will happen if "project-level" recycled water flows are increased before the "program-level" pipeline is built—if it is ever built at all. The DEIR/EIS fundamentally fails as an informational document.

M-29

III. The DEIR/EIS Fails to Accurately Describe the Project Baseline and Environmental Setting.

The DEIR/EIS fails to account for several ongoing legal and administrative proceedings that could fundamentally affect the availability of water for additional diversion and reuse through the Project. As a result of this failure, the DEIR/EIS's assumptions are without evidentiary support, and its analysis of the Project's direct, indirect, and cumulative impacts is fatally flawed.

M-30

An EIR's description of a project's environmental setting plays a crucial part in all of the subsequent parts of the EIR because it provides "the baseline physical conditions by which a lead agency determines whether an impact is significant." CEQA Guidelines § 15125(a). "Without a determination and description of the existing physical conditions on the property at the start of the environmental review process, the EIR cannot provide a meaningful assessment of the environmental impacts of the proposed project." *Save Our Peninsula Committee v. Monterey County Board of Supervisors*, 87 Cal. App. 4th 99, 119 (2001). The failure of the DEIR/EIS to accurately portray the underlying environmental conditions in the Russian and Eel River watershed – the source of much of the water that is used in the Project - contravenes CEQA and undercuts the legitimacy of the environmental impact analysis.

M-30 cont.

A. The DEIR/EIS Fails to Acknowledge the Critical Relationship of Recycled Water used in the Project with Source Waters in the Russian and Eel Rivers and Santa Rosa Plain Groundwater.

The Project's water supply is inextricably tied to potable water derived from the Russian and Eel Rivers, and the Santa Rosa Plain Groundwater (SRPGW), extracted through the SCWA Russian River Water Supply Project and its interconnected groundwater well field. This SCWA-supplied potable water is a primary source of potable waters for Novato (to NovatoSD, through NMWD), San Rafael (to LGVSD, through Marin Municipal Water District [MMWD]), City of Sonoma and Valley of the Moon Water District service areas (to SVCSD, through SCWA's contractors). The wastewater produced from indoor use of this potable water supply becomes the source of water transmitted to the LGVSD, NovatoSD and Sonoma SD. Only the City of Napa – and the NapaSD - does not depend on potable water originating from the Russian River. In addition, approximately 9% of SCWA's water supply is derived from groundwater extraction from the Santa Rosa Plain Groundwater Basin (SRPGW).

For an overview of current SCWA water supply and management issues, see:
SCWA Supply Management Workshop April09 PowerPoint
http://www.scwa.ca.gov/about_your_water/documents/BoardworkshopApril09final.pdf
See also,
-Water Supply, Transmission Reliability Project DEIR
http://www.scwa.ca.gov/projects/#WaterProjectDraftEIR
and comments submitted by Friends of the Eel River
-Russian River Section 7 Biological Opinion, NMFS, F/SWR/2006/07316
http://www.scwa.ca.gov/projects/documents/Signed-RussianRiverFinalBO9-24-08.pdf

Any dependence on these source waters must be instrumentally acknowledged and addressed in the DEIR/EIS.

M-31

B. The DEIR/EIS Mischaracterizes and Minimizes the Relationship Between Source Waters and Recycled Waters

The DEIR/EIS repeatedly and inaccurately states that there is no impact, individually or cumulatively, by the Project on the source waters and watersheds of the Russian and Eel Rivers and SRPGW. This has critical implications for restoration efforts needed to protect and restore populations of the listed salmonids in these rivers.

RE: SCWA Water Supply, Transmission, and Reliability Project (WSTRP) --
"SCWA's Water Project proposes additional diversions on the Russian River, and construction of distribution facilities that would occur within the North San Pablo Bay Watershed in the vicinity of Petaluma and Sonoma. However, the NBWRP would not contribute to or affect proposed diversions from the Russian River system. The NBWRP would recover treated wastewater currently discharged to North San Pablo Bay, treat that water to Title 22 standards, and distribute it for irrigation uses to offset the use of potable supplies for this purpose. As such, it would have a beneficial effect by reducing irrigation demands on the Russian River system. This beneficial effect would also be applicable to groundwater and local surface water supplies that are currently used for irrigation. Therefore, the NBWRP would not contribute to significant cumulative water supply impacts." (DEIR/EIS, pg. 4-17)
[Note: The WSTRP DEIR, a prerequisite for SCWA's application to SWRCB for additional supplies of 26,000AFY from the Russian River was indefinitely suspended by SCWA Board of Directors following the close of comments on the DEIR.]

M-32

RE: Russian River Integrated Flow and Restoration Project (RRIFR) and D.1610:
"The RRIFR Program is proposed in order to address changes contemplated in Biological Opinion issued on September 24, 2008. All management actions are proposed for implementation within the Russian River Watershed, and no facilities would be constructed within the North San Pablo Bay Watershed.
The NBWRP would recover treated wastewater discharged to North San Pablo Bay, treat that water to Title 22 standards, and distribute it for irrigation uses to offset the use of potable supplies for this purpose. As such, it would have a beneficial effect by reducing irrigation demands on the Russian River system. This beneficial effect would also be applicable to groundwater and local surface water supplies that are currently used for irrigation. Therefore, the NBWRP would not contribute to direct or indirect impacts that may be associated with modification of Russian River hydrology to benefit listed salmonid species." (DEIR/EIS, pg. 4-20)

RE: Eel River and Potter Valley Project ("PVP")
"The NBWRP would recover treated wastewater discharged to North San Pablo Bay, treat that water to Title 22 standards, and distribute it for irrigation uses to offset the use of potable supplies for this purpose. As such, it would have a beneficial effect by reducing irrigation demands on the Russian River system. This beneficial effect would also be applicable to groundwater and local surface water supplies that are currently used for irrigation. Therefore, the NBWRP would not contribute to direct or indirect impacts

that may be associated with current operations or future modification of the Potter Valley Project operations.
Construction and operation of the NBWRP would have the potential to contribute to cumulative impacts associated with short-term construction and long-term operation of water resource infrastructure within the San Francisco Bay Area Air Basin. However, the Potter Valley Project is located outside of the San Francisco Bay Area Air Basin. Therefore, implementation of the NBWRP would have the potential to contribute to cumulative effects related to this project." (DEIR/EIS, pg. 4-21,22)

These declarative statements are not supported by any information or analysis presented in the DEIR/EIS. At the next page, in discussing the North Sonoma County Agricultural Reuse Project ("NSCARP"), the text reads:

"There is a need to maintain instream flows on the Russian River, while simultaneously providing water for other uses, so the recycled water would offset surface water from the Russian River and its tributaries for agricultural irrigation. Implementation of NSCARP would augment water supplies and potentially decrease direct agricultural diversions from the Russian River, which would enable the SCWA to release less water from storage in Lake Mendocino and Sonoma to meet water demands and instream flow requirements. This would result in more water being conserved in storage in these reservoirs, which would provide more operational flexibility for the SCWA to benefit fisheries sources in the Russian River (SCWA, 2007)." (DEIR/EIS, pg. 4-22,23)
[Note: The NSCARP has been suspended indefinitely by the SCWA Board of Directors following close of the public comment period on the Final EIR/EIS. See, SCWA Pulls Plug on NSCARP, 5/12/09]

M-32 cont.

In this instance, where recycled water would have remained within the Russian River Watershed through its reuse in the NSCARP, SCWA acknowledges its linkage and importance. Yet the Project DEIR/EIS doesn't seem to understand this very basic concept.

C. Contrary to Project Assertions, Only a Very Small Percentage of Project Recycled Water is Used to Offset Russian River Water Supplies.

At the heart of the DEIR/EIS's assertions of environmental, economic and regional benefit are the Project Objectives:

1. Offset urban and agricultural demands on potable water supplies;
2. Enhance local and regional ecosystems;
3. Improve local and regional water supply reliability;
4. Maintain and protect public health and safety;
5. Promote sustainable practices;
6. Give top priority to local needs for recycled water; and
7. Implement recycled water facilities in an economically viable manner. (pg ES-2)

Contrary to these claims, however, the Project fails to meet almost all of these Objectives. The DEIR/EIS continuously claims to be reducing local potable water demands, meaning primarily at southern Sonoma and Napa Valley irrigated lands. However, that is coming at the expense of fresh, potable water supplies coming into the Project that originate in SCWA's Russian River Project.

At DEIR/EIS Table 6-8, Comparison of alternatives based on Reuse and Offset, it clearly states that of all the recycled water to be supplied to Project beneficiaries, only a very small percentage is being used for Russian River Demand Offset:

Alt.1: 1179 AF = 18% of Total Recycled Project Water; New Demand = 5476 AF
Alt.2: 2022 AF = 18% of Total Recycled Project Water; New Demand = 9228 AF
Alt.3: 2148 AF = 17% of Total Recycled Project Water; New Demand = 10613 AF

At best, more than 80% of the recycled water used in the Project will NOT offset existing or future Russian River and Eel River demands. In fact, as the Project expands, the demands for additional Russian River water will expand, primarily for vineyard irrigation and new recycled water customers, rather than be used to reduce demands on the source watersheds.

M-33

Most of the offset of Russian and Eel River water demands is occurring through the Phase 1 projects, which are already in process through the efforts individually of LGVSD, NovatoSD and NMWD, and SVCSD.

An analysis of potable water offsets in Phase 1 projects already moving ahead include 147AF at SVCSD, 542AF at NMWD, and 200AF at NapaSD, totally merely 889AF out of a total predicted Project transmission and reuse of over 3755AF for Phase 1 (or 24% of the total).

If the Project Alternatives were built, 889 AFY in potable water offsets would be 13.3% of the total of 6655AFY at Alt. 1, 7.9% of the total of 11279AFY at Alt. 2, or 7% of the total of 12761AFY at Alt.3. (DEIR/EIS pg. 2-23; Table 2-2; North Bay Water Recycling Program Summary, pg. 2-2, 3).

The Project Alternatives 1, 2 or 3 would deliver only 7% – 13.3% in total potable water offsets. In fact, the Project is claiming credit for potable water offsets that would mostly occur without the Project itself.

M-34

The Project's contribution to any significant reduction in actual Russian and Eel River supplies remains a mystery. The DEIR/EIS fails to chart an actual path that clearly describes how it would accomplish this.

As a result of the failure of the DEIR/EIS to address these very shortcomings and lack of analysis, all prospective changes to flows, diversions, storage and conditions in these source watersheds are ignored. The DEIR/EIS profoundly fails to address its true

M-35

impacts on further demands – whether additional or sustained from current, unsustainable use and diversion practices, placed on the Russian and Eel Rivers. M-35 cont.

D. The DEIR Fails to Consider Reasonably Foreseeable Changes in Flows Resulting from Implementation of the Russian River Biological Opinion and Changes to D.1610.

Since the Russian and Eel Rivers are source waters for much of the recycled water supplied through the NBWRA Project (excepting Napa, unless connected to the NBWRP Project in its Fully Connected System), impacts of any new use for these source waters that are transmitted out of the Russian River Watershed must be clearly identified and analyzed. Since the primary source of SCWA's water supply is the Russian River Project, any impacts from the NBWRA Project must address the consequences of changes there. The Russian River Biological Opinion 2008 is just such a mandated change to help restore the beleaguered Russian River and her threatened and endangered listed salmonids.

The Russian River Biological Opinion 2008 (RRBiOp) concludes that SCWA's current operations in the Russian River jeopardize the survival and recovery of endangered Coho salmon and threatened steelhead. *Russian River BiOp* at vi-vii, xvi. In order to avoid jeopardy, and to obtain relief from legal liability for "take" of salmonids in violation of the Endangered Species Act, the Opinion requires SCWA to undertake a number of protective actions, including (1) petitioning the State Water Resources Control Board for modification of the instream flow requirements of Decision 1610; (2) implementing interim flow reductions in the Russian River main stem prior to modification of Decision 1610; (3) constructing habitat improvements in Dry Creek; and (4) reducing flows in Dry Creek until it is shown that the habitat improvements are installed and working to protect juvenile fish. *See id.* at 241-42, 247-28, 296-301, 317-18. It is reasonably foreseeable that any and all of these requirements could affect the availability of water for the Project. M-36

The DEIR/EIS, however, essentially pretends that none of these requirements exists.

The DEIR/EIS also fails to analyze the impacts of the required changes to Decision 1610. Instead, the DEIR assumes that because the process for modifying Decision 1610 will take many years, the decision's current instream flow requirements will remain in effect through the Project period. (DEIR/EIS, pgs 4-18 through 4-22). The *Russian River BiOp* addresses only *current* operations—and concludes that those operations jeopardize

endangered Coho and threatened steelhead. Again, in order to comply with federal law, SCWA *must* seek modifications of Decision 1610 that will *reduce* instream flows in the main stem Russian River. *Russian River BiOp* (at 243-47). This will potentially affect the water available to SCWA Contractors, and thence to be recycled into the Project's supply and output of recycled water.

The RRBiOp concludes that these reductions will be in place in five to seven years. *Id.* at 247. The Opinion further requires SCWA to seek temporary, interim changes to the decision beginning in 2010. *Id.* at 247-48. In light of these requirements, SCWA must make a good-faith effort to disclose all that it reasonably can about what the result of these changes will be. *See* CEQA Guidelines §§ 15144, 15151. In contrast, there is absolutely no support for the DEIR/EIS's assumption that Decision 1610 will remain unchanged through the Project period, or that the volumes and flows of water available to the Project will increase over time, as asserted in the DEIR/EIS.

M-36 cont.

Nor may the DEIR/EIS refuse to consider the changes to Decision 1610 solely because the process of amending the instream flow requirements is expected to take several years:

"The process by which Decision 1610 was adopted took many years. Similarly, the process to modify Decision 1610 will take many years, and it is consistent with the SCWA's long-term goal of creating a sustainable, balanced system that meets the needs of SCWA's water contractors, other water users, and the needs of the listed salmonid species. However, because the outcome of the process of modifying Decision 1610 cannot be known with any certainty now, the SCWA Water Project was developed under the assumption that Decision 1610 requirements would remain in effect." (DEIR/EIS, pg. 4-19, 20)

The DEIR for the SCWA WSTSP made exactly the same argument with respect to Federal Energy Regulatory Commission ("FERC") proceedings concerning the PVP—an argument that the Court of Appeal rejected:

> "We do not agree that a lengthy review process means a project is speculative. We doubt the Agency would describe its own project as speculative, despite the fact that a great deal of time has elapsed since this project was originally proposed. Similarly, the proposals pending before FERC to decrease Eel River diversions may not be considered speculative simply because the FERC process happens to be a lengthy one." *Friends of the Eel River*, 108 Cal. App. 4th at 870.

M-37

For exactly the same reasons, a revised DEIR/EIS must make a good-faith effort to address the reasonably foreseeable decreases in instream flows that will result from modification of Decision 1610. Indeed—once again reflecting an approach rejected by the Court of Appeal—the DEIR/EIS fails to acknowledge the extent to which SCWA is already undertaking efforts to reopen and modify Decision 1610. The DEIR mentions in a single sentence that SCWA has "started conducting engineering feasibility studies to identify alternatives that could be considered" in environmental review of a proposal to modify Decision 1610. (DEIR/EIS at 4-19)

In fact, the agency's own presentations and staff documents reveal a concerted effort, extending back at least two years, to begin the process of reopening the decision. The DEIR/EIS must disclose all information that SCWA reasonably possesses regarding this effort. *See Friends of the Eel River*, 108 Cal. App. 4th at 870-71 (criticizing SCWA for failing to disclose "the fact that the Agency has been participating actively" in relevant proceedings).

M-37 cont.

Once again, SCWA, NBWRA and Reclamation appear to be ignoring the direction provided by the Court of Appeal. All of the requirements of the RRBiOp, including temporary and permanent changes to the flow regime in Decision 1610 and the construction of habitat enhancements in Dry Creek, are now part of the legal landscape governing SCWA's actions in the Russian River. Like the diversion reduction proposals for the Eel River that were pending at the time the WSTSP EIR was invalidated, these requirements are pending now. *See Friends of the Eel River*, 108 Cal. App. 4th at 874-75. The Project must be analyzed in the context of these requirements. To pretend they do not exist—the approach taken in the DEIR/EIS —is to ignore the Project's actual feasibility, cost, and environmental impacts. CEQA and NEPA demand a discussion of the Project's setting that reflects the real factors affecting water supply, not just the unrealistic assumptions of the Project proponent. *See Santa Clarita Organization for Planning the Environment v. County of Los Angeles*, 106 Cal. App. 4th 715 (2003).

M-38

E. The DEIR Fails to Evaluate the Project in the Context of a Court Order Invalidating SCWA's Urban Water Management Plan 2005.

SCWA's Urban Water Management Plan 2005 (UWMP) was written to provide required assessments of availability of water supplies, along with the reliability and risks involved in delivering the promised water to its Contractors in both normal and drought water years. This directly affects the ability of SCWA Contractors to predictably use and pass through wastewater to NBWRP members for treatment and reuse of that water.

However, the SCWA UWMP 2005 was ruled invalid by Sonoma County Superior Court (*Sonoma County Water Coalition et al v. SCWA*, No. SCV 240367, Sonoma County Superior Court, 10/28/08), which noted SCWA's proposal to increase diversions from the Russian River potentially conflicts with protection of this river for fish and wildlife, recreation, and existing agricultural and domestic uses. The court set aside SCWA's UWMP, and directed SCWA to acknowledge and address the potential water shortages facing Sonoma County before unsustainable urban growth deprives existing and future agricultural, urban, and recreational uses of essential water supplies.

M-39

The court ruled that SCWA's UWMP ignores or understates many severe constraints on future water supply, and that SCWA violated the UWMP Act in the following respects:

(1) The SCWA failed to coordinate with relevant agencies as required by the Act;

(2) The Plan fails to include the degree of specificity required by the Act;
(3) The Plan fails to adequately consider environmental factors, specifically, the effect of changed water flows during period of water shortfalls on the salmonids, and other potential implications of the Endangered Species Act;
(4) The Plan fails to adequately address the effect of recycled groundwater on the availability of water supply in the future; and
(5) The Plan fails to quantify with reasonable specificity the scope of water demand management measures which are relied upon to address the anticipated water shortfalls.

According to the Superior Court, the UWMP unreasonably assumed that water will continue to be available from both the Eel River and the Russian River in amounts sufficient to support future projected agricultural, commercial, and residential uses in SCWA's service area. *See UWMP Decision* at 36-41.

The court correctly noted that ongoing efforts to enforce the Endangered Species Act's protections for threatened and endangered salmonids would continue to reduce, not increase, the amount of water available for diversion by SCWA. *See id. a*t 38-40.

The DEIR/EIS suffers from a series of basic deficiencies. As discussed above, the DEIR/EIS irrationally assumes that flows in the Russian River will remain the same throughout the Project period when all indications are to the contrary, and completely fails to address how those flows could be increased when it is far more likely that they will have to decrease.

M-39 cont.

Finally, the DEIR/EIS states with unsubstantiated certainty that there is no functional relationship between the Project and the UWMP, and the DEIR/EIS fails to address the consequences for the Project—which relies in part on the analysis and assumptions contained in the UWMP—of the judgment invalidating the UWMP. *Cf. Friends of the Santa Clara River v. Castaic Lake Water Agency*, 95 Cal. App. 4th 1373 (2002) (holding that EIR expressly tiered from previous, invalid EIR is also invalid).

These deficiencies must be remedied in a revised and recirculated DEIR/EIS.

M-40

F. The DEIR/EIS Fails to Consider Minimum Flow Changes and Cumulative Impacts as a Result of Implementation of AB2121.

The very demands placed upon the Russian and Eel Rivers by the existence of long-term contracts anticipated in the Project must be addressed in the DEIR/EIS, including the ability to manage the Russian River under regulations being developed for AB2121.

The DEIR/EIS once again ignores and minimizes any relationship between using recycled water that is sourced originally from the Russian and Eel River watersheds and then pumped in an interbasin transfer out of the watersheds.

M-41

Yet the development by SWRCB of the rules, definitions, bypass requirements, minimum streamflows and enforcement procedures to meet the requirements of AB2121 is not only dismissed as irrelevant and not connected, but the DEIR/EIS makes the simple declaration that "Provision of recycled water by the NBWRP would provide recycled water offset for supplies that may currently be diverted from instream flow. As such, the NBWRP would have a beneficial contribution to cumulative increases in instream flow associated with implementation of AB 2121." (DEIR/EIS, pg 4-41,42).

M-41 cont.

The DEIR/EIS again asserts Project benefits for which there is no supporting documentation. To the contrary, evidence points to very serious cumulative impacts of continued diversion and flow practices within the Russian River watershed, upon which the Project depends for its lifeblood.

G. The DEIR/EIS Fails to Evaluate the Possibility that Eel River Diversions Will Be Reduced or Curtailed Legally or Structurally.

The continued diversion of more than 100,000 AFY from the Eel River through the PVP—a diversion on which, as previously shown, this Project relies heavily to continue water flows in the Russian River for potable use by SCWA Contractors and reuse by the Project —is not certain. The diversion facilities, from Scott Dam to the diversion tunnel, are aging and have been beset by structural problems in the past. The failure of any of these structures could dramatically affect water supplies in the Russian River, and drastically affect the ability of the Project to produce and deliver contracted recycled water to its customers.

M-42

The DEIR/EIS fails to address these possibilities as part of the environmental setting and cumulative impacts, even though SCWA has been aware of them for many years. For example, a study conducted by SCWA in 1990 concluded that there "are a number of contingencies," including safety problems at Scott Dam and the potential for a collapse of the PVP diversion tunnel, "which render the supply of water from the South Fork Eel River [*sic*] . . . less than totally reliable." Sonoma County Water Agency, *Report on the Adequacy of the Russian River Water Supply* (June 1990) at pg. 29. The DEIR/EIS fails to adequately analyze these "contingencies" in light of current information.

The DEIR/EIS further fails to address whether there are existing, pending, or unexercised water rights in the East Branch Russian River, other tributaries to Lake Mendocino, or the Eel River that, if granted or exercised, could reduce the total inflow of Eel River water to Lake Mendocino and the Russian River. Again, these rights are an important part of the environmental setting because they affect the total amount of water available for SCWA's diversions and hence the availability for reuse through the Project.

M-43

The DEIR/EIS fails to address ongoing frost and heat protection proposals from grape growers being considered by SWRCB and FERC, which could alter total inflows to Lake Mendocino or minimum flows in the Russian River and its tributaries, thereby affecting

the amount of water available ultimately for this Project. A revised and recirculated DEIR/EIS must disclose the specifics of these proposals and must evaluate the proposals' impacts on the Project's ability to supply recycled water with reliability. M-43 cont.

The DEIR/EIS also fails to tell the public, decision makers, regulatory agencies and potential recipients of recycled irrigation water what prioritization there will be, and what criteria will be used for reduced or eliminated deliveries in event that wastewater deliveries to NBWRA members are impaired. M-44

This DEIR/EIS fails to address several factors that render the long-term reliability of the Eel River diversion – and the dependent Russian River withdrawals - questionable at best. The DEIR/EIS, however, simply assumes that those diversions will continue—and the Project cements SCWA's and the Project's reliance on those diversions. These factors, and their potentially significant cumulative impacts must be evaluated in a revised and recirculated DEIR/EIS. M-45

Finally, the lack of clarity in the DEIR/EIS concerning where the water for the Project will come from also begs one essential question: does SCWA, NBWRA or Reclamation need water from the Eel River in order to serve its Project customers and contractors, or can those obligations be met without reliance on continued diversions from the Eel River through the PVP to the Russian River watershed? Over the past several years, SCWA has answered this question differently in various contexts, or has refused to answer it altogether. In a revised DEIR/EIS, or in the responses to comments on this DEIR/EIS, SCWA, NBWRA and Reclamation must answer this question. M-46

H. The DEIR/EIS Fails to Evaluate Changes in Water Supply Resulting from Severe Drought Conditions.

Long-term climatological patterns may pose the greatest threat to the DEIR/EIS's assumptions concerning water availability and deliveries. In light of potentially serious drought conditions and water storage deficiencies in the current water year, SCWA, SWRCB and other agencies have held a series of public meetings to discuss the possibility of mandatory conservation and water supply restrictions. Sonoma County Water Agency, *We Need to Talk . . . About Water* (Feb. 2009); *see also* Bob Norberg, "Water Officials Dispute Declaring North Bay at 'Normal' Levels," *Santa Rosa Press-Democrat* (March 5, 2009). M-47

SCWA filed a temporary urgency change petition with the State Water Board to reduce instream flow requirements under Decision 1610 for 2009, as a third drought year in a row. This was granted by SWRCB (*See*, SWRCB, Order 2009-0027-DWR, Order Approving Temporary Urgency Change, 4-6-09). Clearly, such changes could affect supply of water for the Russian River and therefore the Project's source waters. Yet the DEIR/EIS does not disclose or discuss them. This omission must be remedied in a revised and recirculated DEIR/EIS. Nor does the DEIR/EIS adequately address the possibility that long-term changes in precipitation patterns resulting from global climate

change will affect the Project's assumptions, cost, and impacts. Again, a legally adequate DEIR/EIS must reflect SCWA, NBWRA and Reclamation's best efforts to find out and disclose all that it reasonably can about such possibilities. CEQA Guidelines § 15144. The DEIR/EIS falls short of this requirement.

M-47 cont.

IV. The DEIR/EIS Fails to Adequately Disclose, Analyze, and Propose Mitigation for the Project's Significant Environmental Impacts.

The discussion of a proposed project's environmental impacts is fundamental to an EIR. *See* CEQA Guidelines § 15126.2(a) ("[a]n EIR *shall* identify and focus on the significant environmental effects of the proposed project") (emphasis added). As explained below, the DEIR/EIS's environmental impacts analysis is deficient under CEQA because it fails to provide the necessary facts and analysis to allow the City and the public to make informed decisions about the Project. An EIR must effectuate the fundamental purpose of CEQA: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." *Laurel Heights Improvement Assn. v. Regents*, 6 Cal. 4th 1112, 1123 (1993). To do so, an EIR must contain facts *and* analysis, not just an agency's bare conclusions. *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 568 (1990). Thus, a conclusion regarding the significance of an environmental impact that is not based on an analysis of the relevant facts fails to fulfill CEQA's informational goal.

Additionally, an EIR/EIS must identify feasible mitigation measures to mitigate significant environmental impacts. CEQA Guidelines § 15126.4; 40 C.F.R. §§ 1508.14(f), 1508.20. Under CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." Pub. Res. Code § 21002.

M-48

The DEIR/EIS's failures to provide a stable and consistent description of the Project, and its failures to provide an accurate and complete account of the environmental setting, render its analysis of direct, indirect, and cumulative impacts inadequate. Indeed, each of the deficiencies discussed above leads inexorably to a deficiency in impacts analysis, as discussed in greater detail below.

A. The DEIR/EIS Fails to Adequately Disclose, Analyze, and Propose Mitigation for the Project's Significant Cumulative Impacts.

An EIR and EIS must discuss significant "cumulative impacts." CEQA Guidelines § 15130(a); *see also City of Carmel-by-the-Sea v. U.S. Dept of Transp.*, 123 F.3rd 1142, 1160 (9th Cir. 1997) (EIS insufficient when it described past projects "with generalities insufficient to permit adequate review of their cumulative impacts").

"Cumulative impacts" are defined as "two or more individual effects which when considered together, are considerable or which compound or increase other environmental impacts." CEQA Guidelines § 15355(a) *see also* 40 C.F.R. § 1508.7) "[I]ndividual effects may be changes resulting from a single project or a number of separate projects." CEQA Guidelines § 15355(a). A legally adequate "cumulative impacts analysis" views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable future projects whose impacts might compound or interrelate with those of the project at hand. "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." CEQA Guidelines § 15355(b).

M-48 cont.

1. The DEIR/EIS Fails to Consider the Cumulative Impacts of Increasing SCWA's Reliance on the Eel River Diversion.

The Court of Appeal set aside the EIR for the SCWA WSTSP largely because it failed to address the cumulative impacts of that supply project in connection with the potential for decreases in the amount of water diverted from the Eel River into the Russian River. *See Friends of the Eel River*, 108 Cal. App. 4th at 868-72.

The current DEIR/EIS recapitulates this failure. This is so for two basic reasons. First, as discussed above, the DEIR/EIS assumption that the Eel River diversion will remain unchanged through the life of the Project, or even through the effective period of the current FERC license, is unsupported and irrational. Decision 1610 will almost certainly be amended, interim flow restrictions will be implemented, further Endangered Species Act restrictions could be imposed, additional water rights could be permitted or exercised, current and future proceedings before FERC could change the amount of inflow to Lake Mendocino, or SCWA or another entity could acquire the PVP.

M-49

A legally adequate EIR would have to analyze the cumulative impacts of the Project in connection with each of these eventualities. This DEIR/EIS fails to do so.

Second, the DEIR/EIS fails to account for the impacts on the Eel River of effectively locking in SCWA's reliance on diversions through the PVP. These diverted waters are supplements to the Russian River, through storage and release from Lake Mendocino, and thence flow to SCWA's customers and NBWRA's Project's providers. The DEIR/EIR claims that there is no need to analyze indirect or cumulative impacts on the Eel River because the Project will have no effect on the operation of the PVP. The salient point, however, is not that this Project changes anything about the PVP, but rather that this Project contemplates long-term reliance on the PVP by water suppliers, retailers, customers, vineyards and developers—resulting in a new and extended commitment of water. The fact that those impacts will occur in the Eel River watershed, as well as in the Russian River, is illogically and unlawfully omitted from the DEIR/EIS.

As proposed, the NBWRP Project will have a long-term, cumulative impact on the Eel River and its fishery for as long as SCWA, NBWRA, their customers and

Contractors, and Reclamation continue to rely on potable water supplies and diversions from the Russian River and through the PVP from the Eel River. Once NBWRA member agencies commit Eel and Russian River water to its customers, it will be difficult if not impossible to further decrease diversions from the Eel River. Over the long term, this commitment will have a continuing and deleterious impact on the survival and recovery of the Eel River's salmon and steelhead. That impact must be considered in a revised and recirculated DEIR/EIS.

M-49 cont.

M-50

2. The DEIR/EIS Fails to Analyze Cumulative Impacts Related to Recycled Water and Local Supply Projects Implemented by SCWA's Contractors.

The DEIR/EIS's assumptions regarding water demand and recycled water availability under the Project are predicated in part on water savings and supplies from recycled water and local supply projects implemented by SCWA's contractors. However, as previously noted, several of these projects are now suspended or terminated: NSCARP and WSTRP are the most prominent. Santa Rosa's Urban Water Reuse Plan, another Reclamation Title XVI project, remains unfunded and without environmental review, but in financial competition with the NBWRP. The impacts of the material changes in these projects, however, are not disclosed nor are fully discussed in the DEIR/EIS. This is unlawful. The list of past, present, and reasonably foreseeable future related projects analyzed in this DEIR/EIS surely should have included the updated status of the local supply and water recycling projects that underlie the DEIR/EIS's assumptions.

M-51

Nor does the DEIR/EIS specifically analyze the potential availability of recycled water to offset additional demands for potable water that are currently met by SCWA's potable water supplies. Petaluma's use of recycled water within its new General Plan and Water Supply Analysis allows that city to avoid increasing demands for new potable water supplies until at least 2018. While the NBWRA solicited involvement by Petaluma in the Project, Petaluma instead chose deliberately to use its own treated wastewater to offset new potable demands, by using it for new construction and landscaping.

M-52

Local supply and recycling projects that rely on surface impoundment or groundwater extraction have impacts that, in combination with those of the Project, could be cumulatively considerable. A revised and recirculated DEIR must also address these impacts.

M-53

B. The DEIR/EIS Fails to Adequately Disclose, Analyze, and Propose Mitigation for the Project's Growth-Inducing Impacts.

CEQA requires that an EIR include a "detailed statement" setting forth the growth-inducing impacts of the proposed project. Pub. Res. Code § 21100(b)(5); *City of Antioch v. City Council of Pittsburg,* 187 Cal. App. 3d 1325, 1337 (1986). The statement must "[d]iscuss the ways in which the proposed project could foster economic growth, or

M-54

the construction of additional housing, either directly or indirectly, in the surrounding environment." CEQA Guidelines § 15126.2(d). It must also discuss how projects "may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively" or "remove obstacles to population growth." *Id.*

M-54 cont.

The Project, in both its "project-level" and its "program-level" guises, is expressly intended to remove obstacles to population growth and land development by providing additional water to supplement limited supplies of potable and irrigation water. The DEIR, however, simply references and incorporates the EIRs prepared for the general plans of jurisdictions within SCWA's service area, and states that the impacts of growth that might be induced by the Project were already considered in those EIRs. (*See generally* DEIR/EIS Ch. 5)

The DEIR/EIS improperly and inaccurately uses the legally invalidated UWMP 2005 to supply projected demand and water sources for SCWA at Table 5-7. One glaring defect is the presumption that SCWA's Russian River diversions will increase to 101,000AFY. This is patently unlikely, given that the SCWA Board of Directors has withdrawn the WSTRP DEIR recently, and has defunded the work for at least this next fiscal year 2009-2010 (Randy Poole, SCWA, statements to Water Advisory Committee). Without the successful environmental review for an expanded water collection, storage and transmission system as envisioned in the WSTRP and its EIR, it is infeasible for SCWA to obtain and use more water than its existing 75,000AFY Russian River water rights. As a result, the conclusions in the DEIR/EIS regarding water supplies to SCWA contractors, and the Growth Inducement and Secondary Impacts of Growth (Chapter 5) are deficient, as the growth may actually be significantly lower than predicted. This might well occur as water supplies and customer usage is also reduced as a result of conservation, efficiencies, regulatory requirements, pricing or climate change. Consequently, projected wastewater inflows and recycled water availability may likewise be lower than predicted. Impacts of such a reduction in available wastewater and recycled water must be addressed by a revised and recirculated DEIR/EIS.

M-55

V. The DEIR/EIS Analysis of Alternatives Is Inadequate.

The analysis of alternatives to the proposed project lies at "[t]he core of an EIR." *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 564 (1990). Under CEQA, a lead agency may not approve a project if there are feasible alternatives that would avoid or lessen its significant environmental effects. Pub. Res. Code §§ 21002, 21002.1(b). To this end, an EIR is required to consider a range of potentially feasible alternatives to a project, or to the location of a project, that would feasibly attain most of the project's basic objectives while avoiding or substantially lessening any of the project's significant environmental impacts—even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly. Pub. Res.Code § 21100(b)(4); CEQA Guidelines §§ 15126(d), 15126.6(b); *Save Round Valley Alliance v. County of Inyo*, 157 Cal. App. 4th 1437, 1456 (2007).

M-56

By the same token, a project proponent may not define its objectives so narrowly as to preclude a meaningful analysis of alternatives. *See Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 736-37 (1990) (holding that applicant's prior commitments could not foreclose analysis of alternatives); *see also Simmons v. U.S. Army Corps of Engineers*, 120 F.3d 664, 666-67 (7th Cir. 1997) (holding under NEPA that agency may not "contrive a purpose so slender as to define competing 'reasonable alternatives' out of consideration (and even out of existence)").

A proper analysis of alternatives is essential to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Res. Code. § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(d); *Citizens for Quality Growth v. City of Mount Shasta*, 198 Cal. App. 3d 433, 443-45 (1988). As the Supreme Court stated in *Laurel Heights I*, "[w]ithout meaningful analysis of alternatives in the DEIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." 47 Cal. 3d at 404. The DEIR/EIS's discussion of alternatives fails to live up to these standards.

The evaluation of alternatives is also the "heart" of an EIS. 40 C.F.R. § 1502.14 (2004). It "guarantee[s] that agency decisionmakers have before them and take into proper account *all possible approaches to a particular project…which would alter the environmental impact and the cost-benefit balance…" Bob Marshall Alliance v. Hodel,* 852 F.2d 1223, 1228 (9th Cir. 1988) (emphasis added, internal citations, quotations and alterations omitted). NEPA's regulations and Ninth Circuit case law also require an agency to "[r]igorously explore and objectively evaluate all reasonable alternatives." §1502.14(a) (emphasis added); *Citizens for a Better Henderson v. Hodel,* 768 F.2d 1051, 1057 (9th Cir. 1985) (EIS must consider "every" reasonable alternative).

M-56 cont.

The courts, in the Ninth Circuit as elsewhere, have consistently held that a federal agency's failure to consider a reasonable alternative is fatal to a NEPA analysis. *See, e.g., Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1519-20 (9th Cir. 1992) ("The existence of a viable, but unexamined alternative renders an environmental impact statement inadequate."); Forty Most Asked Questions Concerning CEQ's NEPA Regulations, 48 Fed. Reg. 18,026 (March 16, 1981) ("In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out the particular alternative. Reasonable alternatives include those that are practical or feasible from a technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.") "In order to be adequate, an environmental impact statement must consider not every possible alternative, but every reasonable alternative. *Friends of Endangered Species v. Jantzen,* 760 F.2d 976, 988 (9th Cir. 1985); *California v. Block,* 690 F.2d 753, 766-67 (9th Cir. 1982); *Save Lake Washington,* 641 F. 2d at 1334 (9th Cir. 1981).

A. The DEIR Defines the Project Purpose So Narrowly As to Preclude Meaningful Analysis of Alternatives.

The Project has one core Purpose:
"The NBWRA is a cooperative program in the San Pablo Bay region that supports sustainability and environmental enhancement by expanding the use of recycled water. The purpose of the NBWRP is to provide recycled water for agricultural, urban, and environmental uses thereby reducing reliance on local and imported surface and groundwater and reducing the amount of treated effluent releases to San Pablo Bay."
(DEIR/EIS, pg. ES-2)

The key words in this Purpose Statement are, of course, "expanding the use of recycled water." All of the alternatives discussed in detail in the DEIR/EIS are predicated on serving this "expan[sion of] the use of recycled water."

Similarly, the NBWRA's website (www.nbwra.org) provides a parallel mission statement and objectives:

"*A cooperative program in the North San Pablo Bay region that promotes sustainability and environmental enhancement by expanding use of recycled water*."
"*Five local agencies in the North San Pablo Bay region have formed the North Bay Water Reuse Authority (NBWRA) to put recycled water to its broadest and most beneficial use*."
"By establishing a partnership of local, state and federal agencies with similar mandates, the Program develops cost-saving economies of scale and qualifies for access to state and federal funding sources."
(http://www.nbwra.org/costfunding/ Emphasis added).

"Q*: How will a coordinated, regional development of recycled water projects save money?*

A*: Instead of pursuing individual recycled water projects, this coordinated, regional approach provides economies of scale for the planning, engineering and environmental studies. It also maximizes the ability of the Authority partners to obtain local, state and federal funding assistance for their projects***. The North San Pablo Bay Restoration and Reuse Project has been developed specifically to meet the Bureau of Reclamation's Title XVI funding requirements, as well as requirements for State funding. By matching proposed water recycling projects to the requirements for government funding, the Authority is getting the biggest bang for its buck, thus making the development of vital recycled water projects affordable to local users."**

(http://www.nbwra.org/faq/ Emphasis added).

M-56 cont.

As a result of these early and deliberate decisions, NBWRA and their members have explicitly "defined" current and future water reuse, markets, target recipients, and needs in such a manner as to preclude meaningful analysis of alternatives in the DEIR/EIS. In fact, in a meeting with Grant Davis (SCWA) and other stakeholders, he noted that funding success from Reclamation's Title XVI parallels the size of the project: the bigger the project, the more likely to receive funding from Reclamation. (personal communication, 12/18/07, The Bay Institute offices, Novato)

CEQA prohibits a project applicant from using the fact of a previous contractual commitment to foreclose alternatives analysis. In *Kings County*, the consultant preparing an EIR declined to consider an alternative that would have prevented the project applicant from meeting the terms of a contract with a third party. *See* 221 Cal. App. 3d at 735-36. The Court of Appeal held that the alternative should have been analyzed: "although applicants may enter into contracts and agreements prior to the completion of the environmental review process, such contracts or agreements cannot be used to avoid the scrutiny envisioned by CEQA." *Id.* at 737. The existence of such a contract, while relevant, "does not preclude consideration of otherwise feasible alternatives. Renegotiation of the contract may have been possible; if not, the EIR must indicate the reasons for that conclusion." *Id. See also Simmons v. U.S. Army Corps of Engineers*, 120 F.3d 664, 666-67 (7th Cir. 1997) (holding under NEPA that agency may not "contrive a purpose so slender as to define competing 'reasonable alternatives' out of consideration (and even out of existence)").

M-56 cont.

Whether the DEIR/EIS predicated its recycled water demand assumptions, targets, market and needs on NBWRA, SCWA and Reclamations's desire to meet Federal and State funding objectives, current or projected; or under its MOU with member agencies, landowners, other public agencies; or whether it assumed that only one set of "defined" recycled water demand assumptions needed to be considered, it nonetheless unlawfully constrained the analysis of potentially feasible alternatives that would reduce some of the impacts of increasing diversions from the Russian and Eel River and SRPGW.

Here, far from indicating that the Project can find alternate ways to meet objectives such as reducing treated wastewater discharges to San Pablo Bay; or that it may not be desirable to meet the funding requirements for Title XVI or State funding; or that there may be environmentally superior alternatives to those considered in the DEIR/EIS; or that its MOU with member agencies cannot be renegotiated; the DEIR/EIS instead claims that there are no other means to achieve their narrowly stated goals and objectives.

Accordingly, the DEIR/EIS must analyze whether NBWRA, SCWA and Reclamation can feasibly reduce wastewater loads, reduce demands for potable water, reduce long-term dependency and demands for water from the Eel and Russian River watersheds and SRPGW, and find alternative ways to meet broader project objectives.

Indeed, the DEIR/EIS's recycled water demand and supply analysis appears intended to provide a *post hoc* rationalization for the promises NBWRA or SCWA made to its

contractors or participating members and agencies. This is contrary to CEQA's purpose. *See Laurel Heights I*, 47 Cal. 3d at 394. The DEIR/EIS's failure to seriously consider any alternative that would reduce the total amount of recycled water supposedly needed by or available to its prospective customers—a failure explained in detail below—confirms that the key decision supposedly under review here has already been made. CEQA demands just the opposite. M-56 cont.

B. The DEIR Fails to Analyze a Reasonable Range of Alternatives.

For the same reasons, the DEIR/EIS failed to analyze a "reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation," as CEQA requires. CEQA Guidelines § 15126.6(a); *see also Kings County*, 221 Cal. App. 3d at 733. Rather, the DEIR/EIS essentially discussed a large number of small variations on a single alternative, namely that of how large to build the Project with Alternatives 1, 2 and 3, or 'big', 'bigger' and 'biggest.' A legally adequate alternatives analysis must include a wider range of options, which would include but not be limited to those proposed below.

1. The DEIR Fails to Analyze a Serious Demand Reduction and Efficiency Alternative.

One of the DEIR/EIS's major deficiencies is its failure to analyze whether all or part of the Project's estimated water demand and supply could be reduced or met by redirecting the effort and capital that the Sponsors are expending on the Project into a serious, mandatory conservation, efficiency and local reuse program. The Project is tremendously expensive—on the order of hundreds of millions of dollars—and the increased burden on ratepayers, taxpayers and recipients will be dramatic. M-57

A revised DEIR/EIS should analyze whether shifting a portion of this investment to water efficiency would, in fact, be more cost-effective than increasing diversions, pipelines, pumps and building additional facilities to convey water. Reduced wastewater inflows (including repair of Inflow and Infiltration problems, I&I) means smaller treatment capacity needs, fewer chemicals and energy needed to provide the treatment, and smaller amount of wastewater to be disposed of in the first place. Instead, the Project wrongly assumes that there are not only no reductions forthcoming in wastewater inflows, loads and demand for treatment, but rather posits an unwarranted increase in treatment and disposal volumes.

A serious efficiency alternative would have several components.

First, it would shift capital expenditures away from measures to collect and distribute as much treated wastewater, or recycled water, to as broad an area as possible. In fact, the existence of the Project as ultimate purveyor of treated wastewater (primarily to vineyards outside the urban service areas) becomes a major disincentive to local water M-58

contractors, cities and wastewater treatment operators to do the more complex projects of supplying recycled water to offset local, potable water demand, starting first with offsetting and reducing demands for potable water that originates in the SCWA Russian River Project. Or, for customers of MMWD, to offset potable water demands on its limited watershed and reservoir capacities. For Napa customers, that would mean reducing demands for local surface and groundwater and State Water Project inflows. By reducing demand for potable water for indoor use during the critical dry months, this approach would also substantially reduce GHG emissions and energy use.

M-58 cont.

Second, such an efficiency alternative would shift the Project design, water supply and WWTP programs from encouraging *voluntary* conservation (such as rebates to consumers for purchasing more efficient fixtures for their homes), and toward more comprehensive and effective financing of efficient technology. Programs such as *PAYS* and other energy and resource efficiency programs can be self-financing, with savings of water, energy and wastewater reductions used to finance the costs of vastly improved water and energy appliances, devices, machinery and controllers.

M-59

Third, it would be mandatory and comprehensive, not voluntary and largely unmonitored. A number of recent publications have proposed strategies for increasing residential, commercial, industrial, and institutional water efficiency through innovative financing mechanisms. Such mechanisms could include either (1) direct financing through bonds for efficiency measures affixed to real property, with costs to be recovered through property taxes; or (2) tariffed installation programs that finance proven efficiency measures, with repayment collected through utility bills. *See* Edwin Orrett, PE, *Achieving Extraordinary End Use Efficiency* (Resource Performance Partners, Inc. 2009); *see also* Merrian Fuller, *Enabling Investments in Energy Efficiency: A Study of Energy Efficiency Programs that Reduce First-Cost Barriers in the Residential Sector* (California Institute for Energy and the Environment, Sept. 2008).

Although such programs would likely require an initial capital outlay, studies performed in the Santa Rosa area have shown that residential efficiency programs could actually *save* money over the long term. *See* Edwin B. Orrett, PE, and John Rosenblum, Ph.D., *Greenhouse Gas Emissions Related to Water and Wastewater Services: Baseline, Reduction Strategies, and Recommendations* (Climate Protection Campaign, June 2008) at 144-53.

A serious efficiency program also could result in water savings far in excess of the voluntary measures considered in the DEIR. For example, one efficiency proposal for the City of Petaluma concluded that targeted efficiency improvements and local reuse of the City's own treated and recycled wastewater could offset all of the new water needs in the City's commercial, industrial, and institutional sector for over a decade. *See* Edwin Orrett, PE, Hold the Flow! Commercial, Industrial, and Institutional Water Efficiency Program for the City of Petaluma (Pacific Technology Assoc., June 2002); City of Petaluma Water Supply Analysis, Petaluma General Plan 2020.

M-60

Accordingly, the cost-effectiveness and beneficial environmental impacts of such an alternative should be evaluated in light of the tremendous cost to ratepayers of building all components of the Project. Put another way, a revised DEIR/EIS should analyze just how much efficiency – with concomitant water and energy demand reductions system-wide - could be purchased for a capital investment of $100M to $600M in 2009 dollars through 2029, or over the lifespan of the Project. M-61

NBWRA members including SCWA might object that they cannot implement this type of efficiency program because SCWA is a water wholesaler, or because the other NBWRA members are merely wastewater treatment agencies, rather than a provider of retail services. The objections are unfounded. The SCWA Restructured Agreement for Water Supply gives SCWA authority to require its contractors to implement conservation measures. *See* Restructured Agreement § 1.12. Further, NBWRA members must look at their abilities to provide an environmentally benign or sustainable project. The DEIR/EIS is silent on their authority and ability to negotiate systemwide with other critical stakeholders to produce a superior project. M-62

The DEIR/EIS provides no evidence that SCWA, NBWRA, their members, or Reclamation could not feasibly negotiate a water supply and/or wastewater treatment agreements with its contractors that would require implementation of other efficiency measures, while at the same time offering financial support and continuing to supply the balance of needed water and wastewater treatment services.

The expert studies referenced in this letter show that efficiency measures could be a cost-effective and practical alternative to increasing diversions and building additional water conveyance and wastewater treatment and disposal facilities. These measures would advance all of the Project's objectives of: M-63

1. Offset urban and agricultural demands on potable water supplies;
2. Enhance local and regional ecosystems;
3. Improve local and regional water supply reliability;
4. Maintain and protect public health and safety;
5. Promote sustainable practices;
6. Give top priority to local needs for recycled water; and
7. Implement recycled water facilities in an economically viable manner. (pg ES-2)

while avoiding many of the Project's significant environmental impacts. A number of presentations and documentation were provided to the preparers of the DEIR/EIS, but were omitted from a serious discussion of 21st Century sustainable alternatives. A revised DEIR/EIS must be circulated that contains a serious analysis of the feasibility of such alternatives.

2. The DEIR Fails to Analyze Alternative Methods of Increasing Local Water Supply, Reducing Demands within the Project Service Areas, and Reducing Project Size or Eliminating Need for Project.

This should be the core of proposing and designing alternatives for the Project, but are glaringly absent from the DEIR/EIS. Some suggestions for inclusion in a revised and recirculated DEIR/EIS are provided below.

For a focused integrated approach to addressing increasing limitations of water supply for rural and urban water users, see "*Irrigated Agriculture Water Needs and Management in the Mendocino County Portion of the Russian River Watershed"* University of California Cooperative Extension and County of Mendocino, July 2008. "Working with Mendocino County agriculture to first understand its current and future water demand and then evaluate the existing and potential options for meeting this need, is the best opportunity to relieve the pressure that competition for water is creating for all users and in particular for agriculture users." "This study was conducted using aerial photograph interpretation, geographic information system analysis, on-farm irrigation system evaluation, and grower focus groups and surveys to document irrigated agriculture acreage and water demand."(pg. iii).

M-64

This study provides a much more comprehensive overview than has been provided in very narrowly focused Project DEIR/EIS. It provides specific programs and practices developed in consultation with urban and agricultural stakeholders to address water use efficiencies and demand reductions along with alternative small scale water supply policies and projects. The Project DEIR/EIS would be improved greatly had it presented similar information and analysis.

(a) Adoption of Best Management Practices for Existing Vineyards in Proposed Service Area Could Substantially Reduce Groundwater Overdraft and Saline Intrusion, and Reduce Demand and Size for the NBWRP Project.

The DEIR/EIS fails to disclose, discuss or analyze any changes in agricultural practices that might reduce the demand for the additional potable water, replacement, or additional recycled water to be supplied through this Project.

Given that the vast majority of the recycled water proposed to be supplied through the Project is to serve vineyards - approximately 24,929 acres out of a total of 27,472 acres within the designated reuse areas, or 90.7% of the Service Area (DEIR/EIS, Table 2-1, pg. 2-6) - there should be a discussion of what Best Management Practices are currently in use, and a full disclosure of a range of proposals for reduction of water demands for vineyards, as well as other beneficiaries of the Project.

M-65

The DEIR/EIS fails to disclose the water needs of the vineyards already planted, and what their projected 'needs' are under various irrigation, frost and heat protection scenarios. It fails to disclose what new vineyards would be planted with recycled water supplied from the Project, their acreage, locations, and current land uses and crops.

The DEIR/EIS fails to show what Service Area lands are currently in vineyard use, what their existing water use is, their agricultural yields by parcels or by owners, their pumping capabilities and history, and local storage capacities. Further information and data must also be provided regarding the conditions of local groundwater aquifer(s) or surface water, including depth, yields, quality and surface flows over the course of the water year or crop cycles. Depths of saline intrusion and trends over the past 15 years must be disclosed. Impacts of irrigating the Service Areas lands must be disclosed. What would happen to the local groundwater tables and saline intrusion if winter storm water was not efficiently drained from the fields, as is now the common practice? M-66

The DEIR/EIS fails to disclose the current Service Area lands that are planted in grapes, and which of the acreage uses the common practices of draining these fields during the rainy season. This common practice, while allowing shallow-rooted grape stock to keep their roots above the elevated water table during the winter, also significantly reduces the volume of water that percolates or infiltrates for storage within the shallow and deeper groundwater basins. This is one of the deficiencies in local groundwater supply that the Project is attempting to correct – but at an extremely high economic and environmental cost. M-67

The DEIR/EIS fails to provide a water balance model and mapping for the Project's Service Areas, which would also show what naturally occurring water occurs, changes over time, and changes due to particular crops or land uses.

Is there a better use for treated wastewater and the recycled water supplies emanating from the NBWRA members' wwtps? Must so much of the recycled water be used to mask the poor and unsustainable practices currently in use in the targeted vineyards? The DEIR/EIS fails to address any of these issues, and instead takes for granted that there is an insurmountable problem that only the Project can address. M-68

(b) Eliminating Unsustainable Vineyards in Areas of Groundwater Overdraft and Saline Intrusion Would Reduce the Need for the Project and the Project's Size.

The Project Objective "*promote sustainable practices*" is contraindicated by the very nature of this Project's assumptions of local viticulture and related permanent local overdraft into the indeterminate future.

On its face, vineyard operations in the Project Service Areas are not "sustainable practices". They cannot be labeled "sustainable practices" now or in the future, if their success is dependent on over-drafting the local groundwater table or surface water supplies beyond what is replenished naturally each winter. They cannot be labeled "sustainable practices" if their success is dependent on a hugely expensive constructed pipeline and pumping system for the importation of additional water through the Project, at significant cost to the taxpayers, the originating source waters, and the environment. M-69

Is the planting of irrigated rootstock for vineyards warranted at all? (See a discussion of these issues at: Alice Feiring, *Turning Water into Wine,* SF Chronicle). Why should the taxpayers, ratepayers and environment pay the substantial externalized costs of providing recycled water through the Project (at a 50 year cost of $150M - $570M) for planting the wrong crops in the wrong place to begin with? What is the value of the current grape crops vs. the lifecycle costs of the Project? Who pays for the costs? Who benefits from the Project?

M-69 cont.

The DEIR/EIS fails to offer any data or analysis to show why vineyards currently planted in areas of groundwater or surface water overdraft or in areas of saline intrusion into the Sonoma and Napa Valleys, should not be removed or planted with other crops or varieties less sensitive to saline conditions. Nor are other methods of reducing saline intrusion into the groundwater basins discussed. The DEIR/EIS fails to discuss changes in water demands or impacts to groundwater and surface waters that would result from the planting of deep-rooted and non-irrigated root grape stock, rather than the more water-intensive irrigated root stock.

M-70

(c) Prohibition on New Vineyard Conversions Within the Project Service Area will Reduce Water Demands and Project Size

It is clear that the largest portion of the recycled water to be supplied to the Project's Service Area is to provide irrigation to vineyards. If new vineyards are not supplied with recycled water from the Project, and if existing vineyards must find another way to farm sustainably, the Project focus on serving vineyard irrigation could be significantly reduced, with associated reductions in energy use and greenhouse gas emissions.

According to Table 2-1, and text at DEIR/EIS pg. 2-6, the proposed Project would supply:

Total Acreage at designated reuse areas:	27,472 acres total acreage
Vineyards:	24,929 acres = 90.7% of total
Dairy and pasture lands:	1396 acres = 5.1% of total
Urban landscaping:	812 acres = 3.0% of total
Irrigated farm lands:	336 acres = 1.2% of total

Unfortunately, the DEIR/EIS fails to indicate how much of the vineyard irrigation is for *existing* vineyards, and how much of it would be for *new* vineyards. The DEIR/EIS fails to disclose the usage in AFY for the existing or new vineyards, dairy, urban landscaping and irrigated farm lands. This information is critical to understanding the use of Project recycled water to serve existing 'needs' versus new growth or vineyard conversions to establish new vineyards. It is critical to determining the efficiencies of use, and the likely recycled water that shouldn't have to be delivered in the first place to inefficient or wasteful operations. This goes to the heart of the State Constitutions requirement for "reasonable and beneficial use" of the State's water resources.

M-71

There is evidence that deep rooted, 'dry farmed' grape rootstock is not as sensitive to saline conditions, and that the fields would not have to be drained during the winter to ensure their productivity. What other crops or varieties of crops would work in the target areas? While there may be claims that the prior grazing and hayfields were not 'economically feasible', leading to conversion to grape growing instead, it is hard to make the case that hundreds of millions of dollars in public subsidies to provide recycled water to grapes is "economically feasible". The externalized costs must be included in calculations for grapes and alternative crops.

The DEIR/EIS tragically fails to provide any information describing the provision of recycled water to *existing* vineyards, vs. *new* vineyards within the service areas. How much of the 24,929 acres of vineyards supplied would be new? What is the water demand for the existing vineyards proposed to be served?

M-71 cont.

(d) Local Storage Ponds and Infiltration Ponds Can Increase Availability of Water for Project Participants

The DEIR/EIS fails to discuss any details of how much new and existing storage capacity can be used, where it would be located, what acreage or land uses it would supply, the cumulative impacts, who pays for local or regional storage, and most importantly how it would fit within the overall water budget for the Project. Such local storage can be used for seasonal irrigation, frost protection and heat protection. The DEIR/EIS fails to discuss any such alternatives and the benefits or impacts they might bring to the Project.

In the confusion between "Project" and "Program" level descriptions, the DEIR/EIS is unclear about when vaguely identified storage options would be used or when it would be necessary to implement them. It fails to disclose ownership and funding of all storage ponds. It fails to disclose pipeline routes and pumping requirements related to storage facilities.

It fails to discuss the use of local storage ponds or containments filled with winter runoff and rainfall, as well as use for recycled water supplies. The DEIR/EIS critically fails to disclose whether the size and impacts of the Project can be eliminated, modified, avoided or reduced through the use of coordinated storage facilities (both above and below ground).

M-72

The DEIR/EIS similarly fails to acknowledge the seasonality and variability of water needs for vineyards and other agricultural crops and activities. As such, there is virtually no discussion of the volumes, flows, locations and needs for frost protection for vineyards, or how local ponds interplay with those needs and locations. A key part of this information would be identification of varietals that do not require frost and/or heat protection, and the potential impacts of such changes in planting.

M-73

There is no discussion of how the Project's supplies would or should be used for such agricultural activities. There is no discussion and data of the locations used for planting

M-74

vineyards, which areas are more subject to frost or heat damages, and the impacts of supplying or not supplying recycled water to those crops and locations. There is no discussion, data or analysis regarding which areas is overdrafting their local groundwater aquifers, where there is natural replenishment or charging of local groundwater tables, how much water is drained in field drainage during the rainy season, and where recycled water might not be needed if local practices or rootstock were to be altered.

A revised DEIR/EIS must provide this information, and provide analysis in the context of other alternatives that increase efficiency, decrease demand, and augment supply from sources other than the Russian and Eel Rivers and Santa Rosa Plain Groundwaters as the basic water supply to the Project.

M-74 cont.

(e) The EIR/EIS Failed to Respond to Suggested Alternatives Accurately, Fully and In Good Faith.

At 6.6.3, Variations of Proposed Action Alternatives, the DEIR/EIS virtually caricatures as a "Landscape-only Alternative" the suggested alternatives provided in detail during extensive meetings (8/6/08 and others) held with ESA and other Project staff and consultants, and in Scoping comments to the NOP by FOER, Edwin Orrett, Sonoma County Water Coalition, O.W.L. Foundation and others. (*See submissions at* Appendix 1 and 1A; incorporated by reference). The face to face meetings provided the consultants, SCWA and NBWRA staff and engineers with a wealth of verbal and in-depth written comments and materials over the course of several hours and several meetings. However, FOER was later informed that certain members of SCWA and NBWRA staff and directors unilaterally decided not to include the core information and suggestions proposed as being 'beyond the scope of their authority and purpose', and systematically instructed the EIR/EIS consulting team to omit them from the DEIR/EIS documentation. The proposals outlined above in this letter are a repetition of some of the salient points and alternatives raised with the Project consulting and management teams. This omission is both improper and invalidates the DEIR/EIS as an informative document.

M-75

The Project Alternatives, once again, appear to be driven by pre-judged decision-making, regarding contracts, agreements and funding desires of the proponents. The equity issues mentioned here are not discussed in any detail, with any documentation, nor for other Alternatives or options. The reasons used to reject even the narrowly focused Landscape-only Alternative are telling:

"A landscape-only alternative would not meet the stated project objective to offset urban and agricultural demands on potable supplies, as all recycled water would be prioritized to urban uses, and no recycled water would be made available to meet agricultural demands. Offset of groundwater pumped for agricultural uses would not occur, which is only of the clearly identified local needs for recycled water. [*sic*] A landscape-only alternative would focus funding to recycled water facilities in Marin, creating an equity issue among the NBWRA Member Agencies, and reducing the regional nature of the NBWRP."

M-76

(DEIR/EIS, pg. 6-32)

VI. The DEIR/EIS Failed to Consider Comments Submitted During the Scoping Process; Improper Interference with Commenter at Public Hearing.

FOER and other organizations and individuals submitted detailed and extensive scoping comments in response to the Notice of Preparation for this DEIR/EIS. (*See* Appx. 1 and 1A; including comments from FOER, O.W.L. Foundation, SWIG, Edwin Orrett, Sonoma County Water Coalition, and Sonoma County Conservation Action; *See also, "FOER recommendations to ESA for NBWRP Project Objectives"* 4/10/08) The DEIR/EIS did not incorporate or fully address those comments. Indeed, as previously discussed, specific suggestions and requests for analysis and alternative approaches were completely ignored, misconstrued or treated as scaled-down caricatures. Accordingly, those comments remain applicable to the DEIR/EIS, and are hereby incorporated by reference as if fully set forth herein, for full review and response in a revised and recirculated EIR/EIS.

One particularly egregious omission is the consideration of supplying treated wastewater to the Project from the City of Vallejo and the Vallejo Sanitary District ("VSD"). This option was presented in detail early in the Project development studies, as well as in writing by FOER and others as comments during Scoping (see comments from FOER). VSD discharges a huge amount of secondary treated wastewater to San Pablo Bay: approximately 10-12MGD as Average Dry Weather Flows; approximately 30MGD as Average Wet Weather Flows; and upwards of 50MGD as Peak Wet Weather Flows, due to tremendous Infiltration and Inflow (I&I) problems in the City of Vallejo's collection system. The VSD discharges of treated wastewater to San Pablo Bay far exceed the volumes discharges from the members of NBWRA and this Project. M-77

The Project could well include VSD in a revised project definition that truly aims to achieve substantial reduction of such discharges, while providing the City of Vallejo and the VSD an opportunity to improve their wastewater treatment capabilities to tertiary levels, reduce I&I problems, and provide an ample supply of recycled water to the Napa Salt Marsh Restoration project, Napa and Sonoma grapegrowers and other irrigated agriculture, industry and local landscaping uses – all without any further dependence on Russian and Eel River source waters. If this Project's and Reclamation's public funding is to be used to address regional problems, this is a tremendous opportunity to make very significant regional improvements – but it was completely ignored in the DEIR/EIS. A revised and recirculated DEIR/EIS must include a full analysis of this opportunity.

Finally, disturbingly, at the noticed Public Hearing for the Project's DEIR/EIS held at the Napa Elks Lodge, 2840 Soscol Ave, Napa, on June 11, 2009, the moderator abruptly cut off public input well before the scheduled meeting ending time was reached and while there were still public present who wished to provide comments or questions. FOER Bay Area Director David Keller attended this Public Hearing along with about 15 other members of the public, and was able to ask several brief questions during the presentation

of the Project overview by James O'Toole, ESA, and one comment from FOER after the presentation.

However, after several people including Mr. Keller had provided questions or comments on the DEIR/EIS and Project, during a lull in the meeting, Mr. Keller requested to be allowed to ask another question to Mr. O'Toole, and was cut off by the moderator. The moderator for the meeting, apparently a board or staff member of NapaSD, abruptly stopped the meeting at approximately 6:50pm, even though the posted notice for the meeting specified that it was to run from 6:00pm to 7:30pm. No further public testimony was allowed or taken from anyone in the room at the time, making it impossible for more in-depth comments or questions to be done on the record (the meeting was transcribed by a court reporter), and making it impossible for any late arrivals to participate in the noticed Public Hearing. This was especially frustrating given the extensive meetings held between Mr. Keller and Mr. O'Toole during the development of the Scoping project definitions, goals and the draft NOP. To FOER's great dismay, most all of those conversations, suggestions and alternatives were also not included within the DEIR/EIS. (See abbreviated summary, Appx. 1A)

M-77 cont.

VII. A Revised DEIR/EIS Must Be Prepared and Circulated.

CEQA requires recirculation of a revised draft DEIR "[w]hen significant new information is added to an environmental impact report" after public review and comment on the earlier draft DEIR. Pub. Res. Code § 21092.1. The opportunity for meaningful public review of significant new information is essential "to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." *Sutter Sensible Planning, Inc. v. Sutter County Board of Supervisors* (1981) 122 Cal.App.3d 813, 822; *City of San Jose v. Great Oaks Water Co.* (1987) 192 Cal.App.3d 1005, 1017. An agency cannot simply release a draft report "that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review." *Mountain Lion Coalition v. California Fish and Game Comm'n*. (1989) 214 Cal.App.3d 1043, 1053.

M-78

The CEQA Guidelines also require recirculation of the DEIR for two reasons. First, as discussed above, the DEIR failed to consider or adopt feasible alternatives that would clearly lessen the Project's significant cumulative impacts. CEQA Guidelines § 15088.5(a)(3). Second, the DEIR's fundamental failure to describe how the Project's phases and Alternatives are related and defined—combined with the DEIR's patently misleading suggestion that the impacts of this Project will almost all be beneficial—render the DEIR so wholly inadequate as an informational document that revision and recirculation are required. CEQA Guidelines § 15088.5(a)(4).

In order to cure the panoply of defects identified in this letter, NBWRA, SCWA and Reclamation must obtain substantial new information to correctly describe the Project and its environmental setting, adequately assess and propose mitigation for its significant

direct, indirect, and cumulative environmental impacts, and identify effective mitigation and alternatives capable of alleviating or avoiding those impacts. This new information will clearly necessitate recirculation. CEQA requires that the public have a meaningful opportunity to review and comment upon this significant new information in the form of a revised and recirculated DEIR/EIS.

M-78 cont.

Thank you for your consideration of these comments.

Sincerely,

David Keller

Bay Area Director
Friends of the Eel River
1327 I St.
Petaluma, CA 94952

References:

- Alice Feiring, *Turning Water into Wine*, SF Chronicle
- FOER/David Keller,*"FOER recommendations to ESA for NBWRP Project Objectives"* 4/10/08
- FOER/David Keller, *"Comments on NOP of EIR/EIS for NBWRA's Project"*, Aug. 25, 2008 (included in Appendix 1)
- Merrian Fuller, *Enabling Investments in Energy Efficiency: A Study of Energy Efficiency Programs that Reduce First-Cost Barriers in the Residential Sector* (California Institute for Energy and the Environment, Sept. 2008)
- Bob Norberg, "Water Officials Dispute Declaring North Bay at 'Normal' Levels," *Santa Rosa Press-Democrat* (March 5, 2009)
- Edwin B. Orrett, PE, and John Rosenblum, Ph.D., *Greenhouse Gas Emissions Related to Water and Wastewater Services: Baseline, Reduction Strategies, and Recommendations* (Climate Protection Campaign, June 2008)
- Edwin Orrett, PE, Hold the Flow! Commercial, Industrial, and Institutional Water Efficiency Program for the City of Petaluma (Pacific Technology Assoc., June 2002)
- Edwin Orrett, PE, *Achieving Extraordinary End Use Efficiency* (Resource Performance Partners, Inc. 2009)
- City of Petaluma Water Supply Assessment, General Plan 2020, 2008
- "*Irrigated Agriculture Water Needs and Management in the Mendocino County Portion of the Russian River Watershed"* University of California Cooperative Extension and County of Mendocino, July 2008
- Sonoma County Water Agency, *Report on the Adequacy of the Russian River Water Supply* (June 1990)
- Sonoma County Water Agency, *We Need to Talk . . . About Water* (Feb. 2009)

- SWRCB, Order 2009-0027-DWR, Order Approving Temporary Urgency Change, 4-6-09
- SWRCB Letter to SCWA re: Water Conservation Efforts, 2/2/05
- SWRCB Order WR 2009-0027-DWR, 4/6/09

M. Friends of the Eel River, David Keller, Bay Area Director, 7/20/2009

M-1 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-2 Comment acknowledged. See **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses. The implementation of conservation as a means of reducing water use, and indirectly, wastewater generation, does not represent an alternative to the Proposed Action. Rather, it represents the environmental baseline within which the Proposed Action is being implemented. Conservation is currently being implemented by water wholesale and retail agencies within the NBWRA service area, and increased conservation is a key water management tool within the region. However, as noted in **Master Response 2.1** the amount of recycled water currently generated within the service area greatly exceeds the level of potential irrigation identified under each of the alternatives. The Proposed Action would not affect the past and future implementation of conservation measures, which is encouraged by the NBWRA Member Agencies. Similarly, the successful implementation of conservation measures, would not affect the availability of recycled water under the Proposed Action.

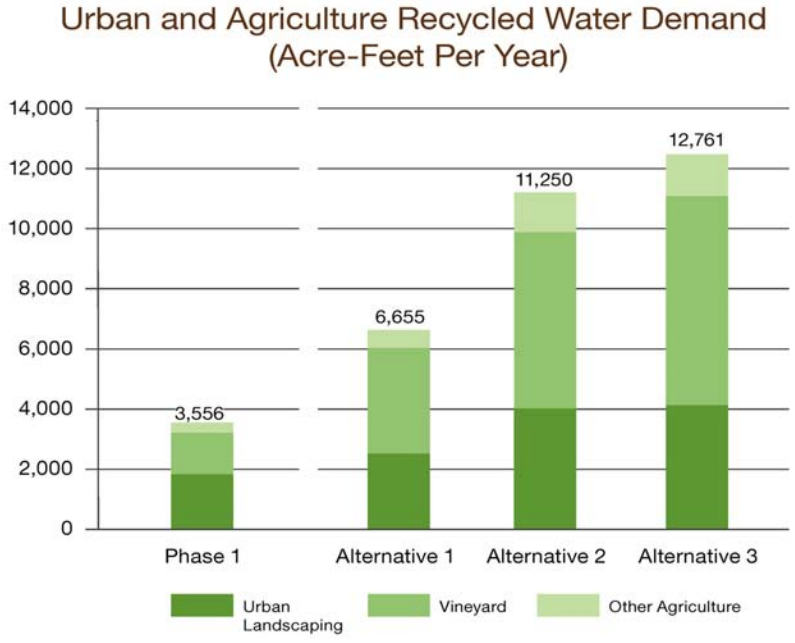
M-3 Comment acknowledged. See **Master Response 2.2, Alternatives Analysis** and **Master Response 2.6, Adequacy of Analysis**, in Chapter 2, Master Responses.

M-4 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. In providing recycled water for use in North Marin Water District, City of Sonoma, Valley of the Moon Water District, and Napa County service areas, the project is providing potable offset for local surface water and groundwater supplies, as well as supplies imported from the Russian River Watershed. The offset would result from increasing the use of treated wastewater effluent for irrigation in place of local surface and groundwater supplies that are currently used or might be used in the future. Additionally, Draft EIR/EIS Section 2.0, Project Description, provides a discussion of the potable offset relating to urban irrigation for each of the alternatives. This information is provided as summary paragraph for the Basic Alternative (p. 2-36); Partially Connected Alternative (p. 2-43) and Fully Connected Alternative (p. 2-49).

M-5 Comment acknowledged. See **Master Response 2.3, Project Objectives**, in Chapter 2, Master Responses. The project objectives are consistent with those identified by the San Francisco RWQCB regarding discharge of treated effluent. The reduction in discharge is limited by the amount of recycled water that can feasibly be used based upon irrigation demands within the service areas of each WWTP. The amount of irrigation provided under each alternative is based upon irrigation demands within the service areas, and the amount of demand that could be met through implementation of specific distribution facilities.

M-6 Comment acknowledged. The USACE Chief's Report (December, 2004) did not find construction of the recycled water project as "in the national interest", primarily because there were local parties available to pay for its implementation. The Chief's Report did not object to the use of recycled water to dilute bittern collected in Pond 7 and 7A. The recycled water pipeline is identified in the 2007 Water Resources Development Act (WRDA) as authorized by Congress. To date, funds have not been appropriated for construction of the project under USACE funding. Therefore, the Napa Salt Pond Pipeline has been included in the NBWRA Phase 1 Implementation Plan for Title XVI funding. If federal funds are provided from Reclamation, they will not exceed a 25 percent cost share per Public Law 111-11. USACE cost share cannot exceed 65 percent of the project. Depending on the federal funding source, there may be up to a 65 percent federal cost-share for construction of the Napa Salt Marsh pipeline. SVCSD will consider all federal funding options to share in the costs of the project and, pending federal funding availability and local and state cost share capabilities, will aim to maximize outside funding to reduce costs to the ratepayers.

M-7 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. The Proposed Action would provide recycled water for both urban and agricultural uses. Phase 1 would provide 3,556 AFY of recycled water, with approximately 40 percent supplied to offset urban potable demands. A breakdown of recycled water demand between urban and agricultural uses for the Phase 1 Implementation Plan and each of the Alternatives is represented in Figure 3-1 below.



North San Pablo Bay Restoration and Reuse Project ▪ 206088

Figure 3-1
Urban and Agricultural Recycled Water Use under NBWRP

The Action Alternatives have been developed to meet the multiple project objectives, including provision of potable offset to both urban and agricultural users. Alternative 1 provides an equitable distribution of recycled water based upon the Master Plans of the individual Member Agencies. These Master Plans take into consideration the type of end users available within each service area, and reflect the types of recycled water end users available in proximity to the individual WWTPs. The Proposed Action provides for recycled water distribution to identified end users who are currently irrigating with potable surface water or groundwater supplies, and does not prioritize a single end user group.

M-8 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. There is no inter-basin transfer regarding recycled water by the proposed project. Sonoma County Water Agency provides wholesale potable water supplies to its contractors, including North Marin Water District, and City of Sonoma, via existing facilities. These facilities divert, treat, transport, and serve potable water supplies used for municipal and industrial uses within Sonoma County, both within the Russian River watershed, and outside of the Russian River watershed. Water is then distributed at the retailer level for municipal uses that generate wastewater.

As noted in **Master Response 2.1 Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses, Table 2-2, several water supply sources, including groundwater, local surface water, and State Water Project supplies are used within the service areas of the WWTPs. Additionally, California Water Code Section 1210 explicitly defines wastewater rights as belonging exclusively to the wastewater treatment plant operator.

Based on the discussion on Draft EIR/EIS page 2-6, the comment asserts that NBWRP would provide 90 percent of its recycled water to new vineyard customers; however this statement is incorrect. The discussion in Section 2.4.2 is intended to provide an overview of individual service areas in terms of land use types and irrigated acreage. It does not define the acreage that would be served by the NBWRP. The NBWRP would not create new land uses and would not serve new development. The NBWRP would provide recycled water to existing irrigated urban and agricultural land uses, and would provide recycled water for habitat enhancement. This information is comprehensively included in Table 5-2 in Draft EIR/EIS Chapter 5, Growth, which identifies existing land use and irrigation demands within the NBWRP, and identifies the amount of recycled water that would be provided by the NBWRP to serve existing land use types and irrigation demands. These existing land uses currently rely on potable surface water and groundwater supplies; therefore provision of recycled water would represent a potable offset of existing customers that rely on potable water supplies.

M-9 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-10 Comment acknowledged. See **Master Response 2.4, Project versus Program Elements**, in Chapter 2, Master Responses.

M-11 Comment acknowledged. Please refer to **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses, which includes an implementation schedule.

M-12 Comment acknowledged. The NBWRP consists of those projects that are identified in Section 2.0, Project Description. Any other project that is not identified in Section 2.0 Project Description would be required to complete separate CEQA/NEPA analysis and documentation. No service to Solano County is currently proposed. Both the City of American Canyon and the City of Vallejo were contacted during the Feasibility Study for the NBWRP. Both entities declined to participate in the NBWRP, and their participation is currently not proposed. For additional discussion related to the selection of project alternatives, refer to **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

M-13 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. Projected wastewater flows are based upon approved General Plans for the individual service areas, as well as Master Plan documents provided by each of the Member Agencies. LGVSD's Wastewater Treatment Plant Capital Improvement Plan (Nute Engineering 2001) includes projections for wastewater generation at buildout. This plan approximates that LGVSD's Average Dry Weather Flow (ADWF) and Average Wet Weather Flow (AWWF) would be 3.9 mgd and 6.7 mgd at full buildout (estimated to be 2040). Discussions with the LGVSD General Manager indicated that the anticipated future flow rates at buildout will likely be lower than those stated in the 2001 plan due to an aggressive local water conservation and collection system rehabilitation plan currently being developed and implemented. As a result of these measures, ADWF at buildout is expected to be 2.65 mgd for LGVSD (Petrie 2004). The Novato Sanitary District Strategic Plan (Larry Walker & Associates 2001) includes Novato SD's projected flows for 2020. Because a range of possible future ADWF was provided in the plan (6.06 to 7.17 mgd for 2020), the average of these values was used as the target ADWF for modeling purposes for Novato SD. SVCSD modeled its system to determine potential future flows. These calculations indicate the future plant ADWF flows at buildout, which may not occur until after 2020, will be 3.85 mgd (HDR, 2002). The Napa SD projected discharge flow rate in 2020 was obtained from Napa SD's 2005 Strategic Plan for Recycled Water Use in the Year 2020. The report predicts that the Napa SD service area will grow to include 35,650 service connections by the year 2020, which will increase total annual flows to 9.72 mgd. However, incorporating pond evaporation and treatment process losses, it is anticipated that only 8.74 mgd (9,800 AFY) would remain for distribution to Napa SD recycled water customers. As demonstrated by these Master Plan analyses, individual Member Agencies have reviewed projected inflow to their facilities in the context of conservation measures being implemented within their service areas.

These projections have been compiled in the CDM Phase 3 Feasibility Report, and represent the best available information regarding projected influent rates within the individual WWTP service areas.

M-14 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. Projected wastewater flows are based upon approved General Plans for the individual service areas, as well as Master Plan documents for each of the Member Agencies. Further, the project does not change existing or future potable water use, or the provision of supplies by water wholesalers and/or retailers within the Member Agency service areas.

M-15 Comment acknowledged. See **Master Response 2.1 Proposed Action and Relationship to Water Supply**, and **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses. There is no contractual relationship between water wholesale and recycled water providers because there is no contractual or physical connection between the two entities. There is an existing contractual relationship between SCWA and SVCSD, since SCWA manages the operations of SVCSD. In the implementation of the NBWRP, there will be contractual relationships between NMWD and Novato San District, and between NMWD and LGVSD; this is because NMWD will be constructing infrastructure to distribute recycled water generated at the WWTPs of Novato San and LGVSD.

M-16 Comment acknowledged. As noted in Draft EIR/EIS **Section 1, Introduction**, page 1-3, and Draft EIR/EIS **Section 2, Project Description,** page 2-1, the Proposed Action would include funding of the NBWRP by the Bureau of Reclamation Title XVI Program. The Project's Title XVI authorization provides funding of 25 percent of total project costs. Phase 1 is estimated to require $100M for implementation, of which $25 million would be provided through the Title XVI Program. The Title XVI Program includes an annual review of program progress, and an assessment of implementation potential, including reduction and reallocation of funds in the event local cost share is not demonstrated. Matching funding would be provided by Member Agencies through their own funding and/or financing mechanisms, via USACE funding through energy and water appropriations bills, other potential federal funding sources, and state funding via bonds or other sources, which may include, but not be limited to: SWRCB Clean Water Act State Revolving Fund; Integrated Regional Water Management Plan (IRWMP); Proposition 50 funds, and Proposition 84 funds. If the Legislature and the public approve additional water bonds, NBWRP agencies will consider those sources as well.

Provision of matching funds for individual projects will be the responsibility of the individual Member Agencies. Member Agencies may provide local funding through implementation of recycled water user fees within their individual jurisdictions. Please see **Master Response 2.5, NBWRA Administration**, for a discussion of recycled water rates.

M-17 Comment acknowledged. Draft EIR/EIS, Section 6, Alternatives Analysis, Table 6-10 provides a summary of life cycle costs associated with Phase 1 for each of the Action Alternatives under consideration. **Table 3-1** below provides life cycle costs for each of the full Alternatives. This analysis is consistent with the analysis previously represented; the Basic System has the lowest life cycle costs and the Fully Connected Alternative has the highest life cycle cost. On an annualized per acre-foot basis, the differential in life cycle cost between the three alternatives is approximately $100; however, the total capital costs differential between the Basic System and the Fully Connected System is approximately $202,000,000. The total annual cost differential between the Basic System and the Fully Connected System is approximately $9,120,283.

TABLE 3-1
LIFE CYCLE COST ANALYSIS BY ALTERNATIVE

	Phase 1	Basic System	Partially Connected	Fully Connected
Total Capital Costs	$100,400,000	$203,400,000	$360,400,000	$405,000,000
Annual Costs	$3,902,096	$7,905,242	$14,007,124	$15,740,525
Annual O&M Costs	$1,270,000	$1,794,000	$2,750,000	$3,079,000
Total Annual Costs	$5,172,096	$9,699,242	$16,757,124	$18,819,525
Supply (Acre-feet)	3,756	6,655	11,251	12,761
$ per Acre-foot	**$1,377**	**$1,457**	**$1,489**	**$1,475**

[a] Assumes a 50-year life cycle cost.

M-18 Comment acknowledged. See **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses.

M-19 Comment acknowledged. Draft EIR/EIS Appendix 3.4A includes a list of communities and district service areas in California that are using recycled water for a variety of end uses, including agricultural, vineyard and pasture land irrigation. **Table 3-2** below summarizes some of the communities and service districts in the North Bay that are currently using recycled water for irrigation purposes, including vineyard irrigation. Given the current level of recycled water use within the region, "institutional barriers" such as pricing are not anticipated to be barriers to recycled water use within the region. Please refer to response to comment L-8. The Phase 3 Feasibility Study and the individual Master Plans prepared by the Member Agencies identified demand for recycled water within their service areas. Please refer to **Master Response 2.5, NBWRA Administration**, for additional discussion regarding recycled water rates. Although user fee per/AF is a factor of individual users, it certainly is not the only factor in decision making given the benefits of recycled water, which include provision of a high quality water supply to provide water supply reliability, and reduce groundwater pumping.

TABLE 3-2
EXISTING NORTH BAY RECYCLED WATER USE FOR AGRICULTURAL AND VINEYARD USES

Agency	Agricultural	Vineyard	Vineyard	Watershed
Napa Sanitation District	X	X	Approximately 456 acres	North San Pablo Bay
Sonoma Valley County Sanitation District	X	X	1,719 acres	North San Pablo Bay
Yountville	X	X	3 vineyards	North San Pablo Bay
City of Santa Rosa	X	X	1,800 acres (14 vineyards)	Russian River
Town of Windsor	X	X	Approximately 200 acres	Russian River
Airport/ Larkfield/ Wikiup Sanitation Zone	X	X	350 acres	Russian River

SOURCE: ESA, 2009.

M-20 Comment acknowledged. The EIR identifies service areas for each of the Member Agencies within which recycled water will be provided on a willing user basis. The impact analysis considers application of recycled water to all potential parcels in compliance with Title 22 and user agreement developed by each of the Member Agencies, and discloses potential impacts associated with recycled water application and use. No additional analysis is required.

M-21 Comment acknowledged. See **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses. The NBWRP has been developed in order for local agencies to provide a regional context for acquiring funding for implementation of local and regional projects. The project has been specifically developed to reduce the burden on local rate payers, and has been successful in receiving authorization for federal funding via Reclamation's Title XVI Program.

M-22 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-23 Comment acknowledged. See **Master Responses 2.1, Proposed Action and Relationship to Water Supply** and **2.5, NBWRA Administration**, in Chapter 2, Master Responses. No conflict between recycled water providers within the Russian River Watershed and Member Agencies of the NBWRA is anticipated.

M-24 Comment acknowledged. Cost estimates for Alternatives include annual operations and maintenance costs, which include the replacement costs of facilities over time. Therefore, the use of a "sinking fund" for the future abandonment of proposed facilities is not required. See **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses.

M-25 Comment acknowledged. The Napa Salt March Pipeline is described in Chapter 2, Project Description, and has been analyzed under the Napa Salt Marsh Restoration

EIR/EIS. It should be noted that SVCSD currently provides recycled water for vineyard irrigation south of SR 12 via an existing 18-inch pipeline, and two reservoirs located near the intersection of the Northwestern Pacific Railroad Authority line and Ramal Road. This system serves approximately 1,200 AFY of recycled water for irrigation per year. As identified in the Napa Salt Marsh Restoration EIR/EIS, and included under the Proposed Action, a parallel 18-inch pipeline would be constructed between the SVCSD and the existing reservoirs. A single 24-inch pipeline would then be constructed from the existing reservoirs to Pond 7/7A via one of the alignment options identified in Figure 2-6 in Chapter 2, Project Description, of the Draft EIR/EIS. Both the parallel 18-inch pipeline to the existing reservoirs and the 24-inch pipeline between the reservoirs and Pond 7/7A have been sized to provide adequate capacity to transport recycled water when it is available to Ponds 7/7A. SVCSD currently provides recycled water to uses along this corridor, and the Napa Salt Pond Pipeline has always included provision of recycled water to irrigators along this route. In response to the recommendation to revise and recirculate, please refer to **Master Response 2.7, Adequacy of Analysis,** in Chapter 2, Master Responses.

M-26 Comment acknowledged. See **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses.

M-27 Comment acknowledged. See **Master Response 2.4, Project Versus Program Elements**, in Chapter 2, Master Responses.

M-28 Comment acknowledged. See Response M-25 above.

M-29 Comment acknowledged. See **Master Response 2.4, Project Versus Program Elements**, in Chapter 2, Master Responses. See also M-28 above.

M-30 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-31 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-32 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. As noted in the EIR/EIS, provision of potable offset provided by the Proposed Action would be anticipated to have a beneficial effect by reducing irrigation demands on the Russian River system. This beneficial effect would also be applicable to groundwater and local surface water supplies that are currently use for irrigation. As such, the NBWRP would not contribute to significant cumulative water supply impacts.

M-33 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. Implementation of the Proposed Action does not come at the expense of “fresh, potable water supplies.” The Proposed Action

would fund, through Reclamation's Title XVI Program, the implementation of recycled water projects to offset potable water supplies that are currently being used for irrigation. Additionally, See **Master Response 2.3, Project Objectives**, in Chapter 2, Master Responses.

M-34 Comment acknowledged. The Proposed Action would fund, through Reclamation's Title XVI Program, the implementation of recycled water projects to offset potable water supplies that are currently being used for irrigation. The commenter is identifying the percentage of supplies that would be offset from existing urban water uses as a percentage of the irrigation total for both Phase 1 and for the Project Alternatives. However, the commenter incorrectly characterizes only these supplies as potable supplies, and does not include other local surface water sources or groundwater sources as potable supplies that are used for irrigation. Although depicted within the context of the No Action Alternative, it should be noted that the ability of individual Member Agencies to implement the recycled water projects identified under the No Action Alternative is largely dependant upon the acquisition of state and federal funding.

M-35 Comment acknowledged. See Response M-32 above. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-36 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-37 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-38 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-39 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. It should be noted that the judgment referenced by the commenter did not invalidate the Urban Water Management Plan (UWMP). Although the Superior Court ruled that the UWMP did not meet some statutory requirements, it rejected the majority of claims against the UWMP. In addition, SCWA appealed the Superior Court decision, and by law that appeal operates as a stay of the Superior Court judgment. Thus it is inaccurate to say that the UWMP has been "invalidated" given the pendency of the appeal. As previously noted in Master Response 2.1, the Proposed Action would not affect development of potable water supplies, and would not affect SCWA's operations of the Russian River system. Further, the Proposed Action is not reliant on the UWMP for its implementation; rather, the Proposed Action would recover treated effluent that is currently discharged to tributaries of North San Pablo Bay and distribute them for irrigation purposes.

M-40 Comment acknowledged. Please refer to response to comment M-39. The UWMP is not an EIR, and the Proposed Action does not expressly tier from the UWMP; therefore the

commenter's reference to *Friends of the Santa Clara River v. Castaic Lake Water Agency* is not germane to the scope of analysis in the EIR/EIS.

M-41 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply Master** and **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-42 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. Issues related to reliability of water supplies within the region, including those identified by the commenter, underscore the benefit of increased reliability provided by implementation of recycled water in the region.

M-43 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply Master** and **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-44 Comment acknowledged. See **Master Responses 2.1, Proposed Action and Relationship to Water Supply** and **2.5, NBWRA Administration**, in Chapter 2, Master Responses.

M-45 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply Master** and **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-46 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-47 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply Master** and **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-48 Comment acknowledged. The commenter makes several quotations from CEQA regarding cumulative effects. The EIR/EIS provides an extensive discussion of cumulative projects, and the Proposed Action's potential to contribute to cumulative impacts. No additional analysis is required.

M-49 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

M-50 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply Master** and **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-51 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. The project does not rely on the implementation of other recycled water projects in the Russian River Watershed.

M-52 Comment acknowledged. No response necessary.

M-53 Comment acknowledged. The Proposed Action will not contribute to any impacts related to local supply or water recycling projects. See **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-54 Comment acknowledged. The Proposed Action would provide offset of potable water supplies that are currently used for irrigation. The use of recycled water is identified in water supply planning documents and local General Plans. The Proposed Action provides recycled water at a level that is consistent with the approved General Plans within the project area. The EIR/EIS acknowledges that implementation of the General Plans have secondary effects associated with them, and therefore discloses those potential secondary effects. However, as previously noted in Response M-8 and identified in Chapter 5 of the Draft EIR/EIS, it is important to note that recycled water demands were estimated based on review of existing irrigated land uses, and that new development of irrigation is not proposed; rather, recycled water would be used to offset the current use of potable surface and groundwater supplies for urban and agricultural irrigation.

As noted in Section 5.0, provision of recycled water to Napa County's MST Area does have the potential for individual residential properties to apply to the County to develop irrigated agriculture, consistent with their land use designations. However, the project has been conditioned to ensure that the provision of recycled water is consistent with the General Plan, and Napa County has a number of provisions in place to regulate agricultural development.

M-55 See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. As previously noted, the UMWP was not invalidated, and is not an EIR. See also Response M-39 and M-40. See also **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-56 Comment acknowledged. See **Master Responses 2.1, Proposed Action and Relationship to Water Supply** and **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

M-57 Comment acknowledged. CEQA requires analysis of the change from existing conditions baseline. As identified in Section 1.0 of the Draft EIR/EIS, all of the Member Agencies and their water service providers are participating in water conservation and energy conservation programs. Please see **Master Response 2.1, Proposed Action and Relationship to Water Supply** and **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

M-58 Comment acknowledged. Phase 1 of the Proposed Action, which is proposed for project approval, would provide federal funding for the implementation of local recycled water projects as defined by the Member Agencies through their individual Master Plans.

M-59 Comment acknowledged. Sonoma County and SCWA are implementing programs to address water use and energy consumption. Pursuant to the authority granted under Assembly Bill 811 (AB 811), Sonoma County Board of Supervisors adopted the Sonoma County Energy Independence Program (SCEIP) in March 2009. Please see **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

M-60 Comment acknowledged. See Response M-59 and **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

M-61 Comment acknowledged. See **Master Response 2.2, Alternatives Analysis**, and Response M-59. Conservation and energy efficiency programs would not address project objectives, including offset of urban and agricultural demands, restoration of regional and local habitats, including Napa Salt Marsh restoration. The efficiency programs noted by the commenter are currently being implemented by local agencies, and as such, do not represent alternatives that would substantially meet the project objectives, or reduce impacts of the Action Alternatives.

M-62 Comment acknowledged. NBWRA Member Agencies do not have the jurisdictional authority to regulate water use, although some of them participate in water conservation programs to reduce inflow to the treatment plants. As noted in Draft EIR/EIS Section 1.0, SCWA is already implementing these conservation strategies. Please refer to **Master Response 2.2, Alternatives Analysis,** and Response M-59 above.

M-63 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply** and **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

M-64 Comment acknowledged. The Feasibility Study provides a comprehensive review of recycled water use and opportunities within the NBWRA service area. No additional response is required. See also **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-65 Comment acknowledged. Refer to response to comment M-8. The commenter mischaracterizes the total acreage within the service areas, as the amount of vineyard acreage to be served by the project. Vineyard irrigation within the service area is via highly efficient drip irrigation, and represents one of the most efficiently irrigated crops in California, with a typical use rate between 0.25 AFY per acre (Napa County irrigation rate) and 0.50 AFY per acre in Sonoma County. By comparison, pasture irrigation use rates are approximately 2.5 AFY per acre. Project implementation would not add additional new vineyards, and would not affect the timing, rate, or distribution of current vineyard irrigation practices. The Proposed Action would provide recycled water as a

supply source to offset the use of potable surface water and groundwater supplies for the irrigation of urban and agricultural uses present within the service areas of the WWTPs. Additionally, as noted in Section 3.2, Groundwater, the implementation of recycled water in the Sonoma and Napa MST areas has been identified as management tool to assist in groundwater management within these areas, both to maintain groundwater levels and to reduce the potential for groundwater degradation due to salt water intrusion.

M-66 Comment acknowledged. Service areas under each of the Alternatives are defined in Section 2.0, Project Description. Section 3.2, Groundwater, provides a discussion of water quality trends within individual groundwater basins in the NBWRA service area from the following sources:

- California Department of Water Resources' (DWR) *Bulletin 118 Update 2003* (DWR, 2003).
- *Geohydrologic Characterization, Water Chemistry, and Ground Water Flow Simulation Model of the Sonoma Valley Area, Sonoma County, California.* U.S. Geological Survey (USGS) Scientific Investigations Report 2006-5092 (Farrar et al., 2006).
- *Ground-Water Resources in the Lower Milliken–Sarco–Tulucay Creeks Area, Southeastern Napa County, California, 2000–2002.* USGS Water-Resources Investigations Report 03-4229 (Farrar and Metzger, 2003).
- *Sonoma Valley Final Groundwater Management Plan* (Sonoma County Water Agency [SCWA], 2007).
- Napa County Baseline Data Report (County of Napa, 2005).

Existing irrigation demands are included in Draft EIR/EIS Chapter 5.0, Table 5-2. This table also provides irrigation offset provided by the NBWRA. Agricultural irrigation is primarily from groundwater pumping, although local surface water diversions also occur. Parcel-specific groundwater pumping is not available, nor is it required in order to assess the potential effects to groundwater associated with provision of recycled water to offset groundwater pumping. Recycled water has been identified in the Sonoma Valley Groundwater Management Plan as a management tool to offset groundwater pumping, and in the USGS MST Study as a potential mechanism to address overpumping in the MST Basin. Project implementation would be consistent with the objectives identified in these two groundwater studies of maintaining groundwater levels, and within the Sonoma Valley, reducing the potential for saline intrusion.

M-67 Comment acknowledged. As noted in Response M-8, vineyard irrigation with drip systems is efficient compared to water demands for other crop types, such as diary or row crop production. The use of tile drains to manage shallow groundwater levels relative to root zone depth occurs in the region, typically in low-lying agricultural fields affected by flooding or standing water during precipitation events. This practice would not be affected by the proposed project, and use of recycled water in lieu of surface water or groundwater supplies would not alter irrigation practices at vineyards. Therefore, no additional analysis of this issue is required.

M-68 Comment acknowledged. A water balance model is not required to identify the potential impacts relating to the provision of recycled water. Irrigation demands for urban and agricultural practices would not be altered by the project. Rather, the Proposed Action would provide recycled water as a supply source to offset existing use of potable surface water and groundwater supplies for irrigation of urban and agricultural land uses.

M-69 Comment acknowledged. The project objective "promote sustainable practices" relates to the fact that recycled water represents a sustainable water supply that is currently being discharged to tributaries of North San Pablo Bay at a rate of 22,000 AFY. The provision of recycled water as potable offset for irrigation is a sustainable practice. The success of local agriculture is not dependent upon implementation of the project. The project is proposed in order to provide an alternative irrigation source to the use of potable water supplies.

There is a long-standing history of agricultural production in the Sonoma and Napa Counties, vineyard and otherwise, and these practices are encouraged by General Plan policies within these jurisdictions. These practices are a central component of the economic viability of the region. **Table 3-3** below provides an estimate of annual crop value for the irrigated vineyard acreage in the Sonoma and Napa areas under each of the alternatives. As identified in the table, crop values for acreage irrigated under Phase 1 are estimated at $39 million annually. Assuming the anticipated 50-year life cycle of the project, the cash value of the crops irrigated under Phase 1 would be approximately $1.95 billion. It is important to note that these lands are currently under vineyard irrigation; as such, the crop value would exist irrespective of the project. However, the current use of potable surface water and groundwater supplies to irrigate this acreage would be offset through the provision of recycled water. As discussed in **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses, each Member Agency would be responsible for setting rates for recycled water through a process that includes public review and comment.

TABLE 3-3
ESTIMATED ANNUAL CROP VALUE (DOLLARS PER TON), NBWRP IRRIGATED ACREAGE

	Vineyards (Napa County)	Vineyard (Sonoma County)	Total
Total $/ton[1] (2008)	$3,451	$2,237	
Average tons per acre[1] (2008)	2.7	3.05	
Value			
Existing Acreage Irrigated by NBWRA agencies	$4,168,739	$11,726,008	$15,894,747
Phase 1	$28,811,986	$10,627,271	$39,439,257
Alternative 1	$55,485,702	$27,559,947	$83,045,650
Alternative 2	$78,059,550	$51,874,969	$129,934,519
Alternative 3	$78,059,550	$67,161,518	$145,221,068

1 weighted average red and white wine grapes

SOURCE: 2008 Sonoma and Napa County Crop Reports

It should be noted that the cost of the project (and associated user fee per acre-foot of recycled water) versus the cash value of existing crops is not an effective economic comparison in the context of the multiple benefits provided by recycled water from a demand management, reliability, water quality, and reduction of discharge perspective. However, the information above demonstrates that support of long term agricultural practices in the Napa and Sonoma Valley is economically viable. **Master Response 2.3, Project Objectives**, in Chapter 2, Master Responses, identifies state and local plans and policies that support the implementation of recycled water projects within the region. Highly treated effluent that is currently discharged to the Bay provides an opportunity to continue to support agricultural practices in Sonoma and Napa County, consistent with General Plan policies for those areas. The NBWRP would not create these land uses; rather it proposes to put treated effluent that is currently discharged to North San Pablo Bay to its best and highest use to reduce urban and agricultural demands on potable surface and groundwater supplies within the North Bay region.

M-70 Comment acknowledged. Reclamation, NBWRA or its Member Agencies do not have the jurisdictional authority to mandate land uses or crop types on privately owned lands.

M-71 Comment acknowledged. Draft EIR/EIS Table 5-2 summarizes existing irrigation within each service area by land use type, and identifies the amount of recycled water that would be provided to offset these existing irrigation practices under each of the Action Alternatives. The Feasibility Study reviewed existing land uses within each of the service areas to identify recycled water demands under each of the alternatives. Draft EIR/EIS Section 5.0, Growth Inducement and Secondary Effects of Growth, provides a discussion of the potential for provision of recycled water within individual service areas to affect land use or crop distribution. With the exception of the Napa MST area, recycled water irrigation levels identified for each of the alternatives are based on service to existing irrigated land uses. Therefore, the provision of recycled water would not affect long-term land uses or agricultural crop distribution.

M-72 Comment acknowledged. The potential use of existing storage ponds, and potential impacts related to the storage of recycled water, is discussed in Section 3.4, Water Quality, Impact 3.4.6, Surface Storage. The use of local storage ponds will be on a willing user basis, and will be subject to compliance with provisions of Title 22. No additional analysis is required.

M-73 Comment acknowledged. Reclamation, NBWRA or its Member Agencies do not have the jurisdictional authority to mandate land uses or crop types on privately owned lands.

M-74 Comment acknowledged. See **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. Please refer to **Master Response 2.2, Alternatives Analysis**.

M-75 Comment acknowledged. Please refer to **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

M-76 Comment acknowledged. Please refer to **Master Response 2.2, Alternatives Analysis,** and **Master Response 2.3, Project Objectives**, in Chapter 2, Master Responses.

M-77 Comment acknowledged. Comment acknowledged. As stated under Section 15202(a) of the CEQA Guidelines, no formal hearings are required at any stage of the environmental review process and public comments may be restricted to written communication. NBWRA conducted three public hearings to provide a forum to present and discuss the proposed NBWRP with stakeholders including the public. The rules, assumptions, and expectations for the schedule and conduct of the meeting were explicitly stated prior to beginning of the hearing, which provided for public comments limited to five minute speaking periods. The public hearing facilitator adhered to the stipulated time limits to ensure additional speakers had the opportunity to contribute and to provide a fair and consistent amount of time to each speaker. Provision for written comments was noted at each hearing, and forms were provided. An email/ web comment format was also available and noted at each meeting. See also response to comment U-6 and **Master Response 2.7, Adequacy of Analysis**, in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

M-78 Comment acknowledged. See **Master Response 2.2, Alternatives Analysis** and **Master Response 2.7, Adequacy of Analysis,** in Chapter 2, Master Responses. Recirculation of the EIR/EIS is not required.

NORTH COAST RIVERS ALLIANCE
13 Meadow Way
Fairfax, CA 94930
Phone 415-456-6356 Fax 415-456-6701
E-mail fegger@pacbell.net

7/20/2009

Re: Comments to the North Bay Water Recycling Program Draft EIR and Draft EIS
Service by email, Fax and in person at the Administrative Offices of the SCWA

Dear Mr. Bautista:

The following comments on the Draft Environmental Impact Report/Impact Statement ("DEIR/EIS") for the North Bay Water Recycling Program Draft (the "Project") (also known as North San Pablo Restoration and Reuse Project) are submitted on behalf of the North Coast Rivers Alliance.

The DEIR/EIS fails to address the fact that the proposed 18 inch pipeline from Marin and Sonoma Counties to Napa County and further east to Solano County and beyond can transport not only treated waste water but also fresh potable water. N-1

The water agencies serving the nine county San Francisco Bay Area Region have long sought to "plumb" or "link" all together to allow interagency water transfers. A missing link in that scenario is a pipeline running from the Marin/Sonoma area to the Napa/Solano area and the proposed pipeline, as part of the North Bay Water Recycling Program, would make that connection.

The DEIR/EIS must analyze all impacts of the "plumbing" that will allow water from the impaired Russian and Eel Rivers, either fresh or recycled, to be transported out of the North Coast Region of Humboldt, Mendocino, Sonoma and Marin Counties to the Counties of Napa and Solano and beyond which could ultimately connect to the California Water Project N-2

The impact on listed species under the Endangered Species Act (ESA) in the Russian and Eel Rivers, including Coho and Chinook Salmon and Steelhead, has not been properly addressed. What portion of water from the Russian/Eel River complex, having been used for potable needs and ultimately processed by our sewer treatment plants, can be reused right here in Sonoma and Marin Counties thereby reducing dependence on fresh water diverted or pumped from those rivers? The DEIR/EIS does not adequately analyze or address these impacts. N-3 N-4

Please revise and re-circulate the DEIR/EIS.

Thank you for your consideration of these comments,

Frank Egger
North Coast Rivers Alliance
13 Meadow Way, Fairfax, CA 94930-2151

N. North Coast Rivers, Frank Egger, 7/20/2009

N-1 Comment acknowledged. The proposed NBWRP involves use of recycled water and the 18-inch pipeline noted in the comment would be constructed to convey the recycled water produced as part of the project. The same pipeline would not be used for potable water as noted in the comment. Pursuant to State Law it would be illegal to do so. As shown in Figure 2-12 in Chapter 2, Project Description in the Draft EIR/EIS, there are no pipelines under any alternative connecting the project with Solano County. Please refer to Chapter 6, Alternatives Analysis, of the Draft EIR/EIS for a discussion of potential importation of water from the North Bay Aqueduct as an alternative to the proposed action that was rejected based on infeasibility, expense, and inability to meet project objectives.

N-2 Comment acknowledged. A discussion of the project relationship with the Russian River, Eel River, and local use of water is addressed in **Master Response 2.1, Project Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

N-3 Comment acknowledged. Impacts to fisheries within the project area are identified in Section 3.5, Biological Resources, of the Draft EIR/EIS. Fisheries in the Russian River and Eel River are not included in this CEQA analysis, as explained in **Master Response 2.1, Project Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

N-4 Comment acknowledged. The proposed action involves treatment of locally-generated wastewater and distribution within the same local service area. Phase 1 of the project does not provide for connectivity between the WWTPs, which demonstrates local use of the recycled water. Please refer to response to comment T-9 for additional information related to local use of water, and **Master Response 2.1, Project Action and Relationship to Water Supply**, in Chapter 2, Master Responses for discussions related to local use of recycled water and the relationship of the project to the Russian and Eel River.

Comment Letter O

SAN FRANCISCO Bay Trail

CF/70-0-14 North San Pablo Bay Restoration and Reuse Project - EIR

August 11, 2009

Mr. Marc Bautista
Sonoma County Water Agency,
404 Aviation Boulevard
Santa Rosa, CA 95403

Subject: North Bay Water Reuse DEIR

Dear Mr. Bautista:

Thank you for the opportunity to comment on the above-referenced project. The Bay Trail Project is a nonprofit organization administered by the Association of Bay Area Governments (ABAG) that plans, promotes and advocates for the implementation of a continuous 500-mile bicycling and hiking path around San Francisco Bay. When complete, the trail will pass through 47 cities, all nine Bay Area counties, and cross seven toll bridges. To date, slightly more than half the length of the Bay Trail alignment has been developed.

From our cursory review of the DEIR, it appears that the Bay Trail may be affected by the proposed project in the following areas:

- McInnis Park—San Rafael
- China Camp State Park—San Rafael
- Las Gallinas Valley Sanitary District—San Rafael
- Hamilton—Novato
- Sonoma Baylands—Petaluma
- Sears Point Restoration Project—Petaluma
- Cuttings Wharf/Stanly Ranch Area

Our understanding is that impacts to the Trail would only occur during the construction phase, and that the relevant agencies would coordinate with ABAG's Bay Trail Project regarding temporary closures and detours. We appreciate inclusion of this mitigation measure, and would like to emphasize its importance to us. A key aspect of the Bay Trail is its accessibility to the public as both a recreational and as a commute facility. Therefore, early and close coordination regarding trail closures will be instrumental to minimizing disruption to trail users.

O-1

The DEIR states that "The Marin County Department of Public Works has developed a Countywide Bicycle Plan (2001)..." (Pg. 3.13-3). This plan was updated in 2008. On this same page, the document states that "...there are existing Class II and III

O-2

bikeways" in the action area. The Bay Trail has segments of Class I pathway in all (the areas referenced above.

O-2 cont.

Regarding the Bay Trail alignment in Napa, it is correct that the route has not been firmly established. However, portions of the route have been officially adopted and signed, and Bay Trail grant funding has contributed to their construction. These segments include Cuttings Wharf Road, 3,000 feet of Las Amigas Road from the intersection with Cuttings Wharf Road heading west, the Imola Street/Maxwell Bridg and the Kennedy Park trail adjacent to the Napa River.

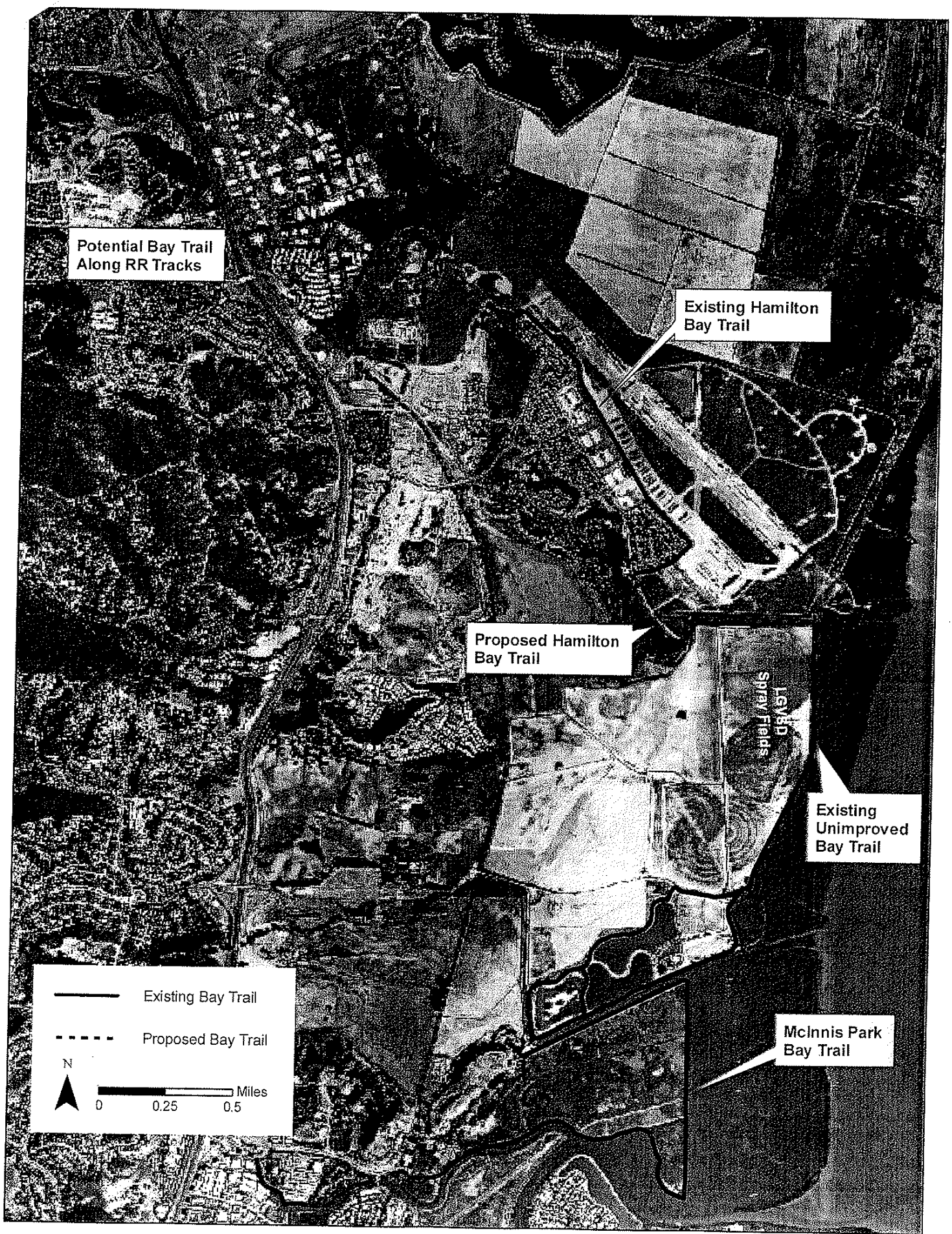
O-3

Thank you again for the opportunity to comment. I have attached a map of each of the above-referenced locations that shows the current adopted Bay Trail alignment and its current status—existing or proposed. If you have any questions regarding the Bay Trail Project or these comments, please do not hesitate to contact me at (510) 464-7909 or by e-mail at maureeng@abag.ca.gov

Sincerely,

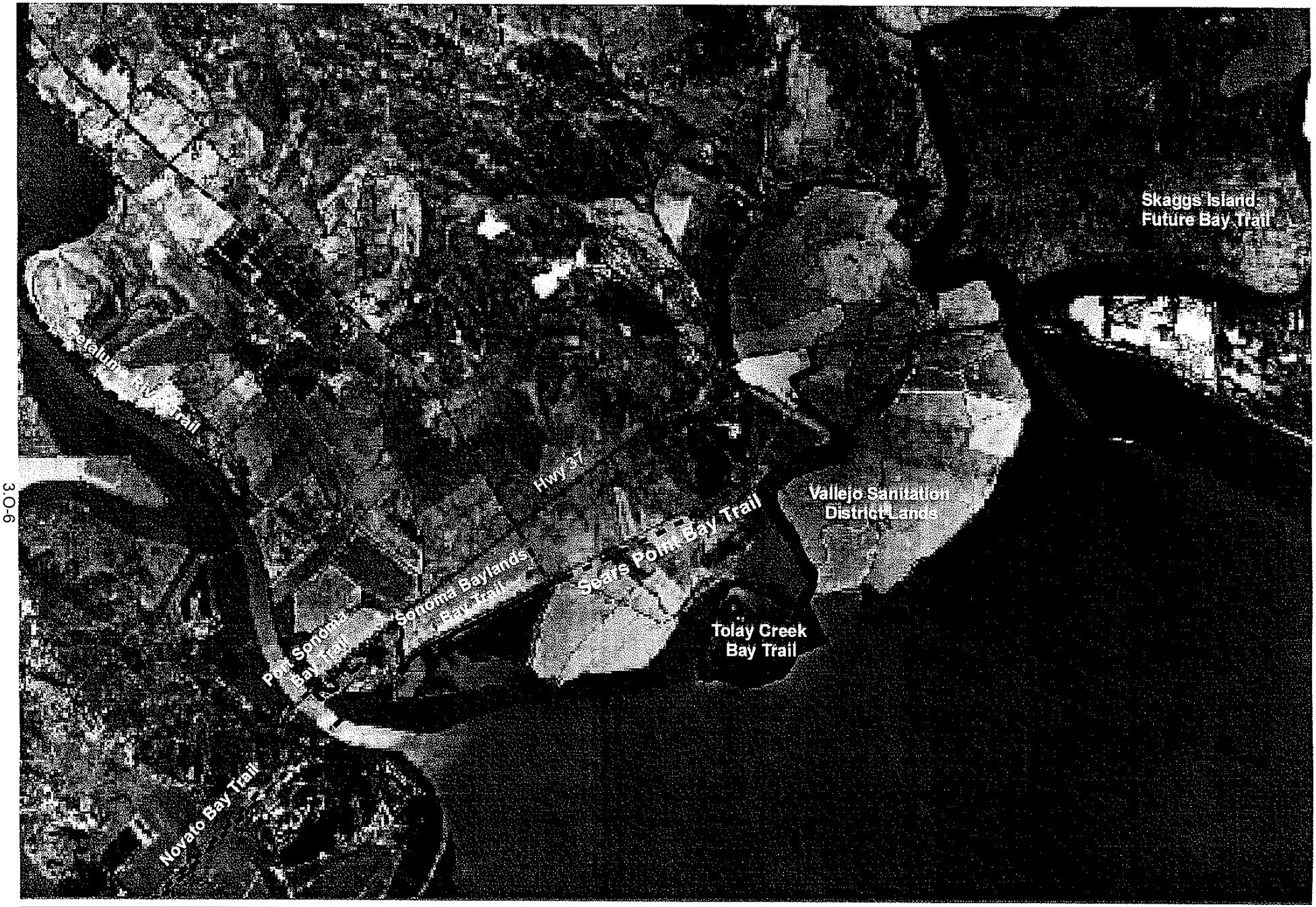
Maureen Gaffney
Bay Trail Planner

Enc: 4


Potential Bay Trail Along RR Tracks
Existing Hamilton Bay Trail
Proposed Hamilton Bay Trail
LGVSD Spray Fields
Existing Unimproved Bay Trail
McInnis Park Bay Trail
Existing Bay Trail
Proposed Bay Trail
N
0
0.25
0.5
Miles


Gaps in the Bay Trail
in Northern Marin County
McInnis Park
Existing Bay Trail
Proposed Bay Trail


Bay Trail Spine
Napa County
Existing
Proposed
Imola/Maxwell Bridge
Kennedy Park
Cuttings Wharf Road
Hwy 29
Las Amigas Road
Napa Sanitation
District
Airport
Napa
State Recreation
Wetlands Edge Trail



San Francisco Bay Trail

Sears Point Bay Trail & Environs

Existing Bay Trail

Proposed Bay Trail

0 1.2 Miles

Bay Trail

3.O-6

Comment Letter O

O. San Francisco Bay Trail, Maureen Gaffney, Bay Trail Planner, 8/11/2009

O-1 Comment acknowledged. The comment notes that the Bay Trail may be affected by the NBWRP and that coordination regarding trail closures is important for reducing impacts. Section 3.13, Recreation and Section 3.7, Traffic and Transportation, of the Draft EIR/EIS, describe proposed and existing bikeways within the project area and establish Mitigation Measures (Mitigation Measure 3.13.1a) to require agency coordination with ABAG regarding temporary closures and detours.

O-2 Comment acknowledged. The comment notes that the Marin County Department of Public Works Countywide Bicycle Plan has been more recently updated. Page 3.13-3 of the Draft EIR/EIS has been edited to clarify the following:

> The Marin County Department of Public Works has developed a Countywide Bicycle Plan in ~~(~~2001~~)~~, which has evolved from the collaborative planning efforts of various Pedestrian and Bicycle Advisory Committees. The plan was updated in 2008. The goal of the Bicycle Plan is to make Marin County a model community for alternative transportation by implementing safe bikeways and pedestrian networks. The plan describes existing bikeways and proposed bikeways that are estimated for completion within five to 25 years.

On page 3.13-3, the Draft EIR/EIS describes existing bike facilities in Marin County. Per the comment, the text has been updated to include existing Class I bikeways as follows:

> In the action area, there are existing Class I, Class II and Class III bikeways. In general, there are existing bikeways along McInnis Park, China Camp State Park, LGVSD WWTP, Hamilton Parkway, Main Gate Road, and Hangar Avenue, along LGVSD Phase 1 of the recycled water pipelines. Table 3.13-2 lists the existing bikeways and their locations relative to the NBWRP components.

O-3 Comment acknowledged. The following clarifications have been made to the text and Table 3.13-7, page 3.13-14 of the Draft EIR/EIS:

> In the action area, there are both existing and proposed Class I, Class II and Class III bikeways, as listed in **Table 3.13-7**. In general, there are existing and/or proposed bikeways along proposed recycled water pipeline routes on West Imola Road and Coombsville Road. The route for the Bay Trail alignment in Napa has not been firmly established, however portions of the route have been adopted and signed, and Bay Trail grant funding has contributed to their construction. These segments include Cuttings Wharf Road and 3,000 feet of Las Amigas Road from the intersection with Cuttings Wharf Road heading west.

DRAFT EIR/EIS TABLE 3.13-2
EXISTING AND PROPOSED BIKEWAYS AND RECREATIONAL TRAILS ADJACENT TO THE NBWRP FOR LGVSD

Bikeway or Trail Facility	Location	Project Component	Ownership	Status
San Francisco Bay Trail Class I Bikeway	McInnis Park	Peacock Gap Service Area	City of San Rafael	Existing
San Francisco Bay Trail Class I Bikeway	China Camp State Park	Peacock Gap Service Area	City of San Rafael	Existing
San Francisco Bay Trail Class I Bikeway	LGVSD WWTP	Peacock Gap Service Area	City of San Rafael	Existing
Class II Bikeway	Hamilton Parkway	Novato South Service Area	City of Novato	Existing
Class II Bikeway	Hangar Avenue	Novato South Service Area	City of Novato	Existing
Class III Bikeway	Main Gate Road	Novato South Service Area	City of Novato	Existing
Class III Bikeway	North San Pedro Road	Peacock Gap Service Area	City of San Rafael	Existing
Class II/ III Bikeway	North San Pedro Road	Peacock Gap Service Area	City of San Rafael	Proposed
San Francisco Bay Trail	North San Pedro Road, Haner Road, Hamilton Parkway, Smith Ranch Road	Phase 1 and Peacock Gap Service Area	City of San Rafael/ City of Novato	Existing

SOURCE: ESA, 2006.

DRAFT EIR/EIS TABLE 3.13-7
EXISTING AND PROPOSED BIKEWAYS, RECREATIONAL TRAILS, AND RECREATION FACILITIES ADJACENT TO THE NBWRP FOR NAPA SD

Recreational Facility	Location	NBWRP Alternative Affecting Facility	Recreational Facility Ownership	Status
Class III Bikeway	Imola Avenue	Phase 1	City of Napa	Existing
San Francisco Bay Trail	Foster Road to Imola Avenue, cross the river and proceed through Kennedy Park to the Napa-Vallejo Highway	Phase 1	ABAG	Proposed
Bay Area Ridge Trail	the City of Napa to Skyline Park via Imola Ave.	Phase 1	Bay Area Ridge Trail Council	Proposed
Skyline Wilderness Park	Imola Avenue	Phase 1 pipeline	State of CA/ Napa County- subleased to Skyline Park Citizens Association	Existing
Napa Valley County Club	Hagen Road	Phase 1 pipeline	Privately owned	Existing
San Francisco Bay Trail Class I Bikeway	Cuttings Wharf/ Stanly Ranch	Phase 1 pipeline	ABAG	Existing

Potential impacts to the proposed facilities are not included in the discussion of impacts in Section 3.13.3 because the proposed facilities are not part of the existing baseline and do not have a set schedule for implementation. If the creation of the trails coincides with NWBRP construction, Mitigation Measure 3.13.1a would be applicable.

The comment also notes proposed bikeways along the Imola Street/ Maxwell Bridge, and the Kennedy Park Trail adjacent to the Napa River. The text in the Draft EIR/EIS has not been revised to include these proposed facilities because they are not adjacent to the proposed pipeline alignment/ facilities.

A new Notice of Preparation visitor comment has been recorded from the www.nbwra.org website on June 7, 2009, 11:32 pm.

Comments:

Page 3.6-8
For the Denmark/8th Street secondary segment, please consider the future development of a contiguous bike path along the abandoned railroad tracks that border 8th Street East to allow connectivity with multiple industrial parks and the opportunity for an alternative mode of transportation. P-1

Page 3.9-13
Please do not allow the SVCSD WWTP proposed pump station to increase existing ambient noise levels during night or daytime hours. The proposed pump stations should be noise attenuated by Title 24/CBC standards or better then if possible. The use of Sonoma County 2020 GP as the guideline for unincorporated areas surrounding SVCSD WWTP is preferable and recommended for long-term operational activity of the SVCSD WWTP proposed pump station. P-2

Expected high noise levels from construction activity is considered temporary and these noise levels would likely yet intermittently be excessive. P-3

P. Anonymous, 6/7/2009

P-1 Comment acknowledged. As noted in the comment, there is potential for future development of a contiguous Class I bike path along the abandoned Union Pacific Railroad tracks that border 8th Street East to increase opportunities for alternative transportation and allow for connectivity with multiple industrial parks. Sonoma County is in the process of acquiring the land from the Union Pacific Railroad; following which environmental review will be conducted (Tam, 2009)[1]. In response to the comment, the future development of the bike path has been added to Table 4-1 on page 4-12 in Chapter 4, Cumulative Impacts, of the Draft EIR/EIS under Forseeable Future Projects.

DRAFT EIR/EIS TABLE 4-1
PLANNED AND APPROVED PROJECTS IN THE PROJECT AREA AND VICINITY

Jurisdiction	Project	Area Affected	Status
FORSEEABLE FUTURE PROJECTS			
Marin County Projects			
Marin County Department of Public Works (CIP)	Miller Creek Road and Trail Inventory for Watershed Plan	San Rafael	2008-2009
	Fish Protection Project	San Geronimo Creek	2008-2009
	Ring Mountain Enhancement Plan		2008-2009
	Railroad grade culvert Installation	Blithedale Creek	2008-2009
	Baywood Canyon Barn Creek Restoration	Loma Alta	2008-2009
	Playground Improvements	Village Green at Stinson Beach	2008-2009
	Irrigation	Civic Center Lagoon	2008-2009
	Dredging	Novato Creek	2008-2009
	Vineyard Creek Improvements, Zone 1 Phase II	Center Road, Arbor Circle to McClay Road, Novato	2008-2009
	Bothin Marsh Restoration ad Flood Control Improvements Project	Coyote Creek and Bothin Marsh in Bothin Marsh Open Space Preserve	2008-2009
	Seminary Drive Pump Station	Redwood Highway, Highway 1 Seminary Drive Northbound off-ramp	2008-2009
	Slough Culvert Replacement	Corte Madera	2008-2009
	Fish Ladders	Multiple locations: Wood Acre Creek, San Geronimo Creek, Arroyo Creek, Larsen Creek, Montezuma Creek, Cheda Creek	2008-2009
Sonoma County			
Sonoma County Regional Parks Department	Pedestrian Project #4- Sonoma/ Schellville Class I Bike Trail	Northwestern Pacific Railroad right-of-way from Highway 121 along 8th Street East and Denmark Street	Design: June 2009;Completion: October 2011

[1] Tam, Kenneth, Park Planner II, Sonoma County Regional Parks Department, Personal Communication and email correspondence with Katie Blank at ESA S August 13, 2009.

The bike path, as proposed, would be installed in the railroad right-of-way, while the proposed Phase 1 pipeline would be installed in the roadway right-of-way. Potential disruption of use of the bike path would be short-term and limited to the construction period. The pipeline would be installed underground and the disturbed areas would be restored to pre-construction conditions. Cumulative impacts of the proposed action with the implementation of the bike path are anticipated to be primarily construction-related and short-term and the impacts would be similar to those discussed under Impact 4.3.1 on page 4-38.

P-2 Comment acknowledged. Impacts to sensitive residential receptors within 500 feet of the existing WWTP and existing ambient noise levels are analyzed in Section 3.9 of the Draft EIR/EIS using significance criteria established in the County of Sonoma 2020 General Plan. The analysis relies on the standards defined in Table NE-2 of the County of Sonoma General Plan Noise Element (i.e., 50 dBA[2] during daytime hours and 45 dBA during nighttime hours) to determine the level of significance of the impact that would result from operation of a new pump station at the SVCSD WWTP. As stated in the analysis under Impact 3.9.3 on page 3.9-25 in Section 3.9, Noise, of the Draft EIR/EIS, operation of the pump station would generate noise in excess of the maximum allowable noise exposure. However, Mitigation Measure 3.9.3 on page 3.9-29 requires all the proposed new pump stations to be located with adequate setback and screening to achieve acceptable regulatory noise standards for industrial uses as well as to achieve acceptable levels at the property lines of nearby residences, as determined by the applicable local jurisdiction. Noise enclosures shall be designed to reduce equipment noise levels by at least 20 dBA, which would effectively reduce the noise level to achieve noise level standards.

P-3 Comment acknowledged. Impact 3.9.1 in Section 3.9, Noise, in the Draft EIR/EIS addresses noise impacts associated with temporary construction activities. As noted in the comment, construction of the pump station could contribute to increased noise levels, however the impact would be temporary and short-term. Operation of the pump station would not result in a significant noise level as discussed in the response to comment P-2. Implementation of Mitigation Measures 3.9.1 and 3.9.3 would reduce noise impacts such that the project would be consistent with local noise ordinances.

[2] A-weighting is a method of frequency rating expressed in units of A-weighted decibels (dBA).

Comment Letter Q

June 23, 09

Dear Marc Bautista,

I was unable to attend the recent public meeting in napa on Draft EIR re North Bay Water Recycling Program. This does not reflect a lack of interest on my part. I am hopeful that the program proceeds successfully and as rapidly as possible.

Sincerely

John F. Dunlap

Please keep me on your mailing list.

Thank you: John F. Dunlap
2111 3rd ave
Napa Ca
94558

phone 707-224-1661

Q-1

Q. John Dunlap, 6/23/2009

Q-1 Comment acknowledged. The commenter expresses support for NBWRP. Since this comment does not affect the environmental analysis in the Draft EIR/EIS, no changes in the Final EIR/EIS are required.

Comment Letter R

COPY
ORIGINAL DOCUMENT
SONOMA COUNTY WATER AGENCY
To BAUTISTA
JUL 14 2009

CF/70-0-14 North San Pablo Bay Restoration and Reuse Project - EIR

Public Comment Card

North Bay Water Recycling Program
Draft EIR/EIS Public Hearing
June 10, 2009

Comment Card: Name: Karen + Vagn Nielsen

Address: 20650 Burndale Rd. Sonoma

Organization (if any): _____

Comment: _____

Our concern is with a booster pump, which in the first design, was to be placed in a triangular piece of land, which is located between Napa Road and Welzel Lane and is also bordered by Burndale Road, in the unincorporated area outside of the City of Sonoma. The proposed location of this booster pump is 50 feet from our home. Our concern is noise and also a flooding issue. Enclosed is a letter, which we sent to Amy Harris Mai of the Sonoma County Water Agency in October 2006. This letter is included in the Final Environmental Impact Report, dated November 2006. It is responded to on page 2J-1 of this report. We continue to be concerned with the location of this booster pump.

R-1

...ructions:

You may submit your comments and/or concerns regarding the North Bay Water Recycling Program (NBWRP) Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) in writing using the form on the other side of this sheet. Hand-in this form after the meeting is adjourned or simply fold and staple this form and mail it to the address below by June 26, 2009. You may also fax this form to the SCWA at (707) 544-6123.

Mr. & Mrs. Vagn Nielsen
20650 Burndale Rd
Sonoma, CA 95476

FYI Looks like
13 July 09

Marc Bautista
Sonoma County Water Agency
PO Box 11628
Santa Rosa, CA 95406-1628

SE4C681628 B021

Comment Letter R

October 30, 2006

Amy Harris Mai
Sonoma County Water Agency
P.O. Box 11628
Santa Rosa, CA 95406

Dear Ms. Mai,

To begin with we very much support recycling of any kind and especially recycling of our precious resource, water.

We understand that preliminary plans call for a booster pump station to be located fifty feet from our property line and therefore very close to our house. This causes us great concern. Even if this can be done within county regulations with "less than significant noise," we feel it will cause a devaluation of our property.

It is not uncommon for our area to have power outages, in which case the diesel generator will have to take over. This will most likely result in extra noise. Certainly this equipment will have to be tested and serviced. During these times, we suspect that the door to the concrete structure will be open for extended periods of time, also resulting in extra noise. We feel this is unfair to us since there are plenty of other possible sites, away from homes, for the booster pumps. We would like to point out some of these other locations on the enclosed aerial map. Please consider locating this booster pump station the farthest distance possible away from any homes.

Another concern that we have is flooding in the winter. As it is now, the triangles are often quite full of water in the wintertime, sometimes approximately two feet in the corner where the pump station is proposed. After prolonged or extremely heavy rain, there have been times when the water has flowed over Welzel Lane and onto our property. Fortunately, up until now, it has not directly threatened our house. Should part of the triangle have to be filled in for the pump station, this could potentially create a bigger flooding threat to our property.

I, Vagn Nielsen, worked in the irrigation field for twenty-seven years and my work included parks and golf courses. It appears to me that the distance from the sanitary plant on Eighth Street East to Denmark Street and Napa Road is a rather small part of the total distance the water has to travel, as well as a small part of the elevation climb it has to make. So I question why the water cannot be pumped directly from the sanitary plant without the need for booster pumps at the far eastern side of the project.

We thank you in advance for you consideration to our concerns.

Sincerely yours,

Vagn Nielsen
20650 Burndale Road
Sonoma, CA 95476
(707) 996-9950

Karen Nielsen

cc: Supervisor Valerie K. Brown

R. Karen and Vagn Nielsen, 6/10/2009

R-1 Comment acknowledged. The comment notes potential noise-related impacts associated with siting, operation, and emergency operation associated with the booster pump station. The comments in the letter attachment, dated October 30, 2006, were submitted previously in response to the Sonoma Valley Recycled Water Project, and responded to in the Sonoma Valley Recycled Water Project Final Environmental Impact Report (SCH#2005092083) (SVWRP Final EIR). The NBWRP Draft EIR/EIS is consistent with the previous responses provided in the SVWRP Final EIR. The information provided in the response to comments in the SVRWP Final EIR and the NBWRP Draft EIR/EIS is summarized below. Mitigation Measure 3.9.3 in Section 3.9, Noise, in the NBWRP Draft EIR/EIS requires all new pump stations to be located within enclosed structures with adequate setback and screening to achieve acceptable regulatory noise standards for industrial uses as well as to achieve acceptable levels at the property lines of nearby residences, as determine by the applicable local jurisdiction. Compliance with this mitigation measure is required during all circumstances, including implemented in the event of power outages.

As noted in the NBWRP Draft EIR/EIS and the responses to comments in the SVWRP Final EIR, the booster pump is needed to supply recycled water to vineyards north of Napa Road, due to the difference in elevation. Pump stations are needed throughout the system for distribution and to boost pressures to higher pressure zones. In response to concerns related to facility siting, the SVWRP Final EIR and the NBWRP Draft EIR/EIS disclose that facility siting is based on best engineering design and site feasibility assessments. As part of project design and property acquisition, if alternative locations are identified in an effort to further minimize noise impacts to surrounding residences, the new site would be reviewed in accordance with *CEQA Guidelines* Sections 15162 through 15164, which specify the environmental review requirements for changes to a project following EIR certification.

As noted in the NBWRP Draft EIR/EIS, and the responses to comments in the SVWRP Final EIR, development of the booster pump station would increase impervious surface by 625 square feet. Section 3.2, Surface Water Hydrology, of the Draft EIR/EIS provides an analysis of potential changes in drainage patterns. However, the new impervious surfaces would not be as extensive as to cause significant changes in the downstream hydrology or flow rates. The pump stations would be designed to include appropriate drainage infrastructure to convey flows generated onsite and from upstream areas. Drainage designs would be integrated with existing drainage systems, and would be designed to avoid or minimize effects to downstream areas and infrastructure. Stormwater runoff from the pump station would flow into a storm drain, which would flow into a nearby ditch. The storm drain would be designed according to SVCSD's stormwater quality control criteria plan that provides measures for a project to manage increased runoff from increased impervious surfaces. Other measures may include installing detention basins, vegetated swales, buffer strips, and/or infiltration basins.

From: Taylor McDaniel [mailto:taylor@muelrathpublicaffairs.com]
Sent: Monday, August 03, 2009 2:46 PM
To: Jim O'Toole; Asavari Devadiga; 'Marc Bautista'; 'Martin Rauch'
Subject: New EIS/EIR Comment

To: The North Bay Water Reuse Authority

I want to propose an idea first introduced in comments to the Sonoma Marin Area Rail Transit EIR of January 2006. There could be a unique opportunity for the NBWRA to install infrastructure beneath the bike path to be constructed, which, as it follows the old right of way ,will pass adjacent to the facilities of both producers and potential users of reclaimed water.

SMART is a continuous publicly owned right of way from the Napa/Sonoma County line to the east, running west into Marin at the Ignacio Wye at the intersection of Highways 101 and 37. It includes approximately eighty miles of North/South right of way from Larkspur to Cloverdale. In its initial development, SMART will run about two dozen weekday commuter trains between Cloverdale and the Larkspur ferry and build about fifty miles of Class I paved bicycle path within their right of way. S-1

Here in central Marin, the wastewater reuse facility, run collaboratively by Las Gallinas Sanitary District and the Marin Municipal Water District, is located right next to the SMART right of way. This section of the SMART project includes a continuous bike path running south past the Marin Civic Center into central San Rafael and north into the Hamilton development of southern Novato.

The potential end users of reclaimed water along this one section include thousands of Hamilton residents, whose homeowner associations, public spaces, parks, and schools, have only potable water sources; St. Vincent's School and ranch properties, which have planning approval to develop hundreds of units of senior housing; and even denser populations adjacent to the right of way south into San Rafael.

The section of the SMART right of way between Hamilton and central San Rafael constitutes little more than ten percent of the area of the proposed bike path. I grew up and continue to reside in this section of Marin, and therefore can easily see the multiplicity of potential uses for reclaimed water. Others vested in Sonoma and perhaps even Napa Counties intimately familiar with the needs of their neighborhoods should also be able to appreciate the potential of easily accessible public rights of way adjoining neighborhoods to the resources of larger geographical regions.

The top priorities of public agencies, such as SMART and the North Coast Railroad Authority, are the building and operating of rail service. However, the combination of our multi-year drought and the financial impacts of the current recession on public agencies compel us to examine ways to cut costs while still providing essential services and keeping our eye on the goal of improving the environment.

The goals of the NBWRA, to assist their constituents in substituting reclaimed water from heavily impacted sources such as the Russian and Eel Rivers, is reason enough to fast track this project. But think of the potential savings emanating from running distribution infrastructure in rights of way not heavily impacted by auto and truck traffic.

As developers of potentially hundreds of miles of a publicly owned right of way, both SMART and the NCRA will be required to landscape their stations, as well as the rail and bike path interface with urban areas. At approximately thirty thousand dollars ($30,000.00) per meter, just the hookup costs, before any funds are spent on landscape infrastructure, are daunting when one considers fourteen SMART stations and eighty miles of service interconnecting numerous jurisdictions and their water districts.

Historically, railroads have leased out access to their rights of way for everything from telegraph lines to natural gas pipelines. If there was ever a time to explore the possibility of easily delivering reclaimed water to public spaces, residential, agricultural, commercial, and industrial clients, in the most cost effective, sustainable and least disruptive way, perhaps it is now.

S-1 Cont.

Barry Buckley
12 Lovejoy Way
Novato, CA 94949
415-613-3257
barrybuckley@sbcglobal.net

Taylor McDaniel
C: 707-974-7498
taylor@muelrathpublicaffairs.com

S. Barry Buckley, 8/3/2009

S-1 Comment acknowledged. The commenter notes that the pipelines proposed under the NBWRP could be installed beneath a bike path along the north-south railroad route from Larkspur to Cloverdale proposed under the Sonoma-Marin Area Rail Transit (SMART) Project[1]. NBWRA and its Member Agencies support the provision of recycled water to bike lane, median, and station landscaping associated with the SMART right-of-way, as well as the potential use of the SMART right-of-way as a distribution pipeline corridor. The LGVSD/NMWD Phase 1 project includes a route option parallel to the SMART right-of-way for extension of recycled water service from the LGVSD WWTP to Hamilton Field. In addition, the Novato SD/NMWD Phase 1 project includes a route alignment for recycled water service to the central Novato corridor parallel to existing SMART right-of-way. NBWRA and its member agencies will continue to coordinate with SMART to review opportunities for inclusion of recycled water distribution pipelines in SMART right-of-way for delivery of recycled water service to local end-users (including SMART facilities) as both programs move toward final engineering phases.

1 http://www.sonomamarintrain.org/

A new Notice of Preparation visitor comment has been recorded from the www.nbwra.org website on July 14, 2009, 8:32 pm.

Comments:

July 14, 2009
Marc Bautista
Sonoma County Water Agency
PO Box 11628
Santa Rosa, Ca. 95406-1628
Submitted by Email through www.nbwra.org

Re: North Bay Water Recycling Program (NBWRP)

Mr. Bautista,

As a member of the Sonoma Valley Basin Advisory Panel, I would like to share my hopes and concerns about this program. First,the program as a whole and then with more direct reference to the Sonoma Valley County Sanitation District (SVCSD) and this area.

Basically I feel this is a grandiose plan as a whole. It has good intentions as with the need to utilize safe treated wastewater to offset the use of potable water for beneficial uses where appropriate. However I believe that the No Action Alternative would be the same for the Sonoma Valley area as Alternative 1 since the Sonoma Valley Recycled Water Project has already been circulated with a FEIR. According to Table 3.3-6 in the DEIR shows the same amount (874 ac.ft.) of recycled water available from the SVCSD under either alternative. Alternative 1 adds a few more local projects to the other districts which makes this alternative the lowest in associated costs of operation and maintenance ($1.8 mil) and the lowest capital costs ($210 mil) when compared to the other alternatives. An alternate that was not considered was treating the wastewater to drinking water standards. It would create more potable water. T-1 T-2

We need to use this recycled water in a sustainable way. This project was found to be growth inducing as stated in the Executive Summary ES.4.4. It would assist in the build out of the county and cities general plans and thereby contribute to the potential secondary effects of growth. Supporting new agricultural growth in areas that would not be able to sustain itself without the recycled water provided by this project is not sustainable agriculture. What happens to those owners if the faucet is turned off? Some farmers that took advantage of the water agency's "surplus" water were in for a rude awakening when there was no "surplus" anymore. After having invested so much money in planting a vineyard, some were economically devastated when the water was shut off. Total dependence on irrigating your crops with the provided recycled water could be unsustainable. T-3 T-4

We need to use recycled water locally; preferably within our own basins. It needs to be a part of the water cycle within a watershed or basin. With climate change the planet cannot afford to be pumping water through miles of pipes especially when it can be utilized more locally. The greenhouse gas emissions would be increased per ES.4.3 due to pumping. This would not promote the initiatives that have been T-5

set forth to reduce greenhouse gas emissions even within Sonoma County and the state. T-5 cont.

Wastewater may not be a rising commodity. The quantity of recycled water could and should be reduced over time. With the push for conservation, the expanding use of grey water, and the capture and infiltration of stormwater, the amount of treated wastewater should decrease. This should be included in considering the long term quantities of recycled water available. T-6

The benefit of this program offsetting potable water is valid only as it "assumes all irrigated lands currently rely on groundwater therefore the use of recycled water would result in corresponding offset in the existing groundwater use." This could be a benefit if you can convince owners of irrigated lands that currently rely on groundwater to leave it in the ground and pay for this recycled water. The devil will be in the details. Hopefully this program will prove beneficial in offsetting potable water. T-7

In the promotion for the use of this recycled water, it would be prudent to use caution in regard to the quality of this wastewater and how it is used. As stated in Impact 3.3.4, Groundwater Quality, it is recommended that recycled water should not be used within 50 ft of a domestic well. Soil conditions present where recycled water is used is very important with regard to the filtration of contaminants not removed by the treatment process. With alluvial deposits in most of the Sonoma Valley floor and groundwater levels from 5 – 75 ft from the ground surface in these areas, it could be site specific as to where there could be a threat of groundwater contamination. Recycled water needs a length of time to filter through the soil before getting to the groundwater table . We also have no conclusive information about the effects of the emerging contaminants; the endocrine-interrupters , personal care products, the super bugs that have been brewed up within the treatment process from antibiotics and other pharmaceuticals that are not removed during the tertiary treatment process. Careful consideration should be used with this issue as causing or letting groundwater contamination happen would be devastating to our lands, lifestyle and economy. T-8

Since I live in the Sonoma Valley my primary concern is for the Sonoma Valley Recycled Water Project. The project within Phase 1 of the NBWRP is only a small portion of the whole project. I would like to see more utilization of the SVCSD's recycled water locally by extending the implementation of this project within the NBWRP. T-9

The Napa Salt Marsh Restoration project seems a good way to use up excess treated wastewater. There is no quantitative amount of recycled water that may be needed to flush out the saltmarshes. However this project involves the installation of 4 miles of 24" pipe. T-10

Is that a normal size for a water pipe? Why so big? T-11

It would seem that this project would be better served by Napa. They are closer. Under Alternative 2 it is proposed that the Sonoma Valley and Napa districts would be connected. T-12

Please consider the No Action Alternative and use our treated wastewater safely and locally. T-13

Sincerely,
Kathy Pons 707 833 2452
P.O. Box 632
Kenwood, Ca. 95452

T. Kathy Pons, 7/14/2009

T-1 Comment acknowledged. This comment does not affect the environmental analysis in the Draft EIR/EIS.

T-2 Comment acknowledged. Please refer to response to comment W2-2 and **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

T-3 Comment acknowledged. As discussed in Sections 5.3.1 through 5.3.4 of Chapter 5, Growth Inducement and Secondary Effects of Growth, in the Draft EIR/EIS, the Member Agencies would experience water supply deficits in the face of new development in the service areas. Recycled water use under the NBWRP would offset potable water demand and make potable water available for new development. However, as discussed further, the new development is part of the planned growth and development of the individual General Plans. The NBWRP would not induce additional growth beyond that planned for in the LGVSD, Novato SD, SVCSD, Napa SD areas. The level of growth would be consistent with the extent planned and approved by the local General Plans in the area. The recycled water use is a part of the planned water supplies and would not provide new water supplies or remove obstacle to growth beyond that discussed in the General Plan EIRs.

Buildout under the General Plan requires several types of infrastructure, including an adequate water supply; the proposed action would contribute to the provision of adequate water supplies, both urban and agricultural, within the service areas of the Member Agencies. The secondary impacts related to buildout under the approved General Plans within the service areas of the NBWRA Member Agencies are disclosed in the General Plan EIRs for Cities of San Rafael, Novato, Sonoma, and Napa, and the Counties of Marin, Sonoma, and Napa.

As noted in the last paragraph on page 5-18 in Chapter 5, of the Draft EIR/EIS, the NBWRA Member Agencies do not have the authority to control land use and growth within the recycled water service areas identified under the NBWRP, or to mitigate for the secondary effects of those land use decisions. Marin, Sonoma and Napa Counties, and the incorporated cities of San Rafael, Novato, Sonoma and Napa, have primary land use jurisdiction and responsibility to regulate growth through the land use planning and development approval process.

T-4 Comment acknowledged. The proposed action would provide recycled water to existing development such as current agricultural lands. Please refer to response to comment T-3 above.

T-5 Comment acknowledged. The Draft EIR/EIS addresses greenhouse gas emissions that would be generated by pumping operations in Impact 3.8.4 in Section 3.8, Air Quality, of Draft EIR/EIS. As noted in the discussion, the electricity required for pumping would

indirectly generate greenhouse gas emissions that would be well below the California Air Resources Board (CARB) interim greenhouse gas threshold of 7,000 Metric tons of carbon dioxide equivalent per year, which is the best available standard for evaluating project-related greenhouse gas emissions. Similarly, there are pumping requirements associated with potable water distribution and groundwater pumping. The analysis in Impact 3.8.4 of the Draft EIR/EIS demonstrates that the amount of electricity (kWhr) required to pump one acre-foot of recycled water is substantially lower that the amount of electricity required to pump one acre-foot of potable water (which is shown in **Table 3-4** below with the data provided in Section 3.8).

TABLE 3-4
SUMMARY OF COMPARISON OF POTABLE WATER PUMPING REQUIREMENTS VERSUS RECYCLED WATER PUMPING REQUIREMENTS

Energy Demand	Phase 1	Basic System	Partially Connected System	Fully Connected System
Potable Water (kWhr/ AFY)	1,120	1,212	686	561
Recycled Water (kWhr/AFY)	402	257	321	277
Corresponding Reduction in GHG Emissions (kWhr/AFY)	718	955	455	284

Data related to energy consumption for groundwater pumping is largely unavailable; therefore the potable water electricity demand is a conservative estimate and is likely substantially higher due to actual groundwater pumping requirements. Furthermore, the recycled water produced under the project would serve local urban and agricultural uses as indicated by the pumping and conveyance required for local recycled water use (Phase 1).

T-6 Comment acknowledged. The Draft EIR/EIS relies on existing wastewater inflow and recycled water demand, and incorporates recycled water demand for the project to quantify recycled water supply. Conservation, expanded use of grey water, and capture and infiltration of stormwater could reduce the amount of wastewater inflow. Table 2-2 in the Draft EIR/EIS shows that even with additional new recycled water demand, the existing WWTP inflow still exceeds demand; therefore recycled water production would not be affected by a reduction in WWTP inflow as a result of increased conservation, expanded use of grey water, and capture and infiltration of stormwater.

Furthermore, population within the region is anticipated to increase by approximately 4 percent by 2015 and an additional 2 percent through 2030, which corresponds with increased total projected water use in the projected area (Table 5-14). The Draft EIR/EIS analysis relies on the best available data for recycled water supply projections through 2030. Based on this information, future recycled water use is anticipated to increase exponentially. Conservation, expanded use of grey water, and stormwater management would contribute to a reduction in wastewater, but not to a degree that would affect the

project's capability to produce recycled water given that water demand and corresponding wastewater would increase.

T-7 Comment acknowledged. The Draft EIR/EIS assumes irrigated lands currently reliant of groundwater will transition to recycled water use. Please refer to **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses for a discussion regarding prospective recycled water customers and willingness and ability to pay for recycled water.

T-8 Comment acknowledged. There are different sources that provide water supply in the project area as shown in Table 2-1 in Chapter 2, Master Responses. Please refer to **Master Responses 2.1, Proposed Action and Relationship to Water Supply** and **2.6, Recycled Water Quality**, in Chapter 2, Master Responses. Issues such as fate of contaminants including their movement into soil and groundwater need further investigation. The significance of the impacts in the Draft EIR/EIS is based on the existing conditions and applicable current state and federal regulations.

T-9 Comment acknowledged. As described in Chapter 2, Project Description, of the Draft EIR/EIS, the Sonoma Valley Recycled Water Project (SVRWP) has been developed by SVCSD and is included in the NBWRP. As noted in the comment, Phase 1 of the NBWRP includes implementation of a portion of the SVWRP (Alignment 1A) and not the entire project. The implementation would occur in local service area of SVCSD within Sonoma Valley.

T-10 Comment acknowledged. As discussed on page 3.2-23 of Section 3.2, Surface Hydrology, of the Draft EIR/EIS, the amount of recycled water that would be available to flush out the Napa Salt Marsh is quantified in the Draft EIR/EIS. The amount is calculated based on modeling of available recycled water, recycled water demand, and the remaining balance.

T-11 Comment acknowledged. The Napa Salt Marsh would be served by 4.0 miles of 24-inch pipeline originating at SVCSD WWTP (Option A, as described in Chapter 2.0, Project Description, Subsection 2.7.1 Phase 1 Implementation). The pipeline was sized according to engineering judgment and anticipated demand. The size of the pipe was determined to provide operational flexibility and seasonal availability of water.

T-12 Comment acknowledged. This comment does not require any changes to the Final EIR/EIS.

T-13 Comment acknowledged. As noted in the comment, the No Action Alternative will be considered by the NBWRA and Reclamation in conjunction with other proposed alternatives that are described in Chapter 2, Project Description, of the Draft EIR/EIS.

Tom Yarish

23 Nelson Ave, Mill Valley, CA 94941
415.381.6970 v 5521 fax

7/27/2009

Marc Bautista
Sonoma County Water Agency
404 Aviation Blvd.
P.O. Box 11628
Santa Rosa, CA 95406-1628
Marc.Bautista@scwa.ca.gov

Re: NBWRA / NBWRP DEIR/EIS PROCESS

Service by email and regular mail

I am submitting the following comments solely on my own behalf as a long-time participant in Sonoma County water and wastewater issues.

I must say that this is the poorest DEIR/EIS and process that I have ever seen in twenty years of reviewing these matters. At a minimum, this project stands as a resounding call for sweeping changes in the governance (Board of Supervisors) and upper levels of management of the Sonoma County Water Agency (SCWA). U-1

This failed DEIR/EIS process is the latest in a succession of extraordinarily expensive and wasted SCWA projects like the NSCARP, UWMP and WSTRP, all of which were defeated in the courts within the past few years. Adding to the misfortunes of the NBWRP are alleged abuses to the public interest and public trust related to the acquisition of the Cargill/Napa salt ponds now part of this project. U-2

Add to that recent and controversial plans to put the Novato CSD into private hands and the recent sealed federal search warrants served upon that agency and you have the ingredients for an unprecedented fiasco and taxpayer outrage. U-3

The last ingredient is massive amounts of water from the Russian and Eel Rivers, publicly funded and privately owned. U-4

Because of the confluence of powerful private interests and high-level political support for this project in both the California Senate and the United States Senate the question of conspiracy comes to mind. What is not known at this moment is whether or not that a possible conspiracy against the public coffers and public trust has or may become a criminal matter. Certainly the federal warrant raises that issue with some immediacy. (See articles and citations in reference section and attachments in my EIR analysis.)

I also note that at recent public comment meetings held on consecutive nights in Sonoma and Napa, the moderator forced the testimony period closed in advance U-5

of posted times, abruptly and rudely to myself at Sonoma and later to David Keller at Napa. This curtailment of public input seems to be reflected in the scant attention paid to lengthy scoping submissions by many.

U-5 cont.

Those of us in the community-at-large who have participated in this process in good faith had hoped for a better result from our time. Yet the internal imperatives and the dynamic of the Board of Supervisors and the management of the SCWA have lead the public interest into a dark corner.

U-6

Tom Yarish

U. Tom Yarish, 7/17/2009

U-1 Comment acknowledged. Governance and management of SCWA are issues that are addressed by the managerial staff at SCWA. Since this comment does not affect the environmental analysis in the Draft EIR/EIS, no changes in the Final EIR/EIS are required.

U-2 Comment acknowledged. The proposed action would include conveyance of disinfected tertiary recycled water to the Napa salt ponds for habitat restoration as discussed in Chapter 2, Project Description, and Section 3.4, Water Quality, of the Draft EIR/EIS. The proposed action would not involve acquisition of the Napa salt ponds by NBWRA or any of the Member Agencies, therefore is not discussed in the Draft EIR/EIS.

The Napa Salt Marsh ponds are under the jurisdiction of the California Coastal Commission and California Department of Fish and Game. The restoration and management of the Napa Salt Marsh ponds was analyzed in the *Napa Salt Marsh Restoration Project EIS/EIR* (Jones and Stokes Associates, Certified by California State Coastal Conservancy, April 2003, SCH#1998072074). As noted also in response K-13 and K-16, Provision of recycled water to assist in the restoration of Ponds 7 and 7A is consistent with the long-term restoration program.

U-3 Comment acknowledged. Governance and management of the NBWRA Member Agencies are issues that are addressed by the managerial staff at SCWA. Since this comment does not affect the environmental analysis in the Draft EIR/EIS, no changes in the Draft EIR/EIS are required.

U-4 Comment acknowledged. Please refer to **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses of the FEIR/EIS.

U-5 Comment acknowledged. As stated under Section 15202(a) of the CEQA Guidelines, no formal hearings are required at any stage of the environmental review process and public comments may be restricted to written communication. NBWRA conducted three public hearings to provide a forum to present and discuss the proposed NBWRP with stakeholders including the public. The rules, assumptions, and expectations for the schedule and conduct of the meeting were explicitly stated prior to beginning of the hearing, which provided for public comments limited to five minute speaking periods. The public hearing facilitator adhered to the stipulated time limits to ensure additional speakers had the opportunity to contribute and to provide a fair and consistent amount of time to each speaker. Provision for written comments was noted at each hearing, and forms were provided. An email/ web comment format was also available and noted at each meeting.

U-6 Comment acknowledged. The opportunity for public participation in the NBWRP and the Draft EIR/EIS preparation was provided during the scoping period following release of

the Notice of Preparation and a public review period following publication of the Draft EIR/EIS. Three scoping meetings were held August 4, 5, and 6, 2008 to solicit additional scoping comments. An additional scoping meeting with individual stakeholders was held on August 6, 2008 with the Russian River and Eel River Interest Groups. The Scoping Process provided the means by which Reclamation and NBWRA determined the issues that interested participants considered to be the principal areas for study and analysis. Comments that were received during the scoping process were summarized in a Scoping Report, which was attached as Appendix 1A in the Draft EIR/EIS.

The 45-day public review period for the Draft EIR/EIS was extended through July 20, 2009 to provide additional time for review. All comments received during the review period are responded to in the Final EIR/EIS. This comprehensive response to scoping and Draft EIR/EIS comments demonstrates compliance with public involvement requirements under CEQA and NEPA and a good faith effort to address public issues and concerns. Please also refer to response to comment U-5.

The comment concerning the Board of Supervisors and management of SCWA concerns issues that are addressed by the managerial staff at SCWA and does not affect the environmental analysis in the Draft EIR/EIS, therefore no changes in the Final EIR/EIS are required.

V. Summary of Public Hearing Comments, Margaret Todd Senior Center, Novato, Marin County, 6/11/2009

Verbal comments were received from the following parties:

- V1 Barry Buckley
- V2 Drew McIntyre
- V3 Megan Clark

Pursuant to United States Bureau of Reclamation 2000 NEPA Handbook § 8.15.2.2, the entire verbatim public testimony is not included, nor are the transcripts appended to the Final EIR/EIS; rather the comments contributed by each party are summarized and responded to separately below.

V1. Barry Buckley, 6/9/2009

Comment Summary

V1-1 Comment asserts that the Draft EIR/EIS should include an analysis of LGVSD Phase 1 pipeline options.

V1-2 The commenter is concerned that rate payers will not get the water.

V1-3 Comment is related to allocation of recycled water for bike path landscaping, condominiums, and Hamilton Landing center.

Responses to Comments

V1-1 Comment acknowledged. The alternative routes that would connect LGVSD to southern NMWD service area are described as part of Phase 1 in Chapter 2, Project Description, and analyzed in Chapter 3, Affected Environment, Environmental Setting, Environmental Consequences, Impacts and Mitigation Measures, of the Draft EIR/EIS. The project components are based on the feasibility and engineering studies including the Nute Engineering Report (2004) for LGVSD and Phase 3 Feasibility Report (2008) referenced in Chapter 2, Project Description.

V1-2 Comment acknowledged. Please see **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses.

V1-3 Comment acknowledged. Please refer to response to comment V2-1. Recycled water would be delivered locally within the NMWD service area, including Hamilton area. As indicated in comment V2-1, recycled water will be delivered to the Hamilton Landing complex, Spanish housing, ball fields, some of the large homeowners associations, the amphitheater, and Lanham Village.

V2. Drew McIntyre, 6/9/2009

Comment Summary

V2-1 Comment was made in response to comment V1-3. Comment informs that recycled water is allocated for use in Hamilton Landing, Spanish housing, ball fields, large homeowner's associations, the amphitheater, and Lanham Village.

Responses to Comments

V2-1 Comment acknowledged. This comment clarifies the local use of water within the participating service districts As a representative from NMWD, the commenter explained that recycled water would be delivered locally within the NMWD service area, including the Hamilton Landing complex, Spanish housing, ball fields, some of the large homeowners associations, the amphitheater, and Lanham Village. This comment addresses the issue raised in comment V1-3. Since this comment does not affect the environmental analysis in the Draft EIR/EIS, no changes in the Final EIR/EIS are required.

V3. Megan Clark, 6/9/2009

Comment Summary

V3-1 The commenter is concerned about effects of sea level rise.

Responses to Comments

V3-1 Comment acknowledged. Impacts associated with flooding as a result of sea level rise are addressed in Impact 3.2.4 in Section 3.2, Surface Water Hydrology in the Draft EIR/EIS. The analysis considers information from the San Francisco Bay Conservation and Development Commission (BCDC) and modeling of a one meter rise in sea level published by the Department of Geosciences at the University of Arizona, Environmental Studies Laboratory. The proposed action facilities that are susceptible to impacts include pipelines and pump stations in the Hamilton/ Highway 37 area in southern Novato, Carneros East area, and the Napa Salt Marsh area. Mitigation described in Measure 3.2.4 requires proper design, placement, and structural development.

Please refer to **Master Response 2.6, Recycled Water Quality,** in Chapter 2, Master Responses, concerning emerging contaminants. Impacts to wetlands are discussed in Section 3.5, Biological Resources, of the Draft EIR/EIS.

W. Summary of Public Hearing Comments, Sonoma Community Center, Sonoma County, 6/10/2009

Verbal comments were received from the following parties:

- W1 Tom Yarish
- W2 Kathy Pons
- W3 Mitch Mulas
- W4 Bill Montini

Pursuant to United States Bureau of Reclamation NEPA Handbook § 8.15.2.2 (2000), the entire verbatim public testimony is not included, nor are the transcripts appended to the Final EIR/EIS; rather the comments contributed by each party are summarized and responded to separately below.

W1. Tom Yarish, 6/10/2009

Comment Summary

W1-1 The comment is concerned with water quality and the disinfection byproducts in wastewater that survive tertiary treatment and remain active and produce toxic byproducts that would conflict with discharger's ability to meet state standards.

W1-2 The comment is concerned with operation and maintenance costs. Commenter would like to see hard analysis of cost advantages of the proposed infrastructure project versus reverse osmosis or microfiltration.

W1-3 The comment notes challenges associated with discharge of potable water.

W1-4 The comment notes there should be more analysis of trace constituents and hard analysis on cost advantages of the proposed project versus “globally-based” RO filtration that will produce potable water that will rival Russian River’s supply.

W1-5 The comment reflects concern about impaired status of the Russian River and potential for State Water Board to require conservation.

W1-6 The comment is concerned that Title 22 does not include emerging toxins. The comment reflects concern for impacts from recycled water use at vineyards to fish resulting from providing additional water to support new vineyards that use traditional farming methods.

W1-7 Commenter would like reverse osmosis, microfiltration, conservation, localized distribution to be considered as alternatives.

Responses to Comments

W1-1 Comment acknowledged. Please refer to **Master Responses 2.6, Recycled Water Quality**, in Chapter 2, Master Responses.

W1-2 Please refer to **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses. Microfiltration is a pre-treatment process and typically precedes the reverse osmosis treatment. For the proposed project, the treatment options considered are reverse osmosis or granular activated carbon, however, each Member Agency would make the determination themselves on whether to pursue methods of advanced treatment.

W1-3 Comment acknowledged. The comment pertains to potable water use and discharge and does not warrant any changes to the environmental analysis in the Draft EIR/EIS. The proposed project does not involve potable water use. The treatment technologies would not involve reverse osmosis due to the high costs. Also, please refer to response to comment K-17.

W1-4 Comment acknowledged. Please refer to **Master Response 2.6, Recycled Water Quality**, in Chapter 2, Master Responses. The term "globally-based RO water filtration" is not clear. Chapter 6, Alternatives Analysis, of the Draft EIR/EIS provides a description of the proposed project and alternatives such as importation of water and provides a comparative analysis as required under CEQA and NEPA. The commenter is referred to Chapter 6 for further information on the project alternatives.

W1-5 Comment acknowledged. As discussed in Section 1.7.8 in Chapter 1, Introduction of the Draft EIR/EIS, the NBWRA Member Agencies continue to implement water conservation programs as part of the water supply planning efforts, which account for recycled water as one of the sources of water supplies. The recycled water use under the NBWRP would occur in conjunction with, and not at the expense of, the local water conservation programs. Please see also response to comment M-61 as it pertains to water conservation programs. Also please refer to **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

W1-6 Comment acknowledged. The analysis in the Draft EIR/EIS is based on the current applicable regulatory standards including Title 22 requirements. Please refer to **Master Response 2.6, Recycled Water Quality**, in Chapter 2, Master Responses.

W1-7 Comment acknowledged. As noted on Page 2-9 in Section 2.5, Project Objectives, in Chapter 2, Project Description, of the Draft EIR/EIS, one of the project objectives is to improve local and regional water supply reliability. Phase 1 of the NBWRP is designed to maintain use of recycled water locally and the project overall puts greatest emphasis on local recycled water use as described in the description of the project alternatives. Alternatives such as reverse osmosis, microfiltration, conservation, localized distribution are not considered as alternatives to the project, as described in **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses.

W2. Kathy Pons, 6/10/2009

Comment Summary

W2-1 The commenter is concerned with water quality and the disinfection byproducts in wastewater that survive tertiary treatment and remain active and produce toxic byproducts that would conflict with discharger's ability to meet state standards.

W2-2 Comment recommends that the Draft EIR/EIS include a way to look at the economic basis of the project and compare the costs of doing NBWRP versus the costs of filtering and treating wastewater to a potable level.

W2-3 The commenter is concerned that future conservation, expanded use of grey water, climate change impacts to meteorology would reduce supply of wastewater such that the project would be infeasible.

Responses to Comments

W2-1 Comment acknowledged. Please refer to **Master Response 2.6, Recycled Water Quality**, in Chapter 2, Master Responses.

W2-2 Comment acknowledged. The comment notes an option of exploring potable water production and an economic comparison of the costs to complete the NBWRP versus the cost to treating wastewater to potable standards. The proposed project does not involve potable water use. Please refer to response to comment W1-2 and **Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses. Advanced treatment of wastewater to generate potable water in the project area would not achieve the objectives of the project such as offsetting urban and agricultural demands on potable water supplies. Further, effects of increased potable water supply on water demand would need to be studied in the light of the water conservation programs being implemented by the Member Agencies to conserve and reduce water use. Further, additional studies would need to be conducted to determine the treatment options to attain the higher potable water standards that would affect human health.

W2-3 Comment acknowledged. As noted in the Draft EIR/EIS, the proposed project would rely on existing wastewater inflow and recycled water demand, and would incorporate recycled water demand for the project to quantify recycled water supply. Conservation, expanded use of grey water, and capture and infiltration of stormwater could reduce the amount of wastewater inflow. Table 2-2 in Chapter 2, Project Description, of the Draft EIR/EIS shows that the existing WWTP inflow even exceeds the additional new recycled water demand. SCWA has a goal to conserve 6,600 acre-feet of water annually. As shown in Draft EIR/EIS Table 2-2, annual discharge under all alternatives is greater than the anticipated reduction from conservation. Therefore, recycled water production would not be affected by a reduction in WWTP inflow as a result of increased conservation, expanded use of grey water, and capture and infiltration of stormwater. This concept is

also explained in **Figure 1** in **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. Furthermore, Sonoma County and SCWA do not sponsor stormwater collection systems or grey water systems[1]. Stormwater collection, such as rainfall capture cisterns are allowed, but are privately purchased and operated. The three primary deterrents to success of Stormwater capture include:

1. Seasonality: In general, rainfall occurs during the winter months, but the demand for water increased during the summer months.

2. Storage capacity and reliability: it is difficult to store and preserve quality of captured water.

3. Cost-effectiveness: Stormwater collection systems are not cost- effective; for example, the City of Sonoma has historically offered $0.25 per gallon on recovered water (Burroughs, 2009).

The California Department of Water Resources (DWR)[2] established criteria and building guidelines for grey water systems in Appendix G of the Plumbing Code, which established stringent, prescriptive standards for application, installation, testing, inspection, and operation. The legislation identifies safety issues associated with reuse of grey water, including risk of contamination from laundry containing soil and fecal matter to human health and groundwater supplies. Concerns for safety restrict application of grey water to land surface, direct discharge to storm sewer systems, and use in vegetable gardens (UPC Title 24, Part 5 Chapter 16, DWR, 1997). Senate Bill 1258 (SB 1258), signed July 2, 2008, directed state agencies, specifically the Housing and Community Development Department, to revise building standards for grey water systems for indoor and outdoor use. July 30, 2009 California Building Standards Commission adopted the new code language that modified Title 24 of the Plumbing Code[3]. Overall, the new code is more performance based rather than prescriptive, and it allows for much less expensive systems to be created for residential use. Two types of grey water systems do not require local building permits, including clothes washer and single fixture systems. A standard set of conditions apply to these systems. Title 24 does indicate that cities and counties have the authority to adopt more restrictive standards related to the design and operation of grey water systems.

SCWA is not authorized to approve grey water systems. The City of Sonoma allows private grey water systems at the discretion of the City's Building Department. Permits would be granted on a case-by-case. From 1997 to 2009, no applications for grey water systems have been submitted. In general, this is attributed to the difficult installation process and human health issues. Furthermore, there is not enough data to demonstrate

1 Pollard, Carrie, Sonoma County Water Agency, Personal Communication with Katie Blank, ESA, August 12, 2009.
2 California Department of Water Resources (DWR), Uniform Plumbing Code (UPC) Title 25, Part 5, Chapter 16, adopted by California Building Standards Commission March 18, 1997.
3 Note that the draft revisions were not adopted prior to public release of the NBWRP Draft EIR/EIS, therefore they were not considered as part of the regulatory framework.

the water savings from grey water systems would equal or exceed water savings from recycled water systems.[4]

Furthermore, population within the region is anticipated to increase by approximately 4 percent by 2015 and an additional 2 percent through 2030, which corresponds with increased total projected water use in the projected area (Table 5-14 in Chapter 5 of the Draft EIR/EIS). The Draft EIR/EIS analysis relies on the best available data for recycled water supply projections through Year 2030. Conservation, expanded use of grey water, and stormwater management would contribute to a reduction in wastewater, but not to a degree that would affect the project's capability to produce recycled water given that water demand and corresponding wastewater would increase.

W3. Mitch Mulas, 6/10/2009

Comment Summary

W3-1 The commenter is concerned that agricultural users will not want to pay for water.

W3-2 The comment asserts that California Department of Fish and Game is buying the property the project proposes as candidates for recycled water use.

W3-3 The comment reflects concern regarding funding.

W3-4 The comment reflects concern regarding growth in cities.

Responses to Comments

W3-1 Comment acknowledged. Please refer to **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses.

W3-2 Comment acknowledged. The proposed project involves recycled water use primarily to existing land uses such as existing agricultural lands, as noted in Chapter 2, Project Description, in the Draft EIR/EIS. The project components are planned according to the existing water demand and existing users and the project proponents would contact the applicable agencies (e.g., CDFG as noted in the comment) as necessary. The decision of using recycled water would reside with CDFG.

W3-3 Comment acknowledged. Please refer to **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses.

[4] Burroughs, Joe, Plans Examiner, Building Department, City of Sonoma, Personal Communication with Katie Blank, ESA August 12, 2009.

W3-4 Comment acknowledged. (See Also T-3, for response regarding growth inducement.) As discussed in Sections 5.3.1 through 5.3.4 of Chapter 5, Growth Inducing Effects and Secondary Effects of Growth, in the Draft EIR/EIS, the water supply retailers within the Member Agency service areas would experience water supply deficits in the face of new development in the service areas. Recycled water use under the NBWRP would offset potable water demand and make potable water available for new development. However, as discussed in the chapter, the new development is part of the planned growth and development of the individual General Plans. The NBWRP would not induce additional growth beyond that planned for in the LGVSD, Novato SD, SVCSD, and Napa SD areas. The level of growth would be consistent with the extent planned and approved by the local General Plans in the area. The recycled water use is a part of the planned water supplies and would not provide new water supplies or remove obstacle to growth beyond that discussed in the General Plan EIRs.

As stated on Page 5-18, the NBWRA Member Agencies do not have the authority to control land use and growth within the recycled water service areas identified under the NBWRP, or to mitigate for the secondary effects of those land use decisions. Marin, Sonoma and Napa Counties, and the incorporated cities of San Rafael, Novato, Sonoma and Napa, have primary land use jurisdiction and responsibility to regulate growth through the land use planning and development approval process.

W4. Bill Montini, 6/10/2009

Comment Summary

W4-1 The commenter is concerned about impacts to agriculture. The comment notes that the Draft EIR/EIS does not address pipeline routes that cut through vineyards or consider alternative pipeline routes that would avoid agriculture. The commenter is concerned those agricultural users would lose land as a result of installation of the pipelines and that easements would be required. The comment notes that the Draft EIR/EIS does not consider the economic costs to vineyard owners.

Responses to Comments

W4-1 Comment acknowledged. Impacts to agricultural land are identified in Section 3.6, Land Use and Agriculture, of the Draft EIR/EIS. The proposed pipelines are generally confined to existing roadway right-of-way and utility easements; however portions of the pipeline route are adjacent to areas currently under agricultural cultivation. Pipeline easements would be negotiated with individual property owners, as appropriate. The Draft EIR/EIS identifies a construction corridor (see under Section 2.9, Construction, in Chapter 2, Project Description) and analyzes the impacts that could occur during construction. Implementation of the project would require temporary access to install the pipelines.

X. Summary of Public Hearing Comments, Napa Elks Lodge, Napa County, 6/11/2009

Verbal comments were received from the following parties:

- X1 David Keller
- X2 Tom Yarish
- X3 John Stewart

Pursuant to United States Bureau of Reclamation NEPA Handbook § 8.15.2.2 (2000), the entire verbatim public testimony is not included, nor are the transcripts appended to the Final EIR/EIS; rather the comments contributed by each party are summarized and responded to separately below.

X1. David Keller, 6/11/2009

Comment Summary

X1-1 Comment asserts that comments previously submitted during scoping were not incorporated in DEIR/EIS.

X1-2 Comment asserts that Draft EIR/EIS project objectives are incomplete and that the document does not address impacts to source waters and other watershed.

X1-3 The commenter is concerned with funding mechanism and the relationship between the size of the project and the potential funding.

X1-4 The comment asserts that recycled water for vineyards will be subsidized by local taxpayers.

X1-5 The comment asserts that City of Vallejo is a better location and use of funding for recycled water program and Napa Salt Marsh because it generates large amounts of polluting discharge and would not impact the Russian River. The comment asserts that a recycled water project in the City of Vallejo would meet project objectives and questions why this potential alternative was scoped out.

Responses to Comments

X1-1 Comment acknowledged. Please refer to responses to comment U-5. The comments received during the scoping process have been incorporated in the Draft EIR/EIS and included in the Scoping Report in Appendix 1A of the Draft EIR/EIS.

X1-2 Comment acknowledged. Please refer to **Master Response 2.1, Proposed Action and Relationship to Water Supply** and **Master Response 2.3, Project Objectives**, in Chapter 2, Master Responses. As noted in Chapter 2, Project Description, of the Draft

EIR/EIS, the proposed NBWRP would provide recycled water to existing planned land development and would include irrigation for urban landscaping, dairies, pastures, and orchards, in addition to vineyards.

X1-3 Comment acknowledged. The NBWRP has been developed based on detailed feasibility and engineering studies. As described in Chapter 2, Project Description, of the Draft EIR/EIS, the proposed project includes primarily the Phase 1 Implementation Plan, which would receive the Title XVI funds. The Basic, Partially Connected, and Fully Connected Systems are project alternatives that provide for greater recycled water use than Phase 1.

X1-4 Comment acknowledged. Please refer to response to comment X-2 above.

X1-5 Comment acknowledged. Please see also response to comment X3-5. The comment notes that connection to Vallejo as a source for wastewater inflow and treatment is not included in the Draft EIR/EIS as a cost effective alternative to pumping water to local vineyards and the Napa Salt Marsh via NBWRP. The comment's assertions of cost-effectiveness and citation of the condition of the Vallejo system are unsubstantiated. Please also refer to **Master Response 2.2 Alternatives Analysis**, in Chapter 2, Master Responses for additional discussion related to selection of alternatives. The comment includes inaccurate information related to the governance and funding structure for Vallejo, as substantiated by comments provided verbally during the June 11, 2009 Public Hearing (see comment X3-5) and confirmed by information from the Vallejo Sanitation and Flood Control District[1]. Please also refer to **Master Response 2.1, Project Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

X2. Tom Yarish, 6/11/2009

Comment Summary

X2-1 Comment notes that the Draft EIR/EIS should include a hard analysis about who will pay for use of this water.

X2-2 Provides comments about conservation and need for SCWA to comply with DWR sanctions. Concerned that the predicted uses for the recycled water (lawns, landscaping) are not subject to scrutiny in terms of conservation.

X2-3 Comment suggests that Draft EIR/EIS needs to include hard math that shows the constraints on source water.

[1] Kaiser, Jennifer, Public Information Officer, Vallejo Sanitation and Flood Control District (VSFCD), Personal Communication regarding feasibility, governance, and budget information, August 4, 2009.

X2-4 Comment suggests that Draft EIR/EIS should include cost benefit analysis of recycled water as it relates to the consumer.

Responses to Comments

X2-1 Comment acknowledged. Please refer to **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses.

X2-2 Comment acknowledged. Please refer to **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. As noted in the comment, SCWA is participating in a "Save Our Water" campaign. Furthermore, SCWA has established conservation programs, as identified in Section 1.7 of Chapter 1, Introduction, in the Draft EIR/EIS. Please also refer to response to comment M-61 for a discussion of SCWA conservation efforts. As noted in the response to comment W1-6, the recycled water use under the NBWRP would occur in conjunction with, and not at the expense of, the local water conservation programs. The comment asserts that irrigation activities are not subject to conservation practices. However one of the project objectives is to offset potable water use by expanding use of recycled water. Recycled water does not necessarily preclude regulatory restrictions or conservation requirements.

X2-3 Comment acknowledged. Please refer to **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

X2-4 Comment acknowledged. Please refer to **Master Response 2.5, NBWRA Administration**, in Chapter 2, Master Responses, for funding and costs of the project as they relate to ratepayers and potential recycled water users.

X3. John Stewart, 6/11/2009

Comment Summary

X3-1 Comment reflects concern regarding leveraging local dollars effectively.

X3-2 Comment asserts that Regional Board has strict conditions for discharging to the Bay.

X3-3 Commenter agrees with concept of recycling water for additional uses.

X3-4 Commenter would like to see a well developed, legally defensible document from which to tier.

X3-5 Comment responds to Comment X1-5, and asserts, for the record, that the City of Vallejo does not operate wastewater facility as a sanitation district, they are on independent funds.

Responses to Comments

X3-1 Comment acknowledged. This note is a response to a previous commenter (see comments X1-1 through X1-5).

X3-2 Comment acknowledged. This note is a response to a previous commenter (see comments X1-1 through X1-5).

X3-3 Comment acknowledged. Since the comment does not affect the environmental document, no further response is warranted.

X3-4 Comment acknowledged. The commenter expresses the intent to preparing CEQA documentation tiering off from the NBWRP Draft EIR/EIS for a project in the area. Since this comment does not affect the environmental analysis in the Draft EIR/EIS, no changes in the Final EIR/EIS are required.

X3-5 Comment acknowledged. This comment supports the response to Comment X1-5.

From: Zeno Swijtink [mailto:swijtink@sonoma.edu]
Sent: Saturday, November 28, 2009 11:09 AM
To: lifee2010@yahoogroups.com
Cc: Robert Burke; Brock Dolman; Don McEnhill; Grant Davis
Subject: [lifee2010] North Bay Water Recycling Program

This message from David Keller, Bay Area director for Friends of the Eel River, pertains to the Water topic of Thursday LIFEE2010 class at the Laguna Treatment Plant.

Zeno

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To: SonomaCountyWaterCoalition <SCWaterCoalition@yahoogroups.com>,
SoCoGeneral Plan Update Group <socogpu@yahoogroups.com>
From: David Keller <dkeller@eelriver.org>
Sender: SCWaterCoalition@yahoogroups.com
Date: Sat, 28 Nov 2009 10:46:17 -0800
Subject: [SCWaterCoalition] Did you say we had water to spare?

Got water?
Got enough water in the Russian and Eel Rivers?
Got treated wastewater to sell to Napa Valley and Sonoma Valley grape growers who've overdrafted their local groundwater and surface supplies, and want more cheap water?

The North Bay Water Reuse Authority members - composed of SCWA, Novato Sanitary District, Las Gallinas Sanitary District, Sonoma Valley County Sanitation District (Bd. of Supes), and the Napa Sanitary District - apparently haven't been reading the stories and State and Federal mandates over the past few years about the lack of predictability of expanding future potable water supplies, and how best to use the recyclable treated water for the primary objective of offsetting current and future scarce potable water supplies. Y-1

Instead, they've they've put together a massive Bureau of Reclamation water transfer and pumping project to find new customers for this precious water, now incarnated as treated wastewater. Y-2

This federal/local project, costing hundreds of millions of dollars, proposes to ship treated waste water that originated from our Russian and Eel Rivers and Santa Rosa Plain Groundwater that was originally sold and delivered by SCWA to the North Marin Water District (serving Novato), MMWD (serving northern San Rafael), Valley of the Moon and the City of Sonoma. (Napa gets its water from local surface supplies and the State Water Project.) After those contractors' customers use the water, the wastewater is treated by the members of the NBWRA. While there is a very valuable use of a small fraction of this water for flushing out the old Cargill Salt Ponds (San Pablo Bay Marsh Restoration Project) to hasten restoration of functioning salt marsh habitat, this is a very small component of this huge water transfer, and doesn't merit the intentional and unintentional consequences of this massive US Bureau of Reclamation Project. Y-3

While SCWA has proclaimed that they want to be 'carbon neutral' and the most "green" water agency in the state or the country, they've not included any significant carbon or GHG Y-4

offsets for this massive pumping and plumbing project. Y-4 cont.

Despite several years of talking, pleading, educating and presenting alternatives that would demand local reuse to offset potable water demands on the beleagured Russian and Eel River systems, NBWRA has just released the Final EIR, full steam ahead. Y-5

Your review is essential. Your comments are critical.
Do you think that the Russian River System should be used to support overdrafted supplies for grape growers in southern Sonoma and Napa Valleys? Do we really have water to spare originating from the Russian River and Eel Rivers? Or should SCWA be demanding that its co-participants do a much better job of using this valuable water in concert with NMWD, MMWD, Sonoma and Valley of the Moon Water District to supply their existing customers with treated wastewater and getting more reuse out of their residential, commercial, industrial and institutional customers? With the NBWRA in place, there will be very little incentive to spend the time and money to implement these strategies necessary for our water futures. In fact, with NBWRA in place, there will be huge income stream incentives to sell the treated wastewater to new customers instead. Alternative 1 is the closest they've allowed to a smaller, more localized program, but even that is huge, and expands water usage to thousands of acres of new agricultural customers.

Y-6
Y-7
Y-8
Y-9
Y-10

The timeline for your comments is very short:
SCWA Board of Directors will hold their public hearing on certifying the FEIR on Dec. 8th!
Additional participating agencies will hold their hearings between 12/10 and 12/16 (see below).
Send your written comments to:
Marc Bautista
SCWA
PO Box 11628
Santa Rosa 95406-1628
(707) 547-1923
Marc.Bautista@scwa.ca.gov

The Final EIS (under NEPA) hearings have not yet been scheduled.
Links to the documents are below.

Notice of Availability
Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS)

THE PROJECT: The North Bay Water Recycling Program is a cooperative effort in the San Pablo Bay region that supports sustainability and environmental enhancement by promoting and expanding the beneficial use of recycled water in the North Bay region to:

SCWA is scheduled to consider certification of the EIR/EIS in compliance with CEQA as part of its regularly scheduled Board Meeting on December 8, 2009.

- Offset urban and agricultural demands on potable supplies;
- Enhance local and regional ecosystems;
- Improve local and regional water supply reliability;
- Maintain and protect public health and safety;
- Promote sustainable practices;
- Give top priority to local needs for recycled water; and
- Implement recycled water facilities in an economically viable manner.

Notice Of Availability download here
Final Environmental Impact Report / Statement (EIR/EIS) download here
http://www.nbwra.org/docs/

Background to the Final EIR/EIS. The North Bay Water Reuse Authority (NBWRA) has prepared a joint Final Environmental Impact Report/ Impact Statement (EIR/EIS) pursuant to the California Environmental Quality Act (CEQA) and the National Environment Policy Act (NEPA) on their proposed North Bay Water Recycling Program or NBWRP (also known as North San Pablo Restoration and Reuse Project).

As contract administrator for the NBWRA, the Sonoma County Water Agency (SCWA) will act as Lead Agency under CEQA and the Department of Interior, Bureau of Reclamation will be the federal Lead Agency under NEPA. The Final EIR/EIS incorporates changes resulting from comments submitted during the Draft EIR/EIS comment period (May 5, 2009 through June 26, 2009).

Three Alternatives and No Action Alternative Considered. The Draft EIR/EIS considered three alternatives as well as the No Action Alternative. The alternatives represent a range of recycled water reuse and regional facility integration, and include: Alternative 1, Basic System, which includes use of recycled water near each of the individual wastewater treatment plants (WWTP); Alternative 2, Partially Connected System, which adds pipelines, pump stations and storage to partially connect the existing WWTPs; and Alternative 3, Fully Connected System, which provides a fully integrated and regional recycled water distribution system connecting all four Member Agency WWTPs. Under each alternative, the treatment improvements and storage capacity would be constructed at existing WWTPs and distribution facilities (pump stations and pipelines) would be constructed within or along public roadways within Marin, Sonoma, and Napa Counties.

Contents of the Final EIR/EIS: The Draft EIR/EIS, together with the Response to Comments, constitutes the Final EIR/EIS for the proposed NBWRP. The Final EIR/EIS consists of four chapters.

- CHAPTER 1 IS THE INTRODUCTION, describing the purpose of the Final EIR and listing agencies, organizations, and individuals that submitted comments on the Draft EIR/EIS.
- CHAPTER 2 INCLUDES MASTER RESPONSES that present a broad and comprehensive discussion of the key items of interest to the commenters.
- CHAPTER 3 PRESENTS THE INDIVIDUAL COMMENT LETTERS received on the Draft EIR/EIS and provides responses to all the comments.
- CHAPTER 4 PRESENTS THE TEXT CHANGES MADE TO THE DRAFT EIR/EIS. Inserted text is underlined and deleted text is shown in strikeout.
- CHAPTER 5 PROVIDES THE LIST OF THE EIR/EIS PREPARERS.
- Appendix A includes the list of entities that received and who commented on the Draft EIR/EIS.

Document Availability: The Final EIR/EIS is available for public review at the following locations during normal business hours:

Las Gallinas Valley Sanitary District Novato Sanitary District Napa Sanitation District 300 Smith Ranch Road
San Rafael, CA 94903 500 Davidson Street
Novato, California 94945 935 Hartle Court
Napa, CA 94559 **Sonoma County Water Agency Sonoma Valley Regional Library Napa City-County Library** 404 Aviation Boulevard
Santa Rosa, CA 95403 755 West Napa St
Sonoma, CA 95476 580 Coombs Street
Napa, CA 94559 **Sonoma County Central Library Marin County- Novato Branch Library Marin County- Central Branch Library** 211 E Street
Santa Rosa, CA 95404 1720 Novato Blvd
Novato, CA 94947 3501 Civic Center Drive #427
San Rafael, CA 94903

Certification. Per CEQA _____, the Final EIR/EIS is being made available for a minimum 10-day period prior to its consideration by the CEQA Lead Agency. SCWA and the Bureau of Reclamation will determine the adequacy of the Final EIR/EIS, and, if adequate, will certify the document as compliant with CEQA and NEPA.

Agency Scheduled Certification Sonoma County Water Agency December 8, 2009. **SCWA is scheduled to consider certification of the EIR/EIS in compliance with CEQA as part of its regularly scheduled Board Meeting on December 8, 2009.**

Approvals. Following document certification by SCWA, each Member Agency will consider approval of the Phase 1 Implementation Plan under Alternative 1. Each Member Agency will approve the projects identified under the Phase 1 Implementation Plan that are within their jurisdictions.

Agency Scheduled Approval Date Sonoma Valley County Sanitation District December 8, 2009 Las Gallinas Valley Sanitary District December 10, 2009 Novato Sanitary District December 14, 2009 North Marin Water District December 15, 2009 Napa County December 15, 2009 Napa Sanitation District Approval December 16, 2009 **SCWA is scheduled to consider certification of the EIR/EIS in compliance with CEQA as part of its regularly scheduled Board Meeting on December 8, 2009.**

Y. David Keller, Friends of the Eel River, 11/28/2009

Y-1 Comment acknowledged. The proposed project has been developed to provide multiple benefits by providing recycled water to offset urban and agricultural demands that are currently met with potable surface water and groundwater supplies. Approximately 40 percent of the supplies provided by the project under consideration would specifically offset urban irrigation within the Novato and Sonoma areas. Additionally, the project would provide a high quality, sustainable supply for habitat enhancement and restoration of the Napa-Sonoma Marsh. Refer to **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

Y-2 Comment acknowledged. The proposed project involves local use of recycled water and consists of locally planned projects by the individual Member Agencies, each scaled to meet local needs. No water transfer is proposed or contemplated; rather, the NBWRP has been developed as a multi-benefit, cooperative recycled water program that would be partially funded through the Bureau of Reclamation.

Y-3 Comment acknowledged. The cost of the proposed project is $100 million. Because the NBWRP has been developed as a cooperative regional effort to provide multiple benefits, the Phase 1 Implementation Plan under consideration would be partially funded by the Bureau of Reclamation under its Title XVI Program for recycled water projects. Refer to **Master Response 2.3, Project Objectives**, in Chapter 2, Master Responses.

Y-4 Comment acknowledged. Recycled water has a substantially lower carbon footprint than development and delivery of other potable water supplies. For example, using recycled water locally in Sonoma Valley is more efficient that providing potable water for irrigation from the Russian River. The carbon footprint of the Phase 1 Implementation Plan under consideration is substantially lower than any thresholds under consideration by the California Air Resources Board, and would be equivalent to approximately 100 annual vehicles per year.

Y-5 The NBWRP has been developed to provide multiple benefits, including the offset of urban potable water demands. In supplying recycled water for use in the service areas of North Marin Water District, City of Sonoma, Valley of the Moon Water District, and Napa County, the project would provide potable offset for local surface water and groundwater supplies, as well as supplies imported from the Russian River watershed.

Y-6 Comment acknowledged. The NBWRP would provide recycled water for existing urban and agricultural uses that are currently using potable surface and groundwater for irrigation, and would provide a high quality, sustainable water supply for habitat enhancement and restoration of the Napa-Sonoma Marsh. The NWBRP would benefit local surface water and groundwater supplies, as well as supplies imported from the Russian River watershed by replacing surface and groundwater supplies with recycled water.

Vineyard irrigation within the project area occurs via drip irrigation, and is one of the most efficiently irrigated crops in California, with a typical use rate between 0.25 AFY per acre (Napa County irrigation rate) and 0.50 AFY per acre in Sonoma County. The expansion of recycled water use in the Sonoma Valley and Napa Milliken-Sarco-Tulocay (MST) areas would help maintain groundwater levels and reduce the potential for groundwater degradation due to salt water intrusion.

Finally, the grape growing industry, partially supported by recycled water, has a significant economic contribution within the region. According to a study commissioned by the Jack L Davies Napa Valley Agricultural Land Preservation fund and Napa Valley Vintners in June 2005 titled *Economic Impact of Wine and Vineyards in Napa County* by MFK Research, the wine industry in Napa County alone provides 40,000 full time equivalent jobs, pays $1.4 billion in wages, pays over $850 million in taxes and is responsible for a total of $9.5 billion in economic activity.

Y-7 Comment acknowledged. The NBWRP would not result in any increases in diversions from the Russian River or Eel River. Wastewater treatment plants in the project area are currently discharging approximately 20,000 acre-feet per year of treated wastewater into San Pablo Bay. The projects under consideration for approval in Phase 1 would involve recovering and reusing of about 3,500 acre-feet (or 15 percent) of the water that is currently being discharged for a higher beneficial use. Recovery of supplies currently being discharged represents a cost effective and sustainable reuse of existing resources. Refer to **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses.

Y-8 Comment acknowledged. As described in Section 1.7.8, Water Conservation Programs within the Action Area, in Chapter 1, Introduction, of the Draft EIR/EIS, the participating agencies carry out conservation and/or energy efficiency programs and will continue to do so. The NBWRP will use valuable recycled water to offset potable demands in the NMWD and SCWA service areas in addition to the many other existing and ongoing conservation and recycled water programs in those service areas.

Y-9 Comment acknowledged. As noted in the response to comment Y-8, water conservation programs will continue to be implemented in the action area. Refer to **Master Response 2.2 Alternatives Analysis,** in Chapter 2, Master Responses, for a discussion of the conservation programs. The proposed NBWRP would aid in offsetting urban potable water demands as noted in **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses. The local projects under the Phase 1 Implementation Plan, identified by the individual Member Agencies, are proposed to meet existing local irrigation needs within their individual service areas.

This project will use this valuable recycled water to offset existing potable demands.

Y-10 Comment acknowledged. The project under consideration is the Phase 1 Implementation Plan, which consists of a subset of local projects identified under Alternative 1. These local projects, identified by the individual Member Agencies, are proposed to meet existing local irrigation needs within their individual service areas.

Comment Letter Z

Tom Yarish
23 Nelson Ave
Mill Valley, CA 94941
415-381-6970

Sonoma County Board of Supervisors
as
Sonoma County Water Agency Board of Directors

8 December 2009
re: North Bay Water Reuse Project FEIR

SERVICE BY EMAIL AND IN PERSON

Dear Supervisors,

I have commented extensively on the NBWRP Draft EIR/EIS since the inception of the project. I am submitting these comments today because I believe there are key lapses in the project concept and review process.

The Final EIR asserts that there are no impacts on the Russian and Eel Rivers because the wastewater is derived from sewage effluent that is only partially derived from the SCWA supplies due to local and alternative sources used by the NBWRP partner agencies, and because the Phase One plans only distribute wastewater to local users as offsets against existing potable supplies.

This might have passed without controversy except that you are well aware of current and future restraints on the SCWA potable supplies from ground and surface water supplies in the Russian River and Eel River watersheds. These new Phase One projects will have the effect of establishing a baseline demand at a level that cannot be sustained in the real world of cutbacks and advanced conservation and efficiency measures. Indeed, you are now challenged to maintain existing levels of supply to the SCWA member clients.

Z-1

This FEIR is seriously deficient in that it utterly fails to analyze as an alternative the potential water savings from advanced conservation and efficiency improvements that are feasible for its member agencies. Specifically, there should be an alternative that calls for higher levels of local wastewater treatment and reuse via Reverse Osmosis and Micro Filtration (RO/MF) purification processes that are well-established technologies in use

Z-2

elsewhere in California and globally. In some cases this style of treatment produces water that is superior in quality to what is commonly accepted as "potable." Implementation of this technology by one or more of the NBWRP participants could result in a net demand reduction on the now severely challenged Russian and Eel River supplies. Instead, the Phase One project will deflect incentives for advanced treatment and conservation into dated and problematic twentieth century engineering that cannot meet future needs for demand reduction and emerging contaminant elimination in the twenty-first century.

The future is in <u>demand reduction</u> techniques that meet several critical needs:

- Advanced residential, commercial and agricultural conservation and efficiency methods that reduce demand substantially below existing levels.
- Protection of endangered wildlife and related habitats.
- Recovery of depleted aquifers from decades of overdraft.
- Reduction or elimination of emerging contaminants from human and natural water supplies and ecosystems.
- Restoration of critical habitats and ecosystems.
- Reduction of overall energy costs of water treatment and distribution.
- Reduction or elimination of man-made toxic substances from the waste stream and environmental resources.
- A stable and economically feasible water supply based on equitable access and usage for all income groups.

Z-2 cont.

Based on these few criteria the NBWRP is a highly regressive and extravagant waste of public funds on obsolete practices and concepts.

The City of Petaluma has shown that some of these goals are within reach in the short term. Other problems will require more capital and substantial consumer lifestyle changes that will take longer to achieve, such as reduction of emerging contaminants in the waste stream, groundwater recharge, low-demand landscaping, gray water reuse, rainwater harvesting, and habitat restoration. But the precedent has been established here in the North Bay and elsewhere where RO/MF facilities have been implemented. Most importantly, these new and emerging technologies will become more efficient and more economical as they are accepted and implemented by water agencies and public utilities. Hence, the enormous and tragic "lost opportunity costs" of the NBWRP become apparent.

With regard to water quality and emerging contaminant issues I and several others have expressed concerns over the FEIR's lack of analysis of real and existing scientific evidence of toxic burdens in the municipal waste streams common to all modern systems.

Z-3

Most notably, the FEIR uses the California Title 22 and California Toxics Rule as the benchmarks of regulatory standards for waste discharges. Unfortunately the California statutes and the related Environmental Protection Agency toxics standards are

hopelessly incomplete and were outdated at their inception. There are some 80,000 man-made chemistries that are widely acknowledged to be present in the environment. Most of those have not been analyzed for human or ecological toxicity.

However, we do know that many of these chemistries are present in wastewater effluent, generally as trace amounts. Today the debate is not about whether these contaminants are present but rather at what level are they toxic. There is a growing body of research and evidence showing that many of these commonly present contaminants, some known as "Endocrine Disruptors (EDs)," have toxic hormone-like effects on living organisms at extremely low levels in the parts per trillion range, once thought to be far below any toxic thresholds. It is in this context that RO/MF filtration becomes the only effective means to treat highly contaminated municipal waste water. The Orange County Water District in Southern California has used similar advanced treatment to return wastewater to local potable supply aquifers with the resulting decrease in net potable demand even in the face of a growing consumer base.

Z-3 cont.

I have submitted into the record a few recent scientific papers and documents that illustrate the human and wildlife toxicity associated with water contaminants. But more notably I am submitting ***"State of the Evidence: The Connection Between Breast Cancer and the Environment. 2008"*** by The Breast Cancer Fund in San Francisco.

This a detailed summary of the basic issues of environmental toxics that are now widely associated with breast cancer epidemics in the American population. The human breast is one of the most sensitive human organs to environmental exposures of the above mentioned EDs and other toxics. Most significantly, the critical exposures can be at320…… very low doses, but they can be most damaging when presented to a growing fetus, human or otherwise, in the first stages of gestation. These so-called "emerging contaminant" issues are counted among the most formidable challenge of our time, along with climate change, water shortages, species loss and economic recession. In my view, all these challenges are tightly interrelated and piecemeal solutions only cost us precious time and funding.

In any event, current regulatory standards, Title 22, CTR, NPDES permits, etc., are hopelessly dated and inadequate to the challenges presented today in the management of municipal wastewater. Moreover, in the foreseeable future, wastewater treatment plants will face the hard reality of emerging contaminant load reduction as a result of higher regulatory standards in the name of public and environmental health.

Z-4

Earlier this year the SCWA abandoned the Northern Sonoma County Agricultural Reuse Project (NSCARP) FEIR in the face of landowner concerns and analysis of the fate of irrigated wastewater into the Dry Creek area. Apparently the SCWA could not show that the wastewater would not seriously impair existing ground and surface water in Dry Creek and in ground water wells (Gus Yates report, April 27, 2009 to SCWA.) It would seem that similar levels of analysis are required for NBWRP, but this FEIR is also lacking in that respect. What's different here?

In view of these considerations I urge the board to delay the certification of this FEIR until the alternatives and issues I have outlined above are fully explored as another alternative. I believe a full review of comments received during the scoping phases of this process would underscore the public's demand for a better product.

Sincerely,

Tom Yarish
Friends of the Esteros
Salmon Protection and Watershed Network

CC: Sonoma County Water Agency
Bureau of Reclamation

Attachments:

State of the Evidence. The Connection Between Breast Cancer and The Environment. Fifth Edition 2008. The Breast Cancer Fund. San Francisco.

Breast Cancer Incidence Rates for California, 2002-2006. National Cancer Institute and Center for Disease Control and Prevention. Printed from internet at http://statecancerprofiles.cancer.gov/ .

Applying Research to Public Health Questions: Timing and the Environmentally Relevant Dose. Birnbaum, Linda S. Director NIEHS and NTP. Environmental Health Perspectives. Vol 117, Number 11, November 2009.

Northern Sonoma County Agricultural Reuse Project, FEIR: Technical Review of Hydrology and Water Quality Issues. Gus Yates, Consulting Hydrologist. 4/27/09.

Well Water Consumption and Parkinson's Disease in Rural California. Gatto, Niclole M. Environmental Health Perspectives, Vol 117, Number 12. December 2009.

Why Amphibians Are More Sensitive than Mammals to Xenobiotics. Quaranta, Angelo. PLoS One. Volume 4, Issue 11. November 2009.

Effect of Environmental Chemicals on Genes and the Expression. Ueda, K. Meijo University. Yakugaku Zasshi. December 2009. 129(12):1501-6.

Chemicals and Cancer. Kristof, Nicholas. 5 December 2009. New York Times.

Lawsuit Looms Over Fish-killing Water Diversions. (Russian River and Gualala River watersheds) Center for Biological Diversity release dated 17 November 2009.

3.Z Tom Yarish, 12/8/2009

Z-1 Comment acknowledged. **Master Response 2.1, Proposed Action and Relationship to Water Supply**, in Chapter 2, Master Responses, addresses the relationship between the Proposed Action and the Russian and Eel River water supplies. The comment states that "Phase 1 projects will have the effect of establishing a baseline demand that cannot be sustained in the real world of cutbacks ….". Table 5-2 in Chapter 5, Growth, of the Draft EIR/EIS for an estimated portion of the total water demand for irrigation that would be provided by recycled water under NBWRP. As stated in the master response, the recovery and reuse of recycled water does not represent a potable demand in and of itself. As shown in Figure 2-1 of the Draft EIR/EIS, treated effluent is currently discharged at levels that can support the offset of potable irrigation supplies identified within the service areas of the NBWRA. Although water that is consumed by residential and industrial processes is subsequently collected, and it contributes to WWTP influent, the collection and treatment of influent is by its nature a passive process. The WWTPs of the NBWRA do not have the ability to encourage or increase the rate of potable water use such that increased wastewater is generated to meet recycled water demands.

Z-2 Comment acknowledged**. Master Response 2.2, Alternatives Analysis**, in Chapter 2, Master Responses, explains alternatives development and analysis including water conservation as an alternative. As noted in Chapter 1, Introduction, of the Draft EIR/EIS, water wholesalers, including SCWA and Napa County, and retailers within the NBWRA service areas (e.g., NMWD, Valley of the Moon, City of Sonoma, and City of Napa) have and will continue to implement conservation programs within their individual service areas. Increased conservation is a key water management tool within the region. Increased recycled water use is part of SCWA' conservation program and is integrated into water supply management in the area. The implementation of conservation as a means of reducing water use, and indirectly, wastewater generation, does not represent an alternative to the Proposed Action. Rather, it represents the environmental baseline within which the Proposed Action is being considered for implementation. Refer also to response to comment K-17 concerning the microfiltration and reverse osmosis technologies.

Z-3 Comment acknowledged. The analysis in the Draft EIR/EIS is based on the current applicable regulatory standards, including Title 22 standards. **Master Response 2.6, Recycled Water Quality**, in Chapter 2, Master Responses, describes the applicability of currently adopted water quality standards, such as Title 22 and the California Toxics Rule. Additional discussion is presented in responses to Comment Letter K. A discussion of recycled water quality with respect to endocrine disrupters is provided in responses to comments L-9 and T-8.

Z-4 Comment acknowledged. The commenter refers to a comment letter from Gus Yates on the North Sonoma County Agricultural Reuse Project (NSCARP) EIR regarding potential secondary effects to groundwater associated with recycled water application. **Master Response 2.6, Recycled Water Quality**, in Chapter 2, Master Responses, describes the applicability of currently adopted water quality standards, such as Title 22 and the California Toxics Rule.