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CITY OF SANTA ROSA  
P.O. BOX 1070  
Santa Rosa, CA 95402  
OCT 07 1996

DEPARTMENT OF  
COMMUNITY DEVELOPMENT

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FAX TRANSMISSION COVER SHEET

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**Date:** October 7, 1996  
**To:** Marie Meredith  
**Fax:** (707) 543-3219  
**Re:** Comments on the DEIR/S for the Santa Rosa Subregional Long-term  
Wastewater Treatment Project  
**Sender:** Elisabeth R. Gunther

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Marie: Attached are our comments on the DEIR/S submitted on behalf of Dr.  
Schaller. Thank you for your assistance. Elisabeth Gunther

P.S. Mother and Son Sivas are doing great!

RECEIVED

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HARLAND BARTHOLOMEW  
SACRAMENTO, CA

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**Gunther, Sivas & Walthall  
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October 7, 1996

Marie Meredith  
City of Santa Rosa  
100 Santa Rosa Avenue  
Santa Rosa, California 95404-1678

Dear Ms. Meredith:

These comments on the Draft Environmental Impact Report/Environmental Impact Statement ("DEIR/S") for the Santa Rosa Subregional Long-Term Wastewater Treatment Project (the "Project") are submitted on behalf of Dr. Lee W. Schaller. Dr. Schaller is a resident of Petaluma and owns agricultural property that would be destroyed by the Tolay Extended alternative currently under consideration as one option for storage and reuse of wastewater generated by the Project. If the Tolay Extended alternative is selected, a "back dam" would be constructed on Dr. Schaller's property and a portion of the property would be inundated. Dr. Schaller strongly opposes selection of the Tolay Extended alternative and is not interested in selling his property to accommodate the Project. We urge you to take the following comments on the DEIR/S in to consideration before making any decision regarding the Project. ]

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1. **Introduction**

We agree with many of the conclusions contained in the DEIR/S regarding the significant unavoidable impacts of the Tolay Extended alternative. Specifically, the Tolay Extended alternative would result in substantial environmental impacts, including 1) loss of habitat and farmland in the Project area, 2) destruction of residences, 3) impacts to visual resources, including scenic corridors, 4) public hazards associated with ground rupture in the vicinity of the extensive pipeline system, and 5) extensive impacts resulting from the construction of the pump station and massive reservoir, including air, traffic and noise impacts. More importantly, the geology and soils in the Tolay area necessitate substantial grading and compaction to improve soil stability to support the massive Tolay Extended dam. And, even after completion of the dam, soil instability in the area will result in situation that cannot be avoided and will remain a significant impact of the Project. Finally, the Tolay Extended alternative is one of the most costly alternative and will impose disproportionate costs on the ratepayers (while subsidizing agricultural interests.) ]

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Given the unavoidable environmental impacts of the Tolay Extended alternative and the disproportionate costs associated with the alternative, we do not believe that the Tolay Extended alternative is viable and urge that it be eliminated from further consideration. All of the other alternatives under consideration are comparable or superior to the Tolay Extended alternative from an environmental standpoint and most would require a substantially smaller capital investment. Given this enormous cost difference and the fact that selection of the Tolay Extended alternative would not result in any environmental benefit or greater opportunities for reuse of the wastewater, further consideration of the Tolay Extended alternative simply cannot be justified.

003

Despite the fact that we agree with many of the conclusions reached in the DEIR/S, we believe that the document does not contain an adequate analysis of several reasonable and cost-effective alternatives that would allow for reuse of the wastewater without committing substantial resources to the construction of a large reservoir that would result in unacceptable and unavoidable environmental impacts. In addition, the document fails to identify several significant impacts of the Tolay Extended alternative and by so doing, understates the environmental harm associated with the Tolay Extended alternative in comparison to other, less harmful alternatives. We urge the lead agencies to re-examine these issues and, after revising the DEIR/S, recirculate a draft for further public review.

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## 2. The DEIR/S Does Not Contain an Adequate Alternatives Analysis

The DEIR/S lacks an adequate alternatives analysis and thus does not comply with the most fundamental requirement of both NEPA and CEQA. Both NEPA and CEQA require that the document include an analysis of the environmental effects of a range of alternatives in order to inform the decisionmaker of the environmental consequences of selection of a given alternative. The failure to conduct a thorough analysis of a reasonable range of alternatives frustrates the central purpose of the environmental review process. CEQA specifically directs the lead agency to consider alternatives that are designed to minimize or eliminate significant adverse impacts of the Project. Under CEQA, the stated objectives of a project define the range of alternatives that should be considered, in order to provide the decisionmaker with the information needed to decide whether approval of a given alternative is appropriate from an environmental standpoint. Similarly, under NEPA, the "purpose and need" for a project defines the range of alternatives that should be considered. Accordingly, the objectives of the Project and the purpose and need for the Project identified in the DEIR/S are critical to determining the types of alternatives that should be considered.

007

The Objectives and Statement of Purpose and Need contained in the DEIR/S state that it is intended primarily to provide for wastewater disposal. However, the range of alternatives considered in the document suggests that the real purpose of the Project is to develop a means of reusing the waste water to avoid simply disposing of it in the Russian River. While

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reclamation and reuse is a laudable goal, if reuse of the water in order to avoid excessive disposal and wastage is the real purpose of the Project, a different set of alternatives should have been considered in the document. First, greater consideration should have been given to development and conservation scenarios that would reduce the amount of wastewater generated in the first place. The document also should discuss alternatives for the reuse of the water that do not require an overwhelming commitment to infrastructure investment. For example, greater consideration should have been given to phasing in small supply projects where individual or small groups of users develop storage capacity and pipelines for specific projects. Greater consideration also should have been given to other forms of reuse such as commercial and industrial reclamation projects where non-potable water is needed. The Geysers alternative is one such option; however, other, less capital-intensive options may be available. |

008 (cont.)

The failure of the document to consider a reasonable range of alternatives seems to have resulted from the flawed assumption that the reuse portion of the Project must immediately accommodate all of the wastewater generated, instead of providing for phased reuse in the future. The document concludes that disposal of the wastewater in the Russian River is the environmentally superior and most cost-effective alternative. And, in fact, river disposal is the alternative that most directly addresses the stated purpose of the Project — wastewater disposal. The document should have given greater consideration to combining the river discharge alternative with various reuse options that can be developed over a period of time, without substantial investment of public money and without the destruction of vast tracts of agricultural land and sensitive habitats. |

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### 3. The DEIR/S Fails to Identify Certain Significant, Unavoidable Impacts

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As described more fully below, the DEIR/S fails to identify any number of significant unavoidable impacts that would result from the Tolay Extended alternative. In several instances, the impacts analysis fails to take into consideration information relevant to the significance of an impact. In several other instances, the document improperly concludes that certain impacts are not significant based on the application of mitigation that will not, in fact, reduce the impacts of the alternative to a less than significant level. |

#### A. Land Use Impacts

011

The DEIR/S concludes that the Tolay Extended alternative will not result in any land use impacts because use of the site for a reservoir is consistent with the existing land use plans and will not adversely affect open space. However, the document overlooks the significant actual land use conflict with current existing uses on the site designated for the construction of the Tolay Extended reservoir. The property currently supports residential and agricultural uses that will be totally eliminated if the Tolay Extended alternative goes forward. This should be identified as an actual land use conflict. In addition, the Tolay Extended

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alternative will result in significant impacts on adjacent uses, such as serious visual impacts and noise from the pump stations and extended construction that contribute to a significant unavoidable conflict with surrounding agricultural and residential land uses. |

011 (cont.)

#### B. Geology and Soils Impacts

012

The DEIR/S concludes that the Tolay Extended alternative will result in a significant, unavoidable impact due to slope instability and sitation; however the document fails to adequately address the issue of seismic safety. In the past, the County has determined that the Tolay area is inappropriate for the construction of small storage dams, due to the proximity of the area to active earthquake faults. Why would the construction of a massive storage reservoir not be subject to the same hazards? Would the slope instability in the vicinity of the Tolay Extended alternative exacerbate any impacts associated with an earthquake?

If there were a large earthquake that affected the dam or reservoir, the impacts would be substantial. Although design features may reduce the probability of a catastrophic dam or reservoir failure, it is not possible to eliminate the hazards associated with such failure by merely relying on an Earthquake Preparedness and Emergency Response Plan, as any damage would be immediate and overwhelming. As a result, the potential for disastrous flooding following an earthquake should be identified as a significant, unavoidable impact. Although the probability of a disastrous dam failure may be low, the resulting loss of life and property would be unacceptable. |

The DEIR/S acknowledges that an earthquake in the vicinity of the Project could result in ground rupture that would affect the pipelines used to carry the wastewater. How can this impact be fully mitigated with an Earthquake Preparedness and Emergency Response Plan? The local authorities might be ready to respond and clean up in the event of widespread pipeline breaks but the damage would have already occurred. | In addition, if disposal of the wastewater generated by the Project is entirely reliant on the operation of a system of pipelines, wouldn't an earthquake result in a serious disruption in service? This should be identified as a significant, unavoidable socioeconomic impact. This is an important consideration in comparing all of the reservoir alternatives to river discharge combined with smaller, flexible reuse projects, that would provide for orderly discharge in the event of a major earthquake. |

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Finally, construction of the Tolay Extended Reservoir will require extensive removal of surface soils and compaction to accommodate the dam structure. The impacts associated with this construction activity should be explored more fully and highlighted in comparison to other reservoir alternatives. |

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C. Socioeconomic Impacts

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As noted above, the DEIR/S should identify a significant, unavoidable impact associated with disruption in service in the event of pipeline breaks following an earthquake. The document does identify a significant unavoidable impact associated with substantial increases in wastewater disposal charges associated with the reservoir alternatives, particularly the costly Tolay Extended alternative. The document concludes that there is no feasible mitigation for this impact. Although the impact cannot be eliminated or possibly even reduced substantially, the document should have explored the possibility of charging agricultural users for the wastewater to mitigate this impact. This constitutes feasible mitigation for this impact and if a reservoir alternative is selected, must, by law, be adopted. The DEIR/S also should more fully discuss the significant subsidy of agricultural water users by the ratepayers.

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D. Agricultural Impacts

017

The DEIR/S identifies a significant unavoidable impact to agricultural resources resulting from several of the reservoir alternatives due to the cancellation of Williamson Act contracts. No feasible mitigation is identified for this impact. The document indicates that the land inundated by the Tolay Extended alternative is subject Williamson Act contracts but that no cancellation will result from destruction of the farmland needed for the reservoir. Please clarify whether the Tolay Extended reservoir will affect the Williamson Act contract for Dr. Schaller's property.

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E. Groundwater Impacts

018

The DEIR/S states that the Tolay Extended alternative may result in a significant impact to groundwater resources by 1) degrading the water quality in existing wells resulting in a public health hazard, and 2) lowering the water in existing wells or groundwater resources that may be used in the future. The document relies on monitoring and the replacement of any affected water supplies to reduce these impacts to a less than significant level. The proposed mitigation will not reduce the impact to a less than significant level. Although the mitigation may avoid any public health impacts, the loss of a usable water resource is a significant impact, particularly given the severe water shortages that regularly occur in California. In addition, it is not clear that replacing the water supply will prevent the use of affected wells or the installation of new "boot-leg" well in the future.

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F. Biological Impacts

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The DEIR/S concludes that the Tolay Extended alternative will result in extensive significant impacts to biological resources, including terrestrial and aquatic habitat and individuals or occupied habitat of endangered, threatened or rare aquatic species. The document

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relies on extensive mitigation monitoring and conservation programs to reduce these impacts to a level that is less than significant. First, we agree that the Tolay Extended alternative will contribute to significant, unavoidable cumulative loss of sensitive terrestrial habitat. The large reservoirs, such as the Tolay Extended reservoir, require the destruction of substantial acreage of sensitive habitat, including wetlands. This is exacerbated in the case of the Tolay Extended reservoir by the shallow configuration of the valley that will be inundated. Although all of the other reservoir locations also would contribute to a significant cumulative loss of sensitive habitat and wetlands in the Project area, the impact is particularly severe in the case of the Tolay Extended alternative. For this reason alone, the Tolay Extended alternative is substantially inferior as a reservoir site. 019 (cont.)

As noted above, the Tolay Extended alternative results in an unnecessary loss of a large area of wetlands. It is our understanding that no wetlands were found on Dr. Schaller's property; however, the Tolay site contains substantially more wetlands than the other reservoir sites. The document concludes that the wetlands impact can be fully mitigated by creating, restoring or preserving wetlands in other areas. Application of the "no net loss" policy may be sufficient to obtain the necessary permits for the construction of the reservoir. However, the loss of the wetlands still represents an overall loss of wetlands in the Project area to the extent that the mitigation relies on the restoration or preservation of other existing wetlands. Further, there is substantial evidence that wetlands creation and restoration often is not successful over the long-term and does not result in wetlands resources that are comparable to those that will be destroyed. Given the magnitude of wetlands destruction associated with the Tolay Extended alternative, the loss of wetlands should have been identified as a significant, unavoidable impact, in spite of the proposed mitigation. 020

The DEIR/S also relies on habitat replacement and restoration to offset the loss of terrestrial and aquatic habitat. Again, there is substantial evidence that this type of habitat program often is not successful in establishing healthy, thriving habitat. More importantly, programs that rely on the translocation of sensitive plant and animal species, such as the red-legged frog and Northwestern pond turtle, are not considered to fully mitigate the impacts to these sensitive species. This is particularly true in the case of the red-legged frog, where relocation programs have not been successful in other instances. Moreover, the proposed mitigation relies on monitoring to determine whether the relocation of the red-legged frogs and pond turtles has been successful. Monitoring will simply reveal whether or not the impact ultimately proves significant -- the damage done to the endangered and sensitive species will be irreversible. No program of this nature can avoid the loss of individuals of the endangered and sensitive species and as a result, at a minimum, the impacts to the red-legged frog and the pond turtle resulting from the Tolay Extended alternative must be considered significant. 021

All of the mitigation programs proposed for biological resources contain long-term success criteria that will allow for some failure and will not ensure that the creation, 022

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restoration and preservation of habitats will more than compensate for the habitat lost as a result of the reservoir alternatives. In addition, monitoring will not occur over the long-term (*i.e.* more than five years) to ensure the long-term viability of the restored or replacement habitat. Accordingly, the document should identify a potential, long-term impact to aquatic and terrestrial habitat and wetlands.

022 (cont.)

Finally, the mitigation proposed for the loss of active raptor nests relies on monitoring and buffer zones to minimize the impact. This approach may help to reduce the likelihood of an impact to raptors but is not adequate to ensure that the impact will, in fact, be eliminated. Any potential for disturbance to active raptor nests should be considered a significant impact.

023

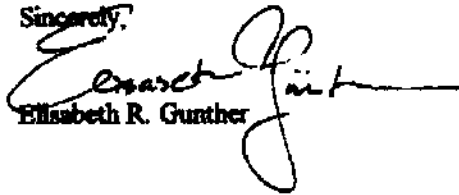
#### 4. Conclusion

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The DEIR/S should be revised to reflect the issues raised in these comments and in the oral testimony provided on behalf of Dr. Schaller at the September 26 public hearing. Based on a complete analysis of all of the significant, unavoidable impacts of the Tolay Extended alternative, and the other, less costly alternatives that will accomplish the objectives of the Project in a more environmentally sound and cost-effective manner, the lead agencies must conclude that the Tolay Extended alternative is not a viable alternative and should be eliminated from further consideration. If the Tolay Extended alternative is selected, in spite of its unacceptable impacts and cost, Dr. Schaller will continue to oppose the use of his land for the Project. Accordingly, we encourage you to give strong consideration to these comments and our recommendation that another, more environmentally and economically sound alternative be selected.

Sincerely,

Elizabeth R. Gunther



cc: L. Schaller

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