

CITY OF SANTA ROSA
P.O. Box 1678
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DEPARTMENT OF
COMMUNITY DEVELOPMENT

Bob Smithfield

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Ms. Marie Meredith
City of Santa Rosa, Community Development Dept.
P.O. Box 1678
Santa Rosa, CA 95402

Dear Ms. Meredith,

October 04, 1996

The enclosed sets of comments are more comments from me submitted as an individual in the official comment and review period for the Draft EIR/S for the Santa Rosa Subregional System Long-Term Wastewater Project (1996 Draft EIR/EIS). These comments are separate from and in addition to other comments which I have submitted for the record to review and comment on the 1996 Draft EIR/EIS.

Please notify me promptly if there are questions or difficulties reviewing or responding to these comments.

Sincerely,
Bob Smithfield
10/04/96

DEIR/S Comment #1 from Bob Smithfield, 10-0¹~~0~~-96

Addition of reclamation water of the character and in- 001
the volumes proposed is among the principle sources of
potential environmental disruption and degradation in the
DEIR/S Project areas. The proposed storage reservoirs, for
example at Tolay and Two Rock, appear to be a another
source of potential environmental damage of great
consequence.

The DEIR/S makes clear that treated wastewater storage
is considered an integral project component to achieve
such project goals as reliability and weather
independence. The DEIR/S also asserts that proposed
reservoir storage is an integral facility of the total
proposed agricultural treated wastewater reclamation-
irrigation Project alternatives.

While each of the above two proposed Project
components can be separately evaluated for specific
environmental impacts, it is essential that any
reader, reviewer, and commentor of the DEIR/S remember
that the Project proposals under discussion link the
two and, inevitably, in reality, load the entire Project
area - that is, all of the communities of people and all
other living communities - with the awesome totality of
impacts of both wastewater storage and irrigation. It
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is the totality of impacts by which CEQA expects a proposed Project to be reviewed and evaluated and, finally, determined to be acceptable or unacceptable, for in fact it is this lived totality of impacts which will be experienced in the Project area.] 001 (cont.)

The DEIR/S reminds us that "...it is unknown which landowners may contract with the City for reclaimed water". (DEIR/S, Vol. I, 1-32) We are reminded of this category of 'unknown' reclaimed water demand factors again and again in the DEIR/S, e.g., Vol. VI, E-2, pp. 2, 3, 18. The DEIR/S also makes clear how particular reclamation scenarios correspond to particular percent amounts of Russian River discharge that would then becomes feasible; for example, DEIR/S, Vol. VI, E-2, p. 3 asserts, "Based on the project Water Balance Model (April 1996) completed by Parsons Engineering Science (using 23 inches per acre), approximately 6,200 acres if irrigable lands are required for land disposal for the one-percent river discharge alternative...Higher river discharge alternatives reduce the irrigation land requirements correspondingly." 002

In addition, the DEIR/S contains questions and

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cautions about potential environmental impacts of irrigation; this is especially the case in the discussion of agricultural irrigation potential in the proposed West County Project area. See for examples, DEIR/S:

Vol. VI, E-2, pp. 2, 3, water balance model;
 Vol. VI, E-2, pp.18,19 irrigation management and FDR;
 Vol. VI, E-2, p. 2 crop water requirement/consumptive use;
 Vol. VI, E-2, p. 23, 5.0, Special Considerations and Recommendations numbers 1, 3, and 4;
 Vol. VI, E-7, p.23 existing conditions, West County, rainfall, erosive soils, gullyng, stream bank failure, total watershed(s) sediment yield, and p.22, grazing practices, soil erosion;
 Refer also to DEIR/S technical reference cited in Vol. VI, E-7, p. 23, Stemple Creek/Estero de San Antonio Watershed Enhancement Plan, in the section Erosion and Sediment Study, Stemple Creek Watershed, Introduction, pp.1, 2, volume of sediment delivered to watershed and estuary from use of irrigation on range and crop lands of the watershed.

The DEIR/S river discharge and irrigation reclamation alternatives cumulatively create the prospect of a Project and its consequences which would bring change to the way the farmers and ranchers relate to agricultural practice in the local and regional natural environment.

This change could have environmental impacts which would bring agricultural practice into conflict with existing environmental protection law and natural resource preservation regulation. Such change-induced conflict is clearly possible in the proposed West County Project agricultural areas with agencies such as the Gulf of

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the Farallones National Marine Sanctuary. (Just by way of 002(cont.) example, consider DEIR/S, Vol. I, 1-34, discussing proposed Project irrigation and "subflow" to local waterways, "...subflow (underground flow) discharge to local creeks...." is described as a significant impact in the West County proposed Project area, because of the fact that Stemple and Americano Creeks discharge into the estuaries which are within the jurisdiction of the GfNMS and "...where any change in water quality is considered significant." See also, DEIR/S Vol. 1, 1-35.)]

The proposed Project irrigation/rivier discharge 003 alternatives establish minimum levels of wastewater storage and irrigation and river discharge that make it impractical for farmers and ranchers participating in wastewater reclamation to choose to eliminate or substantially reduce participation if and when it became factually apparent that the ICPs and other mitigations actions were not effectively preventing significant environmental damages to the natural resources of the watershed and/or the Gulf of the Farallones National Marine Sanctuary. The DEIR/S has not discussed and evaluated participation in the reclamation irrigation use and/or storage reservoir siting action(s) of the proposed Project in such a way as to clearly define participation (page 4 of 8)

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with the awareness that this choice will not explicitly 003 (cont.)
mean that the wastewater will, through Project design, be
either simply shifted to other acreage experiencing the
same use problem (environmental degradation) or released
to the Russian River watershed, or some other natural
environment, in violation of Project and/or regulatory
goals and community expectations.]

Furthermore, even if there is some implicit provision 004
in the proposed Project for such attrition of irrigation
acreage, we are still left with proposals with an
environmental impact which is not identified and evaluated
by the DEIR/S and, as such, constitutes a deficiency under
CEQA. It seems to me that the project does not evaluate
and develop feasible Project actions in the case of sudden
or cumulative attrition of agricultural lands from the
reclamation irrigation programs when in fact such cases
are not just conceivable or imaginable nor just factually
remote, but are quite possible under conditions which both
exist in the proposed Project area and which will persist
in that area during the life of the Project.]

A consequence of this omission is to seriously impair 005
informed decision-making and informed public

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participation.

005 (cont.)

Support for this position is found in CEQA:

CEQA, Guidelines, 15378(a) "'Project' means the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately, and that is any of the following:

(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities...

(2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies...."

CEQA, Guidelines, 15126, "All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation....(a)...An EIR shall identify and focus on the significant environmental effects of the proposed project. Direct and indirect significant effects of the project on the environment shall be clearly identified

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and described, giving due consideration to both the short-term and long-term effects....(d)...Describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project...(d)(5) The range of alternatives required in an EIR is governed by "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The key issue is whether the selection and discussion of alternatives fosters informed decision-making and informed public participation. An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative....Discussion...significant effects which would be caused by the choice of an alternative would need to be discussed to the extent that the effects are different from the project as proposed...."

CEQA, Appendix G, Significant Effects, "A project will normally have a significant effect on the environment if it will: (a) Conflict with adopted environmental plans and goals of the community where it is located;..."

CEQA, Guidelines, 15064(b), "...The determination of whether or not a project may have a significant effect

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on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area."

15064(c) "In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected...."

15064(d) "In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider both primary or direct and secondary or indirect consequences. (1) Primary consequences are immediately related to the project... (2) Secondary consequences are related more to effects of the primary consequences than to the project itself and may be several steps removed from the project in a chain of cause and effect...."]

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DEIR/S Comment #2 from Bob Smithfield, 10-03-96

The above comment (Comment #1, Smithfield, 10-01-96) 006 discusses proposed Project actions in the DEIR/S which raise other questions of the Draft's adequacy in another respect. Comment for the record, from Bob Smithfield and dated 09-30-96 contains relevant DEIR/S and CEQA citations and evaluations and is herein fully incorporated by reference.

On page 2 of Comment #1, it is noted that the DEIR/S acknowledges that the various proposals for reclaimed water irrigation of agricultural lands in the proposed Project area are made in full awareness of the fact that, at present, it is not known which landowners might choose to contract to receive reclaimed water. It is also noted that the DEIR/S makes it very clear that acreage needed for agricultural use of reclaimed water corresponds to the particular Russian River discharge to which it is attached in a proposal: "'Higher river discharge alternatives reduce the irrigation land requirements correspondingly.'"

The DEIR/S presents the reader with the opportunity to imagine, as I did in Comment #1, that reduced agricultural irrigation land opportunities increase river discharge requirements in the proposed Project and Project area. I now suggest that this possibility sheds light on
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factual existing conditions of the regional setting of the proposed Project and actions of the proposed Project which the DEIR/S fails to adequately ~~and~~ report and evaluate in the agricultural water reclamation alternatives. 006 (cont.)

The existence of the Agricultural Property Rights Alliance (APRA), of APRA members commitment to the APRA "red zone", and the very public and focused effort APRA has made to inform the drafters of the Project and the persons of Santa Rosa Lead Agency of the existence of APRA and its members' position on specific proposed Project actions (see my Comment on the DEIR/S dated 09-30-96, pp. 4, 5), constitute existing conditions in the proposed West County Project area. These conditions in fact present a real obstacle to the proposed West County Project alternatives; the existence of the "red zone" means there is substantial opposition to willing participation in the proposed Project by West County landholders of Project-significant agricultural acreage.

So in the West County proposed Project area, does the DEIR/S present alternative means for acquiring acreage for
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storage, irrigation and other Project components?

The DEIR/S doesn't appear to answer this question specifically. It does provide some background in Vol. ~~XV~~, ~~S-1~~, Draft Report 10/01/93, POTENTIAL ACQUISITION METHODS, pp. 4-6. Here and in preceding paragraphs of this Draft Report, the power of eminent domain and acquisition of land through condemnation proceedings or the threat of condemnation is reviewed. On page 6, the following precautionary remarks are made: "In addition to substantial time and money needed to conclude the transaction, many public agencies do not relish the adverse publicity that often accompanies such condemnation cases. Before the City of Santa Rosa considers the use of condemnation they should seek legal opinion regarding the appropriateness of using the right of eminent domain for acquiring land for wastewater storage sites."

Given the existence of landholders whose acreage comprise the "red zone" in West County and given the extensiveness of this acreage, it seems that the City of Santa Rosa is faced with the factual prospect of needing to acquire acreage in the West County for

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storage and irrigation in the proposed West County _____ 006 (cont.)
Project area by means of eminent domain, through
the use or the threat of use of land condemnation, or
it faces the prospect of not being able to acquire
sufficient suitable acreage there.

This is a factual part of the proposed Project area
setting and a reasonable and factually complete assessment
of proposed Project actions, actions which must be iden-
tified and evaluated. CEQA makes it clear that all phases
of a proposed Project must necessarily and prudently be
considered; this includes planning, acquisition, develop-
ment and operation.

The possibility of the use of eminent domain by the
City of Santa Rosa to acquire land through actual condem-
nation or threat of condemnation is a possible Project
action which has generated both serious public controversy
and substantial public opinion about the significance of
proposed Project actions and effects. It cannot be
treated as simply and completely a socio-economic matter,
as the DEIR/3 attempts (CEQA, 15064, (1) and (b)). Also,
this action poses factual and relevant questions about the
proposed Project and applicable general plans, county
ordinances, and matters such as cancellation of Williamson
Act contracts.

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Similarly, the DEIR/S needs to give consideration to use of eminent domain by the City of Santa Rosa to condemn or threaten condemnation of land in the event that a Project agricultural reclaimed water irrigation program experienced enough attrition of irrigable acreage to threaten the reliability of the System under the corresponding Russian River discharge program levels.

The failure of the DEIR/S to adequately describe the proposed Project area setting and describe and evaluate these actions must be corrected. The failure impairs the usefulness and legality of the document. The failure impairs informed decision-making and informed participation of the public.

Support for this position is found in CEQA:
CEQA, Guidelines, 15126, "All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation....(a)...An EIR shall identify and focus on the significant environmental effects of the proposed project. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects....(d)...Describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain
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the basic objectives of the project. (d) The range of alternatives required in an EIR is governed by 'rule of reason' that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The key issue is whether the selection and discussion of alternatives fosters informed decision-making and informed public participation. An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.... Discussion... significant effects which would be caused by the choice of an alternative would need to be discussed to the extent that the effects are different from the project as proposed...."

CEQA, Appendix G, Significant Effects, "A project will normally have a significant effect on the environment if it will: (a) Conflict with adopted environmental plans and goals of the community where it is located...."

CEQA, Guidelines, 15064(b), "...The determination of whether or not a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent

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possible on scientific and factual data. An ironclad definition of significant effect is not possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area."

15064(c) "In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected...."

15064(d) "In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider both primary or direct and secondary or indirect consequences. (1) Primary consequences are immediately related to the project... (2) Secondary consequences are related more to effects of the primary consequences than to the project itself and may be several steps removed from the project in a chain of cause and effect...."

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Comment #1, 10-04-96, from Bob Smithfield

007

subject: change in character, stratified character of reclaimed wastewater stored in proposed storage reservoirs in association with mixing of stored reclaimed water with either or both existing groundwaters, surface waters of the proposed Project area and corresponding environmental impacts of such mixing events.

DEIR/S Vol. II, 4.5-24, 25 informs us that, "The quality of reclaimed water that may seep from reservoirs is not necessarily the same as that measured in reclaimed water at the treatment plant, because biological activity in a thermally stratified storage reservoir affects reclaimed water quality...dissolved oxygen can be depleted, nitrate can be converted to ammonia, and sulfur compounds can be converted to hydrogen sulfide in the bottom layer....Thermal stratification can exist from mid-spring through summer...." We are also informed that (a) in the groundwater impacts evaluation, the nitrate in the treated and stored wastewater in the reservoirs is not assumed to be converted, and (b) in the surface waters impacts evaluation, maximum ammonia and hydrogen sulfide conversion concentrations are assumed.

The evaluations based upon these assumptions seem to me to be inadequate.

It seems to me based on the information presented and personal experience in the lab and in the field with sub-

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stances held, whether in suspension, solution, and so on, 007 (cont.)
in water, the situation which needs evaluation is the
character of treated and stored wastewater after repeated
thermal stratification and re-mixing when not thermally
stratified. So for example, one might ask, when in a
season or condition after stratification has occurred and
has diminished, do the layers (strata) of wastewater
mingle, and when re-stratified do upper strata contain
ammonia and hydrogen sulfide.

The event, extent and periodic nature of thermal
stratification in conjunction with environmental
variables such as possibilities of very cloudy spring
seasons, local fog, unseasonable rains combine to
make the character of wastewater which might mingle
with Project area groundwaters and surface waters.
This it seems is the sort of description and evaluation
appropriate to the DEIR/S.

CEQA makes clear the importance of the adequacy
of the practical scientific and technical analyses
for a Project. For example, refer to section 15126
on Environmental Impact.

A clear and complete factual description of the
character - or the changing character or varied char-
acter - of the stored wastewater directly affects how

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wastewater released to the groundwater and surface water environments create impacts and how the significance of these impacts ~~is~~ perceived, and what and how, if any, mitigation is possible and appropriate. 007 (cont.)

The DEIR/S reminds us of the importance of the clarity, the completeness and the adherence to fact in Project design and evaluation. For example, and in particular reference to the character of the stored treated wastewater, we read, "Reservoirs in both the South and the West County alternatives will result in seepage which will cause significant water quality impacts for a short segment of stream below each dam." DEIR/S Vol. I, 1-33 Another example from the DEIR/S is in Vol. VI, E-2, 5.0 Special Considerations and Recommendations, numbers 1, 3 and 4.

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