

♻️ RECYCLED POSTCARD COMPANY
Featuring Ed Cooper Photography
The World's Most Beautiful Postcards
Fog bathes the lofty coast redwoods, easing the drying effects of the summer sun
Photographer: Ed Cooper

Jean Severinahaus
2105 Villa Garden Dr
Mill Valley, CA 94946
415-388-2452



Dear Ed Brauner RE.
City of Santa Rosa - Scoping Process for
Proposed Sewage Effluent Storage and
Discharge:

Ed Brauner, Asst. Controller,
City of Santa Rosa
Sewage Proposal
P.O. Box 1678
Santa Rosa, CA 95402

A 1st

Please do what you can to move the
proposed site out of the Estero's Arroyo
and San Antonio and Button Ranch and into
the north S.F. Bay floodplain whose great
volume could much more easily tolerate the
volumes of effluent. I regularly kayak the

Thanks!
Jean Severinahaus

B Fisch
Luis

length of the estero is all time of year and am impressed by
the fragility, the seats swing far inland while open salt, the rain
water catches the sand dam is up in the winter, the birds + raptors
at all times. The large volume of fresh water of effluent would have
all that forever irreversibly.

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402
DEC 01 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

SIERRA CLUB
SONOMA COUNTY GROUP
P.O. Box 466
Santa Rosa, CA. 95402

11.2
RECEIVED

046

NOV 18 1994

November 14, 1994

CITY OF SANTA ROSA
MANAGEMENT

To: City of Santa Rosa
From: Len Swenson on behalf of the Club

Re: Environmental Study Scope of Work for the Proposed
Santa Rosa/Subregional Long Term Wastewater Project

From a review of the Summary of the Proposed Study, I compliment the study consultants concerning the thoroughness of their proposal. If all the studies proposed are done as outlined, most or all of the possible environmental impacts for all of the options for use/reuse and/or disposal of the wastewater will have been thoroughly analyzed.

Specifically some of the concerns which should be studied in relation to the South County/Groundwater alternative (and in many instances for the other alternatives also) are:

-Will the soils be permeable enough to receive and hold treated wastewater as underground storage?

-What are the possibilities for soil subsidence at different stages of discharge/replenishment in relation to underground storage?

-What will be the affects of groundwater recharge/reuse on surrounding private and city wells?

-Can pipelines be made leakproof, and, if not, what are the environmental consequences?

-What are the long-range affects on agriculture from reuse of wastewater?

-How can safety hazards from "ponding" of wastewater be mitigated?

Our Club may have other questions to be addressed in relation to other alternatives being studied.

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 01 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

A
B
C
D
E
F
G
H
I
J
K
L
M
N
O
P
Q
R
S
T
U
V
W
X
Y
Z

NOV 10 1994

Manapple Farm
1250 Wagner Rd
Sebastopol, Ca-95472

047

Office of City Manager -
Santa Rosa, Ca

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 01 1994

Dear Sirs:

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Perhaps I should write this letter
after receiving the Scope meeting "infor-
mation package -

As a farmer who, as many others
in the western part of Sonoma County,
are critically short of water through
the growing season our production is
limited and anything but optimal.

The crystallization of thought
of the splendid effort your office is
making as to ^{most} myopic in thought
and action.

Perhaps you are dogged by too
many interests and demands - Political,
environmental, personal, financial,
etc. I feel you should be more futur-
istic and visionary in your use of
the heaven sent subsidy which is
yours freely provided.

Our nation and especially California
is growing rapidly in population and
consumption of food demands. The

Page 2.

need for more food, fiber, timber, and water is a constant up scaling graph line.

To do anything with wastewater A than to ultimately divert it to produce more agriculture products is indefensible. In but a few decades the population will demand much, much more foodstuffs - California can produce most of it if we have water.

The expense of consultants, I believe, is too often an excuse to delay decisions and ultimately a solution. Common sense should tell you that the waste-water should be thought of as liquid gold. Let us not be foolhardy in the disposal or use of it.

Sincerely with thanks
J. H. A. Penner
Garden Market
Farmer

P.S. I will be out of town on the Sope meeting date.

Marie Meredith
Santa Rosa Department of Community Development
PO Box 1678
Santa Rosa CA 95402

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 9 1991

Re: EIR / EIS scoping for Regional Wastewater Alternative
DEPARTMENT OF COMMUNITY DEVELOPMENT

The thinking in the early 1970's was to develop a wastewater reclamation project regional in scope that would encompass Santa Rosa and its satellite partners, and add Petaluma and Novato. The Tolay valley was to serve as a regional wastewater storage facility. Many permutations have evolved since then, but some basic components remain.

A
w/p
Using part of the Tolay valley as a reservoir is still possible, and gives a South County alternative a competitive edge. For the same reasons listed two decades ago, the South County project has advantages of serving more diverse agriculture, has more heat for growing crops, has greater impact on strengthening the agriculture economy and therefore thwarting the loss of agricultural land to development pressure. Developing methods for using wastewater on Reyes soils will double the acreage available for wastewater reclamation.

B
Act
Petaluma in the meantime has developed its own reclamation program and the city is in the process of calling for bids to build and privatize the operation of a new wastewater treatment plant. The second phase is to acquire a storage facility and develop additional acreage for reclamation, a duplication of a South County project by Santa Rosa.

The privatization process means that Petaluma will additionally be calling for bids to build and privatize its storage and distribution system for water coming out of its new plant. If Santa Rosa's South County pipelines go right past Petaluma, the EIR / EIS should address the sizing of the system to allow Santa Rosa to bid on storage and distribution of Petaluma's wastewater. The economy of scale would put Santa Rosa in a highly competitive position to bid on a project to store and distribute the wastewater of Petaluma. The added income would have a positive effect on the operations budget.

The cost for Petaluma to build tertiary capabilities to become a partner should be addressed in the EIR / EIS as part of a study that addresses the cost savings to both systems by combining the projects.

A new Petaluma City Council will sit in January and indications are that they

could be favorable to incorporating such study in the South County alternative.
The Petaluma connection is justified under the following:

Project objectives:

"Develop a program that can be successfully financed and is economically feasible."

Task 31:

"What are the future cost estimates in terms of land, labor dollars, and energy?"

Issues -- Policies/Procedures:

"What is the problem being dealt with throughout the county yet the City of Santa Rosa maintains control of the project?"

"Regional cooperation on these issues between planning agencies would be the most rational basis for a long term environmentally sound project."

The political considerations of a partnership could be determined by early 1995 in ample time before the study is to begin.

Sincerely,



Bill Kortum

November 28, 1994

District Engineer, San Francisco District
U.S. Army Corps of Engineers
211 Main St.
San Francisco CA 94105

Attention: Wade Eakle

Santa Rosa City's scoping session on a long term wastewater disposal system revealed that the Corps involvement in the project might require the study of an ocean outfall alternative.

As an advocate of re-use since 1973 and therefore both student and observer of all the history behind the present alternatives, I take great exception to a last minute proposal stemming from late arrivals to the scene. The input from myriad citizen advocacy groups, many studies, and constant pressure on elected officials and those running for office, has resulted in turning the political climate around to the endorsement of re-use. The saving of a resource, and the positive land use implications of strengthening agriculture and saving open space in a county under the constant pressure of urban sprawl have a wide constituency in Sonoma County. Based on this climate, the city has spent many millions of dollars developing a tertiary treatment facility capable of supplying a quality of water suitable for both agriculture and urban reclamation.

F For the Corps to expect an inland city to pump its wastewater for that great distance to an ocean discharge having to lift every gallon over a coastal range requiring high energy use, is profoundly unfair and impractical. Add to this the ocean discharge pipe having to go through an underwater reef of biological significance, and requiring unknown but possibly extra miles to length to reach deep enough water, adds additional constraints and costs. A world renowned marine laboratory could well have its study area impacted by a sewer discharge. The presence of a National Marine Reserve downcurrent from the discharge area adds severe complications to the proposal.

Ironically the Corps has constructed Warm Springs Dam in Sonoma County, an example of the last vestige of federal subsidy for domestic water supply. In so doing you have provided subsidized water so cheap that the recycling of wastewater by double plumbing is not competitive at this time. Someday, however, such re-use in an arid region will be routine. We want to start reclamation now, knowing that every gallon of wastewater used in the urban setting is one less gallon used from the Warm Springs supply. Such action will delay the time when new, more expensive, supplies will have to be developed.

I would urge the Corps to not innocently open up the ocean outfall question after we have spent twenty years developing the political climate for re-use.

Sincerely,

Bill Kortum

November 28, 1994

*This copy sent
to Corps directly*

B.K.

OFFICE DEPOT™

Santa Rosa**Subregional Long-Term Wastewater Project****SCOPING COMMENT FORM**

Due December 5, 1994

Name: Russell RidgeDate: 11/29/94Address: P.O. Box 396City: SE Reyes Sta.State: CA Zip: 94956Phone: (415) 647-1716**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

Comments: I spoke at NPL in Session #1 (Speaker #20). I didn't list my "credentials" when giving my name and residence. I'm retired from 25 years of teaching in biology department at College of Marin, Kentfield. Participated in ecology studies of Tomales Bay from Pacific Marine Station back in 1959-62 - leading to Masters Degree.

A 1st CONCERNS are with the West CO. Alternative and the need for studies - on the effects of treated waste water releases into the esteros - and effects of heavy metals on fauna in esteros - into Redge Bay - & possibly into Tomales Bay (all within Marine Sanctuary).

B In Summary of Proposed Scope of Work - the above concerns are listed as Issues: P. 12, P. 2, Criteria P. 12, 4; P. 27, 6; Issues: P. 36 Fisheries 1-2-3; 17, 18, 19; Fish 5-6, and Criteria P. 36 5/1, 2, 3, 4, 5.

WV I just can't imagine how these concerns could be adequately studied within your proposed time schedule of 18 months.

CITY OF SANTA ROSA

PLANNING DEPT.

Santa Rosa, California

Date: 11/29/94DEPARTMENT OF
COMMUNITY DEVELOPMENTThank you for the chance
to expressRussell Ridge

050 0 1 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Marin Audubon Society Box 599 Mill Valley, California 94942-0599

November 29, 1994

Lt. Col. Michael J. Walsh
District Engineer
Army Corps of Engineers
211 Main Street
San Francisco, CA 94105

Marie Meredith
Santa Rosa Department of
Community Development
P.O. Box 1687
Santa Rosa, CA 94502

RE: COMMENTS ON SCOPE OF WORK FOR SANTA ROSA WASTEWATER EIS/R

Dear Col. Walsh and Ms Meredith:

The recommendation of the Marin Audubon Society on issues to be addressed in the EIS/R are below.

ENVIRONMENTAL SETTING

A1 The EIS/R must include a SETTING section that adequately describes the habitats and built facilities, that would be affected by each of the alternatives. That is, all major and minor streams, creeks, rivers, wetlands (fresh/brackish water, tidal, and seasonal), riparian vegetation, grassland, diked bayland trees, forests, chaparral and any other habitats that could be impacted should be characterized. An understanding of the existing habitats is essential to identify and understand the potential adverse impacts of the project.

A1 All special status, native plants, invertebrates, fish, or native and migratory birds and other wildlife that would be expected to use the sites should be described. Importance of these habitats to local, common species, to migrants and all special status species should be discussed. The local, regional, national and international importance of the habitats for local and migratory species should be evaluated.

A2 Mitigation should be provided for all impacts to wildlife and their habitats. Construction of a wetlands or reservoir that would be managed primarily to benefit the system should not be considered mitigation for loss of natural habitat.

A3 The environmentally superior alternative should be identified. At least one alternative should have no impacts to wetlands.

PROJECT DESCRIPTION

B A. Wastewater Components

What facilities are needed for rapid infiltration? Describe the rapid infiltration process. What facilities are needed for direct discharge? Describe the direct discharge process.

B1 Would the wetlands created to provide reuse capacity be a pond? Describe their characteristics, size, depth, plants etc.? How would they be operated? How would they be different from storage reservoirs?

A Chapter of National Audubon Society

B2 Would water be transferred from storage reservoirs to irrigation lands above ground through open channels or below ground through pipes?

Describe the design of the wetlands that would be created to polish wastewater, i.e. size, depth of water, plant species, vegetation coverage.

B3 How would these wetlands be operated?

Would wetland plants need to be harvested from 'polishing' wetlands to prevent their overgrowth and clogging of the system? How frequently would this occur? What would the removal process entail? Where would the plants be disposed of?

What measures would be planned and implemented to ensure that birds and animals that are attracted to the created wetlands are not exposed to bioaccumulation of heavy metals and other constituents in the wastewater?

B4 Regarding #9, wetlands proposed for this project would undoubtedly be needed to mitigate direct wetland losses and other adverse impacts of this project and should not be claimed as mitigation for future projects.

B5 Regarding question #13, how would sludge be a component of the project?

B6 What back-up facilities are planned for each alternative in case of a treatment failures, pipe break, or other malfunction? Where would the back-up system be located? How would it be operated?

B7 Discuss components of a maximum conservation program and why this was rejected as a component for any of the alternatives?

B8 What outflow facilities at the outflow points are needed for Russian River and stream augmentation? Describe these facilities?

B. Wastewater Alternatives

C What would a "full testing program" referred to in #7 consist of?

B3 What criteria are applied to lands that would be used for wetland polishing and/or reuse?

C1 Identify what heavy metals and other constituents remain at high or low levels in the wastewater after tertiary treatment. What are the levels of these constituents? What tests are used to identify these constituents? How frequently does the plant exceed their discharge limits allowed by their NPDES permit?

C2 What constituents do the various advanced treatment processes, reverse osmosis, biological treatment, ultraviolet disinfection, remove? What process or processes, if any, can remove all heavy metals? Does Santa Rosa propose to use the processes that remove the maximum constituents? If not why not?

C. Policies

Why cannot the jurisdictions that are part of the Santa Rosa system, review and revise their growth projections? What is preventing such a review?

C3 Existing users are being forced to pay high costs for all of this environmental review to expand the systems. Depending on the alternative chose, it is likely that extensive mitigation for massive environmental damage is likely to be needed. Is the project growth going to pay for itself?

TASK 19: LAND USE AND AGRICULTURE

D The response to question #3 should specify whether the open space loss would be of private or public open space. Are any lands currently not used for

grazing or crops be suggested for irrigation?

7 What criteria are applied to choosing lands for irrigation?

What crops would the lands be suitable to grow? How could use of the lands to grow unsuitable crops be prevented?

D1 Classification of existing soils and their suitability for growing crops should be examined for lands proposed for irrigation for each alternative using irrigation of crops.

What crops are currently grown in the diked baylands along San Pablo Bay? Describe the character of this soil. What crops could or are proposed to be grown in these soils with wastewater? What soil improvements, if any, would be required to make these soils suitable to grow more profitable crops or crops for consumption by people?

D2 What measures would have to be taken to lower the water table so that crops can be grown? Currently the lands must be extensively pumped in winter to counteract the rising water table and ponding of rainwater? What would an estimate for pumping costs be?

How would more intensive crop growing on bay mud contribute to their subsidence? What is the current elevation of diked baylands proposed for irrigation? How much more could they be expected to subside?

How would levees have to be maintained to continue crop growing on the diked baylands? What is the estimated cost of maintaining levees?

D1 What controls could be exercised over new irrigation lands added after this EIS/R process? How could it be assured that soil types would be suitable for crops that would be grown?

D3 The study of impact on Agricultural Economy (study #3) should not only address the potential beneficial impacts, but the potential adverse impacts as well.

TASK 20: VISUAL RESOURCES

E #6 How would the visual, land use and recreation studies be coordinated with the biological management of the Plan for the Proposed Wetlands in Alternative 3.

TASK 21: GEOLOGY

F 1. Soils What would prevent constituents in tertiary treated water accumulate in soils, be taken up by plants, invertebrates, and bioaccumulate in wildlife using Sonoma County cropland?

The discussion of potential impacts from reclaimed wastewater due to accumulation of minerals, heavy metals, salts and other constituents should address potential impacts on (a) irrigated soils, (b) soils of wetlands created for reuse and polishing, (c) sediments in streambeds used for flow augmentation, and (d) sediments in streams that would receive runoff from irrigation and (e) stream sediments downstream from reservoirs?

F1 Studies to address build up of constituents in wastewater would need to include characterization of the quality of irrigation water, plus a literature review for information about characteristics of soils in wetlands, streams, and lands on which wastewater is used for irrigation.

F2 What is the potential for augmented streamflows and/or increased runoff from irrigation to cause erosion along the length of the streams?

F could

2. Seismicity:

F3 Geotechnical and safety data should be developed to the same level of detail for all potential reservoir sites. Why is only limited laboratory testing of soils proposed for Alternatives 2 and 3? Has this information been developed for Alternative 4?

A comparisons of the safety of the potential reservoir sites should be made.

TASK 22: HYDROLOGY

G1 The hydrology and watershed should be characterized for each stream being proposed for augmentation, a reservoir and/or that could receive irrigation runoff. All major and minor drainages should be mapped and shown on a figure.

G2 What are the potential impacts of excess irrigation and reservoir seepage for Alternatives 2, 3 and 4?

G3 Will reservoirs be located on- or off-stream?

G4 Streamflow data should be provided for all new streams now being considered for reservoir construction. Simply updating Pussian River and other data is not sufficient.

G5 How would flow augmentation effect each stream system on which it is proposed?

G6 What changes would occur to the current hydrology of the drainages at the dam and storage reservoir site?

Water Quality

G7 Characterize both the water quality and quantity at each proposed wetland site, flow augmentation stream, stream into which irrigation water could flow and storage reservoir site.

G8 Characterize the sediment quality at all irrigation, flow augmentation, wetland sites, flow augmentation streams and reservoir sites.

G9 On what basis is the assumption made that wastewater discharge to streams is appropriate? Maybe its not appropriate in either location mentioned in #4.

G10 Is there a potential for chlorinated hydrocarbons to impact facilities or systems the wastewater would be discharged into or used for, in addition to Kelly Wetlands (see #6)?

G11 For what period of time have trace-metals been monitoring in the Laguna? How frequently does testing occur? What tests are used?

G12 How could the heavy metal residue, nutrients, salts and other constituents in wastewater discharged to constructed wetlands effect the food web in the short and long term?

G13 What are the potential impacts of discharge into the Russian River on water quality for customers of the Sonoma Water Agency?

G14 What is meant by 'listed' streams? Water quality should be characterized for each stream system, including tributaries, that could be impacted by the project regardless of whether it is named, unnamed, large or small.

G15 What would the quality of the wastewater be as it enters irrigation streams? Flow augmentation streams?

H1 Why were Adobe, Copeland, Crane, Blucher, San Antonio, Lichau, Lynch and Tolay Creeks and Willow Brook chosen for stream augmentation. What is historic condition of these creeks? Is their current condition degraded? Describe the degradation and its cause(s)?

H2 Why would Green Valley/Atascadero and Walker Creek be visited only twice and the rest five times (see Studies 3)?

H3 Would irrigation help reduce or contribute to an increase in non-point source discharges (see #5)? What guarantees would there be to assure that over-irrigation does not occur thereby increasing the potential for sedimentation, erosion and decreasing water quality in the streams, drainageways and bays?

H4 What criteria were be used to choose the Petaluma River sample sites? Show the sampling locations on a map.

H5 What final water quality is anticipated with each disposal or reuse mode, flow augmentation, wetland polishing, flow through streams after irrigation, reservoir storage? In other words, what constituents would be removed from the water by irrigation, flowing instreams, wetlands, etc. How would this quality compare with direct treatment methods (reverse osmosis etc.)?

H6 What are the potential benefits, if any, and detriments of discharging into the Russian River? The Petaluma River?

C. Groundwater

I1 What are the potential impacts, if any, of discharging salts, trace metals, chlorinated hydrocarbons, pathogens, and nutrients on groundwater discharged to the geysers or other underground aquifer?

Environmental Impact Criteria

I2 Address the potential exposure of people or property to water related hazards, such as flooding, with each alternative, particularly reservoirs, flow augmentation and wetland storage, not just alternatives 4 and 5.

I3 Increased runoff volumes exceeding the capacity of downstream systems could occur with any alternative that has flow augmentation, irrigation or leakage from reservoirs. Potential impacts of increased runoff should be addressed for alternatives 2 through 6.

TASK 23: BIOLOGICAL RESOURCES

A. Terrestrial Biology

J All vegetative habitats that could be lost, degraded or otherwise impacted for reservoir storage, pipelines, wetlands creation, irrigation, flow augmentation, discharge locations, or construction of any facilities should be mapped. Mapping should the discussion should include all streams, creeks, rivers, fresh/brackish wetlands, tidal wetlands, seasonal wetlands, Vernal pools, grasslands, Valley Oak and all native trees, forests, chaparral and any other native habitats. How each of these resources would be modified due to construction and use of wetlands, reservoirs, flow augmentation or irrigation should be mapped also and described. The loss of any aquatic habitat type should be considered a significant adverse impact.

K The environmental analysis should address potential project impacts to all stream, creek and river systems, including large and small streams, in the South County, Russian River area and West County, whether or not a specific amount of bank is vegetated with riparian vegetation. All stream systems, tributaries, associated wetlands and other habitats should be mapped and shown

K on a figure. In California, streambanks are not always vegetated and sometimes the existing vegetation is not typically described as riparian. In addition, some streamside vegetation has been grazed or destroyed due to water diversions. Simply because a stream is unvegetated in sections does not mean it is not a stream system and should be ignored.

L Identify and map existing wetlands by type (i.e. fresh-water, riparian, seasonal, tidal, etc.). showing acreage also. A jurisdictional determination should be provided for all existing wetlands.

M Native trees, aquatic and other habitats that would be removed or damaged by wastewater transmission and distribution lines should be described and mapped.

N Identify and show habitats that currently exist in areas proposed for creation of reuse and polishing wetlands. What species use the habitats that would be lost? Identify and evaluate the functions of habitats that would be created by proposed wetlands in comparison with what is in these locations now.

O What are the potential impacts to the streamside vegetation and wetlands along stream corridors from flow augmentation and runoff from irrigated lands? Impacts to the stream system as well as to individual components of the stream (i.e. fish, water, vegetation) should be discussed.

P What impacts would be anticipated from rapid infiltration and from direct discharge; compare and assess the differences in impacts. Which is least environmentally damaging? What species could be affected?

Q Historic wetland communities that existed on diked baylands along the Bay margin in the location of diked historic baylands should be described.

R What are the effects of irrigation on natural native plant communities that are not special status species? What are the potential effects of converting bay plains to managed ponded wetlands?

S What impact would project reservoirs, flow augmentation, irrigation, construction of wetlands, pipelines and other facilities have on native plant communities that are not special status?

T How would the loss of existing habitats effect remaining habitats? Would movement corridors be blocked? Would any habitats be fragmented?

Wildlife

U Non-special status species are virtually ignored in the Consultant's Summary. The Bay, its associated tidal and seasonal wetlands, streams and tributaries provide essential overwintering habitat for migratory species of the Pacific Flyway. Streams and woodlands, are similarly important for migratory songbirds. Neotropical songbirds are in a drastic state of decline. The impact of the project on these species of international concern as well as resident species must be addressed.

Field data from local sources, such as the Madrone Audubon Society should be sought and included in the analysis.

What adverse impacts could occur to native animal species and migratory birds as a result of construction and use of reservoirs, pipelines, wetlands for reuse and polishing, flow augmentation and irrigation? What species would be impacted? How?

How would invertebrates be effected? What habitat for birds would be impacted?

U1 The value of San Pablo baylands seasonal wetlands rests not with the vegetation (see question #4) but with the functions they provide for shorebirds and waterfowl of the Pacific Flyway. In fact, their value for shorebirds is enhanced by lack of vegetation because they provide needed foraging and resting habitats with open vistas from which small shorebirds can spot avian predators. The functions diked baylands provide should be described and the species that depend on the shallow wetlands discussed.

How would the irrigation and more intensive agricultural use of San Pablo Bay diked baylands impact their continued seasonal use by migratory shorebirds and waterfowl as well as other terrestrial species?

U2 Why are no studies for small carnivores, red-legged frog and western pond turtle being conducted in the Santa Rosa Plain?

U3 What wildlife movement corridors would be impacted by the project? Identify and map these corridors.

U4 What kind of a consistent habitat, if any, would be provided by wetlands created for polishing or reuse?

What mitigation measures are proposed to compensate for the loss of existing habitats to construct and use the various components of the project?

What loss of habitat and impacts to wildlife species could occur at discharge points for flow augmentation, irrigation or river discharge?

U5 It appears that no field work is proposed for West County or South County resources, except on lands planned for irrigation. It is not even clear from the discussion on page 24, that any field work is planned for special status species in the South County. Perhaps there is sufficient existing work for the West County, but there is virtually no field work in the South County of which we are aware. Habitat loss and wildlife impacts would occur from construction and use of reservoirs, flow augmentation, and construction and use of reuse or polishing wetlands. To evaluate a massive project such as this with the potential to cause significant change to existing habitat systems, cannot rely solely on computer models. Surveys for all special status species and for migratory and resident species that depend on the habitats that could be impacted must be conducted for alternatives.

South County Stream Flow Augmentation Studies should not just concentrate on riparian vegetation communities. The focus should be on stream systems. These may not always have riparian vegetation due to acts of man or natural circumstances. Even without vegetation stream segments play vital functions as habitat for birds, fish, the wildfire and for improving water quality. Surveys should cover migratory and resident species in addition to special status species. The number and species of trees and other native vegetation that would be removed should be identified and mapped.

What effect would additional flows from augmentation, irrigation or additional runoff from irrigation have on existing salt or brackish marshes?

U6 What studies of the Petaluma River would be undertaken? Studies should address whether there is likely to be impacts on the Petaluma Marsh or other saltwater marshes, from irrigation runoff, reservoir leakage or flow augmentation.

U7 Reservoir sites should be surveyed for all wildlife and plant species, and adverse impacts on fish and wildlife should be identified. The number and species of trees and other native vegetation that would be removed should be discussed and mapped.

48 There are no studies listed to be conducted for proposed wetlands. All possible wetland locations in the South County and elsewhere should be mapped and described. Suitability of soils for wetland creation should be determined, and an assessment of the loss of existing habitats should be made.

Environmental Impact Criteria

V1 Loss or damage to trees should not simply be tied to a jurisdiction's tree ordinance. Native trees are a priceless resource and their loss should not be ignored simply because a jurisdiction may not have a tree ordinance.

What are the protective provisions of tree ordinances in each of the jurisdictions? If they are different, does that mean removal and mitigations could vary depending on the location, or that mitigation would be required in the boundaries of one city that has an ordinance and go unmitigated in a city that has no such ordinance?

V2 What is the potential for bioaccumulation of metals and other potentially toxic constituents in the wastewater to bioaccumulate in plants, benthic organisms, invertebrates, fish, birds and other animals?

V3 Answers to Checklist questions on Wildlife (page 27) #1 changes in diversity of species #3 deterioration of existing fish or wildlife habitat, #4 blockage of fragmentation of important wildlife migration of travel corridors should be yes not maybe.

TASK 23.2.4: AQUATIC BIOLOGY

W1 What other native fish use the streams that could be impacted by the project besides steelhead and Coho salmon? As noted under Wildlife, all fish and aquatic resources in all stream, creeks, tributaries and rivers that could be affected by the project should be addressed.

W2 The US Fish and Wildlife Service should also be involved in developing the Russian River study plan.

W3 The aquatic biology surveys do not include invertebrates. Many aquatic species depend on invertebrates and the impact of the project on these species should be addressed. How would the project impact invertebrates?

W4 What criteria will be used to identify sampling stations in creeks, streams and rivers?

W5 Fish, vertebrates, benthic organisms and invertebrates should be characterized for all streams that would be impacted by each alternative, not just the few identified on page 29.

W6 It is not sufficient to survey only during summer as noted on page 29. Surveys should take place in all seasons.

W7 What are the effects of dams and storage reservoirs on instream fisheries at and above the dam sites? Would movement corridors be blocked? Would any spawning habitat be flooded or blocked? What impacts would storage reservoirs have on downstream resources?

W8 Are migratory fish the same as anadromous fish?

W9 How could augmentation of stream flows and irrigation runoff adversely impact water quality and/or increase flows so that they would be detrimental to fish and other instream resources?

D. Wetlands Suitability and Irrigation Suitability

- What are the management goals for each wetland proposed to be created?
- X1 For wetlands that would need to be created to mitigate for loss of wetland habitat, how would continued maintenance of wildlife habitat be assured?
- X2 Describe the characteristics and proposed habitat for all created wetlands proposed by this project? How do these compare with natural wetlands such as those that would be lost to develop the project? Would habitat be provided for the same species that would lose their habitat?
- X3 What measures would be taken to correct accumulation of heavy metals to in soils and/or bioaccumulate in invertebrates in created wetlands?
- X4 How much nutrient removal occurs in created wetlands?
- X5 How would wetlands have to be managed to provide 'polishing' function? How would this effect wildlife use? Evaluate and compare habitat functions and values of the wetlands that would be lost to construct the system and the wetlands that would be created to provide polishing or reuse functions?
- X6 What effects would possible use of fertilizers and chemicals used in growing crops that would be irrigated have on wetlands that are near the discharge points?
- X7 Regarding #13 (page 33) I believe "no net fill" should read "no net loss".
- X8 What are the impacts of dam and reservoir construction on streams, creeks and other habitats besides wetlands?

TASK 23.4.2: Potential Impacts of Wastewater on Wetlands

- X9 Have the Kelly wetlands been operating for a sufficient period of time to use to predict bioaccumulation potential? What other studies have been done in this area?
- X10 Will the designs for the created wetlands for reuse and polishing be identical to the Kelly wetland? Are the soils the same? Would they be managed in the same way? How is Kelly managed?

TASK 23 4.4: Wetlands and Irrigation Studies

- X11 All wetlands, not just the most obvious or most sensitive, must be mapped and described. How is "significant" defined and who does the defining?
- X12 Wetlands on lands proposed for irrigation should be mapped and described to ensure they are not destroyed.
- X13 Soil characteristics at proposed wetland creation sites should be characterized to determine whether they have the hydric soils necessary for wetland creation?
- X14 All areas of proposed wetlands creation should be mapped and described. the reasons for their choice should be presented.
- X15 What would be the fate of constituents in runoff from the waster and crop in wetlands?

Environmental Criteria

- X16 Compliance with CWA 404 (b)(1) guidelines requires preparation of an alternate sites analysis if non-water dependent projects are proposed in wetlands. Will

an alternate site analysis be prepared for this project?

X17 All loss or adverse impacts to "riparian, marsh or other wetland wildlife habitat" (see #2, page 36) should be considered significant. With the loss of 90% of the state's wetlands, all wetland losses and adverse impacts are significant.

X18 Mitigation for loss of existing wetlands should be described and mapped. Mitigation for wetlands should, at least, provide the same habitat type as that lost, be at a ratio of 2:1, be constructed before the site is lost, have a detailed monitoring and management plan and be protected in perpetuity.

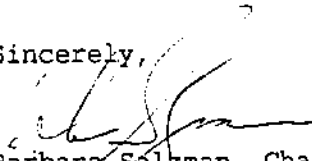
TASK 26: TRANSPORTATION

Y1 What are the potential impacts of construction of roads and other built facilities proposed by the project on vegetative and wildlife habitats?

Y2 What are the potential impacts of increased recreational uses into now remote areas?

Thank you for considering our comments. Please address future correspondence on this project to me at 48 Ardmore Rd. Larkspur, CA 94939. The Scoping Summary was only sent after I called to request one, and the resulting almost three week delay in receiving this document made our response more difficult.

Sincerely,


Barbara Salzman, Chair
Conservation Committee

cc: USFWS
CDFG



OPERATING ENGINEERS LOCAL UNION No. 3 051

1620 SOUTH LOOP ROAD, ALAMEDA, CA 94501-7090 • (510) 748-7400 • FAX: 748-7401

Jurisdiction: Northern California, Northern Nevada, Utah, Hawaii and Mid-Pacific Islands

November 30, 1994

CITY OF SANTA ROSA

P.O. Box 1678
Santa Rosa, CA 95402

Marie Meredith, Environmental Coord.
City of Santa Rosa
P. O. Box 1678
Santa Rosa, CA 95402

DEC 02 1994

DEPARTMENT OF COMMUNITY DEVELOPMENT

Marie:

Some comments on the Santa Rosa Subregional Long-Term
Wastewater Project Preliminary Scoping Report.....

1. We would like to commend you and offer any support we may give for the public input process....we feel you are doing an excellent job.
2. We represent approximately one thousand union members and their families in Sonoma County. All these people are rate payers, and of course concerned with costs....both on an individual basis and to the community.
- A 3. We feel it is not necessary to study the ocean outfall option....since it was already rejected, why commit the time and money? The primary options have been clearly designated. Stick to them!
4. We believe it is important to treat the following areas of studies equally:
 - * Financial
 - * Socio-Economic
 - * Land Use
 - * Environment
 - * Biological

B
Thank you very much for your skillful efforts and continued goodwill with this difficult project.

Sincerely,

T. Robert (Bob) Miller
District Representative
OPERATING ENGINEERS LOCAL UNION NO. 3
3900 Mayette Avenue
Santa Rosa, CA 95405
(707) 546-2487

TRM/cms
ope #3 afl/cio

Pacific Gas & Electric Company

Geysers Power Plant
P.O. Box 456
Healdsburg, CA 95448
707/431-6000

December 2, 1994



CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 05 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Marie Meredith
Environmental Coordinator
City of Santa Rosa
P. O. Box 1678
Santa Rosa, California 95402

Dear Ms. Meredith:

Pacific Gas and Electric Company's Geysers Power Plant has reviewed the EIR/EIS Draft Scope of Work and the Preliminary Scoping Report and offers the following comments.

A In the Preliminary Scoping Report, under Alternative 5 (Geysers Discharge), Air Quality (02); Item 6 lists the need to comply with Bay Area Air Quality Management District Rules and Regulations. Since operations in and near the Sonoma County portion of The Geysers Geothermal Area are regulated by the Northern Sonoma County Air Pollution Control District we feel that compliance with its rules and regulations should also be included under this item.

B In the Preliminary Scoping Report, under Alternative 5 (Geysers Discharge), Land Use (15); Item 4 states that "reservoir sites...in this alternative...may involve land under the Williamson Act..." Since this alternative does not require any reservoir sites (Item 1 of Public Services (22) and elsewhere state that Alternative 5 "would not require new storage facilities") it appears that this response is in error and should be deleted.

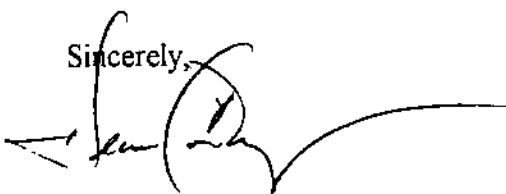
A Similarly, in the Proposed Scope of Work, Item 6 of Task 27 (Air Quality) should include a review of the rules and regulations of the Northern Sonoma County Air Pollution Control District for Alternative 5.

C We also suggest, because of the potential for electrical generation under Alternative 5, that Task 32 (Energy) be rewritten to state that the "net" energy impacts of the alternatives will be evaluated in the EIR/EIS.

D Finally, because of the amount of seismic activity which occurs in The Geysers area we suggest that Task 21 (Geology) be expanded to include at least a literature search of existing papers and reports on the subject.

If you have any questions regarding these comments, please contact me at 431-6077 and I will do my best to clarify them to you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dean Cooley', with a long, sweeping horizontal line extending to the right.

Dean Cooley
Senior Engineer

Sonoma County Taxpayers' Association

053

Post Office Box 14241 Santa Rosa, CA 95402

Telephone 707/542-0442

Fax 707/576-1697

TO: Marie Meredith
Environmental Coordinator
City of Santa Rosa

11/29/94

FROM: Steve Klausner
2361 Warm Springs RD
Glen Ellen, CA 95442 (707) 996-0290

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 05 1994

RE: Draft EIR for Long-Term Wastewater Project

**DEPARTMENT OF
COMMUNITY DEVELOPMENT**

Ms. Meredith,

A This proposed EIR is too complicated. There are too many alternatives being studied. Each alternative has too many different options, some overlapping, others not. The list of Special Studies is endless. This EIR proposes to study the entire county, (three different watersheds), for disposal, for storage, for reuse, for bionic resources or whatever. Frankly, we can't see how this can be done within the estimated budget of \$8 million. We cringe when we think of what a final project might end up costing under this process.

B We ask that the consultants, the engineers, the planners, the bureaucrats, those of you involved in preparing this EIR, please bear one simple fact in mind: This will be one of the country's first major wastewater disposal systems built without financial assistance from the state or federal government. Those good old days are over. The ratepayers, your ratepayers, us, we will carry this burden.

This is not a good time to be thinking up expensive projects. This is not a good time for endless studies. It is a very good time to start using some common sense.

C We also remind you that the Llano Road treatment plant is producing some of the cleanest wastewater in the nation. Ca. Dept. of Public Health, the US Environmental Protection Agency and Ca. Dept. of Fish and Game, agree that a carefully managed discharge is safe for fish, wildlife and recreational use. Also, the Subregional System is already pursuing an aggressive reuse program. Over 5,000 acres of farmland are irrigated during the summer. This is one of the highest percentages of reuse in the state!

This EIR is evaluating how to dispose of tertiary-treated wastewater during a drought. This should not be that complicated or costly of a process. The following are our suggestions for this EIR.

Thank you,



Sonoma County Taxpayers' Association

Comments regarding the proposed draft EIR for Long-Term Wastewater Project

D We feel that economical feasibility is a critical issue that must be addressed up front throughout this process. This is not currently the case. The Preliminary Scoping Report demonstrates an onerous disregard for ratepayers. Cost consideration is not one of the project's Overall Objectives. In fact, economic feasibility is the last of the Supporting Objectives. An evaluation of the burden on ratepayers is # 31 on the list of tasks for this EIR. This is just about the last task to be completed. This is unacceptable.

Why isn't developing a program that can be successfully financed and is economically feasible part of the Overall Objectives?

The very next task done should be a preliminary economic analysis of each of the proposed alternatives. CEQA requires that an evaluation of the financial burden on ratepayers be included in the final EIR. Let's at least get a rough estimate of what each of these alternatives will cost before we get too far along.

E With so many alternative plans and overlapping options we would like to see key elements identified. Components and costs associated with meeting overall objectives, like ensuring public health and safety, should be separated from supporting objectives like reuse or conservation. Where possible, the costs of reuse should be broken down into common units of measurement like acre-feet of water. We want a clear understanding of what each of these different objectives costs and why.

F For example, take the Interim Master Plan. It includes irrigation of the Santa Rosa Country Club Golf Course and urban irrigation in Rohnert Park. Is this disposal or is it reuse? What will it cost to deliver this water? What would be an alternate source for this water? What would that cost? Will the Country Club or the municipality be paying for any part of the cost of delivering this water to them? If so, what part?

G We ask the same questions of the other options: Wetland creation, irrigation of the Bennett Valley Golf Course, South County irrigation, West County irrigation, River discharge. So many options and alternatives, but are they disposal or are they reuse? What does it cost? Who benefits? Will the users pay? How much?

Perhaps a simple analysis like this would help reduce the need for so many Special Studies. We may not have to study the flora and fauna of every potential dam, irrigation or disposal site in the entire county. Let's just study those areas where a project might actually be practical and economically feasible.

We would also like to offer some suggestions for modifications on at least two of the Special Studies.

H The Migratory Fish Study needlessly harasses the small remnant steelhead run on Santa Rosa Creek. This study is far too intrusive; electro-fishing in the summer, netting them

coming and going in the winter. The purpose of this study is to evaluate the impact of wastewater on migratory fish during a drought. Hey, there is no water in their spawning streams during a drought! These fish aren't going anywhere and neither will this study. Let the poor fish be, there are so few of them left you risk studying them to death.

I Regarding the study of the Estero Americano. The critical issue here has not been clarified. As we understand it, the real concern is the impact of fresh water on the Estero's Hypo-saline condition.

J Congress specifically included the protection of this hypo-saline environment in their legislation creating the National Marine Sanctuary. This should be the primary focus of this Special Study. It will be challenging to find anything that can live in water that is 40 parts salt per thousand. Will NOAA assist with this study?

J1 Lastly, it appears to us that the general thrust of most of these studies seems to be to minimize impact of wastewater discharges on streams and wetlands. Since these discharges consist of tertiary-treated wastewater and take place primarily during drought conditions, we can't help but ask the obvious question. Might there be some benefit in doing this?

K > Is wetlands restoration a legitimate form of reuse?

> Are there any benefits to augmenting streams and wetlands during a drought? If so what are they?

L > Could this affect biological productivity? How? Why?

> How would this impact the migratory waterfowl of the Pacific Coast Flyway?

M > Could constructed wetlands in the Laguna be managed in a way that enhances flood control as well as wildlife values?

N > Could fresh water augmentation enhance biological productivity of the Americano and/or San Antonio estuaries? What would happen if the salt content in these estuaries was diluted to 20 parts per thousand? 16 parts per thousand?

O > Is irrigation of riparian forests a viable option for reuse?

! These are simple questions that hopefully wouldn't cost too much to answer. If the answers are favorable perhaps it will suggest a few ideas for less expensive reuse options.

P We want an EIR that evaluates a disposal system that meets all public health standards and is safe for the environment. We want an EIR that offers practical and feasible opportunities for disposal as well as reuse. We want an EIR that evaluates a disposal system that will be cost effective and affordable.

We want an economic analysis to be the next Special Study done.

SIERRA CLUB MARIN GROUP ⁰⁵⁴

110 SAN MATEO WAY, NOVATO, CA 94945

December 2, 1994

Marie Meredith
Santa Rosa Department of Community Development
P.O. Box 1687
Santa Rosa, CA 94502

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 05 1994

Lt. Col. Michael J. Walsh
District Engineer
Army Corps of Engineers
211 Main Street
San Francisco, CA 94105

DEPARTMENT OF
COMMUNITY DEVELOPMENT

RE: SCOPING FOR SANTA ROSA WASTEWATER

Dear Lt. Col. Walsh and Lt. Col. Walsh:

The Sierra Club Marin Group requests that the following issues be addressed in the EIR/EIS.

GENERAL COMMENTS

- A • No reduced growth. There would be a 40% increase in average flow (from 7 million to 9,800 million gallons). We request a reduced growth component be developed.
- B • Mitigation should be proposed or recommended for each identified adverse impact.
- Identify the environmentally superior alternative. At least one alternative should be developed that has no impacts on wetlands.

PROJECT DESCRIPTION

- C 1. For each alternative show the route of all pipelines and/or other facilities necessary for transport of water for storage, reuse or discharge. There should be a thorough analysis of the potential impacts of the construction and use of these facilities along the each route.
- D 2. Include a map showing the location of each stream, creek or drainage and the location of the proposed storage facility. This should be in sufficient detail to allow readers to find the location should they want to evaluate the conditions for themselves.
- ≡ 3. How would overflows be handled? Is a back-up system planned? Describe the back-up system.
- F 4. What are the reasons for locating a Russian River discharge upstream of the water district intake? What are the reasons for locating it downstream?

9 5. Show the intake facilities on a map.

6. Answer the same questions for locating the discharge downstream of the intake structure?

H LAND USE AND AGRICULTURE

1. Describe existing conditions, including soil type, suitability for growing crops, existing habitats such as wetlands, and other possible constraining conditions, for all lands proposed for irrigation. Show these lands on a figure with enough information to enable the public to locate the sites.

2. Are all soils suitable for growing an irrigable crop? Which ones are not or are questionable?

3. What would assure an adequate amount of irrigable lands would continue to be available in the long term?

I HYDROLOGY, WATER QUALITY

1. Include a map showing the location of each stream, creek or drainage and the location of the proposed storage. This should be in sufficient detail to allow readers to find the location should they want to evaluate the conditions for themselves.

2. Describe the existing conditions of each stream or creek along which a reservoir or other storage facility is proposed. A description of the riparian vegetation, water quality, habitat functions, wildlife use, endangered and other special status species, groundwater recharge, fish, and other beneficial uses for each creek.

3. Would the storage facility be located on or off stream? How would construction and use of these facilities effect the creek and its resources? Would any wetlands be affected?

4. Would the storage facility be located on or off stream?

5. Identify and describe the current condition of all streams, creeks etc. proposed for flow augmentation. Are there currently diversions from these streams? If so, estimate the amount of water diverted. Describe the probable impacts of these diversions on the creek, stream etc. Has it likely resulted in the creek going dry in summer, loss of riparian vegetation, etc.? 6. Show and describe the location where would water be added to the stream? Identify the potential impacts, e.g. loss of vegetation for outflow structure, possible erosion at outflow location and downstream due to increased amounts of water discharged into the streams. How would wildlife use be effected?

6. What is the potential for accumulation of heavy metals in the agricultural soils? Could these constituents end up in the food that is being grown?

7. What controls are possible, feasible and planned to ensure that the quality of the runoff from the irrigated crops would not degrade adjacent stream and downstream resources?

8. Discuss the potential for salt from the wastewater to buildup in the soils to the point where the lands could no longer be usable.

9. Identify all constituents in wastewater after tertiary treatment.

10. How would constituents (copper, and other heavy metals) that remain in the water effect the

water in the aquifer? Could the heavy metals accumulate to the extent that water could be degraded for other uses? What other uses are made of the aquifer waters?

11. Describe the anticipated quality of wastewater when it enters the creek? And, identify for each alternative the anticipated quality of the wastewater when it reaches the end of the stream, i.e. San Pablo Bay, Petaluma River, Tomales Bay etc.? What habitats and species along the stream length could be impacted by the water?

12. What precedent would construction of a system discharging into a small stream have?

BIOLOGICAL RESOURCES

1. How would construction and use of reservoirs facilities effect each creek and its biological resources? Impacts should be considered for each stream and creek as a system and should not be tied to the presence of riparian vegetation which may be absent in Mediterranean climates and on agricultural lands. Would any wetlands be affected?

2. How would construction and operation of the wastewater facilities adversely affect the short- and long-term functioning of each creek, stream etc. How would special status species, fish, and other wildlife be impacted?

3. How would the project impact migratory birds of the Pacific Flyway?

4. Do any alternatives propose storage facilities that are not connected with a creek, stream or drainageway? If so, describe the existing conditions of these areas?

5. Which alternative would have the least impact on streams, creeks and other resources?

6. Identify the wetland acreage and type of wetland that would be filled, flooded or otherwise adversely impacted by each alternative. Describe the type of wetland (salt water, riparian etc.) that would be impacted.

7. Describe the existing habitat characteristics of the lands proposed for wetland creation. Discuss the impacts of the loss of the existing habitats, i.e. conversions of grasslands, seasonal wetlands etc. to fresh-water year-round wetlands on the species that depend on them. Identify any other functions and values provided by these lands. How would these wetland and other habitat losses be mitigated?

8. How would it be ensured that functional wetlands could be created in the location proposed where they do not currently exist?

9. Regarding wetlands proposed as part of the treatment system, to polish wastewater etc., fully describe how these wetlands would function? How would vegetation have to be managed?

10. Describe all known studies addressing the bioaccumulation in species or accumulation of constituents remaining in the wastewater in soils inhabiting the wetlands. What monitoring would be required to track the accumulation of pollutants and their impact on the food chain? Even though not created for wildlife habitat, wildlife would be attracted to any wetland created. What measures would be used to ensure the wetlands do not have an adverse impacts on wildlife, invertebrates or fish?

J 10 11. Would there be any wetland creation in diked historic baylands along San Pablo Bay? If so,

J10 address the conversion of the historic tidal salt marsh to diked, ponded, fresh water wetlands?
What habitats currently existing on these lands, seasonal wetlands, etc.? This conversion and loss should be considered an adverse impact and mitigation recommended.

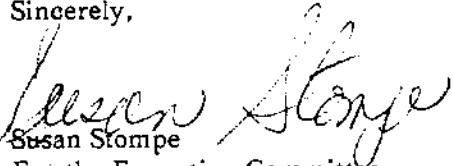
L
12. Identify the species, number, size and location of trees that would be removed or otherwise impacted by each alternative. Native trees should be given particular attention. Do the trees occur singly, in groups, or forest? What wildlife species use these trees?

13. What other vegetative communities would be impacted? Address the status and ecological value of these communities and the species that use them.

M 14. What are the potential environmental and/or public health risks, if any, of locating the Russian River discharge upstream of the water supply intake? Downstream?

Thank you for considering our comments.

Sincerely,


Susan Stompe

For the Executive Committee

Santa Rosa**Subregional Long-Term Wastewater Project****SCOPING COMMENT FORM**

Due December 5, 1994

Name: JERRY LEVYDate: 11/29/94Address: 6009 W. DRY CREEK RD.City: HEALDSBURG State: CA Zip: 95448Phone: (707) 433-7654**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

Comments:

A
B I support the South County /
Community Plan. Our county needs
to limit growth, not encourage it.
It is also the least expensive plan.

CITY OF SANTA ROSAP.O. Box 1678
Santa Rosa, CA 95402

DEC 05 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Santa Rosa

Subregional Long-Term Wastewater Project

SCOPING COMMENT FORM

Due December 5, 1994

Name: MRS. LORETTA E. BORGESDate: DEC. 2, 1994Address: 176 LEISURE PARK CIRCLECity: SANTA ROSA, CALIFORNIAZip: 95401Phone: (707) 5467415

546-7415

How to use:

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

A
B
 Comments: I BELIEVE THAT THE GEYSERE (ALTERNATIVE FIVE)
WOULD BE THE BEST. THE CITY OF SANTA ROSA WOULD NOT DESTROY
ANY PERSONS LIVING OR HOMES. THE PEOPLE FROM THE GEYSERS
NEED THE WATER AND THAT WILL HELP EVERYONE. WE DO GET A LOT
OF BENEFITS. ELECTRICITY IS ONE, WHY DESTROY THE LAND AND THE
ENVIRONMENT WHEN IT IS THE MOST OBVIOUS. SINCE THERE ARE SO MANY
BUSINESSES THAT ARE LEAVING TOWN AND THE SURROUNDING AREAS
WHY DESTROY MORE. I AM FOR THE GEYSERE USEAGE. (ALTERNATIVE
FIVE).

THANK YOU,MRS. LORETTA E. BORGES

CITY OF SANTA ROSA
 P.O. Box 1678
 Santa Rosa, CA 95402

DEC 05 1994

DEPARTMENT OF
 COMMUNITY DEVELOPMENT

Santa Rosa

Subregional Long-Term Wastewater Project

SCOPING COMMENT FORM

Due December 5, 1994

Name: Daritt MullenDate: 11/29/94Address: 22 Brassie CourtCity: Novato State: CA Zip: 94949Phone: (415) 883-4306**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

A
Comments: I Support the South County / Community
Separators plan. The other four plans are
a waste of Tax payer money.

CITY OF SANTA ROSA

P.O. Box 1678
Santa Rosa, CA 95402

DEC 05 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT



*Trout Unlimited
of California*

058

December 2, 1994

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 05 1994

**DEPARTMENT OF
COMMUNITY DEVELOPMENT**

Ms. Marie Mededith
Environmental Coordinator
City of Santa Rosa
P.O. Box 1678
Santa Rosa, Cal. 95402

Re: Santa Rosa Subregional Long Term Wastewater Project:

Dear Ms Meredith:

Trout Unlimited, America's leading coldwater fisheries Conservation, has serious concerns for the potential impacts of Santa Rosa's wastewater on Salmon and Steelhead trout in the Laguna de Santa Rosa and the Russian River.

A
As of this writing we have not been convinced that the Migratory Fish Study, has answered our concerns for the health and behavior of the migrating fish in the watershed. Appreciate the fact that fish studies are ongoing and hopefully we can continue to meet and resolve these issues.

B
The present fish migrating study results appear to be based on assumptions. The fact fish have been found in the upper reaches of Mark West and Santa Rosa Creeks is not in our opinion conclusive that there is no effect from wastewater releases. Did those fish migrate through the Laguna during a window of no wastewater releases or flood flows when the concentration of wastewater was practically zero. Believe we should have a count of fish entering the Laguna for upstream and the count returning. We have no information on returning spawners

Protecting and Improving Your Fishing Future

three or four years after smolting. Do they have the ability to locate Mark West and Santa Rosa Creeks waters and return to their original nursery area. Does the wastewater confuse their so-called "homing" instincts.

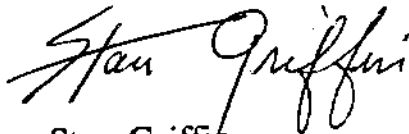
C The dissolved oxygen problem has not been solved. The problem in the Laguna is in our opinion a serious one and has to be addressed. It is mentioned under Task 22.2, however, have not to date seen those studies being related to the so-called "Fish Study". What were the results of the 1994 surveys? As you are familiar certain levels of dissolved oxygen are lethal to fish. There has been a tendency to blame agriculture for the problem and not addressing the additional impact wastewater nutrients will have on the problem. In any event the whole problem of the Laguna being an impaired water body has to be addressed and cleaned up.

D Another important factor is the cumulative impacts the wastewater discharges have on the Russian River estuary.

As previously mentioned our chief concern is the health of the anadromous fishery and a serious effort to turn around the declining fishery which will in turn improve the Sonoma County's environment and economy..

Appreciate being kept informed of any additional fish study information as it becomes available as we definitely wish to cooperate to solve our fishery problems.

Yours truly,



Stan Griffin
President Northern California
Trout Unlimited of California

27 Dorest Lane
Mill Valley, Cal. 94941
415)388-1563

~~Santa Rosa~~

Subregional Long-Term Wastewater Project

SCOPING COMMENT FORM

Due December 5, 1994

Name: Eric SunswheatDate: 12/1/94Address: P.O. Box 363CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402City: Potter ValleyState: Calif Zip: 95469-0363

DEC 05 1994

Phone: (707) 743-2730 digital pager 800/399-9699DEPARTMENT OF
COMMUNITY DEVELOPMENT**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

Comments: I don't know how many millions that Santa Rosa is going to waste, just because Dan Carlson and Mayor Jim Pedgrift can't face the realization that the Santa Rosa Subregional Long-Term Sludge Project has to be revisited. I've gone round and round with these guys, and no matter how you slice the waste management deck, no way can S. R. develop a low cost focused vision that can pass biological agriculture legal muster without facing humus management composting. Specifically, no increase in methane digester sludge capacity should be contemplated. While Mayor Pedgrift stated in a Spring 92 letter that my suggestion to not use the sludge methane digesters, is counter-productive because of the benefits of energy generated; I suggest a compromise that is born out in a 1980 book, Compost Engineering by Haug. Future increases in raw sludge output should be co-composted with the digested biosolids and other feedstocks for a better microbiological compost product.

If Pedgrift and Carlson plan on stalling on this issue until the cows come home, or they both retire, then a better deal would be to hand them the golden parachute and kick them the hell out. A simple matter of spending 2 days at U.C. Davis in the Physical sciences and Bio/Ag sections of the library would serve very well to show that proliferation of the visible actinomyces does not occur in in-vessel composting systems, because of the uniform hotter temperature than what these microbes need to survive. Why is this important?

Antigens are increased which help suppress soil borne disease including root fungus in tandem with soil mineral balancing, a compost growth factors Antibiotic and antiviral exudants transfer to plants! If the last million dollar sludge compost consulting contract had some legal teeth in it, I could have helped to recover damages; as I am now proceeding to do with the JPA SCMA yard debris processing and composting contract, ship it to Potter Valley if you can't do it right.

FROM

100 00/02 00:14

P.1

County of Mendocino Board of Supervisors public access site inspection of
MAM FEED Potter Valley 200 TPD compost facility for 5 counties (Tues 3:30pm). DEC 6th,
Public Hearing Appeal of compost facility Permit Denial, Monday December 12th.

A

B

Richard Charter

Box 583, Bodega Bay, CA 94923
(707)875-3482 (707)875-2345 fax (707)875-2947

December 1, 1994

RECEIVED

DEC - 8 1994

CITY OF SANTA ROSA

P.O. Box 1678
Santa Rosa, CA 95402

DEC 05 1994

Ms. Marie Meredith
Department of Community Development
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 94501

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Re: Comments Submitted on behalf of Friends of the Esteros / Environmental Action of West Marin on the NOP and NOI for the Santa Rosa Subregional Long-Term Wastewater Project.

Dear Ms. Meredith:

These comments are being submitted on behalf of Friends of the Esteros / Environmental Action of West Marin on the Notice of Preparation and the Notice of Intent for the Santa Rosa Subregional Long-Term Wastewater Project.

These comments are intended to supplement the oral testimony which I presented on behalf of these groups at the 3:00 pm public scoping hearing on November 17, 1994 in Santa Rosa. The attached technical comments are also part of our submittal at this time.

There are several serious flaws with respect to lack of legal compliance with CEQA and NEPA which relate to the NOP, the NOI, and with the hearing process conducted on November 17, 1994. These problems have rendered four primary areas of the process, as conducted to date by the City of Santa Rosa, City staff and consultants, and the U.S. Army Corps of Engineers, in noncompliance with applicable statutes:

A I. The NOP Fails to Identify the full range of project options under consideration: The NOP must be republished, and a new comment period initiated, due to the inadequacy of the published range of project options. The NOP contains no information on the ocean outfall option, pursuant to City of Santa Rosa Resolution #467 adopted by the Santa Rosa City Council on June 16, 1994, which deleted this alternative from further consideration. The NOP must be renoticed and recirculated to affected agencies and the public to permit written and oral comment on ocean outfall if this alternative is to be belatedly reintroduced. A new action by the Santa Rosa City Council will also be required, rescinding Resolution #467, prior to renoticing of the NOP.

A
Report
↓

II. The NOI Fails to Identify the full range of project options under consideration: The NOI must be republished in the Federal Register, and a new comment period initiated, due to the inadequacy of the published range of project options. The NOI contains no information of the ocean outfall option, pursuant to City of Santa Rosa Resolution #467 adopted by the Santa Rosa City Council on June 16, 1994, which deleted this alternative from further consideration. The NOI must be renoticed and recirculated to affected agencies and the public to permit written and oral comment on ocean outfall if this alternative is to be belatedly reintroduced. A new action by the Santa Rosa City Council will also be required, rescinding Resolution #467, prior to renoticing of the NOI.

III. The "Summary of the Environmental Consultants Scope of Work" for the Proposed Environmental Study Phase Was Not Released Prior to the November 17, 1994 Santa Rosa Public Hearing: As a result of an acknowledged error on the part of the City of Santa Rosa, the "Summary of the Environmental Consultants Scope of Work" document was not released for public review in a timely fashion which would permit reasonable public review. This document was not made available to the public until November 17, 1994, where it was circulated only during the public hearings on the document itself. To expect the public to read, analyze, and provide comment on a fifty-page technical document with no prior circulation is unreasonable by any standard. The "Summary of the Environmental Consultants Scope of Work" must be also be revised to incorporate the proposed ocean outfall alternative and this document must be subsequently recirculated for public comment for a reasonable review period.


IV. The Preliminary Scoping Report Fails to Identify the full range of project options: The Preliminary Scoping Report must be republished, recirculated, and a new comment period initiated, due to the inadequacy of the published range of project options. The Preliminary Scoping Report contains no scoping analysis of the ocean outfall option, pursuant to City of Santa Rosa Resolution #467 adopted by the Santa Rosa City Council on June 16, 1994, which deleted this alternative from further consideration. The Preliminary Scoping Report must be revised to include information on the ocean outfall option, including design parameters, proposed locations, pipeline corridors, impacts on the Sonoma Coast unit of the California State Park System, ocean current patterns, and all relevant CEQA and NEPA issues raised by federal, state, and local permit jurisdictions, including the County of Sonoma, the California Coastal Commission, the State Lands Commission, the State Water Quality Control Board, the U.S. Department of Interior, the U.S. Department of Commerce, and the U.S. Department of the Navy. The Preliminary Scoping Report, as previously circulated, fails to permit agency or public written or oral comment on the ocean outfall option.

Failure on the part of the lead agencies to publicly disclose all project alternatives in the NOP, NOI, and supporting documents has deprived affected agencies, public commentators, and the court of jurisdiction of the ability to reasonably analyze and

provide input on the scope of issues which need to be addressed in the draft EIR and the draft EIS.

Please advise our organization, at the above mailing address, once the City of Santa Rosa and the Corps of Engineers have initiated and renoticed an orderly scoping process which makes a reasonable attempt to comply with applicable statutes.

Sincerely,



Richard Charter
Co-Chair, Friends of the Esteros

Attachments:

Technical comments submitted by Friends of the Esteros / Environmental Action of West Marin.

Letter of November 16, 1994 from Assistant City Manager Ed Brauner, Jr., City of Santa Rosa.

cc:

Representative Lynn Woolsey
Senator Milton Marks
Lieutenant Governor Leo McCarthy
Mr. Ed Euber, Gulf of the Farallones National Marine Sanctuary
Mr. Pat Gallagher, Heller, Ehrman, White & McAuliffe
Mr. Trent Orr, Mr. Roger Beers, Law Offices of Roger Beers
Ms. Susan Brandt-Hawley, Attorney
Mr. Bill Walton, Estero Mutual Water Company
Ms. Juliana Doms, E.I.R. Magazine
Mr. Tom Roth, Friends of the Russian River
Mr. Robert Sulnick, Mr. Andrew Palmer, American Oceans Campaign

B
1. Incomplete Description of Physical Environment: Descriptions of disposal options provided in the "Summary of Preliminary Alternatives" are neither clear nor complete. For example, the anticipated ocean outfall location being proposed adjacent to the mouth of the Estero Americano, near Doran Park and Bodega Harbor subdivision, provides no indication of potential pipeline routes and fails to indicate whether or not this option would be associated with wastewater storage at the proposed Button Ranch reservoir site. Scoping must also identify the estuaries at the Estero de San Antonio or the Estero Americano as within the regulatory boundaries of the Gulf of the Farallones or the Cordell Bank National Marine Sanctuaries and the United Nations (UNESCO) Central Coast International Biosphere Reserve. A list of potential receiving bodies must identify all bodies of water under consideration for discharge, including the Russian River, San Francisco Bay, the Estero de San Antonio, the Estero Americano, Bodega Bay, and Tomales Bay, all of which could potentially receive direct or indirect wastewater discharges under one or more of the disposal options outlined.

C
2. Viability of Mitigation Measures: The City continues to erroneously assume that the unavoidable major environmental impacts associated with excavation of a borrow area, construction of a dam embankment, and inundation of the sensitive woodlands at the Button Ranch can be mitigated. No basis for this unrealistic assumption of available mitigations has been provided, nor have adverse downstream impacts on domestic water sources which rely on the aquifer recharged at the Button Ranch been identified as constraints. These constraints include the high probability of adverse impacts on the municipal water supply for portions of the town of Dillon Beach in Marin County. Objective mitigation feasibility

criteria should be applied when considering a proposed reservoir site at the Button Ranch, or at any other potential reservoir site. The Button Ranch is an environmentally-sensitive site which numerous University of California researchers, faculty, and staff have identified as a prime candidate for addition to the U.C. Natural Reserve System. The University has documented important habitat values and unique wildlife concentrations. Rare and endangered species are also thought to be present in Button Ranch waterways. The loss of the prime Button Ranch lands as a resource to education should be factored into any cost-benefit analysis conducted by the City and the Corps, since inundation of the valley would deny current and future University of California students and faculty the opportunity to utilize this site as a part of U.C.'s Natural Reserve System.

D 3. Archeological Resources at Button Ranch: Scoping should address the impact of various project alternatives on known historic or archeological resource areas. The Button Ranch includes extensive archeological sites, many of which have been mapped and identified by a Sonoma State University researcher. This valley was clearly an important cultural resource to tribes in this region. Most of these archeological sites would be destroyed by inundation or disturbed by borrow area excavation in the event that a wastewater reservoir is constructed at this location.

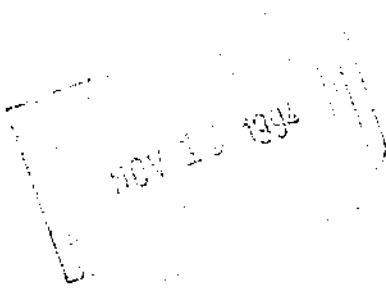
E 4. Water Supply Contamination: The City of Santa Rosa has previously acknowledged the need to provide an alternative imported supply of potable water to domestic well users in the Two Rock area because of the high probability of leakage from the reservoir and injection of stored wastewater into the local aquifer due to the pressure produced by the high hydrostatic head behind the dam. The Estero Mutual Water Company, in Dillon Beach, raised concerns, as yet unaddressed, at the "Round Two Workshops", about the proximity of their water intakes to the Estero de San Antonio, downstream of the City's proposed wastewater reservoir. Impacts of planned, incidental, or accidental releases of wastewater from the proposed reservoir at the Button Ranch must be fully addressed during the scoping process.

F 5. Unsubstantiated Enhancement Claims: Claims of environmental enhancement associated with wastewater reclamation uses remain unsubstantiated by any of the documents provided. The "fixed" environmental costs of any proposed "West County" project are extremely high. Mitigation of the associated environmental destruction *cannot* be accomplished, and the anticipated "net environmental benefits" are, in all probability, unachievable by any means. For example, the functional efficiency of "created" wetlands is subject to considerable scientific debate, and "created" wetlands cannot be reasonably sited at the expense of displacing and destroying *existing* natural wetland and marsh areas, as has been proposed.

G 6. Eminent Domain Acquisition of Private Lands Unresolved: Scoping must address how the planned acquisition of needed private lands could be carried out, given the fact that the City Council of the City of Santa Rosa has repeatedly gone on record as opposing condemnation of private lands for this project.

H 7. Biased Evaluation Process: Scoping should address the fact that the City of Santa Rosa is acting in bad faith with respect to their claims of equal and unbiased evaluation of all possible wastewater options. The cynical misrepresentation by the City of their current decision process as a "consent-building" procedure can only serve to create an atmosphere of distrust on the part of local citizens which will preclude public trust in other, legitimate, conflict-resolution processes on this and other contentious regional issues in the future.

We request that the City and the Corps each respond in writing, in a timely fashion, to each of the specific issues noted in these technical comments.



CITY OF
Santa Rosa

November 16, 1994

Dear Workshop Participant,

We would like to give you our apology. Our mailing service accidentally failed to mail you the enclosed Summary of the Environmental Consultants; Proposed Scope of Work for the Environmental Study Phase (Summary). We had thought that you had received it over a week ago.

The document summarizes HBA's actual draft workscope for conducting the environmental study. We hope that the summary will help you participate more effectively in this review and comment portion of the Scoping Phase. This phase runs through December 5, 1994.

The scoping meeting on November 17 is one opportunity to voice concerns or express your views about the proposed scope of work. However, you have until December 5, 1994 to comment in writing.

In reviewing the Summary, try to be specific about what you would like to add or change: Does the proposed Scope address the issues that concern you? Do you think the studies proposed will be adequate to get the information needed? Are the criteria for judging the possible effects of each alternative understandable and complete?

You can obtain a copy of HBA's complete draft workscope at the Santa Rosa Department of Community Development, Room 3, City Hall, 100 Santa Rosa Avenue, through December 5, 1994.

All the input received, including written comments, from public agencies and by the public will be thoroughly considered and evaluated and, if appropriate, incorporated into HBA's final workscope. Then a revised Summary of HBA's Scope of Work will be prepared and mailed to you. It will specifically highlight those items in the final Workscope which were added or changed as a result of public comments during Scoping.

If you have any questions, please contact Marie Meredith at the Santa Rosa Department of Community Development, (707) 543-3181, or Jim Marks or Gary Robbins of Urban Alternatives (EIR/EIS public participation consultants) toll-free at 1-800-90-URBAN.

Again, we apologize for this error and for any inconvenience this has caused you. We encourage you to submit your comments in writing.

EDWIN H. BRAUNER, JR.
Assistant City Manager

OFFICE OF THE CITY MANAGER
100 Santa Rosa Avenue Post Office Box 1678 Santa Rosa California 95402-1678
Telephone 707-543-3010 FAX 707-543-3030

Santa Rosa

Subregional Long-Term Wastewater Project

SCOPING COMMENT FORM

Due December 5, 1994

Name:

TERRY BELL

Date: 12/5/94

Address:

P. O. BOX 2565
SEBASTOPOL, CA 95473

CITY OF SANTA ROSA

P.O. Box 1678
Santa Rosa, CA 95402

City:

State:

Zip:

DEC 05 1994

Phone: (707) 839-1817

DEPARTMENT OF
COMMUNITY DEVELOPMENT**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

Comments:

A The number of selected alternatives for inclusion in the EIR as presented for consideration is overly broad. Too many unrealistic and costly alternatives are to be studied. These unnecessary studies will deplete limited public funds. Or in the alternative cause an unnecessary increase to be charged to users of the sanitation system. As a user and taxpayer I urge the reduction in the number of alternatives to be studied.

B Economic feasibility must be part of the primary project objective, not a supporting objective.

The time to limit the energy and funds to be expended on litigation cost and in turn save user cost is now. To cause a waste of user funds by studying and composing an EIR for alternatives that will never see the light of day is a breach of public trust. Further, common sense should tell the BPU that legal action will be brought no matter how complete they think the EIR will be. Simply causing the spending of millions of user dollars will not placate those who believe the environment will be destroyed no matter what alternative is selected for implementation. In short, any EIR will face litigation. With this knowledge, now is clearly the time to limit the EIR to only the two or three alternatives that could actually be implemented.

Keep in mind that this whole exercise will be for naught come the year 2010. At the rate the current plan is being studied there will not be a plan actually implemented until the year 2005.

I call on the BPU to Stop the waste of public funds and secure the public trust by limiting the alternatives now.



*A Healthy Environment
Depends Upon
A Healthy Economy*

December 5, 1994

Ms. Marie Meredith
Environmental Coordinator
City of Santa Rosa
P.O. Box 1678
Santa Rosa, CA 95402

CITY OF SANTA ROSA

P.O. Box 1678
Santa Rosa, CA 95402

DEC 05 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

RE: SUBREGIONAL LONG-TERM WASTEWATER PROJECT
DRAFT PRELIMINARY SCOPING REPORT

Dear Ms. Meredith:

The Infrastructure Committee of the Sonoma County Alliance has reviewed the Draft Preliminary Scoping Report and has been in attendance at the public hearing held on November 17.

We wish to comment positively on the manner in which the City and its consultants are handling this extremely important matter, and the effort that is being made to involve the public, even at this early stage of the EIR/EIS process. Having a legally defensible document as the final result of this lengthy and expensive process is essential. Anything less would result in delays, costs, and a loss of credibility that may be impossible to overcome. We urge the City to have all sections of the EIR/EIS, including technical studies, reviewed by an attorney experienced in environmental law.

While listening to testimony at the hearing, it became apparent that the vast majority of those in attendance were against one or more of the Alternative Projects. The points raised were often requests to include items in the environmental process which the commentator believed would result in impacts which would make his least favorite project less likely to be selected. We realize that this is not the selection process, but do encourage the City to fully evaluate any issues which could have even a remote possibility of significant impact on the environment.

A
As an organization of businesses and private individuals concerned with the economic vitality of our community, the Alliance strongly recommends that the City and its consultants give equal consideration to the costs of each of the Alternative Projects. It is important to identify the cost of each of the mitigation measures which will be suggested in the environmental impact

707/525-8377 FAX 707/578-4575
520 MENDOCINO AVENUE, SUITE 200
SANTA ROSA, CA 95401-5257

analysis. Before an alternative can be selected, the decision makers need to know the total cost impacts of all of the various components which will make up the selected project. The total costs, both construction and on-going operation and maintenance will be significant. The impacts on rate payers, both present and future (our children), need to be considered.

B As in all major projects the long term solution for the Subregional System will be a series of trade-offs and compromises. The consultants need to analyze all of the impacts completely and without any bias. The decision makers will then have available all of the information necessary to weigh the factors and come to a solution.

The Alliance appreciates this opportunity to comment. Our committee will continue to follow this process through to its completion. Please continue to keep us informed so that we might make timely reviews and responses to the various elements going into the Project.

Very truly yours,
Sonoma County Alliance


Jack Macy, Chairman

Don Head
Myron Steele
Bob Miller
Iver Skavdal
Bill Currie
Tony Korman
Maureen Middlebrook
Ted Wilmsen



Due December 5, 1994

Date: 12-5-94

City: SANTA ROSA State: CA Zip: 95401

Phone: () 546-1340

How to use:
Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

Comments: SWP DISTRICTED ALLIANCE LETTER



City of Sebastopol

CITY HALL
P.O. BOX 1776
SEBASTOPOL, CALIFORNIA 95473
(707) 823-1153

ANNE MAGNIE, MAYOR 063

COUNCIL
KEN FOLEY
HOWARD LEVY
WILLIAM ROVENTINI

CITY MANAGER
PAUL V. BERLANT

December 5, 1994

CITY OF SANTA ROSA

P.O. Box 1673
Santa Rosa, CA 95402

DEC 06 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Ms. Marie Meredith
Environmental Coordinator
Department of Community Development
City of Santa Rosa
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 94501

Re: NOP of Draft EIR/Statement for Santa Rosa Subregional Long-Term Wastewater Project

Dear Ms. Meredith:

The City of Sebastopol has reviewed the Notice of Preparation(NOP) for the Draft EIR/EIS for Santa Rosa Subregional Long-Term Wastewater Project and offers the following comments.

Alternatives to be Considered:

In the past the City has supported alternatives that included the following components:

- WC
→
- a) Maximum conservation, possibly mandatory;
 - b) No more than 1% discharge into the Russian River;
 - c) South and West county multiple storage ponds built in increments, as needed;
 - d) Wetlands enhancement and creation with no loss of existing wetlands or vernal pools for any reason;
 - e) Maximum water recycling/reuse for agriculture and irrigation;
 - f) Growth control, moratorium on growth; and
 - g) Some discharge into the Petaluma River, amount to be determined.

The City is opposed to consideration of storage of treated wastewater in aquifer recharge areas, small stream flow augmentation, and injection of treated wastewater into aquifers.



I
In reviewing the six alternatives considered by the Santa Rosa Board of Public Utilities (BPU) none of the alternatives allowed for more than a "standard" water conservation. One reason given for its elimination is that it may not be manageable because it would require participation from all jurisdictions over which the BPU has no authority. Also, that it would be costly.

This option should fully be evaluated in the EIR/EIS for two reasons. First, the preliminary costs estimates given to the BPU to date do not include the cost of the mitigation measures. Accordingly, the full cost to the rate payer of choosing alternatives that require acquisition of land, wetland enhancement, etc., are not known. It may be that greater conservation may be cheaper in the long run and have less environment impact than the selected alternatives. This may be something that the participation jurisdictions will want to pursue once the true costs to the rate payer are seen. If it is not fully evaluated in the EIR/EIS it is effectively eliminated from future consideration.

J
Related to this comment is that some preliminary estimate of the cost of each alternative and individual components should be given in the document, inclusive of the cost of mitigation measures, so that decision makers can readily determine cost to the rate payer.

J 1
It is advised that the EIR analysis be structured so that even while the number of alternatives is limited to six, that with the addition of greater than standard conservation and growth management, that a superior environmental alternative can be reached by combining the best components of several alternatives. We believe this will closely approximate the City's recommended alternative.

K
Land Use and Agriculture:

The NOP states that the EIR/EIS will use the growth and development requirements of the participating city general plans as a basis for determining wastewater demand to the year 2010.

L
It is the City's understanding that the 1992 CH2MHill study was used to determine future wastewater treatment demands of participating jurisdictions. It is recommended that this be updated to reflect changes in the projected development from recently adopted general plans. For instance, the City of Sebastopol adopted a comprehensive rewrite of its general plan in May 1994 which significantly reduced its potential wastewater demand. This was done by adopting growth management policies and reducing its Sphere of Influence by some 500 acres. The result of this action is that no additional wastewater allotment is needed beyond the present contract amount through the year 2013. In addition, the cities of Santa Rosa and Rohnert Park are

L
undergoing significant amendments to their general plans.

Related to this there is need to examine the assumptions regarding the amount of wastewater generated from each land use type in the respective general plans.

One result of the above analyses might be that the amount of wastewater needing treatment and dispersal may be reduced.

The NOP states that the purpose of the Subregional system is to provide wastewater treatment capacity and treated effluent dispersal for the build-out of the general plans. It is assumed that this is the capacity and discharge that must be planned for. The City believes that this assumption needs to be reconsidered in the EIR/EIS. If it can be shown that: 1) significant environmental impacts can be avoided if development is reduced in the affected jurisdictions; and/or 2) the cost of the required mitigation measures to handle the increased dispersal increases user rates beyond what is acceptable, then these same jurisdictions may want to agree to a reduced growth scenario, leaving it to individual jurisdictions to determine the mix of residential and non-residential uses.

Hydrology and Water Quality:

M
The potential contamination of drinking water supplies from stream augmentation, rapid infiltration and aquifer recharge needs to be examined.

Surface water quality impacts from small stream flow augmentation and from runoff of treatment effluent into waterways adjacent to dispersal areas needs to be examined.

Possible groundwater contamination from recharge of aquifers and rapid infiltration with treated wastewater needs to be examined. Related to this, the variable quality of the treated wastewater during an annual cycle needs to be documented as it relates to discharge into existing and future potable water sources.

Biological Resources:

N
The harm to biotic resources, both aquatic and terrestrial, from dispersal of treated wastewater into waterways should be evaluated.

Public Services and Utilities:

O
The potential contamination of ground water and surface water sources for potable water supplies should be examined. This includes how long it will take to purify a groundwater aquifer

should it be contaminated.

*Refer
See L*

Population, Housing and Employment:

As aforementioned the assumptions concerning general plan buildout (with consideration of locally adopted growth management programs) and wastewater generation from individual land use types needs to be more carefully examined and documented so that the project does not provide more growth than called for in the respective general plans.

Thank you for the opportunity to comment. Any questions regarding this letter should be directed to Richard Spitler, Planning Director, at the address given on this letter.

Very truly yours,



Anne Magnie
Mayor

cc: Michael J. Walsh COE
City Council
Paul Berlant
Richard Spitler

December 3, 1994

DEC 06 1994

Marie Meredith
P.O. Box 1678
Santa Rosa, CA
95402DEPARTMENT OF
COMMUNITY DEVELOPMENT

Dear Marie,

We are biologists currently working in Sonoma County, and we have a number of concerns regarding the proposed scope of work for the Santa Rosa wastewater project.

A **FRESHWATER SHRIMP** According to the Summary of the Consultants Proposed Scope of Work, there are no freshwater shrimp surveys scheduled for the Two Rock reservoir site. Since there are reports of this species occurring in this area, and because habitat exists on the site, We request that freshwater shrimp surveys be included for this reservoir site.

B **YELLOW-LEGGED FROG** In the technical summary titled "Special-Status Amphibian Surveys on Potential Reservoir Sites" it is reported that no suitable Yellow-legged Frog habitat is found on the Two Rock reservoir site. Since there are streams on this site that fit the description given in the text of this summary ("Habitat requirements for foothill yellow-legged frog generally consist of permanent, fast-moving, shallow, rocky streams with patches of sunlight"), we request that surveys for the Yellow-legged Frog be conducted as part of the scope of work.

C **NEWTS** **CEQA Environmental Checklist for Alternative 4** In question 4 (under 08 Animal Life) you state that wildlife migration and travel corridors have not been identified in the area of the S20 reservoir site. Please address the destruction of the migration/travel corridor for newts in your scope of work. Additionally, please address the potential loss of the entire population (perhaps the only population within the Petaluma windgap) as it relates to the overall decline of amphibians.

D **GOLDEN EAGLE** Please address the reports of a Golden Eagle nest site on the Two Rock reservoir site.

BIODIVERSITY Your discussions of questions 1 and 3 (under 08 Animal Life) in the CEQA Environmental Checklist for Alternative Two state the following:

E Question 1: "... construction of a new reservoir (S39 or alternative reservoir sites) could remove existing habitats and reduce the numbers or diversity of wildlife species occurring in these habitats."

Question 3: "Construction of a new reservoir (S39 or alternative reservoir sites) would remove existing wildlife habitats."

However in the discussions of the same questions in the CEQA Environmental Checklist for Alternative Four you state the following:

Question 1: "The creation of a new reservoir (S20 or alternative reservoir sites) and wetlands could alter the existing condition of habitats that are subject to inundation or other modifications and displace wildlife populations that occur in these habitats. However, the creation of wetlands could also increase species diversity by creating new aquatic and wetland habitats."

E Question 3: "The creation of a new reservoir (S20 or alternative reservoir sites) and wetlands could alter the value and function of habitats subject to inundation or other modifications. However, the creation of new aquatic and wetland habitats could also increase overall habitat diversity in the project area."

Despite the undeniable facts that the S39 site is almost entirely plowed and in crops, and virtually all waterways are channelized you suggest by your answers above that the S39 site might have a greater loss in biodiversity than the S20 site. In contrast to S39, S20 has large areas of pristine forests, native grasslands, clear flowing streams, and a very diverse native flora and fauna. Your apparent bias has no place in a document purported to having been prepared by an ethical and independent consulting firm. Please address the very real and great potential loss of biodiversity when evaluating the S20 reservoir site.

METHODOLOGIES On page 1 of Summary of the Consultants Proposed Scope of Work, prepared by Urban Alternatives, they state that those wanting greater detail on study methodologies should consult Chapter four of the Preliminary Scoping Report. However, chapter four has nothing that could be construed as methodologies. Methodologies are intended to allow the reader (or independent scientist) to: 1) understand how the study is conducted, including the degree of detail involved and 2) it should allow another investigator to replicate the study.

F One should not be left questioning whether the study consisted of 2 people surveying 200 acres for 6 hours or 2 people surveying 200 acres for 24 hours. There should also be no question of the dates and times of day that the surveys were done. Please be sure to include this very relevant information in the EIR and EIS that you prepare. The public deserves to have this information, and undoubtedly your investigators are recording this as they do their surveys.

Thank you for considering our concerns.

Lynn Stafford
P.O. Box 121
Bodega Bay, CA
94923

Johanna Brandriff
P.O. Box 74
San Geronimo, CA
94963

Public Comment in Writing on the Notice of Preparation of a
Draft Environmental Impact Report/Statement for the Santa
Rosa Subregional Long-Term Wastewater Project

from:
Robert A. Smithfield
322 Forrest Ave.
Fairfax, CA 94930

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 06 1994

to:
attn: Ms. Marie Meredith, Dept. Community Development
The City of Santa Rosa
100 Santa Rosa Ave., City Hall, Rm.#3
Santa Rosa, CA 95401

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Dear Ms. Meredith and associates,

These two pages of comments constitute my response to the
Notice of Preparation. Please contact me if you need
clarification of anything contained herein. Thank you for
the opportunity to comment.

I have read and studied the Preliminary Scoping Report,
Summary of the Environmental Consultant's Proposed Scope of
Work for the Environmental Study Phase, and Notice of
Preparation/Notice of Intent. The following are additional
environmental and socio-economic issues to be evaluated for
and in the EIR/EIS:

1. OBTAINING LAND FOR PROJECT COMPONENTS BY CONDEMNATION

Is it appropriate to and what are the consequences for
the proposed project to obtain any lands by condemnation?;
and, more specifically, is it appropriate to continue to
propose consideration of construction of a dam and storage
reservoir at the so-called Site 20, Two Rock (for West County
Reclamation Alternative 4, a "primary, reservoir site", NOP
page 12) given that

a) the City of Santa Rosa has, to date, not published
data suggesting that the users/ratepayers of the
subregional system would support such use of the powers
of government to condemn or by other means forcibly
obtain property for a Two Rock site;

b) it is not or has not be demonstrated to be clear that
condemnation is consistent with Santa Rosa's intent to
construct a project which promotes the goal of the most
sensible and wise use of natural and other public
resources in view of the facts, for example, that at the
proposed Two Rock dam and reservoir site area
condemnation of one private owner's land could have very
immediate and long-term negative economic consequences
on the dairy industry of the region (not to mention the
devastating consequences to the dairy business and family
life of the private land owner in question) AND would, if
the dam and reservoir were then constructed, destroy two
natural resources, the Button Ranch valley, upland, and
aquatic habitats, together constituting a unique system,

(page 1 of 2)

TOTAL P.01

Public Comment in Writing on the Notice of Preparation of a
Draft Environmental Impact Report/Statement for the Santa
Rosa Subregional Long-Term Wastewater Project

D and an aquifer important to both local human and natural
habitat/wildlife populations, to the Stemple Creek
watershed, and to waters of the National Marine Sanctuary
and International Bioreserve;

c) the City of Santa Rosa has not to date demonstrated
that condemnation is appropriate in view of the future,
long-term probable need to obtain additional wastewater
or reclamation water storage sites in the region in order
to continue irrigation with reclaimed subregional system
wastewater (if condemnation dissuades landholders/owners
from participation in present or future reclaimed water
storage or use, then what will happen?);

E 2. NEGATIVE ENVIRONMENTAL IMPACTS TO THE NATIONAL MARINE
SANCTUARY AND INTERNATIONAL BIORESERVE

is it appropriate propose any project which has a
significant probability of having environmental impacts
which would negatively change, or lead to uncertain
change, in the habitats/wildlife of the National Marine
Sanctuary and International Bioreserve?; it seems
imprudent and unnecessary to propose a project
alternative which results in any negative functional
changes to the living or non-living natural resources
of either or both estuaries (Estero Americano, Estero
de San Antonio) and to any other portion of or to the
whole of the National Marine Sanctuary and the
International Bioreserve; is there any level of
acceptable risk of functional impairment to these life
resources?; are the socio-economic, not to mention
environmental) costs of unmitigatable or irreversible
damage to such resources measurable and, if they were,
could they be within the means of any community or
public organization to incur?; finally, in view of the
intergenerational socio-economic and environmental issues
associated with these resources, are the costs of
functional impairment calculable and acceptable or
incalculable and unacceptable?

F 3. HABITAT RESTORATION, CREATION, OR ENHANCEMENT

will any natural habitats that are proposed for
restoration or creation or enhancement be functionally
developed by the time or before the time that habitats,
which the former are intended to replace, are
functionally diminished or lost?

Robert A. Smithfield 12/04/94
Robert A. Smithfield, 322 Forrest Ave., Fairfax, CA 94930

Page 2 of 2

SCOPING COMMENTS
on
SANTA ROSA SUB REGIONAL SYSTEM
LONG TERM WASTEWATER PROJECT

by Joe & Kathy Tresch
Tresch Dairy Inc.
1170 Walker Rd.
Petaluma, CA 94952
(707) 762-7952

CITY, OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 06 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

A Please explain why there is a West County project being considered as an alternative when there is no consensus for it. Please explain how it could be a viable alternative when there is such extensive opposition to wastewater in our watershed, from the headwaters at Button Ranch to the Esteros to the Marine sanctuary. APPENDIX A: SUMMARY OF PARTICIPANT'S INPUT, a document you prepared following the public workshops shows that not only was there NO consensus for a West County project, there was not even one farmer or rancher that wanted the wastewater in attendance. Are you really going to spend millions of dollars doing studies on the West County when you have no project here?

B In regards to the proposed storage reservoir at Button Ranch and Tresch property, I would like a map. I have been asking for the following information for 4 years now and have not as yet received it. I want to see the map that shows the whole project at T-5, now called S-20. I know you have created previous conceptual designs, why have you not made them available to us? In this and in any other damsite there is the inundation line, that which outlines the "footprint" of the water, and then there is the outer project boundary area that would encompass, in this project, the spillway, pumping station (reservoir outlet works), stockpile and staging areas (where you do such things as pile up the trees that you would clear cut out from Button Ranch), roadways, turn around and servicing areas for the semi trucks (expected to transport 20,000 loads of fill into the T-5 notch on Tresch & U.C. property to make the dam) and heavy construction equipment.

C In May of 1994 I wrote to city manager Ken Blackman and asked this question, "Is my impression correct, that people are not usually allowed to inhabit a residence this close below a dam the size of T-5 or T-6A? Please answer this and elaborate with maps that detail property lines, roads, spillways, pumping stations, created wetlands and project boundary areas both upstream and downstream from the proposed T-5 or T-6A damsites."

On September 12, 1994 I received an aerial map from HBA that shows only the inundation line of the wastewater and some property lines.

D It does not even show our complete parcel. I want to know: How much total acreage of Tresch land is needed for the project?

I know that you are in possession of the information that I am requesting. You spent over 4 million dollars developing it already and were prepared to build it when you certified the previous EIR. I want to see it NOW, not 12 months down the line when you are ready to certify the next EIR. Please mail previous and current conceptual designs to us via Federal Express immediately.

Wetlands

E Under scoping for the project description one of the components is wetlands.

- F
Wet
How?
- G
1. How will the wetlands for the West County alternative be obtained?
 2. Will the city take by eminent domain or gain control by any other measures such as long term lease or purchase, *existing wetlands* in the Stemple Creek, Estero de San Antonio or Americano Creek, Estero Americano watersheds?
 3. Will the city take by eminent domain or gain control by any other measures such as long term lease or purchase, land to *restore* or *create* wetlands?
 4. What will be the total acreage of each type of wetland in the West County project? Please show on a map that includes property owners and identifies which have signed letters of intent.
 5. Please explain how the existing, restored and created wetlands will be managed. Identify where wetlands usually have a dry phase and how long that dry period usually is. Will wastewater managed wetlands have a dry phase too ? When and for how long? Will wetlands plants be manually harvested? Will they be monitored and periodically inspected for heavy metals? What action will be taken if they are found to exceed allowable standards? Who sets the standards and what are they?
 6. How many acres of wetlands will be needed to mitigate the wetlands destroyed at the T-5 damsite on U.C., Tresch, Mattos and Scott lands?

STREAMS

H
How?

What will be the impacts of altering the historical characteristics of Stemple Creek and Americano Creek, which have been seasonally dry in summer months for eons? What will be the impacts to the ecosystem to have these waterways flowing year round? What will be the impacts regarding erosion along these waterways? What will be the effects of having the soils adjacent to, and in the creeks, permanently saturated?

Land Use and Socio-Economics

I
LU/13

What are the potential impacts on property owners and property owners rights? How much total acreage is needed in the West County? Please break down into specific components. How much acreage is needed for:

- A. damsites, including total boundary area?
- B. wetlands?
- C. irrigation?

D. pipeline cut and cover corridors including the tunnel through the hill from Roblar Road through the Tunzi property into the T-5 damsite ? Will the Tunzi property be condemned if they are not willing sellers?

Give the best and worst case scenario of property availability for each component., i.e., If no land is available from willing sellers for West County damsites, how much will be taken via eminent domain? What will be the impacts to the Tresch's to have their land condemned? What will be the potential impacts to the irrigation project if condemnation is used to obtain any of the components?

J Please explain how the irrigation contracts will work. Will the wastewater users be paid to use and irrigate the wastewater? If so, how much per acre foot and for what length of time? (i.e., x \$ per acre foot per year for x years.)

From some of the wording in the scoping outline it appears that wastewater users could be asked to pay to use the water. Is this so? If so, how much per acre foot?

What will you do if you don't get enough letters of intent to show a viable West County project? Will eminent domain be used to get irrigable land? Where?

Previous attempts to demonstrate a need or desire on the part of ranchers and farmers to irrigate with wastewater in the West county were very poorly conducted and ended up generating a great amount of controversy. The letters of intent distributed by the City asked landowners to give acreage figures which were then tallied up to show a total potential of 9,619 irrigable acres in the West County, please see attached three page assessment prepared by Don Fox of CH2MHILL.

K When this acreage list was transferred to a topo map and compared to the Sonoma County Soil Survey book it was dramatically apparent that a large percentage of acreage was over the allowable 15% slope. This was an error of great magnitude considering the soil type and climate that exists in the West County. It is possible to irrigate certain types of crops, such as winegrapes which can be drip irrigated, on higher slopes. However the West County has no such crop for several reasons: fog, wind and highly erodible soils. Winegrapes are being grown with some success north of here near Fort Ross on the high coastal hills, the criteria being that they are grown *above* the fog line. The Two Rock-Valley Ford area is certainly not above the fog zone.

L Further controversy over the letters of intent arose over the issue of eminent domain. When it became known that the Tresch and Mattos families were not willing sellers of their lands for the storage reservoir, and that the only way to obtain them was through condemnation, many farmers and ranchers revoked their letters of intent, but the City *DID NOT DELETE* that acreage, even after written requests from the landowners.

Furthermore, many names on the letters of intent of would-be irrigators did not even own the land that they were signing up. How could the City obtain a valid 20 year irrigation contract with someone that does not own the land they want to irrigate?

New letters of intent must be obtained to prove that a West County irrigation project has the necessary acreage to warrant any further studies. The letters must be scrutinized for actual irrigable land by a competent, knowledgeable person who does not have a vested interest in the project itself, in other words, a non-biased person with no conflict of interest who is not being paid to come up with padded figures. This author is certain that scant suitable acreage actually exists. Are the ratepayers going to finance a 140 million dollar project just for three or four farmers?

Climate studies

M Please include studies that demonstrate climate comparisons between the proposed irrigation areas in the South County and in the West County. Monitor temperature, wind velocity and hours per day of sun and fog in each area. Have several monitoring stations in each area.

Groundwater

N The last E.I.R. demonstrated that our shallow wells in Two Rock that are downstream from the Button Ranch and rely on the aquifer that runs out of there would be inundated with wastewater from the storage reservoir through seepage due to the hydrostatic pressure of the 15,000 acre feet stored therein, and from irrigation runoff, and at a point that those wells were shown to be contaminated and eventually condemned, a source of fresh water would be supplied by the city.

Please answer the following questions:

Where will this fresh water source come from?

O What will be the cost (water rate) to users?

Will water meters be installed?

What will be the economic impact to landowners and farmers who may have multiple dwellings on their land?

Will conservation measures be implemented voluntarily or will they be mandatory?

P
↓
Water Quality

Page 17 of the Summary of the Scope of Work discusses groundwater. One of the tasks will be to "Define groundwater quality using existing data."

Please acknowledge that the previous studies in the West County pertaining to the T-5 damsite were fatally flawed.

In a discussion with Robin Cort at the Sebastopol wastewater workshop I questioned the previous studies and she agreed that they were problematical.

This is why they are flawed: of 18 test wells sampled in the West County-Two Rock watershed, one was on the parcel below the proposed T-5 damsite. It was located on a field which is a significant seasonal wetland and had long been abandoned. At ground level, and uncapped, this well was certainly not representative of the other viable, maintained wells in the survey, yet its inclusion in the studies sent the nitrate levels soaring.

New tests need to be done that will not feature this kind of stacked deck sampling. When you test abandoned wells and incorporate them into the mix of other wells, it is fairly certain to show poor groundwater quality and show that your wastewater is no more offensive in total nitrate content than our "average" wells in Two Rock !

Please demonstrate that you will provide new studies to define groundwater quality. What wells will you use? What times of the year will you sample them? Will the well owners be advised of the results as soon as they are available?

Previously Unanswered Groundwater-Water Quality Question:

On February 15, 1991, Edward J. Walker, director of the Sonoma County Department of Public Works, wrote the following in a comment letter to the previous D.E.I.R on the Long Term Wastewater Project:

P1 "Please demonstrate that the impoundment of wastewater in T-5 reservoir will not affect groundwater at the adjacent Sonoma County Central Landfill. Should ground water flow be altered it may force groundwater into the refuse and create leachate."

This question was never answered. Please address it now. What are the potential impacts of having only one small hill of fractured and fissured Franciscan formation separate a central landfill and a 15,000 acre foot reservoir of wastewater? Could the hydrostatic head of pressure cause wastewater to permeate the landfill or leachate from the landfill to enter the reservoir? What sort of osmosis could occur? How would leachate be

detected in the wastewater? What impacts could occur downstream in the waterways, in drinking water wells, and in the Esteros? What impacts could occur to humans, wildlife, aquatic species, migratory waterfowl and songbirds?

WASTEWATER IN THE ESTEROS

Q What will be the cfs wastewater flow in the Esteros? By what means will the wastewater enter the waterways? How do you address the fact that the National Marine Sanctuary will accept no changes in the salinity of the Esteros? What effect will the wastewater have on *syncaris pacifica*, the freshwater shrimp that is a rare and endangered species that is known to inhabit Stemple Creek, one of only 15 Creeks in Sonoma and Marin that are its remaining habitat?

Seismicity

R Page 8 of the scoping summary poses the question, "How is the system protected against massive breaks during a seismic event?"

I would like you to answer, "How will the residents downstream from the dam be protected against massive breaks during a seismic event.?"

The preschool that my children attend, Shoreline Acres, is right on the Estero de San Antonio. What possible warning and evacuation procedure will you set up? Please note that when Teton dam failed the wall of water 10 miles downstream was 75 feet high. Please create a model that will demonstrate the path, height and rate of travel of the wastewater following dam failure at T-5 or T-6A. For example, if the water is 140 feet deep behind the dam, how high would the wave of water be when it crosses the highway at Petaluma Valley Ford Road?

Bloomfield Fault

At the T-5 damsite the dam would be constructed on top of the Bloomfield fault. Your consultants have stated that this would not be a fatal flaw because the fault shows no recent evidence of movement and the dam would be sited parallel to the fault.

R1 When a group of professors from U.C. visited the Button Ranch, one of them gave an opinion that there seemed to be an appearance of a secondary trace of the fault that traveled northwest from the T-5 notch up towards the Tresch cabin. If so, this secondary trace would bisect the T-5 dam. How do you respond to this?

When a geologist hired by the Tresches dug a trench to examine the Bloomfield fault, he found evidence that pointed to the existence of an ancient marine bench buried below the T-5 site. Conferences with the U.S. Geological Survey in Menlo Park revealed that the T-5 notch was most likely the mouth of the Estero millions of years ago. What potential

geological evidence will we be burying forever under the creation of the T-5 dam? What is the potential loss to education?

Potential impacts

S The NOP/NOI states that the project may have impacts on the human environment. Please define this statement. What are the potential impacts on the Tresch's? What will be the impacts to their dairy business which is their livelihood? What will be the impacts to their children who love their land and the lands of the Button Ranch as dearly as a treasure? The fact is, the human impact on the Tresch family has already been significant in terms of time and money spent simply to protect their land and way of life. We remain, as ever, unwilling sellers of our land for your project. We request that the City cease and desist in their attempts to build a reservoir on our land or on the adjacent Button Ranch. To proceed to study this infeasible, unwelcome alternative is to proceed with harassment of a family that would like you to leave them alone.

Biological Resources

Flora

T
V The Studies done by the University of California to explore the biological significance of the Button Ranch demonstrated that the ecosystem there was of tremendous educational value. The biotic richness was found to be so extensive that the plant cataloging on site grew to over 500 species! The unexpected array of native grasses was particularly exciting. Why are these native grasses thriving at the Button Ranch when elsewhere all over the state of California are were diminishing under the similar grazing and weather conditions? What will be the loss to our state to give up any chance of studying this? Are the native grasses successful here because of the unique hydro-geological setting?

Fauna

u The Button Ranch provides habitat to a wide array of wild creatures. The ecosystem of woodland and grasslands is the habitat for a breeding pair of golden eagles, a species of special concern. The Bird Rescue Center in Santa Rosa is the source of the information that there are only 16 breeding pairs of Golden Eagles in all of Sonoma County. This particular pair has inhabited the Button Ranch for over 50 years. It is simply not acceptable to destroy their habitat.

Your own project states that an Environmental Evaluation Criteria is: The project should not result in a significant loss of habitat diversity or habitat value.

Clearly, your project WILL have that impact in the West County, particularly at the Button Ranch. You CANNOT mitigate what you will destroy here.

Sincerely, -

Kathy Tresch

Joe Tresch

Joe and Kathy Tresch



SUBJECT _____

BY _____

DATE _____

SHEET L OF 2

PROJECT NO. _____

IRRIGATED ACRES FOR WEST COUNTY PROJECT

Note: All acreages are those indicated by farmers in the letters of intent sent to the City.

Two Rock (Sonoma County):

| | |
|-------------------|-------------|
| Otis Aycock | 100 |
| Simon Azevedo | 200 |
| Henry Basch | 55 |
| George Bianchi | 360 |
| Mike Couto | 148 |
| Don DiBarnardi | 135 |
| Ken DelCorto | 65 |
| Carl Graham | 100 |
| Ken Martin | 400 |
| Paul Martin | 50 |
| Ken Mazetta | 150 |
| George McClelland | 550 |
| Nestekci Farms | 400 |
| Tom Moore | 18 |
| Tom Nunes | 320 |
| Larry Peter | 300 |
| Bill Taber | 125 |
| Terry Zimmerman | 30 |
| Jim McDowell | 200 |
| Subtotal | 3,706 acres |

Two Rock (Marin County):

| | |
|-------------------|-----------|
| Herbert Burbank | 110 |
| Al Sved Martikoni | 150 |
| Bruce McGlocklin | 75 |
| Neil McIsaac | 100 |
| Scott Murphy | 123 |
| Dave Righetti | 100 |
| Subtotal | 658 acres |

Total Two Rock Area 4,364 acres

Bloomfield/Valley Ford:

| | |
|---------------|-----|
| Wilson Beebe | 200 |
| Paul Bianchi | 225 |
| Garth Condon | 500 |
| Don Cooper | 170 |
| John Dougan | 160 |
| Lee Erickson | 150 |
| Leo Ielmovini | 270 |
| Tom Kirkland | 200 |



| | |
|--|-------|
| Ken Lanker | (200) |
| Rob Lepori | (60) |
| Steve Maffia | 100 |
| Hans Ravens | 210 |
| Charles Reeves | 30 |
| Ray Rowelli | 200 |
| Stump Ranch | 200 |
| Tremari Bros | 350 |
| Jim Williams | 10 |
| Ken Wilson | (200) |
| Total Bloomfield/Valley Fork 3,425 acres | |

| | |
|------------------------------|-------------|
| North Area | |
| Ernie Maffia | 80 |
| Total Acreage | 7,869 acres |
| Additional estimated acreage | 1,750 acres |
| TOTAL POTENTIAL | 9,619 acres |

Farmers in West County who Rescinded Their Letters of Intent

4/7/90 Paul Bianchi
4/6/90 Alfred Martiracci
4/7/90 Tremari Bros
4/7/90 Ken Wilson
4/7/90 Karl Graham
4/7/90 John Dugan
4/7/90 Don DeBernardi
5/3/90 Ken Martin
5/3/90 Don Cooper
5/3/90 Wilson Beebe
5/3/90 Chuck Reeves
5/7/90 Henry Basch
5/5/90 Scott Murphy
4/7/90 Mike DelCurto
Ken Lauker

Above Farmers who Restated Their Interest

4/26/90 Paul Bianchi
4/26/90 Alfred Martiracci
4/26/90 Tremari Bros.
5/4/90 Carl Graham
5/4/90 John Dugan
4/26/90 Don DeBernardi
5/13/90 Ken Martin
10/15/90 Don Cooper
10/15/90 Wilson Beebe
10/15/90 Chuck Reeves

1,920 acres

Above Farmers who Desire to Remain Neutral

4/26/90 Ken Wilson
5/12/90 Scott Murphy

Above Farmers Not Recontacted

Henry Basch
Mike DelCurto
Ken Lauker

*Santa Rosa***Subregional Long-Term Wastewater Project****SCOPING COMMENT FORM**

Due December 5, 1994

Name: Carol RobillardDate: 12/4/94
CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402Address: P.O. Box 842City: Bodega Bay State: CA Zip: 94923

DEC 06 1994

Phone: (707) 825-2145DEPARTMENT OF
COMMUNITY DEVELOPMENT**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together. (Do not use staples), and drop in the mail.

To: Marie Meredith

From: Carol Robillard, Conservation Chair,

Milo Baker Chapter, California Native Plant Society

Subject: Scoping Comment, Santa Rosa Subregional Long-Term
Wastewater Project

- A*
- **PLANT DIVERSITY.** We are concerned that diversity of plant life may be slighted in the evaluation criteria. We feel that the evaluation criteria should consider and weigh native plant diversity equally with animal diversity.

- **BUTTON RANCH.** This site contains diverse plant species divided among several native plant communities¹. The grasslands contain twenty five species of native perennial grasses. There are at least four kinds of native oaks. There are also many wetland plant species which vary among the several types of small wetlands present on the site. We understand that some of the plants found on the reservoir footprint are rare in Sonoma County, namely, *Meconella californica*, *Potamogeton foliosus*, *Ceratophyllum demersum*, *Festuca elmeri*, and *Triodanus biflora*.

B

We ask that potential loss of plant habitat and species diversity be weighed carefully in the evaluation of Button Ranch and other options for the Santa Rosa Wastewater Project.

1) Private communication, Peter Connors, UC Bodega Marine Laboratory.

Santa Rosa**Subregional Long-Term Wastewater Project****SCOPING COMMENT FORM**

Due December 5, 1994

Name: HELENE STEINLAUFAddress: 5907 ROBLAR ROADCity: PETALUMA State: CA Zip: 94952Phone: (707) 664-2269Date: 12-3-94
CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 06 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

Comments:

I am against the proposed sewage treatment at Button Ranch for the following reasons:

- A B C D E F
1. I live immediately to the west and adjacent to Button + I would like to know and have the EIR address what all the impacts would be on living here in regard to smell, effect on our groundwater + well, traffic, pollution etc., and am extremely concerned about all these impacts on our quality of life here.
 2. We also think that since we are zoned ag + open space, how the sewage plant ~~will~~ change our ~~the~~ zoning; ie, will lot sizes change?
 3. Also feel we shouldn't be penalized here for Santa Rosa's lack of planning for sewage disposal, as ~~the~~ that city has been developing.
 4. What compensation is considered to us by the City of Santa + I think it should be considerable if there is any impact at all ~~for~~ on our quality of life here.

Santa Rosa**Subregional Long-Term Wastewater Project****SCOPING COMMENT FORM**

Due December 5, 1994

Name:

Denise Wright

Date:

11-17-94

Address:

401 Harvest Lane

City:

Santa Rosa

State:

Ca

Zip:

95401

Phone:

(707) 575-3186

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 06 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

Comments:

A 1. Inform public of what they can do to lessen toxicity of what goes down our drains

2. Implement radical change of consumer availability of non-polluting cleaners - No polluting brands sold in Sonoma County

3. Require any new constructions to use waterless, wasteless toilets. I can't believe we still build houses the same way they've been built since indoor plumbing was introduced. It just looks better.

B 4. Use #3 - microbe effective marshland to create reusable pure water.

PACIFIC
TECHNOLOGY
ASSOCIATES

Strategies For A Sustainable Future

625 Second Street, Ste 209
Petaluma, CA 94952
Phone 707-769-5335
Fax 707-769-5336

December 5, 1994

Ms. Marie Meredith
City of Santa Rosa
Department of Community Development
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 94501

Re: Santa Rosa/Subregional Long-Term Wastewater Project
Environmental Consultants' Proposed Scope of Work

Dear Ms. Meredith:

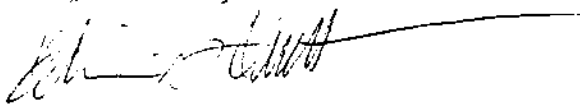
A
I attended your public hearing on November 17 and submitted suggestions regarding studies of potential water conservation programs. My interest is to encourage the integration of water conservation programs with the various disposal alternatives. To the extent the volume of treated wastewater may be reduced with cost-effective improvements in end-use efficiency, environmental, economic, and social impacts will also be reduced.

For the more expensive disposal alternatives, the percentage reduction in wastewater volume available through efficiency improvements, in my opinion, appears large (if we do not limit ourselves to "Best Management Practices"). The cost-effective environmental mitigation offered by this approach therefore justifies a level of study that is on par to the evaluation of impacts that will occur if the wastewater volume is not reduced. This study area is also "global" in that it addresses all six disposal alternatives. My general suggestion is that water conservation deserves more attention than it now appears to have.

B
The Draft EIR/EIS should explain how annual wastewater flow projections are derived. For example, the summary documents offered at this point do not describe the assumptions on which flow projections (baseline flow, and reduction credits for plumbing code and conservation) are based. While this is understandable at this stage, sufficient information should be presented in the DEIR/S to allow readers to follow the logic that leads to these important projections.

Thank you for the opportunity to comment.

Very truly yours,



Edwin B. Orrett

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 06 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT



Brian Hines

(Name: Please Print)

1468 Funston Drive

(Street Address)

Santa Rosa 95407

(Town)

(Zip Code)

Mr. Tom Yokoi: Vice Chairman
Santa Rosa Board of Public Utilities
3501 Deer Park Dr.
Santa Rosa, Ca. 95404

Dear Mr. Yokoi:

I am a supporter of Russian River Watershed Protection Committee (RRWPC) and am concerned about wastewater discharges into the Russian River. I have heard that you are soon going to review the range of studies to be undertaken by the city for Santa Rosa's long range wastewater environmental impact report. I am taking this opportunity to express my concerns to you.

A
B
I support RRWPC's view that *all* wastewater discharges should be limited to 1% in the winter only. While the city produces a high quality of wastewater, there are many unknowns about chemicals and other toxic constituents that are currently either unregulated or underregulated. Further, viruses and parasites are sometimes a problem with even highly treated wastewater. I understand that a 1% discharge could represent as much as 400 million gallons in a single day and more commonly allows as much as 100 million gallons daily during wet weather months. Can you tell me what impacts these large amounts have at percentages even higher than 1% (up to 20%) in combination with all other river wastewater discharges?

C
I support high levels of conservation and urban and agricultural reuse. I am concerned that city staff and consultants are developing a very expensive river option so it can be said that a 1% option is unaffordable. We request that you carefully scrutinize all project cost estimates to assure that projected expenses for the various alternatives are not padded in order to ensure a specific desired outcome.

D
On a related matter, I am concerned that Santa Rosa's consultants are relying too heavily on estimated and/or inadequate data fed into computerized models as a basis for making recommendations about the safety of these discharges. *Conclusions about wastewater quality should be based on actual monitoring data that can be scientifically validated.*

Please put me on your mailing list and keep me informed about your long range plan.

Sincerely,

R. Hines 11-1-94
(Signature)

28 November 1994

City of Santa Rosa
Department of Community Development
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 94501

BOX

1687

SONOMA, CALIFORNIA
USA 95476
707/938-9111

Gentlemen:

Another phase in studies and discussions of various schemes to dispose of Laguna plant effluent is about to start.

So far you have looked at 20 to 30 alternatives. Your 21 October 1994 "Notice of Preparation" lists six remaining schemes. Now you must settle on just one.

Recent local newspaper articles state for this effort but not to build anything, you are prepared to spend \$8,000,000 for further studies, plus \$800,000 for public relations.

The waste water program already has been studied to death. You have listened to every group in Sonoma County, except one--your individual customers, those people who eventually pay the bill.

A Many ratepayers fail to see the justification for pumping pure domestic quality water from one end of the county to the other--then PAY farmers--who do not need it--additional money to apply it to their lands.

B You are the Lead Agency. You work for and represent the ratepayers of Sonoma County. Planners and Engineers work for you. You must give these planners and engineers direction and guidance for their duties. Otherwise they will go on happily ever after, piling study upon study, hearing upon hearing, review upon review.

May I respectfully suggest you establish very firm guidelines for the remaining studies:

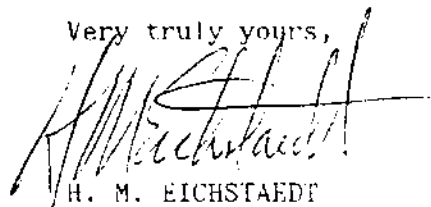
A. First task of the planners and engineers shall be to give you preliminary cost estimates of the various alternatives.

B. The main criteria you will use in comparing the various schemes will be "Total Cost to the Ratepayers." There will be no detail studies of higher cost alternatives.

C. Least cost to your ratepayers will be objective No. One.

You who are responsible for the wastewater program must consider it in exactly the same way individual taxpayers have to handle their own finances. Ultimately choice depends upon what one can afford.

Very truly yours,



H. M. EICHSTAEDT

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 06 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Santa Rosa**Subregional Long-Term Wastewater Project****SCOPING COMMENT FORM**

Due December 5, 1994

Name: LAWRENCE FOLTERDate: 12-5-94Address: 4250 DEER MEADOW LANE P.O. BOX 488 CITY OF SANTA ROSA
P.O. Box 1678City: OCCIDENTAL State: CA Zip: 95465

Santa Rosa, CA 95402

Phone: 707 874-2003

DEC 7 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT**How to use:**

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

A

Comments: THE EIR/EIS SHOULD STUDY THE IMPACT THAT
THE PREVIOUS RELEASES OF WASTEWATER HAS HAD
ON THE RUSSIAN RIVER BEFORE CONSIDERING USING
OTHER EXISTING WATERWAYS FOR DISCHARGE.
OVER THE LAST THREE YEARS I HAVE OBSERVED A
SUBSTANTIAL INCREASE IN ALGAE LIKE PLANT GROWTH
IN THE RIVER, AND AN ACCUMULATION OF A PAPER PULP
LIKE DEPOSITE ALONG THE SHORELINE AND IN SHRUBS
THAT LINE THE BANKS OF THE RIVER. REGARDLESS
OF THE CAUSE OR SOURCE OF THESE OBVIOUS
INDICATORS OF POLLUTION, ALL ATTEMPTS SHOULD BE
MADE TO HALT THE ONGOING DISTRUCTION. THESE
MEASURES SHOULD BE DONE, IF FOR NO OTHER
REASON THAN TO DEMONSTRATE GOOD FAITH AND
NEIGHBORLY BEHAVIOR. IN USING WATERWAYS
THAT PASS THROUGH COMES THE RESPONSIBILITY
OF PROTECTING THEM, AND GOVERNMENT
MUST PROTECT ITS PEOPLE AND THEIR
NEIGHBORS WELFARE.

Tomales Bay Association

P.O. Box 369

Pt. Reyes Station, California 94956

December 6, 1994

City of Santa Rosa
100 Santa Rosa Avenue, Room 10
P.O. Box 1678
Santa Rosa, CA 95402
Attn: Marie Meredith

RE: DPSR Subregional Long-term Wastewater Project

Based on our review of the Santa Rosa Subregional Long-term Wastewater Project Draft Preliminary Scoping Report (DPSR), the Tomales Bay Association (TBA) has the following concerns:

- A
1. The DPSR does not address the potential for wastewater discharged into the Estero Americano and/or Estero de San Antonio to impact water quality in Tomales Bay. On page 7 of section 3, List of Issues and Impact Criteria, Environmental Impact Criteria number 1 questions whether the project will result in changes to currents in marine or fresh water, and/or the course or direction of water movements in either marine or fresh water. Yet, the DPSR does not identify or propose to identify any existing marine currents which could result in the transport of potentially toxic substances into Tomales Bay. The TBA recommends that a minimum two-year study of marine currents be conducted.
 - B 2. At the November 17, 1994 Scoping Meeting, the City of Santa Rosa discussed the possibility that the Army Corps of Engineers might request that ocean discharge be added to the list of alternatives. If ocean discharge becomes an alternative, it will be especially necessary to study marine currents with respect to possible impact on Tomales Bay water quality as well as water quality of Bodega Bay and the Bodega-Tomales Bay bight.

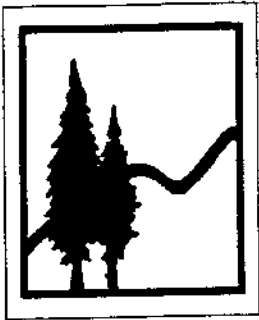
We appreciate this opportunity to comment.

John Calomiris
John Calomiris, Vice President

CITY OF SANTA ROSA *Kenneth J. Fox*
P.O. Box 1678
Santa Rosa, CA 95402 Kenneth J. Fox, President

DEC 6 7 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT



SEQUOIA
PACIFIC
MORTGAGE
COMPANY

December 5, 1994

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 07 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Marie Meredith
Environmental Coordinator
City of Santa Rosa
P. O. Box 1678
Santa Rosa, CA 95402

Dear Ms. Meredith:

A I applaud the time and effort that you and the staff, working on the Wastewater Project, have put into the project. As both a rate payer and as a business person, I appreciate the opportunity on commenting on the project.

I would hope that your evaluation of the six alternatives would be based on the following:

- A
- 1) Financial impact (rate increases) on the rate payer.
 - 2) Socio-economic impact, the tertiary water is a resource and should be used as such.
 - 3) Land use, if additional storage sites are required, there would be additional land use planning involved to insure that the site is compatible with future use.
 - B 4) Physical environment, that the long-term waterwater plan is safe to the environment and the rate payers.

C I would hope that the alternative of "Ocean Outfall" will not be added as an additional alternative to the study. The additional time required for this study to be completed would be a waste of both time and money.

Thanks for your hard work!

Sincerely,

D. C. Harter
Dennis C. Harter
President

Santa Rosa**Subregional Long-Term Wastewater Project****SCOPING COMMENT FORM**

Due December 5, 1994

Name: _____

Date: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: () _____

How to use:

Please fill out the above information. Please provide your written comments about the Summary EIR/EIS Consultants Draft Scope of Work or the Preliminary Scoping Report on the form below. Please print or write legibly, or attach this form to your typed comments. You may add additional pages of your own if needed. When completed fold the form so the City's address is showing and tape the edge together, (Do not use staples), and drop in the mail.

Comments: _____

*WE UNDERSTAND THAT THE GEYSERS DISCHARGE OPTION
COULD HELP SUSTAIN THE TAX AND OTHER FUNDS THAT
SONOMA COUNTY RECEIVES FROM P.E., VALCAR, AND THE
OTHER COMPANIES AT THE GEYSERS (SHELL, CHEVRON, MIPA, ETC.)
WILL THIS BE STUDIED IN TASK 31, AND CAN SOME OF THOSE
TAXES WILL OFFSET THE RATE IMPACT ON SEWAGE BILLS?*

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 07 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

P.O. Box 1678
Santa Rosa, CA 95407

077

DEC 07 1994

Joel W. Hedgpeth
5660 Montecito Avenue
Santa Rosa CA 95404DEPARTMENT OF
COMMUNITY DEVELOPMENT

7 December 1994

City of Santa Rosa
Planning Department

Wastewater Scoping Plan

Gentlemen:

A
↓

Due to confusion about the location of the meeting last week, I was unable to locate the meeting place the other evening for your scoping session. Perhaps just as well, since the Corps of Engineers spokesman brought up the matter of reconsidering the ocean outfall alternative. It is possible that neither the spokesman nor the people at the San Francisco office are aware of the Oceanographic studies that have been going for the last two decades, although the Corps was involved in the first.

The final report on the pioneer work on the near shore surface of the coastal ocean by Landsat and aerial reconnaissance was published in 1977 (the title pages of this report are included as Exhibit A). It clearly demonstrates the usefulness of aerial photography. While it concerns the entire California coast, it includes detailed observations of the S F Bay area, especially the region between Pt Reyes and the Russian River. This report appears to have been overlooked by most everyone since it is unknown to the Center for Coastal Studies group at Scripps Institution of Oceanography. My copy has been sent to them for copying.

. Apparently the work was distributed to a restricted list and since then forgotten, although it was "Unclassified." There may still be a copy in the S F office of the Engineers. I include a copy of the title pages as Exhibit A. It is still a useful document as it includes the nearshore currents throughout the year. In any event it does not appear that its original data, which consisted of dozens of rolls of 8-inch color film survived the removal of the office from Leavenworth St. I do not know the whereabouts of the authors, or even if they are still alive,

B
↓

In the early 1980's the upwelling region of the California coast was examined, in large part by instruments as part of the CODE project (Coastal Ocean Dynamics Experiment) administered by Oregon State University. This was world wide study including western Africa and South America); the most active and intense

upwelling region was found to be that between Port Arena and Point Reyes, here on the California Coast (see Exhibit B). Many other Oceanographic institutions were involved in this project.

At the present time The Coastal Studies Group at Scripps Institution of Oceanography is studying this area, with special reference to the behavior of the plumes of the upwelling process. On November 10 last Dr Largier presented a progress report of this work at a seminar at the Bodega Marine Laboratory. Some of his diagrams indicated that the plume (the detectable water mass) may begin at depths of 300 feet (50 fathoms) and that it may move up against the shore or at times may float away to the west and be isolated for a period of time. It is this upwelling plume that triggers off the annual spring bloom in the area that makes this region such an important area for fisheries. This work is obviously still in progress, and much of the information is yet to be published.

To qualify the ocean outfall as a viable option it will be necessary for the city to contract for studies comparable in magnitude with the above mentioned studies, especially with reference to the origin and dispersal of plumes that might be affected by the discharge of the sewer system. Since the study involves qualified oceanographers, and vessels, it obviously cannot be done by the present consulting firm. Contracts should be made directly with Scripps (i.e., The University of California) or the Department of Oceanography at Corvallis (Oregon State University) to satisfy the requirements of the State Lands Commission.

The problem of the location of the outfall is also a serious matter, as the State Lands Commission states:

C
J
↓
The outfall and diffuser for the proposed Ocean Disposal Alternative cross into and lie within the San Andreas Rift Zone. During the 1906 event on this fault, horizontal displacements in Marin County approached 16 feet. It is not possible, from an engineering standpoint, to design a pipeline system that will survive a displacement, perpendicular to its length, of such a magnitude. It would seem more than prudent to place the Ocean Disposal outlet further north so that the line will not have to co-exist on the fault.

(SLC to Wayne Goldberg, 2-14-91)

Unfortunately, since the Lands Commission's concern does not extend beyond low tide, they failed to indicate the problems that would beset a mammoth pipe and diffusers even with a mile of shore (which would be entirely too shallow- 15 to 20 miles could be needed). Just where the fault system lies between Mussel Point at Bodega Head and the Russian River remains to be determined. There is, however, a clue: The recently discovered submerged, isolated reef just north of Mussel

Point appears to be a phenomenon of the pressure ridge between the main parts of the fault system, along with the isolated rises south of Olema, Hog Island and the submerged ridge separating Bodega Bay as a sill within Bodega Bay proper. Perhaps the seismic studies conducted in past years by Scripps may indicate further reefs, although they may be too close to shore for major vessels and escaped notice. In any event, a more detailed seismic study is needed.

This was clearly stated at the outset by the State Lands Commission:

D alt

We do not believe that the Ocean Alternative has been analyzed sufficiently to be considered, at present, as an alternative capable of being permitted. The document leaves several studies critical to this alternative's consideration to a later time, for example, extensive oceanographic and biological survey - page 9-88. The document is also inconclusive as to the conformance of the proposal to the Ocean Plan; on page 9-88 the document states: "Based on the above, it is apparent that the Ocean Alternative would meet all of the requirements of the Ocean Plan and would consequently have no significant adverse effects on the marine environment." In the immediately following discussion on a potentially affected State Area of Biological Significance (ASBS), the document states: "...The Ocean Plan requires that all discharge be located such that natural water conditions are maintained in ASBSs. Whether or not the proposed outfall location would meet this Ocean Plan requirement is presently unknown."

This latter potentially significant impact is to be mitigated by "further study". This circumstance, among the others cited, is clearly unsupportable by the findings of *Sundstrom v. County of Mendocino* (1st Dist. 1988) 202 Cal. App. 3d 296 [248 Cal. Rptr. 352] specifically with regard to reliance on illusory mitigation measures such as future studies.

(SLC to Wayne Goldberg 2-14-91)

The matter of Stemple Creek was listed in the Scoping Paper. The State Lands Commission has been careful not to mention Stempel Creek in its list of areas under its jurisdiction, and my inquiry resulted in the correspondence appended in Exhibit C (which also includes the appropriate decision of the U S Supreme Court).

E

This suggests all sorts of complications. If the riparian rights reside with the fee owners of the land in question, the city could find itself obliged to condemn sixty square miles of farmland in the Stemple Creek drainage. This could elevate the cost to ratepayers well beyond distilling all the "wastewater" and conveying it to them free in five gallon bottles.

Very truly yours,

Joel W. Hedgpeth
Joel W. Hedgpeth

cc to interested parties.

Exhibit A

Attachment
#077

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 07 1977

DEPARTMENT OF
COMMUNITY DEVELOPMENT

CALIFORNIA COASTAL PROCESSES STUDY - LANDSAT II
FINAL REPORT
LANDSAT INVESTIGATION #22200

Douglas M. Pirie
Principal Investigator
U.S. Army Engineer District, San Francisco
211 Main Street
San Francisco, California 94105

David D. Steller
Principal Investigator
Earth Science Consulting and Technology
3001 Redhill Avenue, Building II
Costa Mesa, California 92626

March 1977

Final Report

Prepared for:

National Aeronautics and Space Administration
Goddard Space Flight Center
Greenbelt, Maryland 20771

| | | | |
|---|--|--|-----------|
| 1. REPORT NO. | 2. GOVERNMENT ACCESSION NO. | 3. RECIPIENT'S CATALOG NO. | |
| 4. TITLE AND SUBTITLE California Coastal Processes Study - Landsat II, Final Report | | 5. REPORT DATE APRIL 1977 | |
| | | 6. PERFORMING ORGANIZATION CODE LANDSAT - II - III | |
| 7. AUTHOR(S) Pirie, Douglas M, and Steller, David D. | | 8. PERFORMING ORGANIZATION REPORT # | |
| 9. PERFORMING ORGANIZATION NAME AND ADDRESS U.S. Army Engineering District, San Francisco 211 Main Street, San Francisco, CA 94105 and Earth Science Consulting and Technology, Inc. 3001 Red Hill Ave, Bldg. II, Costa Mesa, CA 92626 | | 10. WORK UNIT NO. | |
| | | 11. CONTRACT OR GRANT NO. S54062A | |
| 12. SPONSORING AGENCY NAME AND ADDRESS Mr. Harold Oseroff Code 902 Technical Monitor Goddard Space Flight Center Greenbelt, Maryland 20771 | | 13. TYPE OF REPORT & PERIOD COVERED LANDSAT TYPE III February 75, January 77 | |
| | | 14. SPONSORING AGENCY CODE | |
| 15. SUPPLEMENTARY NOTES | | | |
| 16. ABSTRACT <p>This study reports on the continued use of Landsat data in the analysis and description of long and short-term littoral and nearshore processes along the California coast. The effects of these processes on natural and modified shorelines and the capability to demonstrate the utility of Landsat derived information are important considerations of U.S. Army Corps of Engineers in coastal protection, coastal zone management and engineering planning. The processes studied include sediment transport, river discharge, nearshore currents, and estuarine flushing. Landsat data as well as aerial photography and surface data covering a four year period were analyzed to determine the variability of coastal processes.</p> <p>The specific objectives of this investigation included the determination of sediment transport parameters measureable in the Landsat data and application of this information to everyday coastal planning and construction.</p> <p>By using suspended sediments as tracers, other specific objectives were met by the qualitative definition of the nearshore circulation along the entire coast of California with special study sites at Humboldt Bay, the mouth of the Russian River, San Francisco Bay, Monterey Bay, and the Santa Barbara Channel. Although Landsat primarily imaged fines and silts in the surface waters, the distribution of sediments allowed an examination of upwelling, convergences, and coastal erosion and deposition. In Monterey Bay and Humboldt Bay these coastal phenomena were used to trace seasonal trends in surface currents. These charts may now be used as a source of basic trends and current patterns in establishing detailed surveys. Coastal managers may utilize these charts as a data source for planning locations of outfall structures or other coastal construction projects.</p> | | | |
| 17. KEY WORDS California Coast Coastal Currents Sediment Transport Remote Sensing Image Processing | | 18. DISTRIBUTION STATEMENT | |
| 19. SECURITY CLASSIF. (of this report) UNCLASSIFIED | 20. SECURITY CLASSIF. (of this page) UNCLASSIFIED | 21. NO. OF PAGES 163 | 22. PRICE |

The City of Santa Rosa's Draft EIR for
"wastewater" disposal suggestions.
by Joel W. Hedgpeth
Ocean Outfall Option.

with respect to the Ocean Outfall Alternative, there are many erroneous and/or misleading statements and conclusions. Unfortunately it is late in the day to suggest rejection of this document insofar as the ocean outfall is concerned, but in my expert opinion this part of the EIR should be rejected and a completely new analysis be contracted for with a consulting firm that knows its business, before any decision can be made on this option. The following analysis is confined to two basic matters, which have been cited in support of minimum environmental impact.

1. Lake Mendota is not the Pacific Ocean.

This paragraph is copied without change from page 6-41:

Another consequence of rapid initial dilution would be the submergence of the wastewater/ocean water plume under most conditions. During all but a few months each year the waters of the California coast become stratified. Surface waters are heated by the sun and become less dense. Waters below about 30 feet in depth remain cool and dense. The point at which this change in density and water temperature occurs is referred to as the thermocline. When wastewaters emerge from a diffuser they mix rapidly with the dense bottom waters. The wastewater/ocean water plume rises until its density is equal to that of the surrounding water, usually just below the thermocline. The plume is thus trapped below the warmer, less dense surface waters.

this is a reasonably accurate statement of what happens in Lake Mendota, Wisconsin, where the phenomenon of the thermocline was first described. The paragrath appears to be extracted from a limnology (the study of lakes)

text. It is possible that the person who wrote this had consulted the definition for thermocline in the Encyclopedia of Oceanography (edited by Rhodes W. Fairbridge, Reinhold, 1966), pp. 911-913, which includes a figures 1 & 2 (submitted herewith as Figure 1), diagrams of the conditions in Lake Mendota and the western Atlantic Ocean. Note that figure 1 plainly

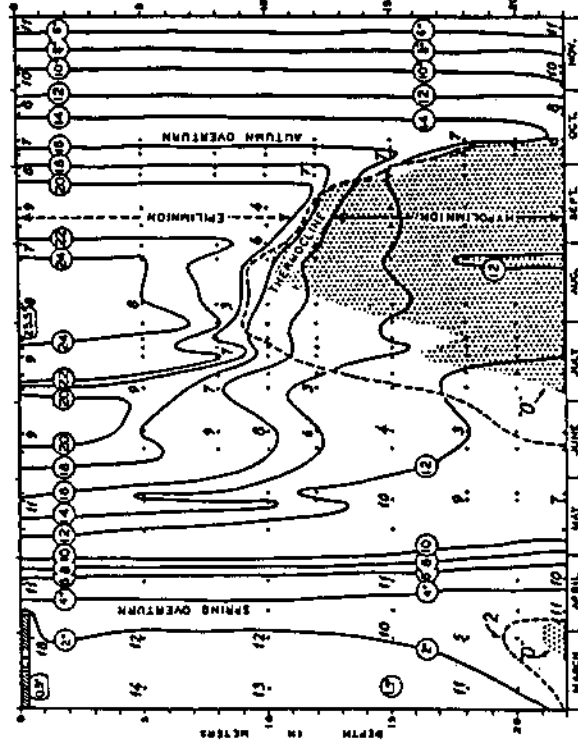


Fig. 1. A lacustrine thermocline, from the type locality. A seasonal cycle of temperature conditions in Lake Mendota (Wisconsin), a small cold latitude lake, is displayed by the solid lines. The sloping figures indicate oxygen conditions. An anaerobic condition (indicated by dots) develops below the thermocline in summer (from C. H. Mortimer in "E. A. Birge," by G. C. Sclafery 1956, Univ. of Wisconsin Press, Wisconsin).

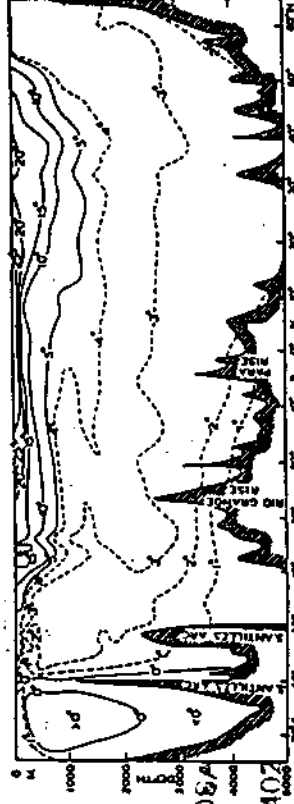


Fig. 2. Vertical section showing the distribution of temperature in the Western Atlantic Ocean. The best developed thermocline can be seen in the 15-25° isolines between 15°N and 15°S (after Wüst; taken from Sverdrup, Johnson, and Fleming, 1942).

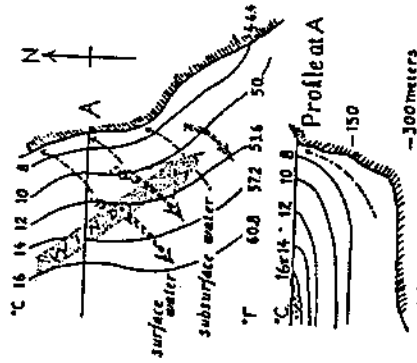
CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95407

20

DEPARTMENT OF
COMMUNITY DEVELOPMENT

indicated depth is stated to be 10 meters, which is ca. 30 feet.

Where in any ocean in the world is there a stable thermocline that acts as a "lid" to "trap" a wastewater plume "below" the warmer, less dense surface waters." On the California coast the predominant phenomenon is upwelling, and this upwelling is more intense and persistent between Point Arena and Point Reyes. Upwelling is basically the upward movement of subsurface water to the surface to replace the surface water that is pushed offshore by the wind (the water does not move directly in front, but is off to the right of the wind in these latitudes). Subsurface water is moved up from depths of 200 meters (100 fathoms or 600 feet) or more in this process, and accounts for the very cold spring and summer ocean temperatures on our coast. See figure 2. During 1981-1982 detailed studies



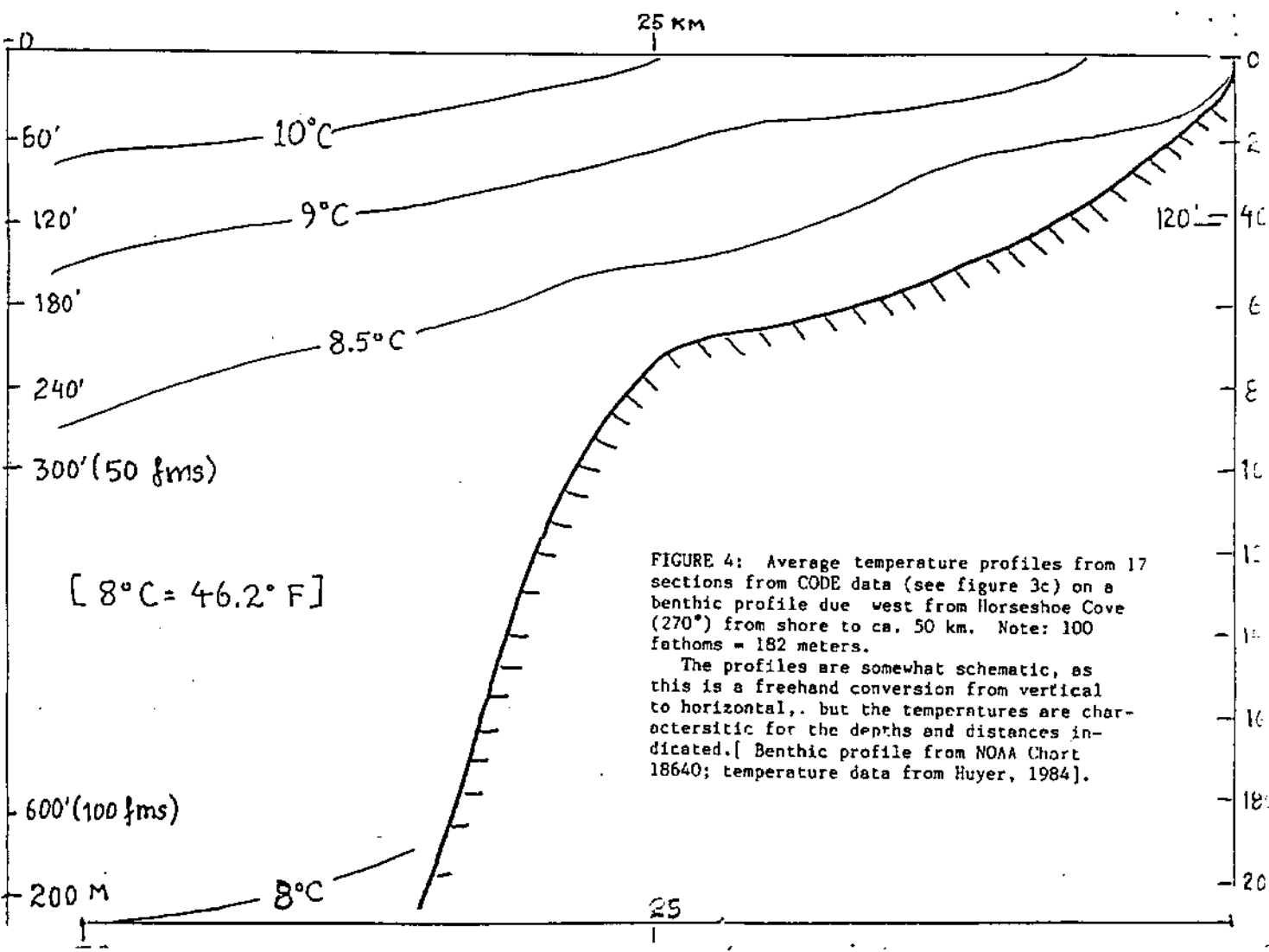
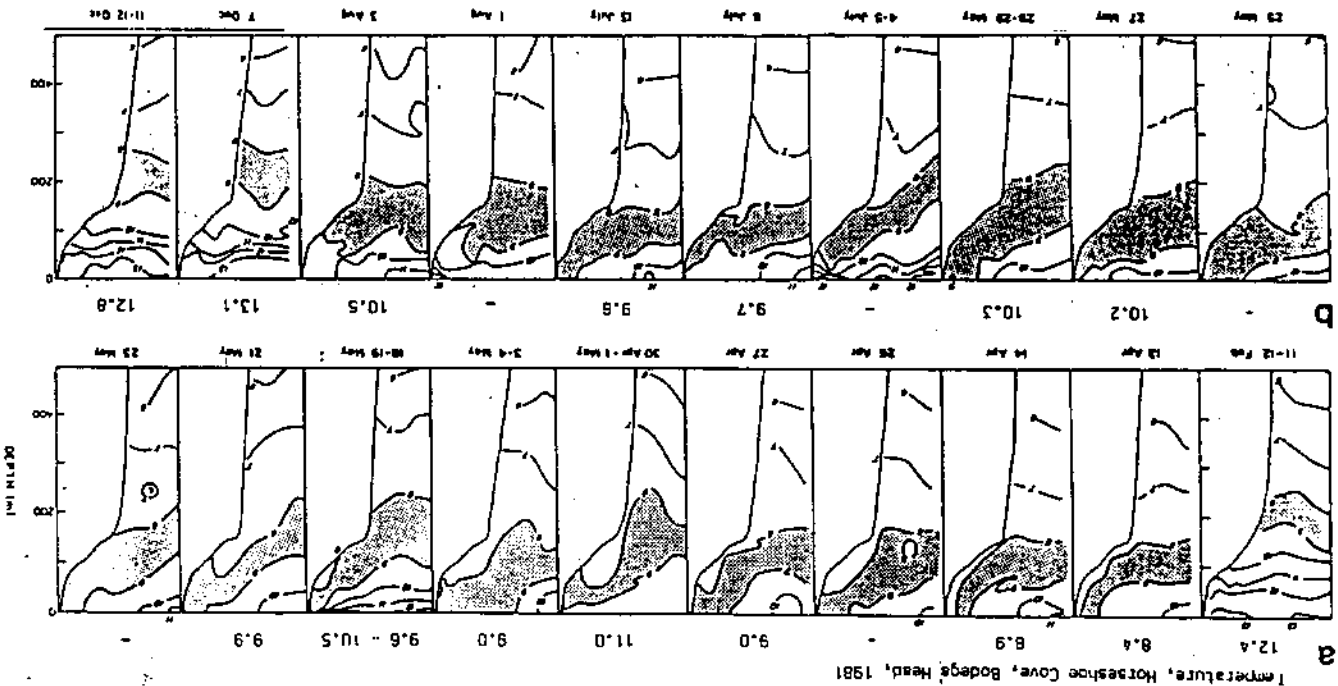
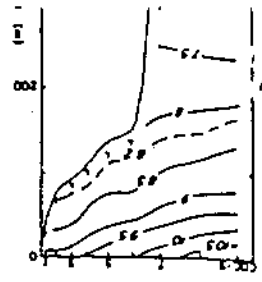
How upwelling occurs

Figure 2. The upwelling process [schematic]. From Hedgpeth, J. W., Seashore Life of the San Francisco Bay Region & c., Univ. California Press, 1962.

several other parts of the world. This project is called the Coastal Ocean Dynamics Experiment (CODE), and no one should reach decisions about ocean outfalls in the California coastal environment, especially between Point Arena and Point Reyes, without studying the many publications that have resulted from, and continue to be published about, this study. Figure 3 is based on the data lines running southwest from the shore from Point Arena, the southernmost line, starting at about Fort Ross, ends seaward of Bodega Head. Figure 4 is a simplified adaptation of the average temperature distribution during the study period. It will be noted that in order to get below the 8 degree Centigrade isotherm an outfall should be at about 200 meters, approximately 32 km or 20 miles out from the shore.

In terms of the oceanic environment, these are actually small numbers, as great as they may seem when compared with Lake Mendota, a small lake or large pond at the edge of the University of Wisconsin campus with a maximum depth of about 90 feet. With respect to the immediate environment of concern, the best available summary is this concluding statement from the paper by Adriana Huyer, published several years ago:

FIGURE 3. a-b: Vertical-offshore distribution of temperature along the Central line (from See Ranch SW to latitude of Pt Reyes). The band between 8-9°C is shaded. c: average temperature from 17 sections along the line between April 13 and August 3, 1981. From A. Huyer, Journal Physical Oceanography, vol. 16, no. 10, figs. 3 & 4. Surface temperatures from Horseshoe Cove sea water intake at Bodega Marine Laboratory from Data Report Surface Water Temperature at Bodega



7.

The region between Pt. Arena and Pt. Reyes where the Coastal Ocean Dynamics Experiment was conducted has the strongest upwelling-favorable winds in the entire California Current system (Huyer, 1983); the spring-summer seasonal mean alongshore wind stress here exceeds the comparable values off central Oregon, Northwest Africa and Peru, the sites of previous intensive upwelling studies (Smith, 1981). These very strong winds are reflected in the maps of sea surface temperature off California issued weekly by the National Weather Service which consistently show a surface temperature minimum at the coast between Pt. Arena and Pt. Reyes (L. Breaker, personal communication, 1983). Although offshore surface temperatures far (~500 km) from the coast increase southwards at the rate of about 1°C per 100 km (Robinson, 1976), the minimum inshore surface temperatures (<8°C) in this region are actually slightly lower than those observed in the upwelling region off central Oregon, 650 km to the north. The annual mean dynamic height of 76 dyn cm at the coast (estimated from the 1981 mean adjusted sea level at Arena Cove and Fig. 11) is lower than any other value along the entire eastern shore of the North Pacific Ocean (Reid and Mantyla, 1976). Thus, the mean conditions described here are from an exceptional rather than a typical stretch of the North American west coast.

Huyer, A. 1984. Hydrographic observations along the CODE central line off central California. *Journal Physical Oceanography*, vol. 14, pp. 1647-1659.

2. Not all laboratories are alike.

On page 6-43 we find this paragraph:

It has been suggested that introduction of a municipal wastewater discharge to the Sonoma Coast would make the area no longer suitable for marine research by students and faculty at the Bodega Marine Laboratory. There is no reason to believe this would be true as other similar institutions (Moss Landing Marine Laboratory, for example) appear to function successfully in the vicinity of wastewater discharges.

This indicates a total lack of comprehension of the nature of these laboratories and their function. To begin with, Moss Landing cannot function as Bodega. The ambient sea water at Moss Landing is unusable for mariculture, which is one of the principal activities at Bodega, and must use water from a well in the sand. It is not possible to maintain animals in the sea water system at Moss Landing for more than a week. One reason for this is that plankton is filtered out so plankton feeders cannot survive. Clean, upwelled water is one of Bodega Marine Laboratory's great assets. Many of the kinds of studies done at Bodega that require rocky shores or obtaining fresh material from the environment are impossible at Moss Landing because it is on a sandy beach. Students have to drive south of Monterey for shore areas similar to those at Bodega. A sea water system to bring more adequate water into Moss Landing would cost several hundred thousand dollars.

Exhibit B

The City of Santa Rosa's Draft EIR for
"wastewater" disposal suggestions.
by Joel W. Hedgpeth
Ocean Outfall Option.

With respect to the Ocean Outfall Alternative, there are many erroneous and/or misleading statements and conclusions. Unfortunately it is late in the day to suggest rejection of this document insofar as the ocean outfall is concerned, but in my expert opinion this part of the EIR should be rejected and a completely new analysis be contracted for with a consulting firm that knows its business, before any decision can be made on this option. The following analysis is confined to two basic matters, which have been cited in support of minimum environmental impact.

1. Lake Mendota is not the Pacific Ocean.

This paragraph is copied without change from page 6-41:

Another consequence of rapid initial dilution would be the submergence of the wastewater/ocean water plume under most conditions. During all but a few months each year the waters of the California coast become stratified. Surface waters are heated by the sun and become less dense. Waters below about 30 feet in depth remain cool and dense. The point at which this change in density and water temperature occurs is referred to as the thermocline. When wastewaters emerge from a diffuser they mix rapidly with the dense bottom waters. The wastewater/ocean water plume rises until its density is equal to that of the surrounding water, usually just below the thermocline. The plume is thus trapped below the warmer, less dense surface waters.

This is a reasonably accurate statement of what happens in Lake Mendota, Wisconsin, where the phenomenon of the thermocline was first described. The paragraph appears to be extracted from a limnology (the study of lakes)

text. It is possible that the person who wrote this had consulted the definition for thermocline in The Encyclopedia of Oceanography (edited by Rhodes W. Fairbridge, Reinhold, 1966), pp. 911-913, which includes as figures 1 & 2 (submitted herewith as Figure 1), diagrams of the condition in Lake Mendota and the western Atlantic Ocean. Note that figure 1 plainly

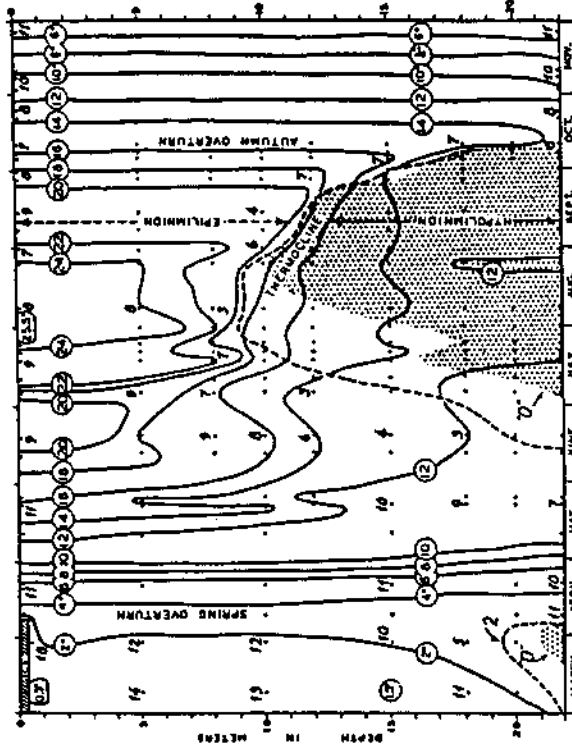


Fig. 1. A lacustrine thermocline, from the type locality. A seasonal cycle of temperature conditions in Lake Mendota (Wisconsin), a small cool latitude lake, is displayed by the solid lines. The sloping figures indicate oxygen conditions. An anoxic condition (indicated by dots) develops below the thermocline in summer (from C. H. Mortimer in "E. A. Birge," by G. C. Sillery 1956, Univ. of Wisconsin Press, Wisconsin).



Fig. 2. Vertical section showing the distribution of temperature in the Western Atlantic Ocean. The best developed thermocline can be seen in the 15-25° latitudes between 15°N and 15°S (after Whit, taken from Sverdrup, Johnson, and Fleming, 1942).

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95407
JUL 6 7 1994

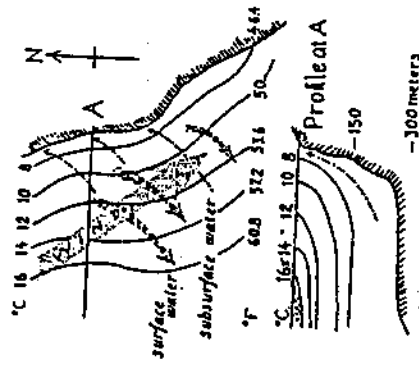
DEPARTMENT OF
COMMUNITY DEVELOPMENT

... (pertaining to lakes) thermocline" and that the indicated depth is stated to be 10 meters, which is ca. 30 feet.

where in any ocean in the world is there a stable thermocline that tions as a "lid" to "trap" a wastewater plume "below the warmer, less e surface waters." On the California coast the predominant phenomenon pelling, and this upwelling is more intense and persistent between t Arena and Point Reyes. Upwelling is basically the upward movement of subsurface water to the surface to replace the surface water that is in offshore by the wind (the water does not move directly in front, but ; off to the right of the wind in these latitudes). Subsurface water ved up from depths of 200 meters (100 fathoms or 600 feet) or more in process, and accounts for the very cold spring and summer ocean ratures on our coast. See figure 2. During 1981-1982 detailed studies

several other parts of the world. This project is called the Coastal Ocean Dynamics Experiment (CODE), and no one should reach decisions about ocean outfalls in the California coastal environment, especially between Point Arena and Point Reyes, without studying the many publications that have resulted from, and continue to be published about, this study. Figure 3 is based on the data lines running southwest from the shore from Point Arena; the southernmost line, starting at about Fort Ross, ends seaward of Bodega Head. Figure 4 is a simplified adaptation of the average temperature distribution during the study period. It will be noted that in order to get below the 8 degree Centigrade isotherm an outfall should be at about 200 meters, approximately 32 km or 20 miles out from the shore.

In terms of the oceanic environment, these are actually small numbers, as great as they may seem when compared with Lake Mendota, a small lake or large pond at the edge of the University of Wisconsin campus with a maximum depth of about 90 feet. With respect to the immediate environment of concern, the best available summary is this concluding statement from the paper by Adriana Huyer, published several years ago:



How upwelling occurs

Figure 2. The upwelling process [schematic]. From Hedgpeth, J. W., Seashore Life of the San Francisco Bay Region & c., Univ. California Press, 1962.

FIGURE 3. a-b: Vertical-offshore distribution of temperature along the Central Line (from See Ranch SW to latitude of Pt Keyes). The band between 8-9°C is shaded. c: average temperature from 17 sections along the line between April 13 and August 3, 1981. From A. Huyer, Journal Physical Oceanography, vol. 14, no. 10, figs. 3 & 4. Surface temperatures from Horseshoe Cove sea water intake at Bodega Marine Laboratory from Data Report Surface Water Temperature at Bodega Marine Laboratory.

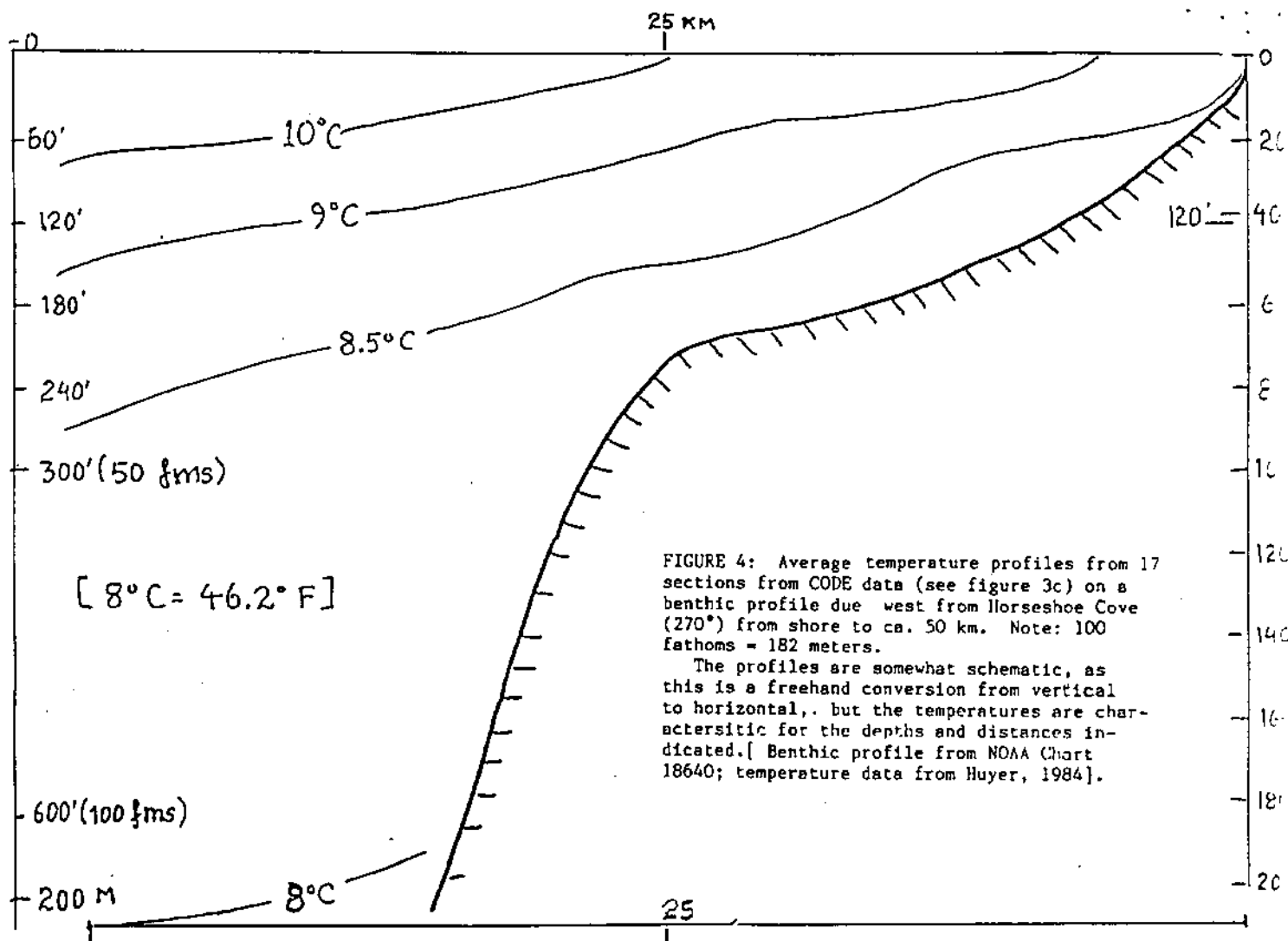
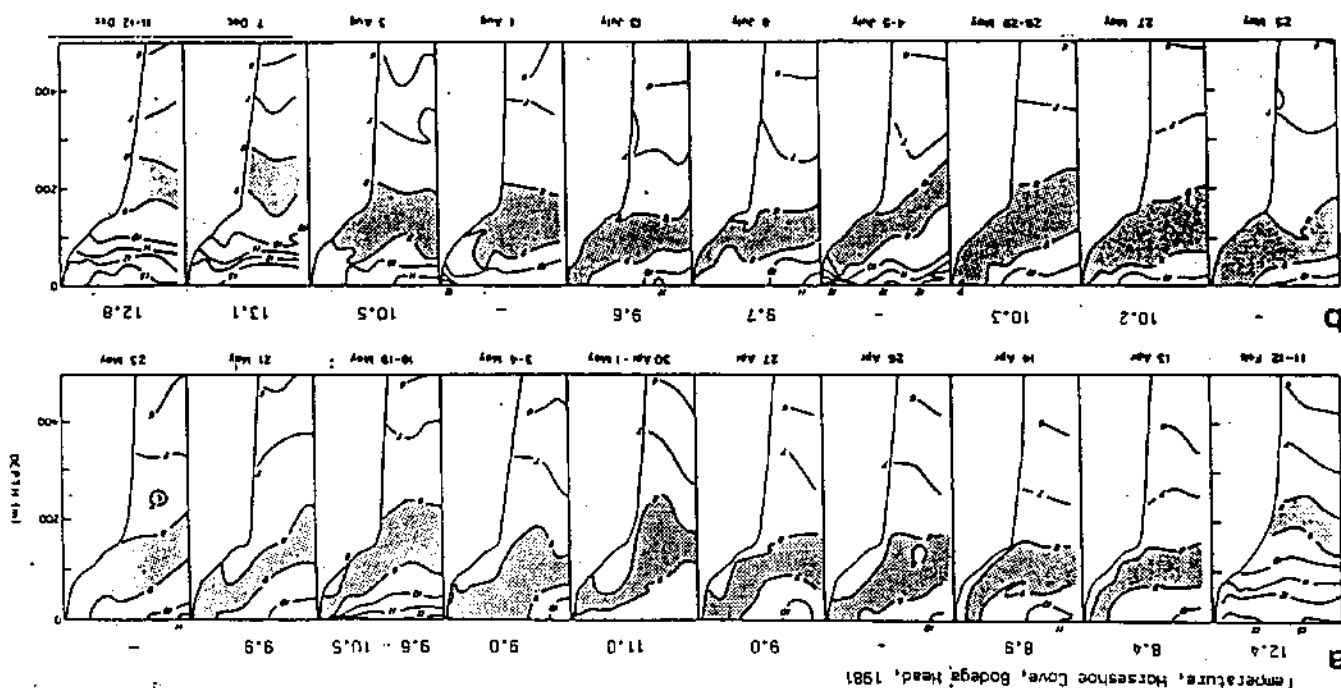


FIGURE 4: Average temperature profiles from 17 sections from CODE data (see figure 3c) on a benthic profile due west from Horseshoe Cove (270°) from shore to ca. 50 km. Note: 100 fathoms = 182 meters.

The profiles are somewhat schematic, as this is a freehand conversion from vertical to horizontal, but the temperatures are characteristic for the depths and distances indicated. [Benthic profile from NOAA Chart 18640; temperature data from Huyer, 1984].

4. The region between Pt. Arena and Pt. Reyes where the Coastal Ocean Dynamics Experiment was conducted has the strongest upwelling-favorable winds in the entire California Current system (Huyer, 1983); the spring-summer seasonal mean alongshore wind stress here exceeds the comparable values off central Oregon, Northwest Africa and Peru, the sites of previous intensive upwelling studies (Smith, 1981). These very strong winds are reflected in the maps of sea surface temperature off California issued weekly by the National Weather Service which consistently show a surface temperature minimum at the coast between Pt. Arena and Pt. Reyes (L. Breaker, personal communication, 1983). Although offshore surface temperatures far (~500 km) from the coast increase southwards at the rate of about 1°C per 100 km (Robinson, 1976), the minimum inshore surface temperatures (<8°C) in this region are actually slightly lower than those observed in the upwelling region off central Oregon, 650 km to the north. The annual mean dynamic height of 76 dyn cm at the coast (estimated from the 1981 mean adjusted sea level at Arena Cove and Fig. 11) is lower than any other value along the entire eastern shore of the North Pacific Ocean (Reid and Mantyla, 1976). Thus, the mean conditions described here are from an exceptional rather than a typical stretch of the North American west coast.

uyet, A. 1984. Hydrographic observations along the COOE central line off
thern California. Journal Physical Oceanography , vol.14, pp.1647-1658.

2, Not all laboratories are alike.

On page 6-43 we find this paragraph:

It has been suggested that introduction of a municipal wastewater discharge to the Sonoma Coast would make the area no longer suitable for marine research by students and faculty at the Bodega Marine Laboratory. There is no reason to believe this would be true as other similar institutions (Moss Landing Marine Laboratory, for example) appear to function successfully in the vicinity of wastewater discharges.

This indicates a total lack of comprehension of the nature of these laboratories and their function. To begin with, Moss Landing cannot function as Bodega. The ambient sea water at Moss Landing is unusable for mariculture, which is one of the principal activities at Bodega, and must use water from a well in the sand. It is not possible to maintain animals in the sea water system at Moss Landing for more than a week. One reason for this is that plankton is filtered out so plankton feeders cannot survive. Clean, upwelled water is one of Bodega Marine Laboratory's great assets. Many of the kinds of studies done at Bodega that require rocky shores or obtaining fresh material from the environment are impossible at Moss Landing because it is on a sandy beach. Students have to drive south of Monterey for shore areas similar to those at Bodega. A sea water system to bring more adequate water into Moss Landing would cost several hundred thousand dollars.

Exhibit C

February 22, 1994

File Ref.: W24602

Mr. Joel W. Hedgpeth
5660 Montecito Avenue
Santa Rosa, California 95404

Dear Mr. Hedgpeth:

I have been asked to respond to your letter to Mr. Charles Warren concerning proposals by the City of Santa Rosa to develop a water reclamation project involving the Stemple Creek area. We first learned of this project in 1987 upon receipt of the City's Draft Environmental Impact Report for a Long-Range Wastewater Management Plan. I have enclosed for your reference copies of relevant correspondence from this office; which, as you will see, focuses primarily on the adequacy of the DEIR, and upon the need for a State Lands Commission permit for portions of the project.

The Commission has jurisdiction over State owned sovereign lands in the beds of tidal and navigable waterways. Examples include, but are not limited to, the beds of the Pacific Ocean, Tomales Bay, Estero Americano, and portions of the Russian River. A preliminary review of our records has not revealed conclusive evidence of the extent of tidality in or the navigability of Stemple Creek. However, it does appear that Stemple Creek may have been confirmed into private ownership as part of Rancho Molinas. In such case, the State may be precluded from asserting any ownership interest in the bed of Stemple Creek pursuant to the court's ruling in *Summa Corporation v. State of California et al.*, 466 U.S. 198.

Given these circumstances, we have indicated that Commission permit requirements will apply to outfalls included in Alternatives 3 and 4 studied in the DEIR, and may apply to portions of a pipeline included in Alternative 4. As of this date, we have not received a permit application from the City.

This letter is not intended to be, nor should it be construed as a waiver or limitation of any sovereign interests of the State of California in lands under its jurisdiction.

Joel W. Hedgpeth

-2-

February 22, 1994

I hope this information has been of assistance. Please feel free to call me at (916) 445-1012, or Dave Plummer, Public Land Manager, at (916) 322-0595, if you have any questions.

Sincerely,

Jane Sekelsky
JANE SEKELSKY, Chief
Division of Land Management

Joel W. Hedgpeth
5660 Montecito Avenue
Santa Rosa CA 95404

April 5, 1994

Jane Sekelsky,
State Lands Commission
1807 13th Street
Sacramento, CA 95814

Subject: yr letter Feb 22, File W24602

Dear Chief Sekelsky:

Thank you for your interesting letter, which arrived in the midst of other distractions.

The last six miles of Stemple Creek constitute the Estero San Antonio, which does have strong tidal action when not closed from the ocean by a seasonal sand bar. Since it is now part of a federal marine sanctuary, I suppose the matter of whatever rights are involved has been settled.

As I am not a lawyer, my thoughts may be naive, but I presume that water rights for Stemple Creek are the property of the "fee owners," which would suggest that were the City of Santa Rosa to get as far as its dam on Stemple Creek, it would have to condemn downstream ranches for their riparian rights if they wanted to use Stemple Creek as a sewer ditch. Could they separate these rights from the adjacent or enclosing land, or would they have to include all the property involved? (The faculty report on the project indicated that the city's plans included restriction of access to their approved research projects only, with consent of the owners as well as the university).

Would property owners downstream be able to oppose the project on the grounds of using water from another drainage basin after processing it in a sewage treatment plant? Certainly if an event of heavy pollution were to occur, it would reduce the value of the property. That could bring up the reason for the 1884 hydraulic mining decision- no one should use his land in a way that damages his neighbor.

Sincerely yours.

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa CA 95402

6-6-94 7 1534

DEPARTMENT OF
COMMUNITY DEVELOPMENT

HEADNOTES

Classified to U.S. Supreme Court Digest, Lawyers' Edition

Private Land Claims § 194 — federal patents — state easement

1a-1d. A California public trust easement, which applies to all land which were tidelands when California became a state, irrespective of the present character of the land, which gives the state an overriding power to enter upon the property and possess it, to make physical changes in the property, and to control how the property is used, and which allows the landowner to retain legal title but allows him control of little more than the naked fee, since any proposed private use is subject to the right of the state or any member of the public to assert the state's public trust easement, cannot survive the patent proceedings conducted pursuant to the Act of March 3, 1851 (9 Stat 631) implementing the Treaty of Guadalupe Hidalgo and confirming title to the original Mexican grantees.

Appeal and Error § 520 — jurisdiction — federal question

2a, 2b. While questions of riparian rights under federal patents issued under the Act of March 3, 1851 (9 Stat 631) do not raise a substantial federal question merely because the

conflicting claims are based on such patents, a case is within the United States Supreme Court's jurisdiction where the question presented is whether the provisions of the 1851 Act operate to preclude California from asserting a public trust easement over a lagoon patented thereunder to the original Mexican grantees.

States, Territories, and Possessions § 120 — equal footing

3. The Federal Government cannot dispose of a right possessed by the state under the equal footing doctrine of the United States Constitution.

Waters § 14 — tidelands — federal patent

4. An ordinary federal patent purporting to convey tidelands located within a state to a private individual is invalid, since the United States holds such tidelands only in trust for the state.

Waters § 31 — beds — conveyance

5a, 5b. While alienation of the beds of navigable waters will not be lightly inferred, property underlying navigable waters can be conveyed in recognition of an international duty.

TOTAL CLIENT-SERVICE LIBRARY[®] REFERENCE

78 Am Jur 2d, Waters § 402

US L Ed Digest, Private Land Claims § 194; Waters §§ 14, 31

L Ed Index to Annos, Waters

ALR Quick Index, Waters and Watercourses

Federal Quick Index, Waters and Watercourses

Auto-Cite[®]: Any case citation herein can be checked for form, parallel references, later history and annotation references through the Auto-Cite computer research system.

[466 US 198]
SUMMA CORPORATION, Petitioner

v

CALIFORNIA ex rel. STATE LANDS COMMISSION AND CITY OF LOS ANGELES

466 US 198, 80 L Ed 2d 237, 104 S Ct 1751

[No. 82-708]

Argued February 29, 1984. Decided April 17, 1984.

Decision: Lagoon whose title was confirmed by federal patent to original Mexican grantees held not subject to public trust easement.

SUMMARY

The city of Los Angeles brought a state court suit against the fee owner of the Ballona Lagoon, joining the state of California as a defendant as required by state law, and asserting an easement in the Ballona Lagoon. The state filed a cross complaint alleging that upon its admission to the union it had acquired an interest in the lagoon, that it held this interest in trust for the public, and that it had granted this interest to the city of Los Angeles. The trial court ruled in favor of the city and the state, finding that the lagoon was subject to the public trust easement claimed by them, so as to give them the right to construct improvements in the lagoon without exercising the power of eminent domain or compensating the owners. The Supreme Court of California affirmed the trial court's ruling (31 Cal 3d 288).

On certiorari, the United States Supreme Court reversed. In an opinion by REHNQUIST, J., expressing the views of BURGER, CH. J., and BRENNAN, WHITE, BLACKMUN, POWELL, STEVENS and O'CONNOR, JJ., it was held that even assuming that Ballona Lagoon was part of tidelands subject by Mexican law to the public trust easement, the state's claim to such a servitude must have been presented in the federal patent proceeding in order to survive the issue of a fee patent to the original Mexican grantees.

MARSHALL, J., did not participate.

Briefs of Counsel, p 867, infra.

SYLLABUS BY REPORTER OF DECISIONS

Petitioner owns the fee title to the Ballona Lagoon, a narrow body of water connected to a manmade harbor located in the city of Los Angeles on the Pacific Ocean. The lagoon became part of the United States following the war with Mexico, which was formally ended by the Treaty of Guadalupe Hidalgo in 1848. Petitioner's predecessors-in-interest had their interest in the lagoon confirmed in federal patent proceedings pursuant to an 1851 Act that had been enacted to implement the treaty, and that provided that the validity of claims to California lands would be decided according to Mexican law. California made no claim to any interest in the lagoon at the time of the patent proceedings, and no mention was made of any such interest in the patent that was issued. Los Angeles brought suit against petitioner in a California state court, alleging that the city held an easement in the Ballona Lagoon for commerce, navigation, fishing, passage of fresh water to canals, and water recreation, such an easement having been acquired at the time California became a State. California was joined as a defendant as required by state law and filed a cross-complaint alleging that it had acquired such an easement upon its admission to the Union and had granted this interest to the city. The trial court ruled in favor of the city and State, finding that the lagoon was subject to the

claimed public trust easement. The California Supreme Court affirmed, rejecting petitioner's arguments that the lagoon had never been tideland, that even if it had been, Mexican law imposed no servitude on the fee interest by reason of that fact, and that even if it were tideland and subject to servitude under Mexican law, such a servitude was forfeited by the State's failure to assert it in the federal patent proceedings.

Held: California cannot at this late date assert its public trust easement over petitioner's property, when petitioner's predecessors-in-interest had their interest confirmed without any mention of such an easement in the federal patent proceedings. The interest claimed by California is one of such substantial magnitude that regardless of the fact that the claim is asserted by the State in its sovereign capacity, this interest must have been presented in the patent proceedings or be barred. Cf. *Barker v Harvey*, 181 US 481, 45 L Ed 963, 21 S Ct 690; *United States v Title Ins. & Trust Co.*, 265 US 742, 68 L Ed 2d 1110, 44 S Ct 621; *United States v Coronado Beach Co.*, 255 US 472, 65 L Ed 736, 41 S Ct 378.

31 Cal 3d 288, 644 P2d 792, reversed and remanded.

Rehnquist, J., delivered the opinion of the Court, in which all other Members joined except Marshall, J., who took no part in the decision of the case.

APPEARANCES OF COUNSEL

Warren M. Christopher argued the cause for petitioner.

Louis F. Claiborne argued the cause for the United States as amicus curiae, by special leave of Court.

Nancy Alvarado Saggese argued the cause for respondents.

Briefs of Counsel, p 867, infra.

OPINION OF THE COURT

Justice Rehnquist delivered the opinion of the Court.

Petitioner owns the fee title to property known as the Ballona Lagoon, a narrow body of water connected to Marina del Rey, a manmade harbor located in a part of the city of

[466 US 200]

Los Angeles called Venice. Venice is located on the Pacific Ocean between the Los Angeles International Airport and the city of Santa Monica. The present case arises from a lawsuit brought by respondent city of Los Angeles against petitioner Summa Corp. in state court, in which the city alleged that it held an easement in the Ballona Lagoon for commerce, navigation, and fishing, for the passage of fresh waters to the Venice Canals, and for water recreation. The State of California, joined as a defendant as required by state law, filed a cross-complaint alleging that it had acquired an interest in the lagoon for commerce, navigation, and fishing upon its admission to the Union, that it held this interest in trust for the public, and that it had granted this interest to the city of Los Angeles. The city's complaint indicated that it wanted to dredge the lagoon and make other improvements without having to exercise its power of eminent domain over petitioner's property. The trial court ruled in favor of respondents, finding that

[1a, 2a] In the Supreme Court of California, petitioner asserted that the Ballona Lagoon had never been tideland, that even if it had been tideland, Mexican law imposed no servitude on the fee interest by reason of that fact, and that even if it were tideland and subject to a servitude under Mexican law, such a servitude was forfeited by the failure of the State to assert it in the federal patent proceedings. The Supreme Court of California ruled against petitioner on all three of these grounds. We granted certiorari, 460 US 1036, 75 L Ed 2d 786, 103 S Ct 1425 (1983), and now reverse that judgment, holding that even if it is assumed that the Ballona Lagoon was part of tidelands subject by Mexican law to the servitude described by the Supreme

(466 US 201)

Court of California, the State's claim to such a servitude must have been presented in the federal patent proceeding in order to survive the issue of a fee patent.'

1. [2b] Respondents argue that the decision below presents simply a question concerning an incident of title, which even though relating to a patent issued under a federal statute raises only a question of state law. They rely on cases such as *Hooker v Los Angeles*, 184 US 314, 47 L Ed 487, 23 S Ct 395 (1903), *Los Angeles Milling Co. v Los Angeles*, 217 US 217, 54 L Ed 736, 30 S Ct 452 (1910), and *Boquillas Land & Cattle Co. v Curtis*, 213 US 339, 53 L Ed 822, 29 S Ct 493 (1909). These

cases all held, quite properly in our view, that questions of riparian water rights under patents issued under the 1851 Act did not raise a substantial federal question merely because the conflicting claims were based upon such patents. But the controversy in the present case, unlike these cases, turns on the proper construction of the Act of March 3, 1851. Were the rule otherwise, this Court's decision in *Barker v Harvey*, 181 US 481, 45 L Ed 963, 21 S Ct 690 (1901), would have been to dis-

[466 US 202]

Petitioner's title to the lagoon, like all the land in Marina del Rey, dates back to 1839, when the Mexican Governor of California granted to Augustin and Ignacio Machado and Felipe and Tomas Talamantes a property known as the Rancho Ballona.² The land comprising the Rancho Ballona became part of the United States following the war between the United States and Mexico, which was formally ended by the Treaty of Guadalupe Hidalgo in 1848, 9 Stat 922. Under the terms of the Treaty of Guadalupe Hidalgo the

miss the appeal, which was the course taken in Hooker, rather than to decide the case on the merits. See also *Beard v Federy*, 3 Wall 478, 18 L Ed 98 (1866). The opinion below clearly recognized as much, for the California Supreme Court wrote that "under the Act of 1851, the federal government succeeded to Mexico's right in the tidelands granted to defendants' predecessors upon annexation of California," 31 Cal 3d, at 298, 644 P2d, at 798, an interest that "was acquired by California upon its admission to statehood," *id.*, at 302, 644 P2d, at 801. Thus, our jurisdiction is based on the need to determine whether the provisions of the 1851 Act operate to preclude California from now asserting its public trust easement.

The 1839 grant to the Machados and Talamantes contained a reservation that the grantees may enclose the property "without prejudice to the traversing roads and servitudes [*servidumbres*]." App 5. According to expert testimony at trial, under *Las Siete Partidas*, the law in effect at the time of the Mexican grant, this reservation in the Machados' and Talamantes' grant was intended to preserve the rights of the public in the tidelands enclosed by the boundaries of the Rancho Ballona. The California Supreme Court reasoned that this interest was similar to the common-law public trust imposed on tidelands. Petitioner and amicus United States argue, however, that this reservation was never intended to create a public trust easement of the magnitude now asserted by California. At most this reservation was inserted in the Mexican grant simply to preserve existing roads and paths for use by the public. See *United States v Coronado Beach Co.* 255 US 472, 485-486, 65 L Ed 736, 41 S Ct 378 (1921);

United States undertook to protect the property rights of Mexican landowners, Treaty of Guadalupe Hidalgo, Art VIII, 9 Stat 929, at the same time settlers were moving into California in large numbers to exploit the mineral wealth and other resources of the new territory. Mexican grants encompassed well over 10 million acres in California and included some of the best land suitable for development. HR Rep No. 1, 33d Cong, 2d Sess, 4-5 (1854). As we wrote long ago:

[466 US 203]

"The country was new, and rich in

Barker v Harvey, supra; cf. *Jover v Insular Government*, 221 US 623, 55 L Ed 884, 31 S Ct 664 (1911). While it is beyond cavil that we may take a fresh look at what Mexican law may have been in 1839, see *United States v Perot*, 98 US 428, 430, 25 L Ed 251 (1879); *Fremont v United States*, 17 How 542, 556, 15 L Ed 241 (1855), we find it unnecessary to determine whether Mexican law imposed such an expansive easement on grants of private property.

2. The Rancho Ballona occupied an area of approximately 14,000 acres and included a tidelands area of about 2,000 acres within its boundaries. The present-day Ballona Lagoon is virtually all that remains of the former tidelands, with filling and development or natural conditions transforming most of much larger lagoon area into dry land. Although respondent Los Angeles claims that the present controversy involves only what remains of the old lagoon, a fair reading of California law suggests that the State's claimed public trust servitude can be extended over land no longer subject to the tides if the land was tidelands when California became a State. See *City of Long Beach v Mansell*, 3 Cal 3d 462, 476 P2d 423 (1970).

The Mexican grantees acquired title through a formal process that began with a petition to the Mexican Governor of California. Their petition was forwarded to the City Council of Los Angeles, whose committee on vacant lands approved the request. Formal vesting of title took place after the Rancho had been inspected, a Mexican judge had completed "walking the boundaries," App 213, and the conveyance duly registered. See generally *id.*, at 1-13; *United States v Pico*, 5 Wall 536, 539, 18 L Ed 635 (1867).

mineral wealth, and attracted settlers, whose industry and enterprise produced an unparalleled state of prosperity. The enhanced value given to the whole surface of the country by the discovery of gold, made it necessary to ascertain and settle all private land claims, so that the real estate belonging to individuals could be separated from the public domain." *Peralta v United States*, 3 Wall 434, 439, 18 L Ed 221 (1866). See also *Botiller v Dominguez*, 130 US 238, 244, 32 L Ed 926, 9 S Ct 525 (1889).

To fulfill its obligations under the Treaty of Guadalupe Hidalgo and to provide for an orderly settlement of Mexican land claims, Congress passed the Act of March 3, 1851, setting up a comprehensive claims settlement procedure. Under the terms of the Act, a Board of Land Commissioners was established with the power to decide the rights of "each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican government " Act of Mar. 3, 1851, § 8, ch 41, 9 Stat 632. The Board was to decide the validity of any claim according to "the laws, usages, and customs" of Mexico, § 11, while parties before the Board had the right to appeal to the District Court for a *de novo* determination of their rights, § 9; *Grisar v McDowell*, 6 Wall 363, 375,

18 L Ed 863 (1868), and to appeal to this Court, § 10. Claimants were required to present their claims within two years, however, or have their claims barred. § 13; see *Botiller v Dominguez*, 130 US 238, 32 L Ed 926, 9 S Ct 525 (1889). The final decree of the Board, or any patent issued under the Act, was also a conclusive adjudication of the rights of the claimant as against the United States, but not against the interests of third parties with superior titles. § 15.

In 1852 the Machados and the Talamantes petitioned the Board for confirmation of their title under the Act. Following a hearing, the petition was granted by the Board, App 21, and affirmed by the United States District Court on appeal, [466 US 204]

id., at 22-23. Before a patent could issue, however, a survey of the property had to be approved by the Surveyor General of California. The survey for this purpose was completed in 1858, and although it was approved by the Surveyor General of California, it was rejected upon submission to the General Land Office of the Department of the Interior. *Id.*, at 32-34.

In the confirmation proceedings that followed, the proposed survey was readvertised and interested parties informed of their right to participate in the proceedings.³ The prop-

3. It is plain that the State had the right to participate in the patent proceedings leading to confirmation of the Machados' and Talamantes' grant. The State asserts that as a "practice" it did not participate in confirmation proceedings under the 1851 Act. Brief for Respondent California 16, n 17. In point of fact, however, the State and the city of Los Angeles participated in just such a proceeding involving a rancho near the Rancho Ballona. See *In re Sausal Redondo and Other Cases*,

Brief for General Rosecrans and State of California et al., and Resolutions of City Council of Los Angeles, Dec. 24, 1908, found in National Archives, RC 49, California Land Claims, Docket 414. Moreover, before the Mexican grant was confirmed, Congress passed a statute specially conferring a right on all parties claiming an interest in any tract embraced by a published survey to file objections to the survey. Act of July 1, 1864, § 1, ch 194, 13 Stat 332.

erty owners immediately north of the Rancho Ballona protested the proposed survey of Rancho Ballona; the Machados and Talamantes, the original grantees, filed affidavits in support of their claim. As a result of these submissions, as well as a consideration of the surveyor's field notes and underlying Mexican documents, the General Land Office withdrew its objection to the proposed ocean boundary. The Secretary of the Interior subsequently approved the survey and in 1873 a patent was issued confirming title in the Rancho Ballona to the original Mexican grantees. *Id.*, at 101-109. Significantly, the federal patent issued to the Machados and Talamantes made no mention of any public trust interest such as the one asserted by California in the present proceedings.

The public trust easement claimed by California in this lawsuit has been interpreted to apply to all lands which were

[466 US 205]

tidelands at the time California became a State, irrespective of the present character of the land. See *City of Long Beach v Mansell*, 3 Cal 3d 462, 486-487, 476 P2d 423, 440-441 (1970). Through this easement, the State has an overriding power to enter upon the property and possess it, to make physical changes in the property, and to control how the property is used. See *Marks v Whitney*, 6 Cal 3d 251, 259-260, 491 P2d 374, 380-381 (1971); *People v California Fish Co*, 166 Cal 576, 596-599, 138 p 79, 87-89 (1913). Although the landowner retains legal title to the property, he controls little more than the naked fee, for any proposed private use remains subject to the right of the State or any member of the public to assert the State's public trust easement. See *Marks v Whitney*, supra.

[1b, 3, 4] The question we face is whether a property interest so substantially in derogation of the fee interest patented to petitioner's predecessors can survive the patent proceedings conducted pursuant to the statute implementing the Treaty of Guadalupe Hidalgo. We think it cannot. The Federal Government, of course, cannot dispose of a right possessed by the State under the equal-footing doctrine of the United States Constitution. *Pollard's Lessee v Hagan*, 3 How 212, 11 L Ed 565 (1845). Thus, an ordinary federal patent purporting to convey tidelands located within a State to a private individual is invalid, since the United States holds such tidelands only in trust for the State. *Borax, Ltd. v Los Angeles*, 296 US 10, 15-16, 80 L Ed 9, 56 S Ct 23 (1935). But the Court in *Borax* recognized that a different result would follow if the private lands had been patented under the 1851 Act. *Id.*, at 19, 80 L Ed 9, 56 S Ct 23. Patents confirmed under the authority of the 1851 Act were issued "pursuant to the authority reserved to the United States to enable it to discharge its international duty with respect to land which, although tideland, had not passed to the State." *Id.*, at 21, 80 L Ed 9, 56 S Ct 23. See also *Oregon ex rel. State Land Board v Corvallis Sand & Gravel Co.* 429 US 363, 375, 50 L Ed 2d 550, 97 S Ct 582 (1977); *Knight v United States Land Assn.*, 142 US 161, 35 L Ed 974, 12 S Ct 258 (1891).

[466 US 206]

This fundamental distinction reflects an important aspect of the 1851 Act enacted by Congress. While the 1851 Act was intended to implement this country's obligations under the Treaty of Guadalupe Hidalgo, the 1851 Act also served an overriding purpose of providing re-

pose to land titles that originated with Mexican grants. As the Court noted in *Peralta v United States*, 3 Wall 434, 18 L Ed 221 (1866), the territory in California was undergoing a period of rapid development and exploitation, primarily as a result of the finding of gold at Sutter's Mill in 1848. See generally *J. Caughey, California* 238-255 (2d ed 1953). It was essential to determine which lands were private property and which lands were in the public domain in order that interested parties could determine what land was available from the Government. The 1851 Act was intended "to place the titles to land in California upon a stable foundation, and to give the parties who possess them an opportunity of placing them on the records of this country, in a manner and form that will prevent future

4. [5b] In support of this argument the State cites to *Montana v United States*, 450 US 544, 67 L Ed 2d 493, 101 S Ct 1245 (1981), and *Illinois Central R. Co. v Illinois*, 146 US 387, 36 L Ed 1018, 13 S Ct 110 (1892), in support of its proposition that its public trust servitude survived the 1851 Act confirmation proceedings. While *Montana v United States* and *Illinois Central R. Co. v Illinois* support the proposition that alienation of the beds of navigable waters will not be lightly inferred, property underlying navigable waters can be conveyed in recognition of an "international duty." *Montana v United States*, supra, at 552, 67 L Ed 2d 493, 101 S Ct 1245. Whether the Ballona Lagoon was navigable under federal law in 1850 is open to speculation. The trial court found only that the present-day lagoon was navigable. App to Pet for Cert A-52, while respondent Los Angeles concedes that the lagoon was not navigable in 1850, Brief for Respondent Los Angeles 29. The obligation of the United States to respect the property rights of Mexican citizens was, of course, just such an international obligation, made express by the Treaty of Guadalupe Hidalgo and inherent in the law of nations, see *United States v Moreno*, 1 Wall 400, 404, 17 L Ed 633 (1864); *United States v Fossatt*, 21 How 445, 448, 16 L Ed 185 (1859).

The State also argues that the Court has

controversy." *Fremont v United States*, 17 How 542, 553-554, 15 L Ed 241 (1855); accord, *Thompson v Los Angeles Farming Co.* 180 US 72, 77, 45 L Ed 432, 21 S Ct 289 (1901).

[5a] California argues that since its public trust servitude is a sovereign right, the interest did not have to be reserved expressly on the federal patent to survive the confirmation proceedings.⁴ Patents issued pursuant to the 1851 Act were,

[468 US 207]

of course, confirmatory patents that did not expand the title of the original Mexican grantee. *Beard v Federy*, 3 Wall 478, 18 L Ed 88 (1866). But our decisions in a line of cases beginning with *Barker v Harvey*, 181 US 481, 45 L Ed 963, 21 S Ct 690 (1901), effectively dispose of California's

previously recognized that sovereign interests need not be asserted during proceedings confirming private titles. The State's reliance on *New Orleans v United States*, 10 Pet 662, 9 L Ed 573 (1836), and *Eldridge v Trezevant*, 160 US 452, 40 L Ed 490, 16 S Ct 345 (1896), in support of its argument is misplaced, however. Neither of these cases involved titles confirmed under the 1851 Act. In *New Orleans v United States*, for example, the Board of Commissioners in that case could only make recommendations to Congress, in contrast to the binding effect of a decree issued by the Board under the 1851 Act. Thus, we held in that case that the city of New Orleans could assert public rights over riverfront property which were previously rejected by the Board of Commissioners. *New Orleans v United States*, supra, at 733-734, 9 L Ed 573. The decision in *Eldridge v Trezevant*, supra, did not even involve a confirmatory patent, but simply the question whether an outright federal grant was exempt from longstanding local law permitting construction of a levee on private property for public safety purposes. While the Court held that the federal patent did not extinguish the servitude, the interest asserted in that case was not a "right of permanent occupancy," *Barker v Harvey*, 181 US, at 491, 45 L Ed 963, 21 S Ct 690, such as that asserted by the State in this case.

claim that it did not have to assert its interest during the confirmation proceedings. In *Barker* the Court was presented with a claim brought on behalf of certain Mission Indians for a permanent right of occupancy on property derived from grants from Mexico. The Indians' claim to a right of occupancy was derived from a reservation placed on the original Mexican grants permitting the grantees to fence in the property without "interfering with the roads, crossroads and other usages." *Id.*, at 494, 495, 45 L Ed 963, 21 S Ct 690. The Court rejected the Indians' claim, holding:

"If these Indians had any claims founded on the action of the Mexican government they abandoned them by not

(466 US 208)

presenting them to the commission for consideration, and they could not, therefore, . . . resist successfully any action of the government in disposing of the property.' If it be said that the Indians do not claim the fee, but only the right of occupation, and, therefore, they do not come within the provision of section 8 as persons 'claiming lands in California by virtue of any right or title derived from the Spanish or Mexican government,' it may be replied that a claim of a right to permanent occupancy of land is one of far-reaching effect, and it could not well be said that lands which were burdened with a right of permanent occupancy were a part of the public domain and subject to the full disposal of the United States. . . . Surely a claimant would have little reason for presenting to the land commission his claim to land, and securing a confirmation of that claim, if the only

result was to transfer the naked fee to him, burdened by an Indian right of permanent occupancy." *Id.* at 491-492, 45 L Ed 963, 21 S Ct 690.

The Court followed its holding in *Barker* in a subsequent case presenting a similar question, in which the Indians claimed an aboriginal right of occupancy derived from Spanish and Mexican law that could only be extinguished by some affirmative act of the sovereign. *United States v Title Ins. & Trust Co.* 265 US 472, 68 L Ed 1110, 44 S Ct 621 (1924). Although it was suggested to the Court that Mexican law recognized such an aboriginal right, Brief for Appellant in *United States v Title Ins. & Trust Co.*, OT 1923, No. 358, pp 14-16; cf. *Chouteau v Molony*, 16 How 203, 229, 14 L Ed 905 (1854), the Court applied its decision in *Barker* to hold that because the Indians failed to assert their interest within the timespan established by the 1851 Act, their claimed right of occupancy was barred. The Court declined an invitation to overrule its decision in *Barker* because of the adverse effect of such a decision on land titles, a result that counseled adherence to a settled interpretation. 265 US, at 486, 68 L Ed 1110, 44 S Ct 621.

(466 US 209)

[1c] Finally, in *United States v Coronado Beach Co.* 255 US 472, 65 L Ed 736, 41 S Ct 378 (1921), the Government argued that even if the landowner had been awarded title to tidelands by reason of a Mexican grant, a condemnation award should be reduced to reflect the interest of the State in the tidelands which it acquired when it entered the Union. The Court expressly rejected the Government's argument, holding that the patent proceedings were

conclusive on this issue, and could not be collaterally attacked by the Government. *Id.*, at 487-488, 65 L Ed 736, 41 S Ct 378. The necessary result of the *Coronado Beach* decision is that even "sovereign" claims such as those raised by the State of California in the present case must, like other claims, be asserted in the patent proceedings or be barred.

[1d] These decisions control the outcome of this case. We hold that California cannot at this late date assert its public trust easement over petitioner's property, when petitioner's predecessors-in-interest had their interest confirmed without any mention of such an easement in proceedings taken pursuant to the Act

It is so ordered.

Justice Marshall took no part in the decision of this case.

of 1851. The interest claimed by California is one of such substantial magnitude that regardless of the fact that the claim is asserted by the State in its sovereign capacity, this interest, like the Indian claims made in *Barker* and in *United States v Title Ins. & Trust Co.*, must have been presented in the patent proceedings or be barred. Accordingly, the judgment of the Supreme Court of California is reversed, and the case is remanded to that court for further proceedings not inconsistent with this opinion.

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

DEC 07 1994

DEPARTMENT OF
COMMUNITY DEVELOPMENT

5 December, 1994

Dear Ms Meredith

A) I am writing in regards to an impact study that has been unjustly ignored - the Human Impact Report.

The Stump Ranch is a working beef operation. In order to compete with larger companies, we need to increase the number of cattle in our herd. We can not complete this objective with a decrease in land. If you condemn our property, you condemn our business. This ranch has been passed down six generations, each one struggling and sacrificing to achieve dreams and goals.

I am suggesting that you pursue alternatives that do not destroy the businesses of tax-paying residents of Sonoma County.

Colleen Briggs
Colleen Briggs

[Click here to go to next section.](#)