

Marjorie Lakin Erickson
128 East Carrillo Street
Santa Barbara, California 93101

October 5, 2003

Andy Fecko
State Water Resources Control Board
Division of Water Rights
1001 "I" Street
Sacramento, California 95812

Re: Santa Ynez River Draft Environmental Impact Report (DEIR)

Dear Mr. Fecko,

I am writing to express my concerns regarding the Santa Ynez River DEIR. I am writing this letter in my personal capacity; although I am a Santa Barbara County Park Commissioner, the opinions I express are mine alone and not to be taken as the opinions of the Commission.

My primary, general concern, is that the range of alternatives addressed in the DEIR is too narrow. The DEIR addresses only the requirements of NOAA Fisheries Biological Opinion (BO) and makes no attempt to evaluate what is necessary to comply with the requirements of Fish and Game Code § 5937 that Bradbury Dam be operated so as to maintain the fish below the dam in good condition. Nor does the DEIR evaluate whether the requirements of the BO meet the constitutionally mandated requirement that the State Water Resources Water Control Board protect our public trust resources.

The problem with the BO is that it is merely a "no jeopardy" opinion. In this case, that means that if the Dam is operated pursuant to the BO, the operations will not further jeopardize the existence of steelhead trout in the river. But the trout are already endangered, so maintaining the status quo does not equate to protecting our public trust resources or keeping the fish in good condition. The fact that they are listed as endangered should point to the fact that they are not in good condition. We are talking about a river that once was home to 10,000 - 20,000 steelhead. Now you are about to approve a project that contemplates maintaining a mere 100 fish in the river. This vision is too shortsighted and does not meet the mandate to maintain public trust resources. If we only ensure the

continued existence of the fish in their currently endangered state, we will not save steelhead. The range of alternatives should be expanded to include actions that are calculated to recover the species.

The DEIR does not look at other project alternatives such as providing for passage of steelhead to its traditional spawning habitat above the dam. The project should look at the whole river, rather than just below the dam, both so that the fish have access to the best spawning habitat and so that the land-locked native rainbow trout above the dam might be afforded access to the ocean.

There are problems with the existing alternatives as well. At a minimum, the project should require objective measurable standards of success for any management action. This means that there should be a requirement that criteria be adopted to determine whether the population of fish is in fact increasing, as must happen if the fish are to survive.

Any flow regimes required should be based on data that show what water flow regimes are required to help the fish increase from their dismally low levels. Once that is determined, these flows should be implemented and the agencies should be required to implement conservation measures to provide the water needed for additional flows. Conservation was successfully used in Los Angeles to help save Mono Lake. The flow regimes must include an enforcement mechanism to ensure that they are followed. Currently, the river is dry in places where the flow regimes now in effect require water to be flowing. This must not be allowed to continue. Even if the BO is determined be all that is required, it is meaningless if not followed.

With regard to the impacts of a three-foot surcharge, I have some concerns. First, the minor point that you have mis-identified the Santa Barbara County Parks Department as Santa Barbara County Parks and Recreation. This is obviously a small point, but it is better for your report to correctly identify the affected agencies. Second, while it is true that the Parks Department contract with the Bureau of Reclamation expires in 2003, that contract has been extended for two years.

The record should be corrected in this respect.

More substantively, while I recognize that the SWRCB does not recommend a three-foot surcharge, I would like to point out that a three-foot surcharge would result in an impact to the recreational facilities that could not be mitigated in any reasonable time frame. The County has determined that relocation of the facilities would cost in excess of \$12 million. Currently the County does not have the funds available. It is estimated that once funds become available, if they do, it will take five years to complete relocation. Thus the mitigation cannot be

accomplished in less than at least seven years. And it is not at all clear that the Cachuma Operations Management Board and the Bureau of Reclamation can meet their CEQA mitigation responsibilities for their impacts by blithely asserting that someone else will do it.

I am not a hydrologist and don't profess to know what particular flow regimes or habitat restoration are required to help steelhead recover. I do know that what is proposed ignores the use of the only really good habitat for the fish and that is the habitat above the dam. Further, much of what is proposed may not be able to be accomplished because of insufficient numbers of willing landowners interested in helping the fish recover.

I hope the SWRCB will take a broader, long-term look at what is required to save these fish. I know we will never return the Santa Ynez River steelhead run to 10,000 fish, but it is shocking that the Bureau of Reclamation and the member water agencies think they can meet their obligation to the future generations by maintaining only 100 fish in the river that once provided the largest steelhead run in the southern ESU.

Thank you for your consideration.

Sincerely,

Marjorie Lakin Erickson