
Comments on the Notice of Preparation

DEPARTMENT OF TRANSPORTATION

50 HIGUERA STREET
SAN LUIS OBISPO, CA 93401-5415
PHONE (805) 549-3101
FAX (805) 549-3329
TDD (805) 549-3259
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January 7, 2011

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JAN 07 2011

Brad Vidro
City of Solvang
1644 Oak Street
Solvang, CA 93463

CITY OF SOLVANG

SB 246 var
SCH 2011011007

Subject: Solvang Water System Master Plan Update – Notice of Preparation

Dear Mr. Vidro:

Thank you for the opportunity to review and provide guidance upon the subject document for the City of Solvang. The Master Plan, among other things, is designed to support a reliable and redundant water supply for the City with a view toward General Plan buildout.

Pages 11 and 12 and Tables 2-3 and 2-4 of the initial study present a discussion of future demand and future production. It appears this indicates that at current General Plan build-out, Master Plan implementation will provide over three times the amount of water necessary to service the City. In fact, with the anticipated Santa Ynez River wells alone, future water supply capacity will exceed demand by approximately 56%.

With this in view, the Draft Environmental Impact Report should thoroughly analyze, and the discussion completely support, the conclusion stated on page 67, that this project will not be growth inducing. Water supplies, or the lack thereof, has become a significant issue for development intensification of all types, whether residential, industrial/commercial, or agricultural. Intuitively, it appears that removing this constraint to this degree will provide significant inducement for future growth intensification. If that will be the case, the transportation network will be impacted as well. The DEIR should address these topics.

If you have any questions regarding this correspondence, I can be reached at (805) 549-3632 to discuss.

Sincerely,

Chris Shaeffer
Caltrans District 5
Development Review

Cc: Larry Newland, D5

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-4082
 (916) 657-5390 - Fax



January 10, 2011

Brad Vidro
 City of Solvang
 1644 Oak Street
 Solvang, CA 93463

RE: SCH#2011011007 Solvang Water System Master Plan Update; Santa Barbara County.

Dear Mr. Vidro:

The Native American Heritage Commission has reviewed the Notice of Preparation (NOP) regarding the above referenced project. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA guidelines 15084(b)). To adequately comply with this provision and mitigate project-related impacts on archaeological resources, the Commission recommends the following actions be required:

- ✓ Contact the appropriate Information Center for a record search to determine:
 - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- ✓ Contact the Native American Heritage Commission for:
 - A Sacred Lands File Check. Sacred Lands File check completed, no sites indicated.
 - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. Native American Contacts List attached
- ✓ Lack of surface evidence of archaeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archaeological resources, per California Environmental Quality Act (CEQA) §15084.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
 - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15084.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

Katy Sanchez

Katy Sanchez
 Program Analyst
 (916) 853-4040

CC: State Clearinghouse

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 CITY OF SOLVANG

Native American Contact List
Santa Barbara County
January 11, 2011

Ernestine DeSoto
1027 Cacique Street, #A
Santa Barbara CA 93103
(805) 962-3598

Chumash

Barbareno/Ventureno Band of Mission Indians
Julle Lynn Tumamalt
365 North Poll Ave
Ojai , CA 93023
jtumamalt@sbcglobal.net
(805) 646-6214

Chumash

Beverly Salazar Folkes
1931 Shadybrook Drive
Thousand Oaks, CA 91362
folkes@msn.com
805 492-7255
(805) 558-1154 - cell
folkes9@msn.com

Chumash
Tataviam
Fernandefio

Patrick Tumamalt
992 El Camino Corto
Ojai , CA 93023
(805) 640-0481
(805) 216-1253 Cell

Chumash

Owl Clan
Dr. Kote & Lin A-Lul'Koy Lotah
48825 Sapaque Road
Bradley , CA 93426
mupaka@gmail.com
(805) 472-9536

Chumash

San Luis Obispo County Chumash Council
Chief Mark Steven Vigil
1030 Ritchie Road
Grover Beach CA 93433
chelfmvigll@fix.net
(805) 481-2461
(805) 474-4729 - Fax

Chumash

Santa Ynez Band of Mission Indians
Vincent Armenta, Chairperson
P.O. Box 517
Santa Ynez , CA 93460
varmenta@santaynezchumash.
(805) 688-7997
(805) 686-9578 Fax

Chumash

John Ruiz
1826 Stanwood Drive
Santa Barbara CA 93103
(805) 965-8983

Chumash

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7060.6 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2011011007 Solvang Water System Master Plan Update; Santa Barbara County.

Native American Contact List
Santa Barbara County
January 11, 2011

Gilbert M. Unzueta Jr.
571 Clatton Way
Thousand Oaks, CA 91320
(805) 375-7229

Chumash

Coastal Band of the Chumash Nation
Vennise Miller, Chairperson
P.O. Box 4464
Santa Barbara CA 93140
805-964-3447

Chumash

Stephen William Miller
189 Cartagena
Camarillo, CA 93010
(805) 484-2439

Chumash

Charles S. Parra
P.O. Box 6612
Oxnard, CA 93031
(805) 340-3134 (Cell)
(805) 488-0481 (Home)

Chumash

Santa Ynez Tribal Elders Council
Adelina Alva-Padilla, Chair Woman
P.O. Box 365
Santa Ynez, CA 93460
elders@santaynezchumash.org
(805) 688-8446
(805) 693-1768 FAX

Chumash

Richard Angulo
P.O. Box 182
Salome, AZ 85348

Chumash

Randy Guzman - Folkes
655 Los Angeles Avenue, Unit E
Moorpark, CA 93021
ndnRandy@yahoo.com
(805) 905-1675 - cell

Chumash
Fernandefio
Tataviam
Shoshone Palute
Yaqui

Santa Ynez Band of Mission Indians
Tribal Administrator
P.O. Box 517
Santa Ynez, CA 93460
Info@santaynezchumash.
(805) 688-7997
(805) 686-9578 Fax

Chumash

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7060.8 of the Health and Safety Code, Section 6097.94 of the Public Resources Code and Section 6097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2011011007 Solvang Water System Master Plan Update; Santa Barbara County.

Native American Contact List
Santa Barbara County
January 11, 2011

Carol A. Pulido
165 Mountainview Street Chumash
Oak View , CA 93022
805-649-2743 (Home)

Melissa M. Parra-Hernandez
119 North Balsam Street Chumash
Oxnard , CA 93030
envyy36@yahoo.com
805-983-7964

Frank Arredondo
PO Box 161 Chumash
Santa Barbara Ca 93102
ksen_sku_mu@yahoo.com
805-617-6884
ksen_sku_mu@yahoo.com

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7060.6 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2011011007 Solvang Water System Master Plan Update; Santa Barbara County.



Linda S. Adams
Acting Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Rights

1001 I Street • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • <http://www.waterboards.ca.gov>



Edmund G. Brown Jr.
Governor

JAN 12 2011

In reply refer
To:kdm:23095

Brad Vidro
City of Solvang
1644 Oak Street
Solvang, CA 93463

Dear Mr. Vidro:

NOTICE OF PREPARATION FOR ENVIRONMENTAL IMPACT REPORT (EIR) (SCH # 2011011007) FOR THE SOLVANG WATER SYSTEM MASTER PLAN, CHANGE AND TIME EXTENSION PETITIONS ON PERMIT 15787 (APPLICATION 23095)

Division of Water Rights (Division) staff received the January 4, 2010 Notice of Preparation (NOP) for the EIR on the Solvang Water System Master Plan. One element of the master plan is expansion in use under Permit 15787. To expand use under the permit, the NOP indicates that six new wells would be installed and a time extension is required. Although the time extension petition is pending with the Division, the change petition to install the new wells in a different location than currently authorized by the permit has not yet been filed.

Division staff requests that the EIR identify the proposed bypass flows for protection of steelhead for each point of diversion, and also identify the gage site(s) where the bypass flows will be measured. An explanation of whether the flow will continue downstream past the point of measurement or will be subsequently diverted by another entity is requested.

The NOP indicates that the City of Solvang (City) may elect to sell its State Water Project (SWP) allocation. If the water will be sold to another party outside of the SWP authorized place of use, the effects of using water at the new location should be evaluated in the EIR.

The EIR should provide a discussion of how the City's summer water needs will be met during dry and critically dry water years, especially in light of proposed expansion in use. In addition, the EIR should provide the information needed for purposes of water quality Section 401 Certification for installation of the new facilities.

Division staff requests a copy of the EIR, once it is available. I can be contacted at (916) 341-5363.

Sincerely,

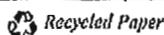
Katherine Mrowka, Chief
Inland Streams Unit

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JAN 18 2011

CITY OF SOLVANG

California Environmental Protection Agency



LAFCO

Santa Barbara Local Agency Formation Commission
105 East Anapamu Street ♦ Santa Barbara CA 93101
805/568-3391 ♦ FAX 805/647-7647
www.sblafco.org ♦ lafco@sblafco.org

January 12, 2011

Brad Vidro
City Manager
City of Solvang
1644 Oak Street
Solvang CA 93463

Solvang Water System Master Plan Update

Dear Brad:

Having reviewed the Notice of Preparation and the Initial Study/Environmental Checklist for the proposed Water System Master Plan Update, our office has no comments to provide at this time.

There do not appear to be any LAFCO-related approvals such as annexations or out-of-agency service approvals directly related to or dependent upon the City updating this master plan.

If you have any questions or would like to discuss this matter please contact me.

Sincerely,



BOB BRAITMAN
Executive Officer

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CITY OF SOLVANG



**Santa Barbara County
Air Pollution Control District**

Our Vision • Clean Air

January 18, 2011

Brad Vidro, City Manager
City of Solvang
1644 Oak Street
Solvang, CA 93463

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JAN 19 2011

CITY OF SOLVANG

Re: APCD Response to Notice of Preparation of a Draft Environmental Impact Report for City of Solvang Water System Master Plan Update

Dear Mr. Vidro:

The Santa Barbara County Air Pollution Control District (APCD) appreciates the opportunity to provide comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the City of Solvang Water System Master Plan Update. The City of Solvang proposes to update the Water System Master Plan for the City of Solvang and install all facilities to implement the updated plan. The proposed project includes construction of additional wells to extract from the Santa Ynez River underflow and installation of new facilities, including miscellaneous water piping system improvements, facilities to monitor reservoir levels, roof replacements, a water treatment facility, operational storage tank, booster pump station, and water storage tank.

APCD staff reviewed the Initial Study and NOP for the Draft EIR, and concurs that air quality impacts should be addressed in the EIR. The proposed project may involve the installation and operation of equipment that is subject to APCD permit requirements, such as stationary pump engines or an emergency power generator engine. In such a case, APCD would be a responsible agency under the California Environmental Quality Act (CEQA), and would rely on the City of Solvang's CEQA document when issuing APCD permits. APCD staff will work closely with your agency's staff to ensure that the CEQA analysis adequately addresses air quality impacts.

APCD's guidance document, entitled *Scope and Content of Air Quality Sections in Environmental Documents* (updated June, 2010) is available online at www.sbapcd.org/apcd/landuse.htm. This document should be referenced for general guidance in assessing air quality impacts in the Draft EIR. The EIR should evaluate the following potential impacts related to the City of Solvang Water System Master Plan Update:

1. Attainment Status and Consistency with the APCD Clean Air Plan (CAP). The APCD has posted the most up-to-date attainment status for the County on the APCD website www.sbapcd.org/sbc/attainment.htm and the most recent Clean Air Plan is available at www.sbapcd.org/cap.htm. The website should be consulted for the most up-to-date air quality information prior to the release of the Public Draft EIR. Commercial or industrial projects will be considered consistent with the CAP if they are consistent with APCD rules and regulations. Large industrial stationary source projects may be found inconsistent if their direct emissions are not considered in the CAP stationary source emission inventory (Section 4.4 of APCD's *Scope and Content* document).

2. APCD Rules and Permit Requirements: Many industrial and manufacturing sources, as well as buildings with large heating devices or generator engines, may be subject to APCD rules and permit requirements. All portable diesel-fired construction engines rated at 50 brake-horsepower or greater must have either statewide Portable Equipment Registration Program (PERP) certificates or APCD permits prior to operation. Construction engines with PERP certificates are exempt from APCD permit, provided they will be on-site for less than 12 months.

3. Land Use Conflicts Related to Air Pollutant Emissions. The EIR should examine whether any of the operations associated with the proposed project will result in air quality impacts to sensitive land uses such as residential, childcare facilities, schools, or senior living communities. Examples of this type of impact include odors, dust, or toxic air contaminants such as diesel particulate emissions from trucks or from stationary internal combustion (IC) engines. If a stationary diesel-powered IC engine is proposed for installation, APCD will require an evaluation of the health risk related to the operation of this equipment.

4. Increase in Emissions from Proposed Project. The EIR should present significance thresholds for ozone precursor emissions (reactive organic compounds [ROC], and oxides of nitrogen [NO_x]) and particulate matter and determine whether the proposed project will produce emissions in excess of the thresholds. APCD's *Scope and Content* document contains the APCD Board-adopted criteria for evaluating the significance of adverse air quality impacts for APCD projects. APCD recommends that City of Solvang use these, or more stringent, thresholds to determine significance of air quality impacts.

Stationary and area source emissions must be added to transportation source emissions prior to applying the project-specific thresholds of significance. If the proposed project exceeds the significance thresholds for air quality, mitigations should be applied to reduce those emissions to below the levels of significance. Section 6 of APCD's *Scope and Content* document offers ideas for air quality mitigations. However, project-specific measures should be developed that are pertinent to the subject project and are enforceable by the lead agency.

5. Construction Impacts. The EIR should discuss the potential air quality impacts associated with construction activities for the proposed project. APCD's June, 2010 *Scope and Content* document, Section 6.1, presents recommended mitigation measures for fugitive dust and equipment exhaust emissions associated with construction projects. Construction mitigation measures should be enforced as conditions of approval for the project. The EIR should have a Mitigation Monitoring and Reporting Plan that explicitly states the required mitigations and establishes a mechanism for enforcement.

6. Global Climate Change/Greenhouse Gas Impacts. Global climate change is a growing concern that must be addressed in CEQA documents. Global climate change is a cumulative impact; a project participates in this potential impact through its incremental contribution combined with the cumulative increase of all other sources of greenhouse gases.

California State Senate Bill 97 (SB 97), enacted in 2007, required that the CEQA Guidelines be amended to include "guidance for the mitigation of greenhouse gas (GHG) emissions or the effects of GHG emissions." The California Office of Planning & Review (OPR) developed amendments to the CEQA

Guidelines, which were adopted by the California Natural Resources Agency on December 30, 2009 and became effective March 18, 2010. These amendments establish a framework for including global climate change impacts in the CEQA process, and include revisions to the Environmental Checklist Form (Appendix G) as well as to the Energy Conservation appendix (Appendix F). A new section (§15064.4) has been added that provides an approach to assessing impacts from GHG's. For additional information on the SB 97 CEQA Guidelines amendments, visit the Resources Agency's website at www.ceres.ca.gov/ceqa/guidelines/.

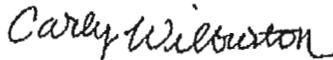
We recommend that all projects subject to CEQA review be considered in the context of GHG emissions and climate change impacts. CEQA documents should include a quantification of GHG emissions from all project sources, direct and indirect, as applicable. In addition, we recommend that climate change impacts be mitigated to the extent reasonably possible, whether or not they are determined to be significant. The discussion of climate change impacts can be included under cumulative air quality impacts or in its own section. At a minimum, the project should include greenhouse gas mitigation measures as applicable from the following sector-based list:

- Energy use (energy efficiency, low carbon fuels, renewable energy)
- Transportation (reduce vehicle miles traveled, compact and transit-oriented development, pedestrian- and bicycle-friendly communities)
- Water conservation (improved practices and equipment, landscaping)
- Waste reduction (material re-use/recycling, composting, waste diversion, waste minimization)
- Architectural features (green building practices, cool roofs)

For guidance regarding greenhouse gas analysis for CEQA environmental documents, please refer to the CAPCOA CEQA & Climate Change document. CAPCOA has also published *Quantifying Greenhouse Gas Mitigation Measures*, an extensive sector-by-sector compendium of project-specific mitigation measures, including quantification methods to calculate GHG reductions. Both these documents are available online at <http://www.capcoa.org>.

We hope you find our comments useful. We look forward to reviewing the Draft EIR. Please contact me at (805) 961-8890 or by e-mail at cww@sbcapcd.org if you have questions.

Sincerely,



Carly Willburton
Air Quality Specialist
Technology and Environmental Assessment Division

cc: Project File
TEA Chron File

**David L. Jamieson
P.O. Box 741
Solvang, CA 93464**

January 18, 2011

**City of Solvang
Mayor and City Council
Brad Vidro, City Manager
Matt vander Linden, Public Works Director**

**RE: Comments on Initial Study, EIR
Solvang System Master Plan Update
(To be read into the record in my absence at hearing held on 01.19.2011)**

Dear Gentlemen and Ladies:

In response to the request for input regarding the City of Solvang Water System Master Plan Update I offer the following:

The 70 plus page Initial Study/Environmental Checklist touches on a few of my points, but basically it focuses on City related or controlled water resources and facilities. Before accepting and acting on the premises suggested/outlined in the Initial Study dated January 2011, you might wish to consider other water resources.

Historically, or at least for the past twenty (20) years, ID#1 has held the trump card and named the tune when it comes to Solvang's water resources. There is a tremendous opportunity at present to restructure the arrangements now that a new board majority has been seated at ID#1. Solvang needs to create a new dialogue and offer workable and mutually beneficial solutions and options to the development of water resources and the improvement of facilities and infrastructure.

- 1) **CCWA/ID#1—Find a method to contract directly with CCWA for our State Water. Ask ID#1 to enter into discussions with the City for this purpose. Concurrently, enter into talks with ID#1 and the Santa Ynez Band of Chumash Indians designed to have each entity acquire a portion of our State Water allotment (500-800 AF between them)****
- 2) **Offer to use the annual savings** to develop new water supplies and improve infrastructure.**
- 3) **Continue to try and perfect our historical water rights in the Santa Ynez River, but begin to look at other water resources that are available: a. Look to joint venture with ID#1 on an "upland" well in their District, b. Seek a private partner near Solvang and joint venture or enter into a lease agreement for water, c. Look to purchase land adjacent or near Solvang that has known water resources.**
- 4) **Enter into discussions with ID#1 to merge the City of Solvang water department with ID#1.**

Thank you for your consideration of my comments.

Sincerely,



**David L. Jamieson
805.688.2527**

Laurie Tamura

From: Brad Vidro
Sent: Thursday, January 20, 2011 7:56 AM
To: Laurie Tamura; 'Jay_Saberon@URSCorp.com'
Subject: FW: water system master plan update

--- On Wed, 1/19/11, Freddie Romero <freddyromero1959@yahoo.com> wrote:

From: Freddie Romero <freddyromero1959@yahoo.com>
Subject: water system master plan update
To: BradV.@cityofsolvang.com
Date: Wednesday, January 19, 2011, 9:01 AM

Mr. Vidro,

I'm sending this e-mail to inform you that the Santa Ynez Band of Chumash Indians Elders Council is very interested in this project. We plan on sending in comments, but won't be able to attend the scoping meeting held today, Jan. 19th @ 3:00, due to the fact that we don't meet until Feb. 14th and won't be able to discuss it until then.

This area is a very sensitive area for us and we would like the time to discuss our concerns and present our comments. Your cooperation is most appreciated.

Thank you,

Freddie Romero
Cultural Preservation Consultant
SYBCI Elders Council
805-688-7997 X37

Laurie Tamura

From: Brad Vidro
Sent: Thursday, January 20, 2011 2:33 PM
To: 'Jay_Saberon@URSCorp.com'; Laurie Tamura
Subject: FW: NOP Solvang Water System Master Plan Update (Sch 2011011007) [WDID#420111CQ3]

-----Original Message-----

From: David Innis [<mailto:DBInnis@waterboards.ca.gov>]
Sent: Thursday, January 20, 2011 2:27 PM
To: Brad Vidro
Cc: Rhess@mnsengineers.com; Barrie Valencia
Subject: NOP Solvang Water System Master Plan Update (Sch 2011011007) [WDID#420111CQ3]

Brad Vidro
City of Solvang
1644 Oak Street
Solvang, CA 93463
(805) 688-5575

Mr. Vidro,

The Central Coast Water Board has reviewed the Notice of Preparation and Initial Study-Environmental Checklist (IS) for the City of Solvang Water System Master Plan Update (January 2011).

Specific to our agency issues identified under Biological Resources, Geology and Soils, and Hydrology and Water Quality are of our prime concern. The NOP appears to identify all of these adequately. One area under Biological Resources that should be investigated in more detail is the potential effect the wells might have on the riparian vegetation. Our concern is that if the wells lower the water table to a point where the roots of the riparian plants no longer contact the ground water then the lack of water for the habitat would result in a significant impact. This issue needs to be identified and potential mitigation proposed if draw-down would impact this important habitat and the water quality and ecological functions they support.

Thanks for your consideration of this issue as the environmental review progresses.

David Innis, CPESC 5331
Environmental Scientist
Municipal, Construction, Industrial Stormwater, 401 Water Quality Certification

E-mail: dbinnis@waterboards.ca.gov.
or
Regional Water Quality Control Board, Region 3
895 Aerovista, Place., Suite 101
San Luis Obispo, CA 93401-7906
(805) 549 - 3150 (voice)



Fire Department

"Serving the community since 1926"

Michael W. Dyer
Fire Chief
County Fire Warden

HEADQUARTERS

4410 Cathedral Oaks Road
Santa Barbara, CA 93110-1042
(805) 681-5500 FAX: (805) 681-5563

Christian J. Hahn
Deputy Fire Chief

January 21, 2011

Mr. Brad Vidro
City Manager
City of Solvang
1644 Oak Street
Solvang, CA 93463

Dear Mr. Vidro:

SUBJECT: Update to Water System Master Plan for City of Solvang

The above project is located within the jurisdiction of the Santa Barbara County Fire Department. To comply with the established standards, we submit the following with the understanding that if a Fire Protection Certificate application is required additional conditions may be required.

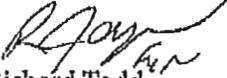
GENERAL NOTICE

1. Stop work immediately and contact the County Fire Department, Hazardous Materials Unit if visual contamination or chemical odors are detected while implementing the approved work at this site. Resumption of work requires approval of the HMU, 805-686-8170.

Please notify the Fire Prevention Division of any changes to the project proposal. Further intensification of use or change in the project description may require additional review.

As always, if you have any questions or require further information, please call 805-681-5523 or 805-681-5500.

In the interest of life and fire safety,


Richard Todd
Division Chief/Fire Marshal

RJ: mkb

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JAN 24 2011
CITY OF SOLVANG

County Of Santa Barbara



Chandra L. Wallar
County Executive Officer

105 East Annapamut Street, Suite 406
Santa Barbara, California 93101
805/568-3400 • Fax 805/568-3414
www.countyofsb.org

Executive Office

January 27, 2011

Mr. Brad Vidro
City Manager
City of Solvang
1644 Oak Street
Solvang, CA 93463

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JAN 28 2011

CITY OF SOLVANG

Email: bradv@cityofsolvang.com
Fax: (805) 686-2049

Re: Notice of Preparation of an Environmental Impact Report - City of Solvang Water System Master Plan

Dear Mr. Vidro:

Thank you for the opportunity to comment on the Notice of Preparation for the City of Solvang Water System Master Plan Environmental Impact Report. At this time, the County submits comments from the Public Works Department, Water Agency for your consideration.

The County looks forward to continued dialogue on future projects. If you should have further questions, please do not hesitate to contact my office directly or Jeff Hunt, Director of Long Range Planning Division, at 805-568-2072.

Sincerely,

A handwritten signature in cursive script that reads "Chandra L. Wallar".

Chandra L. Wallar
County Executive Officer

Terri Maus-Nisich
Assistant County Executive Officer
tmaus@countyofsb.org

Jason Stilwell
Assistant County Executive Officer
jstil@countyofsb.org

Sharon Friedrichsen
Assistant County Executive Officer
sfried@countyofsb.org

Cc: Glenn Russell, Director, Planning and Development Department
Scott McGolpin, Director, Public Works Department
Matt Naftaly, Water Agency Manager, Public Works Department, Water Agency

Enclosures:
Public Works Department, Water Agency letter, January 21, 2011



Santa Barbara County Public Works Department
Flood Control & Water Agency

January 21, 2011

Brad Vldro
City Manager
City of Solvang
1644 Oak Street
Solvang, CA 93463

RE: NOP City of Solvang Water System Master Plan Update

Dear Mr. Smith:

Thank you for the opportunity to comment on NOP. I have reviewed the sections that pertain to water resources and offer the following comments:

General:

The analysis of future water demand, supply, and State Water availability should include Climate Change considerations if it doesn't already. If it does, it should be explicitly stated within the document.

Some of the proposed and existing wells are located within the 100 yr flood plane. Analysis should include contingency water use plan for well destruction.

The per capita water use number does not consider potential for increased conservation efforts.

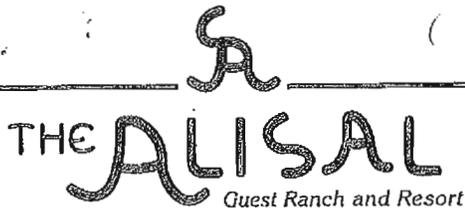
Plan should address efforts to match water source with appropriate uses. For example, systems design could allow for use of higher quality, lower tds State Water where appropriate and similarly for lower quality well water.

If you have any questions or comments regarding the comments above, please contact me at mnaftal@cospw.net or (805) 568-3542.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Naffaly", written over a horizontal line.

Matt Naffaly
Water agency Manager



January 31, 2011

Mr. Brad Vidro, City Manager
The City of Solvang
1644 Oak Street
Solvang, California 93463

RECEIVED

FEB 04 2011

CITY OF SOLVANG

RE: URS Water System Master Plan Update dated January 2011.

Subject: Comments

Dear Mr. Vidro,

Thank you for including the Alisal Ranch in your recipient list for the above referenced Water System Plan update. We have reviewed the document and provide the following Comments for inclusion under Public Comment.

1. The description on page 6 re: the City's State Water Rights Permit does not appear to be up to date. It is understood that a petition for time extension for the City's Permit No. 15878 (Application 22423) was denied on August 16, 2010 and that, as a result, the Permit is no longer valid. The City has reportedly asked the State Water Resources Control Board to modify its Order of Denial, but we are unaware that the Board has taken any action on that request to date. Whatever the current status of that permit may be, it should be clearly and accurately set forth in the description of the City's water right.
2. The depiction of the Authorized Diversion Reach in Figure 5 (page 27), and the reference to that Figure on page 6, is misleading. The diversion reach, since 1975, has been limited to an area downstream from ID#1's 6 CFS well field (see page 14) It is better described at Pages 13-14.
3. Table 2-2 on pages 8-9, uses "Water Delivered" in AF that differs from Table 2-1, pages 7-8, which depicts "Total Production" in AF. In every instance the number in 2-1 is larger, which would make the per-capita use larger, unless there is a rational explanation for the difference between "Water Delivered" and "Total Production." If there is, that should be noted.
4. The list on page 9 of water sources from which ID#1 obtains water fails to mention ID#1's SY Uplands groundwater wells.
5. It would appear that Figure 4 is an old map and should be updated. There is an Alisal Well near where City Well #9 was planned. It is unlikely that proposed Well #9 could be drilled without immediate interference with the nearby Alisal well. As a result no easement would likely be given for such a well and it should be removed from the proposed project.
6. Table 2-3, page 11 is without meaning. It does not describe the likely maximum water supply from the various sources. Each water supply presumably has a range of reliability in any given year. For instance, SY River wells might produce between 0 and 3,600 AF, the latter figure being very unlikely. The SWP entitlement could vary from perhaps 250 to 1,500 AF in any given year. The water purchase from ID#1 is arbitrary. It could be 0 or it could possibly be 2,000 AF (the total of the City's demand).

Page Two
City of Solvang
January 31, 2011

The City's need is presumably for redundant sources to meet demand, but not all sources will be available all the time.

7. Table 2-4, page 12 has the same problem. Not all sources will be available at any given time in the amounts noted.

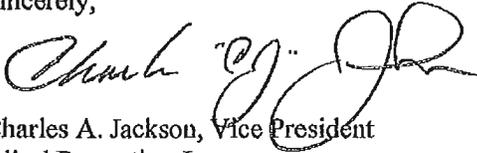
8. The modeling by Stetson described on page 14 suggests that attempting to install the six proposed wells above Alisal Bridge would interfere with both Alisal Ranch wells and the ID#1 wells, immediately upstream. Because the Alisal Ranch riparian rights in this area have priority over any rights the City now has or might obtain, a serious question is raised by the Stetson modeling as to whether or not it would be economically feasible to construct any wells in the area above Alisal Bridge for such limited use. In any event, it highlights the possibility that, without mitigating conditions, Alisal's primary pumping rights could be impaired.

9. The conclusion at 9.9 b. re: Hydrology and Water Quality (Page 43), that there would be a "Less than Significant Impact" on groundwater supplies, and groundwater table levels ("the production rate of pre-existing nearby wells) seems subject to debate. In the absence of conditions limiting production, there would be a potentially Significant impact regarding every new well on pre-existing nearby wells and, potentially, new riparian wells, which would have priority status. This is discussed further at page 62. It is suggested that this needs to be changed to a "Potentially Significant Impact Unless Mitigated."

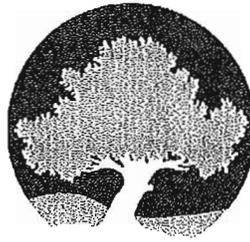
10. Someone is likely to question whether a project that creates additional water will not induce additional, substantial population growth in the area. (9.13 a, page 46.) This is discussed further at Page 66-67.

In closing, while we are grateful to the City for sharing the above referenced Report and for accepting the comments included herein, it should not be inferred that the Alisal Ranch or any of its related entities has acceded to the placement of municipal wells on its property.

Sincerely,



Charles A. Jackson, Vice President
Alisal Properties, Inc.
1054 Alisal Road
Solvang, California 93463



environmental
DEFENSE CENTER

February 4, 2011

Mr. Brad Vidro, City Manager
City of Solvang
1644 Oak Street
Solvang, CA 93463
Bradv@cityofsolvang.com

RECEIVED
FEB 07 2011
CITY OF SOLVANG

VIA EMAIL

**Re: Notice of Preparation of a Draft Environmental Impact Report for
City of Solvang Water System Master Plan Update**

Dear Mr. Vidro:

Thank you for the opportunity to submit comments regarding the scope of the draft Environmental Impact Report (EIR) to be prepared by the City of Solvang to evaluate significant environmental effects of the Solvang Water System Master Plan Update (Project). This scoping comment letter is submitted by the Environmental Defense Center (EDC) on behalf of California Trout (CalTrout). CalTrout proactively protects and restores wild trout and steelhead and their waters throughout California. EDC protects and enhances the environment through education, advocacy and legal action. EDC and CalTrout have worked together for over 2 decades to recover Santa Ynez River steelhead populations heavily depleted by ongoing water supply projects including the Cachuma Project. The proposed Project wells in the Santa Ynez River pose additional substantial impacts to steelhead¹ in the Santa Ynez River.

The EIR must comply with the California Environmental Quality Act (CEQA) by disclosing the Project's significant impacts and identifying mitigation measures and feasible alternatives which would avoid or substantially lessen significant impacts. CEQA's primary purposes are to identify the environmental impacts of proposed development, to inform the public and decision makers about the impacts, and to provide opportunities for avoiding and lessening environmental damage whenever possible. A legally adequate EIR includes (1) an adequate project description, including project objectives; (2) a well-documented and up-to-date environmental baseline; (3) complete and accurate impact analyses; (4) effective, enforceable mitigation measures; (5) a thorough assessment of consistency with existing plans and policies; and (6)

¹*Oncorhynchus mykiss* (*O. mykiss*). The terms "steelhead" and "*O. mykiss*" are used interchangeably throughout this letter.

consideration of a range of alternatives which avoid or substantially lessen significant environmental impacts. All information and analyses in the EIR must be supported by substantial evidence.

Our specific questions and recommendations for the Project's EIR follow.

I. The EIR's Project Description Must Be Stable, Accurate, and Sufficiently Detailed to Enable the EIR to Analyze the Project's Impacts, and Must Include Sufficiently Broad Objectives.

Project Description Must Be Stable, Accurate, and Sufficiently Detailed

The DEIR must include a sufficient description of the proposed project. CEQA requires the project description to include enough detail to facilitate assessment of the environmental impacts caused by the Project.²

Agreements, Permits and Approvals

The City's Initial Study/Environmental Checklist (IS/EC) fails to identify any of the discretionary permits/approvals that it would need for the Project, except for those that would be issued by the City itself.³ Instead, it simply lists the names of local, state and federal agencies. The EIR must specify the discretionary actions that would be required by each agency for the Project to proceed.

For example, the EIR should state and discuss State Water Resources Control Board (SWB) responsibility and legal parameters for approving the City's proposal to install additional River wells and increase pumping of Santa Ynez River water. This discussion should include that the SWB has "an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible."⁴ This is a duty of "continuing supervision," and the SWB may, at any time, reconsider permit decisions whether or not those decisions were made after due consideration of their effect on the public trust.⁵ In addition, Article X, Section 2 of the California Constitution requires that water resources of the State "be put to beneficial use to the fullest extent of which they are capable" and prevents the waste, unreasonable use, and unreasonable method of use of water.⁶ The SWB is required to take all appropriate actions to prevent violations of these standards.⁷ These legal requirements reveal the error of the IS/EC assertion that "A license is essentially a permanent water right."⁸ The EIR must correct this error in the public record by accurately stating California water law standards.

² CEQA Guidelines §15124.

³ IS/EC at page 2.

⁴ *National Audubon Society v. State Water Resources Control Board*, 33 Cal. 3d 419, 446 (1983).

⁵ *Id.* at 448.

⁶ Cal. Const. Art. X, § 2. See also, Water Code § 100.

⁷ Water Code § 275.

⁸ IS/EC at page 7.

The EIR should also consider another matter directly related to the Santa Ynez River that is currently pending before the SWB – the U.S. Bureau of Reclamation's Water Rights Permits (Applications 1131 and 1132) Cachuma Project Phase 2.⁹ In this proceeding, the SWB is considering modifications to these permits to protect public trust resources and to restore *O. mykiss* to "good condition." As discussed throughout this letter, construction and operation of the proposed wells directly impacts implementation of the Cachuma Project and its environmental effects.

The IS/EC also fails to list the need for approval from NOAA Fisheries to address impacts to *O. mykiss*,¹⁰ or from the California Department of Fish and Game (DFG)¹¹ for a Streambed Alteration Agreement for the proposed River wells.

The City also fails to mention the need to, at a minimum, coordinate with the Bureau of Reclamation (BOR), the Cachuma Operation and Maintenance Bureau (COMB), and the Cachuma Conservation and Release Board (CCRB) regarding this Project's interaction with the Cachuma Project. As previously stated and discussed in more detail below, implementation of the proposed River wells is expected to have significant potential impacts on water flow and on *O. mykiss*. Each of these agencies has direct responsibilities under the Cachuma Project.

Purpose and Need

The IS/EC indicates that the "installation of additional River wells is intended to demonstrate beneficial water use at the permitted diversion rate."¹² The EIR should clarify whether the City currently has a permitted diversion rate of 5 cfs (or 3,600 AFY). The City's General Plan identifies the City's Appropriative Water Rights as up to 3,600 AFY but notes, "the ultimate amount that will be licensed to the city is uncertain."¹³ "The city's entitlement to this water basin could be reduced to approximately 2,700 to 2,800 acre-feet annually."¹⁴ These statements are consistent with discussion in the IS/EC which suggest that City has yet to obtain a final decision from the SWB regarding this diversion.¹⁵ If the City does not currently have a permitted diversion rate of 5 cfs than the Project objective should not be drafted to imply that it does.

The EIR also should clarify (a) whether a Project objective is to meet a diversion rate of 5 cfs or to meet projected growth demands, (b) whether growth demands or putting all the water to beneficial use is driving the Project, and (c) whether projected growth demands and the diversion rate of 5 cfs coincidentally match.

⁹ The City is a party to these proceedings.

¹⁰ IS/EC at page 2.

¹¹ *Id.*

¹² IS/EC at page 5.

¹³ *Id.* at 8.

¹⁴ *Id.*

¹⁵ IS/EC at pages 6 - 7.

The EIR should also explain how the City will demonstrate it can put all 5 cfs to beneficial use, including whether it must team up with another agency, i.e., Santa Ynez River Water Conservation District Improvement District Number 1 (SYRWCDID#1), to demonstrate a need for the 5 cfs allocated by permit No. 15878. This information will help establish which EIR alternatives are capable of fulfilling most of the Project's basic objectives.

In addition, the EIR should clarify whether the City intends to demonstrate beneficial use before or after the wells are constructed and operated.

By prioritizing the River wells over all other City supplies, the City seems to be utilizing the full 5 cfs to prevent reduction of water rights by the SWB, when in fact other sources exist. The City's approach of demonstrating a need for 5 cfs of River water seems to encourage inefficient, non-beneficial use of the River water, contrary to State water law requirements.

The EIR's project description should explain why, if the two existing River wells in production combined can produce 709 acre-feet per year (AFY)¹⁶, production from those wells only ranged from 50 - 207 AFY since 2005. This baseline information indicates that six additional River wells are not necessary to achieve most of the Project's basic objectives, and that other alternatives would fulfill basic objectives.

Total City water production has ranged from 1,454 to 1,677 during the last 5 years.¹⁷ Given this, the EIR should explain the need to increase the River wells' capacity to 3,600 AFY.

City water production has decreased steadily from 1986 to present due in part to increasing water conservation and reduced landscape irrigation.¹⁸ Given that water demand trend is decreasing over the last 25 years, the EIR should explain why there is a need to increase River well production to 3,600 AFY.

The City's 1986 General Plan notes that at that time that "buildout of the general plan could ultimately result in a maximum peak daily demand of approximately 4,870,000 gallons, which is about 341,000 gallons greater than current supply capabilities."¹⁹ The General Plan states that at the time (1988) no water was being imported from outside the County.²⁰ Eighty-six percent of the City's water supply was derived from Solvang's Uplands groundwater basin.²¹ However, since 1988, Solvang has purchased and receives State Water Project (SWP) water. Given this information, the General Plan does not support the purported need for the large-scale Project currently proposed by the City.

¹⁶ IS/EC at page 5.

¹⁷ IS/EC at page 8.

¹⁸ IS/EC at page 7.

¹⁹ Solvang Conservation and Open Space Element. 1988. Page 5.

²⁰ *Id.*

²¹ *Id.*

The EIR should discuss why the City is seeking double the amount of water estimated to be needed - 10.82 cfs versus the estimated 5.8 cfs future peak daily demand²² - and should justify the purported need for the desired production rate. Given the difference between the proposed peak capacity and estimated future peak daily demand, the need for the Project is being overstated and smaller alternatives would fulfill most of the Project's basic objectives as discussed below.

Project Objectives Must Not Unreasonably Restrict the EIR's Range of Alternatives

The EIR's project objectives will help define the range of alternatives. Under CEQA, an EIR's project objectives must set forth the Project's underlying purpose.²³ The EIR's project objectives cannot be so narrow that they restrict the range of alternatives in violation of CEQA.²⁴ CEQA requires that an EIR include a range of alternatives that avoid or substantially lessen significant impacts while fulfilling most of the Project's basic objectives.²⁵ Narrowing the objectives to eliminate feasible alternatives which may avoid or substantially lessen Project impacts may violate CEQA. Therefore the EIR must include objectives that are broad enough to foster consideration of an adequate range of less damaging alternatives.

For instance, if the objectives were to specify a specific amount of water sought from River wells or number of wells desired, these objectives should not be used to eliminate alternatives. Alternatives which may produce less water or use fewer wells than the Project can nonetheless meet most of the Project's basic objectives while avoiding or substantially lessening some of the Project's significant impacts.

Full production from the proposed wells in addition to the City's existing supplies can generate almost twice the projected peak daily demand. If the City is proposing to generate about twice the water needed for General Plan buildout, then the City does not actually need all that water. This fact indicates that smaller, less damaging alternatives will be able to fulfill the Project's underlying purpose while feasibly avoiding or lessening significant impacts as discussed below in the section of this letter addressing the EIR's alternatives. If the City defines the Project objectives too narrowly e.g., by stating an objective is to generate a total peak capacity of 10.82 cfs, this objective could be used by the City to eliminate feasible alternatives from consideration even though such alternatives may substantially lessen significant impacts while fulfilling most of the Project's basic objectives.

The IS/EC states that the Project includes prioritizing of River wells over existing water supplies including Uplands wells, SWP and purchases from SYRWCDID#1. This

²² IS/EC at pages 12 and 13.

²³ CEQA Guidelines Section 15124(b).

²⁴ *City of Santee v. County of San Diego* (4th Dist. 1989) 214 Cal. App. 3d 1438, 1455. See also *Kings County Farm Bureau v. City of Hanford* (5th Dist. 1990) 221 Cal. App. 3d 692, 735-737.

²⁵ CEQA Guidelines Section 15126.6(a).

preference may be couched by the City as a project objective but must not limit consideration of alternatives – such as continued reliance on Uplands wells, SWP allotment and purchases from SYRWCDID#1 - which would feasibly fulfill most basic objectives and lessen significant Project impacts.

The EIR's objectives must include objectives to protect and restore existing important natural resources in the River, such as *O. mykiss*, and to maintain or enhance flows in the River for aquatic resources such as *O. mykiss*. In addition, the following objectives are appropriate for this Project:

- Protect the natural environment and existing habitats.
- Restore previously damaged habitats.
- Contribute to recovery of southern California steelhead.
- Provide water in a manner which minimizes climate change impacts.
- Coordinate with other agencies involved with managing flows and underflows in the River.

II. The EIR's Environmental Baseline Must Accurately and Sufficiently Set Forth the Existing Physical Conditions of the Areas and Resources Affected by the Proposed Project.

The EIR must describe the environmental setting with enough detail to ensure an understanding of the significant environmental impacts of the Project and alternatives.²⁶ As stated in the CEQA Guidelines, "[t]he environmental setting will normally constitute the baseline physical condition by which a lead agency determines whether an impact is significant."²⁷ An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published.²⁸ The environmental setting constitutes the baseline physical conditions by which the City will determine whether an impact is significant.²⁹

When the environmental baseline is not properly understood, environmental impacts cannot be properly assessed. As a result, there is no basis to determine whether avoidance is feasible or what other mitigation measures are necessary to reduce significant impacts to the extent possible before a project can be approved, as required pursuant to CEQA.³⁰

An inadequate baseline will provide the basis for the court to invalidate an EIR. For example, in *Save Our Peninsula Committee v. Monterey County Board of*

²⁶ CEQA Guidelines Section 15125(a).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ CEQA Guidelines Sections 15002(a)(3) and 15021(a)(2). (See also Pub. Res. Code §21081(a)(3) and *Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.App.4th 105, 134.)

Supervisors, the court found that the EIR was inadequate in its baseline discussion for the following reasons: by failing to investigate and present evidence to support the assumption that the pre-project use of water on the property was for irrigation; by introducing a new methodology for baseline determination at the end of the environmental review process; and by inviting the Board to select a baseline at the end of the review process.³¹ The court also found that the Board's ultimate decision setting the baseline was not supported by substantial evidence.³²

The EIR's depiction of the environmental baseline must be supported by professional surveys and other substantial evidence to ensure its accuracy as a starting point for impact assessment.

Cachuma Project

This EIR's environmental baseline includes the current implementation of the Cachuma Project (including as regulated by the NOAA Fisheries September 2000 Biological Opinion), its effects on surface flow, and on the watershed environment. This information must be described in the EIR. The EIR should fully detail the current status of the Cachuma Project, including that BOR and NOAA Fisheries are re-initiating consultation under the Endangered Species Act, that BOR is currently seeking approval of its water rights permits with the SWB, and any other pending or final regulatory actions that effect the physical environment.

Biological Resource Conditions

The Santa Ynez River is of critical importance to many rare species, including *O. mykiss*, which depend on water in the River for survival. According to the DFG, the largest run of *O. mykiss* in Southern California was believed to have occurred on the Santa Ynez River.³³ As such, the River remains essential to recovery of *O. mykiss* and is proposed to be designated by NOAA Fisheries a Core 1 habitat for *O. mykiss* recovery.³⁴

Utilize Existing Information

O. mykiss

³¹ *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App. 4th 99, 119-128.

³² See also *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729 (EIR invalidated due to failure to disclose nearby wetland and wildlife preserve); *Galante Vineyards v. Monterey Peninsula Water Management District* (1997) 60 Cal.App.4th 1109 (EIR deficient for failure to identify wineries in area that would be impacted by the proposed project).

³³ Shapavalov, L. 1944. Preliminary report on the fisheries of the Santa Maria River System, Santa Barbara, San Luis Obispo, and Ventura counties, California. Bureau of Fish Conservation, Calif. Dept. Fish and Game, Admin. Rept. No. 44-14, Sacramento, CA.

³⁴ Southern California Steelhead Recovery Plan. NOAA. 2009. Draft. Page 63.

The EIR should use, as a starting point, information from existing research and biological surveys. For instance, research undertaken and data collected by other entities and information from NOAA Fisheries' recovery planning process, DFG and other agencies should be used along with documented observations of species present in and around the Santa Ynez River. Existing research and documented observations should be obtained from experts in the Project area's biological resources, including: Matt Stoecker, Stoecker Ecological Consulting and Ed Henke Historical Research for presence of steelhead in Santa Ynez River Watershed.

Other Biological Resources

The EIR should also rely on existing information from the following sources:

Special-status plant and animal species: US Fish and Wildlife Service; Critical Habitat Designations; California Department of Fish and Game Natural Diversity Data Base, California Native Plant Society.

Special-status plant species: Santa Barbara Botanic Gardens Herbarium; UCSB Herbarium; local botanists, including David Magney Environmental Consulting.

Special-status bird species: Audubon Society; Western Foundation of Vertebrate Zoology; local ornithologists such as Mark Holmgren.

Wildlife: Paul Collins, Santa Barbara Museum of Natural History.

This information should then be supplemented and updated based on site-specific research conducted by EIR preparers.

Timing of Biological Surveys

Aquatic species, such as *O. mykiss* in the Santa Ynez River and tributaries, and amphibians in wetlands and streams in the area, are also only found seasonally and surveys should be timed accordingly.

Quality of Surveys

Surveys must meet minimum professional standards to establish the biological baseline, based on substantial evidence, as required pursuant to CEQA. Improper surveys often lead to omission of important biological resources from EIRs. Specialists should be retained to survey for special-status wildlife species potentially present in the Santa Ynez River (e.g. red-legged frogs, legless lizards, owls, bats, etc.). In particular, sensitive areas such as riparian and wetland habitats should be carefully surveyed by professional herpetologist(s), ornithologist(s), wildlife biologist(s), fishery biologist(s), and botanists familiar with the affected areas.

Special-status Species

The EIR must separately consider all special-status species that could be potentially affected by the Project, most notably in the River, Alamo Pintado Creek, other

February 4, 2011

Brad Vidro, City Manager re: Scope of Solvang Water System Master Plan EIR

Page 9

tributaries and associated riparian habitats. Special-status species include State and Federal Threatened and Endangered Species, California Fully Protected Species, California Species of Concern, California Native Plant Society (CNPS) lists, and the Audubon "Blue List."³⁵ Locally important species are also special-status species that should be assessed in the EIR. EIR preparers should also consult the California Natural Diversity Data Base (CNDDDB),³⁶ CalFlora³⁷ and E Bird³⁸ to identify special-status species that may be affected by the Project.

Special-status species expected to be potentially present include but are not limited to:

- Southern California Steelhead
- Red-legged Frog
- Western Pond Turtle
- Two-Striped Garter Snake
- Least Bell's Vireo
- Southwestern Willow Flycatcher
- Townsend's Big-eared Bat
- Cooper's Hawk
- Loggerhead Shrike
- Sharp-shinned Hawk
- Tricolored Blackbird
- Yellow-breasted Chat
- Yellow Warbler
- California Legless Lizard
- California Horned Lizard
- Western Spadefoot Toad
- Arroyo Chub

This list was derived from the Santa Ynez Valley Community Plan Final EIR's³⁹ list of special-status species which was winnowed down by habitat type. The species listed above nest in or exhibit other associations with riparian habitats in and around the Project area.

³⁵ CEQA Guideline Section 15380 defines Endangered, Rare or Threatened Species broadly to include species which are not formally listed under the state or federal Endangered Species Acts but are otherwise rare.

³⁶ The goal of the CNDDDB is to provide the most current information available on the state's most imperiled elements of natural diversity and to provide tools to analyze these data.

<http://www.dfg.ca.gov/biogeodata/cnddb/> (Last viewed January 20, 2011.)

³⁷ Calflora is a website you can use to learn about plants that grow wild in California (both native plants and weeds) and a nonprofit organization responsible for the website. <http://www.calflora.org/> (Last viewed January 20, 2011.)

³⁸ E Bird is a real-time, online checklist program that has revolutionized the way that the birding community reports and accesses information about birds. <http://ebird.org/content/ebird/about> (Last viewed January 20, 2011.)

³⁹ Santa Ynez Valley Community Plan Final EIR. 2009. Table 4.5-3.

Hydrological Conditions

One of our major concerns is that the Project wells will remove water from the Santa Ynez River aquifer, thus causing surface water in the River to infiltrate more rapidly, leading to increased and more rapid dewatering of the River and impacts on *O. mykiss*. The EIR should utilize scientific research to set forth the River's existing geological and hydrological conditions relating to percolation of flows from the River into underground aquifers in order to identify and disclose the proposed wells' impacts on flows throughout the lower River.

III. The EIR Must Assess, Classify and Disclose Environmental Impacts and Must Identify Mitigation Measures which Avoid or Mitigate Significant Impacts to the Maximum Extent Feasible.

Consideration and Discussion of Environmental Impacts

The EIR must identify, analyze, and mitigate each and every significant environmental impact of the Project. Specifically, CEQA requires that an EIR "shall include a detailed statement setting forth...all significant effects on the environment of the proposed Project."⁴⁰ The EIR must evaluate and classify impacts as to their severity.⁴¹ As stated above, impacts are normally measured against the existing environmental setting. In this case, the EIR must measure the impacts against the existing environmental setting for the purposes of CEQA.

The EIR must also analyze and mitigate indirect impacts⁴² and cumulative impacts.⁴³

Consideration and Discussion of Measures Proposed to Mitigate Significant Effects

The EIR must describe feasible mitigation measures which will avoid or substantially lessen each significant environmental effect to the maximum extent feasible.⁴⁴ A lead agency cannot approve a project if there are feasible alternatives or mitigation measures that would avoid or substantially lessen significant impacts.⁴⁵ The lead agency's decision with regard to the feasibility of mitigation measures must be based on substantial evidence in the record.⁴⁶ Decisions regarding whether or not alternatives and mitigation measures substantially lessen or avoid significant impacts must also be based on substantial evidence in the record.

⁴⁰ Pub. Res. Code Section 21100(b)(1), emphasis added.

⁴¹ CEQA Guidelines Sections 15126 and 15126.2.

⁴² CEQA Guideline Section 15126.

⁴³ CEQA Guidelines Section 15130.

⁴⁴ CEQA Guidelines Section 15126.4(a)(1); *Save Our Peninsula Committee*, supra, 87 Cal.App.4th at 139

⁴⁵ Pub. Res. Code Sections 21002 and 21081(a)(3); CEQA Guidelines Sections 15002(a)(3) and 15021(a)(2); *Mountain Lion Foundation*, supra, 16 Cal.App.4th at 134.

⁴⁶ *Citizens for Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167 ("*Goleta P*").

Moreover, mitigation may not be deferred. As a matter of law, an agency cannot defer consideration or adoption of mitigation measures to a later date.⁴⁷ Deferral may be allowed in limited instances, provided there is a reasonable expectation of effectiveness and compliance based on a requirement that the measure meet specific performance standards that are identified in the EIR.⁴⁸ The impacts of mitigation measures must also be discussed in the EIR.⁴⁹

Biological Resources

The primary area of concern with the proposed Project is its potential to cause significant biological impacts to *O. mykiss* migration, spawning and rearing and the species' designated Critical Habitat in the Santa Ynez River. The IS/EC acknowledges impacts to steelhead are of concern.⁵⁰ However the IS/EC fails to identify steelhead as a special-status species or its federally-endangered status.⁵¹ The EIR must carefully evaluate and model how water withdrawals at different locations, pumping rates and seasons affect all *O. mykiss* life stages. This should include discussion of whether installation and operation of the wells would impact BOR's efforts to avoid jeopardy to *O. mykiss* through operation of the Cachuma Project. Similarly, the EIR should also consider whether installation and operation of the wells would impact BOR's ability to keep *O. mykiss* in "good condition" and protected as a public trust resource, as required by State law. For example, will removing water from the aquifer at the proposed diversion location cause surface water to infiltrate more rapidly, and thus imperil *O. mykiss*?

The EIR should identify feasible ways to reduce potential impacts, such as alternatives discussed below, and mitigation measures that would limit the timing, locations and rates of pumping to protect *O. mykiss*. Importantly, mitigation measures must take into consideration ongoing cumulative hydrological effects from projects described below so that mitigation measures for the impacts of Solvang's wells are not rendered ineffective by other entities' activities. Thus, to the extent feasible the EIR must identify measures which can avoid or mitigate Project impacts on *O. mykiss* regardless of other entities' pumping. The City should coordinate with the BOR, SYRWCDID#1, the Alisal Golf Course and other pumpers to ensure the City's mitigation measures can be effective at reducing significant Project impacts to the maximum extent feasible.

⁴⁷ CEQA Guidelines Section 15126.4(a)(1)(B); *Kings County Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296.

⁴⁸ *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal. App.4th 777.

⁴⁹ CEQA Guidelines Section 15126.4(a)(1).

⁵⁰ IS/EC at page 14.

⁵¹ IS/EC discussion of biological resources and impacts. Pages 54 – 56. Noting that the Solvang General Plan only identifies two rare species in the City.

Direct Loss of Habitats & Species

Riparian and wetland habitats such as those in the Santa Ynez River are biologically diverse and productive because they have water in an arid landscape. Santa Barbara County notes that many of the County's animals and plants are geographically almost limited to the Santa Ynez River.⁵² The IS/EC notes that the River aquifer can be quickly depleted affecting surface flows.⁵³ The EIR should evaluate, map and quantify the loss of aquatic, riparian, wetland and other riverbed habitats caused by the proposed River wells' removal of water from the River aquifer, and should describe the habitat degradation that would result from the Project. The EIR should describe the impacts plant, animal and insect species that would be caused by the Project – including focused analyses for each special-status species such as *O. mykiss*, western pond turtle, red-legged frog, and two-striped garter snake.

Alamo Pintado Perennial Reach

The IS/EC notes that wells would be located by the confluence of Alamo Pintado Creek to take advantage of that creek's perennial i.e. year-round flow.⁵⁴ Perennial creeks are important habitats for many aquatic and riparian species including steelhead, red-legged frogs, western pond turtles, 2-striped garter snakes and other special-status species occurring in the Santa Ynez River Watershed. Two-striped garter snakes have been documented in Alamo Pintado Creek.⁵⁵ Perennial creeks are important watering areas for all types of wildlife. Placement of wells near Alamo Pintado Creek poses the unique threat of eliminating perennial flows and species in Alamo Pintado Creek. The placement of wells near Alamo Pintado Creek threatens to eliminate an important wildlife watering area. The EIR must evaluate these impacts.

Direct and Indirect Wildlife Impacts

The EIR should provide detailed analysis of direct and indirect impacts to wildlife and habitats, including the following:

- Impacts of noise from running the pumps.
- Impacts of climate change from burning fossil fuel to install and operate the Project and deliver water.
- Impacts from human presence installing, maintaining and operating the wells.
- Introduction of non-native plants via equipment and personnel.
- Water quality changes from reduced flows.
- Impacts on predators from reduced prey caused by reduced flows.
- Impacts from discharge of drilling muds into the River.
- Reduced water supply for wildlife.

⁵² Santa Barbara County Conservation Element, Page 153.

⁵³ IS/EC at 15.

⁵⁴ IS/EC at page 15.

⁵⁵ Santa Barbara County, Santa Ynez Community Plan Final EIR, Page 4.5-23.

Discharges during Well Production, Testing and Development

Well installation includes production and testing which discharges water into the River.⁵⁶ The EIR should analyze and disclose impacts of discharging 10,000 gallons of water from each well during production, plus 300,000 gallons per well during pump testing. Impacts may include changes in water temperature, turbidity and chemical composition, and displacement or mortality of *O. mykiss* through inducing migration or movement.

Wetlands, Waters of the United States and Riparian Habitats

The EIR must evaluate impacts to wetlands that could result from extracting water from the River. The IS/EC states that federally protected wetlands do not occur in the Project area and would not be affected by the Project.⁵⁷ However, the River consists of federally protected wetlands and Waters of the United States which are subject to Clean Water Act jurisdiction.⁵⁸ These wetlands and waters are expected to be affected by the Project wells' cones of depression – the area around each well where groundwater tables are lowered by the well's effect. Removing the source of water from wetlands and Waters of the US is a form of "hydrological interruption"⁵⁹ which damages wetlands and aquatic habitats. Impacts caused by hydrological interruption must be evaluated, disclosed in the EIR and avoided or mitigated.

The EIR must also disclose how the Project may adversely affect riparian vegetation. Reduced flows caused by increased pumping will deprive riparian vegetation of flows and this may cause willows, cottonwoods and other species or trees and plants to die. If the Project will reduce water in the aquifer and in the River, at least periodically, then this will adversely affect vegetation along and near the River.

The EIR must evaluate the increased fire hazard caused by the Project, potentially reducing water levels along the River and drying riparian and other vegetation along the open spaces fronting the Santa Ynez River.

⁵⁶ IS/EC at page 19.

⁵⁷ IS/EC at page 55.

⁵⁸ Penfield and Smith. Santa Ynez River Bank Protection Evaluation. January 20, 2011. Noting that: "In addition to review by the City of Lompoc, state and federal agencies also have jurisdiction over work conducted in and adjacent to the Santa Ynez River. As a result, a U.S. Army Corps of Engineers (ACOE) Section 404 Permit, a California Regional Water Quality Control Board (RWQCB) Section 401 Water Quality Certification, and a California Department of Fish and Game (CDFG) Streambed Alteration Agreement will need to be obtained. Additionally, consultation with the U.S. Fish & Wildlife Service and the National Marine Fisheries Service will also be required, as a part of the Army Corps of Engineers permit review process." <http://www.lcityoflompoc.com/councilagenda/2011/110201/110201n02a1.pdf>
Last viewed February 2, 2011.

⁵⁹ CEQA Guidelines Appendix G.

Air Quality

Greenhouse Gas Emissions

The City must identify, analyze, and avoid or mitigate significant greenhouse gas (GHG) effects.⁶⁰ The California Air Pollution Controls Officers Association (CAPCOA) has issued a white paper on CEQA and Climate Change that provides guidance on inventorying GHG emissions.⁶¹

The GHG inventory must include assessment of the full life-cycle of Project GHG emissions, including GHG emissions caused by well drilling, production, testing and pumping of water from the River up to the users including the use of combustible engine pumps and electrical pumps.⁶² The Project's new need to pump all water uphill from the River to City users represents a significant new source of GHG emissions that must be evaluated in the EIR. New development fueled by (1) new water production and (2) SWP entitlement sales will also generate GHG emissions that must be evaluated in the EIR.

GHG emissions can also result from vegetation removal and decomposition.⁶³ The Project impacts may reduce water available for riparian and wetland vegetation in the River, leading to loss and decomposition of that vegetation, and resulting GHG emissions. To the extent increased pumping decreases biomass, biological production and carbon sequestration and/or causes death and decay of River vegetation (and associated release of methane), the EIR must disclose these indirect GHG emission impacts.

The EIR must assess the significance of the impact on climate change. Recent science supports a determination that *any* net increase in emissions will have a significant effect on global climate change and therefore that a zero emission threshold should be used to evaluate impacts. Current evidence demonstrates the target atmospheric level of CO₂ should be 350 parts per million (ppm) to achieve climate stabilization and avoid disastrous global consequences.⁶⁴ Given current atmosphere levels of 385 ppm, we are already on a trajectory that is not sustainable, and we must decrease GHG emissions

⁶⁰ CEQA Guidelines Sections 15064.4 and 15064. See also, Appendix G.

⁶¹ CAPCOA. 2008. *CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act*. Jan.

⁶² Current City water supplies are delivered by gravity flow but River well water must be pumped uphill to users.

⁶³ Science Daily. July 21, 2008. <http://www.sciencedaily.com/releases/2008/07/080720150209.htm> Last viewed February 2, 2011.

⁶⁴ Matthews H.D., and K. Caldeira (2008), *Stabilizing climate requires near-zero emissions*, *Geophys. Res. Lett.*, 35, L04705, doi:10.1029/2007GL032388; James Hansen, et al., *Target Atmospheric CO₂: Where Should Humanity Aim?* *The Open Atmospheric Science Journal*, 2008, 2, 217-231; Statements of Dr. Chris Field, Carnegie Institution for Science, *Decisive Action Needed as Warming Predictions Worsen*, Says Carnegie Scientist, available at http://www.ciw.edu/news/decisive_action_needed_warming_predictions_worsen_says_carnegie_scientist

more rapidly and to a greater extent than previously thought. Thus, *any* additional contribution of CO₂ would be a step further from State and regional target levels.

The potential consequences of global warming further underscore the need for a zero threshold standard. The IPCC, Union of Concerned Scientists, and the California Climate Change Center have published several studies that identify how climate change will affect the environment.⁶⁵ These impacts include an increase in water temperatures, rise in sea level, coastal erosion, reduction of the Sierra snowpack, increase in severity and frequency of storms, increased droughts, famine, changes in ecosystems, increase in heat waves, increases in pests and diseases, flooding, retreating glaciers, ozone formation, and the potential for wildfires.⁶⁶

The City of Solvang IS/EC references an Interim GHG Emission Threshold released by the Santa Barbara County Planning and Development Department of 10,000 metric tonnes of carbon per year; based on this threshold, the IS/EC concluded no significant impacts would result.⁶⁷ In actuality, the County has not adopted any GHG threshold of significance, and any "interim" guidance carries no weight. Solvang must therefore rely on substantial evidence, not a *de facto* 10,000 metric tonne GHG emission threshold, for its CEQA analysis. Given the need to reduce GHG emissions a zero emission threshold is warranted and supported by substantial evidence.

The use of a zero emission threshold is discussed in CAPCOA's white paper.⁶⁸ A zero emission threshold was used recently in the California State Lands Commission's Final EIR for the Venoco Ellwood Marine Terminal and Draft EIR for the Venoco Ellwood Full Field Project.⁶⁹ We strongly encourage the City to utilize a zero emission

⁶⁵ Union of Concerned Scientists. 2006. California Global Warming Impacts and Solutions, available at http://www.ucsusa.org/clean_california/ca-global-warming-impacts.html. California Climate Change

⁶⁶ Karl, T.R., *supra*; Levin, K., *supra*, citing Emanuel, K., *Increasing Destructiveness of Tropical Cyclones Over the Past 30 Years* (Nature, vol. 436, August 4, 2005), P.J. Webster, et al., *Changes in Tropical Cyclone Number, Duration, and Intensity in a Warming Environment* (Science, vol. 309, September 16, 2005), NASA Earth Observatory, *Record Low for June Arctic Sea Ice* (June 2005 at earthobservatory.nasa.gov/Newsroom/NewImages/images.php3?img_id=16978), A.J. Cook et al., *Retreating Glacier Fronts on the Antarctic Peninsula Over the Past Half-Century* (Science, vol. 308, April 22, 2005), R.B. Alley et al., *Ice-Sheet and Sea-Level Changes* (Science, vol. 310, October 21, 2005), E.D. Domack, et al., *Stability of the Larsen B Ice Shelf on the Antarctic Peninsula During the Holocene Epoch* (Nature, vol. 436, August 4, 2005), F.S. Chapin III, et al., *Role of Land Surface Changes in Arctic Summer Warming* (Science, vol. 310, October 28, 2005), M. Hopkin, *Amazon Hit by Worst Drought for 40 Years: Warming Atlantic Linked to Both US Hurricanes and Rainforest Drought* (Nature, October 11, 2005), I.T. Stewart, et al., *Changes Toward Earlier Streamflow Timing Across Western North America* (Journal of Climate, vol. 18, April 2005).

⁶⁷ IS/EC at page 60.

⁶⁸ CAPCOA. 2008. *CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act*. Jan.

⁶⁹ Venoco Ellwood Marine Terminal Lease Renewal Project Final Environmental Impact Report, California State Clearinghouse (SCH) No. 2004071075, CSLC EIR No. 743, April 30, 2009; Draft Environmental Impact Report for the Venoco Ellwood Oil Development and Pipeline (Full Field) Project, State Clearinghouse No. 2006061146, CSLC EIR No. 738, June 2008.

threshold in its evaluation of direct and indirect greenhouse gas emissions. The CAPCOA white paper discusses other approaches as well.

Finally, if the greenhouse gas emission impact is found to be significant, the EIR must identify alternatives and/or mitigation measures that will reduce the impact below significance. Courts have found EIRs inadequate when they improperly defer formulation of mitigation measures to address the global warming impacts.⁷⁰ The California Attorney General has also provided guidance on the subject:

Can a lead agency rely on policies and measures that simply "encourage" GHG efficiency and emissions reductions?

No. Mitigation measures must be "fully enforceable."⁷¹ Adequate mitigation does not, for example, merely "encourage" or "support" carpools and transit options, green building practices, and development in urban centers. While a menu of hortatory GHG policies is positive, it does not count as adequate mitigation because there is no certainty that the policies will be implemented.⁷²

There are many concrete, enforceable mitigation measures appropriate for inclusion in an EIR. Examples are described in a variety of sources, including the CAPCOA's white paper,⁷³ Office of Planning and Research's (OPR) Technical Advisory,⁷⁴ and a mitigation list on the Attorney General's website.⁷⁵

Particulate Matter

The City must analyze the effect of drying up the Santa Ynez River on particulate matter in the Santa Ynez River. When the River bed dries, winds pick up silt, organics and other particulate matter which can cause respiratory problems. Santa Barbara County does not meet California state standards for particulate matter (PM10).⁷⁶ Any increase in PM10 should be considered a significant impact as it would increase the County's non-compliance with state standards for health and air quality.

⁷⁰ *Sierra Club v. City of Tulare*, Tulare County Superior Court, #08-228122 (March 16, 2009) (mitigation measure requiring development of a plan to identify and reduce greenhouse gas emissions was inadequate "because it impermissibly defers the formulation of mitigation measure and does not include any specific performance criteria," emphasis in original, citing *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670).

⁷¹ Pub. Res. Code, Section 21081.6, subd. (b); CEQA Guidelines, Section 15091, subd. (d); see also *Federation of Hillside and Canyon Assocs.* (2000) 83 Cal.App.4th 1252, 1261 (general plan EIR defective where there was no substantial evidence that mitigation measures would "actually be implemented").

⁷² California Attorney General's Office. 2009. Climate Change, the California Environmental Quality Act, and General Plan Updates: Straightforward Answers to Some Frequently Asked Questions. Page 5.

⁷³ CAPCOA white paper at pp. 79-87.

⁷⁴ Office of Planning and Research. 2008. CEQA AND CLIMATE CHANGE: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review. Jun.

⁷⁵ See <http://ag.ca.gov/globalwarming/ceqa/GHGmitigation.php> (Last viewed on January 25, 2011)

⁷⁶ IS/EC at page 53.

Ozone

The City's proposal to increase pumping to provide River water will generate smog precursors such as NO_x, leading to generation of ozone. Santa Barbara County does not currently meet state standards for ozone.⁷⁷ Any increase of this problem caused by increasing pumping to supply water from River wells should be considered significant for exacerbating County non-compliance with state ozone standards. To the extent pumping would be fueled by electricity rather than directly by fossil fuel combustion engine pumps in Solvang, the EIR should evaluate where the electricity is generated and whether the increased load to support the Project would contribute to ozone impacts where the electricity is generated i.e. near the power plant(s) providing electricity to Solvang.

Water Supply

The EIR must evaluate impacts on the South Coast's (Goleta's, Santa Barbara's, Montecito's and Carpinteria's) water supplies. Solvang proposes to draw water from new and existing River wells which are expected to reduce flows in the River. The effect of reducing flows in the River may necessitate increased releases from the BOR's Bradbury Dam to meet the target flows established by NOAA Fisheries' Biological Opinion (and to keep *O. mykiss* in "good condition" and to protect public trust resources). What are the potential impacts of the Project on South Coast water supplies, and what are the direct and indirect environmental effects if that water supply is disrupted?⁷⁸

Groundwater Supplies

The EIR states the Project is intended to remove water from the Santa Ynez River Riparian Sub-basin Aquifer described as "an alluvial basin that extends from Bradbury Dam to Alisal Road."⁷⁹ The groundwater in the basin "is in direct hydraulic communication with the River's surface flow,"⁸⁰ when the River is flowing, all withdrawals from the aquifer come directly off the top of the aquifer, i.e. from surface flow in the River until exhausted. The aquifer "is quickly depleted by pumping if surface flows are limited due to drought conditions."⁸¹ As a result, pumping from River wells can quickly dry up the River's surface flow and subterranean flow. This impact must be thoroughly assessed in the EIR.

Related to this hydrological impact, the CEQA Initial Study checklist includes the following impact:

⁷⁷ *Id.*

⁷⁸ *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal. 4th 412.

⁷⁹ IS/EC at page 15.

⁸⁰ *Id.*

⁸¹ *Id.*

“Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted.”⁸²

The IS/EC finds this impact would be less than significant.⁸³ The IS/EC analysis focuses on “[C]urrent water resources” and “existing water sources”⁸⁴ but does not assess the impacts of the proposed River wells. The EIR must assess the impacts of the proposed new wells – not the existing water sources. If increased pumping by Solvang’s new wells would lower the local groundwater table such that it would not support efforts to protect and recover *O. mykiss* in line with federal and State requirements, this would indicate a significant hydrological impact to the groundwater basin. The EIR should therefore include discussion of whether installation and operation of the wells would impact BOR’s efforts to avoid jeopardy to *O. mykiss* through operation of the Cachuma Project. Similarly, the EIR should also consider whether installation and operation of the wells would impact BOR’s ability to keep *O. mykiss* in “good condition” and protected as a public trust resource, as required by State law.

Similarly, the Project may “substantially alter the existing drainage pattern”⁸⁵ by altering the hydrology of the River. The IS/EC surprisingly referred to this impact as “less than significant,”⁸⁶ but the EIR should carefully evaluate this impact as it relates to the effect of water pumping on River flows and infiltration patterns.

Flooding

The EIR must analyze the potential flooding threat to the wells, and to City workers who may be working on the wells during storms. Given climate change, storm severity is expected to increase.⁸⁷ Therefore, the EIR should consider the flooding impacts in light of climate change.

Water Quality

The EIR should analyze whether the Project will reduce flows in the River by increasing pumping from the River. The IS/EC indicates that this is a concern.⁸⁸ When flows are diminished in a River, water temperatures increase. Riparian canopy vegetation decreases, exposing the water to more direct sunlight. Algae blooms often result when riparian vegetation is thinned or removed. When algae decompose the process deprives

⁸² CEQA Guidelines Appendix G.

⁸³ IS/EC at page 43.

⁸⁴ IS/EC at page 62.

⁸⁵ CEQA Guidelines Appendix G.

⁸⁶ IS/EC at page 44.

⁸⁷ DW. World.DE. August 25, 2009. <http://www.dw-world.de/dw/article/0,,4598235,00.html>. Last viewed February 2, 2011.

⁸⁸ IS/EC at page 14 noting that pumping from river above Alisal Road may impact steelhead.

the water of dissolved oxygen (DO). Warm water temperatures, algae blooms and low DO are all known to be conditions which adversely affect *O. mykiss*. The EIR must therefore evaluate the Project's impacts on water quality including temperatures, algae and DO.

Recreation

The EIR must assess how the Project may affect recreation along the River by reducing flows. The River is a navigable River and is used by the public for a variety of water-related recreational activities including bird-watching, swimming and hiking. For example, how would increased pumping effect recreation by reducing River flows?

Land Use Planning

The EIR must analyze consistency between the Project and applicable general plans, specific plans and regional plans.⁸⁹

Solvang General Plan

The EIR should carefully assess Project consistency with the 1988 General Plan. For example, Policy 2b of the 1988 General Plan states that "The city shall use reclaimed water for irrigation of public landscaped areas to the greatest feasible extent."⁹⁰ Policy 2d states "The city shall encourage the extension of the state water project for the purpose of insuring and maintaining an adequate water supply for the city." Discussion in the General Plan makes clear that these policies were adopted for the purpose of avoiding or mitigating environmental impacts.⁹¹ The General Plan also includes Objective 4 for preserving important habitats: "Preserve areas of important biological habitat **and** protect sensitive, rare, and endangered species of flora and fauna." The EIR must evaluate the Project's consistency with the 1988 Solvang General Plan and identify inconsistencies with City policies as Land Use impacts.

Steelhead Recovery Plan

NOAA Fisheries' draft Steelhead Recovery Plan sets forth goals and actions to recover *O. mykiss*. As noted above the Plan designated the Santa Ynez River as a Core 1 (i.e., most important) habitat for recovering *O. mykiss*. The plan identifies high, low and medium threat sources potentially impacting *O. mykiss* in the Santa Ynez River, including the "High Threats" of "Groundwater Extraction" and "Dams and Surface Diversions."⁹²

⁸⁹ CEQA Guideline Section 15125(d).

⁹⁰ Solvang General Plan. 1988. Page 39.

⁹¹ *Id.*

⁹² Southern California Steelhead Recovery Plan. Draft. 2009. Page 104.

The Recovery Plan also identifies specific actions necessary to recover *O. mykiss* in the Santa Ynez River including: “Develop and implement water management plans,” “Develop and implement groundwater management plans,” and “Conduct hydrological analysis (groundwater).”⁹³ The EIR should evaluate the Project’s consistency with the draft Steelhead Recovery Plan and its identified Recovery Actions.

DFG Steelhead Restoration and Management Plan for California

The EIR should evaluate the Project’s consistency with the DFG Steelhead Restoration and Management Plan. The Plan notes that “water development appears to be the primary cause of localized extinctions and decline in numbers within southern steelhead populations.”⁹⁴ The Plan includes recommendations for how to protect *O. mykiss* in light of impacts from water supply projects on the Santa Ynez River.

Growth-Inducement

The Project poses a significant increase in pumping from the Santa Ynez River to support purported future urban growth. CEQA requires that EIRs assess growth-inducement as an environmental impact, including ways in which the project could foster population growth, construction of new housing, removing obstacles to development, and providing new public services which can foster additional growth and cause additional environmental impacts that must be analyzed in the EIR.⁹⁵ The EIR must analyze the effects of removing obstacles to growth by increasing the supply of water in rural Santa Ynez.

The EIR must also evaluate the impacts of selling SWP entitlements as described in the IS/EC.⁹⁶ It has been reported that Bixby-Cojo Ranch is seeking to purchase water from the Carpinteria Valley Water District, which may fuel urban development.⁹⁷ Bixby-Cojo could seek to purchase Solvang’s “excess” SWP, if marketed, resulting in growth-inducement. To the extent that the impacts of selling Solvang’s SWP entitlements can result in urban development by removing an obstacle to growth, the EIR cannot be found legally adequate and complete if it defers that analysis.

Cumulative Impacts on River Flows and Steelhead

The EIR should evaluate and identify ways to avoid and mitigate the Project’s contribution to cumulative effects on *O. mykiss* and flows in the River caused by pumping from the following wells:

⁹³ *Id.*

⁹⁴ California Department of Fish and Game. Steelhead Restoration and Management Plan for California. 1996. Page 56.

⁹⁵ CEQA Guidelines Section 15126.2(d)

⁹⁶ IS/EC at page 21.

⁹⁷ Santa Barbara Independent. January 27, 2011. <http://www.independent.com/news/2011/jan/27/trouble-paradise/>. Last viewed on January 31, 2011.

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- Alisal Golf Course: Three Wells
- City of Solvang: Two River Wells
- SYRWCDID#1 existing well field upstream of Alisal Bridge: 6 cfs production

And from the following projects:

- Cachuma Project / Bradbury Dam
As mentioned above, the SWB is currently considering BOR's Water Rights Permits (Applications 1131 and 1132) for the Cachuma Project to protect public trust resources and to restore *O. mykiss* to "good condition." In addition, NOAA Fisheries and BOR are re-initiating consultation under the Endangered Species Act to ensure that the Cachuma Project does not jeopardize *O. mykiss*.
- Gibraltar Reservoir
- Jameson Reservoir
- San Lucas Ranch Water Diversions
- Alisal Golf Course Reservoir Project⁹⁸

IV. The EIR Must Evaluate Feasible Alternatives which Avoid or Substantially Lessen Significant Impacts.

The EIR must analyze the impacts of an adequate range of feasible alternatives that avoid or lessen significant impacts, such as those caused by removing water from the Santa Ynez River environment, and which meet most of the Project's basic objectives.⁹⁹ The following alternatives are feasible, would meet the overall objective of the Project, and have the potential to avoid or substantially lessen Project impacts:

Water Conservation

Increasing water conservation would reduce future City water demand and essentially provide a new "source" of water for the City's future needs without causing significant impacts by taking water from the Santa Ynez River's federally-endangered steelhead. This alternative would be consistent with the General Plan's discussion of alternative water supplies identified by the Santa Barbara County Water Agency.¹⁰⁰ It would also be consistent with General Plan Policy 2.a, which states: "The City shall require all new developments to incorporate water conservation measures into project design to the greatest extent practical."¹⁰¹ As noted in the General Plan, this alternative can be combined with other sources to meet water supply objectives.

⁹⁸ Santa Barbara County Planning and Development Department.

<http://www.sbcountyplanning.org/PDF/boards/za/01-24-2011/10CUP-00000-00018/Staff%20Report.pdf>

Last viewed February 4, 2011.

⁹⁹ CEQA Guidelines Section 15126.6(a).

¹⁰⁰ General Plan at page 6.

¹⁰¹ General Plan at page 39.

The IS/EC notes “increased water conservation by all users,”¹⁰² but IS/EC Table 2-2 demonstrates that per capita water consumption has stayed roughly level since 1995.¹⁰³ This is during a time when new technologies allowed for greater water conservation. Per capita water use in SYRWCD (231 gallons per person per day (gpcd)) is higher than anywhere else in the Santa Ynez Valley, the South Coast and the County (e.g., Santa Barbara City, 85 gpcd; Goleta Water District, 82 gpcd; Carpinteria Valley Water District, 87 gpcd; and Montecito, 201 gpcd).¹⁰⁴ Substantial additional water conservation in SYRWCDID#1, including within Solvang, is possible and has been demonstrated feasible.¹⁰⁵ Conservation should therefore be a key alternative analyzed in the EIR and can be considered in tandem with all other alternatives to reduce reliance on Santa Ynez River water and associated environmental impacts.

Alternative Locations

In order to lessen impacts on flows and steelhead in the River, the EIR should analyze alternative locations for wells including (a) new wells in aquifers outside of the River and (b) wells in other areas of the River.

Regarding alternative locations for new wells in the River, the IS/EC notes that Solvang is proposing wells outside of the authorized zone of diversion and is seeking a change to its water rights permit to allow construction of wells to a distance of 1.5 miles downstream from Alisal Road.¹⁰⁶ Part of the justification is to reduce well interference and impacts to steelhead above Alisal Road.¹⁰⁷ The EIR should consider alternatives that place all of the proposed new wells downstream from the Alisal Bridge because this would impact an area of the River near Solvang that is less preferable to steelhead (i.e. those reaches that tend to dry out more), and would thus potentially lessen impacts on steelhead. By avoiding pumping above Alisal Bridge, this alternative may reduce impacts to surface water flow and *O. mykiss*, and should therefore be evaluated in the EIR.

The EIR analysis should pair this alternative with the Water Conservation Alternative to ensure most of the Project’s basic objectives can be feasibly accomplished while lessening potentially significant impacts to *O. mykiss*.

¹⁰² IS/EC at page 7.

¹⁰³ IS/EC at pages 8 – 9. See also IS/EC at page 8 stating “The per capita water use in the City has been relatively stable at about 250 gallons per person per day for many years.”

¹⁰⁴ Pacific Institute, Dana Haasz and Peter Gleick, Comments on the Draft EIR for the Cachuma Water Rights, Hearing Report to the Environmental Defense Center, October 6, 2003. The conclusions in this report were verified and updated by Pacific Institute in 2007.

¹⁰⁵ *Id.* at Page 4 noting that an active toilet retrofit program could save 132 AFY, landscaping irrigation could save 247-394 AFY, CII toilets could save 61 AFY and washing machines could save 27 AFY in Santa Ynez.

¹⁰⁶ IS/EC at page 14.

¹⁰⁷ *Id.*

Reduced Pumping Alternatives

The EIR should include alternatives that consider pumping less water than the proposed Project. These alternatives would reduce impacts on the River flows and steelhead. Such alternatives are feasible. The IS/EC states that the total City peak water supply would reach 10.82 cfs under the Project while the Water System Master Plan identifies future peak demand as only 5.8 cfs. The City's existing water supplies plus the proposed Project's water supplies are "more than adequate to meet future demands."¹⁰⁸ Therefore alternatives which generate less water than the Project but which are capable of meeting the City's future peak demand estimate plus a reasonable safety margin fulfill the Project's underlying purpose.

In addition, the EIR should describe how Solvang's proposal as part of this Project to sell up to 300 AFY, or possibly more, of SWP entitlements¹⁰⁹ increases the feasibility of alternatives which may not generate as much water as the Project. The fact that the Project will render all or some of the City's SWP entitlement to be "excess" water further demonstrates that Reduced Pumping Alternatives can feasibly fulfill most of the Project's basic underlying objectives.

The SWB issuance of a permit for Lompoc to divert up to 3,600 AFY of water from the Santa Ynez River occurred in 1969, 28 years prior to the listing of *O. mykiss* as federally-endangered. Given the subsequent listing of *O. mykiss*, and pending SWB action involving the Cachuma Project, it is reasonably foreseeable that the SWB may limit diversions from the River. The EIR should plan for this possible outcome by considering a range of Reduced Pumping Alternatives.

The EIR should study alternatives that would increase current production from River wells by 1 to 3 cfs. Such alternatives would fulfill most of the Project's basic objectives while substantially lessening the Project's expected significant impacts on *O. mykiss* in the River. As an example, one alternative to study in this range would be, consistent with the SWB's 2001 action, a maximum diversion rate of 1.85 cfs for the City's two existing River wells.¹¹⁰

No Project Alternative

The No Project Alternative may be a feasible way to fulfill most Project objectives while completely avoiding impacts to steelhead. CEQA requires lead agencies to analyze the No Project Alternative for this reason, and to compare the impacts of approving a project with the impacts of not approving a project.¹¹¹ In this particular case a thorough analysis of the No Project Alternative will be very useful because information in the IS/EC indicates that most of the Project's basic objectives can be fulfilled without

¹⁰⁸ IS/EC at page 12.

¹⁰⁹ IS/EC at page 21.

¹¹⁰ IS/EC at page 6.

¹¹¹ CEQA Guidelines Section 15126.6(e).

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Brad Vidro, City Manager re: Scope of Solvang Water System Master Plan EIR

Page 24

pursuing the Project's proposed new River wells. Under this alternative, the City would continue to rely on the Uplands well(s), SWP entitlements, the 2 River wells and purchases from SYRWCDID #1 to avoid new impacts to steelhead in River. The EIR should fully evaluate the extent to which water supplies under the No Project Alternative are adequate for the City, in order to tease out how much additional water, if any, the City must produce to fulfill most of the Project's basic objectives.

Wastewater Recycling

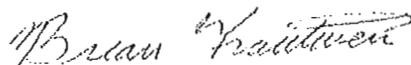
The General Plan identifies "the reclamation and re-use of wastewater" as "a consideration in the search for ways to meet future demands for water resources. Despite the political, economic, and legal obstacles to wastewater recycling, it is an important and technologically feasible method to ensure that water resources are used wisely."¹¹² Therefore, in keeping with the General Plan, the EIR should evaluate a Wastewater Recycling Alternative as an alternative to the Project's heavy reliance on River water.

IV. Conclusion

In closing, the City must establish an accurate description of baseline conditions and an accurate and stable project description, and must evaluate potential environmental impacts based on substantial evidence. The EIR should always seek to first identify methods to feasibly avoid significant impacts, and should include a sufficient range of feasible, less-damaging alternatives to give City and ultimately state decision-makers options for preserving the public's important environmental resources.

Thank you for the opportunity to provide you with this information. Please feel free to contact Brian Trautwein at (805) 963-1622 or Karen Kraus at (805) 658-2688 if you have any questions.

Sincerely,



Brian Trautwein
Environmental Analyst



Karen M. Kraus
Staff Attorney

¹¹² General Plan at page 12.



State of California - The Natural Resources Agency Edmund G. Brown, Jr., Governor
 DEPARTMENT OF FISH AND GAME John McCamman, Director
 South Coast Region
 4949 Viewridge Avenue
 San Diego, CA 92123
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February 4, 2011

Mr. Brad Vidro
 City of Solvang
 1644 Oak Street
 Solvang, CA 93463
 Fax #: (805) 686-2049

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FEB 04 2011

CITY OF SOLVANG

Handwritten:
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 2/7/11

Subject: Notice of Preparation of a Draft Environmental Impact Report (EIR) for the Solvang Water System Master Plan Update; City of Solvang, Santa Barbara County; SCH #2011011007

Dear Mr. Vidro:

The Department of Fish and Game (Department) appreciates this opportunity to comment on the above-referenced project, relative to impacts to biological resources.

The proposed project consists of updating the Water System Master Plan (Plan) for the City of Solvang and to install all facilities to implement the update plan. The Water System Plan Update indicates that the City has a reliable water supply that would adequately provide the City's General Plan full build-out condition. The Plan recommends that the City prioritize the development and use of its water supply sources in the following order of decreasing preference:

- Installation of Santa Ynez River wells
- Utilize State Water Project (SWP) water
- Utilize upland wells located in the City
- Purchase water from the Santa Ynez River Water Conservation District, Improvement District No. 1 (ID #1)

To implement the above strategy, the City proposes to install additional wells in the Santa Ynez River and increase pumping of the river underflow within its rights under State Water Resources Control Board (SWRCB) permit 16787. The City's current permit to appropriate water from the Santa Ynez River provides for extractions of up to 5 cubic feet per second (cfs) and up to 3600 acre-feet (AF) per year. To achieve the permitted diversion rate of 5 cfs (to meet peak hour demand), the City proposes to install new wells. The City also proposes to construct a new pressure treatment filtration plant to treat existing and future water developed from Santa Ynez River wells.

Based on the Plan Update, Solvang also proposes to construct and repair or replace various new facilities that will be needed over the next 10 years to ensure redundancy in the system for reliability and improve water distribution throughout the City. These facilities include:

- Miscellaneous water piping system improvements identified in the 1996 Master Plan
- Facilities and a plan to monitor the fluctuation of Solvang municipal reservoir levels on maximum summer days to determine if additional local storage is required in the next five years.
- Roof replacement for reservoir #1 in 2015
- SCADA system upgrade in 2011

Conserving California's Wildlife Since 1870

Mr. Brad Vidro
February 4, 2011
Page 2 of 8

- Water treatment facility filtration equipment
- A new operational storage tank to be constructed on a site to be identified and procured
- A new booster pump station and water storage tank in Zone 2 by 2013

The EIR would also support a request by the City of Solvang to the SWRCB for additional time to study the effects of new river wells that would demonstrate the City's capability to extract and beneficially use up to 5 cfs or 3600 AF per year. The SWRCB would then consider the new extractions and beneficial uses in the City's subsequent request for license. The City proposes to install six new river wells and extract up to the permitted rate and the permitted annual limits until such time that the SWRCB and the City have determined that the City has demonstrated the maximum amount it can divert and put to beneficial use.

The Department is California's trustee agency for fish and wildlife resources, holding these resources in trust for the People of State pursuant to various provisions of the California Fish and Game Code. (Fish & G. Code, §§ 711.7, subd. (a), 1802.) The Department submits these comments in that capacity under the California Environmental Quality Act (CEQA). (See generally Pub. Resources Code, §§ 21070; 21080.4.) Given its related permitting authority under the California Endangered Species Act (CESA) and Fish and Game Code section 1800 et seq., the Department also submits these comments likely as a responsible agency for the Project under CEQA. (*Id.*, § 21069.)

The California Wildlife Action Plan, a recent Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) intensive agriculture; 5) excessive livestock grazing; and 6) recreational pressures. The Department looks forward to working with the Lead Agency to minimize impacts to fish and wildlife resources with a focus on these stressors. Please let Department staff know if you would like a copy of the plan to review.

To enable Department staff to adequately review and comment on the proposed project we recommend the following information, where applicable, be included in the draft Environmental Impact Report:

1. A complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats.
 - a. A thorough recent assessment of rare plants and rare natural communities, following the Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities (http://www.dfg.ca.gov/blgocdata/cnddb/pdfs/Protocols_for_Surveying_and_Evaluating_Impacts.pdf)
 - b. A complete, recent assessment of sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use within the project area should also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and U.S. Fish and Wildlife Service.

Mr. Brad Vidro
February 4, 2011
Page 3 of 6

- c. Endangered, rare, and threatened species to address should include all those species which meet the related definition under the CEQA Guidelines. (See Cal. Code Regs., tit. 14, § 15380.)
 - d. The Department's Biogeographic Data Branch in Sacramento should be contacted at (916) 322-2493 (www.dfg.ca.gov/biogeodata) to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Also, any Significant Ecological Areas (SEAs) or Environmentally Sensitive Habitats (ESHs) or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area must be addressed.
2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. This discussion should focus on maximizing avoidance, and minimizing impacts.
- a. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
 - b. Project impacts should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, adjacent natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas are of concern to the Department and should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic, outdoor artificial lighting, noise and vibration.
 - c. A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
 - d. Impacts to migratory wildlife affected by the project should be fully evaluated including proposals to remove/disturb native and ornamental landscaping and other nesting habitat for native birds. Impact evaluation may also include such elements as migratory butterfly roost sites and neo-tropical bird and waterfowl stop-over and staging sites. All migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3603.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory nongame birds as listed under the MBTA.
 - e. Impacts to all habitats from City or County required Fuel Modification Zones (FMZ). Areas slated as mitigation for loss of habitat shall not occur within the FMZ.
 - f. Proposed project activities (including disturbances to vegetation) should take place outside of the breeding bird season (February 1- September 1) to avoid take (including disturbances which would cause abandonment of active nests

Mr. Brad Vidro
February 4, 2011
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containing eggs and/or young). If project activities cannot avoid the breeding bird season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department recommends a minimum 800-foot buffer for all active raptor nests).

3. A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or otherwise minimize impacts to sensitive biological resources including wetlands/riparian habitats, alluvial scrub, coastal sage scrub, should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.
 - a. Mitigation measures for project impacts to sensitive plants, animals, and habitats should emphasize evaluation and selection of alternatives which avoid or otherwise minimize project impacts. Compensation for unavoidable impacts through acquisition and protection of high quality habitat elsewhere should be addressed with off-site mitigation locations clearly identified.
 - b. The Department considers Rare Natural Communities as threatened habitats having both regional and local significance. Thus, these communities should be fully avoided and otherwise protected from project-related impacts.
 - c. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful.
4. An Incidental Take Permit from the Department may be required if the Project, Project construction, or any Project-related activity during the life of the Project will result in "take" as defined by the Fish and Game Code of any species protected by CESA. (Fish & G. Code, §§86, 2080, 2081, subd. (b), (c).) Early consultation with Department regarding potential permitting obligations under CESA with respect to the Project is encouraged. (Cal. Code Regs., tit. 14, § 783.2, subd. (b).) It is imperative with these potential permitting obligations that the draft environmental impact report prepared by the County in the present case includes a thorough and robust analysis of the potentially significant impacts to endangered, rare, and threatened species, and their habitat, that may occur as a result of the proposed Project. For any such potentially significant impacts the County should also analyze and describe specific, potentially feasible mitigation measures to avoid or substantially lessen any such impacts as required by CEQA and, if an ITP is necessary, as required by the relevant permitting criteria prescribed by Fish and Game Code section 2081, subdivisions (b) and (c). The failure to include this analysis in the Project environmental impact report could preclude the Department from relying on the County's analysis to issue an ITP without the Department first conducting its own, separate lead agency subsequent or supplemental analysis for the Project. (See, e.g., Cal. Code Regs., tit. 14, § 18086, subd. (f); Pub. Resources Code, § 21166.) For these reasons, the following information is requested:
 - a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.
 - b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.

Mr. Brad Vidro
February 4, 2011
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5. The Department opposes the elimination of watercourses (including concrete channels) and/or the canalization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of drainage.
 - a. The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) or a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to the Department pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department's issuance of an LSA is a project subject to CEQA. To facilitate issuance of an Agreement, if necessary, the environmental impact report should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. Again, the failure to include this analysis in the Project environmental impact report could preclude the Department from relying on the County's analysis to issue an Agreement without the Department first conducting its own, separate lead agency subsequent or supplemental analysis for the Project.

Department staff review of this project included the use of the Department's California Natural Diversity Database (CNDDDB). This database allows spatial review of sensitive biological resources that have been reported in the past to the CNDDDB staff. The attached map (Attachment) illustrates past observation locations of sensitive species in the general area of the proposed project and as such is a useful tool to evaluate potential sensitive biological resources on the project site. These observations do not represent the current status of sensitive biological resources in the area as CNDDDB data is provided only by site specific projects and hence the entire map area has not been surveyed. Site specific surveys should be conducted in the manner described above, as needed.

6. A hydrologic analysis that evaluates the impacts to the underflow and surface flows at and adjacent to the well locations as well as down stream should be conducted. The Department recommends using hydrologic data over the last 60 years to conduct this analysis with current existing pumping as the baseline condition. The analysis should be categorized by rain fall years (low, normal, and high), as well as different pumping increments up to the permitted 5cfs or 3600 AF per year. The Department would be available to assist the City with the development of the study.

Mr. Brad Vidro
February 4, 2011
Page 6 of 6

Thank you for this opportunity to provide comments. Please contact Sean Carlson, Staff Environmental Scientist, at (909) 598-9120 if you should have any questions and for further coordination on the proposed project.

Sincerely,



Edmund Pert
Regional Manager
South Coast Region

Attachment: CNDDDB Results Map

cc: Department of Fish and Game
Natasha Lohmus, Carpinteria, CA
Sean Carlson, LaVerne, CA
Mary Larson, Los Alamitos, CA
Betty Courtney, Newhall, CA
Helen Birss, Santa Barbara, CA

State Clearinghouse
Scott Morgan, Sacramento, CA



CNDDB- City of Solvang Water System Master Plan Update

Info: Site available at <http://maps.dfg.ca.gov>

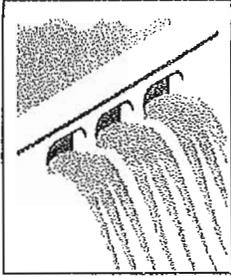
Author: Sean Carlson
Date: 1/27/2011 4:17 PM

Map Legend

California Natural
Diversity Database (gov
cd) (nads)

- Plant (stem)
- Plant (species)
- Plant (non-specific)
- Plant (circuler)
- Animal (stem)
- Animal (species)
- Animal (circuler)
- Terr. Comm. (stem)
- Terr. Comm. (species)
- Terr. Comm. (non-specific)
- Terr. Comm. (circuler)
- Aqu. Comm. (stem)
- Aqu. Comm. (species)
- Aqu. Comm. (non-specific)
- Aqu. Comm. (circuler)
- Quaternaries (24K)
- Western States
- Mexico





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CITY OF SOLVANG

February 4, 2011

City of Santa Barbara
Golen Water District
Montecito Water District

Brad Vidro, City Manager
City of Solvang
1644 Oak Street
Solvang, CA 93463

RE: Comments on Notice of Preparation of an Environmental Impact Report
for the City of Solvang's Water Master Plan Update

Dear Mr. Vidro:

This letter responds to the City of Solvang's January 4, 2011 Notice of Preparation (NOP) of an Environmental Impact Report (EIR) to be prepared for Solvang's Water System Master Plan Update. On behalf of the Cachuma Conservation Release Board (CCRB), I would like to provide comments on the proposed scope of the EIR.

As described in the Initial Study/Environmental Checklist (IS/Checklist) for the Water System Master Plan Update, the proposed actions to be analyzed in the EIR include developing new water sources; developing new and expanded water production and treatment facilities; and upgrading various distribution and storage facilities. The IS/Checklist states that the highest priority for the development of additional water supply sources is to install up to six additional groundwater wells in the Santa Ynez River and substantially increase pumping of the river underflow. The three scenarios that would be analyzed in the EIR include:

1. Six wells located upstream of Alisal Bridge (Site A);
2. Six wells located downstream of Alisal Bridge (Site B); or,
3. Three wells located upstream and three wells downstream of Alisal Bridge.

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SANTA BARBARA
CALIFORNIA
93105 - 2017

Other proposed actions to be analyzed include construction and repair of water treatment, transport and storage facilities; sale of a portion of State Water Project (SWP) water; and a State Water Board authorized Diversion Reach Amendment extending 1.5 miles downstream of Alisal Bridge.

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www.ccrb-board.org

CCRB is comprised of the Montecito Water District, the City of Santa Barbara, and the Goleta Water District, all of which have an entitlement for their Cachuma Project water supply through contracts with the U.S. Bureau of Reclamation (Reclamation), which holds the Cachuma Project water rights on behalf of the Cachuma Member Units. CCRB's member agencies' water supplies are, therefore, subject to the requirements of the Biological Opinion (BO) issued by the National Marine Fisheries Service (NMFS) for the Cachuma Project in 2000. The BO requires the Project to be operated to meet target flow release commitments for endangered Southern steelhead downstream of Bradbury Dam. In years when Lake Cachuma spills and in the year immediately following a spill year a target flow of 1.5 cubic feet per second (cfs) must be met at Alisal Bridge.

In addition, Reasonable and Prudent Measures and Terms & Conditions (RPM/TCs) in the BO include maintaining and monitoring residual pool depth in the vicinity of the proposed groundwater well development upstream of the Alisal Bridge.

RPM 1: "In addition to meeting the interim and long term flow targets described in the Description of the Proposed Action section,¹ Reclamation shall maintain full residual pool depth in Alisal and Refugio reaches downstream of Bradbury Dam during spill years and the first year after spill years until the first 3.0 foot surcharge is achieved and the 11 passage impediment and barrier fixes are completed."²

T&C 1.1: "Until the first year that the 3.0 foot surcharge is achieved and the 11 passage barrier fixes are completed, Reclamation shall maintain pools in the Alisal and Refugio reaches in spill years and the first year after spill years, if steelhead are present. This shall be accomplished by maintaining residual pool depth. This may be accomplished by surface or subsurface flow and is in addition to meeting the flow targets in the interim and long term...."³

Pumping from the proposed additional wells has the potential to adversely affect target flows in the Santa Ynez River that are required to protect steelhead and its habitat. The IS/Checklist notes that concentration of the proposed wells immediately upstream of Alisal Bridge could result in pumping restrictions on the City due to potential impacts to steelhead. However, potential impacts could also result from wells located downstream of the Alisal Bridge, in conflict with the BO requirements. Any study of the effects of new river wells conducted by the City would need to include evaluating the effects of well development and groundwater pumping from the wells on the BO requirements.

¹ Refer to Revised Section 3 (Proposed Project), Biological Assessment for Cachuma Project Operations and the Lower Santa Ynez River, page 3-13

² Refer to Biological Opinion (NMFS 2000), page 71

³ Ibid, page 72

In addition, the IS/Checklist does not mention evaluating water supply impacts to the Cachuma Project Member Units as a result of potentially increased target flows. The proposed State Water Resources Control Board's (SWRCB) amendment to Solvang's Diversion Permit No. 15878 to extend its permitted diversion reach by 1.5 miles downstream of Alisal Bridge could avoid this impact, but it is unclear when or whether this amendment would be approved. CCRB would expect the EIR to fully discuss conditions associated with Diversion Permit 15878 and the proposed amendment.

The EIR should specifically analyze the impact of the proposed groundwater well development and increased withdrawals from the river underflow on the following:

1. The need for increased releases from Lake Cachuma to satisfy downstream flow requirements to:
 - a. meet the 1.5 cfs target flows at Alisal Bridge in spill years and the year following a spill;
 - b. maintain residual pool depth upstream of Alisal Bridge during spill years and the year following a spill.
2. The potential impact of the proposed project on Cachuma Project yield.

It is also important that the EIR include a cumulative impacts assessment of this additional appropriation of river water relative to the steelhead fisheries habitat and other public trust resources, the riparian groundwater basin, and the lower Santa Ynez River watershed.

The IS/Checklist does indicate that the EIR will include a hydrological analysis of the river hydrology, groundwater supplies, drainage patterns and surface runoff. We request that it also include full hydrologic modeling of the effect of appropriation from the river underflow of up to 5 cfs and 3,600 acre feet per year from the proposed new wells.

The IS/Checklist does not address the new water conservation requirements enacted by the Water Conservation Bill of 2009, Senate Bill (SB) 7x7. In general, SB 7x7 requires a 20 percent reduction in per capita urban water use by 2020, with an interim 10 percent target in 2015. The legislation requires urban water users to develop consistent water use targets and to use those targets in their Urban Water Management Plans (UWMP). The EIR water demand analysis should evaluate the effect of the new legislation on the City's stated target of 5 cfs and 3,600 acre feet per year (AFY) currently permitted through Permit No. 15878, specifically whether the City has developed Per Capita Base Daily Water Use and Urban Water Use and Interim Targets, and how they would be consistent with the potential 5 cfs/3600 AFY diversion.

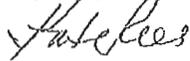
In addition to the documents referenced that will be relied upon in preparing the EIR, other documents that should also be considered include the SWRCB's 2003 DEIR and 2007 DEIR on Cachuma Operations, the SWRCB's Cachuma Project Water Rights Hearing proceedings, the

EIR/EIS for the Lower Santa Ynez River Fish Management Plan and Cachuma Project Biological Opinion for Southern Steelhead, and the Cachuma Project Settlement Agreement. The environmental analysis for the Water Master Plan Update should be consistent with the findings of these documents and proceedings. CCRB can provide these documents to the City if needed.

Lastly, we request the addition of Reclamation and CCRB to the list of agencies with which the City will be coordinating its preparation of the EIR.

We appreciate the opportunity to comment on the Notice of Preparation.

Very truly yours,



Kate Rees
General Manager, CCRB

cc: CCRB Board of Directors
Kevin O'Brien, Downey Brand
Tom Mosby, General Manager, Montecito Water District
Rebecca Bjork, Water Resources Manager, City of Santa Barbara
John McInnes, General Manager, Goleta Water District
Michael Jackson, SCCAO Area Manager, U.S. Bureau of Reclamation
David Hyatt, ESA Supervisor, U.S. Bureau of Reclamation



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<http://www.citizensplanning.org> ☐ Info@citizensplanning.org

February 4, 2011

Mr. Brad Vidro
City of Solvang
1644 Oak Street
Solvang, CA 93463

Re: Water System Master Plan Update

Dear Mr. Vidro

The Citizens Planning Association Water Committee has reviewed Solvang's Water System Master Plan Update Initial Study and NOP. Provided below are a series of questions and/or suggestions that we hope will be considered during the Environmental Impact Review for this proposed project.

1. Why is the City of Solvang proposing to increase its peak daily water supply capacity to 10.82 cfs when the maximum anticipated peak daily demand at full build out of the General Plan is only 5.3 cfs. While it is important to have emergency capacity – **this is more than two times the anticipated demand**. It appears that this could be a strategy for the current residents to pay the cost for increased supply so that developers can propose future developments outside the city limits.
2. What is the expected yield from the 6 new wells in high water years and low water years? What about after a protracted drought?
3. What will be the effects of 6 new wells on the downstream flows in high water years and low water years?
4. Will wells 3, 7a and 4 eventually be mothballed?
5. The current project sites the 6 new wells away from the center of the river, near the golf course. Does the use of pesticides and herbicides on the well-irrigated golf course have the potential to contaminate the 6 new wells given their proximity?
6. What level of treatment will Solvang have to establish for the shallow water wells?
7. What effect will the 6 new wells have on the efforts to restore trout passage on the Santa Ynez River?
8. Construction of the 6 new wells may cause significant disturbance to the local environment. One possible mitigation recommendation could be the complete restoration of the riparian habitat for this stretch of the river – not just back to its current denuded state.
9. What assumptions are being made about releases from Lake Cachuma to replenish the underflow? How might this affect the water availability for the jurisdictions south of the Tecelote tunnel?
10. Solvang is proposing an amendment to its diversion permit to place some of the new wells downstream, below the Alisal Bridge, so as to not interfere with the full utilization of the existing Alisal Ranch and ID#1 wells. Will the costs, water supply

potential and environmental impact of both alternatives (above and below the Bridge) be evaluated?

11. How is the City calculating the reliability of State Water during wet and dry years? Please address the critiques outlined in Appendix A attached.
12. Given that 6 new wells are technically still in the floodplain, what strategies or technologies can Solvang use to ensure the 6 new wells do not get damaged like Well 7 and Well 5 did in the 1995 El Nino conditions?
13. Are there any upland well alternatives that should be evaluated? Upland wells typically have better water quality and are more resilient in drought conditions.
14. We recommend that the issue of combining Solvang Water District with ID#1 for operational efficiency should be evaluated as part of the Solvang Water System Master Plan update – not separately.
15. While the project description for the 6 new well alternatives is flushed out, we suggest that the project description for the other elements of the Master Plan need more detail (e.g. the filtration and treatment plant, new pipelines, etc.)
16. One alternative that should be considered as part of the EIR is to increase the use of recycled water and water conservation throughout the city instead of installing all 6 new wells. Perhaps the golf course and Alisal Ranch could use some recycled water and sell the City some of their well water.

Thank you for the opportunity to provide input on the scoping of the EIR. We look forward to reading the results of the study.

Regards,

LeeAnne French, CPA Executive Director

Cc: Arve Sjovold, CPA Board Water Advisor
Lee Moldaver, CPA Board and Co-chair Water Committee
Robin Meacher, CPA Co-chair Water Committee
Steve Dunn, CPA President

Appendix A

Citizens Planning Association Comments on NOP

02/04/11

The State Water Project Reliability Report is not simply information to help the contractors understand to what degree they can rely on SWP deliveries, but in fact is an essential requirement stemming from the need to eliminate "paper water" from the contracts. The Appellate Court was clear on the problems in planning that proceeded from the previous interpretations allowed by DWR that in effect created the notion of "paper water." In the settlement negotiations it was made clear that a well documented and unambiguous report of delivery reliability was essential to the elimination of "paper water." Accordingly, SWP Reliability Report must be reviewed with that primary objective in mind.

However, without serious calibrations of the main analytic tool, CALSIM II, used to perform the "reliability" analysis, it is doubtful that the SWP Reliability report meets its intended use. This deficiency has been pointed out many times over the past several years and DWR has failed to come to grips with it. Their limited study does little to meet the requirements of a legitimate calibration. Calibration, properly done, allows the program developers to assure that all elements of the computer program work properly. In the case of CALSIM II the calibration will show from where in the operational regimen of the SWP the increased amounts of water it predicts will materialize. Even the Scientific Peer Review Committee stated as much; they noted without a proper calibration there is no assurance that the results that are calculated from an optimization routine are a real solution. They must be shown to conform to realistic operations that are known to be feasible. No where in the report is this demonstrated or even hinted at.

Previously Noted Deficiencies

The lack of calibration and other deficiencies have been made known the DWR in formal comments on the 2002 draft. On reading this draft there seems to be no acknowledgement that any of these deficiencies have been addressed. The list of these previous deficiencies is highlighted below.

- 1.) The frequency diagrams are without statistical merit and therefore cannot be used to provide estimates of "reliability."
- 2.) The draft continually refers to CALSIM II as a "simulation." Until CALSIM II has been calibrated to show that it conforms to a real and feasible operational regimen, its results cannot be interpreted as though it is a simulation. Even then, its computerized configuration is not even close to what is ordinarily referred to as "simulation." CALSIM II is an optimization model in which the objective function is to maximize exports of water from the Delta given certain constraints. In typical optimization models not all solutions are feasible. Only calibration can establish that possibility. This model does not meet that criterion.

- 3.) The model makes certain assumptions about the individual contractors' demand for SWP deliveries. Those demand functions have not been vetted against the realistic capabilities of each contractor to take SWP water. In one case the assumption is factually wrong- San Luis Obispo County physically cannot take its full Table A amount of 25,00 acre feet because it is limited by physical capacity of the SWP pipeline to only 4800 acre-feet. Nonetheless, the model assumes that SLO County will take 25,000 acre-feet when it is available at the Delta. Also there are some contractors that are unable to take their full Table A amount simply because they don't have the proper amount of equalizing storage to take the water when the SWP says it is available. The demand functions have not taken these and many other considerations into account. Because the model is an optimization against these demand functions the results cannot be taken at face value until the demand functions have been made realistic in terms of the requirements of the individual contractors.
- 4.) The report uses a definition of reliability that follows from their construction of the frequency charts they use to summarize the results. When they state for example that the project can deliver 73% reliability, that is an incorrect interpretation of the data in the chart. In fact, the point at which 73% of the Table A water is delivered is actually the 50% point in the frequency chart. The correct statement would be: The project can deliver 73% of the water 50% of the time. However, this is not quite true either because the frequency charts are not statistically valid and insufficient to support an estimate of delivery reliability.

Additional Deficiencies

There are also some additional deficiencies that have since been revealed through careful studies of the CALSIM II model. These have to do with the assumptions on constraints and some fundamental errors in the statistical basis of the model's inputs.

The model exercises for this report assume that SWRCB rules that operate to constrain export pumping will continue unchanged into the future. If the model results showed that future export pumping would continue at about the same level, that may perhaps be a defensible assumption. However, we have the case where the model results show that on average future export pumping will be 50% greater than the recent historical average under most all anticipated hydrologic conditions. Given that result it would seem prudent to examine to what degree SWRCB rules might be modified in anticipation of the environmental damage to be expected with such an increase in export pumping. The model does not do that. In fact, before these results can be used by anyone, the model's calculations should be explored to discover where and to what degree existing historic pumping regimens are expected to change. After all, the existing rules were developed in response to concerns with the operational problems that were demonstrated along the way during historic pumping. The rules certainly cannot be interpreted as definitive statements on what is acceptable for the Delta environment irrespective of the levels of export in the future.

The model also uses a sub-model to calculate the movement of the X 2 salinity threshold in the Delta as a function of hydrologic conditions. Unbelievably the sub-model calculational routine does not include the level of pumping. It is difficult to believe that the movement of the salinity threshold is independent of export pumping. Furthermore, given that CALSIM II predicts a 50% increase in exports over historic levels it would seem prudent to examine whether this simple routine is really applicable at that higher level. The research that went into the development of this calculational routine should be peer reviewed. The same may be said with the entire modeling of cross Delta transport calculations.

Perhaps the greatest problem with CALSIM II is its total disregard for proper statistical analysis in the development of the model. It is easy to verify that the input hydrology to the model represents a complex statistical distribution. In fact, it is what is referred to by statisticians as "bi-modal" meaning there are two main modes. One significant consequence of this feature is that the grand average of the total 73 year record is a very unlikely occurrence. All references in the report to average deliveries over 73 years are totally misleading.

The two modes clearly depict a collection of dry years and another of wet years. There are slightly more cases of dry years than wet ones although for practical purposes they are roughly equal. It is also the case that except for droughts there is virtually no serial correlation year-to-year. This means that a wet year may be followed with equal likelihood by either a dry or wet year. The fundamental problem that SWP operators must continually face is under what conditions is it prudent to pump given uncertainty in what kind of year the project will face. It is a classic operations research problem and involves tradeoffs between the objective of pumping water and the risk that too much will be taken. This operational problem is faced at the beginning of every water year beginning in the fall. A careful study of historic input flows from the Sacramento River in the fall and winter shows that it may be difficult to establish until late in January if the water year will likely be wet so as to allow higher levels of pumping. But a careful examination of SWP pumping capacity shows that the pumps must run at nearly maximum capacity for most of the year if export flows near 4 MAF are to be realized. Clearly, if the 73 average predicted by this model is near 4 MAF then we must assume that heavy pumping is allowed during the fall and winter months before it is known that the year will indeed be wet. How is this reconciled with prudence and so call risk avoidance?

Because the model incorrectly deals with the statistical nature of the input hydrology it also includes some totally improper inputs. The model relies on a "water year index" which is a convolution of the spring and fall/winter runoffs across years. The affect is to produce an index which is uni-modal in contrast to the bi-modal hydrologic input. Because there is no significant year-to-year correlation in runoff, this convolution is without scientific merit and totally distorts the basic operational decision problem so that it no longer represents any reality. Furthermore, this water year index is further convoluted to a "water year type" designator that is used to establish Delta export/inflow ratios that ostensibly are used to protect the Delta environment.

The "water year type" is the index that is used in the CALSIM II model to establish what the required outflow in the Delta must be to satisfy the SWRCB rules. It is used in the model by a "lookup table" that predetermines the water year before it is fully developed. It does this by combining the previous spring's runoff with the current fall

and/or winter runoff to decide whether the coming water year is going to be wet or dry. Needless to say, the statistical nature of the runoff record defies predicting what the upcoming water year will be. But by this simple mechanism the model is given fore knowledge of conditions before they are experienced. This departs radically from any notion of simulation. The convolution giving rise to this "water year type" has no demonstrable logical analysis for its existence. Clearly, the CALSIM II model cannot be taken as a valid model until some of these logical flaws are explained or corrected. By extension, the Reliability Report is without any scientific merit and is virtually useless for the purposes stated.

Additional Inconsistencies

There are additional problems that deserve explanation beyond what is stated in the Reliability Report. When one compares the set of tables documenting the past 10 years of deliveries to the various contractors and compares them to the same years reported in the 2002/2003 version there are some significant changes. Out of the ten years only one of the years appears to be the same in the two volumes. Most of the changes in deliveries seem to occur in the values reported for Kern Co. and Castaic Lake Water Agency. The latest report should explain these differences.

Sincerely,

Arve R. Sjovold

Plaintiff CPA Representative
In the Monterey Settlement
Negotiations

Plaintiff CPA Representative
To Monterey ++ EIR Comm.



February 7, 2011

Mr. Brad Vidro
City of Solvang
Planning & Community Development Department
411 Second Street
Solvang, CA 93463

Re: Initial Study/Environmental Checklist: Water System Master Plan Update, Comments of the Santa River Water Conservation District, Improvement District No. 1

Dear Mr. Vidro:

This comment letter is submitted by the Santa Ynez River Water Conservation District, Improvement District No. 1 (ID No. 1), with respect to the above referenced Initial Study/Environmental Checklist ("IS") for the City of Solvang's Water System Master Plan ("MP"). ID No. 1 appreciates this opportunity to comment on the IS especially given the close cooperative relationship between ID No. 1 and the City of Solvang ("City") with respect to water supplies.

ID No. 1 staff have reviewed the IS and suggests that City consider revising the project description, the stated quantities available from the various water resources the associated impacts in the IS and the subsequent potential associated impacts in the Environmental Impact Report on the Water System Master Plan ("MP"). As an example, it is recommended that the City not include the installation of all associated MP facilities within the scope of the IS. These facilities are not developed and described in sufficient detail to analyze the potential environmental impacts, either in the IS or a subsequent EIR. As an alternative, the City might wish to consider developing a program environmental review where MP facility projects could be tiered off the MP environmental review.

The City should also consider a project description to include a realistic and sustainable production rate from the proposed river wells rather than the full diversion amount when predicting the City's ability to meet its future water demands. As indicated in Table 2-3, the maximum production rates are based on presumptions that may be unattainable because of constraints affecting those pumping rates. These maximum rates may be affected by well construction and operating constraints, treatment and the fish flows requirements to the Alisal Bridge as a result of the National Marine Fisheries Service Biological Opinion. ID No. 1 suggests refining the project description and the assumptions used to quantify the future potential water supply to be sustainable and defensible.

TRUSTEES:

DIVISION 1
LOS OLIVOS
Harlan J. Burchard

DIVISION 2
SOLVANG
Dennis Beebe

DIVISION 3
SOLVANG
Lawrence S. Musgrove

DIVISION 4
SANTA YNEZ
Harry F. Poir

TRUSTEE-AT-LARGE
Karon M. Carroll

MANAGER/SECRETARY
Chris Dahlstrom

**BROWNSTEIN HYATT
FARBER SCHRECK, LLP**
General Counsel

Currently, the City's petition for a time extension related to its water right permit has been not been approved by the State Water Resources Control Board ("SWRCB"), Water Rights Division, and a petition for reconsideration has been submitted to the SWRCD in response to staff's decision. The IS should accurately describe the current status of the permits. If the SWRCB reconsiders the permit based on the petition, the City should consider an amount less than the assumed 5.0 cubic feet per second (cfs) or describe the means for full utilization of the 5.0 cfs water supply.

The IS should provide yield quantities that represent actual production and then, based on those actual production rates, develop the future potential yield of the City's proposed water supplies. Table 2-3 details these proposed future water supplies. It appears this table is based on theoretical maximum yields from each supply and, should that be the case, the assumptions used to prepare this table have several possible shortcomings. For example, it is suggested that well #3 would produce up to 530 acre-feet of water per year (AFY) based on a production rate of 300 gallons per minute (gpm). This would require the well to run at full capacity for 24 hours per day, all 365 days in a given year. Operation of a well in this manner is unrealistic and thus the estimated future maximum production is over estimated.

The table also indicates a full delivery of the City's contractual State Water Project ("SWP") water to be made on an annual basis. Because of institutional constraints in the Delta, full delivery of 1,500 afy is unlikely. In addition, prior to the reduction in SWP deliveries, the long-term SWP delivery allocation for water supply planning purposes is 77% of the annual allocation. The City should revise these projections accordingly. On the other hand, the MP recognizes that the practicable deliver is only about 780 afy.

The impacts due to the operation of the new river wells need to be further defined and adequately addressed in the IS. The City should consider that the impacts may not be limited to the installation of the wells themselves and, as a result, the IS and subsequent EIR should more thoroughly identify impacts of the operation of the proposed wells. The IS states that the proposed six new wells would produce at a rate of approximately 5.0 cfs or 3,600 AF but does not reference the lower "practical" delivery rate of 1813 afy in the MP. If the City continues to include the associated facilities, the IS should also discuss and evaluate the improvements to the water distribution and storage system necessary to manage this proposed increase in production and the associated impacts of those improvements. If the City anticipates full beneficial use of the proposed river well field, it is suggested that the operational impacts be thoroughly evaluated.

There are also several inconsistencies between the MP and the IS. First, the uplands well (well 4) according to the MP has a 380 gpm "capacity" while the IS describes its "production" as 380 gpm. The two terms are distinctly different. The MP also states that well 7a produces 200 gpm but the IS indicates that well 7a has a maximum capacity of 110 gpm. The MP further describes potential maximum deliveries from each ID No.1 connection as 1,200 (gpm), but the IS indicates

The maximum capacity is 1,200 (gpm) and 2,000(gpm) from the connections, respectively. The IS does not consider that the actual maximum delivery from each master meter connection may vary based on the available head pressure the water demand on the ID No. 1 system. In addition, the MP also does not recommend, as stated in the IS, that the average diversion from the river well sources is 2,200 AFY. Rather, the MP states that the practical diversion from the river well is 1,813 AFY.

ID No. 1 is also concerned with the classification of impacts in Section 9.9 subsections "a", "b" and "f" as "less than significant impact". In subsection "a" (water quality), it is suggested that further analysis of the discharge associated with a future water treatment plant be conducted. This analysis would involve the evaluation of the composition, quantity, and plans for waste disposal. Also, the IS should discuss and evaluate an alternative if the City unable to construct and install a Water Treatment Plant; thus making the river wells unavailable during certain time periods due to the Surface Water Treatment Rule.

The impacts addressed in subsection "b" related to groundwater and pumping at full capacity could be a "potentially significant impact". The City would need to fully evaluate the effect on other uses as well as the affect that water production would have on the Cachuma Biological Opinion terms and conditions for fish flows.

Because of the City's current limitation of well facilities for producing water from the river, the IS should evaluate the City's historic production rate of 1,053 AFY . However, City does not currently have sufficient wells in the river to put that water to beneficial use. According to the IS, the City only has the capacity to pump 440 gpm from the river (Wells 3 and 7A) far less than the 1,053 AFY. Both the MP and the IS do not provide for an alternative that Solvang may not get all or some of the water from its new water well in the river. If not, the MP should address that situation and the IS should evaluate the impact of need for water from ID No. 1 or other new sources of supply.

This letter, and the concerns identified in it are offered in the spirit of cooperation to ensure that the City and ID No .1 are able to meet the future water supply needs. ID No.1 looks forward to continuing to work cooperatively with the City on these important water supply issues.

Very truly yours,



Chris Dahlstrom
General Manager



**SANTA YNEZ CHUMASH
TRIBAL ELDERS COUNCIL**

TO PROTECT AND PRESERVE TRIBAL ANCESTRY,
TRADITIONS AND CULTURE

Brad Vidro, City Manager
City of Solvang
1644 Oak St.
Solvang, Calif. 93463

Re: NOP EIR
Water System Master Plan

RECEIVED
FEB 15 2011
CITY OF SOLVANG

Mr. Vidro,

The Elders Council of the SYBCI would like to thank you for the notification of afore mentioned project. As you well know and stated in the initial study/environmental checklist for the WSMP update, it is stated that we occupied this area and utilized the Santa Ynez river as well.

The Elders Council would also like to assist the City of Solvang in the gathering of information about additional cultural sites located in the area. Due to the sensitivity of this info, the Elders council would like to request a meeting with those involved with the project to further discuss this info.

The Elders Council would ask that you contact our secretary to arrange a time that would be convenient for you.

Our secretary can be reached at the following; Karen Keevers 805-688-8446

The Elders council thank you and look forward to hearing from you.

Sincerely,

Alex Valencia, Chairman
SYBCI Elders Council



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

February 23, 2010

In reply refer to:
SWR/2011/00561:MRM

Brad Vidro
City Manager
City of Solvang
1644 Oak Street
Solvang, CA 93463

Dear Mr. Vidro:

NOAA's National Marine Fisheries Service (NMFS) reviewed the January 4, 2011, Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) and initial study/environmental checklist (Study) for the City of Solvang Water System Master Plan Update Project (Project) in Santa Barbara County, California. In the NOP, the City of Solvang (City) requests that NMFS provide information that can be used to develop the scope and content of the information to be addressed in the EIR. NMFS provides this information in the form of (1) general recommendations with regard to the scope of analysis of Project impacts on endangered steelhead (*Oncorhynchus mykiss*) and critical habitat for the species, and (2) specific comments and concerns based on NMFS' review of the Study.

The Project is of concern because the area impacted by the Project includes a portion of the Santa Ynez River that is occupied by the endangered Southern California Distinct Population Segment of steelhead and is designated critical habitat for this species. Accordingly, the EIR should clearly identify and describe the Project including interrelated and interdependent actions to the extent that NMFS may develop an understanding of the potential effects (offsite, onsite, direct, indirect, temporary, permanent) of the Project on steelhead and critical habitat. The EIR should include a list of measures for avoiding and minimizing potential negative effects of the Project on steelhead and their habitat. Unavoidable effects should be fully described according to life stage (i.e., spawning, rearing and migration) and features of this species' habitat. The manner in which the preferred alternative would be implemented (e.g., construction schedule, level of effort, equipment types, access roads, coordination with other water users and suppliers, pumping schedules and rates, use of water storage facilities etc.) should be clearly described. The potential benefits of the Project for steelhead, including any compensatory mitigation measures, should be described. Engineered design drawings and results of topographic surveys and surface and ground water hydrologic and hydraulic analyses should also be included in the EIR.



NMFS' review of the Study included with the January 4, 2011 NOP, resulted in the following additional specific comments. These comments are related to the general comments above and should be addressed in the EIR.

- Groundwater pumping can lead to diminished surface flows or complete drying of streams which, in turn, often result in adverse effects to steelhead or habitat for the species. Therefore, of particular concern is the proposed increase in groundwater pumping that is intended with the Project. Currently, the City's wells have a capacity to extract groundwater at a rate of about 1 cubic-foot-per-second (cfs). The City is proposing to increase pumping capacity to 5 cfs through development and use of additional wells. This represents a significant increase in capacity that will allow the City to greatly increase the rate that water can be withdrawn and a larger withdrawal of total water volume over time. The EIR should include a hydraulic analysis that quantitatively and qualitatively assesses the degree to which this increased pumping and overall water withdrawal will impact steelhead and critical habitat by reducing surface flows in the Santa Ynez River. To further emphasize the importance and need for this analysis, NMFS has documented stranding and mortality of steelhead in pools directly in the vicinity of Allisal Road Bridge, which is within the area to be impacted by the Project. Evidence at the time seemed to indicate that groundwater pumping may have exacerbated the circumstances (*i.e.*, warm weather and drying of the streambed) that led to the demise of these steelhead.
- Related to the comment above, the EIR should discuss how the City will develop pumping schedules and rates in coordination or consideration of other water extractors (*i.e.*, other private or public wells upstream and downstream of the City's well field) and/or water suppliers (*e.g.*, Cachuma Conservation and Release Board) to maintain surface flow and water quality in the Santa Ynez River that is adequate for maintaining the function of steelhead habitat in the area.
- On page 39 of the Study, impacts to biological resources and sensitive species are discussed. In these discussions only the California Department of Fish and Game and the U.S. Fish and Wildlife Service are named as resource agencies with special status species that could be impacted by the Project. For future versions of the Study or similar sections in the EIR, where project impacts may affect steelhead, NMFS should also be named and included in the discussion.
- The environmental analysis section for biological resources (Section 10.4, pages 54-55) mentions that "as part of the biological assessment to be completed for the proposed Project, the site's potential to provide habitat for migrating, nesting, or nursery will be evaluated [in the EIR]." In support of the development of this evaluation, NMFS confirms that steelhead are present within the area to be impacted by this Project and that this portion of the Santa Ynez River supports steelhead migration, rearing, and spawning. The EIR should discuss the manner and extent that Project impacts will effect the ability of the Santa Ynez River to provide each of these functions for steelhead. Of particular

concern is the impact of the Project on steelhead and critical habitat during periods of low stream flow, especially during the drier portions of the year and under drought conditions. Specific pumping criteria may need to be developed for certain flow scenarios (especially during low stream flow) to minimize adverse effects to steelhead and habitat for the species. Such criteria and their anticipated effects should be outlined and discussed in the EIR.

- The EIR should consider and discuss strategies (e.g., development of water conservation plans, utilization of water saving technologies, construction of off-channel storage reservoirs that can relieve the necessity to pump at capacity during periods of lower stream flow or peak demand) for reducing water consumption and/or increasing water use efficiency as alternatives to or in conjunction with the proposed Project.
- Finally, the EIR should describe the relationship of the Project to Section 7 or Section 10 of the U. S. Endangered Species Act (ESA). As part of this discussion, the EIR should disclose whether consultation with NMFS is necessary prior to undertaking the Project, in accordance with Section 7 or Section 10 of the ESA.

NMFS appreciates the opportunity to provide information that will assist the City in developing the EIR for the subject Program. Matt McGoogan is NMFS' representative for this specific project. Please call him at (562) 980-4026 if you have any questions concerning this letter or if you require additional information.

Sincerely,



Penny Ravelas
Southern California Office Supervisor
for Protected Resources

cc: Mary Larson, CDFG, San Luis Obispo, California
Natasha Lohmus, CDFG, Carpinteria, California
Roger Roof, USFWS, Ventura, California
Kate Rees, Cachuma Conservation Release Board, Santa Barbara, California
David Hyatt, U.S. Bureau of Reclamation, Fresno, California
Copy to Administrative File: 151422SWR2011PR00119