

Tuolumne County
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January 14, 2013

Ms. Cindy Messer
Delta Plan Program Manager
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

RE: Delta Plan - Draft Programmatic Environmental Impact Report

Dear Ms. Messer,

The Tuolumne County Board of Supervisors appreciates the opportunity to comment on the Recirculated Draft Delta Plan, Programmatic Environmental Impact Report (DEIR). Our Board took the opportunity to comment on the plan in February 2012 (ATTACHMENT A). Our concerns remain the same in that the DEIR continues to negate the impact of increased demands on upstream water resources. The impacts if such a plan were implemented would impact Tuolumne County three fold; 1) economically; 2) environmentally and; 3) place severe limitations on land use planning authority by the County.

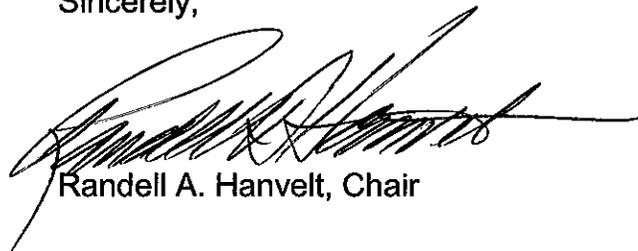
Tuolumne County continues to work closely with the Tuolumne Utilities District (TUD) which provides water to over 44,000 customers within the County. We endorse their letter on this matter dated January 3, 2013 (see Attachment B). TUD has once again provided a very thorough response taking into consideration the potential impacts of the DEIR on the County as a whole. Of particular concern is the continued disregard of the negative impacts this plan (if implemented in its current form) will have on upstream water resources and emphasize TUD's statement that "The Delta is not the only venue in which adverse environmental impacts may occur as a result of this proposal" (TUD letter, page 3). The DEIR speaks to co-equal goals, but specific language contained on pages 2-10, lines 23-27 and pages 4-14, lines 6-15 completely disregard this statement in that the only needs being considered are those downstream.

Ms. Cindy Messer
January 15, 2013
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Our Board encourages the Delta Stewardship Council to take into consideration the impacts such a plan will have on upstream resources. It is essential that we are able to not only provide water for current residents and visitors but it is equally important that the County have the flexibility and latitude to plan for growth. Without this ability, upstream counties run the risk of shouldering the burden of providing water resources.

As always, the Tuolumne County Board of Supervisors looks forward to working towards a solution of achieving co-equal goals and anticipates a response to the concerns outlined in this letter as well as our prior letter submitted in February.

Sincerely,

A handwritten signature in black ink, appearing to read "Randell A. Hanvelt", written in a cursive style with a long horizontal flourish extending to the right.

Randell A. Hanvelt, Chair

ATTACHMENT A

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Richard H. Pland, *Fifth District*

February 1, 2012

Delta Stewardship Council
Attention: Terry Macaulay
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: Delta Plan - Draft Environmental Impact Report (DEIR)

Dear Council Members:

The Tuolumne County Board of Supervisors appreciates the difficult task the Delta Stewardship Council has been given in creating a plan that balances the needs of Counties of Origin (the source of water flowing to the Delta), the complex environmental issues within the Delta itself and the needs of water consumers beyond the Delta. Having said that and despite our previous comments to the Council, the County is very concerned that the needs of Counties of Origin like ourselves continue to be disregarded in the DEIR. The heart of our concerns is that the DEIR negates the importance of Area of Origin water rights and the impacts increased demands on upstream water resources will have on the environment, economy and land use planning authority of the County.

There are four major points the County would like to make in regards to the DEIR. First, the County has been working very closely with the Tuolumne Utilities District (TUD) Board and staff and endorses their letter on this matter dated February 1, 2012 (see Attachment A). TUD's letter provides a very thorough review of the DEIR. The County would particularly highlight TUD's expressed concerns about the DEIR's mischaracterization of the functional details and predicted outcomes of the Proposed Project and Alternative 1B, the Ag-Urban Coalition Draft Plan. This must be corrected before any meaningful alternative analysis can be conducted and conclusion reached.

Second, the County strongly supports the Ag-Urban Alternative 1B contained in the DEIR. It is notable that this alternative is broadly supported by most water and many local governmental agencies throughout the state. The Board strongly encourages the Council to make the Ag-Urban Alternative 1B the preferred alternative for future phases of the EIR process.

Third, the County wishes to emphasize that the policies and implementation programs of the Proposed Project have the potential of totally usurping local land use planning authority. The County's water supply system is fragile. Unlike other communities, our supply of water is primarily dependent on snow melt and rain and a very limited, delicately balanced reservoir system. Loss of additional water in even "normal" years would negatively impact the County's natural environment (eco-system) and threaten water supplies to existing residents, businesses, and industries (e.g. agriculture, recreation, tourism, etc...). Increased water demands from the Delta project will rob the County of an irreplaceable resource and thus tie the hands of local elected officials in their future management of that resource and ability to control local land use planning as it relates to the environment, residents, business and industry. To reinforce the fragility of our system, one need only look at the water emergency the County is facing this year as the result of near record low precipitation. This water emergency is occurring only one year after record precipitation and snow packs. Once the water flows down the hill and out of our limited reservoir system, we have no way to replace it without the cooperation of the weather.

Lastly, the County would request that the principles and policies in the Tuolumne County Coordination Plan (see attachment B) be taken into consideration in modifying the DEIR and selecting a preferred alternative. The Coordination Plan was prepared specifically to help provide guidance to agencies like yours when developing plans and environmental documents. The Council is encouraged to pay particular attention to those sections on Land Use, Economic Development, Recreation, Biological Resources, Water and Energy. The County sees no evidence that any of these policies were taken into consideration in the Proposed Project.

In addition to the above comments on the DEIR and consistent with Board Resolution #156-07 (see attachment C), the County does hereby assert legal standing and formally requests Coordination status with the Council regarding the Bay Delta Plan.

Delta Stewardship Council
February 1, 2012
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Thank you for the opportunity to provide comments on the Delta Plan DEIR. The County looks forward to your response to our comments on the DEIR and to future discussions under our Coordination standing.

Yours truly,

A handwritten signature in black ink, appearing to read 'R. Pland', with a long horizontal flourish extending to the right.

RICHARD H. PLAND,
Chairman

Cc: Tuolumne Utilities District
Mountain Counties Water Resources Association
California State Association of Counties
Regional Council of Rural Counties

Attachment A



TUOLUMNE UTILITIES DISTRICT
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DIRECTORS

Barbara Balen
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Delta Stewardship Council
Attention: Terry Macaulay
980 Ninth Street, Suite 1500
Sacramento, CA. 95814

February 1, 2012

Subject: Draft Delta Plan, Program Environmental Impact Report, SCH #2010122028

Dear Ms. Macaulay:

Thank you for the opportunity to review and comment on the Delta Stewardship Council's (DSC) Delta Plan Draft Environmental Impact Report. The Tuolumne Utilities District supplies water to over 14,000 customers within the County of Tuolumne. Our agency has participated in the DSC process through the review of previous documents, draft plans and DSC meetings and workshops. Additionally, our agency is a participant in the Ag-Urban Coalition and worked in the development of that group's Alternate Draft Plan as submitted to the DSC previously. We will focus our comments on the treatment by the DEIR in its analysis of the Proposed Project but also with particular attention to Alternative 1B (the proposed Ag-Urban Coalition draft plan) which our agency worked on jointly with a number of other public local and regional water agencies, local governments and other interests.

It is our intention to provide the Council with comments on the Draft Environmental Impact Report (DEIR or EIR) that will provide insights and direction to the Council to produce a legally adequate Final Environmental Impact Report (FEIR) and a Plan that will be understandable, sustainable and can practically be implemented so as to achieve

the coequal goals as defined in statute¹. We consider this duty to be a serious matter both due both our local agency status (Public Resources Code §21062) and also as a responsible agency under CEQA (PRC, §21069).

As a responsible agency it is likely that in the future our agency will be carrying out water supply, water quality, water use efficiency and other similar projects. Due to our agency's location within the Delta Watershed² (not withstanding the California Water Code, for environmental analysis and resource purposes the specific geographic area in which our agency is located is more accurately described as the Sierra Nevada Ecosystem)³ it is possible that there may be occasions under which local management actions by our agency may be restricted in some fashion or even prohibited by proposals within the present Proposed Project. Therefore, our interests in the proposed Plan and the attendant CEQA document are significant. For the purposes of our long-term planning responsibilities it is of critical importance that the Plan and its analysis is thorough, accurate and clear.

The EIR is excessively voluminous, and yet it still provides the reader with no meaningful, reasonable, assessment of environmental impact analysis. The description of the Proposed Project lacks basic details for the reader, such that one cannot determine exactly, or even approximate, what is or is not proposed. This confounds the very foundation of an adequate CEQA analysis since without that descriptive foundation to build upon any attempt at forecasting and analysis is reduced to a level of vague concerns. (CEQA Guidelines §15124). This is no small matter and must be remedied by the Lead Agency in the final document.

"A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance. (3) An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185.

We find that this flaw in the document is further compounded by the reader being confronted with a plethora of nonessential information about potential impacts

¹ California Water Code Section 85054

² California Water Code Section 85060

³ *Sierra Nevada Ecosystem Project, Final Report to Congress, vol. 1, Assessment Summaries and Management Strategies* (Davis: University of California, Centers for Water and Wildland Resources, 1996)

regarding general classes of projects, that is neither helpful in separating fact from fiction, nor the impacts of the proposed plan from a catalog of off-the-shelf boilerplate narratives. Additionally the reader is challenged to determine if the project being assessed in the document is comprised of the "twelve binding policies" (which are proposed to become regulations), or also consists of one or more of the "sixty-one non binding recommendations" or is also found within the lengthy and conflicting narrative. (DSC DEIR, Executive Summary pg. ES-1)

The sixty-one non binding recommendations are apparently things the Council advises other agencies it would like to see occur. These recommendations may or may not ever be accepted and implemented and therefore are speculative in nature. Thus, rather than achieve the primary purpose of CEQA, to inform decision makers (which in this case are not just the lead agency but also responsible agencies) this document fails to adequately do so. Again, we must declare that this is fundamental to the purpose of preparing the document. The purpose of CEQA analysis is to ... *"Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities"* and to *"Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible."* (State CEQA Guidelines, §15002)

At a minimum the reader must be able to conclude what the Proposed Project is and what is, or is not likely to take place if the project is implemented⁴. Absent that critical information any reasonable assessment of impacts is quite difficult if not impossible⁵. We believe this lack of clarity is not only of concern to the public and local agency members attempting to make sense of the EIR, but also the Council itself. Indeed, the Council must have a clear picture and understanding of what their own project is if they are to make a reasoned decision in the record, about what the environmental impacts are and to what degree they may occur.

Adding to the confusing aspects of this EIR is that the comparison of alternatives as required by CEQA⁶ is inaccurate and therefore inadequate for its intended purpose. An accurate portrayal of the likely outcome of selecting one alternative over another is essential to guiding the Council in making a reasoned decision. If the comparison of alternatives is flawed then a decision by the Council based on that information would similarly be flawed.

⁴ State CEQA Guidelines §15124

⁵ " *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185

⁶ State CEQA Guidelines §15126.6

It is our assertion, and we shall detail this in our comments, that the EIR mischaracterizes the functional details of Alternative 1B and the Proposed Project so that the predicted outcomes are inaccurate. This must be corrected with an accurate comparison of the Proposed Project and Alternative 1B⁷.

The Proposed Project advocates the application of *"a more natural flow regime"* throughout the Delta Watershed as a cornerstone to the ecosystem restoration of the Delta. However, there is no qualitative or quantitative analysis anywhere in the EIR of what impacts would result from the imposition of such a flow regime, either on the Delta or its watersheds.

Specific comments provided below cite EIR Page number and appropriate section, or by line or other identifier.

Page 2A-5, lines 2-4. There is no evidence in the EIR supporting the claim regarding the detailed outcomes of the Proposed Project. There are no metrics or data to support the claim and lacking such supporting information the reader is left with speculation rather than a supported conclusion.

Page 2A-5, lines 25-38. None of these stated actions results in increased water supplies. These are simply additional demand side actions that will increase the marginal cost of water to the customers of local water agencies and reduce revenues to local agencies. This is not an increase in water supply reliability. The conclusions that such efficiency measures would *"improve regional self-reliance and reduce reliance on the Delta"* is inaccurate. The term *"regional self-reliant"* for our agency and others on the west slope of the Sierra within the Sierra Nevada Ecosystem is meaningless. Our agency imports no water from any other region, as do many other similar agencies. Thus, while the EIR's assertion may be correct in some export areas south of the Delta, it is meaningless to water systems within the Sierra Nevada Ecosystem, which locally sourced water. Water conserved by our agency only adds to our cost and reduces revenue, while adding additional water to our portfolio for future commitments.

Page 2A-5, lines 34-38. The addition of an additional Water Supply Reliability Element will not provide any improvement to existing water supply reliability above that already provided by the completion of Urban Water Management Plans as required by the Department of Water Resources. Thus, the conclusion regarding improved water

⁷ Section 21083, Public Resources Code; Reference: Sections 21061 and 21100, Public Resources Code; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584.

supply reliability is unsupported in the record. The reader is being misled about the characteristics of the Proposed Project almost immediately in the DEIR.

Page 2A-5 and 2A-6. The conclusion is reached on the first two lines of page 2A-6 that (policy) "ER P1 could result in the development of local and regional supplies and less reliance on Delta water." this is not factually correct. ER P1 proposes "...that the State Water Resources Control Board cease issuing water rights permits in the Delta and the Delta Watershed..." It is impossible to imagine a new water supply project for new surface storage being able to be constructed absent the project proponent acquiring a water right permit from the SWRCB. To be precise, the Proposed Project would have the opposite effect from "...encouraging development of storage projects..." (Page 2A-6 line 3). No surface storage projects could move ahead absent a water rights permit and the ER P1 is in conflict with the conclusion in the DEIR. The reader is being misled about the characteristics of the Proposed Project.

It should also be noted that ER P1 is inconsistent with C.W.C. §85031(a) regarding water rights protections. The DEIR does not evaluate the impacts to local communities through implementation of this action. The DEIR cannot accurately predict or analyze the impacts to the environment of unknown property.

Page 2A-6, line 3. WR R5 is a proposal to require that *"The State Water Resources Control Board and/or the Department of Water Resources should require that proponents requesting a new point of diversion, place of use or purpose of use that results in new or increased use of water from the Delta Watershed should demonstrate that the project proponents have evaluated and implemented all other feasible water supply alternatives."* (Emphasis added)

This would place agencies such as ours in the position of not selecting the most cost effective or even the most environmentally appropriate project, but to rather exhaust through implementation all feasible (capable of being done) alternatives irrespective of relative benefit, cost, or environmental consequence.

The combined effect of WR R5 and ER P1 is to render the protections offered to source areas under the State's Area of Origin statutes meaningless. This is not a water supply reliability proposal, but the exact opposite. The reader is again being misled about the characteristics of the Proposed Project. We must repeat that that ER P1 is inconsistent with C.W.C. §85031(a) regarding water rights protections.

Page 2A-17, lines 5 - 44. It must be noted that on western slope Sierra Nevada foothill and mountain areas the potential for groundwater storage facilities is not feasible due to the fractured rock nature of the geological formations. There are only a few, scattered

ground water basins, and for the most part ground water supplies in this region are unreliable and vary dramatically based on location as to their yield, depth and quality of ground water. Please clarify for the reader so that there is an understanding of the differences within the Sierra Nevada Ecosystem and that of the Sacramento and San Joaquin Valley.

Page 2A-23, lines 16-17 and 39-40. The term "regional self-reliance" is unclear in its applicability to upstream Sierra Nevada Ecosystem areas such as our agency serves. Our water supplies are derived from water collecting as snow melt and rainfall in this region and are acquired from diversions from within this region for use in this region. That would indicate, to a reasonable person, that where these conditions occur a local agency would be "regionally self-reliant". However, that is not clarified in the document and therefore the reader is left guessing as to the meaning of the term as it applies to the Sierra Nevada Ecosystem. Please clarify.

Page 2A-24, lines 33-37. This descriptive action within the project is too broad and generalized to allow for proper analysis. The specific tributaries should be analyzed through an Instream Flow Incremental Methodology (IFIM) process dealing first with local stream reach needs and only then downstream objectives. Further we note the submitted Alternative 1B pages 26 through 37, which addresses both ecosystem restoration and water quality. There are 11 actions that are directives (and not recommendations as in the Proposed Project) for actions that are further divided into short, medium and long term time periods. Further, these actions approach ecosystem restoration and water quality management in a more comprehensive, integrated resources fashion and not on just a "more flows" basis.

The fundamental difference between directives and recommendations (authoritative vs. advisory terms) is not captured either in the Project description or Alternatives comparison sections in this EIR. That fact confounds the reader in determining those things that will happen as a result of the Proposed Project, or Alternative 1B.

Page 2A-25, lines 5-6. The implausible conclusion is reached on the referenced lines that the development of flow objectives and criteria will lead to additional projects as described in Section 2.2.1. There is no clear nexus between increased flow objectives and criteria by the SWRCB and the described projects. The reader is left to speculate why these projects would be implemented only with these flows in place. Please explain and clarify.

Comments

Draft Delta Plan, Program Environmental Impact Report, SCH# 2010122028

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Page 2A-39, Section 2.2.2.4.1. We are confused by the continued single action approach described here. The Delta Plan (pages 133-134) identifies other factors influencing water quality as; in-delta land uses, dredging, levees, tides, point and non-point source pollutants, in-delta water use, export water use and diversions. However, once again the Plan ignores those factors and proposes a focus on increasing flow patterns for Sierra Nevada Ecosystem and other upstream rivers, the impacts to which is not at all analyzed in the document.

While we agree with the conclusion in lines 35-37 that there may be reductions in available water supplies in export areas there is no recognition that by committing Sierra Nevada Ecosystem river flows to meet new criteria and flow objectives there will also be a reduction in upstream water supply sources. Thus, increased flows would appear to frustrate if not prohibit achievement of one of the coequal goals - improving water supplies. That would then mean that the term coequal is meaningless under the proposed Plan. That should be so stated in the EIR accompanied by an explanation why the Council would propose a plan that abandons their mission to achieve those goals.

Page 2A-44, lines 9-12. The stated uncertainty that the DWR "...will follow the recommendations of the EIR..." is then followed by the conclusion that this EIR assumes the DWR will follow the recommendations. Unfortunately no explanation of the recommendation process or why the DWR would do so is provided. If this implies that all recommendations are expected to be followed, the analysis should explain the underlying logic. Please provide supporting reasoning for this conclusion

Page 2A-45, lines 16-39. This is a listed series of things that could happen. The use of the term "could" only indicates a possibility or casual relationship between proposal and implementation. This is highly speculative and the reader has no basis or information upon how to determine if the conclusion is valid. There is no evidence presented in the EIR to support the conclusion.

Page 2A-46, lines 9-31. It is not clear exactly what the Delta Stewardship Council's process is to encourage actions. Specifically how does the Council intend on communicating and implementing its encouragement?

Page 2A-46, lines 32-43. We don't understand how the assumption that the identified agencies will do what the EIR claims they should do, based on some method of undefined DSC encouragement. Why is the assumption valid?

Page 2A-48. The page contains a series of things that could happen or could be implemented or could include something. The term "could" implies a degree of uncertainty rendering a possibility. It would be helpful in analyzing the Proposed Project if terms were used more similar to the actual text of Alternative 1B. That is a descriptor of how the Council would make recommendations and collaborate with other agencies. How the Council would provide incentives to programs. Terms such as are used in the Alternative 1B text such as "Direct" and "Recommend" are easily distinguishable as things that will occur and may occur and even for those that may occur there is some clarity provided in how the governance structure of the DSC would take those actions. The Proposed Project description simply leaves the reader wondering. The EIR compounds the problem further by failing to describe how these actions may take place.

Page 2A-49. It would be helpful to the reader to understand what the actual processes are that the Council would use in their governance to interact with other agencies to "encourage" things to occur. Please compare the relative vagueness in the Proposed Project to the specific activities called out in Alternative 1B that indicate things the Council would do to either direct an outcome or otherwise bring it to fruition. The EIR should note that significant difference in the description and analysis of the Proposed Alternatives.

Page 2A -50. Please see use of the term "could" as a descriptor as in our previous comments referring to Page 2A-48.

Page 2A-51, lines 32-37, Page 2A-52 lines 1-8. How, or under what circumstances is this "encouraged" outcome for reoperation of reservoirs believed to occur? Currently this analysis is not even informed speculation as to a fairly significant outcome. Some of the reservoirs in question are the sole source of municipal and irrigation supply for Sierra Nevada Ecosystem communities. Actions that could occur should at least be given some estimate of the significance of one or both variables.

Page 2A-64, Section 2.3.1.4.1. Given the nature of the coequal goals it would have been more informative if the range of potential impacts had included the likely impacts to Sierra Nevada Ecosystem water supply reliability. This assessment should include potential impacts to communities served by existing projects, the increased costs and reduced reliability of developing alternate groundwater supplies in areas of unreliable groundwater supplies (fractured rock groundwater sources are not a reliable source of groundwater supplies in general), a reduction in water available for hydroelectric generation (leading to a greater dependence on fossil fuel plants or significantly higher

and less reliable wind and solar plants), a loss in water supply reliability in the Sierra Nevada Ecosystem would result in a loss in agricultural production due to reduced water available for those customers. None of these impacts are addressed in the EIR, but must be, to meet the minimum requirements of CEQA.

Page 2A-65, line 1. The Proposed Project has only one water quality policy (ER P1) and it is a more broadly stated policy rather than a specific water quality policy. We refer you to the more effective and specific language in the submitted Alternative 1B on its pages 34-37.

Page 2A-72, Reliable Water Supply. It is inaccurate to simply portray Alternative 1B as having no recommendations regarding specific conveyance options. The fact is that Alternative 1B recognizes that the BDCP should be completed by January 1, 2014 and that the BDCP is the place to develop a specific conveyance strategy.

Page 2A-73 Delta Ecosystem Restoration. It is inaccurate to define ecosystem restoration within the single metric of a *"More Natural Flow Regime"*. While that is one factor there are comprehensive ecosystem actions that must be taken to achieve restoration as one of the two equal goals. Alternative 1B includes a much richer and more vibrant, comprehensive ecosystem restoration and management proposal (see pages 26-32 of the submitted Alternative 1B which contains 9 directed actions).

Page 2A-74, Delta Ecosystem Restoration. The comparison between the Proposed Project and Alternative 1B tends to diminish the importance of the clarity in focus of actions in Alternative 1B. Effective ecosystem restoration is premised on knowing what should be done. Adaptive management is a system of acquiring and using knowledge gained to modify management actions when necessary, so as to carry out the correct implementation actions. Please see the submitted Alternative 1B pages 9-11 and the 7 directives contained therein.

Page 2A-75, Policy Elements. The comparison between the Proposed Project and Alternative 1B is inaccurate and misleads the reader. The Proposed Project has no proposed actions to carry something out. In contrast Alternative 1B contains specific actions that can be identified as they are started with the word "Direct". Page 19 of Alternative 1B also gives specific direction regarding assessing and promoting additional water efficiency measures, while the analysis in the DEIR concludes exactly the opposite. This analysis must be corrected to reflect the actual content of Alternative 1B as opposed to the existing project if the reader is not to be led astray by the current analysis.

Page 2A-81, Flood Risk Reduction. The comparison between the Proposed Project and Alternative 1B is inaccurate and misleads the reader. The presented analysis fails to report that Sierra Nevada Ecosystem reservoirs also provide local and regional flood protection and that there is a responsibility to also protect lives and property outside the Delta first, especially for those projects built with that operational responsibility. Quite the opposite is true in the Proposed Project under which there will likely be an increase in local, upstream flood risk to people and property as operations are modified solely to protect the Delta from flooding. In short, the Proposed Project would shift flood risks to upstream local populations, communities and farms to protect the Delta. That is clearly a significant redirected impact to those upstream areas that would place lives and property at risk.

Page 2A-83, lines 38-42. The phrase "*...provide a more reliable water supply for California...*" is a very general term. A water supply is a very localized attribute. It should be recognized that there are regions in which lands are located nearly adjacent to large reservoirs and canals from which no water supplies are available. Those reservoir and canal supplies are dedicated for use elsewhere, sometimes in another region far away. Thus, gains in water supply, or for that matter reductions in supply, should be evaluated with an eye towards where the actual gain or loss would take place in relation to the subject facility.

Page 2A-85 lines 33-34. Reservoirs are filled and provide deliveries for supply to agencies within the Sierra Nevada Ecosystem 12 months of the year and not just in late summer and fall months. Please correct.

Page 2A-85 lines 35-43. This discussion of climate change fails to recognize the significant effect that the combination of climate change and dense forest vegetative cover within the Sierra Nevada Ecosystem is having on spring flows. In some areas of the Sierras a dense forest cover of small conifers and brush result in a reduction in spring runoff. This is caused by the combination of spring growth occurring within the forest vegetation at the same time as spring runoff. The spring growth of the dense cover however, sculpts the hydrograph by consuming water through evapotranspiration and reducing the spring runoff. As climate conditions change to less snowmelt and more rainfall events and warming temperatures this effect will increase. Absent an improved and more effective forest thinning program in the Sierra Nevada Ecosystem there will be reduced flows over those anticipated resulting from the single effect of climate change on snow melt. The Sierra Nevada Ecosystem is a complex network of interrelated natural systems and any attempt at directly linking warming

temperatures to increased spring runoff, without accounting for forest condition, will fail.

Additionally, as runoff conditions change as a result of climate change there is likely to be a change in operation of reservoirs within the Sierra Nevada Ecosystem to an operation that is more conservative towards water supply reliability. That is, one in which fewer spills take place during times when they do now, as facilities owner/operators firm up year-to-year reliability in lieu of a higher percentage of gross yield from the reservoir.

Page 2A-86, lines 1-4. Please reflect the fact that there are also many Sierra Nevada Ecosystem water users served by locally funded, constructed and operated water facilities. These facilities operate as compact, non-interregional, self-sufficient systems. In short they are already regionally self-sufficient and do not depend on a vast network of interregional storage and conveyance and pumps to deliver water. Additionally, many of these systems are gravity fed, renewable energy producers.

Page 2A-86, lines 26-27. Please correct to read, "...local and regional water supplies in export areas and improved water conservation...". As written this statement is not universally true.

Page 2A-88, lines 7-8. Correct to more accurately read, "...in communities in the Delta and in export areas served from the Delta."

Page 2A-88, lines 21-25. It is not intuitively clear in reading this paragraph why locally initiated and funded water treatment facilities would not take place under the No Project Alternative. We are currently under a No Project condition and the main challenge to developing water treatment facilities is fiscal rather than by any planning, or lack thereof, for the Delta. Please explain and expand in order to more clearly distinguish between Sierra Nevada Ecosystem, other upstream and Delta export areas.

Page 2A-95, lines 16-19. This statement is factually incorrect. Alternative 1B does not contain "*recommendations only*" as is alleged, but rather contains some 40 directed actions and 1 action which contains the alternate descriptor "shall". Please see submitted Alternate Plan (Alternative 1B in the EIR). Examples in that submitted Alternate Plan (Alternative 1B in the EIR) include page 6, paragraph 1, page 7 first bullet, page 10 science plan, page 18, 19, 20 regarding information management, conservation, transfers and conveyance as well as pages 22 (storage) and 24 (funding). These are not "*recommendations only*". The reader is being misled by the EIR.

Page 2A-95, lines 31-33. Please see comment immediately preceding. EIR statement is factually incorrect.

Page 2A-96, lines 36-40. The primary difference between the Proposed Project and Alternative 1B is that the Proposed Project would not allow for the completion of studies on a reasonable schedule, but instead would rush them along under "*...the aggressive schedule...*". Please explain the likelihood and feasibility of reasonably completing the "*...aggressive schedule...*". It should be noted that completing things under an aggressive timeframe might increase the opportunities for mistakes, leading to management decision errors. It would be more informative to the reader to understand if the Proposed Project can reasonably be expected achieve what is being proposed, or if this is more of just a hoped for outcome.

Page 2A-96, lines 44-46. It is difficult to determine what the functional difference is between Alternative 1B's continuation of a successful voluntary program vs. the Proposed Project "*...which encourages mandatory participation...*". How, exactly, does encouraged mandatory participation take place?

Page 2A-98, lines 8-9. Please note that the reduced emphasis on modifying Sierra Nevada Ecosystem reservoir operations would avoid potential impacts to those areas that receive water from the subject reservoirs. Hence, reducing potential impacts to Sierra Nevada Ecosystem communities, populations and agriculture.

Page 2B-2, lines 15-19. The reference to the Council's potential influence on the Consumnes River-Mokelumne River Confluence habitat restoration project and the highly speculative nature of the incremental change is systemic to much of this document's analysis of the Proposed Project as well as the comparison of alternatives. However, where there are clear distinctions between directed actions over specific time frames (as are called for in Alternative 1B) then those actions are much less speculative in nature than the sixty plus recommendations as presented in the Proposed Project. Please clarify.

Page 2B-2, lines 24-27. If the analysis is to accord the Proposed Project the benefit of presumed desired outcomes, then any equitable and reasonable analysis of alternatives must grant the same leniency to the alternatives, lest the analysis be biased. We have identified a number of areas in this comment letter that indicate that this is not the case, but rather it is only the Proposed Project given this leniency. This misleads the reader regarding the differences between the Proposed Project and the Alternatives.

Page 2B-2 footnote #3. This example illustrates that the Council fully intends on attempting to extend their authority over projects beyond their own definition of a covered action by contesting the authority of other agencies. We believe this calls into question the lack of clarity over what is, or is not, exactly a covered action yet again. We have raised this issue almost continuously with the Council throughout the various iterations of the development of the Proposed Project (Plan) and yet, even now, the issue remains unclear and unresolved. It is impossible for the reader to determine what is, or is not a covered action, or just how far the Council will go in its attempt to extend its authority. Please clarify.

Page 2B-6, Delta Ecosystem Restoration, Potential Facilities or Actions. It is not clear exactly why and how flow objectives that lead to a more natural flow regime will result in new storage projects in the Sierra Nevada Ecosystem. It is much more likely that the creation of a more natural flow regime will have the exact opposite effect, in that more water will be taken from Sierra Nevada Ecosystem rivers and streams for use in the Delta leaving less available for upstream use including new storage projects.

Page 2B-16, Delta Ecosystem Restoration, Potential Facilities or Actions. Please see immediately preceding comment regarding 2B-6.

Page 2B-17, Water Quality Improvement, Potential Facilities or Actions. There is no evidence that Alternative 1B would result in less water treatment plants being developed. The fact is that water quality treatment plants throughout the State are not dependent upon a Delta Plan for directives or recommendations. These plants are generally financed, constructed, owned, and operated by local agencies and built, as they are needed - locally.

Page 3-13, Surface Water Use, lines 37-40. It should be noted that not all diverters from within the Sierra Nevada Ecosystem have return flows into the Delta or even Sierra streams. Notable examples of those sorts of projects are the San Francisco P.U.C. diversions and those of the East Bay Municipal Utilities District as well as the southern portion of the Friant Unit of the Central Valley Project.

Page 3-16, Delta Watershed. This section is lacking an assessment of the relative role played by the water diversions within the Sierra Nevada Ecosystem in providing significant socioeconomic benefits. Significant early water development within the Sierras took place during the era immediately following the discovery of gold up through the late nineteen forties. Most of these early diversions and reservoirs were relatively small and with few exceptions served local communities within the source

watersheds. This early development, secured by pre-1914 or senior water rights however, was cumulatively small compared to the era from 1950 on. A full 80% of the present reservoir capacity in the Sierra Nevada was completed after 1950⁸.

A key aspect of the Sierra Nevada Ecosystem is its relative health compared to the downstream Delta Ecosystem. *"The history of the Sierra Nevada and recent ecological assessments suggest that Sierran biodiversity could be maintained by ecologically sound management of lands designated for renewable resource extraction, in combination with a moderate system of areas specifically reserved for native biodiversity."*⁹ This illustrates a Sierra Nevada Ecosystem in significantly healthier condition than the Delta. Thus, while there have been historic environmental impacts through human use of the Sierra Nevada Ecosystem, they do not approach the current poor condition and trend of the Delta. This points to a more robust sustained resource management pattern within the Sierra Nevada Ecosystem than has occurred in the Delta. There may be resource management strategies - learned and applied in the Sierras - that could translate into a more sustainable Delta Ecosystem.

It must also be noted with regards not only to existing conditions, but any financial strategy to fund the Council's activities, that the benefits derived from water resources in the Sierra Nevada do not have a commensurate direct reinvestment to the Sierra Ecosystem and its complex tapestry of institutions that produce those benefits.

Sierra streams produce a downstream irrigation water use annual resource value (all values are in 1998 dollars) of 450 million. Downstream municipal water is equal to 290 million/yr. and energy generation accounts for some 610 million/yr. There is no commensurate reinvestment except for the relatively low assessments on power plants (water rights are untaxed). Thus, while the Sierra Nevada generates over 1.3 billion 1998 dollars per year in downstream benefits there is no reinvestment to the Sierra Nevada Ecosystem to improve or even maintain that ecosystem.¹⁰ Any discussion of beneficiary fees and stressor fees would do well to focus on the already inequitable situation within the Sierra Nevada as a starting point. It would be much more appropriate to discuss how much in revenues would be spent on investment in improving the Sierra Nevada Ecosystem rather than asking for local agencies within the Sierras to send money to the Delta. The EIR should so note this situation. Please include these factual corrections to the EIR.

⁸ *Sierra Nevada Ecosystem Project, Final Report to Congress, vol. 1, Assessment Summaries and Management Strategies* (Davis: University of California, Centers for Water and Wildland Resources, p 26, 1996)

⁹ IBID

¹⁰ IBID

Page 3-76, lines 6 & 7. Proposed project policies ER P1 and WR P1 would combine to potentially prevent any filing of new water rights for an undetermined time and call for a new water conservation rate structure. The former would have a chilling effect on any new surface water supply projects requiring a water right while the latter would result in increased water rates, reduced supplies and redirected, disproportionate socioeconomic impacts to DACs (Disadvantaged Communities). The two policies will combine to create more, not less uncertainty to local and regional water resource planners attempting to meet the State's future water needs. There are no proposed mitigation measures in the EIR for these impacts to the Sierra Nevada Ecosystem local water supply systems and the communities, farms and economies they serve.

Page 3-77, Section 3.4.2. ER P1 would place a moratorium on water rights being issued by the SWRCB under the various Area of Origin, County of Origin and Watershed of Origin Statutes and thereby violate W.C. §85031 and §85032(i). Such a disruption of the existing, historic water rights protections to the Area or Origin would prevent these areas from securing new water supplies while simultaneously the Bay Delta Habitat Conservation Program would move ahead to secure water supply assurances for both the State and Federal Projects. This confluence of events would stand on its head the notion of Area of Origin protections and would constitute a significant, socioeconomic impacts to those areas within the Sierra Nevada Ecosystem. The only possible mitigation measure that seems reasonable is to remove that portion of ER P1 that pertains to this matter.

Page 3-77, lines 25-26. The Proposed Project would have the directly opposite effect in Sierra Nevada Ecosystem areas. Water supplies would be unnecessarily reduced and new projects prevented per our comments regarding Section 3.4.2. The reader is being misled as to the actual result of the Proposed Project on water supply.

Page 3-79. New water supply facilities that include diversions to storage will be subject to the requirements of the SWRCB's water rights process and unless relatively small, subject to the completion of an EIR. That CEQA document would assess a host of potential impacts including but not limited to; aquatic species and habitat, terrestrial species and habitat, archaeological and historical resources, recreation, aesthetics, public safety, energy consumption during construction, erosion, and downstream water uses. Additionally, new storage projects must meet requirements of the U.S.D.A. Forest Service special use permit process if they take place within Forest Service managed lands. Water quality standards under the Clean Water Act 401 process will also be imposed as conditions on a proposed storage project. Finally, should the storage project

be associated with hydroelectric generation the project would be subject to the provisions of the Federal Power Act and the Federal Energy Regulatory Commission (FERC) process. FERC licenses to be issued for projects on lands subject to U.S. Forest Service or Bureau of Land Management control are subject to Federal Power Act requirements specific to that situation¹¹. These federal authorities in specific cases limit the authority of the SWRCB¹². Please include these factual corrections to the EIR.

Page 3-83, lines 22-45 and Page 3-84, lines 1-15. Any discussion regarding the development of achieving "...a more natural flow regime..." in the Delta and the Delta tributaries must take place within the context of the existing conditions of the Delta and the Sierra Nevada Ecosystem. Flows are not the singular management tool either in the Sierras, or the Delta to achieve ecosystem health.

Flow is an integrated piece of the Delta's multi-varied and dynamic habitat system. The potential benefit or restoration flow can provide to the Delta ecosystem is limited by the components of the ecosystem and the attributes of water. Water is one of the major habitat components of the Delta ecosystem. The flow of water is one of several attributes of water - other attributes Delta waters include toxins and contaminants, predators, turbidity or clarity of water, and temperature.

Flow, and the ability of flow to contribute to restoring the Delta ecosystem, is interrelated and dependent on the varied attributes of Delta waters. For example, warm, non-turbid water filled with contaminants and predatory fish will provide limited ecosystem benefit, regardless of the rate and velocity of flow.

The flow of water is also limited by the Delta's existing ecosystem. Water is only one of the components of the Delta ecosystem. The ecosystem is also composed of the geography of levees and subsidence, geomorphology of Delta channels, water storage and conveyance facilities, and ocean or tidal influence. These ecosystem components greatly affect how water flows through the Delta. For example, the volume, velocity, and rate of flow are directly limited by levees, channels, diversions, tides, dams, and reservoirs. Therefore, flow and the ability of flow to contribute to restoring the Delta ecosystem is necessarily limited by the existing physical restraints of the existing ecosystem components. Simply directing for more natural flows absent an detailed

¹¹ Section 4(e) of the Federal Power Act (FPA) requires FERC to solicit and accept conditions promulgated by the agency responsible for the protection and utilization of the land. 16 U.S.C. Sec. 797(e). See *Escondido Mutual Water Co. v. La Jolla Band of Mission Indians*, 466 U.S. 765, 772, 104 S.Ct. 2105, 2110, 80 L.Ed.2d 753 (1984)

¹² *State Water Resources Board v. FERC*, 877 F.2d 743 (9th Cir.1989), and by the United States Supreme Court in *California v. FERC*, 495 U.S. 490, 110 S.Ct. 2024, 109 L.Ed.2d 474 (1990)

assessment of any potential, relative benefit within the existing landscape, is a waste of a valuable resource and a restoration opportunity squandered.

The Council's ultimate Plan must accept the fact that current Delta ecosystem is no longer a natural system. Every component of the Delta ecosystem has changed significantly over the past 100 years - the geography has changed with reclamation, levees, and dredging, the geomorphology has changed with channelization and flood control measures, turbidity has changed with altered sedimentation and dams, the food web has changed due to nutrient ratios, the fish communities have changed due to introduced nonnative species, invasive species and predation. The quality of water has changed due to toxins and contaminants, the influence of the tides has changed due to levee infrastructure and climate change, and the flood plain and marsh habitat have changed due to development. In such a highly altered system, returning to a natural flow regime without addressing the other systematic changes that have taken place over time cannot reasonably be expected to restore the ecosystem.

A good example of the limited efficacy of natural flows in an unnatural system is demonstrated by looking at how flow is affected by changes in geomorphology. The Delta used to be a system of fairly shallow dendritic channels and sloughs. During high flow events, this system offered variable habitat in the form of shallow diverging sloughs and provided longer residence times for fish who navigated through twisting and winding waterways. Today, water moves through the Delta in large, deep, rip rapped channels that loop and turn such that they more resemble a water park slide than the pre-Columbian Delta. This change in geomorphology negates the variability that natural flow provided in the natural system; high flow events rarely over top the deep Delta channels to create shallow water habitat. For this reason, sending a variety of different flows down today's deep, hexagonal channels produces little, if any, benefit to habitat, temperature, turbidity, predation, or the food web.

Simply returning to a truly natural flow regime with the expectation of a restored ecosystem is not scientifically supportable. A natural hydrograph includes critically dry years in which significant reaches of Delta tributaries would go dry, or nearly so, and provide little flow to the Delta or downstream water users, some of which dedicate those flows to environmental purposes. The extreme dry periods of a more natural hydrograph would not restore, but further degrade, the Delta ecosystem from its current condition.

Legitimate, effective restoration must focus efforts on optimizing the current Delta ecosystem. Restoration of that ecosystem, consistent with the coequal goals, must

provide a framework for determining how and to what extent the components of habitat, such as flow, turbidity, predation, food, and contaminants, can restore the Delta ecosystem, and the extent to which changes in these components will effectuate restoration.

Any discussion of a natural flow regime must also recognize the existing regulatory tapestry that overlays the Delta, the Sierra Nevada Ecosystem as well as other upstream tributary ecosystems. Within limits the State Water Resources Control Board is the regulatory body in charge of setting flow objectives and implementing these objectives through water rights hearings to the extent necessary. The State Board has previously adopted flow objectives - they are in place and being met. The State Board is required to review these objectives every three years and is currently reviewing the San Joaquin River flow objectives. This review requires the State Board to determine whether the current objectives provide sufficient protection for fish and wildlife in the South Delta. Setting new flow objectives can only be done after the State Board has balanced the various competing beneficial uses of water, including recreation, municipal water use, agricultural water use and obligations for flood protection for life and property. If the Board determines that the current flow objectives at Vernalis do not reasonably protect fish and wildlife, then the Board may amend the flow objectives. If other reasonable and beneficial uses are determined to be of a "higher priority" or "greater significance," the State Board may set flow standards that do not fully protect fish and wildlife.

Although they are not regulations of flow, there are several agreements and programs that affect instream flow. For example, the Vernalis Adaptive Management Program (VAMP), the San Joaquin River Restoration Program, and Yuba River Accord and the American River's Water Forum Agreement are all programs that affect and control the flow of water. Flow is further constrained by conditions on existing diversions imposed by the State Water Resources Control Board for upstream Clean Water Act (Section 401) requirements, as well as other upstream public trust values as listed in our comments on page 3-79.

It must also be noted that within the Sierra Nevada Ecosystem there are well over 100 hydroelectric projects licensed under the authority of the Federal Power Act by the Federal Energy Regulatory Commission. Some of those license periods extend 50 years and have through an extensive planning process set specific instream flow standards for those projects.

Additionally, there are streams within the Sierra Nevada Ecosystem such as the Middle Fork of the Stanislaus above New Melones reservoir, which is designated by the state of

California as a Wild Trout Stream. This designation¹³ requires specific flow standards from projects located on the Middle Fork to maintain a healthy self-sustaining wild trout population. Any proposed changes to those flows would have to consider that management objective.

Within the Sierra Nevada Ecosystem is also the Tuolumne River - a federally protected Wild and Scenic River - and largest tributary to the San Joaquin River. Flows on the Tuolumne above New Don Pedro are established to preserve those conditions that existed at the time the river was designated as a Wild and Scenic River. This includes recreation, specific fish flows, aesthetics and access. Any proposed changes to established Wild and Scenic river flows would have to meet the requirements of the Wild and Scenic Rivers Act.

The EIR as well as the Council's final plan should recognize the role of this regulatory tapestry that overlays the Sierra Nevada Ecosystem. The Council's Proposed Project must also recognize the various responsibilities of the State and Federal agencies charged with managing and regulating these resources, as well as the legal constraints¹⁴ that exist upon the SWRCB regarding some of these river systems¹⁵ and project operations. We concede that the Delta is an ecosystem, but not that it is the only ecosystem in California. The EIR must reflect this fact in its analysis of the Proposed Project's advocacy for an "...aggressive implementation of a more natural flow regime.", apparently at any consequence to any other ecosystem.

Page 3-84, lines 40-44. We agree with the assessment on this point, but find this conclusion to be inconsistent with other conclusions in the DEIR. Specifically those claiming that water supply projects will result from the establishment of these flow objectives. There may be some specific locales, mostly in export areas, where this may occur, but for Sierra Nevada Ecosystem water suppliers there is no logical way to conclude water supplies will increase (locally) with more water from those tributary streams dedicated to non-supply uses to benefit the Delta and downstream water users. Please correct.

Page 3-85, lines 1-37. This section mischaracterizes the potential impacts to water supply in many Sierra Nevada Ecosystem water service areas. Reductions of available water for beneficial municipal and irrigation uses from source (in many cases Area of

¹³ Fish and Game Code §1726 et seq.

¹⁴ *State Water Resources Board v. FERC*, 877 F.2d 743 (9th Cir.1989), and by the United States Supreme Court in *California v. FERC*, 495 U.S. 490, 110 S.Ct. 2024, 109 L.Ed.2d 474 (1990)

¹⁵ Fish and Game Code §1726 et seq.

Origin) watersheds will not be a catalyst for other water projects. Within this region, many traditional downstream, valley, Delta and coastal water management strategies are not practical due to the physical conditions of the Sierra Nevada Ecosystem and foothills. Desalination is out of the question. Groundwater conjunctive use projects in a landscape with, except in small and rare circumstances, no actual groundwater basins is not an option. The use of recycled wastewater and storm water may have some applicability, but unlike flat, less complex topography, moving wastewater back up hill in these areas for beneficial use would require significant amounts of energy for pumping at great costs. Further, the ability to capture and utilize storm water in most of the upstream more rural landscapes is severely limited by economy of scale (landscape scale vs. low resident population).

The unsupported conclusion (lines 31-37) of the EIR is false regarding these Sierra Nevada Ecosystem water systems. Their primary, and in some cases exclusive source of water, are the rivers and streams in which on-stream diversions and storage facilities have been constructed with local financing and supported by a customer base that is dwarfed by downstream water user populations. This region is already self-sustainable and has no other tools to use within its water portfolio except to those streams: secured by senior and pre-1914 water rights and those as may be obtained in the future under the so-called Area of Origin¹⁶ protections.

Page 3-96, line 11. There is no evidence in the EIR to indicate that Alternative 1B would seek to impose a moratorium or otherwise restrict the local development of economically and environmentally feasible ocean desalination water supply projects. Provide evidence supporting the conclusion or revise.

Page 3-96, lines 12-16. To the contrary of the conclusion within the EIR, Alternative 1B specifically references the use of the Public Trust Doctrine (see submitted Ag Urban Coalition Plan page 31). In addition, there is no reason to believe that the SWRCB and other regulatory agencies would choose to ignore the Public Trust on any single, or alternative-hybrid version of a Delta Plan.

Page 3-97, lines 8-20. The Delta Plan does not create by necessity an environment in which certain classes or types of projects are made less feasible. There is no such authority granted to the Council by statute nor certainly is any proposed in Alternative 1B. Therefore, the conclusion that Alternative 1B would somehow disrupt plans by local and regional agencies to develop feasible projects is a flawed conclusion and the reader is misled.

¹⁶ California Water Code §10505, 10505:5, 11128, 11460, and 11463; and §12200 to 12220

Returning again to the mantra of flow objectives, the fact is that the flow objectives will take time to be adequately and accurately developed and even then it would only be a component and not the component of Delta ecosystem restoration. Restoration must take place within the context of the larger ecosystem issues as previously detailed in our comments on pages 3-83 and 3-84. The ability of flow to restore the Delta ecosystem is limited to the interrelated relationship flow has with all other components of the ecosystem. Managing the flow of water through the Delta is hardly *terra incognita* - flow is highly regulated and controlled by the State Board and other existing programs. Taken together, these restrictions do not allow the Delta Plan to include specific requirements that mandate certain flow regimes.

However, this restriction does not mean the Delta Plan is without the ability to effectuate changes in flow that will result in positive change to the Delta ecosystem. Both the Independent Science Board and the State Water Resources Control Board have struggled to determine how flow is integrated within the other interrelated components of the Delta ecosystem and how the ecosystem can be improved to provide sufficient habitat for native fish species.

A large part of this struggle is that there is no scientific tool to identify species responses to environmental conditions, such as biological or life cycle modeling. The Delta Plan must include a vibrant science plan such as that proposed in Alternative 1B (see Ag Urban Alternative Plan as submitted, Chapters 2, 5 & 6). That Alternative would (1) identify and synthesize statistical analyses to be undertaken of existing data, and make recommendations on the need for additional data; (2) identify hypotheses that require testing, and (3) ensure adequate and reliable funding. Results from those efforts would provide agencies, like the State Water Board, with the scientific tools they need to understand how the Delta ecosystem can be restored to protect fish and wildlife and other beneficial uses.

These efforts will take time, resources and money to carry out. The imposition of an artificial and arbitrary deadline ("*aggressive*") such as in the Proposed Project is unsupported by evidence that it would be superior in achieving the coequal goals or lessening environmental impacts to the Delta Ecosystem and the Sierra Nevada Ecosystem. To characterize it as superior in this context to Alternative 1B is misleading to the reader and factually incorrect.

Page 4-7, lines 31 - 35. Please correct this section. Sierra Nevada Ecosystem water use includes municipal supplies to numerous communities as well as state and federal facilities.

Page 4-10, line 33. The first sentence appears to be incorrect re: increasing California's air?

Page 4-62, lines 24-34. It is not likely that given the uncertainties presented within the Proposed Project that proactive efforts to transfer water from north of the Delta to south of the Delta will take place. Additionally, proposed sanctions such as ER P1's moratorium on new water rights permits would not engender the likelihood of Sierra Nevada Ecosystem agencies transferring water. To the contrary such policies would likely create a general resistance to new water transfers in the areas upstream of the Delta.

Page 4-65, lines 8-10. Please note that CWC §1011 provides that conserved water is deemed equivalent to a reasonable beneficial use of water and no forfeiture of that water occurs. Therefore, the only circumstances to likely result in conservation programs leading to more water releases downstream would be as compensated water transfers. It must also be noted that water conservation efforts cost money to implement. In many cases the marginal costs of water conserved is much higher than the marginal cost of water from other sources. This fact, combined with many Sierra Nevada Ecosystem areas status as disadvantaged communities, and combined with the economy of scale for smaller systems, means that the expansion of water conservation programs are generally an impact to the fiscal viability to small and medium sized upstream water providers and a burden on many customers who's incomes are well below the state average.

Page 4-70, lines 26-28. The predicted reductions in water supply for export from the Delta would also be a likely outcome to Sierra Nevada Ecosystem communities. These reductions would impact agriculture first and then municipal supplies. Please make this change.

Page 4-89, Section 4.4.6. The initial statement on line 33 is factually incorrect and unsupported by any evidence in the EIR. It is an unsupported conclusion. Please see the submitted Alternative 1B for details regarding water transfers (see Ag Urban Alternative Plan as submitted pg 19), groundwater (see Ag Urban Alternative Plan as submitted pg. 20 & 21) and reservoir operations (see Ag Urban Alternative Plan as submitted pg. 22).

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Line 40 of the same page is factually incorrect, as under Alternative 1B flow objectives would be premised on more accurate parameters (see Ag Urban Alternative Plan as submitted pg. 31).

Page 4-90, lines 28-34. There is no evidence in the EIR that Alternative 1B would have greater significant impacts on sensitive natural communities than the Proposed Project. Indeed Alternative 1B could have fewer and less severe impacts because flows would be predicated on complete information regarding the various factors influencing the effectiveness of flows in improving ecosystem condition and trend.

Page 4-91, lines 6-10. The premise of accelerating flow objectives (Proposed Project) based on inadequate information and characterizing it as being superior in terms of contributing towards improving current conditions is unsupported in the document. Alternative 1B would seek out reasonable species life cycle data and conduct analysis and then rank the efficiency of flows to other management actions (see submitted Alternative 1B page 31).

Page 4-91, lines 17-18 and 38-41. There is no evidence presented to support the conclusion that Alternative 1B would result in greater impacts than the Proposed Project.

Page 6-3. The Proposed Project could result in significant redirected impacts on Sierra Nevada Ecosystem area local governments due to the imposed flow objectives and water rights limits resulting from WR R-5 and ER P1 (Appendix C, page C-9). Such reductions in water supply to those areas could inhibit local governments and agencies to supply water to people, farms and communities as planned for in long-term General Plans and Specific Plans. This in turn could result in increased reliance on fractured rock ground water sources replacing higher quality, more affordable and reliable surface water supplies that currently exist. Such an outcome would both adversely impact groundwater supply sustainability and result in higher costs to water users within Disadvantaged Communities.

Page 6-45. Proposed Project policies and recommendations that would restrict upstream Sierra Nevada Ecosystem supplies could result in more dispersed development and groundwater use. Groundwater within the Sierras is generally found in fractured bedrock formations and is less reliable, has lower water quality (containing minerals and other contaminants) and is more expensive than existing surface water sources. This would inhibit sustainable economies in the Sierras as well as the environmental

use of water in the Sierra Nevada Ecosystem. Clearly, this would be done in order to support Delta ecosystem actions and stimulate economic growth outside of the Sierra Nevada Ecosystem. This constitutes a significant redirected impact to the environment and the socioeconomic values of the Sierras. Please provide analysis.

Page 6-46, Section 6.4.3. The Proposed Project will not provide for more reliable water supply and the construction of more treatment facilities as is alleged in line 7-11. Indeed proposed policies and recommendations such as WR R5 and ER P1 will have the opposite effect. Please correct.

Page 6-48, Section 6.4.3.1.2. See immediately preceding comments.

Page 6-50, lines 8 - 17. This section of the report continues to argue that actions such as the SWRCB halting the issuance of all water rights permits as is described in ER P1 would result in the development of new water supply projects. This is illogical as new storage and in some cases upstream conveyance facilities could not take place without a new water right from the SWRCB. Please correct.

The assertion in the report on this matter is consistently wrong. To wit, a moratorium on new water rights permits will inhibit and not enhance new supply development within the Sierra Nevada Ecosystem. The loss of water to creating a more natural flow regime will act to lower reliable supplies in Sierra Nevada Ecosystem reservoirs and reduce water supply reliability in those areas. Please correct.

Page 6-51, lines 29-30. We agree there will be significant impacts, but not all significant impacts are identified. Many significant impacts to Sierra Nevada Ecosystem watersheds, communities and agricultural operations will occur as these areas have their supplies reduced, as is described within our comments. Please correct.

Page 7-1, lines 27-28. Please correct here and throughout the document that the Sierra Nevada Ecosystem exists and is a more scientific accurate description of that land area than the "Delta watershed"¹⁷.

Page 7-14. Please note that in some Sierra Nevada Ecosystem areas lands in agricultural production are increasing, as is the dedication of water supplies for irrigation use. For example, within the County of Calaveras projections call for agricultural irrigation water deliveries to increase significantly. The increases from current irrigation

¹⁷ *Sierra Nevada Ecosystem Project, Final Report to Congress, vol. 1, Assessment Summaries and Management Strategies* (Davis: University of California, Centers for Water and Wildland Resources, 1996)

deliveries to deliveries in year 2035 are projected to be 37,507 acre-feet per year.¹⁸ This reflects the dedication of large tracts of open space to agricultural production consistent with the County General Plan and the demand for agricultural irrigated lands. Within the County of Tuolumne current irrigated agricultural water demand is projected to increase from 2,366 acre feet per year to 3,505 acre feet per year.¹⁹

It should be noted that statewide generalizations about trends in either urban or agricultural development have little if any relevance to local conditions. Land use, like water supply is a very localized characteristic of the landscape. Please correct.

Page 7-18. Please note that the Proposed Project could result in the absence of available, reliable, affordable agricultural water supplies. This could result in both a loss of existing agricultural production and a limit to the potential for new agricultural irrigated lands.

Page 7-19, Section 7.4.3.1. Please note that should ER P1 or WR R5 be implemented as proposed, it will be very difficult to improve water supply reliability and affordability to agricultural lands in many Sierra Nevada Ecosystem areas. These impacts will be significant both to the productivity associated with agriculture as well as ancillary benefits to the environment resulting from agricultural land use. Thus, existing and anticipated ecosystem benefits associated with those agricultural lands would be lost. Cumulatively this impact could be significant to the Sierra Nevada Ecosystem. The EIR should so state and quantify these impacts.

Page 7-20, lines 42-47. It is unlikely that either the listed potential projects or other Sierra Nevada Ecosystem surface water storage projects would be permitted under the provisions of WR R-5 (which does not appear to account for economic feasibility or marginal costs of water) or ER P1 (which would halt any issuance of water rights permits). Please correct.

Page 7-29, lines 24-33. Reduced supplies within the west slope Sierra Nevada Ecosystem can result in reduced agricultural water supplies both now and in the future. This would be inconsistent with both local agency urban water management plans as well as county general plans as is noted in our comments on page 7-14. Please correct.

Page 7-59, Section 7.4.6. The statements in this section generally fail to accurately reflect a realistic outcome due to the misunderstanding within the document of California's

¹⁸ Urban Water Management Plan 2010, Calaveras County Water District, June 2011.

¹⁹ Urban Water Management Plan 2010, Tuolumne Utilities District, June 2011

water service community. Water supplies are all local, irrespective of source of water or method of delivery. The water is either available or not. Similarly many water management decisions are also locally made by independent agencies - not state or federal managers. Customers and/or elected officials of those systems must vote to approve their rate structure thereby setting a threshold for affordability.

This document consistently mischaracterizes the likely outcome of the Proposed Project and Alternative 1B, as the authors seem to presume that the state's water is delivered through a network of agencies operating under a federal model of organization. This is factually incorrect.

Therefore, the analysis presumes incorrectly that if some action is not identified as a component of either the Proposed Project, or one of the alternatives, that the subject action will not occur. This could not be further from the truth. Throughout the state, each day, water is delivered through a system of independent, locally managed water systems, each for the most part, operating without coordination to the actions of other similar agencies. Some of these systems have been continuously operating - albeit with regular improvements - successfully since the earliest days of this State's history.

California has a dispersed system of water supply with the exception of the State Water Project and the Central Valley Project. Even in those cases local agencies are ultimately responsible for treating and/or delivering the water to communities and agricultural lands. California's water network is more of a dispersed governance model of cooperative, independent local agencies, than a "top down" federalist model. California does not have centralized governance of its local water delivery systems and therefore, much of the activity, progress and management energy is either missed or mischaracterized in this analysis.

This error is systemic to the analysis and clearly biases its view of the likely outcome from each alternative. Whereas the authors of Alternative 1B recognize that not every water management action need be listed in the Delta Plan to be implemented, the DEIR incorrectly concludes that if something is not so identified in the DEIR it does not exist, nor would it ever occur. This is factually incorrect. Such a misunderstanding within the DEIR fatally damages the analysis contained within this document and calls for a more realistic and legally adequate analysis. Please correct.

Page 14-3, lines 38-46. The United States Department of Agriculture (Forest Service) manages significant portions of the landscape within the state. Besides their normal resources management duties the Forest Service also provides wild land fire protection

both independently and cooperatively with the California Department of Forestry and Fire Protection. In addition the United States Department of the Interior (National Park Service and Bureau of Land Management) similarly hold resource management and fire protection responsibilities of significance in the State. Please note these corrections.

Page 16-9, Section 16.3.3.1. The populations of many areas within the Sierra Nevada Ecosystem vary significantly due to significant recreational use. These recreationists visit State Parks, National Parks, Regional Parks as well as State and National Forest Lands and private lands. In some communities in the Sierra Nevada Ecosystem the resident population may be significantly smaller than the peak (winter and/or summer) recreational population. This dynamic alters the standard estimates for adequate public services such as police, fire, hospitals and many others including public water supplies and wastewater treatment. Therefore, use of resident-only populations for these high recreation use areas does not reflect the actual population. Please correct.

Page 20-17, Section 20.4.6. The characterization in this section is factually incorrect. Please see our earlier comments on these points. There is nothing in the EIR to support the dubious conclusions presented. Provide specific supporting evidence or revise.

Page 21-4, Section 21.4.1.2. The Proposed Project, which calls for a "*more natural flow regime*" in upstream rivers and streams within the Sierra Nevada Ecosystem, will result in modifications to reservoir and powerhouse operations. Those modifications will result in a reduction in the current production of clean, renewable, hydroelectric power. That lost power, particularly the peaking power production (12 p.m. to 6 p.m. weekdays), will have to be replaced. The current preference for new peaking power generation facilities is gas turbine plants. New (more expensive and less efficient) gas turbine plants will result in an increase in greenhouse gas emissions and a greater dependence for the State on nonrenewable fuels. The resulting impact of that is neither noted, nor quantified. Please correct.

Page 21-8, Section 21.5.2. Notwithstanding appendix G of the CEQA guidelines, the EIR must recognize and adequately address the displacement of clean, renewable hydroelectric energy with nonrenewable, more expensive, and polluting gas turbines (see comments above). This impact will be directly attributable to the focus in the Proposed Project on achieving a "*more natural flow regime*" in the Sierra Nevada Ecosystem and other upstream areas. This single purposed objective of the Plan must be identified as an impact to current energy generation from less expensive, renewable, clean, hydroelectric projects. This impact is not present in Alternative 1B, which

proposes a more effective, comprehensive and multifaceted approach to Delta ecosystem restoration. Please correct.

Page 22-19, Section 22.2.19. The proposed Project Policy, ER P1, unlike Alternative 1B, calls for a *"more natural flow regime"* in the Sierra Nevada Ecosystem and other upstream areas. This area includes well over one hundred small to large hydroelectric generation facilities. Those facilities alter the pre-Gold Rush era flows by diverting and storing water (in most cases) and generating clean, renewable, hydroelectric energy when needed to meet California's energy demands. The objective of a *"more natural flow regime"* will result in loss of water available for that energy generation, especially within the Sierra Nevada Ecosystem. Lost hydroelectric generation will have to be replaced with alternate sources, most likely gas turbines, which are more expensive, less efficient, more polluting and use a nonrenewable fuel. The complete cost in lost energy generation capacity increases in greenhouse gas emissions, increase in energy costs to customers and further dependence on fossil fuels should be provided in analysis of the impact of ER P1.

Page 24-2, Section 24.1.2.1. We have raised this point numerous times. The EIR continues to portray the Proposed Project as promoting additional local and regional water supply projects with no supporting data within the EIR to support this claim. We refer you to our numerous and earlier comments on this topic. Please correct this conclusion, or provide evidence supporting the assertion.

Page 24-8, Section 24.1.3.3. These points were addressed earlier and numerous times. Nevertheless we believe it is important to point out that (again) the EIR mischaracterizes Alternative 1B without evidence to support conclusions. Please correct this conclusion, or provide evidence supporting the assertion.

Page 24-17, Table 24-1. Significant unavoidable impacts of the Proposed Project will include an increase in the cost and reliability of municipal and agricultural water supplies to many areas within the Sierra Nevada Ecosystem due to decreased existing supplies and a loss of new water supply project opportunities. This loss of cost effective water supply availability will act as a deterrent to increasing agricultural irrigated lands within this region and result in commensurate ecosystem losses as agricultural lands are converted to other uses that can afford to pay higher water rates. Such uses are anticipated to include a full-range of municipal customer classes.

Page 25-2, line 12-16. This text mischaracterizes the coequal goals as defined in statute. We refer you to C.W.C. §85054. *"Coequal goals means the two goals of providing a more*

reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem...". Please note the terms in the Plan "arrest", "decline" and "generally" do not appear in the definition of the Coequal Goals in C.W.C. §85054. Please cite the actual definition to avoid confusing the reader and misquoting statute.

Page 25-2, lines 26-28. The term "aggressive" as a descriptor in setting minimum water flow standards is misleading to the reader. Sound scientific evidence is the precursor to setting flow standards and even then is done within the context of the Public Trust Doctrine. Informed, prudent, action is usually superior to uninformed, or poorly informed "aggressive" action. Using this sort of terminology to describe a characteristic of the Proposed Project is also inconsistent with the public trust duty of the State. That is, to consider the effect of one factor (such as stream flow) on the various trust resources and another public interest duty to consider and protect other beneficial uses of the water such as municipal, industrial and agricultural uses. The need for balance in pursuing the State's duty under the public trust is consistent with the balance provided in C.W.C. §85054. It would be more accurate, and certain more prudent for the EIR to use terminology which was more accurate and not unnecessarily dramatic. Please see 136 Cal. App. 4th; 39 Cal. Rptr. 3d 189.

Page 25-2, Section 25.4.1. The Delta does not supply water to a significant portion of the Delta watershed. It supplies no water to the Sierra Nevada Ecosystem and those communities located therein. The EIR inaccurately generalizes what areas the Delta supplies water to and which areas it does not supply. This is confusing to the reader and when coupled with objectives such as "*reducing reliance on the Delta*" can confound the reader's ability to sort out how an area that receives no water from the Delta can become less reliant upon the Delta for its water supplies. Simply put, there is no reliance on the Delta for water supplies within the Sierra Nevada Ecosystem. Therefore, reducing reliance on a source not used is asking the impossible. The EIR must clarify this point both within this section as well as the remainder of the document.

Page 25-3, lines 8 & 9. The document mischaracterizes alternative 1B with no evidence supporting the claim that this alternative "*...is more water-supply focused.*" Quantify or correct.

Page 25-3, Section 25.4.2. The EIR flatly states that biological resources have been in decline in the Delta and are expected to continue to do so. Given the mission of the Council and the coequal goals relative to biological resources, the lingering question is why? Is it the intention of the Proposed Project to not meet the coequal goals?

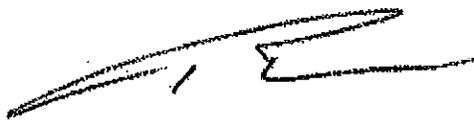
Page 25-3, Section 25.4.2. The preoccupation with more natural flows again permeates the conclusions in this section. As we have stated in more detail previously, flows are not the only metric of a healthy ecosystem nor should they be the single metric for measuring success within the Delta ecosystem. The EIR's continued use of this non-quantified metric, as a definitive measure of ecosystem condition and trend, is not supported by any evidence in the document.

Page 25-11, lines 8-15. This section is not factually supported in the EIR. A more scientifically sound strategy for Delta restoration founded on good science and adaptive management (as proposed in Alternative 1B) would be superior to the Proposed Project which relies on using a "more natural flow regime" to cure all the ills of the Delta ecosystem. There is no need for the application of additional regulations and policies absent evidence in the EIR to support their use. No such evidence is presented in the EIR.

Page D-18, Section 2.0 and Page D-52, Section 4.0. These entire sections seem to leave out any reference to the various federal statutes, which regulate a significant portion of the lands²⁰ managed within the Sierra Nevada Ecosystem. These include but are not limited to; the National Forest Management Act, the National Environmental Policy Act, the Wilderness Act of 1964, the Multiple Use-Sustained Yield Act of 1960, the Wild and Scenic Rivers Act, the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Forest Management Act of 1976 and the Federal Land Policy and Management Act. To accurately portray the complete regulatory tapestry that overlays the Sierra Nevada Ecosystem please include reference to these various federal statutes.

This marks the end of our specific comments on the Draft Delta Plan Program Environmental Impact Report. We thank the Council for the opportunity to comment on the document.

Sincerely,



Peter J. Kampa
General Manager
Tuolumne Utilities District

²⁰ As examples, the County of Tuolumne encompasses 1,456,000 acres of which over 75% are public lands. The County of Calaveras contains 657,920 acres of which over 23% are public lands. The County of El Dorado is composed of approximately 50% publicly owned lands. Some Sierra Ecosystem Counties have over 80% publicly owned lands.

Attachment B

No. 35-11

Filed April 19, 2011
By Alvin [Signature]
Clerk of the Board of Supervisors



RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE

WHEREAS, 77% of land in Tuolumne County is under the jurisdiction of federal, state or local government agencies, special districts, utilities and Native American Tribes; and

WHEREAS, the actions of these agencies to plan, adopt rules or regulations, acquire land or interest in land, promulgate programs, adjust land, and undertake other activities can have significant effects on the customs, culture, economy, resources, and environment of Tuolumne County; and

WHEREAS, on December 4, 2007, the Tuolumne County Board of Supervisors adopted Resolution 158-07 to assert legal standing and formally request coordination with all agencies that maintain jurisdiction over lands or resources located within Tuolumne County;

AND WHEREAS, the Board of Supervisors wishes to establish goals and policies to serve as the basis for coordinating with agencies and to provide guidance in reviewing plans and environmental documents prepared by those agencies;

NOW THEREFORE BE IT RESOLVED that the Tuolumne County Board of Supervisors does hereby approve and adopt the *Tuolumne County Coordination Plan* as set forth in Exhibit "A" attached hereto and by this reference made a part hereof;

IT IS FURTHER RESOLVED, that the signatures of the members of this Board of Supervisors on this resolution shall constitute the endorsement of the approved and adopted *Tuolumne County Coordination Plan*.

ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE ON APRIL 19, 2011.

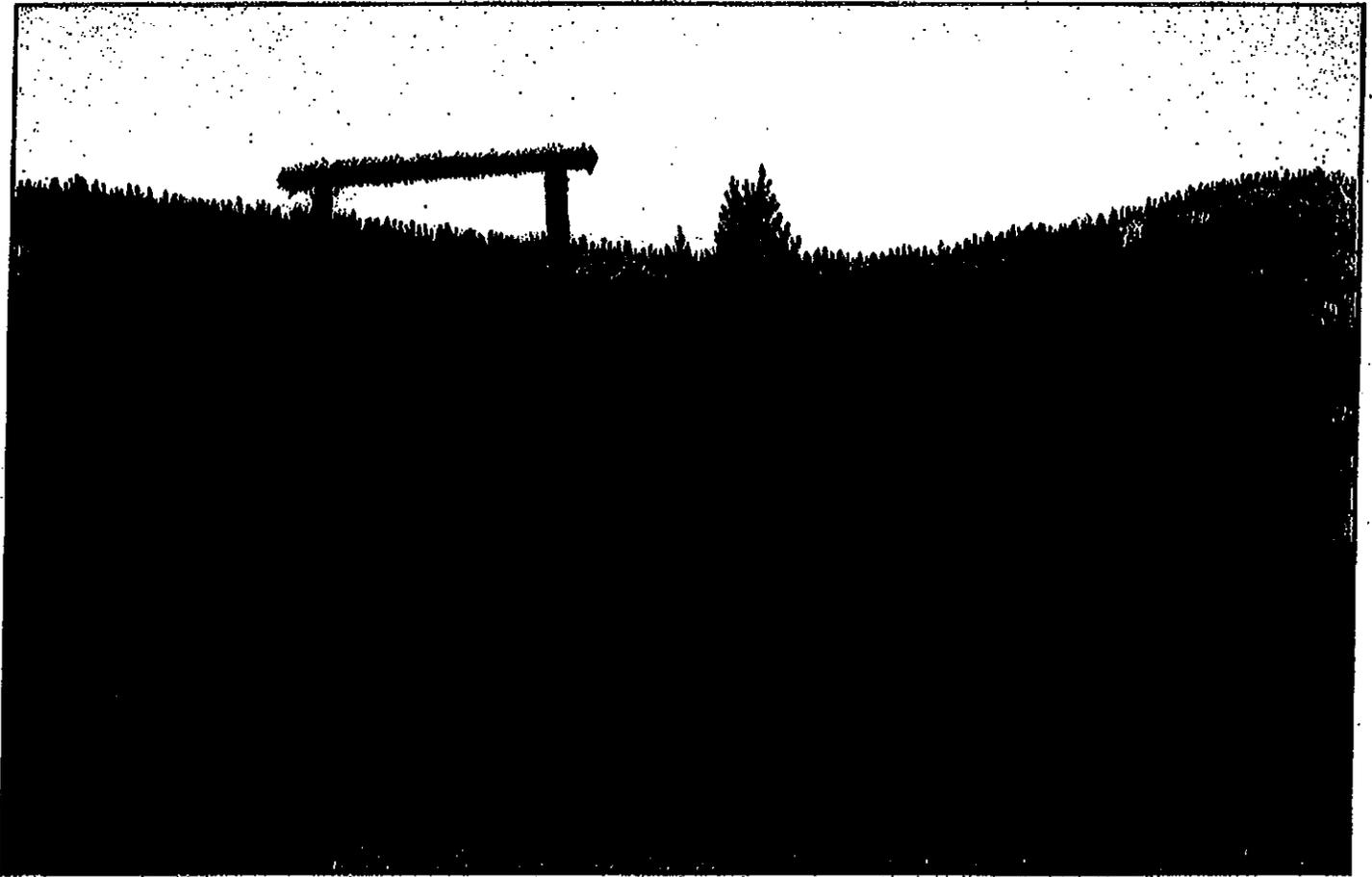
AYES:	1st Dist. <u>Dissenting</u>	NOES:	<u>1</u>	Dist. <u>Pres</u>
	2nd Dist. <u>Hankelt</u>			Dist. _____
	3rd Dist. <u>Royce</u>	ABSENT:	_____	Dist. _____
	4th Dist. <u>Gray</u>			Dist. _____
	5th Dist. <u>Hard</u>	ABSTAIN:	_____	Dist. _____

John L. Gray
CHAIRMAN OF THE BOARD OF SUPERVISORS

ATTEST: Alvin [Signature]
Clerk of the Board of Supervisors

No. 35-11

EXHIBIT A



**TUOLUMNE COUNTY
COORDINATION
PLAN**

Adopted by the Tuolumne County Board of Supervisors

on April 19, 2011

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Introduction

Tuolumne County (County) has a wealth of natural resources, stunning scenic landscapes and historic communities. These resources are spread over 2,300 square miles within the County's boundaries, from rolling rangeland in the west to mountain peaks to the east. Approximately 77% of the land within the County is under the management of public agencies (Agencies), including the National Park Service, United States Forest Service, Bureau of Land Management, Bureau of Reclamation, other federal agencies, the State of California, local governments, special districts, utilities and Native American tribes. Yosemite National Park encompasses 30% of the land in the southeastern portion of Tuolumne County, while the Stanislaus National Forest contains 42% of the land in the central and eastern portions.

Throughout the County's history, many of its residents have relied upon the resources in the lands managed by the respective Agencies for their livelihoods. These resources are important to the economy of the County. The economic base of the County is largely dependent upon business activities operated on lands owned, managed, or regulated by the Agencies, such as recreation, tourism, timber harvesting, mining, livestock grazing, and other commercial pursuits. The Board of Supervisors of Tuolumne County (Board) supports continued multiple uses on those lands in an environmentally responsible manner.

Because so much of the land in the County is under the jurisdiction of the Agencies, the decisions of those Agencies can affect the County's economy, the traditional activities of its residents, and the identity of its local communities. As such, the County desires to effectively participate to the fullest degree possible in the processes through which the Agencies make decisions.

The Board supports community engagement, transparency, communication, coordination, and the adoption of strategies that maximize problem solving in the respective Agencies' decision-making processes. The Board wishes to be timely informed by the Agencies of all pending or proposed actions that have the potential to affect the County and its residents, and the Board asserts a strong desire to coordinate with and provide input to the Agencies in the planning and implementation of public projects and actions.

The Tuolumne County Coordination Plan (TCCP) is a key component to the success of this effort. The TCCP identifies local values related to the use of public lands and defines Board policies that can lead to balance between local concerns and the Agencies' land use decisions.

The TCCP affirms and defines the County's intent to participate in the planning and evaluative processes of the Agencies which have responsibility for managing lands and regulated resources in the County. The interest of the Board extends to all planning and management processes, including but not limited to plan creation and revisions, project formulation and assessment, development, and implementation, including monitoring and evaluation. Through the TCCP, the County has established principles and policies that the County will use in evaluating the respective Agencies' proposed planning and management processes. The principles and policies contained in the TCCP will also apprise Agencies and stakeholders of the County's values related to various resources. Through the TCCP, the Board recognizes the lawful decision-making authority of the Agencies. The principles and policies contained herein identify local values for uses of public lands and resources and provide an ongoing vehicle to promote consistency and foster harmonious relations and problem-solving between the County and the respective Agencies.

Purpose

The purpose of the TCCP is to provide all of the Agencies with a comprehensive plan that upholds, supports, and extends the purpose of Tuolumne County Resolution 156-07, passed by the Tuolumne County Board of Supervisors on December 4, 2007. The purpose of Resolution 156-07 is to "assert legal standing and formally request coordination with all federal and state Agencies maintaining jurisdiction over lands and/or resources located within Tuolumne County."

The TCCP extends the request for coordination to all Agencies that have authority over public lands and resources in Tuolumne County. These Agencies include all federal, state and local governments, special districts, utilities and Native American tribes.

It is the express desire of the County that all Agencies inform the Board of all pending or proposed actions affecting local communities and citizens within the County and coordinate with the Board in the planning and implementation of those actions. The County recognizes that the mandate for coordination is limited and, therefore, the Board has an expectation that Agencies that are required by law will coordinate, and invites all other Agencies to coordinate with the County in developing their plans, regulations, and programs for the utilization of public lands and resources. The County further expects that Agencies will comply with all applicable laws regarding opportunities for input on proposed plans, regulations, and programs for the utilization and management of public lands and resources.

It is also the purpose of the TCCP to apprise Agencies about local values, customs, traditions, and cultures related to public lands, and to provide principles and policies that the County will use in evaluating the respective Agencies' proposed planning and management processes.

Through the TCCP, the Board seeks to promote planning and actions that provide prosperity and protect and enhance the quality of life for the County's residents. It further seeks to safeguard the well-being, health, safety, and welfare of the County's citizens. The TCCP also serves the following purposes:

- To provide a positive guide for the County to coordinate its efforts with Agencies in the development and implementation of land use plans and management actions which are compatible with the best interests of the County and its citizens;
- To facilitate continued, revitalized and varied use of Agency managed lands;
- To promote coordination of stewardship activities among Agencies;
- To encourage Agencies to evaluate and analyze local and regional socioeconomic conditions and needs so they can respond effectively to potential problems and opportunities facing the County;
- To provide Agency decision-makers and the County with a forum for resolving existing and potential conflicts between competing missions, interests, and values; and
- To expand the capacity of the County to take part in and influence the respective Agencies' land use and management decisions.

Among the desired outcomes of the adoption and implementation of the TCCP are to engage in relationship-building with Agencies, to manage community conflicts, and to influence Agency decisions to benefit the County's interests. To achieve those outcomes, the Board may evaluate and comment on Agency plans to study, manage, develop, monitor, or regulate lands and resources within the County.

Preparation

On December 4, 2007, the Board of Supervisors adopted Resolution 156-07 to "assert legal standing and formally request coordination status with all federal and state agencies maintaining jurisdiction over lands and/or resources located within Tuolumne County." The intent of this action was to provide an opportunity for the County to harmonize its plans with federal and state agency land use and resource decision processes prior to release of proposed agency plans, regulations and programs for public review.

In 2009, a group of citizens with expertise in multiple use of land and natural resource issues volunteered to prepare a local plan that would enable the County to participate with federal and state agencies in public land planning and management processes as advocated by Resolution 156-07. The resource/multiple use advisors who had volunteered their services drafted the *Tuolumne County Comprehensive Land Use Plan for Federal and State Lands and Regulated Resources (Plan)* to provide a vehicle through which the County could act to protect local customs and cultures by informing the Agencies about them. With the sponsorship of County Supervisor Teri Murrison, the *Plan* was submitted to the County in November 2009.

In April 2010, the Board recognized the efforts of the resource/multiple use advisors who had volunteered their time in preparing the *Plan* and directed that the *Plan* be condensed. Many of the policies from the *Plan* have been incorporated into the TCCP; however, the historical and other background information contained in the *Plan* concerning the County and its customs and cultures has not been included in the TCCP. That information, which provides the rationale for many of the policies in the TCCP, is available for public review. The original *Tuolumne County Comprehensive Land Use Plan for Federal and State Lands and Regulated Resources* may be reviewed at the office of the Clerk of the Board of Supervisors or on the County's website at www.tuolumnecounty.ca.gov.

Implementation

The TCCP shall be implemented by the County in the following manner as plans and environmental documents are proposed by the respective Agencies:

County Engagement

It is the policy of the Board to review and, where appropriate, comment on an Agency's draft plans, studies, administrative proposals, and environmental studies for public lands that affect the economy, traditions, customs, and culture of the County's residents and visitors. The Board's review and comments will be based primarily upon the principles and policies set forth herein.

Board of Supervisors Natural Resources Committee

The Board of Supervisors Natural Resources Committee is an integral part of implementing the TCCP. The Natural Resources Committee (NRC) serves as an advisory group to the Board of Supervisors on all issues related to natural resources, including but not limited to water and power rights, fisheries, timber management, forest health, and access to recreation areas on public lands. One of the key responsibilities of the NRC is to review draft comments on plans, studies, actions, and environmental documents emanating from the Agencies concerning public lands and make recommendations to the Board of Supervisors. Only the Board of Supervisors can submit comments on plans, studies, actions, and environmental documents concerning public lands except as otherwise authorized by the Board.

The NRC is currently comprised of two members of the Board of Supervisors and non-voting representatives from the Fish and Game Preservation Fund Advisory Committee, Tuolumne County Economic Development Authority, Agricultural Advisory Committee, and the Tuolumne County Resource Conservation District. Principal staff support is provided to the NRC by the County Administrator, Community Development Director and County Counsel.

Negotiation Tools

The NRC will propose appropriate negotiation tools to the Board to best engage and address the respective Agencies' proposed plans and actions. The following processes are among those that will be considered by the NRC for recommendation to the Board: however, coordination, as defined herein, is the preferred method and the County asserts its right to use it with Agencies who are under a coordination mandate, and invites all other Agencies, to coordinate with the County in developing their plans, regulations, and programs for the utilization and management of public lands and resources.

Coordination

Coordination is a planning process by which the County and Agencies seek to harmonize an Agency's proposed action with the County's plans. The goal of the process is to identify conflicts between the County's and an Agency's plans and develop alternatives that are consistent with the plans of both the County and the Agency.

Coordination is a term Congress has used to describe the relationship that encourages federal agencies to work with state and local governments. Each federal agency establishes its own process for coordination in compliance with federal statutes. While it may be conducted differently from Agency to Agency, at its most basic level, coordination requires two-way communication, identification of inconsistencies in plans, and problem-solving. The County expects Agencies that are under a coordination mandate, and requests other Agencies, to coordinate with the County prior to the release of proposed plans, regulations, and programs for public review.

The coordination process involves harmonizing Agency planning and management actions with County policies to the extent possible under existing laws. The coordination process does not enable the County to govern public lands or to make decisions for Agencies who manage them; it merely requires both to work through possible conflicting policies, agendas, missions, and goals to develop consistent outcomes, if possible.

Collaboration

Collaboration is a system where all parties involved come together to gain a better understanding of the environment in which they make and implement plans, to gain a full understanding of each other's interests, and to work together to solve issues of common concern. It is a voluntary process that utilizes consensus-based communication and agreement among parties who will be affected by the solution or who can help to implement it.

Successful collaboration requires a clear purpose and defined roles of the participants, transparency, interest-based decision-making, inclusion of the broadest array of stakeholders and representatives of organized constituencies, up-front determination of interests, common understanding of problems, joint fact-finding, policy and technical expertise, a respectful and authentic process, and resources. All parties, including Agencies, the County, and other public and private interest groups, participating in a collaborative process retain their legal rights, responsibilities and authorities. In exchange for their commitment of time, all stand to gain insight, options, improved relationships, or opportunities.

Collaboration is not appropriate for routine, simple, or urgent decisions. Collaboration is appropriate for more complex policy questions affecting multiple, interdependent interests, where all parties affected have reasons to engage with one another in a search for a joint policy or program outcome, and where sufficient time and resources are available to support the process. During collaboration, although one Agency would lead the process, the other parties will generally bear their own costs.

Consultation

Consultation is a process that generally applies to actions that are subject to the National Environmental Policy Act (NEPA) or the California Environmental Quality Act (CEQA). Under those acts, the agency responsible for preparing an environmental evaluation, called the Lead Agency, is required to consult with various governmental bodies and other interested parties. The consultation process generally entails providing notification of a proposed project or action and providing an opportunity to comment on it. Under this process, the Board would have an opportunity to comment at the scoping phase of a project and during the public review phase of the draft environmental document. During the scoping phase, the Board would have the opportunity to identify issues that should be addressed in the environmental document. During the public review phase of the draft environmental document, the Board would comment on the adequacy of that document and if it fully addressed the Board's comments provided during the scoping phase. Under the consultation process, the County's participation would be limited to providing comments to the Lead Agency on a proposed plan or action.

Cooperation

Under NEPA, state and local agencies can participate in the planning and environmental review process of a proposed action as Cooperating Agencies. A Cooperating Agency is authorized to participate in a federal planning process at the earliest possible stage. The Bureau of Land Management (BLM) is the only federal agency that has adopted formal regulations for Cooperating Agencies. Under BLM's regulations, Cooperating Agencies assist in identifying planning issues and are involved in selecting contractors and consultants to prepare plans. The relationship between BLM and Cooperating Agencies is formalized through a Memorandum of Understanding defining the roles of the participating agencies.

As a Cooperating Agency, the County would be able to "have a seat at the table," and participate in meetings and briefings, review and comment on administrative draft plans, assist in selecting project alternatives, and review public comments. The County would typically bear the financial responsibility for its participation as a Cooperating Agency.

Environmental Review

Proposals by the Agencies to study, manage, monitor, or regulate lands and natural resources within the County may be subject to environmental review under the National Environmental Policy Act (NEPA) or the California Environmental Quality Act (CEQA). These laws require an analysis of the potential adverse impacts of a proposed action or project by an Agency on the physical environment, the identification of measures to mitigate those potential impacts, and the formulation of alternatives to the proposed project. NEPA also requires that the potential social and economic effects of a project be evaluated. Under NEPA, all federal agencies are required to address the provision of safe, healthful, productive, aesthetically and culturally pleasing surroundings, the preservation of cultural features, and the maintenance of an environment supporting a variety of individual choices.

As stated in NEPA:

"... It is the continuing policy of the Federal Government, in cooperation with State and local governments," "...to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may— "...assure for all Americans safe, healthful, productive and aesthetically and culturally pleasing surroundings;" and "...preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice."

As noted above, NEPA not only requires that the impacts of an Agency's actions on the environment be addressed, it also requires federal Agencies to preserve culture and heritage. Under NEPA, the County must define its local customs and cultures and act to protect them by informing the Agencies of the definition and request that custom and culture be preserved under NEPA.

Custom, as used in the context of NEPA, refers to land or resource usages and practices that have "acquired the force of a tacit and common consent." Land uses and practices, such as livestock grazing, logging, ranching, mining, recreation, and tourism, have traditionally been the foundation of the County's economy.

Culture is a people's identity and the foundation upon which political society and an economy are built. Cultures in the County are the products of the complex web of land and resource uses and practices, and values and beliefs that nurture communities, sustain economies, empower local government, and give form and shape to the physical environment.

The importance of custom and culture resides ultimately in the principle of community stability. Community stability is equated to economic stability, the condition under which communities can change, adapt, and develop by the dictates of custom and culture.

In conducting environmental review under NEPA or CEQA, to the extent provided by law, the County expects Agencies to address the potential effects on the County's culture, including but not limited to:

1. The possible limitations and restrictions on cultural beliefs and practices, diversity and choice of lifestyle, and maintenance of cultural, community, generational and familial cohesion and kinship.
2. Cultural and community aesthetics, including historic sites, scenic vistas, waterways and landscapes.
3. The County's ability to protect and provide services for the health, safety, social and cultural well-being of its citizens.
4. The County's ability to finance public programs and services.
5. Local emergency medical services, law enforcement, fire and wildfire protection and nuisance abatement.
6. The local infrastructure, including transportation, community water, sewer, power, electric power generation and transmission systems, service districts, and solid waste services.
7. Local community well-being, stability of governance, and the welfare of the County's citizens from cumulative and long-term impacts.

In conducting environmental review under NEPA or CEQA, to the extent provided by law, the County expects Agencies to address the potential effects on the County's customs, economy, usages, services and businesses, including but not limited to:

1. Economic diversity.
2. Direct, indirect and cumulative employment, and wages.
3. The Industries of livestock grazing, ranching, timber, mining, recreation, and tourism, specifying unit cost effects, such as recreational user days.
4. Local businesses directly and indirectly related to the resource decision or plan.
5. Housing, real estate values, energy demands, and water, sewer and sanitation needs.
6. Variable thresholds for business demand and markets.
7. Marketability of workforce skills.
8. Business and financial planning and the ability to obtain financing dependent upon continued availability and productive use of a natural resource.
9. The level of manufacturing or processing technology required of local industry, dependent upon the availability of suitable raw materials.

Environmental evaluations should also include cumulative, long-term effects on the County's physical environment, cultures, customs, economy, usage, services and businesses. Plans, programs or actions may have insignificant impacts when analyzed individually; however, cumulative long-term impacts when combined with plans that have similar direct or indirect impacts may be significant.

Alternatives contained in an environmental analysis should be described in a manner permitting comparative evaluation among the options by decision makers and the public. This should include all reasonable alternatives and why alternatives were eliminated, including the alternative of no action.

The County requests that Agencies not approve plans, programs or projects as proposed if there are feasible alternatives or mitigation measures available that would, if implemented, reduce or eliminate significant impacts to the physical, social and economic environment. The County further requests that mitigation plans be formulated that identify each impact and measures to reduce the impacts to a less-than-significant level, and address the following:

1. How impacts may be avoided altogether by not taking certain actions.
2. How impacts may be minimized by limiting the degree or magnitude of the proposed actions.
3. How impacts may be rectified through repair, rehabilitation or restoration of the affected environment.
4. How impacts may be reduced or eliminated over time through preservation and maintenance actions during the life of the action.
5. How the Agency could compensate for the impact by providing substitute resources of equal utility or economic value.

For each mitigation measure, an analysis should be provided of its legal authority and its technical, fiscal, economic, social, cultural and political feasibility. The mitigation plan should also identify the Agency responsible for implementing and monitoring each mitigation measure.

Principles

The primary underlying principle upon which the TCCP is based is that the respective Agencies' land and resources planning, management, and decision-making will benefit by the establishment and thoughtful observance of regular, ongoing communications and relationship building with the Board. Agency decisions that directly and indirectly impact the County, its residents, visitors, public lands and resources can be detrimental if local impacts are not carefully analyzed and addressed. Communication and strong relationships increase opportunities for beneficial outcomes and reduce the likelihood of detrimental impacts.

To that end, the Board has adopted the TCCP to establish procedures by which relationship building is facilitated and apprise the Agencies of local values and interests so that Agencies can seek to attain consistency with this Plan and create beneficial outcomes.

The TCCP has been formulated based upon the following principles:

1. Interests of natural and human environments shall be reasonably balanced;
2. Traditional economic uses of both private and public lands should be preserved and enhanced, where appropriate, and new uses that contribute to economic stability and prosperity in the County should be encouraged;
3. Sustainable uses of land and natural resources shall be actively pursued;
4. The facilitation and promotion of good private and public resource stewardship requires incentives, voluntary actions, and the use of economic tools;
5. Property and individual rights are important foundations of the United States, California, and the County;
6. Local customs and culture shall be recognized and preserved on public lands;
7. Access to public lands is vitally important to the customs, cultures, and traditions of County residents;
8. It is important to protect the right of the enjoyment of the natural resources of the County by all citizens and those communities that utilize natural resources within the County;
9. Relationship-building, conflict resolution, and interest-based negotiated outcomes are preferred to litigation; and
10. Agencies must demonstrate transparency in decisions involving publicly owned lands and resources.

Policies

After considering input from the public and with the assistance of local natural resource advisors, the County has established the following policies to identify and document its local customs and cultures related to the use of public lands and resources. These policies have been formulated to apprise Agencies and stakeholders of those local values and to assist them in developing plans, regulations, and programs that address these values and are consistent with them to the greatest extent possible. The Board has an expectation that Agencies that are required by law will coordinate, and invites all other Agencies to coordinate with the County in developing their plans, regulations, and programs for the utilization of public lands and resources.

General

Through the adoption of the TCCP, the Board has made a commitment to the County's citizens to safeguard their interests in public lands by participating in the planning and management decision-making process of the Agencies who have jurisdiction over those lands. The following policies implement the Board's commitment:

- Policy 1.A The County shall work with Agencies to promote consistency of their planning and management efforts with the TCCP.
- Policy 1.B The County shall notify the Agencies, including federal, state and local government agencies, special districts, utilities, and Native American tribes, of the contents of the TCCP and work with them in preparing plans, policies and programs that are consistent with the TCCP to the greatest extent possible.
- Policy 1.C The County shall participate in planning efforts with the respective Agencies when deemed appropriate by the Board.
- Policy 1.D The County shall work with the Agencies to provide for County involvement early in any planning process and to encourage public input in that process.

Land Use

In making planning decisions for lands and resources under its jurisdiction, the Board seeks to protect and enhance the quality of life for all of its residents while facilitating growth and development and balancing the needs of the individual with the needs of the general public. The Board extends this philosophy to the use and development of public lands as provided in the following policies:

- Policy 2.A The use and development of land and resources under the jurisdiction of the respective Agencies shall be carried out in a manner that benefits the citizens of the County.
- Policy 2.B In making land use and resource management decisions, Agencies should provide for the protection and enhancement of private property interests, including, but not limited to, land patents, drilling rights, mining claims, easements, rights-of-way and forage rights.
- Policy 2.C In making land use and resource management decisions, Agencies must consider the economic impacts of its decision on residents within the planning area and adopt measures to reduce such impacts.

- Policy 2.D** The private use of land and resources under the jurisdiction of the respective Agencies should be increased in order to enhance opportunities for local economic development.
- Policy 2.E** Agencies are discouraged from acquiring any private lands or rights in private lands within the County without first coordinating with the County.
- Policy 2.F** The County has the expectation to be notified, consulted, and otherwise involved in all adjustments of public land in the County that is under the jurisdiction of the respective Agencies. The Board may review the proposed changes to determine if they are in the best interest of the County.
- Policy 2.G** Before any Agency changes land uses or resource management practices, impact studies of the proposed land uses should be conducted at the expense of the Agency proposing the change and necessary mitigation measures should be adopted in coordination with the County. Impact studies should address the policies and principles contained herein.
- Policy 2.H** Existing uses of Agency administered land and resources should be maintained and enhanced when such use complies with existing statutes and guidelines set forth by local, state, and federal agencies.
- Policy 2.I** Due to the extensive amount of land within the County that is under the jurisdiction of the Agencies, the management of that land and its resources should include: (1) provision for continued and improved access through that land; (2) continued provision of public recreational facilities and access to them; (3) multiple use management where applicable; and (4) interconnection or coordination of Agencies' and local facilities and programs where possible.

Circulation

Transportation is the basic system which provides mobility to sustain social, economic and recreational activities on public and private lands in the County. An improperly developed or out of balance transportation system can result in ineffective mobility and cause adverse and undesirable conditions, such as safety hazards, long delays, air pollution, unnecessary energy consumption, economic costs, and a loss of community identity. The following policies are intended to shape a transportation system which maintains and improves the quality of life for residents and their ability to move throughout the County's public and private lands:

- Policy 3.A** The County intends to continue to develop, expand, and maintain a transportation system that optimizes accessibility and minimizes the cost of movement between all communities and across Agency managed lands within the County.
- Policy 3.B** All roads, off-road vehicle routes, and trails through Agency managed lands that cause no actual resource damage should remain open.
- Policy 3.C** Any road or route closure proposed by an Agency should be coordinated with the County and be highlighted in the appropriate environmental document.
- Policy 3.D** All Agency off-road closure policies must contain adequate exemptions for administrative, management and public functions, including but not limited to, agency administration, emergency services, livestock management or scientific research.

- Policy 3.E** Seasonal and wet weather closures of roads or routes by Agencies should reflect existing conditions, historic and seasonal uses, such as hunting and fishing, permittee needs and requirements, access for herding and livestock removal purposes, and other local interests.
- Policy 3.F** Wet weather closures of roads or routes by Agencies should be based on current weather and road conditions, rather than calendar dates.
- Policy 3.G** Agencies should maintain and rehabilitate existing roads and access points through their managed lands that have economic, historic, cultural, and traditional importance to residents and visitors and that contribute to the local economy and sustainability of communities that are gateways to public land.
- Policy 3.H** Agencies must balance private property interests with the public's need for access to and through their managed lands and provide access to private parcels and permit allotments.
- Policy 3.I** Decisions by Agencies concerning changes to or improvements in their respective transportation systems should consider and be consistent with the County's adopted transportation plans and policies, including but not limited to the Tuolumne County Regional Transportation Plan.
- Policy 3.J** Vehicular and non-motorized trail access to and through Agency managed lands is critical to the economy of the County.
- Policy 3.K** Motorized ground and air vehicles and equipment should be allowed on and across Agency land, including wilderness areas, for the purposes of search and rescue and other emergency response.
- Policy 3.L** Any proposal for abandonment of a railroad right-of-way or for converting it to a different use should be coordinated with the County to determine if the use is temporary and will not preclude future railroad use or that it is not viable for future railroad or other transportation use.

Housing

The Housing Element of the Tuolumne County General Plan acknowledges the State of California's goal of providing "decent housing in a suitable living environment for every Californian" and establishes policies and programs to maintain a variety of adequate sites to accommodate households of all types, characteristics and income levels in the County to assist in attaining that goal. The Board also recognizes the housing needs of the local Native American tribes and of the employees of the Agencies and has established the following policies to address those needs:

- Policy 4.A** The County will work with the Agencies to develop workforce housing for their respective employees on public or private lands in the County. New housing on private land will provide additional property tax revenue to the County and increase demand for locally provided goods and services.
- Policy 4.B** The County will assist the local Native American tribes, the Chicken Ranch Rancheria of Me-Wuk and the Tuolumne Band of Me-Wuk, in their efforts to rehabilitate existing housing and to provide new housing for their members.

Economic Development

The County's economy is heavily dependent upon businesses sustained by natural resources, many of which are on public lands. The public lands in the County support timber harvesting, mining, grazing, recreation, and other uses, all of which are important components of the local industry. The public lands also help make the County a major tourism destination, with three state parks, and much of the Stanislaus National Forest and Yosemite National Park lying within its boundaries, and a popular location for use by the film industry.

With 77% of the land in Tuolumne County being under the jurisdiction of the Agencies, it is evident that the economic viability of the County is inextricably tied to decisions made by Agencies in managing the lands under their respective jurisdictions; consequently, Agencies have a responsibility to consider the impacts of their decisions on the local economy and take action to minimize those impacts. The Board has established the following policies for Agencies to address in evaluating impacts of their decisions on the County's economy:

- Policy 5.A The County encourages and supports improvement of the infrastructure provided by the Agencies, such as water and sewer lines, roads, and power, throughout the County to increase the marketability of the County for the retention, expansion, and attraction of business and industry when such improvements will not create a significant environmental impact on the County.
- Policy 5.B The County supports the development of heritage tourism, geotourism, agritourism and related events, including those promoting agricultural operations that occur on public lands.
- Policy 5.C Agencies should facilitate agritourism events on their managed lands.
- Policy 5.D Agencies should maintain and enhance existing and develop new tourist serving facilities or otherwise enhance their capacity to serve visitors on the lands they manage.
- Policy 5.E Agencies should evaluate and adjust existing policies, and establish new policies to provide increased opportunities for businesses that utilize sustainable natural resources on public lands in the County.
- Policy 5.F Agencies should manage lands and resources such that local economic interests, including businesses that focus on tourism, and agricultural, cultural and historic resources, are supported and strengthened through the adoption of policies and actions that provide opportunities for growth and expansion and do not discourage them.
- Policy 5.G Multiple use of public lands, such as timber harvesting, grazing, and recreation, should be continued at sustainable levels.
- Policy 5.H A level of sustainable natural resource production should be established by the respective Agencies that provides predictability and consideration of the impact on the County's economy.
- Policy 5.I The County encourages Agencies to support the film industry by preserving natural and cultural resources that serve as backdrops in films, authorizing filming on public lands, and streamlining any required permitting process required for filming.

Agriculture

Working landscapes consist of farms, ranches, and actively managed public and private forestlands. They are important for the environmental, cultural, social, and economic benefits they provide. The County's working landscapes provide jobs, local tax base, environmental benefits, scenic quality, food and fiber for human consumption, and wildland fire fuels management. The customs, culture and heritage associated with agricultural production in Tuolumne County are important to the livelihood and well-being of its citizens; consequently, the Board has established the following policies to promote the continuation of agricultural pursuits:

- Policy 6.A The County promotes the protection and enhancement of agricultural land, agricultural pursuits, and working landscapes on public lands as well as private lands.
- Policy 6.B Agencies should encourage and provide opportunities for agriculture on public lands at existing or expanded levels consistent with historical custom and culture, the protection of equitable property rights, and sound management practices.
- Policy 6.C Agencies should coordinate with the County on formulating new or changes to existing policies that may affect agricultural uses or working landscapes on public lands.

Livestock Grazing

A viable rangeland livestock industry is an essential component of the County's economy, history, culture, customs, and traditions. Public lands have historically played an integral role in the livestock industry by providing summer range in the higher elevations of the County. The Board supports the continued use of public lands for livestock grazing as articulated in the following policies:

- Policy 7.A Agencies should develop incentives to encourage good grazing practices, improve grazing lands, and promote good land stewardship, including but not limited to the following: (1) establishing appropriate fee schedules; (2) allowing subleasing of allotments; (3) allowing allotment plan flexibility; and (4) increasing grazing capacity or allowing other economic benefits to accrue to permittees that demonstrate improved conditions on grazing allotments.
- Policy 7.B Transportation of livestock and equipment for livestock management should be allowed over Agency managed roads and on public lands.
- Policy 7.C Open range conditions should exist on active livestock allotments behind allotment boundaries in alignment with the historic nature of grazing management on open range. Livestock may be on County roads crossing both public and private property within active livestock ranching practices.
- Policy 7.D Agencies should allow the maintenance and enhancement of structures and other improvements within active permit grazing allotments due to their importance to permittees. Such structures and improvements include but are not limited to cabins, corral facilities, fences, cattle guards, and developed watering facilities.
- Policy 7.E Fees for grazing on public lands should not be established unilaterally and should be based on verified financial, cost and environmental factors.
- Policy 7.F Permits issued by Agencies for grazing on public lands should recognize the capital outlay by the permittee in making rangeland improvements, such as constructing a corral, and provide for improvements to accrue to the permittee or provide compensation

to the permittee for the remaining value of the improvement at the time of termination of the permit to the extent allowed by law.

Forestry and Forest Products

The customs, culture, traditions, and heritage associated with forestry in the County are essential to the livelihood, safety, and well being of its citizens and visitors. Therefore, it is the policy of the County to promote the continuation of a sustainable forest products industry by encouraging the active management of forests on public lands, as provided in the following policies:

- Policy 8.A** The Board encourages Agencies to adopt and maintain scientifically sound forest management policies based on high quality, recently acquired data and to pursue multiple use of public forest resources to provide sustainable and continuous yield of timber, forage, firewood, wildlife, fisheries, recreation and water.
- Policy 8.B** Agencies should adopt policies that promote and facilitate local manufacturing of forest products from public lands.
- Policy 8.C** Agencies should support a broad range of reforestation and timber stand improvement tools and timber harvesting practices consistent with prudent resource protection practices.
- Policy 8.D** Agencies should adopt policies that promote and facilitate early detection and control of insect infestations through the use of biological and chemical agents, including salvage of dead and dying forest stands.
- Policy 8.E** Agencies should adopt policies that provide for the prevention of forest fires through thinning stand densities associated with the onset of competition as well as construction and maintenance of strategically located fuel breaks and other vegetation management. Such actions are critically important and necessary to change existing forest surface, ladder, and crown fuel profiles in order to reduce potential wildfire intensity and behavior, and mitigate the consequences of large, and potentially damaging, wildfires on public lands and on private lands contained within and adjacent to Agency managed lands. The achievement of a more sustainable forest condition via implementation of such prevention actions will benefit forest related resources, including improved watershed conditions, improved wildlife habitat and enhanced forest health.
- Policy 8.F** The County supports prescribed burns as a fuels reduction management tool for resource enhancement when used in conjunction with forest thinning and post treatment salvage or in areas that physically cannot be mechanically thinned when such burns comply with air quality regulations.
- Policy 8.G** Agencies should encourage and provide for the prompt salvage and replanting of forested areas and forest losses due to fire, insect infestation, or other events.
- Policy 8.H** The County encourages Agencies to provide funding for education of County citizens about productive forest uses and the risks associated with overgrown forest conditions.
- Policy 8.I** The County requests Agencies provide information relative to the volume of wood fiber added to forest lands on an annual basis as compared to the amount of material removed through forest thinning, controlled burning, grazing and other means.

Policy 8.J The County supports and encourages partnerships between Agencies and the timber industry to implement treatments to maximize environmental benefits of forest ecosystem health, diversity and sustainability, and to maximize social and economic benefits of industry and community infrastructure, increased employment, and improved tax base.

Policy 8.K The County encourages Agencies to actively manage the watersheds in forested areas by reducing the threat of wildfire thereby increasing water supply security and quality, ~~providing deeper, more persistent snow packs, longer runoff durations, and increased groundwater storage.~~

Invasive Species and Pest Management

The Board advocates the control of predatory animals, rodents, noxious weeds, and disease bearing vectors on all Agency managed lands. A noxious weed is an unwanted plant specified by federal, state, or local laws as being undesirable, troublesome, and difficult to control. It grows and spreads in places where it interferes with the growth and production of native plants or desired crops. The Board acknowledges that noxious weed infestation and growth constitutes a major threat to the public health, natural resource values, and the economic viability of the public lands and should be a high priority of Agency managers, as stated in the following policies:

Policy 9.A The Board encourages the Agencies to protect public lands bordering private lands from predatory animals, rodents, noxious weeds and vectors.

Policy 9.B Agencies should prepare and implement plans for controlling predatory animals, rodents, insects and noxious weeds in accordance with the practices advocated by the California Department of Food and Agriculture and Department of Fish and Game.

Policy 9.C Agencies should coordinate their pest control regulations and actions with the County.

Mineral Resources

The County recognizes that the development of its abundant mineral resources is desirable and contributes to the economic well being of the County, the state and the nation. Accordingly, it is the policy of the Board to encourage responsible stewardship of the environment in conjunction with mineral exploration and development on public lands as provided in the following policies:

Policy 10.A Agencies should support mineral exploration and development on public lands that is consistent with sound economic and environmental practices.

Policy 10.B Agencies should discourage development that is incompatible with mining on public lands that contain significant mineral resources so as not to preclude future mining activities.

Policy 10.C Mining on public lands should be consistent with local customs, traditions, and culture.

Policy 10.D Agencies should coordinate review of new or amendments to existing reclamation plans with the County.

Policy 10.E Agencies are encouraged to update their respective mineral classification maps in order to reflect current information.

Recreation

Tuolumne County, with its natural wonders and resources, provides a recreational and scenic venue and theater for no less than a worldwide audience. The Board recognizes that the provision of adequate, accessible recreational facilities is important to the social, psychological and physical well-being of its residents and worldwide visitors, provides economic opportunities for business, and furthers many of the goals in the Tuolumne County General Plan. Many of the recreational opportunities for the public in the County are provided by the Agencies. In recognition of the importance of recreation to the quality of life of the County's residents and visitors, the Board has established the following policies regarding recreational facilities on public lands:

- Policy 11.A** The Board encourages cooperation among the Agencies and private enterprise to provide park and recreational facilities.
- Policy 11.B** The Board supports a coordinated approach among Agencies for the acquisition, construction and maintenance of seasonal and year-round recreational facilities.
- Policy 11.C** The Board supports the location of new park facilities and trail routes on or adjacent to Agency-managed land, where feasible, to minimize the County's cost of acquiring and maintaining new facilities and to avoid the potential conflicts associated with acquiring privately-owned property for public facilities.
- Policy 11.D** The Board encourages and supports the development of seasonal and year-round recreational facilities by the Agencies that are family oriented and designed to encourage family values and participation and that harmonize with the multiple uses and resources on Agency-managed land and do not negatively impact agricultural, forestry, and other land uses.
- Policy 11.E** The Board supports the continuation of existing off-road vehicle use areas and the creation of new areas on Agency-managed land because off-road vehicle use is a significant recreational activity in the County.
- Policy 11.F** The existing network of trails for hiking, backpacking, equestrian stock and other uses, trailheads, and other recreational opportunities on all Agency-managed land including wilderness, such as camping, hunting, fishing, skiing, and boating, should be enhanced and protected to promote tourism which is a fundamental ingredient to the economic and social health of the County. Agencies shall coordinate with the County prior to decommissioning a trail or removing a trail from a public map.
- Policy 11.G** Proposals by Agencies to decommission recreational facilities, such as campgrounds, restrooms, trailheads, or other facilities, should be addressed through a public review process that includes reasonable notice and coordination with the County.
- Policy 11.H** Agencies should apprise the Board of actions to decommission recreational facilities for urgent environmental, economic, or other reasons at their earliest opportunity.
- Policy 11.I** Agencies should aggressively seek partnerships with local and regional interest groups for maintenance and expansion of facilities in evaluating the proposed decommissioning of recreation facilities or establishing new ones.
- Policy 11.J** Agencies should allocate sufficient amounts of their budgets to recreation in acknowledgement of the investments of local communities to provide visitor infrastructure.

- Policy 11.K** Agencies should aggressively seek additional, non-traditional sources of funding, such as supporting the establishment of nonprofit organizations or establishing partnerships with other Agencies to offset the costs of recreational facilities maintenance.
- Policy 11.L** Agencies should not charge entrance or other user fees for recreational facilities that discourage use of those facilities by the County's residents and visitors. Agencies should coordinate with the County prior to establishing new or increasing existing user fees.
- Policy 11.M** When Agencies plan for future recreation needs, they should coordinate with the County to insure that local values and economic interests are addressed and that adequate infrastructure is developed to serve new or expanded recreational demands.
- Policy 11.N** Agencies should cooperate in the County's efforts to implement the Tuolumne County Recreation Master Plan, such as in developing trails that cross the jurisdictional lines of the Agencies.

Biological Resources

Management of biological resources, including plants, fish, wildlife, and species designated as special status, threatened, endangered, sensitive, candidate or indicator under the federal or state Endangered Species Act, on public lands should be based upon science and local input. Local input should be provided in developing biological resource management plans in accordance with the following policies:

- Policy 12.A** In formulating biological resources management plans, Agencies should identify the potential negative impacts on the local economy, the environment, private property interests, and customary usage rights of the public land affected by the proposed plan.
- Policy 12.B** Agencies should coordinate with the County before eliminating, introducing or reintroducing any species onto public lands and address potential impacts of such an action on private lands, customary use and private property interests in the public land, and the local economy.
- Policy 12.C** The County encourages the Agencies to develop biological resources management plans that provide for the enhancement of native fish, game and non-game species, promote fishing and hunting on public lands, and provide a private property compensation program for certain damages created by wildlife.

Scenic Corridors and View Sheds

Through the adoption of the Tuolumne County General Plan, the Board established a goal to conserve the scenic environment and rural character of the County, which contribute to the quality of life of residents and encourage tourism and economic development. In accordance with this goal, the Board finds that Agencies should preserve historic and cultural assets on public lands and conserve the scenic environment and view sheds as provided in the following policies:

- Policy 13.A** In consideration of establishing scenic corridors and view sheds, Agencies should recognize that working landscapes, including agricultural and managed timberlands, have historically defined the rural character, culture, and traditions, as well as the scenic beauty of the County.

- Policy 13.B** Agencies should coordinate with the County prior to the consideration, nomination, administrative establishment, or recommendation of any County transportation route as a State Scenic, Historic Highway Corridor, National Scenic Byway or similar designation and should conduct and fund any necessary environmental review, assess the socioeconomic costs and benefits to the County's customs, traditions, and culture, and fully mitigate any negative impacts of such designations.

Cultural Resources

Much of the County's past is intertwined with public lands and resources. Native Americans inhabited what are now public lands and pioneers and settlers came to the County because of the abundance of natural resources, many of which are on public lands. As a result, archeological and cultural resources are to be found on public as well as private lands. The County is very proud and protective of its heritage and has been recognized for its efforts to preserve cultural resources by being designated as a Certified Local Government and a Preserve America Community. For these reasons, the County encourages identifying, recording and preserving cultural resources on public lands through the following policies:

- Policy 14.A** Consistent with federal and state legislation, Agencies should establish and implement consultation and coordination requirements with all federally recognized Native American Tribes in the County and provide opportunities for joint coordination with the County and the Tribes where appropriate
- Policy 14.B** Historic structures are enduring symbols of the heritage derived from early settlers and, as such, are of great value to residents of the County and the historic, cultural, and traditional integrity of existing historic structures located on public lands should be preserved and protected. Agencies should support the efforts of the County, organizations, and private individuals to maintain these historic structures in a state of arrested decay or to the highest degree of protection.
- Policy 14.C** Agencies should coordinate with the County on any proposed action to demolish a cultural resource to attain consistency with the Cultural Resources Ordinance contained in Title 14 of the Tuolumne County Ordinance Code and the Cultural Resources Management Element of the Tuolumne County General Plan.
- Policy 14.D** Traditional and historic uses, appearance, existence, maintenance, and enhancement of structures and improvements to structures on public lands should not be required to conform to national or state stylistic standards, but should be valued for their historic qualities as representative of Tuolumne County's unique culture.
- Policy 14.E** Structures located within active and inactive grazing permit allotments should be allowed to be maintained in working order due to their critical importance to permittees for managing grazing land and for their historic significance. Such structures and improvements include but are not limited to cabins, corral facilities, fences, and developed watering facilities.

Air Quality

Tuolumne County is located in the Mountain Counties Air Basin, an area encompassing nine counties from Plumas in the north to Mariposa in the south. Tuolumne County enjoys relatively good air quality with two criteria pollutants (Ozone and PM10) being the predominant pollutants of concern. The County has been designated "nonattainment" for the federal and state Ozone ambient air quality standards due to the pollutants generated and rising from the Central Valley and Bay Area, over which the County has no control. The state recognizes this by designating the County as an Overwhelming Transport Area, which does not require any regulatory action being implemented. However, the federal government does not recognize pollutant transport in its designation process, which could have a negative impact on the County's economy in meeting its air quality commitments to attain the federal Ozone standard. The Board seeks to achieve and maintain all state and federal air quality standards while recognizing economic and environmental impacts and working with the Agencies through the following policies:

- Policy 15.A** The Board recognizes that one of the biggest threats to the County's air quality is catastrophic wildfire and encourages Agencies to enact programs that allow prescribed burning, forest improvement techniques such as forest thinning, pruning, and removal of brush and insect-killed trees, and other methods for reducing fire hazard that ultimately protects air quality.
- Policy 15.B** Agencies should provide for the continuation of agricultural and prescribed burning as a resource management tool in accordance with air quality regulations.
- Policy 15.C** Agencies should continue to consult with the Tuolumne County Air Pollution Control District in scheduling prescribed burns.
- Policy 15.D** Agencies should establish forest management programs that encourage fuel reduction of forests and wildlands by means other than burning, utilizing all means of fuel reduction including but not limited to: logging, forest thinning, and chipping, brush mastication, livestock grazing, herbicide use, and public firewood utilization.
- Policy 15.E** Agencies should provide for a continuous supply of biomass fuel from public lands for energy producing facilities and encourage the construction and use of new biomass to energy projects.
- Policy 15.F** Agencies should provide for an increased air quality monitoring network that encompasses public and private lands to collect accurate real time measurements of pollutants to support prescribed burning activities and assess the public's exposure to ambient air pollutants such as particulate matter and ozone.

Fire Prevention and Protection

Fire protection services within the County are provided by several agencies, representing federal, state, and local jurisdictions, with the assistance of the County's residents serving as volunteer firefighters. Much of the County lies within a State Responsibility Area (SRA) for wildland fire protection, which is provided by CalFire. That agency has designated the fire hazard in most of the SRA portion of the County as high or extreme. Large areas of the County are comprised of forested ecosystems, including oak woodlands in the lower elevations up through the pines and fir at the crest of the Sierra Nevada range. Drought, dense forest fuels, and inadequate harvesting of timber in these ecosystems have contributed to the creation of the extreme fire hazard conditions. Ladder fuels must be reduced and sound timber management practices followed to avoid catastrophic fires. The Board acknowledges the need for action to reduce fire hazard in the County and has established the following policies to facilitate such action:

- Policy 16.A** The condition of many public lands in the County is dangerously overgrown with fire fuels thereby creating a public nuisance. Agencies must manage these lands in a manner that reduces the fire threat and guards against fire's serious air quality impacts.
- Policy 16.B** Due to the design of the historic and current water system in the County and its vulnerability to wildfire, Agencies should work diligently to reduce the threat of wildfire on public lands to protect the County's water resources.
- Policy 16.C** Reducing forest fuels is a cost-effective fire prevention and protection practice that can lessen the necessity to battle catastrophic wildfires. The Board supports active forest thinning and increased timber production that preserves wildlife habitat, minimizes erosion, and does not irreparably harm watersheds and streams.
- Policy 16.D** Some County homeowners' insurance policies are becoming more expensive and many have been cancelled due to the critical fire danger in California. It is extremely important that Agencies work with the County and volunteer organizations to better address the fuels load in the County.
- Policy 16.E** Agencies should provide grant funding for fire fuels reduction and reform grant funding processes to make the process less cumbersome and bureaucratic.
- Policy 16.F** Since many fuel reduction projects are accomplished through volunteer nonprofit fire safe councils, Agencies should revise existing grant procedures to reflect grantee cash flow limitations and allow grantees to easily access information on the status of payments for projects.
- Policy 16.G** Agencies are encouraged to participate in County and fire safe council efforts to develop, implement and update fire protection plans and in public outreach efforts by providing information and education about fire risk.
- Policy 16.H** Agencies should provide information to the County on their policies and practices related to fire use and fuels management, including but not limited to fire use designation criteria, favorable and unfavorable prescribed burning parameters, fuel model inputs, fire personnel staffing levels, and public road closures and reopenings.
- Policy 16.I** Agencies should prepare smoke management plans in consultation with the Tuolumne County Fire Department, Tuolumne County Air Pollution Control District, and Tuolumne County Office of Emergency Services.
- Policy 16.J** Agencies should coordinate planning, scheduling, implementation, and dissemination of public information concerning prescribed burns with the Tuolumne County Fire Department, Tuolumne County Air Pollution Control District, and Tuolumne County Office of Emergency Services.
- Policy 16.K** Agencies must notify by email or fax the following County departments at least 72 hours in advance of all scheduled prescribed burns and immediately notify them in the event a controlled burn escapes its pre-established boundaries: (1) Tuolumne County Fire Department; (2) Tuolumne County Air Pollution Control District; (3) Tuolumne County Board of Supervisors; (4) Tuolumne County Administrative Office/Office of Emergency Services; and (5) Tuolumne County Sheriff's Office.
- Policy 16.L** Agencies should avoid scheduling prescribed burns within two weeks of major holiday weekends and whenever the region anticipates significant tourist inflows, including Memorial Day, Independence Day, and Labor Day.

Policy 16.M Agencies should provide funding where available to local businesses and property owners to mitigate negative economic impacts resulting from prescribed burns, out of control prescribed burns, and fires of significant duration.

Water

Water is essential to life and to the future well-being of the County. As the County grows and develops, there are increasing demands for water resources; consequently, the limited water resources and existing water rights in the County must be protected. Because 77% of the County is under the jurisdiction of the Agencies, it is critical that they coordinate with the County to effectively address overall watershed health and water quality. As stated in the Tuolumne County General Plan, it is the goal of the Board to preserve and protect the quantity and quality of the water in the County. To reach that goal, the Board requests coordination with the Agencies in accordance with the following policies:

- Policy 17.A** The Board finds that protection of county of origin water rights and water uses is of primary importance to the County's economic and cultural well-being. The County intends, in coordination with the Agencies, to participate in planning for management of the County's water resources and related natural, cultural, and economic values and resources. Consequently, the Board requests coordination with Agencies on all proposed water plans and policies to determine how they affect the County's existing and future water resources and potential impacts on the environment, citizens, and economy of the County.
- Policy 17.B** Any proposed out-of-county water transfers or mandates for reduced water usage should be consistent with the Tuolumne County Groundwater Management Ordinance codified in Chapter 13.20 of the Tuolumne County Ordinance Code and must be thoroughly evaluated and only be permitted if they are shown to not unreasonably affect the economy and environment of the County. Factors to be considered include, but are not limited to, impacts on the County's tax base and revenues, water supply, orderly community growth, development, and the environment.
- Policy 17.C** Agencies should work to improve the security of the water infrastructure and resources in the County from the threat of wildfire on public lands.
- Policy 17.D** The Board supports expanding existing and developing all types of additional water facilities, especially in light of the long term trend toward snow levels at higher elevations and to address future water needs. For that reason, Agencies should facilitate the construction of new water facilities where such facilities can be determined to be beneficial to the residents and visitors of the County.
- Policy 17.E** No existing water storage facilities should be dismantled, breached, or removed without coordination with the County and without identification and implementation of appropriate mitigation for the loss of water storage.
- Policy 17.F** The County recognizes that the protection and development of both surface and groundwater resources are essential to the County's short and long term socioeconomic viability. Drought conditions in recent years and high demand for water in California have led to a water crisis. Various solutions have been proposed to alleviate that crisis in Northern, Central, and Southern California and virtually all of the proposed solutions have the potential to negatively impact the County's water supply and ability to grow and prosper over time. Consequently, the County recognizes that the protection and development of its water resources are essential to its short and long term economic and cultural viability.

- Policy 17.G** Raw water service should be continued via existing and improved conveyance systems, which is in the best interests of residents, visitors, agricultural and residential users, and existing habitat. The County encourages Agencies that provide water service to continue providing water via existing and improved conveyance systems and to seek to mitigate water losses by pursuing state and federal grants and other funding to maximize ditch efficiencies. The County shall support such projects to the extent possible.
- Policy 17.H** Agencies should manage land to protect watersheds and maximize groundwater recharge.
- Policy 17.I** Agencies should develop watershed protection plans that are consistent with the Tuolumne County Water Quality Plan, Integrated Regional Water Management Plan and other water-related plans adopted by the County.
- Policy 17.J** Agencies should design, fund, and implement public education and outreach programs to encourage the public to incorporate water conservation practices into their daily lifestyles.
- Policy 17.K** Any proposed designation of a Wild and Scenic River and all Agency policies regarding riparian management in the County should be coordinated with the County and the jurisdictional water district.
- Policy 17.L** Excluding those designated by Congress as Wild and Scenic, rivers in the County should be managed as multiple use resources and provide for many uses, including but not limited to fish and wildlife habitat, hydropower generation, flood control, transportation, irrigation, recreation and municipal and industrial uses.
- Policy 17.M** Agencies should continue to promote appropriate opportunities for the development of water-based recreation within the County as long as such developments do not jeopardize or otherwise impair the water quality or water supply of the County.
- Policy 17.N** Water use or water quality plans developed by the Agencies should be consistent with any plans adopted by the County to address water quality, sustainability, affordability, and supply and should determine that such policies do not negatively impact municipal, agricultural, or other water users in the County.
- Policy 17.O** Agencies should develop plans for managing land, water bodies, waterways, wetlands, and riparian areas in the County that are consistent with local and regional water management plans and existing and future Integrated Regional Water Management Plans (IRWMPs).
- Policy 17.P** Agencies should coordinate with the County and the jurisdictional water district to determine in-stream flow requirements in the Stanislaus River and Tuolumne River watersheds and address the County's current and long term water supply needs. This applies to current and future San Francisco Bay-Delta water resource planning efforts, as well as to any other state, regional, or local plans.
- Policy 17.Q** Agencies should give priority to municipal, agricultural and irrigation water uses and interests which serve communities within the County over those that serve communities outside the County.
- Policy 17.R** Transfers in water use and reallocations of water rights by Agencies should not reduce supply, or negatively impact existing water rights or local municipal or irrigation water uses in the County. They should also not negatively impact the history, traditions, and

culture of the County since the protection of existing water rights and water uses is of primary importance to the County's economic and cultural well-being.

Policy 17.S The County will work with the jurisdictional water districts to pursue county of origin water rights to provide for the availability of sufficient water supply for continued viability of all residential and economic endeavors in the County dependent on water consumption.

Energy

In conjunction with the construction of the New Melones Reservoir, the County was given power generated by that hydroelectric project as a First Preference Allocation in recognition of its status as a "county of origin." The power allocation partially compensated the County for the loss in tax revenues from the land flooded by the creation of New Melones Reservoir. This allocation allows for low cost electrical power for public agencies located in the County.

Because of the abundance of natural resources, a significant amount of renewable energy from hydroelectric and biomass sources is produced in the County. The Board supports the continued use and expansion of these energy sources and the development of new energy sources, including but not limited to geothermal and solar because they are renewable and they create potential economic development for the citizens of the County and the region. The Board has established the following policies concerning the use and development of energy in the County:

Policy 18.A The County's first preference energy allocations should not be reduced or negatively impacted by Agencies or by the construction and existence of transmission projects.

Policy 18.B Existing transmission lines and easements should be used to the extent feasible to expand or extend energy delivery systems before constructing new lines.

Policy 18.C Agencies should coordinate all energy and transmission planning, construction, and operation actions with the County.

Amendments

The TCCP is intended to be a dynamic rather than a static document that can, and should, be updated and changed periodically to reflect the needs and desires of the people of the County. Amendments to the TCCP should be made as needed to address changes in social, economic and physical conditions in the County.

Amendments to the TCCP may be proposed by an individual member of the Board, the Board of Supervisors Natural Resources Committee, or County Staff. The concept for the proposed amendment shall be scheduled for consideration by the Board and the Board shall determine if the amendment should be processed. If the Board by majority vote decides to proceed with the proposed amendment, the matter will be referred to the County Administrator to draft the amendment and schedule the matter for consideration by the Board of Supervisors Natural Resources Committee which will make a recommendation to the Board. An amendment to the TCCP shall be adopted by resolution of the Board after conducting a public hearing and considering all testimony presented therein.

Attachment C



**RESOLUTION
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE**

**RESOLUTION ASSERTING LEGAL STANDING AND FORMALLY REQUESTING
COORDINATION WITH ALL FEDERAL AND STATE AGENCIES MAINTAINING
JURISDICTION OVER LANDS AND/OR RESOURCES LOCATED WITHIN
TUOLUMNE COUNTY**

- WHEREAS,** Tuolumne County is a public unit of local government and a 5-member elected Board of Supervisors serves as its chief governing authority; and
- WHEREAS,** Tuolumne County Board of Supervisors is charged with supervising and protecting the tax base of the county and establishing comprehensive land use plans (including, but not limited to the General Plan) outlining present and future authorized uses for all lands and resources situated within the county; and
- WHEREAS,** Tuolumne County is engaged in the land use planning process for future land uses to serve the welfare of all the citizens of Tuolumne County; and
- WHEREAS,** Tuolumne County is comprised of approximately twenty-five percent (25%) privately-held lands with the balance of lands and/or resources publicly owned, managed, and/or regulated by various federal and state agencies; and
- WHEREAS,** the citizens of Tuolumne County historically earn their livelihood from activities reliant upon natural resources and land which produces natural resources is critical to the economy of Tuolumne County; and
- WHEREAS,** the economic base and stability of Tuolumne County is largely dependent upon commercial and business activities operated on federally and state owned, managed, and/or regulated lands that include, but are not limited to recreation, tourism, timber harvesting, mining, livestock grazing, and other commercial pursuits; and
- WHEREAS,** Tuolumne County desires to assure that federal and state agencies shall inform the Board of Supervisors of all pending or proposed actions affecting local communities and citizens within Tuolumne County and coordinate with the Board of Supervisors in the planning and implementation of those actions; and

- WHEREAS,** coordination of planning and management actions is mandated by federal laws governing land management including the Federal Land Policy and Management Act, 43 US § 1701, and 4 U.S.C. § 1712, regarding the coordinate status of a county engaging in the land use planning process, and requires that the "Secretary of the Interior [Secretary] shall...coordinate the land use inventory, planning, and management activities...with the land use planning, and management programs of other federal departments and agencies and of the state and local governments within which the lands are located"; and
- WHEREAS,** the coordination requirements of Section 1712 provide for special involvement by government officials who are engaged in the land use planning process; and
- WHEREAS,** Section 1712 sets forth the nature of the coordination required with planning efforts by government officials and subsection (f) of Section 1712 sets forth an additional requirement that the Secretary "shall allow an opportunity for public involvement" (including local government) without limiting the coordination requirement of Section 1712 allowing land or resource management or regulatory agencies to simply lump local government in with special interest groups of citizens or members of the public in general); and
- WHEREAS,** Section 1712 also provides that the "Secretary shall... assist in resolving, to the extent practical, inconsistencies between federal and non-federal government plans" and gives preference to those counties which are engaging in the planning process over the general public, special interest groups of citizens, and even counties not engaging in a land use planning program; and
- WHEREAS,** the requirement that the Secretary "coordinate" land use inventory, planning, and management activities with local governments, requires the assisting in resolving inconsistencies to mean that the resolution process takes place during the planning cycle instead of at the end of the planning cycle when the draft federal plan or proposed action is released for public review; and
- WHEREAS,** Section 1712 further requires that the "Secretary shall... provide for meaningful public involvement of state and local government officials... in the development of land use programs, land use regulations, and land use decisions for public lands"; and, when read in light of the "coordinate" requirement of Section 1712, reasonably contemplates "meaningful involvement" as referring to on-going consultations and involvement throughout the planning cycle, not merely at the end of the planning cycle; and
- WHEREAS,** Section 1712 further provides that the Secretary must assure that the federal agency's land use plan be "consistent with state and local plans" to the maximum extent possible under federal law and the purposes of the Federal Land Policy and Management Act and distinguishes local government officials from members of the general public or special interest groups of citizens; and
- WHEREAS,** the Environmental Protection Agency, charged with administration and implementation of the National Environmental Policy Act (NEPA), has issued regulations which require that federal agencies consider the economic impact of their actions and plans on local government such as Tuolumne County; and
- WHEREAS,** NEPA requires federal agencies to consider the impact of their actions on the customs of the people as shown by their beliefs, social forms, and "material traits," it reasonably follows that NEPA requires federal agencies to consider the impact of their actions on the rural, land and resource-oriented citizens of Tuolumne County who depend on the "material traits" including recreation, tourism, timber harvesting, mining, livestock grazing, and other commercial pursuits for their economic livelihoods; and

WHEREAS, NEPA requires federal agencies to consider the impact of their actions on the customs, beliefs, and social forms, as well as the "material traits" of the people; and

WHEREAS, It is reasonable to interpret NEPA as requiring federal agencies to consider the impacts of their actions on those traditional and historical and economic practices, including commercial and business activities, which are performed or operated on federally and state managed lands (including, but not limited to recreation, tourism, timber harvesting, mining, livestock grazing, and other commercial pursuits); and

WHEREAS, 42 U.S.C. § 4331 places upon federal agencies the "continuing responsibility... to use all practicable means, consistent with other considerations of national policy to... preserve important historic, culture, and natural aspects of our national heritage"; and

WHEREAS, Webster's New Collegiate Dictionary (at 277, 1975) defines "culture" as "customary beliefs, social forms, and material traits of a group; the integrated pattern of human behavior passed to succeeding generations"; and

WHEREAS, in 16 U.S.C. § 1604, the National Forest Management Act, requires the Forest Service to coordinate its planning processes with local government units such as Tuolumne County; and

WHEREAS, federal agencies implementing the Endangered Species Act, the Clean Water Act, the Clean Air Act, and the Outdoor Recreation Coordination Act (16 U.S.C. § 4601-1(c) and (d)) are required by Congress to consider local plans and to coordinate and cooperate directly with plans of local government such as Tuolumne County; and

WHEREAS, the coordinating provisions referred in the resolution require the Secretary of Interior to work directly with local government to resolve water resource issues and with regard to recreation uses of the federal lands; and

WHEREAS, the regulations issued by the federal agencies in this resolution are consistent with statutory requirements of coordination and direct cooperation and provide implementation processes for such coordination and direct consideration and communication; and

WHEREAS, the California Constitution has recognized Tuolumne County's authority to exercise its local, police and sanitary powers, and the California legislature has recognized and mandated exercise of certain of those powers in specific statutes; and

WHEREAS, the California legislature has mandated in Government Code § 65300 that each county shall prepare a comprehensive plan, and stated legislative intent in Section 65300.9 that the county planning shall be coordinated with federal and state program activities, and has mandated in Section 65103 that county local plans and programs must be coordinated with plans and programs of other agencies; and

WHEREAS, the California legislature has stated its intent in Section 65070 that preparation of state and regional transportation plans be performed in a cooperative process involving local government; and

WHEREAS, the California legislature has mandated in Section 65040 that the State Office of Planning and Research shall "coordinate, in conjunction with...local agencies: with regard to matters relating to the environmental quality of the state"; and

WHEREAS, In Water Code §§ 8125-8129 the California legislature has placed planning for non-navigable streams within the authority of county supervisors, and since such planning activities must be coordinated with natural resource planning processes of federal and state agencies; and

WHEREAS, in Streets and Highways Code §§ 940-941.2 the California legislature has placed the general supervision, management, and control of county roads and highways – including closing such roads (Section 901) and removing and preventing encroachment of such roads and highways and since planning and actions with regard to such roads by any federal or state agency must be coordinated with the county; and

WHEREAS, in Public Resources Code § 5099.3 the California legislature has mandated coordination by the state with Tuolumne County since it is a county "having interest in the planning, development and maintenance of outdoor recreation resources and facilities."

NOW THEREFORE BE IT RESOLVED that the Tuolumne County Board of Supervisors does hereby assert legal standing and formally requests coordination status with all federal and state agencies maintaining jurisdiction over lands and/or resources located within Tuolumne County.

BE IT FURTHER RESOLVED that the Clerk of the Board shall cause a copy of this Resolution to be transmitted to local, regional, state, and/or national offices of all federal and state agencies maintaining jurisdiction of lands and/or resources located within Tuolumne County and to all federal and state elected representatives serving Tuolumne County.

BE IT FURTHER RESOLVED that the Clerk of the Board is authorized and hereby directed to publish a copy of this Resolution in the Union Democrat, a newspaper of general circulation printed and published in the County of Tuolumne, State of California.

ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE ON December 4, 2007.

AYES:	1st Dist. _____	NOES:	1 Dist. <u>Bass</u>
	2nd Dist. <u>Maffei</u>		_____ Dist. _____
	3rd Dist. <u>Munison</u>	ABSENT:	_____ Dist. _____
	4th Dist. <u>Frank</u>		_____ Dist. _____
	5th Dist. <u>Hard</u>	ABSTAIN:	_____ Dist. _____

Mrs. V. Frank

CHAIR OF THE BOARD OF SUPERVISORS

ATTEST: *Ann Jones*
Clerk of the Board of Supervisors

No. 156-07

ATTACHMENT B



TUOLUMNE UTILITIES DISTRICT

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January 3, 2013

Cindy Messer

Delta Plan Program Manager III

Delta Stewardship Council

980 Ninth Street, Suite 1500

Sacramento, CA 95814

Subject: Recirculated Draft Delta Plan, Program Environmental Impact Report,
November 2012, SCH #2010122028

Dear Ms. Messer:

Thank you for the opportunity to review and comment on the Delta Stewardship Council's (DSC) Recirculated Draft Delta Plan, Program Environmental Impact Report. The Tuolumne Utilities District supplies water to over 44,000 customers within the County of Tuolumne. Our agency has participated in the DSC process through the review of previous documents, draft plans and DSC meetings and workshops. Additionally, our agency is a participant in the Ag-Urban Coalition and worked in the development of that group's Alternate Draft Plan as submitted to the DSC previously.

We note the Council's request that comments on the subject document be limited to the analysis contained only in the Recirculated DPEIR¹. Therefore, will focus our comments accordingly to the Council's request. However, we make specific reference to our comments previously submitted on the Draft Delta Plan Program Environmental Impact Report earlier this year. Due to the similarities between the "Revised Project" and the previous "Proposed Project" many of those comments are applicable to this proposal as well. We expect those comments, as well as the comments contained in this letter, to be responded to by the Lead Agency in accordance with the CEQA Guidelines section 15088 (PRC

¹ Recirculated Draft Delta Plan, Program Environmental Impact Report, Volume 3, pg. EDS-11, November 2012

§ 21803). We have provided our earlier comments along with these comments to make your review process a bit easier.

It is our intention to provide the Council with comments on the Recirculated Draft Environmental Impact Report (DEIR or EIR) that will provide insights and direction to the Council to produce a legally adequate Final Environmental Impact Report (FEIR) and a Plan that will be understandable, sustainable and can practically be implemented so as to achieve the coequal goals as defined in statute². We consider this duty to be a serious matter both due both our local agency status (PRC, §21062) and also as a responsible agency under CEQA (PRC, §21069).

As a responsible agency it is likely that in the future our agency will be carrying out water supply, water quality, water use efficiency and other similar projects. Due to our agency's location within the Delta Watershed³ (not withstanding the California Water Code, for environmental analysis and resource purposes, the specific geographic area in which our agency is located is more accurately described as the Sierra Nevada Ecosystem)⁴ it is possible that there may be occasions under which local management actions by our agency may be influenced by proposals within the present Proposed Project. Therefore, our interests in the proposed Plan and the attendant CEQA document are significant. For the purposes of our long-term planning responsibilities it is of critical importance that the Plan and its analysis is accurate and clear.

Given the general nature subject matter of the Recirculated Draft EIR, the previous extensive comments we submitted on the original Draft EIR, and the specific request of the Council in responding narrowly to the Recirculated Draft EIR (as referenced earlier), our comments on the subject document will be significantly abridged.

Specific comments provided below cite EIR Page number and appropriate section, or by line or other identifier.

Page ES-2, lines 10-15. There description of a "reliable water supply" fails to mention the development of local and regional water supply projects⁵.

² California Water Code Section 85054

³ CWC §85060

⁴ *Sierra Nevada Ecosystem Project, Final Report to Congress, vol. 1, Assessment Summaries and Management Strategies* (Davis: University of California, Centers for Water and Wildland Resources, 1996)

⁵ CWC §85021

Page 2-10, lines 23-27. This descriptive action within the project is too broad and generalized to allow for proper analysis. The specific upstream tributaries should be analyzed with through an Instream Flow Incremental Methodology (IFIM) process dealing first with local stream reach needs and only then downstream objectives. There is evidence that the development of flow criteria and objectives by the SWRCB will lead to local and regional water supply projects within the areas upstream of the Delta. To the contrary, the far more plausible outcome is the resulting inability of upstream areas to develop local water supply projects in the absence of sufficient available water for diversion. That water dedicated to the Delta will most likely come at the expense of upstream water users. There is no recognition that by committing Sierra Nevada Ecosystem river flows to meet new criteria and flow objectives there will also be a reduction in upstream water supply sources. Thus, increased flows would appear to frustrate if not prohibit achievement of one of the coequal goals - improving water supplies.

Page 3-7, lines 27-33. See comments on page 2-10, lines 23-27. Absent an adequate assessment of the proposed flows on the upstream rivers and streams there may be significant unmitigated redirected impacts to upstream fisheries. The Delta is not the only venue in which adverse environmental impacts may occur as a result of this proposal.

Page 3-9, lines 18-24. The document concludes that, *"In other areas where additional surface water or groundwater supplies are not feasible, implementation of conservation programs and/or recycled wastewater and storm water facilities could be implemented."* This is incorrect. In many upstream Delta areas the relatively rural nature of the landscape and low-density population makes the collection of storm water economically infeasible. The use of recycled wastewater is difficult to accomplish due to the "down slope/downstream" locations of wastewater treatment plants relative to local populations. Therefore, in many cases (for upstream agencies) neither of these two offered proposals are capable of being implemented.

Page 4-6, lines 13-14. There should be no presumption that upstream conserved water would be dedicated to for instream uses within Delta tributary streams.⁶ It is far more likely that any conserved water would be used to help meet increasing demands for local water customers. This is especially the case if the options for new supply projects are reduced by demands for more flows downstream for Delta purposes.

Page 4-14, lines 6-15. This section fails to recognize that updated flow requirements on Delta tributary streams would also result in a reduction in the available water for use in upstream watersheds. This could conflict with the

⁶ CWC §1011

stated mission of the DSC – to achieve the coequal goals. Further, it would similarly reduce the ability to upstream agencies to implement new filings for water rights under the area of origin statutes and conflict with CWC §85031.

Significant unavoidable impacts of the Proposed Project will include an increase in the cost and reliability of municipal and agricultural water supplies to many areas within the Sierra Nevada Ecosystem due to decreased existing supplies and a loss of new water supply project opportunities. This loss of cost effective water supply availability will act as a deterrent to increasing agricultural irrigated lands within this region and result in commensurate ecosystem losses as agricultural lands are converted to other uses that can afford to pay higher water rates. Such uses are anticipated to include a full-range of municipal customer classes.

We thank you for the opportunity to comment on the Recirculated Program Draft EIR and look forward to the release of the Final EIR by the Council.

Sincerely,

Peter J. Kampa
General Manager
Tuolumne Utilities District