

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building		(2) MEETING DATE July 25, 2006		(3) CONTACT/PHONE Jeff Oliveira, Environmental Division (805) 781-4167	
(4) SUBJECT Status Update – San Luis Drainage Feature Reevaluation Final EIS Review.					
(5) SUMMARY OF REQUEST This is a status update on the San Luis Drainage Feature Reevaluation Final EIS. The Board of Supervisors has sent a second letter re-affirming the County's strong opposition to the Ocean Disposal Alternative. The County Environmental Coordinator has sent a comment letter on the Final EIS. The letter provides a response to the Final EIS and points out substantive inadequacies with respect to the response to comments in the Final EIS. This letter focuses on the inadequate project description and impact analysis provided for the Ocean Disposal Alternative and a discussion of the overall inadequate level of responses published in the Final EIS.					
(6) RECOMMENDED ACTION It is recommended that the Board of Supervisors Receive and File the attached Final EIS comment letter to the US Bureau of Reclamation (USBR).					
(7) FUNDING SOURCE(S) Existing Budget		(8) CURRENT YEAR COST NA		(9) ANNUAL COST NA	
(10) BUDGETED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Agencies including, but not limited to, NOAA, USEPA, US Fish and Wildlife, California Coastal Commission, Cal EPA, SWRCB, RWRCB, California DFG and the President's Council on Environmental Quality have also contributed Comment Letters.					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) 1st, <u>2nd</u> , 3rd, 4th, 5th, All			(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		
(15) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Board Business (Time Est. <u>15 min.</u>)			(16) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input checked="" type="checkbox"/> N/A		
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A			(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		

(19) ADMINISTRATIVE OFFICE REVIEW 	<p style="font-size: 2em; font-family: cursive;">OK Leslie Bm 7-25-06 D-1</p>
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SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

DATE: July 25, 2005

TO: BOARD OF SUPERVISORS

FROM: JEFF OLIVEIRA, ENVIRONMENTAL RESOURCE SPECIALIST *JO*

VIA: ELLEN CARROLL, ENVIRONMENTAL COORDINATOR *Ellen*

SUBJECT: STATUS UPDATE -- SAN LUIS DRAINAGE FEATURE REEVALUATION
FINAL EIS REVIEW.

RECOMMENDATION

It is recommended that the Board of Supervisors Receive and File the attached Final EIS comment letter to the US Bureau of Reclamation (USBR).

DISCUSSION

Background: The Draft EIS evaluated a total of eight alternatives for the purpose of providing agricultural drainage service to the San Luis Unit of the Central Valley Project. The County Planning and Building Department prepared a comment letter that addressed inadequacies in the Draft EIS with a focus on the impact analysis provided for the Out of Valley/Ocean Disposal ("Ocean Disposal") Alternative. This alternative includes a proposal to transport agricultural drainage from the San Luis Drainage Unit to an outfall structure in the Estero Bay area, and represents the greatest environmental and economic impacts to San Luis Obispo County. The Board of Supervisors sent a separate letter opposing the Ocean Disposal alternative.

Recent Action by the USBR: The USBR has released the Final EIS and identified an In Valley alternative as the preferred alternative. The Ocean Disposal alternative was determined to be too costly and have too many unknown environmental impacts.

Recent Action by the County of San Luis Obispo: The Board of Supervisors has sent a second letter re-affirming the County's strong opposition to the Ocean Disposal Alternative. The County Environmental Coordinator has sent a comment letter on the Final EIS. The letter provides a response to the Final EIS and points out substantive inadequacies with respect to the response to comments in the Final EIS. This letter focuses on the inadequate project description and impact analysis provided for the Ocean Disposal Alternative and a discussion of the overall inadequate level of responses published in the Final EIS.

0-1-2

OTHER AGENCY INVOLVEMENT

Agencies including, but not limited to, NOAA, USEPA, US Fish and Wildlife, California Coastal Commission, Cal EPA, SWRCB, RWRCB, California DFG and the President's Council on Environmental Quality have also contributed Comment Letters.

FINANCIAL CONSIDERATIONS

The preparation of the Comment Letters and Status Update by the Planning and Building Department is covered under the existing budget.

INTENDED RESULTS

This item is for public information. By Receiving and Filing the letter, the County will have documentation of the disapproval of the Ocean Disposal Alternative and the general inadequacy of the environmental analysis contained in the Final EIS.

EXHIBITS

Exhibit A – Comments on the San Luis Drainage Feature Reevaluation EIS (letter from Environmental Coordinator to USBR)

Exhibit B – San Luis Drainage Feature EIS (comment letter from the Board of Supervisors to USBR)

D-1
3

BOARD OF SUPERVISORS

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HARRY L. OVITT, Supervisor District One
SHIRLEY BIANCHI, Supervisor District Two
JERRY LENTHALL, Supervisor District Three
KHATCHIK H. "KATCHO" ACHADJIAN, Supervisor District Four
JAMES R. PATTERSON, Supervisor District Five

Ms. Claire Jacquemin
Bureau of Reclamation
2800 Cottage Way, MP 700
Sacramento, CA 95825

Subject: San Luis Drainage Feature EIS

Dear Ms. Jacquemin,

On behalf of the San Luis Obispo County Board of Supervisors I would like to re-affirm our opposition to the continuing discussion concerning the Ocean Disposal Alternative in the EIS for the above referenced project.

I have attached a letter we sent you last year on the Draft EIS outlining our concerns and we remain adamantly opposed to the Ocean Disposal Option.

We believe that the "preferred" in-valley disposal alternative is the only option that has received adequate environmental review through the EIS and clearly makes the most sense.

Sincerely,

KHATCHIK H. "KATCHO" ACHADJIAN
Chairperson

cc: U.S. Senator Diane Feinstein
U.S. Senator Barbara Boxer
Congresswoman Lois Capps
Senator Abel Maldonado
Assemblyman Sam Blakeslee

D-1
4

BOARD OF SUPERVISORS

COUNTY GOVERNMENT CENTER, Room 370 • SAN LUIS OBISPO, CALIFORNIA 93408-2040 • 805.781.5450



SHIRLEY BIANCHI
SUPERVISOR DISTRICT TWO

August 15, 2005

Ms. Claire Jacquemin
Bureau of Reclamation
2800 Cottage Way, MP 700
Sacramento, CA 95825

Subject: Draft Preliminary Comments on the SL Drain Feature Draft EIS for Ocean Disposal Alternative

We would like to take this opportunity to comment on the Draft EIS. The Draft EIS fails to consider the environmental impacts of the proposed Ocean Disposal alternative adequately. There are many foreseeable direct, indirect and cumulative impacts on the marine and terrestrial environment that are not addressed.

The proposed outfall is located in a highly sensitive coastal resource area. The following environmental impacts should be considered:

- Water "effluent" contains heavy metals (e.g., chromium, etc.), nitrates/phosphates and pesticides - no technical analysis on impacts to seawater/marine life;
- Bioaccumulation of selenium and other discharge contaminants in the marine ecosystem;
- Stimulation of localized algal blooms including blooms toxic to marine mammals and humans at the discharge site;
- No bathymetric analysis of ocean current dynamics (i.e., "closed ocean current cell" may not allow quick dispersion within Estero Bay, but rather concentrate pollutants near shore);
- Potential introduction of invasive species into the marine environment;
- Potential impacts to giant kelp photosynthesis and toxicity to marine microorganisms and

D-1
5

plankton;

- The Draft EIS does not adequately address the economic impact of damage to the fisheries that the fishing industry in Morro Bay depends on for its survival. In addition, the adverse impact to Morro Bay's tourism industry could severely further damage the community's standard of living. Also, what are impacts to nearby abalone farms;
- Monterey Marine Sanctuary is proposing to extend south (below Estero Pt.) which would result in the proposed outfall area being within the Sanctuary should this alternative be approved;
- Little or no detail on ongoing maintenance and energy costs; if included would no longer be one of the less expensive alternatives. Energy costs continue to dramatically increase;
- There is new technological information on selenium removal that may be more cost effective that has not been addressed/considered in EIS:
- Cayucos relies heavily on tourist trade - how will outfall-water impact recreational water use in area (e.g., swimming, kayaking, scuba diving, windsurfing, etc.)
- Inadequate detail on costs to mitigate impacts (archeological resources, sensitive plant and wildlife species and habitats). Will there be a permanent loss to agriculture within pipeline easement?
- What are costs for leak detection for length of pipe?
- Numerous active faults to cross, including San Andreas - how much more are costs to specially design pipeline to span such faults or design for eminent failure due to the large expected quake in the next 20 years?
- NEPA also mandates coordination and collaboration among federal and state agencies prior to making a detailed environmental impact statement. The Ocean disposal alternative conflicts with many of the policies of the following agencies: NOAA, USEPA, U.S. Fish and Wildlife, California Coastal Commission, Cal EPA, SWRCB, RWQCB, California Department of Fish and Game and even the President's Council on Environmental Quality;
- A thorough and complete accounting of the Ocean Disposal Alternative's very significant environmental impacts would quickly demonstrate its infeasibility and reflect much higher true project costs;
- The Ocean disposal alternative is in direct conflict with federal and state statutes, regulations, and policies regarding coastal and ocean protection. A review of these protections quickly identifies inadequacies in the Draft EIS's severe underestimation of the true time, costs and lack of feasibility associated with the Ocean Disposal alternative:

D-1
6

Generally just not enough detail about the Ocean Disposal Alternative pipeline route to adequately assess environmental impacts and associated mitigation costs, such as impacts on endangered species, wetlands and faults; etc.

We are opposed to the consideration of the Ocean Outfall Disposal Alternative in the San Luis Drainage Feature Re-evaluation Project. This alternative provides absolutely no benefit to the County of San Luis Obispo and would only serve to reverse significant gains the county has made to preserve and protect its pristine natural environment. The preferred alternative should clearly be one that provides some benefit to the area it affects, this is obviously not the Ocean Outfall Alternative.

Thank you for your consideration in this matter.

Sincerely,



SHIRLEY BIANCHI
Chairperson, District Two

cc: Ellen Carroll, Environmental Coordinator

D-1
7



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

Date: July 13, 2006

To: Claire Jacquemin
U.S. Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825

Subject: **Comments on the San Luis Drainage Feature Reevaluation Final EIS**

The purpose of this letter is to provide the U.S. Bureau of Reclamation (USBR) with comments regarding the San Luis Drainage Feature Reevaluation Final EIS, for consideration prior to filing the Record of Decision (ROD). The Final EIS evaluated a total of eight alternatives for the purpose of providing agricultural drainage service to the San Luis Unit of the Central Valley Project. In addition, the Final EIS provides a publication of the comment letters received in reply to the Draft EIS and includes the USBR responses to each comment.

This letter provides a response to the Final EIS and points out substantive inadequacies with respect to the response to comments in the Final EIS. This letter focuses on the inadequate project description and impact analysis provided for the Out of Valley/Ocean Disposal ("Ocean Disposal") Alternative and a discussion of the overall inadequate level of responses published in answer to the Draft EIS comment letter sent by the County of San Luis Obispo (August 31, 2005).

As indicated in the original Draft EIS comment letter, it is clear that the Ocean Disposal Alternative would have severe and significant negative environmental and economic impacts on the resources and communities of San Luis Obispo County. After a review of the analysis in the Final EIS and the responses to comments published therein, San Luis Obispo County remains strongly opposed to the Ocean Disposal Alternative.

In particular, the focus of the following discussion revolves around the inadequacy of the response to the previous comments made with regard to the proposed Ocean Disposal Alternative, which would culminate in the disposal of polluted agricultural drainage water off of the coast in the Estero Bay area.

The comment letter sent by the County of San Luis Obispo for the Draft EIS revolved around the proposed Ocean Disposal Alternative consisted of three key issue areas including:

- Economics and Cost;
- Environmental Impacts; and
- Substantive and Policy Consistency

D-18

As the discussion below indicates, the Final EIS is insufficient because it does not fully disclose the environmental effects of the proposed Ocean Disposal Alternative and does not provide adequate responses to the comments provided by the County of San Luis Obispo according to the standards set forth in NEPA.

Economics and Cost:

The “Economics and Cost” section of the original Draft EIS comment letter focused on the lack of economic analysis regarding the degradation of fishing, abalone farming, kelp harvesting, and tourism industries (including surfing, kayaking, diving, etc.) valuable to San Luis Obispo County coastal communities and to San Luis Obispo County as a whole. In addition, the comment letter pointed out that the costs associated with pipeline failure were not adequately addressed.

According to responses L-23-6 through L-23-11, as published in Volume III of the Final EIS, economic impacts to fisheries were not considered significant and no economic impacts are expected. The Final EIS also states that their analysis was done at an “appraisal level” of design, stating that at the appraisal level, project designers use readily available data and generally do not collect new data to compare the alternatives. The Final EIS also states that pipeline failure is not a reasonably foreseeable impact and as such, the costs associated with failure were not analyzed.

The Final EIS fails to address not only economic impacts to fisheries, but fails to address the effects that the Ocean Disposal Alternative would have on coastal communities that rely on the ocean to provide for their livelihood. The explanation that the Final EIS provides for their use of “appraisal level” design to guide their analysis is also grossly inadequate. It is incumbent upon the USBR to have a fully planned and designed project before initiating the environmental analysis for that project. It is impossible to provide a complete analysis of environmental impacts at an appraisal level of design in accordance with NEPA standards.

In addition, the determination that pipeline failure is not a reasonably foreseeable possibility is neither adequate nor accurate. Even at the appraisal level of design, it is obvious that the pipeline would cross areas of heavy seismic activity, making pipeline failure not only reasonably foreseeable but likely as well. The failure to address this in the Final EIS indicates that the USBR is not prepared to mitigate the impacts resulting from damage to the pipeline and represents an inadequate response to the Draft EIS comment letter.

Environmental Impacts:

The “Environmental Impacts” section of the original Draft EIS comment letter covered a wide range of impacts expected as a result of the Ocean Disposal Alternative. This includes (but is not limited to) comments on a lack of information on ocean current dynamics, the introduction of other pollutants (aside from selenium) and non-native species to the marine ecosystem, the lack of an identified pipeline corridor, the substandard analysis of seismic impacts to the proposed pipeline, the overall absence of quantitative data to back up the very generalized analysis, and the absence of surveys to establish impacts to cultural resources.

The Final EIS seems to rely heavily on the claim that the analysis was done at an appraisal level of design, admitting that project managers generally do not collect new data to compare the alternatives. The responses to the comments summarized above state that if the Ocean Disposal Alternative were selected as the preferred alternative, additional feasibility and final design studies would provide more detailed information about effects to special-status species and other resources in the pipeline vicinity (response L-23-22, 23). It appears that the USBR is deferring appropriate studies, analysis and mitigation to a future date.

By relying on future studies to provide more detailed information about the effects resulting from the Ocean Disposal Alternative, the USBR fails to provide the public with a complete analysis of environmental impacts in accordance with the provisions of NEPA. In order for the public to fully understand the effects of the proposed alternative, the EIS needs to provide a complete analysis that

0-19

considers all aspects of the proposed project and alternatives. As currently provided, the design level of analysis that the EIS focuses on does not meet this requirement.

Substantive and Policy Consistency:

The "Substantive and Policy Consistency" section of the original Draft EIS comment letter focused on the lack of coordination and collaboration with State agencies prior to drafting an EIS (as required under NEPA). The purpose of this coordination is to ensure that Federal projects do not conflict with other agencies and their environmental policies, regardless of Federal preemption. The comment letter also states that the Monterey Bay National Marine Sanctuary (MBNMS) has permit authority over discharges outside of Sanctuary boundaries of the discharge has the potential to harm Sanctuary resources. In addition, the comment letter addressed the fact that once the USBR has finished their pipeline and no longer needs the drainage feature, the pipeline could be used by other impacted agricultural operations for further drainage.

The Final EIS fails to explain why State agencies were not consulted prior to initiating the environmental analysis. Although parts of the proposed project may have Federal Preemption status, NEPA still requires coordination and collaboration with State agencies. There is no evidence that State agencies were consulted and there is no published record of any State concerns over the proposed project. The Final EIS also states that the proposed Estero Bay outfall location is not within the MBNMS boundaries but fails to recognize the MBNMS permit authority over discharges outside of their boundaries if the discharge could impact their resources. Consideration of MBNMS policies should be a requirement of project approval and no consideration of this is evident in the Final EIS.

Although the Final EIS states that no other users have been identified for the proposed pipeline, it is obvious that once the USBR is done discharging agricultural drainage from the impacted units, the pipeline would still be in place and could be reused by other agricultural operations. The Final EIS did not sufficiently address this possibility and the fact that there is no plan for the pipeline once the drainage project is completed is not "full disclosure" as required by law.

Overall Conclusions and Additional Requirements:

As the comments indicate, the Final EIS is not considered sufficient for the purpose of disclosing the environmental impacts associated with the various proposed project alternatives. As the lead agency responsible for this project, the USBR has the obligation to provide due diligence in analyzing these impacts and to provide reasonable measures intended to mitigate impacts to less than significant levels. The USBR also has an obligation to address comments on the Draft EIS with due diligence. However, many comments have yet to be answered in a satisfactory manner. Due to the fact that serious flaws have been identified in the baseline information, environmental setting and project description provided for the Ocean Disposal Alternative, the subsequent impact analysis and mitigation measures are considered inadequate and insufficient.

After a thorough review of this document, it is apparent that the impacts associated with the construction and operation of a pipeline and an outfall structure off of Estero Bay have not been analyzed in enough detail to provide either the public or decision makers with enough information to move forward. As such, the County of San Luis Obispo remains in strong opposition to the Ocean Disposal Alternative and requests that this alternative be removed from further consideration.

In order to ensure that the County of San Luis Obispo is informed on all future decision making with regards to this project, we are requesting that all future hearings, documents, meeting notices and any subsequent decision making processes be copied and noticed to the following addresses:

D-1 10

Shirley Bianchi
District 2 Supervisor
County Board of Supervisors
County Government Center, D430
San Luis Obispo, California 93408

Jeff Oliveira
Environmental Resource Specialist
Planning and Building Department
Room 300, County Government Center
San Luis Obispo, California 93408

Thank you for the opportunity to comment on this Final EIS. If you have any questions, please feel free to contact Jeff Oliveira, Environmental Resource Specialist, or Ellen Carroll (805-781-5010).

Sincerely,



Ellen Carroll
Environmental Coordinator

Cc: Each Member, San Luis Obispo County Board of Supervisors
Congressman Bill Thomas
Congresswoman Lois Capps
Senator Able Maldonado
Assemblyman Sam Blakeslee
Roger Briggs, RWQCB
Laura Fuji, EPA
Mark Hutchinson, San Luis Obispo County Public Works Department
Cayucos Community Advisory Council
North Coast Advisory Council
Los Osos Community Advisory Council
Sierra Club, Santa Lucia Chapter
City Council, City of Morro Bay
Bill Boucher, City of Morro Bay
Charles Lester, Coastal Commission
Monterey Bay National Marine Sanctuary
Morro Bay National Estuary Program
Surfrider Foundation, San Luis Bay Chapter
ECOSLO
Farm Bureau, San Luis Obispo County
California Cattlemans Association, San Luis Obispo County
Cayucos Land Conservancy
Tim McNulty, San Luis Obispo County Council
County of San Luis Obispo Water Resources Advisory Committee
Roger Lyon

D-1
11