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8-8-2005

Dear Rebecca Fris:

Pursuant to a conversation I had with Rebecca Fris wherein she apologized for not abiding by an agreement made with me to provide at least 30 days notice of the meeting to discuss the Chico Landing Subreach Restoration Draft EIR which was noticed with 10 days notice and scheduled for July 25, 2005 at the Hamilton City Fire Dept, 420 First Street, Hamilton City, Ca. I am providing written information pertinent to this EIR.

It is hoped that it will be read and accepted with the full force that it might have been delivered verbally during the above aforementioned meeting.

If you will recall, throughout the November 2004 meeting, our theme in discussing the proposed activities for the Kohnan property related to the impact that the removal of the Almond trees and subsequent planting sequences would have on the agricultural activities to adjacent lands, particularly the 3B's Ranch. (Incidentally, this piece of land has not been titled "3B's" for at least the past 10 years.) The panel of "experts" that called and ran the meeting were clearly aware of this particular issue. Repeatedly those in attendance qualified for the panel these very important concerns, yet in the EIR, virtually no mention of the impact to adjacent agriculture is mentioned. Specifically the theme is "This does not represent an increase that would pose a significant risk to people, structures or the operation of flood control infrastructure, or the operation of flood control infrastructure does not violate existing regulations for risk to flood control infrastructure". A trite statement and as innocuous as it seems, says nothing that related in any way to the agreed parameters of the planned EIR as represented by the November meeting consensus.

E-1

Pray tell, when the one major issue of concern of the adjacent landowners is the effect on continuing agricultural efforts, how can an EIR be considered valid if it does not lend itself specifically and in great detail to this issue?

Repeatedly the EIR bases it's premise on the above quoted statement without hitting the meat of the matter, that being the effect that removal of trees and restoration of the Kohnan area would have on agriculture, particularly the new Walnut planting on the "3B's Ranch"

This EIR is nothing more than a change in names and places on a Boilerplate review of the literature and places no responsibility on the members of the study group. There is no original study specifically pertaining to the area in question, and yet nearly every year flooding occurs and can be viewed and used to calibrate a study that could lead to comfort and assurance to adjacent farmers. It is not like this project sprang out of the air 6 months ago, and yet no one has had the foresight to do competent study of the area during flood conditions of the past 4 years. What a shame, and how irresponsible of the agency to be so shortsighted!

E-1 (Cont.)

THIS STUDY IS FLAWED AND REFUTABLE IN ALMOST EVERY CATEGORY BASED UPON Its LACK OF SPECIFICITY

The question is, and once again in writing, what will be the effect on adjacent farm land in the 1st, 2nd, 3rd and 4th year after removal of the trees on the Kohnan property? Water speed and direction will absolutely be affected unless the program for removal and restoration is done in increments over at least 4 years. The restoration must be done in stages with specific species and sizes of species planted in such a fashion to recreate at least the same hydrology that was present during years before the removal. If done with substance of forethought, an improvement in the hydrology characteristics can and should be accomplished. This EIR does not weigh in on this in any way shape or form.

E-2

Impact 4.3b specifically lends itself to the project area only and to the negative suggests increase sedimentation, ergo; changes in hydrology such that direction and speed of flow may effect adjacent farming activities are my assessment. Without original specific research laying this potential to rest, or acceptance of risk and indemnification of adjacent landowners from harm provided by the Natures Conservancy (NC) and the California Bay-Delta Authority, this report means nothing and portrays trouble for adjacent farming activities and does nothing to mitigate them. Legal issues are bound to arise out of this EIR's lack of completeness.

E-3

The following are a few of the issues not covered in the EIR, issues that should have been in as much as they were verbalized concerns during the November session. There are many others requiring clarification. I submit that they all require reporting and that the contracting agency must acknowledge them mitigate them or take complete responsibility for the cumulative effect that they might have to adjacent farming activities. First the acknowledgement of the financial risk and who specifically will bear that risk for the future.

E-4

Impact 4.3c leaves a great deal in doubt regarding process and technique. "Standard agricultural practices" differ from site to site and this site requires particular attention be paid to timing both from the standpoint of adjacent crop harvest as well as effect on inhabitant fauna migration and displacement. Weather conditions, perceived or actual must also play a part in the decisions made. Again, the salient features or reconstruction are left to the imagination without data in the EIR defining the risks to

local fauna displacement and the effect that the displacement might have on adjacent agriculture. Most interestingly omitted is the lack of discussion of the effect on the local deer population. These animals make up a big portion of the ecosystem and their effect on agriculture; their migration deviation and well-being are not addressed. How could this vital part of the fauna of the area be left out of the EIR? What also happened to a discussion of the wild peacock population that inhabit the area? Complete and accurate EIR? I would say not by a long shot!

E-4 (Cont.)

Another most obvious flaw in the EIR relates to the statement that the “Natures Conservancy” will “meet with neighboring landowners on site to discuss restoration when “REQUESTED BY NEIGHBORS” “. Number one, N.C. should be required to contact all neighbors and interested parties and arrange a meeting “on site” to allow participation in selection and placement of reconstructive activities. “To discuss” makes no suggestion of collaborative effort with decisions made for the best interest of all including the fauna and flora of the reconstruction. Further, the only avenue open to the neighboring farmers is to “make comments” on the reconstructive design. My personal review of several past efforts on the part of the N.C. in reconstructive activities have revealed that their projects show very little understanding of the techniques and values needed to restore an area. It will require more than just “comments” to insure that adjacent landowners are not adversely affected by the restoration and it’s process.

E-5

In as much as this project will undoubtedly have an effect on adjacent landowners, a comprehensive and funded plan for future maintenance must be in place. To naively assume that what will be will be after the restoration is complete portends that extensive study of the effect on adjacent lands has been completed and that there is to be and will be zero.....let me repeat, NO impact on adjacent properties and their agricultural activities. If you are so certain of that to proceed without warning on this project, then be sure to financially indemnify each adjacent agricultural project against any impact whatsoever. Without a doubt, it is insufficient to propose a project under one jurisdiction without guarantees from other associated jurisdictions that will later participate. To suggest that this issue can be compartmentalized is naïve at best. Whatever reconstruction is done must be maintained by the next jurisdiction that will handle it. This project has extensions and all of them must be part and parcel of the whole. USFWS, Cal.Bay-Delta Auth., the N.C. and any other organization that exerts any influence on this project, including the local farmers must have assurances as to the integrity of the future of the project both in management, maintenance, access, trespassing, buffer zones and safety. It is not sufficient to propose that an issue is “NOT A CEQA ISSUE OR A PART OF THE PROJECT AS DESCRIBED”. All stakeholders are part of the project or it is not a project with long-term meaning for the people of California.

E-6

With regard to the planting plan for this reconstruction, it is wholly inadequate and grossly inaccurate. It shows little to no interest in the cumulative effect of water, sedimentation and directional changes in flow that will most certainly occur. In the first place, whoever the reconstruction engineer is obviously gave no consideration to the effect of the band style tree-planting scheme on the northeast edges of the proposed

E-7

reconstruction. The effects of this planting will be disastrous not only to the planting itself but will certainly change the hydrology of the area to the detriment of the neighboring farmers. The remainder of the planting plan foresees nothing of the future effects that they might have. Beauty is valuable, but the havoc it will create elsewhere is not taken into consideration. If this is to be a collaborative effort, then lets start at the beginning and develop a planting scheme that is in the best interest of all concerned.

E-7 (Cont.)

I am not opposed to the project in concept; however, at this point the concepts are ill advised. I believe that the development of this area as habitat can be to the benefit of all; however, the approach thus far has been misguided, i.e. from the top down. Certainly a plan must start somewhere, but to date the plan has been inconsistent with competent planning techniques. At the November meeting many us asked to see an EIR thinking that some original research might be done to facilitate the decision making process for the best interest of all concerned; instead, a boiler-plate EIR is presented as though it will serve as a benchmark for restoration. It cannot do so when it leaves out so many of the salient features of competent development. Example in hand is that most of the hydrology studies reported to not in any way relate to the Deadman’s Reach location but rather to another quite different location along the river. These assumptions make the EIR that much more less serviceable in this situation.

E-8

I therefore recommend this project be tabled until the following can be completed. One, original study of the Deadman’s Reach hydrology issues be completed. Two, an extensive and systematic review of the planting scheme are completed. Three, more emphasis be placed on the study of the effects that the proposed reconstruction will have on adjacent landowners and the agricultural efforts. Four, a comprehensive study be completed detailing the effects on the fauna of the area with particular attention to the resident and migratory deer population. Five, a complete analysis and review of the planned maintenance and management of the area be done with particular emphasis on at least 10 years of guaranteed funding from the start of the project. Six, establishing guaranteed indemnity for the adjacent landowners and their agricultural efforts should there be any negative impact from the proposed reconstruction.

E-9

I believe that this will set the stage for a collaborative effort on the part of all stakeholders, including the farmers, to insure a successful reconstruction of the Kohnan property to Riparian environment.

I very much look forward to the next and most important stage in this process, that being completing the six above mentioned studies and directives.

Professionally,

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Response E-1 Hydrologic analysis is provided in the Draft EIR in the subsection, "Analysis Methodology," in Section 4.3, "Hydrology, Water Quality, and River Geomorphology," on page 4.3-13 of the Draft EIR. This subsection describes the hydraulic modeling used in the analysis. The modeling studies and associated Web sites are identified at the beginning of Section 4.3.

The one- and two-dimensional hydraulic models (Ayres 2001, 2002, and 2003) used in the Draft EIR analysis represent the best available science to predict and analyze changes in hydrologic conditions resulting from proposed restoration efforts, and allowed for an adequate level of site-specific hydrologic analysis of the project sites. The level of site-specific hydrologic analysis was governed by the modeling, which is segmented into relatively small polygons as defined in a two-dimensional finite element mesh (Ayres 2001 and 2002). Within the modeling reports, it is explained that the finite element mesh consists of a network of triangular and quadrilateral elements and provides geometric definition of the proposed project area. The corner nodes of each element represent points in space (X, Y, Z) defining the topography of the project area. The nodes were laid out using topographic mapping and aerial photography as a reference for element size and orientation. Nodes were also added at spot locations to define breaklines, structures, or other significant changes in topography. Elevation values were assigned to the nodes using a digital terrain model of the river reach. The development of the small polygons as defined in the finite element mesh results in a relatively fine level of site-specific hydrologic analysis. With respect to the comment regarding the need to calibrate the model based on flooding conditions that have occurred during the past 4 years, TNC believes that the models used in the analysis provide an accurate representation of the continually changing hydrologic conditions.

With respect to the comment regarding insufficient analysis on the project-related (Dead Man's Reach) hydrologic effects on adjacent agricultural lands and the ability to farm these lands, the commenter is referred to the impact analysis in Section 4.3, "Hydrology, Water Quality, and River Geomorphology." Under Impact 4.3-a, the analysis cites the hydraulic modeling efforts (Ayres 2001 and 2002) used in the analysis. As described in the Draft EIR, the modeling results indicate that vegetation changes associated with the proposed restoration of the Koehnen Unit, which encompasses and includes a larger area than the Dead Man's Reach project site, would have minimal effect on surface water elevations at modeled flows. Small elevation increases of up to 0.3 feet were predicted to occur almost entirely within the unit boundaries. As described in Impact 4.3-b, the results of the one- and two-dimensional modeling (Ayres 2001, 2002, and 2003) indicate that the proposed restoration of all properties would not alter flow velocities such that significantly increased or decreased erosion or deposition would occur compared to existing tendencies for erosion or deposition to occur.

In determining whether the relatively small and localized hydrological changes (as predicted by the models) would result in significant hydrologic effects to adjacent agricultural lands, the range of existing flooding conditions that the lands are currently exposed to were considered. Under existing conditions, the agricultural lands adjacent to the Dead Man's Reach project site are exposed to varying degrees of periodic flooding and a continually changing river environment (e.g., sediment transport and deposition, and meander migration). Comment E-1 states that, "...nearly every year flooding occurs..." and Exhibits 4.5-1, 4.5-2, and 4.5-3 illustrate the substantial historic change of the river. In general, the fact that farming has, and continues to be, the dominant land use in the area demonstrates that farming has continued in an environment

where changing river and flooding conditions regularly occurs. Taking into account the existing range of flooding conditions that adjacent agricultural lands are exposed to, the predicted incremental increases in water surface elevation in the small, localized area adjacent to Dead Man's Reach are considered to be well within the existing range of varying hydrologic conditions occurring on the river and are anticipated to have minimal effect on the ability to continue farming on these lands.

Response E-2 As noted in Response E-1, hydraulic modeling indicates that proposed restoration activities would result in small, localized changes in water surface elevations and water velocities and that these predicted changes are well within the range of the continuously changing and varying conditions currently experienced under existing conditions. As discussed under Section 3.4, "Proposed Project Characteristics," the restoration of the project sites is proposed to occur during three phases over 2 years (i.e., fall 2006, winter 2006, spring 2007, and fall 2007). Subsequent maintenance phases are proposed to occur over a 3-year period. This section also describes management considerations that include designing the proposed project to be respectful of neighboring properties and includes a cooperative approach to problem solving by regularly communicating with neighbors and cooperatively addressing common concerns. TNC and the SRNWR are committed to these management considerations. Concerns raised by neighboring landowners and other stakeholders have been and shall continue to be addressed through on-site meetings, modified restoration plans, and/or modified restoration implementation strategies (e.g., orchard removal and ground preparation techniques, and irrigation system design). Additionally, CBDA, TNC and SRNWR would abide by the SRCA Forum Good Neighbor Policy, adopted by the SRCA Forum Board of Directors on June 19, 2003, which states:

It is the policy of the Sacramento River Conservation Area Forum (SRCA Forum) Board of Directors that every reasonable attempt is made to prevent any harm or loss to any person or to any private or public entity from land management activities occurring within the SRCA. It is also a fundamental policy that the Board of Directors will address promptly and resolve to the best of its ability, any loss or harm that may result from activities within the SRCA.

The SRCA Forum Good Neighbor Policy is attached to this Final EIR as Appendix B.

Response E-3 As noted in Response E-1, the results of the two-dimensional hydraulic modeling predict that restoration at Dead Man's Reach will result in small changes in water velocity and surface elevations that are largely localized to areas within the restoration site. These relatively small changes are well within the range of continuously changing and varying hydrologic conditions currently observed. The comment is incorrect in asserting that Impact 4.3-b of the Draft EIR suggests that increased sedimentation would occur as a result of the proposed project. In fact, Impact 4.3-b states that, based on modeled changes in water velocities, no significant increase in floodplain scour or erosion are anticipated related to the proposed restoration in the project area.

Under other future highly variable geomorphic conditions (e.g., sediment transport, bank scour, and point bar formation), the proposed restoration activities may incrementally lead to changing water velocities at a given site. Thus, the forces of erosion and deposition will continually change in relation to changes in the river profile that are caused by much greater long-term natural geomorphic processes and forces. However, because of the speculative nature of how the dynamic hydrology, geomorphic, and land use processes might change the channel form and functions over the long term, any related assessment of the incremental effects of the proposed restoration project on these issues is equally uncertain. Thus, there may be uncertainties in terms of effects that are currently beyond the best available scientific modeling. To address neighbors' concerns for those potential effects that cannot currently be determined, TNC and SRNWR

consider neighbors' concerns and interests in project design, implementation, and maintenance. Coordination with neighbors is described in the Response E-2 above.

Response E-4 Potential effects on wildlife are addressed under Impact 4.4-b in the Draft EIR. Habitat changes resulting from the proposed project are generally anticipated to have better value for common wildlife species compared to the existing orchard, including both foraging and shelter habitat. While the number and extent of deer and/or peacock that may be temporarily displaced during implementation of the proposed project is uncertain, long-term deer, peacock, and other common wildlife movement corridors are not anticipated to be substantially affected by the proposed project.

As noted in Response E-2, CBDA, TNC, and SRNWR are committed to addressing adjacent landowners concerns, including those that revolve around project-related effects to wildlife movement and/or displacement, through on-site meetings, modification of restoration plans, and/or modification of restoration implementation strategies. As discussed above, CBDA, TNC, and SRNWR would abide by the SRCA Forum Good Neighbor Policy (see Response E-2 and attached Appendix B).

Response E-5 As noted in Response E-2, CBDA, TNC, and SRNWR are committed to addressing stakeholder (including adjacent landowners) concerns through on-site meetings, modification of restoration plans, and/or modification of restoration implementation strategies (e.g., orchard removal and ground preparation techniques, and irrigation system design). As discussed above, CBDA, TNC, and SRNWR would abide by the SRCA Forum Good Neighbor Policy (Appendix B). See also Responses E-2, PM-1 (Keyawa) and PM-2 (Nichols).

Response E-6 As described in Response E-2 and under Section 3.4, "Proposed Project Characteristics," in the Draft EIR, maintenance phases are proposed to occur over a 3-year period. Additionally, following the 3-year project maintenance period, USFWS would assume responsibility for monitoring the project sites in accordance with management goals and guidelines for SRNWR properties.

The planting design for the proposed project was determined based on site conditions with the goal of optimizing habitat diversity and incorporating flow conveyance. The hydraulic modeling used in the hydrologic and geomorphic analyses assumed mature planting conditions with conservative densities, not simply the predicted state of conditions after the 3-year maintenance period. The modeling used in the analysis appropriately characterizes predicted future conditions and indicates that hydrologic effects will be minimal and localized.

As stated under Impact 4.3-b, bank stabilization maintenance efforts by others (e.g., the Reclamation Board in conjunction with local reclamation districts) that may include placement of riprap would not be affected by the proposed project. Additionally, efforts by others to maintain other portions of the restoration sites for flow conveyance or other appropriate reasons would not be affected by the proposed project.

With regard to various management issues, CBDA prepared an initial study for this proposed habitat restoration project (Appendix B of the Draft EIR), and Section II, "Agricultural Resources," of the initial study states that: "Refuge lands are managed (as with fencing, for example) to prevent trespassing of the public onto neighboring private lands, so no loss of agricultural productivity on others parcels (due to vandalism or theft, for instance), is anticipated." Management issues are further discussed in the Draft EIR on page 3-21 under, "Management Considerations." This section of the Draft EIR addresses various safety and law enforcement topics.

As discussed in Section 3.3.1, “Brief History of the Sacramento River National Wildlife Refuge,” of the Draft EIR, USFWS prepared the *Sacramento River National Wildlife Refuge Draft Comprehensive Conservation Plan and Environmental Assessment* to serve as an integrated management plan for land that it acquires and manages for inclusion in the SRNWR. Commonly referred to as the SRNWR Comprehensive Conservation Plan (CCP) (USFWS 2005), this document includes primary goals that provide the framework for management of the Refuge through 2020. Issues regarding protection of natural and cultural resources, law enforcement, and safety are addressed in Chapter 5, “Planned Refuge Management Programs,” under *Goal 4: Resource Protection*. Objectives 4.1.1 through 4.1.15 address law enforcement strategies. Objectives 4.2.1 through 4.2.11 address safety strategies. It is the responsibility of the SRNWR to work toward achieving these objectives.

Chapter 4, “Current Refuge Management and Programs,” of the SRNWR CCP includes the following discussions under the Sections, “Facilities Maintenance,” and “Safety”:

In order to maintain the integrity of Refuge, it is critical to reduce trespass, dumping, and poaching on Refuge lands. It is the intent of the Service to maintain a positive working relationship with neighbors to reduce trespass, vandalism, and theft on adjacent landowner properties (Chapter 5 objective 3.2). To achieve these goals, the Refuge has begun the process of fencing, signing, and gating the Refuge boundaries. This infrastructure will help to alleviate trespass problems identified by many neighboring landowners. Annually, most Refuge units will require installation of some new posts due to vandalism and river processes. In addition, as Refuge units are opened to public use, it will be necessary to inform the public of the permitted activities on each unit. This will require installation of information signs and maintained on each Refuge unit.

Safety is important both for the Sacramento River Refuge staff and for visitors. Monthly staff safety meetings are held at the Sacramento Refuge Complex office. The intent of the meetings is to update and train personnel, as well as to resolve any safety concerns that arise. Sample topics include: Lyme’s Disease, West Nile Virus, and Hantavirus Safety, Tractor Safety, Hazardous Dump Sites, Boating Safety, CPR/First Aid, Hypothermia, Poisonous Plants, Defensive Driving, Heat Stress, and Respiratory Safety (USFWS 2005).

See also PM-1 (Keyawa) (below) for additional information on the SRNWR CCP. See also Response PM-3 (Billiou) (below) for a discussion regarding limits on planting of elderberry shrubs on SRNWR lands. See also Response PM-2 (Nichols) (below) on buffer zones with regard to rodents (e.g., squirrels).

Response E-7 As stated in Response E-6, the planting design for the proposed project was determined based on site conditions with the goal of optimizing habitat diversity and incorporating flow conveyance. The hydraulic modeling used in the hydrologic and geomorphic analyses assumed mature planting conditions with conservative densities and indicated that hydrologic effects would be localized and minimal.

As stated in Response E-2, concerns raised by neighboring landowners and other stakeholders have been and shall continue to be addressed by CBDA, TNC, and SRNWR through on-site meetings, modified restoration plans, and/or modified restoration implementation strategies (e.g., orchard removal and ground preparation techniques, and irrigation system design). As discussed above, CBDA, TNC, and SRNWR would abide by the SRCA Forum Good Neighbor Policy (see Response E-2 and attached Appendix B).

Response E-8 As stated in Response E-2, concerns raised by neighboring landowners and other stakeholders have been and shall continue to be addressed by TNC and SRNWR through on-site meetings, modified restoration plans, and/or modified restoration implementation strategies (e.g., orchard removal and ground preparation techniques, and irrigation system design). CBDA, TNC, and SRNWR are committed to this approach and will consider recommendations and suggestions regarding project planning and development provided by neighboring landowners (see attached Appendix B).

With respect to the comment regarding the hydrology studies not in any way relating to the Dead Man's Reach location, the commenter is referred to Response E-1; Section 4.3, "Hydrology, Water Quality, and River Geomorphology," in the Draft EIR; and Impacts 4.3-a and 4.3-b in the Draft EIR. The hydraulic model (Ayres 2001) used in the analysis specifically addresses the Koehnan Unit, which includes the Dead Man's Reach project site.

Response E-9 Comment E-9 summarizes concerns stated in previous comments and suggests recommendations for addressing the concerns. See Responses E-1 through E-8 above for discussions that cover each of the individual concerns. Additionally, as stated in Response E-2, CBDA, TNC, and SRNWR are committed to working in a collaborative manner with all stakeholders, including adjacent farming landowners, to ensure successful restoration of the Dead Man's Reach project site without having adverse effects on neighboring properties (see attached Appendix B).