



FINAL
REVISED PROGRAM ENVIRONMENTAL IMPACT REPORT
RESPONSE TO COMMENTS DOCUMENT
SCH # 2008052006

WSMP 2040

WATER SUPPLY MANAGEMENT PROGRAM 2040



EAST BAY MUNICIPAL UTILITY DISTRICT

APRIL 2012

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REVISED PROGRAM ENVIRONMENTAL IMPACT REPORT
RESPONSE TO COMMENTS DOCUMENT

SCH # 2008052006

for the

WSMP 2040
WATER SUPPLY MANAGEMENT PROGRAM 2040

APRIL 2012

prepared by



EAST BAY MUNICIPAL UTILITY DISTRICT

With assistance from



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1. Introduction

1.1 Purpose of the Response to Comments Document

This Response to Comments document responds to comments received on the Water Supply Management Program (WSMP) 2040 Draft Revised Program Environmental Impact Report (Draft Revised PEIR). This Response to Comments document, together with the Draft Revised PEIR, constitutes the Final Revised PEIR for the proposed WSMP 2040.

The Final Revised PEIR is an informational document prepared by the lead agency that must be considered by decision-makers before approving or denying a proposed project.

CEQA Guidelines (Section 15132) specify that a Final EIR shall consist of:

- (a) The Draft Program EIR or a revision of the draft.
- (b) Comments and recommendation received on the Draft Program EIR, either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the Draft Program EIR.
- (d) The response of the lead agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the lead agency.

1.2 Environmental Review Process

On December 9, 2011, EBMUD released the WSMP 2040 Draft Revised PEIR for public review (State Clearinghouse No. 2008052006). A Notice of Availability of the Draft Revised PEIR was mailed to the individuals and organizations that have been involved in the WSMP 2040 planning effort as well as those who previously requested such notice in writing. The notice was also posted on the Project website (www.ebmud.com) and filed at the Alameda County Clerk's office. Multiple copies of the Draft Revised PEIR, along with a Notice of Completion, were provided to the State Clearinghouse for distribution to state agencies.

Printed copies of the Draft Revised PEIR were available for public review at the following locations:

EBMUD Administrative Center
Office of the District Secretary
375 11th Street, 8th Floor
Oakland, CA 94607

Oakland Public Library
125 14th Street
Oakland, CA 94612

San Leandro Main Library
300 Estudillo Avenue
San Leandro, CA 94577

Danville Public Library
400 Front Street
Danville, CA 94541

Orinda Public Library
26 Orinda Way
Orinda, CA 94563

Albany Public Library
1247 Marin Ave
Albany, CA 94706

Walnut Creek Public Library
1395 Civic Drive
Walnut Creek, CA 94596

Berkeley Public Library
2090 Kittredge
Berkeley, CA 94704

San Andreas Central Library
1299 Gold Hunter Road
San Andreas, CA 95249

Amador County Public Library
530 Sutter Street
Jackson, CA 95642

Additionally, the Draft Revised PEIR was available for public review on EBMUD's website at www.ebmud.com.

The public review and comment period on the Draft Revised PEIR began on December 9, 2011, and closed on January 27, 2012.

Three public meetings were held to receive public comment on the Draft Revised PEIR:

- January 11, 2012, in Jackson, Amador County
- January 12, 2012, in San Andreas, Calaveras County
- January 17, 2012, in Oakland, Alameda County

1.2.1 Revised PEIR Certification

Certification of the Revised PEIR and approval of the WSMP 2040 planning document are scheduled to occur at the EBMUD Board of Directors meeting on April 24, 2012, which will be held in the Board Room at the EBMUD Administrative Center, 375 11th Street, Oakland, CA 94607 at 1:15 p.m. An electronic version of the Final Revised PEIR will be available on the EBMUD website prior to the certification hearing. Copies will also be available for public review at the locations listed above and on EBMUD's website at www.ebmud.com.

1.3 Report Organization and List of Commenters

Chapter 2 of this Response to Comments document contains copies of comments received during the comment period followed by EBMUD's responses to those comments. Each comment is numerically coded in the margin of the comment letter, based on the order of the comments. The comments and responses are presented as follows:

- Master Responses
- Comments from agencies and responses
- Comments from organizations and responses
- Comments from individuals and responses
- Comments received at public meetings and responses

A total of 41 comment letters were received, including one letter from a government agency, five letters from organizations, and 35 letters/emails from individuals. Table 1 lists all persons and organizations that submitted written comments on the Draft Revised PEIR during the comment period and the date of the letters. Table 2 lists the persons who provided oral and/or written comments on the Draft Revised PEIR at the three public meetings that were held to receive comments. A total of 15 people commented on the Draft Revised PEIR at the public meetings.

1.3.1 Master Responses

A number of comments that were received addressed similar concerns. Responses to these comments were consolidated into master responses. Two master responses are presented in Chapter 2: Master Response 1, Evaluation and Inclusion of the Expanded Los Vaqueros Reservoir Alternative; and Master Response 2, A Brief Description of the PEIR Revision Effort and the Staff Recommendation Reflected in the Revised PEIR.

Table 1: Agencies, Organizations, and Individuals that Submitted Comments on the Draft Revised PEIR

Commenter	Date
Agencies	
State Clearinghouse, Governor's Office of Planning and Research	01/20/2012
Environmental and Community Groups	
California Sportfishing Protection Alliance	12/06/2011
American Whitewater	01/25/2012
Foothill Conservancy	01/27/2012
Calaveras Planning Coalition	01/27/2012
Sierra Club San Francisco Bay Chapter	01/27/2012
Individuals	
Tracey Sittig	12/06/2011
Terry Barton	12/06/2011
Rebecca Brown	12/06/2011
Kay Reynolds	12/06/2011
Holly Mines	12/06/2011
Donna Fabiano	12/06/2011
C.A. Lonergan	12/06/2011
Ben Gravitz	12/06/2011
Virginia Berton	12/06/2011
Jay Anderson	12/07/2011
William Chinnock	12/08/2011
Daniel Brower	12/08/2011
Mr. C.C. Einspahr	12/08/2011
Chris Einspahr	12/08/2011
Jill North	12/09/2011
John Gonsalves	12/09/2011
Debra Lawlor	12/09/2011
Kent Lewandowski	12/10/2011
Cynthia Garcia	12/11/2011
Rebecca Armstrong	12/12/2011
Martha Breed	01/09/2012
Tracey Sittig	01/09/2012
Johanna Atman, Ph.D. CMT	01/09/2012
Chris Morrison-Bey	01/09/2012
Wayne Brunmeier	01/11/2012
Christine Walker	01/12/2012
Paula Pardini	01/16/2012
Jean Louise Dahl	01/17/2012
Joy M. Wagner	No date
Maureen Lahiff	01/17/2012
Norman C. Frank	01/19/2012
Peter Garber	01/19/2012
Jill North	01/26/2012
James and Joan Pipes	01/27/2012
Ronald Pickup	03/27/2012

Table 2: Persons Who Commented at the Public Meetings

Jackson Public Meeting - January 11, 2012
Tom Infusino, Calaveras Planning Coalition
Chris Wright, Foothill Conservancy
Brian Oneto, Amador County Board of Supervisors
Marti Crane
San Andreas Public Meeting - January 12, 2012
Steve Wilensky, Calaveras County Board of Supervisors
Barranca Wren
Colleen Platt, www.myvalleysprings.com
Pete Bell, Foothill Conservancy
Christine Coleman
Charles Leitzell
Jayne Childress
Tyler Childress
Oakland Public Meeting - January 17, 2012
John Trinkl, Ebbetts Pass Forest Watch
Sonia Diermayer, Sierra Club Bay Chapter, Co-Chair of Water Committee
Chris Schutes, California Sportfishing Protection Alliance

2. Comments and Responses

2.1 Master Responses

2.1.1 Master Response 1: Evaluation and Inclusion of the Expanded Los Vaqueros Reservoir Alternative

Several comments expressed support for EBMUD's decision to include the possible participation in the current expansion of Los Vaqueros Reservoir as a potential supplemental water supply component in the WSMP 2040. This discussion provides further detail regarding the Los Vaqueros Reservoir Expansion Project, undertaken by Contra Costa Water District and their federal partner, the U.S. Department of the Interior, Bureau of Reclamation, Mid-Pacific Region (Reclamation), and the potential for EBMUD to use a portion of the storage created.

Los Vaqueros Reservoir is owned and operated by Contra Costa Water District. Beginning in 2005, Reclamation and Contra Costa Water District partnered to conduct the environmental review of a project to expand Los Vaqueros Reservoir with the participation of the California Department of Water Resources (DWR) in the studies. Reclamation and Contra Costa Water District prepared an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) in accordance with the requirements of the California Environmental Quality Act and the National Environmental Policy Act to examine the impacts of this project, and Contra Costa Water District certified the EIR and approved the Los Vaqueros Reservoir Expansion Project on March 31, 2010. As part of its decision to certify the EIS/EIR, Contra Costa Water District committed to mitigate impacts of the expansion. Contra Costa Water District is responsible for mitigating the impacts of its project and implementing the identified measures. Construction of the Los Vaqueros Reservoir expansion is currently underway and is expected to be completed in 2012, and upon completion, the reservoir capacity will increase from 100,000 acre-feet to 160,000 acre-feet.

EBMUD and Contra Costa Water District began discussions in 2011 regarding the potential for EBMUD to utilize a portion of the storage created by the expansion to provide supplemental dry year water supply. As a result of these discussions, EBMUD staff determined that it was feasible to partner with Contra Costa Water District to use the increased flexibility available in Contra Costa Water District's conveyance and storage system resulting from the expansion of Los Vaqueros Reservoir. In preparing the draft revisions to the WSMP 2040 PEIR, EBMUD reviewed the analysis presented in the Final EIS/EIR for the Los Vaqueros Expansion Project and conducted a program-level review of a project involving EBMUD's use of a portion of the additional Los Vaqueros Reservoir storage capacity.

The Final EIS/EIR prepared for the Los Vaqueros Reservoir Expansion Project can be found on the project web site at the following link: <http://www.lvstudies.com>

As noted in the Draft Revised PEIR, the review that EBMUD has undertaken indicates that participating in a future larger expansion of Los Vaqueros Reservoir effort should not be included as a potential supplemental supply project in the WSMP 2040.

2.1.2 Master Response 2: A Brief Description of the PEIR Revision Effort and the Staff Recommendation Reflected in the Revised PEIR

Many comments expressed support for the revisions to the WSMP 2040 that are discussed in the Draft Revised PEIR.

As discussed in the draft, the addition of a potential supplemental supply project to participate in the current expansion of Los Vaqueros Reservoir makes it possible to defer the Enlarge Pardee Reservoir project beyond the thirty year planning horizon of the WSMP 2040.

The WSMP 2040 PEIR and WSMP 2040 Plan that were released in 2009, as well as the Draft Revised Program EIR released in December 2011, discussed the purpose and structure of the WSMP 2040 in significant detail and parties seeking further information on the WSMP 2040 should refer to these documents, which are available on EBMUD's website. The WSMP 2040 is a broad planning exercise that is guided by the goal of ensuring that EBMUD can meet its customers' water supply needs through 2040. The development of the WSMP 2040 included an extensive effort to estimate EBMUD's water supply needs through the year 2040 and to compare this need to the supplies presently available to EBMUD through its existing water rights and water supply initiatives. Because EBMUD projects that there will be a deficit in supplies in dry years, the WSMP 2040 proposes a portfolio of both policy initiatives and potential supplemental supply projects that EBMUD could pursue to meet those needs.

The range of supplemental supply components that EBMUD is proposing to meet the projected need for water in dry years is diverse and flexible in order to maximize the EBMUD's ability to address uncertainties such as climate change and the timing and frequency of droughts.

As noted in the 2009 WSMP 2040, the Program anticipates that multiple supplemental supply components may be evaluated simultaneously, with the most effective and efficient projects being pursued first, and with the success of one component allowing EBMUD to possibly delay or permanently defer the need to pursue other components. As noted in the Response to Comments on the 2009 Draft WSMP 2040 PEIR, and in the Draft Revised PEIR that EBMUD released in December, it is likely that in the end, some of the supplemental supply project components might not be constructed, and by including a broad and diverse mix of projects, the WSMP 2040 provides EBMUD with the ability to adjust implementation schedules and resource commitments to minimize the risk associated with future water supply uncertainties.

The result of the determination that the current Los Vaqueros expansion may provide a feasible supplemental supply option, and the inclusion of this potential supplemental supply project in the WSMP 2040, is that EBMUD can defer the Enlarge Pardee Reservoir project beyond the 30-year planning horizon of the WSMP. Based on the analysis in the revisions to the PEIR, EBMUD staff recommend that the WSMP 2040 Plan include participation in a project to enlarge Los Vaqueros Reservoir and remove the potential enlargement of Pardee Reservoir. The comments that EBMUD has received have expressed support for this recommendation.

The Draft Revised Program EIR explains the purpose of the revisions and the applicable CEQA requirements and summarizes these revisions and notes that EBMUD is seeking comments only on the parts of the 2040 PEIR that are being revised. The new information that EBMUD has developed and the discussion on which it is seeking comment is limited to the environmental impact areas and issues that were identified by the court, along with updates that are necessary to describe and analyze administrative and other developments of significance that have occurred since the 2009 PEIR was developed.

In December 2011, EBMUD circulated revisions to the PEIR in accordance with the CEQA Guidelines and the directive provided by the court. CEQA Guidelines Section 15088.5 requires recirculation of an EIR when significant new information is added to the EIR. Significant new information requiring recirculation includes disclosures showing that:

- (1) a new significant impact would result from the project or from a new mitigation measure proposed to be implemented;
- (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the agency has declined to adopt it; or
- (4) the draft EIR was so fundamentally flawed or inadequate that it failed to allow for public review and comment. (CEQA Guidelines, Section 15088.5(a))

When revisions are limited to only a few chapters or portions of an EIR, the lead agency can recirculate and seek comment only on the portions that are subject to revision and may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. Guidelines Section 15088.5(c). That is what EBMUD has done in this case. As stated on pages ES-3 and ES-4 of the Revised Draft PEIR, EBMUD requested that reviewers limit their comments to the significant new information that is the subject of recirculation. EBMUD has reviewed the information that has arisen since the preparation of the 2009 PEIR, and determined that additional revisions beyond those presented in the Revised Draft PEIR are not necessary.

2.2 Individual Comments and Responses

2.2.1 Agencies

The one comment letter that was received from an agency is included on the following page, with the response directly following the letter.



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

January 20, 2012

Thomas B. Francis
East Bay Municipal Utility District
375 Eleventh Street
Oakland, CA 94607

Subject: Revised Program EIR Water Supply Management Program 2040
SCH#: 2008052006

Dear Thomas B. Francis:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. The review period closed on January 19, 2012, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

**Document Details Report
State Clearinghouse Data Base**

SCH# 2008052006
Project Title Revised Program EIR Water Supply Management Program 2040
Lead Agency East Bay Municipal Utility District

Type SIR Supplemental EIR
Description In 2009, the East Bay Municipal Utility District (EBMUD) finalized a PEIR for the Water Supply Management Program 2040 after conducting a year long public review process. The PEIR was challenged in court, and EBMUD has now prepared these draft revisions to the PEIR to address the deficiencies identified in the order issued by the Superior Court for the County of Sacramento in the matter of Foothill Conservancy et al. v. East Bay Municipal Utility District, Case No. 34-2010-80000491.

Lead Agency Contact

Name Thomas B. Francis
Agency East Bay Municipal Utility District
Phone (510) 287-1303 **Fax** (510) 287-1295
email tfrancis@ebmud.com
Address 375 Eleventh Street
City Oakland **State** CA **Zip** 94607

Project Location

County Alameda, San Francisco, Contra Costa, Sacramento, ...
City
Region
Lat / Long
Cross Streets Various locations
Parcel No.

Township	Range	Section	Base
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Proximity to:

Highways
Airports
Railways
Waterways
Schools
Land Use Various

Project Issues Air Quality; Noise; Recreation/Parks; Other Issues

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 3; Department of Fish and Game, Region 2; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; Caltrans, District 4; Caltrans, Division of Transportation Planning; CA Department of Public Health; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission; State Lands Commission

Date Received 12/06/2011 **Start of Review** 12/06/2011 **End of Review** 01/19/2012

Governor's Office of Planning and Research, State Clearinghouse

1. Comment noted.

2.2.2 Organizations

The five comment letters received from organizations are included in this section, with responses directly following each letter.

From: Chris Shutes [<mailto:blancapaloma@msn.com>]
Sent: Tuesday, December 06, 2011 9:14 PM
To: Sykes, Richard; Mike Tognolini; Francis, Thomas
Subject: FW: EBMUD abandons Pardee raise

Richard, Mike and Tom,

I am extremely grateful for your efforts to reach a better result than we came to the first time. Please accept my sincerest thanks for all your work.

You will appreciate that I am compelled to toot CSPA's horn in the appended post to our website. I include it below to note the acknowledgement of staff in making this significant change in direction.

I truly look forward to working with you in the future on issues of common interest.

Yours,

Chris Shutes
CSPA

From: blancapaloma@msn.com
To: deltakeep@me.com; stripermike@earthlink.net; mjatty@sbcglobal.net; crenshaw@cal.net; jbeuttler@aol.com; rmchenry1403@aol.com; diatomchic@gmail.com; bondassociates@mac.com; cateintracy2@sbcglobal.net; izmirian@earthlink.net
CC: cindy@ccharles.net
Subject: EBMUD abandons Pardee raise
Date: Tue, 6 Dec 2011 20:43:27 -0800

<http://calsport.org/news/major-victory-for-cspa-east-bay-mud-abandons-plan-to-raise-pardee-dam/#more-1127>

Major Victory for CSPA: East Bay MUD Abandons Plan To Raise Pardee Dam

Posted on [December 6, 2011](#) by [Chris Shutes](#)

The East Bay Municipal Utilities District has thrown in the towel and will no longer pursue a plan to raise Pardee Dam. Pardee Dam, which backs up the Mokelumne River in Amador and Calaveras counties, creates Pardee Reservoir, EBMUD's largest storage reservoir. EBMUD's decision removes a threat to drown another two or more miles of the Mokelumne. The decision also prevents another increment of diversion that would have reduced inflow to the Sacramento – San Joaquin Delta.

The decision follows a successful lawsuit filed in 2009 by CSPA, Friends of the River and the Foothill Conservancy. A favorable ruling on the case in April, 2011 compelled EBMUD to redo the Environmental Impact Report for its Water Supply Management Plan. The new EIR, released on December 6, has taken the controversial dam raise off the table until at least 2040.

In a press release issued December 5, EBMUD stated that a potential new partnership with Contra Costa Water District in sharing costs and benefits at an expanded Los Vaqueros Reservoir was an important impetus for its major policy shift. Los Vaqueros Reservoir is located west of the Delta in Contra Costa County. CSPA and its partners strongly advocated that EBMUD evaluate a Los Vaqueros alternative in its

first EIR. In speeches to the EBMUD Board of Directors in 2009, CSPA dismissed past disagreements with CCWD as old history, and called out the convergence of values and interests between the two districts as a huge opportunity. The trial judge cited failure to look at partnership with CCWD on Los Vaqueros as a major flaw in EBMUD's environmental review.

In addition to the plaintiffs in the lawsuit, the Environmental Water Caucus and American Whitewater were consistent advocates against raising Pardee. Perhaps decisive was the near unanimous opposition to the dam raise in the counties in which Pardee Reservoir is located. The local opposition included both boards of supervisors, water purveyors, and dozens of individual citizens who packed EBMUD meetings to oppose further expansion of EBMUD facilities. Local opposition was largely organized by Foothill Conservancy, whose operation is centered in Amador County.

Richard Sykes, EBMUD's recently appointed director of water and natural resources, met on several occasions with opponents of the Pardee raise. Mr. Sykes worked tirelessly to find an alternative that meets the reliability needs of the district while protecting the Mokelumne River. He and his immediate staff deserve considerable credit for breaking the impasse to find a better outcome this time around.

California Sportfishing Protection Alliance

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD reviewed the post on the California Sportfishing Protection Alliance's website that is referenced in this comment. The website post announces that EBMUD no longer plans to pursue the Enlarge Pardee Reservoir component as part of the WSMP 2040 and describes how the California Sportfishing Protection Alliance was involved in efforts to remove the Enlarge Pardee Reservoir component from the WSMP 2040; it does not include comments on the WSMP 2040 Revised PEIR, and therefore no further response is required.



Theresa L. Simsiman
California Regional Coordinator
Dave Steindorf
California Stewardship Director
4 Baroni Drive
Chico, CA 95928

January 25, 2012

Draft Revised PEIR WSMP 2040 Comments
c/o Tom Francis
Water Supply Improvements Division
East Bay Municipal Utility District
375 11th Street, MS 407
Oakland, CA 94607

Dear Mr. Francis:

American Whitewater (AW) is writing to submit comments regarding the Draft Revised PEIR WSMP 2040 - specifically addressing sections under Supplemental Revisions to the Land Use and Recreation Analysis.

AW is a national non-profit 501(c)(3) river conservation organization founded in 1954. We have over 6,500 members and 100 local-based paddling affiliate clubs, representing approximately 80,000 whitewater boaters across the nation. AW's mission is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. Our organization has spent more than two decades on river restoration efforts to mitigate impacts of existing water development projects in the Mokelumne watershed. We are currently an active member of the Ecological Resource Committee working with PG&E to manage the Mokelumne River Project 137. And as stated in previous comments, the Electra Run down through Middle Bar provides five miles of outstanding whitewater popular with our membership for beginner & intermediate paddlers to improve their river running skills.

Regarding the Supplemental Revisions to the Land Use and Recreation Analysis, in section 4.1 Settings Discussion, AW notes that EBMUD inaccurately characterizes the Middle Bar run as a summer recreational activity by making no mention of its year round utility. Charles Martin's 1974 river guide book had referenced that the flows provided by PG&E help keep the Mokelumne runnable all year.¹ A notable example of this is the Moke Races, hosted by Loma Prieta Paddlers, which utilized for the first time last Fall the new BLM Big Bar River Access. This race has been an annual event since 1978 and had over 50 participates at last Fall's event.

¹ Charles Martin, *Sierra Whitewater A Paddler's Guide to the Rivers of California's Sierra Nevada*, Sunnyvale, Fiddleneck Press 1974, 113.

Additionally, in the absence of a full recreational boating survey, AW can not agree with EBMUD personal's estimation of 15 kayakers a week on Middle Bar during the summer, or the assumption that the road to the Middle Bar take out has "less favorable driving conditions" for the recreational boater. AW suggests opinion statements like these be clarified as unsubstantiated without a proper survey.

3

In regard to section 4.2 Impacts Analysis, AW is in agreement that "impacts associated with the loss of whitewater rafting and other recreational opportunities on the Middle Bar Run would be **potentially significant**". Again as stated in previous comments, we believe there is no mitigation suitable for the loss of such a valuable recreational resource to our membership.

4

Overall, AW supports the EBMUD Staff recommendation that the WSMP 2040 can be prepared with a portfolio of supplemental supply options for the next 30 years that does not include the enlargement of Pardee Reservoir. AW agrees with the analysis that this option can be deferred beyond 2040. We applaud EBMUD's willingness to look to more viable options, such as partnering with Contra Costa Water District to acquire additional water supplies from an expansion of Los Vaqueros Reservoir. AW encourages EBMUD Board of Directors to follow suit.

5

Sincerely,



Theresa L. Simsiman
California Regional Coordinator
American Whitewater



Dave Steindorf
California Stewardship Director
American Whitewater

American Whitewater

1. The District acknowledges the commenter's involvement with recreational activities along the Mokelumne River.
2. The comment states that the characterization of the Middle Bar Run is inaccurate. EBMUD's analysis is based upon observations by EBMUD's Mokelumne facility staff, who are routinely present at the site and have observed that the primary recreational use of the Middle Bar Run occurs during the summer months. While use outside of this timeframe will occur sporadically, the characterization of the Middle Bar Run was accurately portrayed.
3. The comment questions the estimation of kayaker use of the Middle Bar Run. During summer months, EBMUD's Mokelumne facility staff visits the Middle Bar Run area on average three times per week and estimates approximately fifteen kayakers per week during summer months use this stretch of river.
4. Comment noted. Impacts and mitigation would be evaluated in detail at a project level if EBMUD undertook a project that could potentially impact the Middle Bar Run. EBMUD has committed to replace recreation facilities where feasible and to mitigate impacts to whitewater recreation where feasible.
5. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.



WSMP Comments
c/o Mr. Tom Francis
East Bay Municipal Utility District
375 11th Street, MS 407
Oakland, CA 94607

January 27, 2011
by e-mail transmission

Re: *WSMP 2040 Revised Draft PEIR; support staff recommendations*

Dear Mr. Francis:

The Foothill Conservancy commends the East Bay Utility District for recognizing the deeply held concerns of our community and others regarding the use, protection, and restoration of the Mokelumne River. We are therefore very pleased to support the EBMUD staff recommendation in the RDPEIR to drop the proposed expansion of Pardee Reservoir from EBMUD's water supply plans for the next 30 years. We urge the EBMUD board to fully support that recommendation and revise the adopted Water Supply Management Plan 2040 accordingly.

Dropping the Pardee expansion focuses EBMUD's water supply program on more viable, forward-looking alternatives for meeting future water supply needs, including partnerships within the East Bay region. It also affords EBMUD the opportunity to begin renewed partnerships with upper Mokelumne watershed interests on watershed protection and restoration, fishery restoration and enhancement, cultural resource protection, recreation, and other efforts that serve broad EBMUD and foothill interests.

We strongly support the removal of the proposed Pardee expansion from the WSMP 2040 and look forward to working with EBMUD for the benefit of the Mokelumne River and the wildlife, fish and people who rely on this life-giving resource.

Very Truly Yours,
s/Katherine K. Evatt
Katherine K. Evatt
President

Foothill Conservancy

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Thomas P. Infusino
P.O. Box 792
Pine Grove, CA 95665
tomi@volcano.net
(209) 295-8866

1/27/12

EBMUD
WSMP Comments
Attn: Tom Francis
Water Supply Improvements Division
375 Eleventh Street, M.S. 407
Oakland, CA 94607
WSMP.comments@ebmud.com

Re: CPC Comments on the 2040 WSMP Draft Revised PEIR (DRPEIR).

Dear EBMUD,

My name is Tom Infusino, and I am submitting these comments on behalf of the Calaveras Planning Coalition. The Coalition is a group of community organizations and individuals united behind eleven land use and development principles. We want a healthy, sustainable future that will be reflected in the people, the land, and the economy of Calaveras County. As the residents of the area of origin for your water supply, we are very interested in your future plans. In addition to a water supply, the Mokelumne River and its canyons are a source of recreational boating and fishing, a source of local economic productivity, and a key feature affecting the health of the local ecosystem. For over three and a half years now we have been submitting comments on the 2040 WSMP and its EIRs.

I. We appreciate the staff recommendation to drop Pardee Expansion from the 2040 WSMP, and encourage the EBMUD Board to adopt the recommendation.

Before I launch into detailed and specific comments on the 2040 WSMP DRPEIR, I will first express the CPC's gratitude for the efforts of the East Bay MUD staff over the last six months. It has truly been a season filled with wonders to behold.

Last summer, foothill residents gathered in Jackson, and in San Andreas, to provide scoping comments on the revised EIR for the 2040 Water Supply Management Plan. At those gatherings, the East Bay MUD staff heard overwhelming testimony in opposition to a higher dam and an expanded Pardee Reservoir. Last fall, the East Bay MUD staff dutifully prepared a detailed scoping report and presented it to the East Bay MUD Board. We at the CPC are grateful for the fine work of the EBMUD staff in communicating our concerns to the EBMUD Board.

Last month, Christmas came early for the Calaveras Planning Coalition. In the first week of December, East Bay MUD released the draft revised EIR for its 2040 Water Supply Management Plan. That EIR states that staff will recommended that the expansion of Pardee Reservoir, and its associated inundation of the Middle Bar recreation area, be dropped from the 2040 Water Supply Management Plan. (DRPEIR, p. ES-3) **We at the CPC are grateful that the EBMUD staff will make this recommendation to drop Pardee Expansion from the 2040 WSMP. We encourage the EBMUD Board to adopt this recommendation, and end this conflict over the 2040 WSMP. Such an action would effectively moot the concerns expressed below regarding the adequacy of the DRPEIR’s treatment of the Pardee Expansion.**

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II. Specific flaws in the DRPEIR would be made highly prejudicial by including Pardee Expansion in the 2040 WSMP.

As noted above, the CPC supports the staff recommendation to drop Pardee Expansion from the 2040 WSMP. We encourage the EBMUD Board to adopt that recommendation, and end this conflict over the 2040 WSMP.

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One reason the EBMUD Board should adopt that recommendation is to avoid highly prejudicial CEQA violations. As noted below, there are many flaws in the 2040 WSMP DRPEIR. The ones noted below become highly prejudicial if they result in the EBMUD Board including Pardee Expansion in the 2040 WSMP. Should EBMUD drop Pardee Expansion from the 2040 WSMP, then the flaws in the DRPEIR noted below become much less prejudicial.

III. P. 1-1: EBMUD must evaluate a broader range of alternative components.

On page 1-1, the DRPEIR states:

“In a ruling issued on May 25, 2011, the court identified the following legal deficiencies in the 2009 PEIR prepared by EBMUD:

- (1) the failure to adequately formulate mitigation measures for the potentially significant impact to native Miwok ancestral gathering places that would result if the Mokelumne River is inundated by expansion of Pardee Reservoir;
- (2) the failure to adequately describe the Middle Bar Run as a recreational resource and analyze and mitigate impacts that would result if the Middle Bar Run is inundated by expansion of Pardee Reservoir;
- (3) the failure to adequately identify and mitigate the potentially significant safety impacts that might arise due to possible removal of the Middle Bar Bridge as an emergency evacuation route; and
- (4) the failure to prepare an adequate analysis of reasonable alternatives to the project, due to the EIR’s failure to take into account the potentially significant impacts from inundation of the Middle Bar Run and Middle Bar Bridge, and failure to analyze and include participation in the Los Vaqueros Reservoir expansion as part of its consideration of alternatives to the Regional Upcountry water supply components.

The court did not find any other areas of the 2009 PEIR to be deficient.”

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This overly narrow description of the court’s ruling has led EBMUD to prepare a substandard DRPEIR.

On page 30 of Judge Frawley’s decision he wrote, “[T]he court finds there is insufficient variation in the composition of these portfolios to permit informed decisionmaking.” One would think that such a statement would be sufficient guidance for EBMUD to expand the components considered in its alternative portfolios. However, just in case it was not, the judge literally drew EBMUD a picture to explain further.

On page 32 of the decision Judge Frawley drew a table showing the components in the alternative portfolios and concludes, “[T]he table shows there is little variation between the components of the Preferred Portfolio and the components of the Alternative Portfolios.” He explains that the EIR looked at, “[J]ust one alternative level of rationing (15%), one alternative level of conservation (level C), one alternative level of recycling (Level 2), and one supplemental water supply project (Buckhorn Canyon Reservoir project);” and that the alternatives were “simply reduced versions of the proposed project” not “true alternatives.”

Any reasonable person or agency reading the text of the decision and examining the table drawn by the judge would come to the inescapable conclusion that, in the revised EIR, it needs to look at more than one alternative level of rationing, more than one alternatives level of conservation, more than one alternative level of recycling, and more than one supplemental water supply project.

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Not surprisingly, people and organizations making scoping comments provided the very same guidance to EBMUD, and offered many feasible suggestions for alternative rationing levels, alternative recycling levels, alternative conservation options, and an alternative means of estimating demand. (Scoping Report Appendices, pp. 75-77, 84, 94, 101-103, 111-116, 128, 134-135, 139, 141-143, 151, 156 – 157, 159, 161-163, 166, 169, 172, 174, 178, 181-185, 194, et al.) Given the court’s detailed textual and graphic explanation of the problem with EBMUD’s 2040 WSMP PEIR, it was wrong for EBMUD to fail to broaden the variation among the components of the alternatives.

In the Final RPEIR, EBMUD needs to broaden the variation of alternative components. The alternatives thereby derived should be focused on those components capable of “avoiding or substantially lessening” any of the potentially significant effects of the project. Since the 2009 PEIR identified 49 potentially significant impacts of the 2040 WSMP, the range of alternatives should be sufficient to “avoid or substantially lessen” the broad spectrum of these impacts. We strongly suggest that EBMUD start over in its screening of potential alternative portfolio components. This time screen them properly: by their ability to avoid or to substantially lessen the impacts of the preferred portfolio. Since most of the impact reduction criteria were not used in component screening in the past, many alternative components were not those best able to reduce impacts. (See Section IX, below.)

IV. PP. 1-1 and 1-2: EBMUD needs to analyze the new information and the changed circumstances to reduce the impact of the 2040 WSMP.

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On Pages 1-1 and 1-2, the DRPEIR states:

“Aside from the topics identified by the court and discussed in these revisions, the information reviewed by EBMUD and presented as part of the scoping for this document has not revealed any other significant new information, including any information that would show:

- (1) that there is a potential for new program-level significant environmental impacts from the WSMP 2040 or from a new mitigation measure proposed to be implemented as part of this program-level review;
- (2) that there is a potential for a substantial increase in the severity of the environmental impacts previously identified in the program-level review set forth in the 2009 PEIR; or
- (3) that a feasible alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the program-level significant impacts of the WSMP 2040 that EBMUD has declined to adopt.

For this reason, recirculation of other portions of the 2009 PEIR is not needed and other portions of the PEIR analysis do not need to be revised.”

Similarly, Section 8 of the DRPEIR (the Supplemental Cumulative Impact Analysis) includes no additional analysis of the cumulative impacts on the Delta from additional diversions of Mokelumne River water associated with Pardee Expansion and other foothill water supply components. Section 8 also does not include an analysis of the cumulative impacts of Pardee Expansion on salmonids, nor does it include salmonid transport as a feasible mitigation for that impact.

We disagree that not further cumulative analysis is required. The Scoping Report includes comments that state:

“An EIR must be updated prior to a new discretionary decision when new information, changed circumstances, or project changes suggest that there are new potentially significant effects, that previously examined effects will be substantially more severe, or that additional mitigation measures are now feasible. (CEQA Guidelines, sec. 15162.) There are at least four such reasons to include additional analyses in the 2040 WSMP RPEIR. We encourage EBMUD to survey the literature since 2009 to determine if there are other analyses that need to be updated.

“A) New reports suggest that the impacts of diversions from the Mokelumne River and the Delta are more severe than reported in the 2040 WSMP PEIR.

“The 2040 WSMP PEIR indicated that increased diversion of the Mokelumne River, a Delta tributary, would have a less than significant impact on the Delta ecosystem. However Since certification of the 2040 WSMP PEIR in 2009, reports have indicated that the cumulative impacts of such diversions cannot be so easily dismissed.

“The Delta Stewardship Council has been generating draft plans for management of the Delta. The Fourth Draft was issued in June 2011. This draft plan directs water agencies that rely on tributaries to the Delta to increase their self-reliance to REDUCE future water exports from the Delta. Recycling more water is chief among the recommended local water supply options. (Fourth Draft Delta Plan, pp. 56 – 64.)

“In 2010, the State Water Resources Control Board issued a report entitled the *Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem*. That report notes that stricter flow criteria are needed for the Delta to protect the Delta ecosystem. The Mokelumne River is addressed on page 126 of that report.

“In addition, California Department of Fish and Game’s draft report on the Delta Ecosystem Restoration Program was released this month.

“Another important Delta report is the Department of Fish & Game’s Quantifiable Biological Objectives and Flow Criteria for Aquatic and Terrestrial Species of Concern Dependent on the Delta, issued Nov. 23, 2010.

“Finally, a report by Chris Shutes explains that there may be additional harm to the Mokelumne River and the Delta ecosystems from EBMUD’s proposed new Pardee Expansion.

“We encourage EBMUD to review this new information and re-evaluate the potential cumulative impact of EBMUD’s proposed increase in diversion from a Delta tributary, in combination with other past, present, and reasonably foreseeable future diversions.

“B) Salmonid recovery should include the Mokelumne above the EBMUD dams.

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“Blocking of historic salmonid habitat by Camanche and Pardee dams should be recognized as a significant cumulative impact.

“Since the certification of the 2040 WSMP PEIR in 2009, new information indicates that it is now feasible to transport spawning salmon (and possibly steelhead) around dams so that they can spawn in the potential restoration habitat of the Middle Bar reach upstream, and then later transport juvenile salmon back around the dams so they can proceed downstream. Since the Pardee Expansion would extend the life of the Pardee Dam/Camanche Dam fish barrier, please consider this new mitigation measure in the RPEIR.

“In addition, the National Marine Fisheries Service issued its *Public Draft Recovery Plan for the Evolutionarily Significant Units of Sacramento Valley Winter-Run Chinook Salmon and Sacramento River Winter-Run Chinook and Central Valley Spring-Run Chinook Salmon and the Distinct Population Segment of Central Valley Steelhead* in October 2009, after the WSMP 2040 final EIR was written. The upper Mokelumne River above Pardee is included in potential recovery and reintroduction habitat for salmon and steelhead.” (Scoping Report Appendices, pp. 120-121.)

The information in the aforementioned reports triggers further cumulative impact analyses. If Pardee Expansion remains in the 2040 WSMP, then the Final RPEIR must acknowledge the significant impact on migratory salmonids, and adopt feasible salmonid transport mitigation.

Similarly, the Final RPEIR would have to acknowledge the significant cumulative impacts from additional diversions of Mokelumne River water away from the Delta.

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V. PP. 2-1 through 2-3: EBMUD must broaden its nonexistent range of water demand estimates to reduce the impacts of its 2040 WSMP.

On pages 2-1 through 2-3 EBMUD seeks to justify its faith in the nonexistent range of the water demand estimates generated from its 2009 Demand Study. In doing so, the DRPEIR tries to explain away the fact that, after only three years, the results of that model have already proven unable to predict demand. (See Slide Show, WSMP 2040 Board Workshop, 9/27/11, slide 7.) Nevertheless, the DRPEIR insists that “the 2040 demand projections remain valid.” (DRPEIR, p. 2-2.) As explained below, we disagree, and feel that the average demand projections used from the 2009 Demand Study are alone insufficient for long-term planning and CEQA compliance. There are a number of reasons that EBMUD should have considered an alternative that lowered impacts simply by reducing the number additional high-impact water supply projects to meet the lower range of demand estimates.

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A. The bad economy is likely to delay EBMUD reaching the estimated demand by 2040.

The Demand Study acknowledges that the downturn in the economy is likely to delay EBMUD reaching the demand estimates. (11 AR 4509; “The timing of development and associated demand will likely be realized slower than what is projected in this study.”)

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B. The “demand hardening” excuse for high demand is not supported by facts in the record.

Demand hardens when water use cannot not be cost effectively reduced much further based upon the limited availability of additional conservation and reclamation technology, and societal norms regarding water use (e.g. the desire to maintain a green lawn, a full swimming pool for use and status, etc.). Water demand softens when new conservation and reclamation approaches are developed that can be cost effectively deployed to meet reduce demand, or societal norms regarding water use change (e.g. desire to avoid social shame for keeping a green lawn and a full swimming pool during a drought.). However, the EIR does not reference any evidence in the record to substantiate the assumption that the rate of demand hardening will exceed the rate of demand softening between now and 2040. To the contrary, respected water experts and the indicate water demand in California can remain soft over that time period. (See Pacific Institute, *California Water 2030*, 2005.) Since many conservation programs at EBMUD have not fully reached their market penetration potential, and others have yet to be aggressively promoted and/or incentivized, there remains ample opportunity to reduce demand through higher levels of conservation.

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It is worth noting that EBMUD has been making this demand hardening argument since 1992 to justify higher demand estimates, and it has been proven wrong repeatedly. (EBMUD, Updated

Water Supply Management Plan EIS/EIR, 1992, pp. 1-4, 4-19, 4-27.) EBMUD repeatedly underestimate its ability to achieve greater conservation savings. For example, the 2000 demand study estimated that EBMUD's conservation efforts would result in a decrease in demand of just 13 mgd in 2005, and 21 mgd in 2010. (106 AR 40300.) However, the 2040 WSMP indicates that 2005 conservation savings were 18 mgd in 2005 and expected to be 25 mgd in 2010. (10 AR 4312.)

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C. The Demand Study results were improperly interpreted and applied.

Throughout the construction, review, and analysis of portfolio options, the results of the Demand Study were presented as a single demand points to be achieved by each future date. However, that is not a proper depiction of the demand estimates. In fact, they are averages surrounded by a margin of error. These ranges stemming from the sensitivity of model outputs to changes in the model inputs and the assumptions the model employs. In the past, EBMUD demand studies have included sensitivity analyses and acknowledge the margin of error that surrounded each average. (See 66 AR 25306 ff.) Many public commenters expressed (and continue to express) greater faith in the lower range of the current demand estimate, and have repeatedly asked EBMUD to consider a portfolio with fewer water supply projects as a means of reducing impacts. (This faith is in part to statements like the one in the Demand Study indicating that the economic downturn may slow the rate at which EBMUD demand rises, and in part due to the empirical data showing that demand has been lower over the first three years of model application.) Nevertheless, EBMUD has not included in the EIR any action alternatives that lower impacts simply by employing fewer supply projects to meet demand in the lower range. Thus, by constructing all of its portfolios around only one demand scenario, to the exclusion of other reasonable estimates of demand from the demand study, the EBMUD Board violated CEQA by not considering a full range of reasonable alternatives to reducing the impacts of its 2040 WSMP in the DRPEIR.

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D. Prudent public and private sector water planners use a range of demand estimates rather than a single number.

A review of the 2009 *State Water Plan Update* and the Pacific Institute's *California Water 2030* reveal that responsible water planners look at a range of demand estimates. EBMUD would be wise to do the same in its 2040 WSMP RPEIR. This is analogous to general plan EIRs that evaluate lower impact alternative general plans based upon different population growth projections. By refusing to consider a lower impact alternative that accommodates a lower water demand, EBMUD is abusing its discretion.

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E. Inflating future demand could have significant environmental impacts if it resulted in Pardee Expansion being included in the 2040 WSMP.

As noted in the RPEIR, Pardee Expansion has a number of potentially significant impacts on the environment. Because the project is so poorly described, it is too early to determine the degree

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to which mitigation measures will be able to reduce those impacts to a level of insignificance. In addition, the 2040 WSMP approved in 2009 left open the option to opportunistically implement Pardee Expansion earlier should the funds become available. Thus, Pardee Expansion could be built even before it was clear that it was needed to meet 2040 demand. Thus, inflating demand could result in needless significant impacts on the environment.

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F. To conform to the demand study, EBMUD must amend its request for an extension of time to put the water stored at Camanche to a beneficial use.

EBMUD seems locked into this one demand estimate for planning purposes. If EBMUD persists in refusing to consider lower impact alternatives that supply water to meet a lower demand, we respectfully request that EBMUD modify its request before the State Water Resources Control Board for an extension of the time to put its water stored in Camanche Reservoir to a beneficial use. That request asks for an extension of time beyond 2040. Since EBMUD's demand study predicts that the Camanche source will be insufficient to meet dry year needs long before 2040, there is no justification for extending the deadline so far. If EBMUD insists on unwavering devotion to its demand study estimate, and thereby justifies imposing significant and unmitigated impacts on the environment through implementation of projects in the 2040 WSMP, then EBMUD must likewise accept the responsibility to put the water stored in Camanche Reservoir to a beneficial use in the time predicted by that demand study.

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VI. PP. 2-3 through 2-4: EBMUD needs to reconsider its recycled water potential to reduce the impacts of its 2040 WSMP.

On pages 2-3 through 2-4, the DRPEIR explains how EBMUD chose the level of water recycling in the 2040 WSMP, and makes no indication that this level will increase.

In our 7/14/11 scoping comments, the Calaveras Planning Coalition encouraged EBMUD to consider an alternative that aims for 30% reclamation by 2030. Please do so in the Final RPEIR.

The California Water Code has provisions that preclude the waste of water. The California Water Code includes requirements for the treatment of wastewater, and provides incentives for the reclamation and reuse of such water. (See for example, Water Code, sec. 1010) California Water law includes findings by the California Legislature that water districts should rely more on local sources of water, and should employ treatment technology to extend existing water supplies. (Stats. 2001, c. 320 (S.B. 672).)

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In Calaveras County, they take these responsibilities seriously. The Calaveras County Water District goes to the expense of reclaiming about 85% of the wastewater it treats, rather than discharging that wastewater to a surface stream. CCWD plans to continue this level of water recycling through 2040. (Calaveras County Water District, 2010 *Draft Urban Water Management Plan*, Chapter 5; Attachment 6; hereby incorporated by reference into the administrative record.) By comparison, East Bay MUD hopes to recycle only about 10.6% of the 188.6 million gallons per day of wastewater it expects to collect and treat in 2040. East Bay

MUD should be ashamed of this wasteful failure to meet its responsibilities under the Water Code. (EBMUD, Urban Water Management Plan, 2011, Table 5-5, hereby incorporated by reference into the administrative record.)

Now is the time for the EBMUD Board to direct its staff to seriously undertake water reclamation efforts. For decades, the EBMUD Board has given its staff the task of water conservation. As a result, EBMUD has developed successful water conservation efforts, and consistently reduced expected customer demand. If the EBMUD Board were now to direct its staff to dedicate a similar effort to achieve just 30% water reclamation by 2030, there would be no need for a project like Pardee Expansion.

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While this alternative will involve the construction of extensive water delivery systems, it has a major economic advantage to EBMUD customers that is not found in the foothill alternatives. If you choose water reclamation as your water supply enhancement project, you will be investing your local ratepayers' money in projects that will employ your local people and pump money into your local economy. You cannot justify to your ratepayers spending hundreds of millions of their dollars in any other way.

VII. P. 2-4: EBMUD must consider additional levels of water conservation in the RPEIR.

As noted above, the court admonished EBMUD for analyzing in the 2040 PEIR, “[J]ust one alternative level of rationing (15%), one alternative level of conservation (level C), one alternative level of recycling (Level 2), and one supplemental water supply project (Buckhorn Canyon Reservoir project).” (Decision, p. 32.)

As noted on page 2-4, EBMUD has not altered its DRPEIR to consider additional conservation levels, or additional conservation techniques. This is despite the fact that scoping comments suggested the reconsideration of higher levels of conservation, and specified additional conservation techniques. For example, scoping comments suggested that the RPEIR consider:

“5) Alternative Rate Structures

We also encourage EBMUD to consider changes in rate structure, while retaining affordable baseline rates for low-income customers, as a means of reducing demand. Please do not again eliminate this option from the list of alternatives. Some agencies establish baseline rates based on household size and structure their rate tiers accordingly. That is a fair and equitable way to structure water rates that doesn't penalize urban households in favor of suburban users with extensive, water-wasting landscaping.”

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“6) Do not screen out options that raise water rates to foothill levels.

We also encourage EBMUD to include alternative components that may result in rate increases up to foothill levels. This is an interregional equity issue. In foothill counties, ratepayers pay much higher rates in part because they bear the expense of costly

technology to reduce water demand and to protect the environment. For example, in Calaveras County ratepayers finance extensive tertiary wastewater treatment. That reclaimed water is then used instead of groundwater and surface water. In this fashion, foothill ratepayers are following the intent of state water law to go the expense of applying modern technology to stretch our state's water resources and to reduce harm to the environment. We encourage EBMUD to match this commitment. The EIR should consider these options, and give the EBMUD Board the chance to choose among the alternatives at the end of the process."

"8) Do not reject expansion of potential conservation measures.

EBMUD needs to take a hard look at individual metering for apartments, working with East Bay local governments on water-neutral development ordinances, and other demand-side measures that were not included in the 2009 WSMP 2040." (Scoping Report Appendices, pp. 115-116.)

Substantial evidence in the record supports considering additional conservation levels and techniques. For example, EBMUD's Water Budget and Rate Study indicated that implementing water budgets for irrigation and higher rates for overwatering can be effective in reducing overwatering. (Water Budgets and Rate Structure Study, 2007.) The water savings could be substantial, since over 50% of the irrigated area in the District is lawns, and they constitute about 80% of the outdoor water use in the District. (*Irrigated Areas and Water Use by Plant Type*, 2005.)

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Similarly, it is worth noting that EBMUD adopted a level of conservation that included measures that yielded the water at a cost to EBMUD of less than \$300/acre foot. Level of Conservation E, that was eliminated from consideration in an action alternative in the PEIR based upon cost consideration, yielded water at a cost to EBMUD of less than 400/acre foot. (EBMUD, Conservation Technical Analysis, 2009, pp. 2-3.) However, EBMUD estimates the cost of water from Pardee Expansion is closer to \$700 per acre foot. (2040 WSMP 2040 Appendix, Cost Estimation Evaluation Technical Memorandum #6, p. 10; 12 AR 5127) However, that assumes the all additional stored water is used in every year of the life of the dam. This is unlikely given the need for carryover storage pursuant to EBMUD's drought management procedures. For purposes of the 2040 WSMP, EBMUD only needs that water in the third and final year of the three severe drought scenarios predicted over the 100 year life of the dam. Thus, the marginal cost of the water from Pardee Expansion is actually closer to \$23,000 per acre foot. Thus, it is not logical to exclude from consideration based upon costs any conservation measures that produce water at less than \$400 per acre foot.

By improperly pre-screening these and other conservation measures and levels to exclude them from consideration in the EIR, EBMUD has avoided its responsibility to rationally choose between the proposed project and lower impacting alternatives.

VIII. PP. 2-4 through 2-5: EBMUD must consider a broader range of rationing levels.

The DRPEIR indicates that EBMUD will not evaluate a broader range of rationing levels.

As noted above, the court chastised EBMUD for considering in the EIR, “[J]ust one alternative level of rationing (15%).” (Decision, p. 32.) As the court decision acknowledged, because lowering rationing levels commits EBMUD to additional water supply projects with dozens of potentially significant environmental impacts, there is a direct link between the rationing level in an alternative and the alternative’s environmental impacts. The lower the rationing level, the higher the impacts of the additional water supply projects. (Decision, p. 9 (“Since there is a projected gap between supply and demand, these demand-side water management solutions are directly related to the District’s need for additional water supply projects: the more demand is reduced, the less additional water supplies will be required to meet future demand.”).)

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CEQA requires that, “An EIR shall describe *a range* of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” (CEQA Guidelines, sec. 15126.6, subd. (a), emphasis added.) An inadequate discussion of alternatives constitutes an abuse of discretion by the lead agency. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) By refusing to consider two higher levels of rationing (20% and 25%) as alternative components in the EIR, EBMUD is prejudicing the decision against lower impacts options.

It is worthy to note that the 25% rationing level served EBMUD well for two decades. It was only in the context of the 2040 WSMP that the rationing level was reduced.

A. The record as a whole does not support the notion that the rate of demand hardening will exceed the rate of demand softening from now through 2040.

The 25% rationing option was eliminated from consideration in action alternatives based in part upon the assumption that demand between now and 2040 will harden more than it will soften. For drought rationing purposes, demand hardens when water use cannot not be cost effectively reduced much further based upon the limited availability of additional conservation and reclamation technology, and societal norms regarding water use (e.g. the desire to maintain a green lawn, a full swimming pool for use and status, etc.). Water demand softens when new conservation and reclamation approaches are developed that can be cost effectively deployed during a drought to meet rationing targets, or societal norms regarding water use change (e.g. desire to avoid social shame for keeping a green lawn and a full swimming pool during a drought.). However, the EIR does not reference any evidence in the record to substantiate the assumption that the rate of demand hardening will exceed the rate of demand softening between now and 2040. To the contrary, respected water experts indicate water demand in California can remain soft over that time period. (See Pacific Institute, *California Water 2030*, 2005.) Since many conservation programs at EBMUD have not fully reached their market penetration potential, and others have yet to be aggressively promoted and/or incentivized, there remains ample opportunity to adopt interim measures to reduce demand during a drought.

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It is worth noting that EBMUD has been making this demand hardening argument since 1992 to justify higher demand estimates, and it has been proven wrong repeatedly. (EBMUD, Updated Water Supply Management Plan EIS/EIR, 1992, pp. 1-4, 4-19, 4-27.) EBMUD repeatedly underestimate its ability to achieve greater conservation savings. For example, the 2000 demand study estimated that EBMUD's conservation efforts would result in a decrease in demand of just 13 mgd in 2005, and 21 mgd in 2010. (106 AR 40300.) However, the 2040 WSMP indicates that 2005 conservation savings were 18 mgd in 2005 and expected to be 25 mgd in 2010. (10 AR 4312.)

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B. The capital costs of the additional upcountry water supply projects exceed the drought related economic loss they are supposed to avoid.

Another reason the 25% rationing level was not considered in an action alternative were the studies that such a rationing level during droughts would temporarily hurt the regional economy. While this might be a rationale for ultimately rejecting the 25% rationing level AFTER consideration in an action alternative, it is not a valid excuse for eliminating the spectrum of components in the alternatives in the EIR. The time for the EBMUD Board to determine that other considerations override the environmental benefits of the alternative components is when the Board is making formal findings of fact AFTER the environmental merits of the project and the alternative are evaluated in the EIR, not before.

Furthermore, the economic analyses in the record do not justify the expense to expand EBMUD's water supply to avoid the infrequent business losses. In the 2040 WSMP, EBMUD indicated that the upcountry projects including Pardee Expansion were needed to reduce drought rationing from 25% to 15% in the third year of the three-year severe drought scenario. That severe drought scenario is expected about 3 times in a century. EBMUD estimated the capital cost of the upcountry projects including Pardee Expansion to be about \$390 million dollars. (WSMP 2040, Appendix, Cost Estimation Technical Memorandum #6, p. 10, 12 AR 5127.) By comparison the one year payroll losses associated with the rationing at 25% rather than 15% are estimated to be around \$107 million. (2040 WSMP, Appendix C, Technical Memoranda #10 & #11.) Does it really make any economic sense for all the EBMUD ratepayers to spend \$390 million in capital costs for the upcountry projects including Pardee Expansion so that the regional economy can avoid a loss of \$321 million? Isn't that a net dead weight loss of \$69 million?

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Thus, not only was elimination of the rationing levels from consideration in an action alternative in the EIR premature, it was also not based upon substantial evidence in light of the whole record. Therefore, EBMUD needs to consider feasible higher levels of rationing in an action alternative. If EBMUD wants to later make findings that justify rejecting those rationing levels based upon demand hardening and economic considerations, it needs to reference the evidence in the administrative record that supports such a rejection, and make a rational argument that connects that evidence to its finding. (CEQA Guidelines, sec. 15148; *Laurel Heights Improvement Association of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 404.)

IX. PP. 2-6 through 2-9: EBMUD must change its flawed process for screening project components and generating alternatives.

On pages 2-6 through 2-9, the EIR superficially explains the component screening process and the construction of alternatives. On page 2-9, the DRPEIR concludes that:

“Except as described in Chapter 3, the supplemental analysis set forth in this document does not indicate that the Preferred Portfolio should be changed or that other alternative portfolios analyzed in the 2009 PEIR are preferable or would better meet the program objectives.”

Of course, that answer is not responsive to the questions at hand. The questions at hand are: Were the alternative portfolios constructed to reduce the impacts of the preferred portfolio? Were the components used in constructing the alternatives those best able to “avoid or substantially lessen any of the significant effects of the project” while still able to “feasibly attain most of the basic objectives of the project?” (CEQA Guidelines, sec. 15126.6) Were some of the lower impact components improperly and prematurely eliminated from use in constructing the alternatives?

As noted in comments in the Scoping Report,

“According to the CEQA Guidelines, “An EIR shall describe *a range* of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” (CEQA Guidelines, sec. 15126.6, subd. (a), emphasis asses.) Judge Frawley’s decision states that, “[T]here is little variation between components of the Preferred Portfolio and the components of the Alternative Portfolio. The EIR analyzed, in addition to the components of the Preferred Portfolio, just one alternative level of rationing (15%), one alternative level of conservation (Level C), one alternative level of recycling (Level 2), and one alternative supplemental water supply project (the Buckhorn Canyon Reservoir project).” “[I]n some cases, one component dominated and determined the overall portfolio.” “[T]he court finds there is insufficient variation in the composition of those portfolios to permit informed decisionmaking.” “[T]here is not sufficient variation to permit a reasonable choice of alternatives in the absence of the Los Vaqueros Reservoir component.” (Decision, pp. 30-34)” (Scoping Report Appendices, pp. 111-112.)

As the court noted, there were problems with the way that EBMUD screened components. As the court explained, Los Vaqueros Expansion was improperly screened out of consideration as too speculative, while even more speculative alternative supply components were left intact. (Decision, pp. 27-34.)

Merely including Los Vaqueros Expansion in the Preferred Portfolio, and removing Pardee Expansion from it, does not cure the problem. When its component screening process is this

flawed, the lead agency find the flaws and fix them; so that it does not screen out from consideration in the EIR's action alternatives other meritorious components (e.g. lower demand estimates, higher levels of rationing, additional reclamation projects, additional water conservation programs, and lower- impact water supply options.) So what went wrong with EBMUD's component screening and alternative construction process?

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A) The Alternatives were not designed to reduce the Significant Impacts of the 2040 WSMP.

An EIR must evaluate a range of reasonable alternatives to the program capable of eliminating any significant adverse environmental effects of the program, or reducing them to a level of insignificance, even though the alternatives may somewhat impede attainment of project objectives, or may be more costly. (Pub. Resources Code, sec. 21002; CEQA Guidelines, sec. 15126.6; Citizens for Quality Growth v. City of Mount Shasta (3d Dist. 1988) 198 Cal.App.3d 433, 443-445.) Thus, alternatives analyzed in the EIR must be designed to eliminate significant adverse impacts. When the EIR fails to adequately analyze the significance of an impact, it may also fail to properly design alternatives to mitigate that significant impact. (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859.)

“The range of alternatives required in an EIR is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice.” “The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.” (Cal. Code Regs., tit. 14, sec. 15126.6, subd. (f),)

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A program EIR is supposed to, “Provide an occasion for a *more exhaustive consideration of effects* and alternatives than would be practical in an EIR on an individual action.” A program EIR is supposed to, “Allow a Lead Agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts.” (Cal. Code Regs., tit. 14, sec. 15168, subd. (b).)

By contrast, the program alternatives developed for this 2040 WSMP PEIR were designed not to eliminate significant impacts of the preferred portfolio program, but to conform to “themes” such as partnership, local reliance, and conjunctive use. (2009 DPEIR, pp. 1-7; 2-4 to 2-7.) The screening process used to develop both the preferred portfolio and the alternatives selected for components best able to meet EBMUD's program objectives, without regard to their ability to reduce the significant impacts of the 2040 WSMP. The preferred portfolio program has significant and unavoidable impacts to the Delta, to agricultural land, to air quality, noise, to scenic vistas, and to minority and low income populations. (2009 PEIR, p. 9-2.) Yet no effort was made to design an alternative specifically to reduce or eliminate these impacts of the preferred program “portfolio” (alternative). While the Sierra Club and the Foothill Conservancy urged EBMUD to consider such an alternative, EBMUD refused. How could this have happened?

Instead of designing alternatives to reduce 2040 WSMP impacts, EBMUD employed a gauntlet of 3 screening processes that eliminated program components and program portfolios (alternatives) based upon conclusory analysis.

In preparing program alternatives for consideration in the PEIR, EBMUD used a set of screening criteria that eliminated less impacting program components from consideration.

In the first elimination, the Los Vaqueros Expansion was among several projects eliminated because:

“It remained unclear, whether they would meet the exclusion criteria to meet projected water demands through 2040. These components are currently at very early stages of discussion and development. As detailed information on the water supply benefit to EBMUD is not currently known, cost sharing has not yet been identified, and federal partners have not yet been identified.” (11 AR 4413)

However, these limitations do not distinguish LVE from other program components that were included in alternative portfolios in the PEIR. LVE has a completed project level EIR (AR 4414), but none of the Upcountry program components have progressed to that stage. Cost sharing has not been identified for the Upcountry Projects either, but they remained in alternative portfolios considered in the PEIR. With regard to federal partners, the Upcountry projects not only lack federal partners, but also are contrary to the management plans for the three federal agencies with jurisdiction (FERC, BLM, USFS). (38 AR 14842-15053, See also DPEIR comment letters by El Dorado National Forest (5 AR 1687-1691) & BLM (7 AR 3027-3029).) By way of contrast, comments from Contra Costa County Water District indicate both a great willingness on their part to discuss making EBMUD a partner in the LVE project, and a great disappointment that LVE was not considered a program component in any alternative analyzed in the 2040 WSMP PEIR. (7 AR 3051.) The water supply benefits to EBMUD from Upcountry Components are subject to future requirements for releases of water for fish and Delta ecosystem recovery, and are therefore no more certain than the benefits of LVE. The LVE DEIR evaluates alternatives that include construction an up to 275,000 acre-feet storage reservoir. (122 AR 46448 - 46466.) Thus, with regard to the application of the first level of screening criteria, there is no logical connection between the determination to eliminate or include alternatives and substantial evidence in the record. The court’s decision reflected this as it compared the uncertainties of the eliminated LVE project relative to other potential supply projects. The court found the uncertainties of LVE no greater than those of other supply options carried forward for environmental review as components of the project and its alternatives. (Decision, pp.27-29; (At p. 29 “In short, all of the District’s “preferred” water supply components are shrouded in as much, or more, uncertainty than the Los Vaquero Reservoir project.”).)

The second round of elimination was based upon failure to meet only four “fatal” criteria to: 1) Provide water supply reliability [Minimize the institutional & legal complexities and barriers], 2) Minimize adverse socio-cultural impacts; 3) Minimize risks to public health & safety, and 4) Preserve and protect biological resources. (11 AR 4417.) Other project objectives to reduce environmental impacts were not used in evaluating the components. (2040 WSMP, p. 2-3.) These include minimizing the plan’s carbon footprint, and “minimizing adverse impacts to

recreation resources”. (*Ibid.*) Of course, these are the objectives that should have been used to select for components for inclusion in the lower impact alternatives.

Curiously enough, this round was supposed to eliminate Duck Creek Reservoir from consideration in the 2040 WSMP, because it failed to provide water supply reliability and to preserve and protect biological resources. (11 AR 4419.) However, while Duck Creek was removed from consideration in the 2040 WSMP EIR, it was later included in the Terms and Conditions for IRCUP, and in the 2040 WSMP findings, so this future phase of the IRCUP eluded program environmental review in the 2040 WSMP PEIR. Again, the screening criteria were arbitrarily applied, without a logical connection to substantial evidence in the record.

The surviving project components were then mixed and matched in 14 different potential program “portfolios”.

Nine of these portfolios were then screened out of consideration in the PEIR, but not based upon inability to reduce impacts, and not using **all** of the criteria derived from the objectives of the project. The criteria **not** used in the portfolio screening include:

Maximize use of lowest cost water supply options.

Maximize local water supply options.

Minimize adverse impacts to cultural resources, including important archaeological, historical, & other cultural sites

Minimize disproportionate public health or economic impact to minority or low-income populations.

Minimize the risk of death or injury from the failure of a program component in an earthquake or flood or from other causes.

Maximize the protection of supply sources & associated infrastructure.

Maximize long-term sustainability by applying best management & sustainability principles.

Maintain populations or known habitat of state or federally listed plant or wildlife species at or above sustaining levels.

Minimize the reduction of riverine habitat of state or federally listed fish species & must not cause a net loss of spawning or rearing habitat of native anadromous fish species.

Minimize impacts to wetlands, their values, & other jurisdictional waters of the United States.

Minimize habitat loss for sensitive & native plant & wildlife species, pristine areas & special habitat features.

Minimize adverse affects to native fish & other native aquatic organisms.

Maximize benefits to fish, including natural production of anadromous fish.

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Maximize the likelihood of meeting federal & state ambient water quality standards to protect natural resources. Minimize alterations to water flow in waterways & reservoirs/lakes that would have an adverse impact on biological resources.

Maximize CO2-efficient & renewable energy use.

Minimize adverse impacts to recreation resources, designated parklands, designated wilderness areas, or lands permanently dedicated to open space, particularly rare opportunities & ADA access that are not found in other parts of the region.

Provide recreational benefits. (AR 4423-4426.)

It is these very efforts to reduce or eliminate potentially significant impacts (to recreation, climate change, water quality, water flows, wetlands, riverine habitat, fish, wildlife, plants, public health and safety, and cultural resources) that should have been used all along to drive the creation of alternative portfolios for consideration in the PEIR. Not surprisingly, EBMUD ultimately found that among the alternative portfolios that survived to be analyzed in the EIR, none was environmentally superior. Such a result is expected from a screening process not established to select for components and alternatives that reduce or eliminate impacts.

The alternatives eliminated from consideration by this improper screening included those with more water conservation and recycling, more reliance on desalination, and one able to meet a lower estimated water demand. (2009 PEIR, p. 3-51)

As usual, EBMUD has an explanation for its misbehavior. However, the excuses for not using the environmental impact criteria lack a logical connection to evidence in the record.

First, the repeated excuse that the criteria do not “serve as a distinguishing factor in portfolio evaluation” misses the point of alternatives entirely. The alternatives in the EIR must differ from the project with regard to potentially significant impacts. Thus, criteria that select for lower impact alternatives are exactly the sort of criteria that will “serve as a distinguishing factor in portfolio evaluation.” Also, the statement lacks a logical connection to substantial evidence in the record. Certainly, portfolios including the highly impacting foothill program components would score poorly relative to others regarding impacts to recreation, water flows, riverine habitat, fish, wildlife, public health and safety, and cultural resources; as well as maximizing local water supply options, sources.

Second, the excuse that the impact will be addressed in the EIR also misses the point of alternatives. Alternatives are supposed to be developed AFTER an impact analysis identifies significant impacts, so that the alternatives can be designed to reduce or eliminate them.

Third, the excuse that all portfolios will include mitigation measures for an issue is irrelevant to the crafting of alternatives. An EIR must analyze alternatives designed to reduce impact even if project impacts may also be reduced by mitigation measures. (11 AR4224; See *Laurel Heights Improvement Association of San Francisco v. Regents of the University of California*, (1988) 47 Cal.3d 376, 400-403.)

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As a result of the improper process, EBMUD failed to identify and analyze a reasonable range of feasible alternatives designed to avoid or substantially reduce the potentially significant impacts of the 2040 WSMP.

CEQA requires that an EIR consider feasible alternatives to lessen significant project impacts. (*Planning and Conservation League v. Department of Water Resources* (App. 3 Dist. 2000) 83 Cal.App.4th 892.) If an EIR fails to analyze an alternative that could feasibly accomplish most of the project objectives and avoid or substantially lessen one or more significant impacts, the EIR discussion of alternatives is inadequate. (*Environmental Council of Sacramento v. California Department of Transportation* (Super. Ct. Sacramento County, 2008, No. 07CS00967.) An inadequate discussion of alternatives in an EIR is an abuse of discretion. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) EBMUD abused its discretion in its selection of alternative for analysis in the 2040 WSMP PEIR.

Thus, EBMUD made a number of critical mistakes in screening components and constructing alternatives that violate CEQA. First, it arbitrarily eliminated or included water supply projects without basing its decisions upon rational explanations grounded in substantial evidence in the record.

Second, EBMUD did not use a screening process that selected those **components** best suited to reduce the potentially significant impacts of the preferred portfolio. Instead, it used a screening process that focused on components that best met EBMUD's other project objectives. While that is an appropriate method of selecting components for a preferred portfolio, it is not an appropriate method for selecting components for lower impact alternatives.

Third, EBMUD used a screening process that did not select **alternatives** for analysis in the EIR based upon their ability for reduce potentially significant impact of the preferred portfolio. Instead, it used a screening process that focused on retaining alternatives that best met EBMUD's other project objectives. While that is an appropriate method of selecting a preferred portfolio, it is not an appropriate method for selecting lower impact alternatives. Such alternatives are ranked first by their ability to reduce impacts. From among the best at reducing impacts, a lead agency can then consider which alternatives better meet project objectives.

Fourth, its explanations for not properly selecting alternatives are contrary to established CEQA regulations and case law.

Fifth, after being repeatedly alerted to these problems with its component screening and alternative construction problems by the public and the court, EBMUD has done nothing to cure the problem with the selection process. As a result, EBMUD continues to refuse to include many alternative components that could reduce the potentially significant impacts of the preferred portfolio. As a result, the 2040 WSMP DRPEIR still fails to evaluate reasonable range of feasible alternatives designed to reduce or eliminate the potentially significant impacts of the project.

The writ not only calls on EBMUD to include LVE in an alternative portfolio in the RPEIR, it also calls on EBMUD to comply with CEQA consistent with the judge's decision. EBMUD has

included LVE in an alternative portfolio in the RPEIR, but it has not complied with CEQA in accord with Judge Frawley’s decision, because EBMUD did not correct the flawed component screening and alternative construction process that had eliminated LVE and other lower impact components from being included in alternatives in the first place. For EBMUD to claim that it has complied with CEQA simply by including LVE in the RPEIR, while not properly not re-evaluating other lower impact components and alternatives, is like a doctor saving only one of a dozen of his similarly afflicted patients, and then claiming that he has cured the disease.

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B) The RDPEIR did not analyze alternatives with feasible program components to reduce or eliminate the impacts of the preferred portfolio.

In commenting on other statements in the DRPEIR above, we note the need for the RPEIR to consider a lower demand alternative, an alternative that considers higher levels of conservation, an alternative that considers higher levels of water reclamation, and an alternative that considers higher levels of drought rationing. The Scoping Report also includes a number of public recommendations for feasible program components to reduce the impacts of the 2040 WSMP. Those below have not been evaluated in the DRPEIR. Please evaluate them in the Final RPEIR. If EBMUD believes any of these components to be infeasible, please include detailed findings to that effect that are logically connected to substantial evidence in the record.

1) Alternative Rate Structures

We encourage EBMUD to consider changes in rate structure, while retaining affordable baseline rates for low-income customers, as a means of reducing demand. Please do not again eliminate this option from the list of alternatives. Some agencies establish baseline rates based on household size and structure their rate tiers accordingly. That is a fair and equitable way to structure water rates that doesn’t penalize urban households in favor of suburban users with extensive, water-wasting landscaping.

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2) Do not screen out options that raise water rates to foothill levels.

We also encourage EBMUD to include alternative components that may result in rate increases up to foothill levels. This is an interregional equity issue. In foothill counties, ratepayers pay much higher rates in part because they bear the expense of costly technology to reduce water demand and to protect the environment. For example, in Calaveras County ratepayers finance extensive tertiary wastewater treatment. That reclaimed water is then used instead of groundwater and surface water. In this fashion, foothill ratepayers are following the intent of state water law to go the expense of applying modern technology to stretch our state’s water resources and to reduce harm to the environment. We encourage EBMUD to match this commitment. The EIR should consider these options, and give the EBMUD Board the chance to choose among the alternatives at the end of the process.

3) Do not ignore the stormwater resources of the East Bay or direct potable reuse as potential supplemental supply.

Currently, municipal stormwater runoff is considered a nuisance and pollution problem in the East Bay. In the 21st century, EBMUD should view it as a potential source of commercial and industrial water supply. Rather than capture the water and release it to the Bay, EBMUD could capture, treat, and disinfect the water, then reuse it for irrigation and commercial and industrial uses. In addition, direct potable reuse of water is becoming more common and over time, will gain greater social acceptance. EBMUD should include direct potable reuse among its future water supply options.

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X. For each impact of each component, identify in the RPEIR which impacts (if any) have been mitigated or avoided such that they will not be evaluated in the later project-level EIR.

On page 13, the decision discusses initial program EIRs and subsequent project level EIRs. It states, “Subsequent EIRs or negative declarations need not examine the environmental effects that the agency finds were mitigated or avoided in sufficient detail in the previous EIR to allow those effects to be mitigated when the later project is approved.” The decision also notes that, “[T]he District did not pledge that it would not seek to tier from its program EIR.” (Decision, pp. 17-18, fn.9.) However, the court felt obligated to take EBMUD’s attorney’s at their word that the adoption of project components would be accompanied by project level CEQA review that will consider all the potential impacts of the project. We now know that EBMUD did not keep its promise to complete such project-level CEQA review as it implemented the 2040 WSMP.

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For two decades, EBMUD’s drought rationing target was 25%. (EBMUD, Updated Water Supply Management Plan EIS/EIR, 1992, pp. 1-4, 4-19, 4-27.) In the 2040 WSMP approved in October 2009, EBMUD decided to reduce its drought rationing target to 15%. This created the “need” for EBMUD to deliver an additional 20 million gallons of water per day in dry years by 2040. (4 AR 774.) To meet this additional demand, along with meeting the expected increase in future water demand associated with population growth in its district, EBMUD would need to develop hundreds of millions of dollars worth of new drought year water supplies and storage facilities. (EBMUD 2040 WSMP 2009, Appendix A, p. 1-27; EBMUD, Cost Estimation Evaluation Technical Memorandum, 2008, pp. 10 to 11; EBMUD 2010 UWMP, p. 2-17 to 2-22.) The list of possible new water supply and storage facilities includes Lower Bear Expansion, Pardee Expansion, and IRCUP in the Sierra Nevada foothills. The 2040 WSMP EIR identified over fifty potentially significant impacts associated with the construction and operation of the additional water supply and storage facilities needed to implement the reduced-to-15% drought rationing level through the year 2040. (2040 WSMP PEIR, pp. 1-13 to 1-22.)

By approval of the consent calendar on April 13, 2010, EBMUD’s policy on “Water Supply Availability and Deficiency” (Policy 9.03) was changed so that the drought rationing target was reduced from 25% to 15%. This change was made, “to reflect changes adopted in the Final WSMP 2040, including reference to the rationing level;” “as described in the Final Water

Supply Management Program 2040.” In addition, the policy change mandates that, “The District **shall consider** implementation of supplemental supplies if existing supplies are found inadequate either for the current year or through the year 2040 as provided in the District’s WSMP 2040.” (Emphasis added.) This makes it EBMUD policy **to consider** constructing the list of expensive and impacting supply projects listed in the 2040 WSMP. Also, Policy 9.03 was amended to directly make implementation of the 15% drought rationing target contingent on the construction of new impacting water supply and storage projects. “Until the District develops dry-year supplemental water supplies, as identified in WSMP 2040, it may be unable to limit rationing to 15%. As new supplies are developed, the District will be able to gradually reduce the amount of rationing it imposes upon its customers.” Thus, this policy reflected the continuing discretion of the EBMUD Board to build supplemental water supply facilities to meet the reduced-to-15% rationing target, or not to build such facilities and delay reaching the reduced-to-15% rationing target. (April 13, 2010 EBMUD Board Minutes, p. 3; April 13, 2010 EBMUD Board Agenda, p. 2; EBMUD Agenda Transmittal, p.3.; Policy 9.03R; hereby incorporated into the administrative record by reference..)

Almost one year later, on April 11, 2011, the Superior Court issued a decision in *Foothill Conservancy, et al. v. EBMUD*. That decision indicated that the PEIR for the 2040 WSMP was deficient for failure to adequately analyze and mitigate potentially significant impacts to recreation, public safety, and the Native American gathering site; for producing a skewed evaluation of alternatives, and for looking at too narrow a range of alternatives. In that decision, the court made two observations with regard to drought rationing levels.

First, the court noted that the selection of a drought rationing level commits the agency to additional supply projects.

“By adopting the Water Supply Plan, the District committed itself to particular rationing, conservation, and recycling levels. This, in turn, committed the District to a specific programmatic direction that will require the District to pursue various supplemental supply projects to bridge the gap between supply and demand.” (Decision, pp. 9-10.)

The court concluded that,

“To ensure the reliability of water supply during a multiple-year drought event, the District’s Plan proposes to develop one or more of the supplemental supply components. That itself is a ‘definite course of action’ leading to an environmental impact and requiring environmental review.” (Decision, p. 10.)

Second, the court noted the narrow range of alternatives was in part a function of looking at only two levels of drought rationing.

“[T]here is little variation between components of the Preferred Portfolio and the components of the Alternative Portfolios. The EIR analyzed, in addition to the components of the Preferred Portfolio, just one alternative level of rationing (15%), one alternative level of conservation (Level C), one alternative level of recycling (Level 2),

and one alternative supplemental water supply project (the Buckhorn Canyon Reservoir project).”

The Draft UWMP was released for public comment on April 12, 2011. Despite the Court’s decision, the Draft UWMP still reflected EBMUD’s reduced rationing target of 15%, its plan to build additional water supplies to implement the target, and its reliance on the 2040 WSMP for these policies.

In response to the de-certification of the PEIR for the 2040 WSMP, on May 6, EBMUD issued a revised draft 2010 UWMP. Despite the court’s decision, the revised draft continued to reflect EBMUD’s reduced-to-15% rationing target, and its plan to build the additional water supply and storage projects to implement that policy.

On May 17, 2011, the Foothill Conservancy and EBMUD agreed to the terms of a writ, order, and decision and submitted them to the court for the Judge’s approval. On May 24, 2011, EBMUD approved a resolution that set aside the 2040 WSMP PEIR certification and related project approvals. (EBMUD Board Minutes, May 24, 2011.)

On May 25, 2011, the Superior court issued a writ of mandate ordering EBMUD to set aside the 2040 WSMP PEIR, “and all related project approvals.” (Writ, p. 1.)

On May 31, 2011, the Foothill Conservancy, California Sportfishing Protection Alliance, and Friends of the River sent in comments to EBMUD on the revised draft 2010 UWMP. Those comments noted that the 2010 DUWMP still assumed all of the policy changes, water demand changes, and future water supply projects identified in the recently revoked 2040 WSMP, and excluded consideration of alternatives ignored in the 2040 WSMP. With regard to the reduced-to-15% rationing target, the comments stated,

“The change from 25 percent dry-year rationing to 15 percent dry-year rationing was made by the EBMUD Board in the 2040 WSMP. EBMUD has been directed by the California Superior Court to set aside certification of the 2040 WSMP Program EIR, and “and all related project approvals.” (Judge Timothy M. Frawley, Peremptory Writ of Mandate, *Foothill Conservancy et al. v. EBMUD*, 5/25/11, p. 1.) Thus, pending completion of the 2040 WSMP PEIR, EBMUD’s 2010 UWMP and the analyses therein must not presume a reduction to a 15 percent rationing level during droughts. The presumption of the 15 percent rationing level would effectively reinstate the 2040 WSMP prior to completion of the PEIR, in violation of CEQA and the court’s writ.”

Instead of recognizing in the 2010 UWMP that the 2040 WSMP review would set the drought rationing target after an evaluation of a full range of alternative levels in an EIR, on June 14, 2011, the EBMUD Board exercised its discretion to revise Policy 9.03 to remove any reference to the 2040 WSMP, and to retain the reduced 15% rationing target. This revision was done “to reflect the decertification of the Water Supply Management Program EIR 2040” and to “guide the 2010 Urban Water Management Plan and other District planning efforts.” (EBMUD Staff Report, Revision to Policy 9.03, 6/14/11; hereby incorporated by reference into the administrative record.) The revised Policy 9.03 created a mandate to implement the reduced-to-

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15% rationing policy and to construct supplemental water supply and storage projects: “The district **shall pursue** supplemental supplies if existing supplies are found to be inadequate either for the current year or through the year 2040 as provided in the District’s current UWMP.” “The District **shall have** a goal of limiting customer rationing to a maximum of 15% of District-wide annual demand and **will implement** this policy...” (Emphasis added.) There was no environmental review of this decision that re-approved and extended the life indefinitely of the reduced-to-15% rationing target, and that mandates the construction of hundreds of millions of dollars in environmentally impacting additional water supply and storage facilities to implement it. In the EBMUD Board’s agenda packet, there was no certification by the Board that the action was exempt from CEQA. There was no motion by the Board approving such a certification. There was no notice of determination filed with Alameda County that the action was exempt from CEQA. (Personal Communication of Tom Infusino, with staff from the Alameda County Clerk’s Office, 9/27/11.) Requests of EBMUD to revoke this unlawful approval, so as to avoid prejudicing the selection of alternatives in the 2040 RPEIR, have been ignored. (See EBMUD, 2010 UWMP, Comments & Responses; hereby incorporated by reference into the administrative record.)

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EBMUD can no longer pretend that it intends to do complete project level environmental review of 2040 WSMP components prior to their project-level approval. **If EBMUD believes that any of the environmental impacts of any of the components in the 2040 WSMP have been sufficiently mitigated, and no longer require further project-level analysis, we respectfully request that EBMUD identify these impacts at this time.** While sections of the DRPEIR discuss the need for more detailed project development, they do not explicitly or comprehensively resolve the issue regarding which mitigation measures in the 2040 WSMP will be further developed. This is essential for any member of the public to ensure that they make a timely challenge to any mitigation that they believe, while sufficient for program-level analysis, would be insufficient project-level mitigation. This is essential for any court that might review the timeliness of a challenge to a mitigation measure in a future project-level EIR. **If EBMUD refuses to identify any impact as sufficiently mitigated to avoid subsequent project-level environmental review, we will presume that EBMUD has waived any right to assert such a defense at a later date.** EBMUD cannot expect to take advantage of the benefits of completing a program-level EIR without also accepting the associated responsibilities.

XI. The DRPEIR does not properly reference supporting documentation.

The factual statements made in the DRPEIR text are not properly footnoted with the reference document title, the author’s name, and the page number. (CEQA Guidelines, sec. 15148.) There is no way to connect the information in the text to its source. In the Final RPEIR, we encourage EBMUD to properly cite each factual assertion with the author, the reference document title, and the page number.

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XII. The administrative record for the prior PEIR must be included in the record for the RPEIR.

It is our position that the administrative record for the prior 2040 WSMP PEIR is included in the record for the 2040 WSMP RPEIR. (See, *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 335 (“The administrative record prepared by the city is incomplete because it excludes documents pertaining to the project that antedate the judgment in the prior proceeding, including project application materials, staff reports, correspondence, environmental studies, and other documents listed in Public Resources Code section 21167.6, subdivision (e), pertaining to prior versions of substantially the same project.”).) Does EBMUD agree? If not, please let us know so that we can submit the necessary materials for the record. **If EBMUD refuses to respond to this comment, we will presume that EBMUD has waived any right to exclude the record of the prior 2040 WSMP approval from the record for the pending 2040 WSMP approval.**

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XIII. Please retain for the administrative record any draft reports and the comments on those reports by staff and consultants.

The administrative record for the 2009 approval of the 2040 WSMP did not include draft reports and staff and consultant comments on these reports. As a result, there was no way to trace down in the record the sources of CEQA compliance, or the sources of noncompliance. In *County of Orange*, the court observed that, “Significantly, the statute seeks to include materials not only relating to the ‘project,’ but also relating to ‘compliance’ with CEQA. (Indeed, such material is usually listed in juxtaposition to material related to the ‘project,’ e.g., ‘All staff reports and related documents prepared by the respondent public agency with respect to its compliance with the substantive and procedural requirements’ of CEQA ‘and with respect to the action on the project.’ (§ 21167.6, subd. (e)(2).) Compliance necessarily envisions a review process that transcends the finished ‘project.’” (*County of Orange v. The Superior Court of Orange County* (2003) 113 Cal.App.4th 1, 10.) The court also observed that CEQA, “[C]ontemplates that the administrative record will include pretty much everything that ever came near a proposed development or to the agency’s compliance with CEQA in responding to that development.” (*County of Orange v. The Superior Court of Orange County* (2003) 113 Cal.App.4th 1, 8.)

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The court reasoned that the interactive CEQA process, “[C]ontemplates revisions, to a greater or lesser degree, in any ‘project.’ That is, indeed, one of the major objectives of the CEQA process -- to foster better (more environmentally sensitive) projects through revisions which are precipitated by the preparation of EIR’s. As *County of Inyo v. City of Los Angeles* (1984) 160 Cal.App.3d 1178, 1185 has stated, CEQA is an ‘interactive process of assessment of environmental impacts and responsive project modification which must be genuine.’ (Emphasis added.) It is thus the very nature of CEQA that ‘projects’ will be ‘modified’ to protect the environment, and it is the logic of section 21167.6 that there be a record of such modifications, not just those documents relating only to the finished product.” (*County of Orange v. The Superior Court of Orange County* (2003) 113 Cal.App.4th 1, 10.)

In the spirit of the court’s reasoning in *County of Orange*, we request that EBMUD retain for the administrative record staff and consultant written communications (including emails and attachments), staff and consultant reports, and staff and consultant comments on draft reports, and any other documents produced that reflect the interactive CEQA process. By including these documents in the record, EBMUD will ensure that its Board, any concerned citizen, and any reviewing court will have at their disposal all the relevant evidence that may illuminate the EBMUD Board’s compliance with CEQA.

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XIV. When the EBMUD Board drops Pardee Expansion from the 2040 WSMP, please correct other planning documents to conform to the 2040 WSMP.

When the EBMUD Board drops Pardee Expansion from the 2040 WSMP, will EBMUD be promptly correcting other planning documents to conform to the 2040 WSMP? Will EBMUD send a letter to DWR indicating that the 2010 UWMP should no longer be interpreted to include Pardee Expansion among its list of water supply projects under consideration through 2040? During the current update of the MAC IRWMP, will EBMUD seek to remove Pardee Expansion from the list of water supply projects under consideration before 2040? Please make these clarifications promptly so that there is no perceived conflict among these plans.

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XV. We encourage EBMUD to support Wild and Scenic Designation for the Mokelumne River down to the existing high pool of Pardee Reservoir.

As noted above, the CPC supports the staff recommendation to drop Pardee Expansion from the 2040 WSMP. We encourage the EBMUD Board to adopt that recommendation, and end this conflict over the 2040 WSMP. Should EBMUD drop Pardee Expansion from the 2040 WSMP, then the flaws in the DRPEIR noted above become much less prejudicial.

This month, over a billion Christians world-wide celebrated the feast of the Epiphany. That feast commemorates the arrival in Bethlehem of wise men from the east, to witness the dawn of the salvation of mankind. Webster’s dictionary has a more general definition of the word epiphany: An intuitive grasp of reality through a simple and striking event; a sudden perception of the essential nature or meaning of something.

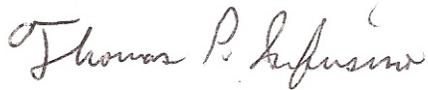
25

Despite all the good news of this season, in the foothills we still await the salvation of our beloved Mokelumne River, through Wild and Scenic Designation. Thus, we encourage the EBMUD Board to take the next “intuitive” step: to support wild and scenic designation on the Mokelumne River down to the existing high pool of Pardee Reservoir. The “reality” remains that the ongoing threat of new dams on the Moke hampers the expansion of the recreation and tourism sectors of our foothill economy. Similarly, the “essential nature” of a new dam on the Moke, sponsored by a competing water interest, threatens the security of EBMUD’s long-term water supply. By joining thousands of local and regional supporters for Wild and Scenic Designation of the Moke, EBMUD could work with us to protect our mutual interests. It is this modern day epiphany by the EBMUD Board that we at the Coalition await.

Please retain a copy of these comments for the administrative record. Please provide me a copy of the Final RPEIR as soon as it is available. Please provide me with notice of any future hearings regarding certification of the Final RPEIR and/or approval of the 2040 WSMP.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in cursive script that reads "Thomas P. Infusino".

Thomas P. Infusino, For
Calaveras Planning Coalition

Calaveras Planning Coalition

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.
2. The comment expresses support for the recommendation that the Enlarge Pardee Reservoir component be eliminated from the WSMP 2040 portfolio of potential supplemental supply projects and also asserts that there are flaws in the 2040 WSMP Draft Revised PEIR that are highly prejudicial. Please see the responses to subsequent Calaveras Planning Coalition comments below for additional information in response to the assertion regarding alleged flaws in the Draft Revised PEIR.
3. The comment requests that EBMUD broaden the variation in the alternatives that were examined in the WSMP 2040 PEIR and asserts that this is consistent with what was required in the judgment issued in the *Foothill Conservancy et al. v. East Bay Municipal Utility District* matter.

In the Draft PEIR on page 1-1, EBMUD repeated the requirements set forth in the preliminary writ of mandate issued by the court. The Draft PEIR responds to the court mandate by supplementing the PEIR analysis to include an analysis and discussion of participation in the Los Vaqueros Reservoir expansion and additional analysis of potential impacts from inundation of the Middle Bar Run and Middle Bar Bridge. After considering the results of this analysis, EBMUD staff determined that it is possible to add participation in the expansion of Los Vaqueros Reservoir to the WSMP 2040 portfolio of potential supplemental projects. While the yield of the project would be approximately 6 mgd, and this potential project thus would not provide a viable alternative to an expansion of Pardee Reservoir yielding 37.5 mgd as calculated for a raised reservoir pool elevation of 600 feet msl, EBMUD has determined that the addition of a potential project to participate in the expansion of Los Vaqueros Reservoir will allow it to defer consideration of a potential project to expand Pardee Reservoir beyond the 30-year planning horizon of the WSMP 2040.

As noted in the NOP that EBMUD released in 2008, and in WSMP 2040 PEIR prepared in 2009, as well as the Draft revisions to the PEIR that were released in December 2011, EBMUD evaluated 5 different levels of rationing as part of the development of the WSMP 2040 and the alternative portfolios, along with several different target levels of conservation that included over 75 different conservation measures, selecting the highest conservation level that was determined to be feasible for EBMUD's customers. EBMUD also evaluated differing levels of recycled water that included numerous projects, ultimately selecting the highest target level of recycled water that was determined to be feasible in light of the nature of EBMUD's system and its service area. (*See* EBMUD WSMP 2040 Project NOP (May 2008) pp. 9-20 & Draft Revised Program EIR (December 2011) pp. 2-3 to 2-9, *also refer to* the detailed analysis of EBMUD's past, current and potential future water recycling efforts as detailed in TM-2, TM-3 and TM-4 included as appendices to the 2009 WSMP 2040 Final Plan.)

In developing the WSMP 2040 and the portfolios examined in the 2009 PEIR, EBMUD also examined over 35 different supplemental supply projects, screening and evaluating these in accordance with the WSMP 2040 planning objectives. EBMUD is not obligated to individually evaluate alternatives to each of the individual components of this broad program in the PEIR, and, as part of these revisions, is also not obligated to re-examine supplemental supply component alternatives whose implementation potential is remote or speculative and that do not have the ability to satisfy the fundamental program objectives of the WSMP 2040.

EBMUD described the rationale for the selection of rationing level, level of conservation, and level of recycling in detail in its response to the Foothill Conservancy comments on the 2009 Draft WSMP 2040 PEIR, and EBMUD does not agree that additional analysis of these components is required.

4. The comment repeats statements made in response to the NOP regarding the need for additional evaluation of cumulative impacts. The comment also cites the draft document released by the Delta Stewardship Council which is currently undergoing review, along with draft documents regarding ecosystem restoration, and the SWRCB's flow criteria, and asserts that the release of these documents requires further analysis of potential cumulative impacts. Please see Master Response 2.

As noted by EBMUD in comments submitted to the SWRCB in the development of the flow criteria for the Sacramento-San Joaquin Delta Ecosystem, and as recognized in the court ruling in the *Foothill Conservancy, et al. v. EBMUD* litigation, the Mokelumne River flows to the Delta are limited, and the PEIR mitigation measures commit EBMUD to continue to maintain the flow requirements established by the Joint Settlement Agreement to meet environmental needs and the needs of downstream senior appropriative rights holders and riparian right holders. This was the basis for the conclusion that Delta impacts could be mitigated to a less than significant level. EBMUD has examined the comments and documents cited, including the drafts that are currently undergoing revision, and has determined that the proceedings cited in the comment do not constitute new information demonstrating the potential for new program-level significant environmental impacts or a substantial increase in the severity of impacts of the program previously identified in the PEIR or the presence of feasible alternatives or mitigation that would clearly lessen the program-level significant impacts. It should be noted that the SWRCB has emphasized that the 2010 report, Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem, is not "predecisional" and has no regulatory or adjudicatory effect and that any decisions informed by the flow criteria would entail balancing of competing beneficial uses of water.

The Delta flow criteria also do not change the existing state of the Delta. They were developed using existing studies of current and past conditions, and the focus is on flows that will restore or enhance fisheries. It should also be noted that the Program EIR evaluates the Water Supply Management Program 2040 at a program level, and it is not appropriate at this time to analyze the impacts of any of the individual components in the level of detail suggested in the comments.

5. The comment questions the demand estimates used in this planning exercise. The demand projections were not developed as a range of numbers or estimates. As explained in the WSMP 2040 and supporting documents, EBMUD invested significant effort in the chosen projection methodology to avoid the need for a range which often accompanies less rigorous projections. The base demands were normalized for salient weather and seasonal factors and there are very strong correlations between these two factors and demands. The timing of development was obtained from land use planning agencies that monitor development activities and influence these activities and the community's vision for the future. Unit demands were based on existing demands for each land use. These thorough steps are rarely taken in projecting demands because of the costs involved, even though they contribute greatly to more accurate and defensible projections. With regard to the significance of the short-term trends observed over the past few years, see responses below related to EBMUD's current demand.
6. The timing of development over the short term and current demands are lower than that projected under pre-recession and pre-drought conditions, but as seen in the past, short term influences have not continued over long periods of time. The District has experienced drought response and economic downturns in past years and demands have recovered from these phenomena. The 2040 demand projections remain valid for the purpose of water supply planning which is based on the objective of planning for the need for supplemental water supplies over a 25 to 30 year horizon. The District studies its demand projections about every ten years and tracks it continuously to ensure the projections, when updated, use the latest information to ensure reasonable nexus between demand and water supply needs. Supplemental supply projects may be deferred if demand does not recover as expected.
7. The comment seeks further support for the assertions regarding demand hardening. Demand hardening can be explained by the following general definition: "As a service area becomes more efficient, it becomes more difficult to save increased amounts of water during a shortage or drought." Demand hardening can also be thought of as an equal reduction in effectiveness of drought ordinances implemented in conjunction with a long-term conservation program and can be computed by obtaining the difference in water savings between them the "with long-term conservation" case and the "without" case. (Source: "Using an End Use Model to Quantify Demand Hardening from Long-Term Conservation Programs", W. Maddaus, et.al. 2008 AWWA Water Sources Conference, Reno, NV).

Demand hardening can also be thought of as the "market saturation or penetration" of water-efficient products and practices (i.e. high-efficiency toilets, high-efficiency clothes washers and landscape conversions). As customer demand "hardens", there is an increase in the impact or "hardship" of that next incremental water savings increases.

For example, customers that are asked to cut back (discretionary) outdoor watering during a water shortage have less of an ability to respond by further lowering use in circumstances where they may have replaced their lawn with low-water-use plants or installed drip irrigation.

EBMUD's water conservation and drought rationing experience, coupled with ongoing customer opinion surveys has confirmed the presence of demand hardening within its service area. Long-term water-use efficiency analyses takes into account demand hardening effects as well as future conservation potential from new water-efficient technology (sometimes referred to as "demand softening"). The feasibility and measured effectiveness of applied technology is contingent on proven water savings and broad market availability of new products. EBMUD's analysis of future potential conservation savings to the year 2040 included a review of more than 100 different measures with projected market saturation levels above 90% for adopted, mature technologies.

8. See the response to Comment 5 of the Calaveras Planning Coalition letter above. The primary objective of the WSMP 2040 is to ensure that EBMUD has sufficient water supplies to meet its projected 2040 demand. EBMUD undertook an exhaustive study to estimate projected demands, and there would be no water supply objective benefit in considering alternative, unverifiable demand numbers or in developing a portfolio of supplemental supply options to serve a level of demand that is different from the projected 2040 demand.
9. See the responses to Comments 5 and 8 of the Calaveras Planning Coalition letter above. The reports mentioned in this comment are state-wide examinations that serve different purposes.
10. See the response to Comment 5 of the Calaveras Planning Coalition letter above. The comment notes that the Enlarge Pardee Reservoir component and other potential supplemental water supply project components of the WSMP 2040 are analyzed in the PEIR at a broad and general program level. The potential project to enlarge Pardee Reservoir is recommended to be deferred beyond the planning horizon of the WSMP 2040.
11. The comment discusses EBMUD's pending petition to extend Permit 10478, which authorizes diversions from the Mokelumne River and authorizes construction of certain Mokelumne Project components, including Camanche Reservoir. Please see Master Response 2. These revisions to the WSMP 2040 are supplementing the program-level analysis of impacts of the WSMP 2040. The WSMP 2040 PEIR is not intended to analyze impacts of extending Permit 10478.

To assist in understanding the distinction between the supplemental supplies listed in the WSMP 2040 and EBMUD's petition to extend the duration of Permit 10478, which is one of two water rights for consumptive use that EBMUD holds for its Mokelumne Project, it is important to understand that the Permit is currently used by EBMUD to meet demand. On November 27, 2000, EBMUD requested a 40-year extension of time to put the water that is authorized for use under Permit 10478 to beneficial use to allow EBMUD to satisfy the water needs resulting from future demand increases. EBMUD has at times diverted at the maximum rate allowed under the Permit, and the continuation of EBMUD's ability to make full use of Permit 10478 is crucial for EBMUD to maintain operational flexibility to meet current and projected future demand and address vulnerabilities.

The 2009 WSMP 2040 PEIR explained that in normal and above normal years, there is sufficient precipitation in the Mokelumne Basin to provide EBMUD with an adequate supply of water using its existing rights, including the supplies provided by the Permit. However, in consecutive dry years there is insufficient precipitation and resulting flow to satisfy EBMUD's needs and obligations. This multi-dry year deficit in available Mokelumne supplies is the reason that EBMUD must develop supplemental supplies, such as the supply provided by its CVP contract, and it is the reason that EBMUD has undertaken a long-term planning effort to ensure that demand can be met during prolonged drought conditions today and in the future.

12. The comment requests that EBMUD consider a targeted quantity of recycled water that is greater than what has been determined to be feasible as part of the analysis conducted for the WSMP 2040. Please see Master Response 2. There is no new information that has arisen since the preparation of the 2009 WSMP 2040 PEIR that indicates that additional targeted levels of recycling are feasible or would feasibly reduce the impacts of the WSMP 2040 portfolio of policies and potential supplemental supply projects.

EBMUD commends the efforts of Calaveras County Water District to utilize recycled water. Calaveras County Water District is fortunate to have a significant agricultural/irrigation sector that can accept recycled water with very low treatment and distribution costs. EBMUD's recycled water program has been in place for more than two decades. It is viewed by water agencies throughout the state and recycled water experts throughout the U.S. to be a well managed, expansive, and laudable program. In contrast to Calaveras County, EBMUD's service area does not include an agricultural sector of sufficient size to utilize the treated wastewater that EBMUD produces. Complex treatment and distribution systems have been built and are planned for large industrial users and large irrigators including schools, parks, cemeteries, and golf courses. However, even with this extensive investment in infrastructure, EBMUD's program is limited by the number of feasible recycled water customers in its service area. All feasible recycled water customers were identified as a part of the WSMP 2040 planning effort, and are scheduled to receive recycled water by 2040.

13. The comment repeats statements made as part of the scoping process and requests that EBMUD consider additional target levels of conservation. Please see Master Response 2. There is no new information that has arisen since the preparation of the 2009 WSMP 2040 PEIR that indicates that additional planning levels of conservation are feasible or would feasibly reduce the impacts of the WSMP 2040 portfolio of policies and potential supplemental supply projects.

EBMUD addressed conservation and the rationale behind the selected conservation levels, as well as the reasons for rejecting alternative rate structures, in the 2009 Draft WSMP 2040 PEIR and the responses to the comments received on the 2009 Draft WSMP 2040 PEIR.

Based upon the March 2009 "Conservation Technical Analysis" memo from Maddaus Water Management, EBMUD's analyses included the marginal incremental cost of the next level of conservation. The utility cost per acre foot for Program Level E of Conservation ranged from less than \$100 to nearly

\$14,000, and the community cost per acre foot reached nearly \$370,000 (Table 5), representing a total community investment of nearly \$1 billion. For planning water conservation programs for utilities, the perspectives most commonly used for benefit-cost analyses include the utility and the community. The "utility" benefit-cost analysis is based on the benefits and costs to the water provider. The "community" benefit-cost analysis includes the utility benefit and costs together with account owner/customer benefits and costs. EBMUD's adopted aggressive Water Conservation Program Level D accounts for meeting nearly 75% of the projected growth in demand.

EBMUD has long maintained an aggressive water conservation pricing structure that includes significantly tiered volumetric rates to help encourage customers to use water more efficiently. Pricing structure has always been one of the tools available for EBMUD to achieve conservation savings, especially during periods of water shortages.

EBMUD addresses rates and rate structures separately and this not as part of the WSMP 2040 planning process. By law, water rates must cover only the cost of services rendered and must be fair and reasonable under the statutory provisions under which EBMUD operates. EBMUD examines its water rates biennially including reviewing options for different rate structures such as the proposal in the comment.

With respect to metering, to further advance efficient water use, EBMUD is one of the first and few utilities in California to require individual metering of multi-family residential and commercial units as a condition of service (see Water Service Regulation Section 2 at www.ebmud.com).

From the October 2009 Final WSMP 2040 Plan - Appendices, Appendix A, Preliminary WSMP 2040 Component Cost, Estimation Evaluations, the EBMUD unit costs for dry yield per acre-foot (Table 2, page 727) were computed by dividing the present value of implementation costs by the discounted sum of water savings over the forecast period. This method results in a unit cost that fully recovers capital and operation and maintenance costs over the planning period. The \$23,000 per acre foot cost referenced in the comment for the Pardee Expansion was improperly calculated and cannot be compared to any of the other project alternatives, including conservation.

14. The comment requests that EBMUD consider additional rationing levels. Please see Master Response 2. No new information has arisen since the preparation of the 2009 WSMP 2040 PEIR that indicates that additional rationing levels are feasible or would feasibly reduce the impacts of the WSMP 2040 portfolio of policies and potential supplemental supply projects.

EBMUD discussed the selection of the targeted rationing level in detail in the responses to the Foothill Conservancy comments on the 2009 Draft WSMP 2040 PEIR. These responses described the distribution of rationing across customer classes and the conclusions that EBMUD made with regard to the feasibility of achieving greater use reductions.

The WSMP 2040 includes a diverse range of components to meet the need for water in dry years. The components include an aggressive conservation goal and water recycling goal, a rationing policy to be used in dry years, and an

assortment of potential supplemental supply components that will be pursued as necessary to meet anticipated water needs in dry years. This broad mix of projects provides EBMUD with the ability to adjust implementation schedules and resource commitments to minimize the risk associated with future water supply uncertainties.

EBMUD water use reduction goals are determined by considering three drought management principles and by analyzing historical consumption and the likelihood of various customer groups attaining their water use reduction goals through an array of indoor and outdoor demand management measures. These factors are:

1. Consider three principles to balance water use reductions across customer categories
 - a. Emphasize reductions in non-essential uses of water.
 - b. Avoid/limit impacts to the economy and the environment.
 - c. Safeguard water supplies for uses that meet public health needs.
2. Evaluate each category's actual historical consumption
 - a. Determine the percent of total water demand by customer category.
 - b. Determine the percent of indoor and outdoor demand by customer category.
3. Evaluate customer response to water savings measures
 - a. Ability to achieve the potential savings from each measure.
 - b. Research on customer ability and stated willingness to comply with drought measures.
 - c. Staff and utility experience in managing and monitoring each measure.

During the scoping period, the District reviewed rationing policies of comparable municipalities and water districts. To be consistent with industry norms, a 0, 10, 15, and 25% range were evaluated and provided an adequate data set to select a preferred portfolio. A 25% level of rationing was determined to be difficult if not impossible to achieve in the years ahead, particularly with demand hardening making further water use reductions more difficult to achieve in the future. The difficulty in the ability of customers to cut back water use during dry years was a significant factor in the decision to decrease the rationing level, primarily because analysis also shows that this high degree of additional reduction will place an impracticable burden on EBMUD customers in light of current savings that have already been achieved via existing programs. As such, the level of rationing evaluated is sufficient.

15. Please see Master Response 2. The comment does not present new information that has arisen since the preparation of the 2009 WSMP 2040 PEIR that indicates that additional rationing levels are feasible or would feasibly reduce the impacts of the WSMP 2040 portfolio of policies and potential supplemental supply projects.

See the response to Comment 7 of the Calaveras Planning Coalition letter regarding discussion regarding demand hardening.

The 2005 Pacific Institute's *California Water 2030* study cited takes a generalized look at statewide water use, without the necessary level of service area characteristics and customer demographics to reflect specific local agency

evaluations. An extensive analysis of outdoor landscape and swimming pool water use evaluated overall service area efficiency in the setting of targets for year 2020 under the Water Conservation Act of 2009 (SBX7-7). Overall, EBMUD customers meet a defined efficiency level at 70% of the reference evapotranspiration, or the target efficiency outdoor water budget established under the state's SBx7-7 methodologies and Model Water Efficient Landscape Ordinance. This analysis illustrates a lower conservation potential than the values provided in the Pacific Institute Report.

16. The comment questions the process that EBMUD used in preparing the WSMP 2040 and screening the components.

Please see Master Response 2. The comment does not present new information that has arisen since the preparation of the 2009 WSMP 2040 PEIR that indicates that additional rationing levels are feasible or would feasibly reduce the impacts of the WSMP 2040 portfolio of policies and potential supplemental supply projects.

The findings that EBMUD made regarding the targeted level of rationing when it originally approved the 2009 WSMP PEIR - findings that were not challenged as part of the litigation - noted that further rationing had been found to be unachievable and would not be consistent with the primary objectives of the WSMP 2040.

17. The comment quotes from comments received in response to the NOP and asserts that EBMUD should reexamine the screening of the WSMP 2040 components as part of the process for preparing supplemental revisions to the PEIR.

Please see Master Response 2. The comment does not present new information that has arisen since the preparation of the 2009 WSMP 2040 PEIR that indicates that additional components that were screened from inclusion in the WSMP 2040 are feasible or would feasibly reduce the impacts of the WSMP 2040 portfolio of policies and potential supplemental supply projects.

The CEQA Guideline cited in this comment lists factors that may be used to eliminate alternatives from detailed consideration in an EIR, and these factors include: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts. Guidelines section 15126.6(c). The 2009 WSMP Plan and the documents that EBMUD prepared to support this plan included a detailed discussion of the process used to evaluate and screen potential dry-year water supply solutions. These documents explain the public process that was used to evaluate the feasibility of the potential supplemental supply solutions examined in the development of the WSMP 2040 and the ability of these solutions to meet the basic objectives of the program and minimize environmental impacts and greenhouse gas emissions.

EBMUD's component screening process and the process used to eliminate potential components and construct alternatives portfolios were the subject of public meetings and public Board workshops. They are described in detail in the documents available on EBMUD's website, and EBMUD does not agree that there is new information that has been developed since the preparation of the PEIR in 2009 that requires that this process be revisited.

18. The comment discusses the requirements for considering alternatives in an EIR and lists several criteria that the commenter states that EBMUD did not use in screening the WSMP 2040 components.

Please see Master Response 2. The comment does not present new information that has arisen since the preparation of the 2009 WSMP 2040 PEIR that indicates that additional alternatives evaluated and screened from inclusion in the WSMP 2040 Plan are feasible or would feasibly reduce the impacts of the WSMP 2040 portfolio of policies and potential supplemental supply projects.

In the documents that EBMUD developed as part of the public process used to formulate the WSMP 2040, EBMUD listed the objectives of the WSMP 2040 and noted that the WSMP 2040 was undertaken with the goal of developing a water supply program that is flexible and reliable, minimizes environmental and socioeconomic effects, and minimizes overall costs to EBMUD customers. The objectives of the WSMP 2040 are stated as four broad categories: (1) operational, engineering, legal, and institutional; (2) economic; (3) public health, safety and community; and (4) environmental. Embedded within these objectives are criteria that include promoting involvement in regional solutions, minimizing risks to public health and safety, and preserving and protecting the environment and biological resources. The varying supplemental supply components were evaluated to determine their ability to satisfy these objectives. Some components that were eliminated were capable of satisfying some objectives, but failed to satisfy others and involved other associated environmental impacts or uncertainties that warranted their elimination.

It should also be noted that the difference between the Mokelumne Inter-Regional Conjunctive Use Project (IRCUP) / San Joaquin Groundwater Banking / Exchange potential supplemental supply component and the IRCUP that is referenced in the comment was explained in the response to the Foothill Conservancy comments on the 2009 WSMP 2040 PEIR. The Duck Creek project did not elude review in the WSMP 2040 PEIR. EBMUD determined as part of the screening and evaluation of components that it did not meet EBMUD's supplemental supply objectives and the project was thus eliminated from further consideration in the WMP 2040.

The IRCUP that the comment is referencing is a process previously undertaken by Mokelumne Forum participants seeking to develop solutions to water supply and water rights issues that affect the multiple participating entities. The IRCUP referenced in the comment is different and broader than the Mokelumne Regional component included in the WSMP 2040. The regional nature of the Mokelumne Forum effort, as well as the numerous interests and issues involved in the discussions, by necessity involves a broader range of possible projects, and the primary intent behind some of these projects, including the Duck Creek Reservoir project, is not to provide EBMUD with supplemental water supplies.

EBMUD does not agree with the assertion that the judge's decision required it to reevaluate potential supplemental supply components that were determined to be infeasible because they were determined to be too difficult and costly to implement, would involve unacceptable loss of habitat or other environmental impacts, and/or would not yield sufficient supplemental supplies.

19. The comment asserts that additional analysis of alternatives to the individual WSMP 2040 components is necessary.

Please see Master Response 2. The comment does not present new information that has arisen since the preparation of the 2009 WSMP 2040 PEIR that indicates that additional alternatives evaluated and screened from inclusion in the WSMP 2040 Plan are feasible or would feasibly reduce the impacts of the WSMP 2040 portfolio of policies and potential supplemental supply projects.

EBMUD addresses rate structures separately and a detailed evaluation of rates was not part of the WSMP 2040 process. By law, water rates must cover only the cost of services rendered and must be fair and reasonable under the MUD Act.

EBMUD was one of the first California utilities to research and provide conservation incentives for graywater, including a 1996 pilot study funded in partnership with the California Department of Water Resources. EBMUD has also hosted a series of public workshops on graywater and rainwater catchment and continues to provide educational materials to customers and businesses. EBMUD has also participated and submitted substantive comments to the CA Department of Housing and Community Development on new permitting regulations to facilitate the use of alternative water sources.

While indirect potable reuse is becoming more common in California with draft regulations, direct potable reuse has not. Much research is needed in order to develop a framework for direct potable reuse. Issues need to be addressed, including public acceptance, regulations, treatment needs, and monitoring needs. Until guidelines are developed and these issues are addressed, EBMUD is not in a position to consider the concept of direct potable reuse in its future water supply options.

20. As noted repeatedly in the response to the Foothill Conservancy's comments on the 2009 Draft WSMP 2040 PEIR, EBMUD intends to do a project-level review of the potential impacts of the supplement supply projects included in the WSMP 2040 Plan before undertaking them. This will include an identification of potentially significant impacts and measures that will mitigate these impacts. The comment notes that in the ruling issued by the court in the *Foothill Conservancy, et al. v. EBMUD* litigation, this commitment to perform project-level review was addressed, and the court found that EBMUD's approach was consistent with CEQA.
21. The comment seeks a reference, with document title, author's name, and page number for factual statements in the Draft Revised PEIR. The comment does not cite the factual statements that are being questioned or the reason that a reference is being sought. The factual statements set forth with respect to the

- Los Vaqueros Reservoir Expansion are based on the environmental analysis and other supporting documents prepared by Contra Costa Water District and Reclamation for that project and on discussions between EBMUD staff and Contra Costa Water District staff with respect to the project. These factual statements are described in the Draft Revised PEIR and the publicly-available Los Vaqueros Reservoir Expansion environmental documents. Other factual statements with regard to potential impacts of a supplemental supply project involving the enlargement of Pardee Reservoir are likewise based on conversations and documents provided by relevant entities, and the documents provided are set forth in the appendices to the Revised Draft WSMP 2040 PEIR.
22. EBMUD prepared the Revised Draft WSMP 2040 PEIR to comply with the peremptory writ of mandate issued by the court in the *Foothill Conservancy, et al. v. EBMUD* litigation. The writ states that the court retains jurisdiction over the proceedings until it has determined, by way of a return on the writ, that EBMUD has complied with the terms of the writ. The adequacy of the Revised Draft WSMP 2040 PEIR and its compliance with the terms of the writ is properly part of the litigation that is pending before the court. EBMUD does not contest the assertion that the administrative record prepared for the *Foothill Conservancy, et al. v. EBMUD* litigation is the administrative record for the *Foothill Conservancy, et al. v. EBMUD* case or that it can be referenced in determining whether EBMUD has complied with the terms of the writ.
 23. EBMUD acknowledges the request. Documents used in preparing EBMUD's CEQA analysis and relied upon in preparing and approving the WSMP 2040 will be retained by EBMUD.
 24. EBMUD updates to relevant plans will reflect the decision made with regard to the approval of the WSMP 2040. As noted in EBMUD's response to comments on the draft of the 2010 UWMP, the potential supplemental supply sources listed in that document are divided into short-term potential supplemental supply projects and longer term conceptual projects that are beyond the 20-year time frame that is the focus of the 2010 UWMP. EBMUD will update the UWMP in 2015 consistent with the requirements of the Urban Water Management Planning Act.
 25. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.
 26. EBMUD acknowledges the request. The comments will be retained and the Final Revised PEIR will be released and made available on EBMUD's website before the WSMP 2040 PEIR is certified.



San Francisco Bay Chapter

Serving the counties of Alameda, Contra Costa, Marin, and San Francisco

East Bay Municipal Utility District
WSMP Comments
Attn: Tom Francis
375 11th Street, MS 407
Oakland, CA 94607

**Re: Draft Revised PEIR 2040 WSMP
General restatement of verbal comments made at January 17, 2012, Public Meeting**

January 27, 2012

Dear Tom,

The Sierra Club Bay Chapter enthusiastically supports the results of EBMUD staff's review and additional analysis as documented in the Revised PEIR released in December, 2011, particularly the finding that Pardee Reservoir expansion can be excluded from the list of supplemental supply options through the year 2040. Removal of this element from the 2040 WSMP would represent a historic reprieve for the Middle Bar Reach of the Mokelumne River with its recreational, cultural and habitat values and offer EBMUD customers a major opportunity to make our water supply more locally responsible and environmentally appropriate.

1

Revised Pardee Elements

The staff's successful exploration of a possible partnership with CCWD to store water in the expanded Los Vaqueros Reservoir showed that with this option, Pardee Reservoir expansion will not be needed before 2040. A recommendation was made to remove Pardee enlargement from the 2040 WSMP. The Sierra Club urges the Board to adopt that recommendation.

We hope that references in the revision document to the possibility of deferring other long-term supplemental supply elements* might mean that Lower Bear Reservoir could be spared from enlargement as well.

2

(Question: What other elements could potentially be deferred?)

In case of a future revival of the Pardee expansion option, we would like to register for the record that we are still opposed. As the PEIR revision states, even with mitigations, there would be Potentially Significant harm to recreational values (and we believe to environmental values) of the Mokelumne River, especially the Middle Bar Run.

3

We defer to Miwok Tribal groups and other Foothill community members as to whether the new measures in the revised PEIR would actually compensate for impacts to native cultural resources and improve the emergency access situation.

4

Added Los Vaqueros Element

We support the inclusion of EBMUD's use of Los Vaqueros Reservoir storage in the 2040 WSMP Supplemental Supply options insofar as it allows the exclusion of Pardee Reservoir enlargement, and with the expectation that:

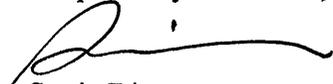
- EBMUD verifies that CCWD has complied with/is implementing all possible measures to minimize impacts on sensitive habitat and species in its operation of the reservoir;
- increased CCWD water diversions on EBMUD's behalf take place in wet years and are scheduled to inflict the least harm on anadromous species runs, to not worsen flow reversals and fish entrainment, increase salinity in the Delta, or otherwise impact fragile Delta habitats;
- EBMUD abides by the stated purpose of this storage and use of LV water for extreme or multiple-year drought. We would not want to see this supply used to enable additional development in EBMUD or neighboring agencies' areas (through water transfers);
- EBMUD seeks to mitigate its share of GHG emissions from the pumping of water from CCWD's Delta intakes to the reservoir level (+507' msl).

We agree with the staff's choice of not including the 275 TAF future Los Vaqueros expansion in the 2040 Plan, due to that project's likely more harmful impacts on habitat and species.

In conclusion, Sierra Club lauds the EBMUD staff for its very forward-thinking recommendation to exclude the enlarge Pardee Reservoir option from the WSMP 2040. We strongly encourage the EBMUD board to adopt the staff's recommendation and remove this element from the plan.

We offer qualified support for the addition of the Los Vaqueros element to the list of potential Supplemental Supply options since it permits deferring consideration of Pardee enlargement to beyond 2040, but noting some areas of concern.

Respectfully submitted,



Sonia Diermayer
Co-chair, Water Committee
Sierra Club, SF Bay Chapter

* Quote from page 3-3 of WSMP 2040 Draft Revised PEIR:

"The project to enlarge Pardee Reservoir could be deferred beyond the 30-year planning horizon of the WSMP 2040, and it is possible that EBMUD may be able to defer other longer-term projects that have been found to be feasible, but involve significant uncertainties and institutional complexities, including participation in an expansion of Los Vaqueros Reservoir beyond the present 160 TAF enlargement."

5

6

Sierra Club - San Francisco Bay Chapter

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input of this program.
2. EBMUD acknowledges that the Sierra Club has concerns regarding the potential enlargement of Lower Bear Reservoir. EBMUD's program-level analysis conducted as part of preparing the Revised Draft PEIR identified that if partnership with Contra Costa Water District in the use of Los Vaqueros Reservoir were to be included as a WSMP 2040 Portfolio component, it would be possible to remove the Enlarge Pardee Reservoir component from the WSMP 2040 Portfolio. The reference to deferring other long-term supplemental supply elements refers to the Enlarge Pardee and future 275 TAF Los Vaqueros Reservoir expansion. The Raise Lower Bear component remains in the recommended WSMP 2040 Portfolio although, as noted, this project would be supported and utilized by other agencies.
3. Comment noted.
4. Comment noted.
5. Contra Costa Water District is complying with and implementing all of the measures described in the Los Vaqueros Reservoir Expansion Project Final EIS/EIR and the Mitigation Monitoring and Reporting Program (MMRP) and is expected to operate in accordance with all its permits. Contra Costa Water District and EBMUD will share records related to this process and EBMUD will verify that the mitigation requirements for the Los Vaqueros Reservoir Expansion Project are met.

All diversions at Contra Costa Water District intakes are managed to minimize harm to Delta fish and Delta habitats through screening and timing of diversions. Diverting water to storage in wet years is consistent with Contra Costa Water District's operation of Los Vaqueros Reservoir to meet water quality and supply goals. Diversions at Contra Costa Water District intakes to meet the drought year water needs identified in EBMUD 2040 WSMP fall within the analysis presented in the Los Vaqueros Reservoir Expansion Project EIS/EIR, and were shown to avoid any significant increase in impacts to the Delta ecosystem.

Any use of Los Vaqueros Reservoir by EBMUD would be consistent with permits for the project. As described in the Los Vaqueros Reservoir Expansion Project Final EIS/EIR and the MMRP, the Los Vaqueros Reservoir Expansion Project has been designed to improve water quality, emergency supplies and drought supply, and not to develop water supply yield for growth.

The Los Vaqueros Reservoir Expansion Project EIS/EIR analyzed potential contributions of expanded reservoir operations to climate change, including Greenhouse Gas (GHG) emissions. Pumping of water for use by EBMUD would be within the operational assumptions evaluated in the Los Vaqueros Reservoir Expansion Project EIS/EIR. Please see Master Responses 1 and 2.

6. Please see the responses to Comments 1 and 5 of the Sierra Club letter.

2.2.3 Individuals

The 35 comment letters received from individuals are included in this section, with responses directly following each letter.

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

From: Tracey Sittig [<mailto:tsittig@stockton.k12.ca.us>]

Sent: Tuesday, December 06, 2011 3:49 PM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

Well done! I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold but thoughtfully considered step to protect the Mokelumne River habitat and its wildlife, and the quality of life for the people of the region, while ensuring a reliable water supply for EBMUD customers.

Thank you all so much!

Tracey Sittig
Stockton, California

Tracey Sittig

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

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

From: Terry Barton [<mailto:terry.barton@gmail.com>]

Sent: Tuesday, December 06, 2011 3:08 PM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers.

I am glad to know that EBMUD will balance the need to protect the Mokelumne River for future generations with providing a reliable water supply.

Terry Barton

Terry Barton

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

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

From: Rebecca Brown [<mailto:rebeccabrown@volcano.net>]

Sent: Tuesday, December 06, 2011 7:19 PM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers. As an Amador County resident, I am thrilled to know that you have decided to leave the Mokelumne River the way it is and that our prehistoric and historic assets, flora and fauna of the riparian environment will be with us for a long time.

Sincerely,

Rebecca Brown

rebeccabrown@volcano.net

19387 Ponderosa Drive

Pioneer, CA 95666

209-295-5589

Rebecca Brown

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Kay Reynolds [<mailto:kreynolds@toolsforbusiness.info>]

Sent: Tuesday, December 06, 2011 3:42 PM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thank you for changing your priorities regarding the Pardee expansion

Dear President Coleman and Members of the Board:

Thank you so much for your decision to remove expansion of the Pardee Reservoir from your plans. The Mokelumne River is such an integral part of Amador county, not only for it's scenic beauty and recreation opportunities, but for its indirect contributions to our fragile economy.

I believe that this decision also serves your own customers. Resources that would have to be allocated to fighting this long-term battle can now be redirected to other organizational priorities.

Thank you very very much.

Kay Reynolds

Partner, Tools for Business Success

kreynolds@toolsforbusiness.info

209.296.8225; mobile: 916.718.3311

www.toolsforbusiness.info

Kay Reynolds

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Holly Mines [<mailto:hymines@yahoo.com>]
Sent: Tuesday, December 06, 2011 3:40 PM
To: Lewis, Lynelle
Cc: mp.comments@ebmud.com
Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers.

We're glad you listened to our concerns and are willing to respect the important of the Mokelumne River to our lives and livelihoods!

Thank you! Holly

Holly Mines
PO Box 381
Rail Road Flat, CA 95248
209-293-4953

Holly Mines

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Donna Fabiano [<mailto:dfabiano@yahoo.com>]

Sent: Tuesday, December 06, 2011 5:11 PM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan.

Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers.

Donna Fabiano

Forestville, CA 95436

Donna Fabiano

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Carol Lonergan [<mailto:calonergan@gmail.com>]
Sent: Tuesday, December 06, 2011 3:38 PM
To: Lewis, Lynelle
Cc: WSMP comments
Subject: In appreciation for excluding the Pardee Reservoir from expansion

Dear President Coleman and Members of the Board:

I strongly applaud EBMUD's decision to **not** pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan.

Thank you for your leadership in taking this conscientious step to protect the Mokelumne River, while working to ensure a reliable water supply for your EBMUD customers.

Too few corporate leaders take anything into consideration beyond the bottomline for their shareholders; thank you for helping preserve something irreplaceable, that benefits *everyone*.

Sincerely,

CA Lonergan

C. A. Lonergan

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: BEN D GRAVITZ [<mailto:bgravitz@sbcglobal.net>]

Sent: Tuesday, December 06, 2011 7:39 PM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thanks

Dear EBMUD,

You did the right thing in dropping an expansion of Pardee from your long range plans. Now, future generations can enjoy the gem that is the Mokelumne river.

1

Ben Gravitz

Ben Gravitz

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Virginia Berton [<mailto:bzberton@sbcglobal.net>]
Sent: Wednesday, December 07, 2011 11:36 AM
To: Coleman, John; Lewis, Lynelle
Cc: WSMP comments
Subject: Thank you

December 6, 2011

Mr. John Coleman, President
East Bay Municipal Utility District
375 11th Street, MS 407
Oakland, CA 9460

Dear Mr. Coleman,

I am sending my thanks to you and the EBMUD for revising your plan to raise the Pardee Dam thereby flooding our beautiful Mokelumne River.

It takes courage and foresight to respond to the outcry of the people who would be so adversely affected and to reverse your decision. It is a rare and wonderful action on your part.

I wish you well as you seek alternative water sources and send you my good will and appreciation.

Your action has made this holiday season even brighter and happier. Thank you again!

Sincerely,

Virginia Berton
215 Boarman Street
Jackson CA 95642 2509
bzberton@yahoo.com
209 223 4015

Virginia Berton

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

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

From: Jay Anderson [<mailto:jayanderson@comcast.net>]

Sent: Wednesday, December 07, 2011 7:29 PM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thank you for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers.

My family and I have visited and enjoyed the Mokelumne. It is a beautiful, accessible river that is used by many people who picnic, fish, kayak and swim. This river and riparian area should be preserved.

Thanks for doing the right thing.

-Jay Anderson

22384 Riverside Dr.

Cupertino, CA 95014

Jay Anderson

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: W [\[mailto:elmundodeamor@yahoo.com\]](mailto:elmundodeamor@yahoo.com)

Sent: Thursday, December 08, 2011 1:49 PM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thanks for saving the Moke!

Thank You for dropping your plans to expand Pardee reservoir, and build a new Dam.

The Mokelumne river should be preserved as it is, and even restored for hundreds of years to come.

The river is an important place for the community to use as a wild and scenic waterway. It generates jobs, and revenue for the local community.

A new dam will just destroy the habitat of the watershed, and ultimately hurt not only the river, but the people who live in the community.

regards,
William Chinnock

William Chinnock

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

From: Dan Brower - OARS [<mailto:danb@oars.com>]

Sent: Thursday, December 08, 2011 10:52 AM

To: Lewis, Lynelle

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers. Your agency is taking the right course of action that is in the best interests of myself and the residents of the Sierra Foothills and will benefit the continued preservation of our precious natural resources and our environment. Thank you

Daniel Brower, Angels Camp, CA

Daniel Brower

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Chris Einspahr [<mailto:ceinspar@pacbell.net>]

Sent: Thursday, December 08, 2011 7:48 PM

To: Lewis, Lynelle

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board: I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers.

sincerely,

Mr. C.C. Einspahr

Bay Area tax revenue generator / Mokelumne river rafter.

Mr. C.C. Einspahr

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Chris Einspahr [\[mailto:ceinspar@pacbell.net\]](mailto:ceinspar@pacbell.net)

Sent: Thursday, December 08, 2011 7:49 PM

To: WSMP comments

Subject: Thanks for saving the Moke!

"God's not making any more land."

| 1

Chris Einspahr

1. Comment noted.

From: Jill North [<mailto:treehugger@volcano.net>]
Sent: Friday, December 09, 2011 8:52 PM
To: Lewis, Lynelle
Cc: Katherine Evatt
Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I don't know how you plan to enlarge the reservoir at Pardee so I hope that plan won't impact the current uses. However, I'm glad a dam is off the agenda in your 2040 Plan.

Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers. Jill North, Amador

Jill North

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Jgonhawk@aol.com [mailto:Jgonhawk@aol.com]

Sent: Friday, December 09, 2011 7:41 AM

To: Lewis, Lynelle

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers. This river has meant a lot to my family and me for many years. Thanks again for your support.

John Gonsalves

John Gonsalves

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Paul Beatty MD [\[mailto:prbdal@gmail.com\]](mailto:prbdal@gmail.com)

Sent: Friday, December 09, 2011 6:14 PM

To: Lewis, Lynelle

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers.

Sincerely,
Debra Lawlor

Debra Lawlor

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Kent Lewandowski [<mailto:kentlewan@yahoo.com>]

Sent: Saturday, December 10, 2011 12:45 AM

To: WSMP comments; Francis, Thomas

Subject: please take me off the mailing list for WSMP EIR notices

Dear EBMUD,

Please take me off the list for EIR notices. I am no longer involved in water issues.

1

Thanks

Kent Lewandowski
360 Monte Vista Ave. Apt. 213
Oakland, CA 94611

Kent Lewandowski

1. Comment noted.

From: Cynthia Garcia [<mailto:garcia4ca@yahoo.com>]
Sent: Sunday, December 11, 2011 10:35 PM
To: Lewis, Lynelle
Cc: WSMP comments
Subject: no expansion of Pardee Reservoir thanks

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers.

Cynthia Garcia

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

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

From: Rebecca Hansen Armstrong [<mailto:becca15x@gmail.com>]

Sent: Monday, December 12, 2011 10:24 AM

To: Lewis, Lynelle

Cc: WSMP comments

Subject: Thanks for dropping Pardee expansion

Dear President Coleman and Members of the Board:

I strongly support EBMUD's announcement that it will not pursue the expansion of Pardee Reservoir on the Mokelumne River in its 2040 water plan. Thank you for your leadership in taking this bold step to protect the Mokelumne River while ensuring a reliable water supply for EBMUD customers.

I recently moved to Oakland and as an Oakland resident, I do not want to impact the Mokelumne River any more than it already has due to the EBMUD. The Mokelumne River is great for recreation and should be protected for future generations.

Regards,

Rebecca Armstrong

Rebecca Armstrong

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

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

From: Martha Breed [<mailto:rickypaws@yahoo.com>]

Sent: Monday, January 09, 2012 3:51 PM

To: WSMP comments

Subject: WSMP RDPEIR comments

As a lifelong resident within the East Bay water district, I care about our water, imported from other watersheds.

Therefore, I support the Wild & Scenic status for the MokelumneRiver And oppose Pardee expansion that would flood more upstream habitat.

Martha Breed
1285 Clover Ln
Walnut Creek 94595

Martha Breed

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

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

From: Tracey Sittig [<mailto:tsittig@stockton.k12.ca.us>]

Sent: Monday, January 09, 2012 6:36 PM

To: WSMP comments

Subject: WSMP RDPEIR comments

Please drop the Pardee expansion from your thirty-year plan.

Thank you!

Tracey Sittig

87 West Euclid Avenue

Stockton CA 95204

| 1

Tracey Sittig

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Johanna Atman [<mailto:atman@goldrush.com>]

Sent: Monday, January 09, 2012 5:29 PM

To: WSMP comments

Subject: WSMP RDPEIR comments

To Whom It May Concern:

I am unable to attend either of the meetings in Calaveras and Amador this week due to previous commitments at other meetings!

I do want to THANK you for your decision in Dec. to recommend not including the extension of Pardee Reservoir in the 30 year water plan.

I encourage this decision to be made final so that all those who want to continue enjoying the Mokelumne River and all the ways that it serves not only local people, but many from outside the area as well. This river is so important to us all, thank you for hearing the public response and making the decision you did.

We all appreciate this,

Johanna

Johanna Atman, Ph.D. CMT.

Whole Life Therapies

(209) 728-3569

OFFICE:

150 Big Trees Rd.

Murphys, CA. 95247

Mailing Address:

16249 Armstrong Rd.

Sheep Ranch, CA. 95246

Johanna Atman, Ph.D. CMT

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Chris Bey [<mailto:christine@luminouscomm.com>]

Sent: Monday, January 09, 2012 3:14 PM

To: WSMP comments

Subject: WSMP RDPEIR comments

As a local to the Mokelumne river and a kayaker and rafter I ask that you, Please accept the revised environmental impact report which include deferring the expansion of Pardee reservoir and not include it in its thirty year water plan. 1

Thank you

Chris Morrison-Bey

Sunday River Productions

PO Box 2982

Fair Oaks, CA 95628

www.sundayriverproductions.com

Chris Morrison-Bey

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Wayne Brunmeier [<mailto:wbrunmeier@hotmail.com>]

Sent: Wednesday, January 11, 2012 5:46 PM

To: WSMP comments

Cc: Wayne Brunmeier

Subject: WSMP RDPEIR comments

I fully support the draft EIR recommendation to not include the enlargement of Pardee Reservoir in its 30 year plan.

1

Wayne Brunmeier

Valley Springs, Ca 95252

Wayne Brunmeier

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

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

From: Barranca Wren [mailto:bwren122@comcast.net]

Sent: Thursday, January 12, 2012 11:44 AM

To: WSMP comments

Subject: Mokelumne River vs Pardee Expansion

Thank you for this opportunity to comment on your 2040 water plan. I feel the EBMUD staff has made a wise decision to preserve a section of the Mokelumne River which is under review for Wild and Scenic status. I realize you are trying to project water use for thirty years from now, but most of our Sierran Rivers are already damned to the hilt, re New Melones, Comanche, Hogan, to name a few in the immediate area. The water gained, by inundating this valuable resource, on the Mokelumne, would be evaporated and the reservoir filled in with silt by 2040 anyway, thus destroying an irreplaceable natural resource, and incurring a huge cost to build bridges for residents to escape possible fire hazard, as well as for allowance for traffic to continue north and south on Highway 49. This process, it was learned after the huge New Melones Reservoir, replaced the only major limestone canyon in the West, the Stanislaus River Canyon, is extremely outdated. Other sources, especially ground water, are the way of the future.

Sincerely,

Christine Walker

Retired teacher

Christine Walker

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

January 16, 2012

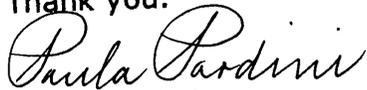
Tom Francis
Water Supply Improvements Division
EBMUD
375 11th St.
Oakland, CA 94607

Dear Tom,

A simple request...save the wild and scenic Mokelumne River! I enjoy river running, and I have many friends who deeply appreciate the opportunity that this river provides.

Please drop the expansion of Pardee Reservoir from EBMUD's Water Supply Management Program 2040. Save the stretch of the Molelumne that allows for unique river rafting and honor the Native Americans who revere this area.

Thank you.



Paula Pardini
99 Monte Cresta Ave. #C
Oakland, CA 94611

Paula Pardini

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.



1/17/12

Dear Mr Francis,

The Nokolonne River is a major part of Amador & Calaveras Counties that is too precious to loose.

For those of us who live nearby & for people who come from miles away it is a treasure of experiences hiking, biking, fishing, kayaking, picnicing, meditating.

Please urge ERM/DD to support the agency staff recommendation & stop the Pardee expansion (Mde River) from their long-range water plan.

Sincerely
Susan Louise Dahl

RAVEN & EAGLE

Like most people in Alaska, Jo Ann's surrounding environment enriches and inspires her life and work. Jo Ann's husband and family are Tlingit Indian, as is the village of Angoon where they live. The beautiful and strong Native culture and the physical surroundings of this area are the inspirations and subjects of her work. She is a self taught artist.

Jo Ann's work has been in numerous shows in the Pacific Northwest. When not working on her art, Jo Ann spends her time hiking the beaches and forests or out in her boat exploring the bays and channels of the area with her retriever "Kelly".



ARCTIC CIRCLE ENTERPRISES, INC.
ANCHORAGE, ALASKA



#21284



Jean Louise Dahl

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

1500 Purson Lane
Lafayette, CA 94549

Mr. Tom Francis
Water Supply Improvements Division, EBMUD
375 11th Street, Oakland, CA 94607

Dear Mr. Francis:

Regarding the Mokelumne River, please do all in your power to maintain all portions of the river which are now wild and scenic so they continue to be the beautiful free river expanses that inspire and re-create myself and so many others.

I urge you and the Board to adopt its staff's revisions to the Programmatic Environmental Impact Report and remove expansion of Pardee Reservoir from the 2040 Water Supply Management Program.

Sincerely,



Joy M. Wagner

joymwagner@juno.com

Joy M. Wagner

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

17 January 2012

Dear EBMUD Board Members:

I am writing to encourage you to adopt your staff's revisions to the Programmatic Environmental Impact Report. Please remove expansion of the Pardee Reservoir from the 2040 Water Supply Management program.

I realize that it is difficult to plan the water supply needed for the East Bay as our population expands and as the winter snow and rains become more erratic with climate change. And I appreciate your efforts to encourage us to conserve water and to cautiously move towards more grey water usage.

Raising the dam and flooding two scenic miles of the Mokelumne River would have made a very small contribution to our water supply. I hope this wild and scenic river, while not federally designated as such, remains a part of our heritage and treasure.

Yours for water conservation and wise use,

Maureen Lahiff

Maureen Lahiff
3800 Maybelle Ave Apt 9
Oakland, CA 94619-2152

Maureen Lahiff

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

913 Modoc Street
Berkeley, CA 94707-2207

1/19/12

Mr. Jim Francis
375 Eleventh St.
Oakland CA 94607

RBMUD

Dear Mr Francis :

May I recommend that the
Anker Reservoir not be expanded.

Thank you

Norman C Frank

Norman C. Frank

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

January 19, 2012

Tom Francis, Water Supply Improvements Division
EBMUD
375 11th St.
Oakland, CA 94607

Dear Mr. Francis,

As a long-time Bay-area resident, concerned citizen and recreational kayaker, I urge you to adopt the EBMUD staff's revisions to the Programmatic Environmental Impact Report and remove expansion of Pardee Reservoir from the 2040 Water Supply Management Program. In addition to the superb scenery and wildlife in the riparian zone of the Mokelumne, this river is widely known as one of the finest whitewater training runs in the state. Raising the reservoir will severely impact the Mokelumne's recreational and environmental value. Thank you for your attention to this matter.

Sincerely,



Peter Garber
623 James Ave.
South Lake Tahoe, CA 96150

Peter Garber

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

From: Jill North [<mailto:treehugger@volcano.net>]
Sent: Thursday, January 26, 2012 2:33 PM
To: Francis, Thomas
Cc: Katherine Evatt; Jill North
Subject: Comment on WSMP 2040 revised

Mr. Francis, in the revised draft comments, section 2.1.4 bottom of page 13 to wit:

"Finally, it should be noted that by adopting the WSMP, EBMUD is not committed to the further development of the Enlarge Pardee Reservoir component in the future. Indeed, if service-area demand is ultimately less than anticipated, or if the success of the earlier program components exceeds expectations, the Enlarge Pardee Reservoir component could possibly be delayed or determined to be unnecessary. "

This does not sound like the " We will not enlarge Pardee", that has been promoted to the public. It sounds like it is still on the board sometime in the future. What am I missing?

Thank you and the Board for what you have done to this point, but I don't feel secure in the current promise. Thank you, Jill North, Jackson 95642

Jill North

1. EBMUD staff has recommended that the Enlarge Pardee Reservoir project be deferred beyond the 2040 planning horizon of the WSMP 2040. EBMUD does not have any long range water supply planning documents that identify potential supplemental supply projects beyond 2040.

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

From: James and Joan Pipes [<mailto:jpipes@volcano.net>]

Sent: Friday, January 27, 2012 8:55 AM

To: WSMP comments

Subject: Dropping Pardee Expansion

My family thanks you for dropping the Pardee Expansion from the WSMP.

We

live on the river near Middle Bar Bridge and will no longer be concerned about losing our property.

1

James and Joan Pipes

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

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

From: Ron Pickup [<mailto:ronpickup@goldrush.com>]

Sent: Tuesday, March 27, 2012 12:50 AM

To: WSMP comments

Cc: Foothill-.Conservancy@mail.vresp.com

Subject: To EBMUD Board: Please keep moving to drop the Pardee expansion

Dear President Coleman and Members of the Board:

We urge you to continue in the direction announced late last year and fully drop the expansion of Pardee Reservoir from your 2040 water plan in favor of more environmentally sound alternatives.

We hope you will also take a step rarely afforded to California water agencies. You can help save 37 miles of the Mokelumne River by fully endorsing National Wild and Scenic River designation from Salt Springs to Pardee.

This national designation will allow continued use of the river for recreation, hydropower generation and water supply while ensuring that the beautiful Mokelumne keeps flowing for people and wildlife.

Thank you for listening to your constituents and to all who love our special Mokelumne River.

Sincerely,
Ronald Pickup

Ronald Pickup

1. EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

2.3 Comments from Public Meetings and Responses

2.3.1 Jackson Public Meeting

EBMUD held a public meeting at the City of Jackson Civic Center on January 11, 2012, to receive public comments on the WSMP 2040 Draft Revised PEIR. Public comments from that meeting and the responses to those comments are presented below.

Tom Infusino, Calaveras Planning Coalition

Comment 1:

Good evening. My name is Tom Infusino. I'm here tonight on behalf of the Calaveras Planning Coalition. I'm here to express our gratitude for the efforts of the East Bay MUD staff over the last 6 months. Last summer, Foothill residents gathered here in Jackson and in San Andreas to provide scoping comments on the Revised EIR for the 2040 Water Supply Management Plan. Last fall, East Bay MUD staff dutifully prepared a detailed scoping report and presented it to the East Bay MUD Board. For your fine work in communicating our concerns to your board, we thank the East Bay Mud staff tonight, thank you very much.

Last month, Christmas came early for the Calaveras Planning Coalition. In the first week of December, East Bay MUD released the draft revised EIR for its 2040 Water Supply Management Plan. For your recommendation to drop the Pardee Expansion to protect our river recreation and to retain our historic bridge, we at the Coalition thank the East Bay MUD staff tonight. Thank you.

We strongly encourage the East Bay MUD Board to adopt the staff recommendation to drop Pardee Expansion from the 2040 Plan. Last week, over a billion Christians worldwide celebrated the feast of the Epiphany. That feast commemorates the arrival in Bethlehem of wise men from the east to witness the dawn of salvation of mankind. Webster's dictionary has a more general definition of the word epiphany: an intuitive grasp of reality with a simple and striking event; the sudden perception of the essential nature or meaning of something. Despite all the good news of this season, tonight in the foothills we still await the salvation of our beloved Mokelumne River through Wild and Scenic designation. Thus, we encourage the East Bay MUD Board to take that next intuitive step to support Wild and Scenic designation on the Mokelumne River down to the existing high pool of Pardee Reservoir. It is this modern day epiphany of the East Bay MUD Board that we at the Coalition await, and for which I continue to pray.

Finally, as Valentine's Day is approaching next month, I have something to present to the East Bay Mud Board staff on behalf of the Calaveras Planning Coalition. (speaker presented Valentine's Day card to EBMUD staff)

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

Chris Wright, Foothill Conservancy

Comment 1:

Ok, well that's impossible to follow, there. And really not much more to say. My name's Chris Wright, I'm the executive director of the Foothill Conservancy, and we as the Foothill Conservancy would also like to thank you guys for and thank the Board and encourage the board to make that final vote in a few months to go ahead and officially remove Pardee from the. . . expanded Pardee. . . from the plan.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Comment 2:

And we encourage you to adopt Wild and Scenic all the way down to the existing high pool of Pardee.

I'd like to say that we have over 8,000 people who have signed on in support of national Wild and Scenic designation for the river. And, that's people that have signed on at all the local spots around town and at events. We have Randy Burg, who has been down tabling at Walmart and various locations throughout both counties. And these are just regular people who've signed on this petition, it's not a petition that has been circulated around on some type of global internet exchange. That 8,000 is real people, that are really concerned about this river and want to see it designated and protected finally, so we don't have to be back here in a couple years when San Joaquin County decides they want to build another higher, bigger, better, Middle Bar Dam. So, please pass on the word to your board to support full Wild and Scenic Designation. And thanks again.

Response to Comment 2:

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

Brian Oneto, Amador County Board of Supervisors

Comment 1:

Yes, I'm Brian Oneto, Board of Supervisors for Amador County. And I'd like to speak to you concerning the Wild and Scenic designation. I'm opposed to that and I believe the Board of Supervisors has sent you a letter, or you should have received a copy of it, where we have taken the position opposing the Wild and Scenic designation. And yes, there have been petitions that have been circulated around the county asking people, "do you want to save the Mokelumne River?" And that's kind of like saying, "do you want to save an old lady?" And the answer is, "well yes," but you don't always say what exactly what you're saving and what the results may be of actions. I'm opposed to it, completely, all I would ask is if East Bay Mud decides to support Wild and Scenic, I'd ask that you support it from the headwaters all the way to the end, or don't support it at all. I wish that you would oppose it. Otherwise, it would seem to be a rather self-serving action on your Board's part to say, come and support Wild and Scenic from the high tide pool up and keep the water for you folks there down. Wild and Scenic has a lot of

ramifications that a lot of people don't always understand, but you get reading into it, and it's not a good thing for Amador County and I'd ask your Board to oppose it. Thank you.

Response to Comment 1:

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

Marti Crane

Comment 1:

I apologize for being late, so if I repeat, it's just another voice. Marty Crane, Calaveras County District 5.

Thank you for coming back and bringing us the good news, and for hearing. I went to all the meetings before and saw you in Oakland and around and I applauded then and I do today the fact that when you presented everything, you presented it equally the same every time. And I noticed that everyone was in lock-step and I just thank you for hearing our collective voices and collective concerns. This is our sense of place here and I'm very passionate about the Mokolumne watershed, as you are, as evidenced by your decision. So, thank you so much. And I would like to know more about why this gentleman is opposed to Wild and Scenic. It sounds wonderful to me, but, I will go home and google it and see what I'm missing. But, thank you so much for hearing our voices.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

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2.3.2 San Andreas Public Meeting

EBMUD held a public meeting at the San Andreas Town Hall on January 12, 2012 to receive public comments on the WSMP 2040 Draft Revised PEIR. Public comments from that meeting and the responses to those comments are presented below.

Steve Wilensky, Calaveras County Board of Supervisors

Comment 1:

As you can see from the enormous turnout tonight, you must have done something right. We tend to be very good around here at gathering together to oppose things, maybe not so good at thanking people who make good recommendations. I want to express that thanks in a number of ways.

First, we know that the first public meetings up here were the subject of some amount of discourse and discussion between our parties. In the end, you had the courage to come up to both Amador and Calaveras counties and face a good portion of our population who felt somewhat disenfranchised in the process. More courageous yet was that in the

end you appeared to have heard our voices, and being included in that makes a lot of difference to us. I believe there is a feeling of respect for the organization. I know from serving on the Board of Supervisors that it's not easy to turn a barge in Class 5 rapids without a paddle in the middle of the process, and you appear to somehow have managed to at least turn your organization in a way that did due diligence looked further into things and came up with a conclusion that I personally am delighted with and my constituents feel very grateful for.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Comment 2:

But, that's not the end of the story, I hope. This ends one chapter and it gives you a number of options which I am sure you will pursue with gusto and good effect. For us up here, we continue to be interested in a level of partnership with East Bay Municipal Utility District in a number of areas and I'd like to list a few things that I'd like to invite you to.

The first is forest stewardship in the watershed, meadow stewardship and restoration are things that we should have mutual interest in.

The opening up of the river to rafting and a commercial run by OARS would make a big difference recreationally but also economically for these counties.

We think we've got interest in stopping siltation and sometimes sewage from our old redwood septic tanks to the middle fork of the Mokelumne River, that would be a good thing for us to collaborate on.

We think that the relationship between the people in the East Bay who get 90 to 95% of their water from these counties of origin would be good allies in some of these efforts. We do not have the resources or population, what we've got is the water resources, but not the economic wherewithal to play the full roll of stewards of this watershed that we would like.

Another thing that you all know has happened in the last couple of years and this is partly through collaboration processes that you've been involved in as well as sometimes in fact led is the restoration of the salmon run from 350 returning salmon 3 years ago to 4,000 2 years ago to now over 20,000, what was the last figure? Nearly 20,000 salmon coming back is one of the great stories of salmon restoration in California history. We think we can do even better.

And there's many more things to do to extend that up river, and that would make a big difference in our local recreation and economic circumstances.

I would suggest a couple of other partnerships that may be more personal, I understand Mr. Sykes presses a mean apple cider and I think we should have a collaborative joint cider pressing sometime in the next year and come up with an even better product between us.

This has been a tough round, but it opens up new possibilities, new chances for us to do great things on this watershed. The people of Calaveras County are ready to stand up and play their proper role in this stewardship. We look forward to your outstretched hand in response. I encourage the Board of the East Bay Municipal Utility District to show the same insight, the same due diligence and courage that the staff has in making this recommendation. Thank you.

Response to Comment 2:

EBMUD acknowledges the comment by Supervisor Wilensky regarding Calaveras County's interest in future partnerships with EBMUD on a number of matters of shared interest including: forest stewardship in the watershed; meadow stewardship and restoration; the opening up of the river to rafting and a commercial run by OARS; stopping stream / stream bed siltation; addressing sewage inflow from old redwood septic tanks to the middle fork of the Mokelumne River. EBMUD notes that the District has worked most recently on the following efforts with Calaveras County primarily through the District's participation in the Upper Mokelumne River Watershed Authority and/or the Mokelumne River Forum:

- Through UMRWA, the completion (in 2008) of a Mokelumne Watershed Assessment and Planning Project. The Project included the following components:
 - The preparation of a Septic System Management Program
 - The development of a Mokelumne Watershed Hydrologic Simulation Model (WARMF Model)
 - Development of baseline water quality characterization for the Mokelumne Watershed
 - Development of wildfire models
 - Identification of water quality vulnerability zones;
 - Preparation of an Upper Mokelumne River Watershed Management Plan
- Through UMRWA, the development and continual sponsorship of a Youth Watershed Stewardship Program for Amador and Calaveras Counties
- In partnership with Amador Water Agency (AWA) and Calaveras County Water District, the preparation (in 2006) of a Mokelumne / Amador / Calaveras (MAC) Integrated Regional Water Management Plan (IRWMP), as spearheaded by Amador Water Agency.
- Through UMRWA, the current update of the MAC IRWMP (including grant applications to fund not only this update but also projects as sited in the 2006 MAC IRWMP for implementation)
- Through UMRWA, the current preparation of a grant application to fund an effort termed "Mokelumne WISE" that reviews, at a feasibility level, the potential to develop mutually beneficial water supply project on the Mokelumne River (i.e., one that benefits Foothill Counties, San Joaquin County, EBMUD, and has the support of / key benefits to the environmental community)
- In partnership with AWA, Calaveras County Water District and San Joaquin County on the feasibility-level study of Raising Lower Bear Reservoir, as spearheaded by Amador Water Agency
- Work conducted to complete the Mokelumne Coast to Crest Trail
- Sponsorship at Amador and Calaveras County Fairs
- Collaboration to sign an MOU between EBMUD, USBR, and PG&E regarding recreational activities along the Mokelumne
- Flushing flows / Rock Placement beneficial to fisheries downstream of Camanche

- Providing environmental education classes for local schools (related to Maryanne Garamendi's school program)
- Partnering with local counties to create a Mokelumne Fire Management Plan for owned and adjacent watershed areas in 2012
- Conducting eagle and Native American cave painting tours as well as Native American plan site collections
- Constructing the Middle Bar take out.
- Signing an MOU to pilot commercial rafting from Electra to Middle Bar.

The District acknowledges the statement as made by Supervisor Wilensky that as the East Bay derives a large percentage of its water supply from the Foothill region, building stronger alliances with Foothill residents would be beneficial. EBMUD agrees that this year's Salmon run on the lower Mokelumne was highly successful. Finally, EBMUD appreciates the statement made by Mr. Wilensky that the people of Calaveras County are ready to stand up and play a role as an environmental steward.

Comment 3:

Last but certainly not least, given the new recommendation, my hope is that we can agree on where the Wild and Scenic part of the Mokelumne would begin, and move it downstream just a bit so it includes our river run into the overall plan. You are an important ally in that and I hope you'll consider that piece of it as part of the policy discussion as this thing moves forward.

Response to Comment 3:

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

Barranca Wren

Comment 1:

Thank you very much for your consideration, I think we're in a new age now where having lost the Stanislaus River to a huge reservoir, I am very pleased to hear that you are agreeing with the preservation of a wild flowing river as opposed to another stopped reservoir, dead lifeless habitat. I listened to some of your comments about your new revised EIR and hear that you say the impacts are significant and I agree that they would be very, very devastating because as we see we cannot replace the only major limestone canyon in all of the west was the Stanislaus river, and now we have a little beautiful stretch of the Mokelumne under study for Wild and Scenic status, so we would like to see that happen. Thank you for your recommendation to remove the expansion of Pardee. Thank you.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

Colleen Platt, www.myvalleysprings.com

Comment 1:

Good evening, Colleen Platt with myvalleysprings.com. Thank you for listening to the public and our comments and all of the agencies comments, environmental organizations. We feel like you really did hear our voices. We appreciate you revising the environmental document to reflect the true impacts of the Enlarge Pardee component as summarized in Section 9.2 impacts associated with loss of whitewater rafting are deemed to be potentially significant. We appreciate that you recognize that impact to our area. We agree with the conclusion that the component does not need to be included and we encourage that you do look at the Los Vaqueros Expansion.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Comment 2:

I'm a little bit unclear on the Middle Bar Bridge part of the report. I thought I read it and just read that you could create an emergency evacuation plan, and that's not the same as replacing the bridge and the road. I'll have to re-read that and see what you said on that exactly. We do thank the staff for listening to us and hope that the Board of Directors listens to their staff and removes the Pardee from the water management plan. Thank you.

Response to Comment 2:

The commenter correctly notes that EBMUD has committed to preparing an emergency response and evacuation plan that identifies measures necessary to preserve evacuation and emergency access in Mokelumne Canyon prior to the start of any activities that would impair the use of the Middle Bar Bridge for emergency response and evacuation (see Mitigation Measure 5.2.J-4 on page 6-2 of the Draft Revised Program EIR). EBMUD will consult with local and state emergency response authorities, including authorities from federal, state, and county agencies, during preparation of the emergency response and evacuation plan.

As stated on page 6-2 of the Draft Revised Program EIR, Mitigation Measure 5.2.J-4 requires that the emergency response and evacuation plan shall include, at a minimum, measures to maintain evacuation and access, as well as marking and signs and education materials for local residents on available routes, timing of construction, and agency contacts in case of emergency. The plan will also include designation of an emergency response officer to ensure that access is provided and emergency personnel are updated on construction issues and the location of crews.

EBMUD would commit to implementing Mitigation Measure 5.2.J-4 (as well as the other mitigation measures presented in the Draft Revised Program EIR) as a condition of project approval. By preparing and implementing an emergency response and evacuation plan, EBMUD would ensure that emergency evacuation and access are maintained in Mokelumne Canyon during construction and operation of the Enlarge Pardee Reservoir component. Options for replacing or retaining the Bridge will also be explored if EBMUD undertakes a project that has the potential to impair the use of the Bridge.

Pete Bell, Foothill Conservancy

Comment 1:

It's been a long, hard battle. But, I'm pleased to say that it's a battle that has been fought respectfully from both sides. You guys have shown tremendous courage in what you've done. We're here to say now let's move on and let's get into some constructive partnerships and do good things instead of fighting with each other. I could list a bunch just like Steve Wilensky did, there's not a lot of point in that. You guys know what we're involved in, you're involved in a lot of them, so let's work together, and keep moving forward. Thank you.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Christine Colman

Comment 1:

Good evening. Thank you for coming up here to meet with us tonight, and thank you very much for having engaged in the process with us. I was going over in my mind the process, the first meeting that happened back in Jackson, I guess that was in '09, and the subsequent meetings that happened, and sort of the way it allowed us to open up and appear and have a voice, and part of me wanted to go into the anger and how could you even have thought of doing this to this stretch of the river, and I thought, what a great democratic process. We did good, all of us, we did good, we struggled we had to pull out some big guns in terms of the suit but we felt strongly, very very strongly about this river and about its natural state so we did what we needed to do and look at the outcome. I just thank you so much for listening to us and looking into other options and working with us, and I too wish to commit to a partnership among those of us who live up here and enjoy the river and those of you that are working in East Bay MUD to continue our dialogue and to work together should other issues come up.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Comment 2:

Also, I very much would like to see the Mokelumne River become wild and scenic, and would very much like to encourage you to join us in that effort in any way which you can, I don't know how this all works but I certainly know that you are a very big part of what happens with the Moke River. I think that's it. Thank you very much.

Response to Comment 2:

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Charles Leitzell

Comment 1:

Good evening. I put my comments in a letter which I'll give to you and you can pass onto the Board, but I would like to read a couple of paragraphs. We're pleased that the raising of Pardee Dam in your 30-year water plan is recommended for deletion by staff, and we encourage the Board of Directors to concur with the recommendations.

The second paragraph of my letter deals with the impacts, and that section, and you've covered that in your EIR so I'm not going to read it, but I will just pass the information on to the Board.

We ourselves, will never live to see the raising of the dam and the flooding of the river. Wouldn't have, no matter if you raised it, cause at our age we just wouldn't live to that point. But our children and grandchildren would. You now have alternatives to the dam proposal that would serve the District for future water supply that do not require the raising of Pardee and the flooding of this segment of the river.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Comment 2:

We want to thank the district (that's Paula and I, my wife) for the new take-out facility at Middle Bar and for the trails that are now constructed and will be constructed in the future on District lands.

Response to Comment 2:

Comment noted.

Comment 3:

Now that you no longer need to raise the dam, we encourage the Board to support our effort to place this portion of the river in a Wild and Scenic designation. This proposal has a lot of support from the residents and businesses of Amador and Calaveras counties. Thank you for holding these hearings in Amador and Calaveras counties and listening to our comments. Thank you.

Response to Comment 3:

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Jayne Childress

Comment 1:

I don't have a lot to say I just want to say thank you for keeping the middle bar open and personally, I like to kayak that stretch of the Mokelumne so I'm very thankful that we're able to go all the way down to the Middle Bar, and will be able to. And for the community, and not only just for myself, I think it's important that they get to have a place to learn to kayak cause there's not many rivers left that are Class 2 and places like that to learn,

and so it's a great spot to bring kids I bring lots of kids there for education. We have the Middle Bar with culturally significant plants that are really important to the native people, and I bring a lot of people there so they can harvest their materials so it's great and I want to thank you so much for this decision...

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Comment 2:

... and I want to also encourage the Wild and Scenic portion to keep it all wild and scenic. It would save it forever and that would be the best thing. So I hope that happens. Thank you.

Response to Comment 2:

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

Tyler Childress

Comment 1:

I'm Tyler Childress, Mokelumne Hill. I want to thank EBMUD for the many recreational and educational opportunities that you provide to the residents and students of Calaveras County. The eagle tours, the wildflower hikes, the bike trails, for hosting the many educational programs such as stewardship through education.

Response to Comment 1:

Comment noted.

Comment 2:

And I'd like to thank the Board of Directors ahead of time for finally putting a stake through the heart of the Pardee Expansion. I commend you for your willingness to consider other storage options for your future water needs. After all, easily accessible free-flowing stretches of river are rare indeed. The loss of even a few miles of such precious riparian habitat would be unconscionable.

Response to Comment 2:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Comment 3:

Therefore I'd like you to join us in supporting federal Wild and Scenic status for the Mokelumne River on all of the free-flowing stretches above the current high-water pool of Pardee Reservoir. Thank you.

Response to Comment 3:

EBMUD's WSMP 2040 Revised Draft Program Environmental Impact Report is independent of any position of support or opposition EBMUD may consider for Wild and Scenic Designation for portions of the Mokelumne River.

2.3.3 Oakland Public Meeting

EBMUD held a public meeting at the EBMUD Administrative Office on January 17, 2012, to receive public comments on the WSMP 2040 Draft Revised PEIR. Public comments from that meeting and the responses to those comments are presented below.

John Trinkl, Ebbetts Pass Forest Watch**Comment 1:**

I have a second home in Calaveras County and I am a member of the Community Action Project. I want to thank the EBMUD staff for dropping the expansion of Pardee. I salute the work you've done and hope the Board adopts the revised plan.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Sonia Diermayer, Sierra Club Bay Chapter, Co-chair of Water Committee**Comment 1:**

We are very pleased with EBMUD's serious response to the legal ruling. Regarding Pardee, we strongly support expansion the decision that expansion is not needed.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

Comment 2:

We hope the statement on page 3-3 of the revisions will be changed to include other reservoirs as well. "Other longer-term projects" - what other projects might be deferred?

Response to Comment 2:

Comment noted. No other long-term project is anticipated to be deferred through 2040.

Comment 3:

In case Pardee is revived, significant harm to the river will continue to be an issue.

Response to Comment 3:

Comment noted.

Comment 4:

We defer to the Miwok people and community regarding emergency access and cultural resources.

Response to Comment 4:

Comment noted.

Comment 5:

Regarding Los Vaqueros, we offer qualified support because it avoids the foothill expansion, but we prefer that EBMUD would verify that CCWD is enforcing mitigation to protect resources. EBMUD's participation should include a condition, that any increased diversions for EBMUD take place in wet years and not affect anadromous species or the Delta. We don't want EBMUD to increase any damage. EBMUD should use this water for an extreme multi-year drought, not for development.

We are interested in the greenhouse gas emissions that would result from pumping.

Will EBMUD prepare an EIR on its participation in the Los Vaqueros Expansion?

Response to Comment 5:

Contra Costa Water District is complying with and implementing all of the measures described in the Los Vaqueros Reservoir Expansion Project Final EIS/EIR and the Mitigation Monitoring and Reporting Program (MMRP) and is expected to operate in accordance with all its permits. Contra Costa Water District and EBMUD will share records related to this process and EBMUD will verify that the mitigation requirements for the Los Vaqueros Reservoir Expansion Project are met.

All diversions at Contra Costa Water District intakes are managed to minimize harm to Delta fish and Delta habitats through screening and timing of diversions. Diverting water to storage in wet years is consistent with Contra Costa Water District's operation of Los Vaqueros Reservoir to meet water supply goals. Diversions at Contra Costa Water District intakes to meet the drought year water needs identified in EBMUD 2040 WSMP fall within the analysis presented in the Los Vaqueros Reservoir Expansion Project EIS/EIR, and were shown to avoid any significant increase in impacts to the Delta ecosystem.

Any use of Los Vaqueros Reservoir by EBMUD would be consistent with permits and the project. As described in the Los Vaqueros Reservoir Expansion Project Final EIS/EIR and the MMRP, the Los Vaqueros Reservoir Expansion Project has been designed to improve water quality, emergency supplies and drought supply, and not to develop yield for growth.

The Los Vaqueros Reservoir Expansion Project EIS/EIR analyzed potential contributions of expanded reservoir operations to climate change, including Greenhouse Gas (GHG) emissions. Pumping of water for use by EBMUD would be within the operational assumptions evaluated in the Los Vaqueros Reservoir Expansion Project EIS/EIR.

Comment 6:

We are glad Pardee is out of the 2040 Plan; as always we ask that you prioritize water conservation.

Response to Comment 6:

Comment noted.

Comment 7:

We will submit other written comments.

In summary, we strongly support removing Pardee, and we have qualified support for the Los Vaqueros Expansion.

Response to Comment 7:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

The District received hand-delivered written comments from the Sierra Club on February 9, 2012.

Chris Shutes, California Sportfishing Protection Alliance**Comment 1:**

I am disappointed that more people didn't come out tonight to thank the staff. I sincerely thank all staff who worked on this to get Pardee out of the EIR. It took skill and courage. I am thrilled.

I don't want to pick on the EIR. It's a good decision for everybody. It puts our organization in a different relationship with EBMUD. We can work together on issues in the Delta, and on the Mokelumne, for mutual benefit.

Including Los Vaqueros is a good decision. It is a model for the rest of the state, including the City of San Francisco. Moving water through and leaving it in rivers for as long as possible is a good thing to do.

I will be at the workshop and the certification hearing. Thank you.

Response to Comment 1:

EBMUD has received a number of comments expressing support for the recommended changes to the WSMP 2040 and EBMUD's Board members have expressed their support for these changes. EBMUD appreciates the input on this program.

