



COUNTY OF YOLO

Office of the County Counsel

Philip J. Pogledich
County Counsel

625 Court Street, Room 201 Woodland, CA 95695
(530) 666-8172 FAX (530) 666-8279

November 7, 2023

Jerry Brown
Executive Director
Sites Project Authority
122 West Old Highway 99
Maxwell, CA 95955
jbrown@sitesproject.org
530-438-2309

Re: Yolo County Comments on Final Environmental Impact Report/Environmental Impact Statement

Dear Director Brown:

On behalf of the Yolo County Board of Supervisors, I am providing the attached comments on the Final Environmental Impact Report/Environmental Impact Statement ("Final EIR/EIS") for the Sites Reservoir project. I would appreciate if you distributed this letter and the attached comments to the Authority's Board of Directors at your earliest convenience.

The attached comments describe our principal concerns with the Project based on information presented in the Final EIR/EIS. As set forth in the attachment, many of the concerns expressed arise from a lack of specific information relating to the construction of the Dunnigan Pipeline, future releases into the Yolo Bypass, and the potential environmental impacts of those activities.

We recognize the proposed project has the potential to provide important water supply, flood management, and ecosystem benefits to this region. We look forward to working collaboratively with the Sites Project Authority to address the issues raised in the attachment, preferably before the project is approved or as soon thereafter is possible.

Sincerely,

Philip J. Pogledich
County Counsel

Enclosure

cc: Ernest Conant, Regional Director
U.S. Bureau of Reclamation
California-Great Basin Office
2800 Cottage Way
Sacramento, California 95825-1898

Comments of Yolo County on the Final Environmental Impact Report/Environmental Impact Statement (Final EIR/EIS) for the Sites Reservoir Project

Notice of the Recirculated Draft Environmental Impact Report and Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS). Aside from the Notice of Availability required by the California Environmental Quality Act (CEQA) (delivered to the Yolo County Recorder on November 12, 2021), the County has been unable to determine if it received notice pursuant to CEQA or the National Environmental Policy Act (NEPA) of the November 12, 2021 release of the RDEIR/SDEIS, which is incorporated into the Final EIR/EIS. The County also lacks records indicating that the Sites Reservoir Joint Powers Authority (Sites JPA) sought to consult with the County as required by Section 15086 of the CEQA Guidelines. For at least these reasons, the comments set forth herein should not be dismissed as late or otherwise improper.

Project Alternatives. The County observes that the Final EIR/EIS contains only three project alternatives that are substantially similar in most respects, as the document acknowledges. The Dunnigan Pipeline, in particular, is identical in Alternatives 1 and 3, and under Alternative 2 it is longer (extending to the Sacramento River) but apparently retains the same ability to discharge directly into the Colusa Basin Drain and Yolo Bypass for ecosystem or water delivery purposes. Project facilities located outside Yolo County (including, of course, the proposed reservoir and the dams and other facilities necessary for its operation) are also very similar under each alternative.

On these grounds, the County questions whether the Final EIR/EIS presents a reasonable range of alternatives to the proposed project, including the Dunnigan Pipeline component, that would feasibly attain most of the project's basic objectives while reducing or avoiding any of its significant effects. The County specifically questions the need for, and ecosystem value of, discharges to the Yolo Bypass through the Colusa Basin Drain (an intended function of all project alternatives) and whether other means of providing ecosystem benefits for native Delta fish species, as mentioned in the project objectives listed on p. ES-11, were thoroughly evaluated. In particular, the County questions whether other alternatives with reduced impacts within Yolo County—which is not represented on the Sites JPA governing board—were carefully considered.

Project Description. The County observes that the Project description is vague and/or inconsistent in numerous respects. Specific concerns are set forth in the following sections but the leading concerns are as follows:

- Inadequate description of how groundwater will be supplied to the Dunnigan Pipeline construction site, how it will be used, and whether there will be any runoff or other effects that require analysis (including effects from dewatering);
- Vague description of the approach to constructing the Dunnigan Pipeline, including a lack of detail regarding excavation methodology, equipment to be used, how soil will be stored and reused or disposed of, and related matters such as vehicle trips and potential air quality (including fugitive dust) impacts; and
- Vague and inconsistent language regarding discharges for water supply and ecosystem purposes into the Yolo Bypass, including the volume and timing of such discharges and related effects on farmland.

Dunnigan Pipeline-Groundwater Impacts During Construction. In connection with Pipeline construction, the Final EIR/EIS describes the potential for impacts to groundwater as well as the temporary disturbance of agricultural wells and irrigation of fields near the pipeline alignment. Impacts will result from dewatering (mentioned at p. 2-68) along the Pipeline alignment, direct physical conflicts

with existing irrigation infrastructure, and the groundwater demands/usage by the construction effort itself.

Despite acknowledging the potential for such impacts, however, the Final EIR/EIS contains only scant and conclusory analysis. For example, at p. 5-57 the Final EIR/EIS simply states “[a]s identified in Chapter 8, there is sufficient groundwater supply to provide this water during the construction period without affecting yield from other wells.” The Chapter 8 analysis, however, is largely bereft of meaningful detail and does not even clearly describe why construction of the Pipeline will require “approximately 20,000 to 30,000 gallons of water per day” for several years. The abbreviated analysis of these impacts and lack of ways to mitigate them limit the County’s ability to comment on related impacts. (Final EIR/EIS at pp. 8-14 and -15.)

Further, while the Final EIR/EIS mentions (at pp. 8-14 and -15) the possibility of using “existing surface water from the Storage Partners pursuant to existing water rights agreements and permitted uses” to supply a portion of the necessary water for Pipeline construction, this possibility seems far-fetched. How is it feasible to convey surface water to the construction site near Dunnigan? The Final EIR/EIS does not say. Accordingly, the County agrees with the decision to conservatively assume all water supply needs for construction of the Dunnigan Pipeline will be met with groundwater. And this, in turn, underscores why it is essential to include a much more robust analysis of potential groundwater and agricultural impacts arising from the Dunnigan Pipeline construction. Absent such analysis, the groundwater analysis in the Final EIR/EIS is deficient.

Dunnigan Pipeline-Excavation and Soil Storage, Reuse, and Removal. The method of construction for the Dunnigan Pipeline is described vaguely, including whether its construction will be solely through open excavation or whether tunneling/boring will be used. Specific concerns include the following.

First, at p. 2-103, the Final EIR/EIS mentions the removal, storage, and replacement of topsoil in irrigated agricultural areas following “restoration” so that “irrigated agricultural areas would have the same soils composition except in areas that would be covered by permanent maintenance roads.” How will the Sites JPA ensure the productive capability of the soil is maintained or restored through this process? Is it reasonable to expect some degree of decline in productive capability? Will the Sites JPA retain an agronomist to guide this process, potentially in coordination with the Yolo County Agricultural Commissioner? The County strongly recommends that the Sites JPA develop an agreement with the County that appropriately addresses these issues.

Second, at p. 6-55, the Final EIR/EIS mentions that the Dunnigan Pipeline will “entail substantial excavation” but does not elaborate on whether this work presents the potential for impacts mentioned briefly in this portion of Chapter 6, including adverse effects on water quality. This is a further example of the overall lack of detail of potential construction impacts associated with the Dunnigan Pipeline—mentioning “substantial excavation” without including any related analysis leaves the County and general public without any basis for understanding this (and virtually every other) potential impact of Dunnigan Pipeline construction.

Related to this concern, Table 12-7 (on p. 12-68) of the Final EIR/EIS appears to indicate that excavation for the Dunnigan Pipeline will displace 100-250 acres of soil, depending on the project alternative selected. This is based on a 10-foot pipeline diameter, however, and therefore appears to understate potential impacts (as the external dimension of the pipeline will be somewhat larger). Based on information provided in different places in the document, the Dunnigan Pipeline will apparently be about 12 feet in diameter at depths of 6-30 feet below the ground surface.

Similarly, aside from the language at p. 2-103, the Final EIR/EIS does not explain how excess soil will be stored and reused or disposed of in connection with the Dunnigan Pipeline. The County is greatly concerned that long-term storage of excavated soil near the community of Dunnigan or other residential areas could cause adverse air quality impacts due to fugitive dust. The County urges the Sites JPA to work cooperatively with County staff to identify appropriate, safe means of storing excess soil and removing it as promptly as feasible to avoid adverse air quality impacts in and near Dunnigan.

Dunnigan Pipeline-Construction Traffic. At p. 2-52, the Final EIR/EIS describes daily construction traffic but does not specifically (in this section or elsewhere) describe traffic associated with Dunnigan Pipeline construction. Similarly, the discussion of local roads to be used for the project that begins at p. 2-70 entirely omits any roads in Yolo County. The following passage later in the Final EIR/EIS indicates the significance of these omissions and the potential for a high volume of construction traffic in Yolo County, with significant physical impacts on County roads that will require significant maintenance and/or reconstruction:

Daily construction traffic would consist of trucks hauling equipment and materials to and from the work sites as well as daily arrival and departure of construction workers. Construction traffic on local roadways would include dump trucks, bottom-dump trucks, concrete trucks, flatbed trucks for delivering construction equipment and permanent Project equipment, pickups, water trucks, equipment maintenance vehicles, and other delivery trucks. At the peak of construction in 2027, current estimates project between 701 and 978 daily haul trips for conveyance facilities, and approximately 1,760 daily offsite haul trips for reservoir facilities. (Final EIR/EIS at p. 18-26)

The Final EIR/EIS does not analyze the current pavement condition of affected Yolo County roads (though, as noted, it does include a brief summary of the pavement condition of local roads outside the County at pp. 2-70 and 2-75) or appear to describe and analyze how such roads will be affected by Dunnigan Pipeline construction. These omissions are significant and render the Final EIR/EIS deficient in this respect.

The Sites JPA needs to address, preferably through an enforceable agreement with Yolo County, how impacts of soil hauling and other project construction activities on Yolo County roads and infrastructure will be fully mitigated. The Final EIR/EIS mentions a number of possible routes for construction of the Dunnigan Pipeline (including various County roads), but the final routes will need to be identified in coordination with Yolo County's Public Works Director, along with a binding commitment to reconstruct impacted roads after construction is complete.

The Final EIR/EIS's analysis of general truck traffic is similarly devoid of much analysis. It states, on page 18-19, that a vehicles miles traveled (VMT) analysis was not necessary "because a qualitative assessment indicated that there would not be construction VMT impacts." We were unable to locate the qualitative assessment referenced in the Final EIR/EIR, other than simply surmising that construction workers and other trips "are effectively replacing other trips" to other projects, that could be even longer. Under that logic, a VMT analysis would be unnecessary for any project because every trip -- whether for recreational traffic or construction traffic -- is always a replacement for another trip. And even if the Final EIR/EIS intended to rely on such a theory, the analysis would have to be backed by evidence, not conjecture, about the number and distance of trips that construction workers, equipment, and materials would make absent the project. We expect that such an econometric analysis would be quite difficult to perform without extensive data about the regional construction industry, the projects that would be built during the time period, and the travel costs if the project were not undertaken. Rather than rely on such an untested and unsupported theory based on a hypothetical counter-factual, however, the

transportation chapter for the Final EIR/EIS should provide the VMT generated by the construction activities and disclose them for public review.

Nor should the Final EIR/EIS omit this analysis on the basis of SB 743 and CEQA Guidelines § 15064.3, as is implied under Impact TRA-2. Section 15064.3 states, “[g]enerally, vehicle miles traveled is the most appropriate measure of transportation impacts. For the purposes of this section, ‘vehicle miles traveled’ refers to the amount and distance of automobile travel attributable to a project.” By using the word “generally,” Section 15064.3 acknowledges that automobile VMT alone may not always be the most appropriate measure of transportation impacts. The legislative intent of SB 743, and the associated CEQA Guidelines Section 15064.3, was to ensure that lead agencies include the appropriate analysis of VMT from infill projects in transit priority areas. However, this is no infill project; it is an extensive public works projects that will generate extensive VMT. Truck trips associated with hauling construction materials and equipment are a significant concern that could – and should -- be analyzed in the Final EIR/EIS.

It appears that the Final EIR/EIS did indeed consider the VMT from truck trips generated by the project in Chapter 20 on greenhouse gas (GHG) emissions, but we cannot verify the information. Appendix 20A shows the general methodology as taking hauling into account. The Final EIR/EIS says on page 21-4, “Modeling assumptions are provided in Appendix 20B, Air Quality and GHG Analysis Data.” On the Sites EIR/EIS website, however, Appendix 20B is not included,¹ and we were not able to identify the modeling assumptions and data elsewhere to verify whether construction trips were considered in the GHG analysis. We do note that the emissions for initial construction were amortized over 30 years, which appears to minimize the project's immediate impacts. These matters should be clarified before the Final EIR/EIS is finalized.

Dunnigan Pipeline-Inconsistent Language Regarding Releases into Colusa Basin Drain and Yolo Bypass.

The Final EIR/EIS contains vague and inconsistent language regarding releases to the Colusa Basin Drain and into the Yolo Bypass, including which entity/ies are responsible for managing such releases once the project is operational. At pp. 1-7, the Final EIR/EIS describes a benefit agreement for ecosystem improvements to be administered by the California Department of Fish and Wildlife. But the terms of these agreements are not described in the Final EIR/EIS, let alone analyzed, and it is not clear whether these agreements will even cover releases into the Yolo Bypass as opposed to other ecosystem uses. Nor is there any other detail on which entity/ies will be responsible for managing such releases or, critically, how various assumptions regarding the timing and extent of releases into the Yolo Bypass will be implemented over time, including (a) how oversight will occur, (b) whether the assumptions will later be expressed as binding and enforceable commitments, and (c) whether increased maintenance or other impacts of affected facilities, such as the Tule Canal and Toe Drain, will be necessary.

Of greatest concern to the County, the Final EIR/EIS is replete with vague and inconsistent language regarding the timing, volume, and purpose of releases into the Yolo Bypass. At p. 2-77, text addressing releases into the Colusa Basin Drain and the Yolo Bypass states:

Water releases would generally be made from May to November but could occur at any time of the year, depending on a Storage Partner’s need and capacity to convey water to its intended point of delivery. Water would be released from Sites Reservoir via the I/O Works back through the TRR PGP and into the TRR or back through Funks PGP back into Funks Reservoir. Water released could be used along the GCID Main Canal, along the TC Canal, or conveyed to the new Dunnigan Pipeline and discharged to the CBD under Alternative 1 or 3 or to the Sacramento

¹ <https://sitesproject.org/wp-content/uploads/2021/11/RDEIR-SDEIS-App20B.pdf>

River under Alternative 2. From the CBD, the water may be conveyed via the Sacramento River or the Yolo Bypass to a variety of locations in the Delta or south of the Delta.

In effect, this language seems to say that anything is possible. It is hard to reconcile this language with other provisions of the Final EIR/EIS that appear to contemplate much more limited releases into the Yolo Bypass.² This overall ambiguity in the description of intended project operations prevents the County from understanding and commenting meaningfully on the likely environmental consequences of Project operations on existing uses in the Yolo Bypass, including agriculture, recreation, and environmental education.

Similarly concerning is language on p. 5-36, stating:

Sites Reservoir releases to the Sacramento River (either through CBD via the Dunnigan Pipeline or directly from the Dunnigan Pipeline) are expected to be greatest during dry conditions, with average releases of approximately 350–580 cfs during June through August of Critically Dry Water Years (Table 5-19), with releases reaching a maximum of 1,000 cfs during some months (Chapter 2). Releases to the Sacramento River would be somewhat higher during Dry Water Years than Critically Dry Water Years due to greater storage in Sites Reservoir, with average releases of approximately 560–830 cfs during June through August (Table 5-19), and releases persisting at higher levels through November relative to Critically Dry Water Years. Sites Reservoir releases to Yolo Bypass would be greater during Wet Water Years than during Critically Dry Water Years (Table 5-20), with releases reaching 380–446 cfs during August and September of Wet Water Years. Percent change in total Yolo Bypass flows is expected to be large during August through October because, during this time, Sites would be releasing habitat water to the Yolo Bypass, and existing Yolo Bypass flows are generally low during these months (Table 5-21). Small percent reductions in Yolo Bypass flows are expected during the rainy season as a result of the diversions to Sites Reservoir storage (Table 5-21)

This text raises at least two specific concerns.

First, if Alternative 1 or 3 is approved as the final project, it would seem that releases of “a maximum of 1,000 cfs during some months” will be solely feasible through the Yolo Bypass. Yet as the Final EIR/EIS acknowledges elsewhere, the Tule Canal and Toe Drain are used for agricultural irrigation and drainage in the summer and early fall and those features have limited capacity for additional releases from the Dunnigan Pipeline and Colusa Basin Drain. Even setting aside the existing uses of the Tule Canal and Toe Drain, the capacity of those features is constrained in some locations to only 200-300 cfs (as noted in the Final Environmental Impact Report/Environmental Impact Statement for the Big Notch Project, discussed elsewhere in the Sites Final EIR/EIS) and the releases discussed in the Final EIR/EIS could easily overwhelm these canals and inundate nearby agricultural land.

Second, the timing of releases described in this paragraph (June through August, and possibly through November) is at odds with the discussion of timing elsewhere in the document, which is typically limited to the months of August-October. This language, taken together with the text discussed above on p. 2-

² E.g., p. 2-112 (stating that “[r]eleases from Sites Reservoir would be made to meet environmental purposes, such as for the delivery of Incremental Level 4 water to refuges or fall food production in the Yolo Bypass for north Delta fish species.”); p. 6-71 (“The simulated CALSIM flow increases in August–October through the Yolo Bypass expected under Alternatives 1, 2, and 3 do not exceed 470 cfs. Based on observations during North Delta Flow Actions (Davis pers. comm.), the comparable August–October habitat flows from Sites Reservoir through the Yolo Bypass may cause limited inundation of low-elevation parcels in the upper Yolo Bypass (north of the I-80 causeway).”).

77, further illustrates the lack of a stable, accurate description of how the Dunnigan Pipeline will be operated to convey water into the Yolo Bypass for water deliveries, ecosystem purposes, or both.

Dunnigan Pipeline-Inconsistent Language Regarding Land Use Impacts of Operations. The Final EIR/EIS contains inconsistent language regarding potential land use and agricultural impacts of releases into the Yolo Bypass.

As indicated in footnote 2, some language in the Final EIR/EIS indicates the potential for “inundation of low-elevation parcels in the upper Yolo Bypass (north of the I-80 causeway) due to August-October ecosystem releases.” The precise impact appears to be quantified at p. 11-122, which states (with emphasis added):

The modeling results of Yolo Bypass inundated suitable habitat show considerable increases in mean inundation acreage under Alternatives 1, 2, and 3 relative to the NAA during August through October, including up to 805 acres for September of Above Normal Water Years under Alternatives 1A and 1B (Table 11-13). These increases are the result of planned agricultural flow releases from Sites Reservoir. The releases reach the Yolo Bypass via the CBD, entirely bypassing the Sacramento River. For this reason and because of the months in which they occur, these summer-fall increases in inundated acreage have negligible effects on juvenile Chinook salmon or steelhead, including winter-run.

If this is accurate and the increased acreage includes land outside the Tule Canal and Toe Drain features, much more information on the modeled inundation footprint and related impacts is needed. However, the County notes that the Final EIR/EIS also contains conflicting information that indicates no impacts are predicted. For example, at p. 6-71, the document states:

The intent of the releases from Sites to the Yolo Bypass during this period is to transport nutrients and food sources for fish species in the Delta. If the water inundates floodplain areas (i.e., areas outside existing channels), the food would remain on the floodplain and fail to move into the Delta. As such, Sites Reservoir would be operated to maintain flows within the existing Toe Drain, Tule Canal, and other channels, and adjustments in operations would be coordinated between the Authority and parcel owners using the existing Yolo Bypass monitoring network. Because these flows would generally be contained within the Yolo Bypass channels without spreading across the bypass floodplain, water temperatures within the bypass would not be expected to increase as a result of the habitat flows.

Similarly, text at p. 15-36 says:

As discussed under Impact AG-4, agricultural lands would not be affected during the growing season as a result of inundation at Yolo Bypass or the CBD for Alternative 1, 2, or 3. Therefore, Alternatives 1, 2, and 3 would not result in temporary or permanent impacts as a result of changes in water regime at Yolo Bypass and CBD.

Finally, the Final EIR/EIS does not describe the easement rights or other property interests necessary to enable the Yolo Bypass releases described therein. Does the agency/ies responsible for such releases intend to use the easement rights that the California Department of Water Resources is currently seeking to acquire through eminent domain for the Big Notch Project? Some discussion on this point should be included to ensure affected Yolo Bypass landowners (as well as the County and other interested local agencies, such as reclamation districts) understand how the project could affect their property rights.

Dunnigan Pipeline-Capacity. The maximum capacity of the Pipeline is not clearly described. The Final EIR/EIS states that the Pipeline will be operated to convey up to 1,000 cfs, but it does not indicate that this is the maximum conveyance capacity of the facility. In approving the Project or otherwise, the Sites JPA should clarify the maximum conveyance capacity of the Pipeline.