
From: Francis Coats <fecoats@msn.com>
Sent: Friday, December 10, 2021 8:46 AM
To: EIR-EIS-Comments@SitesProject.org
Subject: RDEIR/SDEIS Comments; Sites Reservoir; Sites Project Authority

Francis E. Coats
3392 Caminito Avenue
Yuba City, CA 95991
fecoats@msn.com
(530) 701-6116

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Sites Project Authority
EIR-EIS-Comments@SitesProject.org

RE: Comments on RDEIR/SDEIS for Sites Reservoir, Sites Project Authority

Friends:

These comments primarily address the obligations of the state-wide and local California entities involved in the Sites Project under the constitution, statutes and the Public Trust Doctrine. Satisfying CEQA requirements does not necessarily mean that the agency obligations under the Public Trust Doctrine have been met; and, the obligation to comply with Public Trust Doctrine requirements may circle back, creating issues that must be addressed in the CEQA documents. For example the public trust and statutory requirement to refrain from unnecessary interference with public access to and use of lands and waters for fishing or other recreational pursuits may require additional consideration of the environmental effects of the public's exercise of those rights of access and use.

The waters of the proposed Sites reservoir will be subject to the public right to navigate including the incidents of navigation: hunting, fishing, boating, wading, swimming, walking along the shore, picnicking, and other recreational pursuits, exercised on the water and on the temporarily dry banks of the water below ordinary high water mark (People ex rel. Baker v. Mack, (1971) 19 Cal. App. 3d 1040, 97 Cal. Rptr. 448, 1971 Cal. App. LEXIS 1351, 3 ERC (BNA) 1391, 19 Cal. App. 3d 1040, 97 Cal. Rptr. 448, 1971 Cal. App. LEXIS 1351, 3 ERC (BNA) 1391 (Fall River); State of California v. Superior Court (Lyon) (1981)), 29 Cal. 3d 210, 625 P.2d 239, 172 Cal. Rptr. 696, 1981 Cal. LEXIS 135, 11 ELR 20476, (Clear Lake)). The Site Project Authority is a California joint powers agency composed of California state agencies. Counties, districts and other California local agencies are mere extensions of the State, so lands held in the name of the local agencies, or their joint powers entities, is state-owned land subject to laws governing state-owned land.

Any state-owned land including that involved in the project is subject to a public right to fish, although the public may not be able to fish while the land is being used for a purpose incompatible with public fishing – for example a prison or a mental institution. There is no exception for land acquired from private parties, land acquired for a governmental purpose, or land held in the name of a local agency (section 25, article I Cal. Const., California v. San Luis Obispo Sportsman's Assn., 22 Cal. 3d 440, 584 P.2d 1088, 149 Cal. Rptr. 482, 1978 Cal. LEXIS 297, 9 ELR 20012, 22 Cal. 3d 440, 584 P.2d 1088, 149 Cal. Rptr. 482, 1978 Cal. LEXIS 297, 9 ELR 20012).

No land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon. There is no exception for land purchased from private parties, nor for land purchased or used for a governmental purpose. These fishing rights are not limited to navigable water, but instead extend to all state-owned land. (section 25 article I, Cal. Const., California v. San Luis Obispo Sportman's).

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