

From: Rob Thomson
To: [Oliver, Mark/RDD](#); [Anne Hoagland](#)
Cc: [Black, Lyna/RDD](#)
Subject: FW: CICC Comments on Sites PA DRAFT EIREIS [EXTERNAL]
Date: Wednesday, January 10, 2018 7:45:04 PM
Attachments: [010418 Sites PA EIREIS CICC Comments.pdf](#)

Draft EIR/S comment

From: Oscar Serrano [mailto:oserrano@colusa-nsn.gov]
Sent: Wednesday, January 10, 2018 9:44 AM
To: EIR-EIS-Comments <eir-eis-comments@sitesproject.org>
Cc: Jim Watson <jwatson@sitesproject.org>; Rob Thomson <rthomson@sitesproject.org>
Subject: CICC Comments on Sites PA DRAFT EIREIS

Please find attached comments from the Colusa Indian Community Council on the Sites Project Authority DRAFT Environmental Impact Report/Environmental Impact Statement.

A hardcopy will be placed in the mail today.

Thanks,
Oscar.

Oscar Serrano, P.E.
Principal Engineer

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**COLUSA INDIAN COMMUNITY COUNCIL
CACHIL DEHE BAND OF WINTUN INDIANS**

January 4, 2018

Rob Thomson
Draft EIR/EIS Comments
Sites Project Authority
PO Box 517
Maxwell, CA 95955

**Subject: Colusa Indian Community Council comments on the Sites Reservoir Project
DRAFT Environmental Impact Report/Environmental Impact Statement**

Dear Mr. Thomson:

The Cachil Dehe Band of Wintun Indians for which the Colusa Indian Community Council (CICC) is the governing body would like to thank the Sites Project Authority (SPA) for the opportunity to provide comments on the Sites Reservoir Project DRAFT Environmental Impact Report/Environmental Impact Statement (EIR/EIS). As has been discussed in the past with the SPA and the Bureau of Reclamation (BOR) through government-to-government consultation, the CICC has several concerns regarding the Sites Reservoir Project. The Tribal Community and Indian Trust Assets will be greatly impacted by the proposed project as the CICC is directly downstream of the proposed Sites Reservoir Project Delevan Pipeline Intake/Discharge Facility.

INDIAN TRUST ASSETS

The CICC Tribal Trust Lands and several Fee Simple Lands owned by the Tribe are located downstream of the proposed location that will be utilized for the construction of the Delevan Pipeline Intake/Discharge Facility. These lands are used for housing Tribal members, agriculture, a tribal cemetery, hunt club, and various other Tribal business enterprises. The Sites Reservoir project will have a direct impact on the Indian Trust Assets of the CICC as trust land, hunting and fishing rights and water rights will be impacted by the project.

FEDERALLY RESERVED INDIAN WATER RIGHT/WATER SUPPLY

The CICC has several trust and fee properties located downstream of the Delevan Pipeline Intake/Discharge Facility and the project needs to ensure that water supplies to these Tribal Assets are not impacted. The SPA and the BOR need to ensure water availability to meet Tribal water demands. This issue could be resolved if the BOR supplies water to the CICC to meet its water demands through the Sites Reservoir project. In addition, the BOR could also provide funding to the Tribe to address water supply impacts to the Tribe as a result of construction of the Sites Reservoir project.

The BOR has a federal trust responsibility to protect all Federally Recognized Indian Tribes. The CICC has not quantified their Federal Reserved Indian Water Right but the SPA and the BOR must assure the CICC that the Tribe's Federal Reserved Indian Water Right will not be impacted by this project. The CICC to date has not pursued settling or negotiating their Federal Reserved Indian Water Right but may choose to do so in the near future. Historically, settling or negotiating Tribal water rights has been an expensive and time consuming process for those Tribes who have attempted the process.

GEOMORPHOLOGY

The Delevan Pipeline Intake/Discharge Facility will lead to increased erosion downstream of the diversion structure due to the introduction of new flows and a new hard point on the Sacramento River. Downstream erosion increased significantly after the construction of the Maxwell Irrigation District pump station was constructed in 1994 and the westerly bank of the Sacramento River has continued to recede ever since as shown in historical aerial photographs. Typically, when riprap or other erosion protection measures are implemented, the area immediately upstream and downstream of the protected area experiences a significant increase in erosion which would impact Tribal Water Diversions located downstream. The construction of a large pumping plant and associated fish screen required for the Sites Reservoir project will increase erosion downstream of the Delevan Pipeline Intake/Discharge Facility on the Sacramento River even further, thus impacting CICC Indian Trust Assets. The increased erosion will also lead to increased sedimentation. The additional sedimentation will increase the operation and maintenance costs for the CICC as the increase in sedimentation will increase the wear and tear on the pumps and infrastructure along with the water quality issues attributed to the increased sedimentation. The Sites Reservoir project will promote pump damage due to the increase in sedimentation. Sedimentation is already an issue and can be seen in canals throughout the CICC irrigation system. The SPA and the BOR need to assure the CICC that geomorphology changes downstream of the project will not impact Indian Trust Assets through increased erosion and will need to implement erosion prevention measures to ensure bank stabilization/protection downstream to protect the CICC's water supplies, Indian Trust Assets, Trust Land, Fee Land, CICC water diversions, etc.

CULTURAL RESOURCES

The Tribe has great concern over cultural resources that could be impacted during construction of the project including Indian burial mounds within the reservoir footprint and excavation work along the Sacramento River that could uncover burial mounds and/or artifacts. Historically, the Tribe moved up and down the Sacramento River thus there are burial sites with human remains all along the Sacramento River within close proximity to the Delevan Pipeline Intake/Discharge Facility. When the levee was created to protect the area from flooding, the levee was constructed over many of these burial sites. The likelihood of tribal remains located under the levee and near the parcel where the Delevan Pipeline Intake/Discharge Facility will be constructed is very high. The Delevan Pipeline Intake/Discharge Facility will require a huge excavation effort that will most likely uncover human remains and artifacts. Mitigation measures will need to be put in place and cultural resource monitors will need to be onsite during construction.

CONSTRUCTION

The proposed construction of the Delevan Pipeline will require traffic to be diverted from Highway 45 that will impact Tribal Fee Land and will put Tribal agricultural lands out of production. Mitigation measures/compensation will need to be negotiated beforehand.

The proposed powerline alignment for Alternative D along Highway 45 will directly impact Tribal Trust and Fee Land. The current design could deter visitors from the Colusa Casino Resort which would negatively impact the resources made available to assist the Tribal members and the Tribal community. The Tribe recommends that the powerline be constructed parallel to the Delevan Diversion pipeline to minimize impacts to the Tribe and all landowners along Highway 45. If the alignment along Highway 45 is continued to be promoted the Tribe recommends that the powerline be buried underground to minimize impacts.

Additional construction impacts may arise as the project design is finalized and will need to be discussed once additional information is received regarding construction/alignment of the project.

SITES RESERVOIR PROJECT DRAFT EIR/EIS

Please find below several specific comments on the EIR/EIS that need to be addressed:

1. Chapter 3: Description of the Sites Reservoir Project Alternatives, Page 3-107, Section 3.3.1.4: Under the *Releases from Sites Reservoir* section and several other places it says: "A maximum of up to 2,500 cfs could be released from the Delevan Pipeline to meet downstream needs." The Delevan Pipeline Discharge Facility is designed for a discharge capacity of 1,500 cfs. If flows are released at a greater capacity than what the facility is designed for, the Tribe and anyone downstream could be negatively impacted. Will the project be built with room for expansion? If so increased flows from those discussed in this EIR/EIS could increase erosion downstream and impact the CICC's Indian Trust Assets.
2. Chapter 8: Fluvial Geomorphology and Riparian Habitat: - The addition of a new hard point like the Delevan Pipeline Intake/Discharge Facility on the Sacramento River will change the geomorphology of the Sacramento River downstream and potentially jeopardize a tribal cemetery, pump stations and fish screens located downstream. Historical aerials show extensive erosion and river meandering after the Maxwell Irrigation District Intake Facility was installed and the Delevan Pipeline Intake/Discharge Facility will be adding a much larger/longer hard point on the river that will impact the Tribe.
3. Chapter 8: Fluvial Geomorphology and Riparian Habitat: Please add a figure like Figure 8-2 that shows river meandering downstream from the proposed Sacramento River Intake to see the effects of river meandering on Tribal Trust Land.
4. Chapter 8: Fluvial Geomorphology and Riparian Habitat, page 8-21: says that "*The installation of the fish screen at the proposed Delevan Pipeline Intake/Discharge*

Facilities would be functionally equivalent to (installing) bank protection, and may affect meandering downstream of the diversion.” This action could impact a Tribal water diversion on the Sacramento River which is approximately 1,000 feet downstream and additional Tribal facilities downstream. Mitigation measures need to be put in place to remediate any potential impacts.

5. Chapter 12: Aquatic Biological Resources, page 12-116: The CICC disagrees with the reintroduction of instream woody material into the Sacramento River. This is not a favorable action as there is plenty of woody material debris within the Sacramento River that already impact pump stations and fish screens. Reintroduction of woody material would impact the Tribes downstream diversions.
6. Chapter 18: Cultural/Tribal Cultural Resources, page 18-24, Table 18-2: Please change CICC contact to Wayne R. Mitchum, Chairman.
7. Chapter 18: Cultural/Tribal Cultural Resources, page 18-34: Please provide the CICC with a PDF copy of the Cultural Resources survey conducted by White in 2003.
8. Chapter 18: Cultural/Tribal Cultural Resources: Please provide the CICC with a PDF copy of the following studies that are referenced in Chapter 18:
 - a. Westwood, L. M., and G. G. White. 2005. *NODOS – Sites Reservoir Cultural Resources Investigation of the New Canal Conveyance Alternative*. Prepared for the California Department of Water Resources, Northern District, Red Bluff, CA.
 - b. Offermann, J., 2013. North-of-the-Delta Offstream Storage Project, Draft *Archeological Inventory 22 Report*. URS Corporation. Submitted to the Bureau of Reclamation, Mid-Pacific Region, 23 Sacramento, CA.
 - c. Jimenez, C. 2013. *North-of-the-Delta Offstream Storage Project, Draft Built Environment Identification 12 and Evaluation Technical Report*. URS Corporation. Submitted to the Bureau of Reclamation, 13 Mid-Pacific Region, Sacramento, CA.
9. Chapter 18: Cultural/Tribal Cultural Resources, page 18-38, Section 18.3.2.1
Assumptions: The CICC recommends that channel stabilization downstream be added as discussed in Appendix Chapter 8A to protect the Tribal Cemetery, Tribal Water Diversions and all Tribal facilities. Additional mitigation may be needed to protect Tribal Water Diversions.
10. Chapter 18: Cultural/Tribal Cultural Resources, page 18-47: As discussed in the Impact Cul-1 paragraph: The potential for burial sites along the Sacramento River is very high. The Tribe traditionally moved up and down the Sacramento River and the potential for unmarked burials during construction of the Delevan Pipeline Intake/Discharge Facility is very high. The primary area of concern will be under the levees as that area has been undisturbed since the levees were constructed.
11. Chapter 19: Indian Trust Assets, page 8, Section 19.4.2.1, Assumptions: One of the assumptions says that no additional channel stabilization is required upstream of the Delevan Pipeline? What about downstream of the Delevan Pipeline? Appendix Chapter

- 8A shows erosion downstream of the discharge facility that could impact Tribal Trust Land and shows riprap installed along the banks of the Reservation and Rancheria.
12. Chapter 19: Indian Trust Assets, page 19-9, 19.4.4.3: The CICC strongly disagrees that no Indian Trust Assets are within or adjacent to the Primary Study Area. The CICC trust land is approximately two miles downstream of the proposed Delevan Pipeline Intake/Discharge Facility and a Tribal cemetery is located within $\frac{3}{4}$ of a mile of the facility. The proposed Alternative D overhead powerline along Highway 45 will also directly impact Tribal Trust land. Chapter 19 needs to be updated per the new Alternative D and the proposed powerline alignment along Highway 45.
 13. Appendix 8A: Sedimentation and River Hydraulics Modeling, page 59: One of the conclusions says that the channel will migrate to the right (looking downstream) this will impact Tribal Fee Simple lands, Tribal water diversion facilities and fish screens. Rip rap needs to be added in this area to protect Tribal assets.
 14. Appendix 8A: Sedimentation and River Hydraulics Modeling, Appendix A, Map 14, page 76 of the PDF shows river meandering just upstream of river mile 151 which would impact Tribal homes and trust land if the bank is jeopardize.
 15. Appendix 8A: Sedimentation and River Hydraulics Modeling, Appendix B shows several locations where riprap and geo fabric are installed to prevent erosion. Will those be installed as part of this project? The project needs to install riprap as shown on Maps 13 and 14 on pages 91 and 92 to protect Indian Trust Assets.

Again, the CICC would like to thank the SPA for the opportunity to provide comments on the Draft EIR/EIS for the Sites Reservoir Project and looks forward to establishing a working relationship with the SPA moving forward to minimize impacts on the Tribe.

Further discussion on these matters can be addressed through tribal consultation as requested through the letter sent to the SPA on February 7, 2017. If you have any questions or need additional information, please contact Mr. Oscar Serrano, Principal Engineer, at oserrano@colusa-nsn.gov.

Respectfully,



Wayne R. Mitchum, Jr.
Tribal Chairman

cc: Ms. Amy Dutschke, Regional Director, Bureau of Indian Affairs – Pacific Region
Mr. Mike Dietl, Project Manager, Bureau of Reclamation - Mid Pacific Region
Mr. David Murillo, Regional Director, Bureau of Reclamation - Mid Pacific Region
Mr. Oscar Serrano, Principal Engineer, CICC
Mr. Jim Watson, General Manager, Sites Project Authority