

**From:** [Ronda Lucas](#)  
**To:** [eir-eis-comments@sitesproject.org](mailto:eir-eis-comments@sitesproject.org)  
**Subject:** Comments on Sites Reservoir Project RDEIR/SDEIS, State Clearinghouse No. 2001112009  
**Date:** Friday, January 28, 2022 4:38:31 PM  
**Attachments:** [2022-01-28 MUSD Sites Comments.pdf](#)

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Sites Project Authority and U.S. Bureau of Reclamation:

Please consider the attached comments in the above referenced matter submitted on behalf of the Maxwell Unified School District. If there is an error in transmission, or you wish to discuss these comments, please do not hesitate to contact me using the contact information below.

Thank You,

**RONDA AZEVEDO LUCAS, Esq.**

Lucas Law  
P.O. Box 696  
Hilmar, CA 95324

T: (916) 468-8208  
[ralucaslaw@outlook.com](mailto:ralucaslaw@outlook.com)

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January 28, 2022

**Via Electronic Mail Only:**[EIR-EIS-Comments@SitesProject.org](mailto:EIR-EIS-Comments@SitesProject.org)

Mr. Jerry Brown  
 Executive Director  
 Sites Project Authority  
 P.O. Box 517  
 Maxwell, CA 95955

U.S. Bureau of Reclamation  
 2800 Cottage Way, W-2830  
 Sacramento, CA 95825

**RE: Response of Maxwell Unified School District to the Sites Reservoir Project Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement, State Clearinghouse Number 201112009**

Dear Mr. Brown and U.S. Bureau of Reclamation:

I am Ronda Azevedo Lucas, an attorney recently retained by the Maxwell Unified School District (“MUSD”) to represent them in the deliberations regarding the construction of Sites Reservoir Project (“Project”). On behalf of MUSD, I appreciate the opportunity to provide these comments on the Project’s Revised Draft Environmental Impact Report/Supplemental Environmental Impact Statement, State Clearinghouse No. 2001112009 (“RDEIR/SDEIS”). As you are well aware, MUSD has been very involved in this process, and has consistently stated its concern that the Project will result in significant environmental impacts to the community of Maxwell and its surrounding areas due to the Project’s unanalyzed and therefore unmitigated impacts to traffic, school bus routes, safe passage issues, and potential emergency response needs, including fire, sheriff and first responder personnel for the MUSD schools staff, students and residents within the community of Maxwell as required under the California Environmental Quality Act (“CEQA”). (Cal. Pub. Res. Code §§ 21000, *et seq.*; Cal. Code Regs., tit. 14, § 1520.) MUSD supports this Project provided the Project properly analyzes and mitigates its impacts on the community. However, the Project is unlike any entity that has ever come into the community, or arguably the entire county of Colusa, and presents some unique challenges MUSD has never before had to face. To be clear, MUSD is hoping to unequivocally support this Project but, at this date, cannot due to the lack of inadequate range of alternatives, proper analysis, and mitigation.

## I. Background

MUSD consists of three schools, Maxwell Elementary School, Maxwell Middle School and Maxwell Senior High School providing public education to children located throughout Maxwell and its surrounding communities including Sites, Lodoga, Leesville, Stonyford and other communities within the Project site. MUSD's total student population is approximately 340 students<sup>1</sup> and the vast majority are bused to MUSD schools on all of the roads that will be impacted by this Project, including but not limited to Oak Street, North Street, McDermott Road, Delevan Road, Maxwell-Sites Road and Sites-Lodoga Road. MUSD is nestled in the community of Maxwell, whose current population is stable at approximately 1,076 residents.<sup>2</sup> Within the entire community, the sole stoplight is a four-way stop that blinks red only in all directions, at the intersection of Oak Street and Old Highway 99. The main artery within Maxwell is Oak Street which begins at the Interstate 5 ("I-5") off-ramp and runs west through Maxwell all of the way to the Project site. Oak Street, as acknowledged in the RSEIR/SDEIS at 18-7, becomes Maxwell-Sites Road just west of Maxwell Senior High School and the community of Maxwell. Maxwell-Sites Road then turns into Sites Lodoga Road as you continue west through the Project Site. "Sites Lodoga Road is an east-west, two-lane major collector road that extends through the community of Maxwell, which is adjacent to 1-5, and provides **an important emergency and evacuation route in a limited roadway network** to and from the rural communities of Lodoga and Stonyford."<sup>3</sup>

Given the physical environmental setting and the fact that this Project anticipates more workers (1,650 during peak construction) than Maxwell's entire existing population and contemplates major changes to roadways that will directly impact "an important emergency and evacuation route in a limited roadway network" that runs right by Maxwell Senior High School, Maxwell Fire Department and through the heart of Maxwell, it is improper that the RDEIR/SDEIS failed to undertake a true traffic study and identify appropriate mitigation and failed to consider an adequate range of alternatives for impacts to MUSD, all public services and the entire community.

The RDEIR/SDEIS does not comply with the California Environmental Quality Act ("CEQA") and its implementing regulations (Pub. Res. Code §§ 21000, *et seq.*; Cal. Code Regs. tit. 14 §§ 15000, *et seq.*, "CEQA Guidelines"). The RDEIR/SDEIS does not include sufficient information to evaluate potential environmental impacts both to schools and related to schools. Through this letter, MUSD wishes to emphasize this Project has the potential to have a profound negative effect on MUSD's staff, students, and their families and residents who reside in and near the Project site. Therefore, MUSD requests the Sites Project Authority and U.S. Bureau of Reclamation revise the RDEIR/SDEIS to address the serious deficiencies identified in this letter, undertake a proper traffic study and develop appropriate mitigation measures for impacts that are identified as significant, and present, consider and analyze a reasonable range of alternatives and then recirculate the RDEIR/SDEIS as required by CEQA. (CEQA Guidelines § 15088.5).

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<sup>1</sup> <https://www.cde.ca.gov/sd/profile/details.aspx?cds=06616060000000>. Accessed: January 28, 2022

<sup>2</sup> <https://www.worldpopulationreview.com/us-cities/maxwell-ca-population>. Accessed: January 28, 2022

<sup>3</sup> RDEIR/SDEIS at 2-59.

## II. SPECIFIC COMMENTS

**A. The RDEIR/SDEIS does not meet its purpose as an informational document because it fails to provide an adequate description of the environmental setting related to schools.**

One of CEQA's basic purposes is to inform government decision-makers and the public about the potential significant environmental effects of proposed projects and to disclose to the public the reasons for approval of a project that may have significant environmental effects. (CEQA Guidelines § 15002(a)(1) and (a)(4).) In line with this goal, the preparer of an EIR must make a genuine effort to obtain and disseminate information necessary to the understanding of impacts of project implementation. (*See*, CEQA Guidelines § 15151; *Sierra Club v. State Board of Forestry* (1994) 7 Cal.4<sup>th</sup> 1215, 1236). An EIR must describe the existing environmental conditions in the vicinity of the proposed project from both a local and regional perspective, which is referred to as the "environmental setting." (CEQA Guidelines § 15125.) This description of the environmental conditions serves as the "baseline" for measuring the qualitative and quantitative changes to the environment that will result from the project and for determining whether those environmental effects are significant. "In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the *existing* physical conditions in the affected area as they *exist at the time* the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect insignificant effects of the project on the environment *shall be clearly identified and described*, giving due consideration to both the short-term and long-term effects." (CEQA Guidelines § 15126.2(a), (italics added).)

MUSD's schools and reliance on the "limited roadway network" that exists within and around Maxwell, including the high school's physical location at Oak Street are all a critical part of the Project's environment and should be considered throughout the RDEIR/SDEIS impact categories. Rather than clearly identifying the limited roadway network as it exists, the RDEIR/SDEIS improperly and summarily asserts construction traffic will be prohibited in the community of Maxwell due to the future development of a traffic management plan and the future improvements of existing roads improving them to a point they can handle "Project-generated construction traffic" and allegedly bypass utilizing Oak Street. Based on this conclusory assertion relying upon a non-existent traffic management plan and planned future road improvements, the RDEIR/SDEIS avoids any meaningful traffic study and fails to examine "changes in the *existing* physical conditions in the affected areas as they *exist at the time*" as required by CEQA. The Supreme Court stated: "By comparing the proposed project to what *could* happen, rather than to what was actually happening, the District set the baseline not according to 'established levels of a particular use,' but by 'merely hypothetical conditions allowable' under the permits. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645, 658.) The Supreme Court has further explained "[a]n approach using hypothetical allowable conditions as the baseline results in 'illusory' comparisons that 'can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,' a result at direct odds with CEQA's intent. (*Environmental Planning & Information Council v. County of El Dorado* (1982) 183 Cal.App.3d 229, 358.) "A long line of

Court of Appeal decisions holds, in similar terms, that the impacts of a proposed project are ordinarily to be compared to the **actual environmental conditions existing at the time of CEQA analysis, rather than to allowable conditions defined by a plan or regulatory framework**. This line of authority includes cases where a plan or regulation allowed for greater development or more intense activity than had so far actually occurred, as well as cases where actual development or activity had, by the CEQA analysis was begun, already exceeded that allowed under the existing regulations. In each of these decisions, the appellate court concluded the baseline for CEQA analysis must be the ‘existing physical conditions in the affected area’, that is the ‘real conditions on the ground.’” (*Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council* (2010) 190 Cal.App.4<sup>th</sup> 1351, 1374 quoting *Environmental Planning & Information Council v. County of El Dorado, supra*, 131 Cal.App.3d at 354; *Save our Peninsula Committee v. Monterey County Bd. of Supervisor* (2001) 87 Cal.App.4<sup>th</sup> 99, 121.) The RDEIR/SDEIS as written violates CEQA and case law. The document needs to undertake a proper traffic analysis based on the existing conditions including existing roadways and traffic circulation patterns in order to ensure the RDEIR/SDEIS does not continue to “mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts on the actual environmental impacts” of the Project to MUSD, other emergency and first responder personnel, our students, staff and residents of Maxwell and its surrounding communities.

**B. The RDEIR/SDEIS does not meet its purposes as an information document because it fails to identify and analyze all impacts on school facilities under CEQA’s threshold of significance for Public Services impacts.**

In order to support a determination that environmental impacts are insignificant and can therefore be scoped out of a RDEIR/SDEIS, the lead agency must include in either the Initial Study or the RDEIR/SDEIS the reasons the applicable environmental effects were determined to be insignificant. (Pub. Res. Code § 21100 (c); CEQA Guidelines § 15128.) An unsubstantiated conclusion that an impact is not significant without supporting information or explanatory analysis, is insufficient; the reasoning supporting the determination of insignificance must be disclosed. (*See City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 Cal.App.4<sup>th</sup> 362, 393; *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4<sup>th</sup> 713; (finding that project will not pose biological impacts to wetlands must be supported by facts and evidence showing the lead agency investigated the presence and extent of wetlands on the property, which analysis must be disclosed to the public).)

The approach utilized in the RDEIR/SDEIS, as noted above, relied upon hypothetical future conditions that may or may not occur with respect to traffic and its associated impacts with conclusory statements that ignored and dismissed the Project’s impacts to schools, particularly as it pertains to busing routes. The RDEIR/SDEIS fail to analyze all potential impacts to MUSD’s students and staff including (1) whether other impacts of the proposed Project, such as increased traffic, noise, or air pollutants surrounding MUSD facilities could impact the District’s need for new or physically altered school facilities; (2) whether other impacts of the proposed Project could otherwise interfere with MUSD’s ability to accomplish its own performance objectives; (3) whether the Project’s impacts could interfere with emergency

response including but not limited to fire, sheriff and/or first responder personnel to MUSD facilities or anywhere within the Fire District's service area to levels below accepted standards; (4) whether busing routes will required to be altered even under the alleged, to be create Traffic Management Plan as the roads identified, specifically, Delevan, McDermott, Maxwell Sites and Lodoga Sites Road are all utilized and integral to busing routes; and (5) whether safe passage exists to schools and to and from bus stops along the bussing routes; and (6) whether existing bus stops along bussing routes will be negatively impacted by the Project's increased traffic and congestion created within the community of Maxwell and surrounding areas. Moreover, while the RDEIR/SDEIS correctly states busing routes are set by MUSD's superintendent, it completely ignores the other legal mandates applicable to busing routes for, example, students who are foster children, homeless, disabled, or have an individual education program.<sup>4</sup> The RDEIR/SDEIS reliance only upon policy without considering underlying applicable law or conducting a proper traffic study, renders the RDEIR/SDEIS inadequate under CEQA as an information document.

Finally, the RDEIR/SDEIS fails to adequately analyze cumulative public services impacts on MUSD due to the sheer volume of road trips that will be created by an estimated work force that is larger than the actual population of Maxwell and is anticipated "[a]t the peak of construction, ... current estimates are that 1,552 to 1,657 construction personnel would be working on the Project ... [and] would likely commute to construction sites."<sup>5</sup> "At the peak of construction ..., current estimates project between 701 and 978 daily haul trips for conveyance facilities and approximately 1,760 daily offsite haul trips for reservoir facilities."<sup>6</sup> RDEIR/SDEIS to be commuting to work due to the lack of available housing within Maxwell. Further "[i]t is estimated that approximately 187,000 recreational visitors per year would visit the Sites Reservoir and its recreation area for all or part of a day" with it "anticipated that 70% of recreational use would be during the primary recreation season (i.e. May 1 through September 20)."<sup>7</sup> The majority of these trips will arrive via 1-5, driving through Oak Street right past both the fire station and the high school on a two lane road that ultimately turns into Maxwell Sites Road just west of the high school.<sup>8</sup> None of this information was consider for its impacts on any public services, even though the primary recreation season occurs, in part, during the school year and is assumed to take thousands of individuals on a two-lane road past the high school. The traffic alone will reduce response times for all fire, sheriff, and first responder personnel. Moreover, it will increase potential demand for fire, sheriff and first responder calls to service this massive influx of people which may further diminish response times and availability to MUSD facilities and the citizens of Maxwell and its surrounding communities. The traffic will also increase risk to staff, students and their families as they arrive at MUSD schools, will increase travel times, and will increase busing times thereby increasing staff costs, wear and tear on busses, and most importantly impacting the students who are forced to spend even more time

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<sup>4</sup> Such considerations include but are not limited to the Department of Transportation's Safe Routes to School Programs and the California Department of Education Special Education Transportation Guidelines; Cal. Ed. Code § 41850(b); *Id.* at § 41851.2; *Id.* at § 56040; *Id.* at § 56195.8(b).

<sup>5</sup> RDEIR/SDEIS at 18-20.

<sup>6</sup> *Id.* at 18-20.

<sup>7</sup> RDEIR/SDEIS at 18-21.

<sup>8</sup> *Id.* at 18-22.

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on buses in order to get to and from school. In addition, the lack of a traffic analysis has prevented any consideration of impacts to the safety of the existing bus stops, safe passage to and from bus stops and any needed changes to those bus stops. Failing to address any of these issues renders the current RDEIR/SDEIS insufficient. Conclusory comments in support of environmental conclusions are generally inappropriate. (*People v. County of Kern* (1974) 39 Cal. App.3d 830, 840-842. The RDEIR/SDEIS's statutory goal of public information regarding the proposed Project has not been met. The document provides no information to the public to enact it to understand, evaluate and respond to its bare assertions. (*Laurel Heights Improv. Assoc. of San Francisco v. Regents of Univ. of Calif.* (1988) 47 Cal.3d 376, 404.)

**C. The RDEIR/SDEIS analysis of traffic/transportation/circulation is inadequate, particularly as it relates to schools.**

The RDEIR/SDEIS is required to address potential effects related to traffic, including noise, air quality, and other issues affecting schools. (Pub. Resources Code §§ 21000, *et seq.*; Cal. Code Regs., tit. 14 §§ 15000, *et seq.*; *Chawanakee Unified Sch. Dist. v. County of Madera* (2011) 196 Cal.App.4<sup>th</sup> 1016.) The RDEIR/SDEIS treatment of traffic, particularly as it relates to MUSD schools is inadequate. As explained above, the RDEIR/SDEIS inappropriately relies upon a yet to be created traffic management plan and blanket assertion that Project traffic will not be allowed to travel through Maxwell. These assertions and conclusions are unsupported and, had a proper traffic study been completed as required by CEQA, the RDEIR/SDEIS would have analyzed safety issues related to traffic impacts such as reduced pedestrian safety, particularly as to students walking or bicycling to or from MUSD schools, potentially reduced response times for fire, sheriff and first responder personnel traveling to these schools; increased bussing times due to increased road usage; and increased potential for accidents due to the increased traffic.

The requirement to analyze student safety issues is rooted in both the California Constitution and CEQA. Article 1, section 28 (c) of the California Constitution states that all students and staff of primary, elementary, junior high and senior high schools have the inalienable right to attend campuses that are "safe, secure and peaceful." CEQA is rooted in the premise that "the maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern." (Pub. Res. Code § 21000(a).) Naturally, safety is crucial in the maintenance of a quality environment. "The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached." (Pub. Resources Code § 21000 (d).) The Legislature has made clear in declarations accompanying CEQA's enactment that public health and safety are of great importance in the statutory scheme. (Pub. Res. Code §§ 21000 (b), (c), (d), (g); 21001 (b), (d) (emphasizing the need to provide for the public's welfare, health, safety, enjoyment and living environment.) (*California Building Industry Assn. v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4<sup>th</sup> 369, 386). In order to fully understand these issues, MUSD requires the RDEIR/SDEIS to undertake a proper traffic study rather than rely on a hypothetical future condition of the existing environment. Further, alternatives must be

presented that take into consideration and mitigate for the traffic impacts including but not limited to:

- 1) The existing and anticipated vehicular traffic and student pedestrian movement patterns to and from school sites, and including consideration of bus routes.
- 2) The impact(s) on increased vehicular movement and volumes based on existing, actual conditions caused by the Project, including but not limited to potential conflicts with school pedestrian movement, school transportation, and busing activities to and from MUSD facilities;
- 3) The estimated travel demand and trip generation, trip distribution and trip assignment by including consideration of school sites, the limited, existing roadway network, and home-to-school travel;
- 4) The cumulative impacts on schools and the community in general resulting from increased vehicular movement and volumes expected upon Project completion;
- 5) The direct, indirect and cumulative impacts on circulation and traffic patterns in the community as a result of traffic generated by the transportation needs of students to and from the Project site and MUSD schools during the Project construction and build-out,
- 6) The impacts on routes and safety of students traveling to school by vehicle, bus, walking and bicycles;
- 7) The impacts on emergency responder response times to MUSD schools, including the increased risks posed by increased traffic within the entire community;
- 8) The impacts of the proposed utilization of Delevan, McDermott, Maxwell Sites, and Sites Lodoga Roads, particularly during harvest times and the peak recreational season on bussing routes, traffic patterns in the community, the transportation needs of students to and from MUSD schools, the increased response times of all emergency service providers and first responders and increased demand anticipated for emergency service providers and first responders.

The RDEIR/SDEIS failed to analyze **any** of the above categories of information. There is, therefore, no way for the lead agencies or the public to assess whether the Project will pose a traffic impact related to MUSD's provision of public services or any other agency's provision of public services (i.e., Maxwell Fire Protection District and Colusa County Sheriff). Moreover, this failure to properly analyze the above categories of information resulted in an improperly narrow alternatives analysis and mitigation. As noted in *Laurel Heights*, "[t]he key issue is whether the selection and discussion of alternatives fosters informed decision making and informed public participation." (*Laurel Heights Improv. Assoc. of San Francisco v. Regents of Univ. of Calif.* (1988) 47 Cal.3d 376, 404, quoting CEQA Guidelines §15126 (d) (5).)



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To be clear, MUSD anticipates that the construction and operation of the proposed Project will have significant impacts on traffic, transportation, circulation and student safety that must be thoroughly analyzed and discussed in the RDEIR/SDEIS to ensure adequate mitigation is adopted. As previously stated, Maxwell is a very rural community with a limited roadway network, limited emergency services and a population less than the estimated workers required for the Project. This Project will double the population of Maxwell and turn it into a commuter work place. Obviously, there will be traffic impacts and these were not analyzed as required by CEQA. The traffic generated by the Project will severely exacerbate the existing inadequacies in Maxwell's roadways and increase risk to pedestrian and bicycle traffic and the safety issues posed thereby. These impacts will severely inhibit MUSD's ability to operate its educational programs and provide a safe, secure learning environment for its students and staff including safe passage to schools. However, none of these issues were properly analyzed in the RDEIR/SDEIS.

### III. CONCLUSION

Recirculation is required when the new information added to an EIR discloses: (1) a new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance; (3) a feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project's proponents decline to adopt; or (4) that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless. (CEQA Guidelines § 15126, *et seq.*; *Mountain Lion Coalition v. Fish & Game Comm.* (1989) 214 Cal.App.3d 1043; *Laurel Heights Improv. Assn. v. Regents of Univ. of Calif.* (1988) 47 Cal.3d 376). In this case, the RDEIR/SDEIS is incomplete and does not adequately analyze the Project's potential impacts related to schools, alternatives that would address these impacts and mitigation measures that would lessen these impacts. The safety of our students, staff and entire community is paramount to MUSD, and our safety concerns are not adequately addressed in the RDEIR/SDEIS as currently constituted. Changes must be made to preserve the safety of these students, their families, our staff and the entire community of Maxwell and its surrounding areas and allow our students and staff to enjoy productive time at school. MUSD demands that the RDEIR/SDEIS be updated to include a proper traffic study, proper alternatives analysis with an adequate range of alternatives with respect to traffic impacts and legally sufficient mitigation measures for traffic impacts and impacts to public services including MUSD for the entire community.

MUSD looks forward to this Project being developed provided the Project is appropriately mitigated, as required by CEQA. Failure to mitigate this project not only violates CEQA but also places an unfair burden on this very small, rural community. MUSD welcomes the Project but is not willing to diminish the level of services it currently provides to its students and staff, including the diminished emergency services that will result because of the Project's increased traffic and increase demand on these emergency services resulting in reduced response times or no response at all due to lack of personnel. MUSD cannot potentially jeopardize the lives of the District's constituents, the Project employees or the volunteer firefighters, Colusa County Sheriff personnel and/or any other first responder personnel.

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Moreover, the Project will flood, literally, eight houses that current provide assessments of more than \$10,000 per house. This is a significant reduction in needed funding that must be mitigated. Additionally, the reduction in attendance, no matter how temporary, will likewise result in a reduction of funding that must be mitigated. To approve this Project without resolution of these issues will not only violate CEQA, it will compromise public health and safety within MUSD, diminish educational opportunities and potentially jeopardize lives.

Thank You,



Ronda Azevedo Lucas  
Attorney at Law

cc: Summer Shadley, MUSD Superintendent