



County of Yolo

PLANNING AND PUBLIC WORKS DEPARTMENT

John Bencomo
DIRECTOR

292 West Beamer Street
Woodland, CA 95695-2598
(530) 666-8775 FAX (530) 666-8156
www.yolocounty.org

PLANNING COMMISSION STAFF REPORT

October 14, 2010

FILE #2007-049: Continued public hearing on a request for an extension of a Use Permit to construct and operate a marina on an Agricultural General (A-1) zoned parcel, on the west bank of the lower Sacramento River (**Attachment A**). The Use Permit was approved by the Planning Commission on August 14, 2008, and the Planning Director approved a one year extension in 2009. The applicant is requesting a further extension in order to obtain approvals from all applicable state and federal agencies (**Attachment D**).

APPLICANT: Robert Newton
PO Box 160273
Sacramento, CA 95816

OWNER: Hugh Turner
169 North Valentine
Fresno, CA 93706

LOCATION: The project site is located on the west bank of the Sacramento River near the I-5 bridge at Elkhorn, east of the City of Woodland (APN: 057-210-17, -18) (**Attachment A**).

SUPERVISORIAL DISTRICT: 5
(Supervisor Rexroad)

GENERAL PLAN: Agriculture (AG)

FLOOD ZONE: AE (area within the 100-year flood plain)


ZONING: Agricultural General (A-1)

SOILS: Sycamore silty clay loam (Class II), Tyndall sandy loam (Class III)

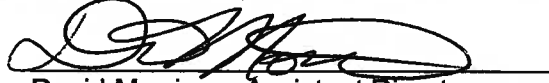
FIRE SEVERITY ZONE: None

ENVIRONMENTAL DETERMINATION: "General Rule" Exemption

REPORT PREPARED BY:


Jeff Anderson, Assistant Planner

REVIEWED BY:


David Morrison, Assistant Director

RECOMMENDED ACTIONS

That the Planning Commission take the following actions:

1. **HOLD** a public hearing and receive comments;
2. **ADOPT** the "General Rule" Exemption (**Attachment B**) as the appropriate level of environmental documentation in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines;
3. **ADOPT** the recommended Findings (**Attachment C**); and
4. **APPROVE** the request to extend the Use Permit for an additional two years.

AGENDA ITEM 6.1

REASONS FOR RECOMMENDED ACTIONS

Given the ongoing economic downturn, it has become more difficult for many businesses to secure financing for expansion. It is becoming increasingly common throughout the state for applicants to request extensions of time and for local governments to grant them. Considering the complexity and time required in obtaining the various required state and federal permits, staff believes that the proposed extension will allow the applicants the opportunity to successfully initiate their project.

This project will promote tourism and provide recreational opportunities in Yolo County, consistent with various goals and policies of the 2030 Countywide General Plan, including:

Goal ED-4: Expansion of Tourism. Provide a variety of tourism and recreational opportunities to expand the local economy in a manner consistent with Yolo County's agricultural and open space emphasis.

Policy CO-1.23: Increase public access and recreational uses along waterways wherever feasible, particularly Cache Creek, Lower Putah Creek, the Yolo Bypass, and the Sacramento River.

Action CO-A11: Provide recreational uses that are river or creek dependent in locations directly on Cache Creek, Putah Creek, and the Sacramento River. Examples include fishing, canoeing, boating, and nature observation. With the exception of boat launches and docks, more active uses, such as parking, restrooms, and picnic areas, shall be located in areas away from the river and sensitive riparian habitat.

BACKGROUND

On August 14, 2008, the Planning Commission granted a Use Permit for the construction and operation of a 62-slip marina on the west bank of the lower Sacramento River. The project includes a harbormaster's office and elevated platform for marina services, a 36-space automobile parking area, a 21-space boat parking area, five boat storage buildings, and a caretaker's office. The marina facilities will consist of two floating dock sections that will be accessed by an elevated landing and two bridges and stairway structures. The marina is to be used for year-round berthing of recreational boats. No boat launching or refueling facilities were proposed as part of the project.

The applicant for the Elkhorn Marina has requested a Use Permit extension in order to obtain required approvals from numerous state and federal agencies (**Attachment D**). At the time of approval of the Use Permit in 2008, the applicant agreed to comply with all Conditions of Approval (**Attachment E**). These Conditions of Approval will ensure the project is developed in compliance with all applicable County policies and procedures.

STAFF ANALYSIS

As regulated under Section 8-2.2806(b) of the Yolo County Code, a Use Permit will expire after one year if the project has not commenced or otherwise vested in improvements. The Conditions of Approval for this project stated that after one year the Planning Director may grant a one year extension. The Planning Director granted an extension in August of 2009, based on the fact that the applicant was not able to obtain all required approvals. On August 6, 2010, prior to the expiration of the one year extension, the applicant requested an "open-ended" extension to allow sufficient time to complete the requirements provided in the Conditions of Approval. Section 8-2.3205 of the Yolo County Code establishes a two year limit on Use Permit extensions. Therefore, staff recommends an extension of two years.

Section 8-2.2806(b) of the Yolo County Code requires a timeline for the commencement of Use Permits. This is to ensure that projects adhere to the governmental and environmental regulations that the project was analyzed under at the time of approval. Also, a time limit reduces the likelihood of future incompatibility issues with nearby land uses.

The Planning Commission granted a continuance on September 9, 2010, in order for staff to evaluate the concerns raised by Reclamation District 2035 (RD 2035) (**Attachment F**) and the Woodland-Davis Clean Water Agency (WDCWA) (**Attachment G**). RD 2035 is in the design phase of a fish screen and intake project, which would be located just north of the marina. RD 2035 and WDCWA have been in negotiations to develop a joint-use intake facility at this location; however, an agreement has not yet been reached. Nonetheless, both agencies are concerned that the marina project would impact the design, construction, and operation of the fish screen and water intake project. The primary concerns raised by RD 2035 and the WDCWA are outlined below. Staff's responses to these comments are in *italics*.

- Conflicts regarding the design for County Road 117, which needs to be improved to allow water pipelines to go under the road, while providing access to both the marina and the intake facility.

The marina property is accessed through a private easement across the RD 2035 property. Easement issues must be resolved between the private parties involved. Any new road access to County Road 117 will require the approval of an encroachment permit by the County Public Works Division, which will require that all road improvements meet County safety standards.

- Impacts during construction of the fish screen might need to be re-evaluated (assuming that the marina is built first).

RD 2035 is not specific regarding the types of impacts that may be affected. However, both the water intake facility and the marina will be required to follow all local, state, and federal requirements to ensure that construction does not affect adjoining neighbors, the environment, or the public's use of the waterway. These include approvals regarding water quality, flood control, boat passage, fisheries and sensitive species, erosion, State lands, and other potential impacts. It is unclear what additional concerns the marina would introduce that would require re-evaluation of the fish screen.

- Increased vandalism and trespassing (such as temporary mooring off the intake facility) to the future water intake facility by marina users.

With the availability of two marinas, one on each side of the river, it is unlikely that boats will temporarily moor off the intake facility. Although much smaller in size, staff is not aware of any current problem with boats mooring off the existing intake facility. As with any development along the river, RD 2035 should take appropriate security measures to discourage trespassing and vandalism; however, the potential will exist regardless of whether the proposed marina is constructed or not.

- Increased recreational use of the Sacramento River, which may interfere with the operation of the intake facility.

There are numerous boating opportunities within the immediate area of the intake facility that exist today, including a marina opposite the intake facility, two public boat ramps, and approximately 20 private docks along the Garden River Highway. State law restricts speed to five miles per hour when passing within 200 feet of any docks or floats in use, thus reducing the likelihood of accidental interaction with the intake.

- Inadequate utilities to accommodate electrical power and phone service for both the intake facility and the marina.

As with all development projects, electrical power and phone connections are issues that need to be worked out between private landowners and the appropriate utility companies. In addition, the presence of two users may reduce the individual costs of improving the utility lines that serve this area.

- Potential for the marina to trigger requirements for 200-year flood protection.

200-year flood protection is only required for urban areas of 10,000 residents or more. Currently, the Elkhorn area has fewer than 100 residents. This project would not trigger any requirement to increase flood protection for the surrounding area. Flood improvements will likely be required at such time that the Elkhorn Specific Plan be developed and implemented.

- Additional gasoline fueling facilities pose a concern to the future municipal water supply intake.

As proposed, the marina will not include gasoline fueling facilities. Gasoline fueling facilities were not included as part of the Use Permit approved in 2008.

As indicated in the analysis above, staff has evaluated these concerns and does not find reason to deny the Marina Use Permit extension or to re-open the Use Permit to re-evaluate environmental issues. Although the proposed fish screen and intake facility will be located in close proximity to the marina, assuming both projects are constructed, they are not incompatible uses. Boat docks, marinas, and water intake facilities are found in several areas along the Sacramento River. The Conditions of Approval applied to the project in 2008 will ensure the project is constructed according to all local, State, and Federal requirements.

SUMMARY OF AGENCY COMMENTS

In addition to the comments received above, two other pieces of correspondence were received regarding this project:

Date	Agency	Comment	Response
August 20, 2010	Yolo County Economic Development Division	Supportive of extension request for several reasons: (1) the marina will add new property tax and sales tax; (2) it will add a recreational facility valuable to local residents, boaters, fishermen, and tourists; and (3) it is commercial development that is compatible with the General Plan and will capitalize on the existing natural amenities and riverfront.	Comment noted.
August 23, 2010	California Department of Fish and Game (CDFG)	The project applicant shall obtain all permits from CDFG, pursuant to Fish and Game Code 1600 et sec.	Comment noted. Applicant has been advised of this comment.

APPEALS

Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the Board of Supervisors by filing with the Clerk of the Board of Supervisors within **fifteen (15) days** from the date of the action. A written notice of appeal specifying the grounds for appeal and an appeal fee immediately payable to the Clerk of the Board must be submitted at the time of filing. The Board of Supervisors may sustain, modify, or overrule this decision.

ATTACHMENTS

- A:** Location Map
- B:** Exemption
- C:** Findings
- D:** Applicant letter requesting extension
- E:** Approved Minutes and Conditions of Approval from August 14, 2008
- F:** RD 2035 Letter
- G:** Woodland-Davis Clean Water Agency Letter



LOCATION MAP

ATTACHMENT A

COUNTY RECORDER

Filing Requested by:

Yolo County, Planning and Public Works

Name

292 West Beamer Street

Address

Woodland, CA 95695

City, State, Zip

Attention: Jeff Anderson

Notice of Exemption



To: Yolo County Clerk
625 Court Street
Woodland, CA 95695

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

Project Title: ZF #2007-049 Marina Use Permit Extension

Applicant: Robert Newton
PO Box 160273
Sacramento, CA 95816

Owner: Hugh Turner
169 North Valentine
Fresno, CA 93706

Project Location: The project site is located on the west bank of the Sacramento River near the I-5 bridge at Elkhorn, east of the City of Woodland (APN: 057-210-17, -18)

Project Description: Use Permit extension for a previously approved Use Permit to construct and operate a marina on an Agricultural General (A-1) zoned parcel, on the west bank of the lower Sacramento River.

Exempt Status: "General Rule" Exemption

Reasons why project is exempt: §15061(3) states that CEQA does not apply to projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The applicant is requesting an extension to a previously approved Use Permit. The project was previously approved for the construction and operation of a marina on an Agricultural General (A-1) zoned parcel. No changes to the project or the project's Conditions of Approval have been proposed.

Lead Agency Contact Person: Jeff Anderson, Assistant Planner

Telephone Number: (530) 666-8036

Signature (Public Agency): _____ Date: _____

ATTACHMENT B

FILE NAME: #2007-049 Marina Use Permit Extension
AUTHORIZED SIGNATURE _____

RECEIPT #63153
FEE STATUS _____

**FINDINGS
ZONE FILE #2007-049
ELKHORN MARINA USE PERMIT EXTENSION**

Upon due consideration of the facts presented in this staff report and at the public hearing for a request to extend the Use Permit for Zone File #2007-049, the Yolo County Planning Commission finds the following (*A summary of the evidence to support each FINDING is shown in italics*):

California Environmental Quality Act

- (1) That the proposed Negative Declaration and Initial Study prepared for the project is the appropriate environmental documentation in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines.

The exemption prepared for the project, pursuant to Section 15061(3) of the CEQA Guidelines, has concluded that, a two-year extension for a previously approved Use Permit, which included mitigation measures in the project's approved Conditions of Approval, and a determination that there will not be a significant effect on the environment as a result of the project, is covered by the general rule that CEQA does not apply to projects where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The Mitigation Monitoring and Reporting Plan adopted for the previously approved project ensure the project's compliance with the Conditions of Approval.

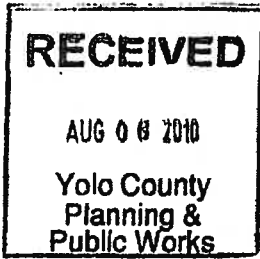
Zoning Code [Yolo County Code Section 8-2.3205]

- (2) Use Permit extensions shall be approved only when it is found that circumstances under which the permit was granted have not changed

The applicant has made progress towards complying with the provisions of the approved Use Permit and Conditions of Approval. However, given the ongoing economic downturn, it has become more difficult for many businesses to secure financing for expansion. It is becoming increasingly common throughout the state for applicants to request extensions of time and for local governments to grant them. No changes to the project or the project's Conditions of Approval have been proposed.

- (3) Use Permit extensions shall be approved for no more than two (2) years.

The applicant has requested an "open-ended" extension without time limits. However, staff has recommended a two-year extension, consistent with this provision.



Receipt # 63153
\$1,053.64

NEWTON ASSOCIATES CONSULTING ENGINEERS

P.O. BOX 160273
SACRAMENTO, CA. 95816
916-483-9860
916-205-1214 cell
July 23, 2010

To: Yolo County Planning Commission

Sirs:

When the Yolo County Planning Commission approved the project "Elkhorn Marina", the project had been submitted to the Corps of Engineers since 2005. A favorable decision was expected within a few months. Shortly after your approval we were informed that National Marine Fisheries approval would be required. This entailed a Biological Assessment Study of the Sacramento River on the effects that the project would have on the possibility of Green Sturgeon in the River. This was accomplished on May, 2009 and approval was forwarded to the Corps. The Corps now informs us that the State Reclamation Board requires further information and the technical arm of the Corp of Engineers needs to review the construction aspects of the project. Other reviews include the State Fish and Game Department and State Lands Commission. There is Possibility that other approvals will be required.

Mr. Turner, owner and developer of this proposed project is mystified by these delays. It is his intent to develop this project if at all possible. This development will not only provide needed dockage for boaters but will be a boon to Yolo County and provide sort of a Key Tenant for the area.

This is a request for an extension of your approval, but we need the extension to be extended until the Corps of Engineers either approves or disapproves the project. As mentioned above, years have gone by and no assurance has been given by the Corps. They apparently have higher priorities such as 100 levee improvements along the Sacramento River so a positive schedule to you is impossible, thereby the need for an open end extension.

Sincerely

A handwritten signature in black ink that reads "Robert Newton".

Robert Newton, PE

ATTACHMENT D

MOTION: Liu SECOND: Merwin
AYES: Bertolero, Liu, Merwin, Peart, and Winters
NOES: None
ABSTAIN: Burton
ABSENT: Kimball

4. PUBLIC REQUESTS

The opportunity for members of the public to address the Planning Commission on any subjects relating to the Planning Commission, but not relative to items on the present agenda, was opened by the Chair. The Planning Commission reserves the right to impose a reasonable limit on time afforded to any individual speaker.

No one from the public came forward.

5. CORRESPONDENCE

5.1 California County Planning Commissioners Association State Conference flyer.

Chair Bertolero acknowledged receipt of all correspondence sent with the packet and distributed at the beginning of the meeting.

CONSIST AGENDA

6.1 None.

TIME SET AGENDA

7.1 **2007-049 and 2007-050: Use permit for a re-established marina and an associated road abandonment in the Agricultural General (A-1) zone. The property is located on the Sacramento River near the I-5 bridge at Elkhorn, east of the City of Woodland (APN: 057-210-18 and -17). A Mitigated Negative Declaration has been prepared for this project. Owner/Applicant: Newton/Tumer (C. Baracco)**

Craig Baracco, Associate Planner, gave the staff report, and answered questions from the Commission. He also commended the applicant for their cooperation on the project.

Vice-Chair Winters asked how the boat slips are used if there isn't a boat launch.

Craig Baracco responded that there are boat launch facilities available on the neighboring property, as well as the county boat launch facility at Elkhorn park, which is south of the proposed marina. He said there is a boat launch facility in Knights Landing as well.

Commissioner Peart clarified that there is no boat launch facility included tied with this project.

Commissioner Burton asked for clarification about berthing fees within the county. Craig Baracco responded that the county does not require berthing fees. A proposed condition of

approval would require that individual boat owners maintain separate permits to use the County boat launching facilities.

Commissioner Liu asked a question about traffic flow in the area.

Craig Baracco replied that these roads are not heavily used, and that based on the traffic analysis, Public Works staff feels that the proposed mitigation measures would be sufficient to ensure public safety.

Chair Bertolero opened the public hearing.

Robert Newton, applicant, requested that the merger of the two properties be approved immediately so that they may do further planning.

Philip Pogledich, Senior Deputy County Counsel, informed the Planning Commission that, under California law, only the Board of Supervisors has authority to act on the road abandonment; therefore, it will be going to the Board of Supervisors subsequently for consideration within the next month or two.

Chair Bertolero closed the public hearing.

Vice-Chair Winters commended staff on a very thorough report which clearly states the intent and the value of the berthing facility.

Commissioner Merwin concurred with the comments of Commissioner Peart and Commissioner Burton regarding fees and permits. He said he is comfortable with the wording in Condition 9 and is prepared to move forward with the project.

Commissioner Liu said she supports the re-establishment of the marina project, and congratulated the applicant.

Commissioner Peart said that this is a good project, but that he would like Condition 9 to be removed from the Conditions of Approval.

Commissioner Burton said he would like to move forward with the project.

Chair Bertolero agreed that Condition 9 should be omitted because it's competitive and confusing.

David Morrison, Assistant Director of Planning Services, clarified further about the launching fee and offered a modification of Condition 9 for the commission to consider.

Philip Pogledich, Senior Deputy County Counsel, proposed a revision to Condition 9 to clarify its intent.

Commissioner Burton suggested that Condition 9 state, "The applicant shall advise clients of the marina who utilize county boat launch facilities, at least annually, to comply with all Yolo County permitting requirements, including the boat launching fee."

Philip Pogledich, Senior Deputy County Counsel, agreed with the wording of Condition 9 as suggested by Commissioner Burton.

Commission Action

1. **HELD** a public hearing and received comments;
2. **ADOPTED** the Mitigated Negative Declaration as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**);
3. **ADOPTED** the Mitigation Monitoring and Reporting Program (**Attachment D**);
4. **ADOPTED** the Findings (**Attachment E**); and
5. **APPROVED** a Use Permit subject to the modified Conditions of Approval (**Attachment F**).

MOTION: Burton **SECOND:** Liu
AYES: Bertolero, Burton, Liu, Merwin, Peart, and Winters
NOES: None
ABSTAIN: None
ABSENT: Kimball

CONDITIONS OF APPROVAL

Planning

1. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval contained herein. The applicant shall comply with both the spirit and the intent of all applicable requirements of the Yolo County General Plan, the County Code, and these Conditions of Approval.
2. The subject project shall be only for the uses approved by this Use Permit. The project is approved for a commercial marina as described in the Project Description sections of this report. Any modification to the approved plans, extent, or manner of operation of the facility shall be submitted for review and approval to the Director of the Planning and Public Works Department.
3. This Use Permit shall commence within one year from the date of the Planning Commission's approval or said permit shall be null and void. The Director of Planning and Public Works may grant an extension of time; however, such an extension shall not exceed a maximum of one year.
4. The facility will not include refueling facilities. No "live aboard" vessels will be allowed. If the owner/applicant wishes to add refueling, boat ramp, or live aboard facilities to this project, they shall make an application to amend this Use Permit subject to review by the Planning and Public Works Department, and approval of the Planning Commission.
5. Any proposed sign for the marina shall comply with the requirements of the Yolo County sign regulations (Section 8-2.2406 of the County Code).
6. Any lighting used on the site shall be so arranged as to direct light away from adjoining lots and the night sky.

7. The applicant shall apply for and maintain a Yolo County Business License prior to commencement of the marina operations.
8. Prior to commencement of marina operations, the applicant shall obtain approval for the associated road abandonment. (ZF 2007-050)

Resources

9. The applicant shall advise clients of the marina who utilize county boat launch facilities, at least annually, to comply with all Yolo County permitting requirements, including the boat launching fee.

Public Works

10. County encroachment permits will be required for all work within the County right-of-way.
11. Paved commercial driveway access shall be constructed and completed by the applicant according to Yolo County Improvement Standards, prior to final occupancy.
12. The applicant shall submit a grading and drainage plan for each site for review by the county. Applicant shall submit hydrology calculations that demonstrate that there will be no negative downstream impacts during a 10-year event. All plans and reports shall be signed and sealed by a licensed California civil engineer.
13. Prior to issuance of grading permits, the applicant shall obtain a General Construction Activity Stormwater Permit and a National Pollutant Discharge Elimination System (NPDES) permit from the Regional Water Quality Control Board. The permits are required to control both construction and operation activities that may adversely affect water quality. The applicant shall also prepare a Storm Water Pollution Prevention Plan (SWPPP) that describes the site, erosion and sediment controls, means of waste disposal, implementation of approved local plans, control of post-construction sediment and erosion control measures and maintenance responsibilities, and non-stormwater management controls.
14. The applicant shall coordinate with the Regional Water Quality Control Board (RWQCB) to determine storm water discharge requirements for preventing contaminants from leaving the site and entering the Sacramento River, and if an Industrial SWPPP is required for each site. The applicant shall document the RWQCB's direction, and notify the county of their determinations prior to submittal of the drainage plans.
15. The applicant shall submit a signage and striping plan for review by the county. All appropriate measures shall be completed prior to permit issuance. Plan shall be signed and sealed by a licensed California civil engineer.
16. The applicant shall determine if any other safety measures are required by the governing railroad authority for the rail line between the marina and the boat storage facility.

Building

17. Unless otherwise authorized by the Planning and Public Works Director, grading, excavation, and trenching activities shall be completed prior to November 1st of each year to prevent erosion.

18. All building permit plans shall be submitted to the Planning and Public Works Department for review and approval in accordance with County Building Standards prior to the commencement of any construction.
19. The applicant shall pay the appropriate fees prior to the issuance of Building Permits, including, but not limited to, School and Fire District fees, County Facilities Fees and Environmental Health Fees.

Environmental Health

20. The water system will likely be classified as a public water system that will be regulated under permit by Yolo County Environmental Health. Monitoring wells should precede the installation of a domestic well and testing to assure that the water quality for the marina is equivalent to that of a community water system. The modification of the existing well or construction of a new domestic well will be required to be done under permit by Yolo County Environmental Health.
21. The features of this parcel may preclude the permitting of a septic system for sewage disposal. **Environmental Health will not approve parcels that do not have a sewage disposal system that meets all applicable requirements for any occupancy.** Prior to issuance of any grading or building permit, an approvable sewage disposal plan should be submitted to and approved by Environmental Health. Liquid waste, other than domestic sewage, must not be disposed of into the septic system.
22. The applicant shall meet all of the Hazardous Materials Business Plan requirements of Yolo County Environmental Health.

State and Federal Agencies

23. Prior to issuance of building permits the applicant shall secure all necessary permits from all relevant agencies, including, but limited to, a Fish and Game, Army Corps of Engineers, Department of Boats and Waterways, and the National Marine Fisheries Service.
24. Prior to issuance of building permits, the applicant shall secure an amended lease agreement with the California State Lands Commission to reflect the increased size of the marina.
24. As this project will have an impact to fish and/or wildlife habitat, assessment of fees under Public Resources Code Section 21089, and as defined by Fish and Game Code Section 711.4, will be necessary. The fees (\$1875.76) are payable by the project applicant upon filing of the Notice of Determination by the lead agency, within five working days of approval of this project by the Planning Commission.

Mitigation Measures

The following Mitigation Measures identified in the first circulation of the Initial Study/Mitigated Negative Declaration for the project are added as project approval conditions (these items have the original numbering in the Initial Study document).

25. Mitigation Measure 1:

(a) A condition of the Use Permit shall require the owner-operator to ensure that all boats docked at the marina shall be kept in good working order and repair. Non-operative or abandoned craft shall not be allowed to remain in dock. All boats, buildings, and structures shall be kept clean and free from graffiti, trash and visual clutter. All trash enclosures and storage areas will be screened from the viewing public.

(b) Prior to issuance of building permits, the applicant shall submit a detailed landscaping and irrigation plan for the project site to be approved by the Planning and Public Works Director. A variety of native plants, shrubs and grasses shall be used to enhance the visual character of the site, and to visually integrate the project into the surrounding area.

26. Mitigation Measure 2:

Fish

- (a) All in-water construction activities in the Sacramento River shall be limited to the period June 1 through October 31 to avoid the primary migration periods of listed salmonids.
- (b) In-water pile driving will be restricted to the period July 1 through September 30 to avoid or minimize exposure of adults and juvenile salmonids to underwater pile driving sounds.
- (c) Pile driving shall be conducted by barge to minimize disturbance of riparian habitat.
- (d) Following construction, native riparian vegetation shall be planted on disturbed or exposed soils to control erosion and offset any losses of vegetation on the waterside slope of the levee.
- (e) The owner/operator shall enforce a no-wake zone for boats operating in and in the vicinity of the marina through the posting of signs and other mechanisms.

Elderberry Longhorn Beetle

(f) Prior to issuance of a grading permit or land disturbance activities on the panel storage area, the observed elderberry shrub shall be identified, mapped, flagged, and be protected by orange temporary fencing for the duration of the project earthmoving activities. Complete avoidance (i.e., no adverse effects) may be assumed when a 30 m (100 ft) (or wider) buffer is established and maintained around elderberry plants containing stems measuring 2.5 cm (1.0 in) or greater in diameter at ground level. In the event that work must proceed in areas where encroachment on the 30 m (100 ft) buffer has been approved by the USFWS, a minimum setback of at least 6 m (20 ft) from the dripline of each elderberry plant shall be provided.

Raptors

- (g) Prior to any site preparation or construction activity, the applicant shall protect raptor nesting habitat as described in this mitigation measure. All surveys shall be submitted to the Yolo County Planning, Resources and Public Works Department for review.
- (h) For construction that will occur between March 15 and September 15 of any given year, the applicant shall conduct a minimum of two preconstruction surveys for (a) suitable nesting habitat within one-half mile of the project site for Swainson's hawk; and (b) within 500 feet of the project site for tree-nesting raptors and northern harriers. Surveys shall be conducted by a qualified biologist and will conform to the Swainson's Hawk Technical Advisory Committee (2000) guidelines. These guidelines describe the minimum number and timing of surveys. If nesting raptors

are detected during preconstruction surveys, the applicant shall implement mitigation measures described in (k), below.

(i) If nesting raptors are recorded within their respective buffers, the applicant shall adhere to the following buffers:

(1) Maintain a 1/4-mile buffer around Swainson's hawk nests, and a 500-foot buffer around other active raptor nests. These buffers may be reduced in consultation with CDFG; however, no construction activities shall be permitted within these buffers except as described in (2), below.

(2) Depending on conditions specific to each nest, and the relative location and rate of construction activities, it may be feasible for construction to occur as planned within the buffer without impacting the breeding effort. In this case (to be determined in consultation with CDFG), the nest(s) shall be monitored by a qualified biologist during construction within the buffer. If, in the professional opinion of the monitor, the project would impact the nest, the biologist shall immediately inform the construction manager and CDFG. The construction manager shall stop construction activities within the buffer until either the nest is no longer active or the project receives approval to continue from CDFG.

27. Mitigation Measure 3:

(a) As a condition of approval, the applicant shall be required to either raise all proposed buildings out of the 100-year flood hazard area by elevating the pads of the buildings so that the finished flood elevations would be one foot above the base flood elevation or to construct the buildings to dry-proofing standards as required by the California Building Code and Federal Emergency Management Agency standards.

28. Mitigation Measure 4:

- (a) As a Condition of Approval of the use permit, the applicant shall obtain a General Construction Activity Stormwater Permit (SWPPP) and a National Discharge Elimination System (NPDES) permit. The permits are required to control both construction and operational activities that may adversely affect water quality.
- (b) The applicant shall utilize Best Management Practices (BMPs) to prevent pollution from entering the Sacramento River. Such BMPs should include, but no be limited to:
- i. Storing materials and equipment to prevent spills or leaks.
 - ii. Developing and implementing a spill prevention and cleanup plan.
 - iii. Installing traps, filter, or other devices to prevent contaminants from leaving the site and entering the Sacramento River; and using barriers, such as straw bales or plastic, to minimize the amount of uncontrolled runoff that could exit the site.
- (c) The applicant shall submit a grading and drainage plan for the site for review and approval of County Public Works.

29. Mitigation Measure 5:

(a) As a Condition of Approval, prior to the start of marina operation, the applicant shall install signage, as approved by the Department of Planning and Public Works, to warn the traveling public of the following:

- Slow Traffic Ahead
- Cross Traffic Ahead
- Do not Block Railroad

County Counsel

30. In accordance with Yolo County Code Section 8-2.2415, the applicants, owners, their successors or assignees shall agree to indemnify, defend, and hold harmless the County or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards) against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the County, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations.
31. The county shall promptly notify the applicant of any claim, action or proceeding and that the county cooperate fully in the defense. If the county fails to promptly notify the applicant of any claim, action, or proceeding, or the county fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the county harmless as to the action. The county may require that the applicant post a bond in an amount determined to be sufficient to satisfy the above indemnification and defense obligation.

Failure to comply with the **CONDITIONS OF APPROVAL** as approved by the Planning Commission may result in the following:

- Non-issuance of future building permits;
- Legal action.

FINDINGS

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2007-049, the Yolo County Planning Commission finds the following:

(A summary of evidence to support each FINDING is shown in Italics.)

California Environmental Quality Act (CEQA) and Guidelines

1. That the recommended Initial Study/Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA) and is the appropriate environmental document and level of review for this project.

The environmental document for the project, prepared pursuant to Section 15000 et. seq. of the CEQA Guidelines, provides the necessary proportionate level of analysis for the proposed project, and sufficient information to reasonably ascertain the project's potential environmental effects. The environmental review process has concluded that there will not be a significant effect on the environment as a result of the proposed project with the incorporated mitigation measures.

General Plan

2. That the proposal and requested land use is in conformity with the General Plan.

The following General Plan Policies are consistent with this project.

Code 23 Sacramento River and Putah Creek. Yolo County shall encourage additional use of Sacramento River and Putah Creek Water.

Rec. 6 Riverfront. Development of riverfront recreation areas shall offer recreational facilities, visual aesthetics and open space amenities, while insuring access to the river for all residents.

Rec 7 Urban Waterfront Land Uses. Yolo County shall require that a portion of urban waterfront, other than the Port of Sacramento and existing industrial uses, should be used for water-dependent activities including, but not limited to, recreation, tourism, scenic public walkways, waterview restaurants, marinas, fishing access, small waterfront parks, and interpretation projects with retained and enhanced riparian vegetation.

The project will provide increased riverfront recreation facilities in the form of both a marina and boat storage. This project will provide increased recreational activities and shall encourage additional use of the Sacramento River for recreational purposes.

Zoning Code

In accordance with Section 8-2.404.5 of the Yolo County Code, the Planning Commission finds the following:

3. The requested land use is listed as a conditional use in the zoning regulations and is allowed under the following authorization:

The property is zoned Agricultural General (A-1). The proposed new uses are consistent with the A-1 designation under Section 8-2.604.4. Rural recreation with permanent buildings is listed as a conditional use. "Rural Recreation" is defined as outdoor sporting or leisure activities that require large open space areas and do not have any significant detrimental impact on agricultural use of lands.

Use Permit

In accordance with Section 8-2.2804 of the Yolo County Code, the Planning Commission finds the following.

4. The requested use is essential or desirable to the public comfort and convenience.

The proposed new use provides a valuable recreational service to the public. It is desirable for uses of this type to be located in a rural area to take advantage of an existing waterway.

5. The requested land uses will not impair the integrity or character of a neighborhood or be detrimental to public health, safety, or general welfare.

The requested uses will create little or no impact to the character of the area. An existing marina exists in close proximity to the proposed project. The proposed project is consistent with similar development found along the Sacramento River. As conditioned, the project will not be detrimental to public health, safety, or general welfare.

6. The requested use will be in conformity with the General Plan.

Compatibility with General Plan Policies is discussed at #2 above. This project is in conformity with General Plan policies Con 23, Rec 6 and Rec 7.

7. Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities will be provided.

As conditioned and with mitigation measures incorporated, adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities will be provided in this project as approved.

~~7.2 2008-010: Tentative Parcel Map for the subdivision of an 11-acre parcel into a 6-acre homesite and a 5-acre homesite. The project is located at 34474 County Road 25, three miles west of the City of Woodland and one mile south of the Watts-Woodland Airport in the Monument Hills area (APN: 040-040-04). A Negative Declaration has been prepared for this project. Owner/Applicant: Slooten (J. Anderson)~~

~~Jeffrey Anderson, Assistant Planner, gave the staff report, and answered questions from the commission.~~

~~Chair Bertolero opened the public hearing.~~

~~George Slooten, the owner of the property, said he will be working with the owners to secure an access easement. He expressed concern about the wording in Condition 7, where he will be required to pave the County Road 94A connection to County Road 25 with a minimum throat width of 20 feet.~~

~~Eric Parfrey, Principal Planner, provided clarification regarding the requirement of Condition 7 that was requested from Public Works, and answered questions from the Commission.~~

~~Dave Taylor, resident at 19739 County Road 94A, expressed concerns from members of the community, and said that the neighbors are willing to work with Mr. Slooten to address these concerns. He briefly explained the responsibilities of the neighbors and the private road maintenance agreement regarding the upkeep of the road.~~

~~Mr. Taylor requested that the obstruction of Willow Slough be addressed.~~

~~David Paul, a neighbor directly north of Mr. Slooten's property, mentioned concerns about a neighboring property's barns and the effect of their tractor trailers on the road, and answered questions from the commission. He said he and the neighbors would like to meet with Mr. Slooten to resolve concerns about the project.~~

~~Mr. Slooten provided information regarding the slough and the fence that crosses the slough. He said that there is a flap on the fence that allows the debris and water to go through, and that he is willing to work with the neighborhood.~~

~~Chair Bertolero closed the public hearing.~~

~~David Morrison clarified some of the conditions and requirements, and commented on some of the issues that were brought forth from the neighbors.~~

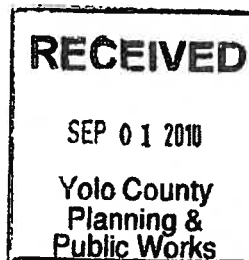
~~Chair Bertolero suggested that the item be continued for one month.~~

~~David Morrison explained why he doesn't think a continuation of the item is necessary, since today's direction to the applicant would be clear.~~

**RECLAMATION DISTRICT 2035
45332 County Road 25
Woodland, CA 95776**

August 31, 2010

Jeff Anderson
Assistant Planner
Yolo County Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95695-8156



RE: ZF #2007-049 – Elkhorn Marina

Dear Mr. Anderson:

Jeff

On behalf of Reclamation District 2035 ("RD 2035"), the underlying property owners in RD 2035 and as the lead agency for the RD 2035 Fish Screen Project ("Fish Screen Project"), we respectfully request that the Yolo County Planning Commission deny the request for an unrestricted extension to the existing use permit to construct and operate a 62-slip marina.

The new 62-slip marina ("Marina Project") would be located on the west bank of the lower Sacramento River, just north of the Interstate-5 bridge and immediately adjacent to and south of RD 2035's existing and future intake diversion facilities.

Given the close proximity and potential impact of the Marina Project on the Fish Screen Project, which will likely include and benefit the cities of Woodland and Davis, we also request that the existing use permit be revoked or, at a minimum, re-opened to allow the Marina Project to more closely plan for and coordinate its design and construction activity with the Fish Screen Project.

RD 2035 was formed in 1919 to provide flood protection, drainage, and irrigation water to lands in eastern Yolo County. Almost 22,000 acres of farmland can receive their water supply from RD 2035 on lands west of the Sacramento River and east of Woodland and Davis, California.

~~Water from RD 2035 is also used in the fall and winter months for controlled flooding for groundwater recharge, agricultural purposes, and to maintain habitat for waterfowl.~~

For nearly 90 years, RD 2035 has diverted water from the Sacramento River through a diversion intake that was constructed in 1920. This diversion is one of the largest remaining unscreened intakes on the Sacramento River north of the Sacramento / San Joaquin Delta, with a capacity of 400 cubic feet per second ("cfs"). Currently, the intake has no safeguards to prevent the entrainment of migrating fish, several species of which are listed for protection under the Endangered Species Act.

A new diversion structure, with protective fish screens is required to prevent entrainment of the fish. The new diversion facility would meet the current criteria for fish screen design as defined by NOAA Fisheries and the California Department of Fish and Game and will improve the protection of juvenile Chinook Salmon, Steelhead Trout, and Green Sturgeon, among other migrating fish species. RD 2035 began planning this project in 2000. Project funding was

ATTACHMENT F

initially obtained from CALFED (Ecosystem Restoration Program) for environmental documentation and design. Local funding by RD 2035, the Water Resources Association of Yolo County, and Woodland Davis Clean Water Agency ("WDCWA"), as well as State funding through CALFED and Federal funding through the Anadromous Fish Screen Restoration Program ("AFSP") have been the source of funding in recent years.

Initial studies examined a number of methods for accomplishing the project goals. Design of the project was completed in 2005, but at that time funding for construction was unavailable.

In 2009, the United States Bureau of Reclamation and the California Natural Resources Agency both recognized the RD 2035 diversion as one of three remaining priority fish screen projects on the Sacramento River and are providing grant funding for the completion of design and permitting activities.

For the past year, RD 2035 has been engaged in negotiations with the cities of Davis and Woodland to modify its diversion quantity to 320 cfs to allow the other 80 cfs to be utilized by the Woodland-Davis Clean Water Agency (WDCWA), maintaining the existing 400 cfs capacity of this intake diversion structure.

A combined diversion facility for both RD 2035 and WDCWA are recommended for implementation in the 2007 Yolo County Integrated Water Management Plan and was identified as the preferred intake alternative in the 2007 Davis Woodland Water Supply Project ("DWWSP") Final Environmental Impact Report. The proposed dual purpose intake would provide environmental and water quality benefits, improve water supply reliability in the region, and is consistent with the ecosystem restoration goals of the CALFED Bay-Delta Program.

Importantly, a combined or joint-use facility will also allow the cities of Davis and Woodland to avoid significant cost and potential regulatory delay associated with building a stand-alone intake facility.

With the likely involvement from WDCWA, the project goals have been revised and the design is again being updated. RD 2035 has recently completed its 30% design phase of the new Fish Screen Project and will begin 100% design and permitting phase in October of 2010. Construction is anticipated to begin in 2012.

As RD2035 moves into the final phase of design for this project, RD 2035 and its project partners have real and growing concerns regarding the potential impacts of the Marina Project on the Fish Screen Project which need to be addressed. While this is far from being a comprehensive list, several of the potential conflicts are outlined below:

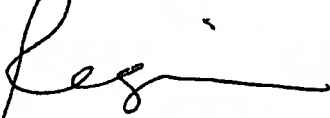
- RD2035 will be needing two driveways entrances off of County Road 117 for maintenance and operation of the fish screen/intake. The marina will then also need a driveway entrance (all in the distance of about 200 feet along the curve).
- RD2035 does not want its access design being dictated by the marina driveway. Significant site planning efforts have been done to re-design County Road 117 to

accommodate the over levee design required by the United States Army Corps of Engineers ("USACE").

- Impacts during construction of the fish screen might need to be re-evaluated (assuming that the marina is built first).
- With a large marina immediately adjacent to the intake (on same side of river), might have boaters trying to use the intake facilities (like temporary mooring off the log boom). Also potential for increased vandalism.
- With increased public usage of the waterway, this would increase the potential for boater interaction with the intake.
- Electrical power & phone coordination. (The power for RD2035 will need to be upgraded/revised to accommodate the intake needs.)
- If the marina constitutes "urban development" it could push the USACE into requiring 200 year flood protection criteria.

Again, given the close proximity and potential impact of the Marina Project on the Fish Screen Project, which will likely include and benefit the cities of Woodland and Davis, we respectfully request that the existing use permit be revoked or, at a minimum, re-opened to allow the Marina Project to more closely plan for and coordinate its design and construction activity with the Fish Screen Project.

Sincerely,

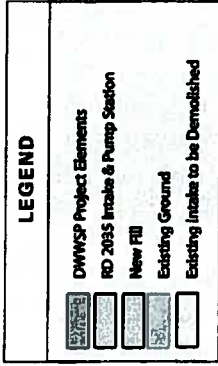


Regina J. Cherovsky
Chairperson

Attachments

cc: Tovey Giezentanner, President Conaway Preservation Group
Helen Thomson, Chair, Yolo County Board of Supervisors
Dr. Bill Marble, Woodland Councilmember; WDCWA Board Chair
Stephen Souza, Davis Councilmember; WDCWA Board Vice-Chair
Don Saylor, Davis Councilmember; WDCWA Director
Martie Dote, Woodland Councilmember; WDCWA Director
Dr. Eric Mische, WDCWA General Manager
Greg Meyer, Public Works Director, City of Woodland
Bob Clarke, Public Works Director, City of Davis
Dick Shanahan, Woodland Davis Clean Water Agency

Figure 1 – RD 2035 Fish Screen Project Site Plan Showing RD 2035 and DWWSP Project Elements



The RD 2035 Fish Screen Project may be configured with only the facilities required by RD 2035 or as a combined project with DWWSP facilities included.

Key facilities required for the RD 2035-alone configuration would include the following:

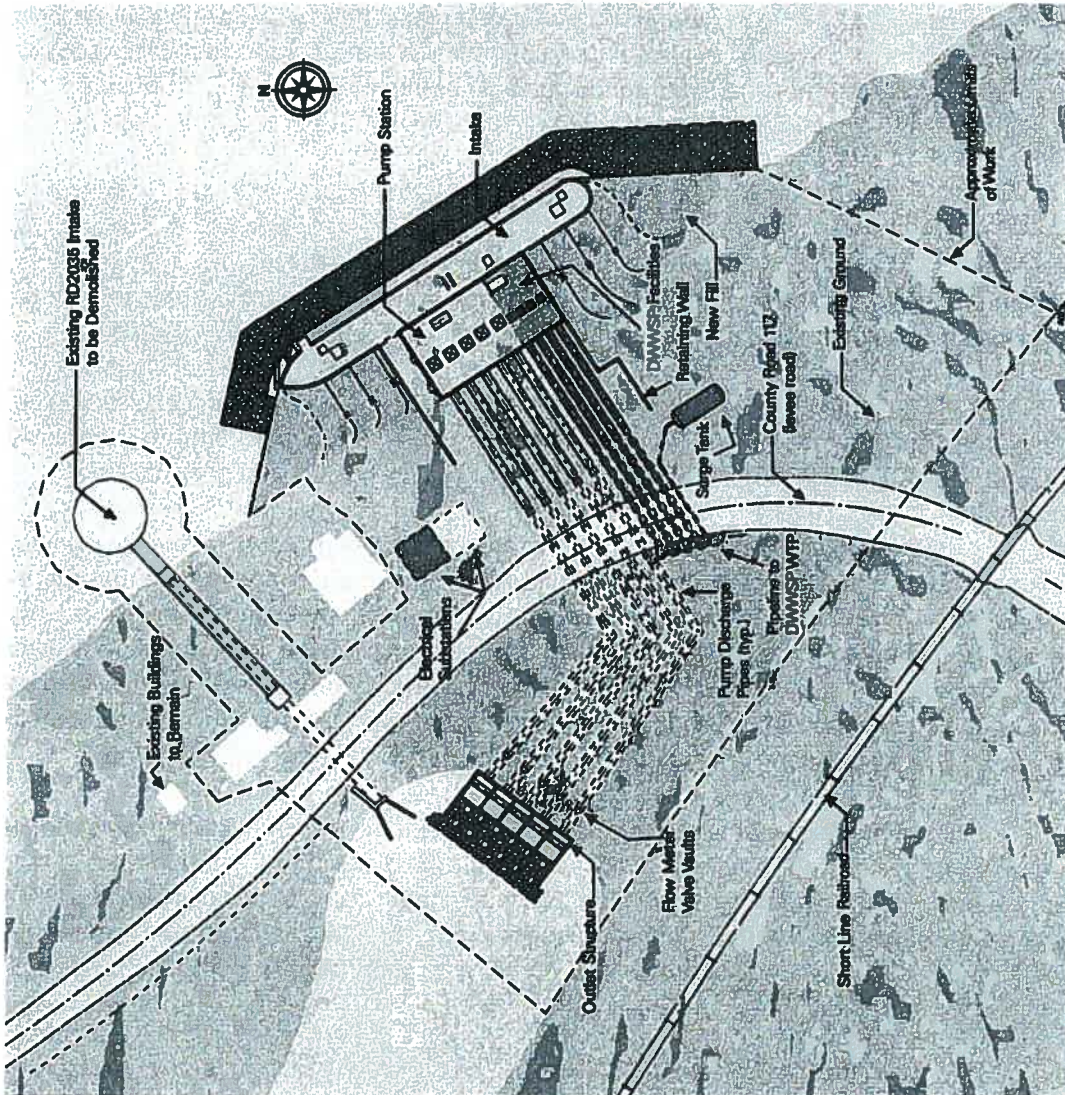
- 400 cfs capacity fish screen intake structure including fish screens, flow baffles, screen cleaning system, and sediment control system.
- 400 cfs capacity pump station with 5 – 80 cfs constant speed pumps, associated electrical and instrumentation equipment, concrete surge structure extending down to the same elevation as the fish screens (approximately 43.5 feet deep), masonry block building, and a 2- fan ventilation system.
- Individual pump discharge pipes, with above and below ground portions, routed from each pump to convey water to the canal. One flowmeter provided for each pipe.
- An electrical substation would also be required to transform power to supply the 4 kV pumps and other electrical equipment.
- Concrete outlet structure located in an earth-filled and grouted portion of the canal to provide energy dissipation and introduce the pumped water into the canal.
- Slightly raising and regrading of County Road 117 (levee road) would be required.
- Demolition of existing RD 2035 intake facility would be completed as a part of the project after the new facility is fully operational.

To incorporate DWWSP project elements and construct a combined facility, the following modifications would be required to the RD 2035-alone project configuration:

- The pump station, including both the deep concrete surge structure and the masonry block building would need to be enlarged to accommodate DWWSP's 4 - 26,67 cfs VFD driven pumps providing 80 cfs effluent capacity. Additional instrumentation and electrical equipment would also be required. Two 12.5 ton air conditioning units and an expanded isolated electrical and instrumentation room would be required to cool the DWWSP pump VFDs. Additional fill and grading would be required.
- Individual pump discharge pipes, with above and below ground portions, routed from each pump to a 60-inch diameter transmission pipeline would be provided. One flowmeter provided for each pipe.
- An additional electrical substation would be required to transform power to supply the 480 V pumps and associated electrical equipment.
- A surge tank would be required to manage potential pressure waves in the transmission pipeline.



RESOLVING A BETTER WORLD





WOODLAND · DAVIS
Clean Water Agency

September 7, 2010

VIA E-MAIL (Jeff.Anderson@yolocounty.org) & U.S. MAIL

Mr. Jeff Anderson
Assistant Planner
Yolo County Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95695-8156

Re: Elkhorn Marina Use Permit (ZF #2007-049)

Dear Mr. Anderson:

I am General Manager of the Woodland-Davis Clean Water Agency. The Agency supports the August 31, 2010 letter from Reclamation District 2035 and its request that the Yolo County Planning Commission deny the application for an extension of the use permit for the above-referenced project.

The Agency is a joint powers authority formed in 2009 by the Cities of Davis and Woodland in order to develop and implement a project to divert, treat and deliver surface water from the Sacramento River for use by Davis and Woodland. As explained in the RD 2035 letter, the Agency is negotiating with the District on a joint intake and diversion at the site of the existing RD 2035 intake on the Sacramento River, which is just north of the proposed marina.

The close proximity of the intake (which is pre-existing) and marina seem to be incompatible land uses. We share the concerns expressed by RD 2035 concerning the potential conflicts between a marina located so close to a major municipal and agricultural water supply intake. Assuming the marina would include gasoline facilities for refueling by boats, we add an additional concern about a gasoline supply on the river (with the related risk of spills) located so close to the Davis and Woodland municipal water supply intake.

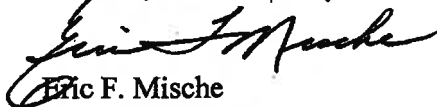
Thank you for your consideration of our views. Please contact me if you have any questions.

Woodland-Davis Clean Water Agency • 1717 Fifth Street

ATTACHMENT G

Jeff Anderson, Yolo County
September 7, 2010
Page 2

Sincerely,



Eric F. Mische
General Manager

Cc: WDCWA Board of Directors
Regina Cherovsky
Tovey Giezentanner
Greg Meyer
Bob Clarke