
**VERBAL COMMENTS RECEIVED AT CPUC PUBLIC HEARING
HUNTINGTON BEACH, CALIFORNIA, JANUARY 21, 2000****COMMENTS: MR. DAVE HALL**

Comments: Basically, my comments will be regarding the biological resources section of the draft EIR. Before I speak about that, I would like to say that I think a 45-day comment period is not enough. I think a 60-day is more adequate, especially when you consider Christmas vacation was part of this 45-day comment period.

In addition, I'd like to say that even though I was at the scoping hearing, I received no mailing about this hearing. In addition, I really question whether having an advertisement in the Independent yesterday, the day before the hearing, is really adequate public notification for this hearing. I think it was put together at the last minute, and I also think that the last meeting that they had that you could submit written comments, I think people should have been able to get up and speak about their concerns as well.

Now, regarding biological resources. Particularly regarding the mesa, this plan would impact a number of endangered species and threatened species including the southern tar plant. Even though the pipeline will disturb this sensitive species, there is no plan to mitigate the impact upon the species. Also the Swainson's hawk. The mesa is used for foraging for this hawk, and they use the grassland of the mesa, and there's no plan to mitigate the impact to this threatened species either, including the California Horn Lark. This will impact the species which is a federal species with special concern that uses the Bolsa Chica mesa. Other raptor species need foraging habitat. And, recently, the staff with the Coastal Commission suggested that the development on the mesa should be half what was approved before. They realized that raptors that utilize the eucalyptus growth there need foraging habitat, and the Bolsa Chica mesa provides this. So, all of these mesa species that are impacted, nowhere in this EIR does it talk about that.

Without the water, there would be no development on that mesa. I think that bringing the water here and supporting the development project is directly related to hurting these species. In addition, they mentioned that the coyote population will be impacted by this project, and this would lead directly to foxes going into the wetlands area and impacting the California Least Tern. They say that this species would likely relocate to other sites during construction. However, again, there is no mitigation done. Specifically, sir, I would like to also talk about the Bolsa Chica channel. The pipeline will disturb a riparian community along old Bolsa Chica Road. According to the document on page C8-8, it says that: 'A riparian community may be utilized by some migrating birds'.

I really wonder if saying "it may be used without a study" is adequate. They did not go. They say that migratory birds use this area, however, there's no study done as to what species utilize the Bolsa Chica channel. So I think that's really inadequate in this document. In addition, they have a Mitigation Measure B1 which is totally inadequate. It says that: If construction is to take place between May 15 and August 15 along old Bolsa Chica Road, a biological survey of the area shall be completed within two weeks prior to initiation of construction. This is inadequate because an EIR is supposed to do this study now. They should know what species are using this area, then they can determine what the mitigation measures will be.

To say that two weeks before construction, they'll go in and look for nests, I don't think is adequate. They should have done the study already, and I think they're just trying to railroad this through; and

this is a perfect example of it. Also, what does the mitigation measure say only if the birds are nesting in this area then they will delay construction of the channel? If birds are utilizing it for foraging habitat, I think that that is also significant, not just birds that utilize it for nesting. So, Mitigation Measure B1 is the only mitigation measure dealing with wildlife resources, and it's totally inadequate. A study should have already been done, and I think that this is a perfect example of this EIR not doing a very good job on biological resources nor the mitigation for that.

So, I would like to also say that I think this is really even a moot point, this whole project, because it looks like the development will be cut in half on the mesa. There are a lot of changes going on, and I really question the cost both to the environment and the financial cost, the piping and the water, to really destroy the Bolsa Chica mesa.

Response: Each of Mr. Hall's points are considered in turn:

1. The 45-day comment period is the legally required period for public review. The CPUC was not able to provide a longer review period due to scheduling constraints imposed on the Commission by Senate Bill 960.
2. Notification of the public hearing included a press release, advertisements in local and regional newspapers, placement of a notice on the project website, an announcement on the project telephone line, and direct mailings to over 350 interested parties, citizens, and agencies. We regret any inconvenience caused as a result of not receiving direct notice.
3. The impacts to biological resources on the Mesa have been previously subject to environmental analysis in the *1996 Recirculated Draft EIR for the Bolsa Chica Local Coastal Program*. The CPUC considers the impacts of the proposed water line project on the Mesa to be minimal – particularly in relation to the species mentioned in the comment above. The Coastal Commission and Orange County are the lead agencies for matters pertaining to development on the Mesa; the CPUC is the lead agency for the pipeline.
4. Please see the preceding response.
5. The Draft SEIR indicates that water line construction *may* disturb nesting birds utilizing Bolsa Chica Channel when construction proceeds along nearby Old Bolsa Chica Road. This possibility was acknowledged due to the existence of water and some low-growing riparian vegetation in the channel at that point. The likelihood that migratory birds nest in this area is considered small because suitable habitat conditions are marginal. However, due to the possibility that birds might nest in this area, Mitigation Measure B-1 is presented in the Draft SEIR. Biologists involved in preparing the SEIR conducted several field visits to areas potentially affected by the proposed water line, including the subject area of Bolsa Chica Channel. It would have served no meaningful purpose to conduct a survey for nesting birds for the Draft SEIR. Such a survey may have indicated that no nesting birds existed at the subject location at the time the Draft SEIR was prepared, but that would not have precluded the possibility that nesting birds might be present when water line construction is scheduled to occur. What is important to know is whether any birds are present when construction occurs, not whether birds are there now, hence Mitigation Measure B-1. Surveying for nesting birds immediately prior to construction is more prudent and effective than conducting surveys when the Draft SEIR is prepared.
6. The proposed development of the Mesa and the approval and decision-making processes of the California Coastal Commission are not considered germane to the environmental assessment of

the applications before the CPUC. The CPUC must move forward with the applications before it, regardless of what actions may be taken on the Local Coastal Program by the Coastal Commission in the future.

COMMENTER: MS. NANCY HARRIS

Comments: Good afternoon, Judge Weiss. My name is Nancy Harris. I'm from Huntington Beach. Snarled traffic, traffic pollution, what Southern California is notorious for, the major inhibitor of our quality of life, and now residents, commuters, wildlife, the physically challenged, bicyclists, pedestrians, bus passengers, school children, emergency service providers and especially business owners who can lose customers when it becomes too difficult to reach a location, thousands of us are being told to endure months if not years of air pollution, noise, dust, traffic congestion, detours, possible utility service disruptions and exposure to contaminated soil or groundwater in order to tear up 6.7 miles of our major western smart street to the Garden Grove and 405 Freeways.

And for what? Not a necessity to improve our quality of life, but to pave the way for a future unpopular development that is certain to damage the Bolsa Chica mesa and wetlands and, therefore, further inhibit our quality of life, not to mention the wildlife.

This is the ultimate sense of developer entitlement.

Thank you.

Response: Thank you for expressing your concerns. The CPUC is aware of community concern in relation to proposed development on the Bolsa Chica Mesa. However, the CPUC has no direct permitting authority in that matter. With regard to impacts resulting from the proposed water line, these impacts are described in the SEIR and mitigation measures are proposed to reduce or avoid potentially significant impacts. The Coastal Commission and Orange County are the lead agencies for the proposed development on the Mesa.

COMMENTER: MR. VICTOR LEIPZIG

Comments: My name is Victor Leipzig, resident of Huntington Beach, former member of the City Council of Huntington Beach, former mayor of the City of Huntington Beach. I have had limited opportunity to review the EIR, although I have studied as much of it as I can since receiving a copy in just the last few days. I do intend to provide some written comments, and will do so, I'm afraid, late after the deadline. I'd like to restrict my comments entirely to the impacts that are identified in the EIR about the pipeline project itself rather than commenting upon the development on the mesa.

My sole comment will simply be that all of the impacts identified in this EIR for the pipeline project are completely unnecessary impacts. All of these impacts can be completely foregone by our community because there are alternatives well identified in the EIR that have none of the impacts identified with the Proposed Project. Water can be supplied to whatever development may be constructed along the mesa from the City of Huntington Beach without the need for this 6.7-mile pipeline and any of its impacts. It will be my request to the Commission to deny the request of the applicant for this pipeline because the impacts that it will have on our community can be completely foregone and still allow the applicant's development on the mesa to whatever extent that is permitted.

Response: Thank you for your opinion. The Draft SEIR identifies feasible alternatives to the Proposed Project and analyses the potential impacts of each alternative. Connection to the City of Huntington Beach is identified as the environmentally superior alternative.

COMMENTER: MR. ARMS

Comments: Good afternoon, sir. I'm a Huntington Beach resident here, and I just wanted to just say a couple things. And in regard to that, I would like to -- let me simply put -- not see this project go through simply because of, I think, the traffic that it would cause, the problems that we already face here in California in regards to issues with water. I think we're towards the end of January as it is, and we're 25 percent below what normal rainfall is for a typical year.

And I think the bigger picture here is that I would like to see a developer prove that there's going to be enough water supply for any development that they're going to put forward. I don't know if I'm communicating clearly enough, but it does seem that, you know, we're very possibly facing another drought period here in California, and it would be nice to see that any development that goes in, that there would be, in fact, a guarantee that there was going to be water for that development.

And I know here in Huntington Beach -- I've heard it, well, before that -- currently, we're facing challenges with saltwater coming into our aquifers as it is. And, overall in California, I think we're facing some serious water problems, and I would hate to see this development add to it. And that's really the extent of my comments.

I would like to see this pipeline stopped.

Thank you.

Response: The applicant, the Southern California Water Company, has submitted information to the CPUC as part of the general proceeding indicating that they have adequate existing water supplies available to provide water service to the proposed development. This issue will be considered further by the CPUC during the course of the CPUC's review and consideration of the applications for the Certificates of Public Convenience and Necessity.

COMMENTER: MS. ANJA GARWICK

Comments: You've all heard that my name is Anja Garwick. And I agree with the first speaker, too. I've had absolutely no notice whatever about this meeting.

Also, originally, the reservoir was going to be at Los Patos and Lynn, and that is not where the EIR said it will be. It was supposed to be in the City of -- on the Bolsa Chica Road and supposed to have been 9-1/2 million gallons, and it's going to be now on the property where the Warner pool is located, and that's very wrong.

And that's all I wanted to say.

Being from Europe and living in the states for 30 years and living across the wetlands, I wish the Huntington Beach residents would realize how absolutely awesome the mesa is. It is incredible and the most beautiful place, and let's not destroy it.

Response: Please see the response to Mr. Dave Hall regarding notices for the public participation hearing. Further, it is our understanding that the feature referred to as a vernal pool is more correctly characterized as a seasonal wetland. The existence and characteristics of this feature emerged late in the process of preparing the Draft EIR. It is the CPUC's understanding that this wetland feature is currently being evaluated by the California Coastal Commission as part of its consideration of the Bolsa Chica Local Coastal Program as part of its consideration of the Bolsa Chica Local Coastal Program. Therefore, its potential effect on the reservoir location is still under review.

COMMENTER: MS. EILEEN MURPHY

Comments: My name is Eileen Murphy. And I just wanted to say, Judge, that I received a letter in the mail Wednesday, January 19th, from Brad Wetstone -- pardon me -- project manager for the PUC which said, quote, that: 'for the January 6th meeting at the library here in Huntington Beach, mailings were sent out to 350 organizations and individuals including parties to the proceeding, responsible agencies, other local public agencies, and interested organizations and individuals'.

I have to ask: What went wrong here? I was one of the seven people from the public who attended the January 6th meeting which was here in the library, and I want you to know that not one of the seven people who came in received a notice. We heard about it from word of mouth. Wednesday, January 19th, I called the Cities of Cypress, Garden Grove -- pardon me -- Placentia and Westminster, and I asked them if they knew about this meeting. They didn't know anything about this meeting. And Cypress and Garden Grove asked me to fax them the letter I had received about the meeting. During all this time, I have never understood why these cities where these pipelines go through their streets were not at the meetings. My feeling is that they were not notified.

These pipelines are unwarranted, and I hope you would deny these applications.

Thank you for allowing me to speak.

Response: As Administrative Law Judge Weiss remarked during the public hearing, the CPUC complied with the legal requirements to advertise meetings and to notify interested parties and individuals of the completion of the Draft SEIR. Please note that no such meetings are required to be conducted -- the CPUC elected to conduct such meetings to help facilitate public understanding of the project and receive public comments. Substantial efforts have been made to notify the public and to provide them with opportunities to comment.

All cities affected by the proposed water line were notified in writing.

Thank you for your opinion in respect to the proposed pipeline.

COMMENTER: MR. PETER MACKPRANG

Comment: My name is Peter Mackprang. I've been asked to speak on behalf of the City of Westminster. We have provided written comments, and so I won't bore you with the details on most of them, many of them being procedural.

The two main comments that we have have to do with the actual construction of the pipeline itself and how it is to be done. There is a section of the pipeline that is to cross from west to east across Bolsa Chica Road without mention of how that crossing is to be made. It is not specified whether it is to be

bored under the street, whether it's going to be open cut, how much of the street is going to be closed at any given time.

The second comment has to do with the description of the rest of the line running down Bolsa Chica Road, that it seems to weave and jog basically through the No. 2 lane and No. 1 lane. And it's difficult for us to see from the descriptions that we have how that line is going to be built and maintain any northbound traffic at all on the street considering the clearances that would be required for any trenching that would be done. And these do not appear to be mitigated in the document.

And so, from the City's standpoint, this is a pretty major issue considering that this street is not the low volume street that it has been portrayed in the document that it carries about 45- to 47,000 cars a day at speeds in excess of 50 miles an hour.

And so that's the salient points of the comments we have.

Thank you.

Response: The construction of the proposed water line will impede northbound traffic on Bolsa Chica Road as is suggested. This is a consequence of water line construction and these impacts are described in the Draft SEIR. Section C.3 of the SEIR analyzed the traffic impacts and sought to mitigate them to the maximum extent practicable. Please see the responses to Comments 6-2, 6-4, 6-5, and 6-6.

It is true that the alignment changes between the inner and outer northbound lanes of Bolsa Chica Road. This is to avoid disruption to existing utilities that are located under the street. However, the Draft SEIR has recommended the development of a comprehensive traffic control plan (Mitigation Measure T-1) to manage the consequences of the construction on local traffic. All cities affected by the construction will be afforded an opportunity to review this plan.

Bolsa Chica Road is not characterized as a low volume street in the SEIR. Although there is a typographical error in Table B.6-1, Table C.3-2 clearly notes that it carries traffic volumes of between 41,000 and 47,000 vehicles per day. The impact analysis and mitigation measures presented in Section C.3 of the Draft SEIR are predominantly concerned with the impacts to traffic on Bolsa Chica Road. Please see the response to Comment 6-3.

COMMENTER: MR. RONALD VAN BLARCOM

Comments: Good afternoon. I am Ron Van Blarcom. I'm special counsel to the City of Huntington Beach for matters involving Bolsa Chica.

At the outset, I do want to commend you for making the most of the environmental review process and taking the time to come down and receive local input from those of us who came today, particularly it looks like some people took some time out of their, perhaps, workday. And I'd ask you to listen and completely respond to the comments that you do get from the people who took the time to come and make those comments.

The City has presented its written comments in a letter dated January 19th. I'm not going to go through each and every one of those comments today, but I do want to emphasize that the City of Huntington Beach is very concerned about the potential environmental impacts that will result from constructing this almost seven-mile water pipeline to bring water from Southern California Water Company in the City of Cypress all the way to the Bolsa Chica.

I think our main point has been made by some of the other speakers. It's not necessary to construct this pipeline to provide water service to the development that's planned for the mesa because the City has water pipelines that are located much closer. In fact, the City completely surrounds the Bolsa Chica. And years ago, the Orange County Local Agency Formation Commission previously determined that the City is the natural and logical service provider to that area, should any of it ever be developed.

The draft supplemental EIR that your environmental consultants prepared already indicates that it is feasible for the City to provide water service to the Bolsa Chica Planned Community and that service by the City is environmentally superior to the project that the Southern California Water Company has proposed. The draft supplemental EIR also indicates that the Southern California Water Company project will result in unavoidable and unmitigatable environmental impacts in at least two areas. And in the City's written comment letter, we suggest that there may be additional impacts that the draft supplemental EIR has not properly identified or discussed.

Finally, we urge you to wait -- and this is not new for you, I know, your Honor -- to finalize your review of the Southern California Water Company project until after the California Coastal Commission has determined the proper limitations for any development of Bolsa Chica. The Los Angeles Times has recently reported that the Coastal Commission staff may recommend substantial reductions in the number of developable acres on the mesa which will ultimately determine the number of units that can be built there. The pipeline in the draft supplemental EIR has been sized to meet the demands of 1,235 units, and it may turn out to be oversized, meaning that your environmental consultants will have to revise the project description in several of the impact analysis sections in the document before we believe the PUC can properly weigh the potential environmental impacts of the Southern California Water Company proposal.

On behalf of the City of Huntington Beach, I thank you for the opportunity to provide these comments

Response: The opinions of the City of Huntington Beach are noted. In relation to the comment concerning the relationship between the current project and the proposed development on the Mesa, the CPUC offers the following response.

The Proposed Project is intertwined with the proposed Bolsa Chica Planned Community project. However, the CPUC cannot wait for the entitlement process for the Bolsa Chica Planned Community project to be resolved before acting on the pending CPCN applications. The CPUC is legislatively mandated to complete the CPCN process within 18 months after such an application is filed. The possibility that changes in the Bolsa Chica LCP *may* occur that *may* result in a change in the development project that the proposed water line is intended to serve does not change the fact that the CPUC has applications before it requiring action. It would also be inappropriate and speculative for the CPUC to assume what actions the California Coastal Commission may or may not take in the future regarding the disposition of development on Bolsa Chica Mesa. Moreover, while the CPUC must act on the instant applications before it within the timelines mandated by the legislature, the CPUC's decision in this does not create irreversible momentum for the underlying and related land use decision before the California Coastal Commission. If the development on Bolsa Chica Mesa turns out to no longer be "substantially similar" to that described in the 1996 LCP, and, in fact, is reduced in size, it would not change the analysis of impacts presented in the Draft SEIR for the two pending CPCN applications. If either of the two applications were to be amended or revised, then the need for revised environmental analysis could arise, but no such amendments or revisions have been requested by the applicant. Please see the response to Comment 8-1.

COMMENTS: MS. SANDRA GENIS

Comments: I'll be very brief.

I would like to point out that I did participate in the scoping process for this document. I received an acknowledgment of my participation in the scoping process for the document, and then that was the last I heard.

I did not receive a notice of completion for this document, and I did not receive a notice of the January 6th meeting. I happened to find out about it while I was inquiring with the Utilities Commission following up a rumor that I'd heard that the environmental document was available. I, therefore, had only two weeks to review the document, because that was the first I knew of the availability of the document, and we were not given any extension despite the request at that meeting for the extension.

And the reason I'm reiterating that is because the draft supplemental EIR does not include any record of responses to the notice of preparation nor does it contain any summary of comments that were made at the scoping meeting. So I'm concerned that the utility -- Public Utilities Commission have available all information that has been submitted to it within the process. And I am delighted to see the court reporter here because that gives me some assurance that this will be transmitted fully and will become a part of the public record.

In addition, I do have extensive comments, which I will not reiterate here. However, I do have concerns that the project description is not tied down enough particularly as it regards construction procedures. There is some ambiguity within the document as to whether staging area will be provided, and nothing is provided regarding haul routes.

And I believe that's important for the Public Utilities Commission to have all the information on a project before it will make the decision. It's important for the public, but even more so, it's important for the decision makers. And so I do hope that all this information will be provided.

Response: Notification of the public hearing included a press release, advertisements in local and regional newspapers, placement of a notice on the project website, an announcement on the project telephone line, and direct mailings to over 350 interested parties, citizens, and agencies. We regret any inconvenience caused as a result of not receiving direct notice. Careful consideration has been given to all public comments.

The Final SEIR includes more extensive documentation in relation to public involvement, including public comments at the Scoping Meetings. Please see the response to Comment 13-3.

The CPUC believes that it has compiled a comprehensive description of the project. In certain specific areas, such as in relation to staging areas and haul routes, this description has been clarified and expanded in response to comments from the public.

COMMENTS: MS. GEORGE

Comments: I just wanted to say that in reference to the pipeline, if there were no water coming to the Bolsa Chica, then there would be no houses either. And that's the whole point.

Thank you.

Response: Comment noted. Thank you for expressing your opinion.