

4.4.6 RESPONSES TO COMMENTS MADE DURING PUBLIC HEARINGS

PH - Transcript 1

YUBA COUNTY PUBLIC HEARING



YUBA COUNTY PUBLIC HEARING

Richard Woodley, presiding

Wednesday, August 1, 2007

Reported by:

Leian R. Ellis, CSR



BRITT & ASSOCIATES

Certified Shorthand Reporters

822 RICHLAND ROAD, SUITE A

P.O. BOX 3488

YUBA CITY, CA 95991

(530) 671-5001

FAX: (530) 671-1549

PH - Transcript 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

YUBA COUNTY PUBLIC HEARING

YUBA COUNTY PUBLIC HEARING

Marysville, Yuba County, California, Wednesday, August 1, 2007.

Hearing called to order at 2:00 o'clock p.m. of this day.

Before Richard Woodley, presiding.

Leian R. Ellis, Certified Court Reporter, No. 7431.

APPEARANCES:

RICHARD J. WOODLEY
Regional Resources
Manager, Regional Office
2800 Cottage Way, MP-400
Sacramento, CA 95825

CURT AIKENS
General Manager
Yuba Conty Water Agency
1220 F Street
Marysville, CA 95901

BRITT & ASSOCIATES (530) 671-5001

PH - Transcript 1

1 Wednesday, August 1, 2007

2 --oOo--

3 MR. AIKENS: I'm Curt Aikens, and I'm the
4 General Manager of the Yuba County Water Agency. And
5 this is a public hearing for the Yuba County EIR/EIS.
6 Rick Woodley is with the Bureau of Reclamation, and
7 he's going to be the person leading the hearing, and
8 he's got a pretty scripted process that the Bureau
9 goes through. So what I'm going to do is turn it over
10 to Rick to move things forward, then we'll just go
11 through the process.

12 MR. WOODLEY: Okay. Some of this we may
13 have to adjust a little bit as we go through it, but
14 welcome to the public hearing on the Proposed Lower
15 Yuba River Accord, Draft Environmental Impact
16 Report/Environmental Impact Statement. This is one of
17 two meetings being held in accordance with the
18 requirements of National Environmental Policy Act.

19 My name is Rick Woodley. I'm the Regional
20 Resources Manager for the Bureau of Reclamation's
21 Mid-Pacific Region. I will be serving as a hearing
22 officer, and a court reporter is recording the
23 proceedings. At the table is Curt Aikens, General
24 Manager of the Yuba County Water Agency.

25 Today we're accepting verbal and written

BRITT & ASSOCIATES (530) 671-5001

4

PH - Transcript 1

1 comments on the draft EIR/EIS. To provide verbal
2 comments you should have completed a Speaker's Card,
3 that would be like these blue ones. If you want to
4 comment verbally, but did not complete a Speaker's
5 Card, please go to the registration desk and Janet
6 will take care of it. If you've completed a Speaker's
7 Card, but didn't turn it in at the registration table,
8 just go back and take it there.

9 If you've already -- if you -- you may
10 provide written comments today, and there's a comment
11 card here, that would be one of these yellow ones.
12 Those are available at the registration table. If
13 you're speaking from written comments, we'd like you
14 to submit them to us; please fill out the top portion
15 of your comment card and attach your comments and
16 provide them before you leave. Again, if you want to
17 provide comments, but do not have -- but haven't
18 submitted a speaker card, just go to the registration
19 table.

20 And I think with that we're pretty well
21 ready to go. Understand as we go through the speaking
22 as far as calling up the folks -- Mr. Moss, who is
23 County Supervisor, I understand you've declined to
24 provide any verbal comments?

25 MR. MOSS: Just came to hear what everybody

PH - Transcript 1

1 had to say.

2 MR. WOODLEY: Okay, sir. First we'll go
3 just in order of the people that have signed up.
4 James Butler, Freda Calert and Sig Boss. And if we
5 have any additional people that show up, we'll just
6 add them to the list as we go. So, if Mr. Butler
7 would like to provide your comments.

8 MR. BUTLER: I want to talk about the Lower
9 Yuba region, does that mean below the Englebright Dam?
10 Anyway, I lived on the Yuba River 32 years now, and
11 own a mining claim right there at the confluence of
12 Deer Creek and Yuba River, and I'm very familiar with
13 the environment and the so-called to protect the
14 salmon spawn habitat.

PH1-1
15 We have a situation there where the shot
16 rock, that's the blast rubble from the construction of
17 the Narrows Two Project was piled up on the banks
18 early on, but the floods of '55, '64 and then '97 has
19 scoured off this shot rock off the banks and carried
20 it downstream a mile and a half and buried, use the
21 words of the Fish and Games armored over the salmon
22 spawning habitat. So you have this rubble rock. Mr.
23 Aikens is very familiar with the situation that I
24 spoken of for better than 20 years, 25 years, is that
25 the shot rock has precluded the salmon spawn, and the

PH - Transcript 1

PH1-1
cont.

1 only place where the salmon will spawn, which is where
2 you clear away the shot rock. And I happen to have a
3 gold treasurer, and I open up an area there, and then
4 the gravel goes through my dredge and out the bank and
5 filters out, and here comes the salmon. The salmon
6 come in and spawn my dredge, but can't spawn in the
7 shot rock.

8 Now, I put forth a proposal back in December
9 '99 to the Yuba County Board of Supervisors to remove
10 the shot rock and restore the salmon habitat, and that
11 2,000 feet of road would have to be constructed, but I
12 couldn't get any easement from either U.C. Davis or
13 PG&E. It's just, they just stiff-arm me over the
14 place and that shot rock still sits there. But
15 however, the Yuba County Water Agency hired Jones and
16 Stokes to do a field report, which concurs my proposal
17 to remove the shot rock and return size -- to the
18 right size gravel to the river that the salmon can
19 spawn in.

PH1-2

20 So as the situation stands, you won't see
21 any fish there. We might dredge a little bit in Deer
22 Creek up the side there, salmon, maybe a handful of
23 fish came up there last -- last year. And the -- and
24 also recently though just finished a bypass in the
25 Englebright Power House there to, says to provide

PH - Transcript 1

PH1-2
cont.

1 colder water. Now, the river is ice cold right now.
2 And formerly if you go up to Bridgeport and up above
3 Englebright, the river up there is 70, 75 degrees.
4 You can go swimming and all kinds of fish and
5 everything. And then you go below Englebright, it's
6 ice cold, it's 50 degrees.

7 Now, that has -- I brought a sample of the
8 rock. It's just moss, slime-colored rock at the
9 bottom of the river, no bugs, no organisms, nothing
10 for the salmon or trout or the bass or anything to
11 feed on. You got a dead river, my dad said that back
12 in 1970 to Mr. Landerman when he was Supervisor.
13 However, the powers that be, they are, in my opinion
14 are insisting that the world is flat by -- by
15 persisting in perpetual ice water year around. The
16 salmon aren't there in July and August. The salmon
17 come in after the equinox, September 21st later on and
18 early October the salmon will come up that part of the
19 Yuba River. So I can't understand it, this is beyond
20 my comprehension why they insist on providing or
21 sending the ice water down the Yuba River 365 days a
22 year. They don't come up there until October. That's
23 when the temperatures cool naturally anyhow. So what
24 you have is a flat temperature regime, the shot rock,
25 there's no place for the salmon to spawn.

PH - Transcript 1

PH1-2
cont.

1 So I -- now, when I read that article, that
2 12 and a half million dollars was spent to provide for
3 this new tunnel bypass there at Englebright, I
4 couldn't believe it. For a one hundredth of that, a
5 road could be built down, the machinery can be brought
6 and the shot rock can be removed. It could be sold as
7 aggregate. Even Teichert's interested in it.

8 Do you know Jennie Brown by any chance?
9 Okay.

10 MR. AIKENS: Uh-huh.

11 MR. BUTLER: She's spearheading that
12 organization.

13 Okay. So the shot rock can be removed and
14 used as aggregate. There's a plus there, win, win.
15 So anyway, when the main thrust of my input here is
16 that the perpetual ice water has killed off all other
17 organisms that thrive in the river when the normal
18 temperatures rise, which is called a bell curve. This
19 is the winter, the temperatures drop in degrees, but
20 then you get to May, June, July, the temperature
21 rises. When the temperature rises, all these other
22 organisms thrive and breed and multiply that provide
23 food, and you have for other fish. Those other fishes
24 are gone.

25 I rode up and down the river, and I looked

PH - Transcript 1

PH1-2
cont.

1 down, and I went up and down, couldn't see any fish.
2 I don't see any fish. So the ice water doesn't do any
3 good.

4 Thank you.

5 MR. AIKENS: Thanks, Jim.

6 MR. WOODLEY: Next speaker would be Miss
7 Calert.

8 MS. CALERT: My name is Freda Calert, and I
9 have a couple of questions, Mr. Aikens. The Lower
10 River, would that also be considered the Dairy Dam
11 where the fish ladder is?

12 MR. AIKENS: Deer Dam?

13 MS. CALERT: Sorry, excuse me.

14 MR. AIKENS: That's part of the Lower Yuba
15 River.

PH2-1

16 MS. CALERT: There used to, years ago, I
17 believe in the early '80s we had a trout-raising
18 facility out there, and they done quite well because
19 of low temperatues in the 60s. And to the best -- to
20 my recollection way back then we had roughly about
21 40,000 salmon coming down the river every year, like
22 the gentleman said, around early October. They were
23 -- looked just like cord wood, it was beautiful to see
24 to come down that. And I realize some of it -- we
25 went down to about 4,000, but I believe as we grow in

PH - Transcript 1

PH2-1
cont.

1 this community there could be a really great tourist
2 attraction that we have this kind of available and
3 like that on the south side of the river. You seen
4 them from Parks Bar all the way through the public
5 land there. It was just -- it was -- it was just
6 beautiful. So I'd like you to consider something like
7 that too.

8 MR. AIKENS: Thank you, Freda.

9 MR. WOODLEY: Janet, do you have any more
10 sign-in's?

11 MS. SIERZPUTOWSKI: No.

12 MR. WOODLEY: We'll go with Mr. Boss.

PH3-1

13 MR. BOSS: Yeah. My main concern, the
14 rivers, Yuba and Feather providing the main change to
15 the water table. I depend on it, thousands of other
16 people depend on it. And what I hear by talking to
17 people who are concerned about the overusage of water
18 by selling it and by diverting it and sinking new
19 wells such as the rice farmers, they -- I don't know
20 if they know their density surface water and/or
21 selling it, or if they are passing on it and then go
22 ahead and take it out of the -- out of the ground and
23 by so doing is possibly lowering the water table.

24 MR. AIKENS: Uh-huh.

25 MR. BOSS: Those are my major concerns.

PH - Transcript 1

PH3-1
cont.

1 It's when I hear something like it -- this project
2 like Yuba Highland sinking three bills right beside
3 the river, it -- I can't imagine that it would draw
4 water from the river and in from the aquifer. And
5 that you gentlemen need to strongly represent us
6 public and make damn sure that we -- that there are
7 plans in the -- in the making which would, if the
8 resource is overused that it can be rejuvenated by
9 injecting water so people like us who have three,
10 five, 10 acres don't have to shower with sand.

11 So that's -- that's my main reason for being
12 here. Thank you.

13 MR. AIKENS: Thank you very much.

14 MR. WOODLEY: No other speakers?

15 MS. SIEZPUTOWSKI: No other speakers. The
16 hearing will stay open until 3:00 o'clock in case
17 someone else does come, but at this point we --

18 MR. WOODLEY: Just make a few comments.
19 Written comments can be -- if you have them can be
20 submitted at this hearing. If -- if you've given your
21 verbal presentation, and if you'll notice on the
22 bottom of the yellow comment card, the comments can be
23 sent to that address or FAXed or e-mailed to where
24 indicated on the comment card. These comments will
25 need to be submitted by the close of business on

PH - Transcript 1

1 Friday, August 24th, 2007 if you choose to do that.
2 And please understand that written, verbal comments
3 will receive equal consideration.

4 As far as the rest of the process, take a
5 moment to explain what will happen from here. All the
6 comments will be reviewed and responses to the
7 comments will be prepared. Assuming all major issues
8 can be addressed, a final EIR/EIS will be prepared
9 which will include the responses to the comments. If
10 major issues remain unresolved, a supplemental EIR/EIS
11 could be prepared. A record of decision will then be
12 prepared, and that is when the final decision will be
13 made.

14 And at this point, as Janet says, we'll
15 remain open for any additional speakers that may
16 choose to come until 3:00 o'clock. And you're welcome
17 to stay.

18 MR. BUTLER: I didn't know what was going to
19 take place here today, but I brought a sample of shot
20 rock. I want you to see what that looks like. Can
21 you -- can I come up and bring it up to you?

22 MR. WOODLEY: Sure.

23 MR. BUTLER: Since we're all waiting. This
24 is what shot rock looks like. This is coming down off
25 from the Englebright Dam. And this is what's armored

PH - Transcript 1

1 over the salmon spawn habitat. It doesn't tumble.
2 It's a like a ribrap. It needs to be removed from the
3 riverbed, and it's on my property, and it's damaged me
4 tremendously, not the mechanics, the salmon habitat.
5 And so I see no interest in removing this, nobody
6 wants to step up to the plate. The Fish and Gamec
7 Corps of Engineers, I've written letters to senators,
8 congressmen ad nauseum. And so I'm stuck with this
9 stuff on my property, 150,000 cubic yards of it.

10 I got a picture here of my dad back in '72,
11 and he's standing on, there's Englebright Dam. And
12 this is all shot rock that came down earlier, way back
13 in the '70s, but now there's another big bar of shot
14 rock back here now. But there's an example of the --

15 MR. BOSS: How did it come to being in shot
16 rock?

17 MR. BUTLER: Anybody want to see it?

18 MS. CALERT: Yes.

19 MR. BUTLER: This is -- that's just the
20 rubble rock is washed down out from the Englebright
21 construction, and it's armored over the gravel bed.
22 The normal river gravel underneath is just layered
23 over with that shot rock rubble.

24 (Recess)

25 MR. AIKENS: 2:50 and we've got until 3:00

PH - Transcript 1

1 o'clock. I have got, okay, looks like 40 minutes.

2 MR. BUTLER: Last one, last one, if you do
3 not mind it being an informal question and answer. I
4 would like to know do the farmers have water surface
5 rights, and do they decline or it be taken away from
6 them? Could you enlighten us on them?

7 MR. AIKENS: In the -- the process here is
8 this is really for us to receive some comments, and I
9 think we wanted to stay true to that process.

10 MR. WOODLEY: That would be true.

11 MR. BUTLER: Last one to look at one, not
12 saying anything.

13 MR. AIKENS: I could volunteer to step out
14 and have a side conversation with you, and if, you
15 know, we have some public comments, I'd come back. So
16 I'm willing to do that, to chat with you on an
17 informal basis.

18 MR. WOODLEY: That would probably be better.

19 MS. CALERT: Could you please tell me if the
20 Yuba County Water Agency is a private company or a
21 public company? There's a lot --

22 MR. AIKENS: Just go outside.

23 (End of proceedings)

24

25

PH - Transcript 1

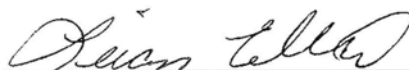
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) SS.
COUNTY OF YUBA)

I do hereby certify that the foregoing transcript, consisting of 15 pages hereof, was taken by me in shorthand at the time of the proceedings therein, and that the foregoing is a full, true and correct transcription of the proceedings held at said time.

Dated: August 10, 2007.


LEIAN R. ELLIS
Certified Court Reporter,
CSR License No. 7431.

PH - Transcript 1



Proposed Lower Yuba River Accord Draft Environmental Impact Report/Environmental Impact Statement, August 1, 2007

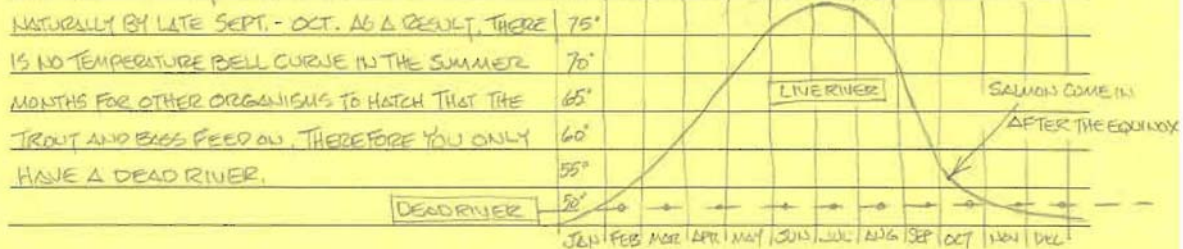
Public Hearings Comment Card

Name	JAMES L. BUTLER	Address	12341 MOONEY FLAT RD.
Title	MINING CLAIM HOLDER (SINCE 1951)	City	SMARTVILLE
Organization	SELF	State	CALIF
E-mail		Zip Code	95977
Telephone No.	432-6744	Fax No.	

Please provide your comments below – Please print legibly

DURING THE CONSTRUCTION OF THE NARROWS II PROJECT IN THE 1960'S THE BLAST RUBBLE (SHOT ROCK) WAS DUMPED ALONG THE BANK OF THE NARROWS. THIS SPILL DUMP IS ON P.G. & E PROPERTY. RECENT FLOODS HAS BEEN SCOURING OFF THIS ALIEN ROCK RUBBLE AND MIGRATED DOWNSTREAM 1 1/2 MILES "ARMORING" OVER THE SALMON SPAWNING HABITAT (NATURAL RIVER GRAVELS RESIDUAL HYDRAULIC DEBRIS. IN MY PROPOSAL TO THE YUBA CO. BOARD OF SUPERVISORS IN DECEMBER 1999, WAS TO REMOVE SOME 150,000 CU YDS. CUBIC YARDS OF THE SHOT ROCK DEPOSIT ON MY MINING CLAIMS, GREIVIOUSLY DAMAGING ME AND THE SALMON SPAWNING HABITAT, A MARINE BIOLOGIST WAS SENT UP TO THE SITE ON THE YUBA RIVER FROM JONES & STOKES. THE FIELD REPORT CONCLUDED WITH MY PROPOSAL THAT THE AGENCY AND BOARD ENDORSED.

A ROAD CAN BE GRADED DOWN THE SIDE OF THE CANYON FROM THE NARROWS II ROAD APPROX. 2,000 FT. TO THE UPPER END OF THE SHOT ROCK DEPOSIT. U.C. DAVIS REFUSES ACCESS, P.G. & E REFUSES ACCESS. AND IS THE ONLY FEASIBLE WAY TO HAUL OUT THE SHOT ROCK, OR BRING IN EQUIPMENT TO DO SO. THIS ALL CAN BE DONE FOR A MERE FRACTION OF THE 12 1/2 MILLION SPENT ON THE BYPASS AT ENGLESBRIGHT, OSTENSIBLY TO PROVIDE COLDER WATER FOR THE SALMON, THAT DON'T MIGRATE UP THE YUBA UNTIL OCT. IT IS UNNECESSARY TO CHILL THE RIVER DOWN TO 50° YEAR AROUND, WHEN THE YUBA COOLS DOWN



Submit comments by close of business Friday, August 24, 2007, to: Ms. Dianne Simodynes, HDR/SWRI, 1610 Arden Way, Suite 175, Sacramento, CA 95815 or fax to 916-569-1001 or e-mail to Dianne.Simodynes@hdrinc.com

PH1-1

PH - Transcript 1



Proposed Lower Yuba River Accord Draft Environmental Impact Report/Environmental Impact Statement, August 1, 2007

Public Hearings Comment Card

Name	JAMES L. BUTLER	Address	
Title	MINING CLAIM HOLDER (SINCE 1951)	City	
Organization	SELF	State	
E-mail		Zip Code	
Telephone No.		Fax No.	

Please provide your comments below – Please print legibly

SINCE THERE IS NO SPAWNING GRAVELS AVAILABLE FOR THE SALMON AND STEEL HEAD THERE HAS BEEN TALK OF "GRAVEL INJECTION", IN THIS AREA BELOW ENGLEBRIGHT. BUT THERE IS ADEQUATE GRAVEL IN THE RIVER 10'-15' DEEP RESIDUAL HYDRAULIC DEBRIS UNDER THE SHOT ROCK LAYER 5'-10'-15' DEEP IN SPOTS. JUST REMOVE THE SHOT ROCK. LATER IF NECESSARY GRAVEL CAN BE BARGED DOWN FROM THE S. FORK BELOW BRIDGEPORT (AS THERE IS ESTIMATED 13 MILLION CUBIC YARDS IN THAT DELTA) THAT COULD BE INJECTED INTO THE YUBA BELOW ENGLEBRIGHT.

I AM ENCLOSED SOME COPIES OF LETTERS I HAVE WRITTEN OVER THE PAST 7 OR 8 YEARS. THAT REITERATES WHAT I'VE BEEN SAYING HEREIN. ALL IN ALL, IN MY OPINION, MY LETTERS SEEM TO FALL ON DEAF EARS. NOBODY WANTS TO STEP UP TO THE PLATE. HOWEVER IF THIS SHOT ROCK MESS WERE OF MY DOING AND WASHED DOWN ONTO P.G. & E. PROPERTY, I WOULD BE BEHIND BARS, FINED AND MADE TO CLEAN UP THE MESS. MEANWHILE I AM DEPRIVED OF THE USE OF MY MINING CLAIMS BY THIS SHOT ROCK RUBBLE, WITHOUT COMPENSATION AS I AM SEVERELY DAMAGED PARTY.

Submit comments by close of business Friday, August 24, 2007, to: Ms. Dianne Simodynes, HDR/SWRI, 1610 Arden Way, Suite 175, Sacramento, CA 95815 or fax to 916-569-1001 or e-mail to Dianne.Simodynes@hdrinc.com

PH1-1
cont.

PH - Transcript 1



SOPER - WHEELER CO.
TREE FARMING SINCE 1904

19855 Barton Hill Road, Strawberry Valley, CA 95981-9700
Phone (530) 675-2343
Fax (530) 675-0843

April 3, 2000

Mr. James L. Butler
C O Appeal Democrat
1530 Ellis Lake Drive
Marysville, CA 95501

Dear Mr. Butler:

I really enjoyed your recent Forum article, "Proposed Yuba Flows Will Do Nothing for Salmon." I especially liked your emphasis on the history of water flows and the problems that you have encountered trying to discuss the matter with the "experts."

Unfortunately, this type of problem is being repeated all around the state. The misinformation concerning salmon and land use practices have been freely flowing for a long time. Science and facts are seemingly far less important than feelings and perception. I have become convinced that the agencies are really not interested in solving problems because as long as there is a problem, there is a need for an agency.

I have enclosed two items that I hope you will find interesting. The first is the publication, "Forests and Salmon" which was printed in 1998 by the California Forest Products Commission. It gives an in depth look into the history of salmon runs on the California North Coast and the apparent lack of affect from logging on their populations. The second is a videotape, "Killing the Salmon" which documents the Oregon Fish and Game killing salmon at a hatchery in Oregon. I am told that similar practices are employed here in California.

The point of both the report and the video is that there is a huge difference between fact and what the agencies and their allies in the environmental industry want us to believe.

Keep up the good work. If you would like to discuss these matters further, please feel free to call

Sincerely yours,

Jim
James Holmes, President

PH1-1
cont.

PH - Transcript 1

Proposed Yuba flows will do nothing for salmon

James L. Butler
For the Appeal-Democrat

With all these recent articles regarding the "Future of the Yuba River," the bickering lawyers, semantics and arguments, none of it has created any habitat for the Chinook salmon. The only thing the environmentalists are creating is their own job security.

If the state Department of Fish and Game would simply look up the hydrograph records of the Yuba River prior to 1940 and dam construction, they would find that the lower Yuba flows were as low as 250 to 300 cubic feet per second (cfs) after 1940, usually 700 cfs below Englebright by July and August and a tepid 70 to 75 degrees. But after the equinox in early October,

the river temperatures dropped to below 60 degrees. And that's when the Chinook salmon migrated upstream to spawn in the upper branches of the Yuba above Sierra City on the north fork and the town of Washington on the south fork, where there used to be a salmon cannery. But when Englebright was built in 1940, originally to impound hydraulic debris, that industry died, and the salmon habitat too.

As I see it, Fish and Game is trying to coerce the Yuba County Water Agency to release a flood of ice water down the Yuba all sum-



FORUM

mer when the salmon are still out in the Pacific Ocean. They refuse to face the fact that Chinook salmon don't migrate upstream in July and August when the river is flowing at 2,000 cfs, but when the Yuba is at its lowest in early fall, when water temps are cooling naturally. The Fish and Game philosophy - its temperature and flow regimens - do not create more fish. It's all upside down. I've been trying to tell these "experts" this for 25 years now. But it doesn't fit their agenda.

Back in December, I put forth a proposal to the Board of Supervisors and the YCWA to remove the shot rock that has washed down from the Englebright project in recent floods. It has ruined the salmon spawning habitat 1½ miles downstream. By removing the shot rock that has "armored" over the

gravel bars, you will restore or enhance the spawning beds. This deleterious rubble rock does nothing for the so called "aquatic resources."

Both the Board and the Agency were in favor of my proposal, and it would be cheap too. The Agency sent William Mitchell of Jones and Stokes to study the situation here. During the dry spell in January, I gave Mr. Mitchell the grand tour. By modest calculations there are up to 100,000 cubic yards of shot rock deposited on my mining claims which has caused me serious damage, not to mention the spawning habitat.

Before Bullards Bar Dam went on line in 1970, the temperature of the Yuba had a "Bell curve" creating a "bloom" for all organisms that lived in the river and that trout

and bass feed on during the summer. Now with the "flat" temperature regimen dictated by Fish and Game of 50 degrees, they have destroyed this normal resource and, as a result, you have nothing but a "dead" river. The 20-degree drop since 1970 has been catastrophic. The old timers will tell you that at one time you could walk across the Yuba on the backs of the spawning salmon above Smartville, but you'll never see that today.

Even the rice growers are complaining that the cold water is adversely affecting their crops too.

James L. Butler is a resident of Smartville and has operated mining claims on the Yuba River and its tributaries for 25 years.

PH1-1
cont.

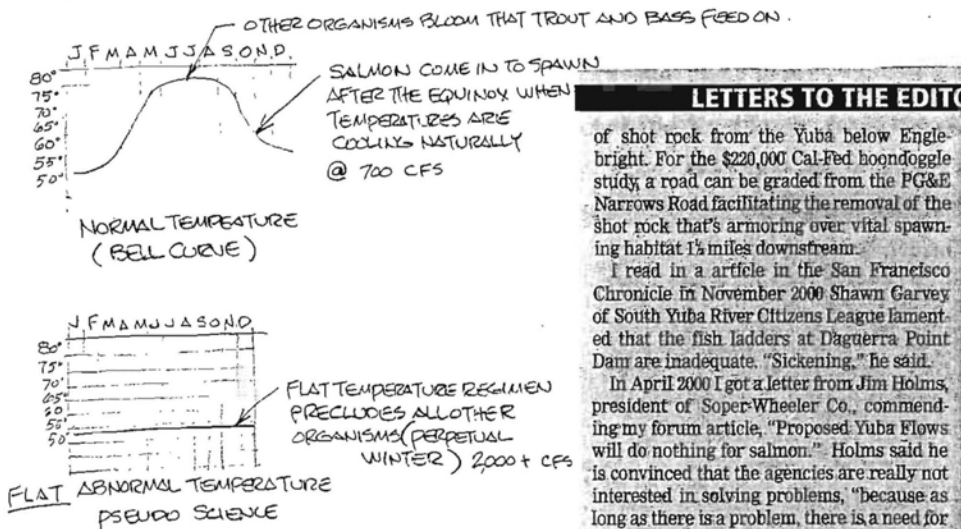
PH - Transcript 1

29 APRIL 2002

MR. DON SCHRADER
YUBA CO. WATER AGENCY
MARYSVILLE, CALIF

DEAR MR. SCHRADER ;

I SAVED YOUR ARTICLE FROM LAST SUMMER WHERE YOU BOAST OF THE FISHERY'S HEALTH IS THE COLDER WATER FLOWS PRODUCED BY BULLARDS BAR DAM. UNFORTUNATELY THIS MANTRA THAT THE FISH LIKE COLDER WATER IS PSEUDO SCIENCE. WHAT HAPPENS TO THE OTHER SPECIES OF THE SO CALLED AQUATIC RESOURCES, AND ORGANISMS THAT LIVED IN THE YUBA WHEN THE NATURAL TEMPERATURE IS ARTIFICIALLY DROPPED 20-25° ? AS I TOLD THE L.Y.R.T.W.G. LAST MAY AND JUNE THAT, "THE LOWER YUBA RIVER IS DEAD." OF COURSE JOHN NELSON DISAGREED. HE NOR ANYONE ELSE IS GOD.



FOR THE COST OF THE NEW TEMPERATURE CONTROL DEVICE DESIGN \$ 170 K. THE SHOT ROCK COULD HAVE BEEN REMOVED AND SALMON SPAWNING HABITAT RESTORED. READ MY ARTICLE.

HAVE YOU TAKEN A SWIM IN THE YUBA LATELY ?

Yuba River flows 4/25/02

I see Cal-Fed is funding \$220,000 for yet another study to improve the "fishery" (buzz word) in the Yuba. It's only obvious to me these "interest groups" involved are making a career out of these studies.

Heck, I've been studying the Yuba for 27 years and I can't get a dime out of Cal-Fed. Back in December 1999, I made a proposal to the Board of Supervisors, (that they endorsed) to remove the 100,000 cubic yards

LETTERS TO THE EDIT

of shot rock from the Yuba below Englebright. For the \$220,000 Cal-Fed boondoggle study, a road can be graded from the PG&E Narrows Road facilitating the removal of the shot rock that's armoring over vital spawning habitat 1 1/2 miles downstream.

I read in a article in the San Francisco Chronicle in November 2000 Shawn Garvey of South Yuba River Citizens League lamented that the fish ladders at Daguerre Point Dam are inadequate. "Sickening," he said.

In April 2000 I got a letter from Jim Holms, president of Soper-Wheeler Co., commending my forum article, "Proposed Yuba Flows will do nothing for salmon." Holms said he is convinced that the agencies are really not interested in solving problems, "because as long as there is a problem, there is a need for an agency." To wit, these studies, meetings and hearings have been going on for years now. Not 1 square yard of spawning habitat has been restored. And like I've said, increased flows and lower temperatures is idiotic - pseudo science.

I noted in my journal last Oct. 13 and 24 watching the salmon spawning in Deer Creek, "their backs and tail-fins above water they're so big. It's funny, the salmon only spawn where there is suitable gravel, like where I dredged, and not in the boulders, and in the Yuba I watched the salmon beating themselves to death in the shot rock trying to find some gravel, not increased flows or colder water. That ruined the ecology for the past 32 years." Study this, Cal-Fed.

James L. Butler
Smartville

PH1-1
cont.

PH - Transcript 1

bright Project and "armored" over the salmon spawning habitat on Landers Bar).

In the face of salmon being put on the "endangered species list," the group ignored my proposal. All they came up with is colder water and increased flows. They ignore the fact that the 20-25 degree drop during the summer months precludes all other living organisms the trout and bass feed on.

There is no spring run salmon. There's a fall run when the stream temperatures are cooler naturally (it doesn't need to be man-made). Their "scientifically valid" biological needs of the fish that Fish and Game worships is flawed and in error. The past 30 years have proven that. I wonder what liberal-socialist school they went to?

Even Janet Cohen of South Yuba River Citizens League was disappointed at the low fish count. I wrote to her about restoring the salmon habitat in the lower Yuba. She has ignored my letters.

It's only obvious that neither Fish and Game, SYRCL or the "group" are interested in restoring the salmon habitat. They've created the crisis to keep themselves in office. None of these low fish counts existed 30, 40 or 50 years ago, when all these environmentalists were still in diapers, when the Yuba River was warmer below the Englebright Dam.

Meanwhile, our livelihoods and property rights are being violated by these eco-nazis, similarly like the farmers up on the Klamath for a sucker fish.

James L. Butler
Smartville

SYRCL DELEGATION OF FISH COUNT

Yuba River

Recently I read where Mr. Nelson of Fish and Game and other officials were lamenting low fish count at Duguerre Point Dam.

It doesn't take a rocket scientist to figure that out. Since 1970, when Bullards Bar Dam went on line, Fish and Game's "opinion" was the fish needed cooler water.

In 30 years this experiment has been a miserable failure. The ice cold water has done nothing to "enhance aquatic resources." I told Mr. Nelson and other members at the Lower Yuba River Technical Working Group meetings in May and June that "the lower Yuba is dead (when I proposed removing the shot rock that has washed out of the Engle-

MUNCH
MUNCH
MUNCH



PH1-1
cont.

PH - Transcript 1

Thursday, June 7, 2007

River rock, fish

Last month, I almost puked when I saw the article "Bypass saves lives." Whose lives - people or fish? I thought, what a farce; \$12.5 million was spent to provide colder water for the salmon and steelhead, what a waste of money. As I've said for the past 30-plus years, all the ice water in the Arctic isn't going to create more fish when there is no spawning gravel. What all these "experts" are bragging about is compounding their error. They keep insisting the world is flat.

Colder water (it's 50 degrees now) and increased flows do not benefit their so-called "aquatic resources." If it were so, the Yuba River should be teeming with all kinds of fish. I've been told that in 2006 was the lowest fish count ever. Prior to 1970 (when Bullards Bar Dam went on line), the Yuba had various species of fish in the tepid summer months and all kinds of organisms thrived that trout and bass fed on, which are now destroyed by the ice water.

Back in December 1999, I made a proposal to the Board of Supervisors and the water agency to remove the shot rock that migrated downstream from the Narrows II project in recent floods ('86 and '97) and which has "armored over" the spawning habitat. The board and the agency endorsed my proposal. They also sent a marine biologist from Jones and Stokes onto the site, where upwards of 150,000 cubic yards of shot rock prevents salmon spawning. The biologist report concurred with my proposal. Yet it is ignored by Fish and Game.

Ironically, the salmon come in to spawn in my Placer gold dredge tailings, and other fish swarm in to feed where I've removed the shot rock. In 2005, I was told by Fish and Game that the Legislature (in all its wisdom) arbitrarily closed the lower Yuba to all gold dredging back in 1994, which Fish and Game didn't know about until 2005. However, not one fish died, and nobody was injured or damaged from my gold dredging, which creates more spawning beds. They have accomplished nothing but robbing me of my livelihood, which is called "a taking without just compensation." If I had the money, I would sue them.

For a mere fraction of the \$12.5 million, the shot rock could be removed and viable spawning habitat restored. But that doesn't fit their agenda.

James L. Butler
Smartville

PH1-1
cont.

PH - Transcript 1

**PUBLIC LANDS FOR THE PEOPLE, INC.
A 501[C](3) NONPROFIT CORPORATION**

95-4521318 & 1880483
PLP2.ORG

KARUK TRIBE VS. CALIFORNIA DEPARTMENT OF FISH & GAME

On November 9th, the parties to this litigation had a case management conference with Judge Bonnie L. Sabraw of the Alameda County Superior Court.

In this case the Karuk Tribe brought an action against the Ca. Dept. of Fish & Game challenging the pattern and practice of the Department in issuing Suction Dredge Mining Permits for rivers and streams in northern California. The Karuk Tribe claimed that suction dredge mining imperials the Coho Salmon and other state and federally listed threatened and endangered species in violation of the California Fish & Game Code and the California Environmental Quality Act. (CEQA). After the Department secretly agreed with the Tribe to severely limit suction dredge mining, but before Judge Sabraw signed their proposed judgment, PLP's president Jerry Hobbs intervened in the case. After much legal work by PLP's attorney David Young, Judge Sabraw refused to sign the proposed judgment presented to her by the Fish & Game Department and the Karuk Tribe For the time being suction dredge mining in California was saved!

Now the Department of Fish & Game has tried a new tactic to end suction dredge mining in California. The Department has informed Judge Sabraw that they are indeed in violation of the Fish & Game Code and CEQA, after just denying that they were not in violation are now prepared to have judgment taken against them. Based on this admission of liability by the Department, and a judgment by the court, the Department is prepared to go to the legislature to get money to conduct environmental studies, which would in any case impact suction dredge mining in California. Judge Sabraw is now considering their proposals and will circulate a proposed judgment for comment.

What is crucial is that there is no judicial determination that suction dredge mining harms fish. While some miners are prepared to stipulate to a judgment that there is "fair argument" supporting the need for additional environmental analysis on this issue, PLP WILL NOT!

Obliviously the battle goes on!

The Department of Fish & Game is determined to curtail suction dredge mining in California.

We need your help more than ever to protect your legal rights to engage in lawful mining in California

PLP2.ORG Our website has been down for almost a month. We have learned that a hacker hit the PLP and took down several other sites the web server handles. The site is donated by one of our members and is at the mercy of the web server to get it back up. All I can say is keep checking from time to time.

Mike Smith, Editor

PH1-1
cont.

PH - Transcript 1



(SHOT ROCK)
SPILL DUMP

NARROWS II PROJECT

SEPT. 1968

YUBA RIVER

Photo 11. Mr Butler's photograph.

NOTE:

SINCE 1968 THE SHOT ROCK SPILL DUMPS HAVE BEEN DELETED FROM THE PROJECT / IT WILL OFFER
KIND OF FLOODS. AND IS NOW DELETED BY MR. BUTLER'S PROPERTY.

PH1-1
cont.

PH - Transcript 1



Photo 12. Mr Butler's photograph.

SHOT ROCK SPILL DUMP IS COMPLETELY
SLOUGED OFF IN THE "91 FLOOD"

PH1-1
cont.

PH - Transcript 1



NOTICE

SHOT ROCK DEPOSITED ON MR. BUTLER'S PROPERTY IN THE 1997 FLOOD (FROM ENGLEBRIGHT, NARROWS II PROJECT, SPILL DUMP)

PH1-1
cont.

PH - Transcript 2

YUBA COUNTY PUBLIC HEARING



YUBA COUNTY PUBLIC HEARING

Richard Woodley, presiding

Wednesday, August 1, 2007

Reported by:

Leian R. Ellis, CSR



BRITT & ASSOCIATES

Certified Shorthand Reporters

822 RICHLAND ROAD, SUITE A

P.O. BOX 3488

YUBA CITY, CA 95991

(530) 671-5001

FAX: (530) 671-1549

PH - Transcript 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

YUBA COUNTY PUBLIC HEARING

YUBA COUNTY PUBLIC HEARING

Marysville, Yuba County, California, Wednesday, August 1, 2007.

Hearing called to order at 6:00 o'clock p.m. of this day.

Before Richard Woodley, presiding.

Leian R. Ellis, Certified Court Reporter, No. 7431.

APPEARANCES:

RICHARD J. WOODLEY
Regional Resources
Manager, Regional Office
2800 Cottage Way, MP-400
Sacramento, CA 95825

CURT AIKENS
General Manager
Yuba Conty Water Agency
1220 F Street
Marysville, CA 95901

BRITT & ASSOCIATES (530) 671-5001

PH - Transcript 2

1 Wednesday, August 1, 2007

2 --oOo--

3 MR. AIKENS: Everybody knows I'm the General
4 Manager of the Yuba County Water Agency, and we're
5 here for a public hearing. And Mr. Woodley can take
6 over.

7 MR. WOODLEY: Thank you, sir. Okay. Hello.
8 Welcome to this public hearing on the Proposed Lower
9 Yuba River Accord, Draft Environmental Impact Report/
10 Environmental Impact Statement. This is one of two
11 hearings being held in accordance with the
12 requirements of the National Environmental Policy Act.
13 This is the second one. We've had one earlier.

14 My name is Rick Woodley, and I am the
15 Regional Resources Manager for the Bureau of
16 Reclamation's Mid-Pacific Region. I'll be serving as
17 a hearing officer, and a court reporter is recording
18 the proceedings. At the table would be Curt Aikens,
19 the General Manager of the Yuba County Water Agency.

20 Today we're accepting verbal and written
21 comments on the draft EIR/EIS. To provide verbal
22 comments, you should have completed a Speaker's Card,
23 which would be this green sheet if you wanted to do
24 that. And if you want to provide comment verbally,
25 but have not completed a Speaker's Card, go to the

BRITT & ASSOCIATES (530) 671-5001

3

PH - Transcript 2

1 registration table now. If you completed a Speaker's
2 Card, but didn't turn it in to the Registration Table,
3 please take it there right away.

4 You may also provide written comments today,
5 and on the yellow card which is available at the
6 registration table. And if you're speaking from your
7 written comments, we would like you to submit them,
8 please. Fill out the top portion of the comment card
9 and attach your comments and provide them before you
10 leave. Written comments can be submitted at this
11 hearing or to the address, FAX or E-mail indicated on
12 the comment card. If you're doing so, you need to
13 submit your comments by the close of business Friday,
14 August 24th, 2007. Please understand that written and
15 verbal comments receive equal consideration.

16 And as far as the process that goes on, all
17 of the comments will be reviewed and responses to
18 comments will be prepared. Assuming all major issues
19 can be addressed, a final EIR/EIS will be prepared,
20 which will include responses to the comments. If
21 major issues remain unresolved, a supplemental EIR/EIS
22 could be prepared. A Record of Decision will then be
23 prepared. When that -- that is when a final decision
24 will be made.

25 Since we don't have any speakers, I won't go

PH - Transcript 2

1 through the process of speakers being called. And I
2 think that pretty much covers it as far as
3 formalities. If there were any speakers, anybody
4 shows up, we'll be here until 7:00, and we'll take any
5 comments then. We can go off the record now.

6 (Recess)

7 MR. WOODLEY: Since we've had no requests
8 for comments or written comments, we'll close this
9 hearing and call it a day.

10 (End of proceedings)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PH - Transcript 2

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) SS.
COUNTY OF YUBA)

I do hereby certify that the foregoing transcript, consisting of 5 pages hereof, was taken by me in shorthand at the time of the proceedings therein, and that the foregoing is a full, true and correct transcription of the proceedings held at said time.

Dated: August 10, 2007.

Leian Ellis
LEIAN R. ELLIS
Certified Court Reporter,
CSR License No. 7431.

LETTERS PH1 AND PH2: PUBLIC HEARING COMMENTORS**Response to Comment PH1-1:**

The deposition of shot rock in the lower Yuba River is not associated with the Yuba Accord Alternative. In addition, the Yuba Accord Alternative will not increase the occurrence or severity of flood events which could cause the mobilization and downstream movement of large gravels, rocks and boulders in the lower Yuba River (see Chapter 7 for detailed analysis).

Response to Comment PH1-2:

The flow schedules under the Proposed Project/Action were developed based on known stressor analyses and resource agency collaboration, to attempt to improve habitat conditions and maximize aquatic resource benefits for multiple fish species in the lower Yuba River. The flow and water temperature changes expected to occur as part of the Proposed Project/Action have been evaluated in detailed, species and life stage specific evaluations that consider a range of potential conditions and resultant impacts that are anticipated to occur. Overall, the species specific analyses included in Chapter 10 of the Draft EIR/EIS, and the flow and water temperature data in Appendices F4 and G of the Draft EIR/EIS, support the conclusions that no significant impacts would occur to the fisheries resources of the lower Yuba River.

Response to Comment PH2-1:

The creation of tourist attraction sites in Yuba County is not the responsibility of the lead agencies or the intent of the Proposed Project/Action. The Proposed Yuba Accord is designed to enhance fisheries resources in the lower Yuba River, but it would not involve any construction activities nor would it involve any activities related to the creation of recreational viewing areas along the Yuba River. Although one of the objectives of the Proposed Yuba Accord is to resolve instream flow issues associated with operation of the Yuba Project in a way that protects and enhances lower Yuba River fisheries, the protection of fisheries resources is not implicitly for development of tourist or recreational opportunities. Additionally, the majority of lands surrounding the lower Yuba River are privately owned and public access is limited. Thus, designation of a recreation area or tourist attraction along the river, including construction of a facility for fish and wildlife viewing purposes, would require separate planning and permitting activities, which are beyond the scope of this project.

Response to Comment PH3-1:

YCWA participated in four groundwater-substitution transfers. The annual groundwater pumping for these transfers ranged from approximately 26 TAF to 85 TAF. During these past transfers, no short-term or long-term unmitigated impacts occurred on surface water flows including on the Feather and Yuba rivers. Historical and recent groundwater elevation data and subsurface lithologic data analyzed and presented in this Draft EIR/EIS indicate that recharge from the Feather River to the Yuba Basin is small. Along the western boundary of the Yuba Basin, groundwater appears to occur in confined layers, and thus there probably is only a limited connection between surface water and the groundwater pumping zone in the vicinity of the Feather River. Only small changes in groundwater levels occurred along the Feather River during the past groundwater substitution transfers and no groundwater-substitution pumping occurred in the vicinity of the Feather River. For these reasons, impacts of groundwater-substitution pumping for the Yuba Accord Alternative on Feather River flows would be less than significant.

For the Yuba River, analyses presented in the Draft EIR/EIS show that no correlation exists between historical groundwater pumping and Yuba River flows. In addition to the analysis presented in the Draft EIR/EIS, YCWA's GMP, adopted in 2005, protects groundwater resources in the Yuba Basin. In the GMP, YCWA adopted objectives to protect groundwater from adverse impacts. To supplement the GMP, Part 1 of Exhibit 3 to the final Yuba Accord Water Purchase Agreement would specify additional monitoring requirements for Yuba Accord groundwater-substitution pumping (see Final EIR/EIS, Appendix M2). Also, Part 2 of this Exhibit 3 would specify the process that YCWA and the Member Units would follow to determine the amount of groundwater-substitution pumping that could occur each year without causing a long-term overdraft or any significant unmitigated third-party impacts on other groundwater users in the basin (see Final EIR/EIS, Appendix M2).