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# **ALAMEDA CREEK ALLIANCE POSITION PAPER REGARDING THE PROPOSED SFPUC RECAPTURE FACILITY IN SUNOL VALLEY**

**MAY 2001**

The San Francisco Public Utilities Commission (SFPUC) is in the planning stages for a fish habitat enhancement project in Alameda Creek which will provide limited water releases from Calaveras Reservoir. As part of this project the SFPUC proposes to construct a rubber recapture dam and facility in Alameda Creek in the upper Sunol Valley, approximately five miles downstream of Calaveras Reservoir. The Alameda Creek Alliance (ACA) is in full support of the planned water releases, but has concerns about the impacts of the recapture dam and the nature of the facility to be constructed. ACA support for construction of this facility would be conditional upon several factors: 1) SFPUC commitment to the purpose and use of the recapture facility solely to recapture water released for fisheries restoration purposes; 2) SFPUC commitment to operating agreements for the facility which will protect steelhead trout and other native species in the project area; and 3) SFPUC consideration through an EIR of alternative methods of providing flows for fish restoration.

## **Background**

As the result of a settlement of a water rights complaint filed by California Trout in 1990, the SFPUC and the California Department of Fish and Game (CDFG) signed an agreement (Memorandum of Understanding, "MOU") in 1997 for water releases from Calaveras Reservoir, to benefit native fish in upper Alameda Creek. No water has yet been released under this agreement, as the SFPUC has insisted on recapture of the water to be released, and proposes the construction of an inflatable rubber dam and recapture facility on Alameda Creek in the vicinity of the Sunol Water Treatment Plant.

Although local fishermen were advocating for water releases for anadromous fish at the time the California Trout complaint was filed, the idea of steelhead restoration in Alameda Creek was rejected by water agencies in the 1980s and early 1990s. The existing MOU is a compromise which will provide additional instream flow through approximately five miles of upper Alameda Creek, benefitting resident rainbow/steelhead trout in the upper project reach and native non-game warm water fish in the lower project reach. The flow releases will also enhance existing spawning and rearing habitat for anadromous steelhead trout, which are expected to have access to this portion of the stream by 2003/2004.

Since the signing of the MOU, conditions have changed dramatically. Central California Coast (CCC) steelhead were listed as a federally threatened species in 1997. Native adult steelhead have been documented returning to lower Alameda Creek every wet winter since the listing. Genetic tests have shown resident rainbow trout populations in upper Alameda Creek (including in Welch and Pirate Creeks) in the vicinity of the project area to be similar to returning native adult steelhead in the lower creek.<sup>1</sup> Several agencies, including the SFPUC, have committed to removal or modification of dams and barriers downstream of the project site for fish passage. Finally, Alameda Creek below its major dams, including the proposed dam and impoundment area, was declared critical habitat for CCC steelhead (habitat essential for the conservation and recovery of the CCC stock of steelhead trout) by the National Marine Fisheries Service in 2000.

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<sup>1</sup> Microsatellite Analyses of Alameda Creek Rainbow/Steelhead Trout by Dr. Jennifer L. Neilsen and Monique C. Fountain, USGS/BRD, Anchorage, Alaska, October 1999.

While fully supportive of the water releases and the benefits they will provide for the ongoing steelhead restoration, the Alameda Creek Alliance has raised several concerns about the potential impacts of the dam and recapture facility. Some of these concerns have been acknowledged by the SFPUC and regulatory agencies, resulting in a reduction of the proposed rubber dam height from 6 feet to less than 3 feet. The SFPUC has verbally committed to provide for fish passage and fish screens at the facility, to pass existing base stream flows past the dam, and to operate the facility in a manner which will not harm listed species (steelhead trout and California red-legged frog) which occur or are expected to occur in the project area.

### **Context in which the ACA views the project**

The main goal of the Alameda Creek Alliance has been to remove barriers to anadromous fish migration in Alameda Creek, which is the key to restoring sustainable runs of salmonids. Part of our vision is to eventually restore the natural hydrograph of Alameda Creek proper, all the way to its headwaters. As such, our membership is absolutely opposed to the construction of any new dams in the watershed, unless we can be convinced that there will be an overriding net gain for steelhead restoration. Before we can support the construction of a recapture facility, we need some solid assurances and binding agreements on the nature of the project, so that a supposed restoration project does not result in the construction of a facility which may harm or hinder steelhead restoration in the future or degrade aquatic habitat for other native species.

Water releases, even limited releases which will be recaptured, will be a clear benefit and an important step toward restoring a steelhead run in Alameda Creek. The overall fisheries habitat enhancement project is packaged as a restoration project, but the rubber dam and recapture facility may degrade aquatic and riparian habitat. We acknowledge that some significant changes in the project have been made by the SFPUC in response to our concerns. However, we do not feel comfortable with the SFPUC's apparent intent to push through the rubber dam and recapture facility with a Mitigated Negative Declaration. At an April 18, 2001 meeting, the relevant regulatory agencies charged with protecting the creek and wildlife habitat (U. S. Army Corps of Engineers (Corps), National Marine Fisheries Service (NMFS), U. S. Fish and Wildlife Service (USFWS), CDFG, and Regional Water Quality Control Board) seemed to be prepared to fast-track this project without any serious consideration of alternative methods for providing instream flow which would not require construction of another dam in the creek.

We are reluctant to rely upon the mandate of the regulatory agencies to protect Alameda Creek because of their previous track record. These agencies signed off on every barrier constructed in Alameda Creek, barriers which are blocking anadromous fish from accessing spawning and rearing habitat, and which are now the focus of much effort and money to remove them or make them passable to fish. While we recognize that the regulatory climate has changed considerably in recent years, we are being asked to accept the construction of yet another dam in the name of restoration, before a single downstream barrier has come out.

## The project site

The proposed dam and impoundment site is a beautiful stretch of fairly natural creek, bordered by mature native riparian vegetation, including bay laurels, sycamores, live oaks, and alders. The proposed dam site and impoundment area are potential habitat for several sensitive species, including rainbow/steelhead trout (*Oncorhynchus mykiss*), California red-legged frog (*Rana aurora draytonii*), foothill yellow-legged frog (*Rana boylei*), California tiger salamander (*Ambystoma tigrinum californiense*), and Western pond turtle (*Clemmys marmorata*).

Native rainbow/steelhead trout exist in Alameda Creek and Pirate and Welch Creeks in the vicinity of the project area.<sup>2</sup> Genetically, these fish are part of the listed CCC steelhead population.<sup>3</sup> A red-legged frog was documented in the proposed impoundment area in 1998 and the species is known to occur just upstream in Alameda Creek within Sunol Regional Wilderness.<sup>4</sup> Yellow-legged frogs occur in abundance in Alameda Creek in the Little Yosemite Area,<sup>5</sup> have been documented downstream of the confluence with Calaveras Creek,<sup>6</sup> and potentially could occur in the impoundment area. A Western pond turtle has recently been seen in Alameda Creek at the proposed dam site and a road-killed California tiger salamander was recently found on Calaveras Road immediately east of the project site.<sup>7</sup>

## Concerns

Our primary concern is that construction of the recapture facility and attendant infrastructure may be viewed as an opportunity in the long term to expand SFPUC water rights or water diversion from Alameda Creek. The dam is supposedly being built for restoration purposes, yet has the potential to be used in the future for infrastructure expansion and additional water diversion. The only project description circulated by the SFPUC (the ACA has repeatedly requested an updated project description from the SFPUC, but has not been given one to date) mentions that “in the long term, recaptured flows...could at some future date be delivered to abandoned gravel quarries converted to water storage reservoirs.” Filling these proposed water storage reservoirs (downstream

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<sup>2</sup> Applied Marine Sciences, An Assessment of the Potential for Restoring a Viable Steelhead Trout Population in the Alameda Creek Watershed; February 2000.

<sup>3</sup> Microsatellite Analyses of Alameda Creek Rainbow/Steelhead Trout by Dr. Jennifer L. Neilsen and Monique C. Fountain, USGS/BRD, Anchorage, Alaska; October 1999.

<sup>4</sup> Trihey & Associates, Alameda Creek Aquatic Resource Monitoring Report, Summer and Fall 1998; September 1999.

<sup>5</sup> Documentation filed with California Natural Diversity Database.

<sup>6</sup> Trihey & Associates, Alameda Creek Aquatic Resource Monitoring Report, Summer and Fall 1999; January 2001.

<sup>7</sup> Documentation filed with California Natural Diversity Database.

in the Sunol Valley) would require additional water diversion from Alameda Creek far beyond the Calaveras flow releases.

Our concern over future delivery of water to the abandoned quarries is dismissed as “premature” by the SFPUC,<sup>8</sup> but when is concern appropriate? After the infrastructure for future water delivery has already been approved and constructed? The MOU expressly states that the recapture facility will divert only the amount of water released as part of the Calaveras Reservoir stream release and recapture program plus historic annual diversions at the Sunol Filter Galleries (the ACA requests information on the quantity and frequency of these historic diversions). The fact that alternatives to the recapture facility have not been adequately explored indicates that the SFPUC may have future uses planned for the facility other than recapture of the Calaveras water releases.

The ACA has proposed investigating whether the height of Calaveras Reservoir can be raised, giving the SFPUC additional water storage for minimal environmental impact. A portion of this additional stored water could be strategically released without recapture, for the benefit of migratory fish. This action could allow the eventual removal of the Alameda Diversion Dam. Benefits of this alternative would include restoring the natural hydrograph of upper Alameda Creek, making Little Yosemite more passable to fish at high flows (potentially opening up 7 additional miles of prime steelhead habitat), providing more instream flow benefit than releases from Calaveras, and eliminating the need for a recapture facility.

Another concern is the degradation of aquatic and riparian habitat in the dam impoundment area. In addition to inundating and killing some of the riparian vegetation in the project area, the slack-water impoundment behind the dam will create favorable warm-water habitat for non-native predators such as bullfrogs, bluegill, and green sunfish, which may predate upon steelhead eggs and young as well as the native amphibians. The impoundment will periodically submerge up to 2000 feet of pool and riffle habitat which could provide spawning and rearing opportunities for steelhead, and may also delay the out-migration of smolts. The SFPUC has proposed operating the facility in a way which allows de-watering during bullfrog breeding periods. It is not yet clear whether the facility can be operated in a manner which passes migratory fish (both upstream and downstream); de-waters bullfrog eggs without stranding native fish or amphibians; and does not entrain native fish or amphibian eggs or young.

Our final concerns are aesthetic - this is a fairly natural stretch of stream corridor and we have a hard time allowing a dam to be built when we are not convinced it is necessary. There have been proposals to eventually extend the Alameda Creek Trail upstream through Niles Canyon and the Sunol Valley along the creek to connect up with Sunol Regional Wilderness, and it would be a shame to mar the beauty of this stretch of creek with a rubber dam.

## **Regulatory climate**

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April 24, 2000 letter to Jeff Miller from Michael Carlin, Water Resources Manager, SFPUC.

The proposed project has potentially significant impacts to federally listed species and to critical habitat for listed species. This alone requires a full EIR process under the California Environmental Quality Act (CEQA). The SFPUC assured us last year that a “comprehensive and objective initial study and environmental impact report will be prepared to address the potential environmental effects of our proposed project” and that “the Environmental Review Officer of the San Francisco Planning Department has already concurred in your belief that preparation of an environmental impact report is required for this project.”<sup>9</sup> However, a Mitigated Negative Declaration was still being proposed by the SFPUC at the April 18<sup>th</sup> meeting with no dissension from any of the regulatory agencies. A full EIR must be done for this project, disclosing planned or anticipated future uses of the facility, and exploring alternatives to constructing a recapture facility, as required under CEQA.

The SFPUC is hoping to construct the facility by spring of 2002, with the Corps as the lead agency. Since federal funding may also be involved, there will obviously be a requirement for consultation with both NMFS and USFWS on the impacts to listed species. Additionally, since the project is within designated critical habitat for CCC steelhead trout and the California red-legged frog, NMFS and USFWS have a regulatory obligation to ensure that the final project does not destroy or adversely modify critical habitat for either species.

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April 24, 2000 letter to Jeff Miller from Michael Carlin, Water Resources Manager, SFPUC.

### **Conditions for ACA support of the recapture facility**

- S SFPUC commitment to the purpose of the recapture facility as a restoration project. This would require a signed agreement that the dam and diversion facility will not be enlarged or expanded in the future, nor used for additional water diversion from Alameda Creek.
- S The SFPUC begin releasing the water flows specified in the 1997 MOU. It has now been 11 years since the CalTrout complaint was filed. Some portion of these flows could potentially be bought and picked up by the Alameda County Water District downstream until the recapture facility is completed.
- S Construction of the recapture dam is linked to the removal of Niles and Sunol Dams - they both are removed before the recapture facility goes in.
- S Consideration of alternatives to the project. The SFPUC conducts and publishes a feasibility study of the removal of Alameda Diversion Dam concurrent with raising of the height of Calaveras Reservoir. This study to be published within one year of construction of the recapture facility.
- S An agreement to remove the dam and recapture facility and restore the site if a reasonable and feasible alternative for instream water flow is developed.
- S Guarantees that existing base flows will be passed by the facility. This includes installing a bypass valve to pass base flow while the dam is being raised and gaging stations upstream and downstream of the facility to determine the base flow to be passed; also a public monitoring program.
- S Installation of a fish ladder and fish screens at the time of dam construction.
- S A facility operating agreement which NMFS, USFWS, and CDFG agree will protect steelhead, red-legged frogs, and other native species from entrainment, de-watering, or excessive predation.
- S Riparian restoration as mitigation for the facility impacts. Installation of exclusionary fencing along Alameda Creek throughout the stream release area (from the confluence with Calaveras

Creek to the dam site). This fencing will be maintained to keep cattle out of Alameda Creek and steelhead critical habitat as defined by NMFS throughout the project area.<sup>10</sup>

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<sup>10</sup> Some portion of this exclusionary fencing has already been promised by the SFPUC in the 1997 Alameda Watershed Grazing Resources Management Element, and also in the 2000 Alameda Watershed Management Plan. The fencing has never been funded or implemented, and cattle continue to have access to Alameda Creek and to degrade fish habitat in the area.