

**HENRY (HANK) A. HOWARD
700 EAST FLEMING AVE. EAST
VALLEJO, CA 94591
707-645-8367
HAZMATKING@AOL.COM**

March 26, 2004

**Good Morning Napa County Board of Supervisors
Supervisor Mark Luce
Supervisor Diane Dillon
Supervisor Brad Wagenknecht
Supervisor Mike Rippey
Supervisor Bill Dodd**

Napa Supervisor Votes to Destroy the Berryessa Community

Recently, I had the privilege to attend your Board of Supervisors Meeting on March 16, 2004. Prior to that meeting I attempted to meet with your departed CEO Bill Chiat. And to no avail, I did not get a meeting or phone call back to meet with him. Finally, on March 11, 2004 I hand carried some documents of major importance to the Napa County Government Center for you review and requested to meet with the CEO Staff person, Michael Stoltz, Management Analyst III. That unscheduled meeting occurred, he was very courteous and extended niceties and we discussed many facets about Lake Berryessa during the short 45 minute meeting. In the exchange of information I furnished him with the following information:

- a. Errors and Omissions in the Draft Environmental Impact Study – contained over 100 bulleted items extracted from my 85 page submittal to the BOR's comments for the DEIS.
- b. 10 Page Napa County Document titled - Lake Berryessa Plan Approvals, :
TO: James H. Hickey, Director FROM: Robert Pritchett, Assistant Park
Director Feb 9 1973
- c. Copy of a letter to the Secretary of Interior, Gale Norton, US Attorney General John Ashcroft and Commissioner John Keys the Director of Bureau of Reclamation and Kirk Rodgers the Mid-Pacific Director of BOR in Sacramento, Request for Declaratory Relief and Injunctive Relief.
- d. I also shared some other informational documents with Michael Stoltz via the County email system.

At this juncture, I would like to tell you a little bit about myself and who I am and why I came to your meeting on March 16, 2004. I have been closely

associated with Lake Berryessa since 1982 and fully enjoyed pleasure boating, fishing, camping, Camp Berryessa Scout Camp and the resorts. Presently we have a wonderful doublewide manufactured home in Steele Park, Space 565 and our property and contents are valued at \$200,000. I am also a concerned activist and a team member of Task Force – 7.

I served 47 years in government and worked in management levels in Federal, County and Municipal government. I am a Retired Fire Chief and spent 16 ½ years in the position involved in fire suppression in the Santa Barbara County , Solano and Napa County areas. I am familiar with the DEIS process and the mechanism to review and comment. In my Federal capacity and County level, I had the opportunity to review over 100 separate and different DEIS and FEIS documents.

After being in government and understanding the process to move resolutions and issue and support documents I came away chagrin to see how poorly this matter was handled inside your perspective and scope of responsibility. This matter is of a critical nature to 1300 trailer owners at the seven resorts. At no time in the process did you or your staff review or accept open government and/or conduct a Public Hearing or conduct a focus study. I am aware that you self appointed two of your cadre, (Supervisor Luce and Supervisor Dillon) to a sub-committee to review this matter. Much to our surprise at the March 16, 2004 meeting there was no report given by the sub-committee and a rush to judgment occurred to support the BOR's flawed decision called Alternative B (Preferred). You added into the fray a few million more dollars for your request for items from Alternative D. I highly fault the call of Chairperson Supervisor Luce to allow attendees one-minute to express their opinions. My \$200,000 investment in Steele Park in your County is well worth more than one minute of your time.

We have tried to look at this matter with an open mind and wonder how you reached the points of attainment to support the BOR position for Alternative B. This is because you never stated your reasons in open government and chose to edit a letter of support after the public discussion and forward it before the BOR assumed date of March 22, 2004 closed. In my short one minute I tried to convince you that you are "Part and Parcel" to this matter. Evidently I failed to convince you that the document I handed you is prima-facie evidence that Napa County is a partner in this process. The BOR has been in complete denial as far back as year 2000 when the DEIS scoping sessions occurred and denied having any documents to support the residents claim that Napa County was the enabler and agency with the Plans Approvals and Master Planning. The letter that I handed out to you from February 9, 1973 listed 159 separate action deals between your agency and the Federal government. It surely must have been a revealing document to your eyes and also that of the Federal government who has been in complete denial that you (Napa County government) and the Bureau of Reclamation had master planned and approved those many items. In my

cursory review of that document it is evident that the seven resorts were 100% plan approved and every trailer site, building and structure, docks and sheds were plan checked, reviewed and approved by the Board of Supervisor, Napa Planning Commission and the Napa Park Commission. About 1975 Napa County government abrogated its responsibility and turned the matter back into the hands of the BOR.

In my letter re: Request for Declaratory Relief and Injunctive Relief to the Secretary of Interior and US Attorney General John Ashcroft, I stated that every one of the structures was approved by your agency (Napa County) and in concurrence with the federal government, BOR. Whether you like it or not your agency of government is responsible for what sits there today and each resort was 100% approved by Napa County government and a provision directive agreement with Napa County and the BOR stated that all administrative approvals will be cross exchanged.

Some other documents have recently come into our perusal, titled NAPA COUNTY LAKE BERRYESSA GENERAL DEVELOPMENT AND PLANNING PROGRAM 1958 – 1973 and it is very clear that Napa County government was a major decision maker on what happened and is understood that you were the enabler and an agent for the federal government. It appears that you take an attitude that you are ignorant to the fact that Napa County government approved everything there and now you say excuse us we made a major mistake. I realize that you are the sitting Board and did not make those decisions, but you represent the Government as it sits today and are responsible with your Staff and County Counsel to review and understand the culpability and in many ways you are causative to the matters that exist at the Lake resorts today.

These documents in a Court of Law or the 9th Circuit Court of San Francisco will show and implicate just how deep in the process you have been over the past 46 years. I see this matter heading to a Court or arbitrator and your involvement will be paramount to a Federal Judge's decision making process. I also see some critical testimony for your part as to how you made a decision to support this matter without full understanding of the ramifications presented.

Needless to say none of your opponents were at the exclusive meeting held by the Board of Supervisor and BOR in a Joint Meeting at BOR Federal Point at Lake Berryessa, December 2003. We are in hope that you're Clerk and County Counsel was present at that meeting and recorded all discussion and dialogue as we find this to be a critical departure to knowing what transacted there between you and BOR. If the BOR presented to you any deals or promises then the public should be knowledgeable and made aware of those promises under Open Government? We are aware that the BOR presented to you their heralded Power Point presentation of over 100 slides and pictures of Lake Berryessa. Task Force – 7 has filed a complaint that the matters presented were bogus and

biased propaganda on the part of the BOR. 50% of the pictures were not even at Lake Berryessa, the so-called, "this is what it could look like pictures". The majority of ugly picture were taken at Pleasure Cove from an area known as the Outback and is now 100% removed and gone. It is a very unfair what the BOR has done to portray the area and lake as an infected cesspool with miscreant trailer trash people using all of the lake. We have filed Quality of Information Complaints with the BOR – Denver Office and are awaiting the removal of false and misleading information being proffered out of their agency. I will share with you in the near future verbiage by the BOR, Sierra Club and Ms. Carol Kunze that paint Lake Berryessa area as trashy and polluted. I will provide you the source, date and person responsible for false and misleading information.

After reading some of my paper work you must realize that I have devoted hundreds of hours to take an activist position and am concerned about truth and honesty and Open Government. I have reviewed your letter of support to the BOR and your decision to support Alternative B and add in some factors from Alternative D. In your letter dated March 16, 2004 to the BOR for support you thank the BOR for extending the document comment window for your agency. Needless to say that process enabled the opponents of the DEIS to forward hundreds of letters to the BOR.

In the second paragraph you imply to the fact that areas of health and safety are at risk, fire hazards, lack of access of short tem users, water quality and aesthetics. Thusly you have fallen into the quagmire created by Reclamation's propaganda arms and that of other miscreants. Lake Berryessa has over 1.5 Million visitors per year (average). There are only 1300 trailers and the visitors to the trailers even if they are half-a-million (.5M) that leaves one (1) million visitors who are short term visitors. Do you really want more short-term visitors to come to the area or is this just smoke and mirrors? You allude to water quality and this is a false premises. Sewage systems do not dump into the lake, they flow into sanitary district systems in most cases. If the Lake was polluted "God Help Us all" since all the resorts get their drinking water from the Lake. Down stream from the Lake the City of Vacaville and Fairfield get part of their drinking water from the Lake. This is utter propaganda and false and misleading information. There are no feces or matter floating on the lake from resorts.

47 of my years in government were with the Federal and County and Municipal Fire Service. I served as a Fire Chief at the largest military reservation in California and at Santa Barbara County and City government and four other cities as a Fire Chief. Lake Berryessa is a safe visitor destination and is well protected by the California Department of Forestry Fire (CDFF) under a cost reimbursement agreement with the BOR. You can find various types of fire hazards, especially regarding vegetation, in any rural community in California and they are all correctable type of write ups and findings. The fire incident ratio is very low and on par with other rural communities. As a Fire Chief, I can tell you that you do not see burnt down trailer remains or vacant pads caused by

fire damage. Major fires are not occurring in the resorts. Bureau of Reclamation and Bureau of Land Management lands surrounding Lake Berryessa are the greatest fire danger, in particular due to the vegetation and lack of roads or access.

In further review of your comment letter to the BOR we found it interesting that you would want the position of Alternative D included in your support process. These are words directly out of the mouths of the Sierra Club and Carol Kunze. Unfortunately you were not told how much this all is going to cost as anything in Alternative D is funded from the Federal government. Alternative D was never cost factored and/nor was an Economic Feasibility Study of Alternative D completed. So if you bought or asked for a “can of worms” maybe that’s what you will get. Ms. Kunze’s idea is to sterilize the Lake, remove all powered water craft, isolate and introduce canoes, kayaks, row boats, and electric ferry boats. Along with an unfunded 150 mile trail around the Lake so she can walk her dog and enter into wilderness areas inhabited by wild animals and snakes. Her level of attainment is silence and serenity with no boat noise. Lake Berryessa is a primary boating lake and serves the purpose well. I found your remarks in the letter about funding the cost of Public Safety at the Lake to be very opinionated and misguided for a Supervisor to take the position that you are paying for these services.

In regards to Fire Protection I direct your attention to DEIS Attachment 13 Fire Protection Agreement California Department of Forestry and the Bureau of Reclamation and in effect until Sept 30, 2005. I will make this short and painless; you do not pay anything for Fire Protection purposes in the Bureau of Reclamation properties. BOR cost reimburses CDFG 100% for all cost of fire protection, including wildland fire. The rest of the area around the BOR draw lines are within what is know as State Responsibility Area or SRA and the cost of operations for fire suppression are borne by the State of California. If you know of any other conditions that cost you for money for fire protection as you allege I would like for you to make an analyst available in your staff to update me on those cost factors so I can redirect my efforts.

Next, Law Enforcement needs some internal talking. I discussed this with Supervisor Dillon that I found you \$500,000 if you will go after the money and get reimbursed from the BOR. She said, “They had tried and did not get the funding and that we didn’t qualify”. I recently talked to the Sheriff’s command structure and questioned if they were being reimbursed by BOR for Law Enforcement under the provisions of H.R. 2925 a Federal Law entitled Law Enforcement Authority at Bureau of Reclamation Facilities. It is located for your edification in DEIS Attachment 1, a separate book of the DEIS. HR 2925 in Sect 1. (c) (4) provide reimbursement to a State or local government, including an Indian Tribe, for expenditures incurred in connection with activities under paragraph (2). This is a three year old law and somehow the ability to get funded remains aloof. The question I would ask, “Why are you

doing this for free now”? This law also gives the Sheriff the authorization to operate on the federal lands, serve warrants and make arrests.

I have been associated with Lake Berryessa for over 25 years and spend a considerable part of my time there in rest and relaxation mode. All of the officers assigned from the Sergeant and Sheriff Patrol Officers are courteous and not ambiguous to people. In my experience I have never seen anyone arrested or removed from Steele Park over the many years of going there. Albeit of the total package in my comments for the DEIS I noticed a lack of facts regarding law enforcement statistics for policing in the resorts. What are the facts and what just does the Sheriff have in regards to calls for service inside the resorts. How many of those call for service involves the so called long term trailer owners?

In regards to the Sheriff Boat Patrol on Lake Berryessa, I learned that the California Boating and Waterways funds \$246,000 to the SO and also an additional funding is achieved from State for marine licensing of \$40,000. A Captain in the SO said the Boats are funded out of grants from Boating & Waterways. Again, supervisor Dillon asserts that you are loosing money on this protection factor for BOR. If you are why is there not a request to BOR to fund the cost under HR 2925? I was told the Boat Patrol is actually flush in cost. But, why not get the money from BOR to protect their Lake?

In regards to Emergency Medical Services cost I am aware that there are agreements with Winters Ambulance, Piner Ambulance and Angwin Fire Department ambulance. There is no ambulance or paramedic stationed based in the Lake Berryessa Area. So the question I would ask, why is it costing you anything and what does the 1300 trailer have to do with cost of service. What were the EMS calls to service in the trailers? The CDFP is a 1st Responder agent and takes the majority of 1st Responder calls for EMS. Matter of fact 85% of the CDFP calls in the Lake Berryessa area are for EMS. In the case of need for a Life Flight helicopter removal, the victim is responsible for the cost of the airlift and specialized treatment from that process. I would be glad to sit down with your EMS authority person and have him show me the cost factors to providing EMS services for Lake Berryessa. It must be also remembered that the majority of EMS calls for service are outside the draw lines of the BOR and occur on CA 121 and CA 128 and Knoxville-Berryessa Road. If you do not have cost recovery ordinance in place contact other Counties and figure out how to do this, I have had lots of experience in this process and know the system.

In your conclusion paragraphs you buy into a decision that is a function of your government auspices and that you opine the BOR should select a single-concessionaire to manage the entire Lake. What does County government have to do in this process to be involved in selecting a single concessionaire for a Federal project? This is meddling at the highest level.

In your last paragraph you imply establishing some type of Joint Powers Agreement with the BOR. I find that most interesting as I have previously sat on a Grand Jury for two years and know this matter is subject to LAFCO and other agencies review. It is apparent that you imply a complete retrieval of the process that went on from 1958 to 1975 and that is master planning, site approvals, environmental review and area density usage. Any involvement in the prospectus or bidding of the Federal package would be highly inappropriate and the County Counsel should have advised you have absolutely no authority to expend funds and energies to help develop a Federal project. Lastly your statement in the last sentence is an egregious move to participate in prospectus development, review, consideration and selection of any proposed new concessionaire(s) and concession contract(s) for Lake Berryessa. In 1975 the County of Napa informed Reclamation of its intent to withdraw from the management agreement.

I would like to point out some significant factors that you have overlooked in supporting Alternative B and Alternative D. For your review attached is some Errors and Omissions that your staff failed to brief you on regarding this matter. Most importantly none of the federal side of this conceptual project is funded or even discussed. You have blindly entered your agency into a National matter unprecedented in US history. The issue of supporting the BOR involves many more tangent things than just the 1300 trailer removals. You are now Part and Parcel to the removal of Camp Berryessa a Boy Scout Camp at the lake. Your concurrence with Alternative B also implicates you with the BOR for the removal of the Monticello Ski Club Use permit which has peacefully existed for 37 years and has over 250 members.

As an activist I have been intensely involved in the workmanship of this DEIS. We have penetrated inside the BOR organization and are challenging their position and methodology. For your information this action will reach national attention and your involvements will also be characterized as a companion and co-partner of the BOR. We have outreached to the prestigious Pacific Legal Foundation, Bill O' Reilly Fox News, Michael Savage and the Congressional and Senators of California and President Bush. Lastly, the taxpayers of Napa County should be very guarded by your decision making and interloping into this matter. You are intent upon destroying the Lake Berryessa Community and replacing it with unproven and unfunded concepts and redevelopment schemes. Remember this factor Alternative B was never cost factored in the DEIS. Only Phase I was cost factored out the Dornbusch Economic Feasibility Study. In that study Phase I was estimated at \$23,093,000 million for only three resorts and the other four resorts would sit idle until the demand showed a need for Phase II. It is our sincere hope that these matters come under a Congressional Investigation and possibly a Federal Indictment for skewing dollar amounts and "cooking the books" in preparation of the DEIS and Dornbusch Economic Feasibility Study. What you signed up for in support of Alternative B and Alternative D could easily cost over \$100 million dollars that would have to come for a "Venture

Capitalist”. This is pure speculation and putting millions of existing resources at risk for some person dangerous pursuits. Luckily, Napa County is not involved into the inner workings of this scandal in the making.

The Bureau of Reclamation knows they are in trouble with this document and over 400 letters are sitting on Congressional and Senators desk in Washington DC. In the Bureau of Reclamation’s history they have never received this many comments of review for a DEIS. Over 2400 comments are on hand, according to BOR spokespersons 85% are in opposition. The BOR bears the blame for much of this wrong doing, their ethics and fairness in government dealings are under the microscope and we seek environmental justice, exposure and reality that they have created this scenario and are trying to mass remove all 1300 trailers and agitate other protected people in the process.

Finally, who in County government even thought about the Regional effects of what this redevelopment scheme would have to the County of Napa and nearby Solano County. Just ask the concessionaires and trailer owners and they will tell you who they spend there money with to support operations at the resorts. You might be surprised to find that you are about to create a tremendous negative process in your County. The resorts revenue generated last year was \$13.5 million. So turn the faucet off, turn your backs on the concessionaires, trailer owners, service providers, utilities, and vendors who provide provisions for the maintenance and operations of Lake Berryessa. All I can say is more thought should have gone into this process and clear thinking of the full matter. You have engaged into major controversy and are companion to the Bureau of Reclamation.

Sincerely,

Henry A. Howard
Task Force 7 Member

cc. Secretary of Interior
Director of Reclamation
Napa Valley Register
Napa Sentinel

Errors and Omission, Lake Berryessa flawed DEIS

The Bureau of Reclamation (BOR) failed to include material facts, concealed material facts and presented misleading and deceptive information in violation of NEPA legal requirements.

Accurate and comprehensive disclosure of all material facts is the most basic and fundamental requirement of the NEPA environmental review process. The entire statutory and regulatory scheme of NEPA depends on such full and complete disclosure. Consequently, the failure of a Proponent to abide in good faith with this basic principle of transparency is the most serious violation of all NEPA legal requirements because it directly undermines the procedural and substantive goals of both federal and state statutes.

The procedural goal of these laws is to ensure that projects with significant environmental impact are reviewed and analyzed in the context of an “environmental democracy” where regulatory officials, elected officials and members of the general public are given a meaningful opportunity to conduct an independent, objective review of the short-term, long-term and cumulative environmental impacts of the project. It is impossible to realize the procedural goal of NEPA without accurate and comprehensive factual disclosure. If material facts are not included or are concealed and if the facts which are presented are misleading and deceptive, there is no opportunity for regulatory and elected officials or a member of the general public to use the process to accurately determine the short-term, long-term and cumulative impacts of a project. In such a case the procedural requirements are violated, and contrary to the express directive of our political democracy, our citizens are deprived of an environmental democracy.

Likewise, without full and accurate disclosure, it is impossible to meet the NEPA substantive standard for environmental protection. This standard is intended to ensure that all federal, state, regional and municipal governmental agencies use all feasible means to avoid damage to the environment or, to the extent damage to the environment cannot be avoided, to minimize and mitigate damage to the environment to the maximum extent practicable. If the Proponents engaged in the NEPA process fail to disclose material facts or file misleading, deceptive or false information, there is no accurate factual basis for such evaluation and analysis, and the substantive purpose of both federal and state statutes is negated.

When NEPA was enacted in 1969, it was intended to be the foundation for all future federal environmental legislation.

As detailed below, BOR has violated the statutory and regulatory requirements of the NEPA environmental review proceedings, by withholding facts, which are material to the proposed Project, and by submitting information during the NEPA process, which is misleading, deceptive or false. This unlawful action by BOR must be considered a fundamental and fatal inadequacy in their DEIS, since it prohibits any meaningful opportunity for objective review of the short-term, long-term or cumulative impacts of their proposed project.

In order to comment on the DEIS, the represented Long Term Trailer Users herein will seek the services of Pacific Legal Foundation and regional planning experts. Each of these experts has reported that Lake Berryessa NEPA filings lack the basic material facts necessary for an informed evaluation and review. All of the experts have criticized Lake Berryessa DEIS for failing to include any consistent factual baseline, and for presenting data, analysis and conclusions in a manner that is deceptive, misleading and false.

In summary, as detailed below, BOR appears to have knowingly, in bad faith and in violation of federal law, withheld or otherwise concealed material facts and submitted false information during the NEPA review process. Such an egregious affront to the authority and dignity of our laws should not and cannot be tolerated. Only by finding the DEIS inadequate and by requiring BOR to repeat the NEPA review process, can the Secretary of Interior and the Reclamation Commissioner and Mid-Pacific Reclamation Administrator uphold the public trusts and the responsibilities invested in them by federal laws.

The DEIS is Inadequate.

The DEIS is inadequate for the following reasons:

Systematic and Interdisciplinary Impact

- BOR has failed to provide any federal legislation or federal authorization to present this multi-million dollar project
- BOR has failed to explore Regional Revenue impacts and direct and indirect impacts to Napa and Solano Counties.
- BOR as failed to provide factual information on revenue loss during a Phase I and Phase II construction period. Revenue loss from 2008/2009 until 2018/2019 is not presented.
- BOR has failed to provide the State of California with projected environmental impacts and disclosure of potential massive waste debris from removal of trailers and support structures and attachments of decking, porches and stairs from the 1300 trailers proposed to be removed.
- BOR has failed to present factual information to Napa County and Solano County Board of Supervisors. Cost factors and time schedule projections were not disclosed to the elected officials.

- BOR has failed to estimate and disclose the projected debris field and their intentions to remove waste to sites in Napa and Solano County.
- BOR has failed to discuss the impact and shutdown of seven resorts for a redevelopment. Furthermore it also failed to disclose which resorts would receive Phase I project development
- BOR has failed to discuss alternate recreational venues for the estimated 1.5 Million annual visitors (average) using the area. Specifically when the seven resorts are forced into a closure and redevelopment Phase (s) occurs.

Alternative A (No Action)

- BOR has failed to provide factual information about annual visitors. It purposely skewed the attendance numbers for 2002 to show a –56% decrease in visitors from year 2001. The largest loss in 20 years at the Lake Berryessa Resort.
- BOR has failed to compare Alternative B, Alternative C and D to Alternative A (No Action) Alternative A is painted with egregious statements and worst-case scenarios.
- BOR has failed to fully disclose the Regional Economic Impact and failed to disclose the impact to workers inside the seven resorts. Full Time Employees and Seasonal Employees.
- BOR failed to discuss alternatives actions to the No-Action plan. The Federal Law allows the government to extend existing contracts and adjust franchise fees to accommodate changing conditions. BOR has provided false and misleading information continually at presentations, before elected officials and specifically in magazine and newspaper articles, whereby the Lake Berryessa Director of the Visitor Service Plan purports to deceive the public with statements that are unproven and egregious.
- BOR has issued out misleading information in the manner to assuage and alarm the public that the existing seven resorts are in decrepit condition, expresses concern for fire safety, saying existing resorts fail to meet Health and Safety Codes, eminent fire danger and safety hazards in old trailer parks, pollution hazards from aging sewer plants, and general encroachment upon the lakes floodplain.
- BOR developed a restrictive policy, LND 04-01 in April 2002 that was designed to minimize “exclusive use”. Nowhere in the policy did the BOR find the usage of trailers and trailer removal to be stated. In the determination of BOR officials taking a superseded standard and now wants to legislate and implement removal of all trailers. Yet in Alternative C they chose to reintroduce “limited trailers”, not mobile homes or park models.
- BOR officials covertly utilized the “exclusive use” terminology to take the literal steps to remove Special Use Permits for the Monticello Ski Club

saying that their permit would be terminated because of the exclusive use conditions.

- BOR officials covertly utilized the “exclusive use” terminology to propose a take away of the Special Use Permit for the Boy Scouts of America and the use of Camp Berryessa. This is a major discriminatory action and legislating within the BOR to prevent usage by the Boy Scouts. At present the Boy Scouts of America are experiencing nationwide intervention from Supreme Court decisions regarding its membership; BOR with this measure is legislating morality and restricting usage to the Scouts which have maintained Camp Berryessa for 47 years.

Air Emissions

- BOR has failed to disclose an air emissions inventory or air quality analysis for the Preferred Alternative B.
- BOR has presented false air emissions comparisons between the Preferred Alternative and the No Action Alternative.
- BOR has underestimated air emissions during site remediation and redevelopment inventories, and classified them as minimal impact.

Noise

- BOR has failed to establish a consistent factual baseline for calculating noise impacts, using different years for different calculations in order to overstate noise impacts.
- BOR has failed to use actual monitoring data and used a dated Kryter Study for industrial analysis to state its position.
- BOR has failed to fully state that the noise concerns are related to water powered craft and marine related.

Alternatives B Preferred

- BOR has failed to consider the economic feasibility study in possession of BOR agency
- BOR has failed to compare Alternatives C and D and Alternative A (No Action). Against Alternative B
- BOR has titled the Alternative as “Preferred” prior to Final review and in measure of preeminence.
- BOR in a bias related position hired a consultant to conduct an economic feasibility study solely for this alternative
- BOR has failed to provide cost analysis and methods to fund Alternative B.
- BOR has failed to provide quantifiable and qualitative data to discuss proposed usage and demand levels for service in years 2008/2009.
- BOR failed to provide any information about potential project delay and affect upon economic revenue for return of equity (ROE) to the venture capitalist.

- BOR failed to discuss within this Alternative the need for extensive site remediation at the seven resorts, regarding site preparations, surveying, mapping, architect design, plans review and agency approval, Title –24 reviews
- BOR provided false and misleading information to an Economic Feasibility Contractor, Dornbusch Associates. In this omission BOR knowingly skewed data for infrastructure to set the cost of Phase I at lower than a true or valued cost projected.
- BOR knew that the true cost of infrastructure repair and replacement was \$32.4 million in Kleinfelder Study and woefully attempted to hide the cost estimates and directed Dornbusch Associates in Table 2 at \$5.7 Million. Dornbusch revealed this egregious maneuver came from directions of BOR. See page 49 Dornbusch Study.
- BOR furthermore directed and prioritized which resorts would receive selected programs and pre-selected locations for redevelopment. Thusly under a proposed Phase I only Markley Cove Resort, Pleasure Cove and Steele Park would share the \$23.093 Million in Capital Cost for Alternative B. Also noted is that the Rancho Monticello would receive \$2.7 Million for infrastructure upgrade cost. The residual of the Infrastructure cost would allot only \$1,000,000 for each for Steele Park, Markley Cove and Pleasure Cove resorts. BOR provided this information in an attempt to lower the overall cost factor of implementing Phase I.
- BOR failed to provide information in the DEIS to specify the need or provisions to obtain outside financing from Venture Capitalist.
- BOR failed to discuss the proposal for a phasing process in the DEIS and omitted known cost factors to mislead the reviewers.
- BOR furthermore directed and input data to the economic feasibility study contractor to submit information that is highly questionable and misleading. In regards to Cost Estimation in Table 2 which is undervalued and understated in pricing and unit cost. This egregious information was deliberately skewed downward to lessen the bottom line of Capital Outlay Cost to be provided by a third party venture capitalist.
- BOR in a covert measure with the DEIS failed to discuss phasing provisions and the total cost for a enable Alternative B
- BOR failed to disclose in the DEIS information regarding the Phasing Concepts and effects of the Economic Feasibility Study provision that would leave the four West shore resorts barren and in state of limited use for boat launching and some group camping.
- BOR failed to establish triggers and demand flow to open Phase II provisions.

Alternative C.

- BOR has failed to analyze or evaluate the short-term, long-term and cumulative environmental impacts of this Alternative. Many times the document relates to "Same as Alternative B"

- BOR developed this alternative to show wider spread of Alternatives and increase the scope of study.
- BOR input misleading and false information and created parameters for Overnight Camping Center, DEIS page 54 to subvert the intent of reintroducing trailers on a limited basis to resorts. The parameters or standards are not source identified or based on industry provision for camping centers
- BOR invented a counter measure to prevent placement and location of trailers in the Camping Centers. This measure is known as WIZ, Water Influence Zone. This would require all placements of structures and trailer pads at 440' Mean Sea Line plus 100 feet linear horizontal or uphill. This is a arbitrary and capricious provisions developed internally within BOR to make it almost impossible to design a trailer park at these foot 540' above mean seal level line
- BOR mislead the reviewers with the intent of this Alternative. It covertly used the above WIZ concept to prevent any development at Markley Cove, Lake Berryessa Marina and Putah Creek Resort. This measure is counter intuitive, in Alternative B major redevelopment of these three resorts would take place;

Alternative D

- BOR failed to discuss the resorts which it would operate in the DEIS section for this alternative and how it would fund the provisions.
- BOR mislead the reviewers that this alternative was established to have he BOR conduct the operations in this alternative, yet it would include minimal operations and considerably limit services provisions and downsize support features of the remaining five resorts.

Delay

- BOR has failed to disclose the Lake Berryessa Visitor Planning Schedule, found only on BOR website, and its internal workings of its understanding of when and how this project can be implemented. The probabilities of date of implementation. There has been no discussion of site surveying and mapping for architectural designs and approval process, plans review and construction period for the Phase I redevelopment in order to comply with Water Influence Zone building requirements.

Capacity

- BOR has failed to disclose its actual location, age and usage of trailers at seven resorts.
- BOR has failed to disclose the impact of 150-mile trail system, usage and probability of implementations, no federal cost projections.

- BOR has failed to provide any documents of unmet needs for day users, failed to disclose the actual increased capacity, which it seeks to achieve through combined trailer removal and redevelopment.

Hidden Supplemental Studies

The BOR failed to include by reference and divulge pertinent information contained in preferential studies conducted congruently while the DEIS was under preparation. Those studies are significant and contain information that would allow a reasonable person to have a scope and vision of this large project.

- This studies are as follows:
-
- Dornbusch Associates – Lake Berryessa Financial Feasibility Study October 2003
-
- Kleinfelder, Inc. – Environmental Compliance and Facility Conditions Assessment Report, Seven Concession Areas, Lake Berryessa, California
-
- Marshall & Swift - Construction Cost Estimates for Alternative B

The Secretary may determine under NEPA provisions based on a determination that the Proponent has either knowingly or inadvertently concealed material facts and/or submitted false information during the review or that the Proponent has segmented the Project.

Omissions

- BOR failed to divulge the annual franchise fee paid by the seven resorts into the Federal Treasury.
- BOR failed to reveal the annual franchise fee percentage of gross revenue assigned to each resorts and when the percentage were last adjusted and rates set by BOR.
- BOR failed to divulge its operational flow at its dispersed and developed day use areas. BOR failed to discuss actual month for month usage of their sites. BOR failed to discuss the indirect and direct cost of running the sites.
- BOR failed to discuss allocated budget monies in FY2003/2004 for Capital Outlay to repair facilities. In some case in the DEIS using a doubling factor and erroneous position stated it would develop or improve areas that were presently under bid or construction phases.
- BOR failed to disclose the operation of their Capell boat launch ramp and deficiencies existing at that location, the unabated problem with Millsholm Loam field adjacent to the parking lot and launch ramp.
- BOR failed to provide any pertinent factors regarding usage at individual resorts. These factors were not disclosed are average daily attendance,

peak demand flow of visitors to resorts in the peak months. The visitor flow rate for day users, boaters and campers. There were no methods to accurately count the visitors entering the seven resorts and BOR stopped gathering information over two years ago from the concessionaires.

- BOR failed to obtain information on the three major peak holiday weekends and events from the seven resorts. Information to judge the overall capacity of the resorts and usage at maximum utilization was neither sought nor important to BOR management to make unquantifiable decisions on capacity. Those holidays were Memorial Day weekend, Fourth of July and Labor Day.
- BOR failed to clearly show the federal property boundaries in the DEIS so an average person could understand and evaluate the land within the federal draw down lines.
- BOR failed to disclose and discuss that the agency did not possess accurate maps and or divulge this in the DEIS. This fact was disclosed in the Kleinfelder Study, page 100.
- BOR failed to define and discuss information contained in BOR Directives and Standards LND 04-01, dated 4/28/02. BOR used this document to implement “Exclusive Use” restrictions.
- BOR failed to follow its own Directives and Standards for an Economic Feasibility Study contained in LND 04-01. Specifically for the Alternative B study by Dornbusch Associates.
- BOR failed to exhibit the boundaries of the seven resorts concessions, acreage assigned to each resort.
- BOR failed to adequately discuss the lack of law enforcement capabilities of BOR, contracts with Napa County Sheriff
- BOR failed to discuss arrest and citation rates within the BOR property by Law Enforcement.
- BOR failed to display and divulge pertinent information for the seven resorts as follows:
 1. Trailers in each resort, use and type, age
 2. Trailers in floodplain in each resort, by BOR classification I –V
 3. Trailers in violation of Health and Safety Codes.
 4. Trailers classified as “dry sites”
 5. Shoreline mileage of each resort
 6. Trailers occupying direct or facing shoreline usage
- BOR failed to divulge alleged pollution hazards to Lake Berryessa by sewage plants and effluent discharges.
- BOR failed to adequately discuss the so called “gray water” discharges to the Lake.
- BOR and the DEIS failed to divulge and discuss its new position regarding “Exclusive Use”.
- BOR officials quoted in a San Francisco Chronicle article 2/5/04. “But, Rodgers says, many trailer owners act as if they own this public acreage.

Actually many of them have rented lots from the resorts for a long times. Such a set-up runs counter to BOR's stated policy of minimizing exclusive use of public land". What Mr. Rodgers failed to clearly state was the fact that 1300 trailers are permittees of the Federal government, (BOR), Also he failed to state that the trailers in question have been in place for the past 40 – 50 years and peacefully coexisted on the land managed by BOR.

- Rodgers also forgot to unequivocally state a major key point that until April 29, 2002 when Reclamation Manual Directives and Standards LND 04-01 was superseded, there was no documents or discussion regarding "Exclusive Use"
- As a rejoinder factor it was not until April 23, 1998 that BOR decided it was finally necessary to establish Concession Management Policy.
- BOR has established its mandates under the cover of a Directive/ Standard without public input or review. This interpretation has cause the present debacle that faces BOR making it unprecedented decision making position.
- BOR has continued to broadcast and release unfounded and untrue information to the Boards of Supervisors, Elected Officials, Congress people and news media. Even as far as quoting that there position is covered by a Federal law. A recent article in San Francisco Chronicle, 2/5/04 is quoted: "The BOR also expresses concerns about fire safety in these old trailer parks, pollution hazards from their aging sewer plants, and general encroachment on the lakes floodplain. Private trailers now occupy most of the best coves that have good road access on the lake's west side. Our draft EIS envisions how that whole area can be cleaned up, opens up, and put to use by a lot more visitors".
- BOR failed to divulge that 98% of all overnight users to Lake Berryessa utilize the seven resorts and do not use BOR developed and dispersed sites. BOR sites are **day use only** and are sterile, passive, and non-supportive of the watercraft usage and absolutely offer no services.
- BOR failed to divulge the number of hospitality/marina facilities existing in the seven resorts, this included lodging, marina, food/retail and other miscellaneous services such as ski courses. Number of marina rental slips, anchorages, fueling points and land boat storage.
- BOR failed to offer a comparison to existing resorts services and facilities and the proposed Alternative B Phase I for the year 2008/2009.
- BOR failed to mention that there would be a drastic diminution in services to implement this project and reductions in excess of 50% during a Phase I redevelopment.
- BOR failed to discuss or divulge information that 98% of all boat launches occur at seven resorts.
- BOR failed to amplify the problems at its Capell boat launch ramp and disclose usage and launches.
- BOR failed to discuss the impacts that the power water craft have upon the lake's operational patterns and its attempts to use the DEIS to implement Draft Water Resources Opportunity Spectrum (WROS) that will severely restrict usage of the lake.

- BOR failed to reveal and give information that 100% of all support services for powered water craft occurs within the confines of the seven resorts. This includes marine fueling, marine safety inspections, ski related services, boat rentals, boat repair, all boat slip rentals and dry boat storage, groceries, restaurants and beverage vending.
- BOR has failed to divulge their “ulterior motives” to remove 1300 privately owned trailers as being the need to implement a massive redevelopment of the seven resorts. This is based on the intent to replace existing trailer sites with new structures, hotels, lodges, cabins, retail stores, restaurants, ski center and new large overnight camping centers with new trailer spaces, with numerous spaces allocated for tent camping. The demolition and removal is necessary to implement all three Alternatives, B, C and D. These amounts to plan obsolesce and is counter intuitive.
- The BOR failed to discuss the arbitrary and capricious condition created by the Water Influence Zone (WIZ). These internal developed parameters place the structures well outside the possible 100 year floodplain and are restrictive and an over exaggeration of the measure to insure trailers are not in the WIZ. The WIZ equals 440 feet above the Mean Sea Line, plus and additional 100 feet linear horizontal or uphill to 540 feet above Mean Sea Line.
- The BOR failed to disclose in the DEIS that a prospective bidder would be responsible for the redevelopment cost, cost to design projects, cost to design to thematic and rustic levels, and all infrastructure cost, site preparation after the resorts are left in a moonscape condition after the 1300 trailers and Concessionaires facilities are removed. There is no explanation of this overall cost factoring for all phases of Alternative B.
- The BOR failed to discuss and disclose the actual amount of Full Time Employees and Seasonal Employees who will lose their jobs at the seven resorts. In this respect the DEIS failed to discuss adverse economic impact loss due to loss of salaries, most importantly loss of skilled craftsmen and maintainers with hospitality, grounds and public works knowledge of facilities systems and utilities. The DEIS said the impact would be minimal.
- The BOR failed to discuss and disclose the direct and indirect economic loss to major providers of services and goods to the seven resorts. It is known that the seven resorts generated \$12.7 million in revenue in 2002. 60% of that revenue was generated from trailer usage. A study was not conducted to analyze the economic loss of these providers such as propane services, electrical, telephone, retail store supplies, beverages and restaurants.
- The BOR/DEIS failed to discuss the negative impacts that this concept will cause to the region during the Redevelopment period and subsequent follow on period of ten-years.

Conclusion

The Supplemental DEIS/Final EIR is inadequate for the following reasons:

1. The DEIS is incomplete because the proposal has either failed to include or has concealed material facts.
2. The DEIS has included false, misleading and deceptive information.
3. The DEIS has failed to fulfill the requirements of NEPA because there is no factual baseline and no comparative analysis.
4. The DEIS does not respond adequately to the Executive Order 12674, Ethics and Personnel Standards.
5. The DEIS does not respond adequately to the Executive Order 11988, Floodplain Management.
6. The DEIS does not respond adequately to the comments of federal and state agencies; federal, state and municipal elected officials; business and other organizations; and individual private citizens.
7. There has been developed a cryptic Economic Feasibility Study outside the context of this document by a consultant firm Dornbusch. The contents of this document are not mentioned in the DEIS material change in the Project prior to the taking of all Agency actions for the Project, which significantly increases the environmental consequences of the Project.
8. The Proponent has segmented the Project to include other operational plans it would like to introduce to supplement this document specifically an attempt to enable Water Resources Opportunity Study. WROS.

For the above reasons, the Secretary of Interior, the Commissioner of Reclamation and the Mid-Pacific Director of Reclamation are required by federal law to respectively to find the DEIS inadequate; or

In the event that the Secretary finds that the Proponent has knowingly concealed a material fact or knowingly submitted false information during the review or the Secretary determines that there has been a Project Change, the Secretary should require the Proponent to repeat the entire process.

Respectfully Submitted

Henry (Hank) Howard.