

## **Local Agency and Tribal Government Comments and Responses**

The following comments were received from other entities. A listing of those entities providing comments is below:

Tehama County Flood Control and Water Conservation District  
Tribal Historic Preservation Office, Narragansett Tribe  
California Regional Water Quality Control Board  
Orange County Planning and Development Services Department

January 14, 2000

W-00-32

EWP Draft PEIS Comments  
P.O. Box 745  
Falls Church, VA 22040-0075

ATTN: Lawrence E. Clark, Deputy Chief for Programs

RE: Comments Regarding the Draft Programmatic Environmental Impact Statement (PEIS), EWP Program Improvement and Expansion, Dated December 15, 1999

Dear Mr. Clark:

Tehama County Flood Control and Water Conservation District (TCFC&WCD), Tehama County California, offers the following comments in regard to NRCS and their Draft PEIS on the EWP Program.

By reference, we include our previously submitted comments to the Notice of Intent (NOI) which discuss our location and general concerns (see attached). The following are our specific comments regarding the current Draft PEIS.

We have enjoyed a great working relationship with NRCS through its EWP Program for many years. We have experienced four state and federally declared disasters since 1995 and NRCS has always been there to aid in protecting life and property. It is encouraging to read in the summary (S-1) that this is ..... "A comprehensive proposal by NRCS to **improve and expand** the EWP Program." Followed by (S-2) ..... "to provide EWP with assistance **more effectively and efficiently**....."

#### COMMENTS RELATIVE TO ALTERNATIVE 1 - NO ACTION

It goes without saying that we feel that the existing EWP Program functions very well. As echoed many times at the Sacramento California hearing on the NOI "If it isn't broke - don't fix it!" However, as we are all aware, some interest groups may feel that change is necessary. Caution is always warranted, however, as is seen in California's CALFED efforts, the unbalanced environmental approach is being brought back toward the middle ground by an outcry from citizens and legislative concerned with life and property in proper balance with nature.

#### COMMENTS RELATIVE TO: ALTERNATE 2-EWP PROGRAM IMPLEMENT AND EXPANSION AND THE 15 ELEMENTS TO IMPROVE THE DELIVERY AND DEFENSIBILITY OF THE PROGRAM.

ELEMENT 7.

We concur that you allow repairs be made using "sound engineering alternatives." With the requirement that we maintain repairs for a three (3) year period it is essential that when we commit our county to maintenance, that the repair was completed with proven, sound engineering.

#### ELEMENT 8.

1 If you propose to limit repair of a site to twice in a ten-year period, it is understood that the time period would begin upon adoption of this Programmatic Environmental Impact Statement for the EWP Program. Is this correct?

2 If a site experienced damage for a third time in the ten-year period and was threatening life and property, such as a private levee break, what agency would step in to fund repairs?

#### ELEMENT 10

3 Proposing to use "Bioengineering" where they make up the "least-cost practical solution" must be carefully implemented. Bioengineering solutions are relatively new and unproven over the test of time technique. They certainly have a place, but when we are required to commit tax payer dollars to a three-year maintenance of repaired locations, it is imperative that we not be asked to experiment in critical locations.

#### ELEMENT 11

4 Would Category 2, Easements Purchase, be funded 100%? Also, we recommend that cropping be allowed for some period of time, say four to six years, to allow the farmer a chance to transition onto other acreage, etc.

5

#### ELEMENT 15

6 This states that demolition or relocation of structures to outside the floodplain would be at "no additional cost to the Government." However, on Page 3-17, it states that it would be based on a 75/25 cost share (which we hope it is). Please clarify.

#### ADDITIONAL COMMENTS:

7 Many agencies are pursuing purchasing easements along streams and in watersheds. Issues of concern to local communities are loss of tax revenue and the effect of introducing riparian forests in floodplains which may ultimately reduce the floodway capacity. Also, new riparian forests may introduce threatened or endangered species which could affect adjoining property. Please address these issues.

8

9 Table S.4-1 points out how the proposed action and/or combined with prioritized watershed planning and management results in an "accelerated shift to greener methods" and reduces the number of "armoring" practices contracted. Again, we reiterate the need for sound engineering judgement and practice when considering the "greener" approach.

10

We commend your efforts in Alternate 3 to Prioritize Watershed Planning and Management. This

**Emergency Watershed Protection Program Programmatic Environmental Impact Statement  
Responses to Comments on the Draft EWP PEIS**

<b>Tehama County Flood Control and Water Conservation District page 1</b>	<b>Tehama County Flood Control and Water Conservation District page 2 (cont'd)</b>
No response required.	6) The Summary and main text have been revised to ensure consistency regarding the cost share ratio which is 75%/25%.
<b>Tehama County Flood Control and Water Conservation District Page 2 Response Begins Below.</b>	7) a. Please refer to the socioeconomic discussions in Chapter 5, Section 5.3 for a discussion of the potential for loss of tax revenue.
<b>Tehama County Flood Control and Water Conservation District page 2</b>	b. The consensus in the scientific community is that introduction of riparian forests improves the floodplain function. Riparian vegetation acts to slow water velocities, leading to a longer flood retention time, as well as a decrease in streambank erosion. While the longer retention time may cause minor increases in floodwater levels, the benefits of the retention far outweigh the detrimental effects. Primarily, the duration of flooding is extended, reducing the velocity and volume of floodwaters in downstream areas, further reducing threats to downstream sediments. Also, turbidity is reduced, as water velocity slows and drops the sediment load and soil infiltration is greater, leading to improved groundwater recharge and soil moisture levels for vegetation. Please refer to Section 5.2.5 of Chapter 5 and Section E.1.2 of Appendix E for further information.
1) Yes, the limitation would begin with the adoption of the new program. There will be no “grandfathering.”	8) Recolonization of riparian areas by T&E species is consistent with the NRCS floodplain easement goal of floodplain hydrologic function recovery (see PEIS Chapter 2, Section 2.4) and the broad mandate of all Federal agencies to help further T&E species conservation, as required under the Endangered Species Act. Adjacent landowners, as well as the local sponsor who would own the easement property, could be eligible for Federal assistance under the Safe Harbor policy from the USFWS. Safe Harbor provides technical and financial assistance to landowners for the purposes of promoting T&E species and their critical habitats. Land uses at the time (including grazing and haying) would be permitted to continue for the duration of the agreement.
2) The intent is to achieve one of the principal goals of program improvement: to reduce taxpayer funding of repetitive repairs at the same location. NRCS would encourage purchase of floodplain easements if a site were damaged for the third time within ten years. However, there may be other State or local programs that may be able to assist or the landowner could perform the repairs with their own funds.	9) see response to comment 3 above
3) Please refer to Proposed Action Element 10 of Section 3.2.2.1. This aspect of Element 10 is wholly adopted under the Preferred Alternative. Bioengineering is a well-founded restoration method, not an experimental technique. NRCS would encourage its use in situations where it is a technically sound restoration method as a substitute for the more frequently used methods that are much less desirable from an environmental perspective. Also note that the NRCS approach and references to the least-cost solution have been revised so the selected method, if it is bioengineering, need not be the least-cost design because it will most likely have environmental benefits that offset higher cost (please see response to USEPA page 5, response #6).	10) Please refer to Proposed Action Element 10 of Section 3.2.2.1 and response #3 to the left. NRCS would not promote or approve the use of bioengineering in situations where it is not technically sound.
4) Under the Draft PEIS Proposed Action and Preferred Alternative, there would no longer be categories of floodplain easements. All NRCS-funded easements under these alternatives would provide 100 percent of the restoration costs.	
5) Allowing a gradual transition from cropping to easement would not be consistent with the purposes of the easement program and would not be allowed. There are compatible uses that might be allowed to the landowner that would bring an economic return, other than cropping. <i>(continued at top of next column)</i>	

pro-active approach combined with funding for pre disaster planning and management is a step in the right direction to prevent flood related damage in the future. The stated locally led involvement is excellent.

We appreciate the opportunity to participate in your proposed changes to the EWP Program. If you have any questions please feel free to call me at 530-385-1462.

Sincerely,

Ernie Ohlin  
Water Resources Manager

John Brown  
Tribal Historical Preservation Officer, Narragansett Tribe  
12/16/99 via EWP 1-800 Message Line

1

"I just received the EWP draft in the mail. I just got it in my hands not more than 15 minutes ago. In going over it, I see no mention of Indian tribes at all in context of the proposal. I see no mention of tribal HPOs or tribal lands under many of the acts cited in the Acronyms. Tribes are required ponder and have their own authority to initiate these sorts of programs, yet in your evaluation, I see no mention of Indian tribes whatsoever. Very strange. I will probably call tomorrow. I have not had a chance to read for content but there is a complete lack of referencing to Indian tribes and a complete lack of tribal involvement that would come at a federal level, state level, and ultimately the private level."

**Emergency Watershed Protection Program Programmatic Environmental Impact Statement  
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<b>Tehama County Flood Control and Water Conservation District page 3</b>	<b>Tribal Historical Preservation Office, Narragansett Tribe page 1</b>
<p style="text-align: center;">No response required.</p>	<p>1) Your points are well taken and we have expanded the text to include discussion of consultation with THPOs, federally recognized tribes, and concerned communities. Please refer to Proposed Action Element 5 of Section 3.2.2.1 regarding environmental and social defensibility for additional information. THPOs were added to lists of coordinating agencies where applicable. These aspects of Element 5 have been wholly adopted under the Preferred Alternative.</p>



**California Regional Water Quality Control Board**  
**Lahontan Region**

Winston H. Hickox  
 Secretary for  
 Environmental  
 Protection

Internet Address: <http://www.mscomm.com/~rwqcb6>  
 2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150  
 Phone (530) 542-5400 • FAX (530) 544-2271



Gray Davis  
 Governor

February 11, 2000

Director, Watersheds and Wetlands Division  
 USDA Natural Resources Conservation Service  
 P.O. Box 2890  
 Washington, D.C. 20013

Dear Director:

**COMMENTS ON DRAFT PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT FOR THE EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM**

Staff of the Regional Water Quality Control Board, Lahontan Region (RWQCB) have reviewed the above-referenced draft environmental impact statement (DEIS). Through the EWP program, the Natural Resources Conservation Service (NRCS) provides technical and financial assistance to landowners whose property is threatened after natural disasters. The EWP program typically facilitates projects such as removal of debris and sediment from channels and floodplains, hardening of streambanks via engineered structures, and repair of damaged structures (e.g., dams, dikes, levees). The alternatives evaluated in the DEIS would implement changes to the EWP program that have been recommended by a federal review panel, including: (1) improve disaster-recovery readiness through interagency coordination, planning, and training; (2) limit repair of sites to twice in a 10-year period; (3) provide for simplified purchase of floodplain easements to preclude the need for future repair(s) of structures built within floodplains; and (4) apply the principles of natural stream dynamics and bioengineering to the design of EWP practices.

State law assigns responsibility for protection of water quality within the Lahontan watershed basin to the RWQCB. The RWQCB implements and enforces the federal Clean Water Act, the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) and the *Water Quality Control Plan for the Lahontan Region* (Basin Plan). Activities that may be regulated as discharges by the RWQCB are not limited to the pumping or pouring of effluent through a pipe, ditch or other point source. Deposits of fill material and any other activities that may contribute to nonpoint sources of pollution (e.g., erosion, surface runoff) are also covered.

1 The Basin Plan contains prohibitions and restrictions on activities that may take place within certain floodplain areas. Given that construction and repair activities conducted under the EWP may pose the potential for adverse effects to water quality, as described in the DEIS, please note that it may be necessary for project proponents to obtain approvals

from this office prior to implementing EWP projects within the Lahontan Region of California.

Staff of the RWQCB support the goals of the proposed action (Alternative 2) to increase proactive disaster planning, reduce development in floodplain areas, and apply 'softer' engineering approaches to stream channel construction projects as appropriate. Accomplishing these goals would restore and improve water quality by reducing the direct, indirect, and cumulative effects of floodplain encroachment and channel hardening.

1 The DEIS presents an alternative to the proposed action that would even further increase proactive disaster planning and the use of floodplain easements. That alternative (Alternative 3) would provide even greater improvements to water quality than the proposed action. We recommend that your agency give full consideration to Alternative 3, in order to facilitate planning efforts that would proactively optimize the use of floodplain easements to reduce the environmental and economic costs of repairing floodplain developments. While the DEIS discloses that Alternative 3 would have higher short-term costs, there would be long-term economic savings and environmental benefits due to the reduced need to repair developments within floodplain areas.

Thank you for this opportunity to comment. Please call Tom Suk, Environmental Specialist, at (530) 542-5419, if you have any questions regarding this letter.

Sincerely,

HAROLD J. SINGER  
 EXECUTIVE OFFICER

TS/shT.mrcs-ewp

**Emergency Watershed Protection Program Programmatic Environmental Impact Statement  
Responses to Comments on the Draft EWP PEIS**

California Regional Water Quality Control Board page 1	California Regional Water Quality Control Board page 2
<p>1) All applicable State and local requirements regarding permitting would be met. NRCS would seek improved coordination between EWP and other emergency programs and require that State Conservationists prepare ERPs that detail working relationships with other groups on the Federal, State, and local levels. These issues would also be dealt with in the pre-disaster planning outlined in Proposed Action Element 6 of Section 3.2.2.1.</p>	<p>1) NRCS recognizes that Alternative 3 “Prioritized Watershed Planning and Management” would likely be the environmentally preferable alternative. However, the agency supports Alternative 4 as its Preferred Alternative because:</p> <p>a. Current law, as interpreted by NRCS legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3.</p> <p>b. To a large extent, NRCS has integrated the management of its watershed programs as described in Alternative 3 within the Water Resources Branch of the NHQ Financial Assistance Programs Division working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. But NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. Under the new Watershed Rehabilitation Program, NRCS works with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. NRCS so far has undertaken 118 projects in 20 States to assess the condition of and repair of more than 10,000 upstream flood control structures built since 1948. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major disasters regardless of improvements under the other watershed programs.</p>



**County of Orange**  
*Planning & Development Services Department*

THOMAS B. MATHEWS  
DIRECTOR

100 N. FLOWER ST.  
SANTA ANA, CALIFORNIA

MAILING ADDRESS  
P.O. BOX 4048  
SANTA ANA, CA 92702-4048

January 6, 2000

Bruce Julian, EWP Program Director  
EWP Draft PEIS Comments  
Natural Resource Conservation Service  
PO Box 745  
Falls Church, VA 22040-0075

RE: NRCS EWP Program Improvement and Expansion Draft PEIS

Dear Mr. Julian:

The Natural Resources Conservation Service (NRCS) has a sterling reputation for assisting local agencies and watershed groups in the restoration of natural communities throughout the western United States. In my attendance at conferences as well as in watershed specific meetings, the NRCS is continually referenced as the one federal agency that has stepped up to help. Aside from localized and somewhat unique efforts from certain other agencies (the Los Angeles District of the U.S. Army Corps of Engineers has been extremely supportive of watershed projects here in Orange County) the NRCS is the first name that I have heard mentioned in assistance programs. It is from this perspective that I have reviewed the Draft PEIS for the EWP Program.

1 The Proposed Action (Alternative 2) identified in the PEIS, if implemented, would continue to increase funding and assistance for needed watershed projects utilizing current recommended practices (the "greener" approach) as opposed to "old school" hard-lining techniques for managing streams. Alternative 3 for Prioritized Watershed Planning and Management would accelerate this high profile and important role to an even greater extent. Our experience is that local agencies and Congress are supportive of the new approach to watersheds and the NRCS should accelerate its activities through implementation of Alternative 3 to meet the increasing interests of local agencies for its assistance programs.

If you have any questions, please feel free to contact me at (714) 834-2486.

Very truly yours,

Michael Weilborn  
Senior Planner



**Emergency Watershed Protection Program Programmatic Environmental Impact Statement  
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<b>Orange County Planning and Development Services Dept. page 1</b>	
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