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Mr. Paul A. Marshall
South Delta Branch
Department of Water Resources
1416 9th Street, 2nd Floor
Sacramento, CA 95814

RE: **Inadequacy of the SDIP DEIS/DEIR**

Mr. Marshall:

I have reviewed the joint Draft EIS/EIR (hereinafter DEIS/DEIR) for the South Delta Improvements Program (SDIP) and wish to comment on its inadequacy to address **paleontological resources (fossils – the remains or trace evidence of prehistoric plants and animals)**.

I note with considerable surprise and disappointment that **potential adverse impacts on paleontological resources resulting from construction of the SDIP physical/structural component have NOT been addressed in the DEIS/DEIR**. Because of the confusion created by CEQA including paleontological resources as a subset of cultural resources, it is not unusual for paleontological resources to be inadvertently overlooked in environmental review documents. However, the absence of a discussion of potential impacts on paleontological resources in the SDIP DEIS/DEIR is particularly surprising since an earlier environmental document prepared to address construction of apparently some of the same components concluded that that project would have **potentially significant adverse impacts on paleontological resources** (see pages 17-8, -12, -16, and -19 in the 1996 DEIR/DEIS on the Interim South Delta Program, California).

Paleontological resources are sensitive, nonrenewable resources. They are not threatened nor endangered; they are already extinct. Thus, it is absolutely essential that we preserve any evidence of them for future generations to study and enjoy. Once they are gone, they are gone forever. Yet, as important and as deserving of protection as paleontological resources are, I do not see anywhere in the SDIP DEIS/DEIR a discussion that addresses the following question in CEQA Environmental Checklist Section V: *Would the proposed project directly or indirectly destroy a unique paleontological resource or site?* **The lack of a discussion on potential impacts on paleontological resources renders the SDIP DEIS/DEIR incomplete and inadequate.**

I strongly recommend that the standard guidelines developed by the Society of Vertebrate Paleontology (SVP) for the mitigation of construction-related adverse impacts on paleontological resources be adopted for the SDIP. The SVP standard guidelines represent a consensus of professional paleontologists in the United States. They have been widely accepted by federal agencies (USFS, BLM, NPS, FERC, etc.) and California state agencies (CEC, CPUC, Caltrans, etc.) with responsibility to protect paleontological resources. Even some California counties (such as Orange) and cities have adopted SVP guidelines. The SVP guidelines are rapidly becoming the standard against which all paleontological mitigation is judged.

Briefly, SVP guidelines require that each project have a paleontological resource impact assessment, including literature and museum archival reviews and a field survey, before a project begins. Then, if the assessment concludes that there is a high potential for disturbing significant fossils during project construction, a mitigation and monitoring plan is prepared that includes monitoring by a qualified paleontologist to salvage fossils uncovered, identification of any salvaged fossils, determination of their significance, and placement of curated fossil specimens into a permanent public museum collection (such as the University of California Museum of Paleontology at Berkeley).

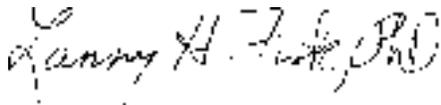
The SVP's standard mitigation measures ensure that adverse impacts to paleontological resources will be less than significant. Without an impact assessment by a qualified professional paleontologist before a project begins and appropriate mitigation measures during project construction, adverse impacts to significant paleontological resources are NOT reduced to a less than significant level as required by both CEQA and NEPA. Therefore, I strongly recommend that before the SDIP Final EIS/EIR is prepared and approved that the SVP standard guidelines be studied and included as part of the environmental mitigation measures.

California has a rich fossil record which needs to be protected and preserved for future generations to study and enjoy. That is clearly one of the reasons why paleontological resources are protected under CEQA. That is also why there is a State law protecting paleontological resources found in California Public Resources Code (PRC) Chapter 1.7, Section 5097.5 entitled **Archaeological, Paleontological, and Historical Sites** (Stats. 1965, c. 1136, p. 2792). PRC Section 5097.5 specifically mandates that *"No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface, any . . . vertebrate paleontological site, including fossilized footprints . . . or any other paleontological . . . feature, situated on public lands..."* and defines any unauthorized disturbance of a fossil site on public land or removal of fossil specimens from public lands in the State of California as a misdemeanor punishable by both fines and imprisonment. In writing this legislation and providing its title, the California Legislature sent a message that **paleontological resources are just as important as archaeological and historical resources**. To adequately address potential impacts of proposed projects on paleontological resources and provide adequate protection for them, environmental impact documents need to include detailed information regarding potential adverse impacts on paleontological resources and proposed mitigation to reduce any potential impacts to an insignificant level. The information provided regarding potential impacts on paleontological resources should be no less detailed than one would expect for archaeological, historical, or even threatened and endangered biological resources.

Thank you for the opportunity to participate in the environmental review process for the SDIP. If you would like to discuss or have questions regarding my comments, please feel free to contact me via either e-mail (Lanny@PaleoResource.com) or phone (916-947-9594 or 530-885-9696). I am concerned that the record of our prehistoric past be protected and preserved for my children and my children's children to study and enjoy in the future. As California becomes covered with more and more concrete and asphalt, our fossil record is rapidly being either destroyed or rendered inaccessible. Many ground-disturbing projects undertaken in California in the past unfortunately have had unmitigated adverse impacts on significant paleontological resources. **The impacts on paleontological resources these development projects are ~~defined by CEQA~~ defined by CEQA**). Appropriate mitigation measures could easily and inexpensively reduce the direct, indirect, and cumulative adverse impacts on paleontological resources to a less than significant level and, in fact, could actually provide beneficial impacts by uncovering and then preserving in museums the fossil record for the education and enjoyment of future generations.

Thank you for listening and responding to my concerns. Please add me to the mailing list to receive copies of all future communications regarding this and related projects.

Respectfully,

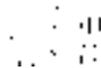


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