

VII. The “Big Fight”: Facts Do Matter

The contracts between the Bureau of Reclamation and the concessionaires of the seven resorts expired in 2009. On October 31, 2003 the Bureau of Reclamation released its Draft Environmental Impact Study (DEIS) with four proposed alternative plans for the future of the lake. Alternative A proposed no substantial change and was the least environmentally damaging. Alternatives B (“Preferred” by Reclamation), C, and D each proposed that all concessions be shut down for two years, long-term sites be destroyed, all resorts facilities and infrastructure be demolished, and only a few new facilities be phased-in over time. Alternatives B, C, and D were the most environmentally destructive. Reclamation claimed it provided a reasonable range of alternatives. The Lake Berryessa Visitor Services Planning Task Force (LBVSPT) strongly disagreed.

The public comment period for the DEIS ended on April 22, 2004. The LBVSPT presented a detailed alternative plan - Alternative A+. Alternative A+ was a common sense fiscally-responsible alternative, simply described as “Preserve the Best, Improve the Rest.” A petition signed by 12,500 lake stakeholders (10,000 valid written signatures and 2,500 on line votes) supporting Alternative A+ was submitted to Reclamation. Reclamation was required under the National Environmental Protection Act (NEPA) to analyze all of the comments and propose a final plan which was scheduled to be released sometime in 2005.

In early 2001 Reclamation embarked on a media campaign designed to negatively influence public opinion towards the resorts and the long-term sites. They took reporters and politicians on tours of the lake highlighting only the worst situations. The fact that Reclamation was responsible for causing the situations they were now condemning seems to have been lost on the media.

In 2003 Reclamation published a propaganda brochure and slide show which was extremely dishonest in its negative portrayal of the situation at the lake. They blamed the mobile homes at the lake as the cause of water pollution, of blocking public access to the lake, of local businesses failures, and of health, safety, and environmental damage. They wanted the mobile home owners to destroy their property and get out - at their own cost with no fair compensation! They also wanted the resort owners to demolish all facilities and get out – again at their own cost with no fair compensation as is required by Public Law 96-375!

(Author’s Note: This is the response from Task Force 7 at Lake Berryessa to Reclamation’s propaganda campaign to mislead the public regarding the facts of their misguided Visitor Services Plan - VSP.)

To: Tom Aiken, Area Manager, Reclamation, August 12, 2003
From: Peter Kilkus, Task Force 7 at Lake Berryessa

Our organization would like to formally protest the Bureau of Reclamation's public presentation and recently-released brochure regarding its Visitor Services Plan. Having sat through the slide presentation twice and reviewed the brochure in detail I must say that they are crudely unprofessional in their attempt to blame every problem that ever occurred at Lake Berryessa on the existence of mobile home sites at the resorts.

First Reclamation shows multiple slides of sewage violations at uncontrolled dry sites that have not existed for more than two years (and could not exist under any circumstances in the future) to paint all mobile home and trailer owners as crass polluters. This is as

offensive as it is untrue. Reclamation was entrusted with the responsibility to know of these violations. Even a process of resort self-inspection and reporting should never have been allowed without a strong auditing program in place. It was the California Watershed Posse and the California Regional Water Quality Board that ultimately resolved a situation that should never have existed. The attempt by Reclamation to now take credit for this resolution would be downright amusing if it were not for the fact that it exemplifies Reclamation's less than honest approach to this whole issue.

The silliest slide of the bunch is the one showing a closed business on Knoxville Road. Reclamation states "The local economy receives little benefit from the current long-term private uses (observe the lack of restaurants, stores, and service stations under the current conditions)..." But Reclamation itself states that there are more than 1.3 million visitors per year to the lake, and in the same breath says that there are "only" 1,300 trailers which don't contribute more than a few thousand visitors per year. If 1.3 million visitors can't support local businesses outside the resorts, how could 1,200 trailers hurt them?

The reasonable private use of public land is a long-standing American principle especially when that use supports the common good and provides additional revenue for operations that could not otherwise be funded. Many examples exist from the leases of cabins by the U.S. Forest Service in Colorado to more substantial grazing and mining leases - including the privately-owned concessions at Lake Berryessa. The reason the long-term sites are important in this context is that they provide at least 30% - 40% of the revenue to fund the short-term recreation opportunities at the lake.

Under Reclamation's own guidelines - "Private use of public lands and lakeshore should not continue into the future" - the concessions themselves (private companies which are guaranteed a profit by the government) should be eliminated since they are the most egregious example of public use of private land that can be imagined! Some people believe that all recreational opportunities should be provided gratis by the government (all the taxpayers) as a public service. Any fair-minded person knows this idea is a fantasy. Concessions operate in all our national parks; state parks are not free. What is necessary is a balanced plan to provide varied recreational opportunities at reasonable cost to citizens.

There is no scientific evidence that long-term sites have polluted the waters of Lake Berryessa. There is no economic evidence that long-term sites can be easily replaced by other revenue sources. There is no numerical evidence that large numbers of Californians are being denied access to the lake because of the long-term sites. The problem is in the mind of the obsessed bureaucratic beholder, not the eye of the informed rational observer.

A reasonable number of long-term sites conforming to applicable health and safety codes and providing a baseline revenue during rainy seasons or droughts must be part of any common-sense future plan for the lake. The Bureau of Reclamation had a plan that was 80% complete in 1993! Where is their plan today? Spinning Power Point slides showing non-existent sewage violations and amateur Photoshop depictions of tents on a hill are not a plan.

Also in October, 2003 a team of Task Force 7 at Lake Berryessa travelled to Washington, D.C. to meet with Bureau of Reclamation staff and member of Congress. The team consisted of Peter Kilkus, Pat Monaghan, Jim Monaghan, Ed Rossman, Ron Rusher, and Diane Rusher. The primary objective of the trip was to present the 10,000 valid signatures to the Department of the Interior's Bureau of Reclamation. The petitions in the binder were gathered at Lake Berryessa

and surrounding areas between May and September, 2003. They represented the views of thousands of full-time residents, long-term-site permittees, campers, boaters, guests, and friends of the lake. The petition introductory statement was:

To The Bureau Of Reclamation And Our Elected Representatives: We, The Undersigned, Are Opposed To The Bureau Of Reclamation's Intention To Remove All Long-Term Sites At Lake Berryessa. We Do Not Believe There Is A Compelling Public Policy Reason For This Harmful Action, Which Would Devastate The Community And Cause Economic Hardship To Many Citizens. We Support The LBVST Alternative Plan, Which Retains Long-Term Sites, Advocates An Environmentally Sound Policy For Managing The Lake, And Provides The Public With A Rewarding Recreational Experience.

The Facts

1. There had been no impact to water quality nor any significant impact to any other environmental criteria from the resorts or long-term sites. Data was available from the Solano County Water Agency and others which proved this. Sewer systems were all adequate and did not pose an imminent health threat to water quality.
2. All development at Lake Berryessa was planned and approved by both Napa County and the Bureau of Reclamation. All resort facilities and mobile homes were built to existing code and could have been brought up to new codes through planned improvements or replacements without total destruction and rebuilding. There was no imminent danger to health and safety due to fire standards or structure setbacks.
3. There was open access for all Americans. No one was being blocked from using the lake. The lake provided an integrated diversity of recreation for people of all economic and social backgrounds - more than 1.5 million people a year.
4. Long-term sites provided 30-40% of the gross revenue of resorts, supported short-term uses, and were a financial foundation for resort operation, especially during winter months and drought years. Local businessmen were vehemently opposed to the loss of the long-term sites. They believed it would have serious repercussions for them and, along with the closure of the lake for two years, could result in business failures.
5. This was a government private property grab that should have been stopped! The reasonable private use of public land is a long-standing American principle, especially when that use supports the common good and provides additional revenue for operations that could not otherwise be funded. The US Forest Service stated that "Recreation residences are a valid use of National Forest System lands, and an important component of the overall National Forest recreation program." The Forest Service Recreation Residence program gives private citizens the opportunity to own a single-family cabin - 15,570 exist now. Why did the Bureau of Reclamation want to destroy 1,300 vacation homes at Berryessa in direct contradiction to a government policy?

Lake Berryessa should be an important recreational resource for all Americans. Unfortunately, the poor management of the lake by the Bureau of Reclamation and its media propaganda blitz at the time had left many people with a very negative impression of the lake.

Lake Berryessa is 26 miles long, 3 miles wide with 165 miles of shoreline - plenty of room for all forms of recreation. Battling over 3.75% of the shoreline occupied by long-term sites did not make sense. Destroying millions of dollars of perfectly good private property, living accommodations, and resort facilities made even less sense.

All the stakeholders in developing a successful Lake Berryessa plan had one common goal - to make Lake Berryessa a rewarding vacation experience for visitors while protecting the environment. All other issues could have been addressed and resolved in a reasonable way without closing the lake to the public for two years and demolishing everything that existed in order to replace it with less.

Chamber of Commerce Businesses Fight Back

The Lake Berryessa Chamber of Commerce originally commended the Bureau of Reclamation for re-examining the economic viability of their proposed plan. Everyone wanted Lake Berryessa to be accessible to the public, provide the infrastructure necessary to service a broad range of needs, and to the maximum extent possible, be economically self-sufficient. The Lake Berryessa Chamber of Commerce united businesses, local leaders and concerned citizens of the Lake Berryessa area with the mutual goal of achieving a better and more prosperous community.

The Chamber's objective was to work cooperatively with all members of the Lake Berryessa community to significantly improve economic conditions in the region as well as improve recreational opportunities for the public. However, Reclamation's plans appeared to be inconsistent with those desired results.

Not only was the Socio-economic Environment section of the Draft Environmental Impact Statement (DEIS) superficial in its analysis of the economic effects of the Reclamation's plans on the local and regional economy, Chamber members were not aware of any needs assessments, meetings, or discussions with them prior to the DEIS release.

The Lake Berryessa Chamber of Commerce believed that the Summers and Summers Economic Analysis called into serious question the financial viability of Reclamation's plan. If the Bureau of Reclamation were to carry out the proposed closure of the Lake and complete demolition of the existing infrastructure, the consequences for all of the local, as well as regional, businesses would be devastating. The Chamber believed that you did not have to destroy the lake to renew it!

Several groups had proposed economically-viable plans that would have increased access for short-term visitors, upgraded or removed mobile homes that did not meet reasonable health and safety standards, and provided an enhanced recreational experience for all lake users. The most detailed of these had been prepared by an historically-unprecedented coalition of all seven concessionaires. These were business owners who had the most detailed knowledge of the practical economics of running a resort. They agreed with the Summers and Summers analysis. They also agreed that there was no need to remove all the long-term sites which provided a legitimate recreational opportunity for citizens as well as a stable revenue base to allow them to enhance recreational facilities for short-term visitors.

Lake Berryessa Resort Owners Plan: Future Recreation Use and Operations of Lake Berryessa

"Our mission is to manage, operate and develop the Resorts at Lake Berryessa - to provide the access and facilities to the public for recreational opportunities - to optimize

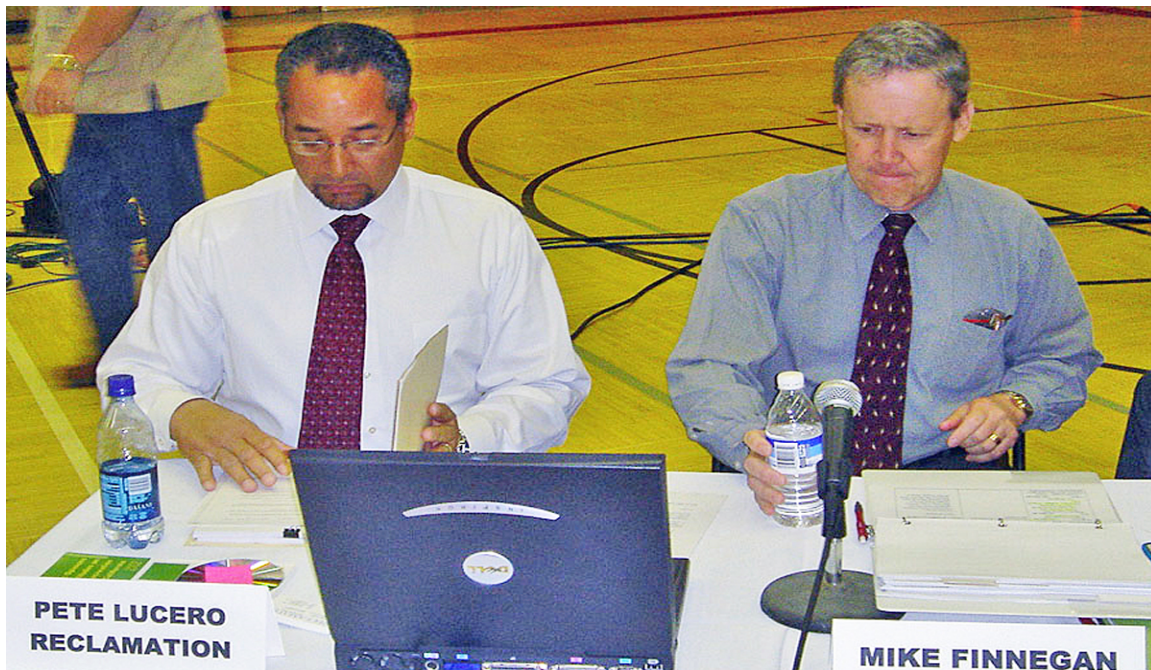
visitor experience, to provide services according to contemporary public needs and demands, to promote opportunities for families, to provide access and use for enjoyment to present and future generations - in a healthy and safe environment, consistent with other authorized functions of the Solano Project, according to the principles of the Public Use Plan and Reservoir Area Management Plan."

This was a time of opportunity for Reclamation, the resorts, local businesses, residents, and Napa County to work together to bring new life to the area. And this it all fit the spirit of the National Environmental Protection Act (NEPA) which aims to "encourage productive and enjoyable harmony between man and his environment...to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

Residents Fight Back

More than 900 people with a stake in Lake Berryessa's future packed the Winters High School gym to the rafters to denounce the Bureau of Reclamation's effort to eliminate long-time family recreation. The Bureau of Reclamation's plan for Lake Berryessa continued to grow in unpopularity. Reclamation had little or no support at any of the meetings they attended.

This was dramatically proven at the Winters Town Hall meeting on Nov. 19, 2005 where about 900 people, many not trailer owners, and the Winters City Council were highly critical of Reclamation's plan. The Oakland Tribune titled their article "Residents unleash scorn on Lake Berryessa revamp". An article in the Winters Express titled "Hundreds protest lake plan" reported the Winters meeting in extensive detail - none of it favorable to the Reclamation or their three or four environmental mouthpieces who attended. This was followed by the Solano County Board of Supervisors meeting on Nov. 22 which the Vacaville Reporter headline characterized as "Supes hit at plan for Berryessa" and Reclamation officials were feeling the heat.





Kirk Rodgers, Reclamation Regional Director, who was to sign the final Record of Decision, was in the Winters audience. Did the fact that his plan is being repudiated by most members of the local community make a difference to him or would he just try to ram this unpopular plan through as quickly as possible? Berryessa residents and businesses, not just mobile home owners, were well-represented in Winters.

The Lake Berryessa Chamber's 56 business members were nearly unanimous in opposing Reclamation's plan for Lake Berryessa. As owner/editor of the Lake Berryessa News I traveled a 150-mile paper route every two weeks through Fairfield, Napa, Yountville, St. Helena, Calistoga, Angwin, Pope Valley and all around Lake Berryessa. The hundreds of people I talked to - local residents and businesses - once again not just mobile home owners - were also nearly unanimous in opposing the Reclamation plan.

When people finally understood what the government was trying to do, they were incredulous and wondered what was wrong with the Reclamation. The City of Winters agreed. This was absolutely not a "trailers-only" issue! How could the government force a plan like this down the throats of an unwilling local community when excellent lower-cost alternatives existed?

Conspicuous by his absence in Winters was Congressman Mike Thompson. Lake Berryessa and Winters are in his district, but his constituents cannot depend on him for the most minimal of support. Also conspicuously missing was Lake Berryessa Napa County Supervisor Diane Dillon. However, Napa Supervisor Harold Moskowitz was there to defend Lake Berryessa and oppose the Reclamation plan with a rousing statement about the true economics of owning a resort and a rebuttal to allegations about the cost of the lake to Napa County.

But where is Congressman Thompson? After ignoring hundreds and hundreds of letters, emails, and phone calls, he finally popped up in a Napa Register editorial. He piously wanted us to believe he really cared about an open process, but immediately started talking partisan politics. This was

another example of Mr. Thompson's policy of "pretend that I care and hope to God no one notices I'm not really listening". And after the "revolt of the constituents" at Winters, he is reported to have immediately sent in his aide to buy off the Winters City Council, implying he'd get any changes they wanted into the Reclamation plan.

Not only has this process not been open or transparent, it has been invisible! This is not a partisan issue. It is about bad planning and bad faith on the part of the government. It's about not listening to real people. Republicans and Democrats alike should, And Do, oppose the Reclamation plan.

It was not an environmental issue either. Although some supporters of the Reclamation plan continued to lie about it, there were no sewage or health and safety problems at the lake. Mike Finnegan of the Reclamation confirmed this in Winters last week when he stated that there were no problems at the resorts as far as the Reclamation is concerned.

Peter Kilkus stated, "I have a kayak and a jet ski, a mountain bike and a boat, hiking shoes and an ATV. My family and I use them all regularly. Supporters of a reasonable plan for the lake are trying to be inclusive without destroying the best parts of what exists. There is room for everyone - Preserve the Best, Improve the Rest."

The first choice in the government's list of ways to remake the lake was to scrape the place clear of all facilities (launch ramps, restaurants, existing campsites - not just the mobile homes now dotting the lake's shores) and open the place up to more campers, canoers, hikers, RVs and the so-called "short-term user." Those at the lake then derided the plan as a fantasy effort to remake the lake into something it has never been - namely, a wilderness recreation area. What would happen, they feared, is that the Bureau of Reclamation would destroy a community that has called the lake home for 50 years. This is exactly what happened!

The government plan, released in final form, remained essentially unchanged from earlier drafts. It suggested the Bureau "permanently remove" all of the mobile homes and trailers. Lakeshore areas at the seven resorts serving the lake would be restored to "a more natural setting" with improved public access. Those paying rents to the resort concessioner to use their mobile homes would be gone, along with their revenue which helps support short term users. Their spots would become campsites, picnic areas, RV sites, rental cabins - an economic model that did not work well when the original resorts were created.

Winters, perhaps the closest town to the lake, labeled the plan "the economic equivalent of a military base closure to our community," and various business owners spoke at the meeting of the devastation such a dramatic overhaul might trigger. Indeed, the discussion - technically a Winters City Council meeting - came three weeks after Rep. Richard Pombo, R-Tracy and chairman of the powerful House Resources Committee, asked Interior Secretary Gale Norton to hold a town meeting. "We've been contacted by hundreds of constituents," said Kiel Weaver, a Pombo aide who flew in from Washington, D.C. The bureau hasn't made a final decision, and other options - including staying with the status quo - remain on the table. "Take my word for it, or someone you trust," said Mike Finnegan, the bureau's regional manager. "Not you," came a catcall from the crowd.

Task Force 7 requested a meeting with Reclamation for permittees. Reclamation ungraciously agreed "even though permittees are only one special interest group." Reclamation was clear that all long-term sites were to be removed in any new plan. TF7 representatives meet with Reclamation again in August to discuss the Visitor Services Plan. TF7 representatives met with Bruce Wadlington and Cecil Leslie to discuss the VSP. Reclamation again made it clear that

mobile homes must be removed as part of any plan. Reclamation stated that permittees have no rights and have paid "\$10,000 for a trailer and \$50,000 for a view."

Previous Reclamation Resource Manager, Eric Natti, had told a permittee that he hated the trailers and if it were up to him he'd get rid of every trailer on the lake. He implied that the Reclamation was going to bring in someone who would help get rid of all the trailers. Natti, according to other sources, had undue influence over Congressman Thompson's negative views of the lake situation. Regarding Congressman Thompson's statements that he was neutral and only wanted to see that the correct process was followed, the following is an excerpt from the Berryessa For All lawsuit:

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Reclamation defined away any option that would allow long-term sites, because Reclamation intended all along to eliminate the long-term sites, and simply sought post-hoc justifications to do so. This intention is manifest in the briefing to Congressman Thompson. In a document titled "Special Notes to Congressman Thompson" an unnamed Reclamation official writes:

"In an earlier meeting you asked two things which I was not able to answer thoroughly at the time. I now have the answers to those questions and discovering them has led to a high degree of personal commitment in the direction we should proceed. The questions you asked are: (Question 1 skipped.)

2. You (Reclamation) and I (Thompson) need more support to eliminate trailers than just that they are ugly, it is an inappropriate use of government land, and it keeps the general public from being able to fully use the area.

ANSWER - We have begun identifying a large number of environmental and health and safety codes. These factors will end up having much more leverage than just the desire to improve the area and get away from long term exclusive use. Many of these factors are already coming into play."

[City of Winters Fights Back](#)

On October 19, 2004, the City Council of Lake Berryessa's sister city, Winters, unanimously passed a resolution criticizing the Bureau of Reclamation's proposed plans for Lake Berryessa. It was so accurately prescient in its concerns, especially Sections 4 and 5. Ironically, our stated efforts to "Preserve the Best, Improve the Rest." of Lake Berryessa received no support from Napa County, any Napa city, nor our own Congressman. And Reclamation clearly ignored the concerns of the City of Winters.

RESOLUTION NO. 2004-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS CALIFORNIA IN REGARDS TO THE LAKE BERRYESSA RE-USE PLAN UNDER CONSIDERATION BY THE BUREAU OF RECLAMATION. BE IT RESOLVED by the City Council of the City of Winters as follows:

WHEREAS, the Bureau of Reclamation are currently pursuing a Re-Use Plan for Lake Berryessa which serves as a main attraction and economic center for the City of Winters; and

WHEREAS, the City relies on the activity in an around the Lake to provide jobs and tax revenues to help subsidize the local economy and City operations; and

WHEREAS, the critical link between Winters and Lake Berryessa has been in existence since the original construction of the Monticello Dam; and

WHEREAS, under the re-use proposals, significant changes may occur which will significantly change the use of the Lake and the positive fiscal impacts to the City of Winters; and

WHEREAS, the City Council now wishes to express our concerns on the most important concerns and impacts to the Winters Community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters that the City declares as follows:

- Section 1. Closure of the southerly concession areas (Markley/Pleasure Cove's) (partially or fully), even for renovation for an extended period could pose a serious economic impact to lake serving businesses. The City receives a significant amount of our sales tax from boaters passing to and from Markley Cove.
- Section 2. The projected re-use of the areas, including reduction of day boaters and motorized craft from the Cove's would provide for a considerable loss of local business to the Winters community. As described, the use of Berryessa would change to a greater houseboat and non-motorized use versus the current mix.
- Section 3 The proposed uses for these areas would change from a mostly year-round to seasonal, thus reducing revenues to Winters for prolonged periods.
- Section 4. Risk of single operator of an area the size of Lake Berryessa with the described multitude of uses. The selection of a single operator is inherently a significant risk because of the potential for failure.
- Section 5. The lack of a phased approach by canceling all existing contracts within a two year period could create a catastrophic situation in the event that plans are not available for a transition of control and Lake management for users.
- Section 6. Effects on citizens of Winters who extensively utilize Lake Berryessa.
- Section 7 Under the current plan, it appears unlikely that the local operators could be as competitive as larger corporate operators in gaining the re-bid concession contracts. There is considerable uncertainty and probability that local operators could be required to remove existing facilities while a new operator installs new. This transition of deconstruction and construction could take many years.
- Section 8. The City currently benefits in our traffic from the boat storage capabilities at Markley Cove. The current plan does not adequately define how this area might be re-used. If less storage is allowed, the City could experience a higher volume of boat transport traffic than currently experienced.

- Section 9 Local employment- A number of Winters residents are currently employed by the local operators. The uncertainty of re-use and local employment is a concern.
- Section 10 As proposed, the re-use plan appears to begin the exclusion of many of the current users of the Lake, for a more exclusive and restricted access for non-motorized users.
- Section 11 the current interpretation of Public Law 93-975 by the Bureau's seems inherently unfair to the current concessionaires. As adopted, PL 93-975 specifically provided for fair compensation to the concessionaires for improvements made at the facility, in the event that another lease was issued. It appears that under the current plans, these concessionaires would receive no compensation for facilities or improvements, which seems unjust.
- Section 12 It is the request of the City Council of the City of Winters that the Bureau of Reclamation reconsider the use of Option B as the preferred alternative which includes a combination of multiple concessionaires and a phased implementation/transition of use.
- Section 13 It is recommended that the Bureau consider other options put forth by citizens such as "A+" which recommends that the Bureau undertake a vigorous clean-up program of existing residences and leases to bring into compliance existing rules, ordinances and laws.
- Section 14 The City Council believes that Reclamation's DEIS Alternative "B" has not addressed the broad range of concerns of local communities like Winters. The Council therefore requests that the Bureau of Reclamation open a formal public comment period for the economic analysis of the plan as well as reopen the comment period on the DEIS itself because of the lack of economic data to support the DEIS as proposed.

PASSED AND ADOPTED this 19th day of October, 2004 by the following vote:

AYES: Anderson, Fridae, Stone, Mayor Martinez; NOES: None; ABSENT: Chapman