BRISBANE CITY COUNCIL
SUMMARY MINUTES

SPECIAL MEETING TO DISCUSS THE BAYLANDS
THURSDAY, FEBRUARY 28, 2017
BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

Mayor Liu called the meeting to order at 7:32 p.m. and led the flag salute.

ROLL CALL

Councilmembers present:	Conway, Davis, Lentz, O'Connell, and Mayor Liu
Councilmembers absent:	None
Staff present:	City Manager Holstine, Counsel Krumbein, Administrative Services Director Schillinger, Interim City Clerk Padilla, City Engineer Breault, Community Development Director Swiecki, Commander Meisner, Fire Chief Myers.

ADOPTION OF AGENDA

CM Conway made a motion, seconded by CM Lentz, to adopt the agenda. The motion was approved 5-0.

PUBLIC HEARING

A. Brisbane Baylands Planning Applications (Baylands Concept Plans, Brisbane Baylands Specific Plan Case SP-01-06, General Plan Amendment Cases GP-01-06/GP-01-10) and related Final Environmental Impact Report (SCH##2006022136). Specific topics include Water Supply, Public Services and Facilities, and related policy issues; Universal Paragon Corporation, applicant; Owners: various; APN: various.

Lloyd Zola of Metis Environmental Group, consultant to the City, gave the presentation. [Note: the presentation is available on the City's website].

CM Conway asked if pre-1914 water rights had ever been challenged.

Special counsel Krumbein said she would get back to the Council on that topic.

CM Conway asked the City Engineer if a development in the Baylands procured water rights and was built, would the City pay two different water rates?

City Engineer Breault said that would depend on the final water purchase deal, once the Council has made a land use decision and a project is approved.

City Manager Holstine said the City looked at that issue several years ago. He said it may be advantageous to the City and its current water users to have a unified rate and water system. He said the City would not want to subsidize a new development. A greater economy of scale could drive the cost down for the entire city.

CM Davis said the Planning Commission meeting minutes reflected disagreement over whether the Environmental Impact Report (EIR) evaluation of windsurfing impacts was correct. Many windsurfers and Brisbane residents thought the EIR's finding of no significant impact was incorrect.

Special counsel Krumbein noted that windsurfing was included in the Recreation Services topic, which was scheduled for the March 16, 2017 meeting.

CM Davis said she would pose her question again at the March 16 meeting. She referred to a 2013 letter from the Modesto Irrigation District (MID) to the City in response to the EIR. She asked how the flow of water would be impacted by the irrigation season.

Mr. Zola said that would be known once a total flow amount is determined for the land uses approved by the City on the Baylands. Whatever flow amount is ultimately needed, it would not come in equal amounts 365 days per year. There would be periods of time when Oakdale Irrigation District (OID) would move several months of supply at one time. MID's typical supply in their reservoirs, means for storage capacity, and other operations-related issues would be addressed in an operations agreement prior to any water supply agreements. Each district would have agreements addressing when they would accept water and when they would move water. It would become a negotiation between the water districts to ensure their existing service would not be disrupted by the water transfers.

CM Davis referred to page 12 of the staff report, item E, regarding the location of schools. She said she assumed pile driving would impact the ability of children to focus and learn. She assumed that schools would have to be built towards the end of the buildout to ensure no negative impacts to school children by construction noise.

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Mr. Zola said schools could be phased later in the construction process, or pile driving could be completed early in the process. The siting analysis would evaluate how the Baylands could meet the school location standards, taking into account the highway and construction impacts. The developer's plans would need to satisfy the school siting requirements.

CM Davis asked for confirmation that pile driving would be considered in relation to the school siting analysis.

Mr. Zola confirmed.

CM Davis referred to page 13 of the staff report addressing how exemptions may be granted to allow schools to be sited in locations otherwise found inappropriate. She asked what would happen if the School Board did not request such an exemption and the children in the Baylands development had to go to existing District schools.

Mr. Zola said there was no capacity in the District's K-8 schools for the potential children resulting from the developer sponsored plan. Ultimately the School District's exemption could be denied by the State Superintendent. The District and developer could choose to build a school elsewhere.

CM O'Connell said the Council could not force a school to be built on the site or elsewhere.

Mr. Zola agreed that the City had land use authority but did not have authority over where a school could be built. It would be incumbent on the District to find space for the children living in the Baylands.

CM O'Connell said the District could opt for increased class sizes rather than build new facilities.

Mr. Zola agreed.

CM O'Connell said page 279 of the Council packet noted the City would expect two to three times the calls for Brisbane Police Department services. She requested clarification of a "beat" compared to a "24/7" shift.

Mr. Zola said at least one 24/7 officer would be needed, which translates to five officers throughout the day. There being little call for service to the Baylands in its current state, the Department has assigned only one geographic area, or "beat", for patrol. However, should the site develop as proposed, additional "beats" would be necessary.

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CM O'Connell said page 283 of the Council's meeting packet stated no library would be needed until at least half of the proposed units were built. She asked if the developer would be required to prepay those funds prior to occupancy of the units to ensure funds were available in Phase 2.

Mr. Zola said that would depend on the implementation procedures. The City could require monies to be set aside on a building permit basis, and then the City could use those funds to build a library. Another method is to require that the developer construct a library, which would be part of a Specific Plan. The Commission recommended that the availability of community amenities be tied to the development phases.

CM O'Connell said Mitigation Measure 4.O-1-A talks about water delivery before any building permits are issued for habitable structures. She asked if that meant occupied structures or homes.

Mr. Zola said it would mean any kind of structure that requires plumbing. Buildings such as storage buildings not occupied by people would not be included.

CM O'Connell asked how impacts to police and fire services were evaluated.

Mr. Zola said the applicable CEQA threshold was not whether the City would require new officers, but rather whether the project requires new facilities that would have an impact on the environment. The number of officers needed was a prelude to the facilities needed. A substation would be part of any of the development scenarios. Since the existing main police station is adequate, there is no CEQA impact to police, hence the recommendation for a facilities and services plan. The same applied to fire services. The Planning Commission recommended that those plan requirements be embedded in the General Plan.

CM O'Connell said various special funding districts were discussed in the Council's meeting materials and asked for an explanation of those districts.

Mr. Zola said staff could come back with a detailed explanation of those districts.

Mayor Liu said the Mello-Roos District requires a certain number of qualified electors. She asked how that would be applied since there were no voters in the Baylands.

Mr. Zola said a Mello-Roos District was often used for undeveloped areas. If there were no registered voters, then the property owners of the subject properties would vote to establish the district. There was no minimum number of property owners.

CM O'Connell said the landowners could vote themselves a special district and pass bonds.

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Mr. Zola agreed but noted a special district could not be established without the City's consent.

CM O'Connell requested additional information on enhanced infrastructure districts.

CM Lentz said the City would need 400 acre-feet (AF) per year to provide water for the General Plan buildout not including the Baylands. He asked what mechanisms were in place to get that water should the Baylands not develop.

City Engineer Breault said the SF PUC would need to change its water supply agreement with all other agencies in BAWSCA in order for the City to obtain additional water. He said recently other cities had agreed to transfer a portion of their guaranteed supply that they are not presently using to cities in need, which may be possible for Brisbane in regards to the 400 AF amount.

CM Lentz said water recycling plants might reduce the amount of new water supply needed. He asked if OID had a minimum AF of water they wanted to sell to the city.

City Engineer Breault said they had not discussed minimum supply amounts with the OID.

CM Lentz said because the Baylands is within the Bayshore School District, the Brisbane Elementary School District wouldn't receive any property tax revenue from the buildout of the Baylands. He asked if the City could negotiate with the developer for funding to use toward helping some children attending the Brisbane School District through a development agreement.

Mr. Zola said the City could discuss the benefits the developer was willing to offer to the Brisbane School District in negotiations for a development agreement. He said the developer could work out separate agreements with the school districts in question to agree how benefits from development could be shared between districts.

CM Lentz asked if the school would be a K-8 or high school.

Mr. Zola said the school demand was for K-8 only, as the other high schools in the District had adequate capacity.

CM Lentz asked if the City could require other public buildings to be built, such as museums, gyms, or a health center.

Mr. Zola said that would be part of the City's General Plan policies and review of the Specific Plan. There is no existing City policy that requires a museum to be built, for instance. The City should look at the nexus between the development and the desired amenities. He noted that the Council deliberations had two components: looking at the physical impacts of the development

as proposed, and looking at the long-term planning vision for the future of the Baylands. He said the planning vision should take the lead and the CEQA review would follow. Many of the impacts discussed revolve around what the land use will be.

CM Lentz said the Bayshore Sanitary District handles the Baylands' wastewater. The City would have to work with the Bayshore Sanitary District and the SF PUC to build a new wastewater treatment facility on the Baylands.

Mr. Zola agreed and said the EIR studies a proposal for a wastewater recycling facility rather than a sewage treatment plant. The proposal is that excess wastewater and solids would be discharged to SF PUC for treatment, as Brisbane's wastewater is currently.

CM Lentz said the Open Space Plan could incorporate the proper handling of stormwater before it goes to the Bay.

Mr. Zola said the grading and drainage plan was required to address certain water quality provisions.

Mayor Liu said a maintenance district could pay for infrastructure and public improvements, and asked if that was in place at Sierra Point.

Mr. Zola said maintenance districts were set up to maintain parkways, medians, landscaping, parks, and open space.

Mayor Liu said if the developer paid for construction of public buildings, such as a gym or community center, the operating costs would fall to the City. She asked if there was a way to require the property owners to pay for the ongoing maintenance costs of facilities built by the developer.

Mr. Zola said the applicant would likely not be the property owner in perpetuity. That issue would be considered at a Specific Plan level, as part of a development agreement.

CM Lentz said the Northeast Ridge pays annually for habitat restoration on San Bruno Mountain. He asked if a similar mechanism could be in place for properties on the Baylands to maintain public facilities.

Mr. Zola said there are some limitations but that would be part of the discussion with a development agreement tied to a Specific Plan and its description of on-site maintenance.

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CM Lentz noted the pool is an example of a valued community amenity with a high maintenance cost. He said the Baylands should be self-sufficient and have funding mechanisms in place for maintenance.

MR. Zola said most cities' General Plans require that development pay for itself. That is clear in terms of infrastructure and capital facilities, but part of what will be discussed in the economics discussion is ongoing operations and maintenance.

Mayor Liu said the projection for water demand outside of the Baylands for 2030 is greater than what can be supplied by SF PUC, and asked for the basis of that analysis.

City Engineer Breault said they considered known projects, non-Baylands proposals, planned development at Sierra Point, water trends use, and the existing water supply guarantee.

Mayor Liu opened the floor to public comment.

Paul Bouscal said the City would not need to make agreements with other water districts if housing wasn't an issue. He thought a new water tank would make sense on the Levinson property because of the SF PUC Crystal Springs pipelines on that property and service for the region on Main Street. He said housing isn't allowed in the General Plan, and he liked mixed-use on Industrial Way. It would serve the City and the region to annex the northern portion of the Baylands to San Francisco for housing development, with the agreement that the Highway 101 extension be completed. The developer needs the housing to make their project work. He was concerned with the water tank location. The Levinson property is a wildlife corridor. The City could acquire that land and the Peking property. Ice House Hill did not make sense as a water tank location. He was confident the SF PUC would agree the 400 AF per year would not impact them. He wanted to pursue something on that magnitude. He said the facilities were needed to serve housing, so the need for facilities would be eliminated if the land was annexed to San Francisco. He was disappointed that the Public Works maintenance yard was not considered as it was key to community health and safety and its current location was vulnerable.

Clara Johnson read from her written statement (Note: Ms. Johnson's statement is attached to these minutes.) She added that the EIR's discussion of the water supply was inadequate. She said a Safety and Hazard Abatement District should be considered so the City had a voice and someone to receive monitoring reports over time. She said that could help the City realize how dangerous the hazards were and suggested a police substation was needed.

Corey Smith, San Francisco Housing Action Coalition, said the water allocation from the OID would provide the City with the needed water supply. He encouraged the City to be proactive. He said water conservation measurements would be needed going forward. Those measures are

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not feasible with low-density development. Water is preserved in smart growth developments. People that live in high-density housing take shorter showers than people in suburban communities. Infill developments use 35% less water than sprawl developments. He encouraged the City to provide subsidized middle-income housing for the new public service workers.

Anna Brathwaite, staff attorney for the Modesto Irrigation District, said MID understood that the project was not feasible without the proposed water transfer agreement. MID thinks the City is responsible to establish the necessary agreements to obtain that water transfer. MID had not been contacted as a responsible agency. MID did not have a position on the project and did not know anything about it. The MID Board had never reviewed the project. She encouraged the City to get started on the necessary agreements. She said the facilities at issue do not belong to the City, but rather the SF PUC and MID, which have both commented that the project is not feasible. MID does not have adequate information to make a decision. SF PUC says using their storage facility is not a feasible mitigation measure. Under The water quality control planning process currently underway, up to 60% of the unimpaired flow of the river would be dedicated to strictly instream purposes. She said the SF PUC has been in the business of water delivery for over 100 years, and in drought years they were unable to secure supply.

CM Conway asked Ms. Brathwaite to confer with City staff regarding MID's letter. He noted that City staff did contact MID regarding the EIR.

Ms. Brathwaite said the MID's original letter was from 2013. MID did not have a name of anyone at the City who talked to the MID.

CM Lentz noted that staff did contact the MID and asked for Ms. Brathwaite to discuss that issue with staff.

Mayor Liu asked Ms. Brathwaite to be available for further questions following public comment.

Carolyn Parker supported Clara Johnson's statements. She said different agencies had oversight on toxic remediation in the Baylands and she wanted Brisbane to be a player in the process. She supported an oversight group to review the toxins during buildout. She said administration and funding could change over the years and she wanted a reliable process through an oversight board.

Barbara Ebel said a letter in the EIR appendices says a graywater facility would be built upfront if no water supply is found. She encouraged the Council to continue to consider that as an aspirational idea. She supported Clara Johnson's statements.

Deb Horen said MID's letter was clear that there was no way to deliver the water. The EIR

lacked feasibility studies and its analysis was not grounded in what was practical like water delivery. She is disconcerted about the unknowns regarding toxins and other inadequate portions of the EIR and water was obviously one of those components.

City Manager Holstine indicated staff was ready to respond to Ms. Brathwaite's comments.

Director Swiecki said MID was provided a copy of the notice of preparation in 2012 and there was no response from them. The Draft EIR was released in 2013, to which MID submitted a response letter in 2013, and the City responded to that letter in the Final EIR as required by State law. MID did not attend any Planning Commission hearings regarding the project. There was no correspondence from MID subsequent to the City publishing a response to their comment letter on the DEIR. The City complied with CEQA obligations to consult with a responsible agency and stood by the work done.

City Engineer Breault said the process had been ongoing for a long time. It was the developer's responsibility to bring water to the project. He had been involved periodically with the developer in their process. It has been challenging, and MID has gone through staff turnover in that time. He personally spoke with the General Manager Allen Short and their legal counsel Tim O'Laughlin, who turned over in 2012. After the 2013 letter, the City visited MID in 2014 and met with General Manager Roger VanHoy and legal counsel Joy Warren. They brought a copy of the notice with a delivery receipt. Apparently the notice had been addressed to a staff person who had left the agency. The City at that time asked the MID to rescind its comment regarding that no contact was made, but the MID declined. It was factually incorrect that the City had not been in contact with MID.

Special counsel Krumbein said the EIR did not analyze a water supply agreement. The EIR analyzed impacts at General Plan and Specific Plan levels. In compliance with the Water Code, a water supply assessment was provided with the Specific Plan. Because no site specific development has been proposed, there is no requirement for an assured water supply or agreement. An agreement could not be crafted without an understanding of what the City might approve at the Baylands. A site-specific analysis would be prepared under CEQA prior to any approval of a water supply agreement, and the Council is not there yet.

Ms. Brathwaite of MID noted that City Engineer Breault was correct in his roll call of former administration members at MID, but noted the MID Board should have been contacted. She noted that this was not MID's project, so they would not proactively get involved in it. She said she did not want to debate the City's legal counsel on the CEQA applications and said the District's comments on CEQA were detailed in their letter.

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Mayor Liu thanked Ms. Brathwaite for addressing the Council and asked her to consult with staff regarding updated contacts at MID.

The Council took a brief break.

After reconvening, Mayor Liu invited other members of the public to address the Council.

Paul Bouscal said if the northern portion of the Baylands was annexed to San Francisco to create housing, UPC could be open to allowing Recology to expand to process green waste. Currently Recology sends green waste to Fairfield and South City Scavengers takes it to Gilroy. He asked the Council to focus on that and on renewable energy on the Baylands site. The housing issue has convoluted the discussion because of its demands on the community's resources.

Clara Johnson said special counsel Krumbein said the full water supply agreement wasn't needed because nothing was going to be built. She said the public had been trying to tell the City Council that for years. She understood the difference. But the Council is asking the community to "just trust us" without providing enough information for the water agencies or the community. Mitigations that depend on other agencies are absurd. She asked the Council to think about the importance of being practical. If they don't know what they are doing, turn it down and call it inadequate. The obfuscation throughout the process has been difficult for people.

Deb Horen supported Ms. Johnson's statements. She said the Council is deliberating on moving forward with a specific development, yet there was no practical assurance that they will have the transportation, water, or the ability to provide services. She said it must be frustrating for the Council to understand and deliberate and approve a specific development with the assurances being conceptual and not practical.

CM Lentz asked special counsel Krumbein to reiterate her statements regarding how the City has reached out to responsible agencies for creating this type of EIR.

Special counsel Krumbein said the EIR process started when UPC submitted an application for a Specific Plan and General Plan amendments. The EIR analyzed those applications, which meets the definition of project under the Water Code and requires a water supply assessment. The assessment reviews whether the supplier's total projected water supply available during normal and dry water years on a 20 year timeframe adequate to meet project demand. There is not enough water supply available from SF PUC to supply the proposed development. The developer negotiated a term sheet with OID, based on OID's water rights, to provide the City with the maximum amount of water projected at 2,400 acre feet per year. The EIR looks at the impact of moving water from OID to Brisbane at a programmatic level. They do not know exactly how it would move or how much it would be. The impacts to the Stanislaus River and Hetch-Hetchy are

examined, in addition to other impacts. The EIR considers the impacts of moving water at a planning level of approval. The water supply agreement is discussed in the EIR because the EIR is required to look at the whole of the action. CEQA does not require the City to analyze a hypothetical development scenario. The purpose of CEQA is for the public to understand the impacts of known projects. An assured water supply is required prior to building site-specific projects. She said CEQA requires a notice of preparation to be provided to responsible agencies with a project description and requesting comments on what should be studied in the EIR. A Draft EIR is subsequently prepared and circulated. The Baylands Draft EIR was circulated for over 200 days, which is a long comment period. All comment letters on the DEIR were responded to in the Final EIR. Prior to approving a water supply agreement, the City would be required to prepare another EIR.

Mr. Zola said both MID and SF PUC raised similar issues regarding what regime would be used to move the water through the systems. The solution the EIR came up with was a project-specific EIR on the water supply plan. The discussion in relation to the water supply assessment and how water physically moves are all tied to a Specific Plan that the Planning Commission is recommending be denied. The Commission's recommendation was for the Council to deal with what development the City wanted at the General Plan level, then work through the issue of water supply, and then consider a Specific Plan. He said the Planning Commission's recommendation addresses the SF PUC's and MID's issues.

CM Lentz said staff should work with MID to work out the misunderstandings.

Ms. Brathwaite of MID said MID's request is that a plan be proposed to the MID Board so they can take a position on the project.

CM Lentz said he intended to improve the lines of communication.

CM Davis said the City was early in the process in terms of a water supply agreement. Once the Council decides what land uses they want on the Baylands, at that point it would go to MID's Board for comment when a water supply agreement was necessary.

Special counsel Krumbein said the water supply agreement would need approval by the MID Board.

CM Conway moved and CM Lentz seconded to close the public hearing. The motion was approved 5-0.

MAYOR/COUNCIL MATTERS

A. City Council Schedule

City Manager Holstine reviewed the staff memorandum. After discussion, it was determined that the City Council would cancel its regular meeting of April 20 and hold a special meeting on April 27, at which it would conduct regular business. The April 6 meeting would be dedicated to discussion of Economics, Development Feasibility, Municipal Cost-Revenue and Related Policy Issues. The June 15th meeting would be reserved for Community Presentations.

WRITTEN COMMUNICATION

A. Acknowledge receipt of written communication regarding the Brisbane Baylands Project

Mayor Liu acknowledged written communications received since the last meeting from Barbara Ebel and the Modesto Irrigation District.

CM Lentz commented that he wanted the public to know where he stood on the Baylands issues and he had reached out to the City Attorney who confirmed his prior statements were not deliberative.

CM Davis suggested the Council lay out ground rules between themselves regarding how to discuss their personal opinions on the issues at hand.

CM O'Connell agreed with CM Davis' suggestion.

Mayor Liu suggested that further discussion should not occur unless the item was agendized.

ADJOURNMENT

CM Conway motioned and CM O'Connell seconded to adjourn the meeting. The motion was approved 5-0 and the meeting adjourned at 10:17 p.m.

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Ingrid Padilla, Interim City Clerk

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Received 2/28/17
Clara Johnson.
CC Baylands Hearing

ATTACHMENT 1

TO: Brisbane Mayor and City Council February 16, 2017

FROM: Clara Johnson 159 Lake St. Brisbane

SUBJECT: Comments on UPC Baylands Application, Inadequacy of Water Supply Arrangements

Attachments: Oakdale Irrigation District(OID)-City of Brisbane Term "Agreement", DEIR Comments of Modesto Irrigation District (MID), DEIR Comments by SFPUC on Water Supply, Response to MID Comments, Response to SFPUC Water Supply Comments, Master Response 29.

The Oakdale Irrigation District-City of Brisbane Term Agreement states repeatedly that it is an understanding, a framework for subsequent negotiation. It is not a binding agreement. "It is not an irretrievable commitment of resources." It outlines that the City of Brisbane is responsible to develop an exchange of water between OID, the Modesto Irrigation District and City and County of San Francisco. It says that 2400 acre feet per year is the maximum amount to be transferred per year. It is a 50 year agreement, renewable at 25 years. The water transferred is from their pre 1914 water rights resources(not subject to Dept. of Water Resources permitting).

The City of Brisbane has stated that 2000 acre feet per year is needed for the Baylands Project and 400 acre feet is for the buildout or the City's General Plan.

The Modesto Irrigation District's facilities will be needed to move the water Brisbane buys. They sent comments to the draft EIR in 11/21/2013. They complain bitterly that they have not received any communication whatsoever from Brisbane about the potential need to use their facilities. They only received the draft EIR. The Modesto Irrigation District states that it " is mindful that CEQA is to be expansively interpreted in order to provide maximum evaluation and consideration of potential direct and indirect environmental effect of a proposed project" It cites two court cases and CEQA guidelines sections 15003(a) and 15003(h). They also mention that the lead agency must "consider the whole of the action, not simply its constituent parts" when complying with CEQA- CEQA Guidelines 15003(h). MID stated that Brisbane failed to consult with them, a responsible agency and cited six CEQA guideline sections that mention opportunities to consult that Brisbane ignored.

MID commented "The draft EIR neither fully describes the whole project nor adequately addressed the impacts of the project as a whole." They go on to state that numerous cases repeatedly state a general principle that an accurate, stable and finite project description is the indispensable prerequisite to an informative and legally sufficient EIR." They cite other case law and CEQA Guideline 15063(a)(1) that states, "the CEQA document must consider all phases of project planning, implementation." Furthermore, "Under this rule a lead agency may not limit environmental disclosure by ignoring the development or other activities that will ultimately result from an initial approval" City of Antioch v. City Council (1986) 187 Cal App.3d 1325. In other words, you can't just say trust us.

MID mentions that: the project depends upon and is predicated upon a multitude of intermediate water agreements and complex exchanges and transfers involving both the Stanislaus and Tuolumne rivers. These transfers are sketchily described. This incomplete description contributes to potential environmental impacts being unaddressed in the draft EIR analysis. The result is that a basic statutory goal of CEQA, that of informing "government decision makers and the public about the potential significant environmental effects of proposed activities." MID states "This Draft EIR does not comply with CEQA's mandates." MID lists potential impacts that the Draft EIR does not mention.

SFPUC Water Supply Comments

"The main concern from SFPUC Water Enterprise is that an EIR be prepared, circulated and certified at some time that adequately describes the project's proposed water supply and associated potential environmental effects and recommends feasible measures to avoid or reduce those potential adverse effects." SFPUC requires an EIR that includes environmental analyses that are sufficient to prepare CEQA findings related to entering into such a water agreement. "

WS2 "An adequate EIR for the SFPUC's purposes must perform a project level analysis of the proposed increase in diversion from the Tuolumne River of 2.14 million gallons per day." SFPUC describes impacts that must be addressed.

WS3

It appears that the Draft EIR is relying on SFPUC to use SFPUC water system stored in Hetch Hetchy Reservoir to implement controlled releases to mitigate for the increased diversion of water from the Tuolumne River caused by the OID-Brisbane water transfer. This method of mitigation is UNACCEPTABLE to the SFPUC

SFPUC is doing its own diversion of Tuolumne River water because of its Water System Improvement Program and has had to adopt a mitigation measure to recharge groundwater in stream side meadows and alluvial deposits (in Poopenaut Valley) This action did not include the OID- Brisbane water transfer. Brisbane needs to look for an alternative mitigation.

WS4

Feasible alternatives are not described in EIR and CEQA requires it.

WS6

SFPUC asks, how will the OID-Brisbane Transfer take place when SFPUC is operating at full capacity and how will the transfer take place when the San Joaquin Pipeline is operating at full capacity or undergoing maintenance? More details are needed to understand how the transfer would work through SFPUC's system and what the requirements are.

SFPUC repeats the need for more detailed information.

FEIR Master Response 29

It does not address many of the specific comments. It simply asserts that the EIR is not required to provide that information at this time because it is a program EIR. The points raised in the comments of MID and SFPUC indicate that this is not a valid argument under CEQA and the two agencies state that they cannot enter into water transfer/ wheeling agreements without a more detailed description of the projects that would yield a better analysis to determine the impacts of the transfer. FEIR also purports to know more about the operation of MID and SFPUC than those who operate them and it assumes each agency will do what Brisbane wants just because Brisbane wants it.

Individual Responses to Modesto Irrigation District and SFPUC

-Refuse to acknowledge the need for more detail

-Don not cite case law in their justifications

-Ignore that both agencies state that they will not enter into agreements with Brisbane without adequately detailed description and that without those agreements, the OID-City of Brisbane Transfer Agreement would be a non-starter.

The inadequacy of the water supply transfer arrangements are indicative of the inadequacy of this EIR in other areas. The EIR should be rejected as inadequate and the applicant should prepare another one that provides an detailed description of the Baylands alternatives and all the other issues that are not fully described and are therefore not subject to meaningful analysis of the impacts they would cause. Phrases like "is expected to", "state law requires" are substituted for actual specific information.

Unwarranted assumptions occupy the position of what the Modesto Irrigation District and San Francisco Public Utilities Commission said they needed in order to consider an agreement with the City of Brisbane. They strongly state that more information is needed and seemed uninterested in the idea that they should blindly sign agreements without data they considered essential.

The 1994 General Plan of the City of Brisbane used the idea of a concept plan on the Baylands as a means to get an idea of what a developer might propose and because of the requirement that the primary infrastructure for the entire Baylands had to be built at the beginning of any development. That idea has been hijacked by UPC and used to justify inadequate planning and deficient planning documents. The concept plan should have been replaced by a real plan when the application for a Specific Plan was made to the City.