



RBOC
Protecting your boating interests.

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Mr. Donald Glaser, Regional Director
Bureau of Reclamation
2800 Cottage Way
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Mr. Mario Manzo
Bureau of Reclamation
2800 Cottage Way, MP-730
Sacramento, CA 95825

RE: Two-Gates Fish Protection Demonstration Project - Comments to the Environmental Documentation

Dear Messrs. Glaser and Manzo:

Recreational Boaters of California [RBOC] welcomes this opportunity to give comment on the Two-Gates Fish Protection Demonstration Project.

RBOC is the nonprofit governmental advocacy organization that works to protect and enhance the interests of the state's recreational boaters before the legislative and executive branches of state and local government. RBOC is in its 41st year as a statewide organization, and since 1968 it has continued its commitment to promoting the enjoyment, protection, and responsible use of our waterways.

RBOC is very concerned about the tremendous impact that the Two-Gates Project would have on the current unrestricted access by recreational boaters navigating the Delta waterways.

RBOC findings: (1) the "Two-Gates Fish Protection Demonstration Project" is an obstruction to the navigable waterways that will be significant and be an adverse impact on recreational boating; (2) the only acceptable mitigation for the Two-Gates Demonstration Project to overcome this significant and adverse impact is the installation of boat locks; (3) the boat locks be designed to meet the length, depth and width of recreational boats that have customarily traveled these waterways and that the locks be staffed, operated and maintained at no cost to recreational boaters; (4) that to meet the mitigation of boat locks that terms, conditions and operating criteria be developed and set forth in writing that is acceptable to RBOC.

Actually the term "gate" is a misnomer as when closed these structures are actually dams as the waterways will be completely blocked for extended periods of time. These are in fact fixed-crest/low head dams which are particularly dangerous to boats. These types of dams cause hydraulic or churning re-circulating currents below the structure which can actually hold or draw even a motorized boat into danger. Re-circulating currents contain air bubbles that can make propellers useless and escape nearly impossible. This is especially dangerous to kayaks, canoes, dinghies and other such craft. Also floating debris and shags are common hazards to boaters around such dams. Removal of floating debris and weeds are mentioned in the report. This is of great concern to boaters as is submerged debris and weeds. These can cause significant damage to boats to the point where a boat starts taking on water and might sink or the propeller becomes jammed and the boat stops.

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It is clear to RBOC that the only way to ensure safe passage of boats through these gates is the installation of boat locks to accommodate boats that navigate the waterway. Such a boat lock should be manned, operate 24/7 and be at no cost to boaters.

Another safety issue is - When the gate is opened, what will the velocity of the water be? Will the boats that are awaiting passage on the North side of the gate be swept with force through the opening into the boats that are waiting on the South side?

RBOC has a number of other questions and concerns:

When the gate is closed what would be the depth of the water on its South side? Would this depth become shallower with the passage of time as the gates are closed on flood tide?

The report mentions a number of precautions for boaters' safety during construction. This is of paramount importance. Will there be an educational program to inform boaters as to how to safely transit the construction site?

Has an actual account of the number and size of boats that transit the Old River and Connections Slough locations during expected operation been conducted?

Will the intermediate openings of 15 -20 minutes be coordinated with the bridge openings on Connection Slough.

It is difficult for a boat to wait in the water for an opening. Water is constantly moving and may be rough; wind might make waiting perilous. When boats wait for a bridge opening they often have to circle to maintain a wait position close to the bridge. When a number of boats are circling, especially with rough water or windy conditions, this is dangerous. If the gate on Old River is closed during March and June for 2 periods of 5 hours each, this means there might be only 1 opening during that time.

In regard to the boat ramp:

- Has an estimate been made as to how many boats will need to be moved by trailer at an estimated 15 minutes per boat? This seems like a short time frame. It might be 15 minutes if everything works out - the boat fits the trailer, the wind is not blowing, and the water is calm. Seldom are conditions optimal.
- How will liability be handled for damage to boats while being portaged around the gate?
- Can the trailers adjust easily to the variety of boats that will be portaged?
- At the end of the 5 year period will the channel bottom and sides be restored for navigation?

RBOC has a paramount concern for safety. Many safety measures are mentioned in the report. If gates are installed, every possible precaution must be taken to ensure the safety of boaters when the gates are open as well as when closed and operating as a gate.

RBOC advocates that the Rivers and Harbors Act of 1899 (as referred to in the report on page 216) is applicable to the 2-Gates project and that Old River and Connection Slough are in fact being obstructed for navigation. **RBOC's position is quite clear:** Recreational boaters have a long established right of vessel passage under the public use doctrine to transit waterways unimpeded by gates or barriers. This should be fully honored and mitigated by incorporating an operable boat lock into the design of these barriers. This boat lock should be manned, operate 24/7 and be at no cost to boaters.

Operable locks are the best option. As changes may occur to Delta waterways, especially with the installation of gates and other barriers, the appropriate mitigation is the installation of operable boat locks and at no cost and with hours of operation satisfactory to the needs of boaters. Boat locks were rejected as cost prohibitive, with no cost study cited. If the locks are not installed during the temporary phase of the project, there are a number of issues that must be addressed to ensure safe navigation including but not limited to the following:

The structure and function of the two gates do not provide reliable recreational boating access. The width of the butterfly gates when opened may be adequate for boat passage, but when the gates are closed the proposed boat ramps are not adequate for the passage of all recreational boats.

The structure of the proposed boat ramp and its mode of operation are not specified and, by itself, even poses a number of unanswered questions: When will the ramp operate? How will larger “non-trailerable boats” be accommodated? Has an account of the number and size of boats that transit the Connection Slough and Old River locations during expect operation been conducted? Has a determination been made regarding how many boats would need to be moved by trailer at the estimated 15 minutes per boat? Does the plan time line include adjustment of “bunks” and rollers to adapt to the many different hull configurations? And, what will be the operating criteria and procedures for transiting the waterway when the gates are “closed”?

The initial operational scenarios for the 2-Gate Project calls for the gates to be closed for short periods December through February... for moderate periods March through June.” Vessel access thru barriers is proposed to be allowed during daylight hours for approx. 20 minutes at or around slack tide (tidal differential less than 18” on opposite sides of the gates). Will these intermediate openings be coordinated with the bridge openings on Connection slough approximately 1200 feet from the proposed barrier? The Connection Slough bridge will probably experience significant reduction in boat traffic as a result of the barrier. At the end of the five year experiment will bridge hours of operation be restored if reduced during barrier operations?

Critical accommodations are not included for law enforcement and U.S. Coast Guard boats that must have rapid and unencumbered access. Access and reliable ease of movement by recreational boats is a very serious concern when these gates are “closed”. But added to this is the concern for timely response by law enforcement and Coast Guard boats and working vessels (such as barges and tugs to assure levee repair or maintenance as well as farm barges transiting with farm equipment and workers) when these gates are “closed”.

The boating public’s long established right of vessel passage under the public use doctrine to transit Delta waterways unimpeded by gates or barriers must be fully honored and mitigated in order to legally satisfy the needs of a wide variety and sizes of boats.

“Temporary” gates have a way of becoming “permanent”. The proposed two-gates are described as being temporary and operational for up to a 5 year period of time. However, such structures have a way of becoming permanent. Thus, adequate environmental impact and mitigations to assure boating access must occur now.

Future projects could impact the results of the project. Does the proposal account for estuary flows when a new as yet undefined Delta conveyance is installed? This could impact the findings and results.

The community of 17,000 residents of Discovery Bay will be greatly impacted as would anyone docking their boats south of the gates or transiting the waterways obstructed by the gates. Many of the residents and businesses in this and surrounding South Delta communities have chosen their location because of proximity to unrestricted waterways for recreational boating.

For further information, enclosed is a June 2008 letter sent from RBOC to the Secretary of the California Resources Agency and Directors of both the Department of Water Resources and the Department of Boating and Waterways. The letter addresses RBOC’s concerns regarding recreational boating navigation of the Delta waterways and includes a copy of RBOC’s policy statement, Preservation of Recreational Boating Access to Navigable California Delta Waterways.

Also enclosed, are (208) letters that we have received at this office from recreational boaters to the Bureau of Reclamation regarding the Two Gates Fish Protection Demonstration Project expressing their concerns about access to the Delta waterways. Certainly, additional letters have been submitted directly to the USBR by other concerned boaters and individuals with the same or similar concerns.

In conclusion, recreational boaters have a long-established right of vessel passage under the public use doctrine to transit waterways unimpeded by gates or barriers. This should be fully honored and mitigated by incorporating an operable boat lock into the design of these barriers. This boat lock should be manned, operated 24/7 and be at no cost to boaters.

Please feel free to contact Jerry Desmond, Jr., RBOC's Director of government relations, at Desmond & Desmond, 925 L Street, Suite 220, Sacramento, CA 95814 [916.441.4166].

Sincerely,

Dave Breninger

David Breninger, RBOC President

C: California Resources Agency
California Department of Boating and Waterways
California Department of Parks and Recreation
California Department of Water Resources
State Water Resources Control Board
Delta Independent Science Board
Delta Protection Commission
Bay Delta Conservation Plan
Delta Conservancy
US Department of Interior, Fish and Wildlife Service
US National Marine Fisheries Service
US Army Corp of Engineers
US Coast Guard

Encl: RBOC letter to California Resources Agency, Department of Water Resources and Department of Boating and Waterways (June 2008)
RBOC Policy Statement - Preservation of Recreational Boating Access to Navigable California Delta Waterways (June 2008)
(208) copies of letters from recreational boaters received at this office to date, November 13, 2009

Walt Kadyk

Walt Kadyk, President

C: Board of Directors, Recreational Boaters of California
Southern California Yachting Association
Pacific Inter-Club Yacht Association



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RECREATIONAL BOATERS OF CALIFORNIA

Policy Statement: Preservation of Recreational Boating Access to Navigable California Delta Waterways - June 13, 2008 -

Recreational Boaters of California (RBOC) will advocate to protect the rights of recreational boaters to assure access for continued navigation by recreational boats the waters of the California Delta where ever any "control structure" (such as, but not limited to gates or barriers whether temporary or permanent) is planned for placement across a navigable Delta waterway. RBOC will seek assurances that as any changes are contemplated which further alter Delta navigable waterways that alternatives are identified and implemented to the satisfaction of RBOC that will best preserve and sustain recreational boat passage at each location. RBOC will seek to have operable boat locks installed as an integral design component to mitigate for the placement of any control structure across any navigable Delta waterway. All control structures and boat locks or other alternatives satisfactory to RBOC for recreational boat passage are to be installed, maintained and operated without cost or expense to recreational boaters.

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