

ive San Francisco Bay Association

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July 31, 1998

Jaime Michaels
Bay Conservation and Development Commission
30 Van Ness #2011
San Francisco, CA 94102

Re: Comments on LTMS In-Bay Allocation Strategies

Dear Ms. Michaels,

This letter provides initial comments on the Long Term Management Strategy's (LTMS) In-Bay Allocation Strategies. We appreciate the release of this long-anticipated draft document and we welcome the opportunity to participate in these "scoping" sessions.

Unfortunately, we find the proposed strategies and the rationale to support them to be significantly flawed. Our concerns are listed below. Public input should be sought through these scoping sessions and during the development of a management plan. We hope that the final EIR/S will address these concerns and strive for greater specificity.

1. The primary problem with the proposed strategies is the absence of incentives to reduce in-Bay disposal. Instead, the strategies emphasize accommodating the projected needs of dredgers by setting a high allocation for in-Bay disposal. This bias is apparent in the flawed pro/con analysis, which argues for the proposed regulatory cap on in-Bay disposal by observing that "the starting point for medium and COE dredgers is *high enough to facilitate dredging*" (emphasis added). Any cap high enough to facilitate dredging encourages in-Bay disposal, instead of trying to reduce it consistent with the intent of LTMS Alternative 3.

The Strategies document also argues against not allowing banking by claiming that "it could make projects involving in-Bay disposal more difficult." In fact, this is the strongest argument for not allowing banking,

because making these projects more difficult is the intent of LTMS Alternative 3. The strategies offered should pursue the goal of reducing in-Bay disposal to the target of 1 mcy per year.

2. The regulatory cap for the amount of in-Bay disposal, 2.8 million cubic yards (mcy), is set too high, given that only 1.5 mcy was disposed in the bay last year. The 2.8 mcy limit could encourage dredgers to dispose in-Bay because of the lower cost to do so.

3. More specificity is needed regarding who decides whether upland wetland reuse (UWR) or ocean disposal alternatives could be used as part of the permit application process to the DMMO. The Strategies document states that "in the event either alternative could be used, in-Bay disposal would not be allowed." This appears to leave discretion to the dredger to determine if a UWR or ocean site could be used. The burden of proof should be on dredgers to demonstrate why a UWR or ocean site could not be used. A list of UWR sites should be developed that is supported by a broad range of stakeholders.

Strategy 1 contradicts the expressed intent of using UWR or ocean sites as a first option, rather than disposing in the Bay. It states that "once a project sponsor had used their total in-Bay disposal volume allocation, no dredged material from subsequent dredging episodes could be disposed in the Bay, and instead alternative disposal options would need to be used." This statement indicates that in-Bay disposal is encouraged as the first option.

4. More specificity is needed regarding how in-Bay disposal will be reduced from the regulatory cap to the target of 1 mcy per year and what the timeframe will be. The "multi-year" timeframe is too vague.

5. Material disposed by small dredgers should not be excluded from the regulatory cap.

6. We are opposed to strategies which include banking or trading. The LTMS should develop an additional alternative with no trading, no banking, and strong incentives to reduce in-Bay disposal.

7. In-Bay disposal fees should be used for monitoring and to offset costs of upland disposal, if it is more expensive than in-Bay disposal. Fees should not be used for management. As is stated in the draft EIR, the fee should be set "at a level that equalized costs for disposal in the three environments." If agencies do not have enough funds to support staff for this work, then the fees for permits should be raised to cover the costs.

8. An adequate assessment of the impacts of dredging and in-Bay disposal on wildlife and fisheries is still lacking.



dredgers have a good idea of how often they dredge, so a long-term dredge plan (perhaps longer than the multi-year period) should be developed so that problem years can be identified early on. If a "first-come, first-served" approach is taken, the opportunity to sign up must be made available at least 1.5-years in advance, to allow COE projects time to obtain Federal funding.

2. Average Annual Allotments With Trading and Without Banking

This strategy would provide the least amount of certainty for projects, and the greatest amount of hassle. As annual increments would be small, it would require many trades for larger projects, requiring many agreements for future trades. Further, it would require ports who do not dredge annually to be actively involved in the trading process even in years when no dredging will occur. Many future trading agreements could also be drastically upset if one project is thrown off by one year. We do not see any benefits in this Strategy.

3. Average Annual Allotments with Trading and Banking

This is better than Strategy 2, but would discourage trading, and could cause problems for those who must dredge in the first year or two of implementation, before banked credits add-up.

4. First-come, First-served

This strategy benefits dredgers with a set dredging schedule, such as COE projects. Implementation of such a strategy raises many questions: how early can a project sign up? What criteria would be needed to sign up? Would a DMMO permit be required? How could COE projects be assured of disposal with adequate time to obtain Federal funding? If sign up is too early, what happens when projects drop out or get behind schedule?

5. Reduced In-Bay Disposal of COE Maintenance Material to Achieve Volume Targets

The Port of Redwood City could only support this strategy if there were a *guarantee* that COE projects would continue to be *fully* funded (including UWR disposal) by the Federal Government, and that increased project costs would not delay projects. As this is not going to occur, we cannot support this strategy. If COE projects in the Bay area double or triple because of disposal costs, they will not receive adequate Federal funding. The Corps budget is already tight, and competition among projects is fierce. Drastically increasing COE project costs will place San Francisco Bay Area projects at a disadvantage vis-a-vis other COE projects throughout the country. It was suggested at the July 8 meeting that if full funding could not be obtained from the Federal Government, perhaps local sponsors could pay the difference. This proposal is grossly unfair to COE projects, as small and medium projects would continue to dispose at

cy. Port of Redwood City would like to see this data added to list.

3. It should be noted that the data does not accurately represent the dredging needs of the Port of Redwood City, as the Turning Basin was not dredged at all during the timeframe utilized. Dredging of the Turning Basin will resume in FY-99, and will significantly add to the Port of Redwood City's disposal needs. Port of Redwood City would like there to be some mechanism to account for this aberration.

C. GENERAL COMMENTS AND CONCERNS

- * ***None of these strategies can be implemented until upland sites are up and running.***
- * Any strategy which is implemented must be reviewed annually, and revisions must be made if significant factors change over time.
- * All strategies require the dredgers to "determine if UWR and ocean disposal alternatives could be used as a part of the permit application process . . . in the event either alternative could be used, in-Bay disposal would not be allowed." Further guidance is needed as to how these determinations would be made.
- * "Small dredgers" should include all projects which generate less than 50,000 cy per year, regardless of project depth.
- * Any in-Bay disposal fees must be charged to all users (small, medium, COE).
- * There must be flexibility for projects which unexpectedly exceed their in-Bay allotment during a dredging episode. The project sponsor should not be required to go upland with 5,000 cy. Minimal excesses should be taken out of the "contingency allotment."
- * There must be flexibility if a project begins in one record-keeping year, and ends in the next year. Further, if a project is delayed a few weeks and pushed into the next year, it should be counted against the original year's allotment.

We thank you for the opportunity to comment on the proposed in-Bay Allocation Strategies, and will continue to work with the LTMS agencies to develop a workable LTMS Management Plan.

Sincerely,



Michael J. Giari
Executive Director

costs to upland/wetland reuse disposal would encourage use of UWR sites. However, true upland/wetland reuse sites that are acceptable to agencies and the public and benefit the Bay, must be available.

- Small dredgers should not be exempt from the cap. They should be encouraged to plan ahead and use upland, and wetland restoration sites that are available and in their vicinity. This is particularly true in Marin County where there are potential UWR sites. We count 19 small dredgers in Marin County that could use Hamilton, or could use Redwood Landfill if that site were developed for small amounts of material to be used as daily cover for the landfill.

- We do not have a problem at this time with a dredger banking its own credits, but we do object to banking, trading or exchanging with other dredgers. We do not believe such schemes would contribute to the reduction of dredging and disposal of material in-bay or the ocean. Indeed, the discussion paper indicates that not allowing banking would make in-bay disposal more difficult.

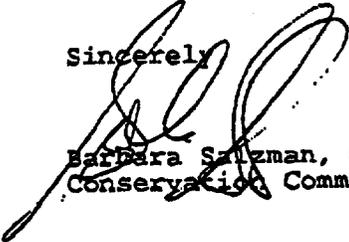
- The cap set too high. Why is the cap 1.2 mcy higher than the 1.5 cubic yards that disposed in-bay last year? Last year's disposal of 1.5 mcy clearly indicates that the cap should or could be lower.

- The process for making decisions on disposal of dredged material needs to be defined. It is unclear how the decisions would be made on any of the components: when the in-bay cap would be evaluated and possibly reduced; what projects would dredge of a given year, and where their material would be disposed.

- How the public be able to participate in the decision-making process should be addressed. Under the present arrangement, most decisions are largely made behind closed doors. Decisions on specific projects, caps, and use of disposal alternatives, for example, apparently are made by the DMMO with no ability for the public to comment. The public should be able to comment on a particular dredging project and where the material will be disposed. Unless members of the public happen to catch a project being reviewed by a regulatory agency there is no opportunity to review. But, as reflected in the Port Sonoma disposal, that was too late because a commitment was already made for a specific disposal pathway. The decision-making process should provide for the public to participate early in the decision-making process for matters related to the disposal cap, dredging projects amounts and disposal alternatives.

Thank you for considering our input. We look forward to participating in other meetings and working with you on the dredge disposal issue.

Sincerely



Barbara Salzman, Chair
Conservation Committee

cc: Save the Bay

Ms. Jaime Michaels
September 3, 1998
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will be. Chevron favors options that include banking and trading of allotment credits, and the one time distribution of total allotments to be used over the program period.

Contingency Volumes: This year has been a good example of a year that would require contingency volumes due to heavy rains and runoff. Our annual average dredging volume from the Richmond Long Wharf for the years 1991-1997 (based on the Bay Conservation and Development Commission's records) is 161,000 cubic yards. However, due to the El Nino weather pattern during 1998 we expect to dredge 233,000 cubic yards this year. We propose that during years of heavy siltation due to weather and/or other external forces that contingency volumes be granted to dredgers affected by these events.

If you have any questions regarding our comments, please call Mr. Donald Kinkela at (510) 242-3308.

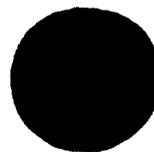
Sincerely,



F. M. A. Gilles

cc: Mr. Jack Gregg - Regional Water Quality Control Board
Mr. Brian Ross - EPA Region IX
Mr. David L. Dwinell - U.S. Army Corps of Engineers
Ms. Ellen Johnck - Bay Planning Coalition





July 31, 1998

Ms. Jaime Michaels
S.F. Bay Conservation and Development Commission
30 Van Ness Avenue, Suite 2011
San Francisco, CA 94102

Dear Ms. Michaels:

Following are the Port of Redwood City's comments on the July 3 Discussion Paper, as discussed at the July 8 LTMS meeting.

A. COMMENTS ON PROPOSED STRATEGIES

1. Total Allotments Over a Multi-Year Period With Trading

This is the best strategy for the Port of Redwood City, as it provides the greatest degree of certainty. By providing an allotment which is sufficient for at least one dredging episode during the multi-year period, it allows a port to dredge without the need for trading or banking, and provides some flexibility in making plans for future dredge disposal. This is particularly critical for South Bay ports such as Redwood City, since no upland disposal sites are currently targeted for the South Bay area. The Port makes the following suggestions to ensure that this Strategy is implemented in an equitable manner:

1. All projects must be on the same multi-year schedule.
2. There should be no reductions of allotments within a defined multi-year period. The allotment should be based upon an annual decline in volume, and would therefore not be reduced during the multi-year period. Any reductions in overall disposal capacity which affect individual allotments should be made at the start of a new multi-year period. This way planning over the multi-year period will not be upset by unexpected changes in allotments.
3. Banking should be allowed between multi-year periods. Otherwise, ports which do not dredge every year could be at an unfair disadvantage. For example, if the cycle is 5 years, then the Port of Redwood City will alternate between one and two episodes per cycle. The savings from one cycle should be able to be applied to the next cycle. Otherwise the Port of Redwood City will be at a disadvantage vis-a-vis ports which dredge every year or every 5 years.
4. A mechanism will need to be developed to ensure that the annual in-Bay cap is not exceeded if all dredgers desire to use their allotments in one year.

Port Commissioners
Larry Aikins
Jack Castle
Dick Dodge
Lew Miller

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3. It should be noted that the data does not accurately represent the dredging needs of the Port of Redwood City, as the Turning Basin was not dredged at all during the timeframe utilized. Dredging of the Turning Basin will resume in FY-99, and will significantly add to the Port of Redwood City's disposal needs. Port of Redwood City would like there to be some mechanism to account for this aberration.

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Michael J. Giari
Executive Director

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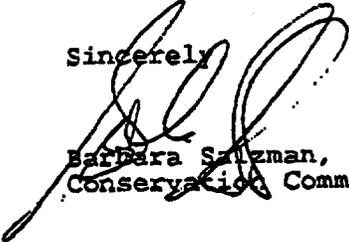
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Thank you for considering our input. We look forward to participating in other meetings and working with you on the dredge disposal issue.

Sincerely



Barbara Salzman, Chair
Conservation Committee

cc: Save the Bay

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Chevron

September 3, 1998

SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

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M. A. Gilles
Manager
Environmental and Safety Division
510 242 1400

Ms. Jaime Michaels
San Francisco Bay Conservation
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30 Van Ness Avenue, Suite 2011
San Francisco, CA 94102

**Draft Long Term Management Strategy
Implementation Strategy Comments**

Dear Ms. Michaels:

Chevron appreciates the opportunity to provide comments on the implementation strategy for Alternative No. Three of the draft Long Term Management Strategy (LTMS) for dredged material disposal. Chevron is currently permitted to dredge up to 350,000 cubic yards annually from our Richmond Long Wharf under our Army Corps of Engineers (ACOE) dredging permit. This activity is vital to our business and we believe it is important to participate in the LTMS development efforts. Our comments follow:

Alternate Disposal Site Feasibility: Prior to implementing LTMS Alternative No. Three, alternate disposal site feasibility needs to be defined and agree upon by all the affected parties. We feel that for an alternative site to be feasible it must be cost effective (based on the cost differential between disposal sites) and environmentally superior to in-bay disposal.

Timing: Dredging costs significantly contribute to a terminal's competitive position. Forcing terminals to dispose of their dredge spoils at a more costly location could undermine their economic viability. The phase in period for this program should be at least ten years to allow for the development of cost effective alternative disposal sites to avoid this detrimental economic effect.

Small Dredger Exemption: We realize that ocean disposal may not be practicable for "small dredging projects" due to the shallow draft barges used for dredging activities in shallow water environments. However, Upland/Wetland disposal may be very feasible. We feel that the small dredgers must be held to the same standards for alternative site disposal, when feasible and practicable, as the medium dredgers and the ACOE.

Program Flexibility: Dredging volumes at any particular site vary from year to year. It is important to our planning efforts that we understand what our future in-bay disposal allotments