SCOPING REPORT

San Francisco Bay to Stockton Navigation Improvement Study

Public Scoping Meetings
March 26 and April 2, 2008

August 2008

Prepared by
U.S. Army Corps of Engineers
San Francisco and Sacramento Districts

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EXECUTIVE SUMMARY

The scoping report for the San Francisco Bay to Stockton Navigation Improvement Study summarizes the comments made during several public meetings held in 2008. The purpose of these public meetings was to solicit comments and questions for evaluating potential impacts, environmental issues, and alternatives for the proposed project of deepening ship channels between San Francisco Bay and the Port of Stockton. The comments received are organized into the following categories in this document: project components, scope of impacts, environmental consequences and mitigation, public involvement, and miscellaneous comments not necessarily pertaining to the content of the EIS/EIR.

1.0 BACKGROUND

1.1 Introduction

Pursuant to the Council on Environmental Quality regulations for implementing provisions of the National Environmental Policy Act (NEPA) (40 CFR 1500-1508) and the U.S. Army Corps of Engineers Procedures for Implementing NEPA (ER 200-2-2), the U.S. Army Corps of Engineers (USACE) is the lead agency in preparation of a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton Navigation Improvement Study in Marin, Sonoma, Napa, Solano, Sacramento, San Joaquin, Contra Costa, Alameda and San Francisco Counties, California. The Port of Stockton is the lead agency under the California Environmental Quality Act (CEQA). Two public scoping meetings were held in March and April 2008. The purpose of these meetings was to solicit comments from the public regarding potential impacts, environmental concerns, and alternatives related to the proposed action. Questions and comments provided by the meeting attendees will be addressed in the alternative formulation and environmental review process (for NEPA and CEQA).

1.2 Purpose of Scoping Report

This scoping report summarizes the public scoping meetings held on March 26 and April 2, 2008 for preparation of the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton Navigation Improvement Study. The EIS/EIR will consider the potential environmental impacts resulting from the construction and implementation of the proposed project of deepening ship channels between San Francisco Bay and the Port of Stockton. The EIS/EIR will be incorporated into the Corps of Engineers (Corps) Feasibility report, which will recommend the preferred alternative based on the Corps planning process, the EIS/EIR, and other technical analyses. This scoping report is organized into the following sections:

- Background
- Scoping Process
- Summary of Scoping Comments
- Results of the Scoping Meeting

1.3 Proposed Project

The San Francisco Bay to Stockton Navigation Project was authorized under the River and Harbor Act of 1965, Public Law 89-298, dated October 27, 1965. The authorization language references the San Francisco Bay to Stockton, California: House Document Number 208, Eighty-ninth Congress, dated June 17, 1965.

The San Francisco Bay to Stockton Improvement Project includes the John F. Baldwin and Stockton Ship Channels, which extend 75 nautical miles from the Pacific Ocean, just outside the Golden Gate, to the Port of Stockton. The project is divided into two separate reaches, with the John F. Baldwin Ship Channel extending from the Golden Gate to Chipps Island, and the Stockton Ship Channel extending from Chipps Island to the Port of Stockton. Portions of the reaches have been deepened in the past; however, not all reaches attained authorized dimensions. Currently, the Corps is reevaluating the authorized Federal project to determine the extent to which changes to channel dimensions are warranted. Based on the need for improved efficiency of the movement of goods, the proposed action is to alter the depth of the John F. Baldwin and Stockton Ship Channels.

2.0 SCOPING PROCESS

A Notice of Intent (NOI) to prepare an EIS/EIR was published in the Federal Register on March 14, 2008, Vol. 73, No. 51, pages 13872-3. The NOI included background project information, potential alternatives, methods for public comment and notification of two upcoming public scoping meetings. A Public Notice was sent to local landowners and residents through the U.S. Postal Service and/or email. The notice contained public meeting information as well as methods for public comment.

A Notice of Preparation (NOP) to prepare an EIR was published in the California State Clearinghouse on March 12, 2008, reference State Clearinghouse number 2008032043. The NOP included the same type of information as the NOI, as well as environmental considerations and project details required only for CEQA. The comment period extended from March 12, 2008 to April 10, 2008. There was a technical error publishing an attachment to this NOP. A second NOP was issued to assure full public participation. The second NOP was published in the State Clearinghouse on July 28, 2008 with a comment period ending August 26, 2008,

referencing the same State Clearinghouse number 2008032043. Several comments and public inquiries were received after the first NOP publication. No comments were received after the second NOP publication.

Due to the geographic scope of the project, two public scoping meetings were held in order to accommodate interested parties throughout the entire project footprint. The first public scoping meeting was held on March 26 at the Contra Costa County Administration Building in Martinez, California. A news release was published in the Contra Costa Times (East and Central Counties), Vallejo Times, and San Francisco Chronicle to inform the public of this meeting. A second public meeting was held on April 2 at the Cesar Chavez Public Library in Stockton, California. A news release was published in the Sacramento Bee and The Record to inform the public of this second meeting. Transcripts of both meetings were prepared by California Reporting, LLC.

3.0 SUMMARY OF SCOPING COMMENTS

The public meetings held in Martinez and Stockton were attended by over 30 people, where a total of three individuals representing themselves, stakeholders, or local and state government agencies provided verbal comments to the recorder. A total of 47 written comments were received by the end of the comment period on April 30, 2008.

Comments received are categorized into five broad categories: (1) project components; (2) scope of impacts; (3) environmental consequences and mitigation; (4) public involvement; and (5) miscellaneous (not necessarily pertaining to the content of the EIS/EIR). All comments are summarized below.

3.1 Project Components

Comments were raised regarding the existing project components, and concerns were raised about the effects of the project on the surrounding area. Specifically, comments were made concerning the effect of the project on the Delta levees. Several comments were made by interested parties who were concerned with the possibility of a deeper channel inviting more shipping traffic, and thus causing additional wave wash stress on the levees.

Comments were also made regarding the placement of the dredged material. Several comments were made suggesting that efforts should be made towards the beneficial reuse of dredged materials and some suggested that perhaps the dredged material could be used for maintenance of the levees. Specifically, it was noted that the material should be considered as a potential resource for the CALFED Delta Levee Stability Program. Comments were made regarding the potential for dredged material to affect surface waters.

Comments were made concerning the timing of the project, given the many issues and projects throughout the Delta. Specifically, the Delta Vision, Bay Delta Conservation Plan, and Sacramento Deep Water Ship Channel studies were referenced. Questions were raised regarding the project footprint and possible subsequent expansions of the Port of Stockton facilities. Other concerns raised included the locations of staging areas within the project area, cumulative impacts of the project on existing and planned efforts in the Delta region, and a reminder that the full range of alternatives should be proposed in the EIS/EIR.

3.2 Scope of Impacts

Disposal of Dredged Material

Comments were made by various parties reminding that dredged material needs to be evaluated before disposal to evaluate the potential for ground contamination and effects on downstream drinking water. Interested parties suggested that evaluations should determine the ability to beneficially reuse the material either at placement sites or for levee maintenance and repair. Comments were also made to inform the project of possible opportunities for beneficial use of dredged material.

Shipping Patterns

A number of comments were made regarding the project's impacts, both positive and negative, which could result from an increase in shipping traffic due to improved navigation in the channel.

Comments made in support of the project suggested that improved navigation would allow ships to carry heavier loads in the channel, thus reducing the number of trips necessary rather than increasing traffic in the channel. Many businesses commented in support of the project improving business and the economic stability of the Port of Stockton as a result of the channel improvements. Supporters also suggested that an increase of shipping loads would also translate to a decrease in trucking loads, which could improve local air quality.

Comments that raised concerns about the project suggested that improved navigation in the channels would allow the Port of Stockton to run a greater number of ships through the channel, thus reducing air quality and increasing the likelihood of accidents such as spills, increasing wave wash damage to the levees, and ship collisions. Comments also requested that in studying the impacts of increased shipping traffic, the EIS/EIR should address how those increases would also effect climate change and global warming.

Local Policies

Comments were also made by agencies regarding reminders on local policies that should be followed in conjunction with this project. In particular, comments focused on the need to address the Bay Plan Dredging Policies, the Suisun Marsh Protection Plan Policies, and the Shoreline Band Bay Plan Policies in the EIS/EIR. A comment was also made regarding the Central Valley Water Board Resolution to address Delta Water Quality as an important document to reference in the planning process.

Traffic

One agency representative raised concerns about traffic associated with project construction, and more specifically, with trucking used in the process of dredged material transport. A request was made to address the needs and quantities of trucking loads run on local highways in the EIS/EIR.

Cumulative Impacts

Multiple agencies raised concerns in their comments about the impact of the project on other local projects occurring in the scope of the project area. It was requested that the

EIS/EIR address the potential impacts and possible mitigation needs necessary in coordinating between projects in the Delta and surrounding area. Some of the projects mentioned include the Contra Costa Water District's intake facilities and other water operations in the Delta, the Central Valley Project, impacts to Chevron pipe lines, the Trans Bay Cable Project, impacts to East Bay Municipal Utility District aqueduct pipes and wasteway facilities, and the City of Stockton's Delta Water Supply Project.

3.3 Environmental Consequences and Mitigation

Water Quality

Water Quality is one of the issues of greatest concern related to this project. Numerous comments were made regarding the potentially negative impacts of the project on the water quality in the San Francisco Bay and Delta regions. Some of the key issues include salinity, contaminants, dissolved oxygen, turbidity and sea level rise.

Dissolved Oxygen. Numerous comments were made regarding the potential effects on dissolved oxygen levels. The San Joaquin River is already considered an impaired water body for dissolved oxygen, with levels that are sometimes critically low. Many comments were made suggesting that mitigation for low dissolved oxygen levels would be a key element to the implementation of this project.

Salinity. Historically, salinity intrusion into fresh water has been an issue when the channel has been deepened. Comments were made regarding the potential for an increase in salinity to have negative impacts on aquatic species in the ship channel, including the Delta Smelt.

Turbidity. Concerns were raised that improved navigation in the shipping channel would result in an increase in shipping traffic, which could cause an increase in turbidity in the channel. Comments indicated that this could also have a negative impact on fish, plankton, and the benthic community.

Contaminants. A number of comments were made regarding concerns of toxic sediment being released due to dredging. Specifically, concerns were raised that toxic sediment could be released into the Bay and Delta during the dredging process. Comments brought up concerns that improperly treated sediment might be placed on land, leading to concerns of a potential for toxic contaminants to be released into the community and the local water supply.

Sea Level Rise. Some comments were made regarding climate change and, in particular, sea level rise. Interested parties commented that with the progression of global warming and the potential for sea level rise, deepening the channel might be unnecessary as the water level is already rising in the channel. They also pointed out that a rise in sea level could also affect some of the above issues; in particular, further lowering of the channel's dissolved oxygen levels.

Endangered Species

Comments were made by agency representatives regarding the potential for impacts to special status species in the Delta region. In particular, there are a wide variety of special status fish species that rely on the river as their habitat. One agency in particular was concerned about impacts to the Delta Smelt due to salinity intrusion, while another agency focused on the impacts of low dissolved oxygen levels on fall run Chinook salmon. A few comments were raised concerning the potential for improved shipping traffic in the region having an effect on the fish in the channel. Comments were made as a reminder of the limited work window that accompanies construction work in special status species habitat areas, as well as a reminder to address the Best Management Practices that will be utilized to avoid impacts to these species.

Air Quality

A number of comments were made concerning the potential for the project to affect air quality. As noted above in Section 3.2, most of the comments made were concerned with the effect of an increase in shipping traffic on local air pollution. One local agency commented with a reminder of the requirements necessary to comply with local air quality regulations. An interested party voiced concern that reduced dissolved oxygen levels in the water could have a negative impact on local air conditions and could

potentially cause health problems for locals who are sensitive receptors or suffer from lung disease.

3.4 Public Involvement

Comments were received by a few parties regarding public involvement with the project. A number of interested parties requested further information regarding the project, including information about public scoping meetings, copies of the EIS/EIR, and further specific project details. A number of parties commented with reminders about information that needs to be included in the EIS/EIR and areas of study to be focused on during the planning process.

3.5 Miscellaneous

Some comments were received that were relevant to the planning process, but did not pertain specifically to the content of the EIS/EIR. In particular, comments were made both in support of the project, and requesting that further dredging be considered for other local waterways. One interested party was very concerned about the well-being of the Suisun Marsh, but did not connect the concerns to this project.

4.0 RESULTS OF THE SCOPING MEETING

The comments received during the public meetings will be addressed and/or incorporated into the EIS/EIR and the feasibility study. The future steps for the project will be to establish the without project conditions which will likely include sediment sampling and analysis, salinity modeling, dissolved oxygen monitoring, as well as other potential technical studies. We will also continue to consult with resource agencies and seek input from the public in determining the potential impacts to the surrounding environment.

APPENDIX A:
COPY OF PUBLIC COMMENTS

Index of Written Comments Received

1. San Joaquin County Mosquito and Vector Control District, John Stroh, e-mail dated March 17, 2008 (Environmental Consequences and Mitigation)

2. June Guidotti, March 22, 2008 (Miscellaneous)

3. Zentner and Zentner, Lesley Drummond, E-mail dated March 24, 2008 (Project Components)

4. Chevron Pipe Line Company, Jeremy Gross, E-mail dated March 24, 2008 (Scope of Impacts)

5. Steve Jenkins, e-mail dated March 25, 2008 (Public Involvement)

6. Mare Island Marine Resources, Teresa Booth, E-mail dated March 26, 2008 (Scope of Impacts)

7. Scott O'Hara, Comment Card March 26, 2008 (Public Involvement)

8. Baxter B. Smoak, April 1, 2008 (Project Components)

9. Thomas A. Thomas, verbal comments April 2, 2008 (Environmental Consequences and Mitigation)

10. Peter Baye, e-mail dated April 2, 2008 (Environmental Consequences and Mitigation)

11. Dante John Nomellini, verbal comments April 2, 2008 (Scope of Impacts)

12. Randy Sutphin, verbal comments April 2, 2008 (Scope of Impacts)

13. Andrew K. Enos, Jr., Comment Card April 2, 2008 (Project Components)

14. Manteca Unified School District, Mary Karin, Comment Card April 2, 2008 (Project Components)

15. California Department of Transportation, Ken Baxter, Comment Card April 2, 2008 (Scope of Impacts)

16. Thomas A. Thomas, M.D., Comment Card April 2, 2008 (Environmental Consequences and Mitigation)

17. California Ammonia Company, Robert C. Brown, April 2, 2008 (Scope of Impacts)

18. Contra Costa Water District, Brett Kawakami, e-mail dated April 10, 2008 (Public Involvement)

19. East Bay Regional Park District, Chris Barton, e-mail dated April 11, 2008 (Scope of Impacts)

20. Yara North America, Inc., Henri Groenen, E-mail dated April 12, 2008 (Scope of Impacts)

21. East Bay Municipal Utility District, Andrew K. Enos, Jr., e-mail dated April 8, 2008 (Scope of Impacts)

22. Manteca Unified School District, Sandy Dwyer, April 8, 2008 (Project Components)

23. Ann M. Charges, April 14, 2008 (Scope of Impacts)

24. City of Stockton, Robert L. Granberg, April 16, 2008 (Scope of Impacts)

25. San Joaquin Valley Air Pollution Control District, David Warner, April 24, 2008 (Environmental Consequences and Mitigation)

26. Metropolitan Water District of Southern California, Delaine W. Shane, April 25, 2008 (Environmental Consequences and Mitigation)

27. State Water Contractors, Terry L. Erlewine, e-mail dated April 28, 2008 (Environmental Consequences and Mitigation)

28. California Regional Water Quality Control Board, Philip Giovannini, April 28, 2008 (Environmental Consequences and Mitigation)

29. HydroQual, Laurie De Rosa, e-mail dated April 29, 2008 (Environmental Consequences and Mitigation)

30. Contra Costa Water District, Leah Orloff, April 29, 2008 (Scope of Impacts)

31. City of Pittsburg, Marc S. Grisham, April 29, 2008 (Scope of Impacts)

32. California Department of Transportation, Betty Miller, E-mail dated April 29, 2008 (Scope of Impacts)

33. Bureau of Reclamation, Alan R. Candlish, e-mail dated April 29, 2008 (Scope of Impacts)

34. URS Corporation, Ian Austin, e-mail dated April 29, 2008 (Scope of Impacts)

35. Tesoro Refining and Marketing Company, G. Michael Marcy, E-mail dated April 30, 2008 (Scope of Impacts)

36. League of Women’s Voters, Jane Wagner-Tyack, e-mail dated April 30, 2008. (Project Components)

37. Charles H. Ucker, April 30, 2008 (Project Components)

38. Minasian, Spruance, Meith, Soares, & Sexton, LLP, Dunstin C. Cooper, E-mail dated April 30, 2008 (Scope of Impacts)

39. Central Delta Water Agency, Dante John Nomellini, April 30, 2008 (Environmental Consequences and Mitigation)

40. Natural Resources Defense Council, David Pettit, e-mail dated April 30, 2008 (Environmental Consequences and Mitigation)

41. San Francisco Baykeeper, Sara Aminzadeh, e-mail dated April 30, 2008 (Environmental Consequences and Mitigation)

42. California Department of Fish and Game, Charles Armor, April 30, 2008 (Environmental Consequences and Mitigation)

43. San Joaquin Farm Bureau Federation, Joe Valente, April 30, 2008 (Scope of Impacts)

44. Minasian, Spruance, Meith, Soares, & Sexton, LLP, April 30, 2008 (Public Involvement)

45. San Francisco Bay Conservation and Development Commission, Jessica Hamburger, May 7, 2008 (Scope of Impacts)

46. Central Valley Regional Water Quality Control Board Mercury TMDL Unit, Patrick Morris, e-mail dated May 12, 2008 (Scope of Impacts)

47. U.S. Environmental Protection Agency, e-mail dated May 16, 2008 (Project Components)

Project Components

MUSD
French Camp Lathrop Manteca Weston Ranch
Manteca Unified School District
Sandy Dwyer, Director of Facilities Planning

April 8, 2008

Ms. Nancy Ferris
Department of the Army, San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

Subject: EIS/EIR for the San Francisco Bay to Stockton Navigation Improvement Project

Dear Ms. Ferris:

The following is the Manteca Unified School District's response to the Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton Navigation Improvement Project.

Of major concern to Manteca Unified is the additional depth of the Stockton shipping channel and the impact to the levees on the San Joaquin River, specifically, South Stockton within Weston Ranch and the City of Lathrop. Manteca Unified currently has four elementary schools and three high schools, with a potential of constructing four elementary schools as development happens, between the Weston Ranch and City of Lathrop areas adjacent to the San Joaquin River that could be impacted if additional stress to the levees occurs.

Of interest to Manteca Unified is the item in your brochure that was given to participants at the April 2, 2008 meeting in Stockton, under project alternatives, the alternative placement sites for dredge material and the impact to the San Joaquin River if the dredging material were placed in or adjacent to the San Joaquin River.

Consideration of these items in the EIS/EIR for the above named project is appreciated.

Should you have additional questions, I can be contacted at (209) 825-3200, extension 758 or by e-mail: sdwyer@musd.net or you may contact Mary Karim at (209) 825-3200, extension 763 or by e-mail: mkarim@musd.net.

Sincerely,

Sandy Dwyer

Sandy Dwyer
Director of Facilities Planning

P.O. Box 32
Manteca, CA 95336
2901 East Louise Avenue, Lathrop

Phone (209) 825-3200
Fax (209) 825-3249
sdwyer@musd.net

U.S. ARMY CORPS OF ENGINEER
SAN FRANCISCO DISTRICT
PLANNING BRANCH
1455 MARKET ST.
SAN FRANCISCO,
CA., 94103-1398

DATED: APRIL 30, 2008

PUBLIC NOTICE: NOTICE OF INTENT TO PREPARE A JOINT EIRS/ENVIRONMENTAL IMPACT REPORT FOR THE SAN FRANCISCO BAY TO STOCKTON... NAVIGATION IMPROVEMENT PROJECT, CA.

THE SAN FRANCISCO BAY TO STOCKTON RIVER ROUTE HAS BEEN USED FOR COMMERCE FOR MORE THAN 100 YEARS, WHETHER IT WAS SHALLOW DRAFT BOATS OR DEEP DRAFT LARGER SHIPS. I THINK THAT THIS COMMERCE SHOULD BE ALLOWED TO CONTINUE. SO MY PREFERENCE FOR ALTERNATIVES IS: "MODIFY THE SHIPPING CHANNELS TO AUTHORIZED DEPTHS." ALOT OF PEOPLES' JOBS AND BUSINESSES DEPEND UPON THESE "DEEP DRAFT SHIPS" BEING ABLE TO MOVE UP AND DOWN THIS ROUTE BETWEEN SAN FRANCISCO BAY AND STOCKTON.

Charles H. Ucker
301 Southern Hill Dr.
Rio Vista, CA 94571-2153

Charles H. Ucker Jr.

E-mails

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

May 16, 2008

Ms. Nancy Ferris
U.S. Army Corps of Engineers,
San Francisco District
1455 Market Street
San Francisco, CA 94103-1398

Subject: Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project, California.

Dear Ms. Ferris:

The U.S. Environmental Protection Agency (EPA) has reviewed the Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project (Project) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA) and EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act (MPRSA). Our detailed comments are enclosed.

The NOI states that the intent of the U.S Army Corps of Engineers (Corps), and the Port of Stockton, and Contra Costa Water Agency (local sponsors) is to evaluate the efficiency of goods movement along the existing San Francisco Bay to Port of Stockton deep draft channel. The NOI further states that the proposed federal action consists of altering the depth along portions of the 75 nautical mile channel. While not stated in the NOI, EPA understands that the Project could yield approximately 25 million cubic yards of dredged material. Given the scale and scope of the Project, EPA is concerned that the proposed action, if not thoroughly evaluated and designed to address broader goals, could have highly significant adverse impacts to the San Francisco Bay (SF Bay) and Sacramento/San Joaquin Delta (Delta) ecosystems and to human uses of the Delta and its water. However, EPA also believes that this EIS is an important opportunity to advance wise planning of the SF Bay and Delta's unique resources, in a manner that optimizes many uses, including efficient goods movement. We are particularly interested in the potential impacts that this proposed Project may have on existing and planned efforts, such as

the Bay-Delta Conservation Plan and Delta Conveyance, to protect and enhance ecological resources, the human environment, water supply, water quality, and efforts for beneficial reuse of dredging material in the SF Bay and Delta.

Specific to beneficial reuse of dredging material, EPA considers the proposed Project an excellent opportunity to identify significant beneficial reuse projects in the context of a regional dredged material management plan. Beneficial reuse in a regionally managed context is particularly important due to the millions of cubic yards of material from the Project, from existing stockpiled dredge material in the Delta, and the future Sacramento Deep Water Ship Channel Project. As such, it provides a timely opportunity to further develop the San Francisco Bay and Delta Long Term Management Strategies (LTMSs) for dredged material and use the LTMSs process for coordination of permitting.

We greatly appreciate the Corps' interest in early coordination with EPA and other interested parties to develop and assess Project alternatives. Toward that end, we recommend a collaborative process to address the complexities of this effort and collectively identify critical resource issues and appropriate efforts with which to coordinate during the development of alternatives. We strongly encourage the Corps and local sponsors to initiate this collaborative approach with members of the CALFED Bay-Delta Program, Delta Vision, and the Delta and SF Bay Long Term Management Strategies (LTMSs) due to their important roles in the future of the Delta and SF Bay. In particular, it will be important to work with these efforts and their participating agencies on matters such as defining baseline conditions, alternatives formulation, and evaluation of effects in the SF Bay and Delta.

EPA looks forward to future Project coordination with the Corps on May 28th where we will discuss elements of the future Draft EIS. Please note that our detailed comments provided are focused on areas of particular interest to EPA given the information available in the NOI and at the Project website. We will continue to provide input prior to and after public release of the Draft EIS and Final EIS. Please send two copies of the Draft EIS to this office at the same time it is officially filed with our Washington D.C. Office. If you have any questions, please contact me at 415-972-3846 or Paul Amato, the lead reviewer for this project. Paul can be reached at 415-972-3847 or amato.paul@epa.gov.

Sincerely,

Connell Dunning

For Nova Blazej, Manager
Environmental Review Office

cc:
Mr. Richard Aschieris, Port Director, Port of Stockton
Ms. Roberta Goulart, Executive Officer, Contra Costa Water Agency
Mr. Will Travis, Director, Bay Conservation and Development Commission
Ms. Jessica Hamburger, Bay Conservation and Development Commission

Mr. Will Travis, Director, Bay Conservation and Development Commission
Ms. Jessica Hamburger, Bay Conservation and Development Commission
Mr. Bruce Wolfe, Executive Officer, San Francisco Bay Regional Water Quality Control Board
Mr. Les Grober, State Water Resources Control Board, Division of Water Rights
Mr. Sergio Guillen, Department of Water Resources
Mr. Paul Marshall, Department of Water Resources
Mr. Leo Winternitz, Deputy Director Strategic Planning
Ms. Pamela Creedon, Executive Officer, Central Valley Regional Water Quality Control Board
Ms. Linda Fiack, Executive Director, Delta Protection Commission
Mr. Chuck Armor, Regional Manager, California Department of Fish & Game
Ms. Sandy Morey, Regional Manager, California Department of Fish & Game
Ms. Maria Rea, Area Supervisor, National Marine Fisheries Service
Mr. Dick Butler, Area Supervisor, National Marine Fisheries Service
Ms. Susan Moore, Field Supervisor, U.S. Fish and Wildlife Service
Colonel Thomas C. Chapman, District Engineer, U. S. Army Corps of Engineers, Sacramento District
Lieutenant Colonel Craig Kiley, District Engineer, U.S. Army Corps of Engineers, San Francisco District
Brigadier General John McMahon, South Pacific Division Engineer, U.S. Army Corps of Engineers
CALFED Agencies

EPA'S DETAILED COMMENTS ON THE NOTICE OF INTENT (NOI) TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT (EIS) FOR THE SAN FRANCISCO BAY TO STOCKTON (JOHN F. BALDWIN AND STOCKTON SHIP CHANNELS) NAVIGATION IMPROVEMENT PROJECT (PROJECT), MAY 16, 2008

Purpose and Need

The purpose and need statement in the EIS should be clearly stated and briefly describe the underlying purpose and need to which the U.S. Army Corps of Engineers (Corps) is responding in proposing alternatives, including the proposed action. (40 C.F.R. 1502.13.) The statement of purpose and need should explain why the Corps and Port of Stockton and Contra Costa Water Agency (local sponsors) are undertaking the proposed Project and the objectives that the action is intended to achieve. Based on information provided in the NOI, at a minimum, it appears that the purpose and need of the Project are to improve the efficiency of goods movement along the shipping channels and address existing inefficiencies. The EIS should clarify whether the purpose and need includes expansion of existing facilities at the Port of Stockton, or other locations along the channels, and why this is needed, or whether this is considered a connected action for the purposes of the EIS.

Range of Alternatives

According to the NOI and information on the project web site, the overall range of alternatives to be considered in the EIS includes No Action (maintaining the current channel dimensions), Changing Channel Dimensions (including widening/reconfiguring, as well as deepening), and Alternate Transportation Methods for moving goods from San Francisco Bay (SF Bay) to the Port of Stockton. We note that there would be a significant difference in terms of environmental impacts from deepening or reconfiguration, in different locations along the 75-mile project. In particular, channel deepening or reconfiguration may have relatively less impact in the "downstream" reaches (lower Baldwin Ship Channel areas from the SF Bay through the Carquinez Straight) than in "upstream" reaches (from Suisun Bay through the Stockton Ship Channel). In order to reasonably evaluate impacts and benefits, the EIS should include multiple alternatives within the Changing Channel Dimensions category.

The EIS should also describe the planning horizon that the Project alternatives are intended to serve. In other words, describe how long the Corps and local sponsors intend the Project alternatives to serve the Project needs stated in the EIS.

We strongly recommend that the definition of the baseline conditions for "no action" (that is, without project conditions) be coordinated with the CALFED agencies that are also conducting impact analyses for proposed projects affecting the Delta. In particular, establishing common baseline assumptions regarding water management projects and their operations is an important step in modeling water movement into and within the Delta and provides a common basis for evaluating impacts of alternatives. Use of a common baseline will also assist evaluation of effects of the Corps' project in combination with other proposed projects affecting the Delta.

Regional Coordination

Because of the scale and scope of the Project, as well as potential environmental effects, EPA strongly encourages the Corps and local sponsors to coordinate with current efforts, plans and projects currently underway to address ongoing environmental concerns in the Delta and Bay. Among these are the CALFED California Bay-Delta Program, Delta Vision, and the Delta and SF Bay Long-Term Management Strategies (LTMSs). As you know, the Corps as well as EPA already participate in CALFED and LTMS coordination efforts while the local sponsors are part of the Delta Vision stakeholder subcommittee. EPA contacts for these efforts are Ms. Carolyn Yale at (415) 972-3482, for CALFED and Mr. Brian Ross, at (415) 972-3475 for the LTMSs.

Dredging

Commitment to Beneficial Reuse of Dredged Material

The EIS should include a commitment to either beneficially reuse directly, or make available for beneficial reuse, all dredged material generated as a result of the project, to the maximum extent practicable. This should explicitly include any and all previously-dredged material that must be excavated from existing placement sites to provide capacity for dredging and initial placement of additional material from the project. (See further discussions regarding LTMSs, and Cumulative Effects, below.)

Dredging and Placement Volumes and Environmental Effects

Neither the NOI nor the project web site gives any information about the range of volumes of dredged material the various alternatives might generate. However, we understand that approximately 25 million cubic yards of material could potentially be dredged if deepening were to occur to the currently-authorized dimensions throughout the Project. Different alternatives may look at more volume or less volume, but clearly this would be a major dredging project and would likely be the largest to occur in the Delta for decades. Because the volume of dredging associated with each alternative has direct bearing on the degrees of impact, the EIS should address potential impacts of dredging, the initial placement of the dredged material, and the potential for beneficial reuse. The EIS alternatives analysis should consider:

- dredging effects on in-stream water quality (degree and duration of resuspension at the dredging sites);
- dredging effects on potential entrainment of fish;
- dredging effects on sediment quality (post-dredge surface chemistry compared to pre-dredge surface chemistry; this may vary by depth and area dredged);
- dredging effects on air quality (during construction/placement);
- disposal/placement effects resulting from the need to excavate and move previously-dredged material to recreate capacity at existing placement sites;
- disposal/placement effects resulting from placement or stockpiling of previously-dredged material removed from existing placement sites;
- disposal/placement effects resulting from the need for new initial placement sites (impacts would vary by site and by number of sites needed);

- disposal/placement effects resulting from directly placing material at any other (final) placement sites;
- disposal/placement effects on air quality (during drying at initial placement sites, and during any excavation/stockpiling of previously-dredged material);
- disposal/placement effects on surface water quality resulting from return flow from contained placement sites;
- disposal/placement effects on ground water quality resulting from leachate from placement sites;
- disposal/placement effects on volume of material made available for various beneficial reuse options;
- disposal/placement effects resulting from potential future land use of any material placed (or left, for existing material) where it is not easily available for reuse.

The EIS should also estimate the volume and frequency of future operations and maintenance (O&M) dredging needs. The commitment to facilitating beneficial reuse should extend to future maintenance dredging, as well. (Also see Cumulative Effects, and Dredged Material Management Program, below.)

Dredged Material Quality and Testing Issues

Substantial sediment quality data needs to be collected for this project. In particular, sediment quality data must be sufficient to identify the suitability for and impacts of placement in all of the alternative locations to be considered for material from the various reaches of the project. Existing data known to EPA are not adequate for this purpose. The Corps and local sponsors should coordinate with the California State Water Resources Control Board regarding their extensive sediment sampling, planned for the spring/summer of 2008 throughout the Delta, in support of the State's Sediment Quality Objective (SQO) development. These data may be of significant use in focusing the additional testing needed for the Project.

Presently, information presented on the Project web page identifies eight potential (existing) placement sites, including seven contained areas in and near the Delta as well as the San Francisco Deep Ocean Disposal Site (SF-DODS). Testing requirements for the SF-DODS would be quite different from the other contained placement sites. In addition, sediment testing for initial placement sites may differ from the testing needed for final or subsequent placement sites (reuse). The Corps and the local sponsors should commit to close coordination of testing needs for this project with the interagency LTMS working groups. The EIS should specifically commit to assisting the Delta LTMS in generating sediment and water quality data to support development of a broad dredged material management plan for the Delta, including the effort to identify pre-dredge testing that may be adequate to determine suitability for both initial placement and subsequent reuse. (See further discussions regarding LTMSs, and Cumulative Effects, below.)

In addition to the kinds of testing done, the resolution of the sampling and testing is an important issue. It may be that sediment sampling can be conducted in phases, with certain areas initially receiving lower-resolution sampling and analysis, followed by higher-resolution sampling and analysis in areas of concern based on the initial testing or existing information.

Otherwise, survey-level testing (e.g., a single sample taken every mile along the channel center line) alone would not be adequate to determine volumes of material that may be suitable for initial placement at different sites, because it may not capture any reasonable degree of potential heterogeneity throughout the project area. Instead, sampling locations should be focused in order to represent the specific material to be dredged (more sampling in shoaled areas where greater dredging volume exists), and also focused on any areas of known or suspected contaminant sources or sinks. In addition, cores from each sample location should be vertically divided with separate analyses performed on portions of the cores representing the different alternative dredging depths the EIS will consider, in each project reach.

Some of the specific goals of the sediment testing should include:

- determining where dredged material may be initially placed;
- determining whether any special management actions are needed at any of the placement sites;
- determining what reuses (final placement types) the material may be suitable for;
- determining whether any placement sites may need to be designed/operated to segregate dredged material of different qualities (differing suitability) or whether different placement sites should be assigned different qualities of material.

EPA looks forward to working with the Corps and the local sponsors to develop an appropriate Sampling and Analysis Plan (SAP) that will address the various needs of the project.

In addition to pre-dredging sediment testing issues, the EIS should reflect consideration of the TMDL being developed by the Central Valley Regional Water Quality Control Board to address mercury in the Delta and the adopted SF Bay Mercury TMDL. The mercury TMDLs may place certain constraints on not only the reuse, but also the dredging, of sediments that contain elevated levels of mercury. The EIS should also specifically discuss the potential for mercury methylation to occur at initial placement sites, and in other reuse situations.

Finally, USACE and the project sponsors should coordinate with the LTMSs, and specifically with the California Department of Water Resources (DWR) and the Regional Water Quality Control Boards (RWQCB), regarding groundwater monitoring that may be needed at both existing and potential new initial placement sites for dredged material. DWR in particular may be in a position to partner with the Corps and/or the local sponsors to collect appropriate groundwater monitoring data.

Dredged Material Placement

Management of as much as 25 million cubic yards of dredged material will be a huge undertaking, even if construction is conducted in phases over several years. As noted above, EPA strongly recommends that the EIS commit to beneficial reuse of all the dredged material generated by the Project, or to making all the material available for beneficial reuse, to the maximum extent practicable. This includes any material excavated from existing placement sites to re-create disposal capacity for the Project. To even begin to realize such a commitment will require placing material at environmentally appropriate locations that are in proximity to potential/likely reuse areas, or at least at locations that are easily accessible to future users via barge, truck, or rail. Ideally, material would be placed at such locations directly during the

dredging process, as opposed to needing to rehandle material after dredging. This reduces impacts associated with moving material multiple times, including air emissions, noise, cumulative effects to surface and groundwater (if any). Of course, it also reduces costs. However, it may not be possible to manage all the material without rehandling. In that case, either a combination of existing sites plus new sites, or entirely new sites, would be needed. To the extent that any new initial placement sites are needed, they should be located in areas near reuse needs or at least be accessible to others so that reuse is facilitated.

To consider how to manage dredged material from the Project in a manner that maximizes the reuse or potential for reuse, the following questions should be considered as part of the alternatives development for the EIS:

- What would the economically optimal project look like with respect to placement sites? If hydraulic dredging is used, how close together should initial placement sites be, and how do the existing sites match up with this ideal?
- Direct placement at beneficial reuse sites should be done where possible. With this in mind, which such sites can be specified up front as being practicable to use (e.g., Montezuma? Hamilton?), and for what reaches/volumes?
- For initial placement sites, what is the current capacity at existing sites, and where are these sites relative to dredging (which are feasible to reach)?
- For initial placement sites, would excavation of previously dredged material generate sufficient capacity at feasible locations without the need for new sites? If not, for what volume, at a minimum, are new sites needed?
- Is there an optimal mix of new and existing initial placement sites, in terms of economic benefit?
- Is there an optimal mix of new and existing initial placement sites, in terms of minimizing the severity of direct environmental impacts?
- What mix of either consolidated stockpiles and/or initial placement sites would best facilitate the availability of the most dredged material for beneficial reuse? For example, identify a limited number of locations where material could be initially placed (or for existing material, excavated and stockpiled) so that it would be easily accessible for transport by road, rail, or barge for reuse at locations throughout the Delta.

The EIS should address how initial placement sites would need to be managed, in order to facilitate later reuse of the material placed in them. For example, would individual sites need to be able to accept and keep separate different qualities of dredged material (e.g., separate areas for material that is suitable for any kind of reuse, verses material with more restricted suitability)? Or would different sites be designated to manage only specific material types? Other placement site management needs should also be addressed, including any need for special engineering, surface or ground water monitoring, etc. Similar discussions should be provided for any consolidated stockpile areas that may be proposed, as well.

Finally, based on the estimated volume and frequency of O&M dredging (see Dredging and Placement Volumes, above), the EIS should address how material generated by future O&M dredging would be managed. As noted, the commitment to facilitating beneficial reuse should extend to future maintenance dredging, as well. Up front identification of environmentally

possible available and accessible should be a major component of any regional dredged material management plan.

Developing and using the appropriate, accessible sites and potentially consolidating previously-dredged material from less accessible sites cannot feasibly be undertaken by individual future dredging projects (especially O&M projects) in a piecemeal fashion. This kind of task can, however, be feasibly undertaken by large Civil Works projects with specific Congressional funding (and of course appropriate local cost-sharing). These sediment management considerations should be directly incorporated into the EIS's action alternatives, as project features eligible for projects funding as opposed to the traditional approach wherein "lands, easements, and rights-of-way" for upland/contained placement sites are considered mainly the responsibility of local sponsors to provide.

Water

Generally, baseline and impact analyses for water quality and interpretation of the significance of water quality changes on biological resources and other beneficial uses should be coordinated with the CALFED agencies and the related CALFED programs. For example, the CALFED Science Program has for several years been working with the Ecosystem Restoration Program to refine understanding of Delta habitat, stressors, and biological responses to these conditions. The importance of Delta water quality as a source of drinking water and as the environment for many important aquatic species, including five species of fish listed under the Endangered Species Act, places a spotlight on water quality analyses for the EIS.

Water Quality

The Project has the potential to significantly impact water quality in the Delta and San Francisco Bay. In order to monitor and report water quality impacts as well as effectiveness of water quality mitigation measures, the Corps and local sponsors should first develop an appropriate water quality monitoring plan. Adequate monitoring of water quality during Project activities should be based on a plan designed specifically for the Project using existing sampling protocols as appropriate. In order to fully assess potential impacts, the monitoring plan should establish baseline conditions including characterization of ambient physical, chemical and biological water quality conditions in the Delta and SF Bay. Existing monitoring data from non-Project sources, combined with additional characterization data should be considered. We recommend that you coordinate with the State Water Resources Control Board and Central Valley and San Francisco Bay Regional Water Quality Control Boards, which have jointly committed to developing a comprehensive regional monitoring program for the Delta, as one component of a Delta Strategic Plan.

In addition to describing baseline line conditions, the EIS should assess potential direct, indirect and cumulative impacts to water quality from Project activities such as sediment dredging and disposal, and describe how the water quality monitoring plan will be used to measure these impacts. The analysis in the EIS should describe CWA Section 303(d) listings of impaired water bodies and Total Maximum Daily Loads (TMDLs), such as for dissolved oxygen (DO) and mercury that are under development or adopted for the Delta and SF Bay, and describe how the Project could potentially affect these impairments. Of particular relevance to the

appropriate placement locations that are feasible for future O&M dredging needs, while at the same time making the material accessible for future reuse should be a priority. (See Cumulative Effects, and Dredged Material Management Program, below.)

CALFED Delta Levee Stability Program

Dredged material associated with the Project (both material dredged for deepening, and any previously-dredged material that may be excavated to re-create capacity for initial management of the deepening material) could be a significant resource for work undertaken by the existing Delta Levee Stability Program. The EIS should describe this program, and how management of dredged material from the project could be managed to facilitate the program's goals.

Cumulative Effects of Dredging

Virtually all of the above dredging comments will apply directly to the upcoming Sacramento Deep Water Ship Channel (Sacramento DWSC) project as well. The Sacramento DWSC project will reportedly generate another 7 million cubic yards or more of dredged material, and between the two deepening projects the potential for cumulative effects is significant. The two would generate the vast majority of reasonably foreseeable dredging in the Delta for the next decade or more. Regarding dredged material specifically, consider all the "Dredging and Placement Volumes" issues listed above. In addition, the EIS should consider:

- cumulative acreage needed for initial placement sites;
- cumulative habitat and water quality impacts of dredging, including timing and discharge related impacts, and of developing new placement sites;
- air quality effects of dredging, transporting, and rehandling the cumulative volume from both projects, including both previously-dredged and new (Project) material, plus future O&M;
- cumulative availability of dredged material from both projects, including previously-dredged material along each project, for beneficial reuse.

Maintenance dredging needs, and management of the O&M material, should be considered cumulatively with other maintenance dredging needs in the Delta, including the proposed Sacramento DWSC but also including existing navigation and flood control dredging projects. The EIS should present estimated future maintenance dredging of the proposed project in light of compiled statistics on overall maintenance dredging throughout the Delta now (volumes, locations, and placement sites). (Also see Dredged Material Management Program, below)

Facilitating a Dredged Material Management Program for the Delta

As noted, the Stockton and Sacramento DWSC projects together likely represent the vast majority of dredging that may be conducted in the Delta for years to come. As a result, how these projects manage their dredged material will effectively determine regional dredged material management. For example, the Stockton project alone could provide a significant proportion of the sediment needed in the Delta to repair and maintain levees, and to restore habitat. Considering the millions of cubic yards of previously-dredged material stockpiled at a number of locations around the Delta, and combined with the proposed Sacramento DWSC, dredged material could supply an even greater proportion. Making as much of that material as

proposed Project is the adopted TMDL/Basin Plan Amendment addressing low DO in the Stockton Deep Water Ship Channel and the fact that existing channel configuration contributes to this impairment. The EIS should consider potential impacts on DO levels in the lower San Joaquin River. This analysis should clearly state assumptions regarding implementation of all aspects of the TMDL (improving ship channel geometry, management of oxygen demanding substances, and River flows). We also recommend that the Corps consider if low DO can be reduced through changes in channel geometry associated with Project alternatives.

Hydrodynamics

Channel deepening is expected to affect the hydrodynamics of the Delta and SF Bay. The EIS should describe these effects and the modeling used to inform the determinations. The EIS should also discuss the potential for altered hydrodynamics to directly, indirectly and cumulatively affect water quality, biological resources, and other resources influenced by hydrodynamic conditions in the Project area. EPA is particularly concerned with effects to dissolved oxygen and salinity concentrations that could result from changes to hydrodynamics from channel deepening. The Corps and local sponsors should include a long-term monitoring component of the water quality sampling plan that will take these effects into account.

Mitigation

In addition to baseline and effects analysis, the EIS should describe avoidance and mitigation measures to address water quality degradation from the Project. Mitigation should be focused on meeting water quality standards and compliance with the CWA and the Porter-Cologne Water Quality Control Act. The Central Valley and SF Bay Regional Water Quality Control Boards should be consulted as well as EPA, in the development of mitigation measures and the water quality monitoring plan. Results of this coordination should be described in the EIS.

Water Supply

Because of the importance of the Delta to water supply in California, the EIS should include an analysis and discussion of how the alternatives could affect water supply conditions within both a water delivery and water quality context.

Biological Resources

The Sacramento San Joaquin Delta (Delta) is a biologically diverse ecosystem that will be affected by the Project. Several human induced factors have resulted in degradation of Delta habitats resulting in the federal and state listings of several threatened and endangered species that could be further affected by the Project. The EIS should describe baseline habitat conditions and species that occur or could occur in the Project area, and areas that could be affected by Project activities. Special emphasis should be on federally listed species protected under the Federal Endangered Species Act. Currently the U.S. Fish and Wildlife Service, California Department of Fish and Game, National Marine Fisheries Service, California Department of Water Resources, U.S. Bureau of Reclamation and a number of water contractors are engaged in a major effort to formulate a "Bay Delta Conservation Plan" that will address participants' obligations pursuant to the Federal and California Endangered Species Acts (FESA and CESA).

Likewise, the Corps and local sponsors will need to plan sufficient time and resources to address compliance with the FESA and CESA and describe this in the EIS.

The Corps should also describe species that are protected by the California Endangered Species Act. The Corps should conduct a rigorous analysis of potential Project effects on both habitats and species, including direct, indirect and cumulative impacts and describe mitigation measures to address any unavoidable impacts of the Project on biological resources. The EIS should describe coordination efforts with the U.S Fish & Wildlife Service, National Marine Fisheries Service, and the California Department of Fish & Game and consistency with appropriate state and the federal laws implemented by these agencies.

Of particular interest is the potential impact of the project on pelagic fishes in the Delta and San Francisco Bay. The Corps should refer to the work of the Interagency Ecological Program (IEP) on pelagic organism decline (POD) that has occurred in recent years. The Corps is encouraged to consult with EPA and should contact Mr. Bruce Herbold at (415) 972-3460 to further discuss this issue.

As part of the discussion of biological resources, the EIS should also consider the potential for the Project to introduce, distribute, or in any way increase the presence of non-native invasive species in the Delta and SF Bay. Special control measures should be described to prevent impacts from invasive species that could result from the Project.

Air Quality

The EIS must adequately assess air quality impacts of the Project and minimize these impacts through adequate mitigation measures. The proposed Project area falls within both the SF Bay Area and the San Joaquin Valley air basins (Air Basins). Both of these basins are designated nonattainment for national ambient air quality standards (NAAQS) including ozone (O3), particulate matter smaller than 2.5 microns (PM2.5) and particulate matter smaller than 10 microns (PM10). The SF Bay Area basin is designated marginal nonattainment for 8-hour O3 and moderate nonattainment for 1-hour O3. The San Joaquin Valley air basin is designated serious nonattainment for 8-hour O3, extreme nonattainment for 1-hour O3, nonattainment for PM2.5 and serious nonattainment for PM10.

The EIS should provide a discussion of the baseline air quality conditions in the Project area and the Air Basins, a description of federal and state air quality regulations, and a rigorous assessment of direct, indirect, and cumulative effects of the proposed Project on air quality. The analysis of air quality impacts should include direct and indirect impacts from construction and operation and maintenance (including dredge spoil disposal activities), as well as cumulative impacts from construction, any increased ship traffic, new capacity for larger ships due to channel deepening, and increased throughput and traffic at and around the Port of Stockton. The expected timing and frequency of dredging and transporting of dredged material should be identified in the EIS. The Corps should describe in the EIS specific commitments to mitigate emissions that will prevent further degradation of air quality in the Air Basins. In short, the cumulative impacts analysis should consider all new sources of emissions that are likely to result from the federal action of deepening the ship channels and commit to mitigation measures that

minimize air quality impacts to the maximum extent feasible (alternative fuels, electrification, minimizing diesel truck trips, etc). An estimate of the air quality benefits that result from each mitigation meausure proposed should be included in the EIS. The EIS should also describe coordination with EPA, California Air Resources Board, Bay Area Air Quality Management District, and the San Joaquin Valley Air Pollution Control District intended to reduce air quality impacts in the Air Basins.

The EIS should describe whether the project will or will not meet general conformity requirements with the associated state implementation plans for the Air Basins. If the federal action is determined to potentially interfere with the attainment of Clean Air Act NAAQS, the Corps is required to conduct a conformity analysis to determine the likelihood and extent of interference. The Corps is encouraged to consult with EPA and should contact Ms. Rebecca Rosen of the Air Division at (415) 947-4152.

Environmental Justice

The Corps should identify any environmental justice communities that could be affected by the Project and assess potential impacts and impact avoidance measures. Because the Project could result in increased air quality impacts and increased traffic at the Port of Stockton, there is potential to disproportionately impact low income and minority communities that may occur in and around the Project area. Disproportionate impacts to environmental justice communities should be avoided and mitigated to the fullest extent practicable. The Corps is encouraged to consult with EPA and should contact Ms. Lily Lee at (415) 972-3795.

Cumulative Impacts

Port expansion at Stockton (and attendant effects such as those associated with increases in ship, truck and rail traffic) should be evaluated in the EIS as a connected action. But in addition, the potential for the deepening to facilitate port expansion at other locations along the channel (starting from San Pablo Bay) needs to be considered. Beyond that, potential cumulative effects from the Sacramento DWSC need to be addressed as do growth-inducing effects resulting from channel deepening. These include not only possible port expansion at Sacramento, but also among other things cumulative increases in ship, truck and rail traffic, cumulative impacts to water quality, water flow ("plumbing"), sensitive species, habitat quality, invasive species populations, air quality, and sensitive receptors such as environmental justice communities.

Climate Change Impacts

The Intergovernmental Panel on Climate Change (IPCC) estimates that the global average sea level will rise by 7.2 to 23.6 inches by 2100, relative to 1980-1999 levels, under a range of scenarios (http://www.epa.gov/climatechange/science/futureslc.html). Given the conclusion that sea levels are rising, the EIS should discuss how projected rise could have an effect on the proposed Project. The EIS should provide a qualitative discussion of the effects of rising water surface elevations and climate-induced sediment supply modifications on dredging requirements in the Delta and San Francisco Bay. Whether this would occur within the projected Project timeframe should be considered.

From: Jane Wagner-Tyack [mailto:janetyack@mac.com]
Sent: Wednesday, April 30, 2008 4:15 PM
To: CESPN-ET-PA SPN Resource ID
Subject: EIS/EIR for channel dredging project

Dear Ms. Ferris,

I have concerns about levee stability and changes in salinity associated with this project. However, the matter I would like to comment on is the Corps' timing.

I understand that this study was authorized in the 1960s. I wonder why the Corps is choosing to move ahead with it now, at a time when the Sacramento-San Joaquin Delta is in profound crisis, with water project export pumps shut down, smelt and salmon populations threatened, and Governor Schwarzenegger and other interests from outside the Delta pressuring for a conveyance structure that will further degrade local water and environmental quality and threaten local agriculture.

Meanwhile, the City of Stockton is in the process of evaluating and responding to newly issued FEMA maps that categorize large portions of the city as being in a flood zone.

It's almost as if the Corps is pushing ahead with this now because local interests have too many other issues to worry about to give channel dredging the attention it deserves.

Jane Wagner-Tyack
Board of Directors
League of Women Voters of San Joaquin County

From: Baxter.B.Smoak@uscg.mil on behalf of Smoak, Baxter B LTJG
[Baxter.B.Smoak@uscg.mil]
Sent: Tuesday, April 01, 2008 1:52 PM
To: CESPN-ET-PA SPN Resource ID
Subject: San Francisco Bay to Stockton Improvement project

Ms. Ferris

I am writing to find out more information concerning the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project. I would like to know the proposed depths and if there is supplemental information relating to the proposed projects details. Thank you for your time and have a good afternoon.

Respectfully,
Baxter B. Smoak, LTJG

USCG District Eleven (DPW):
- Vessel Traffic Service (VTS)
- Marine Transportation Systems (MTS)
- Waterways Analysis and Management (WAMS)

510-437-5984 (office)
843-364-4575 (cell)
510-437-5836 (fax)

ZENTNER and ZENTNER

95 Linden Street

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Oakland

California 94607

Tel: 510.622.8110

Fax: 510.622.8116

March 24, 2008

Nancy Ferris
San Francisco District
U.S. Army Corp of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-6629

RE: **San Francisco Bay to Stockton Navigation Improvement Project**

Dear Ms. Ferris:

I am writing in response to the notice of intent to prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project. In accordance with Long Term Management Strategy (LTMS) goals to reduce the volume of in-Bay dredged material deposition and the attendant environmental impacts, we believe that the materials dredged from this project should be disposed of at an upland site implementing beneficial reuse of dredged materials, such as Carneros River Ranch. Upland disposal at such a site should be considered as an alternative in the EIS/EIR for this project.

Thank you for the opportunity to submit comments on this proposed project.

Sincerely,

Lesley Drummond
Project Manager

cc: J.T. Wick

814comment Stockton.ltr

Comment Cards

SAN FRANCISCO BAY TO STOCKTON NAVIGATION STUDY
COMMENT CARD

Name ANDREW K. ENOS, JR, P.E.

Email aenos@ebmud.com

Address P.O. BOX 228 STOCKTON, CA 95201

Would you like to be added to the project mailing list?

Comments: It would be great if the dredge material (w/appropria testing and approvals) could be made available for the maintenance of Delta Levees, especially if ACOE review shows that this mat is suitable for levee improvement projects.

SAN FRANCISCO BAY TO STOCKTON NAVIGATION STUDY
COMMENT CARD

Name Mary Karim - Manteca Unified School District

Email mkarim@mosd.net

Address 2901 E. House Ave Lathrop 95330

Would you like to be added to the project mailing list? yes

Comments: Will be submitting letter relative to the impact to the levees & water Depth also dredge equipment locations within the South Stockton (Weston Ranch) and Lathrop areas.

Scope of Impacts

Making San Francisco Bay Better

May 7, 2008

Ms. Nancy Ferris
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

SUBJECT: Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project, California

Dear Ms. Ferris:

On March 13, 2008, the San Francisco Bay Conservation and Development Commission (Commission) staff received the Notice of Intent (NOI) to Prepare a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project. In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (Corps), the Port of Stockton, and the Contra Costa County Water Agency are preparing an EIS/EIR to evaluate the effects of altering the depth of the existing deep draft navigation route extending from the San Francisco Bay to the Port of Stockton. The proposed deepening of several reaches of the channels from -35 feet mean lower low water (MLLW) to -45 MLLW would involve new dredging and disposal and/or beneficial reuse of dredged material. The proposed action is intended to meet the stated need for improved efficiency of the movement of goods.

Although the Commission itself has not reviewed the NOI, the staff comments discussed below are based on the McAteer-Petris Act, the Suisun Marsh Preservation Act, the *Suisun Marsh Protection Plan*, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally-approved coastal management plan for the San Francisco Bay, and the federal Coastal Zone Management Act (CZMA).

Jurisdiction

The Commission's permit jurisdiction includes all tidal areas of the Bay up to the line of mean high tide or, in areas of tidal wetlands, up to five feet above Mean Sea Level or the extent of tidal wetland vegetation; all areas formerly subject to tidal action that have been filled since September 17, 1965; and the shoreline band that extends 100 feet inland from and parallel to the Bay jurisdiction. The Commission also has jurisdiction over certain managed wetlands adjacent to the Bay, salt ponds, and certain waterways.

The proposed project would cross the eastern limit of the Commission's Bay jurisdiction, which is defined by a line across the Sacramento River between Stake Point and Simmons Point, extending northeast to the mouth of Marshall Cut.

Commission permits are required for placement of fill, including dredged material disposal, construction, dredging, and substantial changes in use within its jurisdiction. Permits are issued when the Commission finds proposed activities to be consistent with its laws and policies. In addition to any needed permits under its state authority, federal actions, permits, licenses and grants affecting the coastal zone are subject to review by the Commission, pursuant to the federal CZMA, for their consistency with the Commission's federally-approved coastal management program for the Bay.

From reviewing the NOI, it appears that the proposed project would include the following activities within the Commission's Bay and shoreline band jurisdictions: (1) dredging; (2) disposal of dredged material; and (3) and beneficial reuse of dredged material. In addition, deepening of the channel outside the Commission's jurisdiction in the Stockton Ship Channel has the potential to alter circulation patterns, affect water quality, or result in other impacts in the Commission's Bay jurisdiction.

Commission's Bay Jurisdiction

Dredging and In-Bay Disposal. The John F. Baldwin Channel, extending from just outside the Golden Gate to Chipps Island, is in the Commission's Bay jurisdiction. The proposed deepening of the channel from -35 feet mean lower low water (MLLW) to -45 MLLW would involve new dredging and disposal and/or beneficial reuse of dredged material. The proposed deepening project would need to be consistent with the Commission's dredging policies, which are available from the Commission's offices or website (www.bcdc.ca.gov). Several of the applicable policies are discussed below.

Long Term Management Strategy. As you know, the Corps, BCDC, the United States Environmental Protection Agency, and the San Francisco Bay Regional Water Quality Control Board (Regional Board), along with other agencies and stakeholders, are partners in the Long Term Management Strategy (LTMS) for the Placement of Dredged Material in the San Francisco Bay Region. Bay Plan Dredging Policy No. 1 states, in part, that dredgers should reduce disposal in the Bay and certain waterways over time to achieve the LTMS goal of limiting in-Bay disposal volumes to a maximum of one million cubic yards per year.

Dredging Policies. Bay Plan Dredging Policy No. 2 allows dredging when (1) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other public purpose, such as navigational safety; (2) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; (3) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, or through other appropriate measures; (4) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (5) the material would be disposed of in accordance with the Commission's policies.

Bay Plan Dredging Policy No. 3 requires dredged material to be reused or disposed outside the Bay, if feasible. In-Bay disposal can be allowed only if there is no feasible alternative and: (1) the volume is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission; (2) the material would be placed at a site designated by the Commission; (3) the quality of material would be consistent with the advice of the Regional Water Quality Control Board and the Dredged Materials Management Office (DMMO); and (4) the disposal activity would be consistent with the advice of the resource agencies. The EIS/EIR should analyze the proposed project in relation to the Commission's Dredging policies regarding dredging and disposal, particularly with respect to the Commission's policy preference for beneficial reuse of dredged material. In particular, the EIS/EIR should identify beneficial reuse sites that are currently available and analyze the potential for additional sites to be created.

Analysis should include the potential impacts of climate change, including sea level rise. Analysis of wetland restoration projects should describe how the formation of methylmercury will be minimized and monitored.

Beyond use in approved fill projects, the Commission has strict policies regarding beneficial reuse of dredged material to enhance or restore natural resources in the Bay, such as the Oakland Middle Harbor enhancement project. Bay Plan Dredging Policy No. 11 states, in part, that the Commission shall allow dredged material to be used to create, restore, or enhance Bay natural resources if it determines that: (1) the project would provide substantial net improvement in habitat for Bay species; (2) no feasible alternative exists to achieve the project purpose with fewer adverse impacts to Bay resources; (3) the amount of dredged material to be used would be the minimum amount necessary to achieve the purpose of the project; (4) beneficial uses and water quality of the Bay would be protected; and (5) there is a high probability that the project would be successful and not result in unmitigated environmental harm. The EIS/EIR should analyze the project with respect to all the Commission's policies on in-Bay beneficial reuse.

Minimize Harmful Effects to the Bay. The proposed project would need to be consistent with all applicable Bay Plan policies. Therefore, the EIS/EIR should address other applicable Bay Plan policies, including a discussion about the Commission's regulatory requirements governing the protection of the Bay's natural resources, including fish, other aquatic organisms, and wildlife, and certain habitat needed for their protection, including tidal flats and marshes and subtidal areas. The Bay Plan policies regarding subtidal areas state, in part, that dredging projects in such areas should be thoroughly evaluated to determine the local and Bay-wide effects such projects would have on bathymetry, tidal hydrology and sediment movement, fish, other aquatic organisms and wildlife; aquatic plants; and the introduction and spread of invasive species. The Bay Plan policies on fish, other aquatic organisms, and wildlife, state that marshes, mudflats, and subtidal habitat should be "conserved, restored, and increased." Furthermore, the Commission must consult with and give appropriate consideration to the state and federal resource agencies, and not authorize any project resulting in a "taking" of a listed species unless the appropriate authorization has been issued by the resource agencies. According to the Bay Plan policies on tidal marshes and tidal flats, and subtidal areas, all projects subject to Commission consideration should also be sited and designed to minimize or avoid adverse resource impacts at these areas.

The EIS/EIR should analyze how the entire deepening project, not just the portion within the Commission's permit jurisdiction, will affect the hydrology, sediment dynamics, water quality and biological resources of the Bay. It should include analysis of the climate change impacts, including the potential impact of sea level rise on tidal prism and channel scour in the project area. It should also analyze cumulative impacts, including the potential impacts of other projects being planned for the Delta, including deepening of the Sacramento Ship Channel and alternative conveyance facilities for the State Water Project and Central Valley Project. The EIS/EIR should discuss the Commission's regulatory authority governing the protection of the Bay's natural resources and habitats.

Work Windows. The EIS/EIR should address how restrictions regarding listed species, including salmon, steelhead, Delta smelt, and, most recently, North American green sturgeon, would be incorporated into the project schedule. The environmental window for dredging and disposal in the area between the Carquinez Bridge and Collinsville is between August 1 and November 30 of each calendar year, consistent with current restrictions to protect certain sensitive fish species. The environmental window for dredging and disposal in the area between the San Francisco Bay Bridge and Sherman Island is between June 1 and November 30 of each calendar year.

Water Quality. Pursuant to the Commission's water quality policies in the Bay Plan, pollution in the Bay's water "should be prevented to the greatest extent feasible." Further, in considering this project, the Commission would need to consult with and base its decision on the Regional Board's evaluation of and advice on the proposed project and any potential water quality impacts. Therefore, it is advisable that the project proponents conduct early consultation with and obtain all necessary authorization from the Regional Board to aid the Commission in determining whether the project would adversely impact the Bay's water quality. The EIS/EIR should analyze the impacts of the project on dissolved oxygen and salinity in the Bay.

Turbidity. Dredging and in-Bay disposal of dredged material would increase turbidity in the water column. The EIS/EIR should analyze the expected extent of the resulting plume, impacts on fish, and whether any lateral movement of the plume would affect important habitat (e.g., eelgrass beds) whose viability is partly dependent on clarity of the water column.

Sandy Deep Water. The Bay Plan's policies on subtidal areas state, in part, that dredging in sandy deep water should be allowed only if (1) there is no feasible alternative; and (2) the project provides substantial public benefit. The EIS/EIR should state the location and size of the affected sandy deep water, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Rocky Habitat. The EIS/EIR should state the location and size of the affected rocky areas, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Mitigation. In the event that the proposed project would result in adverse environmental impacts that cannot be avoided, the EIS/EIR should discuss mitigation measures. The Commission's policies regarding mitigation state, in part, that "projects should be designed to avoid adverse environmental impacts to [the] Bay" and, further, that "[w]henever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable....[and] measures to compensate for...impacts should be required."

Suisun Marsh

Commission Jurisdiction. A section of the proposed project would be located in portions of the Suisun Bay within Solano County and, thus, in the Commission's primary management jurisdiction of the Suisun Marsh. According to the *Suisun Marsh Protection Plan* (Marsh Plan) policies, various habitats of the Marsh "...are critical...for marsh-related wildlife and are essential to the integrity of the Suisun Marsh." The EIS/EIR should examine any potential impacts of the construction and potential increase in use of the channel on Suisun Marsh habitat, and, if necessary, describe measures to mitigate these effects.

Utilities and Improvements. Further, the Marsh Plan policies on utilities, facilities and transportation state, in part, that any Marsh waterway should be maintained in conformance with existing project specifications, provided that dredging "(a) is for a water-oriented use or other important public purpose; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; and (c) important Marsh fisheries and wildlife and their habitat would be protected." Lastly, regarding dredged material disposal activities in the Marsh, these policies provide similar guidance to that contained in the Bay Plan's dredging policies, including that dredged material disposal should occur in "non-tidal areas where the materials can be used beneficially...."

In light of these policies of the Marsh Plan, the EIS/EIR should: (1) clearly identify the location of the John F. Baldwin Ship Channel in the Suisun Marsh and show its location in relation to wetland areas; (2) identify any potential project-related impacts to wetlands in the Marsh and measures for mitigating these effects; (3) provide a construction schedule for any

work affecting wetland area in the Marsh; (4) identify the width of the proposed channel after deepening; (5) discuss the consistency of construction schedule in the Marsh with fish migration windows; and (6) specify dredging locations on a map and discuss potential beneficial reuse options for dredged material.

Commission's Shoreline Band Jurisdiction

Some beneficial reuse of dredged material associated with the proposed project may be located in the Commission's shoreline band jurisdiction. Section 66602 of the McAteer-Petris Act states, in part, that: "...that maximum feasible public access, consistent with a proposed project, should be provided." In evaluating projects with potential impacts on existing or future public access to the Bay, the Commission relies on its law and also related policies of the Bay Plan.

Public Access. The Commission's law and policies regarding public access state, in part, that shoreline band projects should provide the maximum feasible public access consistent with the project. Therefore, the project proponent should initiate the process of exploring and preparing appropriate public access improvements as early as possible in the planning process. If on-site access is not feasible due to the nature of the proposal, then in-lieu access at an appropriate location should be considered and explored. Inclusion of a proposed public access package in the EIS/EIR will allow the Commission staff and the other interested parties an opportunity for early comment and input.

Public Views. Based on its regulations, the Commission must consider a project's potential impacts on public views of the Bay. Further, the Commission's Bay Plan policies on appearance, design and scenic views state, in part, that "[a]ll bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas...." Therefore, the EIS/EIR should include figures that depict the potential view impacts associated with the project.

Thank you for the opportunity to comment on this NOI. If you have any questions regarding this letter or the Commission's policies, please call me at (415) 352-3660.

Sincerely,

Jessica Hy

JESSICA HAMBURGER
Coastal Program Analyst

JH/rca

CALAMCO

April 2, 2008

Department of the Army
Attn: Nancy Ferris
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

Dear Ms. Ferris:

California Ammonia Company (CALAMCO) is a fertilizer cooperative with over 1200 agricultural owners/dealers located throughout the state of California. CALAMCO brings in shipload quantities of nitrogen-based fertilizers into the Port of Stockton for redistribution throughout California.

It is imperative to our business that the channel from the Golden Gate Bridge to the Port of Stockton be maintained at an adequate depth in order to safely allow fully loaded vessels, with a draft of 36-38 feet, access to Stockton. The existing channel depth often requires light loading of the ships and then transit is only allowed within a narrow window. The additional channel depth will help minimize freight cost and ensure the safe transit of an important cargo that is essential to California agriculture.

CALAMCO fully supports all efforts to approve the San Francisco Bay to Stockton Navigation Improvement Project. This project is vital to the continued success of CALAMCO and to agriculture throughout the state of California. All efforts must be made to push this project ahead to a successful conclusion.

Thank you for the opportunity to speak out in support of the San Francisco Bay to Stockton Navigation Improvement Project.

Sincerely,

Robert C. Brown

Robert C. Brown
President/CEO

212 Frank West Circle, Suite E Stockton, California 95206
209/982-1000 Within California 800/624-4200 FAX 209/983-0822

Ann M Charges
4136 Riviera Dr
Stockton CA 95204

In comparison to the Sacramento River, the San Joaquin River is small. As it was created, it carved out a river bed wide enough and deep enough (probably 10 to 15 feet deep) to accomodate the volume of water it would carry. Left to its own resources - unfettered by man - it probably would have been able to keep itself clean with the new flow of water flushing through.

But over the years, man has made changes which have not served the river well.

About 80 years ago there was a project carrying the motto "26 feet to the sea" - probably not the first deepening of the shipping channel. Another project deepened to 30 feet - and then about 20 years ago, another deepening to 35 feet. Logic tells me that doubling the depth of the river without increasing the volume of water flowing through makes self-cleaning impossible.

But man-made changes - rather than increasing the water flow - have <u>reduced</u> <u>dramatically</u> the water flow - first by the dam and then by diverting water to the southeastern valley. As a result, sections of the river become dry. And the public is warned not to swim in the river, and that if any fish are caught - it is not safe to eat. This river is now among the worst - if not <u>the</u> <u>most</u> polluted - rivers in No. California. Native fish species are disappearing.

I have prefaced my comments with this brief historical sketch out of concern that in making an assessment of the impact of the currently proposed project the applied basis will be the existing condition of the waterway - that since the waterway is already so degraded, further dredging will not make a great difference. That would be offensive.

By dredging in increments of 5 feet at a time, there has been a gradually worsening water quality. The basis that should be applied is the cumulative impact. It is time revive the river - not put a final nail in its coffin.
Issues to be evaluated before decision on the proposed project

1. Any activity reasonably foreseable, or made possible by the project is to be evaluated for its impact on the environment. This includes the dredging action as well as the placement and storage of dredge spoils. (See Biological Opinion of Nat'l Marine Fisheries Service dated July 19, 2005 and Supplement of 2006.) In this thoroughly studied and documented opinion, it stated in clear and unambiguous language that each time they dredge, the water is further degraded, describing how and why it occurs.

A graphic published in The Record demonstrates the causes of oxygen depletion (See Ex. A). Fish cannot survive without oxygen.

Other water issues are increased residence time, increased turbidity; and resuspended sediment.

2. Materials dredged from the river and channel have proven to be toxic. In the past, dredge spoils stored on Roberts Island were acidic. Being unlined, toxic substances leached into the ground water.

The proposed project will create substantial amounts of spoils for storage, and must be managed so as to avoid polluting waterways and ground water.

3. Exhibit B. is a map of the Delta Islands, number coded to show the sub-elevations. Highlighted is the course of ships as they travel the 40 miles from the Sacramento River to Stockton, by and between Delta Islands. Along the entire route of the ships, the islands are at least 6½ feet below sea level, with several from 13 to more than 16 feet below sea level and sinking as much as 4 inches a year. They are protected by levees which are best described as primative - commonly called "fragile Delta levees" - and are now at risk. Experts say it is not a question of "if" - but "when" ~~not "if"~~ the levees will give way. The concern is that the domino effect will level the levees and that the water which floods in will be saline. The disaster lies in the fact that the Delta now is the fresh water source for 22 million Californians and irrigation for thousands of acres of agricultural lands. (See Ex. C) Editorial from Sacramento Bee 10/12/0

As the islands sink, the stress on the levees increases. The Biological Opinion describes in great detail the sub-surface pressures as large vessels move through narrow waterways, displacing tons of water - pushing it forward and laterally then drawing it back behind the ship. If larger ships with wider and deeper hulls travel through the Delta, the larger displacement of water will increase the pressure on the levees which are already at risk.

I have personally observed the erosion on my property. The fence which was several feet back from the water is now completely exposed. The Army Corps of Engineers has monitored the erosion [illegible]

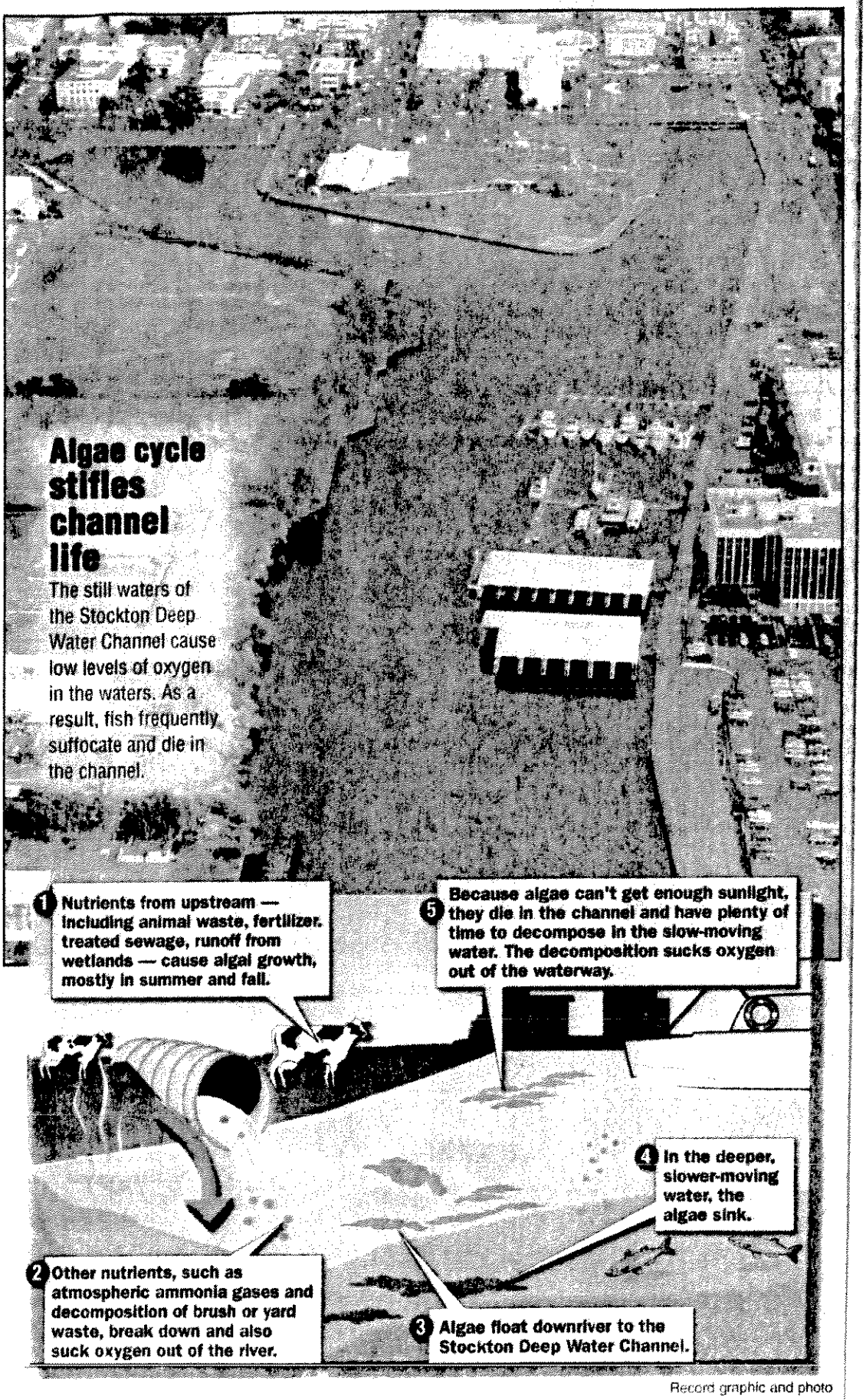
The erosion continued even after the banks were lined with rock for the last 20 years.

If my land has eroded, there is ~~no~~ reason to believe that the land along the 40 miles of shipping lanes are ~~not~~ equally affected.

4. Large ships attempting to navigate the narrow twists and turns between Stockton and the Sacramento River - some carrying hazardous or toxic cargo - can and do run aground or lose steering. There is potential for suspending toxic silt, or jeopardizing levees, or causing spill of toxic or hazardous material. (See Ex. D, E + F)

5. Lastly, what is the impact of bringing larger ships into the valley with their emissions from the use of the lowest grade fuels? The valley has a combination of geographic and atmospheric conditions which trap air pollutants. Every minute these huge ships are in the valley - whether moving or docked - the generators are pumping particulate matter into the atmosphere. The pollution from ships ~~are~~ is a serious health hazard (see Ex. G + H).

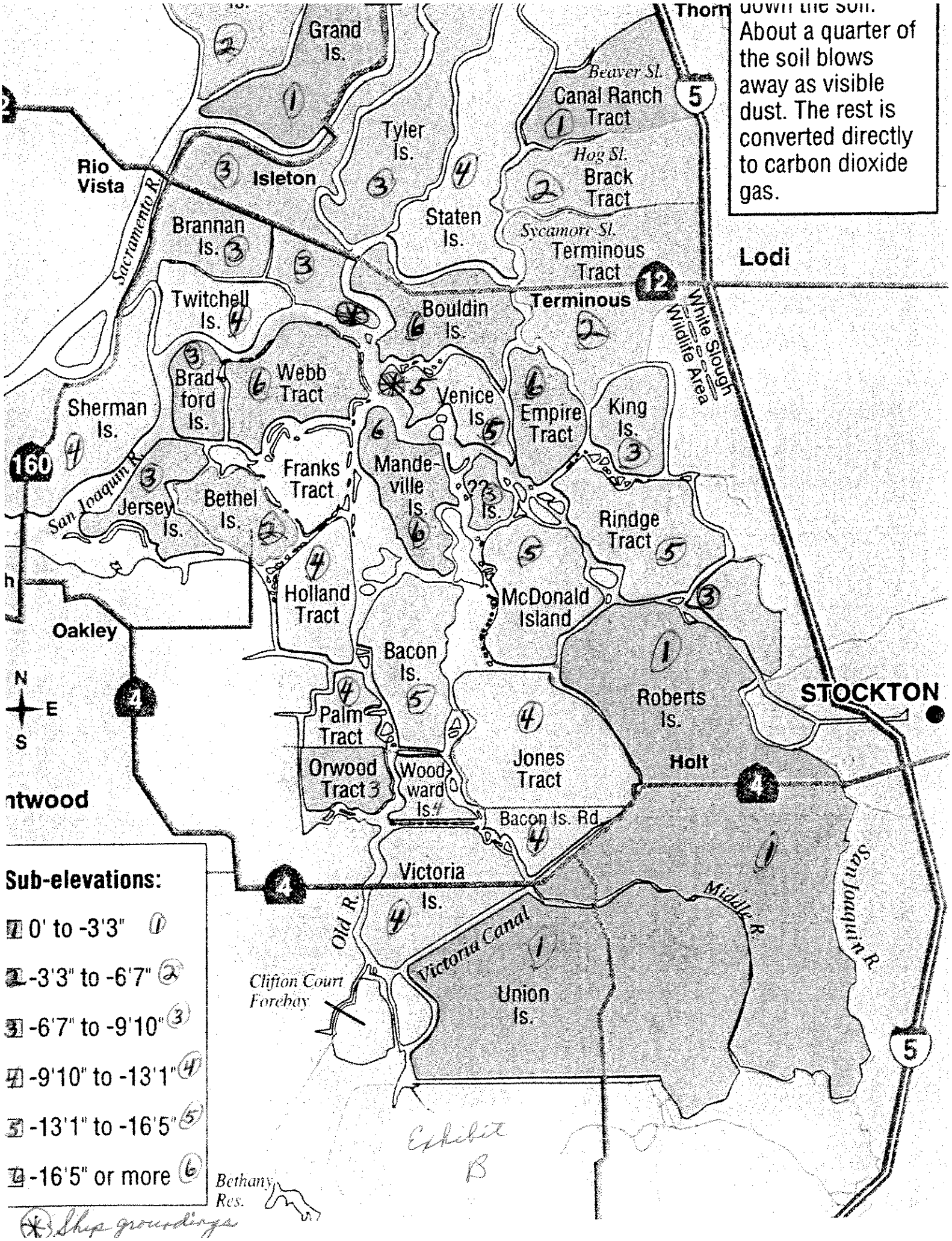
Evaluation of the impact of increasing amounts of polluting emissions into densely populated areas ~~needs~~ to be addressed.



Record graphic and photo

Exhibit A

down the soil. About a quarter of the soil blows away as visible dust. The rest is converted directly to carbon dioxide gas.



Editorial: Is the Delta doomed?
California better rethink its water plan
Sacramento Bee - 10/12/04

Imagine the state's primary drinking water source, the Delta, suddenly gone, its sinking islands submerged, the water an undrinkable, saline soup.

A scientific symposium the other day on the Sacramento-San Joaquin Delta unveiled for California the doomsday scenario that is as unthinkable as it is real.

Farming on the Delta islands - exposing the peat soils to sunlight and cultivation - has caused the islands to subside. These soils continue to oxidize and compact. The sea level, meanwhile, is slowly rising. Many of these islands already would be under water were it not for their substandard levees.

Think of these islands at risk, occupying some 470 square-miles of Delta land in all, as giant holes deepening, every day, to the tune of 27,000 cubic meters. That equates to creating a new hole the size of Pasadena's Rose Bowl every 12 days. The existing depressions in these Delta islands are equivalent to nearly 8,000 Rose Bowls.

As the holes deepen, the pressure on the levees increases. Scientists predict that several levees protecting several islands could give way simultaneously during a moderate flood or moderate earthquake, either of which is a likely event during the next 50 years. And if that happens, the Delta suddenly turns saline. And gone, probably forever, is a fresh drinking water source for 22 million Californians and water for millions of acres of agriculture.

The state's water leaders would prefer to ignore this dirty little secret. They assume the same old Delta will exist, and so does the Delta strategy espoused by the state and federal government. Worse yet, Southern California, Kern County and other farming interests are obsessing over a plan to pump even more fresh water from the Delta.

It is no wonder that water's political elite was largely missing the other day as the state's top geologists and fishery biologists met at this Sacramento symposium to discuss the Delta's eventual demise. It is a reflection of how Delta science and Delta water politics are heading in opposite directions, certainly a dangerous divergence.

"Change is taking place so dramatically and so rapidly," said Jeffrey Mount, a UC Davis geology professor commissioned by the state and federal governments to study what is happening in the Delta. "We have to get a handle around the scale of this problem."

He is right. But how? Here is the "easy" part: Challenge any further urbanization into the Delta. Stockton's expansion west of Interstate 5 is particularly reckless. So is Lathrop's proposal to populate a Delta island with thousands of homes.

The hard part is changing the plumbing in the Delta and lessening the state's dependence on this single source so that California isn't so vulnerable to a sudden collapse of the system. That public conversation can't begin until water's political elite (derisively known as "water buffaloes" for their slow-moving, herd-like behavior) confront reality.

Natural forces are poised to reshape the Delta, maybe very soon, maybe decades from now. These forces are no match for any water leader, lobbyist or legislator.#

http://www.sacbee.com/content/opinion/story/11063703p-11980557c.html
<http://www.sacbee.com/content/opinion/story/11063703p-11980557c.html>

Exhibit
C

Feb 23, 2004

No rules for toxic Delta-bound ships

San Jose Mercury News

SAN JOSE — On a blustery March night nine years ago, the Mundogas Europe, a Liberian tanker loaded with 36 million pounds of deadly chemicals, lost its steering and drifted toward the Golden Gate Bridge, and a potentially catastrophic collision.

The ship's cargo of pressurized anhydrous ammonia — a highly toxic chemical used to make fertilizer — could have forced the evacuation of tens of thousands of people. With crew members screaming in the background, the ship's pilot radioed the Coast Guard, desperately seeking a tugboat.

None were nearby. The pilot dropped both anchors, slammed the engines in reverse, and the 561-foot ship shuddered to a halt 300 feet from the rocks at Fort Point.

In the nine years since, there have been at least 23 mishaps involving chemical ships in San Francisco Bay, a Mercury News review of Coast Guard databases found.

Yet today, there are still no rules to stop the next Mundogas Europe from colliding with a bridge, rocks or another ship, even though the number of chemical ships entering the Bay has nearly tripled since 1995, to 171 last year.

The Bay Area remains at risk, shipping experts say, because there are no rules requiring chemical ships to have tugboat escorts. Oil tankers, by comparison, must be escorted by tugboats that can stop them if they lose power, lose steering or suffer a fire — a law passed in the wake of the Exxon Valdez spill.

"We know the consequences of something bad happening would be absolutely devastating to public health and the environment," said Bob Bea, a former Shell tanker captain and professor of engineering at the University of California, Berkeley.

"Call it hubris, commercial drive or whatever; it keeps us from doing anything. But we know better."

While there have been no major spills, chemical ships — which carry pesticides, solvents, acids, explosives and other hazardous cargo into the Bay several times a month — have lost steering, lost power and run aground, Coast Guard records show.

"I'm afraid it will take a major maritime disaster to focus the public spotlight on this industry."

— Russell Long, executive director, Bluewater Network

On Feb. 22, 2003, for example, the Cefalonia, a 569-foot Panamanian tanker loaded with 27,000 tons of ammonium nitrate, ran aground in the mud near Pittsburg. Timothy McVeigh used only two tons of the same chemical, packed into a Ryder rental truck, to blow up the Oklahoma City federal building in 1995.

Such fertilizer ships typically unload at **Stockton** and Sacramento. For three days, the Cefalonia sat helpless, until a rising tide and three tugboats pulled it free. The ship had run aground in nearly the same spot 13 months earlier.

"Anything that can go wrong on a boat will," said Russell Long, a former America's Cup captain who now is executive director of Bluewater Network, a San Francisco environmental group. "I'm afraid will take a major maritime disaster to focus the public spotlight on this industry."

To be sure, the Coast Guard has put in place safety measures for chemical ships, mainly to protect against terrorism.

Among them: requiring ships to report cargos and crew names 96 hours before arriving; flying armed marshals on helicopters to board the most-hazardous ships while they enter the Bay; and escorting some ships with a Coast Guard cutter.

"Nothing comes in until I am satisfied," said Coast Guard Capt. Gerald Swanson, commander of the port of San Francisco. "If there is anything out of the ordinary, we don't allow the vessels into port. This is serious business."

■ Stockton
530 E. Market St., Stockton, CA 95202; (209) 943-6568
■ Lodi Bureau
101 W. Locust St., Lodi, CA 95240; (209) 367-7429

Local/State

Exhibit D

Huron. I honestly don't know.

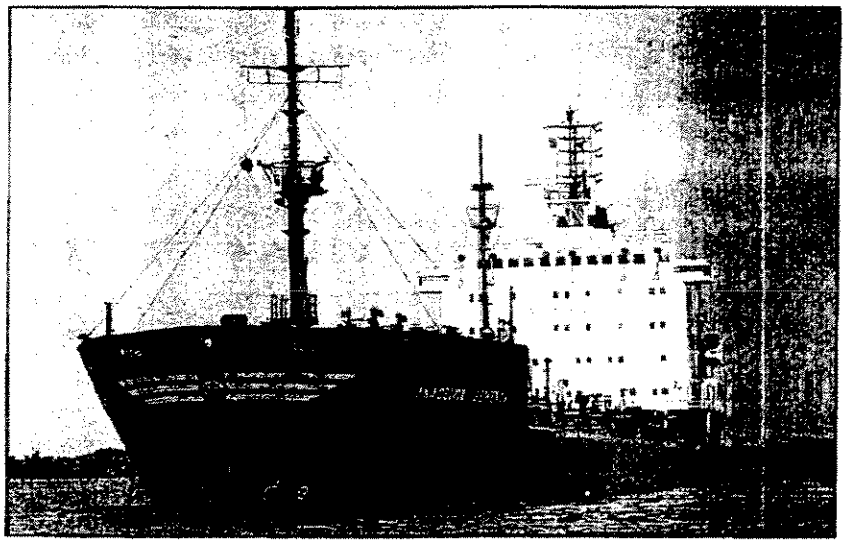
Hey, perhaps I could make these posters into tops for the poker table. We could sit around, quaff lemonades, play one-eyed jacks are wild, and talk about invasive species.

Freighters Get Into Trouble, Too

On the weekend of Aug. 3 and 4, my friends Sean and Mary Holte were part of a raftup of four boats at Threeriver Reach, aboard their *Indian Summer*. On Saturday they noticed a ship coming up the Stockton Deepwater Channel towards Stockton. At Mandeville Tip, the ship suddenly stopped and turned sideways right in the main channel. They listened to foreign language chatter on the VHF for a short while before their interest forced them to take a closer look. Upon closer examination (but well outside the limits established for giving berth to commercial ships), they found the ship anchored with a trailing chain rode behind and its stern towards the wind and tide.

They considered this unusual, and not a very good position for the ship to be in. While standing guard over Baron Hilton's property, Sean snapped a few photos. The ship's crew missed channel markers and stumps by just feet while slowly working the boat around in a 180 degree turn. Clumps of peat as large as Oldsmobiles were churned up right in front of the Hilton house by the powerful prop wash. When they reeled in their anchor, up came one of the Delta's finest snags. They kept it as a souvenir as they headed back off west. The Holtes wondered what could cause a ship to get lost, make a wrong turn, or otherwise make a navigational error ending in this situation?

Well, we all know about the *Exxon Valdez* and how the skippers of big ships can have things go awry just as they can go awry for those of us in "small ships." As I have mentioned before, there used to be a lot of freighter groundings in the Stockton Deepwater Channel prior to the last couple of deepenings of the Channel.



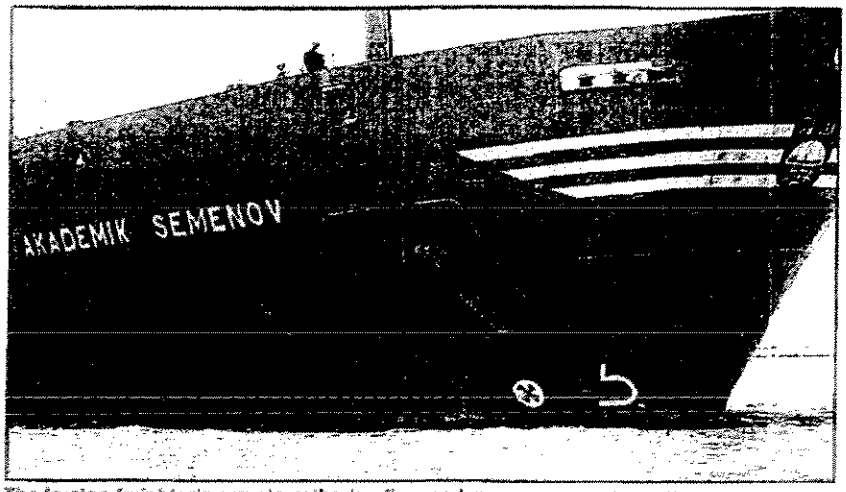
Foreign freighter gets in trouble and anchors sideways in the Stockton Deepwater Channel. Photo courtesy of Sean & Mary Holte

I think the Channel may not be as wide in that area as it might seem to be. It looks to me like the captain of the *Akademik Semenov* might have gotten a bit off route while negotiating a bend in the Channel and got himself caught in some shallow water. It seems as though he must have done some fancy maneuvering to get unstuck. It is a good thing that this incident did not occur on the July 4th holiday with all the boats anchored out for the Hilton fireworks.

I had the good fortune of once making a trip to Stockton from San Francisco along with the captain up on the bridge of a freighter. It surprised me how narrow the Channel looked from behind the wheel of one of those big ships.

Delta Nuggets

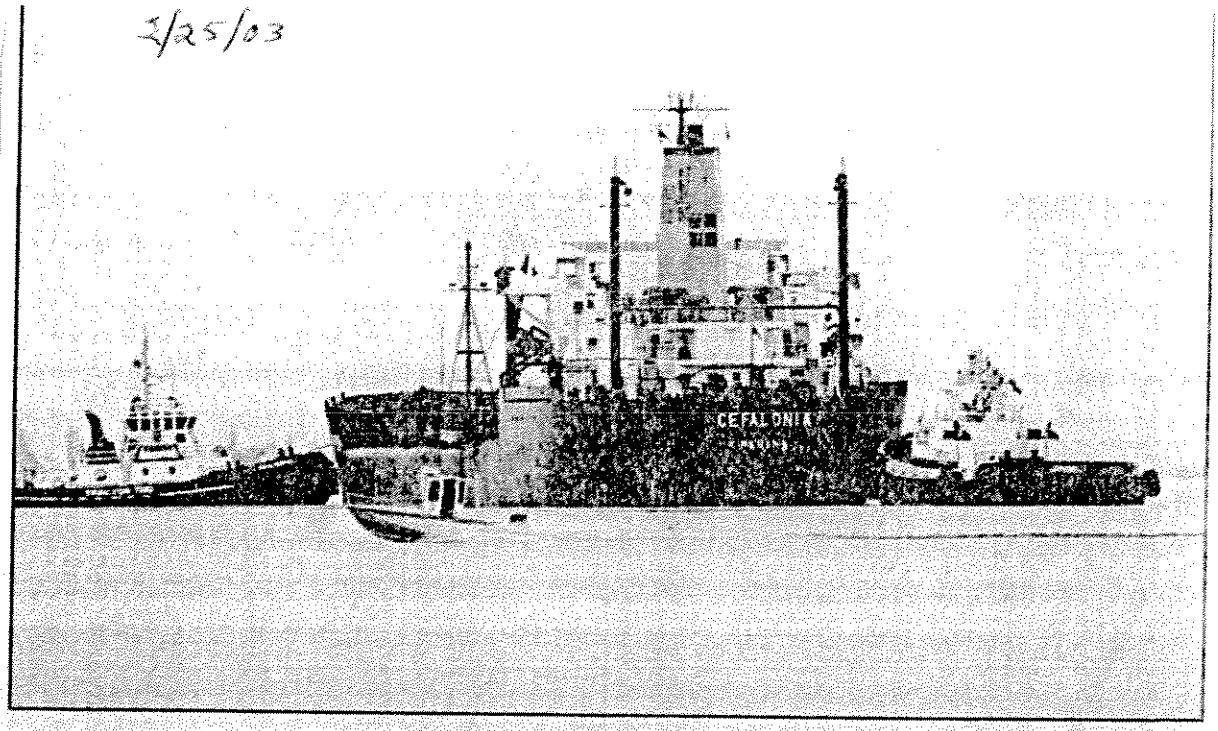
Bill Ray, former harbormaster at Delta Bay Marina, has left and now works part time at Snug Harbor. Since his wife Carol Ray is marina manager at Snug Harbor, this must mean that Bill now works for his wife. Don't we all... Across Piper Slough from Lundborg Landing they have installed a windsock for visiting aircraft. Also for the boaters, on the same 30-foot piling is a 1-second flashing blue strobe light. It charges during the day



The foreign freighter's crew is gathering firewood. Photo courtesy of Sean & Mary Holte

Exhibit E

2/25/03



Record photo by CRAIG SANDERS

HIGH TIDE: The Cefalonia is pulled free Monday from where it was grounded on the San Joaquin River. With help from the high tide, tugs freed the ship so it could continue to the Port of Stockton.

Ship grounding stirs Delta talk

By Reed Fujii
Record Staff Writer

A ship carrying liquid fertilizer that had been grounded since Saturday in the Delta was pulled free on Monday morning's tide and arrived without further incident at the Port of Stockton.

The Panamanian-registered Cefalonia, carrying 25,000 metric tons of urea-nitrate solution, got stuck at Webb Point on the San Joaquin River not far from Korth's Pirate's Lair Marina on Andrus Island.

It created quite a stir along the usually placid Delta Loop, a 10-mile stretch of Brannan Island Road featuring marinas, resorts, restaurants, and boat retailers and repair shops.

"We're kind of wondering what we're going to do the rest of the year," marina resident Gary Wadkins joked, adding that the ship's grounding may be eclipsed only by the bikini beauty contest during May's annual Delta Loop Fest.

"We're kind of wondering what we're going to do the rest of the year."

— Gary Wadkins,
Andrus Island resident

"This is rare event here," said Bob Wadkins, Gary Wadkins' father and an Andrus Island resident since 1984.

Apparently not so rare for the Cefalonia, however.

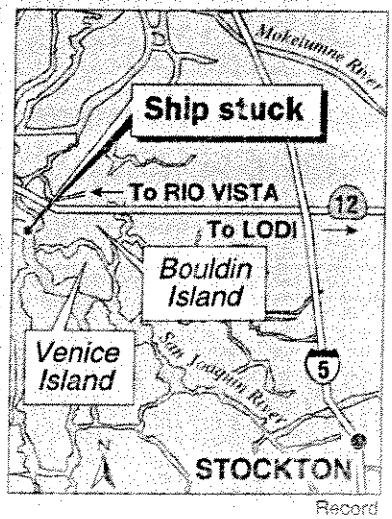
According to Stockton port officials, the ship also ran aground in January 2002, just before delivering 13,582 metric tons of molasses from Guatemala.

"I can't believe it. Well, I have to believe it," said Richard Aschieris, port director. "It's a remarkable coincidence."

Please see SHIP, D3

Ship freed

A cargo ship carrying liquid fertilizer ran aground Saturday morning near Rio Vista. The Cefalonia was freed Monday morning.



Record

Exhibit
7

SHIP

Continued from D1

About 200 vessels called at the port in the past year, and no others had trouble navigating the Stockton Deep Water Channel.

"We have all the depth we need here to bring in a ship that fits in the Panama Canal," Aschieris said. In this case, however, "the ship strayed outside the ship channel itself."

The latest grounding remained under investigation Monday by the U.S. Coast Guard, said Chief Petty Officer Robert Taylor of the Rio Vista station.

A reporter's call to the Coast Guard Marine Safety Office in Alameda to ask about any connection between the two incidents was not returned Monday afternoon.

Gary Wadkins suggested low visibility may have contributed to the Saturday morning grounding.

"It was pretty foggy out here. I heard the foghorns," he said.

Four tugboats were used to pull the Cefalonia from the mud about 10:15 a.m. Monday.

"It was kind of neat," Gary Wadkins said.

Stockton's port, specializing in so-called break-bulk cargo such as grain, coal, cement, steel and sulfur — materials that do not fit conveniently into the ubiquitous metal shipping containers — handles much of the fertilizer used in California, the nation's leading farm state.

"More than 85 percent of the farmers in the San Joaquin Valley get their fertilizer through the Port of Stockton," Aschieris said. "Fertilizer is an important commodity."

The urea-nitrate solution carried by the Cefalonia is not a particularly hazardous material. It is neither flammable nor highly toxic to people. It could be deadly to aquatic life, however, should it spill into Delta waters, port officials said.

The grounding occurred about 17 miles from the Port of Stockton after a trip that began in Bulgaria via the Black Sea.

Record photo by CRAIG SANDERS

DELTA ONLOOKERS: Bob Wadkins, right, and his son Gary Wadkins watch Monday as the Cefalonia is pulled free from where it ran aground on the San Joaquin River near where it meets the Mokelumne River. With help from the high tide Monday, tugs were able to free the ship so it could continue to the Port of Stockton.

■ To reach reporter Reed Fujii, phone 546-8253 or e-mail rfujii@recordnet.com

HEALTH 2/4/05

Report: Killer cargo pollution getting worse

Air board says ports, trucks, trains put neighbors at risk

LOS ANGELES (AP) — California's booming cargo industry produces enough pollution to cause as many as 750 premature deaths a year and is expected to cost the state $70 billion in related health-care costs over the next 15 years, according to a report by the state Air Resources Board.

The problem is caused by diesel-burning ships, trucks and trains connected to the seaports, freeway corridors and railroad lines that are increasingly used by the cargo-hauling industry, according to the Air Resources Board.

"Californians who live near ports, rail yards and along high-traffic corridors are subsidizing the goods-movement sector with their health," the study's authors concluded.

This past year, according to the report, cargo-related pollution resulted in 18,000 asthma attacks, 160,000 lost days of work, 350,000 school absences and 290 hospital admissions. Premature deaths, meanwhile, will rise from 750 to 920 a year in 20 years if pollution isn't reduced, the report's authors concluded.

Oceangoing ships are the worst polluters, according to the study, producing 8 tons of particulate matter and 94 tons of nitrous oxide a day in 2001. Trucks produced 129 tons of nitrous oxide a day in 2001 and trains produced 77 tons.

To offset the report's predictions, its authors

SEE POLLUTION, PAGE A8

POLLUTION: Air board calls for reduced emissions, stricter policies

CONTINUED FROM PAGE

recommend reducing cargo-related pollution levels to what they were four years ago by 2010, then continuing to roll them back after that. They also call on state officials to cut diesel-related health risks by 85 percent over the next 15 years and to provide relief to communities most affected by cargo-hauling pollution.

The report also calls for spending as much as $6 billion over the next 15 years on programs requiring the use of diesel-electric hybrid engines and cleaner-burning fuels, as well as establishing stricter anti-pollution policies.

Public hearings on the proposals will be held throughout the state next year.

"Retailers, wholesalers and manufacturers have to believe that solving this problem is their responsibility," said Wally Baker, a senior vice president with the Los Angeles Economic Development Corp. "They can demand that their vendors get in a room and figure this out. They haven't, and that's wrong."

Pacific Merchant Shipping Association spokesman Tupper Hull said his group's members are trying to do just that, but he expressed some concern that the board may have used dated figures in compiling its report. Hull said the state used a 2001 baseline that did not reflect major measures that have since been taken to reduce pollution.

Board spokesman Jerry Martin said the findings were based on medical records and computer predictions of future population and pollution growth.

Exhibit G

Port neighbors suffer increased cancer rates

OAKLAND (AP) – Residents of the West Oakland neighborhoods hemmed in by freeways, rail yards and a busy port have substantially elevated risks of cancers and other diseases because of the diesel soot emitted by trucks, trains and ships, according to a study released Wednesday.

The report by the state Air Resources Board estimated that residents of a 3-square-mile area near the Port of Oakland had an estimated lifetime potential cancer risk of about 1,200 "excess cancers per million people."

By that, the board meant that exposure to diesel emissions in that area were estimated to cause 1,200 cancer cases beyond the normal cancer rate for Americans.

Diesel trucks rumbling up and down the area's many freeways are the biggest source of this diesel particulate matter, and were blamed for the greatest number of projected diesel-related cancer cases, the board found. Port operations were the next-biggest source, followed by emissions from the large rail-yard adjacent to the port.

Airborne diesel particulate matter is linked to a variety of damaging health effects, including premature death and a number of heart and lung diseases. The health risks are greatest in the areas of highest concentration of the soot.

At a recent congressional hearing, an emergency room physician described the areas around major U.S. seaports as "diesel death zones."

The Environmental Protection Agency said Friday that marine and locomotive engines must meet tougher pollution controls, hoping for dramatic cuts in the amount of smog-causing chemicals and soot coming from trains, cargo ships, tugboats and passenger ferries.

Exhibit 2

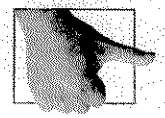
Ships shape up as major polluters

What's the No. 1 source of sulfur dioxide polluting the atmosphere?

Cars? Trucks? Buses? Trains? Airplanes? Industrial sites?

None of the above.

By a 3-to-1 margin, ocean-going vessels release more of these smog-producing pollutants than any other single source, according to the International Council on Clean Transportation.



The new study reveals that ship emissions exceed 6 million metric tons per year compared with 2.2 million metric tons in vehicle emissions.

The findings point to the need for new regulations that some environmentalists believe would be cheaper and easier to accomplish than automotive conversions.

The Pacific Merchant Shipping Association is supportive because the study took a global approach and calls for solutions worldwide.

March 27, 2007

April 14, 2008

Dear Ms. Ferris:

I attended the meeting on April 2, 2008, at the Central Library in Stockton, and submitted a written comment on the proposed deepening of the shipping channel.

Enclosed please find the Editorial Comment which appeared in yesterday's paper which expresses serious concerns about past levee failures and "when" – not "if" – the levees collapse unless they are protected.

I would like to remind you that in early 2007, during the prolonged rains that saturated the ground along with the release of water from dams in anticipation of the snow melt after a heavy snowfall, the water level was dangerously high and a series of storms were predicted. At that time, in an effort to protect the weakened dirt levees along the channel, recreational boating was prohibited — a response to the added stress of boat traffic on levees that was recognized and feared.

To my knowledge, these concerns have not been addressed in conjunction with either the deepening of the shipping channel or the impact of huge cargo ships moving through the narrow and ill-protected waterways between the Sacramento River and Stockton.

Thank you,

Ann M Chargin
4136 Riviera Drive
Stockton CA 95204
Tel. (209) 463-4709

The Record
4/12/08

Staving off disaster

We must fix the Delta before it's too late

When it's 80 degrees outside, the sky is clear, and the breeze is gentle, it's pretty hard to think about a disaster.

It's going to be that kind of day today, and it is on just such a day we should be thinking about a disaster. When the wind is howling, it's been raining steadily for a week, and the rivers are rising, it's too late.

But that seems to be the way we do things in California, despite the fact that the disaster-in-waiting is in our backyard. Despite the fact that when it comes, as it surely will, it will affect this entire state.

More than two years ago, New Orleans was hit by Hurricane Katrina, leaving in its wake destruction to an American city not seen since Sherman burned Atlanta during the Civil War.

In the months that followed Katrina, report after report came out urging action be taken to strengthen the frail levees of the Sacramento-San Joaquin Delta. Both Stockton and Sacramento face New Orleans-style (and -size) destruction if — no, when — the levees collapse, unless we act to shore them up.

For seven years, Californians watched as CALFED, a state-federal agency set up to do something about the Delta, did nothing. An analysis of CALFED spending by The Associated Press last fall found that the agency had spent $4.7 billion but frittered much of it away on projects that had nothing whatsoever to do with strengthening and protecting the Delta.

Now, Sen. Michael Machado has weighed in. Actually, the Linden Democrat has weighed in again and again over the years. This time, though, he might have a chance.

He has proposed a bill ending CALFED's funding, an idea meeting no resistance. In its place would be a single state agency to direct funding for all the various Delta projects: farming, recreation, environment.

The governor, who earlier vetoed a Machado Delta bill, set up a task force to study Delta protection and figure out how to untangle the web of special interests, environmental groups and government agencies claiming pieces of the Delta pie.

Machado thinks his bill addresses these overlapping interests.

"Right now, you have multiple agencies operating autonomously," he said.

Right now? Actually, for decades. We haven't got decades. Summer is coming, and winter rains are the last thing most of us will be thinking about.

But think about this: A levee failed in early June 2004, flooding more than 12,000 acres of upper Jones Tract, west of Stockton. There wasn't a cloud in the sky the day it happened, and it hadn't rained in weeks.

Two such failures at the same time could lead to more levee failures and severe flooding. That could create a vacuum in the estuary, sucking saltwater out of Suisun Bay, essentially ruining the water supply for more than 20 million Californians.

None of this is going to be cheap (though Machado's single-agency proposal shouldn't break the bank). If disaster strikes, it will make the state's current $14.5 billion budget deficit seem like chump change.

CONTRA COSTA
WATER DISTRICT

1331 Concord Avenue
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Concord, CA 94524
(925) 688-8000 FAX (925) 688-8122

April 29, 2008

Directors
Joseph L. Campbell
President

Elizabeth R. Anello
Vice President

Bette Boatmun
John A. Burgh
Karl L. Wandry

Walter J. Bishop
General Manager

Ms. Nancy Ferris
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103

Subject: Contra Costa Water District Comments on Scope of EIS/EIR for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project

Dear Ms. Ferris:

Contra Costa Water District (CCWD) appreciates the opportunity to provide scoping comments on the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) that is being prepared for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project (Project). CCWD draws its water from the Delta and has concerns regarding the impact of the Project on water quality at its intakes. The following issues should be considered in the EIS/EIR for the Project.

Two-dimensional or three-dimensional models should be employed to study the impacts of channel deepening and/or widening on salinity intrusion. Previous physical and computational studies of channel deepening in the John F. Baldwin Channel (Baldwin Channel) indicate the potential for water quality impacts due to salinity intrusion from channel deepening. The Draft 1997 EIS/EIR for the San Francisco Bay to Stockton Phase III (John F. Baldwin) Navigation Channel Project found that the effects of salinity intrusion from channel deepening were significant and could not be mitigated. Although a recent study using the DWR Delta Simulation Model 2 (DSM2) showed that the effects of channel deepening in the Baldwin Channel would not be significant, this study has limitations because DSM2 is a one dimensional model. As such, it cannot correctly model the effects of gravitational circulation and stratification processes, which are critical to incorporate in a proper examination of the effects of channel deepening/widening. Under stratified conditions, a deeper and/or wider channel would provide an enhanced conduit for upstream transport of the denser salt wedge leading edge, which is positioned on the channel bottom, increasing salinity intrusion. Consistent with recommendations made in the DSM2 study, a two-dimensional or three-dimensional model should be employed to account for these

effects and more accurately determine the extent of salinity intrusion. Not accounting for the gravitational circulation means that salinity intrusion may be underestimated.

Modeling should include the effects of sea level rise. Rising sea levels and tidal range (higher high to lower low) are also expected to affect gravitational circulation and stratification processes, and should be included in the two-dimensional or three-dimensional modeling. The combined, nonlinear effect of the Project and sea level rise and tidal range on salinity intrusion should be evaluated.

Modeling should include the effects of channel deepening and/or widening for the entire length of the Project. Previous modeling efforts focused on channel deepening only for the Baldwin Channel with its upstream terminus in Suisun Bay. As the EIS/EIR for the Project will include the Stockton Channel as well as the Baldwin Channel and will additionally consider channel widening as an alternative, future modeling studies should simulate both channel deepening and widening along the entire length of the Project in both ship channels.

Modeling should include the most current Delta water operations scenario(s). Recent legal decisions to protect delta smelt, Chinook salmon and steelhead trout will lead to revisions in State Water Project (SWP) and Central Valley Project (CVP) operations which will be described in revised biological opinions for the Operations Criteria and Plan. Although these documents are currently under development, the revised SWP and CVP operations, when available, should be incorporated into modeling studies to best reflect the current and near future water quality conditions in the Delta, and the influence of the Project on Delta water quality. Given the potential significance of the changes, it would be prudent to incorporate the revised operational conditions into the modeling analysis to present the most realistic baseline scenario for the Project.

Impacts to listed species should be evaluated. A number of studies have shown the relationship between salinity levels in Suisun Bay and the Western Delta and listed species populations. In addition, increasing salinity intrusion will require at times more releases from upstream reservoirs to meet standards, which in turn reduces cold-water availability for maintaining required upstream channel temperatures. The analysis should carefully evaluate these and other effects of the project on listed species.

Short term impact of dredging and the release of pollutants and toxic substances contained in sediment should be addressed. Dredging operations have the potential to release contaminants that are present in sediment. Contaminants in the sediment should be analyzed and the potential for their release and impact on municipal water supplies and on aquatic species should be addressed.

Water quality impacts should be evaluated wherever placement of dredged material is contemplated. Potential dredge material placement sites should be evaluated for their impacts on downstream drinking water quality at municipal intakes. In particular, material placed at the potential Jersey Island and Bradford Island sites may affect water quality at CCWD intakes at Rock Slough and Old River. Material placed at Sherman Island could affect water quality at CCWD's Mallard Slough Intake. The long term effects of sediment release and potential leaching from these sites should be evaluated.

Alteration of shipping patterns should be determined. Channel deepening would be expected to influence shipping traffic patterns, such as the numbers and types of vessels traversing the channel and/or the types of cargo transported. Potential impacts of modified shipping patterns from channel deepening that would increase threats to water quality should be evaluated. An assessment of the increased probability of spills that would occur due to higher traffic should be included.

Location of CCWD intakes should be included in water quality impacts assessment. CCWD has three current intakes and one future intake as listed below. These locations should be included in analysis of water quality impacts from the Project.

CCWD Intakes
Mallard Slough
Rock Slough[1,2]
Old River
Victoria Canal (future intake under construction as the CCWD Alternative Intake Project)

[1] Location of the 150 and 250 mg/L chloride standards under State Water Resources Control Board Decision 1641.

[2] Evaluation of modeled Rock Slough salinity presents problems, since the intake is at the end of a dead-end slough with poorly characterized agricultural discharges. CCWD's practice when using DSM2 is to use salinity at Old River at Rock Slough as a surrogate for salinity at the Rock Slough Intake.

CCWD's operations should be realistically modeled. The operations modeling (e.g. CALSIM II) that produces inputs for the water quality modeling should include a realistic pattern of diversions at CCWD's intakes. CCWD staff would be happy to provide a time series of diversions over the modeled period for this use.

If you wish to discuss any of the comments provided, please call me at (925) 688-8083 or write to lorloff@ccwater.com. CCWD looks forward to reviewing the Draft EIS/EIR for the Project. Please include me on any future notifications that are sent regarding this Project.

Sincerely,

Leah Orloff
Water Resources Manager

LO/BK:wec

cc: Al Candish (U.S. Bureau of Reclamation)
Brent Walthall (Kern County Water Agency)
Randall Neudeck (Metropolitan Water District)
Terry Erlewine (State Water Contractors)
Roberta Goulart (Contra Costa County)

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

April 29, 2008

Ms. Nancy Ferris
U.S. Army Corps of Engineers
San Francisco District
1455 Market Street
San Francisco, CA 941103-1398
Fax: (415) 503-6692
E-Mail: SPNETPA@USACE.ARMY.MIL

Comments re: San Francisco Bay to Stockton Navigation Improvement Project

Dear Ms. Ferris:

Thank you for the opportunity – as part of the EIS/EIR process- to comment on the proposed San Francisco Bay to Stockton Navigation Improvement Project, which is being performed by the U.S. Army Corps of Engineers, in conjunction with the Port of Stockton and the Contra Costa County Water Agency.

The City of Pittsburg is located on the shores of New York Slough, in north central Contra Costa County, approximately 40 miles east of San Francisco. With origins as a deep water river port, as the operator of a 575 slip municipal marina, and with an ongoing interest in current and potential future commercial port operations, our City has a paramount vested interest in the proposed project.

The efficiency of the movement of goods along the existing deep draft navigation route between San Francisco Bay and the Port of Stockton is integral to our City's economic well being. Specifically, we draw your attention to current and ongoing commercial shipping operations in Pittsburg conducted by BREDA Transportation, Dow Chemical, Koch Carbon, Tesoro Refining & Marketing, and USS-POSCO; all of whom require adequately dredged channel access. It is the City's understanding that the current ship channel depths are constrained, requiring "light-loading" of vessels to enable them to transit segments of the waterway that are unduly shallow due to silt deposition. Not only is this inefficient for the shippers, but it increases the total number of ship transits, in the process impacting local air quality and increasing vessel incident risks. Looking ahead, the City contemplates future development of a new Port of Pittsburg, which likely cannot move forward without assurance of a well maintained deep draft navigation route to the Pacific Rim.

For the foregoing reasons, the City of Pittsburg recommends that the Corps and the two other sponsors strongly consider "Project Alternative 'B'," which calls for modification of the John F. Baldwin Ship Channel and the Stockton Ship Channel to authorized depths, with consideration of alternative placement sites for dredged material, including beneficial reuse.

Thank you, again, for the opportunity to comment on the proposed San Francisco Bay to Stockton Improvement Project. The City looks forward to being kept apprised of the status of the planning process for the project. Should you have any questions or require additional information, please contact Mr. Brad Nail, Director of Economic Development, at (925) 252-4049; E-Mail bnail@ci.pittsburg.ca.us.

Sincerely yours,

Marc S. Grisham
City Manager

cc: Contra Costa County
Port of Stockton

bn/MSG:4/29/08

SAN JOAQUIN FARM BUREAU FEDERATION
MEETING TODAY'S CHALLENGES / PLANNING FOR TOMORROW

April 30, 2008

Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-6692

Sent via FAX to (415) 503-6692

RE: San Francisco Bay to Stockton Navigation Improvement Project

Dear Sir or Madam,

The San Joaquin Farm Bureau Federation represents over 4500 farm and ranch families in San Joaquin County. In 2006, our farm gate revenue was nearly $1.7 Billion. This has an enormous effect on our local economy, accounting for nearly $8.5 Billion directly related in goods and services provided by the agricultural industry.

The Port of Stockton is an important conduit to the agriculture community not only in San Joaquin County, but also the Western United States. San Joaquin County exported to over 58 different countries in 2006. The Port of Stockton was an essential part of this export market. It is a key port of entry for many of the inputs that agriculture and many other industries use in their day to day operations. We believe future expansion will allow the Port to make it a greater economic contribution in the future.

We support the proposed deepening of the Stockton Deep Water Channel. A clean channel allows ships to carry greater payloads. This inland port is vital to our economy and is also an important key in lessening the truck traffic to other export facilities. As the San Joaquin Valley continues to struggle with solutions to diminished air quality and traffic congestion, alternative methods of moving people and goods and services become a crucial part of the solution. If a product can be moved more efficiently through the Deep Water Channel, then it will be a direct benefit to the environment and the economy.

The use of dredging also has a host of other benefits. As channel size is increased, water flow restrictions are decreased. This is especially important during flood flow periods. The levee system currently in place faces many challenges and much scrutiny. The spoils of dredging provide material for shoring up and strengthening these levees, especially in the event of a disaster situation. A readily available supply of material is vital in emergency situations. This availability also reduces the need for trucks trips from the Sierra Nevada foothills, nearly 45 miles away.

P.O. BOX 8444 • 3290 NORTH AD ART ROAD • (209) 931-4931 • STOCKTON, CALIFORNIA 95208

The Stockton Deep Water Channel and the Port of Stockton are an important part of our economy. They provide a clean, efficient form of transportation that helps to alleviate many of the problems that our communities are currently facing. Improving their efficiencies and capabilities are good for the community and good for the environment. The restricted channel we currently have creates environmental problems and it costs more to maintain in the long term compared to a clean channel.

We thank the Corps for the opportunity to comment on the Environmental Impact Statement/Environmental Impact Report (EIS/EIR). We support the Port of Stockton and the Corps in this endeavor to increase the capacity of the Stockton Deep Water Channel.

Sincerely,

Joseph Valente

Joe Valente
President

CITY OF STOCKTON

DEPARTMENT OF MUNICIPAL UTILITIES

2500 Navy Drive • Stockton, CA 95206-1191 • 209/937-8750 • Fax 209/937-8708

www.stocktongov.com

April 16, 2008

Nancy Ferris
U.S. Army Corps of Engineers
San Francisco District
1455 Market Street
San Francisco, CA 94103

NOTICE OF INTENT FOR THE US ARMY CORPS OF ENGINEER'S NAVIGATION IMPROVEMENT PROJECT

Dear Ms. Ferris,

The City of Stockton Municipal Utilities Department would like to take this opportunity to comment on the Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the Navigation Improvement Project.

This project is in the vicinity of the City's future Delta Water Supply Project (DWSP) Intake and Pump Station Facility. The DWSP will provide drinking water to a large portion of the Stockton Metropolitan Area. This project consists of an intake and pump station facility as well as a water treatment plant that will produce 30 million gallons per day (MGD) initially with proposed expansion to160 MGD by the year 2050. The primary supply source of water for this water treatment plant will be from the San Joaquin River at the southwest tip of Empire Tract within the Navigation Improvement Project study area. A project area map of the facility is enclosed.

Our concerns with the Navigation Improvement Project include the following:

- Water Quality - Our design process is underway based on existing San Joaquin River conditions. Any decrease in water quality caused by the Navigation Improvement Project could potentially have an impact on our ability to treat the water. An evaluation of the effects of the Navigation Project on water quality at the DWSP Intake location needs to be done to ensure there are no adverse impacts to water quality.

Stockton
All-America City
2004
1999

NOTICE OF INTENT FOR THE US ARMY CORPS OF ENGINEER'S NAVIGATION IMPROVEMENT PROJECT

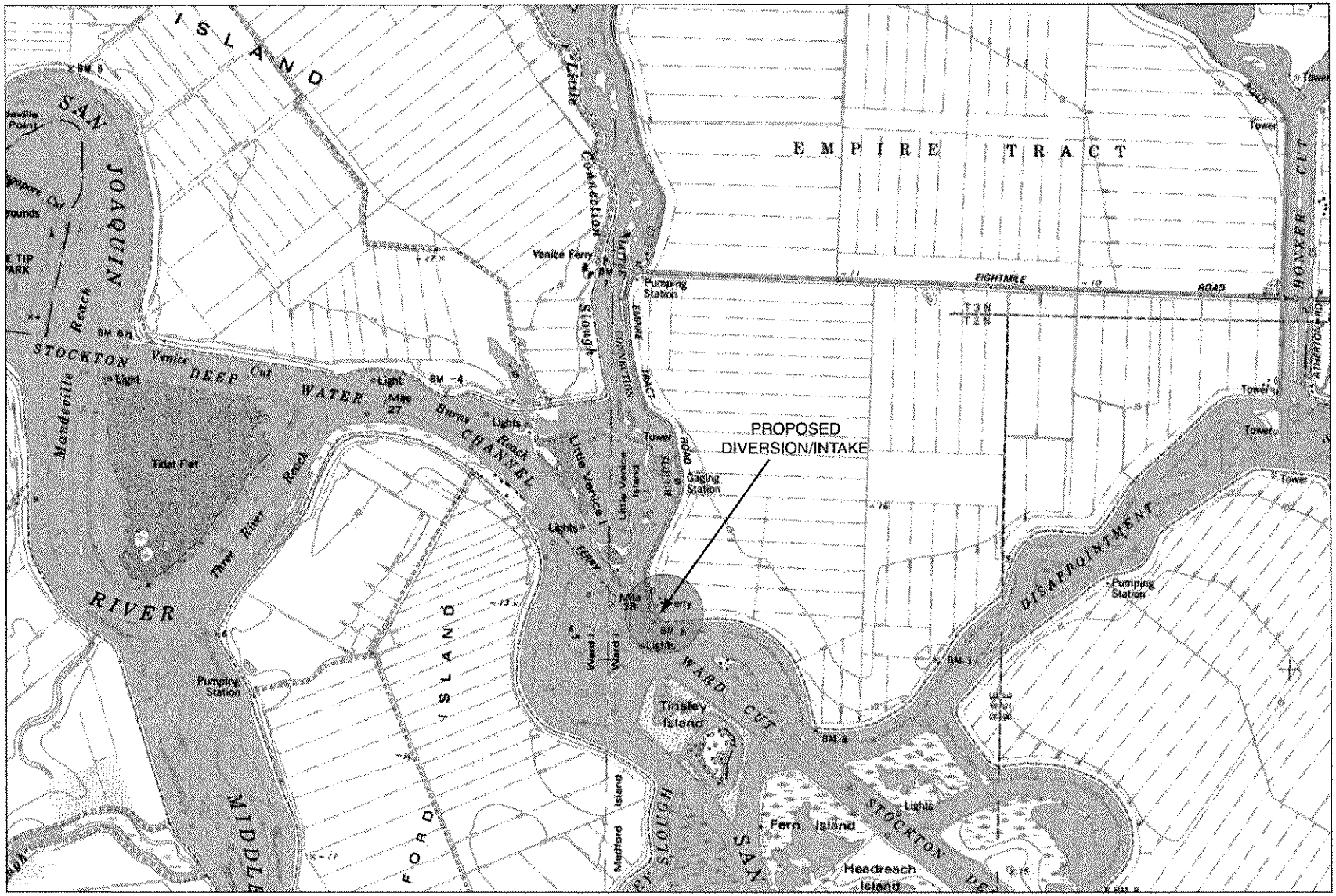
- Ship Traffic – The Navigation Project will evaluate widening and deepening the Ship Channel. While the City designed the Intake and Pump Station as an In-Bank Facility, the City is nevertheless concerned that additional and larger ship traffic will increase the potential for collisions with the Intake Facility and increase erosion of levees due to wave action.

We appreciate your consideration of our concerns and the vicinity of our project to the Deep Water Ship Channel as you proceed with the project processing. Please add us to your contact list for future documents and public meetings. If you have any questions about DWSP, please visit our website at www.deltawatersupplyproject.com, contact me at (209) 937-8779, or Michael Callahan at (209) 937-8994.

ROBERT L. GRANBERG, P.E.
DEPUTY DIRECTOR, WATER RESOURCES PLANNING

RLG:MC:pd

Enclosure: DWSP Diverson/Intake Site Location Map.



SOURCE: USGS 7.5' Topotraphic Quandrangles (Bouldin Island and Terminous); and ESA 2005

Delta Water Supply Project . 200090

Figure 2-2

Diversion/Intake Site Location

E-mails

United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898

IN REPLY
REFER TO:

MP-730
ENV-7.00

APR 29 2008

Ms. Nancy Ferris
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco CA 94103-1398

Subject: Scoping Comments on the Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project

Dear Ms. Ferris:

The Bureau of Reclamation appreciates this opportunity to provide comments to the participating agencies on the scope of the Joint EIS/EIR for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project, California.

Reclamation's Mid-Pacific Region's goal is to balance the many competing and often conflicting needs among numerous water uses, including urban and industrial, agriculture, fish and wildlife habitat, water quality, wetlands, endangered species issues, Native American Tribal Trust, power generation, and recreation. The region strives to develop and implement a balanced approach to water allocation, serving users while protecting the environment.

Our specific concerns that need to be addressed in the environmental document include:

- Affects of the Navigation Improvement Project on operation of the Central Valley Project should result in no adverse impacts to the current X2 location.

- Affects of the Navigation Improvement Project on operation of the Central Valley Project should result in no adverse impacts to CVP water supply. Thorough analyses are needed to determine the impact of the proposed action in conjunction with potential global warming and sea level rise on the volume of fresh water needed to stave off sea water intrusion in the Delta.

- Affects of the Navigation Improvement Project on operation of the Central Valley Project should result in no adverse impacts to the ability to pump Reclamation's Central Valley Project water.

- Affects of the Navigation Improvement Project should not adversely affect Delta salinity, water quality and temperature.

- The Navigation Improvement Project should not adversely affect Reclamation's on-going efforts regarding development of the Central Valley Project Operations Criteria and Plan.

Thank you for the opportunity to provide these scoping comments on your project. We look forward to working with you to address our concerns. Please feel free to contact me at 916-978-5060.

Sincerely,

Alan R Candlish

Alan R. Candlish
Regional Planning Officer

DEPARTMENT OF TRANSPORTATION
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Flex your power!
Be energy efficient!

April 29, 2008

Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project, California

Dear Ms. Ferris:

The California Department of Transportation (Caltrans) appreciates the opportunity to comment on the subject environmental analysis. We have several questions/comments at this time in the process:

1. Will a no-build alternative be examined?
2. Will the dredged material be trucked out? If so, where? If so, will State Highway System (SHS) facilities be used?
3. Caltrans' Division of Maintenance, Structures Maintenance & Investigation, will need to review the project's hydrology/hydraulics reports in order to ensure that the structural integrity of any SHS bridges in the project area will not be compromised by the proposed work. Reports must be affixed with wet seal and signature, as appropriate, pursuant to California Business and Professions Code Section 6735.

Please let us know if we can be of assistance as you continue with your environmental review. My telephone number is 916.653.0808, and my I can be reached via e-mail at: betty_l_miller@dot.ca.gov.

Sincerely,

Betty Miller

Betty Miller
Statewide Local Development-Intergovernmental Review Coordinator
Office of Community Planning

Attachment: California B&PC, Section 6735

c: L. Carboni, Chief, IGR/CEQA Branch, District 4
C. Bushong, LD-IGR Coordinator, District 4
T. Dumas, Chief, Metropolitan Planning, District 10
D. Brewer, Chief, Rural Planning & Administration, District 10
H. Behrooj, Sr. Bridge Engineer, HQ SM&I

California Business and Professions Code
Division 3 Professions and Vocations Generally
Chapter 7 Professional Engineers

Section 6730. In order to safeguard life, health, property and public welfare, any person, either in a public or private capacity, except as in this chapter specifically excepted, who practices, or offers to practice, civil engineering, electrical engineering or mechanical engineering, in any of its branches in this state, including any person employed by the State of California, or any city, county, or city and county, who practices engineering, shall submit evidence that he is qualified to practice, and shall be registered accordingly as a civil engineer, electrical engineer or mechanical engineer by the board.

Section 6731. Civil engineering embraces the following studies or activities in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbors, municipal improvements, railroads, highways, tunnels, airports and airways, purification of water, sewerage, refuse disposal, foundations, grading, framed and homogeneous structures, buildings, or bridges:

(a) The economics of, the use and design of, materials of construction and the determination of their physical qualities.
(b) The supervision of the construction of engineering structures.
(c) The investigation of the laws, phenomena and forces of nature.
(d) Appraisals or valuations.
(e) The preparation or submission of designs, plans and specifications and engineering reports.
(f) Coordination of the work of professional, technical, or special consultants.
(g) Creation, preparation, or modification of electronic or computerized data in the performance of the activities described in subdivisions (a) through (f).

Civil engineering also includes city and regional planning insofar as any of the above features are concerned therein.

Civil engineers registered prior to January 1, 1982, shall be authorized to practice all land surveying as defined in Chapter 15 (commencing with Section 8700) of Division 3.

Section 6735. (a) All civil (including structural and geotechnical) engineering plans, calculations, specifications, and reports (hereinafter referred to as "documents") shall be prepared by, or under the responsible charge of, a registered civil engineer and shall include his or her name and license number. Interim documents shall include a notation as to the intended purpose of the document, such as "preliminary," "not for construction," "for plan check only," or "for review only." All civil engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the certificate or authority. All final civil engineering calculations and reports shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the certificate or authority. If civil engineering plans are required to be signed and sealed or stamped and have multiple sheets, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the certificate or authority shall appear on each sheet of the plans. If civil engineering specifications, calculations, and reports are required to be signed and sealed or stamped and have multiple pages, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the certificate or authority shall appear at a minimum on the title sheet, cover sheet, or signature sheet.

(b) Notwithstanding subdivision (a), a registered civil engineer who signs civil engineering documents shall not be responsible for damage caused by subsequent changes to or uses of those documents, if the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the registered engineer who originally signed the documents, provided that the engineering service rendered by the civil engineer who signed the documents was not also a proximate cause of the damage.

Atch

From: Patrick Morris [pmorris@waterboards.ca.gov]
Sent: Monday, May 12, 2008 2:14 PM
To: CESPN-ET-PA SPN Resource ID
Cc: Bill Marshall
Subject: comments on SF Bay to Stockton Navigation improvement project

Attachments: R5-2007-0161_res.pdf

Hi Nancy,
you have already received comments from our agency on the Navigation Improvement Project, and I have a few additional comments with respect to a methylmercury TMDL that we are in the process of developing for the Delta. The mercury control program for the Delta is still draft and has not been adopted by the Central Valley Water Board , therefore at this time, these are staff recommendations and may not reflect what finally gets adopted by the Board.

1. The Delta is on the 303d list for mercury due to elevated levels of mercury in fish tissue. Central Valley Water Board staff is in the process of developing a methylmercury TMDL to address the impairment. The implementation plan for the TMDL will address both inorganic mercury and methylmercury sources.

2. Mercury is in Delta sediments. Dredging activities are beneficial in that they remove inorganic mercury from the channels and aquatic ecosystem. Reducing the concentration of inorganic mercury in the sediments is expected to reduce the methylmercury produced in the sediments (methylmercury is the toxic form of mercury that bioaccumulates in fish).

3. In general, the proposed Delta mercury control program seeks to minimize new inputs of mercury and methylmercury to the Delta. If dredging exposes a more contaminated layer of sediment, it is possible that methylmercury levels will be affected.

4. Mercury is often bound to sediment. Management practices to control sediment releases may also control mercury releases into the water column. Contaminated dredged material disposed at upland areas and levees also has the potential to add to the mercury impairment. Erosion control may be an effective means of controlling inorganic mercury.

5. Mercury has the potential to be methylated in the dredge settling ponds. Methylmercury discharged from the ponds into receiving waters has the potential to adversely impact the receiving waters. The proposed mercury control program has requirements for methylmercury discharges from these ponds.

I have also attached a Resolution that was adopted by the Central Valley Water Board in Dec 2007; it describes actions to be taken to address Delta water quality.

More information on the Delta mercury TMDL can be found at:
http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/central_valley_projects/delta_hg/

thanks

Patrick

Patrick Morris
Mercury TMDL Unit
Central Valley Regional Water Quality Control Board
(916) 464-4621
pmorris@waterboards.ca.gov

In late February, the Central Valley Water Board's website changed to a new format.
Even though the content did not change, some links may have changed due to this process.
If you are unable to find the information that you need, please contact me at 916 464-4621 or by
email at pmorris@waterboards.ca.gov.

SF Bay to Stockton MapFrom: Gross, Jeremy [Coates Field Service] [JGPF@chevron.com]
Sent: Monday, March 24, 2008 3:12 PM
To: Ferris, Nancy M SPN
Subject: RE: SF Bay to Stockton Map

Attachments: Gross, Jeremy [Coates Field Service].vcf; Honker Bay Crossing.pdf

Nancy,

Thanks for the map it is very helpful. My last name is Gross, btw. It was a pleasure speaking with you on the phone.
I am attaching an aerial photo, w/ our line delineated on it, of our Bay Area Products Line (BAPL) that crosses Honker Bay from Pittsburg on its way up to Sacramento for your reference. I will be mailing out a "howdy" letter outlining our safety requirements, shall I direct my correspondence to you?

Thanks again,

Jeremy Gross
Contract Conflict Inquiry Rep.
Chevron Pipe Line Company
2360 Buchanan Rd.
Pittsburg, CA 94565
Tel: 925-753-2003
Fax: 925-753-2030
jgpf@chevron.com

From: Ferris, Nancy M SPN [mailto:Nancy.M.Ferris@spd02.usace.army.mil]
Sent: Monday, March 24, 2008 1:50 PM
To: Gross, Jeremy [Coates Field Service]
Subject: SF Bay to Stockton Map

Jeremy,

After we spoke I found a better map to share. This is a draft of a poster that will be displayed at our public meeting in Martinez on Wednesday. It is in the process of being updated so I'd appreciate it if you treat is as a draft, not an official document. That said, the poster shows the basic

information of the John F. Baldwin Deep Water Ship Channel and the Stockton Deep Water Ship Channel and includes additional info about the channels.

I will add you to the project mailing list, however I realized I did not get your last name.

Please let me know if you have any trouble viewing the map. I have an older scanned line map that I can share if you need it.

Thank you for your interest in the project,

Nancy Ferris
Environmental Section A
US Army Corps of Engineers San Francisco District
1455 Market St., Suite 1568-H
San Francisco, CA 94103
Phone: (415) 503-6865
Fax: (415) 503-6692
Nancy.M.Ferris@usace.army.mil

<<Authorized and Existing Project Depths.jpg>>

EAST BAY
MUNICIPAL UTILITY DISTRICT

WATER SUPPLY DIVISION

April 8, 2008

Nancy Ferris
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

RE: San Francisco Bay to Stockton Navigation Improvement Project

Dear Ms. Ferris:

Thank you for the opportunity to comment on subject project. The following identifies the potential impacts to the Water Supply System that East Bay Municipal Utility District would like to see addressed in the EIS/EIR and in the design and construction of your project.

- East Bay Municipal Utility District (EBMUD) delivers water to 1.3 million people in the East Bay area. Most of this water (90 - 95 percent) is delivered from our Pardee Reservoir in the Sierra foothills, and conveyed to the East Bay through three large diameter pipes, which are known as the Mokelumne Aqueducts. The health and economy of the people of the East Bay rely on the Mokelumne Aqueducts, and protecting these Aqueducts from damage is one of EBMUD's critical responsibilities.

- The Mokelumne Aqueducts cross beneath the Stockton Deep Water Channel just south of the Stockton Sailing Club in Stockton. The crossing is shown on the navigation charts as "Pipeline Area". Our best information is that there is about 10 feet of riverbed cover over the aqueducts in the channel proper, and less in the shallows and bank area. EBMUD points out that there is a risk of damage to the aqueducts, and hence the water supply of 1.3 million people, due to construction efforts, normal ship traffic, and/or shipping mishaps.

- Besides the buried aqueducts, EBMUD owns and operates the San Joaquin Wasteway on the eastern bank at the same location. The wasteway is a set of outlets and valves used in the operation of the Aqueducts to relieve pressure surge, and is an important part of the water delivery system. Like the Aqueducts, the wasteway is at risk of damage due to construction efforts, normal ship traffic, and/or shipping mishaps.

1804 WEST MAIN STREET . P.O. BOX 228 . STOCKTON . CA 95201 . (209) 946-8000 . FAX (209) 463-9751

- In addition, we understand that one alternative under consideration is to deepen and/or widen the channel to accommodate larger ships. This alternative, at best, increases the risk of damage to our critical facilities and, at worst, may require rebuilding the Aqueduct crossings at a deeper depth.

- EBMUD requests that mitigation to these potential impacts be addressed in the planning process. For example, bank protection measures will help protect the Aqueducts and riverside facilities. EBMUD prefers that as much cover as is practicable should remain over the pipes, with the proviso that the controlling depth of the channel, especially on the port side, is not in the vicinity of the Aqueducts' crossing. The alternative analysis that considers a larger channel should consider the risk to EBMUD critical facilities, and the cost to relocate these facilities if needed.

- EBMUD requires that the precise location and depths of the Aqueducts be ascertained through potholing as part of the design process. Our record drawings are also available at the request of Corps engineering staff.

I look forward to working with the Corps on this project. Please contact me at (209) 946-8000 or send any correspondence to my attention at one of the following addresses:

Physical Address: 1804 W. Main Street **(PLEASE NOTE: Courier deliveries ONLY.**
Stockton, CA 95203 **USPS <u>does not</u> deliver to this address)**

Mailing Address: P.O. Box 228
Stockton, CA 95201

Sincerely,

Andrew K. Enos Jr.

Andrew K. Enos, Jr., P.E.
Superintendent of Aqueduct

AKE:gb
cc: J. Hurlburt
W. Kirkpatrick
A. Tong
S. Terentieff
J. Huntamer

East Bay Regional Park District

2950 PERALTA OAKS COURT PO BOX 5381 OAKLAND CALIFORNIA 94605-0381 T 1 888 EBPARKS F 510 569 4319 TDD 510 633 0460 WWW.EBPARKS.ORG

April 11, 2008

Department of the Army
San Francisco District Attn: Nancy Ferris
1455 market Street, 15th Floor
San Francisco, CA 94103-1398

RE: U.S. ARMY CORPS OF ENGINEERS (USACE) SAN FRANCISCO BAY TO STOCKTON NAVIGATION IMPROVEMENT PROJECT

Dear Ms. Ferris:

East Bay Regional Park District (the "District") has received a copy of the Notice of Intent / Notice of Preparation (NOI/NOP) to prepare a joint Environmental Impact Statement / Environmental Impact Report (EIR/EIR) for the proposed San Francisco Bay to Stockton Navigation Improvement Project. We operate shoreline park facilities and habitat preserves along the Carquinez Strait, Suisun and Honker Bay, New York Slough and San Joaquin River at the following locations:

1. Carquinez Regional Shoreline
2. Martinez Regional Shoreline
3. Bay Point Wetlands/Shoreline
4. Browns Island
5. Antioch/Oakley Regional Shoreline
6. Big Break

The Federal Register notice and NOI/NOP for the project do not provide sufficient detail for us to understand the proposed action and provide detailed scoping comments. It is unclear from the NOI/NOP or Federal Register notice if "improving the efficiency of the movement of goods" means that there will be an increase in the number of vessels using these shipping channels – this should be clarified in the notice and the impacts resulting from this increase should be evaluated in the EIS/EIR. The District has discovered that slough dredging near our properties have undercut the toe of our shoreline facilities/properties, especially at Martinez Regional Shoreline and Browns Island. We are also experiencing wake damage to our piers at Antioch/Oakley Regional Shoreline. Increase frequency and/or intensity of wave action from large vessels concern us as it accelerates the deterioration of our parks/properties and pier facilities. Exhibit "A" clearly shows damage to the shoreline resulting from wave action. The Draft EIR/EIS should demonstrate how the project will be designed to avoid impacts to our facilities/properties.

We request a copy of the Draft EIR/EIS when it becomes available (one hard copy and CD are preferred). If you have any questions or comments, please contact me at (510) 544-2627 or cbarton@ebparks.org.

Sincerely,

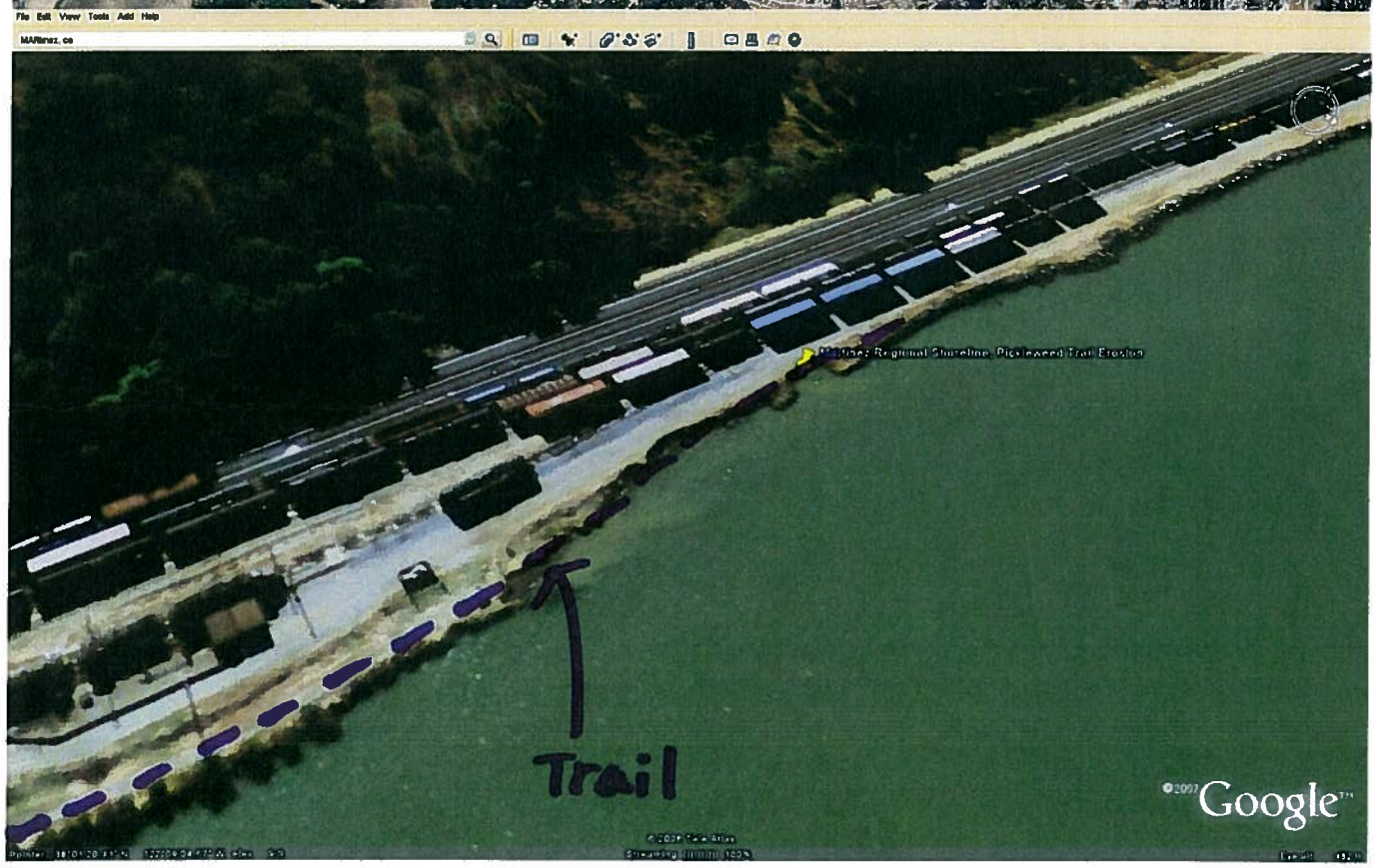
Chris Barton
Senior Planner

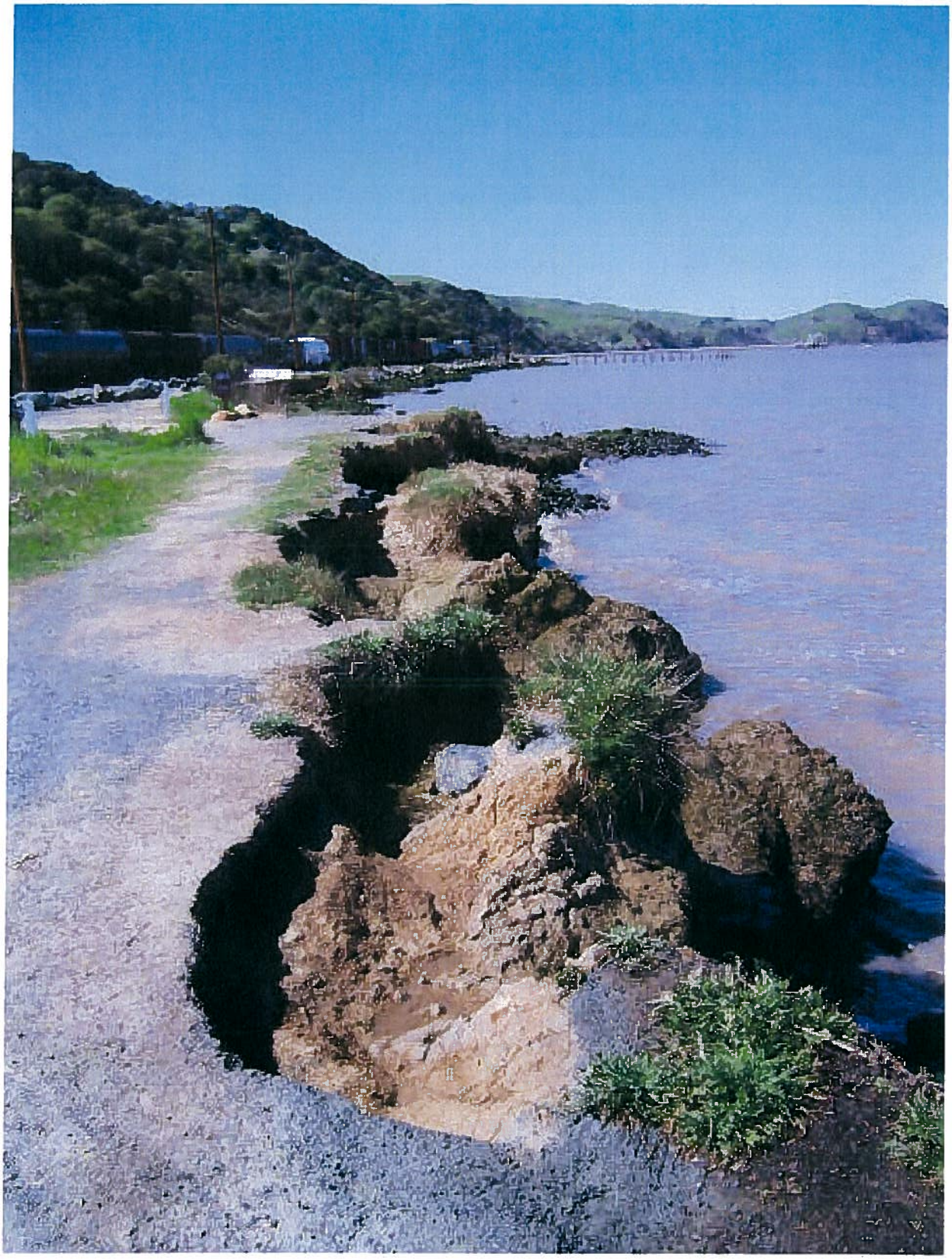
Enclosure: Exhibit A: Martinez Regional Shoreline Erosion

Board of Directors

Ayn Wieskamp, President, Ward 5 | Ted Radke, Vice-President, Ward 7 | Doug Siden, Treasurer, Ward 4 | Nancy Skinner, Secretary, Ward 1 | Beverly Lane, Ward 6 | Carol Severin, Ward 3 | John Sutter, Ward 2 | Pat O'Brien, General Manager

EXHIBIT A
Martinez Regional Shoreline Erosion
(Pickleweed Trail)





From: seahorse8@comcast.net
Sent: Wednesday, March 26, 2008 4:23 PM
To: CESPN-ET-PA SPN Resource ID
Subject: Notice of Intent re EIS for SF Bay to Stockton

As a small business owner and commissioner in Vallejo, California, we support the efforts being undertaken by the Army Corps of Engineers to prepare an EIS/EIR regarding goods movement along the existing deep draft navigation route from San Francisco Bay to the Port of Stockton.

Furthermore, we are hopeful that such navigational improvements may have a "trickle over" effect in that much needed dredging of the Mare Island Straits be considered with respect to the movement of goods and passengers. The Corps is undoubtedly aware that effective January 2008 the Vallejo Baylink ferry operation was identified by State legislation as the foundation service for the newly formed Water Emergency Transportation Authority (WETA).

Along those lines, we strongly recommend that potential economic and emergency preparedness issues be considered -- especially with respect to the dredging of the primary channel (and ancillary waterways such as the Mare Island Straits). Such consideration and inclusiveness on an improvement project of this scale will certainly benefit not only future economic growth and development for Vallejo and Mare Island businesses, but also Bay Area Regional emergency preparedness.

Thank you!

Teresa Booth
Owner, Mare Island Marine Resources

Dan Koster
City of Vallejo Economic Development Commissioner

MINASIAN, SPRUANCE,
MEITH, SOARES &
SEXTON, LLP
ATTORNEYS AT LAW
A Partnership Including Professional Corporations

1681 BIRD STREET
P.O. BOX 1679
OROVILLE, CALIFORNIA 95965-1679

PAUL R. MINASIAN, INC.
JEFFREY A. MEITH
M. ANTHONY SOARES
DAVID J. STEFFENSON
DUSTIN C. COOPER

WILLIAM H. SPRUANCE,
Of Counsel

MICHAEL V. SEXTON,
Of Counsel

TELEPHONE:
(530) 533-2885

FACSIMILE:
(530) 533-0197

April 30, 2008

Ms. Nancy Ferris,
U.S. Army Corps of Engineers
San Francisco District
1455 Market Street, San
Francisco, CA 94103-1398
SPNETPA@usace.army.mil.
FAX: (415) 503-6692

Re: ***Intent to Prepare an Environmental Impact Statement for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project, California***

Dear Ms. Ferris:

These are comments on behalf of the San Joaquin River Exchange Contractors Water Authority and its members Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District, and Columbia Canal Company (Exchange Contractors) regarding the United States Army Corp of Engineers' Intent to prepare an Environmental Impact Statement for the San Francisco Bay to Stockton Navigation Improvement Project.

The Exchange Contractors are concerned with any project that could dredge or deepen the Stockton Deep Water Ship Channel (DWSC). For decades, the unnatural depth of DWSC has caused low dissolved oxygen levels in the San Joaquin River. These dissolved oxygen problems have been documented since the early 1960's. However, despite assurance in prior environmental documents that they would resolve the problem, the USACOE has not fulfilled their obligation to fully mitigate for the DO impacts in the DWSC. Additionally, the USACOE has not sought or obtained Clean Water Act Section 401 certification for the dredging of the DWSC conducted in the past. The NEPA/CEQA documentation must include assurances in the form of committed mitigation measures that Section 401 certification will be sought and obtained by the USACOE. The USACOE prepared studies pursuant to NEPA in regard to its dredging work performed in the 1980's. The Environmental Impact Statement titled, San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Interim General Design Memorandum and Final Environmental Impact Statement. (September 1980) stated that post dredging monitoring would document the dredging caused DO impacts in the DWSC and appropriate remedial actions would be implemented. The Environmental Assessment and Finding of No Significant Impact (FONSI) San Francisco Bay to Stockton Ship Channel: Dissolved Oxygen

Mitigation Implementation (May 1990) reaffirmed that commitment. To date the USACOE has not lived up to those commitments.

The summary in the Federal Register lists Contra Costa County Water Agency as the lead agency in conducting required analysis under the California Environmental Quality Act of 1970 ("CEQA"). With CEQA, the lead agency has primary responsibility for decisions regarding the proper manner of complying with the law and in considering and carrying out the project. Here, the proper lead agency is the State Water Resources Control Board ("State Board"), who is charged with preservation, enhancement and restoration of the quality of California's waters – all centrally involved in the proposed project. The State Board is also charged with reviewing and approving Section 401 water quality certifications which the USACOE will be required to obtain. Lastly, the designation of the State Board as the CEQA lead agency is supported by its overarching goal of protection and enhancement of water quality and the fact that this project will likely negatively impact water quality, including low dissolved oxygen levels in the DWSC.

We are not opposed to a viable state of the art port facility in the Central Valley. However resolution of the dissolved oxygen problem can not be left to empty promise in another series of environmental document, the USACOE must resolve all dissolved oxygen problems in the DWSC prior to any further dredging or deepening of the channel. We look forward to reviewing the USACOE plans to resolve this long standing environmental problem.

Very truly yours,

MINASIAN, SPRUANCE, MEITH, SOARES & SEXTON, LLP

By: _____
DUSTIN C. COOPER
Attorneys for San Joaquin River Exchange Contractors Water Authority

DCC:aw
cc: Clients
David Cory
Jeff Wingfield
Roberta Goulart
Camilla Williams

G. Michael Marcy
Manager, Government
and Public Affairs

Tesoro Refining and
Marketing Company
Golden Eagle Refinery
150 Solano Way
Martinez, CA 94553-1465

(925) 372-3093 Tel
(925) 370-3392 Fax

April 30, 2008

Ms. Nancy Ferris
U.S. Army Corps of Engineers
San Francisco District
1455 Market Street
San Francisco, CA 94103-1398
Fax: (415) 503-6692
E-mail: SPNETPA@USACE.ARMY.MIL

Comments on S.F. Bay-to-Stockton
(John F. Baldwin and Stockton Ship Channels)
Navigation Improvement Project

Dear Ms. Ferris:

Thank you very much for the opportunity to provide comments and perspective on behalf of Tesoro's Golden Eagle Refinery with regard to the San Francisco Bay-to-Stockton Navigation Improvement Project.

Tesoro's San Francisco Bay Marine facilities –our Amorco and Avon wharves, and our Pittsburg petroleum coke terminal, which are associated with tank ship, tank barge and bulk carrier operations supporting the Golden Eagle Refinery-- are located respectively just east and west of the Benicia-Martinez bridge (where the eastern boundary of the Carquinez Strait opens into Suisun Bay), and adjacent to New York Slough (south of Brown's Island, near the confluence of the Sacramento and San Joaquin Rivers).

The Golden Eagle Refinery processes 166,000 barrels per day of crude oil into cleaner-burning California gasoline and ultra-low sulfur diesel fuel. It is the second largest refinery in the Bay Area, and one of the key merchant suppliers of motor fuels to independent wholesalers and independent service station dealers throughout Northern California and the Sierras.

In addition to crude oil delivered by pipeline from the San Joaquin Valley, the Golden Eagle Refinery is increasingly reliant upon imported crudes, delivered by tank ship from Alaska and foreign sources, for the feedstock from which we produce our motor fuels. Therefore, we believe that the dredging components of the proposed navigation improvement project are absolutely essential to the continued safe and efficient movement of petroleum, petroleum products and petroleum coke by tank ships and bulk carriers to and from the Bay Area refineries.

As noted in the Corps' advertising of the public scoping for Project, *"Portions of the reaches have been deepened in the past; however, not all reaches attained authorized dimensions."* We believe that that statement is not only accurate, but that it is, in fact, an understatement. Let us illustrate.

Regular maintenance dredging of the Pinole Shoal, in the eastern reaches of San Pablo Bay in the vicinity of Mare Island, and of Suisun Channel, to authorized maintenance depths is critical to ensuring that vessels have enough under-keel-clearance. The reality, however, is that chronic silting in the North Ship Channel approach to San Pablo Bay, just south of the San Rafael Bridge, currently impedes safe vessel transit of this critical waterway unless ships "light-load" (which means that they are carrying less cargo than they are designed to transport.)

Tesoro recognizes that the scope of the Project EIS/EIR must take into account potential economic impacts while appropriately balancing environmental issues in its analysis. As noted, volumes of California crudes delivered by pipeline to Bay Area refineries are diminishing with the decline of oil production in the state. With shallow channels the norm in San Francisco Bay, there is a ripple effect: the "light-loading" is on the rise.

For Bay Area refiners, in particular, this means that tank ship vessel traffic could double in the next five years, as more ships are needed to supply the same refining capacity. Cargo that is carried to and from the Ports of Sacramento and Stockton is also being moved on smaller ships or large ships that must also "light-load," due to insufficient channel depth. Doubling of this vessel traffic is likely inevitable, and will have commensurate air quality impacts and increase the risk of a vessel incident. We cannot emphasize enough: constrained channel depths require reduced cargo capacity whether it is petroleum, dry bulk commodities or containers.

The North Channel is just the first of a series of choke points that limit the ability to use larger and deeper draft vessels to service the Ports of Stockton, Sacramento, Benicia and the soon-to-be Port of Pittsburg – as well as the refineries situated in the Carquinez Strait. Dredging of the North Channel, we believe, must also be undertaken in conjunction with Pinole Shoal and Suisun Channel, in order for the benefits of dredging of San Pablo Bay and Suisun Channel to be realized by all shippers.

Increased channel depths –such as those contemplated in the San Francisco Bay to Stockton Improvement Project—will facilitate safer, more efficient transport of larger cargoes: reducing total ship traffic, while in the process lowering both air quality impacts and navigational risk, by reducing the number of transits which will otherwise result.

In sum, we believe that there is a net positive environmental and economic impact to assuring safe and efficient navigation for deep draft vessels by deepening the ship channels from San Francisco Bay to Stockton and to Sacramento. We strongly urge the three convening powers to take the points and the comments we have made into account in preparing the joint EIS/EIR for the navigation improvement project.

If you have any questions or would like additional information, please feel free to contact me or Captain Marc Bayer –Manager of West Coast Shipping for Tesoro Maritime—at (925) 372-3146.

Thank you very much for your time and consideration.

Sincerely yours,

G. Michael Marcy

G. Michael Marcy

cc: Roberta Goulart – Contra Costa County Water Agency
Walter Yep – Port of Stockton

URS

April 29, 2008

Ms. Nancy Ferris
U.S. Army Corps of Engineers
San Francisco District
1455 Market Street
San Francisco, CA 94103-1398

Re: San Francisco Bay to Stockton Navigation Improvement Project
Public Scoping Comment:
Trans Bay Cable Project, San Francisco to Pittsburg, California.

Dear Ms. Ferris,

This letter is to request that Mr. Sam Wehn of Trans Bay Cable LLC and myself be included on the distribution list for the San Francisco Bay to Stockton Navigation Improvement project, and that the Trans-Bay Cable project be fully considered during the associated studies. Mr. Wehn's contact information is given below.

The Trans Bay Cable project includes placement of a 400 MW high-voltage direct current submarine cable connecting the Potrero substation in San Francisco and the Pittsburg substation in Pittsburg, California. The cable will be buried 3 to 6 feet below the Bay bottom. The 53-mile cable alignment passes under the existing ship channel between San Francisco and Pittsburg at a number of locations including near Pinole Point, the Martinez Bridge, and just west of the Pittsburg sub-station. Maps will be provided separately. The channel crossings have been discussed with agencies and organizations including the US Army Corps of Engineers (Mr. Robert Smith), US Coast Guard, and the San Francisco Bar Pilots. At each channel crossing location, the cable will be in at least 45 feet of water. The cable project was permitted by the Corps on May 18, 2007 and placement of the submarine cable is scheduled to take place during the environmental window between June 1 and November 30, 2009.

We would be pleased to provide additional information at an appropriate time.

Sincerely,
URS Corporation

Ian Austin, PhD, PE
Vice President

cc: Mr. Sam Wehn
Trans Bay Cable LLC
c/o Babcock & Brown
2 Harrison Street, Suite 600
San Francisco, CA 94105

URS Corporation
221 Main Street, Suite 600
San Francisco, CA 94105-1917
Tel: 415.896.5858
Fax: 415.882.9261

From: Henri.Groenen@yara.com
Sent: Saturday, April 12, 2008 2:08 PM
To: CESPN-ET-PA SPN Resource ID
Subject: SF Bay to Stockton Improvement Project

Attachments: ATT06565.txt

Dear Ms Ferris,

Yara North America, Inc would like to write to you in support of modifying shipping channels to authorized and/or alternate depths. We attended the public meeting on April 2, 2008 at the Cesar Chavez Libary in Stockton, CA and met with several of your colleagues. Our company is constructing a new bulk handling facility in the Port of Stockton (West Complex) which will be serviced by deep draft vessels carrying inbound products. We have been distributing products in the San Joaquin Valley and SF Bay areas since 1946 and are looking forward to assist in the improved efficiency of the movement of goods via waterways.

We support all channel deepening efforts leading up to the port of Stockton and would like to see a 40 foot draft become available for all of the 75 miles. This will benefit supply chain economics for Yara and others by using larger vessels with increased loads which could reduce port calls made into SF Bay waters. In support of limiting truck traffic, our company will install more than 2500 feet of new railtracks at our new facility in Stockton which could shift about 20 % of our outbound cargo from truck to rail going forward.

Please let us know if we can be of further assistance in support of this project.

kind regards,

Henri Groenen
VP Special Projects
Yara North America, Inc
6150 Stoneridge Mall Road, Suite 335
Pleasanton, CA 94588
phone : 925-467-0123

Comment Cards

SAN FRANCISCO BAY TO STOCKTON NAVIGATION STUDY
COMMENT CARD

Name Ken Baxter

Email ken-baxter@dot.ca.gov

Address 1976 E Charter Way Stockton CA 95205

Would you like to be added to the project mailing list? Yes.

Comments: Study should include potential benefits for increasing market/ship cargo & reducing truck trips on our transp. system; and, any highway/county road impacts ~~on the transp.~~ due to dredging material removal. Thx

Environmental Consequences and Mitigation

State of California – The Resources Agency
ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

April 30, 2008

Ms. Nancy Ferris
Department of the Army
U. S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

Dear Ms. Ferris:

Subject: U. S. Army Corps of Engineers Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton Navigational Improvement Project

The Department of Fish and Game (DFG) has reviewed the U. S. Army Corps of Engineers (Corps) Notice of Intent (NOI) to prepare a Joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton Navigational Improvement Project (Project). The Project proposes to alter the depth via dredging of the deep water navigation route from the Pacific Ocean, just outside the Golden Gate Bridge, east to the John F. Baldwin and Stockton Ship Channels encompassing approximately 75 nautical miles of channel reach. The project is divided into two separate reaches, the John F. Baldwin Ship Channel reach from the Golden Gate Bridge to Chipps Island, and the Stockton Ship Channel reach from Chipps Island to the Port of Stockton. DFG appreciates the opportunity to comment on the proposed Project but encourages early consultation and coordination with all responsible and trustee agencies.

As trustee for the State's fish and wildlife resources, DFG has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. In this capacity, DFG administers the California Endangered Species Act (CESA), the Native Plant Protection Act, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

The San Francisco Bay Estuary (Estuary) and Sacramento-San Joaquin Delta (Delta) support a complex array of biological resources and habitats. Project related activities could potentially impact a variety of these resources and habitats including wetland, eelgrass, mudflat, marine benthic, open water, and Delta levee habitat within the Estuary, Delta, and the Pacific Ocean. Several special status species of fish that utilize Estuary and Delta habitat that may be impacted as a result of this project include, but are not limited to, Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), Delta smelt (*Hypomesus transpacificus*), longfin smelt (*Spirinchus thaleichthys*),

Sacramento splittail (*Pogonichthys macrolepidotus*), green sturgeon (*Acipenser medirostris*), tidewater goby (*Eucyclogobius newberryi*), striped bass (*Morone saxatilis*), white sturgeon (*Acipensertransmontanus*), California halibut (*Paralichthys californicus*).. The Estuary and Delta also support many commercial and/or recreationally important species of fish that may be impacted as a result of this project such as Pacific herring (*Clupea pallasi*). Terrestrial special status species that utilize Estuary and Delta habitat that may be impacted as a result of this project include, but are not limited to, California clapper rail (*Rallus longirostris obsoletus*), salt marsh harvest mouse (*Reithrodontomys raviventris*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis californicus*), California least tern (*Sterna antillarum browni*), and other relevant species.

The excavation process commonly referred to as "dredging" that will be utilized during Project implementation typically involves the removal of sediment, using either mechanical or hydraulic equipment, and the transport and disposal or reuse of the dredged material. Impacts from dredging related to a large scale project such as this one can be temporary and permanent, localized and widespread, as well as direct and indirect. Impacts to biological resources and water quality include, but are not limited to:

a. Impacts to biological resources in the dredge area.

b. Changes in current and circulation patterns through modification of the existing bottom topography (potential change in local hydrodynamics and in the makeup of the benthic resources present in the dredge area).

c. Impacts to water quality (changes in parameters including salinity, dissolved oxygen [DO], pH, total suspended dissolved solids, turbidity and the potential for re-suspension of contaminants buried in sediments) including contributing to further declines in DO levels in the Stockton Deep Water Ship Channel.

d. Changes in food web dynamics and possible increases in populations of non-native invasive species, including the potential to further exacerbate know environmental issues such as the Pelagic Organism Decline (POD) within the Delta.

e. Impacts to terrestrial habitat as the result of transport and disposal of dredge material.

Therefore, in order for DFG to provide meaningful review and comment, a complete assessment of the habitats, fauna and flora within and adjacent to the Project area, including endangered, threatened, locally unique species and sensitive habitats should be disclosed within the draft EIS/EIR. Specifically, the draft EIS/EIR should:

1) Disclose the location, amount, and type (temporary and permanent) of impacts to habitat and include the exact amount/acreage and quality of those impacts within the Project area.

2) Address cumulative impacts to habitat types and develop appropriate mitigation measures and Best Management Practices (BMPs) to offset proposed temporary and permanent impacts.

3) Describe Project work windows so that they comply with those windows outlined in the Long-Term Management Strategy (LTMS) for the placement of dredged materials in the San Francisco Bay Region in order to avoid/minimize impacts to migratory species and specifically limit Delta in-water work to August 1 through November 30 to protect listed fish species.

4) Comply with the goals outlined in the LTMS for the placement of dredged materials in the San Francisco Bay Region including identifying appropriate sites for the beneficial reuse of dredge material at areas such as the Hamilton and Montezuma Wetlands Restoration Projects.

5) Describe Project avoidance measures designed to protect habitat areas critical to listed species during in-channel activities including measures to avoid all channel islands, shoals, and shoreline areas with emergent vegetation; excluding dredging or water-side activities in water less than 3 meters in depth in any zones, as measured at Mean High Water (MHW).

6) Outline measures to ensure that Project related activities within the Stockton Deep Water Ship Channel and the general Project area do not allow:

    a. Concentrations of DO to fall below 5.0 mg/L

    b. pH not to fall below 6.5, nor to exceed 8.5, or to change by more than 0.5 pH units

    c. Water temperatures not to increase more than 5 °F at any given time

    d. Changes in turbidity outside of the following water quality criteria:

        i. If undisturbed turbidity is between 0 and 5 nephelometric turbidity units (NTU), increases will not exceed 1.0 NTU

        ii. If undisturbed turbidity is between 5 and 50 NTU, increases will not exceed 20 percent of the original value

iii. If undisturbed turbidity is between 50 and 100 NTU increases will not exceed 10 NTU

iv. If undisturbed turbidity is greater than 100 NTU, increases will not exceed 10 percent of original value

If the Project has the potential to "take" a state listed species, an incidental take authorization will be required pursuant to Fish and Game Code Section 2081(b). If a Federal Incidental Take Statement is obtained, the applicant may request a Consistency Determination from DFG under Fish and Game Code Section 2080.1. In this instance, DFG must review the Federal Incidental Take Statement and determine that it is consistent with CESA and meets all of the conditions required in Section 2081(b)(1-4). Therefore, impacts from the Project on State listed species must be "minimized and fully mitigated." Further, the applicant must "ensure adequate funding to implement the measures" required to "minimize and fully mitigate" the projects impacts. We recommend that DFG personnel participate in all discussions with National Oceanic and Atmospheric Administration (NOAA) Fisheries and U. S. Fish and Wildlife Service (USFWS) to assure that the proposed project will minimize and "fully mitigate" impacts to State listed species.

DFG appreciates the opportunity to review and comment on the Corps NOI for the Project. As always, DFG personnel are available to discuss our concerns, comments, and recommendations in greater detail. If you have questions please contact Mr. Jeremy Sarrow, Environmental Scientist, at (707) 944-5573; or Mr. Greg Martinelli, Water Conservation Supervisor, at (707) 944-5570.

Sincerely,

Charles Armor
Regional Manager
Bay Delta Region

cc: See next page

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Linda S. Adams
Secretary for Environmental Protection

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Arnold Schwarzenegger
Governor

28 April 2008

Nancy Ferris
Department of the Army
USACE
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NOTICE OF INTENT TO PREPARE A JOINT ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT FOR THE SAN FRANCISCO BAY TO STOCKTON NAVIGATION IMPROVEMENT PROJECT

The Regional Water Quality Control Board, Central Valley Region, (Regional Water Board) has concerns with increasing the depth and widening of John F. Baldwin and Stockton Ship Channels. Therefore, we request that the Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project addresses the issues identified in this letter.

The Regional Water Board is aware that trends in the shipping industry and the economics of operation of the Port of Stockton provide strong impetus for increasing the depth of the Deep Water Ship Channel (DWSC) to allow for larger vessels. However, these economic considerations must be balanced with the protection of beneficial uses and water quality of the San Joaquin River.

The San Joaquin River near the Port of Stockton is a 303(d) impaired water body for dissolved oxygen (DO). The DWSC DO levels at times are critically low, which adversely affect aquatic life in the river and are believed to inhibit the passage of fall run Chinook salmon. The low DWSC DO levels are a result of a combination of factors including, low net river flows, high nutrient loading, and an increased hydraulic residence time as a result of increased depth in the DWSC due to dredging. Further increasing the depth of the DWSC will increase the hydraulic residence time in the channel, which may cause further decreases in DO.

In January 2005, the Regional Water Board adopted *Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basin for the Control Program for Factors Contributing to the Dissolved Oxygen Impairment in the Stockton Deep Water Ship Channel.* This Basin Plan Amendment was subsequently approved by the Office of Administrative Law and the U.S. Environmental Protection Agency on 04 August 2006 and 27 February 2007, respectively.

The DO Control Plan identifies geometry of the DWSC as one of the three main contributing factors to the dissolved oxygen impairment. The geometry of the DWSC impacts various mechanisms that add or remove dissolved oxygen from the water column, such that net oxygen demand exerted in the DWSC is increased.

Any project that has the potential to impact DO conditions in the DWSC, which can include, but is not limited to, increasing the cross-sectional area of the DWSC should evaluate and fully mitigate its impacts as a condition of obtaining a 401 Water Quality Certification.

In addition, the EIS/EIR should evaluate the cumulative impacts on excess net oxygen demand conditions including closely related past projects. Title 14, California Code of Regulations, Chapter 3 (CEQA Guidelines), Section 15355 defines the cumulative impact from several projects as:

> *"...the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."*

This definition is consistent with NEPA regulations as defined in Title 40 Code of Federal Regulations, Chapter V Council for Environmental Quality, Section 1508.7.

The Regional Water Board therefore recommends that any consideration of modifying the dimensions of the DWSC includes an evaluation of all cross-sectional dimensions of the DWSC, as well as, modes of conveyance in the DWSC, in order to determine the optimum means of conveying ship traffic with the minimum of alteration to hydraulic parameters and risk to the River's beneficial uses.

As with any channel or road way conveying traffic, the necessary dimensions are based on three primary factors: the size of the vessels, the speed at which they operate, and the degree of precision at which they can maneuver. As vessel draft increases, channel depth must increase correspondingly, however as vessel speed decreases and/or maneuverability increases there may be an opportunity for channel width to safely decrease. Therefore, the EIS/EIR should consider all options that increase a large vessel's ability to move in a smaller channel. For example, using tugs to transport shipping through all or a part of DWSC could enhance the maneuverability of vessels and thereby require a smaller channel.

The issues of increased vessel size extend beyond hydraulic parameters. If the vessel size were to increase in the DWSC, there would be increased concerns about navigation safety, risk of accidents and levee failure. There is also concern, as expressed in the NMFS biological opinion, about mortality of threatened species due to entrainment and prop strikes from large ships. Another issue is an increase in turbidity that may be caused by larger vessels, this may impact some biological receptors. The twin issues of navigation safety and fish mortality might also be addressed by restricting ships from navigating under their own power. Again, as an example, using tugs would presumably decrease the speed of ship traffic, mitigate the primary threat of prop strikes, provide

better navigation control in the channel, and perhaps would allow for a slightly narrower channel width in some sections of the channel. It may also mitigate some of the air quality and noise issues associated with larger vessels. Other options should be reviewed and considered in mitigating these issues.

Thank you for the opportunity to comment on the Notice of Intent and if you should have any questions please contact me at (916) 464-4812.

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(916) 464-4812

Cc: Christine Joab, Central Valley Regional Water Quality Control Board, Sacramento

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2007-0161

WATER BOARDS' ACTIONS
TO PROTECT BENEFICIAL USES OF THE
SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY

WHEREAS:

1. The State Water Resources Control Board (State Water Board), Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board), and San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Regional Water Board) (collectively Water Boards) share responsibility to protect beneficial uses of water in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta).[1] There are numerous existing and potential impacts to beneficial uses of water in the Bay-Delta that require action by the Water Boards. Many of these actions are being, or will be, implemented by the Water Boards.

2. Governor Schwarzenegger's "Action Plan for California's Environment" includes protection for California's water supply and water quality through watershed management efforts that foster accountability and action. Governor Schwarzenegger's Action Plan specifically mentions the 22 million Californians that rely on the Bay-Delta for the supply and quality of their drinking water.

3. The Governor signed Executive Order S-17-06 to require development of a durable vision for sustainable management of the Delta (Delta Vision). The Water Boards will respond to changes in Delta management proposed through this process and will establish appropriate balancing of water supply and other beneficial uses of water.

4. In October of 2006 water users (including the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (USBR)), the Department of Fish and Game (DFG), U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NOAA Fisheries), and other interested persons began an effort to develop a comprehensive conservation plan for the Bay-Delta referred to as the Bay Delta Conservation Plan (BDCP). The BDCP is a voluntary mechanism to provide water users in the Delta with compliance with Federal Endangered Species Act, California Endangered Species Act or the Natural Community's Conservation Plan Act. The BDCP Steering Committee is currently evaluating conservation strategy options that include changing water conveyance methods in the Delta.

5. The CALFED Bay-Delta Program was formed in 2000 as a 30-year cooperative effort between 25 State and federal agencies to improve the quality and reliability of California's water supplies while restoring the Bay-Delta ecosystem. CALFED recently

[1] The State Water Board has authority over water rights and water quality throughout the State. The Central Valley Regional Water Board has water quality authority in the Central Valley and eastern portions of the Delta. The San Francisco Bay Regional Water Board has water quality authority in the western portions of the Delta and the San Francisco Bay.

issued a draft report on the end of stage 1 of the program. Among other findings, the report concludes that conveyance of water through the Delta should be reevaluated.

6. The CALFED Record of Decision proposed completion of a Delta Risk Management Strategy (DRMS) that would look at sustainability of the Delta, and that would assess major risks to Delta resources from floods, seepage, subsidence, and earthquakes. DRMS would also evaluate the consequences, and develop recommendations to manage the risk. Water Code section 139.2 requires DWR to evaluate the potential impacts on water supplies derived from the Delta based on 50-, 100-, and 200-year projections for each of the following possible impacts: subsidence, earthquakes, floods, changes in precipitation, temperature, and ocean levels, or a combination of the above. The DRMS work will provide the majority of this required information. The report is due to the Legislature no later than January 1, 2008.

7. In December 2006 the State Water Board adopted a Water Quality Control Plan for the Bay-Delta (Bay-Delta Plan) to protect beneficial uses. This Bay-Delta Plan identified four emerging issues that all require additional action by the State Water Board: Delta and Central Valley salinity; San Joaquin River flows; the pelagic organism decline (POD); and climate change.

8. The State Water Board adopted the southern Delta salinity objectives for agriculture in the 1978 Bay-Delta Plan. The objectives are based on conditions, crops, and irrigation practices in the southern Delta at the time the objectives were adopted. These objectives were unchanged, but fully implemented in the 1995 Bay-Delta Plan. The objectives were unchanged in the 2006 Bay-Delta Plan. However, during the proceedings leading to adoption of the 2006 Plan, parties submitted information to support further review of the objectives. State Water Board staff has begun to conduct this review.

9. Elevated salinity in surface water and groundwater in California's Central Valley is an increasing problem. The Water Boards have initiated a comprehensive effort to address salinity problems in the Central Valley and adopt long-term solutions that will lead to enhanced water quality and economic sustainability referred to as Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS).

10. The State Water Board issued Order WR 2006-0006 to DWR and USBR for the threatened violation of certain water right permit and license conditions placed on the State Water Project (SWP) and the Central Valley Project (CVP) requiring implementation of southern Delta salinity objectives and other matters. In Order 2006-0006 the State Water Board, among other things, ordered DWR and USBR to implement measures to obviate the threat of non-compliance. DWR has requested changes to Order WR 2006-0006.

11. Pursuant to State Water Board Decision 1641 (D-1641) and Order WR 2006-0006, DWR and USBR are only authorized to use each other's points of diversion in the southern Delta (referred to as Joint Points of Diversion or JPOD) if they are, at the time of diversion, in compliance with all of the conditions of their water right permits and license. This year DWR and USBR used JPOD while southern Delta salinity objectives were being exceeded.

12. San Joaquin River Basin salmonids have declined since adoption of the San Joaquin River flow objectives in the 1995 Bay-Delta Plan and the implementation of those objectives in D-1641. At the same time, pelagic organisms in the Delta have shown significant declines. The State Water Board did not change the San Joaquin River flow objectives in the 2006 Bay-Delta Plan due to a lack of scientific information on which to base any changes. However, the State Water Board has committed to evaluate this issue upon completion and review of DFG's San Joaquin River salmon escapement model, which is now expected in June of 2008. In addition, the State Water Board has requested that parties to the San Joaquin River Agreement (SJRA) complete a review of the Vernalis Adaptive Management Plan (VAMP)[2] experiment to determine whether changes should be made to the experimental design. The State Water Board requested that the parties to the SJRA present the findings of the review to the State Water Board during a workshop.

13. Delta smelt and several other pelagic fish and aquatic organisms in the Bay-Delta have experienced dramatic and unexpected population declines in recent years. The Interagency Ecological Program (IEP)[3] determined that at least three general factors may be acting individually or in concert to lower pelagic productivity: toxic contaminants; exotic species; and water project operations. The Water Boards have authority over water pollution and water project operational requirements.

14. The State Water Board in Resolution No. 2007-0078 authorized funding in the amount of $600,000 from the Cleanup and Abatement Account to DFG to cover expenses necessary to establish and maintain a delta smelt refuge at Byron through December of 2008. The State Water Board fully supports the development of a delta smelt refuge and encourages State, federal, and local agencies, among others, to work cooperatively to establish and fund a refuge beyond December 2008, and to ensure the continued survival of delta smelt and other pelagic organisms.

15. The delta smelt biological opinion for operations of the SWP and CVP has been found to be inadequate by a United States District Court for the Eastern District of California. The court has ordered the USFWS to develop a new biological opinion, which is expected to be completed in November of 2008. In the interim, the court has imposed limitations on diversions by DWR and USBR from the Delta and other measures.

16. The Resources Agency's March 2007 Pelagic Fish Action Plan identifies potential direct and indirect impacts to pelagic fisheries and other estuarine species from two Delta power plants in Pittsburg and Antioch. These plants are regulated by National Pollutant Discharge Elimination System (NPDES) permits issued by the Central Valley Regional

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[2] The VAMP is designed to evaluate the relative effects on the survival of marked juvenile chinook salmon migrating through the Bay-Delta of varying the San Joaquin River flow and SWP and CVP water exports at times when a barrier is installed at the head of Old River to restrict the flow of water into Old River.

[3] The IEP for the Bay-Delta consists of ten member agencies: three State agencies (DWR, DFG, and the State Water Board); six Federal agencies (USFWS, USBR, Geological Survey, Army Corps of Engineers, NOAA Fisheries, and U.S. Environmental Protection Agency (USEPA)); and one non-government organization (The San Francisco Estuary Institute (SFEI)). These ten program partners work together to develop a better understanding of the estuary's ecology and the effects of the SWP and CVP operations on the physical, chemical, and biological conditions of the Bay-Delta estuary.

Water Board and the San Francisco Bay Regional Water Board for intakes and discharges of water used for once-through cooling operations.

17. The Pelagic Fish Action Plan identifies the ballast water of ships as the primary mechanism by which invasive species are transported and spread into marine and estuarine environments and recommends implementation of mandatory performance standards for ballast water treatment technologies. The State Lands Commission (SLC) operates a regulatory program to control invasive species introductions from ballast water discharges. The Water Boards are working with SLC by participating on an advisory panel for ballast water control issues.

18. A growing body of information suggests that climate change could result in: (1) sea level rise that would adversely impact levees, water quality, and conveyance of water supplies through the Delta; (2) decreased snowmelt in the Sierra Nevada that would reduce effectiveness of existing water storage facilities; (3) increased rainfall that could exacerbate flooding; and (4) adverse biological effects from changes in inflow and water quality. Water quality control planning and water right management must begin to address these possible effects.

19. Many agencies and groups monitor water quality, water flows, and ecological conditions in the Bay-Delta, but there is no comprehensive contaminants monitoring assessment program. IEP, CALFED, and other organizations, including the Water Boards, conduct some of these analyses, but due to their specific mandates, information gaps may exist. Emerging concerns with contaminants related to the POD, waste water treatment plant discharges, agricultural discharges, pesticides, blue-green algae toxicity, and unknown toxicity events all highlight the need to improve contaminants monitoring. A system is needed for coordinating among monitoring programs and integrating contaminants monitoring into existing monitoring efforts whereby all data is synthesized and assessed on a regular basis. An example of such a program is the San Francisco Bay Regional Monitoring Program (RMP).[4]

20. The IEP was initially established to investigate the impacts of the SWP and CVP, and became the vehicle to meet the environmental monitoring requirements placed on the SWP and CVP by the State Water Board in its water right decisions. IEP has since expanded its role to conduct additional research, monitoring and analyses. In the past few years, IEP has taken on primary responsibility for conducting POD research.

21. The Delta covers approximately 738,000 acres and is interlaced with hundreds of miles of waterways. The primary land use is agriculture. Approximately 1,800 agricultural water diversions divert in excess of 10 percent of mean annual Delta inflow in an average dry year. Water not consumed through evapotranspiration is returned to the Delta by one or two large drainage pumps on each island. Limited information is available about the quantity and nature of the diversions, and the quantity and quality of the return flows. The lack of information is an impediment to assessing flow and water quality in the Delta channels.

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[4] The RMP is a required collaborative effort between the San Francisco Regional Water Board, regulated dischargers, and SFEI, which administers the program, to monitor contamination in the San Francisco Estuary. The San Francisco Regional Water Board uses this information to make management decisions regarding the estuary.

22. The Water Boards are determining Total Maximum Daily Loads (TMDL) of various pollutants and adopting associated programs to implement TMDLs by allocating receiving water pollutant assimilative capacities. These actions are under development or being implemented to address water quality impairments in the Delta or its tributaries as described below.

    - The Water Boards adopted TMDLs to control toxicity from organophosphorus (OP) pesticides in the Sacramento, Feather, and San Joaquin rivers and Delta waterways. The TMDL implementation plans contain provisions to prevent OP pesticides, as well as any products used in replacement of OPs, from impairing beneficial uses.
    - The Water Boards adopted a phased TMDL to address low dissolved oxygen conditions in the Stockton Deep Water Ship Channel (SDWSC) portion of the San Joaquin River. The TMDL requires more studies of the causes of the impairment prior to development of a final TMDL in 2009. The Water Boards are working with the CALFED Ecosystem Restoration Program (ERP) to carry out CALFED Record of Decision commitments to fund needed TMDL studies, totaling approximately 2.5 million dollars. The needed studies include: (1) completion of field work to understand the fate of algae between Vernalis and the SDWSC; (2) updating existing models to incorporate findings and recalibration; and (3) continuation of monitoring upstream of Vernalis on the San Joaquin River to characterize upstream sources of algae.
    - Low oxygen levels periodically develop during summer in Middle and Old Rivers when rock barriers are installed in the south Delta to benefit agricultural diversions. The low oxygen levels can adversely impact aquatic organisms and violate the Water Quality Control Plan for the Sacramento and San Joaquin River Basins. Limited information exists on the causes of the problem or the responsible parties.
    - The Water Boards adopted a TMDL addressing salt and boron in the San Joaquin River at Vernalis, and negotiations are underway with USBR to implement a real-time management approach to control sources for compliance with objectives.
    - The agricultural supply beneficial use in the San Joaquin River upstream of Vernalis is impaired for salinity and boron. The Water Boards are currently developing salinity objectives and a TMDL to address this impairment.
    - Selenium concentrations measured in ducks, fish, and invertebrates in the northern part of the Bay and Delta could cause health risks to people and wildlife. The Water Boards are in the detailed planning and public outreach phase of TMDL development to address this selenium impairment.
    - Mercury concentrations in Delta and San Francisco Bay fish tissues exceed human health criteria. The Water Boards are developing a TMDL for mercury in the Delta, and have adopted and are implementing a TMDL in San Francisco Bay, including an allocation of loads from the Delta.
    - Pathogen counts in a number of Delta waterways exceed applicable numerical criteria. Requirements for stormwater monitoring and best management practices are being required in NPDES permits for discharges in the affected waterways.

- The California Office of Environmental Health Hazard Assessment (OEHHA) issued a sport fish consumption advisory in response to concerns about high levels of polychlorinated biphenyls (PCBs) in fish from San Francisco Bay and the westernmost Delta. A draft TMDL has been developed to allocate and implement load limits to sources that will attain safe fish tissue PCB concentrations.

23. Delta waterways are listed as impaired due to unknown toxicity. In addition, in 2007, IEP observed toxicity in Delta waterways that may be attributed to pesticides.

24. Surface waters of the Bay-Delta and upstream watersheds provide drinking water supplies for more then 65 percent of California's population. Impairment of these waters poses treatment challenges and public health concerns for people who drink the water. The Water Boards' Water Quality Control Plans include objectives for many constituents that threaten drinking water sources. However, some constituents are not addressed, specifically pathogens, organic carbon, and bromide. The Central Valley Regional Water Board is currently developing a drinking water policy to address these issues.

25. Sediments in bays and estuaries, including those in the Bay-Delta, are often contaminated with a variety of pollutants stemming from sources including industrial and agricultural discharges, municipal wastewater treatment plants, and stormwater. Exposure to contaminated sediments can have a significant effect on the health, diversity, and abundance of invertebrates such as clams and worms. Foraging fish and birds may also be exposed by ingesting contaminated invertebrates or sediments. In turn, those organisms consuming contaminated fish may be exposed to toxic pollutants. These effects underscore the need to develop sediment quality objectives that protect aquatic organisms and human health.

26. Recent studies have raised the possibility that ammonia concentrations in the Bay-Delta may be inhibiting primary production or contributing to fish toxicity. The Water Boards are organizing screening studies to investigate these effects further and will evaluate the need for additional toxicity monitoring of NPDES permitted discharges to Delta waterways. Based on the outcome of these studies, further regulatory action should be considered.

27. Cyanobacteria (also known as blue-green algae) are common and naturally occurring in many aquatic systems around the world and generally occur in areas with elevated temperature and nutrients and decreased water flow. Certain species of blue-green algae have the ability to produce toxins that have an adverse effect on human health and the ecosystem. These species have been detected in the Bay-Delta. The State Water Board, Department of Public Health (DPH), and OEHHA, through the Blue Green Algae Work Group, prepared a Blue-Green Algae Voluntary Guidance Document in June of 2007. The State Water Board is also pursuing a contract with DPH to develop a statewide monitoring approach for blue-green algae.

28. A Habitat Management, Preservation, and Restoration Plan for Suisun Marsh is currently being developed by agencies with primary responsibility for management of Suisun

Marsh[5] to: preserve and enhance managed seasonal wetlands; implement a levee protection and improvement program; and protect ecosystem and drinking water quality while restoring habitat for tidal marsh-dependent sensitive species.

29. All of the above described issues require action by the Water Boards. A long-term strategic workplan for addressing the above issues is needed to assure comprehensive, consistent, and coordinated protection of beneficial uses and the equitable administration of water rights. The strategy and workplan should: (1) clearly define the Water Boards' objectives and priorities for the Bay-Delta; (2) describe how strategy development and implementation will be coordinated with and informed by other regulatory and planning activities in the Bay-Delta, including Delta Vision, the BDCP, CALFED; and DRMS; (3) describe the scope of individual activities and the resources available to implement them; and (4) include a time schedule for achieving strategy goals and objectives; and (5) reference detailed project-specific workplans, as needed. More immediate actions should also be taken.

30. Water use efficiency within the Bay-Delta and its tributaries and the export areas is critical to ensuring the protection of beneficial uses of water from the Bay-Delta now and in the future.

31. The State Water Board adopted a similar resolution on 4 December 2007, and the San Francisco Bay Regional Water Board will consider a similar resolution at an upcoming Board meeting.

THEREFORE BE IT RESOLVED THAT:

1. The Water Boards are committed to ensuring protection of beneficial uses of water and to the equitable administration of water rights in the Bay-Delta and its tributaries. The Water Boards will ensure that impairments to beneficial uses are identified and comprehensively addressed while balancing the need for water quality and water supply reliability. The Water Boards will coordinate with existing Bay-Delta planning efforts to assure that the Water Boards' activities achieve these objectives.

2. Water Boards' staff will work with stakeholders and interested persons, including participants in the Delta Vision, BDCP, CALFED, and DRMS process to prepare a strategic workplan that prioritizes and describes the scope of individual activities and provides specificity regarding timelines and resources needs for implementing coordinated activities in the Bay-Delta, including the activities listed below. As appropriate, program level workplans have been, or will be, prepared for individual activities. The strategic workplan will be coordinated with and informed by ongoing Bay-Delta regulatory and planning efforts and will consider potential future conditions related to global climate change and other factors. The final strategic workplan and scope of specific activities will be submitted to the Water Boards for consideration by June 2008.

[5] USFWS, USBR, DFG, DWR, Suisun Resource Conservation District, California Bay-Delta Authority, and the National Marine Fisheries Service.

Water Board staff will schedule monthly reports on the State Water Board's meeting agendas on development and implementation of the strategy and workplan.

3. The Water Boards will take actions to address salinity issues in the Bay-Delta and upstream areas including: (1) develop and implement CV-SALTS, a comprehensive long-term salinity management program for the Central Valley; (2) act on DWR's request to change Order WR 2006-0006; (3) enforce the southern Delta salinity objectives and take other corrective actions; (4) pursue a contract to review the southern Delta salinity objectives in the Bay-Delta Plan. In the strategic workplan, the Water Boards' staff will propose for the State Water Board's consideration the scope of a basin planning and water right process to review and, as appropriate, amend the southern Delta salinity objectives or their implementation, while ensuring that agricultural uses are protected, and allocate responsibility for meeting the objectives. These actions are in addition to the TMDL actions discussed below.

4. The Water Boards will assess the POD synthesis report, the revised delta smelt biological opinion, and other information regarding the POD. The State Water Board will hold a workshop in January of 2008 to identify specific actions that should be taken to address the POD based on information obtained at the workshop. As part of the strategic workplan, the Water Boards staff will propose for the State Water Board's consideration a timeline to review and amend, as appropriate, the Bay-Delta Plan to provide additional protection to pelagic organisms and other species and, following notice and opportunity for hearing, water rights permit or license requirements. The Water Boards will also implement other water quality actions based on this assessment. Short term actions will be taken as appropriate.

5. The Water Boards will assess DFG's San Joaquin River salmon escapement model, VAMP data and information, and other information regarding San Joaquin River flows needed to protect beneficial uses. The State Water Board will hold a workshop in summer of 2008 on San Joaquin River flow issues. As part of the strategic workplan, the State Water Board staff will propose for the State Water Board's consideration a timeline to review and, as appropriate, amend the San Joaquin River flow objectives or their implementation.

6. Through the strategic workplan, the State Water Board will consider a proceeding to: (1) protect public trust resources and balance the competing demands for water in and from the Bay-Delta; and (2) evaluate the reasonableness of the SWP's and CVP's method of diversion from the Delta.

7. The Water Boards staff will propose for the Water Boards' consideration a comprehensive long-term Delta-wide monitoring program to provide data on contaminants in sediments, water, and aquatic organisms. The San Francisco Bay RMP will be used as a model for this program. This monitoring program will be integrated into current monitoring efforts such as the San Joaquin River Basin Monitoring Partnership[6] and monitoring conducted by the IEP.

[6] The San Joaquin River Basin Monitoring Partnership is a project to encourage a public-private partnership to produce information for improved water quality management throughout the San Joaquin River Region. The project is technically directed and staffed by the SFEI, with funding and participation from USEPA, in consultation with the Central Valley Regional Water Board and other agencies.

8. The Water Boards will require characterization of discharges to and from Delta islands for water quality purposes.

9. The Water Boards will execute a contract to conduct screening studies of potential inhibition of primary productivity and toxicity to fish associated with ambient ammonia concentrations in the Delta in consultation with the IEP's POD investigations, and implement appropriate regulatory controls to protect beneficial uses.

10. The Water Boards will implement, in conjunction with other state agencies including DPH, a standardized monitoring program to better understand blue-green algae blooms. The program will be used to determine the need for, and development of, appropriate regulatory controls to protect beneficial uses throughout the state, including the Bay-Delta.

11. The Water Boards will take the following actions to develop or implement TMDLs or other actions addressing water quality impairments.

    - To implement the OP pesticide TMDL, the Water Boards will require management plans to address exceedances of OP pesticide water quality objectives in discharges and evaluate water quality impacts from replacement products, such as pyretheroid pesticides.
    - The Water Boards will obtain the study information required to complete the final San Joaquin River SDWSC Dissolved Oxygen TMDL allocation.
    - The Water Boards will evaluate dissolved oxygen and other relevant data to evaluate low dissolved oxygen conditions in Old and Middle rivers, and prioritize development of a TMDL.
    - The Water Boards will continue to negotiate a management agency agreement with USBR to implement a real-time salinity management program by August of 2008, as required by the San Joaquin River at Vernalis Salt and Boron TMDL.
    - The Water Boards will develop and adopt salt and boron water quality objectives in the San Joaquin River upstream of Vernalis, and an associated TMDL.
    - The Water Boards will develop and adopt a selenium TMDL in the Delta and northern San Francisco Bay.
    - The Water Boards will adopt a TMDL for mercury in the Delta and begin implementation along with the existing TMDL for mercury in San Francisco Bay.
    - Pathogen counts in a number of Delta waterways in the City of Stockton urban area exceed applicable numerical criteria. A TMDL is tentatively scheduled for consideration by the Central Valley Regional Water Board in January of 2008. The TMDL will be implemented by including stormwater monitoring and best management practices in NPDES permits for discharges in the affected waterways.
    - The Water Boards will complete and consider adopting a PCB TMDL for San Francisco Bay and the westernmost Delta (tentatively scheduled for San Francisco Bay Regional Board consideration in January 2008).

12. To address unknown toxicity in the Delta, the Water Boards will compile and assess available data on contaminants and toxicity to determine whether contaminants are a likely contributor to the POD in the Delta. The Water Boards also will develop a short and long-term toxicity response program focused on identifying, and quickly eliminating, toxic conditions in the Delta.

13. The Water Boards will track progress in maintaining a delta smelt refuge population and will take action, as appropriate, to ensure a refuge population is sustained as long as necessary.

14. The Water Boards will encourage the Department of Pesticide Regulation (DPR) to expedite their pyrethroid pesticide re-registration process and provide agricultural commissioners with guidance on pesticide use restrictions that could be implemented in the interim. The Water Boards will work with DPR and Delta county agricultural commissioners to consider the feasibility of special restrictions on pesticide use on Delta islands and lands on the Delta's periphery.

15. The Water Boards will develop and consider adopting as a Basin Plan amendment a comprehensive policy and implementation plan to improve water quality for municipal and domestic supply beneficial uses (Delta Drinking Water Policy) by the end of 2009.

16. The Water Boards will develop and adopt sediment quality objectives for enclosed bays and estuaries that will protect beneficial uses of water in the Bay-Delta. The State Water Board will consider adoption of final sediment water quality objectives for enclosed bays and interim sediment quality objectives for estuaries (including the Delta) in January of 2008. By 2010, the State Water Board will consider adoption of final sediment quality objectives for estuaries (including the Delta).

17. To remedy the impacts of once-through cooling water intake structures on marine and estuarine life, the Water Boards will develop and consider adopting a statewide policy to implement Clean Water Act section 316(b) (33 U.S.C. § 316(b)) which requires that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. Following adoption of the policy, the Water Boards will impose appropriate NPDES permit conditions on the power plants in Pittsburg and Antioch consistent with the once-through cooling policy. The Water Boards will also consider other interim regulatory actions to address potential impacts of the power plants before the once-through cooling policy is adopted.

18. The Water Boards will develop and implement regulatory controls in coordination with SLC and USEPA to address the introduction of invasive species and other pollutants from ballast water discharges and other vessel-related vectors such as hull biofouling[7] introductions.

19. The Water Boards will participate in the development of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan. Following development, the Water

[7] Biofouling or biological fouling is the undesirable accumulation of microorganisms, plants, algae, and animals on submerged structures, especially ships' hulls.

Boards will consider making any necessary changes to the Bay-Delta Plan, water right permit and license conditions, and take other appropriate actions to resolve water quality concerns.

20. In their Strategic Plan update, the Water Boards will address the use of water use efficiency to promote the efficient use of water supplies and the protection of beneficial uses of water from the Bay-Delta and areas throughout the state.

21. Water Board staff will use the existing interagency agreement with the University of California to assure that their activities and actions are based upon sound science.

CERTIFICATION

I, PAMELA CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 6 December 2007.

_____
PAMELA C. CREEDON, Executive Officer

DIRECTORS
George Biagi, Jr.
Rudy Mussi
Edward Zuckerman

COUNSEL
Dante John Nomellini
Dante John Nomellini, Jr.

CENTRAL DELTA WATER AGENCY
235 East Weber Avenue • P.O. Box 1461 • Stockton, CA 95201
Phone 209/465-5883 • Fax 209/465-3956

April 30, 2008

Via Facsimile (415) 503-6865

Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1445 Market Street, 15th Floor
San Francisco, CA 94103-1398

Re: San Francisco Bay to Stockton Navigation Improvement Project

Dear Sir:

There are a number of significant or potentially significant impacts from the proposed project which if not adequately mitigated could result in great harm.

Seepage

Excavation in the waterways along the many Delta Island levees could induce greater seepage through and/or under the levees. Removal of fine sediments which help slow the flow of seepage from the ship channel and/or shortening the seepage path can damage adjoining land, crops and levees and can lead to levee failure. The Corps of Engineers and the California Department of Water Resources have recently cited seepage through and under levees as a primary threat to levee stability. The Corps of Engineers' May 1, 2005, Technical Letter No. 1110-2-569, Engineering and Design, Design Guidance For Levee Underseepage sets forth new interim guidance for underseepage in anticipation of a revision of EM 1110-2-1913.

Portions of the levees along the ship channel were designed and built by the Corps to seepage standards which the Corps now contends are inadequate. Such levees need to be re-analyzed and reconstructed to current standards. For the remainder of the levees, it is essential that the project not aggravate what is considered by many to be a very fragile levee system. ETL 1110-2-569 points out that "fairly low excess head is required to reactivate boils". There are numerous seepage and boil areas along the ship channel which many believe are the result of previous ship channel excavation. ETL 1110-2-569 references the need for seepage berms extending 300 to 400 feet or more from the landside levee toe to control underseepage.

Destabilization of the Levee Waterside Toe

The proximity of the channel to the waterside toe of some of the levees is such that deepening could result in excavation or destabilization of the waterside toe or slope of the existing levees. New levee setbacks may be required in critical areas.

Wave Action

When ships pass through the channel, they create a wave at the bow which typically transmits to the adjoining levee thereby causing erosion and raising the water level related forces against the levees. Larger ships and more ship traffic would appear to increase the impacts.

Propeller Wash

It has been reported that bends in the ship channel at particular locations result in the prop wash being directed against the levees thereby increasing erosion and in some cases even rolling rock rip rap over or across the levee. If deepening the ship channel allows longer vessels or more heavily loaded vessels to navigate the channel, this problem could be aggravated.

Salinity Intrusion

The last time the ship channel was deepened, salinity intrusion was an issue. The scope of your investigation should include the possible impact on salinity intrusion.

Dissolved Oxygen

Dissolved oxygen in the ship channel has been a significant concern particularly where the shallower channels discharge into the deeper ship channel. This could be a possible significant impact.

Failure to Maintain

Wave wash protection along the ship channel has been inadequately installed and not properly maintained. The Corps of Engineers has been responsible for wave wash protection but has failed to install the rip rap high enough so that it will not be overtopped by high tides, boat and ship generated waves and floodwater levels. When the rip rap is overtopped, the levee is subject to severe erosion and even the rip rap slips down. The impacts associated with the historically demonstrated failure to maintain should be considered in your analysis.

Climate Change and Sea Level Rise

Sea level rise would appear to eliminate the need for channel deepening and/or aggravate many of the impacts.

Thank you for the opportunity to comment.

Yours very truly,

DANTE JOHN NOMELLINI
Manager and Co-Counsel

DJN:ju

* * * COMMUNICATION RESULT REPORT (APR. 30. 2008 4:21PM) * * *

FAX HEADER 1: NOMELLINI GRILLI MCD
FAX HEADER 2:

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To:	**Department of the Army San Francisco District U.S. Army Corps of Engineers**	**FAX #:**	**(415) 503-6865**
To:		**FAX #:**	
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From:	**Dante John Nomellini, Esq.**	**FAX #:**	**(209) 465-3956**
Date:	**April 30, 2008**	**Pages:**	**4, including this cover sheet**
Subject:	**CDWA - Comments re San Francisco Bay to Stockton Navigation Improvement Project**		

Comments: See attached comments.

This is a confidential communication and is not to be delivered to or read by any person other than the addressee. Facsimile transmission is not intended to waive the attorney-client privilege or any other privilege.

Please call us immediately at (209) 465-5883 if any part of this transmission failed or was not clear. If this transmission is received by anyone other than the addressee, the recipient is requested to call the sender collect at (209) 465-5883, and to immediately return this document to Nomellini, Grilli & McDaniel by United States mail. Nomellini, Grilli & McDaniel guarantees return postage.

MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Executive Office

April 25, 2008 **Via E-mail and Mail**

Ms. Nancy Ferris
U. S. Army Corps of Engineers
San Francisco District
1455 Market Street
San Francisco, CA 94103-1398

Dear Ms. Nancy Ferris:

Intent to Prepare a Draft Environmental Impact Statement
for the San Francisco Bay to Stockton Navigation Improvement Project

The Metropolitan Water District of Southern California (Metropolitan) received a copy of the Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the San Francisco Bay to Stockton Navigation Improvement project (Project). The Army Corps of Engineers- San Francisco District, the Port of Stockton, and the Contra Costa County Water Agency propose to evaluate the efficiency of the movement of goods along the existing deep draft navigation route extending from the San Francisco Bay to the Port of Stockton. The proposed project consists of altering the depth of the deep draft navigation route. This letter contains Metropolitan's response to the public notice as a potentially affected public agency.

Metropolitan imports water to a five-county, 5,200 square-mile service area that extends from Ventura County to the Mexican Border, containing a population of about 18 million. Approximately 60 percent of all water used in the region is imported by Metropolitan. Metropolitan imports water from two sources: Colorado River water and water from the Sacramento-San Joaquin Delta, transported from the Delta through the State Water Project (SWP). Due to the critical importance of reliable SWP supplies to Metropolitan's water management strategy and the region's quality of life, Metropolitan has a strong interest in matters affecting Delta's water supply reliability, water quality, and overall environmental health. Thus we are very concerned about any potential water quality impacts and impacts to the aquatic environment from channel modification of the proposed routes. We provide the following specific comments on potential environmental issues for the Agencies' consideration and incorporation into the DEIS:

700 N. Alameda Street, Los Angeles, California 90012 • Mailing Address: P.O. Box 54153, Los Angeles, California, 90054-0153 • Telephone: (213) 217-6000

1. Nine (9) endangered, threatened, or candidate fish species or other fish species of concern inhabit both ship channels and affect water supply reliability. The winter and spring Chinook salmon *(Oncorhynchus tshawytscha)* runs, steelhead (*Oncorhynchus mykiss*), Delta smelt *(Hypomesus transpacificus)*, Longfin smelt (*Spirinchus thaleichthys)*, and Green sturgeon (*Acipenser medirostris)* are listed or otherwise have CESA protection. San Joaquin fall run Chinook, Sacramento splittail *(Pogonichthys macrolepidotus)*, and Sacramento perch (*Archoplites interruptus*) are species of concern for which water exporters are seeking long term incidental take permits based on long term protection of these species. Adverse effects from dredging the ship channel on each of these species are of concern.

2. Dredging can have toxicity and turbidity effects that in turn adversely affect fish, plankton, and the benthic community.

3. Increased ship traffic corresponds to wider propelling motions through the water column. This activity harms listed fish by killing or stunning them and causing them to become easy prey for other predatory fish or birds circling around the ships. Further, the increased traffic near the bottom of the reaches may potentially harm green sturgeon.

4. Structural channel modifications promoting increased flood tide flows, salinity intrusion, and vertical mixing will be detrimental for fish. Greater vertical mixing in a deeper water column reduces the time algae spend in the photic zone where there is light for photosynthesis; thereby reducing algae productivity that feeds the food web. Flow changes may increase the smelt movement rate into Old and Middle rivers, making fish more vulnerable to the pumps. Even after an Isolated Facility, adverse effects on fish from the deeper ship channel would move agencies to be more protective by reducing exports from a south Delta intake as well as from an intake near Hood.

5. Ship channel deepening and any other project that aggravates salinity intrusion into the Delta is harmful to Delta smelt, whose abundance is associated with low salinity. Further salinity intrusion may cause Delta smelt to migrate further into the south Delta and be subject to additional entrainment. In addition, deeper channels will amplify salinity intrusion due to rising sea levels.

The Department of Water Resources Delta Risk Management Strategy has documented that significant salinity intrusion would likely occur with a 1.5 and 3.0 foot rise in sea level; (reference: *Three-Dimensional Salinity Simulations of Sea Level Rise Scenarios, Appendix H3, RMA Consulting)*; channel deepening would have the same effect and cause Delta water quality standards to be violated.

6. The DEIS should keep all options open to evaluate alternatives (i.e. including transportation or channel modification methods) that may reduce significant impacts on listed species.

7. Impacts on populations of fish, not just relative losses, need to be considered in comparing alternatives; including a no action. Current tools and methods for these evaluations should be applied.

8. Mitigation measures will need to address project effects on water exports or fish species that are protected by conservation plans.

9. The DEIS should discuss how this project may impact/be impacted by other ongoing projects (i.e. Bay-Delta Conservation Plan and EIR/EIS).

We appreciate the opportunity to provide input to your planning process and we look forward to receiving future environmental documentation and the DEIS on this Project. If we can be of further assistance, please contact Rick Sitts at (916) 650-2630.

Very truly yours,

Delaine W. Shane
Manager, Environmental Planning Team

BSM/bsm
(Public Folders/EPU/Letters/21-April-08A.doc – Nancy Ferris, San Francisco Bay to Stockton Navigation Improvement Project)

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

April 24, 2008

Nancy Ferris
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

Subject: CEQA Comments the Notice of Intent to Prepare a Joint EIR/EIS

Project: San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project

District Reference No: 20080171

Dear Ms. Ferris:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Notice of Intent for the proposed improvements to the John F. Baldwin and Stockton Ship Channels. The District offers the following comments:

District Comments

1) The proposed project may require District permits. Prior to construction, the project proponent should submit to the District an application for an Authority to Construct (ATC). For further information or assistance, the project proponent may contact the District's Small Business Assistance Office at (559) 230-5888.

2) The portion of the proposed project within the San Joaquin Valley Air Basin may be subject to District Rule 9510 (Indirect Source Review). Rule 9510 requires that applicants subject to the rule file an Air Impact Analysis (AIA) application with the District no later than concurrent with application for final discretionary approval. To date the District has not received an AIA application. For more information regarding Rule 9510 District ISR staff can be reached via phone at (559) 230-6000 or by email at ISR@valleyair.org.

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061
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Southern Region
2700 M Street, Suite 275
Bakersfield, CA 93301-2373
Tel: (661) 326-6900 FAX: (661) 326-6985

Printed on recycled paper.

3) The District recommends that any preliminary environmental review of the project's potential impact on air quality consider the following:

   3a) Emissions from permitted (stationary sources) and non-permitted (mobile sources) sources should be analyzed separately. Preparation of an Environmental Impact Report (EIR) is recommend should emissions from either source exceed the following amounts: 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), or 15 tons per year particulate matter of 10 microns or less in size (PM10).

   3b) Whether the project would result in a cumulatively considerable net increase of any criteria pollutant or precursor for which the San Joaquin Valley Air Basin is in non-attainment.

   3c) Whether the project would create objectionable odors affecting a substantial number of people.

4) If preliminary review indicates that with mitigation, the project would have a less than significant adverse impact on air quality, the effectiveness of each mitigation measure incorporated into the project should be discussed.

5) If the project is located near residential/sensitive receptors, the proposed project should be evaluated to determine the health impact of Toxic Air Contaminants (TACs) to the near-by receptors. If the analysis indicates that TACs are a concern, the District recommends that a Health Risk Assessment (HRA) be performed. If a HRA is to be performed, it is recommended that the project proponent contact the District to review the proposed modeling approach. Please contact Mr. Leland Villalvazo, Supervising Air Quality Specialist, at hramodeler@valleyair.org. Additional information on TACs can be found on the District's Air Quality Modeling page at http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm.

6) If a Mitigated Negative Declaration would be prepared, in addition to the effects identified above, the document should include:

   6a) Estimates of pre- and post-project emissions.

   6b) At this time there are no established significance thresholds for greenhouse gas emissions, however, it is recommended that the environmental review include a discussion of greenhouse gas emissions generated by the project and the effect they will have, if any, on global climate change.

   6c) A discussion of the District's attainment status. Information on the District's attainment status can be found on the District's web page at http://valleyair.org/aqinfo/attainment.htm.

7) If an Environmental Impact Report (EIR) would be prepared, in addition to the effects identified above, the document should include the following:

   7a) A discussion of the methodology, model assumptions, inputs and results used in characterizing the project's impact on air quality.

   7b) At this time there are no established significance thresholds for greenhouse gas emissions, however, it is recommended that the environmental review include a discussion of greenhouse gas emissions generated by the project and the effect they will have, if any, on global climate change.

   7c) A discussion of the components and phases of the project and the associated emission projections, (including ongoing emissions from each previous phase).

   7d) Total emissions at full operation.

   7e) Discuss all feasible measures that will reduce air quality impacts generated by the project.

   7f) A discussion of the District's attainment status. Information on the District's attainment status can be found on the District's web page at http://valleyair.org/aqinfo/attainment.htm.

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call Jessica Willis at (559) 230-5818 and provide the reference number at the top of this letter.

Sincerely,

David Warner
Director of Permit Services

Jessica R. Willis

for Arnaud Marjollet
Permit Services Manager

DW:jw

cc: File

Enclosure: Frequently Asked Questions regarding Indirect Source Review

San Joaquin Valley Air Pollution Control District

Frequently Asked Questions Regarding Indirect Source Review

Q: What is the purpose of Indirect Source Review (ISR)?

A: As land development and population in the San Joaquin Valley continues to increase, so will indirect air emissions that negatively effect air quality. The emissions are called indirect because they don't come directly from a smokestack, like traditional industry emissions, but rather the emissions are indirectly caused by this growth in population. As a consequence, the San Joaquin Valley Air Pollution Control District (District) adopted Indirect Source Review (Rule 9510) to reduce the impacts of growth in emissions from all new land development in the San Joaquin Valley.

Q: When is a project subject to ISR?

A: A project is subject to ISR if all of the following are applicable:

- The project received its **final discretionary approval** from the land use agency on or after **March 1, 2006**.
- The project meets or exceeds the following District applicability thresholds:

- 2,000 square feet commercial
- 20,000 square feet medical office
- 10,000 square feet governmental
- 9,000 square feet of space not included in the list
- 25,000 square feet light industrial
- 39,000 square feet general office
- 20,000 square feet recreation space
- 100,000 square feet heavy industrial
- 9,000 square feet educational
- 50 residential units

- The project's primary functions are not subject to District Rule 2201 (New and Modified Stationary Source Review Rule), or District Rule 2010 (Permits Required).

For more information on the applicability of ISR regarding a specific project, please contact the District at (559) 230-6000 or visit the District's website at http://www.valleyair.org/ISR/ISRHome.htm.

Q: For the purposes of Rule 9510, what is final discretionary approval?

A: A decision by a public agency that requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular development project, as distinguished from situations where the public agency merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations. Examples of discretionary approvals include Tentative Tract Maps, Site Plans, and Conditional Use Permits. A building permit would be an example of a ministerial approval.

Q: What pollutants does ISR target?

A: The ISR rule looks to reduce the growth in NO_x and PM_{10} emissions associated with the construction and operation of new development projects in the San Joaquin Valley. The rule requirement is to reduce construction NO_x and PM_{10} emissions by 20% and 45%, respectively, as well as reducing operational NO_x and PM_{10} emissions by 33.3% and 50%, respectively, when compared to unmitigated projects.

Q: What are NO_x and PM_{10}?

A: Nitrogen oxide (NO_x) is an ozone precursor, or principal component of ozone. Ozone is a colorless, odorless reactive gas comprised of three oxygen atoms. It is found naturally in the earth's stratosphere, where it absorbs the ultraviolet component of incoming solar radiation that can be harmful to life. Ozone is also found near the earth's surface, where pollutants emitted from society's activities react in the presence of sunlight to form ozone. Hot sunny weather with stagnant wind conditions favors ozone formation, so the period from May through September is when high ozone levels tend to occur in the San Joaquin Valley Air Basin.

Particulate matter (PM) is a generic term used to describe a complex group of air pollutants that vary in composition. PM_{10} particles have a diameter of 10 microns (micrometers) or less. The sources of PM can vary from wind blown dust particles to fine particles directly emitted from combustion processes, or may be formed from chemical reactions occurring in the atmosphere.

Q: What is URBEMIS?

A: URBEMIS (**Urban Emissions**) is a computer modeling program that estimates construction, area source and operational emissions of NO_x and PM_{10} from potential land uses. This program uses the most recent approved version of relevant Air Resources Board (ARB) emissions models and emission factors.

Q: How can a project's emissions be reduced to lessen the impact on air quality?

A: A project's emissions can be reduced by incorporating District approved mitigation measures. These include, but are not limited to, the following:

- Bicycle lanes throughout the project
- Proximity to existing or planned local retail
- Cleaner fleet construction vehicles
- Proximity to existing or planned bus stops
- Eliminate woodstoves and fireplaces from the project
- Energy efficiency beyond Title 24 requirements

For more information on additional measures that help reduce emissions, please contact the District at (559) 230-6000.

Q: What will I receive from the District once the Air Impact Assessment (AIA) has been approved?

A: When the AIA is approved the applicant will receive an approval letter, along with the following:

- Off-site emissions estimator worksheet (see below)
- Fee estimator worksheet (see below)
- Monitoring and Reporting Schedule (MRS), if applicable
- Project invoice, if applicable

Q: What is the Off-site Emissions Estimator Worksheet?

A: This Excel worksheet uses the project's total tons of NO_x and PM_{10} as calculated using URBEMIS and compares the unmitigated emissions against the mitigated emissions, determining whether the reduction in emissions is sufficient to satisfy the rule. If the reduction is not sufficient, the required off-site emission reductions are calculated using the District's off-site emission reduction equations, which can be found on the District's website at http://www.valleyair.org/rules/currntrules/r9510.pdf (Sections 7.0 through 7.1.2.2)

Q: What is the Fee Estimator Worksheet?

A: The Fee Estimator is an Excel worksheet used to calculate the total dollar amount of off-site fees that must be paid to the District in order to cover the District's cost of obtaining the required off-site emission reductions, and therefore fulfill the rule requirement. This fee amount is derived by multiplying the total tons of off-site reductions by the applicable rate.

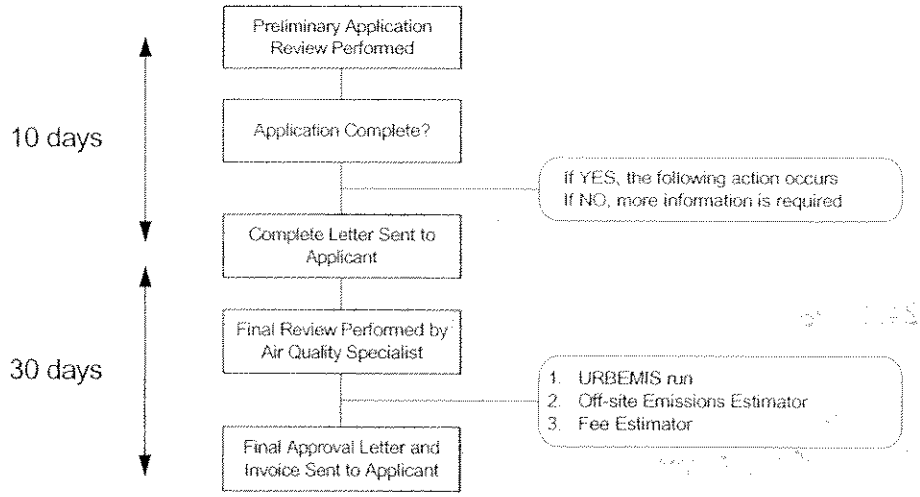
Q: Why are mitigation fees collected, and how are they used by the District?

A: When a development project cannot reduce its NO_x and PM_{10} emissions to the level required by the rule, then the difference must be mitigated through the payment of a fee. The monies collected from this fee will be used by the District to reduce emissions in the San Joaquin Valley on behalf of the project, with the goal of offsetting the emissions increase from the project by decreasing emissions elsewhere. More specifically, the fees received by the District are used in the District's existing Emission Reduction Incentive Program (ERIP) to fund emission reduction projects.

Q: How can additional information on the Indirect Source Review Program be found?

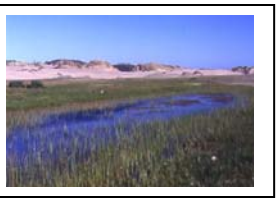
A: Additional information can be found by visiting the District's website at http://www.valleyair.org/ISR/ISRHome.htm or by calling the District at (559) 230-6000.

ISR Processing Flow Chart



E-mails

Peter R. Baye, Ph.D.
Botanist, Coastal Plant Ecologist
P.O. Box 65
Annapolis, California 95412



(415) 310-5109 baye@earthlink.net

Nancy Ferris, Project Manger SPNETPA@usace.army.mil
U.S. Army Corps of Engineers, Planning Branch
1455 Market Street
San Francisco, CA 94203-1398

April 2, 2008

Via e-mail

SUBJECT: Scoping comments, Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement project, California

Ms. Ferris:

I would like to submit the following scoping comments for the Baldwin Ship Channel EIS/EIR, regarding two issues: cumulative impacts on the Bay's sand budget, and beneficial re-use of dredged sand for shoreline habitats.

The Corps is regulating sand mining in San Francisco Bay. Sand mining reportedly removes over one million cubic yards of sand from the bay each year, This loss to the Bay and its ebb tidal delta (San Francisco Bar and related Ocean Beach littoral cell) is proportional with estimates of sediment budget deficit for sands; Orville Magoon has presented a preliminary analysis of the sand budget deficit for the Bay. Patrick Barnard, Ph.D. , research geologist for the U.S. Geological Survey, has recently developed new data and models of sand transport processes, rates and bedforms in the Golden Gate that may link this deficit to a new understanding of the impacts of sand dredging. To the extent that the Baldwin Ship Channel dredging may contribute to net removal of sand from the Bay during a period of accelerating sea level rise, the EIS/EIR should focus analysis on this issue as a potential significant cumulative impact. The

Corps' NEPA (regulatory branch) analysis of sand mining impacts should be consistent with analyses prepared for the Baldwin project.

Assuming that the Baldwin dredging will generate dredged sand from the Bay, it is important to identify the most environmentally beneficial disposal options. In the past, dredged sand has been removed from the Bay and disposed in uplands, or as foundation fill for restored tidal wetlands. Neither of these disposal options makes optimal use of Bay sand for habitat restoration that depends specifically on sandy substrates, such as eelgrass beds and estuarine (bay) beaches, including sand spits (newly constructed or nourishment of existing sand-starved beaches) and fringing beaches along erosional levees or armored artificial shorelines. The EIS/EIR should investigate species-specific and habitat-specific benefits of nearshore sand placement options for beach replenishment in the Bay, and for creation of subtidal sand shoals or intertidal sand flats. Habitat benefits for terns (roosting, nesting, and low-turbidity intertidal shoal foraging habitats), western snowy plovers, shorebirds (high tide roosting habitat, intertidal foraging habitat), grunion (spawning habitat), and recovery of California sea-blite should be considered as potential beneficiaries of onshore or nearshore sand disposal options. Recreational benefits of replenishing sand beaches along urban shorelines (predominantly rock slope protection) should also be considered. Careful planning of sand disposal options that emphasize unique properties of sand in estuarine habitats is justified because it would contribute to proper mitigation of impacts.

I look forward to reviewing the draft EIS/EIR when it is circulated. Please advise me when it is available for review in the future.

Respectfully submitted,

Peter Baye

Cc:
Michael Perlmutter, California Audubon
Carin High, Citizen's Committee to Complete the Refuge
Barbara Salzman, Marin Audubon Society
Brenda Goeden, San Francisco Bay Conservation and Development Commission

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95412

HydroQual

Environmental
Engineers & Scientists

April 29, 2008

Ms. Nancy Ferris
U.S. Army Corps of Engineers
San Francisco District
1455 Market Street
San Francisco, CA 94103-1398

HYDR.MK.00.111.000

Dear Ms. Ferris:

Thank you for taking the time to speak with me recently regarding comments for the San Francisco Bay to Stockton Navigation Improvement Project toward the development of the project EIS/EIR. HydroQual has developed the only three–dimensional (3D) hydrodynamic and water quality model with a sediment component of the San Joaquin River (SJR) Deep Water Ship Channel (DWSC) as part of the development and implementation of the Dissolved Oxygen (DO) TMDL for the California Bay Delta Authority's Ecological Restoration Program (ERP) in the SJR DWSC. The model extends from Vernalis through the DWSC to Jersey Point and addresses the key components that cause DO concentrations to be below water quality objectives under low flow conditions, which are a combination of the City of Stockton Regional Wastewater Control Facility (RWCF) discharges; the upstream SJR load of algae and other oxygen-consuming organic materials; a decrease in the SJR flow due to upstream diversions; and dredging of the DWSC. Some of the concerns and key issues that we think should be addressed in the EIS/EIR are outlined below.

Our experience has shown that upstream SJR velocities decrease significantly upon entering the DWSC. This results in a bathtub effect where oxygen consuming material has more opportunity to exert a demand causing the DO to decline. Modeling analyses that consider tidal effects have indicated that oxygen demand in the DWSC produces a DO sag and the location and magnitude of the sag may change with further dredging. Currently, the DWSC may not be dredged to 35 feet and effects on DO of dredging to 35 feet should be studied with a tool that is able to incorporate tidal effects.

Oxygen consuming material from the upstream SJR also settles to the sediment causing sediment oxygen demand (SOD) when it decays. Though modeling analyses have shown that the SOD provides a small fraction (less than 1.0 mg/L) of the total deficit (up to 4 mg/L under 2000-2001 low flow conditions), additional impacts on water column DO resulting from the SOD should be investigated.

Model simulations have shown that augmenting flow to the DWSC by diverting flow from the Head of Old River (HOR) can improve DO levels in the DWSC. Oxygen injection is being implemented in the DWSC to improve DO levels in the DWSC. So potential effects of further dredging should

HydroQual, Inc.

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be assessed as part of oxygen injection planning. Modeling tools should be applied to predict impacts of proposed alternative methods to prevent and mitigate potential impacts on DO levels. Forecasting may be beneficial for oxygen injection implementation and can be achieved with modeling tools.

Other key issues that should be addressed are movement of the salt wedge with further dredging and extent of intrusion into freshwater areas. The hydrodynamic and water quality model can be coupled with the Delta models to capture transport changes with dredging. Sediment dredging can reintroduce sediment to the water column and potential water quality impacts can be predicted.

If you have any questions or would like to have any of the reports detailing the DWSC hydrodynamic and water quality modeling, call me at 201-529-5151 X7199 or email me at lderosa@hydroqual.com.

Very truly yours,

HYDROQUAL, INC.

Laurie De Rosa

Laurie De Rosa
Project Manager

LDD/lkj
HYDR.MK.00.111.00\FERRIS29APR08LTR

NATURAL RESOURCES DEFENSE COUNCIL

April 30, 2008

VIA ELECTRONIC MAIL

Ms. Nancy Ferris
Department of the Army
San Francisco District
U. S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398
SPNETPA@usace.army.mil

Re: Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton Navigation Improvement Project

Dear Ms. Ferris,

We submit these comments on the Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project (the "Navigation Project") on behalf of the Natural Resources Defense Council ("NRDC") and our members and activists, nearly 225,000 of whom live in California.

While the Notice of Intent ("NOI") for the Navigation Project provides little detail on the nature of the project, it appears that the project will propose deepening the existing deep draft ship channel extending from the San Francisco Bay to the Port of Stockton (the "Ship Channel"). Over the years, NRDC has developed significant expertise on the environmental and public health impacts of air pollution generated by operation of oceangoing vessels and related equipment. It is our hope that discussing these issues at an early stage will help the Army Corps of Engineers (the "Corps") and other involved agencies define the scope of the environmental analysis for the Navigation Project in a way that takes into account all of the environmental impacts from the project in addition to the already poor air quality and high public health risks in the area through which the Navigation Project will run. At the outset, we note that if the Army Corps moves forward with this project, it must comply with all relevant statutes, including the Clean Air Act, Clean Water Act, the River and Harbor Act, the National Environmental Policy Act, and the Marine Protection, Research, and Sanctuaries Act.

1. The EIS/EIR should include an analysis of how the project will enable increased operations in the Ship Channel and the environmental impacts of those increased operations. The National Environmental Policy Act ("NEPA") has twin aims. "First, it places upon an agency the obligation to consider every significant aspect of the environmental impact of a proposed action. Second, it ensures that the agency will inform the public that it has indeed considered environmental concerns in its decisionmaking process." *Baltimore Gas & Electric Co., v. NRDC*, 462 U.S. 87, 97 (1983); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349-50 (1989) (an EIS serves an "informational role" and provides a "spring board for public comment"). Similarly, the basic purpose of an EIR under CEQA "is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made." *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 564 (1990). As a result, the Corps must ensure that the scope of the EIS/EIR is not narrowly confined to simply the impacts created by dredging the deep draft navigation route.

In fact, the Corps' own regulations require that the EIS/EIR assess the "upland impacts" from a project that has sufficient cumulative federal involvement.[1] These are situations where the environmental consequences of the upland area are essentially products of the Corps' project.[2] Here, the Navigation Project appears to involve dredging of portions of a 75 nautical mile route from the Pacific Ocean to the Port of Stockton to enable passage of large oceangoing vessels. Thus, the scope of the EIS/EIR should include not only the direct environmental impacts from any dredging, but also the environmental impacts created by increased operations along the Ship Channel that are enabled by the proposed project.

2. Consistent with the Corp's obligation to analyze the "upland impacts" from the Navigation Project, the EIS/EIR should analyze all direct and indirect air quality impacts from the dredging and increased navigation of the Ship Channel. As discussed above, the Corps' own regulations encourage an analysis of the direct and indirect impacts in the EIS.[3] CEQA similarly requires that all direct and indirect impacts be assessed in the EIR.[4] Under CEQA, indirect impacts are "effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable."[5] Indirect impacts may include "growth-inducing effects and other effects related to induced changes in the pattern of land use… or growth rate, and related effects on air and water and other natural systems."[6]

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[1] 33 CFR § 325, Appendix B, § 7(b)(2)(B).
[2] 33 CFR § 325, Appendix B, § 7(b)(2).
[3] *Id.*
[4] 14 CAL. CODE REG. §§ 15358, 15126.
[5] *Id.* § 15358(a)(2).
[6] *Id.*

An obvious air quality impact that must be considered in the EIR/EIS is the air pollution caused by the dredging of the shipping channels. Accordingly, the Corps should disclose the increase in pollution that will be caused by this process, including an examination of the emissions from dredging equipment and any other equipment and vehicles used to dredge the shipping channels.

Further, the purpose of the Navigation Project appears to be to allow more and larger ships to move goods through the Ship Channel. Thus, the impacts from the project include increased air pollution from such oceangoing vessels as they travel the 150 nautical mile route. Oceangoing vessels are one of the largest sources of port air pollution and are amongst the world's most polluting vessels. They use fuel that contains a high sulfur content which causes smog-forming and toxic pollutants to be released into the air. Moreover, it is our understanding that this route may be used as a "marine highway" to facilitate greater movement of containers on barges. The EIR/EIS must contain an analysis of the impacts of increasing this activity, including the impacts associated with increased barge and other operations caused by an increase in throughput in the Ship Channel. It is especially important to perform a thorough analysis of the air quality impacts because the surrounding San Joaquin Valley suffers from some of the worst air quality in California.

3. The EIS/EIR should analyze all *cumulative* air quality impacts from the Navigation Project. NEPA and CEQA require the EIS/EIR to contain an assessment of the cumulative impacts associated with a project.[7] Cumulative impacts are "the incremental effects of an individual project," which become considerable "when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." *Kings County Farm Bureau v. City of Hanford*, 270 Cal. Rptr. 650 (1990).[8] Accordingly, the EIS/EIR should analyze the cumulative impacts of past, current and future use of the Ship Channel in conjunction with the impacts from the Navigation Project.

4. The EIS/EIR should contain an analysis of greenhouse gas emissions caused by the Navigation Project, and an analysis of the effects of global warming on the Navigation Project. Included in the analysis of the cumulative impacts on air quality should be an analysis of global warming pollution that the Navigation Project will cause, either directly (though dredging), or indirectly (through increased ship movements). The purpose of both NEPA and CEQA is to regulate activities which are found to affect the quality of the environment so that

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[7] The Corp's own regulations for NEPA review require an assessment of cumulative impacts. *See* 33 CFR § 325 (App. B, § 7(b)(2))B)). CEQA also requires an assessment of cumulative impacts. CAL. PUB. RES. CODE § 21083.

[8] *See also* CAL. PUB. RES. CODE §21083(b)(2).

major consideration is given to preventing environmental damage.[9] In order to fulfill this purpose, both statutes require the agency to analyze and disclose *significant* impacts on the environment. Greenhouse gases[10] are viewed as particularly significant environmental impacts because their emissions result in ozone layer depletion and climate change, which has devastating and irreversible effects on humans and other species and ecosystems.[11] Moreover, carbon dioxide emissions from the shipping industry alone are estimated to total as much as 5% of total GHG emissions.

In a recent case, the court held that an agency had the duty to assess climate change in its EIS, stating that "[t]he impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct." *Center for Biological Diversity v. National Highway Traffic Safety Administration*, 508 F.3d 508, 550 (9th Cir. 2007) (*petition for reh'g filed*). Furthermore, the regulations, guidelines and judicial decisions that inform the application of NEPA are often incorporated in the application of CEQA, and vice versa. Thus, in its EIS/EIR the Corps should analyze the increase in greenhouse gas emissions associated with the Navigation Project. For the same reasons, the effects of global warming on the Navigation Project, including potential sea level rise, should be analyzed.

5. The EIS/EIR should assess the health risks associated with the Navigation Project. An assessment of risks to human health is especially important given the large increase in pollution from oceangoing vessels that will occur from the Navigation Project. Diesel particulate matter ("PM") emitted from ships, trucks, trains, and cargo handling equipment is responsible for over 70% of the cancer risk from air pollution in California. PM emissions can travel deep into the lungs and blood stream, causing increased risk for heart attacks, cardiovascular disease (such as atherosclerosis), emergency room visits for acute health events, birth defects, low birth weight, premature births, and death rates. In 2005, the California Air Resources Board estimated that diesel exhaust from freight transport in California contributes to 2,400 premature deaths statewide every year. In

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[9] For NEPA's purpose see 40 C.F.R. § 1500.1(b) (stating that environmental information must be provided "before decisions are made and before actions are taken."). For CEQA's purpose see CAL. PUB. RES. CODE § 21000(g).

[10] Greenhouse gases are: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

[11] It is clear that man-made emissions of carbon dioxide and other greenhouse gases is the principal cause of global warming. The International Panel on Climate Change recently released its synthesis report detailing the present and projected future impacts of climate change. IPCC, Summary for Policymakers for the Synthesis Report of the IPCC Fourth Assessment Report (Nov., 2007), *available at* http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr_spm.pdf.
The effects from increase of CO_2 in the atmosphere range from the warming of the Earth's atmosphere, change in weather patterns, increased frequency and magnitude of flooding, to change in distribution of plants and animals.

addition, NO_x from diesel exhaust can cause a variety of health problems, including respiratory distress, and is a precursor to smog, which contributes to decreased lung function. In addition, the San Joaquin Valley is one of the few areas of the country already in "severe" nonattainment with the federal standards for smog and "serious" nonattainment for PM.

Emissions from the proposed project operations would generate additional air pollution along the entire 75 nautical mile route from the San Francisco Bay to the terminus of the Ship Channel. Thus, the health impacts created along that entire route must be analyzed.

6. The EIS/EIR should consider air quality mitigation measures that could be adopted for the Navigation Project. Under CEQA, an agency is required to consider and implement all feasible mitigation measures.[12] There are a number of mitigation measures that can help reduce the negative air quality impacts, greenhouse gas emissions, and public health risks associated with the Navigation Project. These measures are feasible, meaningful, and many have been successfully implemented elsewhere. They include:

- Use of electric dredge equipment
- Use of 1000 ppm sulfur fuel in the main and auxiliary engines of oceangoing vessels and other vessels that use the Ship Channel
- Retrofit or repowering of tugboats
- Use of recycled materials in the construction and operation phases
- Reduction of the Navigation Project's greenhouse gas emissions through a carbon offset fund. The Corps and other agencies involved might be able to work with the San Joaquin Valley Air Pollution Control District or another state/local agency to establish a fund for GHG reduction projects, restricted to projects in close proximity to the Navigation Project.

7. **The EIS/EIR should consider the Navigation Project's impacts on atmospheric deposition.** Atmospheric deposition is a well-documented phenomenon known to affect water quality in this region and across the nation.[13] Generally speaking, atmospheric deposition occurs when diesel emissions constituents enter water bodies. This happens directly when airborne pollutants

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[12] CAL. PUB. RES. CODE § 21002.1(b).

[13] Numerous sources discuss deposition from diesel emissions, atmospheric deposition over the ocean, and other related topics. *See, e.g.*, EPA, Atmospheric Deposition FAQ; EPA, Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel, 68 Fed.Reg. No.100 28327, 28353 (May 3, 2003); Kay, H., & Poor, N., *Atmospheric Deposition of Polycyclic Aromatic Hydrocarbons to Tampa Bay*, (Oct. 2002); A. Lloyd & T. Cackette, *Diesel Engines*; S. Polgar et al., *A Water Quality Needs Assessment for the Channel Islands National Marine Sanctuary* (2005); Stolzenbach et al., *Measuring and Monitoring of Atmospheric Deposition on Santa Monica Bay and the Santa Monica Bay Watershed*, (Sept. 2001).

settle on the surface of water bodies, and indirectly when airborne pollutants that have settled on to land are washed into water bodies when it rains.

The increased emissions from ships and associated diesel equipment that this project will introduce will significantly add to local and regional atmospheric deposition of diesel exhaust constituent pollutants.[14] Thus, we urge the Corps to include in the EIS/EIR an analysis of atmospheric deposition as well as mitigation for such impacts.

Thank you for considering these comments and please do not hesitate to contact us if you have any questions.

Sincerely,

David Pettit
Senior Attorney

[14] *See* U.S. E.P.A., Frequently Asked Questions About Atmospheric Deposition: A Handbook for Watershed Managers, at 79 (Sept. 2001); *See also* A.Lloyd & T.Cackette, *Diesel Engines: Environmental Impact and Control*, 51 J. Air & Waste Management Ass'n 809, 824 (2001).

SAN FRANCISCO
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April 30, 2008

Via Electronic Mail: SPNETPA@usace.army.mil

Ms. Nancy Ferris
San Francisco District, U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398
Fax: (415) 503-6692

Re: Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton Navigation Improvement Project

Dear Ms. Ferris:

I am writing on behalf of San Francisco Baykeeper ("Baykeeper") to offer the following comments on the Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report ("EIS/EIR") for the San Francisco Bay to Stockton Navigation Improvement Project ("Navigation Project"). We appreciate the Army Corps of Engineers' ("Corps") willingness to consider public comment in defining the scope of environmental analysis undertaken on the Navigation Project. Baykeeper urges the Corps to use this process to conduct a thorough exploration of immediate and secondary environmental impacts of the Project, as well as a meaningful alternatives analysis.

I. The EIS/EIR must be based on accurate and specific information about the scale and logistics of the Navigation Project.

The Notice of Intent states that the Navigation Project consists of "altering the depth of the deep draft navigation route"[1] of the John F. Baldwin and Stockton Ship Channels, which extend 75 nautical miles from the Pacific Ocean outside the Golden Gate, to the Port of Stockton. However, the Notice does not provide relevant information to give stakeholders a real understanding of the environmental consequences of the Project. The only explanation of the Project is the cryptic statement that "portions of the reaches have been deepened in the past; however, not all reaches attained authorized dimensions."[2] In order to accurately analyze the environmental impacts of the Navigation Project, it is

[1] Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton Navigation Improvement Project, San Francisco District, US Army Corps of Engineers.
[2] *Id.*

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crucial that the Corps describe and disclose basic information about the scale and logistics of the Project at an early stage.

Baykeeper requests that the Corps address, with as much accuracy and specificity as possible, the following questions:

1. What are the proposed new channel dimensions, including depth and width? To what extent do these dimensions vary along different areas of the channel? Which areas will undergo the most dramatic change?
2. What is the volume of dredged sediment that will be removed?
3. What methods will be used in disposal operations to transport the dredged sediments?
4. What locations have been identified to accommodate the dredged sediments?[3]
5. Based on the estimated volume of dredged sediments to be removed, do the identified locations have adequate capacity?

II. The EIS/EIR must address dredging impacts to water quality and aquatic organisms.

Though the amount of dredging required by the Navigation Project has yet to be disclosed, it is certain that the dredging activities needed to deepen a 75-mile long navigation channel will have significant impacts to water quality and aquatic organisms. Generally, dredging processes cause increased quantities of suspended sediments, which can cause turbidity and induce the dispersion of contaminants such as heavy metals and organic contaminants. Impacts can also occur beyond the disposal site. Currents can carry dredged material and associated contaminants to other parts of the watershed. It is imperative that the Corps assess all impacts to water quality and species impacts of the Project and consider mitigation measures to reduce these impacts.

Baykeeper respectfully requests that the Corps conduct a thorough analysis of the following issues and questions the EIS/EIR:

A. Dredging Impacts to Water Quality

1. <u>Dissolved Oxygen</u>. The EIS/EIR must assess temporary decreases in dissolved oxygen levels caused by dredging, and provide appropriate mitigation measures. Additionally, the Corps should consider the long-term impacts to dissolved oxygen levels from increased shipping and increased water volume and propose adequate mitigation.

2. <u>Re-suspension and disbursement of pollutants</u>. To what extent will dredging activities cause the re-suspension and disbursement of pollutants

[3] In recent years, most dredged materials have been disposed of at one of the three in-Bay sites: near Alcatraz Island, at Carquinez Strait, and in Central San Pablo Bay. To control impacts from in-bay disposal sites, there are restrictions on the quantity, quality, and timing of dredged material disposal, as provided for in permitting under the Clean Water Act and the Long Term Management Strategy.

like heavy metals and organic contaminants, and can these impacts be mitigated?

3. Dredged wastes. The EIS/EIR needs to address potential impacts of toxic sediment when dredged spoils are disposed. To what extent could dredged sediments contaminate groundwater at disposal sites?

4. Turbidity. Given the volume of material to be removed from the channel, what are the potential impacts from increased turbidity during dredging activities, and how can these be lessened?

5. Tidal Prism. To what extent will dredging activities induce changes in the tidal prism, and what mitigation measures can be employed to lessen the impacts?

B. Dredging Impacts to Aquatic Life

Dredged material can disturb or bury benthic organisms, such as clams, worms, or crabs, as well as affect fish habitats by increasing suspended sediments at the disposal site. The EIS/EIR must analyze impacts to species and affected areas which support habitat and spawning uses in light of the above water quality impacts of dredging:

1. The Corps needs to consider the cumulative impact of disbursement of pollutants, turbidity, and decreased levels of dissolved oxygen to the habitat, spawning, and survival of bottom dwelling fish species like sturgeon, and other pelagic organisms.

2. The EIS/EIR must identify affected federal and state listed species and examine how dredging will affect their designated critical habitats. One example is the already struggling San Francisco Bay-Delta area, the critical habitat of the threatened Delta smelt.

III. The EIS/EIR must address secondary and indirect issues which arise from the Port's expansion.

Federal law requires the Corps to consider broader issues implicated by expanding the Port of Stockton.[4] The Corps is required to take into account indirect effects of a proposed action, which are caused by the action but "occur later in time or are farther removed in distance, but are still reasonably foreseeable."[5] The EIS/EIR must address not only immediate environmental impacts from dredging and dredged material disposal, as highlighted above, but must examine the overall footprint of a larger Port and increased navigation of the channels. Increased Port operations will result in more severe

[4] 40 C.F.R. § 1508(b); see also 33 C.F.R. Part 325, Appendix B, ¶ 7(b)(3) (dredging permit for a shipping terminal "normally considered sufficient Federal control and responsibility to warrant extending the scope of analysis to include the upland portions of the facility").
[5] *Id.*

environmental impacts from more and bigger marine vessels, more on-road trucks, and the increased use of cargo handling equipment.

Specifically, the Corps must consider the following issues posed by the expansion of the Port of Stockton:

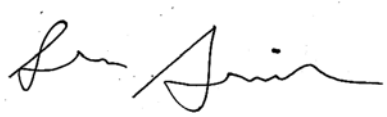
1. Air quality impacts from emissions from ships, on-road trucks, and heavy-duty yard equipment;
2. Greenhouse gas emissions and the global warming impacts of the Navigation Project, when considered in its entirety;
3. Risks posed by more and bigger ships in the Port of Stockton including vessel traffic safety issues, and an increased danger of oil or hazardous materials spills;
4. Impacts to levee integrity and higher risks of levee failure from increased ship traffic and boat wakes, bank erosion, and more intense vibrations from larger ships;
5. Public health impacts and environmental justice issues that will affect communities living near an expanded Port of Stockton.

IV. The Feasibility Phase for the Navigation Project Must Include a Thorough Alternatives Analysis

Under federal law, the Corps is required to determine whether the Navigation Project, in the current form, is the Least Environmentally Damaging Practicable Alternative ("LEDPA"). 40 C.F.R. Section 230.10(a). The LEDPA determination is made after the Corps identifies alternatives to the Project and considers whether it is possible to avoid or substantially lessen the most serious environmental impacts. The Corps has yet to conduct an alternatives analysis and must first determine whether this Navigation Project is necessary, whether the Port of Stockton should be expanding, and whether there is a less environmentally damaging alternative before proceeding to the next phase.

Thank you for your consideration of these comments.

Sincerely,



Sara Aminzadeh
Legal Fellow, San Francisco Baykeeper

From: Tabatabai, Fari SPN on behalf of CESPN-ET-PA SPN Resource ID
Sent: Monday, March 24, 2008 12:31 PM
To: John Stroh; CESPN-ET-PA SPN Resource ID
Cc: 'Craig Downs'; 'Dave Brown'; JBlegen@aol.com
Subject: RE: SF Bay to Stockton Navigation Improvement Project

John Stroh,
Thank you for your interest and comment.

At this time we do not have any information to provide, but I will put your email in the official record of comments to explore mosquito issues related to the storage and handling of dredged materials.

If you would like to expand upon your comment or add other concerns you can email this address, or mail or fax comments to the address or fax number below.

Thank you,
Nancy Ferris
Environmental Planning A
1455 Market Street
San Francisco, CA 94103
Tel. 415-503.6865
FAX 415-503.6692

From: John Stroh [mailto:sjcmvcd@worldnet.att.net]
Sent: Monday, March 17, 2008 7:37 AM
To: CESPN-ET-PA SPN Resource ID
Cc: 'Craig Downs'; 'Dave Brown'; JBlegen@aol.com
Subject: SF Bay to Stockton Navigation Improvement Project

Nancy Ferris,

I am interested in receiving more information re: the proposed San Francisco Bay to Stockton Navigation Improvement Project, California. Specifically, I would like to receive information on methods and practices that will be incorporated to prevent mosquitoes in the storage and handling of dredged

materials within San Joaquin County.

My contact information is:

John Stroh, Manager

San Joaquin County Mosquito and Vector Control District

7759 S. Airport Way

Stockton, CA 95206

(209) 982-4675

jstroh@sjmosquito.org

Thank you,

John Stroh

April 28, 2008

Ms. Nancy Ferris
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103

Re: San Francisco Bay to Stockton Navigation Improvement Project EIR/EIS

Dear Ms. Ferris:

The State Water Contractors (SWC) submits these comments regarding the Notice of Intent (NOI) to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton Navigation Improvement Project (Navigation Improvement Project). As described in the NOI, the U.S. Army Corps of Engineers (the Corps), the Port of Stockton, and Contra Costa County Water Agency jointly propose through the Navigation Improvement Project to alter the depth of the deep draft navigation route extending from the San Francisco Bay to the Port of Stockton. Implementation of the Navigation Improvement Project would improve efficiency of the movement of goods along the existing deep draft navigation route.

The SWC is an organization representing 27 of the 29 public water entities[1] that hold contracts with the California Department of Water Resources (DWR) for the delivery of water from the State Water Project (SWP). Collectively, the members of the SWC provide all, or a part, of the water supply delivered to approximately 25 million Californians, roughly two-thirds of the State's population, and to over 750,000 acres of irrigated agriculture. The members of the SWC provide this water to retailers, who, in turn, serve it to consumers throughout the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California.

STATE WATER CONTRACTORS
SWC
FOUNDED IN 1922

DIRECTORS

Dan Masnada
President
Castaic Lake Water Agency

Thomas Hurlbutt
Vice President
Tulare Lake Basin Water Storage District

Steven Robbins
Secretary-Treasurer
Coachella Valley Water District

Stephen Arakawa
Metropolitan Water District of Southern California

Thomas Clark
Kern County Water Agency

Russell Fuller
Antelope Valley-East Kern Water Agency

Joan Maher
Santa Clara Valley Water District

David Okita
Solano County Water Agency

Ray Stokes
Central Coast Water Authority

General Manager
Terry Erlewine

[1] Alameda County Zone 7 Water Agency, Alameda County Water District, Antelope Valley-East Kern Water Agency, Casitas MWD on behalf of the Ventura County Flood Control District, Castaic Lake Water Agency, Central Coast Water Authority on behalf of the Santa Barbara FC&WCD, City of Yuba City, Coachella Valley Water District, County of Kings, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Dudley Ridge Water District, Empire West-Side Irrigation District, Kern County Water Agency, Littlerock Creek Irrigation District, The Metropolitan Water District of Southern California, Mojave Water Agency, Napa County FC&WCD, Oak Flat Water District, Palmdale Water District, San Bernardino Valley MWD, San Gabriel Valley MWD, San Gorgonio Pass Water Agency, San Luis Obispo County FC&WCD, Santa Clara Valley Water District, Solano County Water Agency, and Tulare Lake Basin Water Storage District.

1121 L Street, Suite 1050 • Sacramento, California 95814-3944 • 916.447.7357 • FAX 916.447-2734 • www.swc.org

The SWP water supply delivered through the Sacramento-San Joaquin Delta constitutes a significant portion of the water supplies available to SWC members. As a result, the SWC is very interested in matters affecting the quantity and quality of water supplies in the Bay-Delta. As proposed, the geographic extent of the Navigation Improvement Project is divided into two reaches within the Bay-Delta, with the John F. Baldwin Ship Channel extending from the Golden Gate to Chipps Island, and the Stockton Ship Channel extending from Chipps Island to the Port of Stockton. As described in the NOI, portions of the deep draft navigation route have been deepened in the past and further alterations to channel dimensions are being reevaluated. An initial concern is that this project description is too broad to provide meaningful information regarding the full scope of the project. Therefore, the proposed joint EIS/EIR should clearly explain the specific activities being considered part of the Navigation Improvement Project.

The SWC would like to emphasize that altering the depth of the deep draft navigation route changes Delta hydrology, likely causing degradation in water quality in terms of localized decreased dissolved oxygen concentrations and increased salinity intrusion. In portions of the Stockton Ship Channel, the San Joaquin River frequently does not meet dissolved oxygen standards specified in the State Water Resource Control Board (SWRCB) Water Rights Decision 1641 (D-1641). The low dissolved oxygen concentrations may result, at least in part, from increased channel depth and low flow velocity leading to anaerobic conditions in the Stockton Ship Channel. The low dissolved oxygen concentrations in the Stockton Ship Channel affect migrating salmon in the San Joaquin River as well as other delta fishery species.

In addition to potentially causing low dissolved oxygen concentrations, altering the depth of the deep draft navigation route changes the tidal prism in the Bay-Delta and likely results in increased salinity intrusion. Increased salinity concentrations in the Bay-Delta have wide-reaching effects, including but not limited to effects on the SWP water supply required to meet D1641 Bay-Delta water quality standards, distribution and health of Pelagic Organism Decline (POD) species including delta smelt, and increased water treatment costs for Municipal and Industrial (M&I) uses.

Previous dredging projects have raised concerns that sediments within portions of the John F. Baldwin and Stockton Ship Channels are contaminated with pesticides and toxic heavy metals, including arsenic, copper, mercury, lead, nickel, and zinc. Dredging these sediments could reintroduce contaminants into the water column, negatively affecting salmon, smelt, and sturgeon that are listed under the Endangered Species Act and the approximately 25 million people that rely on the Delta for their drinking water supply.

Aside from water quality concerns, dredging may negatively impact aquatic species through the repeated removal of benthic communities that are a food source for many protected species. Aquatic species may also be negatively impacted by noise caused by dredging, and entrainment in the dredging machinery. The impact of the increased shipping traffic that would likely result from the deepened channel, particularly hydrodynamics caused by passing ships, pollution caused by exposure to petroleum products, ship propeller entrainment, and shipping noise, is also a concern. There are also issues associated with the disposal of the dredged material that should

also be considered, including the impact that dredge slurry may have on groundwater and, if disposal sites on Delta islands are being considered, the impact that dredge slurry may have on water quality in the Delta channels.

Finally, other projects in the area should be considered as part of the cumulative impacts analysis. Specifically, the operations of the urban wastewater discharge plants should be included in the consideration of cumulative impacts. Recent research associated with the POD has identified ammonia, specifically un-ionized ammonia, from these plants may be negatively impacting the food supply of pelagic organisms, like the delta smelt. As it is our understanding that un-ionized ammonia has been a concern associated with Port of Stockton's dredging projects in the past, the Army Corps should also consider the cumulative contribution of ammonia from the proposed dredging projects and the ammonia contribution from urban wastewater discharge plants in the region.

Due to the reasons described above, the SWC recommends that the Corps perform a thorough evaluation of the past and present impacts associated with implementation of the Navigation Improvement Project on Bay-Delta hydrology, water quality, fisheries, critical habitat, and other ecosystem factors. Through a peer-reviewed process, development and implementation of hydrodynamic and water quality models to accurately assess effects of altering channel depth is also strongly recommended.

The SWC looks forward to coordinating with the Corps in the future as development of the EIS/EIR proceeds. We appreciate your consideration of our comments. If you have any questions, please feel free to contact me at (916) 447-7357.

Sincerely,

Terry L. Erlewine
General Manager

Comment Cards

SAN FRANCISCO BAY TO STOCKTON NAVIGATION STUDY
COMMENT CARD

Name Thomas A. THOMAS M.D.

Email

Address 4256 - Riviera Dr. Sth: 95204

Would you like to be added to the project mailing list? Yes

Comments: Deeper channel, ~~to~~ results in less oxygen in the water. More + larger ships come to Stockton and/or Sacramento. Ship fuel is "bunker oil" - with sulfur content 50,000 pts/million. Adverse effect on Air quality of the Valley. Parents spend $500,000,000 to for respiratory disease in children in central Va

Public Involvement

E-mails

From: Steve Jenkins [SJenkins@brandman.com]
Sent: Tuesday, March 25, 2008 9:19 AM
To: Ferris, Nancy M SPN
Subject: Re: SF Bay to Stockton Navigation Improvement Project

Great...thanks for getting back to me. I was an Environmental Program Manager at State Lands Commission before coming to MBA a couple of years ago. I headed up our review of sand mining in the Bays and worked with your folks on the cancelled SF Bay Rock Removal project (underwater "seamounts" surrounding Alactraz).

We do Clean Air Act General Conformity and Climate Change analyses here at MBA and I was just curious.....

Thanks

Stephen L. Jenkins, AICP

Director of Air Quality and

Governmental Services

Please always call my cell phone: 714-625-9662

www.brandman.com

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>>> "Ferris, Nancy M SPN" <Nancy.M.Ferris@spd02.usace.army.mil> 3/25/2008 8:53 AM >>>

Hello Stephen,

The Sacramento District of the Corps will be preparing the EIS and the Port of Stockton will be the lead contributor for the EIR portion.

Thanks for your interest,

Nancy Ferris
Environmental Section A
US Army Corps of Engineers San Francisco District
1455 Market St., Suite 1568-H
San Francisco, CA 94103
Phone: (415) 503-6865
Fax: (415) 503-6692
Nancy.M.Ferris@usace.army.mil

From: Steve Jenkins [mailto:SJenkins@brandman.com]
Sent: Monday, March 24, 2008 6:01 PM
To: CESPN-ET-PA SPN Resource ID
Subject: Re: SF Bay to Stockton Navigation Improvement Project

Hi:
Thanks for the info. Who is preparing the EIR EIS for you?
Stephen L. Jenkins, AICP
Director of Air Quality and
Governmental Services

Please always call my cell phone: 714-625-9662
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>>> "CESPN-ET-PA SPN Resource ID" <SPNETPA@spd02.usacearmy.mil> 3/24/2008 12:17 PM >>>
Attached for your reference and further dissemination is an announcement for two public scoping meetings for the San Francisco Bay to Stockton Navigation
Improvement Project. Thank you, Nancy Ferris

US Army Corps of Engineers
Environmental Planning A
1455 Market Street
San Francisco, CA 94103
Tel. 415-503.6865
FAX 415-503.6692

SF Bay to Stockton Navigation Improvement EIS/EIRFrom: Ferris, Nancy M SPN
Sent: Tuesday, April 15, 2008 8:36 AM
To: 'Brett Kawakami'
Subject: RE: SF Bay to Stockton Navigation Improvement EIS/EIR

Brett,
Thank you for your interest in the project. You will be added to the SF Bay to Stockton mailing list.

Here is the website for the project:
www.sfbaytostockton.org

There you will find additional information, and copies of the meeting posters and handouts that were used at the public scoping meetings. I'll include the direct link to the pdf of those posters (also available on the "Project Status" page).
http://www.spn.usace.army.mil/projects/stockton_navigation/Combined%20F2%20handouts.pdf

Please let me know if you have any comments about the project. The comment period is open until April 30, so there are still over two weeks left and the team would appreciate your input.

Regards,

Nancy Ferris
Environmental Section A
US Army Corps of Engineers San Francisco District
1455 Market St., Suite 1568-H
San Francisco, CA 94103
Phone: (415) 503-6865
Fax: (415) 503-6692
Nancy.M.Ferris@usace.army.mil

From: Brett Kawakami [mailto:bkawakami@ccwater.com]
Sent: Thursday, April 10, 2008 11:45 AM
To: CESPN-ET-PA SPN Resource ID
Subject: SF Bay to Stockton Navigation Improvement EIS/EIR

Hello Nancy,

I would like to be placed on the mailing list for the EIS/EIR for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project.

Also, can you let me know if there are any other supporting documents that are available?

Thank you,

Brett

Brett T. Kawakami
Associate Water Resources Specialist
Water Resources Group
Contra Costa Water District
(925) 688-8282
(925) 688-8142 Fax
bkawakami@ccwater.com

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WILLIAM H. SPRUANCE,
Of Counsel

MICHAEL V. SEXTON,
Of Counsel

TELEPHONE:
(530) 533-2885

FACSIMILE:
(530) 533-0197

April 30, 2008

Jeff Wingfield, Environmental Manager
Port of Stockton
2201 West Washington Street
Stockton, California 95203

Re: ***Intent to Prepare an Environmental Impact Statement for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project, California***

Dear Mr. Wingfield:

In accordance with Public Resources Code section 21080.1, CEQA Guidelines section 15082 and the Notice of Preparation inviting scoping comments on the proposed Navigation Improvement Project ("Project"), on behalf of the San Joaquin River Exchange Contractors Water Authority and its member agencies, we respectfully submit the following list of issues that both federal and state lead agencies should address in its EIS/EIR[1] for this Project:

1. The EIR should, consistent with Guidelines section 15123(b)(2), identify and discuss all of the "areas of controversy known to the Lead Agency" including issues raised by agencies and the public" respecting the Project.

2. The EIR should, as required by Guidelines section 15123(b)(3) identify and discuss all of the "[i]ssues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects" of the Project.

3. The EIR should provide a summary of "[e]ach significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect" as required by Guidelines section 15123(b)(1).

4. The EIR should, consistent with Guidelines section 15124, disclose "[t]he precise location and boundaries of the proposed project … on a detailed map, preferably topographic," as well as identify the location of the Project on a regional map.

[1] This comment letter addresses the legal requirements of valid EIRs under CEQA. As the Project involves a joint EIS/EIR, these comments equally apply to the U.S. Army Corps of Engineers.

5. The EIR should provide, consistent with Guidelines section 15124(b), "[a] statement of the objectives sought by the proposed project" in order to assist the Lead Agencies in developing "a reasonable range of alternatives to evaluate the EIR."

6. The EIR should provide, as required by Guidelines section 15124(c), a "general description of the project's technical, economic and environmental characteristics, considering the principal engineering proposals if any and supporting the public service facilities" including, for example, public roads that may be used by construction equipment and crews in delivering equipment to, removing excavated soil from, and otherwise in the construction of the Project. The number and duration of trips per hour of the construction crews and trucks, the days and times of operation and the noise, air pollution, traffic congestion and related impacts on affected public and private roads should be fully disclosed as required by Guidelines section 15124(c).

7. Consistent with Guidelines section 15125, the EIR "must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time of the notice of preparation is published" in order to identify "the baseline physical conditions by which [the Lead Agencies] determine[] whether an impact is significant."

8. The EIR should, consistent with Guidelines section 15126, include separate chapters discussing each of the following subjects:

(a) Significant environmental effects of the Project;
(b) Significant environmental effects which cannot be avoided if the Project is implemented;
(c) Significant irreversible environmental changes which would be involved in the proposed Project should it be implemented;
(d) Growth-inducing impacts of the proposed Project;
(e) The mitigation measures proposed to minimize the Project's significant effects; and
(f) Alternatives to the proposed Project.

9. Consistent with Guidelines section 15126.2, the EIR should fully disclose and discuss all of the potentially significant environmental impacts of the Project, including the "relevant specifics of the area to be affected," the resources involved, physical changes to the environment, alterations to ecological systems, changes induced in population distribution and concentration, the human use of the land that may be affected by the Project (including commercial and residential development), health and safety problems caused by the physical changes to the environment, and other aspects of the resource base such as water, historical resources, scenic quality and public services that may be affected by the Project. In particular, the EIR should

analyze "any significant environmental effects the project might cause by bringing development and people into the area affected."

10. Consistent with Guidelines section 15126.2(b), the EIR must describe any significant impacts, including those which can be mitigated but not reduced to a level of insignificance. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be fully described and explained.

11. Consistent with Guidelines section 15126.2(c), the EIR should fully describe any significant irreversible environmental changes which the Project might cause, including existing land and water uses which might be harmed by the Project, such as lake and river levels and the decrease in river flow all which contribute to the existing dissolved oxygen impairment.

12. Consistent with Guidelines section 15126.2(d), the EIR should discuss the ways in which the proposed Project could stimulate economic or population growth, or the construction of additional housing or commercial development, either directly or indirectly, in the surrounding environment, and whether this growth would tax existing community service facilities such as streets, schools, parks, police, fire and other emergency services, and utilities including sewer, water, gas and electrical services.

13. As required by Guidelines section 15126.4(a), the EIR must describe the "feasible measures which could minimize significant adverse impacts," and where several measures are available to mitigate an impact, discuss the relative costs and benefits and efficacy and each on, and provide a basis for selecting a particular measure or measures rather than the others.

14. Consistent with Guidelines section 15126.4(a)(2), the EIR must pose mitigation measures that are "fully enforceable through permit conditions, agreements or other legally binding instruments," and provide a means for the public to monitor the effectiveness and enforceability of the measures after they have been adopted. One mitigation measure should account for this Project's and earlier projects' deepening of the channel and the impact on dissolved oxygen levels.

15. As required by Guidelines section 15126.4(b), the EIR should identify mitigation measures which avoid or reduce the Project's adverse impacts on historical resources, architecture, structures, features and artifacts.

16. Consistent with Guidelines section 15126.6(a), the EIR "shall describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly

attain most of the basic objectives of the Project, but would avoid or substantially lessen any of the significant effects of the Project, and evaluate the comparative merits of the alternatives."

17. As required by Guidelines section 15126.6(c), the EIR should provide a range of potential alternatives, including "those that feasibly accomplish most of the basic objectives of the Project and could avoid or substantially lessen one or more significant effects" of the Project. The EIR must "describe the rationale for selecting the alternatives to be discussed," and provide an explanation of the reasons why any alternatives that were considered were rejected as infeasible during the scoping process.

18. Consistent with Guidelines section 15126.6(e), the EIR "shall include sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed Project."

19. As required by Guidelines section 15126.6(e), the EIR should provide an extensive discussion of the "No Project" alternative to allow the public and the lead agencies to compare the impacts of approving the proposed Project with the impacts of not approving the proposed Project, and to assure a thorough discussion of the existing conditions at the time the Notice of Preparation is published.

20. Consistent with Guidelines section 15130, the EIR must provide a discussion of the Project's cumulative effects, including impacts that are created as a result of the combination of the project together with other projects, causing related impacts, reflecting the severity of the impacts and their likelihood of occurrence . With respect to other projects, we direct the Lead Agency's attention to the proposed Dissolved Oxygen Total Maximum Daily Load which, in part, attributes the dissolved oxygen impairment in the Stockton Deep Water Ship Channel to earlier dredging projects of the United States Army Corps of Engineers.

21. The EIR should fully describe the long-term purpose and scope of the Project, in particular, the long-term objectives and environmental effects of further dredging the Stockton Deep Water Ship Channel and its related impact on already-impaired dissolved oxygen levels.

22. The EIR should disclose, past, current and potential future adverse impacts on the dissolved oxygen impairment in the Stockton Deep Water Ship Channel due to earlier United States Army Corps of Engineers' projects.

23. The EIR should disclose the known and potential adverse impacts to global warming and the use of carbon-based fuels for completion of the Project. The EIR should identify potential mitigation measures to address these impacts.

24. The EIR should address the Project's consistency, or lack thereof, with all applicable general and specific plans of counties and/or cities that might be affected by the Project. The EIR should disclose the Project's foreseeable growth-inducing impacts due the increased capacity of the ship channels.

24. The EIR should disclose all comments and questions raised by other local, state and federal agencies regarding the impacts of and resource constraints on the Project, including, for example, concerns expressed by the State Water Resources Control Board that the dissolved oxygen impairment is caused in part by earlier projects relating to the dredging and deepening of the Stockton Deep Water Ship Channel.

25. The EIR should include complete multi-season or multi-year, if necessary, field surveys of the biological resources that may be affected by the Project, including, most importantly, threatened or endangered animals.

25. The Project should address known and potential legal restraints on completion of the Project, including the failure to obtain Clean Water Act section 401 Water Quality certification for this Project and earlier dredging projects.

Thank you for considering our comments on the scope of the issues to be addressed by federal and state lead agencies for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project.

Very truly yours,

MINASIAN, SPRUANCE,
MEITH, SOARES & SEXTON, LLP

By_____
DUSTIN C. COOPER

DCC/vlh
cc: Clients
David Cory
Nancy Ferris
Roberta Goulart
Camilla Williams

Comment Cards

SAN FRANCISCO BAY TO STOCKTON NAVIGATION STUDY
COMMENT CARD

Name Scott O'Hara (Winter Island RD 2122)

Email ScottOhara@sbcGlobal.net

Address

Would you like to be added to the project mailing list? email yes

Comments: RD 2122 and Winter Island Farms is a proponent of this project and interested in utilizing a portion of the dredger spoils. Please be aware of our cable and water crossing in New York Slough.

Verbal Transcripts

UNITED STATES OF AMERICA
US ARMY
CORPS OF ENGINEERS

SAN FRANCISCO BAY-TO-STOCKTON NAVIGATION IMPROVEMENT PROJECT -- OPEN HOUSE PUBLIC SCOPING MEETING	)	No._____

Wednesday
March 26, 2008

Room 101
651 Pine
Martinez, California

The meeting began, pursuant to public notice, at 5:00 p.m.

BEFORE: NEIL HEDGECOCK
Project Manager

SPEAKER: NANCY FERRIS
Environmental Planner

Reported by Kent Andrews

P R O C E E D I N G S

(5:16 p.m.)

MS. FERRIS: Well, welcome, everyone. This is not an amplifying microphone, this is for recording purposes.

Welcome to the scoping meeting for the San Francisco Bay-to-Stockton navigation improvement project. I'm Nancy Ferris, I'm an environmental manager with the Army Corps of Engineers in the San Francisco district.

And the Corps is here at the request of our wonderful cooperating agencies and local sponsors, the Port of Stockton, and Contra Costa county water agency. We'll do introductions in a moment.

I'll give you a brief description of the project just for a background. There are posters that go into more detail about this, but very briefly, the project extends basically from the Golden Gate in San Francisco Bay to the Port of Stockton. It's composed of two deepwater ship channels, the John F. Baldwin deepwater ship channel and the Stockton deepwater ship channel, and this study is re-evaluating the extent to which the changes to the dimensions of the federal channels are warranted for improving the efficiency of the movement of goods.

And the purpose of this meeting, to quote the

federal guidance, is to determine the scope of issues to be addressed and identify the significant issues related to the proposed action. So to translate that, we're here to get your input. You are the local experts on all activities that are going on in the area. You're obviously interested in the project, so we'd like to get your feedback on the potential alternatives; the project; what issues to consider; historical, technical, and local information that you can provide to help us further evaluate the potential impacts of the study.

As this is called a scoping meeting, this is defining the scope of what we will study when we look at the environmental impacts and some of the other technical aspects of this project. Right now we're in the study feasibility phase. It's early on, you know, this project has been in many iterations in the past, we're early on in this phase of the project, and your comments and inputs will help us scope the extent of our studies.

So tonight we're here to answer questions about three planning processes that must be used for this study. One is the Corps of Engineers has federal guidance for their study process for the planning of projects, and there's also the National Environmental Policy Act, which is often called NEPA, and the California Environmental Quality Act, which is often referred to as CEQA. And this

meeting is held in open-house format so you can mingle, talk, look at the posters.

We have a comment station here where you can provide comments tonight. You can provide verbal comments to our reporter, or the comment period for this project extends to April 30th, so feel free to fax, E-mail, or mail in any kind of formal comments you'd like to provide.

We ask that you limit your comments to five or 10 minutes, because they will be provided in an official document that will be composed after this study. That is a joint EIS/EIR, that stands for environmental impact statement, environmental report and that satisfies NEPA and CEQA. And for the planning process that I said is also guiding our study, we'll be providing or we'll be creating a general re-evaluation report, often referred to as a GRR, and that summarizes the re-evaluation study process and results of the study effort, including physical and environmental as well as economic analyses.

But the main focus of tonight is the environmental and social-type impacts. So thank you very much for showing up. If you stay long enough and we get another crowd you may hear this introduction again. But we'll go around and have the study team members introduce themselves, so start over here.

(Whereupon, the personnel self-introduced.)

(There were no comments made orally.)

(Whereupon, at 7:00 p.m., the meeting was ended.)

C E R T I F I C A T E

This is to certify that the attached proceedings before the US Army Corps of Engineers in the matter of San Francisco Bay-to-Stockton Navigation Improvement Project, Open House Public Scoping Meeting, were held in Martinez, California, on March 26, 2008, as therein appears, and that this is the original transcript thereof for the files of the agency.

KENT ANDREWS

Official Reporter

Date:

UNITED STATES OF AMERICA

US ARMY
CORPS OF ENGINEERS

SAN FRANCISCO BAY-TO-STOCKTON NAVIGATION IMPROVEMENT PROJECT -- OPEN HOUSE PUBLIC SCOPING MEETING	)	No _____

Wednesday
April 2, 2008

Hazelton Room
605 North Eldorado
Stockton, California

The meeting began, pursuant to public notice, at 5:00 p.m.

BEFORE: NEIL HEDGECOCK
Project Manager

SPEAKER: NANCY FERRIS
Environmental Planner

COMMENTERS: DANTE JOHN NOMELLINI
RANDY SUTPHIN
THOMAS A. THOMAS, M.D.

P R O C E E D I N G S

(5:26)

MR. NOMELLINI: I'm Dante John Nomellini. I'm an attorney, and I represent a number of the reclamation districts that maintain the levees along the existing ship channel. And in the past we've attempted to work with the Port and the Corps to address potential impacts on the levee system associated with not only the deepening if the ship channel, but maintenance and, of course, operation of the ships.

The last attempt we made was, I don't know, maybe 15 years ago. We entered into agreements with the Port whereby careful monitoring of the baseline for seepage was done before the project, because we knew and the landowners and reclamation districts knew that there's a seepage problem that could develop by dredging, because they used to dredge in the delta with clamshells to build levees, and when dredging occurs in some locations it removes the fines that plug up the pores in the sands, and it also could shorten the distance, the seepage path. So it was

expected.

And what was done in terms of monitoring, there was an extensive surveying done before and then there were piezometers installed at various locations. In the one case in particular that we're very unhappy with, a piezometer was installed on Rindge Tract across from Lower Roberts Island, and when the dredger deepening the channel went by, the piezometer jumped, I think, four feet, indicating a hydraulic impact on the other side of the river. On the Lower Roberts Island side, seepage increased in the toe drain and the levee slumped. That levee actually cracked and slumped down.

The locals thought it was related to seepage; the Corps of Engineers came in and denied and said no, it wasn't caused by seepage. So, and it was, there was no piezometer on the Lower Roberts side, it was on the other side, so whether it needs to be monitored better or whatever, but we know we have a problem associated with seepage.

The Corps of Engineers has done a total re-evaluation of seepage and underseepage in their concern for

the integrity of urban levees, so they've changed their technical memorandum related to what we call underseepage. So this is going to be a critical factor that needs to be addressed in any analysis of the ship channel.

The other thing that happens is that --

(Interruption.)

MR. NOMELLINI: In addition, when the ships go up and down the channel, they add a certain amount of wave wash that affects the adjoining levees. The Corps of Engineers has had, and we always understood it was their responsibility to maintain the rock riprap for wave wash protection on the levee. They have not done a very diligent job. The last time they did any work on riprap along the channel, oh, I'd say might be another 15 years ago, 12 years, 12 to 15 years ago.

The locals are very unhappy with the fact that the Corps has not lived up to what the expectation was, and in fact in the 2005 New Years flood there was substantial damage along the ship channel. A request was made that the Corps repair that, rather than the locals, and they never even responded to our letter.

Now when the Corps does rock riprap along the ship channel, last time they did it they only rocked up to mean high water. Of course, mean high water, because it's a mean, means you've higher water than that some of the time, and the, of course, during flood periods you have much higher water than that.

So water washes over the top of the rock even if they did it. So we would want to make sure that wave wash protection is done properly and effectively, and that there be a, you know, a more detailed and clear commitment as to what that responsibility is. Otherwise, they're going to have an impact here that's unmitigated.

The other thing that was worked out was there was supposed to be a tonnage tax which was never implemented by the Port. This wasn't a Corps thing, it was Port thing that would create funds that would be used to help maintain the levees along the ship channel. That was never done.

Now when you deepen the ship channel, depending upon what location, you may very well steepen or result in a slippage of the side slopes such that it would affect the integrity of the levee structure itself. Not just seepage,

but the earth will not stay, you know, at a proper angle from the levee that you see above the water down into where it daylights into the bottom of the channel. So the side slopes could be caused to collapse, thereby weakening the adjoining levee structures.

Now that would be a primary concern where the ship channel comes very close to the levees, which it does in some cases. There're probably a half a dozen locations.

Another problem that occurs with the ships that we have already is that where they make a turn, this is down off of Twichell Island, the local levee districts have found rock riprap that appears to have been washed by prop wash over the top of the levee and down on the landward side. So if the ship turns and that feller gets too close to the levee with the force that it has, it can push enough water to make this rock roll off the levee slope and landwards.

So that's a concern that probably comes from the fact that the levees might need to be set back in certain areas to accommodate a deeper channel, which I think means a wider channel with flattened side slopes.

Another issue that hasn't been an issue of ours, but we know it exists, and that's the concern for inducing salinity intrusion into the delta by deepening channels down at the interface of fresh and salt water, which is related to the cross-sectional area of the channel. The high tides can bring salt water in, so those concerns should be addressed.

Last time we talked about, we actually worked this out, I think, satisfactorily, is that the material taken from the channel was deposited on various islands along the way to be used for levee work, and that was done. Now there's this new concern for the quality of the material in the ship channel. I don't know whether that deteriorates from that, but one of the offsetting factors that we had for the impact on levees associated with deepening the channel was to make sure that the materials that came out of that deepening would be available for levee-building purposes.

Today we might not be able to do it because of the environmental consequence associated with the quality of the material, but anyway, the impacts, we would want to

see those addressed in the environmental document, and then how they might be mitigated. We're going to be a little more diligent this time than we were last time.

And that was tried the time before. So far we've failed to achieve what we tried to do, and that was not have any problems.

Anyway, I'll give you some written comments, too, as we go through the process. Very good.

(5:38)

MS. FERRIS: I'll just repeat the intro remarks I made at 5:00 o'clock. If you've heard them before, I apologize for the repetition. This is not a PA, this is just for the court reporter, so this won't help amplify my voice.

But I wanted to welcome you for to come -- sorry, start over.

Welcome you and thank you for coming to the San Francisco Bay-to-Stockton scoping meeting. My name is Nancy Ferris. I'm an environmental manager with the Army Corps of Engineers, and the Corps is here at the request of

the Contra Costa County Water Agency and the Port of Stockton, our wonderful local sponsors.

I'll give you a brief description of the project. You'll find more information on the posters around the room. The project extends from the San Francisco Bay near the Golden Gate to the Port of Stockton. It's composed of two deepwater ship channels, the John F. Baldwin ship channel and the Stockton deepwater ship channel. And this study is re-evaluating the extent to which changes to the dimensions of the federal channel are warranted for improving the efficiency of the movement of goods.

And the purpose of this meeting, to paraphrase the federal guidance, is to determine the scope of issues to be addressed and identify the significant issues related to the proposed action. To translate, we're here to get your input and comments on the proposed project, because you, as the federal and local agencies that are involved in this area, and the people who live here, you know the area better than we do, so we want to hear your input about this project.

We're in the early feasibility phase of this

study, so we want your input on the potential alternatives, what issues to consider, and historical, technical, local knowledge that can help us integrate your interests into the potential project wherever possible.

Tonight we're here to answer questions about the three planning processes that must be used for this study, the first of which is the federal Corps of Engineers planning process that we follow for our civil works projects. We've also got the National Environmental Policy Act, commonly referred to as NEPA, that's federal guidance, and the California Environmental Quality Act, known as CEQA, that's state guidance

Those are the three governing planning processes for our study, and you've already noticed and have seen for yourselves, this is a meeting that's being held in open house format. So we encourage you to speak directly with some of the project team members. We'll go around the room in a minute and introduce ourselves.

There's a comment table back here where you, too, can hold a microphone and have your verbal comments recorded for the record. We'll incorporate those comments

into our formal documentation. So we ask that you limit your talk to five to 10 minutes, because either a transcript or a paraphrased summary of your comments will be included in the final documents as a formal comment.

The study team will prepare a joint EIS/EIR report, that stands for environmental impact statement or environment -- and environmental impact report, those are for NEPA and CEQA, the state and federal guidance that I mentioned before. And that'll include, as I said, a summary of the comments you provide in the written comments, and the team will also prepare a general re-evaluation report, also known as a GRR. That's for the Corps of Engineers planning process.

And that report not only takes in the environmental considerations but also summarizes the study process that we follow and the results of our various study efforts, which include physical, environmental, and economic analyses.

So thank you very much for coming, and I'll have the team members go around the room and introduce themselves.

VOICE: May I say --

MS. FERRIS: Yes.

VOICE: -- one correction.

MS. FERRIS: Oh, sorry.

VOICE: Yes, it's not Contra Costa water agency -

MS. FERRIS: Contra Costa --

VOICE: -- the partner is the County of Contra Costa.

MS. FERRIS: Yes, that's right, I did misspeak and I said it out of order as well. I meant to say that our partners are the Port of Stockton and the Contra Costa County Water Agency. Very important distinction and thank you, because this is being recorded.

(Whereupon, the personnel self-introduced.)

(5:46)

MR. SUTPHIN: Just anywhere?

THE REPORTER: Start anywhere.

MR. SUTPHIN: It won't bother you if I just --

THE REPORTER: Not at all.

MR. SUTPHIN: Thank you. I see no reason not to do it, I mean, if you dig it deeper, doesn't that make room for more water and then levee banks are higher? Probably can't answer that question.

THE REPORTER: Just recording.

MR. SUTPHIN: Okay. Also, I, besides the channel, I live on the canal, Smith Canal, that butts right off of it. It needs it, too, bad. So if they're going to come in there and do one, I'd like to see them, you know, shoot up off the Smith Canal and do that, too, because that, I guess you call it, the sediment, I don't know if there's another name for it, keeps piling up and it's just, it's -- makes it really shallow, too shallow, you know, as things are getting better there's some people that have some, you know, very large boats that like to go up and down there.

Even like sailboats, you know, they have a long keel and they need all the clearance they can get, too, as there is such a thing as low tide. Shouldn't be able to navigate just at high tide.

But it says they're doing an environmental

impact, I can't see that there's much environmental thing to disturb, I mean, there's maybe a few crawdads down there or some few clams. All that stuff has basically been washed down here from the hills and it's just something that's washed down here and settled, and it kinds of needs to, you know, get cleaned out. I mean, it's not like there's a bunch of toxic waste down there from 50 years ago that they're going to stir up and disturb.

I mean, I really can't see much harm. I think it's got way more benefits than there could ever be, you know, negative. More positive than negative is what I mean.

So that's about it.

(5:50)

MR. SUTPHIN: I don't know about the environmental impact, but, well, yes, it is the environmental impact, because if a larger ship can come up here and take a whole lot of traffic off the bay area roads, and these trucks, that's a lot of pollution that is not going up and over two sets of hills, you know, the

Altamont and I don't know what they call the other set, and then all that slow crawl all the way into the Port of Oakland or San Francisco, and that traffic's a nightmare.

And they pretty much only run during daytime hours, so that's even it's not like they could go in there at night when there's no traffic and maybe breeze right in and out. They say a ship has, you know, burns bunker oil and all that, I just can't see that one ship could out-pollute more than all those diesel trucks that would be going through the bay area.

You know, it would have to be a benefit, savings of fuel, time, money, road repair, I mean, how many cars have to commute on those roads that are getting torn up by trucks.

Now that's just way more positive than negative. The only thing I've heard that's bad is, is the ship doesn't have a hookup for electricity and they sit there and they idle. That's the only bad thing I've heard. But there I -- seems like there'd be a way they could hook up once they pull, you know, and not keep running, if it's -- that's their bunker oil that's bad.

I've been downwind from it a lot of times, and I don't like cigarette smoke or car exhaust or anything, I've never, you know, noticed it or felt nauseous from it. And I've been out there a lot on the delta, all my life. Okay.

(5:55)

MR. SUTPHIN: Not lately, but I have given money to Greenpeace and Sierra Club. And I used to get the newsletter but I think I've not got a renewal by -- because of moving. So some way that can be on, you know, for the environment and that can also be for, you know, and this, I guess, this is progress and it is inevitable. If they want to stop something, I'd rather see them stop building all these houses out on the farmland. That, to me, creates much more pollution than a few more ships could ever do.

All these people moving in here from the bay area and then they want to turn around and drive over there to work every day, just want to live over here. Okay.

(5:56)

DR. THOMAS: You want me to say my name?

THE REPORTER: Yes, please.

DR. THOMAS: My name is Thomas A. Thomas. I am a physician, retired physician. I live here in Stockton.

I am concerned that the deepening of the water channel will increase the number and size of ships that will come into the central valley, both in Stockton and Sacramento. The ships use a fuel that has very high sulfur content, approximately 50,000 parts per million of sulfur, as compared to the fuel used in diesel trucks, which has 50 parts sulfur per million.

These ship boilers and combustion chambers put out approximately one ton of organic compounds per day while they are in port. Include, plus 88 pounds of particulate matter less than 10 microns. The significance of this is that these organic compounds enter the air and, when combined with water, they form acid rain.

In the summertime, the individuals, human beings, in the valley will breathe these particulate -- these organic compounds, which combine with the water in the lungs, they form a dilute acid and they have an adverse effect on, especially on, children and older people, and

people with heart disease.

The particulate matter are the very small particulate particles of carbon that can reach the lowest portion of the respiratory tract, and these have to be cleared by phagocytes and macrophages, and these have a deleterious effect on the respiratory system.

I am concerned that this will have a tremendous impact on the air quality of the valley. It is a very large source of air contaminants. The families in the valley already spend $500 million per year caring for children who have respiratory diseases. This information was from an article in the Stockton Record.

And I feel that as ships in the valley are a very large source of particulate matter and organic compounds which have a deleterious effect, a serious deleterious effect, on the respiratory health of the residents of the valley, one solution would be to have cold ironing of the ships in port, and I feel that this is within range; since the ports are now making millions of dollars in shipping, it would be reasonable to expect them to have cold ironing, in other words, electrical hookups.

(6:01)

DR, THOMAS: There was also one other consideration that I did not mention, and that is by deepening the channel, they are also going to decrease the oxygen saturation of the water, which will have an adverse effect on wildlife. I think that there, the water at the bottom of the channel will be deleterious to any fish in that area, and this is tied up with the oxygenation of the -- what is that called the -- where the -- in central Stockton where they have their -- they have problem with oxygenation of the water, in central Stockton -- well, okay.

(6:02)

(Whereupon, at 7:00 p.m., the meeting was concluded.)

C E R T I F I C A T E

This is to certify that the attached proceedings of the US Army Corps of Engineers, in the matter of the San Francisco Bay-to-Stockton Navigation Improvement Project -- Open House Public Scoping Meeting, were held in Stockton, California, on April 2, 2008, as therein appears, and that this is the original transcript thereof for the files of the Corps.

/s/

Kent Andrews

KENT ANDREWS

Official Reporter

Date: 4/16/2008

Miscellaneous

for 415-503-6692
3/22/2008

Nancy Ferris

from: June Gudotte & Family & Public
3703 Scally Rd. Suisun Cal. 94585
Tel: 707-429 0893

RE: Please add my concerns, to the EIR for SF. Bay to Stockton (John & Baldwin & Stockton Ship Channels.)

My concerns are the misuse of the Suisun Marsh That Republic Services (Jeff Ottmer) Potrero Hills Landfill, Solano Garbage Company, will try to use the Ship Channel to bring Biosolids, garbage Green Waste etc. to the Suisun Marsh. also. (Vision one) will bring waste to Collisville. Please Protect are marsh, under the Suisun marsh act this was stopped. under the marsh law it was never proposed, so it can not be.

also please address the Scoping Report for the Western Suisun Marsh Salinity Control project

1- of 2 pages

(Plan of Protection for Suisun Marsh Phases III and IV EIR Impact Statement: (EIR state clearinghouse number 90030973 aug 1, 1991, Calif Dept of Water Resources and U.S. Bureau of Reclamation, as BCDC, Solano County make a mistake and put a illegal Road into the Marsh.

I am concern that Solano County is putting in Grizzy Bridge, and not the Bridge in the Western Scoping Report to put Emmington Road back to Tithe action for the protecting of the Swamp & overflow 322.

Please address the effect of the channel being used and effect to the Marsh if the Bridge at Hill Slough is not put in.

It is a concern the Bridge at Hill Slough will not be put in for Public access to protect the Fish & Wildlife in the Marsh.

Enclosed are letters to Mr. Travis Ellen Sampson BCDC.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-6377
FAX (510) 286-4882

(EXHIBIT A)

Flex your power!
Be energy efficient!

December 15, 2003

Ms. June Guidotti
3703 Scally Road
Suisun, CA 94585

Dear Ms. Guidotti:

I appreciated the opportunity to meet with you on October 29, 2003 to discuss past flooding on your property located at 3703 Scalley Road. The area in question is outside State right of way bounded by Kildeeer Road and Potrero Hills Lane. Both of these roadways are Solano County facilities.

I agree with you that the extent of flooding as evidenced by the pictures you provided is most likely exacerbated by the small culvert beneath Potrero Hills Lane which currently acts as access to the Potrero Hills Landfill. This raised roadway essentially acts as a dam and has significantly reduced the natural tidal circulation from Hill Slough onto your property. Additionally, coincident with high tides and storm events, the raised roadway and culvert appear to restrict the runoff from your property back to Hill Slough. In my opinion, the portion of Potrero Hills Lane which crosses the historic tidal marsh should have been placed on a bridge.

Caltrans doesn't own, operate, or maintain the culvert beneath Potrero Hills Lane, therefore, we have no obligation or authority to address your flooding problem. If you have any questions regarding this issue please contact me at (510) 286-6377.

Sincerely,

Joseph E Peterson

JOSEPH E. PETERSON
District Office Chief
Engineering Services II

c: Hydraulics File

GM 10/5/06

October 4, 2006

Mr. Phillip J. Seilhan, Sr. Engineering Technician
County of Solano, Department of Resource Management
Public Works Engineering
675 Texas Street, Suite 5500
Fairfield, California 94533-6341

Re: Draft Mitigated Negative Declaration For the Bridge 23C-184 Replacement Project on Grizzly Island Road at Hill Slough – State Clearinghouse Number 2006092049

Dear Mr. Seilhan:

The Mitigated Negative Declaration (MND) prepared and circulated for the new Grizzly Island Bridge is an inadequate environmental document for several reasons. First, the MND fails to disclose that a potential use of the bridge will be to accommodate heavy truck traffic servicing the Potrero Hills Landfill expansion projects (Attachment B). It also does not describe the increase in all vehicle traffic and garbage trucks using the new bridge. As a result, it fails to fully describe and analyze the cumulative environmental impacts upon the endangered and threatened wildlife species and the impacts to the surrounding sensitive natural Suisun Marsh Environment to the public and Responsible and Trustee agencies. In accordance with the provisions of the California Environmental Quality Act, the proposed bridge project requires the preparation of an Environmental Impact Report (EIR) as substantial evidence is provided in this letter to you that all known potentially significant impacts have not been mitigated to "less than significant" for the entire project.

Second, the MND as circulated through the State Clearinghouse, does not disclose the extension of Grizzly Island Road onto the Dittmer property (Attachment A). Environmental impacts were not described and analyzed for this portion of the project. Therefore, the MND does not fully or adequately describe the entire proposed project. It appears that the project is being segmented or "piece-mealed".

Upon reading the MND, as well as the comment letters in the MND from Responsible and Trustee agencies (Attachments C-G), it is evident (from the lack of discussion of impacts to fish, wildlife, habitat, water quality, noise, glare, spills, air quality and cumulative impacts to name a few) that these agencies were not aware (the information was not disclosed in the Project Description) that the proposed bridge replacement project will result in increased traffic volumes dramatically above the existing bridge traffic volumes and the new bridge and attached road system will carry heavy truck traffic into and through the Suisun Marsh. Thus, these agencies that are entrusted with the responsibility to protect the states resources, as well as the public did not have the opportunity to analyze the actual project and impacts (individual and cumulative) from the increased volume of traffic, the truck traffic, the attached Grizzly Island Road with the new bridge and road extension onto Dittmer property with the new bridge for both the

construction phase as well as the post-construction phase of the actual, not fully disclosed, project.

In conclusion, the project has not been fully disclosed by the lead agency to the public, Responsible and Trustee agencies. I have provided in this letter and Attachments, evidence to support that not all potential significant impacts have been described, analyzed and mitigated to less than significant and I am requesting that the lead agency not approve the MND, but rather prepare and circulate an EIR to allow all Federal, State and Local agencies an opportunity to consider all of the environmental impacts for all phases the entire proposed project. Please call me if you have any questions regarding my comments.

Sincerely,

Cherri Bonnici

Cherri Bonnici

3703 Scally Road
Suisun, California 94585
(707) 429-5054

Cc: Amber Vierling, Attorney for Protect the Marsh
Dana Dean, Attorney for Protect the Marsh

Attachments:

Attachment A – Solano County Transportation Dept. Scaled drawing titled: Bridge 23C-184 on Grizzly Island Road at Hill Slough, dated 11/9/1999. Map with Semi-truck.
Attachment B – Figure 1 – Project Location Map dated 11/4/2003 prepared by Sycamore Environmental Consultants w/additions for disclosure
Attachment C – Letter dated 3/6/2000 from Steven A. McAdam (BCDC) to John Gray Solano County Transportation Dept. regarding Marsh Development Permit 5-99(M).
Attachment D – Letter dated 9/14/2001 from Will Travis (BCDC) to Leopoldo Flores, Solano County Transportation Dept., regarding Amendment No. 1 to BCDC Permit No. 5-99(M), extension of time.
Attachment E – Letter dated 8/14/2002 from Jan C. Knight, Fish and Wildlife Service to Dr. R. John Little, Sycamore Environmental Consultants, Inc., regarding Species List for Grizzly Island Road Bridge at Hill Slough Natural Environment Study, Solano County, California.
Attachment F – Letter dated 4/22/2003 from R. John Little of Sycamore Environmental Consultants to Mr. Dan Buford, Fish and Wildlife Service regarding results of California Clapper Rail Survey for the Grizzly Island Road Bridge (23C-184) at Hill Slough Replacement Project.
Attachment G – Letter dated 7/25/2006 from Cay Goode (Contact person, Ryan Olah) Fish and Wildlife Service to Gene Fong, Federal Highway Administration, regarding Formal Consultation on the Grizzly Island Bridge Replacement Project in Solano County, California.

RECEIVED
Solano County
[illegible]
[illegible] 2006
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM
AM 7 8 9 10 11 12 1 2 3 4 5 6

AGENDA SUBMITTAL TO SOLANO COUNTY BOARD OF SUPERVISORS

ITEM TITLE **Authorize the Director of Resource Management to execute an amendment to the lease with the California State Lands Commission for the Grizzly Island Road at Hill Slough bridge construction project to reflect the current construction schedule**		**BOARD MEETING DATE** **March 25, 2008**	**AGENDA NUMBER** **13**
Dept: **Contact:** **Phone:**	**Resource Management** **Leopoldo Flores, Engineering Services Supervisor** **784-6073**	**Supervisorial District Number** **3**	
	Published Notice Required?	**Yes** _____	**No** __X__
	Public Hearing Required?	**Yes** _____	**No** __X__

DEPARTMENTAL RECOMMENDATION:

Authorize the Director of Resource Management to execute an amendment to the lease with the California State Lands Commission for the Grizzly Island Road at Hill Slough bridge construction project to reflect the current construction schedule.

SUMMARY/DISCUSSION:

Public Works Engineering is planning to replace the existing bridge on Grizzly Island Road at Hill Slough south of Suisun City (see Attachment A – Map), commencing in 2009. The proposed structure will be a two-lane bridge located just east of the existing one-lane bridge. The existing bridge will then be closed to traffic and available only to pedestrians as a fishing pier.

The lease agreement with the California State Lands Commission for the tidal and submerged lands located within the boundaries of the project reflects an early construction date for the new bridge, and needs to be amended to reflect the current construction date. The California State Lands Commission has prepared an amendment to the existing lease agreement. All terms and conditions of the lease remain the same except the date for completion of construction, which is extended to December 31, 2010.

FINANCING:

There is no cost associated with amending the Lease Agreement. The bridge project will be paid with Federal Highway Bridge Program and Road Fund monies. There is no impact to the General Fund.

ALTERNATIVES:

Do not authorize execution of the amendment to the Lease Agreement. This is not recommended, as the amendment is required to construct the bridge.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed this item and approved it as to form. The County Administrator's Office has reviewed this item and concurs with the Department's recommendation.

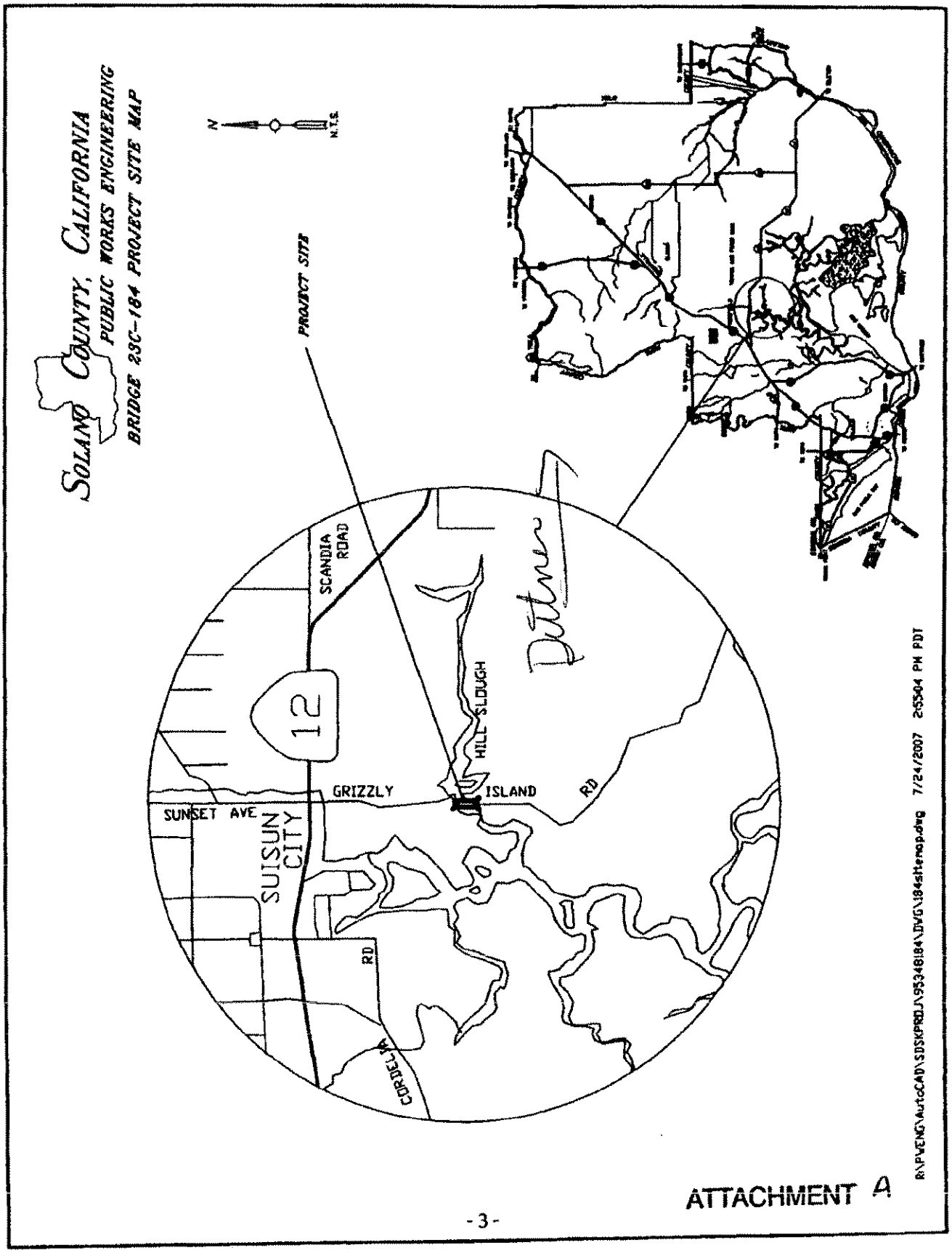
CAO RECOMMENDATION:

APPROVE DEPARTMENT RECOMMENDATION

DEPARTMENT HEAD SIGNATURE:

Birgitta E. Corsello
Director of Resource Management

Attachment A - Map
Attachment B – Amendment to Lease Agreement



ATTACHMENT A

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:
STATE OF CALIFORNIA
State Lands Commission
Attn: Title Unit
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

STATE OF CALIFORNIA
OFFICIAL BUSINESS
Document entitled to free recordation
pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 0046-140-06 and 08
County: Solano

STATE OF CALIFORNIA
STATE LANDS COMMISSION

AMENDMENT OF LEASE PRC 160.9

WHEREAS, the State of California, acting through the State Lands Commission, hereinafter called Lessor, and, Solano County, hereinafter called the Lessee, have heretofore entered into an agreement designated as Lease PRC 160.9, authorized by the State Lands Commission on December 16, 1998 and executed December 31, 1998, whereby the Lessor granted to said Lessee a General Lease - Public Agency Use covering certain State Land situated in Solano County; and

WHEREAS, Section 4, Paragraph 15(e) provides that the Lease may be terminated and its terms, covenants and conditions amended, revised or supplemented only by mutual written agreement of the parties; and

WHEREAS, the Lease contains a provision that the construction of a two-lane vehicular bridge may begin by Novemeber 1, 1998 and be completed by December 31, 2000; and.

WHEREAS, theLessee has been unable to comply with the original construction time period because of delays in obtaining project approvals and has applied to amend the construction time period, and

WHEREAS, by reason of the foregoing, it is now the desire of the parties to amend the foregoing Agreement.

NOW THEREFORE, the parties hereto agree as follows:

the construction period end date is amended to December 31, 2010.

The effective date of this amendment to the aforesaid Agreement shall be, March 25, 2008.

ATTACHMENT B

This Amendment is a portion of document number Lease PRC 160.9, with a beginning date of November 1, 1998, consisting of four (4) sections with a total of (10) pages.

All other terms and conditions of the lease shall remain in full force and effect.

This Agreement will become binding on the Lessor only when duly executed on behalf of the State Lands Commission of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date hereafter affixed.

LESSEE:
SOLANO COUNTY

By: _____

Title: _____

Date: _____

LESSOR:
STATE OF CALIFORNIA
STATE LANDS COMMISSION

By: _____
Barbara Dugal, Chief
Land Management Division

Date: _____

ACKNOWLEDGEMENT

Execution of this document was authorized by the State Lands Commission on _____

73 (continued)

Page 2 -
Mr. Dwight P. Russell
California Department of Water Resources
December 12, 1990

2. Public access to this publicly financed structure will be completely out of our control. Undoubtedly, the public will be there. This creates an extremely dangerous situation both to the public and to my members. At present, our hunters are screened as to their knowledge of guns, hunting and safety procedures. Liability insurance is both difficult and costly to obtain. A loss of liability insurance due to a rash of accidents would force me to abandon this recreational facility. I estimate at least 134 acres would be required to establish an effective safety buffer zone.

3. Failure to promote habitat through irrigation during the summer months translates into a poor ratio during the September through March hunting season. Our present source of water for the land along this corridor is the existing RD 2034 ditch. Any interruption in this source during the summer months would be extremely damaging.

Recreation has become an increasingly important socio-economic factor in today's society. There is limited marginal land available so close to the centers of population for this type of enterprise. Although the alternate route to the south will present similar problems, they would not have the severe impact of the original route and could be dealt with. Therefore I must adamantly oppose the original proposed route and favor the alternate to the south.

Thank you for your consideration.

Sincerely,

Fred Tomasini

Fred Tomasini

cc: San Caddle, Solano County Supervisor
Thomas Hannigan, Assemblyman
Thomas J. Shephard, Sr.

SR (2)

74 — June Bonnici AKA Guidotti

State of California
Department of Water Resources
Central District
3251 S Street
Sacramento, CA 95816-7017

December 27, 1990

To: Suisun Marsch Technical Advisory Committee Members

From: June Bonnici
2963 Santa Rosa Avenue, Space B7
Santa Rosa, CA 95407

Subject: Public Scoping Session, December 13, 1990 at Supervisors Chambers, Solano County Courthouse, Fairfield, California. (On the Western Marsh Salinity Control Project, Boynton-Cordelia Ditch, Potrero Hills Ditch, 12 acre lake.)

Attention: Mr. Dwight P. Russell
Kamyar Guivetchi

Techcomm meeting 12-27-90. I would like my concerns added to the minutes because I am unable again to be able to attend today's meeting because I have had to resort to litigation to protect my parcel from salt water and water draining into the marsh.

My concerns at this time are:

1) The Potrero Hills ditch and the 12 acre lake at Hill slough concern me. How will you handle the drainage problem between Emmington Kildeer and Scally Road.

2) My concern is that my parcel is under tidal action above the 10 foot contour line, and this ditch is going below the 10 foot contour line.

3) My concern is the 100 flood at this point.

74 (continued)

4) I'm concerned about where you are going to put the bridge across the 90 foot channel. The bridge is 164 feet wide. How much easement will be needed to allow for the bridge?

5) Public access to the Potrero Hills is a concern.

6) Will the ranchers be able to use the water out of the ditch for irrigation for farming, and produce agriculture for the needs of the people.

7) It concerns me that we will be charged a large amount for the water if we will be able to do this.

8) My concern is that agriculture continue for the needs of the people, that shipping if needed be allowed, like during World War II. The Rush Ranch was planted in grain, which was shipped from a warehouse at Rush landing. This is and was, agriculture providing for the needs of the people.

9) It concerns me that the farmers and ranchers rights be protected for producing cattle, sheep, horses from the desires of the duck hunters and Empire builders.

10) My concern is that this ditch will only be for the garbage company to haul their garbage up to the landfill in the Potrero Hills, and for the 200 privately owned duck clubs.

11) My concern is that the governor again has given all this money for just the rich, and the duck clubs.

12) Going back to the garbage being shipped up the ditch from San Francisco and Contra Costa, maybe this should be considered if the shipping can be done quietly and if the garbage is covered. The garbage trucks and vans are making too much impact on the wetlands and wildlife due to the importation of all garbage to this area. The garbage trucks are noisy, smelly, and are leaking.

13) My concern is that Easter is one of the best times in the marsh. It's important that the baby ducks make it to the slough or the Potrero Hills ditch. The garbage trucks and vans run them over and throw dust on the nesting birds.

14) I am concerned about the speed limit and that there is no one to police the Potrero Hills. What will you do about this?

15) Where is Fish and Game and BCDC? It concerns me that the laws of the Suisun Marsh be protected.

16) I'm concerned about where Solano County is putting the Waste to Energy Recovery Plant? Is it going into the Potrero Hills? I do not want the bridge put where the pipeline to Travis Air Force Base was supposed to go. How will this be handled?

17) My concern is about how all this is going to work. We need food, electricity, fuel, the garbage company, agriculture, the wildlife and the marsh, wetlands and possibly shipping of fuel in time of war. We rely on seasonal fresh water.

18) When you put in the handicapped rest stop, I would like to see a cement ramp installed that leads down to the water.

19) I'm concerned about the PGE electric line in the marsh. How will this be handled?

20) I'm concerned about groups who want to use and control other people's property to enhance their jobs, their sports and pleasures and leaving the real owners only one civil right, that of paying confiscating taxes. Will you protect us and our land and water, or must we resort to litigation and the courts?

Thank you for allowing the above to be added to the minutes of this meeting.

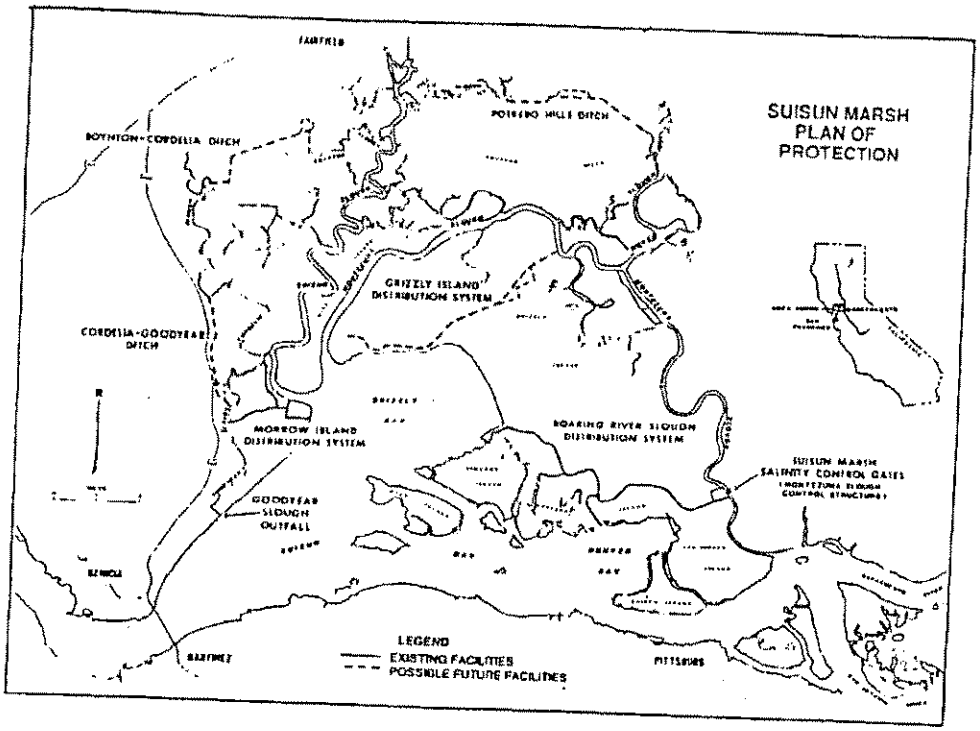
June Bonnice & Family

June Bonnid

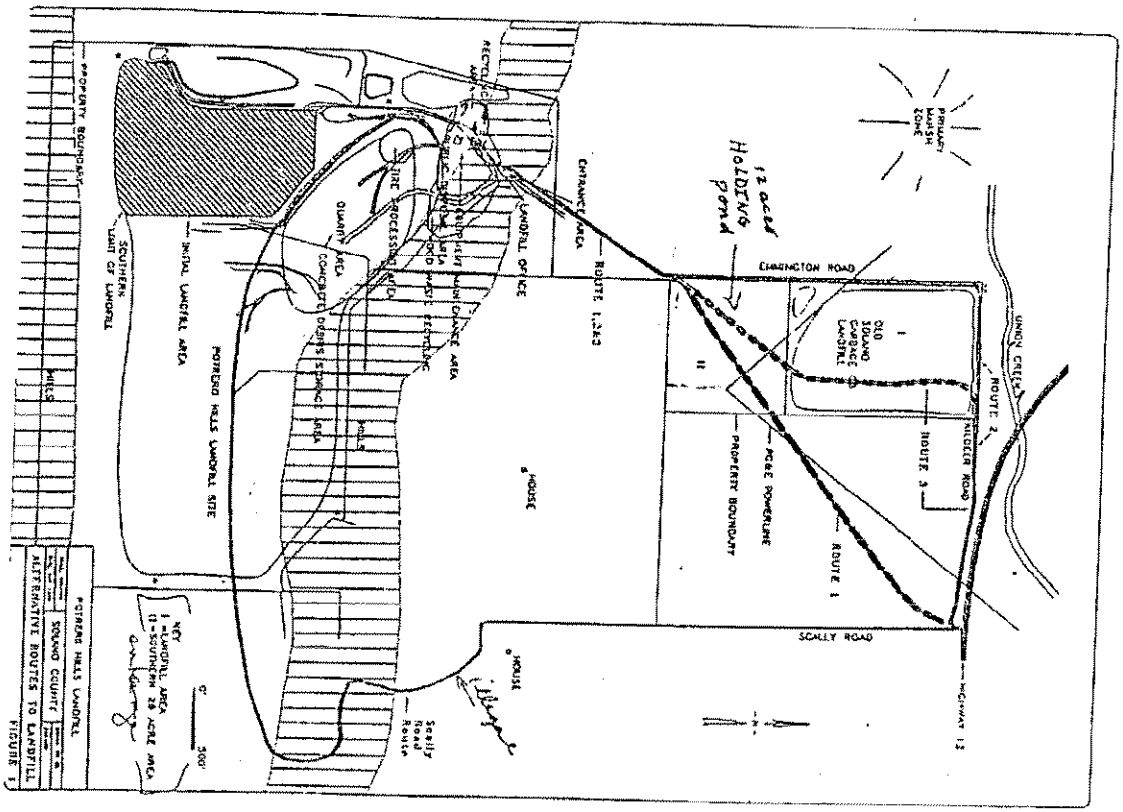
Aka Gudatte

(3) SR

74 (continued)



74 (continued)



5. Potential water fees for water flowing through proposed facilities.
6. Identify the involvement of BCDC and DFG.
7. Impacts on existing infrastructure, such as, electrical lines, roads, etc.

75. James R. Bancroft (1/2/91)

In response to SRCD's notice to Marsh landowners regarding the proposed project, Mr. Bancroft and Joice Island landowners look forward to any successful effort to improve water quality in Suisun Slough.

76. Stacy R. Mettier, M.D. (1/3/91)

With respect to the proposed project, is concerned of possible adverse impacts on water quality and other aspects related to duck hunting at the Cordelia Gun Club.

77. Paul Erman - Pierce Harbor (1/10/91)

In a telephone conversation with Michael Lewis, SRCD manager, expressed concern that Goodyear Slough water quality is currently adversely impacted by the operation of the Morrow Island Distribution System and the Goodyear Slough Outfall. Future facilities should not compound these problems.

78. William L. Frost (1/11/91)

With regard to the proposed projects for the northwestern Suisun Marsh, is concerned that water originating from Suisun Slough will be more brackish than the existing channel water.

Proposed an alternative of partially restricting flow through the west end of Montezuma Slough with rip rap to allow less Grizzly Bay water from entering the Marsh.

79. Tom Cundith (2/12/91)

With regard to the use of Cat and Volanti sloughs to transfer water from Montezuma Slough near Beldons Landing to Suisun Slough, the following concerns should be considered:

1. Natural channels and coves would be blocked from Cat and Volanti sloughs.
2. Actual and effective wetland acreage would be reduced.
3. Wetland vegetation, invertebrate and young fish habitat would be destroyed.
4. Existing water management on adjacent duck clubs would require alteration.
5. Waterfowl use and flight patterns of the adjacent Joice Island sanctuary and private duck clubs would be altered.
6. Historical duck boat access to duck club ponds/blinds via Cat and Volanti sloughs would be impossible.
7. Increased public/agency traffic in the area would be harmful.
8. Productivity and value of adjacent private wetlands would decline.

SUMMARY OF WRITTEN COMMENTS ON THE PROPOSED WESTERN SUISUN MARSH SALINITY CONTROL PROJECT

INDIVIDUALS

72. Paul W. Crapuchettes (10/31/89)

With regard to the proposed project, recommends that:

1. Alternatives to actions proposed in the Plan of Protection be considered in the EIS/EIR.
2. Facilities to service Grizzly Island should be constructed next.
3. The Tree Slough alternative to the Grizzly Island Distribution System should be evaluated.
4. Relative impacts of flow improvement in Cutoff Slough versus the Potrero Hills Ditch alternative should be assessed.
5. Cutoff Slough and Frank Horan Slough alternatives should be considered.
6. A sheet piling barrier from the Tip End Club 4000 feet into Grizzly Bay should be considered.

73. Fred Tomasini (12/12/90)

With regard to the proposed northern alignment for the Boynton-Cordelia Ditch, the following should be considered:

1. The Suisun Marsh Hunting Preserve's operations and income would be irreparably harmed.
2. Increased public access to the hunting area would be unsafe for the public and hunters, and would require increased liability insurance and a safety buffer zone along the ditch.
3. Any interruption of flow in the Reclamation District 2034 ditch would obstruct or prevent irrigation of adjacent lands required during the summer.

Favors the southern alignment for the Boynton-Cordelia Ditch because it would diminish the stated impacts.

74. June Bonnici (12/27/90) AKA Gundell

With respect to proposed marsh facilities, and in particular, the future assessment of the Potrero Hills Ditch, recommends that the following be considered:

1. Drainage problems and floodflow drainage.
2. Impacts on tidal action upstream of the project.
3. The extent of easements around proposed facilities and associated features such as bridges.
4. Increased public access.

SCREENING ALTERNATIVE ACTIONS

AND

DESCRIBING REMAINING ACTIONS

FOR THE PROPOSED

WESTERN SUISUN MARSH SALINITY CONTROL PROJECT

State Clearinghouse Number 90030973
Federal Register Doc. 90-26715

May 1993

California Department of Water Resources
and
U.S. Bureau of Reclamation

Chapter 4

SCREENING RESULTS AND SUMMARY OF REMAINING ACTIONS

Results of the screening process described in Chapter 3 are presented in this chapter. Alternative actions that were set aside during screening are presented first, along with an explanation of why they were set aside. The remaining individual and combined actions are summarized in the latter part of this chapter.

Actions Set Aside

The individual alternative actions reported in Table 2 did not meet the screening criteria. These alternatives will not be further analyzed in the impacts assessment step of the evaluation process for the proposed Western Suisun Marsh Salinity Control Project. Reasons for setting aside an action are also indicated in Table 2 and explained in the following sections. In addition, combined actions presented in Chapter 2 that include any of the individual actions reported in Table 2 will also not be analyzed further at this time. The lead agencies may reconsider alternative actions if new information becomes available during the review of responses to the draft EIS/EIR for the Western Suisun Marsh Salinity Control Project.

Table 2
ALTERNATIVE ACTIONS SET ASIDE DURING THE SCREENING PROCESS

Alternative Action	Status
Benicia, Vallejo, Vacaville and Sacramento Treated Effluent (Phases III and IV)	A
Colusa Basin Drain Water (Phase III)	A
Boynton-Cordelia Ditch, North and South Alignments (Phase III)	B
Goodyear Slough Conveyance Increase	B
Fairfield-Suisun Treated Effluent (Phase III)	C
Joice Island Game Refuge Ponds (Phase III)	C and D
Potrero Hills Ditch (Phase III)	C and D
Cutoff Slough Water Delivery System (Phase III)	C and D
Cutoff/Cat/Volanti Sloughs Water Delivery System (Phase III)	C and D

Status Codes:
- A Alternative action would not provide sufficient quantity and/or quality of water to meet project objectives.
- B Alternative action would make meeting project objectives more difficult than under existing conditions.
- C Alternative action would be unnecessary to meet project objectives as indicated by WSCP Phase I model runs.
- D Alternative action would have adverse impact on environmentally sensitive areas as indicated by field surveys.

Water Sources

Several water sources were set aside because they are of insufficient quantity and/or quality to meet project objectives.

Lakes Madigan and Frye have a combined firm yield of about 750 acre-feet, while Lake Curry has a firm yield of about 3,500 acre-feet. These reservoir capacities are well below the estimated minimum requirement of 6,000 acre-feet.

Several proposed water sources are effluent from existing waste water treatment plants. According to the San Francisco Regional Water Quality Control Board, any National Pollutant Discharge Elimination System permit issued for Suisun Marsh must at least meet water quality standards specified in the existing permit for the Fairfield-Suisun Sewer District treatment plant. Based on flow and water quality data provided by treatment plants proposed as water sources for the Western Suisun Marsh Salinity Control Project, the treated effluent from the Sacramento, Benicia, Vacaville and Vallejo treatment plants contains constituents in excess of the Regional Board's requirements, including biochemical oxygen demand, total suspended solids, dissolved oxygen, oil and grease, and heavy metals. Therefore, unless they are further treated, they cannot be discharged into Suisun Marsh.

Treated effluent from Fairfield-Suisun Treatment Plant does meet the Regional Board requirements. A portion of the effluent is currently used for upland irrigation and the remainder is discharged into the upstream (western) end of Boynton Slough. This water source is included in the No

Action alternative (defined later in this chapter) and was considered as a source of water for the Boynton-Cordelia Ditch alternative. However, because the Boynton-Cordelia Ditch is among those alternatives set aside, this effluent will only be considered as part of the No Action alternative (*ie*, existing conditions) with respect to the Western Suisun Marsh Salinity Control Project.

Colusa Basin Drain water enters the Sacramento River near Knights Landing. Discharge data from the past 16 years indicate an insufficient and undependable quantity of water would be available to meet project objectives, especially during dry and critical hydrologic periods, such as 1976, 1977, and 1991.

The maximum flow capacity of the City of Vallejo pipeline is about 30 cubic feet per second. Phase I model studies indicate maximum flow rates between 50 and 80 cfs may be required in January, February, and March to meet future standards. Therefore, the Vallejo pipeline will not be further analyzed as a source of water for augmenting Green Valley Creek flow.

Environmental Considerations

Alternative actions proposed for the central Suisun Marsh, specifically in the Cutoff Slough area, were set aside partly because this area is environmentally sensitive. Most wetland habitat in Suisun Marsh is diked, seasonal ponds managed for waterfowl hunting. The remaining historical natural tidal marsh is reduced to disjunct fragments or narrow strips that border the waterside of levees. The 900-acre marsh bordering Cutoff Slough is the largest remaining contiguous, undiked natural tidal marsh in Suisun Marsh. The western portion of the property is part of the Solano County Farmlands and Open Space Foundation's Rush Ranch. The eastern portion is part of the Department of Fish and Game's Joice Island Unit of the Grizzly Island Suisun Marsh complex.

Federal and State threatened and endangered species occupying this habitat include a breeding population of California clapper rails and salt marsh harvest mice. The State-listed threatened California black rail and federal candidates southwestern pond turtle, Suisun ornate shrew, and Suisun song sparrow are also residents. Sensitive plant species identified on the property include the State-listed rare Mason's lilaeopsis and soft bird's beak. Federal cand date plant species present include Suisun Slough thistle (once thought to be extinct), Delta tule pea, and Suisun aster.

The Cutoff Slough Water Delivery System and the Cutoff/Cat/Volanti Sloughs Water Delivery System would include tide gates that impact the hydrology of Cutoff Slough and the adjacent tidal marsh. The gates would change natural tidal flow direction and velocity and would raise water elevations in Cutoff Slough, First Mallard Branch, and Second Mallard Branch. The natural tidal marsh would be subject to higher water elevations over the two lows of the tidal cycle for a longer duration of time. This change in the hydroperiod in this area would result in significant adverse alteration of endangered species habitat.

The Joice Island Unit of Grizzly Island Suisun Marsh complex also includes four diked, managed ponds. The ponds are shallow, seasonal to semipermanent wetlands that are managed for waterfowl food production and wintering waterfowl sanctuary. The Joice Island Game Refuge Pond alternative would require conversion of habitat type on ponds B and C. These shallow ponds are managed for wetland emergent vegetation. Pond water depths from 6 inches to 2 feet are required for this waterfowl food production management strategy. Implementing the proposed Joice Island Game Refuge Pond alternative would convert this habitat to deep, permanent ponds. Levee improvement required for this project alternative would allow water levels to be maintained at about 6 feet. The deep water ponds would preclude growth of emergent vegetation and change the wildlife use of the area.

The Potrero Hills Ditch would also be in an extremely environmentally sensitive area. This alternative calls for a 210-foot-wide by 10-foot-deep by 3.5-mile-long ditch to be built north of the Potrero Hills between the upper reaches of Luco Slough and Hill Slough. The ditch would have water control structures at each end and would require dredging and widening of Luco and Hill sloughs to 120 feet for about a mile. The structures would be operated at all times to prevent siltation of the ditch.

Outflow Index, and installing facilities. Remaining actions that consist of proposed combinations of the individual actions are listed in Table 4. Preliminary design, construction, and maintenance cost estimates are provided in Table 5, and an operation schedule is shown in Table 6.

Combined actions for the southwestern Suisun Marsh (Phase IV) were determined not as stand-alone actions but in combination with actions for the northwestern marsh (Phase III).

The two water sources that will be considered during the impacts assessment step for the proposed Green Valley Creek flow augmentation are Barker Slough water via North Bay Aqueduct and Lake Berryessa water via Putah-South Canal. Solano County Water District has stated that Lake Berryessa water conveyed via Putah-South Canal is already fully utilized and would not be available for Suisun Marsh salinity control. However, an exchange of Delta water for Lake Berryessa water will be considered in the draft EIS/EIR.

Delta Outflow Index augmentation will be considered in combination with other actions for the southwestern Suisun Marsh.

Table 3
REMAINING INDIVIDUAL ALTERNATIVE ACTIONS

Existing Conditions Including Phases I and II Plan of Protection	
NO ACTION	Existing Conditions
Northwestern Suisun Marsh — Phase III Plan of Protection	
CS TGATE	Chadbourne Slough Tide Gate
SM FHWDS	Small Frank Horan Water Delivery System
LG FHWDS	Large Frank Horan Water Delivery System
GVC FLOW	Green Valley Creek Flow Augmentation
Southwestern Suisun Marsh — Phase IV Plan of Protection	
GY FCNTL	Goodyear Slough Flow Controller[1]
CG DITCH	Cordelia-Goodyear Ditch
GY TGATE	Goodyear Slough Tide Gate[2]
DOI AUGM	Delta Outflow Index Augmentation

1 Called "Goodyear Slough Tide Gate" in the *Scoping Report*.
2 Called "Goodyear Slough Culverts" in the *Scoping Report*.

Existing facilities in Suisun Marsh implemented during Phases I and II of the *Plan of Protection* (see "Project Background" in Chapter 1) would be operated as designed.

Table 4
REMAINING COMBINED ALTERNATIVE ACTIONS
(See Notes for Abbreviations)

Northwestern Suisun Marsh — Phase III Plan of Protection

Flow Augmentation (in acre-feet) GVC FLOW	DOI AUGM	Facilities
13,000	0	None
9,000	0	+ CS TGATE
9,000	0	+ SM FHWDS
6,000	0	+ LG FHWDS

Northwestern and Southwestern Suisun Marsh — Phase IV Plan of Protection

Flow Augmentation (in acre-feet) GVC FLOW	DOI AUGM	Facilities
18,000	480,000	None
18,000	177,000	+ CS TGATE
18,000	177,000	+ SM FHWDS
18,000	0	+ LG FHWDS
18,000	0	+ CS TGATE + GY FCNTL
18,000	0	+ SM FHWDS + GY FCNTL
9,000	0	+ LG FHWDS + GY FCNTL
18,000	0	+ CS TGATE + CG DITCH
18,000	0	+ SM FHWDS + CG DITCH
13,000	0	+ LG FHWDS + CG DITCH
18,000	0	+ CG DITCH + GY TGATE
9,000	0	+ CS TGATE + CG DITCH + GY TGATE
9,000	0	+ SM FHWDS + CG DITCH + GY TGATE
6,000	0	+ LG FHWDS + CG DITCH + GY TGATE

CG DITCH	Cordelia-Goodyear Ditch
CS TGATE	Chadbourne Slough Tide Gate
DOI AUGM	Delta Outflow Index Flow Augmentation
GVC FLOW	Green Valley Creek Flow Augmentation
GY FCNTL	Goodyear Slough Flow Controller
GY TGATE	Goodyear Slough Tide Gate
LG FHWDS	Large Frank Horan Water Delivery System
SM FHWDS	Small Frank Horan Water Delivery System

The eastern reach of Hill Slough, between McCoy Creek and Emmington Road provides tidal flow to a 410-acre natural, undiked tidal marsh. A portion of this marsh was at one time a diked seasonal pond, but the levees have been long since breached, and the area has returned to its former natural condition. This sensitive habitat is the second largest contiguous undiked tidal wetland within Suisun Marsh. Sensitive status species occupying this habitat include a breeding population of California clapper rails, black rails, southwestern pond turtles, and salt marsh harvest mice. Rare plant surveys have identified Mason's lilaeopsis, soft bird's beak, Delta tule pea, and Suisun aster in this area. All of these species could be adversely impacted by habitat alteration resulting from the proposed Potrero Hills Ditch.

The upland portion of the Potrero Hills Ditch alignment traverses an area of jurisdictional wetlands including extensive vernal pools. Sensitive species field surveys have not been conducted along this alignment, but the area includes potential habitat for the Delta green ground beetle (federal threatened status), Lasthenia conjugens (federal candidate status), and other vernal pool species.

In addition to the environmental sensitivity of the Cutoff Slough and Potrero Hills areas, Phase I model studies indicate the actions in these areas would not be necessary to meet project salinity objectives, discussed below.

Project Salinity Objectives

More than 80 computer model runs were made during Phase I model studies. Each model run simulated water year 1990 hydrologic conditions with different alternative actions. Model salinity results were processed to determine mean high tide salinity at the end of each month (Decision 1485 standards are specified in this manner, as described in Appendix A). Bar charts were used to present monthly mean high tide salinity at 12 key locations in Suisun Marsh for October through May (the Suisun Marsh control season defined in Decision 1485). The bar charts were also used to compare model salinity results with salinities observed at existing monitoring stations. Figure 2 is a set of example bar charts for the alternative action consisting of: Green Valley Creek flow augmentation of 18,000 acre-feet, small Frank Horan water delivery system, and Goodyear Slough flow controller (model run identification DC4-06).

For each action simulated with the model, estimates of monthly mean high tide salinity were calculated (light gray bars on Figure 2), and these estimates were compared with results from the model base case simulation (No Action alternative; dark gray bars on Figure 2) and with observed mean high tide salinity (black bars on Figure 2). During the screening process, an alternative action was set aside if model salinity results indicated channel water salinity at future Suisun Marsh control sites (monitoring stations) would likely exceed the future Decision 1485 standards (indicated with solid black horizontal lines on Figure 2; the dashed horizontal lines represent the Suisun Marsh Preservation Agreement deficiency standards [see Appendix B]). The control sites are S21 and S97, in the northwestern marsh, for Phase III alternative actions and S75, in the southwestern marsh, for Phase IV alternative actions.

For example, both north and south alignments of the Boynton-Cordelia Ditch were set aside because model simulations that included these proposed ditches resulted in salinity levels higher than future standards at S21 and significantly higher salinity in upper Suisun Slough and its tributaries (including Boynton, Ledgewood, and Hill sloughs) over base case conditions (No Action alternative). The Goodyear Slough flow conveyance action was also set aside because it increased salinity in Goodyear Slough in Phase I modeling.

An alternative was considered "unnecessary" if Phase I model studies indicated project salinity objectives could be met with other actions judged to be less environmentally disruptive and less costly. Alternatives considered unnecessary are the Joice Island Game Refuge ponds, Potrero Hills Ditch, Cutoff Slough water delivery system, and Cutoff/Cat/Volanti sloughs water delivery system.

Remaining Alternative Actions

The nine individual actions remaining after the screening process are presented in Table 3 for the northwestern and southwestern Suisun Marsh. These actions include the No Action alternative, augmenting Green Valley Creek flow and the Delta

CHAD BOURNE
TIDE GATE

(9)

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STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

PLAN OF PROTECTION FOR THE SUISUN MARSH

including

ENVIRONMENTAL IMPACT REPORT

Central District
February 1984

(10)

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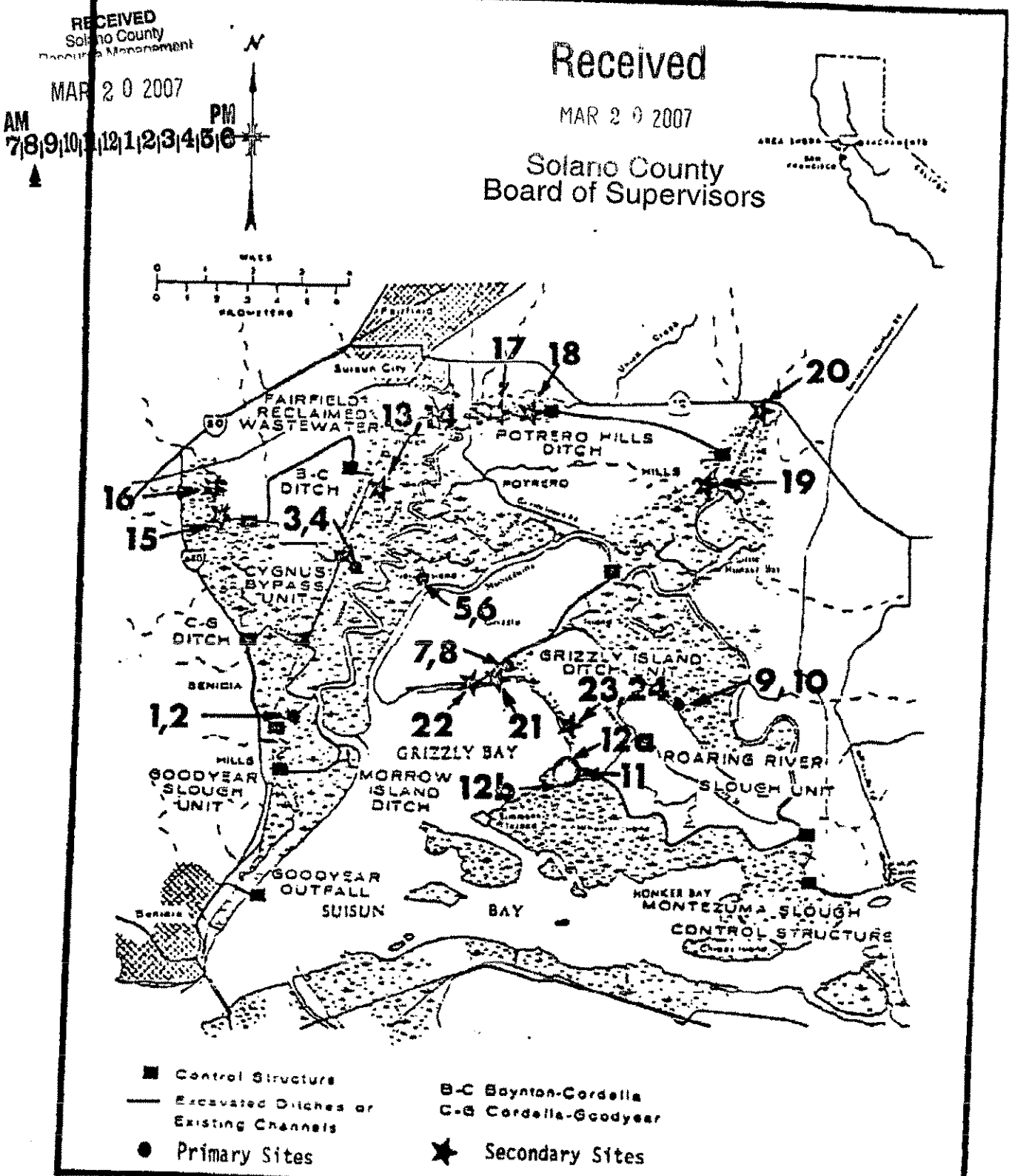

Figure 1.
Salt Marsh Harvest Mouse
Trapping areas in Suisun Marsh
(see Tables 1, 2 or 3 for names of areas)

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
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April 29, 2005

Ms. June Guidotti
3702 Scally Road
Suisun, CA 94585

Dear Ms. Guidotti:

Thank you for your continued interest in our roadway rehabilitation project on Route 12 from PM 7.9 to PM 20.6 in Solano County. This letter is to address the questions and comments from your February 18, 2005, letter in the order as they appeared.

1. When Cal-Trans reviewed the draft EIR Potrero Hills Expansion Project: SCH# 20002112 on the road highway 12, widening to bring 14 more counties into a landfill that the radius is not wide enough, and the road is for agricultural use only, Cal-Trans (They had no Comment), Why?

   More traffic studies need to be done because the radius of the road is not wide enough for California trucks and a school bus to pick up children safely. The trucks block the through traffic down Scally Road when you are turning off Highway 12. Again, the road is for agriculture use only. No traffic is to be on Scally Road. They are to use Killdeer as I stated in the new design.

   Caltrans Response:

   Solano County last upgraded the Route 12/Scally Road Intersection in 1996. This improvement was intended to provide adequate truck turning radii at the intersection for landfill vehicles turning to and from Scally Road onto Route 12. Subsequent studies by Caltrans re-affirmed that the left and right turn lanes at the subject intersection were properly designed according to Caltrans Standards. Therefore, no additional widening will be required at this location.

   Scally Road is a Solano County public road. As such, Caltrans has no jurisdiction over its intended use. Further clarification regarding this matter should be referred to Solano County.

2. Is it true Cal-Trans has paid Solano County for 11 years to fix the problems on the road (EA 0T1010/0T0900) to the turn lane from Route 12 to the intersection at Scally Road?

   The information is unobtainable at this time.

   Caltrans Response:

   This project (0T090/0T1010) is a State funded project; Caltrans did not and has no intension to provide funds to the County for further improvement at this intersection.

3. Why is Cal-Trans still planning to widen Scally Road intersection on Solano 12 Road Rehab Projects (EA0T0900-0T1010)?

   Caltrans Response:

   As stated above, the county improved the intersection in 1996, no further widening will be carried out as part of this project.

4. How will Cal-Trans handle the drain problems at Solano County Route 12, Post Miles 67.00-72.00?

   Cal-Trans' Maintenance personnel from our Rio Vista yard did place sandbags adjacent to Hill Slough to protect the roadway for two nights because the tidewater came up to the middle of the Highway 12. But Rio Vista Maintenance Yard is not responsible for this problem. Cal-trans Solano County Fairfield's Glen Lowe is. He states Scally Road is in the 100-year flood zone, and Scally road has a seasonal pond. Bad flood 1980 & 1982 (true). The reason Cal-Trans has not had a reoccurrence of the problem from the extremely high tide once several years ago adjacent to Hill Slough on the roadway is that Cal-Trans that next spring came out and raised the road above sea level on the north side of Highway 12 and trapped the runoff water from the hills that cannot reach Hill Slough because you made the highway higher. I call it a dam. That floods more farmland.

   Caltrans Response:

   We believe that the flooding referenced was primarily caused by the inadequate drainage facilities underneath Potrero Hills Lane and Kildeer Road, which are County roads. As part of this project, Caltrans is in the process of conducting hydraulic studies and evaluate structural and hydraulic capacity of existing drainage facilities along Highway 12 within the project limits. If found necessary, these facilities will be replaced or upgraded to maintain the natural hydrological flow patterns. It is anticipated final design for this project will be completed by spring of 2007.

5. Why does Cal-Trans not address the safety problems in their EIR, that the vehicles are still using the turn lane on highway 12 at Scally Road for a passing lane?

   You claim that there have not been any accidents at Scally Road. First my granddaughter and daughter's car was totalled and both of them were injured. The CHP collision listing for 2/7/05, 14:18:59 states there have been eight collisions.

   Caltrans Response:

   Thank you for providing us with the additional accident information. Upon research of the records, there were eight recorded accidents around this stretch of Route 12. Further review of the individual accident records revealed that all of these accidents were primarily resulted from driver's error. Additionally, it was further concluded that the left turn pockets at the Scally Road/Route 12 intersection meet current Caltrans standards.

6. The pond water is beyond Cal-Trans right of way on Scally Road. It needs to be addressed by Solano County, I agree. It still does not change the fact that when Cal-Trans put Highway 12 in years ago, Highway 12 became a dam for the run off water from Protero // Hills and cannot reach Hill Slough. At that time Cal-Trans took the Scally Road Bridge out. Will Cal-Trans fix the drain problems?

   I am talking about the Killdeer Bridge that <u>was on the north side</u> of Highway 12. The bridge was across Union Creek on Scally Road and the road ran north to south <u>before Cal-Trans</u> put Highway 12 there. At that time Cal-Trans <u>took the bridge out</u> and put a <u>new bridge</u> at Union Creek running <u>east to west</u>. So the runoff water from Potrero Hills cannot reach Union Creek because Highway 12 acts as a dam. It is above sea level and the natural runoff from south to north cannot drain to Union Creek.

   Caltrans Response:

   When the new Highway 12 alignment was built in 1957, Caltrans provided adequate cross drainage facilities to allow natural flow of water on both sides of the highway. The roadway is not the cause of flooding at this location. Moreover, since the Union Creek and Hill Slough flow east to west toward the Suisun Marsh, the highway bridge at Union Creek and the cross culverts along Highway 12 maintain this historic pattern. The highway does not act as a dam to impede this natural east to west flow pattern. As part of this project (EA 0T090/0T1010), Caltrans is currently in the process of conducting hydraulic studies and evaluate structural and hydraulic capacity of existing drainage facilities to determine if it is needed to add, upsize or replace the existing culverts. It is anticipated final design for this project will be completed by spring of 2007.

7. Will Cal-Trans put the Killdeer Bridge back they took out on Scally Road? Will the reconstruction of the old Killdeer Bridge and the construction of the on-ramp, off ramp, at Union Creek Bridge, be a part of Cal-Trans final draft?

   Please understand that I am asking Cal-Trans to design a reconstruction bridge and an on/off ramp, plus add to the Solano 12 Roadway Rehabilitation Project (EA 0T0900/0T1010) a gas pipeline and water pipeline running under Highway 12 (north and south) down the old Scally Road to Travis Air Force Base. I am not asking Cal-Trans to pay for this. The 18 counties bringing their garbage in will pay for this.

   Caltrans Response:

   Caltrans has no plans to re-construct the old Kildeer Bridge nor do we have jurisdiction over the area. If the County or other agencies would like to further consider this, we will definitely help facilitate such process.

8 & 9. Will Cal-Trans help with our safety? – Solano County is trying to bring 14 Counties' garbage in on a road that is not all weather that is below sea level. The fog makes it unsafe just turning on and off of Highway 12. Not to think they are planning to put a power plant in and haul gas to and from, which could spill into the mouth of Hill Slough. There is an alternate route that was vested to protect the Suisun Marsh.

   139 collisions. Enclosed is a copy. How many people have to die before the problem is fixed? I am asking Cal-Trans not to alternate a county road to Route 12, but to work with Solano County for the safety of the public. Again, will Cal-Trans help with our safety? There is an alternate route that was vested with BCDC and Solano Transportation Authority attorney Charles Lamoree (to protect the Suisun Marsh). David Paulson, Solano County District Attorney, did advise Bridgitta Corsello, Director of the Solano County Department of Environmental Resources, in a letter dated May 28, 2003, that if she believes there have been violations of law, she should contact the Solano County Sheriff's Department and request and investigation.

   Caltrans Response:

   Safety is always Caltrans' number one priority. Currently, the landfill is accessed from Route 12 via part of Scally Road, Killdeer Road, and Potrero Hills Lane. These access roads are paved two-lane, all-weather roads that appear to have sufficient width to allow safe passage of large trucks. Any additional concerns regarding current and proposed access to the landfill should be directed to the Solano County, which is the lead agency for the Potrero Hills Lane Landfill Expansion Project.

10. Will Cal-Trans help protect historical Tidal Marsh?

The total marsh I refer to is not outside State right-of-way, the swamp and overflow 322. Cal-Trans Highway 12 and culverts sit on top of the tidal marsh on a high tide and Cal-Trans culverts beneath the roadway do restrict tidal flows. 69+00.

Caltrans Response:

The Hill Slough tidal marsh flows from east to west where it empties into the Suisan Slough. During high tides, this water is unrestricted and flows through under the Union Creek Bridge to the north side of Route 12. Since the surrounding areas (north and south of Route 12) will naturally be wet during high tide, it creates the impression that the tidal marsh is on both sides of Route 12. There is no evidence that Caltrans culverts in this vicinity restrict tidal flows.

I hope the above responses adequately address you concerns. Should you need additional information, please feel free to contact me at (510) 286-5905.

Sincerely,

HELENA (LENKA) CULIK-CARO
Deputy District Director - Design

c: State SenatorWesley Chesbro
Michael D. Johnson, Solano County Administrator

To the Solid Waste Management Board
To be added to June Bonnie letter
to the board Oct 30, 1990
agenda 4 Acme Fill, Contra Costa

CERTIFIED COPY

RECEIVED
NOV - 6 1990
Adam Ayala, Clerk
By Ana Vaime

BEFORE THE

CALIFORNIA WASTE MANAGEMENT BOARD

FOR THE STATE OF CALIFORNIA

IN THE MATTER OF THE:

REGULAR MONTHLY BOARD MEETING
DECEMBER 15, 1989

RECEIVED
OCT 31 1990

DATE AND TIME: FRIDAY, DECEMBER 15, 1989, 9:00 A.M.

PLACE: BOARD HEARING ROOM
1020 NINTH STREET
SACRAMENTO, CALIFORNIA

REPORTER: BETH C. DRAIN, RPR, CSR
CERTIFICATE NO. 7152

barristers' reporting service
1600 EAST FOURTH STREET, SUITE 220
SANTA ANA, CALIFORNIA 92701
TELEPHONE (714) 953-4447

1 ON AUGUST 28, 1989, BCDC STAFF INSPECTED
2 THE SOLANO GARBAGE COMPANY LANDFILL AND FOUND UNPERMITTED
3 USES AT THE SITE. AMONG THE UNPERMITTED USES IS A PAVED
4 ROAD THAT PROVIDES THE ONLY ACCESS TO THE POTRERO HILLS
5 LANDFILL. THE ACCESS ROAD RUNS ACROSS SEASONAL WETLANDS
6 AND LOWLAND GRASSLANDS LYING WITHIN THE SECONDARY
7 MANAGEMENT AREA OF THE MARSH IMMEDIATELY SOUTH OF THE
8 SOLANO GARBAGE COMPANY LANDFILL DISPOSAL SITE.
9 THE NEW ACCESS ROAD WAS CONSTRUCTED WITHOUT
10 AN ENVIRONMENTAL ASSESSMENT AND WITHOUT A MARSH
11 DEVELOPMENT PERMIT. THIS IS A VIOLATION OF SECTION 29500
12 OF THE SUISUN MARSH PRESERVATION ACT. FOR THIS REASON,
13 IF THE BOARD WERE TO ISSUE ITS SOLID WASTE FACILITIES
14 PERMIT, IT WOULD BE AUTHORIZING THE OPERATION OF A WASTE
15 DISPOSAL SITE TO WHICH THERE IS NO LEGAL ACCESS UNDER
16 STATE OR LOCAL LAW.
17 THE SECOND REASON BCDC STAFF REQUESTS THAT
18 THE BOARD DENY OR DELAY ACTION ON THE DETERMINATION OF
19 CONFORMANCE AND ISSUANCE OF THE SOLID WASTE FACILITIES
20 PERMIT IS BECAUSE THE NEGATIVE DECLARATION APPROVED BY
21 THE COUNTY FOR THE LANDFILL PROJECT APPEARS TO BE
22 INADEQUATE. THE NEGATIVE DECLARATION THE SOLANO BOARD OF
23 SUPERVISORS FINALIZED ON OCTOBER 24, 1989, WAS ORIGINALLY
24 ISSUED FOR A PROJECT THAT PROPOSED THAT POTRERO HILLS
25 LANDFILL RECEIVE A MAXIMUM OF 850 TONS OF WASTE DAILY;

1 HOWEVER, THE MARSH DEVELOPMENT PERMIT ISSUED BY THE
2 COUNTY, MD 8809, IS FOR A PROJECT WHICH WILL RECEIVE A
3 MAXIMUM OF 2,500 TONS OF WASTE PER DAY.
4 THE BCDC STAFF BELIEVES THAT THE NEGATIVE
5 DECLARATION APPROVED BY THE SOLANO COUNTY BOARD OF
6 SUPERVISORS, THEREFORE, DOES NOT REFLECT THE TRUE NATURE
7 OF THE PROJECT. IT IS THIS SOLANO COUNTY MARSH
8 DEVELOPMENT PERMIT BASED ON THIS NEGATIVE DECLARATION
9 THAT HAS BEEN APPEALED TO THE COMMISSION.
10 FINALLY, THE BOARD SHOULD DENY OR DELAY
11 ACTION ON ITS DETERMINATION OF CONFORMANCE AND ISSUANCE
12 OF ITS SOLID WASTE FACILITIES PERMIT BECAUSE OF ITS
13 STATED POLICY THAT SOLID WASTE FACILITIES PERMIT SHOULD
14 BE THE LAST APPROVAL TO ISSUE. THE SECTION OF THE
15 RECOMMENDATION ENTITLED "REQUIREMENTS FOR CONFORMANCE
16 WITH THE SOLID WASTE FACILITIES PERMIT" SPEAKS TO THE
17 BOARD'S POLICY THAT SUCH PERMITS SHOULD BE THE LAST
18 PERMIT ISSUED.
19 AS PREVIOUSLY STATED, THE APPEALS FILED
20 WITH BCDC HAD THE EFFECT OF STAYING THE COUNTY ISSUE
21 MARSH DEVELOPMENT PERMIT UNTIL THE COMMISSION CAN HEAR
22 THEM.
23 FOR THIS REASON, IF THE BOARD WERE TO TAKE
24 ACTION TODAY ON THE APPLICANT'S SOLID WASTE FACILITIES
25 PERMIT, ITS ACTION WOULD BE PREMATURE AS OTHER STATE

1 APPROVALS REGARDING ACCESS TO THE SITE HAVE YET TO BE
2 RESOLVED. THEREFORE, THE BCDC STAFF REQUESTS THE BOARD
3 ADHERE TO ITS STATED POLICIES AND WAIT UNTIL THE
4 COMMISSION HAS HEARD THE APPEALS THAT WERE FILED ON
5 DECEMBER 7, 1989.
6 I'D LIKE TO CLOSE BY ADDING THAT THE
7 COMMISSION IS CURRENTLY TRYING TO DECIDE WHETHER OR NOT
8 THE MATTER OF THE ROAD, THE ACCESS ROAD, TO THE POTRERO
9 HILLS LANDFILL SHOULD BE REFERRED TO THE ATTORNEY
10 GENERAL'S OFFICE FOR PROSECUTION.
11 BE HAPPY TO TAKE ANY QUESTIONS.
12 CHAIRMAN GALLAGHER: THANK YOU, MR. SCHWARTZ.
13 YES, MR. CONHEIM.
14 ATTORNEY CONHEIM: JEFF, I'M BOB CONHEIM, THE
15 BOARD'S COUNSEL. YOU MENTIONED THROUGHOUT YOUR
16 PRESENTATION THAT THE STAFF RECOMMENDS. WHO ARE YOU
17 REPRESENTING IN THIS POSITION TODAY?
18 MR. SCHWARTZ: I REPRESENT THE BCDC STAFF. I'D
19 LIKE TO ADD THAT THE COMMISSION HAS TAKEN NO FORMAL STAND
20 ON THIS MATTER.
21 ATTORNEY CONHEIM: ALL RIGHT.
22 MR. SCHWARTZ: I'D ALSO LIKE TO ADD THAT THEY
23 HAVE NOT HEARD THE APPEALS, AND THEY WILL ON JANUARY 4TH.
24 ATTORNEY CONHEIM: BASED ON A RESEARCH THAT I'VE
25 BEEN ABLE TO DO, AND I COULD BE WRONG; AND BASED ON OTHER

1 WIDTH, NOT THE 64 FEET THEY ARE NOW USING. THEY DO NOT
2 HAVE THE 84 FEET WIDTH ON ANY ROAD GOING THAT COULD GO
3 INTO THE MARSH. THEY HAVE FAILED TO DO THAT.
4 EIGHT, AFTER ENVIRONMENTAL IMPACT BE DONE
5 THAT HAS BEEN REQUESTED BY BCDC.
6 CONSEQUENTLY, I DO HAVE A QUESTION. HOW
7 MANY ROADS ARE REQUIRED FOR THIS LARGE AN AREA? THEY
8 HAVE ONLY ONE. THEY SAY THEY HAVE TWO ROADS OR THREE
9 ROADS, BUT ACTUALLY THEY HAVE ONE ROAD GOING INTO THE
10 DUMP, AND THAT GATE TO THAT ROAD IS APPROXIMATELY 50 FEET
11 WIDE.
12 NOW, IF THEY NEEDED TWO ROADS GOING INTO
13 THIS DUMP, THEY WOULD NEED A ROAD APPROXIMATELY 168 FEET
14 WIDE, AND I DON'T KNOW HOW YOU CAN GET 168 FEET THROUGH A
15 50-FOOT GATE.
16 ALSO, REQUEST TO SEE SECTION 182613,
17 CONTENTS OF THE PRIMARY CLOSURE PLAN, AND UNDER THAT NO.
18 1, A SOLID WASTE LANDFILL LOCATION MAP INDICATING
19 PROPERTY BOUNDARIES, GENERAL LOCATION OF THE LANDFILL,
20 ALL ON-SITE STRUCTURES, BUT MOST OF ALL, THE ENTRY ROADS.
21 I REPEAT, MOST OF THE ALL, THE ENTRY ROADS. TOTAL
22 ACREAGE OF THE SAID WASTE LANDFILL, TOTAL ACREAGE
23 PERMITTED FOR THE LANDFILL, AND EXISTING AND PROPOSED
24 FINAL LIMITS OF WASTE PLACEMENT.
25 ON THE POTRERO HILL LANDFILL ASSESSOR'S

1 MAP, POTRERO HILLS STATES THAT THEIR OLD DUMP, WHICH THAT
2 ILLEGAL NEW ROAD GOES THROUGH AND IS NEXT TO HIGHWAY 12,
3 WAS 38.86 PLUS THE 26.11 ACRES, MAKING A TOTAL OF 64.97
4 ACRES. WHEN THE TOTAL SQUARE FEET ON LEVEL GROUND -- AND
5 THIS IS ALL ON LEVEL GROUND -- ON BOTH OF THOSE ACRES IS
6 SQUARED, THE APPROXIMATE ACREAGE ON THAT IS 75.81 ACRES,
7 MAKING A DIFFERENCE OF APPROXIMATELY 10.84 ACRES. THAT'S
8 APPROXIMATE. WE WOULD LIKE TO KNOW WHERE THOSE 10 ACRES
9 ARE.
10 THERE HAS BEEN SO MANY POSSIBLE, I REPEAT
11 POSSIBLE, ILLEGAL REGULATIONS THAT ARE COMPLETELY OUT OF
12 LINE HERE, THAT A COPY OF WHAT I HAVE JUST SAID HAS BEEN
13 SENT TO THE ATTORNEY GENERAL, AND ONE IS BEING FORMULATED
14 TO SEND TO WASHINGTON ALONG WITH FURTHER INFORMATION.
15 ARE THERE ANY QUESTIONS?
16 CHAIRMAN GALLAGHER: ANYONE HAVE ANY QUESTIONS
17 OF -- MR. VARNER.
18 BOARD MEMBER VARNER: IT SEEMS TO ME THAT YOU
19 PEOPLE ARE TALKING ABOUT AN ACTION TO BE TAKEN THAT ISN'T
20 UNDER OUR JURISDICTION. WE'RE NOT HERE TO --
21 MR. GUIDOTTI: SIR, YOU'RE HERE -- PLEASE EXCUSE
22 ME FOR INTERRUPTING YOU, BUT WE'RE HERE FOR A PERMIT.
23 NOW, I DON'T SEE HOW ANY PERMIT CAN BE ISSUED, NO MATTER
24 WHAT TYPE OF NEW PERMIT FOR ANYTHING UNLESS ALL
25 LEGALITIES ARE MET, AND THE ALL LEGALITIES HAVE NOT BEEN

1 MET. THEY DO NOT HAVE A LEGAL ACCESS ROAD INTO THIS
2 AREA.
3 BOARD MEMBER VARNER: WELL, YOU KEEP TALKING
4 ABOUT A ROAD, AND WE'RE NOT HERE TO DECIDE WHETHER A ROAD
5 SHOULD GO IN OR NOT.
6 MR. GUIDOTTI: I MENTION THAT SPECIFICALLY
7 BECAUSE THIS IS, I WOULD SAY, THE LAST RESORT OR THE LAST
8 PLACE THAT YOU WOULD GO FOR A PERMIT. AND ALL LEGAL --
9 BEFORE YOU CAN -- I WAS UNDER THE IMPRESSION BEFORE THAT
10 YOU CAN ISSUE A PERMIT THAT ALL OTHER LEGALITIES HAVE
11 BEEN MET.
12 BOARD MEMBER VARNER: THAT'S AN ISSUE THAT OUR
13 ATTORNEY WILL HAVE TO ADVISE US ON. I DON'T THINK WE
14 NEED ADVICE FROM YOU ON THAT.
15 MR. GUIDOTTI: WELL, NO, I'M NOT AN ATTORNEY,
16 SIR.
17 BOARD MEMBER VARNER: THANK YOU.
18 CHAIRMAN GALLAGHER: ANY FURTHER QUESTIONS? IF
19 NOT, THANK YOU VERY MUCH FOR YOUR TESTIMONY.
20 MR. GUIDOTTI: THANK YOU FOR LISTENING TO ME.
21 CHAIRMAN GALLAGHER: WE NOW MOVE TO JAY SANDERS.
22 MR. SANDERS: MR. CHAIRMAN, COULD I ASK TO BE
23 DEFERRED TO THE COUNTY AND FOLLOW THE COUNTY OF SOLANO?
24 CHAIRMAN GALLAGHER: I DON'T HAVE ANY REQUESTS
25 FROM THEM, BUT, YES, YOU MAY. IT'S PERFECTLY ALL RIGHT.

1 DO YOU REALLY HAVE A LANDFILL? I GUESS THAT'S THE
2 QUESTION I'M ASKING FROM A LEGAL STANDPOINT.
3 ATTORNEY CONHEIM: AS A LEGAL MATTER, YOU HAVE A
4 LANDFILL. AS A PRACTICAL MATTER, YOU DON'T. HOWEVER, IT
5 DEPENDS ON NOT EVERY PERMIT IS DRAWN OR CHARACTERIZED IN
6 THE SAME MANNER. AS I SAID, THERE ARE SOME -- THERE ARE
7 SOME LANDFILLS THAT SEEK A PERMIT FOR A BOUNDED AREA THAT
8 INCLUDES ROAD BUFFER ZONE AND NO FILL. THERE ARE OTHERS
9 THAT CONFIGURE THE REQUEST FOR A PERMIT IN A DIFFERENT
10 WAY. AND AS I UNDERSTAND THE FACTS IN THIS CASE, THIS IS
11 THE LATTER, NOT THE FORMER.
12 BOARD MEMBER BREMBERG: MR. CONHEIM, OR YOU
13 EITHER/OR, LET'S TAKE A WHAT-IF SITUATION. WHAT IF BCDC
14 SAYS THE ROAD WAS CONSTRUCTED ILLEGALLY WITHOUT A PROPER
15 MARSH PERMIT, AND THE FINDING IS THAT THE ROAD BE
16 REMOVED? LET'S TAKE THAT AS ONE SCENARIO.
17 NO. 2, THIS GENTLEMAN HAS POINTED OUT THAT
18 THERE IS A POORLY CONSTRUCTED, NEVER WAS WELL
19 CONSTRUCTED, 30-FOOT WIDE ROAD THAT IS IMMEDIATELY
20 ADJACENT TO THE PRIMARY MARSH, ACTS AS A BUFFER BETWEEN
21 THE PRESENTLY CLOSED PORTION OF THE LANDFILL.
22 IF BCDC EXERCISES OPTION 1 AND OPTION 2
23 COMES INTO PLAY, WILL THAT MEAN THAT THE ONLY ACCESS IS
24 THIS POORLY CONSTRUCTED ROAD? IT MIGHT REQUIRE
25 REBUILDING, RECONSTRUCTION, AND WIDENING IN ORDER TO

1 HANDLE THE GIANT TRUCKS BRINGING IN THE 6 OR 8,000 TONS A
2 DAY, WHATEVER. AND IS THAT, THEN, AGAIN, SUBJECT TO A
3 BCDC MARSH DEVELOPMENT PERMIT?
4 ATTORNEY CONHEIM: I DON'T KNOW THE ANSWER TO
5 THE QUESTION THAT YOU FINALLY ARTICULATED.
6 BOARD MEMBER BREMBERG: DO YOU, SIR?
7 MR. TAYLOR: YES. THE IMPROVEMENTS TO THE OTHER
8 COUNTY ROADS HAVE BEEN MENTIONED. ACCESS ROADS HAD BEEN
9 ANTICIPATED IN THE ORIGINAL PERMIT THAT HAD BEEN GRANTED,
10 MARSH DEVELOPMENT. THERE WAS REFERENCE WITHIN THAT
11 PERMIT TO OTHER DOCUMENTATION THAT ALLUDED TO ALTERNATE
12 ROUTES AS A POINT OF CONTENTION BETWEEN THE COUNTY AND
13 BCDC.
14 SO, GET STRAIGHT ON YOUR QUESTION, THE
15 ORIGINAL PERMIT ANTICIPATED IMPROVEMENTS TO THOSE OTHER
16 ROADS. WE BELIEVE THAT THEY ARE PERMITTED. IF THAT WERE
17 TO OCCUR WOULD NOT REQUIRE ADDITIONAL PERMIT IF
18 IMPROVEMENTS WERE TO BE MADE.
19 BOARD MEMBER BREMBERG: WOULD THE WIDENING ALLOW
20 INCURSION OR ENCROACHMENT INTO THE PRIMARY MARSH?
21 MR. TAYLOR: NO, IT WOULD NOT.
22 BOARD MEMBER BREMBERG: IT WOULD GO TO THE --
23 OVER THE ALREADY CLOSED LANDFILL SUBJECT TO SUBSIDENCE?
24 MR. TAYLOR: THAT'S CORRECT. IT WOULD GO INTO
25 THE CLOSED LANDFILL AND WOULD REQUIRE THE REMOVAL OF SOME

1 OTHER PROBLEMS ASSOCIATED WITH CHANGES IN NAMES, THAT
2 COULDN'T BE DONE WHEN THIS FACILITY WAS FIRST OPENED IN
3 1986. WHEN THOSE CONTRACTS WITH THE TEAMSTERS AND THESE
4 OTHER PROBLEMS WERE SOLVED, THE OPERATOR, THE NEW
5 OPERATOR, POTRERO HILLS LANDFILL, NOTIFIED THE COUNTY
6 THAT THE NEW OPERATOR WOULD BE A NEW ENTITY, THE POTRERO
7 HILLS LANDFILL, INC., SAME PEOPLE, SAME PERSONNEL, SAME
8 EQUIPMENT.
9 THIS NOTIFICATION WENT TO THE LEA. IN
10 RESPONSE TO THAT REQUEST, THE LEA SENT BACK A PERMIT, A
11 NEW PERMIT, WHICH SAID THAT THE OPERATOR WAS POTRERO
12 HILLS LANDFILL, INC., AND THAT PERMIT BORE A NEW DATE.
13 WHAT DIDN'T HAPPEN AND WHAT THE OPERATOR DIDN'T KNOW
14 DIDN'T HAPPEN WAS THAT REQUEST NEVER GOT SENT TO THIS
15 BOARD.
16 AS A CONSEQUENCE, THE BOARD WAS NEVER
17 NOTIFIED OF IT, AND THE COURT AND THE BOARD PROPERLY TOOK
18 THE POSITION WHEN THIS NEW PERMIT CAME UP, THAT THIS SITE
19 HAS NO PERMIT BECAUSE THE LAW REQUIRES THAT THIS BOARD,
20 IN ADDITION TO THE LEA, BE NOTIFIED OF THE CHANGE OF
21 OPERATOR.
22 BUT I SUBMIT TO YOU THAT WASN'T THE
23 OPERATOR'S PROBLEM. WE'RE NOT BLAMING THE COUNTY, BUT
24 THE FACT IS THAT WAS AN OVERSIGHT, AND I DON'T THINK
25 ANYBODY SHOULD GET TOO EXCITED ABOUT IT.

1 GOING BACK AGAIN TO THE ORIGINAL PERMIT,
2 THE ORIGINAL PERMIT FOR THIS SITE, IN TERMS OF ACCESS,
3 CONTEMPLATED THE USE OF EMMINGTON ROAD. TO USE EMMINGTON
4 ROAD, THE COUNTY REQUIRED 60 FEET OF WIDTH OF THAT ROAD.
5 WHEN BCDC WAS NOTIFIED OF THIS, THEY SAID, "WE'RE
6 GOING -- YOU WILL HAVE TO GET A BCDC PERMIT TO WIDEN
7 EMMINGTON ROAD." THE COUNTY WAS NOT IN FAVOR OF
8 EMMINGTON ROAD.
9 SO AT THAT VERY TIME, WE'RE TALKING ABOUT
10 '84 AND '85, THE COUNTY, THE OPERATOR, AND BCDC SAID WHAT
11 ARE THE ALTERNATIVES. WELL, THE ROAD THAT IS NOW BEING
12 CALLED, QUOTE, UNQUOTE, ILLEGAL, AND THERE'S REALLY NO
13 ACCESS TO THIS PROPERTY, WAS THE VERY ROAD THAT WAS
14 WORKED OUT WITH THESE VERY AGENCIES IN 1985.
15 THIS COMPANY DIDN'T BUILD THIS ROAD WITHOUT
16 ANYBODY'S AUTHORITY. THAT'S CRAZY. ALL OF YOU KNOW
17 THAT. THAT CAN'T BE. NOW, BCDC MAY TAKE THE POSITION
18 NOW THAT THIS ROAD WAS BUILT ILLEGALLY, BUT THE FACT IS
19 THEY WERE NOTIFIED. WE HAVE CORRESPONDENCE THAT
20 INDICATES THEY WERE NOTIFIED. AND EXCEPT FOR AN ISSUE
21 CONCERNING FLOOD GATES, I DON'T THINK THERE'S ANY DISPUTE
22 ABOUT THIS ROAD. SO THAT'S THE HISTORY.
23 NOW, IN TERMS OF IMPACTS, I DON'T THINK
24 THAT THE NEGATIVE DETERMINATION BY THE COUNTY WAS DONE
25 FRIVOLOUSLY. IT WAS DONE AFTER CAREFUL CONSIDERATION.

1 OLD SOLANO GARBAGE COMPANY, AND AT THAT TIME STARTED
2 THEIR NEGOTIATIONS CONCERNING THE PRESENT SITE OF POTRERO
3 HILLS LANDFILL.
4 WHEN THIS 404 JURISDICTION QUESTION CAME
5 UP, I CONTACTED THE ARMY CORPS OF ENGINEERS. THEY'RE
6 VERY BUSY. SOMETIMES THEY DON'T RETURN PHONE CALLS. SO
7 I FEDERAL EXPRESSED THEM A LETTER ON NOVEMBER 22D OF THIS
8 YEAR SAYING, "A QUESTION HAS ARISEN. DO YOU ASSERT 404
9 JURISDICTION OVER THIS SITE?"
10 NOW, AT THAT TIME, THERE HAD BEEN SOME
11 DISCUSSION BETWEEN THE EPA, BCDC, AND THE COUNTY OF
12 SOLANO CONCERNING SOME ACTIVITIES THAT WERE TAKING PLACE
13 AT THE OLD SOLANO GARBAGE COUNTY SITE. THAT WAS A
14 STOCKPILE OF SOIL AND A STOCKPILE OF CONCRETE ROAD.
15 WE'RE NOT TALKING ABOUT THAT. THE QUESTION IS WHAT'S
16 GOING ON AT THIS SITE THAT MAY GIVE THE ARMY CORP OF
17 ENGINEERS 404 JURISDICTION.
18 I WAS TOLD IN RESPONSE TO MY LETTER, THIS
19 IS NOT A, QUOTE, UNQUOTE, JURISDICTION QUESTION. I'M NOT
20 SPEAKING OF SHARON MORELAND OF THE ARMY CORPS OF
21 ENGINEERS. THIS IS AN ENFORCEMENT ISSUE THAT THE EPA HAS
22 TO HANDLE BECAUSE THE COURT DOESN'T HANDLE ENFORCEMENT.
23 AFTER THAT DISCUSSION, I MET WITH VICKY
24 REYNOLDS OF THE EPA. THAT WAS ON DECEMBER THE 5TH. AT
25 Q. THAT MEETING WAS LARRY BURCH AND ANOTHER ASSOCIATE IN MY

1 FIRM BY THE NAME OF GARY GOODWIN. WE DISCUSSED THE
2 STOCKPILE OF SOIL THAT'S AT THE OLD SOLANO SITE AND THE
3 CONCRETE RUBBLE. AND I SAID, "IS THERE ANY 404
4 JURISDICTION QUESTION WITH RESPECT TO THIS SITE?" AND
5 SHE SAID THERE MAY BE BECAUSE THERE IS AN HISTORICAL
6 CREEK -- I USE THAT TERM LOOSELY. IT'S REALLY A DRAINAGE
7 CANAL THAT'S ON THE SOUTH SIDE OF POTRERO HILLS
8 LANDFILL -- BUT I DON'T KNOW. THAT WILL HAVE TO BE
9 DETERMINED BY THE CORPS.
10 DURING THAT WEEK OF DECEMBER 5TH, ALL OF
11 THE CORP REGULATORY PEOPLE, THE PERMIT PEOPLE WERE AT A
12 CONFERENCE IN WASHINGTON. THAT BRINGS US UP TO DECEMBER
13 THE 11TH. AT THAT TIME, I TRIED TO GET AHOLD OF MR. CAL
14 FONG, WHO'S HEAD OF REGULATORY. I TRIED TO REACH SHARON
15 MORELAND. I COULDN'T REACH HER: THEY WERE BUSY. SO I
16 FEDERAL EXPRESSED THEM A LETTER, AND I WOULD LIKE TO READ
17 YOU THE LAST PARAGRAPH OF THAT LETTER. AND, BY THE WAY,
18 I HAVE NOT HEARD ANYTHING FROM THEM, EVEN THOUGH I'VE
19 CALLED THEM EVERY DAY THIS WEEK.
20 "AS WE
21 DISCUSSED, THE WASTE
22 MANAGEMENT BOARD IS
23 CONSIDERING THE RENEWAL
24 OF THE PERMIT -- RENEWAL
25 IS THE WRONG TERM. THIS

1 MR. SANDERS: I QUITE AGREE, SIR. AND THAT'S WHY
2 THIS JURISDICTIONAL DETERMINATION TAKES TIME. THEY LOOK
3 AT HISTORICAL DATA, HISTORICAL MAPS, HISTORICAL
4 TOPOGRAPHIC SURVEYS. AND THE REASON THEY DO THAT IS
5 BECAUSE THE GRANDFATHER UNDER THE CLEAN WATER ACT IS
6 1968. SO UNLESS YOU DAMMED UP THE FLOW OR HAVE DONE
7 SOMETHING TO DISTURB THE FLOW, THEY'RE GOING TO GO BACK
8 HISTORICALLY TO SEE WHAT IT WAS. AND THE FACT THAT WE
9 MIGHT HAVE A DROUGHT FOR FIVE YEARS DOESN'T AFFECT THEIR
10 JURISDICTION. THAT'S TRUE.
11 VICE CHAIRMAN MOSCONE: ARE THERE ANY OTHER
12 QUESTIONS OF MR. SANDERS? THANK YOU, SIR.
13 MR. SANDERS: COULD I SAY ONE OTHER THING, WHICH
14 I MEANT TO SAY DURING MY PRINCIPAL REMARKS. AND THIS,
15 AGAIN, RELATES TO THE 404 QUESTION.
16 THIS SITE, AS YOU MUST KNOW, HAS WASTE
17 DISCHARGE REQUIREMENTS ISSUED BY THE CALIFORNIA REGIONAL
18 WATER CONTROL BOARD.
19 THIS SO-CALLED CREEK IS PART OF THAT
20 DISCHARGE REQUIREMENT. THIS OPERATOR CANNOT CONTAMINATE
21 ANY WATER THAT FLOWS THEREIN, AND THE PLANS FOR THE SITE
22 CALL FOR MOVING THAT CREEK, LINING IT, AND AT THE
23 DISCHARGE POINT, WHICH IS ABOUT TWO MILES NORTH OF THE
24 MARSH AND THE EDGE OF THE PROPERTY, THEY ARE GOING TO
25 INSTALL A SYSTEM THAT WILL DIFFUSE THE ENERGY WITH THE

RATE OF FLOW SO THAT THERE'S NO SILTATION.

SO THE WATER THAT FLOWS THROUGH HERE, FIRST OF ALL, HAS TO BE KEPT CLEAN. AND SECOND OF ALL, IT WOULD BE DIFFUSED AS IT LEAVES THE SITE. THANK YOU.

VICE CHAIRMAN MOSCONE: THANK YOU, MR. SANDERS.

MR. LARRY BURCH.

MR. BURCH: MR. CHAIRMAN, MEMBERS OF THE BOARD, MY NAME IS LARRY BURCH. I'M A REGISTERED CIVIL ENGINEER, AND I REPRESENT POTRERO HILLS LANDFILL.

THERE'S BEEN, I THINK, SUBSTANTIAL TESTIMONY PROVIDED BY OUR FIRM. AND UNLESS THERE'S QUESTIONS, I REALLY HAVE NOTHING FURTHER TO PRESENT. I'VE BEEN INVOLVED WITH THE PROJECT SINCE DAY ONE ON ITS DESIGN AND ITS IMPLEMENTATION AND HAVE MET EPA ON THE SITE REGARDING THE STREAM CHANNELS.

IF YOU HAVE ANY SPECIFIC QUESTIONS, PERHAPS I COULD ANSWER THOSE.

VICE CHAIRMAN MOSCONE: ARE THERE ANY QUESTIONS OF MR. BURCH? THANK YOU, LARRY.

THIS IS THE LAST OF THOSE WHO HAVE REQUESTED THAT THEY BE HEARD. WE'LL CONTINUE WITH THE REST OF THE TESTIMONY, IF THERE IS ANY.

ATTORNEY CONHEIM: MR. CHAIRMAN, YOU HAVE BEFORE YOU --

MS. BONNICI: EXCUSE ME. ARE WE ABLE TO SPEAK

1 AGAIN?

2 VICE CHAIRMAN MOSCONE: I DON'T BELIEVE SO. I

3 THINK YOU SHOULD HAVE -- COUNSEL, COULD YOU ANSWER THAT

4 QUESTION?

5 ATTORNEY CONHEIM: IT'S AT THE DISCRETION OF THE

6 CHAIRMAN. I THINK WE'VE HEARD FROM MS. BONNICI. IT'S AT

7 THE DISCRETION OF THE CHAIRMAN. YOU MIGHT AUTHORIZE THAT

8 OR NOT.

9 VICE CHAIRMAN MOSCONE: ANY OBJECTION FROM THE

10 MEMBERS OF THE BOARD?

11 BOARD MEMBER VARNER: LET HER TALK. I'D REALLY

12 LIKE TO HEAR --

13 VICE CHAIRMAN MOSCONE: PROCEED. WOULD YOU COME

14 FORWARD THEN AND --

15 MS. BONNICI: THANK YOU FOR LETTING ME SPEAK

16 AGAIN. MY NAME IS JUNE BONNICI, AKA Charlotte AND I WOULD LIKE TO

17 CLARIFY A LITTLE ON EMMINGTON ROAD, WHERE BCDC WOULD COME

18 INTO EFFECT.

19 IN 1974 WHEN THE ORIGINAL PROVISIONS OF THE

20 SUISUN MARSH ACT WAS PUT IN, I TRIED DESPERATELY, TO STAY

21 OUT OF IT. AND BECAUSE OF HOW THE WATER AFFECTED MY

22 PROPERTY, RIGHT AT EMMINGTON ROAD, WHERE THE WATER WENT

23 OVER THE TOP OF ROAD, THEY LABELED IT AS A BRACKISH WATER

24 MET THE FRESH WATER AND SPECIAL SHRIMP AND DIFFERENT --

25 AN AREA WHERE IT BECAME AFFECTED, AND I HAD TO PROVE THAT

1 ALL?

2 ATTORNEY CONHEIM: NO, IT'S NOT MY OPINION THAT

3 IT DOES. A PROBLEM OCCURRING LATER WITH THE PERMIT WOULD

4 REQUIRE AN ENFORCEMENT ACTION IN SOLANO COUNTY. PLANS

5 ARE REVIEWED AND REVISED EVERY THREE YEARS. THE

6 AUTHORITY FOR THIS PLAN IS GOING TO EXPIRE IN TWO WEEKS

7 IN ANY EVENT, SO I THINK THAT WOULD NOT BE NEEDED.

8 BOARD MEMBER MOSCONE: THANK YOU.

9 CHAIRMAN GALLAGHER: MS. BREMBERG.

10 BOARD MEMBER BREMBERG: I DO HAVE ONE QUESTION.

11 IF THIS CONTRA COSTA COUNTY WASTE MANAGEMENT PLAN IS

12 ADOPTED, WHAT TYPE OF ENFORCEMENT AND WHAT TYPE OF A

13 TIMETABLE, IF THEY SHOULD, AS THEY HAVE IN THE PAST,

14 SLIPPED ON SCHEDULES, IS THERE AN EXPIRATION DATE ON

15 THEIR -- ON THEIR PLAN? IS THERE ANY TYPE OF ENFORCEMENT

16 IF THEY JUST LEAN BACK AND SAY, "OKAY, WE GOT THE PLAN

17 ADOPTED. NOW WE CAN DO AS WE PLEASE, AND WE DON'T HAVE

18 TO PROCEED ON OUR OWN LANDFILLS. WE'VE GOT EXPORT

19 AGREEMENTS WITH TWO COUNTIES. THEY'RE GOING TO OUR

20 GARBAGE, AND WE CAN JUST SIT BACK FAT, DUMB, AND HAPPY."

21 ATTORNEY CONHEIM: LET ME ATTEMPT AN ANSWER.

22 THE BOARD'S JURISDICTION UNDER COSWMP LAW,

23 WERE IT TO CONTINUE, IS LIMITED TO THE COSWMP ITSELF.

24 WE, HOWEVER, REVIEWED THIS COSWMP AND WORKED VERY

25 CAREFULLY WITH THE COUNTY IN THEIR DEVELOPMENT OF THIS

Agenda Item #9

COPY

Brian Boero
4231 Gregory Street
Oakland, CA 94619

September 20, 2007

Ms. Caitlin Sweeney
Senior Planner
BCDC
50 California Street, Suite 2600
San Francisco, CA 94111

Dear Ms Sweeney:

Following are my comments on the proposed changes to the *San Francisco Bay Plan* and *Suisun Marsh Protection Plan.*

I am one of the landowners of Morrow Island Land Company in the Suisun Marsh. I have enjoyed hunting, fishing, hiking and simply being in the marsh since I was a child and have participated in many projects aimed at protecting and enhancing our managed wetland habitat.

I should say at the outset that I do not reflexively distrust or dismiss the efforts of your agency, DWR, DFG, USEPA and other government bodies that regulate the many competing interests at play in the marsh. At our property, we have had our share of frustrations with public agencies, but have also had much support.

From that perspective, I offer the two comments:

First, both your proposed policy changes and staff report reflect an underling assumption that tidal wetlands are inherently more valuable than managed wetlands. In Point D under the *Findings and Policies Concerning Managed Wetlands Around the Bay,* your proposed new language states: "*Managed wetlands offer a significant opportunity for restoration of tidal action to former areas of the Bay*" and proceeds to detail the benefits of removing or breeching levees.

Clinging to the vision of tidal marsh restoration is similar to the desire to restore the Hetch Hetchy Valley: Wonderful in theory, but costly and damaging in practice. Perhaps it *would* have been best if, 120 years ago, the farmers and hunters who drained and diked the marsh had left well enough alone. But they didn't. I would thus prefer to see the Bay

BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

October 13, 2006

Ms. June Guidotti
3703 Scalley Road
Suisun City, CA 94585

Dear Ms. Guidotti:
Per your request, below is a summary of the current waste acceptance limit at Potrero Hills Landfill, Plant#2039, and the proposed increase under the "Phase II" expansion of this operation submitted to the District under Application #11378:

Current maximum design capacity, as reported in the Initial Design Capacity Report:
21.8 million cubic yards, accommodating 13.1 million tons of waste

Proposed increase in maximum design capacity under Application #11378:
83.1 million cubic yards, accomodating 46.8 million tons of waste

Under Application #11378, Potrero Hills Landfill has also applied to install an additional landfill gas flare to abate the landfill gas emissions from the proposed expansion. The application does not include proposal of a power generation project.

If you have any further questions, please call me at **(415) 749-4939 (fax 415-749-4949).**

Very truly yours,

Tamiko Endow

Tamiko Endow
Air Quality Engineer

TDE:tde

ALAMEDA COUNTY
Tom Bates
Scott Haggerty
Janet Lockhart
Nate Miley

CONTRA COSTA COUNTY
Mark DeSaulnier
Mark Ross
(Vice-Chair)
Michael Shimansky
Gayle B. Uilkema
(Chairperson)

MARIN COUNTY
Harold C. Brown, Jr.

NAPA COUNTY
Brad Wagenknecht

SAN FRANCISCO COUNTY
Chris Daly
Jake McGoldrick
Gavin Newsom

SAN MATEO COUNTY
Jerry Hill
(Secretary)
Carol Klatt

SANTA CLARA COUNTY
Erin Garner
Yoriko Kishimoto
Liz Kniss
Patrick Kwok

SOLANO COUNTY
John F. Silva

SONOMA COUNTY
Tim Smith
Pamela Torliatt

Jack P. Broadbent
XECUTIVE OFFICER/APCO

939 ELLIS STREET • SAN FRANCISCO CALIFORNIA 94109 • 415.771.6000 • WWW.BAAQMD.GOV

and Marsh plans reflect a clearer support for the present reality of marsh habitat rather than lofty long terms goals.

Further to this point, your staff report clearly notes the "Habitat composition tradeoffs" that must be made in any conversion from managed to tidal wetlands. Your example of the Clapper Rail versus the Salt Marsh Harvest Mouse is just the tip of the iceberg. What about the four-foot Gopher Snake I spotted on my walk through our property last week? Or the hundreds of Pelicans roosting along our interior levees this summer? I doubt that it is possible to truly calculate net environmental benefits in making a managed versus tidal decision. I therefore think it is unwise to stake out such a strong position in favor of restoring tidal action.

Second, the proposed addition of Section 14 to the *Marsh Plan* should be removed. As the current plan notes, landowners have been faithful stewards of the Marsh. These additional requirements will make it more difficult for us to continue in this role. Looking back at the many enhancements we have made to our property, I am unable to identify any benefit that would have come from providing the sort of analysis and documentation you propose to require. What is clear to me is that we would have struggled greatly to execute any of those projects if they were in place.

It is my hope that my children and grandchildren will be able to enjoy the marsh as I have. Your sincere, enthusiastic support of landowners is necessary to make that possible.

Thank you,

Brian Boero

Cc: Steve Chappell, SRCD

State Water Resources Control Board

Linda S. Adams
Secretary for
Environmental Protection

Office of Chief Counsel
1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ http://www.waterboards.ca.gov

Arnold Schwarzenegger
Governor

May 17, 2007

Ms. June Guidotti
3703 Scally Road
Suisun, CA 94585

Dear Ms. Guidotti:

PETITION OF JUNE GUIDOTTI (REVISED WASTE DISCHARGE REQUIREMENTS ORDER NO. R2-2007-0028 AND RESCISSION OF ORDERS NO. 86-65 AND 95-229 FOR SOLANO GARBAGE COMPANY LANDFILL, SUISUN CITY, SOLANO COUNTY), SAN FRANCISCO BAY WATER BOARD: ACKNOWLEDGMENT OF PETITION RECEIVED AND APPROVAL OF REQUEST TO BE HELD IN ABEYANCE
SWRCB/OCC FILE A-1844

This will acknowledge receipt of the above petition on May 11, 2007. You have asked that the State Water Resources Control Board (State Water Board) hold the matter in abeyance for an unspecified period of time. We are happy to do so in hopes that the matter may be worked out between you and the Regional Water Quality Control Board (Regional Water Board). We will hold the matter in abeyance for two years from the date the petition was filed. If, by that time, no resolution of the matter has taken place or the matter has not become the subject of an active dispute, you may either request that the abeyance period be extend for another two-year period, or the petition will be dismissed.

If you have any questions, please call me at (916) 341-5175.

IN ALL FUTURE CORRESPONDENCE, PLEASE REFER TO
SWRCB/OCC FILE A-1844

Sincerely,

Elizabeth Miller Jennings
Staff Counsel IV

cc: See next page

Red Book

cc: Solano Garbage Company landfill
c/o Republic Services, Inc.
Attn: Mr. David Zeiger
Area Compliance Manager
3260 Blume Drive, Suite 200
Richmond, CA 94806

Mr. Ed Padilla
Solano County Local
Enforcement Agency
Department of Resource Management
675 Texas Street, Suite 5500
Fairfield, CA 94533

Ms. Jennifer Feinberg
San Francisco Bay Conservation
and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Mr. Bruce Wolfe **[via email only]**
Executive Officer
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Mr. Keith Roberson **[via email only]**
Engineering Geologist
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dorothy Dickey, Esq. **[via email only]**
Office of Chief Counsel, State Water Board
c/o San Francisco Bay, Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Yuri Won, Esq. **[via email only]**
Office of Chief Counsel, State Water Board
c/o San Francisco Bay, Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Ms. Kathi Moore, Chief **[via email only]**
moore.kathi@epa.gov
NPDES Enforcement
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

195 The Uplands
Berkeley, California 94705
13 September 2007

Mr. Will Travis, Executive Director
San Francisco Bay Conservation and Development Commission (BCDC)
50 California Street, Suite 2600
San Francisco, California 94111 Via FAX: 415-352-3606

Re: Montezuma Wetlands Restoration Project and Suisun Marsh, Emmington Road

Dear Mr. Travis and Members of the Commission,

As a member of the concerned public with long standing property interests, it was a pleasure to be able to attend your last BCDC meeting, held on September 6th, in an effort to bring forward some questions regarding the environmental health of both the Suisun Marsh and the Montezuma Wetlands Restoration Project. Thank you and Ms. Kondalysis, in particular, for suggesting that BCDC undertake a report on the integrity of the "wetlands restoration" progress of the Montezuma Wetlands Restoration Project.

The specific discussion at the September 6th meeting regarding the established policies in BCDC's "Suisun Marsh and Upland Resource Management" was most interesting. As I stated during the public comment period, BDCD should be particularly focused upon the significant opportunity to restore Emmington Road in the Marsh to tidal wetlands i.e. to adhere to BCDC's stated management policy #8 #...If, in the future, some of the managed wetlands are no longer needed for waterfowl hunting, they could also be restored as tidal marshes." It is my understanding that Emmington Road, which was part of a larger waterfowl hunting property is no longer in recreational use. California Fish and Game then, in turn, sold the Road, in whole or in part, to a private party for commercial purposes. Further, it is my understanding that permits have been granted on the Road, within the primary Marsh zone, for activity such as heavy truck transport, as well as telephione and electrical line cables. In lieu of BCDC's own expressed policies, concerns, and the current challenge to recognize future environmental transitions, such permits would appear to need further serious review and critique.

Again, thank you for your attention given to these matters. I will be eagerly awaiting any statements, reports, or updates forthcoming regarding the Montezuma Wetlands Restoration Project.

Sincerely, Lesley Emmington Jones
Lesley Emmington Jones

cc: Jessica Hamburger, CALFED Bay-Delta Program
Steve Chapelle, California Fish and Game
Beth Dyer, U.S. Army Corps of Engineers
Bud Tonnessen, Solano County Mosquito Abatement Program

September 13, 2007

Mr. Will Travis, Executive Director
San Francisco Bay Conservation
and Development Commission
50 California Street, Ste. 2600
San Francisco, CA 94111

RE: Public Comment on Proposed Bay Plan Amendment No. 1-07 and Proposed Marsh Plan Amendment No. 1-07

Dear Mr. Travis and Commissioners:

This is a follow-up letter to thank your staff (Barbara Kondylis) for agreeing to prepare a report on the Montezuma Hills at the September 6, 2007, Suisun Resource Conservation District Board of Director's Meeting and to provide comment on the above items.

It is my understanding that the Bay Conservation Plan is moving forward with strategies for the future of the Suisun Marsh and includes provisions for tidal restoration. I am requesting that Emmington Road be put back to full tidal action for the historical marsh. The portion of Emmington Road at Station 9 is raised and is 4.5 feet under tidal action when certain levees are let out. Potrero Hills Lane acts as a dam and has significantly reduced the natural tidal circulation from Hill Slough onto adjacent properties. Additionally, coincident with high tides and storm events, the raised roadway and culvert appears to restrict the runoff from adjacent property back to Hill Slough. I agree with Mr. Joseph Peterson, District Office Chief, Engineering Services II in his December 15, 2003 letter which states: "In my opinion, the portion of Potrero Hills Lane that crosses the historical marsh should have been placed on a bridge"

I request that your agency review the contours and areas affected by the construction of a berm at the 4' elevation. The construction of this berm is backing up water and flooding landowner's property other than the landowner that requested the Corps permit. Agricultural landowners have been negatively impacted due to flooding and were not notified of the degree of flooding to be expected post construction of the road. This will reestablish the natural drainage that existed prior to the construction of recent roads as the tidal action used to go over the top of Emmington Road.

In addition, flooding is significant during normal rainfall events. Due to the fact that the natural drainage pattern has been altered where the brackish water meets the fresh water, Scally Road can go under 2-3 feet of water and becomes impassable. Please restore the historical marsh by removing Potrero Hills Lane. Emmington Road, and the Old Delta Quarry roads also contribute to the flooding problem and should be returned to tidal action. Currently there is a flap gate at Emmington Road; this should be removed.

Sewer???

Item 14???

Sincerely,

Leslie Emmington

RESOURCE MANAGEMENT
SEP 17 2007
RECEIVED BY: MP

RECEIVED
SEP 17 2007
SAN FRANCISCO BAY CONSERVATION & DEVELOPMENT COMMISSION

September 16, 2007

Mr. Will Travis, Executive Director
San Francisco Bay Conservation and Development Commission
50 California Street, Ste. 2600
San Francisco, CA 94111

RE: Tidal Restoration of Emmington Road and Comments on Proposed Bay Plan Amendment No. 1-07 Concerning Update of the *San Francisco Bay Plan* Managed Wetland Findings, Policies and Map Designations; and Proposed Marsh Plan Amendment No. 1-07 Concerning Update of the *Suisun Marsh Protection Plan* Findings and Policies Regarding Managed Wetlands.

Dear Mr. Travis and Commissioners:

It is my understanding that amendments to the San Francisco Bay Plan, as well the Suisun Marsh Protection Plan, are moving forward and BCDC will be soon considering strategies for the future of the Suisun Marsh, including provisions for tidal restoration.

According to Report 8 titled "Suisun Marsh and Upland Resource Management" dated September 1976 p. 3:

> "1. Tidal Marshes
>
> The tidal marshes in the Suisun Marsh occur on the edges of bays and sloughs, outside the levees, where they are subjected to the daily tides. The tidal marshes are important to many animals that live in this habitat as well as others that depend on the daily tidal rhythm to make food organisms available. For example, the salt harvest mouse, an endangered species, inhabits the pickleweed vegetation of tidal marshes. The Californian clapper rail, another endangered species, feeds primarily on organisms exposed in the tidal marshes at low tide, as do several other water-associated bird species. At high tides, on the other hand, many small animals seek refuge at the top of the vegetation cover, where they become prey to numerous species of raptors. Large quantities of detritus and invertebrates are pulled form tidal marshes by retreating tides which deposit them on adjacent mudflats, where they provide food for many shorebirds."

In addition, Report 8 on page 16 states:

> "6. Restoration of marshes.
>
> Several areas around the Suisun Marsh are historic marshlands that could be restored to wetland status. Since most of the Suisun Marsh is managed primarily for waterfowl or used for agriculture or grazing, the tidal marsh habitat is in comparatively short supply. Reclaimed tidal marsh area would provide acreage that can be managed for water-related avifauna and other non-game wildlife, as well as a sanctuary for hunted waterfowl. Reclamation could also create further opportunities for public enjoyment of the Marsh.
>
> On the other hand, managed wetlands are in short supply relative to the demand from duck hunters and they support a greater diversity of wildlife species than tidal marshes. It may be desirable to restore some of the historic marshes as managed wetlands.

Reclamation programs to restore historic marshlands to either tidal marshes or managed wetlands should therefore be a major objective of the March management program [emphasis added]."

I am requesting that Emmington Road be put back to full tidal action for the historic marsh. The portion of Emmington Road at Station 9 is raised and is 4.5 feet under tidal action when certain levees are let out. Potrero Hills Lane acts as a dam and has significantly reduced the natural tidal circulation from Hill Slough onto adjacent properties. Additionally, coincident with high tides and storm events, the raised roadway and culvert under Potrero Hills access road (portion of the road across the closed Solano Garbage Company Landfill) appears to restrict the runoff from adjacent property back to Hill Slough. I agree with Mr. Joseph Peterson, Cal/Trans District Office Chief, Engineering Services II in his December 15, 2003, letter which states: ***"In my opinion, the portion of Potrero Hills Lane that crosses the historical marsh should have been placed on a bridge [emphasis added]"*** (Exhibit A).

In addition, I request that your agency review the contours and areas affected by the construction of a berm at the 4' elevation located on Solano Garbage Company property. The construction of this berm is backing up water and flooding 200 to 300-acres farmland, including a portion of my land, as well as Scally Road to the east. Flooding is significant during average intensity rainfall events, as the natural drainage pattern has been altered where the brackish water meets the fresh water, and Scally Road goes under 2-3 feet of water and becomes impassable. Agricultural landowners have been negatively impacted due to flooding and were not notified by any regulatory agency, Solano Garbage Company, or Potrero Hills Landfill on the amount of flooding to be expected post-construction of the berm.

Restoration of Emmington Road will reestablish the natural drainage that existed prior to the construction of the berm on the south end of the Solano Garbage Company property, and the construction of Potrero Hills Access Road and Potrero Hills Lane, as the tidal action used to go over the top of Emmington Road.

BCDC, Solano County Resource Management Department, Solano County Public Works, the Department of Fish and Game, the Regional Water Quality Control Board, SRCD, the Army Corps of Engineers and the Solano County Mosquito Abatement District need to reverse the mistake made by various regulatory agencies to the marsh when the berm and Potrero Hills Access Road and Potrero Hills Lane were constructed. Republic Services Inc., owner of Potrero Hills Access Road and a portion of Potrero Hills Lane, Mr. Jeffery Dittmer Potrero Hills Lane owner, Republic Services Inc., owner and operator of the Potrero Hills Landfill, and all counties and agencies that have disposed of solid waste, as well as those agencies whose waste has been beneficially reused (i.e., biosolids as alternative daily cover) at the Potrero Hill Landfill, be ordered to contribute to a fund for the construction of a bridge over the historic marsh in order to access the landfill property at the easement vested with BCDC by Charles Lamboree. In addition, BCDC should order the removal of all filled barriers to tidal action as well as the flap gate located under the Potrero Hills Access Road.

Finally, I request that BCDC stop allowing the degradation of the Suisun Marsh and act on the Appeal filed on behalf of the public against the expansion of the Potrero Hills Landfill. Not correcting the past mistake - the construction of Potrero Hills Access Road and Potrero Hills Lane - that resulted in a commercial road into the Marsh (see Exhibit B - Transcript of December 15, 1989 California Integrated Waste Management Board Meeting submitted in Public Appeal of Potrero Hills Landfill expansion), the loss of tidal action, and the flooding of farmland, and ignoring the impact of the unlined closed Solano Garbage Company Landfill with known

discharge to the Marsh are unacceptable. The poor decisions of the past are being perpetuated by Solano County as the LPP is ignored and illegal activities are allowed to occur unchallenged, unless I point them out, in the Marsh. In addition, BCDC is not enforcing current polices and is not disclosing the full text of proposed policies to the public.

Recent decisions by Solano County will result in new significant environmental and health impacts as evidenced by the reactivation of old high voltage power lines shut down 35 years ago due to flight pattern of wildlife (personal communication Barbara Kondylis). In addition, the installation of a new telephone line along the east side of Potrero Hills Access Road and Potrero Hills Lane when the paperwork stated the line would be installed along the west side of Potrero Hills Access Road and Potrero Hills Lane through the Primary Marsh in violation of Suisun Marsh Preservation Act, the Local Protection Plan and the McAteer-Petris Act and the San Francisco Bay Plan are illegal and do not conform to the policies as these lines are within one-quarter mile of the Suisun Marsh.

Thank you for the opportunity to comment on the proposed update of the San Francisco Bay Plan and the proposed update of the Suisun Marsh Protection Plan. I am requesting that the tidal marsh be restored and placed in the appropriate Plan. Please let me know if my request will be considered and included in the Suisun Marsh Protection plan.

Sincerely,

June Guidotti and Family and for the Public

June Guidotti
3703 Scally Road
Suisun, California 94585
Phone: 707- 631-9365
Fax: 707- 429-5054

Exhibit A – December 15, 2003 letter from Mr. Joseph Peterson, Cal/Trans District Office Chief, Engineering Services II to June Guidotti.
Exhibit B - Transcript of December 15, 1989 California Integrated Waste Management Board Meeting

Cc: BCDC Commissioners
Jerry Brown, Attorney General
Steve Chappell, SRCD
Bud Tonnessen, Solano County Mosquito Abatement Program
U.S. Army Corps of Engineers, San Francisco
U.S. EPA, San Francisco
U.S. Fish and Wildlife
California Dept. of Fish and Game
San Francisco Regional Water Quality Control Board
Solano County Board of Supervisors
Citizens Advisory Committee
Ron Glas, Solano County Planning
Mike Yankovich, Solano County Planning
Brigitta Corsello, Resource Management Department

Agenda Item #9

COPY

Brian Boero
4231 Gregory Street
Oakland, CA 94619

September 20, 2007

Ms. Caitlin Sweeney
Senior Planner
BCDC
50 California Street, Suite 2600
San Francisco, CA 94111

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195 The Uplands
Berkeley, California 94705
13 September 2007

RECEIVED
SEP 14 2007
SAN FRANCISCO BAY CONSERVATION & DEVELOPMENT COMMISSION

Mr. Will Travis, Executive Director
San Francisco Bay Conservation and Development Commission (BCDC)
50 California Street, Suite 2600
San Francisco, California 94111 Via FAX: 415-352-3606

Re: Montezuma Wetlands Restoration Project and Suisun Marsh, Emmington Road

Dear Mr. Travis and Members of the Commission,

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The specific discussion at the September 6th meeting regarding the established policies in BCDC's *Suisun Marsh and Upland Resource Management* was most interesting. As I stated during the public comment period, BDCD should be particularly focused upon the significant opportunity to restore Emmington Road in the Marsh to tidal wetlands i.e. to adhere to BCDC's stated management policy #8 #...If, in the future, some of the managed wetlands are no longer needed for waterfowl hunting, they could also be restored as tidal marshes." It is my understanding that Emmington Road, which was part of a larger waterfowl hunting property is no longer in recreational use. California Fish and Game then, in turn, sold the Road, in whole or in part, to a private party for commercial purposes. Further, it is my understanding that permits have been granted on the Road, within the primary Marsh zone, for activity such as heavy truck transport, as well as telephone and electrical line cables. In lieu of BCDC's own expressed policies, concerns, and the current challenge to recognize future environmental transitions, such permits would appear to need further serious review and critique.

Again, thank you for your attention given to these matters. I will be eagerly awaiting any statements, reports, or updates forthcoming regarding the Montezuma Wetlands Restoration Project.

Sincerely,
Lesley Emmington Jones
Lesley Emmington Jones

cc: Jessica Hamburger, CALFED Bay-Delta Program
Steve Chapelle, California Fish and Game
Beth Dyer, U.S. Army Corps of Engineers
Bud Tonnessen, Solano County Mosquito Abatement Program

and Marsh plans reflect a clearer support for the present reality of marsh habitat rather than lofty long terms goals.

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It is my hope that my children and grandchildren will be able to enjoy the marsh as I have. Your sincere, enthusiastic support of landowners is necessary to make that possible.

Thank you,

Brian Boero

Cc: Steve Chappell, SRCD

RECEIVED
Solano County
Resource Management
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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 87-105

WASTE DISCHARGE REQUIREMENTS FOR:

TONNESEN PET CEMETERY
SUISUN CITY, SOLANO COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board), finds that:

1. Mr. Gary Tonnesen, the site legal owner and operator, hereinafter referred to as the discharger, by application dated June 12, 1987 has applied for a permit to operate an animal disposal operation.

2. The animal disposal operation, as shown on Attachment A, which is incorporated herein and made a part of this Order, is located approximately one half mile south of the Highway 12 on Scally Road southeast of Suisun City in Solano County.

3. The discharger disposes of approximately 1500 dogs and cats per month. The animals are buried in mass in pits approximately 15 feet x 10 feet x 10 feet deep. The discharger covers each load of animals upon disposal with a foot of fill with a final minimum cover of two feet.

4. This operation has been operating since April 1983 having filled approximately 1.5 acres of the 15 acre site at a disposal rate of approximately 400 cubic yards of animal remains per year. The current disposal area is Phase 1 of a three phase plan, as shown on Attachment A. The projected life span of this facility has been estimated to be 40 years.

5. The site is also located within the Secondary Management Area of the Suisun Marsh. The San Francisco Bay Conservation and Development Commission (BCDC) has reviewed this operation and found that it is an animal waste disposal facility and not a cemetery [February 24, 1981 (Appeal No. 3-80)]. BCDC concluded that this operation resembles an animal waste disposal facility far more than it does any commonly accepted concept of a cemetery. Cemeteries are generally characterized by a certain formality, by landscaping, and usually by individual plots marked by headstones. On the other hand, the only thing this development has in common with a cemetery is the nature of the remains to be buried. In every other respect, it is a solid waste disposal facility. The animal remains are brought to the site from all over the Bay Area and Sacramento in refrigerated trucks and placed in the pits. Pet owners are not allowed to visit the common pits.

6. The potential impact from this disposal operation is similar to the impact from a Class III Waste Management Unit that is used to dispose of municipal refuse.

7. The discharger has submitted a report entitled "Hydrogeologic Investigation Report, Dog Disposal Operation, Suisun City, California", dated October, 1986. The report, prepared by J. H. Kleinfelder & Associates, documents that the site is underlain by sandy to clayey silts to depths of 10 to 20 feet. These deposits are underlain by approximately 10 feet of silty sands which are underlain by clays.

8. The usable ground water beneath the disposal site occurs at depths from approximately 15 feet to 24 feet below ground surface. A ground water well is located 500 feet from the disposal area on the discharger's property.

9. The ground water flows northeasterly beneath the site and then westerly, eventually flowing into Hill Slough. Hill Slough is contiguous with Grizzly and Suisun Bay.

10. Surface runoff from the Potrero Hills located south of the disposal area is diverted from the disposal area via a 1-1/2 foot high berm at the southern edge of the disposal area, and is then directed around the disposal area via a diversion ditch.

11. Beneficial uses of the usable ground water found beneath the site and surrounding areas and of Hill Slough and Suisun Bay are:

    a. Municipal and domestic water supply
    b. Agricultural supply
    c. Water contact recreation
    d. Non-contact water recreation
    e. Warm fresh water habitat
    f. Wildlife habitat
    g. Estuarine habitat
    h. Preservation of rare and endangered species
    i. Fish migration and spawning

12. The Board adopted a revised Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) on December 17, 1986, and this Order implements the water quality objectives stated in that plan.

13. The Solano County Planning Department has prepared a Negative Declaration in accordance with the California Environmental Quality Act. The Regional Board has reviewed the project and concurs with the Committee finding that the operation will not have a substantial adverse impact on the environment.

14. The Board has notified the discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for this discharge.

15. The Board in a public meeting heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED, that the discharger, and any other person(s) that operates this site, shall meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder and also comply with the following:

A. Waste Disposal Prohibitions

1. The disposal of waste shall not create a pollution or nuisance as defined in Section 13050 of the California Water Code.

2. The discharge of wastes other than dog and cat remains shall be prohibited.

3. Wastes shall not be placed in or allowed to contact ponded or flowing water from any source whatsoever.

4. The erosion of deposited waste materials from the disposal area(s) shall be prevented.

5. The disposal of waste shall not degrade the quality of the ground water.

B. Waste Disposal Specifications

1. The site shall be operated to ensure that all wastes will be a minimum of 5 feet above the highest anticipated elevation of underlying usable ground water with the excavated pits being no deeper than 10 feet.

2. The discharger shall operate the waste management facility so as not to cause a statistically significant difference to exist between water quality at the compliance points and the Water Quality Protection Standards (WQPS) that will be determined after one year's worth of quarterly monitoring data. The compliance points are identified as wells MW-2, MW-3 and MW-4. The background well is identified as MW-1.

   Water Quality Protection Standards shall be determined for the following parameters:

   a. pH
   b. Electrical Conductivity (micromhos/cm)
   c. Total Kjeldahl Nitrogen (mg/l)
   d. Nitrate, (as N) (mg/l)
   e. Total Organic Carbon (mg/l)
   f. Total Coliform (MPN/100ml)

3. At the time of disposal, the remains shall be covered with at least 12 inches of soil. In addition, each completed pit shall have an interim cover of at least 24 inches.

4. All completed disposal areas shall be covered with a minimum of 4 feet of cover and meet other applicable requirements as described in Article 8 of Subchapter 15.

5. The discharger shall remove and relocate any wastes which are discharged at this site in violation of these requirements.

6. An uphill drainage diversion ditch shall be constructed prior to placement of any waste in any new expansion area. In addition, the landfill shall be graded, and maintained, so as to promote lateral runoff of precipitation and prevent ponding of water on the landfill.

C. Provisions

1. The discharger shall maintain a copy of this Order at the site so as to be available at all times to site operation personnel.

2. The discharger shall comply with all Prohibitions, Specifications, and Provisions of this Order upon adoption of this Order by the Board except Specification B.2.

3. To comply with Provision 2., the discharger shall submit quarterly monitoring reports in accordance with the attached self-monitoring program, beginning three months after the adoption of this Order. After one years worth of monitoring data, the WQPS's shall be established for the parameters listed in Specification B.2. and the frequency of monitoring reduced if warranted.

4. The use of any additional area outside the existing active disposal area as shown on Attachment "A" shall not commence without written approval of the Executive Officer. This approval shall be based on a demonstration that the area will comply with all applicable specifications of this Order.

5. The discharger shall file with this Board a report of any material change or proposed change in the character, location, or quantity of this waste discharge. For the purpose of these requirements, this includes any proposed change in the boundaries of the disposal area or the ownership of the disposal site.

6. Six months prior to discontinuing the use of this site for waste disposal, the discharger shall submit a closure plan that will provide for the closure of the landfill according to the requirements of Articles 5 and 8 of Subchapter 15. The closure plan should include plans to cover the landfill and provide for the elimination of ponded water on the landfill. This plan shall include an amended Report of Waste Discharge for the purpose of revising this Order to reflect the site closure and to obtain Board approval of the closure plan and establish water quality protection standards according to the requirements of Article 5 of Subchapter 15. This submittal shall include the locations of two monuments that have been constructed to be used to determine the location and elevation of wastes at the site. This report shall also provide evidence of an irrevocable closure fund, or other means, pursuant to Section 2580 (f) of Subchapter 15 to ensure that there are sufficient funds available for the closure and post-closure maintenance and monitoring of this site.

7. This Board considers the property owner to have a continuing responsibility for correcting any problems which may arise in the future as a result of this waste discharge to this property during the subsequent use of the land for other purposes.

8. The discharger shall permit the Regional Board:

   (a) Entry upon premises on which wastes are located at which any required records are kept,

   (b) Access to copy any records required to be kept under terms and conditions of this Order,

   (c) Inspection of monitoring equipment or records, and

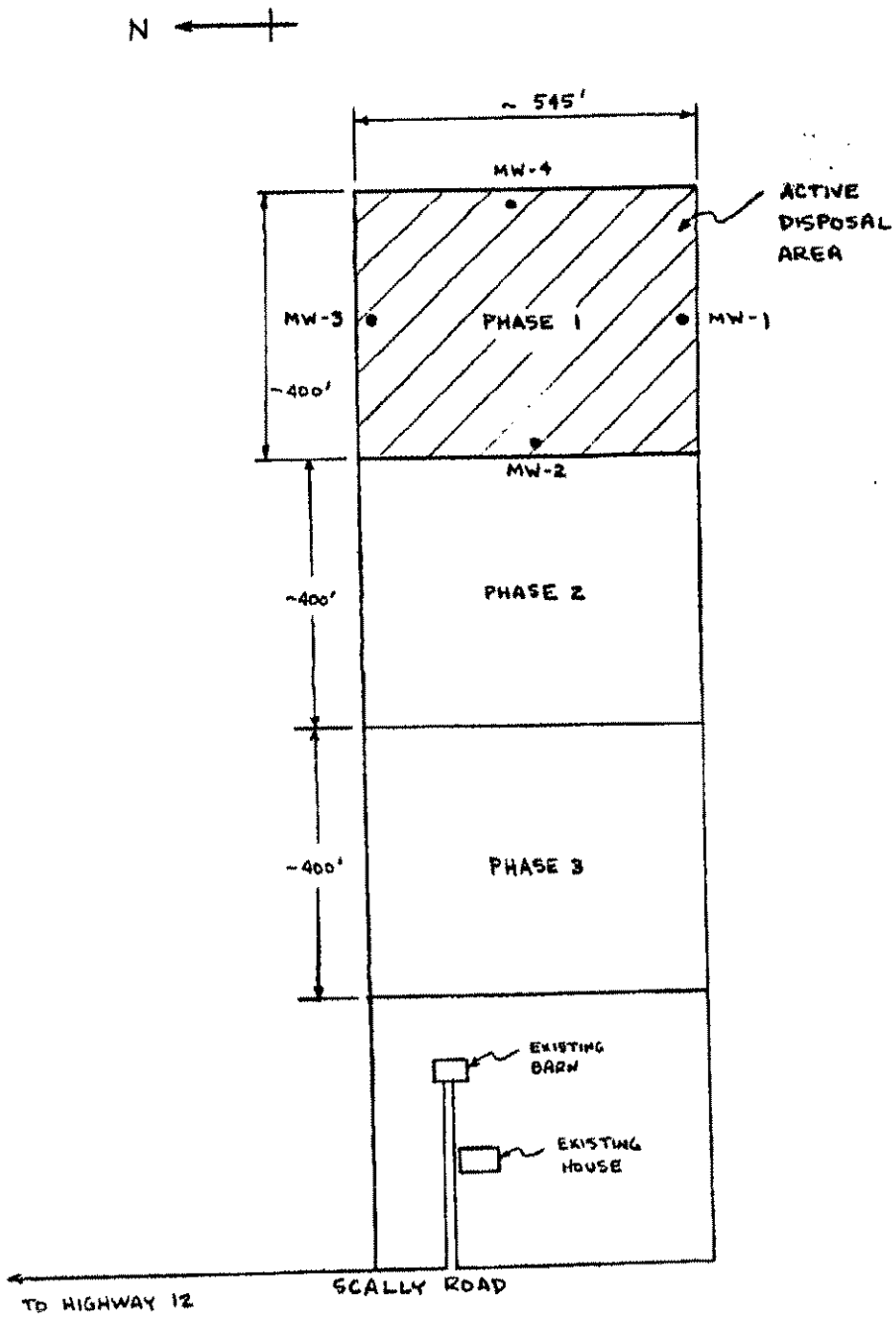
   (d) Sampling of any discharge.

9. These requirements do not authorize commission of any act causing injury to the property of another or of the public; do not convey any property rights; do not remove liability under federal, state, or local laws; and do not authorize the discharge of wastes without appropriate permits from other agencies or organizations.

I, Roger B. James, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on August 19, 1987.

Roger B. James
Executive Officer

Attachment:
Attachment A (Map)



STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

Attachment A:

Location of Disposal Areas
Tonnesen Pet Cemetary
Solano County

DRAWN BY: MTC | DATE: 6-15-87 | DRWG NO.

Final Negative Declaration and Initial Study

ill Slough West Restoration Project

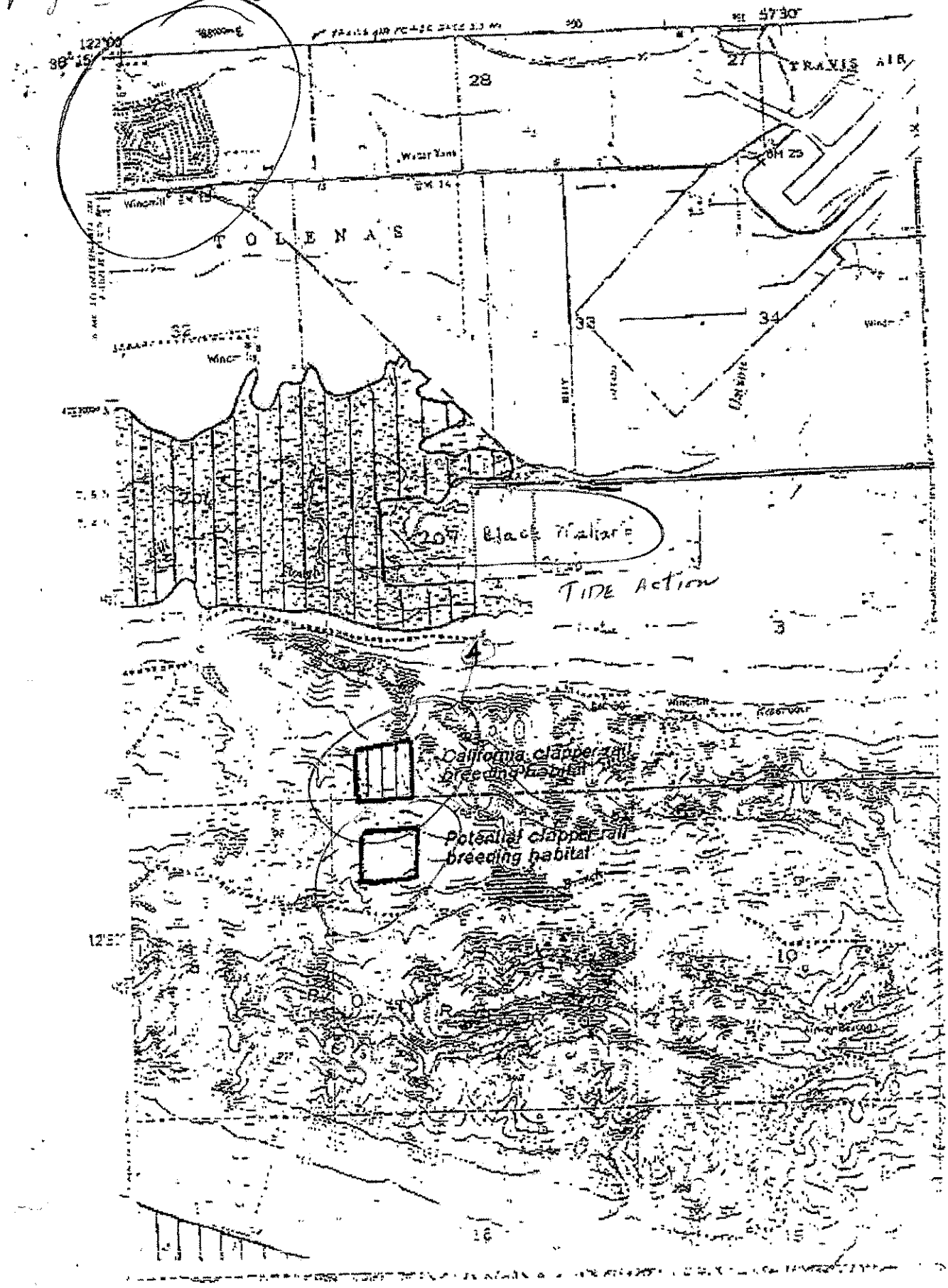
March
2005

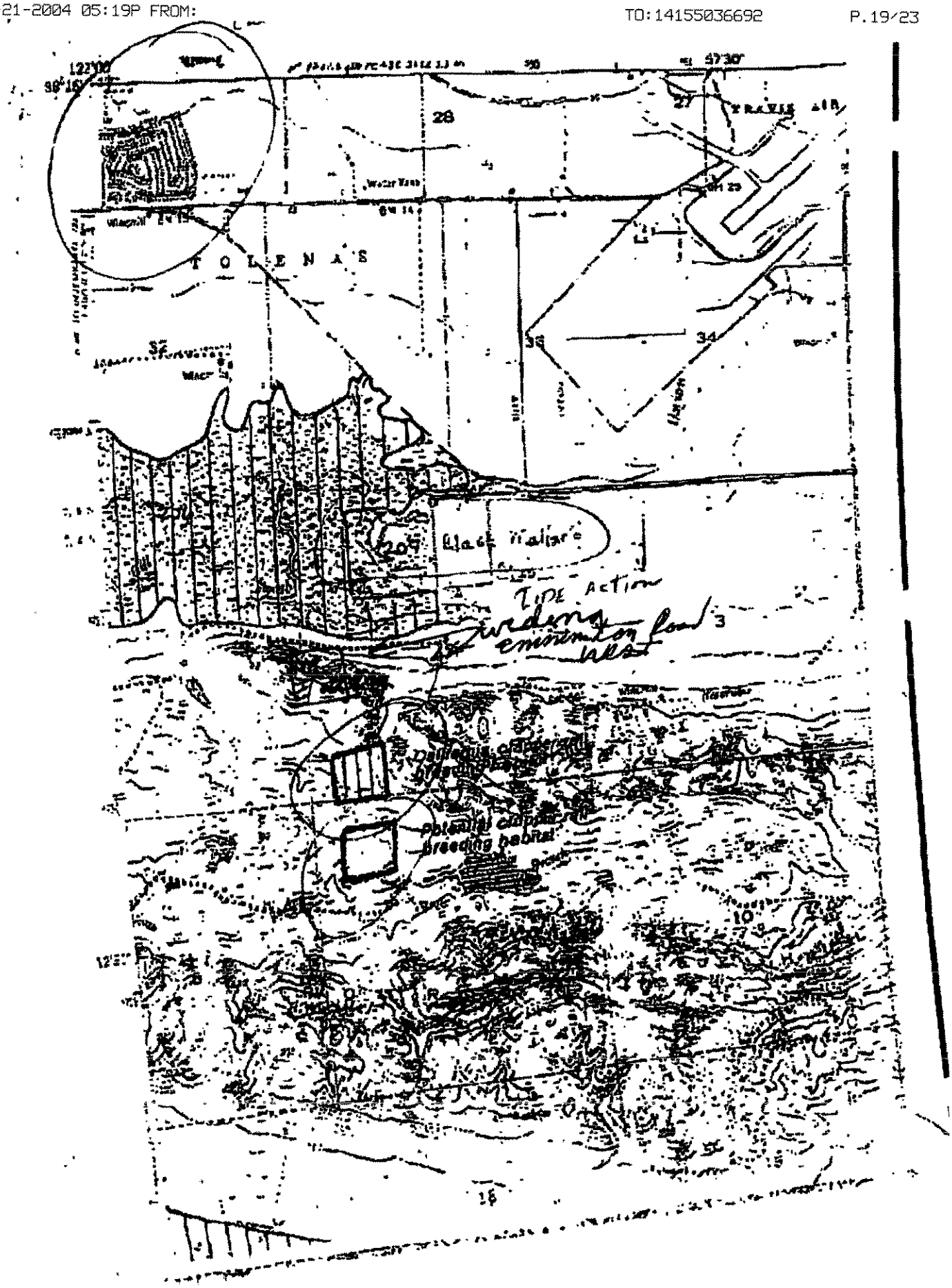
ARNOLD SCHWARZENEGGER
Governor
State of California

MIKE CHRISMAN
Secretary for Resources
The Resources Agency

L. RYAN BRODDRICK
Director
Department of Fish and Game

page 18 Cal Trans




122°00'
98°16'
57'30"
28
27
TRAVIS AIR
Water Vane
T O L E N A S
32
33
34
Black Mallard
Tide Action
Wedding
eminent on food
West
3
Potential clapper rail
breeding habitat
10
18

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Sacramento Field Office
2800 Cottage Way, Room E-1803
Sacramento, California 95825-1846

In Reply Refer To:
1-1-94-I-841

May 2, 1994

District Engineer
U.S. Army Corps of Engineers
Regulatory Branch (Attn: Wade Eakle)
211 Main Street
San Francisco, California 94105-1905

Subject: Permit No. R20066E98, Suisun Resource Conservation District, California Clapper Rail Restrictions, Solano County, California

Dear Sir:

This letter further clarifies the Service's California clapper rail recommendations in our letter, dated August 20, 1993, regarding Public Notice R20066E98, dated July 15, 1993. In our letter of August 20, 1993, we stated that all maintenance activities in or adjacent to tidal marsh habitat shall be conducted outside the clapper rail nesting season, which extends from February 1 through August 31. Based on surveys conducted from 1991 to the present by Ms. Brenda Grewell of the California Department of Water Resources (DWR), we now know that clapper rails nest in tidal marshes in only four locations in Suisun Marsh. These are (1) Hill Slough, (2) Rush Ranch (Cutoff Slough), (3) Goodyear Slough and Suisun Bay, adjacent to the Mothball Fleet, and (4) tidal marshes of the southwest side of Suisun Slough and Suisun Bay from the mouth of Goodyear Slough south to the Mothball Fleet. These areas are indicated on the enclosed maps. The latter site is a new breeding area identified in the 1994 breeding season surveys by Ms. Grewell.

Most other tidal marsh habitat in Suisun Marsh is unsuitable for nesting clapper rails either because (1) the habitat is too fresh and supports unsuitable nesting vegetation, which is true of the eastern portions of the Marsh, and/or (2) the habitat adjacent to the levees is too narrow. In Western portions of Suisun Marsh, however, these narrow strips of vegetation may provide important travel corridors for rails moving between larger blocks of tidal marsh.

I anticipate that Ms. Grewell will be continuing clapper rail surveys next year and possibly in future years. It is important to note that clapper rails could establish additional nesting areas in Suisun Marsh in the future. The most likely areas of expansion would be: Peytonia Slough (California Department of Fish and Game, parcel #201 & 221) and tidal marshes at the south end of Lower Joyce Island (Joyce Island Gun Club, parcel #424). These potential nesting areas also are indicated on the enclosed maps.

For the four areas known to support clapper rails during the breeding season, all maintenance activities on the crown of or the tidal side of levees on properties within 500 feet of these delineated areas must avoid the clapper rail nesting season (February 1 through August 31). The properties involved and the approximate linear feet of levee affected per property are listed in Table 1. In total, approximately 87,350 linear feet of levee would be affected by this restriction.

The clapper rail breeding season restriction can be relaxed if surveys by a competent biologist in the year that work is anticipated indicate that clapper rail nesting territories are not within 500 feet of these levees. A competent biologist is defined as an individual previously permitted by the Service under Section 10(a)(1)(A) of the Endangered Species Act to conduct rail research or an individual with previous clapper rail call count experience who is working as an agent of the state.

Rail surveys should be conducted in the following manner. Weekly call count surveys should be conducted beginning on February 1 and proceeding through March 31 of the year that work is anticipated in sensitive clapper rail areas. These surveys should roughly identify the size of clapper rail territories and their location in relationship to work areas. Possible nest locations should be identified.

In the event that annual surveys for clapper rails by the DWR cease and no current information on nesting clapper rails is available from other agencies, the applicant should contact the Department of Fish and Game and Fish and Wildlife Service in January of the year that work is anticipated in known or potential clapper rail sensitive areas, so that proper surveys can be conducted.

Adherence to these measures during levee maintenance work in Suisun Marsh should avoid adversely impacting the endangered California clapper rail, and therefore, avoid the need for consultation. If you have any questions regarding these comments, please contact Karen Miller of my staff at (916) 978-5408, Ext. 353.

Sincerely,

Joel A. Medlin

Joel A. Medlin
Field Supervisor

Enclosures
cc: w/ enclosures
Reg. Dir., (AES), FWS, Portland, OR
Dir., CDFG, Sacramento, CA
Reg. Mgr., CDFG, Reg. III, Yountville, CA (Attn: Dennis Becker)
Dir., CDWR, Sacramento, CA (Attn: Brenda Grewell)
CRWQCB, Oakland, CA (Attn: Steve Burger)
Suisun RCD, Suisun City, CA

Solano Garbage Company
Board of Trust
Second monday every month
2950 industrial ct.

Solano County Mosquito Abatement District

2950 Industrial Ct.
Fairfield, CA 94533-6500
Telephone (707) 437-1116
Fax (707) 437-1187

Meetings: Second Monday Every Month
7:30 P.M.

GARY RISBERG, President - Benicia
JOE ANDERSON, Vice President - Dixon
RONALD SCHOCK, Secretary - Trustee-at-Large
MELVIN FROHRIB, Vallejo
HOWARD LUTE, Suisun
CHARLES TONNESEN, Fairfield
MILTON WALLACE, Rio Vista
JIM N. WHALEN, Vacaville

JON A. BLEGEN, Manager
CAROL EVKHANIAN, Biologist
VICTOR BARACOSA, Supervisor
TAMI WRIGHT, Sec./Bkpr.

Bud

Lois Tonnesen brother in law

July 13, 2005

Anna Holmes
Environmental Scientist
State of California Department of Fish and Game
Central Valley Bay-Delta Branch
4001 North Wilson Way
Stockton, CA 95205

Dear Anna,

The District appreciates the opportunities put forth to be involved in the planning process for this project. It fully supports Alternative 2 for this project. Our concerns with the project are in regard to an ongoing monitoring and maintenance plan for any channels contained within the site and any associated costs. Both the field trip and the public meeting have provided additional information that has eased our concerns.

Please do not hesitate to contact the District if you have any further questions.

Sincerely,

Jon A. Blegen

Jon Blegen
Manager

Carol Evkhanian

Carol Evkhanian
Biologist

Jeff. Dittmen (ATTENTION

ORDER TO STOP WORK

NOTICE

CORRECTIONS MUST BE MADE BEFORE ANY FURTHER WORK IS DONE

CAUSE Grading work without a permit (Potrero Hills)

COUNTY OF SOLANO
DEPARTMENT OF RESOURCE MANAGEMENT
BUILDING & SAFETY DIVISION
675 TEXAS STREET, SUITE 5500
FAIRFIELD, CALIFORNIA 94533
(707) 784-6765

By Gregory L Meeks Date 11/17/06
Title Sr Engineer Tech

707 784-6077 or 784-3155

Rev. 6/05

Do Not Remove This Notice

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Solano County
Board of Supervisors

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DISTRICT ATTORNEY
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FAIRFIELD BRANCH
COUNTY OF SOLANO

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Solano County
Resource Management
NOV 17 2006
AM 7|8|9|10|11|12|1|2|3|4|5|6 PM

Nick Jacobs <njacobs@lawssd.com>
Cc: Amber Vierling <lawyers@direcway.com>, arboone3@yahoo.com, aaron.isherwood@sierraclub.org

ARTHUR ROBINSON BOONE, 3rd
P.O. BOX 22452
OAKLAND, CA 94609
Arboone3@yahoo.com; 510/910-6451

27 October, 2005

Appeal by Arthur R. Boone of Marsh Development Permit MD-8809 for the Potrero Hills Landfill Expansion and Land Use Permit U-88-33.

Standing and Experience: Petitioner has been in the recycling field since 1983 and has kept abreast of the issues in managing landfills, both the underground leakage problems and the problems of managing materials on the exposed surfaces that will create dangers to human health and the environment. Petitioner is a member of the Sierra Club/Bay Chapter Solid Waste and Recycling Subcommittee.

PERMIT VIOLATES SUISUN MARSH PROTECTION PLAN'S FACILITIES ELEMENT.

The Potrero Hills Landfill currently receives a large and continuing volume of automobile shredder fluff, being the parts of discarded automobiles that are not removed prior to shredding or that adhere to a magnet after shredding. Most shredder fluff is a benign material, consisting of the former interior panels of an auto, the carpet padding and under-pad, etc. Shredder fluff also includes trace materials from auto safety bag deployment systems (containing sodium azide) which would be extremely harmful to birds if ingested.

The Potrero Hills Landfill also receives veterinarian wastes which could include euthanized animals from which significant amounts of pentobarbital could be ingested by scavenging birds working the face of the landfill. As the marsh is a mecca for all sorts of birds, including those listed on the endangered species lists, it's inevitable that current waste disposal practices in which the Potrero Hills landfill is a willing participant, will result in the death of significant endangered species birds.

Respectfully submitted,

Arthur R. Boone

Appendix
L

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
Thirty Van Ness Avenue, Room 2011
San Francisco, California 94102
Telephone: (415) 557-3686

TO BE FILLED OUT BY BCDC:

1. Appeal Number: _____
2. Filed: _____
3. Notice Received: _____
4. Twenty-First Day: _____
5. Forty-Second Day: _____
6. Staff Assigned: _____

APPEAL FROM MARSH DEVELOPMENT PERMIT DECISION OF LOCAL GOVERNMENT

APPELLANT(S):

1. Name(s), address(es), and telephone number(s) of appellant(s): Lorraine McGee MD 348 Forest Highlands Dr Rio Vista CA 94571 (707) 374-3874
2. Name(s), address(es), and telephone number of appellants' representative, if any: none
3. The local governmental action was taken by Board of Supervisors, Solano Co. The action was taken on (final papers) September 13, 2005 and is or is not final (circle one). If the action is not final, an appeal may be taken to _____ within _____ days of _____. The knowledgable local official is _____ who may be contacted at _____.
4. Name of development and Marsh Development Permit Number, if any: Potrero Hills Landfill expansion 11-88-33-MD88-09
6. Brief description of development location (city or county, nearest roads, etc.): Unincorporated Solano county secondary management area of the Suisun Marsh
7. Describe the marsh development permit action of the local government (e.g., approval, approval with conditions, etc.): approval 3 to 2 (4 of the 5 supervisors received funds from the landfill company)
8. Attach a complete, but brief, statement of facts explaining and substantiating why the proposed development does not conform with the certified Suisun Marsh Local Protection Program or Program Component. The statement should refer to all applicable policies, ordinances, and regulations by name and page number.
The appellant must demonstrate to the Commission that the appeal raises a substantial issue. The Commission shall hear an appeal unless it determines that the appeal raises no substantial issue as to conformity of the proposed development with the provisions of the certified Suisun Marsh Local Protection Program. *

SCH # 2003032112

(1) conflic of interes (2) contra to LPP

* The Suisun Marsh Preservation Act provides that the Commission must hear an appeal if a substantial issue of compliance exists with either the Marsh Act, the Marsh Plan, or the certified Local Protection Program. However, the Act also provides that the Commission must issue a marsh development permit on appeal unless a substantial issue of compliance exists with the certified Local Protection Program. Therefore, this appeal form strongly encourages an appellant to limit his or her discussion and analysis to issues of compliance with the certified Local Protection program.

CERTIFICATION:
I declare that the foregoing is true and correct to the best of my knowledge and I understand that any misstatement or omission of the information requested may be grounds for rejection of this appeal.
Dated: 10-21-05 Lorraine McGee MD
(Signature of appellant or representative)

HISTORY:
1. New Appendix L filed 5-18-87; operative 6-17-87 (Register 87, No. 30).

10-27-2005

Appeal summary regarding expansion of the Potrero Hills landfill expansion:

I wish to appeal the expansion of the Potrero Hiils landfill currently owned by Republic Services,Inc on the following bases:

1. The proposed project is within the secondary management protection area of the Suisun Marsh and this area is protected by California State laws, the Suisun Marsh Protection Plan (SMPP)and by the Local Protection Plan (LPP) passed by the Solano County supervisors. This SMPP (12/76) specifically discusses the secondary management area of uplands and wetlands as a protective barrier for the "Marsh wetlands by insulating them from potential adverse impacts" (p7 of 56) http:www.bcdc.ca.gov/library/smpp/smpp.htm. "The Suisun Marsh and adjacent uplands provide habitats for many rare and endangered species...." (p7, paragraph 2,findings) AND p 8,paragraph 1. Lost area can not be replaced by credits outside the Marsh.

This proposed project increases the industrialization of the secondary area with building of structures, fences and other barriers(added in the final EIR), power lines, piping, excavation, on a temporary basis, and building up of the hills,barriers,air pollution from idleing trucks and dust, lighting, noise, and activity 24/7 AND trash (especially, windblown plastic bags), on a permanent basis. The 1000 truck trips a day may not include trucks coming for fuel, transport of sewage sludge* and recyclables (which are NOT counted in the daily/weekly tonnage). Spring Valley creek will transport some surface water,especially with rain and wind,(with sewage sludge) and, possibly, leachate into the Marsh. Direct runoff and transport of sewage trucks thru the Marsh on unelevated roads will increase pollution of the Marsh.

2. Bringing in increased sewage sludge (100%..cp 50%..) from Fairfield-Suisun City Water Treatment plant..WTP) and WTPs in other counties increases the risk of pollution. The sewage sludge from the local WTP includes some UNTREATED sewage sludge(conversation on public tour 5/05) and this will be used in alternative daily cover (ADC),piles of

sewage to be used later for ADC, ponds, and "experimental studies(..need CWMIB approval)AND in composting. The wind, the drenching rain and traffic damage to the ground surface, and truck contamination all help dispurse the sewage sludge.

3. Conflict of interest: 4 of the 5 supervisors received funds from Republic Services, Inc.; 3 of the 4 voted FOR the expansion. Since Chairwoman Kondylis has declared herself unable to vote (@BCDC hearing) because her vote on the expansion was contrary to the majority, Supervisor Silva (her substitute) should NOT vote because of conflict of interest cp BCDC memo.

4. The intent of the initial approval for Solano Garbage Company's permit was to provide a landfill for the county...not to bring in trash, recyclables, sewage sludge from an 150 mile diameter. The truck traffic is unbelievable and, particularly, "highways" 12 and 113 are not adequate for trucks (reports on traffic accidents are available from the county).
The air pollutiuon was barely mentioned in the EIR. Solano county has the highest rate of childhood and adult asthma and chronic pulmonary disease in California. We receive the vehicle, airplane and industrial air pollution from the Bay Area..thanks to the wind and pressure. And then there are large number of trucks and large farm equipment.

5. Alternatives to expansion were not presented. I have a few**.

6. Paragraph 7, p212/56 outlines quite clearly the limits on landfill expansion AND the EIR does not adequately address these factors. Barriers, altho tho't necessary to limit windblown plastic and other trash...obvious limit passage of wildlife...AND contribute to increased deaths because of choking/ intestinal obstruction. Noise, etc disturb animals and birds, etc.,etc.....

FACE IT!!

The landfill has about 10 year life under the present "sale" conditions. We can take some information from similar situations:

*1. I have used the term "sewage sludge" because the EIR cleverly used the terms "sewage sludge" and "bisolids" as tho they are interchangeable. They are not! Biosolids are treated sewage sludge and they are further defined as Class A and Class B. Some of the sewage sludge brought to this landfill is not adequately treated to even be Class B...in particular, from the local WTP. Do you really want that blowing and floating down into the Marsh? Or even into areas where people live? I am sure only a small amount, or maybe none, is Class A. The EIR does NOT really inform you about what is being brought to this landfill...nor will you know how much of what.....

**2. We have a responsibility to the Marsh to find alternatives even if the EIR does not.
I think that recycling is the responsibility of local communities and our goal should be zero trash...that costs money and the money comes from increasing trip fees and that would decrease the trash/recyclables come here. Look at Alameda county. We may then have 20 years potential. There are areas (in Nevada) that want trash and there are empty railroad cars available!!! There are alternatives to landfills...lots of new techniques. We can implement them!

PLEASE do not allow this expansion...even with the current lifetime of this landfill, there are things to be done. Permits do not have the name of the current owners. The roads should be rebuilt with an elevated road on cement pilings thru the wetlands. Numbers of trucks per hour should be regulated. Trip fees should be dramatically raised. Communities should be encouraged to recycle locally.

The Delta has been ignored and it is in bad condition. A lot of money has been spent and the water flow is inadequate and the fish are dying. The levees are in poor condition.

Lorraine McGee MD

Lorraine McGee, M.D.

Windham

STATEMENT OF FACTS

The Solano County Component of the Suisun Marsh Local Protection Program states, on page II-66, "Existing non-agricultural uses such as Solano Garbage Company, Pacific Reclamation and Disposal Inc., Explosive Technology Corporation and others, on sites within the secondary management area should be allowed to continue if they are conducted so that they will not cause adverse impacts upon the marsh. Any future change in uses of these sites should be compatible with the preservation of the Marsh and its wildlife resources."

The conduct of the Potrero Hills Landfill does cause adverse impact upon the Marsh. One adverse impact, although not necessarily the only one, is the adverse impact from the reasonably predicted escape of polybrominated diphenyl ethers (PBDEs), which are flame retardant chemicals, from the landfilled materials and proposed landfill covers to neighboring marsh habitat. PBDEs have been added extensively to various household goods and vehicles used in California since the 1970s, frequently constituting 5 – 30% of weight of the product, and they ordinarily have been added to such products in an unbonded manner, meaning that they readily separate from the product. They come to landfills when the products they are in are discarded. They are likely to be blown into the air from the landfill operator's proposed landfill covers of shredded-automobile and bio-solid wastes, both of which have substantial PBDE content, and from uncovered refuse, and they are likely to be carried on particles in water leaching from refuse in the unlined portion of the Potrero Hills Landfill and from holes that will in time emerge in liners.

Because some of the wildlife of Suisun Marsh, such as the endangered California Least Tern, are high on the food chain, they accumulate in their bodies levels of polybrominated diphenyl ethers vastly exceeding the amounts in their environment. Already, because of the abundance of PBDE-containing materials in the San Francisco Bay Area, all published reports of PBDE analyses of shorebird eggs in the San Francisco Bay show that they have levels of PBDEs at mg/kg lipid, the same level at which neurological and developmental damage is seen in laboratory animals. Hence, any further exposure of San Francisco Bay shorebirds to PBDEs should be expected to harm them.

The California Legislature in 2003, recognizing the PBDE threat to biological functions, such as hormone balance and normal neurological development, decreed a ban on the penta- and octa- forms of PBDEs, which have been particularly used in home furnishings and are particularly absorbed by biota, at

more than 0.1% in products made or traded after 2007. However, materials containing PBDEs at up to 30% of their weight will be entering the municipal waste streams for many more years, have been demonstrated to escape landfills in leachate, and can reasonably be expected to become air-borne from the landfill operator's proposed landfill covers of PBDE-laden shredded-automobile and bio-solid wastes. Even if on average only one millionth by weight of landfill deposits are PBDEs, at the one million tons of waste per year the landfill is permitted one ton of PBDEs will be every year deposited at the very edge of the Marsh.

The Potrero Hills Landfill's addition of PBDEs to the Marsh is incompatible with preservation of the Marsh's wildlife resources.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

NEWS RELEASE

Department of Toxic Substances Control

T - 49 - 04
For Immediate Release
September 9, 2004

Contact: Angela Blanchette
510.540.3732
Ron Baker
916.324.3142

California Scientists Find Highest PBDE Levels in Wildlife In San Francisco Bay Area Seabird Eggs

Berkeley, California, USA — Scientists from the California Environmental Protection Agency (Cal/EPA) announced this week that they have found the highest levels in wildlife in the world of the chemical flame retardants polybrominated diphenyl ethers (PBDEs) in seabird eggs from the San Francisco Bay Area. The findings were announced by scientists from Cal/EPA's Department of Toxic Substances Control (DTSC) during the international Dioxin 2004 Conference currently underway in Berlin, Germany.

PBDEs have been used as flame retardants in a variety of products ranging from computers and electronics, to mattresses, seat cushions, couches, upholstery, office dividers, autos, and many other products. PBDEs are chemically similar to polychlorinated biphenyls (PCBs), a family of neurotoxic chemicals banned decades ago.

"Seabirds are useful for monitoring and assessing ecosystem health because they are high on the marine food web, are long-lived, and are generally localized near their breeding and non-breeding sites," explained Jianwen She, PhD, the DTSC scientist who is presenting the study at the Dioxin 2004 Conference. "The discovery of unusually high levels of PBDEs in tern eggs suggests that eggs, such as those from the tern and other fish-eating species, are valuable tools in monitoring persistent organic pollutants in the environment."

DTSC made the findings as part of a three-year study in collaboration with the United States Fish and Wildlife Service, where scientists, working in DTSC's laboratory in Berkeley, California, took measurements of PBDE levels from 45 seabird egg samples in 2003. The highest PBDE level measured in tern eggs from San Francisco Bay fish-eating seabirds was 63 part per million/lipid (per gram of fat). This is the highest PBDE level ever reported in animals to date.

In addition, DTSC scientists attending this week's conference announced they have found an unusual distribution pattern in the types of PBDE molecules measured in some breast milk samples from women in the United States (US), whose PBDE levels are 10-70 times higher than those in women in Europe and Japan, according to earlier studies conducted by DTSC scientists and their counterparts around the globe. Scientists are still not sure why this pattern shift is occurring.

- - - MORE - - -

In August 2003, California became the first state in the U.S. to ban PBDEs after landmark legislation was signed, Assembly Bill 302 – Chan, prohibiting the sale and manufacturing of two industrial formulations of PBDEs in California by 2008. These two forms, PentaBDE and OctaBDE have been shown to accumulate disturbingly in animal and human tissue and in mother's milk. DTSC scientists have found the worlds highest levels of PBDEs in North American women including women from California, according to previously published research.

Several chemical makers and product manufacturers in the U.S. have voluntarily stopped making or using the two forms of PBDEs to be banned in California, and action similar to California's has been taken by the European Union. Several other states in the U.S. enacted, or are in the process of adopting, similar legislation to ban PBDEs, including Maine and Washington.

###

The Department of Toxic Substances Control's mission is to restore, protect, and enhance the environment and ensure public health, environmental quality and economic vitality by regulating hazardous waste, conducting and overseeing cleanups, and developing and promoting pollution prevention.

RECEIVED
OCT 27 2005
SAN FRANCISCO BAY CONSERVATION & DEVELOPMENT COMMISSION

Filed BCDC
Date 10.27.05

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
50 California St., 26th Floor
San Francisco, CA 94111-4728

TO BE FILLED OUT BY BCDC:

1. Appeal Number: _____
2. Filed: _____
3. Notice Received: _____
4. Twenty-First Day: _____
5. Forty-Second Day: _____
6. Staff Assigned: _____

APPEAL FROM MARSH DEVELOPMENT PERMIT DECISION OF LOCAL GOVERNMENT

APPELLANT(S):

1. Name(s), address(es), and telephone number(s) of appellant(s): Monica Lapsey, Legislative Planner, Sierra Club, Ed (510) 625-2103
2. Name(s), address(es), and telephone number of appellants' representative, if any: NONE
3. The local governmental action was taken by Solano City Board of Supervisors. The action was taken on 9-13-05 and (is) or is not final (circle one). If the action is not final, an appeal may be taken to N/A within N/A days of N/A. The knowledgable local official is _____ who may be contacted at Barbara Kondylis Chief B.C.D. 707-553-5363
4. Name of development and Marsh Development Permit Number, if any: Permit # U 88-33, Permit MD 88-09
6. Brief description of development location (city or county, nearest roads, etc.): Suisun Marsh
7. Describe the marsh development permit action of the local government (e.g., approval, approval with conditions, etc.): Approved with Conditions
8. Attach a complete, but brief, statement of facts explaining and substantiating why the proposed development does not conform with the certified Suisun Marsh Local Protection Program or Program Component. The statement should refer to all applicable policies, ordinances, and regulations by name and page number.
The appellant must demonstrate to the Commission that the appeal raises a substantial issue. The Commission shall hear an appeal unless it determines that the appeal raises no substantial issue as to conformity of the proposed development with the provisions of the certified Suisun Marsh Local Protection Program. *

* The Suisun Marsh Preservation Act provides that the Commission must hear an appeal if a substantial issue of compliance exists with either the Marsh Act, the Marsh Plan, or the certified Local Protection Program. However, the Act also provides that the Commission must issue a marsh development permit on appeal unless a substantial issue of compliance exists with the certified Local Protection Program. Therefore, this appeal form strongly encourages an appellant to limit his or her discussion and analysis to issues of compliance with the certified Local Protection program.

CERTIFICATION:
I declare that the foregoing is true and correct to the best of my knowledge and I understand that any misstatement or omission of the information requested may be grounds for rejection of this appeal.
Dated: Oct. 24, 2005 (Signature of appellant or representative)

October 24, 2005

San Francisco Bay Conservation and Development Commission
50 California Street
San Francisco, CA 94111

Dear BCDC:

I am a Suisun City resident who lives within two miles of the Potrero Hills Landfill Phase II Project (PHLP). I am appealing the decision of the Solano County Board of Supervisors on September 13, 2005 to allow expansion of the Potrero Hills Landfill; Modification to Use Permit Application Number U-88-33 and Marsh Development Permit Application Number MD 88-09.

The Potrero Hills Landfill Phase II Project violates the Suisun Marsh Local Protection Plan (LLP) and the Suisun Marsh Protection Plan (SMPP). (See Government Code section 29409.)

LPP
Policy 1 of the Marsh and Wetland Habitat Section of the Land Use and Circulation Elements states:

"The County shall preserve and enhance wherever possible the diversity of wildlife and aquatic habitats found in the ....Suisun marsh and surrounding upland areas to maintain these unique wildlife resources."

Policy 2 of the Marsh and Wetland Habitat Section of the Land Use and Circulation Elements states:

"The Marsh waterways, managed wetlands, tidal marshes, seasonal marshes, and lowland grasslands are critical habitants for marsh-related wildlife and ***are essential to the integrity*** of the Suisun Marsh. Therefore, these habitats deserve special protection." (Emphasis added).

The Solano County Planning Commission Staff Report for the March 17, 2005 Solano Planning Commission Meeting, p 31 of 38, finds that the "project docs have significant impact on existing habitants and wildlife resources in the Secondary Management District of the Marsh of which PHLF is a part. In addressing Policy 1, the County states that " because mitigations have been incorporated requiring the applicant to create a minimum of 3.96 acres (2:1 ratio) ***of appropriate off-site habitat that will compensate for the loss of habitats within the project site.*** (Emphasis added).

Similar mitigation is also planned to address Policy 2.

operation or the nature , size and most importantly, the location of the [illegible]
The lining approved by the County will not protect the Marsh but only guarantees leakage into the Marsh, a very adverse effect, and therefore violates both the LPP and the SMPP. The conditions of approval could have mandated a better lining for this project and if one does not exist that will adequately protect the Marsh, then the permits should be denied.

The final EIR identifies over 24 major impacts to the Marsh. Yet in an effort to meet Government Code Section 29409 and LPP Policy 4 cited above, the FEIR attempts to claim that each of the significant impacts is mitigated. This conclusion is very suspect. Many public agencies as well as citizens are opposed to the expansion, and at least one lawsuit has already been filed. As one speaker noted at a public hearing, let's not compound one mistake with another. The Marsh, a unique national and local, and fragile resource should be protected in accordance with the LPP and SMPP.

I respectfully request that the San Francisco Bay Area Conservation and Development Commission deny the Modification to Use Permit Application Number U-88-33 and Marsh Development Permit Application Number MD 88-09.

Your truly,

Monica Lopes

Monica Lopes

March 6, 2006

Mr. Larry Bahr
Fairfield-Suisun Sewer District
1010 Chadbourne Road
Fairfield, CA 94534

RE: Final Comments on FSSD Master Plan EIR SCH# 2004032046

Dear Mr. Bahr:

I believe that the Fairfield-Suisun Sewer District has not adequately reviewed and analyzed in the Final Environmental Impact Report the potential water quality impacts to waters of the United States, waters of the State of California, as well as to the Suisun Marsh from the use of biosolids at the Potrero Hills Landfill. On February 27, 2006, I received from the San Francisco Bay Area Regional Water Quality Control Board staff a copy of the Landfill's Waste Discharge Requirements (WDR 93-072) and the Sludge Management Plan, dated October 1993. It is my understanding that both of these documents are the current water quality documents the landfill is using. It appears to me (a lay person) that both of these documents are out of date, and that the proposed Master Plan project which will result in an increased amount of biosolids applied as alternative daily cover at the landfill are not addressed in these documents. Documents enclosed.

While I realize it is ultimately the landfill's responsibility to be in compliance with Federal, State and local solid waste and water quality regulations, I believe the District has an obligation under the CEQA process to disclose to the public any issues related to biosolids use at the landfill and the District should investigate and disclose the risks and potential liability it may face.

In addition, as an adjacent landowner, I believe that biosolids applied as alternative daily cover poses health impacts to both landfill workers, and the neighboring public. I am very familiar with the Bay Area Air Quality Management District odor complaint process that is described in the FEIR and while staff does respond to me, the response is often hours or days after the odor is reported, especially if the odor occurs on a holiday, or weekend. I have documentation from the BAAQMD of confirmed biosolids odor complaints and these confirmed complaints are considered a public nuisance in accordance with the BAAQMD and Water Board regulations. I have brought my confirmed odor complaints with me and will make copies for you if you are interested.

I am requesting that the Fairfield-Suisun Sewer District not certify the Final Environmental Impact Report for the Master Plan Projects until you find another alternative to the use of biosolids as alternative daily cover or insist that the landfill bury the biosolids until such time as they have received their new solid waste, water quality, and air quality permits.

Thank you for considering my comments,

June Guidotti & Family and for the Rubber

June Guidotti
3703 Scally Road
Suisun, CA 94585
(707) 429-5054

CC: Amber Vieling, Counsel

Subject: The landfill flame retardant pollution threat
Date: Thursday, September 8, 2005 8:45 PM
From: Jennifer Winkler <jen.winkler@worldnet.att.net>
To: <ellens@bcdc.ca.gov>

Ellen Sampson
Bay Conservation and Development Commission

Dear Ms. Sampson,

I am sending you more information on polybrominated diphenyl ethers (PBDEs) and other flame retardants relating to the San Francisco Bay and landfills as promised. Attached is a copy of last year's California EPA news release publicizing the extremely high PBDE levels found in San Francisco Bay seabird eggs. One of them, a tern egg from the South Bay, showed the highest PBDEs of any animal thus far analyzed in the world.

I have to point out one error I made in my comments at the BCDC Sept. 1 meeting. While the analyzed bird eggs that I spoke of were from sites in San Francisco Bay, none were from Suisun Marsh; the closest site that eggs were taken from was Napa Marsh. All of them had parts per million (microgram per gram of lipid) PBDEs, which is considered tremendously high.

The San Francisco Estuary Institute, however, refers to a study in which Cormorant eggs from Suisun Bay (at Wheeler Island) were analyzed and found higher in PBDEs than Cormorant eggs taken from elsewhere in the Bay (http://www.sfei.org/rmp/EEPS_Meetings/2005_Apr_Science%20Advisory%20Panel%20Mtg_Summary_final.pdf <http://www.sfei.org/rmp/EEPS_Meetings/2005_Apr_Science Advisory Panel Mtg_Summary_final.pdf>).

High and rapidly rising PBDEs levels have been found in San Francisco Bay fish (although I don't know of any measurements of fish closer to Suisun than San Pablo Bay) as described in 2003 in "TOXIC FIRE RETARDANTS BUILDING UP RAPIDLY IN CA FISH" at the Environmental Working Group's website (http://www.ewg.org/reports/taintedcatch/release_20030709.php). As they report, PBDE levels in Bay fish found in recent years are much higher than in fish from Europe, Japan and other parts of the U.S.

"Polybrominated Diphenyl Ethers (PBDEs): New Pollutants-Old Diseases", published in *Clin Med Res.* 2003 October (at http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1069057), comprehensively presents the scientific community's knowledge about PBDEs, including our modest knowledge of their definite health effects as of 2003. It says (somewhat contradictorily), "the main non-

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

NEWS RELEASE

Department of Toxic Substances Control

T - 49 - 04
For Immediate Release
September 9, 2004

Contact: Angela Blanchette
510.540.3732
Ron Baker
916.324.3142

California Scientists Find Highest PBDE Levels In Wildlife In San Francisco Bay Area Seabird Eggs

Berkeley, California, USA --- Scientists from the California Environmental Protection Agency (Cal/EPA) announced this week that they have found the highest levels in wildlife in the world of the chemical flame retardants polybrominated diphenyl ethers (PBDEs) in seabird eggs from the San Francisco Bay Area. The findings were announced by scientists from Cal/EPA's Department of Toxic Substances Control (DTSC) during the international Dioxin 2004 Conference currently underway in Berlin, Germany.

PBDEs have been used as flame retardants in a variety of products ranging from computers and electronics, to mattresses, seat cushions, couches, upholstery, office dividers, autos, and many other products. PBDEs are chemically similar to polychlorinated biphenyls (PCBs), a family of neurotoxic chemicals banned decades ago.

"Seabirds are useful for monitoring and assessing ecosystem health because they are high on the marine food web, are long-lived, and are generally localized near their breeding and non-breeding sites," explained Jianwen She, PhD, the DTSC scientist who is presenting the study at the Dioxin 2004 Conference. "The discovery of unusually high levels of PBDEs in tern eggs suggests that eggs, such as those from the tern and other fish-eating species, are valuable tools in monitoring persistent organic pollutants in the environment."

DTSC made the findings as part of a three-year study in collaboration with the United States Fish and Wildlife Service, where scientists, working in DTSC's laboratory in Berkeley, California, took measurements of PBDE levels from 45 seabird egg samples in 2003. The highest PBDE level measured in tern eggs from San Francisco Bay fish-eating seabirds was 63 part per million/lipid (per gram of fat). This is the highest PBDE level ever reported in animals to date.

In addition, DTSC scientists attending this week's conference announced they have found an unusual distribution pattern in the types of PBDE molecules measured in some breast milk samples from women in the United States (US), whose PBDE levels are 10-70 times higher than those in women in Europe and Japan, according to earlier studies conducted by DTSC scientists and their counterparts around the globe. Scientists are still not sure why this pattern shift is occurring.

- - - MORE - - -

point source of PBDEs is household trash (e.g., furniture, bedding, foam cushions, and electronics)" and "no information is currently available on how much incineration and/or leaching from the landfills contributes to environmental contamination". Well, I have found one study measuring PBDEs in the leachates of several landfills in Norway; it, alas, is in Norwegian, and I am still awaiting translation of it.

I'll keep you informed of more findings.

Jennifer Winkler
jen.winkler@att.net
Fairfield, CA
Environmental Chemist, until 2004 at Hazardous Materials Laboratory,
California Department of Toxic Substances Control,
Cal EPA,
Berkeley, California

November 30, 2005

Mr. R. Sean Randolph, Chair
San Francisco Bay Conservation and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

RE: Potrero Hills Landfill Project. Appeal of Marsh Development Permit 88-09 and the Determination by BCDC if Appeals Raise a Substantial Issue.

Dear Chairman Randolph and Commissioners:

As a lifetime resident (62 years) of Suisun and one of the closest neighbors to both the closed Solano Garbage Company Landfill and the Potrero Hills Landfill, I have been and will continue to be, interested in all projects proposed at the landfills as these activities directly impact the Marsh environment, as well as my family's health and safety. My presentation today is divided into two parts, first a summary of my appeal and my recommendation to the Commission and second, a few questions on portions of the staff report.

It is my understanding that the purpose of the December 1, 2005 Commission meeting is to determine if the appeal of modifications to the Solano County Marsh Development Permit No. MD 88-09 raises a substantial issue(s) as to the conformity of the proposed project with the Suisun Marsh Preservation Act (Act), the Suisun Marsh Protection Plan (Plan), and the Solano County Local Protection Program (LPP).

I submitted an appeal of Marsh Development Permit 88-09 to the Commission along with substantial supporting documentation. To have a complete understanding of my appeal, I hope that the Commissioners have had a chance to review not only the summary information provided in the staff report, as well as, all of the supporting documentation submitted in my appeal.

I have reviewed the staff report dated November 18, 2005 and conclude that the staff identified the issues in my appeal and that their classification of issues into four major categories makes sense. I have not repeated the details of my appeal in this presentation in order to keep within my time limit and refer the Commissioners to the BCDC staff report and my appeal for specific information. I agree with BCDC staff that my appeal raises substantial issues as to the conformity of the proposed project with the Act, Protection Plan and LPP regarding the policies on ecological or aesthetic impacts to the Marsh (19, 21, 25) and the proposed new bypass road (23) and the analysis in the staff report adequately summarizes these two issues. I assert that these issues as well as several other substantial issues were raised in the appeals submitted to BCDC and encourage the Commissioners to accept the BCDC staff recommendation to vote NO on the motion identified in the November 18, 2005 staff report. This concludes the summary

of my appeal and my recommendation to the Commissioners. Next, I have a few questions and one request regarding several of the Attachments contained within the BCDC staff report.

Questions on Attachment 3 – Potrero Hills Landfill Inc. Land Holdings. Please identify who prepared this Attachment, the date it was prepared, and who, if it is not Potrero Hills Landfill Inc., currently owns the land to the west of #6 that includes Potrero Hills Lane.

Questions on Attachment 4 – Potrero Hills Landfill Solano County – Pond Locations. The footer on this Attachment indicates that it was prepared October 24, 2005 and is, I believe, a new Attachment not previously presented during the CEQA review process. Please identify who prepared this Attachment and if it was specifically prepared for inclusion in the BCDC staff report and/or for other purposes.

The dark line on Attachment 4 appears to be identifying the Phase II Expansion Area of the Landfill. If so, please confirm that this is the purpose of the dark line. Also, please explain why the shape of the area surrounded by the dark line does not match the shape of the proposed expansion area identified in Attachment 2 – Map of Phase I and Proposed Phase II.

Request – Inclusion of Map Showing Site Details of Phase I and Phase II Expansion. I am requesting that BCDC staff obtain and include a site map of both the Phase I and Phase II of the Potrero Hills Landfill to be included in the record for this meeting, as well as, for future documents prepared for this project. While I followed the CEQA process, and several such maps were displayed, I am wondering if the Commissioners have been provided site maps that include information such as landfill boundaries, roads, Spring Branch Creek, landfill cells, and major landfill features in order for you and the public to be sure we are all reviewing and deciding on the same project.

This concludes my comments and presentation. Thank you for the opportunity to present my information to the Commission. If you or your staff has any questions, I can be reached at (707) 429-5054.

Sincerely,

June Guidotti

June Guidotti
3703 Scally Road
Suisun, CA 94585

November 9, 2005

FSSD Master Plan DEIR
c/o Environmental Science Associates
225 Bush Street, Suite 1700
San Francisco, CA 94104

RE: Comments on FSSD Master Plan EIR SCH# 2004032046

Dear Mr. Bahr:

As a resident of Suisun, and a neighboring property owner of the Potrero Hills Landfill, I am interested in all projects proposed in our community that contribute waste to the landfill, especially those such as the FSSD's Master Plan for Waste Water Treatment Plant (WWTP) projects that will result in increases to the landfill's traffic and potential odors.

I have reviewed the Master Plan EIR (EIR) (I did not receive a copy of an Initial Study Checklist) and I believe the conclusion that the proposed project will have a "less than significant impact" to the solid waste facilities in the County should be revised to "potentially significant impact". Additionally, statements are made within the EIR regarding the approved capacity of the Potrero Hills Landfill that are incorrect. Finally, the EIR as written lacks technical detail and environmental analysis in the area of solids generation, treatment, handling and disposal thereby not fully disclosing to the public the impacts of the project for all phases of the proposed project (through full project build-out). Detailed review comments are provided below.

PUBLIC SERVICES AND UTILITIES

Page ES- 11, Public Services and Utilities, Less than Significant

This section states: "Increased operations at the WWTP to address dry weather flow could result in increased energy consumption as well as increased biosolids disposal. However, since biosolids can be used for land application to agricultural land or reused as alternative daily cover at the Potrero Hills Landfill, and as the Potrero Hills Landfill has sufficient capacity to receive any of the biosolids not used for alternative reuse, the projects impacts to solid waste would be less than significant"

Comments:

- As the proposed project is expected to generate increasing quantities of non-hazardous solid waste throughout the phases of the project, waste generation from the new treatment facilities should be sufficiently analyzed for any potential impacts on local landfill capacity and for consistency with the City and or County's Integrated Waste Management Plan. I believe that the analysis of any potential impacts on local landfill capacity (both Potrero Hills Landfill and Hay Road Landfill) has not been adequately addressed in the Master Plan EIR and that the "Less than Significant" conclusion is not supported by the EIR. I believe a conclusion of a "Potentially Significant Impact" may be appropriate.

I request that the lead agency re-review this portion of the DEIR, and provide the following environmental analyses in the FEIR to either support or alter their conclusion:

- Analysis of the land (acreage) available to the FSSD WWTP for the agricultural land application of biosolids. Please identify all agricultural land under contract for biosolids application, length of contract, biosolids application rates and limits, and total amount of biosolids to be disposed of annually at each location.

- Analysis of the land (acreage) available to the FSSD WWTP for the land application of biosolids as Alternative Daily Cover at the Potrero Hills Landfill or Hay Road Landfill. Please identify if FSSD WTTP has contracted for this use with either landfill, the length of contract, biosolids application rates and limits, and total amount of biosolids to be disposed of annually at each landfill.

- See comments below regarding Potrero Hills Landfill capacity.

INACCURACIES IN EIR

Page 5.8-3, Solid Waste Section

This section states: "Solano Garbage Company handles solid waste management, including waste disposal and curbside recycling within the Master Plan study area. Solid waste is taken to the Potrero Hills Landfill located at 3675 Potrero Hills Lane in Suisun City"

Comments:

- I believe the sentence would be more accurate if it read: Republic Services Inc. doing business as Solano Garbage Company handles solid waste management, including the collection of municipal solid waste and curbside recyclables within the Master Plan study area. Solid waste is taken to the Potrero Hills Landfill located at 3675 Potrero Hills Lane in Suisun City for the disposal of solid waste and handling of recyclables.

- This section cites the California Integrated Waste Management Board's (CIWMB) website for figures on the estimated permitted capacity, remaining permitted capacity and estimated closure date for both the currently permitted landfill (Phase I) and proposed landfill expansion (Phase II). During testimony for the Potrero Hills Landfill expansion, management of Republic Services testified that the Phase I portion of the landfill has a remaining site life of 8-10 years. This is far short of the closure date of 2058 cited in the FSSD WWTP EIR. After listening to testimony for the proposed Potrero Hills Landfill expansion, visiting the CIWMB website and having several conversations with CIWMB staff, I understand that the CIWMB website figures should be viewed as **estimates only**, reflect original permit documents and do not always match remaining or proposed landfill capacity.

- I recommend that the lead agency contact CIWMB staff (Christy Karl at 916-341-6405) and Republic Services for clarification and assistance on this issue as remaining landfill capacity for Phase I is far less than that identified in the EIR. With only 8-10 years of remaining landfill capacity in the Phase I portion of the landfill and the Phase II portion not currently the subject of numerous appeals and CEQA lawsuits, landfill capacity to cover the near-term to build-out phases of the proposed FSSD WWTP projects are not guaranteed and the impacts of biosolids disposal on the solid waste system may be "potentially significant".

COMMENTS ON SPECIFIC EIR SECTIONS

Page 3-4, Section 3.3.2 TREATMENT PROCESS, first paragraph

This section in part states: "The FSSD WWTP utilizes a series of treatment processes involving both physical and biological systems to remove wastes from the wastewater influent, to eliminate the threat to public health and to meet the effluent discharge requirements into the Suisun Marsh.

Comments:

- Please describe in the FEIR (or direct me to the section(s) of the DEIR) that identifies and describes what threats to public health are being eliminated by the treatment of wastewater in the FSSD Waste Water Treatment Plant (WWTP).
- Please provide a copy of the effluent discharge requirements (existing and proposed) in the FEIR (or direct me to the section of the DEIR where this can be found). These are important requirements and should be made available as a reference in the FEIR.
- It is not clear what **physical systems** are used/are proposed to be used to remove wastes from the wastewater; the type and quantities of wastes removed by these processes; whether these wastes from these processes are treated during or after removal and where and how these wastes are disposed.

Please describe in the FEIR (or direct me to the section(s) of the DEIR) that describes the physical processes and analyzes the following aspects of the proposed project.

- The physical treatment processes that are used to remove wastes from the wastewater effluent
- The types and annual quantities (current and projected through build-out) that are/will be removed from the wastewater influent
- The chemical treatment methods, if any, used on this waste prior to disposal
- The location and method of disposal of these wastes

Page 3-8 and 3-9 SOLIDS HANDLING

Paragraph 1, last sentence states that "All dewatered sludge is taken to the Potrero Hills Landfill."

Comments:

- Please add and describe in the FEIR (or direct me to the sections of the DEIR) if the terms "dewatered sludge", "biosolids", "digested sludge" and "stabilized dewatered biosolids" as used in the DEIR all have the same meaning.
- Please describe any regulatory requirements that the FSSD WWTP complies with for the disposal of "dewatered sludge", "biosolids", and/or "digested sludge from the wastewater treatment processes. Please include in the FEIR (or direct me to the section(s) of the DEIR) the results of past analyses conducted on these wastes. Please identify if any of the results exceed any federal, state or local water, air, soil, public health requirements.
- Please identify in the FEIR the classification of all dewatered sludges, biosolids, and digested sludges that are disposed separately or jointly at the Potrero Hills Landfill.

Page 3-8, Paragraph 2 – states "...Digested sludge is dewatered by either plate and frame filter presses or by open-air solar drying beds (40 drying beds on 10 acres). The sludge drying beds include 40 individual beds, each 200 feet long and 50 feet wide. Typically, the maximum applied sludge depth is eight inches, requiring a 14-day drying time (i.e., the maximum application rate is eight inches per month during summer-like conditions)..."

Comments:

- Please describe in the FEIR when the plate and frame filter presses are used and when the open-air solar drying beds are used.
- Please describe in the FEIR when dewatered sludge is removed from the drying beds (i.e., daily, monthly, yearly) and if there is a seasonal difference in removal (i.e., summer versus winter months). When removed from the drying beds, is this dewatered sludge taken directly to the Potrero Hills Landfill? If not, what is the next step in the process?

- Please provide data in the FEIR that identifies the moisture content of the dewatered solids from the plate and frame filter press that have been/will be taken to the Potrero Hills Landfill.
- Please identify/provide data in the FEIR that identifies the moisture content of the dewatered solids from the open-air solar drying beds that have been/will be taken to the Potrero Hills Landfill.

Page 3-9, Paragraph 3 in part states: "...Stabilized, dewatered biosolids are hauled off-site for beneficial reuse as alternative daily cover at the Potrero Hills Landfill, a permitted municipal solid waste landfill. Annual biosolids production in 2003 was about 2,667 dry metric tons; all of the biosolids were reused as alternative daily cover at the Potrero Hills Landfill."

Comments:

- Please provide in the FEIR a reference (i.e., FSSD weight records) for the annual biosolids tonnage figures provided in the DEIR.
- Please provide in the FEIR an example calculation on how wet biosolids tonnage is converted to dry metric tons, including all conversion factors and assumptions used.
- Please provide in the FEIR (or direct me to all sections of the DEIR that contain biosolids production figures or within supporting documents – see comment for page 4-40 below) the annual biosolids production since construction of the original WWTP as well as a description of changes in rate of production. A table of these figures would be appreciated.
- Please provide in the FEIR an estimated projection of the annual biosolids production by phase for the proposed project through project build-out. Please identify if these increases will result in an increase in truck traffic to the Potrero Hills Landfill in excess of their 1996 permitted traffic limits of 500 inbound (7-day average) or peak of 1000 vehicles inbound daily.
- Please provide in the FEIR a description and supporting documentation of the physical (solids, liquids) and chemical composition of the stabilized, dewatered biosolids hauled to the Potrero Hills Landfill.

Page 3-11 CHEMICAL USAGE

This section states: "As an integral part of wastewater treatment, chemicals used in the treatment process are stored on site. Chemicals commonly used as the FSSD WWTP, along with the average daily usages, are listed in Table 3-3. Liquid chlorine and sulfur dioxide are delivered on average once every two to three weeks. All other chemicals are delivered on an as-needed (very infrequent) basis.

Comments:

- I have been able to determine where one of the chemicals identified in Table 3-3 is used in a treatment process (i.e., chlorine in the disinfection/chlorine contact

basin), where the other chemicals are used is not so easy to determine. Please identify in the FEIR where each of the chemicals listed in Table 3-3 are used in the wastewater treatment process as well as the treatment facility where the chemicals are used. A suggestion is to modify Table 3-2 to include the chemicals used in each step of the process.

- Please describe in the FEIR if any of the chemicals used in the FSSD WWTP are present in the "dewatered sludge", "biosolids", and/or "digested sludge from the wastewater treatment processes that are taken to the Potrero Hills Landfill.

Page 4-40 Solids Disposal and Use

Annual biosolids production in 2003 was about 2,667 dry metric tons (dmt). The amount of biosolids is anticipated to increase approximately 4,000 dmt during build-out conditions or 2-3 truck loads per day more than current operations.

Comments:

- Please describe in the FEIR the amount of biosolids production under "current operations".
- Please describe in the FEIR the number of truck loads per day for current operations.
- Please describe in the FEIR the size and type of truck used to transport biosolids.
- Please describe and analyze in the FEIR the impacts to the environment from existing trucks carrying biosolids (spills, leaks, odors) as well as any impacts from the stated increase (2-3 truck loads per day at full build-out) to the roads and environment.
- According to the DEIR during build-out conditions, an increase in 2-3 truck loads of biosolids per day is anticipated. Please identify the type of vehicle that currently used to haul biosolids, the capacity of that vehicle, and whether this type of vehicle is anticipated to be used at build-out conditions.

Page 5.3-7 Solano County Policies and Regulations
See page 5.3-8 that specifies that construction should be confined to the dry months.

Comments:

Please describe in the FEIR (or direct me to the section(s) of the DEIR) that indicate what time of year that construction will occur?

Conclusion

These are the comments that I have at this time. I may send in additional comments prior to the close of the CEQA review period. Please add my name and address to your mailing list. I would like to receive a response to my comments, as well as all public notices regarding future meetings or hearings for the certification of the Master Plan EIR and approval of the projects. Should you have any have questions on my comments, I can be reached at (707) 429-5054.

Sincerely,

June Guidotti 707-429 5054

June Guidotti
3703 Scally Road
Suisun, CA 94585

cc Protect the Marsh
Law offices of
Amber Vierling attorney

Arthur Feinstein
Consulting for Conservation
590 Texas Street
San Francisco, CA 94107
415-680-0643
arthurfeinstein@earthlink.net

August 7, 2006

Solano County Department of Resource Management
Environmental Health Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533
ATTN: Ricardo M. Serrano

Re: Revision of the Solid Waste Facilities Permit for the Potrero Hills Landfill located at 3675 Potrero Hills Lane, Suisun, CA 94585; revision to update operational activities within the existing approved Phase I portion of the landfill

Dear Mr. Serrano:

I urge you to deny without prejudice the Potrero Hills Landfill (PHLF) application for a permit revision of its Phase I operations and configuration. This would fulfill your 30-day obligation to rule on the application while at the same time allowing the PHLF to reapply if it succeeds in obtaining approvals from other regulating agencies listed under Attachment B of your Project Summary. I ask that you include these comments in your August 10, 2006 Public Hearing on this issue.

I believe an approval of the permit on your part would be premature. You are relying on a CEQA document that is under litigation. Granted, current law allows you to use that document as an approved EIR, but the fact that it is under litigation combined with the fact that the Phase II permit, approved by the county, has been taken up under appeal by the San Francisco Bay Conservation and Development Commission (BCDC) more than adequately demonstrates the controversial nature of this project and also the likelihood that it will not receive approvals from all regulating agencies.

Therefore, it is only just to both the public and the applicant that you do not approve the permit revision at this time. This reassures the public that you are listening to their concerns while also notifying the applicant that further planning or preparation expenditures for the Phase I project should be held in suspension until it resolves its other regulatory issues. If, indeed, it fails to receive all of its permits, this will save the applicant, and thus ultimately the public, considerable amounts of money (since the applicant provides a service to the public and will include its costs in its charges to the public).

Furthermore, as the permitting agency for the Solano County Suisun Marsh Local Protection Plan, I believe that your decision should also be based on the proposed revision's compliance with the LPP. The conditions for LPP approval are far more stringent than those found in CEQA. As related below, I believe that the proposed revisions violate the LPP in several ways and this, in turn demands a permit denial.

I believe that the proposed revisions to Phase I violate the Local Protection Plan (LPP). The plan, in section 4 of the "Utilities, Facilities and Transportation" chapter (pg. 25) specifically states that, "...future development of a new solid waste disposal site in the Potrero Hills should be permitted **if it can be shown that the construction and operation of such facilities will not have significant adverse ecological or aesthetic impacts on the Marsh.**" It also states that, "The Suisun Marsh and adjacent uplands provide a unique resource for a wide range of aquatic and wildlife species, due to the occurrence of many diverse habitats in close proximity to each other (LPP Findings. 3)"

I believe that the proposed Phase I revisions would violate this criteria because:

1. The Phase I Revisions will result in significant detrimental aesthetic impacts to the Marsh and the Secondary Management Area. The 24-hour operation of the landfill would allow trucking at night. The noise and lighting of these trucks would result in a significant impact on both the aesthetics and ecology of the Marsh. One of the characteristics of the marsh and the Secondary Management Area is the lack of development and the corresponding small amount of night-lighting. This provides a unique opportunity for night viewing in our increasingly urbanized and suburbanized Bay Area. Any increase in night-lighting in the Marsh will significantly reduce this aesthetic experience. The night-time truck traffic and the night-time operation of the landfill itself will both contribute to this increase in night-light and degradation of aesthetic experiences. Even if the operational lights are shielded and/or staggered in position (to avoid influencing planes), they will still be visible at a distance and thus detract from the one of the major aesthetic elements of the Marsh, night-darkness. There also can be no mitigation for the lighting that is resultant form the increased truck traffic.

2. The Phase I Revisions will have significant detrimental impacts on the ecology of the Marsh and the Secondary Management Area. Owls are particularly susceptible to auto and truck fatalities at night. During my 23-year career with the Golden Gate Audubon Society (as President, Conservation Chair and 13 years as Executive Director) I received many calls from truckers and other drivers recounting large numbers of owls killed by cars and trucks at night along grassland roads. Owls predominantly feed at night and this results in the fatalities cited above. Burrowing owls, located in the Marsh and Secondary Management Area are thus at risk due to the increased truck traffic proposed in the Phase I revisions,

   > "...a great many [burrowing owls] are killed by cars as they catch prey on the highways...parent [burrowing] owls hunt virtually 24 hours a day when there are

young birds to feed...(*The Owls of North America*, Allan W. Eckert, Weathervane Press, 1973, pg. 168)."

3. Night-lighting has been shown to be disruptive to some bird's breeding success and has impacts on many other creatures.

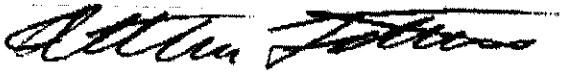
> What has been shown is that wildlife - including insects, amphibians, birds, and mammals - need both daylight and darkness for normal functioning. If their darkness is disturbed by light, wildlife may experience:
> • Attraction, fixation and repulsion
> • Improvement in orientation, or disorientation
> • Disruption of biological rhythms
> • Change in habitat quality.
> While light may help some animals move during darkness, it causes disorientation in others, resulting in higher energy consumption (i.e. exhaustion) or a more "reckless" behavior, increasing the animal's likelihood of being preyed upon or run over. Lighting can disrupt the movement of some animals and may reinforce the barrier effect of roads and road traffic.
>
> British scientists have observed robins singing at night when streetlights are in their territories. Scientists have also noticed nesting by other birds in the fall instead of the spring. One explanation is that too much light in the area has "reset" the birds' biological clocks.
>
> Scientists have found that outdoor lighting disrupts moth navigation and suppresses flight, thus interfering with mating, dispersal, and migration. Artificial light also disturbs feeding, laying of eggs, nocturnal vision, and, possibly, circadian rhythms of the moths...
> (*International Dark-Sky Association (IDA) — Information Sheet #187, August, 2002*)

4. The Phase I Revision's proposal to increase the height of the landfill by over 100 feet will have significant detrimental aesthetic impacts on the Marsh and Secondary Management Area. An increased height of the Phase I landfill of over 90 feet above the currently permitted height will create a height that rises far above the adjacent lands and significantly alters the topography of that part of the Secondary Management Area. The presence of a berm to hide the impacts of the landfill operation is not an aesthetic surrogate. The berm will be bare until its plantings take hold. The LPP does not state that aesthetic impacts of short duration may be permitted; it simply states there should be no significant aesthetic impacts. A several month growing period, leaving the berm exposed with bare dirt until the revegetation program is successful is a significant aesthetic impact.

5. Furthermore, a berm of this height and weight will be more susceptible to seismic impacts and may slide or erode during seismic events or as a result of atypically heavy rainfalls (as is possible with the potential recent impacts of global climate change).

To conclude, I believe there are several reasons sufficient for you to deny this permit application without prejudice, thus giving the relevant agencies the opportunity to determine the appropriateness of the proposed project. I also believe that there are substantive reasons for denying the permit with prejudice because of the project's failure to comply with the LPP.

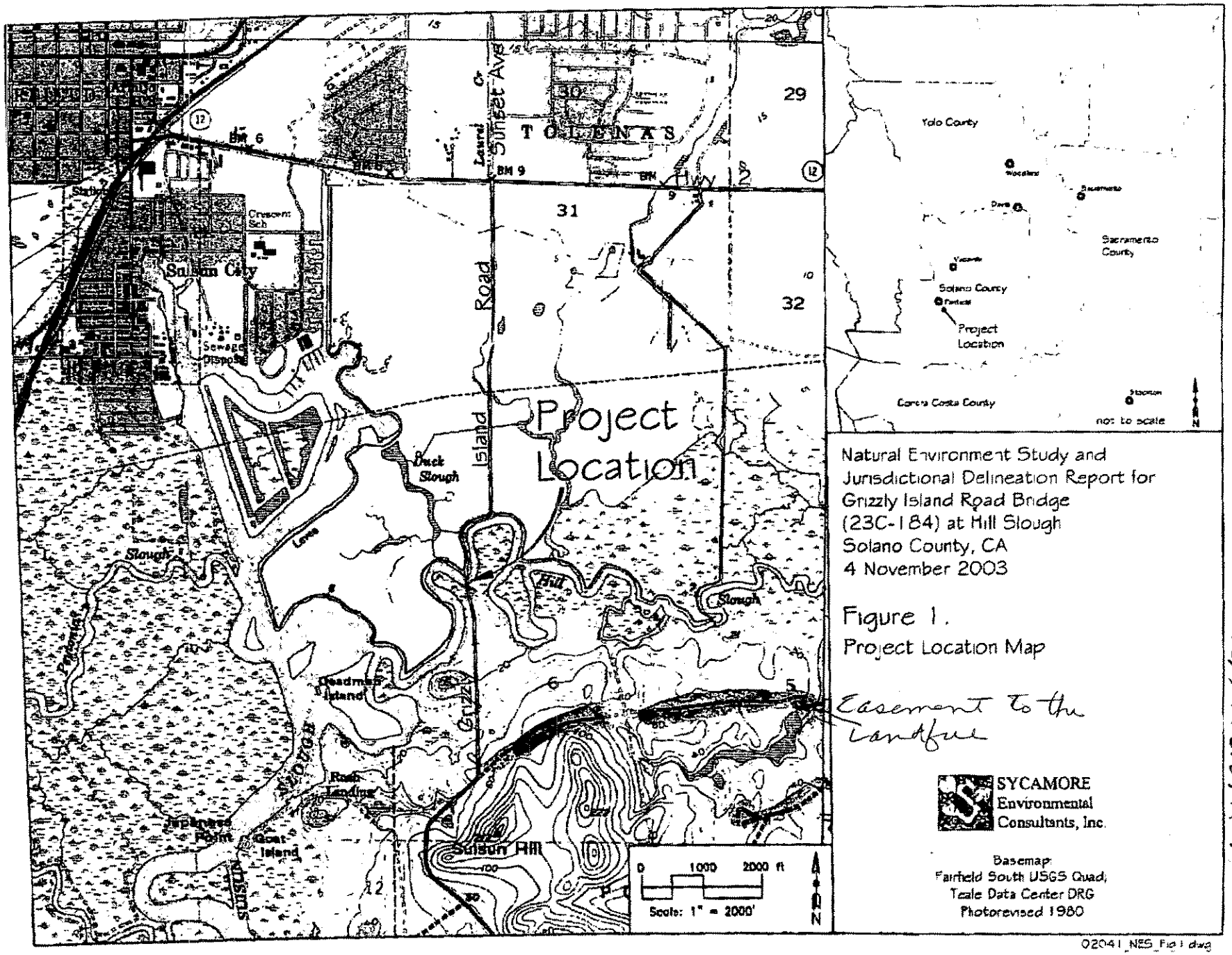
Sincerely yours,



Arthur Feinstein

Cc: Jenn Feinberg, BCDC
Mark DeBie and Sue O'Leary, CIWMB Region 3
Protect The Marsh

ATTACHMENT (A)



Natural Environment Study and Jurisdictional Delineation Report for Grizzly Island Road Bridge (23C-184) at Hill Slough Solano County, CA 4 November 2003

Figure 1.
Project Location Map

Easement to the Landfill

SYCAMORE Environmental Consultants, Inc.

Basemap:
Fairfield South USGS Quad,
Teale Data Center DRG
Photorevised 1980

02041_NES_Fig1.dwg

State of California

Memorandum

The Resources Agency of California

To : Ray Dunham
Planning & Research
State Water Resources Control Board

Date: October 19, 1976

File No. 1177.03 (RJR) vjw

From : San Francisco Bay Regional Water Quality Control Board
1111 Jackson Street, Oakland 94607

Subject: Preliminary Suisun Marsh Protection Plan

We have reviewed the subject report and would like to offer the following comments.

Salinity

On page 84 of the plan it is recommended that the State Water Resources Control Board set long range standards for Suisun Marsh that will assure that salinity levels do not increase over 1975 levels. The basis for this recommendation has not been given in the Protection Plan nor in the water supply and quality background report. Thus the recommendation appears rather arbitrary. To make best use of the waters of the State we believe long range standards should be set so as to both protect the beneficial uses of the marsh while optimizing upstream uses of our waters.

The attached chart shows TDS valves on Montezuma Slough at Grizzly Island Road during recent years. This location is representative of salinities throughout the central portion of the marsh on Montezuma, Suisun, and Cordellia Sloughs. which portion?

Salinities in 1975 were lower than those which occurred in most years. The highest salinity experienced in 1975 was approximately 2000 mg/l. In 1973 salinity rose to 6,500 mg/l, in 1970 to 8000 mg/l, and in 1968 and again in 1971 it was as high as 9000 mg/l.

During the current dry water year salinities have been up to 10,000 to 12,000 mg/l. During this same period, the 14 day running average chloride concentration at Chipps Island has been between 3000 and 4000 mg/l. This is just below the maximum chloride concentration of 4000 mg/l allowed by the San Francisco Bay Basin Plan. Thus it appears that the Chipps Island chloride limit results in a salinity of between 10,000 & 12,000 mg/l (TDS) in the central portion of Suisun Marsh. The question which now needs to be answered is if this marsh salinity will provide the 9,000 to 15,000 mg/l soil salinity thought optimum for alkali bulrush and if this salinity will also provide for the other beneficial uses of the marsh.

Because of the lack of substaniation of the recommendation and because 1975 salinity levels in Suisun Marsh are likely below those needed to protect the marsh, 1975 salinity levels should not be used as the basis of water quality standards. We recommend that the statement on page 84 be revised to read, the State Water Resources Control Board should set long range salinity standards for Suisun Marsh that are easily enforceable and that are based on levels necessary to maintain desired food plants for waterfowl and protect the beneficial uses of the permenant waterways of the marsh.

TDS (mg/l) IN MONTEZUMA SLOUGH AT GRIZZLY ISLAND ROAD

	1968	1969	1970	1971	1972	1973	1975*
J	2000	<500	1000	1000	2000		1000
F	2000	500	<500	500	2000		1000
M	500	500	500	1000	1500	500	500
D	1500	500	1000	500	1500	1000	500
M	5000	500	3500	500	3000	2500	500
J	6000	<500	5000	500	5500	3500	500
J		<500	6500	1500	8500	6000	1500
A	9000	2000	8000	2500	9000	6500	2000
S	8000	3000	6500	1500	8000	6500	1500
O	6500	1000	4000	1500	4500	4500	1000
N	6500	2000	4000	2500	4500	2000	1000
D	7000	2500	1000	2500	3000	500	1000

*based on salinity at Martinez

Industrial Discharges

On page 28 and again on page 58 it is stated that industrial activities adjacent to or upstream from the marsh that could alter the temperature, salinity, or turbidity of the water should be prohibited. We recommend that this be changed to prohibit discharges that could adversely affect the beneficial uses of the waters of Suisun Marsh.

If you have any questions concerning these comments, please contact Bob Roche at (415) 464-1255.

ORIGINAL SIGNED BY FRED H. DIERKER

FRED H. DIERKER
Executive Officer

cc: Charles R. Roberts, Executive Director
San Francisco Bay Conservation & Development Commission
30 Van Ness Ave.
San Francisco, CA 94102

Alteration Agreements and Section 1600 et seq. of the Fish and Game Code can be obtained at www.dfg.ca.gov/1600/index.html or by contacting the regional office at (707) 944-5520.

Impact 4.2-1 indicates that two populations of San Joaquin Spearscale were identified during reconnaissance surveys in 1998 but were not identified in the 2000 and 2003 surveys. A seed bank for this species is likely laying dormant in the soil waiting for the proper environmental conditions to grow. Additional surveys should be performed and cross checked with known populations in the area.

Impact 4.5-5 outlines the impacts and mitigation to CTS from the project. Loss of breeding habitat should be evaluated not only by acreage impacted, but also by the number of ponds that are impacted.

If you have any questions, please contact Greg Martinelli, Environmental Scientist, at (707) 944-5570; or Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,

for Scott Wilson
Robert W. Floerke
Regional Manager
Central Coast Region

cc: Ellen Sampson
Bay Conservation and
Development Commission
50 California Street, Suite 2600
San Francissco, CA 94111
Via Fax: (415) 352-3606

State of California – The Resources Agency ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

March 17, 2005

RECEIVED
MAR 18 2005
SAN FRANCISCO BAY CONSERVATION & DEVELOPMENT COMMISSION

Ms. Christina Ratcliffe
Project Planner
Solano County Environmental Management
470 Chadbourne Road
Fairfield, CA 94534
Via Fax: (707) ~~421~~ 784-4805

Dear Ms. Ratcliffe:

Potrero Hills Landfill
Environmental Impact Report SCH # 2003032112
Solano County

Department of Fish and Game (DFG) personnel have reviewed the Draft Environmental Impact Report (DEIR) for the proposed Potrero Hills Landfill Expansion Project (project). We are aware that we are submitting these comments after the close of the comment period, but we hope they will receive consideration by Solano County (County). The project proposes the expansion of an existing landfill and modification of the existing Use Permit, Solid Waste Facilities Permit and Marsh Development Permit for the Potrero Hills Landfill (PHLF).

The Potrero Hills is a unique feature that is located in the secondary management area of the Suisun Marsh. To protect this unique habitat the California government enacted the Nejedly-Bagley-Z'berg Suisun Marsh Preservation Act (SMPA) of 1974. The SMPA directed the Solano County Planning Commission and DFG to prepare a Suisun Marsh Protection Plan "to preserve the integrity and assure continued wildlife use" of the Suisun Marsh. The SMPA was enacted in 1977 to incorporate the findings and policies contained in the plan into State law.

Chapter 5, Article 1 29409 of the SMPA states: "Notwithstanding the policies of the protection plan, the local protection program may not preclude the future development of a new solid waste disposal site in the Potrero Hills if it can be demonstrated that the construction and operation of solid waste facilities at that site would not have significant, adverse

ecological or aesthetic impacts on the marsh." The proposed project will result in permanent impacts to special status species, including breeding ponds and terrestrial habitat for the Federally threatened California tiger salamander (CTS), and permanent impacts to Spring Branch Creek by relocating and piping the waterway. These impacts are ecologically significant.

The project proposes to increase the height of the landfill approximately 100 feet higher than the surrounding natural landscape. This change in elevation will change the natural surface drainage patterns in this area, potentially impacting the stockponds, Spring Branch Creek, and the waterways to the north which will receive an increase of water from the project site. These impacts were not evaluated in the DEIR.

Spring Branch Creek is proposed to be relocated and piped at the southern edge of the site. Typically, DFG discourages the filling and relocation of sections of natural drainages. Additionally, the pipe would be placed at the bottom of a buttress fill. Without greater details of the engineering design of this pipeline, DFG is concerned about water quality, erosion, and slope stabilization. Culverts and pipelines have an expected life span that may be less than the life of this project. If the culvert/pipeline fails, there is a potential for failure of the slope, increased sediment into the waterways, and water quality degradation.

For any activity that will divert or obstruct the natural flow of, or change or use any material from the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake, DFG may require a Streambed Alteration Agreement (SAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant. Issuance of SAAs is subject to the California Environmental Quality Act (CEQA). The Department, as a responsible agency under CEQA, will consider the local jurisdiction's (lead agency) Negative Declaration or Environmental Impact Report for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. A Notification Package for Lake and Streambed

Alteration Agreements and Section 1600 et seq. of the Fish and Game Code can be obtained at www.dfg.ca.gov/1600/index.html or by contacting the regional office at (707) 944-5520.

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Sincerely,

for Scott Wilson
Robert W. Floerke
Regional Manager
Central Coast Region

cc: ✓Ellen Sampson
Bay Conservation and
Development Commission
50 California Street, Suite 2600
San Francissco, CA 94111
Via Fax: (415) 352-3606

California Regional Water Quality Control Board

San Francisco Bay Region

Dr. Alan Lloyd
Secretary for Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
http://www.waterboards.ca.gov/sanfranciscobay

Arnold Schwarzenegger
Governor

See Attached Mailing List

Date: January 12, 2005

SUBJECT: Treated Auto Shredder Waste, Clarification and Revision to Water Board Letter of October 28, 2004

To Whom It May Concern:

This letter is to clarify and revise the subject letter that described conditions for acceptance of Treated Auto Shredder Waste (TASW) at Municipal Solid Waste Landfills (MSWLF). In that letter the third and fourth paragraphs lead to confusion on the applicability and implementation of reporting requirements and the Department of Toxic Substances Control (DTSC) de-classification of TASW.

DTSC has subsequently confirmed that the de-classification of TASW remains in effect and that any potential future changes will be prospective. In addition, Water Board staff has not seen impacts to water quality from the acceptance of TASW or use as alternative daily cover. We are therefore reaffirming that acceptance of TASW is permitted at MSWLF's within this region and that reporting requirements are as required in either Waste Discharge Requirements or as specifically stated in approval letters prior to the October 28, 2004 letter.

If you have any questions, please contact Terry Seward at 510.622.2416 or email tseward@waterboards.ca.gov.

Sincerely,

Curtis T. Scott, Chief
Groundwater Protection and Waste
Containment Division

Attachment: Mailing List
cc. Via email: Peggy Harris, DTSC
Howard Levenson, California Integrated Waste Management Board

6/1/2005

Treated Auto Shredder Waste - Followup From May Board Meeting (Terry Seward)

At the May 18th Board meeting Mr. Richard Lymp, representing "A Right to Know" addressed the Board during the public forum on the acceptance, disposal, and use of Treated Auto Shredder Waste (TASW) in Region 2's landfills. He alleged that landfill disposal is illegal and in violation of state and federal law, primarily because TASW has been mischaracterized as a nonhazardous waste.

TASW has been acceptable for placement in California's landfills since the 1980's, and is approved by the Waste Board for use as waste daily cover as specified in CCR Title 27. Additionally in the 1980's DTSC, the agency, which regulates the generators of auto shredder wastes, classified TASW as a nonhazardous waste and thus making TASW acceptable for placement in many of Region 2's landfills. DTSC's classification of TASW as nonhazardous waste remains in effect to date. Lastly, in the literature presented by Mr. Lymp, a statement was made that TASW must be placed monolithically in a separate cell within the landfills. The State of California has no regulations or advisories on monolithic TASW placement as confirmed recently by DTSC and the SWRCB.

Staff met with Mr. Lymp on June 1st to listen to and understand his concerns. In that meeting we learned that Mr. Lymp has sued DTSC over this issue. It is staff's position that it would be inappropriate for staff to respond to Mr. Lymp's issues until the courts resolve his lawsuit.

For background information, TASW is a bi-product of the auto wrecking and recycling business and generally consists of the residual non-recyclable fluff (car seats, dashboards, carpet, hoses, etc.) found in autos. Prior to disposal in a landfill the auto shredder waste is treated by the generator to chemically bind soluble heavy metals and prevent their leaching into groundwater and surface water. DTSC regulates the generators and their treatment of auto shredder waste. Over 15 years of monitoring at Region 2 landfills that accept TASW have identified no problems associated with the placement of TASW into a landfill.

California Regional Water Quality Control Board
San Francisco Bay Region

Dr. Alan Lloyd
Secretary for Environmental Protection

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Arnold Schwarzenegger
Governor

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If you have any questions, please contact Terry Seward at 510.622.2416 or email tseward@waterboards.ca.gov.

Sincerely,

Curtis T. Scott, Chief
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§ 20690. CIWMB - Alternative Daily Cover. (T14:§17682, 17258.21(b))

(a) **General Requirements**

(1) Alternative materials of alternative thickness for daily cover (other than at least six inches of earthen material) for municipal solid waste landfill units may be approved by the EA with concurrence by the CIWMB, if the owner or operator demonstrates that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(2) Alternative daily cover alone, or in combination with compacted earthen material, shall be placed over the entire working face at the end of each operating day or at more frequent intervals to control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. For the purposes of this section, the operating day shall be defined as the hours of operation specified in the solid waste facility permit, and may extend for more than 24 hours if operations are continuous. Waste-derived alternative daily cover shall be processed prior to spreading and compacting on the working face and applied and compacted to ensure that all exposed waste is completely covered by ADC and that there are no open voids within the cover material or in contact within the underlying wastes. Waste materials used as ADC that already meet the grain-size specifications of these regulations, or an alternative grain size approved by the EA and CIWMB pursuant to this section, need not be processed if the EA determines that the material as received at the landfill is adequate to perform the functions of daily cover and meets the appropriate specifications.

(3) Should the application of alternative daily cover become impracticable or contribute to conditions hazardous to public health and safety and the environment, the owner or operator shall terminate such use and revert to the use of compacted earthen cover material in accordance with §20680. For the purposes of this section, impracticable conditions are those which make placement of alternative daily cover difficult due to adverse climatic or other conditions such that the performance requirements of ¶(a)(2) cannot be met.

(4) The owner or operator shall place compacted earthen material over the entire working face at the end of any operating day preceding a period of time greater than 24 hours when the facility is closed, unless procedures as required by the EA are in place to ensure that the requirements of ¶(a)(2) and (a)(3) are met. A stockpile of earthen cover material and required equipment shall be available to ensure a corrective response to violation of ¶(a)(2) and (a)(3). Whenever an EA determines that an application of ADC is not meeting the requirements of this standard, the EA may direct the operator to immediately cover the ADC with soil. The continuing use of ADC that has been determined by the EA as not meeting the requirements of this section may become the basis for the EA to take enforcement action to seek compliance with the requirements of this section.

(5) The owner or operator shall maintain a record of waste derived alternative daily cover in accordance with Title 14, California Code of Regulations, §18800 *et. seq.* The records shall be available for inspection by authorized representatives of the EA, the local health agency, and the CIWMB during normal business hours and retained in the operating record near the site or in an alternative location approved by the EA.

(6) For waste classification, composition, and liquid percolation requirements of alternative daily cover, refer to the SWRCB requirements set forth in §20705.

(7) Waste derived materials used as alternative daily cover shall be restricted to quantities no more than necessary to meet the performance requirements of ¶(a)(2), or as specified in subdivision (b) of this section. Should the CIWMB determine after consulting with the EA that an owner or operator violated this standard, the owner or operator shall revise the applicable reports to reflect the overuse as disposal, and pay the required Board of Equalization (BOE) disposal tipping fees for the amount of overuse. EAs shall not be responsible for making such determinations.

(8) Compost, co-compost, and chemically fixed sewage sludge and water treatment sludge only, that meet the performance standards for cover material, shall be limited to up to 25% of landfill cover materials or landfill cover extenders as required under Public Resources Code (PRC) 42245. For the purposes of this section, "chemically fixed sewage sludge" means solid and semisolid residue generated during the treatment of domestic sewage. The 25% limit shall apply on a quarterly basis to the total daily and intermediate cover or cover extender use. For the purposes of this section, landfill cover extenders shall mean compost, co-compost, or chemically fixed sewage sludge blended or mixed with soil.

(9) Storage and handling of waste derived materials at the landfill for use as alternative daily cover shall be conducted in a manner to protect public health and safety and the environment, and control vectors, fires, odors, blowing litter, scavenging, and nuisances.

(10) The EA shall apply this section to disposal facilities other than municipal solid waste landfill units as necessary to control vectors, fires, odors, blowing litter, scavenging, and nuisances without presenting a threat to human health and the environment. This requirement shall also apply to municipal solid waste landfills which qualify for a delay in the general compliance date or additional flexibility as specified in 40 CFR Part 258.

(11) The owner or operator shall implement a program described in the Report of Disposal Site Information as required by §21600(b)(6) to minimize contamination of alternative daily cover with wastes not included within the individual alternative daily cover material types specified in subdivision (b) of this section and wastes that would conflict with the performance requirements of (a)(2).

(b) **Specific Requirements**

All types of ADC must be approved by the EA in writing prior to use at solid waste landfills as consistent with Title 27, California Code of Regulations, §21570 through §21686. Proposed uses of alternative daily cover materials not specified in ¶(b)(1) through (10) shall be subject to site specific demonstration projects approved by the EA with concurrence by the CIWMB to establish suitability as daily cover. Unless otherwise specified in this section, alternative daily cover use by blending listed materials other than using side-by-side on the working face, or layering on top of one another listed materials, shall require site-specific demonstration projects approved by the EA with concurrence by the CIWMB as required by subsection (a)(1). Site specific demonstration projects are not required for the following materials used as specified and in accordance with subdivision (a) of this section.

(1) **Geosynthetic Fabric or Panel Products (Blankets)**

(A) Geosynthetic blanket products shall be removed from the waste and the waste shall be covered with new waste or approved cover materials within 24 hours of product placement, unless the product is intended to be nonreusable, or has been approved by the EA for continuous use beyond 24 hours.

(2) **Foam Products**

(A) Foam products shall not be applied when there is precipitation or when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

(B) Foam products shall be covered with waste or other approved cover materials within 72 hours of application, unless a shorter time period is required by the EA to meet the requirements of ¶(a)(2) and (a)(3) of this section.

(3) **Processed Green Material**

(A) For the purposes of this section, processed green material means any plant material that is either separated at the point of generation, or separated at a centralized facility that employs methods to minimize contamination. Green material includes, but is not limited to, yard trimmings, untreated wood wastes, paper products, and natural fiber products. Green material does not include treated wood waste, mixed demolition or mixed construction debris, manure and plant waste from the food processing industry, alone or blended with soil. Processed green material may include varying proportions of wood waste from urban and other sources and shall be ground, shredded, screened, source separated for grain size, or otherwise processed.

(B) Green material used for alternative daily cover shall be processed prior to being applied to the working face unless the green material to be used as alternative daily cover already meets the grain size specifications. Prior to spreading and compacting on the working face, processed green material shall comply with a grain size specification by volume of 95% less than 6 inches. Alternative processing and grain size specification requirements may be approved by the EA if the EA determines that the alternative meets the performance requirements of (a)(2) and (a)(3) of this section and the CIWMB concurs.

(C) Processed green material shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches.

(D) Processed green material placed as cover shall not be exposed for greater than 21 days.

(4) Sludge and Sludge-Derived Materials

(A) Public contact with sludge or sludge-derived materials, either alone or blended with soil, ash, processed green material, or stabilization agents such as lime, lime kiln dust, or cement kiln dust, shall be prohibited. This prohibition shall apply to staging, processing, tipping, and cover placement areas.

(B) Sludge or sludge-derived materials, either alone or blended with soil, processed green material, ash, or stabilization agents such as lime, lime kiln dust, or cement kiln dust, shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area.

(C) Sludge or sludge-derived materials shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches.

(5) Ash and Cement Kiln Dust Materials

(A) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents, shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area. For the purposes of this section ash means the nonhazardous residue from the combustion of material or the hazardous residue which may be managed as a nonhazardous waste in accordance with Title 22 California Code of Regulations §§66260.200(f) or 66260.210.

(B) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents shall be used as alternative daily cover in a manner to minimize the creation of dust.

(C) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents, shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 12 inches.

(6) Treated Auto Shredder Waste

(A) Auto shredder waste shall be treated pursuant Title 22, California Code of Regulations, §66268.106(a)(1).

(B) Treated auto shredder waste used for alternative daily cover shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 24 inches.

(7) Contaminated Sediment, Dredge Spoils, Foundry Sands, Energy Resource Exploration and Production Wastes

(A) Contaminated sediment, dewatered dredge spoils, foundry sands, or processed energy resource exploration and production wastes shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 12 inches. Such materials shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area.

(8) Compost Materials

(A) Except as provided in ¶(b)(8)(B), of this section, compost shall meet the environmental health standards of Title 14, California Code of Regulations, Division 7, Chapter 3.1, Article 7.

(B) Public contact shall be precluded from cover staging, processing, tipping, and placement areas for compost which does not meet the environmental health standards of Title 14, California Code of Regulations, Division 7, Chapter 3.1, Article 7.

(C) Compost materials shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches. Compost materials shall comply with a grain size specification by volume of 95% less than 6 inches.

(9) Processed Construction and Demolition Wastes and Materials

(A) Processed construction and demolition wastes and materials shall be ground, pulverized, shredded, screened, source separated, or otherwise processed, alone or mixed with soil in a manner to provide a compacted material free of open voids when applied to meet the performance requirements as alternative daily cover.

(B) Processed construction and demolition wastes and materials used as alternative daily cover shall be restricted to the following materials: rock, concrete, brick, sand, soil, ceramics, cured asphalt, lumber and wood, wood products, roofing material, plastic pipe, plant material when commingled from construction work, and fines derived from processing the above materials.

(C) Construction and demolition wastes shall be processed prior to being applied to the working face. Prior to spreading and compacting on the working face, these materials shall comply with a grain size specification by

volume of 95% less than 12 inches and 50% less than 6 inches as determined by the EA. The CIWMB shall provide technical assistance in making this determination if requested by the EA. Alternative processing and grain size specification requirements may be approved by the EA if the EA determines that the alternative meets the performance requirements of (a)(2) and (a)(3) of this section and the CIWMB concurs.

(D) Construction and demolition wastes shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 18 inches.

(10) **Shredded Tires**

(A) Shredded tires used as daily cover alone or mixed with soil shall be shredded such that 50% by volume is smaller than 6 inches in length and no individual pieces are greater than 12 inches in length.

(B) Shredded tires used as alternative daily cover without admixed soil shall not be applied when there is precipitation or when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

(11) **Spray applied Cementitious products**

(A) Such products shall not be applied when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

Note: Authority cited: Section 40502, 41781.3, 43020, 43021, 43030 and 43103 Public Resources Code. Reference: Sections 40508, 42245, 43020 and 43021 Public Resources Code; and Code of Federal Regulations Section 258.21.

§20695. CIWMB - Cover Performance Standards. [T14:§17683]

The EA may require the following cover performance standards if necessary to control vectors, fires, odors, and blowing litter and to evaluate the suitability of alternative daily or intermediate cover:

(a) **Vectors**

(1) **Threshold Values** — The following shall constitute threshold values for vector populations:

(A) Flies-A fly grill survey value of six (6) or more domestic flies, or observations of domestic flies in the "crawler" stage (newly emerged adults prior to wings becoming functional) at a density of three (3) or more per square yard of surface area at any location on the disposal area. Domestic flies are considered to be those species in the Families: Muscidae (including Anthomyiidae), Calliphoridae, Sarcophagidae, and Drosophilidae.

(B) **Domestic Rats** — The trapping of one or more domestic rats anywhere on the disposal site. Domestic rats are considered to be any species in the genus Rattus.

(C) **Field Rodents** — Observation of five (5) or more field rodents feeding on the active face of the disposal site. Field rodents are considered to be any species in the Family Sciuridae.

(D) **Mosquitoes** — The observation of any immature mosquito stages from water holding waste materials on the disposal site.

(E) **Wasps, cockroaches, etc.** — The observation of excessive populations utilizing accepted norms.

(2) **Inspection Practices**

(A) **Schedule** — Fly grill surveys shall be conducted on each disposal site a minimum of once per week. Sampling to determine the species composition of the fly population shall be conducted a minimum of once per month. Rat trapping surveys shall be conducted at least once each month. Observations for mosquitoes, wasps, cockroaches, "crawler" flies or other types of vectors shall be made during each inspection of the disposal site. The EA may approve alternative inspection schedules or cease inspections if previous inspections or other observations indicate no further threat to public health and safety.

(B) **Procedure** — Ten (10) fly grill counts shall be made over appropriate attractants on the active face of the disposal site during each inspection utilizing accepted practices to count and record the flies. The five (5) highest counts shall be averaged to obtain the value for that inspection. In sampling to provide qualitative data for the fly species composition on a disposal site, any of the following or other acceptable method for sampling adult flies shall be observed:

To: June Guidotti
From: Keith Roberson, Regional Water Quality Control Board San Francisco Bay
Date: October 25, 2005
Re: The use of Treated Auto Shredder Waste and Reclaimed Water at Potrero Hills Landfill

Ms. Guidotti,

This letter responds to your letter dated October 10, 2005, in which you asked questions about the use of Treated Auto Shredder Waste (TASW) and reclaimed water at the Potrero Hills Landfill (PHLF). Specifically, you asked us

1) To determine if the material being used as alternative daily cover at PHLF is indeed property *treated* auto shredder waste;
2) To verify that the RWQCB has approved the use of TASW as alternative daily cover at PHLF;
3) To verify that TASW is not being used as an operations layer at PHLF;
4) To disclose what approvals the PHLF operator has obtained from our agency to use reclaimed water at the facility and inform you of any limitations on the use of reclaimed water at the site; and
5) If we have any test data on the chemical characteristics of the reclaimed water used at the site.

The following are our answers to your questions:

1) It is the responsibility of the Department of Toxic Substances Control (DTSC) to regulate the treatment of auto shredder waste and certify that it meets performance and quality criteria. DTSC regulates TASW at the facilities where it is generated.
2) The RWQCB, San Francisco Bay Region, has approved the use of TASW as an alternative daily cover material for all municipal solid waste landfills in our region. This acceptance is consistent with California Code of Regulations(CCR) Title 27, Section 20690 (attached). Also, please see attached letter dated January 12, 2005, which clarifies RWQCB's regulation of TASW. This approval applies to PHLF; we do not have a separate set of regulations for PHLF.
3) As you noted in your letter, the RWQCB does not allow PHLF to use TASW as an alternative operations layer (the layer of material that covers the composite liner at the base of a disposal cell). I personally inspected the Potrero Hills Landfill on October 20, 2005, to inspect the installation of the liner in the newly constructed cell, and observed that TASW is not being used as an alternative operations layer during new cell construction at the site.
4) The RWQCB allows PHLF to apply reclaimed water for dust suppression at the site. We do not require PHLF to use potable water for this purpose.
5) The RWQCB regulates reclaimed water through a general (Region-wide) permit, #96-011. This NPDES permit sets standards that must be met by wastewater treatment facilities (POTWs) to discharge treated water to the San Francisco Bay. This permit contains bacterial level limits in the permit that are in accordance with Title 22 DHS regulations for public health protection. POTWs generally set

more stringent standards for water that is to be distributed for land application. The reclaimed water used at PHLF comes from the Fairfield-Suisun Sewer District, which submits routine effluent monitoring reports to the RWQCB in compliance with its NPDES permit #CA-0038024. These reports are available for viewing in our public files.

Keith Roberson

Mailing List:

Republic Services, Northern California
Attention: Mr. David Grede
4001 North Vasco Road
Livermore, California 94550

Zanker Road Landfill &
Zanker Materials Processing Facility
Attention: Mr. Paul Lineberry
705 Los Esteros Road
San Jose, California 95134

Guadalupe Rubbish Disposal Company
Attention: Paul Michael
P.O. Box 20957
San Jose, CA 95160

Kirby Canyon Rec. & Disposal Facility
Attention: Guy R. Petraborg
172 98th Avenue
Oakland, CA 94603

City of Palo Alto Landfill
Attn: Sean Kennedy
Public Works Department
3201 East Bayshore Road
Palo Alto, California 94303

Newby Island Landfill
Attention: Gil Cheso
1601 Dixon Landing Road
Milpitas, CA 95035

Redwood Landfill
Mr. Ramin Khany
P.O. Box 793
Novato, CA 94948

Clover Flat Landfill

Clover Flat Landfill
Attention: Ms. Marilyn Ryan
P.O. Box 382
St. Helena, California 94574

Ox Mountain Sanitary Landfill
Attention: Mr. Jim Gunderson
12310 San Mateo Road
Half Moon Bay, CA 94019-7112

Keller Canyon Landfill
Mr. Norm Christensen
901 Bailey Road
Pittsburg, CA 94565

Potrero Hills Landfill
P.O. Box 68
Fairfield, CA 94553

Waste Management – Tri Cities Landfill
Attention: Mr. Patrick McDonald
7010 Auto Mall Parkway
Fremont, California 94538

RE
Nancy for the Public
and the need of the people
and protection to Travis Air
Force Base. Please add to
the Record. Happy Easter

3/22/2008 g

To: Nancy Ferris
RE: Existing & Proposed Projects Map Figure 10 CBCDC
Enclosed
RE. March 26, 2008 Public Meeting
Prepare a Joint EIR Statement
S.F. Bay to Stockton (John F. Baldwin
and Stockton Ship Channels.)
Navigation Improvement project,
Cal.

Nancy Please in the EIR address the
concern on all the appeal to BCDC that
the Public is still waiting for a hearing
to these appeals filed in 2005. (Ellen Sampson)
Potero Hill Landfill project has changed
and new information needs to be
> address. Solano County General plan
needs to be address on what the
impacts to the Suisun Marsh are as
the Big Builders will try to use
shipping channel for the wrong use.
In 1974 the draft General plan was going
to shred and dry the garbage at Mare Island
Please address in the EIR
JF

RESOURCE MANAGEMENT
DEC 10 2007
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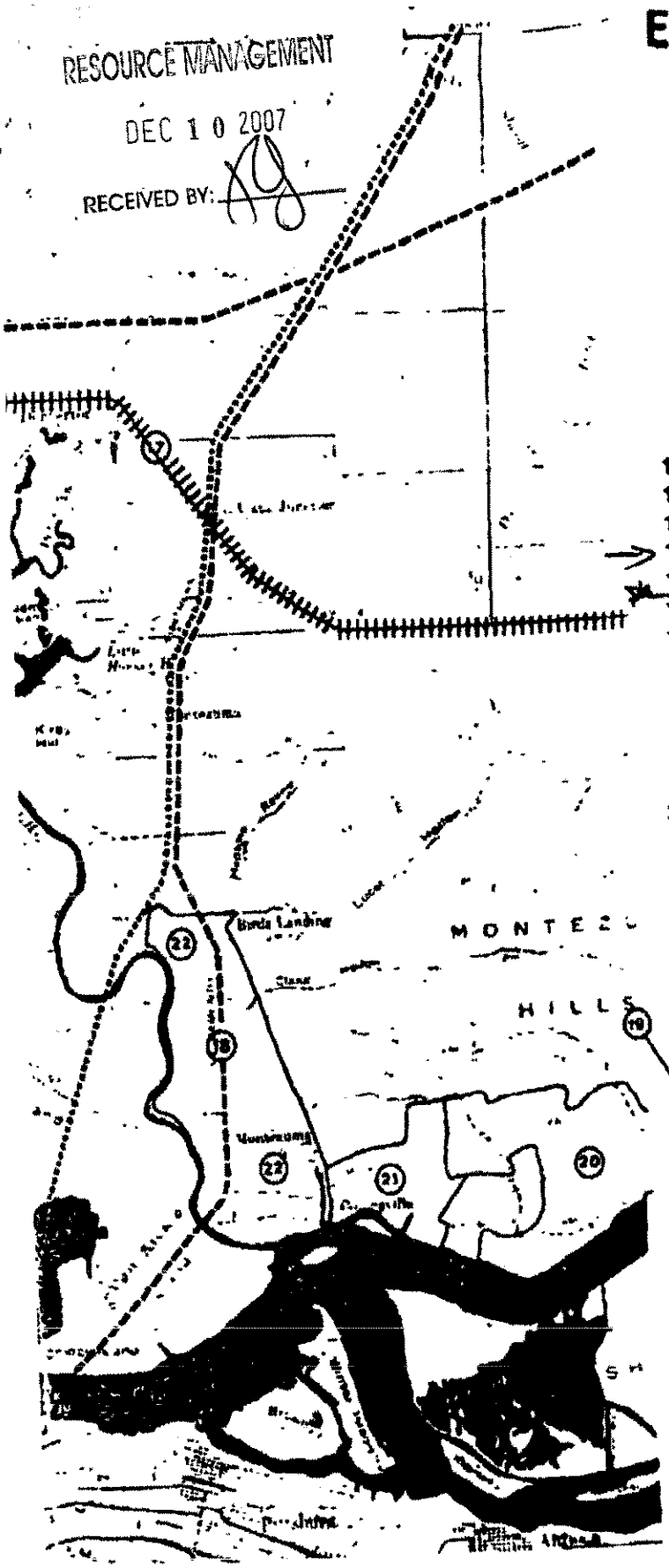
EXISTING AND PROPOSED PROJECTS

1 Cordelia Villages
2 Wastewater Pilot Project
3 Cordelia Commerce Park
4 Abernathy Road Interchange
5 Anheuser-Busch Brewery
6 Fairfield Subregional Sewage Treatment Plant
7 Fairfield Streams Project
8 Suisun Pacific Marina
9 Suisun Villages
10 Laurel Estates
11 Cold Springs Harbor
12 Suisun Slough Channel
13 Solano Garbage Company
14 Envirosol, Inc.
15 Explosives Technology Corp.
16 North Bay Aqueduct
17 Highway 12 Improvements
18 East Bay Municipal Utilities District Aqueduct
19 Atlantic Richfield Petrochemical Plant
20 Dow Petrochemical Plant
21 PG&E Power Plant
22 National Steel Co.-SP Transportation Co. Property
23 Shell Natural Gas Pipeline
24 Benicia Industrial Park

Number 13 is Charlotte and see parcel. Look Brigitta Cordello Number 14 is Letter N PHLF

Pipeline
Aqueducts
Highway Improvements
Present Dredged Channel & Proposed Flood Control Project


MONTEZ
HILLS
Benicia Landing
Montezuma
Collinsville
Suisun Slough
Chipps Island
Grizzly Island
Ryer Island
Decker Island
Roe Island
Ryer Island
Sherman Island
Brannan Island
Twitchell Island
Bradford Island
Jersey Island
Rio Vista
Isleton
Walnut Grove
Hood
Courtland
Clarksburg
Freeport
Locke
Walnut Grove
Ryde
Terminous
Thornton
Stockton
Lodi
Lockeford
Woodbridge
Galt
Elk Grove
Sacramento
Rio Linda
Antioch
Pittsburg
Concord
Martinez
Pleasant Hill
Walnut Creek
Lafayette
Orinda
Moraga
Oakley
Brentwood
Knightsen
Byron
Bethel Island
Discovery Bay
Clifton Court Forebay
Tracy
Mountain House
Vernalis
Ripon
Manteca
Lathrop
Tracy
Mossdale
Banta

RESOURCE MANAGEMENT
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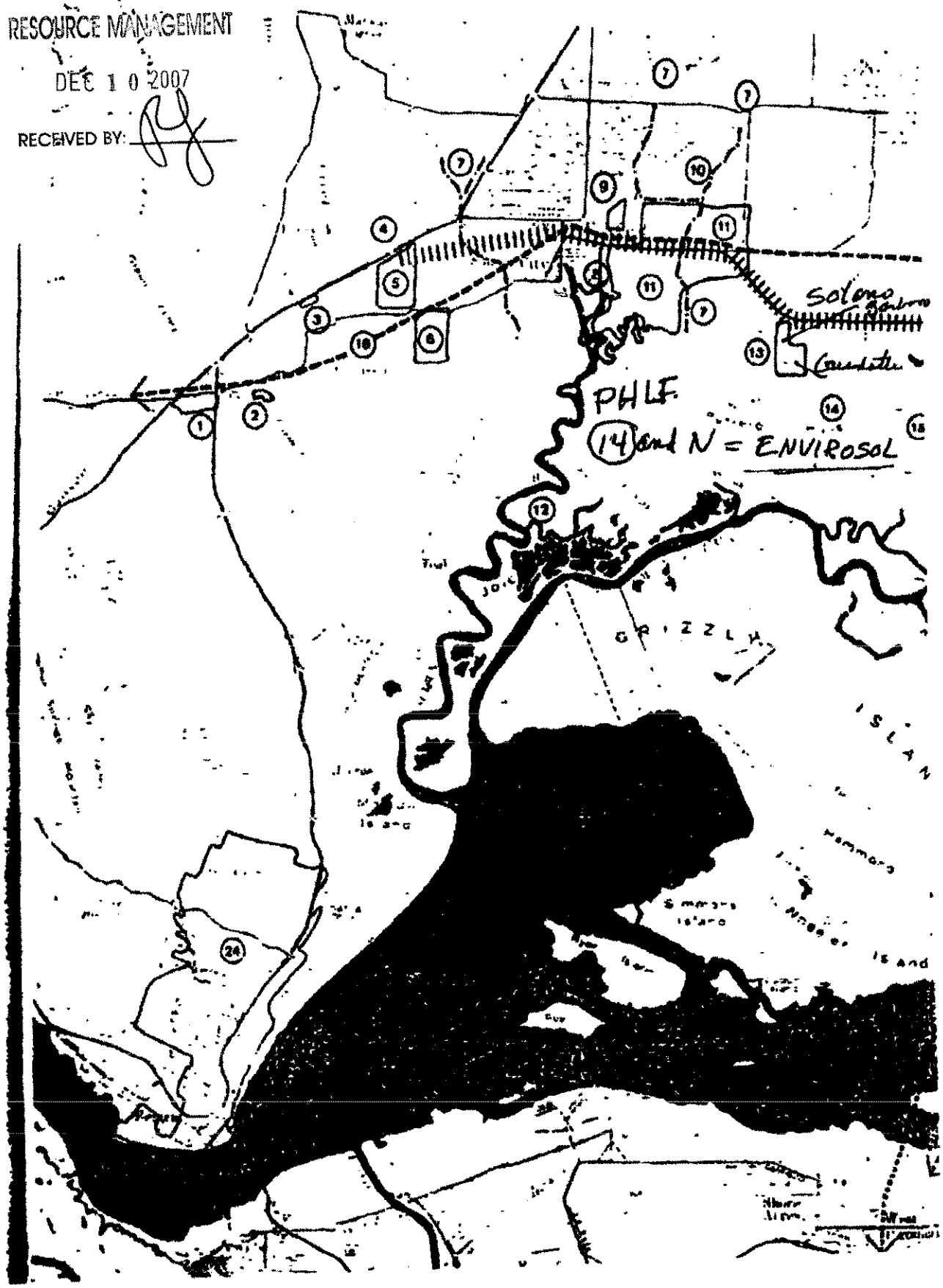

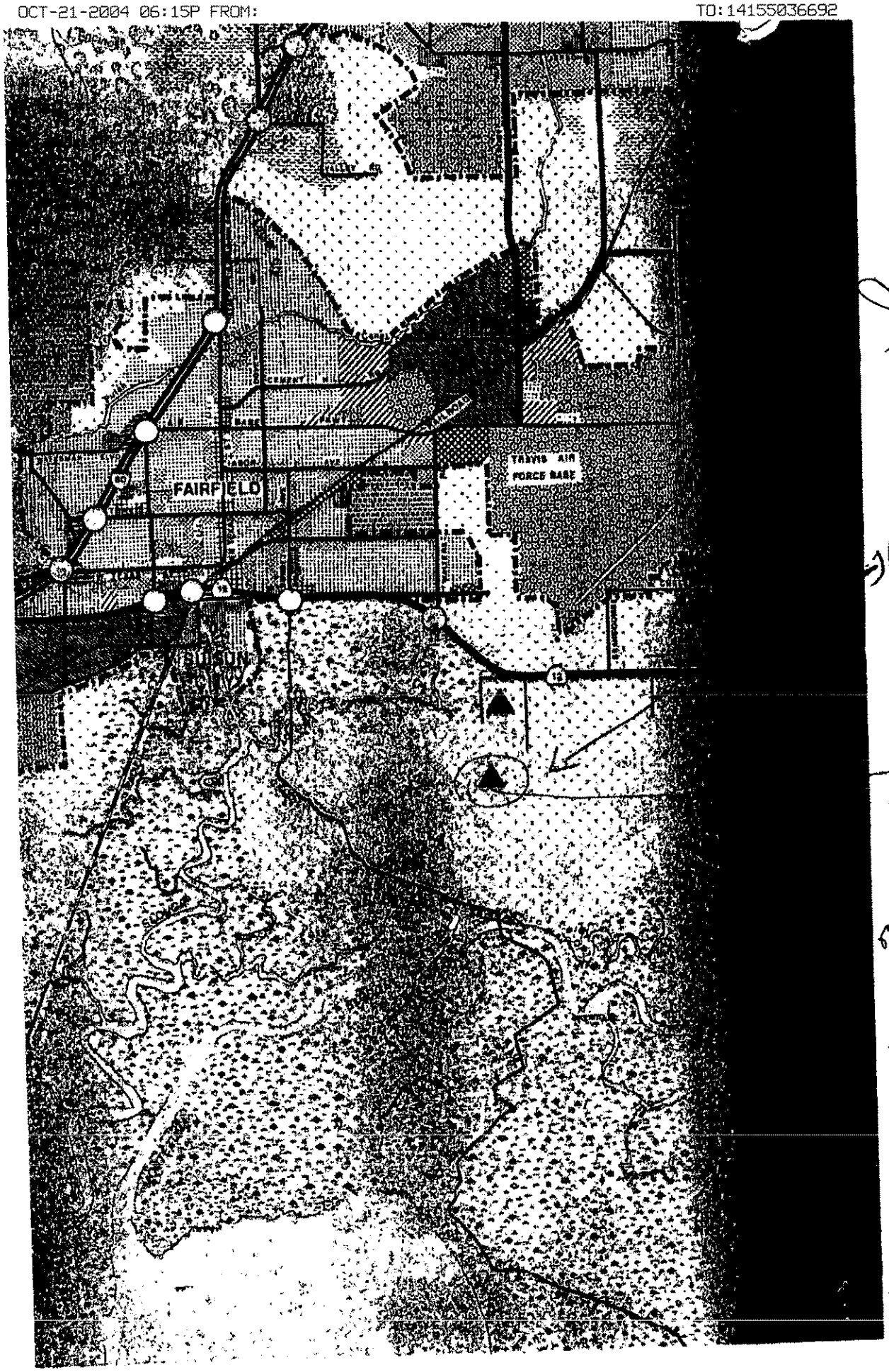

RESOURCE MANAGEMENT
DEC 10 2007
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Not Lois Tonnesen

Guilette Land not PHLF

Water Rights Essential Operations

Map Solid Waste 2010

General plan

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procedures for the submission, review, and appeal of applications for marsh development permits to be issued by local government. Such procedures shall include reasonable provisions for notification to the commission and other interested persons of any action by a local government pursuant to this division in sufficient detail to assure that a preliminary review of such action for conformity with the provisions of this division can be made.

29522. (a) Any appealable action on a marsh development permit for any development by a local government may be appealed to the commission by any aggrieved person or by any two members of the commission. Such action shall become final after the 20th working day after receipt of the notice required by Section 29521, unless an appeal is filed within that time.

(b) If an appeal of any action on a development by any local government is filed with the commission, the operation and effect of such action shall be stayed pending the commission's decision on the appeal.

29523. The commission shall hear an appeal unless it determines that the appeal raises no substantial issue as to the conformity of the proposed development with the provisions of this division, the local protection program, if in existence, and the policies of the protection plan.

29524. (a) The commission shall provide for a public hearing de novo on any appeal brought pursuant to this division and shall give to any affected person a written public notice of the nature of the proceeding and of the time and place of the public hearing. Notice shall also be given to any person who requests, in writing, such notice. A hearing on any appeal shall be set not earlier than 21 days nor later than 42 days after the date on which the appeal is filed with the commission.

(b) The commission shall act upon an appeal within 21 days after the conclusion of the hearing pursuant to subdivision (a) and may approve, modify, or deny the application for the proposed development; and if no action is taken within the time limits specified in this subdivision and subdivision (a), the decision of the local government shall become final.

(c) Thirteen affirmative votes of members of the commission, or of the commission hearing an appeal, are required to grant a permit. Neither of the federal representatives who are members of the commission may vote on whether or not a permit shall be granted.

(d) The applicant for a marsh development permit may waive any time limits prescribed in this section.

CHAPTER 7. JUDICIAL REVIEW, ENFORCEMENT, AND PENALTIES

Article 1. General Provisions

29600. The provisions of this chapter shall be in addition to any

other remedies available pursuant to law.

29601. The provisions of Chapter 4 (commencing with Section 66630) of Title 7.2 of the Government Code relating to cease and desist orders and penalties for violations thereof shall apply to all development for which a marsh development permit from the commission, or the commission hearing an appeal, may be required under this division.

29602. Any aggrieved person may seek judicial review of any decision or action of the commission by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 60 days after such decision or action has become final.

29603. Any aggrieved person, including an applicant for a marsh development permit, or the commission, may seek judicial review of any decision made or any action taken pursuant to this division by a local government that is implementing the certified local protection program, or any component thereof, whether or not such decision or action has been appealed to the commission, by filing a petition for writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 60 days after the decision or action has become final. The commission may intervene in any such proceeding upon a showing that the matter involves a question of the conformity of a proposed development with the certified local protection program, or any component thereof, or the validity of any action taken by a local government to implement or amend the local protection program, or any component thereof. Any local government may request that the commission intervene. Notice of any such action against a local government shall be filed with the commission within five working days of the filing of such action. When an action is brought challenging the validity of the local protection program, or any component thereof or any amendment thereto, a preliminary showing shall be made prior to proceeding on the merits as to why such action should not have been brought pursuant to the provisions of Section 29602.

29604. Any person may maintain an action to enforce the duties specifically imposed upon the commission, any governmental agency, any district, or any local government by this division. No bond shall be required for an action under this section.

29605. Any person may maintain an action for the recovery of civil penalties provided in Section 29610 or 29611. Any penalties so recovered shall inure to the state and shall be deposited in the General Fund. However, the person recovering such penalties shall be entitled to reimbursement for reasonable attorney's fees out of the penalties so recovered.

29606. Any civil action under this division by or against a city or county, the commission, a district, or any other public agency shall, upon motion of either party, be transferred to a county or city and county not a party to the action or to a county or city and county

EXHIBIT A
JUNE GUIDOTTI AND FAMILY AND THE PUBLIC APPEAL OF SUISUN MARSH DEVELOPMENT PERMIT NO. MD-07-01

1. INTRODUCTION

This is an appeal of the Solano County Board of Supervisors' (BOS) approval Suisun Marsh Development Permit No. MD-07-01, which is a permit allowing for the conversion of 4.0 acres of existing lowland and upland grasslands to 2.4 acres of seasonal wetlands and enhancement of 1.6 acres of native upland habitat by Mr. Jeff Dittmer and Mr. John Zentner. On August 14, 2007, the BOS upheld the Solano County Planning Commission approval for the proposed project in the Suisun Marsh Secondary Management Area. As described below, the proposed wetlands construction/restoration project, as identified in MD-07-01 do not conform to the Suisun Marsh Preservation Act (SMPA), the Suisun Marsh Protection Plan (SMPP), or the certified Local Plan of Protection (LPP) and the California Environmental Quality Act (CEQA). June Guidotti and family respectfully requests that the San Francisco Bay Conservation and Development Commission (BCDC) issue an order to invalidate MD-07-01, as set forth by the BOS, as well as deny the Administrative Permit that is also under consideration by BCDC for the portion of the project located in the Suisun Marsh Primary Management Area.

2. DISCUSSION

A. Solano County Planning Commission (Planning Commission) Action

The Planning Commission held a hearing on July 5, 2007 to hear oral testimony and to receive information regarding the application for MD-07-01. After discussion of the scope of the Project, the Planning Commission voted unanimously to approve MD-07-01.

B. Solano County Board of Supervisors Action

June Guidotti appealed the Planning Commission's approval of MD-07-01 to the BOS. The BOS held a hearing on August 14, 2007 to consider oral argument and evidence thereon. At the conclusion of the hearing, the BOS voted to approve MD-07-01 in agreement with the Planning Commission's July 5, 2007 decision.

June Guidotti provided written and oral comments at both the BOS and Planning Commission meetings in opposition to the Zentner and Dittmer application to construct wetlands per MD-07-01. For the reasons set forth below, the BOS's decision to approve MD-07-01 fails to conform to the SMPA, SMPP, the LPP, as well as the California Environmental Quality Act (CEQA) and this appeal should be granted.

C. Authority for Appeal to BCDC and Standard of Review

Pursuant to Public Resources Code section 29504, June Guidotti may appeal the BOS's decision to issue and/or modify MD-07-01. BCDC conducts its appellate review of the BOS's issuance of the MD-07-01 under the *de novo* standard of review. (14 Cal. Code of Regulations, Section 11451). The de novo standard "...contemplates not simply a new public hearing but that all matters involved be decided 'anew', 'afresh', and 'over again.'" (*Coronado Yacht Club v. California Coastal Commission ("Coronado")* (1993) 13 Cal. App.4th 860, 871-872, citing *REA Enterprises v. California Coastal Zone Conservation Commission* (1975) 52 Cal.App.3d 596, 613.) "In other words, the [agency] must hold an entirely new hearing evaluating all aspects of the permit application as if no decision had been previously rendered." *(Coronado, supra, at p. 872)* Thus, in this appeal BCDC exercises its independent judgement in interpreting the issues and facts raised, and BCDC does not defer to the BOS's findings of fact or conclusions of law.

D. Suisun Marsh Preservation Act

The SMPA is found at Public Resources Code Section 29000 *et seq.* In pertinent part, the SMPA provides the authority for adoption of the SMPP and LPP. (California Public Resources Code, Sections 29004 and 29400 *et seq.)* The SMPA mandates that any person wishing to perform or undertake any development in the marsh shall obtain a marsh development permit (California Public Resources Code, Section 29500.) Permits for the Primary Management Area are to be obtained from the Commission (California Public Resources Code, Section 29501) and permits for the Secondary Management Area are to be obtained from the local government having jurisdiction over the land in which the proposed development is to occur (California Public Resources Code, Section 29502).

The SMPA mandates that a Suisun Marsh Development Permit (SMSP) may only be issued if it is for a proposed development that is consistent with both the SMPP and LPP. (California Public Resources Code, Section 29503.) The SMPA also contains findings regarding the Suisun Marsh, including the finding that "the Suisun Marsh represents a unique and irreplaceable resource to the people of the state and nation; that future residential, commercial, and industrial developments could adversely affect the wildlife value of the area; and that it is the policy of the state to preserve and protect resources of this nature for the enjoyment of the current and succeeding generations." Penalties for intentionally or negligently violating the SMPA include a civil fine not to exceed five thousand dollars (29610) and for persons who intentionally and knowingly commences any development in violation not obtaining a

E. Suisun Marsh Protection Plan

The SMPP is intended to protect the habitat values of the Suisun Marsh from threats posed by potential residential, commercial, and industrial developments (SMPP, p. 9) The SMPP contains findings and policies governing the Suisun Marsh, and sets forth a

program to implement these findings/policies. The following findings and policies are of particular significance to BCDC's consideration of whether the Dittmer and Zentner project to convert of 4.0 acres of existing lowland and upland grasslands to 2.4 acres of seasonal wetlands and enhancement of 1.6 acres of native upland habitat is consistent with the SMPP:

SMPP Findings:

1. The lowland grasslands adjacent to the Marsh constitute an important transition area between the Marsh and uplands and have high value for marsh-related wildlife, particularly when the wetlands are flooded and during periods of high hunting pressure in the Marsh. They also play an important role insulating the Suisun Marsh from potential adverse impacts from adjacent land uses, such as water pollution, predation by domestic pets, and noise (SMPP, p. 12, Paragraph 7).

2. The upland grasslands and cultivated areas adjacent to the Suisun Marsh provide habitats for many species of wildlife that also inhabit the Marsh. Several species of migratory waterfowl, shorebirds, and upland game birds feed in these areas, which also provide a refuge from winter flooding and hunting pressures in the marsh. Birds of prey range over the Marsh and adjacent uplands where the diversity of habitats ensures a varied and abundant source of food. (SMPP, p. 12, Paragraph 8).

3. The upland grasslands and cultivated areas adjacent to the Suisun Marsh are also critical to its protection. These undeveloped areas, presently used for extensive agriculture, function as a buffer for the marsh, insulating it form potential adverse ecological and aesthetic impacts (SMPP, p. 12, Paragraph 9).

SMPP Policies:

1. The diversity of habitats in the Suisun Marsh and surrounding upland areas should be preserved and enhanced wherever possible to maintain the unique wildlife resource. (SMPP, p. 12, Paragraph 1)

2. The Marsh waterways, managed wetlands, tidal marshes, seasonal marshes, and lowland grasslands are critical habitats for marsh-related wildlife and are essential to the integrity of the Suisun Marsh. Therefore, these habitats deserve special protection. (SMPP, p. 12, Paragraph 2)

F. **Solano County Local Plan of Protection**

The SMPA required Solano County to adopt the LPP with specific elements (California Public Resources Code, Sections 29400 and 29401.) The essence of the LPP is the coordination of land use regulations and standards applicable to management of the Marsh and future developments therein. The LPP provides several important policies and findings that are relevant to BCDC's review of MD-07-01, including:

LPP Findings

1. "The Suisun Marsh represents *an area of significant aquatic and wildlife habitat and is an irreplaceable and unique resource to the residents of Solano County, the State and Nation.*" (LPP, p. 1, emphasis added)

2. "The Secondary Management area… serves as *a significant buffer* to the wetland areas." (LPP, p. 7, emphasis added.)

3. "The Suisun Marsh and adjacent uplands provide a unique resource for a wide range of aquatic and wildlife species, due to the occurrence of many diverse habitats in close proximity to each other." (LPP, p. 15, emphasis added.)

LPP Policies

1. Solano County shall preserve and enhance wherever possible the diversity of wildlife and aquatic habitats found in the Suisun Marsh and surrounding upland areas to maintain these unique wildlife resources. (LPP, p. 10.)

2. Solano County shall protect its marsh waterways, managed and natural wetlands, tidal marshes, seasonal marshes and lowland grasslands that are critical habitats for marsh-related wildlife. (LPP, p. 10.)

3. Solano County shall ensure that development in the County occurs in a manner that minimizes impacts of earth disturbances, erosion and water pollution. (LPP, p. 10)

4. The Marsh waterways, managed wetlands, tidal marshes, seasonal marshes, and lowland and grasslands are critical habitats for marsh-related wildlife and are essential to the integrity of the Suisun Marsh. Therefore, these habitats deserve special protection. (LPP, p. 16.)

G. Inconsistencies Between the Project and the SMPA, SMPP and LPP Policies and Findings

Solano County may not issue a Suisun Marsh Development Permit (SMDP) for the Project unless the Project is consistent with the SMPA, SMPP and LPP (California Public Resources Code, Section 29503.) When a S
We contend that the Mr. Dittmer and/or Mr. Zentner initiated the project PRIOR to obtaining a Marsh Development Permit from the County and BCDC and thus created a physical change to the environment without evaluating the potentially significant impacts to the environment. In addition, due to the fact that the proposed project is located within the Secondary and Primary Management of the Suisun Marsh and there are endangered, threatened and species and habitat within the area surrounding the project, a categorical exemption does not apply environmental review of the project should be conducted in accordance with CEQA.

G. Inconsistencies Between the Project and the SMPA, SMPP and LPP Policies and Findings

Solano County may not issue a Suisun Marsh Development Permit (SMDP) for the Project unless the Project is consistent with the SMPA, SMPP and LPP (California Public Resources Code, Section 29503.) Where a party appeals a SMDP that was issued in violation of these authorities, BCDC must invalidate the SMDP. (California Public Resources Code Section 29504.) For a number of reasons, the Project is inconsistent with the SMPA, SMPP and LPP and CEQA and BCDC should invalidate MD-07-01.

Several primary flaws are associated with MD-07-01. The lead agency responsible for the conducting the environmental review for the project and developing the associated permit that was approved by both the Solano Planning Commission and BOS did not disclose to the public either in writing, or orally, that the baseline condition at the project site is largely constructed. The failure to disclose the actual project to the public did not lead to understanding, the public being able to fully participate in the decisions or achievement of sound protection of the marsh in accordance with SMPA Section 29007. In addition, this lack of disclosure, both in the written documents prepared and distributed by the lead agency as well as in oral presentations is not consistent with SMPA.

It should also be noted that the construction began with grading without a grading permit last October 2006, and was done illegally in violation of the SMPA (See Mr. Will Travis's Cease and Desist Order dated March 22, 2007). In addition, the Final Wetland Mitigation Plan (WMP) prepared in accordance with the permit conditions contained in a San Francisco Regional Water Quality Control Board Order for Project No. 864 OLC (RWQCB File No. 2118.03) have been violated by the applicant's agent - Zentner and Zentner, who is responsible under the Order for "implementing the initial wetland and creation, habitat enhancement, monitoring and management and for ensuring the new wetlands achieve the performance criteria described in this program" [Mariner Walk Final Wetland Mitigation Program Dittmer Ranch, ***date issued October 2, 2006*** ***(emphasis added)*** p.2] as well as complying with the requirements that all grading will conform with all local and other approvals [Mariner Walk Final Wetland Mitigation Program Dittmer Ranch, p.24].

As noted in Mr. Travis's Notice and Order, the applicant on several occasions was caught implementing measures in an attempt to reduce the release of erosion off-site to the Hill Slough Wildlife Area managed by the California Department of Fish and Game. These attempts to control soil and erosion from leaving the project site conflict with the LPP policies number 3 and 4 above.

We contend that the Mr. Dittmer and/or Mr. Zentner initiated the project PRIOR to obtaining a Marsh Development Permit from the County and BCDC and thus created a physical change to the environment without evaluating the potentially significant impacts to the environment. In addition, due to the fact that the proposed project is located within the Secondary and Primary Management of the Suisun Marsh and the Marsh is considered a unique and historical resource, and this project is being conducted under the

unusual circumstance of being a mitigation for an off-site project (Mariner Walk, Pittsburg, California) that a categorical exemption is not appropriate. As a mitigated negative declaration was prepared for the Mariner Walk project involving the 0.8 acres of lower value wetlands now being mitigated in the historical, unique Suisun Marsh, a categorical exemption is not appropriate in lieu of environmental review.

The Department of Fish and Game (DF&G) owns and manages the Hill Slough Wildlife Area located north of the project site and is therefore familiar with the ecological characteristics of the area. Statements made by the DFG staff in their letters of March 23, 2007 and May 25, 2007, (factual evidence from the experts on Hill Slough Wildlife) to the Solano County Resource Management Department, DFG concerns should have been sufficient reason to require review of this project in accordance with CEQA. It disturbing that their issues were not identified in the Agenda Submittal prepared for the August 14, 2007 meeting.

In their May 25, 2007 letter DFG states the following:

"On March 23 2007, the Department of Fish and Game (DFG) submitted a comment letter to your office regarding the Dittmer Wetland Restoration Project. DFG expressed concerns about potential indirect effects to Hill Slough Wildlife Area (HSWA) due to a change in hydrology from the seasonal wetland project. The HWSA supports populations of salt marsh harvest mouse, Suisun shrew, and soft bird's beak (*Cordylanthus mollis spp mollis*), endangered, threatened or species of interest. DFG was concerned that there was not enough environmental review of potential project impacts to make a determination that the project would not have an adverse effect on these sensitive species. This is in direct conflict with the SMPP and LPP policies and findings relating to wildlife.

DFG was also concerned about work that had been conducted on DFG property without authorization. The work included placement of hay bales secured with rebar to reduce potential erosion from a culvert replaced under the road running along the Dittmer property. DFG requested that the hay bales and rebar be removed and the area be restored to the previous condition. The project proponent has complied with DFG's request."

The document titled "Final Wetland Restoration and Upland Enhancement Plan (Dittmer Ranch Exhibit 2 of Attachment C on file with the Clerk describes the placement of erosion control down slope of the restoration area and culvert. The hay bale and rebar feature is shown in Figure 6. If this feature has been removed at DFG request, what if anything, is being used/proposed to reduce the impacts of overland flow and subsequent erosion from the "restoration area" and culvert? The erosion and subsequent sediment from the project are potentially potentially significant as engineering controls were designed for the project to control the erosion and runoff. An erosion control plan was prepared but an application for a permit was not submitted. This raises the question, what measures are being used to mitigate for the project's erosion impacts?

After Marcus Petersen's duck club was removed (part of Emmington Road was included in his ranch) and subsequently when Solano County eliminated Emmington Road (Resolution No. 97-235) the historical swamp and overflow 322 (includes portions of Emmington Road and Potrero Hills Lane) should have been returned to tidal action. A mistake was made when the Department of Fish and Game, BCDC, SRCD, U.S. Fish and Wildlife, and the Solano County Mosquito Abatement District allowed Potrero Hills Lane to be constructed. This mistake, the construction of Potrero Hills Lane and subsequent easements that contain restrictions, are improperly being used to allow the installation of telephone and electrical lines within one-quarter mile of the Suisun Marsh.

The use by Mr. Dittmer and Mr. Zentner of the Delta Quarry road to access the mitigation area and to comply with construction related grading requirements (i.e., cleaning of truck tires prior to entering Potrero Hills Lane) as well as future access to a Land Trust is an expansion of use beyond the restrictions imposed in the Dittmer easement. The road was constructed solely for the water-related activities and long-term agriculture use (See Exhibit C, Joe Della Zoppa grant easement 1993-00019858, Solano Garbage Company, Joe Della Zoppa and Eddie Menosse).

Conclusion

The Suisun Marsh is a unique, historical, special place. The California Legislature, BCDC and Solano County have recognized this fact through numerous laws, regulations and policies. As set forth above, this appeal raises substantial issues regarding the Project's failure to conform to the SMPA, SMPP, LPP and CEQA. For these reasons, June Guidotti and family and the public respectfully requests that BCDC invalidate MD-07-01, issue appropriate civil and administrative fines for the illegal development of the project and direct the applicants to return the Dittmer property to the late 2006 (pre-illegal activity condition). In addition, we request that BCDC notify the Regional Water Quality Control Board and the Project Developer that the Dittmer location is not approved for the off-site mitigation of the City of Pittsburg Mariner Walk Project.

September 13, 2007

Mr. Will Travis, Executive Director
San Francisco Bay Conservation
and Development Commission
50 California Street, Ste. 2600
San Francisco, CA 94111

RE: Public Comment on Proposed Bay Plan Amendment No. 1-07 and Proposed Marsh Plan Amendment No. 1-07

Dear Mr. Travis and Commissioners:

This is a follow-up letter to thank your staff (Barbara Kondylis) for agreeing to prepare a report on the Montezuma Hills at the September 6, 2007, Suisun Resource Conservation District Board of Director's Meeting and to provide comment on the above items.

It is my understanding that the Bay Conservation Plan is moving forward with strategies for the future of the Suisun Marsh and includes provisions for tidal restoration. I am requesting that Emmington Road be put back to full tidal action for the historical marsh. The portion of Emmington Road at Station 9 is raised and is 4.5 feet under tidal action when certain levees are let out. Potrero Hills Lane acts as a dam and has significantly reduced the natural tidal circulation from Hill Slough onto adjacent properties. Additionally, coincident with high tides and storm events, the raised roadway and culvert appears to restrict the runoff from adjacent property back to Hill Slough. I agree with Mr. Joseph Peterson, District Office Chief, Engineering Services II in his December 15, 2003 letter which states: "In my opinion, the portion of Potrero Hills Lane that crosses the historical marsh should have been placed on a bridge"

I request that your agency review the contours and areas affected by the construction of a berm at the 4' elevation. The construction of this berm is backing up water and flooding landowner's property other than the landowner that requested the Corps permit. Agricultural landowners have been negatively impacted due to flooding and were not notified of the degree of flooding to be expected post construction of the road. This will reestablish the natural drainage that existed prior to the construction of recent roads as the tidal action used to go over the top of Emmington Road.

In addition, flooding is significant during normal rainfall events. Due to the fact that the natural drainage pattern has been altered where the brackish water meets the fresh water, Scally Road can go under 2-3 feet of water and becomes impassable. Please restore the historical marsh by removing Potrero Hills Lane. Emmington Road, and the Old Delta Quarry roads also contribute to the flooding problem and should be returned to tidal action. Currently there is a flap gate at Emmington Road; this should be removed.

Sewer???

Item 14???

Sincerely,

Leslie Emmington

SUISUN MARSH and UPLAND RESOURCE MANAGEMENT

by
BCDC
STAFF

Prepared for the

San Francisco Bay Conservation and Development Commission

September, 1976

CONCLUSIONS

1. The water management schedule developed by the U.S.D.A. Soil Conservation Service and the California Department of Fish and Game and ratified by the Solano County Mosquito Abatement District should be utilized to the maximum extent possible in the managed wetlands. This schedule provides the most desirable habitat for waterfowl as well as many other types of marsh wildlife, and will also result in good mosquito control if properly managed.

2. Burning in the Marsh area should be kept to a minimum to prevent uncontrolled fires which may destroy beneficial plant species and damage peat levees and to minimize air pollution.

3. Permanent ponding should be practised in the following situations: a) in deep ponds that are difficult to drain and manage as seasonally flooded marshes; b) in limited shallow areas where habitat diversity is desired; c) in areas of high salinity concentrations. Water level in permanent ponds should be kept constant and the water should be circulated to control mosquitoes.

4. The landowners of the Suisun Marsh, in conjunction with the Suisun Resource Conservation District, (S.R.C.D.) should form a district to provide water control and marsh management services. This would improve the efficiency of water control management in the Marsh thereby maximizing its value for wildlife.

5. The S.R.C.D., California Department of Fish and Game and the landowners of the Suisun Marsh should advocate a state law to provide financial relief for maintenance and improvement costs of exterior levee systems. The landowners should also explore the possibility of forming a levee or reclamation district in conjunction with the S.R.C.D. to improve and maintain the

the levee system.

6. Agriculture within the primary management area should be limited to activities compatible with or intended for the maintenance or improvement of wildlife habitat. These include extensive agricultural uses such as grain production and grazing. Intensive agricultural activities, such as persistent plowing of natural vegetation and maintenance of fallow land during part of the year, should not be permitted. Grain production should be confined to the Grizzly Island Wildlife Refuge and relatively small, well-suited areas of some of the larger duck clubs. Grazing should be used to control vegetation on duck clubs where plant cover is sub-optimum for waterfowl use and should be discouraged on those clubs where there is already a good mixture of preferred waterfowl food plants. Grazing pressures should not exceed sound range management practices.

7. Tidal marshes should be preserved. However, practices recommended by the Solano County Mosquito Abatement District to control mosquitoes, including ditching, drainage, pesticide application, burning and the use of mosquitofish, should be conducted where necessary. Pesticide application and burning should be applied cautiously in order to avoid adverse environmental impacts.

8. Where feasible, historic marshes should be returned to wetland status, either as tidal marshes or managed wetlands. If, in the future, some of the managed wetlands are no longer needed for waterfowl hunting, they could also be restored as tidal marshes.

9. Extensive agricultural practices should be continued in the secondary management area. This will enable the upland grasslands and cultivated lands to act as a buffer to protect the Marsh from potential adverse impacts. Urban

development should not be permitted, particularly in areas with geologic hazards, since this would result in adverse ecological and aesthetic impacts on the Marsh. The value of the upland grasslands and cultivated lands as habitats for marsh-related wildlife should be maintained and enhanced where possible by planting or encouraging valuable food or cover plant species.

10. Local run-off control, erosion and sediment control ordinances should be established in the immediate Suisun Marsh watershed to protect the Marsh from potential adverse effects of increasing water pollution run-off and soil erosion.

11. Riparian vegetation in the Suisun Marsh watershed should be preserved due to its importance in the maintenance of water quality and its value as marsh-related wildlife habitat. Stream modification should only be permitted if it is proved necessary to ensure the protection of life and existing structures from floods.

12. State and Federal Agencies should continue and expand their research efforts on marsh management with the objectives of improving wildlife habitat and preserving rare and endangered species. Mosquito control procedures should also be reviewed to improve their effectiveness and reduce any conflicts with recommended wetland habitat management programs.

Making San Francisco Bay Better

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March 22, 2007

Mr. John Zentner
Zentner and Zentner
95 Linden Street, Suite 6
Oakland, California 94607

AND

Mr. Jeffrey Dittmer
3597 Thompson Court
Fairfield, California 94534

SUBJECT: **Executive Director's Cease and Desist Order No. ECD 1-07**
Effective Date: March 22, 2007
Expiration Date: June 20, 2007

Dear Mr. Zentner and Mr. Dittmer:

I. Cease and Desist

Pursuant to my authority under the California Government Code Section 66637 and the Commission's Regulations and because of violations of the Suisun Marsh Preservation Act of 1977, I hereby order Mr. John Zentner and Mr. Jeffrey Dittmer, all of their agents and employees, and any other persons acting in concert with them to cease and desist all activity in violation of the Suisun Marsh Preservation Act, specifically to cease all work and uses, including, but not limited to, unauthorized grading and the placement or erection of any solid fill or structure in the primary and secondary management areas of the Suisun Marsh, at a 4.0-acre site within the Dittmer Ranch property in Solano County, California, and to comply fully with Section III of this order.

II. Findings

This order is based on the following findings and the relevant San Francisco Bay Conservation and Development Commission (BCDC) files including BCDC Permit Application File No. M07-1(M) and Enforcement File No. ER06-29.

A. Mr. Jeffrey Dittmer owns the Dittmer Ranch property located on the northern slope of the western half of the Potrero Hills, Solano County. Mr. John Zentner, with the permission of Mr. Dittmer, has established a 4.0-acre habitat mitigation project within the Dittmer Ranch property, adjacent to Potrero Hills Lane, APN 46-130-300.

B. Mr. Zentner describes the project as the restoration of 2.4 acres of seasonal wetlands and the enhancement of 1.6 acres of native upland habitat, as described in "Dittmer Ranch Final Wetland Restoration and Upland Enhancement Plan", dated November 26, 2006.

C. Under Section 29005(a) and (b) of the Suisun Marsh Preservation Act (Cal. Public Resources Code Section 29005(a) and (b)), the San Francisco Bay Conservation and Development Commission has jurisdiction over the Suisun Marsh.

D. The 4.0-acre project site straddles the primary and secondary management areas of the Suisun Marsh as defined in the Suisun Marsh Preservation Act of 1977 (Sections 29102 and 29103 of Chapter 2, Division 19 of the Public Resources Code), with approximately 0.36 acre occurring within the primary management area, and 3.64 acres occurring within the secondary management area. Under Public Resource Code Section 29501(a), BCDC has the authority to issue marsh development permits for the primary management area, and under California Government Code 29502(a), the local government has authority to issue marsh development permits within the secondary management area. Solano County is the local government authority for the subject property.

E. In mid-November, 2006, the Commission received a report of grading being conducted at the subject site. BCDC staff advised Mr. Zentner, the project manager, to stop all work. The County of Solano issued a stop work order to Mr. Zentner on November 17, 2006.

F. In late December, 2006, BCDC staff met with Mr. Zentner to discuss his project in the context of BCDC jurisdiction within the Suisun Marsh. Mr. Zentner agreed that the project site is within primary and secondary management areas of the Marsh, and the staff advised him that the project would require marsh development permits from both BCDC and Solano County.

G. On or around January 2, 2007, BCDC staff received another report of work at the project site. On January 3, 2007, Mr. Zentner notified the Staff that he was proceeding to plant, and in response to this, BCDC staff held a teleconference with Mr. Zentner and Solano County staff member Ronald Glas, during which Mr. Zentner stated that he was doing additional "hand work" on the levees within and around his project site, and additional plantings that he said were necessary for erosion control. BCDC staff and County staff again informed Mr. Zentner that he should not do any further work and should submit a permit application, and he agreed.

H. On January 5, 2007, the Commission received a permit application dated January 4, 2007, for a marsh development permit for the project. The application requested authorization to conduct grading, install a fence and hydrological sampling stations, and place plantings. The application package included an erosion control plan, but did not request authorization to install the erosion control measures depicted on the plan, which included straw wattles to be secured in place with wooden stakes, and straw bales to be secured in place with rebar.

I. On January 18, 2007, in response to Mr. Zentner's assertion that he needed to continue planting in order to prevent erosion, Mr. Greg Martinelli of the California Department of Fish and Game (CDFG) advised Mr. Zentner in an electronic mail communication to stop all work until he obtained the necessary permits.

J. On March 2, 2007, BCDC staff received a copy of Marsh Development Permit Application No. MD 07-01 from the Solano County Department of Resource Management. The application was submitted to Solano County by Mr. Zentner and Mr. Dittmer and requested permission to conduct restoration of 2.4 acres of seasonal wetlands and 1.6 acres of native dominated uplands.

K. On March 3, 2007, BCDC staff received another report of work at the project site. In an electronic mail exchange with Mr. Zentner, he explained that the additional work was being conducted for erosion control only.

L. On March 9, 2007, a team of BCDC staff including Ms. Adrienne Klein, Chief of Enforcement, Ms. Ellen Sampson, Staff Counsel, Ms. Ming Yeung, Permit Analyst, and Ms. Erin Bomkamp, Enforcement Analyst, and of Solano County Department of Resource Management staff including Ron Glas, Planner, met onsite with Mr. Zentner and Mr. Dittmer and confirmed that Mr. Zentner had conducted grading and installed plug plantings, a wire fence, and two hydrological monitoring stations within the primary and secondary management areas. Additionally, he had installed straw wattles and straw bales in the primary management area and on property owned by the California Department of Fish and Game without its approval.

M. As of March 22, 2007, neither Solano County nor BCDC have issued a marsh development permit for the project.

N. Under California Public Resources Code Section 29114(a), "development" includes in part: on land, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials. The unauthorized work done by Mr. Zentner, which is described above in II-L, is consistent with this definition of development, and as such constitutes a violation of the Suisun Marsh Preservation Act.

O. Under California Government Code Section 66637(a), the executive director may issue a cease and desist order when the executive director determines that any person has undertaken, or is threatening to undertake, any activity that (1) may require a permit from the commission without securing a permit; or (2) may be inconsistent with any permit previously issued by the Commission. Under California Public Resources Code Section 29601, the provisions of Chapter 4 of Title 7.2 of the Government Code relating to cease and desist orders and penalties for violations thereof shall apply to all development for which a marsh development permit from the Commission, or the Commission hearing an appeal, may be required under this division. Therefore, this order applies to work in both the Primary and Secondary Management Areas of the Marsh.

P. This order shall become null and void on June 20, 2007.

III. Conditions

Mr. Zentner and Mr. Dittmer, all of their agents and employees, and any other persons acting in concert with them must comply fully with Section I, and stop all activities constituting development, including but not limited to, grading and the placement or erection of any solid fill or structure in the primary and secondary management areas of the Suisun Marsh. The work may not proceed until BCDC and Solano County Department of Resource Management authorize such activities.

IV. Terms

A. Under Section 66641 of the Government Code, any person who intentionally or negligently violates any cease and desist order issued, reissued, or amended may be liable civilly for up to $6,000.00 for each day in which such violation persists. In addition, the Commission may request the Attorney General of the State of California to obtain a court order to enforce the terms and conditions of this order.

B. This order does not have any effect upon any duties, rights, or obligations under private agreements or under regulations of other public bodies.

C. The respondents must conform strictly to the order and the consequences of the failure to do so.

D. This order does not constitute a recognition of property rights.

V. Appeal

Under Section 66639 of the Government Code, any aggrieved party may file with the superior court a petition for writ of mandate for review thereof pursuant to Section 1094.5 of the Code of Civil Procedure within thirty (30) days after service of a copy of the order.

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.

WILL TRAVIS
Executive Director
San Francisco Bay Conservation and
Development Commission

WT/EB/ra

cc: Ron Glas, Solano County Department of Resource Management
Anna Holmes, California Department of Fish and Game
Katie Hart, San Francisco Regional Water Quality Control Board

May 15, 2007

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Resource Management
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Mr. Jason Rosas, Planning Technician
Solano County Department of Resource Management
Planning Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533

RE: Notice of Intent for Extension of Use Permit U-82-42 and Marsh Development Permit No. MD-82-12 for Continued Operation of a Pet Cemetery from Lois Tonnesen

Dear Mr. Rosas:

Thank you very much for meeting with me yesterday, May 14, 2007, to address some of the questions I had regarding the process for extending Use and Marsh Development Permits, as well as to discuss the specifics of the Tonnesen Pet Cemetery Extension request.

I request that you do not grant Use Permit U-82-42 and Marsh Development Permit No. MD-82-12 extensions on May 17, 2007 for the following reasons:

- As we discussed yesterday, other neighbors and I need time to review the supporting documentation for the Extension request. I requested and you agreed to provide the reports requested in my May 11, 2007 letter prior to the granting of an extension. You indicated that I would be receiving these reports within 10 days (by May 24, 2007) and I would have time to review and comment on these reports prior to the granting of an extension U-82-42 and MD 82-12. While I expect to receive all of the information requested, I am particularly interested in the quarterly reports required in Condition 4(g) of U-82-42 documenting the number of animals buried each month, as well as the semi-annual inspections made by the Health Department. I also request copies of any water quality data that your office has on file for this site.

- It is my understanding (communication with Keith Roberson, SFBRWQCB) that the Regional Board will be revising the Order and Waste Discharge Requirements for the site and will be requiring a liner at the site for the protection of ground water. In addition, it is my understanding that other operational changes for the protection of surface water quality may be required. As the Board is in the process of revising the Order and Waste Discharge Requirements, this extension is no longer

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minor in nature as additional land use impacts (impacts to ground water) have been identified. Therefore, the granting of an extension without public review is not in conformance with section 28.53(n)(1) and (n)(2) of the Solano County Code.

- As we discussed, I am specifically concerned about the impacts from the Pet Cemetery, both historical and future. My immediate concern is the impact that the surface water runoff and leachate to ground water may have had on my well water, as well as the surface and ground water of the Suisun Marsh. I am also concerned about an increase in traffic and air quality impacts as the Cemetery has been inactive for much of the last five years and I believe that these potentially significant impacts should be analyzed in accordance with the California Environmental Quality Act.

- In a letter to you dated April 26, 2007, the Department of Fish and Game has requested that a complete assessment (including, but not limited to type, quantity and locations) of the habitats, flora and fauna within and adjacent to the project area, including endangered, threatened and locally unique species and sensitive habitats. They also state that rare, threatened and endangered species to be addressed should include all those that meet the CEQA definition (see CEQA Guidelines 15380). As a result of Department of Fish and Game comments, it is inappropriate for a time extension to be granted for U-82-42 and U-82-12 as the approval is no longer minor in nature, additional potential land use impacts need to be identified, described, and studied via the environmental review process.

- I am aware that two neighboring property owners have questions and concerns regarding the extension of the permits. Ms. Marie Alice Rivers has called your office and has not received a return phone call, and Mr. Peery (Dick) Arrillaga did not receive notice of the proposed extensions. It is my understanding that you will be receiving letters from both of these property owners. This extension is controversial and does not meet the time extension approval requirement of Solano County Code Section 28.53(n)(3).

In conclusion, I believe that based on comments from the Department of Fish and Game (letter dated April 26, 2007), the potential changes to the SFBRWQCB to the Order and Waste Discharge Requirements related to water quality for this site, and the concern of neighboring property owners that the proposed time extension should not be allowed as guidelines Solano County Code sections 28.53(n)(1), 28.53(n)(2), (n)(3), (n)(4) and (n)(8) can not be fulfilled and it is inappropriate for the Zoning Administrator to grant the request for an extension of

U-82-42 and MD 82-12 without a public hearing. I am requesting that the proposed time extension request be denied and the applicant directed to process a Use and Marsh Development Permit revision before the Planning Commission, including a public hearing.

Thank you for meeting with me and your assistance.

Sincerely:
June Guidotti & Family and for the Public

June Guidotti
3703 Scally Road
Suisun, CA 94585

Cc: Ms. Marie Alice Rivers
Mr. Peery (Dick) Arrillaga
Mr. Keith Roberson, SFBRWQCB
Mr. Charles Armor, DFG

September 13, 2007

Mr. Will Travis, Executive Director
San Francisco Bay Conservation
and Development Commission
50 California Street, Ste. 2600
San Francisco, CA 94111

RE: Public Comment on Proposed Bay Plan Amendment No. 1-07 and Proposed Marsh Plan Amendment No. 1-07

Dear Mr. Travis and Commissioners:

This is a follow-up letter to thank your staff (Barbara Kondylis) for agreeing to prepare a report on the Montezuma Hills at the September 6, 2007, Suisun Resource Conservation District Board of Director's Meeting and to provide comment on the above items.

It is my understanding that the Bay Conservation Plan is moving forward with strategies for the future of the Suisun Marsh and includes provisions for tidal restoration. I am requesting that Emmington Road be put back to full tidal action for the historical marsh. The portion of Emmington Road at Station 9 is raised and is 4.5 feet under tidal action when certain levees are let out. Potrero Hills Lane acts as a dam and has significantly reduced the natural tidal circulation from Hill Slough onto adjacent properties. Additionally, coincident with high tides and storm events, the raised roadway and culvert appears to restrict the runoff from adjacent property back to Hill Slough. I agree with Mr. Joseph Peterson, District Office Chief, Engineering Services II in his December 15, 2003 letter which states: "In my opinion, the portion of Potrero Hills Lane that crosses the historical marsh should have been placed on a bridge"

I request that your agency review the contours and areas affected by the construction of a berm at the 4' elevation. The construction of this berm is backing up water and flooding landowner's property other than the landowner that requested the Corps permit. Agricultural landowners have been negatively impacted due to flooding and were not notified of the degree of flooding to be expected post construction of the road. This will reestablish the natural drainage that existed prior to the construction of recent roads as the tidal action used to go over the top of Emmington Road.

In addition, flooding is significant during normal rainfall events. Due to the fact that the natural drainage pattern has been altered where the brackish water meets the fresh water, Scally Road can go under 2-3 feet of water and becomes impassable. Please restore the historical marsh by removing Potrero Hills Lane. Emmington Road, and the Old Delta Quarry roads also contribute to the flooding problem and should be returned to tidal action. Currently there is a flap gate at Emmington Road; this should be removed.

Sewer???

Item 14???

Sincerely,

Leslie Emmington

BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

October 13, 2006

Ms. June Guidotti
3703 Scalley Road
Suisun City, CA 94585

Dear Ms. Guidotti:
Per your request, below is a summary of the current waste acceptance limit at Potrero Hills Landfill, Plant#2039, and the proposed increase under the "Phase II" expansion of this operation submitted to the District under Application #11378:

Current maximum design capacity, as reported in the Initial Design Capacity Report:
21.8 million cubic yards, accommodating 13.1 million tons of waste

Proposed increase in maximum design capacity under Application #11378:
83.1 million cubic yards, accomodating 46.8 million tons of waste

Under Application #11378, Potrero Hills Landfill has also applied to install an additional landfill gas flare to abate the landfill gas emissions from the proposed expansion. The application does not include proposal of a power generation project.

If you have any further questions, please call me at (415) 749-4939 (fax 415-749-4949).

Very truly yours,

Tamiko Endow

Tamiko Endow
Air Quality Engineer

TDE:tdc

ALAMEDA COUNTY
Tom Bates
Scott Haggerty
Janet Lockhart
Nate Miley

CONTRA COSTA COUNTY
Mark DeSaulnier
Mark Ross
(Vice-Chair)
Michael Shimansky
Gayle B. Uilkema
(Chairperson)

MARIN COUNTY
Harold C. Brown, Jr

NAPA COUNTY
Brad Wagenknecht

SAN FRANCISCO COUNTY
Chris Daly
Jake McGoldrick
Gavin Newsom

SAN MATEO COUNTY
Jerry Hill
(Secretary)
Carol Klatt

SANTA CLARA COUNTY
Erin Garner
Yoriko Kishimoto
Liz Kniss
Patrick Kwok

SOLANO COUNTY
John F. Silva

SONOMA COUNTY
Tim Smith
Pamela Torliatt

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

939 ELLIS STREET • SAN FRANCISCO CALIFORNIA 94109 • 415.771.6000 • WWW.BAAQMD.GOV

State Water Resources Control Board

Linda S. Adams
Secretary for
Environmental Protection

Office of Chief Counsel
1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 • FAX (916) 341-5199 • http://www.waterboards.ca.gov

Arnold Schwarzenegger
Governor

May 17, 2007

Ms. June Guidotti
3703 Scally Road
Suisun, CA 94585

Dear Ms. Guidotti:

PETITION OF JUNE GUIDOTTI (REVISED WASTE DISCHARGE REQUIREMENTS ORDER NO. R2-2007-0028 AND RESCISSION OF ORDERS NO. 86-65 AND 95-229 FOR SOLANO GARBAGE COMPANY LANDFILL, SUISUN CITY, SOLANO COUNTY), SAN FRANCISCO BAY WATER BOARD: ACKNOWLEDGMENT OF PETITION RECEIVED AND APPROVAL OF REQUEST TO BE HELD IN ABEYANCE
SWRCB/OCC FILE A-1844

This will acknowledge receipt of the above petition on May 11, 2007. You have asked that the State Water Resources Control Board (State Water Board) hold the matter in abeyance for an unspecified period of time. We are happy to do so in hopes that the matter may be worked out between you and the Regional Water Quality Control Board (Regional Water Board). We will hold the matter in abeyance for two years from the date the petition was filed. If, by that time, no resolution of the matter has taken place or the matter has not become the subject of an active dispute, you may either request that the abeyance period be extend for another two-year period, or the petition will be dismissed.

If you have any questions, please call me at (916) 341-5175.

IN ALL FUTURE CORRESPONDENCE, PLEASE REFER TO
SWRCB/OCC FILE A-1844

Sincerely,

Elizabeth Miller Jennings
Staff Counsel IV

cc: See next page

Red Book

cc: Solano Garbage Company landfill
c/o Republic Services, Inc.
Attn: Mr. David Zeiger
Area Compliance Manager
3260 Blume Drive, Suite 200
Richmond, CA 94806

Mr. Ed Padilla
Solano County Local
Enforcement Agency
Department of Resource Management
675 Texas Street, Suite 5500
Fairfield, CA 94533

Ms Jennifer Feinberg
San Francisco Bay Conservation
and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Mr. Bruce Wolfe **[via email only]**
Executive Officer
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Mr. Keith Roberson **[via email only]**
Engineering Geologist
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dorothy Dickey, Esq. **[via email only]**
Office of Chief Counsel, State Water Board
c/o San Francisco Bay, Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Yuri Won, Esq. **[via email only]**
Office of Chief Counsel, State Water Board
c/o San Francisco Bay, Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Ms. Kathi Moore, Chief **[via email only]**
moore.kathi@epa.gov
NPDES Enforcement
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, rehabilitation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 6. The [executing officers(s)], the Clerk and all other proper officers and officials of the County are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 7. The Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Joint Power agreement

Harriet M. Welch, Esq.
Squire, Sanders & Dempsey LLP.
555 South Flower St., Suite 3100
Los Angeles, CA 90071-2300

Section 8. This resolution shall take effect immediately upon its passage.

The Solano County Board of Supervisors passed and adopted this Resolution on October 23, 2007, by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

EXCUSED: Supervisors _____

_____
Michael J. Reagan, Chair
Solano County Board of Supervisors

ATTEST:

Michael D. Johnson, Clerk
Solano County Board of Supervisors

By: _____
Patricia J. Crittenden, Chief Deputy Clerk

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Solano County
Board of Supervisor

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FAIRFIELD BRANCH
COUNTY OF SOLANO

RECEIVED BY:
MAR 29 2007
RESOURCE MANAGEMENT

March 28, 2007

Mr. Terry Schmidtbauer, REHS
Environmental Health Manager
Solano County, Dept. of Resource Management
Environmental Health Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533

RE: Potrero Hills Proposed Odor Control Project

Dear Mr. Schmidtbauer:

Approximately ten days ago I noticed a tall crane above the ridgeline at the Potrero Hills Landfill (PHLF). I called Ed Padilla of your staff, and asked him what was going on at the landfill and what the crane was being used for. Ed told me that it was a sprayer for chemicals to suppress the off-site migration of odors from the landfill. I asked Ed who authorized the spraying, and Ed didn't seem to know. I did indicate to Ed that my family and I did not want to be test animals for a landfill odor control experiment. I called my neighbor to see if she had been notified of the chemical spraying and she indicated that she had not been notified of the proposed spraying either.

I went to the south end of my property and took some pictures of the sprayer and tank location on the PHLF. This equipment is located right above my water supply and I am requesting that the LEA immediately direct the PHLF Operator to immediately move all equipment and chemicals away from my pond and any drainages that lead to my pond. I am requesting that all equipment and chemicals be checked to make sure that nothing is leaking. My pond is used for drinking water for my cows and the wildlife of the Suisun Marsh and as such is incompatible with the agricultural uses within the Suisun Marsh and presents a large hazard for downstream neighbors, cattle and wildlife. Drainage from my pond flows down to where the fresh water meets brackish water of the swamp and overflow 322 that drains to the mouth of Hill Slough that ultimately enters the 87,000 acres of the Suisun Marsh.

As you know, the majority of the foul off-site odors come from the spreading of biosolids and/or green waste as alternative daily cover. Of the two putrescible waste streams, biosolids are the worst. The solution for eliminating the off-site biosolids odors at the PHLF is to prevent its use as alternative daily cover and better yet, eliminate the disposal of biosolids entirely at the PHLF. The masking of one odor with another odor, if it reaches my family or my neighbors, is still a nuisance and will not comply with the mitigation and monitoring program for the landfill.

What assurances do we have that the LEA will take enforcement action if this "experiment" does not work and offensive off-site nuisance odors, water contamination, drift to my property, and death of my cows and/or wildlife occurs?

Under the Public Records Act, please provide me, with the following information and or answers to the following questions:

- Please provide me with copies of with all written comments, correspondence, approvals or denials from any regulatory agency regarding this proposed project as well as all regulatory agency approvals that have been issued for this proposed activity to date.
- Please provide me with all future approvals that are granted for this project.
- Which federal, state and local agencies are reviewing the proposed activity?
- When is this activity projected to begin? If it has begun already, please provide me with the date it began, how often the activity occurs
- What does the spraying operation entail, how will it be implemented and where on the PHLF is it proposed to occur? Please provide any operational plans, drawings, etc. for my review and comment.
- Has the Operator submitted a proposal to the LEA for this activity? If so, please send me a copy.
- Has the Operator submitted an application for a RFI amendment to the LEA for this activity? If so, please send me a copy of the application along with any supporting documentation.
- Has the LEA made their three findings regarding a RFI amendment? If so, please send me the LEA's written findings.
- Please provide me with correspondence to and from the CIWMB and RWQCB on this proposed project.
- This activity is likely not addressed under the PHLF waste discharge requirements (WDRs). Has the Operator applied to revise the WDRs to include this activity?
- Has the Operator revised the PHLF Stormwater Pollution Plan to include this activity?
- What chemical or chemicals is the Operator proposing to use?
- Please provide me with a Material Safety Data Sheet (acceptable under California law) for each chemical proposed for use. Please be sure that the MSDS and/or additional chemical information include potential toxicity to domestic and wild animals, as chemicals that are not necessarily toxic to humans can be toxic to wildlife.
- Who will be carrying out this proposed activity on-site and what are their qualifications and training?

- What criteria will be used to evaluate the success and/or failure of this project to eliminate off-site nuisance odors? If the odors are a nuisance to my neighbors, my family and me, that should be sufficient criteria for the LEA to issue a Notice and Order to cease and desist the activity and to stop the use of biosolids and green waste as alternative daily cover.

Thank you in advance for your review and consideration of my request for specific information and answering my questions. I look forward to receiving your response within the next ten days.

Sincerely,

June Guidotti + Family and for the Public

June Guidotti
3703 Scally Road
Suisun, CA 94585

Cc: Mr. Jerry Brown, Attorney General
Solano County Board of Supervisors
Ms. Ellen Sampson, BCDC
Mr. Will Travis, BCDC
Mr. Mike Yankovich, Planning Services Program Manager
Mr. Paul Wiese, Public Works Engineer Manager
Ms. Brigitta Corsello, Director of Resource Management
Mr. Craig Kiley, Army Corps of Engineers
Ms. Katherine Trott, Army Corps of Engineers
Ms. Beth Dryer, Army Corps of Engineers
Ms. Yuri Wong, SFBRWQCB
Ms. Tamiko Endow, BAAQMD
Mr. Larry Host, US Fish and Wildlife
Mr. Daryl Stebekas, Solano County Sheriff's Dept.
Mr. Greg Martinelli, CA. Dept. of Fish and Game
Mr. Steve Chappelle, SRDC
Mr. Wesley Chesboro, CIWMB Board Member
Ms. Christy Karl, CIWMB
Mr. Ed Padilla, LEA
Mr. Ricardo Serrano, LEA

May 15, 2007

RECEIVED
Solano County
Resource Management
MAY 1 5 2007
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Mr. Jason Rosas, Planning Technician
Solano County Department of Resource Management
Planning Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533

RE: Notice of Intent for Extension of Use Permit U-82-42 and Marsh Development Permit No. MD-82-12 for Continued Operation of a Pet Cemetery from Lois Tonnesen

Dear Mr. Rosas:

Thank you very much for meeting with me yesterday, May 14, 2007, to address some of the questions I had regarding the process for extending Use and Marsh Development Permits, as well as to discuss the specifics of the Tonnesen Pet Cemetery Extension request.

I request that you do not grant Use Permit U-82-42 and Marsh Development Permit No. MD-82-12 extensions on May 17, 2007 for the following reasons:

- As we discussed yesterday, other neighbors and I need time to review the supporting documentation for the Extension request. I requested and you agreed to provide the reports requested in my May 11, 2007 letter prior to the granting of an extension. You indicated that I would be receiving these reports within 10 days (by May 24, 2007) and I would have time to review and comment on these reports prior to the granting of an extension U-82-42 and MD 82-12. While I expect to receive all of the information requested, I am particularly interested in the quarterly reports required in Condition 4(g) of U-82-42 documenting the number of animals buried each month, as well as the semi-annual inspections made by the Health Department. I also request copies of any water quality data that your office has on file for this site.

- It is my understanding (communication with Keith Roberson, SFBRWQCB) that the Regional Board will be revising the Order and Waste Discharge Requirements for the site and will be requiring a liner at the site for the protection of ground water. In addition, it is my understanding that other operational changes for the protection of surface water quality may be required. As the Board is in the process of revising the Order and Waste Discharge Requirements, this extension is no longer

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minor in nature as additional land use impacts (impacts to ground water) have been identified. Therefore, the granting of an extension without public review is not in conformance with section 28.53(n)(1) and (n)(2) of the Solano County Code.

- As we discussed, I am specifically concerned about the impacts from the Pet Cemetery, both historical and future. My immediate concern is the impact that the surface water runoff and leachate to ground water may have had on my well water, as well as the surface and ground water of the Suisun Marsh. I am also concerned about an increase in traffic and air quality impacts as the Cemetery has been inactive for much of the last five years and I believe that these potentially significant impacts should be analyzed in accordance with the California Environmental Quality Act.

- In a letter to you dated April 26, 2007, the Department of Fish and Game has requested that a complete assessment (including, but not limited to type, quantity and locations) of the habitats, flora and fauna within and adjacent to the project area, including endangered, threatened and locally unique species and sensitive habitats. They also state that rare, threatened and endangered species to be addressed should include all those that meet the CEQA definition (see CEQA Guidelines 15380). As a result of Department of Fish and Game comments, it is inappropriate for a time extension to be granted for U-82-42 and U-82-12 as the approval is no longer minor in nature, additional potential land use impacts need to be identified, described, and studied via the environmental review process.

- I am aware that two neighboring property owners have questions and concerns regarding the extension of the permits. Ms. Marie Alice Rivers has called your office and has not received a return phone call, and Mr. Peery (Dick) Arrillaga did not receive notice of the proposed extensions. It is my understanding that you will be receiving letters from both of these property owners. This extension is controversial and does not meet the time extension approval requirement of Solano County Code Section 28.53(n)(3).

In conclusion, I believe that based on comments from the Department of Fish and Game (letter dated April 26, 2007), the potential changes to the SFBRWQCB to the Order and Waste Discharge Requirements related to water quality for this site, and the concern of neighboring property owners that the proposed time extension should not be allowed as guidelines Solano County Code sections 28.53(n)(1), 28.53(n)(2), (n)(3), (n)(4) and (n)(8) can not be fulfilled and it is inappropriate for the Zoning Administrator to grant the request for an extension of

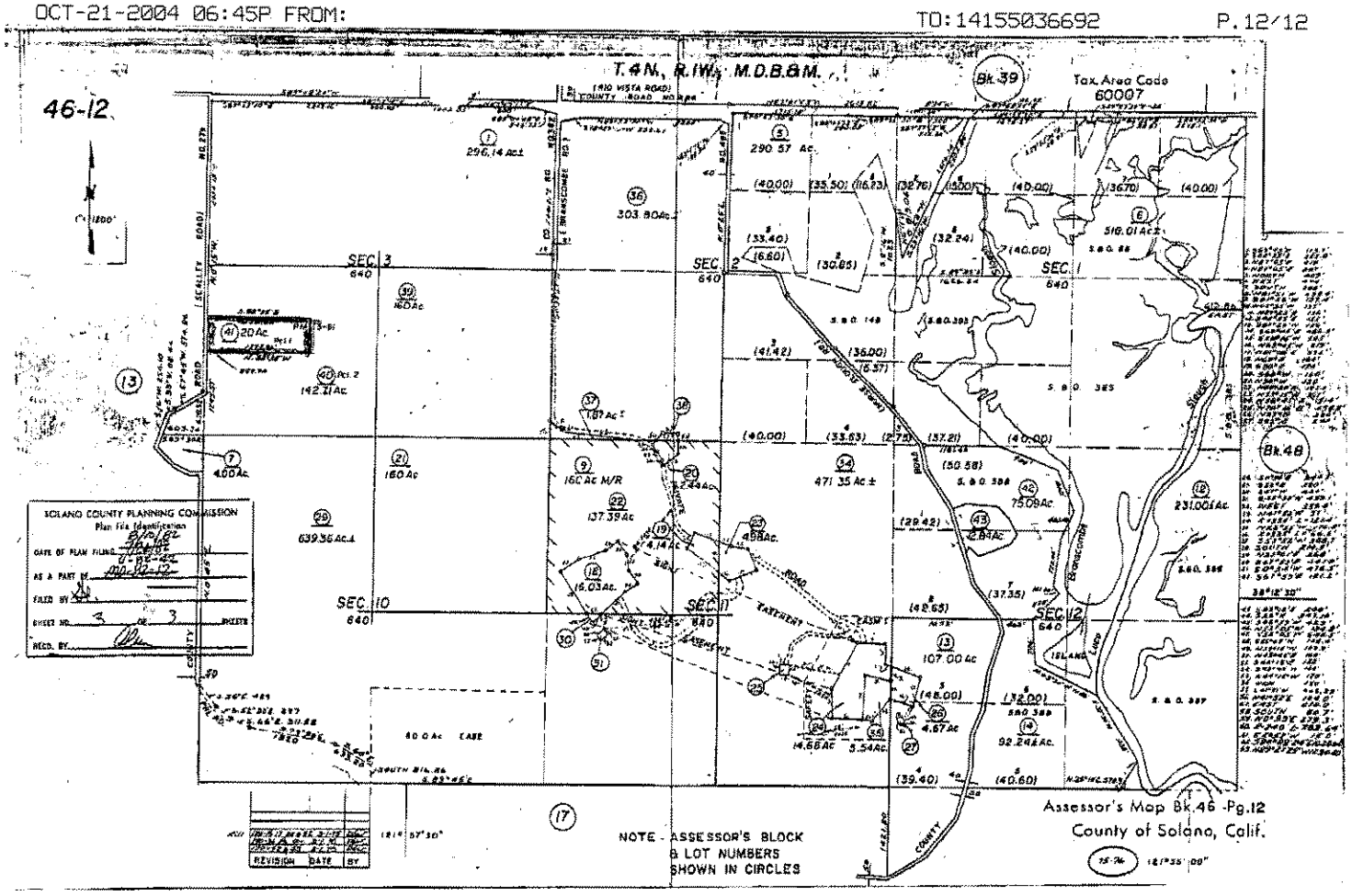
U-82-42 and MD 82-12 without a public hearing. I am requesting that the proposed time extension request be denied and the applicant directed to process a Use and Marsh Development Permit revision before the Planning Commission, including a public hearing.

Thank you for meeting with me and your assistance.

Sincerely:
June Guidotti & Family and for the Public

June Guidotti
3703 Scally Road
Suisun, CA 94585

Cc: Ms. Marie Alice Rivers
Mr. Peery (Dick) Arrillaga
Mr. Keith Roberson, SFBRWQCB
Mr. Charles Armor, DFG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SOLANO COUNTY PLANNING COMMISSION
Plan File Identification
DATE OF PLAN FILING
AS A PART OF
FILED BY
SHEET NO. 3 OF 3 SHEETS
RECD. BY
REVISION DATE BY
NOTE - ASSESSOR'S BLOCK & LOT NUMBERS SHOWN IN CIRCLES
Assessor's Map Bk.46 -Pg.12
County of Solano, Calif.

Report No. 6

Nancy 415-503-6692

Baldwin Ship Channel states originally dredged in 1912 was since been modified to a width of 100-125 feet and a depth. 8 feet in US Army Corps of Engineers Dredging Draft EIS 1975.

UTILITIES, FACILITIES and TRANSPORTATION in and around the SUISUN MARSH

Once make a copy of this Book if you do not have it.

by

BCDC

STAFF

Prepared for the

San Francisco Bay Conservation and Development Commission

October, 1976

BCDC

APPENDIX B:
COMMENT SUMMARY TABLE

Project Components

	NAME	DATE	COMMENTS	TYPE
1	League of Women's Voters Wagner-Tyack, Jane	4/30/2008	Concerns about levee stability and changes in salinity. More comments on project timing: Why now when there are so many other problems to sort out? Is concerned that the local interests have too many other issues on their plate to give this project proper attention.	E-Mail
2	Smoak, Baxter B.	4/1/2008	Desires more information about proposed depths and proposed project details.	Mail
3	Enos, Andrew K., Jr.	4/2/2008	Suggests that dredge material be utilized for the maintenance of the Delta levees.	Comment Card
4	Manteca Unified School District Dwyer, Sandy	4/8/2008	Is concerned that the project will add additional stress to the levees, and that dredge material placement will impact the river.	Mail
5	Manteca Unified School District Karin, Mary	4/2/2008	Is concerned about project impacts to levees and water depth, as well as equipment locations in the South Stockton and Lathrop areas.	Comment Card
6	Zentner and Zentner Drummond, Lesley	3/24/2008	Requests that dredged material be disposed of at upland sites implementing beneficial reuse of dredged materials such as Carneros River Ranch.	E-mail
7	Charges, Ann M.		Is concerned that increased shipping traffic will add additional stress on the levees.	Mail
8	Ucker, Charles H.	4/30/2008	Supports the alternative "Modify the Shipping Channels to Authorized Depths."	Mail

Project Components (cont'd)

	NAME	DATE	COMMENTS	TYPE
9	U.S. Environmental Protection Agency	5/16/2008	Is concerned that the project, if not thoroughly evaluated, could have adverse impacts to SF Bay and Delta ecosystems and to human uses of the Delta and its water. EIS is an opportunity to evaluate the Bay and Delta's resources, and the potential impacts of the project on existing and planned efforts, such as the Bay-Delta Conservation Plan, and Delta Conveyance. Project is also an opportunity to identify beneficial reuse projects involving the dredged material. Sediment quality data should be collected to identify the suitability and impacts of soil placement in various reaches. Purpose and Need statement in the EIS should be clear regarding whether the project includes expansion of Port of Stockton facilities, or simply channel improvement. Range of alternatives should include both widening/reconfiguring the channel, as well as deepening and No Action. Environmental effects from dredging and material disposal should be considered in detail (list included). Dredged material should be considered as a potential resource for the CALFED Delta Levee Stability Program. Water Quality impacts need to be appropriately considered and monitored. Dissolved oxygen levels need to be addressed in the consideration of the project. Hydrodynamics need to be assessed and considered in the water quality survey. A rigorous analysis of potential project effects on special status species and habitat should be conducted. EIS should describe whether or not the project will meet air quality requirements.	E-mail

Scope of Impacts

	NAME	DATE	COMMENTS	TYPE
1	Contra Costa Water District Orloff, Leah	4/29/2008	Concerned about salinity intrusion, sea level rise, effects of deepening and widening, and effects on Delta water operations: Believe that two-dimensional or three-dimensional models should be employed to study the impacts of the project on the above-listed issues. Salinity effects on listed species populations should be evaluated. Effects due to the release of contaminants into the water and on aquatic species. Impacts should be evaluated on the effects of dredged material placement on downstream drinking water. Effects on shipping patterns and the increased probability of spills due to higher traffic should be considered. Impacts assessment needs to include CCWD's intake facilities at Mallard Slough, Rock Slough, Old River, and Victoria Canal, and modeling should include a realistic pattern of diversions at these locations.	Mail/E-mail

Scope of Impacts (cont'd)

	NAME	DATE	COMMENTS	TYPE
2	San Francisco Bay Conservation and Development Commission Hamburger, Jessica	5/7/2008	Reminds the Corps to follow the Bay Plan Dredging Policies, Suisun Marsh Protection Plan Policies, and the Commission's Shoreline Band Bay Plan Policies, and to address them in the EIS/EIR. Other reminders for the EIS/EIR: how the entire deepening project will affect hydrology, sediment dynamics, water quality and biological resources, climate change, sea level rise, channel scour, cumulative impacts including other projects in the area, special status species restrictions, water quality including dissolved oxygen and salinity, turbidity. Reminder about limited work window for dredging. Reminder about policies regarding dredging in sandy deep water and rocky habitat. Reminder about mitigation policies.	Mail
3	California Ammonia Company Brown, Robert C.	4/2/2008	Supports the project as it is vital to the continued success of the company's cargo business.	Mail
4	City of Pittsburg Grisham, Marc S.	4/29/2008	Supports the project and urges to strongly consider "Project Alternative B".	Mail

Scope of Impacts (cont'd)

	NAME	DATE	COMMENTS	TYPE
5	Morris, Patrick Central Valley Regional Water Quality Control Board Mercury TMDL Unit	5/12/2008	Additional comments in regards to methylmercury TMDL in development for the Delta: Dredging activities are beneficial as they remove inorganic mercury from the channels and aquatic ecosystem. Project has the potential to both add and diminish the current mercury levels, depending on the nature of the sediment control and disposal activities. Attached Central Valley Water Board Resolution for reference regarding actions to be taken to address Delta Water Quality (Resolution No R5-2007-0161).	E-mail
6	Minasian, Spruance, Meith, Soares & Sexton, LLP Cooper, Dunstin C.	4/30/2008	Comments on behalf of the San Joaquin River Exchange Contractors Water Authority and its members: Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District, and Columbia Canal Company. Concerned about low dissolved oxygen levels and USACE fulfilling the obligation to properly mitigate for these problems.	E-mail
7	Booth, Teresa Owner, Mare Island Marine Resources Koster, Dan City of Vallejo Economic Development Commissioner	3/26/2008	Supports the project, and hope that the Corps will consider doing a similar dredging project of the Mare Island Straits.	E-mail
8	Groenen, Henri Yara North America, Inc.	4/12/2008	Supports the project due to economic benefits and offers further assistance in support of the project.	E-mail
9	Gross, Jeremy Chevron Pipe Line Company	3/24/2008	Requested a copy of the project area map, and attaches an aerial photo with Chevron pipe lines shown on it. Will correspond further with company safety requirements.	E-mail

Scope of Impacts (cont'd)

	NAME	DATE	COMMENTS	TYPE
10	California Department of Transportation Miller, Betty	4/29/2008	Caltrans wonders if there will be a no-build alternative, and requests information regarding the details of the material disposal and how that affects roadways. Requests information regarding transportation routes so that Caltrans can inspect any bridges in the project area for structural integrity.	E-mail
11	Tesoro Refining and Marketing Company Marcy, G. Michael	4/30/2008	Tesoro strongly supports the project and considers the project to be necessary, as the dimensions of the North Ship Channel, currently impedes safe vessel transit of the waterway. They believe that there would be environmental benefits as well, as dredging the channel would allow ships to carry heavier loads and thus decrease the number of vessels traveling through the channel.	E-mail
12	East Bay Regional Park District Barton, Chris	4/11/2008	NOI/NOP does not include sufficient information regarding increased traffic in the shipping channels and requires clarification in the notice, as well as requests that these impacts are evaluated in the EIS/EIR. There is also concern about wave damage and the intensity of wave action from large vessels.	E-mail
13	East Bay Municipal Utility District Enos, Andrew K., Jr.	4/8/2008	Is concerned about impacts to EBMUD aqueduct pipes and wasteway facilities within the project area and requests that mitigation to potential impacts to these facilities be addressed in the planning process.	E-mail
14	Baxter, Ken DOT	4/2/2008	Study should discuss benefits to increasing ship cargo and reducing trucking cargo, as well as construction impacts to roadways.	Comment card
15	San Joaquin Farm Bureau Federation Valente, Joe	4/30/2008	Supports the project as it is essential to the export market. Dredging the channel will allow ships to carry greater loads, and will improve air quality and traffic congestion, as well as improving water flow restrictions.	Mail

Scope of Impacts (cont'd)

	NAME	DATE	COMMENTS	TYPE
16	Charges, Ann M.	4/14/2008	Is concerned that in proposing the project, the history of the river's prior condition is not being considered. Environmental impacts both from the act of dredging and the act of disposal need to be considered. Disposed material needs to be properly handled to not pollute waterways and ground water. Impacts to levee erosion should be considered. Air Quality concerns due to increased emissions from shipping pollution.	Fax
17	Nomellini, Dante John	4/2/2008	Concerns about seepage problems in levees caused by dredging and removing the fine sands that plug up the pores in the levee. Concerns about wave wash damage to the levees, and lack of levee maintenance. Believes that the port should issue a tonnage tax to create funds for levee maintenance. Deepening the channel will weaken the levee walls. Concerned about salinity intrusion into the Delta.	Verbal Comments
18	Sutphin, Randy	4/2/2008	Supports the project because making the channel deeper would make the levee banks higher, and ships need the clearance in order to get through. Greater ship traffic means less trucking traffic, which reduces the pollution in the air.	Verbal Comments

Scope of Impacts (cont'd)

	NAME	DATE	COMMENTS	TYPE
19	Bureau of Reclamation Candlish, Alan R.	4/29/2008	Concerns to be addressed in the EIS/EIR: No adverse impacts to the Central Valley Project due to this project. Affects of the project on Delta salinity, water quality, and temperature.	E-mail
20	URS Corporation Austin, Ian	4/29/2008	Request inclusion on the distribution list for URS and Trans Bay Cable. Basic information included about the Trans Bay Cable Project, and reminds the Corps to consider the construction of this project while planning for the dredging project.	E-mail
21	City of Stockton Granberg, Robert L.	4/16/2008	Concerns due to impacts on City's Delta Water Supply Project. Water Quality impacts due to dredging could affect their ability to treat the water. Increased ship traffic also increases the potential for ship collisions and increased levee erosion.	Mail

Environmental Consequences and Mitigation

	NAME	DATE	COMMENTS	TYPE
1	Central Delta Water Agency Nomellini, Dante John	4/30/2008	Seepage: excavation in the waterways along the Delta Island levees could induce greater seepage through and/or under levees that are already considered to have inadequate seepage standards. Other concerns: Destabilization of the Levee Waterside Toe, Wave Action, Propeller Wash, Salinity Intrusion, Dissolved Oxygen levels, Climate Change, and Sea Level Rise. Concern about inadequately maintained levees due to wave wash and improperly installed rip rap.	Fax
2	California Regional Water Quality Control Board Giovannini, Philip	4/28/2008	Requests the following issues to be addressed in the EIS/EIR: Dissolved oxygen: project could cause further decrease in dissolved oxygen levels, which could adversely affect aquatic life in the river. Consider ways to improve vessel transport with minimal alteration to hydraulics, such as the use of tug boats to transport shipping through the channel. Other issues include increased vessel size on special status species and increased turbidity.	Mail
3	HydroQual De Rosa, Laurie	4/29/2008	Decreased dissolved oxygen levels: Measures are being taken to improve the dissolved oxygen levels in the Deep Water Ship Channel, so any further actions in the channel should include assessments of oxygen injection planning. Other key issues include the movement of the salt wedge into freshwater areas and other water quality impacts.	E-mail

Environmental Consequences and Mitigation (cont'd)

	NAME	DATE	COMMENTS	TYPE
4	Natural Resources Defense Council Pettit, David	4/30/2008	Air Quality: Impacts of air pollution generated by operation of oceangoing vessels. The Corps should consider in the EIS/EIR any future effects due to increased operations along the Ship Channel resulting from the project. Global warming, public health, and atmospheric deposition impacts should be considered in the air quality assessment as well. Air Quality mitigation measures are recommended for implementation.	E-mail
5	San Joaquin County Mosquito and Vector Control District Stroh, John	3/17/2008	Request for further information regarding methods and practices that will be incorporated to prevent mosquitoes in the handling and storage of dredged material during the project.	E-mail

Environmental Consequences and Mitigation (cont'd)

	NAME	DATE	COMMENTS	TYPE
6	San Francisco BaykeeperAminzadeh, Sara	4/30/2008	Believes that the NOA did not provide detailed and accurate information about the projects and requests that the EIS/EIR is more specific. Lists questions that they require more detailed answers to.Water Quality: project could cause increased quantities of suspended sediments, turbidity, and the dispersion of contaminants. Requests thorough analysis of: Dissolved Oxygen, Re-suspension and disbursement of pollutants, dredged wastes, turbidity, and tidal prism impacts.EIS/EIR should address secondary and indirect issues which would arise from the Port's expansion, such as air quality impacts, global warming impacts, safety or spill issues due to increased ship traffic, impacts to levee integrity, and public health and environmental justice impacts.EIS/EIR should include a thorough analysis of alternatives to determine the least environmentally damaging alternative.	E-mail
7	Baye, Peter	4/2/2008	Sand mining impacts should be considered in the EIS/EIR. Habitat restoration options should be considered when determining the sand disposal method for the project.	E-mail

Environmental Consequences and Mitigation (cont'd)

	NAME	DATE	COMMENTS	TYPE
8	California Department of Fish and Game Armor, Charles	4/30/2008	Reminder of special status species in the project area, and of some of the impacts that need to be considered, including impacts to biological resources, changes in current and circulation patterns, impacts to water quality, changes in food web dynamics, and impacts to terrestrial habitat due to material disposal. Reminds that the EIS/EIR needs to address: specific figures regarding habitat impacts, Best Management Practices to offset the impacts, limited work windows, appropriate sites for the beneficial reuse of dredge material, water quality (dissolved oxygen levels, pH levels, water temperature changes, and changes in turbidity).	Fax
9	Thomas, Thomas A. M.D.	4/2/2008	Project will result in less oxygen in the water and more pollution, which will result in higher costs for people with respiratory disease.	Comment card
10	Metropolitan Water District of Southern California Shane, Delaine W.	4/25/2008	Reminders about environmental concerns: effects on special status fish species, toxicity and turbidity effects, effects on fish from increased ship traffic, water quality effects on fish, sea level rise, and mitigation measures.	Mail/E-mail
11	San Joaquin Valley Air Pollution Control District Warner, David	4/24/2008	Reminders about what needs to be looked at in the air quality evaluation including required permits and applications, emissions, planned mitigation, and local receptors.	Mail

Environmental Consequences and Mitigation (cont'd)

	NAME	DATE	COMMENTS	TYPE
12	State Water Contractors Erlewine, Terry L.	4/28/2008	Concerned about water quality degradation, particularly low dissolved oxygen concentrations, and the potential for pesticides and toxic metals to be introduced into the water column. Also concerned that the project may negatively impact aquatic species and benthic communities. Cumulative impacts on other local projects should also be considered, particularly wastewater discharge plants.	E-mail
13	Thomas, Thomas A.	4/2/2008	Concerned that the deepening of the channel will increase ship traffic and thus increase the amount of sulfur in the air due to pollution from the ships' fuel, which could cause acid rain. Reduced air quality can also cause an increase in lung disease, particularly in elderly, children, and people with heart disease. Deepening the channel will also decrease the oxygen saturation in the water, which will have an adverse effect on wildlife.	Verbal Comments

Public Involvement

	NAME	DATE	COMMENTS	TYPE
1	Jenkins, Steve	3/25/2008	Request for information about public scoping meetings and EIS/EIR preparation.	E-mail
2	Minasian, Spruance, Meith, Soares & Sexton, LLP.	4/30/2008	Summary of issues that should be addressed in the EIS/EIR including alternative selection, project location and boundaries, project objectives, technical, economic, and environmental characteristics, engineering proposals, traffic issues, environmental impacts and conditions, mitigation needs, economic or population growth impacts, cumulative impacts, scope of project, global warming impacts, and water quality impacts.	Mail
3	O'Hara, Scott RD 2122		Supports the project and is interested in utilizing a portion of the dredging spoils. Also reminds of their cables and water crossing in New York Slough.	Comment Card
4	Contra Costa Water District Kawakami, Brett	4/10/2008	Request to be added to the mailing list, and for information about any other documents available for the project.	E-mail

Miscellaneous

	NAME	DATE	COMMENTS	TYPE
1	Guidotti, June	3/22/2008	Comments are outside the realm of the project, however, is very concerned about the well being of the Suisun Marsh.	Fax

APPENDIX C:
NOTICE OF INTENT

the City of Redlands to the south poses damage to riparian ecosystems from past flooding and groundwater polluting activities. Ecosystem processes that help maintain groundwater supplies must be protected and restored where degraded. Flood risk management measures are a way to support the riparian habitat. Alternatives to be considered are those that will reduce further degradation of the river and the riparian ecosystem; improve the quality of both ground and surface waters; and reduce adverse water quality impacts from runoff.

3. *Scoping Process:* a. A scoping meeting is scheduled for the following three dates, times and locations, as follows: April 9, 2008, 6 to 8 p.m., City of Redlands City Council Chambers, 35 Cajon Street, Suite 2, Redlands, CA 92373; April 10, 2008, 6 p.m to 8 p.m., San Bernardino County Regional Parks Department Meeting Room, 777 East Rialto Avenue, San Bernardino, CA 92415, and; April 11, 2008, 6 to 8 p.m., City of San Bernardino Economic Development Agency Board Room, 201 North E. Street, Third Floor, San Bernardino, CA 92401. For additional information on dates, times, and locations please contact Jim Canady, San Bernardino County Regional Parks Department, at (909) 383–3202. Potential impacts associated with the proposed action will be evaluated. Resource categories that will be analyzed are: Physical environment, geology, biological resources, air quality, water quality, recreational usage, aesthetics, cultural resources, transportation, noise, hazardous waste, socioeconomics and safety.

b. Participation of affected Federal, State and local resource agencies, Native American groups and concerned interest groups/individuals is encouraged in the scoping process. Public participation will be especially important in defining the scope of analysis in the Draft EIS/EIR, identifying significant environmental issues and impact analysis in the Draft EIS/EIR and providing useful information such as published and unpublished data, personal knowledge of relevant issues and recommending mitigation measures associated with the proposed action.

c. Those interested in providing information or data relevant to the environmental or social impacts that should be included or considered in the environmental analysis can furnish this information by writing to the points of contact indicated above or by attending the public scoping meeting. A mailing list will also be established so pertinent data may be distributed to interested parties.

Dated: March 7, 2008.

Thomas H. Magness,

Colonel, U.S. Army, District Commander.

[FR Doc. E8–5141 Filed 3–13–08; 8:45 am]

BILLING CODE 3710–KF–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent to Prepare an Environmental Impact Statement for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project, California

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (Corps), San Francisco District, the Port of Stockton, and the Contra Costa County Water Agency are preparing an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to evaluate the efficiency of the movement of goods along the existing deep draft navigation route extending from the San Francisco Bay to the Port of Stockton. The proposed action consists of altering the depth of the deep draft navigation route. The authority for the San Francisco Bay to Stockton Navigation Improvement Project was provided under House Document 208, House Report 89–973 cited in Section 301 of the Rivers and Harbors Act of 1965, Pub. L. 89–298, § 204, 79 Stat. 1073. This is a notice of intent to prepare an EIS/EIR, and to consider all reasonable alternatives, evaluate potential impacts of the proposed action, and identify appropriate mitigation measures.

DATES: Two public scoping meetings will be held on the proposed action. The first public scoping meeting will be held in Martinez on March 26, 2008, from 5 p.m. to 7 p.m. The second public scoping meeting will be held in Stockton on April 2, 2008, from 5 p.m. to 7 p.m. The public comment period begins on March 12, 2008. Written comments from all interested parties must be received by April 30, 2008.

ADDRESSES: The Martinez scoping meeting will be held at the Contra Costa County Administration Building, Room 101, 651 Pine Street, Martinez, CA 94553. The Stockton scoping meeting will be held at the Cesar Chavez Central Library, Stewart-Hazelton Room, 605 N. El Dorado Street, Stockton, CA 94553.

FOR FURTHER INFORMATION CONTACT: Questions and comments regarding the proposed action can be addressed to: Ms. Nancy Ferris, U.S. Army Corps of Engineers, San Francisco District, 1455 Market Street, San Francisco, CA 94103–1398, telephone: (415) 503–6865, or *SPNETPA@usace.army.mil.* All written comments can also be faxed to (415) 503–6692 or sent electronically to *SPNETPA@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The following section will address the study area, and some of the alternatives that will be addressed in this study.

1. *Background:* The San Francisco Bay to Stockton Improvement Project includes the John F. Baldwin and Stockton Ship Channels, which extend 75 nautical miles from the Pacific Ocean, just outside the Golden Gate, to the Port of Stockton. The project is divided into two separate reaches, with the John F. Baldwin Ship Channel extending from the Golden Gate to Chipps Island, and the Stockton Ship Channel extending from Chipps Island to the Port of Stockton. Portions of the reaches have been deepened in the past; however, not all reaches attained authorized dimensions. Currently, the Corps is reevaluating the authorized Federal project to determine the extent to which changes to channel dimensions are warranted.

2. *Proposed action:* Based on the need for improved efficiency of the movement of goods, the proposed action is to alter the depth of the John F. Baldwin and Stockton Ship Channels.

3. *Project Alternatives:* The following are some of the alternatives that will be evaluated in the EIS/EIR:

(a) *No action.* The efficiency of maintaining the current depths of the John F. Baldwin and Stockton Ship Channels will be evaluated.

(b) *Modify the shipping channels to authorized depths.* Following the original plans of the authorized project, the channels will be modified to the authorized project depths. Alternative placement sites for dredged material, including beneficial reuse, will be evaluated.

(c) *Modify the shipping channels to alternate depths.* All or portions of the John F. Baldwin and Stockton Ship Channels will be evaluated for depths differing from current or authorized depths. This will be accomplished in consideration of economic and environmental impacts of the proposed project.

(d) *Alternative transport methods.* Alternative methods for the transport of goods such as truck or rail transport will be evaluated.

4. *Environmental Considerations:* In all cases, pursuant to NEPA guidelines, environmental considerations will include human health, biological resources, geophysical impacts, air quality, water quality, salinity, hazards, noise, utilities and service systems, transportation, land use and planning, historic and cultural resources, aesthetics, recreation, social and economic effects, as well as other potential environmental issues of concern.

5. *Scoping Process:* The Corps is seeking participation and input of all interested Federal, State, and local agencies, Native American groups, and other concerned private organizations or individuals through this public notice. Public scoping meetings will be held in Martinez, CA and Stockton, CA (see **DATES**). Any changes to the date, time, or location will be published in the newspaper or provided by mail to those requesting information. The purpose of the meeting is to solicit comments regarding the potential impacts, environmental issues, and alternatives associated with the proposed action. Public participation will help to define the scope of the environmental analysis in the EIS/EIR; identify other significant issues; provide other relevant information; and recommend mitigation measures. The public comment period starts on March 12, 2008, and closes on April 30, 2008. All comments received will be considered in the preparation of the EIS/EIR.

6. *Availability of EIS:* The public will have an additional opportunity to comment on project alternatives once the draft EIS/EIR is released. The Corps will announce availability of the draft EIS/EIR in the **Federal Register** and other media, and will provide a 45-day public review period for the public, organizations, and agencies to review and comment on the EIS/EIR. All submitted comments will be addressed in the Final EIS/EIR. All interested parties should respond to this notice and provide a current address if they wish to be notified of the EIS/EIR circulation.

Mike A. Dillabough,

Chief, Operations and Readiness Division.

[FR Doc. E8–5133 Filed 3–13–08; 8:45 am]

BILLING CODE 3710–19–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Coastal Engineering Research Board (CERB)

AGENCY: Department of the Army, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board (CERB).

Date of Meeting: April 2, 2008.

Place: Marriott New Orleans Metairie at Lakeway, 3838 N. Causeway Boulevard, Metairie, LA 70002.

Time: 8 a.m. to 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Inquiries and notice of intent to attend the meeting may be addressed to Colonel Richard B. Jenkins, Executive Secretary, Commander, U.S. Army Engineer Research and Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

SUPPLEMENTARY INFORMATION: The Board provides broad policy guidance and review of plans and fund requirements for the conduct of research and development of research projects in consonance with the needs of the coastal engineering field and the objectives of the Chief of Engineers.

Proposed Agenda: The theme of the meeting is ''Regional System-Wide Analysis Lessons Learned from the Louisiana Coastal Protection and Restoration (LACPR) Study and the Mississippi Coastal Improvement Project (MsCIP).'' The morning presentations will be given on the lessons learned from LACPR and MsCIP system-based approach and presentations on the oceanographic, sediment, and fresh water systems and ecology aspects of the regional system-wide analysis of LACPR and MsCIP. The afternoon presentations will deal with the economical, sociological and political systems, and the States' perspectives pertaining to the regional system-wide analysis of LACPR and MsCIP. In the evening, the Board will go into Executive Session to discuss ongoing and future action items.

These meetings are open to the public; participation by the public is scheduled for 2:45 p.m. on April 2, 2008.

The entire meeting is open to the public, but since seating capacity of the meeting is limited, advance notice of attendance is required. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–5132 Filed 3–13–08; 8:45 am]

BILLING CODE 3710–61–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On March 10, 2008, the Department of Education published a comment period notice in the **Federal Register** (Page 12717, Column 2) for the information collection, ''Tech-Prep Demonstration Grants.'' The responses are hereby corrected to 20 and the burden hours to 1,301.

The IC Clearance Official, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: March 10, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

[FR Doc. E8–5092 Filed 3–13–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 14, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by email to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in