#### Port of Redwood City Comments on LTMS Draft EIS/EIR

*Directed disposal.* This appears to be the most equitable way to ensure that those who cannot pay for more expensive disposal options receive due consideration.

*Fee structure to provide disincentives for in-Bay disposal*. Making in-Bay disposal as expensive as other disposal alternatives is only acceptable if this fee is covered by the federal government in cases of Federally-funded O&M projects.

Credit system to provide incentives for placement of material according to the preferred approach. Although intriguing, some ports could end up paying hefty bill while looking for another port willing to purchase its credits. If implemented, it would add to existing dredge disposal concerns as local sponsors would need to worry about selling credits in order to recoup costs. The idea may have some merit, but should be examined very closely before any decisions are made.

## D. Federal Financing Options

The Port of Redwood City supports all of the federal financing options proposed in the draft EIS/EIR (Develop More Dredging-Related Wetlands Restoration Projects; Develop Projects that Use Funds Designed to Restore or Enhance Habitat Associated with Already-Constructed Navigational Projects; Use Exceptions presently Allowed to the NED Plan Process to Approve More Projects with Upland Disposal and Beneficial Reuse Features; Expand Use of the Harbor Maintenance Trust Fund; Identify Beneficial Reuse Projects Appropriate for Supplemental Environmental Projects Undertaken through Enforcement actions; Wetland Mitigation Banking.)

Without some form of federal assistance, the economic feasibility of implementing the draft EIS/EIR is drastically decreased. Many ports, such as the Port of Redwood City, simply cannot absorb -- or pass on -- the costs associated with creating and managing UWR sites, or even hauling material out to the ocean for disposal. For example, the current cost for maintenance dredging of the Redwood City Navigation Channel is \$3.80/cy. This would nearly double, to \$7.30/cy, if the

5f(4)

5f(3)

## Port of Redwood City Comments on LTMS Draft EIS/EIR

<sup>5f(4)</sup> dredged material from this project were to be hauled out to the ocean disposal site. The Port of Redwood City could not possibly cover this cost increase, and neither could its tenants. Many other ports in the Bay Area are similarly situated. For this reason, securing some form of federal financing assistance should be a pre-requisite, or benchmark, which must be met before more costly dredge disposal options are mandated.

#### 5g

## E. Expand Use of Harbor Maintenance Trust Fund

The Port of Redwood City strongly supports the use of the Harbor Maintenance Trust Fund to cover disposal costs, including construction and maintenance of dredged material disposal facilities. The purpose of the Harbor Maintenance Fee is to provide for maintenance of ports and harbors. Dredging is obviously considered a maintenance activity. But disposal of dredged material is an integral part of the dredging process (as evidenced by the fact that ports which cannot resolve disposal problems simply cannot dredge), and should therefore be considered part of the dredging process, and not a separate activity. There is currently a massive surplus in Trust Fund, which is growing at a rate of \$300 million per year, which could be used to cover the increased disposal costs anticipated by the draft EIS/EIR.

## 5h

#### F. State Financing Options

The Port of Redwood City is adamantly opposed to the concept of a State Regional Dredging Trust if it entails charging additional fees for dredging. Deep draft ports already pay into the Harbor Maintenance Trust Fund for this very purpose, and should not have to pay additional fees while the Trust Fund surplus continues to grow.

The Port would support a staff position to identify markets and uses for dredged material during project planning phase. This person should also be charged with working with groups of ports interested in developing long-term mutuallybeneficial disposal plans.

# G. Federal Cost-Sharing Policies for Dredging Activities Favor Aquatic <sup>5i</sup> Disposal Methods

It does not appear that the O&M "federal standard" needs to be altered. The standard does not require the Corps to elect the least cost disposal alternative -- it requires that any such alternative also meet "all applicable federal and state environmental standards." If the LTMS agencies adopt a policy requiring a shift from in-Bay disposal (lowest cost) to ocean and upland disposal (higher cost), then the Corps must be guided by this new "standard" when choosing a disposal option. What does need to be changed is the "current practice" as set forth in the EIS/EIR, which "utilizes, for the most part, the least costly in-Bay site meeting environmental requirements." The Corps should have the authority to alter its current practice in order to implement the proposed LTMS policy which the Corps itself has supported.

# H. Absence of Programs for Federal and State Government Participation in the Acquisition and Development of Disposal Sites for "Unsuitable" Materials

5j

"Although the increased need for such disposal sites arose from federal and state regulatory actions to protect environmental quality and prevent further environmental degradation, no government programs exist to help local sponsors finance the acquisition of land or the development costs needed to create disposal sites for 'unsuitable' sediments." The LTMS agencies are obviously aware of the irony of this situation, which should be rectified. The local sponsors cannot bear the entire financial burden of compliance with the LTMS. Again, the LTMS is a joint project involving many parties with an interest in implementing more environmentally-acceptable disposal alternatives, which also happen to be more costly than existing disposal options.

Port of Redwood City Comments on LTMS Draft EIS/EIR

5**k** 

#### I. Need for Additional Upland/Wetland Reuse Sites

This point cannot be over-emphasized. It would be impossible to implement even the first alternative, which reflects a 10% increase in disposal at UWR sites, without additional UWR capacity -- particularly for the Port of Redwood City, since no South Bay upland/wetland reuse sites or rehandling facilities were identified in the draft EIS/EIR. Furthermore it would be unacceptable to implement Alternative 1 without first addressing how such sites will be approved. It should written into the EIS/EIR that it will be the responsibility of the LTMS to work with all parties to help identify and approve additional UWR sites.

#### 6 VI. Conclusion

In conclusion, the Port of Redwood City takes no position on the environmental assessments or recommendation made in the draft EIS/EIR, and is willing to support any policy which can be implemented without imposing an increased economic burden on federally authorized navigation channels, such as the Port of Redwood City. The Port looks forward to working with the LTMS to ensure that the needs and goals of *both* the environmental *and* dredging communities are met through the LTMS.

#### Appendix R: Comments and Responses on the Draft EIS/EIR

#### Responses to Redwood — Port of Redwood City, letter dated July 19, 1996

- 1. The LTMS agencies have selected Alternative 3 as the preferred alternative and will prepare a draft Management Plan based on this preferred alternative. A discussion describing the initial implementation of Alternative 3 has been added to the Final EIS/EIR (see section 6.5).
- 2. The document presents an adequate analysis at a programmatic level for the decisions being made, meeting both NEPA and CEQA requirements (see the responses to Chevron comments 5a and 5b). Also, please see the responses to BPC (7/19/96 letter) comments 1, 7a, 10, and 18(1), and Oakland comment 11.
- Statement noted. Please see the response to the BPC comments.
- 4. The transition to the preferred alternative is proposed to provide time to address capacity and economic constraints to UWR. The LTMS agencies believe that the preferred alternative provides a strategy to overcome the limitations mentioned by the commentor. Passively waiting for the obstacles to be overcome would not be an acceptable strategy to achieving the preferred alternative. The LTMS includes reviews during the transition to evaluate progress toward Alternative 3 and whether any further actions are required. The Management Plan will address these issues.

The EIS/EIR discusses existing disposal volume limitation in section 6.7, and an expanded discussion of recent and current site management has been included in Chapter 4. In addition, economic as well as policy and statutory constraints are discussed in Chapter 7. The LTMS agencies recognize that an immediate change to full implementation of Alternative 3 would result in significant economic effects for many dredgers, and potentially for the dredging-related economy as a whole. At the same time, waiting to move toward Alternative 3 until after all economic difficulties are overcome could result in an indefinite continuation of current conditions. To address this situation, the LTMS agencies have developed a framework for transitioning into Alternative 3 over time. This approach, described in section 6.5, includes both a regulatory "ceiling" on allowable in-Bay disposal volumes and other non-regulatory approaches to making new upland or wetland disposal or beneficial use options available and practicable. It also includes a portion of the in-Bay disposal limit set aside for "small dredgers" (for whom alternatives to in-Bay disposal are likely to be less feasible) (section 6.5.7).

The issue of a disposal site's practicability is addressed in the responses to Foster City comment 3, CCCWA (7/19/96 letter) comment 5, and BDAC comment 6.

Please see the responses immediately below to comments 5a through 5e.

5.

5a.

- The EIS/EIR repeatedly states that the long-term target volumes for each environment are, in effect, overall objectives that may not be fully achieved by any specific date in the future. However, it is the intent of the LTMS agencies to move as far toward these long-term volume goals as possible (in an economically practicable manner), and as quickly as possible. This will entail both regulatory actions and non-regulatory efforts, as described in Chapter 6 (section 6.5).
- 5b. In the event that in-Bay disposal sites become unavailable for specific projects, O&M or new construction, the COE is prepared to adjust federal funding requests accordingly as the transition plan to Alternative 3 requires. Please refer to section 6.5 for further information about the transition plan. Additionally, the COE's Policy Guidance Letter (PGL) #47 addresses WRDA 96 language for the cost-sharing of upland disposal sites and would allow for cost sharing of upland disposal site development and maintenance. (The PGL is available on the Internet at http://www.usace.army.mil/inet/functions/cw/cecwa/pglindex.htm#47.)
- 5c. Please see the responses to Redwood comments 4, 5a, and 5d; and CLC comment 2.

Statement noted. Financing for LTMS will be spread across all sectors of the dredging community. A variety of financing options will be required to meet the disposal redistribution goals of the preferred

alternative. Section 7.3 of the EIS/EIR outlines some of the financing options that may be used to promote beneficial reuse. Other options and a proposed mechanism for the LTMS implementation are included in the Final EIS/EIR.

Please see the responses to Redwood comment 5a and TMG comment 3.

5d. Section 6.5 of the Final EIS/EIR discusses the transition toward full implementation of Alternative 3, including phases, minimum (mandatory) milestones, and public review opportunities. Please see the response to CMC comment 7.

5e. Staff agree with the Port of Redwood City that a management plan be drafted that addresses the details of policy implementation. Recently, the LTMS Management Committee reviewed the Port's comment and agreed their committee would not be disbanded upon completion of the EIS/EIR. Rather, federal-state interagency committees, similar to the LTMS committee structure, will continue to work on dredging policy. A staff-level work group and a management committee will oversee the implementation of a dredging management plan. The committee structure and the content of the management plan will be made public through a series of workshops. The final management plan would be brought before the Regional Water Quality Control Board and the Bay Conservation and Development Commission for approval.

5f. Please see the responses immediately below to Redwood comments 5f(1) through 5f(4).

5f(1). Standardized procedures exist and are in use now (i.e., Green Book and PN 93-2). In addition, the RIM will help make standardized procedures more consistent by making testing for any aquatic disposal — ocean or in-Bay — much more consistent than they are today.

The multi-agency Pilot Program of the Dredged Material Management Office (DMMO) was established to implement a comprehensive and consolidated approach to handling dredged material management issues to reduce redundancy and delays in the processing of dredge permit applications. The first year of the pilot program of the interagency DMMO formally began in March 1996. The DMMO, in part, grew out of the LTMS as an effort to better coordinate and expedite the permit application process for dredging and disposal projects occurring in the San Francisco Bay region. The DMMO member agencies are the EPA, COE (San Francisco District), RWQCB, BCDC, and the California State Lands Commission. The sole intent of the DMMO is to improve the dredging process within existing law, regulation, and policy; no new regulatory statutes were initiated in the formation of the DMMO. All applicable regulatory authority and processes of the member agencies remain in full force and effect. Hopefully, with the implementation of DMMO, some of the impediments to the dredge permit process are removed. Two reports documenting the first 6-month phase of the pilot DMMO (LTMS 1997) and the second 6-month phase of the DMMO (LTMS 1998) are provided in Appendix M; copies of these reports are available from the COE - San Francisco District. The DMMO, and the pilot Consolidated Permit Application Form which it is testing, represent significant progress toward the LTMS goal to streamline and coordinate the permitting process for the region.

Other "impediments," such as sediment testing procedures required for in-Bay disposal (i.e., PN 93-2) and/or ocean disposal (i.e., "Green Book"), cannot be avoided. Presently, effects- based testing is used for both in-Bay and ocean disposal, and agencies are working to develop the RIM for standardized upland/wetland testing procedures. In addition, one goal for the RIM is to make in-Bay and ocean testing requirements as consistent as possible. Overall, this should help to streamline and expedite the dredge permit process.

5f(2). Please see the response immediately above to Redwood comment 5f(1). Also, note that the DMMO will simply help carry out the policies established under the Preferred Alternative and the subsequent Management Plan; it is not a prerequisite for the selection of a Preferred Alternative.

5f(3). Finalized long-term target volume levels have not been set for disposal sites, nor has the allocation mechanism that the LTMS will use been determined (see section 6.5.7). These are elements of the Management Plan. Fairness and practicability will be important considerations in the Management Plan. The "first-come-first-served until limits are reached" alternative favors those who dispose earliest in the season, allowing in-Bay disposal to those dredging early in the allowed season while others are left with more expensive options. This alternative is only one of several approaches being considered in the Management Plan.

Under directed disposal, the LTMS agencies would determine, for a particular dredging episode, what disposal environment could be used. Low-cost sites would be allocated to "small" dredgers, while more expensive upland or ocean disposal would be required for large projects. This alternative is only one of several approaches being considered in the Management Plan.

Whether the same fee-structure would apply to federally-funded O&M projects depends on as-yetundetermined federal policy. This alternative is only one of several approaches being considered in the Management Plan.

A credit system may provide a fair and economical way to allocate the limited disposal volume among dredgers. This alternative is only one of several approaches being considered in the Management Plan. Another possibility would be a market system where credits are bought and sold, where those that most need credits would pay higher costs.

- 5f(4). LTMS is working to help make alternatives to in-Bay disposal more available and practicable to use. However, the practicability of alternatives must be evaluated for each project, even if there is no federal financing to subsidize it. Thus, securing federal financial assistance is not a "prerequisite" to selecting or beginning to implement a preferred alternative. See the new section 6.7 for a discussion of the preferred alternative. See the response to Oakland comment 12, and the new description of the transition to Alternative 3 in the Final EIS/EIR (section 6.5).
- 5g. Recent court challenges to the constitutionality of the Harbor Maintenance Trust Fund make it unclear whether or how it may represent a realistic source of funding. However, section 4.8 of the EIS/EIR has been expanded to describe the Water Resources Development Act of 1996, which includes some significant changes to past cost-sharing requirements and, in part, addresses some of these issues.
- 5h. Statement noted. Thank you for your comment. The issue of long-term financing needs to be addressed, including the evaluation of options such as a regional dredging trust.
- 5i. The COE's DMMP process and the COE's revisions to its Composite EIS for maintenance dredging, coupled with reduced in-Bay disposal volume limits, may effectively result in modifications to the "federal standard" for some channels. Without such changes, COE maintenance dredging can still be sent to alternative disposal locations or reuse sites, but local sponsor(s) must pay for any cost difference. Also, please see section 4.8 for a description of the Water Resources Development Acts, including that of 1996.
- 5j. The LTMS agencies are aware that funding is needed to facilitate the disposal of dredged material at upland locations. Section 7.3 of the EIS/EIR discusses funding options that should be pursued, including federal and state government funding sources for local sponsors of dredged material reuse projects. The LTMS Management Plan will address the processes that will be used to obtain further funding.
- 5k. Statement noted. Implementation of Alternative 3 and the transition to Alternative 3 will be discussed in the Management Plan. Identification and approval of upland (UWR) sites are addressed in the responses to DOI comment 27b, CDBW comment 1, Alameda comment 2, and Chevron comment 2.
- 6. Statement noted.

#### PORT OF SAN FRANCISCO

July 19, 1996



Ferry Building San Francisco, CA 94111 Telephone 415 274 0400 Telex 275940 PSF UR Fax 415 274 0528 Cable SFPORTCOMM Writer

Karen Mason LTMS EIS/EIR Comments c/o U.S. Environmental Protection Agency Region 9 (W-3-3) 75 Hawthorne Street San Francisco, California 94947

SUBJECT: Comments on the Long Term Management Strategy (LTMS) for the Placement of Dredged Material in the San Francisco Bay Region Draft Policy Environmental Impact Statement/Programmatic Environmental Impact Report (DEIS/EIR)

#### Dear Ms. Mason:

The Port of San Francisco has reviewed the Long Term Management Strategy (LTMS) for the Placement of Dredged Material in the San Francisco Bay Region Draft Policy Environmental Impact Statement/Programmatic Environmental Impact Report (DEIS/EIR), and we offer the following comments on the document.

- 1. Preference for Alternative 3; Emphasis on Upland/Wetland Reuse (UWR) and Ocean Disposal. Although the DEIS/EIR does not officially identify a preferred alternative, the document clearly supports the LTMS policy to promote beneficial reuse of dredged material and minimize in-Bay disposal of dredged material. The Port of San Francisco, too, supports the LTMS' mission to promote beneficial reuse of dredged material when practical. However, we are concerned that the emphasis on UWR is based on an incomplete analysis of the potential adverse impacts of in-Bay disposal. The DEIS/EIR concludes that, in the absence of any hard data on the environmental impacts associated with in-Bay disposal, one must assume that the practice involves a large "risk" to the aquatic environment. This assumed "risk" is not a sufficient justification for a major policy change that could have very real economic impacts on dredgers as well as potential adverse impacts on the upland environments chosen as UWR sites.
- 2. Inadequate Economic Analysis. The DEIS/EIR contains a lengthy discussion of the macro-economic impacts of the proposed shift away from in-Bay disposal toward the higher level of ocean disposal and/or UWR contained in all of the

alternatives except the no action alternative. However, these discussions, which downplay the economic impact of this shift on dredgers as a whole, do not adequately address the economic impact of the alternatives on individual dredgers. This is especially true of the Port of San Francisco, whose dredging needs and maritime revenues have declined dramatically in recent years. The Port of San Francisco, like other small dredgers, depends heavily on in-Bay disposal to accomplish its maintenance dredging in a reasonably cost-effective manner. While the DEIS/EIR contains some discussion about reserving the least expensive disposal options for smaller dredgers, it is unclear how much capacity would be reserved and how the space would be allocated. The projected shifts in dredging and disposal costs associated with all of the proposed alternatives except the no action alternative would greatly affect the Port of San Francisco's ability to remain involved in any meaningful way in maritime activities.

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3. <sup>3</sup> Lack of Information on Implementation. We are concerned that the DEIS/EIR does not contain an adequate discussion of the implementation of any of the alternatives discussed. This is surprising considering the level of public concern that exists about the difficult regulatory process associated with dredging and the efforts of the LTMS to streamline the dredging permitting process over the last several years. The fact that no viable UWR sites exist at the present time is also an obvious concern, considering the emphasis placed on UWR in Alternatives 1,2 and 3. Landfilling dredged material, currently the only UWR option available to the Port of San Francisco, remains an extremely costly disposal option that we reserve for those rare occasions when we encounter material that is unsuitable for unconfined aquatic disposal.

Thank you for this opportunity to comment on the DEIS/EIR. We look forward to the opportunity to work with the LTMS agencies to improve the practicability of the alternatives reviewed in the DEIS/EIR.

Sincerely,

Roberta

Roberta L. Jones Environmental Health and Safety Manager

#### Responses to the Port of San Francisco, letter dated July 19, 1996

1. Statement noted. Please see the responses to Benicia comment 5, Oakland comments 11 and 37, Chevron comment 2a, and Krone comment 9a.

With regard to economic issues, the "practicability test" in Clean Water Act 404(b)(1) Guidelines (40 CFR Part 230) addresses economic impacts. The alternative plan recognizes the tradeoffs of disposal in various environments. Each disposal environment has certain advantages and disadvantages; the LTMS eliminated alternatives with high percentages of material going to any one environment to ensure flexibility.

- 2. Statement noted. Achieving the preferred long-term disposal distribution will require techniques that promote disposal in the appropriate environments. Special socioeconomic consideration will be given to small dredgers to ensure feasible disposal options are available (see section 6.3.1). These types of techniques are outlined in the Final EIS/EIR and the LTMS Management Plan.
- 3. Additional discussion has been added to the Final EIS/EIR regarding the transition to the preferred alternative (see section 6.5) and implementation of the preferred alternative (see section 7.2.3). These issues will be further discussed in the Management Plan for the selected alternative. In addition, the LTMS agencies believe that the regulatory process has been successfully streamlined through the DMMO and will continue to look for further opportunities to do so. Also, please see the response to DOC comment 1.

# **Letters from Environmental Organizations**



Ms. Karen Mason LTMS EIS / EIR Coordinator c/o US Environmental Protection Agency Region 9 (W-3-3) 75 Hawthorne Street San Francisco, California 94947

August 1, 1996

Dear Ms. Mason:

Thank you for this opportunity to comment on the "Long Term Management Strategy For The Placement Of Dredged Material In The San Francisco Bay Region Draft Environmental Impact Statement / Draft Environmental Impact Report". In addition to the following comments, BayKeeper joins in the comments provided by Golden Gate Audubon in its letter of comments.

BayKeeper believes that the draft does not adequately evaluate a number of potential adverse environmental effects that may impact the Bay's delicate ecosystem. The draft EIR should be revised to consider the following concerns.

- 1. The time span envisioned by the draft, a fifty year time period, 2a is too long. The draft EIS/EIR should be rewritten based on a more realistic time period of 10 years, considering General Plans are good for only ten years.
- 2. The Concept of Compensatory Mitigation cannot be ignored by the LTMS. There is no mention of compensatory mitigation for the destruction of seasonal wetlands within the current draft of the LTMS. Compensatory Mitigation is required by law under both CEQA and NEPA to compensate for the loss of seasonal wetlands. Two of the three proposals outlined in the draft would result in the destruction of approximately 7,225 acres of seasonal wetlands by altering them into tidal wetlands. The final draft must include mitigation for the loss of those seasonal wetlands. The Estuary Project's Wetland Status and Trends Report estimated that there are approximately 18-

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21,000 acres of seasonal wetlands in the Bay Area. Therefore, the destruction of 7,225 acres would constitute a loss of over 33% of the Bay's seasonal wetlands.

- 3.<sup>2c</sup> | The disposal of toxic dredge material (NUAD material, i.e. dredge material "Not-suitable for Unconfined Aquatic Disposal) as part of the process of changing seasonal wetlands into tidal wetlands is inadequately addressed. The concentrations of toxic substances (i.e. heavy metals, pesticides, fertilizers, PCBs, and other organic chemicals) are highest in the areas where shipping activities are most common. Many concerns have been raised about the adequacy of the Corp's regional procedures to identify potential pollution conditions. The draft DEIS/DEIR must include a more comprehensive testing and monitoring program for the designation of contaminated sediment. Although deep ocean dumping requires more stringent testing, similar testing criteria is equally important to ensure the protection of the areas effected by upland disposal. In addition the draft LTMS groups "upland reuse" of dredged material with seasonal wetland reuse. This is not acceptable since wetlands are considered "waters of the state" and are regulated quite differently due to their different biological values.
- 4.<sup>2d</sup> The evident flaws and data gaps within the Sonoma Baylands and Montezuma Wetlands Restoration Projects should be monitored more closely with the appropriate measures taken to correct the problems of drainage, erosion, etc. before the LTMS relies on these projects to serve as models. There is a need for further CEQA reviewal. BayKeeper believes a five year time frame is essential to fully understand the negative impacts of tidal reconstruction.
- <sup>3</sup> In summary, the LTMS draft needs to better address the following general concerns:
  - \* Physical effects of disposal, including turbidity;
  - \* Physical processes, including fate and transport of material from the disposal sites using better numerical numbering;
  - \* Toxicological issues, including the release of contaminants during disposal and ecological fate of contaminants;
  - \* Non-treatment effects in sediment toxicity tests;
  - \* Bio-accumulation;

\* Methods to reduce the need for increased dredging; and \* Better methods for sampling and analysis for sediment testing.

Again, thank you for this opportunity to express our concerns with the draft EIS/EIR. Please consider these comments for improving the second draft EIS/EIR. If you have any further questions regarding BayKeeper's concerns and comments, please contact me at (415) 567-4401.

Sincerely,

Michael

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Michael Lozeau, Executive Director

#### Responses to the BayKeeper, letter dated August 1, 1996

1. Statement noted.

3.

- 2. Statement noted. Please see the responses to Chevron comment 2a and CBFA comment 3.
- 2a. As discussed in Francingues and Mathis (1989) and cited in Chapter 2, 50 years is an appropriate time frame for programmatic evaluation and planning. However, the LTMS agencies agree that the 50-year time period is a long time and the plans for implementing LTMS should be updated as needed.

As discussed in section 2.1.3.5, the Management Plan will be re-evaluated at least every 3 years or as needed to ensure implementation of the selected alternative. Also, LTMS will be reviewed by the agencies on a programmatic level every 6 years, or as needed to revisit the continued validity of the basic assumptions of the LTMS program (i.e., including the need for dredging and the consideration of new information that may be available). The management plan review and the periodic program review will involve the public. If substantial changes are indicated, appropriate evaluations will be undertaken pursuant to NEPA and CEQA.

- 2b. Statement noted. Please see the response to OAS comment 7.
- 2c. In regard to the use of NUAD material for wetland restoration efforts, please see the response to DOI comment 11.

In regard to sediment quality testing protocols for material dredged from San Francisco Bay, the quality of dredged material disposed of in the Bay has been subjected to effects-based testing requirements pursuant to Public Notice 93-2, since it took effect in 1993. The U.S. Environmental Protection Agency in association with the U.S. Army Corps of Engineers have also been involved in the process of developing and implementing new sediment quality protocols for inland waters of the U.S., referred to as the *Inland Testing Manual*, which includes bays and estuaries. The *Inland Testing Manual* has been finalized and the new regulations are in effect for all unconfined dredged material disposal within San Francisco Bay. Also, please see the responses to DOI comments 26b and 26c.

In regard to uplands and diked bayland areas being grouped under the broad beneficial reuse heading of UWR, please see the response to DOI comment 13.

- 2d. Statement noted. Please see the response to DOI comment 11.
  - Aquatic disposal effects are discussed extensively in Chapter 3, and are evaluated by alternative in Chapter 6. Effects at upland or wetland reuse sites must be determined on a site-specific basis; however, potential effects are discussed in general in Chapters 3 and 6. Chapter 3 has also been expanded to include more discussion of potential effects of dredging (as separate from disposal) in section 3.1.1.3.

Physical processes, including fate and transport of dredged material, are also discussed generally in Chapter 3 (including the results of numeric modeling) for aquatic disposal (see section 3.2.2). This type of information is used in helping designate aquatic disposal sites, and for determining management parameters needed at aquatic disposal sites. In addition, project-specific sediment evaluations are used as a basis for determining project-specific fate and effects.

Chapter 3 also discusses fate and effects of contaminants from dredged material in all three placement environments (see sections 3.2.3 and 3.2.4). Project-specific sediment evaluations are specifically designed to indicate whether release of contaminants during disposal may result in significant adverse effects for that specific project (and the policy-level mitigation measures in Chapter 5 require that they be evaluated on a project-specific basis).

Non-treatment effects, or interfering factors in sediment tests (both chemical and biological), can occur, but test protocols and systematic use of the same suite of tests for all tested projects are designed to control for and/or minimize these problems. For example, interstitial ammonia and sulfide concentrations must be measured before initiation of bioassays and adjusted as necessary to bring them into acceptable ranges before animals are introduced to the sediments. Comparison to an appropriate reference sediment also helps to control for non-treatment effects. Multiple species bioassays and reference toxicant testing helps in interpreting overall test results so that the potential for erroneous decisions is minimized.

As discussed in Chapter 3, bioaccumulation testing is required when necessary under both existing and proposed LTMS guidelines as an indication of contaminant bioavailability and to compare with relevant FDA action levels or state fish advisories.

Please see the response to EDF comment 1c.

Please see the responses to BDAC comment 5 and BayKeeper comment 2c. A Regional Implementation Manual will be developed that will include updated sampling and analysis plan guidance.



# Center for Marine Conservation

July 18, 1996

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3

LTMS EIS/EIR Comments c/o U.S. EPA Region IX (W-3-3) 75 Hawthorne Street San Francisco, CA 94947

#### VIA FACSIMILE AND U.S. MAIL

Dear Comment Clerk:

The Center for Marine Conservation (CMC) is the nation's largest nonprofit organization dedicated to conserving marine species and their habitats. CMC welcomes the opportunity to comment on the Draft Environmental Impact Statement/Environmental Impact Report on the Long-Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (Draft EIS/EIR).

CMC would first like to commend the LTMS agencies for developing more balanced approaches to dredged material disposal. The past focus on in-Bay disposal has directed potential environmental harm at a single area and increased the possibility of an economically devastating "mudlock." CMC therefore welcomes the proposed reductions in in-Bay disposal, and looks forward to working with the LTMS agencies to achieve a more balanced combination of beneficial reuse and in-Bay and ocean disposal.

However, there is no doubt that the disposal of dredged material in the marine environment adversely affects that environment. To minimize the risk of harm to the marine and other environments from dredged material dumping, CMC supports the Long Term Management Strategy's (LTMS) complementary goals of: (a) conducting dredge disposal in the most environmentally sound manner, and (b) maximizing the use of dredged materials as a resource. Draft EIS/EIR at 2-4. Some form of Alternative 3 appears best able to achieve those goals. However, CMC recommends drafting and circulating for public review a plan for achieving the alternatives <u>before</u> the final EIS/EIR is adopted. The selection of a particular alternative is meaningful only if that alternative actually will be implemented in a timely fashion. The public therefore can meaningfully select an alternative only if it has some information on the agencies' plans for implementing that alternative.

CMC is opposed to the suggestion in the Draft EIS/EIR that Alternatives 1 and 3 become "co-recommended alternatives." CMC is concerned that if Alternative 3 is not the sole focus, then it is more likely that the agencies will stall at Alternative 1 indefinitely,

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3 resulting in unnecessarily heavy impacts on aquatic environments. Alternative 3 would be better achieved by choosing it alone as the preferred alternative, and then laying out a strategy for achieving it over time.

Finally, as discussed in more detail below, CMC also requests additional analysis of the potential impacts of dredge disposal at the SF-DODS; preparation and circulation of a manual for implementing the SF-DODS Site Management and Monitoring Plan; and a commitment to continue or strengthen, rather than weaken, current sediment testing requirements.

I. THE LTMS AGENCIES SHOULD PREPARE AND CIRCULATE DRAFT IMPLEMENTATION PLANS FOR EACH ALTERNATIVE BEFORE FINALIZING THE EIS/EIR.

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The Public Should Be Allowed to Review the LTMS Implementation Plans before the Draft EIS/EIR Is Finalized.

As discussed above, the public can make a meaningful decision regarding the alternatives only if it has some idea of how (or whether) those alternatives will be implemented. The Draft EIS/EIR provides only vague details regarding implementation, and puts off serious discussion of implementation until after completion of the EIS/EIR. The Draft EIS/EIR even fails to adopt a policy to implement beneficial reuse more widely; instead, it states that such a policy is simply "proposed." Draft EIS/EIR at 6-70, 7-8-7-15. Putting off critical implementation issues may delay identification of significant problems that should be subject to public review and analysis now.

CMC also is concerned that a failure to fully account for potential problems with implementing beneficial reuse will increase the likelihood that more material than anticipated will be dumped into the ocean. CMC thus requests that the LTMS agencies draft and circulate plans for implementing each of the proposed alternatives before finalizing the EIS/EIR.

B. The LTMS Implementation Plans Should Contain Proactive Measures for Achieving Proposed Rehandling and Upland/Wetland Reuse and Disposal Capacities.

The Draft EIS/EIR emphasizes repeatedly that the LTMS agencies do not currently have the ability to establish the proposed beneficial reuse capacities. <u>See, e.g.</u>, Draft EIS/EIR at 6-63. However, rather than provide a workplan for achieving the proposed capacities, the document simply provides a "wish list" of potential strategies and funding ideas. Draft EIS/EIR at 7-8 - 7-15. Moreover, it limits agency action to <u>existing</u> authorities; no suggestions are provided as to how the agencies might seek additional authorities, MOU's, etc. that might fill any legal gaps. Draft EIS/EIR at 6-70, 7-1.

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