

1 yard for Sonoma Baylands, and about \$15 per cubic yard 11  
2 for Galbraith.

3 It is much less onerous to increase the  
4 cost of a major public works project by 5% than to  
5 triple, or greater, the cost of routine maintenance.

6 Because we are concerned about the 12  
7 potential impact of the LTMS on maintenance dredging,  
8 we would urge the LTMS agencies to complete at least a  
9 draft Management Plan before you finalize this EIR/EIS.

10 Further, we would recommend that the LTMS agencies 13  
11 reactivate the implementation committee and make sure  
12 that representatives of both the regulated community  
13 and concerned environmental groups are afforded ample  
14 opportunity to participate so that you actively engage  
15 the stakeholders in developing a consensus-based  
16 implementation strategy.

17 Finally, we recommend that the LTMS 14  
18 agencies make clear policy distinctions in the document  
19 before you distinguish between new work and maintenance  
20 dredging.

21 We are going to comment on 6 additional 15  
22 issues in substantial detail in our written comments,  
23 and I will just highlight them to you.

24 First, and I think a very important issue, 15a  
25 the document adopts a convention of talking about risk,

1 15a which is not the term of art under CEQA. Under CEQA,  
2 the term of art is "significant impacts" and methods,  
3 either mitigation measures or alternatives, to avoid  
4 significant impacts. Mitigation is significant in a  
5 document that proposes to go in a direction like this.

6 15b We think you need to do some more work on  
7 the impacts of aquatic disposal.

8 15c We think you need to do more work on the  
9 impacts of the no-project alternative.

10 15d We think you need to look at more non-  
11 dispersive site alternatives.

12 15e We think you need to look at the impacts  
13 of upland disposal. Even with Sonoma Baylands, upland  
14 disposal can have significant adverse impacts.

15 15f And then, finally, you need to do some  
16 work on the economic analysis.

17 We will comment on those in greater  
18 detail, and I will have a summary of my comments that I  
19 will provide to staff.

20 Thank you for this opportunity to discuss  
21 this.

22 COMMISSIONER RIPPEY: Question of Mr.  
23 McGrath: Does the Port have a preliminary preference  
24 on one of the alternatives at this point?

25 MR. MC GRATH: God is in the details, and



1 we would like to see the details before we get there.

2 I think we could support Alternative 3  
3 with the two caveats that I began with, as long as  
4 those reuse projects are practicable alternatives,  
5 which is a term of art under the federal law, and if  
6 they are truly environmentally superior.

7 In other words, it is clear that the  
8 upland reuse projects don't have a host of impacts that  
9 have not been anticipated to this stage. We want to be  
10 sure that we are doing the right thing with dredged  
11 material, not just into somebody else's back yard.

12 COMMISSIONER RIPPEY: Thank you.

13 CHAIRMAN TUFTS: Jim, thank you.

14 Judy Goff.

15 MS. JUDY GOFF: Ladies and gentlemen, I  
16 appreciate the opportunity to address you.

17 My name is Judy Goff, and I am presenting  
18 these comments for James Herman, who is chair of the  
19 Bay Dredging Action Coalition and a commissioner for  
20 the Port of San Francisco; and for Owen Marron, who is  
21 Executive Secretary of the Central Labor Council of  
22 Alameda County.

23 The Central Labor Council has been an  
24 advocate for beneficial reuse of dredged material for  
25 over 6 years. The political coalition represented by

16

1 the Bay Dredging Action Coalition was instrumental in  
2 obtaining Corps approval and federal and state funding  
3 for Sonoma Baylands. We were also instrumental in  
4 convincing the Port of Oakland and the Corps of  
5 Engineers to pursue ocean disposal and wetland creation  
6 for the 42-foot project, rather than attempt to place  
7 the material in the Bay Farm Island Borrow Pit.

8 Our coalition recognizes that there are no  
9 inherent conflicts between economic development and  
10 environmental preservation and enhancement. We remain  
11 committed to creative partnerships that will continue  
12 to develop projects that will fulfill both economic and  
13 environmental objectives and look forward to completion  
14 of the LTMS, to establish a clear set of objectives  
15 that will allow such projects to be developed. We hope  
16 that the LTMS will give members of our coalition a  
17 clear agenda of steps that must be taken to increase  
18 the number of disposal options and make habitat  
19 disposal options more feasible.

20 17 While we are committed to disposal options  
21 that are environmentally sound, we are also concerned  
22 that the port industry in the Bay Area must  
23 successfully make a transition from present disposal  
24 practices to beneficial use disposal. Further, at the  
25 end of the day, the shipping industry must still be



1 viable in the Bay Area. For those reasons, we are  
2 concerned about the policies in the EIR/EIS that would  
3 reduce in-Bay disposal of dredged material.

4 The document needs to make it clear that  
5 in-Bay disposal will not be eliminated as an option for  
6 disposal of maintenance dredged material unless  
7 feasible alternatives are available and unless  
8 alternative disposal methods would not impair the  
9 competitive positions of the Bay Area's ports or the  
10 viability of the recreational marinas. We think that  
11 the best way that this could be done is to develop a  
12 management plan for the LTMS before you finalize the  
13 EIR/EIS.

14 We would be happy to lend our support in  
15 an effort to secure cost sharing and other funding to  
16 try to make sure that alternative disposal methods are  
17 feasible and that the Bay Area's shipping industry  
18 remains the vital economic force that it is today.

19 Thank you.

20 COMMISSIONER RIPPEY: I would like to ask  
21 the same question, essentially, of Ms. Goff, if there  
22 is a preliminary preference or position that your  
23 organization has taken at this point?

24 MS. GOFF: It's not spelled out in detail  
25 about these options and the safeguards. As long as

1 that's addressed.

2 COMMISSIONER RIPPEY: You don't have a  
3 particular position on one of the alternatives at this  
4 point?

5 MS. GOFF: Not at this point, no.

6 COMMISSIONER RIPPEY: Thank you.

7 CHAIRMAN TUFTS: M. K. Veloz.

8 MR. M. K. VELOZ: My name is McKay Veloz,  
9 and I represent the Northern California Marine  
10 Association, which is a non-profit trade association  
11 representing about 300 member companies in the  
12 recreational marine industry in Northern California.

13 18 I am concerned from the perspective of our  
14 members about the EIR/EIS in that it fails to clarify  
15 the needs and abilities of small quantity dredgers and  
16 to point out that they are significantly different from  
17 the needs and requirements of the port dredgers, the  
18 larger quantity dredgers.

19 19 I'm further troubled by the statement on  
20 Page -8 of the Executive Summary of the LTMS that the  
21 agencies will continue to work to reduce the need for  
22 dredging associated with other projects, such as  
23 recreational marinas.

24 Such statements could be interpreted that  
25 small dredging projects should be minimized or, in  
↓



1 fact, eliminated. Such a conclusion would be 19  
2 devastating for many of our members. Small harbors and 20  
3 recreational marinas require a guaranteed in-Bay  
4 disposal site. These dredgers have neither the  
5 equipment nor the financial resources to utilize the  
6 deep ocean site; and, of course, the upland sites are  
7 not yet identified and are not available for their use.

8 In chapter 6 of the document, there are 21  
9 several comments noting that small harbors and marinas  
10 have neither the borrowing capacity nor the ability to  
11 increase cash flow enjoyed by large dredgers. However,  
12 these comments also assume that small quantity dredgers  
13 may be able to pass along any increased costs  
14 associated with the alternatives to their customers.

15 I would like to point out that the  
16 recreational marine industry is dependent on a healthy  
17 economy, and the consumers have many choices on which  
18 to spend their discretionary dollars.

19 The independent sensitivity and  
20 vulnerability to increased costs were painfully  
21 demonstrated for us in the early nineties, when the  
22 federal government imposed at 10% luxury tax on new  
23 boat sales. Sales plummeted by 30%; businesses closed;  
24 jobs were lost.

25 The same scenario is likely to occur as a

1 21 result of the adverse cost impacts related to the  
2 alternatives proposed. Guaranteed in-Bay disposal  
3 would preclude such an occurrence.

4 Under the interim Management Plan that has  
5 been effect, the LTMS agencies have found that the  
6 capacity exists in-Bay to meet the needs of these  
7 people, which, on the average, we're talking about  
8 150,000 cubic yards a year, in contrast with this  
9 larger number in the millions of cubic yards.

10 22 Furthermore, no adverse environmental  
11 impacts have been documented resulting from continued  
12 use of the in-Bay sites.

13 23 Given the relatively low volume of  
14 material generated and the fact that in-Bay disposal  
15 remains the only economically-feasible option for small  
16 dredgers, the in-Bay option must be acknowledged and  
17 guaranteed in the final plan. Without such a  
18 guarantee, the potential exists to create a competitive  
19 situation, pitting the small dredgers against the large  
20 entities for access to in-Bay sites. I do not believe  
21 that was the intention of any of the people  
22 participating on the Policy Review Committee, and I  
23 urge you to follow their intentions and make sure, in  
24 the final document, that these in-Bay guarantees are  
25 recognized and memorialized.



1 Thank you very much.

2 CHAIRMAN TUFTS: Thank you.

3 Ellen Johnck and Matt Wagers.

4 MS. ELLEN JOHNCK: I'm Ellen Johnck,  
5 Executive Director of the Bay Planning Coalition. As  
6 many of you know, our organization represents a  
7 consortium of interests around the Bay, from property  
8 owners to maritime industry, to local government, to  
9 dredging contractors, engineers, who all have a major  
10 stake in the outcome of the LTMS.

11 We hope that the Bay Planning Coalition, 24  
12 which I think was inadvertently omitted from the Policy  
13 Review Committee slide, is added back in, since we  
14 spent the better part of 5 years on this. Please add  
15 it back in. Thank you.

16 We are very concerned about the regulatory 25  
17 direction the agencies may take regarding the adoption  
18 of a policy alternative for disposal that has not been  
19 properly evaluated for environmental impacts or  
20 economic feasibility.

21 We cannot recommend a policy or 26  
22 alternative, because the document hasn't fully analyzed  
23 the alternatives, and we don't know how they will be  
24 implemented. However, we do want you to know that we  
25 do very much support the concept of the beneficial

1 26 reuse of dredged material; and we sincerely want to  
2 work with the agencies in achieving this worthy goal,  
3 particularly for new work, very large volume projects.

4 Bay Planning sits on the Bay Dredging  
5 Action Coalition, and our specific focus for this year  
6 is the development of a plan for upland reuse, to bring  
7 upland sites on line, particularly rehandling facility;  
8 and you will hear something on your agenda later about  
9 how BCDC is working with that program, being funded by  
10 some of the money from the Coastal Conservancy.

11 27 According to NEPA, alternatives must be  
12 practicable and feasible. It appears, from our initial  
13 cost evaluation of upland disposal, that upland is  
14 absolutely infeasible for maintenance dredging projects  
15 at this time and may only be possible under certain  
16 conditions for large volume, new work dredging  
17 projects. Before this can be accomplished, more work  
18 must be done to analyze the economic and environmental  
19 impacts of upland disposal and possible cost-sharing  
20 and funding mechanisms.

21 28 Our experience has shown, as well, that  
22 other issues impinge on the feasibility of upland  
23 disposal, such as the reluctance of both U.S. Fish and  
24 Wildlife to support upland disposal and local  
25 government reluctance as well.



1 Investigation should continue to find 29  
2 cost-effective solutions and practicable disposal  
3 alternatives, such as the use of BRAC land for  
4 landfills and an in-Bay capped site, such as the Bay  
5 Farm Island Borrow Pit.

6 A little more on costs: 30

7 We are very concerned about the dramatic  
8 increase in costs, particularly for maintenance  
9 dredging that we anticipate, under the Alternative 3  
10 approach. We are also very concerned about the  
11 potential for cost increase over and above what the  
12 ports and other facilities around the Bay can afford,  
13 even for a transition from the no-action to Alternative  
14 1 or 2. In fact, dredgers have already begun to  
15 experience major cost increases to comply with testing  
16 requirements.

17 We are concerned these cost increases have  
18 a potential to decrease the Ports' competitive position  
19 in shipping in West Coast trade. When the Bay's  
20 competitive position is jeopardized, jobs and economic  
21 and social well-being are jeopardized as well.

22 We have one additional point on the 31  
23 environmental analysis that we think is a sincere  
24 omission and a very significant omission.

25 The major problem which must be addressed 51

1 31 is how testing is to be used to evaluate the  
2 acceptability of sediment for disposal. There is lack  
3 of agreement on what the chemical and biological  
4 results mean for the purpose of determining  
5 environmental harm, and there seem to be no consistent  
6 effects-based evaluative criteria. We recommend that  
7 the agencies have a series of workshops to reach  
8 consensus on revisions to the draft Interim Testing  
9 Guidelines and the preparation of interpretive  
10 guidelines in the Management Plan process.

11 32 Finally, we can honestly not see any  
12 justification for a change in dredging policy at this  
13 time due to the severe implications on the costs for  
14 maintenance dredging.

15 33 We also recommend that you do not finalize  
16 the EIS/EIR at this time and you do not select a policy  
17 alternative until you perform the necessary economic  
18 evaluation to determine feasible alternatives. The  
19 Management Plan should be completed first.

20 34 We would like to be included in the  
21 development of that plan so we can see a finalization  
22 of the LTMS that is effective and practical.

23 Thank you.

24 COMMISSIONER JOHNS: Question, Ellen.

25 Perhaps this is better directed to Mr. McGrath. If he



1 has the numbers and can get them, I will invite him to  
2 respond as well.

3 But are there any new numbers available  
4 that detail the economic impact that the last, say, 10  
5 years of the "mudlock" situation has, in terms of  
6 decreased revenues to the ports for failure to be able  
7 to move the ships in and out because of the inability  
8 to continue the maintenance dredging because of the  
9 problem we had?

10 MS. JOHNCK: Well, we did an analysis  
11 about 3 years ago that showed what happened when we  
12 were stopped from any activity and what happened at the  
13 ports due to the moratorium over the winter run of  
14 Chinook salmon, and I have that.

15 I have all the statistics related to what  
16 our costs have been, what we pay the contractors to  
17 transport the material. The Port has done some  
18 analysis.

19 I don't have a document that I can just  
20 say, "here it is," but in the preparation of our  
21 written comments that we will submit by the deadline, I  
22 do plan to include some of those statistics, because we  
23 don't think the agencies really look at the economic  
24 reality here.

25 We have a \$7.5 billion dollars maritime

35  
↓

1 35 economy, and the agencies sort of distributed the  
2 potential costs over that. We think that is really  
3 kind of fallacious. We really think you have got to  
4 look at the true costs, what it costs to move the  
5 material and what those increases will be, depending on  
6 where we change the sites.

7 COMMISSIONER JOHNS: I understand that.  
8 That is partly what I'm trying to understand; and based  
9 on some of the numbers that we have in the EIS and the  
10 EIR and that were also part of the slides -- and I was  
11 never very good at math -- but as best as I can tell,  
12 the increased cost, projected cost, for maintenance  
13 dredging is somewhere in the range of 4.4 to 9.6  
14 dollars per yard, based on the numbers suggested around  
15 4 million yards of maintenance dredging annually.

16 So I am trying to figure out how that  
17 relates to what would be lost in terms of income if we  
18 do not go forward. Let's say we stopped this process  
19 again, and we have a situation like we have had. You  
20 have limited in-Bay disposal, and you are unable to do  
21 the maintenance dredging that is necessary to keep the  
22 commerce flowing.

23 I think we need to compare these kinds of  
24 numbers to potential lost revenue. And I am wondering  
25 if the ports or any other maritime industries or



1 interests have any of those numbers so we can make  
2 those kinds of comparisons?

3 MS. JOHNNCK: I see what you're driving at,  
4 and I'm sure we can come up with some kind of analysis  
5 and some kind of tradeoff.

6 What we're looking at here is our reading  
7 of the document that has been produced for the LTMS so  
8 far, and we are saying, "wait a minute here; things are  
9 off on our costs; let's look at those." And we want  
10 everyone to understand what these costs are, as well as  
11 look at the environmental issues here. We just think  
12 that really has not been successfully done yet.

13 I know what you're driving at, but I also  
14 want everyone to understand what the reality is here.

15 COMMISSIONER JOHNS: The problem that I'm  
16 having trying to reconcile in my mind is what I have  
17 heard so far from the various, let's say, maritime-  
18 related industries or persons who have spoken so far,  
19 which is that we need to maintain maintenance dredging  
20 for in-Bay disposal; and I'm trying to figure out how  
21 we're going to sticking 4 million cubic yards in the  
22 Bay.

23 We need to make that comparison, but we  
24 have to keep in mind, if that is the position, I don't  
25 see us making progress. I see us moving back to

1 "mudlock," and I thought that we had gotten over that.

2 MS. JOHNCCK: Well, it has always been our  
3 position that, in fact, the LTMS was supposed to  
4 address the environmental issues related to disposal of  
5 material in-Bay. The positive contributions of what  
6 the LTMS has done is that, with a Management Plan on  
7 the in-Bay site and with no demonstrable environmental  
8 impacts, that it can work.

9 COMMISSIONER JOHNS: Four million yards?

10 MS. JOHNCCK: I have not seen anything to  
11 show me otherwise. If information can be shown to us  
12 that there are severe impacts, that has to be more  
13 limited in-Bay, and we can look at the costs and  
14 analysis of what the gaps are there, then we can look  
15 at that. But I have not seen any fault.

16 To me, the Management Plan is working for  
17 the in-Bay sites. They will continue to look at  
18 upland, and we want to work with the agencies achieving  
19 that. We need more sites, which, over time, will  
20 eventually reduce the cost, to get those maximized; but  
21 right now we think the costs are too high; and we have  
22 not seen any environmental impacts to justify any major  
23 change right now.

24 We think we're really pretty much in  
25 Alternative 1, anyway.



1 MR. DEL PIERO: I have got a couple of  
2 questions, Ellen.

3 First of all, John and I occasionally put  
4 questions in the same general area; and it is a scary  
5 thought, I know; but in terms of your economic  
6 analysis, can you outline for me what your conclusions  
7 are in terms of the numbers of jobs lost as a result of  
8 the failure to adequately dredge for deep-draft ships  
9 over the course of the last 7 years?

10 MS. JOHNNCK: You're basically saying  
11 opportunities that are gone -- I don't have that.

12 MR. DEL PIERO: Okay, if you don't have  
13 that, then the next question I have is on page 3 of the  
14 correspondence by the Bay Planning Coalition. I'm  
15 going to read the whole sentence:

16 "It appears from our initial cost evaluation of  
17 upland disposal that upland disposal is  
18 absolutely infeasible for maintenance dredging  
19 projects at the present time and may only be  
20 possible under certain conditions for  
21 large-volume, new work dredging projects."

22 Do you have, as part of your submittal for  
23 this, those economic analyses so we can understand how  
24 you reach that absolute conclusion that upland disposal  
25 is absolutely infeasible for maintenance dredging?

1 MS. JOHNCCK: It is about 30 or 40%, and  
2 I'm relying on the Port of Oakland for the analysis on  
3 that.

4 MR. DEL PIERO: Then that is an overly  
5 broad statement, Ms. Johnck, because the information I  
6 have seen is that it is not absolutely infeasible for  
7 maintenance dredging.

8 There have been some economic analyses  
9 done for the Port of Oakland. That tends to be a  
10 uniquely distinct case, particularly because of the  
11 idiosyncracies of what is necessary for the Port, at  
12 least in their perception, to continue to be  
13 economically viable in the future.

14 I am sort of surprised when I went through  
15 this letter and I read it, because frankly, after  
16 having attended more than a few meetings on this  
17 process, it flies in the face of basically everything  
18 we have heard from all varieties of sources, including  
19 industry representatives, over the course of the last 3  
20 or 4 years.

21 MS. JOHNCCK: Well, let me say the Bay  
22 Planning Coalition met with our membership on this  
23 topic; and we had a wide variety of input into the  
24 development of this position.

25 MR. DEL PIERO: That's why I was asking



1 for the economic analysis, so we can see it.

2 MS. JOHNCK: You will get it as part of  
3 our written submission to the agencies in time for the  
4 deadline.

5 MR. DEL PIERO: Thank you.

6 MS. JOHNCK: We are unable to have it in  
7 published, polished form; but I can guarantee you this  
8 organization has had a wide variety of input to come up  
9 with our statement.

10 MR. DEL PIERO: I don't doubt that the  
11 organization has had a wide variety of input, and a lot  
12 of input has been very necessary and very valuable.

13 The question I have got, again, gets to  
14 the issue of the absolute infeasibility; and I would  
15 like to see the numbers to prove that it is absolutely  
16 infeasible; and, frankly, I would like to see the  
17 alternatives analysis, in order for us to understand  
18 how that conclusion was reached.

19 MS. JOHNCK: Sure. And I can understand  
20 why you would need to know that, and we will provide  
21 that to you.

22 COMMISSIONER BRUZZONE: With all due  
23 respect to the last speaker, did I understand correctly  
24 that Mr. McGrath indicated that it cost \$40 for  
25 maintenance dredging to be used upland and roughly 6 to

1 \$8, and the average cost, as I understand it, is 2 to  
2 \$3; and so I understand it, it is a \$40 cost. Isn't  
3 that significant impact or a statement about what the  
4 costs of the maintenance dredging -- not new  
5 dredging -- would cost?

6 MR. DEL PIERO: In terms of?

7 COMMISSIONER BRUZZONE: Do you think \$40  
8 per cubic yard is feasible?

9 MR. DEL PIERO: I have no way of knowing.  
10 That's why I'm asking you for the information. But,  
11 unfortunately, in spite of all that was presented,  
12 there is no way to indicate how that conclusion was  
13 reached. So given the testimony we have heard over the  
14 better half of 3-1/2 or 4 years, I have never seen that  
15 information presented before.

16 The comments made by the representative of  
17 Oakland, that information is not new. The absolute  
18 conclusion that it is economically infeasible is  
19 somewhat different. It also fails to recognize that  
20 there are potentials for alternative funding sources  
21 other than, singularly, the dredging community. It  
22 may, in fact, provide economic opportunities and  
23 opportunities for development of upland disposal sites  
24 that might not otherwise be possible.

25 If the only source of revenue is that



1 generated from the dredging community, and Sonoma  
2 Baylands is a perfect example -- so when I read that  
3 absolute, without equivocation conclusion, that it was  
4 not economically feasible, the first thing that popped  
5 into my mind was Sonoma Baylands.

6 The second thing that popped into my mind  
7 was, "okay, if this is, in fact, their conclusion, I  
8 would like to see the economic analysis."

9 MS. JOHNNCK: I think you have to realize  
10 Sonoma Baylands is a wonderful project; we worked very  
11 hard on that with a lot of people, including all the  
12 ports, which were very supportive of that. This was  
13 highly unusual. There was a lot of public input in  
14 that, a lot of subsidies, so to speak.

15 The unit costs of whatever changes are  
16 made will affect the different entities around the Bay  
17 differently, and they have different abilities to  
18 achieve things. Depending on who we are talking about,  
19 I might be able to temper, obviously, what is totally  
20 infeasible.

36

21 MR. DEL PIERO: That is exactly what we  
22 have heard for the last 4 years, that the unit costs  
23 for entities around the Bay are decidedly different.  
24 The long-term maintenance requirements for entities  
25 around the Bay are decidedly different.

1                   So an absolute statement that upland  
2 disposal is economically infeasible, in the context of  
3 the kind of letter that is presented, struck me as  
4 being unbelievably overbroad; and that's why I asked  
5 the question.

6                   MS. JOHNNCK: It may seem overly broad;  
7 but, frankly, here again, even though unit costs will  
8 affect different entities differently, generally  
9 speaking, with all the input from the affected parties  
10 into this position, the increases in costs are  
11 significant; and it remains largely infeasible at this  
12 time.

13                  MR. DEL PIERO: I look forward to the  
14 economic analysis.

15                  MS. JOHNNCK: And we will provide that  
16 information to you. Thank you.

17                  COMMISSIONER ROSENBLOOM: I have a  
18 question.

19                         Your recommendation was to proceed with  
20 the Management Plan before completion of the EIS?

21                  MS. JOHNNCK: Correct.

22                  COMMISSIONER ROSENBLOOM: How would you  
23 recommend going about the Management Plan if they don't  
24 have an overall direction that would be given in the  
25 EIS?



1 MS. JOHNCK: Well, I think the conclusions  
2 in the Management Plan will flush out which can inform  
3 the EIS/EIR when you accomplish two things:

4 Do a better analysis of the economics of  
5 what the cost effects are on different policy  
6 alternates. We need to sit down and look at the costs  
7 and what the economic feasibility is of doing different  
8 approaches. That work has to be done, as well as I  
9 said the whole sediment testing and how those results  
10 are interpreted throughout the entire disposal  
11 decision-making process.

12 The Code of Federal Regulations requires  
13 the agencies to determine environmental effects from  
14 those tests, and there is a wide variety of opinion, a  
15 wide variety of inconsistency on how you determine  
16 that. That work has to be done.

17 We have testing guidelines that have been  
18 around for about 3 years. They were adopted as interim  
19 guidelines, waiting for the Inland Manual; and the  
20 Inland Manual has sort of been out for a look-see for a  
21 year. That has not been finalized.

22 My understanding is there is even national  
23 guidelines that were adopted in 1975, and those are up  
24 for review, so we still have a lot of work to do on the  
25 guidelines. I think that can be done, but that has to

1 38 be done in the Management Plan, and you will get the  
2 economic analysis and your environmental analysis,  
3 which will come out of that, which will form the  
4 decision on the alternatives.

5 So I don't know what the requirements --  
6 legal requirements -- are for this particular policy  
7 document. It would seem okay for me to let this sit  
8 while we do the Management Plan.

9 COMMISSIONER ROSENBLOOM: I guess my  
10 concern would be putting together the Management Plan  
11 and the Implementation Manual with these unanswered  
12 questions.

13 If we have those concerns, let's address  
14 them but not start going down this path of the  
15 Management Plan. If you have those concerns, we should  
16 ask them in the EIS. I don't think we should go  
17 through the Management Plan.

18 That is just a concern I have on a  
19 sequencing basis.

20 MS. JOHNNCK: Okay, you see things. I tend  
21 to have another perspective on it.

22 CHAIRMAN TUFTS: Any other questions?

23 Ellen, thank you.

24 Matt Wagers.

25 MR. MATT WAGERS: Good afternoon. Thanks



1 for the opportunity to provide some comments, and  
2 essentially the bulk of what I'm going to be speaking  
3 of is in the form of questions.

4 My name is Matt Wagers. I am an  
5 environmental protection specialist with the National  
6 Park Service, and our primary thrust or concern is the  
7 Alcatraz dumping site, SF-11.

8 We are very encouraged on any plan that  
9 significantly reduces the dumping of spoils at that  
10 dump site, and it looks like the preferred Alternative  
11 3 does that.

12 I wonder if someone might be able to  
13 address the reduction in spoils off of Alcatraz, going  
14 down to 60 million cubic yards over 50 years, spread  
15 among 3 sites. Is there any hard data in regard to how  
16 much of that is going to be dumped at Alcatraz, the old  
17 primary site?

18 CHAIRMAN TUFTS: Mr. Wagers, I have to  
19 tell you that I think the purpose of this meeting is to  
20 get concerns from you relative to the report, rather  
21 than, at this point, to answer questions.

22 You can phrase your comments in terms of  
23 questions so that they can ultimately be answered, but  
24 I don't think we are prepared as of today. It would be  
25 unfair to ask the people here to give you the answers

1 directly.

2 MR. DEL PIERO: Excuse me, sir, if you do  
3 have questions in regard to the environmental  
4 documents, as to the clarity of the base data or some  
5 of the conclusions that are in there, if you follow up  
6 with written comments and/or questions, we are obliged  
7 to respond to those as part of the overall process.

8 So in terms of that, you are welcome to  
9 put those in writing; and we will try and get  
10 responses.

11 CHAIRMAN TUFTS: Furthermore, if you have  
12 answers to your own questions or what directions you  
13 would like us to take in your questions, it would be  
14 worthwhile to know your position.

15 40 MR. WAGERS: One concern in reviewing the  
16 Environmental Impact Statement draft is the resources  
17 on Alcatraz. It appears, through looking at the  
18 report, that the bird population on Alcatraz has not  
19 been sufficiently addressed in that the dump site is  
20 directly adjacent to the island and therefore affecting  
21 the foraging resources. We will provide comments to  
22 have that concern addressed in the final.

23 41 Also, I am of the stance to ask questions  
24 in regards to monitoring the exact location of the dump  
25 site by individual operators, as we have observed with



1 rangers on Alcatraz that there is a wide variety of 41  
2 areas that the dredged spoils are being dumped.

3 So we will address these concerns in  
4 writing and look forward to a response in the final.

5 Thank you.

6 CHAIRMAN TUFTS: Mr. Wagers, thank you.

7 William H. Mueser, Jr.

8 MR. WILLIAM H. MUESER, JR.: I am Bill  
9 Mueser, Great Lakes Dredge and Dock Company. I would 42  
10 just like to make a few quick comments about  
11 maintenance dredging.

12 One of the no-change, I think, is no  
13 longer in existence. I think we are pretty close to  
14 Alternate 1 at this point.

15 There has been a very significant change  
16 in the cost of maintenance dredging. Basically Great  
17 Lakes Dredge and Dock no longer works in San Francisco.  
18 We are not competitive because of the limitation to  
19 150,000 yards total clamshell disposal at Alcatraz.  
20 The costs have gone up significantly.

21 I have heard of a recent project that is  
22 for a hundred thousand cubic yards, and they're looking  
23 at \$50,000 costs just for the environmental testing.

24 A further comment on maintenance dredging: 43

25 Maintenance dredging generally is yardage

1 43 of 150,000 or less. You cannot economically mobilize  
2 the equipment for ocean disposal unless someone has a  
3 pump-off unit for an upland disposal site. You cannot  
4 mobilize that for a small maintenance project.

5 A number of times your ports use clamshell  
6 for their maintenance work because of the fact that  
7 it's very close to the piers, and it is very difficult  
8 to do with the hydraulic-type of an operation.

9 44 One other comment that I would like to  
10 make is, within the past month, there was one dredging  
11 job put out by the Port of Oakland and for about 40  
12 some odd thousand yards. The cost was in excess of  
13 \$450,000, versus maintenance prices that generally have  
14 been in the 2 to \$4 range at the Port of Oakland.

15 Again, I don't have any specific numbers.  
16 If you are dredging Bay mud and you are in the San  
17 Francisco Port area, they don't do very much, if any,  
18 dredging anymore. It is very economic to dig, because  
19 it is very easy.

20 You have a very hard bottom at the Port of  
21 Oakland, and you are covering a lot of area, and  
22 therefore the costs go up in distances to disposal  
23 areas from, say, Redwood City or someplace as remote of  
24 that affect the cost.

25 I have some other comments to make, and I



1 will submit those in writing.

2 CHAIRMAN TUFTS: Mr. Meuser, thank you.

3 Any questions?

4 Cynthia Koehler.

5 MS. CYNTHIA KOEHLER: Good afternoon. My  
6 name is Cynthia Koehler. I'm an attorney in the  
7 Natural Heritage Institute, and I am here today on  
8 behalf of the Half Moon Bay Fishermen's Marketing  
9 Association and the Pacific Coast Federation of  
10 Fisherymen's Associations.

11 The draft EIS/EIR is an important  
12 achievement that reflects the substantial dedication of  
13 staff, both past and present.

14 While there is much in the document to  
15 commend it, there is much in it of concern to us as  
16 well. I will focus my very brief remarks today on the  
17 selection of the preferred alternative.

18 The draft indicates that the LTMS agencies 45  
19 will select Alternative 1 and, at some point, shift to  
20 Alternative 3. We feel this is not a viable approach.  
21 While we fully support the notion that implementing  
22 Alternative 3 will require phasing over time, this is  
23 very different than selecting two incompatible  
24 alternatives, two incompatible long-term policies. You  
25 really can't get to increase levels of beneficial reuse ↓

1 45 or upland disposal by limiting a long-term policy that  
2 emphasizes dumping in the water.

3 We often hear that the government is  
4 legally precluded, however, from adopting Alternative 3  
5 at this point of time. It may be the case that legal  
6 changes may be desirable to address important  
7 cost-sharing issues. It is not at all the case that  
8 changes in the law are required to adopt Alternative 3,  
9 emphasizing beneficial reuse in upland disposal as a  
10 policy alternative in this EIS/EIR. Indeed, of all the  
11 options in the document, Alternative 3 is the one that  
12 is the most compatible with current federal law and  
13 policy.

14 Because there has been a lot of confusion  
15 on this point, I have provided you sections of the  
16 relevant Act, which are often overlooked in all the  
17 discussion about what the law says. I will go through  
18 these very briefly. This is from the Water Resources  
19 Development Act, 33 USC 2316; and there we find that,  
20 in fact, the Corps has an environmental protection  
21 mission.

22 "The Secretary (of Defense) shall include  
23 environmental protection as one of the primary  
24 missions of the Corps of Engineers in planning,  
25 designing, constructing, operation, and



1 maintaining water resources development  
2 projects."

45

3 Section 2281, "Matters to Be Addressed in  
4 Planning," and here we find that enhancing economic  
5 development is a matter to be addressed, but so is the  
6 quality of the total environment, including  
7 preservation and enhancement of the environment.

8 In other words, these are co-equal  
9 purposes. One does not trump the other.

10 Section 2317, "Wetlands."

11 "There is established, as part of the  
12 (Corps) water resources development program" --  
13 exactly the program that we are dealing with today --

14 "a long-term goal to increase the  
15 quality and quantity of the nation's wetlands,  
16 defined by acreage and function."

17 Section 2326, and here we get to the most  
18 direct authorization of all:

19 "Beneficial Uses of Dredged Material.

20 "The Corps is authorized to carry out  
21 projects for the protection, restoration, and  
22 creation of aquatic and ecologically-related  
23 habitats, including wetlands, in connection with  
24 dredging for construction, operation, or  
25 maintenance by the Corps of an authorized

navigation project."

It is hard to get a clearer authorization than that, it seems to me, especially when we're dealing with federal statutes. In fact, Congress feels so strongly about the Corps' involvement in environmental projects that it has predetermined that the cost of such projects should be not a limiting factor.

2284 deals with the "Benefits and Costs Attributable to Environmental Measures." It states:

"In the evaluation of the (Corps) of benefits and costs of a water project" -- in these cases, dredging projects -- "attributable to measures included in a project for the purposes of environmental quality, including improvement of the environment and fish and wildlife enhancement, shall be deemed to be at least equal to the costs of such measures."

Moreover, in addition to all of this, there is now a Federal Dredging Policy, which I'll share with you as well. I'm reading from the National Dredging Policy on page 5, "Dredging Process Action Plan." It states:

"Dredging Material as Resource.

"An environmentally sound beneficial use



1 of dredged materials for such projects as  
2 wetland creation, beach nourishment and  
3 development projects must be encouraged."

4 So I submit to you that Alternative 3 is  
5 not only consistent with federal law and policy, it is  
6 the embodiment of it.

7 I will spare you, since I have less than  
8 30 seconds, all of my other concerns; but I will share 46  
9 with you briefly -- I think it is important, so that  
10 you are aware of the connection between long-term  
11 policy for Bay Area dredging and action now  
12 contemplated by EPA that would substantially alter  
13 current testing requirements for ocean dumping -- EPA  
14 has issued a proposed rule that would eliminate the  
15 existing regulatory requirement to test dredged  
16 sediment with live marine organisms, using the sediment  
17 proposed for dumping. The rule could allow the  
18 substitution of risk analyses for lab bioassays.

19 I want to emphasize here that we  
20 understand it is not EPA's intent to cause any damage  
21 to the marine environment. Nevertheless, the rule is  
22 crafted in such a broad manner that the environmental  
23 and fishing communities have very substantial concerns.

24 What this means for you and for the  
25 alternative that you ultimately select is that I

1 46 believe it is fair to say that the environmental and  
2 fishing communities will be extremely uncomfortable  
3 supporting any ocean dumping if our concerns about this  
4 rule are not addressed.

5 Thank you.

6 CHAIRMAN TUFTS: Cynthia, you will express  
7 the rest of your concerns in writing.

8 COMMISSIONER JOHNS: I caught everything  
9 you said, and I'm glad to find somebody who speaks  
10 faster than me.

11 My question is really one of process. In  
12 one of the earlier points that you made, did you mean  
13 to imply or express that we would be precluded under  
14 NEPA or CEQA from adopting a kind of hybridized  
15 alternative? In other words, moving from 1 to 3, if  
16 that was the ultimate choice? Are you suggesting that  
17 we could not do that legally; and if that is the  
18 ultimate goal or desire of the agencies, to have a new  
19 and separate alternative that basically melds them?

20 MS. KOEHLER: I'll try to answer it.

21 47 It is hard to say what would be legally  
22 precluded or required under NEPA or CEQA. I do believe  
23 you have potentially a NEPA-CEQA problem if you select  
24 two alternatives at the same time that are  
25 incompatible. This is, after all, a policy