APPENDIX A

LETTERS FROM INTERESTED PARTIES

PORT OF OAKLAND

MAR 2 2000

March 20, 2000

Jaime Michaels
Bay Conservation and Development Commission
50 Van Ness Avenue
San Francisco, CA

Subject: LTMS Management Plan

Dear Jaime:

I write to follow up the discussion about the allocation strategy at the LTMS workshop on March 9, 2000. I believe that the discussion held was very constructive, and offer the following observations and comments about the revised proposal for an allocation strategy.

GENERAL OBSERVATIONS

As others have pointed out, the proposed allocation strategy is cumbersome and complicated. It is very hard to understand, and it will in all likelihood be difficult to administer. Unless some changes are made, it will be difficult to track the success of many elements. To an involved participant, it seems to include many elements where it is difficult to identify a clear nexus between the program element and the underlying regulatory authority, the proposed standards are difficult to understand, and the process looks quite rigid. With the clarifications made at the March 9 workshop, it appears that the system is more flexible than it appears. With these clarifications, we are committed to trying to make this system work. However, we do urge you to reexamine the complexity of the system.

SPECIFIC SUGGESTIONS

- I am disinclined to enter the debate over which technique should be used to measure progress and/or "trigger" a mandatory allocation process. This debate seems symbolic of the overall trend towards increased complexity to deal with all controversies.

- I suggest that the graphics showing the in-Bay disposal target for the entire Bay be disaggregated in some manner to show the target for each site. The impact of disposal at each site is different, and thus the underlying nexus differs. Establishing targets by disposal site would make measurement and monitoring of progress clearer.

- I support the concept of evaluation framework and success criteria, but suggest a number of modifications so that the success criteria are actually measurable.

- I suggest that you drop the concept of "support for beneficial use" as a criterion. It is difficult or impossible to measure an individual applicant's support for beneficial use. If an applicant opposed beneficial uses for economic or other reasons, that would seem to be well within their rights of free speech, and we cannot conceive a test for that support that would survive challenge as an acceptable regulatory nexus test.

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- In contrast, we have succeeded as a group in changing the Water Resources Development Act to allow the Corps to become involved in planning for projects. The results of that change are measurable, and I suggest the following success criteria:

    1. Project authorization. (e. g. for the Hamilton project)
    2. Project appropriation.
    3. Issuance of permits.
    4. Completion of site preparation
    5. Record of disposal cost

I would particularly stress the importance of site construction and project cost, which are key elements in any subsequent determinations of practicability.

- I believe that it is in everyone's interest to make sure that beneficial re-use is cost-effective, and we maximize the habitat restoration we can achieve with available funding. I therefore suggest that you drop the proposals for "coordination of dredging projects", and "Intra project coordination" as success criteria. Not only are those things impossible to measure, they could constrain the bidding climate and end up reducing the practicability of beneficial reuse.

- I also suggest eliminating the concept of load leveling. This idea could be counterproductive if it reduces the economies of scale that can be necessary to make beneficial reuse practicable.

We remain committed to work with you and the other LTMS agencies to find a mutually agreeable outcome to this important aspect of LTMS implementation. We recognize the importance of all of the LTMS stakeholders in arriving at a solution that we can all support.

Sincerely,

Jim McGrath

Jim McGrath
Manager, Environmental Planning

Cc: Larry Kolb, Regional Water Quality Control Board
Lieutenant Colonel Peter Grass
Steve Goldbeck
Alexis Strauss, Harry Seraydarian, EPA
Bay Planning Coalition

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April 4, 2000

VIA FACSIMILE AND FIRST CLASS MAIL

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Executive Director
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San Francisco, CA 94102

Attn: Jamie Michaels, BCDC

Re: LTMS Management Plan – Comments on March 9 Workshop

Dear LTMS Management Committee members:

We are pleased about the progress we have made, cooperatively, as the LTMS team of participants, to decrease in-Bay dredged material disposal and increase the availability of options for ocean disposal and beneficial reuse. This program will continue to be successful as long as the LTMS Management Plan remains flexible to account for uncertainties inherent in the political process which affect the funding and permitting for our dredging and disposal projects.

Having just returned from a BPC trip to Washington, D. C, along with other organizations, to support federal appropriations for our dredging and related beneficial reuse projects, I can attest to the continuing volatility of the political process. The political dynamics over federal appropriations for civil works projects this year is causing great uncertainty over whether requested funds for projects will actually be approved in the FY 2001 budget. No doubt, the implementation of the LTMS 40-40-20 disposal goal hinges on whether funds are included in the budget.

Notwithstanding these issues, I was very impressed with the extremely favorable reaction to our request for support for 2001 federal dredging appropriations from our Bay area congressional representatives, Senators Boxer and Feinstein, and Governor Davis' office. Therefore I am mostly hopeful that with the Coalition's continuing effort, combined with others participating in the LTMS, that we will be succeed.

However the tenability of the situation only suggests more strongly that we, in the marine industry, need flexibility within the LTMS plan to adjust to circumstances that affect the practicability of disposal options. This is particularly important to keep in mind as the agencies further discuss the proposal to move from a voluntary approach to a mandatory volume allocation system. As you know, if funding or upland sites are not available then certain disposal options may not be practical or feasible, and therefore unusable.

This continuing concern forms the basis for the Coalition's more specific comments on the March 9 agency staff proposal for a phased volume allocation strategy, criteria for the transition from voluntary to mandatory, and proposed amendments to the Bay and Basin Plan.

I. Phased Allocation Strategy

As you discussed at the workshop on March 9, the LTMS agencies have agreed to hold public hearings and require an affirmative vote of the S. F. Bay Conservation and Development Commission and the Regional Water Quality Control Board prior to changing from a voluntary method (Phase I) to a method of assigning in-Bay disposal allocations (Phase II) for individual dredging project sponsors. We agree with this position and think that the public hearing(s) and vote are absolutely critical requirements of any transition to an allocation strategy based on assignments.

The LTMS Management Plan must allow for flexibility to ensure that the process for considering a move from a voluntary to a mandatory method allows the agencies and public to consider and weigh all pertinent environmental and economic factors regarding disposal sites. The process should ensure that information can be sufficiently presented and understood.

Two alternatives for triggering consideration of a transition from Phase I to Phase II were discussed. The first alternative is to consider transitioning when the two-year average in-Bay disposal volume exceeds the LTMS transitional in-Bay disposal goals plus an additional 5%. The second alternative is to use statistical analysis to evaluate long term trends and significant variations in in-Bay disposal volumes. We support using the second alternative because it allows agencies to base their decision-making on the total information available, and allows both the agencies and the public the ability to understand the results of in-Bay disposal reduction efforts over time. Alternative two presents a stronger basis for determining whether or not the Phase I voluntary efforts are succeeding, rather than

potentially triggering unnecessary restrictions by focusing one or two years of data that might be unrepresentative due to drought or flood conditions or other circumstances.

II. Phased Allocation System, Findings of Practicability and Plan Amendments

We continue to be concerned about the adequacy of the LTMS for Dredged Material Disposal's Final Environmental Impact Statement and Programmatic Environmental Impact Report (FEIS/EIR) as a basis for the proposed Bay and Basin Plan(s) amendments. The FEIS/EIR does not evaluate the specific impacts of the plans' amendments that will implement a phased dredge material disposal volume allocation policy.

We believe that the environmental impact and economic practicability analysis resulting from dredged material disposal allocations must be fulfilled prior to an affirmative vote to change to a mandatory allocation method by BCDC and the RWQCB. To ensure that the environmental and economic feasibility analysis occurs, and in order for the agencies to legally comply with NEPA, CEQA, and the Clean Water Act, we recommend that language iterating this requirement should be placed in the Bay and Basin Plan(s) amendments.

Thank you for your consideration of our comments. As you can see by our activity here and in Washington, D. C., we have a strong commitment to implementing the LTMS goals and look forward to a cooperative agreement on the Management Plan.

Sincerely yours,

Ellen Joslin Johnck
Executive Director

cc: Mr. Walt Pettit, State Water Resources Control Board
Mr. Harry Seraydarian, U. S. EPA

Chevron

April 4, 2000

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

Long Term Management Strategy
March Management Plan Workshop

Dear Ms. Michaels

Thank you for the ongoing opportunity to comment on the Long Term Management Strategy (LTMS) Management Plan. We have reviewed the material handed out at the March 9, 2000 workshop and offer the following comments:

Allocation Strategy Transition: We support the LTMS agencies' decision to hold public hearings and require a vote of the Bay Conservation and Development Commission (BCDC) and the Regional Water Quality Control Board (RWQCB) prior to transitioning from voluntary efforts to meet LTMS in-Bay disposal goals (Phase I) to assigned in-Bay disposal allocations for individual dredgers (Phase II). At the March workshop, two alternatives for triggering consideration of a transition from Phase I to Phase II were discussed. The first alternative is to consider transitioning from Phase I to Phase II when the two-year average in-Bay disposal volume exceeds the LTMS transitional in-Bay disposal goals plus an additional 5%. The second alternative is to use statistical analysis to evaluate long term trends and significant variations in in-Bay disposal volumes. Transitioning from Phase I to Phase II is considered if such statistical analysis determines that Phase II allocations are necessary to meet the LTMS in-Bay disposal goals.

We support using the second alternative because it allows agencies to base their decision-making on the totality of information available, and allows both the agencies and public the ability to understand the results of in-Bay disposal reduction efforts over time. Alternative two presents a stronger basis for determining whether or not the Phase I voluntary efforts are succeeding, rather than potentially triggering unnecessary restrictions by focusing on one or two years of data that might be unrepresentative due to drought or flood conditions or other anomalous circumstances.

Recycled Paper

Bay and Basin Plan Amendments: We support the LTMS agencies' decision to ensure that the Bay and Basin Plan amendments (Plan amendments), necessary to implement the LTMS Management Plan, will allow flexibility for the LTMS agencies to modify the strategy for transitioning from Phase I to Phase II allocations without further Plan amendments. We strongly believe that the agencies will need this future flexibility in order to make sound decisions and ensure a continued cooperative approach among all LTMS stakeholders. However, we have concerns over the adequacy of the *Long Term Management Strategy (LTMS) for dredged material disposal, Final Environmental Impact Statement and Programmatic Environmental Impact Report* (EIS/EIR) as a basis for the plans' amendments.

The EIS/EIR does not evaluate the specific impacts of the plans' amendments that will implement dredge material disposal allocations. We feel that the plans' amendments can not be adopted without proper analysis of these potential impacts. In addition, we believe that the broad impacts of a decision to implement dredge disposal allocations may preclude other alternatives that must be analyzed at the policy-setting stage. We object to delaying the EIS/EIR impact analysis on dredge material disposal allocations until such time that decisions are made on an individual dredge episode disposal request. Environmental impacts of dredging allocations can not be fully understood on an individual dredge episode basis, and must be considered at the policy level where the full range of disposal options can be addressed.

To date, the LTMS voluntary efforts to reduce in-Bay dredge material disposal has been successful, and it appears that it will be several years before Phase II allocations might need to be considered. In light of this, we feel an alternative amendment can be considered for the Plans. The alternative amendment would adopt the LTMS Management Plan, but would require the EIS/EIR impact analysis to be complete prior to the BCDC and RWQCB voting to transition from Phase I to Phase II allocations. This alternative allows the plans' amendments to be adopted, but delays the EIS/EIR impact analysis until Phase II allocations are considered necessary.

Additional Comments: We join the Port of Oakland in suggesting that "support of beneficial use" be removed as a criterion when evaluating in-Bay disposal requests. This criterion is difficult to measure due to the many indirect and direct forms that such "support" may take. We also join the Port of Oakland in suggesting that in-Bay disposal goals be published for each in-Bay disposal site. This will make disposal impacts and targets easier to understand for the public as well as the BCDC and RWQCB.

In summary, while we support the progress that has been made on the LTMS Management Plan, we remain concerned about the adequacy of the LTMS EIS/EIR for the Bay and Basin Plan amendments. We appreciate the opportunity to offer our comments to the LTMS agencies and look forward to continuing our participation in the LTMS workshops to reach agreements that we all can support.

If you have any questions or need additional information, please contact Mr. Donald F. Kinkela at (510) 242-3308.

Sincerely,

for Mr. McCullers

cc: Ms. Ellen Johnck – Bay Planning Coalition
Lieutenant Colonel Peter Grass – U.S. Army Corps of Engineers
Larry Kolb – Regional Water Quality Control Board
Will Travis – Bay Conservation and Development Commission

significant amount of maintenance dredging material. Completion of site preparation at Hamilton and Montezuma will add additional options that achieve habitat restoration. However, if either funding, or authorization, for using alternatives is not achieved, it seems to us that alternatives to in-Bay disposal may be neither practicable under Federal law, nor feasible, an important term under your legislation. In each case, the facts of the project will be important, and the case-by-case determination proposed in the Final EIS for the LTMS would seem to be called for. We are curious as to how the proposed allocation strategy will grapple with this dilemma.

EXISTING MANDATES

The entire LTMS effort began with an eye both to economic and environmental feasibility; the initial goals adopted by the member agencies included the language:

> Maintain in an economically and environmentally sound manner those channels necessary for navigation in San Francisco Bay and Estuary...

That policy was given further interpretation in the Record of Decision, which included the following specific provisions about economic feasibility, or soundness:

> ...determinations to <u>require</u> alternatives to in-Bay disposal (including beneficial reuse and ocean) will be made on a project-specific basis. In each individual case, the alternative must be practicable in accordance with the existing regulations at 40 CFR Part 230...(emphasis added)

Additional provisions are found within the existing mandates of the MacAteer-Petris Act and the Bay Plan policies that implement that Act. The concept of necessity, which certainly includes consideration of feasibility, was clearly established in Section 66602, which noted that ports are among the "water-oriented land uses along the Bay shoreline [that] are essential to the public welfare of the Bay Area..."

As BCDC began working on the LTMS, further legislative funding, and policy direction, were added including:

> ...dredging is <u>essential</u> to establish and maintain navigational channels for maritime commerce, which contributes to the local, regional, and state economies... (Section 66663, emphasis added)

Direction to consider feasibility is included within Section 66663.1, which provides, in relevant part:

> The Legislature further finds and declares that it is in the interest of the state to accomplish the following: c) Establish a broad range of environmentally sound and <u>economically feasible</u> disposal options...(emphasis added)

Section 66663.2 authorizes BCDC's participation in the LTMS, and encourages development of alternatives to open water disposal, but again includes language stressing economical feasibility, and speaks of "Guidelines for dredging and disposal" rather than a mandatory allocation strategy.

From our participation in the LTMS workshop discussions, it seems that you are contemplating a regulatory allocation strategy which would seem to *require* alternatives to in-Bay disposal. It has not been clear to us how that strategy would incorporate this recognition of feasibility and practicability that is built into the LTMS program and indeed into the underlying legislation. To date, we have not heard answers to our questions in the LTMS workshops about how the feasibility issue will be dealt with. We understand

that this matter will be the subject of today's LTMS workshop, and trust that these issues will be addressed there. We remain committed to work with you and the other LTMS agencies to find a mutually agreeable outcome to this important aspect of LTMS implementation. We recognize the importance of all of the LTMS stakeholders in arriving at a solution that we can all support.

Sincerely,

Jim McGrath

Jim McGrath
Manager, Environmental Planning

Cc: Larry Kolb, Regional Water Quality Control Board
Lieutenant Colonel Peter Grass
Steve Goldbeck
Alexis Strauss, Harry Seraydarian, EPA
Lee Halterman

PORT OF OAKLAND

March 9, 2000

Will Travis
Bay Conservation and Development Commission
50 Van Ness Avenue
San Francisco, CA

Subject: LTMS Management Plan

Dear Mr. Travis:

I write to express our concerns about the allocation strategy, scheduled for discussion again at the next LTMS workshop on March 9, 2000. This is at least the sixth occasion on which the allocation strategy has been discussed; yet we remain confused and apprehensive about the nature of the allocation strategy. We are also puzzled as to how this proposal fits into the existing policy framework established in the LTMS Final EIS and in BCDC's authorizing legislation. In particular, we remain concerned about the relation between the proposed allocation strategy and the terms of art "practicability", "feasibility", and "economic soundness" that are contained in the underlying State and/or federal legislation authorizing the LTMS.

INTRODUCTION

At the outset, let me reiterate the Port of Oakland's support for implementation of alternatives to in-Bay disposal. We have implemented upland reuse projects in our new terminal development at Berth 30, the 42-foot project, and our terminal expansion project currently under construction. Our goal from the outset in developing the 50-foot project was to reuse all of the suitable material for habitat restoration, and we believe we will come very close to meeting that goal. We are supporting these alternatives for two reasons. First, the existing language in the Marine Protection, Research, and Sanctuaries Act, and parallel language in Section 404 of the Clean Water Act, mandate that alternatives to aquatic disposal be implemented, if practicable. We believe that existing legislative language provides a strong incentive to developing, and implementing alternatives. Second, as part of our ongoing discussions about the 50-foot project, we committed to supporting implementation of the LTMS, and going beyond the 50-foot project to take the necessary efforts to make alternatives to in-Bay disposal practicable. As you know, the Port of Oakland has been a major political force supporting the authorization of the Hamilton project, and continues to support legislative appropriations for both the Hamilton project, and for reuse at Montezuma. (We also applaud the work of the Conservancy and BCDC in acquiring the Bel Marin Keys project. This will allow an additional reuse project to be developed.)

CONCERNS ABOUT ALLOCATION STRATEGY

In the face of the success of these cooperative efforts, we are puzzled by the degree of commitment that your agency seems to have to mandate a regulatory solution. While we understood the strong support of the Bay area's environmental groups for an allocation approach even before their letter of January 24, 2000, we see the matter as somewhat simpler. The Corps of Engineers is the most significant entity that performs maintenance dredging. According to your "Dredging and Disposal Roadmap", in 1998 the Corps of Engineers dredged about 882,000 cubic yards of maintenance material and maintenance dredging by *all* of the ports totaled 294,000 cubic yards. If we succeed in developing alternatives to in-Bay disposal, and securing funding in the Corps of Engineers budget for those alternatives, then those alternatives will, in fact, be practicable—*and thus will be mandated under existing Federal laws*. Last year, the Corps proposed, and the LTMS members supported, additional funding that allowed ocean disposal of a

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24 January, 2000

Jamie Michaels
BCDC
30 Van Ness Ave., #2011
SF CA 94102

RECEIVED
FEB - 2 2000
SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

Re: Implementation of LTMS Goals

Dear Jamie,

The undersigned environmental groups are very supportive of the goals of the LTMS, and the careful, deliberative process that has brought all interested parties to this point. We would like to see the complete elimination of dredge material disposal in the San Francisco Bay, and the In-Bay Disposal option reduced to zero over a short period of time. While the draft implementation strategy does not reach that goal, it does represent an important reduction in in-bay disposal.

The phased allocation strategy allows the dredging community to reduce in-bay disposal over time and provides some flexibility in annual volume. We do not oppose the averaging of dredge volumes over two years. Public hearings on implementation should be held now, and decisions on Phase II implementation should be made now, as we finalize the LTMS, not deferred to some future date when key personnel and stakeholder will may have dispersed.

We support a commitment now to implement Phase II if Phase I does not meet the goals of the program. It is not appropriate to put off the decision to implement Phase II of this Management Strategy until that future date.

We urge you to proceed with this important program decision.

Sincerely,

David Nesmith	Barbara Salzman	Arthur Finestein	Tot Heffelfinger
Save The Bay	Marin Audubon	Golden Gate Audubon	Sierra Club

Chevron

December 20, 1999

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Issue Paper Comments
Long Term Management Strategy
January Management Plan Workshop

Dear Ms. Michaels

We have reviewed the *Issue Paper on Phased Transition to LTMS Program Goals* (Issue Paper) dated November 5, 1999. Although we support a phased approach to meeting the LTMS goals for in-Bay disposal, we are concerned about the lack of flexibility and the regulatory approach outlined in the *Phased Allocation Strategy* as described in the Issue Paper. The *Phased Allocation Strategy* describes the process of transitioning from using voluntary efforts to achieve the LTMS in-Bay disposal goals, to a system of assigned in-Bay disposal allocations for individual dredgers.. In preparation of the January Long Term Management Strategy (LTMS) Management Plan Workshop, we have prepared the following comments on *Phase II* of the *Phased Allocation Strategy.*

1. We have some grave concerns about the "trigger" event which would immediately implement *Phase II* of the *Phased Allocation Strategy*. The events that will "trigger" the transition to *Phase II* will be either:

   (1) if the sum of proposed yearly transition volumes for in-Bay disposal, plus the 250,000 cubic yards of contingency volume, are exceeded by actual disposal volumes in any calendar year; or
   (2) When projections of proposed dredging for the following year clearly show that the planned transition disposal plus the contingency volume will likely be exceeded."

   This trigger does not offer enough flexibility to account for anomalies that might occur in one year, but not the next. Given the economic impacts that *Phase II* will impose upon the

cc: Ms. Ellen Johnck – Bay Planning Coalition

dredgers, there should be some averaging that takes place prior to allocation implementation. As a suggestion, Phase II should be initiated if a two year trend shows an exceedance of the transitional volumes of more than 25%/year. This two year period would allow dredgers and the LTMS agencies to discuss and implement strategies to bring dredge disposal volumes back in line with the LTMS transitional volumes prior to implementing the allocation strategy. We feel strongly that we must (and can) find ways to work together to meet LTMS goals rather than relying on regulatory approaches.

2. We are also concerned that the *Phase II* trigger event immediately causes disposal allocations to be implemented without a public hearing, but it takes a vote of both the Bay Conservation and Development Commission (BCDC) and the Regional Water Quality Control Board (RWQCB) to decide not to implement or suspend the allocations. This process makes it very easy to implement disposal allocations, but extremely difficult to suspend them or decide not to implement them. Given the seriousness of the decision to implement in-Bay disposal allocations, we feel strongly that the decision to implement allocations also deserves a vote of both the BCDC and RWQCB.

3. The *Phased Allocation Strategy* discussed above will be adopted as part of the San Francisco Bay and Basin Plan (Basin Plan) amendments. We feel this is counter to the progress we've made working cooperatively together, and removes flexibility that we all may need in the future to meet the LTMS in-Bay disposal goals in the most cost effective way. If language is adopted into the Basin Plan then we suggest a reference to allow the LTMS agencies to modify the *Phased Allocation Strategy* without a Basin Plan amendment. We feel strongly that the agencies and dredgers will need future flexibility to make tough decisions if the LTMS is going to be successful.

In summary, we support a phased approach to meeting the LTMS goals for in-Bay disposal, but we are concerned about the lack of flexibility and the regulatory approach outlined in Phase II of the *Phased Allocation Strategy outlined in the Issue Paper on Phased Transition to LTMS Program Goals* (Issue Paper) dated November 5, 1999. We appreciate the opportunity to comment and look forward to continuing our participation in the LTMS workshops to find agreements that we all can support.

If you have any questions or need additional information, please contact Mr. Donald F. Kinkela at (510) 242-3308.

Sincerely,

for M.A. Giles

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December 20, 1999

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Mr. William Travis
Executive Director
S. F. BCDC
30 Van Ness Ave.
San Francisco, Ca. 94102

Re: LTMS Management Plan—Comments on Issue Paper on Phased Transition to LTMS Program Goals November 5, 1999

Dear LTMS Management Committee members:

The BPC appreciates your conscientious approach at the several workshops during the past year to the development of the LTMS Management Plan. Your staffs and the facilitator, Harry Seraydarian, are going a good job to organize and present information on the issues and to help develop consensus among the participants. We encourage you to continue this positive effort and rely on consensus building during the workshops leading towards the publication of the first draft of the Management Plan in March, 2000.

General Comments

We acknowledge that there has been significant progress made since July, 1998 to reach agency and stakeholder agreement on the strategy to utilize a management rather than a regulatory approach to achieve the LTMS disposal plan goal of 40% ocean, 40% upland, and 20% in-Bay disposal. This is reflected in the proposal to rely on Strategy 5 based on the Corps leading the effort by increasing ocean and upland disposal. This will require the continued vigilance and advocacy in Washington by both agency and non-federal dredgers to insure the Congressional approval of funding for ocean and upland disposal for federal and local dredging project sponsors. The following comments are intended to affirm our support for this process and offer constructive questions and suggestions as we proceed to finalization of the Plan.

Even though we support Strategy 5, (reduced in-Bay disposal of COE maintenance dredging and Corps leading the effort to increase ocean and beneficial reuse sites disposal), members of the BPC have some concerns with the recent recommendation to include a Phased Allocation Strategy as an addendum to Strategy 5. The Phased Allocation Strategy modifies Strategy 5, under certain conditions, to include Strategy 2 (volume allocation to each dredger for in-Bay disposal as discussed in the Issue Paper on Phased Transition to LTMS Program Goals dated November 5, 1999). We are concerned about the possible severe regulatory consequences of this phased approach which could impede navigation operations.

Overall, we think that the LTMS agencies cannot really rationalize Strategy 2 until the CEQA legal requirements have been met pertaining to economic practicability and environmental impact evaluations of disposal (such as sediment and air quality) at alternative sites. These statutory requirements must be fully addressed before the agencies proceed to developing a regulation on a volume allocation, which would require disposal at upland sites, through the Bay and Basin Plan amendment process.

We must have assurances that practicable and environmentally sound alternative disposal options will be available and have received the statutory review for feasibility and environmental impacts. Without upland disposal sites available to accept Bay dredged material, allocating in-Bay disposal volumes to individual dredgers is premature. This could result in a dredger being caught without a disposal site and hence without the ability to dredge when a ship, such as the President Truman or QE II, is about to sail into our dock.

We offer the following comments on Phase II of the Phased Allocation Strategy , designed to meld allocation Strategy 2 and Strategy 5:

<u>Specific Comments:</u>

1) We have some grave concerns about the "trigger" event which would immediately implement Phase II of the Phased Allocation Strategy. The events that will "trigger" the transition to Phase II will be either: (1) if the sum of proposed yearly transition volumes for in-Bay disposal, plus the 250,000 cy of contingency volume, are exceeded by actual disposal volumes in any calendar year; or (2) when projections of proposed dredging for the following year clearly show that the planned transition disposal plus the contingency volume will likely be exceeded.

   This trigger does not offer enough flexibility to account for anomalies that might occur in one year, but not the next. Given the economic impacts that Phase II will impose upon the dredgers, there should be some averaging that takes place prior to implementation. As a suggestion, Phase II should be initiated if a two year trend shows an exceedance of the transitional volumes of more than 25% per year. This two year period would allow dredgers and the LTMS agencies time to discuss and implement strategies to bring dredged material disposal volumes back in line with the LTMS transitional volumes prior to implementing the 40/40/20 allocation strategy. We feel strongly that we must (and can) find ways to work together to meet these goals rather than relying on regulatory approaches.

2) We are very concerned by the language in the Nov. 5 Issue Paper: "once the initiating event occurs, individual dredger allocations will automatically be set in place for the following year, unless the LTMS Management Committee recommends and the RWQCB and BCDC vote not to implement the allocations..." but it would take an affirmative vote of both the BCDC and the RWQCB to *suspend* the 40/40/20 allocation. This process makes it very easy to implement Strategy 2, but extremely difficult to suspend it or decide not to implement it. Is it the intent of the LTMS agencies to implement Strategy 2 without a public hearing? Given the seriousness of the decision to implement Strategy 2, we feel strongly that the decision to implement deserves public comment at a hearing.

   We also would suggest that if allocations are to be set in place for a following year, they require an affirmative vote by BCDC and RWQCB. Alternatively, the allocation system could be suspended by the LTMS Management Committee unless the RWQCB or BCDC specially vote against such suspension.

3) The Phased Allocation system discussed above is proposed to be adopted as part of the San Francisco Bay and Basin Plan amendments. We think this is counter to the progress we've made to work cooperatively together and removes flexibility that we all may need in the future to meet the LTMS goal in the most cost effective way. The LTMS Management Plan document should provide the guidance which can be reviewed at a public meeting annually. We believe strongly that the agencies and dredgers will need future flexibility to make tough decisions if the LTMS is going to be successful.

As stated previously, we are opposed to allocations being automatically implemented without some assurances that CEQA statutory requirements regarding practicability and environmental effect of alternatives are met and that other disposal options are available.

We appreciate the opportunity to comment and look forward to continuing our participation to find agreements that all of us can support.

Sincerely yours,

Ellen Johnck

Ellen Joslin Johnck
Executive Director

cc: Mary Howe, State Lands Commission
Becky Ota, Ca. Department of Fish and Game
Walt Pettit, State Water Resources Control Board

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RECEIVED
DEC 23 1999

MEMORANDUM

DATE: December 20, 1999

TO: Mr. William Travis

FROM: Robert C. Cheasty, President
Bay Dredging Action Coalition

SUBJECT: LTMS Management Plan
Comments on *Issue Paper on Phased Transition to LTMS Program Goals*

The Bay Dredging Action Coalition is committed to upland disposal and to the building of the broad based coalition that has supported and helped shape the LTMS process. We appreciate the regular interface with all interested parties through the workshops. The workshops have been informative and have served to build consensus for LTMS and the LTMS goals. We firmly believe that the consensus must be maintained if we are to carry the plan through to full development and meet our goals.

The consensus has helped fashion the strategy to utilize a management rather than a regulatory approach to achieve the LTMS disposal plan goal of 40% ocean, 40% upland, and 20% in-Bay disposal.

The revised allocation strategy has raised serious concerns among the parties required to dredge. They believe, as you do, that the LTMS disposal goals can be achieved through voluntary efforts. Furthermore, they strongly believe that the Phase II trigger event makes it easy to implement the Strategy II, but very difficult to suspend it or decide to cancel it.

We don't believe that the coalition should face serious division over this matter. Therefore, we strongly urge that a "testing" period of three years be established to let the voluntary process work and to determine if any modifications are necessary. We also believe it will work. Most important, the continuity of the consensus ensures that the entire coalition wins.

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EnviroQual

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Please note that our area code has been changed from 916 to 530.

May 8, 1999

Steve Goldbek
San Francisco Bay Conservation
and Development Commission
30 Van Ness Avenue, Suite 2011
San Francisco, CA

MAY 1999

Dear Mr. Goldbek:

I have recently become aware of the LTMS Management Plan meeting which is being held on May 13. Unfortunately, I have a conflict with that meeting, where I will be making a presentation to the State Stormwater Task Force Executive Committee. I chair the Stormwater Compliance Cost Workgroup of the Task Force. However, I would like to be placed on the mailing list to receive notices of the LTMS future meetings, and materials developed by this group.

In the way of background, I have a long history of work on developing approaches for appropriate management of contaminated dredged sediments. This includes over $2 million in research devoted to these topics in the 30 years that I held university graduate-level environmental engineering teaching and research positions. One of my primary areas of emphasis and expertise is contaminated sediments. My wife, Dr. Anne Jones-Lee, and I have published extensively on these topics. Many of our recent papers and reports are available on our web site http://members.aol.com/gfredlee/gfl.htm in the Contaminated Sediment section. Also available at this site is an updated version of our 1992 review "Water Quality Aspects of Dredging and Dredged Sediment Disposal" that was published by McGraw-Hill in *The Handbook of Dredging Engineering* edited by John Herbich, 1992. The version on our web site will appear in the second edition of this handbook, when it is published.

During the 1970s I served as an advisor to the San Francisco District of the Corps of Engineers on the dredged sediment research program that was conducted by the Corps. Since returning to California in 1989 I have followed closely the approaches that have been developed by the San Francisco Regional Water Quality Control Board for regulating dredging operations. I therefore have considerable familiarity with contaminated dredged sediment issues in the San Francisco Bay area.

I am becoming involved in contaminated dredged sediment management issues in the Delta through my work with the California Resources Agency Delta Levee and Habitat Advisory Committee. In connection with this activity, that committee has received substantial funding from CALFED to develop a more appropriate regulatory approach for dredging contaminated sediments in the Delta than is followed. I expect to be involved in that activity, with particular emphasis on developing appropriate dredged sediment disposal criteria.

Sincerely yours,

G. Fred Lee, PhD, DEE

GFL:jl
Enclosure

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April 27, 1999

Memorandum via email and facsimile

To: LTMS Agency Members: LTC Peter Grass, Alexis Strauss, Loretta Barsamian, Will Travis

From: Ellen Johnck, Executive Director

Subject: Recommendations for Topics to Incorporate into May 13 LTMS Workshop(s) Related to Dredged Material Testing and Evaluations

Our general recommendation for the May 13 agenda and subsequent workshops, as needed, are as follows:

I. Review current agency procedures for implementation of the Federal Inland Testing Manual (ITM) and related issues.
   a. disposal site suitability criteria
   b. reference sites

II. Review testing procedures and interpretive criteria for all disposal media (brackish/fresh water wetlands, brackish/marine wetlands, in-bay, ocean, construction, AND landfill.)

Background and further elaboration

As you are aware, testing and suitability determinations are vitally important to the implementation of the LTMS goals. Dredgers will (theoretically) have an array of disposal option available, including beneficial uses such as habitat creation/restoration/enhancement, and construction. In addition to these "new" reuse options, traditional disposal option such as in-bay, ocean and landfill will also be possible. It is currently very difficult and expensive to test for all disposal options. Therefore, either the project sponsor, or the DMMO must make an a priori decision on which disposal/reuse option will be pursued. If it is not possible to predetermine the disposal/reuse site, the testing protocols need to be generic enough to allow disposal at a variety of sites. Failing this, testing for specific disposal options may need to be done sequentially, which will greatly lengthen the time required for approvals and the cost of testing.

Testing for a specific site is specific for that material and the

potential for impacts at the preferred disposal location. For example, is testing under Green Book for ocean disposal appropriate for determining suitability for reuse at Hamilton or Montezuma? The Inland Testing Manual (ITM) is similar to the Green Book and determining disposal options between In-Bay and Ocean should be possible, however is this testing adequate for wetland creation/restoration? Technically the answer is no, since the testing is targeted to determine the potential for unacceptable impacts at the disposal site. The deep ocean disposal site is substantially different from a wetland site.

The direction of the LTMS is to promote reuses of dredged material out of the Bay. This alone will substantially increase costs. It also adds is uncertainty to the testing process. Is the LTMS (through the DMMO) going to adopt a "generic" sediment testing program that will cover all disposal options, or testing be managed as it currently is with testing targeted for the disposal site? Will the Agencies adopt Sediment Screening Criteria (SSC) as PSDDA has?

We believe that the Agencies need to adopt SSC for all the disposal sites (brackish/fresh water wetlands, brackish/marine wetlands, in-bay, ocean, construction, AND landfill.) The establishment of SSC could help mitigate the cost of testing and allow flexibility in determining suitability. However, the SSC will need to be developed over time (i.e. be a living document). The key issues that we need to address will be:

Who will develop the SSC and how will the dredgers be involved?
What will be covered by the SSC (ocean, in-bay, wetlands, landfill)?
Where will the SSC apply, reaches of the bay based on salinity?
When will the SSC be implemented and what will we do in the interim?
How will the SSC be funded and implemented?

It should be noted that SSC is not a bright-line, but would be used as a screening tool. Exceedance of a SSC would not preclude reuse/disposal, but would require additional specific testing. Further, there would be a range of criteria acceptable for various disposal options. For example, the standard in a sensitive habitat (such as wetlands) may be higher than the standard for disposal at SFDODS. Although the general public may have some concerns regarding these different standards, there is technical merit and justification for a program such as this.

Long Term vs. Near Future

The development of SSC for several reaches of the Bay and for several disposal options will be a slow and laborious process. We can not jump to "default" criteria such as ERLs or ERMs without causing severe

problems in backing-off overly conservative criteria later. The criteria will need to be developed using a good database with adequate QA/QC so that outlying information can be dealt with in an appropriate manner.

The obvious mechanism for developing SSC will be through the implementation of the ITM. It is therefore critical that the implementation of the ITM be done in a manner that will allow the information to be used for the development of the SSC. The LTMS agencies have not yet proposed a Regional Implementation Manual (RIM) for the ITM program. In fact, the ITM should not be implemented until a RIM has been presented and reviewed.

The ITM is a cornerstone of implementation of the LTMS goals. There are numerous issues that need to be clarified and addressed relating to the implementation of the ITM. We suggest that the focus of the first few meeting include, but not be limited to, the issues outlined below:

1. How will the ITM be implemented locally?
2. How many of which species will be needed for biological testing?
3. When will bioaccumulation testing be required? What will be the basis for this if there are no SSC?
4. What happened to the off (disposal) site reference (grain size controls)?
5. What would be used as a reference site for wetland creation projects?
6. Will EPA and COE accept ITM for ocean designations, or will it need to be modified somehow?
7. Will ITM be applied to upland/wetland/reuse projects? If so, how?
8. Will there be DMMO guidance on Tier I exclusions or will it be up to the applicant to argue the issue on a case by case basis?
9. What about Dioxin tests? Why, when and how much (if any) will be needed?
10. What about PCBs? Why should we be required to test for PCB congeners when we are not sure if we even have PCBs at a concentration that is of concern. The costs are prohibitive for congener analysis. If PCBs are at a concentration of concern, then congener analysis MAY be appropriate. However, We fail to see the need when we already test for contaminants like individual PAHs, yet regulated only on total concentrations.
11. How and who will compile the data collected so that the information can be used to develop SSC?
12. How will SSC be developed (i.e. AETs, Triad, etc.)? This is key to determining the testing needs.
13. When dredgers were not required to monitor the disposal site, there was a basis for our contribution to the RMP. Since we will be required to monitor the disposal site under ITM, why should dredgers continue to contribute to the RMP? Would the money be better spent contributing to

a neutral consultant to develop SSC?
14. QA/QC is much more stringent (and expensive) under ITM. How will the QA/QC requirements be determined?
15. What about small dredging projects? Will there be volume thresholds?
16. What happened to the testing framework that was outlined in the appendix of the LTMS Programmatic EIR/S?
17. Since the environmental community is concerned about terminology, is there a way to determine Suitability without determining or inferring Unsuitability?

Please feel free to call me at (415) 397-2293 or Jon Amdur at (510) 272-1582 if you have any questions or comments. We look forward to working on these issues with you all.

cc Kathy Dadey
Glynnis Collins
Jaime Michaels

Issues Identified with Dredged Material Testing

I. Implementation of the Inland Testing Manual (ITM)
- Local ITM Guidance
- Reference sites (e.g., grain size controls)
- Required biological testing (liquid/suspended phase; acute toxicity; bioaccumulation)
- QA/QC requirements
- Thresholds for small projects

II. UWR Testing Requirements
- Reference site
- Required analyses for different environments?
- Status of LTMS testing framework

III. Testing for Different Disposal Options
- Chosing disposal alternative (Alternatives Analysis)
- "Generic testing protocols" (regulatory/legal constraints)
- Status of Regional Implementation Manual

IV. Sediment Quality Guidelines
- Agency develop and promulgate
- Local and national guidelines
- Development methodology
- Different guidelines for different disposal options?
- Funding of guideline development
- Planned use of guidelines (e.g., testing trigger)
- Status of guideline development; interim measures

suitability criteria

V. General Testing Issues
- PCB congener analyses
- Dioxin testing
- Dredgers' contribution to RMP
- Tier I guidance
- Suitability semantics

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March 20 1999

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MAR 23 1999
SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

Steve Goldbeck & Jamie Michaels
S.F. Bay Conservation and Development Commission
30 Van Ness Avenue, Suite 2011
San Francisco, CA 94102

Jack Gregg & Glynnis Collins
S. F. Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Ladies and Gentlemen:

Thank you for the notice of the LTMS Workshop on Thursday, March 25th.

As I had mentioned at a meeting in Oakland, this date will not allow a significant number of local sponsor representatives of federal navigation projects to attend. We all are quite interested in working to acheive the goals of the LTMS, please do not take our lack of attendance to indicate otherwise.

Due to the unavailability of some representatives to attend, will it be possible to have a comment period following the mailing of the meeting minutes to offer suggestions to the mission statement and goals?

Sincerely,

James M. Haussener
Chairman

cc: M. Giari
G. Pope

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March 12, 1999

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Oakland, Ca. 94611

Mr. Will Travis
Executive Director
S. F. BCDC
30 Van Ness Ave.
San Francisco, Ca. 94102

Subject: LTMS Management Plan– Recommended Stages and Workshop Agendas

Dear LTMS Management Committee Members:

We appreciated your consideration of our January 31 letter and subsequent postponement of the February workshops. We received notice of your March 25 meeting and are looking forward to working with you on a new approach. We offer this letter as a series of suggestions that could result in a more productive and practical process. As you know, attending meetings every two weeks requires a major investment of time. For all interested parties, we think that a successful LTMS plan development process is one that can be achieved realistically only through a team effort, and this process begins with the need to agree on at least a set of shared values.

PRACTICABILITY

As noted in our previous Jan. 31, 1999 letter, the programmatic FEIR/EIS indicated that implementation of the LTMS goal of decreased in-Bay disposal depends on the practicability of alternatives. Both the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA/Ocean Dumping Act) and the Federal Water Pollution Control Act of 1972 (amended and renamed the Clean Water Act in 1977 (CWA)

currently prescribe non-aquatic disposal if there are practicable, environmentally superior alternatives. This language is mirrored in current Bay Plan and Basin Plan policies that prescribe non-aquatic disposal if feasible; thus, we think that a general regulatory framework already exists to implement the LTMS goal of decreased in-Bay disposal under present law.

Current disposal is well below the limits established for the Alcatraz site. This is largely because the LTMS parties and stakeholders have worked and continue to work hard on several dredged material management fronts utilizing the toxicity testing evaluations for disposal decisionmaking for ocean and upland use and to make such options as Sonoma Baylands, Hamilton, Montezuma, and Middle Harbor available and practicable.

The BPC recommends a three-four stage process for LTMS implementation beginning with the first stage which would be the workshop(s) to develop shared goals on March 25. Once agreement on shared goals is finalized, we suggest that the next stage should focus on discussions aimed at establishing the "practicability" of alternatives to in-Bay disposal. These next few workshops should focus first on those activities, such as defining action plans, for bringing sites and financial resources on line. A number of different planning, legislative activities and initiatives such as authorization and funding for Hamilton and Montezuma are underway. Additional activities and initiatives almost certainly need to be identified and strategies developed These need to be presented and evaluated and discussed for their ability to get us where we want to go, bringing Hamilton, Montezuma and future sites on line.

Following workshop sessions on action strategies to bring upland sites on line, we recommend that the next, or third step, would be an evaluation period to establish practicability in the utilization of alternative sites. There are a number of issues, such as cost effectiveness, that continue to be debated. We do not think that the LTMS agencies can conclude that upland/ wetland reuse is practicable without funding support unless a track record of actual use shows upland/wetland reuse to be comparable to the cost of ocean disposal, and with comparisons to in-Bay disposal as well. A trial period that allows demonstration of actual costs is a vital step along the path to potential implementation of the LTMS goal of decreased in-Bay disposal over present already lower volumes.

Depending on the results of the first three stages, during a subsequent stage, there could be further discussion about determining whether further measures such as volume allocation limits are needed to implement the LTMS 40-40-20 goal. It would certainly be our viewpoint that it would be premature to establish additional limits at the Alcatraz site before practicable alternatives are available. And, if the authorization and funding for projects like Hamilton and Montezuma result in cost sharing that offset the increased costs of achieving the 40-

40-20 goal of the LTMS, we would argue that no new regulation other than what already exists in the law, is necessary.

LTMS WORKSHOP MEETING PURPOSE AND STRUCTURE

It appears that the workshops to date have involved a combination of both brainstorming and consensus building, but we have not always been sure of the actual purpose and intent of each meeting. While we endorse both types of activities, we think that a more defined structure in these meetings is necessary to achieve both purposes. For meetings to be effective, the meeting purpose must be clearly laid out in advance, and participants must be aware of and secure in knowing their role. If either a brainstorming session or consensus building is intended, it must be agreed upon at the outset, and a recorder with some training in recording group efforts should be present so people can be confident that their concerns are heard.

An individual should be selected as a facilitator, and this should be clearly established with all participants. Further, a set of ground rules should be established at the outset to make sure that all viewpoints are laid out before strategies are selected to achieve the agreed-upon purpose of the meeting.

Consensus building is an even more difficult task to achieve effectively than brainstorming. Given the involvement of many of the agency staff members in developing the LTMS FEIS, it appears that it would be more appropriate to select an experienced facilitator from outside the LTMS process and staff. Alternatively, someone like Harry Seraydarian, who is now somewhat removed from the process, but has maintained good relationships with all of the participants, might be effective.

Either a brainstorming session or a consensus building effort needs substantially more structure and defined format than the workshops that have been held so far have demonstrated. More advanced notice and an understanding of what is expected of the parties when they come to a meeting are particularly important. Since not all of those affected can devote the substantial effort required , some strategic thought should be made to designating and specifically naming representatives from the stakeholders' perspective, is probably necessary to make significant progress toward consensus building.

In the attachment, we propose an approach to the workshops. The important purpose of the workshops is to invest time in educating the participants on selected topics and then to spend time in interactive discussion led by a facilitator. We look forward to developing these ideas in greater detail and reaching consensus on the next steps with the LTMS agencies in the non-regulatory context.

Sincerely yours,

Ellen Johnck, Executive Director
Mike Cheney, Chairman, BPC Dredging and Water Quality Committee
Mike Giari, Executive Director, Port of Redwood City
Jim Haussener, Harbormaster, San Leandro Marina and President of the California Marine Affairs and Navigation Conference (C-MANC)
Jim McGrath, Environmental Manager, Port of Oakland

cc: Walt Pettit, Executive Officer, State Water Resources Control Board
Becky Ota, Ca. Department of Fish and Game
Robert Hight, Executive Officer, State Lands Commission

Attachment (Proposed Workshop Topics)

Attachment - *Proposed Workshop Topics and Suggested Presenters*

Workshop I: Hamilton Wetland Restoration

A. Status of base closure and local, state and federal permits including which agencies have what responsibilities, the individuals at each agency, and the agency tasks/assignments, schedule and budget;

B. Identify obstacles to meeting responsibilities and work products, schedule and budget;

C. Environmental issues - cleanup and material suitability

D. Economic feasibility - federal funding issues (WRDA) and how, when and what is cost to use the site for dredging projects;

E. Action strategy to bring Hamilton on-line and achieve economic feasibility of using the site.

Suggested presenters:

Arjis Rakstins and Scott Miner, U.S. Army Corps of Engineers
Military Base Closure Point Person
(Sacramento District of the USACE)
Lynn Woolsey, U.S. House of Representatives and/or state legislator
Terry Nevins, Calif. Coastal Conservancy
Barbara Salzman, Marin Audubon Society
John Amdur, Port of Oakland

Workshop II: Montezuma Wetland Restoration

A. Status of local, state and federal permits including which agencies and individuals in each agency have what responsibilities, permit schedule and budget;

B. Identify obstacles to meeting schedule

C. Site implementation issues: how, when and what is the cost to use the site for dredging project applicants-- ascertain the economic feasibility/practicability of the site;

D. Environmental issues-- material acceptability according to RWQCB wetland discharge guidance;

E. Action strategy to overcome permit and practicability obstacles to bring Montezuma on line and to use it;

Suggested presenters:

Jim Levine/Doug Lipton, LFR, Levine-Fricke-Recon

USACE Project Manager
BCDC Permit Manager
RWQCB Permit Manager
Art Feinstein, David Lewis, David Nesmith
Bill Croyle, Central Valley RWQCB
Dennis Kalson, Senior Environmetnal Health Specialist, Dept. of Environmental Management., Solano County
Pat Johnson, State Assemblyman

Workshop III: Environmental Evaluations of Dredged Material

A. What is toxic and what is not including how to define toxicity;

B. Considerations of the natural dynamic sediment environment;

C. Sediment testing (level of sampling/testing; qualifiers for Tiers I, II, III, IV) and criteria for determining environmental effects and disposal decisionmaking for aquatic,wetlands, levees, and landfill sites;

1. identification of contaminants of concern;
2. bioassay species selection
3. reference site selection
4. frequency of testing
5. sampling plan design
6. toxicity and bioaccumulation interpretation of data
7. other considerations

D. Establish a roadmap, a dredged material decisionmaking framework, for dredged material acceptance in all disposal media;

Suggested presenters:

Kurt Kline, toxicologist
Chris Boudreau, EVS Consultants
John Amdur, Port of Oakland
Frank Snitz, Corps of Engineers
Brian Ross, Kathy Dady, US EPA
Bob Risebrough, biologist
Ron Gervason, SFBay RWQCB
Sam Luoma, USGS
Assemblyman Ted Lempert
Senator Byron Sher

Workshop IV: Next Generation of Upland Sites - Funding Overview

What are the steps to identify, fund and approve new sites?

A. Congress and the Federal budget

B. WRDA '96, Section 204

C. State Budget

D. Case study of designating and using a Delta island

Suggested presenters:

Arjis Rakstins,USACE
Cal Fong, USACE Regulatory Branch
Assemblyman Pat Johnson (Stockton)
Bill Ahern, Executive Dir. Ca. Coastal Conservancy
Fred Klass, State Department of Finance
Mike Cheney, Delta island case study
Executive or Deputy Director, Department of Water Resources

Workshop V: Corps Operation and Maintenance (O & M) Budget 2000

A. Current O & M Budget

B. Projected O & M Budget

C. Federal dredging projects scheduling

D. Current O & M and disposal sites cost contrasted with projected O & M disposal sites costs

E. Action strategy at local and state level to advocate for Congressional approval of dollars needed for Corps O & M.

Suggested presenters:

Bill Dawson, USACE SPD
Arjis Rakstins, USACE SFD
Max Blodgett, SFD USACE
Jim Haussener, C-MANC
Len Cardoza, Port of Oakland
Ron Kennedy, Port of Richmond
Mike Giari, Port of Redwood City
Les Shorter, Western Dock Enterprises
Dave Bernardi, City of San Rafael

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SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

February 19, 1999

LTC Peter Grass
S.F. District Engineer
U.S. Army Corps of Engineers
333 Market Street
San Francisco, CA 94105

Ms. Alexis Strauss, Acting Director
Water Quality Management Division
US EPA
75 Hawthorne Street
San Francisco, CA 94105

Mr. Will Travis, Executive Director
S.F. Bay Conservation and Development
30 Van Ness Avenue
San Francisco, CA 94102

Ms. Loretta Barsamian, Executive Officer
S.F. Bay Regional Water Quality Control Board
1515 Clay Street
Oakland, CA 94612

Subject: Long Term Management Strategy
(LTMS) Management Plan and Discussion Paper No. 2,
November 16, 1998

Dear Members of the LTMS Management Committee:

The Bay Planning Coalition, by letter dated January 31, 1999, has furnished the Management Committee extensive comments on the proposed approach to the LTMS Management Plan.

The California Marine Affairs and Navigation Conference (C-MANC) represents a majority of ports and harbors within the State of California. While the management plan refers mainly to the ports of the San Francisco Region, the adoption of strategies for dredge disposal quite possibly will impact all ports within California. With this in mind, C-MANC wishes to go on record endorsing the points set forth in the January 31 letter addressed to the Committee.

Our Winter Meeting was recently held in San Diego, CA, and at that time there was extensive discussion of the LTMS Study and the preliminary goals that have been recommended for adoption. We agree with the Bay Planning Coalition that the LTMS Agency should not apply the

40-40-20 disposal goal, particularly through an allocation formula on maintenance dredging until upland sites are secured with the accompanying financial support. Upland disposal is an issue that concerns all California ports who are confronted with the need to sometimes use an upland disposal site. However, until appropriate funding can be arranged and sites selected, it is impractical to say that upland disposal is going to be a primary method for handling dredged materials.

The excellent analysis and presentation made by the Coalition addresses all the issues that must be thoroughly investigated before any regulation is finally adopted.

Mike Giari, Executive Director of the Port of Redwood City, has been designated as the C-MANC member representing C-MANC interests in the LTMS process. Jim Haussener, Harbor Master of San Leandro Marina is also Chairman of C-MANC. As Executive Director, I would appreciate the three of us being kept in the loop as the discussions continue on the LTMS process. C-MANC is prepared to join with other local interests to work on securing Federal dollars and potential State dollars for alternative disposal sites and also Legislative initiatives to assist with estuarine restoration.

Sincerely,

Gerald L. Pope
Executive Director

GLP:dp

cc: Mike Giari
Jim Haussener
Bruce Seaton
Rinus Baak
Dean Smith, C-MANC Gov. Relations Comm. Chair

RENO ADDRESS: 3935 INNSBRUCK COURT, RENO, NV 89509-0637 ~ PHONE/FAX: (775) 747-2243
C-MANC'S WEB page: http://www.cmanc.org

BAY PLANNING COALITION

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ERIN M. SPRUNGER

January 31, 1999

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San Francisco, Ca. 94102

Ms. Loretta Barsamian, Executive Officer
S. F. Bay Regional Water Quality Control Board
1515 Clay Street
Oakland, Ca. 94612

Subject: Long Term Management Strategy (LTMS) Management Plan and Discussion Paper No. 2, November 16, 1998

Dear Members of the LTMS Management Committee:

The Bay Planning Coalition wishes to provide some comments regarding the LTMS Management Committee's proposed approach to the LTMS Management Plan. It is our understanding that the purpose of the Plan is to implement Alternative #3 which has been selected by the LTMS Management Committee as the preferred LTMS strategy which is to balance upland/wetland reuse and ocean disposal (approximately 40 percent each) with low disposal volumes at the in-Bay sites (approximately 20 percent). (LTMS FINAL Policy Environmental Impact Statement and Programmatic Environmental Impact Report, Chapter I, pages 1-14).

From the inception of the LTMS, the members of the BPC have supported the LTMS core goals as envisioned in a 50-year plan and adopted by the LTMS Management and Policy Review Committees in March, 1991 as follows:

1) Maintain navigation in San Francisco Bay and estuary;
2) Eliminate unnecessary dredging activities in the Bay and estuary;
3) Maximize the use of dredged material as a resource;
4) Conduct dredging activities in the most environmentally sound and economically feasible fashion.
(These goals were adopted by the state and federal agencies and stakeholders together as distinguished by the selection of Alternative 3 which was chosen by the agency staff and not by the Policy Review Committee of stakeholders.)

The current proposal as presented to the dredging community in the LTMS Discussion Paper No. 2 and Implementation Workshop to develop a mandatory disposal allocation policy through regulation is premature. New disposal sites must first come on line and definitive information developed about practicability and feasibility, including environmental analyses (e.g. evaluations of salinity, new potential contaminant pathways, air quality and traffic impacts).

We request that you redirect the implementation process outlined in the workshop agendas from adoption of a volume allocation regulation through S. F. Bay and Basin Plan amendments to a non-regulatory approach as described further in this letter. In addition, we request that you redirect your focus on new fees until we can come to an understanding on the strategy for development of upland disposal sites and assess necessary resources. It is premature to focus on fee structures without an analysis of need, effectivenesss and purpose of new fees.

Essentially, redirecting the LTMS implementation plan to focus, at least initially, on a non-regulatory approach would involve using the time spent in Management Plan workshop meetings to define action plans to bring sites on-line and to secure the necessary financial resources and permits to implement upland and ocean disposal site use. We will support such a non-regulatory Management Plan approach. The LTMS agencies should not apply the 40-40-20 disposal goal (particularly through an allocation formula) on maintenance dredging until upland sites are secured with the accompanying financial support. Once sites and financial resources are secured, and we have had experience with feasible upland and ocean disposal, then we can consider

possible further reductions, from what has already been accomplished, in in-Bay disposal for maintenance dredging. At that time further consideration of economic and/or regulatory incentives may be appropriate. Moreover, we anticipate that the new work dredging will go a long ways towards achieving the goal. We believe that we have engaged in significant coalition building with members of the LTMS agencies that will facilitate development of reasonable approaches to the LTMS goal of 40-40-20.

There are several legal questions regarding economic feasibility and environmental acceptability that have not been addressed either in the FEIS/EIR or the Management Plan staff has proposed to date. As defined in present statutory requirements, these questions still must be fully addressed before you proceed to developing a regulation through the Bay and Basin Plan amendment process.

Specifically, the FEIS/EIR for the LTMS was completed at a programmatic level of information. Although it adopted a policy of "40-40-20", it included language that made it clear that this was a goal, and implementation of that goal would require further analysis. In particular, the FEIS indicated that "practicality must still be determined for individual projects." (p. R-413); that "potential significant impacts that were not examined in this FEIS/EIR would be examined" (in project specific EIR's, p. R-411) and that "non-dispersive or confined in-Bay sites can be considered on a project-specific basis." (p. R-412).

It is our understanding that BCDC intends to utilize the exemption for certified state regulatory programs laid out in Section 15250 of the CEQA guidelines. As you know, the nature of that process is established in Section 21080.5 of the Public Resources Code (PRC), and includes specific substantive requirements. Specifically, Subsection (2) of that code section includes requirements that feasible alternatives and mitigation measures be considered, entails guidelines for the orderly evaluation of the proposed activities and preparation of written documentation, and requires written responses to issues raised during the evaluation process. Since BCDC contemplates amending its program with a Bay Plan amendment under Section (f), that amendment would be subject to review by the Secretary of the Resources Agency to determine whether the change could affect the regulatory program's continued eligibility for certification.

Any changes that BCDC seeks to make to its underlying program must comply with the underlying McAteer-Petris Act as well as with CEQA. In this

light, we draw your attention to Section 66602 of the PRC, which identifies ports and other water-related industrial activities as water-oriented uses "essential to the public welfare." Section 66605 (a) of the PRC establishes the balancing test for BCDC, which is that to be approved, a project's "public benefits (must) exceed public detriment from the loss of the water areas."

BCDC has treated dredged material, removed from and redeposited in the Bay as fill, even though it does not cause a loss of water area. We think that any new rulemaking by BCDC needs to explicitly consider feasibility, and the direction of Section 66602 that ports are essential to the public welfare. If BCDC creates a regulatory structure that makes dredging of ports and terminals infeasible, either for maintenance or modernization, such a decision would appear to conflict directly with Section 66602. In any event, BCDC should consider the balance of public benefits and detriments under Section 66605 (a), with cognizance of the legislative direction that it is the loss of water areas, rather than "fill" per se, that must be balanced against the public benefits of the project. And here, the legislature has also specifically recognized the public benefits of the port and water -related industry as "essential to the public welfare".

We believe that the LTMS implementation process has reached a critical juncture. The approach must include consideration of feasibility, and the availability of environmentally superior disposal sites and their potential environmental impacts.

There are two extremely vital upland projects, Montezuma and Hamilton, which deserve our energy through private and public sector cooperation to bring on line. Measures might be necessary to increase the feasibility of those sites; and, we should start working on the next generation of reuse sites, since our experience shows that it may take as much as ten years to develop such a site. Clearly reuse is not feasible if sites cannot be permitted on a reasonable time frame, or have serious adverse impacts. Lastly, we need to spend our energy on securing the dollars to support upland site construction, management and use. The Bay Planning Coalition and its marine industry members pledge their efforts to work on securing federal dollars and potential state dollars for alternative disposal sites and also legislative intiatives to assist with estuarine restoration.

The best use of the LTMS agencies and the Coalition and its members' time at this juncture is to work on this alternate, non-regulatory approach cooperatively. We offer to meet with you to discuss how we can define

action plans around bringing disposal sites on line and securing dollars for the construction and use of these sites. We are positive we can continue to build consensus around the implementation of the LTMS.

Sincerely yours,

Ellen Johnck

Ellen Johnck, Executive Director
Michael Cheney, Chairman, Dredging and Water Quality Committee
Jim McGrath, Manager, Environmental Department, Port of Oakland
Mike Giari, Executive Director, Port of Redwood City
Jim Haussener, Harbormaster, San Leandro Marina

cc: Robert Tasto and Becky Ota, Ca. Dept. of Fish and Game
Robert Hight, States Lands Commission
Walt Pettit, State Water Resources Control Board

LEAGUE OF
WOMEN VOTERS
OF THE BAY AREA
An Inter-League Organization of the San Francisco Bay Area

January 19, 1999

RECEIVED
JAN 21 1999
SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

Jamie Michaels
Long Term Management Strategy
c/o BCDC
30 Van Ness Avenue
San Francisco, CA 94102

RE: DREDGING FEES

Dear Ms. Michaels:

The League of Women Voters of the Bay Area would like to suggest that in its consideration of fees, the LTMS Workshop discussions explore charging dredgers a fee for disposing in the Bay.

Charging dredgers would be more equitable because it would equalize disposal costs among all users, instead of having only non-federal users bear the sole burden.

We suggest that fees collected from dredging companies be used to implement a program to develop new upland disposal sites. This would enable improved protection for aquatic resources by facilitating disposal of the dredged material out of the Bay.

We suggest the State Coastal Conservancy as an appropriate agency to implement such a program.

Finally, the program should include a mechanism that provides for a public accounting to ensure that all fees collected are used for the intended purpose.

Thank you for considering our input.

Sincerely,

Jean Matsuura

Jean Matsuura
President

500 St. Mary's Road, Suite 14, Lafayette, CA 94549 • Tel.925-283-7093 • FAX 925-283-2613

Marin Audubon Society Box 599 Mill Valley, California 94942-0599

January 21, 1999

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JAN 25 1999
SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

Jamie Michaels
Bay Conservation and Development Commission
30 Van Ness Avenue
San Francisco, CA 94102

RE: LTMS

Dear Jamie,

In response to your request for fee suggestions, the Marin Audubon Society joins with other environmental groups in recommending that fees be imposed on dredging companies for disposing in the Bay or ocean.

We believe this would have a number of benefits:

• provide compensation for disposal in the Bay which is an extremely valuable public resource. There is no other circumstance we are aware of where entities can dump free of charge. Every landfill has a tipping fee. Why should entities be able to dump in the bay or ocean for free?

• provide funds to develop and implement a program to bring upland and marsh restoration projects on line.

• ensure that all dredging projects share equally in the costs of developing less environmentally damaging disposal options.

• enhance the Bay by reducing the impacts of in-bay disposal and increasing marsh restoration.

We also suggest that the State Coastal Conservancy, with its proven track record of developing beneficial use sites, be considered as the most appropriate agency to develop and implement such a program.

Look forward to discussing this and other options.

Sincerely,

Barbara Salzman, Chair
Conservation Committee

PORT OF SAN FRANCISCO

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JAN 5 1999
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& DEVELOPMENT COMMISSION

Ferry Building
San Francisco, CA 94111
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January 4, 1999

Jaime Michaels
LTMS Implementation Committee
c/o BCDC
30 Van Ness Avenue, Suite 2011
San Francisco, California 94102

Dear Ms. Michaels:

I understand that the agencies responsible for the implementation of the LTMS policies on in-Bay disposal have begun to discuss the issue of allocation of the disposal capacity at the in-Bay disposal sites for maintenance dredging. Preliminarily, the agencies plan to base this allocation on the established record of maintenance dredging volumes for each dredger for the last seven years. I would like to provide some additional information on the Port of San Francisco's dredging history to assist agency staff with the development of the allocation program. The Port of San Francisco's staff is concerned that dredging volumes from the last seven years will not allow the agencies to accurately project the Port of San Francisco's future dredging needs.

Enclosed please find a table that shows the Port of San Francisco's 12-year maintenance dredging history. The dredging years shown are fiscal years, which run from July 1st to July 1st. As you can see, dredging volumes in the period between 1984/85 and 1988/89 are much higher than the period between 1989/90 to 1997/98. During the 1984/85 to 1988/89 period, the average yearly dredging volume was approximately 300,000 cubic yards. During this time period, the Port operated both of its container terminals and had not yet begun to experience a decline in maritime business. The 300,000 cubic yard per year figure began to decline steadily in 1989/90 during a period of economic recession and decreased maritime activity, which caused the Port to defer a good deal of its maintenance dredging. Dredging volumes during the period of deferred maintenance (1989/90 to 1997/98) averaged approximately 75,500 cubic yards per year.

Over the last two years, the Port has begun to re-establish its maritime business base. We have attracted several new container shipping lines to Pier 80 and have established a new niche market for bulk cargo, including raw building supplies, cement and recycled materials. We are currently berthing five MARAD Ready Reserve Fleet ships at various locations along the waterfront. In addition, our cruise industry remains a viable maritime activity that requires regular maintenance dredging. In order to accommodate this resurgence in maritime business, the Port has resumed its maintenance dredging program and is trying to catch up on deferred maintenance as quickly as funding will allow. In the

foreseeable future, the Port expects to continue its maintenance dredging program at volumes that more closely resemble the pre-1988/89 period than the post-1988/89 period.

The figure given in the chart for the 1998/99 year is not accurate because we have not yet concluded our dredging for this year. The Port expects to dredge a total of approximately 300,000 cubic yards by the close of the 1998/99 fiscal year.

I hope that this information will be helpful to you as you work to fashion an equitable allocation of the in-Bay disposal capacity under the LTMS program. Please contact Roberta Schoenholz of my staff at 274-0562 if you have any questions or require additional information.

Sincerely,

Alexander Lee

Alexander Lee
Director
Facilities and Operations

cc: LTMS Member Agencies
Peter Daily, Port Maritime Director

FACILITY	BERTH WIDTH	BERTH LENGTH	DREDGE DEPTH (M.L.L.W.)	1984/85 Cu. Yds.	1985/86 Cu. Yds.	1986/87 Cu. Yds.	1987/88 Cu. Yds.	1988/89 Cu. Yds.
FWWAP			Varies					
Pier 45 East	200 ft.	600 ft.	-35 ft.	25,000				22,000
Pier 35 West	120 ft.	800 ft.	-30 ft.	9,000	27,000	12,000		
Pier 35 East	200 ft.	1000 ft.	-35 ft.	63,000	124,000	20,000		20,000
Pier 29	200 ft.	700 ft.	-35 ft.					
Pier 27	200 ft.	1100 ft.	-35 ft.		48,000		6,000	
Pier 30-32	150 ft.	1800 ft.	-35 ft.	32,000				
Pier 38 North	100 ft.	1000 ft.	-32 ft.					20,000
Pier 48-50 Approach	700 ft.	800 ft.	-35 ft.	45,000		42,000	33,000	
Pier 48A	150 ft.	600 ft.	-35 ft.		24,000	33,000		
Pier 48B	150 ft.	800 ft.	-35 ft.		24,000	33,000		32,000
Pier 50A	150 ft.	600 ft.	-35 ft.	8,000				
Pier 50C	150 ft.	800 ft.	-35 ft.	8,000				
Pier 50D	150 ft.	1000 ft.	-35 ft.					
Central Basin	700 ft.	1400 ft.	-32 ft.	108,000				
Pier 70W	150 ft.	1200 ft.	-35 ft.					
Pier 80D	150 ft.	800 ft.	-35 ft.					20,000
Pier 80C	300 ft.	800 ft.	-40 ft.			20,000		30,000
Pier 80 IC	300 ft.	1400 ft.	-40 ft.	44,000		80,000	93,000	140,000
Pier 80 Approach	450 ft.	700 ft.	-40 ft.			27,000		20,000
Pier 92-IC	150 ft.	800 ft.	-35 ft.			20,000	41,000	
Pier 94	50 ft.	700 ft.	-40 ft.	3,000		40,000		
Pier 96	50 ft.	1800 ft.	-38 ft.	5,000		80,000	18,000	
Pier 80-94 Approach	500 ft.	4000ft.	-40 ft.					
Pier 96 Approach	600 ft.	2200ft.	-40 ft.					
			TOTALS	350,000	247,000	407,000	191,000	304,000

FACILITY	BERTH WIDTH	BERTH LENGTH	DREDGE DEPTH (M.L.L.W.)	1994/95 Cu. Yds.	1995/96 Cu. Yds.	1996/97 Cu. Yds.	1997/98 Cu. Yds.	1998/99 Cu. Yds.
FWWAP			Varies	17,366	1,500			
Pier 45 East	200 ft.	600 ft.	-35 ft.					
Pier 35 West	120 ft.	800 ft.	-30 ft.		44,511			
Pier 35 East	200 ft.	1000 ft.	-35 ft.		20,100	31,996		47,942
Pier 29	200 ft.	700 ft.	-35 ft.					
Pier 27	200 ft.	1100 ft.	-35 ft.			30,214	25,298	
Pier 30-32	150 ft.	1800 ft.	-35 ft.					
Pier 38 North	100 ft.	1000 ft.	-32 ft.					
Pier 48-50 Approach	700 ft.	800 ft.	-35 ft.					
Pier 48A	150 ft.	600 ft.	-35 ft.					
Pier 48B	150 ft.	800 ft.	-35 ft.					
Pier 50A	150 ft.	600 ft.	-35 ft.					
Pier 50C	150 ft.	800 ft.	-35 ft.					
Pier 50D	150 ft.	1000 ft.	-35 ft.				15,233	
Central Basin	700 ft.	1400 ft.	-32 ft.					
Pier 70W	150 ft.	1200 ft.	-35 ft.					
Pier 80D	150 ft.	800 ft.	-35 ft.				28,740	
Pier 80C	300 ft.	800 ft.	-40 ft.					
Pier 80 IC	300 ft.	1400 ft.	-40 ft.					
Pier 80 Approach	450 ft.	700 ft.	-40 ft.					
Pier 92-IC	150 ft.	800 ft.	-35 ft.					
Pier 94	50 ft.	700 ft.	-40 ft.				1,689	
Pier 96	50 ft.	1800 ft.	-38 ft.					
Pier 80-94 Approach	500 ft.	4000ft.	-40 ft.					
Pier 96 Approach	600 ft.	2200ft.	-40 ft.					
			TOTALS	17,366	66,111	62,210	70,960	47,942

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SEP - 8 1998
SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

Chevron

September 3, 1998

Chevron Products Company
P. O. Box 1272
Richmond, CA 94802-0272

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

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

Draft Long Term Management Strategy
Implementation Strategy Comments

Dear Ms. Michaels:

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

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

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

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

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

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

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

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

Sincerely,

Tina M.A. Gilles

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

Post-it® Fax Note 7671	Date 8/16/98	# of pages ▶ 2
To Jamie Michaels	From B. Sage	
Co./Dept. Jamie Michaels	Co. MAS	
Phone #	Phone #	
Fax #	Fax #	

Marin Audubon Society Box 59

August 16, 1998

Steve Goldbeck
Bay Conservation and Development Commission
30 Van Ness Avenue
San Francisco, CA 94102

ATT: JAMIE MICHAELS

RE: POTENTIAL IN-BAY ALLOCATION STRATEGIES

Dear Steve,

Thank you for letting us submit comments a bit late. I had a conflict at the scoping session time, so having the opportunity to submit these written comments is appreciated.

Our overall concern is that the major focus of the strategies is providing for the needs of dredgers. While we recognize that dredging is needed, the focus of this program should be to protect aquatic resources, in-bay, ocean and seasonal wetland resources. The discussion does not recognize that environmental damage to the Bay, ocean and seasonal wetlands is caused by disposal of dredged material. As we have stated in other comments, there should be more emphasis on encouraging reduction in dredging and discouraging new dredging projects.

Our specific comments are:

- True uplands and seasonal wetlands continue to be lumped in the same category of Upland/Wetland Reuse (UWR). It is not clear how seasonal wetlands and baylands will be protected. How will it be ensured that sites classified as upland are not actually baylands/seasonal wetlands? Are baylands that do not meet the Corps delineation being considered uplands? What will ensure we will not be losing seasonal wetlands and baylands in the long-term? There have already been instances where diked baylands are being filled for dredged material disposal. Port Sonoma Marina's material, for example, was placed on a bayland site north of Highway 37 with the rationale that it would improve agriculture. when an existing EIR indicated this was highly questionable.

- A major omissions of the strategy is a program to identify true upland and wetland restoration sites that can be used for beneficial reuse. Unless there is a concurrent program that will find and develop such sites with the overall benefit of the bay resources as a guide, there will not be UWR sites available to use. It will always be easier to dispose of material in-bay, or on a site (such as Port Sonoma Marina) that meets the needs of private users, but not necessarily the needs of the Bay, if no program exists to ensure other sites are brought on line.

- Another major problem is the lack of incentives/disincentives to encourage use of upland/restoration sites or discourage dredgers from using the Bay or ocean. The strategy will be unsuccessful if it continues to be cheaper and easier to go in-bay. Dredgers should not be rewarded for disposing in the Bay thereby encouraging them to do so. We suggest that fees for all disposal, in-bay, ocean and upland/wetland reuse, include an assessment to cover costs of developing true upland and beneficial wetland restoration sites. Setting the fee for in-bay to contribute to these costs and not charging all of these

Attachment Four

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

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

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

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

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

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

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

Sincerely,

Barbara Salzman, Chair
Conservation Committee

cc: Save the Bay

PORT OF REDWOOD CITY
San Francisco Bay

675 Seaport Boulevard
Redwood City, California 94063-2796
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July 31, 1998

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

Dear Ms. Michaels:

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

A. COMMENTS ON PROPOSED STRATEGIES

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

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

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

Port Commissioners
Larry Aikins
Jack Castle
Dick Dodge
Lew Miller

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

2. Average Annual Allotments With Trading and Without Banking

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

3. Average Annual Allotments with Trading and Banking

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

4. First-come, First-served

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

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

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

Alcatraz at greatly reduced expense.

6. Credits Banked with the Corps – Projects Vie for Credits with Sealed Bids

This strategy, discussed at the LTMS meeting, does not offer any credits or benefits for those whose bids are not accepted. It offers little flexibility, as the bid system must be done well in advance of a project, and some projects may fall through in the interim.

7. Incentives to go Upland

This strategy was also briefly discussed at the LTMS meeting. The Port of Redwood City would like to see a strategy that provides incentives to dispose of material outside of the Bay.

What's driving disposal decisions is cost. If upland disposal was less expensive, then Ports would be more amenable to upland disposal. (Simply driving up the cost of disposing in-Bay may not achieve greater upland disposal, and may impose financial hardship on projects which simply cannot afford increased costs.) Combining a moderate increase for in-Bay disposal with a means to reduce upland disposal costs could provide the economic incentive to go upland. One way to reduce upland disposal costs is to have numerous upland sites well-situated near all projects – including those in the South Bay. Regardless of the availability and/or cost of in-Bay disposal, the Port of Redwood City cannot afford to dispose at the ocean site or at an upland site in the North Bay. Disposal sites must be on-line, and in close proximity to South Bay projects in order for upland alternatives to be seriously pursued, and for LTMS to be successful.

8. Formula Based upon Size and Need for Project

This strategy, proposed at the LTMS meeting, is unworkable as it is impossible to measure the worth of one project against another.

9. Pay for Disposal at Alcatraz and Use Fees to Subsidize Upland Disposal Sites

Again, this proposal was suggested at the LTMS meeting. It is similar to our suggestion under Strategy Seven, and would only work if COE projects and small dredgers were required to pay the in-Bay disposal fee. Further, the disposal fee could not be so great as to be out of reach of most projects.

B. COMMENTS ON DREDGE DISPOSAL DATA

1. Redwood City Yacht Harbor Project depth is 10 feet.

2. Berth maintenance dredging disposal not included on data sheet. Project Depth: 35 feet. Last dredged in 1994 (approx. 20,000 cy). Estimated disposal in 1998: 38,000

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

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

C. GENERAL COMMENTS AND CONCERNS

- ***None of these strategies can be implemented until upland sites are up and running.***

- Any strategy which is implemented must be reviewed annually, and revisions must be made if significant factors change over time.

- All strategies require the dredgers to "determine if UWR and ocean disposal alternatives could be used as a part of the permit application process . . in the event either alternative could be used, in-Bay disposal would not be allowed." Further guidance is needed as to how these determinations would be made.

- "Small dredgers" should include all projects which generate less than 50,000 cy per year, regardless of project depth.

- Any in-Bay disposal fees must be charged to all users (small, medium, COE).

- There must be flexibility for projects which unexpectedly exceed their in-Bay allotment during a dredging episode. The project sponsor should not be required to go upland with 5,000 cy. Minimal excesses should be taken out of the "contingency allotment."

- There must be flexibility if a project begins in one record-keeping year, and ends in the next year. Further, if a project is delayed a few weeks and pushed into the next year, it should be counted against the original year's allotment.

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

Sincerely,

Mike Giari

Michael J. Giari
Executive Director

Save San Francisco Bay Association

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July 31, 1998

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

Re: Comments on LTMS In-Bay Allocation Strategies

Dear Ms. Michaels,

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for the opportunity to comment on the in-Bay disposal strategies. We would appreciate notice, as soon as possible, of the follow-up workshop on these proposed strategies and the schedule for subsequent scoping sessions. We look forward to working with you on this and other LTMS issues.

Sincerely,

Keith Nakatani
Program Director

cc. Ron Gervason, S.F. RWQCB
Brian Ross, U.S. EPA
Arthur Feinstein, Golden Gate Audubon
Barbara Salzman, Marin Audubon
Julia Bott, Sierra Club Loma Prieta Chapter
Dave Nesmith, Sierra Club Bay Chapter

BAY PLANNING COALITION

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January 28, 1998

Mr. William Travis
Executive Director
S. F. Bay Conservation and Development Commission
30 Van Ness Avenue
San Francisco, Ca. 94102

Attention: Steve Goldbeck

Subject: Long Term Management Strategy (LTMS) EIS-EIR
Proposed Preferred Alternative III 40-40-20 Disposal Plan

Dear Steve:

The members of the Bay Planning Coalition and colleagues in the maritime industry and related organizations have had several discussions since we last met with the LTMS agencies at the August 15, 1997 LTMS meeting. We have formulated an official response to your request for comments in your role as the lead state agency for developing the LTMS Management Plan on the LTMS EIS-EIR "Implementation Approaches."

We appreciate your efforts to begin serious consideration of the real implementation issues related to the future transition from current disposal practices to the "preferred alternative." Up until the August meeting, the real life problems and costs associated with the "preferred alternative" have not been explored. It is important to have a continuing opportunity to engage in a dialogue about this critical matter, and we request that the LTMS Management Committee hold subsequent public meetings for this purpose. We are looking forward to the next LTMS-PRC meeting on February 6.

It is not possible for us even to comment fruitfully about whether your transition assumptions and approaches regarding disposal site cap, project allocation, credit system and flexibility are reasonable at this time. It appears that the LTMS is pursuing both an incentive and a regulated strategy to achieve this goal. If so, the regulatory approach depends almost entirely on the success of the incentive strategy. Before that outcome is clear, the transition bar graphs and glide path indicating volumes and

In summary, before the maritime industry can agree to the Preferred Alternative proposal or even the adoption of a transition approach, the obstacles of lack of sites, the high costs and inadequate funding, and environmental politics must be overcome.

It is our intention to continue to work with you to meet this challenge and to bring alternative sites on-line and to identify and lobby for sources of funding. Any further discussion on financing and authorities should include a commitment from all interested parties, and particularly the staff from our Bay Area Congressional representatives. We appreciate your cooperation.

Sincerely Yours,

Ellen Johnck
Executive Director

cc: LTC Richard Thompson, S.F. District Engineer, U.S. Army Corps of Engineers

Ms. Alexis Straus, Acting Director, Water Quality Management, U.S. Environmental Protection Agency.

Ms. Loretta Barsamian, Executive Officer, S.F. Bay Regional Water Quality Control Board