

Subject: Request to Complete Bay Trail in Oakland, Oak to 9th
Date: Monday, November 26, 2012 3:33:19 PM PT
From: Dave Campbell (sent by Dave Campbell <dave.campbell62@gmail.com>)
To: graceg@bcdcc.ca.gov, bobbb@bcdcc.ca.gov
CC: Sandra Threlfall, Naomi Schiff

Dear Chair Wasserman and Commission Members:

The East Bay Bicycle Coalition endorses the letter of November 20, 2012 of the Measure DD Community Coalition asking for completion of the Bay Trail along the Oak to 9th St parcel. That letter outlines in detail the specific requests and rationales for stopping any further delays in completing the Bay Trail. We write to you separately to underscore three important points:

The 80% voter support of Measure DD and its inclusion of this specific Bay Trail segment places a heightened responsibility on the Port of Oakland and the City of Oakland to complete this project. In 2000, voters also gave over 80% support to Measure B, Alameda County's Transportation Expenditure Plan, that has since built several bikeways connecting to the Measure DD projects, including this segment of Bay Trail. The Alameda County Transportation Commission, who is responsible for implementing the projects of Measure B, takes very seriously their responsibility to fulfill the voter mandate of Measure B. Because of this, they have delivered all of the capital projects of Measure B in half the time allotted in the measure itself for completion. They are doing this because the voters spoke loud and clear-they want these projects built and they are willing to tax themselves to build them. We are equally sure that you take your responsibility as public servants just as seriously. Part of that responsibility is delivering projects like the Bay Trail. However, we are now ten years into Measure DD and this Bay Trail project has gone nowhere. It is time for you to act and fulfill your commitment to the voters of Oakland. Build this Bay Trail segment;

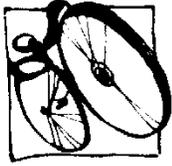
The City of Oakland is busy building bikeways throughout the City, and many are being completed or will be completed in the next two years that connect to this Bay Trail segment. The City just recently signed a bikeway along E. 7th St and of course The Embarcadero has had bike lanes for several years. The streets that are planned to have new bikeways in the coming years are Madison, Oak, 8th St, 9th St, 10th St, 7th St, Foothill Blvd, 16th Ave, Park Blvd, and the new interchange at 23rd St and 29th St. All of these new bikeways will allow people to safely ride down to the estuary and the other projects being completed with Measure DD and enjoy Oakland's waterfront. For this reason as well, it is timely for the Port of Oakland to put this Bay Trail segment back on track to completion;

The Oakland metropolitan area now has achieved the 2nd highest bike mode share of any large metropolitan area in the United States. We are behind Portland, and now ahead of Seattle and San Francisco. The East Bay Bicycle Coalition is not surprised by this, we see everyday the thousands of new bicyclists out on Oakland's streets. These people

want to enjoy Oakland's waterfront and are showing everyday that they are ready to do so. Please help the City of Oakland meet this exploding demand for bicycling by completing this Bay Trail segment.

Thank for your commitment to making an Oakland an even better place to live and work and visit, by making the city a more walkable, more bikeable community. Please complete the Bay Trail thru the Oak to 9th property.

Dave Campbell
Program Director
East Bay Bicycle Coalition
email: dave.campbell@ebbc.org
office: 510.845.7433
cell: 510.701.5971



EAST BAY BICYCLE COALITION

Working for safe, convenient and enjoyable bicycling for all people in the East Bay

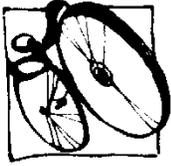
November 26, 2012

Bay Conservation and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Dear Chair Wasserman and Commission Members:

The East Bay Bicycle Coalition endorses the letter of November 20, 2012 of the Measure DD Community Coalition asking for completion of the Bay Trail along the Oak to 9th St parcel. That letter outlines in detail the specific requests and rationales for stopping any further delays in completing the Bay Trail. We write to you separately to underscore three important points:

1. The 80% voter support of Measure DD and its inclusion of this specific Bay Trail segment places a heightened responsibility on the Port of Oakland and the City of Oakland to complete this project. In 2000, voters also gave over 80% support to Measure B, Alameda County's Transportation Expenditure Plan, that has since built several bikeways connecting to the Measure DD projects, including this segment of Bay Trail. The Alameda County Transportation Commission, who is responsible for implementing the projects of Measure B, takes very seriously their responsibility to fulfill the voter mandate of Measure B. Because of this, they have delivered all of the capital projects of Measure B in half the time allotted in the measure itself for completion. They are doing this because the voters spoke loud and clear—they want these projects built and they are willing to tax themselves to build them. We are equally sure that you take your responsibility as public servants just as seriously. Part of that responsibility is delivering projects like the Bay Trail. However, we are now ten years into Measure DD and this Bay Trail project has gone nowhere. It is time for you to act and fulfill your commitment to the voters of Oakland. Build this Bay Trail segment;
2. The City of Oakland is busy building bikeways throughout the City, and many are being completed or will be completed in the next two years that connect to this Bay Trail segment. The City just recently signed a bikeway along E. 7th St and of course The Embarcadero has had bike lanes for several years. The streets that are planned to have new bikeways in the coming years are Madison, Oak, 8th St, 9th St, 10th St, 7th St, Foothill Blvd, 16th Ave, Park Blvd, and the new interchange at 23rd St and 29th St. All of these new bikeways will allow people to safely ride down to the estuary and the other projects being completed with Measure DD and enjoy Oakland's waterfront. For this reason as well, it is timely for the Port of Oakland to put this Bay Trail segment back on track to completion;



EAST BAY BICYCLE COALITION

Working for safe, convenient and enjoyable bicycling for all people in the East Bay

3. The Oakland metropolitan area now has achieved the 2nd highest bike mode share of any large metropolitan area in the United States. We are behind Portland, and now ahead of Seattle and San Francisco. The East Bay Bicycle Coalition is not surprised by this, we see everyday the thousands of new bicyclists out on Oakland's streets. These people want to enjoy Oakland's waterfront and are showing everyday that they are ready to do so. Please help the City of Oakland meet this exploding demand for bicycling by completing this Bay Trail segment.

Thank for your commitment to making an Oakland an even better place to live and work and visit, by making the city a more walkable, more bikeable community. Please complete the Bay Trail thru the Oak to 9th property.

Sincerely,

Program Director
East Bay Bicycle Coalition

cc: Measure DD Community Coalition



Oakland Measure DD Community Coalition

November 20, 2012

Bay Conservation and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Dear Chair Wasserman and Commission Members:

This letter serves as a request from the Measure DD Community Coalition that the Bay Conservation and Development Commission condition any amendment, extension, or renewal of permit 7-06 on a requirement that the Oak to Ninth Project permittees (City of Oakland, Port of Oakland, Oakland Harbor Partners) install an interim Bay Trail throughout the entire project within 18 months of such amendment of the BCDC permit or the close of escrow for the project, whichever is sooner.

Background

The Measure DD Coalition was formed in 2003 and sanctioned by the Oakland City Council to provide public input concerning projects and expenditures designated in the 2002 Measure DD Bond. One of the key themes of the \$198M Bond was improved access to the shoreline including the Oakland Estuary, Lake Merritt, and the major creeks in Oakland.

In 2003, the Port of Oakland, trustee of the 64-acre Oak to Ninth parcel, executed an option to purchase agreement with Oakland Harbor Partners (OHP) for the Oak to Ninth development parcel. This action moved Bay Trail and public access development for this parcel out of the public realm and out of the scope of Measure DD. In 2006, the Port, City and OHP submitted Permit Application 7-06 to BCDC.

On September 7, 2010, this Coalition wrote to the BCDC Commission requesting that approval of Permit Application 7-06 be conditioned on a requirement for installation of an interim Bay Trail throughout the entire project within 18 months of permit approval. *A copy of that letter is attached as Exhibit B.*

On January 20, 2011, the Commission approved BCDC Permit Application 7-06 subject to certain conditions, including certain special conditions pertaining to interim public access at the project site. Condition II-B-4a required installation of an interim trail along two segments of shoreline within 12 months of close of escrow for the parcel sale by the Port to OHP. *See January 20, 2011 BCDC Staff Recommendation available at <http://www.bcdc.ca.gov/meetings/commission/2011/01-207-06BBRP.pdf>.*

To date, escrow has not closed. On January 26th, 2012, the Port Commission extended the deadline for close of escrow for Oak to Ninth by one year to January 31, 2013, and there is reason to expect that further extensions will occur. Unless work begins on the site by December 31, 2012, the BCDC permit will "lapse and become null and void." Accordingly, there is reason to expect that the Commission will receive a request for permit extension.

Rationale Three key points support this request:

1. The voters intended to fill the critical gap in Bay Trail continuity in the project area, and continued delay is frustrating that intent.

In November 2002, over 80% of Oakland voters passed Measure DD, which provided for parks and Bay Trail continuity in the project area. To date, Measure DD has produced substantial progress in extending the Bay Trail through other areas along the Estuary, closing gaps at Alameda Avenue, Derby to Lancaster, Fruitvale to High Street, and the Cryer Boatworks site adjacent to Union Point Park. However, no progress has been made in the Oak to Ninth area, which remains as the largest single break in the trail vision presented in the Measure DD bond language:

"Pedestrian and bicycle trail acquisition and construction along Estuary waterfront to provide continuous public access from Jack London Square to Martin Luther King, Jr. Regional Shoreline."

2. Implementation of the required interim trail by the permittees can take place prior to close of escrow.

The Port of Oakland, the current owner of the site, is one of the permittees named in permit 7-06 authorization and is subject to its conditions, even if they entail expense. The Port's January 12, 2011 Amendment to the purchase and sale agreement includes two sections that provide a clear precedent for certain expenses incurred by the permittees prior to close of escrow to be deducted from the developer's deposit credited against purchase. *These important precedents are highlighted in the attached Exhibit A.*

3. A fixed time frame is needed for providing Bay Trail access.

Economic conditions have slowed the Oak to Ninth development schedule and public access to this shoreline in the past and may do so again in the future. Under the repeatedly revised purchase and sale agreement and open space ground lease, deadlines for close of escrow have been May 2008, June 2010, January 2012, and January 2013. So long as public access to this site remains tied solely to the close of escrow, there is no date certain by which public access will be attained. We encourage the Commission to require construction of the entire interim trail within 18 months of permit amendment or close of escrow, whichever is earlier, or by some other date to be fixed by the Commission. (Interim trail at the shoreline in the leased section of the parcel would be delayed until February 28, 2016, 60 days after the expiration of the lease.)

An interim Bay Trail is needed now to help mitigate the consequences of the repeated delays and uncertainty noted above.

We thank the Commission for considering this request.

Measure DD Community Coalition Interim Bay Trail Drafting Committee:

Naomi Schiff
John Sutter
Sandra Threlfall

Copy to: Robert Batha, Chief of Permits (bobb@bcdc.ca.gov)

Exhibit A

Agenda Report for January 12 2012 Amendment to the Agreement for Purchase and Sale and Ground Lease of Real Property in the Oak to Ninth District (p.93 of 188)

located at http://www.portofoakland.com/pdf/boar_shee_120112.pdf

BOARD MTG. DATE: 1/12/12

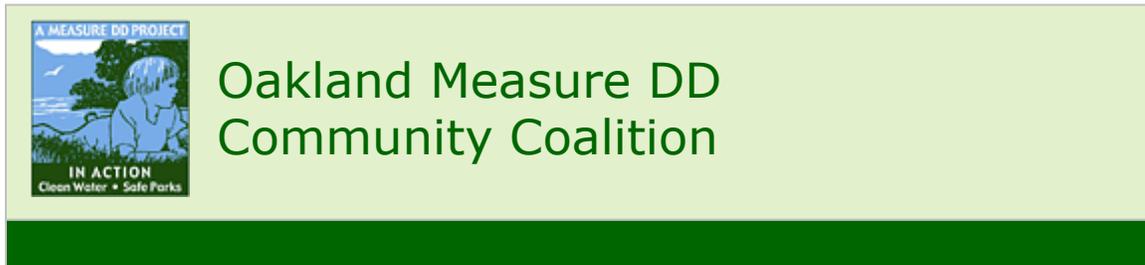
the Port retains the entire deposit amount. If close of escrow occurs on or before January 31, 2013 then the deposit amount is credited towards the purchase price.

3. Environmental Obligations Deducted from Deposit: If the Port receives a directive to investigate or remediate any part of the Property from a regulatory agency prior to the close of escrow, the costs of the Port's response to that directive shall be deducted from the Developer's deposit amount held by the Port. Thus, only the amount of deposit actually held by the Port at close of escrow would be credited against the Developer's purchase price payment owed to the Port. Likewise, these directive response costs would also be credited against the Buyers obligation to spend at least \$16 million in remediation costs on the Property, consistent with the limitations of the existing Purchase and Sale Agreement related to qualifying costs.
4. Waiver of Buyers Closing Conditions: Certain buyer closing conditions shall be waived or affirmatively acknowledged as completed by the Port (such as Tenant and/or Landlord Estoppel obligations, Master Indenture Covenant, stormdrain maintenance manual preparation, etc.) in order to minimize future closing efforts and limit the potential for any future disputes that could result in further delay.
5. Elimination of Port Liquidated Damages Payment: The \$500,000 liquidated damages payable by the Port as a result of an inability to close escrow due to the Port's Master Indenture Covenant shall be eliminated to minimize the risk for the Port related to other potential transactions occurring during the same twelve month period as the new proposed close of escrow date on this transaction.
6. Leasing Flexibility: The Port would be granted the right to enter into property rental agreements with tenants for use of the Property, utilizing our standard form of agreements, for a term length of up to January 2013 or longer, with a copy of the executed agreement provided to the Developer, but with no tenant or landlord estoppel required.
7. Performance Milestones and Regulatory Permit Costs: The Developer shall have the right to submit invoices to the Port for reimbursement for certain third party costs associated with the obtainment of outstanding regulatory agency permits and approvals required for the project such as the Regional Water Quality Control Board and Army Corps of Engineers each quarter, up to a maximum amount of \$72,292 each quarter, which equates to ½ of the quarterly deposit increase payment. At close of escrow, only the amount of deposit actually held by the Port at close of escrow shall be credited against the purchase price, with the remaining balance of the purchase price payable by the Developer at closing. This provision is intended to both somewhat offset the cash flow impact of the significant increase in the Developer's deposit being collected by the Port, and also incentivize the Developer to continue to pursue readying the site for development during the upcoming year such that project financing is more readily obtainable.

Based upon the terms and conditions listed above, staff believes that a one-year extension to the close of escrow date is acceptable, if combined with the other suggested amendments to the Purchase and Sale Agreement listed within this report. The proposed package of amendments will minimize or eliminate the risk to the Port from a delay in closing and should strengthen the Port's position with respect to leasing revenues on the property during the interim period. Furthermore, the requested extension recognizes the extremely challenging real estate capital markets present today and provides the Developer

Exhibit B

September 7, 2010 Coalition Letter to Commission



September 7, 2010

Bay Conservation and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Dear Chair Randolph and Commission Members:

This letter serves as a request from the Measure DD Community Coalition that, as a condition of its permit, the Bay Conservation and Development Commission require the Oak to Ninth Project developer to install an interim Bay Trail throughout the entire project within 18 months of issuance of the BCDC permit.

Background

The Measure DD Coalition was formed in 2003 and sanctioned by the Oakland City Council to provide public input concerning projects and expenditures designated in the 2002 Measure DD Bond. One of the key themes of the \$198M Bond was improved access to the shoreline which included the Oakland Estuary, Lake Merritt, and major creeks in Oakland. Measure DD designated \$22M for park projects and continuation of the SF Bay Trail along the Estuary shoreline. These projects were in compliance with the Estuary Policy Plan adopted in 2000 by the City Council as a component of the General Plan. A majority of the Oak to Ninth Avenue area is public trust land which cannot be privatized. Accordingly, no housing was proposed for the Oak to Ninth Avenue area in the General Plan.

In 2003, the Port of Oakland, trustee of the 64-acre Oak to Ninth parcel, entered into an exclusive negotiating agreement with Oakland Harbor Partners (OHP) for the Oak to Ninth development parcel. OHP proposed a project that did not reflect Oakland's Estuary Policy Plan for this area.

In 2004, Senator Perata initiated legislation on behalf of the Port of Oakland to trade out 8.75 acres of sovereign public trust lands so that housing could be built on the Oak to Ninth site. Senate Bill 1622 passed and was chaptered as Chapter 542, Statutes of 2004.

In 2006, the Oakland City Council amended the Estuary Policy Plan to incorporate the proposals of OHP for 3,100 housing units and a 40% decrease in open space for the area. The initial proposed schedule for the construction of the project was 2008 through 2022.

In spring 2010, the purchase agreement for the Oak to Ninth Avenue property was revised to permit a delay: the Port of Oakland received 25% down with the understanding that construction

would not begin before a final payment which could occur as late as 2015. The revisions also included an extension opportunity at 2015.

Rationale for this Request

1. Delay is frustrating the clear intent of the voters. In November 2002, over 80% of Oakland voters passed Measure DD. The bond language specified:

Waterfront Trail and Parks Acquisition and Construction including \$22 million for acquisition and development of the following parks along the Estuary waterfront:

** Estuary Park at mouth of Lake Merritt Channel into the Estuary*

** Meadows Park at 5th Avenue*

** New park in area of 9th Avenue Terminal*

** Union Point Park at 23rd Avenue*

Only the last of these parks and trail segments has been constructed. The others have been put on hold because they fall within the Oak to Ninth parcel. When the City and Port of Oakland determined that the General Plan would not fit the intent of the designated developer, the City Council amended the plan and approved a delay in construction of the San Francisco Bay Trail in the Oak to Ninth area.

Measure DD's capital expenditure plan included \$41,245,982 for Waterfront Trail and Parks Acquisition and Construction. Beginning in 2003, expenditures of these funds have yielded substantial progress in extending the Bay Trail through other areas along the Estuary. However, no progress has been made in the Oak to Ninth area.

Further, under the City's development agreement with OHP, completion of any interim portion of the Bay Trail is **not required until 2020 at the soonest!**

(See Exhibit C, Phasing Schedule excerpt, which calls for interim trail segments at the completion of Phase I of the development, expected to be five years from the project start after OHP makes final payment in 2015.)

The voters' intentions are being fulfilled in all areas specified in the Measure DD bond language except within the Oak to Ninth parcel. An interim Bay Trail is needed now to help mitigate this delay.

2. There is no certain time frame for providing Bay Trail access. Economic conditions have affected the Oak to Ninth development schedule in the past and may do so again in the future, with the potential to further delay access to this public trust shoreline. An interim Bay Trail is needed now to help mitigate this uncertainty by filling this critical gap in Trail continuity.

Our thanks to the Commission for considering this request.

Measure DD Interim Bay Trail Drafting Committee:

Sandra Threlfall

James E. Vann

Naomi Schiff

COPY

From: Desiree La Bar <desicali@gmail.com>
Date: December 4, 2012 9:09:02 AM PST
To: "beniciaherald@gmail.com" <beniciaherald@gmail.com>
Cc: "epatterson@ci.benicia.ca.us" <epatterson@ci.benicia.ca.us>, "tcampbell@ci.benicia.ca.us" <tcampbell@ci.benicia.ca.us>, "aschwartzman@ci.benicia.ca.us" <aschwartzman@ci.benicia.ca.us>, "mhughes@ci.benicia.ca.us" <mhughes@ci.benicia.ca.us>, "cstrawbridge@ci.benicia.ca.us" <cstrawbridge@ci.benicia.ca.us>, "bradm@bcdc.ca.gov" <bradm@bcdc.ca.gov>, "ljseifert@solanocounty.com" <ljseifert@solanocounty.com>
Subject: DO NOT save the Red Baron et al

Hello,

My husband and I would like to say that we support the removal of the old boat, crane and other junk at the cove at the end of West C Street. They are eyesores and probably polluting the bay as well! The area will be greatly improved by removing these items.

Thank you,
Desiree & Archie La Bar
530 Baylor Ct
Benicia CA 94510
Cell 209-676-0005

Subject: Benicia Waterfront

Date: Friday, December 7, 2012 8:24:48 AM PT

From: Ault, Tim

To: info@bcdc.ca.gov

Dear Sirs,

Please learn when to quit!

Leave the Benicia Waterfront Alone.

You are wasting taxpayers' dollars unnecessarily.

If you are going to spend a half-a-million dollars: put it where it is needed; schools or debt reduction.

Tim Ault, Benicia, California

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Subject: Benicia Boat Yard

Date: Thursday, December 6, 2012 10:40:51 AM PT

From: Michael Saunders

To: info@bcdcc.ca.gov

Priority: High

Hello,

As a lifelong Benicia resident and taxpayer, it is my sincere hope that BCDC moves forward with the clean-up order M2008.006 (the area at the Benicia boatyard).

I am aware that many others find the derelict vessels and debris to be "picturesque". However, I have personally witnessed the boat known as the "Red Baron", slowly decompose over the years. The painted and treated wood and rusted out debris is obviously breaking down and going into the bay. Also, at minus tides one can get an up close look at the other vessels and debris and see that are also falling apart and going into the bay.

In my humble opinion, this is an environmental issue that pertains to the entire bay as well as the Benicia waterfront. Although some may see the vessels and debris as some sort of landmark, I believe that BCDC has the responsibility and authority to limit bay fill and maintain a healthy bay.

Thank you,

Michael B. Saunders
Benicia, CA
(707) 745-1021

Subject: FW: Benicia Boat Yard Cleanup
Date: Wednesday, December 5, 2012 5:41:28 PM PT
From: Brad McCrea
To: Estella Corona, Grace Gomez
CC: Larry Goldzband

Is this one in the commissioner's packets for Thursday? If not, please add it.

From: <irishisrsmiling@comcast.net>
Date: Wednesday, December 5, 2012 5:13 PM
To: Brad McCrea <bradm@bcdc.ca.gov>
Subject: Benicia Boat Yard Cleanup

I followed with great interest the many recent articles in the *Benicia Herald* re the proposed cleanup at the Benicia boat yard and I would like to be at the meeting tomorrow but it is just not possible. However, I do want to express my opinion for consideration. First and foremost, I want to say that not everyone in Benicia, residents and visitors alike, has the same affection for the boat yard as the artists do. I walk the waterfront and speak to many people who stop and comment on the mess and cannot believe the city would permit such a junk yard to sit in/on the waters of their waterfront. The pollution in the waters concerns me greatly especially because of the danger it poses to wildlife and humans alike.

Phil Joy says removal of the items in question would pose a threat to his boat yard. Mr. Joy is a very resourceful man and there is no question in my mind that he could find a way to protect his property while the rip rap barrier is constructed.

I hope B.C.D.C. working with the city of Benicia, the Regional Water Quality Control Board, the U.S. Army Corps of Engineers and Cal Recycle will see the cleanup of the Benicia boat yard through to completion. It is vital to the health of the bay, for the enjoyment of all now and in future generations.

Thank you,
Jane Malone

From: Sandra Scoggin <sscoggin@sfbayiv.org>

Organization: San Francisco Bay Joint Venture

Reply-To: <sscoggin@sfbayiv.org>

Date: Thursday, December 6, 2012 9:23 AM

To: "A. L. Riley" <ALRiley@waterboards.ca.gov>, Alan Forkey <Alan.Forkey@ca.usda.gov>, "Amy Hutzell" <ahutzell@scc.ca.gov>, Andrea Jones <ajones@audubon.org>, Anne Morkill <anne_morkill@fws.gov>, "Arthur Feinstein" <arthurfeinstein@earthlink.net>, Barbara Salzman <bsalzman@att.net>, Barbara Salzman <bsalzman@worldnet.att.net>, Beth Huning <bhuning@sfbayiv.org>, "Bradley, John" <john_bradley@fws.gov>, Brenda Goeden <brendag@bcfdc.ca.gov>, Bruce Wolfe <BWolfe@waterboards.ca.gov>, Caitlin Sweeney <csweeney@waterboards.ca.gov>, "Caroline Warner (Caroline Warner)" <cwarner@sfbayiv.org>, Chindi Peavey <cpeavey@mosquitoes.org>, Christina Sloop <csloop@sfbayiv.org>, "Claire Thorp (Claire Thorp)" <thorp@nfwf.org>, Dave Means <dmeans@dfg.ca.gov>, David Lewis <dlewis@savesfbay.org>, Dean Kwasny <dean.kwasny@ca.usda.gov>, "Diane Ross-Leech" <dpr5@pge.com>, Don Brubaker <Don_Brubaker@fws.gov>, Donna Ball <dball@savesfbay.org>, Doug Cordell <Doug_Cordell@fws.gov>, "Edmondson, Steve" <Steve.Edmondson@noaa.gov>, "Ellie Cohen" <ecohen@prbo.org>, Eric Larson <ELarson@dfg.ca.gov>, Fari Tabatabai <Fari.Tabatabai@usace.army.mil>, Greg Martinelli <gmartinelli@dfg.ca.gov>, "Holmes, Marc" <holmes@bay.org>, Jeff McCreary <jmccreary@ducks.org>, Jenn Fox <jenn@openspacecouncil.org>, "John Baker, LTC" <John.K.Baker@usace.army.mil>, John Coleman <john@bayplanningcoalition.org>, John Donnelly <jdonnell@dfg.ca.gov>, Jordan Wellwood <jwellwood@audubon.org>, Judy Kelly <jakelly@waterboards.ca.gov>, "Julian Wood" <jwood@prbo.org>, "Kendall, Thomas R SPN" <Thomas.R.Kendall@usace.army.mil>, "Korie Schaeffer" <korie.schaeffer@noaa.gov>, Larry Goldzband <lgoldzband@bcfdc.ca.gov>, Marie Strassburger <marie_strassburger@fws.gov>, Mark Biddlecomb <mbiddlecomb@ducks.org>, Mark Welther <mwelther@goldengateaudubon.org>, "Matthew Gerhart" <MGerhart@scc.ca.gov>, "Melissa Pitkin (Melissa Pitkin)" <mpitkin@prbo.org>, Mike Lynes <mlynes@goldengateaudubon.org>, Laurie Monarres <laurie.a.monarres@usace.army.mil>, Nadine Peterson <npeterson@scc.ca.gov>, Natalie Cosantino Manning <Natalie.C-Manning@noaa.gov>, "Peter Perrine" <pperrine@dfg.ca.gov>, Renee Spent <rspent@ducks.org>, Rob Doster <Rob_Doster@fws.gov>, Sam Schuchat <sschuchat@scc.ca.gov>, Sandra Scoggin <sscoggin@sfbayiv.org>, Shin-Roei Lee <srlee@waterboards.ca.gov>, Steve Goldbeck <steveg@bcfdc.ca.gov>, Steven Schwarzbach <steven_schwarzbach@usgs.gov>, "Thomas Gardali" <tgardali@prbo.org>, Tom S Kimball <tkimball@usgs.gov>, Tom Suchanek <tsuchanek@usgs.gov>, Tony

Chappelle <achappelle@dfg.ca.gov>, Virginia Brisley <virginia@bayplanningcoalition.org>
Subject: BCDC hearing on Solano County energy development policies

Dear SFBJV Management Board,

You have may already seen the announcement, but I wanted to remind those of you who are available today (Thursday), that BCDC is hearing the staff's preliminary recommendation regarding certification of the amended Solano County LPP. In part, BCDC is recommending that the Commission consider amending the Suisun Marsh Protection Plan to address energy development in the Marsh, including wind, as well as the implications of climate change.

If you recall the discussions at our April Management Board meeting and subsequently, the JV partners wanted to encourage BCDC to recommend changes to the existing policy that would account for new knowledge about the impacts of such development within the marsh area. Here is an opportunity for your input.

Attached is the announcement for those of you who might be able to attend and comment.

Beth

Beth Huning, Coordinator
San Francisco Bay Joint Venture
735 B Center Blvd.
Fairfax, CA 94930
415-259-0334
www.sfbaviv.org www.yourwetlands.org

← Back to Original Article

Pete's Harbor live-aboards fight for their way of life

Residents of the old Redwood City marina have been told to ship out to make way for development, but many are unwilling to weigh anchor.

December 01, 2012 | By Lee Romney, Los Angeles Times

REDWOOD CITY, Calif. — Pete Uccelli took 20 acres of swampland and transformed it into a boatyard and marina, welcoming visitors and residents of his beloved town to stroll the docks and feed the ducks.

His restaurant on the southern edge of San Francisco Bay became a gathering spot — hosting Rotary Club meetings, business lunches and *quinceañeras*.

"Pete's Harbor" also was a haven for "live-aboards," who rejoiced in the riches of the wildlife refuge a stone's throw away and often shared their unique lifestyle over barbecue and beers.

But after nearly six decades, it looks like it all may be coming to an end.

Boaters and motor-home owners — well over 100 of them full-time residents — were told by Uccelli's widow, Paula, that they'd have to clear out by Jan. 15.

Her husband had started talking about selling the land for development more than a decade ago. After several starts and stops, planning commissioners in late October approved a Colorado builder's plan to raze the restaurant, construct more than 400 condos and apartments and restrict the marina's slips to use by the new residents.

Although many boaters gave up and pulled out — their slips have been cordoned off with yellow tape to ensure that they stay vacant — a dedicated group of residents is calling for compromise.

"It's not really about us," said Roger Smith, 68, who used to dine at Pete's restaurant when it was a thatch-roofed hamburger shack. He parked his motor home here for good seven years ago. "It's about Redwood City and the rest of the region — and what it's going to lose."

Just up Redwood Creek from Pete's, the same developer demolished hundreds of live-aboard boat slips a few years back. At marinas with slips directly on San Francisco Bay waters — as some of Pete's are — a state conservation commission limits live-aboards to 10% of the total, and waiting lists for larger vessels tend to be long. Marinas without adequate parking, bathrooms or pump-out facilities don't allow live-aboards at all.

The current residents of Pete's Harbor have appealed the city Planning Commission's decision and suggested that an alternative plan could allow for some development while still preserving a commercial marina that would let them stay. After all, they noted, the city's General Plan pays plenty of lip service to the value of "floating communities" here — both culturally and as affordable housing.

Behind the grass-roots offensive is a history of opposition to bayfront development in Redwood City — a community of 80,000 on the outskirts of Silicon Valley. In fact, voters eight years ago rejected a zoning change that would have allowed a much larger project to be built on the same land.

This time, opponents asserted, the plan was jammed through without adequate public scrutiny at a time when the city is reassessing its vision for its inner harbor area.

"It was a done deal," said Buckley Stone, 54, a boisterous veteran who has lived here for 20 years with his wife, Wendy.

But the city planning manager, Blake Lyon, said the project fit the area's zoning designation and did not warrant greater input because the environmental impact report conducted years ago for the larger project needed only to be amended, not redone.

Still, the appeal will give live-aboard tenants a chance to air their concerns before the City Council in late January.

According to Ted Hannig, a longtime friend and attorney of the Uccellis, the current residents have had month-to-month leases since 2002 and knew the harbor would one day change hands. Ninety percent of them, he added, even signed a lease addendum that noted the marina was up for sale and agreed to leave their slips when asked.

"Pete's Harbor has no obligation to have live-aboards there," said Hannig, who has considered himself a boater since he built his first raft out of bamboo and bedsheets at age 11. "What they don't want to say is that they're not keeping their word to a dead man or to Paula, his widow."

Even some who sympathize with the Pete's Harbor residents said they should have known their paradise wouldn't last forever.

"It's like a hurricane in the Gulf," said Mark Sanders, who recently opened the nearby Westpoint Harbor Marina — the Bay Area's first new facility in decades. "If you're living in Jacksonville, Fla., you know you're going to get whacked with a hurricane. You just don't know

when."

When Paula Uccelli told her boating and RV tenants in September that they'd have to be out after the New Year's holidays, they started mobilizing. Public meetings had already begun on the development but no one bothered to let them know, they contend.

Alison Madden — a technology attorney who moved here in an Airstream trailer in May with her two kids while she searched for a boat — kicked into research mode. Leslie Webster, a freelance writer and communications consultant, helped start a blog. Brenda Hattery — who with her husband has cruised the West Coast and parts of Mexico in a pre-World War II schooner and settled here a year ago — put together a video to set the record straight on the kind of people live-aboards are — and aren't.

They gathered 1,600 signatures in one frenzied week and showed up in force at the Planning Commission hearing Oct. 30. But commissioners were unanimous: The project complied with the area's zoning, and the owner had a right to sell.

Still, the live-aboards are not giving up.

They are lobbying the California State Lands Commission and the San Francisco Bay Conservation and Development Commission, both of which have jurisdiction over some of the land and still must sign off on the development as in the public interest.

"I think what they fail to understand," said Webster, "is that even if we move, we're still going to be pursuing this."

But every day now, said resident Wendy Stone, someone else floats off, making the marina "a little less beautiful."

lee.romney@latimes.com



December 5th, 2012

COPY

Mr. Lawrence J. Goldzband,
Executive Director, BCDC
50 California Street, Suite 2600
San Francisco, CA 94111

Directors

Tony Vaccarella, President
Terry Connolly
Arnold Lenk
Mike Lewis
Jim Waters

Associate Directors

Dennis Becker
Kurt Black
Bill Brush
H. Kent Hansen

Directors Emeritus

James Bancroft
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Paul Crapuchettes
Timothy Egan
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Staff

Steven Chappell
Executive Director
Bruce Wickland
Operations Manager
Kelli Perez
Office Supervisor
Orlando Rocha
Water Manager/Biologist
Tim Edmunds
Water Manager/Biologist
Jeff Taylor
Water Manager/Biologist
Steve Witherspoon
LJI Resident Caretaker
Martha Rocha
Education Coordinator

**SUISUN RESOURCE
CONSERVATION DISTRICT**
2544 Grizzly Island Road
Suisun, CA 94585-9539
(707) 425-9302
(707) 425-4402 FAX
srcd@suisunrcd.org
www.suisunrcd.org

Dear Mr. Goldzband,

The purpose of this letter is to express the Suisun Resource Conservation District's (SRCD) strong opposition to potential wind energy development in the Secondary Management Area of the Suisun Marsh. SRCD actively expressed this position to Solano County Board of Supervisors, Solano County Planning Commission, and County staff during the update of the Solano County General Plan, Solano County Code amendments, and the amendment to the Solano Component of the Suisun Marsh Local Protection Program (LPP). The concerns of SRCD for the continued protection of the biological resources, open space and aesthetic character of the Suisun Marsh were disregarded by Solano County during the update of Suisun Marsh (LPP).

The Suisun Primary Marsh (58,000 acres of wetlands) and the Secondary Marsh (27,000 acres of adjacent uplands and agricultural lands) provide a unique and critically important habitat for migratory and resident wetland-dependant wildlife, and numerous Special Status species. Wind energy development in the Secondary Marsh is inconsistent with the provisions and protections afforded Suisun Marsh by the Suisun Marsh Protection Plan (1976), the Suisun Marsh Preservation Act (1977), the Solano County Policies and Regulations Governing the Suisun Marsh (1982), the Plan of Protection for the Suisun Marsh EIR (1985), and the Suisun Marsh Habitat Management, Preservation, and Restoration Plan EIR/EIS (2011). Wind energy development in the Secondary Marsh would result in significant adverse environmental effects and create obstacles to the flight patterns of migratory species and likely significantly increase bat and bird mortalities. The presence of windmills in the Secondary Marsh would be incompatible with the resource protection objectives of SRCD and its member landowners, the California Department of Fish and Game, the US Fish and Wildlife Service, and the California Natural Resources Agency.

The 27,000 acres of Secondary Marsh was established to buffer the Primary Marsh from development and is important to a variety of wildlife species (especially birds). The Webster's Collegiate Dictionary defines a buffer as: "*something that serves as a protective barrier*". The Solano County policy SM.P 35 LPP, actually encourages the development of the Secondary Marsh at a time when conservation of the Secondary Marsh is becoming more important due to the tremendous number of wind turbines being built on the Marsh's eastern border. By their very nature, wind turbines would have significant adverse visual, noise, lighting, and disturbance effects on the Marsh. Future construction of windmills would devastate the existing high wildlife values of the Secondary Marsh and contribute to the degradation of the Primary Marsh values and functions. SRCD believes that wind energy development in the Secondary Marsh will have significant adverse effects on the biological, scenic, and recreational resources of the entire Suisun Marsh and is inconsistent with existing policy and current scientific evidence that wind turbines would be detrimental to wildlife within the Marsh.

In conclusion, the SRCD supports the BCDC staff recommendation to complete a comprehensive review of the BCDC Suisun Marsh Protection Plan to address this issue of potential wind energy development in the Secondary Marsh and ensure consistency with the new Suisun Marsh Habitat Management, Preservation, and Restoration Plan EIR/EIS. SRCD looks forward to working with the BCDC Commission and staff to address these important issues.

Please contact me at 707-425-9302 if you have any questions about the content of this letter.

Sincerely,



Steven Chappell,
Executive Director

cc: SRCD Board of Directors
S. Wilson, DFG
J. LaClair, BCDC



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In Reply Refer To:

08ESMF00-2012-CPA-0082

JAN 27 2012

Mr. Joe LaClair
San Francisco Bay Conservation and Development Commission
50 California St., Suite 2600
San Francisco, California 94111

Dear Mr. LaClair:

The U.S. Fish and Wildlife Service (Service) appreciates the opportunity to review the San Francisco Bay Conservation and Development Commission's (BCDC) proposal for wind energy development within the Suisun Marsh Secondary area. The following comments and recommendations are provided pursuant to the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and the Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§ 703-712, as amended).

The Suisun Bay/Marsh is the largest contiguous estuarine marsh in the United States (Miller et al. 1975). As such the Suisun Bay attracts thousands of resident and migratory waterfowl and shorebirds, raptors (including bald and golden eagles), and several Federal and California State listed threatened and endangered species.

Due to the concerns regarding various changes to habitat conditions within the Suisun Bay/Marsh complex several Federal, State, and local agencies developed the Suisun Marsh Habitat Management, Preservation, and Restoration (Plan). In December 2011, the Plan was finalized. The Plan's goal is to restore tidal wetlands that transition into upland habitats. The plan will provide for the restoration of 5,000 to 7,000 acres of tidal wetlands throughout the Primary Area and adjacent Secondary Areas.

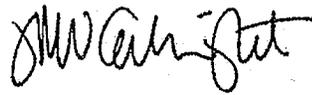
While the Service recognizes the need and importance of developing additional renewable energy resources, the siting, operation, and facility type (i.e., solar, wind, etc.) must be compatible with the resources and habitats present at the proposed energy development site. Based on known impacts occurring to migratory birds transiting wind farms located near this location in the Montezuma Hills Wind Resource Area (Shiloh I, Shiloh II, and High Winds), the Service is concerned that the development of wind energy facilities within the Secondary Area would not be consistent with the goals of the Plan, and would contribute to additional impacts to resident and migratory birds and bats in this area. Due to the importance of this area to wintering and migrating migratory birds within the Pacific Flyway, the presence of wind facilities in the Suisun Bay/Marsh Secondary areas, could result in a high degree of vulnerability to these species.

Any development of wind energy in this area would need to comply with Federal regulations regarding protection of migratory birds and bald and golden eagles. We are recommending all future wind project applicants prepare an Eagle Conservation Plan (ECP), and apply for programmatic eagle take permits when take is likely. An ECP should be initiated to develop and formulate appropriate advanced conservation practices and mitigation measures. The ECP would require review and approval by the Service prior to Federal permitting for take of bald or golden eagles. In addition, we recommend that project proponents develop Bird and Bat Conservation Strategies (formerly Avian and Bat Protection Plans) to address and reduce potential risk to other species of birds protected under the MBTA, as well as bats. However, permits under the MBTA for the incidental take of birds, are currently not available.

While there is not currently enough detailed information to determine the magnitude of effects of siting wind farms in this area, the Service recommends that BCDC exercise caution regarding permitting wind energy development within the Secondary Area due to potential effects on known concentrations of migratory birds and raptors.

I would appreciate being kept apprised of the progress on this effort. If you have any questions please contact Mark Littlefield, Chief, Watershed Planning Branch at (916) 414-6520.

Sincerely,



for Susan K. Moore
Field Supervisor

cc:

Michael Chotkowski, Bay-Delta Fish and Wildlife Service, Sacramento, California
Kim Turner, Bay-Delta Fish and Wildlife Office, Sacramento, California
Marie Strassburger, Regional Migratory Bird Chief, Region 8, Sacramento, California
Ryan Olah, Sacramento Fish and Wildlife Office, Sacramento, California

Reference:

Miller, A.W., R.S. Miller, H.C. Cohen and R.F. Schultz. 1975. Suisun Marsh study, Solano County, California. U.S. Department of Agriculture, Soil Conservation Service, Portland, OR.



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.dfg.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



January 20, 2012

Mr. Joe LaClair
Bay Conservation and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Dear Mr. LaClair:

Subject: Wind Energy Development in the Secondary Area of the Suisun Marsh

The Department of Fish and Game (Department) appreciates the opportunity to provide the Bay Conservation and Development Commission (BCDC) with our recommendations on the proposed development of wind energy in the Secondary Area of the Suisun Marsh (Secondary Area). While the Department recognizes the importance of developing renewable energy sources, the location and operations of these facilities need to be compatible with the natural resource protection objectives for places like the Suisun Marsh. The Department has reviewed and stands by our earlier written testimony submitted to the BCDC on December 30, 1985 (Attachment 1) and continues to oppose wind energy development in the Suisun Marsh and its associated Secondary Area. The Department offers the following information for your consideration when evaluating wind energy opportunities in the Secondary Area.

The Suisun Marsh Habitat Management, Preservation, and Restoration Plan (Plan) was finalized in December 2011, with the purpose of restoring tidal wetlands that transition into adjacent upland habitat. In addition, the Plan will enhance habitat for endangered species, while maintaining the historic uses of the Suisun Marsh (Marsh), both public and private. The Plan will be implemented over the next thirty years, with the goal of preserving the function and resources of the Suisun Marsh for generations to come. The Plan will provide for the restoration of 5,000 to 7,000 acres of tidal wetlands throughout the Primary Area and adjacent to the Secondary Areas. Commercial wind energy development in the Secondary Areas would not be consistent with the Plan and could alter the use and migration patterns of both migratory and resident bird species and bats. In Kerlinger and Curry (2010), Year One Report for the Shiloh II Wind Power Project, they noted "Waterfowl and water bird incidents per turbine per year were greater at Shiloh II, with 2.6 times more birds/turbine/year than at Shiloh I, and 6 times as many as at High Winds. One notable species, the California black rail (a California threatened species) was only recorded at Shiloh II. Preliminary results appear to show a cluster of water bird and waterfowl in the D grouping of towers which coincide with the

presence of two stock ponds and wetlands." Shiloh II is located to the east of the Suisun Marsh in the Montezuma Hills. The California black rail is designated as a Fully Protected Species under Fish and Game Code, and threatened species under the California Endangered Species Act and is a target species for tidal marsh restoration. Based on these results, if commercial wind energy was allowed to be developed in any portion of the Secondary Areas surrounding the Suisun Marsh, the number of water bird and waterfowl strikes would likely increase to levels higher than in the wind farms in the adjacent Montezuma Hills.

Migration and Use Patterns of Waterfowl

Fleskes, J.P. et. al. 2005 noted movement patterns of pintail and other waterfowl species evaluated between the Suisun Marsh and the surrounding Sacramento-San Joaquin Delta and the Yolo basins. The flight patterns were considered to be a straight line movement as the data was evaluated on beginning and ending locations between night and day locations. With this in mind, the presence of commercial wind energy development in the Secondary Areas would create additional migratory obstacles that waterfowl and any other species migrating between roosting and feeding areas would have to negotiate. While the movement patterns in Fleskes 2005, noted that most of the out of basin movements occurred to the north and east of the Suisun Marsh, the development of habitat in the bays to the west of the Suisun Marsh will begin to attract other waterfowl seeking roosting and feeding habitats. Development of any commercial wind energy projects in the Secondary Areas would likely increase the number of water bird and waterfowl strikes that currently occur at existing wind farms.

Sea Level Rise

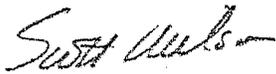
It is estimated that over the next 100 years the expected rise in the oceans may be approximately 55 inches. This expected rise is shown in the attached Figure 1, as land that would be covered by both a 16-inch rise in sea level (light blue area) and 55-inch rise (light blue plus the dark blue areas). Please note, that this scenario assumes a catastrophic failure of the levee system in the Suisun Marsh. While this is not likely to occur, it should be considered when making an important decision whether to allow commercial development of wind energy in the Secondary Area. Figure 1 shows what could be inundated as a result of sea level rise and does not take into account existing protection measures that limit the movement of water into the Suisun Marsh. It is worth noting that if the existing levees do fail, the water will flood up to the area now listed as the Secondary Area. This will create an upland transition zone into the Secondary Area. Wildlife, both avian and terrestrial, will be displaced to the Secondary Areas and areas of the Suisun Marsh that are not flooded. This displacement of both avian and terrestrial wildlife will create concentrated populations of wildlife seeking food and shelter in the Secondary Areas surrounding the Suisun Marsh. Avian predators will also be displaced to the Secondary Areas searching for prey and if commercial wind energy operations are present, the likelihood of strikes would also increase.

Mr. Joe LaClair
January 20, 2012
Page 3

Currently there is not enough information to determine the specific magnitude of impact that the presence of commercial wind energy will have on water bird and waterfowl populations; however, as the regulatory agency with the authority to oversee protecting the Suisun Marsh and its resources, the Department recommends the BCDC exercise caution until further studies and information are available that can provide a clear understanding of the potential impacts of allowing commercial wind energy development in the vicinity of the Suisun Marsh and its adjacent Secondary Areas. Based on the information in our December 30, 1985 written testimony and the additional information provided above for your consideration, the Department does not support the BCDC proposal to allow the development of commercial wind energy projects in the Secondary Areas of the Suisun Marsh and does not believe such use is compatible with the purpose of the Suisun Marsh Protection Plan.

Thank you for the opportunity to comment on your proposed decision. If you have any questions on our recommendations, please feel free to contact Mr. Jim Starr, Environmental Program Manager, at jstarr@dfg.ca.gov or (209) 941-1944; or myself at (707) 944-5517.

Sincerely,



Scott Wilson
Acting Regional Manager
Bay Delta Region

Attachments



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.dfg.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



April 23, 2012

Mr. James Levine, Manager
Montezuma Wetlands, LLC
2000 Powell Street, Suite 920
Emeryville, California 94608-1888

Dear Mr. Levine:

Subject: Response to April 13, 2012 Letter Regarding Wind Energy Development in the Secondary Area of the Suisun Marsh

The Department of Fish and Game (Department) is writing in response to your letter dated April 13, 2012. In that letter, you are seeking clarification on our correspondence with the Bay Conservation and Development Commission (BCDC) as it relates to wind energy development in the Secondary Area of the Suisun Marsh.

You are correct that our letter, dated January 20, 2012 to Mr. Joe LaClair, was not specifically directed at wind energy development on the Montezuma Wetlands' property. Instead, our letter outlined that we as a Department believe that locating wind energy projects in any of the Secondary Areas of the Suisun Marsh would not be compatible with the natural resource protection objectives for the Suisun Marsh. We presented several issues that we believed should be considered by the BCDC when making a determination on future wind energy projects within the Secondary Area of the Suisun Marsh. These included the implementation of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan; Migration and use Patterns of Waterfowl; and Sea Level Rise.

The Department recognizes and understands the importance of developing renewable energy sources in California. We also believe that caution should be exercised to assure that the development of wind energy does not interfere with natural process and role that the Suisun Marsh plays as the largest estuary on the west coast of the United States. As we stated in our letter to BCDC, we do not support the development of wind energy projects in the Secondary Areas of the Suisun Marsh.

If you have any questions about the content of this letter, please feel free to contact Mr. James Starr, Environmental Program Manager, at 209-941-1944 or email at jstarr@dfg.ca.gov.

Sincerely,

Scott Wilson
Acting Regional Manager
Bay Delta Region

cc: Mr. Steve Chappell–Suisun Resource Conservation District
Mr. Joe LaClair–Bay Conservation and Development Commission

Conserving California's Wildlife Since 1870

RECEIVED
SEP 17 2012

172
Page

Agenda 8
page Perry
Joelata

SAN FRANCISCO BAY CONSERVATION & DEVELOPMENT COMMISSION TO BE FILLED OUT BY BCDC:

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
50 California St., 26th Floor
San Francisco, CA 94111-4728

- 1. Appeal Number: _____
- 2. Filed: _____
- 3. Notice Received: _____
- 4. Twenty-First Day: _____
- 5. Forty-Second Day: _____
- 6. Staff Assigned: _____

FAX: # 1 415 352 3606
Mail Section 29409 enclosed

SEPT 16-2012

significant Adverse ecological and aesthetic impact on the Marsh & Wild life resources THEN such a facility should not be allowed.

APPELLANT(S): * This is to be given to BCDC Commission for the hearing: 9 Dec 6-2012 (Page 172)

1. Name(s), address(es), and telephone number(s) of appellant(s): 707 4290893
JUNE GUIDOTTI & FAMILY & Public
3703 Scally Rd.
Suisun California 94585

2. Name(s), address(es), and telephone number of appellants' representative, if any:
SELF, some issue: William S. Reustle

101 Page
Dec 15-1989
AIR, Groundwater, water, trees, Gas, Coltonville, wind Turb, MEASURE E, and is or is not final (circle one). If the JAFF DITMELL BY PASS IANE Roads, PRIVATE PROPERTY, Suisun marsh h Judge action is not final, an appeal may be taken to Vol 1 page FIRE within _____ days of _____

ATTORNEY & Counselor at Law
The local governmental action was taken by County Solano Board of Supervisors
General plan, zoning changes for LPP.
FOR MARSH PERMITS
The action was taken on August 28-2012
The knowledgeable local official is Dennis Bunting, Curtis Cartwell, Mark Tomveson
Steve Brown
Steve
Chokel
Name of development and Marsh Development Permit Number, if any: WASTE CONNECTION
MD-82-12

48-AA-0002 Potrero Hills LAND FILLING (DTE) Republic Services INC
48-AA-0032 Solano Garbage Company landfill MDP MD-90-01-MD-92-01 (use U-88 CREWSON NO 2) U 88-33 MD 88-09
Resolution Importation of Contra. Costa Garbage MD 82-19, NO. 3879
2006-214 MD. 38-39 and SL-SC 6926.1 THE Importation of Contra Costa garbage WAS NOT TAKEN into Permit NO 82-82
AS required by Marsh Development Permit Report 6 utilities Facilities "Transportation 1976 Page 34 (E) Transp page 23

Judae Beeman

Bill Tarrow

BCDC Meeting Notice, December 6, 2012

Thurs

page 2

*Integrity of Townships
but secondary*

8. Public Hearing on Solano County's Amendment to the County's Component of the Suisun Marsh Local Protection Program

The Commission will hold a public hearing on certification of the 2012 amendments to Solano County's component to the Suisun Marsh Local Protection Program. The amendment addresses the adoption of the 2008 General Plan update, adoption of Zoning Code text amendments addressing Definitions, Limited Agriculture District, Residential Traditional Community District, Commercial Recreation District, Water Dependent Industrial District, and Land Use Regulations; amending Chapter 31 addressing grading, drainage, land leveling and erosion control; replacing Chapter 6.4 of the County Code regulating sewage disposal systems with revisions to County policy regulating sewage disposal systems within the Suisun Marsh; amending the Zoning maps related to the Water-Related Industrial Reserve Area in the secondary management area consistent with the 2008 General Plan; and adopting the County LPP policy for commercial and wind energy development in the Suisun Marsh as Policy SM-P 35 of Chapter 12 of the General Plan.
(Page Perry) [415/352-3641 pagep@bcdc.ca.gov]

(Black) miss use state funds

9. Public Hearing and Possible Vote on the California Department of Fish and Game, Material Amendment No. Three to BCDC Permit No. 2004.008, for Phase III of the Napa-Sonoma Marshes Restoration Project (Enhancing Management Capabilities at Ponds 6, 6A, 7, 7A and 8), in the Napa River and Huichica Units of the Napa Sonoma Marshes Wildlife Area (NSMWA)

The Commission will hold a public hearing and possibly vote on an application for a material amendment to an existing permit submitted by the California Department of Fish and Game (CDFG), to enhance management capabilities in five former salt ponds, located in CDFG's Napa Sonoma Marshes Wildlife Area, west and adjacent to the Napa River, in an unincorporated area of Napa County. One of the ponds has been used for bittern storage and one goal of the project is to dilute the bittern and have controlled releases of the diluted bittern into the Napa River. The project is a joint effort by the Corps of Engineers and the State Department of Fish and Game. The project would involve excavating material from the bottom of the ponds and using the material to strengthen and raise existing levees, replacing and upgrading water control structures, diluting bittern concentrations in one of the ponds (Pond 7) and improving existing informal public access to three of the ponds. Implementation of the project would result in improved and more efficient management of 1,900 acres of managed pond habitat that provide habitat for waterfowl, shorebirds and several special-status species. In addition, the project would provide a total of 2 miles of improved public access trails.
(Michelle Burt Levenson) [415/352-3618 michellel@bcdc.ca.gov]

*Nesley Chapple
Problem*

*Jerry Brown
Bartora Bryan*

10. Public Hearing and Possible Vote on the U.S. Army Corps of Engineers' Consistency Determination No. C2011.002 for Phase III of the Napa-Sonoma Marshes Restoration Project (Enhancing Management Capabilities at Ponds 6, 6A, 7, 7A and 8), in the Napa River and Huichica Units of the Napa Sonoma Marshes Wildlife Area (NSMWA)

The Commission will hold a public hearing and possibly vote on a Federal Consistency Determination from the Army Corps of Engineers to enhance management capabilities in five former salt ponds, located in CDFG's Napa Sonoma Marshes Wildlife Area, west and adjacent to the Napa River, in an unincorporated area of Napa County. One of the ponds has been used for bittern storage and one goal of the project is to dilute the bittern and have controlled releases of the diluted bittern into the Napa River. The project is a joint effort by the Corps of Engineers and the State Department of Fish and Game. The project would involve excavating material from the bottom of the ponds and using the material to strengthen and raise existing levees, replacing and upgrading water control structures, diluting bittern concentrations in one of the ponds (Pond 7) and improving existing informal public access to three of the ponds. Implementation of the project would result in improved and more efficient management of 1,900 acres of managed pond habitat that provide habitat for waterfowl, shorebirds and several special-status species. In addition, the project would provide a total of 2 miles of improved public access trails.
(Michelle Burt Levenson) [415/352-3618 michellel@bcdc.ca.gov]

*Public Hearing
Dawn Levenson*

172 pages

TO BE FILLED OUT BY BCDC:

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
50 California St., 26th Floor
San Francisco, CA 94111-4728

- 1. Appeal Number: _____
- 2. Filed: _____
- 3. Notice Received: _____
- 4. Twenty-First Day: _____
- 5. Forty-Second Day: _____
- 6. Staff Assigned: _____

FAX: # 1-415-352-3606
mail Section 29409 enclosed

SEPT 16-2012

Significant Adverse ecological and aesthetic impact on the MARSH & wild life resources THEN such a facility should not be allowed

APPEAL FROM MARSH DEVELOPMENT PERMIT DECISION OF LOCAL GOVERNMENT

APPELLANT(S): * This is to be given to BCDC Commission for the hearing: 9 Dec 6-2012 page 172 pages

1. Name(s), address(es), and telephone number(s) of appellant(s): 707 4290893

JUNE GUIDOTTE & FAMILY & Public

3703 Scally Rd.

Suisun California 94585

2. Name(s), address(es), and telephone number of appellants' representative, if any:

SELF, some issue; Williams S. Reustle

101 pages
Dec 15-1989

ATTORNEY & Counselor at Law

3. The local governmental action was taken by County, Solano Board of Supervisors

General plan, zoning changes for LPP, PER MARSH permits

The action was taken on August 28-2012

AIR, land use, water, feeds, Gas, Coltonville wind Turb. MEASURE E. and is or is not final (circle one). If the

equipment, Tel, PDE, LITTE and is or is not final (circle one). If the

DIFFERENT BY PASS LANE Roads, PRIVATE PROPERTY, Suisun marsh VOTAGE, FIRE

Judge action is not final, an appeal may be taken to SCOTIE (2) FERRIS HEALTH SAFETY within _____ days of _____ The knowledgeable local

official is Dennis Bunting, Curtis Cartwell, Marc Tompson

48 AA-0075 who may be contacted at Sheriff Dept. 1 675 TEXAS Street Fair

48 AA-0078 Name of development and Marsh Development Permit Number, if any: WASTE Connection

48 AA-0002 Do Tivero Hills LANDFILL INC (DTE) Republic Services INC MD-82-12

07-AA-0032 Solano Garbage Company landfill MDP MD-90-01-MD MD-92-01 (use U-88 (Revision NO 2) U 88-33 MD 88-09

Resolution IMPORTATION of Contra. Costa Garbage MD 82-19, NO. 3879 MD 38-39 and SL-SC 6926, THE IMPORTATION of Cont

2006-214 MAY Road Costa garbage WAS NOT TAKEN into Permit NO 82-82

NEW PERMIT AS required by MARSH Development permit Report 6 utilities

Facilities + Transporters 1976 Page 34 (E) Transp. page 2

- 6. Brief description of development location (city or county, nearest roads, etc.): Solano County unincorporated area
Scally Rd. (PH Lane, Solano Garbage Company)
Keldeer Road (Illegal Tuff Shed - Cattle Pig/Dwa)
Solano Garbage Company
- 7. Describe the marsh development permit action of the local government (e.g., approval, approval with conditions, etc.): BOS Approved Solano Co
with the Solano Planning, marsh Development

- 8. Attach a complete, but brief, statement of facts explaining and substantiating why the proposed development does not conform with the certified Suisun Marsh Local Protection Program or Program Component. The statement should refer to all applicable policies, ordinances, and regulations by name and page number.

The appellant must demonstrate to the Commission that the appeal raises a substantial issue. The Commission shall hear an appeal unless it determines that the appeal raises no substantial issue as to conformity of the proposed development with the provisions of the certified Suisun Marsh Local Protection Program.*

for Certification; There is ALTERNATE CAL GOV. CODE 66646
CERTIFICATION: LPP Failed To Preserved and enhanced
wildlife habitat policy 2. page 16

I declare that the foregoing is true and correct to the best of my knowledge and I understand that any misstatement or omission of the information requested may be grounds for rejection of this appeal.

I RESERVES the right to Amend or Supplement the Public
Appeal (all the record laws that have been filed
in the County)

Dated: Sept 16-2012

Jane Gaudette

FED EXEC ORDERS-11989-11990 (Signature of appellant or representative)

LPP Growing changes, hand 707 4290893
unlawful taking of my vested property rights
Denied the Marsh permit
and change the General Plan back and put the
Waste to Energy plant

* The Suisun Marsh Preservation Act provides that the Commission must hear an appeal if a substantial issue of compliance exists with either the Marsh Act, the Marsh Plan, or the certified Local Protection Program. However, the Act also provides that the Commission must issue a marsh development permit on appeal unless a substantial issue of compliance exists with the certified Local Protection Program. Therefore, this appeal form strongly encourages an appellant to limit his or her discussion and analysis to issues of compliance with the certified Local Protection Program.

ALL Electric pole are to go under ground
of the end of the line

AUG 18
2012

Enclosed are FIRE Reports
Methane pipe on fire
PHLE

for box
Term
agriculture
use
making
animal
FED
g

General
Plan
211-02
211-02
211-03
Cemetery
Drainage
Land
Leveling
Erosion

PARCEL SHIPPING ORDER

POSTAL EXPRESS

PHONE: 707 425-7015

FAX: 707 425-7927

SENDER or CUSTOMER INFORMATION (PLEASE PRINT)

SENDER NAME: Jane Guidotti DATE: 11/7/2012
 STREET: 3703 Scally Rd. Suinn PHONE: 707 429 0893
 CITY/STATE: California 94585 CELL:

CARRIER (Please check one)
 UPS: FedEx:
 CONTENTS (for Int'l) VALUE

SENT TO:
 RECIPIENT NAME: SAN FRANCISCO BAY Conservation and Development Commission
 ADDRESS LINE 1: 50 CALIFORNIA ST 26th FLOOR
 ADDRESS LINE 2: SAN FRANCISCO, CA 94111-4728
 CITY/STATE/ZIP:
 RECEIVER PHONE # (required for International Shipping):

PLEASE CHECK RESIDENTIAL YES NO INSURED VALUE \$ 0
 BREAKABLE YES NO REPLACEABLE YES NO
 FOR OFFICE PKG.WT: 2 LBS COST OF SHIPPING \$20.20

GROUND
 NEXT DAY AIR
 2ND DAY
 3RD DAY

FOR OFFICE TRACKING #: Invoice: Date: 17Sep12 Shipp: 9144 7010 3765
 Customer: Weight: 2 LBS Spec: 50 CALIFORNIA S
 Phone #: COD: 0.00 Handling: MANAGER
 Dept: DV: 0.00 Total:

CONTENTS (for Int'l) VALUE
Fedex.com

PKG 2
 RECIPIENT NAME: Sves: STANDARD OVERNIGHT TRCK: 9144 7010 3765
 ADDRESS LINE 1:
 ADDRESS LINE 2:
 CITY/STATE/ZIP:
 RECEIVER PHONE # (required for International Shipping):

PLEASE CHECK RESIDENTIAL YES NO INSURED VALUE \$
 BREAKABLE YES NO REPLACEABLE YES NO
 FOR OFFICE PKG.WT: COST OF SHIPPING

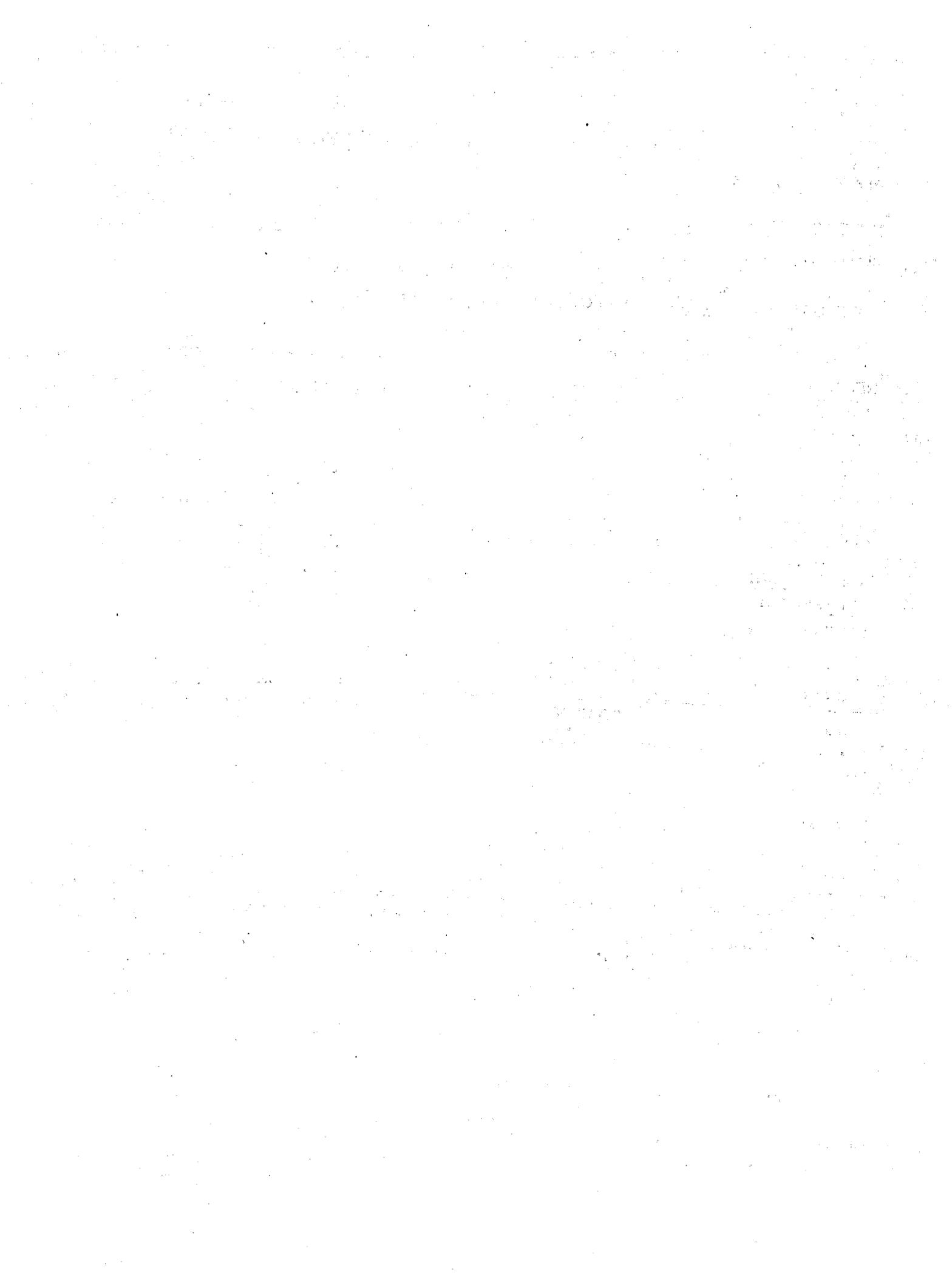
GROUND
 NEXT DAY AIR
 2ND DAY
 3RD DAY

FOR OFFICE TRACKING #:

- The Carrier for all parcels accepted at Postal Express (PE) shall be UPS, FED-EX, DHL. Parcels accepted by PE from customer are subject to refusal for shipment by carrier.
- PE and carrier do not accept hazardous material for shipment.
- PE shall act as agent only for the above receipt and forwarding of parcel(s) by the customer, whose name and address appears above. PE assumes no liability for the successful completion of delivery of all parcel (s) accepted for shipment nor for loss or damages to said parcel (s) PE will act as agent on behalf of the customer for the filing any claim is denied or paid only in part by the carrier. Parcels packaged by the customer not meeting carriers packaging standard are not covered for damage during shipment. CUSTOMER ACKNOWLEDGES THAT THE CARRIER'S PACKAGING STANDARDS FOR SHOCK, VIBRATION, AND COMPRESSION HAVE BEEN EXPLAINED BY PE. PE ASSUMES NO RESPONSIBILITY OR LIABILITY FOR DAMAGES TO A PARCEL PACKAGED BY THE CUSTOMER.
- It is also agreed, that provided the customer has paid the appropriated "Declared Value" fees, the carrier's liability is limited to the repair or replace value of lost or damaged items of readily ascertainable market value, not to include items of sentimental value. If parcel(s) should arrive damaged, the recipient must save all packaging materials/ cartons and must arrange for inspection of the damaged parcel(s) with the carrier's agent.
- PE is not liable for the failure of the carrier to properly collect or remit funds for COD PARCELS. Further more, recipient's check shall be accepted for COD at customer's risk unless otherwise noted on COD tag.
- Customer shall not hold PE liable for failure to make timely delivery on delivery date specified. Any statement by PE as to probable date of delivery by carrier is a statement of opinion only, and shall not be warranted in any manner. PE shall not be liable for any delays in shipments or deliveries by PE and/or carrier.
- The foregoing constitutes the full and complete agreement between PE and customer and supersedes all prior/subsequent representations either written or oral.
- Claims not made in writing within three months of shipment date are waived.

AUTHORIZED SIGNATURE (I certify that I agree to the forgoing terms, and that the stated contents and their value for each package listed are truthful and complete).

[Signature]



Subject: Portrero Hills Landfill Watershed Polluting Suisun Marsh and Wetlands

Date: Tuesday, December 4, 2012 6:44:52 PM PT

From: Susan B Anthony

To: srohrs@timesheraldonline.com

CC: Wsr.law@att.net, georgejr@HOTMAIL.COM, pbeeman@solanocourt.com, pagep@bcdca.gov, rmiller@thereporter.com, mmurphy@thereporter.com

Portrero Hills Landfill in Suisun California is leaking pollution into the Suisun Marsh and Wetlands, the Bay Delta Estuary and United States Waters.

“We the People,” present evidence and object to the proposed expansion of the landfill. Despite the canyon being filled to capacity the landfill is applying for authorization to expand.

The second expansion of the landfill presented the issue of polluted rainwater run off leaving the landfill property. With rainwater no longer being contained within the canyon, management presented the following as a resolution. The landfill installed an antiquated holding pond on the south side that overflows into a tributary or creek that feeds into the Suisun Marsh. Addressing the drainage on the north side at the dump entrance. The terrain has been engineered to funnel down the polluted rainwater draining north from inside the canyon landfill “the water shed” to shed off onto Portrero Hills Lane access road. The polluted rainwater then travels down the half a mile approach to the landfill entrance and sheds “the polluted water shed,” into the wetland at the lowest point of the Portrero Hills Access Road, the public road is an earthen bridge that is obstructing tidal flow in the wetlands.

Upon reviewing Google Earth Satellite images of Portrero Hills Dump, located in a once pristine majestic mountain canyon with a fresh water lake surrounded by wetlands and marsh in Suisun California, the following are observations that a reasonable person can conclude.

The landfill management has authorized dirt to be piled up on top of the ridges to increase the capacity of the Canyon. There is no structured barrier to contain the contaminants layered on the tops of the ridges. These contaminants will also be subject to the forces of wind erosion and heavy rains, with evidence that severe weather storms are becoming more frequent and will cause the contaminants to be washed away into the Suisun Marsh.

The infill elevation of the added dump material has exceeded the specifically engineered design that was critical criteria for the landfills containment. Dumping dirt on the tops of the ridges has exceeded the natural engineered barriers and has compromised the ability to contain the pollution within the canyon walls. Upon reviewing Google Earth Satellite images of Portrero Hills Dump, the south side

property line has ruptured from excessive weight as a result of the management decision to pile the trash higher and deeper exceeding the natural confinement of the canyon walls. The Infill continues to be hauled in and dump over the natural ridge of the canyon increasing a land slide incident where contaminants will spill out into agricultural land. There is evidence of movement in the hillside. A catastrophic incident of liquefaction of soils is looming and most likely will occur after heavy rains making it difficult to contain the polluted run off.

Google Earth Satellite images show evidence of liquefaction on the mountain on the south side near the south property line. There is a significant breach in the integrity of the hillside to hold back the polluted waste as a direct result of expanding past the natural canyon walls.

The Potrero Hills Landfill, continues its activities despite measure E through sound planning set forth in the following documents:

- a. 1984 Jones and Stokes final environmental impact The Solano Garbage project description document
- b. 1984 ENCON Associates, site investigation and development. The Portrero Hills Sanitary Landfill
- c. 1983 Cooper-Clark & Associates Geological and Solid Waste Feasibility Study, proposed sanitary landfill site Portrero Hills 1972.

Set limits on the canyons capacity to contain polluted trash. By public vote and with details contained in the aforementioned documents the landfill has exceeded the canyons capacity to hold trash. "We the People," object to a third expansion and further polluting Spring Creek.

The knowledge and information provided in the above documents set forth guidelines in management and containment of the public health hazard from the pollution plume created by the dump. Authorizing a third expansion or engulfing Spring Creek with polluted waste is unacceptable.

In concluding, the plume of pollution from the Portrero Hills Landfill is leaking into the Suisun Marsh and Wetlands, the Bay Delta Estuary and United States Waters.

Respectfully Submitted

Susan B. Anthony
Vallejo, CA

Subject: For Consideration a. enforce the laws that apply to Measure 19. b. require the Landfill management to install a treatment plant to prevent the movement of the plume of pollution on surface, request the LPP Policy SM-P35 of chapter 12 of the general plan be denied. c. support our objection and deny certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people. deny the certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update, request these changes go back before the vote of the people

Date: Monday, December 3, 2012 2:48:56 PM PT

From: Susan B Anthony

To: tendow@baaqmd.gov

CC: pagep@bcdc.ca.gov, steveg@bcdc.ca.gov

Susan B. Anthony

707 642-7332 message / home

Cc: BCDC

Third Portrero Hills Landfill expansion proposal

"We the People," request your consideration on the following:

- a. enforce the laws that apply to Measure 19.
- b. require the Landfill management to install a treatment plant to prevent the movement of the plume of pollution on the surface of the Landfill from polluting the wetlands before adoption of chapter 6.4 of the county code regulating sewage disposal is adopted. We the People request the LPP Policy SM-P35 of chapter 12 of the general plan be denied.
- c. support our objection and deny certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people.

I Susan B. Anthony from Vallejo CA on behalf of the seventy three percent of Californians who are investing billions of dollars in protecting our environment, "we the people," submits the following comments for your consideration to:

1. Jim Starr and The Department of Fish and Game
2. The Bay Conservation and Development Commission
3. Chris Thiederman Deputy Attorney General
4. Judge Beeman Solano County Superior Court of California
5. County of Solano et all, collectively and individually.

Under State Measure 19 it is unlawful to knowingly contribute to the degradation of marsh habitat. The aforementioned controlling agencies 1 through 5 are the "Legal Enforcement Arms of the Law," collectively and individually, and as "the enforcement agencies" and or "permit approval agencies," are hereby presented evidence.

The "expansion proposal" to fill up a marsh tributary known as spring creek, knowingly and willfully is in disregard for State Measure 19, condoning the polluting of the Suisun Marsh and the Bay Delta Estuary. The landfill needs to install a treatment plant to prevent the plume of pollution from surface movement before chapter 6.4 of the county code regulating sewage disposal is adopted. We the People request the LPP Policy SM-P35 of chapter 12 of the general plan be denied.

We the people have the right to be a part of the decision making process and we object to the certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people.

To all aforementioned parties involved, "We the People," do hereby present evidence to all parties involved. Under the Marsh protection plan the wetlands are protected by State Measure 19 Fish a Wildlife Habitat Enhancement, the act that protects wetlands, fish and wildlife because 'they' collectively and individually, need a place to live and the wetlands provide shelter and food to hundreds of species of birds as well as fish and other wildlife.

We hereby present evidence and request your consideration of the following and ask that the laws that apply to Measure 19 be enforced.

The grand scale erosion on Branscombe Road and the pollution traveling down Portrero Hills Lane is causing a deterioration of wetlands habitat and contaminating the water quality of the Suisun Marsh.

Branscombe Road has a serious erosion problem do to the steep hillsides and the velocity of the water draining out from that section of the canyon creating turbid water to enter the wetlands. The lack of culverts along the road side and the lack of road shoulder on Portrero Hills Lane, Branscombe Road and Scully Road are all contributing to sediment entering the wetlands causing degredation and the suffocation of the microorganisms and disrupting the healthy life cycle within the marsh.

Regarding Portrero Hills Lane the access road to across the wetlands to the Landfill, currently soils, bi-products from transport vehicles and contaminated rain water drain down the half mile approach to the landfill and drain directly into the Suisun Marsh wetlands habitat.

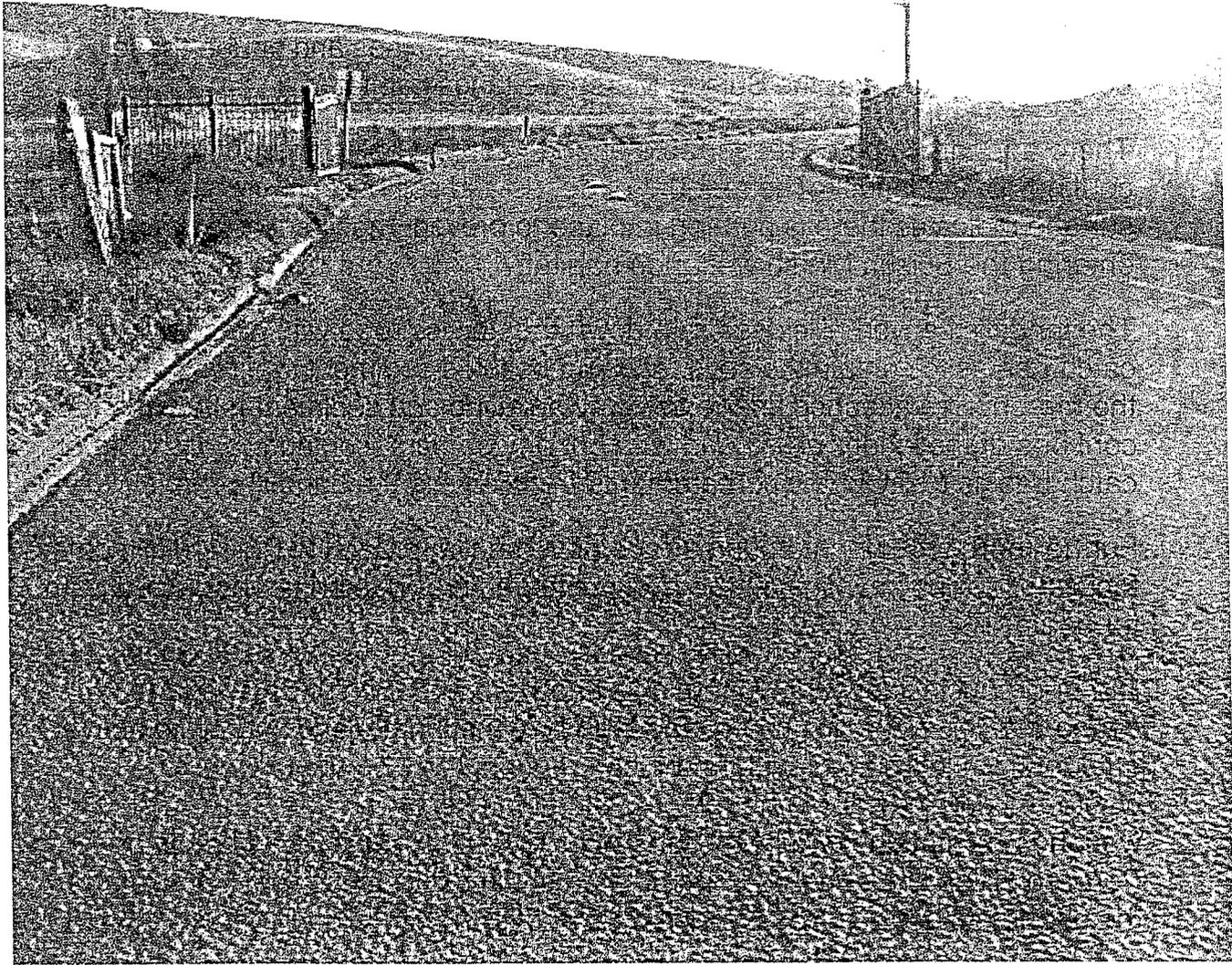
Regarding the road surface up the canyon to the Potrero Hills landfill, the right and left shoulders of the road surfaces are near congruent in elevation so, the road surface acts the same as a swimming pool slide, causing the contaminants draining from the landfill hillsides and being tracked onto the public access road to be carried off the landfill premises and cause these contaminants to enter the Suisun Marsh wetlands habitat.

There appears to be no reasonable effort to contain pollution from leaving the confines of the landfill. The amount of debris and soil built up above the road surface indicates there is nothing in place to prevent these solids from entering the Suisun Marsh wetlands habitat.

The landfills canyon hillsides drain down the access road with no sumps or catch basins to contain the soils, causing polluted sediment to directly enters the marsh. See attached image to verify pollution and sediment is leaving the confines of the landfill at will and with out any barriers, contours or culverts or catch basins to divert the contaminants from leaving the Landfill premissis.

Furthermore, The non porous surface pavement approach to the landfill scales facilitates toxins traveling off the dump site and provides an unobstructed path for contaminants to enter the marsh.

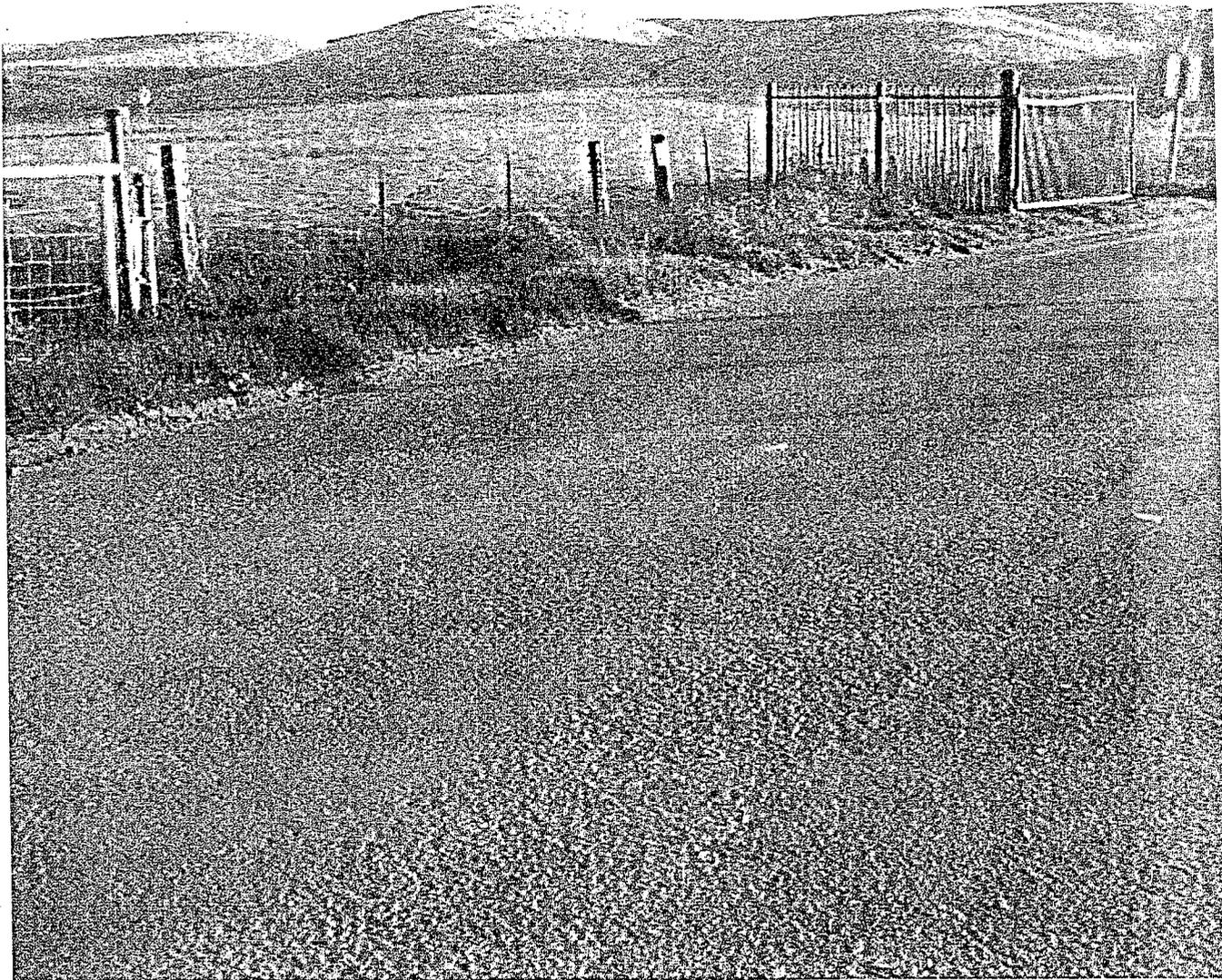
Dirt bi-products, lubricants, chemicals known to the State of California to cause cancer, bio-solids containing high levels of pathogens and radio active effluent from individuals under medical treatment few brought in with the bio waste. All surface soils are subject to all drain directly into the Suisun Marsh wetlands habitat unfiltered and untreated. See attached images below of Portrero Hills Lane and the contaminated sediment that has built up all along the shoulders of the access road to the landfill..



Above image is Portrero Hills Lane public access road, showing the uphill grade to the landfill and sediment build up on the shoulders of the roadway. Customers that have leaking transport containers cause contaminated soils and liquids to shift and spill out and onto the roadway on the essent up the canyon to the landfill. The trucks can be seen from Highway 12 on the plateau on top of the skyline dumping their loads along the artificial ridge to the rear of the two round mountains.



Above image shows contaminated soils along Portrero Hills Lane public access road to the Landfill. All the dirt on the shoulder above the road surface is sediment run off from the landfill.



Above image is Portrero Hills Lane access road rising in elevation up to the Landfill. The image also shows the pattern of soils accumulating on the side of the access road. The skyline in the background has been altered by landfill management to increase the holding capacity of the canyon.

Customers frequenting the landfill track contaminated soils onto the public

road surface when leaving the landfill.

The following is a list of some of the sources of pollution that are causing a deterioration of wetlands habitat and contaminating the water quality of the Suisun Marsh.

- a. spoils leaking from vehicles
- b. lubricants dripping from vehicles
- c. contaminated rain water washing debris into the marsh from the road surface of Portrero Hills Lane access that drains directly into the wetlands.
- d. contaminated rain water draining down the canyon untreated and entering the tributaries that feed the marsh contaminating the entire wetland basin of the canyon from toxins emitted into the water shedding off the polluted landfill.
- e. vehicles exiting the dump tracking contaminated soils onto public road ways.
- f. soils from erosion entering the Marsh, includes turbid run off from the newly installed mosquito – salamander ponds that have since been sprayed with poison to alleviate the threat of the West Nile Virus as a result of an outbreak of a hatch of triple sized mosquitos in the ponds.

The enlarged mosquitos may have been a result of exposure from low doses of radiation in the soils from the U.C. Davis experimental beagle dogs buried at Tonnesens' Pet Cemetery located adjacent to the new mosquito – salamander ponds - habitat.

g. turbid water from erosion entering the wetlands causes suffocation of minute organisms that are part of the life cycle of the marsh.

h. contaminated rain water draining off the Landfill hillsides and polluting spring creek and traveling across Grizzle Island road draining into the bay wetland untreated does not meet the criteria presented in the states pollution standards or meeting responsibility under California Environmental Laws.

"We the People," request your consideration on the following:

- a. enforce the laws that apply to Measure 19.
- b. require the Landfill management to install a treatment plant to prevent the movement of the plume of pollution on surface from polluting the wetlands before adoption of chapter 6.4 of the county code regulating sewage disposal is adopted. We the People request the LPP Policy SM-P35 of chapter 12 of the general plan be denied.
- c. support our objection and deny certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people.

"We the People," reserve the right to supplement or modify objections as condition necessitate.

Respectfully Submitted,

Susan B. Anthony

Vallejo, CA

Subject: Objections a. Landfill expansion proposal b. request the LPP Policy SM-P35 of chapter 12 of the general plan be denied c. deny the certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update, request these changes go back before the vote of the people.

Date: Monday, December 3, 2012 3:18:35 AM PT

From: Susan B Anthony

To: pagep@bcdca.gov

CC: steveg@bcdca.gov

Third Portrero Hills Landfill expansion proposal

Objections to

- a. Landfill expansion proposal for authorization to spill over the landfill into spring creek.**
- b. request the LPP Policy SM-P35 of chapter 12 of the general plan be denied**
- c. deny the certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update, request these changes go back before the vote of the people.**

I Susan B. Anthony from Vallejo CA on behalf of the seventy three percent of Californians who are investing billions of dollars in protecting our environment, "we the people," submits the following comments for your consideration.

Susan B. Anthony from Vallejo CA submits the following comments to:

1. Jim Starr and The Department of Fish and Game
2. The Bay Conservation and Development Commission
3. Chris Thiederman Deputy Attorney General
4. Judge Beeman Solano County Superior Court of California
5. County of Solano et all, collectively and individually.

Under State Measure 19 it is unlawful to knowingly contribute to the degradation of marsh habitat. The aforementioned controlling agencies 1 through 5 as legal enforcement arms of the law, collectively and individually, and as "the enforcement

agencies” and or “permit approval agencies,” are hereby presented evidence.

The act "expansion proposal" to to fill up a marsh tributary - spring creek, knowingly and willfully in disregard for State Measure 19 is condoning the polluting of the Suisun Marsh and the Bay Delta Estuary. The dump needs to install a treatment plant to prevent the plume of pollution from surface movement before adoption of chapter 6.4 of the county code regulating sewage disposal is adopted. We the People request the LPP Policy SM-P35 of chapter 12 of the general plan be denied.

We the people have the right to be a part of the decision making process and we object to the certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people.

To all aforementioned parties involved, “We the People,” do hereby present evidence to all parties involved that, as you may be aware, the wetlands are protected by State Measure 19 Fish a Wildlife Habitat Enhancement, the act that protects wetlands, fish and wildlife because ‘they’ collectively and individually, need a place to live and the wetlands provide shelter and food to hundreds of species of birds as well as fish and other wildlife.

We request special consideration of the following and ask that the laws that apply to Measure 19 be enforced.

- 1 -

The grand scale e.rosion on Branscombe Road and the pollution traveling down Portrero Hills Lane is causing a deterioration of wetlands habitat and contaminating the water quality of the Suisun Marsh.

Regarding Portrero Hills Lane the access road to the Landfill, currently soils, bi-products from transport vehicles and contaminated rain water drain down the half mile approach to the landfill weighing scales and drain directly into the Suisun Marsh wetlands habitat.

Regarding the road surface up the canyon to the Potrero Hills landfill, the right and left shoulders of the road surfaces are near congruent in elevation so, the road surface acts the same as a swimming pool slide causing the contaminants draining from the landfill hillsides and or being tracked onto the public access road to be carried off the landfill and injected unfiltered and untreated

Dirt bi-products, lubricants, chemicals known to the State of California to cause cancer, bio-solids containing high levels of pathogens and radio active effluent from individuals under medical treatment that are brought in with the bio waste to all drain directly into the Suisun Marsh wetlands habitat unfiltered and untreated. See attached images below of Portrero Hills Lane and the contaminated sediment build up.

Above image is Portrero Hills Lane public access road, showing the uphill grade to the landfill.

- 2 -

The non proreus surface pavement approach to the landfill scales facilitates toxins traveling off the dump site and provides an unobstructed path for contaminants to enter the marsh.

Above image shows contaminated soils along Portrero Hills Lane public access road to the Landfill. There is nothing in place to prevent these solids from entering the Suisun Marsh wetlands habitat. All the dirt above the road surface is sediment from the landfill.

The following is a list of some of the sources of pollution that are causing a deterioration of wetlands habitat and contaminating the water quality of the Suisun Marsh.

- a. **spoils leaking** from vehicles
- b. **lubricants dripping** from vehicles
- c. **contaminated rain water washing debree into the marsh from the road surface of Portrero Hills Lane access that drains directly into the wetlands.**
- d. **contaminated rain water draining down the canyon untreated** and entering the tributaries that feed the marsh contaminating the entire wetland basin of the canyon

from toxins in the drainage water

e. Vehicles exiting the dump tracking contaminated soils onto public road ways.

f. Soils from erosion entering the Marsh, includes turbid run off from the newly installed mosquito – salamander ponds that have since been sprayed with poison to alleviate the threat of the west Nile virus as a result of an outbreak of a

west Nile outbreak in the State of California was made with total disregard for health and public safety.

- 3 -

The triple sized mosquitoes may have been a result of low doses of radiation in the soils from the U.C. Davis experimental beagle dogs buried at Tonnesens' Pet Cemetery located uphill and adjacent to the new mosquito – salamander habitat. The same mentality as the mitigation for the owl burrowing mound used in mitigation. A mound that is unmanaged and overgrown with annual weeds and has never produced Burrowing owl offspring located adjacent to the Solano Garbage Landfill.

g. Turbid water from erosion entering the wetlands causes suffocation of minute organisms that are part of the life cycle of the marsh.

h. contaminated rain water draining off the Landfill hillsides and polluting spring creek and traveling across Grizzle Island road draining into the bay wetland untreated

Above image is Portrero Hills Lane access road rising in elevation up to the Landfill. The image shows soils accumulating on the side of the access road. The image also shows the skyline has been altered by landfill management to increase the holding capacity of the canyon.

Customers frequenting the landfill track contaminated soils onto the public road surface when leaving the landfill. The landfill canyon hillsides drain down the access road with no sumps to contain the soils contained in the runoff water allowing the release of these pollutants to directly enter the marsh.

Customers using leaking transport containers release contaminated soils and liquids on the way up the canyon to the weigh scales. Currently the raised beds on the long bed

commercial dump trucks can be seen from Highway 12 on the plateau - skyline as they dump their loads above the ridge in the back ground.

Branscombe Road has a serious erosion problem do to the steep hillsides and the velocity of the water draining out from that section of the canyon creating turbid water to enter the wetlands. The lack of culvert and lack of road shoulder on Portrero Hills Lane, Branscombe Road and Scully Road are contributing to sediment entering the wetlands causing degradation and the suffocation of the microorganisms and disrupting the healthy life cycle within the marsh.

We request special consideration of the following and ask that the laws that apply to Measure 19 be enforced.

We the people have the right to be a part of the decision making process and we object to the certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people.

"We the People" reserve the right to supplement or modify objections as condition necessitate.

Susan B. Anthony

Vallejo, CA

From: Larry Goldzband <lgoldzband@bcdcc.ca.gov>
Date: Thursday, December 6, 2012 4:21 PM
To: Page Perry <pagep@bcdcc.ca.gov>
Subject: FW: BCDC hearing on Solano County energy development policies

For the record, etc.

Larry Goldzband
Executive Director
San Francisco Bay Conservation and Development Commission
50 California St., Ste. 2600
San Francisco, CA 94111
Office: (415) 352-3653
Cell: (925) 818-1751
lgoldzband@bcdcc.ca.gov

From: Arthur Feinstein <arthurfeinstein@earthlink.net>
Date: Thursday, December 6, 2012 4:15 PM
To: <sscoggin@sfbayjv.org>
Cc: "A. L. Riley" <ALRiley@waterboards.ca.gov>, Alan Forkey <Alan.Forkey@ca.usda.gov>, "Amy Hutzel" <ahutzel@scc.ca.gov>, Andrea Jones <ajones@audubon.org>, Anne Morkill <anne_morkill@fws.gov>, Barbara Salzman <bsalzman@att.net>, Barbara Salzman <bsalzman@worldnet.att.net>, Beth Huning <bhuning@sfbayjv.org>, "Bradley, John" <john_bradley@fws.gov>, Brenda Goeden <brendag@bcdcc.ca.gov>, Bruce Wolfe <BWolfe@waterboards.ca.gov>, Caitlin Sweeney <csweeney@waterboards.ca.gov>, "Caroline Warner (Caroline Warner)" <cwarner@sfbayjv.org>, Chindi Peavey <cpeavey@mosquitoes.org>, Christina Sloop <csloop@sfbayjv.org>, "Claire Thorp (Claire Thorp)" <thorp@nfwf.org>, Dave Means <dmeans@dfg.ca.gov>, David Lewis <dlewis@savesfbay.org>, Dean Kwasny <dean.kwasny@ca.usda.gov>, "Diane Ross-Leech" <dpr5@pge.com>, Don Brubaker <Don_Brubaker@fws.gov>, Donna Ball <dball@savesfbay.org>, Doug Cordell <Doug_Cordell@fws.gov>, "Edmondson, Steve" <Steve.Edmondson@noaa.gov>, "Ellie Cohen" <ecohen@prbo.org>, Eric Larson <ELarson@dfg.ca.gov>, Fari Tabatabai <Fari.Tabatabai@usace.army.mil>, Greg Martinelli <gmartinelli@dfg.ca.gov>, "Holmes, Marc" <holmes@bay.org>, Jeff McCreary <jmccreary@ducks.org>, Jenn Fox <jenn@openspacecouncil.org>, "John Baker, LTC" <John.K.Baker@usace.army.mil>, John Coleman <john@bayplanningcoalition.org>, John Donnelly <jdonnell@dfg.ca.gov>, Jordan Wellwood <jwellwood@audubon.org>, Judy Kelly <jakelly@waterboards.ca.gov>, "Julian Wood" <jwood@prbo.org>, "Kendall, Thomas R SPN" <Thomas.R.Kendall@usace.army.mil>, "Korie Schaeffer" <korie.schaeffer@noaa.gov>, Larry Goldzband <lgoldzband@bcdcc.ca.gov>, Marie Strassburger

<marie_strassburger@fws.gov>, Mark Biddlecomb <mbiddlecomb@ducks.org>, Mark Welther <mwelther@goldengateaudubon.org>, "Matthew Gerhart" <MGerhart@scc.ca.gov>, "Melissa Pitkin (Melissa Pitkin)" <mpitkin@prbo.org>, Mike Lynes <mlynes@goldengateaudubon.org>, Laurie Monarres <laurie.a.monarres@usace.army.mil>, Nadine Peterson <npeterson@scc.ca.gov>, Natalie Cosantino Manning <Natalie.C-Manning@noaa.gov>, "Peter Perrine" <pperrine@dfg.ca.gov>, Renee Spent <rspent@ducks.org>, Rob Doster <Rob_Doster@fws.gov>, Sam Schuchat <sschuchat@scc.ca.gov>, Shin-Roei Lee <srlee@waterboards.ca.gov>, Steve Goldbeck <steveg@bcdc.ca.gov>, Steven Schwarzbach <steven_schwarzbach@usgs.gov>, "Thomas Gardali" <tgardali@prbo.org>, Tom S Kimball <tkimball@usgs.gov>, Tom Suchanek <tsuchanek@usgs.gov>, Tony Chappelle <achappelle@dfg.ca.gov>, Virginia Brisley <virginia@bayplanningcoalition.org>

Subject: Re: BCDC hearing on Solano County energy development policies

Hi All - I went to the BCDC hearing and testified for the JV in support of limiting wind turbines in Suisun Marsh. There will another public hearing and then a vote on January 17. I urge folks to attend and testify at that hearing.

Also, it appears that the entire Suisun Marsh Protection Plan will be revised in order to address the wind turbine issue and we all need to be alert that no weakening of the Plan takes place.

yours,

Arthur Feinstein

415-680-0643

On Dec 6, 2012, at 9:23 AM, Sandra Scoggin wrote:

Dear SFBJV Management Board,

You have may already seen the announcement, but I wanted to remind those of you who are available today (Thursday), that BCDC is hearing the staff's preliminary recommendation regarding certification of the amended Solano County LPP. In part, BCDC is recommending that the Commission consider amending the Suisun Marsh Protection Plan to address energy development in the Marsh, including wind, as well as the implications of climate change.

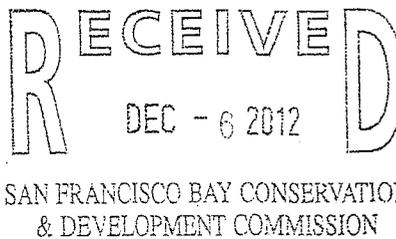
If you recall the discussions at our April Management Board meeting and subsequently, the JV partners wanted to encourage BCDC to recommend changes to the existing policy that would account for new knowledge about the impacts of such development within the marsh area. Here is an opportunity for your input.

Attached is the announcement for those of you who might be able to attend and comment.

Beth

Beth Huning, Coordinator
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<BCDC SolCoLPPCert Final.doc>



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December 6, 2012

San Francisco Bay Conservation and Development Commission
50 California Street, Suite 2600
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TO WHOM IT MAY CONCERN:

Potrero Hills Landfill ("PHLF") provides these comments on the proposed amendments to the marsh local protection program ("LPP") submitted in September 2012 by Solano County for approval by BCDC under the Suisun Marsh Preservation Act, Public Resources Code sections 29000 *et seq.* ("the Marsh Act").

PHLF is one of only two landfills in Solano County and is located within the Suisun Marsh secondary management area. PHLF is a state-of-the-art regional landfill facility that is one of the specific uses expressly allowed in Suisun Marsh. In the Marsh Act, the Legislature specifically provided that certain existing uses and related future uses could not be precluded by County LPPs. Pub. Res. Code § 29409. One such use was the Solano Garbage Company, the predecessor to PHLF, which was operating a solid waste disposal facility in Suisun Marsh at the time the act was passed. The Legislature recognized the importance of this existing use and the need to provide solid waste services to the community in the future by expressly providing that:

[n]otwithstanding the policies of the protection plan, the local protection program *may not preclude the future development of a new solid waste disposal site in the Potrero Hills* if it can be demonstrated that the construction and operation of solid waste facilities at that site would not have significant, adverse ecological or aesthetic impacts on the marsh.

Pub. Res. Code § 29409 (emphasis added). The Marsh Act also requires each County's "local protection program shall be consistent with the provisions of this division and policies of the protection plan." Pub. Res. Code § 29400.

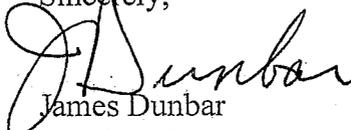
PHLF objects to certain proposed amendments to Solano County's LPP that contravene the Marsh Act's express statutory prohibition that an LPP "may not preclude the future development of a new solid waste disposal site in the Potrero Hills if it can be demonstrated that the construction and operation of solid waste facilities at that site would not have significant, adverse ecological or aesthetic impacts on the marsh." *Id.* at § 29409. Solano County, on the one hand, continues to recognize that "future expansion of Potrero Hills Landfill should be permitted if it can be shown that construction and operation of such facilities will not have significant adverse ecological or aesthetic impacts on the Marsh." See proposed Policy SM.P-29 in the Utilities, Facilities and Transportation Section. On the other hand, the County has proposed the following two

amendments that would effectively prevent future development by PHLF, even if there are not significant, adverse ecological or aesthetic impacts on the marsh.

- Proposed redlined changes to the Water Supply and Quality Section Policy SM.P-16 : “Upstream land use controls shall be formulated to protect riparian corridors (the stream, its banks, and creekside vegetation) in the Marsh and its immediate watershed should be protected from encroachment and degradation by development. No development shall be permitted which would interfere with existing channel capacity or would substantially increase erosion, siltation, or other contributors to the deterioration of any watercourse.”
- Proposed redline changes to Section 31-30(p): “Except as limited by section 28-5137 of this Code, (Watershed and Conservation (W) District), filling, grading, excavating, or obstructing the bed or banks of a watercourse and removal of the riparian vegetation should be allowed only where no reasonable alternative is available and, where allowed, shall be limited to the minimum amount necessary. In the Suisun Marsh, stream modification should be permitted only if necessary to ensure the protection of life or existing structures from floods, and only the minimum amount of modification necessary shall be allowed in such cases.”

Both SM.P-16 and Section 31-30(p) as proposed conflict with Section 29409 of the Marsh Act if they are applied to the future expansion of PHLF in Suisun Marsh. Both sections limit landfill development in riparian corridors and watercourses even if there are no significant, adverse ecological or aesthetic impacts on the marsh. These sections are legally inconsistent with the Marsh Act, in violation of Section 29400. *See e.g. Alford v. County of San Diego* (2007) 151 Cal.App.4th 16, 23 (agency’s regulations must be consistent with authorizing its statute). The Marsh Act requires the LPP to be “consistent with [its] provisions,” and the LPP must be interpreted in that light. Pub. Res. Code § 29400. PHLF therefore objects to these LPP amendments and they cannot legally be approved by BCDC. In the alternative, if consideration is to be given to the proposed amendments, we would respectfully request that the Commission ensure that no aspect of the proposed changes to the LPP would apply to the Potrero Hills Landfill consistent with Sections 29400 and 29409 of the Marsh Act.¹

Sincerely,


James Dunbar
District Manager
Potrero Hills Landfill

¹ PHLF notes that legal proceedings concerning a challenge to BCDC’s October 21, 2010 issuance of Permit No. 3-10(M) are currently pending in state court and may be the subject of additional Commission actions. In issuing Permit 3-10(M), BCDC voted to approve a revised marsh development permit for the Potrero Hills Landfill that included channeling the upper reach of Spring Branch Creek. The existing LPP which serves as the basis for issuance of the permit would be materially modified by operation of the proposed amendments discussed above. Action on the proposed LPP amendments while litigation is pending could serve to undermine the Permit issued by this Commission. We therefore request that the Commission table voting on the proposed amendments to allow time for the Commission and its staff to fully evaluate the proposed changes given the clear commands of Section 29409 of the Marsh Act, and to consider the substantive and procedural steps remaining in the litigation.