
From: Buehmann, Erik@BCDC [mailto:erik.buehmann@bcdc.ca.gov]

Sent: Thursday, June 09, 2016 1:18 PM

To: Plowman, Lisa A. <maplowman@rrmdesign.com>; McCrea, Brad@BCDC
<brad.mccrea@bcdc.ca.gov>

Cc: Ms. Andrea Ouse (Andrea.Ouse@cityofvallejo.net) <Andrea.Ouse@cityofvallejo.net>; Darcey Rosenblatt (drosenblatt@dudek.com) <drosenblatt@dudek.com>; Richard T. Loewke, AICP <dick@loewke.com>; Johnck, Ellen@EllenJohnckConsulting.com <Ellen@EllenJohnckConsulting.com>; Zeppetello, Marc@BCDC <marc.zepetello@bcdc.ca.gov>

Subject: RE: VMT/Orcem Project

Lisa,

The City seeks confirmation that the DEIR's Bay fill mitigation measures calling for creosote timber and other piling removal, and in-lieu public access improvements at the Vallejo Marina, are potentially consistent with applicable Bay Plan policies for the Revised VMT Project with Phase 1 only. The Commission, not the City, is the appropriate entity to determine the consistency of the project with the McAteer-Petris Act and the San Francisco Bay Plan. BCDC staff advises the City that Commission staff is not in a position to make a formal determination of consistency, and that the Commission will only make such a determination following submission and review of a complete application, which will include the certified project EIR as well as other information required by BCDC's regulations. No such application would be approved unless a determination of consistency is made by the Commission. Commission staff currently believes, on the basis of what is presented in the City's DEIR, that the Commission may determine that the revised VMT Project (consisting of Phase 1 only) is consistent with all applicable policies in the Bay Plan. However, Commission staff cannot determine at this time whether the public access improvements and Bay fill mitigation as identified in the DEIR will be adequate, and we therefore reserve the right to further review the project when an application is submitted, and to make recommendations to the applicant to refine these improvements and mitigation measures as may be deemed necessary at that time.

Erik Buehmann

Principal Permit Analyst
San Francisco Bay Conservation and Development Commission
415-352-3645
erik.buehmann@bcdc.ca.gov

From: Plowman, Lisa A. [maplowman@rrmdesign.com]
Sent: Tuesday, June 07, 2016 4:34 PM
To: Buehmann, Erik@BCDC; McCrea, Brad@BCDC
Cc: Ms. Andrea Ouse (Andrea.Ouse@cityofvallejo.net); Darcey Rosenblatt (drosenblatt@dudek.com); Richard T. Loewke, AICP; Johnck, Ellen@EllenJohnckConsulting.com; Zeppetello, Marc@BCDC
Subject: RE: VMT/Orcem Project

Dear Erik and Brad,

Thank you for the email. I find that the email does not answer the question I posed in my June 1, 2016 email. As you know, BCDC's November 2, 2015 letter comments on the proposed fill mitigation and public access improvements that were proposed. The letter states the following:

- “The removal of approximately 10,338 square feet of fill from the Vallejo Marine terminal [and 80 creosote timber piles] and the removal of approximately 444 pilings from the location of the project will not constitute sufficient compensatory mitigation for the impacts to the Bay from the proposed fill. As currently proposed, the project is not consistent with BCDC policies on mitigation (emphasis added) and BCDC staff would have difficulty recommending approval for the project. The project should provide a comprehensive compensatory mitigation program that is consistent with the Commission's policies.”
- “The proposal does not provide the maximum feasible public access consistent with the project to satisfy the requirements of the McAteer-Petris Act and the San Francisco Bay Plan and BCDC staff would likely not recommend approval of the application. Additional significant public access amenities must be included to ensure consistency with the Commission's law and policies (emphasis added).”

The City understands that circumstances have changed and the applicants have now proposed to remove Phase 2, the development of a rock dike, from the project description. However, the applicants are still proposing to remove fill and piles in the Vallejo Marina as mitigation for Bay fill and to install a kayak ramp in the Marina to meet public access requirements. As we requested in our meeting on February 24, 2016 and in my June 1, 2016 email, the City would like to know if the fill mitigation and public access proposals represented in the Draft EIR, which are not proposed to change under the Phase 2 removal, allow BCDC to find that Phase 1 is potentially consistent with the Bay Plan. Please advise so the City can adequately represent BCDC's current assessment of the projects consistency with the Bay Plan in the Final EIR and Response to Comments.

Let me know if you have any questions.

Thank You,
Lisa



LISA PLOWMAN

Planning Manager

10 East Figueroa Street, Suite 1

Santa Barbara, CA 93101

(805) 963-8283

rrmdesign.com



From: Buehmann, Erik@BCDC [<mailto:erik.buehmann@bcdc.ca.gov>]

Sent: Tuesday, June 07, 2016 12:55 PM

To: Plowman, Lisa A. <maplowman@rrmdesign.com>; McCrea, Brad@BCDC
<brad.mccrea@bcdc.ca.gov>

Cc: Ms. Andrea Ouse (Andrea.Ouse@cityofvallejo.net) <Andrea.Ouse@cityofvallejo.net>; Darcey Rosenblatt (drosenblatt@dudek.com) <drosenblatt@dudek.com>; Richard T. Loewke, AICP <dick@loewke.com>; Johnck, Ellen@EllenJohnckConsulting.com <Ellen@EllenJohnckConsulting.com>; Zeppetello, Marc@BCDC <marc.zppetello@bcdc.ca.gov>

Subject: Re: VMT/Orcem Project

Hello Lisa,

In BCDC staff's comment letter to the Draft EIR dated November 2, 2015, BCDC staff expressed concerns regarding the adequacy of proposed public access and fill mitigation for the Vallejo Marine Terminal Project. Those comments were provided in context of a proposed project that involved both Phase I and Phase II. We understand that the developer intends to remove Phase II of the VMT project as part of the proposed project. BCDC staff has not been advised as to whether any changes to public access and mitigation have been proposed as a result of changes in project or in response to comments on DEIR.

However, BCDC staff will work with the City and applicant to review and refine currently proposed public access and fill mitigation as applicant develops and submits a BCDC permit application for the project.

Sincerely,

Erik Buehmann

Principal Permit Analyst

San Francisco Bay Conservation & Development Commission

455 Golden Gate Ave., Suite 10600

San Francisco, CA 94102

415.352.3645

erikb@bcdc.ca.gov

From: "Plowman, Lisa A." <maplowman@rrmdesign.com>

Date: Wednesday, June 1, 2016 6:02 PM

To: Erik Buehmann <erik.buehmann@bcdc.ca.gov>, "McCrea, Brad@BCDC" <brad.mccrea@bcdc.ca.gov>

Cc: "Ms. Andrea Ouse (Andrea.Ouse@cityofvallejo.net)" <Andrea.Ouse@cityofvallejo.net>, "Darcey Rosenblatt (drosenblatt@dudek.com)" <drosenblatt@dudek.com>, "Richard T. Loewke, AICP" <dick@loewke.com>

Subject: VMT/Orcem Project

Hi Erik,

When the City and BCDC met back on February 25, 2016 we discussed the proposed uses in Phase 1 and Phase 2 of the VMT/Orcem project and the project's overall consistency with the Bay Plan. We also discussed the adequacy of the proposed Bay fill and coastal access mitigations which include the removal of pilings in the Marina and the construction of a kayak ramp. We understood the BCDC staff did not think the proposals were sufficient to mitigate the project's impacts resulting from Phase 1 and 2. But, the City asked BCDC staff to clarify if they believed that the proposed mitigation was sufficient to mitigate the impacts associated with Phase 1 solely. However, in reviewing BCDC's March 25th and April 29th letters they seem to focus on the project's consistency with the "water-related industry" priority use designation and appear to be silent on the consistency with the mitigation policies for Phase 1.

The City is now looking at how to amend the Land Use and Planning section of the EIR in response to BCDC's letters. It would be helpful if BCDC could clarify whether the proposed removal of pilings in the marina and the kayak ramp are sufficient mitigation to find Phase 1 is consistent or potentially consistent with the Bay Plan mitigation policies.

Please let me know your thoughts.

Thanks,
Lisa



LISA PLOWMAN
Planning Manager
10 East Figueroa Street, Suite 1
Santa Barbara, CA 93101
(805) 963-8283
rrmdesign.com



San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

April 29, 2016

City of Vallejo
Community and Economic Development Director
555 Santa Clara Street
Vallejo, California 94590

ATTENTION: Andrea Ouse

SUBJECT: Vallejo Marine Terminal/Orcem Cement Plant Project – Phase One Consistency with San Francisco Bay Plan Policies. Draft Environmental Impact Report, SCH #2014052057, City of Vallejo, Solano County.

On February 25, 2016, the San Francisco Bay Conservation and Development Commission (“Commission” or “BCDC”) staff met with City of Vallejo (“City”) staff at the City’s request regarding BCDC staff’s comments on the September 2015 Draft Environmental Impact Report (“DEIR”) provided for the Vallejo Marine Terminal (“VMT”)/Orcem Cement Plant Project (“project”) issued on November 2, 2015. At the meeting, Commission staff learned of additional project details that raised concerns about whether Phase 1 of the project would be consistent with the San Francisco Bay Plan (“Bay Plan”) Map designation of the site as a “water-related industry” priority use area. (In its November 2, 2015 DEIR comment letter, Commission staff had stated that Phase 1 was generally consistent with the designation). Subsequent to that meeting the Commission staff sent a letter, dated March 25, 2016, to the City that describes those potential issues.

On April 11, 2016, representatives from VMT and Orcem met with Commission staff and provided further clarity about the potential uses related to Phase 1 of the project. Based on additional information provided by the project developer, Commission staff now believes that the Commission could potentially find that the interim uses of Phase 1 would be consistent with the “water-related industry” designation in the Bay Plan.

As described to the Commission staff by representatives of VMT and Orcem, the wharf reconstruction to be undertaken by VMT and the construction and use of the cement plant by Orcem are financially interdependent. The intent of the wharf reconstruction is to provide Orcem with the means to receive raw materials and distribute finished products that have been processed on-site, a use that is consistent with the “water-related industry” designation in the Bay Plan. Orcem’s capacity and production are expected to increase over time, beginning at approximately 25% of the capacity of the wharf, leaving some capacity of the reconstructed wharf unused. At the meeting on April 11, 2016, VMT expressed an interest in attracting more water-related industry to the site, but acknowledged that additional water-related industry use

would take time to attract and develop. In the interim period, VMT proposed to use the wharf to move some cargo, primarily raw materials, to and from the site. While the draft environmental impact report states that the VMT Terminal is anticipated to handle a wide range of commodities, at the April 11 meeting, VMT informed Commission staff that, at this time, VMT has not secured contracts or tenants for any Phase I cargo users.

The Bay Plan policies on "Water-related Industry" states, in part, "[I]and reserved for both water-related industry and port use will be developed over a period of years. Other uses may be allowed in the interim that, by their cost and duration, would not preempt future use of the site for water-related industry or port use." Based on the description of anticipated activities presented by representatives of VMT and Orcem at our April 11, 2016 meeting, the use of the site for cargo would be consistent with the Bay Plan, provided that the use is interim in nature and does not preclude future use of the site for water-related industry.

The Commission has allowed some limited interim uses at sites, which the Bay Plan and Seaport Plan designate for port priority uses, pursuant to specific standards. Interim uses are allowed for a limited period typically ranging from five years to ten years, depending on the proposed use and conditions of the site. In some cases, the interim use is renewable by permit amendment. Factors described in the Seaport Plan for determining the length of the interim use include, but are not limited to, "(1) the amortization period of investments associated with the proposed use; (2) the lead time necessary to convert the site to the designated [use]; and (3) the need for the site [for the designated use]." The BCDC staff believes it is reasonable for the Commission to use the Seaport Plan standards to help determine the appropriate interim time period for non-water-related industry uses at the project. At the time a BCDC permit application is prepared for the project, it should provide, among other things, a detailed description of the potential uses not associated with the Orcem project, including the type of cargo, so that the Commission can determine the appropriate interim period for the identified uses. The application should also include an explanation of how the use of the site for these interim uses would not preclude future use of the site for water-related industry.

As a result, the Commission staff believes that the project sponsors could submit a Phase I project proposal, including proposed interim uses, that is potentially consistent with the Commission's site designation for a "water-related industry" and related policies, and that an amendment to the Bay Plan is not needed in order to consider the proposed development of Phase I. Therefore, the concerns raised in the Commission staff's letter dated March 25, 2016 are no longer applicable. The Commission staff reiterates the issues it raised in its original DEIR comment letter dated November 2, 2015, including the potential inconsistency of Phase II of the development with the Bay Plan designation for "water-related industry" at the site. Ultimately, however, the Commission will determine whether or not the project is consistent with BCDC's laws and policies at such time that it considers a BCDC permit application.

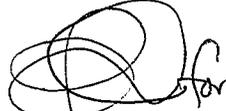
Vallejo Marine Terminal/Orcem Draft DEIR

April 29, 2016

Page 3

Thank you for your consideration of our comments. Please contact me with any further questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'ERK BUEHMANN', written over a circular scribble.

ERIK BUEHMANN

Principal Permit Analyst

EB/go

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

March 25, 2016

City of Vallejo
Community and Economic Development Director
555 Santa Clara Street
Vallejo, California 94590

ATTENTION: Andrea Ouse

SUBJECT: Vallejo Marine Terminal/Orcem Cement Plant Project – Phase One Consistency with San Francisco Bay Plan. Draft Environmental Impact Report, SCH #2014052057, City of Vallejo, Solano County.

Dear Ms. Ouse:

On February 25, 2016, the San Francisco Bay Conservation and Development Commission (“Commission” or “BCDC”) staff met with City of Vallejo (“City”) staff at the City’s request regarding BCDC staff’s comments on the draft Environmental Impact Report (“EIR”) provided for the Vallejo Marine Terminal (“VMT”) /Orcem Cement Plant Project (“project”) submitted on November 2, 2015. At the meeting, BCDC staff learned that the use of the wharf proposed for reconstruction in Phase 1 of the project would not be limited to transporting material related to the Orcem California, Inc. (“Orcem”) project. As a result, Phase 1 of the project may not be consistent with the *San Francisco Bay Plan* (“Bay Plan”) Map designation of the site as a “water-related industry” priority use area.

The VMT/Orcem Project

Phase I of the VMT involves in-water replacement of an existing wharf structure and would involve approximately 50,453 square feet of new fill in the Bay and approximately 89,800 cubic yards of dredging. Phase II would involve construction of an approximately 600-foot-long rock dike and involve approximately 106,040 square feet of fill.

According to the draft EIR, the terminal development in Phase 1 of the VMT project will “allow for up to a total of four vessels per month and a maximum average monthly cargo of 160,000 metric tons (this volume includes 40,000 metric tons of material associated with Orcem Phase 1, and approximately 63,400 metric tons of material associated with Orcem Phase 2)” (Draft EIR Section 2.4.2.1). Therefore, the material transported by the Orcem facility will comprise 25% to 40% of the total cargo transported through the Phase 1 terminal. Until recently, the BCDC staff understood that Phase 1 of the project would be used exclusively to transport materials associated with the Orcem development (an activity consistent with the “water-related industry” designation at the site), and that break bulk cargo transportation

(an activity considered a “port” use) would not begin until Phase 2. The proposal to use the Phase 1 terminal for break bulk activities, separate from the Orcem activities, was not clearly described in the draft EIR, nor was it clearly stated in pre-application meetings with VMT developer. Please clarify the precise nature of the proposed Phase 1 activities and Phase 2 activities. Based on the most recent information that we have obtained which identifies break bulk cargo transportation unrelated to the Orcem as the primary use at the site, the proposal would be inconsistent with the “water-related industry” priority use designation in the *San Francisco Bay Plan*. The current project proposal would require an amendment to the Bay Plan and to the San Francisco Bay Area Seaport Plan to change the designation to accommodate port use.

Water-Related Industry Priority Use

The Bay Plan Maps designate the site of the proposed project for a “water-related industry” priority use. The San Francisco Bay Plan Findings on Water-related Industry states, “[c]ertain industries, including some dredged material rehandling facilities, require a waterfront location on navigable, deep water to receive raw materials and distribute finished products by ship, thereby gaining a significant transportation cost advantage. These industries are defined as water-related industries.” The Bay Plan Policies on Water-Related Industry states, in part, “[s]ites designated for both water-related industry and port uses in the Bay Plan should be reserved for those industries and port uses that require navigable, deep water for receiving materials or shipping products by water in order to gain a significant transportation cost advantage.”

The San Francisco Bay Plan Supplement, which summarizes the background reports that support the Bay Plan, further clarifies the definition provided in the Bay Plan. The Bay Plan Supplement clearly states that water-related industries are defined by their reliance on deep-water locations and the ability to process raw materials on-site. “The kinds of industry that require a waterfront location – petroleum refining, chemical processing, and steel mills, for example – are the basic industries upon which other industries...depend. These basic industries often transform raw materials into semi-finished materials needed by other manufacturers to make the wide range of goods available to the consumer today” (Bay Plan Supp. p. 307). The Bay Plan Supplement provides many examples of water-related industries, none of which include a port terminal.

While the Orcem facility would constitute a water-related industry use because it is an industrial use that requires a waterfront location to receive raw materials and distribute finished products that have been processed on-site, the use of the VMT terminal for break bulk cargo transportation unrelated to the Orcem facility would not constitute a water-related industry use because VMT would merely transport goods and materials, rather than processing materials on-site.

Port Priority Use

While the Bay Plan Policies on Water-Related Industry discuss port uses, these two uses are distinct in the Bay Plan. The Bay Plan Maps designate specific areas for Port priority uses, and these priority use areas are subject to the Seaport Plan. The Bay Plan states,

“No single port agency is responsible for coordinated planning and development of Bay port terminals. In the absence of a seaport plan for the Bay Area, there is a risk that new port facilities could be built by whichever individual port can command the necessary financing even though another site might serve regional needs equally well but with less Bay fill. In addition, a major investment by one publicly operated port could be jeopardized by the unnecessarily duplicating actions of another publicly operated Bay Area port. And, of particular importance to proper use of the Bay, parts of the Bay could be filled, and shoreline areas taken, for unnecessarily competing port uses. To minimize these risks and to coordinate the planning and development of Bay port terminals, the San Francisco Bay Area Seaport Plan has been developed.”

The Bay Plan’s emphasis on careful planning of Port uses, designating these areas in the Bay Plan Maps and ensuring their inclusion in a Seaport Plan demonstrates that these uses are separate from water-related uses. The Bay Plan Maps designate the Selby site in Contra Costa County as both a water-related industry and port use, which demonstrates that the two uses are distinct in the Bay Plan but can be designated together where appropriate. Although some Water-Related Industry Policies may apply to the Ports, this does not mean a port use would necessarily be consistent with a water-related industry priority use designation. The VMT project site is not designated as a Port priority use area in the Bay Plan and is not discussed in the Seaport Plan. In order to amend the Seaport Plan to expand the number of sites around the region designated for seaport use, an applicant would be required to assess the current regional cargo capacity and to demonstrate the need for the additional capacity proposed by this project.

Conclusion

Phase 1 of the VMT project would devote a majority of its capacity to uses that are potentially inconsistent with the water-related industry priority use designation in the Bay Plan. As a result, both a Bay Plan and a Seaport Plan amendment would be necessary for the Commission to approve Phase 1 of the project. As we have described in our comments to the draft EIR (dated November 2, 2015), Phase 2 of the project may also be inconsistent with the water-related industry priority use designation for this site.

Sincerely,



Erik Buehmann

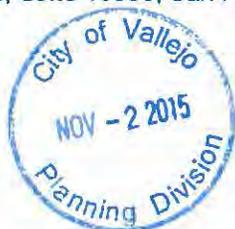
Principal Permit Analyst

EB/ra

cc: Matthew Fettig, Vallejo Marine Terminal

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606



November 2, 2015

City of Vallejo
Community and Economic Development Director
555 Santa Clara Street
Vallejo, California 94590

ATTENTION: Andrea Ouse

SUBJECT: Vallejo Marine Terminal/Orcem Cement Plant Project, Draft Environmental Impact Report, SCH #2014052057, City of Vallejo, Solano County.

The San Francisco Bay Conservation and Development Commission ("Commission" or "BCDC") staff has reviewed the draft Environmental Impact Report (EIR) provided for the Vallejo Marine Terminal/Orcem Cement Plant Project (project) located at 790 and 800 Derr Avenue, in the City of Vallejo, along Mare Island Strait. The project includes two separate projects, the Vallejo Marine Terminal LLC (VMT) project and the Orcem California, Inc. (Orcem) project. The Commission staff reviews such documents on behalf of its Commission to assess, among other things, the project's consistency with the McAteer-Petris Act, the Commission's *San Francisco Bay Plan*, and the project's relationship to the Commission's jurisdiction. The proposed project would require a BCDC permit for work in the Bay and Shoreline Band. The Commission has not yet reviewed an application for this project. However, based on our review of the draft EIR, BCDC staff believes that this project, as currently proposed, is inconsistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan, and that the staff would have difficulty recommending approval of the application for this project before the Commission.

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

Commission permits are required for construction, dredging, dredged material disposal, fill placement, and substantial changes in use within its jurisdiction. Permits are issued when the Commission finds proposed activities to be consistent with its laws and policies.

This project would reestablish industrial uses at the site of the former General Mills plant in Vallejo. The project would involve the removal of a deteriorated timber wharf and construction of a modern deep-water terminal, including wharf improvements, laydown area, and trucking and rail connections. According to the draft EIR, the proposed wharf redevelopment and dike construction would result in approximately 2.75 acres of fill in the Bay, resulting in the permanent loss of rocky intertidal, sandy beach intertidal, tidal mudflat, and subtidal soft substrate benthic habitat, and would include a total of 12.1 acres of dredging, resulting in impacts to subtidal habitat. The project also proposes new structures and a substantial change in use along the shoreline. As a result, the project would require a major BCDC permit for work within BCDC's jurisdiction, which would involve a public hearing and vote before the full Commission.

1. The project may not be consistent with the Commission's laws and policies concerning fill in the Bay.

The Commission may allow fill only when it meets the requirements identified in Section 66605 of the McAteer-Petris Act, which states, in part, that: (a) fill "should be limited to water-oriented uses (such as water-oriented recreation or public assembly) or "minor fill for improving shoreline appearance and public access"; (b) fill in the Bay should be approved only when "no alternative upland location" is available; (c) fill should be "the minimum amount necessary to achieve the purpose of the fill"; (d) "the nature, location, and extent of any fill should be such that it will minimize harmful effects to the Bay area, such as, the reduction or impairment of the volume, surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources, or other conditions impacting the environment..."; and (e) "fill should be authorized when the applicant has such valid title to the properties in question that he or she may fill them in the manner and for the uses to be approved."

As proposed, the project would be constructed in two separate Phases (I and II) over a period of time based on market demands. Phase I involves in-water replacement of an existing wharf structure and would involve approximately 50,453 square feet of new fill in the Bay and approximately 89,800 cubic yards of dredging. Phase II would involve construction of a new rock dike approximately 600 square feet long and involve approximately 106,040 square feet of fill. Fill for Phase I would be used in conjunction with the Orcem facilities to import raw materials, including granulated blast furnace slag, used for the proposed plant operations. The solid fill areas created for Phase II would be used to establish a marine terminal for dry bulk and break-bulk cargo.

For large fill proposals, such as this project, it is paramount that the project proponent demonstrates that the fill amount represents the minimum amount of fill necessary for the project. Any BCDC permit application for the project must include detailed information about the uses at the site. This type of detail should include, for example: how the two sites will operate together on a day-to-day basis, the number of workers on the site, numbers of deliveries, how loading and unloading will be accomplished, etc. All upland and shoreside

activities should be included in order for BCDC staff to determine whether there is an alternative upland location for the project and to determine the impact of the project on the Bay. The project includes extensive engineered fill, and will be required to be reviewed by the Commission's Engineering Criteria Review Board (ECRB). We recommend that the ECRB review occur prior to the submittal of a BCDC application. Please be aware, BCDC's Safety of Fills Policy No. 3 requires installation of strong-motion seismographs on all major land fills. Usually applicants coordinate with the BCDC and the California Geological Survey to install a seismograph at the fill that collects data for the use by the state.

The San Francisco Bay Plan Maps designate the area of the proposed project for a "water-related industry" priority use. Phase I of the project, using a rehabilitated wharf to import raw materials to the Orcem facility, constitutes a "water-related industrial" use because it is an industrial use that requires a waterfront location to receive raw materials and distribute finished products that have been processed on site. Phase I of the project is therefore consistent with the priority use designated in the San Francisco Bay Plan. By contrast, the break bulk and dry bulk marine terminal proposed for Phase II of the project involves the shipping of goods without any on-site processing component. As a result, the uses proposed for Phase II of the project constitute a port use, and would conflict with the "water-related industrial" designation in the Bay Plan. The Bay Plan reserves specific areas around the Bay for specially designated Port Priority Use areas. These Port Priority Use Areas are subject to the Commission's Seaport Plan. The Seaport Plan assists the Commission to minimize fill in the Bay by determining where and when fill might be needed for port uses. In the Commission's 2014 Bay Area Maritime Cargo Monitoring Report, issued October 23, 2015, the Commission found that no break bulk cargo was handled in 2014, and that no break bulk has been handled by areas within BCDC Port Priority Use Areas since 2006¹. Furthermore, neo-bulk, dry bulk, and liquid bulk cargo were below capacity. As a result, there are likely alternative existing upland port facilities in other parts of the Bay available for break bulk and other bulk cargo activities. The fill proposed for this project may have an alternative upland location and, therefore, may not meet the requirements of Section 66605 of the McAtter-Petris Act. Furthermore, the project proposes a significant amount of fill for a use for which there appears to be little demand. The McAtter-Petris Act requires that fill cannot be approved unless it represents the minimum amount of fill necessary for the project. It may be difficult for BCDC staff to make this finding in the event the demand for the fill is uncertain. As a result, the project may not be consistent with this requirement in the McAtter-Petris Act and the San Francisco Bay Plan.

¹ <http://www.bcdc.ca.gov/cm/2015/2014-Maritime-Cargo-Monitoring.pdf>

2. The proposed project does not provide a sufficient compensatory mitigation program to satisfy the Commission's laws and policies.

San Francisco Bay Plan Mitigation Policy 1 states, in part: “[p]rojects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required.”

Mitigation Policy 2 states: “[i]ndividual compensatory mitigation projects should be sited and designed within a Bay-wide ecological context, as close to the impact site as practicable.”

Mitigation Policy 6 provides that “[m]itigation should, to the extent practicable, be provided prior to, or concurrently with those parts of the project causing adverse impacts.”

The information provided by the draft EIR does not support the draft EIR's determination that the temporary or permanent impacts, and resulting loss of habitat from the Project, would be less than significant, when the project does not propose compensatory mitigation for the fill. BCDC staff would not recommend approval of a permit application for this project without a mitigation proposal that is consistent with BCDC's policies on mitigation. The removal of approximately 10,338 square feet of fill from the Vallejo Marina and the removal of approximately 444 pilings from the location of the project will not constitute sufficient compensatory mitigation for the impacts to the Bay from the proposed fill. As currently proposed, the project is not consistent with BCDC's policies on mitigation and BCDC staff would have difficulty recommending approval for the project. The project should provide a comprehensive compensatory mitigation program that is consistent with the Commission's policies.

3. The project does not propose maximum feasible public access consistent with the project.

Section 66602 of the McAteer-Petris Act states, in part, that “...existing public access to the shoreline and waters of the...[Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided.” In addition, the Bay Plan policies on public access state, in part, that “a proposed fill project should increase public access to the Bay to the maximum extent feasible...” and that “access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available.” These policies also state, in part, that when on-site access “would be clearly inconsistent with the project because of public safety considerations or significant use conflicts...[i]n lieu access at another location preferably near the project should be provided.” The Bay Plan policies on public access include policies related to sea level rise. Public Access Policy 7 states, in part:

“[a]ny public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.”

The project does not propose public access on-site, due to security issues that would arise by bringing the public to a working industrial facility. In lieu of providing access on-site, the project proposes off-site public access in the form of a new concrete mat for off-loading kayaks and other small hand-launch boats at the Vallejo Marina. The addition of a small boat launch at an existing marina is not a public access improvement proportional to the significant impacts from the project to the Bay. The proposal may not be consistent with similar public access amenities provided for large fill projects along the Bay. This proposal does not provide the maximum feasible public access consistent with the project to satisfy the requirements of the McAteer-Petris Act and the San Francisco Bay Plan and BCDC staff would likely not recommend approval of the application. Additional significant public access amenities must be included to ensure consistency with the Commission’s laws and policies.

Commission staff has additional concerns about the design of the boat launch. The Commission’s policies on public access require that public access should be “barrier free access for persons with disabilities to the maximum feasible extent.” The concrete mat proposed for the boat launch must be planned and constructed to be sufficiently accessible to persons with disabilities. In addition, in order to ensure it is safe and enjoyable to all users, a boat launch should be designed to avoid becoming slippery from exposure to the tides and should be designed so that it does not damage boats.

4. The project must comply with the Commission’s relevant Climate Change policies.

From reviewing the draft EIR, it appears that the top of the deck will remain above a 100 year storm event at a mid-century projection of sea level rise. It appears that the top of the deck will begin to experience overtopping during a 100 year storm at around a 2070 projection of sea level rise. By the end of the century, the deck will be threatened with overtopping in a 50 year storm.

The Commission's Safety of Fills Policy No. 4 states: "New projects on fill or near the shoreline should either be set back from the edge of the shore so that the project will not be subject to dynamic wave energy, be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project, be specifically designed to tolerate periodic flooding, or employ other effective means of addressing the impacts of future sea level rise and storm activity." Any sea level rise analysis should consider the level for the "bottom floor level of the structure," which is the soffit of the decking. It appears from these projections that the soffit may be overtopped much earlier than the top of the deck. The draft EIR mentions that hydraulic uplift of the structure may occur as sea levels rise. More information about engineering the structure to mitigate for these effects will likely be needed if the project appears before the Engineering Criteria Review Board.

Furthermore, BCDC's Climate Change policies state that where a larger shoreline project has been shown to be vulnerable to sea level rise, the project "should designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century."

From the analysis provided, it appears the project could be considered resilient to a mid-century projection of sea level rise taking into account 100-year storm levels. It appears that the project is designed to remain in place beyond mid-century and could be vulnerable to flooding. A plan for adaptive management for the structure in the event it is threatened beyond a mid-century of sea level rise will be required to meet the Commission's requirements.

5. The Commission's Fish, Other Aquatic Organisms and Wildlife policies will apply.

The Bay Plan policies on fish, other aquatic organisms and wildlife state, in part, that "the Commission should consult with the California Department of Fish and Game and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service whenever a proposed project may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species...and give appropriate consideration of (their) recommendations in order to avoid possible adverse impacts of a proposed project on fish, other aquatic organisms and wildlife habitat." Furthermore, the Bay Plan policies state that the Commission may "not authorize projects that would result in the "taking" of any plant, fish or Not authorize projects that would result in the "taking" of any plant, fish, other aquatic organism or wildlife species listed as endangered or threatened pursuant to the state or federal endangered species acts, or the federal Marine Mammal Protection Act, or species that are candidates for listing under the California Endangered Species Act, unless the project applicant has obtained the appropriate "take" authorization from the U.S. Fish and Wildlife Service, National Marine Fisheries Service or the California Department of Fish and Game...."

In the event, that this project would result in significant adverse impacts to special-status species, BCDC will require all consultations and take permits prior to filing an application complete. In addition, mitigation and monitoring may be required to compensate for impacts to fish and wildlife.

6. The Commission's Dredging policies will apply.

The Bay Plan policies on dredging state, in part, "[d]redging should be authorized when the Commission can find: (a) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other important public purpose, such as navigational safety; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; (c) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, or

through other appropriate measures; (d) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (e) the materials would be disposed of in accordance with Policy 3.”

The Bay Plan Dredging Policy 3 states, “Dredged materials should, if feasible, be reused or disposed outside the Bay and certain waterways. Except when reused in an approved fill project, dredged material should not be disposed in the Bay and certain waterways unless disposal outside these areas is infeasible and the Commission finds: (a) the volume to be disposed is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission by regulation; (b) disposal would be at a site designated by the Commission; (c) the quality of the material disposed of is consistent with the advice of the San Francisco Bay Regional Water Quality Control Board and the inter-agency Dredged Material Management Office (DMMO); and (d) the period of disposal is consistent with the advice of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.”

According to the draft EIR, the project proposes approximately 89,800 cubic yards of new dredging in Phase I and approximately 46,500 cubic yards of new dredging in Phase II. The need for and frequency of future maintenance dredging at the VMT terminal would vary depending on the level of naturally occurring scouring within the Mare Island Strait. The dredged material may be used as backfill on the site or may be disposed of at another location. Dredging associated with the project should be approved through the DMMO process and should be designed to be consistent with BCDC’s policies on dredging. Furthermore, LTMS agencies generally require that “new work” dredged material be disposed of consistent with beneficial reuse. If beneficial reuse of the material is not proposed, the applicant must conduct a feasibility study demonstrating that a beneficial reuse alternative would be infeasible.

7. Other Policies

In addition to the above-mentioned policies, the project also raises issues regarding the Commission’s policies on Shoreline Protection, Safety of Fills, Subtidal Habitat, Water-related Industry, and Port uses. The impacts related to these policies should be considered.

8. Conclusion.

Commission staff have met with the development team for the VMT project periodically over the past three years and consistently communicated our concerns regarding the consistency of this project with the Commission’s laws and policies. These concerns have not been addressed over that time and we are disappointed they have not been considered in the draft EIR. As currently proposed, the project does not meet the requirements in the McAteer-Petris Act and San Francisco Bay Plan.

Sincerely,



Erik Buehmann

Coastal Program Analyst



**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**



November 2, 2015

Andrea Ouse, AICP
Community and Economic Development Director
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Subject: Vallejo Marine Terminal and Orcem Project Draft EIR

- ALAMEDA COUNTY**
Tom Bates
Margaret Fujioka
Scott Haggerty
Nate Miley
- CONTRA COSTA COUNTY**
John Gioia
David Hudson
Karen Mitchoff
Mark Ross
- MARIN COUNTY**
Katie Rice
- NAPA COUNTY**
Brad Wagenknecht
- SAN FRANCISCO COUNTY**
John Avalos
Edwin M. Lee
Eric Mar
(Vice-Chair)
- SAN MATEO COUNTY**
David J. Canepa
Carole Groom
(Chair)
- SANTA CLARA COUNTY**
Cindy Chavez
Liz Kniss
(Secretary)
Jan Pepper
Rod G. Sinks
- SOLANO COUNTY**
James Spering
- SONOMA COUNTY**
Teresa Barrett
Shirlee Zane

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

Dear Ms. Ouse,

Bay Area Air Quality Management District (Air District) staff has reviewed the City of Vallejo's (City's) Draft Environmental Impact Report (DEIR) prepared for the Vallejo Marine Terminal and Orcem Project (Project). Air District staff understands that the project involves the re-use of the former General Mills deep-water terminal and buildings, which closed in 2004 and has since remained vacant. Two developments are proposed for the site: the Vallejo Marine Terminal (VMT) and the Orcem Plant. The VMT would reestablish industrial uses on the site through construction of a deep-water terminal primarily focusing on the import and export of bulk and break-bulk commodities. The Orcem Plant would involve the construction of a production facility of ground granulated blast furnace slag. Bulk commodities will be shipped and received via ocean-going vessels, rail, trucks, and barges. The project will require an Authority to Construct and Permit to Operate issued by the Air District. Therefore, the Air District is a responsible agency as listed under CEQA (§15096) for stationary source emissions and a commenting agency on the remaining issues.

Air District staff has the following specific comments on the DEIR.

Air Quality

The DEIR finds that the proposed Project will result in significant and unavoidable air quality impacts in the San Francisco Bay Area Air Basin (SFBAAB). The SFBAAB is currently designated as a non-attainment area for federal and state ozone and fine particulate matter (PM2.5) ambient air quality standards. In addition, the U.S. EPA recently lowered the national ozone standard, further highlighting the need to reduce ozone precursor emissions in the region.

To address the significant and unavoidable air quality impacts for ozone precursor and particulate matter emissions from this Project, the City has proposed the following mitigation measure:

MM-3.2-1: After the calendar year at which 15 vessels arrive at the site, the project operators for the VMT facility and Orcem Plant shall retain a qualified air quality specialist to calculate and report annual emissions from trucks and on-site equipment to confirm that emissions are below 10 tons per year. This report shall be submitted to the City of Vallejo for review. At the time emissions exceed 10 tons per year, the project operators shall ensure that at least 75% of the trucks entering the site are model year 2010 or later. This measure shall be enforced until year 2023, when the Drayage Truck Regulation adopted by the California Air Resources Board will require 100% of trucks to be model year 2010 or newer.

The air quality analysis in the DEIR estimates that the “Combined Operations of VMT and Orcem” will result in over 64 tons per year of ozone precursors and approximately 7 tons per year of particulate matter from a variety of sources, such as industrial processes, marine vessels, on and off road mobile sources, and cargo handling equipment. Both of these facilities will require permits from the Air District which will require the installation of air pollution control devices and the offset of some of these emissions through the permitting process. However, the on-road trucks and off-road equipment associated with this Project are not regulated through the Air District permit program and will be responsible for about a third of all emissions estimated in the DEIR. There are feasible mitigation strategies available now that could be implemented by the Project to ensure that the air quality impacts are reduced from the start of operation at these facilities, as opposed to deferring mitigation to some time in the future. These include:

- Require all heavy duty diesel trucks used at either site to meet the 2010 or newer model year emission standards immediately;
- Require dock side electrification and require all ships to connect while at berth;
- Require the use of the highest tier engines available for all offroad equipment, trucks and cargo handling equipment or require electrification of the cargo handling equipment; and
- Prohibit the use of portable diesel generators for construction and operation. Electricity from the grid is available to the site.

Health Risk Modeling and Emissions Estimates

Air District staff has identified a number of issues related to the health risk assessment provided in the DEIR, including some of the emission estimates assumed in the analysis, which may require that the analysis be revised to more accurately estimate the potential impacts from this Project. Air District staff recommendations are listed below:

- Quantify the toxic content of the granulated blast furnace slag and ground granulated blast furnace slag and include this information in the revised health risk analysis.
- Estimate the emissions of crystalline silica, which is in gypsum and pozzolan, and include this information in the revised health risk analysis.
- Estimate the quantity of the toxic emissions from the handling of cement and include this information in the revised health risk analysis. Portland cement contains several toxic compounds (Ref. U.S. EPA AP-42, Chapter 11.12) listed in Table 2-5-1 of District Regulation 2, Rule 5.

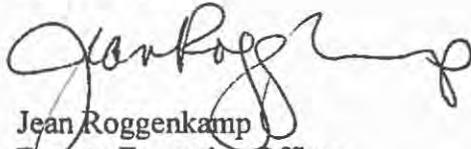
-
- Estimate the emissions from natural gas combustion dryers (“hot air generators”) and include this information in the revised health risk analysis.
 - Expand the modeling domain of the health risk assessment to include the three main transportation routes from the Project site to Interstate 80.
 - Estimate mobile source emissions for all travel associated with the Project expected in the San Francisco Bay Area Air Basin (SFBAAB) and include this information in the analysis in the DEIR. The DEIR currently estimates haul trip emissions for a distance of less than 0.5 mile and locomotive emissions for one mile.
 - The Port of Richmond is located 17 miles to the south of the Project and may serve as an alternative short term port for receipt of ships delivering raw materials to the Orcem Plant in the event that VMT is inoperable (page 2-17 of DEIR). Include emissions associated with this scenario in the Project’s overall emission estimates and in the analysis of project impacts.
 - Baseline emissions include the use of B20 blended diesel fuel for all on-site equipment (page 3.2-35 of DEIR). Estimate potential NOx emissions increases of about 2 percent from the use of B20 fuels (see http://www.afdc.energy.gov/vehicles/diesels_emissions.html), and include this information in Project’s overall emission estimates. Because use of this fuel is assumed in the analysis, Air District staff also recommends including the use of B20 blended diesel fuel as part of the conditions of approval for the Project.
 - Diesel particulate matter emissions from truck exhaust were calculated based on emissions factors from EMFAC2011 and weighted based on OEHHA’s age sensitivity factor. Estimate emissions from haul trucks using the latest EMFAC2014 model, incorporate all of the OEHHA updated screening values related to breathing rate, exposure duration, and the amount of time at home, and include this information in the DEIR.
 - The VMT will receive dry bulk commodities, which could include coal for export. Clarify if coal will be received at the VMT, and if so, include the potential fugitive emissions of coal dust in the Project’s emission estimates and health risk assessment.
 - It does not appear that a cumulative local pollutant health risk screening analysis has been performed for this Project. Estimate all emissions from nearby sources within 1000 feet of the project site, including, but not limited to: emissions from existing stationary sources, rail service, ferry terminals, and major roadways, and include this information in the cumulative local pollutant health risk screening analysis.

November 2, 2015

-
- If the revised health risk assessment and revised emission estimates identify new significant air quality impacts or higher emissions than estimated in the DEIR, Air District staff can assist in identifying additional mitigation measures for the Project to implement.

Air District staff is available to assist City staff in addressing these comments. If you have any questions, please contact Josh Pollak, Environmental Planner, at 415-749-8435 or jpollak@baaqmd.gov.

Sincerely,



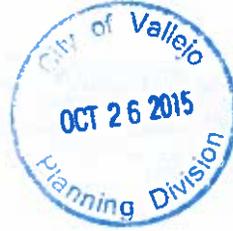
Jean Roggenkamp
Deputy Executive Officer

cc: BAAQMD Board Member James Spering



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

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



October 20, 2015

Ms. Andrea Ouse
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590
andrea.ouse@cityofvallejo.net

Dear Ms. Ouse:

Subject: Vallejo Marine Terminal/Orcem Cement Plant Project, Draft Environmental Impact Report, SCH #2014052057, City of Vallejo, Solano County

The California Department of Fish and Wildlife (CDFW) reviewed the draft Environmental Impact Report (EIR) provided for the Vallejo Marine Terminal/Orcem Cement Plant Project (Project) located at 790 and 800 Derr Avenue, in the City of Vallejo, along Mare Island Strait. The proposed Project includes two separate projects, the Vallejo Marine Terminal LLC (VMT) Project and Orcem California Inc. (Orcem) Project. The Project site occupies a total of 39.1 acres, where Orcem would lease a 4.83-acre portion and VMT would operate on the remaining 34.3 acres. The draft EIR was received in our office on September 3, 2015.

VMT Project Description

The proposed VMT Project would reestablish industrial uses on-site including the removal of a deteriorated timber wharf, construction of a deep-water terminal, wharf improvements, laydown area, and trucking/rail connections on approximately 10.5 acres of the 34.3 acres to be managed by VMT. The VMT terminal would be constructed in two separate Phases (I and II), over a period of time based on market demands.

Phase I: Wharf in-water construction and shoreline redevelopment would result in approximately 1.03 acres of bay fill and 9.5 acres of dredging. Phase II: Rock Dike in-water construction and shoreline redevelopment includes another 1.7 acres of bay fill and 2.6 acres of additional dredging. CDFW's review and comments address the total combined estimated impacts for Phases I and II, a total of 2.75 acres of fill and 12.1 acres of dredging activities within the Mare Island Strait (Table 3.3-3, Page 3.3-43).

The VMT Project also establishes other uses (outside the 10.5 acres) on the project site, including potential storage and reuse of several former General Mills buildings that have been vacant with little human disturbance since 2004, for administrative and commercial purposes. Some construction elements such as rail improvements, and demolition of the former General Mills Warehouse and connected Bakery Bulkhouse buildings will be timed based on market demand and may take place following completion of the initial Phase I VMT improvements, but prior to completion of Phase II.

Orcem Project Description

The proposed Orcem Project involves use of a separate 4.83-acre portion of the former General Mills site for the construction and operation of an industrial facility for the production of cement material.

Trustee and Responsible Agency

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, CDFW is responsible for providing, as available, biological expertise to review and comment upon environmental documents and impacts arising from project activities, as those terms are used under CEQA [Division 13 (commencing with Section 21000) of the Public Resources Code]. CDFW also acts as a Responsible Agency pursuant to CEQA Section 15381 if a project requires discretionary approval, such as issuance of a California Endangered Species Act (CESA) Incidental Take Permit (ITP) (Fish and Game Code section 2080 *et seq.*), or Lake or Streambed Alteration Agreement (LSAA) (Fish and Game Code section 1600 *et seq.*).

BIOLOGICAL IMPACTS AND MITIGATION MEASURES

In-water Acreage of Impacts to the Napa River

The proposed Project including off-site improvements would result in the permanent loss of 2.75 acres of subtidal soft substrate habitat and periodic dredging of 12.1 acres. The draft EIR determined that potential impacts to subtidal soft substrate habitat loss would be less-than-significant due to the low suitability of substrate to provide fish forage for special-status fish, absence of submerged vegetation, removal of 444 creosote piles, creation of 800 linear feet of new subtidal and intertidal rocky habitat, and replacement of rocky intertidal habitat at the City of Vallejo boat ramp location.

The draft EIR describes removal of 444 creosote piles to improve in-water habitat as one component of in-water work. Activities are estimated to enhance approximately 0.011-acre of habitat by reducing creosote contamination within the Napa River. However, the Project would result in a net-loss of in-water subtidal habitat.

The marshes and mudflats along the shoreline of the San Pablo Bay and lower Napa River watershed provide important habitat for movement and shelter of a wide variety of fish. One stressor identified to special-status fish is physical habitat loss and alteration, including in movement corridors such as the Mare Island Strait. Fill in this location will limit the channel width, which also limits available habitat for fish movement in the waterway, increasing potential impacts to special-status species known to occur in the Project location.

Additional project alternatives and/or Mitigation Measures are recommended to offset impacts to less-than-significant for the permanent net loss of subtidal soft substrate habitat. These additional mitigation options may include additional enhancement or creation of similar habitat and retention of habitat in perpetuity. The goal of the mitigation should be to recreate functioning habitat of similar composition, structure, and function to the area impacted. Measurable success criteria (based on present site conditions and/or functional reference sites) should be part of the plan to ensure that habitat is functional. Any off-site preservation should be determined in coordination with CDFW and disclosed in the draft EIR. CDFW is available to work with the applicant to develop a mitigation plan that reduces impacts to less-than-significant.

Mitigation Measure 3.3-5

Approximately 2.75 acres of the Mare Island Strait would be directly impacted by Project implementation due to pile installation and filling of Napa River. Mitigation Measure 3.3-5 proposes to develop a NOAA-approved sound attenuation reduction and monitoring plan to address potentially significant hydro-acoustic impacts. The plan would limit work to be in accordance with the recommended Long-Term Management Strategy (LTMS) work windows, use of impact hammers kept to the "bare minimum," and where work is necessary outside of the LTMS work windows, the applicant is required to obtain incidental take authorization from CDFW to address potential impacts to Delta smelt (*Hypomesus transpacificus*) and longfin smelt (*Spirinchus thaleichthys*).

Longfin smelt are potentially present within the Napa River channel (including the Mare Island Strait) year-round. The Biological Resources section on page 3.3-33 confirms that high densities of longfin smelt have been observed in the Napa River. This species live in the water column and respond to salinity, and/or temperature conditions throughout San Pablo Bay. High intensity sounds such as pile driving can alter fish distributions or migration patterns, potentially rendering large areas of habitat intolerable or impassable; can cause physiological damage (e.g., hearing loss, swim bladder rupture, hemorrhaging) and stress; and can be lethal.

Therefore, implementing pile driving during LTMS work windows does not adequately avoid take of longfin smelt. Issuance of an ITP under the CESA § 2081(b) is subject to CEQA documentation. The draft EIR should specify impacts, mitigation measures, and a mitigation monitoring and reporting program for both delta smelt and longfin smelt. CDFW recommends the Project minimize the size and number of the piles needed, and review the pile materials to reduce potential hydroacoustic impacts. Additional effective and potentially feasible measures to avoid or minimize "take" of listed fish species should be determined in consultation with CDFW and the appropriate federal permitting agencies.

Mitigation Measure 3.3-2

To reduce potentially significant impacts to bat colonies, Mitigation Measure 3.3-2 requires pre-construction surveys, including handling, to determine if active Townsend's big-eared bat (*Corynorhinus townsendii*) roosts are present on or within 300 feet of the construction area. The Measure requires that if bats are found, the applicant shall consult with CDFW to determine appropriate course of action prior to initiation of construction activities within 300 feet of an occupied roost. The Project proposes to remove a number of existing and abandoned buildings which may provide suitable habitat for Townsend's big-eared bat and pallid bat (*Antrozous pallidus*), a species of special concern.

Townsend's big-eared bat range throughout much of western North America, including most of California. They are active at night and roost in colonies or individually in large undisturbed spaces such as abandoned buildings and other structures with large quiet spaces. Disturbance and loss of large colony roosts sites during the maternity and hibernation seasons are considered primary factors that may negatively impact the species in California, although disease, climate change, pesticide use and other factors may also negatively affect populations.

The pallid bat occurs throughout a variety of habitats including all types of structures, and riparian areas if appropriate roosting sites are available. This species may seek shelter inside

crevices and cavities found in natural features, as well as, man-made features. Examples of threats to the pallid bat include mortality and/or loss of roosting habitat due to disturbance, exclusion, extermination, and pesticide use.

Pre-construction surveys for bats as proposed in Measure 3.3-2 do not allow adequate time to develop avoidance work windows or implement humane eviction processes. The measure also allows for handling, which indicates take may occur prior to identifying mitigation measures intended to reduce potentially significant impacts. Townsend's big-eared bat is known to be highly sensitive to disturbance and specific types of surveys cause this species to retreat further into structures; therefore, conducting surveys for presence may cause a false negative if performed without a species-specific method. To reduce potentially significant impacts, CDFW recommends that a Qualified Biologist, approved by CDFW, conduct a habitat assessment for potentially suitable bat habitat within six months of project activities. If the habitat assessment reveals suitable bat habitat, then the Qualified Biologist should submit an avoidance and protection plan to CDFW for review. The avoidance and protection plan should:

- 1) Evaluate the suitable habitat present within the Project footprint.
- 2) Identify species specific work windows and humane eviction methods that may avoid sensitive life stages including hibernation and active maternity colonies.
- 3) Identify appropriate disturbance buffers during and outside of the identified work windows.
- 4) Identify potential noise and vibration impacts and associated minimization measures.
- 5) Identify appropriate avoidance and minimization measures.
- 6) If appropriate, include measures to compensate for the loss of suitable bat habitat. The draft EIR should identify habitat replacement and specify that mitigation lands should be protected in perpetuity under a conservation easement, and funding for mitigation land should be ensured for long-term management of bat habitat.

Mitigation required must be roughly proportional to level of impacts (including cumulative impacts) in accordance with the provisions of CEQA (Guidelines Sections 15126.4(a)(4)(B), 15064, 15065, and 15355). Mitigation measures must be specific, feasible actions that will actually improve environmental conditions, in order for them to be considered adequate mitigation.

If Townsend big-eared bat is identified as on-site, implementing work windows may not adequately avoid take; therefore, an ITP may be needed.

Mitigation Measure 3.3-1

Mitigation Measure 3.3-1 states that a Qualified Biologist shall conduct nesting surveys for any raptor or other nesting migratory bird nests, if project activities occur between February 15 and August 31. The Impact Discussion on page 3.3-37 sections states that an active Osprey (*Pandion haliaetus*) nest was documented on-site in 2014 and is planned for removal outside of breeding season. This species typically returns to a nest for several years; therefore, the draft EIR should address the impact of removing a recently active nest.

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code Sections protecting birds, their eggs and nests include 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory

Ms. Andrea Ouse
October 20, 2015
Page 5

nongame bird). Fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511). Migratory raptors are also protected under the federal Migratory Bird Treaty Act.

CDFW recommends protection of existing Osprey nest sites and avoidance measures to maintain available nesting habitat. If nesting habitat on-site cannot be adequately protected, Mitigation Measure 3.3-1 should be revised to address temporal losses due to nest removal and include artificial nest platform replacement. When determining the location of the artificial nest platform, to avoid take, as described above, the location of the new platform, as well as appropriate avoidance measures should be developed and implemented to prevent ongoing impacts to Osprey, their nests, and eggs as a result of Project activities.

Special-Status Species

If "take" or adverse impacts to Delta smelt, longfin smelt, Townsend's big-eared bat or any other species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA permit must be obtained (pursuant to Fish and Game Code Section 2080 *et seq.*). Issuance of a CESA permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

Lake and Streambed Alteration Agreement

Fill and dredging activities in Mare Island Strait is considered jurisdictional pursuant to Fish and Game Code Section 1600 *et seq.* An LSAA may be required for any activity that will divert or obstruct the natural flow, change the bed, channel, or bank including associated wetland/marsh resources, use of material from the stream/channel bed, or substantially adversely affect fish and wildlife resources. Issuance of an LSAA is subject to CEQA. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. Therefore, the CEQA document must specify impacts, mitigation measures, and include a mitigation monitoring and reporting program.

CDFW appreciates the opportunity to provide comments on the draft EIR. If you have any questions about the contents of this letter, please contact Ms. Suzanne Gilmore, Environmental Scientist, at (707) 944-5536; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at (707) 944-5525.

Sincerely,



Scott Wilson
Regional Manager
Bay Delta Region

cc: State Clearinghouse



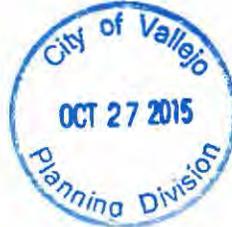
Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

October 21, 2015



Andrea Ouse
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Subject: Vallejo Marine Terminal/Ocrem Cement Plant Project
SCH#: 2014052057

Dear Andrea Ouse:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on October 19, 2015. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2014052057) when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency



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

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



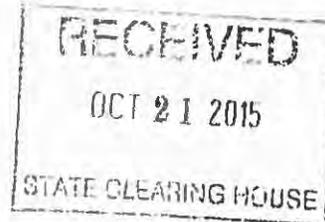
LATE

10-19-15

E

October 20, 2015

Ms. Andrea Ouse
 City of Vallejo
 555 Santa Clara Street
 Vallejo, CA 94590
andrea.ouse@cityofvallejo.net



Dear Ms. Ouse:

Subject: Vallejo Marine Terminal/Orcem Cement Plant Project, Draft Environmental Impact Report, SCH #2014052057, City of Vallejo, Solano County

The California Department of Fish and Wildlife (CDFW) reviewed the draft Environmental Impact Report (EIR) provided for the Vallejo Marine Terminal/Orcem Cement Plant Project (Project) located at 790 and 800 Derr Avenue, in the City of Vallejo, along Mare Island Strait. The proposed Project includes two separate projects, the Vallejo Marine Terminal LLC (VMT) Project and Orcem California Inc. (Orcem) Project. The Project site occupies a total of 39.1 acres, where Orcem would lease a 4.83-acre portion and VMT would operate on the remaining 34.3 acres. The draft EIR was received in our office on September 3, 2015.

VMT Project Description

The proposed VMT Project would reestablish industrial uses on-site including the removal of a deteriorated timber wharf, construction of a deep-water terminal, wharf improvements, laydown area, and trucking/rail connections on approximately 10.5 acres of the 34.3 acres to be managed by VMT. The VMT terminal would be constructed in two separate Phases (I and II), over a period of time based on market demands.

Phase I: Wharf in-water construction and shoreline redevelopment would result in approximately 1.03 acres of bay fill and 9.5 acres of dredging. Phase II: Rock Dike in-water construction and shoreline redevelopment includes another 1.7 acres of bay fill and 2.6 acres of additional dredging. CDFW's review and comments address the total combined estimated impacts for Phases I and II, a total of 2.75 acres of fill and 12.1 acres of dredging activities within the Mare Island Strait (Table 3.3-3, Page 3.3-43).

The VMT Project also establishes other uses (outside the 10.5 acres) on the project site, including potential storage and reuse of several former General Mills buildings that have been vacant with little human disturbance since 2004, for administrative and commercial purposes. Some construction elements such as rail improvements, and demolition of the former General Mills Warehouse and connected Bakery Bulkhouse buildings will be timed based on market demand and may take place following completion of the initial Phase I VMT improvements, but prior to completion of Phase II.

Orcem Project Description

The proposed Orcem Project involves use of a separate 4.83-acre portion of the former General Mills site for the construction and operation of an industrial facility for the production of cement material.

Trustee and Responsible Agency

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, CDFW is responsible for providing, as available, biological expertise to review and comment upon environmental documents and impacts arising from project activities, as those terms are used under CEQA [Division 13 (commencing with Section 21000) of the Public Resources Code]. CDFW also acts as a Responsible Agency pursuant to CEQA Section 15381 if a project requires discretionary approval, such as issuance of a California Endangered Species Act (CESA) Incidental Take Permit (ITP) (Fish and Game Code section 2080 *et seq.*), or Lake or Streambed Alteration Agreement (LSAA) (Fish and Game Code section 1600 *et seq.*).

BIOLOGICAL IMPACTS AND MITIGATION MEASURES

In-water Acreage of Impacts to the Napa River

The proposed Project including off-site improvements would result in the permanent loss of 2.75 acres of subtidal soft substrate habitat and periodic dredging of 12.1 acres. The draft EIR determined that potential impacts to subtidal soft substrate habitat loss would be less-than-significant due to the low suitability of substrate to provide fish forage for special-status fish, absence of submerged vegetation, removal of 444 creosote piles, creation of 800 linear feet of new subtidal and intertidal rocky habitat, and replacement of rocky intertidal habitat at the City of Vallejo boat ramp location.

The draft EIR describes removal of 444 creosote piles to improve in-water habitat as one component of in-water work. Activities are estimated to enhance approximately 0.011-acre of habitat by reducing creosote contamination within the Napa River. However, the Project would result in a net-loss of in-water subtidal habitat.

The marshes and mudflats along the shoreline of the San Pablo Bay and lower Napa River watershed provide important habitat for movement and shelter of a wide variety of fish. One stressor identified to special-status fish is physical habitat loss and alteration, including in movement corridors such as the Mare Island Strait. Fill in this location will limit the channel width, which also limits available habitat for fish movement in the waterway, increasing potential impacts to special-status species known to occur in the Project location.

Additional project alternatives and/or Mitigation Measures are recommended to offset impacts to less-than-significant for the permanent net loss of subtidal soft substrate habitat. These additional mitigation options may include additional enhancement or creation of similar habitat and retention of habitat in perpetuity. The goal of the mitigation should be to recreate functioning habitat of similar composition, structure, and function to the area impacted. Measurable success criteria (based on present site conditions and/or functional reference sites) should be part of the plan to ensure that habitat is functional. Any off-site preservation should be determined in coordination with CDFW and disclosed in the draft EIR. CDFW is available to work with the applicant to develop a mitigation plan that reduces impacts to less-than-significant.

Mitigation Measure 3.3-5

Approximately 2.75 acres of the Mare Island Strait would be directly impacted by Project implementation due to pile installation and filling of Napa River. Mitigation Measure 3.3-5 proposes to develop a NOAA-approved sound attenuation reduction and monitoring plan to address potentially significant hydro-acoustic impacts. The plan would limit work to be in accordance with the recommended Long-Term Management Strategy (LTMS) work windows, use of impact hammers kept to the "bare minimum," and where work is necessary outside of the LTMS work windows, the applicant is required to obtain incidental take authorization from CDFW to address potential impacts to Delta smelt (*Hypomesus transpacificus*) and longfin smelt (*Spirinchnus thaleichthys*).

Longfin smelt are potentially present within the Napa River channel (including the Mare Island Strait) year-round. The Biological Resources section on page 3.3-33 confirms that high densities of longfin smelt have been observed in the Napa River. This species live in the water column and respond to salinity, and/or temperature conditions throughout San Pablo Bay. High intensity sounds such as pile driving can alter fish distributions or migration patterns, potentially rendering large areas of habitat intolerable or impassable; can cause physiological damage (e.g., hearing loss, swim bladder rupture, hemorrhaging) and stress; and can be lethal.

Therefore, implementing pile driving during LTMS work windows does not adequately avoid take of longfin smelt. Issuance of an ITP under the CESA § 2081(b) is subject to CEQA documentation. The draft EIR should specify impacts, mitigation measures, and a mitigation monitoring and reporting program for both delta smelt and longfin smelt. CDFW recommends the Project minimize the size and number of the piles needed, and review the pile materials to reduce potential hydroacoustic impacts. Additional effective and potentially feasible measures to avoid or minimize "take" of listed fish species should be determined in consultation with CDFW and the appropriate federal permitting agencies.

Mitigation Measure 3.3-2

To reduce potentially significant impacts to bat colonies, Mitigation Measure 3.3-2 requires pre-construction surveys, including handling, to determine if active Townsend's big-eared bat (*Corynorhinus townsendii*) roosts are present on or within 300 feet of the construction area. The Measure requires that if bats are found, the applicant shall consult with CDFW to determine appropriate course of action prior to initiation of construction activities within 300 feet of an occupied roost. The Project proposes to remove a number of existing and abandoned buildings which may provide suitable habitat for Townsend's big-eared bat and pallid bat (*Antrozous pallidus*), a species of special concern.

Townsend's big-eared bat range throughout much of western North America, including most of California. They are active at night and roost in colonies or individually in large undisturbed spaces such as abandoned buildings and other structures with large quiet spaces. Disturbance and loss of large colony roosts sites during the maternity and hibernation seasons are considered primary factors that may negatively impact the species in California, although disease, climate change, pesticide use and other factors may also negatively affect populations.

The pallid bat occurs throughout a variety of habitats including all types of structures, and riparian areas if appropriate roosting sites are available. This species may seek shelter inside

crevices and cavities found in natural features, as well as, man-made features. Examples of threats to the pallid bat include mortality and/or loss of roosting habitat due to disturbance, exclusion, extermination, and pesticide use.

Pre-construction surveys for bats as proposed in Measure 3.3-2 do not allow adequate time to develop avoidance work windows or implement humane eviction processes. The measure also allows for handling, which indicates take may occur prior to identifying mitigation measures intended to reduce potentially significant impacts. Townsend's big-eared bat is known to be highly sensitive to disturbance and specific types of surveys cause this species to retreat further into structures; therefore, conducting surveys for presence may cause a false negative if performed without a species-specific method. To reduce potentially significant impacts, CDFW recommends that a Qualified Biologist, approved by CDFW, conduct a habitat assessment for potentially suitable bat habitat within six months of project activities. If the habitat assessment reveals suitable bat habitat, then the Qualified Biologist should submit an avoidance and protection plan to CDFW for review. The avoidance and protection plan should:

- 1) Evaluate the suitable habitat present within the Project footprint.
- 2) Identify species specific work windows and humane eviction methods that may avoid sensitive life stages including hibernation and active maternity colonies.
- 3) Identify appropriate disturbance buffers during and outside of the identified work windows.
- 4) Identify potential noise and vibration impacts and associated minimization measures.
- 5) Identify appropriate avoidance and minimization measures.
- 6) If appropriate, include measures to compensate for the loss of suitable bat habitat. The draft EIR should identify habitat replacement and specify that mitigation lands should be protected in perpetuity under a conservation easement, and funding for mitigation land should be ensured for long-term management of bat habitat.

Mitigation required must be roughly proportional to level of impacts (including cumulative impacts) in accordance with the provisions of CEQA (Guidelines Sections 15126.4(a)(4)(B), 15064, 15065, and 15355). Mitigation measures must be specific, feasible actions that will actually improve environmental conditions, in order for them to be considered adequate mitigation.

If Townsend big-eared bat is identified as on-site, implementing work windows may not adequately avoid take; therefore, an ITP may be needed.

Mitigation Measure 3.3-1

Mitigation Measure 3.3-1 states that a Qualified Biologist shall conduct nesting surveys for any raptor or other nesting migratory bird nests, if project activities occur between February 15 and August 31. The Impact Discussion on page 3.3-37 sections states that an active Osprey (*Pandion halliaetus*) nest was documented on-site in 2014 and is planned for removal outside of breeding season. This species typically returns to a nest for several years; therefore, the draft EIR should address the impact of removing a recently active nest.

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code Sections protecting birds, their eggs and nests include 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory

Ms. Andrea Ouse
October 20, 2015
Page 5

nongame bird). Fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511). Migratory raptors are also protected under the federal Migratory Bird Treaty Act.

CDFW recommends protection of existing Osprey nest sites and avoidance measures to maintain available nesting habitat. If nesting habitat on-site cannot be adequately protected, Mitigation Measure 3.3-1 should be revised to address temporal losses due to nest removal and include artificial nest platform replacement. When determining the location of the artificial nest platform, to avoid take, as described above, the location of the new platform, as well as appropriate avoidance measures should be developed and implemented to prevent ongoing impacts to Osprey, their nests, and eggs as a result of Project activities.

Special-Status Species

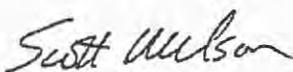
If "take" or adverse impacts to Delta smelt, longfin smelt, Townsend's big-eared bat or any other species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA permit must be obtained (pursuant to Fish and Game Code Section 2080 *et seq.*). Issuance of a CESA permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

Lake and Streambed Alteration Agreement

Fill and dredging activities in Mare Island Strait is considered jurisdictional pursuant to Fish and Game Code Section 1600 *et seq.* An LSAA may be required for any activity that will divert or obstruct the natural flow, change the bed, channel, or bank including associated wetland/marsh resources, use of material from the stream/channel bed, or substantially adversely affect fish and wildlife resources. Issuance of an LSAA is subject to CEQA. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. Therefore, the CEQA document must specify impacts, mitigation measures, and include a mitigation monitoring and reporting program.

CDFW appreciates the opportunity to provide comments on the draft EIR. If you have any questions about the contents of this letter, please contact Ms. Suzanne Gilmore, Environmental Scientist, at (707) 944-5536; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at (707) 944-5525.

Sincerely,



Scott Wilson
Regional Manager
Bay Delta Region

cc: State Clearinghouse



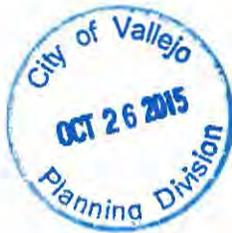
Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

October 20, 2015



Andrea Ouse
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Subject: Vallejo Marine Terminal/Ocrem Cement Plant Project
SCH#: 2014052057

Dear Andrea Ouse:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on October 19, 2015, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2014052057
Project Title Vallejo Marine Terminal/Ocrem Cement Plant Project
Lead Agency Vallejo, City of

Type EIR Draft EIR
Description The proposed project includes two project components: the Vallejo Marine Terminal and the Orcem Plant. The VMT project component would reestablish industrial uses on the VMT Site through the removal of a deteriorated timber wharf and construction of a modern deep-water terminal, including wharf improvements, laydown area, development of a dike, and trucking and rail connections, primarily servicing the import and export of bulk and break-bulk commodities. The Orcem component would involve construction and operation of an Industrial facility for the production of a high performance, less polluting alternative for traditional portland cement. Orcem would import most of the raw materials used in the proposed plant via ships that would dock at the wharf proposed by VMT.

Lead Agency Contact

Name Andrea Ouse
Agency City of Vallejo
Phone 707 648 4163 **Fax**
email
Address 555 Santa Clara Street
City Vallejo **State** CA **Zip** 94590

Project Location

County Solano
City Vallejo
Region
Lat / Long
Cross Streets Derr/Lemon Streets
Parcel No. 0061-160-220, 230
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 29
Airports
Railways California Northern
Waterways Mare Island Strait / Napa River
Schools Grace Patterson ES
Land Use The site is the former General Mills Industrial Plant; Z: IU (Intensive Use); GPD: Employment

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Boating and Waterways; Department of Fish and Wildlife, Region 3; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; Resources, Recycling and Recovery; California Highway Patrol; Caltrans, District 4; Air Resources Board, Major Industrial Projects; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission

Date Received 09/03/2015 **Start of Review** 09/03/2015 **End of Review** 10/19/2015

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr. Governor

DEPARTMENT OF TRANSPORTATION

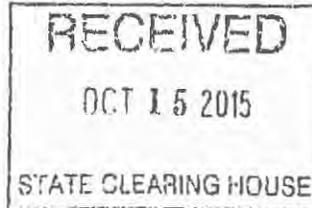
DISTRICT 4
P.O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
FAX (510) 286-5559
TTY 711
www.dot.ca.gov

*clear
10/19/15
E*



*Serious Drought.
Help save water!*

October 15, 2015



SOLVAR018
SCH# 2014052057

Ms. Andrea Ouse
Community and Economic Development Director
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Dear Ms. Ouse:

Vallejo Marine Terminal and Orcem Project – Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. We have reviewed the document and have the following comments to offer.

Project Location

The site of the proposed project occupies a total of 39.1-acres located at 790 and 800 Derr Avenue in the southwestern portion of the City of Vallejo, California, fronting the Mare Island Strait. This combined project site is regionally accessible to vehicular traffic from Interstate (I-) 80 and I-780 via State Route (SR) 29 (Sonoma Boulevard), Curtola Parkway, and Lemon Street, to Derr Avenue. It is also accessible for rail transportation via the California Northern Railroad rail line network that extends along the Vallejo waterfront, as well as for shipping transportation via the adjoining proposed deep-water terminal included as part of the Vallejo Marine Terminal.

The proposed project includes two project components the Vallejo Marine Terminal and Orcem Plant. The Vallejo Marine Terminal would reestablish industrial uses on the Vallejo Marine Terminal site. The Orcem component would involve construction and operation of an industrial facility for the production of Portland Cement.

Traffic Operations

Please address these comments as the proposed project may have impacts to the operations of the State Highway System (SHS).

Ms. Andrea Ouse, City of Vallejo

October 15, 2015

Page 2

- Impact 3.12-4, all improvement measures affecting the operations of the SR 29 / Lemon Street intersection needs to be coordinated with Caltrans.
- The DEIR states that peak periods are 7:00-9:00 A.M. and 4:00-6:00 P.M.; however, according to Caltrans inventory data, the the highest volumes on SR 29 occurs during the hours of 6:00-7:00 AM and 3:00-4:00 P.M, and during these hours, the traffic volume are twice as high as the ones used in the DEIR. Include these earlier times in the traffic analysis and reevaluate and mitigated these impacts if necessary.
- The DEIR states that, "...based on the peak hour volume at the intersection of Lemon Street / Sonoma Boulevard, the daily volumes on Lemon Street are estimated at about 2,700 vehicles per hour..." Caltrans inventory data shows daily volumes of up to 16,871 vehicles on Sonoma Boulevard. These inconsistence need to be addressed and if necessary mitigated.
- The California Environmental Quality Act (CEQA) guidelines also suggest that an impact is significant if the project generates over 100 peak hour trips to a State highway facility. The combined Vallejo Marine Terminal / Orcem project AM Peak Hour trip generation total is 112. Since the SR 29 / Lemon Street intersection is the main access point to the project, the impact to this intersection is significant and should be analyzed and mitigated if necessary and,
- 174 daily truck trips from the Vallejo Marine Terminal and 410 daily truck trips from Orcem plant and with the Orcem plant operating at 24 hours and 7 days a week, there needs to be a traffic analysis of the impacts on I-80 and SR 29 during the non-peak period.

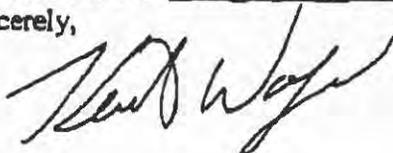
Environmental

- There should be a discussion about the hauling of hazardous materials during the demolition of the original building on the Orcem site which might contain heavy metals, mold, and asbestos and,
- The project will require Bay Area Conservation and Development Commission and California Coastal Commission permitting approval.

Ms. Andrea Ouse, City of Vallejo
October 15, 2015
Page 3

Should you have any questions regarding this letter, please call Keith Wayne at
510-286-5737 or keith_wayne@dot.ca.gov.

Sincerely,



for

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse

From: Sahota, Jagjinder S. [<mailto:JSSahota@SolanoCounty.com>]
Sent: Monday, November 02, 2015 5:19 PM
To: Andrea Ouse <Andrea.Ouse@cityofvallejo.net>
Subject: VMT/ORCEM

Ms. Ouse,

Please find attached the corrected version of Solano County Department of Resource Management's comments on Vallejo Marine Terminal/ORCEM project. This current version has one slight modification in order to correct the administrative/clerical mistake on the last page in cc: section, and replaces the title of Supervisor Erin Hannigan from chair to chairwoman. All other contents are the same. Please replace this current submittal with the previous version submitted at 4:28 P.M. today.

Thank you so much for providing us the opportunity to comment on this project!

Sincerely,
Jag Sahota

From: Geisert, Matthew
Sent: Monday, November 02, 2015 4:28 PM
To: Andrea.Ouse@cityofvallejo.net
Cc: Sahota, Jagjinder S.
Subject: VMT/ORCEM

Ms. Ouse,

Thank you for giving us an opportunity to comment on this project. Attached are our comments regarding the DEIR for the VMT/ORCEM project.

Sincerely,

Matthew Geisert

BILL EMLÉN
Director
(707) 784-6765

TERRY SCHMIDTBAUER
Assistant Director
(707) 784-6765

Jagjinder Sahota
Environmental Health Manager
(707) 784-6765

DEPARTMENT OF RESOURCE MANAGEMENT



**SOLANO
COUNTY**

675 Texas Street, Suite 5500
Fairfield, CA 94533-6342
(707) 784-6765
Fax (707) 784-4805

www.solanocounty.com

Environmental Health Division

November 2, 2015

Andrea Ouse
Community and Economic Development Director
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

andrea.ouse@cityofvallejo.net

RE: Vallejo Marine Terminal VMT/ORCEM Project Draft EIR, 790 and 800 Derr Avenue, Vallejo

Dear Ms. Ouse:

Solano County Department of Resource Management provides the following comments on the Draft Environmental Impact Report (DEIR) for the Vallejo Marine Terminal/Orcem Project.

Based on information provided through the City of Vallejo website, the proposed project consists of two main components: The Vallejo Marine Terminal (VMT) and the Orcem Plant (Orcem). The VMT component will reestablish industrial uses on the VMT site through the removal of the deteriorated timber wharf and construction of a modern deep-water terminal. The project includes construction of wharf improvements and laydown area, development of a dike for barges, and trucking and rail connections, primarily servicing the import and export of bulk and break-bulk commodities. The Orcem component will involve construction and operation of an industrial facility for the production of alternative cement product. Orcem will import most of the raw materials used in the manufacturing process via ships docking at the wharf proposed by VMT.

The 39.1-acre project site is located at 790 and 800 Derr Avenue (at the western end of Lemon Street) in the southwestern portion of Vallejo fronting the Mare Island Strait.

Based on review of the documents, the Department of Resource Management (DRM) has comments and suggested mitigation measures for the following impact statements provided in the DEIR:

AIR QUALITY

The Bay Area Air Quality Management District (BAAQMD) is the lead agency responsible for ensuring air quality conditions are attained and maintained in the San Francisco Bay Area Air Basin (SFBAAB). DRM does have the following concerns with the DEIR:

1. Mitigation measures for health effects suggested using biodiesel fuels on 20 to 100% of the project equipment to reduce the diesel emissions. Based on the risk assessment, this mitigation could reduce the diesel emissions 18%-60%, which reduces the potential cancer risk impact to less than significant. DRM has the following concerns with this mitigation:

A) DRM submits that this mitigation is for the onsite project equipment only. The project did not include mitigation for the added emissions from vehicle, rail, and marine equipment that will be directly impacting the residential areas. It is unclear if the proposed use of biodiesel includes all trucks that support the project including 83 delivery trucks proposed every day. The projected

SAEED IRAVANI
Building Official
Building & Safety

MIKE YANKOVICH
Program Manager
Planning Services

JAGJINDER SAHOTA
Manager
Environmental Health

SUGANTHI KRISHNAN
Senior Staff Analyst
Administrative Services

MATT TUGGLE
Engineering Manager
Public Works
Engineering

CHARLES BOWERS
Operations Manager
Public Works Operations

CHRIS DRAKE
Parks Services
Manager
Parks

reduction in diesel emissions by using modified fuels for the operations equipment may not be sufficient to fully mitigate the increase in potential health risks associated with all cumulative project sources of air emissions, especially the additional pollutants associated with the additional truck, rail, and marine traffic sources.

B) The cancer risk mitigation relies directly on a percentage of equipment utilizing alternative fuels. No verification process is described to ensure compliance with this percentage. The DEIR should provide a monitoring and reporting requirement to ensure that the cancer risk is actually mitigated during operation.

C) There is a significant and unavoidable impact resulting from the project exceeding the BAAQMD threshold for NO_x, impacting attainment for ozone within the air basin. However, the mitigation for the cancer risk uses biodiesel in several options. While being suitable as a cancer risk mitigation due to the by-products from biodiesel having less health effects compared to regular diesel, biodiesel is suspected of creating more NO_x than regular diesel when combusted. These two mitigations seem in conflict with one another and the cancer risk mitigation proposed may actually be increasing non-attainment of ozone. The DEIR states that credits can be obtained to offset project NO_x increases regionally within the SFBAAB. However, this will only result in the regional impact to NO_x not being exceeded while potentially still resulting in a localized increase of NO_x. DRM recommends that an alternative to use of biodiesel as a mitigation for cancer risk be explored, given the project's exceedance of NO_x thresholds, or that the DEIR better describe how these two mitigations are not in conflict with each other to the residents near the project area and in Solano County.

D) The cancer risk is performed using the currently adopted standard by BAAQMD and not the most recent guidance promulgated by Office of Environmental Health Hazard Assessment in March 2015, which has not yet been adopted by BAAQMD. The more conservative standard should be used to evaluate cancer risk in the DEIR to ensure that future operations are mitigated appropriately.

2. Mitigation of fugitive dust during construction relies on implementation of *recommended* Best Management Practices (BMPs) required by BAAQMD of all construction projects and those listed on page 3.2-15 during construction projects. It is unclear though that there is any ongoing monitoring and reporting requirements by the contractor(s) to verify that the BMPs are being correctly and routinely implemented to obtain the desired effect. The DEIR should require and describe implementation of adequate monitoring and reporting by the contractor to verify *recommended* and listed BMPs are being used appropriately to achieve the desired mitigation.

3. Impact 3.2-3 related to adherence to the Clean Air Plan relies on PDF-AQ-4 to mitigate fugitive dust during operations. PDF-AQ-4 is listed as a *project design feature*, but then is stated to be *operational measures to ensure impacts are minimized*. These operational measures rely on watering of materials and locations, sometimes to achieve a listed percentage of effective control. It is unclear for some of these measures what specific design features will actually be put in place for these operational measures to be implemented and their effectiveness to be measured. It appears from the vague description that these are actually operational controls relying on workers in some cases, not design, to ensure watering is occurring and to determine its effectiveness, which can result in the mitigation not being implemented properly. The DEIR needs to better describe the design features for these mitigations, or if relying upon workers to implement, describe the monitoring and verification program to ensure their effectiveness.

4. VMT risk analysis evaluated the diesel particulate and other Toxic Air Contaminants (TAC) emissions that may be generated during construction and project operations, equipment and from ships, trucks, and rail equipment to support the project. As identified in the risk analysis, TAC

concentrations generated from the site and associated operations (ships, rail, and trucks) may impact potentially sensitive receptor locations (residential, schools, daycare/hospitals and senior facilities) around the facility. The risk analysis was conducted using a radius of impact "typically 1,000 feet surrounding the facility" and included residential areas on Lemon Avenue and Sonoma Road. The Risk assessment did not evaluate potential TAC that may extend beyond the radius of impact that may occur due to high prevailing winds, which in this area of Valley can exceed 25 mph nor did the risk assessment evaluate potential air impact to nearby parks and playgrounds. DRM suggests evaluating risks by considering these factors.

5. The impact from odor is listed as less than significant. The response to odors varies with each individual, and odors may affect individuals in a different manner, and response is subjective. Sensitive receptors may have varying degree of odor sensitivity to diesel exhaust. DRM suggests a mitigation measure that an odor response program be established by the contractors to accept and respond to odor complaints and that clear guidelines be established to quantify levels at which odors will be considered a nuisance be provided.

Hazards and Hazardous Materials

6. Proposed mitigation measures for hazardous materials are the requirements for enclosed containment, proper disposal of hazardous wastes, and the preparation of a Hazardous Materials Management Plan. DRM concurs with preparation of a Hazardous Materials Management Plan, also referred to as a Hazardous Materials Business Plan. The contractor must electronically complete the Hazardous Materials Business Plan that consists of a hazardous materials inventory, site diagram, emergency response plan, and employee training plan in the California Environmental Reporting System (CERS) as required by the state law, and pay applicable fees to cover cost of review and inspections during construction.

7. If the contractor intends to store an aggregate quantity of 1320 gallons or greater of petroleum products and other oils, then the contractor or contractors must complete a Spill Prevention Countermeasure Plan as required by federal law and regulations.

8. Residual contamination associated with the former General Mills operations is present in subsurface soils and groundwater on the site. Elevated concentrations of petroleum hydrocarbons, non-aqueous phase product (NAPL), poly aromatic hydrocarbons (PAHs), and heavy metals that exceed criteria for unrestricted site usage remain in the subsurface located on the western portion of the site. Appendix I-11 in the DEIR references the Revised Site Management Plan (SMP) dated June 13, 2014, which is not the correct SMP. The recorded deed restriction document includes the correct SMP, which includes *A Covenant and Environmental Restriction and Revised Site Management Plan* dated November 6, 2015; together referred to as the deed restriction. This deed restriction was recorded on 9/30/2015 for 1.8 acre portion of parcel 0061-160-230 (Solano County Document # 201500089408). The deed restriction specifies required actions and restrictions on use in the designated area where residual contamination resides. The deed restricted area is considered to have minimal risk to human health and the environment as long as the provisions identified in the deed restriction and site management plan are maintained. The proposed project includes development and use of the area in, and adjacent to, the deed restricted portion of the property.

DRM has concerns that proposed project may cause releases and/or discharges of residual contaminants and pose potential risks to workers and the environment. The project proposes mitigation measures during the wharf demolition and construction; however, ongoing use in the area following construction may result in destabilizing the contamination and posing ongoing risks and impacts. DRM recommends that mitigation measures include corrective action of releases, and long-term monitoring and reporting as part of NPDES Program and emergency response/ spill prevention plans to ensure that the corrective actions taken are adequate to mitigate potential releases.

The proper document and precautions/controls needs to be referenced in the DEIR.

9. Impacts 3.7-6 and 3.7-7 that describe VMT and Orcem operations include transportation of materials by rail, ship and trucks as well as industrial processes that can cause the release of hazardous materials in the event of an accident is listed as less than significant after mitigation measure MM-3.7-4 is implemented. DRM disagrees that MM-3.7-4 is sufficient to mitigate the impact. DRM concurs that emergency response planning would assist in mitigating any release. However, VMT and Orcem do not have control over transportation operations. DRM recommends adding a requirement that VMT and Orcem personnel assist the Environmental Health Services Division, as the Certified Unified Program Agency (CUPA), in revising the Solano County Hazardous Materials Area Plan to address the response during the marine, truck and rail traffic transportation of materials to or from the project location be added to MM-3.7-4.

Hydrology and Water Quality

10. Mitigation for Impact 3.8-1 describing the construction of the VMT component of the project would result in significant impact due to potential impacts on marine water quality from material dredging.

Materials proposed for reuse that originate from the site must be assessed and tested to ensure that the materials do not contain residual contamination (creosote, heavy metals, asbestos, PAHs and other constituents) that may pose potential risks to onsite workers and the environment. Approval of reuse of any material may be required from Solano County and/or Regional Water Quality Control Board.

Land Use Planning

11. The property to be annexed has a City of Vallejo General Plan designation of "Open Space-Community Park" and is not pre-zoned. This change in land use will significantly increase noise, particularly during the night and early morning, and air quality will deteriorate. Operations should be scaled down during the night and early morning hours to reduce the impacts on adjacent residential uses.

Transportation and Traffic

Solano County has concerns regarding the traffic impacts to residents in the unincorporated area of Carlson Street as a result of the Vallejo Marine Terminal and Orcem Project.

12. The combined projects will add substantial truck traffic to Lemon Street affecting the traffic flow, wait times, and safety of Solano County drivers, bicyclists, and pedestrians entering and exiting Carlson Street. A traffic signal is scheduled to be installed at this intersection in 2015 as part of the Curtola Park and Ride Hub improvement project currently under construction. The DEIR for the combined projects does not discuss the nature of the new signal which will experience significantly increased use due to the cumulative impacts of the Curtola Park and Ride Hub project and the Vallejo Marine Terminal and Orcem Project. Although Existing and Combined Level of Service (LOS) analysis specifies that Lemon Street/Carlson Street will have a LOS grade A following project completion, this does not look at the increase in wait times cumulatively due to the Curtola Park and Ride Hub project. DRM requests that an analysis on the cumulative impacts of the Curtola Park and Ride Hub project, the new signalized intersection of Lemon Street and Carlson Street, and the Vallejo Marine Terminal and Orcem Project specifically for County-operated roads and how they might affect the wait times for those entering and exiting County-owned and operated roadways, be provided.

13. Impact 3.12-6 describes the project's added auto and truck trips on Lemon Street that will make local vehicle, pedestrian, and bicycle movements unsafe or less convenient. As mitigation the projects applicants propose to work with the City of Vallejo to identify, design, and construct improvements on

Lemon Street between the project site and Curtola Parkway. These improvements include providing continuous 4-foot minimum width sidewalks, installation of high-visibility crosswalks with curb extensions at high-pedestrian use intersections, and lowering the speed limit to 25 mph with the support of an engineering and traffic study. Since Impact 3.12-6 will also affect the vehicle, pedestrian, and bicycle users of Solano County, the mitigation must also include notice, input, and approval to Solano County, as a stakeholder, on the improvements plan.

DRM requests that the DEIR address and incorporate the comments provided in this correspondence.

For questions you may contact Misty Kaltreider, Geologist, Matthew Geisert, Hazardous Materials Supervisor, Michael Yankovich Planning Division Manager, or Matthew Tuggle, Engineering Division Manager at (707) 784-6765.

Sincerely,



Bill Emlen,

Director, Solano County Department of Resource Management

cc: Erin Hannigan, Chairwoman, Board of Supervisors
John Vasquez, Vice Chair, Board of Supervisors
Linda Seifert, Member, Board of Supervisors
James Spering, Member, Board of Supervisors
Skip Thomson, Member, Board of Supervisors
Birgitta, Corsello, County Administrator