

***FINAL***  
***ENVIRONMENTAL IMPACT REPORT***

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***DUTRA HAYSTACK LANDING***  
***ASPHALT & RECYCLING FACILITY***

*Lead Agency*  
County of Sonoma  
Permit & Resource Management Department  
2550 Ventura Avenue  
Santa Rosa, CA 95403

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SCH No. 2006022107  
July 2008

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## I. INTRODUCTION

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In accordance with Sections 15088, 15089, and 15132 of the California Environmental Quality Act (CEQA) Guidelines, the County of Sonoma (the “County”) has prepared this Final Environmental Impact Report (FEIR) for the Dutra Haystack Landing Asphalt and Recycling Facility project. This FEIR includes the following chapters: 1) Introduction; 2) Responses to Comments; 3) Corrections and Additions to the Draft EIR; and 4) Mitigation Monitoring Program. Comment letters on the Draft Environmental Impact Report (DEIR) are provided in Appendix A.

### A. LOCATION

The Dutra Haystack Landing Asphalt and Recycling Facility project site is located in southwestern unincorporated Sonoma County, directly south of Petaluma, along the Petaluma River (River). Regional access is provided by California State Highway 101 and by Petaluma Boulevard South, both adjacent to the project site.

### B. SUMMARY OF THE PROPOSED PROJECT

The 38-acre project site is undeveloped and is characterized by relatively flat topography, except for a hill at the north end of the site. The proposed project consists of the construction and operation of a counterflow drum mix asphalt plant and recycling facility. In addition to the asphalt plant, the project would construct new dock facilities on the Petaluma River; an overhead conveyor system; stockpiles of aggregates, sand and recycled asphalt and concrete materials; an asphalt mixing and loading facility; and associated offices, truck scales and support facilities. Additional improvements would include new parking areas, landscaping along Highway 101, stormwater swales, security gates, and new driveway access. The applicant proposes an on-site septic system for wastewater, and the provision of potable water from North Marin Water District. Additionally, the applicant proposes pumping water from the Petaluma River for dust suppression. The project also includes construction and operation of a fire station facility for vehicle storage and training for the San Antonio Volunteer Fire Department. Refer to the Project Description of the Draft Environmental Impact Report (DEIR), Section III.E. (Discretionary Actions and Other Agency Approvals), for all discretionary approvals and applications required for the proposed project.

### C. ENVIRONMENTAL REVIEW PROCESS

Pursuant to CEQA Guidelines Section 15063, the County prepared an Initial Study that concluded that the proposed project could result in potentially significant environmental impacts and an EIR would be required. The County circulated a Notice of Preparation (NOP) of a DEIR for the proposed project to the State Clearinghouse and interested agencies and persons on February 17, 2006 for a 30-day review period and conducted a scoping meeting on February 27, 2006. Comments received on the NOP and comments received at the public scoping meeting were both considered in the preparation of the DEIR.

The DEIR was made available to various public agencies, citizen groups, and interested individuals for a 45-day public review period from January 14, 2008 through February 27, 2008. The County of Sonoma

Permit and Resource Management Department (PRMD) conducted a public Planning Commission hearing to accept written and verbal comments on the DEIR on February 7, 2008. At the February 7, 2008 public hearing the Planning Commission extended the DEIR public review period to March 4, 2008 and also continued the public hearing to March 6, 2008.

The DEIR was circulated to state agencies for review through the State Clearinghouse of the Governor's Office of Planning and Research. Copies of a Notice of Completion (NOC) of the DEIR were also sent to citizens surrounding the project site, interested groups and agencies. In addition, on January 13, 2008 the *Press Democrat* included a notice regarding the availability of the DEIR. Copies of the DEIR were available for review at the Sonoma County Permit and Resource Management Department (PRMD) public counter, at the Petaluma Regional Library, and online at the PRMD website, <http://www.sonoma-county.org/prmd/docs/eir/index.htm>.

The purpose of the review period is to provide interested public agencies, groups and individuals the opportunity to comment on the adequacy of the DEIR and to submit testimony on the possible environmental effects of the proposed project.

This document, together with the DEIR, makes up the FEIR as defined in the CEQA Guidelines Section 15132 as follows:

*The Final EIR shall consist of:*

- (a) The Draft EIR or a revision of the draft.*
- (b) Comments and recommendations received on the Draft EIR either verbatim or in summary.*
- (c) A list of persons, organizations, and public agencies commenting on the Draft EIR.*
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.*
- (e) Any other information added by the Lead Agency.*

As Lead Agency under CEQA, the County must provide each public agency that commented on the DEIR with a copy of its responses to comments at least 10 days before certifying the FEIR. In addition, the Lead Agency may also provide an opportunity for members of the public to review the FEIR before certification, although this is not a requirement of CEQA.

## **D. USE OF THIS DOCUMENT**

The FEIR allows the public and Lead Agency to review revisions to the DEIR, comments, and responses to comments before consideration of project approval. This FEIR (which includes the DEIR, incorporated by reference) will serve as the environmental document used by the County when considering approval of the project. After completing the FEIR and before approving the project, the Lead Agency must make the following three certifications (CEQA Guidelines Section 15090).

- The FEIR has been completed in compliance with CEQA.
- The FEIR was presented to the decision-making body of the Lead Agency, and the decision-making body reviewed and considered the information in the FEIR prior to approving the project.
- The FEIR reflects the Lead Agency's independent judgment and analysis.

In addition, if an EIR that has been certified for a project identifies one or more significant environmental impacts, the Lead Agency must adopt findings of fact (CEQA Guidelines Section 15091[a]). For each significant impact, the Lead Agency must make one of the following findings.

- Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR.

Each finding must be accompanied by a brief explanation of the rationale for the finding. In addition, the Lead Agency must adopt, in conjunction with the findings, a program for reporting or monitoring the changes that it has either required in the project or made a condition of approval to avoid or substantially lessen impacts (CEQA Guidelines Section 15091[d]). These measures must be fully enforceable through permit conditions, agreements, or other measures. This program is referred to as the Mitigation Monitoring Program (MMP) and is provided in Section IV of this FEIR.

In addition, when a Lead Agency approves a project that would result in significant and unavoidable impacts that are disclosed in the FEIR, the agency must state in writing its reasons for supporting the approved action (CEQA Guidelines Section 15093[b]). This statement of overriding considerations must be supported by substantial information in the record, including the FEIR. Because the proposed project would result in significant and unavoidable impacts related to aesthetics, air quality, land use, traffic and noise, the County would be required to adopt a statement of overriding considerations if it approves the project. The statement of overriding considerations is not a substitute for the findings of fact described above.

These certifications, the findings of fact, and the statement of overriding considerations are included in a separate findings document prepared by the County. The DEIR (incorporated by reference) and FEIR are submitted to the Lead Agency for consideration of the proposed project.

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## II. RESPONSE TO COMMENTS

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### A. OVERVIEW

The purpose of the public review of the Draft Environmental Impact Report (Draft EIR) is to evaluate the adequacy of the environmental analysis in terms of compliance with the California Environmental Quality Act (CEQA). Section 15151 of the *CEQA Guidelines* states the following regarding standards from which adequacy is judged:

*An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among experts. The courts have not looked for perfection but for adequacy, completeness, and a good faith effort at full disclosure.*

The purpose of each response to a comment on the DEIR is to address the significant environmental issue(s) raised by each comment. This typically requires clarification of points contained in the DEIR. Section 15088 (b) of the *CEQA Guidelines* describes the evaluation that CEQA requires in the response to comments by stating:

*The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.*

Section 15204(a) (Focus of Review) of the *CEQA Guidelines* helps the public and public agencies to focus their review of environmental documents and their comments to lead agencies. Case law has held that the Lead Agency is not obligated to undertake every suggestion given them, provided that the agency responds to significant environmental issues and makes a good faith effort at disclosure. Section 15204.5(a) of the *CEQA Guidelines* clarifies this for reviewers by stating:

*In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as*

*the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a Lead Agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.*

This guideline encourages reviewers to examine the sufficiency of the environmental document, particularly in regard to significant effects, and to suggest specific mitigation measures and project alternatives. Given that an effect is not considered significant in the absence of substantial evidence, subsection (c) advises reviewers that comments should be accompanied by factual support. Section 15204(c) of the *CEQA Guidelines* states:

*Reviewers should explain the basis for their comments, and, should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.*

## **B. LIST OF THOSE WHO COMMENTED ON THE DRAFT EIR**

The County of Sonoma received a total of 26 comment letters on the DEIR. In addition to the 26 comment letters, the County of Sonoma Permit and Resource Management Department (PRMD) conducted two public Planning Commission hearings to accept written and verbal comments on the DEIR on February 7, 2008 and March 6, 2008. Each comment letter has been assigned a corresponding number, and comments within each comment letter are also numbered. For example, comment letter “A1” is from the State of California Public Utilities Commission. The comments subsequently follow the following format, “A1-1, A1-2, A2-1, etc.” in this Final Environmental Impact Report (FEIR).

Written comments made during and after the public review of the DEIR intermixed points and opinions relevant to the project’s merits with points and opinions relevant to the potentially significant environmental effects of the project. The responses acknowledge comments addressing points and opinions relevant to the project’s merits, and discuss as necessary the points relevant to the environmental review required by CEQA. The response “comment noted” is often used in cases where a comment does not raise a significant environmental issue. In addition, the response “comment acknowledged” is generally used in cases where the commenter is correct.

Table 1 lists the organizations and persons who provided written and/or verbal comments on the DEIR to the County during and after the 45-day public review period.

**Table 1**  
**List of Commenters on the DEIR**

| <b>Correspondence Alpha</b>                             | <b>Date of Correspondence</b> | <b>Commenter</b>   |
|---|-------------------------------|--|
| <b>Public Agencies and Governments</b>                  |                               |  |
| A1  | January 25, 2008              | Public Utilities Commission (PUC), Kevin Boles   |
| A2  | February 7, 2008              | North Marin Water District (NMWD), Drew McIntyre   |
| A3  | February 22, 2008             | San Francisco Bay Conservation and Development Commission (BCDC), Erin Bomkamp   |
| A4  | March 3, 2008                 | Sonoma County Transportation Authority (SCTA), Suzanne Smith   |
| A5  | March 3, 2008                 | Sonoma-Marín Area Rail Transit (SMART), Lillian Hames  |
| A6  | March 4, 2008                 | State of California Department of Transportation (DOT), Lisa Carboni   |
| A7  | March 4, 2008                 | State of California Governor's Office of Planning and Research, Terry Roberts  |
| A8  | March 6, 2008                 | State of California Department of Conservation, Division of Land Resource Protection, Williamson Act Program, Jacquelyn Ramsey |
| <b>Private Organizations, Companies and Individuals</b> |                               |  |
| B1  | February 1, 2008              | Petaluma Wetlands Alliance, Gerald L. Moore Ph.D.  |
| B2  | February 6, 2008              | Susan Kirks  |
| B3  | February 11, 2008             | Robert Kertzner, M.D.  |
| B4  | February 21, 2008             | Mike Gold  |
| B5  | February 21, 2008             | Sharon Whisman   |
| B6  | February 24, 2008             | Audubon Canyon Ranch, Director John P. Kelly Ph.D.   |
| B7  | February 26, 2008             | Sean Buckley   |
| B8  | February 27, 2008             | Peter Barth  |
| B9  | February 27, 2008             | Bruce Blinn  |
| B10   | February 27, 2008             | Norris R. Dyer   |
| B11   | March 1, 2008                 | Dixie Lee Nitis  |
| B12   | March 2, 2008                 | Patrick Schafer  |
| B13   | March 3, 2008                 | Petaluma River Council, David Keller   |
| B14   | March 4, 2008                 | San Antonio Valley Fire Department, Brian Perry  |
| B15   | March 4, 2008                 | Shamrock Materials, David L. Ripple  |
| B16   | March 4, 2008                 | Nicholas R. Tibbetts & Associates, Nick Tibbetts   |
| B17   | March 5, 2008                 | PVP Media, Margaret Pick   |
| B18   | March 4, 2008                 | CSW/Stuber-Stroeh Engineering Group, Inc., Al Cornwell   |
| <b>Planning Commission Minutes</b>                      |                               |  |
| C1  | February 7, 2008              | Various Commenters   |
| C2  | March 6, 2008                 | Various Commenters   |

**Response to Comment Letter A1**  
**Public Utilities Commission, Kevin Boles**

***Comment A1-1***

As the state agency responsible for rail safety within California, we recommend that any development projects planned adjacent to the rail corridor in the County be planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way.

Of specific concern is the impact from increased traffic on the existing private crossing that provides access to the site. The adequacy of the warning devices need to be assessed for the usage proposed. Continuous vandal resistant fencing or other appropriate barriers should be installed to deter trespassing over the rail corridor.

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the County.

***Response to Comment A1-1***

The project as proposed would not substantially increase use of the existing crossing of the rail right-of-way by any mode of transportation. Although maintenance crews would occasionally need to cross the rail road tracks, the traffic would be very infrequent and can be planned around the scheduled use of the right-of-way by SMART trains. The project would not alter the design or configuration of the existing crossing and would not alter or increase pedestrian traffic across the rail right-of-way.

Please refer to Mitigation Measure TRANS-13a on page V.J-42 of the DEIR which requires the applicant to obtain the necessary entitlement from SMART to allow for both a rail crossing and the conveyor system of the proposed project to cross the railroad tracks. This mitigation measure also requires the applicant to make an irrevocable offer to the County of Sonoma for a 50-foot access and utility easement parallel to the SMART railroad tracks for the purposes of ingress, egress and public utilities. This would preserve options for a future roadway through Landing Way to allow access to Area A of the site and neighboring residential properties along the Petaluma River if the existing railroad crossing is closed. Also, Mitigation Measure TRANS-13b requires the applicant to provide neighboring residents an all-weather vehicular access route to Petaluma Boulevard South, and that such access be designed, operated, maintained and recorded to the satisfaction of SMART, DTPW, PRMD and the County Fire Marshal prior to building permit issuance.

***Comment A1-2***

If you have any questions in this matter, please call me at (415) 703-2795.

***Response to Comment A1-2***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter A2**  
**North Marin Water District, Drew McIntyre**

***Comment A2-1***

1. Chapter IV, Summary of the Initial Study, Page IV-5

**Hydrology & Water Quality, 8.b.** NMWD is written out as “North Marin Municipal Water District.” Please revise to the correct name “North Marin Water District.”

***Response to Comment A2-1***

This comment notes that the North Marin Water District was called by the incorrect name. In response to this comment, the last two sentences of the first bullet on page IV-5 (Summary of the Initial Study) of the DEIR has been revised as follows:

“Potable water needs for project employees and fire department personnel would be served by an existing water connection from the North Marin ~~Municipal~~ Water District pipeline that runs along the westerly side of the property. A large portion of the project site would remain unpaved to facilitate groundwater recharge.”

***Comment A2-2***

2. Chapter V.H, Land Use, Page V.H-26

**Adequate Water Supply.** The single family homes on Assessor Parcel Numbers (APNs) 019-320-010 and 019-320-021 shall each be defined as an equivalent single family dwelling unit pursuant to NMWD Regulation 1, from time to time in effect, estimated to use 636 gpd each (average day peak month), not 417 gpd as stated in the Marin Countywide Plan. Please revise paragraph 3.

***Response to Comment A2-2***

This comment notes that the gallons per day generation rate used for the single-family homes on APN 019-320-010 and 019-320-021 is incorrect. In response to this comment, the third paragraph on page V.H-26 (Land Use) of the DEIR has been revised as follows:

“The project site’s water has been used by residences to the east of the railroad tracks, although it appears that this is not a legal use, as sub-metering is not allowed. The existing meter serves APN 019-320-022, which legally belongs to the applicant. The applicant’s allotment is sufficient to provide for additional residential uses, which are estimated at 417 636 gpd each,<sup>46</sup> (pursuant to the generation rate for Equivalent Single Family Dwelling Unit in NMWD’s Regulation 1) bringing the total potable water needed for the area to ~~2,675~~ 4,080 gpd at peak use.”

**Comment A2-3**

**3. Chapter VI, General impact Categories, Page VI-2**

**Growth inducing impacts of the Proposed Project.** While no expansion of existing water facilities would be required for potable water service, a new 8” water main would need to be constructed to provide fire protection service required by the Sonoma County Fire Department. The water main extension from Landing Way would be approximately 2,000 feet long and run south along Petaluma Blvd South. Please add this discussion to paragraph 7 of this section.

**Response to Comment A2-3**

This comment notes the need for a new 8” water main for fire protection services. The proposed project would include facilities for the San Antonio Volunteer Fire Department for training, maintenance, and equipment storage. In response to this comment, the fourth paragraph on page VI-2 (General Impact Categories) of the DEIR has been revised as follows:

“...As such, the project would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. Sufficient water supplies are available to serve the project from existing entitlements and resources. The project would, however, necessitate the need for a new 8-inch water main for fire protection service as required by Sonoma County. The new water main would extend approximately 2,000 feet from Landing Way and would run south along Petaluma Boulevard South. The proposed project involves the creation of a new septic system that would only serve the project. The project would be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs. The project would comply with federal, state, and local statutes and regulations related to solid waste.”

**Response to Comment Letter A3****San Francisco Bay Conservation and Development Commission, Erin Bomkamp*****Comment A3-1***

Thank you for requesting the Commission's comments on the draft Environmental Impact Report (EIR) for the Dutra Haystack Landing Asphalt Plant and Recycling Facility and received in our office on January 18, 2008. The San Francisco Bay Conservation and Development Commission ("BCDC" or "Commission") is a responsible agency for this project, a portion of which must be authorized by a Commission permit. Although the Commission itself has not reviewed the draft EIR, the Commission's staff has reviewed the draft EIR and is submitting its comments regarding the project. The staff comments are based on the McAteer-Petris Act, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally-approved management program for the San Francisco Bay, and the federal Coastal Zone Management Act (CZMA). The Commission will rely partly on the EIR prepared by the lead agency when it considers the project.

***Response to Comment A3-1***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment A3-2***

Commission permits are required for construction, changes of use, dredging, and dredged material disposal within its area of jurisdiction. Permits are issued if the Commission finds the activities to be consistent with the McAteer-Petris Act and the findings and policies of the *San Francisco Bay Plan*. In addition to any needed permits under its state authority, federal actions, permits and grants that affect the Commission's jurisdiction are subject to review by the Commission, pursuant to the federal Coastal Zone Management Act (CZMA), for their consistency with the Commission's federally-approved management program for the Bay. It appears that some of the proposed project would occur within the Commission's jurisdiction and would require Commission authorization.

***Response to Comment A3-2***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment A3-3***

On April 19, 2006, Andrea Gaut of the Commission's staff transmitted a letter to you in response to the Notice of Preparation for the EIR. The letter outlined the most relevant policy concerns for the project. We feel that a number of the concerns were not adequately addressed by the draft EIR, as discussed below.



***Response to Comment A3-3***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required. However, the comments that follow do concern the adequacy of the document, and responses are provided below.

***Comment A3-4***

**Jurisdiction and Proposed Project**

The Commission's jurisdiction includes all tidal areas of the Bay up to the line of mean high water and the inland edge of marsh vegetation (up to five feet above mean sea level) in marshlands, all areas formerly subject to tidal action that have been filled since September 17, 1965, the "shoreline band," which extends 100 feet inland from and parallel to the Bay shoreline, and "certain waterways" as specified in Section 66610 of the McAteer-Petris Act up to the mean high water or the edge of marsh vegetation (up to five feet above mean sea level) in marshlands. The Commission has no shoreline band jurisdiction on certain waterways.

At the proposed project site, the Commission has certain waterways jurisdiction over the Petaluma River in Area A to the edge of marsh vegetation up to five feet of mean sea level, including the tidal inlet and marsh vegetation in the vicinity of the conveyor belt and dock. The portion of the proposed project that would be constructed within the Commission's jurisdiction would include a pier supported by approximately 15 piles, four groups of dolphins adjacent to the pier to facilitate barge unloading, a hopper and drawbridge-style enclosed conveyor, and water intake structures and associated pipelines.

***Response to Comment A3-4***

This comment accurately states the project features that would be developed in Area A. Page III-72 (Project Description) of the DEIR (Discretionary Actions and Other Agency Approvals) acknowledges that approval from BCDC is required.

***Comment A3-5***

**Bay Plan Policies on Fill**

As previously stated in our April 19, 2006 letter, the Commission may only authorize Bay fill for any use when that fill is consistent with the McAteer-Petris Act and the Bay Plan. The placement of fill in the Bay, or in this case, the Commission's certain waterway jurisdiction, may be authorized when it meets the fill requirements identified in Section 66605 of the McAteer-Petris Act, which states in part, that: (1) the public benefits of fill must exceed the public detriment from the loss of water areas and should be limited to water oriented uses (such as ports, water-related industry, etc.); (2) no alternative upland location is available; (3) the proposed fill is the minimum necessary to achieve the purpose of the fill; (4) the nature, location, and extent of the fill must minimize harmful effects to the Bay Area; (5) the fill would be constructed in accordance with sound safety standards; and (6) the fill should establish a permanent shoreline. The Bay

Plan states that, among other things, fill may be approved for ports, water-related recreation, and public access.

Although the project appears to be generally consistent with the Commission's laws and policies, the EIR does not include an analysis of how proposed fill in the Commission's jurisdiction is the minimum size necessary. Additionally, we are especially concerned that the nature, location, and extent of the fill would not minimize harmful effects to the Bay. The conveyor would carry material over tidal marsh on the edge of the river, and is sited partially over a vegetated tidal inlet. Although the project description states that the conveyor would be enclosed, Impact BIO-2 seems to contradict the project description, as it identifies the potential for conveyor operation to result in side-casting of gravel that could accumulate below the structure and eventually fill the marsh and open water habitat. However, if the conveyor is enclosed as described by the project description, then it is unclear how side-casting would occur. Any side casting into river and marsh vegetation within BCDC's jurisdiction would be considered unauthorized fill. Revisions to the draft EIR should include clarification of whether or not the conveyor will side cast material. If so, we suggest relocating the conveyor away from the tidal inlet, as outlined by Alternative C to the proposed project, thereby minimizing side casting into marsh habitat.

#### ***Response to Comment A3-5***

Please refer to Table V.H-4 of the DEIR for an analysis of BCDC's Bay Area Plan Policies relative to the proposed project. The project proposes to use barges and a fixed pier along the riverfront of Area A to substantially reduce truck trips associated with the transport of aggregate materials. The proposed pier structure would require less fill than if an alternative type of structure were constructed, such as the bulkhead at the Shamrock Materials site, and engineering for the proposed structure would ensure the least amount of fill would be used. In addition, the proposed project would comply with the BCDC permitting requirements. Based on the comment, the following mitigation measure has been added to the end of Mitigation Measure BIO-3a on page V.C-33 of the DEIR:

“7) Installation of the barge off-loading facility shall minimize the use of fill to the maximum extent feasible.”

Page III-38 (Project Description) of the DEIR discusses the conveyor system. As outlined, the closed portion of the conveyor system would be between Area B of the project site and the pier. The approximately 40-foot portion of the conveyor system between the pier and a barge could not be enclosed, because it would consist of a draw-bridge style unloader. Thus, the analysis in Section V.B (Biological Resources) section of the DEIR is accurate. However, Mitigation Measure BIO-3b requires the installation of a containment system to catch and collect any side-cast gravel between the pier and barge. With implementation of this Mitigation Measure, no side-casting of gravel would occur. An analysis of a modified site plan that includes realigning the conveyor away from the tidal inlet is discussed in Section VII (Alternatives) of the DEIR.

**Comment A3-6**

The proposed project would also involve installing an intake structure and pipeline to obtain water from the Petaluma River to use for dust suppression. However, the proposed intake and pipeline were not defined or mapped by the draft EIR, and therefore could not be fully analyzed for consistency with the Commission's laws and policies on fill. As stated in the draft EIR, such an intake structure would have the potential for significant impacts, including increased suspension of sediments due to bank erosion or scouring of a depression in the river bottom. Authorization of an intake structure and pipeline within the Commission's jurisdiction would be subject to the policies discussed above.

**Response to Comment A3-6**

The commenter is correct, beyond what is discussed on page III-58 (Project Description) of the DEIR, there is no graphic illustrating the proposed water intake and pipeline. However, the impacts associated with water pumping are analyzed in Section V.B (Biological Resources), Section V.G (Hydrology and Water Quality), and consistency with BCDC policies are discussed in Section V.H (Land Use). In addition, the proposed project would comply with the BCDC permitting requirements.

**Comment A3-7****Bay Plan Policies on Tidal Marshes and Tidal Flats and Bay Plan Policies on Fish and Wildlife**

The *San Francisco Bay Plan* policies on tidal marshes and tidal flats state in part that, “[a]ny proposed fill, diking, or dredging project should be thoroughly evaluated to determine the effect of the project on tidal marshes and tidal flats, and designed to minimize, and if feasible, avoid any harmful effects.”

As stated in our April 19, 2006 letter, the *San Francisco Bay Plan* policies on fish and wildlife state, in part, that “[s]pecific habitats that are needed to prevent the extinction of species, or to maintain or increase any species that would provide substantial public benefits, should be protected....” We feel that the project has the potential for significant impacts to tidal marshes and tidal flats and impacts to associated fish and wildlife that are not adequately analyzed by the draft EIR.

The draft EIR states that the proposed project is not expected to have any adverse impacts on any nearby marsh areas, including marsh habitat associated with Shollenberger Park and Adobe Creek, located approximately 800 feet upstream of the proposed facility. The draft EIR states that the project would not affect this marshland because it is already affected by nearby industrial development, including Shamrock Material. However, the draft EIR should have included an analysis regarding the potential impacts associated with the proposed project rather than simply stating that the nearby marshlands are already impacted. Additionally, the draft EIR did not analyze potential impacts to the Petaluma Marsh Wildlife Area, which is located downstream of the proposed project. As discussed above, the draft EIR identified multiple scenarios, including conveyor side-casting and channel scour/erosion that could result in increased sediment loads. The revised EIR should also analyze potential sedimentation impacts to downstream marshland.

***Response to Comment A3-7***

The commenter makes several points regarding potential effects on habitat quality in nearby marsh areas from project impacts. The second to the last sentence of the comment inquires as to conveyor side-casting, channel scour and erosional impacts.

The DEIR contains a detailed analysis of the potential impacts of the project on biological and wetland resources in the Biological Resources section. This includes information on special-status species, sensitive natural communities, jurisdictional wetlands, wildlife habitat, and conformance with local plans and policies. This analysis acknowledges the sensitive habitats along the Petaluma River corridor and nearby open space lands such as the Petaluma Marsh Wildlife Area, and concludes that the proposed project could have potentially significant impacts on special-status species, sensitive natural communities, and jurisdictional wetlands under Impact BIO-1, Impact BIO-2, and Impact BIO-3, respectively. The DEIR concludes that the project could have significant impacts on wildlife habitat, movement opportunities, and nursery sites under Impact BIO-4. As stated on page V.C-36 in the DEIR, the proposed improvements and project operations could significantly disturb the egret/heron colony on the site and the habitat values along this segment of the Petaluma River, particularly the night-time operations during the nesting and breeding season of terrestrial and aquatic-dependent wildlife. As discussed on page V.C-28 of the DEIR, potential erosion and degradation of the wetland and riparian habitat may result from increased urban runoff volumes, sedimentation during construction, and degraded water quality associated with proposed development.

Further detailed discussion is provided in Section V.G (Hydrology and Water Quality), including measures to prevent sedimentation of the River and associated marshland habitat. Mitigation Measure BIO-3b was recommended to ensure that a containment system is installed to catch and collect any side-cast gravels from the conveyor between the pier and transition support near the high tide line of the Petaluma River, to prevent inadvertent fills of the River.

In addition, as described in the Project Description (page III-38) of the DEIR, the belt conveyance systems are proposed to be enclosed. Channel scour and River bank erosional impacts from the presence of barges and tow boats, as well as in-stream facilities such as piers and landings are discussed and analyzed in the Impact HYDRO-1 subsection (page V.G-13) of the Hydrology and Water Quality section of the DEIR.

***Comment A3-8***

**Other Issues**

Although not in our jurisdiction, we are concerned about potential impacts to the heron and egret rookery resulting from construction and operation of the facility, and encourage all efforts to minimize such impacts.

***Response to Comment A3-8***

Please refer to response B2-4.

***Comment A3-9***

Thank you for your consideration of these issues. Please contact me at (415) 352-3619 or erinb@bcdcc.ca.gov if you have any questions.

***Response to Comment A3-9***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter A4**

**Sonoma County Transportation Authority, Suzanne Smith**

***Comment A4-1***

Sonoma County Transportation Authority's (SCTA) comments are limited to the proposed Dutra Haystack Landing (Dutra) project's impacts to Hwy 101 and the proposed Petaluma Boulevard South (PBS) Interchange (I/C) that is part of the Marin Sonoma Narrows (MSN) project along the Hwy 101 corridor.

***Response to Comment A4-1***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment A4-2***

The schedule for the design and construction phases for the PBS I/C project have been established.

- The Draft EIR/EIS for the MSN HOV Widening Project was issued in October 2007.
- The Final EIR/EIS document is expected to be completed in July 2008.
- The design phase of the PBS I/C project is expected to start in March 2008.
- Right of Way acquisitions are expected to start in July 2008, following the clearance of the environmental phase of the project.
- Construction is anticipated to start in February 2011. The project is fully funded through construction.

***Response to Comment A4-2***

The timing of the construction of the interchange, 2011, is noted. Because the funding for the new interchange was not identified at the time of the NOP it was not included in the DEIR's traffic cumulative project analysis.

***Comment A4-3***

Significant preliminary engineering design work has been performed in order to identify potential impacts associated with the MSN project. Of particular concern to SCTA is the location of the new PBS I/C as it relates to and impacts the proposed Dutra project. With this in mind, comments to the proposed Dutra DEIR mitigations are as follows:

***Response to Comment A4-3***

Comment noted.

**Comment A4-4****TRANS - 3 Mitigation Measure**

Consideration should be given to including Caltrans' Guideline For The Preparation Of Traffic Impact Studies, Appendix "B", Methodology For Calculating Equitable Mitigation Measures as the method for determining the "fair share" contribution towards the PBS I/C project.

**Response to Comment A4-4**

Comment acknowledged. Caltrans' guidelines provide that the methodology is only "a starting point for discussions to address traffic mitigation equitably," and that the determination of fair share must be the subject of discussions. (Appendix B, P. 2.) The Caltrans methodology will be used, along with the County's own methodology, in those discussions toward the final fair share figure.

**Comment A4-5****TRANS - 4 Mitigation Measure**

Figure V.J-8 shows roadway improvements (deceleration lane, acceleration lane, re-grading/reconstruction/overlay, etc.) along Petaluma Boulevard South (PBS) between the northbound Hwy 101 off-ramp and the northbound Hwy 101 on-ramp and signalization of PBS at the proposed driveway. These improvements are either part of the proposed mitigation measures or have been proposed by Dutra to gain access to PBS. The locations of the proposed Dutra driveway and the PBS I/C overcrossing connection to the future frontage road almost overlap. As part of the PBS I/C design, the existing northbound off-ramp and a portion of PBS beyond Caltrans' Right of Way along the frontage of the Dutra parcels will need to be realigned. It will be necessary to demolish the signal and improved portions of PBS that Dutra is required to construct as part of the proposed mitigations. The reconfiguration of the off-ramp and a portion of PBS will most likely be one of the first stages of work in early 2011. An alternative option to avoid the potential conflict between the two projects could be added to the mitigation measures that would allow for Dutra to construct a portion of the future off-ramp and frontage road in the same configuration as the PBS I/C design requirements. Potentially, this would address the speed related driveway ingress and egress safety issues and result in only one disruption to public traffic during construction, instead of two disruptions if the Dutra and PBS I/C projects are not coordinated.

The alternative option discussed above would require significant coordination between the County, Caltrans, and Dutra to address the realignment of the northbound Hwy 101 off-ramp, driveway connection point, frontage roadway design, and tie-in to the existing northbound Hwy 101 on-ramp/PBS intersection. Acquisition of the parcel to the north of Parcel "B" would probably be necessary. However, it is likely that this parcel will be subject to a right-of-way take associated with the PBS I/C design, regardless of what transpires with the Dutra project. This alternative option could be included within the "fair share" calculation for the PBS I/C since the new frontage road alignment is part of the PBS I/C design and construction cost.

**Response to Comment A4-5**

Please refer to responses A4-2 and A4-3. The mitigation measures identified in the DEIR traffic section will be adequate to address the impacts along the projects' Petaluma Boulevard South frontage. The impacts identified pertain to the existing interchange configuration. Through design considerations it may be possible to mitigate the impact without signalization in the near term. Mitigation Measure TRANS-4 on page V.J-31 of the DEIR has been revised to read as follows:

**“Mitigation Measure TRANS-4**

The project sponsor shall install either an actuated signal or a portion of the future off-ramp and frontage road in the same configuration as the PBS I/C design requirements at the new intersection of Petaluma Boulevard South at the project driveway. If the project sponsor pursues the second approach, constructed improvements shall meet Caltrans and County requirements for speed and safety, and shall be approved by Caltrans and the County. Regardless of which approach is pursued, the applicant's plans shall be approved by Caltrans and the County prior to issuance of an occupancy permit. The applicant shall also coordinate with Caltrans and the County to design the northbound off-ramp lane and shoulder striping to “narrow” width perception in an effort to lower driver exit speeds so they are closer to posted advisory speeds. Figure V.J-8 illustrates the ~~proposed~~ signal.”

Given that the Marin-Sonoma Narrows interchange project will improve the existing intersection configuration, it is expected that cumulative traffic conditions will be at or less than the level of impact identified in the DEIR traffic section. The project proponent has initiated discussions with Caltrans to address design considerations related to the interchange design and project access to Petaluma Boulevard South.

The revisions to Mitigation Measure TRANS-4 do not result in any new significant project-specific or cumulative impacts beyond those disclosed in the DEIR. The DEIR addresses the cumulative impacts associated with implementation of the proposed project in conjunction with other reasonably foreseeable projects, including the PBS/IC project, based on the level of design details available for the PBS/IC at the time of preparation of the DEIR. The revisions to Mitigation Measure TRANS-4 contemplate construction by the applicant of portions of a new off-ramp and frontage road, this construction would occur in an already-disturbed area and would already occur via the PBS/IC project. Additional impact analysis of Caltrans' PBS/IC project is provided in the EIR/EIS completed in October 2007.

**Comment A4-6**

If you have any questions or wish to discuss this issue further, please contact John Maitland at 707-565-5377.

**Response to Comment A4-6**

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.



**Response to Comment Letter A5**  
**Sonoma-Marin Area Rail Transit, Lillian Hames*****Comment A5-1***

First, Wetland Maintenance (Table II-1, Impact HYDRO-2). With the approval of the project, the culvert poses a potential significant impact to SMART'S right of way. The Draft EIR recommends as mitigation that the culvert be repaired or replaced to improve tidal circulation. SMART will require as part of any easement agreement to cross its track that Dutra not merely repair the culvert, but replace the culvert with a concrete box culvert designed to address the tidal issues using SMART standards. The mitigation measure should be amended to require that the culvert be replaced pursuant to SMART'S standards.

***Response to Comment A5-1***

The purpose of the culvert repair or replacement (required by Mitigation Measure HYDRO-2) is to ensure adequate tidal circulation for sustaining dependent wetlands west of the ROW. According to the commenter, any work on the culvert must meet SMART standards and ensure public safety of rail transit along the ROW. This is an existing requirement that would be implemented regardless of the requirements of the DEIR, and the applicant will be required to comply under the terms of the SMART ROW easement agreement. No change to the DEIR mitigation measure language is required.

***Comment A5-2***

Second, Conveyor and Private Crossing (Table II-1, Impact TRANS). The conveyor system will result in crossings with less sight distance allowance, making the private crossing less safe. Removing the private crossing at Mile Post (MP) 36.5 and consolidating the crossing at MP 36.8 ("Landing Way") is necessary to mitigate the potential safety issue. Dutra will be required to obtain approval from SMART to cross the railroad with a conveyor system and it will be required to obtain approval from SMART to cross the railroad with vehicular traffic at Landing Way. To obtain this approval, SMART will require Dutra to consolidate the railroad crossing and to install automatic warning devices at Landing Way. Mitigation measures should be amended or added to reflect these requirements and to require that these mitigation measures be met before Dutra commences operations to ensure that safety risks are minimized.

***Response to Comment A5-2***

The commenter correctly states that the applicant will be required to obtain approval from SMART to cross the railroad with a conveyor system and vehicular traffic at Landing Way. The DEIR recognizes SMART's status as a responsible agency at pages III-72 and -73, and V.J-42 and -43, among others, and explains that SMART approval would be required. As a responsible agency, SMART is responsible for mitigating or avoiding the effects of those parts of the project that it decides to carry out, finance, or approve. (CEQA Guidelines, § 15096, subd. (g)(1).) SMART could thus require consolidation of the existing rail crossing, if feasible, or alternative measures as conditions of approval.

Where practical, the DEIR attempted to anticipate the conditions that SMART and other responsible agencies would likely require as part of project approval, and to disclose, analyze, and mitigate any significant secondary impacts that might result, to facilitate project review by responsible agencies. For example, the DEIR included Mitigation Measure TRANS-13a, which requires the applicant to make an irrevocable offer to the County for a 50-foot easement parallel to the railroad tracks for ingress, egress, and utilities, and Mitigation Measure TRANS-13b, which requires the applicant to provide neighboring residents an all-weather vehicle access route that is designed and operated to the satisfaction of SMART and other entities. Implementation of these measures will require negotiations between the applicant, SMART, and other parties, but would resolve the commenter's concerns regarding railroad crossings and sight distances in the project area.

### **Comment A5-3**

Third, Related Projects (Table III-1); *see also*, DEIR at p. III-33. The table mentions SMART as a regional project but does not list the North Coast Railroad Authority ("NCRA"), which is the separate agency in charge of future potential freight service operations. NCRA issued a Notice of Preparation of an EIR in July 2007 for its freight project. The Draft EIR fails to address NCRA's project as a related project. The Draft EIR needs to provide more information and analysis regarding this cumulative project.

### **Response to Comment A5-3**

At the time the Notice of Preparation (NOP) was prepared for the proposed project in February 2006 the North Coast Railroad Authority's freight service project was not a reasonably foreseeable project to be considered for the cumulative analyses in the DEIR. However, the cumulative noise impacts analysis provided on page V.I-21 of the DEIR does acknowledge that SMART commuter trains and proposed freight trains could affect cumulative noise levels in the project area. Page V.I-21 of the DEIR also sources the SMART Final EIR regarding noise levels associated with freight trains.

Based on the comment, Table III-1 (Related Projects) on page III-33 of the DEIR has been revised to read as follows:

**Table III-1  
Related Projects**

| Related Projects<br>No.                         | Name & Location  | Land Use              | Size       |
|---|--|-----------------------|------------|
| <b>Unincorporated County of Sonoma Projects</b> |  |                       |            |
| 1   | <b>Royal Petroleum</b><br>2141 & 2695 Petaluma Blvd. South                           | Industrial            | 2.2 Acres  |
| 2   | <b>Novato Disposal</b><br>2543 Petaluma Blvd. South                                  | Commercial/Industrial | 5.4 Acres  |
| 3   | <b>Shamrock Materials, Inc.</b><br>210 & 222 Landing Way<br>(Approved July 20, 2004) | Industrial            | 5.95 Acres |

**Table III-1  
Related Projects**

| <b>Related Projects<br/>No.</b>               | <b>Name &amp; Location</b>                                     | <b>Land Use</b>         | <b>Size</b>  |
|---|--|-------------------------|--|
| <b>Unincorporated County of Marin Project</b> |  |                         |  |
| 4   | <b>Redwood Landfill Capacity<br/>Expansion</b><br>Marin County | Landfill                | 420 Acres  |
| <b>Regional Projects</b>                      |  |                         |  |
| 1   | <b>Sonoma-Marín Area Rail Transit</b>                          | Transit                 | Cloverdale to<br>Larkspur Landing  |
| <u>1a</u>                                     | <b><u>North Coast Railroad Authority</u></b>                   | <u>Freight</u>          | <u>Cloverdale south to<br/>Highway 37 and east<br/>to Lombard in Napa<br/>County</u> |
| 2   | <b>Novato Narrows, Highway 101<br/>Widening</b>                | Transit                 | Marin County to<br>Sonoma County   |
| <b>City of Petaluma Projects</b>              |  |                         |  |
| 1   | <b>RNM South McDowell</b><br>1800 & 2000 South McDowell        | Office in Two Buildings | 140,000 sf   |
| 2   | <b>Sola</b><br>1490 Cader Lane                                 | Commercial              | 354,404 sf   |

Regarding the comment that the DEIR needs more information and analysis regarding this cumulative project, please refer to response A5-4.

***Comment A5-4***

Fourth, Private Grade Crossing (Table II-1, Cumulative Land Use Impacts); *see also*, DEIR at p. II-44 and p. II-50. In addition to future SMART passenger trains, there will also be freight trains operated by NCRA. Dutra's Draft EIR does not address the cumulative safety, air quality and noise impacts associated with the freight trains operated for or by NCRA. The Draft EIR does not mention that SMART'S EIR for its passenger rail project does address safety and noise mitigation measures. Further, the Dutra Draft EIR utilizes noise level standards established by the local jurisdiction - the County of Sonoma. The Draft EIR fails to acknowledge that the noise levels established in local plans are not a limit or criteria on noise generated by transportation sources, but a designation of what areas are appropriate for residential development, based on the noise environment. (*See*, SMART'S (Certified) EIR at section 3.7.2) Transportation noise sources operating on a public right of way are exempt from all local maximum noise level standards because the regulation of noise sources such as traffic on public roadways, railroad line operations and aircraft in flight is preempted by federal and/or state regulations. The Federal Rail Administration (FRA) has adopted the FTA noise impact criteria and developed additional guidance on assessment of rail horn noise. SMART utilized the FTA noise impact criteria for its EIR. The Dutra Draft EIR needs to address this issue and appropriately analyze the information.

**Response to Comment A5-4**

Please refer to response A5-3, which confirms that the NCRA freight service project has been added to the DEIR as a cumulative project. While the DEIR did not specifically cite the NCRA freight service project it did address future use of the railroad tracks (by SMART) in conjunction with implementation of the proposed project in the cumulative impacts analyses where appropriate. Page V.J-42 discusses potential cumulative traffic safety impacts associated with the project and future use of the railroad tracks. The addition of the NCRA project to Table III-1 of the DEIR does not change the conclusions of the cumulative traffic safety impacts described on page V.J-42 of the DEIR. The cumulative air quality analysis provided on pages V.B-37 and V.B-38 of the DEIR adequately addresses cumulative air quality impacts even with the inclusion of the NCRA project. As stated on page V.B-37 of the DEIR, “the BAAQMD CEQA Guidelines state that any proposed project that would individually have a significant air quality impact would also be considered to have a significant cumulative air quality impact. Therefore, cumulative air quality impacts relative to regional air quality emissions would be *significant*.” As described in response A5-3, the cumulative noise analysis on page V.I-21 of the DEIR already factors in freight trains. However, this information, which was sourced from the SMART Final EIR, has since changed in SMART’s SEIR, and therefore, page V.I-21 of the DEIR has been revised below accordingly.

Comment acknowledged regarding the comment that the DEIR fails to acknowledge that transportation noise sources operating on a public right of way are exempt from all local maximum noise level standards. The third paragraph on page V.I-21 of the DEIR has been revised to read as follows:

“In addition to traffic noise, railroad noise from proposed SMART commuter trains and proposed North Coast Railroad Authority (NCRA) freight trains could potentially affect cumulative noise levels in the project area, at least on a temporary yet periodic basis. The SMART ~~F~~SEIR concludes the cumulative daily noise exposure from all rail operations, based on the above assumptions for freight operations, would be approximately ~~59~~ 55 dBA L<sub>dn</sub> at 50 feet and ~~54~~ 50 dBA L<sub>dn</sub> at 100 feet from the tracks. Cumulative noise exposure from passenger and freight rail operations at distances greater than 50 feet from the tracks would be less than 60 dBA L<sub>dn</sub>, the level considered normally acceptable for outdoor use in residential areas. However, ~~these temporary yet periodic noise levels would exceed the County daytime and night time noise standards for residence R4,~~ transportation noise sources operating on a public right of way may be exempt from local maximum noise level standards because the regulation of noise sources such as traffic on public roadways, railroad line operations and aircraft in flight is preempted by federal and/or state regulations. But project-specific noise impacts would be significant and unavoidable. ~~Implementation~~ Therefore, implementation of the proposed project in conjunction with the related projects listed in Table III-1, including the Novato Narrows Highway 101 Widening and Petaluma Boulevard South Interchange projects, ~~potential future commuter and freight trains~~ would result in *significant* cumulative operational noise impacts.”

**Comment A5-5**

Fifth, Dutra’s Draft EIR does not address in detail the safety issues with the conveyor regarding protection of the railroad from falling aggregate and flying debris. The Draft EIR only mentions that the

conveyor will be enclosed. The Draft EIR should address the design of the conveyor to ensure that it is a sealed system, such that debris will be prevented from falling onto the railroad right of way. Mitigation measures should be amended or added to require that Dutra maintain the enclosed conveyor system as a sealed system, as well as protocols if the conveyor belt or its sealed compartment should fail to perform as expected.

***Response to Comment A5-5***

Page III-38 (Project Description) of the DEIR discusses the conveyor system. As outlined, the closed portion of the conveyor system would be between Area B of the project site and the pier. The approximately 40-foot portion of the conveyor system between the pier and a barge could not be enclosed because it would consist of a draw-bridge style unloader. However, Mitigation Measure BIO-3b requires that a containment system be installed to catch and collect any side-cast gravel between the pier and barge. With implementation of this Mitigation Measure, no side-casting of gravel would occur. An analysis of a modified site plan that includes realigning the conveyor away from the tidal inlet is discussed in Section VII (Alternatives) of the DEIR.

***Comment A5-6***

Sixth, Dutra's Draft EIR does not mention or analyze stability issues associated with the conveyor foundation structure and its zone of influence effect on the surrounding hillside slope adjacent to the railroad. This is significant especially if NCRA is planning to place a siding on the west side of the existing mainline track. The conveyor foundation and hillside slope could be compromised from ditching or excavation of the hillside from railroad activities. Conversely, the railroad right of way could be compromised by the placement of the conveyor foundation structure adjacent to the right of way. Proper subsurface investigation should be conducted prior to construction in order to identify any stability issues. A geological technical report on the stability issues should be prepared prior to permitting and any geotechnical design recommendations should be incorporated into the final project and verified during construction by monitoring of construction activities by a qualified geotechnical consultant.

***Response to Comment A5-6***

The applicant has retained Miller Pacific Engineering Group, and multiple site-specific geologic reports have been prepared for the project. The preparation of these reports has included field investigation (including at least 18 soil borings), data analysis, and development of conceptual design. Details from these geologic reports are included in Section V.E (Geology and Soils) of the DEIR. In addition, the geology section addresses issues of soil and seismic instability at the site as related to structural stability. Section V.E (Geology and Soils) of the DEIR requires the preparation of site-specific design-level geotechnical reports with engineering recommendations for the project-related grading and structure foundations and that recommendations therein contained be integrated into the planning and design for the proposed project prior to issuance of permits. These geotechnical reports and recommendations will include measures to avoid impacts of construction foundation structure, if necessary.

**Comment A5-7**

Seventh, Hazardous Materials. Table II-1, p. II-35. The Draft EIR does not address the exact location of the storage of hazardous materials or volatile materials. Such materials must be located at a safe distance from the rail right of way. Additional information is needed regarding the location and the safety measures to be applied to the storage tanks to ensure that they do not pose a safety hazard for rail operations.

**Response to Comment A5-7**

The location of hazardous materials storage proposed for the project is identified within the asphalt plant area on Figure III-16 on page III-44 of the DEIR. Safety measures applied to aboveground storage tanks would be ensured with implementation of Mitigation Measure HAZ-3 included on pages II-35 and V.F-11 of the DEIR.

In response to this comment, the last paragraph on page V.F-4 of the DEIR under the subtitle “CUPA Plans, Programs, and Permit, Aboveground and Underground Storage Tank Requirements” has been revised as follows:

“Facilities with ASTs or USTs must be permitted. Other plans, such as a Spill Prevention Control and Countermeasures (SPCC) Program, may be required due to the size and type of hazardous materials stored in the ASTs. ~~The SPCC Program provides a detailed engineering analysis of the potential for release from oil filled equipment, and describes the measures, such as secondary containment and emergency response, that must be implemented to reduce the release potential.~~ The SPCC program, which must be approved by a professional engineer, requires that all ASTs in excess of 660 gallons (individual size) or 1,320 gallons (aggregate capacity) that ‘reasonably could be expected to discharge oil into or upon navigable waters or adjoining shorelines’ be provided with an appropriate means of secondary containment to capture releases from the tank(s) should they occur.<sup>1</sup> The SPCC must include a discussion of failure points; predictions of volumes and fate of released product; oil spill contingency plans, inspections and recordkeeping systems; security for the facility and critical operating points; and personnel training requirements. Storage statement and fees must also be submitted to the State Water Resources Control Board for ASTs subject to the SPCC requirements above or to any AST containing petroleum that exceeds 10,000 gallons.<sup>2</sup> The Water Board may also require that an AST monitoring system be installed if a discharge from the AST(s) may adversely affect surface water or sensitive ecosystems. All owners and operators of ASTs must immediately report a release or spill of 42 gallons or more of petroleum to the local oversight agency,<sup>3</sup> and spills in excess of 1,000 gallons must be directly reported to the U.S. Environmental Protection Agency.<sup>4</sup>”

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<sup>1</sup> 40 Code of Federal Regulations, Section 112.

<sup>2</sup> California Health and Safety Code Section 25270.

<sup>3</sup> Ibid.

<sup>4</sup> 40 CFR, Section 112.

In response to this comment, the following text has been added at the end of the fourth paragraph on page V.F-10 of the DEIR:

“The asphaltic oil storage tanks and asphalt silos would be located at least 200 feet southwest of the railway ROW easement and more than 130 feet northeast of Petaluma Boulevard South.”

In response to this comment, the second paragraph on page V.F-11 of the DEIR has been revised as follows:

“All businesses transporting, storing, using or disposing of hazardous materials (including wastes) must comply with applicable local, state, and federal regulations for hazardous materials management. These include the primary hazardous materials programs administered by Sonoma County Department of Emergency Services as well as other requirements of state and federal laws and regulations, including compliance with the Uniform Fire Code for hazardous material storage, and AST requirements. The applicant has prepared an Emergency Response Action Plan at its San Rafael Facility, with procedures for spills, fires, or other emergencies (e.g. earthquake, flood), evacuation routes, and worker training.”

***Comment A5-8***

This concludes the SMART staff’s comments to the Draft EIR for Dutra’s project. Again, thank you for providing SMART with the opportunity to comment on the Draft EIR. If you have any questions regarding our comments, please do not hesitate to contact me at (415) 226-0886.

***Response to Comment A5-8***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter A6**

**State of California, Department of Transportation, Lisa Carboni**

***Comment A6-1***

Thank you for continuing to include the California Department of Transportation (Department) in the review process for this project. Our comments below are based on the review of the DEIR. As lead agency, Sonoma County is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic: mitigation fees should be specifically identified in the DER. Any required roadway improvements should be completed prior to issuance of project's use permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's CEQA concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process.

***Response to Comment A6-1***

Comment noted. The commenter summarizes her various comments that are provided in more detail below in comments A6-2 through A6-25. Responses to the more detailed comments are provided below in responses A6-2 through A6-25.

***Comment A6-2***

***Forecasting***

The report assumes that all truck entries and exits will cease at 4:00 every day so they will have no effect on the PM peak hour traffic. This may be the usual operating procedure, but what assurance is there that the plant will not sometimes have extended hours of operations into the evening? It may sometimes be supplying a large project on a compressed schedule that continues operations into the evening. Also, the projects effect on traffic from 3:00 to 4:00 PM should be examined. While not the PM peak, traffic is certainly increasing at that time and the traffic patterns will differ from the AM peak such that the effects may be significant.

***Response to Comment A6-2***

The impacts revealed in the report can be broken into three categories: 1) safety impacts, 2) freeway capacity impacts and 3) surface intersection impacts. The freeway impacts have been identified because the project would add traffic to facilities already at LOS F, namely Highway 101 northbound and interchange on-ramps. The mitigation measures identified to address these impacts involve project participation in the completion of planned improvements to the freeway mainline and interchange. Analysis of the 3PM to 4 PM time period would not add any new freeway impact or mitigation measure



not already identified in the DEIR traffic section as the LOS during the PM peak hour period is LOS F at the Highway 101 NB and interchange on-ramps.

This is similarly so for safety impacts, where the pattern and volume of the traffic is not an issue, but rather the speed of traffic and the configuration of the roadways, and neither factor is subject to meaningful variation from 3PM-4PM as opposed to other time periods.

Regarding surface street impacts, it is possible to test the full results of applying the AM peak hour trip generation to the PM background traffic with all the mitigation measures in place. The following table shows the results of a comparison between the “no project” scenario and this hypothetical scenario with no unmitigated deficiencies.

**Comparison of Cumulative 2020 PM Without and With Maximum Project Trip Generation Intersection Levels of Service**

| Location   | 2020 No Project |     | Hypothetical 2020 Plus Project |     |
|--|-----------------|-----|--------------------------------|-----|
|  | PM              |     | PM                             |     |
|  | Delay           | LOS | Delay                          | LOS |
| <b>Petaluma Blvd South at Highway 101 SB Ramps</b>   | 148.7           | F   | 49.0                           | E*  |
| <b>Petaluma Blvd South at Landing Way</b>            |                 |     |                                |     |
| SB Left  | 10.2            | B   | 10.6                           | B   |
| WB Approach  | 23.6            | C   | 35.7                           | E** |
| <b>Petaluma Blvd South at Highway 101 NB On-Ramp</b> |                 |     |                                |     |
| NB Left  | 8.0             | A   | 8.0                            | A   |
| <b>Petaluma Blvd south at Project Driveway</b>       |                 |     |                                |     |
| SB Left  | -               | -   | 0.0                            | A   |
| WB Right   | -               | -   | 17.2                           | C   |
| * Reduction in Delay compared to No Project          |                 |     |                                |     |
| ** No Impact - Peak Hour Warrants Not Met.           |                 |     |                                |     |

**Comment A6-3**

**Highway Operations**

1. Page III-55: Proposed improvements include curbs along the northbound off-ramp. Curbs should not be used on ramps.

**Response to Comment A6-3**

It is noted that curbs shall not be used on ramps. Based on this comment, the last bullet on page III-55 of the DEIR has been revised as follows:

- “Re-stripe ~~and place curbs along~~ the northbound off-ramp to improve drivability and better delineate this as an off-ramp rather than continuation of Highway 101.”

**Comment A6-4**

2. Page V.J-1: Existing traffic volumes were derived between 2003 and 2004. Existing traffic data should not be more than three years old. Also, it is stated that the volumes were increased by two percent annually to account for traffic growth. Were these volumes validated and checked against the Department's most recent traffic data?

**Response to Comment A6-4**

Existing traffic counts should not be older than three years old at the time of the Notice to Preparation for the DEIR, which was in early 2006. The counts obtained for the study were all less than three years old at that time. Nonetheless the traffic was factored at 2 percent annual growth to estimate actual 2006 conditions. It is important that within reasonable limits a study's existing condition be locked in at the beginning of the study process. Otherwise complex EIRs would have to successively update existing conditions *ad infinitum*.

**Comment A6-5**

3. Figure V.J-1 (Location Map and Existing Turning Movements) and Appendix A:

- The NB lane configuration at Petaluma Blvd South at the US 101 SB ramps does not match the lane configuration coding used in the calculation sheets of Appendix A. In addition, Table V.J-1 indicates a "NB ThruLeft" at this intersection. Which one is correct?
- Petaluma Blvd South is a two-lane principal arterial roadway under existing conditions. It is not accurate to use the lane configuration as shown in this figure to calculate the level of service at Petaluma Blvd South/Landing Way, i.e. one-lane through and one-lane ThruLeft for NB direction, one-lane through and one-lane ThruRight for SB direction

**Response to Comment A6-5**

The commenter may have confused existing conditions as documented in the DEIR traffic section with the configuration in place at the time the DEIR traffic section was reviewed. The existing condition reflects conditions as of 2006, when the Notice of Preparation was circulated. Since that time improvements have been made to the intersection that the DEIR describes and evaluates under near term cumulative conditions. The lane configurations shown on the figure and in the calculation sheets are consistent with the existing conditions at the time of the Notice of Preparation. This is documented in three separate traffic studies: 2004 Fehr and Peers *Traffic Study for the Dutra Asphalt Relocation Project*, the 2004 WTrans report *Royal Petroleum Card-Lock Gasoline Service Traffic Impact Study*, and the 2003 WTrans report *Shamrock Aggregate Import Facility Traffic Impact Study* – as well as in aerial photographs as well as the existing conditions layer of improvement plans prepared for Petaluma Boulevard South. This is also what is reflected in the calculation sheets and in Figure V.J-1. Table V.J-1 incorrectly describes the Northbound Approach as Northbound Thru-Left. Table V.J-1 on page V.J-2 of the DEIR is revised to read as follows:

**Table V.J-1  
Existing Conditions Intersection LOS Summary**

| Location  | AM    |     | PM    |     |
|---|-------|-----|-------|-----|
|   | Delay | LOS | Delay | LOS |
| <b>Petaluma Blvd. South at Highway 101 SB Ramps</b>   |       |     |       |     |
| NB Thru Left Approach                                 | 9.2   | A   | 7.9   | A   |
| EB Left   | 11.3  | B   | 14.5  | B   |
| EB Right  | 9.4   | A   | 8.9   | A   |
| <b>Petaluma Blvd. South at Landing Way</b>            |       |     |       |     |
| SB Thru Left  | 7.7   | A   | 8.8   | A   |
| WB Approach   | 9.7   | A   | 12.5  | A   |
| <b>Petaluma Blvd. South at Highway 101 NB On-Ramp</b> |       |     |       |     |
| NB Left   | 7.7   | A   | 7.6   | A   |

These revisions do not affect any conclusions provided in the DEIR.

**Comment A6-6**

4. Table V.J-5 (Near-Term Cumulative Without Project Intersection LOS): There is no SB ThruLeft movement at Petaluma Blvd South/Landing Way. See the lane configuration in Figure V.J-2.

**Response to Comment A6-6**

The text in Table V.J-5 on page V.J-8 has been revised as follows to refer to Southbound Left turn delay and LOS:

**Table V.J-5  
Near-Term Cumulative Without Project Intersection LOS**

| Location  | Near-Term Without Project |     |       |     |
|---|---------------------------|-----|-------|-----|
|   | AM                        |     | PM    |     |
|   | Delay                     | LOS | Delay | LOS |
| <b>Petaluma Blvd. South at Highway 101 SB Ramps</b>   | 30.1                      | D   | 88.9  | F   |
| <b>Petaluma Blvd. South at Landing Way</b>            |                           |     |       |     |
| SB Thru Left  | 8.9                       | A   | 9.7   | A   |
| WB Approach   | 39.3                      | E   | 20.6  | C   |
| <b>Petaluma Blvd. South at Highway 101 NB On-Ramp</b> |                           |     |       |     |
| NB Left   | 8.5                       | A   | 8.0   | A   |

These revisions do not affect any conclusions provided in the DEIR.

**Comment A6-7**

5. Page V.J-9: The statements in the written paragraph on this page are incorrect:

- As shown on Table V.J-3, Highway 101 SB-South of Petaluma Blvd South operates at LOS F under existing conditions. Therefore, the statement "... degrade from LOS E to LOS F" is incorrect.
- As shown on Table V.J-7, Highway 101 SB-North of Petaluma Blvd South and SB Off-Ramp operate at LOS F under near-term cumulative conditions. Therefore, the statement "... whereas other facilities appear to operate acceptably" is incorrect.

**Response to Comment A6-7**

The text in Table V.J-3 and the description on page V.J-9 are in error. Table V.J-3 on page V.J-5 of the DEIR has been revised as follows:

**Table V.J-3  
Existing Highway Operations**

| Location   | LOS            |                |
|--|----------------|----------------|
|  | AM             | PM             |
| <b>Mainline Segments</b>   |                |                |
| Highway 101 SB–North of Petaluma Blvd South  | F              | B              |
| Highway 101 SB–South of Petaluma Blvd South  | F              | B              |
| Highway 101 NB–South of Petaluma Blvd South  | B              | D*             |
| Highway 101 NB North of Petaluma Blvd South  | B              | C*             |
| <b>Ramp Merge and Diverge</b>  |                |                |
| SB Off-Ramp  | <del>E</del> F | B              |
| SB On-Ramp   | F              | A              |
| NB Off-Ramp  | B              | <del>B</del> C |
| NB On-Ramp   | A              | B              |
| <i>*Level of Service may be worse because traffic flow volumes are attenuated by congestion.</i> |                |                |

The first paragraph on page V.J-9 has been revised to read as follows:

“Table V.J-7 shows near-term cumulative highway operations. Under near-term cumulative conditions, highway operations on the mainline section of Highway 101 southbound, ~~south of Petaluma Boulevard,~~ ~~degrade from LOS E to LOS F. The~~ and the southbound on-ramp continues to operate at LOS F whereas other facilities appear to operate acceptably.”

These revisions do not affect any conclusions provided in the DEIR.

**Comment A6-8**

6. Figure V.J-3 (Cumulative 2020 Without Project Turning Movements): When comparing Figure V.J-2 and Figure V.J-3, the volumes of some movements are less under Cumulative 2020 Conditions than under Near-Term Cumulative Conditions. Please explain why.

**Response to Comment A6-8**

The cumulative scenario assumes that traffic would be drawn to the additional capacity on US 101 and off of Petaluma Boulevard South created by the intersection project. These results are reflected by comparing between the official forecasts from the Sonoma County 2020 model with base year 2000 model estimates.

**Comment A6-9**

7. Table V.J-8 (Cumulative 2020 Without Project Intersection LOS):

- For consistency, the headline should be “Cumulative 2020 Without Project” instead of “Near-Term Cumulative Without Project”.
- There is no SB ThruLeft movement at Petaluma Blvd South/Landing Way. See the lane configuration in Figure V.J-3.
- The NB Left delay at Petaluma Blvd South/Highway 101 NB On-Ramp is 8.3 seconds instead of 83.3 seconds.

**Response to Comment A6-9**

Comment acknowledged. Table V.J-8 on page V.J-12 has been revised to read as follows:

**Table V.J-8  
Cumulative 2020 Without Project Intersection LOS**

| Location  | Near-Term Cumulative Without Project |     |       |     |
|---|--------------------------------------|-----|-------|-----|
|   | AM                                   |     | PM    |     |
|   | Delay                                | LOS | Delay | LOS |
| <b>Petaluma Blvd. South at Highway 101 SB Ramps</b>   | 53.3                                 | F   | 148.7 | F   |
| <b>Petaluma Blvd. South at Landing Way</b>            |                                      |     |       |     |
| SB Thru Left  | 11.1                                 | B   | 10.2  | B   |
| WB Approach   | 108.4                                | F   | 23.6  | C   |
| <b>Petaluma Blvd. South at Highway 101 NB On-Ramp</b> |                                      |     |       |     |
| NB Left   | <del>83.3</del> 8.3                  | A   | 8.0   | A   |

These revisions do not affect any conclusions provided in the DEIR.

**Comment A6-10**

8. Page V.J-12, last paragraph: It is stated that the SB segments north of Petaluma Blvd South would operate unacceptably during the AM peak hour. However, according to Table V.J-10, Highway 101 SB-North of Petaluma Blvd South operates at LOS D during the AM peak hour under cumulative 2020 conditions. (The minimum acceptable level of service threshold is LOS D, as listed in the “Highway Operations” section on Page V.J-4.)

**Response to Comment A6-10**

Comment acknowledged. The last paragraph on page V.J-12 of the DEIR has been revised to read as follows:

“Under cumulative conditions the highway would be expanded to include an HOV lane in each direction. Under cumulative conditions the southbound segments north and south of Petaluma Boulevard South would operate unacceptably during the AM peak hour. The southbound on-ramp and the southbound segment of US 101 south of Petaluma Boulevard South would operate unacceptably during the AM peak period. Table V.J-10 summarizes highway operations analysis.”

Table V.J-10 on page V.J-13 of the DEIR has been revised to read as follows:

**Table V.J-10  
Cumulative 2020 Highway Operations**

| Location  | LOS            |                |
|---|----------------|----------------|
|   | AM             | PM             |
| <b>Mainline Segments</b>  |                |                |
| Highway 101 SB–North of Petaluma Blvd South   | D              | <del>B</del> C |
| Highway 101 SB–South of Petaluma Blvd South   | F              | <del>B</del> C |
| Highway 101 NB–South of Petaluma Blvd South   | B              | D*             |
| Highway 101 NB North of Petaluma Blvd South   | B              | C*             |
| <b>Ramp Merge and Diverge</b>   |                |                |
| SB Off-Ramp   | <del>E</del> F | B              |
| SB On-Ramp  | F              | A              |
| NB Off-Ramp   | B              | <del>B</del> C |
| NB On-Ramp  | A              | B              |
| *Level of Service may be worse because traffic flow volumes are attenuated by congestion. |                |                |

These revisions do not affect any conclusions provided in the DEIR.

**Comment A6-11**

9. Figure V.J-7 (Existing Plus Project Turning Movements): Petaluma Blvd South is a two-lane principal arterial roadway under existing conditions. It is not accurate to use the lane configuration as shown to calculate the level of service at Petaluma Blvd South/Landing Way, i.e. one-lane through and one-lane ThruRight for NB direction, one-lane through and one-lane ThruLeft for SB direction.

***Response to Comment A6-11***

Please refer to response A6-5.

***Comment A6-12***

10. Page V.J-24 (Intersection LOS Criteria): It is stated in the third paragraph that “The County level of service standard for intersections is LOS D or better.” However, on Page V.J-2 under section “Existing Levels of Service,” paragraph 2 states that “According to the Sonoma County level of service policy, the threshold for intersection level of service is LOS E.” Please clarify.

***Response to Comment A6-12***

The threshold indicates the level at which level of service is considered deficient. A threshold of E indicates that LOS E is not acceptable whereas LOS D or better is acceptable. The second to last paragraph on page V.J-2 has been revised to read as follows:

“According to the Sonoma County level of service policy, the threshold for intersection level of service is LOS E. ~~Facilities that operate at LOS E or worse are considered deficient. Therefore, intersections operating at LOS D or better are acceptable and intersections operating at E or F are considered deficient.~~ Table V.J-1 shows existing intersection levels of service. Downstream highway operations can affect intersection operations, but this source of congestion is addressed separately in the subsection entitled ‘Highway Operations.’”

These revisions do not affect any conclusions provided in the DEIR.

***Comment A6-13***

11. Table V.J-14 (Existing and Existing Plus Project Intersection LOS): There is no NB ThruLeft movement at Petaluma Blvd South/Highway 101 SB Ramps. See the lane configuration in Figure V.J-7.

***Response to Comment A6-13***

Comment acknowledged. Table V.J-14 on page V.J-27 of the DEIR has been revised as follows:

**Table V.J-14  
Existing and Existing Plus Project Intersection Levels of Service**

| Location   | Existing |     |       |     | Existing Plus Project |     |       |     |
|--|----------|-----|-------|-----|-----------------------|-----|-------|-----|
|  | AM       |     | PM    |     | AM                    |     | PM    |     |
|  | Delay    | LOS | Delay | LOS | Delay                 | LOS | Delay | LOS |
| <b>Petaluma Blvd South at Highway 101 SB Ramps</b>   |          |     |       |     |                       |     |       |     |
| NB Thru Left   | 9.2      | A   | 7.9   | A   | 9.5                   | A   | 7.9   | A   |
| EB Left  | 11.3     | B   | 14.5  | B   | 12.2                  | B   | 14.7  | B   |
| EB Right   | 9.4      | A   | 8.9   | A   | 10.3                  | B   | 8.9   | A   |
| <b>Petaluma Blvd South at Landing Way</b>            |          |     |       |     |                       |     |       |     |
| SB Thru Left   | 7.7      | A   | 8.8   | A   | 7.8                   | A   | 8.9   | A   |
| WB Approach  | 9.7      | A   | 12.5  | B   | 10.4                  | B   | 12.6  | B   |
| <b>Petaluma Blvd South at Highway 101 NB On-Ramp</b> |          |     |       |     |                       |     |       |     |
| NB Left  | 7.7      | A   | 7.6   | A   | 8.4                   | A   | 7.6   | A   |
| <b>Petaluma Blvd south at Project Driveway</b>       |          |     |       |     |                       |     |       |     |
| SB Left  | -        | -   | -     | -   | 8.2                   | A   | 0.0   | A   |
| WB Right   | -        | -   | -     | -   | 11.1                  | B   | 12.7  | B   |

These revisions do not affect any conclusions provided in the DEIR.

**Comment A6-14**

12. Table V.J-16 (Existing and Existing Plus Project Highway Operations): The existing SB off-ramp operates at LOS F on Table V.J-16, while it operates at LOS C on Table V.J-3 (Existing Highway Operations). Additional traffic from the project degrades the SB off-ramp from LOS C to LOS F. This is a significant impact. What is the mitigation measure for this impact?

**Response to Comment A6-14**

Table V.J-3 is in error. The table has been revised as discussed in the response A6-7. The southbound off-ramp operates at LOS F under existing conditions and would remain so under existing plus project conditions. Nonetheless, Impact TRANS-3 discloses that the project would add additional traffic to the off-ramp and other freeway locations that operate unacceptably under the existing conditions scenario. Mitigation Measures TRANS-3a and TRANS-3b are identified to address this impact.

**Comment A6-15**

13. Page V.J-31 (Mitigation Measure TRANS-4): The proposed signal at the intersection of the project driveway and South Petaluma Blvd does not meet signal warrants. If signals are installed, include advance intersection warning sign and flashing beacon on the northbound off-ramp.



***Response to Comment A6-15***

The signal has not been proposed because the intersection meets signal warrants, but because project truck traffic would otherwise have to weave from the project driveway to the Highway 101 northbound on-ramp, creating a safety hazard. It is understood that Caltrans will require the installation of advanced detectors with any future signal at the project driveway.

***Comment A6-16***

14. Figure V.J-9: Near-Term Cumulative with Project Turning Movements: By looking at the turning movements, it appears that mitigation is needed on Petaluma Blvd South. There are a significant amount of vehicles on the mainline with a speed “just below 60 MPH” (per Page V.J-2), which raises a capacity issue and a safety concern for left-turning vehicles. Heavy trucks and buses occupy a significant amount of the storage from the single through and left-turn lanes. Mitigation is needed for these specific conditions.

***Response to Comment A6-16***

The comment references the speeds observed for the off-ramp traffic at the 101 northbound off ramp to Petaluma Boulevard South. The safety impact of this traffic is addressed by Mitigation Measure TRANS-4. The signalization will permit traffic to exit the driveway safely and provide gaps for entering traffic as well. Actuation of the southbound left turn into the driveway should be addressed as a design consideration.

***Comment A6-17***

15. Page V.J-33 (Impact TRANS-6): In paragraph 3, it should be “...with 78.8 seconds of delay...” according to Table V.J-17.

***Response to Comment A6-17***

Comment acknowledged. The first sentence of third paragraph on page V.J-33 of the DEIR has been revised to read as follows:

“The westbound left turn from Landing Way onto Petaluma Boulevard South would operate at LOS F, with ~~80.9~~ 78.8 seconds of delay degrading from LOS E during the AM peak hour under near-term conditions without project traffic.”

These revisions do not affect any conclusions provided in the DEIR.

***Comment A6-18***

16. Table V.J-17 (Near-Term Cumulative Without and Plus Project Intersections Levels of Service): There is no SB ThruLeft movement at Petaluma Blvd South/Landing Way. See the lane configuration in Figure V.J-9.

**Response to Comment A6-18**

Comment acknowledged. Table V.J-17 on page V.J-35 of the DEIR has been revised to read as follows:

**Table V.J-17  
Near-Term Cumulative Without and Plus Project Intersection Levels of Service**

| Location   | Near-Term No Project |     |       |     | Near-Term Plus Project |     |       |     |
|--|----------------------|-----|-------|-----|------------------------|-----|-------|-----|
|  | AM                   |     | PM    |     | AM                     |     | PM    |     |
|  | Delay                | LOS | Delay | LOS | Delay                  | LOS | Delay | LOS |
| <b>Petaluma Blvd South at Highway 101 SB Ramps</b>   | 30.1                 | D   | 88.9  | F   | 34.4                   | D   | 89.9  | F   |
| <b>Petaluma Blvd South at Landing Way</b>            |                      |     |       |     |                        |     |       |     |
| SB Thru Left   | 8.9                  | A   | 9.7   | A   | 9.2                    | A   | 9.7   | A   |
| WB Approach  | 39.3                 | E   | 20.6  | C   | 78.8                   | F   | 20.6  | C   |
| <b>Petaluma Blvd South at Highway 101 NB On-Ramp</b> |                      |     |       |     |                        |     |       |     |
| NB Left  | 8.5                  | A   | 8.0   | A   | 9.5                    | A   | 8.0   | A   |
| <b>Petaluma Blvd south at Project Driveway</b>       |                      |     |       |     |                        |     |       |     |
| SB Left  | -                    | -   | -     | -   | 9.3                    | A   | 0.0   | A   |
| WB Right   | -                    | -   | -     | -   | 14.6                   | B   | 15.4  | C   |

There is no change in level of service or any level of impact as a result of the changes to Table V.J-17.

**Comment A6-19****17. Table V.J-20 (Cumulative 2020 Without and Plus Project Intersection Levels of Service):**

- There is no SB ThruLeft movement at Petaluma Blvd South/Landing Way. See the lane configuration in Figure V.J-10
- Under 2020 Plus Project Conditions, the intersection of Petaluma Blvd South/Highway 101 SB Ramps would operate with the 59.7 seconds of delay at LOS F during AM peak hour. The increase in delay would be 6.4 seconds above conditions without the project. In the section “Intersection LOS Criteria” on Page V.J-24 it is stated that “If an intersection is already operating at LOS F, the project’s impact is significant and cumulatively considerable if it causes the delay to increase by five seconds or more.” Therefore, this is a significant impact.

**Response to Comment A6-19**

Comment acknowledged. The text in Table V.J-20 has been changed to refer to Southbound Left turn delay and LOS. The result of 59.4 seconds of delay does constitute an unacceptable level of delay at the intersection of Petaluma Boulevard South/Highway 101 Southbound Ramps. The paragraph describing the level of impact associated with Impact TRANS-10 on page V.J-38 of the DEIR has also been revised.

Delay at the intersection of Petaluma Boulevard South/Highway 101 Southbound Ramps results directly from queuing which is addressed by Mitigation Measure TRANS-7 provided on page V.J-36 of the DEIR.

With this mitigation in place, the 2020 With Project Mitigated Delay and levels of service for Petaluma Boulevard South/Highway 101 Southbound Ramps are:

AM 58.1 F  
PM 38.3 E

This compares to the 2020 No Project results:

AM 53.3 F  
PM 148.7 F

Therefore, with implementation of Mitigation Measure TRANS-7, the increase in delay for the AM peak hour period is reduced to less than 5 seconds, which is acceptable.

Based on the comment, the second and third paragraphs on page V.J-38 of the DEIR have been revised to read as follows:

**“Impact TRANS-10 Cumulative 2020 LOS Impacts**

Cumulative 2020 impacts are evaluated by considering cumulative 2020 traffic plus traffic from the proposed project. Table V.J-21 compares the results of the intersection level of service for cumulative conditions with and without the project. Figure V.J-10 shows projected peak hour intersection turning movements at the study intersections. Under 2020 plus project conditions, the intersection of Petaluma Boulevard South at Highway 101 southbound ramps would ~~operate with 150 seconds of delay at LOS F. This is a *less than significant* impact, however, because the increase in delay would be less than two seconds above conditions without the project.~~ add more than five seconds of delay to the AM operation which is already at LOS F. This is a *potentially significant* impact. However, Caltrans has proposed redesigning the relevant intersection as part of the Petaluma Boulevard South (PBS)/Interchange (IC) with Traffic Operations Systems (TOS) to manage traffic operations.

Under 2020 plus project conditions, the project causes delay on the westbound left turn from Landing Way onto Petaluma Boulevard South to increase by more than four seconds where it is already at LOS F. However, peak hour warrants were reevaluated based on 2020 plus project conditions and were not satisfied. Therefore, according to the significance criteria the impact is *less than significant*. As stated in the discussion under Impact TRANS-6, the finding is not affected if Landing Way becomes publicly dedicated in the future or by any easement granted to allow access to Haystack Landing. As stated before, it is assumed that Haystack Landing traffic would be limited to a few private residences and intermittent maintenance trips to service the loading dock.”

Also, Table V.J-20 on page V.J-38 of the DEIR has been revised to read as follows:

**Table V.J-20**  
**Cumulative 2020 Without and Plus Project Intersection Levels of Service**

| Location   | 2020 No Project |     |       |     | 2020 Plus Project |     |       |     |
|--|-----------------|-----|-------|-----|-------------------|-----|-------|-----|
|  | AM              |     | PM    |     | AM                |     | PM    |     |
|  | Delay           | LOS | Delay | LOS | Delay             | LOS | Delay | LOS |
| <b>Petaluma Blvd South at Highway 101 SB Ramps</b>   | 53.3            | F   | 148.7 | F   | 59.7              | F   | 150.0 | F   |
| <b>Petaluma Blvd South at Landing Way</b>            |                 |     |       |     |                   |     |       |     |
| SB <del>Thru</del> Left                              | 11.1            | B   | 10.2  | B   | 11.6              | B   | 10.2  | B   |
| WB Approach  | 108.4           | F   | 23.6  | C   | 221.4             | F   | 23.6  | C   |
| <b>Petaluma Blvd South at Highway 101 NB On-Ramp</b> |                 |     |       |     |                   |     |       |     |
| NB Left  | 8.3             | A   | 8.0   | A   | 9.3               | A   | 8.0   | A   |
| <b>Petaluma Blvd south at Project Driveway</b>       |                 |     |       |     |                   |     |       |     |
| SB Left  | -               | -   | -     | -   | 9.1               | A   | 0.0   | A   |
| WB Right   | -               | -   | -     | -   | 14.0              | B   | 17.2  | C   |

In addition, Mitigation Measure TRANS-10 on page V.J-39 of the DEIR has been revised to read as follows:

**“Mitigation Measure TRANS-10**

Although Impact TRANS 10 was found to be less than significant, Mitigation Measure TRANS-10 requires implementation of Mitigation Measure TRANS-6, requires the installation of exclusive right and left turning lanes at Petaluma Boulevard South/Landing Way, and Mitigation Measure TRANS-7, replacing the northbound left turn lane with a shared northbound through-left turn lane at Petaluma Boulevard South/Highway 101 Southbound ramps. This would further improve AM conditions at the intersection of Petaluma Boulevard South/Landing Way to a delay of 148.4 seconds at LOS F. Petaluma Boulevard South/US 101 Southbound ramps would improve to 58.1 seconds of delay LOS F in the AM and 38.3 seconds of delay LOS E in the PM which is acceptable when compared to 2020 no project conditions.”

**Comment A6-20**

18. Page V.J-39 (Mitigation Measure TRANS-10): According to comment #16, the statement “...Impact TRANS-10 was found to be less than significant...” is incorrect. What are the mitigation measures for the significant impact?

**Response to Comment A6-20**

Please refer to response A6-19.

**Comment A6-21**

19. Page V.J-39 (Impact TRANS-11): It should state "...on the northbound approach..." instead of eastbound approach in line 2.

**Response to Comment A6-21**

Comment acknowledged. Based on the comment, the second paragraph on page V.J-39 of the DEIR has been revised to read as follows:

"Table V.J-22 shows queuing under Cumulative 2020 with project conditions. The project would cause 95th percentile queues to grow where they already exceed available storage on the ~~eastbound~~ northbound approach to the proposed Petaluma Boulevard South/Highway 101 southbound ramps intersection."

These revisions do not affect any conclusions provided in the DEIR.

**Comment A6-22**

20. Table V.J-22 (Cumulative 2020 Without and Plus Project Highway Operations):

- Change the title to "2020 No Project" instead of "Near-Term" and "2020 Plus Project" instead of "Near-Term Plus Project."
- According to Table V.J-10, Highway 101 SB-South of Petaluma Blvd South would operate at LOS F under Cumulative 2020 Without Project conditions. Since "The project would add trips to congested segments of southbound Highway 101 south of Petaluma Blvd South during the AM Peak hour," why would the segment operate at better than LOS E under Cumulative 2020 Plus Project conditions?

**Response to Comment A6-22**

Comment acknowledged. The column headings in Table V.J-22 should read "Cumulative 2020" and "Cumulative 2020 plus project" and not "Near Term." The table shows the cumulative levels of service incorrectly and has been revised. Impact TRANS-12 would remain significant and the mitigation described under Mitigation Measure TRANS-12a is appropriate.

Based on the comment, the first paragraph on page V.J-41 of the DEIR has been revised to read as follows:

"Under 2020 conditions, the segments of Highway 101 being studied would already have HOV lanes in the no project condition. This is expected to improve operations in both peak commute directions. The project would add trips to congested segments of southbound Highway 101 south of Petaluma Boulevard South during the AM peak hour, ~~but would not cause the segment to fall from LOS E to LOS F.~~ Therefore, according to the significance criteria this is a **less than significant** impact. The project would ~~add traffic and~~ to the Highway 101 southbound on-ramp, ~~which is both of which~~ already operate at LOS F. This is a **significant** impact similar to Impact TRANS-3."

Also, Table V.J-22 on page V.J-41 of the DEIR has been revised as follows:

**Table V.J-22  
Cumulative 2020 Without and Plus Project Highway Operations**

| Location   | Near Term Cumulative<br>2020 |                       | Near Term Cumulative<br>2020 Plus Project |                       |
|--|------------------------------|-----------------------|---|-----------------------|
|  | LOS                          |                       | LOS                                       |                       |
|  | AM                           | PM                    | AM  | PM                    |
| <b>Mainline Segments</b>   |                              |                       |   |                       |
| Highway 101 SB–North of Petaluma Blvd South  | D                            | <del>B</del> <u>C</u> | D   | <del>B</del> <u>C</u> |
| Highway 101 SB–South of Petaluma Blvd South  | <del>E</del> <u>F</u>        | <del>B</del> <u>C</u> | <del>E</del> <u>F</u>                     | <del>B</del> <u>C</u> |
| Highway 101 NB–South of Petaluma Blvd South  | B                            | D*                    | <del>B</del> <u>C</u>                     | D*                    |
| Highway 101 NB–North of Petaluma Blvd South  | B                            | C*                    | <del>B</del> <u>C</u>                     | C*                    |
| <b>Ramp Merge and Diverge</b>  |                              |                       |   |                       |
| SB Off-Ramp  | C                            | B                     | C   | B                     |
| SB On-Ramp   | F                            | A                     | F   | A                     |
| NB Off-Ramp  | B                            | <del>B</del> <u>C</u> | B   | <del>B</del> <u>C</u> |
| NB On-Ramp   | <del>A</del> <u>B</u>        | B                     | <del>A</del> <u>B</u>                     | B                     |
| <i>*Level of Service may be worse because traffic flow volumes are attenuated by congestion.</i> |                              |                       |   |                       |

The revisions do not affect the conclusions provided in the DEIR.

**Comment A6-23**

**Visual Impacts**

We agree with the findings of the DEIR regarding scenic vistas and visual characteristics, other than the use of redwoods for screening. If the project is to go ahead with construction, the Department would like to see that the following mitigations measures be implemented:

1. More landscape screening throughout the project site to further screen the proposed project.
2. Preserving existing trees between the project site and US 101.
3. Screen plantings shall be similar in form, line, color and texture of immediately surrounding trees and vegetation.
4. Exterior building surfaces shall match the hue, lightness and saturation of colors of the immediate surrounding trees and vegetation.
5. Area A and D shall not be used to store equipment, tools, aggregate, etc.
6. Areas B, C and D shall be free of trash, debris, non-operative vehicles and equipment, unless screened from off-site views.
7. Redwood trees are not recommended for screening next to highway 101 as they are not native to this specific area. A palette of native inland trees is recommended instead.

**Response to Comment A6-23**

This comment concurs with the findings of the DEIR regarding scenic vistas and visual character but suggests trees other than redwoods be provided for screening purposes. In response to this comment, the first half of the first bullet in Mitigation Measure AES-1 on page V.A-49 (Aesthetics) and in Table II-1 of the DEIR has been revised as follows:

- “The proposed landscape plan shall be revised to include more landscape screening throughout the project site to further screen the proposed project from ~~off-site~~ public views. The additional landscaping shall be provided: a) along the northern, western and southern edges of Area A; b) along the northern, eastern and southern edges of Area B; c) clustered Redwood trees native to the project area and landscape planters around the asphalt plant equipment; and d) along the eastern side of Area C along the railroad tracks...”

Please refer to response B18-46 for an additional change to Mitigation Measure AES-49 regarding landscaping along the western edge of Area A of the project site.

**Comment A6-24****Cultural Resources**

The Cultural Resource Studies conducted for this project do not include the areas for interchange improvements to US 101/Petaluma Boulevard South, right-of-way dedication, signal installation, acceleration/deceleration lanes.

Pursuant to CEQA, PRC 5024, and the Department’s Environmental Handbook Vol. 2, should ground disturbing activities within the Department’s ROW become a part of this project, the Department will require a Cultural Resource Study that includes the following before an Encroachment Permit can be issued:

- A current record search from the Northwest Information Center;
- An evaluation of the sensitivity for buried unrecorded sites within the area of impact.

If an archaeological site is identified within the Department’s ROW, the following will be required:

- Effects evaluation of potential project impacts to the archaeological site;
- Mitigation plan per CEQA Guidelines 15126.4(b)(3);
- Evidence of consultation with the territorial Native American group(s) for the area pursuant to PRC 5097.

The above report(s) are to be submitted to:

Office of Cultural Resource Studies, MS 8A  
CA Department of Transportation  
P.O. Box 23660  
Oakland, CA 94623-0660

If an archaeological site is identified within State ROW, avoidance is the preferred mitigation for archaeological sites under CEQA; however, CEQA Guidelines 15126.4(b)(3) provides a discussion of archaeological mitigation. Archaeological monitoring is not appropriate mitigation prior to evaluation of a resource.

If a Cultural Resource Evaluation results in the finding of a historically or culturally significant resource, and based on the project impacts to this resource, a Data Recovery Plan may be necessary. This Plan must be approved by the Department's Cultural Resource Studies Office before an Encroachment Permit can be issued.

***Response to Comment A6-24***

Should ground disturbing activities within Caltrans ROW become a part of the proposed project, the applicant will comply with Caltrans' policies regarding the preparation of a Cultural Resource Study.

***Comment A6-25***

***Encroachment Permit***

Please be advised that any work or traffic control that encroaches on State ROW requires an encroachment permit issued by the Department. Further information is available on the following website: <http://www.dot.ca.gov/hq/traffops/developserv//permits/>. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the following address:

Julie Hsu; Branch Chief, Office of Permits  
California DOT, District 4  
P.O. Box 23660  
Oakland, CA 94623-0660

***Response to Comment A6-25***

Comment acknowledged.

***Comment A6-26***

Should you require further information or have any questions regarding this letter, please call or email Ina Gerhard of my staff at (510) 286-5737 or [ina.gerhard@dot.ca.gov](mailto:ina.gerhard@dot.ca.gov).



***Response to Comment A6-26***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter A7**  
**State of California, State Clearinghouse and Planning Unit**

***Comment A7-1***

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on March 3, 2008, and no state agencies submitted comments by that date. 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 call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

***Response to Comment A7-1***

This comment confirms that the DEIR has complied with State Clearinghouse review requirements and contains contact information. However, this comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter A8**

**State of California Department of Conservation, Division of Land Resource Protection, Williamson Act Program, Jacquelyn Ramsey**

***Comment A8-1***

Per our telephone conversation March 3, 2008, I have reviewed the document and find that it does not involve land restricted by a Land Conservation (Williamson) Act contract. Therefore, the Department of Conservation, Division of Land Resource Protection, Williamson Act Program has no comment.

***Response to Comment A8-1***

This comment confirms that there is no land under Williamson Act contract at the project site. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter B1****Petaluma Wetlands Alliance, Gerald L. Moore Ph.D.*****Comment B1-1*****PETALUMA PUBLIC WETLANDS SITE STATEMENT**

The potential new Dutra Corp. asphalt manufacturing site is on the west side of the Petaluma River directly across the river from the northwest portion of Shollenberger Park. To the north of Shollenberger Park is Alman Marsh, and to the south is the Ellis Creek Water Recycling Facility & Wildlife Sanctuary which will open to the public in early 2009. In total, these three properties comprise over 500 acres of public wetlands. The Petaluma Wetlands Alliance (PWA) is the nonprofit organization which supports these wetlands with education in, and stewardship of all 500+ acres. We provided nearly 1000 schoolchildren with interpretive services last year, in addition to interpreting the wetlands for hundreds of adults. We have grown from two to thirty-five docents in five years. Our program is rapidly growing, and we expect to double our docent staff over the next two years and add many new programs. PWA is also developing plans for an interpretive center at the Ellis Creek site. All of this growth will make our public wetlands the primer wetlands educational site in the bay area, servicing thousands of children and adults every year. In addition, after Ellis Creek opens, Petaluma will become a true “birding hotspot” in California. Our tourism from birders and nature lovers is expected to grow to 10,000 - 20,000 people per year, not to mention our local citizens who frequent the site on a regular basis. These public wetlands will soon become the outdoor education and the tourism focal points in the Petaluma area.

These public wetlands are immediately **down-wind and down stream** from the new Dutra asphalt plant site. PWA, which has several hundred supporters plus the community at large, is extremely concerned about possible negative effects from the asphalt plant which might occur to the habitats, wildlife, safety, and sensual experiences of visitors to our wetlands. The growth in use of our wetlands is a matter of economics, educational program success, community pride, and community “quality of life issues”. It is extremely important to us that the Dutra project has the minimum of negative impacts on our wetlands. There is no doubt that Dutra’s plant will become even more of a “talking point” on our wetlands tours, for better or worse, depending on the final reactions of the County and Dutra to this DEIR and community suggestions. Failure to make this plant as invisible to our senses as is technically possible is not an acceptable option at this site.

***Response to Comment B1-1***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B1-2***

1. We feel that the plant should be built according to Alternate “C” guidelines, while incorporating all of the mitigation steps of the full project which are still applicable to the reduced plan. This would reduce many of the negative impacts from the plant, including night use, noise, and potential disturbance to

nesting birds in the site and along the river. Other issues like hazardous waste, hydrology issues, and traffic would also be reduced. Alternate C would allow Dutra to meet its objectives of asphalt manufacture while using the river for delivery of gravel, which PWA supports since the commercial tonnage figures from their river use are important to Petaluma in obtaining Federal funding for dredging the river. We also realize the need for asphalt products in the community to support our roads.

***Response to Comment B1-2***

Comment noted. This comment will be forwarded to the decision makers for their review and consideration.

***Comment B1-3***

2. We feel that Dutra should abandon the concept of using 20,000 gallons of river water each day for dust reduction due to the destruction it would potentially cause to thousands of fish and millions of invertebrates living in the river. Such pumping would alter the entire ecosystem of that section of the river and considerably reduce the food availability in our tidal wetlands, creeks, and some unknown portion of the river itself. There are other issues of hydrology and habitat damage related to this river pumping scheme (DEIR Section V, pp. C23, C24, C31). A better solution might be to get recycled water from Petaluma's recycling facility. Petaluma has been giving away recycled water for years and preservation of the biological quality of our river and wetlands would justify continuing to do so. In addition, if highly-pathogenic bird flu virus does come to the area, and it could (with little warning), spraying river water would probably be lethal to many people in the community as well as to Dutra employees.

***Response to Comment B1-3***

The comment expresses concern regarding the project's proposed pumping of water from the Petaluma River for dust suppression purposes at the project site, which the commenter believes could result in the loss of fish and invertebrates, impacts to hydrology and wildlife habitat, and potential health effects.

Page III-56 of the DEIR discusses the possible use of reclaimed water from the Petaluma wastewater treatment plant trucked to the project site. Currently under construction, the new Ellis Creek wastewater treatment plant would provide tertiary treatment and may be completed by the summer of 2009. While use of reclaimed water for onsite dust suppression would require truck trips, it would also reduce some of the adverse environmental impacts associated with pumping River water, which are discussed in several sections of the EIR, including Section V.C (Biological Resources) and Section V.G (Hydrology and Water Quality). The commenter's recommendation to use reclaimed water instead of River water will be forwarded to the decision makers for review and consideration.

The potential for loss of fish and aquatic species is acknowledged on page V.C-23 of the DEIR, although similar diversion has occurred as part of the existing operations west of Highway 101 and north of the project site. As called for in Mitigation Measure BIO-1c, the USFWS and NOAA Fisheries would review the project as part of the Section 404 consultation process, and may impose additional restrictions to

protect essential habitat for special-status species as part of the Section 7 consultation required as part of the Endangered Species Act. This would include screening of any intake for the pumping from the River, and possibly restrictions on pumping when migrating fish would most likely be present in the River segment bordering the site.

Section V.F. (Hazards and Hazardous Materials) of the DEIR identified the project's potentially significant hazards and hazardous materials impacts, and provides mitigation measures to ensure that such significant impacts would be reduced to less-than-significant levels.

Avian influenza (bird flu) refers to a large group of different influenza viruses that affect birds. On rare occasions, these avian flu viruses can infect other species, including pigs and humans. Infected birds spread avian flu by particles from mouth and nose fluids and from their droppings. People can be infected with the virus from direct contact with infected birds, droppings,<sup>5</sup> or the virus becoming aerosolized and landing on the exposed surfaces of the mouth, nose, or eyes, or being inhaled into the lungs.<sup>6</sup> The vast majority of avian flu viruses do not infect humans; however, once a human is infected, the spread of the virus from one ill person to another has been reported very rarely.<sup>7</sup> Certain strains of the virus such as H5N1, which is currently affecting Africa, Europe, and Asia, could develop into a human pandemic if the strain can adapt into one that is more easily spread from person to person.

The Sonoma County Department of Health Services, Public Health Division, has reported that no birds in North America have tested positive for H5N1 and that there is no avian flu risk. Spraying of River water for dust control therefore would not be expected to result in adverse health effects to Dutra employees or the Petaluma community.

If the avian flu were to become a problem in the future in the project vicinity, the Sonoma County Department of Health Services, Public Health Division, as the lead local public health agency, would be responsible for evaluating potential routes for human exposure, identifying whether these exposures pose a health hazard to citizens, and implementing appropriate controls/mitigations to reduce exposures and the potential for health effects. This could presumably include curtailment of any diversions of surface waters from the Petaluma River. Potential impacts to public health associated with bird flu therefore were not further addressed in Section V.F. of the DEIR.

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<sup>5</sup> Sonoma County Department of Health Services, Public Health Division, 2008, *Pandemic Flu: Avian Influenza ("Bird Flu")*, January 23, 2008 (information reviewed at <http://www.sonoma-county.org/health/ph/phpreparedness/influenza/avianflu.htm>, April 22, 2008).

<sup>6</sup> CDC, 2004, *Interim Recommendations for Persons with Possible Exposure to Avian Influenza During Outbreaks Among Poultry in the United State, Issued as a Health Alert Network messages on February 24, 2004* (information reviewed at <http://www.cdc.gov/flu/avian/professional/possible-exposure.htm>, April 22, 2008.)

<sup>7</sup> Centers for Disease Control (CDC), 2007, *Avian Influenza A Virus Infections of Humans, December 15, 2007* (information reviewed at <http://www.cdc.gov/flu/avian/gen-info/avian-flu-humans.htm>, April 22, 2008).

**Comment B1-4**

3a. PWA feels that there should be a real commitment from Dutra to eliminate, or control, invasive weeds on their site to include Yellow Star Thistle, Purple Star Thistle, Italian Thistle, Bristly Ox-tongue, French Broom, Giant Reed, Poison Hemlock, and Perennial Pepperweed. A new invasive species called Stinkwort has also appeared in the area and needs pulling because it is extremely invasive. Stinkwort comes up in June, is sticky, smells like camphor, and is easy to pull out of the ground. All of these species are being vigorously fought in Shollenberger and replaced by native species. Since all of these species produce seed that can be blown several hundred feet, or be transported downstream on the river, we don't want new seed appearing in our wetlands from the Dutra site. Removing the Pepperweed (*Lepidium latifolium*) is particularly important to maintain the desirable biodiversity in the Dutra restored wetlands. Every effort should also be made to preserve the native plants already existing on the property.

**Response to Comment B1-4**

The commenter's concerns are noted. Mitigation Measure BIO-3a(2) requires that the WMMP be revised to include a program to remove invasive exotics in the mitigation portion of the site. As noted by the commenter, invasive species should be controlled over the entire site to prevent these species from spreading into the mitigation area and off-site location. In response to the comment, Mitigation Measure BIO-3a(2) on page V.C-32 of the DEIR has been revised as follows:

"2) Incorporate provisions for the control of invasive exotic species from the wetland and upland enhancement mitigation area in Sections 5, 6 and 8 of the WMMP, and expand this program for invasive exotic species control over the entire site, based on input from the Corps, RWQCB, and CDFG. This shall include monitoring and maintenance provisions that call for periodic inspection and removal in spring and summer, and a success criteria that specifies successful control of target species within five years of initial construction of the wetland mitigation area. Target species to be eradicated or successfully controlled in the wetland mitigation area and remainder of the site include: sweet fennel, poison hemlock, Italian thistle, pampas grass, French broom, Scotch broom, eucalyptus outside the heron/egret roosting colony, stinkwort, giant reed, non-native cordgrass, pepperweed, and acacia, among others."

**Comment B1-5**

3b. We urge Dutra to cooperate with The Spartina Project which is trying to remove the invasive species of Spartina (Cordgrass) which was introduced to the upper Petaluma River about two years ago, probably carried by dredge boats coming from the south bay. Possible issues are access to monitor and/or spray. The invasive Spartina alterniflora and its hybrids (with the native Spartina foliosa) were discovered last year along the river at Shollenberger, along the Dutra property, and several other spots. The Spartina Project has hired experts to eradicate these species from our river since they tend to destroy western wetlands by dramatic changes in hydrology which could render the river nonnavigable in the future.

**Response to Comment B1-5**

The concerns of the commenter regarding control and eradication of non-native cordgrass (*Spartina alterniflora*) from the site are noted. Please refer to the response B1-4 for revisions to Mitigation Measure BIO-3a(2) on page V.C-32 of the DEIR addressing the need to control and eradicate this invasive species from the site.

**Comment B1-6**

4. We feel that the gravel conveyor belt near the rookery should also be covered on the east side as well as the west side so as not to frighten birds flying toward the colony from Shollenberger, where they frequently feed.

**Response to Comment B1-6**

Please refer to response B2-4. Mitigation Measure BIO-4d includes specific modifications to the proposed conveyor belt structure to minimize potential disturbance to the nearby egret/heron colony. This includes a solid roof and covering over at least the upper half of the west wall facing the colony. While the potential for disturbance to wildlife activities in Shollenberger Park from activities on the conveyor is considered less than significant due to the large distance and activities on the adjacent properties to the north and south of the site to which wildlife have acclimated, there is a potential that birds returning to the colony from the River and foraging habitat to the east could be disturbed by activities on the conveyor as they fly over this structure. For this reason, Mitigation Measure BIO-4d on page V.C-37 of the DEIR has been revised as follows:

“The conveyor used to transport gravel from Area A to the processing plant shall be designed to minimize disturbance to the nearby egret/heron colony. The conveyor shall be designed as close to the ground as possible within 300 feet of the colony. A solid roof (Metal, fiberglass, or opaque plastic) shall be constructed over the conveyor system, and a walkway/maintenance access be provided along the conveyor from the railroad crossing to the existing access road across Area B on the site. The covering shall extend down at least the upper half of the west wall facing the egret/heron colony and the east wall facing the River to provide additional screening. Human access shall be restricted to the covered area along the conveyor during the nesting season (February 15 through August 31).”

**Comment B1-7**

5. We encourage up-front planting of the trees that could become an eventual alternate rookery, but we do not support the idea of erecting the temporary pole-nesting site unless the present rookery is completely abandoned.

**Response to Comment B1-7**

A review of recommendations made in the Heron/Egret Rookery Impact Assessment and Recommendations Report (“H/ERIAR report”) prepared by LSA in April 2007 is provided on page V.C-



35 of the DEIR. This includes the conclusion by the EIR biologist that the benefits of the suggested use of nesting platforms as replacement habitat would be speculative, at best.

The commenter is correct that planting of additional trees could eventually serve as an alternate rookery for nesting birds, and the WMMP includes considerable plantings in upland locations as part of the habitat enhancement proposed as part of the project. Please refer to response B2-4.

***Comment B1-8***

6. Noise levels from the project are significant. A good portion of the noise will come from the recycling section of the plant which is one reason for our favoring Alternate C which will reduce daytime noise levels and entirely eliminate noise at night. Noise issues are of particular interest in regard to the egret rookery on site, the deep-water seasonal pond at Shollenberger which is prime nesting habitat for many nesting species (it is located at noise-measuring site R6 and can extend down to R7 after wet winters), and the general disturbance to wildlife in other habitats along the river. There would also be a significant irritation level among park users from all the noise while on the west side of the park. The relief of all noise at night under Alt-C is a tremendous asset for our wildlife.

In addition to the planned mitigation sound barriers, we suggest consideration of constructing sound walls between noisy areas of the project and the river to further reduce sound headed toward the public wetlands. Such a wall should be given an earth-tone color in manufacturing, and landscaped on the river-side with native shrubs and trees to further reduce its visibility. Since the DEIR states that multiple rows of housing act as sound filters for rows further from the noise, the same benefit should be gained with other multiple sound filters.

***Response to Comment B1-8***

The DEIR discusses the potential impacts of project-generated noise and night-time lighting on wildlife habitat and the egret/heron colony under Impact BIO-4. Mitigation Measure BIO-4a through 4e were recommended to address this potentially significant impact. Construction of an effective sound wall is infeasible due to changes in topography, proximity to the railroad right-of-way, and the fact that the alignment of any sound wall to minimize noise impacts on Shollenberger Park would exacerbate reflective noise on the egret/heron colony and would most like require that the conveyor structure be sited even closer to the colony than currently proposed. A sound wall on the project site would also further exacerbate the project's significant aesthetics impacts.

***Comment B1-9***

7. Section 5F of the DEIR is totally inadequate when discussing hazards and hazardous materials. Most of this section is a litany of government rules about hazardous material regulations. There is a discussion of possible contaminants to the soil fill on the site which contains materials (including cobalt) from previous activities including gravel wash sedimentations from Dutra's former operation on the hill. The important ongoing issue to the community will be the volatile chemicals used in making asphalt, which is glossed over in the DEIR. There is a mention of asphaltic oil and liquid asphalt, neither of which is

defined, but are probably composed of smelly, flammable, toxic, petroleum byproducts. Anyone who has ever walked pass an asphalt re-roofing job understands this issue. If this petroleum byproduct assumption is correct, we need to know what exactly these chemicals are, how much will be present at any given time, what is the vapor pressures and flash points of these chemicals - in other words how unstable are these chemicals. This relates to how much of these chemicals might escape in a leak, or spill before said accident is controlled. Would these chemicals vaporize and be carried by the wind into Petaluma's public wetlands? Would they catch fire and generate more toxic materials to move downwind into Shollenberger? Would they run into the Petaluma River and cause a major toxic accident to wildlife and habitats? In the DEIR there is mention of alarms at the site but how much material could get loose, for how long, before the problem is controlled? If there is any conceivable possibility that any of these hazardous materials, in any form, could cross the river to Shollenberger Park this becomes a **significant risk** to the public. Remember that while Shollenberger is not a school, we now have a thousand school children per year walking around Shollenberger as part of their biology education, and this number is likely to double or triple in a few years. I propose that if any conceivable risk level exists on the east side of the river an alarm system should also be installed at multiple sites around Shollenberger to alert the public to evacuate. Such a system might also be needed in the adjoining business park which includes the Kaiser Medical Center. Off-site alarms could be solar powered and activated by digital, wireless signals. We have seen enough news stories about the accidents from the east bay petro-chemical industry to know the issues. Lastly, what is being designed to prevent or contain liquid toxic spills into the river?

### ***Response to Comment B1-9***

Please refer to the Section V.B. (Air Quality) of the DEIR, which identifies the proposed project's potentially significant emissions of toxic air contaminants (including volatiles, semi-volatile and metals) from operation of the asphalt facility. The results of the health risk screening evaluation for the proposed facility emissions (in the absence of best available control technologies (BACT)) included estimates of annual average ambient air concentrations from plant emissions, local meteorological data, and considered impacts to the nearest residential receptor (which would also be protective of nearby recreational receptors). The screening evaluation was considered acceptable to the Bay Area Air Quality Management District, assuming implementation of toxic Best Available Control Technology (TBACT)<sup>8</sup> at the facility.

Asphalts have relatively low vapor pressure (meaning the rate at which evaporation occurs; products with lower vapor pressure have lower rates of evaporation) and relatively high flash point (450 degrees F)<sup>9</sup> (temperature at which a vapor will ignite and burn when exposed to an ignition source). Hazardous materials with relatively low vapor pressures and relatively high flash points represent relatively low safety hazards in the event of an accidental release under ambient conditions, as compared to other hazardous materials.

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<sup>8</sup> *Verified engineering controls implemented as part of the batch plant process equipment.*

<sup>9</sup> *Gary Williams Energy Corporation, 2004, MSDSs for Asphalt products, information reviewed at <http://gwec.com>, 25 April 2008.*

Existing hazardous materials regulations, enforced by the Sonoma County Department of Emergency Services, require that emergency response procedures be developed in the event of an emergency release at the facility, and considering the types of emergencies that may occur (release to air, land, water), and possible receptors affected (See Section V.F (Hazards and Hazardous Materials) of the DEIR). In addition, Mitigation Measure HAZ-3 of the DEIR requires review of the proposed project by a Fire Protection Engineer for compliance with Uniform Fire Code requirements related to hazardous materials storage, fire suppression systems, containment and alarm systems. Specific measures for alarms will be developed as part of this plan review. The specific type of alarm system suggested by the commenter will be forwarded to the decisions makers for their review and consideration.

Compliance with existing hazardous material regulations and implementation of Mitigation Measure HAZ-3 would ensure that any accidental releases of hazardous materials associated with the proposed project are efficiently and appropriately responded to for the purpose of preventing health effects to future asphalt plant workers and potential off-site receptors.

Mitigation Measure HYDRO-3a and the response to A5-7 above detail the requirements for prevention and containment of potential releases to the Petaluma River.

***Comment B1-10***

8. We like the fact that wetlands will be restored and created on about one third of the property, and that Dutra appears to have an environmental concern for the habitats and wildlife issues of their project. We fully expect the County and other government agencies to maintain an active monitoring program on the site for at least 5-10 years to assure that the mitigation issues are met and don't fall through the cracks in the hustle and bustle of making asphalt and profits.

***Response to Comment B1-10***

As indicated on page V.C-39 of the DEIR, the WMMP would involve a minimum 5 years of monitoring and maintenance to ensure successful establishment. Annual monitoring reports would be submitted to the County, Corps, RWQCB, and CDFG and the resource agencies must be satisfied with the success of the wetland mitigation before they will release the applicant from further monitoring as a condition of their permit authorizations.

***Comment B1-11***

9. We encourage a second look at the hydrology issues of the site in light of global warming. A report on this concept has just been issued by Science Magazine and is attached.

***Response to Comment B1-11***

The commenter encourages a 'second look' at hydrology issues in light of global warming. CEQA analysis includes both potential impacts of a project on the environment, as well as environmental impacts on the project. Hydrology issues for the project related to global warming, primarily sea level rise, are addressed in Hydrology and Water Quality section of the DEIR on page V.G-9. Impacts to the project facilities due to

environmental changes stemming from global warming would be negligible, as discussed in the DEIR hydrology section. Contributions from a specific project to global warming impacts are difficult to analyze, due to the complexity of such calculations on a global scale; however, part of the stated project objectives (Project Description, page III-71 of the DEIR) is to replace an existing facility already in operation. The new project is intended to be 'state-of-the-art' equipped with Best Available Control Technology (page III-45) and the location is meant to be in close proximity to end users (the Highway 101 corridor) where road projects are anticipated in the near future, reducing delivery miles. The new facility is intended to provide products in an environmentally superior and economically efficient way by reducing outbound truck trips and increasing use of barged deliveries of raw materials, as well as provisioning the site for potential use of rail based deliveries, thereby reducing energy and resources consumption in the manufacture of product.

***Comment B1-12***

10. If there is any doubt on the part of the DEIR reviewing committee about the quality, state-of-the-art design, or thoroughness of the offered processes or mitigation procedures to be used in this project we suggest that a value-engineering review be done to assure the highest quality of end product to insure the absolute minimum negative impact on Petaluma's public wetlands.

***Response to Comment B1-12***

Comment noted. This comment will be forwarded to the decision makers for their review and consideration.

***Comment B1-13***

**CLOSING COMMENT OF PWA**

PWA is an environmental organization that focuses on wetlands education and stewardship, with less energy spent on advocacy and politics. We like the models of the Nature Conservancy and Environmental Defense who have shown, as Environmental Defense now states, "the approach of lets sue the bastards" is a lot less effective than the approach of "lets sit down together and find common solutions that benefit everyone". With that in mind PWA encourages a partnership with Dutra and ourselves to enhance the quality of our river/wetlands ecosystems while also meeting our other primary goals for being there.

However, there are serious safety issues as well as aesthetic, environmental, and financial issues with potential negative impacts to our community-at-large in regard to our large and growing wetlands educational program and the potential economic opportunities related to our growth in wetlands ecotourism business that will impact large segments of our community. Some of these issues may have to be reconciled by stakeholders other than PWA.

***Response to Comment B1-13***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter B2**

**Susan Kirks**

***Comment B2-1***

I appreciate the opportunity to provide comments for the public record.

My comments focus on Alternatives, and Environmental Impacts to Biological Resources, Noise, Air Quality, Aesthetics, and Cumulative.

***Response to Comment B2-1***

Comment noted. Responses to the comments relative to project alternatives, and environmental impacts to biological resources, noise, air quality, aesthetics, and cumulative are provided below in responses B2-2 through B2-8.

***Comment B2-2***

**VII Alternatives:**

A review of Alternatives A-D led me to want to see evaluation of an additional Alternative, which I believe would actually have been “D”, making the current “D” an Alternative “E.” The omitted Alternative is included below:

A-No Project, B-Reduced Site Plan Alternative, C-Modified Site Plan Alternative, D-Reduced and Modified Site Plan Alternative, and “E”-Alternative Project Site (the report’s current “D”).

It would appear to be beneficial to conduct an analysis of a site plan alternative that included:

1. Omission of the asphalt recycling facility.
2. Reduction of the asphalt production plant to 70% from the current proposal.
3. Omission of night-time operations and night-time lighting.
4. Revision of the site plan to include significantly larger buffer zones between the conveyor, the facility, the planned fire station and the heron/egret colony.
5. Inclusion of the modifications described in Alternative C.

A discussion regarding further exploration of Alternative D with regard to current property owners’ willingness for a long-term lease or potential purchase of that site would also seem reasonable.

Exploration of other potential sites south of the existing location(s) on Petaluma Boulevard South would also appear beneficial.

***Response to Comment B2-2***

The commenter’s recommended alternative to the proposed project will be forwarded to the decision makers for review and consideration. Please refer to pages VII-2 through VII-6 of the DEIR for a discussion of project alternatives and alternative locations to the project site, including locations along

Petaluma Boulevard South, which were found to be infeasible and therefore were not analyzed in detail in the DEIR. According to the applicant's legal counsel (please refer to comment B18g-6), the applicant does not own the Alternative D site and the owner of that site is not willing to sell his property.

***Comment B2-3***

**V Environmental Impact Analysis**

VB Air Quality

Impact AQ-5 Odors: Although the report indicates BACT is to be implemented, the Blue Smoke control mechanisms remain of concern, especially with regard to potentially significant environmental impacts on biological resources in the immediate area. I hope to hear a discussion of the relationship between odors and emissions and the heron/egret colony sensitivity as well as the close proximity to Shollenberger Park.

***Response to Comment B2-3***

Please refer to Section V.B (Air Quality) of the DEIR for a discussion of air quality impacts associated with the project, and necessary controls for odor and other measures recommended as mitigation. Controls to address air quality impacts of the project would serve to reduce potential impacts on the egret/heron colony, Petaluma River, including nearby Shollenberger Park, and should not pose a health risk to sensitive wildlife habitat resources.

***Comment B2-4***

VC Biological Resources

This comment focuses on the heron/egret colony currently thriving on the Dutra land. The colony and nesting site will not survive with the currently recommended mitigation measures. The colony will not survive and the nesting site lost if the proposed project is approved under Alternative C. Alternative D with further modifications could prove otherwise.

Appendices: Appendix E - LSA Heron/Egret Colony Report

The report bases recommendations on a single project that was a residential condo/townhome development with destruction of two existing residences. This hardly compares to the construction of and then daily operation of a large-scale heavy industrial asphalt production facility. The LSA report does not provide sufficient data to produce realistic recommendations for both protecting the colony during nesting season or for providing any chance at all of survival. The recommended artificial platform construction as a potential mitigation measure still places the colony in the vicinity of the asphalt production plant, a heavy industrial facility with noise, air quality issues and human encroachment. In addition, the planned fire station location would need to be located as far away from the colony site as possible. Obtaining current research data and reliance upon expert observers and biologists familiar with the heron/egret colony on the Dutra land is essential for any attempt to preserve and protect this important natural resource. Many consider the heron/egret colony an extension of the ecosystem encompassed by Shollenberger Park, Alman Marsh and the Ellis Creek area. Of note is the availability for food sources and quiet environment, contributing to the longevity and growth of this colony. This points to the current Alternative D as the superior alternative, as noted in the DEIR report.

**Response to Comment B2-4**

The concerns of the commenter regarding potential impacts of the project on the egret/heron colony are noted. A detailed discussion of the potential impacts of the project on the colony, and review of recommendations made in the H/ERIAR report is provided under Impact BIO-4 in the DEIR. This includes the conclusion by the EIR biologist on page V.C-35 that the suggested use of nesting platforms in the H/ERIAR as replacement habitat would be speculative, at best. The analysis of potential impacts on the colony was based on best available data and input from representative of the CDFG. As concluded on page V.C-34 of the DEIR, while it is difficult to predict how individual birds in the colony on the site may react to construction and on-going operations at the proposed facility, it is likely that intrusion closer than the existing road on Area B and the railroad tracks to the east of the colony would be disruptive, particularly during the nesting season. Project-generated noise and night-time lighting on wildlife habitat and the egret/heron colony was identified as a significant impact under Impact BIO-4 in the DEIR. Mitigation Measures BIO-4a through 4e were recommended to address this significant impact, and include restrictions on construction and long-term disturbance in the vicinity of the colony, and modifications to project operations and improvement design. Redesign of improvements associated with the fire station called for in Mitigation Measure BIO-4a would serve to retain most of the existing blue gum eucalyptus trees that provide visual screening of the colony, including the row of three existing trees in the parking lot between the proposed fire station and the parking stalls to the south. Collectively, these measures are considered adequate to mitigate potential project impacts on the colony and other sensitive wildlife habitat in the vicinity to a level of less than significant, as concluded in the DEIR.

As discussed on page V.C-35 of the DEIR, the H/ERIAR includes monitoring and further adjustments to plant operations based on egret and heron responses. Mitigation Measure BIO-4b calls for restrictions on proposed construction during the nesting season, unless surveys indicate that nesting has been completed before the end of the typical nesting season. However, no details are provided on the survey process that would allow any construction in the vicinity of the colony or potential nesting habitat along the Petaluma River during the specified nesting season, or other nesting-related monitoring to be provided as part of the H/ERIAR or required as mitigation. Mitigation Measure BIO-4b has been revised as follows, and a new mitigation has been recommended that details monitoring associated with the egret/heron colony.

*“Mitigation Measure BIO-4b Sensitive Nesting Habitat*

Proposed construction shall be restricted away from the known egret/heron colony and from potential nesting habitat along the shoreline of the Petaluma River during the general nesting season to prevent possible nest abandonment and ensure compliance with the Migratory Bird Treaty Act during the active nesting season. Construction activities in Areas A and north of the cross-site access road on Area B shall be restricted to the non-nesting season (September 1 and February 14), unless surveys indicate that nesting has been completed before that time period. This includes installation of all improvements on Area A (pier, ramp, pilings, conveyor, access and parking, and wetland enhancement) and the septic leachfield, fire station and associated parking improvements in the north portion of Area B. If any construction is proposed within these areas during the nesting season, a qualified wildlife biologist shall be retained by the

applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of construction to provide confirmation on the presence or absence of any active nest(s) in the vicinity. If any active nest(s) are encountered, species-specific measures shall be prepared by the qualified biologist in consultation with the CDFG and implemented to prevent nest abandonment. At a minimum, construction in the vicinity of the nest(s) shall be deferred until the young birds have successfully fledged and juveniles from the nest(s) are foraging independently and capable of independent survival at an earlier date. A survey report by the qualified biologist verifying that the young have successfully fledged shall be submitted to the PRMD for review and approval prior to initiation of construction in the nest-setback zone.

Mitigation Measure BIO-4f Sensitive Nesting Habitat

A comprehensive monitoring program for the egret/heron colony shall be developed and implemented by the applicant's consulting biologist. This monitoring program shall provide data on trends in the condition of the colony, responses to project-related activities, and recommendations for necessary adjustments to project operations. Details associated with the monitoring program shall include the following:

- Periodic monitoring shall be conducted to assess heron and egret behavior in advance of project implementation, under normal project operations, during conveyor operations, and during barge/night-time lighting operations. Notes on heron and egret behavior and activity and any changes in activity (i.e., signs of nervousness or flight) shall be recorded. Monitoring shall be provided for a minimum of five years following project implementation, and a minimum of three years following construction of the fire station, conveyor belt structure, and the barge/night-time lighting structures and other improvements on Area A.
- Monitoring frequency and duration shall be modified based on site observations and need to provide conclusive data on project-related disturbance. To observe behaviors during the entire nesting season, a minimum of three monitoring visits shall be provided to observe each of the conveyor operation, barge/night-time lighting, and normal operations during each of the 1) nest selection/pair bonding period (typically from mid-February to mid-March), 2) initial hatching period, and 3) subsequent nest occupation/pre-fledging period.
- Annual monitoring reports shall be submitted to the PRMD by December 31 of each monitoring year, and made available to the public. The annual report shall summarize monitoring dates and methods, nesting behavior and success rates, and observations regarding disturbance and other factors affecting the colony. Adjustments in on-going project operations made during the previous years as part of adaptive management and recommendations for adjustments to or additional controls on continued operations shall be specified in the annual report.”



- If the on-site colony is abandoned as the nesting location at some point in the future during implementation of the above-required monitoring program, monitoring shall continue for at least two years to confirm whether individuals have completely abandoned the location. If the colony has been completely abandoned, on-going monitoring and the development restrictions associated with protection of the eucalyptus grove and nest location specified in Mitigation Measures BIO-4a, 4b, and 4e shall no longer be in effect. However, the protective measures described in Mitigation Measure BIO-4c shall continue to be in effect to protect the sensitive habitat along the Petaluma River and parklands to the east.

In response to the comment and to clarify the importance of designing the fire station improvements so that they are not oriented towards the colony and to provide adequate screening of the new structure, Mitigation Measure BIO-4a on page V.C-36 of the DEIR has been revised as follows:

“The egret/heron colony in the stand of blue gum eucalyptus shall be protected from disturbance associated with construction and future operations, particularly during the nesting season (February 15 through August 31). Proposed improvements at the entrance to the site and vicinity of the fire station shall be redesigned to retain most of the existing blue gum eucalyptus trees that provide visual screening of the existing egret/heron colony, including the row of three existing trees in the parking lot between the proposed fire station and the parking stalls to the south. Proposed roadway and building improvements shall be located no closer to the stand of trees supporting the colony than currently proposed. These trees and the blue gum eucalyptus comprising the stand currently used by nesting egrets and herons shall be retained as a condition of project approval unless and until the colony is no longer viable in the future. All doorways and windows in the future fire station shall be oriented away from the colony. Any required outdoor use areas for storage and other station operations shall be effectively screened by fencing to aid in obscuring a direct line of sight between the outdoor use and the colony. Dense landscaping shall be provided to further screen the station, parking lot, and outdoor use areas from the colony.”

It should be noted that Caltrans is currently evaluating options for designs of the South Petaluma interchange at Highway 101 as part of the Marin-Sonoma Narrows Project. Based on information available to date, the proposed right-of-way for the interchange extends into or just west of the colony on the Dutra site, and could result in removal of much of the existing eucalyptus grove. This would be a significant impact of that freeway improvement project, and could result in the elimination of the egret/heron colony from the site. Caltrans is apparently refining proposed interchange design for the Marin-Sonoma Narrows project and is attempting to minimize impacts to the colony on the Dutra site, but details are currently not available. This project was not specifically addressed in the discussion of cumulative impacts in the Biological Resources section of the DEIR. Given the possible local significance of the Marin-Sonoma Narrows Project, particularly on the colony, the discussion of cumulative impacts on pages V.C-38 and 39 has been revised as follows:

“Cumulative development contributes to an incremental reduction in the amount and connectivity of existing wildlife habitat. The proposed project would include construction and improvements along the

sensitive Petaluma River corridor, which could disrupt terrestrial and aquatic wildlife use. Diversion of water from the Petaluma River would reduce the available surface water, and could result in loss of fish and aquatic life unless adequate controls are implemented. Disturbance associated with the conveyor and processing at the plant could disrupt continued use of the egret and heron roosting colony on the site, which is of local importance as part of the larger ecology of the Petaluma River estuary system. However, the proposed project includes a considerable wetland mitigation program that would greatly improve existing habitat values and functions over a large portion of the site. Together with the measures recommended in this Draft EIR and conditions required as part of permit authorization from jurisdictional agencies, the project's contribution to cumulative impacts would be *less than significant*.

Of particular concern with regard to cumulative development in the vicinity of the Dutra site are the South Petaluma interchange improvements along Highway 101 proposed as part of the Marin-Sonoma Narrows Project currently being evaluated by Caltrans. Based on information available to date, the proposed right-of-way for the interchange extends into or just west of the egret/heron colony on the Dutra site, and could result in removal of much of the existing eucalyptus grove. This would appear to be a significant impact of the freeway improvement project, and could result in the elimination of the egret/heron colony from the site. Caltrans is apparently refining proposed interchange design for the Marin-Sonoma Narrows project and is attempting to avoid the colony on the Dutra site, but details are currently not available. If redesign is not feasible, and the colony must be eliminated, this would be a significant impact on both a project and a cumulative level for the Marin-Sonoma Narrows Project. However, these modifications remain uncertain, are not directly related to the Dutra project, and would not affect the above determination that Dutra's project contribution to cumulative impacts would be *less than significant*."

#### **Comment B2-5**

##### VI Noise

I remained unclear as to significant noise impacts and mitigation of those, based upon the reporting mechanism. During construction time, posting the name and telephone number of a responsible person on site is not a sufficient mitigation measure for the daily and sustained noise levels that would occur.

In comparison to "Typical Sound Levels Measured in the Environment and Industry" (Table V.I-2 on p. 2 of the section, Illingworth & Rodkin, January 2004), I located a different measuring system provided by the American Speech-Language Hearing Association, as follows:

##### *Painful*

150 dB = rock music peak

140 dB = firearms, air raid siren, jet engine

130 dB = jackhammer

120 dB = jet plane take-off, amplified rock music at 4-6 ft., car stereo, band practice

##### *Extremely Loud*

110 dB = rock music, model airplane

106 dB = timpani and bass drum rolls

100 dB = snowmobile, chain saw, pneumatic drill  
90 dB = lawnmower, shop tools, truck traffic, subway

*Very Loud*

80 dB = alarm clock, busy street  
70 dB = busy traffic, vacuum cleaner  
60 dB = conversation, dishwasher

*Moderate*

50 dB = moderate rainfall  
40 dB = quiet room

*Faint*

30 dB = whisper, quiet library

According to the American Speech-Language Hearing Association, “Hazardous Noise: Sounds louder than 80 decibels are considered potentially dangerous. Both the amount of noise and the length of time of exposure determine the amount of damage. Hair cells of the inner ear and the hearing nerve can be damaged by an intense brief impulse, like an explosion, or by continuous and/or repeated exposure to noise. Examples of noise levels considered dangerous by experts are a lawnmower, a rock concert, firearms, firecrackers, headset listening systems, motorcycles, tractors, household appliances (garbage disposals, blenders, food processors/choppers, etc.) and noisy toys. All can deliver sound over 90 decibels and some up to 140 decibels.”

Proposed construction activity noise production approaches 80 and exceeds 90 dB. Ambient daily noise during hours of operation of the asphalt facility range from the low 60s up to 84 dB. The consideration for noise impacts appeared to also focus on impact to the closest residences. I was unable to find a consideration related to the heron/egret colony or to the adults and children at Shollenberger Park, on trails, visiting each day, nor the consideration for impact to wildlife and noise impacts on the Shollenberger Park side of the river.

During the hearing process, I would appreciate an expanded discussion of noise impacts.

***Response to Comment B2-5***

Regarding the commenter’s concern that posting the name and telephone number of a responsible person at the project site is not sufficient mitigation for construction impacts, please refer to the additional noise mitigation measures (Mitigation Measure Noise-1b) required during construction on page V.I-12 of the DEIR.

The commenter provides noise information from the American Speech-Language Hearing Association that will be forwarded to the decision makers for consideration. The noise information provided by the commenter is similar to the typical sound levels provided in Table V.I-2 of the DEIR and does not change the conclusions of the DEIR noise section. Please refer to Section V.I (Noise) of the DEIR for a detailed

discussion of the project's noise impacts during construction and operation, including impacts to sensitive noise receptors in the project vicinity such as Shollenberger Park. Please refer to Section V.B (Biological Resources) of the DEIR for a discussion of noise and operational impacts to the heron/egret colony.

***Comment B2-6***

***VA - Aesthetics and Lighting***

**Lighting:** If the project proceeds, the provision of no night-time lighting is requested. The addition of night-time lighting in a sensitive, rural, nocturnal area could significantly negatively impact biological resources in the area.

**Aesthetics:** I cannot think of a worse project for the chosen location. I am in favor of Dutra being able to conduct business and contribute to river-related industry in Petaluma. At the same time, the location and alternatives discussed to date, with exception of Alternative D with additional modifications, are of grave concern. Shollenberger Park, Alman Marsh, Ellis Creek and the natural resources assets stand to be negatively impacted in a significant way and in ways that cannot yet be anticipated within the context of an Environmental Impact Report. The heron/egret colony under the current plan is, quite frankly, a goner. The educational program offered by the Docents of the Petaluma Wetlands Alliance is a valuable asset to the community. The sanctuary the area just across the river from the Dutra land (and the heron/egret colony location) provides for wildlife is threatened by this proposal, moreso by noise, air impacts, proposed lighting, and industrial location in a commercial setting across the river. At the same time, the impact to aesthetics and the scenic vista appear without ability to be mitigated and would negatively interrupt and change the landscape forever.

***Response to Comment B2-6***

Lighting at the project would be required in accordance with Sonoma County's guidelines for industrially zoned areas. Mitigation Measure AES-3 on page V.A-52 (Aesthetics) of the DEIR outlines the requirements for the lighting plan, which includes provisions to eliminate nighttime glare. Among other things, this mitigation measure requires the use of downward casting and shielded lights that do not cause spillover onto adjacent properties, and limited lighting after 6PM.

This commenter expresses concern about several other environmental issues associated with the project and cumulative impacts. With regard to project location, pages VII-5 and VII-6 of Section VII (Alternatives) of the DEIR discuss other possible locations for the project and why each was deemed infeasible. Pages VII.13 through VII-16 of Section VII (Alternatives) of the DEIR also analyze an alternative site (Alternative D) located east of Areas C and D of the project site.

Section V.A (Aesthetics) of the DEIR identifies the proposed project's potentially significant impacts to visual quality. Section V.B (Air Quality) of the DEIR identifies the project's significant air quality impacts. Section V.C (Biological Resources) of the DEIR identifies the project's potentially significant impacts to biological resources, and Section V.I (Noise) describes the projects significant impacts related to noise. The DEIR includes mitigation measures to reduce and/or eliminate significant impacts of the project. Also, cumulative impacts related to noise, biological resources, lighting/aesthetics, and air

quality are addressed throughout Section V (Environmental Impact Analysis) of the DEIR. The remainder of the comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B2-7***

Cumulative Impacts: The significant impacts discussed in this comment (noise, biological resources, lighting/aesthetics, and air quality) produce a cumulative impact on habitat, habitat health and sustainability, for the heron/egret colony and for the wildlife species in the immediate area. These impacts are also relevant for the hundreds of adults and children who visit the area for the purpose of learning about and enhancing personal health in the context of the park setting, marshes and wetlands.

***Response to Comment B2-7***

Comment acknowledged. Please refer to the cumulative impacts discussions included in the following EIR Sections: V.A (Aesthetics), V.B (Air Quality), V.C (Biological Resources), and V.I (Noise).

***Comment B2-8***

In the discussion that evolves from the DEIR, it is my hope that additional alternatives for Dutra's asphalt facility location can be explored so as to support Dutra to operate a river-reliant industry but facilitate location of the facility in a more appropriate setting for such heavy industry.

***Response to Comment B2-8***

Please refer to response B2-2.

***Comment B2-9***

(Note: My comment is provided in the context of having the privilege to be a Docent at Shollenberger Park, leading school children on educational nature walks, and of being the Chair of a community nonprofit (Paula Lane Action Network, P.L.A.N.) whose mission is research and education, leading to preservation of open space, rural land, wildlife habitat and historic resources.)

***Response to Comment B2-9***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B2-10***

This email communication serves as an Addendum to the Comment Letter forwarded to you via email/attachment on 02/07/08 for the Planning Commission.

Addendum: Reference to "Alternative D" in the Comment Letter on pages 2-4 is to the DEIR Alternative D.

***Response to Comment B2-10***

Please refer to response B2-2.

**Response to Comment Letter B3**

**Robert Kertzner, M.D.**

***Comment B3-1***

I write as a concerned Sonoma County resident about the proposed Dutra Haystack Landing Asphalt Plant and Recycling Facility. I have looked at the draft EIR on the web and have reviewed the aesthetics section about which I would like to comment.

***Response to Comment B3-1***

This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B3-2***

As presently conceived (including landscaping plans to mitigate the adverse visual effects of the plant), the proposed plant strikes me as having unavoidable and highly negative visual effects and I urge the Planning Commission (or Board of Supervisors) to reject the proposal as it currently stands. The site is at a sensitive location at the southern gateway to Sonoma County that is seen daily by thousands of commuters and recreationalists using the Petaluma River and Shollenberger Park. As noted in the EIR, the silos, conical piles, and conveyer belt would be only partially concealed by landscaping and, in turn, this landscaping would block scenic views of the Petaluma River environs and Sonoma Mountain.

***Response to Comment B3-2***

The comment requests that decision-making bodies reject the project as described in the DEIR. Comment noted. This comment will be forwarded to decision makers for their review and consideration.

***Comment B3-3***

To rezone this area to permit industrial usage of such an intrusive nature significantly impacts the quality of life for many Sonoma County residents and, I believe, would undermine efforts to promote Sonoma County as a scenic tourist destination.

***Response to Comment B3-3***

Section V.A (Aesthetics) of the DEIR identifies the proposed project's potentially significant impacts to visual quality and provides mitigation measures that attempt to reduce these impacts. The remainder of the comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B3-4***

I understand there are issues at stake concerning the eligibility of the Petaluma River to receive federal funding for dredging, but, in perspective, i.e., the quality of life for thousands of residents including generations to come, the economic well-being of our burgeoning tourist industry, and the precious scenic

resources of the Petaluma River and Shollenberger Park, I believe that in the larger interest of the public good, the proposed plant should be rejected at the site envisioned in the EIR. The proposed plant strikes me as a stunning eyesore with wide and long-lasting ramifications, despite efforts to address this matter.

***Response to Comment B3-4***

Section V.A (Aesthetics) of the DEIR identifies the proposed project's potentially significant impacts to visual quality and provides mitigation measures that attempt to reduce these impacts. Economic impacts are not addressed in the DEIR.



**Response to Comment Letter B4**

**Mike Gold**

***Comment B4-1***

This project will significantly impact me and my family and invited guests to my private property. My property is directly downwind of this project. I will also need continued access and possibly signs for new directions.

***Response to Comment B4-1***

Please refer to Section V.B (Air Quality) for a discussion of the project's air quality impacts and prevailing wind directions in the project area. Regarding access to the commenter's property, please refer to responses A1-1 and A5-2. The project will be required to maintain adequate access to the existing residential uses along the Petaluma River.

***Comment B4-2***

Do you know for how many years they will need this asphalt plant? 2 or 3 or 4 or 5 or 6 or 10. This is not just global warming but with particulate matter it is called global dimming. Will the United Nations add this to there list?

***Response to Comment B4-2***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B4-3***

The Mitigation Plan will not work in the long run. If this project goes forward they should fill that area and move plant back there where it will not be standing out so much. 80 feet won't be as bad closer to that hill (to the south). The mitigation should be closer to freeway and exit. Or no on site mitigation should be needed.

***Response to Comment B4-3***

Comment noted. The commenter fails to describe why the Mitigation Plan would not work. Please refer to Section VII (Alternatives to the Proposed Project) for an analysis of alternative designs to the proposed project.

***Comment B4-4***

Move the Fire station across access road (to south) and back closer to tracks. That will leave the birds alone (and make environmental folks happier) and they could put a 6 or 8 foot solid fence around where birds live on that hill to protect them. A one level fire station will not be as invasive to that area or exit

roads in and out could be behind or in front of fire station. Behind would be better for less view of trucks from highway. (Near tracks)

***Response to Comment B4-4***

Please refer to response B2-4. Mitigation Measure Bio-4a on page V.C-36 of the DEIR requires a redesign of the project entrance and vicinity of the fire station. This comment will be forwarded to the decision makers for review and consideration.

***Comment B4-5***

There is a culvert under railroad track that is not deep enough. and will be replaced by railroad (when it starts). That will change the habitat on the Fontes property when that happens. The bridge should have a one way flood gate (the railroad must repair) so brackish water does not come to West side of tracks. It should only be draining fresh water, during the winter. That would also be more protection from accidental releases or spills, giving more control for speedy cleanup. That is why the mitigation site back there won't work. So just use that 19 acres to get project away from highway 101. It will also make it easier for visual screening. Fill and use that area, it is just a nothing (no habitat) area now.

***Response to Comment B4-5***

Please refer to response A5-7 for a response to this comment. In addition, the fifth bullet under Mitigation Measure HYDRO-3a on page V.G-21 of the DEIR regarding the emergency shutoff system states:

“An emergency shutoff system that will allow the plant operator to stop discharge from the catch basin should a chemical spill occur at the facility. A gate valve or similar structure that can shut off flows out of the catch basin shall be included in the basin design. The method for engaging the shutoff system shall be simple and the procedure provided to all appropriate plant employees as part of routine training.”

Please refer to response A5-1 regarding installation of the new culvert. Please see page V.C-17 of the DEIR for a discussion regarding the complex ecology of area and influence of brackish water on areas west of the tracks on the 19-acre parcel.

A discussion of the importance of replacing the partially obstructed culvert under the railroad right-of-way is also provided in the Biological Resources section on page V.C-31 of the DEIR. Replacing the existing culvert is intended to allow sufficient tidal flows to enter the site and provide one of the essential conditions necessary to restore the tidally influenced wetlands. This culvert provides the only hydrologic connection between the entire mitigation area and the Petaluma River. Its functioning is critical to the successful creation and enhancement of the tidal and brackish marsh habitat. The preliminary hydrologic evaluation of the mitigation plans concludes that the proposed tidal marsh is feasible, but only if the culvert is replaced. Mitigation Measures BIO-3a(4) and 3a(5) would ensure that the repaired or replaced culvert is adequately sized to meet the requirements for the project and wetland mitigation.

***Comment B4-6***

By reconfiguring the existing plan it may be easier on the visual aspect.

***Response to Comment B4-6***

The DEIR considered how alternative site plans could reduce visual impacts. According to the CEQA Guidelines §15126.6, “An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”

Section VII (Alternatives) evaluates a Modified Site Plan Alternative (Alternative C) that would involve the relocation of several project features to reduce impacts related to air quality, noise, aesthetics, land use compatibility, hydrology and water quality, and biological resources. With regard to visual impacts, as discussed in the analysis, Alternative C would be less visible from off-site public locations such as Highway 101, Petaluma Boulevard South, the Petaluma River, and Shollenberger Park. Modifications associated with Alternative C would reduce, but not completely mitigate, the project’s significant and unavoidable impacts related to scenic vistas and visual character. Impacts related to light and glare would also be reduced with this Alternative.

***Comment B4-7***

I have owned and enjoyed my property for 30 years. This project is very Significant you can call me 24 hours a day at number below

A call will go a long way with me

***Response to Comment B4-7***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter B5**

**Sharon Whisman**

***Comment B5-1***

I understand that I am to email you with my concerns about the potential for Dutra to put in an asphalt plant less than a mile south of my home at McNear Landing. I am the mother of 4 young children. My 10 year old son suffers from asthma. As you can imagine, this is a serious illness and not one that can be taken lightly. One of the triggers for asthma is pollution. I therefore would like to register my opinion as being AGAINST the asphalt plant. Please, please for the sake of my son's health do not let this plant go in so close to our neighborhood. It is the difference between leading a normal life and constant visits to the emergency room.

***Response to Comment B5-1***

Section V.B (Air Quality) of the DEIR identifies the proposed project's potentially significant impacts to air quality and provides mitigation measures that attempt to reduce these impacts. The comment also expresses opposition to the proposed project. Comment noted. This comment will be forwarded to decision makers for their review and consideration.

**Response to Comment Letter B6****Audubon Canyon Ranch, Director John P. Kelly Ph.D.*****Comment B6-1***

Audubon Canyon Ranch (ACR) has conducted activities in conservation science, habitat protection, and nature education in the San Francisco Bay area since the mid-1960s ([www.eqret.org](http://www.eqret.org)). We also own and manage a system of wildlife sanctuaries in Marin and Sonoma counties, including a large nesting colony of herons and egrets at Bolinas Lagoon that we have studied intensively since 1967. As Director of Conservation Science and Habitat Protection at ACR, I would like to comment on the efforts to protect of the heron and egrets that nest at the site of the proposed Dutra asphalt facility.

My comments are supported by my scientific work on herons and egrets conducted since 1990 at all known heronries in the San Francisco Bay area (selected references listed below). I have provided scientific information regarding the protection of heronries to numerous environmental consulting groups (including LSA, as cited in their report on the Dutra Haystack Landing project), planning agencies (including the County of Marin on the DeSilva Island development discussed in the LSA report on the Haystack Landing project), and natural resource agencies (including Marin Islands National Wildlife Refuge, California Department of Fish and Game, and the National Park Service). Recently, I provided expert opinion to the California Coastal Commission regarding the protection of a heronry at Channel Islands Harbor. I have published numerous scientific papers on birds, on topics including nest predation, human disturbance, foraging ecology, breeding behavior, and habitat relationships.

***Response to Comment B6-1***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B6-2***

The following points should be considered when determining the risks of heron and egret colony site abandonment associated with the proposed Haystack Landing development:

1. Mitigation Measure BIO-4a: The proposed dates used to define “nesting” and “non-nesting” seasons may not be accurate or effective. (1 September to 14 February is generally proposed as the non-nesting period in the DEIR, but the recommended date span is not consistent throughout the document; e. g., see page II-24.) The proposed “nesting” and “non-nesting” periods may not protect nesting Great Blue Herons, which often select nest sites in January. The intraseasonal timing of heron and egret nesting activity in this region is highly variable among years and species. Based on many years of monitoring (Kelly et al. 2007), the most accurate and reasonable period for protecting nesting colonies is 1 January through 31 August (and rarely, into September). Nesting activity may begin any time in January, February, or March, and can be delayed into April. It is important that the colony site at Haystack Landing is protected from disturbance during this early part of the nesting season because birds are most likely to be deterred from using the area when they begin to select nest sites.

In some years, nesting activity may be completed earlier than predicted. A qualified observer should be used to accurately determine if nesting activity ends before 31 August. As indicated in the DEIR, season-long monitoring by a qualified observer should be used to determine if construction activities disturb the nesting birds. A reasonable frequency for monitoring would provide colony site observations twice weekly during courtship and nest initiation for each species, and weekly through the end of the nesting season.

### ***Response to Comment B6-2***

The dates used in Mitigation Measure BIO-4a in the DEIR were developed based on known breeding and nesting behaviors, and were deliberately kept as broad and protective as possible. This window is more generous and encompassing than that recommended by the CDFG during informal consultation with the EIR biologist. While the commenter is correct that breeding behavior and timing may vary with individual birds and annual fluctuations in weather and temperatures, the period specified in the DEIR should be adequate to protect any established nest locations in active use as it is highly unlikely and improbable that eggs or young would be present in nests before February 15 of any year.

The commenter is correct that there is an inconsistency with the “non-nesting” season date provided in Mitigation Measure BIO-4b on pages II-24 and II-25 of Section II (Summary) of the DEIR. This inconsistency is limited to Section II (Summary) of the DEIR and is not found in Section V.B (Biological Resources) of the DEIR. In response to the comment, Mitigation Measure BIO-4b on pages II-24 and II-25 of Section II (Summary) of the DEIR has been revised to read as follows:

“Proposed construction shall be restricted away from the known egret/heron colony and from potential nesting habitat along the shoreline of the Petaluma River during the general nesting season to prevent possible nest abandonment and ensure compliance with the Migratory Bird Treaty Act during the active nesting season. Construction activities in Areas A and north of the cross-site access road on Area B shall be restricted to the non-nesting season (~~August 1 and January 31~~) (September 1 and February 14), unless surveys indicate that nesting has been completed before that time period. This includes installation of all improvements on Area A (pier, ramp, pilings, conveyor, access and parking, and wetland enhancement) and the septic leachfield, fire station and associated parking improvements in the north portion of Area B.”

Please refer to response B2-4. As discussed on page V.C-35 of the DEIR, the H/ERIAR includes monitoring and further adjustments to plant operations based on egret and heron responses. Mitigation Measure BIO-4b calls for restrictions on proposed construction during the nesting season, unless surveys indicate that nesting has been completed before the end of the typical nesting season. However, no details are provided on the survey process that would allow any construction in the vicinity of the colony or potential nesting habitat along the Petaluma River during the specified nesting season, or other nesting-related monitoring to be provided as part of the H/ERIAR or required as mitigation. In response to the comment, Mitigation Measure BIO-4b has been revised as follows, and a new mitigation has been recommended that details monitoring associated with the egret/heron colony.

*“Mitigation Measure BIO-4b Sensitive Nesting Habitat*

Proposed construction shall be restricted away from the known egret/heron colony and from potential nesting habitat along the shoreline of the Petaluma River during the general nesting season to prevent possible nest abandonment and ensure compliance with the Migratory Bird Treaty Act during the active nesting season. Construction activities in Areas A and north of the cross-site access road on Area B shall be restricted to the non-nesting season (September 1 and February 14), unless surveys indicate that nesting has been completed before that time period. This includes installation of all improvements on Area A (pier, ramp, pilings, conveyor, access and parking, and wetland enhancement) and the septic leachfield, fire station and associated parking improvements in the north portion of Area B. If any construction is proposed within these areas during the nesting season, a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of construction to provide confirmation on the presence or absence of any active nest(s) in the vicinity. If any active nest(s) are encountered, species-specific measures shall be prepared by the qualified biologist in consultation with the CDFG and implemented to prevent nest abandonment. At a minimum, construction in the vicinity of the nest(s) shall be deferred until the young birds have successfully fledged and juveniles from the nest(s) are foraging independently and capable of independent survival at an earlier date. A survey report by the qualified biologist verifying that the young have successfully fledged shall be submitted to the PRMD for review and approval prior to initiation of construction in the nest-setback zone.

*“Mitigation Measure BIO-4f Sensitive Nesting Habitat*

A comprehensive monitoring program for the egret/heron colony shall be developed and implemented by the applicant’s consulting biologist. This monitoring program shall provide data on trends in the condition of the colony, responses to project-related activities, and recommendations for necessary adjustments to project operations. Details associated with the monitoring program shall include the following:

- Periodic monitoring shall be conducted to assess heron and egret behavior in advance of project implementation, under normal project operations, during conveyor operations, and during barge/night-time lighting operations. Notes on heron and egret behavior and activity and any changes in activity (i.e., signs of nervousness or flight) shall be recorded. Monitoring shall be provided for a minimum of five years following project implementation, and a minimum of three years following construction of the fire station, conveyor belt structure, and the barge/night-time lighting structures and other improvements on Area A.
- Monitoring frequency and duration shall be modified based on site observations and need to provide conclusive data on project-related disturbance. To observe behaviors during the entire nesting season, a minimum of three monitoring visits shall be provided to observe each of the conveyor operation, barge/night-time lighting, and normal operations during each of the 1) nest selection/pair bonding period (typically from mid-February to

mid-March), 2) initial hatching period, and 3) subsequent nest occupation/pre-fledging period.

- Annual monitoring reports shall be submitted to the PRMD by December 31 of each monitoring year, and made available to the public. The annual report shall summarize monitoring dates and methods, nesting behavior and success rates, and observations regarding disturbance and other factors affecting the colony. Adjustments in on-going project operations made during the previous years as part of adaptive management and recommendations for adjustments to or additional controls on continued operations shall be specified in the annual report.”
- If the on-site colony is abandoned as the nesting location at some point in the future during implementation of the above-required monitoring program, monitoring shall continue for at least two years to confirm whether individuals have completely abandoned the location. If the colony has been completely abandoned, on-going monitoring and the development restrictions associated with protection of the eucalyptus grove and nest location specified in Mitigation Measures BIO-4a, 4b, and 4e shall no longer be in effect. However, the protective measures described in Mitigation Measure BIO-4c shall continue to be in effect to protect the sensitive habitat along the Petaluma River and parklands to the east.

### ***Comment B6-3***

2. Mitigation Measure BIO-4a: The DEIR indicates that “most” of the eucalyptus trees in the vicinity of the nesting colony would be retained but does not provide justification for the removal of specific trees. The planned removal of any trees should be specifically indicated and justified with regard to protection of the heronry. The protection of perimeter trees in the nesting patch could be important not only to provide visual screening from human disturbance but also to ensure suitable thermal conditions (e.g., protection from wind), protection from nest predators, or other habitat requirements needed to sustain the colony. California Coastal Commission biologist Jonna Engels recently wrote a report indicating that patches of non-native trees that provide suitable nesting substrate for herons or egrets in areas surrounded by human development should qualify as Environmentally Sensitive Habitat Areas (ESHA) worthy of complete protection. Such protection could be important in sustaining the number of herons and egrets that occur throughout the upper Petaluma Marsh area.

### ***Response to Comment B6-3***

Please refer to response B2-4.

Page V.C-34 of the DEIR provides a discussion of the anticipated impacts on the existing blue gum eucalyptus, which concludes that construction of the fire station and parking would require removal of at least four mature trees, which could indirectly affect the egret/heron colony. The trees to be removed are not currently used for nesting or roosting, but most likely provide important visual screening of the Highway 101 freeway and serve to buffer easterly winds. The colony has obviously acclimated to the



noise generated by the freeway traffic, but this is a constant source with little modulation in average noise levels. Although it is not possible to accurately predict the full impact of removing these trees on the viability of the colony, these direct changes on visibility and wind exposure may be a greater threat than construction of the nearby conveyor. Mitigation Measure BIO-4a include specific recommendations to protect the existing eucalyptus and visual screening, retaining the row of three existing trees in the parking lot between the proposed fire station and the parking stalls to the north. These measures would be adequate in protecting the existing trees and maintaining their importance for visual and wind screening, as well as other possible biological functions important to the colony. However, in response to the comment and to clarify the importance of designing the fire station improvements so that they are not oriented towards the colony and to provide adequate screening of the new structure, Mitigation Measure BIO-4a on page V.C-36 of the DEIR has been revised as follows:

“The egret/heron colony in the stand of blue gum eucalyptus shall be protected from disturbance associated with construction and future operations, particularly during the nesting season (February 15 through August 31). Proposed improvements at the entrance to the site and vicinity of the fire station shall be redesigned to retain most of the existing blue gum eucalyptus trees that provide visual screening of the existing egret/heron colony, including the row of three existing trees in the parking lot between the proposed fire station and the parking stalls to the south. Proposed roadway and building improvements shall be located no closer to the stand of trees supporting the colony than currently proposed. These trees and the blue gum eucalyptus comprising the stand currently used by nesting egrets and herons shall be retained as a condition of project approval unless and until the colony is no longer viable in the future. All doorways and windows in the future fire station shall be oriented away from the colony. Any required outdoor use areas for storage and other station operations shall be effectively screened by fencing to obscure a direct line of sight between the outdoor use and the colony. Dense landscaping shall be provided to further screen the station, parking lot, and outdoor use areas from the colony.”

It should be noted that Caltrans is currently evaluating options for designs of the South Petaluma interchange at Highway 101 as part of the Marin-Sonoma Narrows Project. Based on information available to date, the proposed right-of-way for the interchange extends into or just west of the colony on the Dutra site, and could result in removal of much of the existing eucalyptus grove. This would be a significant impact of that freeway improvement project, and could result in the elimination of the egret/heron colony from the site. Caltrans is apparently refining proposed interchange design for the Marin-Sonoma Narrows project and is attempting to minimize impacts to the colony on the Dutra site, but details are currently not available. This project was not specifically addressed in the discussion of cumulative impacts in the Biological Resources section of the DEIR. Given the possible local significance of the Marin-Sonoma Narrows Project, particularly on the colony, the discussion of cumulative impacts on pages V.C-38 and 39 has been revised as follows:

“Cumulative development contributes to an incremental reduction in the amount and connectivity of existing wildlife habitat. The proposed project would include construction and improvements along the sensitive Petaluma River corridor, which could disrupt terrestrial and aquatic wildlife use. Diversion of water from the Petaluma River would reduce the available surface water, and could result in loss of fish and aquatic life unless adequate controls are implemented. Disturbance associated with the conveyor and

processing at the plant could disrupt continued use of the egret and heron roosting colony on the site, which is of local importance as part of the larger ecology of the Petaluma River estuary system. However, the proposed project includes a considerable wetland mitigation program that would greatly improve existing habitat values and functions over a large portion of the site. Together with the measures recommended in this Draft EIR and conditions required as part of permit authorization from jurisdictional agencies, the project's contribution to cumulative impacts would be *less than significant*.

Of particular concern with regard to cumulative development in the vicinity of the Dutra site are the South Petaluma interchange improvements along Highway 101 proposed as part of the Marin-Sonoma Narrows Project currently being evaluated by Caltrans. Based on information available to date, the proposed right-of-way for the interchange extends into or just west of the egret/heron colony on the Dutra site, and could result in removal of much of the existing eucalyptus grove. This would appear to be a significant impact of the freeway improvement project, and could result in the elimination of the egret/heron colony from the site. Caltrans is apparently refining proposed interchange design for the Marin-Sonoma Narrows project and is attempting to avoid the colony on the Dutra site, but details are currently not available. If redesign is not feasible, and the colony must be eliminated, this would be a significant impact on both a project and a cumulative level for the Marin-Sonoma Narrows Project. However, these modifications remain uncertain, are not directly related to the Dutra project, and would not affect the above determination that the Dutra project's contribution to cumulative impacts would be *less than significant*."

**Comment B6-4**

3. Mitigation Measure BIO-4b: The proposed buffer distances between the heron and egret colony site and construction or asphalt facility operations are not large enough to ensure the protection of nesting herons or egrets. Published (peer-reviewed) scientific recommendations for avoiding disturbance to nesting herons and egrets range from 320 to 960 feet (Kelly 2002, Kelly et al. 2006, and references therein). Such recommended distances are far greater than the setbacks proposed in the DEIR. In addition, these scientific recommendations (as well as the 110-foot disturbance distance indicated in the LSA report on the proposed project) are based on disturbances caused by only 1-2 humans approaching on foot. Additional people and construction activities are likely to disturb the colony at greater distances, increasing the risk of colony site abandonment. The persistence of the heronry at DeSilva Island in Marin County should not be used to discount such recommendations, as suggested in the LSA report on the Haystack Landing project, because the responses of nesting birds at DeSilva were not typical of regional patterns of colony site persistence or abandonment. At other sites in the region, disturbance from nearby construction activities have resulted in partial or complete abandonment of colony sites (Kelly et al. 2006). Thus, the tolerance of specific colonies to nearby disturbance cannot be precisely predicted. To provide an area of protection that is more reasonably aligned with the evidence and recommendations from peer-reviewed science, the buffer zone around the nesting colony should be extended beyond the area indicated in the DEIR.

***Response to Comment B6-4***

The commenter's own studies, observations and recommendations for colony setback distances are noted. The colony setback distances specified in the Biological Resources section of the DEIR are based on a review of all available data, informal consultation with representatives of the CDFG, and physical realities of the site. The colony is acclimated to existing vehicle and human activity along the entrance road to the site and parking area off Petaluma Boulevard, the cross-site roadway through Area B to the south of the colony, and existing industrial and residential uses to the north, northeast, and southeast. The buffer distances suggested by the commenter would encompass all of Areas A and B and most of Area C, as well as the existing industrial and residential uses to the northeast and southeast. This is not only infeasible and impractical but does not reflect the fact that the egrets and herons in the colony are acclimated to existing disturbance in the surrounding area. Mitigation Measures BIO-4a through 4e have been designed to minimize disturbance in areas currently with little or no human activity, maintain the existing habitat conditions of the colony through protection of existing trees, and define appropriate restrictions on project operations during sensitive nesting periods. While even greater setbacks would likely benefit the birds, they are not necessary to prevent a significant impact.

***Comment B6-5***

4. Mitigation Measure 610-4d: Lowering the height and visually screening the conveyor are likely to be important features of the proposed project to help minimize disturbance. However, these features are unlikely to mitigate the close proximity of the conveyor to the colony, which presents a serious risk to the nesting birds. In addition, the episodic nature of off-loading and conveyor activities near the colony site might be unpredictable to the nesting birds and, consequently, result in repeated disturbance events, increasing the risk of abandonment. To minimize this risk, the conveyor should cross the railroad tracks farther to the south.

***Response to Comment B6-5***

Mitigation Measure BIO-4c in the DEIR was recommended to control project operations of particular concern to the long-term viability of the egret/heron colony, including off-loading the barge, running the conveyor, and illumination beyond that necessary for essential security purposes. These include a complete restriction in off-loading activities or operation of the conveyor during the nesting season. Mitigation Measure BIO-4d specifies modifications to the design of the conveyor and restrictions on human activity during the nesting season. Mitigation Measure BIO-4f, recommended in Response to Comment B6-2, includes details on a comprehensive monitoring program to be implemented as part of the project, and would include adjustments to project operations as necessary to minimize disturbance to the colony. Relocating the proposed conveyor crossing of the railroad right-of-way further south is not feasible. As indicated in Figure V.C-1 on page V.C-4 of the DEIR, the proposed crossing is located as far south as feasible. The applicant does not own the parcel immediately south of Area A, and the only way to adjust the location of the crossing would be to cross over this private property. This parcel is also in residential use, and siting the conveyor closer to these and other residences further south would also exacerbate the potential noise impacts during conveyor operation on these existing residents.

***Comment B6-6***

5. The proposed firehouse on Area B is too close to the nesting herons and egrets to safely avoid abandonment of the colony site. Although the planned use of the fire station is limited to monthly training, maintenance, and equipment storage, such use could involve episodes of substantial human activity, including the movement and maintenance of fire trucks and equipment. The likelihood that fire station activities would cause herons and egrets to abandon the nesting colony hinges not only on the frequency of use of the fire station but also on the peak intensity of noise and other activity during the nesting season. Reasonable protection of the nesting colony would require relocating the fire station farther south.

***Response to Comment B6-6***

Please refer to responses B2-4 and B6-3 for a discussion of the tree removal and other modifications associated with the proposed fire station. Mitigation Measure BIO-4a include specific recommendations to protect the existing eucalyptus and visual screening, retaining the row of three existing trees in the parking lot between the proposed fire station and the parking stalls to the north. These measures would be adequate in protecting the existing trees and maintaining their importance for visual and wind screening, as well as other possible biological functions important to the colony. The location of the proposed fire station currently serves as the entrance to the site and is frequently used for parking and staging, and the birds are acclimated to vehicle and human activity in this location. The vehicle door to the fire station would be oriented to the west, away from the colony, and preservation of most of the existing eucalyptus would adequately screen the structure, parking, and human activity from most of the existing nest locations in the colony. As discussed in the response B6-3, Mitigation Measure BIO-4a has been revised to clarify the need to control the final design of the fire station and provide adequate screening.

***Comment B6-7***

6. LSA report, submitted to the Dutra Group on April 6, 2007: This assessment of impacts to the heron and egret nesting colony includes unsubstantiated or erroneous assumptions leading to recommendations that would strongly increase the risk of heron and egret colony abandonment.

First, there is no published scientific evidence that herons and egrets habituate to human activity (habituation requires a change in individual behavior over time). Although heron colonies occasionally occur near areas with considerable human activity, evidence from other colony sites in the San Francisco Bay region suggest strongly that such tolerance reflects choices made when nesting birds establish new colonies and that those sites may be subsequently abandoned in response to changes in the frequency or intensity of human activity. Therefore, suggestions to introduce noise, artificial lights conveyor activity, or any other potential disturbance to promote habituation are likely to increase the risk of colony site abandonment, especially early in the nesting season when birds are the most sensitive.

***Response to Comment B6-7***

Please refer to response B2-4.

The concerns of the commenter regarding potential impacts of the project on the egret/heron colony and conclusions reached in the H/ERIAR are noted. A detailed discussion of the potential impacts of the project on the colony, and review of recommendations made in the H/ERIAR report is provided under Impact BIO-4 in the DEIR. This includes the conclusion by the EIR biologist on page V.C-35 of the DEIR that the suggested use of nesting platforms in the H/ERIAR as replacement habitat would be speculative, at best, and that the suggestion that the applicant turn on nighttime lighting several times during the nesting selection/pair bonding period is inadvisable. The DEIR's analysis of potential impacts on the colony was based on the best available data and input from CDFG. As concluded on page V.C-34 of the DEIR, while it is difficult to predict how individual birds in the colony may react to construction and on-going operations, it is likely that intrusion closer than the existing road on Area B and the railroad tracks to the east of the colony would be disruptive, particularly during the nesting season. Project-generated noise and night-time lighting on wildlife habitat and the egret/heron colony was identified as a significant impact under Impact BIO-4 in the DEIR. Mitigation Measures BIO-4a through 4e were recommended to address this significant impact, and include restrictions on construction and long-term disturbance in the vicinity of the colony, and modifications to project operations and improvement design. Redesign of improvements associated with the fire station called for in Mitigation Measure BIO-4a would serve to retain most of the existing blue gum eucalyptus trees that provide visual screening of the colony, including the row of three existing trees in the parking lot between the proposed fire station and the parking stalls to the south. Collectively, these measures would mitigate potential impacts on the colony and other sensitive wildlife habitat in the vicinity to a level of less than significant, as concluded in the DEIR. Please refer to response B6-2 for an additional mitigation measure that requires implementation of a comprehensive monitoring program as part of the project, and is to include adjustments to project operations as necessary to minimize disturbance to the colony.

***Comment B6-8***

Second, successful relocation of heron or egret colony sites has never been scientifically demonstrated or confirmed. Crouch et al. (2002) documented a relocation attempt at the U. S. Naval Station in Long Beach but that project subsequently failed. Therefore, there is no scientific support that any attempt to relocate a colony would be successful or provide feasible mitigation for disturbance. The lack of scientific support for relocating heronries led to decisions against the proposed relocation of a heronry at Napa State Hospital and against the creation of new nesting sites at Marin Islands National Wildlife Refuge.

***Response to Comment B6-8***

Comment noted. Please refer to response B6-7.

***Comment B6-9***

Third, the suggestion by LSA that, if the colony site was abandoned, birds would simply “relocate to another site and breed that season” is not necessarily true. Herons and egrets that abandon nesting attempts may not reneest in the same season, depending on foraging conditions and intraseasonal timing. In addition, if the birds abandon the colony site, there is no scientifically substantiated indication that they would remain in the upper Petaluma Marsh wetland area. I have evidence from other areas that colony site abandonment is often associated with a net decline local nesting abundance. Therefore the loss of this colony site might reduce the number of herons and egrets in nearby wetlands.

***Response to Comment B6-9***

Please refer to response B2-4.

As concluded on page V.C-34 of the DEIR, it is difficult to predict how individual birds in the colony may react to construction and on-going operations at the proposed facility. This can be extrapolated to include factors affecting possible abandonment of the egret/heron colony in the future. Mitigation measures recommended in the Biological Resources section of the DEIR are intended to preserve the existing colony. Suggestions in the H/ERIAR for relocation of the colony were not recommended in the DEIR, in part because of their questionable feasibility. As concluded on page V.C-36 of the DEIR, the suggested use of nesting platforms in the H/ERIAR as replacement habitat for the existing colony would be speculative, at best. These nesting platforms would be completely exposed, with little or no protective screening between the artificial rookery and the nearby freeway and the aggregate operations on the site. While the commenter is correct that no one can definitely predict the behavior of individual birds if the colony on the site is abandoned, the abundance of foraging habitat in the Petaluma River basin makes it likely that these individuals would seek out alternative nesting and roosting opportunities in the site vicinity before dispersing to some other location outside the upper Petaluma River wetland area.

***Comment B6-10***

The considerations above indicate that approval of the proposed project would result in serious threats to the heron and egret nesting colony. The Reduced Production Alternative B reduces the frequency of potential disturbance to the colony site, but it provides little protection from activities that might cause abandonment of the colony site. Alternative C eliminates the recycling facility, reducing associated noise and other potential sources disturbance, and includes additional measures to shield the heronry from construction and operation of the asphalt facility, but the conveyor system remains dangerously close to the nesting colony and the proximity of proposed construction and facility operations indicate a substantial risk of colony site abandonment. Therefore, Alternative D is the only option likely to provide reasonable protection to the heron and egret nesting colony.

***Response to Comment B6-10***

Comment acknowledged. Please refer to response B2-4. Page VII-16 of the DEIR identifies Alternative D as the environmentally superior alternative pursuant to Section 15126.6 of the CEQA Guidelines. The commenter's opinions about the alternatives analyzed in Section VII (Alternatives to the Proposed Project) will be forwarded to the decision makers for review and consideration.

**Response to Comment Letter B7**

**Sean Buckley**

***Comment B7-1***

Why is Sonoma County becoming a dumping ground for building toxic plants like the proposed ASPHALT (ASS FAULT) PLANT across from Schoellenberger. I and my friends and neighbors use Schoellenberger as a place to get away from the development that is encroaching on Petaluma. We find nice views and birds and fresh air and river access.

True, it is somewhat marred by the proximity of a new business park.

Now you/ they/ someone wants to build an asphalt plant in one of the remaining beautiful areas around our great town.

I have heard that Sonoma County is very aware of its natural richness and it has a rep as a protector and caretaker of nature's beauty.

Hello!? Are we not learning anything from Global Warming???

You cannot continually RAPE Mother Nature without there being consequences. Are you going to add to the continuing destruction of the Earth, little by little ... development by development.

What are money and profits worth when man has made the planet that supports him unlivable????

This sounds extreme but if you read the newspapers and scientific papers you see it happening all around us. Please do not be like our President and live in denial of scientific fact.

It is time to act for the good of the Earth and the citizens of your county and STOP this headlong drive into a planet that is unable to support life.

I thank you in advance because I know that you care and therefore you will not allow this Asphalt plant to go ahead ...

***Response to Comment B7-1***

Section V.A (Aesthetics) of the DEIR identifies the proposed project's potentially significant impacts to visual quality and provides mitigation measures that attempt to reduce these impacts. Section V.B (Air Quality) of the DEIR identifies the proposed project's potentially significant impacts to air quality and provides mitigation measures that attempt to reduce these impacts. Section V.C (Biological Resources) of the DEIR identifies the proposed project's potential impact to biological resources and provides mitigation measures to ensure that such significant impacts would be reduced to less-than-significant levels.



**Response to Comment Letter B8**

**Peter Barth**

***Comment B8-1***

As a resident of Petaluma for 20 years, Shollenberger Park has become the “jewel in the crown” for us living in Petaluma, so-to-speak. We have literally introduced dozens of friends to this park, many of whom enjoy walking there on a daily basis. It is a most enjoyable family affair for us to walk there regularly; the protection of this space for birds and all of us to enjoy is very important to us.

The “mitigation factors” for the impact on Shollenberger just won’t cut it - that is clear. That this project is even being considered has caused us great concern regarding our local and regional government.

I am not an activist however I predict that should the Dutra Asphalt Facility be permitted, this is something that a substantial number of citizens will fight with every means available to them -- unfortunately, probably after the fact. Lawsuits are very expensive these days, not to mention the cost of significant environmental harm something we can all afford little of these days. Isn’t that so?

On behalf of the citizens and birds of Petaluma I urge you strongly to avoid this costly mistake.

***Response to Comment B8-1***

This comment expresses concern over impacts to Shollenberger Park. With regard to the EIR, the commenter states that mitigation measures related to protecting the park are not adequate. However, the commenter does not cite specific mitigation measures.

The DEIR has acknowledged that noise and aesthetic impacts related to the park are significant and unavoidable. Considering this significant and unavoidable impact and in accordance with CEQA §15093(a) the decision-making body must balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable impacts when determining whether to approve the project.

**Response to Comment Letter B9**

**Bruce Blinn**

***Comment B9-1***

Please add my name to the large number of people who protest in the strongest terms the proposed construction of an asphalt plant on the Petaluma River. The EIR says it all: It would be an environmental disaster and no mitigation efforts would/could make a significant difference. The answer is clear; reject this location and find another. Thank you.

***Response to Comment B9-1***

Comment noted. This comment will be forwarded to the decision makers for their review and consideration.

**Response to Comment Letter B10**

**Norris R. Dyer**

*Comment B10-1*

**CONCERNS ABOUT DRAFT EIR**

**AMENDMENT TO WRITTEN TESTIMONY SUBMITTED ON FEBRUARY 4, 2008**

Attached is an article and editorial from the February 21, 2008 issue of the Petaluma Argus Courier regarding the DEIR, and plans for the Dutra Asphalt Factory.

Please supplement my submission of February 4th with these two attachments.

*Response to Comment B10-1*

This comment contains introductory information but does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter B11**

**Dixie Lee Nitis**

***Comment B11-1***

I have just learned of the project of the Dutra Asphalt plant being proposed on the Petaluma Wetlands area.

I reject the proposal and know it would affect the quality of my air in my neighborhood and when I use the Shollenberger Park. The stench would be horrible & leave me sick. I was happy the birds and ducks were inhabiting the area and now this project would be environmentally unsafe and undesirable for both them and humans.

Please NO permit for the plant.

***Response to Comment B11-1***

Section V.B (Air Quality) of the DEIR identifies the proposed project's potentially significant impacts to air quality and provides mitigation measures that attempt to reduce these impacts. Impacts to Shollenberger Park are addressed throughout the document (specifically in Section V.A [Aesthetics] and V.I [Noise]) and mitigation measures are provided to reduce these impacts.

**Response to Comment Letter B12**

**Patrick Schafer**

***Comment B12-1***

I am very concerned about a proposed Asphalt plant in Petaluma across the river from Shollenberger Park. I have noticed just in the past year and most recently the past few months, the expansion of the existing gravel company and the noise and visual presence of large machinery and trucks. As you might know the prevailing winds are constantly blowing the smells and dust and noise directly across the river to the park. It is disturbing for me to go to a park and have to be inundated with fowl smells, sounds of large machinery, and the visual pollution I cannot avoid. I think that an asphalt plant would worsen and intensify an already Bad situation for the Park, the river, and all the wildlife. Please do not put an asphalt plant where it proposed in such a precious and sensitive area. Thank you. Patrick Schafer

***Response to Comment B12-1***

The commenter expresses concern about an existing gravel company's environmental impacts to the project area, as well as other environmental impacts associated with the proposed project, including noise, aesthetics, biological resources, and air quality.

Section V.A (Aesthetics) of the DEIR identifies the proposed project's potentially significant impacts to visual quality and provides mitigation measures that attempt to reduce these impacts. Section V.C (Biological Resources) of the DEIR identifies the proposed project's potential impact to biological resources and provides mitigation measures to ensure that such significant impacts would be reduced to less-than-significant levels. Section V.I (Noise) of the DEIR identifies the proposed project's potentially significant impacts to noise and provides mitigation measures that attempt to reduce these impacts. Section V.B (Air Quality) of the DEIR identifies the proposed project's potentially significant impacts to air quality and provides mitigation measures that attempt to reduce these impacts. Impacts to Shollenberger Park are addressed throughout the document (specifically in Section V.A [Aesthetics] and V.I [Noise]) and mitigation measures are provided to reduce these impacts.

**Response to Comment Letter B13**  
**Petaluma River Council, David Keller**

***Comment B13-1***

As currently proposed in the DEIR, this Project is significantly deficient in avoiding and addressing severe impacts to the Petaluma River and the southern edge of Petaluma. We strongly object to the design and location of this Project which would require adoption of Overriding Considerations for approvals of the EIR, and substantial damages to our public trust resources.

***Response to Comment B13-1***

Comment noted. The comment will be forwarded to the decision makers for review and consideration.

***Comment B13-2***

The Petaluma River is 401(d) listed impaired waterway, a ‘water quality limited segment’ for excess nutrients, pathogens and sediments/siltation. All activities for this Project should be restorative, not cumulatively damaging, as is currently proposed in the DEIR. Protection and improvement of water quality for the Petaluma Marsh is critical, as the importance of the marsh is nationally recognized. The Project as described contributes “significantly and unavoidably” to the cumulative losses of habitat, protected species and water quality (particularly with excess phosphorus and turbidity-increasing discharges) of the Petaluma River: this is not an acceptable proposal, and should be rejected if not significantly altered.

***Response to Comment B13-2***

Comment acknowledged. Section V.G (Hydrology and Water Quality) of the DEIR provides an analysis of the hydrology and water quality impacts associated with the proposed project, as well as implementation of the proposed project in conjunction with other cumulative projects in the area. Please also refer to Section V.C (Biological Resources) for a discussion of project-specific and cumulative impacts to biological resources. With the exception of cumulative impacts related to phosphorous, the project would result in no significant impacts on biological resources or water quality.

***Comment B13-3***

The Petaluma River Council supports the continued successful industrial and commercial uses of the Petaluma River, which are important parts of our history since before the City of Petaluma’s incorporation in 1858. Indeed, the industrial use of the Petaluma River for local and regional commerce goes back through at least the time of Gen. Mariano Vallejo. However, we feel that the Project as proposed can be significantly improved while producing a successful commercial and industrial business and protecting and restoring our natural river heritage.

**Response to Comment B13-3**

Comment noted. The comment will be forwarded to the decision makers for review and consideration.

**Comment B13-4****Alternative sites for the Project**

The DEIR fails to address other feasible sites for this Project that are capable of avoiding and substantially reducing the significant impacts of the Project.

One such site is the currently vacant 40+ acre Pomeroy Corp. concrete manufacturing site, approximately 1-1/4 mile upstream on the Petaluma River, at 500 Hopper Street, Petaluma. (Pomeroy Division, Washington Group URS) The site already has heavy industrial, river dependent zoning, and has existing sheltered barge loading and offloading facilities with deep-water access on the McNear Canal. These facilities are located clear of the traffic lanes for the Petaluma River. This site has been used for over 50 years for industrial manufacturing and shipping. This location is already accessible for heavy trucking to both Lakeville Highway (Route 116) and US Highway 101 (via Lakeville interchange), as well as having its own railroad spur existing on site.

This site has been in heavy industrial, river-dependent uses for generations. The Pomeroy site, already filled, cleared and industrialized, poses almost no new potential disturbances for critical habitat, wetlands or riverine species. The Central Petaluma Specific Plan has committed the city to Industrial, River-dependent zoning for this parcel as a critical component in commercial river tonnage calculations and the city's economic base. The site is large enough to accommodate all functions of the Project's Areas A, B, C and D. The assertions on Page VII-5 that no such alternative sites exist are incorrect.

This alternative site would eliminate many of the "significant and unavoidable impacts" noted in the DEIR for the current siting of the Project. In addition, it would preserve the use and enjoyment of Schollenberger Park, directly across the Petaluma River from the proposed site. Damage to public use and enjoyment of this site is permanent and irreparable during the life of the Project. *This is a very considerable externalized cost of the Project which the DEIR has not addressed.*

If Dutra continues to propose the current site without eliminating the noise, light, smell and dust impacts to public enjoyment of Schollenberger Park, Dutra should compensate the City of Petaluma and its citizens and visitors with another riverfront park of equal value and size, including all new trails and access facilities to make it feasible.

**Response to Comment B13-4**

Please refer to Section VII (Alternatives to the Proposed Project) of the DEIR for an analysis of an alternative site (Alternative D) to the proposed project site (specifically on pages VII-13 through VII-15). Pages VII-4 through VII-6 of the DEIR also contemplated up to 7 other alternative sites, but none were found to be feasible for the reasons described in the DEIR. The Pomeroy site mentioned by the commenter was not known to be available at the time the DEIR alternatives analysis was conducted.

The commenter is correct that the Pomeroy site does meet many of the siting criteria for the proposed project, such as River Dependent Industrial zoning, a sheltered barge unloading/loading facility with deep water access, and a location near Lakeville Highway and US Highway 101. The commenter is also correct that this alternative site would reduce or eliminate many of the project's significant impacts relative to noise, traffic impacts to Landing Way, light and glare impacts to Shollenberger Park and the egret/heron colony, loss of habitat, etc. However, the commenter is incorrect in stating that the DEIR does not address project impacts to Shollenberger Park. Such discussions can be found throughout the DEIR, particularly in Section V.A (Aesthetics), V.B (Air Quality), V.C (Biological Resources), V.H (Land Use) and V.I (Noise).

While it is acknowledged that the Pomeroy site would reduce or eliminate many of the project's significant impacts, and that such an alternative appears to meet all of the project objectives, this alternative is considered infeasible based on Section 15126.6 of the *CEQA Guidelines*. Specifically, the applicant does not own the Pomeroy site and there are no indications that the property owner is willing to sell the Pomeroy site. Also, the Pomeroy site is located within the Central Petaluma Specific Plan (CPSP), and the Building Function Standards in Section 3 of the CPSP SMARTCode include a list of allowable uses that does not include asphalt plants. The Building Function Standards list does not permit "concrete, gypsum, and plaster product manufacturing" uses.

#### ***Comment B13-5***

#### **Alternative: Full Enclosure of operating components of the Project**

There are significant, unavoidable and unmitigated impacts for the Project, regarding noise, light, dust, polluted stormwater and dust-control waters, and smells. These impacts adversely affect both protected species habitats (including the egret and heron rookery) as well as human activities both on the river and off, both close to the Project site and at significant distances as well. These impacted areas include onsite wetlands, the Petaluma River, the Shollenberger Park Marsh wetlands and public pathways and wildlife viewing areas already located directly across the Petaluma River from the Project site.

Much of these noxious impacts can be significantly reduced by full enclosure of the various operating portions of the Project. These proposed operations, including the asphalt batch plant, concrete/asphalt recycling facility, and storage of raw materials, can be enclosed within permanent buildings. These enclosures would contain dusts, smells, lights, and noise, and would substantially reduce the pollution carried by stormwater runoff.

There are many existing examples of buildings containing such operations, which would cover and enclose the main hopper, feeder hoppers, drum and bag house. For instance, just upstream in downtown Petaluma, the heavy operations of Jerico Dredging are reasonably well contained within their buildings.

Such enclosures would also significantly reduce the adverse impacts to adjoining properties from late night or early hour operations, currently proposed for possible 24 hour operations. *The DEIR should address this alternative of fully enclosing the operational parts of the Project.*



**Response to Comment B13-5**

Comment noted regarding the project's impacts related to noise, light, air quality, water quality and biological resources. Please refer to Section V (Environmental Impact Analysis) of the DEIR for a detailed discussion of the project's impacts to these various environmental topics.

The commenter's suggestion that various operating portions of the project should be enclosed will be forwarded to the decision makers for review and consideration. While it is acknowledged that this type of alternative could reduce impacts of the project related to noise, light and dust, such an alternative is not feasible from a cost and daily operational standpoint and would require the installation of large buildings to enclose certain project facilities, such as the stockpiles and silos.

Section III (Project Description) of the DEIR explains that some project features would be enclosed, such as the conveyor system, baghouse and silos. As described on page III-47 of the DEIR, State and federal environmental protection laws limit water runoff and particulate and smoke emissions from asphalt processing plants. To comply with these laws, the applicant would install a baghouse, which is a large filtering device that pulls dirty air through hundreds of long cylindrical cloth bags arranged in rows inside the filter section. Air leaving the bags is clean and can be released through the exhaust stack, while the dust from the bags would be collected and routed back into the asphalt mix. Facility emissions are discussed further in Section V.B. (Air Quality). The project also would be equipped with the Best Available Control Technology (BACT) in compliance with the Bay Area Air Quality Management District (BAAQMD) New Source Review regulations.

The DEIR also includes mitigation measures to avoid or reduce the project's significant impacts related to light, noise, dust, etc. In particular, Mitigation Measure NOISE-8 (fifth bullet) on page V.I-19 of the DEIR prohibits the unloading of the barge and operation of the conveyor at night.

**Comment B13-6****Failure to obtain necessary prerequisite permits from regulatory agencies in advance of DEIR**

The Project has not yet obtained requisite permits from a number of regulatory agencies. As a direct consequence, the information that would describe any conditions of approval, or denials, or changes in site plans or proposed mitigations or avoidances, is improperly not available to the interested public and other reviewing agencies. This violates CEQA requirements that the public be provided with a full, stable and feasible project description in the DEIR. *The DEIR must be completed with this currently omitted information and recirculated for public comment.*

Among the items missing are:

- Section 404 Clean Water Act permits (33 U.S.C. 1344) from US Army Corps of Engineers, and Section 10 permits (33 U.S.C. 403), Rivers and Harbors Act. In fact, on Feb. 13, 2008 USACE permit staff, Philip Shannin, informed me that "An application *has not yet been submitted* to the Corps for this project. The EIR is a state process, not federal. We will evaluate the impacts, to federally jurisdictional

wetlands and other waters, through our permitting process.” There is no assessment of the Project’s compliance with the 404(b)(1) Guidelines.

- Storm Water Pollution Prevention Plan (SWPPP), Construction General Permit, Section 404 Permit, Section 401(d) Water Quality Certification, and Wetlands Mitigation and Monitoring Plan approvals from the SFBay RWQCB
- Section 1602 Streambed Alteration Permit, Cal. Fish and Game.
- Full written consent for high volume truck and vehicle railroad crossing to and from Area A, from California PUC and SMART Authority.

The full information from these regulatory agencies regarding the feasibility and compliance of the Project with their respective permit requirements is necessary for the public and decision makers to make an informed judgment on the merits of the Project as proposed.

### ***Response to Comment B13-6***

The commenter is correct that the applicant has not yet obtained requisite permits from a number of regulatory agencies. However, the commenter is incorrect in suggesting that the DEIR violates CEQA because such permits have not been obtained. Typically the lead agency first conducts its CEQA analysis of a given project before all permits can be issued by regulatory agencies. Many of these regulatory agencies require a certified CEQA document (e.g. EIR or Mitigated Negative Declaration) before issuing any permits for a given project.

### ***Comment B13-7***

#### **Use of created wetlands habitat for water quality mitigation do not satisfy requirements for onsite wetlands loss**

The Project will fill approximately 1.7 acres of coastal brackish marsh habitat and seasonal wetlands out of a total of 11.7 jurisdictional acres on site. There is no document supplied with the DEIR to indicate USACE acceptance of the wetlands delineation. Unauthorized grading impacted an additional .53 acres of seasonal wetlands and .0.1 acres of tidal marsh. The Project proposes creation of approximately 19 acres of wetlands from previous siltation ponds on site, supposedly in compensation (including temporal losses) for filled and damaged wetlands.

To address site drainage and water quality problems, however, the Project apparently intends to use the same 19 acres of mitigation wetlands for water quality purposes and also for filtering site runoff that is piped to these wetlands.

Thus the Project proposes to use these created habitat mitigation wetlands also as treatment wetlands, for the second task of clarifying and filtering ponds for treating onsite industrial runoff, including oils, greases, hydrocarbons, heavy metals, crushing fines and asphaltic residues. This burden will very likely lead to the abysmal failure of the target restoration and habitat goals for the mitigation wetlands. This violates the requirements of Section 404 wetlands mitigation practices.

Petaluma River Council strongly objects to this attempt to combine these important but incompatible functions. *The DEIR and Project must clearly describe and emplace two separate functioning ponded areas: one for habitat values and functions, and one for water quality improvement functions.*

The DEIR does not discuss any details of maintenance activity for preservation of the wetlands and habitat functioning. What are the plans for long term viability? How will excess sediments and toxics be removed or avoided from the sand filter, bioswales and from the ponds? What are the temporal losses to be expected during cleaning and/or dredging activities, and how will that be addressed? How will water quality objectives be met over time? What maintenance activities are anticipated to keep the treatment wetlands fully functioning?

What would the results be of overtopping of berms or flooding of the wetlands and water quality treatment ponds? Given the low elevation of this site, planning contingencies based on a 10% storm event are insufficient. The DEIR should describe consequences of a 1% storm event. What is to prevent washing of heavy metals, oils, greases and other toxics into the Petaluma River, either by flood or storm or both?

*Any costs for public agency or government monitoring of wetland habitat or treatment ponds shall be borne in perpetuity by the Project owners and proponents, and not become an 'unfunded mandate' for the County or any other public agency. Failure to do so is a guarantee of failure in a relatively short period of time, given lack of public funds for this kind of professional and continued monitoring functions. Costs related to correcting failures to achieve habitat restoration goals shall be bonded for by the Project proponents for a minimum of 25 years or the life of the project, whichever is longer.*

### ***Response to Comment B13-7***

The commenter states that using wetlands for both habitat function and stormwater treatment is inappropriate since contaminants could accumulate in the wetlands resulting in impacts to the wetland flora and fauna.

A discussion of the potential impacts of the project on jurisdictional waters is provided under Impact BIO-3 in the Biological Resources section of the DEIR. A summary of the potentially affected jurisdictional waters is provided on page V.C-30 of the DEIR. The Corps issued a wetlands determination for the majority of the site on November 13, 2003 exerting jurisdiction over 11.69 acres of wetland habitat. An additional 1.04 acres of potential wetlands was mapped by the applicant's wetland consultant on the riverfront parcel and east of the main parcel adjacent to the railroad tracks, which was verified in the field with Corps staff on December 16, 2006. A request for written confirmation of this additional area was submitted to Mr. Philip Shannin of the Corps by the applicant's wetland consultant on May 20, 2008.

Based on the Corps determination and proposed project plans, the project would impact approximately 1.76 acres of seasonal wetland habitat and 0.01 acre of riverbed, as indicated on page V.C-30 of the DEIR. Former unauthorized activities impacted approximately 0.53 acre of seasonal wetland and 0.01 acre of coastal marsh habitat. The applicant has agreed to mitigate impacts to the 0.01 acre of coastal

marsh habitat by restoring this area. The 0.53 acre of seasonal wetland that was impacted is also located within the proposed project footprint and therefore would be permanently impacted with project implementation. The 0.53 acre of seasonal wetland impacted would be mitigated with implementation of the proposed WMMP. The applicant's wetland consultant has stated that the Corps and RWQCB indicated at the time of the unauthorized activity that they will review the proposed WMMP and they (not the applicant) will determine if the proposed mitigation will compensate for permanent and temporal wetland losses as a result of the project.

The proposed project does not call for the creation of 19 acres of wetlands from previous siltation ponds on the site. As described in the WMMP and summarized on page V.C-17 of the DEIR, an approximately 19-acre mitigation preserve would be established in the southern area of the site, portions of which served as siltation ponds. Specifically, the project calls for:

- creation of approximately 0.67 acre of tidal marsh
- creation of 2.04 acres of seasonal wetland
- enhancement of 0.51 acres of seasonal wetland to tidal marsh
- enhancement of 5.47 acres of seasonal wetland
- enhancement of 2.5 acres of seasonal wetland to emergent marsh

The remaining 7.8 acres within the preserve would serve as a buffer zone to surrounding uses and would be enhanced with native plantings as described in the WMMP.

As summarized on page V.C-17 of the DEIR, the proposed WMMP provides detailed wetlands mitigation monitoring requirements for the project (see sections 5.0 *Success Criteria*, 6.0 *Monitoring*, and 8.0 *Maintenance* of the WMMP). This includes information on contingency measures (see Section 10.0 *Contingency Measures*), requirements of the applicant in demonstrating successful implementation (see Section 11.0 *Completion of Mitigation Responsibilities*), and long-term management responsibilities of the applicant (see Section 13.0 *Long-term Protection and Management*) for satisfying the mitigation goals of the WMMP. As concluded on page V.C-30 of the DEIR, the WMMP provides a comprehensive approach to mitigating potential impacts on jurisdictional wetlands. The WMMP appears adequate, but several aspects require further refinement to ensure successful implementation as discussed on pages V.C-31 through V.C-32 of the DEIR, and called for in Mitigation Measure BIO-3a.

The project as proposed specifies that stormwater from the plant area that could be impacted by sediment, petroleum hydrocarbons, and/or metals would be "directed to a catch basin that will allow it to be filtered before it is discharged into the treatment train of the north ditch/pond" (see page 3 of *Hydrology Report for Dutra-Haystack Landing Asphalt and Recycling Facility* included in Appendix G of the DEIR). The DEIR requires additional mitigation to ensure that any stormwater runoff discharged to the wetland areas is "visibly clear" (see DEIR page V.G-21). Mitigation Measure HYDRO-3a on pages V.G-20 – V.G-21 of the DEIR also requires coordination with the County and RWQCB to ensure the achievement of proper treatment and system maintenance.

It should be noted that the applicant also would be required to comply with the terms and conditions of the NPDES General Permit for Discharges of Storm Water Associated with Industrial Activities (General

Permit). The terms and conditions of this General Permit would require implementation of the best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) and requirements to achieve water quality standards. This includes the development and implementation of an effective Storm Water Pollution Prevention Plan (SWPPP) to reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges.

To clarify that the stormwater discharged to the wetland areas must be fully treated to applicable water quality standards in compliance with the General Permit at the discharge point, the following revisions have been made to the fourth bullet under Mitigation Measure HYDRO-3a on page V.G-21 of the DEIR:

“A pretreatment catch basin and sand filter (or multiple basins and filters) that will capture and treat all runoff from all processing and storage areas for at least the 10-year design storm event. Discharge from the catch basin and sand filter shall be visibly clear (i.e., not turbid) and meet applicable water quality standards. If turbid water is observed to be discharging from the catch basin and sand filter, the system shall be expanded and/or redesigned in coordination with the County and RWQCB so that adequate pretreatment is achieved. Only visibly clear water that meets applicable water quality standards should be discharged to the wetland areas secondary treatment system. The SWPPP shall include specifications for regular maintenance of the basin and sand filter and procedures for disposal and/or reuse of the used filtration material.”

#### ***Comment B13-8***

#### **The Project fails to meet Sonoma County and City of Petaluma objectives for reduction of Greenhouse Gases.**

Despite clearly stated objectives by both the Sonoma County Board of Supervisors and the Petaluma City Council to reduce GHG emissions by 25% below 1990 levels by the year 2015, this Project does not even meet current BAAQMD air quality standards. The Project leaves our built and natural communities with “significant and unavoidable impacts” to air quality. The Project and DEIR do not even reduce impacts to zero, nor do they address the climate protection goals of California’s AB32.

The DEIR does not assess total greenhouse gas emissions, nor does it even come close to proposing programs or project variations to reduce that critically damaging aspect of this proposal. In an era marked by significant work globally to reduce greenhouse gas emissions and global warming, this is unacceptable.

*This is a significant failure of the DEIR and Project proponents, and must be re-written and recirculated for comment as a Revised DEIR.*

Further, there is no discussion or alternative proposal for addressing sea level rise. BCDC is now proposing use of a minimum of 1’ sea level rise for planning purposes, and many scientific and planning sources also recognizes the need for addressing impacts of up to a 36” sea level rise. A predicted three-foot rise in sea level in the Bay Area during the next century will also affect Petaluma, according to Will

Travis, executive director of the Bay Conservation and Development Commission. This is particularly critical for projects that are to be built at the very edge of the Petaluma River in a tidally influenced segment.

What are the plans for preventing flooding of this property in storms with increased sea levels? What are the plans for preventing flooding of the property and release of accumulated toxics onsite - both in work areas and in the treatment wetlands - into the Petaluma River and Marsh? The Project and DEIR do not address these issues with feasible alternatives, and must do so.

***Response to Comment B13-8***

The commenter indicates that the project does not meet BAAMD air quality standards. The proposed project criteria pollutant emissions were evaluated against Bay Area Air Quality Management District's (BAAQMD) significance thresholds in accordance with *BAAQMD CEQA Guidelines, Assessing the Air Quality Impacts of Projects and Plans*, not air quality standards. With the exception of carbon monoxide, which is recognized as a localized impact, air quality standards are assessed on a regional basis and are not intended to be used to evaluate the impact from individual project sources. There is not any regulatory requirement for the project to reduce air quality impacts to zero, nor would such a requirement be feasible, since nearly all projects have some air quality impact.

The commenter indicates that the DEIR does not assess total greenhouse gas emissions. Tables D-20 through D-23 in Appendix D of the DEIR provide detailed calculations of the estimated greenhouse gas emissions. The impact is discussed and a summary of the estimated greenhouse gas emissions is provided in Section V.B, Air Quality on pages V.B-37 through V.B-39 of the DEIR. At the time of the air quality evaluation, the California Air Resources Board was still in the process of evaluating strategies to reduce greenhouse gas emissions statewide. Mitigation Measure AQ-5 states that the "The project shall comply with any applicable strategies adopted by CARB through promulgated regulations."

Please refer to response B1-11 regarding sea level rise.

***Comment B13-9***

Absent the willingness or ability of the Project to address and alleviate the many items noted above, and the many 'significant and unavoidable impacts' already noted in the DEIR, the Project should be denied. We look forward to the thoughtful and considered responses to our comments.

***Response to Comment B13-9***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter B14**

**San Antonio Valley Fire Department, Brian Perry**

***Comment B14-1***

As the vice-president of San Antonio Valley Fire Department, I wish to thank the Commission for giving serious consideration to approving the construction planned by Dutra Materials for the new asphalt plant at 3355 Petaluma Boulevard South.

As you know, the San Antonio Valley Fire Department has been without a true fire station from which to respond to EMS calls for over three years. We are looking forward to the start of construction on our new firehouse at the new Dutra Materials site as soon as possible. We are hoping that will be very soon once the commission gives final approval to the construction plans for the plant.

The Board of Directors of San Antonio Valley Fire Department wishes to thank the County Planning Commission for hearing our Fire Chief and our Board President speak at the final public hearing last week. As they pointed out, getting started on the construction of the new Dutra site will commence with, the building of our new station. Having a permanent official Firehouse from which to respond to EMS calls will benefit Sonoma County and the City of Petaluma, by helping San Antonio Valley Fire Department both recruit new firefighters and retain the good ones already on staff, thereby reducing the need for Petaluma EMS to respond to routine calls in our area of coverage.

***Response to Comment B14-1***

Comment noted.

**Response to Comment Letter B15  
Shamrock Materials, David L. Ripple*****Comment B15-1*****Mitigation Measure TRANS-13a:**

This mitigation measure in addition to requiring the applicant to make an irrevocable offer to the County of Sonoma of a 50 foot easement across APN: 019-220-001 contemplates “options for a future public roadway through Landing Way to allow access to Area A and neighboring residential properties along the River if the existing crossing is closed.” This appears to imply that all traffic would be routed along Landing Way and then have to traverse the parcels where our existing aggregate distribution facility is located in order to gain access to Area A (APN: 019-220-001) that borders our parcels to the south as well as neighboring properties south of Area A.

Having additional traffic, not associated with the facility would greatly impact the operations; contrary to the statement made in this mitigation measure. This may not be of major concern to the DEIR preparers; it certainly is a major concern to us for many reasons, not the least of which is traffic safety associated with both the facility and anyone who would enter the site for purposes of ingress or egress across the site. Dutra’s ability to access Area A periodically with maintenance trucks to service the offloading equipment is certainly acceptable to us. However, the notion of residential traffic and/or those invitees by the “neighboring residences” south of Area A presents the likelihood for significant safety and operational problems that cannot be ignored.

I do not believe “residences are familiar with the area” as stated in this mitigation measure particularly in terms of large equipment and trucks that are moving about the site. This could create a very hazardous condition and no doubt unintended consequences of this poorly conceived mitigation measure.

***Response to Comment B15-1***

The commenter notes that Mitigation Measure TRANS-13a requires the applicant/owner to make an irrevocable offer to the County for a 50-foot public access and utility easement to preserve options for a future roadway through Landing Way. This measure was imposed on the assumption that the applicant would continue to seek to install a conveyor over the railroad tracks, and that SMART would condition its approval of the conveyor on the elimination of the existing rail crossing at the applicant’s property. Indeed, SMART explicitly stated in Comment A5-2 that it will require the applicant to consolidate the existing crossing.

SMART’s requirement could result in a secondary impact by eliminating local access for project traffic and a few private residences along the River. The potential impact to project traffic has been addressed by routing that traffic north through Landing Way, which the commenter agrees is acceptable. The potential impact to the existing residences has been addressed through Mitigation Measure TRANS-13b, which requires the applicant to provide an all-weather vehicle access route to Petaluma Boulevard South that satisfies SMART, DTPW, the County Fire Marshal, and PRMD.



If that access is provided over the existing crossing in a manner acceptable to SMART, the commenter will suffer no adverse consequences. If SMART carries out its stated intent to require the applicant to consolidate the crossings and provide access through Landing Way, additional negotiations will be necessary between SMART, the applicant, and the commenter regarding the safest method to convey residential traffic without disrupting the commenter's legal operations and own license to cross the tracks. Due to the small number of residential trips, the residents' familiarity with the area, and the requirement that any access be designed, operated, and maintained to the satisfaction of SMART, TPW, the County Fire Marshal, and others, the DEIR correctly concluded that implementation of that access would not result in significant adverse safety impacts. Because the County does not have control over the decisions regarding the railroad crossings and residential access, however, the DEIR further found that impacts related to Impact TRANS-13b would be significant and unavoidable.

In order to provide more flexibility in the implementation of Mitigation Measure TRANS-13a, the following revisions are made to the third paragraph of Mitigation Measure TRANS-13a on page V.J-42:

"To address this secondary impact the applicant/owner shall make an irrevocable offer to the County of Sonoma for a 50-foot ~~public~~ access and utility easement parallel to the SMART railroad tracks on APN 019-220-001 for the purposes of ingress, egress and utilities. This would preserve options for a future ~~public~~ roadway through Landing Way to allow access to Area A and neighboring residential properties along the River if the existing railroad crossing is closed. This measure will cause a small number of passenger vehicles to be mixed with the larger volume of truck trips along the right-of-way. This is not a substantial concern, however, because most of this traffic would be from residents who are familiar with the area and currently there are employee and other passenger vehicle trips in the area so this increase will not represent a new condition for truck drivers using this route."

***Comment B15-2***

Thank you again for the opportunity to comment, please do not hesitate contacting the undersigned should you have any questions regarding this letter.

***Response to Comment B15-2***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter B16**

**Nicholas R. Tibbetts & Associates, Nick Tibbetts**

***Comment B16-1***

I am submitting the following comments on the Dutra DEIR. They focus on Chapter V.J.-Transportation-and Traffic. The document in several instances refers to practices and standards which have emanated from recent Board of Supervisors actions on quarry use permits. I have made comment on those assertions in the DIER.

As a member of the local CMAC committee (local aggregate producers) I am particularly interested in the environmental review of aggregate and aggregate related use permits. I am especially interested in the environmental review issues surrounding matters of transportation and traffic.

***Response to Comment B16-1***

Comment noted. Responses to the commenter's comments on the DEIR are provided below in responses B16-2 through B16-19.

***Comment B16-2***

1. On page VJ-2 traffic observations were made on northbound Petaluma Blvd South which indicated that 11% of the total traffic consisted of heavy trucks or busses. Does the 11% reflect the actual count of vehicles or does it reflect a number based on a conversion to Passenger Car Equivalents (PCE)?

***Response to Comment B16-2***

The truck percentage discussed in the DEIR traffic section represents actual vehicles. Observed truck traffic is converted into a passenger car equivalent in all capacity analysis per the Highway Capacity Manual (HCM) rate of 2.0. This conversion is distinct from the rate of 3.0 applied to truck trip generation by convention in Sonoma County. Project truck trip generation is converted to passenger car equivalents at a rate of 3.0 as required by Sonoma County, but this is not further adjusted by the HCM rate of 2.0.

The distinction is important because it accounts for the fact the mix of vehicles to and from the project is not pre-established. Although operationally a 23-ton truck would be treated as 2 passenger car equivalents under the HCM methodology, that 23-ton load could just as likely be carried by two 12-ton trucks, which under HCM would count as 4 passenger car equivalents. The use of a 3.0 truck passenger car equivalent for project generated trucks helps to conservatively account for both the potential variation in the mix of traffic and the operational effect that trucks have on traffic flow, which is normally accounted for by the HCM rate of 2.0.

The County consistently applies a passenger car equivalence factor of 3.0 to heavy vehicles for trip generation in traffic studies, and it has been applied to this project as well. It is intended to provide a sufficient margin of error and to ensure that CEQA documents capture and mitigate the impacts of the

largest trucks with the heaviest loading. It is well within the County's purview to determine the trip generation rates to be applied to various land uses as a matter of policy.

***Comment B16-3***

2. In Figure VJ-1 the existing turning movement traffic exiting north off Highway 101 shows a count of 204 vehicles. How many of the 204 are large busses and trucks? Are the numbers representing trucks and busses converted to PCE's? Are the numbers of vehicles (trucks) coming out of Landing Way converted to PCE's?

***Response to Comment B16-3***

Please refer to response B16-2. The analysis treats 22 of the vehicles exiting at the NB 101 off ramp as heavy vehicles under existing conditions.

***Comment B16-4***

3. In Figs. V6 & V7. Does the vehicle number 225 represent a PCE converted number (3) of vehicles (trucks) exiting the Dutra Project site?

***Response to Comment B16-4***

Please refer to response B16-2. The 225 movements represent a passenger car equivalent.

***Comment B16-5***

4. In traffic studies there exists an assumed percentage number representing large truck and bus numbers as a % proportion of any highway traffic number. The most recent % was 7%. However in the traffic numbers referred to above that number was 11%. Which ever % number representing background traffic in this DEIR should convert the large truck and bus % number into a PCE at a factor of three (3). The background traffic (including Landing Way), like the project traffic, should reflect the PCE numbers.

***Response to Comment B16-5***

Please refer to response B16-2.

***Comment B16-6***

New Truck Traffic Assumptions---pages VJ-16 & 17:

5. The analysis walks the reader through the process of how the peak hour of truck traffic is determined. The analysis is fine until the sentence which states "...truck traffic is then adjusted to include a seasonal peaking factor. Based on previous studies, the County has set the factor at three (3.0)." The analysis goes on to state that the adjustment "results in the average peak daily traffic."

Is the reference to the recent Canyon Rock and Blue Rock Quarry projects? If not, to which projects? If yes, the statement is in error. In the case of Canyon Rock the traffic study identified a peak month, a peak week, a peak day, and a peak hour (a.m). That process determined the peak hour for intersection analysis. The staff carried it further by assuming occasionally these would be unusually large projects which would boost the peak output beyond the traditional identification of the peak hour. Even with all that, the increase over the base case (existing project peak) was not a factor of three, but at the most two (2).

#### ***Response to Comment B16-6***

Comment noted. The DEIR traffic section should not have referred to the results of the peaking factor as the average peak hour traffic but rather to the peak hour traffic estimate for analysis. The DEIR traffic section does not indicate that the process used is identical to that used in previous studies, rather that it is based on those approaches. The rationale is the same as in the Canyon Rock EIR, however PRMD staff indicated that for the Dutra project the peaking factor should be 3.0.

#### ***Comment B16-7***

6. On page VJ-17 it is stated that each truck trip is reported as three passenger car equivalents. Then the next sentence notes “that exhibits in the study reflect trips in terms of actual vehicles and not passenger car equivalents (PCE).” Do these sentences represent a contradiction? When in the traffic evaluation process do you report vehicles as trucks and trucks as PCE’s? When determining the peak hour and the “seasonal peaking” factor, don’t the analyses usually use the actual numbers of vehicles and not the PCE’s? Isn’t it more appropriate to have PCE’s come into play when charting turning movements at intersections so that impact comparisons can be done on an “apples to apples” basis?

#### ***Response to Comment B16-7***

Comment acknowledged. The last sentence in the first paragraph on page V.J.17 of the DEIR has been revised to read as follows:

“... daily traffic. Daily truck traffic is converted into hourly truck traffic by dividing the peak daily traffic by ten hours, which assumes hauling occurs from 6 AM to 4 PM and that no hauling occurs from 4 PM to 6 PM. This assumption is consistent with the observations provided by Fehr and Peers at the existing temporary facility (see Appendix J). Each truck trip is evaluated as three passenger car equivalents, as is consistent with other County Studies. ~~Note that exhibits in the study reflect trips in terms of actual vehicles and not passenger car equivalents.~~”

The revisions do not affect the conclusions provided in the DEIR.

#### ***Comment B16-8***

7. On page VJ-19 it is stated that the Project Description indicates that material importation is by barge and 23 ton trucks. It goes on to state that product exportation uses an average of 12 tons per truck. Where did the 12 ton figure come from? Did the June 2004 traffic study conclude that? Did that traffic

study do actual counts at the temporary facility? If 12 tons is the number for the exporting trucks, the PCE should change from 3 cars to 1.5 cars when reporting on trucks exporting material from the site.

***Response to Comment B16-8***

Please refer to response B16-2. The 12-ton figure is derived from the range of vehicles reported by the project proponent in 2005. It represents the average of a range of vehicles from 1-ton pick ups to 23-ton trucks. This is taken to represent the average demand for aggregate but not necessarily the average vehicle size. There is no basis for assuming that vehicles are always fully loaded as they exit the site. The more conservative assumption is that the average load is 12 tons but that the vehicle is a larger capacity truck.

The use of a factor of 3.0 is not dependent on the size of the truck but is the County's required passenger care equivalent for all trucks. A 12-ton truck would require a PCE of 3.0 just as a 23-ton truck would.

***Comment B16-9***

ARM Plan Fee:

8. On page VJ-17 the DEIR concludes that based upon its analysis, the Dutra project is subject to an "assessment of an aggregate fee consistent with Sonoma County's Aggregate Resource Management (ARM) Plan..." It goes on to state that the applicant would be required to pay the ARM fee on the basis of the increment of new truck traffic generated by this project."

That statement has no basis in fact. The ARM Plan is a regulatory document which applies to the mining of aggregate in Sonoma County. Its requirements do not apply to asphalt or concrete plants or raw materials imported into the county. What is the justification for attempting to bring the Dutra asphalt and aggregate sales project under the jurisdiction of the ARM Plan?

***Response to Comment B16-9***

The ARM Plan applies to aggregate generators and road wear to primary haul routes. As a result, the County uses the ARM Plan fee as part of the permitting process rather than as mitigation.

***Comment B16-10***

9. Is the ARM Plan fee referred to above the ARM Plan Mitigation Fund Fee adopted by the Board of Supervisors in 1995? If yes, has any aggregate mining operation in Sonoma County been assessed a fee under this Fund? Has any asphalt plant or concrete plant located in Sonoma County which uses aggregate ever been assessed a fee under this Fund? Given the non applicability of the ARM Plan fee to this project, page VJ-21 is not relevant to the DEIR's analysis.

***Response to Comment B16-10***

Comment noted. Please refer to response B16-9.

**Comment B16-11****HIGHWAY IMPACTS**

10. On page VJ-28 the DEIR concludes that “the project would add traffic to ramp movements and to Highway 101 mainline in both directions.” The project would result in a significant impact to Highway 101 southbound traffic at the a.m. peak hour and a significant impact to the southbound 101 ramp at the a.m. peak hour.

The DEIR’s proposed mitigation for the project is to require a fair share contribution towards the planned construction of a HOV lane. The project’s fair share would be computed as proportion of total near term cumulative traffic. The project is also required to fund a fair share contribution towards any planned interchange improvements for the Hwy 101/Petaluma Blvd South interchange project. This fair share is calculated as the project share of the total peak hour traffic on the northbound and southbound ramps.

The applicant objects to the mitigation insofar as it is a state highway project which is expected to receive programmed federal and state dollars augmented by voter approved local dollars. Have any other projects in the vicinity, approved in the last five (5) years, been required to make similar such contributions?

**Response to Comment B16-11**

Fair share contributions are appropriate where, as here, a proposed project would result in significant adverse impacts to a highway interchange. The County therefore frequently requires private development projects to contribute funding to programmed transportation projects, since local traffic impact fees often do not provide or include sufficient funding. For example, the County recently required the Carneros Business Park and a second project on 8<sup>th</sup> Street East in Sonoma to provide fair share contributions to an identified intersection improvement at Arnold Drive. Other proposals in the vicinity of this project have been required to contribute to transportation projects identified or programmed at the time of approval, to the extent necessary to mitigate significant adverse impacts.

Please refer to response A4-4 for additional information.

**Comment B16-12**

11. If a fair share contribution is to be required as part of the EIR, the County should provide the applicant as part of this process: 1) a defined and designed public project or projects in which the applicant is expected to financially participate; 2) a financial contribution in a dollar denomination that is justifiably proportional to the project’s traffic impacts; 3) a fair share formula which clearly explains step by step the rationale for the financial contribution that the project is expected to make.

**Response to Comment B16-12**

Please refer to response A4-4. The County, the Sonoma County Transportation Authority and Caltrans are all cooperating on the Marin-Sonoma Narrows Project. The County is working to facilitate interaction between Caltrans staff and the Dutra design team and it is fully anticipated that the project’s contribution

to completion of the US 101 interchange project and the mainline segment improvements to US 101 will be established concretely as part of this process, and as envisioned in the Caltrans Guidelines discussion on fair share contribution. As part of this process the project's contribution may be negotiated around specific design considerations.

***Comment B16-13***

**TABLE VJ-11 (NEW PROJECT TRIP GENERATION)**

12. Table VJ-11 represents new project trip generation numbers. It is the basis for determining the fair share calculation for potential project funding contributions to the future Hwy 101 widening (HOV lanes) in the project vicinity. It is also the basis for funding contributions for a possible new interchange in the vicinity as part of the highway widening project.

It is critical to accurately determine the a.m. peak hour traffic contribution by the project. That number is key to determining the "fair share" contribution. It is difficult to determine that number without agreement as to the existing project a.m. peak hour traffic. It is also difficult to determine the "fair share" funding contribution without agreement on the a.m. peak hour project traffic at the new site.

In Table VJ-11 the DEIR traffic analysis attempts to generate an answer to the second part of the above two requirements-new site a.m. peak hour traffic. The DEIR begins by determining that an annual daily average of truck trips is 250 trucks in and 250 trucks out for a total 500. The DEIR adjusts the number seeking a seasonal peaking factor of 3x. As a result the new number is 750 trucks in and 750 trucks out in a 10 hour day. That is then translated into an a.m. peak hour of 75 trucks in and 75 trucks out. What is the justification for the seasonal peaking factor of 3x? Specifically where did it come from and how was it calculated in that case?

***Response to Comment B16-13***

Please refer to response B16-6. The seasonal peaking factor of 3.0 was applied in accordance with PRMD guidance that impacts and mitigation based on the maximum traffic anticipated from the project site. The rationale for this seasonal peaking factor was based on previous studies including the Canyon Rock and Blue Rock EIRs.

***Comment B16-14***

13. Then for purposes of comparing apples with apples, the trucks are converted to passenger car equivalents (PCE) by multiplying the above 75 per hour x 3. This generates a number of 225 and 225. If project exporting trucks carry 12 tons instead of 23 tons of material exiting the site, should not the PCE be reduced proportionally (by 1/2) to 1.5?

***Response to Comment B16-14***

Please refer to response B16-2.

**Comment B16-15**

14. The proposed a.m. peak hour of 75 trucks would mean that at 12 tons per truck 900 tons of material would go out the gate. The DEIR notes that the asphalt plant has a maximum 400 ton per hour production capacity. If so, that leaves 500 tons of raw sand and or aggregate going out the gate in that same a.m. peak hour. One needs to keep in mind that as these 75 fully loaded trucks exit the project site for Petaluma Blvd. South there will be 75 empty trucks entering the project site to become loaded.

This raises an empirical question. Given the site configuration (Fig. VJ-4) and the simultaneous production processes, can 75 fully loaded trucks: enter the site; queue up for asphalt and aggregate; become loaded; weighed and exit out to Petaluma Blvd and enter the roadway within 60 minutes? If the number of trucks were 60, then that would mean every minute a truck would pass through the cycle. Perhaps two minutes if the aggregate and asphalt production processes were sufficiently separated. At 75 trucks the time would be less than one minute per truck.

The empirical question extends to this: How long does it take for an asphalt truck to enter the site, load up and leave the site? How long does it take for an aggregate truck to enter the site, load up and leave? For the purposes of the exercise assume as the DEIR does that the “exporting trucks” carry 12 tons.

The above empirical analysis assumes the inputs as provided in the DEIR. Those of course are no doubt problematical. The analysis assumes that exported product exits in a 12 ton truck. How was the figure of 12 tons determined? Why wasn't the figure 23 tons (similar to the size of the importing trucks)? Is it reasonable to assume that the exporting truck equivalent load is somewhere between 12 and 23-25 tons?

Note that if it is to be a 12 ton truck, then the PCE the conversion factor should be reduced to 1.5 from the DEIR's three (3). The reduced conversion factor is warranted because three (3) assumes a 23-25 ton quarry truck. The PCE conversion for a 12 ton truck should be 1/2 of 3 or 1.5.

Additionally, the DEIR early in the peak hour calculation process adjusts the daily trips by adding a peaking factor of 3 times. This is subjective and not supported in other recent quarry use permits. If, for the sake of argument, the peaking factor was two (2) times instead of three (3), the 75 trucks would become 50 trucks. The above empirical questions, however, would still apply to the 50 trucks.

**Response to Comment B16-15**

Comment noted. The peak hour analysis evaluates the impacts of either 75 vehicles entering the site or 75 vehicles exiting the site or both occurring during the peak period. The impacts identified in the DEIR traffic section will result whenever 75 vehicles enter the site and 75 vehicles exit the site during the peak period from 7-9 AM. Given the congestion on US 101, it is possible that such impacts would result from a spread-out peak period from perhaps 6AM to 10AM or more. The trip generation assumptions which capture the potential effects of project traffic during the peak hour effectively encapsulate the effect of the entering and existing project traffic during this longer congested period.



CEQA requires an EIR to evaluate and mitigate the worst-case traffic conditions that could result from project operations. These would occur when 75 vehicles enter the site in an hour or when 75 vehicles exit the site during an hour. The easiest way to ensure that both conditions are addressed is for the hypothetical situation where these events are simultaneous. Note that the impacts identified in the DEIR traffic section are not the result of entering and exiting trucks conflicting with each other, so the concern that evaluation of 75 entering and 75 exiting vehicles simultaneously might skew the analysis does not pertain.

The use of the passenger car equivalent and seasonal peaking factor are addressed in the response B16-2 and response B16-6, respectively.

**Comment B16-16**

15. Historically use permits that were to be extended or expanded conducted traffic studies relying on traffic counts. This approach created a basis for empirically determining what the peak hour traffic was or would be.

Peak hour traffic coming from a processing facility is influenced as much by the process of putting the product out onto the roadway in a given time (one hour for example), as it is by the potential volume of material available to the operator. It is not simply determined by a series of calculations predicated on annual production numbers.

Intersection analysis for example attempts to determine the volumes of the traffic at a given time at the intersection. Intersections are sized for capacity and peaks.

Question: Is it not true that using the DEIR's analysis for intersection movements and subsequent improvements, that an asphalt operator who produces 250,000 tons annually may not generate more peak hour truck trips than a competitor across the street that produces 100,000 tons annually?

**Baseline Peak Hour Traffic (Existing Temporary Facility)**

The calculation of a baseline peak hour traffic number suffers on two counts. First there is noticeable lack of clarity in the determination of the baseline peak hour. One simply can compare the full page Table VJ-11 on page VJ-20 with a brief description sans chart or Table found on the following page--VJ-21.

There is a declared baseline a.m. peak hour number of 130 a.m. peak hour traffic (trucks) (plus 10 for autos) = 140 a.m. peak. The path to that number comes without a descriptive critical path or chart. One can compare using an extrapolation with the number on Table VJ-11 on the previous page. The total a.m. peak hour traffic on Table VJ-11 appears to be 235 trips using the PCE conversion. It is not entirely clear, but it appears that the 140 a.m. peak hour number (Baseline Peak Hour) includes the PCE conversion.

**Response to Comment B16-16**

Comment noted. While it is possible that the trip generation from a site processing 100,000 tons of material may be the same as one processing 250,000 tons of material, the potential for the latter to generate more traffic must be considered in the impact analysis.

As stated in the DEIR traffic section, the baseline trip generation is derived from driveway observations at the temporary facility and assumes a PCE of 3.0 per vehicle. No seasonal peaking factor is applied to the baseline traffic assumption because by definition the baseline is established at a fixed output rate and not a surge in that rate anticipated as a potential surge in the rate of output.

**Comment B16-17**

16. Questions: A reasonable question to ask is: In the baseline analysis (existing temporary facility) was there a conversion factor of 3.0 in adjusting the daily trips as was done in Table VJ-11? Secondly, in the baseline analysis was the PCE conversion rate 3.0 or was it 1.5?

Did the baseline a.m. peak hour traffic include a boost in its number representing that larger than usual job which can ultimately generate twice as many a.m. peak hour truck trips as would normally be recorded using the “typical” a.m. peak hour numbers? It is a reasonable expectation because the boosted once in a year large job can occur today (baseline) just as likely as it is anticipated to happen in the project scenario. In that way comparing a.m. peaks hours between baseline numbers and future project numbers insures that the analysis is comparing “apples with apples.”

**Response to Comment B16-17**

The background traffic obtained from counts of existing traffic is not adjusted to include the PCE of 3.0 which was applied to project trip generation. The heavy vehicles observed in the background traffic would consist of RV’s, buses and other miscellaneous heavy vehicles which are not subject to the trip generation factor the County applies to trucks bearing aggregate and other heavy materials. The HCM method for factoring this traffic at a rate of 2.0 is therefore adequate to cover the range of vehicles observed. In no case is a factor of 2.0 combined with a factor of 3.0 (i.e. leading to a factor of 6.0) so these two categories of traffic are addressed distinctly throughout the DEIR traffic section.

**Comment B16-18**

17. Figure VJ-7 on page VJ-23 shows the final existing plus project turning movements. This represents the “delta” or the increment between the baseline and the project conditions (VJ-23). The DEIR goes on to say that the peak hour baseline as represented by the observed driveway volumes “is assumed to be representative of the average asphalt production activity at the temporary site” (baseline site) VJ-23. This description cries out for an answer to the QUESTION: “what is the a.m. peak hour traffic number at the temporary site?” And further does it include the factors outlined in the paragraph above? The phrase “average asphalt production activity” strongly suggests that the answer is no-those factors were not considered in determining the baseline a.m. peak hour traffic. Additionally, the DEIR analysis on this

page makes no mention of baseline traffic from the existing temporary site relative to off site sales of aggregate and sand. Does the existing baseline a.m. peak hour number reflect the sales of sand and aggregate from the site?

***Response to Comment B16-18***

Comment noted. The traffic observed at the temporary site was 29 inbound trucks, 5 inbound cars, 30 outbound trucks, and 3 outbound cars. The trucks were multiplied by a passenger car equivalent PCE factor of 3 to obtain a total of 92 inbound and 93 outbound passenger car equivalents. As explained in response B16-16, the seasonal peaking factor was not applied to baseline traffic as this would not be consistent with the County's definition of the baseline.

***Comment B16-19***

18. Figure VJ-7 on page VJ-23. Do the background and cumulative traffic include the PCE conversion number? At Landing Way the a.m. peak hour export number is 17 vehicles (trucks) leaving the site exiting onto Petaluma Blvd South. If the PCE conversion factor were implemented, then that number would be approximately 51. In Dutra's project case the number is 225. It includes within that number the PCE conversion at the rate of 3x. That failure to convert at Landing Way suggests that the background through traffic on Petaluma Blvd South does not convert the large truck and bus traffic assumed to exist on the Blvd at the a.m. peak hour. If it did, it would increase the numbers of non Dutra project traffic at the intersections thereby reducing somewhat the relative impact of the Dutra project traffic at those intersections.

***Response to Comment B16-19***

Please refer to response B16-17. Note that the important impacts related to the Dutra site are not substantially affected by the trip generation assumptions documented in the DEIR traffic section. The most significant impacts relate to: 1) the nature of the access condition onto Petaluma Boulevard South, which experiences high speed off ramp traffic; and 2) the addition of more than one trip to Caltrans facilities that are currently operating at LOS F. The trip generation assumptions may be subject to further interpretation in establishing what a fair share contribution would be to mitigating impacts to Caltrans facilities, but as indicated in response A4-4, the fair share calculation is intended as the basis for discussion and not a final estimation of project participation.

**Response to Comment Letter B17**

**PVP Media, Margaret Pick**

***Comment B17-1***

I am writing to obtain information about where and how to express my concerns about the proposed Dutra Asphalt Plant adjacent to the Shollenberger wetlands.

***Response to Comment B17-1***

Comment noted. The commenter has submitted a comment letter on the DEIR to the correct Lead Agency (County of Sonoma PRMD). As stated on page I-3 of the DEIR, all written comments or questions on the DEIR should be addressed to: Sonoma County Permit and Resource Management Department (PRMD), ATTN: Steve Dee, AICP, Senior Environmental Specialist, 2550 Ventura Avenue, Santa Rosa, CA 95403, 707/565-8350 (phone), 707/565-8358 (fax), [sdee@sonoma-county.org](mailto:sdee@sonoma-county.org). Any questions regarding the proposed project itself should be directed to Steve Padovan of PRMD at 707/565-1352 or [spadovan@sonoma-county.org](mailto:spadovan@sonoma-county.org).

***Comment B17-2***

This rich asset for Petaluma and the environs would be irreparably harmed by an asphalt plant.

***Response to Comment B17-2***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B17-3***

As a local resident and business owner, I cast my vote against the Dutra plan.

***Response to Comment B17-3***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B17-4***

Please let me know of any petition in process gathering signatures against the development.

***Response to Comment B17-4***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comment Letter B18****CSW/Stuber-Stroeh Engineering Group, Inc., Al Cornwell*****Comment B18-1***

On behalf of The Dutra Group and Dutra Materials (Dutra), we appreciate the considerable effort that has gone into the preparation of the Draft Environmental Impact Report (DEIR) dated January, 2008. Since originally submitting its proposal for the Haystack Landing asphalt production, recycling and barge off-loading facility (Project) on April 28, 2004, Dutra has been working diligently with the County and its consultant to provide the information required to fulfill the requirements of the California Environmental Quality Act (CEQA) and obtain approval for the Project.

The Project proposes relocation of an existing asphalt plant and barge offloading facility located at 1601 Petaluma Boulevard South, approximately one-half mile to the north. The plant has operated at that address and has served as an important source of asphalt for southern Sonoma County and northern Marin County for more than twenty (20) years. It was moved to a different location on the former Dutra Quarry property pursuant to a temporary use permit and mitigated negative declaration in 2005, to facilitate reclamation activities at the Quarry and pending approval of this Project.

The new plant will continue to serve the requirements of important public works and private development projects, including the recently-approved Caltrans' Marin-Sonoma Narrows project for widening Highway 101. Moreover, the new plant will be state-of-the-art, providing more efficient operations, reducing environmental impacts and enhancing aesthetics.

This letter will provide comments in accordance with the Notice of Completion of the DEIR, and the time period specified by the Planning Commission at the public hearing on February 7, 2007. The letter includes, as attachments, additional comments submitted on behalf of Dutra by:

- Justice & Associates (air quality issues) - Attachment 1;
- Lucy Macmillan (biological resources/wetlands) - Attachment 2;
- Rosen Goldberg Der & Lewitz (noise issues) - Attachment 3;
- LSA (biological resources/species) - Attachment 4;
- Fehr & Peers (traffic issues) - Attachment 5;
- Miller Pacific (geotechnical engineer) - Attachment 6; and
- Farella Braun + Martel LLP (legal issues) - Attachment 7.

Each of these attached comment letters is incorporated herein by this reference. For convenience, the comments presented in this letter are otherwise organized by section and page number in support of Dutra's objections to the DEIR, as follows:

***Response to Comment B18-1***

Comment noted. Responses to comments raised by the commenter and the applicant's subconsultants are addressed below in responses B18-2 through B18g-7.

**Comment B18-2****TABLE II-1: Summary of Significant Environmental Impacts & Mitigation Measures****Impact AES-3 / Mitigation Measure AES-3 - Sixth bullet - Page 11-3**

*“Lighting shall be limited to the areas that would be in operation during night-time hours with all recycling operations and general aggregate sales limited to between 6 AM and 6 PM.”*

For Caltrans and local highway and street repair work, aggregate sales need to be allowed at night, similar to asphalt sales. We would suggest that the mitigation be modified to reference 6:00 a.m. and 6:00 p.m. “except as needed to meet specific project requirements.”

**Response to Comment B18-2**

Comment noted. This comment will be forwarded to the decision makers for their review and consideration.

**Comment B18-3****Impact AQ-1 / Mitigation Measure AQ- 1b - Second bullet - Page II-6**

As stated, this restriction is too vague. In addition, due to the proposed use of the site, the restriction is impracticable. This item needs clarification before implementation is possible.

*“The applicant shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use” Add: “to the extent practicable.”*

**Response to Comment B18-3**

Comment acknowledged. The second bullet under Mitigation Measure AQ-1b on page V.B-26 and in Table II-1 has been revised to read as follows:

- *“To the extent feasible, the applicant shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.”*

**Comment B18-4****Impact AQ-2 / Mitigation Measure AQ2a - Page II-7**

*“The off-road equipment used on-site for the proposed asphalt and recycling facility will use 2007 emission standards. The emission standards may be met by upgrading to newer vehicles or retrofitting engines using CARB verified retrofit technologies.”*

As provided in the attached letter of Justice & Associates to Brian Peer of Dutra, dated February 28, 2008 (Attachment 1 at Page 4):

“Mitigation Measures AQ-2a (Page VB- 31) states that off-road equipment used on-site shall use 2007 emission standards. Manufactures (*sic*) of equipment are mandated to only sell new equipment that meets standards as stated in the Off-Road Compression Ignition (Diesel) Engine Standards. For example, the 2007 emission standards for engine (*sic*) between 100 HP to 300 HP is a Tier 3 engine at 3.0 g/BHP-hr for NMHC + NO<sub>x</sub>.

“Table D-15 (Existing) and D-16 (Proposed) of Appendix D evaluated mobile off-road equipment at a Tier I NO<sub>x</sub> standard of 6.9 g/BHP-HR for analysis. While this emission rate is probably appropriate for the existing operations, it is not consistent with a 2007 fleet of equipment. The analysis for Mobile Off-Road Equipment for the proposed facility should use a Tier III emission standards (*sic*) to evaluate the emissions.”

#### ***Response to Comment B18-4***

Evaluation of the project emissions were based on the project description, which did not stipulate use of 2007 off-road equipment (Tier III emission standards for 100 to 750 horsepower (hp) engines). The Tier III emission standard for nitrogen oxides (NO<sub>x</sub>) is 2.6 grams per brake horsepower-hour (g/bhp-hr) for 100 to 750 hp engines. Using Tier III engines for on-site construction equipment would reduce annual emissions of NO<sub>x</sub> by 0.043 ton per year. This reduction would not change the significance determination relative to the proposed project’s net increase in NO<sub>x</sub> emission, which would still exceed the BAAQMD’s threshold of significance of 15 tons per year.

#### ***Comment B18-5***

#### **Impact AQ-2 / Mitigation Measure AQ2c - First bullet - Page 11-8**

*“Minimizing drop heights while loading/unloading aggregate to less than four feet, and...”*

In general, this is attainable for the main conveyor assembly. However, it is not possible to reduce the drop from the “rainbow” conveyor to the stockpiles to less than four feet since the stockpile heights vary with demand.

#### ***Response to Comment B18-5***

Comment acknowledged. The first bullet under Mitigation Measure AQ-2c on page V.B and in Table II-1 of the DEIR has been revised to read as follows:

- “Minimizing drop heights while loading/unloading aggregate to the maximum extent feasible less than four feet, and”

**Comment B18-6****Impact AQ-6 - Conflict with or Obstruct Implementation of an Applicable Air Quality Plan - Page 11-12**

*“Given that the proposed project would result in both project-level and cumulatively significant contributions to ozone emissions, that a General Plan amendment would be required for this project, and that the General Plan does not appear to be fully consistent with the Bay Area Clean Air Plan (CAP), per BAAQMD guidelines the project conflict with the CAP would appear to be significant.”*

It is intended, due to the nature and volume of material being generated and disbursed by this type of operation, to use barges for many trans-shipments of material from the site. The use of high-volume barges will significantly reduce ozone emissions that would otherwise be generated by truck transport of an equivalent amount of material. Therefore, while there will certainly be contributions to ozone emissions, at this time it is difficult, if not impossible, to quantify whether these contributions will indeed be significant.

Furthermore, as noted in the attached letter of Farella Braun + Martel to A1 Cornwell of CSW/ Stuber-Stroeh, dated March 3, 2008 (Attachment 7), the air quality analysis of the DEIR uses an inappropriate baseline when comparing the emissions from the current facility to those of the proposed facility. Since this Project is designed to replace the current facility which has operated nearby for more than twenty years, the analysis must take the existing operations into account and evaluate only the impacts, if any, that exceed those already permitted for the current facility or resulting from the relocation. *See Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 243 (1999); *San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645, 657-59 (2007).

**Response to Comment B18-6**

The commenter states that it will be difficult to quantify whether the project’s contributions to ozone emissions would be significant under CEQA. The use of barges to transport materials was provided for in the EIR project description and, therefore, was used in the estimation of emissions of ozone precursors, NO<sub>x</sub> and ROG in Section V.B (Air Quality) of the DEIR. The evaluation of the air quality impacts was conducted by subtracting the estimated emissions from the existing plant, based on the baseline operation (average five-year production rate), against the proposed plant’s maximum capacity, as shown in Section V.B (Air Quality) on Tables V.B-8 through V.B-11, pages V.B-28 to V.B-30. The detailed calculations are provided in Appendix D, Tables D-1 through D-19.

The commenter also states that the DEIR’s air quality analysis uses an inappropriate baseline. The commenter states that because the project would replace an existing facility, the DEIR may only evaluate the project emissions, if any, that would exceed what could have been emitted by the current facility operating at full, permitted capacity.

This comment misunderstands the legal definition of the normal CEQA baseline, and the County’s discretion to deviate from the same. Please refer to response B18g-2 for additional information.



**Comment B18-7****Impact BIO-4c**

As stated in the attached letter of LSA, dated February 21, 2008 (Attachment 4, Pages 1 and 2):

“In general, the DEIR impact analysis, mitigation measures, and conclusions are consistent with our analysis and recommendations. However, we have three specific comments with respect to Impact BIO-4 and Mitigation Measure BIO-4c.

“**Comment, Page VC-35, Night Lighting.** The DEIR discussion concludes that our recommendation that night lights should also be turned on several times for a couple of hours during the nest selection/pair bonding (typically mid February to mid March) is inadvisable and makes the assumption that the intent of this activity is to acclimate the birds in the rookery to the nighttime operations. Our recommendation was not intended to habituate the birds to the nighttime lights or noise. This recommendation is tied to our recommended monitoring which was intended to address uncertainties in how the herons and egrets may react to the night lighting and unloading noise/activity and to establish protocols to adaptively manage the rookery in conjunction with project operations. As recognized in our assessment and the DEIR, it is impossible to predict how individual birds or groups of birds will react to disturbances. Given our understanding that night-time restrictions on site operations could significantly constrain project operational efficiency and increase operations costs, our recommendation was to test for these uncertainties.

“Monitoring element number 2 in our report recommends:

*“Barge Operations/Night Lighting: a minimum of two periods when herons and egrets are present during nest selection/pair bonding (typically mid February to mid March).”*

“We further recommend that if the herons and egrets react adversely to onsite disturbance tests, site operations associated with the adverse reaction should be curtailed and alternative measures implemented and tested for effectiveness. In this manner, unwarranted restrictions on operations would not be imposed or, should adverse reactions occur, alternative measures to protect the rookery could be implemented.

“Our rationale (*sic*) for the tests are: 1) the nest selection/pair bonding period is when herons and egrets are most susceptible to disturbance impacts; 2) herons and egrets population/use at the rookery typically increases through this period, such that early tests could be conducted when fewer pairs are present; and 3) legal protections under Fish and Game Code and the federal Migratory Bird Treaty Act are not applicable to these early breeding stages.

**Response to Comment B18-7**

The clarification by LSA regarding the intent of the recommendations in the H/ERIAR is noted. However, in several places in the text there are references that “The above measures are designed to habituate the herons and egrets to operations at the site...”, that “The basic approach is to habituate the herons/egrets to the conveyor.” and “The following recommendations are primarily intended to habituate the herons and

egrets to the site operations during the period when the birds are typically most susceptible to disturbance.” A detailed discussion of the potential impacts of the project on the colony, and review of recommendations made in the H/ERIAR report is provided under Impact BIO-4 in the DEIR. This includes the conclusion by the EIR biologist on page V.C-35 of the DEIR that the suggested use of nesting platforms in the H/ERIAR as replacement habitat would be speculative, at best, and that the suggestion that night-time lighting be turned on several times during the nesting selection/pair bonding period is inadvisable. The analysis of potential impacts on the colony in the DEIR was based on best available data and input from representatives of the CDFG. As concluded on page V.C-34 of the DEIR, while it is difficult to predict how individual birds in the colony on the site may react to construction and on-going operations at the proposed facility, it is likely that intrusion closer than the existing road on Area B and the railroad tracks to the east of the colony would be disruptive, particularly during the nesting season. Project-generated noise and night-time lighting on wildlife habitat and the egret/heron colony was identified as a significant impact under Impact BIO-4 in the DEIR. Mitigation Measures BIO-4a through 4e were recommended to address this significant impact, and include restrictions on construction and long-term disturbance in the vicinity of the colony, and modifications to project operations and improvement design. Collectively, these measures are considered adequate to mitigate potential impacts on the colony and other sensitive wildlife habitat in the vicinity to a level of less than significant, as concluded in the DEIR. Please refer to response B6-2 for an additional mitigation measure which requires that a comprehensive monitoring program be implemented as part of the project, and is to include adjustments to project operations as necessary to minimize disturbance to the colony.

Please also refer to response B2-4.

#### ***Comment B18-8***

**“Comment, Page VC-35, Conveyor System Operation.** The last sentence on Page VC-35 states that trying to acclimate (*sic*) nesting birds to the sporadic, short-term operation of the conveyor system and lighting would be disruptive to the egrets and herons in the on-site colony. As stated above, the intent of the light tests was not to acclimate (*sic*) the birds to the lights. It is part of an adaptive management approach to operating the project to evaluate and avoid impacts. The intent of running the conveyor system periodically is a combination trying to habituate the birds to the operations as well as observing the bird’s behavior. As far as being disruptive, wildlife are much less likely to be disturbed or scared by noises or activities if the activity is ongoing when they arrive at a site/begin to nest. Our opinion was that having an ongoing activity/running the conveyor system periodically when the herons and egrets begin to show up at the rookery, we would be able to test our assumptions and recommendations to determine if additional changes be necessary to avoid impacts to nesting activity.

#### ***Response to Comment B18-8***

Please refer to response B18-7. Operating the conveyor system and barge off-loading activities during the highly sensitive nest selection/pair bonding period (typically from mid-February to mid-March) runs the risk of contributing to nest abandonment and selection of a different nesting location, which could result in the complete abandonment of the colony. Mitigation Measures BIO-4b and 4c include specific restrictions on project operations intended to avoid the risk of possible nest or colony abandonment. The

intent of monitoring bird reaction to project operations and adjusting them where significant disturbance is noted is reasonable, and an additional mitigation measure has been recommended, as discussed in response B6-2, which requires that a comprehensive monitoring program be implemented as part of the project.

***Comment B18-9***

**“Comment, Page VC-36, Artificial Rookery.** The DEIR claims the concept of trying to move the rookery is “speculative at best.” While we cannot guarantee the herons and egrets will relocate (which we freely acknowledge in our assessment), heron and egret colonies have been successfully relocated. Several literature citations are provided in our initial assessment.

“The DEIR also speculates that one of the problems would be that the nest platforms for open and exposed because of a lack of screening vegetation. Our review the literature on past artificial rookery structures did not indicate that screening cover was used or was important. Artificial cover could be easily added, but is also worth noting that herons and egrets regularly nest on man-made structures such as transmission line towers that lack any shade or screening.

“I hope these comments help clarify the intent of several of initial recommendations that appear to have been misinterpreted in the DEIR. However the County decides to condition operations to protect the rookery, the FEIR and conditions of approval should also include a mechanism to eliminate operational restrictions designed to protect the rookery should the herons and egrets relocate the rookery at some point in the future. Rookery sites are often used for a period of years, then for some reason often not related to any apparent human activity, the birds decide to abandon a site a new rookery is formed in another location.”

***Response to Comment B18-9***

Comment noted. Please refer to responses B2-4, B18-7 and B18-8. As indicated in Mitigation Measure BIO-4a, the trees comprising the stand currently used by nesting egrets and herons are to be retained as a condition of project approval unless and until the colony is no longer viable in the future.

***Comment B18-10***

**Impact / Mitigation Measure NOISE-7 – Concrete Recycling Facility Note and Impact / Mitigation Measure NOISE-8 – Barge Unloading Facility Noise Pages II-47 and II-48**

As provided in the attached letter of Rosen Goldberg Der & Lewitz to Brian Peer of Dutra, dated February 29, 2008 (Attachment 3):

**“The DEIR does not clearly state if residential sound insulation is mandatory.**

“The concept of improving the sound insulation of the nearby residences is included in two different mitigation measures (NOISE-7 and NOISE-8). In our experience, it is rare for an EIR to specify sound insulation for off-site residences as a mitigation measure since the implementation of such a measure is

not under the control of the project applicant. Therefore, the need for off-site mitigation should be clearly explained in the DEIR along with the specific requirements and procedures.

“For example, In NOISE-7, sound insulation appears to be mandatory as the DEIR states that “At the request of the homeowners...the applicant shall provide windows...” However, in NOISE-8, sound insulation is discussed in non-binding terms since the DEIR states that “...consideration shall be given to improving the sound insulating properties of the affected residential structures.”

“Whether or not the offer for sound insulation is mandatory should be clarified and ultimately, the need for off-site mitigation should depend on whether the impact is significant after all other mitigation measures are implemented.

### ***Response to Comment B18-10***

Comment acknowledged that sound insulation of nearby residences as mitigation for significant operational noise impacts of the proposed project would not be under the control of the applicant. While this type of mitigation measure (Mitigation Measure NOISE-7) may not be commonly used in EIRs, the County has required compliance with this type of mitigation for other projects in the past including the County’s own landfill project and Gallo winery project. There, as here, installation of sound insulation at the request of homeowners appears to be a feasible mitigation measure. However, please refer to response B18-12 which describes how Mitigation Measure NOISE-7 has been revised slightly per comment B18-12.

### ***Comment B18-11***

**“The DEIR does not indicate which residences would be eligible for sound insulation.**

“It is important that the EIR specify which residences are to be included in any mitigation measure that requires sound insulation. NOISE-7 refers to homes “...along the River and at the hillside west of Highway 101...” while NOISE-8 refers to “...affected residential structures...” The offer for sound insulation should depend on whether the impact is significant after all the other mitigation measures are applied. The DEIR conclusion regarding the “Level of Significance After Mitigation” on page V.I-22 states that

*“With implementation of proposed mitigation measures, all combinations of the asphalt plant, concrete recycling plant and barge unloading would meet the County’s daytime and night-time noise standards at the hillside homes to the west (R1 and R2). However, noise levels would still exceed the County’s daytime standard at receivers R3-R7.”*

“The DEIR, therefore, indicates that the residential sound insulation mitigation measures should apply only to the residences along the River which are labeled R3, R4, and R5 (sound insulation would not apply to R6 and R7 which represent the park across the river).

**Response to Comment B18-11**

As stated in the sixth bullet under Mitigation Measure NOISE-7 on page V.I-17 of the DEIR, sound insulation mitigation measures are proposed for the homeowners along the River and at the hillside west of Highway 101. Please refer to response B18-12.

**Comment B18-12**

**“The DEIR does not adequately quantify the amount residential sound insulation that is to be provided.**

“Mitigation Measure NOISE-7 refers to “...windows rated for a 10 dBA exterior to interior noise reduction...” As stated, this mitigation measure is somewhat irrelevant since virtually any window will provide 10 dBA of exterior to interior noise reduction. We believe that the intent of the mitigation measure is to provide windows with a noise reduction that is a 10 dBA improvement over the existing windows’ noise reduction.

“The mitigation should be based on a more appropriate method for rating the windows, such as specifying the Sound Transmission Class (STC). The STC is a standard method for quantifying the sound reduction properties of windows. To address the mitigation goal for a 10 dBA improvement, the mitigation measure should have suggested windows with an STC rating that is 10 dB higher (greater sound reduction) than a normal single pane window. Since a closed single pane window<sup>10</sup> provides an STC rating of 24, the mitigation measure should specify that windows with a minimum STC rating of 34, be offered to the residences.

**Response to Comment B18-12**

Comment acknowledged. The sixth bullet under Mitigation Measure NOISE-7 on page V.I-17 of the DEIR has been revised to read as follows:

- **“Windows rated for a 10 dBA exterior to interior noise reduction that is a 10 dBA improvement over the existing window’s noise reduction. At the request of the homeowners along the River and at the hillside west of Highway 101, the applicant shall provide windows ~~rated for a 10 dBA~~ with a noise reduction that is a 10 dBA improvement over the existing window’s noise reduction exterior to interior noise reduction for all habitable rooms on the side of the residence facing the project site. The applicant shall...”**

<sup>10</sup> U.S. Department of Commerce, National Bureau of Standards, Acoustical and Thermal Performance of Exterior Residential Walls, Doors and Windows, 1975, p. 45.

**Comment B18-13**

**“The DEIR requires noise barriers be placed on the barges. The use of temporary barriers to achieve this mitigation measures would be impractical to enforce.**

“Mitigation measure NOISE-8 states that “Noise barriers shall be placed on the southern portion of the barge to completely screen barge unloading activities in the direction of the riverfront residences.” Based on our review of the site plan, this would require barriers that are approximately 12 feet tall on two sides of the barge (the long side facing the shore and the short side facing downriver. In our 12 May 2006 report, noise barriers were considered, but not included, as a measure to reduce the noise of the front end loader operating on the barge during the unloading process. We concluded that while it is theoretically possible to use temporary barriers either on piers in the water or on the sides of the barge, it would not be practical to enforce this measure on an on-going basis.”

**Response to Comment B18-13**

Comment acknowledged. The third bullet under Mitigation Measure NOISE-8 on page V.I-18 of the DEIR has been revised to read as follows:

- **“To the extent feasible, Noise-noise** barriers shall be placed on the southern portion of the barge to completely screen barge unloading activities in the direction of the riverfront residences.”

**Comment B18-14****Impact NOISE-10 / Mitigation Measure NOISE-10 – Page II-48**

*“Strobe Lights. 1) Install an Occupational Safety and Health Administration (OSHA) approved strobe light back-up notification system on front-end loaders that are used at the asphalt plant and the barge unloading. 2) Use the strobe lights exclusively instead of the beepers during night-time hours.”*

It may be possible to accommodate this recommendation. Review of Mine Safety regulations and Cal-OSHA requirements will be needed. Provided all applicable government agency requirements allow for the use of strobes in place of beepers, it should be possible to comply with this item.

**Response to Comment B18-14**

Comment noted. This mitigation measure has been revised to be consistent with Mitigation Measure NOISE-8 (fifth bullet) pertaining to the prohibition of off-loading the barge at night.

Mitigation Measure NOISE-10 on page V.I-20 of the DEIR has been revised to read as follows:

- **“Strobe Lights. 1) Install an OSHA approved strobe light back-up notification system on front-end loaders that are used at the asphalt plant ~~and the barge unloading.~~ 2) Use the strobe lights exclusively instead of the beepers during night-time hours.”**

**Comment B18-15****Impact TRANS-3 / Mitigation Measure TRANS-3a – Page II-49**

*“The project shall be conditioned to require a fair share contribution towards the planned construction of High Occupancy Vehicle (HOV) lanes along the highway mainline. . . . The project sponsor shall fund a fair share towards any planned interchange improvements for the Highway 101/Petaluma Boulevard South interchange project . . .”*

As stated, the requirement for Dutra to provide a “fair share contribution” is open-ended. The required contribution calculation and amount would need to be clarified and be a clearly stated, fixed one-time cost to avoid the possibility of Dutra being unfairly required to make on-going contributions as future transportation requirements in the area change.

**Response to Comment B18-15**

Please refer to responses A4-4 and B16-12.

**Comment B18-16****Impact TRANS-3 / Mitigation Measure TRANS-3b – Page II-50**

*“The project shall be conditioned to prohibit material export during the PM peak period from 4 PM to 6 PM . . .”*

As provided in the attached letter of Fehr & Peers, dated February 20, 2008 (Attachment 5 at Page 1, Item 2):

**“2. Highway Impacts: Mitigation Measure:** TRANS-3b would prohibit the project from exporting material during the PM peak period from 4 PM to 6 PM. The traffic generation calculations shown in Table V.J-11 indicate that even without this restriction, the proposed project would not add traffic during this time, based on existing trip patterns at the site. However, as noted in the DEIR, there is no guarantee that existing trip patterns will remain the same and that if the project did contribute traffic during the PM peak hour, freeway levels of service would be significantly impacted. The report calls this out as a “potentially significant” impact.

“If the project were to change its operational patterns, the potential PM peak hour impact to freeway operations would be similar to an impact identified to freeway operations during the AM peak hour. Mitigation Measure TRANS-3a calls for the project to pay its fair share toward construction of new High Occupancy Vehicle (HOV) lanes along the US 101 mainline. The report states that this mitigation would lessen the impact to freeway operations in the AM peak hour to less than significant levels. It is unclear why this same mitigation would not reduce the potential PM peak hour impact to less than significant levels, and why additional Mitigation Measure TRANS-3b is required, especially considering that freeway service levels are better in the PM peak hour than the AM peak hour, according to Table V.J-16.

If Mitigation Measure TRANS-3a would mitigate the potential PM peak hour freeway impact, there is no need for Mitigation Measure TRANS-3b.”

***Response to Comment B18-16***

Comment noted. As the traffic section of the DEIR states, the analysis of freeway conditions is constrained by the fact that traffic volumes are suppressed by congestion. It is therefore reasonable to conclude that the potential impact of substantial PM peak hour truck traffic is significant. This may be exacerbated by the tendency for operations to trail off past 4PM. The purpose of the mitigation measure is to eliminate the effect of fluctuation in the time that operations shut down and export ceases. This is important because the proposed project description did not include substantial truck traffic during the PM peak hour so the impact weighs into consideration the expectation that there would be no increase in congestion during the PM peak hour against the potential that there would. The mitigation measure is intended to address that specific potential as a component of Impact TRANS-3.

***Comment B18-17***

**Impact TRANS-4 / Mitigation Measure TRANS-4 – Page II-50**

*“The project sponsor shall install an actuated signal at the new intersection of Petaluma Boulevard South at the project driveway. The applicant shall also coordinate with Caltrans and the County to design the northbound off-ramp . . .”*

As provided in the attached letter of Fehr & Peers, dated February 20, 2008 (Attachment 5 at Pages 2 and 3, Item 3 - Safety Impacts):

**“3. Safety Impacts:** The report’s discussion of safety impacts focuses on three issues: sight distance at the project driveway, acceleration for northbound trucks exiting the project driveway, weaving for trucks exiting the project driveway to the US 101 northbound ramp. Our comments are organized similarly.

*“Driveway Sight Distance*

“The report notes that the proposed project driveway would provide adequate sight distance. In fact, the amount available would be over twice the minimum required. We concur and have no comments on this discussion.

***Response to Comment B18-17***

Comment noted.



**Comment B18-18**

*“Northbound Truck Acceleration*

“Figure V.J-5 of the report shows that one of the two northbound lanes would end approximately 560 feet north of the project driveway, at the US 101 northbound ramp intersection. Although 560 feet is the minimum required acceleration distance for 45 mph traffic, the report notes that because trucks may be fully loaded, their required acceleration distance to reach the 45 mph posted speed limit on northbound Petaluma Boulevard South may be longer than the proposed 560 feet. In fact, the report cites one source that recommends 800 feet of acceleration distance to reach 45 mph.

“It is our understanding that this additional northbound through lane is proposed to continue northward through the US 101 northbound on-ramp intersection to conform with the two-lane northbound portion of Petaluma Boulevard South, approximately 500 feet beyond the US 101 northbound on-ramp intersection. This will allow adequate acceleration distance for fully-loaded trucks and would also reduce the need for them to merge since the acceleration lane would continue as a second through travel lane into Downtown Petaluma.

“The Final EIR conclusions should be revised to reflect the correct proposed roadway configuration.

**Response to Comment B18-18**

Section V.J (Transportation/Traffic) of the DEIR evaluates the access condition described in Section III (Project Description). The implication of the comment is that a second northbound lane would no longer taper off as an acceleration lane but would continue as the northbound through lane at the intersection of Petaluma Boulevard South and the US 101 northbound on ramp. This is not consistent with the proposal described in the DEIR traffic section that the basic cross-section between the project driveway and the northbound US 101 on ramp would consist of one southbound, one northbound and one median turning lane. The comment does not indicate what would become of the median turning lane should the northbound lanes extending along Petaluma Boulevard South from the driveway convert to a left turn and a through lane at the northbound ramps. In any case the configuration implied in the comment was not the subject of the analysis.

The comment also seems to imply that the exclusive issue regarding acceleration is the termination of the right most northbound lane north of the driveway. In fact, the need for trucks to weave across the northbound lanes to access the northbound 101 on ramp is equally of concern when considering the potential need for acceleration.

Please refer to response A4-5 for additional consideration of mitigation of Impact TRANS-4.

**Comment B18-19**

*“Weaving from Driveway to US 101 Northbound Ramp*

“The previous section discussed trucks exiting the project driveway traveling northbound on Petaluma Boulevard South past the US 101 northbound ramp intersection. This section discusses trucks exiting the project driveway that turn left from Petaluma Boulevard South to the US 101 northbound ramp intersection.

“The report notes that the distance between the intersections is 560 feet. The report also notes that trucks exiting the project driveway would have to accelerate, weave, and decelerate in the left-turn lane all within a distance less than the minimum recommended acceleration distance. While it is unclear what minimum recommended acceleration distance the report is referring to, presumably, the report is referring to the 800 feet needed for a fully-loaded truck to accelerate to 45 mph. However, if this is the distance the report is referring to, it is unclear why trucks exiting the project driveway would need to accelerate to 45 mph before entering the left-turn lane. Trucks would likely wait for acceptable gaps in traffic to make this maneuver at a lower speed.

“Given that the available sight distance for vehicles traveling along the northbound US 101 off-ramp and northbound Petaluma Boulevard South is more than twice the minimum required, vehicles will have adequate time to see and react to a truck exiting the project driveway, crossing Petaluma Boulevard south and entering the left-turn lane.

“Since minimum sight distance would be accommodated by the project, and other design standards would be met as proposed, the potentially significant Impact TRANS-4, and associated Mitigation Measure TRANS-4, are unwarranted.

“Also, as noted in the report, installation of a new traffic signal at this location may not be warranted based on the criteria in the Manual on Uniform Traffic Control Devices. Since installation of new traffic signals can create an increased risk for certain types of collisions, we suggest that at a minimum, the report include a discussion of the potential safety trade-offs associated with installing an unwarranted signal at this location versus the proposed configuration.”

**Response to Comment B18-19**

The comment seeks to parse out and minimize the weaving condition analyzed in Impact TRANS-4 on page V.J-30 of the DEIR and mitigated to a less-than-significant level in Mitigation Measure TRANS-4 on page V.J-31 of the DEIR.

The commenter’s references to sight distance are noted. The mitigation measure is not predicated on the adequacy of the sight distance however. The weaving maneuver of exiting trucks seeking to access the Highway 101 northbound ramps is more determinant in this case.

Please refer to response A4-5 for additional consideration of mitigation of Impact TRANS-4.

**Comment B18-20****Impact TRANS-8 / Mitigation Measure TRANS-8a – Pages II-51 and II-52**

*“Mitigation Measure TRANS-3 (funding a fair share of the construction of planned HOV lanes, right-of-way dedication) would also address the significant impact identified in TRANS-8 . . . The project shall fund a fair share towards the construction of any new interchange between Highway 101 and Petaluma Boulevard South . . .”*

As stated, the requirement for Dutra to provide a “fair share contribution” is open-ended. The required contribution calculation and amount would need to be clarified and be a clearly stated, fixed one-time cost to avoid the possibility of Dutra being unfairly required to make on-going contributions as future transportation requirements in the area change.

**Response to Comment B18-20**

Please refer to responses A4-4 and B16-12.

**Comment B18-21****Impact TRANS-8 / Mitigation Measure TRANS-8b – Page II-52**

*“As indicated under Mitigation Measure TRANS-3b, the project sponsor shall establish that no material export occur during the PM peak hour. Caltrans input would be required.”*

As previously stated, this requirement should be modified to allow sales during the PM peak as needed for projects to minimize congestion in other areas.

**Response to Comment B18-21**

Please refer to response B18-16.

**Comment B18-22****Impact TRANS-12 / Mitigation Measure TRANS-12a – Page II-52**

*“The project sponsor shall contribute a fair share towards interchange improvements for the planned Highway 101/Petaluma Boulevard South interchange. Since improvements have been planned and are intended to address existing conditions, and not simply future growth, a fair share is calculated as the project share of total peak hour traffic on the northbound and southbound ramps . . . The future dedication of Caltrans right-of-way situated within the project site for the Highway 101/Petaluma Boulevard South interchange project may be used in part to contribute to the fair share contribution.”*

As previously stated, the requirement for the project sponsor to provide a “fair share contribution” is open-ended. The required contribution calculation and amount would need to be clarified and be a clearly

stated fixed one-time cost to avoid the possibility of the project sponsor being unfairly required to make on-going contributions as future transportation requirements in the area change.

***Response to Comment B18-22***

Please refer to responses A4-4 and B16-12.

The fair share calculation is determined to be 4.3 percent of the cost of constructing the interchange and is meant to represent the starting point in discussion over the project's equitable responsibility for improvement.

***Comment B18-23***

**Impact TRANS-12 / Mitigation Measure TRANS-12b – Page II-53**

*“As indicated under Mitigation Measure TRANS-3b, the project sponsor shall establish that no material export occur during the PM peak hour from 4 PM to 6 PM. Caltrans input would be required.”*

As previously stated, this requirement should be modified to allow sales during the PM peak as needed for projects to minimize congestion in other areas.

***Response to Comment B18-23***

Please refer to response B18-16.

***Comment B18-24***

**Impact TRANS-13b / Mitigation Measure TRANS-13b – Page II-54**

*“The applicant shall provide neighboring residents an all-weather vehicular access route to Petaluma Boulevard South. Access shall be designed, operated, maintained and recorded to the satisfaction of SMART, DTPW, PRMD and the County Fire Marshall prior to building permit issuance.”*

It should be noted that Dutra has planned for and incorporated into the Project an all weather access road between Petaluma Boulevard South and the SMART right-of-way for the three residents along the Petaluma River. Dutra has also stated that it will cooperate with SMART concerning access at the at-grade crossings.

***Response to Comment B18-24***

Comment noted.

**Comment B18-25****Page III-4** – Third paragraph:

It should be noted that the older barns were removed with permits in 2004.

**Response to Comment B18-25**

Comment acknowledged.

**Comment B18-26****Page III-4** – Fourth paragraph,**Page III-11** – Second and third paragraphs, and**Page III-12** – Third, fourth and fifth paragraphs:

It should be noted that corrective action and other mitigation measures were implemented by Dutra to the satisfaction of the Regional Water Quality Control Board, the California Department of Fish & Game, and the Army Corps of Engineers. In light of these actions and as noted in the attached letter of Farella Braun + Martel (Attachment 7 at Page 2), these paragraphs should be omitted. *See Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428 (1999) (“an EIR is not the appropriate forum for determining the nature and consequences of prior conduct of the project applicant.”)

**Response to Comment B18-26**

Comment noted. Former unauthorized activities impacted approximately 0.53 acre of seasonal wetland and 0.01 acre of coastal marsh habitat. The applicant has agreed to mitigate impacts to the 0.01 acre of coastal marsh habitat by restoring this area. The 0.53 acre of seasonal wetland that was impacted is also located within the proposed project footprint and therefore would be permanently impacted with project implementation. The 0.53 acre of seasonal wetland impacted would be mitigated with implementation of the proposed mitigation plan. It is important to reiterate that the Corps and San Francisco Regional Water Quality Control Board indicated at the time of the unauthorized activity that they will review the proposed mitigation plan and they (not the applicant) will determine if the proposed mitigation will compensate for permanent and temporal wetland losses as a result of the project.

The commenter presents his legal opinion that the County violated CEQA by establishing a baseline that predates unpermitted activities at the project site, citing *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428. Neither *Riverwatch* nor any other case prohibits a lead agency from establishing a baseline that predates unpermitted activities, however. *Riverwatch* instead stands for the inverse proposition, that an agency need not set the baseline to predate illegal activities, if it so chooses. Further, *Riverwatch* expressly noted that this proposition is “not insurmountable” and that “prior illegal activities cannot be entirely ignored.” (*Riverwatch*, 76 Cal.App.4th at 1453.)

CEQA confers the County with the discretion to set a baseline earlier than commencement of environmental review if warranted by substantial evidence. Here, substantial evidence appears to support

a baseline that predates the applicant's unpermitted work on the property. Use of that baseline allows the EIR to fully capture and mitigate the impacts of that work, and provide the fullest possible protection to the environment within the reasonable scope of CEQA's statutory language.

***Comment B18-27***

**Page III-4** – Fifth paragraph:

It should be noted that the trees which are no longer on the project site were removed by prior owners. No trees have been removed by Dutra.

***Response to Comment B18-27***

Comment acknowledged.

***Comment B18-28***

**Page III-37** – First paragraph:

It should be noted that the existing facility allows nighttime operations. As stated in the attached letter of Farella Braun + Martel (Attachment 7 at Page 2), because this Project is designed to replace the current facility which has operated nearby for more than twenty years, the analysis must take the existing operations into account evaluate only the impacts, if any, that exceed those already permitted for the current facility or resulting from the relocation. *See San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645, 657-58, 675 (2007). Thus, existing night operations should be considered when evaluating the impacts of the proposed Project. Noise and light impacts have been historically permitted in the area, including at the adjacent Shamrock facility.

***Response to Comment B18-28***

The commenter states that existing night operations at the current facility should be considered when evaluating the impacts of the proposed project. The DEIR has considered those existing night operations, as well as the impacts that would result from relocating night operations to the new project location.

The commenter also suggests that the DEIR may only evaluate the impacts from night operations that would exceed the impacts that would have resulted from full operation of the current facility at all permitted nighttime hours. This comment misunderstands the legal definition of the normal CEQA baseline, and the County's discretion to deviate from the same. Please refer to response B18g-2 for additional information.

***Comment B18-29***

**Page III-39** – Last paragraph, second line:

The stockpiles are 20' high, not 40' as stated

***Response to Comment B18-29***

The comment suggests that aggregate stockpiles will be limited to 20 feet in height instead of 40 feet in height, as indicated on pages III-39 and V.A-24 of the DEIR. However, project description information provided at the start of the environmental review process indicated that stockpiles could be up to 40 feet in height. The project applicant was allowed to review the draft project description for the DEIR prior to publication of the DEIR. While the applicant provided various comments or clarifications on the draft project description, it made no changes or comments regarding the height of the stockpiles. Based on this comment, the following mitigation measure has been added at the end of page V.A-49 of the DEIR:

- “Aggregate stockpiles shall be limited to 20’ in height.”

Stockpiles with heights lower than 40 feet would reduce the aesthetics impacts described in the DEIR, but not to a less-than-significant level.

***Comment B18-30***

**Page III-55** – Fourth bullet:

The separate access road for residences along the Petaluma River avoids conflicts with large trucks by traversing Dutra’s property north of the asphalt plant and connecting to Petaluma Boulevard South at the common entrance at the fire station. Dutra has not proposed to create a separate entrance at Petaluma Boulevard South.

***Response to Comment B18-30***

Comment acknowledged.

***Comment B18-31***

**Page III-55** - Eighth bullet

It should be noted that the three residents living along the Petaluma River access their properties from “old” Highway 101.

***Response to Comment B18-31***

The commenter correctly points out that residents living along the Petaluma River at Haystack Landing currently access their properties via “old” Highway 101, now known as Petaluma Boulevard South.

***Comment B18-32***

**Page III-56** – Third paragraph:

The reference to Antonio Rossmann’s April 27, 2007 opinion letter concerning water rights should be after the fifth sentence (sixth line), not at the end of the paragraph.

Additionally, as stated in the attached letter of Farella Braun + Martel (Attachment 7 at Page 4), this paragraph mischaracterizes Mr. Rossmann's letter and incorrectly suggests that the railway right-of-way to the east could affect riparian rights at a tidal watercourse on the Project site.

Mr. Rossmann's letter explains that, because parcel 019-320-022 is directly adjacent to a tidal watercourse leading to the Petaluma River and in which water is permanently present, Dutra has riparian rights to the use of water from this watercourse, and no permit is required from the State Water Resources Control Board.

The DEIR's suggestion that it is "possible" that the railway right-of-way may "sever" such riparian rights and require an easement is akin to suggesting that any river overcrossing severs riparian rights of upstream property owners. This proposition has no legal merit, and the statement should be deleted.

### ***Response to Comment B18-32***

Comment acknowledged. Based on the comment, the third full paragraph on page III-56 of the DEIR has been revised to read as follows:

"The project proposes to pump approximately 4 acre feet per year<sup>10</sup>, at a rate of 40 gallons per minute from the Petaluma River, filter it, and use it for dust suppression in Areas A and C. A screen on the intake of the pump would prevent impacts to aquatic species. The project would require an average of 10,000 gpd for dust suppression, with peak days requiring 20,000 gpd. It is anticipated that dust suppression would only be required during the dry season. The applicant claims a riparian right for both areas, as a tidal inlet in Area C connects a drainage area to the Petaluma River, and water is permanently present within that watercourse. The water for Area A would be extracted directly from the River at the barge dock. For Area C, the applicant proposes to extract water from the tidal watercourse.<sup>11</sup> ~~It is possible that the SMART railroad tracks sever this riparian right however, since an easement is required to cross the tracks. If the applicant chooses to use water from the River on a parcel that is not adjacent to the River then riparian rights no longer apply and the applicant would need to submit a water appropriation application to the State Water Resource Control Board (SWRCB).<sup>12</sup>~~"

### ***Comment B18-33***

**Page III-57** – Sixth paragraph:

This paragraph should include a statement that the Project yields net zero fill within the flood plain. County policy requires this of projects within the flood plain. Where zero net fill is attained, the County defines this condition as no impact. Therefore, there are no impacts on the flood plain for the Project.

### ***Response to Comment B18-33***

The project's proposed grading in the floodplain is described on page V.G-22 of the Hydrology and Water Quality section of the DEIR, as follows:



“Although the proposed grading for the site would result in placement of fill within portions of the flood zone, excavation within the zone would occur as part of wetland enhancement. Analysis prepared for the project indicates that the project would increase the flood storage volume below elevation 7 feet msl from 28.57 acre-feet (existing) to 32.53 acre-feet. The increases in flood storage would be expected to incrementally reduce flood hazards within the Petaluma River by retaining more water on-site during flooding events.”

No additional explanation is warranted.

***Comment B18-34***

**Figure III-16**

Dutra submitted a revised site plan to PRMD in May 2007 showing the firehouse in a new location, avoiding the eucalyptus grove.

***Response to Comment B18-34***

As illustrated on Figure III-16 of the DEIR, the DEIR analyzes a site plan provided by the applicant to the County in 2006 near the start of the EIR process. It is acknowledged that the applicant submitted more than one revised site plan to the County after submittal of the plan depicted in Figure III-16 of the DEIR. These site plan revisions were related to various project features and/or preliminary mitigation concepts provided by the County, including but not limited to fire station relocation, conveyor alignment, noise wall, etc. However, in the interest of not re-starting the environmental review process, and because the revised site plans were not necessarily presented to the County as a revised project description, the DEIR’s analysis is still based on Figure III-16 and the remainder of the project characteristics described in Section III (Project Description) of the DEIR. Where applicable, however, the DEIR includes mitigation measures as well as alternatives that address site plan revisions to avoid or reduce significant impacts to the environment, including measures to re-configure the fire station, re-align the conveyor system, etc.

Please refer to response B2-4.

***Comment B18-35***

**Figure III-21**

As noted above, the plan included in the DEIR is not the current plan.

***Response to Comment B18-35***

Please refer to response B18-34.

**Comment B18-36**

**Figure III-23**

The plan should be updated to reflect Wetland Mitigation Grading.

**Response to Comment B18-36**

Please refer to response B18-34.

**Comment B18-37**

**Figure III-24**

The plan should be updated to reflect Wetland Mitigation Grading.

**Response to Comment B18-37**

Please refer to response B18-34.

**Comment B18-38**

**Page V.A-2**

It should be noted that, with the exception of the 1860s era vacant farmhouse that was destroyed by a fire, the structures were removed with permits from Sonoma County PRMD in 2004.

**Response to Comment B18-38**

Comment acknowledged.

**Comment B18-39**

**Page V.A-21 – First paragraph under *Visual Character*:**

The site for the Project is an abandoned dairy farm, from which the farm buildings, which were in poor condition, have been removed with a permit. As noted, the site was also used historically for settling ponds in connection with the nearby Quarry operations. The Project area is rural to the south, but industrial to the north. This should be clearly stated, and the site characterized as a transition zone, not mischaracterized as “rural.”

In the last sentence, the abandoned settling pond levees and drainage ditches should be noted as man-made. They are not natural features.

**Response to Comment B18-39**

The description of the visual character of the project site itself is accurately defined in Section V.C (Aesthetics) as rural, vacant land. Industrial uses are present north of the project site. To the east of Areas B and C of the project site are existing residential uses that include outside storage of a large amount of various materials, including old cars and boats, and surplus Armed Forces vehicles. The site itself is vacant and set among non-industrial uses on the south, west, and east. The discussion referenced in this comment serves to provide the character or “feel” of the area and is not intended to outline adopted land use or zoning designations. The DEIR does, however, acknowledge the industrial uses to the north of the project site in the Visual Character discussion on page V.A-21 (Aesthetics). In response to this comment, the second paragraph on page V.A-21 of the DEIR has been revised as follows:

“The visual character of the project site can generally be defined as rural, vacant land. The primary defining feature is open space with grasslands, light brush, and shrub vegetation present throughout the majority of the site. Some areas, such as the small hill within Area B with several mature eucalyptus trees, contain larger, more prominent clusters of vegetation. With the exception of the small hill in Area B, the topography of the site is relatively flat, with a small slope in elevation towards Area D. The overall character of the Areas within the project site does not vary greatly. There are minor variations in the natural landscape such as gravel roads or the seasonal presence of wetlands and coastal brackish marsh in Areas C and D. There are abandoned man-made settling ponds separated by levees and drainage ditches in Area D and a few ephemeral channels and man-made ditches that traverse the site. ~~These natural features contribute to the rural character of the project area.~~”

**Comment B18-40**

**Page V.A-21** – Third paragraph:

The fourth sentence refers to the “west of the site” the houseboats docked along the west bank of the Petaluma River are to the “east” of the Project site and lie between Schollenberger Park and the Project site.

**Response to Comment B18-40**

The comment clarifies that existing residential uses are located east of the project site instead of west of the project site. In response to this comment, the third paragraph on page V.A-21 of the DEIR has been revised as follows:

“Surrounding land uses vary. There is a flat, vacant parcel immediately adjacent to the site to the north, which has been graded and now consists of weedy vegetation. Further to the north along Landing Way are various industrial uses. To the ~~west~~ east of the site is a mixture of residential uses, including houseboats docked along the ~~west~~ bank of the River...”

**Comment B18-41**

**Page V.A-22** – First paragraph:

This paragraph states that the visual nature of the area is largely rural. Again, the site is in a transition zone between rural and industrial, changing to urban within the City of Petaluma. Presently, several of the adjacent properties appear as storage yards with abandoned boats, vehicles and trucks.

The description should also be corrected to state that the area is currently dominated by a large barge off-loading crane at the Shamrock facility, north of Parcel A. The crane is over 60 feet tall and should not be characterized as “small in scale.”

**Response to Comment B18-41**

In response to this comment, the last paragraph on page IV.A-21 and the first paragraph on page IV.A-22 of the DEIR have been revised as follows:

“The two homes adjacent to the east of the site along the River are considered to be legal, non-conforming uses by the County of Sonoma. These residences existed before the zoning designations for that area became Limited Commercial (LC) and/or Limited Rural Industrial (M3). The presence of these off-site residential uses and the associated storage structures and vehicles prevent the immediate project area from appearing completely undeveloped. However, ~~because~~ most of the adjacent uses are relatively small in scale, thus they do not significantly detract from the visual nature of the area as largely rural. Although industrial land uses are present north of the project site, these are not easily visible from most areas within the project site. The open space across the River at Shollenberger Park to the east, the agricultural uses to the south, and the largely undeveloped hills to the west all contribute to an overall impression of a rural area.”

**Comment B18-42**

**Page V.A-23** – Third paragraph:

The views from Shollenberger Park are dominated in the foreground by the existing residences and storage areas, not the Project. The Project site is not the foreground, but rather a mid-ground between the Petaluma River, residences and railroad, and the Petaluma hills.

**Response to Comment B18-42**

This comment suggests that the project is not in the foreground of views from Shollenberger Park as the DEIR suggests. In response to this comment, the third paragraph on page V.A-23 of the DEIR has been revised as follows:

“The *Visual Assessment Guidelines* provides guidelines for characterizing the site’s sensitivity. The site may either have a low, moderate, high, or maximum level of sensitivity. According to the *Visual Assessment Guidelines*, the project site ~~would be~~ is considered to have high sensitivity, as portions contain

Scenic Resource and Scenic Design zoning. The project site is additionally characterized by a natural setting, acting as a scenic backdrop from Highway 101 looking toward Shollenberger Park, and, in part, as a scenic foreground backdrop for views from the Park, as visitors look over the Petaluma River west toward the Petaluma Hills.”

***Comment B18-43***

**Page V.A-24** – Sixth paragraph:

Aggregate stock piles will be limited to 20’ in height.

***Response to Comment B18-43***

Please refer to response B18-29.

***Comment B18-44***

**Page V.A-47**

The DEIR continually refers to the area as “rural in nature.” As noted above, it should be characterized as a transitional area, from rural to industrial to urban. The Project site is located on the edge of the existing industrial area along South Petaluma Boulevard.

All regional and local planning documents (including the Sonoma County General Plan) acknowledge this as a transitional area as one approaches the City of Petaluma. The DEIR must be consistent with the General Plan and other planning documents.

Highway 101 is characterized by a variety of adjacent landscapes through southern Sonoma County and the Petaluma area. Redwood trees along the roadway north of the Petaluma River reinforce the corridor aspect of Highway 101, and reinforce the Highway as the “Redwood Highway.” Under the proposed Project, a similar condition would exist as the Redwoods grow and screen the equipment along the frontage of the Project.

***Response to Comment B18-44***

The DEIR refers to the project site as rural due to the surrounding land uses to the south, west, and east and the resulting character of the area. The Aesthetics Section (Section V.A) of the DEIR is not intended to outline local planning designations or evaluate the consistency of the project with these land uses. A discussion regarding the project’s consistency with land use designations can be found in Section V.H (Land Use) of the DEIR. The zoning and land use designations are also discussed in Section III (Project Description). With regard to the visual character of Highway 101, the visual simulations shown in Figures V.A-10, V.A-12, and V.A-14 illustrate the landscaping along the western edge of the project site and will not eliminate significant impacts to the Highway 101 corridor. Even with the recommended screening, the project would remain visible and result in significant impacts. Also, Caltrans has submitted a comment on

the DEIR (Comment A6-23) that discourages use of Redwood trees for screening along Highway 101 next to the project site. Please refer to response A6-23.

***Comment B18-45***

**Page V.A-49** – First Bullet:

A 10' x 30' berm implies 1½:1 side slopes. To support dense vegetation as needed to screen the facility, the berm should be 7' in height and 30' wide, providing 2:1 side slopes and a rounded top. This allows plants to become well established and vigorous.

***Response to Comment B18-45***

Comment noted. This comment will be forwarded to the decision makers for their review and consideration.

***Comment B18-46***

**Page V.A-49** – First Bullet:

Landscaping along the western edge of Area “A” impedes access to the Yee property and will need to be outside the easement proposed by Mitigation Measure TRANS-13a.

***Response to Comment B18-46***

In response to this comment, Mitigation Measure AES-1 on page V.A-49 (Aesthetics) of the DEIR has been revised as follows:

“The proposed landscape plan shall be revised to include more landscape screening throughout the project site to further screen the proposed project from ~~off-site~~ public views. The additional landscaping shall be provided: a) along the northern, western and southern edges of Area A (landscaping along the western edge of Area A shall be outside the required 50-foot easement); b) along the northern, eastern and southern edges of Area B; c) clustered ~~Redwood~~ native trees and landscape planters around the asphalt plant equipment; and d) along the eastern side of Area C along the railroad tracks...”

***Comment B18-47***

**Page V.A-52** – Last bullet referencing V.C (Biological Resources) Mitigation Measure BIO-4c:

The last bullet on this page refers to restricting the barge operations during the nesting season. Dutra has clearly stated the need to unload the barges during high tide, and the record supports the conclusion that barge loading activities, as proposed, will not adversely affect nesting.

As stated in the attached letter of LSA to Brian Peer, dated February 21, 2008 (Attachment 4 at Pages 1 and 2), the restrictions are excessive and unnecessary with monitoring. Please refer to the response to Impact BIO-4c at Page 4 of this letter.

**Response to Comment B18-47**

The concerns of the commenter are noted. Mitigation Measure BIO-4c includes restrictions on project operations considered essential to avoiding and minimizing potential adverse impacts to the egret/heron colony and possible sensitive nesting habitat along the Petaluma River. The mitigation has been designed to allow for docking of barges, but prohibits barge off-loading and conveyer operation during restricted hours to protect the sensitive nesting habitat in the vicinity.

**Comment B18-48**

**Page V.B-23** – Last paragraph:

As noted in the attached letter of Farella Braun + Martel (Attachment 7 at Page 3) and as discussed in the February 28, 2008 comment letter of Justice & Associates (Attachment 1), the air quality analysis of the DEIR uses an inappropriate baseline when comparing the emissions from the current facility to those of the existing facility. As the court held in *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 243 (1999), the appropriate baseline for an existing permitted facility consists of those conditions that existed when the previous facility was operating at full capacity, not the average annual production rate that the DEIR uses here. *See also San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645, 657-59 (2007).

It is inappropriate to compare an *average* annual production rate for the current facility with the *maximum* proposed production rate for the new facility, and doing so skews the analysis such that the proposed project appears to have a greater impact than that of the existing facility. Since it is not possible to determine the average rate for the proposed facility, the DEIR should use the maximum production rate for the current facility for this comparison, and as a baseline elsewhere in the DEIR.

**Response to Comment B18-48**

The commenter reiterates his comment that the DEIR's air quality analysis uses an inappropriate baseline. The commenter claims that it is inappropriate to compare an average annual production rate for the current facility with the maximum proposed production rate for the new facility. The commenter claims the EIR should use the maximum production rate for the current facility as the baseline.

As detailed in response to comment B18g-2, the five-year production average at the current facility appears to better represent the physical conditions that existed at the time environmental review was commenced, which CEQA defines as the normal baseline for impact analysis. Although the current facility could have produced additional asphalt, it did not do so for the last five years, making it difficult to conclude that additional production represents an existing condition at the time environmental review began. As detailed in response to comment B18g-2, however, the Board of Supervisors has the discretion to choose between competing baseline proposals if supported by substantial evidence.

**Comment B18-49****Page V.B-27** – Impact AQ-2 – Last paragraph:

The DEIR preparers acknowledge that the DEIR does not take into account reductions due to Best Available Control Technology (BACT). This does not reflect Dutra's proposal, which expressly provides for implementation of BACT. The Final EIR should correct this inconsistency with the application and reduce emissions calculations accordingly.

As stated in the attached letter of Justice & Associates, dated February 28, 2008 (Attachment 1 at Page 2, first bullet):

“• Section VB, page 27, of the Draft EIR states the analysis did not take into account the reduction in emissions as a result of the Best Available Control Technology (BACT) that will be required by Bay Area Air Quality Management District (Bay Area AQMD). Eliminating the emission reductions from the implementation of BACT causes the analysis to overstate the emission increase from the operation of the asphalt plant. Significant improvements have been made in the last ten years in state-of-the-art technology for asphalt plants. These technologies include more efficient burners, better control of fugitive emissions with the use of baghouses and blue smoke control on the asphalt storage silos and load out areas. Leaving the additional control technology required for this facility out of the analysis, causes the analysis to assume that the facility emissions will be the same as the old operations with increased production.”

**Response to Comment B18-49**

The evaluation of the net increase in emissions from the existing to the proposed plant took into account specific reductions from BACT. The evaluation used emission factors for evaluation of a new asphalt plant in accordance with BAAQMD's *Hot Asphalt Mixing Facilities Engineering Evaluation Template*. Since the BAAQMD's evaluation template is for new asphalt plants and BACT is required on new plants, the emission factors reflected modern equipment. The evaluation also assumed state-of-the industry controls for reducing PM<sub>10</sub> emissions from Environmental Protection Agency AP-42 Emission Factor for Crushed Stone Processing Operations, Table 11.19.2-2 and the emission factors for baghouses, both of which are considered BACT. The evaluation did not take into account the reduced NO<sub>x</sub> emissions from low- NO<sub>x</sub> burner used for heating the asphalt; please refer to response B18a-6 for further discussion on the use of emission factors used for NO<sub>x</sub> emission associated with the burner. The evaluation did not take in to account the reductions in PM<sub>10</sub> from the blue smoke controls because of uncertainty about the reduction efficiencies; please refer to response B18a-7 for further discussion.

In response to this comment, pages V.B-27 and 28 of the DEIR have been revised as follows:

“The EIR preparers calculated the net increase in emissions using the same emission factors for evaluating the asphalt plant's emissions, and assumed state-of-the industry controls for reducing PM<sub>10</sub> emissions, including use of sprayers and a baghouse, as well as reduction of NO<sub>x</sub> due to the use of low NO<sub>x</sub> burner. The evaluation did not take into account the reductions in PM<sub>10</sub> from the blue smoke



controls because of uncertainty about the reduction efficiencies ~~did not take into account that the reductions in the emissions due to BACT controls and newer, more efficient equipment.~~ Table V.B-8 summarizes the annual increase in emissions from the existing and proposed facilities. Detailed calculations are provided in Appendix D; emissions from the existing asphalt plant are estimated in Tables D-1 through D-7 and emissions from the proposed asphalt and recycling plant are estimated in Tables D-8 through D-13.”

**Table V.B-8**  
**Net Increase in Emissions of Criteria Pollutants from Asphalt Production (tons/year)**

| Criteria Pollutants                                 | PM <sub>10</sub> | VOCs <sup>1</sup> | SO <sub>x</sub> | NO <sub>x</sub>    | CO  |
|---|------------------|-------------------|-----------------|--------------------|-----|
| <b>Existing Asphalt Facility</b>                    |                  |                   |                 |                    |     |
| Total Annual Emissions <sup>2</sup>                 | 2.1              | 1.3               | 0.0080          | 2.5                | 1.1 |
| <b>Proposed Asphalt and Recycling Facility</b>      |                  |                   |                 |                    |     |
| Total Annual Emissions <sup>3</sup>                 | 4.3              | 2.8               | 0.0170          | <del>5.4</del> 5.0 | 2.4 |
| <b>Increase in Criteria Air Pollutant Emissions</b> |                  |                   |                 |                    |     |
| Total Annual Increase                               | 2.3              | 1.5               | 0.0092          | <del>2.9</del> 1.5 | 1.3 |

<sup>1</sup>VOCs are synonymous with ROG.  
<sup>2</sup>Based on 131,498 tons of asphalt per year.  
<sup>3</sup>Based on 225,000 tons of asphalt and 150,000 tons of recycled asphalt per year.

Also in response to this comment, Table V.B-11 on page V.B-30 of the DEIR has been revised as follows:

**Table V.B-11**  
**Net Increase in Emissions of Criteria Pollutants from Proposed Project (tons/year)**

| Criteria Pollutants  | PM <sub>10</sub> | ROG | SO <sub>x</sub> | NO <sub>x</sub>  | CO  |
|--|------------------|-----|-----------------|------------------|-----|
| Existing Plant Estimated Criteria Air Pollutant Emissions        | 2.5              | 1.7 | 0.25            | 13               | 3.5 |
| Proposed Plant Estimated Annual Criteria Air Pollutant Emissions | 5.4              | 4.2 | 0.89            | <del>36</del> 35 | 14  |
| Net Increase in Criteria Air Pollutant Emissions                 | 2.9              | 2.6 | 0.64            | <del>23</del> 22 | 10  |

These revisions do not affect any conclusions or significance determinations provided in the DEIR.

**Comment B18-50**

**Page V.B-29 – Table V.B-9**

The table should be revised, taking into account the specification for the new equipment provided by Dutra, and to account for the proper baseline as noted above.

**Response to Comment B18-50**

Please refer to responses B18-49 and B18a-1.

**Comment B18-51****Page V.B-29** - First paragraph:

The DEIR acknowledges that the analysis of the emissions are not decreased as a result of the tugs traveling with the tide. As specifically stated in the application, the tugs will travel with the tide. In fact, it is critical that the tugs travel with the tide. They will also travel approximately one mile less on the Petaluma River than they travel to the existing facility. Therefore, the analysis should be redone to reflect tugboats traveling with the tide, and the emissions should be evaluated against the existing operations baseline as noted above.

**Response to Comment B18-51**

The emission calculations for tugboats were submitted to Scott Taylor of Justice and Associates, the applicant's consultant, via email on April 12, 2007 for review. In a letter to Dutra Materials, dated April 23, 2007 (provided in Appendix D of the DEIR), Justice and Associates provided revisions based on the applicant's knowledge of the tugboat operations. The estimations used in the DEIR are the exact modified calculations provided by Justice and Associates.

The DEIR properly acknowledges the level of uncertainty of the estimations due to unknown energy saving by traveling with the tide. Since tidal flows vary from day to day, it is not possible to calculate emissions based on tidal flows without knowing the exact day and time at which each trip would be conducted. Increasing the slow cruising portion of the existing plant's trip by one-twentieth (proposed trip is described as a twenty-mile trip) to account for the longer distance would reduce the net increase in NOx emission from 3.33 to 3.29 tons per year.

In response to this comment, page V.B-29 of the DEIR has been revised as follows:

"The barges are primarily used to import aggregate from the San Rafael Quarry via the Petaluma River by 4,000-ton capacity barges pulled by tugboats. It is estimated that the proposed project would result in an increase in tugboat trips from 25 (allowed under BAAQMD's permit for the previously active plant) to 125 trips per year; however, the trip length to the proposed facility would be one mile shorter. The increase in tugboat emissions from tugboat trips was estimated using EPA methodology.<sup>35</sup> These emission factors are applicable to tugboats and marine freighters. The resulting emissions are provided in Table V.B-10. This evaluation did not consider potential energy savings, and therefore decreased emissions, as a result of the tugboats traveling with the tide since tidal flows vary from day to day. It is assumed that each tugboat would operate on the Bay for approximately 8 hours each round-trip: one hour maneuvering, five hours in slow cruise, and two hours on standby at the dock. The main engines would operate six hours, and the auxiliary engine two hours while docked. The SOx emissions have been adjusted to account for the use of low sulfur fuel, which is currently required by law. Table V.B-10 summarizes the annual increase in emissions from barge trips for the existing and proposed facilities. Detailed calculations are provided in Table D-18 in Appendix D."

**Comment B18-52****Page V.B-30**

The DEIR acknowledges that future NO<sub>x</sub> emissions would be *reduced* to below the threshold of existing operations of 15 tons per year. While this is acknowledged, the DEIR nevertheless states that this is a significant impact. This conclusion is inconsistent with an evaluation against the baseline provided by existing operations, as required by CEQA and as noted above. *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th at 243; *San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th at 657-59.

**Response to Comment B18-52**

The commenter states that the DEIR incorrectly concludes that NO<sub>x</sub> emissions would be significant because they would eventually drop below the BAAQMD threshold of significance. The DEIR explains at pages V.B-30 and V.B-31 and Figure V.B-2 that emissions would not drop below the threshold until after 2010. Emissions would remain significant until that time.

The commenter also states that the DEIR's conclusion is inconsistent with an evaluation against the baseline provided by existing operations. The DEIR explains at page V.B-23 that it has accounted for existing operations by comparing project impacts against the five-year average production rate at the applicant's current facility.

The project emissions were evaluated using the California Air Resources Board's (CARB) EMFAC2007 software program assuming 2008 emission factors for an average fleet of heavy-duty diesel trucks in Sonoma County. As noted in the DEIR, CARB predicts that truck emissions will be reduced in the future due to increased engine efficiencies, better emission control technologies, and the retiring of older vehicles. These reductions are reflected in EMFAC2007's emission factors for future years. The proposed project's net increase in NO<sub>x</sub> emissions would not likely fall below the BAAQMD's significance threshold in the next several years. The proposed project's air quality impacts were evaluated for the year that project operations were anticipated to begin in accordance with *BAAQMD CEQA Guidelines, Assessing the Air Quality Impacts of Projects and Plans*.

**Comment B18-53****Page V.B-36 – Impact AQ-6:**

This section needs to be re-evaluated contingent on the revised calculations for emissions based on the previously referenced letter from Scott Taylor at Justice & Associates.

**Response to Comment B18-53**

Comment noted. Please refer to responses B18a-1 through B18a-10.

**Comment B18-54**

**Page V.B-38** – The project greenhouse gas inventory:

It should be acknowledged that the asphalt from this plant would be produced whether or not the Project occurs at the particular site proposed. As noted earlier in the Section, the VMT's would actually increase, since without the Project, asphalt would likely be transported from a more distant source. This should be acknowledged in the section on "Project Greenhouse Gas Inventory," consistent with the acknowledgment at the end of the first paragraph on Page V.B-39.

**Response to Comment B18-54**

The commenter refers to the statement in Section V.B, Air Quality on page VB-39 of the DEIR. The statement addresses the possibility that the proposed project would reduce vehicle miles traveled (VMT) as follows: "...proposed project would *likely* [emphasis added] reduce local, state, and worldwide GHG emissions..." not that the VMT's would *actually* increase. The air quality impact evaluation was conducted in accordance with the *BAAQMD CEQA Guidelines, Assessing the Air Quality Impacts of Projects and Plans*, which do not require evaluation of decreased emissions from competitors due to increased market share of the proposed plant. An evaluation of the ability of Dutra Materials to increase market share would be speculative in nature.

**Comment B18-55**

**Page V.B-39** – The level of significance after mitigation:

As noted above, the DEIR should revise the calculation of impacts, taking into account the use of BACT as proposed in the application.

**Response to Comment B18-55**

Please refer to response B18-49.

**Comment B18-56**

V.C. – Biology

**Page V.C-8** – Wetlands – Third paragraph:

As stated in the attached letter of Lucy Macmillan to Al Cornwell of CSW|Stuber-Stroeh, dated February 26, 2008 (Attachment 2 at Page 1):

“1. On page V.C-8 the third paragraph references that there are “unverified” wetlands on Areas A, B, C and D. This is incorrect. On December 6, 2006 Mr. Philip Shannin of the San Francisco District of the U.S. Army Corps of Engineers evaluated additional potential wetland areas referenced in the Supplemental Wetlands Assessment Haystack Landing Dutra Asphalt Plant Project Site, Petaluma, Sonoma County, California (U.S. Army Corps of Engineers File No. 28104N). In this supplemental assessment, approximately 1.12 acres of potential wetland were identified pending Corps verification. During the December 2006 site visit Mr. Shannin evaluated these additional areas and concluded that some of the potential wetlands were not subject to Corps regulation. These include the areas mapped in the vicinity of the old barn (formerly potential wetlands WL and WK), one of the wetlands between Highway 101 and Petaluma Boulevard South (formerly potential wetland WR), and the two small ditches immediately paralleling the railroad tracks (formerly potential wetland WM and WN). The remaining wetland areas referenced in the assessment were determined to be jurisdictional. However, Mr. Shannin could not issue a formal determination in writing at that time due to the then-pending Supreme Court Rapanos decision that suspended Corps wetlands determinations. Mr. Shannin therefore suggested that we submit the permit application in the future and reference the conclusions of the site visit assuming the Corps would be able to formerly issue jurisdictional determinations once a Supreme Court decision was issued.

On February 26, 2008, Ms. Macmillan requested that Mr. Shannin confirm the Corps’ position on the jurisdictional status of the wetlands. The Corps response will be furnished to PRMD upon receipt.

#### ***Response to Comment B18-56***

The status of the wetland verification and determination process for the site provided in the comment is noted. The description of verified and unverified jurisdictional wetlands on page V.C-8 of the DEIR was based on information available at the time the report was completed. Until written evidence is provided as part of a wetland determination, the extent of jurisdictional and non-jurisdictional areas on some limited portions of the site remains in question until verification is completed with the Corps.

#### ***Comment B18-57***

#### **Page V.C-16 – Biotic Resources Zoning:**

As stated in the attached letter of Lucy Macmillan (Attachment 2 at Page 2):

“2. On Page V.C-16 the last sentence of the third paragraph in part reads “*the applicant’s consulting wetlands specialist has proposed that long-term mitigation for the losses associated with the unauthorized activities be provided during implementation of the mitigation program to be implemented as part of the proposed project*”. This statement is not entirely correct. The San Francisco Regional Water Quality Control Board and the Corps of Engineers instructed me to submit the wetlands mitigation plan prepared for project-related impacts and that they would make a determination as to whether the mitigation plan would also sufficiently compensate for impacts associated with the unauthorized fill.”

***Response to Comment B18-57***

The clarification regarding the intent of the long-term mitigation is noted. In response to the comment, the reference to the long-term mitigation plan on page V.C-16 of the DEIR has been revised as follows:

“...In addition to these immediate erosion and sedimentation control measures, the applicant’s consulting wetland specialist has indicated ~~proposed~~ that the need for any long-term mitigation for the losses associated with the unauthorized activities be determined by the Corps and RWQCB ~~provided during and whether~~ implementation of the mitigation program to be implemented as part of the proposed project would be sufficient, as summarized below.”

***Comment B18-58***

**Page V.C-23** – 3rd paragraph:

Proposed pumping may take place in Areas “A” and “C”.

***Response to Comment B18-58***

Comment acknowledged.

***Comment B18-59***

**Page V.C-32** – Mitigation Measure BIO-3a - Jurisdictional Wetlands and Other Waters:

As provided in the attached letter of Lucy Macmillan (Attachment 2 at Page 2):

“6. On Page V.C-32 Mitigation Measure BIO-3a Jurisdictional Wetlands and Other Waters items 1-6 are appropriate. Based on a voicemail you left me the week of February 4, 2008, repair or replacement of the existing partially-blocked culvert under the railroad right-of-way referenced in item 4 is something the Dutra Group is agreeable to and is working cooperatively with the Sonoma Marin Rail Transit (SMART) to do.

“Please note, as part of the recommended mitigation measures in item 6 above the Dutra Group would need to modify the current Wetlands Mitigation and Monitoring Plan Haystack Landing Wetlands Mitigation Project, Petaluma, Sonoma County, California (U.S. Army Corps of Engineers File No. 28104N) to address these mitigation measures which would include (in part) preparing a restoration and enhancement plan for the area along the berm adjacent to the railroad ditch, preparing a restoration plan for the coastal brackish marsh in the former Barton piece, and preparing a landscaping plan for the riparian areas identified in the original plan.”

***Response to Comment B18-59***

The need to revise the current WMMP to reflect the requirements of the mitigation measures recommended in the DEIR is noted. Mitigation Measure BIO-3a calls for revisions to the WMMP, as detailed on pages V.C-32 and 33 of the DEIR.

***Comment B18-60***

**Page V.C-35** – Night Lighting

**Page V.C-35** – Conveyor System Operation

**Page V.C-36** – Artificial Rookery

Please refer to the response to Mitigation Measure BIO-4c (page V.A-52 of the DEIR) at Page 4 of this letter.

***Response to Comment B18-60***

Please refer to responses B2-4 and B18-7.

***Comment B18-61***

**Page V.D-2** – Third paragraph, second to last sentence:

It should be noted that the barns were removed under permit from Sonoma County PRMD.

***Response to Comment B18-61***

Comment acknowledged.

***Comment B18-62***

**Page V.D-11** – Impact CULT-3: Human Remains

The last sentence should state that the Project impacts on human remains would be “potentially significant.” It would only be significant if human remains are found which, according to the DEIR is not likely.

***Response to Comment B18-62***

Comment acknowledged. The last sentence of the first paragraph on page V.D-11 of the DEIR has been revised to read as follows:

“Therefore, project impacts on human remains would be potentially significant.”

**Comment B18-63**

CULT-4: Paleontological Resources

Last sentence:

It should be noted that Project impacts to unknown paleontological resources would be “potentially significant.” It would only be significant if human remains were found which, according to the DEIR, is not likely.

**Response to Comment B18-63**

Comment acknowledged. The last sentence of the fourth paragraph on page V.D-11 of the DEIR has been revised to read as follows:

“Therefore, project impacts to unknown paleontological resources would be potentially significant.”

**Comment B18-64**

**Page V.E-1** – Fourth bullet:

A wetlands mitigation and monitoring plan (*Wetlands Mitigation and Monitoring Plan, Haystack Landing Wetland Mitigation Project, Petaluma, Sonoma County, California [U.S. Army Corps of Engineers File No. 28104N]*) was prepared in April 2006 for submittal to U. S. Army Corps of Engineers, San Francisco District.

**Response to Comment B18-64**

Comment acknowledged.

**Comment B18-65**

**Page V.E-11** - Impact GEO-2 - Impact GEO-2 Surface Instability Could Result in Damage to Buildings, Equipment and Present a Physical Hazard to Workers:

As provided in the attached letter of Miller Pacific Engineering Group (Attachment 6):

Based on the Geotechnical review of the DEIR it appears that peak ground acceleration should be 0.4 as opposed to 0.5 as stated in the DEIR document. This correction is based on the deterministic method to calculate peak ground acceleration.

**Response to Comment B18-65**

Please refer to response B18f-1.



***Comment B18-66***

**Page V.G-8** – Second paragraph:

Stockpiles are 20' high as previously noted.

***Response to Comment B18-66***

Please refer to response B18-29.

***Comment B18-67***

**Page V.G-12** – First paragraph under “Unauthorized Grading and Equipment Storage”:

This paragraph should state the property was historically used for dairy and industrial activities, although it was vacant at the time of the grading. Area "A" had been used for river-related activities for over 100 years and was mostly covered with gravel surface to support the previous river-related uses. Very little vegetation existed prior to the grading.

Again, it should be noted that corrective action and other mitigation measures were implemented by Dutra to the satisfaction of the Regional Water Quality Control Board, the California Department of Fish & Game, and the Army Corps of Engineers. In light of these actions and as noted in the attached letter of Farella Braun + Martel (Attachment 7 at Page 2), this paragraph should be omitted. *See Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428 (1999) (“an EIR is not the appropriate forum for determining the nature and consequences of prior conduct of the project applicant.”)

***Response to Comment B18-67***

Comment acknowledged. Please refer to response B18-26.

***Comment B18-68***

Second paragraph, last sentence:

It should be noted that the source of the sediment draining to the ditches may be off-site. This needs to be noted specifically so that the DEIR does not incorrectly imply that onsite drainage is the only source of the sediment.

***Response to Comment B18-68***

Page V.G-12 of the DEIR indicates that the source of the sediment could not be definitively identified. No further clarification is required.

**Comment B18-69**

**Page V.G-14** – First paragraph under “Dust Control Water - On-Site Effects”:

It should be noted that while up to 20,000 gallons of river water could be pumped for dust suppression, there are over 10,000,000 gallons introduced daily by normal tidal action through the watercourse. The maximum quantity of water to be used for dust suppression is only a tiny fraction of the volume of water entering the watercourse daily.

**Response to Comment B18-69**

The comment is acknowledged for the record. However, the quantity of water used and the potential for this use to deplete the River was not the essence of the impact discussion referred to by the commenter. The DEIR discussion (pages V.G-14-15 of the DEIR) addressed the potential impacts associated with the use of the water for dust suppression on-site, including build-up of salts in site soils.

**Comment B18-70**

**Page V.G-21** – Sixth bullet:

The majority of the ditch is outside the property line and already acts as a detention feature. This mitigation conflicts with the 30’ wide berm proposed under Mitigation Measure AES-1.

**Response to Comment B18-70**

AES-1 calls for ten foot high and thirty foot wide landscaped berm near the western edge of the property. AES-1 also directs that “The portion of the site plan affected by the 30-foot wide landscape buffer [berm].....shall be reconfigured to accommodate the landscaped buffer.” HYDRO-3a has been modified to clarify that runoff must be treated to applicable water quality standards prior to discharge to the wetland areas (refer to response B13-7). Therefore, the sixth bullet under Mitigation Measure HYDRO-3a on page V.G-21 of the DEIR is no longer needed, and is hereby removed from the text:

~~“The secondary storm water treatment system shall use a portion of the existing network of drainage ditches to provide additional treatment and on site residence time prior to discharge of site runoff to the Petaluma River. These drainage ditches should be redesigned to act as extended wet ponds and/or detention features. Flows for the catch basin and sand filter shall be discharged into the tidally influenced ditches in a manner so that turbulence is not created (e.g., using an energy dissipation structure). The grading plan and drainage design shall include measures that ensure maximum residence times in the detention features.”~~

**Comment B18-71**

**Page V.H-19 – Scenic Resources Combining District – First paragraph:**

This paragraph should include a statement regarding the approximate travel time in passing the Project, and the limited duration of any impact on scenic views. The Highway 101 corridor provides a visual experience that varies considerably from the Sonoma County line to Santa Rosa. Assuming an average speed of 60 miles per hour, the trip takes 25 or so minutes. Since a traveler will only “experience” the Project frontage for less than ten seconds, and much of the Project will be screened by topographic features and landscaping, this cannot be considered a significant impact.

**Response to Comment B18-71**

This comment suggests changes to the discussion regarding the Scenic Resources Combining District (SR) and to revise the level of significance. The fact that drivers might view the project for only ten seconds does not mean impacts would be less than significant. In addition, the discussion referenced in this comment identifies the areas of the project site that are within the SR, and no text changes are warranted. With regard to the significant land use impact, page V.H-28 (Land Use) of the DEIR states that structures located in these Districts are subject to certain setback requirements. Since the project would comply with these requirements, the project is consistent with the requirements of the SR. Significant impacts identified in Impact LU-1 are not associated with the SR.

**Comment B18-72**

**Page V.H-27, V.H-28:**

As stated in the attached letter of Farella Braun + Martel, (Attachment 7 at Pages 5-6), “[t]he DEIR discusses the seven criteria that the General Plan sets out for deciding whether it is appropriate to amend the Plan to allow for a Limited Industrial designation. One of the Project parcels (APN 019-220-001) is, of course, already designated General Industrial and zoned Heavy Industrial, and an existing aggregate and barge loading facility operated by Shamrock is located immediately to the north of the Project site.”

The DEIR concludes that the Project does not meet Criterion #5, which provides that “lands shall not be in environmentally sensitive or hazardous areas.” This conclusion is inconsistent with the DEIR’s other findings that impacts to biological resources and any hazardous conditions are fully mitigated to less-than-significant. It is important to note that Project activities either avoid or mitigate impacts in areas of sensitive biological resources (heron nest sites and wetlands), and potential impacts from operation of the conveyor will be monitored to determine whether additional measures are required.

Moreover, the DEIR discussion (at pages V.H-27 and 28) notes that there is a Biotic Resource (an urban riparian corridor) overlay at Area “A” (APN 019-220-001). However, as noted above, this parcel is already zoned Heavy Industrial and requires no amendment. Therefore, this parcel should not be taken into account when assessing the criteria for a change to a Limited Industrial designation as to other parcels.

***Response to Comment B18-72***

The commenter correctly states that Area A of the project site is already designated General Industrial and zoned Heavy Industrial, and that the DEIR concludes that significant impacts to biological resources and hazards can be mitigated to less-than-significant levels. However, as stated on pages V.H-27 and 28 of the DEIR, the proposed project involves a general plan amendment for other areas of the site that are considered to be environmentally sensitive (e.g. egret/heron colony at Area B) and present hazards (e.g. 100-year flood plain in Area C). The decision makers may interpret the General Plan Criterion #5 as intended to ensure mitigation of projects located in environmentally sensitive or hazardous areas. At present, however, the Criterion appears to apply to all projects “in environmentally sensitive or hazardous areas.”

***Comment B18-73*****Page V.H-29 – Third Analysis**

Permitted uses in 1986 included the sedimentation ponds. It was not necessary to permit the use in 1986 anymore than it was appropriate to permit the prior industrial dairy operation that historically occupied the site.

***Response to Comment B18-73***

Comment noted.

***Comment B18-74*****Page V.H-30 – Item No. 2:**

Industrial areas are also located near the Project site, including the Shamrock facility to the north. This should be noted. Failure to describe the agra-industry nature of adjacent property misstates the character of the area.

***Response to Comment B18-74***

Comment noted. The third bullet or criterion under Policy LU-17f states: “The use is compatible with adjacent residential or agricultural uses.” The DEIR acknowledges that industrial uses are located in the project vicinity. However, this does not change the project’s incompatibility with existing adjacent or nearby residential uses.

***Comment B18-75*****Page V.H-36 – Table V.H-2 – Sonoma County General Plan Analysis – LU-4b**

*LU-4b: Use the levels of service shown on Figures CT2c and CT2d on pages 289 - 291 of the Circulation and Transit Element to determine whether or not congestion is exceeding the desired level of service on*

*the countywide highway system. Use area and/or project traffic analyses to determine whether intersection impacts or other localized congestion may also affect these desired levels of service.”*

Under project analysis and comments, the statement “overall, the project creates significant impacts to Highway 101 operations” is inconsistent and incorrect. The project does not create any new impacts to the Highway 101 operations. The proposed changes creating a Highway 101 interchange do not conflict with the site. In fact, there are mitigation measures that specifically prohibit it from impacting the site. This is a misrepresentation of the Project.

As described in the attached letter of Fehr & Peers, dated February 20, 2008 (Attachment 5 at Page 1, Item 1):

**“1. Trip Generation:** The calculation of passenger car equivalents applies a factor of 3.0 to the project’s truck traffic. This is inconsistent with the Highway Capacity Manual (HCM) Methodology for Analysis of Signalized and Unsignalized Intersections (Chapters 16 and 17), which specifies a factor of 2.0.

“Other than that HCM inconsistency the project traffic generation estimates shown in Table V.J-11 are technically correct for use in the traffic analysis. However, the many adjustment factors that are applied to establish a worst-case scenario result in a reported AM peak hour vehicle generation that is nine times higher than the expected average AM peak hour traffic generation. The report and/or table should make clear that the average weekday AM peak hour truck generation will be 50 trucks per hour, not 450 per hour, and that the 450 vehicles per hour shown in the table reflects an adjustment needed within the intersection LOS calculations to account for the different behavior of trucks compared to private autos and to reflect peak seasonal traffic generation conditions.”

#### ***Response to Comment B18-75***

The comment cites the statement of impact for Impact TRANS-8, that “Overall the project has a *significant* impact on highway operations.” The comment states that this is incorrect. The DEIR identified a significant impact on both mainline and ramp operations by adding traffic to locations already at LOS F. This standard of significance is consistent with the General Plan.

County policy and past practice requires that the truck trip generation rate for quarry operations, aggregate processing and other heavy truck intensive generators be multiplied by a factor of 3.0. This is reflected consistently through out the County including in the original study for this proposal authored by Fehr and Peers Associates in their traffic study of 2004. Please refer to responses B16-2 and B16-15, B16-16 and B16-17. As the comment suggests, the analysis does evaluate a worst-case scenario in accordance with the intent of CEQA.

#### ***Comment B18-76***

LU-6b – Analysis

It should be noted that the adjacent property to the north is zoned correctly. Omitting the northern-most industrially zoned property from the analysis is misleading and inappropriate.

***Response to Comment B18-76***

Comment noted. The DEIR acknowledges that industrial uses are located in the project vicinity. However, this does not change the project's incompatibility with existing adjacent or nearby residential uses.

***Comment B18-77***

**Page V.H-55 – Table V.H-3 – Water Resources, Item A**

Shollenberger Park is immediately across the Petaluma River from areas already zoned industrial, including the Shamrock facility. This should be noted correctly. The Park is not immediately across the river from the main Project site. The non-conforming residences lie between portions of the Project site and Shollenberger Park, providing both additional horizontal separation as well as a visual transition.

***Response to Comment B18-77***

Comment noted. Area A of the project site is situated immediately adjacent to the Petaluma River and there are no intervening structures between Area A and Shollenberger Park.

***Comment B18-78***

**Page V.H-56 – Scenic Resources**

The DEIR continues to ignore the fact that the area immediately across the Petaluma River from Schollenberger Park is already zoned industrial, and adjacent sites should be anticipated for industrial uses, with or without this Project.

***Response to Comment B18-78***

Comment noted. The DEIR's description of the visual character of the project site itself is accurately defined as rural, vacant land. While it is true that industrial uses are present north of the project site, the site itself is vacant and set among non-industrial uses on the south, west, and east. The DEIR does, however, acknowledge the industrial uses to the north of the project site in the Visual Character discussion on page V.A-21 (Aesthetics). Please refer to response B18-39.

***Comment B18-79***

**Page V.I-17 – Third bullet – Stockpiles to the north and east, second line:**

Unprocessed materials shall be located to the north and east "sides" of the recycling plant.

***Response to Comment B18-79***

Comment acknowledged. In response to this comment, the first full sentence under the third bullet on page V.I-17 of the DEIR has been revised to read as follows:

“Stockpiles of processed and unprocessed materials shall be located to the north and east ~~sites~~ sides of the recycling plant.”

***Comment B18-80***

**Page V.I-19** – Mitigation Measure - NOISE 8 – Fifth bullet:

This is not a practical mitigation. Barge on- and off-loading needs to be scheduled with the high tides, as noted in the Project Application.

Please refer to the response to Impact/Mitigation Measure NOISE 7 and NOISE 8 (pages II-47 and II-48 of the DEIR) at Page 6 of this letter.

***Response to Comment B18-80***

Comment noted. Mitigation Measure NOISE-8 (fifth bullet) does not prohibit the use of barges at night. Instead, Mitigation Measure NOISE-8 (fifth bullet) prohibits the unloading of barges and the running of the conveyor at night.

***Comment B18-81***

**Page V.J-1** – Third bullet:

With one possible exception, it is our understanding that the at-grade crossing at Landing Way is not subject to an easement in favor of the residential parcels lying east of the railroad right-of-way and the Project. It is, however, subject to an easement for Dutra’s access to the proposed barge loading facility at the Project.

***Response to Comment B18-81***

Comment noted. Please refer to responses A5-2 and B15-1.

***Comment B18-82***

**Page V.J-5** – Last paragraph:

It is unclear what illegal turns across the road into the site occur. Bollards are placed in the median to separate the northbound and southbound traffic on Petaluma Boulevard South; the bollards are not placed to prevent left-hand turns into the project. There is no illegal turn indicated by traffic signage.

***Response to Comment B18-82***

County staff indicated that as of 2006 the intended separation of northbound and southbound traffic was not to allow southbound left turns to enter the subject property of Petaluma Boulevard South.

**Comment B18-83**

**Page V.J-10**

Under the paragraph discussing the proposed SMART commuter rail service, it should be noted that the SMART railroad passenger traffic is an unfunded project. It will require the approval of voters in both Marin and Sonoma Counties. The SMART project has failed to obtain approval several times in the past five years.

Furthermore, as discussed in the attached letter of Farella Braun + Martel (Attachment 7 at Pages 4-5), the Project provides for the three riverfront residents' continued access to South Petaluma Boulevard via a separate road north of the asphalt plant. Dutra intends to cooperate fully with SMART concerning access to the at-grade crossings. However, the issue of whether the residents will continue to cross the railway right-of-way at Dutra's property or be required to use the crossing at Landing Way will arise with the advent of commuter rail service whether or not an asphalt plant is built on this site. Thus, any restriction on the residents' access to the existing at-grade crossing at Haystack Landing and requirement that they use the Landing Way crossing is entirely independent from, and cannot be considered a significant impact of, the Project.

**Response to Comment B18-83**

Please refer to responses A1-1, A5-2, B4-1 and B15-1. As discussed therein, the DEIR recognized in Impact TRANS-13 that the project, as proposed, did not directly seek to restrict residential access across the existing rail crossing, and that any such impact would only result as a secondary effect of the applicant's compliance with likely SMART conditions for obtaining an entitlement to construct the conveyor. The DEIR attempted to anticipate the conditions that SMART and other responsible agencies would likely require as part of project approval, to avoid delays in obtaining those approvals and implementing the project.

SMART and the decision makers shall be advised that the applicant intends to cooperate fully with SMART concerning access to at-grade crossings. As noted in responses A5-2 and B15-1, further discussions may be needed between the applicant, SMART, and other parties to identify and implement the best solution to address concerns regarding residential access. To facilitate those discussions and timely project implementation, the DEIR required Mitigation Measures TRANS-13a and -13b, and found that impacts related to Impact TRANS-13b would remain significant and unavoidable.

The commenter should note that in comment A5-2, SMART stated that implementation of the conveyor would result in adverse safety impacts. As noted in response A5-2, implementation of the above-identified mitigation measures should resolve SMART's concerns.



***Comment B18-84***

Last paragraph:

The Project has no effect on the signal warrants required. This should be noted in the paragraph regarding “Other Background Development.”

***Response to Comment B18-84***

The comment is noted and in fact the project does not have any effect on the satisfaction of peak hour signal warrants.

***Comment B18-85***

**Table V.J-11** – Trip Generation:

Please refer to the response to Table V.H-2 (Page V.H-36) - Sonoma County General Plan Analysis - LU-4b (page V.H-36 of the DEIR) at Page 24 of this letter.

***Response to Comment B18-85***

Please refer to response B18-75.

***Comment B18-86***

**Page V.J-14**

The last sentence states that there is adequate site distance for off-ramp traffic. This is a correct statement but is not reflected in further text. Specifically, the stopping site distance is adequate and no signalization should be necessary.

As stated in the attached letter of Fehr & Peers (Attachment 5 at Page 1, Item 1), the proposed Project driveway would provide adequate sight distance. In fact, the amount available would be over twice the minimum required. We concur with this assessment.

***Response to Comment B18-86***

Comment noted. Please refer to response B18-19. The purpose of signalization is to ensure adequate intervals for movements between the project driveway and Petaluma Boulevard South and particularly for trucks bound for US 101 Northbound.

**Comment B18-87**

Page V.J-17

It is unclear whether the study reflects projected vehicles from the new plant or if the number of vehicles are reduced by the existing temporary plant traffic. As noted in the attached letter of Farella Braun + Martel (Attachment 7 at Page 3), the DEIR's analysis of traffic impacts should examine only the differences between the current facility and the proposed Project, rather than suggesting that those of the proposed Project are either entirely new or should somehow be combined with traffic from the current facility that will be replaced. See *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th at 243. The EIR should correct these misleading suggestions and explicitly state that only the adverse changes, if any, between those proposed for the Project and the historical operations that provide a baseline are subject to review.

**Response to Comment B18-87**

The commenter states that it is unclear whether the DEIR has reduced its estimate of projected project traffic to reflect the trips generated by the existing facility. The commenter also states that the DEIR should examine only the differences between the current facility and proposed project.

The DEIR traffic section is explicit in stating that it deducts trips from the temporary facility as it operated in 2006 from future "with project" scenario traffic estimates. Page V.J-21 of the DEIR describes how the traffic analysis for the proposed project deducts trips from the temporary facility as it operated in 2006 from future "with project" scenario traffic estimates.

**Comment B18-88**

Page V.J-19

The final sentence states "the Applicant will be required to pay the ARM fee . . ." It should be noted that the Applicant does not conduct any mining operations in Sonoma County and thus is not subject to the ARM requirement.

**Response to Comment B18-88**

Please refer to response B16-9.

**Comment B18-89**

Page V.J-20 - Calculation of ARM fee

As noted above in our response to the last sentence on Page V.J-19, the Applicant has no mining operations within Sonoma County and, therefore, is not subject to the ARM fee. This section should be removed from the DEIR.

***Response to Comment B18-89***

Please refer to response B16-9.

***Comment B18-90***

**Page V.J-20** – Table V.J-11

Export material is assumed to be 12 tons per truck. Large trucks carry over 23 tons per load. Since the truck traffic is multiplied by three to generate the equivalent car traffic, this tonnage needs to be increased. The small, light-duty trucks that could lead one to conclude that 12 tons is a reasonable average, are not appropriately increased by a factor of three to generate for equivalent car traffic.

Please refer to the response to Table V.H-2 (Page V.H-36) - Sonoma County General Plan Analysis - LU-4b (page V.H-36 of the DEIR) at Page 24 of this letter.

***Response to Comment B18-90***

Please refer to responses B16-2 and B16-8.

***Comment B18-91***

**Page V.J-28** – Last paragraph:

Please refer to the response to Mitigation Measure TRANS-4 at Page 9 of this letter.

***Response to Comment B18-91***

Please refer to responses B18-17, B18-18, and B18-19.

***Comment B18-92***

**Page V.J-29** – Last paragraph:

It is not reasonable to prohibit material export from the site between 4:00 PM and 6:00 PM. This material delivery during this time is project dependent. The marketplace may require material deliveries during that timeframe to mitigate traffic in other areas.

***Response to Comment B18-92***

Please refer to response B18-16.

***Comment B18-93***

**Page V.J-36** – Mitigation Measure TRANS-7 – First paragraph:

Please refer to the response to Mitigation Measure TRANS-4 at Page 9 of this letter.

***Response to Comment B18-93***

Please refer to response B18-18.

***Comment B18-94***

**Page V.J-44** – Item No. 4

The Project has been reconfigured to avoid conflicts with the Marin-Sonoma Narrows project. Documentation of the reconfiguration was provided to Sonoma County PRMD in May, 2007, and should be included in the DEIR for this analysis.

***Response to Comment B18-94***

Please refer to responses B18-34 and B16-12.

***Comment B18-95***

**Page V.II-3** – First paragraph:

It should be noted that the commitment to this Project would not reduce the production of future asphalt in the region. In fact, future asphalt would still be produced at the same rate but would require longer vehicle trips from more remote production facilities, which in itself would pose a significant impact on the environment. For clarity and adequacy, this should be noted in the analysis.

***Response to Comment B18-95***

Comment noted. The first paragraph on page VII-3 of the DEIR explains why an alternative to the proposed project involving public access to the Petaluma River at Area A of the project site is not feasible and therefore is not analyzed in detail in the DEIR. The commenter's point that the commitment to the project would not reduce the production of future asphalt is not relevant to the first paragraph on page VII-3 of the DEIR; therefore no additional response is required.

***Comment B18-96***

**Page V.II-16** – Paragraph E: “Environmentally Superior Alternative.”

As stated in the attached letter of Farella Braun + Martel (Attachment 7 at Pages 6-7):

“The DEIR appropriately reviews alternatives to the proposed Project and concludes that Alternative D is the environmentally superior alternative. Alternative D provides for development of the asphalt and recycling plant as proposed, but would relocate the barge off-loading facility to a site that Dutra does not own and that the owner is unwilling to sell located further south on the Petaluma River. See DEIR pages VII-13 – 15. For the reasons that follow, this is not an appropriate alternative under CEQA.

The CEQA Guidelines require that the Lead Agency consider a reasonable range of “feasible alternatives.” § 15126.6. Feasibility is defined as follows:

Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), *and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site* (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives.

Guidelines § 15126.6(f)(1) (emphasis added); see also § 15364 (“‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”).

In *Save Our Residential Environment v. City of West Hollywood* the court noted that since there was no evidence that the applicant “had any ability to acquire either of these sites” that the “sites were in fact not feasible, and thus not appropriate for inclusion in the EIR, because their availability for development was entirely speculative.” 9 Cal. App. 4th 1745, \*1753 fn. 1 (Cal.App.2.Dist.1992).

As noted above, while otherwise adopting the Project as proposed, Alternative D of the DEIR proposes an alternate site for the barge off-loading facility. However, as the DEIR acknowledges (at page VII-13), Dutra does not own this parcel, and the owner is unwilling to sell it. These facts render the alternative infeasible.

Furthermore, the guidelines state that “[o]nly locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.” §15126.6(f). Here, the alternative site only manages to reduce one impact (historical) to less than significant. However, the Project already is “less than significant with mitigation” in that area. The impacts to the heron population are also reduced or avoided altogether, and the overall impacts to biological resources (less than significant with mitigation) remain the same.

Finally, as noted above, the parcel proposed for the barge off-loading is already zoned General Industrial and is adjacent to Shamrock’s existing aggregate and barge facility to the north. Relocating it to the south would require acquisition of property that the DEIR acknowledges is not for sale, would require rezoning and a General Plan amendment for that property if it could be acquired, and would place the barge loading facility closed to the residents and to a wetland to be restored as part of the Project.

For all of these reasons, Alternative D is not the most environmentally superior alternative, nor is it feasible. For these reasons, and the reasons presented in the DEIR in support of Alternative D, the Project as proposed is the most environmentally beneficial, feasible alternative, and it should be approved.”

***Response to Comment B18-96***

The commenter's suggestion that Alternative D (Alternative Site) is infeasible and therefore the DEIR should not identify Alternative D as the environmentally superior alternative will be forwarded to the decision makers for review and consideration.

The commenter's citation of CEQA Guidelines Section 15126.6 regarding feasible alternatives is acknowledged, including "whether the proponent can reasonably acquire, control or otherwise have access to the alternative site." As noted by the commenter, Section 15126.6 of the CEQA Guidelines also states that "No one of these factors establishes a fixed limit of the scope of reasonable alternatives." Alternative D was analyzed in the DEIR because it broadens the range of alternatives to be considered by the decision makers and reduces impacts of the project beyond what implementation of the mitigation measures required for the project would accomplish. While the level of significance for certain impacts may be the same compared between Alternative D and the proposed project (with mitigation), Alternative D would reduce the severity of impacts related to several issue areas, including but not limited to barge and barge off-loading noise to Haystack Landing residents, and impacts to the egret/heron colony.

The commenter fails to substantiate why the proposed project is "the most environmentally beneficial, feasible alternative and therefore should be approved." Section VII (Alternatives to the Proposed Project) identifies a reasonable range of alternatives that reduce the impacts associated with the proposed project beyond the reduction that would be accomplished by implementing all of the DEIR mitigation measures for the project.

***Comment B18-97***

**Conclusion**

Again, thank you for including these comments and their resolution with the Final EIR. If you have any questions or need further clarification, please be assured of our continued willingness to provide prompt and responsive assistance.

***Response to Comment B18-97***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B18a-1***

General Comments:

The comparison between the existing and future facilities makes several, assumptions which lead to possible overstatements in emission increases between the facilities. The analysis assumed an existing facility production of 2,000 TPD and a future facility production of 4,000 TPD. Much of the emission increase on a daily basis is a result of the doubling of production. However, the permit for the plant at 1600 Petaluma Boulevard, which this facility seeks to replace, did not include a daily production limit.

The facility had the potential to operate at 300 TPH with no restriction on daily production. The previous facility's potential to emit on a daily basis was much higher than the 2,000 TPD assumed.

The analysis also used an annual emission rate for the existing facility of 131,498 tons of asphalt per year based on a five-year historic average production rate. At the same time, the analysis evaluated the new facility at the maximum proposed production rate of 225,000 tons of asphalt per year. Previous production rates for the facility were as high as 186,552 TPY in 2003 and 166,976 TPY in 2004. While Dutra Materials has been working through permitting a new site, the use of a temporary portable plant has not allowed operations to reach their historic operating levels. As a result, more recent production has skewed the five year historic average production down and in turn the emissions associated with the plant. The analysis should evaluate production at the 2003 production level.

***Response to Comment B18a-1***

The commenter states that the DEIR's air quality analysis has possibly overstated emission increases between the applicant's current facility and proposed project. The commenter correctly notes that the DEIR evaluated project impacts against the current facility's five-year average production rate, as discussed in Section V.B (Air Quality) on page V.B-23 of the DEIR. But the commenter states that the DEIR should instead evaluate impacts against the highest of the five years, 2003, in which the facility produced 186,552 tons.

The five-year production average appears to better represent the physical conditions that existed at the time environmental review was commenced than the tonnage produced during any particular year. Use of the five-year production average does not appear to have overstated project impacts, but rather correctly captured the project's direct and indirect environmental effects.

***Comment B18a-2***

Section VB, page 27, of the Draft EIR states the analysis did not take into account the reduction in emissions as a result of the Best Available Control Technology, (BACT) that will be required by Bay Area Air Quality Management District (Bay Area AQMD). Eliminating the emission reductions from the implementation of BACT causes the analysis to overstate the emission increase from the operation of the proposed asphalt plant. Significant improvements have been made in the last ten years in state-of-the-art technology for asphalt plants. These technologies include more efficient burners, better control of

fugitive emissions with the use of baghouses and blue smoke control on the asphalt storage silos and load out areas. Leaving the additional control technology required for this facility out of the analysis, causes the analysis to assume that the facility emissions will be the same as the old operations with increased production. The analysis should take into account the improvement in technology.

***Response to Comment B18a-2***

Please refer to response B18-49.

***Comment B18a-3***

The Analysis for the new operations includes operation emissions, on-road and off-road vehicle emissions from the import and export of Recycled Asphalt Pavement (RAP), and the sale of aggregate and sand. These operations represent 100% increase in emissions above the previous operations, because these products were not offered previously. These emissions contribute significantly to the calculated emission increase from the operations.

Currently these products (i.e. RAP, Aggregates, Sand) are being processed and sold at other facilities to supply the needs of projects. The existing operations currently contribute vehicle emission from both on-road and off-road equipment in the process of doing business. The Haystack Landing facility will provide an alternative location for dropping off RAP and supplying aggregate and sand to construction projects in the area.

The analysis should evaluate existing facilities available to receive RAP and facilities that offer aggregate and sand for sale as a baseline. The proposed Dutra Materials Haystack Landing facility should be subtracted from the baseline to determine the emissions resulting from this operation.

***Response to Comment B18a-3***

The commenter states that the DEIR should use as the project baseline all existing facilities “in the area” that can receive recycled asphalt pavement and that offer aggregate and sand for sale. The commenter states that the DEIR should then subtract the proposed project’s sales and receipts from this baseline.

The comment appears to incorrectly assume that the proposed project would result in no impacts of its own, but would merely take business from other operators at a 1:1 ratio. It is more likely that the project would meet local sand, aggregate, and other needs that are currently met, at least in part, by suppliers located far outside the local area. To the extent the project would result in environmental effects in the affected area, the DEIR discloses, analyzes, and mitigates those impacts. To the extent the project would relocate production and thus reduce effects as compared to the no-project alternative, the DEIR similarly discloses and analyzes those project consequences.

***Comment B18a-4***

Section VB of the Draft EIR evaluates Stationary Source Air Quality Regulations which apply to this facility (Pages VB-13 and VB-17). The analysis of Standards of Performance for New Stationary Sources



(NSPS); refers to this facility being subject to Subpart UU (Page VB-14). This subpart applies primarily to asphalt refinery and asphalt roofing facilities because of the blowing activities which occur in the manufacture and processing. Since this operation does not blow asphalt it does not meet the definition of an asphalt processing plant and is not subject to this subpart.

The Draft EIR also identifies Bay Area AQMD regulation 12-3-301 as applicable to this operation (Page VB-17). This rule applies to facilities engaged in the air blowing of asphalt. As previously stated, this facility does not meet the applicability requirement of the rule.

#### ***Response to Comment B18a-4***

Comment acknowledged. In response to this comment, the second full paragraph on page V.B-14 of the DEIR has been revised to read as follows:

~~“Two of the NSPS apply to the proposed facility. These include New Source Performance Standard NSPS Subpart I: Standards of Performance for Asphaltic Concrete Plants applies to the proposed facility and Subpart UU: Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture. Subpart I prohibits the discharge into the atmosphere from any affected facility any gases which: 1) contain particulate matter in excess of 90 milligrams per dry standard cubic meter (0.04 grain per dry standard cubic meter) or 2) exhibit 20 percent opacity, or greater. Subpart UU prohibits the discharge into the atmosphere from any asphalt storage tank exhaust gases with opacity greater than 0 percent, except for one consecutive 15 minute period in any 24 hour period when the transfer lines are being blown for clearing.”~~

Also in response to this comment, the third paragraph on page V.B-17 of the DEIR has been revised to read as follows:

~~“This regulation incorporates the provisions of the federal regulations for new stationary source review (Title 40 of the Code of Federal Regulations Part 60; Standards of Performance for New Stationary Sources) as discussed earlier.~~

~~BAAQMD also has regulations that limit the use or manufacturing of certain types of asphalt: Regulation 8-15 contains provisions, which limits the use of rapid-cure liquid asphalt, medium-cure liquid asphalt, emulsified asphalt, and slow-cure liquid asphalt (road oil).~~

- ~~• Regulation 8-15 contains provisions, which limits the use of rapid-cure liquid asphalt, medium-cure liquid asphalt, emulsified asphalt, and slow-cure liquid asphalt (road oil); and~~
- ~~• Regulation 12-3-301 prohibits air blowing of asphalt unless all effluents are incinerated at temperatures above 1202 °F for not less than 0.3 second, or use of an effective air pollution control as determined by the BAAQMD.”~~

These revisions do not affect any conclusions or significance determinations provided in the DEIR.

**Comment B18a-5**

## Specific Comments:

The analysis provided estimated emissions for the aggregate dryer of the hot mix asphalt plant based on AP-42 emission factors and guidance from the Bay Area AQMD engineering evaluation template. The emission rates used for the asphalt dryer in Table D-4 and D-10 of Appendix D utilized the emission factor from AP-42 Table 11.1-6 for the VOC emissions from the Batch Dryer. This emission rate is measured at the exhaust stack of the baghouse and included the emission from the combustion burner as well as all captured fugitive emissions that are vented to the baghouse. Additional VOC emissions are calculated in Table D-4 and D-10 at a rate of 5.5 lbs/mmcf from the batch mixer based on EPA AP-42 Table 1.4-2. This second emission calculation is intended to account for the emission from the combustion of natural gas. The second calculation double counts the VOC emissions from the operation and should be removed.

**Response to Comment B18a-5**

The VOC emissions were calculated in accordance with BAAQMD's *Hot Asphalt Mixing Facilities Engineering Evaluation Template*. As stated in a footnote on Tables D-4 and D-10, the VOC emissions from the Batch Dryer were calculated as the VOCs from the dryer minus the VOCs from the mixer. Therefore, the VOCs were not double counted. No change to the DEIR is required.

**Comment B18a-6**

As stated on page VB-14, BACT requires the facility to achieve:

12 parts per million by volume (PPMV) NO<sub>x</sub>, at 15% O<sub>2</sub> dry

This concentration is equivalent to the emission rate of 45.93 lbs/mmcf for NO<sub>x</sub>. This would result in annual emissions of 1.30 tons for NO<sub>x</sub>. This would represent a net emission decrease of 1.2 tons per year of NO<sub>x</sub> from mixer emissions when comparing the existing and proposed facility. The analysis of the proposed plant in Table D-10 of Appendix D should be revised to include emission rates that result from the low NO<sub>x</sub> burner that will be required for this facility.

**Response to Comment B18a-6**

The commenter's calculations of NO<sub>x</sub> emission are based on Southern California Air Quality Management District's Rule 2012, dated July 12, 1996 (see Air quality Permit Appendix D of DEIR, "Protocol For Rule 2012"). This rule has been updated as of May 6, 2005 and no longer presents the calculations used by Justice and Associates. The evaluation of NO<sub>x</sub> emissions used in the DEIR was performed in accordance with BAAQMD's *Hot Asphalt Mixing Facilities Engineering Evaluation Template* using an uncontrolled NO<sub>x</sub> emission factor of 190 pounds per million standard cubic feet (lb/MMscf) and a heating value of 1,020 British Thermal Units per cubic foot. Recalculation of the emissions, using the uncontrolled NO<sub>x</sub> burner emission factor for the existing plant and the low NO<sub>x</sub> burner (as specified in the Section III, Project Description of the DEIR) emission factor of 140 lb/MMscf for the proposed plant, would reduce the net

increase in NO<sub>x</sub> emissions from the proposed project by 1.4 tons. The proposed project's net increase in NO<sub>x</sub> emission would remain above the BAAQMD's significance threshold of 15 tons per year.

***Comment B18a-7***

Table D-11 of Appendix D evaluates the uncontrolled fugitive emissions from the silo filling and truck load out. The emissions from both fugitive dust sources will be controlled by either a baghouse or a blue smoke control unit. Both units will have a 95% or greater collection efficiency for particulate matter (PM). Table D-11 should evaluate the controlled emissions rate of these sources.

***Response to Comment B18a-7***

The impact evaluation took into account the emission factors for Hot Mix Asphalt plant equipped with a baghouse from the BAAQMD's *Hot Asphalt Mixing Facilities Engineering Evaluation Template*. The applicant provided information regarding the ASTEC Fiberbed Mist Collector, which was proposed for blue smoke control. The information did not provide specific emission factors except for the statement that: "Cleaning efficiency of the system is as high as 99.5%, based on particle size." This implies that if the air stream consists primarily of small particles that would bypass the baghouse filter, the efficiency would be less. Due to the uncertainty of the efficiency of this system, additional reduction in PM<sub>10</sub> emissions were not used. However, additional reductions in the calculated PM<sub>10</sub> emissions would not alter the determination of significant air quality impact since the net increase in PM<sub>10</sub> emissions from the proposed project were already below the BAAQMD's threshold of significance.

***Comment B18a-8***

As stated in the general comments, the analysis includes emissions from operations which did not previously exist at the former site. Specifically, Table D-16 includes 260,860 miles attributed to recycled asphalt importation; 1,024,175 miles attributed to raw aggregate export; 625,000,000 miles attributed to recycled asphalt export; and 180,725 miles attributed to fine sand export. The on-road emissions from these activities makes up over 25 tons per year of NO<sub>x</sub> of the 27 tons of NO<sub>x</sub> calculated for truck activities. This is significant when compared to the total NO<sub>x</sub> increase estimated from on-road and off-road vehicle emissions of 17.5 tons per year and the total project emissions increase from NO<sub>x</sub> of 23 tons per year. In the analysis of the Levels of Significance After Mitigation (Page VB- 39), NO<sub>x</sub> emissions is the primary pollutant which leads to the determination that the impact from the project will be significant and unavoidable.

Due to the importance the NO<sub>x</sub> emissions create in the significance determination, consideration should be given to evaluating emissions from the operations against existing sources which provide the same products.

***Response to Comment B18a-8***

Please refer to response B18-54.

**Comment B18a-9**

Mitigation Measure AQ-2a (Page VB-31) states that off-road equipment used on-site shall use 2007 emission standards. Manufactures of equipment are mandated to only sell new equipment that meets standards as stated in the Off-Road Compression Ignition (Diesel) Engine Standards. For example, the 2007 emission standards for engine between 100 HP to 300 HP are a Tier 3 engine at 3.0 g/BHP-hr for NMHC + NO<sub>x</sub>.

Table D-15 (Existing) and D-16 (Proposed) of Appendix D evaluated mobile off-road equipment at a Tier I NO<sub>x</sub> standard of 6.9 g/BHP-HR for analysis. While this emission rate is probably appropriate for the existing operations, it is not consistent with a 2007 fleet of equipment for the new operation. The analysis for Mobile Off-Road Equipment for the proposed facility should use a Tier III emission standard to evaluate the emissions.

**Response to Comment B18a-9**

Please refer to response B18-4.

**Comment B18a-10**

Mitigation measures AQ2 Vehicle Emission (Page VB-28) states that the EMFAC-2007 software evaluated the emissions based on the composite emission factor for vehicles manufactured from 1965 through the target year of 2007. As discussed in the Diesel Particulate Matter section under Regulatory Setting (Page VB-9 through VB-10) new retrofit requirements for existing on-road and off-road vehicles are in the process of being implemented. The On-Road Heavy Duty Diesel (in-use) regulation is proposed, in Phase I, to require the fleet to be equipped with the highest level VDECS for PM and reduce NO<sub>x</sub> emission by 70 percent by the applicable compliance deadline. All 2003 model year engine or older have a compliance deadline of December 31, 2010.

The composite emissions factor for on-road diesel engine used in Table D-16, over estimates the emission in light of the new proposed On-Road Heavy Duty Diesel Regulations. The analysis should be revised to include reductions of NO<sub>x</sub> and PM required by this rule.

**Response to Comment B18a-10**

Please refer to response B18-52.

**Comment B18a-11**

If you have any questions, please give me a call at (562) 961-3494.

**Response to Comment B18a-11**

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Comment B18b-1**

My comments are as follows:

1. On page V.C-8 the third paragraph references that there are “unverified” wetlands on Areas A, B, C and D. This is incorrect. On December 6, 2006 Mr. Philip Shannin of the San Francisco District of the U.S. Army Corps of Engineers evaluated additional potential wetland areas referenced in the *Supplemental Wetlands Assessment Haystack Landing Dutra Asphalt Plant Project Site, Petaluma, Sonoma County, California (U.S. Army Corps of Engineers File No. 28104N)*. In this supplemental assessment, approximately 1.12 acres of potential wetland were identified pending Corps verification. During the December 2006 site visit Mr. Shannin evaluated these additional areas and concluded that some of the potential wetlands were not subject to Corps regulation. These include the areas mapped in the vicinity of the old barn (formerly potential wetlands WL and WK), one of the wetlands between Highway 101 and Petaluma Boulevard South (formerly potential wetland WR), and the two small ditches immediately paralleling the railroad tracks (formerly potential wetland WM and WN). The remaining wetland areas referenced in the assessment were determined to be jurisdictional. However, Mr. Shannin could not issue a formal determination in writing at that time due to the then-pending Supreme Court Rapanos decision that suspended Corps wetlands determinations. Mr. Shannin therefore suggested that we submit the permit application in the future and reference the conclusions of the site visit assuming the Corps would be able to formerly issue jurisdictional determinations once a Supreme Court decision was issued.

I contacted Philip Shannin today via email to see if he could confirm the above. I will forward his response when I receive it.

**Response to Comment B18b-1**

Please refer to response B18-56.

**Comment B18b-2**

2. On Page V.C-16 the last sentence of the third paragraph in part reads “the applicant’s consulting wetlands specialist has proposed that long-term mitigation for the losses associated with the unauthorized activities be provided during implementation of the mitigation program to be implemented as part of the proposed project”. This statement is not entirely correct. The San Francisco Regional Water Quality Control Board and the Corps of Engineers instructed me to submit the wetlands mitigation plan prepared for project-related impacts and that *they* would make a determination as to whether the mitigation plan would also sufficiently compensate for impacts associated with the unauthorized fill.

**Response to Comment B18b-2**

Please refer to response B18-75.

**Comment B18b-3**

3. On Page V.C-26 Mitigation Measure BIO-1b items 1-5: proposed mitigation measures for nesting birds are appropriate.

**Response to Comment B18b-3**

The concurrence by the commenter on the appropriateness of Mitigation Measure BIO-1b is noted.

**Comment B18b-4**

4. On Page V.C-27 Mitigation Measures BIO-1c-1f for fish and aquatic species, western pond turtle, permit authorizations, and special-status plants are appropriate.

**Response to Comment B18b-4**

The concurrence by the commenter on the appropriateness of Mitigation Measure BIO-1c through 1f is noted.

**Comment B18b-5**

5. On Page V.C-29 Mitigation Measure BIO-2 for Riparian Habitat are appropriate.

**Response to Comment B18b-5**

The concurrence by the commenter on the appropriateness of Mitigation Measure BIO-2 is noted.

**Comment B18b-6**

6. On Page V.C-32 Mitigation Measure BIO-3a Jurisdictional Wetlands and Other Waters items 1-6 are appropriate. Based on a voicemail you left me the week of February 4, 2008, repair or replacement of the existing partially-blocked culvert under the railroad right-of-way referenced in item 4 is something the Dutra Group is agreeable to and is working cooperatively with the Sonoma Marin Rail Transit (SMART) to do.

Please note, as part of the recommended mitigation measures in item 6 above the Dutra Group would need to modify the current *Wetlands Mitigation and Monitoring Plan Haystack Landing Wetlands Mitigation Project, Petaluma, Sonoma County, California (U.S. Army Corps of Engineers File No. 28104N)* to address these mitigation measures which would include (in part) preparing a restoration and enhancement plan for the area along the berm adjacent to the railroad ditch, preparing a restoration plan for the coastal brackish marsh in the former Barton piece, and preparing a landscaping plan for the riparian areas identified in the original plan.

**Response to Comment B18b-6**

Please refer to response B18-59.

***Comment B18b-7***

Please let me know if you have any questions regarding the above or if I can be of further assistance on this matter. Thank you.

***Response to Comment B18b-7***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B18c-1*****The DEIR does not clearly state if residential sound insulation is mandatory.**

The concept of improving the sound insulation of the nearby residences is included in two different mitigation measures (NOISE-7 and NOISE-8). In our experience, it is rare for an EIR to specify sound insulation for off-site residences as a mitigation measure since the implementation of such a measure is not under the control of the project applicant. Therefore, the need for off-site mitigation should be clearly explained in the DEIR along with the specific requirements and procedures.

For example, In NOISE-7, sound insulation appears to be mandatory as the DEIR states that “At the request of the homeowners...the applicant shall provide windows...” However, in NOISE-8 sound insulation is discussed in non-binding terms since the DEIR states that “...consideration shall be given to improving the sound insulating properties of the affected residential structures.”

Whether or not the offer for sound insulation is mandatory should be clarified and ultimately, the need for off-site mitigation should depend on whether the impact is significant after all other mitigation measures are implemented.

***Response to Comment B18c-1***

Please refer to response B18-10.

***Comment B18c-2*****The DEIR does not indicate which residences would be eligible for sound insulation.**

It is important that the EIR specify which residences are to be included in any mitigation measure that requires sound insulation. NOISE-7 refers to homes “...along the River and at the hillside west of Highway 101...” while NOISE-8 refers to “...affected residential structures...”. The offer for sound insulation should depend on whether the impact is significant after all the other mitigation measures are applied. The DEIR conclusion regarding the “Level of Significance After Mitigation” on page V.I-22 states that

*“With implementation of proposed mitigation measures, all combinations of the asphalt plant, concrete recycling plant and barge unloading would meet the County’s daytime and night-time noise standards at the hillside homes to the west (R1 and R2). However, noise levels would still exceed the County’s daytime standard at receivers R3-R7.”*

The DEIR, therefore, indicates that the residential sound insulation mitigation measures should apply only to the residences along the River which are labeled R3, R4 and R5 (sound insulation would not apply to R6 and R7 which represent the park across the river).



**Response to Comment B18c-2**

Please refer to response B18-11.

**Comment B18c-3**

**The DEIR does not adequately quantify the amount residential sound insulation that is .to be provided.**

Mitigation Measure NOISE-7 refers to "...windows rated for a 10 dBA exterior to interior noise reduction..." As stated, this mitigation measure is somewhat irrelevant since virtually any window will provide 10 dBA of exterior to interior noise reduction. We believe that the intent of the mitigation measure is to provide windows with a noise reduction that is a 10 dBA improvement over the existing windows' noise reduction.

The mitigation should be based on a more appropriate method for rating the windows, such as specifying the Sound Transmission Class (STC). The STC is a standard method for quantifying the sound reduction properties of windows. To address the mitigation goal for a 10 dBA improvement, the mitigation measure should have suggested windows with an STC rating that is 10 dB higher (greater sound reduction) than a normal single pane window. Since a closed single pane window<sup>11</sup> provides an STC rating of 24, the mitigation measure should specify that windows with a minimum STC rating of 34, be offered to the residences.

**Response to Comment B18c-3**

Please refer to response B18-12.

**Comment B18c-4**

**The DEIR requires noise barriers be placed on the barges. The use of temporary barriers to achieve this mitigation measures would be impractical to enforce.**

Mitigation measure NOISE-8 states that "Noise barriers shall be placed on the southern portion of the barge to completely screen barge unloading activities in the direction of the riverfront residences." Based on our review of the site plan, this would require barriers that are approximately 12 feet tall on two sides of the barge (the long side facing the shore and the short side facing downriver). In our 12 May 2006 report, noise barriers were considered, but not included, as a measure to reduce the noise of the front end loader operating on the barge during the unloading process. We concluded that while it is theoretically possible to use temporary barriers either on piers in the water or on the sides of the barge, it would not be practical to enforce this measure on an on-going basis.

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<sup>11</sup> U.S. Department of Commerce National Bureau of Standards. Acoustical and Thermal Performance of Exterior Residential Walls, Doors and Windows. 1975. p. 45.

***Response to Comment B18c-4***

Please refer to response B18-13.

***Comment B18c-5***

This concludes our comments regarding the Draft EIR. Please contact us if you have any questions.

***Response to Comment B18c-5***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Comment B18d-1**

As requested, LSA has reviewed the DEIR for the Haystack Landing off-loading and processing facility with respect to the heron and egret rookery and our April 6, 2007 Heron/Egret Rookery Impact Assessment and Recommendations.

In general, the DEIR impact analysis, mitigation measures, and conclusions are consistent with our analysis and recommendations. However, we have three specific comments with respect to Impact BIO-4 and Mitigation Measure B10-4c.

**Response to Comment B18d-1**

Please refer to responses B2-4 and B18-7.

**Comment B18d-2**

**Comment, Page VC-35, Night Lighting.** The DEIR discussion concludes that our recommendation that night lights should also be turned on several times for a couple of hours during the nest selection/pair bonding (typically mid February to mid March) is inadvisable and makes the assumption that the intent of this activity is to acclimate the birds in the rookery to the nighttime operations. Our recommendation was not intended to habituate the birds to the nighttime lights or noise. This recommendation is tied to our recommended monitoring which was intended to address uncertainties in how the herons and egrets may react to the night lighting and unloading noise/activity and to establish protocols to adaptively manage the rookery in conjunction with project operations. As recognized in our assessment and the DEIR, it is impossible to predict how individual birds or groups of birds will react to disturbances. Given our understanding that night-time restrictions on site operations could significantly constrain project operational efficiency and increase operations costs, our recommendation was to test for these uncertainties.

Monitoring element number 2 in our report recommends:

*Barge Operations/Night Lighting: a minimum of two periods when herons and egrets are present during nest selection/pair bonding (typically mid February to mid March).*

We further recommend that if the herons and egrets react adversely to onsite disturbance tests, site operations associated with the adverse reaction should be curtailed and alternative measures implemented and tested for effectiveness. In this manner, unwarranted restrictions on operations would not be imposed or, should adverse reactions occur, alternative measures to protect the rookery could be implemented.

Our rationale for the tests are: 1) the nest selection/pair bonding period is when herons and egrets are most susceptible to disturbance impacts; 2) herons and egrets population/use at the rookery typically increases through this period, such that early tests could be conducted when fewer pairs are present; and 3) legal protections under Fish and Game Code and the federal Migratory Bird Treaty Act are not applicable to these early breeding stages.

***Response to Comment B18d-2***

Please refer to responses B2-4 and B18-7.

***Comment B18d-3***

**Comment, Page VC-35, Conveyor System Operation.** The last sentence on Page VC-35 states that trying to acclimate nesting birds to the sporadic, short-term operation of the conveyor system and lighting would be disruptive to the egrets and herons in the on-site colony. As stated above, the intent of the light tests was not to acclimate the birds to the lights. It is part of an adaptive management approach to operating the project to evaluate and avoid impacts. The intent of running the conveyor system periodically is a combination trying to habituate the birds to the operations as well as observing the bird's behavior. As far as being disruptive, wildlife are much less likely to be disturbed or scared by noises or activities if the activity is ongoing when they arrive at a site/begin to nest. Our opinion was that having an ongoing activity/running the conveyor system periodically when the herons and egrets begin to show up at the rookery, we would be able to test our assumptions and recommendations to determine if additional changes be necessary to avoid impacts to nesting activity.

***Response to Comment B18d-3***

Please refer to responses B2-4 and B18-8.

***Comment B18d-4***

**Comment, Page VC-36, Artificial Rookery.** The DEIR claims the concept of trying to move the rookery is "speculative at best." While we cannot guarantee the herons and egrets will relocate (which we freely acknowledge in our assessment), heron and egret colonies have been successfully relocated. Several literature citations are provided in our initial assessment.

The DEIR also speculates that one of the problems would be that the nest platforms for open and exposed because of a lack of screening vegetation. Our review the literature on past artificial rookery structures did not indicate that screening cover was used or was important. Artificial cover could be easily added, but is also worth noting that herons and egrets regularly nest on man-made structures such as transmission line towers that lack any shade or screening.

***Response to Comment B18d-4***

Please refer to responses B2-4 and B18-9.

***Comment B18d-5***

I hope these comments help clarify the intent of several of initial recommendations that appear to have been misinterpreted in the DEIR. However the County decides to condition operations to protect the rookery, the FEIR and conditions of approval should also include a mechanism to eliminate operational restrictions designed to protect the rookery should the herons and egrets relocate the rookery at some

point in the future. Rookery sites are often used for a period of years, then for some reason often not related to any apparent human activity, the birds decide to abandon a site a new rookery is formed in another location.

***Response to Comment B18d-5***

Please refer to responses B2-4 and B18-9.

***Comment B18d-6***

If you have any questions or require additional information, please do not hesitate to contact me.

***Response to Comment B18d-6***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment B18e-1***

**1. Trip Generation:** The calculation of passenger car equivalents applies a factor of 3.0 to the project's truck traffic. This is inconsistent with the Highway Capacity Manual (HCM) Methodology for Analysis of Signalized and Unsignalized Intersections (Chapters 16 and 17), which specifies a factor of 2.0.

Other than that HCM inconsistency the project traffic generation estimates shown in Table V.J-11 are technically correct for use in the traffic analysis. However, the many adjustment factors that are applied to establish a worst-case scenario result in a reported AM peak hour vehicle generation that is nine times higher than the expected average AM peak hour traffic generation. The report and/or table should make clear that the average weekday AM peak hour truck generation will be 50 trucks per hour, not 450 per hour, and that the 450 vehicles per hour shown in the table reflects an adjustment needed within the intersection LOS calculations to account for the different behavior of trucks compared to private autos and to reflect peak seasonal traffic generation conditions.

***Response to Comment B18e-1***

Please refer to response B18-75.

***Comment B18e-2***

**2. Highway Impacts:** Mitigation Measure TRANS-3b would prohibit the project from exporting material during the PM peak period from 4 PM to 6 PM. The traffic generation calculations shown in Table V.J-11 indicate that even without this restriction, the proposed project would not add traffic during this time, based on existing trip patterns at the site. However, as noted in the DEIR, there is no guarantee that existing trip patterns will remain the same and that if the project did contribute traffic during the PM peak hour, freeway levels of service would be significantly impacted. The report calls this out as a "potentially significant" impact.

If the project were to change its operational patterns, the potential PM peak hour impact to freeway operations would be similar to an impact identified to freeway operations during the AM peak hour. Mitigation Measure TRANS-3a calls for the project to pay its fair share toward construction of new High Occupancy Vehicle (HOV) lanes along the US 101 mainline. The report states that this mitigation would lessen the impact to freeway operations in the AM peak hour to less than significant levels. It is unclear why this same mitigation would not reduce the potential PM peak hour impact to less than significant levels, and why additional Mitigation Measure TRANS-3b is required, especially considering that freeway service levels are better in the PM peak hour than the AM peak hour, according to Table V.J-16. If Mitigation Measure TRANS-3a would mitigate the potential PM peak hour freeway impact, there is no need for Mitigation Measure TRANS-3b.

***Response to Comment B18e-2***

Please refer to response B18-16.

***Comment B18e-3***

**3. Safety Impacts:** The report's discussion of safety impacts focuses on three issues: sight distance at the project driveway, acceleration for northbound trucks exiting the project driveway, weaving for trucks exiting the project driveway to the US 101 northbound ramp. Our comments are organized similarly.

*Driveway Sight Distance*

The report notes that the proposed project driveway would provide adequate sight distance. In fact, the amount available would be over twice the minimum required. We concur and have no comments on this discussion.

***Response to Comment B18e-3***

Comment noted. As is the commenter's concurrence with the findings of the DEIR traffic section.

***Comment B18e-4***

*Northbound Truck Acceleration*

Figure V.J-5 of the report shows that one of the two northbound lanes would end approximately 560 feet north of the project driveway, at the US 101 northbound ramp intersection. Although 560 feet is the minimum required acceleration distance for 45 mph traffic, the report notes that because trucks may be fully loaded, their required acceleration distance to reach the 45 mph posted speed limit on northbound Petaluma Boulevard South may be longer than the proposed 560 feet. In fact, the report cites one source that recommends 800 feet of acceleration distance to reach 45 mph.

It is our understanding that this additional northbound through lane is proposed to continue northward through the US 101 northbound on-ramp intersection to conform with the two-lane northbound portion of Petaluma Boulevard South, approximately 500 feet beyond the US 101 northbound on-ramp intersection. This will allow adequate acceleration distance for fully-loaded trucks and would also reduce the need for them to merge since the acceleration lane would continue as a second through travel lane into Downtown Petaluma.

The Final EIR conclusions should be revised to reflect the correct proposed roadway configuration.

***Response to Comment B18e-4***

Please refer to response B18-18.

***Comment B18e-5***

*Weaving from Driveway to US 101 Northbound Ramp*

The previous section discussed trucks exiting the project driveway traveling northbound on Petaluma Boulevard South past the US 101 northbound ramp intersection. This section discusses trucks exiting the

project driveway that turn left from Petaluma Boulevard South to the US 101 northbound ramp intersection.

The report notes that the distance between the intersections is 560 feet. The report also notes that trucks exiting the project driveway would have to accelerate, weave, and decelerate in the left-turn lane all within a distance less than the minimum recommended acceleration distance. While it is unclear what minimum recommended acceleration distance the report is referring to, presumably, the report is referring to the 800 feet needed for a fully loaded truck to accelerate to 45 mph. However, if this is the distance the report is referring to, it is unclear why trucks exiting the project driveway would need to accelerate to 45 mph before entering the left-turn lane. Trucks would likely wait for acceptable gaps in traffic to make this maneuver at a lower speed.

Given that the available sight distance for vehicles traveling along the northbound US 101 off-ramp and northbound Petaluma Boulevard South is more than twice the minimum required, vehicles will have adequate time to see and react to a truck exiting the project driveway, crossing Petaluma Boulevard south and entering the left-turn lane.

Since minimum sight distance would be accommodated by the project, and other design standards would be met as proposed, the potentially significant Impact TRANS-4, and associated Mitigation Measure TRANS-4, are unwarranted.

Also, as noted in the report, installation of a new traffic signal at this location may not be warranted based on the criteria in the Manual on Uniform Traffic Control Devices. Since installation of new traffic signals can create an increased risk for certain types of collisions, we suggest that at a minimum, the report include a discussion of the potential safety tradeoffs associated with installing an unwarranted signal at this location versus the proposed configuration.

***Response to Comment B18e-5***

Please refer to response B18-19.

***Comment B18e-6***

We hope you have found these comments useful. Please do not hesitate to call if you have any questions.

***Response to Comment B18e-6***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.



***Comment B18f-1***

Based on our review of the geology and soils section of the DEIR, most of this section appears appropriate for the project site and is generally consistent with the previous geotechnical reports. The one item that warrants discussion and a possible response is the calculated peak ground acceleration at the site. The EIR used a probabilistic analysis to calculate the peak ground acceleration at 0.51g. Typically, a deterministic method is used to calculate the peak ground acceleration for commercial, industrial, and residential sites. Using deterministic methods the peak ground acceleration is closer to 0.4.

This difference does not really impact the design of the structures because the mitigation measure (GEO-1) is to design in accordance with the CBC. However, this could be significant when addressing the seismic stability of the stockpiles (Impact GEO-2) and project site. The use of the higher acceleration will further reduce the calculated factors of safety of the stockpiles and may require more robust mitigation measures to achieve the required factors of safety.

We recommend modifying the language in Mitigation Measure GEO-2 to allow more flexibility in the final design and mitigation of the stockpile stability. Change “The geotechnical firm shall design and construct a stockpile storage area that is stable under both static and dynamic (i.e. seismic) conditions.” to “The geotechnical firm shall design a stockpile storage area that is stable under both static and dynamic (i.e. seismic) conditions in accordance with current standards of practice.”

***Response to Comment B18f-1***

The commenter (the applicant’s geotechnical engineering firm) appears to agree with most of the DEIR’s geotechnical data, impact analysis, and required mitigation measures. However, the commenter does request that the second sentence of Mitigation Measure GEO-2 (page V.E-11) be modified to better reflect current practice in the field of geotechnical engineering.

The second sentence of Mitigation Measure GEO-2 on page V.E-11 and in Table II-1 of the DEIR is revised to read as follows:

“The geotechnical firm shall design and construct a stockpile storage area that is stable under both static and dynamic (i.e., seismic) conditions in accordance with current standards of practice.”

***Comment B18g-1*****The Haystack Landing Project is an Environmentally and Economically Efficient Facility that will Continue to Serve the Important Public Works and Private Development Requirements of the Region**

As you know, the Project proposes relocation of the existing asphalt plant and barge offloading facility located at 1601 Petaluma Boulevard South, approximately one-half mile to the north. The asphalt plant has operated at that address and has served as an important source of asphalt for southern Sonoma County and northern Marin County for more than twenty (20) years. It was moved to a different location on the former Dutra Quarry property pursuant to a temporary use permit and mitigated negative declaration in 2005, to facilitate reclamation activities at the Quarry and pending approval of this Project.

The new plant will continue to serve the requirements of important public works and private development projects, including the recently-approved CalTrans [sic] project for widening Highway 101. Moreover, the new plant will be state-of-the-art, providing more efficient operations and reducing environmental impacts and enhancing aesthetics.

The site for the Project is ideal for a facility of this nature. Like the existing facility, the site provides access to both Highway 101 and the Petaluma River. However, it provides the benefit of more direct access to Highway 101, and the new location will reduce barge travel on the Petaluma River by nearly one mile. Through such direct access and the shipment of aggregate by barge, and because Dutra is uniquely able to deliver aggregate by barge from the San Rafael Rock Quarry, the Project will have less of an environmental and traffic impact than many other equivalent facilities.

As summarized in the following points and authorities, measured against the baseline and taking into account the efficiency of the new equipment, location and design, the Project as proposed is the most environmentally beneficial among feasible alternatives, and any impacts will be appropriately mitigated, consistent with the California Environmental Quality Act (“CEQA”).

***Response to Comment B18g-1***

Comment noted. Responses to the commenter’s specific comments pertaining to baseline conditions, efficiency of new equipment, location and design, and alternatives are addressed below in responses B18-2 through B18-7.

***Comment B18g-2*****The Baseline Must Be Appropriately Defined and Consistently Applied for the DEIR’s Evaluation of Project Impacts**

In preparing any environmental analysis under CEQA, it is fundamental that the baseline conditions (or “environmental setting”) be properly defined. *San Joaquin Raptor Rescue Center v. County of Merced*,

149 Cal.App.4th 645, 657-59, 675 (2007) (holding that the failure to plainly state the existing conditions “clearly falls short of the requirement of a good faith effort at full disclosure.”).<sup>12</sup>

Since this Project is designed to replace the current facility that has operated nearby for more than twenty years, the analysis must take the existing operations into account and evaluate only the impacts, if any, that exceed those already permitted for the current facility or resulting from the relocation. *Id.* (“Although the baseline environmental setting must be premised on realized physical conditions on the ground, as opposed to merely hypothetical conditions allowable under existing plans, established levels of a particular use have been considered to be part of an existing environmental setting.”).

Thus, through proper application of the baseline, the EIR should examine only those changes in the physical environment that are attributable to the Project rather than re-examining pre-existing conditions. *See* CEQA guidelines § 15126.2(a) (“In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published.”). This is particularly important in this Project when analyzing traffic, water quality and air quality impacts, because such impacts from the proposed operations will replace those of the existing facility.

The CEQA statute and guidelines support this analysis by defining a significant effect as one which causes an “adverse change” for the environment: §§ 15064(d), 15126.2(a). The EIR must address adverse changes, not impacts that are simply the result of continuing operations that are not adversely changed (though relocated nearby) relative to the baseline. Therefore, only an adverse difference in water quality impacts, air emissions and traffic between the current and the proposed project should be analyzed. *See, e.g. Benton v. Napa County*, 226 Cal.App.3d 1467, 1476-77 (1991) (evaluating only the environmental impact of a proposed relocation and not re-evaluating the entire project); *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 242-43 (1999).

The EIR should clarify, in the section addressing “Baseline Conditions” on page III-12, that this is the standard to be applied, and this baseline should be applied consistently and appropriately throughout the EIR.

In particular, as further discussed in the February 28, 2008 comment letter of Scott Taylor of Justice & Associates, the air quality analysis of the DEIR uses an inappropriate baseline when comparing the emissions from the current facility to those of the proposed facility. As the court held in *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th at 243, the appropriate baseline for an existing permitted facility consists of those conditions that existed when the previous facility was operating at full capacity, *not* the average annual production rate that the DEIR uses here. *See also San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th at 657-58, 675.

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<sup>12</sup> CEQA guidelines state that the environmental setting should be what exists at the time the notice of preparation (“NOP”) is published, and this will normally be considered the baseline as well. 14 Cal. Code Regs. 15125. It appears that by choosing a date prior to when the NOP was circulated, in order to capture the effects of earlier unpermitted activities at the site, the County has not observed this requirement. *See Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428 (1999) (“an EIR is not the appropriate forum for determining the nature and consequences of prior conduct of a project applicant.”).

Quite simply, it is inappropriate to compare an *average* annual production rate for the current facility with the *maximum* proposed production rate for the new facility, and doing so skews the analysis such that the proposed project appears to have a greater impact than that of the existing facility. Since it is not possible to determine the average rate for the proposed facility, the DEIR should use the maximum production rate for the current facility for this comparison, and as a baseline elsewhere in the DEIR.

Similarly, the DEIR's analysis of traffic impacts should examine only the differences between the current facility and the proposed Project, rather than suggesting that those of the proposed Project are either entirely new or should somehow be combined with traffic from the current facility that will be replaced. The EIR should correct these misleading suggestions and explicitly state that only the adverse changes, if any, between those proposed for the Project and the historical operations that provide a baseline are subject to review.

### ***Response to Comment B18g-2***

The commenter presents his legal opinion that the County violated CEQA by establishing a baseline that treats as an existing condition the applicant's multi-year production average at its current facility, rather than the facility's maximum, permitted production rate.

As the DEIR explains at page III-4 CEQA Guideline 15125(a) requires an EIR to include a description of the physical environmental conditions in the vicinity of the project "as they exist" at the time the notice of preparation is published or environmental review is otherwise commenced. This environmental setting "will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant." CEQA Guideline 15126.2(a) further states that an EIR should normally limit its analysis to "changes in the existing physical conditions . . . as they exist" when the notice was published or environmental review commenced.

California courts have affirmed that the baseline environmental setting "must be premised on realized physical conditions on the ground, as opposed to merely hypothetical conditions allowable under existing plans" or permits. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 658 [citing cases].) Where the realized physical conditions include operation of an existing facility, the courts have held that "established levels of a particular use have been considered to be part of an existing environmental setting." (*Id.* [citing cases].)

In *San Joaquin Raptor*, for example, the court considered whether impacts from a aggregate expansion project should be measured against a baseline of a four-year production average (240,000 tons per year) or the level of permitted operations (100,000 tons per year). (*Ibid.*) The court held that substantial evidence supported using the four-year production average as the baseline. (*Id.* at 658-59.)

Here, too, the multi-year average of actual production at the applicant's current facility appears to represent an established, on-the-ground condition that is properly considered part of the existing environmental setting. That level of production actually occurred over a multi-year period, and actually resulted in air emissions, vehicle trips, and other environmental impacts at the time the County commenced environmental review. Use of the multi-year average also appears consistent with the policies and purposes of CEQA, the

foremost of which is to provide the fullest possible protection to the environment within the reasonable scope of the statutory language. (Guidelines, § 15003, subd. (f).)

CEQA nevertheless confers lead agencies with the discretion to choose a different baseline if warranted by substantial evidence. (Guidelines, § 15125, subd. (a); *Save Our Peninsula Open Space Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 120.) As a result, as the commenter notes, the County could set a different baseline if supported by substantial evidence.

The Board of Supervisors considered the commenter's exact request with regard to another existing aggregate facility, the Canyon Rock Quarry. In that case, the Board declined the applicant's request to use as a baseline the existing facility's maximum permitted production rate. The Board instead adopted Resolution 01-0157, which established the baseline as the approximate five-year average annual production of the existing facility. The Board is free to revisit this direction and set a different baseline if supported by substantial evidence, but there was no reason to deviate from Resolution 01-0157 at the DEIR stage.

The commenter also presents his legal opinion that the County violated CEQA by establishing a baseline that predates unpermitted activities at the project site, citing *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428. Neither *Riverwatch* nor any other case prohibits a lead agency from establishing a baseline that predates unpermitted activities, however. *Riverwatch* instead stands for the inverse proposition, that an agency need not set the baseline to predate illegal activities, if it so chooses. Further, *Riverwatch* expressly noted that this proposition is "not insurmountable" and that "prior illegal activities cannot be entirely ignored." (*Riverwatch*, 76 Cal.App.4th at 1453.)

As noted above, CEQA confers the County with the discretion to set a baseline earlier than commencement of environmental review if warranted by substantial evidence. Here, substantial evidence appears to support a baseline that predates the applicant's unpermitted work on the property. Use of that baseline allows the EIR to fully capture and mitigate the impacts of that work, and provide the fullest possible protection to the environment within the reasonable scope of CEQA's statutory language.

### ***Comment B18g-3***

#### **Riparian Rights to Draw Water from the Tidal Watercourse on Dutra's Property are Not Affected by the Adjacent Railway Right-of-Way**

In the portion of the Project Description which discusses the water supply to the Project (page III-56), the DEIR mischaracterizes the April 27, 2007 opinion letter of Antonio Rossmann concerning water rights, and incorrectly suggests that the railway right-of-way to the east could affect riparian rights at a tidal watercourse on the Project site.

As explained in the letter from Mr. Rossmann, because parcel 019-320-022 is directly adjacent to a tidal watercourse leading to the Petaluma River and in which water is permanently present, Dutra has riparian rights to the use of water from this watercourse and no permit is required from the State Water Resources Control Board. The DEIR's suggestion that it is "possible" that the railway right-of-way may "sever"

such riparian rights and require an easement is akin to suggesting that any river overcrossing severs riparian rights of upstream property owners. Needless to say, this proposition has no legal merit.

Riparian rights are derived from the fact that parcel 019-320-022 is adjacent to the tidal watercourse, not from its proximity to the Petaluma River. The fact that the railway right-of-way crosses over the watercourse in no way affects Dutra's riparian right to the water that exists in the watercourse at Dutra's property. See, e.g., *Miller & Lux v. Enterprise Canal & Land Co.*, 169 Cal. 415, 441 (1915) (riparian proprietor's title to the water exists where it reaches his land). Furthermore, even when an easement crosses between a water body and a normally adjacent parcel, the easement does not sever the parcel's riparian rights. See *Forgeus v. Santa Cruz County*, 24 Cal. App. 193 (1914).

### ***Response to Comment B18g-3***

Please refer to response B18-32.

### ***Comment B18g-4***

#### **SMART's Proposed Restriction of Residents' Use of the Existing [sic] At-Grade Crossing of the Railway Right-of-Way is not an Impact Attributable to the Project**

Currently, the three (3) residents living between the railway right-of-way and the Petaluma River in the vicinity of the Project access Petaluma Boulevard South through an existing at-grade crossing on Dutra's property. Dutra, and we understand at least one of these residents, also have an easement for an existing at-grade crossing to the north at Shamrock's Landing Way property.

The County and SMART have expressed interest in limiting the number of at-grade crossings if and when commuter rail service is initiated, and have proposed to restrict residents along the Petaluma River from continued use of the at-grade crossing on Dutra's property.

The Project provides for a road on Dutra's property for the residents' use in accessing South Petaluma Boulevard without passing through the asphalt plant. Thus, until commencement of commuter rail service, the residents will have continued access through Dutra's property, and safety concerns relating to the asphalt plant will be fully addressed by the separate access road. Dutra also intends to cooperate fully with SMART and the County concerning access to the at-grade crossings.

Despite the continued access for the residents provided by the Project, the DEIR finds a significant impact due to potential restriction of access for neighboring residential land uses. No such restriction currently exists, and if it arises in the future due to commencement of commuter rail service, it clearly would arise regardless of this Project. Quite simply, the question of whether the residents will continue to cross the railway right-of-way at Dutra's property or be required to use the crossing at Landing Way would arise with the advent of commuter rail service whether or not an asphalt plant is built on this site.

In order to find a significant environmental effect, the guidelines state that the lead agency should consider direct physical changes in the environment which are "caused by and immediately related to the project." §§ 15064(d), 15126.2(a). The requirement that residents use a different at-grade crossing is not

directly *or* indirectly related to the Dutra Project because construction of the asphalt plant would have no affect on this change: The decision by SMART or the County to limit access through Dutra's property is entirely independent of the development of the asphalt plant.

Furthermore, if the restriction affects only a few individuals, any restriction could not be considered a significant impact under CEQA. *Association for Protection of Environmental Values v. City of Ukiah*, 2 Cal.App.4th 720, 734 (Cal.App. 1 Dist., 1991) (“[W]e must differentiate between adverse impacts upon particular persons and adverse impacts upon the environment of persons in general.”); *San Lorenzo Valley Community Advocates for Responsible Educ. v. San Lorenzo Valley Unified School Dist.*, 139 Cal.App.4th 1356, 1390 (Cal.App. 6 Dist., 2006) (emphasizing that the significant impact must be one to the *environment* and must be “a physical environmental change, as opposed to a social or economic one”).

For these reasons, any decision by SMART or the County to restrict residents' access to the existing at-grade crossing at Haystack Landing and require use of the Landing Way crossing is entirely independent and cannot be considered a significant impact of the Project.

#### ***Response to Comment B18g-4***

Please refer to responses A1-1, A5-2, B15-1, and B18-83. As discussed therein, the DEIR recognized in Impact TRANS-13 that the project, as proposed, did not directly seek to restrict or otherwise impact residential access across the railroad, and that any such impact would only result as a secondary effect of the applicant's compliance with likely SMART conditions for obtaining an entitlement to construct the conveyor. The DEIR attempted to anticipate the conditions that SMART and other responsible agencies would likely require as part of project approval, to avoid delays in obtaining those approvals and implementing the project. Ignoring those reasonably foreseeable conditions, as the commenter appears to imply, would not have served the policies and purposes of CEQA or the long-term interests of the applicant.

The commenter should further note that in comment A5-2, SMART explicitly disagreed with the commenter's analysis, and stated that implementation of the conveyor would result in adverse safety impacts. As noted in response A5-2, implementation of Mitigation Measures TRANS-13a and TRANS-13b should resolve SMART's concerns, ensure residential access, and expedite approval and implementation of a safer final project.

#### ***Comment B18g-5***

#### **The Proposed Location of the Facility is Well Suited for Industrial Use**

The DEIR discusses the seven criteria that the General Plan sets out for deciding whether it is appropriate to amend the plan to allow for a Limited Industrial designation. One of the Project parcels (APN 019-220-001) is, of course, already designated General Industrial and zoned Heavy Industrial, and an existing aggregate and barge loading facility operated by Shamrock is located immediately to the north of the Project site.

One criterion is that “lands shall not be in environmentally sensitive or hazardous areas.” The DEIR concludes that the Project does not meet this criterion despite findings elsewhere in the document that impacts to biological resources and any hazardous conditions are fully mitigated to less-than-significant. It is important to note that Project activities either avoid or mitigate impacts in areas of sensitive biological resources (heron nest sites and wetlands), and potential impacts from operation of the conveyor will be monitored to determine whether additional measures are required.

Moreover, the DEIR discussion (at pages V.H-27 & 28), notes that there is a Biotic Resource (an urban riparian corridor) overlay at Area A (APN 019-220-001). However, as noted above, this parcel is already zoned Heavy Industrial, and requires no amendment. Therefore, this parcel should not be taken into account when assessing the criteria for a change to a Limited Industrial designation as to other parcels.

### ***Response to Comment B18g-5***

Please refer to response B18-72.

### ***Comment B18g-6***

#### **The Alternative Project Site is Infeasible**

The DEIR appropriately reviews alternatives to the proposed Project and concludes that Alternative D is the environmentally superior alternative. Alternative D provides for development of the asphalt and recycling plant as proposed, but would relocate the barge off-loading facility to a site that Dutra does not own and that the owner is unwilling to sell further south on the Petaluma River. See DEIR pages VII-13 - 15. For the reasons that follow, this is not an appropriate alternative under CEQA.

The CEQA Guidelines require that the Lead Agency consider a reasonable range of “feasible alternatives.” § 15126.6. Feasibility is defined as follows:

Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), *and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent)*. No one of these factors establishes a fixed limit on the scope of reasonable alternatives.

Guidelines § 15126.6(f)(1) (emphasis added); see also § 15364 (“‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”).

In *Save Our Residential Environment v. City of West Hollywood*, the court noted that since there was no evidence that the applicant “had any ability to acquire either of these sites,” the “sites were in fact not



feasible, and thus not appropriate for inclusion in the EIR because their availability for development was entirely speculative.” 9 Cal.App.4th 1745, \*1753 fn. 1 (Cal.App.2.Dist. 1992).

As noted above, while otherwise adopting the Project as proposed, Alternative D of the DEIR proposes an alternate site for the barge off-loading facility. However, as the DEIR acknowledges (at page VII-13), Dutra does not own this parcel, and the owner is unwilling to sell it. These facts render the alternative infeasible.

Furthermore, the guidelines state that “[o]nly locations that would avoid or substantially lessen any of the significant- effects of the project need be considered for inclusion in the EIR.” § 15126.6(f). Here, the alternative site only manages to reduce one impact (historical) to less than significant. However, the Project already is “less than significant with mitigation” in that area. Therefore, Project impacts to the heron population are also reduced or avoided altogether, and the overall impacts to biological resources (less than significant with mitigation) remain the same.

Finally, as noted above, the parcel proposed for the barge off-loading is already zoned General Industrial and is adjacent to Shamrock’s existing aggregate and barge facility to the north. Relocating it to the south would require acquisition of property that the DEIR acknowledges is not for sale, would require rezoning and a General Plan amendment for that property if it could be acquired, and would place the barge loading facility closed to the residents and to a wetland to be restored as part of the Project.

For all of these reasons, Alternative D is not the most environmentally superior alternative, nor is it feasible. For these reasons, and the reasons presented in the DEIR in support of Alternative D, the Project as proposed is the most environmentally beneficial, feasible alternative and it should be approved.

***Response to Comment B18g-6***

Please refer to response B18-96.

***Comment B18g-7***

**Conclusion**

We appreciate the opportunity to provide these comments on the DEIR for the Haystack Landing Project. Please contact me with any questions.

***Response to Comment B18g-7***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

**Response to Comments from the Sonoma County Planning Commission Meeting Minutes  
February 7, 2008, Meeting No.: 08-003  
Various Commenters**

***Comment CI-1***

**Commissioner Bennett** asked if the project was comparable to the Shamrock facility upstream, and Staff Padovan responded that the Dutra project is proposing minimal disturbance, and thus will have less impact than the Shamrock facility. Commissioner Bennett asked if staff had discussed the project with the City of Petaluma, and Staff Padovan said that they had verbal contact but no written responses to the DEIR had been received. Deputy Director Barrett added that Pamela Tuft, City of Petaluma, had requested a landscaping buffer along the highway that be located outside of the proposed right-of-way for the interchange, and that staff coordinated with the City on the improvement to Petaluma Blvd South.

***Response to Comment CI-1***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment CI-2***

**Al Cornwell**, is the Civil Engineer for the project and thanked staff for their efforts.

***Response to Comment CI-2***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment CI-3***

**Gerald Moore**, Chair of Petaluma Wetlands Alliance, said that his group has been working to restore biotic habitat in Schollenberger Park (directly across the river from the Dutra site) and plans to expand the wetland in the next few years. The park is one of the hottest bird sites in California, and will generate tourism. Gerald was concerned about the effect of noise and other negative impacts on the park, and favors Alternative C. He asked that the recycling and nighttime use be eliminated to protect the wildlife and keep dust down. Gerald opposed the plan to pump 20,000 gallons of water out of the river, as it could kill fish and invertebrates and harm the river. He suggested that the project get its water from the City of Petaluma recycling facility across the river. He recommended that Dutra control the invasive weeds, especially Spartina, as this could negatively impact the wetlands that are being restored. Gerald felt that hazardous materials had been overlooked.

***Response to Comment CI-3***

Please refer to responses B1-1 through B1-13.

***Comment C1-4***

**Norris Dyer**, Senior Docent at Schollenberger Park, was concerned about potential disturbance of the Heron Egret colony located in the park, who require a 200 meter protection zone. The DEIR only recommended a zone of 100 feet. He requested a requirement to monitor the colony during nest selection and to create a new colony in the mitigation area, and also preferred Alternative C and the elimination of nighttime noise and operations. Norris was concerned about the impact on scenic distances in the park, which is used by up to 400 people a day. He recommended relocation of the plant.

***Response to Comment C1-4***

Please refer to responses B2-4 and B6-1 through B6-10. This comment will be forwarded to the decision makers for their review and consideration.

***Comment C1-5***

**David Yearsley**, Friends of the Petaluma River, asked for an extension of the comment period. He found inconsistencies in the night time operations, and was concerned about significant impacts on air quality, noise, light, and aesthetics. Potential for cumulative phosphorus had not been mentioned in the hydrology section of the DEIR. He was concerned about the impact on the water quality of the Petaluma River over time, said that threats from flooding had not been adequately addressed, and that the DEIR had not addressed projected increases in sea level due to climate change. He recommended changing the site to the Pomeroy location further upstream, which is already in a river-dependent commercial-industrial zone and not right next to sensitive wetlands.

***Response to Comment C1-5***

In response to the commenter's request that the DEIR public review period be extended, the County of Sonoma extended the end date of the review period from February 27, 2008 to March 6, 2008.

With regard to nighttime operations, page III-40 of the DEIR states the normal hours of operation would be from 6 AM to 6 PM, Monday through Friday, and that the applicant proposes evening and weekday operations as needed to allow for prompt delivery of finished product for Caltrans, local agency or other construction projects.

The commenter is referred to Sections V.A (Aesthetics), V.B (Air Quality) and V.I (Noise) of the DEIR in response to the commenter's concerns about the project resulting in significant impacts related to light and aesthetics, air quality and noise.

Please refer to response B13-4 regarding use of the Pomeroy site as an alternative site to the project site.

The commenter also indicates that a discussion of cumulative phosphorous impacts was not present in the Hydrology and Water Quality section of the DEIR. Phosphorous impacts are discussed on pages V.G-19 and cumulative impacts of phosphorous are discussed on page V.G-23 of the DEIR. The commenter indicates that "threats from flooding had not been adequately addressed," and "projected increases due to

sea level rise” had not been addressed. Flooding is discussed in the Hydrology and Water Quality section, on pages V.G-7, 9, 13, and impacts and mitigations related to flooding on V.G-16, 21 and 22 of the DEIR. Please also refer to response B13-7. Sea level rise is addressed on page V.G-9 of the DEIR. Please refer to response B1-11.

***Comment C1-6***

**Tony Lemus**, San Antonio Fire Department Director, supported the project, as Dutra provided property for their Fire Station. He said it is very difficult to retain firefighters without a fire station. The majority of their calls are about Hwy, 101, which is why the site is an ideal location. They provide a fully equipped rescue team.

***Response to Comment C1-6***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment C1-7***

**Susan Kirks**, Petaluma, is also a docent at Shollenberger Park, and was also concerned about biotic, lighting, noise, and emissions and their impact on the park and heron egret colony. She encouraged staff to work closely with the City of Petaluma, and suggested relocating the Fire Department to a quarry location that is being developed. She recommended finding another site for the project.

***Response to Comment C1-7***

Please refer to responses B2-1 through B2-10.

***Comment C1-8***

**Harvey Goldberg**, neighbor, said his property will be heavily impacted by the project, but added that Dutra and Shamrock have been good neighbors and he would support the decision of the Planning Commission and Board of Supervisors. He was concerned about health issues, odors, air quality, and preferred an alternate location. He suggested that alternate access at Landing Way be used.

***Response to Comment C1-8***

Comment noted. This comment will be forwarded to the decision makers for their review and consideration. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment C1-9***

**Jerry Corda**, San Antonio VFD chief, supported the project and said that Dutra and Shamrock had done a lot for them. The VFD provides service to the people of the south county, and the community needs them.

***Response to Comment C1-9***

Comment noted. This comment will be forwarded to the decision makers for their review and consideration.

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**Response to Comments from the Sonoma County Planning Commission Meeting Minutes**

**March 6, 2008, Meeting No.: 08-005**

**Various Commenters**

*Comment C2-1*

**Commissioner Bennett** asked to clarify Table 2, page 2.6, which stated that the project would change rural and agricultural land to industrial development. He said that the site is bordered on one side by Shamrock, which is a comparable facility. The surrounding area has been an eyesore to the City for many years, and the site is incorrectly described as a rural area.

*Response to Comment C2-1*

Please refer to response B18-44.

*Comment C2-2*

**Commissioner Bennett** asked for more information noise and odor impacts to the newly protected marsh near the new sewer plant, clarification of the sources and types from asphalt production and recycling, and noise and odor impacts to wildlife areas, including how it relates to tourism. Commissioner Bennett wanted more information about the nighttime operations, since the Planning Commission has to decide whether to allow them. He also asked staff to provide historical data from ongoing operations in the area, and to indicate what the impact has been from the other asphalt plant in the area. He was concerned about the project impact on Shollenberger Park.

*Response to Comment C2-2*

Regarding noise impacts to the marsh and Shollenberger Park, Section V.I (Noise) of the DEIR describes the noise impacts of the proposed project to sensitive receptors in the immediate vicinity of the project site. The DEIR includes several noise mitigation measures on pages V.I-11 through V.I-20 to reduce the project's significant noise impacts, including a prohibition on off-loading the barge and running the conveyor at night. However, pages V.I-21 and 22 of the DEIR disclose that even after implementation of all feasible mitigation measures, daytime noise levels at Shollenberger Park would exceed the County's noise standard.

With regard to odors impacts, Impact AQ-5 (Odors) on page V.B-36 of the DEIR notes that the production of rubberized asphalt would result in the production of blue smoke, which could affect on-site employees and downwind receptors, and is known to cause nuisance odors if not abated. The DEIR further notes, however, that the project would implement best available control technology (BACT), including the use of Blue Smoke Controls, that would reduce potential odor impacts to less than significant and eliminate complaints to the BAAQMD. Further technical details regarding the Blue Smoke Controls, including the proposed Astec fiberbed mist collector, are included on page V.B-36 of the DEIR.

The DEIR includes air quality controls that would reduce potential impacts on the egret/heron colony, Petaluma River, and Shollenberger Park, and ensure that the project would not pose a health risk to sensitive wildlife habitat resources. Pages V.C-23 through 26 of the DEIR discuss the project's operational impacts to special status plant species in the project area, and pages V.C-33 through 36 discuss the project's impacts to the movement of native wildlife, established corridors and movement opportunities.

It is infeasible, and beyond the scope of CEQA, to attempt to calculate the ways in which a project's impacts to biological resources or wildlife viewing areas may affect tourism of those resources and areas. But it appears reasonable to assume that to the extent that the final project, as conditioned, would result in significant aesthetic, noise, or other impacts on Shollenberger Park, it could also decrease tourism to the property.

With regard to nighttime operations, the DEIR states at page III-40 that the normal hours of operation would be from 6 AM to 6 PM, Monday through Friday, and that the applicant proposes evening and weekday operations as needed to allow for prompt delivery of finished product for Caltrans, local agency, or other construction projects. However, as stated above, the DEIR at page V.I-19 prohibits the off-loading of the barge and running of the conveyor at night. In addition, Mitigation Measure BIO-4c on page V.C-37 of the DEIR similarly prohibits nighttime operations associated with barge off-loading, conveyor running, and associated lighting to reduce the project's impacts to biological resources including the egret/heron colony.

The history of the applicant's operations is described at page III-37 of the DEIR. The applicant's temporary facility operated at 1601 Petaluma Boulevard South and served as a source of asphalt for southern Sonoma County and northern Marin County for more than twenty years. The facility was moved to a different location on the former Dutra Quarry property pursuant to a temporary use permit in 2005.

### ***Comment C2-3***

**Commissioner Siegle** asked for more information about recycled tire and rubber and the odors they produce when mixed into the asphalt.

### ***Response to Comment C2-3***

With regard to odors impacts, Impact AQ-5 (Odors) on page V.B-36 of the DEIR notes that the production of rubberized asphalt would result in the production of blue smoke, which could affect on-site employees and downwind residences and is known to cause nuisance odors if not abated. The DEIR further notes, however, that the project would implement best available control technology (BACT), including the use of Blue Smoke Controls, that would reduce potential odor impacts to less-than-significant levels and eliminate complaints to the BAAQMD. Further technical details regarding the Blue Smoke Controls, including the proposed Astec fiberbed mist collector, are included on page V.B-36 of the DEIR.

**Comment C2-4**

**Commissioner Fogg** agreed with the foregoing concerns, and asked staff to explore the suggestion that the project get recycled water from the City sewer plant instead of the river. He also wanted to explore the feasibility of using the Pomeroy property located upstream, and asked staff to discuss this with the City of Petaluma. Commissioner Fogg wanted the function of the ponds to be better described, and to include historical information. He noted that the southern undeveloped portion of the site could possibly function as a mitigation. He asked staff to research the history of the particulate matter and diesel fuel that has gone into the River from past operations and from the Shamrock facility. He asked that staff address a comment about pumping river water and its impacts on aquatic life in the river.

**Response to Comment C2-4**

The DEIR discusses at page III-56 the possible use of reclaimed water from the Petaluma wastewater treatment plant and the impacts of trucking it to the project site. Currently under construction, the new Ellis Creek wastewater treatment plant would provide tertiary treatment and may be completed by the summer of 2009. The commenter's recommendation to use reclaimed water instead of River water will be forwarded to the decision makers for review and consideration.

The Pomeroy site mentioned by the commenter was not known to be available at the time the DEIR alternatives analysis was conducted. The Pomeroy site would reduce or eliminate many of the project's significant impacts, and appears to meet all of the project objectives. Also, the Pomeroy site does meet many of the siting criteria for the proposed project, such as River Dependent Industrial zoning, a sheltered barge unloading/loading facility with deep water access, and a location near Lakeville Highway and US Highway 101. However, acquisition and development does not appear feasible. The applicant does not own the Pomeroy site and there are no indications that the property owner is willing to sell. In addition, the Pomeroy site is located within the Central Petaluma Specific Plan (CPSP), and asphalt plants are not among the allowable uses listed in the Building Function Standards in Section 3 of the CPSP SMARTCode. To the contrary, the Building Function Standards list specifically does not permit "concrete, gypsum, and plaster product manufacturing" uses. As a result, an alternative focused on the Pomeroy site does not appear feasible under Section 15126.6 of the CEQA Guidelines.

Regarding the Wetland Mitigation and Monitoring Plan, the DEIR states at page III-58 that the proposed wetland mitigation plan would restore 19 total acres in Areas A and D, including approximately 9.39 acres of existing jurisdictional seasonal wetlands (Appendix E). The mitigation plan includes the following:

- Creation of 0.67 acres of tidal marsh
- Creation of 2.04 acres of seasonally inundated wetland
- Enhancement of 0.51 acres of seasonal wetland to tidal marsh
- Enhancement of 5.47 acres seasonally inundated wetland
- Enhancement of 2.50 acres of seasonal wetland to emergent marsh



In total, the mitigation plan would compensate for the project's wetland-related impacts at an approximately 3:1 replacement ratio while improving wetland functions and values on the project site. Appendix E and Section V.C (Biological Resources) of the DEIR contain a more detailed description of the Wetland Mitigation and Monitoring Plan. Also, page III-37 of the DEIR briefly describes the history of Dutra Materials' operations at the former quarry in south Petaluma as well as their existing temporary facility at 1601 Petaluma Boulevard South. Additional historic data is provided in comment B18-1.

The commenter requests that County staff research the history of particulate matter and diesel fuel entering the Petaluma River from past operations and from the Shamrock facility. While no information has been made available for the EIR related to this concern, given the proximity of operations (e.g. barges, front loaders, aggregate stockpiles, conveyor systems, etc.) associated with the existing temporary facility at 1601 Petaluma Boulevard South and the existing Shamrock facility at Landing Way, it is possible that without proper precautions or best management practices such contaminants could enter the River. Issues related to hazardous materials and water quality degradation are discussed in Sections V.F and V.G, respectively.

Impacts to aquatic life due to pumping of River water could include the inadvertent taking of fish and other aquatic species during in-channel placement of pilings, installation of the water diversion structure, and other improvements. Additional loss of fish and aquatic species could occur when water is pumped as part of long-term operations, although similar diversion has occurred as part of the existing operations west of Highway 101 and north of the project site. Most construction-related impacts on steelhead trout and other aquatic species could be avoided by scheduling in-channel construction activities between July 15 through October 15 when out-migrating smolts and migrating adults would most likely be absent along this reach of the Petaluma River. The National Marine Fisheries Service (NOAA Fisheries) has developed fish screening criteria for anadromous salmonids that are designed to minimize entrainment and loss of individual fish as a result of in-channel pumping and diversion. Proper design and installation of pump intake screening should serve to avoid inadvertent take of individual fish during water diversion from the River or slough. However, this possible loss of listed and protected species associated with the River habitat is considered a potentially significant impact.

#### ***Comment C2-5***

**Commissioner Wright** did not have any specific comments.

#### ***Response to Comment C2-5***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

#### ***Comment C2-6***

**Commissioner Siegle** said no alternatives had been given for the concrete recycling facility and if adequate recycling already existed in the area. More information about the barges was needed, such as clarification of the number, the tonnage, and their impact on air quality. He asked if aggregate will be

imported from sources other than Dutra's San Rafael Quarry. He also added that recycled water should be explored.

***Response to Comment C2-6***

Regarding the commenter's statement that no alternatives had been given for the concrete recycling facility, please refer to pages VII-8 and 9 of the DEIR, which describe how Alternative B (Reduced Production Alternative) would reduce the recycling capacity of the project by 25 percent. Also, page VII-11 of the DEIR discloses that Alternative C (Modified Site Plan Alternative) would eliminate the recycling facility.

Regarding the barges, the DEIR discloses at page III-45 that barges would primary depart from the applicant's quarry facility in San Rafael, and travel approximately 20 miles to the project site. The applicant owns and leases the barges, and the tugboats used to push them. Barges are typically up to 200 by 50 feet, and have a flat top deck and walls to prevent material contamination. The barges range in capacity from 800 to 4,000 tons. The project would generate approximately 125 barge trips per year; an increase of 100 trips from the 25 used at the existing temporary facility.

The DEIR states at pages V.B-29 and 30 that air quality impacts associated with the barges were estimated using EPA methodology. The DEIR assumed each tugboat would operate on the Bay for approximately 8 hours each round-trip: one hour maneuvering, five hours in slow cruise, and two hours on standby at the dock. The main engines would operate six hours, and the auxiliary engine two hours while docked. The DEIR adjusted its estimate of SOx emissions to account for the use of low sulfur fuel, which is currently required by law, but it did not adjust for the potential energy savings and decreased emissions that would result from tugboats traveling with the tide. Detailed calculations are provided in Table D-18 in Appendix D of the DEIR.

The overall increase in criteria pollutants from the operation of the proposed facility is the sum of the increase from asphalt plant emissions, truck trips, and barge trips. The net increase of 23 tons of NOx per year exceeds the BAAQMD's threshold of significance of 15 tons per year, resulting in a significant impact.

Response B18-51 resulted in slight changes to the summary of barge air quality impacts above, but does not change the conclusion or level of significance of these impacts. Please refer to response B18-51.

Page III-56 of the DEIR discusses the possible use of reclaimed water from the Petaluma wastewater treatment plant and trucking it to the project site. Currently under construction, the new Ellis Creek wastewater treatment plant would provide tertiary treatment and may be completed by the summer of 2009. The commenter's recommendation to use reclaimed water instead of River water will be forwarded to the decision makers for review and consideration.

***Comment C2-7***

**Commissioner Murphy** added that many Dutra mitigations, such as those related to the rookery, may be heavily impacted by the widening of Hwy 101. He supported an adaptive system that will prevent the applicant from making mitigations that will be torn out by the road widening project. Staff Padovan agreed, and said that Caltrans has an EIR for the freeway widening. Deputy Director Barrett said that typically, Caltrans establishes right-of-way limits for their EIR, and staff could work with the applicant to delineate what mitigation measures are appropriate. Commissioner Murphy asked for a better explanation of the line of sight differences mentioned in the SMART letter. He said that the private crossings needed to be further defined, as private land owners in the area want more information.

***Response to Comment C2-7***

Comment acknowledged regarding the concern that mitigation measures included in the DEIR could be impacted by Caltrans' proposed widening of Highway 101. While the design details of the proposed Caltrans improvements have not been finalized, right-of-way limits for the Petaluma Boulevard South interchange project were available at the time of preparation of the DEIR. Where possible and applicable, the DEIR includes mitigation measures to reduce the project's significant impacts while keeping in mind the ultimate expansion limits of the Caltrans project. For example, Mitigation Measure AES-1 on page V.A-49 of the DEIR involves the creation of a landscaped berm along the frontage of the project site, but the mitigation measure is worded such that the landscape berm shall not fall within Caltrans right-of-way limits. Please refer to response A4-5 regarding traffic mitigation measures that could be affected by the Caltrans Petaluma Boulevard South interchange project. This Response to Comments document clarifies that the Caltrans project has the potential to result in the removal of the egret/heron colony, and provides for revised mitigation measures at responses B2-4 and B6-2 through B6-9.

Response A5-2 provides additional detail regarding the private crossings and lines of sight mentioned in the SMART comment letter.

***Comment C2-8***

**Deputy Director Barrett** said that the notion of purchasing recycled water from the City could be cost prohibitive and involve substantial additional truck trips.

***Response to Comment C2-8***

Comment acknowledged.

***Comment C2-9***

**Commissioner Fogg** asked if Dutra was closing current facility in Petaluma, and Staff Padovan said that the Use Permit was due to expire in September 2008.

***Response to Comment C2-9***

Comment noted. This comment does not address the adequacy of the DEIR; therefore, no further response is required.

***Comment C2-10***

Geoff Reilly, consultant, said that he needs to coordinate the responses to comments with the County and also have a chance to review the minutes from the current meeting. Adding the Pomeroy land as an alternative site could trigger the need for recirculation of the DEIR. Counsel Brax said the County would investigate the feasibility of adding the Pomeroy site. **Commissioner Bennett** didn't think the site was realistic, as it had been purchased by a major developer to build houses and is outside County jurisdiction. **Commissioner Fogg** said the site should be addressed since it was brought up by so many people.

***Response to Comment C2-10***

Comment noted. Please refer to response B13-4 regarding use of the Pomeroy site as an alternative site to the project site.

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### III. CORRECTIONS AND ADDITIONS TO THE DRAFT EIR

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The following corrections have been made to the Dutra Haystack Landing Asphalt & Recycling Facility Project Draft Environmental Impact Report (DEIR) in response to the comments received during the public review period. Changes to the DEIR are listed by Section and page number. Additions to the DEIR are identified by underlined text and deletions to the DEIR are identified by strikethrough text. In addition, all applicable Section V (Environmental Impact Analysis) impact and mitigation measure revisions reflected below are hereby incorporated into Section II (Summary), Table II-1 (Summary of Environmental Impacts & Mitigation Measures, of the DEIR.

#### **SECTION II (SUMMARY)**

##### **Pages II-24 and II-25**

Mitigation Measure BIO-4b on pages II-24 and II-25 of Section II (Summary) of the DEIR has been revised to read as follows:

“Proposed construction shall be restricted away from the known egret/heron colony and from potential nesting habitat along the shoreline of the Petaluma River during the general nesting season to prevent possible nest abandonment and ensure compliance with the Migratory Bird Treaty Act during the active nesting season. Construction activities in Areas A and north of the cross-site access road on Area B shall be restricted to the non-nesting season (~~August 1 and January 31~~) (September 1 and February 14), unless surveys indicate that nesting has been completed before that time period. This includes installation of all improvements on Area A (pier, ramp, pilings, conveyor, access and parking, and wetland enhancement) and the septic leachfield, fire station and associated parking improvements in the north portion of Area B.”

#### **SECTION III (PROJECT DESCRIPTION)**

##### **Page III-33**

Table III-1 (Related Projects) on page III-33 of the DEIR has been revised to read as follows:

**Table III-1  
Related Projects**

| <b>Related Projects<br/>No.</b>                 | <b>Name &amp; Location</b>   | <b>Land Use</b>         | <b>Size</b>  |
|---|--|-------------------------|--|
| <b>Unincorporated County of Sonoma Projects</b> |  |                         |  |
| 1   | <b>Royal Petroleum</b><br>2141 & 2695 Petaluma Blvd. South                           | Industrial              | 2.2 Acres  |
| 2   | <b>Novato Disposal</b><br>2543 Petaluma Blvd. South                                  | Commercial/Industrial   | 5.4 Acres  |
| 3   | <b>Shamrock Materials, Inc.</b><br>210 & 222 Landing Way<br>(Approved July 20, 2004) | Industrial              | 5.95 Acres   |
| <b>Unincorporated County of Marin Project</b>   |  |                         |  |
| 4   | <b>Redwood Landfill Capacity<br/>Expansion</b><br>Marin County                       | Landfill                | 420 Acres  |
| <b>Regional Projects</b>                        |  |                         |  |
| 1   | <b>Sonoma-Marin Area Rail Transit</b>  | Transit                 | Cloverdale to<br>Larkspur Landing  |
| 1a  | <b><u>North Coast Railroad Authority</u></b>   | <u>Freight</u>          | <u>Cloverdale south to<br/>Highway 37 and east<br/>to Lombard in Napa<br/>County</u> |
| 2   | <b>Novato Narrows, Highway 101<br/>Widening</b>                                      | Transit                 | Marin County to<br>Sonoma County   |
| <b>City of Petaluma Projects</b>                |  |                         |  |
| 1   | <b>RNM South McDowell</b><br>1800 & 2000 South McDowell                              | Office in Two Buildings | 140,000 sf   |
| 2   | <b>Sola</b><br>1490 Cader Lane   | Commercial              | 354,404 sf   |

**Page III-55**

The last bullet on page III-55 of the DEIR has been revised as follows:

- “Re-stripe ~~and place curbs along~~ the northbound off-ramp to improve drivability and better delineate this as an off-ramp rather than continuation of Highway 101.”

**SECTION IV (SUMMARY OF THE INITIAL STUDY)****Page IV-5**

On page IV-5 of the DEIR, the last two sentences of the first bullet has been revised as follows:

“Potable water needs for project employees and fire department personnel would be served by an existing water connection from the North Marin ~~Municipal~~ Water District pipeline that runs along the westerly side of the property. A large portion of the project site would remain unpaved to facilitate groundwater recharge.”

**SECTION V.A (AESTHETICS)****Page V.A-21**

The second paragraph on page V.A-21 of the DEIR has been revised as follows:

“The visual character of the project site can generally be defined as rural, vacant land. The primary defining feature is open space with grasslands, light brush, and shrub vegetation present throughout the majority of the site. Some areas, such as the small hill within Area B with several mature eucalyptus trees, contain larger, more prominent clusters of vegetation. With the exception of the small hill in Area B, the topography of the site is relatively flat, with a small slope in elevation towards Area D. The overall character of the Areas within the project site does not vary greatly. There are minor variations in the natural landscape such as gravel roads or the seasonal presence of wetlands and coastal brackish marsh in Areas C and D. There are abandoned man-made settling ponds separated by levees and drainage ditches in Area D and a few ephemeral channels and man-made ditches that traverse the site. ~~These natural features contribute to the rural character of the project area.~~”

**Page V.A-21**

The third paragraph on page V.A-21 of the DEIR has been revised as follows:

“Surrounding land uses vary. There is a flat, vacant parcel immediately adjacent to the site to the north, which has been graded and now consists of weedy vegetation. Further to the north along Landing Way are various industrial uses. To the ~~west~~ east of the site is a mixture of residential uses, including houseboats docked along the ~~west~~ bank of the River...”

**Page V.A-21 and V.A-22**

The last paragraph on page IV.A-21 and the first paragraph on page IV.A-22 of the DEIR have been revised as follows:

“The two homes adjacent to the east of the site along the River are classified as legal, non-conforming uses by the County of Sonoma. These residences existed before the zoning designations for that area became Limited Commercial (LC) and/or Limited Rural Industrial (M3). The presence of these off-site

residential uses and the associated storage structures and vehicles prevent the immediate project area from appearing completely undeveloped. However, because most of the adjacent uses are relatively small in scale, thus they do not significantly detract from the visual nature of the area as largely rural. Although industrial land uses are present north of the project site, these are not easily visible from most areas within the project site. The open space across the River at Shollenberger Park to the east, the agricultural uses to the south, and the largely undeveloped hills to the west all contribute to an overall impression of a rural area.”

#### **Page V.A-23**

The third paragraph on page V.A-23 of the DEIR has been revised as follows:

“The *Visual Assessment Guidelines* provides guidelines for characterizing the site's sensitivity. The site may either have a low, moderate, high, or maximum level of sensitivity. According to the *Visual Assessment Guidelines*, the project site ~~would be~~ is considered to have high sensitivity, as portions contain Scenic Resource and Scenic Design zoning. The project site is additionally characterized by a natural setting, acting as a scenic backdrop from Highway 101 looking toward Shollenberger Park, and, in part, as a scenic ~~foreground~~ backdrop for views from the Park, as visitors look over the Petaluma River west toward the Petaluma Hills.”

#### **Page V.A-49**

Mitigation Measure AES-1 on page V.A-49 (Aesthetics) of the DEIR has been revised as follows:

- “The proposed landscape plan shall be revised to include more landscape screening throughout the project site to further screen the proposed project from ~~off-site~~ public views. The additional landscaping shall be provided: a) along the northern, western and southern edges of Area A (landscaping along the western edge of Area A shall be outside the required 50-foot easement); b) along the northern, eastern and southern edges of Area B; c) clustered ~~Redwood~~ native trees and landscape planters around the asphalt plant equipment; and d) along the eastern side of Area C along the railroad tracks...”

#### **Page V.A-49**

The following mitigation measure has been added at the end of page V.A-49 of the DEIR:

- “Aggregate stockpiles shall be limited to 20’ in height.”

### **SECTION V.B (AIR QUALITY)**

#### **Page V.B-14**

The second full paragraph on page V.B-14 of the DEIR has been revised to read as follows:



~~“Two of the NSPS apply to the proposed facility. These include New Source Performance Standard NSPS Subpart I: Standards of Performance for Asphaltic Concrete Plants applies to the proposed facility and Subpart UU: Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture. Subpart I prohibits the discharge into the atmosphere from any affected facility any gases which: 1) contain particulate matter in excess of 90 milligrams per dry standard cubic meter (0.04 grain per dry standard cubic meter) or 2) exhibit 20 percent opacity, or greater. Subpart UU prohibits the discharge into the atmosphere from any asphalt storage tank exhaust gases with opacity greater than 0 percent, except for one consecutive 15-minute period in any 24-hour period when the transfer lines are being blown for clearing.”~~

### **Page V.B-17**

The third paragraph on page V.B-17 of the DEIR has been revised to read as follows:

“This regulation incorporates the provisions of the federal regulations for new stationary source review (Title 40 of the Code of Federal Regulations Part 60; Standards of Performance for New Stationary Sources) as discussed earlier.

~~BAAQMD also has regulations that limit the use or manufacturing of certain types of asphalt: Regulation 8-15 contains provisions, which limits the use of rapid-cure liquid asphalt, medium-cure liquid asphalt, emulsified asphalt, and slow-cure liquid asphalt (road oil).~~

- ~~• Regulation 8-15 contains provisions, which limits the use of rapid-cure liquid asphalt, medium-cure liquid asphalt, emulsified asphalt, and slow-cure liquid asphalt (road oil); and~~
- ~~• Regulation 12-3-301 prohibits air blowing of asphalt unless all effluents are incinerated at temperatures above 1202 °F for not less than 0.3 second, or use of an effective air pollution control as determined by the BAAQMD.”~~

### **Page V.B-26**

The second bullet under Mitigation Measure AQ-1b on page V.B-26 and in Table II-1 has been revised to read as follows:

- “To the extent feasible, the applicant shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.”

### **Pages V.B-27 and V.B-28**

Pages V.B-27 and 28 of the DEIR have been revised to read as follows:

“The EIR preparers calculated the net increase in emissions using the same emission factors for evaluating the asphalt plant’s emissions; and assumed state-of-the industry controls for reducing PM<sub>10</sub> emissions, including use of sprayers and a baghouse, as well as reduction of NO<sub>x</sub> due to the use of low NO<sub>x</sub> burner. The evaluation did not take into account the reductions in PM<sub>10</sub> from the blue smoke controls because of uncertainty about the reduction efficiencies~~did not take into account that the~~

reductions in the emissions due to BACT controls and newer, more efficient equipment. Table V.B-8 summarizes the annual increase in emissions from the existing and proposed facilities. Detailed calculations are provided in Appendix D; emissions from the existing asphalt plant are estimated in Tables D-1 through D-7 and emissions from the proposed asphalt and recycling plant are estimated in Tables D-8 through D-13.”

**Table V.B-8**  
**Net Increase in Emissions of Criteria Pollutants from Asphalt Production (tons/year)**

| Criteria Pollutants  | PM <sub>10</sub> | VOCs <sup>1</sup> | SO <sub>x</sub> | NO <sub>x</sub>    | CO  |
|--|------------------|-------------------|-----------------|--------------------|-----|
| <b>Existing Asphalt Facility</b>   |                  |                   |                 |                    |     |
| Total Annual Emissions <sup>2</sup>  | 2.1              | 1.3               | 0.0080          | 2.5                | 1.1 |
| <b>Proposed Asphalt and Recycling Facility</b>   |                  |                   |                 |                    |     |
| Total Annual Emissions <sup>3</sup>  | 4.3              | 2.8               | 0.0170          | <del>5.4</del> 5.0 | 2.4 |
| <b>Increase in Criteria Air Pollutant Emissions</b>  |                  |                   |                 |                    |     |
| Total Annual Increase  | 2.3              | 1.5               | 0.0092          | <del>2.9</del> 1.5 | 1.3 |
| <sup>1</sup> VOCs are synonymous with ROG.   |                  |                   |                 |                    |     |
| <sup>2</sup> Based on 131,498 tons of asphalt per year.                                      |                  |                   |                 |                    |     |
| <sup>3</sup> Based on 225,000 tons of asphalt and 150,000 tons of recycled asphalt per year. |                  |                   |                 |                    |     |

#### Page V.B-29

Page V.B-29 of the DEIR has been revised to read as follows:

“The barges are primarily used to import aggregate from the San Rafael Quarry via the Petaluma River by 4,000-ton capacity barges pulled by tugboats. It is estimated that the proposed project would result in an increase in tugboat trips from 25 (allowed under BAAQMD’s permit for the previously active plant) to 125 trips per year; however, the trip length to the proposed facility would be one mile shorter. The increase in tugboat emissions from tugboat trips was estimated using EPA methodology.<sup>35</sup> These emission factors are applicable to tugboats and marine freighters. The resulting emissions are provided in Table V.B-10. This evaluation did not consider potential energy savings, and therefore decreased emissions, as a result of the tugboats traveling with the tide since tidal flows vary from day to day. It is assumed that each tugboat would operate on the Bay for approximately 8 hours each round-trip: one hour maneuvering, five hours in slow cruise, and two hours on standby at the dock. The main engines would operate six hours, and the auxiliary engine two hours while docked. The SO<sub>x</sub> emissions have been adjusted to account for the use of low sulfur fuel, which is currently required by law. Table V.B-10 summarizes the annual increase in emissions from barge trips for the existing and proposed facilities. Detailed calculations are provided in Table D-18 in Appendix D.”

**Page V.B-30**

Table V.B-11 on page V.B-30 of the DEIR has been revised as follows:

**Table V.B-11**  
**Net Increase in Emissions of Criteria Pollutants from Proposed Project (tons/year)**

| Criteria Pollutants  | PM <sub>10</sub> | ROG | SO <sub>x</sub> | NO <sub>x</sub>  | CO  |
|--|------------------|-----|-----------------|------------------|-----|
| Existing Plant Estimated Criteria Air Pollutant Emissions        | 2.5              | 1.7 | 0.25            | 13               | 3.5 |
| Proposed Plant Estimated Annual Criteria Air Pollutant Emissions | 5.4              | 4.2 | 0.89            | <del>36</del> 35 | 14  |
| Net Increase in Criteria Air Pollutant Emissions                 | 2.9              | 2.6 | 0.64            | <del>23</del> 22 | 10  |

**Page V.B-32**

The first bullet under Mitigation Measure AQ-2c on page V.B-32 and in Table II-1 of the DEIR has been revised to read as follows:

- “Minimizing drop heights while loading/unloading aggregate to the maximum extent feasible less than four feet, and”

**SECTION V.C (BIOLOGICAL RESOURCES)****Page V.C-16**

The last sentence of the third paragraph on page V.C-16 of the DEIR has been revised as follows:

“In addition to these immediate erosion and sedimentation control measures, the applicant’s consulting wetland specialist has indicated ~~proposed~~ that the need for any long-term mitigation for the losses associated with the unauthorized activities be determined by the Corps and RWQCB provided during and whether implementation of the mitigation program to be implemented as part of the proposed project would be sufficient, as summarized below.”

**Page V.C-32**

Number 2) under Mitigation Measure BIO-3a on page V.C-32 of the DEIR has been revised to read as follows:

“Incorporate provisions for the control of invasive exotic species from the wetland and upland enhancement mitigation area in Sections 5, 6 and 8 of the WMMP, and expand this program for invasive exotic species control over the entire site, based on input from the Corps, RWQCB, and CDFG. This shall include monitoring and maintenance provisions that call for periodic inspection and removal in spring and summer, and a success criteria that specifies successful control of target species within five years of initial construction of the wetland mitigation area. Target species to be eradicated or successfully controlled in the wetland mitigation area and remainder of the site include: sweet fennel, poison hemlock,

Italian thistle, pampas grass, French broom, Scotch broom, eucalyptus outside the heron/egret roosting colony, stinkwort, giant reed, non-native cordgrass, pepperweed, and acacia, among others.”

**Page V.C-33**

The following mitigation measure has been added at the end of Mitigation Measure BIO-3a on page V.C-33 of the DEIR:

“7) Installation of the barge off-loading facility shall minimize the use of fill to the maximum extent feasible.”

**Page V.C-36**

“The egret/heron colony in the stand of blue gum eucalyptus shall be protected from disturbance associated with construction and future operations, particularly during the nesting season (February 15 through August 31). Proposed improvements at the entrance to the site and vicinity of the fire station shall be redesigned to retain most of the existing blue gum eucalyptus trees that provide visual screening of the existing egret/heron colony, including the row of three existing trees in the parking lot between the proposed fire station and the parking stalls to the south. Proposed roadway and building improvements shall be located no closer to the stand of trees supporting the colony than currently proposed. These trees and the blue gum eucalyptus comprising the stand currently used by nesting egrets and herons shall be retained as a condition of project approval unless and until the colony is no longer viable in the future. All doorways and windows in the future fire station shall be oriented away from the colony. Any required outdoor use areas for storage and other station operations shall be effectively screened by fencing to aid in obscuring a direct line of sight between the outdoor use and the colony. Dense landscaping shall be provided to further screen the station, parking lot, and outdoor use areas from the colony.”

**Page V.C-37**

Under Mitigation Measure BIO-4b on page V.C-37 of the DEIR, text has been added at the end of the first paragraph as follows:

“If any construction is proposed within these areas during the nesting season, a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of construction to provide confirmation on the presence or absence of any active nest(s) in the vicinity. If any active nest(s) are encountered, species-specific measures shall be prepared by the qualified biologist in consultation with the CDFG and implemented to prevent nest abandonment. At a minimum, construction in the vicinity of the nest(s) shall be deferred until the young birds have successfully fledged and juveniles from the nest(s) are foraging independently and capable of independent survival at an earlier date. A survey report by the qualified biologist verifying that the young have successfully fledged shall be submitted to the PRMD for review and approval prior to initiation of construction in the nest-setback zone.”

**Page V.C-37**

The second to the last sentence in Mitigation Measure BIO-4d on page V.C-37 of the DEIR has been revised as follows:

“The covering shall extend down at least the upper half of the west wall facing the egret/heron colony and the east wall facing the River to provide additional screening.”

**Page V.C-37**

Following Mitigation Measure BIO-4e on page V.C-37 of the DEIR, a new Mitigation Measure (BIO-4f) has been added as follows:

“Mitigation Measure BIO-4f Sensitive Nesting Habitat

A comprehensive monitoring program for the egret/heron colony shall be developed and implemented by the applicant’s consulting biologist. This monitoring program shall provide data on trends in the condition of the colony, responses to project-related activities, and recommendations for necessary adjustments to project operations. Details associated with the monitoring program shall include the following:

- Periodic monitoring shall be conducted to assess heron and egret behavior in advance of project implementation, under normal project operations, during conveyor operations, and during barge/night-time lighting operations. Notes on heron and egret behavior and activity and any changes in activity (I.E. signs of nervousness or flight) shall be recorded. Monitoring shall be provided for a minimum of five years following project implementation, and a minimum of three years following construction of the fire station, conveyor belt structure, and the barge/night-time lighting structures and other improvements on Area A.
- Monitoring frequency and duration shall be modified based on site observations and need to provide conclusive data on project-related disturbance. To observe behaviors during the entire nesting season, a minimum of three monitoring visits shall be provided to observe each of the conveyor operation, barge/night-time lighting, and normal operations during each of the 1) nest selection/pair bonding period (typically from mid-February to mid-March), 2) initial hatching period, and 3) subsequent nest occupation/pre-fledging period.
- Annual monitoring reports shall be submitted to the PRMD by December 31 of each monitoring year, and made available to the public. The annual report shall summarize monitoring dates and methods, nesting behavior and success rates, and observations regarding disturbance and other factors affecting the colony. Adjustments in on-going project operations made during the previous years as part of adaptive management and recommendations for adjustments to or additional controls on continued operations shall be specified in the annual report.”
- If the on-site colony is abandoned as the nesting location at some point in the future during implementation of the above required monitoring program, monitoring shall continue for at least

two years to confirm whether individuals have completely abandoned the location. If the colony has been completely abandoned, on-going monitoring and the development restrictions associated with protection of the eucalyptus grove and nest location specified in Mitigation Measures BIO-4a, 4b, and 4e shall no longer be in effect. However, the protective measures described in Mitigation Measure BIO-4c shall continue to be in effect to protect the sensitive habitat along the Petaluma River and parklands to the east.

### **Page V.C-39**

Under the Cumulative Impacts heading on page V.C-39 of the DEIR, a new paragraph of text has been added after the second paragraph as follows:

“Of particular concern with regard to cumulative development in the vicinity of the Dutra site are the South Petaluma interchange improvements along Highway 101 proposed as part of the Marin-Sonoma Narrows Project currently being evaluated by Caltrans. Based on information available to date, the proposed right-of-way for the interchange extends into or just west of the egret/heron colony on the Dutra site, and could result in removal of much of the existing eucalyptus grove. This would be a *significant* impact of the freeway improvement project, and could result in the elimination of the egret/heron colony from the site. Caltrans is apparently refining proposed interchange design for the Marin-Sonoma Narrows project and is attempting to avoid the colony on the Dutra site, but details are currently not available. If redesign is not feasible, and the colony must be eliminated, this would be a *significant* impact on both a project and a cumulative level for the Marin-Sonoma Narrows Project. However, these modifications remain uncertain, are not directly related to the Dutra project, and would not affect the above determination that Dutra’s project contribution to cumulative impacts would be *less than significant*.”

## **SECTION V.E (GEOLOGY AND SOILS)**

### **Page V.E-11**

The second sentence of Mitigation Measure GEO-2 on page V.E-11 of the DEIR is revised to read as follows:

“The geotechnical firm shall design and construct a stockpile storage area that is stable under both static and dynamic (i.e., seismic) conditions in accordance with current standards of practice.”

## **SECTION V.F (HAZARDS AND HAZARDOUS MATERIALS)**

### **Page V.F-4**

The last paragraph on page V.F-4 of the DEIR under the subtitle “CUPA Plans, Programs, and Permit, Aboveground and Underground Storage Tank Requirements” has been revised as follows:

“Facilities with ASTs or USTs must be permitted. Other plans, such as a Spill Prevention Control and Countermeasures (SPCC) Program, may be required due to the size and type of hazardous materials stored in the ASTs. ~~The SPCC Program provides a detailed engineering analysis of the potential for~~

~~release from oil filled equipment, and describes the measures, such as secondary containment and emergency response, that must be implemented to reduce the release potential. The SPCC program, which must be approved by a professional engineer, requires that all ASTs in excess of 660 gallons (individual size) or 1,320 gallons (aggregate capacity) that 'reasonably could be expected to discharge oil into or upon navigable waters or adjoining shorelines' be provided with an appropriate means of secondary containment to capture releases from the tank(s) should they occur.<sup>1</sup> The SPCC must include a discussion of failure points; predictions of volumes and fate of released product; oil spill contingency plans, inspections and recordkeeping systems; security for the facility and critical operating points, and personnel training requirements. Storage statement and fees must also be submitted to the State Water Resources Control Board for ASTs subject to the SPCC requirements above or to any AST containing petroleum that exceeds 10,000 gallons.<sup>2</sup> The Water Board may also require that an AST monitoring system be installed if a discharge from the AST(s) may adversely affect surface water or sensitive ecosystems. All owners and operators of ASTs must immediately report a release or spill of 42 gallons or more of petroleum to the local oversight agency,<sup>3</sup> and spills in excess of 1,000 gallons must be directly reported to the U.S. Environmental Protection Agency.<sup>4</sup>~~

#### **Page V.F-10**

The following text has been added at the end of the fourth paragraph on page V.F-10 of the DEIR:

“The asphaltic oil storage tanks and asphalt silos would be located at least 200 feet southwest of the railway ROW easement and more than 130 feet northeast of Petaluma Boulevard South.”

#### **Page V.F-11**

“All businesses transporting, storing, using or disposing of hazardous materials (including wastes) must comply with applicable local, state, and federal regulations for hazardous materials management. These include the primary hazardous materials programs administered by Sonoma County Department of Emergency Services as well as other requirements of state and federal laws and regulations, including compliance with the Uniform Fire Code for hazardous material storage, and AST requirements. The applicant has prepared an Emergency Response Action Plan at its San Rafael Facility, with procedures for spills, fires, or other emergencies (e.g. earthquake, flood), evacuation routes, and worker training.”

### **SECTION V.G (HYDROLOGY AND WATER QUALITY)**

#### **Page V.G-21**

The following revisions have been made to the fourth bullet under Mitigation Measure HYDRO-3a on page V.G-21 of the DEIR:

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<sup>1</sup> 40 Code of Federal Regulations, Section 112.

<sup>2</sup> California Health and Safety Code Section 25270.

<sup>3</sup> Ibid.

<sup>4</sup> 40 CFR, Section 112.

“A pretreatment catch basin and sand filter (or multiple basins and filters) that will capture and treat all runoff from all processing and storage areas for at least the 10-year design storm event. Discharge from the catch basin and sand filter shall be visibly clear (i.e., not turbid) and meet applicable water quality standards. If turbid water is observed to be discharging from the catch basin and sand filter, the system shall be expanded and/or redesigned in coordination with the County and RWQCB so that adequate pretreatment is achieved. Only visibly clear water that meets applicable water quality standards should be discharged to the wetland areas secondary treatment system. The SWPPP shall include specifications for regular maintenance of the basin and sand filter and procedures for disposal and/or reuse of the used filtration material.”

#### Page V.G-21

The sixth bullet under Mitigation Measure HYDRO-3a on page V.G-21 of the DEIR is no longer needed, and is hereby removed from the text:

~~“The secondary storm water treatment system shall use a portion of the existing network of drainage ditches to provide additional treatment and on-site residence time prior to discharge of site runoff to the Petaluma River. These drainage ditches should be redesigned to act as extended wet ponds and/or detention features. Flows for the catch basin and sand filter shall be discharged into the tidally influenced ditches in a manner so that turbulence is not created (e.g., using an energy dissipation structure). The grading plan and drainage design shall include measures that ensure maximum residence times in the detention features.”~~

### SECTION V.H (LAND USE)

#### Page V.H-26

The third paragraph has been revised as follows:

“The project site’s water has been used by residences to the east of the railroad tracks, although it appears that this is not a legal use, as sub-metering is not allowed. The existing meter serves APN 019-320-022, which legally belongs to the applicant. The applicant's allotment is sufficient to provide for additional residential uses, which are estimated at 417 ~~636~~ gpd each,<sup>46</sup> (pursuant to the generation rate for Equivalent Single Family Dwelling Unit in NMWD’s Regulation 1) bringing the total potable water needed for the area to ~~2,675~~ 4,080 gpd at peak use.”

### SECTION V.I (NOISE)

#### Page V.I-17

The sixth bullet under Mitigation Measure NOISE-7 on page V.I-17 of the DEIR has been revised to read as follows:

**“Windows rated for a 10 dBA exterior to interior noise reduction that is a 10 dBA improvement over the existing window’s noise reduction.** At the request of the homeowners along the River and at



the hillside west of Highway 101, the applicant shall provide windows ~~rated for a 10 dBA~~ with a noise reduction that is a 10 dBA improvement over the existing window's noise reduction exterior to interior noise reduction for all habitable rooms on the side of the residence facing the project site. The applicant shall..."

#### Page V.I-18

The third bullet under Mitigation Measure NOISE-8 on page V.I-18 of the DEIR has been revised to read as follows:

- "To the extent feasible, Noise-noise barriers shall be placed on the southern portion of the barge to completely screen barge unloading activities in the direction of the riverfront residences."

#### Page V.I-20

Mitigation Measure NOISE-10 on page V.I-20 of the DEIR has been revised to read as follows:

- **"Strobe Lights.** 1) Install an OSHA approved strobe light back-up notification system on front-end loaders that are used at the asphalt plant ~~and the barge unloading~~. 2) Use the strobe lights exclusively instead of the beepers during night-time hours."

#### Page V.I-21

The third paragraph on page V.I-21 of the DEIR has been revised to read as follows:

"In addition to traffic noise, railroad noise from proposed SMART commuter trains and proposed North Coast Railroad Authority (NCRA) freight trains could potentially affect cumulative noise levels in the project area, at least on a temporary yet periodic basis. The SMART ~~E~~SEIR concludes the cumulative daily noise exposure from all rail operations, based on the above assumptions for freight operations, would be approximately ~~59~~ 55 dBA  $L_{dn}$  at 50 feet and ~~54~~ 50 dBA  $L_{dn}$  at 100 feet from the tracks. Cumulative noise exposure from passenger and freight rail operations at distances greater than 50 feet from the tracks would be less than 60 dBA  $L_{dn}$ , the level considered normally acceptable for outdoor use in residential areas. However, ~~these temporary yet periodic noise levels would exceed the County daytime and night time noise standards for residence R4,~~ transportation noise sources operating on a public right of way may be exempt from local maximum noise level standards because the regulation of noise sources such as traffic on public roadways, railroad line operations and aircraft in flight is preempted by federal and/or state regulations. But project-specific noise impacts would be significant and unavoidable. ~~Implementation~~ Therefore, implementation of the proposed project in conjunction with the related projects listed in Table III-1, including the Novato Narrows Highway 101 Widening and Petaluma Boulevard South Interchange projects, ~~potential future commuter and freight trains~~ would result in *significant* cumulative operational noise impacts."

**SECTION V.J (TRANSPORTATION/TRAFFIC)****Page V.J-2**

The second to last paragraph on page V.J-2 has been revised to read as follows:

“According to the Sonoma County level of service policy, the threshold for intersection level of service is LOS E. ~~Facilities that operate at LOS E or worse are considered deficient.~~ Therefore, intersections operating at LOS D or better are acceptable and intersections operating at E or F are considered deficient. Table V.J-1 shows existing intersection levels of service. Downstream highway operations can affect intersection operations, but this source of congestion is addressed separately in the subsection entitled ‘Highway Operations.’”

**Page V.J-2**

Table V.J-1 on page V.J-2 of the DEIR is revised to read as follows:

**Table V.J-1  
Existing Conditions Intersection LOS Summary**

| Location  | AM    |     | PM    |     |
|---|-------|-----|-------|-----|
|   | Delay | LOS | Delay | LOS |
| <b>Petaluma Blvd. South at Highway 101 SB Ramps</b>   |       |     |       |     |
| NB Thru Left Approach                                 | 9.2   | A   | 7.9   | A   |
| EB Left   | 11.3  | B   | 14.5  | B   |
| EB Right  | 9.4   | A   | 8.9   | A   |
| <b>Petaluma Blvd. South at Landing Way</b>            |       |     |       |     |
| SB Thru Left  | 7.7   | A   | 8.8   | A   |
| WB Approach   | 9.7   | A   | 12.5  | A   |
| <b>Petaluma Blvd. South at Highway 101 NB On-Ramp</b> |       |     |       |     |
| NB Left   | 7.7   | A   | 7.6   | A   |

**Page V.J-5**

Table V.J-3 on page V.J-5 of the DEIR has been revised as follows:

**Table V.J-3  
Existing Highway Operations**

| Location   | LOS                   |                       |
|--|-----------------------|-----------------------|
|  | AM                    | PM                    |
| <b>Mainline Segments</b>   |                       |                       |
| Highway 101 SB–North of Petaluma Blvd South  | F                     | B                     |
| Highway 101 SB–South of Petaluma Blvd South  | F                     | B                     |
| Highway 101 NB–South of Petaluma Blvd South  | B                     | D*                    |
| Highway 101 NB North of Petaluma Blvd South  | B                     | C*                    |
| <b>Ramp Merge and Diverge</b>  |                       |                       |
| SB Off-Ramp  | <del>C</del> <u>F</u> | B                     |
| SB On-Ramp   | F                     | A                     |
| NB Off-Ramp  | B                     | <del>B</del> <u>C</u> |
| NB On-Ramp   | A                     | B                     |
| <i>*Level of Service may be worse because traffic flow volumes are attenuated by congestion.</i> |                       |                       |

**Page V.J-8**

The text in Table V.J-5 on page V.J-8 has been revised as follows to refer to Southbound Left turn delay and LOS:

**Table V.J-5  
Near-Term Cumulative Without Project Intersection LOS**

| Location  | Near-Term Without Project |     |       |     |
|---|---------------------------|-----|-------|-----|
|   | AM                        |     | PM    |     |
|   | Delay                     | LOS | Delay | LOS |
| <b>Petaluma Blvd. South at Highway 101 SB Ramps</b>   | 30.1                      | D   | 88.9  | F   |
| <b>Petaluma Blvd. South at Landing Way</b>            |                           |     |       |     |
| SB <del>Thru</del> Left                               | 8.9                       | A   | 9.7   | A   |
| WB Approach   | 39.3                      | E   | 20.6  | C   |
| <b>Petaluma Blvd. South at Highway 101 NB On-Ramp</b> |                           |     |       |     |
| NB Left   | 8.5                       | A   | 8.0   | A   |

**Page V.J-8**

“Table V.J-7 shows near-term cumulative highway operations. Under near-term cumulative conditions, highway operations on the mainline section of Highway 101 southbound, ~~south of Petaluma Boulevard,~~ ~~degrade from LOS E to LOS F. The~~ and the southbound on-ramp continues to operate at LOS F whereas other facilities appear to operate acceptably.”

**Page V.J-12**

Table V.J-8 on page V.J-12 has been revised to read as follows:

**Table V.J-8  
Cumulative 2020 Without Project Intersection LOS**

| Location  | Near-Term Cumulative Without Project |     |       |     |
|---|--------------------------------------|-----|-------|-----|
|   | AM                                   |     | PM    |     |
|   | Delay                                | LOS | Delay | LOS |
| <b>Petaluma Blvd. South at Highway 101 SB Ramps</b>   | 53.3                                 | F   | 148.7 | F   |
| <b>Petaluma Blvd. South at Landing Way</b>            |                                      |     |       |     |
| SB <del>Thru</del> Left                               | 11.1                                 | B   | 10.2  | B   |
| WB Approach   | 108.4                                | F   | 23.6  | C   |
| <b>Petaluma Blvd. South at Highway 101 NB On-Ramp</b> |                                      |     |       |     |
| NB Left   | <del>83.3</del> 8.3                  | A   | 8.0   | A   |

The last paragraph on page V.J-12 of the DEIR has been revised to read as follows:

“Under cumulative conditions the highway would be expanded to include an HOV lane in each direction. Under cumulative conditions the southbound segments north and south of Petaluma Boulevard South would operate unacceptably during the AM peak hour. The southbound on-ramp and the southbound segment of US 101 south of Petaluma Boulevard South would operate unacceptably during the AM peak period. Table V.J-10 summarizes highway operations analysis.”

**Page V.J-13**

Table V.J-10 on page V.J-13 of the DEIR has been revised to read as follows:

**Table V.J-10  
Cumulative 2020 Highway Operations**

| Location  | LOS            |                |
|---|----------------|----------------|
|   | AM             | PM             |
| <b>Mainline Segments</b>  |                |                |
| Highway 101 SB–North of Petaluma Blvd South   | D              | <del>B</del> C |
| Highway 101 SB–South of Petaluma Blvd South   | F              | <del>B</del> C |
| Highway 101 NB–South of Petaluma Blvd South   | B              | D*             |
| Highway 101 NB North of Petaluma Blvd South   | B              | C*             |
| <b>Ramp Merge and Diverge</b>   |                |                |
| SB Off-Ramp   | <del>E</del> F | B              |
| SB On-Ramp  | F              | A              |
| NB Off-Ramp   | B              | <del>B</del> C |
| NB On-Ramp  | A              | B              |
| *Level of Service may be worse because traffic flow volumes are attenuated by congestion. |                |                |

## Page V.J-27

Table V.J-14 on page V.J-27 of the DEIR has been revised as follows:

**Table V.J-14  
Existing and Existing Plus Project Intersection Levels of Service**

| Location   | Existing |     |       |     | Existing Plus Project |     |       |     |
|--|----------|-----|-------|-----|-----------------------|-----|-------|-----|
|  | AM       |     | PM    |     | AM                    |     | PM    |     |
|  | Delay    | LOS | Delay | LOS | Delay                 | LOS | Delay | LOS |
| <b>Petaluma Blvd South at Highway 101 SB Ramps</b>   |          |     |       |     |                       |     |       |     |
| NB Thru Left   | 9.2      | A   | 7.9   | A   | 9.5                   | A   | 7.9   | A   |
| EB Left  | 11.3     | B   | 14.5  | B   | 12.2                  | B   | 14.7  | B   |
| EB Right   | 9.4      | A   | 8.9   | A   | 10.3                  | B   | 8.9   | A   |
| <b>Petaluma Blvd South at Landing Way</b>            |          |     |       |     |                       |     |       |     |
| SB Thru Left   | 7.7      | A   | 8.8   | A   | 7.8                   | A   | 8.9   | A   |
| WB Approach  | 9.7      | A   | 12.5  | B   | 10.4                  | B   | 12.6  | B   |
| <b>Petaluma Blvd South at Highway 101 NB On-Ramp</b> |          |     |       |     |                       |     |       |     |
| NB Left  | 7.7      | A   | 7.6   | A   | 8.4                   | A   | 7.6   | A   |
| <b>Petaluma Blvd south at Project Driveway</b>       |          |     |       |     |                       |     |       |     |
| SB Left  | -        | -   | -     | -   | 8.2                   | A   | 0.0   | A   |
| WB Right   | -        | -   | -     | -   | 11.1                  | B   | 12.7  | B   |

## Page V.J-31

Mitigation Measure TRANS-4 on page V.J-31 of the DEIR has been revised to read as follows:

**“Mitigation Measure TRANS-4**

The project sponsor shall install either an actuated signal or a portion of the future off-ramp and frontage road in the same configuration as the PBS I/C design requirements at the new intersection of Petaluma Boulevard South at the project driveway. If the project sponsor pursues the second approach, constructed improvements shall meet Caltrans and County requirements for speed and safety, and shall be approved by Caltrans and the County. Regardless of which approach is pursued, the applicant’s plans shall be approved by Caltrans and the County prior to issuance of an occupancy permit. The applicant shall also coordinate with Caltrans and the County to design the northbound off-ramp lane and shoulder striping to “narrow” width perception in an effort to lower driver exit speeds so they are closer to posted advisory speeds. Figure V.J-8 illustrates the ~~proposed~~ signal.”

**Page V.J-33**

The first sentence of third paragraph on page V.J-33 of the DEIR has been revised to read as follows:

“The westbound left turn from Landing Way onto Petaluma Boulevard South would operate at LOS F, with ~~80.9~~ 78.8 seconds of delay degrading from LOS E during the AM peak hour under near-term conditions without project traffic.”

**Page V.J-35**

Table V.J-17 on page V.J-35 of the DEIR has been revised to read as follows:

**Table V.J-17  
Near-Term Cumulative Without and Plus Project Intersection Levels of Service**

| Location   | Near-Term No Project |     |       |     | Near-Term Plus Project |     |       |     |
|--|----------------------|-----|-------|-----|------------------------|-----|-------|-----|
|  | AM                   |     | PM    |     | AM                     |     | PM    |     |
|  | Delay                | LOS | Delay | LOS | Delay                  | LOS | Delay | LOS |
| <b>Petaluma Blvd South at Highway 101 SB Ramps</b>   | 30.1                 | D   | 88.9  | F   | 34.4                   | D   | 89.9  | F   |
| <b>Petaluma Blvd South at Landing Way</b>            |                      |     |       |     |                        |     |       |     |
| SB Thru Left   | 8.9                  | A   | 9.7   | A   | 9.2                    | A   | 9.7   | A   |
| WB Approach  | 39.3                 | E   | 20.6  | C   | 78.8                   | F   | 20.6  | C   |
| <b>Petaluma Blvd South at Highway 101 NB On-Ramp</b> |                      |     |       |     |                        |     |       |     |
| NB Left  | 8.5                  | A   | 8.0   | A   | 9.5                    | A   | 8.0   | A   |
| <b>Petaluma Blvd south at Project Driveway</b>       |                      |     |       |     |                        |     |       |     |
| SB Left  | -                    | -   | -     | -   | 9.3                    | A   | 0.0   | A   |
| WB Right   | -                    | -   | -     | -   | 14.6                   | B   | 15.4  | C   |

**Page V.J-38**

The second and third paragraph on page V.J-38 of the DEIR have been revised to read as follows:

**“Impact TRANS-10 Cumulative 2020 LOS Impacts**

Cumulative 2020 impacts are evaluated by considering cumulative 2020 traffic plus traffic from the proposed project. Table V.J-21 compares the results of the intersection level of service for cumulative conditions with and without the project. Figure V.J-10 shows projected peak hour intersection turning movements at the study intersections. Under 2020 plus project conditions, the intersection of Petaluma Boulevard South at Highway 101 southbound ramps would operate with 150 seconds of delay at LOS F. This is a ~~less than significant~~ impact, however, because the increase in delay would be less than two seconds above conditions without the project. ~~add more than five seconds of delay to the AM operation which is already at LOS F. This is a~~ **potentially significant** impact. However, Caltrans has proposed

redesigning the relevant intersection as part of the Petaluma Boulevard South (PBS)/Interchange (IC) with Traffic Operations Systems (TOS) to manage traffic operations.

Under 2020 plus project conditions, the project causes delay on the westbound left turn from Landing Way onto Petaluma Boulevard South to increase by more than four seconds where it is already at LOS F. However, peak hour warrants were reevaluated based on 2020 plus project conditions and were not satisfied. Therefore, according to the significance criteria the impact is *less than significant*. As stated in the discussion under Impact TRANS-6, the finding is not affected if Landing Way becomes publicly dedicated in the future or by any easement granted to allow access to Haystack Landing. As stated before, it is assumed that Haystack Landing traffic would be limited to a few private residences and intermittent maintenance trips to service the loading dock.”

**Page V.J-38**

Table V.J-20 on page V.J-38 of the DEIR has been revised to read as follows:

**Table V.J-20  
Cumulative 2020 Without and Plus Project Intersection Levels of Service**

| Location   | 2020 No Project |     |       |     | 2020 Plus Project |     |       |     |
|--|-----------------|-----|-------|-----|-------------------|-----|-------|-----|
|  | AM              |     | PM    |     | AM                |     | PM    |     |
|  | Delay           | LOS | Delay | LOS | Delay             | LOS | Delay | LOS |
| <b>Petaluma Blvd South at Highway 101 SB Ramps</b>   | 53.3            | F   | 148.7 | F   | 59.7              | F   | 150.0 | F   |
| <b>Petaluma Blvd South at Landing Way</b>            |                 |     |       |     |                   |     |       |     |
| SB <del>Thru</del> Left                              | 11.1            | B   | 10.2  | B   | 11.6              | B   | 10.2  | B   |
| WB Approach  | 108.4           | F   | 23.6  | C   | 221.4             | F   | 23.6  | C   |
| <b>Petaluma Blvd South at Highway 101 NB On-Ramp</b> |                 |     |       |     |                   |     |       |     |
| NB Left  | 8.3             | A   | 8.0   | A   | 9.3               | A   | 8.0   | A   |
| <b>Petaluma Blvd south at Project Driveway</b>       |                 |     |       |     |                   |     |       |     |
| SB Left  | -               | -   | -     | -   | 9.1               | A   | 0.0   | A   |
| WB Right   | -               | -   | -     | -   | 14.0              | B   | 17.2  | C   |

**Page V.J-39**

Mitigation Measure TRANS-10 on page V.J-39 of the DEIR has been revised to read as follows:

**“Mitigation Measure TRANS-10**

Although Impact TRANS 10 was found to be less than significant, Mitigation Measure TRANS-10 requires implementation of Mitigation Measure TRANS-6, requires the installation of exclusive right and left turning lanes at Petaluma Boulevard South/Landing Way, and Mitigation Measure TRANS-7, replacing the northbound left turn lane with a shared northbound through-left turn lane at Petaluma Boulevard South/Highway 101 Southbound ramps. This would further improve AM conditions at the

intersection of Petaluma Boulevard South/Landing Way to a delay of 148.4 seconds at LOS F. Petaluma Boulevard South/US 101 Southbound ramps would improve to 58.1 seconds of delay LOS F in the AM and 38.3 seconds of delay LOS E in the PM which is acceptable when compared to 2020 no project conditions.”

#### **Page V.J-39**

The second paragraph on page V.J-39 of the DEIR has been revised to read as follows:

“Table V.J-22 shows queuing under Cumulative 2020 with project conditions. The project would cause 95th percentile queues to grow where they already exceed available storage on the ~~eastbound~~ northbound approach to the proposed Petaluma Boulevard South/Highway 101 southbound ramps intersection. ”

#### **Page V.J-41**

The first paragraph on page V.J-41 of the DEIR has been revised to read as follows:

“Under 2020 conditions, the segments of Highway 101 being studied would already have HOV lanes in the no project condition. This is expected to improve operations in both peak commute directions. The project would add trips to congested segments of southbound Highway 101 south of Petaluma Boulevard South during the AM peak hour, ~~but would not cause the segment to fall from LOS E to LOS F.~~ Therefore, according to the significance criteria this is a *less-than-significant* impact. The project would ~~add traffic~~ and to the Highway 101 southbound on-ramp, ~~which is both of which~~ already operate at LOS F. This is a *significant* impact similar to Impact TRANS-3.”

#### **Page V.J-42**

The following revisions are made to the third paragraph of Mitigation Measure TRANS-13a on page V.J-42:

“To address this secondary impact the applicant/owner shall make an irrevocable offer to the County of Sonoma for a 50-foot ~~public~~ access and utility easement parallel to the SMART railroad tracks on APN 019-220-001 for the purposes of ingress, egress and utilities. This would preserve options for a future ~~public~~ roadway through Landing Way to allow access to Area A and neighboring residential properties along the River if the existing railroad crossing is closed. This measure will cause a small number of passenger vehicles to be mixed with the larger volume of truck trips along the right-of-way. This is not a substantial concern, however, because most of this traffic would be from residents who are familiar with the area and currently there are employee and other passenger vehicle trips in the area so this increase will not represent a new condition for truck drivers using this route.”



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## SECTION VI (GENERAL IMPACT CATEGORIES)

### Page VI-2

The fourth paragraph on page VI-2 (General Impact Categories) of the DEIR has been revised as follows:

“...As such, the project would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. Sufficient water supplies are available to serve the project from existing entitlements and resources. The project would, however, necessitate the need for a new 8-inch water main for fire protection service as required by Sonoma County. The new water main would extend approximately 2,000 feet from Landing Way and would run south along Petaluma Boulevard South. The proposed project involves the creation of a new septic system that would only serve the project. The project would be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs. The project would comply with federal, state, and local statutes and regulations related to solid waste.”

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## IV. MITIGATION MONITORING PROGRAM

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### MITIGATION MONITORING PROGRAM PROCEDURES

Section 21081.6 of the Public Resources Code requires a Lead Agency to adopt a “reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment” (Mitigation Monitoring Program, Section 15097 of the *CEQA Guidelines* provides additional direction on mitigation monitoring or reporting). The County of Sonoma (the “County”) is the Lead Agency for the Dutra Haystack Landing Asphalt and Recycling Facility project and is therefore responsible for enforcing and monitoring the mitigation measures in this Mitigation Monitoring Program (MMP).

A Draft Environmental Impact Report (DEIR) has been prepared to address the potential environmental impacts of the project. Where appropriate, this environmental document identified project design features or recommended mitigation measures to avoid or to mitigate potential impacts identified to a level where no significant impact on the environment would occur. This MMP is designed to monitor implementation of the required mitigation measures and conditions set forth for project approval for the proposed project as identified in the Draft Environmental Impact Report (DEIR) and the Final Environmental Impact Report (FEIR). The mitigation measures as well as the conditions set forth for project approval are listed and categorized by either Section and/or impact area, with an accompanying identification of the following:

- Monitoring Phase, the phase of the project during which the mitigation measure shall be monitored:
  - Pre-Construction, including the design phase
  - Construction
  - Operation (post-construction)
- Implementing Party, the party responsible for implementing the mitigation measure.
- The Enforcement Agency, the agency with the power to enforce the mitigation measure.
- The Monitoring Agency, the agency to which reports involving feasibility, compliance, implementation and development are made.

The MMP for the proposed project will be in place throughout all phases of the project. The project applicant shall be responsible for implementing all mitigation measures unless otherwise noted. The applicant shall also be obligated to provide certification, as identified below to the appropriate monitoring agency and the appropriate enforcement agency that compliance with the required mitigation measure has been implemented. The County will be used as the basic foundation for the MMP procedures and will also serve to provide the documentation for the reporting program.

Generally, each certification report will be submitted to the County Permit & Resource Management Department (PRMD) in a timely manner following completion/implementation of the applicable

mitigation measure and shall include sufficient information to reasonably determine whether the intent of the measure has been satisfied. The County shall assure that project construction occurs in accordance with the MMP. Departments listed below are all departments of the County unless otherwise noted.

## **AESTHETICS**

### **Required Mitigation Measures**

#### ***AES-1 Scenic Vistas***

The following mitigation measures would reduce but not completely eliminate the project's potentially significant impact to scenic vistas:

- The proposed landscape plan shall be revised to include more landscape screening throughout the project site to further screen the proposed project from public views. The additional landscaping shall be provided: a) along the northern, western and southern edges of Area A (landscaping along the western edge of Area A shall be outside the required 50-foot easement); b) along the northern, eastern and southern edges of Area B; c) clustered native trees and landscape planters around the asphalt plant equipment; and d) along the eastern side of Area C along the railroad tracks. The landscape plan shall also be revised to incorporate a 10-foot high, 30-foot wide irrigated landscaped berm along the portion of the site that fronts Highway 101 and Petaluma Boulevard South, specifically south of the Caltrans right-of-way line and east of the public right-of-way that extends into the project site. The portions of the site plan affected by the 30-foot wide landscape buffer (i.e., stockpiles, access road, etc) shall be reconfigured to accommodate the landscaped buffer. Finally, the revised landscape plan shall incorporate trees with the proposed ground cover within Area C to further screen the proposed project from off-site views.
- Landscaping improvements along the east side of Petaluma Boulevard South shall conform with the South Petaluma Gateway Project Plan landscaping requirements.
- Existing trees in the area between the project site and Highway 101 shall be preserved to the extent possible.
- The screen plantings shall borrow from naturally established form, line, color and texture so that the visual characteristics are compatible with their surroundings.
- Colors used for exterior building surfaces shall match the hue, lightness, and saturation of colors of the immediately surrounding trees and vegetation. Several colors matching those of the surrounding trees and vegetation shall be used in order to minimize uniformity.
- Area A and Area D shall not be used to store equipment, tools, aggregate, etc.
- No junk, debris, non-operative vehicles or equipment unrelated to the proposed project operations shall be stored on Areas B, C and D, unless visually screened from off-site views.

- Prior to building permit issuance, the grading plan, development plan, landscaping plan, sign plan, elevations, and colors and materials shall be subject to review and approval by the Sonoma County Design Review Committee.
- Aggregate stockpiles shall be limited to 20' in height.

While the additional landscaping would further screen the proposed project's various facilities, it would also increase impacts relative to the obstruction of scenic vistas. Additional landscaping along the eastern edge of Area B and Area C could also increase shadows in the vicinity of the homes situated along the River.

|                           |                            |
|---------------------------|----------------------------|
| <b>Monitoring Phase</b>   | Pre Construction/Operation |
| <b>Implementing Party</b> | Applicant                  |
| <b>Enforcement Agency</b> | PRMD                       |
| <b>Monitoring Agency</b>  | PRMD                       |

**AES-2 Visual Character of the Project Site and Surroundings**

Implementation of Mitigation Measure AES-1 would reduce but not completely eliminate potentially significant visual character impacts associated with the proposed project.

**AES-3 Light and Glare**

Prior to issuance of the Building permit, an exterior lighting plan shall be submitted for review and approval by PRMD Project Review staff and Design Review Committee. The lighting plan shall include but not necessarily be limited to the following:

- Proposed project lighting shall follow Sonoma County's guidelines for industrially zoned areas with no lighting directed toward residential areas, the egret/heron colony on Area B, Shollenberger Park, or open space areas across the River.
- The exterior lighting plan shall show all potential light sources with the types of lighting and their locations.
- Typical lighting shall include low mounted, downward casting and shielded lights that do not cause spillover onto adjacent properties, and the utilization of motion detection systems where applicable.
- No flood lights shall be utilized.
- Lighting shall not "wash out" structures or any portions of the site.
- Lighting shall be limited to the areas that would be in operation during nighttime hours with all recycling operations and general aggregate sales limited to between 6 AM to 6 PM.
- Low intensity, indirect light sources shall be encouraged.

- On-demand lighting systems shall be encouraged.
- Mercury, sodium vapor, and similar intense and bright lights shall not be permitted except where their need is specifically approved and their source of light is restricted.
- All light sources shall be fully shielded from off-site view.
- All buildings and structures shall consist of non-reflecting material or be painted with non-reflective paint.
- Generally, light fixtures shall not be located at the periphery of the property and should shut off automatically when the use is not operating. Security lighting visible from the highway shall be motion-sensor activated.
- All lighting shall be installed in accordance with building codes and the approved lighting plan during construction.
- Additionally, Section V.C (Biological Resources) Mitigation Measure BIO-4c - Sensitive Nesting Habitat shall be followed, which provides restrictions to project operations associated with off-loading the barge, running the conveyor, and illumination during the nesting season (February 15 through August 31).

|                           |                           |
|---------------------------|---------------------------|
| <b>Monitoring Phase</b>   | Preconstruction/Operation |
| <b>Implementing Party</b> | Applicant                 |
| <b>Enforcement Agency</b> | PRMD                      |
| <b>Monitoring Agency</b>  | PRMD                      |

**AIR QUALITY**

**Required Mitigation Measures**

***AQ-1 Project Construction Emissions of Criteria Pollutants***

***AQ-1a***

The following mitigation measures apply to activities associated with the proposed asphalt plant construction and are intended to reduce the temporary generation of fugitive dust to a less-than-significant level. The measures to reduce construction-related PM10 emissions reflect basic and optional dust control measures recommended by BAAQMD:

- All active construction areas shall be watered at least twice daily.
- All trucks hauling soil, sand, and other loose materials shall be covered with tarpaulins or other effective covers.
- All unpaved access roads, parking areas, and staging areas at the construction site shall be paved; otherwise, water or non-toxic soil stabilizers shall be applied to all unpaved access roads. In

addition, paved access roads, parking areas, and staging areas shall be swept daily with a water sweeper. Streets shall be swept daily with a water sweeper in areas where visible soil material is carried onto adjacent public streets.

- The applicant shall hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded area inactive for ten days or more).
- The applicant shall enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- The applicant shall limit traffic speeds on unpaved roads to 15 miles per hour.
- The applicant shall install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- The applicant shall replant vegetation in disturbed areas as quickly as possible.
- The applicant shall construct a gravel pad at all exits used by construction equipment or trucks to minimize soil adhering to the vehicle tires or tracks from leaving the construction site. The pads shall be constructed by placing crushed aggregate (greater than 3 inches and smaller than 6 inches) over geotextile fabric to at least 12 inches in depth. The pad shall be a minimum of 20 feet wide and 50 feet in length.
- During periods when trucks are transporting soil to or from the site, dirt that may have been tracked off the site shall be removed daily from the street. The area to be cleaned is to extend to the limit of noticeable dirt tracked from the site or for a distance of 75 feet on each side of a vehicle entrance or exit, whichever is greater. If water is used to clean the street, then the quantity of water used shall not result in sediment being washed into the storm sewer catch basins. Street sweepings shall be disposed of as a waste along with waste soil in accordance with applicable regulations.
- The applicant shall terminate excavation and grading activities when winds exceed 25 mph or when fugitive dust emissions are visible for a distance of at least 100 feet from the origin of such emissions, and there is visible evidence of wind driven fugitive dust. Wind speed would be determined when an on-site anemometer registers at least two wind gusts in excess of 25 miles per hour within a consecutive 30-minute period.

|                           |              |
|---------------------------|--------------|
| <b>Monitoring Phase</b>   | Construction |
| <b>Implementing Party</b> | Applicant    |
| <b>Enforcement Agency</b> | PRMD/BAAQMD  |
| <b>Monitoring Agency</b>  | PRMD/BAAQMD  |

*AQ-1b*

Implementation of the following mitigation measures would reduce short-term exhaust emissions from construction-related equipment to a less-than-significant level:

- The idling time of all construction equipment used at the site shall not exceed five minutes.
- To the extent feasible, the applicant shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.
- All equipment shall be properly tuned and maintained in accordance with the manufacturer's specifications. Emissions from all off-road diesel powered equipment used on the project site shall not exceed 40 percent opacity for more than three minutes in any hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. A visual survey of all in-operation equipment shall be made at least weekly throughout the duration of the project construction. A record of the inspection shall be maintained on-site. The BAAQMD and/or other officials may conduct periodic site inspections to determine compliance.
- The applicant shall require construction contractors to install particulate traps when appropriate on diesel engines.
- The applicant shall use the minimum practical engine size for construction equipment.
- Gasoline-powered equipment shall be equipped with catalytic converters, where feasible.

|                           |              |
|---------------------------|--------------|
| <b>Monitoring Phase</b>   | Construction |
| <b>Implementing Party</b> | Applicant    |
| <b>Enforcement Agency</b> | PRMD/BAAQMD  |
| <b>Monitoring Agency</b>  | PRMD/BAAQMD  |

**AQ-2 Project Operation Emissions of Criteria Pollutants**

*AQ-2a*

Off-road equipment used on-site shall use 2007 emission standards. Emission standards shall be met by upgrading to newer vehicles or retrofitting engines using CARB-verified retrofit technologies.

|                           |             |
|---------------------------|-------------|
| <b>Monitoring Phase</b>   | Operation   |
| <b>Implementing Party</b> | Applicant   |
| <b>Enforcement Agency</b> | PRMD/BAAQMD |
| <b>Monitoring Agency</b>  | PRMD/BAAQMD |

*AQ-2b*

Off-road equipment used on site shall be operated in the following manner:

- The idling time of all construction equipment used at the site shall not exceed five minutes.
- All equipment shall be properly tuned and maintained in accordance with the manufacturer's specifications. Emissions from all off-road diesel powered equipment used on the project site shall not exceed 40 percent opacity for more than three minutes in any hour. Any equipment



found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. A visual survey of all in-operation equipment shall be made at least weekly throughout the duration of the project construction. A record of the inspection shall be maintained on-site. The BAAQMD and/or other officials may conduct periodic site inspections to determine compliance.

- The minimum practical engine size shall be used for construction equipment.
- Gasoline-powered equipment shall be equipped with catalytic converters, where feasible.

|                           |              |
|---------------------------|--------------|
| <b>Monitoring Phase</b>   | Construction |
| <b>Implementing Party</b> | Applicant    |
| <b>Enforcement Agency</b> | PRMD/BAAQMD  |
| <b>Monitoring Agency</b>  | PRMD/BAAQMD  |

*AQ-2c*

The following dust control measures shall be implemented during the movement of aggregate using heavy construction:

- Minimizing drop heights while loading/unloading aggregate to the maximum extent feasible, and
- Applying water as needed to maintain visible dust to less than No. 1 on the Ringelmann Chart measured over a three-minute period.

|                           |              |
|---------------------------|--------------|
| <b>Monitoring Phase</b>   | Construction |
| <b>Implementing Party</b> | Applicant    |
| <b>Enforcement Agency</b> | PRMD/BAAQMD  |
| <b>Monitoring Agency</b>  | PRMD/BAAQMD  |

*AQ-4 Project Operation Emissions of TACs*

Although PM<sub>10</sub> impacts associated with operation of the asphalt plant and recycling facility would be less than significant, the following measures are recommended to further reduce DPM emissions. Off-road mobile diesel equipment, including Caterpillar front-end loader, Kubota tractor, Caterpillar excavator, 10-wheel dump truck, and 10-wheel water truck, shall use diesel fuel consisting of 20 percent biodiesel (B20 diesel). The use of B20 has been shown to reduce emissions of DPM from off-road mobile equipment up 10 percent.

|                           |             |
|---------------------------|-------------|
| <b>Monitoring Phase</b>   | Operation   |
| <b>Implementing Party</b> | Applicant   |
| <b>Enforcement Agency</b> | PRMD/BAAQMD |
| <b>Monitoring Agency</b>  | PRMD/BAAQMD |

**AQ-5 Greenhouse Gases Emissions**

CARB is currently evaluating 23 action strategies to reduce statewide GHG emissions, including heavy-duty vehicle emission reductions, and will likely consider further strategies going forward. The project shall comply with any applicable strategies adopted by CARB through promulgated regulations.

|                           |   |
|---------------------------|---|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD/BAAQMD                             |
| <b>Monitoring Agency</b>  | PRMD/BAAQMD                             |

**BIOLOGICAL RESOURCES**

**Required Mitigation Measures**

**BIO-1 Special-Status Species**

**BIO-1a Nesting Birds**

Initial grubbing, grading, and construction shall be prohibited within 50 feet from the bank of the Petaluma River during the nesting season (February 15 through August 31) to protect the stand of coastal brackish marsh on Area A that may provide habitat for California clapper rail, California black rail, saltmarsh common yellowthroat, and San Pablo song sparrow. This zone shall be fenced and signed as a “Potential Nesting/No Disturbance Zone” in advance of any construction on the remainder of Parcel A to ensure equipment and workers remain outside the area. Construction within this zone may proceed during the non-nesting season (September 1 through February 14), but must consider other possible restrictions associated with in-channel construction activities.

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|---------------------------|-------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

**BIO-1b Nesting Birds**

Any active raptor nests or nests of other birds protected under State Fish and Game Code and the Migratory Bird Treaty Act in the vicinity of proposed grading shall be avoided until young birds are able to leave the nest (i.e., fledged) and forage on their own. Avoidance may be accomplished either by scheduling initial grubbing and grading during the non-nesting period (September 1 through February 14) or, if this is not feasible, by conducting a pre-construction survey for raptors and other birds protected under State Fish and Game Code and the Migratory Bird Treaty Act. Provisions of the pre-construction survey and nest avoidance, if necessary, shall include the following:

- 1) If construction is scheduled during the active nesting period (February 15 through August 31), a focused survey for nesting raptors and other birds protected under State Fish and Game Code and the Migratory Bird Treaty Act shall be conducted by a qualified wildlife biologist no more than 15 days prior to initiation of grubbing or grading to provide confirmation on presence or absence of active nests in the vicinity.
- 2) If no active nests are identified during the survey period, or if construction is initiated during the non-breeding season (September 1 through February 14), grading and construction may proceed, unless prohibited by the provisions in Mitigation Measure BIO-1a.
- 3) If active nests are encountered, species-specific measures shall be prepared by a qualified biologist in consultation with the CDFG and implemented to prevent abandonment of the active nest. At minimum, grading in the vicinity of the nest shall be deferred until the young birds have fledged. The perimeter of the nest-setback zone shall be fenced with temporary construction fencing or adequately demarcated, and construction personnel restricted from the area. Signage shall be installed along the perimeter of the nest-setback zone at a minimum 100-foot intervals that read “Nesting/No Disturbance Zone.” Fencing and signage shall remain in place until the qualified biologist has determined that any young have fledged. The distance between the active nest and edge of the “Nesting/No Disturbance Zone” shall depend on the nesting species, with a minimum distance of at least 200 feet for more sensitive species such as raptors and at least 75 feet for more common passerine birds.
- 4) If permanent avoidance of the nest is not feasible, impacts shall be minimized by prohibiting disturbance within the “Nesting/No Disturbance Zone” until a qualified biologist verifies that the birds have either a) not begun egg-laying and incubation, or b) that the juveniles from the nest are foraging independently and capable of independent survival at an earlier date.
- 5) A report of findings shall be prepared by the qualified biologist and submitted to the PRMD for review and approval prior to initiation of grading and construction in the “Nesting/No Disturbance Zone.” The report shall either confirm the absence of any active nests or shall confirm establishment of a designated “Nesting/No Disturbance Zone” setback during the breeding season for any active nests. Supplemental reports shall be submitted to the PRMD for review and approval to allow construction to proceed within these zones after any young birds have fledged.

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| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

**BIO-1c Fish and Other Aquatic Species**

Any in-channel construction work within the Petaluma River shall be restricted between July 15 through October 15 when out-migrating smolts and migrating adults would most likely be absent along this reach

of the Petaluma River. The USFWS and NOAA Fisheries would be involved in the review of the project application because of the potential wetland impacts as part of the Section 404 consultation process, and these agencies may impose additional restrictions to protect essential habitat for special-status species as part of the Section 7 consultation required as part of the Endangered Species Act. This would include screening of any intake for the pumping from the River, and restrictions on pumping when migrating individuals would most likely be present in the River segment bordering the site.

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|---------------------------|-------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

**BIO-1d Western Pond Turtle**

If required by the CDFG and USFWS as part of the permit process, a pre-construction survey shall be conducted by a qualified biologist to determine if western pond turtle is present in the vicinity of proposed in-channel improvements along the Petaluma River and slough. If required by the agencies, a qualified biologist shall be present on-site during construction of in-channel improvements to ensure that any turtles within the vicinity of proposed work are not harmed.

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|---------------------------|-------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

**BIO-1e Permit Authorizations**

As called for under Mitigation Measure BIO-3a, all necessary permits and authorizations shall be secured from regulatory agencies as required to allow for modifications to jurisdictional waters on the site, including any necessary consultation with the USFWS and NOAA Fisheries regarding a take determination. Evidence of permit authorization shall be submitted to the PRMD prior to issuance of any grading or building permits by the County to ensure compliance with applicable State and federal regulations. The applicant shall comply with all conditions therein that are not otherwise included as mitigation measures in this Draft EIR or as conditions of project approval by the County.

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|---------------------------|-------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

**BIO-1f Special-Status Plants**

Although the potential for occurrence of special-status plant species in areas of coastal salt marsh and brackish water on the site is remote, the applicant shall conduct systematic surveys to confirm absence in advance of any in-channel disturbance. The supplemental surveys for special-status plants shall include the following components and shall meet the following standards.

- Systematic surveys shall be conducted by a qualified botanist in spring and summer (April and June) to confirm absence of any special-status plant species in areas of coastal salt marsh and brackish water marsh. This shall include the segment of Area A along the shoreline of the Petaluma River and portions of Areas B, C, and D along the drainage ditch on the west side of the railroad right-of-way.
- If populations of any special-status plant species area encountered, a mitigation program shall be prepared by the qualified botanist for any listed species or those maintained on Lists A, 1B, or 2 of the CNPS Inventory. The mitigation program shall be prepared in consultation with the CDFG, and shall include any appropriate authorizations from the CDFG and/or the USFWS for any species listed under the Endangered Species Acts. Measures taken in the mitigation program shall be based the life history of the species encountered, successful mitigation treatments used for this species in the past, and legal protective status. These measures shall include one or more of the following components as negotiated with agency representatives: avoidance of the population; collection of seed or vegetative material during the appropriate developmental stage of the plant; procedures for sowing, establishment, or translocation of the species; development of a maintenance and monitoring program specific to the environmental conditions necessary for survival of the new population; and identification of a funding source to provide for implementation of the plan, and for long-term management and maintenance of the mitigation area.
- Potential impacts on any species that are maintained on Lists 3 and 4 of the CNPS Inventory would not be considered significant and no additional mitigation would be required for these species.

|                           |   |
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| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD                                    |
| <b>Monitoring Agency</b>  | PRMD                                    |

**BIO-2 Riparian Habitat**

The proposed Wetland Mitigation and Monitoring Plan (WMMP) shall be revised and implemented to include restoration and enhancement of habitat along the shoreline of the Petaluma River on Area A of the site, and ensure its protection as part of long-term operations. The revised WMMP shall include the following:

- 1) A limited access zone shall be established within 50 feet of the High Tide Line and within 10 feet of the top of bank to the slough. Permitted improvements within this zone shall be clearly identified and mapped, including the pier, ramp, dock access, conveyor and transition support, pipeline and intake structure for pumping River water, and an access alignment along the north side of the conveyor to allow for future maintenance of these structures.
- 2) All areas outside the permitted improvements shall be designated for habitat restoration and enhancement. Fills shall be removed to create additional coastal brackish marsh, transitional upper-zone marsh, and upland buffer habitat.
- 3) The entire habitat enhancement/restoration area shall be designed, revegetated, monitored, and maintained as part of the proposed WMMP for the site.
- 4) A fence shall be installed along the perimeter of the habitat enhancement/restoration area to separate sensitive habitat from permitted industrial use. The fence shall consist of permanent 4-foot high wildlife friendly fencing.
- 5) Permanent signage shall be installed at 50 foot intervals along the perimeter fencing that reads "Sensitive Marsh Habitat/No Disturbance Zone."

|                           |   |
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| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD                                    |
| <b>Monitoring Agency</b>  | PRMD                                    |

**BIO-3a Jurisdictional Wetlands and other Waters**

The proposed WMMP shall be refined and implemented to address potential impacts on jurisdictional waters and to enhance the habitat values along the Petaluma River. The final WMMP shall be prepared by a qualified wetland consultant, and must be approved by Sonoma County PRMD, the Regional Water Quality Control Board (RWQCB), the San Francisco Bay Conservation and Development Commission (BCDC), the U.S. Army Corps of Engineers (Corps), and the California Department of Fish and Game (CDFG). The plan shall clearly identify the total wetlands and other jurisdictional waters affected by the project and provide for re-establishment, enhancement, and/or replacement of wetlands. Revisions to the WMMP shall include the following:

- 1) Expand the proposed wetland mitigation area to include the additional habitat protection and creation specified under Mitigation Measure BIO-2 as well as enhancement of the drainage channel along the west side of the railroad right-of-way, a portion of which was previously believed to be off-site when the draft WMMP was prepared. This may provide options to increase the acreage of created or enhanced brackish marsh wetlands and adjacent uplands habitat, and possibly improve circulation in the southeastern portion of the proposed wetland mitigation area.

- 2) Incorporate provisions for the control of invasive exotic species from the wetland and upland enhancement mitigation area in Sections 5, 6, and 8 of the WMMP, and expand this program for invasive exotic species control over the entire site, based on input from the Corps, RWQCB, and CDFG. This shall include monitoring and maintenance provisions that call for periodic inspection and removal in spring and summer, and a success criteria that specifies successful control of target species within five years of initial construction of the wetland mitigation area. Target species to be controlled in the wetland mitigation area and remainder of the site include: sweet fennel, poison hemlock, Italian thistle, pampas grass, French broom, Scotch broom, eucalyptus outside the heron/egret roosting colony, stinkwort, giant reed, non-native cordgrass, pepperweed, and acacia, among others.
- 3) Provide appropriate soil testing and amendment as part of the landscape plan and revise the maintenance measures in Section 8 to include additional provisions related to upland habitat created and enhanced as part of the WMMP. Soil amendment shall be provided as necessary to ensure successful establishment of desirable native species, as reflected in on-going monitoring and maintenance requirements of the WMMP.
- 4) Require repair or replacement of the existing partially blocked culvert under the railroad right-of-way as part of the WMMP to improve tidal circulation in the proposed wetland mitigation area. The size and design of the new culvert shall be based on a detailed hydrologic assessment conducted by the applicant's consulting hydrologist, as reviewed and approved by the permitting agencies and the property owner. Sizing of the culvert replacement shall consider any possible water diversion demand proposed for dust control and its affect on surface water levels in the mitigation area, and the affects of possible sedimentation on the long-term viability of the created wetlands.
- 5) Ensure that any proposed water diversion for dust control does not adversely affect the feasibility and success of tidal and brackish marsh to be created in Area D. This shall be demonstrated on an annual basis as part of on-going monitoring and maintenance defined in Sections 8 and 9 of the WMMP. Diversion shall be curtailed or an alternative method secured if performance standards and success criteria defined in the WMMP for areas of tidal and brackish marsh are not met due in part or wholly because of the proposed water diversion.
- 6) Include minimum setbacks from the top of bank to the drainage channels to be retained in Areas C and D where they border proposed industrial uses. A minimum 5 foot setback shall be provided from the top of each bank to provide for improved enhancement and prevent inadvertent fill of these features. A fence shall be installed along the perimeter of the top-of-bank setback to separate sensitive habitat from permitted industrial use. The fence shall consist of a permanent 4-foot high wildlife friendly fencing that shall be open in nature to allow for passage of wildlife through or under the structure with a minimum six inch clearance at the bottom. Permanent signage shall be installed at 100 foot intervals along the perimeter fencing that reads "Sensitive Marsh Habitat/No Disturbance Zone."
- 7) Installation of the barge off-loading facility shall minimize the use of fill to the maximum extent feasible.

|                           |   |
|---------------------------|---|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD                                    |
| <b>Monitoring Agency</b>  | PRMD/<br>RWQCB/BCDC/CDFG/Corps          |

**BIO-3b Containment System**

A containment system shall be designed and installed to catch and collect any side-cast gravels from the conveyor between the pier and transition support near the high tide line of the Petaluma River to prevent inadvertent fill of the jurisdictional waters. The containment system shall be regularly maintained as part of normal operations during the life of the project.

|                           |           |
|---------------------------|-----------|
| <b>Monitoring Phase</b>   | Operation |
| <b>Implementing Party</b> | Applicant |
| <b>Enforcement Agency</b> | PRMD      |
| <b>Monitoring Agency</b>  | PRMD      |

**BIO-3c Stormwater Pollution Prevention Plan**

As recommended in Section V.G (Hydrology and Water Quality), a Stormwater Pollution Prevention Plan shall be prepared and implemented using Best Management Practices to control both construction-related erosion and sedimentation and project-related non-point discharge into waters on the site. The plan shall contain detailed measures to control erosion of exposed soil, provide for revegetation of graded slopes before the start of the first rainy season following grading, address non-point source pollutants to protect wetlands and water quality in the drainage, and specify procedures for monitoring of the effectiveness of the plan.

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|---------------------------|---|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD/RWQCB                              |
| <b>Monitoring Agency</b>  | PRMD/RWQCB                              |

**BIO-3d Permit Authorizations**

All necessary permits shall be secured to allow for modifications to wetlands, drainage channels, and the shoreline of the Petaluma River on the site. Evidence of permit authorization from the Corps, RWQCB, the BCDC, and CDFG shall be submitted to the PRMD prior to issuance of any grading or building permits by the County to ensure compliance with applicable State and federal regulations.



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|---------------------------|--------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction               |
| <b>Implementing Party</b> | Applicant                      |
| <b>Enforcement Agency</b> | PRMD                           |
| <b>Monitoring Agency</b>  | PRMD/<br>RWQCB/BCDC/CDFG/Corps |

**BIO-4 Sensitive Nesting Habitat**

*BIO-4a*

The egret/heron colony in the stand of blue gum eucalyptus shall be protected from disturbance associated with construction and future operations, particularly during the nesting season (February 15 through August 31). Proposed improvements at the entrance to the site and vicinity of the fire station shall be redesigned to retain most of the existing blue gum eucalyptus trees that provide visual screening of the existing egret/heron colony, including the row of three existing trees in the parking lot between the proposed fire station and the parking stalls to the south. Proposed roadway and building improvements shall be located no closer to the stand of trees supporting the colony than currently proposed. These trees and the blue gum eucalyptus comprising the stand currently used by nesting egrets and herons shall be retained as a condition of project approval unless and until the colony is no longer viable in the future. All doorways and windows in the future fire station shall be oriented away from the colony. Any required outdoor use areas for storage and other station operations shall be effectively screened by fencing to aid in obscuring a direct line of sight between the outdoor use and the colony. Dense landscaping shall be provided to further screen the station, parking lot, and outdoor use areas from the colony.

*BIO-4b*

Proposed construction shall be restricted away from the known egret/heron colony and from potential nesting habitat along the shoreline of the Petaluma River during the general nesting season to prevent possible nest abandonment and ensure compliance with the Migratory Bird Treaty Act during the active nesting season. Construction activities in Areas A and north of the cross-site access road on Area B shall be restricted to the non-nesting season (September 1 and February 14), unless surveys indicate that nesting has been completed before that time period. This includes installation of all improvements on Area A (pier, ramp, pilings, conveyor, access and parking, and wetland enhancement) and the septic leachfield, fire station and associated parking improvements in the north portion of Area B.

If any construction is proposed within these areas during the nesting season, a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of construction to provide confirmation on the presence or absence of any active nest(s) in the vicinity. If any active nest(s) are encountered, species-specific measures shall be prepared by the qualified biologist in consultation with the CDFG and implemented to prevent nest abandonment. At a minimum, construction in the vicinity of the nest(s) shall be deferred until the young birds have successfully fledged and juveniles from the nest(s) are foraging independently and capable of independent

survival at an earlier date. A survey report by the qualified biologist verifying that the young have successfully fledged shall be submitted to the PRMD for review and approval prior to initiation of construction in the nest-setback zone.

*BIO-4c*

Project operations associated with off-loading the barge, running the conveyor, and illumination beyond that necessary for essential security purposes shall be restricted to the minimum necessary for critical tide dependent operations at night between sunset and sunrise during the nesting season (February 15 through August 31) to protect the sensitive nesting habitat in the egret/heron colony and the on-site marshland habitat along the shoreline of the Petaluma River.

Barges may be docked during the restricted hours, but no off-loading activities or operation of the conveyer shall be allowed. Lighting as necessary for safety and security purposes during barge docking shall be allowed. If a barge is anticipated to arrive on a particular night during the nesting season, the lighting shall be turned on at dusk and remain on until the barge has docked to minimize the potential for disturbing birds if lights were to be suddenly turned on in the middle of the night. Lighting shall be turned off after docking is complete. Otherwise, nighttime lighting during the nesting season shall remain off, with the exception of that necessary for essential security purposes. All lighting shall be designed to minimize light intrusion beyond the operation areas on the site, to protect sensitive wildlife habitat areas along the Petaluma River, the egret/heron colony, and the proposed wetland mitigation area.

Note that sunset and sunrise times change with the seasons, and will range from approximately 5:30 PM to 7 AM in early February, to 8:30 PM to 6 AM in mid-June, to 7:30 PM to 6:30 AM in late August. Official sunrise and sunset times shall be obtained from a reputable source, such as the National Weather Service. During the non-nesting season, nighttime work restrictions shall also apply as per Mitigation Measure NOISE-8 (Section V.I Noise).

*BIO-4d*

The conveyor used to transport gravel from Area A to the processing plant shall be designed to minimize disturbance to the nearby egret/heron colony. The conveyor shall be designed as close to the ground as possible within 300 feet of the colony. A solid roof (metal, fiberglass, or opaque plastic) shall be constructed over the conveyor system, and a walkway/maintenance access be provided along the conveyor from the railroad crossing to the existing access road across Area B on the site. The covering shall extend down at least the upper half of the west wall facing the egret/heron colony and the east wall facing the River to provide additional visual screening. Human access shall be restricted to the covered area along the conveyor during the nesting season (February 15 through August 31).

*BIO-4e*

An employee education program shall be prepared and implemented to prevent inadvertent disturbance to the egret/heron colony during the nesting season (February 15 through August 31). Permanent signs shall be installed around the perimeter of a setback zone around the egret/heron colony at a minimum 100-foot

interval to alert workers and the public that access to the area is restricted during the nesting season. Signs shall extend along the northern boundary of the site, east edge of the fire station improvements, north side of the cross-site access road, and west side of the railroad right-of-way. The signs shall read “Nesting Colony/No Disturbance Zone/February 15 through August 31.”

#### *BIO-4f*

A comprehensive monitoring program for the egret/heron colony shall be developed and implemented by the applicant’s consulting biologist. This monitoring program shall provide data on trends in the condition of the colony, responses to project-related activities, and recommendations for necessary adjustments to project operations. Details associated with the monitoring program shall include the following:

- Periodic monitoring shall be conducted to assess heron and egret behavior in advance of project implementation, under normal project operations, during conveyor operations, and during barge/night-time lighting operations. Notes on heron and egret behavior and activity and any changes in activity (I.E. signs of nervousness or flight) shall be recorded. Monitoring shall be provided for a minimum of five years following project implementation, and a minimum of three years following construction of the fire station, conveyor belt structure, and the barge/night-time lighting structures and other improvements on Area A.
- Monitoring frequency and duration shall be modified based on site observations and need to provide conclusive data on project-related disturbance. To observe behaviors during the entire nesting season, a minimum of three monitoring visits shall be provided to observe each of the conveyor operation, barge/night-time lighting, and normal operations during each of the 1) nest selection/pair bonding period (typically from mid-February to mid-March), 2) initial hatching period, and 3) subsequent nest occupation/pre-fledged period.
- Annual monitoring reports shall be submitted to the PRMD by December 31 of each monitoring year, and made available to the public. The annual report shall summarize monitoring dates and methods, nesting behavior and success rates, and observations regarding disturbance and other factors affecting the colony. Adjustments in on-going project operations made during the previous years as part of adaptive management and recommendations for adjustments to or additional controls on continued operations shall be specified in the annual report.
- If the on-site colony is abandoned as the nesting location at some point in the future during implementation of the above required monitoring program, monitoring shall continue for at least two years to confirm whether individuals have completely abandoned the location. If the colony has been completely abandoned, on-going monitoring and the development restrictions associated with protection of the eucalyptus grove and nest location specified in Mitigation Measures BIO-4a, 4b, and 4e shall no longer be in effect. However, the protective measures described in Mitigation Measure BIO-4c shall continue to be in effect to protect the sensitive habitat along the Petaluma River and parklands to the east.

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| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD                                    |
| <b>Monitoring Agency</b>  | PRMD                                    |

**CULTURAL RESOURCES**

**Required Mitigation Measures**

***CULT-1 Historical Resources***

*CULT-1a*

Site documentation shall be updated and brought to the level of current professional standards.

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|---------------------------|----------------------|
| <b>Monitoring Phase</b>   | Pre-Construction     |
| <b>Implementing Party</b> | Applicant/Contractor |
| <b>Enforcement Agency</b> | PRMD                 |
| <b>Monitoring Agency</b>  | PRMD                 |

*CULT-1b*

Preservation through historical documentation of the former house and barns shall be completed, following the Secretary of Interior's Standards for the Treatment of Historic Properties.

|                           |                  |
|---------------------------|------------------|
| <b>Monitoring Phase</b>   | Pre-Construction |
| <b>Implementing Party</b> | Applicant        |
| <b>Enforcement Agency</b> | PRMD             |
| <b>Monitoring Agency</b>  | PRMD             |

***CULT-2 Archaeological Resources***

*CULT-2a*

Prior to earth disturbing activities, archaeological deposits and other features associated with the house shall be identified using techniques including remote sensing techniques and/or searching for features with a backhoe equipped with a smooth-edged blade under the direction of a professional archeologist.

Following the conclusion of the archaeological monitoring, a Final Report of Findings shall be prepared by the archaeologist which minimally describes the monitoring process, including the final disposition of impacts to archaeological site Ca-Son-1465H and descriptions and analysis of any formal or diagnostic artifacts recovered as a result of the project. This Final Report of Findings shall be completed to the

satisfaction of Sonoma County PRMD, abiding by the guidelines specified in Archaeological Resource Management Reports (ARMR) Recommended Contents and Format, developed by the California Office of Historic Preservation (OHP), February 1990.

|                           |                        |
|---------------------------|------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction       |
| <b>Implementing Party</b> | Applicant/Archeologist |
| <b>Enforcement Agency</b> | PRMD                   |
| <b>Monitoring Agency</b>  | PRMD                   |

*CULT-2b*

All employees shall undergo a cultural resources orientation and awareness training prior to commencing work activities on the site. Such training shall include familiarization with the stop-work restrictions, noticing, and handling procedures, and ultimate disposition of artifacts as described below. The operator shall provide PRMD with a verification list of the employees completing the orientation.

If archaeological materials are discovered any time during project implementation, activities shall cease in the immediate vicinity of the find. The shift foreman or manager at the project site shall be notified, and shall notify Sonoma County PRMD of the discovery. PRMD shall notify the Northwest Information Center and the Native American Heritage Commission. Work shall not commence until a qualified archaeologist is consulted to determine the significance of the find, and has recommended appropriate measures to protect the resource in accordance with the following standards:

- A qualified archaeologist shall prepare for the County an Assessment and Mitigation Plan, in consultation with the Native American Heritage Commission and local tribes, if appropriate;
- The Assessment shall define the extent and steps necessary to mitigate the project impacts on the find. Discovered cultural resources shall be stored in a protected environment to prevent vandalism, damage, or theft; until such time as they are examined by an archaeologist and/or Native American consultant, as appropriate. Actions may then include removing and relocating the materials to an appropriate repository based on consultation with the Native American Heritage Commission and local tribes. Any Native American artifacts discovered shall be returned to the local Native American Community, which shall be responsible for the disposition of these materials.

Further disturbance of the resource shall not be allowed until those recommendations deemed appropriate by the County have been implemented.

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| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant/Contractor          |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

**CULT-3 Human Remains**

In the event that human remains are discovered, there shall be no disposition of such human remains, other than in accordance with the procedures and requirements set forth in the California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98. These code provisions require notification of the County Coroner and the NAHC, who in turn must notify those persons believed to be most likely descended from the deceased Native American for appropriate disposition of the remains. Excavation or disturbance may continue in other areas of the project site outside the area affected by such discovery.

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|---------------------------|---------------------------------|
| <b>Monitoring Phase</b>   | Construction                    |
| <b>Implementing Party</b> | Applicant/Sonoma County Coroner |
| <b>Enforcement Agency</b> | PRMD                            |
| <b>Monitoring Agency</b>  | PRMD                            |

**CULT-4 Paleontological Resources**

If paleontological resources are encountered during the course of site development activities, work in that area shall be halted and the project paleontologist shall be notified of the find. The project paleontologist shall have the authority to temporarily divert or redirect grading to allow time to evaluate any exposed fossil material.

|                           |              |
|---------------------------|--------------|
| <b>Monitoring Phase</b>   | Construction |
| <b>Implementing Party</b> | Applicant    |
| <b>Enforcement Agency</b> | PRMD         |
| <b>Monitoring Agency</b>  | PRMD         |

**GEOLOGY AND SOILS**

**Required Mitigation Measures**

**GEO-1 Seismically-Induced Ground Shaking**

Project design and construction shall be in conformance with current best standards for earthquake resistant construction in accordance with the California Building Code (Seismic Zone 4). In addition, project design shall follow the recommendations of the site-specific geotechnical investigation report. The report provides specific design criteria for construction of the project in response to expected seismic events.

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|---------------------------|-------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

**GEO-2     *Surface Instability***

The applicant shall retain a qualified geotechnical engineering firm to fully evaluate the potential for aggregate stockpiles (both new and recycled) to cause overloading and instability of the underlying Bay Mud. The geotechnical firm shall design and construct a stockpile storage area that is stable under both static and dynamic (i.e., seismic) conditions in accordance with current standards of practice. The geotechnical design shall include over-excavation of the Bay Mud and replacement with engineered fill, placement of geogrid reinforcement under the stockpiles, or other means to ensure that the stockpiles would not cause rotational failures or damage to the nearby railroad tracks. Controlled settlement over time at the stockpile storage area is acceptable. The design shall allow for no displacement at or adjacent to the railroad tracks. Post-construction monitoring of the performance of the geotechnical solution, including detailed measurement of settlements, shall be required and conducted on a yearly basis for five years. The applicant shall ensure that annual monitoring reports are submitted to the County for review and approval. Any unexpected failures or settlements exceeding those that were predicted shall be addressed by prompt corrective active (at no cost to the County). If at the end of five years, the geotechnical consultant and the County are in agreement, the monitoring and reporting may be terminated.

The geotechnical design shall be reviewed and approved by the County technical staff prior to approval of the grading permit for the project.

|                           |   |
|---------------------------|---|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD                                    |
| <b>Monitoring Agency</b>  | PRMD                                    |

**GEO-3     *Lurching and Ground Cracking***

Reduction in the potential for damage due to soil lurching and resulting surface cracking shall be achieved by either soil improvements techniques, such as deep soil mixing, the replacement of unstable soils with engineered fill, or a minimum of 20-foot setbacks for all improvements from channel banks as recommended by the geotechnical reports.

|                           |                               |
|---------------------------|-------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

***GEO-4 Differential Settlement***

The recommendations of the geotechnical investigation report regarding settlement shall be implemented. The specific recommendations for mitigation of potential settlements associated with native soil, Bay Mud and fill boundaries shall be implemented, such as excavation of the soft compressible Bay Mud and replacement with compacted fill.

|                           |              |
|---------------------------|--------------|
| <b>Monitoring Phase</b>   | Construction |
| <b>Implementing Party</b> | Applicant    |
| <b>Enforcement Agency</b> | PRMD         |
| <b>Monitoring Agency</b>  | PRMD         |

**HAZARDS AND HAZARDOUS MATERIALS**

**Required Mitigation Measures**

***HAZ-1 Use, Storage or Disposal of Hazardous Materials During Construction***

*HAZ-1a*

The Storm Water Pollution Prevention Plan (SWPPP) required for the project (see Mitigation Measures in the Hydrology and Water Quality Section) shall include emergency procedures for incidental hazardous materials releases. The procedures shall include necessary personal protective equipment, spill containment procedures, and training of workers to respond to accidental spills/releases.

|                           |           |
|---------------------------|-----------|
| <b>Monitoring Phase</b>   | Operation |
| <b>Implementing Party</b> | Applicant |
| <b>Enforcement Agency</b> | PRMD      |
| <b>Monitoring Agency</b>  | PRMD      |

*HAZ-1b*

The SWPPP shall also include Best Management Practices, which shall include requirements for hazardous materials storage during construction to minimize the potential for releases to occur (See Mitigation Measures in the Hydrology and Water Quality Section). All use, storage, transport and



disposal of hazardous materials during construction activities shall be performed in accordance with existing local, state, and federal hazardous materials regulations.

|                           |              |
|---------------------------|--------------|
| <b>Monitoring Phase</b>   | Construction |
| <b>Implementing Party</b> | Applicant    |
| <b>Enforcement Agency</b> | PRMD         |
| <b>Monitoring Agency</b>  | PRMD         |

***HAZ-2 Site Grading Resulting in Soil Contamination or Safety Hazards to Construction Workers and the General Public***

*HAZ-2a*

Prior to approval for any grading or construction permits at the project site, a Construction Risk Management Plan (CRMP) shall be prepared by a qualified environmental professional and implemented during the duration of construction activities at the site. The CRMP shall summarize previous environmental investigations conducted for the project site and, in accordance with State and federal laws and regulations, shall describe worker health and safety provisions for all workers potentially exposed to residual contaminants in soil, including the need for dust suppression controls, air monitoring, personal protective equipment to be worn by workers to minimize exposures, soil management procedures, management of dewatered groundwater (as applicable), site control, and emergency response procedures.

The CRMP shall also provide procedures to be undertaken in the event that previously unreported contamination or subsurface hazards (such as septic systems, wells, underground pipelines) are discovered during construction, and establish detailed procedures for the safe storage, stockpiling, sampling, reuse of fill, and off-site disposal of hazardous materials and other materials (fire debris, soil) at the project site.

The CRMP shall incorporate construction safety measures for excavation and other construction activities and procedures for abandonment of the former quarry pipelines. The CRMP shall designate personnel responsible for implementation during construction activities and shall be submitted to the Sonoma County PRMD for review and approval.

|                           |                               |
|---------------------------|-------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

*HAZ-2b*

The observed fill material containing brick and fire debris shall be sampled prior to soil disturbance by an environmental professional to assess the presence of hazardous materials and the potential risk to human health and public safety from the contamination (if any). The sampling shall be conducted by a qualified

environmental professional in accordance with state and local guidelines and regulations, with oversight from the Sonoma County Department of Environmental Health (SCDEH). The findings of the soil sampling investigation shall be documented in a written report and submitted to SCDEH and Sonoma County Permit & Resource Management Department (PRMD).

If the results of the soil sampling investigation indicate the presence of hazardous materials that could affect public health or the environment, remediation of this area shall be required by the applicable regulatory oversight agencies. Specific remedies would depend on the extent and magnitude of contamination. Under the direction of the SCDEH and the PRMD, a Site Remediation Plan shall be prepared, if required, by the project sponsor or contractor(s). The Plan shall specify: 1) measures to be taken to protect workers and the public from exposure to potential site hazards, and 2) certify that the proposed remediation measures would clean up the waste, dispose of the waste, and protect public health and the environment in accordance with local, state, and federal requirements. Any remediation required shall be completed prior to earthwork in the areas affected.

|                           |   |
|---------------------------|---|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction                         |
| <b>Implementing Party</b> | Applicant   |
| <b>Enforcement Agency</b> | Sonoma County Department of Environmental Health/PRMD |
| <b>Monitoring Agency</b>  | Sonoma County Department of Environmental Health/PRMD |

*HAZ-2c*

A mosquito and vector control plan shall be prepared by a qualified professional and submitted to the Marin-Sonoma Mosquito and Vector Control District for approval. The approved plan shall be submitted to SCPRMD prior to on-site earthwork activities and shall be implemented as part of the proposed project. The plan shall specify areas where mosquito larvae are likely to be present on-site (e.g., in areas with standing water) and mosquito management methods. The management methods may include the use of chemicals (i.e., pesticides), biological methods (e.g., use of mosquito fish in water bodies, or *Bacillus thuringiensis*), and/or control of excess runoff and areas where water can accumulate.

|                           |                  |
|---------------------------|------------------|
| <b>Monitoring Phase</b>   | Pre-Construction |
| <b>Implementing Party</b> | Applicant        |
| <b>Enforcement Agency</b> | PRMD             |
| <b>Monitoring Agency</b>  | PRMD             |

***HAZ-3 Operational Routine Transport, Use, Production or Disposal of Hazardous Materials and Septage, and Potential Risk of Upset***

The applicant shall engage a Fire Protection Engineer to perform a code analysis and submit a comprehensive fire protection plan for the proposed project for review by the SCPRMD and the County Fire Marshal. The submittal shall include an evaluation of the project's compliance with the uniform fire code requirements relating to storage of hazardous materials (including aboveground tanks), the need for

fire suppression system, alarm systems, storage of flammable or combustible materials, containment basins around hazardous materials, and compliance with hazardous materials regulations. Both hazardous materials at the proposed asphalt plant and those for the SAVFD shall be considered in the review.

|                           |                                 |
|---------------------------|---------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction                |
| <b>Implementing Party</b> | Applicant                       |
| <b>Enforcement Agency</b> | PRMD                            |
| <b>Monitoring Agency</b>  | Sonoma County Fire Marshal/PRMD |

## HYDROLOGY AND WATER QUALITY

### Required Mitigation Measures

#### *HYDRO-1 Alteration of Drainage Patterns Resulting in Erosion or Siltation*

##### *HYDRO-1a*

The River water supply intakes shall be designed and constructed to minimize agitation and entrainment of sediments. This may be accomplished by elevating the intake above the River bottom and/or providing an energy dissipation structure around the intake. Water shall not be pumped from an inland tidal waterway when the tide is low, as pumping could expose the channel bottom, potentially increasing erosion and scour. The potential for backflow to occur through the system shall be minimized by the incorporation of one or more check valves (backflow prevention devices).

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|---------------------------|---|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD                                    |
| <b>Monitoring Agency</b>  | PRMD/RWQCB                              |

##### *HYDRO-1b*

The grading of the project site shall be conducted in conformance with the approved Grading Plan. All recommendations for grading presented in the site-specific geotechnical reports shall be incorporated into the grading activities.

|                           |                  |
|---------------------------|------------------|
| <b>Monitoring Phase</b>   | Pre-Construction |
| <b>Implementing Party</b> | Applicant        |
| <b>Enforcement Agency</b> | PRMD             |
| <b>Monitoring Agency</b>  | PRMD             |

*HYDRO-1c*

Prior to construction, the owner/operator shall file a Notice of Intent to comply with the statewide General Permit for Discharges of Storm Water Associated with Construction Activities. A SWPPP shall be prepared for construction activities. The SWPPP shall include all provisions of the Erosion and Sediment Control Plan submitted by the applicant. In addition to the regulatory requirements for the SWPPP, the site-specific SWPPP shall include provisions for the minimization of sediment disturbance and production of turbidity in and adjacent to the Petaluma River during construction of the proposed barge unloading facility.

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|---------------------------|------------------|
| <b>Monitoring Phase</b>   | Pre-Construction |
| <b>Implementing Party</b> | Applicant        |
| <b>Enforcement Agency</b> | PRMD             |
| <b>Monitoring Agency</b>  | PRMD/RWQCB       |

*HYDRO-2 Alteration of Drainage Patterns Resulting in Flooding*

As required by Mitigation Measure BIO-3a(4), the applicant would be required to repair or replace the existing partially blocked culvert under the railroad right-of-way to improve tidal circulation. The function of the culvert shall be maintained for the life of the project. A maintenance program for all culverts shall be developed and incorporated into the site's Storm Water Pollution Prevention Plan (SWPPP).

|                           |                        |
|---------------------------|------------------------|
| <b>Monitoring Phase</b>   | Construction/Operation |
| <b>Implementing Party</b> | Applicant              |
| <b>Enforcement Agency</b> | PRMD                   |
| <b>Monitoring Agency</b>  | PRMD/RWQCB             |

*HYDRO-3 Degradation of Water Quality**HYDRO-3a*

Prior to commencement of operations, the owner/operator shall prepare a site-specific SWPPP for the operational period of the project. The SWPPP shall meet all requirements of the most recent statewide Industrial Storm Water General Permit. At minimum, the SWPPP shall include design, operation, and maintenance specifications for:

- Control of sediment discharges at the loading facility on the Petaluma River that minimizes the potential for spillage of aggregate materials into the River and the disturbance of River sediments during anchorage of the barges. Barges should arrive "clean" (no sediment or aggregate materials on horizontal surfaces outside of the hold). Off-loading procedures shall include provisions for eliminating the creation of dust (e.g., continuous misting so that newly exposed aggregate

surfaces stay wet, but not so much water application that runoff is created). The conveyor system shall be enclosed and fitted with dust control devices (e.g., misting units). Aggregate exiting the conveyor system shall be moist to wet so that dust is not generated as it drops from the conveyor to the storage piles.

- Measures designed to protect River water quality at the barge off-loading facility. The loader shall not be refueled or receive major maintenance while on the over-the-water off-loading facility. The loader shall be moved to an appropriate land-based location (a minimum of 30 feet from the top of River bank) for refueling and maintenance.
- The entire parcel adjacent to the off-loading facility (Area A) shall be modified to provide enhanced water quality protection for the River and tidal inlet. A limited access zone shall be established within 50 feet of the High Tide Line and within 10 feet of the top of bank to the slough as further described under Mitigation Measure Bio-2 in Section V.C. (Biological Resources). This will allow limited access roads to the off-loading facility and along the conveyor system to be constructed. The roads shall be placed at the maximum feasible distance (but not less than 50 feet) from the tidal inlet to provide a water quality buffer. If it is necessary for any road to be elevated above the surrounding grade, the escarpment created by the road shall be protected by riprap and/or bioengineering techniques so that the road is stable if the site is inundated during flooding. Permitted improvements within this zone shall be clearly identified and mapped, and no industrial or commercial activities other than those proposed by this project shall be permitted on this parcel. The remainder of the parcel shall be regraded so that shallow stormwater bioswales border the access roads on either side. The bioswales shall be designed and constructed in accordance with the requirements of the County PRMD. The existing baserock shall be removed from the parcel and the existing soils either amended or new planting medium imported so that vegetation can be re-established over the entire parcel (except at the road locations). The applicant shall ensure that no net fill occurs on the site (i.e. any fill imported to the site must be offset by an equal or greater volume of material export out of the floodplain).
- A treatment catch basin and sand filter (or multiple basins and filters) that will capture and treat all runoff from all processing and storage areas for at least the 10-year design storm event. Discharge from the catch basin and sand filter shall be visibly clear (i.e., not turbid) and meet applicable water quality standards. If turbid water is observed to be discharging from the catch basin and sand filter, the system shall be expanded and/or redesigned in coordination with the County and RWQCB so that adequate pretreatment is achieved. Only visibly clear water that meets applicable water quality standards should be discharged to the wetland areas. The SWPPP shall include specifications for regular maintenance of the basin and sand filter and procedures for disposal and/or reuse of the used filtration material.
- An emergency shutoff system that will allow the plant operator to stop discharge from the catch basin should a chemical spill occur at the facility. A gate valve or similar structure that can shut off flows out of the catch basin shall be included in the basin design. The method for engaging the shutoff system shall be simple and the procedure provided to all appropriate plant employees as part of routine training.

- As required by the general permit for industrial activities, the applicant shall conduct regular inspections of the facility BMPs and collect storm water runoff samples during storm events where a discharge occurs. These data shall be reviewed for compliance with applicable published U.S. EPA benchmark values for storm water runoff. If the analytical results from the sampling events indicate that benchmark values are being exceeded, corrective action shall be implemented in coordination with the RWQCB.

All activities and operation of storm water runoff BMPs are subject to regular inspection by the County and the RWQCB. If the County inspectors observe practices that do not protect surface water quality to the maximum extent practicable, then they are empowered to and shall require the operator to implement corrective action.

|                           |   |
|---------------------------|---|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation |
| <b>Implementing Party</b> | Applicant                               |
| <b>Enforcement Agency</b> | PRMD/RWQCB                              |
| <b>Monitoring Agency</b>  | PRMD/RWQCB                              |

*HYDRO-3b*

Prior to the commencement of operations, the proposed septic system shall be installed under permitting by the PRMD. Additionally, abandonment of the existing septic system shall be performed under PRMD permitting requirements.

|                           |                  |
|---------------------------|------------------|
| <b>Monitoring Phase</b>   | Pre-Construction |
| <b>Implementing Party</b> | Applicant        |
| <b>Enforcement Agency</b> | PRMD             |
| <b>Monitoring Agency</b>  | PRMD             |

**NOISE**

**Required Mitigation Measures**

***NOISE-1 Temporary or Periodic Increases in Noise***

*NOISE-1a*

Prior to issuance of a building permit, the project developer shall provide the County with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit this record to the project planner upon request.

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|---------------------------|-------------------------------|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction |
| <b>Implementing Party</b> | Applicant                     |
| <b>Enforcement Agency</b> | PRMD                          |
| <b>Monitoring Agency</b>  | PRMD                          |

*NOISE-1b*

The project developer shall implement measures to reduce the noise levels generated by construction equipment operating at the project site during project grading and construction phases. The developer shall include the following requirements or measures shown to be equally effective in construction contracts:

- All construction equipment shall be equipped with improved noise muffling, and have the manufacturers' recommended noise abatement measures, such as mufflers, engine covers, and engine isolators in good working condition.
- Stationary construction equipment that generates noise levels in excess of 65 dBA  $L_{eq}$  shall be located as far away from existing occupied residences as possible. If required to minimize potential noise conflicts, the equipment shall be shielded from noise sensitive receptors by using temporary walls, sound curtains, or other similar devices.
- All equipment shall be turned off if not in use for more than 10 minutes.

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|---------------------------|----------------------|
| <b>Monitoring Phase</b>   | Construction         |
| <b>Implementing Party</b> | Applicant/Contractor |
| <b>Enforcement Agency</b> | PRMD                 |
| <b>Monitoring Agency</b>  | PRMD                 |

*NOISE-6 Asphalt Facility Equipment Noise*

- Baghouse fan stack silencer. Install a silencer between the baghouse fan and the exhaust stack. The silencer shall be designed to reduce the A-weighted sound level of the fan exhaust by 20 dBA when the fan is operating in the range of 70-100% of maximum airflow.
- Baghouse fan casing barrier or enclosure. Install a barrier along the west side of the baghouse fan casing. The barrier shall be made of sound absorptive steel panels or mass-loaded quilted vinyl (1.5 pounds per square foot). The barrier shall be 12 feet tall and located within 3 feet of the fan casing. It shall return along the south and north sides of the baghouse fan casing. Alternatively, a ventilated enclosure can be used that is constructed of sound absorptive metal panels and designed to achieve an A-weighted noise reduction of 15 dBA.
- Fiberbed fan stack silencer. Install a silencer between the fiberbed fan and the exhaust stack. The silencer shall be designed to reduce the A-weighted sound level of the fan exhaust by 15 dBA when the fan is operating at 100% of maximum airflow.

- Gear reducer enclosure. Install an enclosure around the gear reducer for the asphalt burner drum to reduce its noise level by 15 dBA.
- Air compressor enclosure. Install an enclosure around the air compressor to reduce its noise level by 20 dBA.
- Air cylinder silencers. Install air cylinder silencers at the batcher and discharge gates designed to reduce the air release noise by a minimum of 20 dBA.
- Asphalt Plant stockpiles along loop road. The loop road included in the proposed development plan shall be relocated to the west to allow for the asphalt plant stockpiles to be placed between the loop road and railroad tracks.

|                           |           |
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| <b>Monitoring Phase</b>   | Operation |
| <b>Implementing Party</b> | Applicant |
| <b>Enforcement Agency</b> | PRMD      |
| <b>Monitoring Agency</b>  | PRMD      |

***NOISE-7 Concrete Recycling Facility Noise***

- Non-metallic aggregate sorting screens. Use non-metallic screening panels. Non-metallic materials such as neoprene, rubber or high-density polyethylene (HDPE) can significantly reduce the noise generated by the crushed concrete bouncing on the screens.
- Hopper and chute liners. Line all unenclosed hoppers and chutes at which aggregate materials fall onto a metal surface with a sound deadening material such as heavy neoprene, rubber or HDPE.
- Use PG&E power instead of an engine-generator set. Operate the recycling plant without the engine-generator commonly used to power portable concrete recycling plants.
- Stockpiles to the north and east. Stockpiles of processed and unprocessed materials shall be located to the north and east sites of the recycling plant. These stockpiles will help reduce noise at the homes along the River and the park across the River. Since the presence of the stockpiles is dependent on the amount of material at the site, this EIR does not rely on their noise reduction potential in mitigating noise levels at the residential receivers. The noise predictions at the Shollenberger Park include the effect of stockpiles, because the recycle yard has enough space to always maintain piles at least 15 feet high.
- Revision of landscape plan to include 10-foot high berm. As required in Mitigation Measure AES-1, the landscape plan shall be revised to incorporate a 10-foot high, 30-foot wide irrigated landscaped berm along the portion of the site that fronts Highway 101 and Petaluma Boulevard South, specifically south of the Caltrans right-of-way line and east of the public right-of-way that extends into the project site. The portions of the site plan affected by the 30-foot wide landscape buffer (i.e., stockpiles, access road, etc) shall be reconfigured to accommodate the landscaped



buffer. Finally, the revised landscape plan shall incorporate trees with the proposed ground cover within Area C to further screen the proposed project from off-site views.

- Windows rated for a noise reduction that is a 10 dBA improvement over the existing window’s noise reduction. At the request of the homeowners along the River and at the hillside west of Highway 101, the applicant shall provide windows with a noise reduction that is a 10 dBA improvement over the existing window’s noise reduction for all habitable rooms on the side of the residence facing the project site. The applicant shall provide specifications for the windows to the homeowner. The homeowner will then be responsible for receiving 3 bids from qualified contractors to purchase and install the windows. The applicant shall promptly pay the homeowner for the cost of the lowest bid after the windows are installed and accepted by the homeowner. The applicant shall pay for normal installation of the windows but will not pay for any additional work necessary to allow installation of the window, such as repair of dry rot or termite damage.

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|---------------------------|------------------------|
| <b>Monitoring Phase</b>   | Construction/Operation |
| <b>Implementing Party</b> | Applicant              |
| <b>Enforcement Agency</b> | PRMD                   |
| <b>Monitoring Agency</b>  | PRMD                   |

**NOISE-8     *Barge Unloading Facility Noise***

- Enclosed Transfer Points. Enclose the points along the conveyor system where material transfers from one belt to another by means of a hopper. The enclosure material shall have a minimum surface density of 1.5 pounds per square foot.
- The tug boat shall either turn off its engines during barge unloading operations or relocate away from the riverfront residences while unloading operations are underway.
- To the extent feasible, noise barriers shall be placed on the southern portion of the barge to screen barge unloading activities in the direction of the riverfront residences.
- Although the County’s performance standards for non-transportation sources apply only to outdoor sound levels, consideration shall be given to improving the sound insulating properties of the affected residential structures. This mitigation measure, however, requires the cooperation of the residence owner, but could result in substantial reduction in indoor noise levels.
- Project operations associated with off-loading the barge and running the conveyor shall be prohibited at night between sunset and sunrise. Note that sunset and sunrise times change with the seasons, and will range from approximately 5:30 PM to 7 AM in early February, to 8:30 PM to 6 AM in mid-June, to 7:30 PM to 6:30 AM in late August. Official sunrise and sunset times shall be obtained from a reputable source, such as the National Weather Service.

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| <b>Monitoring Phase</b>   | Operation |
| <b>Implementing Party</b> | Applicant |
| <b>Enforcement Agency</b> | PRMD      |
| <b>Monitoring Agency</b>  | PRMD      |

***NOISE-10 Composite Noise Levels from Project Operations***

In conjunction with the other mitigation measures above, the following mitigation measure is recommended to reduce noise impacts from the combined operations.

- Strobe Lights. 1) Install an OSHA approved strobe light back-up notification system on front-end loaders that are used at the asphalt plant. 2) Use the strobe lights exclusively instead of the beepers during nighttime hours.

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| <b>Monitoring Phase</b>   | Operation |
| <b>Implementing Party</b> | Applicant |
| <b>Enforcement Agency</b> | PRMD      |
| <b>Monitoring Agency</b>  | PRMD      |

**TRANSPORTATION AND TRAFFIC**

**Required Mitigation Measures**

***TRANS-3 Highway Impacts***

*TRANS-3a*

The project shall be conditioned to require a fair share contribution towards the planned construction of High Occupancy Vehicle (HOV) lanes along the highway mainline. The added HOV capacity would improve highway operations to a minimum level of service (LOS E) in the southbound direction south of Petaluma Boulevard South. This would be an improvement over the existing conditions of LOS F.

This is a planned improvement that Caltrans intends to serve existing traffic and background growth in traffic, therefore the project's fair share would be computed as a proportion of total near term cumulative traffic.

The project sponsor shall fund a fair share towards any planned interchange improvements for the Highway 101/Petaluma Boulevard South interchange project. Since improvements have been planned and are intended to address existing conditions, and not simply future growth, a fair share is calculated as the project share of total peak hour traffic on the northbound and southbound ramps. Such an interchange is planned by Caltrans as part of the Marin Sonoma Narrows Project. Participation by the project sponsor would need to be coordinated with Caltrans. The future dedication of Caltrans right-of-way situated

within the project site for the Highway 101/Petaluma Boulevard South interchange project may be used in part or all of the fair share contribution.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation  |
| <b>Implementing Party</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |

*TRANS-3b*

The project shall be conditioned to prohibit material export during the PM peak period from 4 PM to 6 PM. The trip generation determination assumes that no truck traffic would occur during the PM peak hour, based on existing patterns at the temporary site. The condition would eliminate the potential for some truck traffic to slip through during the PM peak hour. County staff anticipates that Caltrans input would be required.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation                                      |
| <b>Implementing Party</b> | Applicant                                      |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works |

*TRANS-4 Safety Impacts*

The project sponsor shall install either an actuated signal or a portion of the future off-ramp and frontage road in the same configuration as the PBS I/C design requirements at the new intersection of Petaluma Boulevard South at the project driveway. If the project sponsor pursues the second approach, constructed improvements shall meet Caltrans and County requirements for speed and safety, and shall be approved by Caltrans and the County. Regardless of which approach is pursued, the applicant’s plans shall be approved by Caltrans and the County prior to issuance of an occupancy permit. The applicant shall also coordinate with Caltrans and the County to design the northbound off-ramp lane and shoulder striping to “narrow” width perception in an effort to lower driver exit speeds so they are closer to posted advisory speeds. Figure V.J-8 illustrates the signal.

The levels of service with signalization would be LOS B in the AM peak hour and LOS A in the PM peak hour. Outbound right turns from the driveway shall not be permitted on red. It should be noted that the intersection does not meet peak hour warrants for signalization, and given the low volume of cross traffic there is the risk that drivers along Petaluma Boulevard South may grow complacent with the signal after becoming conditioned to approaching it without being stopped by a red light. The applicant shall get Caltrans' comments on the signalized intersection mitigation for AM/PM signal timing in order to give

priority to exiting Highway 101 northbound traffic and avoid excessive queuing. Advance signal detection warning devices shall be required for off-ramp traffic combined with long green times and short recall times for the northbound through movement. Lines of site to the proposed project entrance extend to the mainline of Highway 101, so this shall mitigate the impact to less-than-significant levels.

All future maintenance costs for signal maintenance shall be borne by applicant. Agreement between Caltrans and County shall be necessary for operational control.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation  |
| <b>Implementing Party</b> | Applicant  |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |

***TRANS-6 Near-Term Cumulative Impacts***

The project sponsor shall provide a plan for the improvements within the public right-of-way to accommodate a paved right turn lane from Landing Way to Petaluma Boulevard. Improvements shall include a "keep clear" designation on the pavement to allow for left turn movements. All improvements shall be designed to County standards.

Private driveways could be widened to allow for left turn and right turn movements without becoming public right-of-way and/or publicly maintained.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation                                      |
| <b>Implementing Party</b> | Applicant                                      |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works |

***TRANS-7 Near-Term Cumulative Queuing Impacts***

The exclusive northbound left-turn lane from Petaluma Boulevard South onto the Highway 101 southbound on-ramp shall be re-striped as a shared left turn/through lane. The exclusive lane is not necessary to avoid delay or queuing on the northbound left turn. The opposing (north) leg of the intersection already has a second receiving lane and the approach is brought to a complete stop so there are no operational constraints preventing the return to a shared left turn/through configuration. Under this configuration the intersection would have improved level of service (from LOS F with 90 seconds delay in the AM to LOS E with 35.5 seconds delay). This mitigation measure would result in queuing on the northbound approach would improve from 825 feet to 125 feet on both the through and the shared lane.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation                                      |
| <b>Implementing Party</b> | Applicant                                      |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works |

**TRANS-8    *Near-Term Cumulative Highway Impacts***

*TRANS-8a*

Mitigation Measure TRANS-3 (funding a fair share of the construction of planned HOV lanes, right-of-way dedication) would also address the significant impact identified in Impact TRANS-8. With this improvement the LOS would improve from LOS F to LOS E for the southbound AM condition and the impact would be reduced to less-than-significant levels. Improvements to the highway mainline are planned to address cumulative conditions and serve existing deficiencies as well as future growth. The near-term cumulative plus project condition is the ultimate scenario where the improvement would constitute a mitigation measure as it is assumed as part of the 2020 no-project cumulative condition. Therefore, the fair share is calculated based on near-term plus project conditions. It is evaluated as the project share of total peak hour mainline traffic.

The project shall fund a fair share towards the construction of any new interchange between Highway 101 and Petaluma Boulevard South. The fair share for this improvement would be calculated under cumulative 2020 plus project impacts. Such an interchange is planned by Caltrans as part of the Marin Sonoma Narrows Project. Participation by the project sponsor would need to be coordinated with Caltrans.

The future dedication of Caltrans right-of-way situated within the project site for the Highway 101/Petaluma Boulevard South interchange project may be used in part or all of the fair share contribution.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation  |
| <b>Implementing Party</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |

*TRANS-8b*

As indicated under Mitigation Measure TRANS-3b, the project sponsor shall establish that no material export occur during the PM peak hour. Caltrans input would be required.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation  |
| <b>Implementing Party</b> | Applicant  |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |

#### ***TRANS-10 Cumulative 2020 LOS Impacts***

Mitigation Measure TRANS-10 requires implementation of Mitigation Measure TRANS-6, the installation of exclusive right and left turning lanes at Petaluma Boulevard South/Landing Way, and Mitigation Measure TRANS-7, replacing the northbound left turn lane with a shared northbound through-left turn lane at Petaluma Boulevard South/Highway 101 Southbound ramps. This would further improve AM conditions at the intersection of Petaluma Boulevard South/Landing Way to a delay of 148.4 seconds at LOS F. Petaluma Boulevard South/US 101 Southbound ramps would improve to 58.1 seconds of delay LOS F in the AM and 38.3 seconds of delay LOS E in the PM which is acceptable when compared to 2020 no project conditions.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation  |
| <b>Implementing Party</b> | Applicant  |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |

#### ***TRANS-11 Cumulative 2020 Queuing Impacts***

As under near-term cumulative conditions, Mitigation Measure TRANS-7 would reduce the queuing impact to less-than-significant levels. Under 2020 plus project conditions returning to a shared left turn/through lane and an exclusive through lane on the northbound approach of Petaluma Boulevard South to the Highway 101 southbound ramps would reduce the queuing to 175 feet without adversely affecting the northbound left turn (which would also be at 175 feet). Also, the AM peak intersection level of service would improve to 60.7 seconds of delay, which is better than cumulative 2020 conditions without the project.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation  |
| <b>Implementing Party</b> | Applicant  |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |

**TRANS-12 2020 Cumulative Highway Impacts**

*TRANS-12a*

The project sponsor shall contribute a fair share towards interchange improvements for the planned Highway 101/Petaluma Boulevard South interchange. Since improvements have been planned and are intended to address existing conditions, and not simply future growth, a fair share is calculated as the project share of total peak hour traffic on the northbound and southbound ramps.

The future dedication of Caltrans right-of-way situated within the project site for the Highway 101/Petaluma Boulevard South interchange project may be used in part to contribute to the fair share contribution.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation  |
| <b>Implementing Party</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |

*TRANS-12b*

As indicated under Mitigation Measure TRANS-3b, the project sponsor shall establish that no material export occur during the PM peak hour from 4 PM to 6 PM. Caltrans input would be required.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Operation  |
| <b>Implementing Party</b> | Applicant  |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works/<br>Sonoma County Transportation Authority/Caltrans |

**TRANS-13a Transportation Policy Impacts**

The project sponsor shall obtain the necessary entitlement from SMART to allow for both a rail crossing and the conveyor system.

It is assumed that SMART will allow the conveyor to be constructed on the condition that the at-grade rail crossing be closed. This could result in a secondary impact by eliminating the local access to the Area A for project traffic and for a few private residences along the River.

To address this secondary impact the applicant/owner shall make an irrevocable offer to the County of Sonoma for a 50-foot access and utility easement parallel to the SMART railroad tracks on APN 019-220-001 for the purposes of ingress, egress and utilities. This would preserve options for a future roadway through Landing Way to allow access to Area A and neighboring residential properties along the River if the existing railroad crossing is closed. This measure will cause a small number of passenger vehicles to be mixed with the larger volume of truck trips along the right-of-way. This is not a substantial concern, however, because most of this traffic would be from residents who are familiar with the area and currently there are employee and other passenger vehicle trips in the area so this increase will not represent a new condition for truck drivers using this route.

The closure of the at-grade rail crossing at the project site would also increase the distance for emergency vehicles to access the residences along the River in the event of an emergency. This is not anticipated to result in a significant increase in response times to the residences along the River because the current access route to these residences through the project site includes a gate at the project entrance at Petaluma Boulevard South. The project would also include relocating the San Antonio Volunteer Fire Department to the project site.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Pre-Construction/Operation                     |
| <b>Implementing Party</b> | Applicant                                      |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works |

**TRANS-13b Access for Neighboring Residential Land Uses**

The applicant shall provide neighboring residents an all-weather vehicular access route to Petaluma Boulevard South. Access shall be designed, operated, maintained and recorded to the satisfaction of SMART, DTPW, PRMD and the County Fire Marshal prior to building permit issuance.

|                           |  |
|---------------------------|--|
| <b>Monitoring Phase</b>   | Pre-Construction/Construction/Operation        |
| <b>Implementing Party</b> | Applicant                                      |
| <b>Enforcement Agency</b> | County of Sonoma Transportation & Public Works |
| <b>Monitoring Agency</b>  | County of Sonoma Transportation & Public Works |



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## **APPENDICES**

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## **APPENDICES**

### **DUTRA HAYSTACK LANDING ASPHALT AND RECYCLING FACILITY**

### **FINAL ENVIRONMENTAL IMPACT REPORT**

- APPENDIX A: COMMENT LETTERS  
APPENDIX B: REVISED AIR QUALITY CALCULATIONS

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**APPENDIX A**

**Comment Letters**

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**APPENDIX A**

**Comment Letters**

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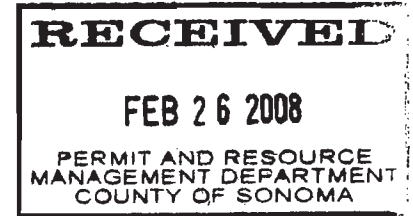
PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



January 25, 2008

Steve Dee  
County of Sonoma  
2550 Ventura Avenue  
Santa Rosa, CA 95403-2829



RE: Dutra Haystack Landing Asphalt Plant/Concrete Recycling Facility,  
SCH# 2006022107

Dear Mr. Dee:

As the state agency responsible for rail safety within California, we recommend that any development projects planned adjacent to the rail corridor in the County be planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way.

Of specific concern is the impact from increased traffic on the existing private crossing that provides access to the site. The adequacy of the warning devices need to be assessed for the usage proposed. Continuous vandal resistant fencing or other appropriate barriers should be installed to deter trespassing over the rail corridor.

A1-1

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the County.

If you have any questions in this matter, please call me at (415) 703-2795.

A1-2

Very truly yours,

Kevin Boles  
Environmental Specialist  
Rail Crossings Engineering Section  
Consumer Protection and Safety Division



cc: Lillian Hames, SMART  
Mitch Stogner, NCRA



**NORTH MARIN WATER DISTRICT**

999 RUSH CREEK PLACE • POST OFFICE BOX 146 • NOVATO, CALIFORNIA 94948 • (415) 897-4133 • FAX (415) 892-8043

February 7, 2008

**RECEIVED**  
FEB 11 2008  
F. L. ANA  
CC

A2

Mr. Steve Dee, Senior Environmental Specialist  
Sonoma County PRMD  
2550 Ventura Avenue  
Santa Rosa, CA 95403-2829

Re: Notice of Completion and Notice of Public Hearing – Draft Environmental Impact Report for Dutra Haystack Landing Asphalt Plant & Recycling Facility  
3355 Petaluma Boulevard South, Petaluma  
APN 019-320-022, -023

Dear Mr. Dee:

The North Marin Water District (NMWD) has reviewed the subject Draft Environmental Impact Report (DEIR) for the above referenced project and have the following comments.

1. Chapter IV, Summary of the Initial Study, Page IV-5

**Hydrology & Water Quality, 8.b.** NMWD is written out as “North Marin Municipal Water District.” Please revise to the correct name “North Marin Water District.”

A2-1

2. Chapter V.H, Land Use, Page V.H-26

**Adequate Water Supply.** The single family homes on Assessor Parcel Numbers (APNs) 019-320-010 and 019-320-021 shall each be defined as an equivalent single family dwelling unit pursuant to NMWD Regulation 1, from time to time in effect, estimated to use 636 gpd each (average day peak month), not 417 gpd as stated in the Marin Countywide Plan. Please revise paragraph 3.

A2-2

3. Chapter VI, General impact Categories, Page VI-2

**Growth inducing impacts of the Proposed Project.** While no expansion of existing water facilities would be required for potable water service, a new 8” water main would need to be constructed to provide fire protection service required by the Sonoma County Fire Department. The water main extension from Landing Way would be approximately 2,000 feet long and run south along Petaluma Blvd South. Please add this discussion to paragraph 7 of this section.

A2-3

Thank you for the opportunity to comment.

Sincerely,

Drew McIntyre  
Chief Engineer

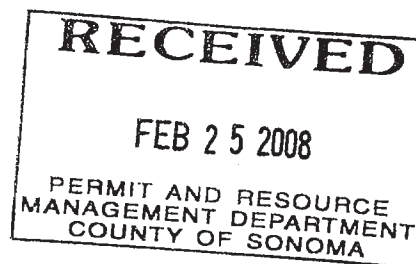
cc: Dutra Group  
Bill Dutra  
1000 Point San Pedro  
San Rafael, CA 94901

Al Cornwell  
CSW/Stuber-Stroeh  
45 Leveroni Ct.  
Novato, CA 94949





Making San Francisco Bay Better



February 22, 2008

Steve Dee, Senior Environmental Specialist  
 Sonoma County Permit and Resource Management District  
 2550 Ventura Avenue  
 Santa Rosa, California 95403-2829

**SUBJECT:** Notice of Completion of Draft Environmental Impact Report for Proposed Dutra Haystack Landing Asphalt Plant and Recycling Facility; SCH # 2006022107 (BCDC Inquiry File No. MC.MC.8702.1)

Dear Mr. Dee:

Thank you for requesting the Commission's comments on the draft Environmental Impact Report (EIR) for the Dutra Haystack Landing Asphalt Plant and Recycling Facility and received in our office on January 18, 2008. The San Francisco Bay Conservation and Development Commission ("BCDC" or "Commission") is a responsible agency for this project, a portion of which must be authorized by a Commission permit. Although the Commission itself has not reviewed the draft EIR, the Commission's staff has reviewed the draft EIR and is submitting its comments regarding the project. The staff comments are based on the McAteer-Petris Act, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally-approved management program for the San Francisco Bay, and the federal Coastal Zone Management Act (CZMA). The Commission will rely partly on the EIR prepared by the lead agency when it considers the project.

A3-1

Commission permits are required for construction, changes of use, dredging, and dredged material disposal within its area of jurisdiction. Permits are issued if the Commission finds the activities to be consistent with the McAteer-Petris Act and the findings and policies of the *San Francisco Bay Plan*. In addition to any needed permits under its state authority, federal actions, permits and grants that affect the Commission's jurisdiction are subject to review by the Commission, pursuant to the federal Coastal Zone Management Act (CZMA), for their consistency with the Commission's federally-approved management program for the Bay. It appears that some of the proposed project would occur within the Commission's jurisdiction and would require Commission authorization.

A3-2

On April 19, 2006, Andrea Gaut of the Commission's staff transmitted a letter to you in response to the Notice of Preparation for the EIR. The letter outlined the most relevant policy concerns for the project. We feel that a number of the concerns were not adequately addressed by the draft EIR, as discussed below.

A3-3



### **Jurisdiction and Proposed Project**

The Commission's jurisdiction includes all tidal areas of the Bay up to the line of mean high water and the inland edge of marsh vegetation (up to five feet above mean sea level) in marshlands, all areas formerly subject to tidal action that have been filled since September 17, 1965, the "shoreline band," which extends 100 feet inland from and parallel to the Bay shoreline, and "certain waterways" as specified in Section 66610 of the McAteer-Petris Act up to the mean high water or the edge of marsh vegetation (up to five feet above mean sea level) in marshlands. The Commission has no shoreline band jurisdiction on certain waterways.

A3-4

At the proposed project site, the Commission has certain waterways jurisdiction over the Petaluma River in Area A to the edge of marsh vegetation up to five feet of mean sea level, including the tidal inlet and marsh vegetation in the vicinity of the conveyor belt and dock. The portion of the proposed project that would be constructed within the Commission's jurisdiction would include a pier supported by approximately 15 piles, four groups of dolphins adjacent to the pier to facilitate barge unloading, a hopper and drawbridge-style enclosed conveyor, and water intake structures and associated pipelines.

### **Bay Plan Policies on Fill**

As previously stated in our April 19, 2006 letter, the Commission may only authorize Bay fill for any use when that fill is consistent with the McAteer-Petris Act and the Bay Plan. The placement of fill in the Bay, or in this case, the Commission's certain waterway jurisdiction, may be authorized when it meets the fill requirements identified in Section 66605 of the McAteer-Petris Act, which states in part, that: (1) the public benefits of fill must exceed the public detriment from the loss of water areas and should be limited to water oriented uses (such as ports, water-related industry, etc.); (2) no alternative upland location is available; (3) the proposed fill is the minimum necessary to achieve the purpose of the fill; (4) the nature, location, and extent of the fill must minimize harmful effects to the Bay Area; (5) the fill would be constructed in accordance with sound safety standards; and (6) the fill should establish a permanent shoreline. The Bay Plan states that, among other things, fill may be approved for ports, water-related recreation, and public access.

A3-5

Although the project appears to be generally consistent with the Commission's laws and policies, the EIR does not include an analysis of how proposed fill in the Commission's jurisdiction is the minimum size necessary. Additionally, we are especially concerned that the nature, location, and extent of the fill would not minimize harmful effects to the Bay. The conveyor would carry material over tidal marsh on the edge of the river, and is sited partially over a vegetated tidal inlet. Although the project description states that the conveyor would be enclosed, Impact BIO-2 seems to contradict the project description, as it identifies the potential for conveyor operation to result in side-casting of gravel that could accumulate below the structure and eventually fill the marsh and open water habitat. However, if the conveyor is enclosed as described by the project description, then it is unclear how side-casting would occur. Any side casting into river and marsh vegetation within BCDC's jurisdiction would be considered unauthorized fill. Revisions to the draft EIR should include clarification of whether

or not the conveyor will side cast material. If so, we suggest relocating the conveyor away from the tidal inlet, as outlined by Alternative C to the proposed project, thereby minimizing side casting into marsh habitat.

A3-5  
(cont'd)

The proposed project would also involve installing an intake structure and pipeline to obtain water from the Petaluma River to use for dust suppression. However, the proposed intake and pipeline were not defined or mapped by the draft EIR, and therefore could not be fully analyzed for consistency with the Commission's laws and policies on fill. As stated in the draft EIR, such an intake structure would have the potential for significant impacts, including increased suspension of sediments due to bank erosion or scouring of a depression in the river bottom. Authorization of an intake structure and pipeline within the Commission's jurisdiction would be subject to the policies discussed above.

A3-6

#### **Bay Plan Policies on Tidal Marshes and Tidal Flats and Bay Plan Policies on Fish and Wildlife**

*The San Francisco Bay Plan* policies on tidal marshes and tidal flats state in part that, "[a]ny proposed fill, diking, or dredging project should be thoroughly evaluated to determine the effect of the project on tidal marshes and tidal flats, and designed to minimize, and if feasible, avoid any harmful effects."

As stated in our April 19, 2006 letter, the *San Francisco Bay Plan* policies on fish and wildlife state, in part, that "[s]pecific habitats that are needed to prevent the extinction of species, or to maintain or increase any species that would provide substantial public benefits, should be protected...." We feel that the project has the potential for significant impacts to tidal marshes and tidal flats and impacts to associated fish and wildlife that are not adequately analyzed by the draft EIR.

A3-7

The draft EIR states that the proposed project is not expected to have any adverse impacts on any nearby marsh areas, including marsh habitat associated with Shollenberger Park and Adobe Creek, located approximately 800 feet upstream of the proposed facility. The draft EIR states that the project would not affect this marshland because it is already affected by nearby industrial development, including Shamrock Material. However, the draft EIR should have included an analysis regarding the potential impacts associated with the proposed project rather than simply stating that the nearby marshlands are already impacted. Additionally, the draft EIR did not analyze potential impacts to the Petaluma Marsh Wildlife Area, which is located downstream of the proposed project. As discussed above, the draft EIR identified multiple scenarios, including conveyor side-casting and channel scour/erosion that could result in increased sediment loads. The revised EIR should also analyze potential sedimentation impacts to downstream marshland.

#### **Other Issues**

Although not in our jurisdiction, we are concerned about potential impacts to the heron and egret rookery resulting from construction and operation of the facility, and encourage all efforts to minimize such impacts.

A3-8

Steve Dee, Senior Environmental Specialist  
Sonoma County Permit and  
Resource Management District  
February 22, 2008  
Page 4

Thank you for your consideration of these issues. Please contact me at (415) 352-3619 or erinb@bcdcc.ca.gov if you have any questions.

A3-9

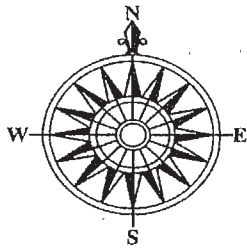
Sincerely,



ERIN BOMKAMP  
Coastal Analyst

EB/mm

cc: State Clearinghouse



**Directors**

March 3, 2008

**Mike Kerns, Chair**  
Sonoma County

Steve Dee

**Lisa Schaffner, V. Chair**  
Healdsburg

County of Sonoma

**Bob Blanchard**  
Santa Rosa

Permit and Resource Management Department

**Valerie Brown**  
Sonoma County

2550 Venture Avenue

**Stanley Cohen**  
Sonoma

Santa Rosa, CA 95403-1103

RE: Draft Environmental Impact Report Comments – Dutra Haystack Landing

**Pat Gilardi**  
Cotati

Dear Steve:

**Mike Harris**  
Petaluma

Sonoma County Transportation Authority's (SCTA) comments are limited to the proposed Dutra Haystack Landing (Dutra) project's impacts to Hwy 101 and the proposed Petaluma Boulevard South (PBS) Interchange (I/C) that is part of the Marin Sonoma Narrows (MSN) project along the Hwy 101 corridor.

A4-1

**Robert Jehn**  
Cloverdale

**Paul Kelley**  
Sonoma County

The schedule for the design and construction phases for the PBS I/C project have been established.

**Jake Mackenzie**  
Rohnert Park

- The Draft EIR/EIS for the MSN HOV Widening Project was issued in October 2007.
- The Final EIR/EIS document is expected to be completed in July 2008.
- The design phase of the PBS I/C project is expected to start in March 2008.
- Right of Way acquisitions are expected to start in July 2008, following the clearance of the environmental phase of the project.
- Construction is anticipated to start in February 2011. The project is fully funded through construction.

A4-2

**Sam Pierce**  
Sebastopol

**Sam Salmon**  
Windsor

Significant preliminary engineering design work has been performed in order to identify potential impacts associated with the MSN project. Of particular concern to SCTA is the location of the new PBS I/C as it relates to and impacts the proposed Dutra project. With this in mind, comments to the proposed Dutra DEIR mitigations are as follows:

A4-3

**TRANS - 3 Mitigation Measure**

**Suzanne Smith**  
Executive Director

Consideration should be given to including Caltrans' Guideline For The Preparation Of Traffic Impact Studies, Appendix "B", Methodology For Calculating Equitable Mitigation Measures as the method for determining the "fair share" contribution towards the PBS I/C project.

A4-4

490 Mendocino Avenue  
Suite 206  
Santa Rosa, CA 95401  
PH: 707-565-5373  
FAX: 707-565-5370

## TRANS – 4 Mitigation Measure

Figure V.J-8 shows roadway improvements (deceleration lane, acceleration lane, re-grading/reconstruction/overlay, etc.) along Petaluma Boulevard South (PBS) between the northbound Hwy 101 off-ramp and the northbound Hwy 101 on-ramp and signalization of PBS at the proposed driveway. These improvements are either part of the proposed mitigation measures or have been proposed by Dutra to gain access to PBS. The locations of the proposed Dutra driveway and the PBS I/C overcrossing connection to the future frontage road almost overlap. As part of the PBS I/C design, the existing northbound off-ramp and a portion of PBS beyond Caltrans' Right of Way along the frontage of the Dutra parcels will need to be realigned. It will be necessary to demolish the signal and improved portions of PBS that Dutra is required to construct as part of the proposed mitigations. The reconfiguration of the off-ramp and a portion of PBS will most likely be one of the first stages of work in early 2011. An alternative option to avoid the potential conflict between the two projects could be added to the mitigation measures that would allow for Dutra to construct a portion of the future off-ramp and frontage road in the same configuration as the PBS I/C design requirements. Potentially, this would address the speed related driveway ingress and egress safety issues and result in only one disruption to public traffic during construction, instead of two disruptions if the Dutra and PBS I/C projects are not coordinated.

A4-5

The alternative option discussed above would require significant coordination between the County, Caltrans, and Dutra to address the realignment of the northbound Hwy 101 off-ramp, driveway connection point, frontage roadway design, and tie-in to the existing northbound Hwy 101 on-ramp/PBS intersection. Acquisition of the parcel to the north of Parcel "B" would probably be necessary. However, it is likely that this parcel will be subject to a right-of-way take associated with the PBS I/C design, regardless of what transpires with the Dutra project. This alternative option could be included within the "fair share" calculation for the PBS I/C since the new frontage road alignment is part of the PBS I/C design and construction cost.

If you have any questions or wish to discuss this issue further, please contact John Maitland at 707-565-5377.

A4-6

Sincerely,

Suzanne Smith  
Executive Director



March 3, 2008

**Directors**

Charles McGlashan, Chair  
Marin County

Debora Fudge, Vice-Chair  
Town of Windsor

Al Boro  
San Rafael

Peter Breen  
San Anselmo

Hal Brown  
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Valerie Brown  
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Carole Dillon-Knutson  
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Jim Eddie  
GGBHTD

Robert Jehn  
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Mike Kerns  
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Mackenzie  
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Kathy Cochran  
Administrative Assistant

750 Lindero Street, Suite 200  
San Rafael, CA 94901  
415-226-0880  
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www.sonomamarinrain.org

Steve Dee  
Senior Environmentalist  
Sonoma County Permit and Resource Management Department  
2550 Ventura Ave.  
Santa Rosa, CA 95403-2829

RE: Sonoma-Marín Area Rail Transit District's (SMART) Comments on  
Dutra's Draft EIR

Dear Mr. Dee:

Thank for providing us with the opportunity to comment on the Draft Environmental Impact Report ("Draft EIR") for the Dutra Haystack Landing Asphalt and Recycling Facility (hereinafter, "the project"). Set forth below are the Sonoma-Marín Area Rail Transit District ("SMART") staff's comments.

First, Wetland Maintenance (Table II-1, Impact HYDRO-2). With the approval of the project, the culvert poses a potential significant impact to SMART's right of way. The Draft EIR recommends as mitigation that the culvert be repaired or replaced to improve tidal circulation. SMART will require as part of any easement agreement to cross its track that Dutra not merely repair the culvert, but replace the culvert with a concrete box culvert designed to address the tidal issues using SMART standards. The mitigation measure should be amended to require that the culvert be replaced pursuant to SMART's standards.

A5-1

Second, Conveyor and Private Crossing (Table II-1, Impact TRANS). The conveyor system will result in crossings with less sight distance allowance, making the private crossing less safe. Removing the private crossing at Mile Post (MP) 36.5 and consolidating the crossing at MP 36.8 ("Landing Way") is necessary to mitigate the potential safety issue. Dutra will be required to obtain approval from SMART to cross the railroad with a conveyor system and it will be required to obtain approval from SMART to cross the railroad with vehicular traffic at Landing Way. To obtain this approval, SMART will require Dutra to consolidate the railroad crossing and to install automatic warning devices at Landing Way. Mitigation measures should be amended or added to reflect these requirements and to require that these mitigation measures be met before Dutra commences operations to ensure that safety risks are minimized.

A5-2

Third, Related Projects (Table III-1); *see also*, DEIR at p. III-33. The table mentions SMART as a regional project but does not list the North Coast Railroad Authority (“NCRA”), which is the separate agency in charge of future potential freight service operations. NCRA issued a Notice of Preparation of an EIR in July 2007 for its freight project. The Draft EIR fails to address NCRA’s project as a related project. The Draft EIR needs to provide more information and analysis regarding this cumulative project.

A5-3

Fourth, Private Grade Crossing (Table II-1, Cumulative Land Use Impacts); *see also*, DEIR at p. II-44 and p. II-50. In addition to future SMART passenger trains, there will also be freight trains operated by NCRA. Dutra’s Draft EIR does not address the cumulative safety, air quality and noise impacts associated with the freight trains operated for or by NCRA. The Draft EIR does not mention that SMART’s EIR for its passenger rail project does address safety and noise mitigation measures. Further, the Dutra Draft EIR utilizes noise level standards established by the local jurisdiction – the County of Sonoma. The Draft EIR fails to acknowledge that the noise levels established in local plans are not a limit or criteria on noise generated by transportation sources, but a designation of what areas are appropriate for residential development, based on the noise environment. (*See*, SMART’s (Certified) EIR at section 3.7.2) Transportation noise sources operating on a public right of way are exempt from all local maximum noise level standards because the regulation of noise sources such as traffic on public roadways, railroad line operations and aircraft in flight is preempted by federal and/or state regulations. The Federal Rail Administration (FRA) has adopted the FTA noise impact criteria and developed additional guidance on assessment of rail horn noise. SMART utilized the FTA noise impact criteria for its EIR. The Dutra Draft EIR needs to address this issue and appropriately analyze the information.

A5-4

Fifth, Dutra’s Draft EIR does not address in detail the safety issues with the conveyor regarding protection of the railroad from falling aggregate and flying debris. The Draft EIR only mentions that the conveyor will be enclosed. The Draft EIR should address the design of the conveyor to ensure that it is a sealed system, such that debris will be prevented from falling onto the railroad right of way. Mitigation measures should be amended or added to require that Dutra maintain the enclosed conveyor system as a sealed system, as well as protocols if the conveyor belt or its sealed compartment should fail to perform as expected.

A5-5

Sixth, Dutra’s Draft EIR does not mention or analyze stability issues associated with the conveyor foundation structure and its zone of influence effect on the surrounding hillside slope adjacent to the railroad. This is significant especially if NCRA is planning to place a siding on the west side of the existing mainline track. The conveyor foundation and hillside slope could be compromised from ditching or excavation of the hillside from railroad activities. Conversely, the railroad right of way could be compromised by the placement of the conveyor foundation structure adjacent to the right of way. Proper subsurface investigation should be conducted prior to construction in order to identify any stability issues.

A5-6

A geological technical report on the stability issues should be prepared prior to permitting, and any geotechnical design recommendations should be incorporated into the final project and verified during construction by monitoring of construction activities by a qualified geotechnical consultant.

A5-6  
(cont'd)

Seventh, Hazardous Materials. Table II-1, p. II-35. The Draft EIR does not address the exact location of the storage of hazardous materials or volatile materials. Such materials must be located at a safe distance from the rail right of way. Additional information is needed regarding the location and the safety measures to be applied to the storage tanks to ensure that they do not pose a safety hazard for rail operations.

A5-7

This concludes the SMART staff's comments to the Draft EIR for Dutra's project. Again, thank you for providing SMART with the opportunity to comment on the Draft EIR. If you have any questions regarding our comments, please do not hesitate to contact me at (415) 226-0886.

A5-8

Sincerely,



Lillian Hames  
General Manager

cc: Lucrecia Milla, Property Manager, SMART  
Michael Strider, HDR Inc., Rail Engineer  
Greg Dion, County Counsel



**DEPARTMENT OF TRANSPORTATION**

111 GRAND AVENUE  
 P. O. BOX 23660  
 OAKLAND, CA 94623-0660  
 PHONE (510) 286-5505  
 FAX (510) 286-5559  
 TTY 711



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March 4, 2008

SON101892  
 SON-101-2.93  
 SCI # 2006022107

Mr. Steve Dee  
 Sonoma County PRMD  
 2550 Ventura Avenue  
 Santa Rosa, CA 95403

Dear Mr. Dee:

**Dutra Haystack Landing (PLP04-0046) – Draft Environmental Impact Report (DEIR)**

Thank you for continuing to include the California Department of Transportation (Department) in the review process for this project. Our comments below are based on the review of the DEIR. As lead agency, Sonoma County is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the DEIR. Any required roadway improvements should be completed prior to issuance of project's use permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's CEQA concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process.

A6-1

**Forecasting**

The report assumes that all truck entries and exits will cease at 4:00 every day so they will have no effect on the PM peak hour traffic. This may be the usual operating procedure, but what assurance is there that the plant will not sometimes have extended hours of operations into the evening? It may sometimes be supplying a large project on a compressed schedule that continues operations into the evening. Also, the projects effect on traffic from 3:00 to 4:00 PM should be examined. While not the PM peak, traffic is certainly increasing at that time and the traffic patterns will differ from the AM peak such that the effects may be significant.

A6-2

**Highway Operations**

1. Page III-55: Proposed improvements include curbs along the northbound off-ramp. Curbs should not be used on ramps.

A6-3

2. Page V.J-1: Existing traffic volumes were derived between 2003 and 2004. Existing traffic data should not be more than three years old. Also, it is stated that the volumes were increased by two percent annually to account for traffic growth. Were these volumes validated and checked against the Department's most recent traffic data? A6-4
3. Figure V.J-1 (Location Map and Existing Turning Movements) and Appendix A:
  - The NB lane configuration at Petaluma Blvd South at the US 101 SB ramps does not match the lane configuration coding used in the calculation sheets of Appendix A. In addition, Table V.J-1 indicates a "NB ThruLeft" at this intersection. Which one is correct?
  - Petaluma Blvd South is a two-lane principal arterial roadway under existing conditions. It is not accurate to use the lane configuration as shown in this figure to calculate the level of service at Petaluma Blvd South/Landing Way, i.e. one-lane through and one-lane ThruLeft for NB direction, one-lane through and one-lane ThruRight for SB direction. A6-5
4. Table V. J-5 (Near-Term Cumulative Without Project Intersection LOS): There is no SB ThruLeft movement at Petaluma Blvd South/Landing Way. See the lane configuration in Figure V.J-2. A6-6
5. Page V.J-9: The statements in the written paragraph on this page are incorrect:
  - As shown on Table V.J-3, Highway 101 SB-South of Petaluma Blvd South operates at LOS F under existing conditions. Therefore, the statement "... degrade from LOS E to LOS F" is incorrect.
  - As shown on Table V.J-7, Highway 101 SB-North of Petaluma Blvd South and SB Off-Ramp operate at LOS F under near-term cumulative conditions. Therefore, the statement "... whereas other facilities appear to operate acceptably" is incorrect. A6-7
6. Figure V.J-3 (Cumulative 2020 Without Project Turning Movements): When comparing Figure V.J-2 and Figure V.J-3, the volumes of some movements are less under Cumulative 2020 Conditions than under Near-Term Cumulative Conditions. Please explain why. A6-8
7. Table V.J-8 (Cumulative 2020 Without Project Intersection LOS):
  - For consistency, the headline should be "Cumulative 2020 Without Project" instead of "Near-Term Cumulative Without Project".
  - There is no SB ThruLeft movement at Petaluma Blvd South/Landing Way. See the lane configuration in Figure V.J-3.
  - The NB Left delay at Petaluma Blvd South/Highway 101 NB On-Ramp is 8.3 seconds instead of 83.3 seconds. A6-9
8. Page V.J-12, last paragraph: It is stated that the SB segments north of Petaluma Blvd South would operate unacceptably during the AM peak hour. However, according to Table V.J-10, Highway 101 SB-North of Petaluma Blvd South operates at LOS D during the AM peak hour under cumulative 2020 conditions. (The minimum acceptable level of service threshold is LOS D, as listed in the "Highway Operations" section on Page V.J-4.) A6-10

- 9. Figure V.J-7 (Existing Plus Project Turning Movements): Petaluma Blvd South is a two-lane principal arterial roadway under existing conditions. It is not accurate to use the lane configuration as shown to calculate the level of service at Petaluma Blvd South/Landing Way, i.e. one-lane through and one-lane ThruRight for NB direction, one-lane through and one-lane ThruLeft for SB direction. A6-11
  
- 10. Page V.J-24 (Intersection LOS Criteria): It is stated in the third paragraph that "The County level of service standard for intersections is LOS D or better". However, on Page V.J-2 under section "Existing Levels of Service", paragraph 2 states that "According to the Sonoma County level of service policy, the threshold for intersection level of service is LOS E." Please clarify. A6-12
  
- 11. Table V.J-14 (Existing and Existing Plus Project Intersection LOS): There is no NB ThruLeft movement at Petaluma Blvd South/Highway 101 SB Ramps. See the lane configuration in Figure V. J-7. A6-13
  
- 12. Table V.J-16 (Existing and Existing Plus Project Highway Operations): The existing SB off-ramp operates at LOS F on Table V. J-16, while it operates at LOS C on Table V.J-3 (Existing Highway Operations). Additional traffic from the project degrades the SB off-ramp from LOS C to LOS F. This is a significant impact. What is the mitigation measure for this impact? A6-14
  
- 13. Page V.J-31 (Mitigation Measure TRANS-4): The proposed signal at the intersection of the project driveway and South Petaluma Blvd does not meet signal warrants. If signals are installed, include advance intersection warning sign and flashing beacon on the northbound off-ramp. A6-15
  
- 14. Figure V.J-9: Near-Term Cumulative with Project Turning Movements: By looking at the turning movements, it appears that mitigation is needed on Petaluma Blvd South. There are a significant amount of vehicles on the mainline with a speed "just below 60 MPH" (per Page V.J-2), which raises a capacity issue and a safety concern for left-turning vehicles. Heavy trucks and buses occupy a significant amount of the storage from the single through and left-turn lanes. Mitigation is needed for these specific conditions. A6-16
  
- 15. Page V.J-33 (Impact TRANS-6): In paragraph 3, it should be "... with 78.8 seconds of delay ..." according to Table V.J-17. A6-17
  
- 16. Table V.J-17 (Near-Term Cumulative Without and Plus Project Intersections Levels of Service): There is no SB ThruLeft movement at Petaluma Blvd South/Landing Way. See the lane configuration in Figure V.J-9. A6-18
  
- 17. Table V.J-20 (Cumulative 2020 Without and Plus Project Intersection Levels of Service):
  - There is no SB ThruLeft movement at Petaluma Blvd South/Landing Way. See the lane configuration in Figure V. J-10. A6-19

### ***Cultural Resources***

The Cultural Resource Studies conducted for this project do not include the areas for interchange improvements to US 101/Petaluma Boulevard South, right-of-way dedication, signal installation, acceleration/deceleration lanes.

Pursuant to CEQA, PRC 5024, and the Department's Environmental Handbook Vol. 2, should ground disturbing activities within the Department's ROW become a part of this project, the Department will require a Cultural Resource Study that includes the following before an Encroachment Permit can be issued:

- A current record search from the Northwest Information Center;
- An evaluation of the sensitivity for buried unrecorded sites within the area of impact.

If an archaeological site is identified within the Department's ROW, the following will be required:

- Effects evaluation of potential project impacts to the archaeological site;
- Mitigation plan per CEQA Guidelines 15126.4(b)(3);
- Evidence of consultation with the territorial Native American group(s) for the area pursuant to PRC 5097.

A6-24

The above report(s) are to be submitted to:

Office of Cultural Resource Studies, MS 8A  
CA Department of Transportation  
P.O. Box 23660  
Oakland, CA 94623-0660

If an archaeological site is identified within State ROW, avoidance is the preferred mitigation for archaeological sites under CEQA; however, CEQA Guidelines 15126.4(b)(3) provides a discussion of archaeological mitigation. Archaeological monitoring is not appropriate mitigation prior to evaluation of a resource.

If a Cultural Resource Evaluation results in the finding of a historically or culturally significant resource, and based on the project impacts to this resource, a Data Recovery Plan may be necessary. This Plan must be approved by the Department's Cultural Resource Studies Office before an Encroachment Permit can be issued.

### ***Encroachment Permit***

Please be advised that any work or traffic control that encroaches on State ROW requires an encroachment permit issued by the Department. Further information is available on the following website: <http://www.dot.ca.gov/hq/traffops/devlopserv/permits/>. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the following address:

A6-25

- Under 2020 Plus Project Conditions, the intersection of Petaluma Blvd South/Highway 101 SB Ramps would operate with 59.7 seconds of delay at LOS F during AM peak hour. The increase in delay would be 6.4 seconds above conditions without the project. In the section "Intersection LOS Criteria" on Page V.J-24 it is stated that "If an intersection is already operating at LOS F, the project's impact is significant and cumulatively considerable if it causes the delay to increase by five seconds or more". Therefore, this is a significant impact.

A6-19  
(cont'd)

18. Page V.J-39 (Mitigation Measure TRANS-10): According to comment #16, the statement "... Impact TRANS-10 was found to be less than significant ..." is incorrect. What are the mitigation measures for the significant impact?

A6-20

19. Page V.J-39 (Impact TRANS-11): It should state "... on the northbound approach ..." instead of eastbound approach in line 2.

A6-21

20. Table V.J-22 (Cumulative 2020 Without and Plus Project Highway Operations):

- Change the title to "2020 No Project" instead of "Near-Term" and "2020 Plus Project" instead of "Near-Term Plus Project".
- According to Table V.J-10, Highway 101 SB-South of Petaluma Blvd South would operate at LOS F under Cumulative 2020 Without Project conditions. Since "The project would add trips to congested segments of southbound Highway 101 south of Petaluma Blvd South during the AM Peak hour", why would the segment operate at better than LOS E under Cumulative 2020 Plus Project conditions?

A6-22

### *Visual Impacts*

We agree with the findings of the DEIR regarding scenic vistas and visual characteristics, other than the use of redwoods for screening. If the project is to go ahead with construction, the Department would like to see that the following mitigation measures be implemented:

1. More landscape screening throughout the project site to further screen the proposed project.
2. Preserving existing trees between the project site and US 101.
3. Screen plantings shall be similar in form, line, color and texture of immediately surrounding trees and vegetation.
4. Exterior building surfaces shall match the hue, lightness and saturation of colors of the immediate surrounding trees and vegetation.
5. Area A and D shall not be used to store equipment, tools, aggregate, etc.
6. Areas B, C and D shall be free of trash, debris, non-operative vehicles and equipment, unless screened from off-site views.
7. Redwood trees are not recommended for screening next to Highway 101 as they are not native to this specific area. A palette of native inland trees is recommended instead.

A6-23

Mr. Steve Dee/ Sonoma County PRMD  
March 4, 2008  
Page 6

Julie Hsu, Branch Chief, Office of Permits  
California DOT, District 4  
P.O. Box 23660  
Oakland, CA 94623-0660

A6-25  
(cont'd)

Should you require further information or have any questions regarding this letter, please call or email Ina Gerhard of my staff at (510) 286-5737 or [ina\\_gerhard@dot.ca.gov](mailto:ina_gerhard@dot.ca.gov).

A6-26

Sincerely,

*signed for Christian Bushong*  
LISA CARBONI  
District Branch Chief  
IGR/CEQA

c: State Clearinghouse



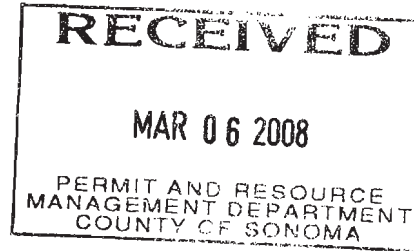
STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER  
GOVERNOR

CYNTHIA BRYANT  
DIRECTOR

March 4, 2008



Steve Dee  
County of Sonoma  
2550 Ventura Avenue  
Santa Rosa, CA 95403-2829

Subject: Dutra Haystack Landing Asphalt Batch Plant and Asphalt / Concrete Recycling Facility  
SCH#: 2006022107

Dear Steve Dee:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on March 3, 2008, and no state agencies submitted comments by that date. 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 call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

A7-1

Sincerely,

Terry Roberts  
Director, State Clearinghouse

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2006022107  
**Project Title** Dutra Haystack Landing Asphalt Batch Plant and Asphalt / Concrete Recycling Facility  
**Lead Agency** Sonoma County

---

**Type** EIR Draft EIR  
**Description** General Plan Amendment/Rezone from Limited Commercial to Limited Industrial with a Use Permit and Design Review to establish a proposed asphalt batch plant, asphalt/concrete recycling facility, stockpiled aggregates, new dock facilities for off-loading barge operation, volunteer fire station, conveyor over SMART railroad tracks, truck scale and office space. On-site storage and handling of sands, aggregates, oils, tars and recycled tires in crumb form to be used in the manufacturing of rubberized asphalt. The site is south of the City of Petaluma and generally located outside the County's Urban Service Boundary, thereby requiring an on-site septic system and NMWD water supply; water also pumped from the Petaluma River for dust suppression. Barge dock and aggregate off-loading facilities within BCDC/JARPA jurisdiction on Petaluma River. Temporary Start-Up Production: 371k tons annually; Permanent Buildout Production: 664k tons annually.

---

**Lead Agency Contact**

**Name** Steve Dee  
**Agency** County of Sonoma  
**Phone** 707-565-8350 **Fax**  
**email**  
**Address** 2550 Ventura Avenue  
**City** Santa Rosa **State** CA **Zip** 95403-2829

---

**Project Location**

**County** Sonoma  
**City** Petaluma  
**Region**  
**Cross Streets** Petaluma Boulevard South Highway 101 northbound off-ramp  
**Parcel No.** 019-220-001 and 019-320-022, 023  
**Township** **Range** **Section** **Base** MDB&M

---

**Proximity to:**

**Highways** 101  
**Airports** Sonoma County  
**Railways** SMART  
**Waterways** Petaluma River  
**Schools** Grant School  
**Land Use** Vacant industrial/ Commercially designated/ Zoned parcels

---

**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Septic System; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects; Other Issues

---

**Reviewing Agencies** Resources Agency; Department of Conservation; Department of Fish and Game, Region 3; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; California Highway Patrol; Caltrans, District 4; Air Resources Board, Major Industrial Projects; Integrated Waste Management Board; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; State Lands Commission

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**Date Received** 01/17/2008 **Start of Review** 01/17/2008 **End of Review** 03/03/2008



**Steve Dee - SCH 2006022107 - Dutra Haystack Land Asphalt Plant and Asphalt/Concrete Recycling Facility**

---

**From:** "Ramsey, Jacquelyn" <Jacquelyn.Ramsey@conservation.ca.gov>  
**To:** <sdee@sonoma-county.org>  
**Date:** 03/06/2008 12:00 PM  
**Subject:** SCH 2006022107 - Dutra Haystack Land Asphalt Plant and Asphalt/Concrete Recycling Facility

---

Dear Steve:

Per our telephone conversation March 3, 2008, I have reviewed the document and find that it does not involve land restricted by a Land Conservation (Williamson ) Act contract. Therefore, the Department of Conservation, Division of Land Resource Protection, Williamson Act Program has no comment.

A8-1

Jacquelyn Ramsey  
Environmental Planner  
Williamson Act Program  
(916) 323-2379



# PETALUMA WETLANDS ALLIANCE

(A COMMITTEE OF MADRONE AUDUBON)  
P.O. BOX 973, PETALUMA CA 94953-0973

[www.petalumawetlands.org](http://www.petalumawetlands.org)

1 February 2008

TO: Permit and Resource Dept  
County of Sonoma

SUBJECT: Response to Dutra Corp. draft EIR

## PETALUMA PUBLIC WETLANDS SITE STATEMENT

The potential new Dutra Corp. asphalt manufacturing site is on the west side of the Petaluma River directly across the river from the northwest portion of Shollenberger Park. To the north of Shollenberger Park is Alman Marsh, and to the south is the Ellis Creek Water Recycling Facility & Wildlife Sanctuary which will open to the public in early 2009. In total, these three properties comprise over 500 acres of public wetlands. The Petaluma Wetlands Alliance (PWA) is the nonprofit organization which supports these wetlands with education in, and stewardship of all 500+ acres. We provided nearly 1000 schoolchildren with interpretive services last year, in addition to interpreting the wetlands for hundreds of adults. We have grown from two to thirty-five docents in five years. Our program is rapidly growing, and we expect to double our docent staff over the next two years and add many new programs. PWA is also developing plans for an interpretive center at the Ellis Creek site. All of this growth will make our public wetlands the primer wetlands educational site in the bay area, servicing thousands of children and adults every year. In addition, after Ellis Creek opens, Petaluma will become a true "birding hotspot" in California. Our tourism from birders and nature lovers is expected to grow to 10,000 – 20,000 people per year, not to mention our local citizens who frequent the site on a regular basis. These public wetlands will soon become the outdoor education and the tourism focal points in the Petaluma area.

These public wetlands are immediately **down-wind and down stream** from the new Dutra asphalt plant site. PWA, which has several hundred supporters plus the community at large, is extremely concerned about possible negative effects from the asphalt plant which might occur to the habitats, wildlife, safety, and sensual experiences of visitors to our wetlands. The growth in use of our wetlands is a matter of economics, educational program success, community pride, and community "quality of life issues". It is extremely important to us that the Dutra project has the minimum of negative impacts on our wetlands. There is no doubt that Dutra's plant will become even more of a "talking point" on our wetlands tours, for better or worse, depending on the final

B1-1

reactions of the County and Dutra to this DEIR and community suggestions. Failure to make this plant as invisible to our senses as is technically possible is not an acceptable option at this site. (cont'd)

## SUMMARY COMMENTS OF DEIR REVIEW

1. We feel that the plant should be built according to Alternate "C" guidelines, while incorporating all of the mitigation steps of the full project which are still applicable to the reduced plan. This would reduce many of the negative impacts from the plant, including night use, noise, and potential disturbance to nesting birds in the site and along the river. Other issues like hazardous waste, hydrology issues, and traffic would also be reduced. Alternate C would allow Dutra to meet its objectives of asphalt manufacture while using the river for delivery of gravel, which PWA supports since the commercial tonnage figures from their river use are important to Petaluma in obtaining Federal funding for dredging the river. We also realize the need for asphalt products in the community to support our roads.

2. We feel that Dutra should abandon the concept of using 20,000 gallons of river water each day for dust reduction due to the destruction it would potentially cause to thousands of fish and millions of invertebrates living in the river. Such pumping would alter the entire ecosystem of that section of the river and considerably reduce the food availability in our tidal wetlands, creeks, and some unknown portion of the river itself. There are other issues of hydrology and habitat damage related to this river pumping scheme (DEIR Section V, pp. C23, C24, C31). A better solution might be to get recycled water from Petaluma's recycling facility. Petaluma has been giving away recycled water for years and preservation of the biological quality of our river and wetlands would justify continuing to do so. In addition, if highly-pathogenic bird flu virus does come to the area, and it could (with little warning), spraying river water would probably be lethal to many people in the community as well as to Dutra employees.

3a. PWA feels that there should be a real commitment from Dutra to eliminate, or control, invasive weeds on their site to include Yellow Star Thistle, Purple Star Thistle, Italian Thistle, Bristly Ox-tongue, French Broom, Giant Reed, Poison Hemlock, and Perennial Pepperweed. A new invasive species called Stinkwort has also appeared in the area and needs pulling because it is extremely invasive. Stinkwort comes up in June, is sticky, smells like camphor, and is easy to pull out of the ground. All of these species are being vigorously fought in Shollenberger and replaced by native species. Since all of these species produce seed that can be blown several hundred feet, or be transported downstream on the river, we don't want new seed appearing in our wetlands from the Dutra site. Removing the Pepperweed (*Lepidium latifolium*) is particularly important to maintain the desirable biodiversity in the Dutra restored wetlands. Every effort should also be made to preserve the native plants already existing on the property.

3b. We urge Dutra to cooperate with The Spartina Project which is trying to remove the invasive species of Spartina (Cordgrass) which was introduced to the upper Petaluma River about two years ago, probably carried by dredge boats coming from the south bay. Possible issues are access to monitor and/or spray. The invasive Spartina alterniflora and its hybrids (with the native Spartina foliosa) were discovered last year along the river at Shollenberger, along the Dutra property, and several other spots. The Spartina Project has hired experts to eradicate these species from our river.

since they tend to destroy western wetlands by dramatic changes in hydrology which could render the river nonnavigable in the future. B1-5 (cont'd)

4. We feel that the gravel conveyor belt near the rookery should also be covered on the east side as well as the west side so as not to frighten birds flying toward the colony from Shollenberger, where they frequently feed. B1-6

5. We encourage up-front planting of the trees that could become an eventual alternate rookery, but we do not support the idea of erecting the temporary pole-nesting site unless the present rookery is completely abandoned. B1-7

6. Noise levels from the project are significant. A good portion of the noise will come from the recycling section of the plant which is one reason for our favoring Alternate C which will reduce daytime noise levels and entirely eliminate noise at night. Noise issues are of particular interest in regard to the egret rookery on site, the deep-water seasonal pond at Shollenberger which is prime nesting habitat for many nesting species (it is located at noise-measuring site R6 and can extend down to R7 after wet winters), and the general disturbance to wildlife in other habitats along the river. There would also be a significant irritation level among park users from all the noise while on the west side of the park. The relief of all noise at night under Alt-C is a tremendous asset for our wildlife. B1-8

In addition to the planned mitigation sound barriers, we suggest consideration of constructing sound walls between noisy areas of the project and the river to further reduce sound headed toward the public wetlands. Such a wall should be given an earth-tone color in manufacturing, and landscaped on the river-side with native shrubs and trees to further reduce its visibility. Since the DEIR states that multiple rows of housing act as sound filters for rows further from the noise, the same benefit should be gained with other multiple sound filters.

7. Section 5F of the DEIR is totally inadequate when discussing hazards and hazardous materials. Most of this section is a litany of government rules about hazardous material regulations. There is a discussion of possible contaminants to the soil fill on the site which contains materials (including cobalt) from previous activities including gravel wash sedimentations from Dutra's former operation on the hill. The important ongoing issue to the community will be the volatile chemicals used in making asphalt, which is glossed over in the DEIR. There is a mention of asphaltic oil and liquid asphalt, neither of which is defined, but are probably composed of smelly, flammable, toxic, petroleum byproducts. Anyone who has ever walked pass an asphalt re-roofing job understands this issue. If this petroleum byproduct assumption is correct, we need to know what exactly these chemicals are, how much will be present at any given time, what is the vapor pressures and flash points of these chemicals – in other words how unstable are these chemicals. This relates to how much of these chemicals might escape in a leak, or spill before said accident is controlled. Would these chemicals vaporize and be carried by the wind into Petaluma's public wetlands? Would they catch fire and generate more toxic materials to move downwind into Shollenberger? Would they run into the Petaluma River and cause a major toxic accident to wildlife and habitats? In the DEIR there is mention of alarms at the site but how much material could get loose, for how long, before the problem is controlled? If there is any conceivable possibility that any of these hazardous materials, in any form, could cross the river to Shollenberger Park this becomes a **significant risk** to the public. Remember that while Shollenberger is not a school, we now have a thousand school children per year walking around Shollenberger as part of their biology education, and this number is likely to double or triple in a few years. I propose that if any conceivable risk level exists on the B1-9

east side of the river an alarm system should also be installed at multiple sites around Shollenberger to alert the public to evacuate. Such a system might also be needed in the adjoining business park which includes the Kaiser Medical Center. Off-site alarms could be solar powered and activated by digital, wireless signals. We have seen enough news stories about the accidents from the east bay petro-chemical industry to know the issues. Lastly, what is being designed to prevent or contain liquid toxic spills into the river?

B1-9  
(cont'd)

8. We like the fact that wetlands will be restored and created on about one third of the property, and that Dutra appears to have an environmental concern for the habitats and wildlife issues of their project. We fully expect the County and other government agencies to maintain an active monitoring program on the site for at least 5-10 years to assure that the mitigation issues are met and don't fall through the cracks in the hustle and bustle of making asphalt and profits.

B1-10

9. We encourage a second look at the hydrology issues of the site in light of global warming. A report on this concept has just been issued by Science Magazine and is attached.

B1-11

10. If there is any doubt on the part of the DEIR reviewing committee about the quality, state-of-the-art design, or thoroughness of the offered processes or mitigation procedures to be used in this project we suggest that a value-engineering review be done to assure the highest quality of end product to insure the absolute minimum negative impact on Petaluma's public wetlands.

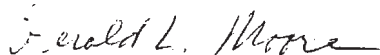
B1-12

#### CLOSING COMMENT OF PWA

PWA is an environmental organization that focuses on wetlands education and stewardship, with less energy spent on advocacy and politics. We like the models of the Nature Conservancy and Environmental Defense who have shown, as Environmental Defense now states, "the approach of lets sue the bastards" is a lot less effective than the approach of "lets sit down together and find common solutions that benefit everyone". With that in mind PWA encourages a partnership with Dutra and ourselves to enhance the quality of our river/wetlands ecosystems while also meeting our other primary goals for being there.

B1-13

However, there are serious safety issues as well as aesthetic, environmental, and financial issues with potential negative impacts to our community-at-large in regard to our large and growing wetlands educational program and the potential economic opportunities related to our growth in wetlands ecotourism business that will impact large segments of our community. Some of these issues may have to be reconciled by stakeholders other than PWA.



Gerald L. Moore Ph.D.  
Chairman  
Petaluma Wetlands Alliance

February 6, 2008

To: Planning Commission, Sonoma County

Subject: Dutra Haystack Landing Asphalt and Recycling Facility, Draft EIR

Dear Commissioners:

I appreciate the opportunity to provide comments for the public record.

My comments focus on Alternatives, and Environmental Impacts to Biological Resources, Noise, Air Quality, Aesthetics, and Cumulative.

B2-1

**VII Alternatives:**

A review of Alternatives A-D led me to want to see evaluation of an additional Alternative, which I believe would actually have been "D", making the current "D" an Alternative "E." The omitted Alternative is included below:

A--No Project, B-Reduced Site Plan Alternative, C-Modified Site Plan Alternative, *D-Reduced and Modified Site Plan Alternative*, and "E"-Alternative Project Site (the report's current "D").

It would appear to be beneficial to conduct an analysis of a site plan alternative that included:

- 1. Omission of the asphalt recycling facility.
- 2. Reduction of the asphalt production plant to 70% from the current proposal.
- 3. Omission of night-time operations and night-time lighting.
- 4. Revision of the site plan to include significantly larger buffer zones between the conveyor, the facility, the planned fire station and the heron/egret colony.
- 5. Inclusion of the modifications described in Alternative C.

B2-2

A discussion regarding further exploration of Alternative D with regard to current property owners' willingness for a long-term lease or potential purchase of that site would also seem reasonable.

Exploration of other potential sites south of the existing location(s) on Petaluma Boulevard South would also appear beneficial.

**V Environmental Impact Analysis**

VB Air Quality

Impact AQ-5 Odors: Although the report indicates BACT is to be implemented, the Blue Smoke control mechanisms remain of concern, especially with regard to potentially significant environmental impacts on biological resources in the immediate area. I hope to hear a discussion of the relationship between odors and emissions and the heron/egret colony sensitivity as well as the close proximity to Shollenberger Park.

B2-3

### VC Biological Resources

This comment focuses on the heron/egret colony currently thriving on the Dutra land. The colony and nesting site will not survive with the currently recommended mitigation measures. The colony will not survive and the nesting site lost if the proposed project is approved under Alternative C. Alternative D with further modifications could prove otherwise.

#### Appendices: Appendix E – LSA Heron/Egret Colony Report

The report bases recommendations on a single project that was a residential condo/townhome development with destruction of two existing residences. This hardly compares to the construction of and then daily operation of a large-scale heavy industrial asphalt production facility. The LSA report does not provide sufficient data to produce realistic recommendations for both protecting the colony during nesting season or for providing any chance at all of survival. The recommended artificial platform construction as a potential mitigation measure still places the colony in the vicinity of the asphalt production plant, a heavy industrial facility with noise, air quality issues and human encroachment. In addition, the planned fire station location would need to be located as far away from the colony site as possible. Obtaining current research data and reliance upon expert observers and biologists familiar with the heron/egret colony on the Dutra land is essential for any attempt to preserve and protect this important natural resource. Many consider the heron/egret colony an extension of the ecosystem encompassed by Shollenberger Park, Alman Marsh and the Ellis Creek area. Of note is the availability for food sources and quiet environment, contributing to the longevity and growth of this colony. This points to the current Alternative D as the superior alternative, as noted in the DEIR report.

B2-4

### VI Noise

I remained unclear as to significant noise impacts and mitigation of those, based upon the reporting mechanism. During construction time, posting the name and telephone number of a responsible person on site is not a sufficient mitigation measure for the daily and sustained noise levels that would occur.

In comparison to "Typical Sound Levels Measured in the Environment and Industry" (Table V.I-2 on p. 2 of the section, Illingworth & Rodkin, January 2004), I located a different measuring system provided by the American Speech-Language Hearing Association, as follows:

#### *Painful*

150 dB = rock music peak

140 dB = firearms, air raid siren, jet engine

130 dB = jackhammer

120 dB = jet plane take-off, amplified rock music at 4-6 ft., car stereo, band practice

B2-5

#### *Extremely Loud*

110 dB = rock music, model airplane

106 dB = timpani and bass drum rolls

100 dB = snowmobile, chain saw, pneumatic drill

90 dB = lawnmower, shop tools, truck traffic, subway

P. 3, Comment, Dutra DEIR, 2/6/08

*Very Loud*

80 dB = alarm clock, busy street

70 dB = busy traffic, vacuum cleaner

60 dB = conversation, dishwasher

Moderate

50 dB = moderate rainfall

40 dB = quiet room

Faint

30 dB = whisper, quiet library

According to the American Speech-Language Hearing Association, "Hazardous Noise: Sounds louder than 80 decibels are considered potentially dangerous. Both the amount of noise and the length of time of exposure determine the amount of damage. Hair cells of the inner ear and the hearing nerve can be damaged by an intense brief impulse, like an explosion, or by continuous and/or repeated exposure to noise. Examples of noise levels considered dangerous by experts are a lawnmower, a rock concert, firearms, firecrackers, headset listening systems, motorcycles, tractors, household appliances (garbage disposals, blenders, food processors/choppers, etc.) and noisy toys. All can deliver sound over 90 decibels and some up to 140 decibels."

B2-5  
(cont'd)

Proposed construction activity noise production approaches 80 and exceeds 90 dB. Ambient daily noise during hours of operation of the asphalt facility range from the low 60s up to 84 dB. The consideration for noise impacts appeared to also focus on impact to the closest residences. I was unable to find a consideration related to the heron/egret colony or to the adults and children at Shollenberger Park, on trails, visiting each day, nor the consideration for impact to wildlife and noise impacts on the Shollenberger Park side of the river.

During the hearing process, I would appreciate an expanded discussion of noise impacts.

VA – Aesthetics and Lighting

Lighting: If the project proceeds, the provision of no night-time lighting is requested. The addition of night-time lighting in a sensitive, rural, nocturnal area could significantly negatively impact biological resources in the area.

Aesthetics: I cannot think of a worse project for the chosen location. I am in favor of Dutra being able to conduct business and contribute to river-related industry in Petaluma. At the same time, the location and alternatives discussed to date, with exception of Alternative D with additional modifications, are of grave concern. Shollenberger Park, Alman Marsh, Ellis Creek and the natural resources assets stand to be negatively impacted in a significant way and in ways that cannot yet be anticipated within the context of an Environmental Impact Report. The heron/egret colony under the current plan is, quite frankly, a goner. The educational program offered by the Docents of the Petaluma Wetlands Alliance is a valuable asset to the community. The sanctuary the area just across the river from the Dutra land (and the heron/egret colony location) provides for wildlife is threatened by this proposal, moreso by noise, air impacts, proposed lighting, and industrial location in a commercial setting across the river. At the same time, the

B2-6



P. 4, Comment, Dutra DEIR, 2/6/08

impact to aesthetics and the scenic vista appear without ability to be mitigated and would negatively interrupt and change the landscape forever.

B2-6

Cumulative Impacts: The significant impacts discussed in this comment (noise, biological resources, lighting/aesthetics, and air quality) produce a cumulative impact on habitat, habitat health and sustainability, for the heron/egret colony and for the wildlife species in the immediate area. These impacts are also relevant for the hundreds of adults and children who visit the area for the purpose of learning about and enhancing personal health in the context of the park setting, marshes and wetlands.

B2-7

In the discussion that evolves from the DEIR, it is my hope that additional alternatives for Dutra's asphalt facility location can be explored so as to support Dutra to operate a river-reliant industry but facilitate location of the facility in a more appropriate setting for such heavy industry.

B2-8

Thank you for accepting my comment.

Sincerely,

Susan Kirks

(Note: My comment is provided in the context of having the privilege to be a Docent at Shollenberger Park, leading school children on educational nature walks, and of being the Chair of a community nonprofit (Paula Lane Action Network, P.L.A.N.) whose mission is research and education, leading to preservation of open space, rural land, wildlife habitat and historic resources.)

B2-9

**Steve Dee - Re: Addendum to Comment for Dutra DEIR, 02/07/08**

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**From:** Steve Padovan  
**To:** Kirks, Susan  
**Date:** 02/07/2008 10:51 AM  
**Subject:** Re: Addendum to Comment for Dutra DEIR, 02/07/08  
**CC:** Dee, Steve

---

Hi Susan,

I will make a note of that.

Also, I was told that all correspondence should be directed to Steve Dee in the PRMD Environmental Review Division. His e-mail address is [sdee@sonoma-county.org](mailto:sdee@sonoma-county.org)

Thanks for your input.

Steve Padovan

>>> Susan Kirks 02/07/2008 8:36 AM >>>  
Dear Steve,

This email communication serves as an Addendum to the Comment Letter forwarded to you via email/attachment on 02/07/08 for the Planning Commission.

Addendum: Reference to "Alternative D" in the Comment Letter on pages 2-4 is to the DEIR Alternative D.

Sincerely, Susan Kirks

*Susan Kirks*

B2-10

Robert Kertzner, M.D  
Petaluma, CA

February 11, 2008

Steve Dee  
Senior Environmental Specialist  
Sonoma County PRMD  
2550 Ventura Avenue  
Santa Rosa, CA 95403-2829

Dear Mr. Dee,

I write as a concerned Sonoma County resident about the proposed Dutra Haystack Landing Asphalt Plant and Recycling Facility. I have looked at the draft EIR on the web and have reviewed the aesthetics section about which I would like to comment.

B3-1

As presently conceived (including landscaping plans to mitigate the adverse visual effects of the plant), the proposed plant strikes me as having unavoidable and highly negative visual effects and I urge the Planning Commission (or Board of Supervisors) to reject the proposal as it currently stands. The site is at a sensitive location at the southern gateway to Sonoma County that is seen daily by thousands of commuters and recreationalists using the Petaluma River and Shollenberger Park. As noted in the EIR, the silos, conical piles, and conveyer belt would be only partially concealed by landscaping and, in turn, this landscaping would block scenic views of the Petaluma River environs and Sonoma Mountain.

B3-2

To rezone this area to permit industrial usage of such an intrusive nature significantly impacts the quality of life for many Sonoma County residents and, I believe, would undermine efforts to promote Sonoma County as a scenic tourist destination.

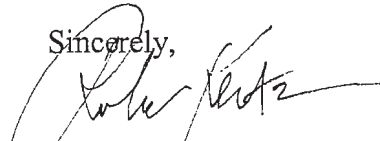
B3-3

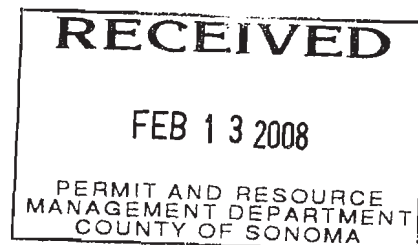
I understand there are issues at stake concerning the eligibility of the Petaluma River to receive federal funding for dredging, but, in perspective, i.e., the quality of life for thousands of residents including generations to come, the economic well-being of our burgeoning tourist industry, and the precious scenic resources of the Petaluma River and Shollenberger Park, I believe that in the larger interest of the public good, the proposed plant should be rejected at the site envisioned in the EIR. The proposed plant strikes me as a stunning eyesore with wide and long-lasting ramifications, despite efforts to address this matter.

B3-4

I appreciate the opportunity to comment on this matter.

Sincerely,

  
Robert Kertzner, M.D.  
Petaluma



Steve Dee - SIGNIFICANT IMPACT -----DUTRA ASPHALT PLANT PROJECT

From: mike gold
To: MIKE KERNS <mkerns@sonoma-county.org>
Date: 02/21/2008 4:44 PM
Subject: SIGNIFICANT IMPACT -----DUTRA ASPHALT PLANT PROJECT
CC: <sdee@sonoma-county.org>

February 21,2008

Dear Mr.Kerns;

This project will significantly impact me and my family and invited guests to my private property. My property is directly downwind of this project. I will also need continued access and possibly signs for new directions.

B4-1

Do you know for how many years they will need this asphalt plant? 2or 3 or 4 or 5 or 6 or 10. This is not just global warming but with particulate matter it is called global dimming. Will the United Nations add this to there list?

B4-2

The Mitigation Plan will not work in the long run. If this project goes forward they should fill that area and move plant back there where it will not be standing out so much. 80 feet won't be as bad closer to that hill (to the south).The mitigation should be closer to freeway and exit.Or no on site mitigation should be needed.

B4-3

Move the Fire station across access road (to south)and back closer to tracks.That will leave the birds alone (and make environmental folks happier)and they could put a 6 or 8 foot solid fence around where birds live on that hill to protect them. A one level fire station will not be as invasive to that area or exit. roads in and out could be behind or in front of fire station.Behind would be better for less view of tracks from highway. (Near tracks)

B4-4

There is a culvert under railroad track that is not deep enough. and will be replaced by railroad (when it starts).That will change the habitat on the Fontes property when that happens. The bridge should have a one way flood gate (the railroad must repair)so brackish water does not come to West side of tracks. It should only be draining fresh water,during the winter.That would also be more protection from accidental releases or spills, giving more control for speedy cleanup. That is why the mitigation site back there won't work. So just use that 19 acres to get project away from highway 101. It will also make it easier for visual screening. Fill and use that area , it is just a nothing (no habitat) area now.

B4-5

By reconfiguring the existing plan it may be easier on the visual aspect.

B4-6

I have owned and enjoyed my property for 30 years. This project is very Significant

you can call me 24 hours a day at number below

A call will go a long way with me

Harvey Goldberg

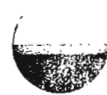
B4-7

I of more to come

LIFE IS GOOD

UNCLEMIKE

MIKE GOLD



**Steve Dee - Asphalt Plant - Asthma concerns**

---

**From:** Sharon Whisman  
**To:** <spadovan@sonoma-county.org>  
**Date:** 02/21/2008 7:06 PM  
**Subject:** Asphalt Plant - Asthma concerns

---

Hi

I understand that I am to email you with my concerns about the potential for Dutra to put in an asphalt plant less than a mile south of my home at McNear Landing. I am the mother of 4 young children. My 10 year old son suffers from asthma. As you can imagine, this is a serious illness and not one that can be taken lightly. One of the triggers for asthma is pollution. I therefore would like to register my opinion as being AGAINST the asphalt plant. Please, please for the sake of my son's health do not let this plant go in so close to our neighborhood. It is the difference between leading a normal life and constant visits to the emergency room.

B5-1

Thank you  
Sharon Whisman

---

Never miss a thing. [Make Yahoo your homepage.](#)

**RECEIVED**

FEB 27 2008

PERMIT AND RESOURCE  
MANAGEMENT DEPARTMENT  
COUNTY OF SONOMA**AUDUBON CANYON RANCH**Cypress Grove Research Center, P. O. Box 808, Marshall, CA 94940  
Tel 415-663-8203 • E-mail CGRC@egret.org • Fax 415-663-1112

24 February 2008

Mr. Steve Dee,  
Senior Environmental Specialist  
County of Sonoma  
Permit and Resource Management Department  
2550 Ventura Ave.  
Santa Rosa, CA 95403

RE: DRAFT ENVIRONMENTAL IMPACT REPORT FOR DUTRA HAYSTACK  
LANDING ASPHALT AND RECYCLING FACILITY

Dear Mr. Dee:

Audubon Canyon Ranch (ACR) has conducted activities in conservation science, habitat protection, and nature education in the San Francisco Bay area since the mid-1960s ([www.egret.org](http://www.egret.org)). We also own and manage a system of wildlife sanctuaries in Marin and Sonoma counties, including a large nesting colony of herons and egrets at Bolinas Lagoon that we have studied intensively since 1967. As Director of Conservation Science and Habitat Protection at ACR, I would like to comment on the efforts to protect of the heron and egrets that nest at the site of the proposed Dutra asphalt facility.

My comments are supported by my scientific work on herons and egrets conducted since 1990 at all known heronries in the San Francisco Bay area (selected references listed below). I have provided scientific information regarding the protection of heronries to numerous environmental consulting groups (including LSA, as cited in their report on the Dutra Haystack Landing project), planning agencies (including the County of Marin on the DeSilva Island development discussed in the LSA report on the Haystack Landing project), and natural resource agencies (including Marin Islands National Wildlife Refuge, California Department of Fish and Game, and the National Park Service). Recently, I provided expert opinion to the California Coastal Commission regarding the protection of a heronry at Channel Islands Harbor. I have published numerous scientific papers on birds, on topics including nest predation, human disturbance, foraging ecology, breeding behavior, and habitat relationships.

B6-1

(continued)

The following points should be considered when determining the risks of heron and egret colony site abandonment associated with the proposed Haystack Landing development:

1. Mitigation Measure BIO-4a: The proposed dates used to define "nesting" and "non-nesting" seasons may not be accurate or effective. (1 September to 14 February is generally proposed as the non-nesting period in the DEIR, but the recommended date span is not consistent throughout the document; e. g., see page II-24.) The proposed "nesting" and "non-nesting" periods may not protect nesting Great Blue Herons, which often select nest sites in January. The intraseasonal timing of heron and egret nesting activity in this region is highly variable among years and species. Based on many years of monitoring (Kelly et al. 2007), the most accurate and reasonable period for protecting nesting colonies is 1 January through 31 August (and rarely, into September). Nesting activity may begin any time in January, February, or March, and can be delayed into April. It is important that the colony site at Haystack Landing is protected from disturbance during this early part of the nesting season because birds are most likely to be deterred from using the area when they begin to select nest sites.

B6-2

In some years, nesting activity may be completed earlier than predicted. A qualified observer should be used to accurately determine if nesting activity ends before 31 August. As indicated in the DEIR, season-long monitoring by a qualified observer should be used to determine if construction activities disturb the nesting birds. A reasonable frequency for monitoring would provide colony site observations twice weekly during courtship and nest initiation for each species, and weekly through the end of the nesting season.

2. Mitigation Measure BIO-4a: The DEIR indicates that "most" of the eucalyptus trees in the vicinity of the nesting colony would be retained but does not provide justification for the removal of specific trees. The planned removal of any trees should be specifically indicated and justified with regard to protection of the heronry. The protection of perimeter trees in the nesting patch could be important not only to provide visual screening from human disturbance but also to ensure suitable thermal conditions (e.g., protection from wind), protection from nest predators, or other habitat requirements needed to sustain the colony. California Coastal Commission biologist Jonna Engels recently wrote a report indicating that patches of non-native trees that provide suitable nesting substrate for herons or egrets in areas surrounded by human development should qualify as Environmentally Sensitive Habitat Areas (ESHA) worthy of complete protection. Such protection could be important in sustaining the number of herons and egrets that occur throughout the upper Petaluma Marsh area.

B6-3

(continued)



3. Mitigation Measure BIO-4b: The proposed buffer distances between the heron and egret colony site and construction or asphalt facility operations are not large enough to ensure the protection of nesting herons or egrets. Published (peer-reviewed) scientific recommendations for avoiding disturbance to nesting herons and egrets range from 320 to 960 feet (Kelly 2002, Kelly et al. 2006, and references therein). Such recommended distances are far greater than the setbacks proposed in the DEIR. In addition, these scientific recommendations (as well as the 110-foot disturbance distance indicated in the LSA report on the proposed project) are based on disturbances caused by only 1-2 humans approaching on foot. Additional people and construction activities are likely to disturb the colony at greater distances, increasing the risk of colony site abandonment. The persistence of the heronry at DeSilva Island in Marin County should not be used to discount such recommendations, as suggested in the LSA report on the Haystack Landing project, because the responses of nesting birds at DeSilva were not typical of regional patterns of colony site persistence or abandonment. At other sites in the region, disturbance from nearby construction activities have resulted in partial or complete abandonment of colony sites (Kelly et al. 2006). Thus, the tolerance of specific colonies to nearby disturbance cannot be precisely predicted. To provide an area of protection that is more reasonably aligned with the evidence and recommendations from peer-reviewed science, the buffer zone around the nesting colony should be extended beyond the area indicated in the DEIR.

B6-4

4. Mitigation Measure BIO-4d: Lowering the height and visually screening the conveyor are likely to be important features of the proposed project to help minimize disturbance. However, these features are unlikely to mitigate the close proximity of the conveyor to the colony, which presents a serious risk to the nesting birds. In addition, the episodic nature of off-loading and conveyor activities near the colony site might be unpredictable to the nesting birds and, consequently, result in repeated disturbance events, increasing the risk of abandonment. To minimize this risk, the conveyor should cross the railroad tracks farther to the south.

B6-5

5. The proposed firehouse on Area B is too close to the nesting herons and egrets to safely avoid abandonment of the colony site. Although the planned use of the fire station is limited to monthly training, maintenance, and equipment storage, such use could involve episodes of substantial human activity, including the movement and maintenance of fire trucks and equipment. The likelihood that fire station activities would cause herons and egrets to abandon the nesting colony hinges not only on the frequency of use of the fire station but also on the peak intensity of noise and other activity during the nesting season. Reasonable protection of the nesting colony would require relocating the fire station farther south.

B6-6

(continued)

6. LSA report, submitted to the Dutra Group on April 6, 2007: This assessment of impacts to the heron and egret nesting colony includes unsubstantiated or erroneous assumptions leading to recommendations that would strongly increase the risk of heron and egret colony abandonment.

First, there is no published scientific evidence that herons and egrets habituate to human activity (habituation requires a change in individual behavior over time). Although heron colonies occasionally occur near areas with considerable human activity, evidence from other colony sites in the San Francisco Bay region suggest strongly that such tolerance reflects choices made when nesting birds establish new colonies and that those sites may be subsequently abandoned in response to changes in the frequency or intensity of human activity. Therefore, suggestions to introduce noise, artificial lights, conveyor activity, or any other potential disturbance to promote habituation are likely to increase the risk of colony site abandonment, especially early in the nesting season when birds are the most sensitive.

B6-7

Second, successful relocation of heron or egret colony sites has never been scientifically demonstrated or confirmed. Crouch et al. (2002) documented a relocation attempt at the U. S. Naval Station in Long Beach but that project subsequently failed. Therefore, there is no scientific support that any attempt to relocate a colony would be successful or provide feasible mitigation for disturbance. The lack of scientific support for relocating heronries led to decisions against the proposed relocation of a heronry at Napa State Hospital and against the creation of new nesting sites at Marin Islands National Wildlife Refuge.

B6-8

Third, the suggestion by LSA that, if the colony site was abandoned, birds would simply "relocate to another site and breed that season" is not necessarily true. Herons and egrets that abandon nesting attempts may not reneest in the same season, depending on foraging conditions and intraseasonal timing. In addition, if the birds abandon the colony site, there is no scientifically substantiated indication that they would remain in the upper Petaluma Marsh wetland area. I have evidence from other areas that colony site abandonment is often associated with a net decline local nesting abundance. Therefore the loss of this colony site might reduce the number of herons and egrets in nearby wetlands.

B6-9

The considerations above indicate that approval of the proposed project would result in serious threats to the heron and egret nesting colony. The Reduced Production Alternative B reduces the frequency of potential disturbance to the colony site, but it provides little protection from activities that might cause abandonment of the colony site. Alternative C eliminates the recycling facility, reducing associated noise and other potential sources disturbance, and includes additional measures to shield the heronry from construction and operation of the asphalt facility, but the conveyor system remains dangerously close to the nesting colony and the proximity of proposed construction and

B6-10

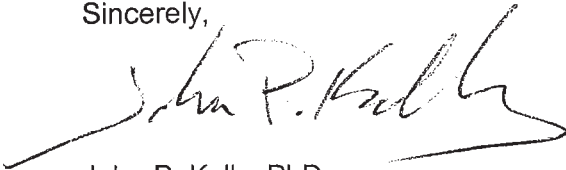
(continued)

facility operations indicate a substantial risk of colony site abandonment. Therefore, Alternative D is the only option likely to provide reasonable protection to the heron and egret nesting colony.

B6-10  
(cont'd)

Thank you for this opportunity to comment.

Sincerely,



John P. Kelly, PhD  
Director, Conservation Science and Habitat Protection

#### References

- Crouch, S., C. Paquette, and D. Vilas. 2002. Relocation of a Large Black-Crowned Night Heron Colony in Southern California. *Waterbirds* 25: 474-78.
- Kelly, J. P., D. Stralberg, K. L. Etienne, and M. McCaustland. 2008. Landscape influences on the conservation of heron and egret colony sites. *Wetlands* 28: *in press*.
- Kelly, J. P., K. Etienne, C. Strong, M. McCaustland, and M. L. Parkes. 2007. Status, trends, and implications for the conservation of heron and egret nesting colonies in the San Francisco Bay area. *Waterbirds* 30: 455-478.
- Kelly, J. P., K. L. Etienne, C. Strong, M. L. Parkes, and M. McCaustland. 2006. Annotated atlas and implications for the conservation of heron and egret nesting colonies in the San Francisco Bay area. Audubon Canyon Ranch, Stinson Beach, CA 94940. 236 pp. [available online: [www.egret.org/atlas.html](http://www.egret.org/atlas.html)].
- Kelly, J. P. 2006. Snowy Egret, *Garza Nivea (Egretta thula)*: waterbird species account, Coastal California Region, (Draft) *California Waterbird Conservation Plan*, Waterbird Conservation for the Americas, Washington, DC.
- Kelly, J. P., K. L. Etienne, and J. E. Roth. 2005. Factors influencing nest predatory behaviors of Common Ravens in heronries. *Condor* 107: 402-415.
- Kelly, J. P. 2005. Common water: sharing the landscape with herons and egrets. *Ardeid* 2005: 1-3 [available online: [www.egret.org/pdfs/Ardeid2005.pdf](http://www.egret.org/pdfs/Ardeid2005.pdf)].
- Kelly, J. P. 2002. A safe place to nest: disturbance patterns in heronries. *Ardeid* 2002: 1-3 [available online: [www.egret.org/pdfs/Ardeid2002.pdf](http://www.egret.org/pdfs/Ardeid2002.pdf)].
- Kelly, J. P., Helen M. Pratt, and Philip L. Greene. 1993. The distribution, reproductive success, and habitat characteristics of heron and egret breeding colonies in the San Francisco Bay area. *Colonial Waterbirds* 16:18-27.

B7

**From:** Sean Buckley  
**To:** <spadovan@sonoma-county.org>  
**Date:** 02/26/2008 4:48:20 PM  
**Subject:** PETALUMA CITIZEN AGAINST ASPHALT PLANT

Why is Sonoma County becoming a dumping ground for building toxic plants like the proposed ASPHALT (ASS FAULT) PLANT across from Schoellenberger. I and my friends and neighbors use Schoellenberger as a place to get away from the development that is encroaching on Petaluma. We find nice views and birds and fresh air and river access.

True, it is somewhat marred by the proximity of a new business park.

Now you/ they/ someone wants to build an asphalt plant in one of the remaining beautiful areas around our great town,

I have heard that Sonoma County is very aware of its natural richness and it has a rep as a protector and caretaker of nature's beauty,

Hello!? Are we not learning anything from Global Warming???

You cannot continually RAPE Mother Nature without there being consequences. Are you going to add to the continuing destruction of the Earth, little by little...development by development.

What are money and profits worth when man has made the planet that supports him unlivable????

This sounds extreme but if you read the newspapers and scientific papers you see it happening all around us.

Please do not be like our President and live in denial of scientific fact.

It is time to act for the good of the Earth and the citizens of your county and STOP this headlong drive into a planet that is unable to support life.

I thank you in advance because I know that you care and therefore you will not allow this Asphalt plant to go ahead...

Sean Buckley

B7-1

**Steve Dee - DAF - Impact on Shollenberger**

---

**From:** "Peter Barth"  
**To:** <spadovan@sonoma-county.org>  
**Date:** 02/27/2008 8:12 AM  
**Subject:** DAF - Impact on Shollenberger

---

As a resident of Petaluma for 20 years, Shollenberger Park has become the "jewel in the crown" for us living in Petaluma, so-to-speak. We have literally introduced dozens of friends to this park, many of whom enjoy walking there on a daily basis. It is a most enjoyable family affair for us to walk there regularly; the protection of this space for birds and all of us to enjoy is very important to us.

The "mitigation factors" for the impact on Shollenberger just won't cut it - that is clear. That this project is even being considered has caused us great concern regarding our local and regional government.

I am not an activist however I predict that should the Dutra Asphalt Facility be permitted, this is something that a substantial number of citizens will fight with every means available to them -- unfortunately, probably after the fact. Lawsuits are very expensive these days, not to mention the cost of significant environmental harm - something we can all afford little of these days. Isn't that so?

On behalf of the citizens and birds of Petaluma I urge you strongly to avoid this costly mistake.

Sincerely,  
Peter Barth  
Ilene Barth  
Holly Barth  
Rachel Barth  
d 'kosh, our dog

B8-1

**Steve Dee - Asphalt Plant Proposal**

---

**From:** "Bruce Blinn"  
**To:** <spadovan@sonoma-county.org>  
**Date:** 02/27/2008 11:17 AM  
**Subject:** Asphalt Plant Proposal

---

Dear Sir/Madam:

Please add my name to the large number of people who protest in the strongest terms the proposed construction of an asphalt plant on the Petaluma River. The EIR says it all: It would be an environmental disaster and no mitigation efforts would/could make a significant difference. The answer is clear; reject this location and find another. Thank you.

B9-1

Sincerely,  
Bruce Blinn

February 27, 2008

TO: County of Sonoma Permit and Resource Management Department

PROJECT TITLE: Dutra Haystack Landing Asphalt and Recycling Facility

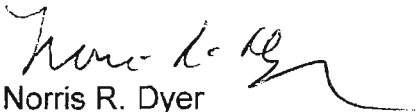
**CONCERNS ABOUT DRAFT EIR**

**AMENDMENT TO WRITTEN TESTIMONY SUBMITTED ON FEBRUARY 4, 2008**

Attached is an article and editorial from the February 21, 2008 issue of the Petaluma Argus Courier regarding the DEIR, and plans for the Dutra Asphalt Factory.

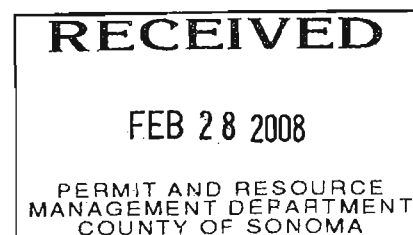
Please supplement my submission of February 4<sup>th</sup> with these two attachments.

Sincerely,



Norris R. Dyer  
Senior Wetlands Docent, City of Petaluma

B10-1



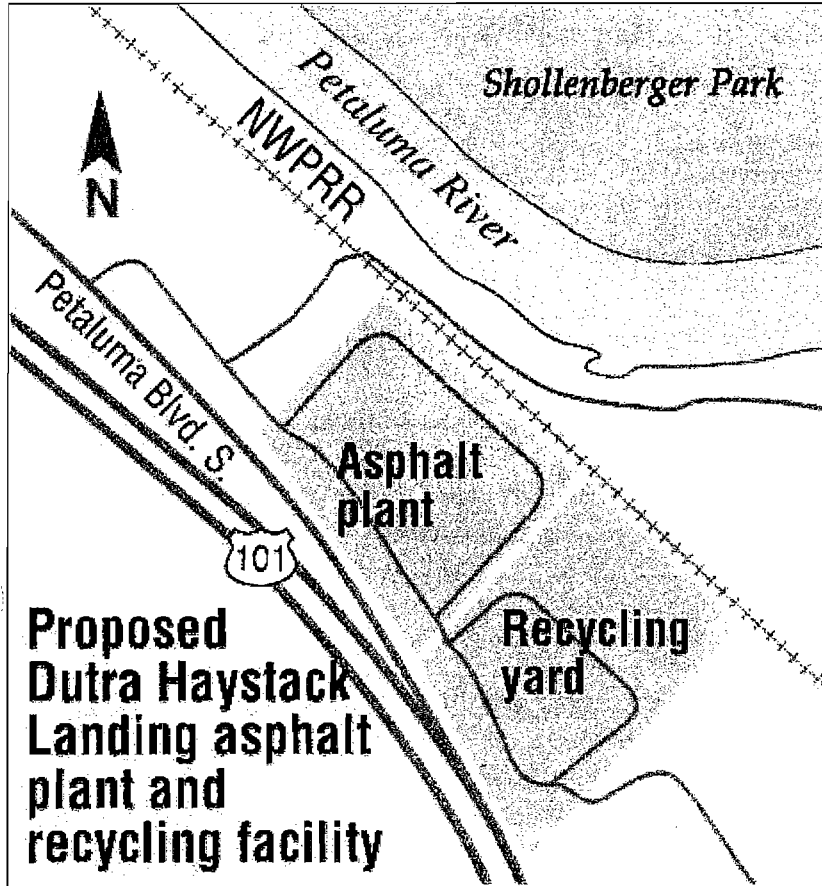
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Article published - Feb 21, 2008

**Wetlands advocates say asphalt plan stinks**  
**Proposal to build asphalt production and recycling plant across river from Shollenberger Park needs serious revision, critics say**



**A proposed asphalt plant could be a boon for road projects, but wetlands advocates think it's a bad idea to locate it near Shollenberger Park.**

By Corey Young  
 ARGUS-COURIER STAFF

Docents and advocates for the Petaluma wetlands don't dispute that a new asphalt plant in the south Sonoma County area could be a boon for freeway widening and other road projects in the works.

But they believe a North Bay company's proposal to build that plant between Highway 101 and the Petaluma River across from Shollenberger Park is a case of a good idea in the wrong place.

"We think it's going to have a negative impact on the quality of life for the wildlife and for the people out there," said Gerald Moore, chairman of the Petaluma Wetlands Alliance.

The wetlands alliance says a draft environmental impact report on the project confirms their concerns, highlighting the expected impacts of the project on air quality, noise and scenery as "significant and unavoidable."

The asphalt plant "would dominate the views in the area, standing out against the setting and attracting attention away from the surrounding landscape," the report concludes. "Due to the project's scale, many other visual characteristics of the area would be diminished."

In addition, the report says pollutants created by the plant's operation, including nitrogen oxides, would exceed air-quality standards — even after mitigation measures, such as using the latest emissions technology on vehicles and equipment, are applied.

Plant operations would also exceed daytime noise standards for nearby residents and users of Shollenberger Park, the report found.

Dutra Materials, a supplier of aggregate rock from a San Rafael quarry and former operator of the now-closed Petaluma quarry, is proposing the asphalt plant for a 38-acre site between the northbound Highway 101 off-ramp at Petaluma Boulevard South and the railroad tracks.

The project includes a parcel of land east of the tracks along the river, where barges would dock and off-load aggregate materials onto a conveyor belt that crosses over the tracks to connect with the rest of the facility. Dutra would relocate its current operation from 1601 Petaluma Boulevard South, across from the former quarry, to the new site — an area known traditionally as Haystack Landing, where a historic farmhouse stood until a fire destroyed it several years ago.

Both sites are outside of city limits and the Sonoma County Planning Commission and Board of Supervisors will decide whether the project can proceed.

At the new plant, 160,000 tons of recycled asphalt and concrete would be imported by truck each year, with about 500,000 tons of material brought from the San Rafael quarry by barge.



The plant would operate from 6 a.m. to 6 p.m. on weekdays, with evening and weekend hours "as needed" to meet delivery schedules for road projects, the draft EIR states.

Night and weekend operations would only add to the project's already significant impacts at Shollenberger, Almy Marsh and the planned public-access trails at the city's new sewer plant, Moore said.

Those areas comprise more than 500 acres of public wetlands, serving as a draw not only for tourism and outdoor enthusiasts but also a successful docent-led education program for schoolchildren, he said.

Noise is also a big concern because of a nesting rookery on the northwest corner of the project, said Bob Dyer, senior wetlands docent at Shollenberger.

Since monitoring of the rookery began in 2003, Dyer and others have counted about 250 Great Egret, Snowy Egret and Blue Heron chicks born there, he said.

"It's been a productive colony and we're concerned about the impact of a noisy asphalt factory very close by," he said.

Putting a large industrial plant in the middle of such an area can be done in a more environmentally sound way, the wetlands alliance believes.

The group would like to see the plant redesigned, night operations be prohibited and the asphalt-recycling component dropped to avoid the most significant noise impacts.

Those steps are called out in the draft EIR as part of an alternative plan for the plant, which would result in fewer truck trips and air-quality impacts, along with less visibility from both Shollenberger and Highway 101.

A Dutra representative did not return calls for comment.

Moore said the company shouldn't be prevented from establishing an appropriate project site along the river, since river-dependent businesses are needed in Petaluma. The U.S. Army Corps of Engineers will dredge the river every few years if the waterway is used for commerce.

And existing industrial uses near the Petaluma wetlands can be good neighbors, he said, citing Shamrock Materials' barge site north of the proposed Dutra plant.

"It's important to keep them here along the river," he said of Dutra. "That said, the Petaluma Wetlands Alliance feels they should do everything technically possible to make themselves invisible from us, across the river."

Copies of the EIR are available at the Petaluma library and online at [www.sonoma-county.org/prmd/docs/eir/dutradeir](http://www.sonoma-county.org/prmd/docs/eir/dutradeir).

Comments on the draft EIR will be accepted until Wednesday, Feb. 27 by e-mail at [spadovan@sonoma-county.org](mailto:spadovan@sonoma-county.org) or by mail to the Sonoma County Permit and Resource Management Dept., 2550 Ventura Ave., Santa Rosa, 95403.

(Contact Corey Young at [corey.young@arguscourier.com](mailto:corey.young@arguscourier.com))

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Article published - Feb 21, 2008

Editorial Comment

## **Explore alternative plan for asphalt plant**

With major road improvements and freeway widening projects either in the works or on the horizon, a new asphalt plant in the south county area sounds like a good idea to easily provide the key ingredient for the work. But is Dutra Materials' proposal to build a plant on a 38-acre site next to the southern gateway to Petaluma and right across from Shollenberger Park a good plan and the right location?

A draft environmental impact report on the project — located between Highway 101 and the railroad tracks near the Petaluma Boulevard South offramp — states that the expected impacts of the project on air quality, noise and scenery would be "significant and unavoidable."

The report goes on to say that the asphalt plant would dominate the views in the area and would stand out against the setting and attract attention away from the surrounding landscape.

Pollutants would exceed air-quality standards — even after mitigation measures are applied, the report concludes, and noise from the operation would exceed daytime standards for nearby residents and visitors to Shollenberger Park.

Shollenberger, Alman Marsh and the planned public-access trails near the city's new sewer plant make up more than 500 acres of public wetlands, which attracts tourists, bird watchers and others who enjoy the outdoors.

Also, wetlands advocates say, the noise levels could disturb a nearby nesting rookery where about 250 Great Egret, Snowy Egret and Blue Heron chicks have been born in the last five years.

However, an asphalt plant is important to the area and Dutra should be allowed to establish an appropriate project along the river. The company has an existing, but smaller operation at 1601 Petaluma Blvd. South, across from the former quarry. River-dependent businesses like Dutra are important to Petaluma. Because of them, the U.S. Army Corps of Engineers dredges the river every few years.

The draft EIR spells out an alternative plan for the plant that would result in fewer truck trips and air-quality impacts, and have less visibility from both Highway 101 and Shollenberger Park. We suggest that Dutra explore alternatives such as this in order to lessen the negative impacts.

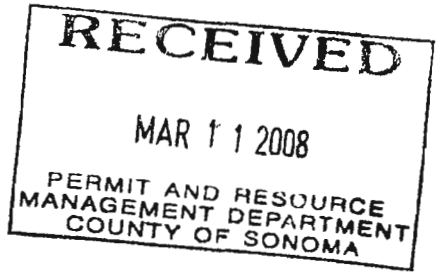
If you would like to comment on the draft EIR for the project, the deadline is Feb. 27. Comments may be e-mailed to [spadovan@sonoma-county.org](mailto:spadovan@sonoma-county.org) or sent by regular mail to the Sonoma County Permit and Resource Management Dept., 2550 Ventura Ave., Santa Rosa 95403. Copies of the EIR are available at the Petaluma library and at the PRMD office, and online at [www.sonoma-county.org/prmd/docs/eir/dutradeir](http://www.sonoma-county.org/prmd/docs/eir/dutradeir).

Last changed: Feb 20, 2008 © Argus Courier 2007

To Reg

DIXIE LEE NITIS

March 1, 2008



Sonoma County Permit  
 and Resources Management Dept.  
 2550 Ventura Ave  
 Santa Rosa, Ca 95403

Re: asphalt plant.

Dear people:

I have just learned of the project  
 of the Lutra asphalt plant being  
 proposed on the Petaluma wetlands  
 area.

I reject the proposal - and know it  
 would affect the quality of my air  
 in my neighborhood and when I use  
 the Schallerby park, the stench  
 would be horrible & leave me sick.  
 I was happy the birds and ducks were  
 inhabiting the area and now this project  
 would be environmentally unsafe and  
 undesirable for both them & humans.

Please No permit for the plant.  
 Dixie Lee Nitis King

cc: Petaluma City Hall.

**Steve Dee - Proposed Asphalt Plant**

---

**From:** Patrick Schafer  
**To:** <SPADOVAN@sonoma-county.org>  
**Date:** 03/02/2008 8:07 AM  
**Subject:** Proposed Asphalt Plant

---

Dear County Planning Commission,

I am very concerned about a proposed Asphalt plant in Petaluma across the river from Shollenberger Park. I have noticed just in the past year and most recently the past few months, the expansion of the existing gravel company and the noise and visual presence of large machinery and trucks. As you might know the prevailing winds are constantly blowing the smells and dust and noise directly across the river to the park. It is disturbing for me to go to a park and have to be inundated with fowl smells, sounds of large machinery, and the visual pollution I cannot avoid. I think that an asphalt plant would worsen and intensify an already bad situation for the Park, the river, and all the wildlife. Please do not put an asphalt plant where it proposed in such a precious and sensitive area. Thank you. Patrick Schafer

B12-1

**Petaluma River Council**  
**1327 I St.**  
**Petaluma, CA 94952**  
**(707) 763-9336**

March 3, 2008

Steve Dee  
Senior Environmental Specialist  
Sonoma County PRMD  
2550 Ventura Avenue  
Santa Rosa, CA 95403-2829  
Via email

Public comments re: Dutra Haystack Landing Asphalt Plant and Recycling Facility  
Draft EIR, Petaluma CA

Dear Mr. Dee:

Since 1991, the Petaluma River Council has been dedicated to protect, restore and revitalize the Petaluma River and its watershed. The Petaluma River Council herewith submits the following comments on the Dutra Haystack Landing Asphalt Plant and Recycling Facility (“Project”) DEIR.

As currently proposed in the DEIR, this Project is significantly deficient in avoiding and addressing severe impacts to the Petaluma River and the southern edge of Petaluma. We strongly object to the design and location of this Project which would require adoption of Overriding Considerations for approvals of the EIR, and substantial damages to our public trust resources.

B13-1

The Petaluma River is 401(d) listed impaired waterway, a ‘water quality limited segment’ for excess nutrients, pathogens and sediments/siltation. All activities for this Project should be restorative, not cumulatively damaging, as is currently proposed in the DEIR. Protection and improvement of water quality for the Petaluma Marsh is critical, as the importance of the marsh is nationally recognized. The Project as described contributes “significantly and unavoidably” to the cumulative losses of habitat, protected species and water quality (particularly with excess phosphorus and turbidity-increasing discharges) of the Petaluma River: this is not an acceptable proposal, and should be rejected if not significantly altered.

B13-2

The Petaluma River Council supports the continued successful industrial and commercial uses of the Petaluma River, which are important parts of our history since before the City of Petaluma’s incorporation in 1858. Indeed, the industrial use of the Petaluma River for local and regional commerce goes back through at least the time of Gen. Mariano Vallejo. However, we feel that the Project as proposed can be significantly improved while producing

B13-3

a successful commercial and industrial business and protecting and restoring our natural river heritage.

B13-3  
(cont'd)

### **Alternative sites for the Project**

The DEIR fails to address other feasible sites for this Project that are capable of avoiding and substantially reducing the significant impacts of the Project.

One such site is the currently vacant 40+ acre Pomeroy Corp. concrete manufacturing site, approximately 1-1/4 mile upstream on the Petaluma River, at 500 Hopper Street, Petaluma. (Pomeroy Division, Washington Group URS) The site already has heavy industrial, river dependent zoning, and has existing sheltered barge loading and off-loading facilities with deep-water access on the McNear Canal. These facilities are located clear of the traffic lanes for the Petaluma River. This site has been used for over 50 years for industrial manufacturing and shipping. This location is already accessible for heavy trucking to both Lakeville Highway (Route 116) and US Highway 101 (via Lakeville interchange), as well as having its own railroad spur existing on site.

This site has been in heavy industrial, river-dependent uses for generations. The Pomeroy site, already filled, cleared and industrialized, poses almost no new potential disturbances for critical habitat, wetlands or riverine species. The Central Petaluma Specific Plan has committed the city to Industrial, River-dependent zoning for this parcel as a critical component in commercial river tonnage calculations and the city's economic base. The site is large enough to accommodate all functions of the Project's Areas A, B, C and D. The assertions on Page VII-5 that no such alternative sites exist are incorrect.

B13-4

This alternative site would eliminate many of the "significant and unavoidable impacts" noted in the DEIR for the current siting of the Project. In addition, it would preserve the use and enjoyment of Schollenberger Park, directly across the Petaluma River from the proposed site. Damage to public use and enjoyment of this site is permanent and irreparable during the life of the Project. *This is a very considerable externalized cost of the Project which the DEIR has not addressed.*

If Dutra continues to propose the current site without eliminating the noise, light, smell and dust impacts to public enjoyment of Schollenberger Park, Dutra should compensate the City of Petaluma and its citizens and visitors with another riverfront park of equal value and size, including all new trails and access facilities to make it feasible.

### **Alternative: Full Enclosure of operating components of the Project**

There are significant, unavoidable and unmitigated impacts for the Project, regarding noise, light, dust, polluted stormwater and dust-control waters, and smells. These impacts adversely affect both protected species habitats (including the egret and heron rookery) as well as human activities both on the river and off, both close to the Project

B13-5

site and at significant distances as well. These impacted areas include onsite wetlands, the Petaluma River, the Schollenberger Park Marsh wetlands and public pathways and wildlife viewing areas already located directly across the Petaluma River from the Project site.

Much of these noxious impacts can be significantly reduced by full enclosure of the various operating portions of the Project. These proposed operations, including the asphalt batch plant, concrete/asphalt recycling facility, and storage of raw materials, can be enclosed within permanent buildings. These enclosures would contain dusts, smells, lights, and noise, and would substantially reduce the pollution carried by stormwater runoff.

There are many existing examples of buildings containing such operations, which would cover and enclose the main hopper, feeder hoppers, drum and bag house. For instance, just upstream in downtown Petaluma, the heavy operations of Jerico Dredging are reasonably well contained within their buildings.

Such enclosures would also significantly reduce the adverse impacts to adjoining properties from late night or early hour operations, currently proposed for possible 24 hour operations. *The DEIR should address this alternative of fully enclosing the operational parts of the Project.*

#### **Failure to obtain necessary prerequisite permits from regulatory agencies in advance of DEIR**

The Project has not yet obtained requisite permits from a number of regulatory agencies. As a direct consequence, the information that would describe any conditions of approval, or denials, or changes in site plans or proposed mitigations or avoidances, is improperly not available to the interested public and other reviewing agencies. This violates CEQA requirements that the public be provided with a full, stable and feasible project description in the DEIR. *The DEIR must be completed with this currently omitted information and recirculated for public comment.*

Among the items missing are:

- Section 404 Clean Water Act permits (33 U.S.C. 1344) from US Army Corps of Engineers, and Section 10 permits (33 U.S.C. 403), Rivers and Harbors Act. In fact, on Feb. 13, 2008 USACE permit staff, Philip Shannin, informed me that “An application *has not yet been submitted* to the Corps for this project. The EIR is a state process, not federal. We will evaluate the impacts, to federally jurisdictional wetlands and other waters, through our permitting process.” There is no assessment of the Project’s compliance with the 404(b)(1) Guidelines.
- Storm Water Pollution Prevention Plan (SWPPP), Construction General Permit, Section 404 Permit, Section 401(d) Water Quality Certification, and Wetlands Mitigation and Monitoring Plan approvals from the SFBay RWQCB
- Section 1602 Streambed Alteration Permit, Cal. Fish and Game.

B13-5  
(cont'd)

B13-6

- Full written consent for high volume truck and vehicle railroad crossing to and from Area A, from California PUC and SMART Authority.

The full information from these regulatory agencies regarding the feasibility and compliance of the Project with their respective permit requirements is necessary for the public and decision makers to make an informed judgment on the merits of the Project as proposed.

B13-6  
(cont'd)

**Use of created wetlands habitat for water quality mitigation do not satisfy requirements for onsite wetlands loss**

The Project will fill approximately 1.7 acres of coastal brackish marsh habitat and seasonal wetlands out of a total of 11.7 jurisdictional acres on site. There is no document supplied with the DEIR to indicate USACE acceptance of the wetlands delineation. Unauthorized grading impacted an additional .53 acres of seasonal wetlands and .01 acres of tidal marsh. The Project proposes creation of approximately 19 acres of wetlands from previous siltation ponds on site, supposedly in compensation (including temporal losses) for filled and damaged wetlands.

To address site drainage and water quality problems, however, the Project apparently intends to use the same 19 acres of mitigation wetlands for water quality purposes and also for filtering site runoff that is piped to these wetlands.

Thus the Project proposes to use these created habitat mitigation wetlands also as treatment wetlands, for the second task of clarifying and filtering ponds for treating onsite industrial runoff, including oils, greases, hydrocarbons, heavy metals, crushing fines and asphaltic residues. This burden will very likely lead to the abysmal failure of the target restoration and habitat goals for the mitigation wetlands. This violates the requirements of Section 404 wetlands mitigation practices.

B13-7

Petaluma River Council strongly objects to this attempt to combine these important but incompatible functions. *The DEIR and Project must clearly describe and emplace two separate functioning ponded areas: one for habitat values and functions, and one for water quality improvement functions.*

The DEIR does not discuss any details of maintenance activity for preservation of the wetlands and habitat functioning. What are the plans for long term viability? How will excess sediments and toxics be removed or avoided from the sand filter, bioswales and from the ponds? What are the temporal losses to be expected during cleaning and/or dredging activities, and how will that be addressed? How will water quality objectives be met over time? What maintenance activities are anticipated to keep the treatment wetlands fully functioning?

What would the results be of overtopping of berms or flooding of the wetlands and water quality treatment ponds? Given the low elevation of this site, planning contingencies



based on a 10% storm event are insufficient. The DEIR should describe consequences of a 1% storm event. What is to prevent washing of heavy metals, oils, greases and other toxics into the Petaluma River, either by flood or storm or both?

*Any costs for public agency or government monitoring of wetland habitat or treatment ponds shall be borne in perpetuity by the Project owners and proponents, and not become an 'unfunded mandate' for the County or any other public agency. Failure to do so is a guarantee of failure in a relatively short period of time, given lack of public funds for this kind of professional and continued monitoring functions. Costs related to correcting failures to achieve habitat restoration goals shall be bonded for by the Project proponents for a minimum of 25 years or the life of the project, whichever is longer.*

B13-7  
(cont'd)

**The Project fails to meet Sonoma County and City of Petaluma objectives for reduction of Greenhouse Gases.**

Despite clearly stated objectives by both the Sonoma County Board of Supervisors and the Petaluma City Council to reduce GHG emissions by 25% below 1990 levels by the year 2015, this Project does not even meet current BAAQMD air quality standards. The Project leaves our built and natural communities with “significant and unavoidable impacts” to air quality. The Project and DEIR do not even reduce impacts to zero, nor do they address the climate protection goals of California’s AB32.

The DEIR does not assess total greenhouse gas emissions, nor does it even come close to proposing programs or project variations to reduce that critically damaging aspect of this proposal. In an era marked by significant work globally to reduce greenhouse gas emissions and global warming, this is unacceptable.

*This is a significant failure of the DEIR and Project proponents, and must be re-written and recirculated for comment as a Revised DEIR.*

B13-8

Further, there is no discussion or alternative proposal for addressing sea level rise. BCDC is now proposing use of a minimum of 1’ sea level rise for planning purposes, and many scientific and planning sources also recognizes the need for addressing impacts of up to a 36” sea level rise. A predicted three-foot rise in sea level in the Bay Area during the next century will also affect Petaluma, according to Will Travis, executive director of the Bay Conservation and Development Commission. This is particularly critical for projects that are to be built at the very edge of the Petaluma River in a tidally influenced segment.

What are the plans for preventing flooding of this property in storms with increased sea levels? What are the plans for preventing flooding of the property and release of accumulated toxics onsite – both in work areas and in the treatment wetlands – into the Petaluma River and Marsh? The Project and DEIR do not address these issues with feasible alternatives, and must do so.

Absent the willingness or ability of the Project to address and alleviate the many items noted above, and the many 'significant and unavoidable impacts' already noted in the DEIR, the Project should be denied. We look forward to the thoughtful and considered responses to our comments.

B13-9

Thank you for the opportunity to comment on the Project and DEIR.

Sincerely,

David Keller  
for The Petaluma River Council

**Steve Dee - Dutra Materials permit process**

---

**From:** "Brian Perry, President"  
**To:** <spadovan@sonoma-county.org>  
**Date:** 03/04/2008 9:30 AM  
**Subject:** Dutra Materials permit process  
**CC:** <mkerns@sonoma-county.org>

---

To: Sonoma County Planning Commission;  
Email: [spadovan@sonoma-county.org](mailto:spadovan@sonoma-county.org)

Greetings:

As the vice-president of San Antonio Valley Fire Department, I wish to thank the Commission for giving serious consideration to approving the construction planned by Dutra Materials for the new asphalt plant at 3355 Petaluma Boulevard South.

As you know, the San Antonio Valley Fire Department has been without a true fire station from which to respond to EMS calls for over three years. We are looking forward to the start of construction on our new firehouse at the new Dutra Materials site as soon as possible. We are hoping that will be very soon once the commission gives final approval to the construction plans for the plant.

The Board of Directors of San Antonio Valley Fire Department wishes to thank the County Planning Commission for hearing our Fire Chief and our Board President speak at the final public hearing last week. As they pointed out, getting started on the construction of the new Dutra site will commence with the building of our new station. Having a permanent official Firehouse from which to respond to EMS calls will benefit Sonoma County and the City of Petaluma, by helping San Antonio Valley Fire Department both recruit new firefighters and retain the good ones already on staff, thereby reducing the need for Petaluma EMS to respond to routine calls in our area of coverage.

Sincerely,

Brian Perry, V.P.  
and the Board of Directors,  
San Antonio Valley Fire Department

cc: Mike Kearns, Supervisor  
email: [mkerns@sonoma-county.org](mailto:mkerns@sonoma-county.org)

B14-1

March 4, 2008

**VIA ELECTRONIC MAIL & U.S. MAIL**

Mr. Steve Dee  
Senior Environmental Specialist  
County of Sonoma  
Permit and Resource Management Department  
2550 Ventura Ave.  
Santa Rosa, CA 95403

Re: **Comments on DEIR – Haystack Landing – Dutra Materials (PLP04-0046)**  
**3355 Petaluma Blvd. South - APN: 019-220-001; 019-320-022 & 019-320-023**

Dear Mr. Dee:

Shamrock Materials, Inc. appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the above-referenced project. Our comments are made on Section J – Transportation and Traffic of the DEIR.

**Mitigation Measure TRANS – 13a:**

This mitigation measure in addition to requiring the applicant to make an irrevocable offer to the County of Sonoma of a 50 foot easement across APN: 019-220-001 contemplates “options for a future public roadway through Landing Way to allow access to Area A and neighboring residential properties along the River if the existing crossing is closed.” This appears to imply that all traffic would be routed along Landing Way and then have to traverse the parcels where our existing aggregate distribution facility is located in order to gain access to Area A (APN: 019-220-001) that borders our parcels to the south as well as neighboring properties south of Area A.

Having additional traffic, not associated with the facility would greatly impact the operations; contrary to the statement made in this mitigation measure. This may not be of major concern to the DEIR preparers; it certainly is a major concern to us for many reasons, not the least of which is traffic safety associated with both the facility and anyone who would enter the site for purposes of ingress or egress across the site. Dutra’s ability to access Area A periodically with maintenance trucks to service the offloading equipment is certainly acceptable to us. However, the notion of residential traffic and/or those invitees by the “neighboring residences” south of Area A presents the likelihood for significant safety and operational problems that cannot be ignored.

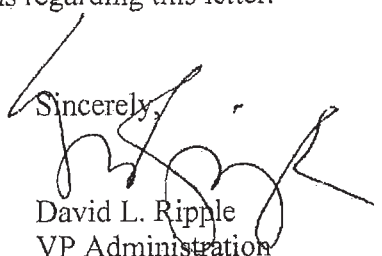
I do not believe “residences are familiar with the area” as stated in this mitigation measure particularly in terms of large equipment and trucks that are moving about the site. This could create a very hazardous condition and no doubt unintended consequences of this poorly conceived mitigation measure.

Mr. Steve Dee  
March 4, 2008  
Page #2

Thank you again for the opportunity to comment, please do not hesitate contacting the undersigned should you have any questions regarding this letter.

B15-2

Sincerely,



David L. Ripple  
VP Administration

Nicholas R. Tibbetts & Associates

P.O. Box 15055  
Santa Rosa, CA 95402  
(707) 523-2972

March 4, 2008

Mr. Steve Padovan, Staff  
Sonoma County PRMD  
2550 Ventura Ave.  
Santa Rosa, Ca 95403

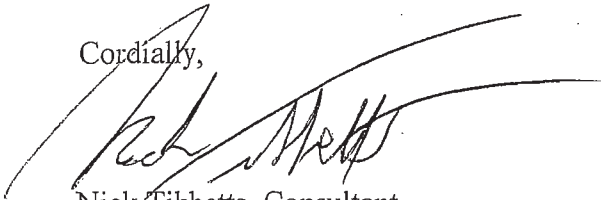
Re: Comments on Dutra DEIR  
File# PLP04-0046

Dear Mr. Padovan:

I am submitting the following comments on the Dutra DEIR. They focus on Chapter V.J.-  
Transportation and Traffic. The document in several instances refers to practices and  
standards which have emanated from recent Board of Supervisors actions on quarry use  
permits. I have made comment on those assertions in the DIER.

As a member of the local CMAC committee (local aggregate producers) I am particularly  
interested in the environmental review of aggregate and aggregate related use permits. I  
am especially interested in the environmental review issues surrounding matters of  
transportation and traffic.

Cordially,



Nick Tibbetts, Consultant

B16-1

Nicholas R. Tibbetts & Associates

P.O. Box 15055  
Santa Rosa, CA 95402  
(707) 523-2972

March 4, 2008

COMMENTS ON THE DEIR ANALYSIS OF TRANSPORTATION AND  
TRAFFIC

1. On page VJ-2 traffic observations were made on northbound Petaluma Blvd South which indicated that 11% of the total traffic consisted of heavy trucks or busses. Does the 11% reflect the actual count of vehicles or does it reflect a number based on a conversion to Passenger Car Equivalents (PCE)?
2. In Figure VJ-1 the existing turning movement traffic exiting north off Highway 101 shows a count of 204 vehicles. How many of the 204 are large busses and trucks? Are the numbers representing trucks and busses converted to PCE's? Are the numbers of vehicles (trucks) coming out of Landing Way converted to PCE's?
3. In Figs. V6 & V7. Does the vehicle number 225 represent a PCE converted number (3) of vehicles (trucks) exiting the Dutra Project site?
4. In traffic studies there exists an assumed percentage number representing large truck and bus numbers as a % proportion of any highway traffic number. The most recent % was 7%. However in the traffic numbers referred to above that number was 11%. Which ever % number representing background traffic in this DEIR should convert the large truck and bus % number into a PCE at a factor of three (3). The background traffic (including Landing Way), like the project traffic, should reflect the PCE numbers.

B16-2

B16-3

B16-4

B16-5

New Truck Traffic Assumptions---pages VJ-16 &17:

5. The analysis walks the reader through the process of how the peak hour of truck traffic is determined. The analysis is fine until the sentence which states "...truck traffic is then adjusted to include a seasonal peaking factor. Based on previous studies, the County has set the factor at three (3.0)." The analysis goes on to state that the adjustment "results in the average peak daily traffic."

Is the reference to the recent Canyon Rock and Blue Rock Quarry projects? If not, to which projects? If yes, the statement is in error. In the case of Canyon Rock the traffic study identified a peak month, a peak week, a peak day, and a peak hour (a.m). That process determined the peak hour for intersection analysis. The staff carried it further by assuming occasionally there would be unusually large projects which would boost the peak output beyond the traditional identification of the peak hour. Even with all that, the increase over the base case (existing project peak) was not a factor of three, but at the most two (2).

B16-6

6. On page VJ-17 it is stated that each truck trip is reported as three passenger car equivalents. Then the next sentence notes "that exhibits in the study reflect trips in terms of actual vehicles and not passenger car equivalents (PCE)." Do these sentences represent a contradiction? When in the traffic evaluation process do you report vehicles as trucks and trucks as PCE's? When determining the peak hour and the "seasonal peaking" factor, don't the analyses usually use the actual numbers of vehicles and not the PCE's? Isn't it more appropriate to have PCE's come into play when charting turning movements at intersections so that impact comparisons can be done on an "apples to apples" basis?

B16-7

7. On page VJ-19 it is stated that the Project Description indicates that material importation is by barge and 23 ton trucks. It goes on to state that product exportation uses an average of 12 tons per truck. Where did the 12 ton figure come from? Did the June 2004 traffic study conclude that? Did that traffic study do actual counts at the temporary facility? If 12 tons is the number for the exporting trucks, the PCE should change from 3 cars to 1.5 cars when reporting on trucks exporting material from the site.

B16-8

ARM Plan Fee:

8. On page VJ-17 the DEIR concludes that based upon its analysis, the Dutra project is subject to an "assessment of an aggregate fee consistent with Sonoma County's Aggregate Resource Management (ARM) Plan..." It goes on to state that the applicant would be required to pay the ARM fee on the basis of the increment of new truck traffic generated by this project."

B16-9

That statement has no basis in fact. The ARM Plan is a regulatory document which applies to the mining of aggregate in Sonoma County. Its requirements do not apply to asphalt or concrete plants or raw materials imported into the county. What is the



justification for attempting to bring the Dutra asphalt and aggregate sales project under the jurisdiction of the ARM Plan?

B16-9

9. Is the ARM Plan fee referred to above the ARM Plan Mitigation Fund Fee adopted by the Board of Supervisors in 1995? If yes, has any aggregate mining operation in Sonoma County been assessed a fee under this Fund? Has any asphalt plant or concrete plant located in Sonoma County which uses aggregate ever been assessed a fee under this Fund? Given the non applicability of the ARM Plan fee to this project, page VJ-21 is not relevant to the DEIR's analysis.

B16-10

#### HIGHWAY IMPACTS

10. On page VJ-28 the DEIR concludes that "the project would add traffic to ramp movements and to Highway 101 mainline in both directions." The project would result in a significant impact to Highway 101 southbound traffic at the a.m. peak hour and a significant impact to the southbound 101 ramp at the a.m. peak hour.

The DEIR's proposed mitigation for the project is to require a fair share contribution towards the planned construction of a HOV lane. The project's fair share would be computed as proportion of total near term cumulative traffic. The project is also required to fund a fair share contribution towards any planned interchange improvements for the Hwy 101/Petaluma Blvd South interchange project. This fair share is calculated as the project share of the total peak hour traffic on the northbound and southbound ramps.

B16-11

The applicant objects to the mitigation insofar as it is a state highway project which is expected to receive programmed federal and state dollars augmented by voter approved local dollars. Have any other projects in the vicinity, approved in the last five (5) years, been required to make similar such contributions?

11. If a fair share contribution is to be required as part of the EIR, the county should provide the applicant as part of this process: 1) a defined and designed public project or projects in which the applicant is expected to financially participate; 2) a financial contribution in a dollar denomination that is justifiably proportional to the project's traffic impacts; 3) a fair share formula which clearly explains step by step the rationale for the financial contribution that the project is expected to make.

B16-12

TABLE VJ-11 (NEW PROJECT TRIP GENERATION)

12. Table VJ-11 represents new project trip generation numbers. It is the basis for determining the fair share calculation for potential project funding contributions to the future Hwy 101 widening (HOV lanes) in the project vicinity. It is also the basis for funding contributions for a possible new interchange in the vicinity as part of the highway widening project.

It is critical to accurately determine the a.m. peak hour traffic contribution by the project. That number is key to determining the “fair share” contribution. It is difficult to determine that number without agreement as to the existing project a.m. peak hour traffic. It is also difficult to determine the “fair share” funding contribution without agreement on the a.m. peak hour project traffic at the new site.

B16-13

In Table VJ-11 the DEIR traffic analysis attempts to generate an answer to the second part of the above two requirements—new site a.m. peak hour traffic. The DEIR begins by determining that an annual daily average of truck trips is 250 trucks in and 250 trucks out for a total 500. The DEIR adjusts the number seeking a seasonal peaking factor of 3x. As a result the new number is 750 trucks in and 750 trucks out in a 10 hour day. That is then translated into an a.m. peak hour of 75 trucks in and 75 trucks out. What is the justification for the seasonal peaking factor of 3x? Specifically where did it come from and how was it calculated in that case?

13. Then for purposes of comparing apples with apples, the trucks are converted to passenger car equivalents (PCE) by multiplying the above 75 per hour x 3. This generates a number of 225 and 225. If project exporting trucks carry 12 tons instead of 23 tons of material exiting the site, should not the PCE be reduced proportionally (by ½) to 1.5?

B16-14

14. The proposed a.m. peak hour of 75 trucks would mean that at 12 tons per truck 900 tons of material would go out the gate. The DEIR notes that the asphalt plant has a maximum 400 ton per hour production capacity. If so, that leaves 500 tons of raw sand and or aggregate going out the gate in that same a.m. peak hour. One needs to keep in mind that as these 75 fully loaded trucks exit the project site for Petaluma Blvd. South there will be 75 empty trucks entering the project site preparing to become loaded.

B16-15

This raises an empirical question. Given the site configuration (Fig. VJ-4) and the simultaneous production processes, can 75 fully loaded trucks: enter the site; queue up for asphalt and aggregate; become loaded; weighed and exit out to Petaluma Blvd and enter the roadway within 60 minutes? If the number of trucks were 60, then that would mean every minute a truck would pass through the cycle. Perhaps two minutes if the aggregate and asphalt production processes were sufficiently separated. At 75 trucks the time would be less than one minute per truck.

The empirical question extends to this: How long does it take for an asphalt truck to enter the site, load up and leave the site? How long does it take for an aggregate truck to enter the site, load up and leave? For the purposes of the exercise assume as the DEIR does that the “exporting trucks” carry 12 tons.

The above empirical analysis assumes the inputs as provided in the DEIR. Those of course are no doubt problematical. The analysis assumes that exported product exits in a 12 ton truck. How was the figure of 12 tons determined? Why wasn't the figure 23 tons (similar to the size of the importing trucks)? Is it reasonable to assume that the exporting truck equivalent load is somewhere between 12 and 23-25 tons?

Note that if it is to be a 12 ton truck, then the PCE the conversion factor should be reduced to 1.5 from the DEIR's three (3). The reduced conversion factor is warranted because three (3) assumes a 23-25 ton quarry truck. The PCE conversion for a 12 ton truck should be ½ of 3 or 1.5.

Additionally, the DEIR early in the peak hour calculation process adjusts the daily trips by adding a peaking factor of 3 times. This is subjective and not supported in other recent quarry use permits. If, for the sake of argument, the peaking factor was two (2) times instead of three (3), the 75 trucks would become 50 trucks. The above empirical questions, however, would still apply to the 50 trucks.

15. Historically use permits that were to be extended or expanded conducted traffic studies relying on traffic counts. This approach created a basis for empirically determining what the peak hour traffic was or would be.

Peak hour traffic coming from a processing facility is influenced as much by the process of putting the product out onto the roadway in a given time (one hour for example), as it is by the potential volume of material available to the operator. It is not simply determined by a series of calculations predicated on annual production numbers.

Intersection analysis for example attempts to determine the volumes of the traffic at a given time at the intersection. Intersections are sized for capacity and peaks.

Question: Is it not true that using the DEIR's analysis for intersection movements and subsequent improvements, that an asphalt operator who produces 250,000 tons annually may not generate more peak hour truck trips than a competitor across the street that produces 100,000 tons annually?

#### Baseline Peak Hour Traffic (Existing Temporary Facility)

The calculation of a baseline peak hour traffic number suffers on two counts. First, there is noticeable lack of clarity in the determination of the baseline peak hour. One simply can compare the full page Table VJ-11 on page VJ-20 with a brief description sans chart or Table found on the following page—VJ-21.

B16-15  
(cont'd)

B16-16

There is a declared baseline a.m. peak hour number of 130 a.m. peak hour traffic (trucks) (plus 10 for autos) = 140 a.m. peak. The path to that number comes without a descriptive critical path or chart. One can compare using an extrapolation with the number on Table VJ-11 on the previous page. The total a.m. peak hour traffic on Table VJ-11 appears to be 235 trips using the PCE conversion. It is not entirely clear, but it appears that the 140 a.m. peak hour number (Baseline Peak Hour) includes the PCE conversion.

B16-16  
(cont'd)

16. Questions: A reasonable question to ask is: In the baseline analysis (existing temporary facility) was there a conversion factor of 3.0 in adjusting the daily trips as was done in Table VJ-11? Secondly, in the baseline analysis was the PCE conversion rate 3.0 or was it 1.5?

Did the baseline a.m. peak hour traffic include a boost in its number representing that larger than usual job which can ultimately generate twice as many a.m. peak hour truck trips as would normally be recorded using the “typical” a.m. peak hour numbers? It is a reasonable expectation because the boosted once in a year large job can occur today (baseline) just as likely as it is anticipated to happen in the project scenario. In that way comparing a.m. peaks hours between baseline numbers and future project numbers insures that the analysis is comparing “apples with apples.”

B16-17

17. Figure VJ-7 on page VJ-23 shows the final existing plus project turning movements. This represents the “delta” or the increment between the baseline and the project conditions (VJ-23). The DEIR goes on to say that the peak hour baseline as represented by the observed driveway volumes “is assumed to be representative of the average asphalt production activity at the temporary site” (baseline site) VJ-23. This description cries out for an answer to the QUESTION: “what is the a. m. peak hour traffic number at the temporary site?” And further does it include the factors outlined in the paragraph above? The phrase “average asphalt production activity” strongly suggests that the answer is no—those factors were not considered in determining the baseline a.m. peak hour traffic. Additionally, the DEIR analysis on this page makes no mention of baseline traffic from the existing temporary site relative to off site sales of aggregate and sand. Does the existing baseline a.m. peak hour number reflect the sales of sand and aggregate from the site?

B16-18

18. Figure VJ-7 on page VJ-23. Do the background and cumulative traffic include the PCE conversion number? At Landing Way the a.m. peak hour export number is 17 vehicles (trucks) leaving the site exiting onto Petaluma Blvd South. If the PCE conversion factor were implemented, then that number would be approximately 51. In Dutra’s project case the number is 225. It includes within that number the PCE conversion at the rate of 3x. That failure to convert at Landing Way suggests that the background through traffic on Petaluma Blvd South does not convert the large truck and bus traffic assumed to exist on the Blvd at the a.m. peak hour. If it did, it would increase the numbers of non Dutra project traffic at the intersections thereby reducing somewhat the relative impact of the Dutra project traffic at those intersections.

B16-19

B17

**From:** Margaret Pick  
**To:** <spadovan@sonoma-county.org>  
**Date:** 03/05/2008 9:11:46 AM  
**Subject:** Asphalt Plant Petaluma

Greetings,

I am writing to obtain information about where and how to express my concerns about the proposed Dutra Asphalt Plant adjacent to the Shollenberger wetlands.

□ B17-1

This rich asset for Petaluma and the environs would be irreparably harmed by an asphalt plant.

□ B17-2

As a local resident and business owner, I cast my vote against the Dutra plan.

□ B17-3

Please let me know of any petition in process gathering signatures against the development.

□ B17-4

Sincerely,

Margaret Pick  
President  
PVPMedia

45 Leveroni Court  
Novato, CA 94949  
www.cswst2.com

415.883.9850  
Fax 415.883.9835

Novato  
Petaluma  
Sacramento

**CSW ST2**

CSW/Stuber-Stroeh Engineering Group, Inc.

Engineers | Land Planners | Surveyors | Landscape Architects

Date: March 4, 2008  
File: 5.913.02

Mr. Steve Dee  
Senior Environmental Specialist  
Permit and Resource Management Department  
County of Sonoma  
2550 Ventura Avenue  
Santa Rosa, CA 95403-2829

**RE: HAYSTACK LANDING/DUTRA MATERIALS  
ENTITLEMENT PROCESS**

Dear Steve:

On behalf of The Dutra Group and Dutra Materials (Dutra), we appreciate the considerable effort that has gone into the preparation of the Draft Environmental Impact Report (DEIR) dated January, 2008. Since originally submitting its proposal for the Haystack Landing asphalt production, recycling and barge off-loading facility (Project) on April 28, 2004, Dutra has been working diligently with the County and its consultant to provide the information required to fulfill the requirements of the California Environmental Quality Act (CEQA) and obtain approval for the Project.

The Project proposes relocation of an existing asphalt plant and barge offloading facility located at 1601 Petaluma Boulevard South, approximately one-half mile to the north. The plant has operated at that address and has served as an important source of asphalt for southern Sonoma County and northern Marin County for more than twenty (20) years. It was moved to a different location on the former Dutra Quarry property pursuant to a temporary use permit and mitigated negative declaration in 2005, to facilitate reclamation activities at the Quarry and pending approval of this Project.

The new plant will continue to serve the requirements of important public works and private development projects, including the recently-approved Caltrans' Marin-Sonoma Narrows project for widening Highway 101. Moreover, the new plant will be state-of-the-art, providing more efficient operations, reducing environmental impacts and enhancing aesthetics.

This letter will provide comments in accordance with the Notice of Completion of the DEIR, and the time period specified by the Planning Commission at the public hearing on February 7, 2007. The letter includes, as attachments, additional comments submitted on behalf of Dutra by:

B18-1

Mr. Steve Dee  
Permit & Resource Management Department  
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- Justice & Associates (air quality issues) – Attachment 1;
- Lucy Macmillan (biological resources/wetlands) – Attachment 2;
- Rosen Goldberg Der & Lewitz (noise issues) – Attachment 3;
- LSA (biological resources/species) – Attachment 4;
- Fehr & Peers (traffic issues) – Attachment 5;
- Miller Pacific (geotechnical engineer) – Attachment 6; and
- Farella Braun + Martel LLP (legal issues) – Attachment 7.

B18-1  
(cont'd)

Each of these attached comment letters is incorporated herein by this reference. For convenience, the comments presented in this letter are otherwise organized by section and page number in support of Dutra's objections to the DEIR, as follows:

**TABLE II-1: Summary of significant Environmental Impacts & Mitigation Measures**

**Impact AES-3 / Mitigation Measure AES-3 – Sixth bullet – Page II-3**

*“Lighting shall be limited to the areas that would be in operation during night-time hours with all recycling operations and general aggregate sales limited to between 6 AM and 6 PM.”*

B18-2

For Caltrans and local highway and street repair work, aggregate sales need to be allowed at night, similar to asphalt sales. We would suggest that the mitigation be modified to reference 6:00 a.m. and 6:00 p.m. “except as needed to meet specific project requirements.”

**Impact AQ-1 / Mitigation Measure AQ-1b – Second bullet – Page II-6**

As stated, this restriction is too vague. In addition, due to the proposed use of the site, the restriction is impracticable. This item needs clarification before implementation is possible.

B18-3

*“The applicant shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.”* Add: “to the extent practicable.”

**Impact AQ-2 / Mitigation Measure AQ-2a – Page II-7**

*“The off-road equipment used on-site for the proposed asphalt and recycling facility will use 2007 emission standards. The emission standards may be met by upgrading to newer vehicles or retrofitting engines using CARB-verified retrofit technologies.”*

B18-4

Mr. Steve Dee  
Permit & Resource Management Department  
County of Sonoma  
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Page 3

As provided in the attached letter of Justice & Associates to Brian Peer of Dutra, dated February 28, 2008 (Attachment 1 at Page 4):

“Mitigation Measures AQ-2a (Page VB-31) states that off-road equipment used on-site shall use 2007 emission standards. Manufactures (*sic*) of equipment are mandated to only sell new equipment that meets standards as stated in the Off-Road Compression Ignition (Diesel) Engine Standards. For example, the 2007 emission standards for engine (*sic*) between 100 HP to 300HP is a Tier 3 engine at 3.0 g/BHP-hr for NMHC + NO<sub>x</sub>.

B18-4  
(cont'd)

“Table D-15 (Existing) and D-16 (Proposed) of Appendix D evaluated mobile off-road equipment at a Tier I NO<sub>x</sub> standard of 6.9 g/BHP-HR for analysis. While this emission rate is probably appropriate for the existing operations, it is not consistent with a 2007 fleet of equipment. The analysis for Mobile Off-Road Equipment for the proposed facility should use a Tier III emission standards (*sic*) to evaluate the emissions.”

**Impact AQ-2 / Mitigation Measure AQ-2c – First bullet – Page II-8**

*“Minimizing drop heights while loading/unloading aggregate to less than four feet, and . . .”*

B18-5

In general, this is attainable for the main conveyor assembly. However, it is not possible to reduce the drop from the “rainbow” conveyor to the stockpiles to less than four feet since the stockpile heights vary with demand.

**Impact AQ-6 – Conflict with or Obstruct Implementation of an Applicable Air Quality Plan – Page II-12**

*“Given that the proposed project would result in both project-level and cumulatively significant contributions to ozone emissions, that a General Plan amendment would be required for this project, and that the General Plan does not appear to be fully consistent with the Bay Area Clean Air Plan (CAP), per BAAQMD guidelines the project conflict with the CAP would appear to be significant.”*

B18-6

It is intended, due to the nature and volume of material being generated and disbursed by this type of operation, to use barges for many trans-shipments of material from the site. The use of high-volume barges will significantly reduce ozone emissions that would otherwise be generated by truck transport of an equivalent amount of material. Therefore, while there will certainly be contributions to ozone emissions, at this time it is difficult, if not impossible, to quantify whether these contributions will indeed be significant.



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Furthermore, as noted in the attached letter of Farella Braun + Martel to Al Cornwell of CSW|Stuber-Stroeh, dated March 3, 2008 (Attachment 7), the air quality analysis of the DEIR uses an inappropriate baseline when comparing the emissions from the current facility to those of the proposed facility. Since this Project is designed to replace the current facility which has operated nearby for more than twenty years, the analysis must take the existing operations into account and evaluate only the impacts, if any, that exceed those already permitted for the current facility or resulting from the relocation. See *Fairview Neighbors v County of Ventura*, 70 Cal.App.4th 238, 243 (1999); *San Joaquin Raptor Rescue Center v County of Merced*, 149 Cal.App.4th 645, 657-59 (2007).

B18-6  
(cont'd)

#### Impact BIO - 4c

As stated in the attached letter of LSA, dated February 21, 2008 (Attachment 4, Pages 1 and 2):

"In general, the DEIR impact analysis, mitigation measures, and conclusions are consistent with our analysis and recommendations. However, we have three specific comments with respect to Impact BIO-4 and Mitigation Measure BIO-4c.

**"Comment, Page VC-35, Night Lighting.** The DEIR discussion concludes that our recommendation that night lights should also be turned on several times for a couple of hours during the nest selection/pair bonding (typically mid February to mid March) is inadvisable and makes the assumption that the intent of this activity is to acclimate the birds in the rookery to the nighttime operations. Our recommendation was not intended to habituate the birds to the nighttime lights or noise. This recommendation is tied to our recommended monitoring which was intended to address uncertainties in how the herons and egrets may react to the night lighting and unloading noise/activity and to establish protocols to adaptively manage the rookery in conjunction with project operations. As recognized in our assessment and the DEIR, it is impossible to predict how individual birds or groups of birds will react to disturbances. Given our understanding that night-time restrictions on site operations could significantly constrain project operational efficiency and increase operations costs, our recommendation was to test for these uncertainties.

B18-7

"Monitoring element number 2 in our report recommends:

*"Barge Operations/Night Lighting: a minimum of two periods when herons and egrets are present during nest selection/pair bonding (typically mid February to mid March)."*

"We further recommend that if the herons and egrets react adversely to onsite disturbance tests, site operations associated with the adverse reaction should be curtailed and alternative measures implemented and tested for effectiveness. In this

Mr. Steve Dee  
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County of Sonoma  
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manner, unwarranted restrictions on operations would not be imposed or, should adverse reactions occur, alternative measures to protect the rookery could be implemented.

“Our rationale (*sic*) for the tests are: 1) the nest selection/pair bonding period is when herons and egrets are most susceptible to disturbance impacts; 2) herons and egrets population/use at the rookery typically increases through this period, such that early tests could be conducted when fewer pairs are present; and 3) legal protections under Fish and Game Code and the federal Migratory Bird Treaty Act are not applicable to these early breeding stages.

B18-7  
(cont'd)

“**Comment, Page VC-35, Conveyor System Operation.** The last sentence on Page VC-35 states that trying to acclimate (*sic*) nesting birds to the sporadic, short-term operation of the conveyor system and lighting would be disruptive to the egrets and herons in the on-site colony. As stated above, the intent of the light tests was not to acclimate (*sic*) the birds to the lights. It is part of an adaptive management approach to operating the project to evaluate and avoid impacts. The intent of running the conveyor system periodically is a combination trying to habituate the birds to the operations as well as observing the bird’s behavior. As far as being disruptive, wildlife are much less likely to be disturbed or scared by noises or activities if the activity is ongoing when they arrive at a site/begin to nest. Our opinion was that having an ongoing activity/ running the conveyor system periodically when the herons and egrets begin to show up at the rookery, we would be able to test our assumptions and recommendations to determine if additional changes be necessary to avoid impacts to nesting activity.

B18-8

“**Comment, Page VC-36, Artificial Rookery.** The DEIR claims the concept of trying to move the rookery is “speculative at best.” While we cannot guarantee the herons and egrets will relocate (which we freely acknowledge in our assessment), heron and egret colonies have been successfully relocated. Several literature citations are provided in our initial assessment.

“The DEIR also speculates that one of the problems would be that the nest platforms for open and exposed because of a lack of screening vegetation. Our review the literature on past artificial rookery structures did not indicate that screening cover was used or was important. Artificial cover could be easily added, but is also worth noting that herons and egrets regularly nest on man-made structures such as transmission line towers that lack any shade or screening.

B18-9

“I hope these comments help clarify the intent of several of initial recommendations that appear to have been misinterpreted in the DEIR. However the County decides to condition operations to protect the rookery, the FEIR and conditions of approval

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Permit & Resource Management Department  
County of Sonoma  
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should also include a mechanism to eliminate operational restrictions designed to protect the rookery should the herons and egrets relocate the rookery at some point in the future. Rookery sites are often used for a period of years, then for some reason often not related to any apparent human activity, the birds decide to abandon a site a new rookery is formed in another location.”

B18-9  
(cont'd)

**Impact / Mitigation Measure NOISE-7 – Concrete Recycling Facility Note and  
Impact / Mitigation Measure NOISE-8 – Barge Unloading Facility Noise  
Pages II-47 and II-48**

As provided in the attached letter of Rosen Goldberg Der & Lewitz to Brian Peer of Dutra, dated February 29, 2008 (Attachment 3):

**"The DEIR does not clearly state if residential sound insulation is mandatory.**

"The concept of improving the sound insulation of the nearby residences is included in two different mitigation measures (NOISE-7 and NOISE-8). In our experience, it is rare for an EIR to specify sound insulation for off-site residences as a mitigation measure since the implementation of such a measure is not under the control of the project applicant. Therefore, the need for off-site mitigation should be clearly explained in the DEIR along with the specific requirements and procedures.

B18-10

"For example, In NOISE-7, sound insulation appears to be mandatory as the DEIR states that "At the request of the homeowners... the applicant shall provide windows..." However, in NOISE-8, sound insulation is discussed in non-binding terms since the DEIR states that "... consideration shall be given to improving the sound insulating properties of the affected residential structures."

"Whether or not the offer for sound insulation is mandatory should be clarified and ultimately, the need for off-site mitigation should depend on whether the impact is significant after all other mitigation measures are implemented.

**"The DEIR does not indicate which residences would be eligible for sound insulation.**

"It is important that the EIR specify which residences are to be included in any mitigation measure that requires sound insulation. NOISE-7 refers to homes "... along the River and at the hillside west of Highway 101..." while NOISE-8 refers to "... affected residential structures..." The offer for sound insulation should depend on whether the impact is significant after all the other mitigation measures are applied. The DEIR conclusion regarding the "Level of Significance After Mitigation" on page V.I-22 states that

B18-11

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*"With implementation of proposed mitigation measures, all combinations of the asphalt plant, concrete recycling plant and barge unloading would meet the County's daytime and night-time noise standards at the hillside homes to the west (R1 and R2). However, noise levels would still exceed the County's daytime standard at receivers R3-R7."*

B18-11  
(cont'd)

"The DEIR, therefore, indicates that the residential sound insulation mitigation measures should apply only to the residences along the River which are labeled R3, R4, and R5 (sound insulation would not apply to R6 and R7 which represent the park across the river).

**"The DEIR does not adequately quantify the amount residential sound insulation that is to be provided.**

"Mitigation Measure NOISE-7 refers to "... windows rated for a 10 dBA exterior to interior noise reduction..." As stated, this mitigation measure is somewhat irrelevant since virtually any window will provide 10 dBA of exterior to interior noise reduction. We believe that the intent of the mitigation measure is to provide windows with a noise reduction that is a 10 dBA improvement over the existing windows' noise reduction.

B18-12

"The mitigation should be based on a more appropriate method for rating the windows, such as specifying the Sound Transmission Class (STC). The STC is a standard method for quantifying the sound reduction properties of windows. To address the mitigation goal for a 10 dBA improvement, the mitigation measure should have suggested windows with an STC rating that is 10 dB higher (greater sound reduction) than a normal single pane window. Since a closed single pane window<sup>1</sup> provides an STC rating of 24, the mitigation measure should specify that windows with a minimum STC rating of 34, be offered to the residences.

**"The DEIR requires noise barriers be placed on the barges. The use of temporary barriers to achieve this mitigation measures would be impractical to enforce.**

"Mitigation measure NOISE-8 states that "Noise barriers shall be placed on the southern portion of the barge to completely screen barge unloading activities in the direction of the riverfront residences." Based on our review of the site plan, this would require barriers that are approximately 12 feet tall on two sides of the barge (the long side facing the shore and the short side facing downriver. In our 12 May 2006

B18-13

<sup>1</sup> U.S. Department of Commerce, National Bureau of Standards, *Acoustical and Thermal Performance of Exterior Residential Walls, Doors and Windows*, 1975, p. 45.

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report, noise barriers were considered, but not included, as a measure to reduce the noise of the front end loader operating on the barge during the unloading process. We concluded that while it is theoretically possible to use temporary barriers either on piers in the water or on the sides of the barge, it would not be practical to enforce this measure on an on-going basis."

B18-13  
(cont'd)

**Impact NOISE-10 / Mitigation Measure NOISE-10 – Page II-48**

*“Strobe Lights. 1) Install an Occupational Safety and Health Administration (OSHA) approved strobe light back-up notification system on front-end loaders that are used at the asphalt plant and the barge unloading. 2) Use the strobe lights exclusively instead of the beepers during night-time hours.”*

B18-14

It may be possible to accommodate this recommendation. Review of Mine Safety regulations and Cal-OSHA requirements will be needed. Provided all applicable government agency requirements allow for the use of strobes in place of beepers, it should be possible to comply with this item.

**Impact TRANS-3 / Mitigation Measure TRANS-3a – Page II-49**

*“The project shall be conditioned to require a fair share contribution towards the planned construction of High Occupancy Vehicle (HOV) lanes along the highway mainline. . . . The project sponsor shall fund a fair share towards any planned interchange improvements for the Highway 101/Petaluma Boulevard South interchange project . . .”*

B18-15

As stated, the requirement for Dutra to provide a “fair share contribution” is open-ended. The required contribution calculation and amount would need to be clarified and be a clearly stated, fixed one-time cost to avoid the possibility of Dutra being unfairly required to make on-going contributions as future transportation requirements in the area change.

**Impact TRANS-3 / Mitigation Measure TRANS-3b – Page II-50**

*“The project shall be conditioned to prohibit material export during the PM peak period from 4 PM to 6 PM . . .”*

As provided in the attached letter of Fehr & Peers, dated February 20, 2008 (Attachment 5 at Page 1, Item 2):

B18-16

- “2. **Highway Impacts: Mitigation Measure:** TRANS-3b would prohibit the project from exporting material during the PM peak period from 4 PM to 6 PM. The traffic generation calculations shown in Table V.J-11 indicate that even without this restriction, the proposed project would not add traffic during

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this time, based on existing trip patterns at the site. However, as noted in the DEIR, there is no guarantee that existing trip patterns will remain the same and that if the project did contribute traffic during the PM peak hour, freeway levels of service would be significantly impacted. The report calls this out as a "potentially significant" impact.

"If the project were to change its operational patterns, the potential PM peak hour impact to freeway operations would be similar to an impact identified to freeway operations during the AM peak hour. Mitigation Measure TRANS-3a calls for the project to pay its fair share toward construction of new High Occupancy Vehicle (HOV) lanes along the US 101 mainline. The report states that this mitigation would lessen the impact to freeway operations in the AM peak hour to less than significant levels. It is unclear why this same mitigation would not reduce the potential PM peak hour impact to less than significant levels, and why additional Mitigation Measure TRANS-3b is required, especially considering that freeway service levels are better in the PM peak hour than the AM peak hour, according to Table V.J-16. If Mitigation Measure TRANS-3a would mitigate the potential PM peak hour freeway impact, there is no need for Mitigation Measure TRANS-3b."

B18-16  
 (cont'd)

#### Impact TRANS-4 / Mitigation Measure TRANS-4 - Page II-50

*"The project sponsor shall install an actuated signal at the new intersection of Petaluma Boulevard South at the project driveway. The applicant shall also coordinate with Caltrans and the County to design the northbound off-ramp . . ."*

As provided in the attached letter of Fehr & Peers, dated February 20, 2008 (Attachment 5 at Pages 2 and 3, Item 3 - Safety Impacts):

**3. Safety Impacts:** The report's discussion of safety impacts focuses on three issues: sight distance at the project driveway, acceleration for northbound trucks exiting the project driveway, weaving for trucks exiting the project driveway to the US 101 northbound ramp. Our comments are organized similarly.

B18-17

*"Driveway Sight Distance*

"The report notes that the proposed project driveway would provide adequate sight distance. In fact, the amount available would be over twice the minimum required. We concur and have no comments on this discussion.

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*“Northbound Truck Acceleration*

“Figure V.J-5 of the report shows that one of the two northbound lanes would end approximately 560 feet north of the project driveway, at the US 101 northbound ramp intersection. Although 560 feet is the minimum required acceleration distance for 45 mph traffic, the report notes that because trucks may be fully loaded, their required acceleration distance to reach the 45 mph posted speed limit on northbound Petaluma Boulevard South may be longer than the proposed 560 feet. In fact, the report cites one source that recommends 800 feet of acceleration distance to reach 45 mph.

“It is our understanding that this additional northbound through lane is proposed to continue northward through the US 101 northbound on-ramp intersection to conform with the two-lane northbound portion of Petaluma Boulevard South, approximately 500 feet beyond the US 101 northbound on-ramp intersection. This will allow adequate acceleration distance for fully-loaded trucks and would also reduce the need for them to merge since the acceleration lane would continue as a second through travel lane into Downtown Petaluma.

“The Final EIR conclusions should be revised to reflect the correct proposed roadway configuration.

*“Weaving from Driveway to US 101 Northbound Ramp*

“The previous section discussed trucks exiting the project driveway traveling northbound on Petaluma Boulevard South past the US 101 northbound ramp intersection. This section discusses trucks exiting the project driveway that turn left from Petaluma Boulevard South to the US 101 northbound ramp intersection.

“The report notes that the distance between the intersections is 560 feet. The report also notes that trucks exiting the project driveway would have to accelerate, weave, and decelerate in the left-turn lane all within a distance less than the minimum recommended acceleration distance. While it is unclear what minimum recommended acceleration distance the report is referring to, presumably, the report is referring to the 800 feet needed for a fully-loaded truck to accelerate to 45 mph. However, if this is the distance the report is referring to, it is unclear why trucks exiting the project driveway would need to accelerate to 45 mph before entering the left-turn lane. Trucks would likely wait for acceptable gaps in traffic to make this maneuver at a lower speed.

“Given that the available sight distance for vehicles traveling along the northbound US 101 off-ramp and northbound Petaluma Boulevard South is more than twice the minimum required, vehicles will have adequate time to see and react to a truck exiting

B18-18

B18-19

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the project driveway, crossing Petaluma Boulevard south and entering the left-turn lane.

“Since minimum sight distance would be accommodated by the project, and other design standards would be met as proposed, the potentially significant Impact TRANS-4, and associated Mitigation Measure TRANS-4, are unwarranted.

“Also, as noted in the report, installation of a new traffic signal at this location may not be warranted based on the criteria in the Manual on Uniform Traffic Control Devices. Since installation of new traffic signals can create an increased risk for certain types of collisions, we suggest that at a minimum, the report include a discussion of the potential safety trade-offs associated with installing an unwarranted signal at this location versus the proposed configuration.”

B18-19  
(cont'd)

**Impact TRANS-8 / Mitigation Measure TRANS-8a – Pages II-51 and II-52**

*“Mitigation Measure TRANS-3 (funding a fair share of the construction of planned HOV lanes, right-of-way dedication) would also address the significant impact identified in TRANS-8 . . . The project shall fund a fair share towards the construction of any new interchange between Highway 101 and Petaluma Boulevard South . . .”*

As stated, the requirement for Dutra to provide a “fair share contribution” is open-ended. The required contribution calculation and amount would need to be clarified and be a clearly stated, fixed one-time cost to avoid the possibility of Dutra being unfairly required to make on-going contributions as future transportation requirements in the area change.

B18-20

**Impact TRANS-8 / Mitigation Measure TRANS-8b – Page II-52**

*“As indicated under Mitigation Measure TRANS-3b, the project sponsor shall establish that no material export occur during the PM peak hour. Caltrans input would be required.”*

As previously stated, this requirement should be modified to allow sales during the PM peak as needed for projects to minimize congestion in other areas.

B18-21

**Impact TRANS-12 / Mitigation Measure TRANS-12a – Page II-52**

*“The project sponsor shall contribute a fair share towards interchange improvements for the planned Highway 101/Petaluma Boulevard South interchange. Since improvements have been planned and are intended to address existing conditions, and not simply future growth, a fair share is calculated as the project share of total peak hour traffic on the northbound and southbound ramps . . . The future*

B18-22



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*dedication of Caltrans right-of-way situated within the project site for the Highway 101/Petaluma Boulevard South interchange project may be used in part to contribute to the fair share contribution.”*

As previously stated, the requirement for the project sponsor to provide a “fair share contribution” is open-ended. The required contribution calculation and amount would need to be clarified and be a clearly stated fixed one-time cost to avoid the possibility of the project sponsor being unfairly required to make on-going contributions as future transportation requirements in the area change.

B18-22  
(cont'd)

**Impact TRANS-12 / Mitigation Measure TRANS-12b - Page II-53**

*“As indicated under Mitigation Measure TRANS-3b, the project sponsor shall establish that no material export occur during the PM peak hour from 4 PM to 6 PM. Caltrans input would be required.”*

B18-23

As previously stated, this requirement should be modified to allow sales during the PM peak as needed for projects to minimize congestion in other areas.

**Impact TRANS-13b / Mitigation Measure TRANS-13b - Page II-54**

*“The applicant shall provide neighboring residents an all-weather vehicular access route to Petaluma Boulevard South. Access shall be designed, operated, maintained and recorded to the satisfaction of SMART, DTPW, PRMD and the County Fire Marshall prior to building permit issuance.”*

B18-24

It should be noted that Dutra has planned for and incorporated into the Project an all weather access road between Petaluma Boulevard South and the SMART right-of-way for the three residents along the Petaluma River. Dutra has also stated that it will cooperate with SMART concerning access at the at-grade crossings.

**Page III-4 - Third paragraph:**

It should be noted that the older barns were removed with permits in 2004.

B18-25

**Page III-4 - Fourth paragraph,  
Page III-11 - Second and third paragraphs, and  
Page III-12 - Third, fourth and fifth paragraphs:**

It should be noted that corrective action and other mitigation measures were implemented by Dutra to the satisfaction of the Regional Water Quality Control Board, the California Department of Fish & Game, and the Army Corps of Engineers. In light of these actions and as noted in the attached letter of Farella Braun + Martel (Attachment 7 at Page 2), these paragraphs should be omitted. *See Riverwatch v County*

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*of San Diego*, 76 Cal.App.4th 1428 (1999) (“an EIR is not the appropriate forum for determining the nature and consequences of prior conduct of the project applicant.”) B18-26 (cont'd)

Page III-4 – Fifth paragraph:

It should be noted that the trees which are no longer on the project site were removed by prior owners. No trees have been removed by Dutra. B18-27

Page III-37 – First paragraph:

It should be noted that the existing facility allows nighttime operations. As stated in the attached letter of Farella Braun + Martel (Attachment 7 at Page 2), because this Project is designed to replace the current facility which has operated nearby for more than twenty years, the analysis must take the existing operations into account evaluate only the impacts, if any, that exceed those already permitted for the current facility or resulting from the relocation. *See San Joaquin Raptor Rescue Center v County of Merced*, 149 Cal.App.4th 645, 657-58, 675 (2007). Thus, existing night operations should be considered when evaluating the impacts of the proposed Project. Noise and light impacts have been historically permitted in the area, including at the adjacent Shamrock facility. B18-28

Page III-39 – Last paragraph, second line:

The stockpiles are 20' high, not 40' as stated B18-29

Page III-55 – Fourth bullet:

The separate access road for residences along the Petaluma River avoids conflicts with large trucks by traversing Dutra’s property north of the asphalt plant and connecting to Petaluma Boulevard South at the common entrance at the fire station. Dutra has not proposed to create a separate entrance at Petaluma Boulevard South. B18-30

Page III-55 - Eighth bullet

It should be noted that the three residents living along the Petaluma River access their properties from “old” Highway 101. B18-31

Page III-56 – Third paragraph:

The reference to Antonio Rossmann’s April 27, 2007 opinion letter concerning water rights should be after the fifth sentence (sixth line), not at the end of the paragraph. B18-32

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Additionally, as stated in the attached letter of Farella Braun + Martel (Attachment 7 at Page 4), this paragraph mischaracterizes Mr. Rossmann's letter and incorrectly suggests that the railway right-of-way to the east could affect riparian rights at a tidal watercourse on the Project site.

Mr. Rossmann's letter explains that, because parcel 019-320-022 is directly adjacent to a tidal watercourse leading to the Petaluma River and in which water is permanently present, Dutra has riparian rights to the use of water from this watercourse, and no permit is required from the State Water Resources Control Board.

The DEIR's suggestion that it is "possible" that the railway right-of-way may "sever" such riparian rights and require an easement is akin to suggesting that any river overcrossing severs riparian rights of upstream property owners. This proposition has no legal merit, and the statement should be deleted.

B18-32  
(cont'd)

**Page III-57 – Sixth paragraph:**

This paragraph should include a statement that the Project yields net zero fill within the flood plain. County policy requires this of projects within the flood plain. Where zero net fill is attained, the County defines this condition as no impact. Therefore, there are no impacts on the flood plain for the Project.

B18-33

**Figure III-16**

Dutra submitted a revised site plan to PRMD in May 2007 showing the firehouse in a new location, avoiding the eucalyptus grove.

B18-34

**Figure III-21**

As noted above, the plan included in the DEIR is not the current plan.

B18-35

**Figure III-23**

The plan should be updated to reflect Wetland Mitigation Grading.

B18-36

**Figure III-24**

The plan should be updated to reflect Wetland Mitigation Grading.

B18-37

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Page V.A-2

It should be noted that, with the exception of the 1860s era vacant farmhouse that was destroyed by a fire, the structures were removed with permits from Sonoma County PRMD in 2004.

B18-38

Page V.A-21 – First paragraph under *Visual Character*:

The site for the Project is an abandoned dairy farm, from which the farm buildings, which were in poor condition, have been removed with a permit. As noted, the site was also used historically for settling ponds in connection with the nearby Quarry operations. The Project area is rural to the south, but industrial to the north. This should be clearly stated, and the site characterized as a transition zone, not mischaracterized as “rural.”

B18-39

In the last sentence, the abandoned settling pond levees and drainage ditches should be noted as man-made. They are not natural features.

Page V.A-21 – Third paragraph:

The fourth sentence refers to the “west of the site” the houseboats docked along the west bank of the Petaluma River are to the “east” of the Project site and lie between Schollenberger Park and the Project site.

B18-40

Page V.A-22 – First paragraph:

This paragraph states that the visual nature of the area is largely rural. Again, the site is in a transition zone between rural and industrial, changing to urban within the City of Petaluma. Presently, several of the adjacent properties appear as storage yards with abandoned boats, vehicles and trucks.

B18-41

The description should also be corrected to state that the area is currently dominated by a large barge off-loading crane at the Shamrock facility, north of Parcel A. The crane is over 60 feet tall and should not be characterized as “small in scale.”

Page V.A-23 – Third paragraph:

The views from Shollenberger Park are dominated in the foreground by the existing residences and storage areas, not the Project. The Project site is not the foreground, but rather a mid-ground between the Petaluma River, residences and railroad, and the Petaluma hills.

B18-42

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**Page V.A-24 – Sixth paragraph:**

Aggregate stock piles will be limited to 20' in height.

B18-43

**Page V.A-47**

The DEIR continually refers to the area as “rural in nature.” As noted above, it should be characterized as a transitional area, from rural to industrial to urban. The Project site is located on the edge of the existing industrial area along South Petaluma Boulevard.

All regional and local planning documents (including the Sonoma County General Plan) acknowledge this as a transitional area as one approaches the City of Petaluma. The DEIR must be consistent with the General Plan and other planning documents.

B18-44

Highway 101 is characterized by a variety of adjacent landscapes through southern Sonoma County and the Petaluma area. Redwood trees along the roadway north of the Petaluma River reinforce the corridor aspect of Highway 101, and reinforce the Highway as the “Redwood Highway.” Under the proposed Project, a similar condition would exist as the Redwoods grow and screen the equipment along the frontage of the Project.

**Page V.A-49 – First Bullet:**

A 10' x 30' berm implies 1½:1 side slopes. To support dense vegetation as needed to screen the facility, the berm should be 7' in height and 30' wide, providing 2:1 side slopes and a rounded top. This allows plants to become well established and vigorous.

B18-45

**Page V.A-49 – First Bullet:**

Landscaping along the western edge of Area “A” impedes access to the Yee property and will need to be outside the easement proposed by Mitigation Measure TRANS-13a.

B18-46

**Page V.A-52 – Last bullet referencing V.C (Biological Resources) Mitigation Measure BIO-4c:**

The last bullet on this page refers to restricting the barge operations during the nesting season. Dutra has clearly stated the need to unload the barges during high tide, and the record supports the conclusion that barge loading activities, as proposed, will not adversely affect nesting.

B18-47

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As stated in the attached letter of LSA to Brian Peer, dated February 21, 2008 (Attachment 4 at Pages 1 and 2), the restrictions are excessive and unnecessary with monitoring. Please refer to the response to Impact BIO-4c at Page 4 of this letter.

B18-47  
(cont'd)

Page V.B-23 – Last paragraph:

As noted in the attached letter of Farella Braun + Martel (Attachment 7 at Page 3) and as discussed in the February 28, 2008 comment letter of Justice & Associates (Attachment 1), the air quality analysis of the DEIR uses an inappropriate baseline when comparing the emissions from the current facility to those of the existing facility. As the court held in *Fairview Neighbors v County of Ventura*, 70 Cal.App.4th 238, 243 (1999), the appropriate baseline for an existing permitted facility consists of those conditions that existed when the previous facility was operating at full capacity, *not* the average annual production rate that the DEIR uses here. *See also San Joaquin Raptor Rescue Center v County of Merced*, 149 Cal.App.4th 645, 657-59 (2007).

B18-48

It is inappropriate to compare an *average* annual production rate for the current facility with the *maximum* proposed production rate for the new facility, and doing so skews the analysis such that the proposed project appears to have a greater impact than that of the existing facility. Since it is not possible to determine the average rate for the proposed facility, the DEIR should use the maximum production rate for the current facility for this comparison, and as a baseline elsewhere in the DEIR.

Page V.B-27 – Impact AQ-2 – Last paragraph:

The DEIR preparers acknowledge that the DEIR does not take into account reductions due to Best Available Control Technology (BACT). This does not reflect Dutra’s proposal, which expressly provides for implementation of BACT. The Final EIR should correct this inconsistency with the application and reduce emissions calculations accordingly.

As stated in the attached letter of Justice & Associates, dated February 28, 2008 (Attachment 1 at Page 2, first bullet):

B18-49

- “• Section VB, page 27, of the Draft EIR states the analysis did not take into account the reduction in emissions as a result of the Best Available Control Technology (BACT) that will be required by Bay Area Air Quality Management District (Bay Area AQMD). Eliminating the emission reductions from the implementation of BACT causes the analysis to overstate the emission increase from the operation of the asphalt plant. Significant improvements have been made in the last ten years in state-of-the-art technology for asphalt plants. These technologies include more efficient

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burners, better control of fugitive emissions with the use of baghouses and blue smoke control on the asphalt storage silos and load out areas. Leaving the additional control technology required for this facility out of the analysis, causes the analysis to assume that the facility emissions will be the same as the old operations with increased production.”

B18-49  
(cont'd)

**Page V.B-29 – Table V.B-9**

The table should be revised, taking into account the specification for the new equipment provided by Dutra, and to account for the proper baseline as noted above.

B18-50

**Page V.B-29 - First paragraph:**

The DEIR acknowledges that the analysis of the emissions are not decreased as a result of the tugs traveling with the tide. As specifically stated in the application, the tugs will travel with the tide. In fact, it is critical that the tugs travel with the tide. They will also travel approximately one mile less on the Petaluma River than they travel to the existing facility. Therefore, the analysis should be redone to reflect tugboats traveling with the tide, and the emissions should be evaluated against the existing operations baseline as noted above.

B18-51

**Page V.B-30**

The DEIR acknowledges that future NO<sub>x</sub> emissions would be *reduced* to below the threshold of existing operations of 15 tons per year. While this is acknowledged, the DEIR nevertheless states that this is a significant impact. This conclusion is inconsistent with an evaluation against the baseline provided by existing operations, as required by CEQA and as noted above. *Fairview Neighbors v County of Ventura*, 70 Cal.App.4th at 243; *San Joaquin Raptor Rescue Center v County of Merced*, 149 Cal.App.4th at 657-59.

B18-52

**Page V.B-36 – Impact AQ-6:**

This section needs to be re-evaluated contingent on the revised calculations for emissions based on the previously referenced letter from Scott Taylor at Justice & Associates.

B18-53

**Page V.B-38 – The project greenhouse gas inventory:**

It should be acknowledged that the asphalt from this plant would be produced whether or not the Project occurs at the particular site proposed. As noted earlier in the Section, the VMT's would actually increase, since without the Project, asphalt

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would likely be transported from a more distant source. This should be acknowledged in the section on "Project Greenhouse Gas Inventory," consistent with the acknowledgment at the end of the first paragraph on Page V.B-39.

B18-54  
(cont'd)

**Page V.B-39** – The level of significance after mitigation:

As noted above, the DEIR should revise the calculation of impacts, taking into account the use of BACT as proposed in the application.

B18-55

**V.C. – Biology**

**Page V.C-8** – Wetlands – Third paragraph:

As stated in the attached letter of Lucy Macmillan to Al Cornwell of CSW|Stuber-Stroeh, dated February 26, 2008 (Attachment 2 at Page 1):

- “1. On page V.C-8 the third paragraph references that there are "unverified" wetlands on Areas A, B, C and D. This is incorrect. On December 6, 2006 Mr. Philip Shannin of the San Francisco District of the U.S. Army Corps of Engineers evaluated additional potential wetland areas referenced in the Supplemental Wetlands Assessment Haystack Landing Dutra Asphalt Plant Project Site, Petaluma, Sonoma County, California (U.S. Army Corps of Engineers File No. 28104N). In this supplemental assessment, approximately 1.12 acres of potential wetland were identified pending Corps verification. During the December 2006 site visit Mr. Shannin evaluated these additional areas and concluded that some of the potential wetlands were not subject to Corps regulation. These include the areas mapped in the vicinity of the old barn (formerly potential wetlands WL and WK), one of the wetlands between Highway 101 and Petaluma Boulevard South (formerly potential wetland WR), and the two small ditches immediately paralleling the railroad tracks (formerly potential wetland WM and WN). The remaining wetland areas referenced in the assessment were determined to be jurisdictional. However, Mr. Shannin could not issue a formal determination in writing at that time due to the then-pending Supreme Court Rapanos decision that suspended Corps wetlands determinations. Mr. Shannin therefore suggested that we submit the permit application in the future and reference the conclusions of the site visit assuming the Corps would be able to formerly issue jurisdictional determinations once a Supreme Court decision was issued.

B18-56

On February 26, 2008, Ms. Macmillan requested that Mr. Shannin confirm the Corps' position on the jurisdictional status of the wetlands. The Corps response will be furnished to PRMD upon receipt.



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**Page V.C-16 – Biotic Resources Zoning:**

As stated in the attached letter of Lucy Macmillan (Attachment 2 at Page 2):

“2. On Page V.C-16 the last sentence of the third paragraph in part reads *“the applicant’s consulting wetlands specialist has proposed that long-term mitigation for the losses associated with the unauthorized activities be provided during implementation of the mitigation program to be implemented as part of the proposed project”*. This statement is not entirely correct. The San Francisco Regional Water Quality Control Board and the Corps of Engineers instructed me to submit the wetlands mitigation plan prepared for project-related impacts and that they would make a determination as to whether the mitigation plan would also sufficiently compensate for impacts associated with the unauthorized fill.”

B18-57

**Page V.C-23 – 3rd paragraph:**

Proposed pumping may take place in Areas “A” and “C”.

B18-58

**Page V.C-32 – Mitigation Measure BIO-3a - Jurisdictional Wetlands and Other Waters:**

As provided in the attached letter of Lucy Macmillan (Attachment 2 at Page 2):

“6. On Page V.C-32 Mitigation Measure BIO-3a Jurisdictional Wetlands and Other Waters items 1-6 are appropriate. Based on a voicemail you left me the week of February 4, 2008, repair or replacement of the existing partially-blocked culvert under the railroad right-of-way referenced in item 4 is something the Dutra Group is agreeable to and is working cooperatively with the Sonoma Marin Rail Transit (SMART) to do.

B18-59

“Please note, as part of the recommended mitigation measures in item 6 above the Dutra Group would need to modify the current Wetlands Mitigation and Monitoring Plan Haystack Landing Wetlands Mitigation Project, Petaluma, Sonoma County, California (U.S. Army Corps of Engineers File No. 28104N) to address these mitigation measures which would include (in part) preparing a restoration and enhancement plan for the area along the berm adjacent to the railroad ditch, preparing a restoration plan for the coastal brackish marsh in the former Barton piece, and preparing a landscaping plan for the riparian areas identified in the original plan.”

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Page V.C-35 – Night Lighting  
Page V.C-35 – Conveyor System Operation  
Page V.C-36 – Artificial Rookery

B18-60

Please refer to the response to Mitigation Measure BIO-4c (page V.A-52 of the DEIR) at Page 4 of this letter.

Page V.D-2 – Third paragraph, second to last sentence:

B18-61

It should be noted that the barns were removed under permit from Sonoma County PRMD.

Page V.D-11 – Impact CULT-3: Human Remains

B18-62

The last sentence should state that the Project impacts on human remains would be “potentially significant.” It would only be significant if human remains are found which, according to the DEIR is not likely.

CULT-4: Paleontological Resources

B18-63

Last sentence:

It should be noted that Project impacts to unknown paleontological resources would be “potentially significant.” It would only be significant if human remains were found which, according to the DEIR, is not likely.

Page V.E-1 – Fourth bullet:

B18-64

A wetlands mitigation and monitoring plan (*Wetlands Mitigation and Monitoring Plan, Haystack Landing Wetland Mitigation Project, Petaluma, Sonoma County, California [U.S. Army Corps of Engineers File No. 28104NJ]*) was prepared in April 2006 for submittal to U. S. Army Corps of Engineers, San Francisco District.

Page V.E-11 - Impact GEO-2 - Impact GEO-2Surface Instability Could Result in Damage to Buildings, Equipment and Present a Physical Hazard to Workers:

B18-65

As provided in the attached letter of Miller Pacific Engineering Group (Attachment 6):

Based on the Geotechnical review of the DEIR it appears that peak ground acceleration should be 0.4 as opposed to 0.5 as stated in the DEIR document. This correction is based on the deterministic method to calculate peak ground acceleration.

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Page V.G-8 – Second paragraph:

Stockpiles are 20' high as previously noted.

B18-66

Page V.G-12 – First paragraph under “Unauthorized Grading and Equipment Storage”:

This paragraph should state the property was historically used for dairy and industrial activities, although it was vacant at the time of the grading. Area "A" had been used for river-related activities for over 100 years and was mostly covered with gravel surface to support the previous river-related uses. Very little vegetation existed prior to the grading.

B18-67

Again, it should be noted that corrective action and other mitigation measures were implemented by Dutra to the satisfaction of the Regional Water Quality Control Board, the California Department of Fish & Game, and the Army Corps of Engineers. In light of these actions and as noted in the attached letter of Farella Braun + Martel (Attachment 7 at Page 2), this paragraph should be omitted. *See Riverwatch v County of San Diego*, 76 Cal.App.4th 1428 (1999) (“an EIR is not the appropriate forum for determining the nature and consequences of prior conduct of the project applicant.”)

Second paragraph, last sentence:

It should be noted that the source of the sediment draining to the ditches may be off-site. This needs to be noted specifically so that the DEIR does not incorrectly imply that onsite drainage is the only source of the sediment.

B18-68

Page V.G-14 – First paragraph under “Dust Control Water - On-Site Effects”:

It should be noted that while up to 20,000 gallons of river water could be pumped for dust suppression, there are over 10,000,000 gallons introduced daily by normal tidal action through the watercourse. The maximum quantity of water to be used for dust suppression is only a tiny fraction of the volume of water entering the watercourse daily.

B18-69

Page V.G-21 – Sixth bullet:

The majority of the ditch is outside the property line and already acts as a detention feature. This mitigation conflicts with the 30' wide berm proposed under Mitigation Measure AES-1.

B18-70

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Page V.H-19 – Scenic Resources Combining District – First paragraph:

This paragraph should include a statement regarding the approximate travel time in passing the Project, and the limited duration of any impact on scenic views. The Highway 101 corridor provides a visual experience that varies considerably from the Sonoma County line to Santa Rosa. Assuming an average speed of 60 miles per hour, the trip takes 25 or so minutes. Since a traveler will only “experience” the Project frontage for less than ten seconds, and much of the Project will be screened by topographic features and landscaping, this cannot be considered a significant impact.

B18-71

Page V.H-27, V.H- 28:

As stated in the attached letter of Farella Braun + Martel, (Attachment 7 at Pages 5-6), “[t]he DEIR discusses the seven criteria that the General Plan sets out for deciding whether it is appropriate to amend the Plan to allow for a Limited Industrial designation. One of the Project parcels (APN 019-220-001) is, of course, already designated General Industrial and zoned Heavy Industrial, and an existing aggregate and barge loading facility operated by Shamrock is located immediately to the north of the Project site.”

The DEIR concludes that the Project does not meet Criterion # 5, which provides that “lands shall not be in environmentally sensitive or hazardous areas.” This conclusion is inconsistent with the DEIR’s other findings that impacts to biological resources and any hazardous conditions are fully mitigated to less-than-significant. It is important to note that Project activities either avoid or mitigate impacts in areas of sensitive biological resources (heron nest sites and wetlands), and potential impacts from operation of the conveyor will be monitored to determine whether additional measures are required.

B18-72

Moreover, the DEIR discussion (at pages V.H-27 and 28) notes that there is a Biotic Resource (an urban riparian corridor) overlay at Area "A" (APN 019-220-001). However, as noted above, this parcel is already zoned Heavy Industrial and requires no amendment. Therefore, this parcel should not be taken into account when assessing the criteria for a change to a Limited Industrial designation as to other parcels.

Page V.H-29 – Third Analysis

Permitted uses in 1986 included the sedimentation ponds. It was not necessary to permit the use in 1986 anymore than it was appropriate to permit the prior industrial dairy operation that historically occupied the site.

B18-73

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Page V.H-30 – Item No. 2:

Industrial areas are also located near the Project site, including the Shamrock facility to the north. This should be noted. Failure to describe the agri-industry nature of adjacent property misstates the character of the area.

B18-74

Page V.H-36 – Table V.H-2 – Sonoma County General Plan Analysis – LU-4b

*LU-4b: Use the levels of service shown on Figures CT2c and CT-2d on pages 289 - 291 of the Circulation and Transit Element to determine whether or not congestion is exceeding the desired level of service on the countywide highway system. Use area and/or project traffic analyses to determine whether intersection impacts or other localized congestion may also affect these desired levels of service.”*

Under project analysis and comments, the statement “overall, the project creates significant impacts to Highway 101 operations” is inconsistent and incorrect. The project does not create any new impacts to the Highway 101 operations. The proposed changes creating a Highway 101 interchange do not conflict with the site. In fact, there are mitigation measures that specifically prohibit it from impacting the site. This is a misrepresentation of the Project.

As described in the attached letter of Fehr & Peers, dated February 20, 2008 (Attachment 5 at Page 1, Item 1):

- “1. **Trip Generation:** The calculation of passenger car equivalents applies a factor of 3.0 to the project's truck traffic. This is inconsistent with the Highway Capacity Manual (HCM) Methodology for Analysis of Signalized and Unsignalized Intersections (Chapters 16 and 17), which specifies a factor of 2.0.

B18-75

“Other than that HCM inconsistency the project traffic generation estimates shown in Table V.J-11 are technically correct for use in the traffic analysis. However, the many adjustment factors that are applied to establish a worst-case scenario result in a reported AM peak hour vehicle generation that is nine times higher than the expected average AM peak hour traffic generation. The report and/or table should make clear that the average weekday AM peak hour truck generation will be 50 trucks per hour, not 450 per hour, and that the 450 vehicles per hour shown in the table reflects an adjustment needed within the intersection LOS calculations to account for the different behavior of trucks compared to private autos and to reflect peak seasonal traffic generation conditions.”

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LU-6b - Analysis

It should be noted that the adjacent property to the north is zoned correctly. Omitting the northern-most industrially zoned property from the analysis is misleading and inappropriate.

B18-76

Page V.H-55 - Table V.H-3 - Water Resources, Item A

Shollenberger Park is immediately across the Petaluma River from areas already zoned industrial, including the Shamrock facility. This should be noted correctly. The Park is not immediately across the river from the main Project site. The non-conforming residences lie between portions of the Project site and Shollenberger Park, providing both additional horizontal separation as well as a visual transition.

B18-77

Page V.H-56 - Scenic Resources

The DEIR continues to ignore the fact that the area immediately across the Petaluma River from Schollenberger Park is already zoned industrial, and adjacent sites should be anticipated for industrial uses, with or without this Project.

B18-78

Page V.I-17 - Third bullet - Stockpiles to the north and east, second line:

Unprocessed materials shall be located to the north and east "sides" of the recycling plant.

B18-79

Page V.I-19 - Mitigation Measure - NOISE 8 - Fifth bullet:

This is not a practical mitigation. Barge on- and off-loading needs to be scheduled with the high tides, as noted in the Project Application.

B18-80

Please refer to the response to Impact/Mitigation Measure NOISE 7 and NOISE 8 (pages II-47 and II-48 of the DEIR) at Page 6 of this letter.

Page V.J-1 - Third bullet:

With one possible exception, it is our understanding that the at-grade crossing at Landing Way is not subject to an easement in favor of the residential parcels lying east of the railroad right-of-way and the Project. It is, however, subject to an easement for Dutra's access to the proposed barge loading facility at the Project.

B18-81

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**Page V.J-5 – Last paragraph:**

It is unclear what illegal turns across the road into the site occur. Bollards are placed in the median to separate the northbound and southbound traffic on Petaluma Boulevard South; the bollards are not placed to prevent left-hand turns into the project. There is no illegal turn indicated by traffic signage.

B18-82

**Page V.J-10**

Under the paragraph discussing the proposed SMART commuter rail service, it should be noted that the SMART railroad passenger traffic is an unfunded project. It will require the approval of voters in both Marin and Sonoma Counties. The SMART project has failed to obtain approval several times in the past five years.

Furthermore, as discussed in the attached letter of Farella Braun + Martel (Attachment 7 at Pages 4-5), the Project provides for the three riverfront residents' continued access to South Petaluma Boulevard via a separate road north of the asphalt plant. Dutra intends to cooperate fully with SMART concerning access to the at-grade crossings. However, the issue of whether the residents will continue to cross the railway right-of-way at Dutra's property or be required to use the crossing at Landing Way will arise with the advent of commuter rail service whether or not an asphalt plant is built on this site. Thus, any restriction on the residents' access to the existing at-grade crossing at Haystack Landing and requirement that they use the Landing Way crossing is entirely independent from, and cannot be considered a significant impact of, the Project.

B18-83

**Last paragraph:**

The Project has no effect on the signal warrants required. This should be noted in the paragraph regarding "Other Background Development."

B18-84

**Table V.J-11 – Trip Generation:**

Please refer to the response to Table V.H-2 (Page V.H-36) - Sonoma County General Plan Analysis - LU-4b (page V.H-36 of the DEIR) at Page 24 of this letter.

B18-85

**Page V.J-14**

The last sentence states that there is adequate site distance for off-ramp traffic. This is a correct statement but is not reflected in further text. Specifically, the stopping site distance is adequate and no signalization should be necessary.

B18-86

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As stated in the attached letter of Fehr & Peers (Attachment 5 at Page 1, Item 1), the proposed Project driveway would provide adequate sight distance. In fact, the amount available would be over twice the minimum required. We concur with this assessment.

B18-86  
(cont'd)

Page V.J-17

It is unclear whether the study reflects projected vehicles from the new plant or if the number of vehicles are reduced by the existing temporary plant traffic. As noted in the attached letter of Farella Braun + Martel (Attachment 7 at Page 3), the DEIR's analysis of traffic impacts should examine only the differences between the current facility and the proposed Project, rather than suggesting that those of the proposed Project are either entirely new or should somehow be combined with traffic from the current facility that will be replaced. See *Fairview Neighbors v County of Ventura*, 70 Cal.App.4th at 243. The EIR should correct these misleading suggestions and explicitly state that only the adverse changes, if any, between those proposed for the Project and the historical operations that provide a baseline are subject to review.

B18-87

Page V.J-19

The final sentence states "the Applicant will be required to pay the ARM fee . . ." It should be noted that the Applicant does not conduct any mining operations in Sonoma County and thus is not subject to the ARM requirement.

B18-88

Page V.J-20 - Calculation of ARM fee

As noted above in our response to the last sentence on Page V.J-19, the Applicant has no mining operations within Sonoma County and, therefore, is not subject to the ARM fee. This section should be removed from the DEIR.

B18-89

Page V.J-20 - Table V.J-11

Export material is assumed to be 12 tons per truck. Large trucks carry over 23 tons per load. Since the truck traffic is multiplied by three to generate the equivalent car traffic, this tonnage needs to be increased. The small, light-duty trucks that could lead one to conclude that 12 tons is a reasonable average, are not appropriately increased by a factor of three to generate for equivalent car traffic.

B18-90

Please refer to the response to Table V.H-2 (Page V.H-36) - Sonoma County General Plan Analysis - LU-4b (page V.H-36 of the DEIR) at Page 24 of this letter.



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**Page V.J-28 – Last paragraph:**

Please refer to the response to Mitigation Measure TRANS-4 at Page 9 of this letter.

B18-91

**Page V.J-29 – Last paragraph:**

It is not reasonable to prohibit material export from the site between 4:00 PM and 6:00 PM. This material delivery during this time is project dependent. The marketplace may require material deliveries during that timeframe to mitigate traffic in other areas.

B18-92

**Page V.J-36 – Mitigation Measure TRANS-7 – First paragraph:**

Please refer to the response to Mitigation Measure TRANS-4 at Page 9 of this letter.

B18-93

**Page V.J-44 – Item No. 4**

The Project has been reconfigured to avoid conflicts with the Marin-Sonoma Narrows project. Documentation of the reconfiguration was provided to Sonoma County PRMD in May, 2007, and should be included in the DEIR for this analysis.

B18-94

**Page V.II-3 – First paragraph:**

It should be noted that the commitment to this Project would not reduce the production of future asphalt in the region. In fact, future asphalt would still be produced at the same rate but would require longer vehicle trips from more remote production facilities, which in itself would pose a significant impact on the environment. For clarity and adequacy, this should be noted in the analysis.

B18-95

**Page V.II-16 – Paragraph E: “Environmentally Superior Alternative.”**

As stated in the attached letter of Farella Braun + Martel (Attachment 7 at Pages 6-7):

“The DEIR appropriately reviews alternatives to the proposed Project and concludes that Alternative D is the environmentally superior alternative. Alternative D provides for development of the asphalt and recycling plant as proposed, but would relocate the barge off-loading facility to a site that Dutra does not own and that the owner is unwilling to sell located further south on the Petaluma River. See DEIR pages VII-13 – 15. For the reasons that follow, this is not an appropriate alternative under CEQA.

B18-96

The CEQA Guidelines require that the Lead Agency consider a reasonable range of “feasible alternatives.” § 15126.6. Feasibility is defined as follows:

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Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), *and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site* (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives.

Guidelines § 15126.6(f)(1) (emphasis added); see also § 15364 ("Feasible' means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.").

In *Save Our Residential Environment v City of West Hollywood* the court noted that since there was no evidence that the applicant "had any ability to acquire either of these sites" that the "sites were in fact not feasible, and thus not appropriate for inclusion in the EIR, because their availability for development was entirely speculative." 9 Cal. App. 4th 1745, \*1753 fn. 1 (Cal.App.2.Dist.1992).

As noted above, while otherwise adopting the Project as proposed, Alternative D of the DEIR proposes an alternate site for the barge off-loading facility. However, as the DEIR acknowledges (at page VII-13), Dutra does not own this parcel, and the owner is unwilling to sell it. These facts render the alternative infeasible.

Furthermore, the guidelines state that "[o]nly locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR." § 15126.6(f). Here, the alternative site only manages to reduce one impact (historical) to less than significant. However, the Project already is "less than significant with mitigation" in that area. The impacts to the heron population are also reduced or avoided altogether, and the overall impacts to biological resources (less than significant with mitigation) remain the same.

Finally, as noted above, the parcel proposed for the barge off-loading is already zoned General Industrial and is adjacent to Shamrock's existing aggregate and barge facility to the north. Relocating it to the south would require acquisition of property that the DEIR acknowledges is not for sale, would require rezoning and a General Plan amendment for that property if it could be acquired, and would place the barge loading facility closed to the residents and to a wetland to be restored as part of the Project.

B18-96  
(cont'd)

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For all of these reasons, Alternative D is not the most environmentally superior alternative, nor is it feasible. For these reasons, and the reasons presented in the DEIR in support of Alternative D, the Project as proposed is the most environmentally beneficial, feasible alternative, and it should be approved.”

B18-96  
(cont'd)

**Conclusion**

Again, thank you for including these comments and their resolution with the Final EIR. If you have any questions or need further clarification, please be assured of our continued willingness to provide prompt and responsive assistance.

B18-97

Sincerely,

CSW/STUBER-STROEH ENGINEERING GROUP, INC.



Al Cornwell

AC:sef

Attachments

cc: Bill Dutra, Dutra Materials  
Aimi Dutra-Krause, Dutra Materials  
Lee Selna, Dutra Materials  
Brian Peer, Dutra Materials



# Justice & Associates

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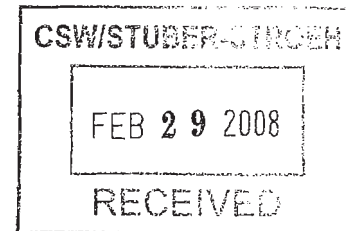
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February 28, 2008

Dutra Materials  
 1000 Pt. San Pedro Road  
 San Rafael, CA 94901

Attention: Brian Peer

Subject: Comments on Air Quality Analysis of the Draft EIR for the Dutra Materials Haystack Landing Barge Off Loading and Hot Mix Asphalt Plant



Dear Brian,

Justice & Associates reviewed the draft Environmental Impact Report (EIR) for Dutra Materials' Haystack Landing facility. Based on our review, we have several general comments about the analysis and several specific comments.

#### General Comments:

- The comparison between the existing and future facilities makes several assumptions which lead to possible overstatements in emission increases between the facilities. The analysis assumed an existing facility production of 2,000 TPD and a future facility production of 4,000 TPD. Much of the emission increase on a daily basis is a result of the doubling of production. However, the permit for the plant at 1600 Petaluma Boulevard, which this facility seeks to replace, did not include a daily production limit.

The facility had the potential to operate at 300 TPH with no restriction on daily production. The previous facility's potential to emit on a daily basis was much higher than the 2,000 TPD assumed.

The analysis also used an annual emission rate for the existing facility of 131,498 tons of asphalt per year based on a five-year historic average production rate. At the same time, the analysis evaluated the new facility at the maximum proposed production rate of 225,000 tons of asphalt per year. Previous production rates for the facility were as high as 186,552 TPY in 2003 and 166,976 TPY in 2004. While Dutra Materials has been working through permitting a new site, the use of a temporary portable plant has not allowed operations to reach their historic operating levels. As a result, more recent production has skewed the five year historic average production down and in turn the emissions associated with the plant. The analysis should evaluate production at the 2003 production level.

B18a-1

- Section VB, page 27, of the Draft EIR states the analysis did not take into account the reduction in emissions as a result of the Best Available Control Technology (BACT) that will be required by Bay Area Air Quality Management District (Bay Area AQMD). Eliminating the emission reductions from the implementation of BACT causes the analysis to overstate the emission increase from the operation of the proposed asphalt plant. Significant improvements have been made in the last ten years in state-of-the-art technology for asphalt plants. These technologies include more efficient burners, better control of fugitive emissions with the use of baghouses and blue smoke control on the asphalt storage silos and load out areas. Leaving the additional control technology required for this facility out of the analysis, causes the analysis to assume that the facility emissions will be the same as the old operations with increased production. The analysis should take into account the improvement in technology.

B18a-2

- The Analysis for the new operations includes operation emissions, on-road and off-road vehicle emissions from the import and export of Recycled Asphalt Pavement (RAP), and the sale of aggregate and sand. These operations represent 100% increase in emissions above the previous operations, because these products were not offered previously. These emissions contribute significantly to the calculated emission increase from the operations.

Currently these products (i.e. RAP, Aggregates, Sand) are being processed and sold at other facilities to supply the needs of projects. The existing operations currently contribute vehicle emission from both on-road and off-road equipment in the process of doing business. The Haystack Landing facility will provide an alternative location for dropping off RAP and supplying aggregate and sand to construction projects in the area.

B18a-3

The analysis should evaluate existing facilities available to receive RAP and facilities that offer aggregate and sand for sale as a baseline. The proposed Dutra Materials Haystack Landing facility should be subtracted from the baseline to determine the emissions resulting from this operation.

- Section VB of the Draft EIR evaluates Stationary Source Air Quality Regulations which apply to this facility (Pages VB-13 and VB-17). The analysis of Standards of Performance for New Stationary Sources (NSPS); refers to this facility being subject to Subpart UU (Page VB-14). This subpart applies primarily to asphalt refinery and asphalt roofing facilities because of the blowing activities which occur in the manufacture and processing. Since this operation does not blow asphalt it does not meet the definition of an asphalt processing plant and is not subject to this subpart.

B18a-4

The Draft EIR also identifies Bay Area AQMD regulation 12-3-301 as applicable to this operation (Page VB-17). This rule applies to facilities engaged in the air blowing of asphalt. As previously stated, this facility does not meet the applicability requirement of the rule.

Specific Comments:

- The analysis provided estimated emissions for the aggregate dryer of the hot mix asphalt plant based on AP-42 emission factors and guidance from the Bay Area AQMD engineering evaluation template. The emission rates used for the asphalt dryer in Table D-4 and D-10 of Appendix D utilized the emission factor from AP-42 Table 11.1-6 for the VOC emissions from the Batch Dryer. This emission rate is measured at the exhaust stack of the baghouse and included the emission from the combustion burner as well as all captured fugitive emissions that are vented to the baghouse. Additional VOC emissions are calculated in Table D-4 and D-10 at a rate of 5.5 lbs/mmcf from the batch mixer based on EPA AP-42 Table 1.4-2. This second emission calculation is intended to account for the emission from the combustion of natural gas. The second calculation double counts the VOC emissions from the operation and should be removed.

B18a-5

- As stated on page VB-14, BACT requires the facility to achieve:

12 parts per million by volume (PPMV) NO<sub>x</sub> at 15% O<sub>2</sub> dry

This concentration is equivalent to the emission rate of 45.93 lbs/mmcf for NO<sub>x</sub>. This would result in annual emissions of 1.30 tons for NO<sub>x</sub>. This would represent a net emission decrease of 1.2 tons per year of NO<sub>x</sub> from mixer emissions when comparing the existing and proposed facility. The analysis of the proposed plant in Table D-10 of Appendix D should be revised to include emission rates that result from the low NO<sub>x</sub> burner that will be required for this facility.

B18a-6

- Table D-11 of Appendix D evaluates the uncontrolled fugitive emissions from the silo filling and truck load out. The emissions from both fugitive dust sources will be controlled by either a baghouse or a blue smoke control unit. Both units will have a 95% or greater collection efficiency for particulate matter (PM). Table D-11 should evaluate the controlled emissions rate of these sources.

B18a-7

- As stated in the general comments, the analysis includes emissions from operations which did not previously exist at the former site. Specifically, Table D-16 includes 260,860 miles attributed to recycled asphalt importation; 1,024,175 miles attributed to raw aggregate export; 625,000,000 miles attributed to recycled asphalt export; and 180,725 miles attributed to fine sand export. The on-road emissions from these activities makes up over 25 tons per year of NO<sub>x</sub> of the 27 tons of NO<sub>x</sub> calculated for truck activities. This is significant when compared to the total NO<sub>x</sub> increase estimated from on-road and off-road vehicle emissions of 17.5 tons per year and the total project emissions increase from NO<sub>x</sub> of 23 tons per year. In the analysis of the Levels of Significance After Mitigation (Page VB-39), NO<sub>x</sub> emissions is the primary pollutant which leads to the determination that the impact from the project will be significant and unavoidable.

B18a-8

Due to the importance the NO<sub>x</sub> emissions create in the significance determination, consideration should be given to evaluating emissions from the operations against existing sources which provide the same products.

B18a-8  
(cont'd)

- Mitigation Measures AQ-2a (Page VB-31) states that off-road equipment used on-site shall use 2007 emission standards. Manufactures of equipment are mandated to only sell new equipment that meets standards as stated in the Off-Road Compression Ignition (Diesel) Engine Standards. For example, the 2007 emission standards for engine between 100 HP to 300 HP are a Tier 3 engine at 3.0 g/BHP-hr for NMHC + NO<sub>x</sub>.

B18a-9

Table D-15 (Existing) and D-16 (Proposed) of Appendix D evaluated mobile off-road equipment at a Tier I NO<sub>x</sub> standard of 6.9 g/BHP-HR for analysis. While this emission rate is probably appropriate for the existing operations, it is not consistent with a 2007 fleet of equipment for the new operation. The analysis for Mobile Off-Road Equipment for the proposed facility should use a Tier III emission standard to evaluate the emissions.

- Mitigation measures AQ2 Vehicle Emission (Page VB-28) states that the EMFAC-2007 software evaluated the emissions based on the composite emission factor for vehicles manufactured from 1965 through the target year of 2007. As discussed in the Diesel Particulate Matter section under Regulatory Setting (Page VB-9 thought VB-10) new retrofit requirements for existing on-road and off-road vehicles are in the process of being implemented. The On-Road Heavy Duty Diesel (in-use) regulation is proposed, in Phase I, to require the fleet to be equipped with the highest level VDECS for PM and reduce NO<sub>x</sub> emission by 70 percent by the applicable compliance deadline. All 2003 model year engine or older have a compliance deadline of December 31, 2010.

B18a-10

The composite emissions factor for on-road diesel engine used in Table D-16, over estimates the emission in light of the new proposed On-Road Heavy Duty Diesel Regulations. The analysis should be revised to include reductions of NO<sub>x</sub> and PM required by this rule.

If you have any questions, please give me a call at (562) 961-3494.

B18a-11

Sincerely,

  
 Scott Taylor  
 Justice & Associates

cc: Al Cornwell; CSWS+2,  
Chris Locke, Farella Braun+Martel

*Lucy Macmillan*  
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February 26, 2008

Mr. Al Cornwell  
C S W S T 2  
45 Leveroni Court  
Novato, CA 94949

**Re: Comments on Biological Resources Section  
Dutra Haystack Landing Asphalt and Recycling Facility Draft EIR**

Dear Mr. Cornwell:

On behalf of the Dutra Group, please find below my comments on portions of the Biological Resources section of the *Dutra Haystack Landing Asphalt and Recycling Facility Draft Environmental Impact Report* dated January 2008. As the wetlands consultant on this project, my comments primarily address references to wetlands and endangered species issues (potential impacts and associated mitigation measures) with the exception that LSA Associates will address any comments regarding the egret-heron rookery on the project site.

My comments are as follows:

1. On page V.C-8 the third paragraph references that there are "unverified" wetlands on Areas A, B, C and D. This is incorrect. On December 6, 2006 Mr. Philip Shannin of the San Francisco District of the U.S. Army Corps of Engineers evaluated additional potential wetland areas referenced in the *Supplemental Wetlands Assessment Haystack Landing Dutra Asphalt Plant Project Site, Petaluma, Sonoma County, California (U.S. Army Corps of Engineers File No. 28104N)*. In this supplemental assessment, approximately 1.12 acres of potential wetland were identified pending Corps verification. During the December 2006 site visit Mr. Shannin evaluated these additional areas and concluded that some of the potential wetlands were not subject to Corps regulation. These include the areas mapped in the vicinity of the old barn (formerly potential wetlands WL and WK), one of the wetlands between Highway 101 and Petaluma Boulevard South (formerly potential wetland WR), and the two small ditches immediately paralleling the railroad tracks (formerly potential wetland WM and WN). The remaining wetland areas referenced in the assessment were determined to be jurisdictional. However, Mr. Shannin could not issue a formal determination in writing at that time due to the then-pending Supreme Court Rapanos decision that

B18b-1



suspended Corps wetlands determinations. Mr. Shannin therefore suggested that we submit the permit application in the future and reference the conclusions of the site visit assuming the Corps would be able to formerly issue jurisdictional determinations once a Supreme Court decision was issued.

B18b-1  
(cont'd)

I contacted Philip Shannin today via email to see if he could confirm the above. I will forward his response when I receive it.

2. On Page V.C-16 the last sentence of the third paragraph in part reads “the applicant’s consulting wetlands specialist has proposed that long-term mitigation for the losses associated with the unauthorized activities be provided during implementation of the mitigation program to be implemented as part of the proposed project”. This statement is not entirely correct. The San Francisco Regional Water Quality Control Board and the Corps of Engineers instructed me to submit the wetlands mitigation plan prepared for project-related impacts and that *they* would make a determination as to whether the mitigation plan would also sufficiently compensate for impacts associated with the unauthorized fill.

B18b-2

3. On Page V.C-26 Mitigation Measure BIO-1b items 1-5: proposed mitigation measures for nesting birds are appropriate.

B18b-3

4. On Page V.C-27 Mitigation Measures BIO-1c-1f for fish and aquatic species, western pond turtle, permit authorizations, and special-status plants are appropriate.

B18b-4

5. On Page V.C-29 Mitigation Measure BIO-2 for Riparian Habitat are appropriate.

B18b-5

6. On Page V.C-32 Mitigation Measure BIO-3a Jurisdictional Wetlands and Other Waters items 1-6 are appropriate. Based on a voicemail you left me the week of February 4, 2008, repair or replacement of the existing partially-blocked culvert under the railroad right-of-way referenced in item 4 is something the Dutra Group is agreeable to and is working cooperatively with the Sonoma Marin Rail Transit (SMART) to do.

B18b-6

Please note, as part of the recommended mitigation measures in item 6 above the Dutra Group would need to modify the current *Wetlands Mitigation and Monitoring Plan Haystack Landing Wetlands Mitigation Project, Petaluma, Sonoma County, California (U.S. Army Corps of Engineers File No. 28104N)* to address these mitigation measures which would include (in part) preparing a restoration and enhancement plan for the area along the berm adjacent to the railroad ditch, preparing a restoration plan for the coastal brackish marsh in the former Barton piece, and preparing a landscaping plan for the riparian areas identified in the original plan.

Mr. Al Cornwell  
February 26, 2008  
Page 3

Please let me know if you have any questions regarding the above or if I can be of further assistance on this matter. Thank you.

B18b-7

Sincerely,

Lucy Macmillan  
Environmental Scientist

29 February 2008

Brian Peer  
The Dutra Group  
1000 Point San Pedro Road  
San Rafael, CA 94901

Subject: Comments on Draft EIR  
Project: Haystack Landing Facility  
RGDL #: 05-004-2

Dear Brian,

At your request we have prepared this letter with comments on the Draft EIR for the Haystack Landing Facility.

**The DEIR does not clearly state if residential sound insulation is mandatory.**

The concept of improving the sound insulation of the nearby residences is included in two different mitigation measures (NOISE-7 and NOISE-8). In our experience, it is rare for an EIR to specify sound insulation for off-site residences as a mitigation measure since the implementation of such a measure is not under the control of the project applicant. Therefore, the need for off-site mitigation should be clearly explained in the DEIR along with the specific requirements and procedures.

For example, In NOISE-7, sound insulation appears to be mandatory as the DEIR states that "At the request of the homeowners...the applicant shall provide windows..." However, in NOISE-8, sound insulation is discussed in non-binding terms since the DEIR states that "...consideration shall be given to improving the sound insulating properties of the affected residential structures."

Whether or not the offer for sound insulation is mandatory should be clarified and ultimately, the need for off-site mitigation should depend on whether the impact is significant after all other mitigation measures are implemented.

**The DEIR does not indicate which residences would be eligible for sound insulation.**

It is important that the EIR specify which residences are to be included in any mitigation measure that requires sound insulation. NOISE-7 refers to homes "...along the River and at the hillside west of Highway 101..." while NOISE-8 refers to

B18c-1

B18c-2

"...affected residential structures..." The offer for sound insulation should depend on whether the impact is significant after all the other mitigation measures are applied. The DEIR conclusion regarding the "Level of Significance After Mitigation" on page V.I-22 states that

*"With implementation of proposed mitigation measures, all combinations of the asphalt plant, concrete recycling plant and barge unloading would meet the County's daytime and night-time noise standards at the hillside homes to the west (R1 and R2). However, noise levels would still exceed the County's daytime standard at receivers R3-R7."*

B18c-2  
(cont'd)

The DEIR, therefore, indicates that the residential sound insulation mitigation measures should apply only to the residences along the River which are labeled R3, R4, and R5 (sound insulation would not apply to R6 and R7 which represent the park across the river).

**The DEIR does not adequately quantify the amount residential sound insulation that is to be provided.**

Mitigation Measure NOISE-7 refers to "...windows rated for a 10 dBA exterior to interior noise reduction..." As stated, this mitigation measure is somewhat irrelevant since virtually any window will provide 10 dBA of exterior to interior noise reduction. We believe that the intent of the mitigation measure is to provide windows with a noise reduction that is a 10 dBA improvement over the existing windows' noise reduction.

The mitigation should be based on a more appropriate method for rating the windows, such as specifying the Sound Transmission Class (STC). The STC is a standard method for quantifying the sound reduction properties of windows. To address the mitigation goal for a 10 dBA improvement, the mitigation measure should have suggested windows with an STC rating that is 10 dB higher (greater sound reduction) than a normal single pane window. Since a closed single pane window<sup>1</sup> provides an STC rating of 24, the mitigation measure should specify that windows with a minimum STC rating of 34, be offered to the residences.

B18c-3

**The DEIR requires noise barriers be placed on the barges. The use of temporary barriers to achieve this mitigation measures would be impractical to enforce.**

Mitigation measure NOISE-8 states that "Noise barriers shall be placed on the southern portion of the barge to completely screen barge unloading activities in the direction of the riverfront residences." Based on our review of the site plan, this would require barriers that are approximately 12 feet tall on two sides of the barge (the long side facing the shore and the short side facing downriver. In our 12 May 2006 report, noise barriers were considered, but not included, as a measure to reduce the noise of the front end loader operating on the barge during the unloading process. We

B18c-4

<sup>1</sup> U.S. Department of Commerce, National Bureau of Standards, *Acoustical and Thermal Performance of Exterior Residential Walls, Doors and Windows*, 1975, p. 45.

Brian Peer  
29 February 2008  
Page 3


concluded that while it is theoretically possible to use temporary barriers either on piers in the water or on the sides of the barge, it would not be practical to enforce this measure on an on-going basis.

B18c-4  
(cont'd)

This concludes our comments regarding the Draft EIR. Please contact us if you have any questions.

B18c-5

Sincerely,

  
Harold S. Goldberg, P.E.  
Principal  
Rosen Goldberg Der & Lewitz, Inc



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BERKELEY  
CARLSBAD  
COLMA

FT. COLLINS  
IRVINE  
PALM SPRINGS

RIVERSIDE  
ROCKLIN  
SAN LUIS OBISPO

February 21, 2008  
(Via e-mail)

Brian Peer  
The Dutra Group  
1000 Point San Pedro Road  
San Rafael, CA 94901

Subject: Comments on the DEIR for the Haystack Landing Project, Petaluma, California

Dear Mr. Peer:

As requested, LSA has reviewed the DEIR for the Haystack Landing off-loading and processing facility with respect to the heron and egret rookery and our April 6, 2007 Heron/Egret Rookery Impact Assessment and Recommendations.

In general, the DEIR impact analysis, mitigation measures, and conclusions are consistent with our analysis and recommendations. However, we have three specific comments with respect to Impact BIO-4 and Mitigation Measure BIO-4c.

B18d-1

**Comment, Page VC-35, Night Lighting.** The DEIR discussion concludes that our recommendation that night lights should also be turned on several times for a couple of hours during the nest selection/pair bonding (typically mid February to mid March) is inadvisable and makes the assumption that the intent of this activity is to acclimate the birds in the rookery to the nighttime operations. Our recommendation was not intended to habituate the birds to the nighttime lights or noise. This recommendation is tied to our recommended monitoring which was intended to address uncertainties in how the herons and egrets may react to the night lighting and unloading noise/activity and to establish protocols to adaptively manage the rookery in conjunction with project operations. As recognized in our assessment and the DEIR, it is impossible to predict how individual birds or groups of birds will react to disturbances. Given our understanding that night-time restrictions on site operations could significantly constrain project operational efficiency and increase operations costs, our recommendation was to test for these uncertainties.

B18d-2

Monitoring element number 2 in our report recommends:

*Barge Operations/Night Lighting: a minimum of two periods when herons and egrets are present during nest selection/pair bonding (typically mid February to mid March).*

We further recommend that if the herons and egrets react adversely to onsite disturbance tests, site operations associated with the adverse reaction should be curtailed and alternative measures implemented and tested for effectiveness. In this manner, unwarranted restrictions on operations would not be imposed or, should adverse reactions occur, alternative measures to protect the rookery could be implemented.

Our rationale for the tests are: 1) the nest selection/pair bonding period is when herons and egrets are most susceptible to disturbance impacts; 2) herons and egrets population/use at the rookery typically increases through this period, such that early tests could be conducted when fewer pairs are present; and 3) legal protections under Fish and Game Code and the federal Migratory Bird Treaty Act are not applicable to these early breeding stages.

B18d-2  
(cont'd)

**Comment, Page VC-35, Conveyor System Operation.** The last sentence on Page VC-35 states that trying to acclimate nesting birds to the sporadic, short-term operation of the conveyor system and lighting would be disruptive to the egrets and herons in the on-site colony. As stated above, the intent of the light tests was not to acclimate the birds to the lights. It is part of an adaptive management approach to operating the project to evaluate and avoid impacts. The intent of running the conveyor system periodically is a combination trying to habituate the birds to the operations as well as observing the bird's behavior. As far as being disruptive, wildlife are much less likely to be disturbed or scared by noises or activities if the activity is ongoing when they arrive at a site/begin to nest. Our opinion was that having an ongoing activity/running the conveyor system periodically when the herons and egrets begin to show up at the rookery, we would be able to test our assumptions and recommendations to determine if additional changes be necessary to avoid impacts to nesting activity.

B18d-3

**Comment, Page VC-36, Artificial Rookery.** The DEIR claims the concept of trying to move the rookery is "speculative at best." While we cannot guarantee the herons and egrets will relocate (which we freely acknowledge in our assessment), heron and egret colonies have been successfully relocated. Several literature citations are provided in our initial assessment.

The DEIR also speculates that one of the problems would be that the nest platforms for open and exposed because of a lack of screening vegetation. Our review the literature on past artificial rookery structures did not indicate that screening cover was used or was important. Artificial cover could be easily added, but is also worth noting that herons and egrets regularly nest on man-made structures such as transmission line towers that lack any shade or screening.

B18d-4

I hope these comments help clarify the intent of several of initial recommendations that appear to have been misinterpreted in the DEIR. However the County decides to condition operations to protect the rookery, the FEIR and conditions of approval should also include a mechanism to eliminate operational restrictions designed to protect the rookery should the herons and egrets relocate the rookery at some point in the future. Rookery sites are often used for a period of years, then for some reason often not related to any apparent human activity, the birds decide to abandon a site a new rookery is formed in another location.

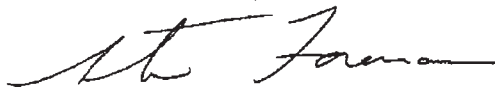
B18d-5

If you have any questions or require additional information, please do not hesitate to contact me.

B18d-6

Sincerely,

**LSA ASSOCIATES, INC.**



Steve Foreman  
Principal/Wildlife Biologist

cc Al Cornwell



FEHR & PEERS  
TRANSPORTATION CONSULTANTS

February 20, 2008

Mr. Al Cornwell  
CSW-St<sup>2</sup>  
45 Leveroni Court  
Novato, CA 94949

**Re: Peer Review of  
Dutra Haystack Landing Asphalt & Recycling Facility  
Draft Environmental Impact Report**

Dear Al:

Fehr & Peers has completed a peer review of the Transportation and Traffic section of the Draft Environmental Impact Report (DEIR) for the Dutra Haystack Landing Asphalt & Recycling Facility project. Our comments are discussed below.

- 1. Trip Generation:** The calculation of passenger car equivalents applies a factor of 3.0 to the project's truck traffic. This is inconsistent with the Highway Capacity Manual (HCM) Methodology for Analysis of Signalized and Unsignalized Intersections (Chapters 16 and 17), which specifies a factor of 2.0.

Other than that HCM inconsistency the project traffic generation estimates shown in Table V.J-11 are technically correct for use in the traffic analysis. However, the many adjustment factors that are applied to establish a worst-case scenario result in a reported AM peak hour vehicle generation that is nine times higher than the expected average AM peak hour traffic generation. The report and/or table should make clear that the average weekday AM peak hour truck generation will be 50 trucks per hour, not 450 per hour, and that the 450 vehicles per hour shown in the table reflects an adjustment needed within the intersection LOS calculations to account for the different behavior of trucks compared to private autos and to reflect peak seasonal traffic generation conditions.

- 2. Highway Impacts:** Mitigation Measure TRANS-3b would prohibit the project from exporting material during the PM peak period from 4 PM to 6 PM. The traffic generation calculations shown in Table V.J-11 indicate that even without this restriction, the proposed project would not add traffic during this time, based on existing trip patterns at the site. However, as noted in the DEIR, there is no guarantee that existing trip patterns will remain the same and that if the project did contribute traffic during the PM peak hour, freeway levels of service would be significantly impacted. The report calls this out as a "potentially significant" impact.

If the project were to change its operational patterns, the potential PM peak hour impact to freeway operations would be similar to an impact identified to freeway operations during the AM peak hour. Mitigation Measure TRANS-3a calls for the project to pay its fair share toward construction of new High Occupancy Vehicle (HOV) lanes along the US 101 mainline. The report states that this mitigation would lessen the impact to freeway operations in the AM peak hour to less than significant levels. It is unclear why this same mitigation would not reduce the potential PM peak hour impact to less than significant levels, and why additional Mitigation Measure TRANS-3b is required, especially considering that freeway service levels are better in the PM peak hour than the AM peak hour, according to Table V.J-16. If

B18e-1

B18e-2



Mitigation Measure TRANS-3a would mitigate the potential PM peak hour freeway impact, there is no need for Mitigation Measure TRANS-3b.

B18e-2  
(cont'd)

3. **Safety Impacts:** The report's discussion of safety impacts focuses on three issues: sight distance at the project driveway, acceleration for northbound trucks exiting the project driveway, weaving for trucks exiting the project driveway to the US 101 northbound ramp. Our comments are organized similarly.

*Driveway Sight Distance*

The report notes that the proposed project driveway would provide adequate sight distance. In fact, the amount available would be over twice the minimum required. We concur and have no comments on this discussion.

B18e-3

*Northbound Truck Acceleration*

Figure V.J-5 of the report shows that one of the two northbound lanes would end approximately 560 feet north of the project driveway, at the US 101 northbound ramp intersection. Although 560 feet is the minimum required acceleration distance for 45 mph traffic, the report notes that because trucks may be fully loaded, their required acceleration distance to reach the 45 mph posted speed limit on northbound Petaluma Boulevard South may be longer than the proposed 560 feet. In fact, the report cites one source that recommends 800 feet of acceleration distance to reach 45 mph.

B18e-4

It is our understanding that this additional northbound through lane is proposed to continue northward through the US 101 northbound on-ramp intersection to conform with the two-lane northbound portion of Petaluma Boulevard South, approximately 500 feet beyond the US 101 northbound on-ramp intersection. This will allow adequate acceleration distance for fully-loaded trucks and would also reduce the need for them to merge since the acceleration lane would continue as a second through travel lane into Downtown Petaluma.

The Final EIR conclusions should be revised to reflect the correct proposed roadway configuration.

*Weaving from Driveway to US 101 Northbound Ramp*

The previous section discussed trucks exiting the project driveway traveling northbound on Petaluma Boulevard South past the US 101 northbound ramp intersection. This section discusses trucks exiting the project driveway that turn left from Petaluma Boulevard South to the US 101 northbound ramp intersection.

The report notes that the distance between the intersections is 560 feet. The report also notes that trucks exiting the project driveway would have to accelerate, weave, and decelerate in the left-turn lane all within a distance less than the minimum recommended acceleration distance. While it is unclear what minimum recommended acceleration distance the report is referring to, presumably, the report is referring to the 800 feet needed for a fully-loaded truck to accelerate to 45 mph. However, if this is the distance the report is referring to, it is unclear why trucks exiting the project driveway would need to accelerate to 45 mph before entering the left-turn lane. Trucks would likely wait for acceptable gaps in traffic to make this maneuver at a lower speed.

B18e-5

Given that the available sight distance for vehicles traveling along the northbound US 101 off-ramp and northbound Petaluma Boulevard South is more than twice the minimum required, vehicles will have adequate time to see and react to a truck exiting the project driveway, crossing Petaluma Boulevard south and entering the left-turn lane.

Since minimum sight distance would be accommodated by the project, and other design standards would be met as proposed, the potentially significant Impact TRANS-4, and associated Mitigation Measure TRANS-4, are unwarranted.

Also, as noted in the report, installation of a new traffic signal at this location may not be warranted based on the criteria in the Manual on Uniform Traffic Control Devices. Since installation of new traffic signals can create an increased risk for certain types of collisions, we suggest that at a minimum, the report include a discussion of the potential safety trade-offs associated with installing an unwarranted signal at this location versus the proposed configuration.

B18e-5  
(cont'd)

We hope you have found these comments useful. Please do not hesitate to call if you have any questions.

B18e-6

Sincerely,

FEHR & PEERS

Chris Mitchell, PE  
*Associate*

1047-0148

March 4, 2008  
File: 209-02eltr.doc

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Attn: Mr. Brian Peers

Re: Geotechnical comments on the draft EIR  
Haystack Landing Asphalt and Recycling Facility  
Petaluma, California

Dear Brian,

Based on our review of the geology and soils section of the DEIR, most of this section appears appropriate for the project site and is generally consistent with the previous geotechnical reports. The one item that warrants discussion and a possible response is the calculated peak ground acceleration at the site. The EIR used a probabilistic analysis to calculate the peak ground acceleration at 0.51g. Typically, a deterministic method is used to calculate the peak ground acceleration for commercial, industrial, and residential sites. Using deterministic methods the peak ground acceleration is closer to 0.4.

This difference does not really impact the design of the structures because the mitigation measure (GEO-1) is to design in accordance with the CBC. However, this could be significant when addressing the seismic stability of the stockpiles (Impact GEO-2) and project site. The use of the higher acceleration will further reduce the calculated factors of safety of the stockpiles and may require more robust mitigation measures to achieve the required factors of safety.

We recommend modifying the language in Mitigation Measure GEO-2 to allow more flexibility in the final design and mitigation of the stockpile stability. Change "The geotechnical firm shall design and construct a stockpile storage area that is stable under both static and dynamic (i.e. seismic) conditions." to "The geotechnical firm shall design a stockpile storage area that is stable under both static and dynamic (i.e. seismic) conditions in accordance with current standards of practice."

Please respond with any questions or comments.

Very truly yours,  
MILLER PACIFIC ENGINEERING GROUP



Scott Stephens  
Geotechnical Engineer #2398  
(Expires 6/30/09)

2 copies submitted

cc: Al Cornwell, CSW/Stuber Stroeh (3 copies)

B18f-1


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March 3, 2008

 Al Cornwell  
 Principal  
 CSW/Stuber-Stroeh Engineering Group, Inc.  
 45 Leveroni Court  
 Novato CA 94949

 Re: Comments on the Haystack Landing Draft Environmental Impact Report

Dear Mr. Cornwell:

This letter is submitted on behalf of Dutra Materials and The Dutra Group ("Dutra") to provide comments on certain legal issues and record materials relating to the Draft Environmental Impact Report ("DEIR") analyzing the Haystack Landing asphalt production, recycling and barge offloading facility ("the Project").

We understand these comments will be submitted in conjunction with those prepared by your firm and other consultants reviewing the DEIR, to be submitted collectively on behalf of Dutra.

**The Haystack Landing Project is an Environmentally and Economically Efficient Facility that will Continue to Serve the Important Public Works and Private Development Requirements of the Region**

As you know, the Project proposes relocation of the existing asphalt plant and barge offloading facility located at 1601 Petaluma Boulevard South, approximately one-half mile to the north. The asphalt plant has operated at that address and has served as an important source of asphalt for southern Sonoma County and northern Marin County for more than twenty (20) years. It was moved to a different location on the former Dutra Quarry property pursuant to a temporary use permit and mitigated negative declaration in 2005, to facilitate reclamation activities at the Quarry and pending approval of this Project.

The new plant will continue to serve the requirements of important public works and private development projects, including the recently-approved CalTrans project for widening Highway 101. Moreover, the new plant will be state-of-the-art, providing more efficient operations and reducing environmental impacts and enhancing aesthetics.

The site for the Project is ideal for a facility of this nature. Like the existing facility, the site provides access to both Highway 101 and the Petaluma River. However, it provides the benefit of more direct access to Highway 101, and the new location will reduce barge travel on the Petaluma River by nearly one mile. Through such direct access and the shipment of



aggregate by barge, and because Dutra is uniquely able to deliver aggregate by barge from the San Rafael Rock Quarry, the Project will have less of an environmental and traffic impact than many other equivalent facilities.

As summarized in the following points and authorities, measured against the baseline and taking into account the efficiency of the new equipment, location and design, the Project as proposed is the most environmentally beneficial among feasible alternatives, and any impacts will be appropriately mitigated, consistent with the California Environmental Quality Act ("CEQA").

B18g-1  
 (cont'd)

**The Baseline Must Be Appropriately Defined and Consistently Applied for the DEIR's Evaluation of Project Impacts**

In preparing any environmental analysis under CEQA, it is fundamental that the baseline conditions (or "environmental setting") be properly defined. *San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645, 657-59, 675 (2007) (holding that the failure to plainly state the existing conditions "clearly falls short of the requirement of a good faith effort at full disclosure.")<sup>1</sup>

Since this Project is designed to replace an current facility that has operated nearby for more than twenty years, the analysis must take the existing operations into account and evaluate only the impacts, if any, that exceed those already permitted for the current facility or resulting from the relocation. *Id.* ("Although the baseline environmental setting must be premised on realized physical conditions on the ground, as opposed to merely hypothetical conditions allowable under existing plans, established levels of a particular use have been considered to be part of an existing environmental setting.")

B18g-2

Thus, through proper application of the baseline, the EIR should examine only those changes in the physical environment that are attributable to the Project rather than re-examining pre-existing conditions. See CEQA guidelines § 15126.2(a) ("In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published."). This is particularly important in this Project when analyzing traffic, water quality and air quality impacts, because such impacts from the proposed operations will replace those of the existing facility.

---

<sup>1</sup> CEQA guidelines state that the environmental setting should be what exists at the time the notice of preparation ("NOP") is published, and this will normally be considered the baseline as well. 14 Cal. Code Regs. 15125. It appears that by choosing a date prior to when the NOP was circulated, in order to capture the effects of earlier unpermitted activities at the site, the County has not observed this requirement. See *Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428 (1999) ("an EIR is not the appropriate forum for determining the nature and consequences of prior conduct of a project applicant.").

The CEQA statute and guidelines support this analysis by defining a significant effect as one which causes an "adverse change" for the environment: §§ 15064(d), 15126.2(a). The EIR must address adverse changes, not impacts that are simply the result of continuing operations that are not adversely changed (though relocated nearby) relative to the baseline. Therefore, only an adverse difference in water quality impacts, air emissions and traffic between the current and the proposed project should be analyzed. *See, e.g. Benton v. Napa County*, 226 Cal.App.3d 1467, 1476-77 (1991) (evaluating only the environmental impact of a proposed relocation and not re-evaluating the entire project); *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 242-43 (1999).

The EIR should clarify, in the section addressing "Baseline Conditions" on page III-12, that this is the standard to be applied, and this baseline should be applied consistently and appropriately throughout the EIR.

In particular, as further discussed in the February 28, 2008 comment letter of Scott Taylor of Justice & Associates, the air quality analysis of the DEIR uses an inappropriate baseline when comparing the emissions from the current facility to those of the proposed facility. As the court held in *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th at 243, the appropriate baseline for an existing permitted facility consists of those conditions that existed when the previous facility was operating at full capacity, *not* the average annual production rate that the DEIR uses here. *See also San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th at 657-58, 675.

Quite simply, it is inappropriate to compare an *average* annual production rate for the current facility with the *maximum* proposed production rate for the new facility, and doing so skews the analysis such that the proposed project appears to have a greater impact than that of the existing facility. Since it is not possible to determine the average rate for the proposed facility, the DEIR should use the maximum production rate for the current facility for this comparison, and as a baseline elsewhere in the DEIR.

Similarly, the DEIR's analysis of traffic impacts should examine only the differences between the current facility and the proposed Project, rather than suggesting that those of the proposed Project are either entirely new or should somehow be combined with traffic from the current facility that will be replaced. The EIR should correct these misleading suggestions and explicitly state that only the adverse changes, if any, between those proposed for the Project and the historical operations that provide a baseline are subject to review.

**Riparian Rights to Draw Water from the Tidal Watercourse on Dutra's Property are Not Affected by the Adjacent Railway Right-of-Way**

In the portion of the Project Description that discusses the water supply to the Project (page III-56), the DEIR mischaracterizes the April 27, 2007 opinion letter of Antonio Rossmann

B18g-2  
(cont'd)

B18g-3



concerning water rights, and incorrectly suggests that the railway right-of-way to the east could affect riparian rights at a tidal watercourse on the Project site.

As explained in the letter from Mr. Rossmann, because parcel 019-320-022 is directly adjacent to a tidal watercourse leading to the Petaluma River and in which water is permanently present, Dutra has riparian rights to the use of water from this watercourse and no permit is required from the State Water Resources Control Board. The DEIR's suggestion that it is "possible" that the railway right-of-way may "sever" such riparian rights and require an easement is akin to suggesting that any river overcrossing severs riparian rights of upstream property owners. Needless to say, this proposition has no legal merit.

Riparian rights are derived from the fact that parcel 019-320-022 is adjacent to the tidal watercourse, not from its proximity to the Petaluma River. The fact that the railway right-of-way crosses over the watercourse in no way affects Dutra's riparian right to the water that exists in the watercourse at Dutra's property. *See, e.g., Miller & Lux v. Enterprise Canal & Land Co.*, 169 Cal. 415, 441 (1915) (riparian proprietor's title to the water exists where it reaches his land). Furthermore, even when an easement crosses between a water body and a normally adjacent parcel, the easement does not sever the parcel's riparian rights. *See Forgeus v. Santa Cruz County*, 24 Cal. App. 193 (1914).

**SMART's Proposed Restriction of Residents' Use of the Existing At-Grade Crossing of the Railway Right-of-Way is not an Impact Attributable to the Project**

Currently, the three (3) residents living between the railway right-of-way and the Petaluma River in the vicinity of the Project access Petaluma Boulevard South through an existing at-grade crossing on Dutra's property. Dutra, and we understand at least one of these residents, also have an easement for an existing at-grade crossing to the north at Shamrock's Landing Way property.

The County and SMART have expressed interest in limiting the number of at-grade crossings if and when commuter rail service is initiated, and have proposed to restrict residents along the Petaluma River from continued use of the at-grade crossing on Dutra's property.

The Project provides for a road on Dutra's property for the residents' use in accessing South Petaluma Boulevard without passing through the asphalt plant. Thus, until commencement of commuter rail service, the residents will have continued access through Dutra's property, and safety concerns relating to the asphalt plant will be fully addressed by the separate access road. Dutra also intends to cooperate fully with SMART and the County concerning access to the at-grade crossings.

Despite the continued access for the residents provided by the Project, the DEIR finds a significant impact due to potential restriction of access for neighboring residential land uses. No such restriction currently exists, and if it arises in the future due to commencement of commuter

B18g-3  
(cont'd)

B18g-4

rail service, it clearly would arise regardless of this Project. Quite simply, the question of whether the residents will continue to cross the railway right-of-way at Dutra's property or be required to use the crossing at Landing Way would arise with the advent of commuter rail service whether or not an asphalt plant is built on this site.

In order to find a significant environmental effect, the guidelines state that the lead agency should consider direct physical changes in the environment which are "caused by and immediately related to the project." §§ 15064(d), 15126.2(a). The requirement that residents use a different at-grade crossing is not directly or indirectly related to the Dutra Project because construction of the asphalt plant would have no affect on this change: The decision by SMART or the County to limit access through Dutra's property is entirely independent of the development of the asphalt plant.

Furthermore, if the restriction affects only a few individuals, any restriction could not be considered a significant impact under CEQA. *Association for Protection of Environmental Values v. City of Ukiah*, 2 Cal.App.4th 720, 734 (Cal.App. 1 Dist., 1991) ("[W]e must differentiate between adverse impacts upon particular persons and adverse impacts upon the environment of persons in general."); *San Lorenzo Valley Community Advocates for Responsible Educ. v. San Lorenzo Valley Unified School Dist.*, 139 Cal.App.4th 1356, 1390 (Cal.App. 6 Dist., 2006) (emphasizing that the significant impact must be one to the *environment* and must be "a physical environmental change, as opposed to a social or economic one").

For these reasons, any decision by SMART or the County to restrict residents' access to the existing at-grade crossing at Haystack Landing and require use of the Landing Way crossing is entirely independent and cannot be considered a significant impact of the Project.

### **The Proposed Location of the Facility is Well Suited for Industrial Use**

The DEIR discusses the seven criteria that the General Plan sets out for deciding whether it is appropriate to amend the plan to allow for a Limited Industrial designation. One of the Project parcels (APN 019-220-001) is, of course, already designated General Industrial and zoned Heavy Industrial, and an existing aggregate and barge loading facility operated by Shamrock is located immediately to the north of the Project site.

One criterion is that "lands shall not be in environmentally sensitive or hazardous areas." The DEIR concludes that the Project does not meet this criterion despite findings elsewhere in the document that impacts to biological resources and any hazardous conditions are fully mitigated to less-than-significant. It is important to note that Project activities either avoid or mitigate impacts in areas of sensitive biological resources (heron nest sites and wetlands), and potential impacts from operation of the conveyor will be monitored to determine whether additional measures are required.

B18g-4  
(cont'd)

B18g-5





Moreover, the DEIR discussion (at pages V.H-27 & 28), notes that there is a Biotic Resource (an urban riparian corridor) overlay at Area A (APN 019-220-001). However, as noted above, this parcel is already zoned Heavy Industrial and requires no amendment. Therefore, this parcel should not be taken into account when assessing the criteria for a change to a Limited Industrial designation as to other parcels.

B18g-5  
(cont'd)

### **The Alternative Project Site is Infeasible**

The DEIR appropriately reviews alternatives to the proposed Project and concludes that Alternative D is the environmentally superior alternative. Alternative D provides for development of the asphalt and recycling plant as proposed, but would relocate the barge off-loading facility to a site that Dutra does not own and that the owner is unwilling to sell further south on the Petaluma River. See DEIR pages VII-13 – 15. For the reasons that follow, this is not an appropriate alternative under CEQA.

The CEQA Guidelines require that the Lead Agency consider a reasonable range of “feasible alternatives.” § 15126.6. Feasibility is defined as follows:

Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives.

B18g-6

Guidelines § 15126.6(f)(1) (emphasis added); see also § 15364 (“Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”).

In *Save Our Residential Environment v. City of West Hollywood*, the court noted that since there was no evidence that the applicant “had any ability to acquire either of these sites,” the “sites were in fact not feasible, and thus not appropriate for inclusion in the EIR because their availability for development was entirely speculative.” 9 Cal.App.4th 1745, \*1753 fn. 1 (Cal.App.2.Dist.1992).

As noted above, while otherwise adopting the Project as proposed, Alternative D of the DEIR proposes an alternate site for the barge off-loading facility. However, as the DEIR acknowledges (at page VII-13), Dutra does not own this parcel, and the owner is unwilling to sell it. These facts render the alternative infeasible.



Al Cornwell  
 March 3, 2008  
 Page 7

Furthermore, the guidelines state that “[o]nly locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.” § 15126.6(f). Here, the alternative site only manages to reduce one impact (historical) to less than significant. However, the Project already is “less than significant with mitigation” in that area. Therefore, Project impacts to the heron population are also reduced or avoided altogether, and the overall impacts to biological resources (less than significant with mitigation) remain the same.

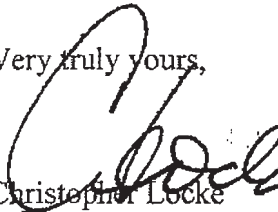
Finally, as noted above, the parcel proposed for the barge off-loading is already zoned General Industrial and is adjacent to Shamrock’s existing aggregate and barge facility to the north. Relocating it to the south would require acquisition of property that the DEIR acknowledges is not for sale, would require rezoning and a General Plan amendment for that property if it could be acquired, and would place the barge loading facility closed to the residents and to a wetland to be restored as part of the Project.

For all of these reasons, Alternative D is not the most environmentally superior alternative, nor is it feasible. For these reasons, and the reasons presented in the DEIR in support of Alternative D, the Project as proposed is the most environmentally beneficial, feasible alternative and it should be approved.

**Conclusion**

We appreciate the opportunity to provide these comments on the DEIR for the Haystack Landing Project. Please contact me with any questions.

Very truly yours,



Christopher Locke

cc: Bill T. Dutra  
 Aimi Dutra Krause  
 Lee Selna, Esq.  
 Brian Peer

B18g-6  
 (cont'd)

B18g-7



# Sonoma County Planning Commission Minutes

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

Date: **February 7, 2008**  
Meeting No.: **08-003**

## ROLL CALL

### COMMISSIONERS

- Dick Fogg
- Don Bennett
- Sharon Wright
- Alan Siegle
- Dennis Murphy, Chair

### STAFF MEMBERS

- Jennifer Barrett
- Traci Tesconi
- Steve Padovan
- 
- 

### STAFF MEMBERS

- David Hurst, Chief Deputy  
County Counsel  
(Item#1,2)
- Sue Dahl
- Jeff Brax, Deputy County  
Counsel (Item #3)

## UNCONTESTED CALENDAR

Call to order: 1:00 p.m.

**Commissioner Murphy** will not be available the last Thursday of March and the first Thursday of April, and Commissioner Alberigi will fill in for him.

**Public Appearances on Items Not on the Agenda:** None

**Item No. 1 Time: 1:05 p.m. File: ZCE07-0016**  
**Applicant: Dennis L. Judd Staff: Traci Tesconi**  
 Env. Doc.: Categorically Exempt  
 Proposal: Request for a Zone Change to place a B7 (Frozen Lot Size) designation on two parcels as a condition of a previously approved Minor Subdivision (PLP05-0115) as follows: (1) Lot 1 (APN: 027-040-016) - rezone the 10.86 acre site from the AR (Agriculture and Residential) B6 10 acre density, J (Mobile Home Exclusion), SR (Scenic Resource) district to the AR B7 (Frozen Lot Size) J, SR district or other appropriate district; and (2) Lot 2 (APN: 027-040-017) - rezone the 74.42 acre site from the LEA (Land Extensive Agriculture) B6 60 Acre J, Z, SR district to the LEA B7 (Frozen Lot Size) J, Z, SR district or other appropriate district.

Location: 5500 Burnside Road, Sebastopol  
 APN: 027-040-016, -017 (formerly 027-040-010) Sup. Dist: 5  
 Zoning: AR (Agriculture and Residential) B6 10 acre density, J (Mobile Home Exclusion), SR (Scenic Resource) and LEA (Land Extensive Agriculture) B6 60 acre density, J (Mobile Home Exclusion), Z (Second Unit Exclusion), SR (Scenic Resource)

**Board of Supervisors Hearing to be determined.**

**Action:** approved as recommended  
 Appeal Deadline:  
 Resolution No:

**Public Hearing Opened and Closed:** 1:10 p.m.

**Commission Discussion:** Commissioner Bennett made a motion to approve the request as written.

|             |                |             |             |             |
|-------------|----------------|-------------|-------------|-------------|
| Fogg: S/aye | Bennett: M/aye | Wright: aye | Siegle: aye | Murphy: aye |
| Ayes: 5     | Noes: 0        |             | Absent: 0   | Abstain: 0  |



**Rose Zoia, attorney** representing neighbors, asked for continuation. She said that an EIR would be required to address traffic, noise, biological and land use impacts due to massing and sizing of the project. There is a potential for a large carbon footprint at the project.

**Alan Pierson, Napa**, manages the McMullen vineyards, and was concerned about the impact of the building. He noted that the refrigeration units on the roof of the loading section of building make a lot of noise and asked that that part of the structure be moved to the north end of the site to mitigate noise. This could possibly eliminate the need for the sound wall.

**Beverly Schenck, neighbor**, opposes the project. She is concerned that the facility is going to grow. When she bought the property, her real estate agent told her that the site would not go commercial. The environmental study did not address the wildlife in the area. The additional traffic will create dangerous conditions in front of her house. She objects to the size of the operation and the large rigs and predicted tragedy if the project was allowed.

**Ed Greening, Laughlin Road**, was concerned about the impacts on the people and species in the area. The maintenance shop and trucks will release grease into the environment, and there will be noise from compressors and pollution. There is already a lot of noise generated by other buildings in the area. He complained that the County does not maintain Laughlin Road and the bridge.

**Del Starrett**, on rebuttal, said that the redwoods that are to be planted on the south line should be a good screen, and they are limited from planting in the wetland. The trucks will not be using south Laughlin Road.

**Jack Studebaker, attorney**, said the applicant considered relocation of the building and determined that it would increase traffic on Laughlin Road. **Commissioner Siegle** suggested adding a condition that prohibits trucks from turning south on Laughlin Road.

**Public Hearing Closed:** 2:30 p.m.

**Commission Discussion:** **Commissioner Murphy** asked if nighttime noise had been factored in, and **Staff Padovan** indicated that the noise level is to be kept to 45 db or lower at night, but staff usually only checks if complaints are received. **Commissioner Murphy** agreed that trucks should be prohibited from turning south on Laughlin Rd. **Commissioner Murphy** asked for clarification on the limits of the Planning Commission's decision. **Deputy Director Barrett** indicated that the appeal is on the design of the building and the site plan, and the use of the building is already permitted, and is not the subject of the appeal.

**Commissioner Fogg** wondered if an EIR might be justified. **Counsel Hurst** said that was up to the Commission to decide whether the potential significant impacts had been mitigated to a less than significant level in the mitigated negative dec.

**Commissioner Bennett** said that the property was zoned as a business park in 1987, and the applicant is entitled to build. The issue before the Commission is design. **Commissioner Bennett** thought that the mitigated negative dec was adequate.

**Commissioner Wright** had no comments.

**Commissioner Murphy** asked if proximity-based audible backup alarms for forklifts had been considered, and Staff Padovan said that this could be added to the conditions. **Commissioner Murphy** asked that the condition also state that the forklifts will not operate at night.

**Commissioner Bennett** wanted clarification that the oil runoff comments had been addressed adequately, and **Staff Padovan** clarified that the shop itself will have required containment areas and must conform with State requirements. Fluid that drips on the road and parking areas will wash off into gutters and become trapped in grassy swales, where plants absorb and filter some of the chemicals before they enter a catch basin and drain.

**Commissioner Fogg** suggest adding a requirement that mature landscaping be used.

**Commissioner Murphy** made a motion to approve mitigated negative dec and deny the appeal, subject to modified conditions.

**Change in Draft Conditions:**



that hazardous materials had been overlooked.

C1-3  
(cont'd)

**Norris Dyer**, Senior Docent at Schollenberger Park, was concerned about potential disturbance of the Heron Egret colony located in the park, who require a 200 meter protection zone. The DEIR only recommended a zone of 100 feet. He requested a requirement to monitor the colony during nest selection and to create a new colony in the mitigation area, and also preferred Alternative C and the elimination of nighttime noise and operations. Norris was concerned about the impact on scenic distances in the park, which is used by up to 400 people a day. He recommended relocation of the plant.

C1-4

**David Yearsley**, Friends of the Petaluma River, asked for an extension of the comment period. He found inconsistencies in the night time operations, and was concerned about significant impacts on air quality, noise, light, and aesthetics. Potential for cumulative phosphorus had not been mentioned in the hydrology section of the DEIR. He was concerned about the impact on the water quality of the Petaluma River over time, said that threats from flooding had not been adequately addressed, and that the DEIR had not addressed projected increases in sea level due to climate change. He recommended changing the site to the Pomeroy location further upstream, which is already in a river-dependent commercial-industrial zone and not right next to sensitive wetlands.

C1-5

**Tony Lemus**, San Antonio Fire Department Director, supported the project, as Dutra provided property for their Fire Station. He said it is very difficult to retain firefighters without a fire station. The majority of their calls are about Hwy, 101, which is why the site is an ideal location. They provide a fully equipped rescue team.

C1-6

**Susan Kirks, Petaluma**, is also a docent at Shollenberger Park, and was also concerned about biotic, lighting, noise, and emissions and their impact on the park and heron egret colony. She encouraged staff to work closely with the City of Petaluma, and suggested relocating the Fire Department to a quarry location that is being developed. She recommended finding another site for the project.

C1-7

**Harvey Goldberg**, neighbor, said his property will be heavily impacted by the project, but added that Dutra and Shamrock have been good neighbors and he would support the decision of the Planning Commission and Board of Supervisors. He was concerned about health issues, odors, air quality, and preferred an alternate location. He suggested that alternate access at Landing Way be used

C1-8

**Jerry Corda**, San Antonio VFD chief, supported the project and said that Dutra and Shamrock had done a lot for them. The VFD provides service to the people of the south county, and the community needs them.

C1-9

**Public Hearing Closed: 4:35**

**Commission Discussion:** The issue of whether or not to extend the close of comment period date was discussed and decided against. The comment period will close on March 4<sup>th</sup> at 5:00 p.m. The Commission continued discussion to March 6<sup>th</sup> at 1:05 p.m.

|       |          |         |          |         |
|-------|----------|---------|----------|---------|
| Fogg: | Bennett: | Wright: | Siegle:  | Murphy: |
| Ayes: | Noes:    | Absent: | Abstain: |         |

There being no further business to come before the Planning Commission/Board of Zoning Adjustments at this time, all items having been handled and all persons having been given an opportunity to be heard on any matter before the Planning Commission/Board of Zoning Adjustments in public hearing or otherwise, the meeting was adjourned.

Minutes adopted March 6, 2008



# Sonoma County Planning Commission MINUTES

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

Date: **March 6, 2008**  
Meeting No.: **08-005**

## ROLL CALL

### Commissioners

Dick Fogg  
Don Bennett  
Sharon Wright  
Alan Siegle  
Dennis Murphy, Chair

### Staff Members

Jennifer Barrett  
Cynthia Demidovich  
Scott Hunsperger  
Dave Hardy  
Steve Padovan  
Sue Dahl  
Greg Dion and Jeff Brax, Chief Deputy, County Counsel

Call to order: 1:00 p.m.

Approval of Minutes: Minutes from March 6th were approved with minor changes

Public Appearances on items Not on the Agenda: None

## UNCONTESTED CALENDAR

|                   |                         |  |                   |                           |
|-------------------|-------------------------|--|-------------------|---------------------------|
| <b>Item No. 1</b> | <b>Time:</b>            | <b>1:05 p.m.</b>   | <b>File:</b>      | <b>MJS03-0005</b>         |
|                   | <b>Applicant:</b>       | <b>Ernie Langbein</b>  | <b>Staff:</b>     | <b>Cynthia Demidovich</b> |
|                   | <b>Env. Doc.:</b>       | <b>Categorical Exemption</b>   |                   |                           |
|                   | <b>Proposal:</b>        | Request for a second one-year extension of time to meet conditions of approval for a previously approved Major Subdivision of 4.74 acres creating 12 lots. Two of the eleven lots are affordable housing lots. The lot sizes range from 5,300+/- to 37,000+/- square feet in size. |                   |                           |
|                   | <b>Location:</b>        | 5001 Carriage Lane, Santa Rosa   |                   |                           |
|                   | <b>APN:</b>             | 039-210-007  | <b>Sup. Dist:</b> | 4                         |
|                   | <b>Zoning:</b>          | R1 (Low Density Residential), B6-2.6 dwelling units per acre, BR (Biotic Resource), F1 (Floodway Combining District)   |                   |                           |
|                   | <b>Action:</b>          | Approved   |                   |                           |
|                   | <b>Appeal Deadline:</b> | ten days   |                   |                           |
|                   | <b>Resolution No:</b>   |  |                   |                           |

Public Hearing Opened: and Closed: 1:10

Commission Discussion: Commissioner Murphy moved to approve the one-year extension of time

|           |              |               |             |               |
|-----------|--------------|---------------|-------------|---------------|
| Fogg: aye | Bennett: aye | Wright: S/aye | Siegle: aye | Murphy: M/aye |
| Ayes: 5   | Noes: 0      | Absent: 0     |             | Abstain: 0    |

|                   |                   |                              |               |                         |
|-------------------|-------------------|------------------------------|---------------|-------------------------|
| <b>Item No. 2</b> | <b>Time:</b>      | <b>1:05 p.m.</b>             | <b>File:</b>  | <b>ZCE07-0018</b>       |
|                   | <b>Applicant:</b> | <b>Common Ground LPS</b>     | <b>Staff:</b> | <b>Scott Hunsperger</b> |
|                   | <b>Env. Doc.:</b> | <b>Categorical Exemption</b> |               |                         |



Proposal: Request for a Zone Change from the LIA (Land Intensive Agriculture), B6-40 acre density, SR (Scenic Resource), VOH (Valley Oak Habitat) to the LIA, B7 (Frozen Lot Size), Z, SR, VOH or other appropriate zoning district on 88 acres as a condition of approval for a previously approved Minor Subdivision (MNS06-0011).

Location: 2889 Piner Road, Santa Rosa

APN: 034-060-014 Sup. Dist: 4

Zoning: LIA (Land Intensive Agriculture), B6-40 acre density, Z (Second Dwelling Unit Exclusion), SR (Scenic Resource), VOH (Valley Oak Habitat)

**Board of Supervisors Hearing on April 22, 2008 at 2:05 p.m.**

Action: Approved  
Appeal Deadline:  
Resolution No:

Public Hearing Opened: and Closed: 1:15

Commission Discussion: Commissioner Murphy moved to approve the staff recommendation.

Fogg: aye                      Bennett: S/aye                      Wright: aye                      Siegle: aye                      Murphy: M/aye  
Ayes: 5                      Noes: 0                      Absent: 0                      Abstain: 0

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## REGULAR CALENDAR

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Item No. 3    Time:    1:05 p.m.                      File:    PLP04-0056  
Applicant:    County of Sonoma - PRMD                      Staff:    Dave Hardy  
Env. Doc.:    Categorically Exempt  
Proposal:    Request to amend the Zoning Ordinance to require a Use Permit for new businesses that sell alcohol within the County, and set standards for the operation of such businesses.  
Location:    Countywide  
APN:    Various                      Sup. Dist: All  
Zoning:    C1 (Neighborhood Commercial), C2 (Retail Business), C3 (Heavy Commercial), LC (Limited Commercial)  
**Board of Supervisors Hearing to be determined.**

Action:    Continued to May 15 at 1:05 p.m.  
Appeal Deadline:  
Resolution No:

David Hardy summarized the staff report, which is incorporated herein by reference.

**Questions from Commissioners:** Commissioner Fogg asked if staff had contacted the 711 Convenience Store Trade Association. Staff Hardy indicated that he had contacted the California Grocer's Association. He will contact the 711 Association for their input.

Commissioner Fogg thought the criteria was too broad and was concerned about legal problems that might arise with trade organizations. Staff Hardy said that the Grocery Association supports responsible legislation, and added that many cities have an ordinance like this in place. The ABC refers every application for a new license or change of ownership to PRMD, and asks if a Use Permit is required. Counsel Dion said he would discuss the matter with Brian Farrell from the City of Santa Rosa. Commissioner Wright added that it is difficult to draft a completely bullet-proof ordinance. Deputy Director Barrett said that Petaluma and Novato both adopted similar ordinances, which have been beneficial.

Commissioner Fogg asked if the ordinance was punitive as it is written, and Counsel Dion did not think it was. Staff Hardy added that the ordinance would add a land use element to a process that is already in place; currently, the ABC sends referrals to several agencies when applications are received.

**Commissioner Siegle** asked if staff had checked with the redevelopment agency in the Russian River area, and **Staff Hardy** said that he had sent a referral to Brian Stortch at the CDC. **Commissioner Siegle** was reluctant to support and ordinance in smaller communities, such as Forestville, as it could harm existing store owners. He did see the value of the ordinance in urban areas.

**Commissioner Bennett** noted that gas stations had not been listed, and **Staff Hardy** said that a gas station with more than five vending machines is considered a mini market, which needs a Use Permit.

**Commissioner Murphy** asked for a definition of "expansion," which was defined as increasing the building's footprint. **Commissioner Murphy** was also concerned the effect of such an ordinance on smaller communities, and noted that in Geyserville, the local mini mart is the only business of that type that is around for miles.

**Public Hearing Opened and Closed:** 1:40 p.m.

**Commission Discussion:** **Commissioner Murphy** suggested restricting the ordinance to Roseland and the three other urban areas mentioned in the staff report. **Commissioner Fogg** asked to hear the opinion of the Sheriff Department. **Ryan Russell**, deputy with the Street Crimes unit of the Sheriff Department, said consistency is important with an ordinance, since deputies work all over the County. He acknowledged that crimes are likely to be higher in an urban area than in areas with a smaller population.

**Commissioner Murphy** was unconvinced that a countywide ordinance was needed. Several communities have stores that sell alcohol in a closer proximity to schools than 1,000 feet. He suggested crafting exceptions or thresholds.

**Commissioner Siegle** was concerned that the ordinance could be cost prohibitive to small businesses if they were made to get a Use Permit to install a new cooler or that their use became non conforming.

After discussion, staff was directed to discuss the comments from the hearing with trade organizations, including consideration of exceptions for small additions like coolers and limitations on location. **Commissioner Murphy** supported adding flexibility for existing businesses.

**Commissioner Bennett** supported the idea, but also wants to protect existing businesses.

The item was continued to May 15<sup>th</sup>.

**Change in Draft Conditions:**

|       |          |         |         |          |
|-------|----------|---------|---------|----------|
| Fogg: | Bennett: | Wright: | Siegle: | Murphy:  |
| Ayes: | Noes:    |         | Absent: | Abstain: |

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|                   |                      |  |               |                      |
|-------------------|----------------------|--|---------------|----------------------|
| <b>Item No. 4</b> | <b>Time:</b>         | <b>1:30 p.m.</b>   | <b>File:</b>  | <b>PLP04-0046</b>    |
|                   | <b>Applicant:</b>    | <b>Dutra Group et al</b>   | <b>Staff:</b> | <b>Steve Padovan</b> |
|                   | <b>Cont'd. from:</b> | <b>February 7, 2008</b>  |               |                      |
|                   | <b>Env. Doc.:</b>    | <b>Environmental Impact Report</b>   |               |                      |
|                   | <b>Proposal:</b>     | Continued discussion on the adequacy of the Draft Environmental Impact Report for the proposed Dutra Haystack Landing Asphalt Plant and Recycling Facility. The proposed project consists of the following: 1) a General Plan Amendment to change the land use designation on APN's 019-320-022 and 023 from Limited Commercial to Limited Industrial; 2) a Specific Plan Amendment to the Petaluma Dairy Belt Plan to change the land use designation on the above parcels from Limited Commercial to Limited Industrial; 3) a Zone Change on these same parcels from LC (Limited Commercial), HD (Historic District), SR (Scenic Resources), SD (Scenic Design), F2 (Floodplain) to M1 (Limited Urban Industrial), HD (Historic District), SR (Scenic Resources), SD (Scenic Design), F2 (Floodplain); 4) a Use Permit for an asphalt batch plant, aggregate distribution facility and recycling operation; and 5) a Design Review Permit for a new industrial operation along a scenic corridor and in a scenic design area on three parcels totaling 38 acres. |               |                      |
|                   | <b>Location:</b>     | <b>3355 Petaluma Boulevard South, Petaluma</b>   |               |                      |

APN: 019-320-023 Sup. Dist: 2  
Zoning: M2 (Heavy Industrial)-B8 (Frozen Lot), F2 (Floodplain), BR (Biotic Resource)  
LC (Limited Commercial), HD (Historic District), SR (Scenic Resources), SD (Scenic Design),  
F2 (Floodplain)

**Board of Supervisors Hearing to be determined.**

**Action:** Staff directed to prepare a final EIR and discussion continued to date uncertain.  
**Appeal Deadline:**  
**Resolution No:**

**Questions from Commissioners:** **Commissioner Bennett** asked to clarify Table 2, page 2.6, which stated that the project would change rural and agricultural land to industrial development. He said that the site is bordered on one side by Shamrock, which is a comparable facility. The surrounding area has been an eyesore to the City for many years, and the site is incorrectly described as a rural area.

C2-1

**Commissioner Bennett** asked for more information noise and odor impacts to the newly protected marsh near the new sewer plant, clarification of the sources and types from asphalt production and recycling, and noise and odor impacts to wildlife areas, including how it relates to tourism. **Commissioner Bennett** wanted more information about the nighttime operations, since the Planning Commission has to decide whether to allow them. He also asked staff to provide historical data from ongoing operations in the area, and to indicate what the impact has been from the other asphalt plant in the area. He was concerned about the project impact on Shollenberger Park.

C2-2

**Commissioner Siegle** asked for more information about recycled tire and rubber and the odors they produce when mixed into the asphalt.

C2-3

**Commissioner Fogg** agreed with the foregoing concerns, and asked staff to explore the suggestion that the project get recycled water from the City sewer plant instead of the river. He also wanted to explore the feasibility of using the Pomeroy property located upstream, and asked staff to discuss this with the City of Petaluma. **Commissioner Fogg** wanted the function of the ponds to be better described, and to include historical information. He noted that the southern undeveloped portion of the site could possibly function as a mitigation. He asked staff to research the history of the particulate matter and diesel fuel that has gone into the river from past operations and from the Shamrock facility. He asked that staff address a comment about pumping river water and its impacts on aquatic life in the river.

C2-4

**Commissioner Wright** did not have any specific comments.

C2-5

**Commissioner Siegle** said no alternatives had been given for the concrete recycling facility and if adequate recycling already existed in the area. More information about the barges was needed, such as clarification of the number, the tonnage, and their impact on air quality. He asked if aggregate will be imported from sources other than Dutra's San Rafael Quarry. He also added that recycled water should be explored.

C2-6

**Commissioner Murphy** added that many Dutra mitigations, such as the rookery, may be heavily impacted by the widening of Hwy 101. He supported an adaptive system that will prevent the applicant from making mitigations that will be torn out by the road widening project. **Staff Padovan** agreed, and said that Caltrans has an EIR for the freeway widening. **Deputy Director Barrett** said that typically, CalTrans establishes right-of-way limits for their EIR, and staff could work with the applicant to delineate what mitigation measures are appropriate. **Commissioner Murphy** asked for a better explanation of the line of sight differences mentioned in the SMART letter. He said that the private crossings needed to be further defined, as private land owners in the area want more information.

C2-7

**Deputy Director Barrett** said that the notion of purchasing recycled water from the City could be cost prohibitive and involve substantial additional truck trips.

C2-8

**Commissioner Fogg** asked if Dutra was closing it's current facility in Petaluma, and **Staff Padovan** said yes, that the Use Permit was due to expire in September 2008.

C2-9

**Jeff Riley, consultant**, said that he needs to coordinate the responses to comments with the City and also have a chance to review the minutes from the current meeting. Adding the Pomeroy land as an alternative site could trigger the need for recirculation of the DEIR. **Counsel Brax** said he would investigate the feasibility of adding the Pomeroy site. **Commissioner Bennett** didn't think the site was realistic, as it had been purchased by a major developer to build houses and is outside of the County's jurisdiction. **Commissioner Fogg** said that the site should be addressed

C2-10

since it was brought up by so many people.

C2-10  
(cont'd)

Staff was directed to prepare the final EIR, and the meeting was continued to a date uncertain.

|       |          |         |         |          |
|-------|----------|---------|---------|----------|
| Fogg: | Bennett: | Wright: | Siegle: | Murphy:  |
| Ayes: | Noes:    | Absent: | Absent: | Abstain: |

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There being no further business to come before the Planning Commission/Board of Zoning Adjustments at this time, all items having been handled and all persons having been given an opportunity to be heard on any matter before the Planning Commission/Board of Zoning Adjustments in public hearing or otherwise, the meeting was adjourned.

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**APPENDIX B**

**Revised Air Quality Calculations**

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Table D-10: Estimated VOC, CO, NOx, SOx, and PM<sub>10</sub> Emission Asphalt Oil Tank, Batch Mixer, and Batch Dryer - Revised 16 June 2008  
 Proposed Asphalt & Recycling Plant  
 Dutra Haystack Landing Asphalt & Recycling Facility  
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| Asphalt Tank        | Emission Rate <sup>1</sup><br>(pounds per year)                 | Maximum Daily<br>VOC Emissions<br>(pounds)                | Total Annual<br>VOC Emissions<br>(tons)     | Maximum Daily<br>CO Emissions<br>(pounds) | Total Annual<br>CO Emissions<br>(tons)           |  |                               |
|---------------------|---|---|---|---|--|--|-------------------------------|
| 30,000 Asphalt Tank | 9.18  | 0.025   | 0.009                                       | 0.0024                                    | 0.0009   |  |                               |
| 30,000 Asphalt Tank | 9.18  | 0.025   | 0.014                                       | 0.0024                                    | 0.0013   |  |                               |
| <b>Total</b>        | <b>18</b>   | <b>0.050</b>  | <b>0.023</b>                                | <b>0.0049</b>                             | <b>0.0022</b>                                    |  |                               |
| Batch Mixer         | Hot Mix Heat<br>Requirement<br>(mmBTU/ton)                      | Natural Gas<br>Heating Value <sup>2</sup><br>(mmBTU/mmcf) | Emission Rate <sup>2</sup><br>(pounds/mmcf) | Emission Rate<br>(pounds/ton)             | Maximum Daily<br>Asphalt<br>Production<br>(tons) | Maximum Daily<br>Emissions<br>(pounds) | Annual<br>Emissions<br>(tons) |
| VOCs                | 0.26  | 1,020   | 5.5   | 0.0014                                    | 4,000  | 5.6                                    | 0.16                          |
| SOx                 | 0.26  | 1,020   | 0.60  | 0.00015                                   | 4,000  | 0.61                                   | 0.017                         |
| NOx                 | 0.26  | 1,020   | <b>140</b>                                  | 0.036                                     | 4,000  | 143                                    | <b>4.0</b>                    |
| CO                  | 0.26  | 1,020   | 84  | 0.021                                     | 4,000  | 86                                     | 2.4                           |
| Batch Dryer         | Natural Gas<br>Emission Factor <sup>2</sup><br>(pounds per ton) | Maximum Daily<br>Asphalt<br>Production<br>(ton)           | Maximum Daily<br>Emissions<br>(pounds)      | Annual<br>Emissions<br>(ton)              |  |  |                               |
| PM <sub>10</sub>    | 0.027   | 4,000   | 108   | 3.0                                       |  |  |                               |
| VOCs <sup>3</sup>   | 0.0082  | 4,000   | 27  | 0.76                                      |  |  |                               |

Notes:

Based on an annual production capacity of 225,000 tons<sup>1</sup> Tank emissions estimated using EPA software Tank 4.0.9d

CO = carbon monoxide

NOx = nitrogen oxides

VOCs = volatile organic compounds

PM<sub>10</sub> = particulate matter less than one micron in size

SOx = sulfide oxides

mmBTU = million British thermal units

mmcf = million cubic feet

VOCs are synonymous with reactive organic gases (ROG)

Table D-13: Total Estimated Batch Asphalt Plant Emissions - Revised 16 June 2008  
Proposed Asphalt & Recycling Plant  
Dutra Haystack Landing Asphalt & Recycling Facility  
Draft Environmental Impact Report

| Activity                             | Pounds per Day Based on Maximum Production of |       |       | tons of Asphalt per Day  |     |        |
|--------------------------------------|---|-------|-------|--------------------------|-----|--------|
|                                      | PM <sub>10</sub>                              | VOCs  | SOx   | NOx                      | CO  |        |
| Barge Off-Loading Emissions          | 1.1   | NA    | NA    | NA                       | NA  | NA     |
| Cold Feed System Emissions           | 3.6   | NA    | NA    | NA                       | NA  | NA     |
| Total Fugitive Dust / Yard Emissions | 6.4   | NA    | NA    | NA                       | NA  | NA     |
| Asphalt Oil Storage Tank Emissions   | NA  | 0.050 | NA    | NA                       | NA  | 0.0049 |
| Mixer Emissions                      | NA  | 5.6   | 0.61  | 143                      | 86  | NA     |
| Dryer Emissions                      | 108   | 27    | NA    | NA                       | NA  | NA     |
| Truck Loadout Emissions <sup>1</sup> | 2.8   | 17    | NA    | NA                       | NA  | NA     |
| Silo Filling Emissions <sup>1</sup>  | 2.3   | 49    | NA    | NA                       | NA  | NA     |
| Asphalt Crusher                      | 1.5   | NA    | NA    | NA                       | NA  | NA     |
| Maximum Daily Emissions              | 124   | 98    | 0.61  | 143                      | 86  |        |
| Activity                             | Tons per Year Based on Maximum Production of  |       |       | tons of Asphalt per Year |     |        |
|                                      | PM <sub>10</sub>                              | VOCs  | SOx   | NOx                      | CO  |        |
| Barge Off-Loading Emissions          | 0.059   | NA    | NA    | NA                       | NA  | NA     |
| Cold Feed System Emissions           | 0.11  | NA    | NA    | NA                       | NA  | NA     |
| Total Fugitive Dust / Yard Emissions | 1.0   | NA    | NA    | NA                       | NA  | NA     |
| Asphalt Oil Storage Tank Emissions   | NA  | 0.023 | NA    | NA                       | NA  | 0.0022 |
| Mixer Emissions                      | NA  | 0.16  | 0.017 | 4.0                      | 2.4 | NA     |
| Dryer Emissions                      | 3.0   | 0.76  | NA    | NA                       | NA  | NA     |
| Truck Loadout Emissions <sup>1</sup> | 0.079   | 0.47  | NA    | NA                       | NA  | NA     |
| Silo Filling Emissions <sup>1</sup>  | 0.066   | 1.4   | NA    | NA                       | NA  | NA     |
| Asphalt Crusher                      | 0.11  | NA    | NA    | NA                       | NA  | NA     |
| Total Annual Emissions               | 4.3   | 2.8   | 0.017 | 4.0                      | 2.4 |        |

Notes:

NA = not applicable

PM10 = particulate matter less than 10 microns in size

VOCs = volatile organic compounds

SOx = sulfur oxides

NOx = nitrogen oxides

CO = carbon monoxide

<sup>1</sup> Conservatively assumes all particulate matter from truck loading and silo filling is PM<sub>10</sub>. VOCs are synonymous with reactive organic gases (ROG)

Table D-18: Estimated Barge Emission - Revised 16 June 2008  
 Dutra Haystack Landing Asphalt & Recycling Facility  
 Draft Environmental Impact Report

| Marine Vessel Emission Factor (Rate) Calculation <sup>1</sup> |              |               |                 |                         |                  |             |                  |
|---|--------------|---------------|-----------------|-------------------------|------------------|-------------|------------------|
| Pollutant   | Exponent (x) | Intercept (b) | Coefficient (a) | Emission Rate (g/kW-hr) |                  |             |                  |
|   |              |               |                 | Cruise Mode             | Slow Cruise Mode |             |                  |
| PM <sub>10</sub>  | 1.5          | 0.2551        | 0.0059          | 0.00                    | 0.28             |             |                  |
| NOx   | 1.5          | 10            | 0.13            | 0                       | 10.95            |             |                  |
| SO <sub>2</sub>   | ---          | ---           | 2.4             | 0                       | 0.01             |             |                  |
| CO  | 1.0          | 0.84          | 0.84            | 0.0                     | 2.09             |             |                  |
| ROG   | 1.5          | ---           | 0.067           | 0.000                   | 0.26             |             |                  |
|   |              |               |                 |                         |                  | Maneuvering | Auxiliary Engine |
|   |              |               |                 |                         |                  | 0.32        | 0.26             |
|   |              |               |                 |                         |                  | 11.85       | 11               |
|   |              |               |                 |                         |                  | 16.40       | 1.3              |
|   |              |               |                 |                         |                  | 4.19        | 0.84             |
|   |              |               |                 |                         |                  | 0.75        | 0.070            |

| Estimated Tugboat Emissions |                           |                           |                           |                                  |                                  |                                  |                                |                                |  |
|-----------------------------|---------------------------|---------------------------|---------------------------|----------------------------------|----------------------------------|----------------------------------|--------------------------------|--------------------------------|--|
| Pollutant                   | Emissions Rates (lb/trip) |                           |                           | Proposed Emissions per Trip (lb) | Existing Emissions per Trip (lb) | Proposed Emissions per Trip (lb) | Existing Plant Emissions (tpy) | Proposed Plant Emissions (tpy) |  |
|                             | Cruise Mode               | Slow Cruise Mode Existing | Slow Cruise Mode Proposed |                                  |                                  |                                  |                                |                                |  |
| PM <sub>10</sub>            | 0.0                       | 1.5                       | 1.5                       | 0.069                            | 1.8                              | 1.7                              | 0.022                          | 0.106                          |  |
| NOx                         | 0                         | 60                        | 58                        | 2.8                              | 69                               | 67                               | 0.87                           | 4.16                           |  |
| SO <sub>2</sub>             | 0                         | 0.047                     | 0.045                     | 3.4                              | 12                               | 12                               | 0.15                           | 0.76                           |  |
| CO                          | 0                         | 11.6                      | 11.0                      | 0.22                             | 14                               | 13                               | 0.17                           | 0.84                           |  |
| ROG                         | 0.0                       | 1.5                       | 1.4                       | 0.019                            | 1.9                              | 1.8                              | 0.023                          | 0.112                          |  |

Notes:

- g = grams
- kW = kilowatt
- hr = hour
- lb = pounds
- tpy = tons per year
- hp = horsepower

Equations:

For PM, NOx, CO and HC: Emission Rate (g/kW-hr) = a (Fractional Load)<sup>x</sup> + b  
 For SO<sub>2</sub>, Emission Rate (g/kW-hr) = a (Fuel Sulfur Flow in g/kW-hr) + b  
 Fuel Consumption (g/kW-hr) = 14.12/(Fractional Load) + 205.717

Sulfur Fuel Flow (g/kW-hr) = 0.025 \* Fuel Consumption (g/kW-hr)

For all pollutants,

Emissions = Emission Rate (g/kW-hr) \* Mode Specific (kW) \* Time (hours)] \* pounds/453.5924 grams

<sup>1</sup> US, EPA, 2000, Analysis of Commercial Marine Vessel Emissions and Fuel Consumption.

Assumptions:

- Main Engine 1,600
- DWT (hp) = 1,193
- DWT (kW) = 705
- Trip in BAAQMD (hours) = 0.8
- Cruise Fractional Load = 0
- Cruise Load (kW) = 0
- Cruise (hr/trip) = 0
- Slow Cruise Fractional Load = 0.4
- Slow Cruise Load (kW) = 477
- Slow Cruise Existing Plant (hr/trip) = 5.25
- Slow Cruise Proposed Plant (hr/trip) = 5.0
- Slow Cruise Sulfur Fuel Flow 0.0036
- Maneuvering Fractional Load = 0.2
- Maneuvering Load (kW) = 239
- Maneuvering (hr/trip) = 1
- Maneuvering Sulfur Fuel Flow 6.9
- Baseline (trips/year) = 25
- Future (trips/year) = 125
- Increase (trips/year) = 100
- Sulfur in Fuel (%) = 0.0015

Auxiliary Engine

Auxiliary Engine (kW) = 60

Standby Fractional Load = 1



Table D-19: Estimate in Net Increase of Criteria Air Pollutants from On-Site and Off-Site Emissions - Revised 16 June 2008  
 Dutra Haystack Landing Asphalt & Recycling Facility  
 Draft Environmental Impact Report

| Criteria Air Pollutants  | Maximum Emissions <sup>3</sup> | PM <sub>10</sub> <sup>1</sup> | ROG <sup>2</sup> | SOx  | NOx | CO  |
|--|--------------------------------|-------------------------------|------------------|------|-----|-----|
| Existing Plant Estimated Criteria Air Pollutant Emissions        | (pounds per day)               | 70                            | 58               | 13   | 194 | 84  |
|  | (tons per year)                | 2.5                           | 1.7              | 0.25 | 13  | 3.5 |
| Proposed Plant Estimated Annual Criteria Air Pollutant Emissions | (pounds per day)               | 134                           | 112              | 13   | 391 | 150 |
|  | (tons per year)                | 5.4                           | 4.2              | 0.89 | 35  | 14  |
| Net Increase in Criteria Air Pollutant Emissions                 | (pounds per day)               | 63                            | 55               | 0.37 | 197 | 66  |
|  | (tons per year)                | 2.9                           | 2.6              | 0.64 | 22  | 10  |

PM<sub>10</sub> = particulate matter less than 10 microns in size

VOCs = volatile organic compounds

SOx = sulfur oxides

NOx = nitrogen oxides

CO = carbon monoxide

ROG = reactive organic gases

<sup>1</sup> Conservatively assumes all particulate matter from truck loading and silo filling is PM<sub>10</sub>.

<sup>2</sup> Assumes volatile organic gases are synonymous with ROG

<sup>3</sup> Assumes one barge trip and maximum production rate for daily maximum.  
 Assumes maximum annual production for maximum annual emissions.