



San Francisco International Airport

P.O. Box 8097
San Francisco, CA 94128
Tel: 650.821.5000
Fax: 650.821.5005
www.flysfo.com

February 12, 2009

Mr. Habte Kifle
Water Resources Control Engineer
California Regional Water Quality Control Board – San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: *Comments on the Proposed Tentative Order Amendment of Waste Discharge Requirements (Order No. 99-037) for City and County of San Francisco, San Francisco International Airport, San Mateo County, dated January 21, 2009*

AIRPORT
COMMISSION
CITY AND COUNTY
OF SAN FRANCISCO

Dear Mr. Kifle:

GAVIN NEWSOM
MAYOR

LARRY MAZZOLA
PRESIDENT

LINDA S. CRAYTON
VICE PRESIDENT

CARYL ITO

ELEANOR JOHNS

RICHARD J. GUGGENHIME

JOHN L. MARTIN
AIRPORT DIRECTOR

Thank you for the opportunity to comment on the Tentative Order amending Waste Discharge Requirements Order No. 99-037 for San Francisco International Airport. This letter requests a modification to Provision #2 of the Tentative Board Order. Provision #2, as currently written, imposes a deadline upon the Airport for the transfer of the Deepwater Slough Island into the San Francisco Bay Wildlife Refuge (SFBWR) from a third party private wetland banking group, Starwood Capital Group (Starwood) to the US Fish and Wildlife Service (USFWS), the agency that manages the SFBWR.

The Airport's transaction with Starwood is limited only to the purchase of wetlands mitigation credits owned by Starwood and derived from Deepwater Slough; the purchase of mitigation credits from the mitigation bank does not give the Airport any property interest in Deepwater Slough Island. Neither Starwood nor USFWS is under the authority or control of the Airport, and the Airport plays no role in the subsequent property transfer transaction. Nonetheless, the proposed Order proposes to place an obligation on the Airport to ensure that Starwood and USFWS complete the property transfer within the date specified by the Board. If Starwood and the USFWS are unable to complete their transaction in a timely manner, the Airport would be in violation of the Board's order, and could be subject to enforcement proceedings. This places the Airport in an untenable position, as the property transfer is not something that the Airport can control, affect or guarantee.

The Airport recognizes its responsibility to execute the proposed purchase of the designated wetland credits at Deepwater Slough in a timely manner. Although, the Airport does not have the means to control the transfer of real property between the Bank and USFWS, the Airport believes that it has addressed the Board's concern that the wetland acreage be conserved in perpetuity through the US Army Corps of Engineers (Corps) approval of the Mitigation Bank Enabling Instrument (MBEI), which

Mr. Habte Kifle
February 12, 2009
Page 2 of 2

would contain requirements restricting and maintaining the wetlands on the Deepwater Slough site until such time as the transfer of the property to the SFBWR is completed.

The Deepwater Slough Bank and the Bank's MBEI application is currently under review by the Corps, in coordination with other agencies on the Mitigation Bank Review Team, which includes the USFWS. It is the Airport's position that the execution of the MBEI should address any concerns that the Board may have with regard to the absolute disposition of the property in a timely manner. As such, we propose modifying Provision No. 2 to read as follows:

2. SFIA shall execute a funding agreement with Starwood Capital Group to purchase 5.8 acres of wetland credits for a total amount of three million, one hundred and ninety thousand dollars (\$3,190,000) at the Deepwater Slough Island Mitigation Bank in Redwood City, San Mateo County. This Agreement shall be completed no later than December 31, 2009. Not later than December 31, 2009, SFIA shall submit, acceptable to the Executive Officer, a report demonstrating that the Mitigation Bank Enabling Instrument (MBEI) has been executed and that the subsequent payment by SFIA to the Starwood Capital Group for the 5.8 acres of wetland credits has been completed.

The Airport is dedicated to meeting our obligation at the Deepwater Slough site and will continue to work with the Board staff on this matter. If you have any questions or concerns please contact me at (650) 821-2119 or Danielle.Rinsler@flysfso.com, or Nixon Lam, Senior Environmental Planner, at (650) 821-5347 or Nixon.Lam@flysfso.com.

Sincerely,



Danielle Rinsler
Planning Director
San Francisco International Airport
Planning and Environmental Affairs

cc: Bruce Wolfe, Executive Director
Keith Lichten
John L. Martin, Airport Director
Jackson Wong, Airport COO
Melba Yee
Nixon Lam