



17th Floor | Four Embarcadero Center | San Francisco, CA 94111-4106
415-434-9100 office | 415-434-3947 fax | www.sheppardmullin.com

Writer's Direct Line: 415-774-3285
ruram@sheppardmullin.com

October 1, 2010

Our File Number: 15CM-130472

VIA E-MAIL AND U.S. MAIL

California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Attn: Elizabeth Morrison

Re: Comments on the Tentative Order for the Wal-Mart Stores, Inc., Walters Road Development Project, City of Suisun City, Solano County (Tentative Order No. R2-2010-XXXX)

Dear Ms. Morrison:

On behalf of the our client, Wal-Mart Stores, Inc. ("Walmart" or "Applicant"), we submit the following comments to the California Regional Water Quality Control Board, San Francisco Bay Region ("Regional Board") regarding the Tentative Order for Waste Discharge Requirements and Water Quality Certification ("Tentative Order") for the Walters Road Development Project ("Project") in the City of Suisun City ("City"), Solano County. We urge the Regional Board to certify that the Project will comply with state water quality standards.

BACKGROUND

a. Project Approvals

In July 2006, the Applicant submitted a development application to the City of Suisun City to develop an approximately 215,000 square foot supercenter, a restaurant, a gas station, and associated parking and infrastructure. Over the next two years, the City prepared an Environmental Impact Report ("EIR"), to analyze the Project's environmental impacts in compliance with the California Environmental Quality Act ("CEQA"). The EIR analyzed, among other topics, the Project's impacts to water quality and the aquatic features on the Project site.

On February 12, 2008, the City Council unanimously approved the Project and certified the EIR. On March 13, 2008, the Suisun Alliance filed a CEQA lawsuit in Solano

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County Superior Court challenging the City's certification of the EIR. On January 21, 2009, the Solano County Superior Court upheld the EIR and denied the Petitioner's claims on all grounds. The Suisun Alliance appealed that decision on April 10, 2009, to the California Court of Appeals, and, just recently, on August 20, 2010, the Court of Appeals ruled in favor of the City, upholding the EIR and the Superior Court's decision.

b. Project Site Aquatic Features

The Project site is located on 20.8 acres at the intersection of Walters Road and State Route 12 in the City and is surrounded by roads on all sides. There are approximately 2.996 acres of waters of the United States on the Project site, of which approximately 2.637 acres are seasonal wetlands and 0.31 acres (1,100 linear feet) are a man-made linear ditch that collects urban runoff from development north of the Project site and discharges it into an underground culvert at the corner of Walters Road and State Route 12. The previously existing upstream and downstream segments of the man-made ditch have been filled. The portion of the linear ditch on the Project site collects urban runoff from upstream, and transports it downstream to the storm drain system. Its functions to the overall ecosystem are limited given its isolated location, limited vegetation and short length. With regard to the wetlands, the hydrology feeding them originates mostly from intercepted rainfall and historical records show that the wetlands have been regularly disturbed by disking and farming.

c. Regulatory Permitting History

On November 20, 2007, the Applicant filed applications with the appropriate regulatory agencies regarding the aquatic features on the Project site.¹ The Army Corps is waiting for the Regional Board to certify that the Project will comply with state water quality standards prior to issuing its permit.²

CDFG approved the Streambed Alteration Agreement on July 28, 2008, allowing the Applicant to place the entire linear ditch in an underground culvert. The Streambed Alteration Agreement requires the Applicant to mitigate for the loss of the linear ditch at a 2:1 ratio. The final application for Section 401 water quality certification is the subject of the Tentative Order and this comment letter.

¹ The Applicant filed a section 404 Individual Permit application with the Army Corps, an application for a Streambed Alteration Agreement with CDFG, and an application for section 401 water quality certification with the Regional Board.

² The application included a request that the Army Corps initiate consultation with the USFWS to obtain concurrence that the Project would not result in take of any listed vernal pool crustaceans or Contra Costa Goldfields. This consultation was placed on hold pending resolution of items with Regional Board staff, but the USFWS is now working on the draft biological opinion.

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It has been almost three years since the Applicant submitted its first application for water quality certification. Since that time, the Applicant has created and analyzed over 33 alternative site plans, met with Regional Board staff frequently, and submitted hundreds of pages of information and analysis. The following summarizes this process:

1. **November 2007:** First application for water quality certification submitted;
2. **June 2008:** First Alternatives Analysis submitted;
3. **August 2008:** Regional Board staff requests additional information regarding the first Alternatives Analysis;
4. **September 2008:** Addendum to the first Alternatives Analysis submitted;
5. **September 2008:** Meeting between Applicant and staff and additional information on Addendum to the Alternatives Analysis requested;
6. **November 2008:** Application denied without prejudice;
7. **January 2009:** Second application for water quality certification, including a second Alternatives Analysis, submitted;
8. **March 2009:** Letter from staff outlining alleged deficiencies in the new application and Alternatives Analysis;
9. **March 2009:** Meeting between Applicant and staff to discuss the application and parties agree on additional information to be submitted;
10. **March 2009:** Addendum to the second Alternatives Analysis submitted;
11. **April 2009:** Letter from staff outlining alleged deficiencies in the new application and Alternatives Analysis;
12. **September 2009 to April 2010:** Meetings and discussions between Applicant and Executive Officer and parties agree on conceptual site plan without gas station;
13. **April 2010:** Second application denied without prejudice;
14. **May 6, 2010:** Meeting and discussions between Applicant and staff regarding application;

15. **May 21, 2010:** Petition to State Board filed by Applicant that takes position that water quality certification has been deemed waived because Regional Board staff did not take action on the application within the allowed time;
16. **May 27, 2010:** Meeting and discussions between Applicant and staff regarding application;
17. **June 22, 2010:** Third application for water quality certification, including supplemental site plans and alternatives analysis submitted³;
18. **July 16, 2010:** Third application deemed complete and letter from staff outlining concerns regarding application;
19. **July 26, 2010:** Applicant submits additional information to Regional Board; and
20. **August 23, 2010:** Tentative Order issued.

The site plan before the Regional Board addresses staff's concerns, minimizes impacts to water quality, and is an acceptable project even though it does not provide for the City-approved gas station, which the City estimates would have generated revenues to the City in excess of \$50,000 annually. The Project in the Tentative Order fills only 2.35 acres of wetlands and 0.28 acres (786 linear feet) of the linear ditch.

The Applicant has worked with Regional Board staff for almost three years to obtain water quality certification. Since that time, the Applicant has created and analyzed over 33 alternative site plans, met with Regional Board staff frequently, and submitted hundreds of pages of information and analysis. This is an extraordinary effort given that the Project site is surrounded on all sides by roads and only has limited resources consisting of 2.6 acres of seasonal wetlands that have been regularly disturbed by disking and a small man-made linear ditch that transports runoff from a small subdivision north of the Project site.

REQUESTED REVISIONS TO THE TENTATIVE ORDER

The Applicant requests that the Regional Board make certain changes to the Tentative Order to, among other items, clarify the level of future review required with regard to the Project and to provide flexibility in selecting the mitigation site for the man-made ditch. The changes being proposed would allow the Executive Officer, rather than the Regional Board, to review and approve construction plans, mitigation plans, etc. There is no requirement for the

³ The filing of the third application did not waive any rights with respect to the pending appeal to the State Board.

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Regional Board to review and approve these types of documents and it is not practical to require the Applicant to return to the full Regional Board for a hearing every time it must submit a document in compliance with the order. Given that the Executive Officer is allowed to and often does issue water quality certifications, it is reasonable to allow the Executive Officer to make these future decisions as well.

We request that the Regional Board make the following revisions to the Tentative Order:

➤ Mitigation Plan, No. 13 (page 2):

To mitigate for the permanent fill of 0.28 acres (786 linear feet) of stream channel, the Discharger proposes to create enhance and/or restore a minimum of 1572 linear feet of stream channel at an off-site parcel approved by the Executive Officer. ~~The Discharger has proposed providing such mitigation at the Noonan Ranch site in northern Fairfield, but has not finalized the details of such mitigation; thus, provisions of this Order require the Discharger to~~ The Discharger will submit detailed mitigation plans, for ~~Regional Water Board~~ Executive Officer approval, prior to starting any Project construction (i.e., site grading).

Explanation: This change acknowledges that the Noonan site is not available. Consistent with the CDFG Streambed Agreement, the Applicant will mitigate for the loss of 786 feet of the man-made ditch at a 2:1 ratio.

➤ Section C, No. 4 (page 8):

Construction shall not commence on any Project component until all required documents, reports, plans, and studies required in the Provisions associated with that component have been submitted to and found acceptable by the Executive Officer ~~or the Regional Water Board in the ease of the Final Mitigation and Monitoring Plan.~~

Explanation: This change clarifies that the Executive Officer can approve the Mitigation and Monitoring Plan in accordance with the criteria in the Order.

➤ Section C, No. 5 (page 8):

Not later than ~~90~~ 45 days prior to the start of construction (defined as site grading), the Discharger shall submit, acceptable to the ~~Regional Water Board~~ Executive Officer, a Final Mitigation and Monitoring Plan (Final MMP) that addresses the proposed off-site mitigation elements for the stream impacts. The Discharger shall comply with and implement the Final MMP. The Final MMP shall include the following:

Explanation: This change clarifies that the Executive Officer can approve the Mitigation and Monitoring Plan in accordance with the criteria in the Order and shortens the time for submission from 90 days to 45 days.

➤ Section C, No. 5(a) (on page 8):

If preservation ~~and restoration~~ of an existing stream is proposed, a higher amount of linear feet will be required.

Explanation: This change corrects the inconsistency between the first sentence in 5(a) and this sentence.

➤ Section C, No. 5(b) (on page 8):

The proposed mitigation site must occur within the Regional Water Board's jurisdictional boundaries, ~~as well as~~ or within Solano County or other area approved by the Executive Director.

Explanation: This change provides greater flexibility for locating the mitigation for the man-made ditch. Despite significant efforts, the Applicant has not been able to locate a mitigation site that staff has accepted. The Applicant will continue to work with staff on this issue and will obtain the Executive Director's approval for this mitigation prior to the start of construction.

➤ Section C, No. 5(f)(7) (on page 8):

A minimum monitoring duration of ~~10~~ 5 years—adequate to evaluate site performance;

Explanation: This change reduces the monitoring period to conform to the Streambed Alteration Agreement.

➤ Section C, No. 11 (page 10):

Once the Discharger has determined that the mitigation has achieved the final success criteria specified in the Final MMP approved by the ~~Regional Water Board~~ Executive Officer, it shall submit a notice of mitigation completion (notice), acceptable to the Executive Officer. The notice shall include a description of the mitigation that has been determined to be successful, as well as proposed long-term funding and conservation mechanism to preserve the mitigation site in perpetuity. After acceptance of the notice in writing by the Executive Officer, the Discharger's submittal of annual mitigation monitoring reports is no longer required.

Explanation: This change clarifies that the Executive Officer can approve the Mitigation and Monitoring Plan in accordance with the criteria in the Order.

➤ Section C, No. 32 (page 13):

This Order is not transferable without the prior approval of the Executive Officer.

Explanation: This change allows the Order to be transferred with the approval of the Executive Officer in accordance with standard practice.

OTHER COMMENTS

It is also important to note that the Project fully mitigates for water quality impacts through onsite measures. While the linear ditch has an inherent value to water quality, the Project as proposed maintains or even improves water quality on the Project site. Currently,

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the water quality function of the linear ditch is to collect runoff from the subdivision to the north (an area of approximately 35 homes) and transports it via the open ditch to an underground culvert on the south side of Highway 12 where it then enters the City's storm water system. Storm water entering the ditch and the culvert is not treated, although the gradual transport of the water from the top of the Project site to the culvert provides some treatment for this runoff.

Under the Project, this storm water would be captured and treated on-site as discussed in the storm water control plan. The Project has been designed to replace the water quality functions of the linear ditch as well to treat runoff from the development of the Project. The combined discharge will comply with applicable water quality standards and meets the requirements for water quality certification.

CONCLUSION

We thank you for your consideration and ask that the Regional Board approve the Tentative Order with the changes set forth above.

Sincerely,

Handwritten signature of Robert J. Uram in black ink, with initials 'RSK' at the end.

Robert J. Uram

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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cc: Bryan Matsumoto, Army Corps
Michelle Tovar, USFWS
Brenda Blinn, CDFG
Florentino Castellon, Governor's Office of Economic Development
Suzanne Bragdon, City of Suisun City

September 30, 2010

Elizabeth Morrison
San Francisco Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94590

Via electronic mail to emorrison@waterboards.ca.gov

Re: Tentative Order Regarding Waste Discharge Requirements and Water Quality Certification for Wal-Mart Stores, Inc., Walters Road Development Project, Suisun City, Solano County

Dear Ms. Morrison:

Thank you for accepting the following comments, which are submitted on behalf of San Francisco Baykeeper (“Baykeeper”) and our 1,500 members. We are writing to express our concerns over the Tentative Order (“T.O.”) Regarding Waste Discharge Requirements and Water Quality Certification for Wal-Mart Stores, Inc., Walters Road Development Project, Suisun City, Solano County. Our concerns address the apparent infeasibility associated with off-site mitigation for impacts to Waters of the State as well as insufficient mitigation ratios, which were developed with disregard to San Francisco Regional Water Quality Control Board (“Regional Board”) guidance on mitigating wetland loss.

A. Discharger has not demonstrated feasibility with regards to off-site stream mitigation

Based on review of the T.O. and discussion with Regional Board staff the project proponent has failed to identify an appropriate site to mitigate the permanent impacts to 0.28 acres (786 linear feet) of stream channel associated with this project. In consideration of the fact that the search for such a site began several years ago, the strong likelihood exists that an appropriate site does not exist within the vicinity of the project. The Regional Board should deny the Walters Road application for Waste Discharge Requirements and Water Quality Certification until the applicant clearly identifies and commits to an exact mitigation project needed to offset the project's destruction of wetlands, riparian habitat, and stream. Without binding commitment and showing of feasibility, the Regional Board will have no assurance that the project's significant impacts to wetlands will or can be mitigated.

Presently, the application fails to satisfy the Regional Board's guidance for mitigating wetland loss, which unequivocally states¹:

¹ San Francisco Bay Regional Water Quality Control Board. 2006. *Fact Sheet for Reviewing Wetland and Riparian Projects*. p. 5. Available at www.swrcb.ca.gov

Mitigation Plans must contain the following:

- 1. Proof that impacts to wetlands have been avoided and minimized to the maximum extent possible.*
- 2. Baseline studies of both the impacted site and the mitigation site to determine what wetland functions will be lost at each location. Studies should contain adequate spatial and temporal coverage and include all wildlife and vegetation species expected to be impacted at the two sites; hydrology of the sites; and soils present at the sites. A wetland delineation approved by the Corps should also be included for both sites.*

Documentation associated with this T.O. fails to demonstrate that impacts to wetlands have been avoided and minimized to the maximum extent practical. Additionally, in the absence of an identified mitigation site, a baseline study of the mitigation site cannot logically be developed to determine an appropriate mitigation strategy. For these reasons, the Regional Board and project proponent cannot demonstrate that no net loss of wetland acreage and/or value will result, as required by the Basin Plan Wetland Fill Policy, California Wetlands Conservation Policy, Section 1602 of the Fish and Game Code, as well as the California Environmental Quality Act (CEQA). Until a time when the project proponent can demonstrate binding commitment to mitigate for losses of wetland acreage and value, the Regional Board should deny any application for Waste Discharge Requirements and Water Quality Certification associated with this project.

B. Insufficient Mitigation Ratios

Under this Tentative Order the Discharger proposes to mitigate for the permanent fill of 2.25 acres of seasonal wetlands and 0.28 acres (786 linear feet) of stream channel at a 1:1 ratio. Mitigation for permanent impacts to wetlands shall be carried out through the purchase of credits at the Elise Gridley Mitigation Bank, while mitigation for impacts to streams and riparian habitat has not been established, as discussed above. Such a standard is inconsistent with wetland mitigation policies at the state and national level and fails to comply with the Basin Plan Wetland Fill Policy.

Under the Basin Plan Wetland Rill Policy there is to be no net loss of wetland acreage and no net loss of wetland value when the project and any proposed mitigation are evaluated together (T.O. ¶ 21). State resource agencies have long understood that purchase of mitigation bank credits as a means of mitigating for permanent impacts to wetlands have generally been met with limited success.² Mitigation through habitat creation or purchase of mitigation bank credits generally fails to replace ecological functionality or value, resulting in net loss of wetland acreage and/or

² California Coastal Commission. 1994. *Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone*. Available at www.coastal.ca.gov

value.³ Accordingly, mitigation ratios greater than 1:1 are generally required when dischargers propose the use of mitigation banks or where it is intended to enhance existing wetlands at an off-site location.

Several methodologies have been established to determine appropriate wetland mitigation ratios, considering multiple factors such as existing habitat quality, acreage, ecosystem functionality and the type of mitigation being proposed. Required mitigation ratios vary from region to region. However, as a general rule, enhancement of an existing degraded site demands at least a 2:1 replacement ratio and preservation of existing wetland habitat requires a higher mitigation ratio, typically 5:1, since this approach does not effectively achieve the 'no-net loss' standard. San Francisco Bay Regional Board guidance states that a baseline study of both the impacted site and the mitigation site should be developed and compared to determine appropriate mitigation.⁴

It is not clear whether a baseline study, such as a Jurisdictional Delineation, was provided for Elise Gridley Mitigation Bank to enable the assessment of an appropriate mitigation ratio. In addition, since no apparent sites are available for off-site stream mitigation a baseline study has obviously not been prepared, in contravention to the Regional Board's guidance for mitigating wetland loss. Furthermore, it is quite possible that the credits purchased at Elise Gridley Mitigation Bank are associated with enhanced or preserved wetland areas. Since purchase of such credits likely represents the enhancement or preservation of existing wetlands this approach fails to achieve the national, state and regional standards for no net loss of wetland acreage or function. For these reasons a mitigation ratio greater than 1:1 must be proposed to comply with State policy and Basin Plan guidance.

C. Conclusion

The Regional Board should deny the Walters Road application for Waste Discharge Requirements and Water Quality Certification until such a time that all appropriate mitigation sites have been secured and baseline studies of the impacted site and mitigation sites can be reviewed to determine appropriate mitigation ratios.

Due to illegal activities impacting the form and function of wetland and riparian habitat within the Walters Road site, baseline studies of the impacted site, if carried out today, would likely identify a lower existing habitat quality had such activities not occurred. Illegal excavation of the on-site channel and removal of exiting vegetation was the subject of a violation notice from the Regional Board in December 2008 and on-going communications with Suisun City since that

³ Ambrose, R. F., J. C. Callaway, and F. F. Lee. 2006. *An evaluation of compensatory mitigation projects permitted under Clean Water Act Section 401 by the California State Water Quality Control Board, 1991–2002*. California Environmental Protection Agency, California State Water Resources Control Board. Los Angeles, CA, USA. 03-259-250-0.

⁴ San Francisco Bay Regional Water Quality Control Board. 2006. *Fact Sheet for Reviewing Wetland and Riparian Projects*. p. 5. Available at www.swrcb.ca.gov

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time.⁵ Based on review of the discharger's Application for 401 Water Quality Certification and review of historic maps, the affected drainage channel has been in place since at least the 1940s and prior to excavation hosted a variety of wetland plants. It is not clear what the motivations of Suisun City were in excavating the channel. However, these activities represented a significant impact to wetland resources on the site, which should be factored when designating future mitigation ratios.

Thank you for your consideration of these comments. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ian Wren". The signature is fluid and cursive, with the first name "Ian" and last name "Wren" clearly distinguishable.

Ian Wren
Staff Scientist
San Francisco Baykeeper

⁵ Letter from Dyan Whyte, Assistant Executive Officer, San Francisco Regional Water Quality Control Board to City of Suisun Public Works Department. December 23, 2008. Subject: Notice of Violation and Requirement for Technical Reports Regarding the Channel Clearing at Walters Road West, City of Suisun, Solano County.



CITIZENS COMMITTEE TO COMPLETE THE REFUGE

453 Tennessee Lane, Palo Alto CA 94306

Tel 650 493-5540

Fax 650 494-7640

Florence@refuge.org

Elizabeth Morrison, Program Manager
San Francisco Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94590
Email: emorrison@waterboards.ca.gov

October 1, 2010

Re: Tentative Order (TO) Regarding Waste Discharge Requirements (WDR) and Water Quality Certification (WQC) for Wal-Mart Stores, Inc., Walters Road Development Project, Suisun City, Solano County

Dear Ms. Morrison,

The Citizens Committee to Complete the Refuge would like to thank you for this opportunity to provide comments. We have previously submitted comments to the U.S. Army Corps of Engineers in response to a 2008 Public Notice for an earlier version of this project. We are attaching a copy of that letter as many of our concerns from two years ago still remain. Based upon our review of the files and the information provided in the TO we urge the San Francisco Bay Regional Water Quality Control Board (RWQCB) to deny approval of WDRs and deny certification of the project as proposed.

The proposed project is located on a 20.8-acre site at the intersection of Highway 12 and Walters Road in Suisun City, Solano County. The applicant proposes to construct an 182,000 square foot supercenter with 879 parking stalls, and 8,000 square foot restaurant with 69 parking stalls, and two stormwater detention basins.

2.996 acres of waters of the United States and waters of the State exist on the site, consisting of 2.637 acres of seasonal wetlands and 0.31 acres (1,100 linear feet) of stream channel. The project would permanently fill 2.630 acres of Clean Water Act jurisdiction including 2.35 acres of wetlands (88% loss of existing wetlands) and 0.28 acres (90% loss) or 786 linear feet of stream channel.

As we stated to the Corps, this project is clearly not water dependent. As indicated in the TO, the Basin Plan Wetland Fill Policy (policy) establishes "that wetland disturbance should be avoided whenever possible, and if not possible, should be minimized, and only after avoidance and minimization of impacts should mitigation for lost wetlands be considered."

The applicant is preserving a mere 12% of the existing waters of the State. It is imperative the RWQCB requires the applicant to provide mitigation and monitoring measures that will assure the remaining wetlands and waters are not significantly and negatively impacted. The RWQCB must require that the applicant provide documentation of how adverse impacts to the preserved wetlands and waters will be avoided. This is especially critical as there has been a history of unauthorized vegetative removal/excavations of the creek by Suisun City.

Proposed mitigation ratio is inadequate for impacts to wetlands:

To mitigate the loss of wetland habitat, the applicant proposes to mitigate at a 1:1 ratio at the Elsie Gridley Mitigation Bank. This mitigation ratio is inadequate.

What is the status of the Elsie Gridley Mitigation Bank? Will the applicant be purchasing credits for successfully created wetlands or will the applicant be purchasing preserved wetlands habitat? This is critical information because purchasing of preserved wetlands is counter to the California Wetlands Conservation Policy (Executive Order W-59-93) of ensuring there is “no overall loss” of wetlands, or achieving “long-term net gain in the quantity, quality, and permanence of wetland acreage and values.” If the wetland credits to be purchased are for wetlands that have been preserved the mitigation ratio must be higher than a 1:1 ratio.

If the mitigation credits to be purchased are for created wetlands it is important to consider whether the created wetlands have met their final mitigation success criteria. If not, then consideration of the temporal losses of beneficial uses must be taken into consideration and the mitigation ratios must be higher than 1:1. This stance is consistent with current RWQCB policy, as evidenced by the following statements made to the applicant in a February 7, 2008 letter sent by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in response to the Final Environmental Impact Report (FEIR) for the Walters Road West Project. That letter discussed the need for minimization of impacts and stated:

If after, such analysis has been performed, it is demonstrated that some portion of the wetland mitigation must be provided by purchasing credits at the mitigation bank, such credits will likely need to be acquired at a ratio of at least 2:1 (mitigation acreage to impacted wetlands acreage) to offset the temporal effects (impacts) if the mitigation habitat has not already been successfully created at the mitigation bank or other mitigation site.

Has the Elsie Gridley Mitigation Bank been operating successfully – that is, have credits been issued and tracked appropriately? Will the applicant also be required to purchase credits for impacts to critical habitat for the endangered vernal pool tadpole shrimp (*Lepidurus packardii*) and threatened vernal pool fairy shrimp (*Branchinecta lynchi*)? What level of oversight will RWQCB staff have over the wetland mitigation credits purchased at the Elsie Gridley Mitigation Bank (e.g. would RWQCB staff verify the wetland creation site is functioning successfully?)?

These questions are pertinent as an April 21, 2010 Interagency Compensatory Mitigation Site Visit Form completed by staff of the Environmental Protection Agency (EPA) indicates monitoring reports have not been submitted in a timely fashion and Phase I wetlands have “not met Year 3 performance standards for hydrophytic plant species cover or species diversity.” Also that “Both metrics are significantly different than the on-site reference wetlands.” In response to question #23 on the inspection form, “Does the mitigation comply with performance standards and conditions set forward in the Bank Enabling Instrument?” EPA staff answered, “*Partial compliance, but recommendation is to not approve any additional credit releases until more data is received* to support performance standards contained in the BEI [Bank Enabling Instrument].”[emphasis added]

Based upon information available to date we question whether it is appropriate to consider purchase of mitigation credits at the Elsie Gridley Mitigation Bank as adequate compensatory mitigation for impacts proposed to wetlands and waters of the State. Furthermore, it is evident a mitigation ratio of 1:1 would be completely inadequate to replace the temporal loss of functions, values, and beneficial uses. Lastly, there is the matter of non-compliance and the uncertainty of whether final success criteria will be

achieved Elsie Gridley Mitigation Bank. For all these reasons we question whether the purchase of credits is appropriate. If the RWQCB decides this bank is a suitable site for purchase of wetland mitigation credits, it is clear a significantly higher mitigation ratio is warranted.

Mitigation for the loss of stream channel has not been identified:

Contrary to what is indicated in the TO, we have learned in response to our recent inquiries, that a mitigation site still has not been identified for the loss of stream channel. If the Board approves the WDRs and WQC on October 13, 2010, it will be setting a terrible precedent of approving fill in waters of the State prior to review of compensatory mitigation for those impacts. Furthermore, such an action would deprive the public of our rights to review the mitigation proposal and provide comments.

We question how the Board can determine that impacts to waters of the State have been adequately compensated in the absence of, at minimum, a conceptual mitigation and monitoring plan complete with the mitigation location, information regarding the site's hydrologic regime, future land use of lands adjacent to the mitigation site, etc.

We have to wonder why a suitable mitigation site has not been identified. The February 7, 2008 letter referenced above provides the following reminder:

As we previously mentioned, the Elsie Gridley Mitigation Bank and North Suisun Mitigation Bank are operating in Solano County but these banks cannot accommodate a mitigation habitat demand for riparian credits. [emphasis added]

The applicant has repeatedly proposed buying credits at the Elsie Gridley Mitigation Bank for impacts to the riparian habitat despite repeated replies from RWQCB staff that this is not a suitable site. The RWQCB files for this project indicate the applicant and Suisun City were informed Elsie Gridley would not be a viable location for riparian mitigation on six different occasions dating back as far as November 2007.

We believe it is likely, if the Board approves this project without identified mitigation the applicant will once again propose buying credits for riparian impacts at the Elsie Gridley Mitigation Bank. This is clearly not in the public interest. The EPA Elsie Gridley Mitigation Bank site inspection report raises serious questions regarding the quality of the riparian habitat to date. The inspection form states:

No detailed performance sampling was conducted for the riparian areas in 2008. Thus, it is difficult to assess compliance. Planting success has been variable across the site. The area also contains large stands of thistle and other invasive species (per site visit)...

...Riparian areas do not appear to be performing as expected. Although some of the plants have survived, overall cover is low (plants are spread out)...

...Purple star thistle should be controlled in the riparian areas...

Furthermore, questions were raised whether the full extent of riparian credit has already been issued, worse whether the credits released for riparian credits actually exceed the acreage amount that was approved. Clearly it would be highly inappropriate to consider purchase of riparian credits at the Elsie Gridley Mitigation Bank as suitable compensatory mitigation for the proposed Walmart project. A more

appropriate site must be proposed and the public must have the opportunity to review and provide comment on the riparian compensatory mitigation plan.

Comments on the use of mitigation banks:

While the use of mitigation banking is a growing industry in California, we would like to interject a note of caution. The question of how the use of mitigation banks may affect biodiversity is of concern. Steinhoff (2008) quotes California Department of Fish and Game's (2007) Mitigation Banking Section, "Mitigation banking helps to consolidate small, fragmented wetlands mitigation projects into large, contiguous sites which will have much higher wildlife values." However, Steinhoff then goes on to introduce studies that contradict this assertion. For example, Semlitch (2000) states:

Too often, decisionmakers assume that a small wetland is unimportant or less valuable than a larger wetland, because they assume that "larger" means "better." Small wetlands, however, are extremely valuable for maintaining the biodiversity of a number of plant and animals species. Furthermore, healthy populations of many species depend on not just a single wetland but a landscape densely covered by a variety of wetlands...

...Small isolated wetlands are not expendable if the goal is to maintain present levels of biodiversity.

Another argument that has been made that the use of mitigation banks might increase permit compliance, because it easier for the regulatory agencies to monitor one mitigation bank than many scattered, smaller compensatory mitigation sites. Our review of the information regarding the Elsie Gridley Mitigation Bank provides an indication that problems such as permit non-compliance are not alleviated through the use of mitigation banks.

Ruhl and Salzman (2006) issue the following caution with respect to the impacts of mitigation banking on society:

On-site wetland mitigation is in principal neutral with respect to ecosystem services in the sense that it keeps wetland resources in generally the same location. In contrast, wetland mitigation banking facilities move wetland resources from one location, the development project, to a potentially distant location, the bank site. Even with the generous assumption that this movement provides a net ecological advantage, it cannot be the case that the same human population benefits from the ecosystem services once associated with the damaged wetlands. If the wetlands move, their ecosystem services go with them. Some people will inevitably lose and others will gain the economic benefit of wetland ecosystem services...

We reference the above statements to point out that despite the advantages perceived by regulatory agencies in utilizing mitigation banking, it should not be forgotten that the use of mitigation banks is not without environmental harm or societal impacts. Therefore, it should never be assumed that a 1:1 mitigation ratio is appropriate.

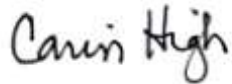
In conclusion, we are perplexed to note your website states this project is scheduled for "Adoption of Waste Discharge Requirements and Water Quality Certification" at the upcoming October 13, 2010 Board meeting, despite the fact that these substantive issues have not been resolved. We question why

the Board would rush to make this decision in the absence of critical information regarding how the adverse impacts to wetlands and waters of the State will be mitigated? The applicant has had ample notice and time to provide a complete compensatory mitigation plan. We also question the involvement of the Governor's Office in this process. Is it typical for the Governor's Office to be involved in the approval process? Is it in the public interest to press the RWQCB to come to a decision on a project when the applicant has not supplied information staff has repeatedly requested?

As we stated earlier, approval at this time would set a terrible precedent. The applicant should be required to submit a viable compensatory mitigation proposal that can be reviewed by staff and the public prior to adoption of the WDRs and WQC.

We urge the Board to deny approval of this project.

Respectfully submitted,



Carin High
CCCR Vice-Chair

cc: USACE, Bryan Matsumoto

References:

Ruhl, J.B. and Salzman, James. 2006. The Effects of Wetland Mitigation Banking on People. The National Wetlands Newsletter, Volume 28, Number 2, Environmental Law Institute, Publisher.

Semlitsch, Raymond D. 2000. Size Does Matter: The Value of Small Isolated Wetlands. The National Wetlands Newsletter, Volume 22, Number 1, 5-6, 13. Environmental Law Institute, Publisher.

Steinhoff, Gordon. 2008. Wetlands Mitigation Banking and the Problem of Consolidation. Electronic Green Journal, 1(27). Retrieved from: <http://www.escholarship.org/uc/item/4rb831tw>



CITIZENS COMMITTEE TO COMPLETE THE REFUGE

453 Tennessee Lane, Palo Alto CA 94306

Tel 650 493-5540

Fax 650 494-7640

e-mail: marsh@refuge.org

Lt. Colonel Craig W. Kiley
District Engineer
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 16th Floor
San Francisco, Ca 94103-1398
Fax#: 415-503-6690
Attn: Elizabeth Dyer

March 7, 2008

Re: Public Notice (PN) 2006-303520N Wal-Mart Super Center/Walters Road
Development, Suisun City, Solano County, CA

Dear Colonel Kiley,

This responds to PN 2006-303520N, the Wal-Mart Super Center/Walters Road Development project, located on a 20.8 acre parcel, in southern Suisun City, Solano County, California. The applicant, Wal-Mart, proposes to construct a commercial retail development including a 215,000 square foot Wal-Mart retail store, a 1.05 acre full-service gas station and drive-through car wash facility, an 8,000 square foot restaurant, parking lot and other associated infrastructure. Based upon our review of the information provided in the PN we strongly urge the Corps to deny authorization of the project as proposed.

The proposed project would permanently fill all 2.996 acres of Corps jurisdictional wetlands/waters on-site including 2.686 acres of jurisdictional wetlands, and 0.310 acres of jurisdictional wetland drainage ditch. The PN mentions that "fill has previously been deposited over a large portion of the property west of the drainage ditch," but does not mention whether that fill was placed in uplands or wetlands. The PN does state the placement of the fill has created ponded areas. Has the Corps determined whether fill was placed in waters of the U.S.?

The project is not "water dependent":

The proposed project is clearly not "water dependent," therefore, under the 404 (b) (1) Guidelines (40 C.F.R. 230.10) the applicants must rebut the presumption that a practicable alternative exists that is less environmentally damaging. The preamble to the Guidelines states that it is the applicant's responsibility to rebut this presumption. The Memorandum of Agreement between EPA and the Corps concerning mitigation under the CWA 404 (b)(1) Guidelines (Mitigation MOA) states:

1. Section 230.10(a) allows permit issuance for only the least environmentally damaging practicable alternative. The thrust of this section on alternatives is avoidance of impacts. Section 230.10(a)(1) requires that to be permissible, an

alternative must be the least environmentally damaging practicable alternative (LEDPA). In addition, Section 230.10(a)(3) sets forth rebuttable presumptions that 1) alternatives for non-water dependent activities that do not involve special aquatic sites are available...

2. Minimization. Section 230.10(d) states that appropriate and practicable steps to minimize the adverse impacts will be required through project modifications and permit conditions.

As of the date of the PN the applicant had not submitted an alternatives analysis. The applicant must conclusively demonstrate that a LEDPA does not exist elsewhere. The proposed project will fill all of the jurisdictional waters of the U.S. that occur on the site. There is no apparent effort to avoid or minimize any of the proposed impacts. A Wal-Mart already exists no more than six miles away on Chadbourne Road. Is there a need for another store that is less than 10 minutes away from an existing store? If the desire is for a bigger and better store, can the store at the existing location be expanded?

Endangered Species:

According to the PN, the Corps has initiated Section 7 consultation to “address project related impacts to the critical habitat for the endangered vernal pool tadpole shrimp (*Lepidurus packardii*) and threatened vernal pool fairy shrimp (*Branchinecta lynchi*).” The PN also mentions that surveys were conducted for listed species that have the potential to occur on-site. Were the surveys conducted according to U.S. Fish and Wildlife Service (Service) protocols and were they conducted for more than one season? Are these species found to the east of Walters Road?

Inadequacy of Proposed Mitigation:

The 404 (b)(1) Guidelines require a project proponent must first avoid impacts to waters of the U.S. Any unavoidable impacts must be minimized and all non-essential projects and project components should be located in appropriate upland areas. Only after rigorous efforts have been made to avoid and minimize impacts to waters of the U.S. should compensatory mitigation be considered.

The Mitigation Memorandum of Agreement between the Department of the Army (Corps) and the Environmental Protection Agency (EPA) states:

The Corps will strive to avoid adverse impacts and offset unavoidable adverse impacts to existing aquatic resources, and for wetlands, will strive to achieve a goal of no overall net loss of functions and values.

The Corps will be setting an extremely bad precedent if it accepts the compensatory mitigation proposed because the applicant has not demonstrated compliance with the Guidelines and the compensatory mitigation proposed does not ensure no net loss of wetlands functions and values. The applicant appears to have bypassed the first two critical steps of the Guidelines and has gone straight to compensatory mitigation, and the

compensatory mitigation is merely to purchase mitigation credits at the North Suisun Mitigation Bank at a 1:1 mitigation ratio. Are these credits for creation of wetlands or merely preservation of existing wetlands? If it is for preservation of wetlands this does not replace lost functions and values and the compensatory mitigation requirements should be higher. If it is for creation, the Corps is still setting a bad precedent because approval of the project as proposed indicates wetlands can be filled by merely plopping money down on the table, regardless of whether the project could be located in a more appropriate uplands location. The Corps must give serious consideration to the fact that an existing Wal-Mart facility is no more than six miles away from the proposed project site.

Based upon our review of the available information, we strongly urge the Corps to deny this permit application. The Corps will be setting an extremely bad precedent if it approves the project as proposed. The project is not water dependent, and there has been no apparent effort to avoid or minimize impacts. A Wal-Mart currently exists within six miles of the proposed location for a new store. The project will have growth inducing impacts since it is located at the easternmost edge of the city's development envelope. The proposed "mitigation" is completely inadequate and will not ensure a no net loss of wetlands functions and values. The proposed project will adversely impact the critical habitat of two federally listed species.

Thank you for the opportunity to provide comments.

Sincerely,

Florence M. LaRiviere
Chairperson

Cc: SFBRWQCB
EPA



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

Transmittal by email

September 30, 2010

Mr. John Muller
Chairman, California Regional Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

SUBJECT: Response to Tentative Order for the Wal-Mart Stores, Inc., Walters Road Development Project, Suisun City, Solano County

Dear Mr. Muller:

California Healthy Communities Network/Tides Center has been fully engaged in following the proposed Walters Road Wal-Mart project through its application process with the San Francisco RWQCB since February 2008. We have cooperated with your Board's staff in providing information on this wetlands site. We have attached to this letter a Timeline Summary with exhibits demonstrating our involvement and concern over this big box retail development and its impacts on neighborhood community residents, public health and safety concerns and its impacts on water quality and the linear riparian habitat at the project site. We have reviewed the Tentative Order and are concerned that the identified wetland impacts be fully mitigated before the applicant is permitted to start construction as set forth in the Tentative Order (C. Provisions; and Compensatory Mitigation).

We have serious safety concerns related to the location of the big box building of 182,000 sq. ft. on the property. This high volume discount which will draw hundreds of shoppers during peak hours of operation and during the holiday season is located less than 50-feet from jet fuel pipelines servicing Travis AFB and an aging 32" high pressure PG&E natural gas pipeline less than 150-feet from the proposed supercenter.

The PG&E high pressure line and the Travis AFB fuel lines are characterized in the Suisun City General Plan as representing a "significant potential hazard to the community", according to a recent pipeline inspections story reported in Fairfield's *Daily Republic* newspaper on September 14, 2010 by Barry Eberling (Eberling may be contacted at 425-4646, ext. 232, or beberling@dailyrepublic.net.)

The jet fuel pipelines have already developed leaks less than .5 miles from the Wal-Mart property and have spilled thousands of gallons of jet fuel into the Suisun marsh. According to a recent report, the spill has also contaminated adjacent ground water in the Lawler Ranch subdivision.

Concerns about the jet fuel pipeline adjacent to the Wal-Mart property has also been raised by Carl Weimer, Executive Director, of the Pipeline Safety Trust, in letters to Colonel Steven Arquette, Department of the Air Force, and to the Suisun City Planning Commission. In his letters to both Colonel Arquette and the Planning Commission, Weimer is critical of the lack of information and a safety plan to deal with potential problems with the fuel pipelines. In Weimer's January 28, 2008, letter to the Planning Commission he stated: *"The fact that the pipeline was not shown in any drawings as part of the EIR process, and the lack of information or consideration of the pipeline in those same documents is a clear warning sign that more information is needed before proceeding with approval."* (See attached letters)

With the recent pipeline explosion in San Bruno and the death and destruction still embedded in our mines, the location and size of this Wal-Mart supercenter should be of more concern. The explosion radius of the San Bruno pipeline rupture was 1,200-1,500 sq.ft. and that pipeline was not exposed to heavy surface road traffic or a wetland environment.

Currently, Healthy Community Research of Suisun City, a project of Tides Center, is conducting a pipeline safety study in Suisun City that is scheduled to be completed in December 2010. This study is funded by a grant received from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration. We are hopeful this study will lead to greater public awareness of pipeline safety issues and the need to address such issues in public forums.

Other concerns on taking action at this time on the new Application for Section 401 Water Quality Act certification includes:

- Assurances that fast-tracking this new application will not undermine either the Clean Water Act or the Wetlands Act enforcement powers of the RWQCB.
- The need for promised transparency with the public and community organizations that have expressed an interest in this project by ensuring that RWQCB State or Division staff acts promptly on Public Records Act requests submitted by Cal HCN
- Restrictions that applicant will not use the project's parking lot for storage and other open or uncovered areas for sales of chemicals and fertilizers. The garden shop must be adequate to store such materials for resale

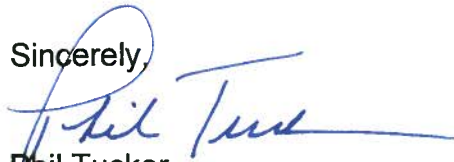
Page Three

- That economic factors not be used as a justification for Water Quality certification and that all conditions enumerated in the tentative order Mitigation Plan be met prior to issuance of a building permit(s)

We would again urge the Water Board to consider the pipeline safety issue in your permitting process.

We will continue to monitor this Wal-Mart project closely and inform you of any problems or issues that we find that need to further review.

Sincerely,



Phil Tucker
Project Director

Enc.



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Independent.
In the public interest.**

1155 North State Street, Suite 609, Bellingham, WA 98225 Phone 360-543-5686 Fax 360-543-0978 <http://pipelinesafetytrust.org>

Colonel Steven Arquette
Department of the Air Force
60th CES/CESP
191 W Street
Travis AFB, CA 94535

January 14, 2008

Dear Colonel Arquette:

A number of residents of Suisun City contacted us with serious concerns they have regarding proposed construction near the jet fuel pipeline that serves Travis Air Force Base. After reviewing the available information from Suisun City regarding the proposed construction of a Wal-Mart Supercenter at the corner of Walters Road and State Route 12, along with all applicable pipeline safety regulations, we share their concerns and hope you can provide information to allay those concerns.

Reviewing the documents available from Suisun City it is obvious that significant construction will be occurring near the jet fuel pipeline that you operate along Petersen Road. It is unclear from these documents whether any of this construction, including a proposed 8-foot high masonry wall, will be constructed on your right-of-way. There also will be upgrades to Petersen Road along your right-of-way, and two entrances to the new development built across your right-of-way and over your pipeline. One of these entrances, over your pipeline, is meant for ongoing heavy semi-trucks that will continually serve this new Wal-Mart.

One of the things we found most troubling about the City's Draft Environmental Impact Report (DEIR) was that there was no information included about your pipeline, and ways to protect it from construction damage and loading forces. We were equally concerned that in the Final Environmental Impact Report (FEIR) there were no comments from Travis Air Force Base pointing out this deficiency in the DEIR, and providing information necessary to protect your pipeline and avoid illegal encroachment on your right-of-way. In fact in the FEIS the City provides email correspondence with Travis Air Force Base indicating that the base has "no comments."

We understand that the military is exempt from the minimum federal pipeline safety regulations that apply to all similar pipelines as detailed in Title 49 CFR Part 195, but the military still has a duty to protect people and the environment near its pipelines. Many other military bases have agreed to voluntarily comply with these minimum regulations, and have worked with the experts within the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration to ensure their pipelines are in compliance and safe for the public. Unfortunately in neither the DEIR or the FEIR for this project, or anywhere else that

we can find, is there any hint that Travis Air Force Base is complying with these regulations, or for that matter paying any attention to their pipeline at all.

We have reviewed many other development proposals across the country that are near transmission pipelines, and it is the norm for the private sector that operates the majority of these pipelines to ensure that local government and developers understand exactly where their pipelines are, and what is and is not allowed on their right-of-ways. We hope that Travis Air Force Base also takes pipeline safety seriously and is doing many of the things we have mentioned in this letter. Unfortunately the public record regarding this proposed development does not include any information that would give the public living and traveling near this pipeline any reason to believe that is true. This can be easily remedied, and the public's fears put to rest, if you direct your staff to provide Suisun City staff with clear information about your pipeline and a plan to ensure that it is protected from possible significant impacts from this proposed development along Petersen Road. Information would need to be provided at or before the final public hearing that is now scheduled for Tuesday January 22 at 5PM in the Suisun City Council Chambers.

The U.S. Congress has taken note of the problems associated with the lack of understanding by local government of the possible dangers created by development near pipelines. The U.S. Department of Transportation has responded to this concern with a new effort entitled the Pipeline and Informed Planning Alliance. The Pipeline Safety Trust is on the steering committee for this effort that will make recommendations for ways to correct the breakdown in communications between pipeline operators, such as you, and local government planners that often put people at risk. If it turns out to be true, as the record for this current development proposal suggests, that Travis Air Force Base needs some consultation with the experts in the U.S. Department of Transportation's Office of Pipeline Safety to get your operating procedures in line with the federal minimum standards I suggest you contact Jeff Wiese (jeff.wiese@dot.gov) the Associate Administrator for Pipeline Safety.

I hope our reading of the record of this proposed development does not portray an accurate view of Travis Air Force Base's commitment to pipeline safety, and hope you will correct that record at the public hearing on January 22nd. If we can be of any assistance or answer any questions please let me know.

Sincerely,



Carl Weimer, Executive Director

cc: Sara Underwood, Travis Air Force Base Community Planner
Jeff Wiese, Associate Administrator for Pipeline Safety, U.S. Dept. of Trans.
The Honorable Ellen Tauscher, U.S. Representative
The Honorable Barbara Boxer, U.S. Senator
The Honorable Dianne Feinstein, U.S. Senator
The Honorable Suisun City Council Members



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In the public interest.**

1155 North State Street, Suite 609, Bellingham, WA 98225 Phone 360-543-5686 Fax 360-543-0978 <http://pipelinesafetytrust.org>

Suisun City Planning Commission
City of Suisun City,
701 Civic Center Blvd.,
Suisun City, CA 94585

January 28, 2008

Dear Commission Members:

A number of citizens of Suisun City contacted us recently with pipeline safety concerns regarding a jet fuel pipeline operated by Travis Air Force Base and how that pipeline would be handled as part of the Wal-Mart Supercenter proposal in your city. After reviewing all the available information in both the DEIR and FEIR, and communicating with the Travis AFB, we have come to share their concerns.

The clear fact that the pipeline was not shown in any drawings as part of the EIR process, and the lack of information or consideration of the pipeline in those same documents is a clear warning sign that more information is needed before proceeding with approval. There really is no reason that a pipeline of this size should prevent such a project, but it needs to be clearly addressed and considered, which to date it has not been. We have tried to get more information from Travis AFB regarding this issue, but instead of answering our concerns they provide vague generalities, which seem to be contradicted by the facts on the ground we have been able to obtain.

The Pipeline Safety Trust reviews many development proposals near pipelines and this is the only one we have reviewed where a community has gone to such expense to consider so many factors and has missed the pipeline safety considerations totally. Normally the operator of a pipeline which is located on a proposed development site would take an active interest in ensuring that their pipeline and easement is not effected by the development, but this is not the case with Travis Air Force Base so you as a Planning Commission are left to make serious decisions in the dark regarding the safety of this pipeline. We hope you will delay your final decision until you can receive, and allow the public to review, needed information about this pipeline.

I have attached our correspondence with Travis Air Force Base, along with a couple of other documents that help demonstrate how such pipeline considerations should be handled. Please include these in the record.

The Pipeline Safety Trust was formed as a partnership with the federal government, local government, and citizens after the 1999 Olympic Pipeline tragedy in Bellingham, Washington where a liquid fuels pipeline burst and eventually exploded killing three young people playing in a park and destroying a two-mile stretch of a once beautiful salmon stream. The Pipeline Safety Trust is the only national non-profit organization that works to improve pipeline safety in the public interest. We work in collaboration with the industry, government, and citizens across the nation. If we can be of any assistance in helping you to ensure the safety of this pipeline, and all the people that live near or may eventually shop at this proposed Wal-Mart, please feel free to contact us.

Good luck in your deliberations, of which this pipeline is probably only a small, albeit very important part.

Sincerely,

A handwritten signature in black ink that reads "Carl Weimer". The signature is written in a cursive style with a long horizontal stroke at the end.

Carl Weimer, Executive Director

cc: The Honorable Suisun City Council Members

**Wal-Mart Application for Clean Water Act Section 401 Water Quality
Certification for the Walters Road Development.
Timeline Summary**

Item		
1	November 09, 2007	RWQCB comments on Draft EIR as not sufficient.
2	December 18, 2007	RWQCB comments on Application as incomplete.
3	February 11, 2008	RWQCB comments on Final EIR as not sufficient.
4	March 06, 2008	RWQCB writes to Army Corp Of Engineers to stop their permit process which Wal-Mart tried to bypass the RWQCB with.
5	March 12, 2008	RWQCB meeting Bruce Wolfe promises copies on any correspondence as it mores forward in the RWQCB.
6	May 09, 2008	Wal-Mart and City start the 'Ditch Deal' to clean out the Riparian Habitat channel. Public record request emails.
7	September 9, 2008	We find out that we have not been copied on the progress by Wolfe as promised.
8	September 10, 2008	City backhoes the Riparian Habitat out of channel.
9	September 11, 2008	Wal-Mart denies any knowledge of City clearing channel.
10	September 16, 2008	City denies the clearing at Council meeting then corrects itself.
11	September 17, 2008	Email from City stating that they clean the channel annually.
12	October 8, 2008	RWQCB meeting pointing out that we were left out of the process. Promised again cooperation.
13	October 20, 2008	Email to Shin-Lee with picture of channel in 2004 not cleared.
14	November 12, 2008	Meeting with RWQCB staff with a PowerPoint presentation. Showing the 'Ditch Deal' plus satellite pictures from 2004-2007 showing the City does not clear the channel annually. Brought up the lawsuit about Wal-Mart using the RWQCB legal non-involvement in the Riparian Habitat issue as Wal-Mart being right. We also brought up That Wal-Mart will use that decision to challenge the RWQCB. We were told that the Court decision would not have any affect their legal position on Riparian Habitat for Water certification. Storm drains were also covered as not being maintained by City and being nothing in writing or funding to pay the costs of the Wal-Mart one. The City was also shown to have spent \$750,000. plus of Wal-Mart's money moving this project forward.
15	November 19, 2008	Walters Road West Development Project - Water Quality Certification Denial.
16	December 18, 2008	Email to Bill Hurley showing the non-cleaning by the City of the storm drain outlet from the same Wal-Mart property channel.
17	December 23, 2008	Notice of Violation given to the City of Suisun City for clearing Channel.
18	December 24, 2008	Email to Jolanta Uchman countering claims by the City on the date of that Channel being put in. The Culvert was dated 1955 over thirty years before the City annexed the property.
19	December 29, 2008	Email 1974 aerial photo showing channel before the City annexed it.
20	January 21, 2009	Email statement to RWQCB over my observation of the channel NOV.
21	January 21, 2009	City of Suisun City response to NOV
22	February 17, 2009	Email from Ms Uchman with Wal-Mart Alternatives Analysis report.
23	March 17, 2009	RWQCB response to the City's response to the NOV.
24	April 7-17 2009	Email USGS maps 1918 -53 and aerial photo over lays showing

Wal-Mart Application for Clean Water Act Section 401 Water Quality Certification for the Walters Road Development.

Timeline Summary

- channel to counter City's 1940 claim.
- 25 April 24, 2009 Email RWQCB signed statement that site D did not have an application pending as Wal-Mart stated.
- 26 April 24, 2009 RWQCB letter to Wal-Mart still incomplete
- 27 June 12, 2009 Email to RWQCB staff about the City quietly buying the Site D property with redevelopment funds.
- 28 February 12-19, 2010 We emailed asking about the application period being up. The response was the statutory clock was suspended according to legal counsel.
- 29 May 2009 to April 25, 2010 No written correspondence between Wal-mart and RWQCB received from RWQCB. Multiple telephone calls from us each month with no written responses from Wal-Mart to RWQCB as the answer.
- 30 April 26, 2010 RWQCB letter to Wal-Mart second denial
- 31 May 6, 2010 Public Records request sent. Suspected we were not being informed.
- 32 May 19, 2010 Records show that Bruce Wolfe has been keeping his emails from us since September 2009. He had been negotiating with Wal-Mart through April 2010. Wal-Mart petitioned Sacramento and we have been left out.
- 33 May 19, 2010 Revised minutes of Wal-Mart meeting of May 6, 2010.
- 34 June 16, 2010 Return email from Bill Hurley informing us of the petition and why the City is saying the ACOE is taking over.
- 35 July 6, 2010 Dyan Whyte email stating a new application has been accepted.
- 36 July 8, 2010 Dyan Whyte email with a statement about the meeting with Wal-Mart, the RWQCB, the City of Suisun City, and the Governor's Office of Economic Development.
- 37 July 9, 2010 Email from Dyan White with Wal-Mart's supplemental plan.
- 38 July 13, 2010 Email from Dyan Whyte giving reasons why we can not speak to Board.
- 39 July 16, 2010 Email from Dyan Whyte with letter to Wal-Mart telling them that the RWQCB staff would not draft a Tentative Order because Riparian Habitat Mitigation is possibly undoable presently or in the future. They needed those answers from Wal-Mart first.
- 40 July 19, 2010 Emailed Dyan Whyte asking for a time frame for the Tentative Order. She answered that they were in the process of evaluating.
- 41 July 20, 2010 Email from Dyan Whyte with an answer about Bill Hurley seeing a Biologist.
- 42 July 20, 2010 Email from Dyan Whyte with the Wal-Mart petition link.
- 43 August 2, 2010 Email from Dyan Whyte with submitted Letter to Chairperson of the RWQCB from the City of Suisun City.
- 44 September 2, 2010 Email from Elizabeth Morrison with the late Public Notice and Tentative Order. This follows a return call to us. She also states that the past files/records did not follow the new application when writing up the Tentative Order. That is possibly why we were overlooked during the emailing.

Item

1



California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board



Linda S. Adams
 Agency Secretary

1515 Clay Street, Suite 1400, Oakland, California 94612
 Phone (510) 622-2300, FAX (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold
 Schwarzenegger
 Governor

Date: **NOV 09 2007**
 File No. 2128.09 (JGU)
 CEQA Suisun Wal-Mart Walters Rd W

Ms. Heather McCollister
 Community Development Director
 City of Suisun City
 701 Civic Center Blvd.
 Suisun City, CA 94585

RWQCB
 PAGE 1 OF 4

SUBJECT: Comments on the Draft Environmental Impact Report for the Walters Road West Project, City of Suisun, Solano County; SCH # 2006072026

Dear Ms. McCollister:

Water Board staff has reviewed the September 2007 Draft Environmental Impact Report (DEIR) for the Walters Road West Project (Project). The Project is located northwest of the intersection of State Route 12 (SR-12) and Walters Road in the City of Suisun in Solano County. The DEIR assesses the expected environmental impacts resulting from the development of 18.34 acres for commercial retail center on a 20.8-acre parcel. The proposed development would include a Wal-Mart Supercenter, a sit-down restaurant, a gas station with a convenience store and automated car wash, an onsite roadway, approximately 1021 parking stalls, and utility improvements. We appreciate the opportunity to provide our comments and convey how our Board's policies may relate to the Project. We offer the following comments:

RWQCB-1

1. The DEIR states the Project site is bisected by an unnamed creek that runs north to south and drains into Hill Slough and seasonal wetlands are scattered throughout the site. A jurisdictional delineation was field-verified in February 2007 and confirmed that the site contains 2.996 acres of jurisdictional wetlands and other waters including 1,025 linear feet of the creek. The proposed Project would fill in 100% of jurisdictional features and as such would violate State water quality standards. Board and State policy require avoidance of wetlands habitat to the maximum extent feasible. Projects which do not adequately demonstrate avoidance and minimization of impacts to wetlands and other waters of the State may result in our inability to issue required water quality certification and/or waste discharge requirements for the project as proposed. For non-water dependent projects, including this Project, it is assumed that there are less damaging alternatives, and the burden is on the applicant to demonstrate otherwise. The sequence in which project designs should be approached includes avoidance, minimization, and mitigation. A compensatory mitigation plan will only be considered after impacts to all waters have been fully characterized and

RWQCB-2

minimized. The DEIR also states that credits would be purchased at an agency approved mitigation bank to compensate for the loss of riparian habitat along the on-site channel. Although the Elsie Gridley Mitigation Bank and the North Suisun Mitigation Bank have been approved and operating in Solano County, it is our understanding that these banks cannot accommodate a mitigation habitat demand for riparian credits. We strongly encourage the Project proponent to design its project to avoid creek and wetland fill. Strategies to do this might include evaluation of variations on the location and design of the proposed buildings and infrastructure, footprint minimization through design(s) of multi-story structure(s), a roof-top restaurant and garden, and incorporation of the existing jurisdictional features into the Project design.

RWQCB-2
CONT.

2. The State Water Resources Control Board has adopted a policy directing Regional Water Quality Control Board staff to promote a Low Impact Development (LID) approach to land development per our policies and site specific regulatory actions. The LID approach:

- Maintains natural waters, drainage paths, landscape features and other water-holding areas to promote stormwater retention and groundwater recharge;
- Preserves the amenity and other values of natural waters;
- Minimizes generation of urban pollutants;
- Designs communities and landscaping to minimize stormwater generation, runoff, and concentration, and
- Promotes water conservation.

RWQCB-3

The Project seems not to incorporate the above into the proposed design, and therefore is not in line with the LID approach.

3. The DEIR notes that the Project has the potential to impact special-status animal and plant species. Such impacts are primarily regulated by the U.S. Fish and Wildlife Service and State Department of Fish and Game, and these agencies should be contacted to determine whether any approvals are required from them for the Project to move forward. Additionally, the Board regulates such impacts, to the extent they are to aquatic/wetland species and are impacts to related beneficial uses of Waters of the State (e.g., wildlife habitat and habitat for rare, threatened, or endangered species). Typically, we will defer to the more specific recommendations of USFWS and CDFG on these issues.

RWQCB-4

4. A stormwater management plan will be required for Project final development. Pursuant to Provision C.3 of Board Order No. R2-2003-0032 the Fairfield-Suisun NPDES Stormwater Permit, of which the City is a co-permittee, the project design must include: appropriate design measures to minimize the impervious surface associated with the project; source controls to prevent the discharge of pollutants; and, treatment controls to treat runoff prior to discharge to the local storm drains, creeks, or the Bay. Post-construction best management practices (BMPs) and treatment controls must be designed to achieve water quality treatment of 85% or more of the total runoff. Stormwater management design elements should focus on source control treatment to control both stormwater quality and runoff discharge rates. The source control measures should be designed to mimic the predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of runoff. The proposed post-construction treatment

RWQCB-5

Ms. Heather McCollister
CEQA Walters Road West Project, Suisun

controls do not follow our recommendations for adequate treatment control methods as described in Provision C.3. Some of the proposed post-construction BMPs presented in the DEIR such as oil/grease separators for parking areas, and compost berms are not acceptable or improperly listed. The Project combined parking area makes up a large portion of the Project site and will be constructed mostly of impervious pavement. In order to provide adequate but not excessive parking supply, site design features such as overflow parking and landscaped reserve areas can be used. Also design of proper grading and installation of permeable pavements, curb cuts, and rock-lined area along landscaped areas will reduce and treat parking lot runoff.

RWQCB-5
CONT.

5. The proposed Project is located within approximately 72-acre drainage area that has been almost entirely developed . The proposed Project would significantly increase surface runoff and impact water quality downstream from the Project site and possibly exceed the capacity of the existing outfall in tidally influenced Hill Slough. The Project would result in a significant cumulative effect within the watershed.

RWQCB-6

6. The Project will require coverage under the State's National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08-DWQ. Coverage under this General Permit will not occur until a Stormwater Pollution Prevention Plan (SWPPP) is prepared that incorporates into the Project design appropriate construction-stage Best Management Practices (BMPs) as well as post-construction stormwater control measures.

RWQCB-7

7. Certain classifications of commercial and industrial facilities are required to obtain coverage under and comply with the State NPDES General Permit for Stormwater Discharges Associated with Industrial Activities.

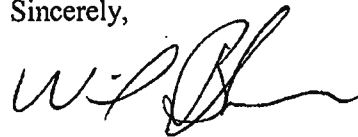
RWQCB-8

The Construction and Industrial General Permits and corresponding Fact Sheets, application forms, etc. can be accessed at the State Water Resources Control Board's web site www.waterboards.ca.gov/ .

RWQCB-9

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to juchman@waterboards.ca.gov.

Sincerely,



Wil Bruhns
Division Chief
North Bay Watershed Division

Cc: Bill Orme, SWRCB-DWQ

Ms. Heather McCollister
CEQA Walters Road West Project, Suisun

4

Anna Holmes
California Department of Fish and Game
4001 N Wilson Way
Stockton, CA 95205-2486

Erik Raffini
U.S. EPA Region IX, WTR-8
75 Hawthorne Street
San Francisco, CA 94105-3901

Pete Straub
U.S. Army Corps of Engineers, Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103

Chris Nagano
US Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

Suzanne Bragdon, City Manager
City of Suisun
701 Civic Center Boulevard
Suisun City, CA 94585

Item

2



California Regional Water Quality Control Board

San Francisco Bay Region



Linda S. Adams
Secretary for
Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger
Governor

Date: December 18, 2007
File No. 2128.02 (JGU)
Site No. 02-48-C0394
Inc W Walters Rd Wal-Mart

Wal-Mart Stores, Inc.
C/o Todd Anderson
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94333

SUBJECT: Incomplete Application for Water Quality Certification under Section 401 of the Clean Water Act for the Walters Road Development Project, City of Suisun, Solano County

Dear Mr. Karn:

Water Board staff has reviewed your application for a Clean Water Act Section 401 water quality certification that the proposed Walters Road Development Project will not violate State water quality standards. The application is incomplete, and furthermore, it appears that the project as currently proposed, would be in violation of State water quality standards. This letter is notification that the Regional Board does not grant water quality certification at this time.

Project Description

The applicant, Wal-Mart Stores, Inc., through its agent, Jeff Olberding, submitted the application to develop the Walters Road Development Project (Project). The Project is located northwest of the intersection of State Route 12 (SR-12) and Walters Road in the City of Suisun in Solano County (38°14.329'N, 121°58.781'W). The proposed development of 18.34 acres for commercial retail center on a 20.8-acre parcel would include a Wal-Mart Supercenter, a sit-down restaurant, a gas station with a convenience store and automated car wash, an onsite roadway, approximately 1,021 parking stalls, and utility improvements. The Project site is bisected by an unnamed creek that runs north to south and drains into Hill Slough. Seasonal wetlands are scattered throughout the site. A jurisdictional delineation was field-verified in February 2007 and confirmed that the site contains 2.996 acres of jurisdictional wetlands and other waters including 1,025 linear feet of the creek. The Project, as proposed, would result in the discharge of approximately 3,500 cubic yards of fill into 2.996 acres of jurisdictional waters, (100% of the wetlands present on the Project site).

California Environmental Protection Agency



This letter serves as notification that the application is incomplete and inadequate. Please submit the following information and respond to the following comments in order to amend and complete the application:

1) Alternatives Analysis: The Water Board's Water Quality Control Plan (Basin Plan) prohibits all discharges of fill material into wetlands, unless a discharge, as proposed, constitutes the least environmentally damaging practicable alternative (LEDPA) that will achieve the basic project purpose. For non-water dependent projects, including this Project, it is assumed that there are less damaging alternatives, and the applicant must appropriately rebut this assumption. The following represents the sequence in which proposals should be approached:

- a) **Avoid:** Avoid impacts to waters;
- b) **Minimize:** Modify project to minimize impacts to waters;
- c) **Mitigate:** Once impacts have been fully minimized, compensate for the remaining unavoidable impacts to waters.

In situations where it has been clearly demonstrated that avoidance of impacts to waters is not possible, and that impacts have been fully minimized, then adequate mitigation for the loss of water body acreage (or, when applicable, linear feet) and functions is required. In-kind, on-site mitigation for all, or part of, the Project's impacts to wetlands and other waters should be provided if possible. If it can be adequately demonstrated that off-site and/or out-of-kind mitigation are the only viable option for a project, a further increase in mitigation area would be appropriate. A further increase in mitigation area is also appropriate if the mitigation waters and wetland and riparian habitats are not successfully established prior to the impacts. The applicant is also required to utilize a Low Impact Development (LID) planning approach. The State has endorsed the LID approach whereby development projects:

- Maintain natural waters, drainage paths, landscape features and other water-holding areas to promote stormwater retention and groundwater recharge;
- Preserve the amenity and other values of natural waters;
- Minimize generation of urban pollutants;
- Design communities and landscaping to minimize stormwater generation, runoff, and concentration, and
- Promote water conservation.

The Project seems not to incorporate the above into the proposed design, and therefore is not in line with the LID approach.

The proposed Project should take into consideration variations on the locations and design of the proposed buildings and infrastructure, footprint minimization through design(s) of multi-story structure(s), a roof-top restaurant and garden, and incorporation of the existing jurisdictional features into the Project design, especially those that avoid impacting jurisdictional waters. We require the applicant submit an Alternatives Analysis report that

considers other alternatives to meet the overall project purpose of a mixed-use commercial development and, at the same time, protecting the existing jurisdictional waters.

Mitigation

Per the California Wetlands Conservation Policy, and the Regional Board's Basin Plan, mitigation is required to compensate for the project's temporary and permanent impacts to waters of the State. We also recognize that, given the significant loss of wetlands in the San Francisco Bay Area, avoidance and minimization of impacts are important for all remaining wetlands. A compensatory mitigation plan will only be considered after impacts to all waters have been fully characterized and minimized, as discussed in Item No. 1 above.

The Biological Assessment for Critical Habitat for the Vernal Pool Tadpole Shrimp and the Vernal Pool Fairy Shrimp for the Walters Road Development Project, Solano County, California, by Olberding Environmental, Inc., dated November 2007, states that credits would be purchased at an agency approved mitigation bank to compensate for the loss of jurisdictional wetlands and riparian habitat along the on-site channel. Although the Elsie Gridley Mitigation Bank and the North Suisun Mitigation Bank have been approved and operating in Solano County, it is our understanding that these banks cannot accommodate a mitigation habitat demand for riparian credits.

If, after a more thorough evaluation of site development alternatives has been performed, it is demonstrated that some portion of the wetland mitigation must be provided by purchasing credits at the mitigation bank, such credits will likely need to be acquired at a ratio at least 2:1 (mitigation acreage to impacted wetlands acreage). Since the final design cannot be determined before the alternatives analysis has been conducted, we are not able to provide further comments on the proposed mitigation at this time.

2. CEQA: The Walters Road West Project Draft Environmental Impact Report, dated September 20, 2007, was submitted with the 401 application, however, a copy of the final CEQA document (Final Notice of Determination) prepared for the activity (23 CCR §3856(f)) is needed with the application.

3. Stormwater Management Plan (SWMP): The SWMP should describe the Project's measures to minimize its urban runoff impacts for the life of the project, be comprised of source controls, design measures to minimize impervious surface, and treatment controls that remove pollutants from stormwater runoff. The SWMP must demonstrate that sufficient treatment controls will be installed to meet the criterion of treating approximately 85% of average annual storm water runoff from all of the site's impervious surfaces. The SWMP should include appropriate narrative, drainage plans, project-specific design details for the proposed controls, calculations, provisions for operation and maintenance (O&M), what entity will be responsible for O&M, description of how O&M will be funded, and all other corresponding information, as appropriate.

The proposed Project is located within approximately 72-acre drainage area that has been almost entirely developed. The Project would significantly increase surface runoff and impact water quality downstream from the Project site and possibly exceed the capacity of the existing outfall in tidally influenced Hill Slough. Since the Project would result in a significant cumulative effect within the

Mr. Karn
Walters Rd Wal-Mart Suisun - Incomplete Application
Site No. 02-48-C0394

- 4 -

watershed, changes in the watershed hydrology should be properly assessed while preparing the SWMP.

Staff will continue to work with you to complete your application for water quality certification. If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to juchman@waterboards.ca.gov. Future correspondence regarding this project should reference the Site Number indicated at the top of this letter.

Sincerely,
Original Signed by
Wil Bruhns for

Bruce H. Wolfe
Executive Officer

Cc: Bill Orme, SWRCB-DWQ

Elizabeth Dyer
U.S. Army Corps of Engineers, Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103

Sandy Brunson
California Department of Fish and Game
P.O. Box 47
Yountville, CA 94599

Michelle Tovar
US Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

Eric Raffini
U.S. EPA Region IX, WTR-8
75 Hawthorne Street
San Francisco, CA 94105-3901

Jeff Olberding
Olberding Environmental, Inc.
1390 Willow Pass Road
Concord, CA 94520

John McNellis
McNellis Partners

California Environmental Protection Agency

Mr. Karn
Walters Rd Wal-Mart Suisun - Incomplete Application
Site No. 02-48-C0394

- 5 -

914 Waverly Street
Palo Alto, CA 94301

Heather McCollister
Community Development Director
701 Civic Center Blvd.
Suisun City, CA 94585

California Environmental Protection Agency

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Item

3



Linda S. Adams
Agency Secretary

California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300, FAX (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold
Schwarzenegger
Governor

Date:
File No. 2128.09 (JGU)
CEQA(2) Suisun Wal-Mart Walters Rd W

Ms. Heather McCollister
Community Development Director
City of Suisun City
701 Civic Center Blvd.
Suisun City, CA 94585

SUBJECT: Comments on the Final Environmental Impact Report for the Walters Road West Project, City of Suisun, Solano County; SCH # 2006072026

Dear Ms. McCollister:

Water Board staff has reviewed the January 9, 2008 Final Environmental Impact Report (EIR) for the Walters Road West Project (Project). The Project is located northwest of the intersection of State Route 12 (SR-12) and Walters Road in the City of Suisun in Solano County. The DEIR assesses the expected environmental impacts resulting from the development of 18.34 acres for commercial retail center on a 20.8-acre parcel. The proposed development would include a Wal-Mart Supercenter, a sit-down restaurant, a gas station with a convenience store and automated car wash, an onsite roadway, approximately 1021 parking stalls, and utility improvements. In our November 9, 2007, letter we provided comments on the proposed Project as presented in the Draft EIR dated September 20, 2007. We believe that all our comments are still appropriate and valid and it appears that the Project as proposed would violate State water quality standards.

On January 23, 2008, representatives of the Department of Fish and Game, Water Board, and the Olberding Environmental met at the Project site. The site visit confirmed that the linear water feature described in our previous letter as an unnamed creek (1,025 linear feet) provides riparian habitat. The Project, as proposed would fill in all jurisdictional features without adequate sequence for project designs that includes avoidance, minimization, and mitigation.

A compensatory mitigation plan will only be considered after impacts to all waters have been fully characterized and minimized. The Project developer will be required to perform a more thorough alternatives analysis in accordance with State and federal policy and guidance. If, after such analysis has been performed, it is demonstrated that some portion of the wetland mitigation must be provided by purchasing credits at the mitigation bank, such credits will likely need to be acquired at a ratio at least 2:1 (mitigation acreage to impacted wetlands acreage) to offset temporal effects (impacts) if the mitigation habitat has not already been successfully created at

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the mitigation bank or other mitigation site. Also, higher ratio will be required to compensate for the loss of riparian habitat. As we previously mentioned, the Elsie Gridley Mitigation Bank and the North Suisun Mitigation Bank are operating in Solano County but these banks cannot accommodate a mitigation habitat demand for riparian credits. When the final design is agreed upon we will provide further comments on the proposed mitigation.

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to juchman@waterboards.ca.gov.

Sincerely,



Jolanta Uchman, P.G.
North Bay Watershed Section

Attachment: Water Board Comment Letter on DEIR 11-9-07

Cc: Bill Orme, SWRCB-DWQ

Anna Holmes
California Department of Fish and Game
4001 N Wilson Way
Stockton, CA 95205-2486

Erik Raffini
U.S. EPA Region IX, WTR-8
75 Hawthorne Street
San Francisco, CA 94105-3901

Elizabeth Dyer
U.S. Army Corps of Engineers, Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103

Michelle Tovar
US Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

Suzanne Bragdon, City Manager
City of Suisun
701 Civic Center Boulevard
Suisun City, CA 94585

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

Ms. Heather McCollister
CEQA (2) Walters Road West Project, Suisun

3

Wal-Mart Stores, Inc.
C/o Todd Anderson
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94333

Jeff Olberding
Olberding Environmental, Inc.
1390 Willow Pass Road
Concord, CA 94520

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Item

4



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300, FAX (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold
Schwarzenegger
Governor

Certified mail – return receipt requested

Date: March 6, 2008
Site No. 02-48-C0394
Corps PN WalMart Suisun

Ms. Elizabeth Dyer
U.S. Army Corps of Engineers, Regulatory Branch
1455 Market Street
San Francisco, CA 94103-1398

SUBJECT: Comments on Corps Public Notice No. 2006-303520N for WalMart Super Center/Walters Road Development Project, City of Suisun, Solano County

Dear Ms. Dyer:

Water Board staff has reviewed your agency's Public Notice dated January 31, 2008, regarding the WalMart Super Center/Walters Road Development Project (Project) located in the City of Suisun. WalMart Stores, Inc, through its agent Olberding Environmental, Inc has applied for a U.S. Army Corps of Engineers (Corps) permit pursuant to Section 404 of the Clean Water Act. WalMart has also applied to the Water Board for a Clean Water Act Section 401 water quality certification that the proposed Project will not violate State water quality standards. Water Board staff has reviewed the Project's certification application materials. In our letter dated December 18, 2007, we informed the applicant that the certification application for this Project is incomplete and that the Water Board does not grant water quality certification (Attachment 1).

Summary

We believe the Corps does not have sufficient information about the proposed Project, its impacts, and Project alternatives to adequately evaluate the Project, and therefore, that the PN has been issued prematurely. The PN should be withdrawn and held in abeyance until the deficiencies identified below have been adequately addressed.

At this time based on the Project information provided, the Water Board would be unable to certify that the Project would not violate State water quality standards and consequently, water quality certification would be denied for the Project.

We have determined that the Project as described in Corps Public Notice No. 2006-303520N does not comply with Corps and Water Board Policy by:

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- 1) Not adequately demonstrating that the Project has avoided and minimized impacts to jurisdictional wetlands to the extent practicable consistent with Corps policy and the federal CWA Section 404(b)(1) Guidelines. As stated in the PN, an alternatives analysis demonstrating that impacts to wetlands and other waters have been avoided and minimized to the extent practicable has not been provided to the Corps as part of the Project application. This is an essential part of the Corps permit application and principal basis for Corps authorization to fill jurisdictional waters as part of a non-water dependent project. The PN identifies this Project as a non-water dependent project. Since federal authorization of the Project is dependent upon the applicant demonstrating avoidance and minimization to the extent practicable, the Corps issuance of the PN without having received an alternatives analysis for Corps and other agency staff and the public to evaluate seems highly inappropriate. Accordingly, the PN should be withdrawn and held in abeyance until Corps staff has determined that an adequate alternatives analysis in accordance with the CWA Section 404(b)(1) Guidelines has been submitted.
- 2) Not proposing or evaluating opportunities for on-site mitigation, and not adequately demonstrating that on-site mitigation is not practicable. U.S. Army Corps of Engineers Regulatory Guidance Letter No. 02-2, dated December 24, 2002, states that: "Mitigation should be required, when practicable, in areas adjacent or contiguous to the discharge site (on-site compensatory mitigation)." Site conditions appear suitable for the creation of on-site mitigation habitat and the applicant has not demonstrated that creation of on-site mitigation is not practicable. Contrary to Corps and Water Board policy, the Project as proposed would fill essentially all of the project site's existing 2.996 acres of jurisdictional features, including a water channel, and mitigate in full off-site and out of the watershed by purchasing mitigation credits at the North Suisun Mitigation Bank at a ratio 1:1 (mitigation acreage to impacted acreage), and
- 3) Proposing out-of-kind habitat mitigation for the loss of 1,025 linear feet (0.31 acre) of the water channel proposed to be filled. The applicant proposed mitigating for the loss of the water channel by buying seasonal wetland credits without demonstrating that it will provide more environmental or watershed benefit than in-kind compensation. Additionally, the mitigation banks that operate in Solano County are not permitted to provide mitigation for water channel and corresponding riparian habitat.

Water Board staff also reviewed and commented on the Project's Draft Environmental Impact Report (DEIR) dated September 2007 and on the Final EIR dated January 2008. In our DEIR response letter dated November 9, 2007, and the Final EIR letter dated February 7, 2008, we informed the City and the applicants representatives that non-water dependent projects, such as this Project, which do not adequately demonstrate avoidance and minimization of impacts to wetlands and other waters of the State may result in the Water Board's inability to issue water quality certification. The Corps was copied on each of these Water Board comment letters.

Non-Compliance with Water Board, State and Federal Policies

The WalMart Super Center/Walters Road Development Project as described in the PN does not comply with Water Board and State Policy, and appears not to comply with federal guidelines and policy as follows.

We concur with the determination stated in the PN that the Project, with a basic project purpose of constructing and operating a commercial development, is not water dependent. The federal CWA Section 404(b)(1) Guidelines specify that non-water dependent projects must demonstrate through an analysis of project alternatives that impacts to wetlands have been avoided and minimized to the maximum extent feasible. The San Francisco Bay Basin Water Quality Control Plan (Basin Plan) specifies that the 404(b) (1) Guidelines should be utilized in determining the circumstances under which wetlands filling may be permitted. It is our understanding that the Corps also utilizes the 404(b) (1) Guidelines in determining the circumstances under which wetlands filling may be permitted for non-water dependent projects. We provided information about this requirement to the applicant in our letter dated December 18, 2007 (Attachment 1). The PN states that the applicant has not submitted an Analysis of Alternatives. As such, the applicant has not demonstrated that impacts to wetlands have been avoided and minimized to the maximum extent feasible and that the Project, as currently proposed, constitutes the least environmentally damaging practicable alternative (LEDPA).

The Basin Plan also states that mitigation for lost wetland acreage and values should only be considered after disturbance has been minimized. For unavoidable adverse impacts, which remain, after all appropriate and practicable minimization has been considered, compensatory mitigation is required. Where feasible and meaningful, compensatory mitigation should be undertaken in areas proximate to the discharge site. Accordingly, on-site creation and restoration of mitigation habitat would be preferable to mitigating off-site. If it can be adequately demonstrated that off-site and/or out-of-kind mitigation are the only viable option for a project, a further increase in mitigation area would be appropriate. A further increase in mitigation area is also appropriate if the mitigation waters and wetland and riparian habitats are not successfully established prior to the impacts.

California Senate Resolution No. 28 states: "It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and the multiple resources which depend on them for the benefit of the people of the State."

California Water Code Section 13142.5 states: "Highest priority shall be given to improving or eliminating discharges that adversely affect ... wetlands, estuaries, and other biologically sensitive sites."

The goals of the California Wetlands Conservation Policy (Governor's Executive Order W-59-93) include ensuring no overall net loss, and achieving a long term net gain in the quantity, quality, and permanence of wetlands acreage, and values.

Our Board's wetlands policies require avoidance and minimization of impacts, and on-site mitigation where suitable. Accordingly, these issues should always be addressed much earlier in the Project design process. Preserving, restoring and enhancing existing wetlands are the State's highest water quality goals.

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to juchman@waterboards.ca.gov.

Sincerely,



Wil Bruhns
Chief, North Bay Watershed Division

Attachment: 1. Incomplete Application for Water Quality Certification Water Board's Letter 12- 18-07

Cc w/out Attachment: Bill Orme, SWRCB-DWQ

Jane Hicks
U.S. Army Corps of Engineers, Regulatory Branch
1455 Market Street
San Francisco, CA 94103-1398

Peter Straub
U.S. Army Corps of Engineers, Regulatory Branch
1455 Market Street
San Francisco, CA 94103-1398

Anna Holmes
California Department of Fish and Game
4001 N. Wilson Way
Stockton, CA 95205-2486

Michelle Tovar
US Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

Eric Raffini
U.S. EPA Region IX, WTR-8
75 Hawthorne Street
San Francisco, CA 94105-3901

Heather McCollister
Community Development Director
701 Civic Center Blvd.
Suisun City, CA 94585

Wal-Mart Stores, Inc.
C/o Todd Anderson
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94333

Jeff Olberding
Olberding Environmental, Inc.
1390 Willow Pass Road, Suite 370
Concord, CA 94520

June Guidotti
3703 Scally Road
Suisun City, CA 94585

Dwight Acey
Suisun Citizens League
1365 Potrero Circle
Suisun City, CA 94585

Item

5

California Regional Water Quality Control Board
San Francisco Bay Region

March 12, 2008

ITEM 7

PUBLIC FORUM

Elihu M. Harris Building
First Floor Auditorium
1515 Clay Street
Oakland, CA 94612

Reported by Tahsha Sanbrailo

1 **Item 7 PUBLIC FORUM**

2 Chair Muller - We have a number of cards and a number
3 of speakers. I do not know which order they would like to
4 go in, but we will just start the way I grab them. Unless
5 you have a group that wants to plan how you want to come
6 forward and speak, whoever you are -

7 Mr. Wolfe - We can read the names.

8 Chair Muller - So we have Yoshiko Tagami, Beth,
9 Phil, and Dwight. So how do you all want to present? Go
10 ahead and line up the way you would like and I will give you
11 that privilege. Since there is a number of you speaking, I
12 would like to give you three or four minutes and we will go
13 from there. So welcome. Good morning. Come forward.

14 Ms. Tagami - Good morning, Mr. Chair and Board
15 members. My name is Yoshiko Tagami. I am a Suisun resident
16 - Suisun City resident. And I am a member of Suisun
17 Citizens League. I am not much of a public speaker, so
18 excuse me if I stumble. I am here because I am very
19 concerned about storm drainage we have in Suisun City. It
20 is a very small city. The Super Wal-Mart is planning to
21 build a big - of course; it is a Super Wal-Mart - right
22 where we live. And the EIR that they produced does not even
23 consider the problem with storm drainage we have. We have
24 flooding in our neighborhood a couple of times before in a
25 couple years because of that drainage system is really

1 archaic and not updated. We do not have money. It is a
2 small city. When this super center comes in, we will be in
3 a big problem because the water will - they have a 12-pump
4 gas station and car wash place. We just would like you to
5 take a very close look at this project before you give them
6 permit. That is all I have to say. Thank you very much for
7 your time.

8 Chair Muller - You are welcome. Next, please.

9 Ms. Garber - Good morning, Board. My name is Beth
10 Garber and I live in Vallejo, Solano County. I work for
11 California Health Communities Network and we have been
12 working with a group of residents in Suisun to try to stop
13 this project from being built - the Super Center, that is,
14 the Wal-Mart Super Center which will cover 20 acres. It is
15 a development with a gas station, a 200,000 square foot
16 super center, and a sit-down fast food restaurant. We have
17 a lot of issues with this development and we understand that
18 the Water Board does, as well. We have read their letters to
19 Suisun City and the Army Corps of Engineers. We understand
20 that Wal-Mart has not made an alternatives analysis for the
21 project. They have not provided alternative designs that
22 would create a smaller footprint on the site. They propose
23 to fill in about three acres of wetlands, including a water
24 channel that runs through the site. And that site is part of
25 a watershed, a 72-acre water shed with two water channels.

1 So they would be filling in one of those water channels. The
2 water shed area is mostly already developed with suburbs.
3 As you may know, Suisun City is very close to sea level, it
4 is marshy, semi-marshy land that was built upon. And in any
5 case, one of the points we want to make today is that it is
6 quite doable for Wal-Mart to come up with a smaller design,
7 a much smaller footprint that would not require filling in
8 the wetlands or the water channel. They have a lot of
9 different formats, a lot of different sizes and formats that
10 they use. They have Super Centers that are as small as
11 100,000 square feet. They are a resourceful corporation,
12 they are quite capable of designing something much smaller,
13 and they have done so across the country.

14 Another point we want to make is the gas station
15 component of the super center, not only will it really add
16 to the pollution of the storm water runoff, but it is really
17 unnecessary. The whole reason behind this project is the
18 ostensible need for sales tax revenue on the part of the
19 city, and their desire to capture so-called sales leakage
20 from their own city. By their own admission, they already
21 have captured all the gasoline sales, so they do not need
22 another gas station; that is what I am driving at. There
23 is also a gas station right across from the proposed
24 development, so that part of the development is really not

1 necessary. Another point is that there is quite a risk of
2 flooding to the neighborhood that is immediately below this
3 proposed project. That neighborhood is called Lawler Ranch.
4 There is abundant evidence in the EIR that this is a
5 potential problem and unfortunately neither the city or the
6 applicant saw fit to do a thorough check of the storm drain
7 systems prior to approving this project, but we have a lot
8 of evidence in the EIR itself that the drainage in the
9 neighborhood is full of sediment that it may not be able to
10 handle the extra runoff from the additional 20 acres being
11 paved. So obviously the residents are very concerned.
12 Also, some people who could not be here today in our group
13 wanted me to point out that the flood maps that were used in
14 the EIR date from the 70's. This is prior to the current
15 build-out that exists in Suisun. Most of the suburbs that
16 now exist were not even there at that time. So we feel that
17 quite a few of their conclusions concerning the risk of
18 flooding are faulty because they are based on maps which are
19 outdated and pre-date the development of the area. Another
20 -

21 Chair Muller - I am going to need you to conclude
22 soon, please.

23 Ms. Garber - The City has a bad track record of
24 maintaining its drains. The Army Corps of Engineers

1 notified Suisun that they were no longer eligible for FEMA
2 funds because they have not maintained their drains. Well,
3 I guess we are just going to have to give you these comments
4 in writing because I do not have time to go through them
5 all. So thank you very much.

6 Chair Muller - And you have a couple more
7 speakers, too. They can make comments, please.

8 Ms. Garber - Yes.

9 Chair Muller - Next - is it Dwight? Yes, come
10 forward, please.

11 Mr. Acey - Thank you for the opportunity to bring
12 this matter before you this week. I am with the Suisun
13 Citizen's League also. We are a group of Suisun residents
14 that advocate for the safety and prosperity and protecting
15 the environment in Suisun. We are very concerned about this
16 Super Center project in terms of its impacts on drainage, in
17 particular, for the Lawler Ranch area. We would like to
18 know if there will be a hearing on this matter, whether it
19 will be formally placed as an agenda item so that we can
20 come back and fully address this issue. Is that something
21 you would answer?

22 Chair Muller - We will respond when everyone is
23 completed. Let me just state first, it is normally not our
24 practice to respond to public comments, but I will give you

1 the privilege. I am going to make a couple of comments and
2 we will ask that question, so you can finish your
3 presentation, then when everyone has completed, we will
4 respond.

5 Mr. Acey - We will appreciate your making that
6 exception, and basically that pretty much the points I
7 planned to make have already been made, and that was the
8 remaining one. Thank you.

9 Chair Muller - Can we have one more - Phil? Oh,
10 he is just getting here. Do not rush. Stay calm.

11 Mr. Wolfe - It would be useful to ask the speakers
12 to fully identify themselves.

13 Mr. Tucker - Thank you, Mr. Chairman. My name is
14 Phil Tucker. I am Project Director for California Healthy
15 Communities Network. I have a letter here I would like to
16 circulate to the Board. I have copies here for everyone.

17 Chair Muller - Yeah, leave it with staff.

18 Mr. Tucker - Specifically, California Healthy
19 Communities Network has been working in Suisun for the last
20 eight, nine months with residents and we have been looking
21 at the big box development on Maltese (phonetic) Road, also
22 known as "Wal-Mart Project." Specifically, we have also
23 testified and participated in hearings relative to that
24 project with the City of Suisun and other agencies. We

1 have some real concerns about the footprint of the store in
2 that location. We have some real concerns that some basic
3 things were not done in the draft EIR or in the final EIR,
4 specifically when it comes to the area of the Alternative
5 Analysis. That is normally presented during that period. I
6 tried to address these issues with the City and pretty much
7 have not received the kind of response that we felt was
8 absolutely necessary for us to take any other position but
9 to oppose this project. What I would like to say is there
10 are other alternatives as far as size and footprint for Wal-
11 Mart in this location if they want to pursue this
12 development. There are some serious other issues that we
13 list in our letter, ecological issues, issues that have to
14 do with items within the purview of the Water Board,
15 including drainage, sledding, and other kinds of issues.
16 But the Wal-Mart specifically has their store approved in
17 Fairfield, just three and a half miles away. These two
18 stores will constitute over 400,000 square feet of Wal-Mart
19 retail in the same metro market area, which means that Wal-
20 Mart is not disadvantaged by downsizing their stores since
21 they have stores ranging from 20,000 square feet to 250,000
22 square feet - we identified this type of development. In
23 other areas, they have in fact down-sized stores in order
24 to get approval, down to about 100,000 square feet for a

1 Super Center. So this can be done. Some of the features on
2 the property, including a creek, which they call a drainage
3 ditch - we call it a creek, which has been there a long time
4 - are things that should be looked at critically by the
5 Board, but also looked at critically by Wal-Mart in trying
6 to put a huge huge store on such a small footprint, as well
7 as the other things they have planned. I urge the Board to
8 take these concerns into consideration. I also would
9 request that we have notification of meetings where Wal-Mart
10 can be discussed before the Board. Additionally, we would
11 like to have some time to look at and review the components
12 documents that are submitted related to this project with
13 our experts. Thank you very much.

14 Chair Muller - Thank you. I have no further cards
15 and I first would, again, mention that we do not normally
16 respond to public comments, but I do appreciate the effort
17 citizens make to come before this Board and the sacrifices
18 you made this morning, so I take that very seriously, 1),
19 and 2) this Board is not in the land use planning of
20 communities, but I think I will let Staff respond to the
21 potential of water quality issues and also if there will be
22 a permit coming soon for the group that is here.

23 Mr. Wolfe - Right. Wal-Mart, through its
24 consultant, has applied to us for Clean Water Act Section

1 401 Water Quality Certification. Now, that is something
2 that is delegated to me, that I could issue or condition
3 that certification; however, it has been the Board's
4 practice that when we have projects that are controversial
5 like this one sounds, we do bring it for a public hearing.
6 Also, this is a significant project, that it may also
7 require waste discharge requirements, which are actually
8 something that the Board would need to issue. I understand
9 from staff that we have provided comments on both the draft
10 and final EIR, we have provided initial response to Wal-Mart
11 and its consultant indicating that its application is
12 incomplete, that it has not considered all of the
13 alternatives, much as the public members were saying, that
14 it appears there may be footprints that might have less
15 impact on water quality and water features. So we need to
16 get information from Wal-Mart on that. And once that is
17 determined, then, if there is still a need for impact of
18 those water bodies, we would need to work with them on
19 appropriate mitigation. I am hearing the concerns that the
20 public is expressing about drainage and storm drainage.
21 That is certainly something we need to look at. We clearly
22 are not a land use agency, but we do look at the water
23 quality aspects of projects when they need to apply to us.
24 So I will report back to the Board to a certain degree at

1 this point. We feel the ball is in Wal-Mart's court because
2 we have notified both Wal-Mart and the Army Corps of
3 Engineers that, if at this point there were no change to the
4 application, we would probably need to deny certification.
5 But we know that is usually the notice that gets them coming
6 forward with considerations for either changes in design or
7 being more responsive to our concern. So I will keep the
8 Board posted, but given the public interest, I think this is
9 likely to be one that we would have that public hearing in
10 front of you. And, as such, that would imply that all
11 interested parties would have an opportunity to review all
12 materials. In fact, they have the right to review all
13 materials we have at this point. But nonetheless, we will
14 add these parties to our interested party list to make sure
15 they get copied on any correspondence we have and we will
16 keep you posted as this moves forward.

17 Chair Muller - I think our Board probably strongly
18 feels that be sure to keep us posted on this and if it is
19 this serious of an issue with the community, that probably
20 should be a public issue here.

21 Mr. Wolfe - And I will note that, while I am not
22 aware precisely of the location of the proposed project,
23 this is very close to the north end of the Suisun Marsh
24 which is a very significant water body that we are trying

1 to protect. This is also relatively close to the Potrero
2 Hills Landfill which you have had some public comment on
3 over the past year, and so it is definitely an area of
4 public interest.

5 Chair Muller - Good. Thank you. We have one more
6 plaque here - I am sorry - one more public forum. Richard
7 McMurtry.

8 Mr. McMurtry - I ran to get here so I am a little
9 out of breath. I cannot run like I used to. Good morning
10 members of the Board. I am Richard McMurtry with the out of
11 breath Santa Clara County Creeks Coalition, and I am here
12 today to present a plaque to your new Board member, a plaque
13 of welcome. And I would like to read it. It says, "To Jim
14 McGrath: May the qualities of the young Jim McGrath, the
15 one who is closer to 30 than to 60, who is pragmatic,
16 creative, innovative and courageous, willing to do the right
17 thing even if he got into trouble with Dick Cottingham
18 (phonetic), and the qualities of realism of the mature Jim
19 McGrath come together in a new way that help him contribute
20 many years of outstanding service to achieving the mission
21 of the Regional Board to protecting water quality and
22 attaining the benefits and uses of the waters of this great
23 San Francisco Bay Region. Conceived of before his first
24 meeting, and given to him on his third meeting, the 12th day

Item

6

Lintvedt, Inga


From: Elizabeth Anderson [EAnderson@sheppardmullin.com]
Sent: Friday, May 16, 2008 1:53 PM
To: Heather McCollister
Subject: RE: MOW please!!!!
Attachments: Notice to Abate Weeds Suisun.pdf

Hi Heather,

Just wondering if you figured out whether the notice from the Fire Chief is for the WM property or the the 3-acre remainder? We have decided to mow the entire site, other than the ditch, so that should get started soon. Thanks!

Liz

Elizabeth S. Anderson
Associate
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
Direct Fax: 415-403-6088

 <p>SHEPPARD MULLIN ATTORNEYS AT LAW</p>	<p>Four Embarcadero Center 17th Floor San Francisco, CA 94111-4109 415.434.9100 office 415.434.3947 fax www.sheppardmullin.com</p>
<p>Elizabeth S. Anderson Attorney 415.774.2948 direct 415.403.6088 direct fax EAnderson@sheppardmullin.com E G</p>	

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8/27/2008

attachments.

From: Elizabeth Anderson
Sent: Tuesday, May 13, 2008 12:28 PM
To: 'Heather McCollister'
Subject: RE: MOW please!!!!

We will, very soon.

Also, Katy Schardt received a Notice and Order to Abate the weeds. It references the property at Walters Road and SR 12. Is that the WM property, the 3-acre site owned by McNellis, or both?

Thanks!

Elizabeth S. Anderson
Associate
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
Direct Fax: 415-403-6088

From: Heather McCollister [mailto:hmccollister@suisun.com]
Sent: Tuesday, May 13, 2008 12:25 PM
To: Elizabeth Anderson
Subject: MOW please!!!!

Thanks for your voicemail.
I'm really getting flack...

Hold tight for the ditch deal.

Thanks

Heather McCollister
Community Development Director, Suisun City
707-421-7396 (Telephone)
707-429-3758 (fax)

City website: www.suisun.com


8/27/2008

Lintvedt, Inga

From: Elizabeth Anderson [EAnderson@sheppardmullin.com]
Sent: Tuesday, May 13, 2008 11:37 AM
To: Heather McCollister
Subject: RE: Maintenance agreement for ditch on Wal-Mart site

OK, thanks.

Elizabeth S. Anderson
Associate
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
Direct Fax: 415-403-6088

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From: Heather McCollister [mailto:hmccollister@suisun.com]
Sent: Tuesday, May 13, 2008 11:26 AM
To: Elizabeth Anderson
Subject: Maintenance agreement for ditch on Wal-Mart site

Good morning,

8/27/2008

Just got your message.

I'll have to check with Public Works on the ditch maintenance permit, as it would be their deal.

Heather McCollister
Community Development Director, Suisun City
707-421-7396 (Telephone)
707-429-3758 (fax)

City website: www.suisun.com

8/27/2008

-----Original Message-----

From: Elizabeth Anderson [<mailto:EAnderson@sheppardmullin.com>]
Sent: Friday, May 09, 2008 3:26 PM
To: Heather McCollister; Todd Anderson; Katy Schardt; Kevin Loscotoff; Kelly Collier; Carr Thomson; George.Bacso@wal-mart.com
Cc: ..Tony Perfetto - RAK; Ella Foley-Gannon; Judy Davidoff
Subject: RE: WM #3708-01: Suisun, CA:

Hi Heather,

It was nice to talk to you this afternoon. As I mentioned, Wal-Mart has a crew ready to disk the site, but we have asked them to wait a few days until we discuss certain issues with CDFG regarding the draft Streambed Alteration Agreement, which we recently received. We anticipate that we can settle these issues early next week. Thank you.

Liz

Elizabeth S. Anderson
Associate
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
Direct Fax: 415-403-6088

Elizabeth S. Anderson
Attorney
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
EAnderson@sheppardmullin.com
Direct: 415.774.2948
Fax: 415.403.6088

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From: Heather McCollister [<mailto:hmccollister@suisun.com>]
Sent: Friday, May 09, 2008 2:05 PM
To: Todd Anderson; Katy Schardt; Kevin Loscotoff; Kelly Collier; Carr Thomson; George.Bacso@wal-mart.com; Elizabeth Anderson

8/27/2008

Cc: ..Tony Perfetto - RAK; Ella Foley-Gannon; Judy Davidoff
Subject: Re: WM #3708-01: Suisun, CA:

Good afternoon,
So where are we at in getting the property mowed?
Thanks

Heather McCollister
Community Development Director
Suisun City
(707) 421-7396 Office
(707) 287-5999 Mobile

-----Original Message-----

From: "Todd Anderson" <tanderson@rakengineers.com>
Subj: Re: WM #3708-01: Suisun, CA:
Date: Tue May 6, 2008 3:34 pm
Size: 526 bytes
To: "Katy Schardt" <kds@surewest.net>; "Kevin Loscotoff"
<Kevin.Loscotoff@wal-mart.com>; "Kelly Collier"
<J.Collier@wal-mart.com>; "Carr Thomson" <Carr.Thomson@wal-mart.com>;
"George.Bacso@wal-mart.com" <George.Bacso@wal-mart.com>; "Elizabeth
Anderson" <EAnderson@sheppardmullin.com>; "Heather McCollister"
<hmccollister@suisun.com>
cc: "..Tony Perfetto - RAK" <tperfetto@rakengineers.com>; "Ella
Foley-Gannon" <efoleygannon@sheppardmullin.com>; "Judy Davidoff"
<jdavidoff@sheppardmullin.com>

WM #3708-01: Suisun, CA: Response to Army Corps CommentsHi Team,

We really need to get the weeds cut down or the site disced ASAP,
Citizens and City Council are calling about it. Also there are some
sapling willows that need to be plucked before they become trees.

I have a contractor ready to go if Wal-Mart's property maintenance
department has any need.

Thank you,

Todd Anderson
Robert A. Karn & Associates, Inc.
707 Beck Ave., Fairfield, Ca. 94533
(707) 435-9999 fax 9988
tanderson@rakengineers.com

8/27/2008

Item

7

From: "Beth Garber" <egarber@ufcw5.org>
Subject: **Possibly imminent Waterboard certification of Wal-Mart Project**
Date: September 9, 2008 1:20:32 PM PDT
To: "'Anthony Moscarelli'" <archerone@comcast.net>

Anthony,

I spoke with Jolanta Uchman of the state waterboard today.

She said that they will be meeting Wal-Mart and W-M's proponents this Thursday. The waterboard is only asking one concession from Wal-Mart at this point - which is that Wal-Mart not develop the small parcel of wetlands they own to the East of Walters Rd (across from the larger site).

So far Wal-Mart has refused to comply with this request.

But it is her opinion that the waterboard and W-M are close to striking an agreement and moving forward on the 401 certification.

In the meantime, (since last December) Wal-Mart did an alternatives analysis and then revised their analysis at the waterboard's request.

I will forward Jolanta Uchman's emails with W-M's analysis, their revised analysis and also the waterboard's Aug. 4th letter to Wal-Mart stating (that at that time) Wal-Mart's application was incomplete and insufficient.

If you have time can you give this a going over?

I will look it over too.

Thanks,
Beth

Item

8

From: Anthony Moscarelli <archerone@comcast.net>
Subject: **Wal-Mart Property Creek excavated**
Date: September 10, 2008 5:43:18 PM PDT
To: juchman@waterboards.ca.gov
📎 3 Attachments, 671 KB [Save ▾](#) [Slideshow](#)

Dear Ms. Uchman,

I am Anthony Moscarelli of the Save Our Suisun Citizens group. I am sending you pictures taken today of the Wal-Mart property in Suisun City . The Creek through it was being cleared of all vegetation. I thought they did not have a permit to alter the creek until after the permit process.

Anthony Moscarelli





Item

9

In my telephone discussion with Jolanta Uchman of the RWQCB, she stated that she asked Wal-Mart's representatives at their meeting on September 11, 2008 if they knew about the clearing of the Channel. She said that their response was no!

Anthony Moscarelli

Item

10

Suisun City Council Meeting on September 16, 2008 in their Public Record. It is also verified by Item 11 email.

Anthony Moscarelli

Item

11

From: "Daniel A. Kasperson" <dan@suisun.com>
Subject: **Drainage ditch**
Date: September 17, 2008 6:18:07 PM PDT
To: <archerone@comcast.net>
Cc: "Suzanne Bragdon" <sbragdon@suisun.com>

Anthony,

This is a brief follow-up to our phone conversation this afternoon. I spoke again with Jeff, our Public Works Superintendent. He is in charge of all field maintenance work for the City of Suisun. I asked him about the work that has been done on the "Wal-Mart" lot. I also queried others in the office. Here is what I found out.

- The mowing of the field that we all observed within the last month or so was not done by City staff nor was it done by contractors on contract with the City.
- The cleaning of the ditch was done by City staff members that used a backhoe to remove debris, etc., from the bottom of the ditch.
- The ditch is part of the storm drain system of the City. It conveys overflow from the housing subdivision to the north down to Highway 12 where Caltrans in turn has a storm drain system that conveys the water to the slough.
- The work is done under the citywide permit used by the Public Works staff to clean all of our drainage ditches. If we do not do this type of routine maintenance, then it puts the city in danger of localized flooding.

In short, cleaning of that ditch is a routine Public Works chore done annually for the benefit of the entire City.

If you have any additional questions or if I can help clarify any of this, please let me know.

Daniel A. Kasperson
Building Official/Fire Marshal
City of Suisun City
701 Civic Center Blvd
Suisun City, CA
707-421-7316
dan@suisun.com

Item

12

As per Public Records at the Regional Water Quality
Control Board October 8, 2008 meeting.

Anthony Moscarelli

Item

13

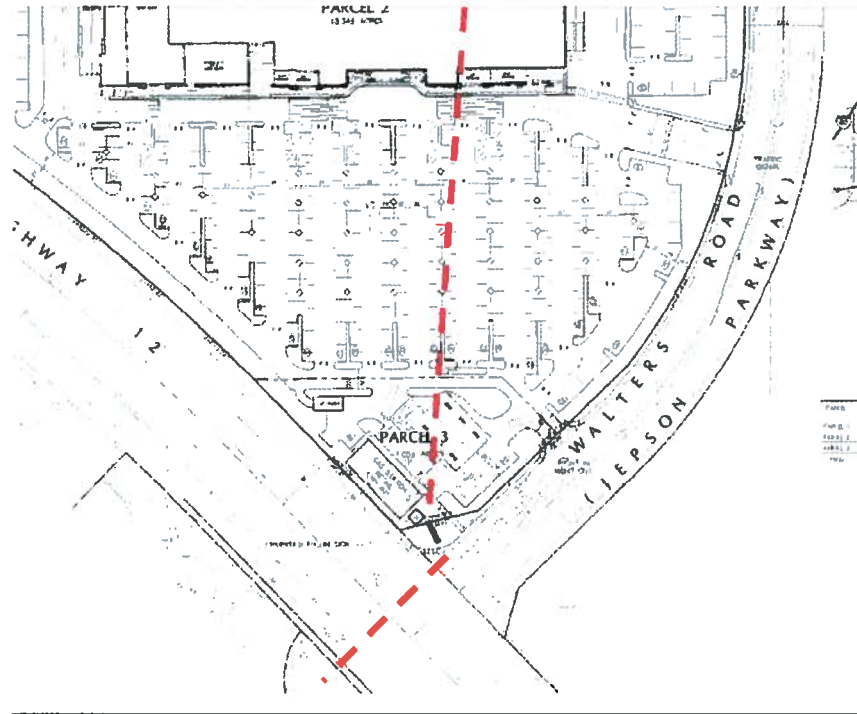
From: Anthony Moscarelli <archerone@comcast.net>
Subject: **Pictures of Wal-Mart Creek 2004**
Date: October 20, 2008 10:39:22 AM PDT
To: Shin-Roci Lee <srlee@waterboards.ca.gov>, juchman@waterboards.ca.gov
Cc: Phil Tucker <pgtucker@aol.com>
📎 2 Attachments, 841 KB [Save](#) ▼

Ms. Lee,

I am attaching some PDFs. One of them is of the Creek through the Wal-Mart property in October 2004. You will note that it has not been cleaned out and looks the same as the 2006-2008 pictures. The City does not clean it out yearly as they claim. The second PDF is of the Wal-Mart property as shown on their DEIR. I over-laid a red dashed line through the property showing the Creek on the property. The PDF shows the Gas Station location on the property at the opening of entrance of the storm drain that goes directly into the Suisun Slough. Can you tell me how the potential of a spill from that Gas Station can be minimized from entering the slough through the storm drain without a certified engineered catch basin there? What is the potential for even a small spill killing native organic life? Most of the earlier Gas stations on Highway 12 were put there before the Section 404 enforcement was required.

Anthony Moscarelli





Item

14

Is it possible that the
Regional Water Quality
Control Board is being
'SET-UP'?

- September 3, 2008
- It is possible that Wal-Mart has figured that if the RWQCB will not accept their September 5, 2008 alternate building plans as written they might go to a 'Plan B'.
- Could it be that Wal-Mart has planned to reapply for a permit after the CEQA lawsuit?
- Could it be they are letting the permit application expire so they can take advantage of the new June 2008 mitigation change when they reapply?

From April 25, 2008 letter to Army Corp of Engineers with the City and DFG cc:d but RWQCB not.

➤ **Response 16:** The applicant is in the process of preparing the alternatives analysis, which will demonstrate that there is no practicable alternative design which would avoid impacts to the on site jurisdictional features or that would allow sufficient and appropriate areas for on site mitigation. Further given the site's low functioning wetlands and the surrounding land uses, we do not believe that high functioning, sustainable on site mitigation could be created at this location. As you are aware, the Corps and the EPA recently issued a new mitigation rule, which alters the hierarchy for consideration of mitigation proposals. Under the new rule, mitigation banks are deemed generally preferable to on site mitigation as such features have been demonstrated to provide superior long term aquatic functions. Although this rule will not apply to the Project application as it does not come into effect until June of this year, we believe that it is appropriate for the Corps to consider the guidance and rationale provided in the rule when evaluating the Project's mitigation proposal.

Has Wal-Mart found a loop-hole?

- Wal-Mart could reapply and challenge the RWQCB by litigation to hold to the new standards of the EPA.
- Now the Riparian Habitat has been removed and the lawsuit will make it a non-issue.
- The Judge in the CEQA case has given a tentative ruling finding for Wal-Mart over the non-riparian habitat.

ON SEPTEMBER 3, 2008 THE RESPONDENT (The
City) SUBMITTED THEIR ARGUMENT TO THE
LAWSUIT

In the CEQA lawsuit the RWQCB expert's positions are challenged as not as good as the City's paid experts.

In the first example the joint meeting between the DFG, Olberting Environmental Group, and RWQCB on the project's property January 23, 2008 stating in a letter that riparian habitat exists. Next the letter from the RWQCB on February 11, 2008 to the City of Suisun City.

This is all part of a chain of events to come.

17 Despite the City's dismissive response to its prior comment, on February 11, 2008, the RWQCB
18 submitted an additional comment letter to the City, reaffirming its previous objection:

19 On January 23, 2008, representatives of the Department of Fish and Game, Water Board,
20 and the Olberding Environmental met at the Project site. The site visit confirmed that the
21 linear water feature described in our previous letter as an unnamed creek (1,025 linear
22 feet) provides riparian habitat. The Project, as proposed would fill in all jurisdictional
23 features without adequate sequence for project designs that includes avoidance,
24 minimization, and mitigation.

25 A compensatory mitigation plan will only be considered after impacts to all waters have
26 been fully characterized and minimized. The Project developer will be required to
27 perform a more thorough alternatives analysis in accordance with State and federal policy
28 and guidance. If, after such analysis has been performed, it is demonstrated that some
29 portion of the wetland mitigation must be provided by purchasing credits at the
30 mitigation bank, such credits will likely need to be acquired at a ratio at least 2:1
31 (mitigation acreage to impacted wetlands acreage) to offset temporal effects (impacts) if
32 the mitigation habitat has not already been successfully created at the mitigation bank or
other mitigation site. Also, higher ratio will be required to compensate for the loss of
riparian habitat. As we previously mentioned, the Elsie Gridley Mitigation Bank and the
North Suisun Mitigation Bank are operating in Solano County but these banks cannot
accommodate a mitigation habitat demand for riparian credits. When the final design is
agreed upon we will provide further comments on the proposed mitigation.

The first slide will challenge the January 23, 2008 RWQCB findings. Note that the City Council over-ruled it in one day.

The second slide will show that the City chose to believe its experts. Then they state that the RWQCB went along with their choice. They state if the RWQCB disagreed with them then they would have halted the EIR because they could.

This is told to a Judge to prove that the lead agency the RWQCB has not any objections to the City's findings. This is assumed because the lead agency should be following this part of the lawsuit if they objected. Since the RWQCB did not object then by their lack of action there is not any riparian habitat.

The Judge could in his decision find that the non-involvement of the RWQCB proves that they do not have viable objections to the EIR section of filling the ditch.

6 Accordingly, the Final EIR explains in its response to the Regional Water Quality Control
7 Board's (RWQCB) comment letter as follows: "the Draft EIR erroneously characterized the ditch
8 as containing 'riparian habitat' in Impact BIO-3. Biological evaluations of the ditch indicate that
9 its vegetation is of low quality and does not meet the criteria for 'riparian habitat.'" (AR 2328.)
10 In response to Petitioner's comments, the Final EIR explains further that "[f]ollowing publication
11 of the Draft EIR, it was determined that Mitigation Measure BIO-3 was unnecessary because there
12 is no habitat on the Project site that meets the definition of 'riparian habitat'. Instead, the loss of
13 the drainage ditch would be fully mitigated by Mitigation Measure BIO-4, which sets forth onsite
14 mitigation for wetlands." (AR 2688.)

15 Following the RWQCB's subsequent letter dated February 11, 2008, reiterating its opinion
16 that the ditch provides riparian habitat (AR 11467-11468), the City was presented with yet more
17 information supporting the Final EIR's conclusion that the ditch contains no "riparian habitat."
18 (AR 11492-11495.) During the hearing before the City Council on February 12, 2008, the City's
19 attorney brought the RWQCB's letter to the Council's attention, but also explained that the City's
20 biologists had reviewed the exchange of correspondence and maintained their opinion that the

6 this context. The City was free to reject the RWQCB's opinion so long as its decision to do so was
7 supported by substantial evidence. (*Laurel Heights I, supra*, 47 Cal.3d 376, 408; *Association of*
8 *Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1397.)¹⁵ Here, the City's
9 determination, accepting the opinions of its EIR consultant and biologists, was supported by
substantial evidence.

10
11 ¹⁵ / On the other hand, the RWQCB as a responsible agency had the authority to file a timely
12 petition for writ of mandate to set aside the City's EIR if it believed the EIR to be inadequate.
13 (CEQA Guidelines, § 15096, subd. (e).) The RWQCB did not do so here. More fundamentally,
14 however, it had no need to do so because under its own regulatory powers, the RWQCB retains
15 the separate and independent authority to impose mitigation requirements it deems are feasible and
16 necessary to lessen or avoid the Project's significant biological impacts falling within its
17 jurisdiction as conditions for issuing the required 401 Certification to fill the ditch. (AR 448-450,
18 3476; CEQA Guidelines, §§ 15041, subd. (b), 15042, 15096, subd. (g); *Sierra Club v. California*
19 *Coastal Commission* (2005) 35 Cal.4th 839, 860.) For this reason, Petitioner's suggestion that the
20 RWQCB concluded that the Project would necessarily violate water quality standards is wrong
21 (OB, p. 22.) More accurately, RWQCB merely stated that the Project would violate water quality
22 standards *if it failed to satisfy the USACE's and the RWQCB's regulatory programs.* (AR 2323-
23 2324.) But as discussed below, the Project's mandatory mitigation measures require full
24 compliance with all federal and state regulatory requirements to obtain the necessary permits.

24 Following the RWQCB's subsequent letter dated February 11, 2008, reiterating its opinion
25 that the ditch provides riparian habitat (AR 11467-11468), the City was presented with yet more
26 information supporting the Final EIR's conclusion that the ditch contains no "riparian habitat."
27 (AR 11492-11495.) During the hearing before the City Council on February 12, 2008, the City's
28 attorney brought the RWQCB's letter to the Council's attention, but also explained that the City's
biologists had reviewed the exchange of correspondence and maintained their opinion that the

RESPONDENTS' AND REAL PARTIES' JOINT OPPOSITION TO
PETITIONER'S OPENING MEMORANDUM OF POINTS AND AUTHORITIES

1 ditch does not provide riparian habitat. (AR 4982.) The City Council accepted the opinion of its
2 experts. The City's detailed findings in support of its determination provide as follows:

3 Initially, in the Draft EIR, the potential impacts to riparian habitat under Impact
4 BIO-3 were addressed by Mitigation Measure BIO-3 ... [¶] ... This mitigation
5 measure was designed to mitigate for impacts ... riparian habitat. However,
6 biological evaluations of the ditch performed after the release and circulation of
7 the Draft EIR indicate that the ditch's vegetation is of low quality and does not
8 meet the criteria for 'riparian habitat.' Therefore, it has been determined that the
Draft EIR erroneously characterized the ditch as containing 'riparian habitat' in
Impact BIO-3. Accordingly, the text of Impact BIO-3 has been corrected to
eliminate references to impacts to riparian habitat and Mitigation Measure BIO-3
has been eliminated ...

The public was not made aware of the RWQCB February 11, 2008 letter when passing the EIR. The City's Attorney only made a passing comment on the record to the City Council about it.

It was fair to say from his comment that the City Council did not know about it.

1 (AR 11467-11468.) In response to the RWQCB's concerns, counsel for the City again testified that:

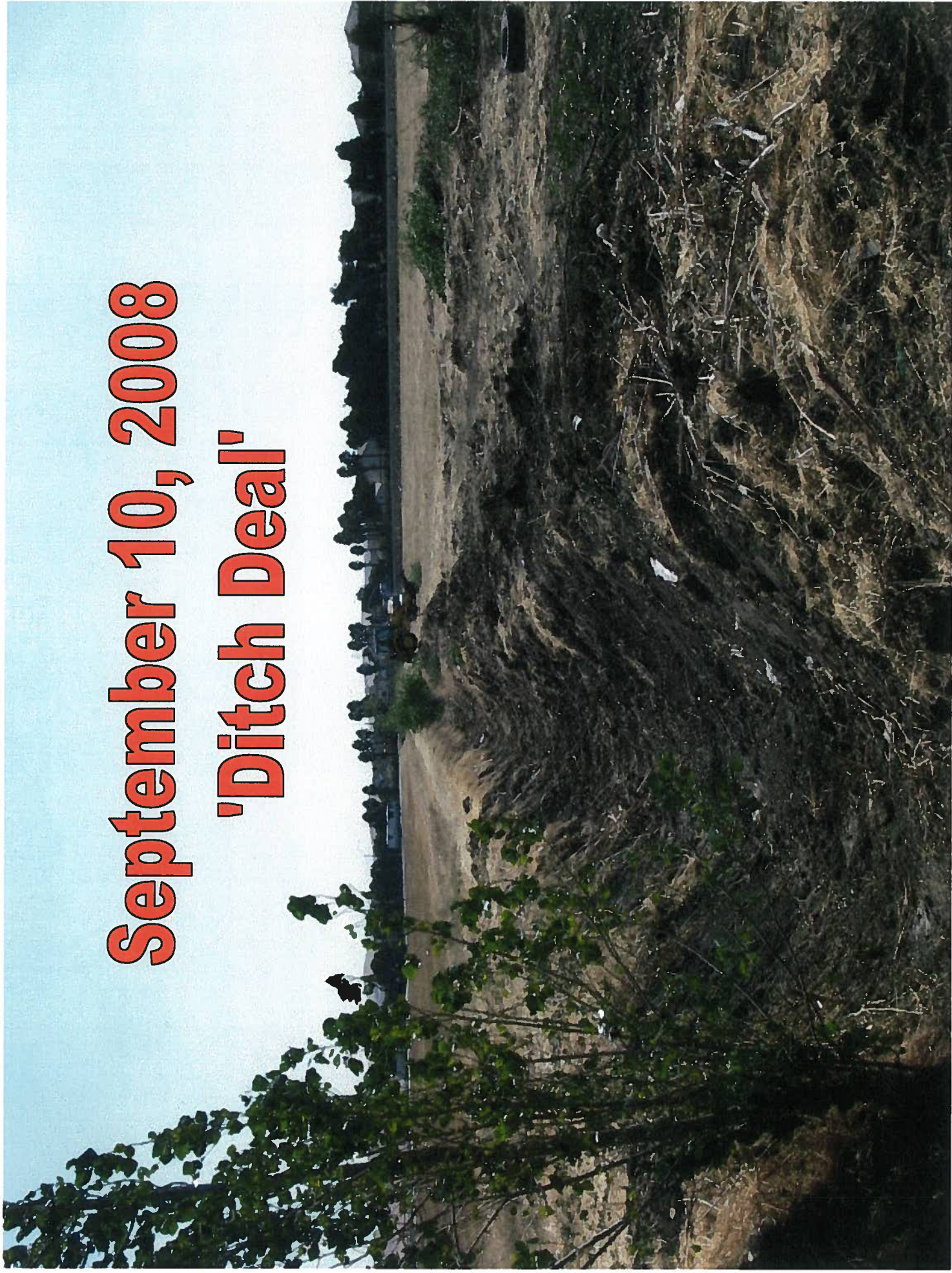
2 I just wanted to . . . let you know that we're aware of this regional board letter, and we're
3 in general agreement that the issues raised can and should be worked out with the
4 regional board, but there are no CEQA issues of concern to the city at this time.

5 (AR 4982.) The Counsel's response is a *non sequitur*. The RWQCB is a responsible agency under
6 CEQA. (CEQA Guidelines, § 15381.) As a responsible agency the RWQCB must rely upon the City's
7 environmental review when making its own separate determinations and findings about the proposed
8 project. (Pub. Resources Code, § 21080.1; CEQA Guidelines, § 15050; *Balman v. Department of*

9 *Transportation* (1979) 99 Cal.App.3d 665, 678.) A responsible agency has a narrower charge than the
10 lead agency under CEQA, which is to consider only those aspects of the proposed project that are
subject to the responsible agency's jurisdiction. (Pub. Resources Code, §§ 21104, 21153, subd. (c),

- Wal-Mart set its last alternate plan to the RWQCB dated September 5, 2008.
- September 10, 2008 the City with Wal-Mart's blessing cleared the creek of all riparian habitat.
- This action of clearing the creek cements any further future experts finding riparian habitat.
- Now the issue becomes their biologist experts word against the RWQCB's experts.
- The City being a NPDES permittee knows the permit processes for storm water management and who to call before removing plants from Creeks.
- December 2007 the City needed permits for McCoy Creek to clean out plants.

September 10, 2008
'Ditch Deal'



In the final EIR the City and Wal-Mart agreed on these conditions.

Page 4.3-28, Mitigation Measure BIO-2a

The text of the mitigation measure has been modified to include additional requirements recommended by the California Department of Fish and Game.

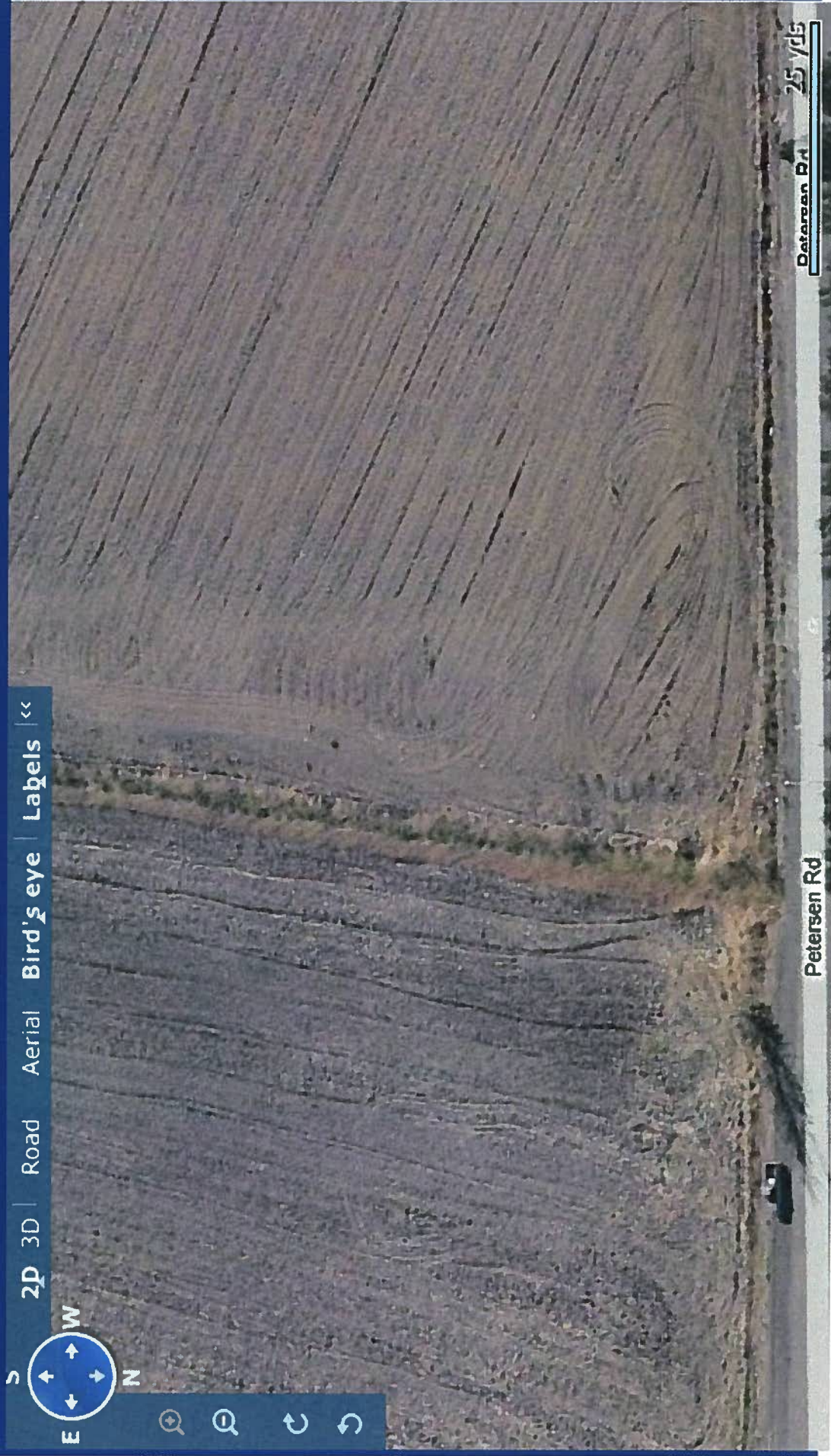
MM BIO-2a No more than 15 days prior ~~Prior~~ to any site-disturbing activities, including grading or woody vegetation and tree removal, the applicant will retain a qualified wildlife biologist to conduct a nesting bird surveys survey to determine if nests are active or occupied onsite. The surveys shall be conducted a minimum of three separate days during the 15 days prior to disturbance. Any active nests observed onsite will be avoided until after the nestlings have fledged and left the nest. If avoidance is not feasible, then a biological monitor will be present if construction activities occur during the nesting season. Construction activity within the vicinity of the active nests may only be conducted at the discretion of the biological monitor. If construction activity will likely result in nest failure, the applicant will consult with CDFG and/or USFWS to determine what mitigation or permitting is required. An MBTA Special Purpose Permit will be required if occupied nests will be impacted.

Did they get a Wildlife biologist?

- At the September 16, 2008 City Council meeting the subject of the Creek cleaning was brought up for the public record. At first it was denied and then corrected.
- A Public Works maintenance crew needed work and decided to clean the creek, so they did.
- This was their response to me for bringing it up.

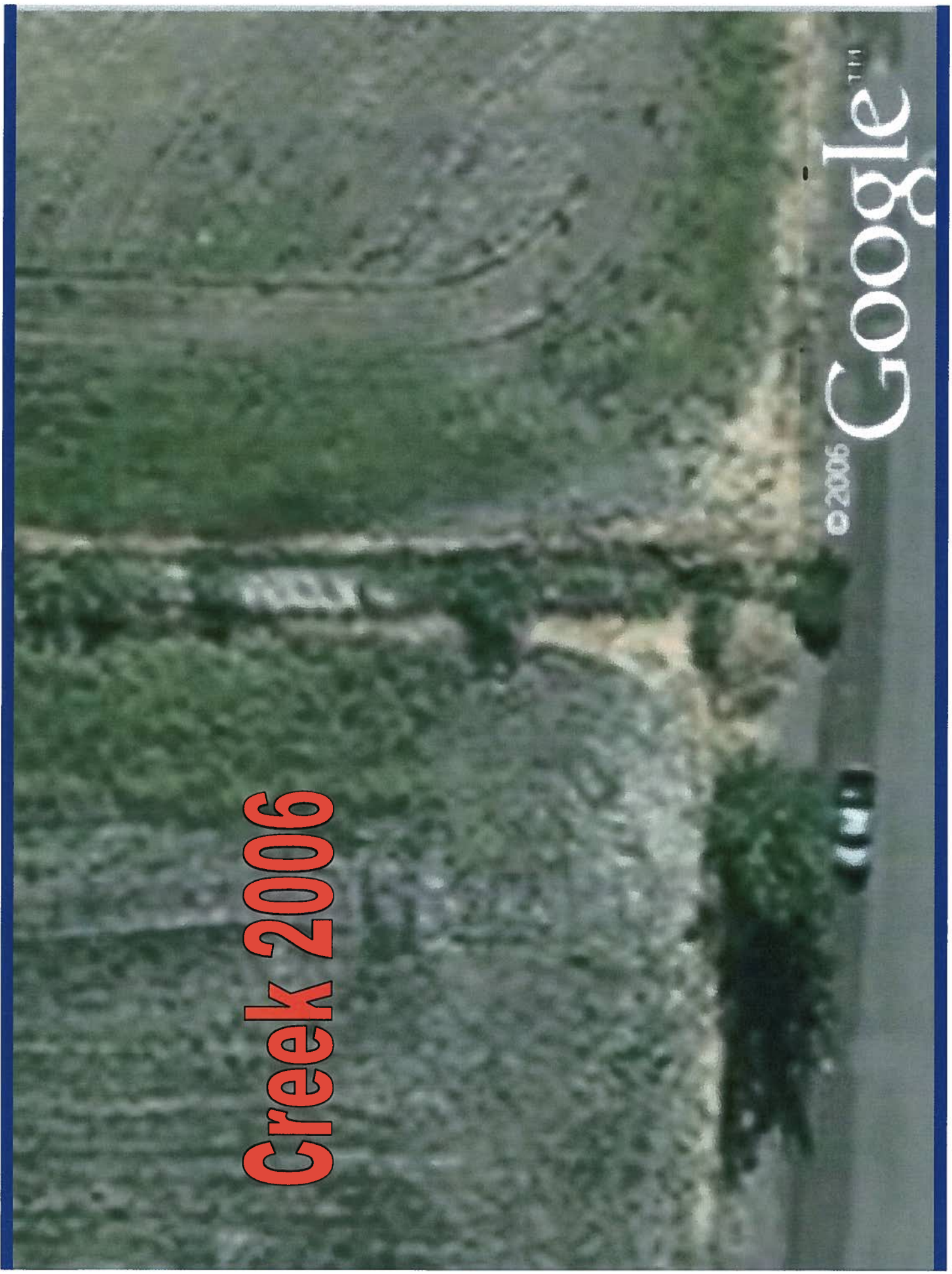
- Anthony,
- This is a brief follow-up to our phone conversation this afternoon. I spoke again with Jeff, our Public Works Superintendent. He is in charge of all field maintenance work for the City of Suisun. I asked him about the work that has been done on the Wal-Mart lot. I also queried others in the office. Here is what I found out.
- The mowing of the field that we all observed within the last month or so was not done by City staff nor was it done by contractors on contract with the City.
- The cleaning of the ditch was done by City staff members that used a backhoe to remove debris, etc., from the bottom of the ditch.
- The ditch is part of the storm drain system of the City. It conveys overflow from the housing subdivision to the north down to Highway 12 where Caltrans in turn has a storm drain system that conveys the water to the slough.
- The work is done under the citywide permit used by the Public Works staff to clean all of our drainage ditches. If we do not do this type of routine maintenance, then it puts the city in danger of localized flooding. In short, cleaning of that ditch is a routine Public Works chore done annually for the benefit of the entire City.
- If you have any additional questions or if I can help clarify any of this, please let me know.
- Daniel A. Kasperson
- Building Official/Fire Marshal
- City of Suisun City 701 Civic Center Blvd
- Suisun City, CA 707-421-7316

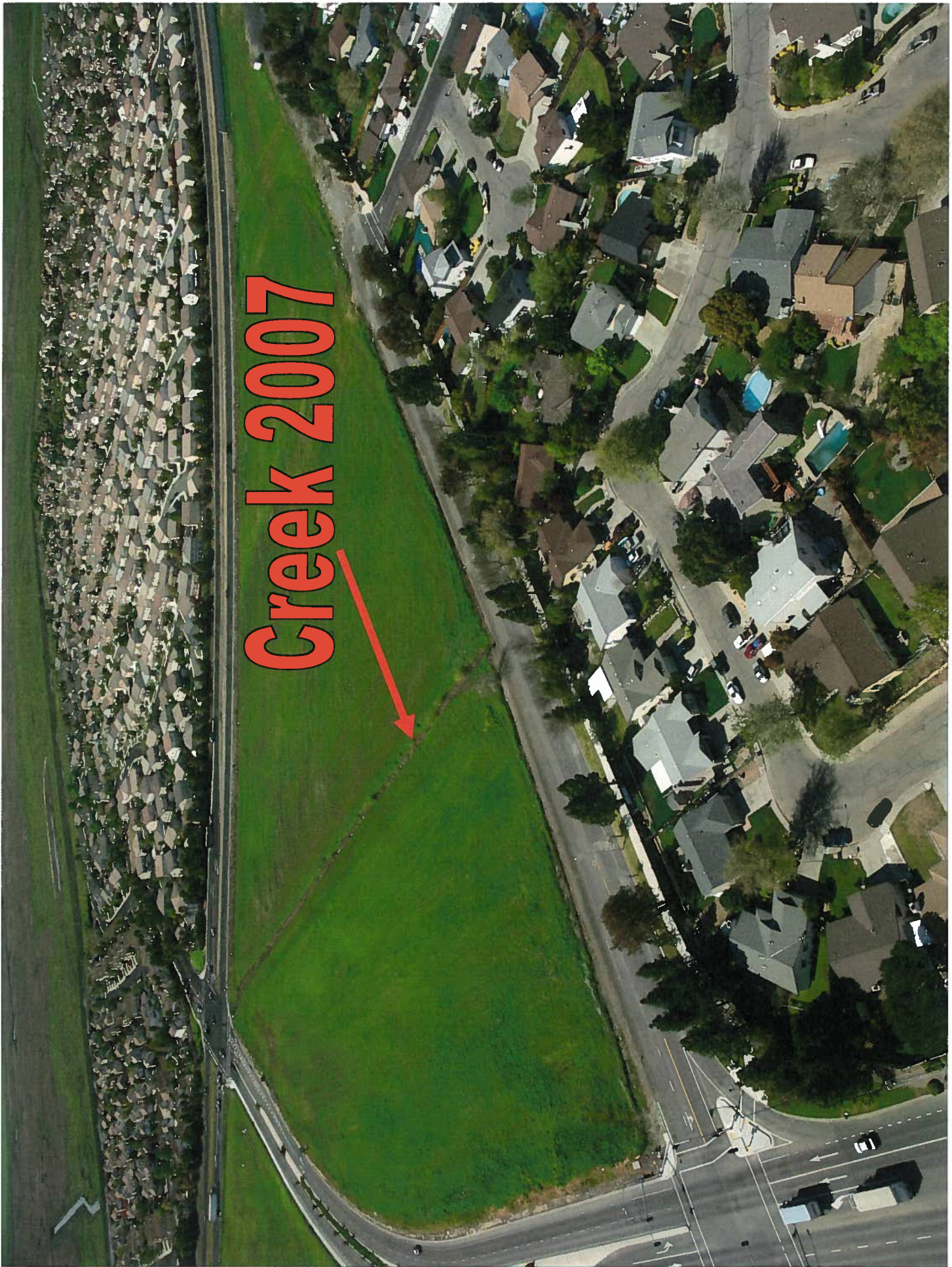
Aerial view of Creek 2004



Creek 2006

© 2006 Google™





Creek 2007

WAL-MART PROPERTY

CREEK 2007

- This creek had not been cleared in years.
- Residents have not seen it cleaned in over 10 years.
- Yet the City continues to put on a smoke and mirror show in our opinion.



Photograph A - View of onsite drainage, from the south



Photograph B - View of the onsite drainage channel, from the north

Source: Michael Brennan Associates, 2007



Michael Brennan Associates

300-4001 • 05-2007 | E_onsite_drainage_feature.cdr

Exhibit 6 Onsite Drainage Feature

CITY OF SUISUN CITY • WAL-MART SUPERCENTER EIR
HYDROLOGIC & HYDRAULIC ANALYSIS

The City has been silent and not openly communicating its involvement with the applicant's projects permit issues.

- RWQCB had to call about the cleaning of the creek and the grading stakes.
- It took a Public Records request to get the letter that was shared between the ACOE, DFG, Wal-Mart, and the City.
- City willing to falsify their maintenance record to help Wal-Mart on the 'Ditch Deal'.
- The City has collected \$755,000 as of March 2008 from Wal-Mart to pay for the processing material and legal fees to put the project on the property. In March the City asked for \$150,000 more for legal fees.

The City has shown a partnership relationship with the Applicant.

- The City wants the sales tax revenue from the applicant.
- Can they as the local NPDES permittee authority be unbiased when they benefit from the applicant?
- Have they so far shown any biased toward the applicant and not the State Authority?

Item


15

From: "Bill Hurley" <WHurley@waterboards.ca.gov>
Subject: **Walters Road West Development Project - Water Quality Certification Denial**

Date: November 19, 2008 7:21:48 PM PST

To: <pgtucker@calhcn.org>, <archerone@comcast.net>, <wmonger@comcast.net>, <SBrunson@dfg.ca.gov>, <smith.davidw@epa.gov>, <Michelle_Tovar@fws.gov>, <georgejr@hotmail.com>, <Jeff@olberdingenv.com>, <hansonra@sbcglobal.net>, <efoleygannon@sheppardmullin.com>, <hmccollister@suisun.com>, <egarber@ufcw5.org>, <Jane.M.Hicks@usace.army.mil>, <mark.r.d'avignon@usace.army.mil>, <peter.s.straub@usace.army.mil>, "Bill Orme" <BOrme@waterboards.ca.gov>

Cc: "Jolanta Uchman" <JUchman@waterboards.ca.gov>

 1 Attachment, 93.0 KB

**** High Priority ****

Attached is a copy of the Regional Water Board's Denial of CWA Section 401 Water Quality Certification for the proposed Walters Road West Development Project, City of Suisun, Solano County. Water Quality Certification is denied without prejudice for the reasons stated in the correspondence.

If you have any questions please contact me or Jolanta Uchman of Board staff.

Sincerely,
Bill Hurley

William B. Hurley, PE
Section Leader
North Bay Watershed Division
Regional Water Quality Control Board
San Francisco Bay Region



[Suisun Wal-....pdf \(93.0 KB\)](#)

Item

16

From: Anthony Moscarelli <archerone@comcast.net>
Subject:
Date: December 18, 2008 2:11:44 PM PST
To: Bill Hurley <Whurley@waterboards.ca.gov>
Cc: Jolanta Uchman <juchman@waterboards.ca.gov>, Shin-Roei Lee <srlee@waterboards.ca.gov>, Phil Tucker <pgtucker@aol.com>
📎 3 Attachments, 3.6 MB

Bill,

One of my concerns that I brought up at our meeting was the City's lack of funds to maintain/monitor the Wal-Mart project. I found the same issue was sent to your office in February 2008 by the City of Suisun City. I find it interesting that they ask for a way to streamline the Storm water permit process citing cost concerns. (See attached PDF) It is interesting because it corresponds to their passing of the EIR for the Wal-Mart project two weeks before. I am also sending you a picture of the trash and debris that has piled up at the storm water drain for the project. This was taken November 6, 2008. Why was this not cleaned before the Creek in September? Of course the City tells everyone that they clean all storm drains once a year. You will notice that they use in their letter that the Regulations will cost the Public because of lack of funds by the City.

Anthony Moscarelli





Item

17



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300, Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold
Schwarzenegger
Governor

Date: December 23, 2008
Site No. 02-48-C0394 (JGU)
CIWQS Place No. 722750
Corps File No. 2006-303520N

**Certified Mail No.
Return Receipt Requested**

City of Suisun
Public Works Department
701 Civic Center Blvd.
Suisun City, CA 94585
Attn: Mr. Daniel Kasperson
dkasperson@suisun.com

**SUBJECT: Notice of Violation and Requirement for Technical Reports Regarding the
Channel Clearing at Walters Road West, City of Suisun, Solano County**

Dear Mr. Kasperson:

Water Board staff has received information from a citizen regarding the City of Suisun's recent channel maintenance activities conducted at the Walters Road West property in September 2008. The City's crew reportedly excavated and removed vegetation growing within the on-site channel. The clearing was performed using heavy equipment that also disturbed the soil along the channel bed and banks. Photographs indicate that there were no erosion or sediment control measures implemented during or after the clearing activities even though the clearing took place at the beginning of the rainy season (Attachment1).

California Water Code (CWC) § 13260 requires that any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Water Board a report of the discharge. Our records indicate that we did not received a Report of Waste Discharge for the Walters Road West property, and that the Water Board did not authorize this channel clearing activity. Under CWC § 13264, no person shall initiate any new discharge of waste prior to the filing of the report required by CWC § 13260.

Accordingly, by failing to submit a Report of Waste Discharge for the channel clearing activities, the City of Suisun has violated CWC § 13260 and § 13264.

Pursuant to CWC § 13267, the City is hereby formally required to submit technical reports providing the following information:

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

City of Suisun, Public Works Dept.
NOV Walters Rd W Project Site
Site No. 02-48-C0394
Mr. Daniel Kasperon

- 2 -

1) No later than January 16, 2009, the City shall submit a technical report, acceptable to the Water Board Executive Officer, providing the following:

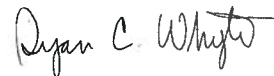
- A narrative description of the channel clearing activities, including a discussion of any erosion and sediment control activities that may have been implemented during and/or after the clearing activities;
- A history of past vegetation clearing activities along this channel by the City and/or any other entities; and,
- Photographic and narrative documentation that the channel has been stabilized with appropriate and effective erosion and sediment control measures.

2) No later than January 23, 2009, the City shall submit a technical report, acceptable to the Water Board Executive Officer, providing a workplan proposal to provide mitigation habitat to compensate for the lost habitat acreage and values associated with the channel clearing activities.

This is a formal requirement for technical reports pursuant to CWC § 13267, which allows the Water Board to require technical reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. Attached to this correspondence is a copy of the CWC § 13267 Fact Sheet (Attachment 2). Any extension in the above deadline must be confirmed in writing by Board staff. Failure to respond, late or inadequate response, or falsification of such technical reports is subject to civil liability imposed by the Board in accordance with CWC § 13268.

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to JUchman@waterboards.ca.gov.

Sincerely,



Dyan Whyte
Assistant Executive Officer

Bruce H. Wolfe
Executive Officer

Attachments: 1) Photographs of the Channel
2) CWC §13267 Fact Sheet

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

City of Suisun, Public Works Dept.
NOV Walters Rd W Project Site
Site No. 02-48-C0394
Mr. Daniel Kasperson

- 3 -

Cc: SWRCB-DWQ, Bill Orme borne@waterboards.ca.gov
U.S. EPA, David Smith, WTR-8 smith.davidw@epa.gov
ACOE, SF Regulatory Branch,
Peter Straub peter.s.straub@usace.army.mil
Mark D'Avignon mark.r.d'avignon@usace.army.mil
Jane Hicks jane.m.hicks@usace.army.mil
Michelle Tovar Michelle_Tovar@fws.gov
Sandy Brunson SBrunson@dfg.ca.gov
Ella Foley-Gannon efoleygannon@sheppardmullin.com
Jeff Olberding Jeff@olberdingenv.com
Heather McCollister hmccollister@suisun.com
Anthony Moscarelli archerone@comcast.net
Phil Tucker pgtucker@aol.com
Beth Garber egarber@ufcw5.org
George Guynn, Jr. georgejr@hotmail.com
Wayne Monger wmonger@comcast.net

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

Channel looking South 1/23/08



Channel looking South 1/23/08



Channel Excavation 9/10/08



Channel looking South 11/24/08



Item

18

From: Anthony Moscarelli <archerone@comcast.net>
Subject: Fwd: NOV City of Suisun Walters Rd W Site
Date: December 24, 2008 12:47:34 PM PST
To: Jolanta Uchman <juchman@waterboards.ca.gov>, Bill Hurley <whurley@waterboards.ca.gov>, Shin-Roei Lee <srlee@waterboards.ca.gov>
Cc: Phil Tucker <pgtucker@aol.com>, "Wayne Monger <wmonger@comcast.net" <wmonger@comcast.net>, george guynnjr <georgejr@hotmail.com>, Beth Garber <egarber@ufcw5.org>

Jolanta,

Please investigate the dating of the Creek. The concrete Culvert over the creek is date stamped 1955 when it was built to span it. That was 20 years before there was a subdivision of the surrounding property. Long time witness of the area Sally Green remembers it when she was a little girl when she was questioned for a 2008 affidavit. I investigated the surrounding property ownership history back 100 years at the Solano County Records Office. They were owned and zoned as farmland/agricultural during that time before the City of Suisun City annexed it from the County in 1970's. County maps on microfilm that I looked at did not show any Northern connecting subdivisions dated before 1955.

Also the property that the creek is on did not show any agreements recorded in the past with the City of Suisun City to maintain the creek. I sent you the email about the City in negotiation with Wal-Mart in May 2008 for Ditch maintenance on that property. They stated that the ditch maintenance permit would be their Public Works deal. As per their maintaining the creek they were told that they needed a permit from your agency by the Department of Fish and Game before clearing it. Also as I provided, the EIR requirement that they also needed a Wildlife Biologist 15 days before any ground disturbance to the creek.

Anthony Moscarelli

Begin forwarded message:

From: "Daniel A. Kasperson" <dan@suisun.com>

Date: December 24, 2008 10:47:40 AM PST
To: "Jolanta Uchman" <JUchman@waterboards.ca.gov>
Cc: <[Phil Tucker <pgtucker@aol.com>](mailto:pgtucker@aol.com)>, "Anthony Moscarelli" <archerone@comcast.net>, <[Wayne Monger <wmonger@comcast.net>](mailto:wmonger@comcast.net)>, "Peter Straub" <peter.s.straub@usace.army.mil>, "Bill Orme" <BOrme@waterboards.ca.gov>, <SBrunson@dfg.ca.gov>, <smith.davidw@epa.gov>, "Michelle Tovar" <Michelle_Tovar@fws.gov>, <[George Guynn Jr.<georgejr@hotmail.com>](mailto:George_Guynn_Jr.@hotmail.com)>, <Jeff@olberdingenv.com>, <[Ella Foley-Gannon <efoleygannon@sheppardmullin.com>](mailto:Ella_Foley-Gannon@sheppardmullin.com)>, "Heather McCollister" <hmcollister@suisun.com>, <egarber@ufcw5.org>, "Jane Hicks" <jane.m.hicks@usace.army.mil>, <Mark.R.D'Avignon@usace.army.mil>, "Lee Evans" <levans@suisun.com>, "Ronald C. Anderson" <randerson@suisun.com>
Subject: RE: NOV City of Suisun Walters Rd W Site

Jolanta,

I have received a copy of the letter dated December 23, 2008 and signed by Dyan Whyte and Bruce Wolfe. The letter was addressed to me and included my email address, but it did not come to me directly. I was provided a copy by others.

The City of Suisun City takes water quality issues very seriously. Our very identity is connected to our water front. Thank you for bringing this issue to our attention. The drainage ditch that is referenced was constructed many years ago when the subdivision to the north was constructed. For many years our Public Works Maintenance staff has been keeping this part of our drainage system operational. I'm sure that they were under the understanding that they were doing this in compliance with other active permits. If our understanding is incorrect or rules have changed we remain committed to comply with all necessary regulations.

I have asked Lee Evans, Suisun City Associate Engineer, to handle the

City's response to the Board's letter. After the holidays he will begin to work to put together the requested technical reports.

Thank you again for bringing this to our attention,
Dan

Daniel A. Kasperson
Building Official/Fire Marshal
Acting Public Works Director, Engineering
City of Suisun City
701 Civic Center Blvd
Suisun City, CA
707-421-7316
dan@suisun.com

-----Original Message-----

From: Jolanta Uchman [<mailto:JUchman@waterboards.ca.gov>]
Sent: Tuesday, December 23, 2008 3:03 PM
To: Phil Tucker <pgtucker@aol.com>; Anthony Moscarelli; Wayne Monger <wmonger@comcast.net>; SBrunson@dfg.ca.gov; smith.davidw@epa.gov;
Michelle Tovar; George Guynn Jr.<georgejr@hotmail.com>; Jeff@olberdingenv.com; Ella Foley-Gannon <efoleygannon@sheppardmullin.com>; Heather McCollister; egarber@ufcw5.org; Jane Hicks; Mark.R.D'Avignon@usace.army.mil;
Peter Straub; Bill Orme
Subject: NOV City of Suisun Walters Rd W Site

Attached is the Notice of Violation dated December 23, 2008, issued to the City of Suisun. Please contact Jolanta Uchman via email or at 510/622-2432 if you have questions regarding the correspondence.

Item

19

From: Anthony Moscarelli <archerone@comcast.net>
Subject: **U.S. Geological Survey Aerials 1974**
Date: December 29, 2008 1:40:33 PM PST
To: Jolanta Uchman <juchman@waterboards.ca.gov>, Bill Hurley <whurley@waterboards.ca.gov>, Shin-Roei Lee <srlee@waterboards.ca.gov>
Cc: Phil Tucker <pgtucker@aol.com>
📎 1 Attachment, 278 KB [Save](#) [Slideshow](#)


Jolanta,

I found a 1974 aerial photo on the USGS website. It was taken in July 1974. This was before any subdivision or annexation by the City of Suisun City. You can see the dark areas of the Creek's vegetation because it is summer and everything without water is light brown. This shows that the City did not dig the creek for the 1977 subdivision in the North and the Creek was on County property until 1987. Higher quality pictures are available for a fee from the USGS.

Anthony Moscarelli





From: Anthony Moscarelli <archerone@comcast.net>
Subject: Letter concerning Channel clearing
Date: January 21, 2009 2:58:53 PM PST
To: Jolanta Uchman <juchman@waterboards.ca.gov>
 1 Attachment, 3.9 MB

Jolanta,

I am sending you my letter to you in PDF form concerning the Channel clearing.

Anthony Moscarelli



[Anthony Mo...i.pdf \(3.9 MB\)](#)

Anthony Moscarelli
1205 Pheasant Drive
Suisun City, CA 94585
707-427-8509

January 21, 2009

Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Jolanta,

A few members of our Citizens group 'Save Our Suisun' contacted me on September 10, 2008. They called about the channel vegetation at the Walters West Wal-Mart project site being dug out by a backhoe that was owned by the City of Suisun. I drove there and took some pictures. I also watched for a while. I watched the operator of the backhoe clearing all vegetation from the channel. I watched as the backhoe scraped the earth under the base of the plants and dig them out completely. I saw the backhoe tear down a tree that was growing on the side slope of the bank. I took pictures of the backhoe pulling the tree with its bucket towards the operator. The backhoe operator used the backhoe to break up the upper part of the tree before completely digging it out. I saw another man walking the bank top. I never saw that man in the channel at all. I never saw him cutting anything. I watched him separating the green vegetation from the piles of loose earth dug out by the backhoe. The pictures included show the earth piles and the separated vegetation. The tree in the forefront of the picture was removed when I came back.

I was shocked to see this happen. Anna Holmes of the Department of Fish and Game told me that the recent 2008 updated Permit that was given for the channel on that property was conditional. She said that it was conditional on them getting a permit from your agency. I was also concerned about the CEQA lawsuit that was on going with that channel being in litigation with the City. In the



completed signed Environmental Impact Report the City of Suisun City stated that they would bring in a Wildlife Biologist to inspect the channel three times within 15 days of any ground disturbances. This was to satisfy the Department of Fish and Game habitat concerns. Daniel A. Kasperson of the City, who was the person in charge at the time of the channel clearing, was not aware that it had been done. He denied that the City did it during Public Comments Period at the City Council meeting on September 16, 2008. He corrected that statement later at the same meeting after he was told that the City crew did do it. He stated he was not aware of it and it was cleaned it out because the ground crew needed work to do on those days. All this is part of the Public Record at the City of Suisun City. The City has not shown to this date that a Wildlife Biologist was contacted as per the EIR. I have included that part of the EIR

A handwritten signature in blue ink, reading "Anthony Moscarelli". The signature is written in a cursive style with a large initial "A" and "M".

Anthony Moscarelli

Item

21

From: "Jolanta Uchman" <JUchman@waterboards.ca.gov>
Subject: **City of Suisun Response**
Date: January 21, 2009 2:51:55 PM PST
To: <Anthony Moscarelli <archerone@comcast.net>
 1 Attachment, 3.3 MB 

Mr. Moscarelli,

Attached is the letter from the City of Suisun w/attachments regarding the Notice of Violation issued by the Water Board in December 2008.

Regards,

Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612
510/622-2432



[Susiun Ltr Re....pdf \(3.3 MB\)](#)

CITY COUNCIL

Pedro "Pete" M. Sanchez, Mayor
Jane Day, Mayor Pro-Tem
Sam Derting
Michael J. Hudson
Michael A. Segala



CITY COUNCIL MEETING

First and Third Tuesday
Every Month

CITY OF SUISUN CITY

701 Civic Center Blvd.
Suisun City, California 94585

Incorporated October 9, 1868

January 12, 2009

California Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612
Attn: Dyan C. Whyte
Assistant Executive Officer

**SUBJECT: TECHNICAL REPORT Regarding Site No. 02-48-C0394 (JGU)
Drainage Ditch clearing at Walters Road West, City of Suisun City, Solano County**

Dear Dyan Whyte:

This Technical Report is being submitted in response to your formal request that the City submit technical reports regarding the Best Management Practices (BMPs) used by the Public Works Department of the City of Suisun City in performing the Annual Routine Maintenance of clearing drainage ditches and maintenance operations at the location referred in your letter as Site No. 02-48-C0394 (JGU).

The City's regular Drainage Channel maintenance operations throughout the City are performed between the dates of May 1 to October 15 of each year under the Department of Fish and Game Permit Notification Number: 1600-2007-0004-3, 1602 Lake and Streambed Alteration Agreement, Routine Maintenance. As required by this permit, this work is performed during this time to protect water quality prior to the rainy season.

The channel referenced in your letter was cleared on the week of September 8 through the 12, 2008, by Public Works crews. No water flow was present during channel clearing operations, so no water flow diversion was warranted. No erosion or sediment controls were warranted due to the lack of water flow and no water was discharged or allowed to reenter State Water.

As stated above the City was performing this work under the Department of Fish and Game Permit. A copy of the permit is attached that includes in part a map that clearly shows that the channel in question is included in that permit. In brief summary this permit authorized the City to perform activities including clearing of debris from existing culverts, minor vegetation removal, debris removal in streams sufficient to restore water

DEPARTMENTS: AREA CODE (707)

ADMINISTRATION 421-7300 ■ PLANNING 421-7335 ■ BUILDING 421-7310 ■ FINANCE 421-7320
FIRE 425-9133 ■ RECREATION & COMMUNITY SERVICES 421-7200 ■ POLICE 421-7373 ■ PUBLIC WORKS 421-7340
REDEVELOPMENT AGENCY 421-7309 FAX 421-7366

flow, bank stabilization and erosion control using bio-engineered techniques, and removal of hazardous man-made beds.

The City neither proposed to discharge waste (solid or liquid) nor discharged waste, within any region that could affect the quality of the waters of the State. The City has not violated any of the CWC sections cited in your letter of December 23, 2008.

All vegetation removed from the drainage channel was rubbish debris, silt, woody bramble, herbaceous plants, fallen trees, or trunks or limbs lodged in the bed or bank causing flow restriction of this drainage channel.

No heavy equipment was operated in the stream or channel bed. All routine maintenance was performed with equipment from top of bank. Flow restricting vegetation was removed by being cutoff in place with small hand tools and removed with equipment from top of bank. This debris was then loaded on to a truck to be off hauled and disposed of at a place where it could not reenter State waters. Debris was hauled to the local Potrero Hills landfill service center. All operations performed were done in a manner to protect water quality and maintain watercourses.

This drainage ditch area was constructed well over 10 years ago as part of a project to develop the housing subdivision directly to the north and has had routine maintenance for at least the last ten years by staff members of the Suisun City Public Works to maintain drainage flows and control flooding in the City of Suisun City. (Please see the attached drainage Channel Maintenance Map.) All other activities on this property have been performed by the property owner. The owner's work typically includes fire abatement disking or tilling.

The City takes pride in the manner that it performs Drainage Channel Maintenance and other work within the City of Suisun City. At all times the City employs BMPs to protect watercourses in natural stream channels and comply with State requirements. The City reports all urban runoff and debris maintenance removal to the Fairfield Suisun Sewer District, which files our monthly and annual reports to maintain compliance with all required state regulations.

The photos included in your letter of December 23, 2008, were taken of our crew performing work with equipment from top of bank, which is in compliance with our permit requirements. The land adjacent to the channel had been tilled in July or August by the owner's personnel, so the photos may mislead one into concluding that the City's crews had disturbed more area than it did.

The photos attached to our letter, taken on December 29, 2008, show the channel free of debris and free flowing. The photos of the channel were taken facing north and south. Grass has grown on the bottom, sides and banks of both sides of the drainage ditch. Grass has even grown back in the areas adjacent to the ditch.

In summary the City performed this routine maintenance work in compliance with proper BMPs and in compliance with a valid Department of Fish and Game permit. We understand that this property is now the site of a proposed Wal-Mart store. If and when that Wal-Mart project is begun, the Suisun City Public Works Department will monitor that project and make sure that it complies with all future permitting requirements and City conditions of approval. Until that happens the City will be operating under the requirements of the current permits. If you have any further questions, please contact Lee Evans of my staff at (707) 421-7343.

Sincerely,



Daniel Kasperson
Acting Director of Public Works Department

cc Jolata Uchman, CEWQCB
Suzanne Bragdon, City Manager
Ronald C. Anderson, Jr., Assistant City Manager
Heather McCollister, Community Development Director
Mick Jessop, Acting Public Works Director – Maintenance

Attachments:

1. CRWQCB letter dated December 23, 2008 to Dan Kasperson with attachments.
2. Dept of Fish & Game, 1602 Lake & Streambed Alteration Agreement.
3. Photos of cleaned channel.

January 12, 2009
Response Letter to CRQWCB

CRWQCB letter dated December 23, 2008 to
Dan Kasperson with attachments



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300, Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold
Schwarzenegger
Governor

Date: December 23, 2008
Site No. 02-48-C0394 (JGU)
CIWQS Place No. 722750
Corps File No. 2006-303520N

**Certified Mail No.
Return Receipt Requested**

City of Suisun
Public Works Department
701 Civic Center Blvd.
Suisun City, CA 94585
Attn: Mr. Daniel Kasperson
dkasperson@suisun.com

SUBJECT: Notice of Violation and Requirement for Technical Reports Regarding the Channel Clearing at Walters Road West, City of Suisun, Solano County

Dear Mr. Kasperson:

Water Board staff has received information from a citizen regarding the City of Suisun's recent channel maintenance activities conducted at the Walters Road West property in September 2008. The City's crew reportedly excavated and removed vegetation growing within the on-site channel. The clearing was performed using heavy equipment that also disturbed the soil along the channel bed and banks. Photographs indicate that there were no erosion or sediment control measures implemented during or after the clearing activities even though the clearing took place at the beginning of the rainy season (Attachment 1).

California Water Code (CWC) § 13260 requires that any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Water Board a report of the discharge. Our records indicate that we did not receive a Report of Waste Discharge for the Walters Road West property, and that the Water Board did not authorize this channel clearing activity. Under CWC § 13264, no person shall initiate any new discharge of waste prior to the filing of the report required by CWC § 13260.

Accordingly, by failing to submit a Report of Waste Discharge for the channel clearing activities, the City of Suisun has violated CWC § 13260 and § 13264.

Pursuant to CWC § 13267, the City is hereby formally required to submit technical reports providing the following information:

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City of Suisun, Public Works Dept.
NOV Walters Rd W Project Site
Site No. 02-48-C0394
Mr. Daniel Kasperson

- 2 -

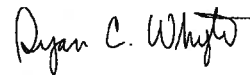
- 1) No later than January 16, 2009, the City shall submit a technical report, acceptable to the Water Board Executive Officer, providing the following:
 - A narrative description of the channel clearing activities, including a discussion of any erosion and sediment control activities that may have been implemented during and/or after the clearing activities;
 - A history of past vegetation clearing activities along this channel by the City and/or any other entities; and,
 - Photographic and narrative documentation that the channel has been stabilized with appropriate and effective erosion and sediment control measures.

- 2) No later than January 23, 2009, the City shall submit a technical report, acceptable to the Water Board Executive Officer, providing a workplan proposal to provide mitigation habitat to compensate for the lost habitat acreage and values associated with the channel clearing activities.

This is a formal requirement for technical reports pursuant to CWC § 13267, which allows the Water Board to require technical reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. Attached to this correspondence is a copy of the CWC § 13267 Fact Sheet (Attachment 2). Any extension in the above deadline must be confirmed in writing by Board staff. Failure to respond, late or inadequate response, or falsification of such technical reports is subject to civil liability imposed by the Board in accordance with CWC § 13268.

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to JUchman@waterboards.ca.gov.

Sincerely,



Dyan Whyte
Assistant Executive Officer

Bruce H. Wolfe
Executive Officer

Attachments: 1) Photographs of the Channel
2) CWC §13267 Fact Sheet

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

City of Suisun, Public Works Dept.
NOV Walters Rd W Project Site
Site No. 02-48-C0394
Mr. Daniel Kasperson

- 3 -

Cc: SWRCB-DWQ, Bill Orme borme@waterboards.ca.gov
U.S. EPA, David Smith, WTR-8 smith.davidw@epa.gov
ACOE, SF Regulatory Branch,
Peter Straub peter.s.straub@usace.army.mil
Mark D'Avignon mark.r.d'avignon@usace.army.mil
Jane Hicks jane.m.hicks@usace.army.mil
Michelle Tovar Michelle_Tovar@fws.gov
Sandy Brunson SBrunson@dfg.ca.gov
Ella Foley-Gannon efoleygannon@sheppardmullin.com
Jeff Olberding Jeff@olberdingenv.com
Heather McCollister hmcollister@suisun.com
Anthony Moscarelli archerone@comcast.net
Phil Tucker pgtucker@aol.com
Beth Garber egarber@ufcw5.org
George Guynn, Jr. georgejr@hotmail.com
Wayne Monger wmonger@comcast.net

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

 Recycled Paper



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

San Francisco Bay Region

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold Schwarzenegger
Governor

Fact Sheet – Requirements For Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the regional water board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the regional water board uses to investigate water quality issues or problems. The information provided can be used by the regional water board to clarify whether a given party has responsibility.

Are there limits to what the regional water board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the regional water board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the regional water board staff will not change the requirement and/or date to comply?

You may ask that the regional water board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the regional water board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board

If I have more questions, whom do I ask?

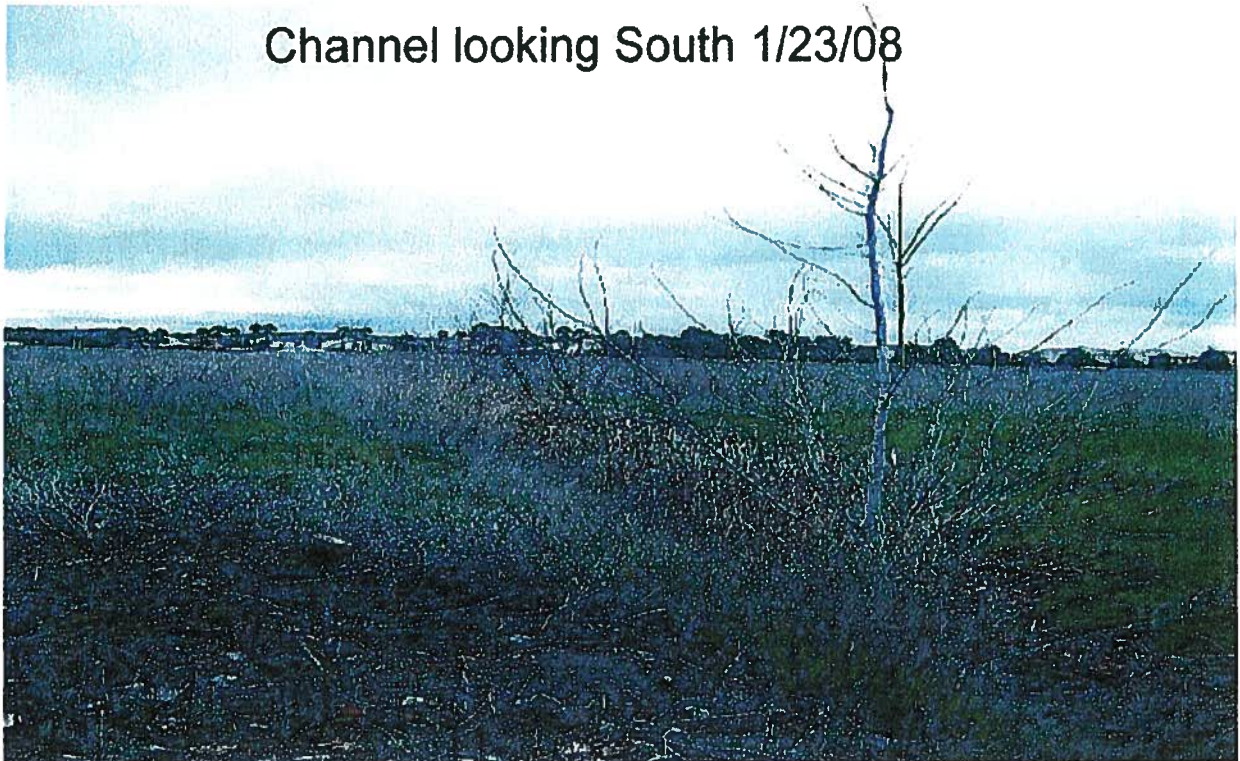
Requirements for technical reports indicate the name, telephone number, and email address of the regional water board staff contact.

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.

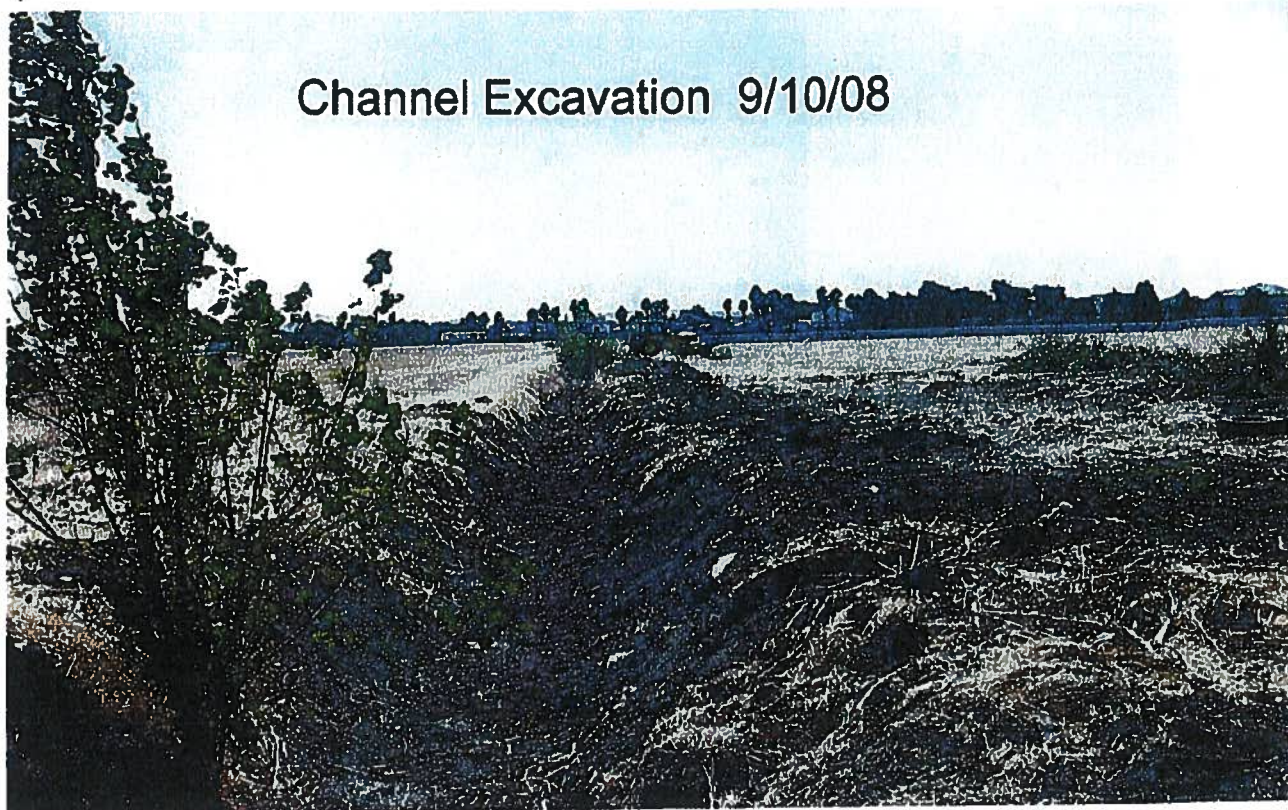
Channel looking South 1/23/08



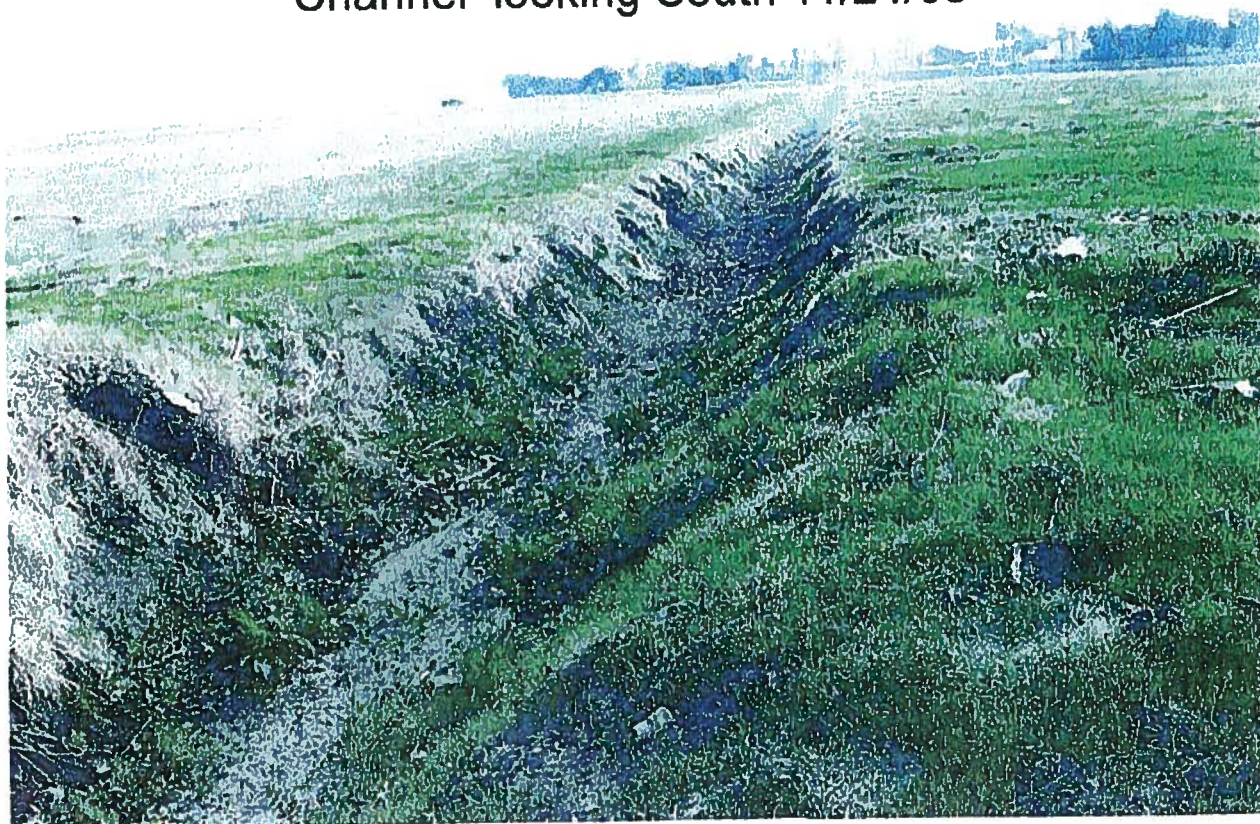
Channel looking South 1/23/08



Channel Excavation 9/10/08



Channel looking South 11/24/08



January 12, 2009
Response Letter to CRQWCB

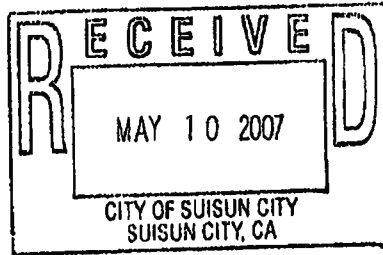
Dept of Fish & Game, 1602 Lake & Streambed Alteration
Agreement

BAY DELTA REGION
(707) 944-5820
Mailing address:
POST OFFICE BOX 47
YOUNTVILLE CALIFORNIA 94599
Street address:
7329 SILVERADO TRAIL
NAPA CALIFORNIA 94658



May 8, 2007

Mr. Lee Braddock Evans
Acting Public Works Director
City of Suisun City
701 Civic Center Boulevard
Suisun City, CA 94585



Notification Number: 1600-2007-0004-3

1602 LAKE AND STREAMBED ALTERATION AGREEMENT Routine Maintenance

This Routine Maintenance Agreement is issued by the Department of Fish and Game pursuant to Division 2, Chapter 6 of the California Fish and Game Code:

WHEREAS, the applicant Lee Braddock Evans/City of Suisun City, hereafter called the Operator, submitted a signed NOTIFICATION proposing to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed or lake of the following waters: various creeks and flood control channels within the city of Suisun City, in the County of Solano, State of California; and

WHEREAS, the Department has determined that such operations may substantially adversely affect existing fish and wildlife resources including water quality, hydrology, aquatic or terrestrial plant or animal species; and

WHEREAS, the project has undergone the appropriate review under the California Environmental Quality Act; and

WHEREAS, the Operator shall undertake the project as proposed in the signed PROJECT DESCRIPTION and PROJECT CONDITIONS (attached). If the Operator changes the project from that described in the PROJECT DESCRIPTION and does not include the PROJECT CONDITIONS, this agreement is no longer valid; and

WHEREAS, the agreement shall expire on December 31, 2011; with the work to occur between April 1 (July 1 for McCoy Creek) and October 15, 2007, 2008, 2009, 2010 and 2011; and

WHEREAS, nothing in this agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of the responsibility for compliance with applicable Federal, State, or local laws or ordinances. Placement, or removal, of any material below the level of ordinary high water may come under the jurisdiction of the U. S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act;

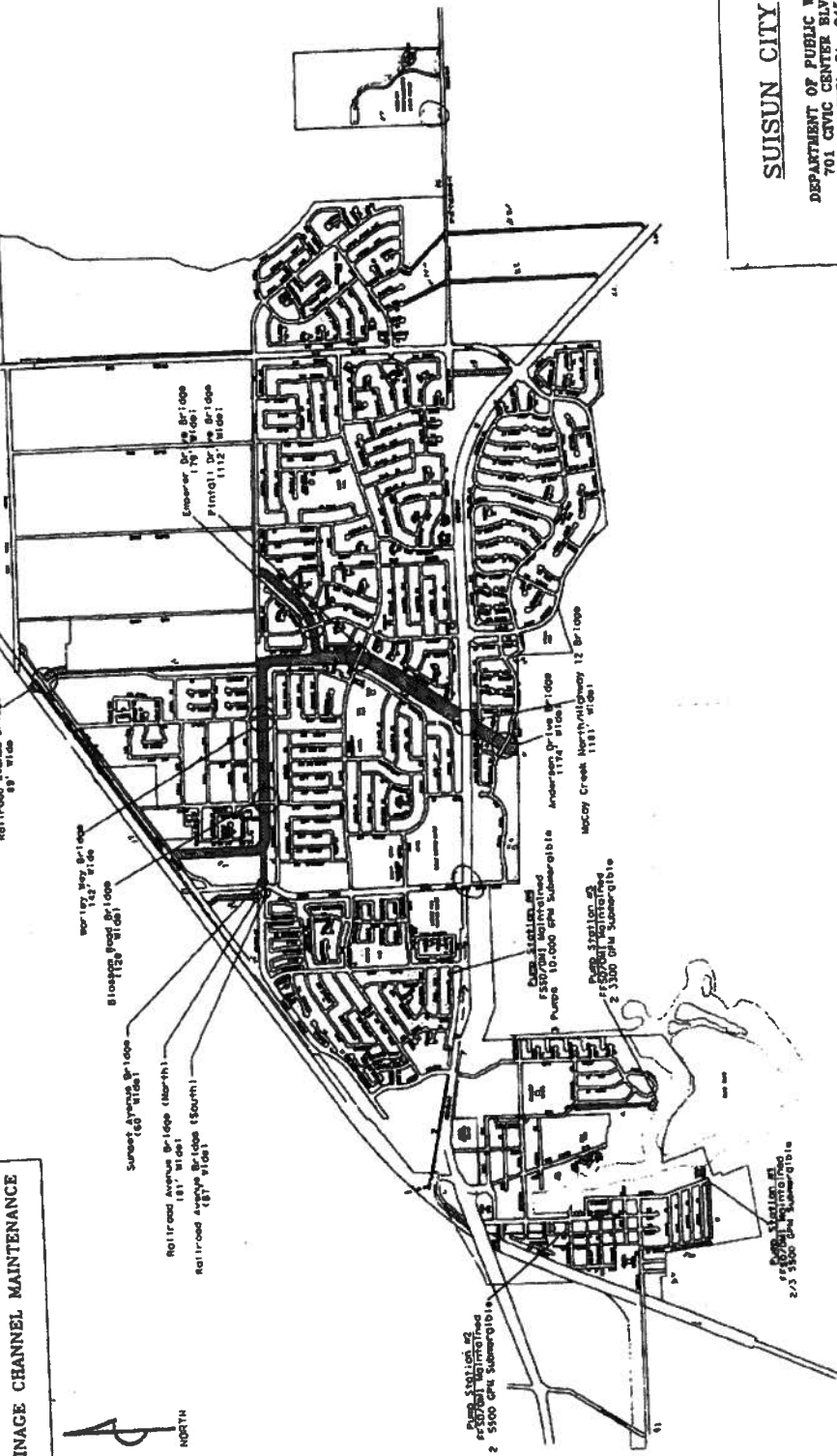
THEREFORE, the Operator may proceed with the project as described in the PROJECT DESCRIPTION and PROJECT CONDITIONS. A copy of this agreement, with attached PROJECT DESCRIPTION and PROJECT CONDITIONS, shall be provided to contractors and subcontractors and shall be in their possession at the work site.

Failure to comply with all conditions of this agreement may result in legal action.

This agreement is approved by:

Charles Armor
Acting Regional Manager
Bay Delta Region

cc: Anna Holmes
Warden Jones
Lieutenant Mason



DRAINAGE CHANNEL MAINTENANCE

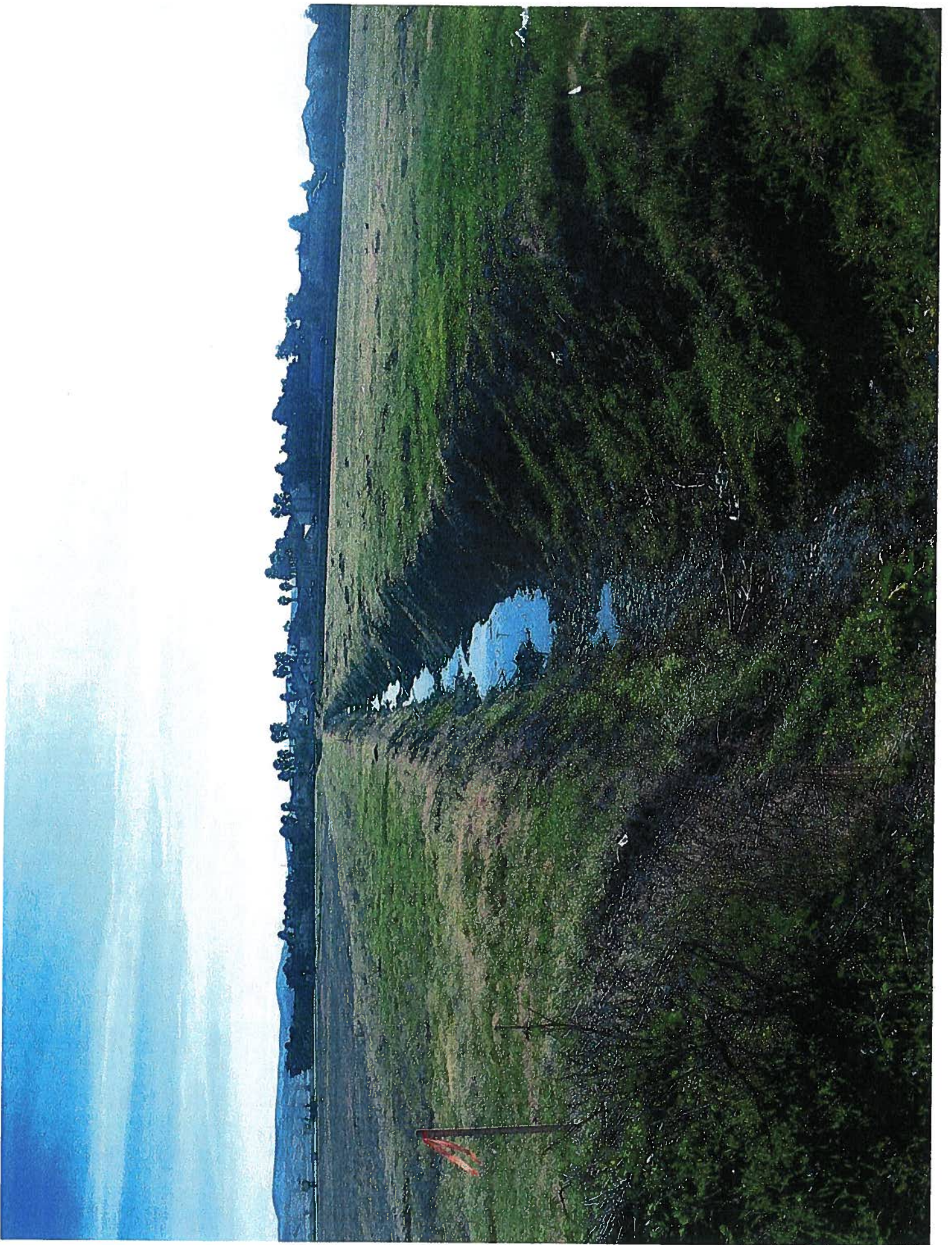
NORTH

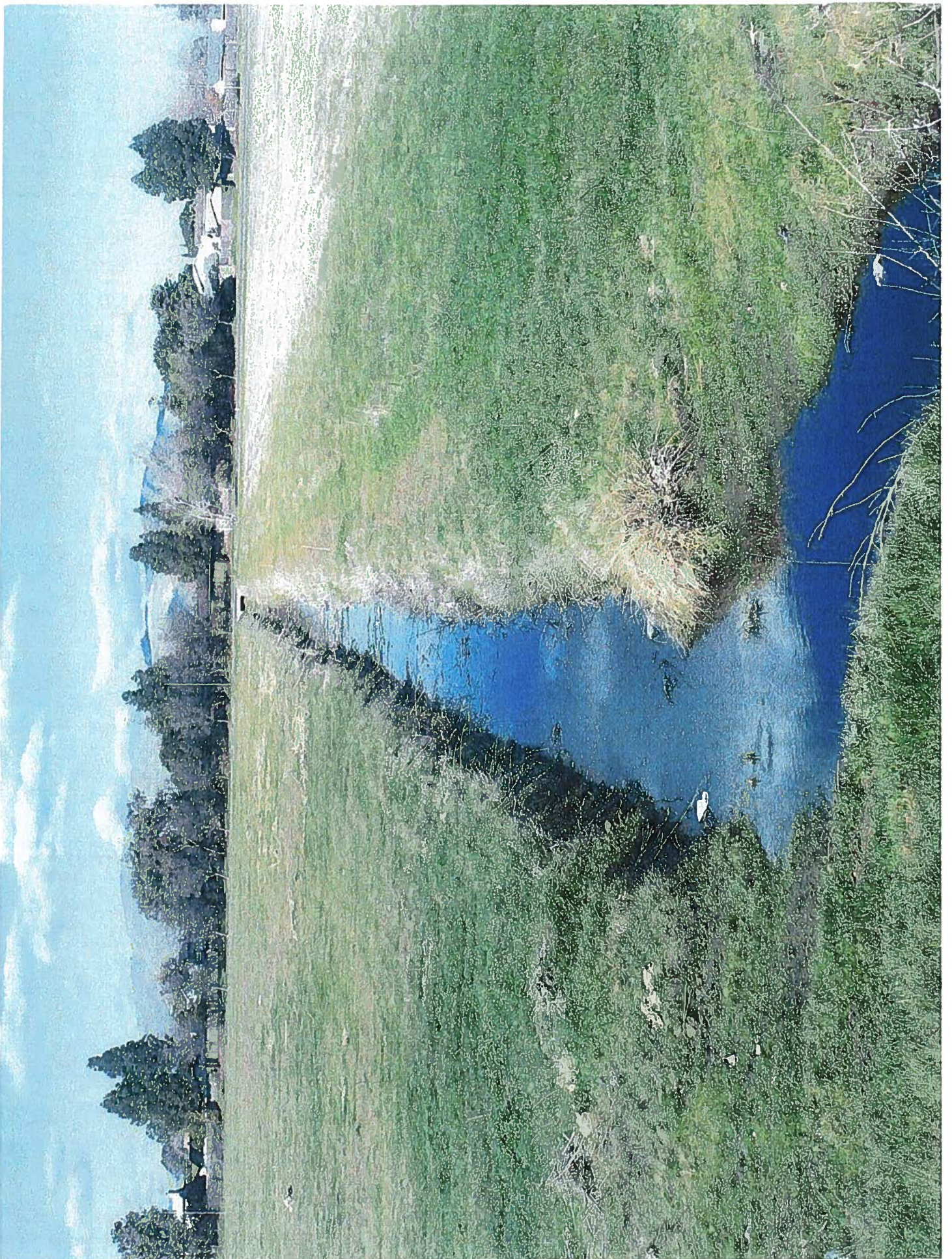
SUISUN CITY
 DEPARTMENT OF PUBLIC WORKS
 701 CIVIC CENTER BLVD.
 SUISUN CITY, CA 94586

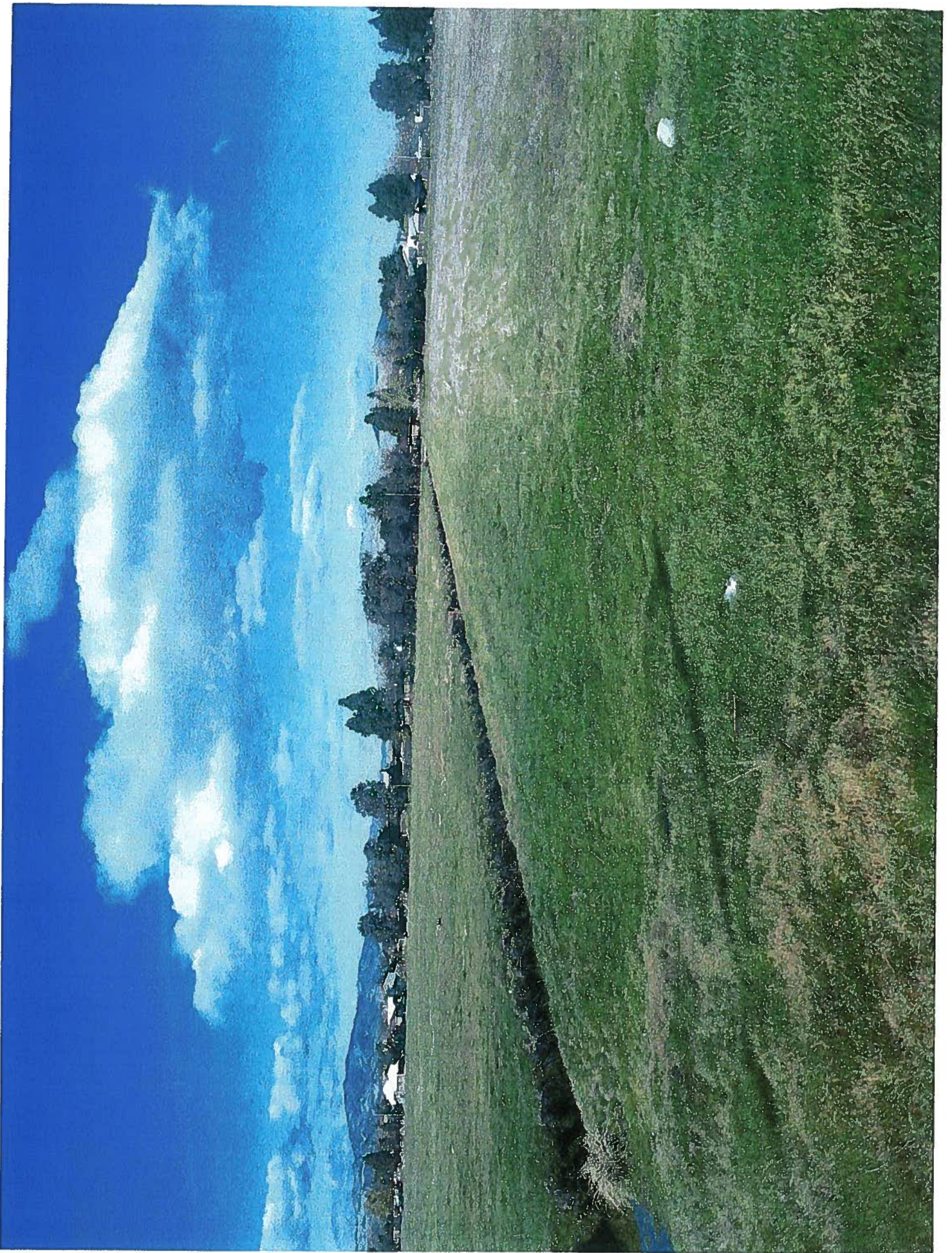
DATE: MAY 28, 1988
 DRAWN BY: GARY C. STINE

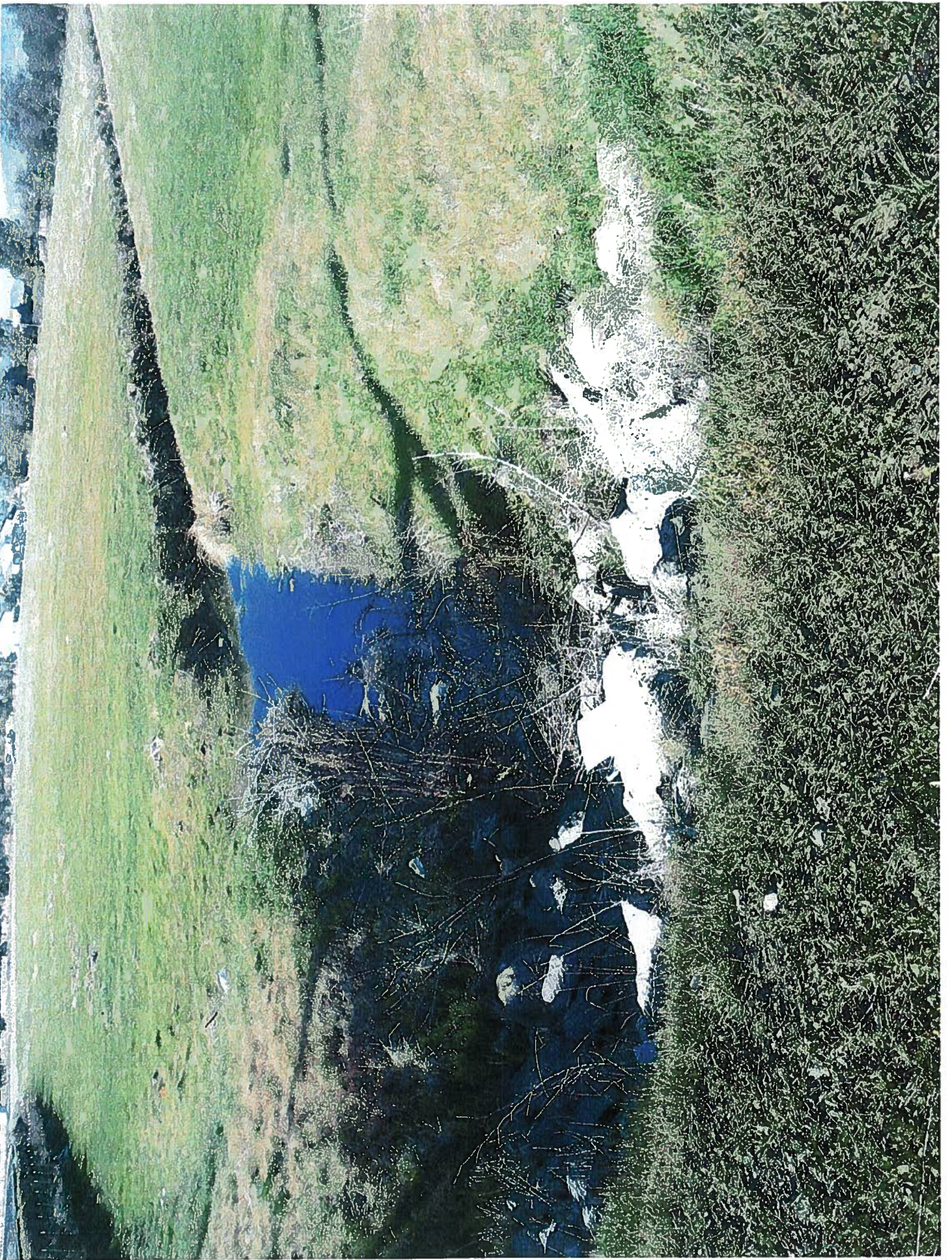
January 12, 2009
Response Letter to CRQWCB

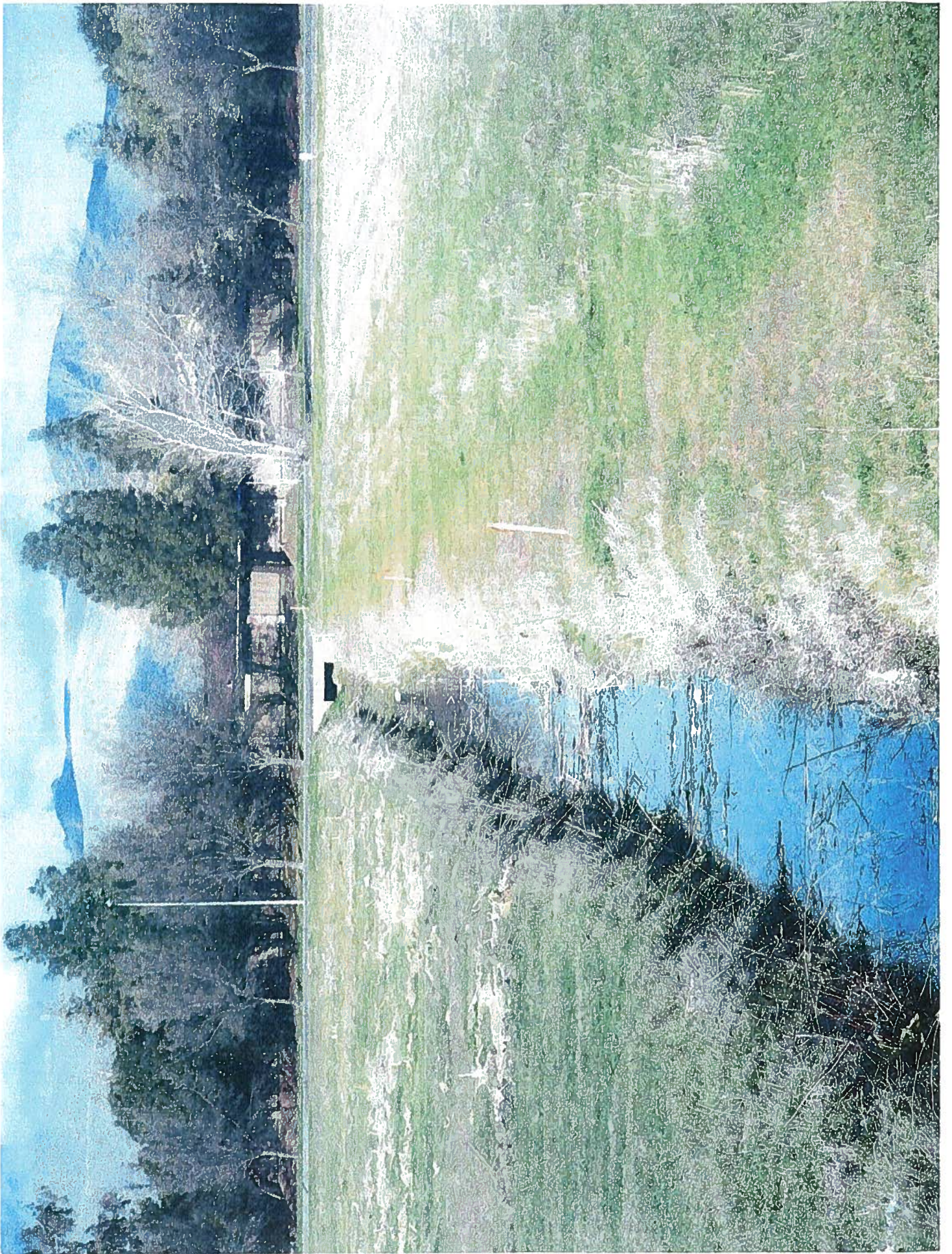
Photos of cleaned channel












Item

22

From: "Jolanta Uchman" <JUchman@waterboards.ca.gov>
Subject: **Alternatives Analysis Walters Rd**
Date: February 17, 2009 10:57:40 AM PST
To: "Anthony Moscarelli" <archerone@comcast.net>
Cc: <pgtucker@aol.com>, <wmonger@comcast.net>, <hansonra@sbcglobal.net>, <egarber@ufcw5.org>
 2 Attachments, 4.0 MB

Mr. Moscarelli,

Attached are Figures and Tables from the Alternatives Analysis Report dated January 2009 for the proposed Walters Rd Development in Suisun. Thank you for your interest in the case.

Regards,


Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612
510/622-2432



[Alt Analysispdf \(2.5 MB\)](#) [Alt Analysispdf \(1.6 MB\)](#)

Item

23

From: "Jolanta Uchman" <JUchman@waterboards.ca.gov>
Subject: **Suisun Walters Rd W Channel Clearing**
Date: March 17, 2009 1:57:51 PM PDT
To: "Phil Tucker" <ptucker@calhcn.org>, "Anthony Moscarelli" <archerone@comcast.net>, <Wayne Monger <wmonger@comcast.net>, <ldavis@dfg.ca.gov>, <R9-WTR8-Mailbox@epa.gov>, "Michelle Tovar" <Michelle_Tovar@fws.gov>, <George Guynn Jr.<georgejr@hotmail.com>, <Jeff@olberdingenv.com>, "RICHARD HANSON" <hansonra@sbcglobal.net>, <efoleygannon@sheppardmullin.com>, "Holly Costa" <Holly.N.Costa@spd02.usace.army.mil>, <hmccollister@suisun.com>, "Elizabeth Garber" <egarber@ufcw5.org>, "Bryan Matsumoto" <Bryan.T.Matsumoto@usace.army.mil>, "Jane Hicks" <jane.m.hicks@usace.army.mil>, "Mark D'Avignon" <Mark.R.D'Avignon@usace.army.mil>, <Stateboard401@waterboards.ca.gov>
Cc: "Bill Hurley" <WHurley@waterboards.ca.gov>
 1 Attachment, 156 KB

Attached is the Water Board's letter responding to the City of Suisun submittal required by the December 2008 Notice of Violation issued by the Board.



[Suisun Walte....pdf \(156 KB\)](#)



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300, Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold
Schwarzenegger
Governor

Date: March 16, 2009
Site No. 02-48-C0394 (wbh)
CIWQS Place No. 722750

Sent via electronic mail: No hard copy will follow

City of Suisun
Public Works Department
701 Civic Center Blvd.
Suisun City, CA 94585
Attn: Mr. Daniel Kasperson
dkasperson@suisun.com

SUBJECT: Notice of Violation - Requirement for Technical Reports Regarding the Channel Clearing at Walters Road West, City of Suisun, Solano County

Dear Mr. Kasperson:

We have reviewed the City's response dated January 12, 2009 to the Water Board's December 23, 2008 Notice of Violation and Requirement for Technical Reports regarding the channel clearing at Walters Road West, City of Suisun, Solano County. We have determined that the City's response is deficient and unacceptable as described below.

The City has failed to provide the following information:

1. A history of past vegetation clearing activities along the channel by the City and/or any other entities. This information was required to be submitted no later than January 16, 2009.
2. A workplan proposal to provide mitigation habitat to compensate for the lost habitat acreage and values associated with the channel clearing activities. This information was required to be submitted no later than January 23, 2009.

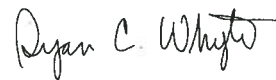
Additionally, no later than March 31, 2009, the City is hereby required to submit pursuant to California Water Code (CWC) § 13267, a technical report providing a detailed description of the construction activities conducted on the watercourse feature transecting the site, which the City's response letter indicates was conducted more than 10 years ago as part of the housing development to the north. This technical report shall also describe all permits and State certifications which the City and/or other entities obtained for the channel construction activities. This required information regarding the channel feature construction activities must be acceptable to the Water Board Executive Officer.

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At this time, we anticipate the City's cooperation and want to work with the City to bring appropriate resolution to this matter. However, please be aware that the information required by this letter and the Water Board's December 23, 2008 letter, are formal requirements for submittal of technical reports pursuant to CWC § 13267, which allows the Board to require technical reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. Attached to this correspondence is a copy of the CWC § 13267 Fact Sheet. Pursuant to CWC § 13268, any person failing to furnish technical reports as required by subdivision (b) of CWC § 13267, is guilty of a misdemeanor and may be liable civilly in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs. The City remains in violation of CWC § 13267 letter dated December 23, 2008 until the Water Board has received a complete response to the past due technical reports requirements, acceptable to the Water Board Executive Officer. Any extension to the specified deadlines must be confirmed in writing by Water Board staff.

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to JUchman@waterboards.ca.gov.

Sincerely,



Dyan C. Whyte
Assistant Executive Officer

Bruce H. Wolfe
Executive Officer

Attachments: Section 13267 CWC Fact Sheet

Cc: SWRCB-DWQ, Bill Orme Stateboard401@waterboards.ca.gov
U.S. EPA, David Smith, R9-WTR8-Mailbox@epa.gov
ACOE, SF Regulatory Branch,
Holly Costa, Holly.N.Costa@spd02.usace.army.mil;
Mark D'Avignon mark.r.d'avignon@usace.army.mil;
Jane Hicks jane.m.hicks@usace.army.mil;
Michelle Tovar Michelle_Tovar@fws.gov;
Liam Davis LDavis@dfg.ca.gov ;
Ella Foley-Gannon efoleygannon@sheppardmullin.com

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

Jeff Olberding Jeff@olberdingenv.com;
Heather McCollister hmccollister@suisun.com;
Anthony Moscarelli archerone@comcast.net;
Phil Tucker pgtucker@aol.com;
Beth Garber egarber@ufcw5.org;
George Guynn, Jr. geogrjr@totmail.com;
Wayne Monger wmonger@comcast.net;
Lee Evans levans@suisun.com



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

San Francisco Bay Region



Arnold Schwarzenegger
Governor

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>

Fact Sheet – Requirements For Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the regional water board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the regional water board uses to investigate water quality issues or problems. The information provided can be used by the regional water board to clarify whether a given party has responsibility.

Are there limits to what the regional water board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the regional water board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the regional water board staff will not change the requirement and/or date to comply?

You may ask that the regional water board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the regional water board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board

If I have more questions, whom do I ask?

Requirements for technical reports indicate the name, telephone number, and email address of the regional water board staff contact.

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.

Item

24

From: Anthony Moscarelli <archerone@comcast.net>
Subject: **Historic USGS maps from UC Berkeley**
Date: April 7, 2009 1:53:00 PM PDT
To: Jolanta Uchman <juchman@waterboards.ca.gov>
Cc: Bill Hurley <Whurley@waterboards.ca.gov>, Shin-Roei Lee <srlee@waterboards.ca.gov>, Phil Tucker <pgtucker@aol.com>
📎 4 Attachments, 2.0 MB

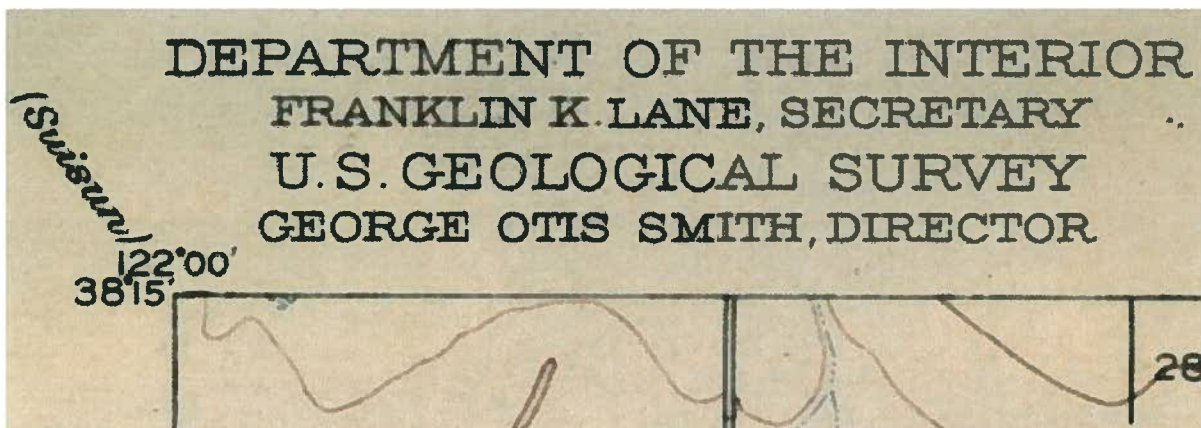
Jolanta,

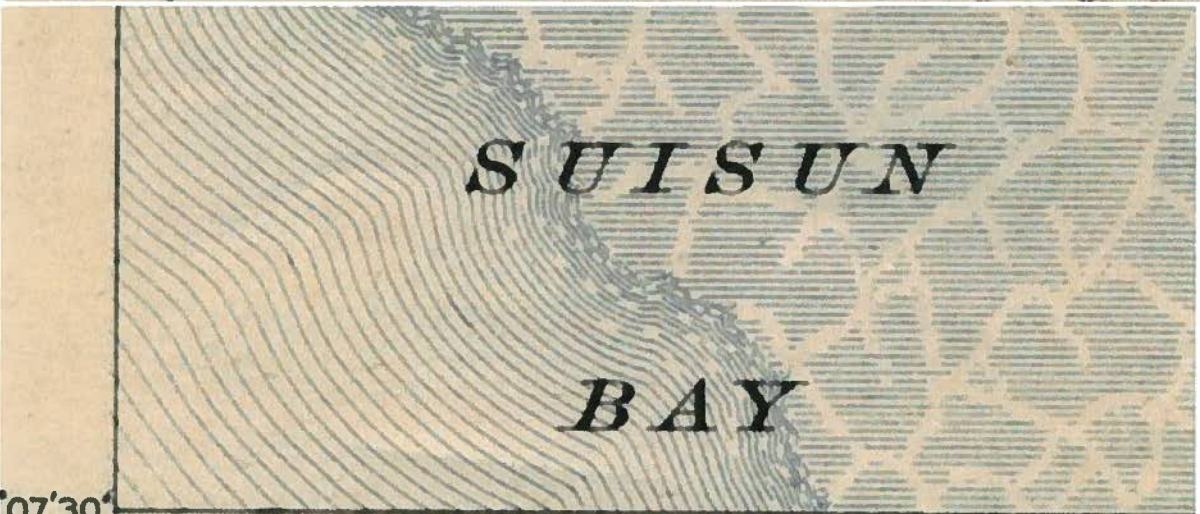
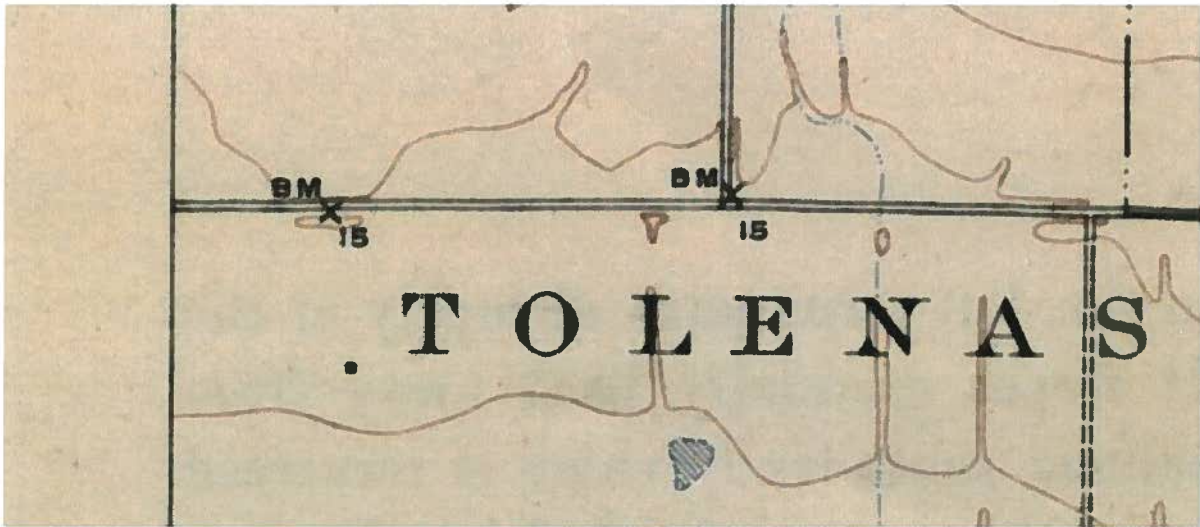
I am sending you USGS maps from UC Berkeley. You can verify these maps at: <http://sunsite.berkeley.edu/histopo/#>

In the 1918 USGS map you will see the ground contour formation of the Channel and a Southern pool of water. It is located at the 'L' of TOLENAS of the map. It was surveyed in 1906-7 and probably when it was good and dry enough to do surveying.(marsh) The ground contour formation and pool was created from natural drainage into the marsh. The second 1918B was date information from the map.

The 1953 USGS used drainage information from aerial photographs taken in 1941. Note that the water follows the same contours that were there in 1906-7 thus confirming the natural channels. If you check the CalTrans 1955 culverts on the old Highway 12 (Peterson Road), they will be at each place the natural drainage intersected the Highway.

Anthony Moscarelli





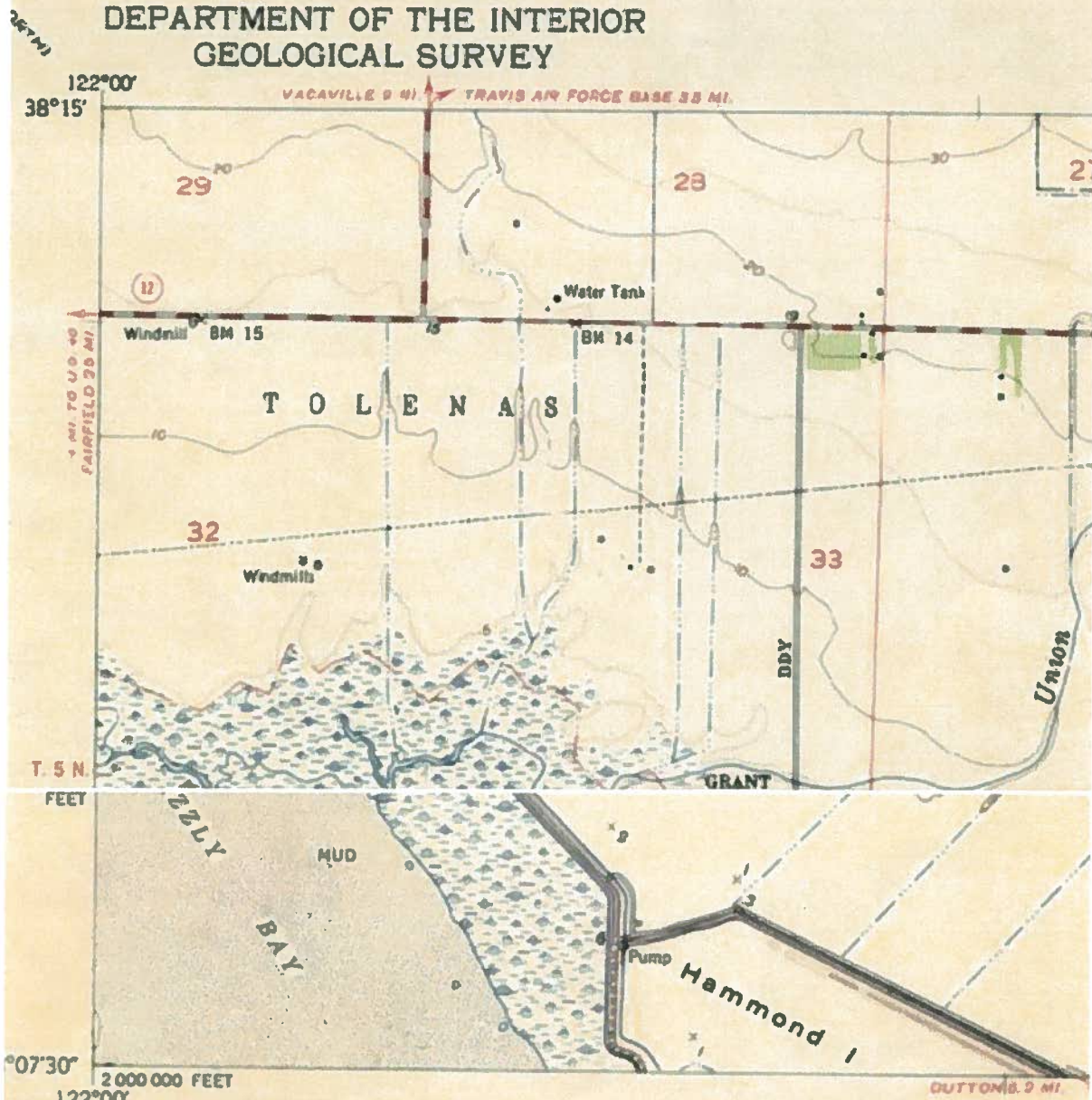
07'30"
122'00'

ENGRAVE

E. M. Douglas and R. B. Marshall, Geographers.
 Topography by J. P. Harrison, P. E. Turner, and A. Stiles.
 Control by C. F. Urquhart, L. F. Biggs, and R. A. Farmer.
 Surveyed in 1906-1907.

SURVEYED IN COOPERATION WITH THE STATE OF CALIFORNIA.

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Culture and drainage in part by USC&GS from aerial photographs taken 1941
Topography by plane-table surveys 1906-07 and by Ketch plotter methods from
aerial photographs taken 1949. Contour revision and field check 1953

Hydrography compiled from USC&GS chart 5534

Polyconic projection. 1927 North American datum
10,000-foot grid based on California coordinate system, zone 2

Dashed land lines indicate approximate locations



APPROXIMATE MEAN
DECLINATION, 1953

From: Anthony Moscarelli <archerone@comcast.net>
Subject: **Re: City of Suisun Response Letter to NOV**
Date: April 8, 2009 11:53:43 PM PDT
To: Jolanta Uchman <JUchman@waterboards.ca.gov>

Jolanta,

I read the City of Suisun City's reply letter to the NOV and found it lacking in facts. The road which they stated was put in the 1940's is shown in the 1918 USGS map. It also was surveyed in 1906-7. The statement of aerial photographs not showing wooden areas in the 1940's is also not factual. I sent you the aerial 1948 photos showing the darken areas at the channel.

In the issue of the annual clearing of the channel there are photos that I have given you also. They are in the Power Point presentation.

Remember you were there at the channel in January 2008 and the City states that they cleared it the same way six months earlier in 2007. The Project's EIR in late 2006 shows pictures also with it full of vegetation.

The channel today after seven months is still bare of natural plants.

I find it hard to believe anything the City sends you. As you saw in the picture of the Channel clearing, the back-hoe and not a chain saw was tearing down that tree. You also saw the line of small mounds of earth piled up from the back-hoe scraping the channel.

Anthony

On Apr 8, 2009, at 5:05 PM, Jolanta Uchman wrote:

Hello,

Attached is the response letter from the City of Suisun to the Notice of Violation issued by the Water Board. There are maps and plans (mentioned in the letter) that are very large e-documents. If you would like to receive them, please let me know and I will email them tomorrow.

Jolanta Uchman, P.G.

SFBRWQCB

<City Letter to WB 3 25 09.pdf>

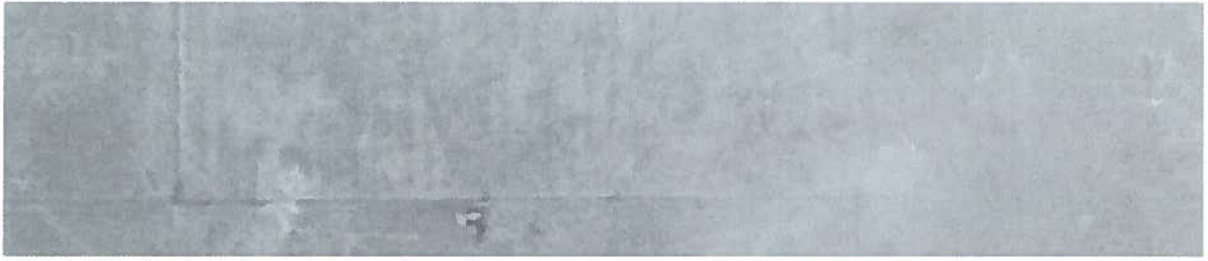
From: Anthony Moscarelli <archerone@comcast.net>
Subject: **Re: Our Conversations on Channel**
Date: April 16, 2009 4:29:50 PM PDT
To: "Jolanta Uchman" <JUchman@waterboards.ca.gov>
📎 2 Attachments, 1.3 MB [Save ▼](#) [Slideshow](#)

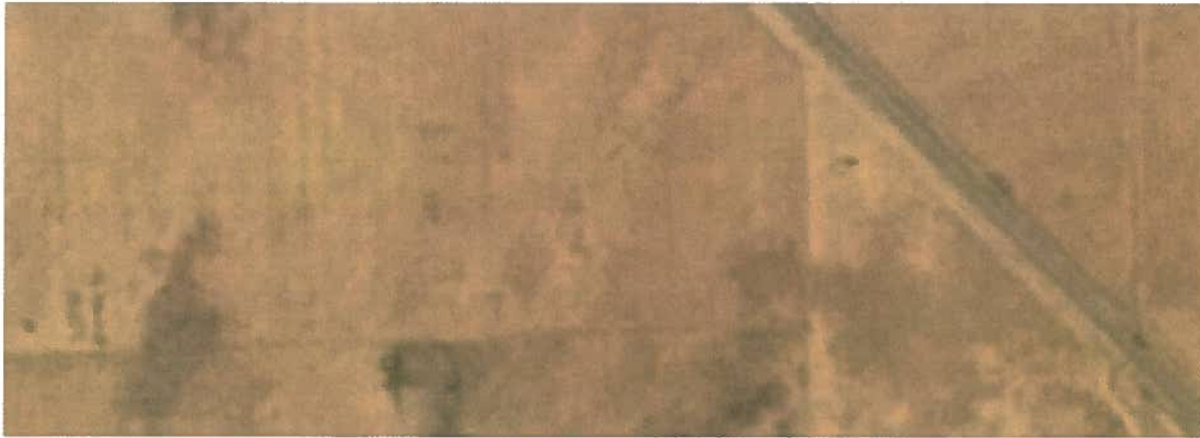
Jolanta,

The 1948 aerial photograph shows small objects on the picture. These objects line up with the windmills on the 1953 USGS map when the scale of the map is enlarged to match the photo. When layered the land and stream contours perfectly with the channel. Here is also 1974 higher quality aerial photo.

Anthony Moscarelli







On Apr 16, 2009, at 2:47 PM, Jolanta Uchman wrote:

Mr. Moscarelli,

We are working on our response to the City of Suisun latest submittal regarding the Notice of Violation. Thank you for your help in providing us with valuable information about the case.

Regards,

Jolanta Uchman, P.G.
San Francisco Bay Regional
Water Quality Control Board
1515 Clay St., Suite 1400
Oakland, CA 94612
(510) 622-2432

||| Anthony Moscarelli <archerone@comcast.net> 4/16/2009 9:52 AM >>>

Jolanta,

We had discussed the digging out of the channel by the City of Suisun City's workers. In that conversation we discussed your personal trip there after, and picture taking of the channel. We discussed the shape of the bottom of the channel when you were there in November 2008. We talked about both our observations on how uniform and

level

it was. After it rained that all changed. The City had left loose soil (debris) to fill the deeper diggings of the Back-hoe. That loose soil washed down stream and left deep areas in the bottom of the channel.

You have become a qualified witness though your pictures taken and your observations. Mr. Liam Davis of the DFG has chosen to ignore me

and collecting any evidence that is available through me. The City of Suisun City has violated their Stream Bed Permit in many ways. One of

them is the deposit of debris in the bottom of the channel. It is also a violation of your area as a Lead Agency. This is the DFG Code:

FISH AND GAME CODE SECTION 1600-1616

1600. The Legislature finds and declares that the protection and conservation of the fish and wildlife resources of this state are of utmost public interest. Fish and wildlife are the property of the people and provide a major contribution to the economy of the state, as well as providing a significant part of the people's food supply; therefore their conservation is a proper responsibility of the state.

This chapter is enacted to provide conservation for these resources.

1601. The following definitions apply to this chapter:

- (a) "Agreement" means a lake or streambed alteration agreement.
- (b) "Day" means calendar day.
- (c) "Emergency" has the same definition as in Section 21060.3 of the Public Resources Code.
- (d) "Entity" means any person, state or local governmental agency,

or public utility that is subject to this chapter.

1602. (a) An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

The channel on 4/15/09. The natural growth of the channel's plants has not shown yet. There is only wild grass. Plus there are deep areas that are still retaining water. I have multiple pictures of those deep areas close-up when I walked the channel 1/31/09. Did the channel look like this after your January 2008 visit there? The City claims in their 3/25/09 response to you that they cleared the channel 5 months earlier.

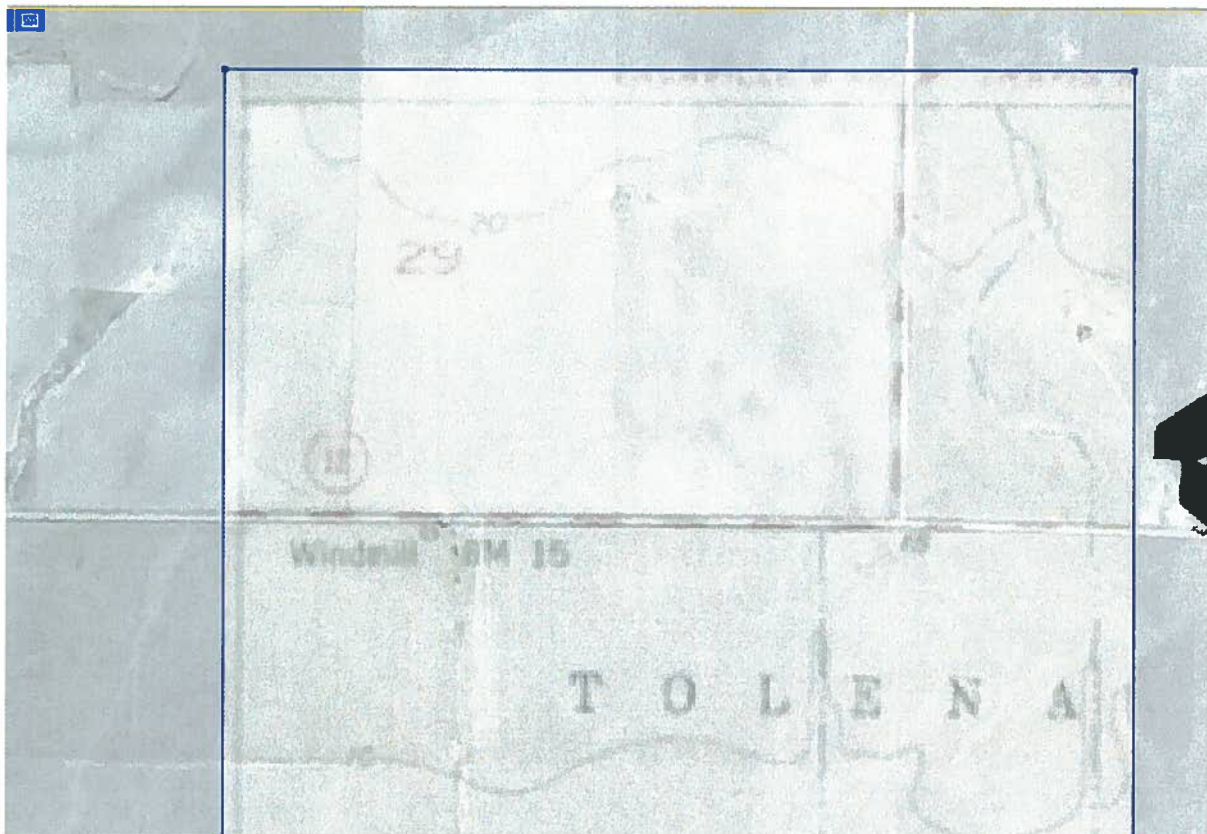
Anthony Moscarelli

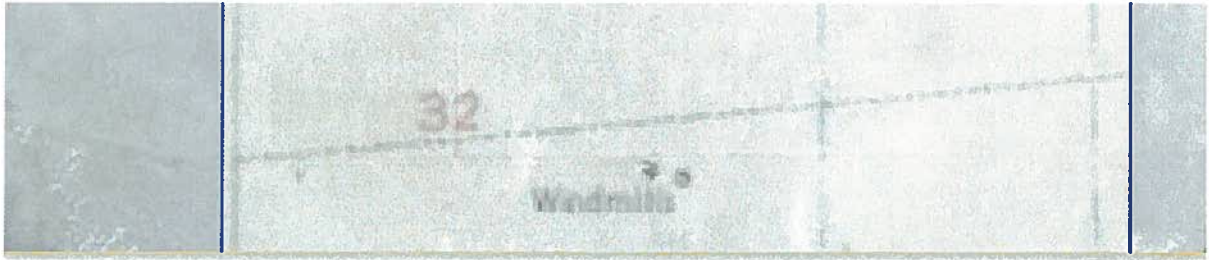
From: Anthony Moscarelli <archerone@comcast.net>
Subject: 1953 USGS Topo Map overlay
Date: April 17, 2009 9:45:22 AM PDT
To: Jolanta Uchman <juchman@waterboards.ca.gov>
Cc: Phil Tucker <pgtucker@aol.com>, Bill Hurley <whurley@waterboards.ca.gov>, Shin-Roei Lee <srlee@waterboards.ca.gov>
1 Attachment, 447 KB [Save](#) [Slideshow](#)

Jolanta,

I was able to overlay the 1953 USGS Topo map on top of the 1948 aerial photo. It is amazing how accurate the Topographical map is. I used the Windmills on the map and located them on the aerial photo. I expanded the size of the Topo map to match the road and the Windmill on it in the picture. I attached the image to this email.

Anthony Moscarelli





Item

25

From: Anthony Moscarelli <archerone@comcast.net>
Subject: **Evidence countering Wal-Mart's Site D statement.**
Date: April 24, 2009 10:28:33 AM PDT
To: Jolanta Uchman <juchman@waterboards.ca.gov>
Cc: Bill Hurley <Whurley@waterboards.ca.gov>, Shin-Roei Lee <srlee@waterboards.ca.gov>, Phil Tucker <pgtucker@aol.com>
 2 Attachments, 166 KB

Jolanta,

We discussed the January 2009 Alternative Analysis from Wal-Mart to the RWQCB. In the discussion I questioned a statement that was made which I felt was not true. Wal-Mart stated that there were not any sites that were available in Suisun City that they could build other than the Walter's Road site. They disallowed Site D because they stated that the City had an application pending on the property. That was on page 14 of the Alternative Analysis. In our discussion I told you that I have never heard of any applications on that property. Wal-Mart said that was why they did not complete the study on that property.

A trip down to the City of Suisun City on 4/23/2009 fielded a different answer in writing. The City stated that there was not any applications pending on that Site and Heather McCollister of the City of Suisun City signed a photo of the property stating that fact. (See attached) That property has plenty of room and is not protected Wetlands.

I am also sending a Memo from the City of Suisun City about Land Use revenue. Note that it is dated 2006 before Wal-Mart bought the Walter's Road property. The Hoffman property on the list is the Site D.

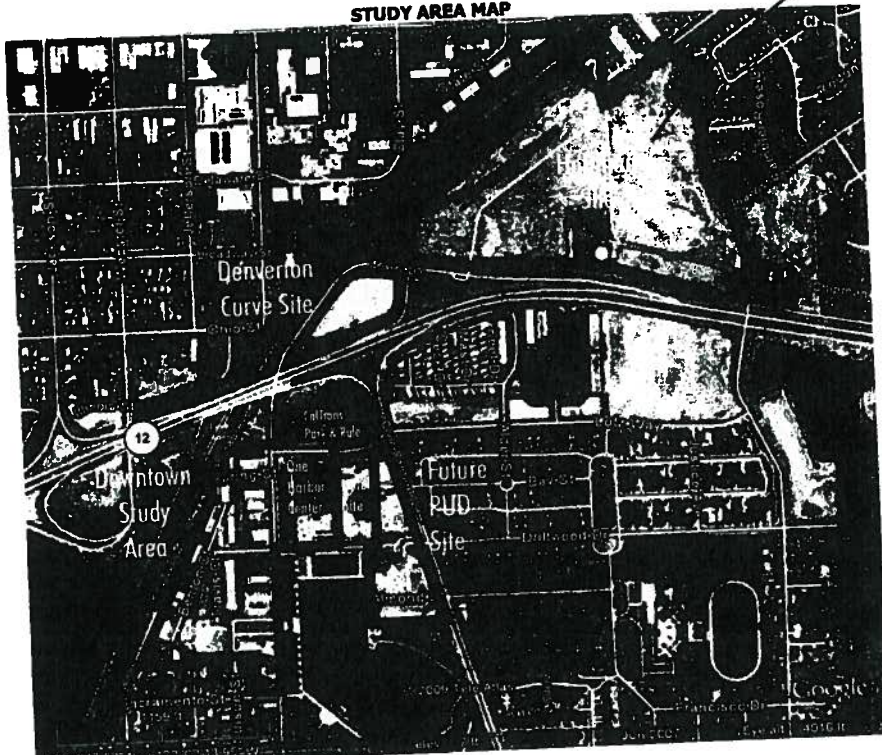
Anthony Moscarelli
707-427-8509

OTHER STUDY AREA SITES

Additional development scenarios looks at a 31.8-acre vacant parcel north of Highway 12 known as the Hoffman site, a 5.3-acre site south of Lotz Way along Civic Center Boulevard, and the previously studied Denverton Curve site (2.7 acres) located directly south of the Hoffman site.

4/22/09
no application
pending.
ITM

FIGURE 1
STUDY AREA MAP



Source: ADE, Inc., aerial base map from Google Earth.

5.2 OVERALL ASSUMPTIONS

In general, jurisdictions enacting TOD plans have generally specified residential densities between approximately 8 dwelling units (DUs) per acre and more than 25 DUs per acre.



Item

26

From: "Bill Hurley" <WHurley@waterboards.ca.gov>
Subject: **Certification Application - Wal-Mart Walters Road, Suisun City**
Date: April 24, 2009 5:34:28 PM PDT
To: "Jeff Olberding" <Jeff@olberdingenv.com>, <RKarn@RAKengineers.com>, <TAnderson@RAKengineers.com>, <efoleygannon@sheppardmullin.com>, <Bryan.T.Matsumoto@usace.army.mil>
Cc: <pgtucker@aol.com>, <archerone@comcast.net>, <wmonger@comcast.net>, <ldavis@dfg.ca.gov>, <R9-WTR8-Mailbox@epa.gov>, <Michelle_Tovar@fws.gov>, <georgejr@hotmail.com>, <hansonra@sbcglobal.net>, <holly.n.costa@spd02.usace.army.mil>, <hmccollister@suisun.com>, <egarber@ufcw5.org>, <Jane.M.Hicks@usace.army.mil>, <mark.r.d'avignon@usace.army.mil>, <401Stateboard@waterboards.ca.gov>, "Bruce Wolfe" <BWolfe@waterboards.ca.gov>, "Dyan Whyte" <DWhyte@waterboards.ca.gov>, "Elizabeth Morrison" <EMorrison@waterboards.ca.gov>, "Jolanta Uchman" <JUchman@waterboards.ca.gov>, "Keith Lichten" <KLichten@waterboards.ca.gov>, "Shin-Roei Lee" <SRLee@waterboards.ca.gov>, "Xavier Fernandez" <xafernandez@waterboards.ca.gov>

 1 Attachment, 117 KB [Save](#) ▼

Mr. Anderson,
Attached are Water Board staff's comments addressing your application for water quality certification for the Wal-Mart Supercenter Project, Walters Road, City of Suisun City. Please contact me if you have any questions.
Thank you.
Bill Hurley

William B. Hurley, PE
Section Leader


North Bay Watershed Division
Regional Water Quality Control Board
San Francisco Bay Region



[Wal-Mart Wa....pdf \(117 KB\)](#)

Item

27

From: Anthony Moscarelli <archerone@comcast.net>
Subject: **The City's reaction to Hofmann property for Wal-Mart**
Date: June 12, 2009 8:43:08 AM PDT
To: Jolanta Uchman <juchman@waterboards.ca.gov>
Cc: Bill Hurley <Whurley@waterboards.ca.gov>, Shin-Roei Lee <srlee@waterboards.ca.gov>, Phil Tucker <pgtucker@aol.com>
 1 Attachment, 112 KB

Jolanta,

The City of Suisun City has figure out how to solve the problem of your letter about the Site D property. They are quietly going to use the Redevelopment Agency to buy it so it can not be an issue. Remember in January the proposal said there was an application pending. The City then said in April that there was not any Applications pending. Now they have brought into a closed meeting to silently buy it after your Agency called them on the issue.

This is after all other City's are watching their Money. Here is the City Council Agenda it is on.

Anthony



[2009 06 16pdf \(112 KB\)](#)

Item

28

to you sooner.
Bill Hurley

William B. Hurley, PE
Section Leader
North Bay Watershed Division
Regional Water Quality Control Board
San Francisco Bay Region

>>> <PGTUCKER@aol.com> 2/5/2010 7:04 AM >>>
Bill:

We would like to get an update on the current status of the Suisun City Wal-Mart application. We understand that there has been no written correspondence in some time; however, there may be discussions in progress between Wal-Mart and your Water Board staff. Please give me a call or let me know when we can schedule a meeting with you at your office. We appreciate your staff's assistance and cooperation with our Network and our affiliate community organizations in Suisun City.

Thanks again,

Phil

Phil Tucker
Project Director
California Healthy Communities Network,
a project of non-profit Tides Center
P.O. Box 1353
Martinez, CA 94553
(707) 479-6000

From: PGTUCKER@aol.com
Subject: **Status Wal-Mart Suisun City Application**
Date: February 15, 2010 7:17:10 AM PST
To: whurley@waterboards.ca.gov
Cc: AnthonyM_HCRSC@comcast.net,
srlee@waterboards.ca.gov

Bill:

I have not had a response to my email of February 5, regarding our request for information on the current status of the Suisun City Wal-Mart application. Please provide me with an update on the status of this application since, according to our records, the 12-month application period has lapsed on Wal-Mart's current application before the Water Board.

Thank you for your attention to our request for information.

Phil

Phil Tucker
Project Director
California Healthy Communities Network,
a project of non-profit Tides Center
P.O. Box 1353
Martinez, CA 94553
(707) 479-6000

From: pgtucker@aol.com
Subject: **Fwd: Wal-Mart City of Suisun Project Status**
Date: February 19, 2010 5:55:31 AM PST
To: archerone@comcast.net

Anthony:

FYI- Here is Bill Hurley's reply to my email. Let me know your thoughts on Bill's response. I am in Oregon on personal business until 2/21.

Thanks,

Phil

-----Original Message-----

From: Bill Hurley <WHurley@waterboards.ca.gov>
To: PGTUCKER@aol.com
Cc: Jolanta Uchman <JUchman@waterboards.ca.gov>
Sent: Wed, Feb 17, 2010 5:53 pm
Subject: Re: Wal-Mart City of Suisun Project Status

Mr. Tucker,

I apologize for my tardy response to your inquiry. Jolanta Uchman is the Water Board's case handler on this project, and so in the future, it may be worthwhile sending any status inquiries about this case directly to Jolanta with a copy to me please. Although, sending your inquiry to me directly is also acceptable.

In summary, we have not received any formal application materials from Wal-Mart regarding their proposed Walters Road, Suisun City development since our last correspondence to Wal-Mart last April 2009. The Water Board issued two letters (March 12 and April 24, 2009) indicating that Wal-Mart's Waters Road development as proposed does not comply with State standards and accordingly that the State does not issue water quality certification. I see you were copied on both of these letters. Let me know if you need another copy of either letter.

While it is true that the 12 month clock has passed since the Water Board received the current certification application, it is our position that the Water Board has acted as required within the 12 month clock and so the statutory clock has been suspended pending receipt of a revised application responding to our April 24, 2009 application response letter. I am not an attorney, but this is what I have been informed by our legal counsel.


Let Jolanta or me know if there is any other information you would like regarding the status of this case. Again, I apologize for not getting back

Item

29

Item

30

From: "Jolanta Uchman" <JUchman@waterboards.ca.gov>
Subject: **Walters Rd W Development Project, Suisun**
Date: April 26, 2010 11:14:16 AM PDT
To: "Phil Tucker" <ptucker@calhcn.org>, "Anthony Moscarelli" <archerone@comcast.net>, "Wayne Monger" <Wayne Monger <wmonger@comcast.net>, "Brenda Blinn" <BBLINN@dfg.ca.gov>, <R9-WTR8-Mailbox@epa.gov>, <Michelle_Tovar@fws.gov>, <georgejr@hotmail.com>, "Jeff Olberding" <jeff@olberdingenv.com>, "RICHARD HANSON" <hansonra@sbcglobal.net>, <RUram@sheppardmullin.com>, <dkasperson@suisun.com>, "Elizabeth Garber" <egarber@ufcw5.org>, "Bryan Matsumoto" <Bryan.T.Matsumoto@usace.army.mil>, <cameron.l.johnson@usace.army.mil>, "Jane Hicks" <jane.m.hicks@usace.army.mil>, <laurie.a.monarres@usace.army.mil>, <401Stateboard@waterboards.ca.gov>
Cc: "Shin-Roei Lee" <SRLee@waterboards.ca.gov>, "Bill Hurley" <WHurley@waterboards.ca.gov>
 1 Attachment, 575 KB

Attached is the Second Denial Without Prejudice letter re the Application for Clean Water Act 401 Water Quality Certification for the Proposed Project.

If you have questions about the Project, please contact me.

Regards,

Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612
Phone: 510-622-2432
Fax: 510-622-2460

=====

Please note that due to mandatory furloughs, I will be off duty the 1st, 2nd, and 3rd Fridays of each month.



[Susiu WalM....pdf \(575 KB\)](#)



Linda Adams
Agency Secretary

California Regional Water Quality Control Board

San Francisco Bay Region

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold Schwarzenegger
Governor

April 23, 2010
Site No. 02-48-C0394 (WBH)
CIWQS Place No.: 722750

Certified Mail No. 7007 2560 0001 7506 6675
Return Receipt Requested

Wal-Mart Stores, Inc.
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94333
Attention: Mr. Todd Anderson
TAnderson@RAKengineers.com

SUBJECT: Second Denial without Prejudice of the Application for Clean Water Act Section 401 Water Quality Certification for the Walters Road West Development Project, City of Suisun, Solano County; Corp File No. 2006-303520N

Dear Mr. Anderson:

Wal-Mart Stores, Inc., (Wal-Mart) has applied for a federal Clean Water Act section 401 water quality certification (certification) for the Walters Road West Development Project (Project) in Suisun City. The Project proposes to develop approximately 18.34 acres for a commercial retail center on a 20.8-acre parcel and discharge fill material into approximately 2.9 acres of jurisdictional waters.

The Water Board first received an application for certification for the Project on November 20, 2007. Due to the lack of a complete application detailing the Project proposal and to preserve the Water Board's ability to act on a certification for the Project, on November 19, 2008, I denied certification without prejudice.

On January 22, 2009, the Water Board received a new certification application for the Project. Water Board staff also received supplemental application materials in the form of an Addendum to the Alternatives Analysis on March 27, 2009. Staff reviewed these application materials and provided comments describing the application's deficiencies in letters dated March 12, and April 24, 2009. Staff has also met with Wal-Mart's representatives to discuss the Project and its certification application. However, to date, staff has not received any supplemental application materials addressing the deficiencies described in our April 24, 2009, letter (attached). Thus, the Project's certification application remains incomplete as described in our April 24 letter. Due to the lack of a complete application detailing the Project proposal, the Water Board cannot certify that

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

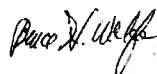
the Project as proposed will not violate State water quality standards. Accordingly, to preserve the Water Board's ability to act on a certification for the Project, I am denying certification of the Project without prejudice.

Water quality certification for this Project is hereby denied without prejudice.

Wal-Mart may reapply for certification by submitting a revised certification application to the Water Board. Staff will work with Wal-Mart's representatives to develop a certifiable Project design.

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to JUchman@waterboards.ca.gov.

Sincerely,



Digitally signed
by Bruce Wolfe
Date:
2010.04.23
14:47:39 -07'00'

Bruce H. Wolfe
Executive Officer

Attachment: Water Board correspondence dated April 24, 2009

Cc: SWRCB-DWQ, 401Stateboard@waterboards.ca.gov
U.S. EPA, R9-WTR8-Mailbox@epa.gov
Bryan Matsumoto bryan.t.matsumoto@usace.army.mil
Jane Hicks jane.m.hicks@usace.army.mil
Laurie Monarres laurie.a.monarres@usace.army.mil
Cameron Johnson cameron.l.johnson@usace.army.mil
Michelle Tovar Michelle.Tovar@fws.gov
Brenda Blinn BBLINN@dfg.ca.gov
Robert Uram RUram@sheppardmullin.com
Jeff Olberding Jeff@olberdingenv.com
Daniel Kasperson dan@suisun.com
Anthony Moscarelli archerone@comcast.net
Phil Tucker pgtucker@aol.com
Beth Garber egarber@ufcw5.org
George Guynn, Jr. georgejr@hotmail.com
Wayne Monger wmonger@comcast.net
Richard Hanson hansonra@sbcglobal.net



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300, Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold
Schwarzenegger
Governor

Date: April 24, 2009
Site No. 02-48-C0394 (jgu/wbh)
CIWQS Place No.: 722750
Corps File No. 2006-303520N

Sent via electronic mail: No hard copy will follow

Wal-Mart Stores, Inc.
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94333
Attention: Mr. Todd Anderson
TAnderson@RAKengineers.com

SUBJECT: Application for Clean Water Act Section 401 Water Quality Certification for the Walters Road West Development Project, City of Suisun, Solano County; Corps File No. 2006-303520N

Dear Mr. Anderson:

Thank you for providing the Addendum to the Alternatives Analysis (Addendum) supplementing your application for water quality certification for the Walters Road Development Project (Project), City of Suisun City, Solano County. The Addendum was submitted on behalf of Wal-Mart Stores, Inc., (Applicant) by Olberding Environmental, Inc., and Sheppard Mullin Richter and Hampton, LLP, and was received by the Water Board on March 27, 2009. Thank you also for having the Project team meet with our staff on March 13, 2009.

We have determined that the application, incorporating the supplemental information provided in the Addendum, does not demonstrate that the Project as proposed constitutes the Least Environmentally Damaging Practicable Alternative (LEDPA) pursuant to the CWA Section 404(b)(1) Guidelines as required by the Water Board's Basin Plan. We are required to consider this as we evaluate applications for wetland fill. The Alternative Analysis, incorporating the supplemental information submitted in the Addendum (Analysis):

1. Fails to properly analyze potentially practicable on- and off-site alternatives; and
2. Improperly excludes on-and off-site alternatives that were considered without sufficient information or analysis demonstrating their impracticability.

Accordingly, this letter serves as notification that the Water Board does not issue water quality certification for the Project as proposed in the application materials. Comments on the Analysis are detailed below.

Mr. Todd Anderson
Application for Water Quality Certification
Planned Wal-Mart Waters Road, Suisun City

Overall Project Purpose

The 404(b)(1) Guidelines define "practicable" as available and capable of being done, taking into account cost, existing technology and logistics in light of the overall project purpose [40CFR 230.10(a)(2)]. EPA guidance defines the term "overall project purpose" as the basic project purpose plus consideration of costs and technical and logistical feasibility. An overall project purpose does not include project amenities.

For this Project, the application states that the basic project purpose is a commercial development. The overall project purpose as stated is to construct a commercial retail shopping center that includes a supercenter of sufficient size to service the needs of the residents of Suisun City and the surrounding region, complementary commercial uses such as a gas station and restaurant, and associated parking and infrastructure. Consistent with EPA guidance, we have determined that the proposed gas station and restaurant constitute amenities to the basic and overall project purpose of commercial retail shopping development and are not functionally linked to the supercenter.

The Analysis considers the gas station and restaurant as necessary parts of the overall project purpose in evaluating the practicability of alternative Project designs. However, the gas station and restaurant are clearly not functionally necessary to satisfy the overall project purpose. This point is more apparent taking into account the Streambed Alteration Agreement application submitted for the Project, in which the Applicant states the following in referring to the gas station and restaurant :

"The fuel station and restaurant are currently proposed uses in conjunction with the Wal-Mart store; however, the subparcels [separate parcels partitioned off for the gas station and restaurant] may be developed with any use that is consistent with the General Commercial zoning for the site."

If the subparcels set aside for the gas station and restaurant can be developed with any appropriate substitute commercial use, the gas station and restaurant are not part of the overall project purpose, and alternatives need to be considered without these features. Each on-site alternative design considered in the Analysis places the gas station and restaurant on separate subparcels located on the Project site.

Re-evaluating Project alternatives without the gas station and restaurant subparcels would enable consideration of additional Project design alternatives which might better avoid and minimize impacts to wetlands, the creek channel and associated beneficial uses. The Project as proposed would fill all of the Project site's vernal pool and seasonal wetlands, and the full length (1100 linear feet) of the blue line creek channel transecting the site. Therefore, the Analysis must evaluate revised alternative Project designs without the gas station and restaurant amenities for the purpose of avoiding and minimizing impacts to wetlands and the channel feature.

Mr. Todd Anderson
Application for Water Quality Certification
Planned Wal-Mart Waters Road, Suisun City

On-Site Alternatives

Creek Avoidance Alternative

The creek avoidance alternative was dismissed as impracticable because: 1) it wouldn't provide for the desired store size of 215,000 sq. ft., and 2) it would be cost prohibitive. During our meeting in March, staff pointed out that the channel avoidance alternative appeared to be designed so as to assure its impracticability in that it does not take advantage of obvious design options that would accommodate a much larger store size, and reduce construction costs.

For example, the channel transecting the site partitions it into two tracts with unequal areas; the area west of the channel being larger than the eastern tract. Yet the creek avoidance alternative places the footprint of the store within the smaller eastern tract, instead of the larger tract, thus constraining the size of the store unnecessarily. Creek avoidance alternatives locating the store on the larger tract (such as in the example put forward below) should have been, and need to be, evaluated. Similarly, much less expensive pedestrian channel crossing alternatives are available than those used in the alternative considered, that would suitably accommodate pedestrian traffic over the channel. The channel is only several feet wide, and yet the creek avoidance alternative design included placement of four 30 foot long pedestrian bridges made of precast concrete with steel girders at an estimated cost of greater than \$ 32,000 each. Clearly, less expensive crossings of this narrow channel are available and should be considered as part of creek avoidance alternative designs. Additionally, instead of limiting the number of parking spaces in the creek avoidance alternative to a number commensurate with the store size, the Analysis placed an unwarranted, disproportionately large number of parking spaces (within the larger western tract) and dismissed the alternative as impracticable stating that if all the parking spaces were in use, the number of people per sq. ft. in the store would exceed the City's density criteria. The Analysis placed the store on the smaller tract and argued that it wouldn't provide sufficient store space, and placed an over abundance of parking spaces on the larger tract and claimed it would result in too many shoppers in the store. For these reasons, we do not believe that the Applicant diligently evaluated the practicability of a creek avoidance alternative.

Modification of On-Site Alternative No. 6

Staff believe On-Site Alternative 6 (depicted in Figure 13 in the January 2009 report) can be modified in a manner that will provide a LEDPA which meets the Project's specified screening criteria. If the building footprint is shifted to the west of the channel, and the gas station and restaurant subparcels incorporated into the superstore and parking facilities, there should be sufficient room to avoid the creek channel, as well as a significant amount of the potential vernal pool crustacean habitat within the lower half of Wetland Area 10. Wetland Area 10 has been identified as potentially providing suitable habitat for vernal pool crustaceans during years of normal to wet rainfall. Eliminating disking of this wetland area would promote both the reestablishment of vernal pool plant species as well as vernal pool crustaceans. Additionally, it appears that such a modified design should easily meet the 172,000 sq. ft. store size screening criteria, and possibly the 215,000 sq. ft. desired for the Project. Construction of a two story parking garage and or a parking area beneath the store would further avail opportunities to minimize impacts to existing wetland habitat and the channel feature, and for creation of mitigation habitat on-site.

Mr. Todd Anderson
Application for Water Quality Certification
Planned Wal-Mart Waters Road, Suisun City

Avoidance of On-Site Designated Critical Habitat

Approximately 2.4 acres of the southeast corner of the site, encompassing portions of Wetland Area 10 and the channel feature, is within designated critical habitat for the vernal pool fairy shrimp and vernal pool tadpole shrimp. Although only the southern most part of Wetland Area 10 lies within the designated critical habitat zone, it has been reported that portions of Wetland Area 10 outside, but adjacent to the designated area may provide some habitat for vernal pool crustaceans in some years. No alternatives focusing on the practicability of avoiding all or portions of the designated critical habitat or the potential crustacean habitat associated with Wetland Area 10 have been considered. Additionally, the benefit of enhancing and protecting potentially suitable vernal pool crustacean habitat as mitigation for Project impacts has not been seriously explored as part of the Project plan development.

Practicability of a Two Story Parking Structure

Because a significant portion of the proposed Project design is occupied by surface parking, this issue is a crucial one for the Analysis. We acknowledge that constructing a two story parking structure might involve costs significantly greater than filling wetlands to construct a surface parking lot. However, the Applicant has not suitably demonstrated that construction of two story garage would render construction of the Project impracticable. We disagree with the assertion that construction of a parking structure for a commercial retail supercenter of the Project's size would amount to costs "...significantly greater than is normally associated with the type of project being proposed." While the cost of building a two story parking structure may be significant, the analysis is insufficient to meet the necessary demonstration of impracticability for this Project. Similarly, with respect to consideration of a two story parking structure, the Applicant's representative has asserted in March 18, 2009 correspondence to the Water Board that the ultimate demonstration as to whether an alternative is practicable or not is whether an applicant would construct the project if it was the only approvable alternative. This approach to determining practicability is not consistent with the 404(b)(1) Guidelines.

Off-Site Alternatives

While we believe that an as-of-yet undeveloped on-site LEDPA most likely exists, there are several notable off-site alternatives that need to be re-examined.

Off-Site Alternative G

Off-Site Alternative G is a 14 acre property located at the southeast corner of Sunset Avenue and Railroad Avenue within Suisun City. This alternative is dismissed as impracticable asserting that the site is not of sufficient size to accommodate the Project and would only support an approximately 125,000 sq. ft. store size, with no room for the restaurant or gas station. As described above, room to accommodate the restaurant and gas station cannot be used as a basis for determining impracticability of an alternative. Moreover, it appears that this 14 acre rectangular site would provide approximately 609,840 sq. ft. of developable area. The Analysis does not provide any information demonstrating why this 609,840 sq. ft. area is insufficient to construct a 215,000 sq. ft. store. Subtracting the store area from the 14 acres of developable area leaves a remainder of 9 acres for construction of parking facilities and other infrastructure.

Mr. Todd Anderson
Application for Water Quality Certification
Planned Wal-Mart Waters Road, Suisun City

Off-Site Alternative D

The Analysis states that this site is not practicable because it is unavailable. It states that the City currently has an application pending for development of the site. It was recently brought to our attention that the City does not have an application pending for this site. We will be following up with City staff shortly to confirm the status of this site.

Former Albertson's Site

The Analysis indicates that this site is impracticable because it is not available for development and does not provide sufficient acreage to accommodate the Project. There is no explanation as to why this site is not available for development. Also, while we understand that about half of the vacant building has been leased and that the remainder of the building and its less than 8 acre site would not provide sufficient acreage to accommodate the Project, the aerial photograph submitted in the Addendum depicts a large undeveloped site bordering the Albertson's site. There is no discussion as to the availability or practicability of utilizing this undeveloped site in conjunction with the Albertson's site for development of the Project. The non-availability of the Albertson's site should be explained and practicability of the Albertson's site in conjunction with the neighboring undeveloped site should also be analyzed.

Mitigation Proposal

As we discussed at our recent meeting, the application currently proposes out-of-kind mitigation for the Project's proposed culverting of the 1100 linear foot channel transecting the site. This mitigation proposal for the channel impacts is not acceptable. Once it has been clearly demonstrated that the Project impacts have been avoided and minimized to the extent practicable, our staff will work with the Applicant's representatives to develop an appropriate mitigation and monitoring plan.

Conclusion

We recommend that the applicant submit a revised Analysis and Mitigation Plan proposal as discussed above. The current Analysis does not adequately consider on- and off-site alternatives or demonstrate that the proposed Project is the LEDPA. In the absence of a revised and acceptable Alternatives Analysis and Mitigation Plan, staff will recommend the Board deny the Project's application for Water Quality Certification.

My staff and I are available to meet with you and Project representatives to discuss these issues, and what is necessary in a revised application for staff to recommend the Board certify this Project.

Mr. Todd Anderson
Application for Water Quality Certification
Planned Wal-Mart Waters Road, Suisun City

Sincerely,


 acting for

Bruce Wolfe
Executive Officer

Cc: SWRCB-DWQ, Bill Orme 401Stateboard@waterboards.ca.gov
U.S. EPA, David Smith R9-WTR8-Mailbox@epa.gov
ACOE, SF Regulatory Branch,
Bryan Matsumoto bryan.t.matsumoto@usace.army.mil
Holly Costa, holly.n.costa@spd02.usace.army.mil
Mark D'Avignon mark.r.d'avignon@usace.army.mil
Jane Hicks jane.m.hicks@usace.army.mil
CA Department of Fish & Game, Liam Davis ldavis@dfg.ca.gov
Michelle Tovar Michelle.Tovar@fws.gov;
Robert Karn <mailto:RKarn@RAKEngineers.com>
Ella Foley-Gannon <mailto:efoleygannon@sheppardmullin.com>
Jeff Olberding <mailto:Jeff@olberdingenv.com>
Heather McCollister hmccollister@suisun.com
Anthony Moscarelli archerone@comcast.net
Phil Tucker <mailto:pgtucker@aol.com>
Beth Garber egarber@ufcw5.org
George Guynn, Jr. georgejr@hotmail.com
Wayne Monger <mailto:wmonger@comcast.net>
Richard Hanson hansonra@sbcglobal.net

Item

31

From: Anthony Moscarelli <archerone@comcast.net>
Subject: **California Public Records Act Request**
Date: May 6, 2010 4:04:50 PM PDT
To: mwong@waterboards.ca.gov
 1 Attachment, 152 KB 

San Francisco Bay Regional Water Quality Control Board
Attention: [Melinda Wong](#) - File Review Request
1515 Clay Street, #1400, Oakland, CA 94612
Phone (510) 622-2430
Fax (510) 622-2460
Email: mwong@waterboards.ca.gov

Dear Ms. Wong,

This is a request to review public records at the San Francisco Bay Regional Board, made under the California Public Records Act. Specifically, I would like to review all documents and correspondence, including emails, letters, faxes, memos, and similar items between any Regional Board officers or staff and Wal-Mart Stores, Inc., from April 1, 2009 through the present day.

I would like to review the files in person at the Regional Board's offices within the next 7 days. Please respond to this email or call as soon as possible to advise me of an available date and time.

Thank you very much.

Sincerely,

Anthony Moscarelli
Save Our Suisun
1205 Pheasant Drive
Suisun City, CA
707-427-8509

Save Our Suisun
Anthony Moscarelli
1205 Pheasant Drive
Suisun City, CA 94585
(707) 427-8509

May 6, 2010

San Francisco Bay Regional Water Quality Control Board
Attention: [Melinda Wong](#) - File Review Request
1515 Clay Street, #1400, Oakland, CA 94612
Phone (510) 622-2430
Fax (510) 622-2460
Email: mwong@waterboards.ca.gov

Dear Ms. Wong,

This is a request to review public records at the San Francisco Bay Regional Board, made under the California Public Records Act. Specifically, I would like to review all documents and correspondence, including emails, letters, faxes, memos, and similar items between any Regional Board officers or staff and Wal-Mart Stores, Inc., from April 1, 2009 through the present day.

I would like to review the files in person at the Regional Board's offices within the next 7 days. Please respond to this email or call as soon as possible to advise me of an available date and time.

Thank you very much.

Sincerely,



Anthony Moscarelli

AM:SOS

Item

32

From: Suzanne Bragdon <sbragdon@suisun.com>
To: BWolfe@waterboards.ca.gov
CC: dan@suisun.com
Date: 6/18/2009 12:02 PM
Subject: FW: Thanks from Suisun City

Bruce -
When I hit "send" on the below message, I noticed it went without a subject line... sorry!
SB

From: Suzanne Bragdon
Sent: Thursday, June 18, 2009 11:57 AM
To: Bruce Wolfe (bwolfe@waterboards.ca.gov)
Cc: Daniel A. Kasperson
Subject:

Hi Bruce –

I really want to thank you and your staff for the time you took to meet with Dan and myself on our challenging commercial site. I appreciated the opportunity you afforded me to get up to speed on this whole process, which included a better understanding of the issues you and your staff face in analyzing these types of matters. As I shared, I have not worked through the RWQCB on matters of this nature – only sewer treatment challenges (a whole different animal!)

Regarding next steps: I will contact Wal-Mart and share your suggested strategy for moving us all forward, i.e., looking at this issue in reverse – what options are out there to minimize and/or mitigate the impacts to wetlands and creek/ditch/cut vegetation from the proposed project, rather than continuing to go around in circles on the question of alternatives. Once we all have a sense of what might be a "win-win-win" solution, then we back into the alternatives question.

Logistically, Dan will work with your staff (Bill I believe) and the appropriate consultants (i.e., environmental, engineering, planning) and our staff, to set up a meeting to work through identifying the full array of options. To keep the process moving, it might likewise be helpful to make it clear to those participating that all options need to get out on the table versus attempting to analyze and eliminate options at this step in time. It would be wonderful if this could occur in the next week or so....(helps me politically!)

Also, your staff was going to send to Dan some other parking ratio figures used by others for similar types of development. I have already asked our planning staff to provide an assessment of the parking lay-out on the site (numbers and location versus wetland/ditch area).

Thanks again, Bruce. This process can feel quite daunting to those of us not familiar with it, but I feel that you all did get a sense of what Suisun City is up against economically and fiscally, and that you are all willing to help us work through the puzzle we face. And for that, I thank you.

Take care –

Suzanne Bragdon
City Manager
City of Suisun City
707-421-7303

Bruce Wolfe - Suisun City - Wal-Mart Project

From: "Ella Foley-Gannon" <efoleygannon@sheppardmullin.com>
To: BWolfe@waterboards.ca.gov
Date: 6/23/2009 10:42 AM
Subject: Suisun City - Wal-Mart Project

Bruce - As indicated in my voicemail this morning, we were pleased to learn that the City and you and your staff had a productive meeting last week regarding the Walters Road Project. I understand that we are trying to schedule a meeting between City, RWQCB and Wal-Mart staff for tomorrow or Wednesday and am hopeful that we will be able to make significant progress to resolving the mitigation issues at this time. I would like to have the opportunity to speak with you this morning regarding the meeting so that I can ensure we have the right team present and bring all the information necessary to make the meeting as fruitful as possible. I can be reach on my cell phone today at 415/846-3663.

Thanks.

Ella

 <p>SHEPPARD MULLIN SHEPPARD MULLIN RICHTER & HAWKINS LLP ATTORNEYS AT LAW</p>	<p>Four Embarcadero Center 17th Floor San Francisco, CA 94111-4109 415.434.9100 office 415.434.3947 fax www.sheppardmullin.com</p>
<p>Ella Foley-Gannon Partner 415.774.2977 direct 415.403.6041 direct fax efoleygannon@sheppardmullin.com Bio</p>	

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that the one year period for responding to the certification under Section 401 of the Clean Water Act expired on January 22, 2010. I have attached a letter that I plan to send to the Corps tomorrow on this issue. Please call me if you have any questions about the letter.

Bob

Robert Uram
Partner
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
RUram@sheppardmullin.com
Direct: 415.774.3285
Fax: 415.403.6025


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Bruce Wolfe - Re: Walmart Suisun

From: "Robert Uram" <RUram@sheppardmullin.com>
To: BWolfe@waterboards.ca.gov
Date: 2/4/2010 7:07 PM
Subject: Re: Walmart Suisun
CC: jdavidoff@sheppardmullin.com

Bruce--I am not sure I understand your reponse. Can we talk tomorrow?

 Sheppard Mullin	Four Embarcadero Center 17th Floor San Francisco, CA 94111-4109 415.434.9100 office 415.434.3947 fax www.sheppardmullin.com
Robert Uram <i>Partner</i> 415.774.3285 direct 415.403.6025 direct fax RUram@sheppardmullin.com Bio	

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From: Bruce Wolfe <BWolfe@waterboards.ca.gov>
To: Robert Uram
Cc: Judy Davidoff
Sent: Thu Feb 04 18:09:43 2010
Subject: Re: Walmart Suisun

Thanks for keeping us in the loop on where you are with the Corps. We wouldn't agree that the clock expired 1/22/10 based on our letters to Walmart of 3/12/09 and 4/24/09, but it'll be useful to see where the Corps is at on this. Should they view certification as being waived, knowing that now would be helpful. That would lock us into taking the project to our Board for approval, but we may need to do that anyway.

Any timeframe for getting back to us on Noonan?

Bruce

>>> "Robert Uram" <RUram@sheppardmullin.com> 2/4/2010 5:01 AM >>>
Bruce,

Thank you for responding on Noonan. Since we last spoke, I discovered

From: Bruce Wolfe
To: Bill Hurley; Elizabeth Morrison; Jolanta Uchman
CC: Shin-Roei Lee
Date: 12/3/2009 7:45 PM
Subject: Fwd: Figure3_NoonanConservationBank_RestorationDesign (11X17).pdf - Adobe Reader
Attachments: Figure3_NoonanConservationBank_RestorationDesign (11X17).pdf

And here's the second PDF from Bob, detailing the Bank's site.

Gee, this seems kinda close to the big development Fairfield was proposing at the rail/Vacaville road junction - could be an argument down the road, should that project ever return, that that site is high quality since similar terrain is being used as a mitigation bank nearby.

Thanks!

>>> "Robert Uram" <RUram@sheppardmullin.com> 12/2/2009 5:28 PM >>>

Robert Uram
Partner
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
RUram@sheppardmullin.com
Direct: 415.774.3285
Fax: 415.403.6025

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From: Bruce Wolfe
To: Bill Hurley; Elizabeth Morrison; Jolanta Uchman
CC: Shin-Roei Lee
Date: 12/3/2009 7:41 PM
Subject: Fwd: Walmart: Figure2_ProjectSite.pdf - Adobe Reader
Attachments: Figure2_ProjectSite.pdf

I had a late call from Bob yesterday, sounding quite delighted that he had finally located linear mitigation in the project area. He says the Noonan Conservation Bank, in our region on the north side of Fairfield, has the ability to add riparian areas to its bank. He says Walmart would pay the Bank to establish 2200 lin feet at the Bank - this would be a "turnkey project", not a purchase of existing credits. He used that as a way to emphasize that this was much more expensive than Gridley.

Attached is the location of the Bank - I'm not familiar with it. The next pdf I forward will be the Bank's site detail.

While this looks like a possibility, lots of questions need answers, such as what's the timing of the construction of the linear feet, and does that mean temporal losses need to be accounted for; is 2200 linear feet adequate mitigation for the impacts onsite; is there enough water onsite for the Bank to succeed in providing all the linear feet, and what is the recourse if it can't; are there any permitting issues with the Bank that need resolution before we can accept this; etc.

I told Bob I'd forward all this to you guys for an initial reading, then we'd determine next steps.

I didn't tell him Jolanta's time will be significantly devoted to the Potrero Hills landfill in the near future...

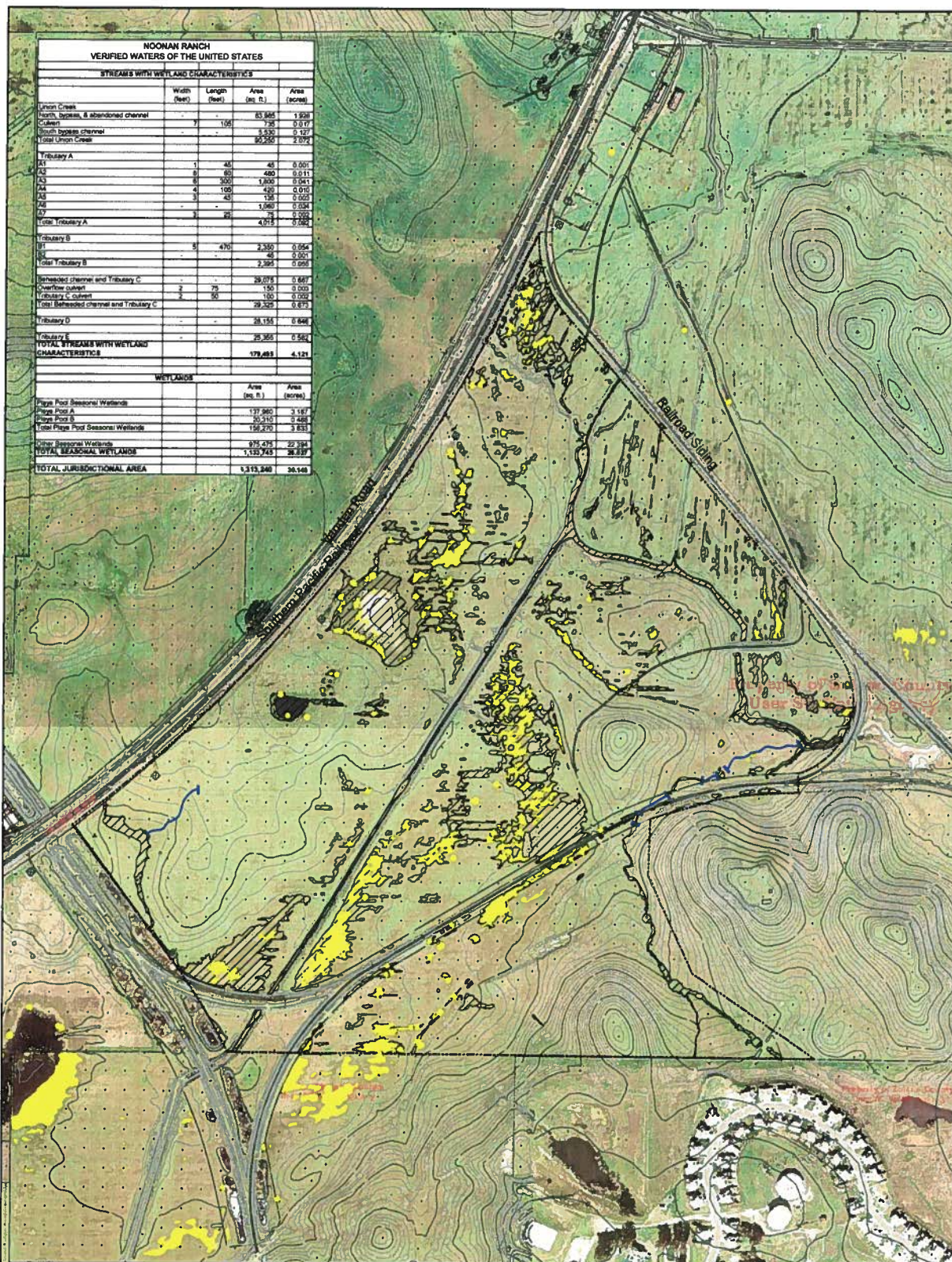
Thanks!

>>> "Robert Uram" <RUram@sheppardmullin.com> 12/2/2009 5:28 PM >>>

Robert Uram
Partner
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
RUram@sheppardmullin.com
Direct: 415.774.3285
Fax: 415.403.6025

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NOONAN RANCH VERIFIED WATERS OF THE UNITED STATES				
STREAMS WITH WETLAND CHARACTERISTICS				
	Width (feet)	Length (feet)	Area (sq. ft.)	Area (acres)
Union Creek			83,885	1.928
North bypass, & abandoned channel			7,257	0.167
Channel	7	1,068	1,532	0.035
South bypass channel			1,532	0.035
Total Union Creek			85,200	2.072
Tributary A				
T1	1	48	48	0.001
T2	8	65	480	0.011
T3	8	300	1,800	0.041
T4	4	168	420	0.010
T5	3	48	144	0.003
T6			1,680	0.038
T7			48	0.001
Total Tributary A			4,020	0.092
Tributary B				
T1	3	470	2,350	0.054
T2			48	0.001
Total Tributary B			2,398	0.055
Bifurcated channel and Tributary C				
			28,075	0.647
Overflow gutter			185	0.004
Tributary C, culvert	2	29	100	0.002
Total Bifurcated channel and Tributary C			28,325	0.653
Tributary D				
			28,154	0.648
Tributary E				
			25,385	0.581
TOTAL STREAMS WITH WETLAND CHARACTERISTICS				
			179,681	4.121
WETLANDS				
			Area (sq. ft.)	Area (acres)
Plate Pool Seasonal Wetlands				
Plate Pool A			137,960	3.167
Plate Pool B			20,510	0.468
Total Plate Pool Seasonal Wetlands			158,270	3.635
Other Seasonal Wetlands				
			875,075	20.034
TOTAL SEASONAL WETLANDS				
			1,133,745	26.039
TOTAL JURISDICTIONAL AREA				
			1,313,840	30.148

LSA



0 250 500
FEET

OTHER FEATURES

- STUDY SITE BOUNDARY
- PROPOSED CHANNELS
- CONTRA COSTA GOLDFIELD OCCURRENCES

EXISTING FEATURES

- WETLAND STREAM SEGMENT
- CULVERT
- W-1' SEGMENT WIDTH
- L-20' SEGMENT LENGTH
- WETLAND / WETLAND STREAM SEGMENT

FIGURE 3

Noonan Ranch
Conservation Bank

Channel
Restoration

Source: Aerial imagery from Solano County (2004)
I:\CNJ080\GIS\Maps\Wetlands\Restoration\Figure3_NoonanConservationBank_RestorationDesign (11X17).mxd (11/30/2009)

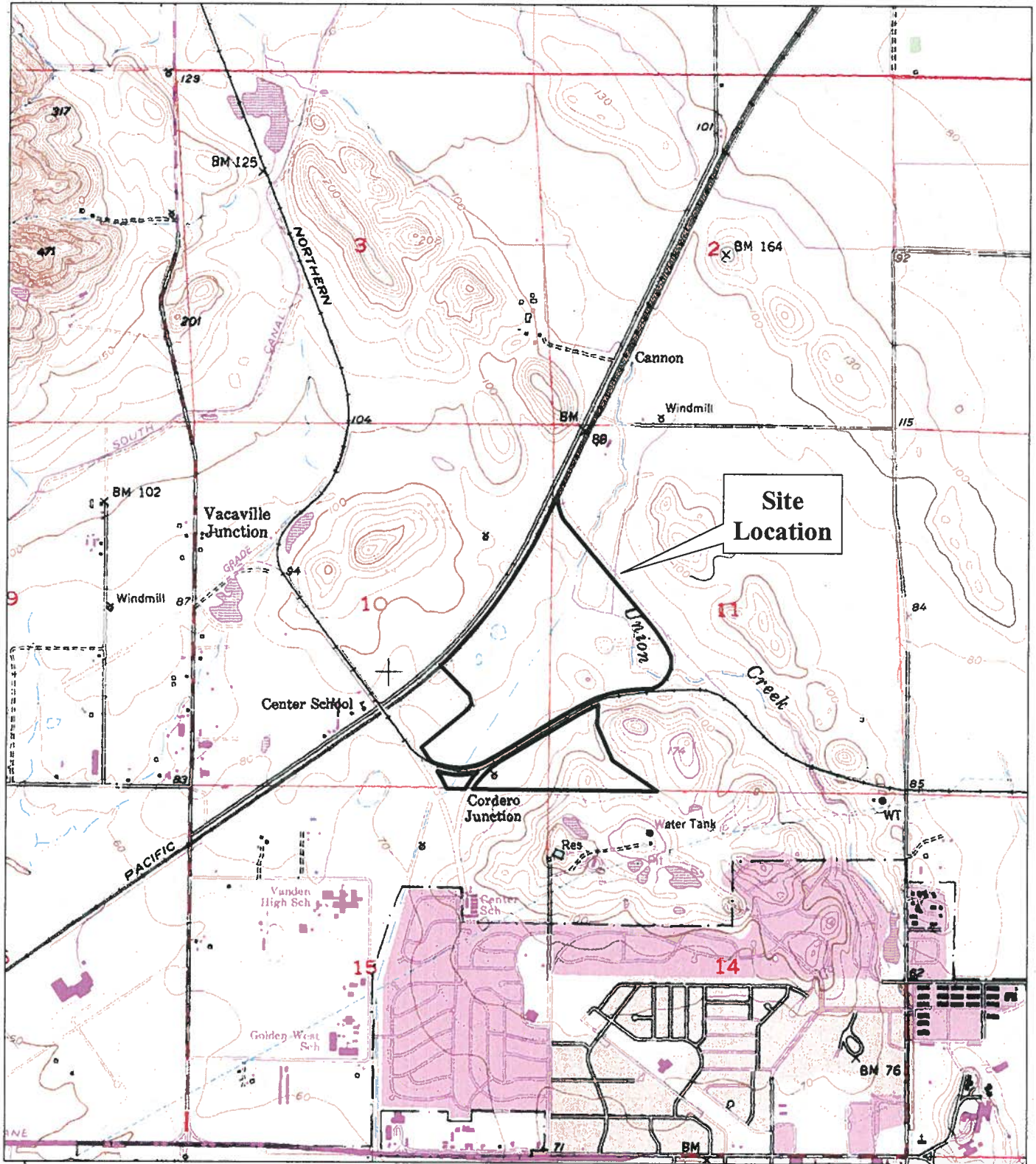


FIGURE 2

Noonan Ranch Conservation Bank

Site Location

LSA



SOURCE: USGS 7.5' QUAD - Elmira, CA (1980)

I:\NNA0801\GIS\Maps\Figure2_ProjectSite.mxd (07/29/2008)

From: "Steve Foreman" <Steve.Foreman@lsa-assoc.com>
To: <BWolfe@waterboards.ca.gov>
CC: <Valerie_Layne@fws.gov>, <Dwight_Harvey@fws.gov>, "Elizabeth Morrison" <...>
Date: 12/17/2009 4:36 PM
Subject: Noonan Conservation Bank/Suisun Wal-Mart

Bruce - I understand from talking to Valerie Layne at the US Fish and Wildlife Service that the Board Staff has asked the Service's concurrence for allowing Wal-Mart to mitigate at the Noonan Bank site for their channel mitigation requirements for their Suisun store. It appears there has been some miscommunication about the status and approach for this potential mitigation. We provided the conceptual map to Bob Uram with the understanding that the channel layout was very preliminary and that the Service would need to review and approve the channel work. The proposed channel work is an element of a larger bank expansion that the Noonan Bank is considering and that we are planning to bring forward to the US Fish and Wildlife Service and Interagency Review Team for review in early 2010. While the Noonan Bank was initially approved as a species-only bank, the bank agreement and associated management plan anticipated the potential for the Bank to be expanded to include additional lands and to incorporate habitat restoration activities, pending, of course, approval of the applicable agencies. We understood Bob wanted to see if this location would conceptually meet the Board's mitigation objectives. We assumed that once the Board Staff had conceptually agreed to the acceptability of the general location, the Noonan Bank would contact the US Fish and Wildlife Service to seek their concurrence prior to proceeding with preparation of a detailed plan and final approvals/concurrence from other agencies. The owners of the Noonan Bank did not want to approach the Service and interrupt their busy schedules with this proposal until there was at least some conceptual acceptance from the Board Staff and a commitment by Wal-Mart to proceed. If everybody conceptually agreed, we assumed we would work with the Board Staff and Service to address everyone's concerns and on how best to implement and approve the channel work as well as amending our current bank agreement/credit availability with the Service. Bob and I have talked about the process. Bob did not anticipate that the Board Staff would independently talk with the Service before we could do so. In retrospect, he agrees he should have made this clear to you. We apologize that it appears some elements have gotten out of step and caught you, your staff, and the Service off guard. This certainly was not our intent.

Steve Foreman
Principal/Wildlife Biologist
LSA Associates, Inc.
157 Park Place
Pt. Richmond, CA 94801
510/236-6810 (office)
510/236-3480 (fax)
510/376-5767 (cell)

Bruce Wolfe - Walmart Suisun

From: "Robert Uram" <RUram@sheppardmullin.com>
To: BWolfe@waterboards.ca.gov
Date: 12/7/2009 4:04 PM
Subject: Walmart Suisun
CC: jdavidoff@sheppardmullin.com
Attachments: Figure3_NoonanConservationBank_RestorationDesign (11X17).pdf;
Figure2_ProjectSite.pdf; Figure3_NoonanConservationBank_RestorationDesign
(11X17).pdf

Hello Bruce,

I am following up on my call last week on Walmart Mitigation. As we discussed, I was pleased to report that I have found a site that responds to your objection to Walmart's proposal to purchase riparian mitigation credits at the Elsie Gridley Mitigation Bank.

We have received an offer from the Muzzy Ranch Conservation Company to create approximately 2200 linear feet of riparian areas within and adjacent to the Noonan Ranch Mitigation Bank. General information on the Noonan Ranch Mitigation Bank can be found at http://www.fws.gov/sacramento/es/bank_list.htm. The Noonan Ranch Mitigation Bank is located in Solano County as shown on the attached Figure 2 and is within the jurisdiction of the Regional Board. The planned acreage for the riparian areas would be approximately 0.31 acres. Muzzy Ranch Conservation Company has proposed this as a turn-key project. The location of the area they are proposing for riparian creation is shown on the attached Figure 3.

Based on our last conversation, I believe that this proposal meets the parameters we discussed in terms of length and acres and your goal that the riparian mitigation be located within the jurisdiction of your Board. While the Elsie Gridley Mitigation Bank continues to be our first preference, this alternative is acceptable.

Please let me know if this site meets with your approval. If it does, I would like to schedule a follow-up meeting with you and staff to identify the remaining steps to complete the certification process including a detailed plan and specifications for the restoration.

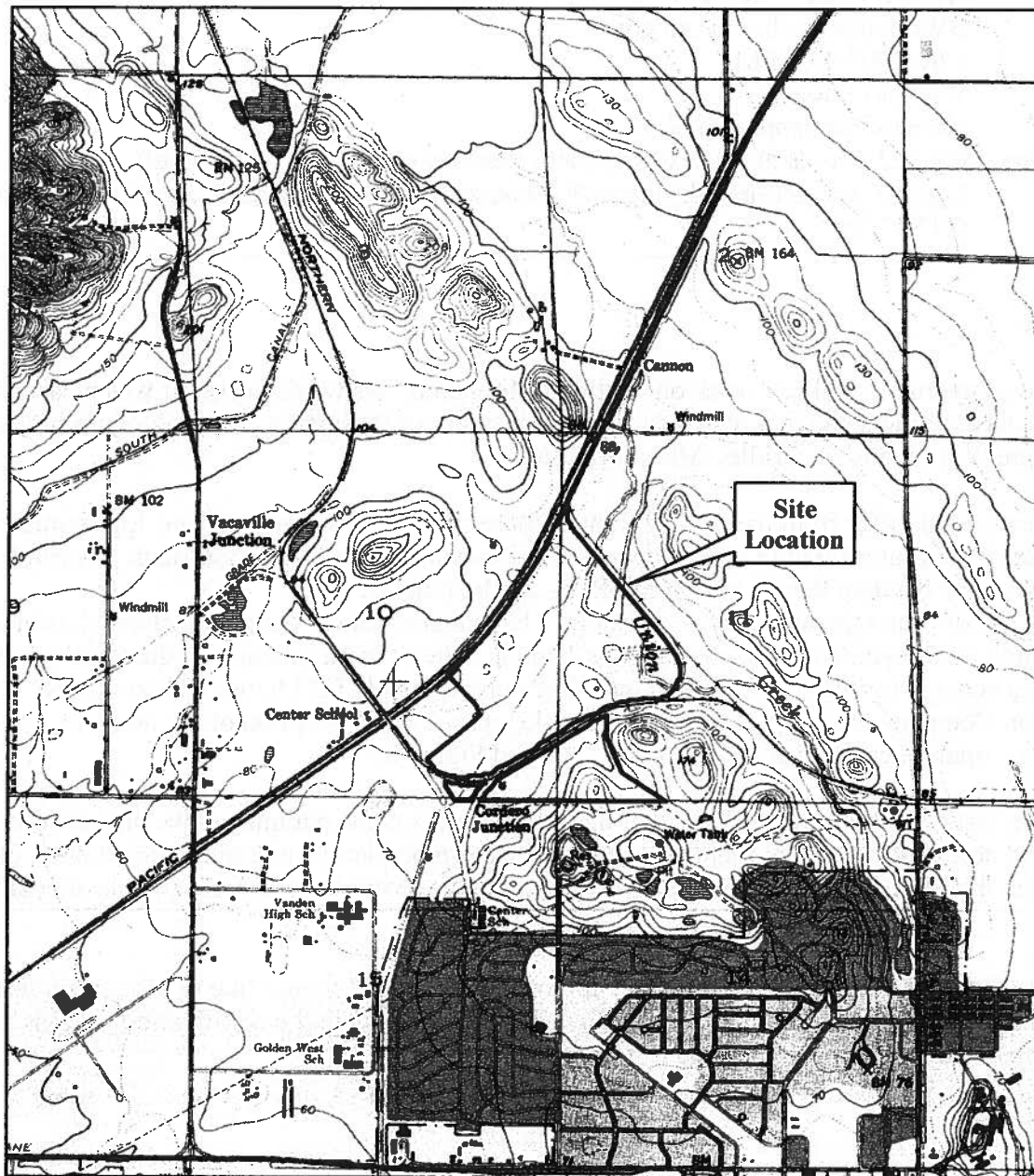
Best regards,

Bob



Please think about the environment before printing.
Consider two-sided printing if available.

Sheppard Mullin	Four Embarcadero Center 17th Floor San Francisco, CA 94111-4109 415.434.9100 office
-----------------	--



LSA

FIGURE 2



Noonan Ranch Conservation Bank

0 1,000 2,000
FEET

A horizontal scale bar with markings at 0, 1,000, and 2,000 feet.

Site Location

SOURCE: USGS 7.5' QIAD - Elmer, CA (1980)
E:\NAD80\VGSM\Map4\Figure2_ProjectSite.mxd(07/29/2008)

From: Bruce Wolfe
To: Robert Uram
Date: 1/26/2010 7:04 PM
Subject: Walmart Project

Bob,

As we discussed, we agree that the riparian mitigation required for the Walmart project could be located at the Noonan site in north Fairfield. As part of the proposal for project mitigation, we will want to know what success criteria are proposed for the riparian mitigation and whether there will be enough flow at the site for the riparian mitigation to reach the success criteria. Also, given that the site is already permitted by other agencies for other types of mitigation, we will want to know what the timing is for implementing the riparian mitigation, and how that compares to the anticipated time work would start at the Walmart project site.

Also, given my limited time to provide feedback on this proposed project, please include Bill Hurley and Jolanta Uchman on your emails so we can get back to you quicker.

Thanks!

From: Bruce Wolfe
To: Robert Uram
CC: Judy Davidoff
Date: 12/15/2009 6:58 PM
Subject: Re: Walmart Suisun

Bob,

I'm cautiously optimistic on this. Staff has been trying to get more background on Noonan from other agencies and has found that apparently USFWS is the only signatory to the bank. Liz Morrison was to speak to USFWS folks today to get a sense whether they would allow Noonan to do what you're proposing - hope to hear from her before she's out of town for the holidays. I'll keep you posted.

Also, FYI that the Potrero Hills Landfill expansion application has been reactivated based on a judge's ruling last month that its CEQA certification is valid. This poses two scheduling challenges: 1) it's the same staff dealing with that (Bill Hurley/Jolanta Uchman in Shin-Roei's division) as are dealing with the Walmart application, and 2) I think it would be a nightmare for all to have both projects in front of the Board at the same time. Thus, we'll need to work out how we keep both projects out of each other's way.

Thanks!

>>> "Robert Uram" <RUram@sheppardmullin.com> 12/15/2009 4:33 PM >>>
Hi Bruce,

I am following up on my call to your office today. We would like to get your thumbs up on the mitigation for this project at the Noonan Ranch Mitigation Bank. I am available at your convenience on Thursday if you want to schedule a quick call or meeting.

Thanks.

Bob

Robert Uram
Partner
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
RUram@sheppardmullin.com
Direct: 415.774.3285
Fax: 415.403.6025

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Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

From: "Robert Uram" <RUram@sheppardmullin.com>
To: "Matsumoto, Bryan T SPN" <Bryan.T.Matsumoto@usace.army.mil>, <Michelle_T...>
CC: "Karn, Robert" <rkarn@rakengineers.com>, "Bruce Wolfe" <BWolfe@waterboar...>
Date: 2/25/2010 1:03 PM
Subject: Walmart Suisun, Corps File No. 2006-303520N
Attachments: SUISUN CP11a-WITH WETLAND OVERLAY.PDF

I am writing to let you know that as a result of discussions with Bruce Wolfe, Walmart and the Regional Board have reached a tentative agreement on how to proceed for the water quality certification for the Suisun project, Corps permit application, Corps File No. 2006-303520N . The purpose of this e-mail is to let the Corps and Service know of the agreement and to suggest that we meet to address the process for completing action on the application.

I have attached a revised site plan for the project ("Revised Project"). Under the revised project, Walmart has agreed to delete the planned gas station and the Regional Board agrees that this resolves its concern under the Section 404(b)(1) Guidelines.

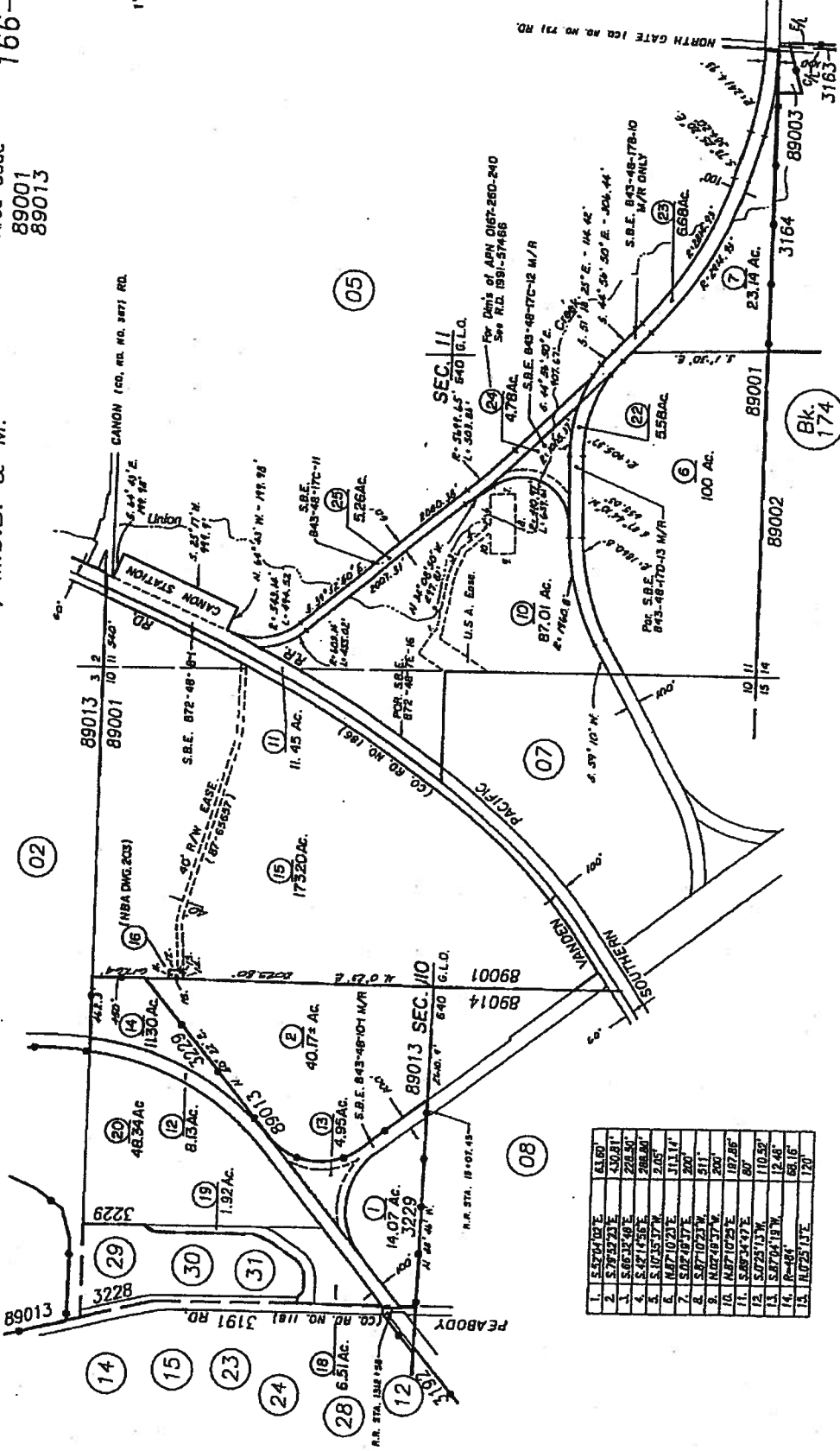
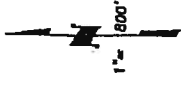
We have also agreed on the mitigation for the impacts. The loss of seasonal wetlands will be addressed by the purchase of 2.637 of credits for seasonal wetlands at the Elsie Gridley Mitigation Bank. The loss of the drainage feature will be addressed by a turn-key mitigation project of 2200 linear feet of riparian feature (2 to 1) in a constructed channel within and adjacent to the Noonan Ranch Mitigation Bank. I note that the 1602 Agreement for the project specifies that the linear mitigation was to occur at Elsie Gridley. The Regional Board requested the relocation of the linear mitigation to a site within its boundaries. We will be asking Fish and Game to agree to this change.

The Regional Board has also stated that it will condition its certification on approving a Mitigation and Monitoring Plan prior to allowing impacts to jurisdictional waters and requiring the plan to be submitted approximately 60 day prior to impacts to allow time for them to review the MMP. Muzzy Ranch LLC, the operator of the Noonan Bank will take the lead on obtaining the needed agency approvals for the MMP.

We would like to work with you to identify any other issues that need to be addressed and to set up a schedule. Please let me know if you can meet on March 9, 2010 at 10 am either in person or by phone.

Thanks.

Robert Uram
Partner
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
RUram@sheppardmullin.com
Direct: 415.774.3285
Fax: 415.403.6025



1.	S. 57° 14' 10" E	63.07'
2.	S. 77° 13' 31" E	530.81'
3.	S. 77° 13' 31" E	228.50'
4.	S. 27° 14' 55" E	288.90'
5.	S. 10° 55' 37" W	2.26'
6.	S. 67° 10' 23" E	311.14'
7.	S. 67° 10' 23" E	200'
8.	N. 67° 10' 23" W	911'
9.	N. 67° 10' 23" W	200'
10.	N. 67° 10' 23" W	187.85'
11.	S. 67° 10' 23" E	80'
12.	S. 67° 10' 23" W	110.30'
13.	S. 67° 10' 23" W	12.48'
14.	R. 48° 4'	58.16'
15.	N. 67° 10' 23" E	120'

NOTE: This map is for assessment purposes only. It is not intended to define legal boundary rights or imply compliance with land division laws.

REVISION	DATE	BY
S.B.E. 08-003	10-22-07	DV
295, 060-18769	3-28-07	CR
Revised From Bk. 167	1-3-07	CR

VICINITY OF FAIRFIELD
Assessor's Map Bk. 166 Pg. 06
County of Solano, Calif.

Assessor's Block Numbers Shown in Ellipses, Assessor's Parcel Numbers Shown in Circles

08-09

From: "Robert Uram" <RUram@sheppardmullin.com>
To: "Bill Hurley" <WHurley@waterboards.ca.gov>, "Bruce Wolfe" <BWolfe@waterb...>
Date: 4/16/2010 11:33 AM
Subject: RE: FW: Walmart Suisun, Corps File No. 2006-303520N

Bill and Bruce,

Could you please advise me on when we will be meeting. Thank you.

Robert Uram
Partner
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
RUram@sheppardmullin.com
Direct: 415.774.3285
Fax: 415.403.6025

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From: Robert Uram
Sent: Sunday, March 28, 2010 6:32 PM
To: 'Bill Hurley'
Cc: 'Bruce Wolfe'
Subject: RE: FW: Walmart Suisun, Corps File No. 2006-303520N

Bill,

Thanks for taking the time to talk last week. Please let me know after you talk with Bruce. Potential meeting dates are March 31 and April 12, 13 and 14. I spoke briefly with Bruce on Friday and reconfirmed my understanding that we have reached agreement on the LEDPA and mitigation, subject to submission and approval of plans for the Noonan site.

-----Original Message-----

From: Bill Hurley [mailto:WHurley@waterboards.ca.gov]
Sent: Thursday, March 25, 2010 2:18 PM
To: Robert Uram
Subject: Re: FW: Walmart Suisun, Corps File No. 2006-303520N

Bob,

Attached is a copy of the Water Board's incomplete CWA Sect 401 application response letter dated April 24, 2009 for the proposed

Wal-Mart development, Waters Road City of Suisun. The Water Board has not received a formal response to the deficiencies and inadequacies identified in our response ltr. from the applicant. Please review the letter and let's discuss

Thanks
Bill Hurley

>>> "Robert Uram" <RUram@sheppardmullin.com> 3/15/2010 11:30 AM >>>

After I sent this e-mail, I spoke with Bryan Matsumoto. His fine with the revised plan. He asked that we send him an updated project description. We are in the process of preparing that description. Michelle Tovar is out of the office. We will follow up with her when she returns. Fish and Game has also asked for a revised project description for a possible permit amendment.

We will also the revised description to the Regional Board. Please advise if you need anything else and advise as to schedule.

Thank you.

Robert Uram
Partner
Four Embarcadero Center,
17th Floor
San Francisco, CA 94111-4109
RUram@sheppardmullin.com
Direct: 415.774.3285
Fax: 415.403.6025

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From: Robert Uram
Sent: Thursday, February 25, 2010 1:02 PM
To: Matsumoto, Bryan T SPN; 'Michelle_Tovar@fws.gov'
Cc: Karn, Robert; 'Bruce Wolfe'; 'Jeff Olberding'; Judy Davidoff; 'WHurley@waterboards.ca.gov'; 'juchman@waterboards.ca.gov'; 'AHOLMES@dfg.ca.gov'
Subject: Walmart Suisun, Corps File No. 2006-303520N

I am writing to let you know that as a result of discussions with Bruce Wolfe, Walmart and the Regional Board have reached a tentative agreement on how to proceed for the water quality certification for the Suisun project, Corps permit application, Corps File No. 2006-303520N. The purpose of this e-mail is to let the Corps and Service know of the agreement and to suggest that we meet to address the process for completing action on the application.

I have attached a revised site plan for the project ("Revised Project"). Under the revised project, Walmart has agreed to delete the planned gas station and the Regional Board agrees that this resolves its concern under the Section 404(b)(1) Guidelines.

We have also agreed on site mitigation for the impacts. The loss of seasonal wetlands will be addressed by the purchase of 2.637 of credits for seasonal wetlands at the Elsie Gridley Mitigation Bank. The loss of the drainage feature will be addressed by a turn-key mitigation project of 2200 linear feet of riparian feature (2 to 1) in a constructed channel within and adjacent to the Noonan Ranch Mitigation Bank. I note that the 1602 Agreement for the project specifies that the linear mitigation was to occur at Elsie Gridley. The Regional Board requested the relocation of the linear mitigation to a site within its boundaries. We will be asking Fish and Game to agree to this change.

The Regional Board has also stated that it will condition its certification on approving a Mitigation and Monitoring Plan prior to allowing impacts to jurisdictional waters and requiring the plan to be submitted approximately 60 day prior to impacts to allow time for them to review the MMP. Muzzy Ranch LLC, the operator of the Noonan Bank will take the lead on obtaining the needed agency approvals for the MMP.

We would like to work with you to identify any other issues that need to be addressed and to set up a schedule. Please let me know if you can meet on March 9, 2010 at 10 am either in person or by phone.

Thanks.

From: Bill Hurley
To: Shin-Roei Lee
Date: 2/25/2010 5:42 PM
Subject: Fwd: Walmart Suisun, Corps File No. 2006-303520N
Attachments: SUISUN CP11a-WITH WETLAND OVERLAY.PDF

just fyi, Bob Uram's email sent to the Corps and FWS with copy to Bruce, Jolanta and me.

>>> "Robert Uram" <RUram@sheppardmullin.com> 2/25/2010 1:02 PM >>>

I am writing to let you know that as a result of discussions with Bruce Wolfe, Walmart and the Regional Board have reached a tentative agreement on how to proceed for the water quality certification for the Suisun project, Corps permit application, Corps File No. 2006-303520N . The purpose of this e-mail is to let the Corps and Service know of the agreement and to suggest that we meet to address the process for completing action on the application.

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The Regional Board has also stated that it will condition its certification on approving a Mitigation and Monitoring Plan prior to allowing impacts to jurisdictional waters and requiring the plan to be submitted approximately 60 day prior to impacts to allow time for them to review the MMP. Muzzy Ranch LLC, the operator of the Noonan Bank will take the lead on obtaining the needed agency approvals for the MMP.

We would like to work with you to identify any other issues that need to be addressed and to set up a schedule. Please let me know if you can meet on March 9, 2010 at 10 am either in person or by phone.

Thanks.

5/18/10

Please Note:

The draft letter dated February 5, 2010, (but not signed) from Bob Uram to the Corps was never sent as far as we know. However, Mr. Uram did send a letter dated April 27, 2010 (received by Water Board on April 19, 2010) to the Corps stating his belief that the Water Board waived certification by inaction. Water Board staff disagree with Mr. Uram assertion and are discussing this matter with the Corps' staff and attorney.

Jolanta Uchman, P.G.
Watershed Division
SF Bay RWQCB
510/622-2432

Bruce Wolfe - Walmart Suisun

From: "Robert Uram" <RUram@sheppardmullin.com>
To: BWolfe@waterboards.ca.gov
Date: 2/4/2010 5:02 AM
Subject: Walmart Suisun
CC: jdavidoff@sheppardmullin.com
Attachments: LET to ACOE re Waiver of 401 Water Quality Certification for Walmart Suisun City.pdf

Bruce,

Thank you for responding on Noonan. Since we last spoke, I discovered that the one year period for responding to the certification under Section 401 of the Clean Water Act expired on January 22, 2010. I have attached a letter that I plan to send to the Corps tomorrow on this issue. Please call me if you have any questions about the letter.

Bob

 <p>SHEPPARD MULLIN SHEPPARD MULLIN RICE & HAWORTH LLP ATTORNEYS AT LAW</p>	<p>Four Embarcadero Center 17th Floor San Francisco, CA 94111-4109 415.434.9100 office 415.434.3947 fax www.sheppardmullin.com</p>
<p>Robert Uram Partner 415.774.3285 direct 415.403.6025 direct fax RUram@sheppardmullin.com Bio</p>	

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February 5, 2010

Writer's Direct Line: 415-774-3285
ruram@sheppardmullin.com

Our File Number: 07KX-117475

VIA ELECTRONIC MAIL & FEDEX

Mr. Bryan T. Matsumoto
San Francisco Regulatory Division
Department of the Army
San Francisco District, US Army Corps of Engineers
1455 Market Street
San Francisco, CA 94102-1398

Re: Water Quality Certification for Walmart Supercenter/Walters Road
Development, Suisun City, Solano County (Corps File No. 2006-
303520N)

Dear Mr. Matsumoto:

We write on behalf of our client, Walmart Stores Inc. ("Walmart"), regarding its application for a section 401 water quality certification for the proposed Walmart Supercenter project (the "Walters Road Development") in Suisun City, in Solano County. As I mentioned last week, we would like to complete the Section 404 process for this application. Thank you for contacting the Fish and Wildlife Service to resume addressing the Endangered Species Act issues.

In reviewing the status of the various approvals, I discovered that state water quality certification has been waived under Section 401 of the Clean Water Act because the Regional Board failed to act within one year of its receipt of an application for certification. Accordingly, we ask that the U.S. Army Corps of Engineers (the "Corps") confirm our conclusion.

Under Section 401 of the Clean Water Act, a state must act on a request for certification within a reasonable time period, not to exceed one year, or be deemed to have waived the right to act. 33 U.S.C. § 1341(a). The waiver and one-year time limit are mandatory under federal law: "If a state . . . fails or refuses to act on a request for certification, within a reasonable period of time (*which shall not exceed one year*) after receipt of such request, the certification requirements of this subsection shall be deemed waived." *Id.* (emphasis added). The Corps' regulations state that certification will be deemed to be waived if the certifying agency fails to act within 60 days of receipt of a request for certification, although this period can

be extended to a period of up to one year if required by "special circumstances."¹ 33 C.F.R. § 325(b)(ii). In determining whether or not waiver has occurred, the Corps must verify that the certifying agency received a valid request for certification. *Id.* See also Memorandum For Commanders, Major Subordinate Commands and District Commands, Subject: Updated Standard Operating Procedures for the U.S. Army Corps of Engineers Regulatory Program at 24 (July 1, 2009).

The Regional Board denied Walmart's original request for certification without prejudice on November 19, 2008, due to the pending expiration of the one-year period. Attachment 1. The Regional Board's letter denying certification stated that the denial was issued "to preserve our ability to act on a water quality certification for this Project," indicating that the Regional Board recognized that failure to act on Walmart's application within a year of receipt would constitute a waiver of certification. Walmart re-submitted its application for water quality certification to the San Francisco Bay Regional Water Quality Control Board (the "Regional Board") on January 21, 2009. Attachment 2. As shown in Attachment 3, it was received on January 22, 2009. Attachment 3. The application was complete and is a valid application.

Under state law, the Regional Board has thirty days to review an application for completeness and to notify the applicant if the application is incomplete. 28 C.C.R. § 3835(a); Cal. Gov. § 65943(a); 23 C.C.R. § 3831(f). If the Regional Board takes no action within 30 days, the application is deemed complete as a matter of law. *Id.* The Regional Board took no action on Walmart's January 21, 2009 application within this thirty day period. The first response to the application was on March 12, 2009. Attachment 3. Accordingly, Walmart's application was deemed complete 30 days after receipt and was therefore valid under state law. 28 C.C.R. § 3835(d).

Under the Corps' regulations, the Regional Board had 60 days under the Corps' regulations to act on the valid request for certification, unless the Corps District Engineer found that special circumstances existed to warrant an extension. We have no record that the District Engineer made such a finding, so certification was waived on March 22, 2009. Even if the maximum period of one year was allowed, certification is waived because the Regional Board failed to act on the certification request by January 22, 2010, one year after receipt of the application for certification.

In conclusion, the Regional Board has failed to act on Walmart's valid request for water quality certification within either the standard sixty-day time period allowed by the Corps'

¹ The Corps' regulations allow the district engineer to extend the period beyond 60 days if required because of "special circumstances identified by the district engineer." 33 C.F.R. § 325.2(b)(ii). However, the extension is "not to exceed one year, at which time a waiver will be deemed to occur." *Id.*

Mr. Bryan T. Matsumoto
February 5, 2010
Page 3

regulations or the maximum one-year time period allowed by the regulations and the Clean Water Act. Therefore, the Regional Board has waived the opportunity for state certification under section 401 of the Clean Water Act. 33 U.S.C. § 1341; 33 C.F.R. § 325(b)(ii).

I would like to schedule a meeting with you to review outstanding items and to develop a schedule for final action by the Corps. I note that during the past year, we have discussed the project extensively with the Regional Board. I will share these discussions with you.

I look forward to working with you on this application.

Very truly yours,

Robert J. Uram

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

W02-WEST:5AMP1\402445533.5

Attachments

cc: Mr. Bruce H. Wolfe, SFBRWQCB (via U.S. Mail only)
Suzanne Bragdon, Suisun City Manager
John McNellis, McNellis Partners
George Bacso, Wal-Mart
Carr Thomson, Wal-Mart
Robert Karn, RAK
Jason Brandman, MBA
Jeff Olberding, Olberding Environmental



Four Embarcadero Center | 17th Floor | San Francisco, CA 94111-4109
415-434-9100 office | 415-434-3947 fax | www.sheppardmullin.com

Writer's Direct Line: 415-774-3285
ruram@sheppardmullin.com

Our File Number: 15CM-130472

April 27, 2010

VIA ELECTRONIC MAIL & FEDEX

Mr. Bryan T. Matsumoto
San Francisco Regulatory Division
Department of the Army
San Francisco District, US Army Corps of Engineers
1455 Market Street
San Francisco, CA 94102-1398

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In reviewing the status of the various approvals, I have determined that state water quality certification has been waived under Section 401 of the Clean Water Act because the Regional Board failed to act within one year of its receipt of an application for certification. Accordingly, we ask that the U.S. Army Corps of Engineers (the "Corps") confirm our conclusion.

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¹ The Corps' regulations allow the district engineer to extend the period beyond 60 days if required because of "special circumstances identified by the district engineer." 33 C.F.R.

Mr. Bryan T. Matsumoto
April 27, 2010
Page 2

§ 325(b)(ii). In determining whether or not waiver has occurred, the Corps must verify that the certifying agency received a valid request for certification. *Id.* See also Memorandum For Commanders, Major Subordinate Commands and District Commands, Subject: Updated Standard Operating Procedures for the U.S. Army Corps of Engineers Regulatory Program at 24 (July 1, 2009).

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Under the Corps' regulations, the Regional Board had 60 days under the Corps' regulations to act on the valid request for certification, unless the Corps District Engineer found that special circumstances existed to warrant an extension. We have no record that the District Engineer made such a finding, so certification was waived on March 22, 2009. Even if the maximum period of one year was allowed, certification is waived because the Regional Board failed to act on the certification request by January 22, 2010, one year after receipt of the application for certification.

I note that on April 23, 2010, the Regional Board sent a letter to Walmart that states it is denying the request for water quality certification without prejudice, claiming that there is a lack of a complete application. Attachment 4. The Regional Board asserts that it asked for additional information on April 24, 2009, and Walmart did not respond. The Regional Board is allowed to ask for additional information after an application is complete, 23 CCR 3836(a),

§ 325.2(b)(ii). However, the extension is "not to exceed one year, at which time a waiver will be deemed to occur." *Id.*

Mr. Bryan T. Matsumoto
April 27, 2010
Page 3

but this request for additional information does not change the fact that the application was previously deemed complete. *Id.* Attachment 4 confirms the facts we have set out regarding the failure of the Regional Board to act within the mandated thirty day period it has to deem an application incomplete.

In addition, Walmart disputes the Regional Boards assertion that it did not respond to the April 24, 2009 letter. Representatives of Walmart provided additional information to Executive Director Bruce Wolfe concerning the practicability of further avoidance in a series of meetings, phone calls and e-mails commencing on September 28, 2009. These discussions concerned the potential for Walmart to agree to additional avoidance, the availability of mitigation and minimization measures. These discussions culminated in an agreement with Mr. Wolfe that Walmart would reduce the proposed impacts by not developing the gas station parcel and by providing mitigation for the loss of seasonal wetlands at the Elsie Gridley Mitigation Bank and mitigation for the loss of linear feet of riparian feature in a constructed channel within and adjacent to the Noonan Ranch Mitigation Bank. The agreement was memorialized in an e-mail to you, Mr. Wolfe and others on February 25, 2010. Attachment 5. Since the water quality certification has been waived, and not developing the gas station parcel and splitting of the mitigation between Elsie Gridley and Noonan was done as an accommodation to the Regional Board and not needed for the project to comply with the Clean Water Act, Walmart will seek your approval of the project description before you, which includes construction of the gas station and purchasing all the mitigation credits at the Elsie Gridley bank.

In conclusion, the Regional Board has failed to act on Walmart's valid request for water quality certification within either the standard sixty-day time period allowed by the Corps' regulations or the maximum one-year time period allowed by the regulations and the Clean Water Act. Therefore, the Regional Board has waived the opportunity for state certification under section 401 of the Clean Water Act. 33 U.S.C. § 1341; 33 C.F.R. § 325(b)(ii). I would like to schedule a meeting with you to review outstanding items and to develop a schedule for final action by the Corps.

Very truly yours,


Robert J. Uram

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Mr. Bryan T. Matsumoto
April 27, 2010
Page 4

- Attachment 1: Letter from Bruce H. Wolfe, Executive Officer, Regional Board, to Wal-Mart Stores, re denial of certification without prejudice, November 19, 2008.
Walmart Application for Section 401 Water Quality Certification, January 21, 2009.
- Attachment 2: Application for 401 Water Quality Certification, submitted on January 22, 2009 (without attachments).
- Attachment 3: Letter from Bruce H. Wolfe, Executive Officer, Regional Board, to Wal-Mart Stores re Application for Water Quality Certification, March 12, 2009.
- Attachment 4: Letter Bruce H. Wolfe, Executive Officer, Regional Board, to Wal-Mart Stores re Second Denial without Prejudice of the Application for Water Quality Certification, April 23, 2010.
- Attachment 5: E-mail from Robert Uram to Bryan Matsumoto (and others), memorializing agreement with the Regional Board, February 25, 2010.

cc: Bruce H. Wolfe, Regional Board
Jane Hicks, Army Corps
George Domurat, Army Corps
SWRCB-DWQ, 401Stateboard@waterboards.ca.gov
U.S. EPA, R9-WTR8-Mailbox@epa.gov
Michelle Tovar, Fish and Wildlife Service
Suzanne Bragdon, Suisun City Manager
Daniel Kasperson, Suisun City
John McNellis, McNellis Partners
George Bacso, Wal-Mart
Carr Thomson, Wal-Mart
Robert Kam, RAK
Jason Brandman, MBA
Jeff Olberding, Olberding Environmental



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300, Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold
Schwarzenegger
Governor

November 19, 2008
Site No. 02-48-C0394 (JGU)
CIWQS Place No.: 722750

Certified Mail No.
Return Receipt Requested

Wal-Mart Stores, Inc.
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94333
Attention: Mr. Todd Anderson

**SUBJECT: Denial Without Prejudice of the Application for Clean Water Act Section 401
Water Quality Certification for the Walters Road West Development Project,
City of Suisun, Solano County; Corps File No. 2006-303520N**

Dear Mr. Anderson:

Wal-Mart Stores, Inc., through its agent, Olberding Environmental, Inc., has applied for a Clean Water Act (CWA) Section 401 water quality certification for the Walters Road West Development Project (Project) in Suisun City. The Project proposes to develop approximately 18.34 acres for a commercial retail center on a 20.8-acre parcel and discharge fill material into approximately 2.9 acres of jurisdictional waters.

The application for certification was first received by the Water Board on November 20, 2007. We have received supplemental application materials during the past year. However, at this time the certification application remains incomplete as described in our correspondences of December 7, 2007, and August 4, 2008. Due to the lack of a complete application detailing the Project proposal, we cannot certify that the Project as proposed will not violate State water quality standards. Accordingly, to preserve our ability to act on a water quality certification for this Project, we are denying certification of the project without prejudice.

Water quality certification for this Project is hereby denied without prejudice.

You may reapply for State water quality certification by submitting a revised certification application to our agency. We appreciate that the Project team met with our staff on September 11, 2008, to discuss the outstanding application deficiencies and Water Board requirements. Wal-Mart representatives indicated at the conclusion of this meeting that they had a better understanding of our requirements. Staff will work with the applicant's representatives to develop a certifiable Project design.

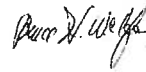
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Mr. Anderson
Denial w/o Prejudice Walters Rd W Development Project, Suisun
Site No. 02-48-C0394

- 2 -

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to JUchman@waterboards.ca.gov.

Sincerely,



Digitally signed
by Bruce Wolfe
Date:
2008.11.19
18:49:30 -08'00'

Bruce H. Wolfe
Executive Officer

Cc: SWRCB-DWQ, Bill Orme borme@waterboards.ca.gov
U.S. EPA, David Smith, WTR-8 smith.davidw@epa.gov
ACOE, SF Regulatory Branch,
Peter Straub peter.s.straub@usace.army.mil;
Mark D'Avignon mark.r.d'avignon@usace.army.mil;
Jane Hicks jane.m.hicks@usace.army.mil;
Michelle Tovar Michelle.Tovar@fws.gov;
Sandy Brunson SBrunson@dfg.ca.gov;
Ella Foley-Gannon efoleygannon@sheppardmullin.com;
Jeff Olberding Jeff@olberdingenv.com;
Heather McCollister hmccollister@suisun.com;
Anthony Moscarelli archerone@comcast.net;
Phil Tucker pgtucker@calhcn.org;
Beth Garber egarber@ufcw5.org;
George Guynn, Jr. georgejr@hotmail.com;
Wayne Monger wmonger@comcast.net;
Richard Hanson hansonra@sbcglobal.net

STATE OF CALIFORNIA - CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
 SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD
 1515 CLAY STREET, SUITE 1400
 OAKLAND, CALIFORNIA 94612

APPLICATION FOR 401 WATER QUALITY CERTIFICATION
 AND/OR REPORT OF WASTE DISCHARGE
 (FORM R2C502-E)

1. APPLICANT'S NAME Wal-Mart Stores, Inc.	4. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) Olberding Environmental, Inc.
2. APPLICANT'S ADDRESS C/O Robert A. Karn & Associates 707 Beck Street Fairfield, California 94533	5. AGENT'S ADDRESS 1390 Willow Pass Road, Suite 370 Concord, Ca 95420
3. APPLICANT'S PHONE & FAX NOS. (email optional) 707-435-9999 Phone 707-435-9988-Fax Tanderson@Rakengineers.Com	6. AGENT'S PHONE & FAX NOS. (email optional) 925-825-2111 Phone 925-825-2112 Fax Jeff@Olberdingenv.Com

7. STATEMENT OF AUTHORIZATION
 I hereby authorize Jeff Olberding to act on my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

 APPLICANT'S SIGNATURE Regional Vice President DATE 1-14-09
 (This must be signed by the Applicant, not the authorized agent)

PROJECT OR ACTIVITY INFORMATION

8. PROJECT NAME OR TITLE (See Instructions.) Walters Road Development Project	10. PROJECT STREET ADDRESS (if applicable)
9. NAME OF AFFECTED WATERBODY(IES) (See Instructions.) Unnamed Drainage And Seasonal Wetlands	
11. LOCATION OF PROJECT Solano COUNTY Suisun City CITY/TOWN (or unincorporated) Region 2 - San Francisco Bay REGIONAL WATER BOARD REGION	

12. OTHER LOCATION DESCRIPTIONS (watershed, latitude & longitude, river mile, etc. Attach map. See instructions.)
 Suisun Marsh Watershed, N 38 14.329' and W 121 58.781'. See attached maps.

13. DIRECTIONS TO THE SITE
 Access to the Property is attained by taking the Highway 12 exit east from Interstate 80. Follow Highway 12 for approximately 5.25 miles. The Property is situated immediately northwest of the intersection of Highway 12 and Walters Road.

14. PROJECT PURPOSE (Describe the reason or purpose for the overall project. See instructions.)
 The basic project purpose is a commercial development. The overall project purpose is to construct a regional shopping center to serve the unmet needs of the Suisun City and the region including a large Supercenter, a gas station, sit down restaurant and associated parking. The Alternatives Analysis for the Walters Road Development Project (Dec. 2009) provides additional information regarding the project purpose.

16. **DESCRIPTION OF ACTIVITY AND ENVIRONMENTAL IMPACTS** (Provide a full, technically accurate description of the entire activity and associated environmental impacts. See instructions.)

Please see attached description.

16. **AVOIDANCE OF IMPACTS** (Describe efforts to avoid and minimize impacts to waters of the State. See instructions.)

To prevent erosion and siltation from occurring during construction, the Project would be constructed in accordance with an erosion control plan and a grading plan with conditions developed specifically for the Project. The plan will also designate best management practices that will be implemented during construction. As required, additional measures would include installing silt fences, hay bales, water bars, and/or ground covers, to control erosion. Grading would be constructed during the dry period of the year to reduce the potential for siltation or erosion problems. Stabilization measures may include mulching and reseeding following construction.

17. **ENVIRONMENTAL DOCUMENTS** (List any non-CEQA environmental documents that have been prepared for the project and/or the project site. Provide the date of the document and the name of the individual, firm, or agency that prepared it. Provide a copy of delineations and endangered species surveys. See instructions.)

Biological Resource Analysis Report, July 2007, Olberding Environmental, Inc.
Jurisdictional Delineation Report, May 2006, Olberding Environmental, Inc.

DREDGE & FILL INFORMATION

18. The following items must be completed for each action where fill or other material will be temporarily (T) or permanently (P) discharged to a wetland or other waterbody, and where material will be dredged from a waterway (add additional pages as necessary). Provide a map showing the location of each action (See instructions):

Map Location Number	LOCATION (show on plan & indicate waterbody)	REASON FOR ACTION (See instructions)	AMOUNT AND TYPE OF MATERIAL (in cubic yards, see instructions)	SURFACE AREA OF FILL (in acres and/or linear feet; specify (T) or (P); see instructions)
Fig 5	Wetland Drainage Ditch (Corps Regulated)	underground culvert installation	culvert pipe - 1,500 cy	0.310 (P)
Fig 5	Adjacent Wetlands (Corps Regulated)	development fill	clean dirt-2,000 cy	2.686 (P)

MITIGATION

19. **MITIGATION** (Describe the size, type, and functions, and values of the proposed mitigation. Describe success criteria, monitoring, and long-term funding, management, and protection of the mitigation site. Attach a Mitigation Plan if needed. See instructions and contact Regional Board staff for additional assistance.)

Mitigation for 2.996 acres of wetland fill will consist of the purchase of wetland credit at the North Suisun Mitigation Bank, or other approved mitigation bank that services the Project area. The ratio for mitigation is proposed at 1:1 for a total purchase of 2.996 acres.

CEQA

20. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) Documents: Indicate the status of CEQA documents prepared for the project (see instructions).

TYPE OF DOCUMENT	STATUS	DATE COMPLETED (or expected to be complete)	TYPE OF DOCUMENT	STATUS	DATE COMPLETED (or expected to be complete)
Initial Study	-Choose One-		Notice of Preparation	-Choose One-	
Draft Environmental Impact Report	Complete	Sept 20, 2007	Final Environmental Impact Report	-Choose One-	
Negative Declaration	-Choose One-		Mitigated Negative Declaration	-Choose One-	
Notice of Categorical Exemption Exemption Number:	-Choose One-		Notice of Statutory Exemption Exemption Number:	-Choose One-	
Other (describe)	-Choose One-				
Notice of Determination*	-Choose One-				

*Note: A Notice of Determination or Notice of Exemption from the Lead Agency is required before a certification or waiver can be issued.

Lead Agency: City of Suisun City
State Clearing House Number: 2006072026

Contact: Heather McCollister

Telephone: 707-421-7335

ADDITIONAL INFORMATION

21. HAS ANY PORTION OF THE WORK BEEN INITIATED? YES NO
IF YES, DESCRIBE THE INITIATED WORK, and explain why it was initiated prior to obtaining a permit. Indicate whether any enforcement action has been taken against the project.

22. HAS A FEDERAL AGENCY OR THE APPLICANT PROVIDED PUBLIC NOTICE OF THIS APPLICATION FOR WATER QUALITY CERTIFICATION?
 Federal Agency: YES NO Date: _____ Type of Notification: _____ Agency Name and Contact: _____
 Applicant: YES NO Date: _____ Type of Notification: _____ Media Name and Contact: _____
 IF PUBLIC NOTICE HAS NOT BEEN MADE, provide the name, address, and phone number (if available) of adjacent property owners, lessees, etc., and any other parties known to be interested in the project:
 Public Notice will be made by the USACE in association with the 404 permit application processing.

23. OTHER PERMITS (List other local, state or federal licenses, permits, and agreements that will be required for any construction, operation, maintenance, or other actions associated with the project. Attach copies of all draft or final documents. See instructions.)

AGENCY	CONTACT (with phone number)	TYPE OF APPROVAL	PERMIT OR ID NUMBER	DATE APPLIED	STATUS	DATE OF ACTION
US Corps of Engrs.	Elizabeth Dyer	Individual Permit		11/20/07	In Review	
Ca Dept Fish Game	Sandy Brunson	Streambed Alteration		11/20/07	In Review	
US Fish Wildlife	Michelle Tovar	Biological Opinion			-Choose One-	
-Choose One-					-Choose One-	
-Choose One-					-Choose One-	
City of Suisun City		Grading Permit			-Choose One-	
Other or Local Agency					-Choose One-	
Other or Local Agency					-Choose One-	
Other or Local Agency					-Choose One-	

24. OTHER PROJECTS (List and describe other projects implemented or planned that are related to the proposed project, or that may impact the same waterbody. See instructions. Add additional sheets if necessary.)

PROJECT NAME	DESCRIPTION	WATERBODY AND WATERSHED	DATE IMPLEMENTED/PLANNED
N/A			



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300, Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold
Schwarzenegger
Governor

March 12, 2009
Site No. 02-48-C0394 (jgu/wbh)
CIWQS Place No.: 722750
Corps File No. 2006-303520N

Sent via electronic mail: No hard copy will follow

Wal-Mart Stores, Inc.
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94333
Attention: Mr. Todd Anderson
TAnderson@RAKengineers.com

SUBJECT: Application for Clean Water Act Section 401 Water Quality Certification for the Walters Road West Development Project, City of Suisun, Solano County

Dear Mr. Anderson:

Thank you for your application for water quality certification for the Walters Road Development Project (Project), proposed to be developed in the City of Suisun City, Solano County. The application was submitted on behalf of Wal-Mart Stores, Inc., (Applicant) by Olberding Environmental, Inc., and was received by Water Board staff on January 22, 2009.

This letter serves as notification that the Water Board does not issue water quality certification for this Project as proposed in the application materials. The Water Board has expressly requested that any approval of water quality certification for the Project be brought before it at one of its monthly meetings. What follows are the issues that must be addressed and resolved before the staff can bring the Project before the Board and recommend its approval.

Alternatives Analysis

As discussed further below, the application's Alternative Analysis (Analysis) does not demonstrate that the proposed Project alternative is the Least Environmentally Damaging Practicable Alternative (LEDPA) pursuant to the CWA Section 404(b)(1) Guidelines, which have also been incorporated into the Water Board's San Francisco Bay Basin Water Quality Control Plan (Basin Plan). The Water Board is required to consider them during its evaluation of proposals for wetland fill. The Analysis:

1. Incorporates inappropriate off-site and on-site screening criteria;
2. Fails to analyze potentially practicable off- and on-site alternatives;

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3. Improperly excludes off- and on-site alternatives that were considered, without sufficient information or analysis demonstrating their impracticability; and
4. In evaluating the practicability of on-site alternatives, uses store acreage numbers that are 23% different than the minimum acreage identified as practicable elsewhere in the Analysis.

Basic Project Purpose

The Analysis defines the basic project purpose as the construction of “a commercial development.” We concur that this is an acceptable basic project purpose. However, all decisions regarding practicability are made using a more detailed project purpose. The more detailed purpose incorporates project requirements, such as a gas station and restaurant that are not sufficiently substantiated in the Analysis as necessary to the Project, and then uses them to exclude alternatives that may be otherwise practicable.

Off-Site Alternatives

Location Constraint: Within Suisun City

The Analysis states that it is the Project’s intent to “meet the unmet needs of the residents of Suisun City and regional consumers” and to provide tax revenue to the City of Suisun City. These justifications are used to limit the Applicant’s off-site search to within the existing city limits of Suisun City. However, the Analysis does not define or describe the “unmet” needs of regional consumers and city residents. By extension, it does not explain why meeting them requires construction of a Wal-Mart within Suisun City limits.

Separately, we note that there are seven existing Wal-Marts within 20 miles of Suisun City, including a Wal-Mart at 300 Chadbourne Road in Fairfield, roughly 5 or 6 miles down Highway 12 from most Suisun City residents—about a 10-minute drive. There is another recently permitted Wal-Mart store located on North Texas Street in Fairfield which is about to open, approximately 5 miles from the Project site. As such, it is apparent that regional consumers and Suisun City residents are already well-served by Wal-Mart. In addition, numerous other commercial developments serve Suisun City residents, including both “big box” and traditional retail stores. This includes the significant outlet store and retail commercial development along Interstate 80 in Vacaville, approximately a 14-mile drive (20 minutes) away.

It is not clear why the Analysis does not consider renovation of existing retail stores as part of its alternatives. We are well aware that Wal-Mart has a practice of constructing larger stores in areas where it may have existing stores, and in some cases closing the existing store. Given the project goal of serving the regional area with a store of sufficient size, would it be practicable to modify an existing store to better serve the region? The Analysis should consider this alternative.

We note that Suisun City has not applied to construct this Project. As such, it is unclear why the City’s desire for additional tax revenues has been incorporated as a project screening criterion. The City would be unable to prevent construction of the project outside its city limits—indeed, as noted above, Wal-Mart and other retailers have already constructed stores in adjacent Fairfield and nearby Vacaville.

Thus, this proposed constraint is not supported by the Analysis. To acceptably demonstrate that the proposed project is the LEDPA, the Analysis must be revised to consider regional alternatives outside Suisun City that would meet the basic project purpose.

Local Requirements Constraint: Travis Air Force Base Land Use Compatibility Plan

The Analysis uses as a screening criterion the land use restrictions in the above-referenced Compatibility Plan (Plan). We recognize that local requirements, such as the Plan, remain subject to State and federal law, including the CWA. It may be helpful to include in the Analysis a discussion of how CWA requirements, including the 404(b)(1) Guidelines, were incorporated into the Plan's development process and how they are reflected in the Plan, or otherwise why the Plan should be permitted to take precedence over federal and State law.

Also, the Plan's interpretation is subject to significant change, as the Applicant is well aware: the Plan's apparent requirements on the proposed Project site were significantly revised as a part of the City's approvals for the proposed Project. At its November 8, 2007, meeting, the Solano County Airport Land Use Commission found that construction of the proposed Project within the Air Force Base's safety buffer zone was inconsistent with the Plan for safety reasons. This decision was overruled on February 12, 2008, by a vote of the City Council. Given that the Plan's apparent requirements have been revised at least once - for the subject Project - it is possible that the City Council could do so again for a similar project at a different location, or for a different project design at the proposed Project site. As such, the Analysis should be revised to exclude this as a screening criterion, which will result in the inclusion of several on-site alternatives as potentially practicable, or to provide a significantly more detailed explanation demonstrating why the Plan's requirements are now no longer subject to reinterpretation.

Acreage of Off-Site Parcels Unsupported

The Analysis states that a minimum area of 17 acres is necessary for off-site parcels to be practicable. However, it is unclear how this number was reached. The Analysis does not provide information sufficient to support it. It appears that this area is the amount necessary for the applicant's preferred alternative of a one-story "big box" with appurtenant surface parking that would be provided free to store customers. The parking requirements were apparently determined based on Suisun City zoning codes.

The Analysis does not provide information necessary to demonstrate why it excluded smaller alternatives with designs similar to those considered for on-site alternatives. For example, commercial developments, including "big box" retail stores, have been constructed with two stories or more (e.g., the Albany Target, the South Loop Target in Chicago), as well as with multi-story parking (e.g., the Walnut Creek Target, the South Loop Target in Chicago). Such design alternatives would allow a much smaller project footprint and should either be considered in the off-site analysis, or information should be presented sufficient to demonstrate their impracticability.

Off-Site: Analysis Insufficient to Allow a Determination of Impracticability

Site A: The Analysis evaluates a 490.5 acre site that is reported to have 330 acres of wetlands. This information, by itself, is insufficient to demonstrate that Site A would be impracticable for the proposed Project, which is not larger than 17 acres, and potentially significantly smaller.

Site B: See comments for Site A. Additionally, it is unclear, quantitatively, what portion of this 250-acre site consists of waters of the State. How does that compare with the acreage necessary to meet the applicant's basic project purpose?

Sites C, D and E: See comments for Site A.

Site F: See comments for Site A. Additionally, this site has been excluded because it is reportedly not served by existing arterial roads or highways. However, the Analysis does not consider whether necessary transportation alternatives could be extended to Site F as a part of the project. We recognize that such changes are frequently a part of local project approvals. As such, a site may be impracticable if it would be impracticable to extend appropriate transportation links to it, but the existence of such links prior to construction does not necessarily lead to a finding of impracticability. Please revise the Analysis to include a discussion of this issue.

On-Site Alternatives

The Analysis incorporates a variety of screening criteria that have been used to include or exclude evaluated on-site alternatives. While many of these criteria may provide helpful guidance to the applicant in its consideration of potential project alternatives, as a whole they venture far beyond the concept of practicability that is part of 404(b)(1) Alternatives Analysis.

For example, the economic feasibility screening criteria is inappropriately stated as: "The alternative design must have development costs that are not significantly greater than the proposed Project design." Similarly, the Applicant may desire a project that includes a gas station and restaurant, but it will meet its basic project purpose without these features. Indeed, the contemporary American landscape is replete with examples of commercial developments, including "big box" retail stores like Wal-Mart, built without them.

The same appears true of the Applicant's stated energy efficiency goals, store area, and parking requirements. It is unclear whether the Applicant's stated facility energy efficiency goals would ever preclude an alternative, or why they have been included here. While beneficial, we recognize that the in-store efficiency goals are overwhelmed by a project design that typically requires customers to drive to shop there.

Store Size

The Analysis improperly uses a 215,000 square foot store size as a screening criterion for on-site alternatives, when it elsewhere has determined that a 172,000 square foot store size is practicable.

Even the methodology by which the Applicant arrived at its stated store area requirement of 172,000 square feet is unclear. Our understanding is that Wal-Mart currently operates "regular" Wal-Marts ranging in size from 51,000 to 224,000 square feet, and "Supercenters" ranging in size from 98,000 to 261,000 square feet, with average store sizes of about 102,000 square feet and 197,000 square feet, respectively. The Analysis states that the proposed Project is intended to meet the unmet needs of regional and Suisun City shoppers, but does not define the region from which shoppers are intended to be drawn. Given that the Applicant operates a number of stores significantly smaller than the proposed Project, and the lack of other information in the Analysis sufficient to describe the Applicant's project evaluation, it is unclear how the Applicant has determined its project requires at least 172,000 square feet of interior space to be practicable. As such, the Analysis should be revised, and other space limits considered, as appropriate.

Parking Requirements

The Applicant has stated that the Project must include 4 parking spaces per 1,000 feet of interior space in order to comply with Suisun City zoning requirements. Two on-site alternatives are excluded in part because they would provide only 3.8 or 3.4 spaces per 1,000 square feet.

The required parking number appears to be much higher than that necessary for a practicable project. Specifically, it is the same as the number that resulted from the 1982 and 1999 Urban Land Institute (ULI) studies titled "Parking Requirements for Shopping Centers." The 1982 study determined that provision of 4.0 spaces per 1,000 square feet of gross leasable area was sufficient to "...serve patrons and employee needs at the 20th-busiest hour of the year, and allow a surplus during all but 19 hours of the remainder of the more than 3,000 hours during which a typical center is open annually. During 19 hours of each year, which are distributed over 10 peak shopping days, some patrons will not be able to find vacant spaces when they first enter."

That is, the Applicant is claiming that the only practicable project is one where some parking spaces are likely to be vacant more than 99.7% of the time. We note that the above requirement was developed for sites where parking is free to drivers. When the ULI repeated the study in 1999, it found that parking was generally oversupplied by about 1 space per 1,000 square feet of gross leasable area for spaces smaller than 600,000 square feet, stating "...this suggests that parking supply is not constricting demand. Moreover, it suggests that building more parking spaces will not result in increased traffic volumes and, subsequently, in increased sales at centers." The ULI noted that employees accounted for about 20% of parking at peak periods. The 1999 study also found that at 43% of evaluated shopping centers, parking lots were never more than 85% occupied even at the busiest hour of the year.

Because a significant portion of the proposed Project design is occupied by surface parking, this issue is a crucial one for the Analysis. The Applicant could reasonably seek a variation of zoning requirements that would reduce parking by as much as 25% (i.e., to 3 spaces from 4 per 1,000 square

feet)--even with a surface parking lot. Similarly, the Applicant could determine it will impose a small charge for parking, which would be expected to lead customers to choose alternative transportation methods, such as carpooling, taking fewer trips (but buying more during each trip), or taking alternative transportation to the Project. This should also result in a reduction in the required number of parking spaces. Finally, it could identify alternative parking options for its employees - for example, providing a shuttle from an off-site lot - during busy periods. These and similar alternatives are not considered in the Analysis, but it should be revised to address them.

As noted above, the Analysis does not include a discussion of interior store area sufficient to establish a minimum practicable area, although it does find that a store must be at least 172,000 square feet (which would lead to a parking requirement of 688 spaces under the stated zoning requirement). Alternatives that have reduced floor area - and thus reduced parking - should also be considered, and that consideration made explicitly in the Analysis.

Finally with respect to parking, the Analysis excludes alternatives that would include the construction of a parking structure, stating the cost "... would be significantly greater than is normally associated with the type of project proposed." This analysis is insufficient to meet the necessary demonstration of impracticability for this Project. An appropriate test could be whether it would be impracticable for the Wal-Mart Corporation to fund and operate a store with such a parking lot. As discussed above, other commercial developments, including "big box" retail stores, operate outlets with multi-story parking garages, and we are aware of Wal-Mart stores elsewhere with multi-story parking garages. Thus, such a design could be practicable for the subject Project, and the Analysis may not exclude it without providing additional information.

Two-story Retail Store

The Analysis improperly excludes a proposed two-story retail store design on cost grounds. While the Analysis states that a two-story store would be more expensive than a one-story store, that does not necessarily lead to a finding of impracticability, and the Analysis does not present information sufficient for the Board to make such a finding. The question is not whether it is more expensive than a different design, but rather whether such a design would be impracticable for this Project.

Practicability of Proposed Project

The Analysis does not evaluate the practicability of the proposed Project. It should be revised to include such an evaluation. As noted in our comments, the proposed Project would be considered impracticable by the Analysis due to conflicts with the Travis Air Force Base Plan. However, that conflict was removed by the Suisun City Council.

The Analysis does not consider costs of wetland mitigation in its evaluation of the proposed Project design or other alternatives. The application proposes purchasing mitigation credits at the North Suisun Mitigation Bank or other mitigation bank within the Project's service area. Mitigation credits for seasonal wetlands/vernal pool habitat at the North Suisun mitigation Bank cost \$175,000 per acre. Additionally, the North Suisun Mitigation Bank does not sell mitigation credits for channel impacts. Consequently, once an acceptable Analysis has been completed, the Applicant must provide an alternative mitigation plan that provides for the creation of successful in-kind habitat to

compensate for impacts to the channel feature. A proposal for the creation of channel habitat will be both challenging to find and expensive to construct. The Applicant should revise the Analysis to evaluate potential alternatives with the inclusion of potential mitigation costs.

The Analysis' stated zoning-based parking requirements of 4.0 spaces per 1,000 square feet would result in on-site parking of approximately 688 spaces for the 172,000 square foot store the Analysis states is practicable, and which we therefore assume is the proposed Project design. However, the proposed Project has almost 1,000 parking spaces, or 45% more. This is a significant additional cost burden to the Project and will result in greater impacts to on-site waters than even a design that was limited to the already-oversupplied parking required by existing zoning. The Analysis does not draw a link between this apparently additional parking, the proposed Project design, and practicability. In the absence of such a link or other discussion, parking for the proposed design should be decreased to levels discussed above, consistent with efforts to avoid and minimize impacts to waters.

Other Issues of Practicability

The Analysis raises other issues of practicability, including:

- The Analysis states the proposed Project will generate so much trash and pollution that it will create significant impacts to those wetlands in or near the Project. Thus, it does not matter whether the wetlands are filled directly or not, because they will ultimately be impacted. While it is appropriate to consider whether a project may indirectly impact waters such that all beneficial uses are effectively removed, we are surprised at the expected lack of effective pollution control measures anticipated by the Applicant. In the absence of additional discussion, we cannot concur that any project design that avoids wetlands will result in significant indirect impacts to all avoided wetlands. The Analysis should be revised with a more thorough discussion of this issue.
- Project costs to cross existing wetlands and waters are unnecessarily inflated by selecting expensive methods of making those crossings, when other methods may be practicable and permissible. For example, the Analysis considers only clear span bridges. The Analysis includes language suggesting that crossings that include pedestrian and/or ADA access would be difficult to construct, even though they are so common as to be unremarkable.

Mitigation Proposal

The application's proposal of out-of-kind mitigation habitat to compensate for the proposed filling of 1050 linear feet (0.31 acre) of an unnamed channel is unacceptable. This drainage channel is identified on the USGS Denverton, CA Quadrangle as a blue line stream. The channel has defined bed and banks and the State Department of Fish and Game has issued a Streambed Alteration Agreement under which the City of Suisun is conditionally authorized to maintain the channel. Purchasing 0.310 acres of seasonal wetlands at a mitigation bank as proposed will not adequately mitigate for the proposed loss of channel habitat. Thus, the application must be revised to provide adequate compensatory mitigation.

Low Impact Development

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

The State Water Board adopted Board Resolution No. 2008-0030 on May 6, 2008, directing the Regional Water Boards to incorporate Low Impact Development Practices (LID) into projects they permit. LID practices reduce urban impacts to receiving waters by designing sites (starting with the site layout, and the grading and compaction phases of construction) that:

- a) disturb only the smallest area necessary;
- b) minimize soil compaction and imperviousness; and
- c) preserve natural drainages, vegetation, and buffer zones.

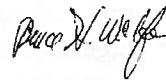
The Project as proposed fails to meet these LID design principles in that it would require grading of nearly the entire site, and would render the site's acreage impervious aside from creating a number of swales, and planted tree sites within the parking areas. Additionally, the Project design would eliminate all of the site's natural drainages, wetlands and vegetation. Further, the Analysis also indicates that the Project would indirectly impact waters due to incidental trash and pollutants from the Project. Thus, the Project should be redesigned consistent with LID design principles and to minimize impacts from trash and other pollutants.

Conclusion

Before the staff can bring the Project before the Board and recommend its approval, the Applicant must submit a revised Analysis and Mitigation Plan proposal as discussed above. The current Analysis does not appropriately consider off- or on-site alternatives or demonstrate that the proposed Project is the LEDPA. In the absence of a revised and acceptable Alternatives Analysis and Mitigation Plan, staff will need to recommend that the Board deny the Project's application for water quality certification.

My staff and I are available to meet with you and Project representatives to discuss these issues, and what is necessary in a revised application for staff to recommend the Board approve this Project.

Sincerely,



Digitally signed
by Bruce Wolfe

Date:

2009.03.12

17:11:00 -07'00'

Bruce H. Wolfe
Executive Officer

Mr. Karn
Application for Water Quality Certification
Planned Wal-Mart Walters Rd W, Suisun
Site No. 02-48-C0394

- 9 -

Cc: SWRCB-DWQ, Bill Orme 401Stateboard@waterboards.ca.gov
U.S. EPA, David Smith R9-WTR8-Mailbox@epa.gov
ACOE, SF Regulatory Branch,
Bryan Matsumoto bryan.t.matsumoto@usace.army.mil
Holly Costa, holly.n.costa@spd02.usace.army.mil
Mark D'Avignon mark.r.d'avignon@usace.army.mil
Jane Hicks jane.m.hicks@usace.army.mil
CA Department of Fish & Game, Liam Davis LDavis@dfg.ca.gov
Michelle Tovar Michelle.Tovar@fws.gov;
Robert Karn RKarn@RAKEngineers.com
Ella Foley-Gannon efoleygannon@sheppardmullin.com
Jeff Olberding Jeff@olberdingenv.com
Heather McCollister hmcollister@suisun.com
Anthony Moscarelli archerone@comcast.net
Phil Tucker pgtucker@aol.com
Beth Garber egarber@ufcw5.org
George Guynn, Jr. georgejr@hotmail.com
Wayne Monger wmonger@comcast.net
Richard Hanson hansonra@sbcglobal.net



Linda Adams
Agency Secretary

California Regional Water Quality Control Board

San Francisco Bay Region

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold Schwarzenegger
Governor

April 23, 2010
Site No. 02-48-C0394 (WBH)
CIWQS Place No.: 722750

Certified Mail No. 7007 2560 0001 7506 6675
Return Receipt Requested

Wal-Mart Stores, Inc.
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94333
Attention: Mr. Todd Anderson
TAnderson@RAKengineers.com

SUBJECT: Second Denial without Prejudice of the Application for Clean Water Act Section 401 Water Quality Certification for the Walters Road West Development Project, City of Suisun, Solano County; Corps File No. 2006-303520N

Dear Mr. Anderson:

Wal-Mart Stores, Inc., (Wal-Mart) has applied for a federal Clean Water Act section 401 water quality certification (certification) for the Walters Road West Development Project (Project) in Suisun City. The Project proposes to develop approximately 18.34 acres for a commercial retail center on a 20.8-acre parcel and discharge fill material into approximately 2.9 acres of jurisdictional waters.

The Water Board first received an application for certification for the Project on November 20, 2007. Due to the lack of a complete application detailing the Project proposal and to preserve the Water Board's ability to act on a certification for the Project, on November 19, 2008, I denied certification without prejudice.

On January 22, 2009, the Water Board received a new certification application for the Project. Water Board staff also received supplemental application materials in the form of an Addendum to the Alternatives Analysis on March 27, 2009. Staff reviewed these application materials and provided comments describing the application's deficiencies in letters dated March 12, and April 24, 2009. Staff has also met with Wal-Mart's representatives to discuss the Project and its certification application. However, to date, staff has not received any supplemental application materials addressing the deficiencies described in our April 24, 2009, letter (attached). Thus, the Project's certification application remains incomplete as described in our April 24 letter. Due to the lack of a complete application detailing the Project proposal, the Water Board cannot certify that

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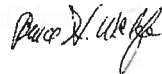
the Project as proposed will not violate State water quality standards. Accordingly, to preserve the Water Board's ability to act on a certification for the Project, I am denying certification of the Project without prejudice.

Water quality certification for this Project is hereby denied without prejudice.

Wal-Mart may reapply for certification by submitting a revised certification application to the Water Board. Staff will work with Wal-Mart's representatives to develop a certifiable Project design.

If you have any questions, please contact Jolanta Uchman of my staff at (510) 622-2432 or via email to JUchman@waterboards.ca.gov.

Sincerely,



Bruce H. Wolfe
Executive Officer

Digitally signed
by Bruce Wolfe
Date:
2010.04.23
14:47:39 -07'00'

Attachment: Water Board correspondence dated April 24, 2009

Cc: SWRCB-DWQ, 401Stateboard@waterboards.ca.gov
U.S. EPA, R9-WTR8-Mailbox@epa.gov
Bryan Matsumoto bryan.f.matsumoto@usace.army.mil
Jane Hicks jane.m.hicks@usace.army.mil
Laurie Monarres laurie.a.monarres@usace.army.mil
Cameron Johnson cameron.l.johnson@usace.army.mil
Michelle Tovar Michelle.Tovar@fws.gov
Brenda Blinn BBLINN@dfg.ca.gov
Robert Uram RUram@sheppardmullin.com
Jeff Olberding Jeff@olberdingenv.com
Daniel Kasperson dan@suisun.com
Anthony Moscarelli archerone@comcast.net
Phil Tucker pgtucker@aol.com
Beth Garber egarber@ufcw5.org
George Guynn, Jr. georgejr@hotmail.com
Wayne Monger wmonger@comcast.net
Richard Hanson hansonra@sbcglobal.net

From: Robert Uram
Sent: Thursday, February 25, 2010 1:02 PM
To: Matsumoto, Bryan T SPN; 'Michelle_Tovar@fws.gov'
Cc: Karn, Robert; 'Bruce Wolfe'; 'Jeff Olberding'; Judy Davidoff; 'WHurley@waterboards.ca.gov'; 'Juchman@waterboards.ca.gov'; 'AHOLMES@dfg.ca.gov'
Subject: Walmart Suisun, Corps File No. 2006-303520N

I am writing to let you know that as a result of discussions with Bruce Wolfe, Walmart and the Regional Board have reached a tentative agreement on how to proceed for the water quality certification for the Suisun project, Corps permit application, Corps File No. 2006-303520N. The purpose of this e-mail is to let the Corps and Service know of the agreement and to suggest that we meet to address the process for completing action on the application.

I have attached a revised site plan for the project ("Revised Project"). Under the revised project, Walmart has agreed to delete the planned gas station and the Regional Board agrees that this resolves its concern under the Section 404(b)(1) Guidelines.

We have also agreed on the mitigation for the impacts. The loss of seasonal wetlands will be addressed by the purchase of 2.637 of credits for seasonal wetlands at the Elsie Gridley Mitigation Bank. The loss of the drainage feature will be addressed by a turn-key mitigation project of 2200 linear feet of riparian feature (2 to 1) in a constructed channel within and adjacent to the Noonan Ranch Mitigation Bank. I note that the 1602 Agreement for the project specifies that the linear mitigation was to occur at Elsie Gridley. The Regional Board requested the relocation of the linear mitigation to a site within its boundaries. We will be asking Fish and Game to agree to this change.

The Regional Board has also stated that it will condition its certification on approving a Mitigation and Monitoring Plan prior to allowing impacts to jurisdictional waters and requiring the plan to be submitted approximately 60 day prior to impacts to allow time for them to review the MMP. Muzzy Ranch LLC, the operator of the Noonan Bank will take the lead on obtaining the needed agency approvals for the MMP.

We would like to work with you to identify any other issues that need to be addressed and to set up a schedule. Please let me know if you can meet on March 9, 2010 at 10 am either in person or by phone.

Thanks.

Item

33

MEMORANDUM

To: Attendees Date: May 12, 2010
From: Robert J. Uram /s/ :
Re: Walmart Suisun City Water Board Meeting Notes

On May 6, 2010, Bruce Wolfe, Shin-Roei Lee, Elizabeth Morrison, Bill Hurley and Dyan Whyte of the Regional Water Board met with Robert Uram, Alexis Pelosi and Bob Karn representing Wal-Mart to discuss the water quality certification for the Walmart Walters Road development project, Corps File No. 2006-3033520N. A copy of the agenda for the meeting is attached. All of the agenda items were discussed. Mr. Wolfe approved the agenda in advance of the meeting. The agenda and the discussions focused on a project footprint and mitigation plan, subject to preparation of documentation of the basis for that project footprint. The project footprint discussed would delete the gas station from the project proposal and avoid jurisdictional features adjacent to Walters Road ("Tentative Project").

Deleted: reflect the agreement between Mr. Wolfe and Walmart

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As a result of discussions at the meeting, the Regional Board and Wal-Mart agreed to meet again on May 27, 2010 at 9:30 a.m., subject to confirmation of the meeting by Wal-Mart. The meeting identified additional information to be provided to the Regional Board to help move forward the goal of finally identifying a project for which Board staff would recommend that the Board issue a water quality certification. The work items and agreements are as follows:

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1. The Regional Board and Walmart will be working cooperatively to address the staff's concerns with respect to the Tentative Project.

2. The Regional Board and Walmart agree that the overall project purpose that will be used in these discussions is to construct a Supercenter and associated restaurant facility in the City of Suisun, California. Walmart ~~is~~ pursuing a broader project purpose that includes a gas station with the Corps and reserves the right to pursue that purpose in the certification if an agreement is not reached based on the more limited overall project purpose.

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3. Walmart will develop information to show how it would treat the existing runoff from a 7.9 acre tract to the north of the project under the Tentative Project. Mr. Karn did not expect that this would be expensive and said it would likely involve mechanical treatment.

4. Walmart will provide the Regional Board with information on how the jurisdictional features avoided in the gas station parcel can be supplied with water to maintain the hydrology of the water features under the Tentative Project.

5. Walmart will discuss with the Muzzy Ranch Conservation Company personnel the likelihood of their obtaining approval from the Fish & Wildlife Service (USFWS) for conducting the linear mitigation for the project on the established Noonan Ranch Conservation Bank and adjacent land. ~~Board staff discussed that USFWS staff had expressed concerns regarding any work being performed on the Noonan Ranch Conservation Bank. Board staff also explained that the approval process of a wetlands/waters mitigation bank through the Corps' IRT (Interagency Review Team) can take months and sometimes up to one year and is a different process than the USFWS's Conservation Banking approval process. Board staff suggested that if discussions with USFWS were not positive, Muzzy Ranch may want to~~

Deleted: Noonan Bank

Deleted: Muzzie Ranch.

consider creating mitigation only on the adjacent portion of Noonan Ranch which is not a part of the Noonan Ranch Conservation Bank. As discussed with Mr. Wolfe, Walmart plans to purchase credits from a yet to be approved mitigation bank and impacts to jurisdictional features could not be done until the mitigation bank was approved and the credits purchased.

6. In response to the Board's April 2009 letter, Wal-Mart will prepare a creek avoidance alternative that responds to the comments on the creek side avoidance from (revisions to Figure 9, January 2009, Submittal CP15).

7. In response to the Board's April 2009 letter, Wal-Mart will prepare a modification to Figure 13, January 2009 report, CP19 that responds to the comments.

8. With respect to avoidance of on-site designated critical habitat, discussed in the Board's April 2009 letter, Bill Hurley will talk with biologists further about whether this alternative would be pursued. Wal-Mart's view was that since the area of critical habitat does not have any aquatic resources, avoiding it is not necessary to comply with the 404(b)(1) guidelines.

9. Walmart will prepare an alternative to the Tentative Project that reduces the size of the Supercenter and increases avoidance to the north of the gas station parcel.

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10. In response to the Board's April 2009 letter, Wal-Mart will present comparative information on the costs of constructing stadium parking versus a parking structure.

11. In response to the Board's April 2009 letter, Walmart will provide further information on the offsite alternatives. For offsite alternatives, the relevant period for availability is when the Corps application was filed.

12. Apart from confirming with Muzzey Ranch that the mitigation is potentially moving forward, no further action is needed on the mitigation proposal for the next meeting.

13. Walmart will provide review drafts on May 20, 2010, one week before the next meeting. We agreed that these materials would be exchanged and reviewed informally and no further letters would be exchanged at this time.

Item

34

From: "Bill Hurley" <whurley@waterboards.ca.gov>
Subject: **Re: Wal-Mart minute notes**
Date: June 16, 2010 12:34:07 PM PDT
To: <archerone@comcast.net>
Cc: <pgtucker@aol.com>, "Dyan Whyte" <DWhyte@waterboards.ca.gov>, "Elizabeth Morrison" <EMorrison@waterboards.ca.gov>, "Jolanta Uchman" <JUchman@waterboards.ca.gov>, "Shin-Roei Lee" <SRLee@waterboards.ca.gov>, "Yuri Won" <YWon@waterboards.ca.gov>

**** High Priority ****

Anthony,

Working backwards responding to your message:

- 1 - Wal-Mart has sent a petition to our parent agency, the State Water Resources Control Board, asserting that we missed a regulatory deadline in responding to a CWA Section 401 application submittal. We disagree with this assertion. The State Board has not acted on this petition yet, other than to ask us for contact information of interested parties. We included contact information for both you and Mr. Tucker in our interested parties contact information response to the State Board.
- 2 - Wal-Mart's attorney submitted a similar request to the S.F. District Corps asserting that we have missed our regulatory deadline. The attorney told us verbally that he asked the Corps to hold off on considering his request until further notice, although I have not seen a written request to the Corps to hold off on his request.
- 3 - I will send you a copy of the minutes from our meeting.

Please contact me if you have any questions.

Sincerely,

Bill Hurley
Senior Water Resources Control Engineer
Regional Water Quality Control Board
San Francisco Bay Region

||| Anthony Moscarelli <archerone@comcast.net> 06/15/10 11:19 PM
>>>

Bill,

I talked to Jolanta Uchman before she left on leave about getting the minutes or any documents from the May 27, 2010 meeting with Wal-Mart.

She told me that you were working on them. She also told me that she would ask you to send a copy to me when you were finished. She also asked me to contact you if I had not received them. Thus I am contacting you.

Plus, after the Suisun City Council meeting tonight, one of the City Council members, Sam Derting, said that Wal-Mart was now going directly to Army Corp Of Engineers since the SFRWQCB missed their deadline. I know from the last data I received from your agency that Wal-Mart had tried that and failed. Could you let me know if that has changed or anything new has happen?

Thanks,
Anthony Moscarelli
707-427-8509

Item

35

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Re: Information request (date corrected)**
Date: July 6, 2010 8:55:30 AM PDT
To: "Anthony Moscarelli" <archerone@comcast.net>, "Bill Hurley" <WHurley@waterboards.ca.gov>
Cc: "Phil Tucker" <pgtucker@aol.com>, "Bruce Wolfe" <BWolfe@waterboards.ca.gov>, "Jeannette Bashaw" <JBashaw@waterboards.ca.gov>, "Shin-Roei Lee" <SRLee@waterboards.ca.gov>, "Yuri Won" <YWon@waterboards.ca.gov>

Dear Mr. Moscarelli,

I am sorry I was not able to get back to you sooner. Yes, the Water Board has received a new application from Walmart. While I have a hard

copy in my office, I am trying to find out if we received the full application via email and then I'd be happy to email you the information. You are welcome to come to our office and review the new

application as well. To answer you specific questions, Water Board staff met with Walmart and the City of Suisun representatives in order to see if we could agree to a project that poses the least environmental damage. The new application contains a project, referenced as CP-33, which reduces the amount of wetlands and channel which would be filled.

We have requested more information on this alternative as well as mitigation details. Walmart has agreed to submit this additional information by 7/9/10. I will forward you any information that I receive on this as well.

To answer your last question, yes there is still an active petition before the State Water Resources Control Board on this matter.

Please feel free to give me a call, I'd be happy to meet with you and discuss the project alternatives and your concerns.

Sincerely,

Dyan Whyte

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

||| Anthony Moscarelli <archerone@comcast.net> 07/02/2010 8:10 AM >>>

PDF copy of letter attached Dates Corrected

Anthony

Moscarelli

1205 Pheasant Drive

Suisun
City, CA 94585

Bill Hurley,
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

July 2, 2010

Dear Bill:

We are increasingly concerned over the lack of information provided to us by RWQCB staff regarding Wal-Mart's Walters Road West Project in Suisun City. Attached is a newspaper article from our local newspaper Blog. On the blog is a statement from a person who purports to know unpublished information about the status of the Wal-Mart project and its current status. We suspect this blogger is a political insider or most likely a Suisun City Councilperson. The blogger states that Wal-Mart has resubmitted their application to the Water Board and Wal-Mart's project application should be approved by September. As you know, we have requested through our public information requests all information from RWQCB related to the Wal-Mart project and have not received any information related to a new Wal-Mart project application being received by the Water Board or information related to such an application.

We would like to know four (4) things: 1) Has the Water Board received a new application from Wal-Mart or the City of Suisun? 2) Are any of

the
attached blog statements true? 3) Is the Staff or Legal Counsel of the
Water Board negotiating a settlement with Wal-Mart? 4) Is the Legal
Department still processing the petition through the judiciary process?

Since it is important that we understand the current status of the
Wal-Mart project, which we have requested and were assured we
would
receive, we need a reply to this letter within the next five (5) days.
If we do not receive a response to our request for information by
Wednesday, July 7, we will address our questions and concerns directly
to the San Francisco Water Quality Control Board at its next public
meeting.

Thank you for taking time to respond to our request for current
information.

Sincerely,

Anthony Moscarelli

Cc: Phil Tucker

Item

36

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Suisun RWQCB - Walters Road Project Application**
Date: July 8, 2010 10:38:51 AM PDT
To: "Anthony Moscarelli" <archerone@comcast.net>
Cc: "Elizabeth Morrison" <EMorrison@waterboards.ca.gov>
 4 Attachments, 1.1 MB

Mr. Moscarelli,

Attached is the electronic submittal we received from Walmart on 6/20/10. Per your request I've also attached meeting minutes from our May 12, 2010, meeting with the applicants. You also asked me about next steps and recent meetings we've had with the applicants, attached is the schedule our Executive Officer agreed to at our July 1, 2010, meeting when we met with Walmart representatives, the City of Suisun, and the Governor's Office of Economic Development. I recognize that a number of the referenced attachments for the application were not submitted electronically. If there is anything that you'd like to review in hard copy, please let us know.

In addition, you asked for legal clarification on what you may or may not present at the Water Board's public forum. I will get back to you as soon as possible with a response.

Sincerely,

Dyan Whyte

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400

Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

||| Alexis Pelosi <APelosi@sheppardmullin.com> 06/21/2010 5:42 PM
>>>

Bruce,

Earlier today we overnighted a copy of the entire application resubmittal for the Walters Road project to your office, including the check. You should receive it tomorrow morning. We have also forwarded a complete packet to Bill Hurley and Bryan Matsumoto of the Army Corps, who are also copied on this email.

For your convenience, we have also attached an electronic copy of the application and supplemental materials, not including the attachments. Please let us know if you would like electronic copies of the attachments as well and we will forward them to you. We did not include them at this point given their size, and the fact that hard copies should be delivered tomorrow morning.

If you have any questions please let us know and we look forward to hearing from you on this resubmittal.

Alexis

Alexis M. Pelosi

Direct: (415) 774-2974

Fax: (415) 403-6080

apelosi@sheppardmullin.com

www.sheppardmullin.com

Sheppard, Mullin, Richter & Hampton LLP

Four Embarcadero Center, 17th Floor

San Francisco, CA 94111-4106

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[DOC001.PDF \(557 KB\)](#)





[Wal-Mart Sui...doc \(120 KB\)](#)



[Action List 2.xls \(16.0 KB\)](#)

Item

37

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Fwd: Walters Road Project**
Date: July 9, 2010 1:43:40 PM PDT
To: "Anthony Moscarelli" <archerone@comcast.net>
 1 Attachment, 340 KB 

Mr. Moscarelli,

Attached are the supplemental materials I just received from Walmart's consultants. We have not reviewed these yet.

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

 Elizabeth Anderson <EAnderson@sheppardmullin.com>
07/09/2010 1:34 PM >>>

Dear Bruce,

Please find attached additional information regarding CP 33 from Walmart. Thank you.

Best, Liz

Elizabeth S. Anderson

Attorney
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
EAnderson@sheppardmullin.com
Direct: 415.774.2948
Fax: 415.403.6088

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From: Robyn Christo
To: Elizabeth Anderson
Sent: Fri Jul 09 13:16:47 2010
Subject: Suisun Ltr. to Bruce Wolfe



[7-9-10 Ltr. t...pdf \(340 KB\)](#)



Four Embarcadero Center | 17th Floor | San Francisco, CA 94111-4109
415-434-9100 office | 415-434-3947 fax | www.sheppardmullin.com

Writer's Direct Line: 415-774-2974
apelosi@sheppardmullin.com

Our File Number: 15CM-130472

July 9, 2010

VIA E-MAIL AND U.S. MAIL

Mr. Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water Quality
Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, Suisun City: Additional Information
Regarding CP 33

Dear Mr. Wolfe:

Thank you for meeting with representatives of Walmart, the City of Suisun City ("City"), and the Governor's Office of Economic Development on July 1, 2010, to discuss the Walters Road Development Project. At that meeting, the parties further discussed a modified site plan ("CP 33") that the Regional Water Quality Control Board ("Regional Board") staff agreed met its concerns regarding avoidance and that was a practicable alternative. The Regional Board has requested that Walmart provide additional information on this site plan. Specifically, the Regional Board requested that Walmart provide the following: (1) additional information regarding the project description, amount of fill, and avoidance measures for CP 33; (2) an analysis of whether CP 33 could be developed on one of the previously-analyzed off-site alternative locations; and (3) an update as to the status of the proposed mitigation. This additional information should complete the application submitted on June 21, 2010 and provide sufficient information to allow the Regional Board to move forward with processing the water quality certification as discussed at the meeting.

1. **Additional Information Regarding CP 33**

a. **Project Description:**

CP 33 involves the development of the 20.8-acre site with a retail and dining venue. The three main elements of the development include: 1) an approximately 182,000 square foot supercenter; 2) an approximately 8,000 square foot sit-down restaurant; and 3) associated parking and infrastructure to support the commercial development. The restaurant is

Bruce Wolfe
July 9, 2010
Page 2

currently a proposed use; however, the parcel may be developed with any use that is consistent with the General Commercial zoning for the site.

Supercenter: CP 33 includes construction of an approximately 182,000 square foot supercenter on approximately 18.44 acres. (Note: The enclosed building floor area is approximately 177,535 square feet without the outdoor portion of the garden center.) The store will contain a grocery component, general retail sales, garden center, and other uses. A total of 879 parking stalls are proposed for the supercenter. The new supercenter will be open 24 hours per day, seven days per week.

Sit-Down Restaurant: CP 33 will also contain an approximately 8,000 square foot building intended for a sit-down restaurant use together with required parking on approximately 1.41 acres. Alternate uses for the building include a single-tenant general retailer with a use complementary to the anchor tenant, or a multi-tenant building with a variety of general retail and casual food service uses also complementary to the anchor tenant. A total of 69 parking spaces are proposed for the restaurant use.

Parking and Internal Circulation: CP 33 would provide 948 parking spaces on-site. Drive aisles would link the supercenter and restaurant components with the access points on Walters Road and Petersen Road. Drive aisles would range from 25 to 52 feet in width. Designated crossing areas would also be located in front of the supercenter to alert drivers of the potential of crossing pedestrians.

Environmental Impacts: CP 33 would avoid approximately 0.317 acres of jurisdictional wetlands in the southern portion of the site, including approximately 315 linear feet of the wetland drainage ditch.

Imported earthen fill material will be used to fill the impacted seasonal wetlands on the property. The impacted seasonal wetlands on the site will be filled by standard site grading in preparation for development. Trucks will be used to haul clean earthen fill into the site. Heavy earth-moving equipment will be used to spread fill across the site.

A portion of the wetland drainage ditch on the site will be dewatered through the use of coffer dams, and all water will be pumped around the ditch to accommodate the over excavation necessary to install the storm drain system. Concrete storm drain pipes approximately 4 feet in diameter will be installed around the proposed building to reroute a portion of the existing channel after soils are prepared for construction and properly stabilized. The alignment will be backfilled and development will occur across the site.

Erosion and siltation controls will be used and maintained during and after construction to prevent fill and sediments from entering the creeks located downstream from the property. To prevent erosion and siltation from occurring, all exposed soils will be permanently

Bruce Wolfe
July 9, 2010
Page 3

stabilized following construction. Soil stabilization measures will likely include installing silt fencing and reseeding the construction area after all earth work is completed.

- b. Fill Information:
 - i. CP 33 would permanently fill 2.63 acres of jurisdictional wetlands, of which 0.28 acres comprise the wetland drainage ditch.
 - ii. CP 33 would use 900 cubic yards of clean dirt to place 786 linear feet of the drainage ditch permanently in an underground culvert.
 - iii. CP 33 would use 1,880 cubic yards of clean dirt to permanently fill the remaining 2.35 acres of impacted jurisdictional wetlands.
- c. Avoidance Measures: CP 33 would avoid impacts to waters of the state by incorporating the following features:
 - i. Prepare and implement a site specific Stormwater Pollution Prevention Plan (SWPPP) for the project in accordance with all the requirements, provisions, limitations and prohibitions of the General Construction Permit (2009-0009-DWQ) for discharges of stormwater associated with construction activity. This will include proper selection, installation, and maintenance of Best Management Practices (BMP) for sediment and erosion control, good site management "housekeeping", and BMPs to prevent non-stormwater discharges from discharging from the site. Included in the SWPPP will be a Rain Event Action Plan (REAP) and a Construction Site Monitoring Program specifically designed to the Risk Level of the Project.
 - ii. Post-construction BMPs to treat stormwater runoff before entering waters of the State will be installed during construction and maintained into perpetuity after the site is completely stabilized. In addition, post-development flows from the site will be regulated to pre-development levels.
 - iii. Post-construction stormwater treatment for 11.75 acres of off-site run-on from the Quail Glen Subdivision is proposed to be constructed as a part of this project. A report entitled, Post-Construction Stormwater Treatment for Off-Site Run-on, dated May 26, 2010 and revised June 16, 2010, was prepared by Robert A. Karn & Associates, Inc. to address the sizing and cost of three types of mechanical treatment devices. (See Additional Information document, Attachment 14, submitted June 21, 2010.)

Bruce Wolfe
July 9, 2010
Page 4

RWQCB staff has indicated that the Hydrodynamic Separator proposed in paragraph 3.1.2 on page 5 of the report is a reasonable approach for the treatment.

- iv. In order to avoid and preserve the avoided wetlands it is proposed to treat the post-construction run-off from 0.064 acres of parking lot. A detailed engineering analysis to support this proposal entitled, Avoided Wetlands Mitigation, dated May 26, 2010, was prepared by Robert A. Karn & Associates, Inc. (See Meeting Materials, Attachment K, submitted May 27, 2010.)

2. **Development Of CP 33 On Off-Site Alternative Locations**

Regional Board staff requested that Walmart analyze whether a supercenter of the size proposed in CP 33 could be developed at one of the previously-analyzed off-site alternative locations. Both Bob Karn from Robert A. Karn & Associates, Inc. and City staff determined that such a supercenter cannot be developed on any of the off-site alternative locations due to the same site constraints that are explained in detail in Walmart's previous submittals. (See attached letters from Bob Karn and the City; see also Walmart's June 2008 Alternatives Analysis, January 2009 second Alternatives Analysis, March 2009 Addendum to the second Alternatives Analysis, and Meeting Materials, Attachments B-D, submitted May 27, 2010.)

3. **Information Regarding Proposed Mitigation**

Impacts associated with development of CP 33 would be mitigated by purchasing seasonal wetland credits at a 1:1 ratio from the Elsie Gridley Mitigation Bank and riparian credits at a 2:1 ratio from the Noonan Ranch Mitigation Bank.

Muzzy Ranch Conservation Company is processing an amendment to the existing Noonan Ranch Mitigation Bank to add this riparian mitigation. Muzzy Ranch Conservation Company met with the U.S. Fish and Wildlife Service, California Department of Fish and Game, and the City of Fairfield last week to obtain additional information for the amendment. Muzzy Ranch Conservation Company expects to submit a draft prospectus to the U.S. Fish and Wildlife Service in the next few weeks for review and comment and will then proceed with the amendment process. (See also Meeting Materials, Attachment L, submitted May 27, 2010.)

SHEPPARD MULLIN RICHTER & HAMPTON LLP

Bruce Wolfe
July 9, 2010
Page 5

With this additional information, as discussed at the meeting, the application for water quality certification is complete. Thank you for your attention to this matter and we look forward to receiving any comments by July 16, 2010, as agreed to at the meeting, and to moving forward with the water quality certification process.

Sincerely,



Alexis M. Pelosi

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

W02-WEST:SENS1\402748780.1

cc: Bill Hurley
Jolanta Uchman
Dyan Whyte
Bryan Matsumoto
Florentino Castellon
Matt McCarron
Suzanne Bragdon
April Wooden
Jason Garben



ROBERT A. KARN & ASSOCIATES, INC.
707 Beck Avenue, Fairfield, California 94533 Phone: (707) 435-9999 Fax: (707) 435-9988

July 8, 2010

Mr. Bruce Wolfe
Executive Director
Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano
County: Site No. 02-48-C0394 (JGU) (Corps File No. 2006-303520N)

Robert A. Karn & Associates, Inc. has reviewed the off-site alternative analysis that was prepared for the proposed Suisun City Superstore and have found that utilizing the smaller store proposed in CP 33 will not change the results of our analysis. The sites still are too small or too irregular in shape for the development of the proposed project.

Sincerely,

A handwritten signature in black ink that reads 'Robert A. Karn'.

Robert A. Karn
President

CITY COUNCIL

Pedro "Pete" M. Sanchez, Mayor
Jane Day, Mayor Pro-Tem
Sam Derting
Michael J. Hudson
Michael A. Segala



CITY COUNCIL MEETING

First and Third Tuesday
Every Month

CITY OF SUISUN CITY

701 Civic Center Blvd.
Suisun City, California 94585
Incorporated October 9, 1868

July 7, 2010

Mr. Bruce Wolfe
Executive Director
Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County: Site No. 02-48-C0394(JGU) (Corps File No. 2006-303520N)

Dear Mr. Wolfe:

As you know, I provided a letter that is included as part the application to the Regional Water Quality Control Board for the above referenced project, dated June 18, 2010, which provided supplemental analysis to certain off-site alternatives. As requested by your staff at the meeting with the Governor's Office on July 1, 2010, I am writing to reiterate the conclusions reached for the off-site alternatives analysis have not changed for the proposed project. Further, a project with a smaller store, such as presented in CP-33 attached hereto, would not change the conclusions for any of the off-site alternatives for reasons previously stated in my letter to you dated June 18, 2010.

Sincerely,

Suzanne Bragdon
City Manager

DEPARTMENTS: AREA CODE (707)
ADMINISTRATION 421-7300 ■ PLANNING 421-7335 ■ BUILDING 421-7310 ■ FINANCE 421-7320
FIRE 425-9133 ■ RECREATION & COMMUNITY SERVICES 421-7200 ■ POLICE 421-7373 ■ PUBLIC WORKS 421-7340
REDEVELOPMENT AGENCY 421-7309 FAX 421-7366

Item

38

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Walmart application and Board hearing**
Date: July 13, 2010 3:05:15 PM PDT
To: "Anthony Moscarelli" <archerone@comcast.net>
Cc: "Bruce Wolfe" <BWolfe@waterboards.ca.gov>, "Elizabeth Morrison" <EMorrison@waterboards.ca.gov>, "Shin-Roei Lee" <SRLee@waterboards.ca.gov>

Dear Mr. Moscarelli,

The email is in response to your questions regarding what can be discussed during the public forum session of the Water Board's monthly public meeting. The Water Board cannot hear testimony during the public forum if the material relates to a pending adjudicatory matter (the issuance of a permit falls under this category). Furthermore, the Water Board members cannot discuss and receive info on this matter from either an applicant/discharger or stakeholders without all parties present. This is to ensure fairness to all sides and to ensure that the Water Board's decision is based on the record. In this case, if Walmart wanted to speak at the public forum it would be equally not allowed.

I have confirmed with Executive Officer Bruce Wolfe that given the public's interest in this matter we will be holding a public hearing. Our tentative schedule is to issue a draft Tentative Order for public review on August 13. The public comment period will be 30 days long. The tentative Water Board hearing date is October 13.

Please feel free to contact me if you have questions.

Dyan

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region

1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

Item


39

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Wal-Mart Application for Clean Water Act Section 401
Water Quality Certification for the Walters Road
Development**

Date: July 16, 2010 4:50:49 PM PDT

To: <Rkarn@RAKengineers.com>

Cc: <pgtucker@aol.com>, <Chris@ChrisKahnConsulting.com>, <archerone@comcast.net>, <wmonger@comcast.net>, <SBrunson@dfg.ca.gov>, <Brush.Jason@epamail.epa.gov>, <scianni.melissa@epamail.epa.gov>, <Michelle_Tovar@fws.gov>, <Valerie_layne@fws.gov>, <dave.freitas@gov.ca.gov>, <florentino.castellon@gov.ca.gov>, <georgejr@hotmail.com>, <hansonra@sbcglobal.net>, <APelosi@sheppardmullin.com>, <RUram@sheppardmullin.com>, <a wooden@suisun.com>, <sbragdon@suisun.com>, <egarber@ufcw5.org>, <Bryan.T.Matsumoto@usace.army.mil>, <Cameron.I.Johnson@usace.army.mil>, <jane.m.hicks@usace.army.mil>, <laurie.a.monarres@usace.army.mil>, <angela.stoner@walmart.com>, "Bill Orme" <BOrme@waterboards.ca.gov>, "Elizabeth Morrison" <EMorrison@waterboards.ca.gov>, "Shin-Roei Lee" <SRLee@waterboards.ca.gov>, "Bill Hurley" <WHurley@waterboards.ca.gov>, "Yuri Won" <YWon@waterboards.ca.gov>

 1 Attachment, 289 KB

Dear Mr. Karn:

The attached letter is the Water Board's response to Walmart's recent application for 401 certification for the Walters Road Development project. Feel free to give me a call if you have questions.

Sincerely,

Dyan Whyte

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612



[Suisun Wal-....pdf \(289 KB\)](#)



Linda Adams
Agency Secretary

California Regional Water Quality Control Board

San Francisco Bay Region

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold Schwarzenegger
Governor

July 16, 2010
Site No. 02-48-C0394 (ECM)

CIWQS Place No.: 722750

Sent via electronic mail: No hardcopy to follow

Wal-Mart Stores, Inc.
Robert A. Karn & Associates
707 Beck Avenue
Fairfield, CA 94533
Attention: Mr. Robert A. Karn
Rkarn@RAKengineers.com

**SUBJECT: Application for Clean Water Act Section 401 Water Quality
Certification for the Walters Road Development Project, City of Suisun,
Solano County; Corps File No. 2006-303520N**

Dear Mr. Karn:

Wal-Mart Stores, Inc. (Wal-Mart) has applied for a Clean Water Act section 401 water quality certification (certification) for the Walters Road Development Project (Project) in the City of Suisun City. The Project would develop approximately 19.85 acres for a commercial retail center on a 20.8-acre parcel and discharge fill material into approximately 2.63 acres of jurisdictional waters, including 2.35 acres of wetlands and 0.28 acres (786 linear feet) of stream channel. The Water Board received the certification application for the Project on June 22, 2010. Water Board staff also received supplemental application materials on July 9, 2010. Staff have reviewed these application materials and deem the certification application to be complete.

Although the application is complete, Water Board staff cannot complete drafting a tentative order for public review of the Project because the mitigation proposal in the application does not contain sufficient information for the Water Board to determine that water quality standards will be met. As part of the mitigation plan included in the application, Wal-Mart proposes to purchase riparian credits for the Project's linear impacts at the Noonan Ranch Mitigation Bank. While Water Board staff feel that purchases of riparian credits at a bank near the Project can be acceptable mitigation, such riparian credits do not currently exist at the Noonan Ranch Mitigation Bank, nor does the Noonan Ranch Mitigation Bank itself exist. Based on information Water Board staff have received, neither the credits or the bank will exist at anytime in the near future.

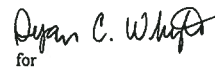
Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

Noonan Ranch currently is a 'conservation bank' for endangered species habitat and has a conservation easement with the United States Fish and Wildlife Service (FWS). Water Board staff have recently been in contact with FWS staff, and they have confirmed that they will need to grant permission to amend the conservation bank for any proposed work or changes to the Noonan Ranch site. FWS staff have not received any proposed amendment as of July 13, 2010. Thus, FWS staff have given no assurance that FWS will agree to amend the conservation bank, nor has U.S. Army Corps of Engineers (Corps) staff given us any assurance that the Corps will approve the mitigation bank prospectus. As such, there is no assurance that riparian credits will ever become available to Wal-Mart. Further, should FWS agree to amend the conservation bank, the length of time for FWS to complete the amendment, for the Corps to approve a mitigation bank, and for that mitigation bank to make riparian credits available would likely be a minimum of one year.

Wal-Mart needs to supplement its certification application with a proposal for adequate compensatory mitigation for the Project's linear impacts such that the Water Board can determine, at the time it considers the application, that water quality standards will be met. The proposal needs to contain sufficient details to ensure that all Project impacts will be mitigated. Water Board staff cannot complete drafting a tentative order for public review until we receive this information.

To accelerate resolution of this application, I have assigned Elizabeth Morrison, the Water Board's certification program manager, direct oversight of the Project. If you have any questions, please contact Elizabeth at (510) 622-2330 or via email to Emorrison@waterboards.ca.gov.

Sincerely,



for

Bruce H. Wolfe
Executive Officer

Cc: SWRCB-DWQ, Bill Orme borne@waterboards.ca.gov;
U.S. EPA, Jason Brush, WTR-8 brush.Jason@epamail.epa.gov;
Melissa Scianni scianni.melissa@epamail.epa.gov
ACOE, SF Regulatory Branch
Bryan Matsumoto, Bryan.T.Matsumoto@usace.army.mil;
Laurie Monarres, laurie.a.monarres@usace.army.mil;
Cameron Johnson, Cameron.I.Johnson@usace.army.mil;
Jane Hicks jane.m.hicks@usace.army.mil;
U.S. FWS, Valerie Layne Valerie_layne@fws.gov
Michelle Tovar Michelle_Tovar@fws.gov;
CDFG, Sandy Brunson SBrunson@dfg.ca.gov;
Robert Uram RUram@sheppardmullin.com;

Alexis Pelosi APelosi@sheppardmullin.com;
Angela Stoner angela.stoner@wal-mart.com;
Chris Kahn Chris@ChrisKahnConsulting.com;
Dave Freitas dave.freitas@gov.ca.gov;
Florentino Castellon florentino.castellon@gov.ca.gov;
Suzanne Bragdon sbragdon@suisun.com;
April Wooden awooden@suisun.com;
Anthony Moscarelli archerone@comcast.net;
Phil Tucker pgtucker@aol.com;
Beth Garber egarber@ufcw5.org;
George Guynn, Jr. georgejr@hotmail.com;
Wayne Monger wmonger@comcast.net;
Richard Hanson hansonra@sbcglobal.net;

Item

40

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Re: Wal-Mart Application for Clean Water Act Section 401
Water Quality Certification for the Walters Road Development**
Date: July 19, 2010 5:55:22 PM PDT
To: "Anthony Moscarelli" <archerone@comcast.net>
Cc: "Phil Tucker" <pgtucker@aol.com>, "george guynnjr"
<georgejr@hotmail.com>, "Elizabeth Morrison"
<EMorrison@waterboards.ca.gov>

Hello Mr. Moscarelli,

I don't have an answer to your questions at this time as this is something we are in the process of evaluating.

Dyan.

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

||| Anthony Moscarelli <archerone@comcast.net> 07/19/2010 10:01 AM >>>
Dear Ms. Whyte,

Thank you for sending us this letter. We have a few questions over this process. At what stage of the Noonan Bank amendment process does the Water Boards staff accept as far enough along to accept Wal-Mart's mitigation Riparian Habitat credit proposal? Will the Water Board Staff wait until the U. S. Fish and Wildlife Service has had its Public hearings or grants the permit to Muzzy

Ranch Conservation Bank for Noonan Ranch Bank? Your letter states that the USFWS had not received the amendment application as of 7/13/2010. You then state it could take about a year or more for the full process for the USFWS and the U.S. Army Corps of Engineers or they could just not accept it at all. We are looking for a time frame.

Sincerely,

Anthony Moscarelli

On Jul 16, 2010, at 4:50 PM, Dyan Whyte wrote:

Dear Mr. Karn:

The attached letter is the Water Board's response to Walmart's recent application for 401 certification for the Walters Road Development project. Feel free to give me a call if you have questions.

Sincerely,

Dyan Whyte

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441
Email: dwhyte@waterboards.ca.gov
<Suisun Wal-Mart app complete - 7-10.pdf>

Item

41

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Re: Wal-Mart Application for Clean Water Act Section 401 Water Quality Certification for the Walters Road Development**
Date: July 20, 2010 9:50:52 AM PDT
To: "Anthony Moscarelli" <archerone@comcast.net>
Cc: "Phil Tucker" <pgtucker@aol.com>, "george guynnjr" <georgejr@hotmail.com>

I suspect that Bill may have been referring to the US FWS biologist as they will be issuing a biological opinion for this site which may impose conditions that the Army Corps of Engineers will need to include in their permit. This is referred to as a Section 7 consultation. It is not a prerequisite for the Water Board's but must be considered before final Federal Certification is issued. In this case I believe it relates to critical habitat for the California Fairy Shrimp

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

||| Anthony Moscarelli <archerone@comcast.net> 07/20/2010 7:14 AM >>>
Ms. Whyte,

Item number 8 of the Wal-Mart Suisun City Water Board 5-6-10 Meeting notes states that Bill Hurley will talk with biologists about onsite habitat. That point by Wal-Mart has been brought up in Court stating the Water Boards is the lead agency to decide to enforce Riparian Habitat. They also told the Court that the Water Board has the final word in this issue and by their actions had not stopped them (Wal-Mart). Of Course none of your letters of Denial were allowed since they were after the evidence was submitted to the Court. The Court records are available.

We are interested in the findings of Bill Hurley with the biologists.

Anthony

On Jul 19, 2010, at 5:55 PM, Dyan Whyte wrote:

Hello Mr. Moscarelli,

I don't have an answer to your questions at this time as this is something we are in the process of evaluating.

Dyan.

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

||| Anthony Moscarelli <archerone@comcast.net> 07/19/2010 10:01 AM >>>

Dear Ms. Whyte,

Thank you for sending us this letter. We have a few questions over this process. At what stage of the Noonan Bank amendment process does the Water Boards staff accept as far enough along to accept Wal-Mart's mitigation Riparian Habitat credit proposal? Will the Water Board Staff wait until the U. S. Fish and Wildlife Service has had its Public hearings or grants the permit to Muzzy Ranch Conservation Bank for Noonan Ranch Bank? Your letter states that the USFWS had not received the amendment application as of 7/13/2010. You then state it could take about a year or more for the full process for the USFWS and the U.S. Army Corps of Engineers or they could

just not accept it at all. We are looking for a time frame.

Sincerely,

Anthony Moscarelli

On Jul 16, 2010, at 4:50 PM, Dyan Whyte wrote:

Dear Mr. Karn:

The attached letter is the Water Board's response to Walmart's recent application for 401 certification for the Walters Road Development project. Feel free to give me a call if you have questions.

Sincerely,

Dyan Whyte

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441
Email: dwhyte@waterboards.ca.gov
<Suisun Wal-Mart app complete - 7-10.pdf>

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Re: Wal-Mart Application for Clean Water Act Section 401
Water Quality Certification for the Walters Road Development**
Date: July 20, 2010 11:04:33 AM PDT
To: "Anthony Moscarelli" <archerone@comcast.net>

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/petitions.shtml petition # A-2097

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

||| Anthony Moscarelli <archerone@comcast.net> 07/20/2010 10:52 AM >>>
Dyan,

Thank you for the information. I have one more request. Could you send me a copy of Wal-Mart's petition/appeal that they filed over the time limit being passed. If you do not have that to send me, could you at least give me its number as submitted.

Anthony

On Jul 20, 2010, at 9:50 AM, Dyan Whyte wrote:

I suspect that Bill may have been referring to the US FWS biologist as they will be issuing a biological opinion for this site which may impose conditions that the Army Corps of Engineers will need to include in their permit. This is referred to as a Section 7 consultation. It is not a prerequisite for the Water Board's but must be considered before final Federal Certification is issued. In

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Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

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Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

||| Anthony Moscarelli <archerone@comcast.net> 07/19/2010 10:01 AM
>>>

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Sincerely,

Anthony Moscarelli

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Sincerely,

Dyan Whyte

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441

Email: dwhyte@waterboards.ca.gov

<Suisun Wal-Mart app complete - 7-10.pdf>

Item

43

From: "Dyan Whyte" <dwhyte@waterboards.ca.gov>
Subject: **Walmart Suisun**
Date: August 2, 2010 8:39:49 AM PDT
To: "Anthony Moscarelli" <archerone@comcast.net>
▶ 1 Attachment, 701 KB

Recent addition to case file.

Dyan C. Whyte
Assistant Executive Officer

California Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Tel: 510-622-2441
Email: dwhyte@waterboards.ca.gov



[John Mullerpdf \(701 KB\)](#)

CITY COUNCIL

Pedro "Pete" M. Sanchez, Mayor
Jane Day, Mayor Pro-Tem
Sam Derting
Michael J. Hudson
Michael A. Segala



CITY COUNCIL MEETING

First and Third Tuesday
Every Month

CITY OF SUISUN CITY

July 27, 2010

701 Civic Center Blvd.
Suisun City, California 94585

Incorporated October 9, 1868

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Mr. Muller:

I am writing regarding a very important project in Suisun City that has been under your Board's review for over two years. The project – a Wal-Mart Supercenter with two additional pads for a restaurant and an independent gas station (although the alternative proposal preferred by the RWQCB staff eliminates the pad for the gas station)--will have a positive fiscal impact on our community representing 10% of our General Fund budget.

The project was approved by our local elected officials in February 2008 and is strongly supported by residents in our community. Even before the economy took a nose-dive, this was a critical project for Suisun City's overall economic health. Now, in light of the last couple of years, it is essential if we are to be in a position to provide basic public safety and municipal services to our residents. Consider this:

- Suisun City's unemployment rate is at roughly 12.4%;
- We're one of the top three regions of the State that has been hit the hardest by foreclosures; and
- Before the economic collapse, our commercial sales tax revenues represented only 20% of the average sales tax per capita enjoyed Statewide.

The applicant, working with Bruce Wolfe, other RWQCB staff and representatives of the Governor's Office, have come up with a road-map and schedule of roles and responsibilities that will result in issuance of a public notice on August 13, 2010 and final action in October 2010, either by the Executive Director or at your October 13, 2010 Board meeting.

Given the importance of this project for our community, I am writing to ask you to urge your staff to work within this schedule. We have had many delays in this project with issues that we all thought were resolved before resurfacing weeks if not months later. It is not my intent to rehash these past disputes, but rather to look forward.

DEPARTMENTS: AREA CODE (707)

ADMINISTRATION 421-7300 ■ PLANNING 421-7335 ■ BUILDING 421-7310 ■ FINANCE 421-7320
FIRE 425-9133 ■ RECREATION & COMMUNITY SERVICES 421-7200 ■ POLICE 421-7373 ■ PUBLIC WORKS 421-7340
REDEVELOPMENT AGENCY 421-7309 FAX 421-7366

Suisun City is positioned to cover the revenue gap that will be filled by this project for two years. However, if the next building cycle is missed, we are looking at another 10% reduction to our General Fund – cuts that are on top of significant reductions already in place. To put this into perspective, property related revenues (which are impacted directly by foreclosures) have declined by 40% or more to our Redevelopment Agency and roughly 20% to our General fund. You and your organization, as creatures of the State, understand fully the impact of cuts of this magnitude.

Given the dire straits of California's economy, projects like this are more than critical to our continued economic recovery. Consider this:

- The Wal-Mart Supercenter will create 250 full-time equivalent jobs (200 full-time and 100 part-time).
- Each job in Solano County generates on average \$111,000 for the local economy through spending and respending (after taking into account leakage).
- For this project alone, that represents \$27,750,000 that will be added to the local economy.
- From a local government budget perspective, this project will have a net positive fiscal impact on the City of roughly \$1,000,000.

These impacts do not include the boost to our local businesses from the regional traffic that a big-box will draw to our community, especially as this will be Suisun City's only big-box retailer.

In closing, Suisun City is surrounded on its southern border by wonderful marshlands and wetlands that we truly value. Our community is paying off debt to the tune of \$60 million that was incurred by our Redevelopment Agency so that our waterfront would not be the blighted, industrial mess that it was as recently as 1988 when we were voted the worst community in all of the Bay Area. We now have a beautiful waterfront that supports a variety of water activities and wildlife, and are considered one of the top ten most livable communities in the region.

When we look at the preservation of our natural resources, though, a balance must be drawn. We don't take lightly our privilege to have run-off flow into the State waterways. However, the man-made ditch that has caused such challenges (and agony) for moving this project forward, is a cut in the dirt that has historically connected the storm drainage run-off from 37 homes to the north of the project site into the piped outlet on the southern edge of the property that runs into the marsh. **These 37 homes represent only 1/3 of 1% of all residences in Suisun City that have their run-off flow through pipes before entering the marsh.** With a population of only 28,000, we undoubtedly represent a small percentage of the overall run-off of the region into the State's waters, yet it is primarily the run-off of these 37 homes that has caused delay after delay after delay for this project.

I hope this has helped put our situation and our project in perspective for you. I understand that a couple of our residents have spoken at your meetings, and that this might have left the perception that this is a highly controversial project for our community. Such is not the case. A handful of local opponents to the project attempted a recall of our Council members tied to the approval of this project. The opponents were not even able to secure the roughly 1,000 signatures required to put the matter on the ballot – even after they stopped indicating this was an anti-Wal-Mart campaign and shifted to statements that this project would result in closing down the nearby Travis Air Force Base.

Again, I thank you for your time and consideration in ensuring that this very important project to our community continue moving forward with the issuance of a public notice on August 13, 2010 and action on the certification in October.

Sincerely,




Suzanne Bragdon
City Manager

cc. Mayor Pete Sanchez, psanchez@suisun.com
Vice Mayor Jane Day, jday@suisun.com
Councilmember Mike Segala, msegala@suisun.com
Councilmember Sam Derting, sderting@suisun.com
Councilmember Mike Hudson, mhudson@suisun.com
Alexis Pelosi, APelosi@sheppardmullin.com
Robert Uram, RUram@sheppardmullin.com
Bob Karn, RAK Engineering, rkarn@RAKEngineers.com
Bruce Wolfe, BWolfe@waterboards.ca.gov
Florentino Castellon, florentino.castellon@gov.ca.gov

Item

44

From: "Elizabeth Morrison" <EMorrison@waterboards.ca.gov>
Subject: **Fwd: Wal-Mart Stores, Inc., Walters Road Development Project, Suisun City, Solano County**
Date: September 2, 2010 3:17:43 PM PDT
To: <pgtucker@aol.com>, <archerone@comcast.net>
 2 Attachments, 2.4 MB

Mr. Moscarelli and Mr. Tucker,
It has come to my attention that you did not receive the above TO. I apologize for this error. Attached are the TO and the transmittal letter.

Please call me with any questions you may have.
Liz Morrison

>>>>

Elizabeth Morrison
S.F. Bay Water Board
1515 Clay Street, #1400
Oakland, CA 94612
(510) 622-2330

>>> Elizabeth Morrison 8/23/2010 4:41 PM >>>

The Regional Water Board intends to hold a public hearing to consider issuing waste discharge requirements and water quality certification for the above Project during its regular monthly meeting on October 13, 2010. A copy of the Tentative Order is attached.

If you have any comments on the Tentative Order, please submit them to Ms. Elizabeth Morrison in writing, ideally via email below, no later than 5:00 p.m., September 22, 2010.

Further information regarding the Board meeting and the submission of comments are in the enclosed transmittal letter.

>>>

Elizabeth Morrison
S.F. Bay Water Board
1515 Clay Street, #1400

Oakland, CA 94612
(510) 622-2330



[Wal-Mart TO...DF \(95.2 KB\)](#) [Wal-Mart Sui...PDF \(2.3 MB\)](#)



California Regional Water Quality Control Board San Francisco Bay Region



Linda S.Adams
Secretary for
Environmental Protection

1515 Clay Street, suite 1400, Oakland, California 94612
510.622.2300 • Fax 510.622.2460
www.waterboards.ca.gov/sanfranciscobay

Arnold Schwarzenegger
Governor

August 23, 2010

Robert A. Karn & Associates
707 Beck Street
Fairfield, CA 94533

Attn: Mr. Robert A. Karn
RKarn@Rakengineers.com

Notice: Tentative Order for the Wal-Mart Stores, Inc., Walters Road Development Project, Suisun City, Solano County

Dear Mr. Karn:

The Regional Water Board intends to hold a public hearing to consider issuing waste discharge requirements and water quality certification for the Walters Road Development Project during its regular monthly meeting that will begin at the time and place indicated below:

DATE: October 13, 2010
TIME: 9:00 a.m.
PLACE: Auditorium, Elihu Harris State Building, 1515 Clay Street
Oakland

A copy of the Tentative Order that would issue waste discharge requirements and water quality certification for the Walters Road Development Project is enclosed. If you have any comments on the Tentative Order, please submit them to Ms. Elizabeth Morrison in writing, ideally via her email below, no later than **5:00 p.m., September 22, 2010**. Comments received after this date will not be considered or included in the preparation of the final tentative order presented to the Regional Water Board for its consideration. Our response to comments received and the final tentative order will be posted on our website one week prior to the public hearing.

The Tentative Order can also be found on our website at:

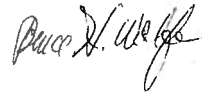
http://www.waterboards.ca.gov/sanfranciscobay/public_notices/#section401

If you have questions, please contact Elizabeth Morrison at 510-622-2330 or
EMorrison@waterboards.ca.gov

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

Printed on recycled paper

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce H. Wolfe". The signature is written in a cursive style with a large, looping initial "B".

Bruce H. Wolfe
Executive Officer

Digitally signed
by Bruce Wolfe
Date: 2010.08.23
15:50:07 -07'00'

Attachment: Tentative Order

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

TENTATIVE ORDER NO. R2-2010-XXXX

**WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION
FOR:**

**WAL-MART STORES, INC.
WALTERS ROAD DEVELOPMENT PROJECT
SUISUN CITY, SOLANO COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Regional Water Board), finds that:

1. Wal-Mart Stores, Inc., (Discharger) has applied to the Regional Water Board for authorization to construct a retail shopping center on a 20.8-acre site at the intersection of Highway 12 and Walters Road in Suisun City, Solano County (Project).
2. The Project, which will develop 20.14 acres of the site, is comprised of the following:
 - a. An 182,000 square foot supercenter with 879 parking stalls on 18.44 acres;
 - b. An 8,000 square foot restaurant with 69 parking stalls on 1.41 acres; and
 - c. Two stormwater detention basins totaling 12,850 square feet on 0.29 acres.
3. The Project site is a triangularly-shaped property located within the Suisun Marsh Watershed, with Highway 12 forming the southern boundary, Petersen Road forming the northern boundary and Walters Road forming the eastern boundary. A 1,100 linear feet unnamed stream bisects the Project site in a north to south direction. The unnamed stream is a tributary to Hill Slough, which enters the northern portion of Suisun Slough. The Project site is situated approximately 20 feet above sea level, with elevations decreasing slightly in a west to east direction. The Project site is comprised of three habitat types: non-native annual grasslands, stream, and seasonal wetlands.
4. There are approximately 2.996 acres of jurisdictional waters of the United States, including wetlands and a stream channel, on the Project site. The site's waters of the United States are comprised of:
 - a. 2.637 acres of seasonal wetlands; and
 - b. 0.31 acres (1,100 linear feet) stream channel with riparian/wetland vegetation.
5. The Project will result in the permanent fill of approximately 2.630 acres of the site's 2.996 acres of jurisdictional waters of the United States. This impact is comprised of the following:
 - a. 2.35 acres of wetlands; and
 - b. 0.28 acres (786 linear feet) of stream channel.

6. The Discharger filed an application for Water Quality Certification and Waste Discharge Requirements with the Regional Water Board on June 21, 2010. The application was subsequently completed by additional information submitted on July 9, 2010.
7. The Discharger has applied to the U.S. Army Corps of Engineers (Corps) for an individual permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344). The Corps issued a Public Notice for the Project on January 31, 2008, but has not issued a permit for the Project at this time.
8. A portion of the Project site is within critical habitat for the endangered vernal pool tadpole shrimp (*Lepidurus packardii*) and threatened vernal pool fairy shrimp (*Branchinecta lynchi*). In addition, waters on the Project site also provide for flood water attenuation, groundwater recharge, and water quality enhancement including the filtering of sediment and providing nutrients to downstream waters.
9. The Corps has initiated consultation with the United States Fish & Wildlife Service (USFWS) under the authority of Section 7 of Endangered Species Act regarding Project related impacts to critical habitat. The USFWS has not yet issued a Biological Opinion for the Project.
10. The Project's stream channel conveys and provides attenuation and treatment of the upstream stormwater runoff, which includes the 7.89-acre Quail Glen Subdivision.
11. Development of the Project could increase pollutant load, the volume of stormwater discharged from the site, and the velocity and durations of the flows to the waters downstream including Hill Slough and Suisun Slough. Impacts to the beneficial uses of the stream and wetlands, as well as downstream waters, could result from the discharge of sediments and construction wastes during construction. In addition, the proposed structures and parking lots will indirectly impact beneficial uses through discharge of urban runoff pollutants (e.g., oil and grease, heavy metals, pathogens, nutrients, pesticides, etc.). The post-construction modification of the runoff hydrograph from the new development could cause an increase in peak flows downstream. Such changes in the runoff hydrograph can cause unnatural erosion, flooding, and deposition of sediments in the creek and otherwise impact water quality and beneficial uses of waters.

Mitigation Plan

12. To mitigate for the permanent fill of 2.35 acres of seasonal wetlands, the Discharger proposed to purchase 2.35 acres of credit of seasonal wetlands at the Elise Gridley Mitigation Bank in Solano County.
13. To mitigate for the permanent fill of 0.28 acres (786 linear feet) of stream channel, the Discharger proposes to create and/or restore a minimum of 1,572 linear feet of stream channel at an off-site parcel. The Discharger has proposed providing such mitigation at the Noonan Ranch site in northern Fairfield, but has not finalized the details of such mitigation; thus, provisions of this Order require the Discharger to submit detailed

mitigation plans, for Regional Water Board approval, prior to starting any Project construction (i.e., site grading).

Post-Construction Stormwater and Hydromodification Management

14. The Discharger submitted a report titled, Stormwater Control Plan dated October 6, 2008 on treatment of on-site stormwater associated with the new impervious surface. The Discharger is required to revise the Stormwater Control Plan to accurately reflect the current Project as defined in Finding 2. The Discharger also submitted a report entitled, Post-Construction Stormwater Treatment for Off-site Run-on, dated May 26, 2010 and revised June 16, 2010. Additional information on stormwater and hydromodification was provided in Avoided Wetlands Mitigation dated May 26, 2010. These reports include measures to address the Project's post-construction urban runoff impacts, as well as regulate flows to pre-development levels. The Discharger is required to monitor, inspect, and maintain these stormwater treatment measures in perpetuity.
15. The Discharger will also prepare and implement a site specific Stormwater Pollution Prevention Plan (SWPPP) for the Project in accordance with the requirements, provisions, limitations, and prohibitions of the General Construction Permit (2009-0009-DWQ) for discharges of stormwater associated with construction activity. Post-construction BMPs to treat stormwater runoff will be installed during construction and maintained in perpetuity after the site construction is complete.
16. The Regional Water Board has determined to regulate the proposed discharge of fill materials into waters of the State by issuance of Waste Discharge Requirements (WDRs) pursuant to Section 13263 of the California Water Code (CWC) and 23 CCR §3857, in addition to issuing certification pursuant to 23 CCR §3859. The Regional Water Board considers WDRs necessary to adequately address impacts and mitigation to beneficial uses of waters of the State from the Project, to meet the objectives of the California Wetlands Conservation Policy (Executive Order W-59-93), and to accommodate and require appropriate changes to the Project.
17. The Regional Water Board provided public notice of the application and this Order on August 23, 2010.
18. This Order is effective only if the Discharger pays all of the required fees conditioned under 23 CCR.

Regulatory Framework

19. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes implementation plans to achieve water quality objectives. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Resources Control Board, Office of Administrative Law and the U.S. EPA, where required.

20. The wetlands and unnamed stream on the Project site are located with the Suisun Basin and are tributary to Hill Slough. The Basin Plan does not explicitly identify beneficial uses for these waters. However, the Basin Plan states that “[t]he beneficial uses of any specifically identified water body generally apply to all of its tributaries.” Hill Slough is a tributary to Suisun Slough. Beneficial uses identified in the Basin Plan for Suisun Slough are as follows:
 - a. Navigation (NAV)
 - b. Water Contact Recreation (REC-1)
 - c. Non-contact Water Recreation (REC-2)
 - d. Warm Freshwater Habitat (WARM)
 - e. Wildlife Habitat (WILD)
 - f. Fish Spawning (SPWN)
21. The Basin Plan Wetland Fill Policy (policy) establishes that there is to be no net loss of wetland acreage and no net loss of wetland value when the project and any proposed mitigation are evaluated together, and that mitigation for wetland fill projects is to be located in the same area of the Region, whenever possible, as the project. The policy further establishes that wetland disturbance should be avoided whenever possible, and if not possible, should be minimized, and only after avoidance and minimization of impacts should mitigation for lost wetlands be considered.
22. The goals of the California Wetlands Conservation Policy (Executive Order W-59-93, signed August 23, 1993) include ensuring “no overall loss” and achieving a “...long-term net gain in the quantity, quality, and permanence of wetland acreage and values....” Senate Concurrent Resolution No. 28 states that “[i]t is the intent of the legislature to preserve, protect, restore, and enhance California’s wetlands and the multiple resources which depend on them for benefit of the people of the State.” Section 13142.5 of the CWC requires that the “highest priority shall be given to improving or eliminating discharges that adversely affect...wetlands, estuaries, and other biologically sensitive areas.”
23. This Order applies to the permanent fill and indirect impacts to waters of the State associated with the Project, which is comprised of the components listed in Finding 5. Construction of the Project will result in the permanent placement of fill in 2.63 acres of jurisdictional waters, including seasonal wetlands and a stream.
24. The Discharger has submitted a Clean Water Act section 404 Alternatives Analysis and supplemental information to show that appropriate effort was made to avoid and then to minimize wetland and stream disturbance, as required by the Basin Plan.
25. The California Environmental Quality Act (CEQA) requires all discretionary projects approved by public agencies to be in full compliance with CEQA, and requires a lead agency (in this case, the City of Suisun City) to prepare an appropriate environmental document for such projects. The City of Suisun prepared and certified the Environmental Impact Report for the Walters Road West Project (EIR) on January 10, 2008, State Clearinghouse No. 2006072026. The EIR found significant unavoidable visual, air, greenhouse, and noise impacts, which are beyond the jurisdictional purview of the Regional Water Board. The EIR also found that significant impacts related to the filling

of the wetlands would be mitigated to less than significant levels upon the purchase of credits at a mitigation bank at a level sufficient to fully replace the functions and values of the wetlands and ensure no net loss of wetland habitat in terms of both acreage and functions and values or at a ratio no less than 1:1 ratio. The EIR also found that significant impacts to the stream would be mitigated to less than significant levels with the above wetlands mitigation. The EIR also found significant impacts related to hydrology and water quality from the Project but that they would all be mitigated to less than significant levels through the mitigation measures identified in the EIR such as compliance with requirements of construction and municipal stormwater permits. With respect to any impacts to critical habitats for the endangered vernal pool tadpole shrimp and threatened vernal pool fairy shrimp, the EIR concludes that there will be no impact if USFWS revises its critical habitat designation for the Project area, but that if it does not, the Discharger is required to mitigate the significant impact to less than significant levels through the purchase of credits at an USFWS approved mitigation bank at a no less than 3:1 ratio for critical habitat wetlands preservation, 1:1 for critical habitat wetlands creation, and 1:1 critical habitat uplands preservation or other ratios determined by USFWS.

26. The Regional Water Board, as a responsible agency under CEQA, has considered the EIR, together with the record before the Regional Water Board, including public comments, and finds that the significant environmental impacts of the proposed activities, which are within the Regional Water Board's purview and jurisdiction, have been identified and mitigated to less than significant levels. Specifically, significant impacts from the wetland and stream fill and significant impacts to hydrology and water quality will be mitigated through the mitigation requirements set forth in the EIR and this Order. Further, changes have been incorporated into the Project (the Project now results in 0.145 acres less of wetland fill and 314 linear feet less in stream fill than was previously proposed by the Discharger and evaluated in the EIR), which lessen the impacts from the wetland and stream fill.
27. Pursuant to Title 23, California Code of Regulations Sections 3857, 3859 the Regional Water Board is issuing Waste Discharge Requirements and Water Quality Certification for the proposed Project.
28. The Regional Water Board has notified the Discharger and interested parties of its intent to issue Waste Discharge Requirements and Water Quality Certification for the Project.
29. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

IT IS HEREBY ORDERED that Wal-Mart Stores, Inc., in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following, pursuant to authority under CWC Sections 13263 and 13267:

A. Discharge Prohibitions

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, is prohibited.

2. The discharge of floating oil or other floating materials from any Project activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
3. The discharge of silt, sand, clay, or other earthen materials from any Project activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
4. The wetland and creek fill activities and mitigation construction subject to these requirements shall not cause a nuisance as defined in CWC §13050(m).
5. The discharge of decant water from the Project's fill sites, and stockpile or storage areas to surface waters or surface water drainage courses is prohibited, except as conditionally allowed following the submittal of a discharge plan or plans as described in the Provisions.
6. The groundwater in the vicinity of the Project shall not be degraded as a result of the placement of fill for the Project.
7. The discharge of materials other than stormwater, which are not otherwise regulated by a separate NPDES permit or allowed by this Order, to waters of the State is prohibited.
8. The discharge of drilling muds to waters of the State, or to where such muds could be discharged to waters of the State, is prohibited.
9. The discharge of earthen fill, construction material, concrete, aggregate, rock rip-rap, and/or other fill materials to waters of the State is prohibited, except as expressly allowed herein.

B. Receiving Waters Limitations

1. The discharge shall not cause the following conditions to exist in waters of the State at any place:
 - a. Floating, suspended, or deposited macroscopic particulate matter or foam in concentrations that cause nuisance or adversely affect beneficial uses;
 - b. Bottom deposits or aquatic growths to the extent that such deposits or growths cause nuisance or adversely affect beneficial uses;
 - c. Alteration of temperature, turbidity, or apparent color beyond present natural background levels;

- d. Visible, floating, suspended, or deposited oil or other products of petroleum origin; and
 - e. Toxic or other deleterious substances to be present in concentrations or quantities which will cause deleterious effects on wildlife, waterfowl, or other aquatic biota, or which render any of these unfit for human consumption, either at levels created in the receiving waters or as a result of biological concentration.
2. The discharge shall not cause nuisance, or adversely affect the beneficial uses of the receiving water.
 3. The discharge shall not cause the following limits to be exceeded in waters of the State at any one place within one foot of the water surface:
 - a. Dissolved Oxygen: 5.0 mg/L, minimum

The median dissolved oxygen concentration for any three consecutive months shall not be less than 80% of the dissolved oxygen content at saturation. When natural factors cause concentrations less than that specified above, then the discharges shall not cause further reduction in ambient dissolved oxygen concentrations.
 - b. Dissolved Sulfide: 0.1 mg/L, maximum
 - c. pH: The pH shall not be depressed below 6.5 nor raised above 8.5, nor caused to vary from normal ambient pH by more than 0.5 pH units.
 - d. Un-ionized Ammonia: 0.025 mg/L as N, annual median; and 0.16 mg/L as N, maximum
 - e. Nutrients: Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.
 4. There shall be no violation of any water quality standard for receiving waters adopted by the Regional Water Board or the State Water Resources Control Board.

C. Provisions

1. The Discharger shall comply with all Prohibitions, Receiving Water Limitations and Provisions of this Order immediately upon adoption of this Order or as provided below.

2. The Discharger shall submit copies to the Regional Water Board of all necessary approvals and/or permits for the Project, including its associated mitigation, from applicable government agencies, including, but not limited to, the California Department of Fish and Game (CDFG), USFWS, and the Corps. Copies shall be submitted within 60 days after issuance of any permit or other approval.
3. In addition to the requirements of this Order, the Discharger shall comply with any other more stringent requirements imposed by the Corps, USFWS, and CDFG.
4. Construction shall not commence on any Project component until all required documents, reports, plans, and studies required in the Provisions associated with that component have been submitted to and found acceptable by the Executive Officer or the Regional Water Board in the case of the Final Mitigation and Monitoring Plan.

Compensatory Mitigation

5. Not later than 90 days prior to the start of construction (defined as site grading), the Discharger shall submit, acceptable to the Regional Water Board, a Final Mitigation and Monitoring Plan (Final MMP) that addresses the proposed off-site mitigation elements for the stream impacts. The Discharger shall comply with and implement the Final MMP. The Final MMP shall include the following:
 - a. A proposal that will create and/or restore a minimum of 1,572 linear feet of stream channel and replace the impacted stream's ecosystem functions and values. The proposed channel shall have similar characteristics of the impacted stream with a defined channel and enough water flow for scour and sediment transport to occur. If preservation and restoration of an existing stream is proposed, a higher amount of linear feet will be required.
 - b. The proposed mitigation site must occur within the Regional Water Board's jurisdictional boundaries, as well as within Solano County;
 - c. A schedule providing for mitigation construction to commence prior to the start of Project construction. The schedule shall provide for all mitigation to be completed before construction is complete;
 - d. An irrigation and planting plans;
 - e. Provisions for use of native plant seeds/plantings and the avoidance of non-native vegetation;
 - f. A monitoring program that consists of:
 1. Establishment of performance criteria,
 2. Selection of performance indicators,
 3. Field sampling of performance indicators,
 4. Analysis of the field data,
 5. A remedial action plan,
 6. Annual reports submittals, and
 7. A minimum monitoring duration of 10 years - adequate to evaluate site performance;

- g. If the proposed mitigation parcel will be grazed by livestock, a detailed grazing plan, including stocking rates, fencing plans for waterbodies and upland water sources shall be submitted;
 - h. Financial assurances adequate to ensure the construction, maintenance, monitoring, and preservation of the proposed mitigation and other measures. Detailed cost estimates to cover these activities shall be submitted, as well; and
 - i. A conservation easement or similar mechanism to provide in perpetuity for the protection of the mitigation area for the purposes of retaining the land in its natural and open-space condition.
6. As-built plans for the off-site mitigation site shall be prepared and submitted to the Regional Water Board within six weeks of the completion of mitigation site construction.
7. Not later than 30 days prior to the start of any Project construction the Discharger shall submit proof of purchasing 2.35 acres of wetland credits from the Elise Gridley Mitigation Bank.

Monitoring and Reporting

8. All technical and monitoring reports required pursuant to this Order are being required pursuant to Section 13267 of the California Water Code. Failure to submit reports in accordance with schedules established by this Order or failure to submit a report of sufficient technical quality acceptable to the Executive Officer may subject the Discharger to enforcement action pursuant to Section 13268 of the California Water Code.
9. Annual monitoring reports shall be submitted to the Regional Water Board by December 15 of each monitoring year and until the sites have met their performance standards and final success criteria and the Executive Officer has accepted in writing a notice of mitigation completion. The mitigation-monitoring period for off-site mitigation parcel shall be a minimum of ten years. Monitoring reports shall be prepared as described in Provision 4, and shall include assessment of all mitigation features with respect to performance criteria established in the Final MMP. Reports shall include methods used, locations sampled, representative photographs, results of monitoring, trends, reference weather conditions, recommendations, and implemented actions. For necessary remedial actions not taken prior to submittal of the report, an implementation schedule shall be provided. Annual reports shall also include the proposed annual grazing monitoring, including photographs, residual dry matter monitoring results, summaries of livestock stocking rates (or other appropriate measure of livestock grazing), analyses of trends over time, and all other information, as appropriate.

Electronic Reporting Format

10. In addition to print submittals, all reports submitted pursuant to this Order must be submitted as electronic files in PDF format. The Regional Water Board has implemented a document imaging system, which is ultimately intended to reduce the need for printed report storage space and streamline the public file review process. Documents in the

imaging system may be viewed, and print copied made, by the public, during file reviews conducted at the Regional Water Board's office. All electronic files, whether in PDF or spreadsheet format, shall be submitted via email (only if the file size is less than 3 MB) or on CD. CD submittals may be included with the print report.

Notice of Mitigation Completion

11. Once the Discharger has determined that the mitigation has achieved the final success criteria specified in the Final MMP approved by the Regional Water Board, it shall submit a notice of mitigation completion (notice), acceptable to the Executive Officer. The notice shall include a description of the mitigation that has been determined to be successful, as well as proposed long-term funding and conservation mechanism to preserve the mitigation site in perpetuity. After acceptance of the notice in writing by the Executive Officer, the Discharger's submittal of annual mitigation monitoring reports is no longer required.

Stormwater Management

12. The Discharger shall comply with the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order 2009-0009-DWQ).
13. By November 12, 2010, the Discharger shall submit a revised Stormwater Control Plan, acceptable to the Executive Officer that accurately reflects the Project as permitted by this Order. The Discharger shall install the proposed post-construction stormwater and hydromodification treatment measures during Project construction pursuant to the revised Stormwater Control Plan as approved and other reports identified in Finding 14. The Discharger shall submit as-built report within 60 days of the complete installation of the stormwater and hydromodification treatment measures. As part of the as-built report, the Discharger is required to submit a signed Stormwater Treatment Measures Maintenance Agreement between the Discharger and the City of Suisun to ensure monitoring, inspecting, and maintaining both the on-site and off-site treatment measures in perpetuity.

Fees

14. This Order combines Waste Discharge Requirements and Clean Water Act Section 401 Water Quality Certification provisions. The annual fee shall reflect this, and consist of the following:

The fee amount for the Waste Discharge Requirements portion shall be in accordance with the current fee schedule, per California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200(a)(1), based on the discharge's Threat to Water Quality and Complexity rating of the Discharge to Land or Surface Waters, plus applicable surcharge(s). The Threat and Complexity rating shall be rated as 1A. After the initial year, this portion of the fee shall be billed annually to the Discharger. The fee payment shall indicate the Order number, WDID number, and the applicable season.

General Provisions

15. The Discharger shall comply with all the Prohibitions, Effluent and Receiving Water Limitations, and Provisions of this Order immediately upon adoption of this Order or as provided in this Order.
16. All reports pursuant to these Provisions shall be prepared professionals registered in the State of California.
17. The Discharger shall immediately notify the Regional Water Board by telephone and e-mail whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC §13267(b), a written notification of the adverse condition shall be submitted to the Regional Water Board within two weeks of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to the modifications of the Regional Water Board, for the remedial actions.
18. Should discharges of otherwise uncontaminated ground water contaminated with suspended sediment be required from the Project site, where such discharges are not otherwise covered by an applicable NPDES permit, such discharges may be considered covered by the General Permit, following the submittal of a discharge/treatment plan, acceptable to the Executive Officer, at least 30 days prior to such a discharge.
19. The Discharger shall notify the Regional Water Board in writing at least 30 days prior to actual start date for the Project (i.e., prior to the start of grading or other construction activity for any Project component, including the creek and wetland mitigation components).
20. The Discharger shall at all times fully implement and comply with the engineering plans, specifications, and technical reports submitted with its application for water quality certification and the report of waste discharge, and as may subsequently be submitted to comply with this Order.
21. The Discharger is considered to have full responsibility for correcting any and all problems that arise in the event of a failure that results in an unauthorized release of waste or wastewater.
22. The discharge of any hazardous, designated or non-hazardous waste as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, shall be disposed of in accordance with applicable state and federal regulations.

23. The Discharger shall remove and relocate any wastes that are discharged at any sites in violation of this Order.
24. In accordance with CWC §13260, the Discharger shall file with the Regional Water Board a report of any proposed change in ownership or any material change in the character, location, or quantity of this waste discharge. Any proposed material change in the discharge requires approval by the Regional Water Board after a hearing under CWC §13263. Material change includes, but is not be limited to, all significant new soil disturbances, all proposed expansion of development, or any change in drainage characteristics at the Project site. For the purpose of this Order, this includes any proposed change in the boundaries of the area of wetland/waters of the State to be filled and mitigated.
25. The following standard conditions apply to this Order:
 - a. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC §13330 and 23 CCR §3867.
 - b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR §3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
 - c. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR §3833 and owed by the Discharger.
26. The Discharger shall maintain a copy of this Order and all relevant plans and BMPs at the Project site so as to be available at all times to site operating personnel and agencies.
27. The Discharger shall permit the Regional Water Board or its authorized representatives at all times, upon presentation of credentials:
 - a. Entry onto Project premises, including all areas on which water body fill or water body mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Order.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.
 - d. Sampling of any discharge or surface water covered by this Order.
28. This Order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor

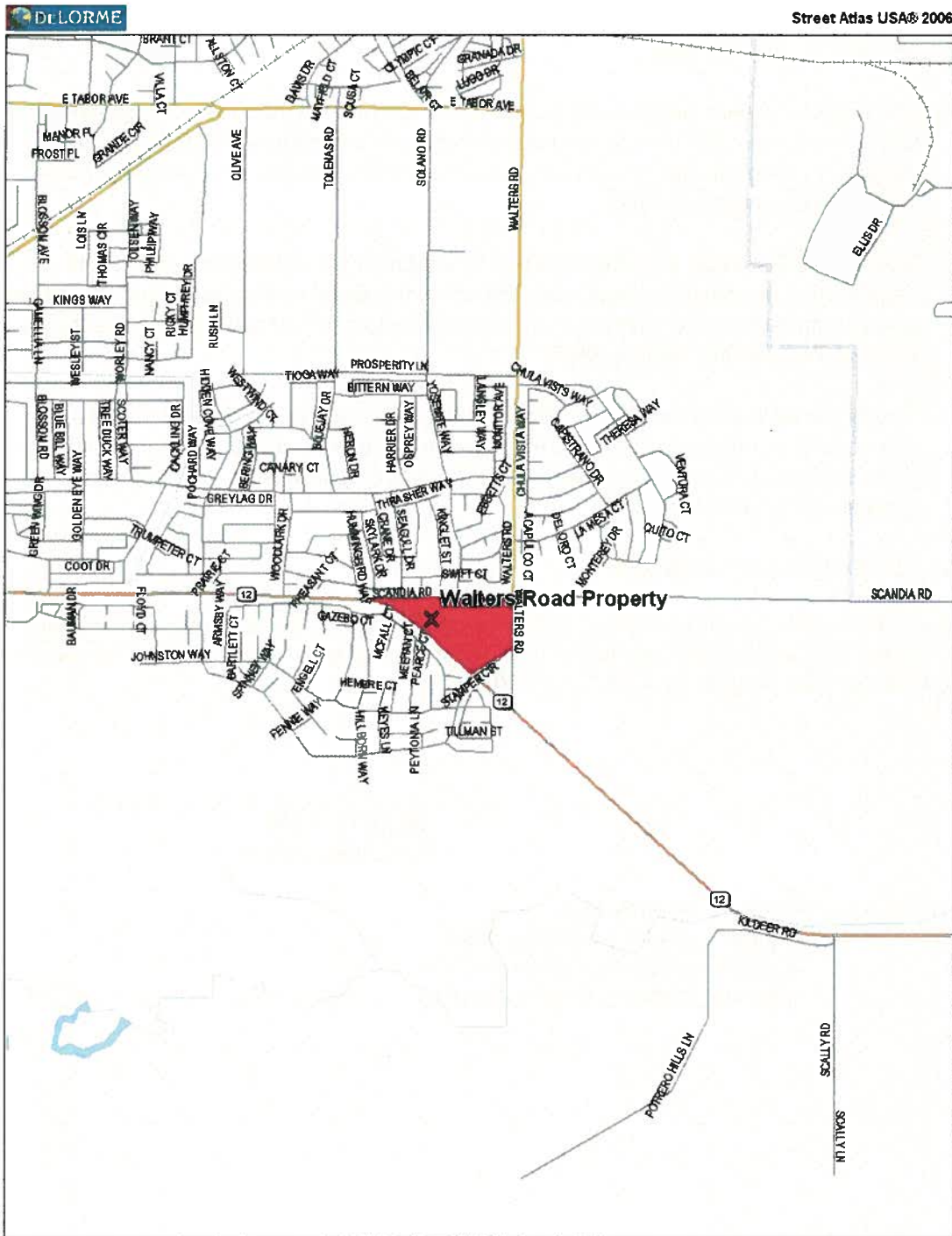
does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.

29. The Regional Water Board will consider rescission of this Order upon Project completion and the Executive Officer's acceptance of notices of completion of mitigation for all mitigation, creation, and enhancement projects required or otherwise permitted now or subsequently under this Order.
30. This Waste Discharge Requirements and Water Quality Certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code Section 13330 and Title 23, California Code of Regulations, Section 3867.
31. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
32. This Order is not transferable.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, complete and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on XXXX, XX, 2010.

Bruce H. Wolfe
Executive Officer

Attachments: Figure 1: Vicinity Map
Figure 2: USGS Quadrangle Map
Figure 3: Wetlands Delineation Map
Figure 4: Proposed Project Diagram



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 www.delorme.com

Figure 1. Project Vicinity

MN (14 R° F)

0 800 1600 2400 3200 4000 ft
 Data Zoom 13-0

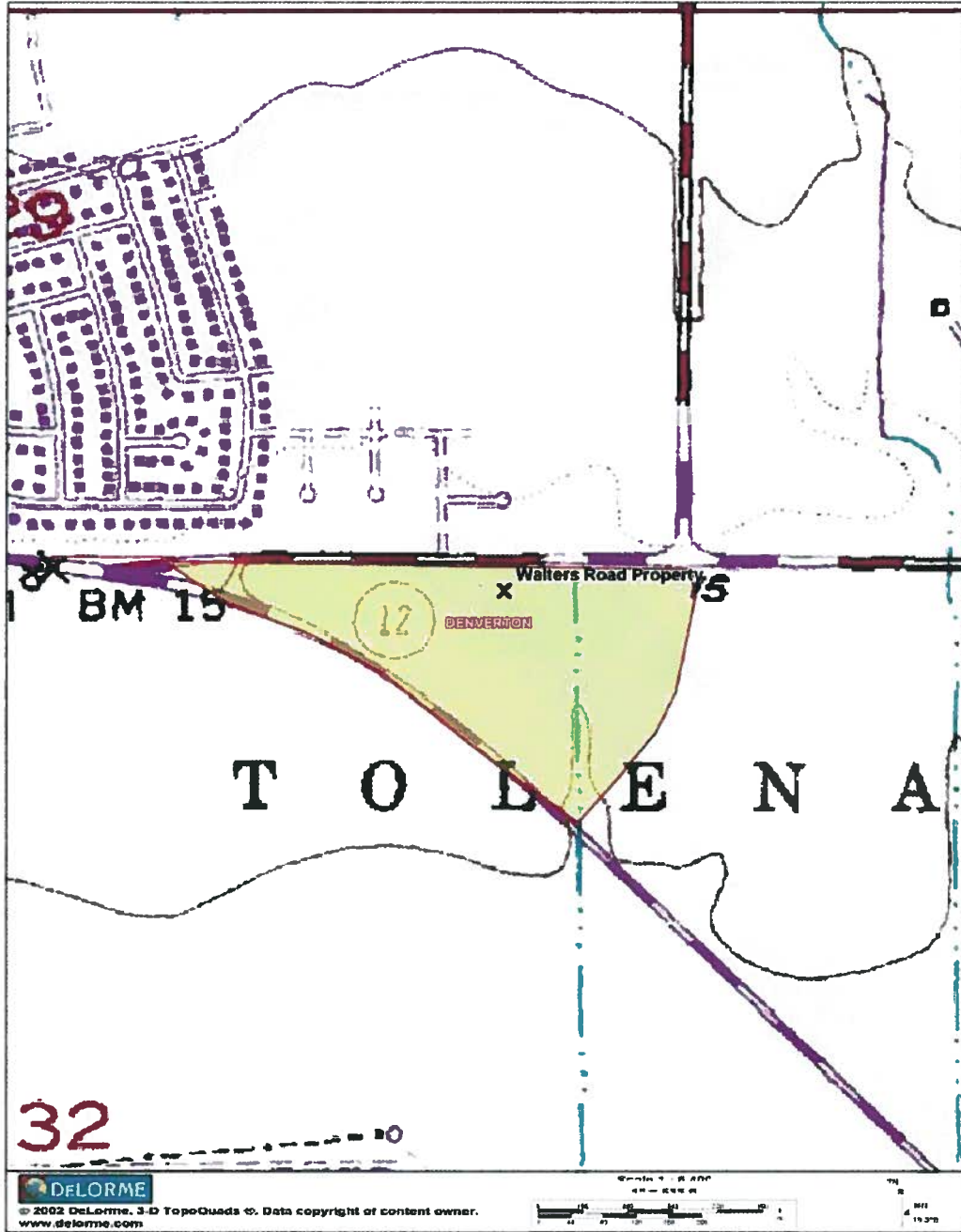


Figure 2: USGS Quadrangle Map

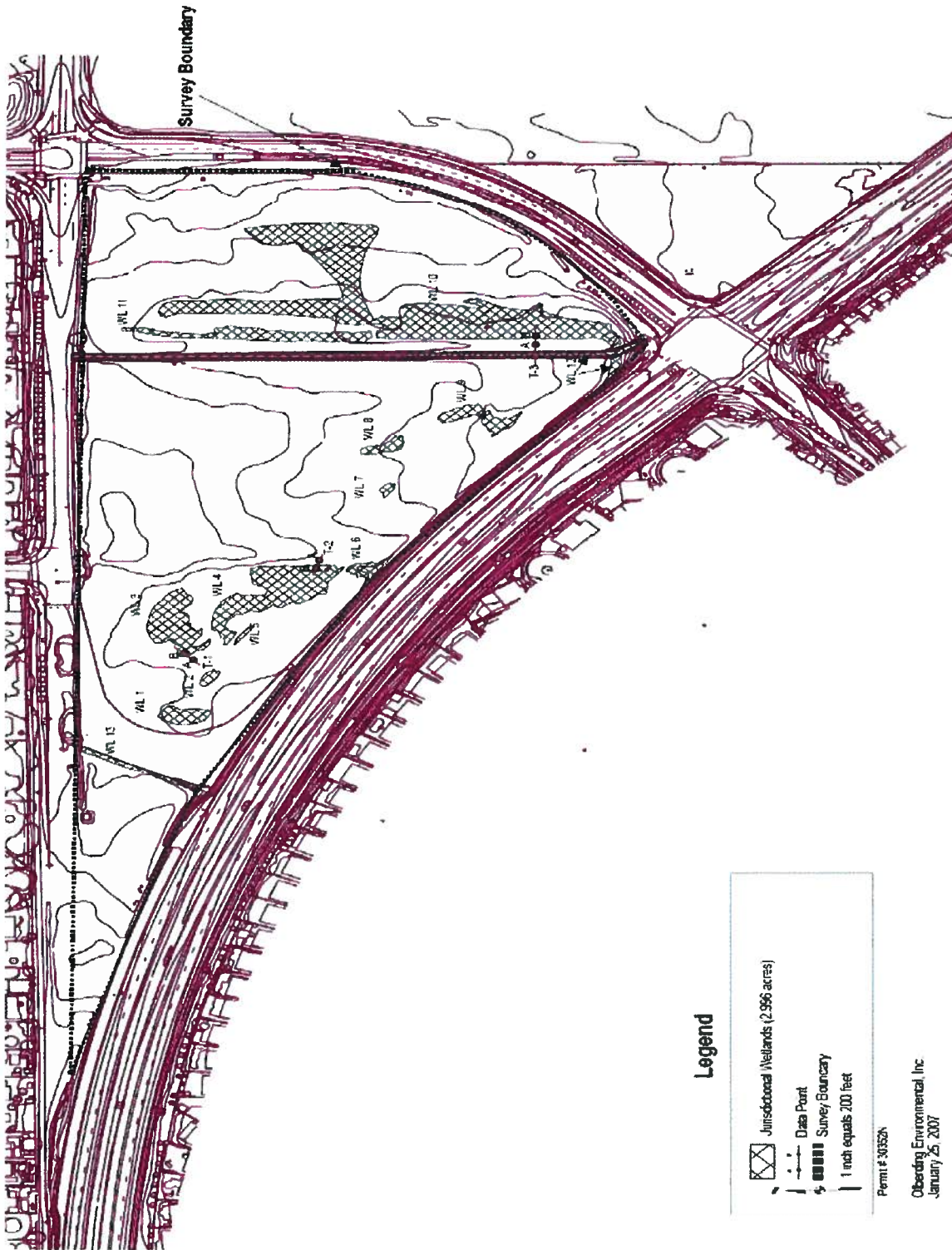


Figure 3: Wetlands Delineation Map

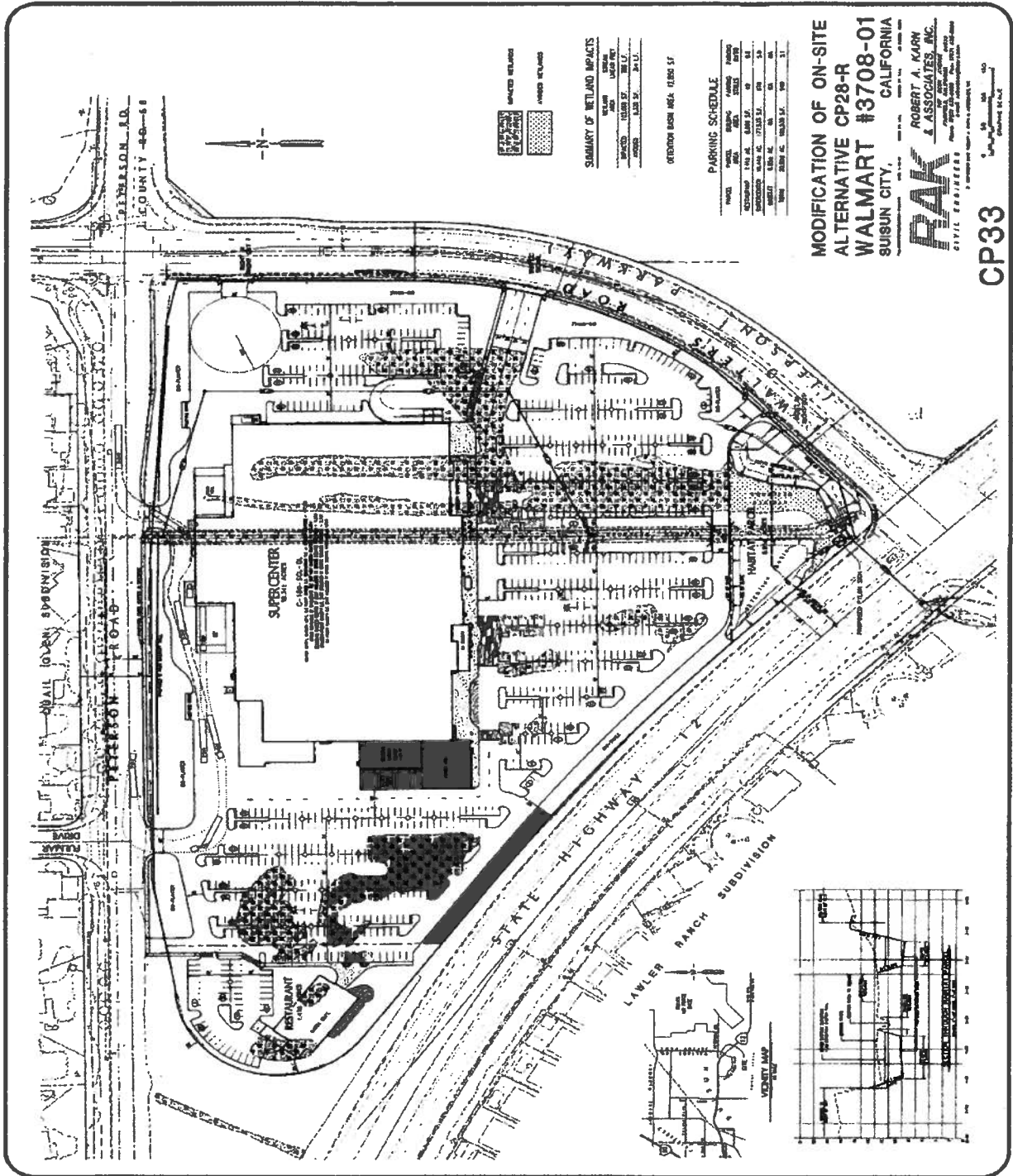


Figure 4: Proposed Project Diagram



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

August 9, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612

**SUBJECT: Proposed Wal-Mart Supercenter at Walters Road,
Suisun City, Solano County, CA: State Clearinghouse Number
2006072026**

Dear Mr. Muller:

We are in receipt of a letter addressed to you by the City of Suisun from City Manager Suzanne Bragdon related to the controversial development of the proposed Wal-Mart Supercenter project on Walters Road in Suisun City. On behalf of California Healthy Communities Network/Tides Center and several grassroots community organizations that represent Suisun City homeowners in the impacted area, I would like to make some clarifications to assertions in Ms. Bragdon's letter of July 27, 2010.

Mrs. Bragdon's characterization of the City's financial woes seems to contradict the public statements and recent published reports of the City's financial condition. According to a June 30, 2010, article in the local *Fairfield Daily Republic*: Suisun City council members put their stamp of approval on a budget that bigger cities would envy Tuesday night.... "This is every incumbent's dream budget," Mayor Pete Sanchez said, alluding to the November elections. Ms. Bragdon reported that the City's "still significant reserves" will allow city leaders time to respond to local budget issues "if the project does not happen."

The latest local sales tax projections from a Wal-Mart at the Walters Road locations has been downsized by the city from \$900,000 to \$300,000 which still seems optimistic considering this store would have to compete with a companion 215,000 sq. ft. Wal-Mart Supercenter now under construction on North Texas Street just 3.5 miles away located in the Primary Trade Area of the proposed Suisun City store. In our review of the Wal-Mart Supercenter in American Canyon, just 20 miles from the proposed Suisun City store, this Supercenter did an estimated \$300,000 in 2009 serving over 175,000 in its Vallejo-Napa Trade Area without Wal-Mart supercenter competition. This survey was completed after

Page Two

one full year of American Canyon Wal-Mart operations and fell short of Wal-Mart's publicized \$600,000 local sales tax projection.

Possibly the net \$1,000,000 positive economic impact Ms. Bragdon is referring to is the fees anticipated from Wal-Mart Building and Plan Check Fees of which only \$233,918 benefits the City's cash-starved General Fund that supports city operations. The balance goes into other restricted funds i.e. Muni Facilities Fee, Water Capacity Fee, OSSIP Fee and Parking Impact Fees.

The City has put a full court press on the RWQCB using economic arguments to sustain its support for the Wal-Mart project in opposition to the staff's thorough and appropriate letter of March 12, 2009, to Wal-Mart Stores listing the deficiencies in the 2008 application for water quality certifications. It is our understanding that economic issues such as presented by the City of Suisun are not overriding considerations when it comes to enforcement of State and Federal Clean Water Act regulations. Wal-Mart seems to have shifted the emphasis for project approval away from reasonable compliance with RWQCB regulatory requirements to economic arguments in front of our State's Governor and RWQCB administrative staff.

Finally, Ms. Bragdon seems to have a short memory when it comes to the mass opposition to the project at both the Planning Commission and City Council Hearings. Over 260 citizens and interested parties attended the Council hearing with 43 speaking in opposition and 14 supporting the project. The City concluded the hearing by taking action to over-ride the Solano County Airport Land Use Commission rejection of the Wal-Mart project and approved the Final EIR. A citizen's recall effort on three City Council persons followed the project approval. Suisun citizens collected over 3,000 signatures, submitting nearly 2,400 for verification, but fell short by 106 valid signatures to qualify the Recall. A total of 1,907 valid signatures were verified by the Registrar of Voters, with over 359 disqualified due to technical violations resulting from a change in election law occurring three months before the Recall effort. That is certainly more than the 1,000 claimed by Ms. Bragdon.

We are very concerned about the high jacking of a public process by back room politics and a race to conclude a very important process through Wal-Mart's skilled legal machinations. We would ask that the Water Board proceed with the utmost of caution and enforce the Clean Water Act by holding to your staff's recommendations of the building's footprint size and proper mitigation of the other deficiencies they identified in their letter of March 12, 2009 seeking compliance from Wal-Mart.

Page Three

In closing, we are following this process very closely to assure that the public interests and are served. It remains our position that the Walters Road location is not the appropriate location for a 215,000 square foot Wal-Mart supercenter when Wal-Mart is opening less intrusive, financially successful supercenters in Northern California, including a new 102,000 square foot supercenter in the City of Salinas that opened its doors in July 2010. Alternative sites for such a large supercenter are available in Suisun City, if the size of the supercenter is such an important an overriding issue for Wal-Mart. We would be happy to answer any questions you may have concerning the objections that our community-based organizations have raised over the past two years on this project.

Thank you.

Sincerely,



Phil Tucker
Project Director

Cc: Mark Wolfe
Bruce Wolfe
Suzanne Bragdon
Mayor Pete Sanchez
Anthony Moscarelli

Attachments: Memo to Jolanta Uchman, RWQCB, April 26, 2009
Memo to Jolanta Uchman, RWQCB, July 1, 2009
Official Press Release, City of Suisun, September 18, 2008
Registrar's Signature Verification, Ira Rosenthal, Registrar of
Voters, County of Solano, CA, September 18, 2008



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

**TO: JOLANTA UCHMAN, P.G.
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

FROM: PHIL TUCKER, PROJECT DIRECTOR

DATE: APRIL 26, 2009

**SUBJECT: CONCERNS RELATED TO WAL-MART STORES, INC. ALTERNATIVE
ANALYSIS AND ADDENDUM TO ANALYSIS PROVIDED TO RWQCB
ON APPLICATION FOR CLEAN WATER ACT SECTION 401 WATER
QUALITY CERTIFICATION FOR WALTERS ROAD WEST
DEVELOPMENT PROJECT, CITY OF SUISUN CITY, SOLANO COUNTY**

We are in receipt of Mr. Anderson's April 24, 2009, letter to Wal-Mart Stores, Inc. which identifies your staff's continuing concerns with the deficiencies identified in the Analysis and subsequent Addendum to the Analysis supplementing Wal-Mart's current application for water quality certification. We fully support your findings and we would like to point out our continuing concerns with the proposed size and location of this big box project.

From the on-set of our Network's involvement in the siting of this proposed project at Walters Road, the size of the proposed supercenter structure and the inclusion of a restaurant and a gas station in that development has always been a central issue with east Suisun residents and the Solano County Airport Land Use Commission (SCALUC). The SCALUC's decision to disallow this project was based on enforcement of its standards established to control land use density in sensitive encroachment areas to Travis Air Force Base where public safety is impacted by development.

We believe that Wal-Mart, its consultants and City of Suisun officials have been less than honest with the public and with your agency in identifying other parcels of property in Suisun that may be a better fit for this intense, commercial land use, especially considering the traffic trip generation and the number of shoppers that are projected to be drawn to Wal-Mart's proposed supercenter development. We were not surprised by the revelation that the 31.8-acre Site D (known as the Hoffman site, identified in the January 2009 Alternative Analysis) discussed in Wal-Mart's Addendum to the Alternative Analysis, is currently available as acknowledged by Suisun Community Development Director, Heather McCollister, with "no application pending" on this property as of April 22, 2009. We would hope that this more viable alternative site adjacent to Highway 12 be more thoroughly reviewed in the context of this recent revelation.

On Page 4 of the Addendum there is a statement that the City of Suisun City has a deficit and that this deficit has caused a reduction in critical services generating staff layoffs. This statement certainly flies in the face of a *Daily Republic* article printed on December 12, 2008, where officials were quoted in this local newspaper discussing their balanced budget and no reduction in staff or services. The more systemic financial

problem not discussed in this article or discussed in public meetings is the lack of funds to support Suisun City's developed infrastructure due to the City's decision in 1989 to declare the entire city a blighted area and cover it under Redevelopment. This action has frozen General Fund property taxes at the 1989 level, while providing millions of dollars for new development. The imbalance between well-funded community redevelopment and lagging city services' revenue is a major problem in maintaining staff not employed by the Redevelopment Agency or providing necessary community services or maintenance of existing public facilities and infrastructure improvements.

In the proposed Wal-Mart project's Environmental Impact Report, it stated that two (2) permanent police officers and one (1) fireman would have to be hired to support the impacts of a new Wal-Mart supercenter. It also estimated the cost at \$300,000 to financially support these new permanent positions. What was not addressed in the EIR is how the City would maintain the maintenance and monitoring of the project's storm drainage system.

Finally, in the Addendum Attachment #1 letter from the City of Suisun states that the proposed Wal-Mart will generate \$800,000 in revenue its first year of operation and \$965,000 in following years. These estimates of tax revenue are greatly inflated and, in fact, are not likely ever to occur with the development of a new 227,000 sq.ft. Wal-Mart supercenter located less than a 10-minute drive from the proposed Suisun Wal-Mart in neighboring Fairfield just 4 miles away. Based on our recent evaluations of sales tax revenue at the Dixon and American Canyon, California, Wal-Mart supercenters, the sales tax has been greatly exaggerated with neither of these neighboring supercenters generating more than \$400,000 a year through the last sales tax reporting year.

In the City of Dixon, a review of citywide Taxable Sales between 2003-2006 revealed that retail sales only grew by \$360,232 with the addition of a big box Wal-Mart store, far less than the \$500,000 annual Wal-Mart sales tax promised the City before project approval.

When we reviewed the increase in citywide sales tax from all tax sources in American Canyon in December 2008, we discovered that after one(1) year of their Wal-Mart supercenter operations the total increase in citywide sales tax revenue was \$495,464.06. Our staff estimated that sales tax revenue generated from Wal-Mart was \$275,000-\$325,000 of the total sales tax paid to the City. We provided our analysis to Sara Orhrs, staff writer, Vallejo Times-Herald. When Wal-Mart was approached to provide their sales tax report information to Ms. Orhrs so she could confirm the actual sales tax generated by the new Wal-Mart supercenter, Wal-Mart declined to provide this information. Prior to approval of the supercenter project in American Canyon, Wal-Mart had said it would generate \$600,000 a year in new tax revenue to the City.

It is our recommendation to Water Board staff, if there is a concern related to the projected sales tax revenue generated by the proposed Wal-Mart in Suisun City, that staff request verification of last year's sales tax paid to the State Franchise Tax Board for both American Canyon and Dixon stores. Both of these stores are within a 20-mile drive of the proposed Suisun Wal-Mart store and are of similar size.

We would like to thank you and the Water Board staff for the job you are doing in protecting the health and safety of Suisun City residents and in carrying out your agency responsibilities enforcing the Clean Water Act.

Attachments:

- *Daily Republic article, 12/3/08, Section A-3*
- Photocopy of Map showing Alternative Hoffman Site (initialed by Ms. McCollister)
- Wal-Mart Supercenter Retail Sales Tax Profile, City of Dixon, CA
- American Canyon Wal-Mart Sales Tax Information (for *Vallejo Times-Herald*), 12/18/08



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

July 1, 2009

Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Jolanta:

I would like to thank you and the Water Board staff for the work you have been doing in reviewing the proposed Suisun City Wal-Mart Supercenter project on Walters Road at Highway 12. Our Network became engaged with community activists opposing the Wal-Mart project in 2007 after it was announced that the original Gentry site located west of the downtown on Highway 12, away from residential development, had been abandoned and the current Walters Road site had been purchased as a preferred location by Wal-Mart's developers and the City. The original site seemed to have overwhelming citizen support because of its location. The controversy of a bait and switch in selling the community on a big box development in one location and the purchase and development of a site over 3-miles away located adjacent to major residential developments brought an outcry from neighborhood residents and environmental activists opposing this type of high density retail development at the current location.

City officials and Wal-Mart representatives have made public statements about a small opposition group to this project that is not accurate. Over 400 east Suisun residents participated in public meetings, anti-Wal-Mart events and public forums that preceded the City's final Walters Road Wal-Mart project approval. At the City Council meeting where action to override the Airport Land Use Commission's opposition to the project and approve the final Wal-Mart EIR, there were approximately 260 attendees. Of that number, there were 43 speakers against the project that were being cheered by the vast majority attending. There were 14 speakers for the project, which included City workers and contractors. In July 2008, following the Council's approval of the project, citizens opposing the Council's action submitted more than 7,500 total signatures on petitions to recall three City Councilpersons. The overall signatures collected from citizens of Suisun City were over 3,000 for each of the three being recalled. The Save Our Suisun Recall Committee voided around 600 citizens' names from each of the Council Recall petitions prior to submitting the petitions to the City for validation due to voter invalid registration discrepancies. Even though the County registrar of voters failed to validate sufficient signatures to qualify a recall election, the mere fact that residents and voters of Suisun City contested the decision of the City Council's approval of the controversial Wal-Mart project site on Walters Road shows significant public opposition to the Council's decision to approve the project.

Page Two

The mere fact that the Water Board and CalTrans both opposed the approval of this project's final EIR due to significant deficiencies in that document substantiate the concerns of these local activists who have publicly stood up and spoke out against this over-sized retail development adjacent to Travis Air Force Base, on environmentally-sensitive wetlands. These facts certainly contradict those who try and discredit the efforts of these Suisun citizens, homeowners and taxpayers dismissing them as a small dissident group of NIMBYs.

The City now claims that they need this Wal-Mart Supercenter as soon as possible to save it from extreme financial distress or bankruptcy. The truth is that the City's long-term emphasis on redevelopment that incorporates more than 90 percent of the City in its redevelopment zone has created its own tax crisis in General Fund revenues to support local government operations. The claim that a Wal-Mart Supercenter will provide \$900,000 in annual sales tax revenue for the General Fund flies in the face of information we have submitted showing sales tax generation of both Dixon and American Canyon super center operations. Both of these local area stores have under-performed Wal-Mart's publicly stated sales tax revenue projections. Add to this the development of another new Wal-Mart Supercenter on North Texas Street in Fairfield just 3.5 miles away, further undermines this claim of extraordinary sales tax generation from a new Suisun store. Sadly, the City's financial woes will take more than just a super store to provide the operational capital it needs to pull itself out of the financial hole they have created.

We believe that the City's current efforts to acquire the Hoffman Property located west of the Walters Road Wal-Mart site would be more appropriate for big box development and would generate far less public opposition and potential environmental damage.

Our Network stands behind the citizens' groups that have oppose the current Wal-Mart big box development at Walters Road and will continue to work with them in their efforts to mitigate the negative impacts of this development on their neighborhoods. We believe that the staff of the Water Board has been accurate in the assessments of the shortcomings and deficiencies in the proposed Wal-Mart project plans. We support your efforts to ensure that any project at this site meets the requirements of federal and state law and not pose adverse impacts on the wetlands and public safety.

Thank you once again for working with the citizens of Suisun who share a concern for the quality of life and environmentally sustainable development in their community.

Sincerely,



Phil Tucker
Project Director



CITY OF SUISUN CITY

701 Civic Center Blvd.
Suisun City, CA 94585
www.Suisun.com

For Immediate Release

Thursday, September 18, 2008

Contact: Scott Corey
Public Information Officer
(707) 421-7333 — e-mail: scorey@Suisun.com

News blog at suisuncity.blogspot.com

MAYOR & CITY COUNCIL RECALL PETITIONS FAIL TO QUALIFY FOR BALLOT

SUISUN CITY — The Solano County Registrar of Voters found that the recall petitions for Mayor Pete Sanchez, Councilmember Jane Day and Councilmember Mike Hudson lack sufficient valid signatures to qualify for a recall election, Suisun City Deputy City Clerk Donna Pock announced today.

City Clerk Linda Hobson requested the Registrar of Voters validate each signature submitted on the petitions to ensure the most accurate and fair assessment of the petitions for all parties involved. For a petition to be sufficient to qualify as a ballot measure, it needed to contain valid signatures of at least 2,013 — or 20% — of registered City voters.

The results of the canvass are as follows:

- Petition seeking recall of Mayor Sanchez contained 1,997 valid signatures.
- Petition seeking recall of Councilmember Day contained 1,852 valid signatures.
- Petition seeking recall of Councilmember Hudson contained 1,894 valid signatures.

Under California elections law, no further action by the governing body is required if the petitions are certified as being insufficient.

By law, the petitioners have 21 days to begin the review of all challenged signatures. Any appeals would be received by the City Clerk, then submitted to the Registrar to be reviewed and ruled upon.

The petitions and all reports regarding the status of specific signatures are considered confidential.

The independently elected City Clerk is the elections officer for Suisun City. Among other duties, the City Clerk is charged with ensuring the elections laws of the State of California and the City of Suisun City are applied fully, accurately and fairly to protect the voting rights of every City voter.

The City Clerk's Office contracts with the Solano County Registrar of Voters for a variety of election-related services, including voter registration, the conduct of elections and validation of signatures submitted by the recall petitioners.

REGISTRAR'S SIGNATURE VERIFICATION

SUFFICIENT INSUFFICIENT

I, Ira Rosenthal, Registrar of Voters of the County of Solano, State of California, hereby certify:

That the PETITION TO RECALL MAYOR PETE SANCHEZ was filed with this office on August 12, 2008.

That said petition consists of 515 sections;

That each section contains signatures purporting to be signatures of qualified electors of the City of Suisun City in Solano County

That attached to this petition at the time it was filed, was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, that he or she solicited the signatures upon that section, that all of the signatures were made in his or her presence and that to the best of his or her knowledge and belief, each signature to that section was the genuine signature of the person whose name it purports to be;

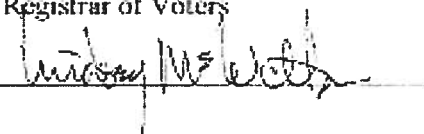
That after the proponent filed this petition, I verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purported dates of such signing, to determine what number of qualified electors signed the petition, and from the examination I have determined the following facts regarding this petition:

1. Number of unverified signatures filed by proponent	0
2. Number of signatures verified	2,376
a. Number of signatures found SUFFICIENT	1,907
b. Number of signatures found INSUFFICIENT	469
c. Number of signatures because of DUPLICATE	(116)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal

this 18th day of September, 2008.

Seal

IRA J. ROSENTHAL
Registrar of Voters
By: 



Pedro "Pete" M. Sanchez, Mayor
Jane Day, Mayor Pro-Tem
Sam Derting
Michael J. Hudson
Michael A. Segala

First and Third Tuesday
Every Month

CITY OF SUISUN CITY

July 27, 2010

701 Civic Center Blvd.
Suisun City, California 94585

Incorporated October 9, 1868

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Mr. Muller:

I am writing regarding a very important project in Suisun City that has been under your Board's review for over two years. The project – a Wal-Mart Supercenter with two additional pads for a restaurant and an independent gas station (although the alternative proposal preferred by the RWQCB staff eliminates the pad for the gas station)--will have a positive fiscal impact on our community representing 10% of our General Fund budget.

The project was approved by our local elected officials in February 2008 and is strongly supported by residents in our community. Even before the economy took a nose-dive, this was a critical project for Suisun City's overall economic health. Now, in light of the last couple of years, it is essential if we are to be in a position to provide basic public safety and municipal services to our residents. Consider this:

- Suisun City's unemployment rate is at roughly 12.4%;
- We're one of the top three regions of the State that has been hit the hardest by foreclosures; and
- Before the economic collapse, our commercial sales tax revenues represented only 20% of the average sales tax per capita enjoyed Statewide.

The applicant, working with Bruce Wolfe, other RWQCB staff and representatives of the Governor's Office, have come up with a road-map and schedule of roles and responsibilities that will result in issuance of a public notice on August 13,2010 and final action in October 2010, either by the Executive Director or at your October 13, 2010 Board meeting.

Given the importance of this project for our community, I am writing to ask you to urge your staff to work within this schedule. We have had many delays in this project with issues that we all thought were resolved before resurfacing weeks if not months later. It is not my intent to rehash these past disputes, but rather to look forward.

DEPARTMENTS: AREA CODE (707)

ADMINISTRATION 421-7300 ■ PLANNING 421-7335 ■ BUILDING 421-7310 ■ FINANCE 421-7320
FIRE 425-9133 ■ RECREATION & COMMUNITY SERVICES 421-7200 ■ POLICE 421-7373 ■ PUBLIC WORKS 421-7340
REDEVELOPMENT AGENCY 421-7309 FAX 421-7366

Suisun City is positioned to cover the revenue gap that will be filled by this project for two years. However, if the next building cycle is missed, we are looking at another 10% reduction to our General Fund – cuts that are on top of significant reductions already in place. To put this into perspective, property related revenues (which are impacted directly by foreclosures) have declined by 40% or more to our Redevelopment Agency and roughly 20% to our General fund. You and your organization, as creatures of the State, understand fully the impact of cuts of this magnitude.

Given the dire straits of California's economy, projects like this are more than critical to our continued economic recovery. Consider this:

- The Wal-Mart Supercenter will create 250 full-time equivalent jobs (200 full-time and 100 part-time).
- Each job in Solano County generates on average \$111,000 for the local economy through spending and respending (after taking into account leakage).
- For this project alone, that represents \$27,750,000 that will be added to the local economy.
- From a local government budget perspective, this project will have a net positive fiscal impact on the City of roughly \$1,000,000.

These impacts do not include the boost to our local businesses from the regional traffic that a big-box will draw to our community, especially as this will be Suisun City's only big-box retailer.

In closing, Suisun City is surrounded on its southern border by wonderful marshlands and wetlands that we truly value. Our community is paying off debt to the tune of \$60 million that was incurred by our Redevelopment Agency so that our waterfront would not be the blighted, industrial mess that it was as recently as 1988 when we were voted the worst community in all of the Bay Area. We now have a beautiful waterfront that supports a variety of water activities and wildlife, and are considered one of the top ten most livable communities in the region.

When we look at the preservation of our natural resources, though, a balance must be drawn. We don't take lightly our privilege to have run-off flow into the State waterways. However, the man-made ditch that has caused such challenges (and agony) for moving this project forward, is a cut in the dirt that has historically connected the storm drainage run-off from 37 homes to the north of the project site into the piped outlet on the southern edge of the property that runs into the marsh. **These 37 homes represent only 1/3 of 1% of all residences in Suisun City that have their run-off flow through pipes before entering the marsh.** With a population of only 28,000, we undoubtedly represent a small percentage of the overall run-off of the region into the State's waters, yet it is primarily the run-off of these 37 homes that has caused delay after delay after delay for this project.

I hope this has helped put our situation and our project in perspective for you. I understand that a couple of our residents have spoken at your meetings, and that this might have left the perception that this is a highly controversial project for our community. Such is not the case. A handful of local opponents to the project attempted a recall of our Council members tied to the approval of this project. The opponents were not even able to secure the roughly 1,000 signatures required to put the matter on the ballot – even after they stopped indicating this was an anti-Wal-Mart campaign and shifted to statements that this project would result in closing down the nearby Travis Air Force Base.

Again, I thank you for your time and consideration in ensuring that this very important project to our community continue moving forward with the issuance of a public notice on August 13, 2010 and action on the certification in October.

Sincerely,



Suzanne Bragdon
City Manager

cc. Mayor Pete Sanchez, psanchez@suisun.com
Vice Mayor Jane Day, jday@suisun.com
Councilmember Mike Segala, msegala@suisun.com
Councilmember Sam Derting, sderting@suisun.com
Councilmember Mike Hudson, mhudson@suisun.com
Alexis Pelosi, APelosi@sheppardmullin.com
Robert Uram, RUram@sheppardmullin.com
Bob Karn, RAK Engineering, rkarn@RAKengineers.com
Bruce Wolfe, BWolfe@waterboards.ca.gov
Florentino Castellon, florentino.castellon@gov.ca.gov

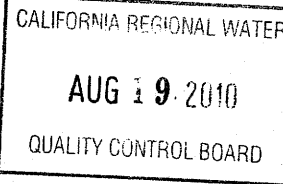


August 9, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612

43
California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org



**SUBJECT: Proposed Wal-Mart Supercenter at Walters Road,
Suisun City, Solano County, CA: State Clearinghouse Number
2006072026**

Dear Mr. Muller:

We are in receipt of a letter addressed to you by the City of Suisun from City Manager Suzanne Bragdon related to the controversial development of the proposed Wal-Mart Supercenter project on Walters Road in Suisun City. On behalf of California Healthy Communities Network/Tides Center and several grassroots community organizations that represent Suisun City homeowners in the impacted area, I would like to make some clarifications to assertions in Ms. Bragdon's letter of July 27, 2010.

Mrs. Bragdon's characterization of the City's financial woes seems to contradict the public statements and recent published reports of the City's financial condition. According to a June 30, 2010, article in the local *Fairfield Daily Republic*: Suisun City council members put their stamp of approval on a budget that bigger cities would envy Tuesday night.... "This is every incumbent's dream budget," Mayor Pete Sanchez said, alluding to the November elections. Ms. Bragdon reported that the City's "still significant reserves" will allow city leaders time to respond to local budget issues "if the project does not happen."

The latest local sales tax projections from a Wal-Mart at the Walters Road locations has been downsized by the city from \$900,000 to \$300,000 which still seems optimistic considering this store would have to compete with a companion 215,000 sq. ft. Wal-Mart Supercenter now under construction on North Texas Street just 3.5 miles away located in the Primary Trade Area of the proposed Suisun City store. In our review of the Wal-Mart Supercenter in American Canyon, just 20 miles from the proposed Suisun City store, this Supercenter did an estimated \$300,000 in 2009 serving over 175,000 in its Vallejo-Napa Trade Area without Wal-Mart supercenter competition. This survey was completed after



Page Two

one full year of American Canyon Wal-Mart operations and fell short of Wal-Mart's publicized \$600,000 local sales tax projection.

Possibly the net \$1,000,000 positive economic impact Ms. Bragdon is referring to is the fees anticipated from Wal-Mart Building and Plan Check Fees of which only \$233,918 benefits the City's cash-starved General Fund that supports city operations. The balance goes into other restricted funds i.e. Muni Facilities Fee, Water Capacity Fee, OSSIP Fee and Parking Impact Fees.

The City has put a full court press on the RWQCB using economic arguments to sustain its support for the Wal-Mart project in opposition to the staff's thorough and appropriate letter of March 12, 2009, to Wal-Mart Stores listing the deficiencies in the 2008 application for water quality certifications. It is our understanding that economic issues such as presented by the City of Suisun are not overriding considerations when it comes to enforcement of State and Federal Clean Water Act regulations. Wal-Mart seems to have shifted the emphasis for project approval away from reasonable compliance with RWQCB regulatory requirements to economic arguments in front of our State's Governor and RWQCB administrative staff.

Finally, Ms. Bragdon seems to have a short memory when it comes to the mass opposition to the project at both the Planning Commission and City Council Hearings. Over 260 citizens and interested parties attended the Council hearing with 43 speaking in opposition and 14 supporting the project. The City concluded the hearing by taking action to over-ride the Solano County Airport Land Use Commission rejection of the Wal-Mart project and approved the Final EIR. A citizen's recall effort on three City Council persons followed the project approval. Suisun citizens collected over 3,000 signatures, submitting nearly 2,400 for verification, but fell short by 106 valid signatures to qualify the Recall. A total of 1,907 valid signatures were verified by the Registrar of Voters, with over 359 disqualified due to technical violations resulting from a change in election law occurring three months before the Recall effort. That is certainly more than the 1,000 claimed by Ms. Bragdon.

We are very concerned about the high jacking of a public process by back room politics and a race to conclude a very important process through Wal-Mart's skilled legal machinations. We would ask that the Water Board proceed with the utmost of caution and enforce the Clean Water Act by holding to your staff's recommendations of the building's footprint size and proper mitigation of the other deficiencies they identified in their letter of March 12, 2009 seeking compliance from Wal-Mart.

Page Three

In closing, we are following this process very closely to assure that the public interests and are served. It remains our position that the Walters Road location is not the appropriate location for a 215,000 square foot Wal-Mart supercenter when Wal-Mart is opening less intrusive, financially successful supercenters in Northern California, including a new 102,000 square foot supercenter in the City of Salinas that opened its doors in July 2010. Alternative sites for such a large supercenter are available in Suisun City, if the size of the supercenter is such an important an overriding issue for Wal-Mart. We would be happy to answer any questions you may have concerning the objections that our community-based organizations have raised over the past two years on this project.

Thank you.

Sincerely,



Phil Tucker
Project Director

Cc: Mark Wolfe
Bruce Wolfe
Suzanne Bragdon
Mayor Pete Sanchez
Anthony Moscarelli

Attachments: Memo to Jolanta Uchman, RWQCB, April 26, 2009
Memo to Jolanta Uchman, RWQCB, July 1, 2009
Official Press Release, City of Suisun, September 18, 2008
Registrar's Signature Verification, Ira Rosenthal, Registrar of
Voters, County of Solano, CA, September 18, 2008



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

**TO: JOLANTA UCHMAN, P.G.
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

FROM: PHIL TUCKER, PROJECT DIRECTOR

DATE: APRIL 26, 2009

**SUBJECT: CONCERNS RELATED TO WAL-MART STORES, INC. ALTERNATIVE
ANALYSIS AND ADDENDUM TO ANALYSIS PROVIDED TO RWQCB
ON APPLICATION FOR CLEAN WATER ACT SECTION 401 WATER
QUALITY CERTIFICATION FOR WALTERS ROAD WEST
DEVELOPMENT PROJECT, CITY OF SUISUN CITY, SOLANO COUNTY**

We are in receipt of Mr. Anderson's April 24, 2009, letter to Wal-Mart Stores, Inc. which identifies your staff's continuing concerns with the deficiencies identified in the Analysis and subsequent Addendum to the Analysis supplementing Wal-Mart's current application for water quality certification. We fully support your findings and we would like to point out our continuing concerns with the proposed size and location of this big box project.

From the on-set of our Network's involvement in the siting of this proposed project at Walters Road, the size of the proposed supercenter structure and the inclusion of a restaurant and a gas station in that development has always been a central issue with east Suisun residents and the Solano County Airport Land Use Commission (SCALUC). The SCALUC's decision to disallow this project was based on enforcement of its standards established to control land use density in sensitive encroachment areas to Travis Air Force Base where public safety is impacted by development.

We believe that Wal-Mart, its consultants and City of Suisun officials have been less than honest with the public and with your agency in identifying other parcels of property in Suisun that may be a better fit for this intense, commercial land use, especially considering the traffic trip generation and the number of shoppers that are projected to be drawn to Wal-Mart's proposed supercenter development. We were not surprised by the revelation that the 31.8-acre Site D (known as the Hoffman site, identified in the January 2009 Alternative Analysis) discussed in Wal-Mart's Addendum to the Alternative Analysis, is currently available as acknowledged by Suisun Community Development Director, Heather McCollister, with "no application pending" on this property as of April 22, 2009. We would hope that this more viable alternative site adjacent to Highway 12 be more thoroughly reviewed in the context of this recent revelation.

On Page 4 of the Addendum there is a statement that the City of Suisun City has a deficit and that this deficit has caused a reduction in critical services generating staff layoffs. This statement certainly flies in the face of a *Daily Republic* article printed on December 12, 2008, where officials were quoted in this local newspaper discussing their balanced budget and no reduction in staff or services. The more systemic financial

problem not discussed in this article or discussed in public meetings is the lack of funds to support Suisun City's developed infrastructure due to the City's decision in 1989 to declare the entire city a blighted area and cover it under Redevelopment. This action has frozen General Fund property taxes at the 1989 level, while providing millions of dollars for new development. The imbalance between well-funded community redevelopment and lagging city services' revenue is a major problem in maintaining staff not employed by the Redevelopment Agency or providing necessary community services or maintenance of existing public facilities and infrastructure improvements.

In the proposed Wal-Mart project's Environmental Impact Report, it stated that two (2) permanent police officers and one (1) fireman would have to be hired to support the impacts of a new Wal-Mart supercenter. It also estimated the cost at \$300,000 to financially support these new permanent positions. What was not addressed in the EIR is how the City would maintain the maintenance and monitoring of the project's storm drainage system.

Finally, in the Addendum Attachment #1 letter from the City of Suisun states that the proposed Wal-Mart will generate \$800,000 in revenue its first year of operation and \$965,000 in following years. These estimates of tax revenue are greatly inflated and, in fact, are not likely ever to occur with the development of a new 227,000 sq.ft. Wal-Mart supercenter located less than a 10-minute drive from the proposed Suisun Wal-Mart in neighboring Fairfield just 4 miles away. Based on our recent evaluations of sales tax revenue at the Dixon and American Canyon, California, Wal-Mart supercenters, the sales tax has been greatly exaggerated with neither of these neighboring supercenters generating more than \$400,000 a year through the last sales tax reporting year.

In the City of Dixon, a review of citywide Taxable Sales between 2003-2006 revealed that retail sales only grew by \$360,232 with the addition of a big box Wal-Mart store, far less than the \$500,000 annual Wal-Mart sales tax promised the City before project approval.

When we reviewed the increase in citywide sales tax from all tax sources in American Canyon in December 2008, we discovered that after one(1) year of their Wal-Mart supercenter operations the total increase in citywide sales tax revenue was \$495,464.06. Our staff estimated that sales tax revenue generated from Wal-Mart was \$275,000-\$325,000 of the total sales tax paid to the City. We provided our analysis to Sara Orhrs, staff writer, Vallejo Times-Herald. When Wal-Mart was approached to provide their sales tax report information to Ms. Orhrs so she could confirm the actual sales tax generated by the new Wal-Mart supercenter, Wal-Mart declined to provide this information. Prior to approval of the supercenter project in American Canyon, Wal-Mart had said it would generate \$600,000 a year in new tax revenue to the City.

It is our recommendation to Water Board staff, if there is a concern related to the projected sales tax revenue generated by the proposed Wal-Mart in Suisun City, that staff request verification of last year's sales tax paid to the State Franchise Tax Board for both American Canyon and Dixon stores. Both of these stores are within a 20-mile drive of the proposed Suisun Wal-Mart store and are of similar size.

We would like to thank you and the Water Board staff for the job you are doing in protecting the health and safety of Suisun City residents and in carrying out your agency responsibilities enforcing the Clean Water Act.

Attachments:

- *Daily Republic* article, 12/3/08, Section A-3
- Photocopy of Map showing Alternative Hoffman Site (initialed by Ms. McCollister)
- Wal-Mart Supercenter Retail Sales Tax Profile, City of Dixon, CA
- American Canyon Wal-Mart Sales Tax Information (for *Vallejo Times-Herald*), 12/18/08



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

July 1, 2009

Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Jolanta:

I would like to thank you and the Water Board staff for the work you have been doing in reviewing the proposed Suisun City Wal-Mart Supercenter project on Walters Road at Highway 12. Our Network became engaged with community activists opposing the Wal-Mart project in 2007 after it was announced that the original Gentry site located west of the downtown on Highway 12, away from residential development, had been abandoned and the current Walters Road site had been purchased as a preferred location by Wal-Mart's developers and the City. The original site seemed to have overwhelming citizen support because of its location. The controversy of a bait and switch in selling the community on a big box development in one location and the purchase and development of a site over 3-miles away located adjacent to major residential developments brought an outcry from neighborhood residents and environmental activists opposing this type of high density retail development at the current location.

City officials and Wal-Mart representatives have made public statements about a small opposition group to this project that is not accurate. Over 400 east Suisun residents participated in public meetings, anti-Wal-Mart events and public forums that preceded the City's final Walters Road Wal-Mart project approval. At the City Council meeting where action to override the Airport Land Use Commission's opposition to the project and approve the final Wal-Mart EIR, there were approximately 260 attendees. Of that number, there were 43 speakers against the project that were being cheered by the vast majority attending. There were 14 speakers for the project, which included City workers and contractors. In July 2008, following the Council's approval of the project, citizens opposing the Council's action submitted more than 7,500 total signatures on petitions to recall three City Councilpersons. The overall signatures collected from citizens of Suisun City were over 3,000 for each of the three being recalled. The Save Our Suisun Recall Committee voided around 600 citizens' names from each of the Council Recall petitions prior to submitting the petitions to the City for validation due to voter invalid registration discrepancies. Even though the County registrar of voters failed to validate sufficient signatures to qualify a recall election, the mere fact that residents and voters of Suisun City contested the decision of the City Council's approval of the controversial Wal-Mart project site on Walters Road shows significant public opposition to the Council's decision to approve the project.

Page Two

The mere fact that the Water Board and CalTrans both opposed the approval of this project's final EIR due to significant deficiencies in that document substantiate the concerns of these local activists who have publicly stood up and spoke out against this over-sized retail development adjacent to Travis Air Force Base, on environmentally-sensitive wetlands. These facts certainly contradict those who try and discredit the efforts of these Suisun citizens, homeowners and taxpayers dismissing them as a small dissident group of NIMBYs.

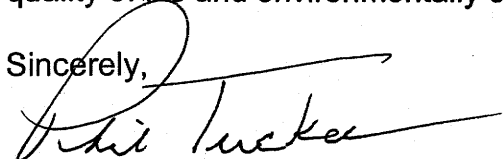
The City now claims that they need this Wal-Mart Supercenter as soon as possible to save it from extreme financial distress or bankruptcy. The truth is that the City's long-term emphasis on redevelopment that incorporates more than 90 percent of the City in its redevelopment zone has created its own tax crisis in General Fund revenues to support local government operations. The claim that a Wal-Mart Supercenter will provide \$900,000 in annual sales tax revenue for the General Fund flies in the face of information we have submitted showing sales tax generation of both Dixon and American Canyon super center operations. Both of these local area stores have under-performed Wal-Mart's publicly stated sales tax revenue projections. Add to this the development of another new Wal-Mart Supercenter on North Texas Street in Fairfield just 3.5 miles away, further undermines this claim of extraordinary sales tax generation from a new Suisun store. Sadly, the City's financial woes will take more than just a super store to provide the operational capital it needs to pull itself out of the financial hole they have created.

We believe that the City's current efforts to acquire the Hoffman Property located west of the Walters Road Wal-Mart site would be more appropriate for big box development and would generate far less public opposition and potential environmental damage.

Our Network stands behind the citizens' groups that have oppose the current Wal-Mart big box development at Walters Road and will continue to work with them in their efforts to mitigate the negative impacts of this development on their neighborhoods. We believe that the staff of the Water Board has been accurate in the assessments of the shortcomings and deficiencies in the proposed Wal-Mart project plans. We support your efforts to ensure that any project at this site meets the requirements of federal and state law and not pose adverse impacts on the wetlands and public safety.

Thank you once again for working with the citizens of Suisun who share a concern for the quality of life and environmentally sustainable development in their community.

Sincerely,



Phil Tucker
Project Director



CITY OF SUISUN CITY

701 Civic Center Blvd.
Suisun City, CA 94585
www.Suisun.com

For Immediate Release

Thursday, September 18, 2008

Contact: **Scott Corey**
Public Information Officer
(707) 421-7333 — e-mail: scorey@suisun.com

News blog at suisuncity.blogspot.com

MAYOR & CITY COUNCIL RECALL PETITIONS FAIL TO QUALIFY FOR BALLOT

SUISUN CITY — The Solano County Registrar of Voters found that the recall petitions for Mayor Pete Sanchez, Councilmember Jane Day and Councilmember Mike Hudson lack sufficient valid signatures to qualify for a recall election, Suisun City Deputy City Clerk Donna Pock announced today.

City Clerk Linda Hobson requested the Registrar of Voters validate each signature submitted on the petitions to ensure the most accurate and fair assessment of the petitions for all parties involved. For a petition to be sufficient to qualify as a ballot measure, it needed to contain valid signatures of at least 2,013 — or 20% — of registered City voters.

The results of the canvass are as follows:

- Petition seeking recall of Mayor Sanchez contained 1,907 valid signatures.
- Petition seeking recall of Councilmember Day contained 1,852 valid signatures.
- Petition seeking recall of Councilmember Hudson contained 1,894 valid signatures.

Under California elections law, no further action by the governing body is required if the petitions are certified as being insufficient.

By law, the petitioners have 21 days to begin the review of all challenged signatures. Any appeals would be received by the City Clerk, then submitted to the Registrar to be reviewed and ruled upon.

The petitions and all reports regarding the status of specific signatures are considered confidential.

The independently elected City Clerk is the elections officer for Suisun City. Among other duties, the City Clerk is charged with ensuring the elections laws of the State of California and the City of Suisun City are applied fully, accurately and fairly to protect the voting rights of every City voter.

The City Clerk's Office contracts with the Solano County Registrar of Voters for a variety of election-related services, including voter registration, the conduct of elections and validation of signatures submitted by the recall petitioners.

REGISTRAR'S SIGNATURE VERIFICATION



SUFFICIENT



INSUFFICIENT

I, Ira Rosenthal, Registrar of Voters of the County of Solano, State of California, hereby certify:

That the PETITION TO RECALL MAYOR PETE SANCHEZ was filed with this office on August 12, 2008.

That said petition consists of 515 sections;

That each section contains signatures purporting to be signatures of qualified electors of the City of Suisun City in Solano County.

That attached to this petition at the time it was filed, was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, that he or she solicited the signatures upon that section, that all of the signatures were made in his or her presence and that to the best of his or her knowledge and belief, each signature to that section was the genuine signature of the person whose name it purports to be;

That after the proponent filed this petition, I verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purported dates of such signing, to determine what number of qualified electors signed the petition, and from the examination I have determined the following facts regarding this petition:

1. Number of unverified signatures filed by proponent	0
2. Number of signatures verified	2,376
a. Number of signatures found SUFFICIENT	1,907
b. Number of signatures found INSUFFICIENT	469
c. Number of signatures because of DUPLICATE	(116)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal

this 18th day of September, 2008.

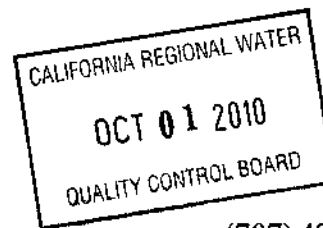
Seal

IRA J. ROSENTHAL
Registrar of Voters

By: 



CITY OF SUISUN CITY
CITY MANAGERS OFFICE
701 CIVIC CENTER BOULEVARD
SUISUN CITY, CALIFORNIA



(707) 421-7300 PHONE
(707) 421-7366 FAX

MEMORANDUM

DATE: September 30, 2010

TO: Liz Morrison, Regional Water Quality Control Board

FROM: Suzanne Bragdon, City Manager *S. Bragdon*

Subject: Letters of Support – Walters Road Development Project
City of Suisun City, Solano County

Enclosed you will find 90 letters from a broad range of members of our community that strongly support the proposed Wal-Mart Supercenter project that will be heard by the RWQCB on October 13, 2010.

These letters are from local business owners, senior citizens, local school officials, parents, residents, public safety providers (police and fire), residents and people living in the surrounding area of Suisun City. We regularly get calls about the status of this project. The enclosed letters illustrate the broad-based support for this project to move forward sooner rather than later.

Letters are also submitted for your consideration by Solano County Board of Supervisor Jim Spering, Mayor Pete Sanchez, Councilmembers Mike Segala and Mike Hudson, Planning Commission Chair Don Spering and City Manager Suzanne Bragdon.

We strongly believe that the Board can take action on this project at this time and hope that they will do so. Such action both protects the water quality concerns that are under the Board's purview while allowing this much needed economic development driven project to move forward.

James P. Spering
Board of Supervisors - District 3
675 Texas Street, Suite 6500
Fairfield, CA 94533

Phone (707) 784-6136
Fax (707) 784-6665
jpspering@solanocounty.com



District Representatives
Catherine McKenzie Cook
(707) 784-6418
cmcook@solanocounty.com

Sabine Goerke-Shrode
(707) 784-3006
sgoerkeshrode@solanocounty.com

September 23, 2010

Mr. John Muller
Chair, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

As a long-time resident of Suisun City, local businessman, Mayor for twenty years and current Solano County District Supervisor, I have a strong interest in the balanced growth of my community. The Walters Road Development Project is an integral piece of ensuring that balanced growth takes place in Suisun City.

Suisun City has been a good steward of the marsh and the surrounding environment, working with the community to protect the marsh and the quality of the water entering the marsh. Over the years, Suisun City has implemented many measures to assure the runoff water is as clean as possible. The City has a vigorous street-cleaning program, removing trash in our roadways and eliminating potential hazards to the marsh. Through its example, the City has fostered a similar, responsible attitude among its citizens.

The Walters Road project has seen delay after delay, and the fate of it now rests with your Board. This project seems to have been held hostage at nearly every stage, and has overcome each hurdle. I hope your Board is able to approve this project and allow our community to grow in a responsible manner as we envisioned and planned.

This project site has been zoned for commercial development for more than 20 years. It's a project that has been approved unanimously by the Planning Commission and City Council. Suisun City has been a model for smart growth and urban revitalization and has received national recognition for our balanced approach to development protecting both the fragile marsh and environment. Denying this project prevents our community from maintaining and sustaining the type of programs that enhance the marsh.

Walters Road Development Project, City of Suisun City, Solano County

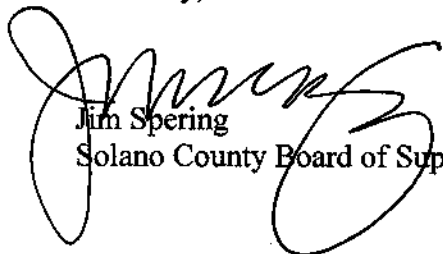
From an economic development standpoint, this project is critical as we all work hard to rebound from the recession. In addition to the immediate impact construction jobs will make, the project will add more than 250 long-term jobs when it is complete. The unemployment rate in Suisun City is currently 12.4%, and we need projects like this to get people back to work.

I understand the Board and your staff want to protect water quality, and I applaud that effort. But this project is surrounded by long established residential development. It doesn't impact any untouched or pristine water resources. The hurdle that has been so challenging to overcome is a very low-value water resource: a man-made ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch given the benefits that this project will bring to the community. Let the applicant provide a reasonable mitigation like you do with every other project and get this project moving. The project developer has already reduced the size of the Wal-Mart center and eliminated a planned gas station in order to reduce impacts on this ditch and some wetlands (the latter of which are being mitigated through a bank.)

Considering all the information and analysis that has been done on this project, I firmly believe that you have a solid basis to approve the permit for this project. We've planned for this project. We've studied it. We need it and this community wants to see this project move forward.

Thank you for your time and willingness to help our community sustain itself.

Sincerely,



Jim Sperring
Solano County Board of Supervisor

CITY COUNCIL

Pedro "Pete" M. Sanchez, Mayor
Jane Day, Mayor Pro-Tem
Sam Derting
Michael J. Hudson
Michael A. Segala



CITY COUNCIL MEETING

First and Third Tuesday
Every Month

CITY OF SUISUN CITY

701 Civic Center Blvd.
Suisun City, California 94585

Incorporated October 9, 1868

September 29, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

I am writing regarding a very important project that is on your October 13th agenda, but has been under your Board's review for over two years. It is a project that has a tremendous potential positive impact on our community. It is strongly supported by residents in our community. In addition, it is critical for the City's financial health in the coming years.

Given the importance of this project for our community, I am writing to ask you to approve the project at the October 13th meeting. In particular, we request that the certification be approved as written with a condition that requires approval of a mitigation plan for impacts to the man made ditch before construction commences. A final mitigation plan is not required before Board approval as long as standards and criteria for the mitigation are specified, which they are. We support this approach and understand that it is a common way that the Board has addressed such matters for other applicants.

In adopting the mitigation condition as proposed, it provides flexibility in how the applicant can meet the required linear mitigation for the man made ditch. The applicant can concurrently proceed with mitigation plans and construction plans instead of facing further delays as the mitigation plans are finalized. Any final mitigation plan would need to be approved before construction begins and we ask that the Board give clear authorization to the Executive Director to approve the mitigation plan without a need to return to the Board.

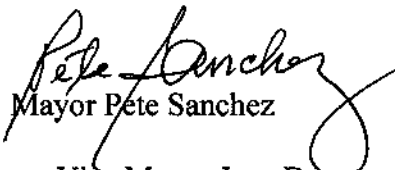
DEPARTMENTS: AREA CODE (707)

ADMINISTRATION 421-7300 ■ PLANNING 421-7335 ■ BUILDING 421-7310 ■ FINANCE 421-7320
FIRE 425-9133 ■ RECREATION & COMMUNITY SERVICES 421-7200 ■ POLICE 421-7373 ■ PUBLIC WORKS 421-7340
REDEVELOPMENT AGENCY 421-7309 FAX 421-7366

We have worked with the Board staff and applicant on this project for over two years. There have been many meetings, negotiations and compromises – including the loss of the valuable gas station parcel that would have generated tens of thousands of dollars of revenue to the City. We have waited long enough and given away enough and now just ask that the project be allowed to move forward. Please don't allow a handful of local opponents delay or derail this important project. Our community of nearly 30,000 people must shop in other cities for basic necessities such as shoes and clothing. It is unfair for us to have to spend our money in other cities, providing them with the sales tax revenue, jobs, and other benefits that should be occurring right here in our own city.

Again, I thank you for your time and consideration in approving this very important project to our community.

Sincerely,


Mayor Pete Sanchez

cc: Vice Mayor Jane Day
Councilmembers Mike Segala, Sam Derting and Mike Hudson
Suzanne Bragdon, City Manager

Office of Councilman Mike Segala

701 Civic Center Boulevard
Suisun City, CA 94585

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

For over two years your Board has been reviewing a project that is very important to me and my community. The proposed project is a Wal-Mart Supercenter, a restaurant, and a gas station. I was not happy to learn that, as a result of your staffs' opposition to this project, the gas station has been eliminated and the store square footage has been reduced.

The revenue that would come to our city because of this project has been estimated to be about 10% of our whole General Fund budget for the City. This is huge!

We need the 250+ jobs that the project will create. The City needs the \$1,000,000 in revenue that the project will create to provide services such as police and fire protection to our residents.

Our Mayor and City Council unanimously approved this project. It has received its local planning approvals.

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a man-made ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch.

Let the applicant provide a reasonable mitigation like you do with every other project and get this project moving.

Sincerely,



Mike Hudson
518 Blue Wing Drive
Suisun City, Ca 94585

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Let the applicant provide a reasonable mitigation like you do with every other project and get this project moving.

Sincerely,

A handwritten signature in black ink that reads "Mike Hudson". The signature is written in a cursive, flowing style.

CITY COUNCIL

Pedro "Pete" M. Sanchez, Mayor
Jane Day, Mayor Pro-Tem
Sam Derting
Michael J. Hudson
Michael A. Segala



CITY COUNCIL MEETING

First and Third Tuesday
Every Month

CITY OF SUISUN CITY

701 Civic Center Blvd.
Suisun City, California 94585

Incorporated October 9, 1868

September 29, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

The Planning Commission unanimously recommended approval of this project in January 2008, after careful consideration of the potential impacts and benefits. The Commission is extremely familiar with the specifics of this site, and is aware that mitigation is required for the portion of the man-made ditch located on the property that will be affected by construction.

My experience as Planning Commission Chairman has demonstrated that a project can be conditioned in such a way that the details of required mitigation can be ultimately determined by staff. This is usually the most effective way to achieve project goals, since it is staff that has the expertise to determine appropriate mitigation. I assume that is also the case with the RWQCB.

Given the importance of this project for our community, I am writing to ask you to approve the project at the October 13th meeting. In particular, we request that the certification be approved as written with a condition that requires approval of a mitigation plan for impacts to the man made ditch before construction commences.

This project has been under your Board's review for over two years. It is a project that has a tremendous potential positive impact on our community. It is strongly supported by residents in our community. In addition, it is critical for the City's financial health in the coming years.

DEPARTMENTS: AREA CODE (707)

ADMINISTRATION 421-7300 ■ PLANNING 421-7335 ■ BUILDING 421-7310 ■ FINANCE 421-7320
FIRE 425-9133 ■ RECREATION & COMMUNITY SERVICES 421-7200 ■ POLICE 421-7373 ■ PUBLIC WORKS 421-7340
REDEVELOPMENT AGENCY 421-7309 FAX 421-7366

Adopting the mitigation condition as proposed provides flexibility in how the applicant can meet the required linear mitigation for the man made ditch. The applicant can concurrently proceed with mitigation plans and construction plans instead of facing further delays as the mitigation plans are finalized. Any final mitigation plan would need to be approved before construction begins and we ask that the Board give clear authorization to the Executive Director to approve the mitigation plan without a need to return to the Board.

Again, I thank you for your time and consideration in approving this very important project to our community.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Spring". The signature is fluid and cursive, with a large initial "D" and "S".

Don Spring, Planning Commission Chairman

cc: Planning Commission members
Mayor Pete Sanchez
Vice Mayor Jane Day
Councilmembers Mike Segala, Sam Derting and Mike Hudson
Suzanne Bragdon, City Manager



Pedro "Pete" M. Sanchez, Mayor
 Jane Day, Mayor Pro-Tem
 Sam Derting
 Michael J. Hudson
 Michael A. Segala

First and Third Tuesday
 Every Month

CITY OF SUISUN CITY

701 Civic Center Blvd.
 Suisun City, California 94585

September 30, 2010

Incorporated October 9, 1868

Mr. John Muller
 Chairman, California Regional Water Quality Control Board
 San Francisco Bay Regional Water Quality Control Board
 1515 Clay Street, Suite 1400
 Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

As the City Manager for the City of Suisun City, I am submitting this letter to supplement the information sent to you back in July of 2010. I erroneously believed that the earlier letter was passed along to you at that time, rather than being held for this hearing.

I hope from the diversity of letters of support that you've received from our community – including local businesses, residents, senior citizens, teachers and parents, police and fire service providers and other community leaders – that you can appreciate how critical this project is to the overall balance and fiscal health of our community.

My earlier letter goes into a number of issues facing Suisun City, and the importance this project plays in helping ensure our ability to provide a basic level of service to our residents. It also recognizes our inherent interests in maintaining the viability of the marshlands that meander along our southern border. I will try not to reiterate these points here.

As the permitting process has continued forward since this past July, there appears to be one minor issue that raises some question from discussions I've been privy to, and that is the mitigation of a portion of the man-made ditch that runs across the property. It is a linear feature of 786 feet with an area of only .28ths of an acre. Wal-Mart has made many concessions already to mitigate this feature – concessions that aren't favorable to the city (i.e., removing the gas station pad and reducing the foot print of the Wal-Mart Supercenter). When asked the City's thoughts on such concessions, we capitulated in the interest of moving the project forward.

With respect to the remaining portion of the ditch that staff is requiring mitigation, you fully retain the ability to ensure that the proposed mitigation standards, as outlined in the Tentative Order, adequately address water quality impacts under your purview. As such, we request that you approve the project permit at this time with the condition that the

DEPARTMENTS: AREA CODE (707)

ADMINISTRATION 421-7300 ■ PLANNING 421-7335 ■ BUILDING 421-7310 ■ FINANCE 421-7320
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 REDEVELOPMENT AGENCY 421-7309 FAX 421-7366

ultimate location of the ditch mitigation be fully reviewed and signed off by the Executive Director of the RWQCB *before* construction occurs. Consequently, there seems to be no risk that the water quality will be impaired through such an approach, which furthermore, would allow Wal-Mart to begin the preparation of construction drawings and specifications during the rainy season in order to be positioned for construction in the summer of 2011.

Our overarching fear is that if this permitting process is delayed much further, the summer 2011 construction season will be missed, which means delaying a much needed revenue stream to the City for yet another year. Given the state of the current economy, we have reduced our operations by roughly 20% over the past three years while experiencing reductions of Redevelopment Agency tax increment to the tune of 40% over the same period. These reductions in tax increment not only impair our ability to further economic development activity, they likewise impact revenues that are passed along to the local school district and county.

Even with these reductions, we still are working to address an operating gap in the range of \$1 million. If Wal-Mart opens their doors within the next two years, this gap will be filled by this project. If Wal-Mart is delayed, or somehow forced to reconsider their business plan to open another store in California (given our unique regulatory climate), we are facing more drastic cuts. The easier reductions have already been made; the more drastic means a much further reduction of workforce and the nature of the services we can provide to our residents. Of significant concern, the police department represents roughly 50% of our General Fund staffing. We already are served by a volunteer Fire Department. You do the math.

In closing, we believe that an objective balancing of interests demonstrates that this project can go forward without negative environmental impacts while achieving important goals for the City. Environmental protection doesn't exist in a vacuum. Utilizing a practical approach that brings a much-needed business to the City while protecting water quality is in everyone's best interest.

We thank you for your time and consideration of this very important project to our community. Our residents and our businesses and our community leaders understand full well what we have accomplished over the past 25 years in turning our community around (we were voted the worst city in the Bay Area back in the late 1980's; now we're one of the more desirable!) No one wants to go there again. That is truly a key, underlying factor behind the broad-based support that this Wal-Mart project enjoys by our residents, businesses and community leaders alike.

Sincerely,



Suzanne Bragdon
City Manager
City of Suisun City

LOCAL BUSINESS OWNERS

TEL 707 795 - 4477
FAX 707 795 - 6283



September 23, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

My company, Basin Street Hospitality, owns the Hampton Inn & Suites hotel in Suisun City. As an owner of a local business, I have a strong interest in the overall growth of my community. This Walters Road Development Project has seen delay after delay, and the fate of this project now rests with your Board. This project has encountered obstacles and delays at nearly every stage, and has overcome each hurdle. I hope your Board is able to approve this project and allow my community to grow in the balanced and responsible manner we planned and need.

The Walters Road Development Project is very important from an economic standpoint. In addition to the immediate impact construction jobs will make, the project will add more than 250 long-term jobs when it is complete. The unemployment rate in Suisun City is currently 12.4%, and we need projects like this to get people back to work.

Besides more jobs, this project lets Suisun City businesses and residents shop for goods and services in our own city. Right now, we are forced to go elsewhere for many basic necessities, which hurts our community. As a result of shopping outside Suisun City, our residents and business owners are paying sales tax for public safety, park maintenance and other public services for other cities. With no other option in town, residents have no choice. When Suisun City residents travel outside the city for necessities, they often do other shopping there, too. This compounds the problem.

We've expected retail stores on this project site for more than 20 years. It's been zoned that way for a long time. This project was approved unanimously by the Planning Commission and City Council. We don't have other places for this type of project, and no land to annex for it either. Suisun City has been a model for smart growth and urban revitalization. But we also need some large retail close by. Denying this project prevents our town from having the balance we need to be self sustaining.

201 First Street, Suite 100
Petaluma, CA 94952

BASINSTREETHOSPITALITY.COM

September 23, 2010
Page 2

I understand the Board and your staff want to protect water quality, and I support that effort. But this project is surrounded by development. It does not impact any untouched or pristine water resources. From what I hear, there are ways to filter water from the project site that would make it even better than what comes off it now during the winter. There has to be a solution that will allow this project to be built.

I recommend that your Board approve this project. It has been planned for, studied and we need it.

Thanks for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "T. H. Birdsall".

Thomas H. Birdsall
Managing Partner



Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

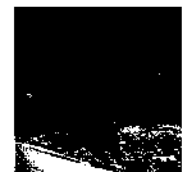
As a business operator in Suisun City, I have an interest in the overall growth of my community. This project has seen delay after delay, and the fate of this project now rests with your Board. It is our hope that your Board is able to approve this project and allow our community to grow in the balanced and responsible manner we planned and need.

The Walters Road Development Project is absolutely critical from an economic standpoint. In addition to the immediate impact construction jobs will make, the project will add more than 250 long-term jobs when it is complete. The unemployment rate in Suisun City is currently 12.4%, and we need projects like this to get people back to work.

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We've expected retail stores on this project site for more than 20 years. It's been zoned that way for a long time. This project was approved unanimously by the Planning Commission and City Council. We don't have other places for this type of project, and no land to annex for it either. Suisun City has been a model for smart growth and urban revitalization. But we need some large retail close by, too. Denying this project prevents our town from having the balance we need in our business community to be self sustaining.

I understand the Board and your staff want to protect water quality, and I applaud that effort. But this project is surrounded by development. It doesn't impact any untouched or pristine water resources. From what I hear, there are ways to filter water from the project site that would make





it even better than what comes off it now during the winter. There has got to be a solution that will allow this project to be built.

We look for your board's support in completing this project which is vital to the continued economic growth of Suisun City.

Thanks for your time and willingness to help our community sustain itself.

Sincerely,

Hartmut Ott
General Manager





September 24, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

**RE: WALTERS ROAD DEVELOPMENT PROJECT
SUISUN CITY, CALIFORNIA**

Dear Mr. Muller:

As a business owner in Suisun City, I am writing to voice my support of the Walters Road Development Project which is vital to the well-being of our community.

This project will enable Suisun City businesses and residents to shop for goods and services in our own city. Right now, we are forced to go elsewhere for many basic necessities, which negatively impacts our community. As a result of shopping outside Suisun City, our residents and business owners are paying sales tax for public safety, park maintenance and other public services for other cities. When Suisun City residents travel outside the city for necessities, they often do other shopping there, which further compounds the problem.

The community has expected retail stores on this project site for more than 20 years as it has been zoned for commercial use for that time. The project was approved unanimously by the Planning Commission and City Council and there is no other viable location within the city for this type of project.

Suisun City has been a model for smart growth and urban revitalization, which must include the necessary retail options that this project will provide. Denying this project prevents our city from having the balance we need in our business community to be self sustaining.

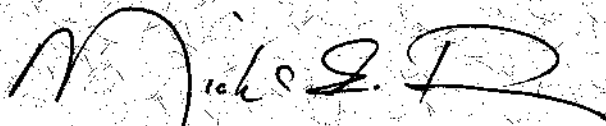
The project is also critical from an economic standpoint. In addition to the immediate impact that the construction jobs will make, the project will add more than 250 long-term jobs when it is complete. The unemployment rate in Suisun City is currently 12.4%, and this project would assist local residents in finding work.

I understand the Board and your staff want to protect water quality, and I applaud that effort. However I also know that the applicant and the City have proposed several reasonable and acceptable development plans that mitigate any impacts on water quality.

The fate of the project now rests with your Board. I hope the Board is able to approve this project and allow Suisun City to grow in the balanced and responsible manner we planned and need.

Sincerely,

MILLER-SORG GROUP, INC.

A handwritten signature in black ink, appearing to read "Michael E. Rice". The signature is fluid and cursive, with a large initial "M" and "R".

Michael E. Rice
President



Real Estate Development
Commercial - Residential - Mixed-Use

September 24, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sept. 22, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

As a business owner in Suisun City, I have an interest in the overall growth of my community. This project has seen delay after delay, and the fate of this project now rests with your Board. This project seems to have been held hostage at nearly every stage, and has overcome each hurdle. I hope your Board is able to approve this project and allow my community to grow in the balanced and responsible manner we planned and need.

The Walters Road Development Project is absolutely critical from an economic standpoint. In addition to the immediate impact construction jobs will make, the project will add more than 250 long-term jobs when it is complete. The unemployment rate in Suisun City is currently 12.4%, and we need projects like this to get people back to work.

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I understand the Board and your staff want to protect water quality, and I applaud that effort. But this project is surrounded by development. It doesn't impact any untouched or pristine water resources. From what I hear, there are ways to filter water from the

project site that would make it even better than what comes off it now during the winter.
There has got to be a solution that will allow this project to be built.

I don't see a logical reason for your Board not to approve this project. We've planned for this. We've studied it. We need it.

Thanks for your time and willingness to help our community sustain itself.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'A' followed by a long, sweeping horizontal line that ends in a small hook.

WILLIAM DAVIS
CAST IRON GRILL BAR
200 MAIN ST. #104
SUISUN CITY CA 94585

9-20-10

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

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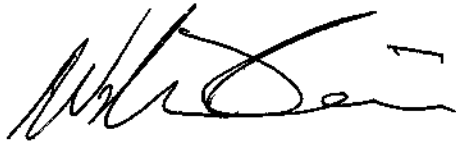
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Sincerely,

A handwritten signature in black ink, appearing to be 'M. J. [unclear]', written in a cursive style.

Hillman, Lucas & Jones
One Harbor Center
Suisun, CA 94585

9/21/10

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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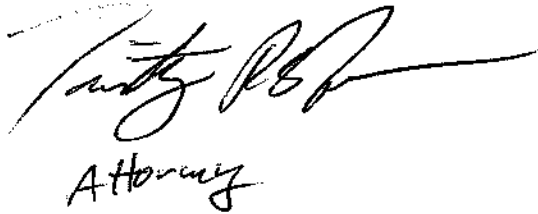
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Thanks for your time and willingness to help our community sustain itself.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terry R. B.", followed by the word "Attorney" written in a similar cursive style below it.

SENIOR CITIZENS

Barbara Edwards
320 Merganser Drive, Apt #6
Suisun City, Ca 94585

28 September 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

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The revenue that would come to our city because of this project has been estimated to be about 10% of our whole General Fund budget for the City. This is huge!

We need the 250+ jobs that the project will create. The City needs the \$1,000,000 in revenue that the project will create to provide services such as police and fire protection to our residents.

Our Mayor and City Council unanimously approved this project. It has received its local planning approvals.

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a man-made ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch.

Let the applicant provide a reasonable mitigation like you do with every other project and get this project moving.

As a resident senior citizen, revenue from this project can provide funding for maintaining our senior facilities. This project will also provide seniors' shopping opportunities we can afford.

Sincerely,


Dent A. Trail
506 Trumpeter Drive
Suisun City, Ca 94585

28 September 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Let the applicant provide a reasonable mitigation like you do with every other project and get this project moving.

As a resident senior citizen, revenue from this project can provide funding for maintaining our senior facilities. This project will also provide seniors' shopping opportunities we can afford.

Sincerely, *Dent A. Trail*

James Barbour
422 Marina Blvd
Suisun City, Ca 94585

28 September 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

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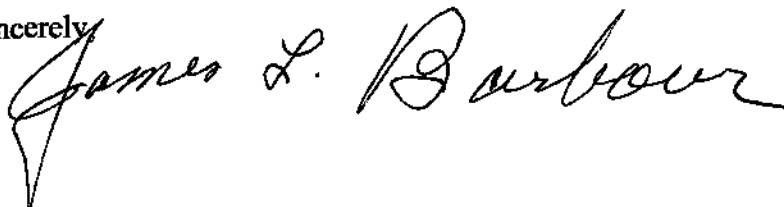
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Sincerely,

A handwritten signature in black ink that reads "James L. Barbour". The signature is written in a cursive style with a large, stylized initial "J".

Donald Babbony
608 Crane Drive
Suisun City, Ca 94585

28 September 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,



LOCAL SCHOOL OFFICIALS

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,



Dave Marshall, Principal Crystal Middle School

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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CRYSTAL TEACHER

PO Box 151
Suisun City, CA
94585

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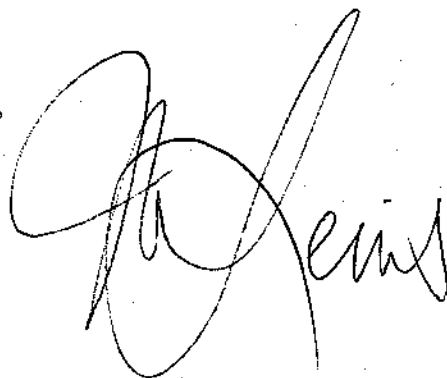
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Suisun City, CA
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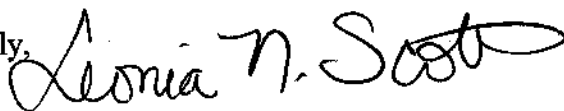
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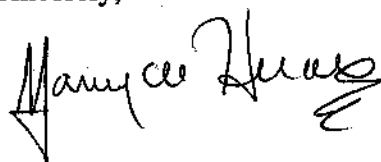
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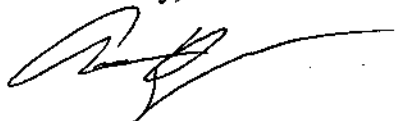
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1515 Clay Street, Suite 1400
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Sincerely,

Janet O'neal

CRYSTAL TEACHER

PO Box 151
Suisun City, CA
94585

September 27, 2010

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San Francisco Bay Regional Water Quality Control Board
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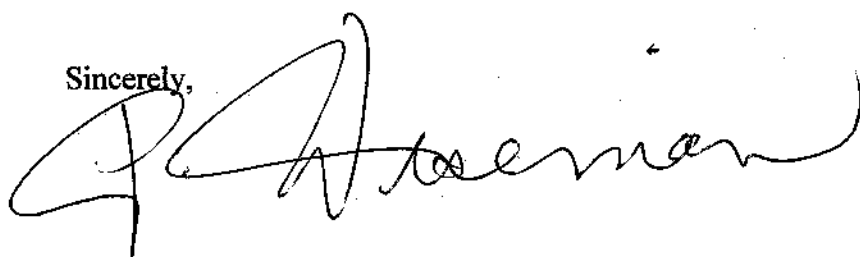
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Sincerely,

A handwritten signature in black ink, appearing to read "Crystal Teacher". The signature is written in a cursive, flowing style.

CRYSTAL TEACHER

PO Box 151
Suisun City, CA
94585

September 27, 2010

Mr. John Muller
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1515 Clay Street, Suite 1400
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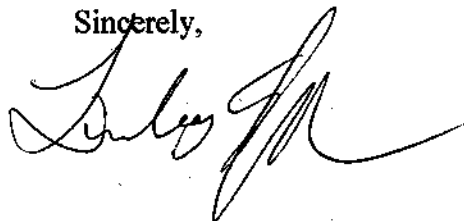
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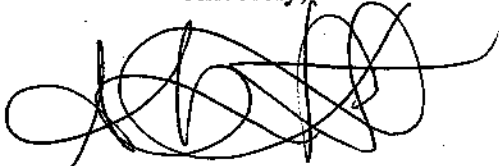
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CRYSTAL TEACHER

POLICE OFFICERS ASSOCIATION

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
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Sincerely,



Stan Switala

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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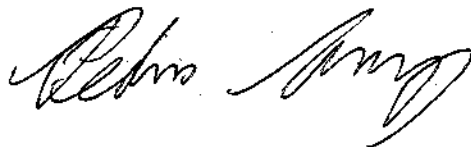
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Sincerely,



Pedro Arroyo

PO Box 151
Suisun City, CA
94585

September 27, 2010

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1515 Clay Street, Suite 1400
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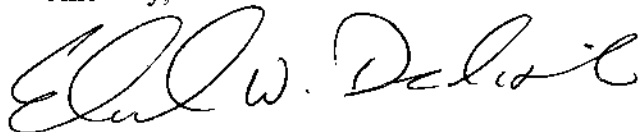
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Ed Dadisho

PO Box 151
Suisun City, CA
94585

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

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Our Mayor and City Council unanimously approved this project. It has received its local planning approvals.

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a man-made ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch.

Let the applicant provide a reasonable mitigation like you do with every other project and get this project moving.

Sincerely,



Walter Walker

PO Box 151
Suisun City, CA
94585

September 27, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
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Sincerely,



CHRIS J. SOLDO

PO Box 151
Suisun City, CA
94585

September 27, 2010

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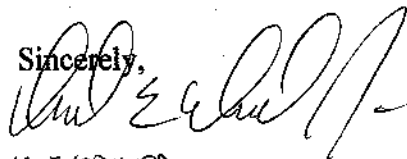
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Sincerely,



M. SHEPHERD

FIRE ASSOCIATION

CARLOS GONZALEZ
1131 VALLEY GLEN DR.
DIXON CA 95620

September 29, 2010

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San Francisco Bay Regional Water Quality Control Board
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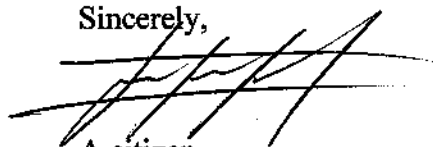
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Sincerely,



A citizen

EDWIN Clayton
15 MAY 2010
SUISUN CA 94565

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,


A citizen

Paul De Vita
148 Rutgers Ct
Vallejo, Ca, 94589

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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Sincerely,

Paul A. DeVita

A citizen

Jefferson Henry
153 S. Seiyama St.
Napa, CA 94559

September 29, 2010

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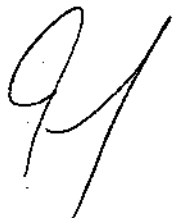
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Sincerely,

A citizen



JUSTIN MORRA
1644 DULUTH LN.
SUISUN, CA. 94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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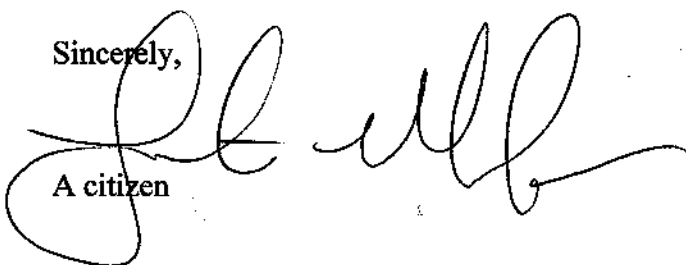
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Sincerely,

A citizen



Michelle Zuvino
143 Hudson Ct.
Vacaville Ca 95681

September 29, 2010

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Sincerely,



A citizen

Marc Renucci
610 KING NEEK LN
SUISUN CITY, CA.

September 29, 2010

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Sincerely,

Marc Renucci

A citizen

Richard Anderson
2459 Gulf Dr
Fairfield CA
94533

September 29, 2010

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Sincerely,



A citizen

912 SHELTER COVE LT
VALLEVILLE, CA 94628

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A citizen

Nicolas Tepky
1502 Quail Dr.
Fairfield, CA, 94533

September 29, 2010

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A citizen

Steve Gunther
142 Midvale Dr
Vacaville Ca 95687

September 29, 2010

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San Francisco Bay Regional Water Quality Control Board
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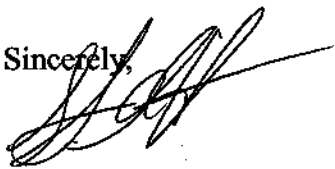
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A citizen

Michael Provencher
449 McFall Ct.
Suisun City CA 94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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Sincerely,



A citizen

Greg Renucci
610 Ring Neck Ln
Suisun City, CA 94585

September 29, 2010

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San Francisco Bay Regional Water Quality Control Board
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Sincerely,



A citizen

Ben Crosby
926 LIBERTY DR.
SUISUN CITY, CA 94585

September 29, 2010

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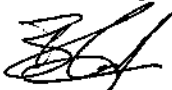
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A citizen

SHAUN GONSALES
922 SAGE DR.
VACAVILLE CA 95687

September 29, 2010

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A citizen

SHAUN GONSALES
922 SAGE DR.
VACAVILLE CA 95687

THOMAS KAMIN
813 Golden Eye Way
Suisun CA 94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
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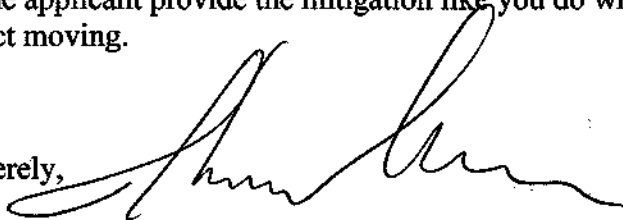
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Sincerely,



A citizen

624 Pin Tail
SUISUN CITY CA
94585

September 29, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

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Sincerely,

Jose

GUADALUPE BENTEZ DAVACOS

A citizen

GREG W. SMITH
620 CANVASBACK DR
SUISUN CITY, CA

94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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Sincerely,



A citizen

Mal Torres
P.O. Box 803
Suisun CA 94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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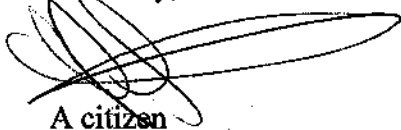
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Sincerely,



A citizen

Michael O'Brien
594 PYTHONIA CT
SUISUN CITY, CA 94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
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Sincerely,


A citizen

Jeffrey A. Dennis
273 Potrero St
Suisun City CA 94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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Sincerely,


A citizen

DAVID BELLEIVE
621 PINTAIL DR
SUISUN CITY CA
94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
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Sincerely,



A citizen

CARMEN MAIO
913 CRAVEN DR
SUISUN CA 94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,


A citizen

Greg Bounds Sr
1415 Prospect Way
Suisun CA 94585

September 29, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,

Gregory Bounds Sr.

A citizen

RESIDENTS

PO Box 151
Suisun City, CA
94585

September 27, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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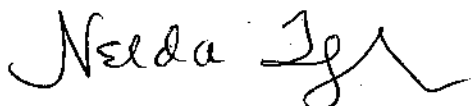
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Sincerely,



NELDA TAYLOR

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,

Amy
Amy

E. Dart
E. Dart

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Sincerely,



Melissa Adkins

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Sincerely,



APRIL SCOTT

Jeff Penrod
4555 Peterson RD.
Suisun City CA, 94585

September 20, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,



JUAN M. CORTES
335 LINNANOW WAY
SUISUN CITY 94585

September 20, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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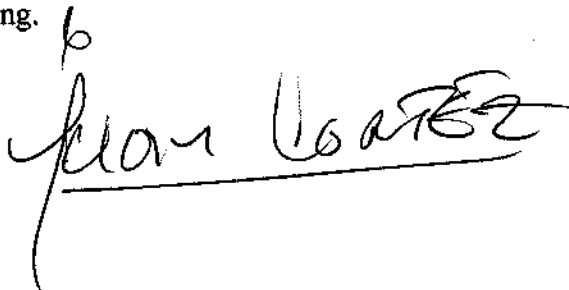
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Sincerely,


Juan Cortes

Allen Rainey
4555 Peterson Rd
Suisun "Wark"

September 20, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,


9/23/10

Billy Gaither
201 Ashwood Drive
Suisun City, CA 94585
September 28, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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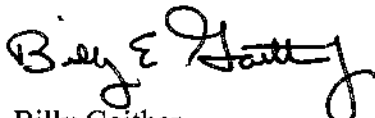
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Sincerely,


Billy Gaither

Susan V Geluz

819 Driftwood Dr.

Suisun City, CA 94585

September 20, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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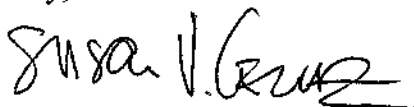
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Sincerely,



SCOTT CHRISTIAN
4555 PETERSEN RD.
SUISUN CITY, CA 94585
(WORK ADDRESS)

September 20, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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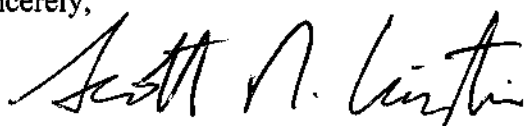
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Sincerely,



9/22/10

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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Oakland, CA 94612

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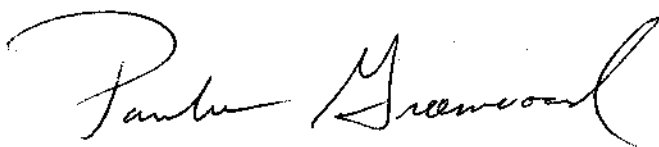
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Pamela Greenwood

Nicodemus G. Lozano
408 Maloney Ct.
Suisun City, CA 94585

September 20, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

For over two years your Board has been reviewing a project that is very important to me and my community. The proposed project was a Wal-Mart Supercenter, a restaurant, and a gas station. I was not happy to learn that, as a result of your staffs' opposition to this project, the gas station has been eliminated and the store square footage has been reduced.

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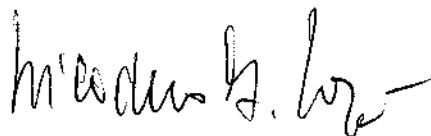
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It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch.

Let the applicant provide the mitigation like you do with every other project and get this project moving.

Sincerely,



Rose Kasperson
201 Solano St
Suisun City, CA 94585

September 20, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
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Sincerely,



Anita Skinner
705 Whispering Bay Lane
Suisun City, CA 94585

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San Francisco Bay Regional Water Quality Control Board
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Anita Skinner

Alysa Majer

1119A Park Lane

Suisun City, Ca 94585

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Linda Young
87 Alexander Way
Suisun City, CA 94585

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Linda Young

John Kearns
528 Fortuna Drive
Suisun City, CA 94585

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San Francisco Bay Regional Water Quality Control Board
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Sincerely,



Geminiano D. Geluz

819 Driftwood Dr.

Suisun City, CA 94585

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San Francisco Bay Regional Water Quality Control Board
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S. Karperson
1106 Partridge Pl.
Suisun City, CA 94585

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Jeremy Samo
1028 Prairie Dr.
Suisun CA. 94585

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San Francisco Bay Regional Water Quality Control Board
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D. Kasperson
706 West St
Suisun City, CA 94585

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San Francisco Bay Regional Water Quality Control Board
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Sincerely,



DAVID MARTINEZ
324 SANDY LN
SUISUN CITY CA 94585

September 20, 2010

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San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
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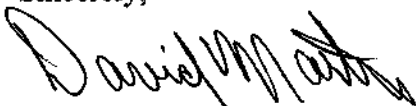
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Sincerely,



PETE WENNINGER
316 SOLIDAY LANE #H
SUISUN CITY CA
94585

September 20, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
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Sincerely,



AREA RESIDENTS

Mr. John Muller, Chairman
California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

Your staff has been reviewing a project that is very important to me and the community where I work and shop. I appreciate the role that your Board plays in protecting the state's water environment, however it troubles me greatly that your staff has apparently frittered away over two years of time to protect a man-made drainage ditch! The proposed project is a Wal-Mart Supercenter, a restaurant and a gas station. I was not happy to learn that, as a result of your staff's opposition to this project, that the gas station has been eliminated and that the store's square footage has been reduced.

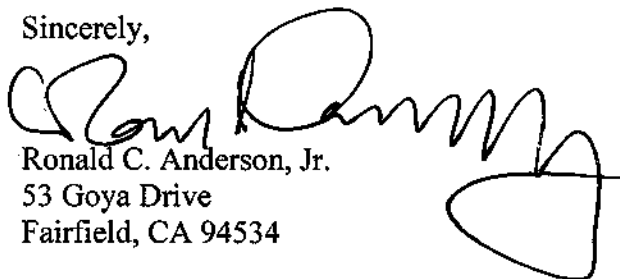
The community needs the 250+ jobs that the project will create. The City needs the \$1,000,000 in revenue that the project will create to provide services such as police and fire protection to our residents. Suisun City is the largest city in the state that is protected by a volunteer fire department.

Our Mayor and City Council unanimously approved this project. It has received numerous local planning approvals. The Superior Court has found that the project has complied with the law, and the Appellate Court has unanimously agreed. In fact the Appellate Court went out of its way to note that the man-made drainage ditch is not a riparian habitat as your staff had attempted to characterize this linear ditch.

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a man-made ditch that runs across an open field. It takes storm drainage from 37 homes and transports it across a field. I'm sure that there must be a reasonable way to make up for covering up part of the ditch.

Please let the applicant provide a reasonable mitigation like you do with every other project and get this project moving!

Sincerely,



Ronald C. Anderson, Jr.
53 Goya Drive
Fairfield, CA 94534

PO Box 151
Suisun City, CA
94585

September 27, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Sincerely,

Anita Hastings SM5
Suisun PD
Property Evidence
Anita Hastings

Napoleon Diaz
2530 Raleigh Ct
Fairfield CA 94533

September 20, 2010

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Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Herald Davis

395 Hopkins Dr

77 Ca 94533

September 20, 2010

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San Francisco Bay Regional Water Quality Control Board
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Oakland, CA 94612

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Herald Davis

Buck Kimbriel
532 Ruby Drive
Vacaville, CA 94987

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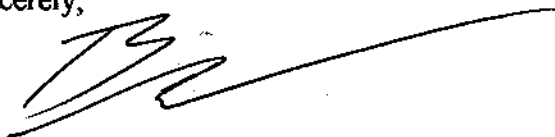
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94585

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Sincerely,

A handwritten signature in cursive script that reads "Dee Dee Golden". The signature is written in dark ink and is positioned below the typed name "Dee Dee Golden".

Steven Castro
166 Caldwell Dr.
Vacaville, CA 95687

Mr. John Muller
Chairman, California Regional Water Quality Control Board
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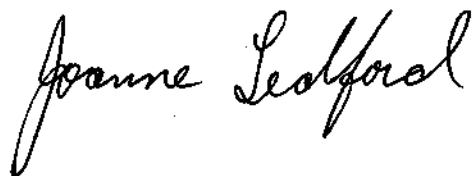
We need the 250+ jobs that the project will create. The City needs the \$1,000,000 in revenue that the project will create to provide services such as police and fire protection to our residents.

Our Mayor and City Council unanimously approved this project. It has received its local planning approvals.

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a man-made ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch.

Let the applicant provide a reasonable mitigation like you do with every other project and get this project moving.

Sincerely,



September 28, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

For over two years your Board has been reviewing a project that is very important to me and my community. The proposed project was a Wal-Mart Supercenter, a restaurant, and a gas station. I was not happy to learn that, as a result of your staffs' opposition to this project, the gas station has been eliminated and the store square footage has been reduced.

The revenue that would come to our city because of this project has been estimated to be about 10% of our whole General Fund budget for the City. This is huge!

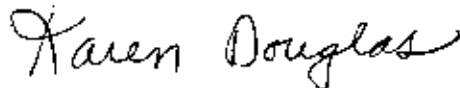
We need the 250+ jobs that the project will create. The City needs the \$1,000,000 in revenue that the project will create to provide services such as police and fire protection to our residents.

Our Mayor and City Council unanimously approved this project. It has received its local planning approvals.

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch.

Let the applicant provide the mitigation like you do with every other project and get this project moving.

Sincerely,



A citizen

Mark Hostler_
1652 Hickam Circle
Suisun City Ca. 94585

9/23/10

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

For over two years your Board has been reviewing a project that is very important to me and my community. The proposed project is a Wal-Mart Supercenter, a restaurant, and a gas station. I was not happy to learn that, as a result of your staffs' opposition to this project, the gas station has been eliminated and the store square footage has been reduced.

The revenue that would come to our city because of this project has been estimated to be about 10% of our whole General Fund budget for the City. Any revenue that is new coming in to our small city in this day and age is much needed! This is huge!

We need the 250+ jobs that the project will create. The City needs the \$1,000,000 in revenue that the project will create to provide services such as police and fire protection to our residents.

Our Mayor and City Council unanimously approved this project. The majority of our citizens are in favor of this much needed positive economic development. It has received its local planning approvals. NOW IS THE TIME TO MOVE FORWARD!

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a man-made ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch.

Let the applicant provide a reasonable mitigation like you do with every other project and get this project moving NOW!

Sincerely,

MARK HOSTLER

July 27, 2010

Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Walters Road Development Project, City of Suisun City, Solano County

Dear Mr. Muller:

For over two years your Board has been reviewing a project that is very important to me and my community. The proposed project was a Wal-Mart Supercenter, a restaurant, and a gas station. I was not happy to learn that, as a result of your staffs' opposition to this project, the gas station has been eliminated and the store square footage has been reduced.

The revenue that would come to our city because of this project has been estimated to be about 10% of our whole General Fund budget for the City. This is huge!

We need the 250+ jobs that the project will create. The City needs the \$1,000,000 in revenue that the project will create to provide services such as police and fire protection to our residents.

Our Mayor and City Council unanimously approved this project. It has received its local planning approvals.

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource: a ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I'm sure that there is a way to make up for covering up part of a ditch.

Let the applicant provide the mitigation like you do with every other project and get this project moving.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary Mercedes".



SOLANO YACHT CLUB

703 Civic Center Blvd. ☆ Suisun City, California 94585

October 1, 2010

*Mr. John Muller
Chairman, California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, Ca. 94612*

Re: Walters Road Development Project, City of Suisun City, Solano County

Mr. Muller:

For over two years your Board has been reviewing a project that is very important to me, my family and community. The proposed project was a Wal Mart Supercenter, a restaurant, and a gas station. We are not happy to learn that, as a result of your staffs' opposition to this project, the gas station has been eliminated and the store square footage has been reduced.

The revenue that would come to our city because of this project has been estimated to be about 10% of our whole General Fund Budget for the city. This is huge, for a city our size.

Suisun City needs the 250+ jobs that the project will create. The City needs the \$1,000,000 in revenue that the project will create to provide services such as police and fire protection to our residents.

Our Mayor and City Council unanimously approved this project. It has received its local Planning approvals.

It is time for your Board to do the right thing and get this project moving forward. Compared to other projects, this project is impacting a very low-value water resource; a ditch that runs across an open field. It takes storm drainage from 37 homes and runs it across a field. I 'am positive that there is a way to make up for covering up part of a ditch.

Let the applicant provide the mitigation like you do with every other project and get this project moving. We citizens of Suisun need this project completed.

Sincerely,



Linda Rosales

Commodore, Solano Yacht Club

Solano Yacht Club