# United States Department of the Interior

**US FISH AND WILDLIFE SERVICE**
**San Francisco Bay National Wildlife Refuge Complex**
**1 Marshlands Road**
**Fremont, California 94555**

January 11, 2012

Ms. Andree Greenberg
California Regional Water Quality Board
San Francisco Bay Region
1515 Clay St, Suite 1400
Oakland, California 94612

Subject: Response to the City of San Jose Environmental Services Department Letter Regarding the Regional Water Quality Control Board Tentative Order No. R2-2008-0078 Dated January 4, 2012

Dear Ms. Greenberg:

The U.S. Fish and Wildlife Service (Service) received the letter prepared by the City of San Jose Environmental Services Department (Environmental Services) dated January 4, 2012 in regards to the Regional Water Quality Control Board (RWQCB) Tentative Order No. R2-2008-0078. The Service appreciates the Environmental Services support for the project and the feedback concerning the modifications proposed to Ponds A16 and A17 on the Don Edwards National Wildlife Refuge. This letter serves to address the comments submitted to the RWQCB.

The design of Pond A17 restoration has taken into account the existing and future salinity and flow regimes in Coyote Creek and Artesian Slough when lowering of the Pond A17 levee on the eastern side. Freshwater flows discharged from the San Jose/Santa Clara Water Pollution Control Plant (Plant) currently flow down Artesian Slough and enter Coyote Creek at the northeastern corner of Pond A17. A transition of fresh to brackish to saline marsh plant species are present along Artesian Slough and Coyote Creek up to the Mean Higher High Water (MHHW) level. Given observations in recent years by the City's consultants as well as Refuge staff, the existing fringing marsh habitat along Coyote Creek tends to fluctuate between salt and brackish habitat depending upon on the amount of rainfall and overall salinity of the far South Bay. We anticipate that the breaching of Pond A17 will increase the influence of the more saline Bay water by increasing the tidal prism. By breaching A17 only along Coyote Creek, we expect the City's effluent to have minimum effect on the habitat development of the restored pond.

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This is further evidenced by the saline marsh species that are establishing in Pond A20 (breached in 2006), which directly across from the proposed A17 breach.

A large component of the success of the overall South Bay Salt Pond Restoration Project is the implementation of the Adaptive Management Process during subsequent years after the projects have been constructed. Monitoring of the Pond A16 and A17 Restoration will be performed by the Service and the results will be submitted to the applicable regulatory agencies. If restoration is not meeting performance standards at anytime during the monitoring period, remedial measures will be implemented to remedy the substandard performance. The Service will also notify the Plant of the results of monitoring and any proposed Adaptive Management actions; however, the Plant will not be obligated to assist in the Adaptive Management Process nor will the Service request any modifications to the Plant's permitted operating conditions.

The Service acknowledges the possibility that brackish marsh plant species may be present in A17 over the long run. The historic distribution of plant species this far up in the estuary included a natural transition of fresh to brackish to saline marsh, and we feel that the presence of this variety of marsh types is desirable. In fact, the most recent salt marsh harvest mouse surveys from the City found mice in these mixed marshes. We appreciate the City's concerns, but the Service understands the nature of the City's discharge and has planned the restoration in the context of the local salinity regime and does not feel that this is a significant issue.

Please contact me at (510) 792-0222 (extension 125) or Eric_Mruz@fws.gov if you have any questions regarding this response letter.

Sincerely,

Digitally signed by Eric Mruz
DN: cn=Eric Mruz, o=US Fish and Wildlife Service, ou=Don Edwards San Francisco Bay NWR, email=eric_mruz@fws.gov, c=US
Date: 2012.01.11 09:26:56 -08'00'

Eric Mruz
Refuge Manager
Don Edwards San Francisco Bay
National Wildlife Refuge

cc:
John Bourgeois, State Coastal Conservancy, Oakland, CA (email)
Greg Allington, McMillen, LLC, Boise, ID (email)
Jim Burby, USFWS, Portland, OR (email)