

APPENDIX E-3

*Biological Resources Assessment
Peer Review and Update*

November 3, 2014

Michelle D. Hightower
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City of Vallejo
Planning Division
555 Santa Clara Street
Vallejo, CA 94590

Subject: Review of Biological Resources Assessment and Biological Resources Survey for the Vallejo Marine Terminal Project in the City of Vallejo, Solano County, California

Dear Ms. Hightower:

In April 2014, Dudek biologist Lisa Achter reviewed the Biological Resources Assessment (BRA) prepared by WRA Environmental Consultants in 2008 for the Vallejo Marine Terminal (VMT) and Orcem project located in Vallejo, California. A reconnaissance level biological survey was also performed onsite to update existing conditions since the original 2008 survey performed by WRA. The focus of the review and survey were to identify potential biological resource constraints to proposed development of the site.

Project Description

The 39.1-acre project site is located at 790 and 800 Derr Avenue in the southwestern portion of the City of Vallejo, California, fronting the Mare Island Strait (see Figures 1-1 and 1-2).

The entire project site is owned by VMT. Orcem California, Inc. (Orcem) would lease a 4.83-acre portion of the site for its proposed operations, while VMT would operate on the remaining 34.3 acres (Figure 1-3). The project site is currently secured by a fence which extends around nearly the entire land portion of the VMT property holdings.

The project site contains the former General Mills deep-water terminal and buildings associated with the former General Mills plant. The General Mills plant closed in 2004 and the project site has since remained vacant. Eight buildings, varying in height from one to eight stories, would be removed by the proposed project. Approximately 27% of the 4.83-acre Orcem Site is covered by these structures. Other structures onsite would not be impacted by the project.

Ms. Hightower

Subject: Vallejo Marine Terminal Biological Resources Review

The entire project site is located within the City's Planning Area, with the exception of 5.25 acres located outside the City's boundary in the City's Sphere of Influence (SOI). The portion of the project site within the City limits is designated "Employment" in the General Plan and zoned s "Intensive Use." The portion of the project site within the City's SOI is designated "Open Space-Community Park" in the City's General Plan and does not have a City zoning designation (City of Vallejo 1999).

The project site is bounded by the Mare Island Strait to the west, a steep undeveloped hillside to the east, and undeveloped areas to the north and south. Residential uses are located south, northeast and southeast of the site. The residential uses include the Bay Village Townhouses to the southeast, Harbor Park Apartments and single-family residences to the northeast, and Sandy Beach residents to the south, just outside the City boundary. The nearest school to the site is Grace Patterson Elementary, located approximately 0.25 mile southeast of the site.

The VMT Project would reestablish industrial uses on a portion of the 34.3 acres designated as the VMT project site (a portion of the combined 39.1-acre project site) located at 790 Derr Avenue. The VMT Project would involve the removal of a deteriorated timber wharf and construction of a modern deep-water terminal, including wharf improvements, laydown area, and trucking and rail connections, primarily servicing the import and export of bulk and break-bulk commodities within approximately 9.7 acres referred to as the VMT Terminal Site. Construction of the terminal would require fill activities and dredging. The VMT Project would be constructed in two separate phases over a period of approximately 14 to 18 months. In addition to the construction and operation of this modern terminal, the VMT Project would also reuse several of the existing buildings formerly occupied by General Mills. Buildings and structures to remain would be used by VMT for administrative office and commercial office uses consistent with the City's Intensive Use zoning district standards.

The Orcem Project would involve construction and operation of an industrial facility for the production of a recycled and treated cement material produced with less polluting air emissions than the traditional portland cement material used in most of California construction projects. The Orcem Project would involve construction of approximately 75,000 square feet of buildings and equipment, together with outdoor storage areas, on a 4.83-acre portion of the former General Mills plant site. Several of the buildings and equipment previously used by General Mills within the Orcem site would be demolished in order to accommodate construction and operation of the proposed cement production facility. Orcem would import most of the raw materials used in the proposed plant via the proposed wharf on the adjoining VMT site.

Results of Dudek Review of the BRA

Introduction and Regulatory Background

These sections of the BRA include information about the project site (description), proposed project activities and regulatory setting (including state, federal and local regulations pertaining to impacts on biological resources by development of the site). These sections appear to accurately and thoroughly describe the project site, proposed project activities, and the regulatory setting.

Methods

The methods section states that the project area was traversed on foot (no date was given) with the intent to record any observed suitable habitat for special-status plant and wildlife species, as well as any sensitive plant communities or habitats. A thorough literature review and several database searches, including those supported by the California Department of Fish and Wildlife (California Natural Diversity Database), U.S. Fish and Wildlife Service, and the California Native Plant Society, appear to have been performed to obtain information about known occurrences of special-status species within a five-mile radius of the site. A soil survey was performed to obtain information about soil types on site that could potentially support wetlands or waters of the U.S. and that could contain suitable habitat for special-status species. WRA conducted a routine wetland delineation in the Study Area to determine the presence of potential wetlands and waters subject to federal jurisdiction under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. An arborist survey was conducted and a subsequent report was generated. Protocol level surveys were completed for rare plants (Kelly 2007) and monarch winter roosts.

Results

The results section of the BRA accurately describes current site conditions, including sensitive and non-sensitive vegetation communities, with one exception. In the BRA it states that an osprey was observed flying over the project area, but concluded that it is unlikely that ospreys would nest on the project site. During the April, 2014 site visit conducted by Ms. Achter, an active osprey nest was identified on top of the flour mill building. California Fish and Game Code Section 3503.5 specifically protects raptors and prohibits the removal or destruction of active raptor nests.

Dudek has subsequently consulted with the California Department of Fish and Wildlife (CDFW) to determine the feasibility of removing the nest and measures to include in the project

Environmental Impact Report (EIR) to mitigate nest removal. Since osprey is not a threatened, endangered or otherwise special-status species (although the BRA states it is a Species of Special Concern in California, osprey has since been downgraded to “Watch List” by the CDFW), the inactive nest can be removed outside of the nesting season, which is designated by CDFW as February 15-August 31. If possible, the nest will be relocated to a suitable platform structure on site to deter the osprey from trying to nest on top of the flour mill structure next spring. Regardless of the success of relocating the nest, if the osprey pair successfully builds a nest elsewhere on the project site, a qualified biologist will consult with CDFW to determine a proper no disturbance buffer around the nest, depending on construction activity and the tolerance level of the osprey to this activity. The nest will also be monitored during construction (until all young have fledged) to observe any behavior from the birds that would indicate aggravation that could adversely affect the success of the nest. If such behavior is observed, appropriate actions, in consultation with the CDFW, will be taken to alleviate such behavior.

Additionally, since the BTR was written in 2008, Townsend’s big-eared bat has been proposed as a candidate for listing as a state-threatened species. Appendix B of the BRA states that Townsend’s big-eared bat is “very sensitive to human disturbance; is not present on the project site; the project site is regularly disturbed by human activity, and suitable day roosts are not available in the Project Area”. However, Townsend’s big-eared bat is commonly found in buildings. Although this species is sensitive to disturbance, the site has been vacant for 10 years and therefore has had little to no disturbance, human or otherwise. Dudek recommends that a habitat assessment and pre-construction survey be performed to assess whether roosting bats occur in the buildings on the project site. If roosting bats are detected, Dudek recommends consultation with CDFW to identify appropriate measures to be taken to avoid/minimize impacts to the species, which can include approval to exclude any bats potentially found on the project site.

A wetland delineation was conducted by WRA in 2007. The project site does contain approximately 0.01 acre of Northern Coastal Salt Marsh and 0.02 acre of Seasonal Wetland (Holland 1986), as well as tidal waters and a shoreline band. Northern Coastal Salt Marsh is considered a sensitive plant community by CDFW. Seasonal Wetland is not identified as a sensitive habitat by CDFW, but it is regulated by the Regional Water Quality Control Board (RWQCB) and may also fall under the jurisdiction of the U.S. Army Corps of Engineers (Corps). Dudek recommends submitting the delineation report to the Corps for verification, although this would not be required if project plans avoid the delineated wetlands and waters. A formal verification by the Corps is necessary to determine whether or not the seasonal wetland would be considered hydrologically connected to Mare Island Strait and thus subject to Corps jurisdiction, or whether it would be considered isolated. Permits from the Corps, RWQCB, and San Francisco

Ms. Hightower

Subject: Vallejo Marine Terminal Biological Resources Review

Bay Conservation and Development Commission (BCDC) may be necessary for any work in wetlands, the tidal areas, or the shoreline band.

A tree survey was completed in 2008 by WRA. The survey was reviewed by Mr. Scott Eckardt, a Dudek certified arborist and licensed forester, and was found to be complete.


Summary and Recommendations

After reviewing the BRA and performing the site visit, Dudek recommends making the following revisions to the BRA prior to incorporation into the EIR:

- Include relevant information and measures, as discussed above, regarding the osprey nest observed on top of the flour mill building.
- Include updated information about Townsend's big-eared bat, as well as recommendations for surveys and a habitat assessment by a qualified wildlife biologist, as discussed above.
- Submit the wetland delineation to the Corps to determine if the small seasonal wetland on the southern portion of the property is under Corps jurisdiction.

If you have any further questions please call me at (530) 217-8952 or email lachter@dudek.com.

Sincerely,



Lisa Achter
Wildlife Biologist

Att.: Table 1, CNDDDB Occurrences

CALIFORNIA DEPARTMENT OF
FISH and WILDLIFE **RareFind**

Query Summary:

Taxonomic Group IS (Fish OR Amphibians OR Reptiles OR Birds OR Mammals OR Mollusks OR Arachnids OR Crustaceans OR Insects OR Ferns OR Gymnosperms OR Monocots OR Dicots OR Lichens OR Bryophytes)
 AND (Federal Listing Status IS (Endangered OR Threatened OR Proposed Endangered OR Proposed Threatened OR Candidate) OR State Listing Status IS (Endangered OR Threatened OR Rare OR Candidate Endangered OR Candidate Threatened))
 AND Quad IS (Benicia (3812212) OR Mare Island (3812213) OR Vine Hill (3812211) OR Cuttings Wharf (3812223) OR Cordelia (3812222) OR Fairfield South (3812221) OR Richmond (3712283) OR Briones Valley (3712282) OR Walnut Creek (3712281))

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CNDDDB Element Query Results

Scientific Name	Common Name	Taxonomic Group	Element Code	Total Occs	Returned Occs	Federal Status	State Status	Global Rank	State Rank	CA Rare Plant Rank	Other Status	Habitats
Ambystoma californiense	California tiger salamander	Amphibians	AAAAA01180	1101	4	Threatened	Threatened	G2G3	S2S3	null	CDFW_SSC-Species of Special Concern IUCN_VU-Vulnerable	Cismontane woodland Meadow & seep Riparian woodland Valley & foothill grassland Vernal pool Wetland
Arctostaphylos pallida	pallid manzanita	Dicots	PDERI04110	9	3	Threatened	Endangered	G1	S1	1B.1	null	Broadleaved upland forest Chaparral Cismontane woodland Closed-cone coniferous forest Coastal scrub
Branchinecta lynchi	vernal pool fairy shrimp	Crustaceans	ICBRA03030	624	1	Threatened	None	G3	S2S3	null	IUCN_VU-Vulnerable	Valley & foothill grassland Vernal pool Wetland
Buteo swainsoni	Swainson's hawk	Birds	ABNKC19070	2394	6	None	Threatened	G5	S3	null	ABC_WLBCC-Watch List of Birds of Conservation Concern BLM_S-Sensitive IUCN_LC-Least Concern USFWS_BCC-Birds of Conservation Concern	Great Basin grassland Riparian forest Riparian woodland Valley & foothill grassland
Castilleja affinis var. neglecta	Tiburon paintbrush	Dicots	PDSCR0D013	9	1	Endangered	Threatened	G4G5T1	S1	1B.2	SB_UCBBG-UC Berkeley Botanical Garden	Ultramafic Valley & foothill grassland
Charadrius alexandrinus nivosus	western snowy plover	Birds	ABNNB03031	121	2	Threatened	None	G3T3	S2	null	ABC_WLBCC-Watch List of Birds of Conservation Concern CDFW_SSC-Species of Special Concern NABCI_RWL-Red Watch List USFWS_BCC-Birds of Conservation Concern	Great Basin standing waters Sand shore Wetland
Chloropyron molle ssp. molle	soft salty bird's-beak	Dicots	PDSCR0J0D2	27	16	Endangered	Rare	G2T1	S1	1B.2	null	Marsh & swamp Salt marsh Wetland
Cirsium hydrophilum var. hydrophilum	Suisun thistle	Dicots	PDAST2E1G1	4	3	Endangered	None	G2T1	S1	1B.1	SB_RSABG-Rancho Santa Ana Botanic Garden	Marsh & swamp Salt marsh Wetland
Corynorhinus townsendii	Townsend's big-eared bat	Mammals	AMACC08010	589	2	None	Candidate Threatened	G3G4	S2S3	null	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern USFS_S-Sensitive	Broadleaved upland forest Chaparral Chenopod scrub Great Basin grassland Great Basin

											Conservation Concern CDFW_FP-Fully Protected NABCL_RWL-Red Watch List	Salt marsh Wetland
Rana draytonii	California red-legged frog	Amphibians	AAABH01022	1334	32	Threatened	None	G2G3	S2S3	null	CDFW_SSC-Species of Special Concern IUCN_VU-Vulnerable	Aquatic Artificial flowing waters Artificial standing waters Freshwater marsh Marsh & swamp Riparian forest Riparian scrub Riparian woodland Sacramento/San Joaquin flowing waters Sacramento/San Joaquin standing waters South coast flowing waters South coast standing waters Wetland
Reithrodontomys raviventris	salt-marsh harvest mouse	Mammals	AMAFF02040	136	44	Endangered	Endangered	G1G2	S1S2	null	CDFW_FP-Fully Protected IUCN_EN-Endangered	Marsh & swamp Wetland
Riparia riparia	bank swallow	Birds	ABPAU08010	296	1	None	Threatened	G5	S2S3	null	BLM_S-Sensitive IUCN_LC-Least Concern	Riparian scrub Riparian woodland
Speyeria callippe callippe	callippe silverspot butterfly	Insects	IILEPJ6091	8	1	Endangered	None	G5T1	S1	null	XERCES_CI-Critically Imperiled	Coastal scrub
Spirinchus thaleichthys	longfin smelt	Fish	AFCHB03010	45	8	Candidate	Threatened	G5	S1	null	CDFW_SSC-Species of Special Concern	Aquatic Estuary
Suaeda californica	California seablite	Dicots	PDCH0P020	17	1	Endangered	None	G1	S1	1B.1	null	Freshwater marsh Marsh & swamp Wetland
Syncaris pacifica	California freshwater shrimp	Crustaceans	ICMAL27010	18	1	Endangered	Endangered	G1	S1	null	IUCN_EN-Endangered	Aquatic Sacramento/San Joaquin flowing waters
Trifolium amoenum	showy rancheria clover	Dicots	PDFAB40040	26	2	Endangered	None	G1	S1	1B.1	SB_RSABG-Rancho Santa Ana Botanic Garden SB_USDA-US Dept of Agriculture	Coastal bluff scrub Ultramafic Valley & foothill grassland