

1 programmatic EIS. Obviously, there needs to be some
2 implementation, some phasing to implement any of the
3 alternatives. So I don't think you can pick two at
4 once. I think you have a NEPA-CEQA problem there.

5 If you want to create a new alternative,
6 that is certainly something that is within the
7 discretion of the agencies, as long as the
8 environmental impacts associated with merging them is
9 contained in your document.

10 So if you wanted to craft an Alternative
11 4 that starts someplace and goes to another, that is
12 something you might be able to do.

13 Here I would emphasize the concerns that
14 other people have raised, which is that there is
15 nothing in the document that tells how that is going to
16 happen. I don't think that can simply be shunted to an
17 implementation process. If you're going to start with
18 implementing policies that emphasize aquatic disposal,
19 then you have to show how you are then going to develop
20 the policies emphasizing beneficial reuse.

21 That's a very different question; and
22 simply selecting Alternative 3 and putting together a
23 phased implementation plan, that is obviously within
24 your discretion; but to select Alternative 1 at the
25 outset, I don't see how you get to Alternative 3 once

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1 47 you're implementing Alternative 1; and certainly the
2 document does not reveal how you do that.

3 CHAIRMAN TUFTS: Cynthia, how much detail
4 do you think the document needs to get into to show the
5 phase-out from 1 to 3?

6 MS. KOEHLER: How much detail?

7 CHAIRMAN TUFTS: It's impossible to get
8 too far a detail at this point.

9 MS. KOEHLER: That's true. I guess I go
10 back to what you're trying to do here, which is create
11 a policy programmatic level review; and I think the
12 phasing needs to be at that level.

13 48 This may be semantics, but I don't
14 understand how you get from one long-term policy to
15 another long-term policy that's somewhat opaque.

16 I think what you're really talking about
17 is a single, long-term policy that occurs along a
18 phased approach. I believe that can occur in this
19 document at a programmatic policy level; but at least,
20 at this point, that does not seem to be there.

21 CHAIRMAN TUFTS: Thank you.

22 James Haussener, followed by Barry Nelson.

23 MR. JAMES HAUSSENER: Thank you, Mr.
24 Chairman; members of the Commission.

25 I'm James Haussener, California Marine

1 Parks and Harbors Association.

2 I want to keep it brief, some of the
3 comments I have been making at the Policy Review
4 Committee level, which is "please don't forget the
5 small craft facilities."

6 We would like to see some comment in all 49
7 three alternatives, preferably in Alternative 3,
8 although that is not the preferred alternative --
9 every time I hear somebody talk, somehow it seems like
10 that's the preferred alternative to guarantee in-Bay
11 disposal for the small craft facilities in San
12 Francisco Bay -- that lives up to ensuring adequate,
13 suitable disposal sites; and we would like to see it as
14 a low or no-cost as possible for these small craft
15 facilities. There is a variety of reasons, primarily
16 due to the size of equipment that is used, ocean
17 disposal is not feasible.

18 The other part is concerning upland or 50
19 using transfer facilities. The City of San Leandro is
20 involved in transfer facilities, and their cost of
21 moving material after it gets put in their disposal
22 site is around 6 to \$8 a cubic yard, which is in
23 addition to the dredging and does not include the
24 annual monitoring they have to do, both groundwater
25 monitoring, etc. We don't believe that's feasible for

1 50 the small craft facilities in San Francisco Bay.

2 51 The other part dealing with that is
3 keeping testing costs down low. Testing is an issue.
4 It has been an issue for everybody. We would like to
5 take a look to see if we can't do something about
6 testing, such that the cost or the methodology of
7 testing is a certain. It seems to be one of those
8 Ouija board sciences currently, and we would like to
9 keep the costs down low.

10 In the document in chapter 6, it talks
11 about testing -- both low and high testing -- for the
12 slow, low-draft facilities, which has been over a third
13 of the cost of doing the dredging. That seems a little
14 unreasonable to us.

15 If you are doing a 10,000 cubic yard
16 project and you need to spend \$80,000 in testing,
17 perhaps we can look at that and determine from
18 maintenance projects on these ongoing smallcraft
19 facilities a methodology to continue to keep the
20 environment clean and beneficial for everybody but, at
21 the same time, reduce the costs.

22 Thank you very much.

23 CHAIRMAN TUFTS: Mr. Haussener, thank you.

24 Barry Nelson.

25 MR. BARRY NELSON: Thank you, Mr.

1 Chairman, for the opportunity to speak today on the
2 LTMS.

3 I am representing Save San Francisco Bay
4 Association. We have been involved in dredging issues
5 for many years, spawned by our concern regarding the
6 environmental impacts of dredging on San Francisco Bay.
7 We are deeply concerned that the amount, the quantity,
8 the timing, the quality at times of material dredged in
9 the Bay does raise serious, very serious, concerns
10 regarding the health of the Bay.

11 Fortunately, through the LTMS and some
12 other programs in the last five years, we have made
13 some real progress in a number of areas, testing, for
14 example, making some policy progress that has been a
15 long time coming. And a lot of that progress is
16 reflected in this document.

17 But we do have some substantial concerns | 52
18 that we do think need to be addressed before the
19 document is finalized and before the agencies
20 collectively make a final policy decision.

21 My job is a little easier, because I agree | 53
22 basically with everything that Cynthia Koehler said,
23 particularly regarding the mandate, not just the
24 authorization, for the environmental benefits of
25 dredging to be considered, but for a mandate for the

1 53 Corps of Engineers, for federal agencies to promote
2 environmental benefits using dredged materials and to
3 avoid environmental damage.

4 Some other things I would like to touch on
5 briefly.

6 54 First is again the fact that we agree the
7 agencies need to select a single alternative. One of
8 the things that is clearly missing there, the document
9 says, "we are starting with Alternative 1, and we hope
10 to move to Alternative 3," with no discussion of
11 phasing in there.

12 I think it is inevitable there will be
13 confusion in the minds of the public and in the
14 agencies, where it would be very easy for one ageny in
15 five years out to think, "we are on Alternative 1," and
16 for another agency to think, "no, we're transitioning
17 to Alternative 3." There's nothing in this document
18 that addresses this confusion; and if this is a living
19 document, 1, 2, 3, 5 years from now, I think, unless
20 that is addressed, there are going to be real problems.

21 55 Next, we think that Alternative 3,
22 modified, has real potential. We hope that in the near
23 future we're going to see additional progress made on
24 finding alternative truly upland sites. That's
25 something we think has a great deal of potential and

1 could reduce aquatic disposal in both the ocean and the 55
2 Bay environments over the long term. We think there is
3 some real potential there.

4 The document also, at times, confuses 56
5 wetland reuse with true upland reuse. There are
6 opportunities for real upland reuse that we think could
7 come with real benefits. We think under the right
8 circumstances wetland use is beneficial. We think
9 there are some opportunities that may be really
10 overlooked.

11 There is a similarly large process, the 57
12 CalFed process, with many of the same players at the
13 table, that is looking at the Delta. One of the things
14 that process is looking at is opportunities to restore
15 habitat in the Delta, and the LTMS and CalFed need to
16 get together and look at the potential, for example,
17 using some material, sandy material, for example, for
18 habitat restoration in the Delta.

19 We think that may have some problems,
20 particularly salinity related; but this document really
21 does not address them; and it really needs to do that.

22 A couple of very rapid comments, and I
23 will wrap up.

24 We're very concerned about the lack of 58
25 meaningful discussion of pollution reduction in this

1 58 document. It relies, for example, on the Bay
2 Protection and Toxic Cleanup Program, a program which
3 is not mandated to do cleanup and which is going to
4 sunset without additional legislative authorization.

5 59 There is very little in here about dredging
6 reduction. One of the real surprises in this document
7 is, when you look at the different alternatives, high,
8 medium, and low dredging scenarios, and you look at
9 maintenance dredging, there is very little variance
10 between high and low.

11 We feel, particularly with the closure of
12 military bases in the Bay Area, that we need to step
13 back and look at the channels we're dredging, the
14 extent to which we are dredging upstream, the depth to
15 which we're dredging; and we may find that some of the
16 dredging we have been doing traditionally is simply not
17 needed anymore in today's world.

18 That's something that is just not
19 addressed in this document.

20 60 I have some other comments about cost, but
21 we will submit more detailed written comments, and I
22 think I will stop there.

23 Thank you.

24 CHAIRMAN TUFTS: Thank you, Barry.

25 Questions?

1 COMMISSIONER ROSENBLOOM: Just to clarify,
2 you said that you support a modified Alternative 3.
3 Are you differentiating between wetland reuse and true
4 upland reuse?

5 MR. NELSON: Two distinctions we would 61
6 make: The first is, we think there is the potential to
7 do more wetland and upland reuse than Alternative 3
8 currently includes. We emphasize that the document
9 needs to distinguish between wetland reuse and upland
10 reuse. Wetland reuse, we think in the right
11 circumstances, has some real benefits. But for a
12 variety of reasons, the sites are simply limited where
13 it really works.

14 We think that the Delta has simply been
15 overlooked as a potential component, and we think a lot
16 of potential upland sites have not been fully analyzed,
17 and we think those three options -- wetland restoration
18 in the Bay, habitat restoration, and levee use in the
19 Delta -- and true upland use, as those three are
20 fleshed out, we may find we can put together an
21 Alternative 3 with less overall disposal in the aquatic
22 environment.

23 COMMISSIONER ROSENBLOOM: Are you in a
24 dialogue with staff to give us these ideas on
25 alternative uses?

1 MR. NELSON: Unfortunately, I arrived
2 late; and I was not able to hear the Port of Oakland's
3 presentation; but I know that they are beginning to
4 work to try to find some of the potential alternative
5 upland sites; and we are definitely going to be
6 working, to try to work with agencies' staffs to
7 investigate those alternatives.

8 CHAIRMAN TUFTS: Barry, Marc had a
9 question.

10 MR. DEL PIERO: One question:

11 The last comment you made about the
12 absence of information in the draft EIR/EIS with
13 regards to dredging channels for bases that may or may
14 not be closed, you either need to be more definitive in
15 terms of what that means or tell me that you've got a
16 crystal ball, and tell me how the reuse of those
17 facilities is going to take place over the next 10
18 years.

19 MR. NELSON: Fair question.

20 62 It is not possible to tell right now what
21 the reuse is going to look like, and we may find that
22 all of the sites around the Bay that have traditionally
23 been dredged still need to be dredged as far upstream
24 and as deep as they are today. But we may also find
25 that that's not the case. We may find that the uses

1 changed, and so we don't need as much depth, or we
2 don't need to dredge as far upstream.

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3 I think in putting together a responsible
4 range of high, medium and low dredging volumes, it
5 makes sense to build some of that in. We may want to
6 have one that assumes high maritime use of all of the
7 closing military bases, which means maintaining all of
8 the channels and maybe deepening some.

9 But at the same time it makes sense to say
10 that on some of those bases we may not need channels as
11 long, as wide, and as deep as we have today; so there
12 would be more of a range in the document.

13 MR. DEL PIERO: I guess I was involved to
14 a certain extent with the closure and reuse at Fort
15 Ord; and given the active involvement of local
16 governments and those agencies that have land use
17 jurisdiction, it seems to me that it would be extremely
18 difficult, within the context of this environmental
19 review, to be able to do that with any degree of
20 effectiveness.

21 It would give many of us more fuzziness
22 about whether or not we can reasonably anticipate what
23 the needs or the lack thereof are going to be.

24 MR. NELSON: I think it is difficult for
25 the LTMS to say, "we know what the future holds in

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1 63 terms of dredging on military bases as they are used
2 around the Bay Area," but I think it is incumbent upon
3 the LTMS to recognize that there is some uncertainty
4 there. We may need less, or we may not.

5 MR. DEL PIERO: Would that not necessitate
6 subsequent environmental review in the event the use
7 were terminated?

8 MR. NELSON: This is a programmatic
9 document, so there will need to be subsequent review,
10 for example, of the Corps' maintenance document, which
11 is clearly in need of review.

12 As we have more information, as we start
13 to move down that road, as we start looking at the
14 project specific, rather than programmatic, documents,
15 we will have the information on this.

16 MR. DEL PIERO: Thank you.

17 CHAIRMAN TUFTS: I have come to the end of
18 the cards. Is there anyone else who wishes to give
19 testimony in this matter?

20 If not, I will entertain a motion to close
21 the hearing.

22 COMMISSIONER ZIMPFER: I so move.

23 COMMISSIONER JOHNS: I second the motion.

24 (Whereupon the motion was put to a vote
25 and carried.)

1 CHAIRMAN TUFTS: Any comments anyone would
2 like to make at this point?

3 If not, I would suggest that we adjourn.

4 We will have a recess and BCDC will resume
5 in its normal meeting.

6 I would like to thank everyone for coming
7 and to thank the Executive Committee and the Management
8 Committee and BCDC Commissioners and the audience for
9 their participation.

10 (Whereupon the hearing adjourned at 3:01
11 p.m.)

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8 CERTIFICATE OF REPORTER

9
10 I, PAUL SCHILLER, duly authorized
11 Certified Shorthand Reporter No. 1268, do hereby
12 certify:

13 That the foregoing transcript constitutes
14 a true, full and correct transcript of my shorthand
15 notes taken as such reporter of the proceedings herein
16 and reduced to typewriting under my supervision and
17 control to the best of my ability.
18
19
20

21 July 1, 1996

22 (Date)

23 Paul Schiller

24 PAUL SCHILLER
25

UGCtp

**RESPONSES TO THE TRANSCRIPT OF THE PUBLIC HEARING
HELD ON JUNE 20, 1996**

Note: The commenting party from the public hearing is noted prior to each set of responses below.

UNITED ANGLERS OF CALIFORNIA (UA)

1. Statement noted. Please see the responses immediately below to comments 2 and 3 which identify UA's specific concerns. See also the responses to UA's comment letter.
2. Please see the response to comment 5 in UA's comment letter.
3. Please see the response to comment 4 in UA's comment letter.

CENTER FOR MARINE CONSERVATION (CMC)

4. Statement noted. Please see the responses below to comments 5 through 9c, which identify CMC's specific concerns.
5. Please see the responses to comments 3, 5, 6, and 7 in CMC's comment letter.
6. Please see the response to CMC comment 4. In addition, a new discussion of the transition to Alternative 3 has been added to the Final EIS/EIR (see section 6.5).
7. Please see the responses to comments 6, 16, and 17 in CMC's comment letter.
8. Please see the response to comment 20 in CMC's comment letter.
9. Statement noted. Please see the responses below to comments 9a, 9b, and 9c which identify CMC's specific concerns.
- 9a. Please see the response to comment 21 in CMC's comment letter.
- 9b. Please see the response to comment 21 in CMC's comment letter.
- 9c. Please see the response to comment 4 in CMC's comment letter.

PORT OF OAKLAND (OAKLAND)

10. Statement noted.
11. Please see the responses to comment 2 in BDAC's comment letter and comments 22 and 29 in Oakland's comment letter, which address the costs of new work vs. maintenance dredging projects.
12. The LTMS agencies are working to provide a draft Management Plan during the timeframe that the Final EIS/EIR is released. However, the transition period to Alternative 3 should allow the public and interested parties to participate in preparation and adoption of the LTMS Management Plan, prior to significant reductions in the in-Bay disposal cap for maintenance dredging. Please see the response to comment 2 in Oakland's comment letter.
13. Please see the responses to comments 2 and 10 in Oakland's comment letter.

14. The preferred alternative has been identified, “small” dredger has been defined, and progress has been made on the transition and management plan. Also, please see the response to comment 22 in Oakland’s comment letter.
15. Statement noted; please see the responses below to comments 15a through 15f which identify the Port’s specific concerns.
- 15a. Please see the response to comment 37 in Oakland’s comment letter.
- 15b. Please see the responses to comments 9 and 37 in Oakland’s comment letter.
- 15c. Statement noted. The EIS/EIR provides an appropriate and adequate evaluation for the policy-level decisions being made at this time. Please see the responses to comments 9 and 37 in Oakland’s comment letter.
- 15d. Please see the response to comment 8 in Oakland’s comment letter.
- 15e. Statement noted. Please see the response to Oakland comment 7. In addition, aside from the loss of seasonal wetlands which were mitigated, the Sonoma Baylands Annual Monitoring Report for 1997 indicates that no significant impacts are occurring in association with the project.
- 15f. Please see the response to comment 5 in Oakland’s comment letter.
16. Statement noted.

BAY DREDGING ACTION COALITION (BDAC)

17. Please see the response to comments 3, 4, and 6 in BDAC’s comment letter.

NORTHERN CALIFORNIA MARINE ASSOCIATION (NCMA)

18. Please see the response to comment 3 in NCMA’s comment letter.
19. Please see the response to comment 1 in CAHMPC’s comment letter.
20. Please see the response to comment 1 in CDBW’s comment letter.
21. Please see the response to comments 2 and 3 in NCMA’s comment letter.
22. Please see the responses to comment 5 in Benicia’s comment letter and comment 37 in Oakland’s comment letter.
23. Please see the response to comment 3 in NCMA’s comment letter.

BAY PLANNING COALITION (BPC)

24. Statement noted.
25. Please see the response to comment 1 in BPC’s (7/19/96) comment letter.