

# SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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## Agenda Item #10

January 11, 2013

**TO:** Commissioners and Alternates  
**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653 lgoldzband@bcdc.ca.gov)  
Page Perry, Coastal Planner (415/352-3641 pagep@bcdc.ca.gov)  
**SUBJECT: Staff Recommendation on Solano County's Amendment to the County's Component of the Suisun Marsh Local Protection Program**  
(For Commission consideration on January 17, 2013)

### Recommendation Summary

The staff recommends that the Commission certify the amended Solano County Component of the Suisun Marsh Local Protection Program (LPP), endorsed by the Solano County Board of supervisors on August 28, 2012, by adopting the attached resolution certifying the proposed LPP amendment. Further, staff recommends that the Commission update the Suisun Marsh Protection Plan to address climate change, energy development, stream protection and other emerging issues.

### Background and Commission Procedure

**Background and History of the Solano County LPP.** On November 4, 1982, BCDC certified the Solano County Component of the LPP. On February 2, 1999, the Commission certified an amendment to the County's LPP Component in connection with the Montezuma Wetlands project.

The current Solano County LPP is comprised of portions of the County's General Plan and Solano County Code, including the Zoning Code (Chapter 28), Drainage and Flood Control (Chapter 9), and Grading and Erosion Control (Chapter 31), as these existed in 1982 or 1999. However, in 2007, the County repealed Chapter 9 of the Solano County Code and consolidated the provisions of that chapter into a revised Chapter 31 (Grading, Drainage, Land Leveling, and Erosion Control) of the County Code. This change was not submitted to BCDC for certification, so it is not part of the County's LPP Component.

In 2008, the County adopted a comprehensive update to the Solano County General Plan, superseding most elements of the prior General Plan. Further, in February 2012, the County adopted a comprehensive update to Chapter 28 of the County Code, repealing the prior version of that chapter. BCDC staff worked with the County staff during 2008 to determine the consistency of proposed General Plan policies with the *Suisun Marsh Preservation Act* (Marsh Act) and the *Suisun Marsh Protection Plan* (Marsh Plan). Some changes were made. The new General Plan included both new policies for the Primary and Secondary Management Areas of the Suisun Marsh, and the previously certified LPP Component. The General Plan included a policy stating that any inconsistencies between new policies and certified policies would be resolved in favor of the certified LPP policies. Following adoption of the General Plan, the County worked with BCDC staff to amend the *San Francisco Bay Plan* (Bay Plan) and Marsh Plan to reduce the size of the water-related industry priority use area at Collinsville, to craft zoning ordinances to implement the General Plan, and to modify recently adopted General Plan policies so that the LPP policies would be consistent with the Marsh Act and Marsh Plan.



Making San Francisco Bay Better

BCDC contracted with the County to cover its costs of amending the Bay Plan and Marsh Plan and for its analysis and certification of the amended LPP Component. On July 7, 2011, the Commission adopted Bay Plan Amendment 1-10 amending Bay Plan Map 3, the Marsh Plan findings and policies regarding water-related industry, the Marsh Plan maps, and the Resolution 16 boundaries of the water-related industrial priority use designation at Collinsville. The amendment ensured that County and BCDC policies on the location and size of the water-related industrial priority use area at Collinsville were consistent.

**Commission Certification Procedures.** Public Resources Code Section 29400 requires the LPP and its components to be consistent with the Suisun Marsh Plan policies. Section 29418 of the Public Resources Code requires that an amendment to an LPP component be submitted to the Commission by the local government and Section 29415 of the Public Resources Code requires the Commission to certify the component if it finds that it, in all respects, is in conformity with the Marsh Act and the policies of the Marsh Plan. Commission Regulation 11212 provides that a proposed amendment to the Suisun Marsh Local Protection Program shall be processed in the same manner that the Commission certifies a Local Protection Program (Regulation Sections 11202 through 11208).

Specifically, BCDC has, pursuant to Commission Regulation Sections 11202 through 11208:

1. Circulated copies of the Solano County LPP Component amendment to interested parties on October 5, 2012, and pursuant to Commission Regulation 11202, requested comments regarding the proposed amendment and their consistency with the Suisun Marsh Preservation Act and *Suisun Marsh Protection Plan* by November 19, 2012;
2. Published a notice of the availability of the Local Protection Program amendments for public inspection at the Commission office in local newspapers, as required by Commission Regulation Section 11202(b);
3. Distributed the staff report and preliminary recommendation to all agencies, organizations and individuals interested in the proposed amendments on November 30, 2012;
4. On December 6, 2012, held a public hearing on the proposed amendment, as required by Commission Regulation Section 11205; and
5. Prepared this staff recommendation that: (1) responds to all comments; (2) recommends that the Commission certify the proposed amendments; and (3) includes a proposed resolution of certification and distributed the recommendation at least six days prior to the Commission meeting.

#### Staff Summary

The 2012 LPP Amendment incorporates the 2008 General Plan update, as modified by the Board of Supervisors, and the adoption of Zoning Code text amendments addressing Definitions, Limited Agriculture District, Residential Traditional Community District, Commercial Recreation District, Water Dependent Industrial District, and Land Use Regulations; amends Chapter 31 addressing grading, drainage, land leveling and erosion control; replaces Chapter 6.4 of the County Code regulating sewage disposal systems with revisions to County policy regulating sewage disposal systems within the Suisun Marsh; and amends the Zoning maps relating to the Water Related Industrial Reserve Area around Collinsville and in the secondary management area consistent with the 2008 General Plan. BCDC mailed a copy of the proposed amendments to interested parties on October 5, 2012.

**Summary of Environmental Documentation Prepared by County.** Solano County prepared an Environmental Impact Report for the 2008 General Plan update and issued a Negative Declaration for the 2012 Amendment to the Local Protection Program. The Environmental Impact Report for the 2008 General Plan update can be found on the Solano County website here: [http://www.co.solano.ca.us/depts/rm/planning/general\\_plan.asp](http://www.co.solano.ca.us/depts/rm/planning/general_plan.asp)

The Final Environmental Impact Report (FEIR) for the Solano County General Plan 2008 Update stated that the development and establishment of wind turbines in Solano County "could cause significant mortality of special-status bats and raptors as well as other migratory and resident birds." The General Plan FEIR found that this impact would be less than significant with mitigation measures.

However, the 2011 Draft EIR for the Shiloh IV Wind Energy Project (Solano County, 2011), which evaluates the cumulative impact of over 500 commercial wind turbines operating in the Montezuma Hills Wind Resource Area region adjacent to the eastern border of the Suisun Marsh, concludes that the project would have significant cumulative impacts related to special-status birds, raptors and bats that could not be mitigated.

BCDC staff believes that the impacts of wind energy projects in the Marsh would be even more difficult to mitigate because the Marsh contains unusually valuable habitat and hosts large populations of a wide range of species, including birds protected under the state and federal endangered species acts, and the federal Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. As the wind energy projects proliferate in the designated Montezuma Hills Wind Resource Area, conservation of the secondary management area has become increasingly important, particularly to ensure conservation of migratory birds and raptors, such as nesting golden eagles. The Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act have no provisions for "take."

The County concluded that most of the proposed changes to the Solano LPP would have no significant environmental impact, and therefore issued a Negative Declaration. The documents relating to the Negative Declaration for the 2012 Amendment to the Local Protection Program can be found on the Solano County website here: [http://www.co.solano.ca.us/depts/rm/planning/suisun\\_marsh\\_local\\_protection\\_program/default.asp](http://www.co.solano.ca.us/depts/rm/planning/suisun_marsh_local_protection_program/default.asp)

The Commission staff agreed with the County's conclusion, for the most part. However, the staff alerted the County of its belief that the prioritization of commercial wind energy development in the portion of the secondary management area of the Marsh located within the Collinsville-Montezuma Hills Wind Resource Area, including "commercial wind turbine generators" as an allowed use in the secondary management area, could result in significant adverse environmental effects. Moreover, BCDC argued that a full assessment of the effects of wind turbines on the primary and secondary management areas, as well as a description of alternatives and mitigation measures, would need to be submitted to BCDC as part of the County's application in order for the Commission to determine if the LPP amendments were consistent with the Marsh Act and Plan. However, given that the County removed its alterations to the wind energy development policies in the LPP amendment, BCDC determined that further assessment of the effects of wind turbines could not be required at this time.

**Action Taken by County.** Once the Commission approved the amendments to the San Francisco Bay Plan and Marsh Plan in July 2011, a Draft 2012 Amendment to the Solano County LPP was prepared and distributed by the Department of Resource Management for public review and comment. The Solano County Planning Commission conducted a noticed public hearing on the Draft 2012 amendment on June 21, 2012.

The Planning Commission recommended that the Board of Supervisors adopt the Draft 2012 Amendment as prepared by the Department, except that the existing County LPP policy for commercial wind energy development in the Suisun Marsh, which was adopted by the Board on August 3, 1982 and was certified as part of the County LPP by BCDC on November 4, 1982, should be included as Policy SM-P 35 of Chapter 12 of the General Plan and retained as an existing policy of the County LPP without amendment.

The Board of Supervisors conducted a public hearing on the Draft 2012 Amendment on August 28, 2012. At that hearing, the Board adopted the 2012 Amendment of the Solano County Component of the Suisun Marsh Local Protection Program as recommended by the Planning Commission. The County submitted the 2012 Amendment to BCDC for certification on September 28, 2012.

### Staff Recommendation

Because Solano County's amendment to its Suisun Marsh Local Protection Program Component conforms to Public Resources Code Sections 29000 through 29612, the policies of the *Suisun Marsh Protection Plan*, and the *San Francisco Bay Plan*, staff recommends that the Commission certify the 2012 Amendment to the Solano County's Component of the Suisun Marsh Local Protection Program by adopting the attached resolution certifying the proposed amendments. Staff further recommends that the Commission undertake a comprehensive review of the Marsh Plan to address the wide variety of emerging issues in the Marsh including, but not limited to, energy, climate change, stream protection and other important issues.

The Marsh Plan was written in the mid-1970s and has never been comprehensively reviewed or updated. The Commission has undertaken some targeted updates to address policy changes for managed wetlands and water-related industry. New information about climate change, and other emerging issues, necessitate a comprehensive update. Moreover, the current LPP wind policy is inconsistent with the Marsh Plan because it could allow introduction of a new urbanizing, non-agricultural use that could have significant adverse effects on the ecological and aesthetic resources of the Marsh; and it could allow construction of new roads and energy development to serve uses outside of the Marsh. Also, the policy directives in Section 29401(i) of the Marsh Act regarding the protection of streams and riparian corridors in the Marsh could be better reflected in the Marsh Plan. For all of these reasons, a comprehensive review and update of the Marsh Plan is timely.

### Response to Comments

On October 5, 2012, BCDC staff circulated copies of the County's LPP Component amendments to all Commissioners, Alternates, interested parties, and pursuant to Commission Regulation 11202, requested comments regarding the proposed amendments and their consistency with the Marsh Act, Marsh Plan and Bay Plan by November 19, 2012. Written and oral comments have been received by BCDC. The first portion of this section contains the staff response to written comments received on the Preliminary Staff Recommendation, while the next portion of this section addresses staff response to oral comments received during the public hearing of December 6, 2012. Throughout this section, each comment letter precedes the staff's response. The staff's response to each comment in the comment letters is keyed to the number in the margin of the letter.

**Steven Chappell, Suisun Resource Conservation District. December 5, 2012.** Staff response, below, corresponds to Steven Chappell's comment letter dated December 5, 2012.

Response to Comments

1. Comment noted. Staff agrees with SRCD's concerns regarding the impacts of potential wind energy development in the Suisun Marsh.
2. Staff agrees with SRCD's characterization of the Marsh, and the Secondary Management Area's role as a buffer. Wind energy development would be inconsistent with many of the Marsh Plan Policies.
3. Comment noted.





December 5<sup>th</sup>, 2012

Mr. Lawrence J. Goldzband,  
Executive Director, BCDC  
50 California Street, Suite 2600  
San Francisco, CA 94111

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CONSERVATION DISTRICT**

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Dear Mr. Goldzband,

The purpose of this letter is to express the Suisun Resource Conservation District's (SRCDC) strong opposition to potential wind energy development in the Secondary Management Area of the Suisun Marsh. SRCDC actively expressed this position to Solano County Board of Supervisors, Solano County Planning Commission, and County staff during the update of the Solano County General Plan, Solano County Code amendments, and the amendment to the Solano Component of the Suisun Marsh Local Protection Program (LPP). The concerns of SRCDC for the continued protection of the biological resources, open space and aesthetic character of the Suisun Marsh were disregarded by Solano County during the update of Suisun Marsh (LPP).

The Suisun Primary Marsh (58,000 acres of wetlands) and the Secondary Marsh (27,000 acres of adjacent uplands and agricultural lands) provide a unique and critically important habitat for migratory and resident wetland-dependant wildlife, and numerous Special Status species. Wind energy development in the Secondary Marsh is inconsistent with the provisions and protections afforded Suisun Marsh by the Suisun Marsh Protection Plan (1976), the Suisun Marsh Preservation Act (1977), the Solano County Policies and Regulations Governing the Suisun Marsh (1982), the Plan of Protection for the Suisun Marsh EIR (1985), and the Suisun Marsh Habitat Management, Preservation, and Restoration Plan EIR/EIS (2011). Wind energy development in the Secondary Marsh would result in significant adverse environmental effects and create obstacles to the flight patterns of migratory species and likely significantly increase bat and bird mortalities. The presence of windmills in the Secondary Marsh would be incompatible with the resource protection objectives of SRCDC and its member landowners, the California Department of Fish and Game, the US Fish and Wildlife Service, and the California Natural Resources Agency.

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The 27,000 acres of Secondary Marsh was established to buffer the Primary Marsh from development and is important to a variety of wildlife species (especially birds). The Webster's Collegiate Dictionary defines a buffer as: "*something that serves as a protective barrier*". The Solano County policy SM.P 35 LPP, actually encourages the development of the Secondary Marsh at a time when conservation of the Secondary Marsh is becoming more important due to the tremendous number of wind turbines being built on the Marsh's eastern border. By their very nature, wind turbines would have significant adverse visual, noise, lighting, and disturbance effects on the Marsh. Future construction of windmills would devastate the existing high wildlife values of the Secondary Marsh and contribute to the degradation of the Primary Marsh values and functions. SRCD believes that wind energy development in the Secondary Marsh will have significant adverse effects on the biological, scenic, and recreational resources of the entire Suisun Marsh and is inconsistent with existing policy and current scientific evidence that wind turbines would be detrimental to wildlife within the Marsh.

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In conclusion, the SRCD supports the BCDC staff recommendation to complete a comprehensive review of the BCDC Suisun Marsh Protection Plan to address this issue of potential wind energy development in the Secondary Marsh and ensure consistency with the new Suisun Marsh Habitat Management, Preservation, and Restoration Plan EIR/EIS. SRCD looks forward to working with the BCDC Commission and staff to address these important issues.

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Please contact me at 707-425-9302 if you have any questions about the content of this letter.

Sincerely,



Steven Chappell,  
Executive Director

cc: SRCD Board of Directors  
S. Wilson, DFG  
J. LaClair, BCDC

**James Dunbar, Potrero Hills Landfill. December 6, 2012.** Staff response, below, corresponds to James Dunbar's comment letter dated December 6, 2012.

Response to Comments

4. Comment noted.

5. Comment noted.

6. Comment noted. Staff recognizes the Marsh Act's provision that a landfill in the Portrero Hills could not be precluded by County LPPs under Public Resources Code section 29409. However, staff was in favor of, and continues to support, the addition of a policy in the LPP that specifically protects riparian corridors in the Marsh and its immediate watershed, such as SM.P-16. Staff does not believe that the two provisions highlighted by Mr. Dunbar are mutually exclusive sections, however. The lack of a provision protecting watersheds in the Marsh in prior versions of the LPP created an inconsistency between the LPP and the Marsh Act section 29401(i), which calls for an LPP to include enforceable standards for development adjacent to creeks and watercourses in the Marsh. Staff believes that this should be corrected through the inclusion of Water Supply and Quality Section Policy SM.P-16.

7. Comment noted.





**POTRERO HILLS LANDFILL**  
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 Fairfield, CA 94533  
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December 6, 2012

San Francisco Bay Conservation and Development Commission  
 50 California Street, Suite 2600  
 San Francisco, California 94111

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SAN FRANCISCO BAY CONSERVATION  
 & DEVELOPMENT COMMISSION

TO WHOM IT MAY CONCERN:

Potrero Hills Landfill ("PHLF") provides these comments on the proposed amendments to the marsh local protection program ("LPP") submitted in September 2012 by Solano County for approval by BCDC under the Suisun Marsh Preservation Act, Public Resources Code sections 29000 *et seq.* ("the Marsh Act").

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PHLF is one of only two landfills in Solano County and is located within the Suisun Marsh secondary management area. PHLF is a state-of-the-art regional landfill facility that is one of the specific uses expressly allowed in Suisun Marsh. In the Marsh Act, the Legislature specifically provided that certain existing uses and related future uses could not be precluded by County LPPs. Pub. Res. Code § 29409. One such use was the Solano Garbage Company, the predecessor to PHLF, which was operating a solid waste disposal facility in Suisun Marsh at the time the act was passed. The Legislature recognized the importance of this existing use and the need to provide solid waste services to the community in the future by expressly providing that:

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[n]otwithstanding the policies of the protection plan, the local protection program ***may not preclude the future development of a new solid waste disposal site in the Potrero Hills*** if it can be demonstrated that the construction and operation of solid waste facilities at that site would not have significant, adverse ecological or aesthetic impacts on the marsh.

Pub. Res. Code § 29409 (emphasis added). The Marsh Act also requires each County's "local protection program shall be consistent with the provisions of this division and policies of the protection plan." Pub. Res. Code § 29400.

PHLF objects to certain proposed amendments to Solano County's LPP that contravene the Marsh Act's express statutory prohibition that an LPP "may not preclude the future development of a new solid waste disposal site in the Potrero Hills if it can be demonstrated that the construction and operation of solid waste facilities at that site would not have significant, adverse ecological or aesthetic impacts on the marsh." *Id.* at § 29409. Solano County, on the one hand, continues to recognize that "future expansion of Potrero Hills Landfill should be permitted if it can be shown that construction and operation of such facilities will not have significant adverse ecological or aesthetic impacts on the Marsh." See proposed Policy SM.P-29 in the Utilities, Facilities and Transportation Section. On the other hand, the County has proposed the following two

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amendments that would effectively prevent future development by PHLF, even if there are not significant, adverse ecological or aesthetic impacts on the marsh.

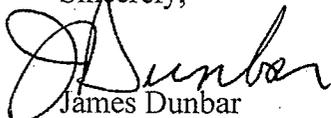
- Proposed redlined changes to the Water Supply and Quality Section Policy SM.P-16 : “Upstream land use controls shall be formulated to protect riparian corridors (the stream, its banks, and creekside vegetation) in the Marsh and its immediate watershed should be protected from encroachment and degradation by development. No development shall be permitted which would interfere with existing channel capacity or would substantially increase erosion, siltation, or other contributors to the deterioration of any watercourse.”
- Proposed redline changes to Section 31-30(p): “Except as limited by section 28-5137 of this Code, (Watershed and Conservation (W) District), filling, grading, excavating, or obstructing the bed or banks of a watercourse and removal of the riparian vegetation should be allowed only where no reasonable alternative is available and, where allowed, shall be limited to the minimum amount necessary. In the Suisun Marsh, stream modification should be permitted only if necessary to ensure the protection of life or existing structures from floods, and only the minimum amount of modification necessary shall be allowed in such cases.”

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Both SM.P-16 and Section 31-30(p) as proposed conflict with Section 29409 of the Marsh Act if they are applied to the future expansion of PHLF in Suisun Marsh. Both sections limit landfill development in riparian corridors and watercourses even if there are no significant, adverse ecological or aesthetic impacts on the marsh. These sections are legally inconsistent with the Marsh Act, in violation of Section 29400. *See e.g. Alford v. County of San Diego* (2007) 151 Cal.App.4th 16, 23 (agency’s regulations must be consistent with authorizing its statute). The Marsh Act requires the LPP to be “consistent with [its] provisions,” and the LPP must be interpreted in that light. Pub. Res. Code § 29400. PHLF therefore objects to these LPP amendments and they cannot legally be approved by BCDC. In the alternative, if consideration is to be given to the proposed amendments, we would respectfully request that the Commission ensure that no aspect of the proposed changes to the LPP would apply to the Potrero Hills Landfill consistent with Sections 29400 and 29409 of the Marsh Act.<sup>1</sup>

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Sincerely,



James Dunbar

District Manager

Potrero Hills Landfill

<sup>1</sup> PHLF notes that legal proceedings concerning a challenge to BCDC’s October 21, 2010 issuance of Permit No. 3-10(M) are currently pending in state court and may be the subject of additional Commission actions. In issuing Permit 3-10(M), BCDC voted to approve a revised marsh development permit for the Potrero Hills Landfill that included channeling the upper reach of Spring Branch Creek. The existing LPP which serves as the basis for issuance of the permit would be materially modified by operation of the proposed amendments discussed above. Action on the proposed LPP amendments while litigation is pending could serve to undermine the Permit issued by this Commission. We therefore request that the Commission table voting on the proposed amendments to allow time for the Commission and its staff to fully evaluate the proposed changes given the clear commands of Section 29409 of the Marsh Act, and to consider the substantive and procedural steps remaining in the litigation.

**Kelly Smith, The Smith Firm. December 6, 2012.** Staff response, below, corresponds to Kelly Smith's comment letter dated December 6, 2012.

Response to Comments

8. Comment noted.

9. Comment noted. As stated in the response to comment 5, staff agrees that the current LPP contains inconsistencies that could potentially offer more protection for riparian areas outside the Marsh, rather than inside the Marsh and that this is inconsistent with the policies in the Marsh Act.

10. Comment noted. Staff agrees that any ambiguity in the Marsh policies should be interpreted in favor of Marsh protection.

11. Comment noted.



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December 6, 2012

**BY MAIL AND EMAIL**

Mr. R. Zachary Wasserman, Chair and Commissioners  
San Francisco Bay Conservation and Development Commission  
50 California Street, 26<sup>th</sup> Floor  
San Francisco CA 94111

**RE:** December 6 agenda item 8, proposed Solano County LPP amendments

Honorable Commissioners:

Suisun Marsh protection has suffered from illogical contradictions in the Solano County Local Protection Program (LPP), concerning the preservation of the Marsh's streams and riparian corridors. Proposed amendments to the plan before you, specifically proposed changes to Water Supply and Quality Section Policy SM.P 16, and Section 31-30(p), would correct this confusion. 8

I write representing Sustainability, Parks, Recycling and Wildlife Defense Fund. SPRAWLDEF recently prevailed in litigation which directly addressed this confusion. We support the clarifications reflected in the attached proposed amendments.

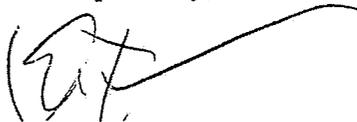
The existing language of the Program improperly differentiates between "upland" water resources and those riparian corridors and resources within the Marsh. The "uplands" above and outside the Marsh management zones actually have more restrictions and protection than inside the Marsh. At least that is the way Solano County's LPP could currently be interpreted. 9

SPRAWLDEF believes that any current ambiguity should be interpreted in favor of Marsh protection, consistent with the clear intent of the Marsh act. 10

Better yet, clarify that no development can be allowed which damages the streams and riparian corridors in the Marsh. There can be no Marsh without them. This is exactly what the proposed amendments would do. Your approval will assure consistency between the act and the Solano County program. 11

Thank you for your consideration.

Respectfully,

  
KELLY T. SMITH

**EXHIBIT XI**

**CHAPTER 31, GRADING, DRAINAGE, LAND  
LEVELING AND EROSION  
CONTROL**

(Note: Red = New Language, Black = Existing language and ~~Strikethrough~~ = language to be deleted)

**Sec.31-20(c)(2)**

(1) Prior to the issuance of a grading and drainage permit for sites located within the Suisun Marsh area, a marsh development permit ~~may be required~~ must be obtained.

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(2) It shall be unlawful to do any of the following activities without a permit, within, or in areas within the buffer extending 25 feet from the top of bank to those channels within the Suisun Marsh or those channels flowing or which will flow into the Suisun Marsh as more fully shown on that diagram entitled "Protected Channels of the Suisun Marsh Watershed", on file at the Resource Management department and which is incorporated herein as though set forth in full.

**Sec. 31-30 General design principles and standards.**

The purpose of the general design principles and standards is to assure that development, other than agricultural activities for production, be accomplished so as to minimize adverse effects upon the existing terrain and to minimize the potential for erosion. Control measures are to apply to all aspects of the proposed grading and are intended to be operational during all stages of development. The following basic design principles and standards shall serve as minimum guidelines for grading plans and erosion, sediment and runoff control plans, as part of a permit.

(o.) Waterways shall be designed to avoid erosion as much as practical. Wide channels should be constructed with flat side slopes surfaces and the channel and slopes should be lined with grass or other appropriate vegetation. Every effort must be made to preserve natural channels and drainage ways.

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(p) Except as limited by section 28-37 of this code, Watershed and Conservation- (W0 Districts, filling, grading, excavating or obstructing the bed or banks of a watercourse and removal of the riparian vegetation shall be allowed only where no reasonable alternative is available and where allowed, shall be limited to the minimum amount necessary. In the Suisun Marsh, stream modification should be permitted only if it is necessary to ensure the protection of life and existing structures from floods and only the minimum amount of modification necessary should be allowed in such cases.

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**Sec. 31-40 Review and approval.**

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- (a) Grading and drainage permit applications and accompanying maps and plans shall be reviewed by the Department of Resource Management and approved when found to be in compliance with the provisions of this chapter, and conformance with acceptable grading and erosion control techniques. Permits required as a condition of a building permit, use permit or other land development permit will be issued only in conjunction with, or subsequent to, approval of such a permit and not in anticipation of such a permit.

- (b) The Department of Resource Management shall issue a permit only if the Director finds that riparian habitat will be protected and that the proposed activity will not increase sedimentation and runoff within and in the Suisun Marsh to such an extent that significant adverse environmental impacts will occur in the Suisun Marsh.

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immediate watershed should be preserved due to its importance in the maintenance of water quality and its value as Marsh-related wildlife habitat, and Stream modification should be permitted only if it is necessary to ensure the protection of life and existing structures from floods and ~~Q~~only the minimum amount of modification necessary should be allowed in such cases.

SM.P-14: The development of industrial facilities in, adjacent to or upstream from the Marsh should be planned to eliminate significant adverse environmental impacts on the water quality of the Suisun Marsh. Activities that could significantly alter the temperature, salinity, or turbidity of the water should be prohibited. Industrial facilities that will increase the potential for spills of toxic and hazardous materials should not be permitted unless it is established that spills of such materials will not represent a significant threat to the Marsh.

SM.P-15: Any development in the Suisun Marsh or its watershed ~~or secondary management area~~ proposed for areas that have poor soil conditions for construction or that are seismically active, should be controlled to prevent or minimize earth disturbance, erosion, water pollution, and hazards to public safety. Local runoff, erosion, and sediment control ordinances should be established in the immediate Suisun Marsh and its watershed to protect the Marsh from these potential adverse effects.

GOOD SM.P-16: Upstream land use controls shall be formulated to protect Riparian corridors (the stream, its banks, and creekside vegetation) in the Marsh and its immediate watershed should be protected from encroachment and degradation by development. No development shall be permitted which would interfere with existing channel capacity or would substantially increase erosion, siltation, or other contributors to the deterioration of any watercourse.

~~SM.P-54: No development shall be permitted which would interfere with existing channel capacity or would substantially increase erosion, siltation, or other contributors to the deterioration of any watercourse.~~

~~SM.P-17: Riparian vegetation in the immediate Suisun Marsh watershed should be preserved due to its importance in the maintenance of water quality and its value as Marsh-related wildlife habitat. Stream modification should only be permitted if it is proved necessary to ensure the protection of life and existing structures from floods and only the minimum amount of modification necessary should be allowed.~~

SM.P-17: Within the watershed of the Suisun Marsh, sound agricultural practices which conserve water quality and riparian vegetation shall be encouraged.

**Susan B. Anthony. December 3, 2012.** Staff response, below, corresponds to Susan B. Anthony's comment letter dated December 6, 2012.

Response to Comments

12. Comment noted.

13. The current process and certification process is related to the Suisun Marsh and the policies governing the Marsh. However, this is primarily a policy decision setting the rules by which the County and BCDC will evaluate proposals for future permits in the Marsh. Therefore, this comment is not relevant to the decision currently being considered by the BCDC.

14. See response to comment 13.

15. See response to comment 13.

16. See response to comment 13.

17. See response to comment 13.

18. See response to comment 13.

19. See response to comment 13.

20. See response to comment 13.

21. See response to comment 13.

22. See response to comment 13.

23. See response to comment 13.

24. See response to comment 13.

25. See response to comment 13.

26. See response to comment 13.

27. Comment noted.

28. See response to comment 13.

29. See response to comment 13.

30. See response to comment 13.

31. See response to comment 13.

32. See response to comment 13.

33. See response to comment 13.

34. See response to comment 13.

35. See response to comment 13.

36. See response to comment 13.

37. See response to comment 13.

38. See response to comment 13.

39. See response to comment 13.

40. See response to comment 13.

41. See response to comment 13.

42. See response to comment 13.
43. See response to comment 13.
44. See response to comment 13.
45. Comment noted.
46. See response to comment 13.
47. See response to comment 13.
48. See response to comment 13.
49. See response to comment 13.
50. See response to comment 13.
51. See response to comment 13.
52. See response to comment 13.
53. See response to comment 13.
54. See response to comment 13.
55. See response to comment 13.
56. See response to comment 13.
57. See response to comment 13.
58. See response to comment 13.
59. Comment noted.

**Subject:** Here are three document for the commission includes: a. Portrero Hills Landfill Watershed Polluting Suisun Marsh and Wetlands b. request the LPP Policy SM-P35 of chapter 12 of the general plan be denied. c. objection and deny certification of the 2012 amendment to the Solano County adoption of the 2008 general plan

**Date:** Wednesday, December 5, 2012 1:32:58 PM PT

**From:** Susan B Anthony

**To:** pagep@bcdd.ca.gov

12

Request the following three documents be submitted to the commission

Portrero Hills Landfill expansion proposal with images of access road.

Portrero Hills Landfill Watershed Polluting Suisun Marsh and Wetlands

Please deny the authorization of the over loading of containment in the canyon.

The Portrero Hill Landfill is impacting negatively the bay delta estuary and water quality. Please deny the authorization of the over loading of containment in the canyon. Please deny authorizing a spill out and condensing pollution into spring creek.

**Susan B. Anthony from Vallejo CA submits the following comments for your consideration:**

- A. Requesting public disclosure of the following documents and that the documents be included in the decision process. I am requesting written confirmation that Judge Beeman, Ryan Ohon, Greg Martinelli, Jim Star, Steve Chapell and all public agencies voting to approve or to deny Portrero Hills Landfill have read the following three documents: 13
1. **1984 Jones and Stokes final environmental impact The Solano Garbage project description document**
  2. **1984 ENCON Associates, site investigation and development. The Portrero Hills Sanitary Landfill**
  3. **1983 Cooper-Clark & Associates Geological and Solid Waste Feasibility Study, proposed sanitary landfill site Portrero Hills 1972.**
- B. Regarding 11584 facility waste permit, please review conditions and explain how the county sewer expansion proposal is in compliance with 11584 waste permit. 14
- C. The dump currently has several customers disposing bio solids. These solids are known to contain high levels of pathogens, emit odors and contain hazardous nuclear medical treatment bi-products. Equipment operators, dump customers and particulates carried by wind repeatedly expose neighbors and cause direct contact with workers getting in and out of their equipment. Chemicals found in bio waste are known to the State of California to cause cancer and other health problems. 15
- D. In violation of the clean water and clean air act bio waste should not be used or accepted for disposal in a public place nor should it be used to cover loose dump material. 16
- E. Under 11584 waste permit, spoils are to be cover with ash from the future waste to energy plant or with clean dirt. Operators of the dump under direction from management are required to directly expose themselves to the effluent and in violation of their permit, Landfill management requires equipment operators to cover the loose dump material with pathogen ridden bio waste. 17

- F. The dump is open after hours and at night for their large contracts including the haul in of bio solids and the affluent. dumped bio waste is exposed to the open air until the operators of the earth moving equipment come on shift to mix it in. 18
- G. Consider that soils and water testing be performed where polluted run off from the Portrero Hills Landfill collects and where the rain water enters the Bay Delta Estuary and Suisun Marsh. 19
- H. Considering that the rain water running off the Portrero Hills Landfill is polluted, testing of the run off water should also include benzene and all other chemicals that are known to the State of California to cause cancer prior to it being released or reused. 20
- I. Please include a report by a geologist that will address the effects of how the plates of the earth cause an up-lifting of the mountain. Include how one plate elevates and the other plate slides deeper and how that will effect containment of pollution at the site as the plates of the earth move in 100 years in 500 years and include an explanation on the a. life expectancy and b. effectiveness of the liner within the canyon. 21
- J. In the geographical report please include all factors that can contribute to movement of the plume of pollution from the Portrero Hills Landfill and cause the pollution to drain out of the canyon and into the bay. Some of the obvious factors are: a) polluted run off water as the pollution is running down hill from a higher elevation in the canyon b) shear logistics, being located in the middle of the marsh c) porous subsurface and under ground aquifers d) water flowing down the face of the cliff e) movement of the earths plates f) uplifting and fracturing rock g) liquefaction of soils and exposure of buried pollution h) other 22
- K. Upon reviewing Google Earth Satellite images of Portrero Hills Landfill located in a canyon of a remarkable mountain surrounded by the Suisun Marsh in Suisun California, the following are observations that a reasonable person can conclude. 23
1. The infill has exceeded the natural elevation of the canyon. In other words, the added dump material has exceeded the specifically engineered design that was critical criteria for the landfills containment. In an attempt to pile high and deeper, management has loaded the ridges with dirt to raise the canyon elevation. The natural containment of the canyon has been breached. The dump management has caused the south side property line to rupture.
  2. Without engineered containment of the pollution with in the landfill the increase in elevation of the canyon ridges with the excessive weight from landfill debris and soil piled on the ridges with out adequate structural barrier for containment, the entire southern property line of the Portrero Hills Landfill is unstable. Liquefaction of soils of the hillside is occurring.

3. In viewing Google Earth Satellite images of the south property line there is a significant breach in the integrity to hold back the polluted waste.

L. Millions of tax payers dollars are at stake in the salmon restocking program of California's rivers and streams and The People of California wish to have a summary of The Economic Value of Striped Bass, Chinook Salmon and Steelhead Trout of the Sacramento and San Joaquin River System of 1985 by Phill Meyers Resources Incorporated, located in the City of Davis, California, included in the final decision.

24

M. Does the Endangered Species Act of California cover the Suisun Marsh and Bay Delta coastal wildlife inhabitants and species of fish found no where else, and if it does, the tax payers of California wish to include counsel on this issue from an independent marine biologist as to specific endangered habitat.

25

Dear Representatives,

We all know this project is polluting our bay, the shear logistics of the Landfills location, on a magnificent mountain surrounded by marsh. This is a mountain completely unique in the heart of the San Francisco Bay Estuary. There is no other bay estuary like this in the world.

26

Enough is enough. Please review Google Earth Satellite images. Please deny the authorization of the over loading of containment in the canyon. Please deny authorizing a spill out and condensing pollution into spring creek.

27

The Portrero Hill Landfill is impacting negatively the bay delta estuary and water quality. We the people of California will continue to support projects that are environmentally sound. This Landfill needs to wind down, wrap up its operation, come up with a monitoring plan and move on.

28

Together we will continue to preserve our environment and the Great Pacific North West San Francisco Bay Delta Estuary to ensure that it will be here for our future generations as we know it today!

29

Respectfully Submitted,

**Susan B Anthony**

Vallejo, California

## **Portrero Hills Landfill in Suisun California is leaking pollution into the Suisun Marsh and Wetlands, the Bay Delta Estuary and United States Waters.**

**“We the People,” present evidence and object to the proposed expansion of the landfill.** Despite the canyon being filled to capacity the landfill is applying for authorization to expand. 30

The second expansion of the landfill presented the issue of polluted rainwater run off leaving the landfill property. With rainwater no longer being contained within the canyon, management presented the following as a resolution. The landfill installed an antiquated holding pond on the south side that overflows into a tributary or creek that feeds into the Suisun Marsh. Addressing the drainage on the north side at the dump entrance. The terrain has been engineered to funnel down the polluted rainwater draining north from inside the canyon landfill “the water shed” to shed off onto Portrero Hills Lane access road. The polluted rainwater then travels down the half a mile approach to the landfill entrance and sheds “the polluted water shed,” into the wetland at the lowest point of the Portrero Hills Access Road, the public road is an earthen bridge that is obstructing tidal flow in the wetlands. 31

Upon reviewing Google Earth Satellite images of Portrero Hills Dump, located in a once pristine majestic mountain canyon with a fresh water lake surrounded by wetlands and marsh in Suisun California, the following are observations that a reasonable person can conclude. 32

The landfill management has authorized dirt to be piled up on top of the ridges to increase the capacity of the Canyon. There is no structured barrier to contain the contaminants layered on the tops of the ridges. These contaminants will also be subject to the forces of wind erosion and heavy rains, with evidence that severe weather storms are becoming more frequent and will cause the contaminants to be washed away into the Suisun Marsh. 33

The infill elevation of the added dump material has exceeded the specifically engineered design that was critical criteria for the landfills containment. Dumping dirt on the tops of the ridges has exceeded the natural engineered barriers and has compromised the ability to contain the pollution within the canyon walls. Upon reviewing Google Earth Satellite images of Portrero Hills Dump, the south side 34

property line has ruptured from excessive weight as a result of the management decision to pile the trash higher and deeper exceeding the natural confinement of the canyon walls. The Infill continues to be hauled in and dump over the natural ridge of the canyon increasing a land slide incident where contaminants will spill out into agricultural land. There is evidence of movement in the hillside. A catastrophic incident of liquefaction of soils is looming and most likely will occur after heavy rains making it difficult to contain the polluted run off.

Google Earth Satellite images show evidence of liquefaction on the mountain on the south side near the south property line. There is a significant breach in the integrity of the hillside to hold back the polluted waste as a direct result of expanding past the natural canyon walls.

35

The Potrero Hills Landfill, continues its activities despite measure E through sound planning set forth in the following documents:

a. 1984 Jones and Stokes final environmental impact The Solano Garbage project description document

36

b. 1984 ENCON Associates, site investigation and development. The Portrero Hills Sanitary Landfill

c. 1983 Cooper-Clark & Associates Geological and Solid Waste Feasibility Study, proposed sanitary landfill site Portrero Hills 1972.

Set limits on the canyons capacity to contain polluted trash. By public vote and with details contained in the aforementioned documents the landfill has exceeded the canyons capacity to hold trash. "We the People," object to a third expansion and further polluting Spring Creek.

37

The knowledge and information provided in the above documents set forth guidelines in management and containment of the public health hazard from the pollution plume created by the dump. Authorizing a third expansion or engulfing Spring Creek with polluted waste is unacceptable.

38

In concluding, the plume of pollution from the Portrero Hills Landfill is leaking into the Suisun Marsh and Wetlands, the Bay Delta Estuary and United States Waters.

39

Respectfully Submitted

Susan B. Anthony  
Vallejo, CA

## Third Portrero Hills Landfill expansion proposal

"We the People," request your consideration on the following:

- a. enforce the laws that apply to Measure 19. 40
- b. require the Landfill management to install a treatment plant to prevent the movement of the plume of pollution on the surface of the Landfill from polluting the wetlands before adoption of chapter 6.4 of the county code regulating sewage disposal is adopted. We the People request the LPP Policy SM-P35 of chapter 12 of the general plan be denied. 41
- c. support our objection and deny certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people. 42

I Susan B. Anthony from Vallejo CA on behalf of the seventy three percent of Californians who are investing billions of dollars in protecting our environment, "we the people," submits the following comments for your consideration to: 43

1. Jim Starr and The Department of Fish and Game
2. The Bay Conservation and Development Commission
3. Chris Thiederman Deputy Attorney General
4. Judge Beeman Solano County Superior Court of California
5. County of Solano et all, collectively and individually.

Under State Measure 19 it is unlawful to knowingly contribute to the degradation of marsh habitat. The aforementioned controlling agencies 1 through 5 are the "Legal Enforcement Arms of the Law," collectively and individually, and as "the enforcement agencies" and or "permit approval agencies," are hereby presented evidence.

The "expansion proposal" to fill up a marsh tributary known as spring creek, knowingly and willfully is in disregard for State Measure 19, condoning the polluting of the Suisun Marsh and the Bay Delta Estuary. The landfill needs to install a treatment plant to prevent the plume of pollution from surface movement before chapter 6.4 of the county code regulating sewage disposal is adopted. We the People request the LPP Policy SM-P35 of chapter 12 of the general plan be denied. 44

We the people have the right to be a part of the decision making process and we object to the certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people. 45

To all aforementioned parties involved, "We the People," do hereby present evidence to all parties involved. Under the Marsh protection plan the wetlands are protected by State Measure 19 Fish a Wildlife Habitat Enhancement, the act that protects wetlands, fish and wildlife because 'they' collectively and individually, need a place to live and the wetlands provide shelter and food to hundreds of species of birds as well as fish and other wildlife. 46

We hereby present evidence and request your consideration of the following and ask that the laws that apply to Measure 19 be enforced. 47

The grand scale erosion on Branscombe Road and the pollution traveling down Portrero Hills Lane is causing a deterioration of wetlands habitat and contaminating the water quality of the Suisun Marsh. 48

Branscombe Road has a serious erosion problem do to the steep hillsides and the velocity of the water draining out from that section of the canyon creating turbid water to enter the wetlands. The lack of culverts along the road side and the lack of road shoulder on Portrero Hills Lane, Branscombe Road and Scully Road are all contributing to sediment entering the wetlands causing degradation and the suffocation of the microorganisms and disrupting the healthy life cycle within the marsh. 49

Regarding Portrero Hills Lane the access road to across the wetlands to the Landfill, currently soils, bi-products from transport vehicles and contaminated rain water drain down the half mile approach to the landfill and drain directly into the Suisun Marsh wetlands habitat. 50

Regarding the road surface up the canyon to the Potrero Hills landfill, the right and left shoulders of the road surfaces are near congruent in elevation so, the road surface acts the same as a swimming pool slide, causing the contaminants draining from the landfill hillsides and being tracked onto the public access road to be carried off the landfill premises and cause these contaminants to enter the Suisun Marsh wetlands habitat.

51

There appears to be no reasonable effort to contain pollution from leaving the confines of the landfill. The amount of debris and soil built up above the road surface indicates there is nothing in place to prevent these solids from entering the Suisun Marsh wetlands habitat.

52

The landfills canyon hillsides drain down the access road with no sumps or catch basins to contain the soils, causing polluted sediment to directly enters the marsh. See attached image to verify pollution and sediment is leaving the confines of the landfill at will and with out any barriers, contours or culverts or catch basins to divert the contaminants from leaving the Landfill premisis.

53

Furthermore, The non porous surface pavement approach to the landfill scales facilitates toxins traveling off the dump site and provides an unobstructed path for contaminants to enter the marsh.

54

Dirt bi-products, lubricants, chemicals known to the State of California to cause cancer, bio-solids containing high levels of pathogens and radio active effluent from individuals under medical treatment few brought in with the bio waste. All surface soils are subject to all drain directly into the Suisun Marsh wetlands habitat unfiltered and untreated. See attached images below of Portrero Hills Lane and the contaminated sediment that has built up all along the shoulders of the access road to the landfill..

55



Above image is Portrero Hills Lane public access road, showing the uphill grade to the landfill and sediment build up on the shoulders of the roadway. Customers that have leaking transport containers cause contaminated soils and liquids to shift and spill out and onto the roadway on the essent up the canyon to the landfill. The trucks can be seen from Highway 12 on the plateau on top of the skyline dumping their loads along the artificial ridge to the rear of the two round mountains.



Above image shows contaminated soils along Portrero Hills Lane public access road to the Landfill. All the dirt on the shoulder above the road surface is sediment run off from the landfill.



Above image is Portrero Hills Lane access road rising in elevation up to the Landfill. The image also shows the pattern of soils accumulating on the side of the access road. The skyline in the background has been altered by landfill management to increase the holding capacity of the canyon.

Customers frequenting the landfill track contaminated soils onto the public

road surface when leaving the landfill.

The following is a list of some of the sources of pollution that are causing a deterioration of wetlands habitat and contaminating the water quality of the Suisun Marsh.

- a. spoils leaking from vehicles
  - b. lubricants dripping from vehicles
  - c. contaminated rain water washing debris into the marsh from the road surface of Portrero Hills Lane access that drains directly into the wetlands.
  - d. contaminated rain water draining down the canyon untreated and entering the tributaries that feed the marsh contaminating the entire wetland basin of the canyon from toxins emitted into the water shedding off the polluted landfill.
  - e. vehicles exiting the dump tracking contaminated soils onto public road ways.
  - f. soils from erosion entering the Marsh, includes turbid run off from the newly installed mosquito – salamander ponds that have since been sprayed with poison to alleviate the threat of the West Nile Virus as a result of an outbreak of a hatch of triple sized mosquitos in the ponds.
- The enlarged mosquitos may have been a result of exposure from low doses of radiation in the soils from the U.C. Davis experimental beagle dogs buried at Tonnesens' Pet Cemetery located adjacent to the new mosquito – salamander ponds - habitat.
- g. turbid water from erosion entering the wetlands causes suffocation of minute organisms that are part of the life cycle of the marsh.
  - h. contaminated rain water draining off the Landfill hillsides and polluting spring creek and traveling across Grizzle Island road draining into the bay wetland untreated does not meet the criteria presented in the states pollution standards or meeting responsibility under California Environmental Laws.

"We the People," request your consideration on the following:

a. enforce the laws that apply to Measure 19.

57

b. require the Landfill management to install a treatment plant to prevent the movement of the plume of pollution on surface from polluting the wetlands before adoption of chapter 6.4 of the county code regulating sewage disposal is adopted. We the People request the LPP Policy SM-P35 of chapter 12 of the general plan be denied.

58

c. support our objection and deny certification of the 2012 amendment to the Solano County adoption of the 2008 general plan update and request these changes go back before the vote of the people.

59

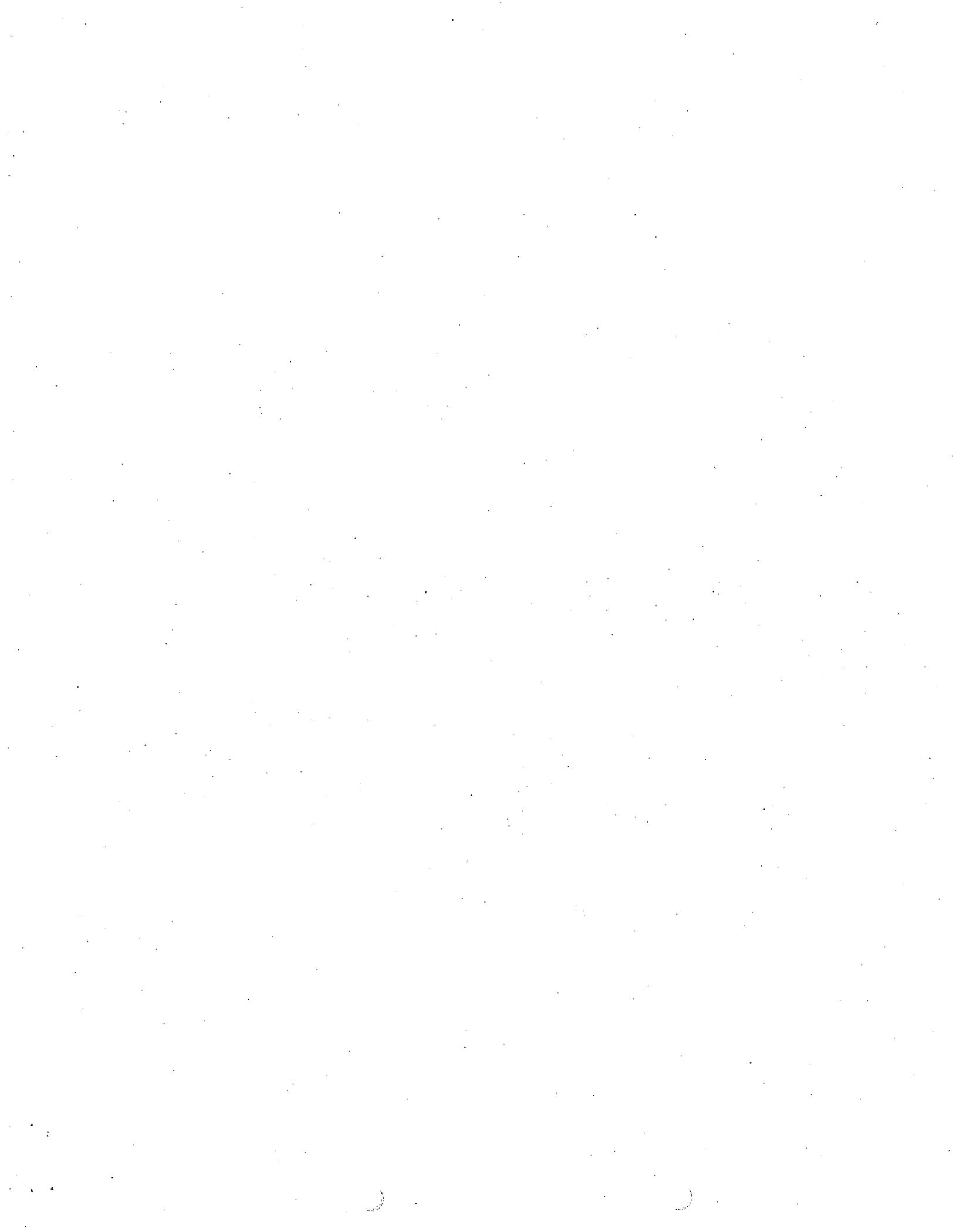
"We the People," reserve the right to supplement or modify objections as condition necessitate.

Respectfully Submitted,

**Susan B. Anthony**

Vallejo, CA

Public Hearing Comments	Staff Response
<p><b>Arthur Feinstein, Chair of Government Relations Committee, San Francisco Bay Joint Venture</b></p> <p>Mr. Feinstein spoke against allowing wind farms in the Suisun Marsh and stated that he supports staff's conclusions on the issue. However, he encouraged BCDC to change the process and amend the Suisun Marsh Protection Plan and remove the wind farm element now, then bring it before the Solano County Board of Supervisors.</p>	<p>Comments on wind energy development in the Marsh noted. The Marsh Act does not allow for the Commission to take the approach recommended by Mr. Feinstein.</p>
<p><b>James Dunbar, District Manager of Potrero Hills Landfill</b></p> <p>Mr. Dunbar spoke to confirm that the Potrero Hills Landfill had written comments it wished to be considered, and requested time with BCDC staff to discuss its concerns.</p>	<p>Comments noted.</p>
<p><b>Steven Chappell, Executive Director of Suisun Resource Conservation District</b></p> <p>Mr. Chappell also confirmed that the SRCD submitted written comments to BCDC. He spoke to emphasize that the SRCD is in favor of the majority of the changes to the County's LPP, but that they are strongly opposed to potential wind energy development in the Suisun Marsh. SRCD, therefore, supports BCDC's staff recommendation to complete a comprehensive review of the Suisun Marsh Protection Plan to address the wind energy issue.</p>	<p>Comments noted.</p>
<p><b>Mike Yankovich, Solano County</b></p> <p>Mr. Yankovich spoke to the process that would be required by any applicant seeking a permit for a wind energy development project. He indicated that there are several processes in place to obtain a permit, and appeal processes in place if there is disagreement over the permit. Mr. Yankovich expressed his opinion that everyone's interests would be taken into consideration in the process.</p>	<p>Comment noted.</p>



# SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

50 California Street • Suite 2600 • San Francisco, California 94111 • (415) 352-3600 • Fax: (415) 352-3606 • www.bcdc.ca.gov

## Resolution No. 2013-01

### Certification of Amendment of the Solano County Suisun Marsh Local Protection Program Component

**Whereas**, Public Resources Code Section 294118(a) states that “after certification by the commission, the local protection program, or any component thereof, may be amended by the appropriate local government or district... Any such amendment shall meet, in all respect, the requirements of, and be in conformance with, this division [Suisun Marsh Preservation Act] and the policies of the [Suisun Marsh] Protection Plan”; and

**Whereas**, in 2008, Solano County adopted a comprehensive update to the Solano County General Plan; and

**Whereas**, on July 7, 2011, BCDC approved amendments to its *San Francisco Bay Plan* and *Suisun Marsh Protection Plan* to, in part, modify the boundaries of the water-related industrial priority use designation at Collinsville, thereby reconciling prior inconsistencies between BCDC’s *San Francisco Bay Plan* and *Suisun Marsh Protection Plan* and the County’s 2008 General Plan; and

**Whereas**, on August 28, 2012, the Solano County Board of Supervisors adopted an amendment to its Suisun Marsh Local Protection Program (LPP) Component to bring the component into conformance with the 2008 Solano County General Plan and Commission policies; and

**Whereas**, the amendment to Solano County’s LPP Component is consistent with the Suisun Marsh Preservation Act and the policies of the Suisun Marsh Protection Plan as required by Section 29418 of the Public Resources Code in that the amendment (1) reflects updated zoning, grading and sewer policies designed to better protect the Marsh; and (2) includes additional protection for the watershed within the Marsh consistent with Public Resources Code Section 29401 and the Environment, Water Supply and Quality and Land Use and Marsh Management policies of the *Suisun Marsh Protection Plan*; and

**Whereas**, on July 21, 2008, Solano County prepared a Final Environmental Impact Report for the updates to the 2008 Solano County General Plan. On April 25, 2012, Solano County prepared and circulated a Negative Declaration for the proposed 2012 LPP amendments; and

**Whereas**, the San Francisco Bay Conservation and Development Commission has evaluated the environmental impact of certifying the amended Solano County LPP Component of 2012 under the Commission’s functional equivalency regulations authorized by Public Resources Code Section 21080.5, relying, in part, on information developed by the County in its General Plan EIR and LPP Negative Declaration, and hereby finds and determines that there will be no significant adverse impact on the environment brought about by the amendments; and

**Whereas**, the San Francisco Bay Conservation and Development Commission has, pursuant to Commission Regulation Sections 11202 through 11208:

1. Circulated copies of the Solano County LPP Component amendment to interested parties on October 5, 2012, and pursuant to Commission Regulation 11202, requested comments regarding the proposed amendment and their consistency with the Suisun Marsh Preservation Act and *Suisun Marsh Protection Plan* by November 19, 2012;



2. Published a notice of the availability of the local protection program amendments for public inspection at the Commission office in local newspapers, as required by Commission Regulation Section 11202(b);

3. Distributed the staff report and preliminary recommendation to all agencies, organizations and individuals interested in the proposed amendments on November 30, 2012;

4. On December 6, 2012, held a public hearing on the proposed amendment, as required by Commission Regulation Section 11205; and

5. Prepared a staff recommendation that: (1) responds to all comments; (2) recommends either to certify or refuse to certify the proposed amendments; and (3) includes a draft resolution of certification or a resolution of refusal to certify and distributed the recommendation at least six days prior to the Commission meeting.

**Now, Therefore, Be it Resolved That,** the San Francisco Bay Conservation and Development Commission hereby certifies that Solano County's amendment of the Solano County Local Protection Program Component described in Solano County Resolution No. 12-170, conforms to California Public Resources Code Sections 29000 through 29612, and the *Suisun Marsh Protection Plan*.

**Be it Further Resolved That,** the San Francisco Bay Conservation and Development Commission authorizes the Executive Director to make minor, non-substantive editorial changes to this resolution under the California Administrative Procedures Act.

We certify that this resolution was adopted by a vote of \_\_\_ "yes" votes, \_\_\_ "no" votes and \_\_\_ abstentions at the Commission meeting held on January 17, 2013 at Oakland, California.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2013 at \_\_\_\_\_, California

\_\_\_\_\_  
R. ZACHARY WASSERMAN  
Chairman

\_\_\_\_\_  
LAWREENCE J. GOLDZBAND  
Executive Director