



A Tradition of Stewardship
A Commitment to Service

Department of Public Works

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Steven E. Lederer
Director

October 11, 2013

Mr. Charlton Bonham, Director
Department of Fish and Wildlife
1416 Ninth St, 12th floor
Sacramento, CA 95814

Dear Mr. Bonham,

I am writing to communicate to you Napa County's (County) concerns regarding the Department of Fish and Wildlife's (DFW) Napa Salt Plant Site restoration project. Our concerns relate to DFW's failure to implement the project as described in the permits for that project and as expressly agreed to by DFW. Specifically, the County is concerned about the failure of DFW to create an upland area in a portion of pond 10 immediately adjacent to the Napa County Airport (Airport), in order for the County to be able to develop a Runway Safety Area (RSA) for the Airport, and for the Napa County Regional Park and Open Space District (NCRPOSD) to be able to develop a section of the Napa River and Bay Trail.

The restoration project as proposed in 2005 raised serious concerns about a possible increase in bird strikes at the airport. After the County and the Federal Aviation Administration expressed these concerns, DFW agreed to raise the elevation of an approximately 7 acre portion of pond 10, the closest pond to the airport, to an upland condition so that the County could later complete the construction of a Runway Safety Area. This was done to mitigate for the increased potential of bird strikes at the foot of the runway. This agreement was reflected in the project description included in the Draft EIR issued in 2006.

As initially designed, DFW's project would have also precluded the construction of a section of the Napa River and Bay Trail around pond 10 north of Green Island Road. The Final EIR in November of 2006 rejected requests by Napa County, NCRPOSD, City of American Canyon, City of Napa, Association of Bay Area Governments and others to include this section of the planned Napa River and Bay Trail.

However, when reviewing DFW's application to the Bay Conservation and Development Commission (BCDC), BCDC's Design Review Board recommended including the Napa River and Bay Trail as part of the project. Based on this recommendation, DFW agreed in a letter to BCDC dated July 9, 2007 to include the trail in the project description for the permit to be issued by BCDC. DFW's letter indicated the U.S. Fish and Wildlife Service concurred with this decision to include the trail.

Based on the revisions by DFW to the project description, the County supported DFW's application to BCDC. Since that time, NCRPOSD has continued to support DFW's restoration project. For example, NCRPOSD supported DFW's application to secure funding for the restoration project from the American Recovery and Reinvestment Act, through a letter dated March 25, 2009 to the National Oceanographic and Aeronautics Administration. NCRPOSD has also borne all of the financial and

administrative burden of constructing and managing 2.1 miles of the Class I Napa River and Bay Trail on the interior levees of the Salt Plant Site south of Green Island Road, thus assisting DFW with their required public access.

In September of 2007 the U.S. Fish and Wildlife Service issued their Biological Opinion on the project. This Opinion included both the Runway Safety Area and the Napa River and Bay Trail north of Green Island Road. The Army Corps of Engineers on May 13, 2008 issued their permit authorizing fill related to the project; this authorization specifically included authorization to fill a portion of pond 10 to create an upland area to be used for the Runway Safety Area.

Unfortunately, DFW did not construct the promised upland area needed for the RSA. DFW's justification for not constructing the upland area is that sufficient on-site fill did not exist, and no funds were available to import soil. While this is a common problem with construction projects, for DFW to simply ignore its obligations to perform the required mitigation, particularly when it involves a basic Airport safety issue, is unacceptable to the County.

When DFW decided to not finish the construction of the upland area for the Runway Safety Area, an additional problem was uncovered. Due to DFW's submittal of an erroneous map to BCDC, the trail alignment shown in the BCDC permit had been incorrectly described as traveling between the runway and the Runway Safety Area on an existing levee, rather than around the perimeter of the Runway Safety Area furthest from the runway. The correct alignment had been indicated by NCRPOSD in the draft EIR comment letter and associated map dated March 21, 2006, but for some reason DFW submitted an older, incorrect map to BCDC. Thus, in addition to posing a public safety threat, DFW's failure to construct the upland area also precluded construction of the section of Napa River and Bay Trail around pond 10. Because of this error, DFW determined that additional environmental review was needed before any trail could be built.

.After learning that DFW did not intend to complete the promised upland area needed for the RSA and the trail, NCRPOSD worked with the Bay Trail Project and the State Coastal Conservancy to fund planning work by DFW and Ducks Unlimited to design a new perimeter levee around the north and west sides of what was intended to be the Runway Safety Area; this new levee would both enable the RSA area to be removed from tidal influence, as well as provide the upland location for the trail. DFW agreed to this plan, and stated that based on informal conversations, the proposed additional work would not be problematic from a U.S. Fish and Wildlife perspective. The grant was approved in 2010.

Unfortunately, despite receiving the grant to prepare the remedial plan and any necessary additional environmental review, over the next two years very little planning work was actually done by DFW and Ducks Unlimited. Late in 2012 DFW requested a permit amendment from BCDC. At the BCDC meeting the County, NCRPOSD, the Bay Trail Project, City of Napa, City of American Canyon and others requested that BCDC require DFW to fulfill it's commitments to the RSA and the trail. As a result BCDC assigned its enforcement staff to work with DFW and interested parties, and extended the permit for one year to give DFW time to complete the project as approved.

A meeting of all the stakeholders was held on March 6, 2013, where agreement was reached on an action plan to complete the necessary additional environmental review. Unfortunately, because of DFW's delays, by then five years had passed since DFW had filled the RSA to a condition as tidal wetland rather than an upland condition. As a result, recently DFW has received letters from the U.S. Fish and Wildlife Service and the Army Corps of Engineers stating they will not approve any fill for the proposed trail. Their reasoning is that the proposed alignment would take the trail through the middle of a tidal marsh that is now habitat for salt marsh harvest mice. They do not appear to have taken into consideration that, if DFW had completed the restoration project as proposed and permitted, the proposed alignment would not be through tidal wetland, but in fact on the edge of upland.

Over the eight years since the project was first before the public for comment, there are many more details and twists and turns than are summarized above. The bottom line, however, is that DFW's Yountville office has violated its commitments to the County and other public and non-profit partners, and this has resulted in a potentially serious risk to public safety.

With this letter, we wish to formally request that the Department of Fish and Wildlife do whatever it takes to add sufficient fill to raise the Runway Safety Area to an upland condition, so that we may complete construction of the RSA, and allow NCRPOSD to complete the construction of the trail north of Green Island Road.

The new wetland created by your department represents a serious public safety threat to the future operation of the Airport which cannot remain unabated. Failure to properly create an upland area that allows construction of the public access trail also undermines the County's efforts to create opportunities for public recreation through the development of public trails, as called for in the County's adopted General Plan, the Napa County Transportation Planning Agency's adopted Bicycle Master Plan, the Napa County Regional Park and Open Space District's adopted Master Plan, and the Bay Conservation and Development Commission's permit #8-04.

Please respond by December 2, 2013, with your Department's plan and timing as to how these items will be corrected. Should your department fail to respond with an adequate plan to address these issues, the matter will be referred to Napa County Counsel and the Napa County Board of Supervisor for further action.

We are open to meeting with you again if that will facilitate progress on the project.

Regards,



Steven E. Lederer
Director of Public Works

cc: Ande Bennett, BCDC
Brad McCrea, BCDC
BCDC Board of Commissioners
Napa County Board of Supervisors
Minh Tran, Napa County Counsel
John Woodbury, NCRPOSD
Maureen Gaffney, San Francisco Bay Trail Project
Betsy Wilson, State Coastal Conservancy
State Senator Lois Wolk
Tracy Krumpfen, Office of Senator Wolk
State Assemblymember Mariko Yamada

