

# **Appendix A**

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## **Public Meeting Transcript**

## **Cargill Mixed Sea Salt Processing and Brine Discharge Project**

East Bay Dischargers Authority

Public Meeting on the Draft EIR

### **Description:**

Public meeting to provide information and solicit public comments on the Draft Environmental Impact Report for the Cargill Mixed Sea Salt Processing and Brine Discharge Project in Alameda, California.

### **Date/Time:**

January 24, 2023, 6:00 p.m. via Zoom

### **Transcription**

1

00:00:17.860 --> 00:00:24.259

Jackie Zipkin, EBDA: Welcome everyone. We're just gonna wait one more minute to see if anyone else joins, and then we'll get started.

2

00:01:31.770 --> 00:01:44.139

Jackie Zipkin, EBDA: Alright. Well, it's 6:02. We have a handful of attendees, so I think we can go ahead and get started, and hopefully, anyone else who joins will catch up.

3

00:01:44.150 --> 00:02:07.589

Jackie Zipkin, EBDA: So, welcome everyone to the Draft EIR public meeting for the Cargill Mixed Sea salt Processing and Brine Discharge Project. My name is Jackie Zipkin. I am the general manager of the East Bay Dischargers Authority, or EBDA, and we are the Lead Agency for this project. Next slide, please.

4

00:02:07.630 --> 00:02:30.759

Jackie Zipkin, EBDA: So, as it says, we're the Lead Agency. We have hired Ascent Environmental to conduct this environmental impact assessment and develop the report for us. And Andrea Shephard and Jamie Kirchner from Ascent will be presenting today to walk you all through the project.

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00:02:30.770 --> 00:02:49.330

Jackie Zipkin, EBDA: If you have any technical questions, you can put them into the Q&A. I believe the chat is disabled for the Webinar, so you can reach out to us via the Q&A box, and we'll do our best to get back to you. With that I'm going to hand it over to Andrea.

6

00:02:51.060 --> 00:03:10.600

Andrea Shephard: Next slide, please. Thank you. Hi, everyone. My name is Andrea Shephard. I am the Project Manager on this project for Ascent Environmental working on behalf of EBDA, East Bay Dischargers Authority, preparing the Environmental Impact Report to comply with CEQA, the California Environmental Quality. Act. So, thank you everyone for attending today.

7

00:03:11.040 --> 00:03:28.979

Andrea Shephard: The presentation is being recorded that will help facilitate a transcript of the comments. As the point of this meeting is to hear oral input on the project and get your comments on the Draft EIR.

8

00:03:29.100 --> 00:03:52.120

Andrea Shephard: During the presentation, all the video cameras for participants will be off, as will your microphones. They'll be muted. At the end of the meeting, after the presentation, we will provide an opportunity for you to raise your hand, and you'll be unmuted to provide oral comments, and you'll each have 3 minutes to provide oral comments.

9

00:03:52.160 --> 00:04:07.390

Andrea Shephard: Written comments are encouraged, and even if you give oral comments today, we ask that you submit them in writing as well. Written comments will be accepted by mail or email, and we'll provide the contact information at the end of the presentation.

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00:04:07.450 --> 00:04:14.780

Andrea Shephard: The public comment period is open until February 17 until 5 p.m.

11

00:04:15.090 --> 00:04:49.369

Andrea Shephard: If, during the presentation you have questions, you need clarification on the project, or you have questions about how to use Zoom, it's not working for you, please use the Q&A feature at the bottom of your screen to type in a comment and we will do our best to address them. If your comment is a technical nature in terms of the EIR and the analysis, we will be accepting those comments today, but we won't be responding to those comments. Those comments will be responded to in the Final EIR.

12

00:04:50.480 --> 00:05:04.239

Andrea Shephard: And this presentation is available on EBDA's website at this URL here. We'll have this up again at the end of the presentation as well. This is also where you can find a copy of the Draft EIR.

13

00:05:04.980 --> 00:05:11.919

Andrea Shephard: Next slide, please. Jamie, why, don't you walk them through how to use the Zoom features?

14

00:05:12.830 --> 00:05:25.089

Jamie Kirchner: Hello! As Jackie and Andrea mentioned, the chat will be turned off. We will be using the Q&A feature at the bottom of your screen for all comments and questions. Or if you have any Zoom issues that you need assistance with.

15

00:05:25.790 --> 00:05:33.990

Jamie Kirchner: If you are on a desktop and using the web version of Zoom, you're going to find the Q&A at the bottom of your screen. You can see on the image below.

16

00:05:34.150 --> 00:05:45.710

Jamie Kirchner: If you are using your mobile phone, you're going to have to click the three dots for the more options to get access to the Q&A. And to ask a question to submit it that way. Thank you.

17

00:05:48.790 --> 00:06:05.999

Andrea Shephard: All right. So, we're going to begin the presentation with some background on EBDA and Cargill, the project proponent. And then we'll go over a description of the proposed project, and then we'll spend some time on the environmental review process and going over the conclusions of the Draft EIR.

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00:06:06.160 --> 00:06:15.030

Andrea Shephard: Once we've completed that we will open it up for receiving comments. And again, we're looking for comments on the adequacy of the EIR analysis.

19

00:06:15.690 ---> 00:06:30.020

Andrea Shephard: Please note that EBDA will not be making any decisions on the project today. There'll be no consideration or action at today's meeting. That will happen after the Final EIR is published. Next slide, please.

20

00:06:32.030 --> 00:06:35.610

Andrea Shephard: So, we'll begin with some project background. Next slide.

21

00:06:53.680 --> 00:07:02.329

Andrea Shephard: First, I wanted to introduce you to East Bay Dischargers Authority in a little bit more detail. East Bay Dischargers Authority, or you'll hear me use EBDA throughout the rest of this meeting, is a joint powers public agency, consisting of five local agencies. They include the City of San Leandro, Oro Loma Sanitary District, Castro Valley Sanitary District, City of Hayward, and Union Sanitary District.

22

00:07:02.790 --> 00:07:32.359

Andrea Shephard: EBDA manages treated effluent from the member agencies as well as the Livermore-Amador Valley Water Management Agency, which is the blue line that you see on the figure. It manages the treated effluent from these agencies, and discharges it through a common outfall and diffuser into a deep water portion of San Francisco Bay. It does this under a National Pollutant Discharge Elimination System Permit, or NPDES permit.



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00:07:32.800 --> 00:08:04.660

Andrea Shephard: As far as the components of EBDA's system, it consists of three effluent pump stations, a dechlorination facility, which is up near where the outfall. Sorry, number one on the figure is the dechlorination facility. And then also the combined effluent pipeline or force main, and the outfall itself. So those are the main components that are owned and operated by EBDA. Next slide, please.

24

00:08:06.490 --> 00:08:29.820

Andrea Shephard: Now, Cargill, is the project proponent for this project. Cargill operates a solar sea salt production facility in Newark, adjacent to the San Francisco Bay. Cargill's solar salt system is separated from the Bay and from local streams and flood control channels by a system of earthen berms with outboard berms abutting the Bay sloughs and tidal marshes.

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00:08:29.880 --> 00:08:48.909

Andrea Shephard: The berms enclose salt ponds, and these were built for the exclusive purpose of producing salts, namely, sodium chloride and a concentrated magnesium chloride brine, also known as liquid bittern. And it does this through a solar evaporation process using these shallow ponds.

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00:08:50.090 --> 00:09:01.930

Andrea Shephard: The solar salt production process begins with the intake of Bay water, which enters Cargill's system through pumps or tide gates. The Bay water is generally taken into the system during the high tides in the dry months.

27

00:09:02.080 --> 00:09:18.029

Andrea Shephard: And once in the salt production process, the Bay water becomes known as brine, and the brine is moved through a series of sequential concentrators or concentrator ponds until it reaches a concentration close to the point where the sodium chloride will precipitate out.

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00:09:19.070 --> 00:09:28.089

Andrea Shephard: Siphons, pipelines, and brine channels allow the brine to be moved through the system and under sloughs, and the Bay, as well as under infrastructure, such as roadways.

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00:09:28.410 --> 00:09:54.799

Andrea Shephard: When the brine reaches saturation, it is transferred to crystallizer ponds, where the sodium chloride precipitation occurs, and can then be harvested from the beds. After the remaining brine in those ponds is removed. The remaining brine continues through the salt production process, where further sodium chloride may be recovered and liquid bittern, that concentrated magnesium chloride brine, is harvested for production of other commercial products.

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00:09:55.650 --> 00:10:14.919

Andrea Shephard: The remaining brine also contains other salts, though, that are present in Bay water, namely magnesium sulfate, and additional sodium chloride and magnesium chloride. And if you weren't aware, magnesium sulfate's also known as Epsom salts. And these additional salts are referred to as mixed sea salts.

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00:10:15.250 --> 00:10:29.609

Andrea Shephard: The mixed sea salts are precipitated in two ponds, Ponds 12 and 13, which are shown in the green, the aqua green color in the figure. And they're precipitated out in those two ponds during the processing of the liquid bittern.

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00:10:30.900 --> 00:10:43.490

Andrea Shephard: Cargill generates mixed sea salts at a rate of approximately 60,000 tons per year in those two ponds, and there are currently approximately 6 million tons of mixed sea salts stored in those two ponds.

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00:10:44.490 --> 00:11:07.609

Andrea Shephard: Now Cargill is concerned that over time the berms containing this mixed sea salt inventory could be overtopped and/or fail from increased wind and wave action triggered by sea level rise, and that could release high salinity brine into the Bay. And that's the main driver for this project. Next slide, please. Next slide.

34

00:11:08.460 --> 00:11:44.010

Andrea Shephard: So, the proposed project. Basically the proposed project is going to use an innovative technology developed by Cargill to enhance the extraction of additional liquid bittern from the mixed sea salt inventory at Cargill's solar salt facility that would then dissolve the residual mixed sea salts in Bay water to produce more brine that could then be pumped into EBDA's system, EBDA's combined, effluent conveyance system, where it would be blended and diluted with the EBDA member effluent, Member Agency effluent, and then discharge back into the Bay in accordance with EBDA's NPDES permit.

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00:11:44.680 --> 00:12:06.560

Andrea Shephard: So, in the event of a future berm failure, or overtopping primarily, because the berms are maintained. But with overtopping from increased wind and wave action, triggered by sea level rise, removing the MSS salts stored in the pond, would reduce the potential for release of high salinity brine into San Francisco Bay. Next slide, please.

36

00:12:09.130 --> 00:12:26.640

Andrea Shephard: So, the project itself has two sets of components, what we like to refer to as on-site components, which are those facilities that are being constructed at Cargill's solar salt facility, and then

an off-site component, which is the mixed sea salt brine transport pipeline, which I'll talk about in a minute.

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00:12:26.700 --> 00:13:06.470

Andrea Shephard: But I just wanted to briefly cover the new facilities at the solar salt facility. The crystallized sea salts in the bay muds in Pond 12 would be dissolved using Bay water that is pumped from a new pump station on Plummer Creek to a new dissolution water pond at the north end of Pond 10. And then a new dissolution water pump station, adjacent to the new Plummer Creek pump station would pump that water through a new distribution system into an innovative micro-trenching system installed in Pond 12 to start out with, to dissolve the mixed sea salts that have crystallized in that pond.

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00:13:07.500 --> 00:13:27.080

Andrea Shephard: Then the additional liquid bittern would be recovered from the salts that have been dissolved, basically. They would be recovered from the pond and pumped into the other pond, Pond 13, where they could be further processed and the liquid bittern could be harvested.

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00:13:27.390 --> 00:14:09.389

Andrea Shephard: Then, after Pond 12 is harvested or processed, the micro-trenching system would be installed in Pond 13, and the process would be repeated, and then the additional liquid bittern would be pumped back over to Pond 12 where it would be further processed and harvested. The remaining brine, after the processing of each pond, would be pumped using a new pump station, a mixed sea salt brine pump station installed adjacent to each of the ponds. And those pumps would pump the brine into a new pipeline that would carry the brine, the mixed sea salt brine, to EBDA's system. Next slide, please.

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00:14:12.570 --> 00:14:31.020

Andrea Shephard: So, this figure here shows the route that the pipeline would take to get to EBDA's system. We have the Newark facility down at the bottom of the map and we have the Oro Loma Sanitary District's water pollution control plant up near the top of the figure.

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00:14:31.670 --> 00:14:58.729

Andrea Shephard: It would be a 14-inch brine transport pipeline that would be constructed and extend north, primarily along roadway rights-of-way for approximately 15.6 miles, again connecting the solar salt facility to the Oro Loma Effluent Pump Station just beyond the Oro Loma Sanitary District/Castro Valley Sanitary District's water pollution control plant in San Lorenzo, which is up at the north end of the map.

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00:14:59.790 --> 00:15:27.200

Andrea Shephard: Based on the current design, the transport pipeline would be located within portions of Thornton Avenue, Paseo Padre Parkway, Ardenwood Boulevard, Union City Boulevard, Hesperian Boulevard, Eden Shores Boulevard, Marina Drive, Industrial Boulevard, Lombard Avenue, Arden Road,

Corporate Avenue, Investment Boulevard, Production Avenue, Clawiter Road, West Winton Avenue and Corsair Boulevard. That's the route that is being proposed.

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00:15:28.240 --> 00:15:55.439

Andrea Shephard: And the brine transport pipeline would tie into this combined effluent system immediately downstream of the plant at the OLEPS, or the Oro Loma Effluent Pump Station. And that's where it would be combined with treated effluent from the other agencies, and then discharged back into EBDA's conveyance system and out to the discharge point in the Bay, the outfall. So that is the proposed project. Next slide, please.

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00:15:57.780 --> 00:16:08.149

Andrea Shephard: Now I'd like to talk a little bit about the environmental review process and provide our conclusions from the Draft EIR, or summarize them at least. Next slide, please.

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00:16:12.140 --> 00:16:42.910

Andrea Shephard: So, first off, this is the Environmental Impact Report that we prepared under the California Environmental Quality Act, or CEQA. CEQA provides information to the public and decision makers about the potential significant environmental impacts of a project. It identifies ways to avoid or reduce significant impacts, and it does not require that projects with significant impacts be denied if the lead agency finds there are economic, social, or other conditions that would justify project approval. Next slide, please.

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00:16:47.030 --> 00:17:06.869

Andrea Shephard: So, EBDA has determined that an environmental impact report needed to be prepared because there could be a potential for significant impacts of the project. The EIR describes all phases of the project, including construction and operations. It identifies the potential physical, environmental, or physical impacts on the environment.

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00:17:07.740 --> 00:17:12.380

Andrea Shephard: And it recommends feasible mitigation measures that would reduce potentially significant impacts.

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00:17:12.460 --> 00:17:19.170

Andrea Shephard: It also identifies alternatives that may reduce one or more significant impacts of the project, as required under CEQA.

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00:17:20.390 --> 00:17:39.320

Andrea Shephard: CEQA requires EIRs to describe a range of reasonable alternatives to a project or to the location of a project, which would feasibly attain most of the basic objectives of a project, but would

avoid, or substantially lessen any of the significant effects of the project, and then evaluate the comparative merits of the alternatives.

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00:17:40.320 --> 00:17:51.379

Andrea Shephard: CEQA also requires that a No Project Alternative be considered, and that allows decision makers to compare the impacts of approving a proposed project with impacts of not approving the project.

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00:17:52.980 --> 00:18:14.799

Andrea Shephard: Once the EIR is prepared, it is put out for public review, which is the part of the process we are in now. And then comments are responded to, and a Final EIR is prepared. The Final EIR has to be certified to complete the CEQA process. But certification of the EIR does not indicate project approval. That's a separate decision.

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00:18:17.570 --> 00:18:37.830

Andrea Shephard: And again, I just want to reiterate that identification of significant impacts of a project does not require that a project be denied. If EBDA finds that economic, social, or other overriding considerations would justify approval, the project may still be approved. Next slide, please.

53

00:18:40.810 --> 00:18:46.079

Andrea Shephard: So, this slide describes the EIR process, which I've kind of alluded to already a little bit.

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00:18:46.110 --> 00:18:58.229

Andrea Shephard: The first part of the process is to issue a Notice of Preparation that an EIR is going to be prepared. That was done back in May of 2022, we issued an NOP, or Notice of Preparation.

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00:18:58.280 --> 00:19:08.669

Andrea Shephard: And then we issued a revised Notice of Preparation, based on some changes in the alignment for the MSS brine pipeline. We issued that revised NOP on July 8.

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00:19:09.300 --> 00:19:18.019

Andrea Shephard: That went out to responsible agencies, interested parties, and organizations, as well as individuals that could have an interest in the proposed project.

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00:19:19.100 --> 00:19:26.360

Andrea Shephard: The purpose of the NOP was to provide notification, as I mentioned, and to solicit input on the scope and content of the EIR.

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00:19:28.970 --> 00:19:42.840

Andrea Shephard: EBDA also held an online public scoping meeting, similar to this, on June 1 to inform interested parties about the project and to provide an opportunity to provide oral input on the scope and content of the EIR.

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00:19:43.960 --> 00:19:54.069

Andrea Shephard: The Draft EIR then was prepared and has been issued. It was released on January 4, and is available at the web address shown here on the slide.

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00:19:56.530 --> 00:20:01.819

Andrea Shephard: That EIR takes into account the comments that we received during the scoping process.

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00:20:01.900 --> 00:20:07.680

Andrea Shephard: And it's out for a 45-day public review period, which again ends on February 17.

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00:20:07.980 --> 00:20:16.220

Andrea Shephard: Today we're conducting the public meeting to provide an opportunity for oral input, but you will have until February 17 to provide written comments.

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00:20:16.580 --> 00:20:38.900

Andrea Shephard: Once the written comments are received, we will prepare a Final EIR, which will respond to all of the comments received on the Draft EIR, and that document will be issued, and then Cargill will consider the Final EIR and make a decision on the project, whether to approve or deny the project. Next slide, please.

64

00:20:41.750 --> 00:20:53.999

Andrea Shephard: So, this slide just summarizes the issue areas that were scoped out of the Draft EIR. They were not addressed in detail in the Draft EIR based on the scoping process. Next slide, please.

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00:20:58.600 --> 00:21:05.210

Andrea Shephard: And this slide summarizes the resource topics that were addressed in detail in the EIR.

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00:21:05.850 --> 00:21:16.470

Andrea Shephard: Those identified in bold, a blue bold, those issue areas were issues where we found that the project could have at least for one potential impact that could be significant and mitigation was identified and included in the EIR that would reduce that impact to a less-than-significant level.

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00:21:30.400 --> 00:21:38.369

Andrea Shephard: There was one resource area, noise in particular, construction-related noise effects, that was found to be significant, not avoidable.

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00:21:38.490 --> 00:21:54.570

Andrea Shephard: Because of the proximity of sensitive receptors to the pipeline alignment, we found that it would not be possible to reduce the noise levels during construction below the local ordinance requirements.

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00:21:54.890 --> 00:22:07.060

Andrea Shephard: And that impact was considered significant and unavoidable even after implementation of mitigation measures that are identified in the EIR. Next slide, please.

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00:22:09.480 --> 00:22:25.230

Andrea Shephard: As I mentioned before, CEQA also requires evaluation of alternatives. We evaluated three alternatives in the EIR, the No Project Alternative, which is required, as I mentioned, and then two other action alternatives.

72

00:22:25.630 --> 00:22:46.530

Andrea Shephard: The No Project Alternative essentially would not construct the project, and would be the status quo. EBDA would continue to operate as it is currently operating and the solar salt facility, Cargill's facility, would continue to operate as it's currently operating and continue to increase its inventory of mixed sea salts.

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00:22:46.820 --> 00:22:56.900

Andrea Shephard: There would be no construction impacts, therefore, because there would be no construction. But this project obviously would not meet any of the project objectives.

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00:22:58.220 --> 00:23:08.029

Andrea Shephard: The In-Pipe Alternative, or Alternative 1, is the pink and blue that you see here on the figure.

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00:23:10.080 --> 00:24:00.650

Andrea Shephard: This alternative would use a combination of new pipeline and existing EBDA pipeline. It assumes a shorter route for the mixed sea salts brine transport pipeline, 7 and a half miles of new pipeline. That is the pink from the solar salt facility up to what is the Alvarado Treatment Plant. And at that point, or just north of there, the pipeline would connect to EBDA's system just downstream of the Alvarado Treatment Plant in Union City, rather than up at the north end at the Oro Loma Plant, so it

would connect in much sooner and it would require less construction of pipeline. However, this alternative would require the installation of 4 miles of slip liner in EBDA's system.

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00:24:00.690 --> 00:24:17.229

Andrea Shephard: That's the blue length. The solid blue length, that is. Because that part of the system would have a greater potential for corrosion due to introduction of the brine into their pipeline.

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00:24:18.460 --> 00:25:12.890

Andrea Shephard: Alternative 1 would result in some impacts that are greater than those of the project, including greater potential to disturb known archaeological resources and special-status species, release of pollutants if the site was inundated, and so on. But most of the impacts under this alternative would be reduced compared to the proposed project. For example, there'd be a reduced degree of construction and excavation, and therefore, less potential to result in water quality impacts and things like that. And less emissions of air pollutants, and so forth. It would also have a reduced construction related noise impact compared to the proposed project. But it would still exceed the thresholds, and would still have a significant and unavoidable impact related to noise. It's just that there would be less opportunity.

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00:25:14.570 --> 00:26:29.160

Andrea Shephard: The Bayside Parallel Pipe Alternative assumes approximately 17 miles of new MSS brine transport pipeline that would travel along the edges of Cargill salt ponds instead of the 16-mile route along roadways. Because the pipelines under this alignment will be located farther away from urban areas under this alternative, there'd be fewer sensitive receptors that would be exposed to noise during construction and the public would be exposed to fewer safety hazards. But even with mitigation, the construction-related noise and vibration would remain significant and unavoidable under this alternative as well. Additionally, the higher degree of construction and excavation required under this alternative would have a higher potential to impact sensitive habitat. Obviously it's going through the marshes. So that's a concern. And it would also, because it's going through the marshes, it would require a much more involved permitting process, which is less desirable. Next slide, please.

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00:26:31.760 --> 00:26:45.739

Andrea Shephard: So now let's talk about the public input process, and then we can open it up to public comments. How do you provide comments today and/or prior to the end of the comment period?

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00:26:45.930 --> 00:27:43.900

Andrea Shephard: Again, you can provide oral comments today by raising your Zoom hand. Or if you're on the phone you can press Star 9. You can enter written comments into the Zoom chat or the, sorry, I should say the Zoom Q&A. Not the chat. Or you can mail or email written comments by 5 p.m. on February 17, to Jackie Zipkin at the address shown here, and her email address is also shown here. Her address is East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, California, 94580. Please make those mailed comments to the attention of Jackie Zipkin, General Manager. Or you can email your comments to Jackie Zipkin. That's [jzipkin@EBDA.org](mailto:jzipkin@EBDA.org). Next slide, please.



81

00:27:46.050 --> 00:27:56.370

Andrea Shephard: So, before we begin, just a few more instructions. We want to make sure that you clearly state your name and organization before you begin your comment.

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00:27:56.700 --> 00:27:59.329

Andrea Shephard: Please remember that comments are being recorded.

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00:27:59.630 --> 00:28:04.769

Andrea Shephard: And please focus your comments on the adequacy of the environmental analysis.

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00:28:05.700 --> 00:28:13.910

Andrea Shephard: We won't be responding to those comments during today's meeting. We will respond to those as part of the Final EIR.

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00:28:14.120 --> 00:28:21.979

Andrea Shephard: And each commenter will have 3 minutes, and we'll have a timer, and Jamie is going to explain that now. Next slide, please.

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00:28:24.650 --> 00:28:45.170

Jamie Kirchner: As a reminder, if you would like to raise your hand, you will see at the bottom of the screen there is a raised hand, if you're on the desktop. Once it's your turn to speak, we will announce your name, and you will see a box pop up that says the host would like you to unmute your microphone. You can go ahead and press the unmute button and then give your comments.

87

00:28:47.100 --> 00:29:07.350

Jamie Kirchner: If you're calling in by phone, please press Star 9 to raise your hand. Listen for your phone number to be called out, and then you will hear a message, the host would like you to unmute your microphone. You can press Star 6 to unmute. After you're done giving your comments, you can press Star 6 to re-mute yourself.

88

00:29:07.460 --> 00:29:16.330

Jamie Kirchner: Please limit comments to 3 minutes. There will be a warning sound at 30 seconds and 10 seconds remaining, and then you'll be muted after 3 minutes.

89

00:29:32.670 --> 00:29:35.840

Andrea Shephard: I don't see anyone raising their hand, do you, Jamie?

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00:29:35.920 --> 00:29:39.030

Jamie Kirchner: No, there's nobody currently raising their hand.

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00:29:43.480 --> 00:29:49.970

Andrea Shephard: The person on the phone. Are you able to unmute them just in case they have a comment they're having trouble.

92

00:29:50.400 --> 00:29:58.839

Jamie Kirchner: Yes, the phone number ending in 0 0 0 6 has been asked to unmute if they would like to give a comment.

93

00:30:09.010 --> 00:30:19.799

Andrea Shephard: Okay, well, we'll just give it one more minute, and if there are no comments, we can close the meeting, and we look forward to receiving your written comments by February 17.

94

00:30:20.220 --> 00:30:25.250

Andrea Shephard: So, let's just hold on for another minute, give people time to collect their thoughts.

95

00:30:55.630 --> 00:31:05.030

Andrea Shephard: Well, I don't think anyone is looking to provide comments to day, Jamie, so we can go to the next slide, and we'll close things out.

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00:31:05.800 --> 00:31:15.189

Andrea Shephard: Thank you, everyone, for attending today. We appreciate your time, and again we look forward to receiving your comments by February 17, at 5 p.m.

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00:31:16.890 --> 00:31:28.310

Andrea Shephard: If you have any questions, please put them in the Q&A. We'll leave the Q&A open for just a moment. And otherwise, we will adjourn the meeting. Thank you.

# **Appendix B**

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## **Comment Letters**

**From:** [Katherine Perez](#)  
**To:** [Andrea Shephard](#)  
**Subject:** Re: TIME SENSITIVE: Notice of Availability of EBDA Draft EIR and Public Meeting for the Cargill Mixed Sea Salts Processing and Brine Discharge Project  
**Date:** Thursday, January 5, 2023 7:16:25 PM

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Hello Andrea,

The tribe had a zoom meeting regarding the proposed project and, at that time, stated our concerns and recommended a Native American monitor for the project. The tribe considered it a timely response to the proposed project.

T1-1

Nototomne Cultural Preservation  
Northern Valley Yokut / Ohlone / Patwin  
Katherine Perez  
P.O Box 717  
Linden, CA 95236

-----Original Message-----

From: Andrea Shephard <Andrea.Shephard@ascentenvironmental.com>  
To: Andrea Shephard <Andrea.Shephard@ascentenvironmental.com>  
Sent: Tue, Jan 3, 2023 3:25 pm  
Subject: TIME SENSITIVE: Notice of Availability of EBDA Draft EIR and Public Meeting for the Cargill Mixed Sea Salts Processing and Brine Discharge Project

The East Bay Dischargers Authority (EBDA) has prepared a Draft Environmental Impact Report (EIR) (SCH # 2022050436) for the Cargill Mixed Sea Salts Processing and Brine Discharge Project, located in Alameda County. The Draft EIR is now available for a 45-day public review period, from January 4 to February 17, 2023. **Please see the attached Notice of Availability for additional project information and how to participate in the public review process.**

A hard-copy of the Draft EIR is available for public review at:

East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94580

The Draft EIR is also available for download and public review online at:

<https://ebda.org/projects/cargill-partnership/>.

EBDA will conduct a public meeting to present the findings from and receive comments on the Draft EIR. The public scoping meeting will be conducted online via Zoom starting at 6:00 p.m. on Tuesday, January 24, 2023; presentation will begin at 6:05 p.m. Participants must register in advance at the following link: [https://us06web.zoom.us/webinar/register/WN\\_AdmKAvFFQb2sZ1QukFxxgw](https://us06web.zoom.us/webinar/register/WN_AdmKAvFFQb2sZ1QukFxxgw). After registering, participants will receive an email confirmation with the meeting link to log into the webinar on January 24, 2023.

Interested parties are encouraged to provide comments on the Draft EIR. Please send all comments on the Draft EIR by mail or email to:

East Bay Dischargers Authority  
2651 Grant Avenue

San Lorenzo, CA 94580  
Attn: Jacqueline Zipkin, General Manager  
Phone: (510) 278-5910  
E-mail: [jzipkin@ebda.org](mailto:jzipkin@ebda.org)

Comments provided by email should include “Cargill MSS Processing and Brine Discharge Project Draft EIR Comment” in the subject line, and the name and physical address of the commenter in the body of the email. If you are from an agency that will need to consider the EIR when deciding whether to issue permits or other approvals for the project, please provide the name of a contact person.

Because of time limits mandated by State law, comments must be received by 5:00 p.m. on February 17, 2023.

**Andrea L. Shephard, Ph.D.**

**Senior Environmental Project Manager**

Senior Associate

Pronouns: she/her/hers - [Why do pronouns matter?](#)

D 916.842.3179 | C 916.396.2170

E [Andrea.Shephard@AscentEnvironmental.com](mailto:Andrea.Shephard@AscentEnvironmental.com)



Ascent Environmental, Inc  
455 Capitol Mall, Suite 300  
Sacramento, CA 95814  
O 916.444.7301



**From:** [Jacqueline Zipkin](#)  
**To:** [Alexandra.Borack@slc.ca.gov](mailto:Alexandra.Borack@slc.ca.gov)  
**Cc:** [Andrea Shephard](#); [Gary Jakobs](#); [Nicole Greenfield](#)  
**Subject:** RE: Cargill Mixed Sea Salt Processing and Brine Discharge Project (SCH #2022050436)  
**Date:** Friday, February 3, 2023 2:58:22 PM  
**Attachments:** [image002.png](#)  
[NEW PROPOSED PROJECT ALIGNMENT.kmz](#)

---

Hi Alexandra,

Thanks for reaching out. Attached is a kmz file of the latest pipeline route. Please let me know if you have any questions.

Best,

Jackie

**Jackie Zipkin, P.E.** | General Manager  
East Bay Dischargers Authority  
510.278.5910 Office | 510.206.3820 Cell  
[jzipkin@ebda.org](mailto:jzipkin@ebda.org) | [www.ebda.org](http://www.ebda.org)

---

**From:** Borack, Alexandra@SLC <[Alexandra.Borack@slc.ca.gov](mailto:Alexandra.Borack@slc.ca.gov)>  
**Sent:** Friday, February 3, 2023 10:53 AM  
**To:** Jacqueline Zipkin <[JZipkin@ebda.org](mailto:JZipkin@ebda.org)>  
**Subject:** Cargill Mixed Sea Salt Processing and Brine Discharge Project (SCH #2022050436)

Good morning,

State Lands Commission staff is reviewing the Draft EIR for the Cargill Mixed Sea Salt Processing and Brine Discharge Project, and evaluating the Commission's associated potential jurisdiction for the pipeline crossings identified in the EIR.

Does the Authority have a .kmz file that shows the Project's proposed pipeline pathway? If not, does the Authority have a .cad file instead? If either of those files could be provided to Commission staff, then we can more quickly determine whether or not the Commission has partial (or perhaps no) jurisdiction for the pipeline crossings. Without that information, staff may need to provide comments on all aspects of the Project that could potentially affect State sovereign land.

Please let me know if you have access to one of those files, and if so, how quickly it could be provided.

Many thanks,  
Alexandra

**Alexandra Borack**, Senior Environmental Scientist  
Division of Environmental Planning and Management  
100 Howe Avenue, Ste 100-South | Sacramento | CA 95825 | 916.574.2399

PRIVILEGE AND CONFIDENTIALITY NOTICE

This message and its contents, together with any attachments, are intended only for the use of the individual to whom or entity to which it is addressed and may contain information that is legally privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient of this message, you are hereby notified that any dissemination, distribution, or copying of this communication and any attachments or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, please notify me immediately at the above telephone number or return email and delete this message, along with any attachments, from your computer. Thank you.

**From:** [Jacqueline Zipkin](#)  
**To:** [Borack, Alexandra@SLC](#)  
**Cc:** [Andrea Shephard](#); [Gary Jakobs](#); [Nicole Greenfield](#)  
**Subject:** RE: Cargill Mixed Sea Salt Processing and Brine Discharge Project (SCH #2022050436)  
**Date:** Tuesday, February 14, 2023 8:08:21 PM  
**Attachments:** [image001.png](#)

Hello Alexandra,

Thank you for reaching out, and I am sorry to hear you and your family have been ill. There's certainly a lot going around. Your extension request is reasonable. Please go ahead and provide your comments by March 3.

Thank you,  
Jackie

---

**From:** Borack, Alexandra@SLC <Alexandra.Borack@slc.ca.gov>  
**Sent:** Monday, February 13, 2023 10:16 PM  
**To:** Jacqueline Zipkin <JZipkin@ebda.org>  
**Cc:** Andrea Shephard (Andrea.Shephard@ascentenvironmental.com) <Andrea.Shephard@ascentenvironmental.com>; Gary Jakobs <gary.jakobs@ascentenvironmental.com>; Nicole Greenfield <Nicole.Greenfield@ascentenvironmental.com>  
**Subject:** Re: Cargill Mixed Sea Salt Processing and Brine Discharge Project (SCH #2022050436)

Good evening Jackie,

I apologize for sending an email after hours. I was out for most of last week dealing with family illnesses and then my own, and I am still coming back up to speed.

SLC requests additional time to prepare a CEQA comment letter for the Cargill Mixed Sea Salt Processing and Brine Discharge Project. Please let me know if that is possible, and what time the Authority could accommodate. Two weeks would be greatly appreciated, but even one week would be very helpful.

Thank you for your consideration,  
Alexandra

**Alexandra Borack**, Senior Environmental Scientist

Division of Environmental Planning and Management

100 Howe Avenue, Ste 100-South | Sacramento | CA 95825 | 916.574.2399

PRIVILEGE AND CONFIDENTIALITY NOTICE

This message and its contents, together with any attachments, are intended only for the use of the individual to whom or entity to which it is addressed and may contain information that is legally privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient of this message, you are hereby notified that any dissemination, distribution, or copying of this communication and any attachments or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, please notify me immediately at the above telephone number or return email and delete this message, along with any attachments, from your computer. Thank you.

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**From:** Jacqueline Zipkin <[JZipkin@ebda.org](#)>  
**Sent:** Friday, February 3, 2023 2:57 PM  
**To:** Borack, Alexandra@SLC <[Alexandra.Borack@slc.ca.gov](#)>  
**Cc:** Andrea Shephard ([Andrea.Shephard@ascentenvironmental.com](#)) <[Andrea.Shephard@ascentenvironmental.com](#)>; Gary Jakobs <[gary.jakobs@ascentenvironmental.com](#)>; Nicole Greenfield <[Nicole.Greenfield@ascentenvironmental.com](#)>  
**Subject:** RE: Cargill Mixed Sea Salt Processing and Brine Discharge Project (SCH #2022050436)

**Attention:** This email originated from outside of SLC and should be treated with extra caution.

Hi Alexandra,

Thanks for reaching out. Attached is a kmz file of the latest pipeline route. Please let me know if you have any questions.

Best,  
Jackie

**Jackie Zipkin, P.E.** | General Manager  
East Bay Dischargers Authority  
510.278.5910 Office | 510.206.3820 Cell  
[jzipkin@ebda.org](mailto:jzipkin@ebda.org) | [www.ebda.org](http://www.ebda.org)

---

**From:** Borack, Alexandra@SLC <[Alexandra.Borack@slc.ca.gov](mailto:Alexandra.Borack@slc.ca.gov)>  
**Sent:** Friday, February 3, 2023 10:53 AM  
**To:** Jacqueline Zipkin <[jzipkin@ebda.org](mailto:jzipkin@ebda.org)>  
**Subject:** Cargill Mixed Sea Salt Processing and Brine Discharge Project (SCH #2022050436)

Good morning,

State Lands Commission staff is reviewing the Draft EIR for the Cargill Mixed Sea Salt Processing and Brine Discharge Project, and evaluating the Commission's associated potential jurisdiction for the pipeline crossings identified in the EIR.

Does the Authority have a .kmz file that shows the Project's proposed pipeline pathway? If not, does the Authority have a .cad file instead? If either of those files could be provided to Commission staff, then we can more quickly determine whether or not the Commission has partial (or perhaps no) jurisdiction for the pipeline crossings. Without that information, staff may need to provide comments on all aspects of the Project that could potentially affect State sovereign land.

Please let me know if you have access to one of those files, and if so, how quickly it could be provided.

Many thanks,  
Alexandra



**From:** [Jacqueline Zipkin](#)  
**To:** [Andrea Shephard](#); [Gary Jakobs](#); [Nicole Greenfield](#); [Diveley, Shaye](#); [Grutzmacher, Edward](#); [Gina Young](#); [Tim Oolman](#); [Drew Heise](#); [Don Brown](#)  
**Subject:** FW: Cargill Mixed Sea Salts Processing and Brine Discharge Project Draft Environmental Impact Report  
**Date:** Tuesday, February 14, 2023 8:05:01 PM

FYI

**From:** Andrea Gordon <AGordon@baaqmd.gov>  
**Sent:** Tuesday, February 14, 2023 4:05 PM  
**To:** Jacqueline Zipkin <JZipkin@ebda.org>  
**Cc:** Alison Kirk <AKirk@baaqmd.gov>  
**Subject:** Cargill Mixed Sea Salts Processing and Brine Discharge Project Draft Environmental Impact Report

Dear Jacqueline Zipkin:

We received the Draft Environmental Impact Report (DEIR) for the Cargill Mixed Sea Salts Processing and Brine Discharge Project (Project). We commend you for taking measures to reduce construction-related exhaust emissions. Measures such as using Tier 4 construction equipment will eliminate most construction-related exhaust emissions.

A3-1

Air District staff strongly recommend the implementation of all available on-site emission reduction measures before relying on an off-site mitigation program and want to send you additional recommendations for the development of the Project mitigation program. Please include additional on-site mitigation language in the DEIR to ensure every effort is made by the East Bay Dischargers Authority (EBDA) to exhaust all options before implementing an offsite mitigation program.

A3-2

For further emissions reduction, additional measures can be taken at the construction site, including:

- Requiring off-road construction equipment to be zero-emission, where available. This requirement should be included in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.
- Require construction on-road vehicles to operate with zero-emission engines as commercially available.
- Require or incentivize zero emission trucks for facility operations to the greatest extent feasible.
- Use grid power for construction activities whenever possible. If grid power is not

A3-3

available, use alternative power such as battery storage, hydrogen fuel cells, or renewable fuels. If no other options are available, use Final Tier 4 diesel generators.

- Prohibit trucks from idling for more than two minutes or prohibit idling altogether.
- Require electric forklifts and install associated charging stations.

**A3-3  
cont.**

While the Project includes Basic Construction Mitigation Measures, the Air District also recommends implementing all feasible and practical “Additional Construction Mitigation Measures” to reduce construction-related fugitive dust to the greatest extent possible ([Table 8-3, page 85](#)). Some examples would include, but are not limited to the following:

- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
- Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- Site access to a distance of 100 feet from the paved road shall be treated with a 6-to-12-inch compacted layer of wood chips, mulch, or gravel.

**A3-4**

In addition, the Project should incorporate measures to promote worker emission reductions. For example, VMT reduction measures for employees will greatly reduce transportation-related emissions from employees traveling to and from work. Consider implementing the following best practices included below to reduce Project impacts.

1. Implement a program that incentivizes construction workers to carpool, use EVs, or use public transit to commute to and from the site. The program may include the following features:
  - Provide a shuttle service to and from BART.
  - Provide preferential parking to carpool vehicles, vanpool vehicles, and EV's.
  - Schedule work shifts to be compatible with the schedules of local transit service.

**A3-5**

Please let me know if you have any questions or would like to discuss these recommendations.

Sincerely

*Andrea*

Andrea Gordon  
BAAQMD  
375 Beale Street  
San Francisco, CA 94105  
[agordon@baaqmd.gov](mailto:agordon@baaqmd.gov) | 415.749.4940



Letter  
A4

BOARD MEMBERS

AZIZ AKBARI  
JAMES G. GUNTHER  
JUDY C. HUANG  
PAUL SETHY  
JOHN H. WEED

43885 SOUTH GRIMMER BOULEVARD · FREMONT, CALIFORNIA 94538  
(510) 668-4200 · FAX (510) 770-1793 · [www.acwd.org](http://www.acwd.org)

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GIRUM AWOKE  
Engineering and Technology  
LAURA J. HIDAS  
Water Resources  
JONATHAN WUNDERLICH  
Finance and Administration

February 15, 2023

VIA ELECTRONIC MAIL

Jacqueline Zipkin ([jzipkin@ebda.org](mailto:jzipkin@ebda.org))  
General Manager  
East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94580

Dear Ms. Zipkin:

Subject: Draft Environmental Impact Report for the Cargill Mixed Sea Salt (MSS) Processing and Brine Discharge Project (Project).

Alameda County Water District (ACWD) is pleased to have the opportunity to review the Draft Environmental Impact Report (EIR) for the Cargill MSS Processing and Brine Discharge Project (Project). The Project proposes an innovative regional partnership approach to address project objectives. ACWD has reviewed the Draft EIR for the Project and would appreciate consideration of the following comments for the Project activities within ACWD's service area and Niles Cone Groundwater Basin:

A4-1

1. Section 2.6.5 MSS Brine Transport Pipeline: Section 2.6.5 of the Draft EIR states that the proposed MSS brine transport pipeline will be 14-inches in diameter; however, ACWD has received planning materials and improvement plans for an 18-inch high-density polyethylene (HDPE) MSS brine transport pipeline. ACWD requests that the Final EIR address any potentially significant or significant impacts related to the larger design pipeline diameter of 18 inches. ACWD requests all references to the MSS brine transport pipeline in the Final EIR include the correct design pipeline diameter.

A4-2

2. Section 1.4.2 Trustee and Responsible Agencies: ACWD appreciates the inclusion of our permit requirements in Section 3.8.1 Regulatory Setting; however, Section 1.4.2 Trustee and Responsible Agencies does not identify ACWD as a responsible agency. In addition, Section 2.6.9 Project Permits and Approvals (and ES.2.5) does not include ACWD's permitting requirements. As required by ACWD Ordinance No. 2010-01, drilling permits are required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations (including the installation of shafts, tunnels or directional boreholes, support piers, sheet piles, and dewatering wells) within the cities of Fremont, Newark, and Union City. ACWD developed Standards for the Construction, Use, Operation, Maintenance, Repair, Inactivation, or Destruction of Wells, Exploratory Holes, Other Excavations, and Appurtenances (ACWD Standards) which specifies the minimum

A4-3

requirements for permitted work on any well, exploratory hole, or other excavation. Therefore, ACWD requests that Section 1.4.2 be corrected by adding ACWD under the Regional and Local Agencies and Section 2.6.9 (and ES.2.5) be corrected to include ACWD's approval and permit requirements.

A4-3  
cont.

3. Section 3.7 Hazards and Hazardous Materials:

a) Reference is made to Mitigation Measure 3.7-4b: Prepare a Phase II ESA in the Ground Disturbance Areas in Locations Where Contamination May Be Present. ACWD requests that Mitigation Measure 3.7-4b be modified to require submittal of a work plan for any soil and groundwater sampling and analysis planned as part of a Phase II to ACWD for review and approval, per ACWD Ordinance No. 2010-01.

A4-4

b) Reference is made to Mitigation Measure 3.7-4c: Coordinate with Regulatory Agencies and Implement Appropriate Remedies, which states, "Coordination will occur with the [Regional Water Quality Control Board] RWQCB or [California Department of Toxic Substances Control] DTSC, as appropriate, regarding the necessity for and types of protective measures required during Project-related excavation activities... Such protective measures could include marking and avoiding existing groundwater monitoring wells, employing shoring and avoiding dewatering activities, installing temporary soil trench plugs... monitoring groundwater, and documenting backfill quality." Such activities also require notifications to ACWD. Please revise Mitigation Measure 3.7-4c to include ACWD in the list of agencies requiring coordination during implementation of the above-listed remedies.

A4-5

c) Mitigation Measure 3.7-4d: Incorporate Standards for Proper Excavation and Staging Activities, for Handling, Transport, and Disposal of Excavated Soils, and for Construction-Related Dewatering into the Project's Construction Specifications states, "If contaminated materials require dewatering before being hauled off-site, or if excavation would encounter shallow groundwater in the affected area(s), a dewatering plan will be prepared, specifying methods of collecting, transporting, treating, and discharging all water produced by dewatering, and demonstrating compliance with RWQCB requirements and permits." ACWD requests Mitigation Measure 3.7-4d be modified to require Project proponents coordinate development of the dewatering plan with ACWD for review and comment prior to approval.

A4-6

4. Section 3.8 Hydrology and Water Quality:

a) Groundwater Hydrology on page 3.8-12 of the Draft EIR includes a description of the Niles Cone Subbasin and states that the Subbasin is 103 square miles, which is referenced in a 2006 publication of the Department of Water Resources Bulletin 118. Bulletin 118 has been updated since that time (as recently as 2020). ACWD requests that the Final EIR include the correct area of the Subbasin, which is 107 square miles.

A4-7

- b) Most of the Project area has a perched shallow water-bearing zone(s) located within the Newark Aquiclude which sits above the regional Newark Aquifer, a drinking water aquifer utilized by ACWD. In some areas of the Niles Cone, the Newark Aquifer can be encountered as shallow as 35 feet below ground surface (bgs). Any interconnection of the shallow water-bearing zone(s) to the Newark Aquifer could have significant impact on water quality in the Newark Aquifer. As previously stated, ACWD requires drilling permits for subsurface drilling activities for wells, exploratory holes, and other excavations (including piles and directional boreholes). In order to protect the groundwater basin, ACWD requests the Final EIR include the following:
- A4-8
1. All geotechnical reports for the Project be included as an appendix to the Final EIR to support the understanding of groundwater conditions within the Project area. This information is important to support the evaluation of potential interconnection of aquifers or water-bearing zones. As stated in ACWD's Standards, annular seal requirements for shafts, tunnels, and directional boreholes will depend on the geologic setting and will be determined by the District on a case-by-case basis. Therefore, ACWD requests that Project proponents submit all geotechnical data for the Project to ACWD for review and comment and to assist in the permit approval process.
- A4-9
11. In Section 2.6.8 and in other areas of the Draft EIR it states that sheet piles would be installed up to approximately 35 feet below ground surface (bgs) which could potentially interconnect the shallow water-bearing zone and the Newark Aquifer. In addition, the Draft EIR states that trenchless drilling (e.g., horizontal drilling and micro tunneling) will occur up to 40 feet bgs in certain areas, which also may extend into the Newark Aquifer. The sheet piles and the trenchless drilling have the potential to create a possible interconnection of aquifers and water-bearing zones, which could impact groundwater quality.
- The piles, trenchless drilling, and installation of the pipeline must be constructed in a manner that will prevent the creation of a preferential pathway or interconnection of aquifers or water-bearing zones. Since groundwater is shallow within most of the Project area, ACWD requests that the Final EIR address this potentially significant impact to water quality, include appropriate mitigation measures, and include a provision requiring Project proponents coordinate piles and trenchless drilling with ACWD prior to permit application submittal. Final permitting requirements will depend on the geologic setting and will be determined by the District on a case-by-case basis per ACWD's Standards.
- A4-10
- c) The Draft EIR states that dewatering would be needed during construction activities related to the Solar Salt Facility and MSS brine transport pipeline installation. The amount of water that may be extracted by either temporary or permanent dewatering must be evaluated and documented. Alternative designs should be considered that would minimize the amount of dewatering required during and subsequent to
- A4-11

construction. Measurement of groundwater losses due to dewatering may be required and may be subject to a Replenishment Assessment fee. Mitigation Measure 3.8-2 addresses this by stating, “if discharge to a nearby well or using dewatering water for dust control in the vicinity is not feasible, then pay the appropriate replenishment assessment fee to the applicable [Groundwater Sustainability Agency] GSA to compensate for loss of groundwater from the basin.” ACWD requests that the Mitigation Measure include a provision of coordination with ACWD, as the applicable GSA, prior to beginning any construction in order to determine how the amount of dewatering will be documented.

A4-11  
cont.

d) Mitigation Measure 3.8-2 states that clean groundwater extracted during dewatering performed during construction of the MSS brine transport pipeline may be discharged “back to a nearby well, if permitted.” Please note that injection of water into any well requires approval by agencies such as the San Francisco Bay Regional Water Quality Control Board (Regional Board or RWQCB) and ACWD. As previously mentioned, ACWD requires permits for the drilling and installation of groundwater wells. Any well that is proposed to be used as an injection well must be in compliance with ACWD Ordinance No. 2010-01. Water quality testing will be required prior to approval of injection, and any water containing exceedances of primary or secondary maximum contaminant levels will not be allowed to be injected. In addition, the United States Environmental Protection Agency Underground Injection Control (UIC) Program requires that any injection well be reported in its Inventory of Injection Wells (e.g., 7520-16 Online Form). ACWD requests that Mitigation Measure 3.8-2 be modified to reflect the above review and approval information. In addition, ACWD requests that the Mitigation Measure include a provision of coordination with ACWD regarding the planned possibility of injection into the Niles Cone.

A4-12

e) Mitigation Measure 3.8-2 states that clean groundwater could be used for dust control. Any groundwater used for dust control must be measured and is subject to ACWD’s replenishment assessment fee. Therefore, Mitigation Measure 3.8-2 should also stipulate that any groundwater used for dust control or similar beneficial use is subject to ACWD’s replenishment assessment fee.

A4-13

5. Section 3.10 Recreation: Mitigation Measure 3.10-1 states that all recreational facilities would experience access interruptions during Project construction, including Don Edwards National Wildlife Refuge/Newark Slough Trail, Alameda Creek Regional Trail, and segments of the San Francisco Trail that are not within roadway rights-of-way. ACWD has groundwater monitoring wells located on the north (three wells) and south (four wells) of Alameda Creek Trail, on the west side of Ardenwood Boulevard. There are also two additional wells located in the Don Edwards National Wildlife Refuge along Marshland Road, on the west side of Paseo Padre Road. ACWD must be notified, and access coordinated ahead of trail or facilities closure because these wells are monitored by ACWD and are critical to ACWD’s management of the Niles Cone Groundwater Basin. ACWD requests Sections ES.5 and 3.8.3 and Table ES-1 be modified to require coordination with ACWD.

A4-14

6. Existing ACWD Infrastructure within the Project Area: ACWD requests that the following potentially significant impacts to existing ACWD facilities and infrastructure be addressed by the Final EIR:

a) Section 3 Environmental Impacts and Mitigation Measures: The category of “Utilities” was not included under Potential Environmental Effects in the Draft EIR. ACWD requests that “Utilities” be added to the list and evaluated as the Project may generate a potentially significant or significant impact.

A4-15

b) ACWD has water system infrastructure, including (but not limited to) water pipelines and associated appurtenances, monitoring stations, etc., located within the limits of the proposed MSS brine transport pipeline alignment. The Project may have potential impacts to existing water facilities which will require close coordination between Project proponents and ACWD. ACWD expects the Project will include accommodations for protection in place or relocation of ACWD facilities. The Project should maintain required minimum clearances from the proposed improvements to ACWD’s existing infrastructure in accordance with ACWD Standards (see ACWD’s Standard Specifications for Water Main Installation on ACWD’s website) and Regional Board requirements. Access to ACWD facilities must be maintained at all times. The Final EIR should include mitigation measures to protect this important infrastructure. In addition, this infrastructure should be included on the improvement plans for the proposed Project and protected during any construction activities. For example:

1. ACWD operates an existing 30-inch transmission pipeline (i.e., Patterson Reservoir Pipeline) in Paseo Padre Parkway and within the Patterson Reservoir access road, which is located west of Paseo Padre Parkway, between Quarry Road (north of Highway 84) and Ardenwood Creek. Contact ACWD Engineering regarding the proposed crossing(s) of the transmission pipeline. The proposed MSS brine transport pipeline alignment is anticipated to cross the ACWD 30-inch Patterson Reservoir Pipeline several times.

11. ACWD operates existing 14- to 20-inch pipelines on Paseo Padre Parkway, Ardenwood Boulevard, and Union City Boulevard in Fremont and Union City along the proposed brine transport pipeline alignment.

111. To the extent the proposed brine transport pipeline will cross numerous water service laterals, those ACWD facilities should be shown on the improvement plans and protected in place during construction.

A4-16

c) ACWD has no plans to relocate existing facilities or infrastructure for this Project. The alignment and depth of the brine discharge line should consider existing ACWD facilities and may have significant impacts to ACWD infrastructure which must be

A4-17



coordinated with ACWD and fully mitigated. Particular attention should be paid to any proposed work near or underneath existing ACWD asbestos cement pipe (ACP) water mains within the limits of the Project. No excavations or crossings under the ACP are allowed. If utility installations below the ACP are required for the Project, ACWD may replace a portion of the existing main with polyvinyl chloride (PVC) or steel pipe. Such a replacement must be done by ACWD forces at the Project proponent's expense. The Final EIR should reflect the potential need for such utility replacement work to occur and account for such work in the project plans.

**A4-17  
cont.**

- d) ACWD Facilities: ACWD recommends the Project proponent submit a request for available records pertaining to ACWD facilities located within the limits of the proposed Project alignments. In addition, the Project proponent should pothole existing ACWD facilities to confirm the exact depth and location.

1. The Project proponent should contact ACWD Engineering regarding anticipated pipeline crossings along the length of the MSS brine transport pipeline. ACWD has record drawings and geographic information system (GIS) 200-scale base maps for ACWD-owned pipelines and facilities in Fremont, Newark, and Union City along the alignment of the MSS brine transport pipeline, and improvement plans will need to be coordinated with ACWD Engineering for review and approval.

**A4-18**

7. ACWD Contacts: The following ACWD contacts are provided so that the East Bay Dischargers Authority (EBDA) can coordinate with ACWD as needed during the CEQA process:

- a) Michelle Walden, Groundwater Resources Manager, at (510) 668-4454, or by email at michelle.walden@acwd.com, for coordination regarding ACWD's groundwater resources, groundwater wells, and drilling permits.
- b) Sean O'Reilly, Development Services Manager, at (510) 668-4472, or by email at sean.oreilly@acwd.com, for coordination regarding GIS mapping, public water systems, engineering, and water service.

A4-19

Thank you again for the opportunity to comment on the Draft Environmental Impact Report for the Cargill Mixed Sea Salt Processing and Brine Discharge Project. This Project takes an interesting partnership approach to address long-term regional needs and ACWD looks forward to further coordination and learning more about future partnership opportunities.

Sincerely,



for Ed Stevenson  
General Manager

sro/al/mw

cc: Laura Hidas, ACWD  
Girum Awoke, ACWD  
Michelle Walden, ACWD  
Sean O'Reilly, ACWD  
Jonathan Wunderlich, ACWD

**From:** [Jacqueline Zipkin](#)  
**To:** [Andrea Shephard](#); [Gary Jakobs](#); [Nicole Greenfield](#); [Edward Grutzmacher](#); [Shaye Diveley](#); [Don Brown](#); [Tim Oolman](#); [Drew Heise](#); [Gina Young](#)  
**Subject:** Fwd: Comments for the Cargill Mixed Sea Salts Processing and Brine Discharge Project  
**Date:** Wednesday, February 15, 2023 3:36:02 PM  
**Attachments:** [image001.png](#)

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FYI

Begin forwarded message:

**From:** "Luo, Yunsheng@DOT" <Yunsheng.Luo@dot.ca.gov>  
**Date:** February 15, 2023 at 3:14:32 PM PST  
**To:** Jacqueline Zipkin <JZipkin@ebda.org>  
**Subject:** Comments for the Cargill Mixed Sea Salts Processing and Brine Discharge Project

Good afternoon Jacqueline,

Thank you for the opportunity to review the DEIR for the Cargill Mixed Sea Salts Processing and Brine Discharge Project. Below please find our comments for this project. Feel free to contact me if you have any questions.

**Right-Of-Way (ROW)**

Because this is a secondary non-Highway use of Caltrans ROW for the proposed pipeline locations, a ROW Use Agreement would need to be obtained along with the payment of fair market value for the use of ROW.

Thank you.

Best,

**Yunsheng Luo**

*Associate Transportation Planner, Caltrans D4*

Phone: 510-496-9285

Email: [Yunsheng.Luo@dot.ca.gov](mailto:Yunsheng.Luo@dot.ca.gov)

For early coordination and project referrals, please send it to [LDR-D4@dot.ca.gov](mailto:LDR-D4@dot.ca.gov)



February 15, 2023

Sent Via Electronic Mail Only

[jzipkin@ebda.org](mailto:jzipkin@ebda.org)

Jacqueline Zipkin  
General Manager  
East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94580-1841

Hello Ms. Zipkin,

On behalf of the City of Hayward's Public Works & Utilities Department, thank you for the opportunity to review and provide comments on the Draft Environmental Impact Report (DEIR) for the Cargill Mixed Sea Salts Processing and Brine Discharge Project.

As an agency that will need to consider the EIR when deciding to issue an encroachment permit, as well as other approvals for the project, the following City of Hayward contact information is provided:

Contact Person: Alex Ameri, Director of Public Works  
Email Address: [alex.ameri@hayward-ca.gov](mailto:alex.ameri@hayward-ca.gov)  
Mailing Address: 777 B Street, Hayward, CA 94541

We respectfully request the following comments and questions be addressed in the final version of the Environmental Impact Report:

- 1) Impact 3.7-3 indicates the MSS Brine that will be conveyed through the transport pipeline is non-hazardous. How was this determination made? Was the non-hazardous classification for this MSS brine confirmed with any regulatory agencies such as the US Environmental Protection Agency, US Occupational Safety and Health Administration, and/or the US Department of Transportation?
- 2) Regardless of whether or not the MSS brine is classified as a hazardous material, consideration should be taken for potential detrimental impacts to the environment or publicly owned treatment works resulting from accidental MSS brine discharges to storm drain, sewer, or surface water conveyances. Please include Mitigation Measures to contain and dispose of MSS brine discharged in the event of a transport pipeline failure to address Impacts 3.7-1 and 3.7-2.
- 3) Impact 3.8-2 does not address the potential for a non-planned brine discharge during operation, which could occur from a leak, pipe failure, etc. Please include Mitigation Measures to address the potential for a brine discharge during operation to violate water quality standards, waste discharge requirements, and cause degradation of surface water and groundwater quality.
- 4) Impact 3.8-3 does not address the potential impact to groundwater resulting from a brine leak from the MSS transport pipeline or spill during operation. Please include Mitigation Measures to address this scenario.



- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>5) Please provide a contingency plan within the Mitigation Measures that includes:</p> <ul style="list-style-type: none"> <li>a. Engineering controls that will be implemented to detect leaks (pressure monitoring, visual inspection etc.)</li> <li>b. How leak locations would be determined if no visible or above-ground evidence were present</li> <li>c. How the brine transport pipeline would withstand seismic events</li> <li>d. How the brine transport pipeline would be isolated in segments to minimize the volume spilled</li> <li>e. How a brine spill or leak would be cleaned up to restore the environment to a pre-project state including soils, groundwater, vegetation, etc.</li> <li>f. What would be done if a brine leak migrated to the storm drain</li> <li>g. What would be done if brine was discharged to the Bay as a result of a brine leak</li> <li>h. What would be done if brine were discharged into the sanitary sewer, where it could significantly harm the operation of the City of Hayward's Water Pollution Control Facility</li> <li>i. How buildup of crystallized brine within the brine transport pipeline would be prevented and how it would be mitigated if buildup were to occur</li> <li>j. How corrosion of appurtenances such as air valves, blowoffs, isolation valves, etc. would be prevented</li> </ul> | <div style="border-left: 1px solid black; height: 100%; position: relative;"> <div style="position: absolute; top: 0; right: -10px;">A6-6</div> </div>  |
| <p>6) The Draft EIR indicates the MSS brine transport pipeline will be 14 inches in diameter. The 30% design drawings the City of Hayward reviewed indicated the MSS brine transport pipeline would be 18 inches in diameter. Please clarify or revise the EIR to indicate the MSS brine transport pipeline will be 18 inches in diameter.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <div style="border-left: 1px solid black; height: 100%; position: relative;"> <div style="position: absolute; top: 0; right: -10px;">A6-7</div> </div>  |
| <p>7) Please indicate specific vertical and horizontal clearance distances that will be observed between the MSS brine transport pipeline and potable water, recycled water, sanitary sewer, and storm drain pipelines.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <div style="border-left: 1px solid black; height: 100%; position: relative;"> <div style="position: absolute; top: 0; right: -10px;">A6-8</div> </div>  |
| <p>8) Page 2-18 states blowoffs would be placed near sanitary sewer manholes. Please note that discharging brine directly to the sanitary sewer will not be permitted.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <div style="border-left: 1px solid black; height: 100%; position: relative;"> <div style="position: absolute; top: 0; right: -10px;">A6-9</div> </div>  |
| <p>9) Between Crossing 20 and Crossing 21 on Figure 2-8h, the brine transport pipeline traverses around the perimeter of the Oro Loma Marsh. Please confirm there is adequate existing vehicular access to perform the visual inspections of the brine transport pipeline for this segment.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <div style="border-left: 1px solid black; height: 100%; position: relative;"> <div style="position: absolute; top: 0; right: -10px;">A6-10</div> </div> |
| <p>10) When considering potentially less impactful alternatives, was blending the MSS brine with treated wastewater from the San Jose-Santa Clara Regional Wastewater Facility (SJSCRWF) considered? The SJSCRWF seems closer to Cargill's Solar Salt Facility.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <div style="border-left: 1px solid black; height: 100%; position: relative;"> <div style="position: absolute; top: 0; right: -10px;">A6-11</div> </div> |

- 11) When considering potentially less impactful alternatives, was using Cargill's transbay pipeline between Newark and Redwood City considered to potentially blend the MSS brine with treated wastewater discharged by treatment facilities on the west side of the bay?

A6-12

We look forward to continuing to work with the East Bay Dischargers Authority, Cargill, and the rest of the project team.

Sincerely,



Alex Ameri, P.E.  
Director of Public Works  
Public Works & Utilities Department

cc: Suzan England, Acting Utilities Engineering Manager  
Cheryl Munoz, Water Resources Manager

February 17<sup>th</sup>, 2023

VIA ELECTRONIC MAIL

East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94584  
Attn: Jacqueline Zipkin, General Manager

Dear Ms. Zipkin,

Subject: Cargill MSS Processing and Brine Discharge Project Draft EIR Comment

The Alameda County Flood Control and Water Conservation District (District) has reviewed the Draft Environmental Impact Report (EIR) for the Cargill MSS Processing and Brine Discharge Project (Project) and would appreciate your consideration of the following comments while completing the final EIR:

A7-1

1. Existing District Infrastructure within the Project Area:

As mentioned in the Draft EIR, the proposed Project includes a 14-inch MSS brine transport pipeline extending for approximately 15.6-miles from the Cargill Solar Salt Facility to the Oro Loma Effluent Pump Station (OLEPS) located at the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo. Based on the proposed alignment of the pipeline, which is shown in Figure 1, various District flood control facilities would likely be impacted due to the proposed Project. These facilities include but are not limited to:

- Alameda Creek
- Ardenwood Creek
- Crandall Creek
- Engineered Channel at Delores Drive
- Old Alameda Creek/Ward Creek
- Sulphur Creek
- Bockman Channel
- Plummer Creek

A7-2

The District is not planning on relocating or modifying its flood control facilities due to the proposed Project. As a result, the alignment and depth of the brine discharge pipeline should consider flood control facilities and closely coordinate with the District to avoid, reduce or mitigate any impacts. In addition, the District recommends the Project proponents to submit a request for available records



pertaining to flood control facilities located within the limits of the Project and closely work with District staff to coordinate and mitigate Project crossing impacts.

A7-2  
cont.



Figure 1. Project Location. Source: Property of Ascent Environmental, data received from AECOM and Jacobs in 2021 and 2022; adapted by Ascent Environmental in 2022.



## 2. Hydrology and Drainage

The District has concerns on the MSS brine discharge outlet causing soil erosion to the channel banks. The District requests that the Project identifies and eliminates erosion problems on public and private lands caused by the Project's proposed outlet and MSS brine flowrate. The potential for erosion of the channel banks should be considered as a design and engineering factor in the new development of the outfall and flow amount. The District would like the Project proponents to conduct a hydrologic study on Plummer Creek and the impacts of the MSS brine discharge on the channel banks.

A7-3

## 3. District Contacts:

The following District contacts are provided so that the Project proponent can coordinate with District as needed during the CEQA process:

- a. Moses Tsang, Principal Civil Engineer, Design Flood Control, at (510) 670-6549, or by email at [moses@acpwa.org](mailto:moses@acpwa.org) for coordination regarding flood control facilities.
- b. Dámaris Villalobos-Galindo, Supervising Civil Engineer, at (510) 670-5292, or by email at [damarivg@acpwa.org](mailto:damarivg@acpwa.org) for coordination regarding Environmental Compliance.
- c. Beth Perrill, Supervising Right-Of-Way Agent, at (510) 670-5587 or by email at [beth@acpwa.org](mailto:beth@acpwa.org) for coordination of easement and License agreements.
- d. Fernando Gonzales, Supervising Civil Engineering, Development Engineering and Permits, at (510) 670-5267 or by email at [fernando@acpwa.org](mailto:fernando@acpwa.org) for the coordination of flood encroachment permits.

A7-4

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Cargill Mixed Sea Salt Processing and Brine Discharge Project,

Sincerely,

*Damaris V.G.*

Dámaris Villalobos-Galindo, P.E.  
Supervising Civil Engineer  
Environmental Services Section

Cc: Moses Tsang, District  
Beth Perrill, District  
Fernando Gonzales, District



February 17<sup>th</sup>, 2023

VIA ELECTRONIC MAIL

East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94584  
Attn: Jacqueline Zipkin, General Manager

Dear Ms. Zipkin,

Subject: Cargill MSS Processing and Brine Discharge Project Draft EIR Comment

The Alameda County Public Works Agency (ACPWA) has reviewed the Draft Environmental impact Report (EIR) for the Cargill MSS Processing and Brine Discharge Project (Project) and would appreciate your consideration of the following comments while completing the final EIR:

1. Existing ACPWA Infrastructure within the Project Area:

As mentioned in the Draft EIR, the proposed Project includes a 14-inch MSS brine transport pipeline extending for approximately 15.6-miles from the Cargill Solar Salt Facility to the Oro Loma Effluent Pump Station (OLEPS) located at the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo. Based on the proposed alignment of the pipeline, as shown in Figure 1, ACPWA Right-of-Way (ROW) facilities, particularly roads located within unincorporated Alameda County, would likely be impacted due to the open-cut methods described in the Draft EIR. The ACPWA is not planning on relocating or restoring its facilities at its own expense due to the proposed Project. As a result, the alignment and depth of the brine discharge pipeline should consider ACPWA roads located within unincorporated Alameda County and additional facilities and closely coordinate with ACPWA to avoid, reduce or mitigate any impacts to its existing facilities. In addition, ACPWA recommends the Project proponents to submit a request for available records pertaining to ACPWA roads and ROW located within the limits of the Project and closely work with ACPWA to ensure minimum clearances are maintained.

A8-1

2. Drilling and Well Permits:

As required by ACPWA Ordinance No. O-2015-20, well and borehole drilling permits are required prior to the start of any subsurface drilling activities including exploratory soil borings and other excavations within the cities of Hayward, San Leandro, Emeryville, Oakland, Alameda, Piedmont, Albany, and unincorporated areas of Alameda County. As a result, all permitted work within ACPWA jurisdiction requires close coordination with ACPWA prior to the start of any field work. Additional details on the ACPWA Well Standards Program can be found at [www.acpwa.org](http://www.acpwa.org) or call 510-670-6633.

A8-2



Figure 1. Project Location. Source: Property of Ascent Environmental, data received from AECOM and Jacobs in 2021 and 2022; adapted by Ascent Environmental in 2022.

### 3. ACPWA Contacts:


The following ACPWA contacts are provided so that the Project proponent can coordinate with ACPWA as needed during the CEQA process:

- a. Amber Lo, Principal Civil Engineer, Design Road, at (510) 670-5485, or by email at [amberl@acpwa.org](mailto:amberl@acpwa.org) for coordination regarding road ROW.
- b. Dámaris Villalobos-Galindo, Supervising Civil Engineer, at (510) 670-5292, or by email at [damarisvg@acpwa.org](mailto:damarisvg@acpwa.org) for coordination regarding Environmental Compliance.

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Cargill  
Mixed Sea Salt Processing and Brine Discharge Project,

A8-3  
cont.

Sincerely,



Dámaris Villalobos-Galindo, P.E.  
Supervising Civil Engineer  
Environmental Services Section

Cc: Amber Lo, ACPWA

# San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348-5190

State of California | Gavin Newsom – Governor | [info@bcdc.ca.gov](mailto:info@bcdc.ca.gov) | [www.bcdc.ca.gov](http://www.bcdc.ca.gov)

Letter  
A9

Transmitted Via Electronic Mail

February 17, 2023

Jacqueline Zipkin  
General Manager  
East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94580  
Via email: < [jzipkin@ebda.org](mailto:jzipkin@ebda.org) >

**SUBJECT:** Draft Environmental Impact Report for the *Cargill Mixed Sea Salt Processing and Brine Discharge Project*, in San Lorenzo, an unincorporated community in Alameda County, City of Hayward, Union City, Fremont and Newark, Alameda County (BCDC Inquiry File No. MC.MC.7415.026; SCH # 2022050436)

Dear Ms. Zipkin:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the *Cargill Mixed Sea Salt Processing and Brine Discharge Project* (project). The Proposed Project is located along approximately 16 miles of San Francisco Bay shoreline in portions of the cities of San Lorenzo, an unincorporated community in Alameda County, City of Hayward, Union City, Fremont, and Newark in Alameda County. The project includes installation of additional infrastructure at the Cargill Solar Salt Facility and a new pipeline to transport the concentrated Mixed Sea Salts (MSS) brine currently stored in Ponds 12 and 13 to the East Bay Discharger Authority (EBDA) Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant where it will be diluted, mixed with the effluent, and discharged to the Bay consistent with EBDA NPDES permit requirements. The Cargill Ponds 12 and 13 currently store approximately 6 million tons of MSS adjacent to the Bay and these ponds are facing a potential long-term threat of sea level rise from the Bay. The discharge of the MSS from these ponds via the pipeline is anticipated to take approximately 10-20 years based upon the estimated discharge rate. The project is intended to remove the MSS and reduce the potential for impacts from sea level rise.

The San Francisco Bay Conservation and Development Commission (Commission or BCDC) is a responsible agency for this project and will rely on the DEIR when it considers the project during permitting for any portions of the project occurring within the Commission's jurisdiction. Our staff has prepared comments outlining specific additional issues or comments on the alternatives that should be addressed in the DEIR or through the Commission permitting process as appropriate. The comments below are based on the McAteer-Petris Act and the Commission's San Francisco Bay Plan (Bay Plan).

A9-1

A9-2



The DEIR analyzed a number of alternatives including the following:

1. **No project** – This alternative includes no changes to the Cargill Solar Salt Facility or operations and the MSS would remain in Ponds 12 and 13. The ponds would continue to build up additional MSS during salt making operations. Over the next 20 to 50 years, the berms around the ponds become more at risk of overtopping that could result in a release of MSS brine into the Bay.
2. **Proposed Project** – The Proposed Project includes construction of a new approximately 15.6-mile pipeline mostly in existing roadway right-of-ways connecting from Cargill Ponds 12 and 13 to the Oro Loma facility. This alternative also includes the installation of three new pump stations, each containing approximately four pumps with varying power and size, in the salt ponds and adjacent waterways (Plummer Creek).
3. **Alternative 1 – In-Pipe Alternative** – This alternative includes a combination of new pipeline and existing EBDA pipeline, with a shorter MSS transport route and the new pipeline connecting downstream of EBDA's Alvarado Treatment Plant in Union City rather than directly to the Oro Loma facility. This alternative requires installation of 4 miles of liner in the current EBDA pipeline and new construction of approximately 7.5 miles of new pipeline, and three new pump stations, each containing approximately four pumps with varying power and size, in the salt ponds and adjacent waterways (Plummer Creek). This route would be mostly under existing roadway right-of-ways, except for work occurring on the existing EBDA pipeline.
4. **Alternative 2 – Bayside Parallel Pipe Alternative** – This alternative includes a new 17-mile pipeline route that travels along the edges of Cargill's salt ponds and existing berms rather than along the inland route in roadway right-of-ways and may require more work in environmentally sensitive areas. This alternative also includes the installation of three new pump stations, each containing approximately four pumps with varying power and size, in the salt ponds and adjacent waterways (Plummer Creek).

A9-3

While Alternative 1 will have more impacts than the No Project alternative, the DEIR identifies Alternative 1 as the environmentally superior alternative because it accomplishes the objectives of the project to remove the MSS material from Ponds 12 and 13. However, Alternative 1 would have greater impacts in sensitive wetland habitat areas than the Proposed Project and would lead to more disruptions in the EBDA operations during the installation of the lining of the pipeline. Additionally, Alternative 1 only includes lining certain sections of the existing EBDA pipeline, which would also leave some areas susceptible to corrosion or additional maintenance or

A9-4

replacement in the future. Alternative 2 would require more impacts in sensitive habitat areas and recreational areas than the Proposed Project. Therefore, it appears that EBDA has tentatively selected the Proposed Project as the alternative to move forward into design and permitting.

A9-4  
cont.

### Proposed Project Details

The following project details should be clarified in the DEIR:

1. **Project Timing.** Please clarify the timing in DEIR Section 2.6.8. There is a mention that construction is likely to begin in the summer of 2023, but to BCDC's knowledge Cargill has not applied to any agencies, including BCDC, for permits and it may not be realistic for all agency approvals to be obtained for construction to occur in the summer of 2023.
2. **Construction Phasing.** The DEIR mentions that the Pond 12 infrastructure is planned to be built in the first year, but the Pond 13 infrastructure is not planned to be built until 6 years later. There is no explanation for the need of this phasing. Additionally, Pond 13 to be larger and may contain more MSS that will take much longer to remove so this phasing appears to extend the anticipated total timeline for the removal of the MSS. Please clarify if it possible to construct the infrastructure for both ponds concurrently, to try and decrease the amount of time needed to remove the MSS from both ponds.
3. **Volume of MSS.** The DEIR reports that there are approximately 6 million tons of MSS that will need to be discharged, but there is not mention of the how the rate of removal and the time associated factors in the continued use and additional of new MSS to the ponds from ongoing salt making operations. Please include additional details on this in the DEIR.

A9-5

A9-6

A9-7

### Alternatives Analysis

1. **Proposed Project.** This alternative appears to be the most inland alternative that would include the least fill in the Commission's jurisdiction and minimize impacts to sensitive Bay resources.
2. **Alternative 1.** This alternative has the smallest overall footprint but would have a greater impact to Bay resources than the Proposed Project and would require more long-term maintenance in tidal wetlands than other alternatives. While Alternative 1 would have fewer overall impacts than the Proposed Project, it appears to have greater recreational impacts and greater disturbance in environmentally sensitive areas and would also have greater disruption to EBDA's existing system during the lining of portions of the existing EBDA pipeline and construction of access pits.
3. **Alternative 2.** Please clarify the description of Alternative 2 in Section 5.4.3 and provide additional details on where exactly the new pipeline would be located relative to the berms around the Cargill facility and roadways mentioned along the route. For example, will the new pipeline run along the interior of the salt ponds and be exposed, or will the pipeline be buried within the existing berms. Many of the existing berms around the Cargill facility are regularly maintained but are not engineered structures. Please provide more clarity on the proposed

A9-8

A9-9

A9-10



location for the pipeline in relation to these berms and analyze whether this may affect any of the berm integrity. Please also clarify whether any import of soils would be needed for this alternative or not. Please also quantify the potential fill for any staging areas that may be associated with this alternative, as it seems the staging areas have not currently been identified.

The DEIR mentions that the proposed facilities would be designed and constructed in accordance with the California Building Codes (CBC) and standard engineering practices, but it is not clear how or if the berms in Alternative 2 along the pipeline route would also be constructed to similar standards or need to be modified to ensure that the pipeline meets these standards.

A9-10  
cont.

### **Commission Jurisdiction**

Within its jurisdiction, Commission permits are required for activities that involve placing fill, extracting materials, or making any substantial change in use of any water, land, or structure. Permits are issued if the Commission finds the activities to be consistent with the McAteer-Petris Act and the policies of the Bay Plan, including, but not limited to, that the project includes the minimum fill necessary for the project, that there is no alternative upland location for the fill, that the impacts to Bay resources are minimized, and that the fill be constructed in accordance with should safety standards and protection against unstable geologic or soil conditions or flood or storm waters.

A9-11

Please note that in DEIR sections 1.4 and 2.6.9, BCDC is identified as a Regional or Local Agency, but BCDC is a State Agency and should be included with the list of other State Agencies and State laws. From the DEIR, it is not clear which portions of the project and associated impacts would be in the Commission's jurisdiction, but this should be more clearly defined in the DEIR and through the permitting of the project.

### **Priority Use Areas**

The DEIR does not appear to analyze the priority use areas that were mentioned in the NOP comment letter, please include update the DEIR to include a section on the consistency of the project with the priority use areas identified in the Bay Plan that may occur along the various route alternatives.

A9-12

### **Commission Law and Bay Plan Policies Relevant to the Project**

#### *Fill within the Bay and Salt Ponds*

amount of fill or project impacts within the Commission's jurisdiction was not specifically quantified in the DEIR for the Proposed Project or alternatives. This information will be needed during the permitting process. Additionally, there appears to be discussion of ways the project and alternative may minimize impacts to public access and recreation areas, but there is no mention of whether the project includes additional public access improvements or how the

A9-13



project meets maximum public access to the Bay consistent with the project. As mentioned previously, the project will need to meet the requirements of the McAteer-Petris Act and the San Francisco Bay Plan, including that there is no alternative upland location for the fill.

10-13  
cont.

#### *Public Access and Recreation*

As mentioned, there are a few Commission-required public access areas that the proposed pipeline alternatives may run through, as well as some existing sections of the Bay Trail and recreational areas that appear to occur along some of the routes for the pipeline alternatives. However, there is no discussion of potential public access improvements that may be associated with the project, especially given that all alternatives, with the exception of the no-project alternative, will impact some amount of exiting public access or recreational areas.

10-14

Please note that for any work occurring within BCDC's jurisdiction or on a BCDC required public access area, BCDC will need to review and approve any detour plans associated with the construction of the project. Please be sure that BCDC is added to the Mitigation Measure for Impact 3.10-1 as an agency that needs to be consulted on such review and the development of any detour plans for facilities in the Commission's jurisdiction and required by the Commission. The precise extent of any public access or recreation impact was not quantified in the DEIR and will need to be evaluated during the permitting process for the project. Please also note that any detours should also be made ADA-accessible throughout the project, and this should be included in the DEIR.

10-15

We noted that the DEIR mentioned that Alternative 2 appears may have more permanently impacts to some recreational facilities. BCDC encourages looking for a route that minimizes permanent and temporary impacts to public access and recreational facilities. Any temporarily impacted areas, should also be restored following the construction.

10-16

#### *Fish, Other Aquatic Organisms and Wildlife*

The Proposed Project mostly includes construction in upland habitats and terrestrial areas; however, it does include the construction of intake pumps in Plummer Creek. The DEIR mentions the various habitat areas that may be impacted by the Proposed Project and each of the alternatives but does not specifically quantify the area of impact. The Proposed Project and all alternatives would include increased diversions from Plummer Creek and Mowry Slough for the intake pumps, but there is no mention of whether there was consideration of including fish screens on the intakes as a mitigation measure to reduce potential direct impacts to special-status and native fish that may occur in Plummer Creek. This should be addressed in the DEIR.

10-17

#### *Tidal Marshes and Tidal Flats*

From the DEIR, it is not clear to what extent tidal wetlands would be impacted. It appears that both trenching and directional drilling methods of pipeline construction are considered for use with the various project alternatives, but the impacts associated with each are not quantified. BCDC's permit process will require that any potential impacts be minimized and avoided and then mitigated if there are unavoidable impacts to these habitat areas.

10-18

### *Water Quality*

The DEIR briefly mentions that if the Proposed Project does not occur and the MSS is not removed, that there is a risk of potential release of MSS into the Bay. However, there is no further discussion on the potential affects of such a release on Bay habitats and species and this should be further detailed in the DEIR discussion of the baseline condition that existing today.

10-19

### *Mitigation*

Some of the alternatives considered in the DEIR are likely to have more impacts to natural resources within the Commission's jurisdiction than others, but at this time it is not clear the exact extent of such impacts. Please note the unavoidable impacts to species and their habitat may require mitigation from BCDC, in addition to the other agencies that are mentioned in the Executive Summary on page ES-20 regarding Impact 3.3-3. During the permitting, it is likely that BCDC will also require compensatory mitigation for such impacts and coordinate these requirements with the other agency staff. BCDC will also need to review the Compensatory Mitigation Plan for any impacts occurring within the Commission's jurisdiction. Generally, the Mitigation Policies in the Bay Plan direct that mitigation should be provided onsite and in-kind first prior to providing an in-lieu fee or purchasing mitigation credits. The DEIR should provide additional information on whether onsite and in-kind mitigation options for the impacts were considered or why these were not feasible.

10-20

### *Safety of Fills and Climate Change*

The DEIR mentions that there is a long-term threat of sea level rise from the Bay in the project area and to the Solar Salt Facility. The Bay Plan Map No. 7 contains a note on subsidence for this area of the Bay that says "[a]rea subject to possible subsidence. Construction in or near Bay should be carefully planned, taking into account effects of future subsidence and sea level rise." We understand that AECOM also prepared a memo in 2021 that discusses the sea level rise and flooding vulnerability of different ponds within Cargill facilities. However, this memo does not appear to address the issue of subsidence or the seismic stability of the current berms protecting the ponds. The Bay Plan has several policies relevant for the project related to climate change, sea level rise, and safety of fills. Climate Change Policy No. 2 requires, in part, that "a risk assessment should be prepared by a qualified engineer,...based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection....A range of sea level rise projections for mid-century and end of century based on the best scientific data available should be used...[the] assessment should identify all types of potential flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat from proposed flood protection devices." Policy No. 3 states that where such risk assessments show vulnerability to public safety, projects should be designed to be resilient to a mid-century sea level rise projection, and an adaptive management plan should be developed to address sea level rise impacts beyond mid-century through the life of the project.

10-21

In addition, Policy No. 4 in the Bay Plan Safety of Fills section states that structures on fill or near the shoreline should have adequate flood protection, including consideration of future relative sea level rise as determined by engineers. The policy states that, “adequate measure should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project...New projects on fill or near the shoreline should either be set back from the edge of the shore so that the project will not be subject to dynamic wave energy, ...be specifically designed to tolerate periodic flooding, or employ other effective means of addressing the impacts of future sea level rise and storm activity.”

10-22

The DEIR mentions that the project would be built to CBC or other engineering standards. However, there is little discussion about the expected life of the project and how the various alternatives will perform during future sea level rise and with any potential groundwater flooding or during any seismic events. There was also little discussion about potential subsidence and the contribution that this may have on potential flooding. There was also little discussion about the resilience of the infrastructure to future flooding and any adaptive capacity. The DEIR should indicate whether the infrastructure for the new pipeline could be raised in the future if needed, taking into account spatial constraints, whether the underlying soils would support additional fill, and other limitations. We also recommend again that the DEIR discuss the seismic stability of the berms around Ponds 12 and 13 and how they will remain intact over the life of the project to ensure there will not be spilling of the MSS into the Bay following a strong earthquake. In addition, the DEIR should include a discussion of groundwater at the site, how it is expected to impact the MSS ponds and the pipeline infrastructure both during construction and with future sea level rise, and how any risks from groundwater rise would be addressed.

10-23

As mentioned previously, the project may need to go before the Commission’s Engineering Criteria Review Board (ECRB), which reviews projects “for the adequacy of their specific safety provisions, and make[s] recommendations concerning these provisions [and] prescribe[s] an inspection system to assure placement and maintenance of fill according to approved designs.” Our staff will work with the project proponent to determine whether ECRB review and early guidance is necessary.

10-24

#### *Shoreline Protection*

The DEIR should further detail the risk from rising sea levels, subsidence, and potential seismic safety of the existing, unengineered berms surrounding Ponds 12 and 13 and include details of any project elements, such as shoreline protection, that may be included around these ponds to ensure that there is no release of the MSS to the Bay over the life of this project. We recommend that Cargill consider design options for the Ponds 12 and 13 berms that can increase the stability of the berms against a strong earthquake that may occur over the life of the project. It appears that for some project alternatives, additional shoreline protection may be necessary. The DEIR should describe in detail all existing and proposed shoreline protection features at the site, including an analysis of their potential to adversely impact natural resources and public access,

10-25

Jacqueline Zipkin  
East Bay Dischargers Authority  
Cargill MSS Processing and Brine Discharge Project DEIR - BCDC

February 17, 2023  
Page 8

and how the impacts would be avoided, minimized, or mitigated for. In any areas where shoreline protection may be needed as part of the project, the DEIR should describe and analyze the feasibility of using natural or nature-based alternatives as described in the policies above.

10-25  
cont.

The DEIR briefly analyzes the potential for sea level rise and groundwater rise impacts on the Proposed Project and the alternatives with 16 inches of sea level rise by 2050 but does not include any analysis of sea level rise beyond that time. Given that the life of the pipeline project appears to be longer than this, please include potential sea level rise inundation and analysis for the life of the project and discuss any potential impacts to the pipeline from sea level and groundwater rise for the Proposed Project and the alternative alignments that are closer to the Bay. This discussion should be further improved in the Flood Hazard sections of the DEIR.

10-26

Please also note that in section 3.8, there is reference to the California Coastal Commission and their guidelines for sea level rise in Local Coastal Programs. Please note that this project does not occur within the California Coastal Commission jurisdiction but is within BCDC's jurisdiction. BCDC currently considers the Ocean Protection Council's 2018 Sea Level Rise Guidance as the best available science and planning guidance for sea level rise impacts on a project. BCDC also has published the San Francisco Bay Plan Climate Change Policy Guidance that may also provide useful information for the sea level and groundwater rise section.

10-27

#### *Environmental Justice and Social Equity*

In our NOP letter, we mentioned that the DEIR should provide an assessment of any vulnerable communities adjacent to the project and also describe how there would be meaningful community engagement throughout the project planning, design, and permitting and this information should be included in the DEIR. If you need additional assistance on this topic, please contact BCDC and we can provide some additional guidance and resources for this analysis.

10-28

#### *Public Trust*

It does not appear that the DEIR has identified those portions of the project that may be subject to the public trust and how the project is consistent with the public trust. Please update the DEIR to include this information. The Bay Plan policies on public trust lands states, in part, that when taking actions on such land, the Commission "should assure that the action is consistent with the public trust needs for the area and, in the case of lands subject to legislative grants, would also assure that the terms of the grant are satisfied and the project is in furtherance of statewide purposes."

10-29

Thank you for providing the staff with an opportunity to review the DEIR for the *Cargill Mixed Sea Salt Processing and Brine Discharge Project*. We recognize the importance and scope of this project to protect the Bay and habitats from the MSS brine and hope these comments aid you in finalizing the DEIR. We look forward to working with you and the project sponsors through the planning and permitting of the project.

10-30


Jacqueline Zipkin  
East Bay Dischargers Authority  
Cargill MSS Processing and Brine Discharge Project DEIR - BCDC

February 17, 2023  
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If you have any questions regarding this letter or the Commission's policies and permitting process, please do not hesitate to contact me at 415-352-3624 or [anniken.lydon@bcdca.gov](mailto:anniken.lydon@bcdca.gov).

10-30  
cont.

Sincerely,

DocuSigned by:  
  
CA403961512F409...

ANNIKEN LYDON

Bay Resources Program Manager

San Francisco Bay Conservation and Development Commission  
375 Beale Street, Suite 510, San Francisco, California 94105  
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AL/ra

cc: State Clearinghouse, <[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)>



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Letter  
A10

February 17, 2023

East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94580  
Attn: Jacqueline Zipkin, General Manager

Sent vial email to: [jzipkin@ebda.org](mailto:jzipkin@ebda.org)

**RE: East Bay Regional Park District Comment Letter – Cargill MSS Processing and Brine Discharge Project Draft EIR**

Dear Jaqueline Zipkin,

The East Bay Regional Park District (Park District) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Cargill Mixed Sea Salt Processing and Brine Discharge Project (project). As a member of the Hayward Area Shoreline Planning Agency (HASPA) and as a land-owning and operating agency in the proposed project area, the Park District is concerned about the potential impacts to natural and recreational resources in the Hayward Shoreline area that could result from the project. The Park District owns and operates 1,841 acres of salt, fresh, and brackish water marshes, seasonal wetlands, and public trails along the Hayward Shoreline, including the 250-acre Cogswell Marsh, the 145-acre Hayward Marsh, and sections of the Oro Loma Marsh. The Park District owns and operates over five miles of public trails along the shoreline which are important segments of the San Francisco Bay Trail. Additionally, the Park District participates in HASPA to help plan for sea level rise along the shoreline and protects numerous endangered and protected species in the shoreline area, including the California Ridgway's rail, California black rail, western snowy plover, California least tern, and salt marsh harvest mouse.

A10-1

The project's objective is to build new pipeline to transport brine from the manufacturing of salt at Cargill's facility in the City of Newark that would be blended and diluted with the East Bay Dischargers Authority (EBDA) Member Agency effluent and then discharged back into the Bay west of San Leandro in accordance with EBDA's National Pollutant Discharge Elimination System (NPDES) permit. The proposed project and its alternative could include new pipeline construction within Park District-owned parcels as well as state and federal lands operated by the Park District. The Park District is prepared to continue working with shoreline stakeholders such as EBDA and Cargill to ensure that project impacts are avoided and minimized, and that implementation of the capital projects identified in the recently completed Hayward Shoreline Adaptation Master Plan (SAMP) are not impacted by the Cargill project.

A10-2

In a previous comment letter dated June 15, 2022, the Park District expressed concerns with the project's Alternative Two, referred to as the Bayside Parallel Pipe Alternative (Bayside Alternative). These concerns included the construction of approximately 1.2 miles of pipeline under the Park District-owned sections of Oro Loma Marsh and the potential impacts to public access at Hayward Regional Shoreline and Coyote Hills Regional Park in Fremont. The Park District requested that the DEIR analyze Recreation and Transportation impacts, the feasibility of the Bayside Alternative, restrictions and

A10-3

easements on potentially impacted parcels managed by the Park District, and impacts to Biological resources managed by the Park District and HASPA member agencies. The Park District also preferred that the brine transport pipeline be constructed in existing roads, away from sensitive biological resources.

A10-3  
cont.

While the Park District's concerns were not initially with the project, but with the Bayside Alternative as of June 2022, the project proposed in the DEIR has since been changed to include the building of pipeline along the eastern edge of Oro Loma Marsh at the northerly end of the project area. A second Notice of Preparation was released on July 8, 2022 and the project's proposed pipeline alignment moved largely west, away from the City of Hayward and closer to the Hayward Shoreline marsh areas. While the current project addresses the Park District's earlier request to consider building the pipeline under existing roads where possible, and it now appears to follow existing service roads on Park District lands, the alignment through the Oro Loma Marsh puts the project adjacent to sensitive habitat for federally listed Ridgway's rail and salt marsh harvest mouse. The DEIR offers mitigation for Biological impacts, but acknowledges that, in the case of the Bayside Alternative, "the implementation of Alternative 2 could result in direct and indirect impacts on special-status species and habitats... Alternative 2 has greater potential for these impacts than the project due to additional work within sensitive habitat areas" including disturbance, injury, or mortality to special-status fishes, California least tern, and black skippers in the Oro Loma Marsh area [section 5.4.3 of DEIR]. The DEIR identifies noise and vibration as a significant and unavoidable impact, and the Park District is concerned about those effects on the Oro Loma Marsh.

A10-4

Based on preliminary plans and project documents recently provided to the Park District, it appears that the project pipeline would cross Park District property at two locations: The Alameda Creek Regional Trail staging area at the junction of Union City Boulevard and Alameda Creek in Union City, and the Oro Loma Marsh just south of the Oro Loma Sanitary District Water Pollution Control Plant on the Hayward/San Lorenzo border. Pipeline installation and construction vehicle staging would require the acquisition of a *Temporary Park Access Permit* or a temporary construction easement from the Park District. The installation of pipeline under Park District property would also require the acquisition of permanent utility easements from the Park District. The granting of temporary and permanent access and property rights involves thorough Park District staff review followed by Park District Board of Directors review and authorization, and a complete plan set will need to be provided. Additionally, two Park District-managed parcels of land in Oro Loma Marsh are federal (APN 438-0020-002-09) and state (APN 438-0020-002-12) owned and may require separate property right easements for the project. The District looks forward to discussing these and other property rights with Cargill and EBDA.

A10-5

The Park District is concerned with the project and with the Bayside Alternative because Park District-owned and operated lands would have new pipeline construction. They could impact EBDA's First Mile Horizontal Levee Project that is currently being designed along the eastern edge of Oro Loma Marsh. It is the Park District's preference that the brine transport pipeline be constructed, where possible, in existing roads away from sensitive biological resources. Much of the habitat within the overall project area (Oro Loma, Hayward Marsh and Eden Landing, Coyote Hills, and Don Edwards) is currently being restored, which will serve to connect existing habitat for tidal marsh and upland species. These areas are particularly vulnerable to future sea level rise. The pipeline should be designed to withstand the climatic and oceanic conditions that may impact the shoreline. Please consider anticipated maintenance activities that may be necessary over the life of the project, with particular attention towards impacts to sensitive and newly restored habitats.

A10-6

Lastly, the Park District requests that Table 4-2 in the DEIR be revised for the two projects in Map IDs # 35 and 37, to note in the description that the East Bay Regional Park District is the project lead.

A10-7

The Park District looks forward to working together with EBDA to protect important natural and recreational assets in the Hayward Shoreline area. Thank you for your consideration.

A10-8

Sincerely,

*Devan Reiff*

Devan Reiff, AICP  
Principal Planner, Planning, Trails and GIS  
East Bay Regional Park District  
2950 Peralta Oaks Ct, Oakland, CA 94605  
[dreiff@ebparks.org](mailto:dreiff@ebparks.org)

cc: Ken Wysocki, Assistant General Manager of Acquisition, Stewardship & Development  
Matt Gaul, Chief of Stewardship





Letter  
A11

**Directors**  
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Tom Handley  
Pat Kite  
Anjali Lathi  
Jennifer Toy

**Officers**  
Paul R. Eldredge  
*General Manager/  
District Engineer*

Karen W. Murphy  
*Attorney*

February 17, 2023

East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94580  
Attn: Jacqueline Zipkin, General Manager

**Subject:** Notice of Availability of a Draft Environmental Impact Report (EIR) for Cargill MSS Processing and Brine Discharge Project

Dear Ms. Zipkin

The Union Sanitary District (USD) wishes to thank you for the opportunity to comment on the draft Environmental Impact Report (EIR) for Cargill, Inc.'s MSS Processing and Brine Discharge Project (Project) dated January 2023. USD has reviewed the EIR and offers the following comments for your consideration:

A11-1

1. Project Description (Figures 2-8b): The Newark Pump Station property owned by USD is not available for the Project's staging area (SA-2).

A11-2

2. Project Description (Figure 2-8d): Figure shows the proposed brine pipeline passing through a USD owned parcel (APN: 543 043900303). It is a site for a future USD facility and is not available for the siting of the Cargill brine pipeline.

A11-3

3. Section 2.6.8 Construction, Construction Methods, Trenchless Methods (Page 2-36): The draft EIR states that horizontal directional drilling (HDD) trenchless method for pipe installation will be utilized to cross creeks and certain roadways. Please note that a USD Encroachment Permit and Agreement will be required for any HDD crossing USD sanitary sewer mains or HDD installations within 5 feet (horizontal) of a USD sanitary sewer main. The encroachment permit requires that the affected sewer mains have a pre-construction and a post-construction television inspection performed to ensure that they were not damaged during the installation.

A11-4

4. Section 2.6.9 Project Permits and Approvals (Pages 2-38 to 2-39): The draft EIR did not list USD as a permitting agency. Encroachment Permit(s) and Agreement(s) with USD will be required for any construction work within the USD's Force Main Easement. A USD Encroachment Permit will be required for the HDD construction activities mentioned in comment 3. A11-5
  
5. Impact 3.8-1 Potential to Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface Water or Groundwater Quality during Construction (Pages 3.8-19 to 3.8-21): The EIR states that the Project area generally has very high groundwater levels and as such groundwater is anticipated during construction, requiring groundwater dewatering. For groundwater dewatering within the USD service area, all reasonable alternatives to sewer disposal, such as legally permissible reuses, must be explored before discharge into the USD sanitary sewer system will be approved. When no other alternatives for disposal of groundwater exists, USD may issue discharge permits for groundwater encountered during excavation. The permit is a conditional discharge permit and approval of discharge permit is dependent upon available capacity in the sewer system. Please contact USD's Environmental Compliance Team (Marian Gonzalez, [mariang@unionsanitary.ca.gov](mailto:mariang@unionsanitary.ca.gov), 510-477-7621) for specific requirements, limits, and fees for a groundwater permit. A11-6
  
6. Impact 3.9-2 Potential to Expose Sensitive Receptors to Construction Vibration (Pages 3.9-24 to 3.9-25): The EIR states that, "Operation of construction equipment, including an impact pile driver, would generate vibration during project construction." Please coordinate with USD prior to commencement of construction activities that may result in vibratory loading of the USD Force Main. A11-7

Please feel free to email me at [andrewb@unionsanitary.ca.gov](mailto:andrewb@unionsanitary.ca.gov) or call me at (510) 477-7633 as needed during this process. A11-8

Sincerely,



Andrew Baile  
Assistant Engineer

By Email

Cc: Raymond Chau, USD  
Richard Thow, USD  
Marian Gonzalez, USD

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**Letter  
A12**

March 3, 2023

File Ref: SCH #2022050436

East Bay Dischargers Authority  
Jacqueline Zipkin, General Manager  
2651 Grant Avenue  
San Lorenzo, CA 94580

VIA ELECTRONIC MAIL ONLY ([jzipkin@ebda.org](mailto:jzipkin@ebda.org))

**Subject: Draft Environmental Impact Report for the Cargill Mixed Sea Salts  
Processing and Brine Discharge Project, Alameda County**

Dear Jacqueline Zipkin:

The California State Lands Commission (Commission) staff has reviewed the Draft Environmental Impact Report (EIR) for the Cargill Mixed Sea Salts Processing and Brine Discharge Project (Project), which is being prepared by the East Bay Dischargers Authority (EBDA). EBDA, as the joint powers public agency with the principal responsibility for approving the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Commission is a trustee agency for projects that could directly or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on State sovereign land, the Commission will act as a responsible agency.

A12-1

**Commission Jurisdiction and Public Trust Lands**

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

A12-2

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the state for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court.

A12-2  
cont.

After review of the information contained in the Draft EIR and in-house records, Commission staff has determined that portions of the proposed Project's mixed sea salts (MSS) brine transport pipeline may cross State-owned sovereign land under Commission leasing jurisdiction, including but not limited to those areas identified in the Draft EIR as crossing numbers 1, 3, 4, 6 through 10, 12 through 14, 18, 19, and 21, and Plummer Creek. Therefore, a lease from the Commission will be required for the Project. An application may be submitted to the Commission through the online application portal (OSCAR.slc.ca.gov).

It is also important to note that the Commission has an existing Master Lease in this vicinity with Cargill. On April 26, 2005, the Commission authorized the issuance of a 25-year General Lease – Right-of-Way Use, Lease 8596.1, for the continued use and maintenance of an existing overhead electric transmission line; 12 existing steel, rubber, and plastic (PVC) pipelines; siphons; water intakes; three dredge locks; and four horizontally-drilled brine and water pipelines. Please contact Public Land Management Specialist George Asimakopoulos (contact information below) for further information on the extent of the Commission's jurisdiction and lease application requirements. Commission staff notes that the Draft EIR anticipates a construction timeline that would start in summer 2023 and urges EBDA to submit a lease application at their first opportunity.

A12-3

### **Project Description**

EBDA proposes to accept residual brine from Cargill, Incorporated's (Cargill) proposed enhanced salt processing and removal process, with Cargill transferring the remaining brine through a new MSS brine pipeline to EBDA's combined effluent pipeline for discharge into San Francisco Bay under EBDA's National Pollutant Discharge Elimination System permit. This Project would meet objectives and needs as follows:

- Provide wastewater disposal capacity and services to Cargill.
- Further EBDA's sustainability objectives by facilitating permanent infrastructure that could be available for future regional water recycling.
- Balance any impacts due to disruption to local jurisdictions with impacts to sensitive environments.

A12-4

- Develop new infrastructure to process MSS brine with minimal exposure to disruptions, including connecting with and optimizing existing EBDA infrastructure.
- Utilize an existing deep-water outfall for the MSS brine to minimize impacts to water quality and aquatic resources.

A12-4  
cont.

From the Project Description, Commission staff understands that the Project would include the following components that have potential to affect State sovereign land:

- HDD/Microtunneling for Trenchless Crossings. At least 14 brine pipeline crossings may be under Commission jurisdiction. Horizontal directional drilling (HDD) is a trenchless construction method being considered for most of the potential crossings, except for crossings under railroad tracks, which would use another trenchless method called microtunneling.
- Bridge Crossings. The Proposed Project would attach the MSS brine transport pipeline to existing bridges that cross Plummer Creek and Bockman Channel. The Draft EIR does not provide sufficient information to specify or evaluate these construction activities.

A12-5

The Draft EIR identifies Alternative 1 (In-Pipe Alternative), which would reduce the MSS brine transport pipeline length to 7.5 miles, as the Environmentally Superior Alternative.

A12-6

### **Environmental Review**

Commission staff requests that EBDA consider the following comments on the Project's Draft EIR, to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the Final EIR when considering a future lease application for the Project.

A12-7

### **General Comments**

1. Project Description – Bridge Crossings: The Draft EIR identifies Plummer Creek and Bockman Channel as two locations where the MSS brine transport pipeline would be attached to an existing bridge. The document notes an "existing pipe bridge" at Plummer Creek and "a bridge over the channel" for Bockman Channel but does not describe how the pipeline would be attached to the bridges and what construction equipment would be required. The Project Description should include a discussion of these brine transport pipeline bridge attachment activities in Section 2.6.8, *Construction*. In addition, the EIR should analyze any potential impacts from construction materials falling from the bridge work area into the waterways in Section 3.3, *Biological Resources*, Section 3.7, *Hazards and Hazardous Materials*, and Section 3.8, *Hydrology and Water Quality*, and provide or identify any needed mitigation.

A12-8

2. Project Description – Open-Water Excavation: Please clarify the following discussion from page 2-37: “The MSS brine transport pipeline is anticipated to cross multiple drainages throughout the alignment...The majority of these crossings are at culverts, where open-water excavation is not required. Exceptions include the Old Alameda Creek and Alameda Creek Flood Control Channels, which would be crossed using trenchless technologies.” Commission staff cannot determine whether the Project would require open-water excavation at Old Alameda Creek and Alameda Creek Flood Control Channels, given that trenchless construction is very different from open-water excavation. If the Project includes any open-water excavation, then please have the EIR identify those activities and areas in the Project Description as well as evaluate the potential in-water work impacts in Section 3, *Environmental Impacts and Mitigation Measures*.

A12-9

Section 3.3, *Biological Resources*, also notes on page 3.3-65 that “construction would occur outside of waterbodies, with the exception of small areas of temporary effects from pipeline disturbance (approximately 0.2 acre based on preliminary design and CARL mapping).” Please have the Project Description include a description or figure showing these disturbances within the waterbodies. Commission staff is concerned that the Draft EIR states work will be done within waterbodies in certain discussions, but then asserts that the Project would avoid directly impacting waterbodies. For example, this appears to occur within the same paragraph on page 3.3-65.

A12-10

3. Project Description – Microtunneling: Microtunneling, as discussed in the Draft EIR, includes simultaneously drilling the borehole and laying the HDPE pipe into the hole. However, the document also notes that steel casing pipes would be used to protect the brine pipeline. There is no further information regarding the casing pipes. Please include information on the steel pipes’ length(s), whether they would require laydown areas and welding prior to insertion, if they would be installed prior to the HDPE pipe, if the casings would be temporary or permanent, and the method of installation. If dynamic pipe ramming or a similar method would be used, then please evaluate any potential impacts to biological resources and sensitive noise receptors in Section 3, *Environmental Impacts and Mitigation Measures*.

A12-11

4. Project Description – HDPE Pipe: Page 2-36 of the Draft EIR explains that the brine transport pipeline HDD activities would require a laydown area of half the crossings’ length to string and fuse the HDPE pipe segments. Please confirm whether the pipe segments would be assembled in two phases as it is pulled through the borehole, and how the fused pipe segments would be assembled during pipe pullback. In addition, please clarify whether the HDPE pipe segments would be tested for integrity (i.e., hydrotesting) prior to or after

A12-12



HDD installation. If the Project will include hydrotesting, then please discuss that information in Section 3, *Environmental Impacts and Mitigation Measures*.

A12-12  
cont.

### Biological Resources

5. Pre-Construction Bird Survey: Mitigation Measure (MM) 3.3-4 requires preconstruction surveys for the California Ridgway's rail if Project activities, which could include HDD and microtunneling pits as well as pipe segment laydown areas, occur during the breeding season. The timing for the second survey is noted as "...at least 14 days prior to construction in the areas where suitable habitat is present" (emphasis added), but Commission staff notes that the other preconstruction surveys are required within a set number of days before Project activity commencement. Please confirm that it was intended the California Ridgway's rail surveys would be 14 days or greater from the start of Project activities, or modify MM 3.3-4 accordingly.

A12-13

### Cultural and Tribal Cultural Resources

6. Assembly Bill (AB) 52 Tribal Consultation: The Draft EIR identifies three tribal representatives who responded to EBDA's notification letters and requested consultation. EBDA initiated consultation with the three groups, and two tribal representatives requested cultural resource reports and/or assessments while the third recommended a Native American Monitor during all ground disturbing activities. All three tribal groups also had concerns "for the areas in the project where the pipeline crosses the creek" and indicated that the Project area is sensitive, particularly around water features. EBDA subsequently sent the cultural resources report on October 27, 2022, and followed up with communications on November 14 and 18, 2022, to request input by December 16 and schedule meetings to discuss. No response was received.

A12-14

According to the Draft EIR, "because none of the three tribes responded by December 16, 2022, EBDA considered AB 52 consultation to be closed" (page 3.4-17). However, page 3.4-5 of the Draft EIR sets forth the conditions under Public Resources Code Section 21080.3.2 wherein a CEQA lead agency can conclude AB 52 tribal consultation. Commission staff does not believe that either of the two conditions have been satisfied: no parties have agreed to mitigation measures since the tribal consultations did not result in feedback on tribal cultural resource impacts or mitigation, and EBDA has not shown that a mutual agreement cannot be reached after acting in good faith and with reasonable effort. Commission staff is concerned that EBDA has effectively dismissed tribal concerns and engagement and recommends that EBDA 1) continues to reach out to the three tribes for dialogue,

feedback, and mitigation measure development; and 2) modifies the language in the EIR to indicate that AB 52 tribal engagement is ongoing.

In the absence of continued tribal consultation, Commission staff would need to conduct additional outreach and consultation/coordination which could result in additional or modified CEQA mitigation measures to address tribal cultural resource impacts.

A12-14  
cont.

7. Tribal Cultural Resources Mitigation: MM 3.4-2b requires EBDA to retain a qualified professional archaeologist to assess the significance of any unanticipated discovery. It appears that this archaeologist would determine whether the resource was of Native American origin, and then contact potentially affected Tribes. Commission staff requests that MM 3.4-2b be modified to require both archaeological and Tribal monitors (if requested by a culturally affiliated Tribe) onsite to jointly evaluate any unanticipated discovery. In addition, MM 3.4-2b should be modified to provide for Native American monitors during all ground disturbing activities, consistent with the request from the Indian Canyon Mutsun Band of Costanoan Ohlone People.

A12-15

Finally, Commission staff recommends that MM 3.4-2b require development of an Unanticipated Discoveries Evaluation and Treatment Plan prior to ground-disturbing Project activities, if further tribal consultation deems it necessary.

8. Title to Resources Within Commission Jurisdiction: The EIR should state that the title to all archaeological sites and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the Commission (Pub. Resources Code, § 6313). Commission staff requests that EBDA consult with Staff Attorney Jamie Garrett should any cultural resources on state lands be discovered during construction of the proposed Project.

A12-16

Staff requests that the following statement be included in the Final EIR's Mitigation Monitoring Program: "The final disposition of archaeological, historical, and paleontological resources recovered on State land under the jurisdiction of the California State Lands Commission must be approved by the Commission."

#### Geology, Soils, Mineral Resources, and Paleontological Resources

9. Soil Stability Hazards: The Project site's soils create potential liquefaction, expansion, and seismic shaking hazards for the brine transport pipeline. These hazards could occur to pipeline segments crossing waterbodies at a depth of up to 40 feet. However, the Draft EIR determines the hazards are less than significant because a "site-specific geotechnical and engineering report will be prepared to identify geologic hazards along the MSS brine transport

A12-17



pipeline alignment, including hazards related to soil stability." Commission staff does not understand why a geotechnical and engineering report was not prepared prior to release of the Draft EIR. This is of particular concern because "many of the soils underlying the project site have a low soil-bearing strength, are frequently water saturated, have a high percentage of clay and organic materials, and are unstable," which may require Project design or construction changes to avoid or minimize the hazard.

While the Project would incorporate the design and engineering recommendations contained in the California Building Code and local codes, the geotechnical report could provide recommendations that would alter existing impacts or add new impacts that are not discussed in the Draft EIR. For example, if the pipeline crossings contain unstable soils, the HDD borehole activities may need to include metal pipeline casings or other protective devices as temporary construction methods or as permanent components to ensure the pipeline's long-term structural integrity. Commission staff recommends that the EIR include a geotechnical and engineering report (draft or final) or, in the alternative, identify possible actions that the report may recommend to address soil stability. Any identified actions should be analyzed for potential impacts and mitigated, if necessary and feasible.

A12-17  
cont.

#### Hazards and Hazardous Materials

10. Drilling Fluid – Aquatic Hazards: The bentonite used for HDD drilling is a naturally occurring, nontoxic, inert substance and is not identified as a potentially hazardous material. However, other chemicals included in drilling mud may be acutely hazardous to aquatic environments (e.g., DRILL-TERGE). Commission staff recommends the EIR discuss how MM 3.3-10 would mitigate a potentially toxic inadvertent release of drilling mud into a waterbody during pilot hole drilling or borehole reaming. Alternatively, the document could incorporate the requirement that the HDD drilling mud contain no chemicals that are acutely hazardous to aquatic environments, which would be confirmed by Material Safety Data Sheets.

A12-18

#### Recreation

11. Water-based recreation: Please have the EIR discuss whether there is any water-based recreation that occurs in the waterbodies that have potential brine pipeline crossings. If so, the EIR should discuss and analyze whether any water-based recreation could be affected by HDD, microtunneling, or pipeline bridge installation activities and propose feasible mitigation.

A12-19

Environmental Justice

12. Environmental justice is defined by California law as “the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (Gov. Code § 65040.12) This definition is consistent with the Public Trust Doctrine’s principle that management of trust lands is for the benefit of all people. The Commission adopted an updated [Environmental Justice Policy and Implementation Blueprint](#) in December 2018 to ensure that environmental justice is an essential consideration in the agency’s processes, decisions, and programs. The twelve goals outlined in the Policy reflect an urgent need to address the inequities of the past, so they do not continue. Through its policy, the Commission reaffirms its commitment to an informed and open process in which all people are treated equitably and with dignity, and in which its decisions are tempered by environmental justice considerations.

Although not legally required in a CEQA document, Commission staff suggests that EBDA include a section in the Final EIR describing any environmental justice community outreach and engagement undertaken and the results of such outreach. The California Office of Environmental Health Hazard Assessment developed the [CalEnviroScreen](#) mapping tool to assist agencies with locating census tracts near proposed projects and identifying the environmental burdens, should there be any, that disproportionately impact those communities. Environmental justice communities often lack access to the decision-making process and experience barriers to becoming involved in that process. It is crucial that these communities are consulted as early as possible in the project planning process. Commission staff strongly recommends using the [BCDC Community Vulnerability Tool](#) and the climate change map developed by the Delta Stewardship Council, [Vulnerability to Climate Change in the Delta](#). Then, as applicable, EBDA should reach out through local community organizations, such as the [California Environmental Justice Alliance](#). In this manner, the CEQA public comment process can improve and provide an opportunity for more members of the public to provide input related to environmental justice. Commission staff also recommends incorporating or addressing opportunities for community engagement in mitigation measures. Commission staff will review the environmental justice outreach and associated results as part of any future Commission action.

A12-20

Thank you for the opportunity to comment on the EIR for the Project. As a responsible and trustee agency, the Commission will rely on the Final EIR to issue a new lease as specified above (see Section “Commission Jurisdiction and Public Trust Lands”). We request that you consider our comments before certifying the EIR.

A12-21

Please send electronic copies of the Final EIR, Mitigation Monitoring Program, and Notice of Determination, approving resolution, CEQA Findings, and, if applicable, Statement of Overriding Considerations when they become available. Please note that federal and state laws require all government entities to improve accessibility of information technology and content by complying with established accessibility requirements. (29 U.S.C. § 794d; 36 C.F.R. § 1194.1 et seq.; Gov. Code, § 7405.) California State law prohibits State agencies from publishing on their websites content that does not comply with accessibility requirements. (Gov. Code, § 115467.) Therefore, any documents submitted to Commission staff during the processing of a lease or permit, including all CEQA documentation, must meet accessibility requirements for Commission staff to place the application on the Commission agenda.

A12-22

Refer questions concerning environmental review to Alexandra Borack, Senior Environmental Scientist, at [Alexandra.Borack@slc.ca.gov](mailto:Alexandra.Borack@slc.ca.gov) or (916) 574-2399. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Jamie Garrett, Staff Attorney, at [Jamie.Garrett@slc.ca.gov](mailto:Jamie.Garrett@slc.ca.gov) or (916) 574-0398. For questions concerning Commission leasing jurisdiction, please contact George Asimakopoulos, Public Land Management Specialist II, at [George.Asimakopoulos@slc.ca.gov](mailto:George.Asimakopoulos@slc.ca.gov) or (916) 574-0990.

A12-23

Sincerely,



Nicole Dobroski, Chief  
Division of Environmental Science,  
Planning, and Management

cc: Office of Planning and Research  
A. Kershen, Commission



February 17, 2023

East Bay Dischargers Authority  
2651 Grant Avenue  
San Lorenzo, CA 94580  
Attn: Jacqueline Zipkin, General Manager

RE: Cargill MSS Processing and Brine Discharge Project Draft EIR

Dear Ms. Zipkin:

We appreciate this opportunity to comment on the project draft EIR, in the interest of ensuring that the Authority thoroughly examines and pursues alternatives that avoid significant impacts to San Francisco Bay and minimizes any unavoidable significant impacts.

O1-1

Save The Bay is the largest organization working to protect and restore San Francisco Bay for people and wildlife, now in its 62<sup>nd</sup> year. The Citizens Committee to Complete the Refuge was established in 1965 because current and future generations of bay area residents deserve a clean, healthy, sustainable and vibrant San Francisco Bay. We submit these comments on behalf of the thousands of Save The Bay and Citizens Committee to Complete the Refuge supporters throughout the San Francisco Bay Area.

O1-2

A significant deficiency of the draft EIR is its failure to thoroughly characterize the baseline environmental condition of the project site, especially the risk of discharge from Newark Ponds 12 and 13 under current Cargill salt-making operations and planned salt-making operations during the years between now and when the project is designed, approved, permitted, constructed and begins operation. Until such time as the project is successfully operating to reduce the net volume of mixed sea salts (MSS) in ponds 12 and 13, the contents of those ponds will continue to increase from ongoing salt-making operations.

O1-3

This deficiency must be addressed and corrected in the final EIR to meet CEQA's objectives of providing the Authority and the public with complete and accurate information on which to base EIR certification and project adoption, and providing regulatory agencies with complete information on which to rely in their consideration of permits for the project.

The DEIR acknowledges in the summary description of the No Development Alternative (ES-3) some of the risks that current storage of MSS in ponds 12 and 13 poses to San Francisco Bay, and that "more would accumulate:"

No Project–No Development Alternative assumes no changes to existing facilities and operations at Cargill's Solar Salt Facility. The project site would remain in its current condition and Cargill would continue to produce salt products consistent with existing operations. The approximately 6 million tons of existing residual MSS

O1-4

would continue to be stored in Ponds 12 and 13 and more would accumulate. Over the next 20 to 50 years, rising sea levels would increase the risk of Bay water overtopping containment berms and releasing MSS brine into the Bay.

However, the DEIR does not provide a full list and characterization of those risks to water quality, habitat, and wildlife including threatened and endangered species. The document also does not quantify and assess how much those risks are growing annually because of Cargill’s continued salt-making operations, and will continue to grow even if the pipeline project is approved and constructed – until the pipeline is actually operating and removing more material than Cargill’s operations are adding.

O1-4  
cont.

Cargill’s current and ongoing salt-making operations ensure that the volume of MSS in ponds 12 and 13 continues to increase, and may already have increased as a result of salt harvest and processing in the fall of 2022 and recent significant rainfall. The berms separating that material from the Bay are being maintained at a constant height, or may be lowered by erosion and settling over the years before this pipeline project becomes operational and begins reducing the volume of stored MSS.

The EIR should include information on how much liquid and solid MSS is added to the ponds each year, how much annual rainfall and above-average precipitation in the current rainfall year has increased the volume of liquid in the ponds, how much space remains in the ponds for additional MSS with the current configuration and height of pond berms, and whether that capacity will be exceeded with ongoing addition of material from salt-making operations and annual projected precipitation-minus-evaporation over the next several years until a pipeline could be operating.

O1-5

These details and foreseeable projections should be included in the EIR’s establishment of the environmental baseline and site conditions, as the snapshot figure of current volume provided by Cargill – “6 million tons” of MSS – provides an incomplete and misleading characterization of the baseline.

The draft EIR also incorrectly and inappropriately dismisses comments BCDC submitted in response to the notice of preparation (NOP) regarding characterization of the geology and “potential seismic safety of the existing berms surrounding Ponds 12 and 13.” This information should appropriately be included in the EIR’s description and characterization of the baseline condition of the project site, independent of the project’s impact on the environment. The DEIR suggests BCDC’s concerns are invalid considerations for the project, stating “The project has not been proposed out of concern that environmental factors, such as seismic events, pose an immediate threat to the integrity of the berms.”

O1-6

On the contrary, BCDC’s NOP comments are evidence of precisely that concern about environmental factors, which were also the focus of an extensive public hearing by BCDC’s Engineering Criteria Review Board with Cargill to investigate berm integrity on November 16, 2022 (see [https://bcdcc.ca.gov/ecrb/2022ecrb\\_mtng.html](https://bcdcc.ca.gov/ecrb/2022ecrb_mtng.html)) and a subsequent request to Cargill from BCDC for additional investigation and information (see attached letter of December 20, 2022).

The DEIR also incorrectly dismisses concerns BCDC has raised by noting Cargill's "proposed" implementation of sea level rise adaptation efforts through a permit application to BCDC. But Cargill's proposals have not been fully considered nor approved by BCDC or the Regional Water Quality Control Board. Significant questions have been raised about the appropriateness and permissibility of the proposal to install vinyl sheets to increase the resilience of berms, and to raising the height of berms without additional reinforcement of berm cores.

O1-7

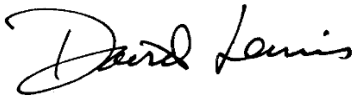
Proposed changes to the berms whose approval remains in significant doubt should not be assumed in the EIR as part of the description of baseline site conditions, nor as a reason to dismiss recommended additions to the EIR from agencies that require an adequate CEQA document on which to base their permitting deliberations for the project.

We urge the Authority to remedy these significant deficiencies in the DEIR to ensure that the final document provides a robust environmental baseline against which to assess alternatives and impacts, that meets the CEQA standard and provides the Authority, permitting agencies and the public with the information necessary to support decisions regarding the project.

O1-8

Thank you for your consideration.

Sincerely,



David Lewis, Executive Director  
Save The Bay  
560 14<sup>th</sup> St., #400  
Oakland, CA 94612  
[dlewis@saveSFbay.org](mailto:dlewis@saveSFbay.org)  
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Carin High, Co-chair  
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P.O. Box 23957  
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650-493-5540

Attachment

# San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190

State of California | Gavin Newsom – Governor | [info@bcdc.ca.gov](mailto:info@bcdc.ca.gov) | [www.bcdc.ca.gov](http://www.bcdc.ca.gov)

*Transmitted via electronic mail only.*

December 20, 2022

Tim Oolman  
Cargill, Inc.  
7220 Central Ave  
Newark, CA 94560  
Email: [tim\\_oolman@cargill.com](mailto:tim_oolman@cargill.com)

**SUBJECT: Next steps and clarification of application filing requirements based on discussion at BCDC Engineering Criteria Review Board (ECRB) Meeting on November 16, 2022 (BCDC Permit Application No. 2021.003.00)**

Dear Mr. Oolman,

Thank you for attending BCDC's Engineering Criteria Review Board (ECRB) meeting on November 16, 2022, regarding Cargill's BCDC Permit Application No. 2021.003.00. Upon further review and consideration of the ECRB's discussion and recommendations during the meeting, BCDC staff has clarified a list of action items (below) for Cargill to complete as application filing requirements for BCDC Permit Application No. 2021.003.00.

We expect Cargill to complete these items in 2023, concurrently with other outstanding permit application items identified in previous communications from BCDC, to allow BCDC staff to present the proposed project to the Commission for a hearing and vote by late 2023.

We look forward to discussing these items, including an estimated timeline for completion, at our next meeting on January 9, 2022:

1. **Conduct site specific borings / cone penetration tests (CPTs) and associated analysis of the P2-12 / P2-13 berms ("berms"), including on the berms and off the toes of the berms.**
2. **Provide site-specific surveys and cross-sections of the berms.**
  - a. Provide relevant elevations, including: of the berms (top, toe); adjacent marshes/sloughs; various water levels of the Bay (ordinary tides and 100-year storm levels); and levels of Mixed Sea Salt (MSS) materials inside the ponds.
  - b. Include cross sections of both settled and non-settled areas at various berm locations.
  - c. Specify freeboard on the inboard and outboard sides of the berms.

- d. Include information on the location, depth, status, and history of any borrow trenches adjacent to the berms. Are there borrow trenches that have been recently filled in by sedimentation, and therefore contain ultra-young (highly unconsolidated) Bay muds?
- e. Include a time history of settlement on the berms.

**3. History of P2-12 and P2-13 berms.**

- a. As part of its ECRB package submission, Cargill provided a report titled "Report of Levee Integrity Bittern Storage Facilities/San Francisco Bay Area, California for Leslie Salt Co." dated April 1, 1986, by Purcell, Rhoades & Associates. The report provides valuable information on the extent of past coring, berm raising, and other repairs that had occurred on the P2-12 and P2-13 berms prior to the report. For example, it states that approximately 7,100 feet or 49% of the P2-12 berm had previously been cored. Please provide a description of any significant maintenance work that has occurred on the P2-12 and P2-13 berms, such as core compaction or raising of the berms, since that 1986 report was published. Wherever possible, please provide approximate work quantities and locations, including estimates of the overall percentages of the P2-12 and P2-13 berms that have been subject to compaction, raising, or other significant maintenance work since that 1986 report.

**4. Static condition assessment.**

- a. Conduct a static condition assessment of the berms to analyze the influence of daily operations, routine tides, and seepage on berm stability.

**5. Seismic and ecological risk assessments.**

- a. Conduct a seismic risk assessment to analyze and describe performance of the berms under a range of earthquake scenarios, including smaller earthquakes up to a maximum credible earthquake. Analyze any expected damage that may occur, and any expected associated release of MSS material into the environment. For each earthquake scenario, please also analyze that earthquake occurring simultaneously with a Base Flood Event (BFE). We understand this would be unlikely, but it is important to understand a full range of scenarios, including the worst-case scenarios, particularly given the potential ecological risks associated with a substantial breach and release of MSS material into the Bay.
- b. Conduct ecological risk assessment to analyze expected ecological impacts that may occur due to release of MSS material into the environment, based on expected performance of berms during various earthquake scenarios.





- c. Also describe any expected impacts from any berm failures on adjacent communities / human developments.

**6. 2<sup>nd</sup> Presentation to the ECRB.**

- a. The data and information gathered through Items 1 to 5 should be presented to the ECRB at a second meeting in 2023. Based on ECRB recommendations, further analysis or work to stabilize the berms may be required as a condition of the future permit.

**Other issues**

The following item will not be a filing requirement for your permit application but will likely be a special condition of your permit.

**7. Updated Sea Level Rise Risk Assessment.**

- a. During the ECRB meeting, some Board members expressed a need for further analysis of sea level rise risk on the berms, beyond what was conducted in the Sea Level Rise Assessment by AECOM in 2020. Specifically, the risk assessment should be updated to include analysis of storm wave run-up beyond stillwater levels, wave-induced berm erosion, and the risk of groundwater rise on berm stability, as discussed in the ECRB meeting. Any permit recommended for approval by the Commission may also include a special condition requiring sea level rise monitoring, and future adaptation measures based on the results of the risk assessment. We will work with you further to refine this requirement as we draft the staff report recommending approval of the permit application.
- b. While Items 1 through 6 above will focus specifically on the P2-12 and P2-13 berms, we expect that the condition for the updated sea level rise risk assessment would apply to the entire Cargill site.

Thank you for your attention to these matters. Please provide all responses to this communication over e-mail, as our staff primarily works remotely. Please do not hesitate to contact me with any questions at 415-352-3668 or [schuyler.olsson@bcdcc.ca.gov](mailto:schuyler.olsson@bcdcc.ca.gov).

Sincerely,

DocuSigned by:



A67BAB4E82A64F7...

**SCHUYLER OLSSON**

Senior Environmental Scientist (Specialist)

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105

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Cargill, Inc.  
BCDC Permit Application No. 2021.003.00

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December 20, 2022

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SO/mm

