

- E.1 **Hearing to consider the ‘Cargill Plummer Slough Bridge Project’, which includes a Grading Permit and Structural Permit to install a clear span bridge over Plummer Slough within Cargill, Incorporated’s (Cargill) solar salt production facility at 7220 Central Avenue. The Planning Commission will consider recommending that the City Council: 1) adopt the California Environmental Quality Act (CEQA) Initial Study and Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed project; and 2) approve the Grading Permit and Structural Permit for the Cargill Plummer Slough Bridge Project – from Assistant City Manager Grindall.** **(RESOLUTIONS - 2)** *TF*

Background/Discussion – Cargill operates a solar salt production facility located at 7220 Central Avenue in Newark, California where salt is produced using bay water and evaporation. The only existing access road used by Cargill operations related vehicles for operations is located immediately adjacent to a new residential development that is currently under construction. The purpose of the proposed project is to provide an alternative and direct access route across Cargill’s facility for Cargill-operations related vehicles, further away from the new residential development under construction. The new access route would be in addition to the existing access route that runs just outside the southern boundary of the new residential development. The installation of the bridge and provision of an alternate access route away from the new residential development will improve public safety and public health and permit Cargill to move equipment across Plummer Slough (which divides Cargill’s plant site) and streamline operations.

Surrounding land uses near the project site include open space to the north, diked salt marsh to the east, and salt ponds to the south and west. The project site is located within an operational salt production facility. All nearby roads are levee access roads. The nearest public access areas (San Francisco Bay Trail, Hickory Street, and Central Avenue) are located approximately 0.4 mile northeast of the project site. The new residential area under development is located approximately 0.4 mile to the northeast of the project site at the northeast intersection of Hickory Street and Central Avenue.

Bridge Installation: The project includes the placement of a 24-foot-wide, 60-foot-long concrete bridge supported by cement wingwalls across the span of Plummer Slough. The bridge would consist of six precast, prestressed, concrete panels that would then be topped with a cast-in-place reinforced concrete topping slab. The abutments on either side of Plummer Slough would each be supported by five, 15-inch tubex pilings. Additionally, a 3 foot 6 inch concrete barrier would be installed on either side of the proposed bridge. All construction of the permanent structures would be conducted within the upland levee areas on-site.

Limited Levee Roadway Improvements: The project includes limited levee roadway improvements on the existing access roads on each side of the proposed bridge approaches. A culvert would be also placed under the roadway within an existing brine channel.

Site Access and Equipment Staging: The current access route used by Cargill vehicles utilizes the access road that can be accessed from the Cargill facility east of the project site. Project vehicles follow this road until it exits onto Willow Street. From Willow Street, Cargill vehicles turn left onto Central Access; right onto Hickory Street; and then left onto an unmarked access road. The project would create an alternative access route that would allow Cargill to bring within its property traffic that would otherwise run through public streets. Once implemented, Cargill vehicles would be able to follow the access road from Cargill's facility to the western salt ponds along one connected access road. During construction, access to the site by construction workers and equipment would continue to be gained via the current access route. The staging areas would be placed along the access roads, entirely within the man-made levees.

Construction Schedule and Timing: It is anticipated that construction of the proposed project would require approximately six months. The proposed hours of construction would not exceed what is stipulated by City of Newark, which allows construction activities to take place between the hours of 8:00 a.m. to 7:00 p.m. Monday through Friday.

**California Environmental Quality Act (CEQA) Environmental Review
Initial Study/Mitigated Negative Declaration (IS/MND)**

A Draft IS/MND (Attachment 1A) was prepared by WRA, Inc. for the proposed project dated June 2018 (State Clearinghouse No. 2018062017). It was circulated in accordance with the California Environmental Quality Act (CEQA) for 30 days to State and other reviewing agencies/jurisdictions, and interested parties, from June 12, 2018 – July 12, 2018.

The IS/MND finds that the following resources could be potentially impacted by this proposed project: Air Quality, Biological Resources, Cultural Resources, and Geology and Soils. However, mitigation measures are proposed that would ensure the potential impacts would be less than significant.

The proposed mitigation measures are typical for a modern construction project and detailed within the Mitigation Monitoring and Reporting Program (Attachment 1B), and summarized below:

1. Implementation of Bay Area Air Quality Management District (BAAQMD) construction best management practices to reduce air quality impacts associated with grading and new construction;
2. Biological mitigation measures designed to protect any nesting birds, small mammals, or other special-status wildlife species that may be on site;
3. Compliance with relevant federal, state, and regional permitting requirements, including obtaining an amendment to the existing BCDC Permit;
4. Archaeological and/or paleontological evaluation in the case of accidental discovery of resources;
5. Geological mitigation measures designed to protect construction workers and the future structural integrity of the bridge from seismic ground shaking; and
6. Best management practices to control stormwater during construction and post-construction.

These required mitigation measures will be incorporated into the project through a Condition of Approval requiring compliance with the IS/MND mitigation measures.

Comments on the IS/MND

The 30-day comment period on the Draft IS/MND closed on July 12, 2018. One comment letter was received during the comment period from Brian Wines of the San Francisco Bay Regional Water Quality Control Board (Water Board) on July 10, 2018 (Attachment 1C). A response to the Water Board’s comment letter is also provided in Attachment 1C. As explained below, during the time since the City prepared the IS/MND and later submitted its response to the Water Board’s comment letter, confusion regarding the U.S. Army Corps of Engineers’ (“Corps”) review of the project design arose. Cargill and the Corps are discussing this issue to ensure the Corps’ approval was based on the project design as presented in the IS/MND. The Corps’ approval of this project, either by concurring the project is non-jurisdictional, is authorized by Cargill’s current permit, or by issuing a permit amendment, will be a Condition of Approval of this project.

The comments on the Draft IS/MND did not identify any new or substantially more severe impacts overlooked in the Draft Initial Study/Proposed Mitigated Negative Declaration and the response to comments did not rely on changes to the project that might have a new or substantially more severe impact. Therefore, in accordance with CEQA Guidelines Section 15073.5, recirculation of a Draft Initial Study/Proposed Mitigated Negative Declaration was not required.

General Plan Consistency

The project site has a City of Newark General Plan designation of Conservation-Open Space and Salt Harvesting, Refining, and Production. The Conservation-Open Space designation allows for a limited number of recreational improvements, such as trails and interpretive nature centers; however, the primary purpose of this designation is to facilitate the restoration and enhancement of native habitat. The Salt Harvesting, Refining and Production designation allows man-made crystallizer beds used for salt crystallization, as well as related buildings, facilities, and operations for salt harvesting, stacking, sizing, packaging, and/or distribution. The proposed project with mitigation and BMPs incorporated, is therefore consistent with the City’s general vision as put forth in their General Plan.

Zoning Consistency

The project site is zoned RP-OS (Resource Production/Open Space) in the City of Newark Code of Ordinances Title 17 Zoning. The RP designation, for the eastern side of the bridge, allows for General Industry, as well as uses ancillary to salt harvesting, refining, and production. The OS designation, for the western side of the bridge, allows for Park and Recreation Facilities. The proposed project conforms to the permitted uses and development standards for the RP designation as laid out in Chapter 17.11 of the City’s Municipal Code but does not conform to the permitted uses for the OS designation as laid out in Chapter 17.10. However, the degree of work within OS-designated land is very minor, and additional mitigation and permitting will be required pursuant to the Bay Conservation and Development Commission (BCDC) non-material amendment (as discussed below). The project is generally consistent with zoning regulations.

External Agency Review

The Cargill facility currently operates pursuant to a 1995 permit issued by BCDC, as amended and extended. Cargill is preparing a non-material amendment request for that existing permit concurrently with this report. The bridge is designed to be cantilevered across Plummer Slough

such that the entire structure remains above the high tide line. The 391 square feet (0.009 acre) of shading created by the bridge will be mitigated via in-kind replacement at a 1:1 ratio or other methods deemed acceptable by BCDC.

Cargill has also previously applied and received regulatory permits from the Army Corps of Engineers (Corps) and the Regional Water Quality Control Board (RWQCB) to operate and maintain the salt ponds surrounding the project site. These permits were issued in 2010. In 2017 and 2018, Cargill provided the RWQCB and Corps with initial project plans. RWQCB made a determination the project is outside of its jurisdiction. The Corps determined the potentially-jurisdictional portions of the project are covered by Cargill's current permit. In September 2018, during the course of the CEQA process, Cargill realized the project plans reviewed by these agencies were updated to those presented in the IS/MND. The major changes are removal of sheet piling from the design and additional fill.

Because RWQCB had already determined the project was outside its jurisdiction, this change in project plans would not impact that determination.

Cargill and the Corps are currently working to understand whether the Corps approval was based on updated plans, which were sent to the Corps as an update prior to written confirmation of the Corps' approval of the project under Cargill's current permit.

Cargill is also obtaining the approvals from the following agencies: Alameda County Flood Control District (encroachment permit), City of Newark (grading and structural permits).

Recommendation

The proposed bridge and minor roadway improvements will help to improve the circulation efficiency of the existing Cargill facilities and will reduce traffic, along with associated air and noise emissions, away from the new residential development adjacent to Cargill's current access route. The project is generally consistent with the existing land use approvals for the site, the General Plan designation, zoning, and development standards. Thus, staff recommends adoption of the IS/MND and MMRP and approval of the proposed project.

Action – The Planning Commission, hereby, recommends by resolution, that the City Council: 1) adopt the California Environmental Quality Act (CEQA) Initial Study and Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed project; and 2) approve the Grading Permit and Structural Permit for the Cargill Plummer Slough Bridge Project.

Attachments

1. Resolution to Adopt the California Environmental Quality Act (CEQA) Initial Study and Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP)
 - a. Draft Initial Study/Mitigated Negative Declaration
 - b. Mitigation Monitoring and Reporting Program (MMRP)
 - c. Response to Regional Water Quality Control Board Letter on Draft Initial Study Mitigated Negative Declaration
2. Resolution to Approve the Grading Permit and Structural Permit for the Cargill Plummer Slough Bridge Project.

RESOLUTION NO.

A RESOLUTION APPROVING AND RECOMMENDING THAT THE CITY COUNCIL ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION (IS/MND) AND MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) FOR THE PROPOSED “CARGILL PLUMMER SLOUGH BRIDGE PROJECT”

WHEREAS, pursuant to the requirements of the California Environmental Quality Act (CEQA), the City of Newark prepared an Initial Study and Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) (State Clearinghouse Number 2018062017) for the ‘Cargill Plummer Slough Bridge Project’, pursuant to Section 15060 *et seq.* and 15070 *et seq.* of the CEQA Guidelines, to analyze and mitigate the project's potentially significant environmental impacts; and

WHEREAS, the proposed bridge installation over Plummer Slough within Cargill Incorporated’s solar salt production facility at 7220 Central Avenue is consistent with the City’s General Plan land use designation (Conservation-Open Space and Salt Harvesting, Refining, and Production) and zoning designation (RP-OS or Resource Production/Open Space) for the project site; and

WHEREAS, through this study, it has been determined that the project does not result in any impacts that cannot be mitigated to a less-than-significant level; and

WHEREAS, on November 13, 2018 the Planning Commission of the City of Newark conducted a duly noticed meeting to consider the IS/MND and MMRP for the proposed project; considered all public testimony, written and oral, presented at the meeting; and received and considered the written information and recommendation of the staff report for the November 13, 2018 meeting related to the proposed project.

NOW, THEREFORE, the Planning Commission finds and resolves the following:

1. The IS/MND and MMRP and said mitigation measures contained within the same would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur; and
2. There is no substantial evidence in light of the whole record before the City of Newark that the project may have a significant effect on the environment; and

3. The Planning Commission has read and considered the IS/MND and MMRP and the comments thereon, and has determined the IS/MND and MMRP reflect the independent judgment of the City and were prepared in accordance with CEQA; and
4. The IS/MND and MMRP, all documents referenced in the same, and the record of proceedings on which the Planning Commission decision is based are located at City Hall for the City of Newark, located at 37101 Newark Boulevard, California, and are available for public review.

NOW, THEREFORE, based on the evidence and oral and written testimony presented at the public meeting, and based on all the information contained in the Community Development Department's files on the project, the Planning Commission approves and recommends that the City Council of the City of Newark adopt the IS/MND and MMRP, certifying that the IS/MND and MMRP address all the impacts of the proposed 'Cargill Plummer Slough Bridge Project'. The Planning Commission certifies in accordance with CEQA guidelines that:

1. The IS/MND and MMRP were prepared in compliance with CEQA and the CEQA guidelines;
2. The Planning Commission has reviewed and considered the information contained in the IS/MND and MMRP prior to approving the project;
3. The IS/MND and MMRP adequately describe the project, its environmental impacts, appropriate mitigation measures; and
4. The IS/MND and MMRP reflect the independent judgment and analysis of the Planning Commission.

This Resolution was introduced at the Planning Commission's November 13, 2018 meeting by _____, seconded by _____, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson

Scanned Separately
(see Cargill Draft IS-MND,
pdf) = 84 pages

Draft Initial Study / Proposed Mitigated Negative Declaration

for the

Cargill Plummer Slough Bridge Project

Cargill, Incorporated
7220 Central Avenue
Newark, CA 94560
Contact: Ric Notini, Land Resources
Manager
Ric_notini@cargill.com

June 2018



CARGILL PLUMMER SLOUGH BRIDGE PROJECT MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared pursuant to CEQA Guidelines (California Code of Regulations, Title 14), which state the following:

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The public agency may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both.

Table 1 lists the potentially significant impacts and proposed mitigation measures identified in the Cargill Plummer Slough Bridge Project Initial Study/Mitigated Negative Declaration (IS/MND). Table 1 describes the timing of implementation of the mitigation measures (i.e., when the measure will implemented) and the City of Newark Community Development Department staff or individual responsible for ensuring implementation of the measures. Finally, Table 1 describes the City of Newark Community Development Department staff member or individual responsible for monitoring the mitigation measures.

Table 1. Mitigation Monitoring and Reporting Program

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
<p>AIR QUALITY</p> <p>Impact AIR-b,c,d: Air Quality Standards, Criteria Pollutants, and Sensitive Receptors</p>	<p>Mitigation Measure AIR-1</p> <p>During the construction phase the applicant shall ensure that the project contractor implements measures to control dust and exhaust. The contractor shall implement the following best management practices that are required of all projects:</p> <ol style="list-style-type: none"> All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph). Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's 	<p>Implementation Responsibility: Contractor</p> <p>Monitoring Frequency: As needed during construction</p>	<p>Monitoring Responsibility: City of Newark Community Development Department</p>	<p>Initials _____</p> <p>Date _____</p>

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	<p>specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>7. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p>			

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
<p>BIOLOGICAL RESOURCES</p> <p>Impact BIO-a: Sensitive Species</p>	<p>Mitigation Measure BIO-1</p> <p>Avoidance measures shall be used to prevent significant impacts to special-status wildlife species including the installation of exclusion fencing along the upslope edge of the project site to prevent small mammals from entering the work area, and a nesting bird survey prior to ground disturbance to prevent nest destruction or abandonment. The exclusion fencing will also act as erosion control for the slough and salt marsh vegetation, and shall be installed in a manner consistent with the Conservation Measures described in the Biological Opinion for the Proposed Cargill Salt Division Solar Salt System Activities.</p>	<p>Implementation Responsibility: City-approved Consulting Biologist</p> <p>Monitoring Frequency: Prior to ground disturbance</p>	<p>Monitoring Responsibility: City of Newark Community Development Department</p>	<p>Initials _____</p> <p>Date _____</p>
<p>Impact BIO-b: Riparian Habitat</p>	<p>Mitigation Measure BIO-2</p> <p>The applicant shall obtain a Non-Material Amendment to the existing BCDC Permit which shall mitigate for the loss of 391 square feet (0.009 acre) of salt marsh wetlands via in-kind replacement at a 1:1 ratio or other methods deemed acceptable by BCDC.</p>	<p>Implementation Responsibility: Project applicant</p> <p>Monitoring Frequency: Prior to ground disturbance</p>	<p>Monitoring Responsibility: City of Newark Community Development Department</p>	<p>Initials _____</p> <p>Date _____</p>

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
<p>CULTURAL RESOURCES</p> <p>Impact CULT-b,c: Archaeological and Paleontological Resources</p>	<p>Mitigation Measure CULT-1</p> <p>In the event previously unidentified cultural resources are encountered during project implementation, construction crew members and other project staff shall avoid altering the materials and their context. A qualified professional archaeologist shall be contacted immediately to evaluate the situation. Project personnel shall not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or abode foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies.</p>	<p>Implementation Responsibility: City-approved Archaeologist/Paleontologist</p> <p>Monitoring Frequency: During construction</p>	<p>Monitoring Responsibility: City of Newark Community Development Department</p>	<p>Initials _____</p> <p>Date _____</p>
<p>Impact CULT-d: Human Remains</p>	<p>Mitigation Measure CULT-2</p> <p>Although unlikely, if human remains are encountered, all work shall stop in the immediate vicinity of the discovered remains and the County Coroner and a qualified archaeologist shall be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission shall be contacted by the Coroner so that a "Most Likely Descendant" can be designated and further recommendations regarding treatment of the remains is provided.</p>	<p>Implementation Responsibility: City-approved Archaeologist</p> <p>Monitoring Frequency: During construction</p>	<p>Monitoring Responsibility: City of Newark Community Development Department</p>	<p>Initials _____</p> <p>Date _____</p>
<p>GEOLOGY AND SOILS</p>				

<p>Impact GEO-aii,c,d: Seismic Ground Shaking, Unstable Soil, Expansive Soil</p>	<p>Mitigation Measure GEO-1</p> <ul style="list-style-type: none"> Surface vegetation present at the time of grading shall be stripped or removed together with the organic-laden topsoil from areas to receive fill. Similarly, remaining salt deposits blanketing areas to be filled shall be cleared of the salt. Following the stripping and clearing operations, the exposed subgrade in areas to receive fill shall be evaluated by the Geotechnical Engineer and the grading contractor to determine if the exposed subgrade is sufficiently stable to support grading equipment and the placement of fill directly on the subgrade or if stabilization measures are required due to the presence of soft subgrade. Soft subgrade is anticipated within the brine ditch. A soft to medium stiff layer of Young Bay Mud, about two feet thick, was encountered in Boring B-2, in the vicinity of the planned western abutment. The depth to the Bay Mud places it at about the level of the bottom of the brine ditch. Removing this soft soil down to the underlying stiffer clay soil may aid in grading of this portion of the site. The subgrade along the western side of the levee may be stiffer and capable of supporting lighter rubber-tired or track-mounted construction equipment as a result of the use of the area as a salt evaporation pond. Where the exposed subgrade will not support construction equipment of any type, the subgrade shall be covered with a woven geotextile fabric, such as Mirafi 600X, followed by the placement of an 18-inch thick section of crushed gravel to create a base on which to place the remaining required fill. The gravel shall be nominally 3" x 1" in size. The gravel shall be placed on the fabric by pushing it out using a bulldozer, with the dozer working on top of the gravel as the gravel fill is built out. The completed gravel layer should be full wrapped by the geotextile fabric. Once the fabric-wrapped gravel layer is in place, the remaining fill shall 	<p>Implementation Responsibility: Contractor, City of Newark Project Manager</p> <p>Monitoring Frequency: During excavation and grading</p>	<p>Monitoring Responsibility: City of Newark Community Development Department</p>	<p>Initials _____</p> <p>Date _____</p>
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Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	<p>be placed over the fabric. The initial layer of fill shall be pushed out over the fabric and should have a nominal thickness of 12 inches. Once properly compacted and with demonstrated stability, conventional filling operations shall be able to commence.</p> <ul style="list-style-type: none"> Where the exposed subgrade will support construction equipment but is susceptible to breaking down under construction traffic due to high soil moisture content, the initial one to two feet of fill shall be placed by pushing out 12-inch layers of fill using a bulldozer. The initial 12-inch lift shall be track-walked to increase the soil density to prepare it to receive the balance of the fill. The second 12-inch lift may also need to be pushed out and track-walked, followed by compaction with a sheepsfoot compactor. Once properly compacted and with demonstrated stability, conventional filling operations shall be able to commence. After a minimum of 2 feet of fill has been placed and compacted over stable existing subgrade soils, or over geotextile wrapped gravel where required, and where the fill can be demonstrated to be sufficiently stable to support trucks and grading equipment, conventional filling operations shall commence to complete the required lifts. Engineered fill above the initial lifts discussed above shall be placed in thin lifts (normally 6 to 12 inches depending on the compaction equipment). Backfill lift thickness behind retaining walls and at utility trenches may need to be limited to between 4 and 6 inches where jumping jack or vibratory plate compactors are used. Lift thickness is a function of the equipment used as well as the material being compacted. Fill placed against the existing levee fill shall be tied into the existing fill by cutting benches into the existing fill one to two feet horizontally as the new fill is placed and 			

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	<p>compacted. Fill shall be compacted to no less than 90 percent relative compaction to with three feet of finished grade. The top two to three feet of fill shall be compacted to no less than 95 percent relative compaction. Fill soils shall be moisture conditioned to between 2 and 5 percent above the optimum moisture content prior to compaction.</p> <ul style="list-style-type: none"> • A layer of Class 2 aggregate base (nominally 12 inches thick) shall be considered at the haul road to provide a more durable wearing surface. • Fill for the embankment across the brine ditch and to be placed as backfill at abutment and wing walls shall consist of Caltrans Class 2 aggregate base. Import fill for the levee widening and improvement project shall contain no deleterious matter, debris, visible organics or rocks greater than 4 inches in largest dimension. Clayey soils with a Plasticity Index of 25 or less are recommended for use as fill to allow for side slopes at inclinations up to 2 horizontal to 1 vertical (2H:1V). If granular or low to nonplasticity soils are used as fill, flatter side slopes at inclinations not to exceed 3H:1V shall be required. Fill materials shall be subject to the evaluation of the Geotechnical Engineer prior to their use. • Relative compaction refers to the in-place dry density of soil expressed as a percentage of the maximum dry density determined by ASTM D1557 compaction test method. Optimum moisture is the water content (percentage by dry weight) corresponding to the maximum dry density. • Observations and soil density tests shall be carried out by a representative of the Geotechnical Engineer during grading and backfill operations to assist the contractor in obtaining the required degree of compaction and proper 			

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	<p>moisture content, and to document that the work as completed is in compliance with project requirements. Where the compaction and/or soil moisture content are outside the range required, additional compaction effort and/or adjustment of moisture content shall be made until the specified compaction and moisture conditioning are achieved.</p> <ul style="list-style-type: none"> • The Geotechnical Engineer shall be notified at least 48 hours prior to any grading operations. The procedure and methods of grading shall then be discussed between the contractor and the Geotechnical Engineer. • The retaining wall shall be approximately 6.7 feet in height and the wall backface shall be place a foot or further away from traffic. • Backfill shall be well-graded gravel extending back from the wall a distance equal to wall height. 			

RESPONSE TO COMMENTS ON THE DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION CARGILL PLUMMER SLOUGH BRIDGE PROJECT

Introduction

On June 12, 2018 the City of Newark Community Development Department (Lead Agency) released for public review a Draft Initial Study/Proposed Mitigated Negative Declaration for the Cargill Plummer Slough Bridge Project. The 30-day public review and comment period on the Draft Initial Study began on June 12, 2018 and closed at 4:30 p.m. on July 12, 2018.

The Draft Initial Study/Proposed Mitigated Negative Declaration and the response to comments on the Draft Initial Study/Proposed Mitigated Negative Declaration are informational documents prepared by the Lead Agency that must be considered by decision-makers before approving the proposed project and that must reflect the Lead Agency's independent judgment and analysis (CEQA Guidelines, Section 15090).

The following summarizes and responds to the comments and questions on the Draft Initial Study/Proposed Mitigated Negative Declaration circulated by the City to public agencies and the public as required by the California Environmental Quality Act (CEQA). As discussed below, the Comments do not identify any new or substantially more severe impacts overlooked in the Draft Initial Study/Proposed Mitigated Negative Declaration and the Response to Comments does not rely on changes to the project that might have a new or substantially more severe impact. Therefore, in accordance with CEQA Guidelines Section 15073.5, recirculation of a Draft Initial Study/Proposed Mitigated Negative Declaration is not required.

This section contains a copy of the comment letter submitted during the public review period on the Draft Initial Study/Proposed Mitigated Negative Declaration, and the individual responses to the comments in the comment letter. The one comment letter is designated with a number in the upper right-hand corner of the letter. Individual comments are labeled with the designated numbers in the margin. Immediately following the comment letter is an individual response to each numbered comment.

Commenters

The following organizations/persons provided written comments on the Draft Initial Study/Proposed Mitigated Negative Declaration to the City:

Comment Letter A: Brian Wines, San Francisco Bay Regional Water Quality Control Board



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

Comment Letter A

July 10, 2017

Sent via electronic mail: No hardcopy to follow

City of Newark, Community Development Department
ATTN: Terrence Grindall (Terrence.grindall@newark.org)
37101 Newark Boulevard
Newark, CA 94560

Subject: San Francisco Bay Regional Water Quality Control Board Comments on the Initial Study / Mitigated Negative Declaration for the Cargill Plummer Slough Bridge Project, City of Newark, Alameda County, California
SCH No. 2018062017

Dear Mr. Grindall:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Initial Study / Mitigated Negative Declaration for the Cargill Plummer Slough Bridge Project (ISMND)*. The ISMND evaluates the potential environmental impacts associated with constructing a 60-foot long concrete bridge over Plummer Slough as part of creating a new haul road to Cargill’s solar salt production facilities (Project). The current haul road is located immediately adjacent to a new residential development, and the Project purpose is to redirect traffic away from the new development to improve public safety and health.

A-1

Summary

As is discussed below, the ISMND does not provide an adequate discussion of potential Project impacts to waters of the State or propose actual mitigation measures for those impacts. In particular, the ISMND does not address potential impacts to habitat quality within the Plummer Creek Mitigation Bank. The ISMND also does not provide sufficient detail with respect to water quality treatment requirements that may be associated with the Project’s new impervious surfaces.

Comment 1. The ISMND lacks sufficient detail to establish that implementation of the Project is covered by Cargill’s existing Clean Water Act Section 401 Water Quality Certification for Cargill’s Maintenance Activities at its Solar Salt Production Facilities.

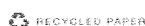
Text in Section 3.2, *Project – Related Approval, Agreements, and Permits*, of the ISMND contains the following text:

A-2

... Cargill has also previously applied and received regulatory permits from the Army Corps of Engineers (Corps) and the Regional Water Quality Control Board (RWQCB)

DR. TERRY F. YOUNG, CHAIR | BRUCE H. WOLFE, EXECUTIVE OFFICER

1515 Clay St., Suite 1400, Oakland, CA 94612 | www.waterboards.ca.gov/sanfranciscobay



to operate and maintain the salt ponds surrounding the project site. These permits were issued in 2010 and due to the location of the project site and the nature of the activities, the Corps has determined that potentially jurisdictional aspects of the project, including filling of a portion of a brine channel, are covered under these existing permits.

The CWA Section 401 Certification issued to Cargill covers routine maintenance activities associated with solar salt production. The construction of a new bridge over a water of the State (Plummer Slough) and the placement of fill in a potential water of the State (brine channel) are not maintenance activities. The Water Board's permits for maintenance activities usually do not include the construction of new infrastructure. Based on the information provided in the ISMND, the Water Board is not likely to consider the new bridge and the placement of fill in a brine channel to support a new haul road to be covered activities in the Certification issued to Cargill in 2010 for routine maintenance activities. The Water Board will probably require individual CWA Section 401 Certification and/or Waste Discharge Requirements for the construction of the new bridge and the placement of fill in the brine channel.

Also, although the text of the ISMND states that the Corps considers the bridge project to be covered by the existing maintenance permit, no documentation of this determination is provided.

Comment 2. The ISMND lacks sufficient detail with respect to potential impacts to wetlands or other waters of the State at the Project site and does not describe concrete mitigation measures for those impacts.

The Project description lacks sufficient detail to assess the full extent of potential Project impacts to the environment. Plan view and profile sheets are provided for the proposed bridge, but these design sheets lack crucial details for assessing potential environmental impacts.

The cross-sectional view of the bridge shows a water surface elevation mark. But there is no indication of the elevation that is being referenced (e.g., ordinary high water, 10-year flood elevation, 100-year flood elevation, or high tide line). Without this information, the extent of any new fill to be placed in waters of the State, as well any potential impacts on local flooding, cannot be evaluated.

The *Design Level Geotechnical Investigation, Proposed Haul Road by BP13 and Plummer Creek Bridge, Cargill Facility – 7220 Central Avenue, Newark California* (Berlogar Stevens & Associates (April 17, 2017), recommends the installation of approach slabs at the abutments. It is not clear from the information provided in the ISMND if the total impervious surface area associated with the new haul road, including the bridge surface, approach slab surfaces, and any other new hardscape, will be large enough to trigger compliance with the stormwater runoff treatment requirements in the Municipal Regional Permit (MRP) (Order No. R2-2015-0049), which was adopted by the Water Board in November of 2015. Projects that create or recreate more than 10,000 square feet of impervious surfaces are required to provide water quality treatment for post-construction stormwater runoff.

The *Design Level Geotechnical Investigation* also refers to a retaining wall that is to be constructed in a brine ditch to support fill that will be placed in the brine ditch for the new haul road. However, the location and extent of fill to be placed in the brine ditch are not clear from the information presented in the ISMND. The status of the brine ditch as a water of the State and/or water of the U.S. should be discussed in more detail, along with the extent of proposed fill

A-2

A-3

of waters of the State at the brine ditch. The ISMND also lacks a detailed discussion of mitigation for fill in waters of the State associated with the new bridge over Plummer Creek or fill in the brine ditch. In the absence of this information, it is not possible to assess the significance of potential Project impacts to jurisdictional waters of the State.

The ISMDN also does not discuss the proximity of the proposed new haul road to the Plummer Creek Mitigation Bank. The Plummer Creek Mitigation Bank has met its final performance criteria and may be transferred to the Don Edwards National Wildlife Refuge. When the Mitigation Bank was established, the existing haul road was the closest source of potential human disturbances to wildlife that use habitat at the Mitigation Bank. Since the completion of the Mitigation Bank, residential development has encroached closer to the northern and eastern borders of the Mitigation Bank. But the southern and western borders of the Mitigation Bank have not been exposed to regular human disturbances. Establishing the proposed new haul road will surround the Mitigation Bank with access roads. The ISMND should be revised to evaluate potential negative impacts to the habitat value of the Mitigation Bank that may result from surrounding the bank with heavy equipment haul roads.

We recommend that the ISMND be revised to include an alternatives analysis to assess the relative significance of impacts to habitat quality in the Mitigation Bank associated with the existing and proposed haul road alignments. The alternatives analysis should compare the benefits to public health and safety that would be associated with the new haul road alignment to any negative impacts to habitat quality in the Mitigation Bank that may result from the alignment of the proposed haul road. The analysis should also consider abandonment of the existing haul road as a partial mitigation measure for the Project's impacts.

A-3

Comment 3. Section 4.4 b) of the ISMND lacks sufficient detail with respect to potential impacts to wetlands or other waters of the State at the Plummer Creek Mitigation Bank, which is adjacent to the Project site.

As is discussed in Comment 2, the creation of the proposed haul road would effectively surround the Plummer Creek Mitigation Bank with heavy equipment haul roads. The ISMND does not assess the indirect impacts these surrounding haul roads would have on the species that use wetland and marsh habitats in the Plummer Creek Mitigation Bank. The new haul road may also contribute to habitat fragmentation between the Plummer Creek Mitigation Bank and San Francisco Bay. Please revised the ISMND to examine potential Project impacts to habitat quality in the Plummer Creek Mitigation Bank and to propose mitigation for any impacts to habitat quality in the Plummer Creek Mitigation Bank.

A-4

During the permitting process for the Torian Residential Project, the design for the on-site mitigation wetlands included a hydraulic connection between the new mitigation wetlands and the Plummer Creek Mitigation Bank. The original onsite mitigation plan for the Torian Project included abandoning the portion of the Hickory Street right-of-way adjacent to the Torian Project's mitigation wetlands and excavating the abandoned right-of-way to allow water to flow from the mitigation wetlands to the Plummer Creek Mitigation Bank. If the new haul road makes the Hickory Street component of the existing haul road redundant, the Project proponent is encouraged to consider removing Hickory street and the berm supporting it to establish habitat connectivity between the Torian Project mitigation wetlands and the Plummer Creek Mitigation

Bank. Establishing this connection would be a potential component of the Project's mitigation for impacts to waters of the State.

A-4

Comment 4. Section 4.4 b) of the ISMND lacks sufficient detail with respect to mitigation for impacts to waters of the State in the Plummer Creek channel.

Text in the discussion of Section 4.4 b) discusses the conversion of about 391 square feet of salt marsh wetlands to open waters, as a result of shading beneath the new bridge. The ISMND proposes to mitigate for this impact to salt marsh wetlands as part of conformance with a Non-Material Amendment to the existing BCDC Permit. Mitigation is proposed at a 1:1 ratio for in-kind replacement of salt marsh wetlands. However, a mitigation location is not specified, and text in Section 4.4 b) states that other mitigation measures may be proposed to BCDC.

The ISMND should be revised to state that the Water Board may also require mitigation for impacts to salt marsh wetlands. And a proposed mitigation project should be included in the revised ISMND. In a CEQA document, a project's potential impacts and proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. In an adequate CEQA document, mitigation measures must be feasible and fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines Section 15126.4). Mitigation measures to be identified at some future time are not acceptable. It has been determined by court ruling that such mitigation measures would be improperly exempted from the process of public and governmental scrutiny which is required under the California Environmental Quality Act. The current text of the ISMND does not establish the extent of proposed impacts to wetlands and other jurisdictional waters and it does not demonstrate that it is feasible to mitigate all potentially significant impacts to waters of the State that may result from Project implementation to a less than significant level. Any future impacts to the jurisdictional waters at the Project site, as well as proposed mitigation measures or such impacts, will require review under CEQA before the Water Board can issue permits for those proposed impacts

A-5

Comment 5. Section 4.4 c) of the ISMND lacks proposed mitigation for the Project's impacts to waters of the State in the Plummer Creek channel and a brine ditch.

Text in the discussion of Section 4.4 c) repeats the assertion made in Section 3.2, that Project impacts to waters of the State are covered in the existing Certification of Cargill's maintenance activities. As was discussed in Comment 1, Water Board staff do not agree with this assertion. Please revise this section of the ISMND to describe all impacts to waters of the State, as well as specific mitigation measures to compensate for those impacts.

A-6

Comment 6. Section 4.9 a) of the ISMND does not discuss whether the Project creates sufficient impervious surfaces to trigger compliance with the MRP.

As was discussed in Comment 2, the ISMND does not contain sufficient detail with respect to the total area of new or recreated impervious surfaces associated with the Project to assess the

A-7

need to comply with the treatment requirements in Section C.3 of the Municipal Regional Permit (MRP) (Order No. R2-2015-0049). Please revise the ISMND to provide this information.

A-7

Conclusion

The current version of the ISMND does not provide sufficient detail with respect to impacts to jurisdictional waters of the State and also fails to describe adequate mitigation for such impacts. The ISMND should be revised to quantify all impacts to waters of the State on the Project site. Specific mitigation measures should be presented for all impacts to waters of the State. These mitigation measures should be in-kind and on-site mitigation measures to the maximum extent possible. The amount of proposed mitigation should include mitigation for temporal losses of any impacted waters of the State. If mitigation is out-of-kind and/or off-site, then the amount of the proposed mitigation should be increased. Proposed mitigation measures should include designs with sufficient detail to show that any created channels have the proper sinuosity, slope, bankfull channel dimensions, and channel cross-sections to be in equilibrium with the local topography and watershed, and that any created wetlands will have sufficient hydrology to sustain wetland hydrology and vegetation without human intervention. A proposed program for monitoring the success of the mitigation features should also be included with the mitigation proposal(s). In addition, the ISMND should include a discussion of compliance with stormwater requirements in the MRP.

A-8

If the MND is adopted without providing more detail related to the project's impacts to jurisdictional waters and to provide more details related to concrete mitigation proposals for those impacts, it is likely that the ISMND will not be adequate to support the issuance of CWA Section 401 certification and/or Waste Discharge Requirements for the Project.

If you have any questions, please contact me at (510) 622-5680, or via e-mail at brian.wines@waterboards.ca.gov.

Sincerely,

Brian Wines

Digitally signed by Brian Wines
Date: 2018.07.10 15:10:26
-07'00'

Brian Wines
Water Resources Control Engineer
South and East Bay Watershed Section

cc: State Clearinghouse (state.clearinghouse@opr.ca.gov)
CDFW, Marcia Grefsrud (mgrefsrud@dfg.ca.gov)
Corps, Katerina Galacatos (Katerina.galacatos@usace.army.mil)

Response to Comment Letter A: Brian Wines, San Francisco Bay Regional Water Quality Control Board

Response to Comment A-1

This comment contains general information about the proposed project and serves as an introduction to the commenter's following comments, including concern that the Draft Initial Study/Proposed Mitigated Negative Declaration does not provide an adequate discussion of potential project impacts to waters of the State and associated mitigation measures. Other concerns raised in these introductory comments include potential impacts to habitat within the Plummer Creek Mitigation Bank and water quality treatment requirements that may be related to the project's new impervious surfaces. Please refer below to Response to Comments A-2 through A-8.

Response to Comment A-2

This comment states that the Draft Initial Study/Proposed Mitigated Negative Declaration lacks sufficient detail to establish that implementation of the project is covered by Cargill's existing Clean Water Act Section 401 Water Quality Certification for Cargill's Maintenance Activities at its Solar Salt Production Facilities.

For clarification, the activities described for this project fall into two categories: (1) maintenance activities covered by the existing permits and (2) new infrastructure. The bridge is new infrastructure, and thus is not covered under the existing maintenance permits. However, it has been designed to completely avoid wetlands and non-wetland waters of the State, and thus it does not require a Section 401 Water Quality Certification. The remaining work, which includes the levee road improvements and fill of the brine channel, were determined by the agencies to fall under the existing maintenance permits. These determinations were made by Greg Brown of the US Army Corps of Engineers (Corps) on a phone call with WRA and follow-up email on November 16, 2017. In that correspondence, the Corps agreed that the bridge over Plummer Creek was outside of Corps jurisdiction, and that the work within the brine channel is authorized under Category 2F of the Corps' maintenance permit. Additionally, Dale Bowyer of the Regional Water Quality Control Board (RWQCB) determined that the bridge design was outside of RWQCB jurisdiction and that the RWQCB had no concerns with the plans, which included filling the brine channel. These determinations were communicated in an email to Cargill dated October 9, 2017 (with a copy sent to Brian Wines of the RWQCB).

Response to Comment A-3

This comment states that the Draft Initial Study/Proposed Mitigated Negative Declaration lacks sufficient detail with respect to potential impacts to wetlands or other waters of the State at the project site and does not describe concrete mitigation measures for those impacts.

The water elevation mark shown in the cross-sectional view of the bridge corresponds to the high tide line (HTL). The HTL was determined in the field by a WRA biologist using indicators of the highest regularly occurring tide level, including a shift in vegetation from tidal to upland vegetation, and a wrack line. The attached Figure 1 shows these lines relative to the bridge abutment.

The bridge at the eastern abutment would be approximately 5 feet above the current elevation of mean higher high water (MHHW) and approximately 3.2 feet above the current 100-year flood elevation occurring concurrently with a MHHW tide level. At the western abutment, the bridge

would be approximately 4 feet above the current elevation of MHHW and approximately 2.2 feet above the current 100-year flood elevation occurring concurrently with a MHHW tide level. These elevations accommodate the existing elevations of the surrounding levees and the bridge approaches and will make the bridge functional under current operational conditions. Conclusions regarding potential impacts due to local flooding were made based on these design elevations.

Impervious surfaces installed by the project include the bridge decking, abutments, wing walls, and piles. The project may include installation of approach slabs on each side of the bridge, each totaling approximately 2,400 square feet. In total, up to 5,567 square feet of impervious surfaces may be created, which remains below the threshold of 10,000 square feet required to provide water quality treatment for post-construction stormwater runoff. Thus, no water quality treatment plan was prepared.

The project plans provided in the Draft Initial Study/Proposed Mitigated Negative Declaration do not propose a retaining wall through the brine ditch. The retaining wall was evaluated as part of the *Design Level Geotechnical Investigation* (Appendix B to the Draft Initial Study/Proposed Mitigated Negative Declaration), but it was removed from the plan prior to completing the Draft Initial Study/Proposed Mitigated Negative Declaration, in favor of filling the area in the brine channel (see attached Figure 2).

As noted above, the RWQCB reviewed the project plans, which included details regarding fill proposed in the brine ditch, in 2017 and determined that the project avoided RWQCB jurisdiction and a permit would not be required. The brine ditch is an operational feature that the agencies have opined are covered under the existing operations and maintenance permits. Therefore, no mitigation is proposed for filling the brine ditch.

The commentator also states that the Draft Initial Study/Proposed Mitigated Negative Declaration “does not discuss the proximity of the proposed new haul road to the Plummer Creek Mitigation Bank,” that “the southern and western borders of the Mitigation Bank have not been exposed to regular human disturbances” and that “the proposed new haul road will surround the Mitigation Bank with access roads.” In reality, it should also be noted that no new roadways are proposed as part of the project, only improvements to existing operations access roads are proposed. The access roadway to the west of the Plummer Creek Mitigation Bank – and which would approach the proposed, new bridge across Plummer Slough from the west - is currently already in active use in connection with Cargill’s solar salt operations and has been used for this purpose for many decades. This roadway is also separated from the Plummer Creek Mitigation Bank by a distance of approximately 100 feet, a distance which includes Cargill’s brine ditch, a levee, and a 40-foot-wide stormwater drainage easement. The access roadway south of the Plummer Creek Mitigation Bank – and which would approach the proposed, new bridge across Plummer Slough from the east – is also already in active use in connection with Cargill’s solar operations and has also been used as such for many decades. This existing, active access road is not adjacent to the Mitigation Bank, contrary to the commentator’s suggestion, but is separated from the Mitigation Bank by Plummer Creek and by fee owned property owned by Cargill and others to the north, ranging from a separation distance of approximately 200 to 600 feet. The purpose of the proposed project is to redistribute truck traffic associated with Cargill’s solar salt operations further away from new residential development and within Cargill’s existing roadway network. There is no evidence, offered by the commentator or otherwise, that this existing roadway network causes significant impacts to the Plummer Creek Mitigation Bank now or would cause such impacts as a result of the proposed project. CEQA does not require the preparation of an alternatives analysis as part of an Initial Study or Negative Declaration. In addition, the project does not result in a change to the baseline amount of traffic along existing access roads surrounding the Plummer Creek

Mitigation Bank, so preparation of an alternatives analysis is not warranted. Therefore, there are no potential impacts under CEQA that would require mitigation.

Response to Comment A-4

The commenter states that Section 4.4 b) of the Draft Initial Study/Proposed Mitigated Negative Declaration lacks sufficient detail with respect to potential impacts to wetlands or other waters of the State at the Plummer Creek Mitigation Bank, which is adjacent to the project site.

As explained above, no new roadway is proposed by the project and the Plummer Creek Mitigation Bank would not be “surrounded” by a “new haul road.” The proposed project would result in the redistribution of existing truck traffic associated with Cargill’s solar salt operations, further away from impending residential development and further away from the existing haul route located to the west of the Mitigation Bank. There is no evidence offered by the commentator or otherwise that this redistribution of traffic would cause any impacts to the habitat within the Mitigation Bank in light of the distance separating these existing roadways from the Mitigation Bank. In fact, the proposed project would not increase or decrease net traffic in the vicinity of the Plummer Creek Mitigation Bank – it would simply redistribute traffic around it. Therefore, no new or additional impacts to any habitat or wildlife in the mitigation bank would occur.

The commentator also suggests that the proposed project would “contribute to habitat fragmentation between the Plummer Creek Mitigation Bank and San Francisco Bay.” Because no new roadways are proposed as part of the project, but rather, the project would create a more efficient use of existing roadways, no such “fragmentation” would occur as a result of the project.

The commentator also suggests that the project proponent abandon an existing roadway within Hickory Street – currently used in connection with Cargill’s present “haul road” operations – “to establish habitat connectivity between the Torian mitigation wetlands and the Plummer Creek Mitigation Bank” as a “potential component of the Project’s mitigation for impacts to water of the State.” This suggestion is noted, however, because the project would not create impacts to waters of the State, no such abandonment would be necessary as a mitigation measure. Additionally, the construction of the new bridge and resulting redistribution of traffic would not make the existing haul route over Hickory Street redundant. While Cargill would direct heavier equipment and vehicles over the proposed new bridge, and away from residential development it would still continue to use the existing route over Hickory Street for lighter duty vehicles. And, in any event, abandoning Cargill’s existing roadway over Hickory Street would not align with the project’s objectives.

In sum, no evidence has been offered that the proposed project would adversely impact the hydrology of the mitigation bank, or would adversely impact any wildlife species or habitat within the Mitigation Bank.

Response to Comment A-5

The commenter states that Section 4.4 b) of the Draft Initial Study/Proposed Mitigated Negative Declaration lacks sufficient detail with respect to mitigation for impacts to waters of the State in the Plummer Creek channel.

As described in Response to Comment A-2, the project has been designed to completely avoid wetlands and non-wetland waters of the State, and thus it does not require a Section 401 Water Quality Certification. The agencies have opined the remaining work, which includes the levee

road improvements and fill of the brine channel, fall under the existing maintenance permits. Pages 24 and 25 of the Draft Initial Study/Proposed Mitigated Negative Declaration state that the installation of the bridge over Plummer Slough is anticipated to result in an indirect impact due to shading to the northern coastal salt marsh biological community present within the project site. Studies¹² addressing shading impacts on salt marsh vegetation show that vegetation under structures 4 to 6 feet high had little difference in density and size than the control as the light field was 60 to 90 percent full light, suggesting that any area with a sunlight reduction of more than 40 percent would be reduced in productivity. The bridge would ultimately reduce the solar radiation by between 1 and 100 percent over a 1,651 square foot area consisting of open water, salt marsh, and upland vegetation. Of the area to be shaded, approximately 391 square feet of salt marsh vegetation may experience 40 percent or greater reduction in solar radiation. Thus, approximately 391 square feet (0.009 acre) of salt marsh wetlands are expected to be converted to open water/mudflats due to shading from the proposed bridge. However, although the project may reduce the amount of vegetation within a confined area, the value and function of the area would remain similar to existing conditions. This relatively small amount of conversion of salt marsh wetlands to open waters/mudflats is considered a significant impact that can be mitigated to a less-than-significant level via implementation of Mitigation Measure BIO-2.

Mitigation Measure BIO-2 requires the applicant to obtain a Non-Material Amendment to the existing BCDC Permit which shall mitigate for the loss of 391 square feet (0.009 acre) of salt marsh wetlands via in-kind replacement at a 1:1 ratio or other methods deemed acceptable by BCDC. Based on input from BCDC, potential performance standards include the possible removal of an existing duck shed or other structure in tidal marsh, and allowing the tidal marsh to recruit naturally, to restore in-kind at a 1:1 ratio.

- The total area of marsh vegetation shaded by the project is approximately 390 square feet. As mitigation for those shading impacts, Cargill is proposing to remove a building that is shading approximately 436 square feet of salt marsh vegetation located within Cargill property. Salt marsh is expected to recruit naturally once the structure has been removed, resulting in a gain of approximately 436 square feet of marsh (net gain of 46 square feet, considering impacts). Figure 3 shows the location of the structure to be removed and photographs of the area of structure and surrounding salt marsh. Marsh vegetation in the area of the structure removal is of similar composition to the marsh vegetation (mid/high marsh) being shaded by the proposed bridge.

Response to Comment A-6

The commenter states that Section 4.4 c) of the Draft Initial Study/Proposed Mitigated Negative Declaration lacks proposed mitigation for the project's impacts to waters of the State in the Plummer Creek channel and a brine ditch.

Please refer to Response to Comments A-2 and A-3.

¹ SW Broome, CB Craft, SD Struck, M San Clements. 2005. *Effects of Shading from Bridges on Estuarine Wetlands*. North Carolina State University, College of Agriculture and Life Sciences. Raleigh, North Carolina.

² Logan, J, S Voss, A Davis, and KH Ford. 2018. *An Experimental Evaluation of Dock Shading Impacts on Salt Marsh Vegetation in a New England Estuary*. *Estuaries and Coasts* (2018) Vol 41:1, pp 13 - 24. January.

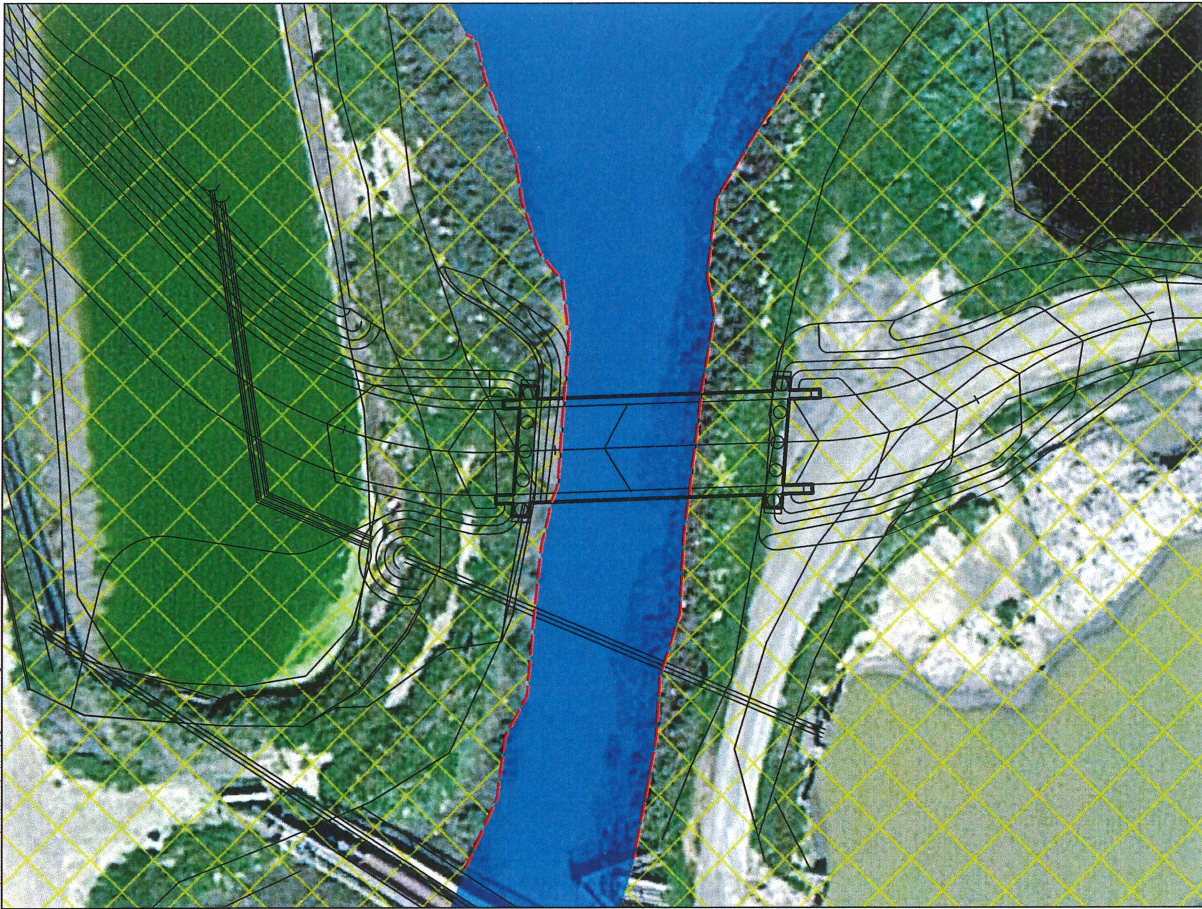
Response to Comment A-7

Section 4.9 a) of the Draft Initial Study/Proposed Mitigated Negative Declaration does not discuss whether the project creates sufficient impervious surfaces to trigger compliance with the MRP.

Please refer to Response to Comment A-3.





Response to Comment A-8

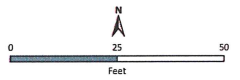
The commenter provides conclusory and summary comments of Comments A-1 through A-7 above. Please refer to Responses to Comments A-1 through A-7.



Sources: Google Earth March 2017 Aerial, WRA | Prepared By: ctumwalt, 5/31/2018

Figure 1.
Waters of the State
within the
Plummer Slough Bridge
Project Area
 Plummer Slough Bridge
 Alameda County,
 California

-  Bridge Design Footprint
-  High Tide Line
-  Waters of the State
-  Solar Salt Production Facility



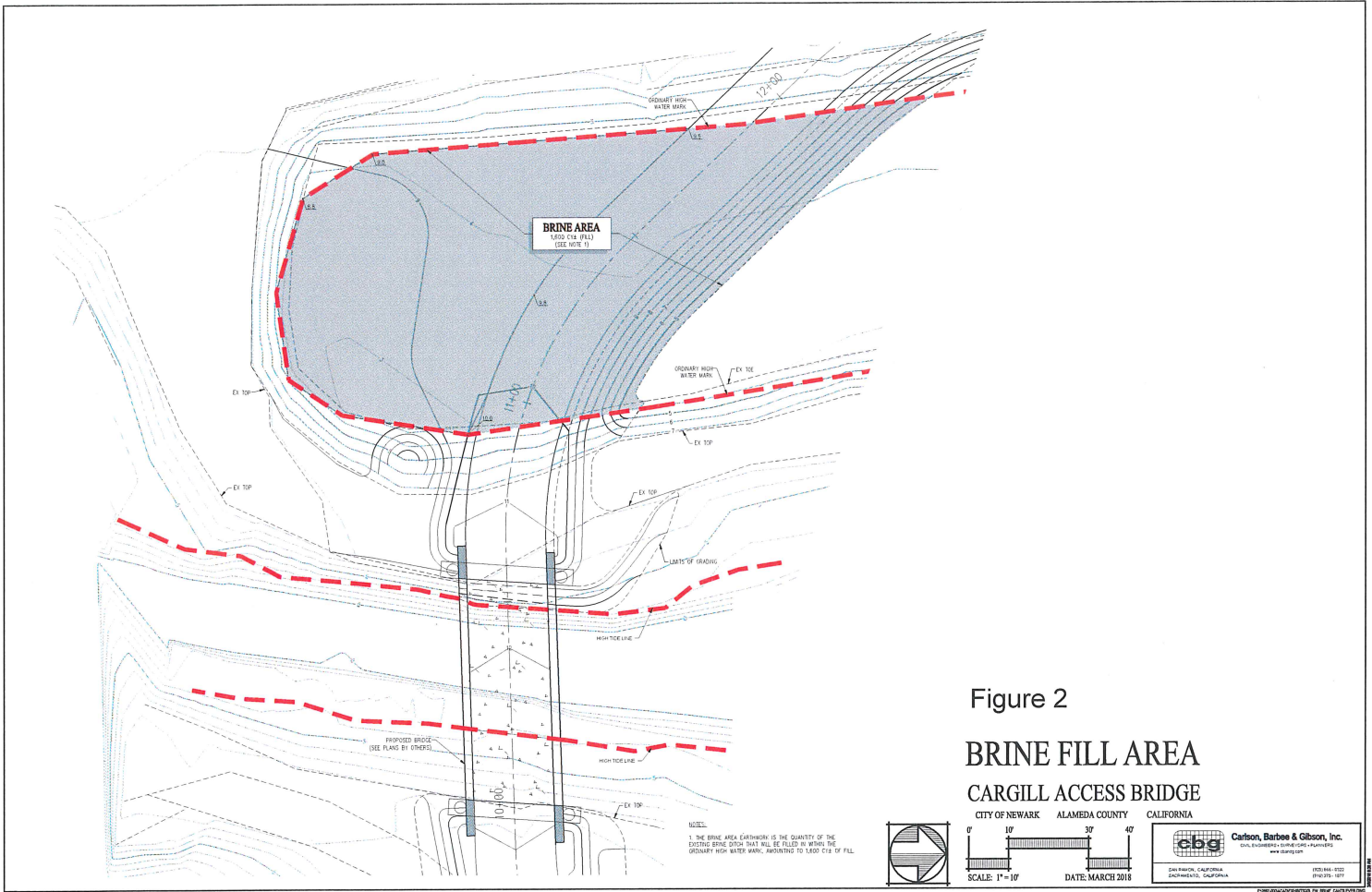
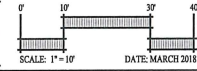


Figure 2

BRINE FILL AREA
CARGILL ACCESS BRIDGE

CITY OF NEWARK ALAMEDA COUNTY CALIFORNIA



DATE: MARCH 2018

Carlson, Barbee & Gibson, Inc.
 CIVIL ENGINEERS & SURVEYORS - PLANNERS
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 925-944-3333
 925-944-1875

NOTE:
 1. THE BRINE AREA (SHADING) IS THE QUANTITY OF THE EXISTING BRINE CATCH THAT WILL BE FILLED IN WITHIN THE ORDINARY HIGH WATER MARK, INCLUDING TO 100% OF FALL.

FILED: 03/03/2018 10:00 AM BY: [unreadable]

Figure 3a Proposed Area of Mitigation for Plummer Slough Bridge

Prepared by: Cargill, Incorporated
Date: June 4, 2018

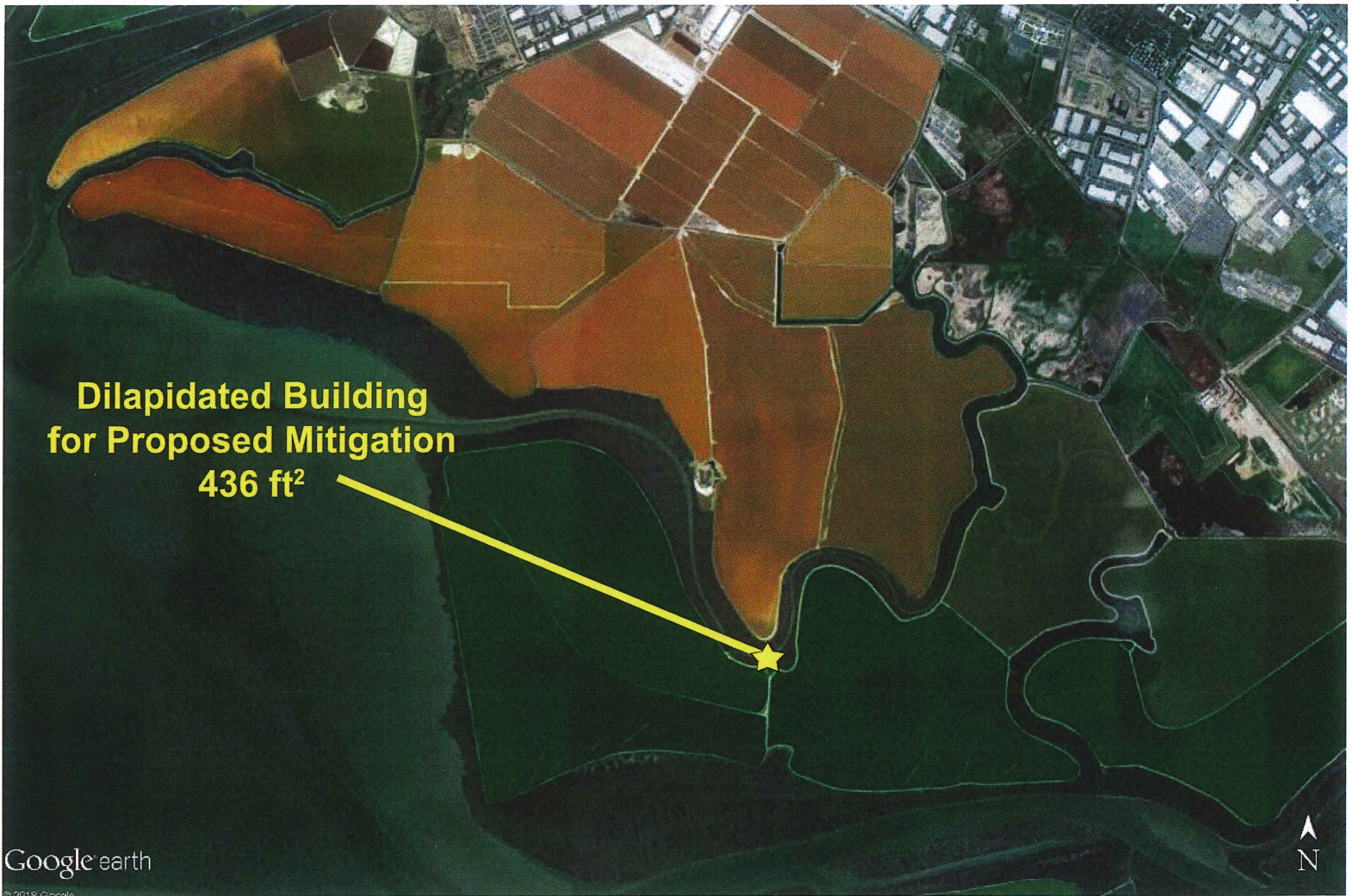


Figure 3b

Proposed Mitigation for Plummer Slough Bridge

Date: March 9, 2018



RESOLUTION NO.

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF NEWARK APPROVE PE-18-33, GRANTING GRADING AND STRUCTURAL PERMITS TO ALLOW CONSTRUCTION OF A BRIDGE OVER PLUMMER SLOUGH ON CARGILL INCORPORATED'S PROPERTY AT 7220 CENTRAL AVENUE (APNs: 537-551-17, 537-551-33-2).

WHEREAS, Cargill Incorporated has filed with the City of Newark an application for a Grading Permit and a Structural Permit for a bridge construction project across Plummer Slough on a site located at 7220 Central Avenue in order to provide an alternative and direct access route across Cargill's facility, away from a new residential development under construction; and

PURSUANT to the Newark Zoning Ordinance 17.31.060, a public hearing notice was published in The Tri City Voice and the Planning Commission held a public hearing on said application at 7:30 p.m. on November 13, 2018 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to Chapter 17.10 (Public and Semi-Public Districts) and Chapter 17.11 (Resource Production District) of the City of Newark Zoning Ordinance, the proposed project spans land parcels designated for Open Space and Resource Production; and

WHEREAS, pursuant to the City of Newark General Plan Chapter 3 Land Use Element, the proposed project spans land parcels designated for Conservation-Open Space and for Salt Harvesting, Refining, and Production; and

WHEREAS, pursuant to Chapter 15.50 (Grading and Excavation), Section 15.50.014 (Permits required) and 15.50.020 (Grading permit requirements) of the Newark Zoning Ordinance, the Planning Commission hereby makes the following findings:

- A. The proposed project is generally consistent with the City of Newark General Plan and Zoning Ordinance regulations;
- B. The grading required for the proposed project is designated "regular grading" and not "engineered grading", and therefore does not require the approval of a grading plan prepared by a civil engineer;

- C. The proposed project will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area; and
- D. The proposed project generally complies with applicable adopted design guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend the City Council of the City of Newark approve this application for a Grading Permit and Structural Permit.

This Resolution was introduced at the Planning Commission's November 13, 2018 meeting by Commissioner _____, seconded by Commissioner _____, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson