

11.0 LAND USE PLANNING

This chapter provides the environmental and regulatory background necessary to analyze land use effects associated with the proposed project. Applicable land use plans and policies were reviewed to identify any project-related incompatibilities with existing plans, policies, or surrounding land uses.

11.1 Affected Environment

The project area is in the South San Francisco Bay (made up of parts of Alameda, Santa Clara and San Mateo counties) and is part of a 12-county San Francisco Estuary planning area (the Estuary). The project sites include portions of the incorporated cities of San Jose, Alviso, and Fremont (Alviso Complex); Hayward (Baumberg Complex); and Menlo Park (West Bay Complex).

11.1.1 Existing Land Use in the Project Area

The project sites currently include the following land uses: bay shore mud flats, salt flats, salt marsh, salt evaporative ponds, creeks, flood control, rural land and wildlife interpretative areas, and open space areas, including existing parks and planned parks. In the recent past, the project sites were used for salt production by Cargill Corporation. Land uses surrounding the project sites include residential, commercial and light industry, public facilities, and heavy industry.

11.1.2 Regional Land Use Trends

The population of the San Francisco Estuary planning area is projected to increase by over one million people during the next two decades. This growth and the corresponding changes in land uses will have direct and indirect impacts on the health of the Estuary. Most notably, these impacts include increased pollutants from point and non-point sources and alteration of vital habitats, such as wetlands and streams.

Regional land use trends include the following (San Francisco BCDC, 2000):

- Development of urban uses along interstate and state highway corridors
- Acquisition of large rural areas by federal and state wildlife agencies for wildlife habitat
- Conversion of bay shore extraction facilities to wetland marsh and wildlife habitat

Until recently, opportunities for acquisition and restoration along the South Bay shoreline have been limited. The acquisition and proposed restoration of over 15,000 acres of Cargill salt production lands represents a unique opportunity to achieve some of the long-term regional goals for Bay shoreline, as described in various regional land use plans and policies (see Section 11.1.4 below).

11.1.3 Regional Land Use Planning Authority

Local government has the primary authority to regulate land use and therefore has the potential to minimize impacts associated with land use change. Current California planning law and guidelines provide a framework that can be used to protect natural resources. However, there is no requirement that ensures that the San Francisco Estuary, its wetlands, and other associated natural resources be given any special protection.

The following represents the current state of regional land use planning for the Estuary:

- There is no state-legislated regional comprehensive land use planning and regulatory authority.
- The San Francisco Bay Conservation and Development Commission (BCDC) administers the state's federally approved management program for the San Francisco Bay segment of the California coastal zone and the Estuary. BCDC manages the open waters, tidal marshes, managed wetlands, salt ponds, and narrow shoreline band of the San Francisco Bay segment of the Estuary. BCDC is responsible for permitting new placement of dredged material or fill in the Bay and for implementing the policies of the San Francisco Bay Plan (discussed below). BCDC does not have jurisdiction over the diked lands that were historically part of the Bay, nor over the tributary streams that are hydrologically part of the Estuary.
- Although the San Francisco Bay and Central Valley Regional Water Quality Control Boards (RWQCBs) have regulatory control over discharges to the Estuary, they do not have comprehensive land use planning authority and cannot mandate specific land use development and management practices that would minimize pollutants entering the Estuary.
- The U.S. Army Corps of Engineers (the Corps) and the U.S. Environmental Protection Agency (USEPA) have regulatory authority over the open waters and adjacent wetlands (as defined by federal regulations). The Corps can require Best Management Practices (BMPs) as part of its Clean Water Act Section 404 permitting process, which is administered on a project-by-project basis.

None of these agencies have comprehensive land use planning authority to require specific land use development or management practices that would protect the Estuary. As discussed in the following section, regional land use planning efforts have stemmed largely from a number of regional plans and policies developed by interagency organizations.

11.1.4 San Francisco Bay Regional Plans and Policies

The San Francisco Bay Estuary is the nation's second largest and perhaps the most biologically significant estuary on the Pacific Coast. Years of filling, pollution, and alien species invasions have taken a great toll on the ecosystem. As a result, the Estuary has become a major center for a regional habitat restoration planning and implementation, including wetlands restoration.

Efforts to protect and enhance wetlands in the Estuary are driven by the following beliefs:

- The ecological health of the region requires more wetlands of higher quality than currently exist.
- As urban development continues, the land area available for wetlands restoration decreases.
- A variety of types of wetlands is required to provide all the desired and necessary functions of wetlands.

Restoration work on the Estuary is being undertaken by diverse entities, including public agencies, conservation groups, landowners, corporate interests, local businesses, and

citizen volunteers. These entities are guided in part by a number of regional plans and policies.

The following is a list of plans and policies developed by agencies and organizations with authority of interest over habitat restoration within the San Francisco Estuary planning area. These plans and policies are discussed in greater detail below.

- County-wide General Plans for Alameda, Santa Clara, and San Mateo counties
- BCDC San Francisco Bay Plan (Bay Plan)
- San Francisco Estuary Project (SFEP) Comprehensive Conservation Management Plan (CCMP)
- Baylands Ecosystem Habitat Goals Project Report (Goals Report)
- San Francisco Bay Joint Venture (SFBJV) Implementation Strategy
- San Francisco Bay Trail Plan (Bay Trail Plan)

Countywide General Plans California law provides the authority for local land use decision-making and establishes the framework for those decisions. First, the state constitution protects home rule authority. Second, each city and county must prepare a comprehensive General Plan containing state-specified elements oriented toward meeting local goals and needs. All local ordinances, development plans, and activities are required to be consistent with that plan. However, local plans are not required to be coordinated with plans for adjacent communities, nor are they required to meet regional or state goals and objectives for Estuary protection. Moreover, there is no consistent forum or standard for review of local plans.

A majority of local governments in the 12-county planning area have adopted General Plan policies that address wetland or stream environment protection. However, fewer than 15 percent have adopted specific ordinances or other regulations to carry out these policies intended to protect the Estuary. Each of the local governments in the planning area can, and often do, have differing goals, policies, and regulations concerning use and treatment of the Estuary. In addition, many of the Land Use and Open Space elements for the county and municipal General Plans are outdated. For these reasons, regional land use planning documents and programs often supercede the documents and programs of local jurisdictions with respect to planning, protection, and restoration of lands within the Estuary. These regional planning efforts are described below.

BCDC San Francisco Bay Plan (Bay Plan) The McAteer-Petris Act established the BCDC and mandated the preparation of a regional San Francisco Bay Plan to encompass a 12-county San Francisco Estuary planning area. Completed in 1969, the Bay Plan describes the values associated with the Bay and presents policies and planning maps to guide future uses of the Bay and surrounding shorelines. Under the Bay Plan, suitable uses for the Bay's waterfront and shorelines include port and water-related industry, airports, wildlife refuges, and water-related recreation. In addition, the Bay Plan supports extensive public access along the Bay's waterfront and shorelines via marinas, waterfront parks, and beaches. The Bay Plan designates the project sites as wildlife area and managed wetlands. BCDC is responsible for implementing the policies of the Bay Plan.

The San Francisco Bay Conservation and Development Commission provides the following policies and commission recommendations with regard to salt ponds in the south bay area (BCDC 2003):

- If not needed for salt production, ponds between Stevens Creek and Charleston

Slough should be wildlife area.”

- **South Bay** - Enhance and restore valuable wildlife habitat. Bay tidal marshes and salt ponds may be acquired as part of Don Edwards San Francisco Bay National Wildlife Refuge and managed to maximize wildlife and aquatic life values. Salt ponds can be managed for the benefit of aquatic life and wildlife. Provide continuous public access to the Bay and salt ponds along levees if in a manner protective of sensitive wildlife.
- **Harbor Seal Haul-Out** - Protect harbor seal haul-out and pupping site where harbor seals rest, give birth and nurse their young. Projects allowed only if protective of harbor seals and other sensitive wildlife.
- **Regional Restoration Goal for South Bay** - Restore large areas of tidal marsh connected by wide corridors of similar habitat along the perimeter of the Bay. Several large complexes of salt ponds, managed to optimize shorebird and waterfowl habitat functions, should be interspersed throughout the region, and natural unmanaged salt ponds should be restored on the San Leandro shoreline. Natural transitions from tidal flat to tidal marsh and into adjacent transition zones and upland habitats should be restored wherever possible. See the Baylands Ecosystem Habitat Goals report for more information.

Commission Suggestions:

- If no longer needed for salt pond production, enhance area for wildlife and aquatic life.
- Alviso-San Jose - Provide continuous public access to slough frontage only at Alviso.

SFEP Comprehensive Conservation Management Plan (CCMP) The SFEP was established by USEPA in 1987 because of growing public concern related to the health of the Bay and the Delta. SFEP is jointly sponsored by USEPA and the State of California and is part of the National Estuary Program. In June of 1993, the SFEP developed the Comprehensive Conservation Management Plan (CCMP) for the Bay-Delta planning area.

The CCMP provides a thorough implementation strategy and 145 specific actions to restore and maintain the chemical, physical and biological integrity of the Bay and Delta. It seeks to achieve high standards of water quality; to maintain an appropriate indigenous population of fish, shellfish and wildlife; to support recreational activities; and to protect the beneficial uses of the Estuary. It includes the following land use goals:

- Establish and implement land use and transportation patterns and practices that protect, enhance, and restore the Estuary's open waters, adjacent wetlands, adjacent essential uplands habitat, and tributary waterways.
- Coordinate and improve planning, regulatory, and development programs of local, regional, state, and federal agencies to improve the health of the Estuary.
- Adopt and utilize land use policies that provide incentives for more active participation by the private sector in cooperative efforts that protect and improve the Estuary.

Ten program areas are identified in the CCMP. For each program area, the CCMP presents a problem statement, discusses existing management, identifies program area goals, recommends approaches, and states objectives and actions specific to the program.

With regard to wetlands, the CCMP focuses on the restoration and ultimate enhancement of ecological productivity and habitat value.

Baylands Ecosystem Habitat Goals Report The need to establish regional wetlands goals emerged initially from discussions among participants of SFEP in the early 1990s. SFEP's CCMP (discussed above) of June 1993 recommended the preparation of a regional wetlands management plan based on wetlands goals, and recommended that the San Francisco Estuary Institute (SFEI) coordinate the effort. Later that year, SFEI developed a proposal to help establish regional wetland goals and the proposal was approved by the California Resources Agency, the San Francisco Bay RWQCB, and the USEPA. Additional discussions were held in 1994 with CDFG, USFWS, and NOAA Fisheries (formerly NMFS) to improve interagency coordination and to forge a shared vision of the regional habitat requirements of fish and wildlife. In late 1994, representatives of these agencies began discussions with SFEI staff that ultimately led the development of the San Francisco Bay Area Wetlands Ecosystem Goals Project (Goals Project).

The geographic scope of the goals Project includes the following four primary subregions of the San Francisco Bay, downstream of the western boundary of the Sacramento-San Joaquin Delta at Broad Slough: Suisun Marsh and Bay, San Pablo Bay, and the South Bay. The current focus of the project is on the region's baylands, including mudflats, existing tidal marsh, tidal marsh canals, and seasonal and other wetlands within diked historical tidal marshlands. Adjacent uplands and subtidal areas are involved only as needed to develop ecological goals for the baylands. Eventually, the Goals Project may expand to include in-stream, riparian, and terrestrial habitats of the Bay Area to facilitate watershed planning and comprehensive estuarine conservation efforts. Ultimately, it may develop wetlands goals for the Sacramento-San Joaquin Delta.

In 1999, the Goals Project compiled the *Baylands Ecosystem Habitat Goals: A Report of Habitat Recommendations* (Goals Report) to identify wetland restoration goals within the baylands. Recommendations in the Goals Report were developed through a consensus process with the input of more than 100 participants representing local, state, and federal agencies, academia, and the private sector. General goals include:

- Restore tidal marsh along the Bay edge and where the Bay's tributary streams enter the baylands.
- Restore continuous corridors of riparian vegetation along the tributary streams.
- Restore the salinity gradient of the estuary and its tributaries.
- Restore and enhance extensive areas of managed seasonal ponds.
- Re-establish natural transitions from tidal flat through tidal marsh to upland.
- Provide adequate buffer areas to protect restored habitats from disturbance.

The report recommends the types, areal extent, and distribution of habitats needed to sustain healthy wetlands ecosystems in the South Bay and identifies the Cargill salt ponds as a key area to restore in the South Bay.

San Francisco Bay Joint Venture (SFBJV) Implementation Strategy The SFBJV was formed in 1995 to bring together public and private agencies, conservation groups, development interests, and others seeking to collaborate in restoring wetlands and wildlife habitat within the San Francisco Bay Estuary. It is one of 13 similar habitat joint ventures formed in the United States. The primary goal of the SFBJV is to protect,

restore, increase and enhance all types of wetlands, riparian habitat and associated uplands throughout the San Francisco Bay region to benefit waterfowl and other fish and wildlife populations” (www.sfbayjv.org/mission.html). The SFBJV is composed of a Management Board of 27 agencies and private organizations, and four Working Committees established to accomplish specific SFBJV objectives. These objectives include the following:

- Secure wetlands, riparian habitat and associated uplands through fee or permanent easement acquisition.
- Restore and enhance wetlands, riparian habitat and associated upland on both public and private lands using non-regulatory techniques.
- Improve habitat management on publicly and privately owned wetland, riparian habitat and associated uplands through the use of cooperative management agreements and voluntary incentive programs.
- Strengthen existing and promote new funding sources for wetlands acquisition, restoration, enhancement and management programs.
- Support monitoring and evaluation of existing restoration projects, as well as pertinent research studies, to improve future restoration projects.

In 2001, SFBJV published a 20-year collaborative plan for the restoration of wetland and wildlife in the Bay region called *Restoring the Estuary: an Implementation Strategy for the SFBJV*. The Implementation Strategy builds on the science-based recommendations of the Goals Project and establishes specific acreage goals for wetlands, including bay habitats, seasonal wetlands, and creeks and lakes. The Implementation Strategy lays out programmatic and cooperative strategies for accomplishing these goals. Over the next two decades, the SFBJV partners have agreed to acquire and/or restore or enhance 260,000 acres of a variety of wetlands types located throughout the San Francisco Bay Estuary.

Along shoreline within the project vicinity, SFBJV activities will focus on restoring parcels already owned by the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge), such as Mayhew’s Landing and the Knapp Tract. Other SFBJV shoreline activities include developing partnerships for purchasing Cargill’s salt ponds. Away from the Bay’s edge, there are a number of watershed and riparian restoration efforts, such as the work being undertaken as part of the San Francisquito Coordinated Resource Management Plan. There are also ongoing projects involving the restoration of scores of miles of Coyote Creek and the Guadalupe River in San Jose, some of which have been underway for over a decade.

San Francisco Bay Trail Plan (Bay Trail Plan) The Bay Trail is a planned recreation corridor that will provide 400 miles of biking and hiking trails when completed. It will link nine counties, 47 cities, and 130 parks and recreation areas around San Francisco and San Pablo Bays. As mandated under Senate Bill 100, ABAG developed the Bay Trail Plan as a framework to provide guidance in the selection and implementation of the Bay Trail project. The main goal of the Bay Trail Plan is to provide public access to the Bay and its surrounding shorelines. Existing and planned segments of the Bay Trail are adjacent to the project sites. (For further discussion of the Bay Trail and Bay Trail Plan, see Chapter 8.0, *Recreational and Public Access, Visual Resources and Public Health*.)

11.2 Criteria for Determining Significance of Effects

Criteria based on the State CEQA Guidelines were used to determine the significance of land use and planning–related impacts. The project would have a significant impact on land use and planning if it would:

- Conflict or be incompatible with the land use goals, objectives, or guidance of applicable land use plans or regulations of an agency with jurisdiction over the project;
- Substantially alter present or planned land uses of a site or ???the surrounding area;
- Disrupt or divide the physical arrangement of a community; or
- Result in a substantial conversion of farmland.

The criteria for determining significance of effects relies on the congruence of alternatives with existing plans, policies, and easements as well as proposed land uses.

11.3 Impacts and Mitigation Measures

The proposed project will not conflict or be incompatible with the land use goals, objectives, or guidance of applicable land use plans or regulations. Nor will it disrupt or divide the physical arrangement of a community. None of the project sites are currently in agricultural production.

Under every alternative, including the No Project/No Action Alternative and Seasonal Ponds Alternative, there will be a land use conversion from existing use of the project sites for mineral extraction, open space, and recreation, to open space, habitat restoration, wildlife conservation and recreation uses. Although the ponds within the project sites will no longer be used for salt production, the land use setting, including its rural open space characteristics, will remain essentially unaltered. The proposed land use conversion is consistent with existing local and regional land use plans and policies, described above in Section 11.1.4.

To the extent that project alternatives incorporate options to manage the existing ponds for desired habitat values, the project will be instrumental in furthering the goals and objectives of the regional land use plans and policies. In this respect, the two pond management alternatives will provide a greater benefit than the no project alternative, which includes no management of project ponds.

To the extent that ponds become seasonal ponds (either managed under the pond management alternatives or unmanaged under the no project and seasonal pond alternatives), there may be objectionable odors from these ponds that are incompatible with nearby residential and commercial land uses. Impacts from objectionable odors are addressed in Chapter 9 (Air Quality).

11.3.1 No Project/No Action Alternative

Under this alternative, all 15,100 acres of salt ponds would be seasonal ponds without levee maintenance. Ponds would be expected to seasonally hold rainwater during the winter, and dry out during summer months. No levee maintenance would be conducted under this alternative. Eventually, without maintenance, the levees would be expected to breach and the ponds would be opened to tidal influence.

This alternative would reduce the agencies' ability to manage water and salinity levels for specific habitat values. However, the use of the project sites for open space, wildlife conservation, and recreation under this alternative would still be compatible with land uses identified for project area in the Bay Plan. The alternative would also be consistent with other regional plans and policies described in Section 11.1.4.

LAND USE IMPACT-1. The unmanaged wetting and drying cycles in the seasonal ponds have the potential to produce objectionable odors. These odors would be incompatible with nearby residential and commercial land uses.

The potential of this alternative to generate pond odor impacts is addressed in Chapter 9 (*Air Quality*). Leaving the ponds in a dry condition, with unmanaged wetting and drying cycles as the ponds accumulate rainwater and dry through natural evaporation, could result in exposure of biomass produced while the pond contained water. This alternative could potentially expose more areas to unmanaged drying, potentially during the warmest periods of the year. It could also potentially lead to ponds drying out that are either in close proximity to neighboring populations or have not dried out in the past, exposing neighboring residents to odors they have not experienced before.

Significance: Potentially significant. Since this alternative will result in the project not being implemented, no mitigation measures are proposed.

11.3.2 Alternative 1 Seasonal Ponds

Impacts under this alternative are expected to be the same as those under the No Project/No Action Alternative.

11.3.3 Alternative 2 Simultaneous March-April Initial Release

In Alternative 2, the contents of most of the Alviso and Baumberg Ponds would initially be released simultaneously in March and April. The ponds would then be managed as a mix of continuous circulation ponds, seasonal ponds and batch ponds, though management of some ponds could be altered through adaptive management during the continuous circulation period. Higher salinity ponds in Alviso and in the West Bay would be discharged in March and April in a later year when salinities in the ponds have been reduced to appropriate levels. The Island Ponds (A-19, 20, and 21) would be breached and open to tidal waters.

As noted above, implementation of the ISP is consistent with existing local and regional land use plans and policies, described above in Section 11.1.4.

LAND USE IMPACT-2. Management of the ponds has the potential to produce objectionable odors incompatible with nearby residential and commercial land uses.

The potential of this alternative to generate odor impacts is addressed in Chapter 9 (*Air Quality*). The potential odor impacts associated with the seasonal ponds under this alternative would be the same as those listed under the No Project Alternative, except that a significantly fewer number of ponds would be dry at any time.

Odor impacts associated with the ponds containing brine would be similar to impacts under the baseline scenario of current pond management. Algae and other biomass grows in the ponds and can accumulate in certain areas of the ponds and decompose,

particularly in ponds that have remained stagnant for a long period of time and during hot weather.

Air Quality Mitigation-1 would mitigate the impacts from Land Use Impact-1 as follows (see also Chapter 9, *Air Quality*):

AIR QUALITY MITIGATION-1: Mitigation for those ponds noted above where there is a possible risk of odor production in summer months consists of the following:

AIR QUALITY MITIGATION-1A: Drain at-risk ponds by releasing all water to expose any organic material before the onset of warm weather during the summer.

AIR QUALITY MITIGATION-1B: If odors result from biomass accumulating and stagnating in ponds containing brine, increase circulation through the ponds.

Post-mitigation significance: Less than significant

11.3.4 Alternative 3 Phased Initial Release

Impact under this management scenario would be the same as those listed under Alternative 2.