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March 3, 2008

Steve Dee
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Sonoma County Permit and Resource Management Department
2550 Ventura Ave.
Santa Rosa, CA 95403-2829

RE: Sonoma-Marín Area Rail Transit District's (SMART) Comments on
Dutra's Draft EIR

Dear Mr. Dee:

Thank for providing us with the opportunity to comment on the Draft Environmental Impact Report ("Draft EIR") for the Dutra Haystack Landing Asphalt and Recycling Facility (hereinafter, "the project"). Set forth below are the Sonoma-Marín Area Rail Transit District ("SMART") staff's comments.

First, Wetland Maintenance (Table II-1, Impact HYDRO-2). With the approval of the project, the culvert poses a potential significant impact to SMART's right of way. The Draft EIR recommends as mitigation that the culvert be repaired or replaced to improve tidal circulation. SMART will require as part of any easement agreement to cross its track that Dutra not merely repair the culvert, but replace the culvert with a concrete box culvert designed to address the tidal issues using SMART standards. The mitigation measure should be amended to require that the culvert be replaced pursuant to SMART's standards.

A5-1

Second, Conveyor and Private Crossing (Table II-1, Impact TRANS). The conveyor system will result in crossings with less sight distance allowance, making the private crossing less safe. Removing the private crossing at Mile Post (MP) 36.5 and consolidating the crossing at MP 36.8 ("Landing Way") is necessary to mitigate the potential safety issue. Dutra will be required to obtain approval from SMART to cross the railroad with a conveyor system and it will be required to obtain approval from SMART to cross the railroad with vehicular traffic at Landing Way. To obtain this approval, SMART will require Dutra to consolidate the railroad crossing and to install automatic warning devices at Landing Way. Mitigation measures should be amended or added to reflect these requirements and to require that these mitigation measures be met before Dutra commences operations to ensure that safety risks are minimized.

A5-2

Third, Related Projects (Table III-1); *see also*, DEIR at p. III-33. The table mentions SMART as a regional project but does not list the North Coast Railroad Authority (“NCRA”), which is the separate agency in charge of future potential freight service operations. NCRA issued a Notice of Preparation of an EIR in July 2007 for its freight project. The Draft EIR fails to address NCRA’s project as a related project. The Draft EIR needs to provide more information and analysis regarding this cumulative project.

A5-3

Fourth, Private Grade Crossing (Table II-1, Cumulative Land Use Impacts); *see also*, DEIR at p. II-44 and p. II-50. In addition to future SMART passenger trains, there will also be freight trains operated by NCRA. Dutra’s Draft EIR does not address the cumulative safety, air quality and noise impacts associated with the freight trains operated for or by NCRA. The Draft EIR does not mention that SMART’s EIR for its passenger rail project does address safety and noise mitigation measures. Further, the Dutra Draft EIR utilizes noise level standards established by the local jurisdiction – the County of Sonoma. The Draft EIR fails to acknowledge that the noise levels established in local plans are not a limit or criteria on noise generated by transportation sources, but a designation of what areas are appropriate for residential development, based on the noise environment. (*See*, SMART’s (Certified) EIR at section 3.7.2) Transportation noise sources operating on a public right of way are exempt from all local maximum noise level standards because the regulation of noise sources such as traffic on public roadways, railroad line operations and aircraft in flight is preempted by federal and/or state regulations. The Federal Rail Administration (FRA) has adopted the FTA noise impact criteria and developed additional guidance on assessment of rail horn noise. SMART utilized the FTA noise impact criteria for its EIR. The Dutra Draft EIR needs to address this issue and appropriately analyze the information.

A5-4

Fifth, Dutra’s Draft EIR does not address in detail the safety issues with the conveyor regarding protection of the railroad from falling aggregate and flying debris. The Draft EIR only mentions that the conveyor will be enclosed. The Draft EIR should address the design of the conveyor to ensure that it is a sealed system, such that debris will be prevented from falling onto the railroad right of way. Mitigation measures should be amended or added to require that Dutra maintain the enclosed conveyor system as a sealed system, as well as protocols if the conveyor belt or its sealed compartment should fail to perform as expected.

A5-5

Sixth, Dutra’s Draft EIR does not mention or analyze stability issues associated with the conveyor foundation structure and its zone of influence effect on the surrounding hillside slope adjacent to the railroad. This is significant especially if NCRA is planning to place a siding on the west side of the existing mainline track. The conveyor foundation and hillside slope could be compromised from ditching or excavation of the hillside from railroad activities. Conversely, the railroad right of way could be compromised by the placement of the conveyor foundation structure adjacent to the right of way. Proper subsurface investigation should be conducted prior to construction in order to identify any stability issues.

A5-6

A geological technical report on the stability issues should be prepared prior to permitting, and any geotechnical design recommendations should be incorporated into the final project and verified during construction by monitoring of construction activities by a qualified geotechnical consultant.

A5-6
(cont'd)

Seventh, Hazardous Materials. Table II-1, p. II-35. The Draft EIR does not address the exact location of the storage of hazardous materials or volatile materials. Such materials must be located at a safe distance from the rail right of way. Additional information is needed regarding the location and the safety measures to be applied to the storage tanks to ensure that they do not pose a safety hazard for rail operations.

A5-7

This concludes the SMART staff's comments to the Draft EIR for Dutra's project. Again, thank you for providing SMART with the opportunity to comment on the Draft EIR. If you have any questions regarding our comments, please do not hesitate to contact me at (415) 226-0886.

A5-8

Sincerely,



Lillian Hames
General Manager

cc: Lucrecia Milla, Property Manager, SMART
Michael Strider, HDR Inc., Rail Engineer
Greg Dion, County Counsel