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Steve Dee
Senior Environmental Specialist
Sonoma County PRMD
2550 Ventura Avenue
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Via email

Public comments re: Dutra Haystack Landing Asphalt Plant and Recycling Facility
Draft EIR, Petaluma CA

Dear Mr. Dee:

Since 1991, the Petaluma River Council has been dedicated to protect, restore and revitalize the Petaluma River and its watershed. The Petaluma River Council herewith submits the following comments on the Dutra Haystack Landing Asphalt Plant and Recycling Facility (“Project”) DEIR.

As currently proposed in the DEIR, this Project is significantly deficient in avoiding and addressing severe impacts to the Petaluma River and the southern edge of Petaluma. We strongly object to the design and location of this Project which would require adoption of Overriding Considerations for approvals of the EIR, and substantial damages to our public trust resources.

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The Petaluma River is 401(d) listed impaired waterway, a ‘water quality limited segment’ for excess nutrients, pathogens and sediments/siltation. All activities for this Project should be restorative, not cumulatively damaging, as is currently proposed in the DEIR. Protection and improvement of water quality for the Petaluma Marsh is critical, as the importance of the marsh is nationally recognized. The Project as described contributes “significantly and unavoidably” to the cumulative losses of habitat, protected species and water quality (particularly with excess phosphorus and turbidity-increasing discharges) of the Petaluma River: this is not an acceptable proposal, and should be rejected if not significantly altered.

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The Petaluma River Council supports the continued successful industrial and commercial uses of the Petaluma River, which are important parts of our history since before the City of Petaluma’s incorporation in 1858. Indeed, the industrial use of the Petaluma River for local and regional commerce goes back through at least the time of Gen. Mariano Vallejo. However, we feel that the Project as proposed can be significantly improved while producing

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a successful commercial and industrial business and protecting and restoring our natural river heritage.

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Alternative sites for the Project

The DEIR fails to address other feasible sites for this Project that are capable of avoiding and substantially reducing the significant impacts of the Project.

One such site is the currently vacant 40+ acre Pomeroy Corp. concrete manufacturing site, approximately 1-1/4 mile upstream on the Petaluma River, at 500 Hopper Street, Petaluma. (Pomeroy Division, Washington Group URS) The site already has heavy industrial, river dependent zoning, and has existing sheltered barge loading and off-loading facilities with deep-water access on the McNear Canal. These facilities are located clear of the traffic lanes for the Petaluma River. This site has been used for over 50 years for industrial manufacturing and shipping. This location is already accessible for heavy trucking to both Lakeville Highway (Route 116) and US Highway 101 (via Lakeville interchange), as well as having its own railroad spur existing on site.

This site has been in heavy industrial, river-dependent uses for generations. The Pomeroy site, already filled, cleared and industrialized, poses almost no new potential disturbances for critical habitat, wetlands or riverine species. The Central Petaluma Specific Plan has committed the city to Industrial, River-dependent zoning for this parcel as a critical component in commercial river tonnage calculations and the city's economic base. The site is large enough to accommodate all functions of the Project's Areas A, B, C and D. The assertions on Page VII-5 that no such alternative sites exist are incorrect.

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This alternative site would eliminate many of the "significant and unavoidable impacts" noted in the DEIR for the current siting of the Project. In addition, it would preserve the use and enjoyment of Schollenberger Park, directly across the Petaluma River from the proposed site. Damage to public use and enjoyment of this site is permanent and irreparable during the life of the Project. *This is a very considerable externalized cost of the Project which the DEIR has not addressed.*

If Dutra continues to propose the current site without eliminating the noise, light, smell and dust impacts to public enjoyment of Schollenberger Park, Dutra should compensate the City of Petaluma and its citizens and visitors with another riverfront park of equal value and size, including all new trails and access facilities to make it feasible.

Alternative: Full Enclosure of operating components of the Project

There are significant, unavoidable and unmitigated impacts for the Project, regarding noise, light, dust, polluted stormwater and dust-control waters, and smells. These impacts adversely affect both protected species habitats (including the egret and heron rookery) as well as human activities both on the river and off, both close to the Project

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site and at significant distances as well. These impacted areas include onsite wetlands, the Petaluma River, the Schollenberger Park Marsh wetlands and public pathways and wildlife viewing areas already located directly across the Petaluma River from the Project site.

Much of these noxious impacts can be significantly reduced by full enclosure of the various operating portions of the Project. These proposed operations, including the asphalt batch plant, concrete/asphalt recycling facility, and storage of raw materials, can be enclosed within permanent buildings. These enclosures would contain dusts, smells, lights, and noise, and would substantially reduce the pollution carried by stormwater runoff.

There are many existing examples of buildings containing such operations, which would cover and enclose the main hopper, feeder hoppers, drum and bag house. For instance, just upstream in downtown Petaluma, the heavy operations of Jerico Dredging are reasonably well contained within their buildings.

Such enclosures would also significantly reduce the adverse impacts to adjoining properties from late night or early hour operations, currently proposed for possible 24 hour operations. *The DEIR should address this alternative of fully enclosing the operational parts of the Project.*

Failure to obtain necessary prerequisite permits from regulatory agencies in advance of DEIR

The Project has not yet obtained requisite permits from a number of regulatory agencies. As a direct consequence, the information that would describe any conditions of approval, or denials, or changes in site plans or proposed mitigations or avoidances, is improperly not available to the interested public and other reviewing agencies. This violates CEQA requirements that the public be provided with a full, stable and feasible project description in the DEIR. *The DEIR must be completed with this currently omitted information and recirculated for public comment.*

Among the items missing are:

- Section 404 Clean Water Act permits (33 U.S.C. 1344) from US Army Corps of Engineers, and Section 10 permits (33 U.S.C. 403), Rivers and Harbors Act. In fact, on Feb. 13, 2008 USACE permit staff, Philip Shannin, informed me that "An application *has not yet been submitted* to the Corps for this project. The EIR is a state process, not federal. We will evaluate the impacts, to federally jurisdictional wetlands and other waters, through our permitting process." There is no assessment of the Project's compliance with the 404(b)(1) Guidelines.
- Storm Water Pollution Prevention Plan (SWPPP), Construction General Permit, Section 404 Permit, Section 401(d) Water Quality Certification, and Wetlands Mitigation and Monitoring Plan approvals from the SFBay RWQCB
- Section 1602 Streambed Alteration Permit, Cal. Fish and Game.

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- Full written consent for high volume truck and vehicle railroad crossing to and from Area A, from California PUC and SMART Authority.

The full information from these regulatory agencies regarding the feasibility and compliance of the Project with their respective permit requirements is necessary for the public and decision makers to make an informed judgment on the merits of the Project as proposed.

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Use of created wetlands habitat for water quality mitigation do not satisfy requirements for onsite wetlands loss

The Project will fill approximately 1.7 acres of coastal brackish marsh habitat and seasonal wetlands out of a total of 11.7 jurisdictional acres on site. There is no document supplied with the DEIR to indicate USACE acceptance of the wetlands delineation. Unauthorized grading impacted an additional .53 acres of seasonal wetlands and .01 acres of tidal marsh. The Project proposes creation of approximately 19 acres of wetlands from previous siltation ponds on site, supposedly in compensation (including temporal losses) for filled and damaged wetlands.

To address site drainage and water quality problems, however, the Project apparently intends to use the same 19 acres of mitigation wetlands for water quality purposes and also for filtering site runoff that is piped to these wetlands.

Thus the Project proposes to use these created habitat mitigation wetlands also as treatment wetlands, for the second task of clarifying and filtering ponds for treating onsite industrial runoff, including oils, greases, hydrocarbons, heavy metals, crushing fines and asphaltic residues. This burden will very likely lead to the abysmal failure of the target restoration and habitat goals for the mitigation wetlands. This violates the requirements of Section 404 wetlands mitigation practices.

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Petaluma River Council strongly objects to this attempt to combine these important but incompatible functions. *The DEIR and Project must clearly describe and emplace two separate functioning ponded areas: one for habitat values and functions, and one for water quality improvement functions.*

The DEIR does not discuss any details of maintenance activity for preservation of the wetlands and habitat functioning. What are the plans for long term viability? How will excess sediments and toxics be removed or avoided from the sand filter, bioswales and from the ponds? What are the temporal losses to be expected during cleaning and/or dredging activities, and how will that be addressed? How will water quality objectives be met over time? What maintenance activities are anticipated to keep the treatment wetlands fully functioning?

What would the results be of overtopping of berms or flooding of the wetlands and water quality treatment ponds? Given the low elevation of this site, planning contingencies

based on a 10% storm event are insufficient. The DEIR should describe consequences of a 1% storm event. What is to prevent washing of heavy metals, oils, greases and other toxics into the Petaluma River, either by flood or storm or both?

Any costs for public agency or government monitoring of wetland habitat or treatment ponds shall be borne in perpetuity by the Project owners and proponents, and not become an 'unfunded mandate' for the County or any other public agency. Failure to do so is a guarantee of failure in a relatively short period of time, given lack of public funds for this kind of professional and continued monitoring functions. Costs related to correcting failures to achieve habitat restoration goals shall be bonded for by the Project proponents for a minimum of 25 years or the life of the project, whichever is longer.

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The Project fails to meet Sonoma County and City of Petaluma objectives for reduction of Greenhouse Gases.

Despite clearly stated objectives by both the Sonoma County Board of Supervisors and the Petaluma City Council to reduce GHG emissions by 25% below 1990 levels by the year 2015, this Project does not even meet current BAAQMD air quality standards. The Project leaves our built and natural communities with “significant and unavoidable impacts” to air quality. The Project and DEIR do not even reduce impacts to zero, nor do they address the climate protection goals of California’s AB32.

The DEIR does not assess total greenhouse gas emissions, nor does it even come close to proposing programs or project variations to reduce that critically damaging aspect of this proposal. In an era marked by significant work globally to reduce greenhouse gas emissions and global warming, this is unacceptable.

This is a significant failure of the DEIR and Project proponents, and must be re-written and recirculated for comment as a Revised DEIR.

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Further, there is no discussion or alternative proposal for addressing sea level rise. BCDC is now proposing use of a minimum of 1’ sea level rise for planning purposes, and many scientific and planning sources also recognizes the need for addressing impacts of up to a 36” sea level rise. A predicted three-foot rise in sea level in the Bay Area during the next century will also affect Petaluma, according to Will Travis, executive director of the Bay Conservation and Development Commission. This is particularly critical for projects that are to be built at the very edge of the Petaluma River in a tidally influenced segment.

What are the plans for preventing flooding of this property in storms with increased sea levels? What are the plans for preventing flooding of the property and release of accumulated toxics onsite – both in work areas and in the treatment wetlands – into the Petaluma River and Marsh? The Project and DEIR do not address these issues with feasible alternatives, and must do so.

Absent the willingness or ability of the Project to address and alleviate the many items noted above, and the many 'significant and unavoidable impacts' already noted in the DEIR, the Project should be denied. We look forward to the thoughtful and considered responses to our comments.

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Thank you for the opportunity to comment on the Project and DEIR.

Sincerely,

David Keller
for The Petaluma River Council