



Making San Francisco Bay Better

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PLANNING DEPARTMENT
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June 26, 2006

Ken Strelow
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565-3814

SUBJECT: Transbay Cable Project Draft Environmental Impact
Report (SCH No. 2004082096)
(BCDC File Nos. MC.MC.7812.1 and CC.MC.7305.1)

Dear Mr. Strelow:

On May 12, 2006, the San Francisco Bay Conservation and Development Commission (Commission) staff received the Draft Environmental Impact Report (DEIR) for the Trans Bay Cable Project, which would involve laying 57 miles of submarine and onshore buried high voltage direct current (HVDC) transmission cable between two new converter sites in the City of Pittsburg in Contra Costa County and in the City and County of San Francisco. As proposed, a transmission cable, a metallic return cable, and a fiber optic communication cable would all be bundled into a single line, and the bundled cable would be buried three to six feet or deeper, where necessary, below the Bay mud. To install the cable a jet plow would be towed behind a ship with a tool to "fluidize" the bottom sediments creating a trench where the cable would be placed. The proposal also includes the installation of approximately 5.5 miles of submarine, underground, and aboveground transmission line in the City of Pittsburgh, and the installation of a 0.3-mile transmission cable or overhead transmission line in San Francisco.

Although the Commission itself has not reviewed the DEIR, the staff comments discussed below are based on the McAteer-Petris Act, the Suisun Marsh Preservation Act, the *Suisun Marsh Protection Plan*, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally-approved management plan for the San Francisco Bay, and the federal Coastal Zone Management Act (CZMA).

Jurisdiction

The Commission's permit jurisdiction includes all tidal areas of the Bay up to the line of mean high tide or up to five feet above Mean Sea Level or the extent of wetland vegetation in marshlands, all areas formerly subject to tidal action that have been filled since September 17, 1965, and the shoreline band that extends 100 feet inland from and parallel to the Bay jurisdiction. The Commission also has jurisdiction over managed wetlands adjacent to the Bay, salt ponds, and certain waterways.

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For the transbay cable project, it is useful to know that the eastern limit of the Commission's Bay jurisdiction is defined by a line across the Sacramento River between Stake Point and Simmons Point, extending northeast to the mouth of Marshall Cut.

19-1 Commission permits are required for construction, dredging, dredged material disposal, fill placement, and substantial changes in use within its jurisdiction. Permits are issued when the Commission finds proposed activities to be consistent with its laws and policies. In addition to any needed permits under its state authority, federal actions, permits, and grants affecting the coastal zone are subject to review by the Commission, pursuant to the federal CZMA, for their consistency with the Commission's federally-approved management program for the Bay. If the transbay cable project does not involve a federal proponent, supporting funds, or property, federal consistency concurrence by the Commission would not be necessary.

19-2 From reviewing the DEIR, it appears that the proposed project would include the following activities within the Commission's Bay and shoreline band jurisdictions: (1) installation, use, and maintenance of the transmission cable; (2) construction, use, and maintenance of a new San Francisco converter site; (3) associated on-shore or overhead transmission line(s); and (4) construction site preparation activities (including demolition, remediation, and use of lay-down sites).

Commission's Bay Jurisdiction

19-3 **Fill.** The DEIR does not include a map that identifies the proposed project in relation to the Commission's Bay jurisdiction. However, from reviewing the document, it is clear that a major portion of the 57-mile-long transmission cable would be placed in the Commission's Bay jurisdiction. Section 66605 of the McAteer-Petris Act states, in part, that fill in the Bay can be authorized by the Commission only when: (a) the fill would constitute the minimum necessary to achieve the project purpose; (b) no alternative upland location exists; (c) the public benefits of the fill exceed the public detriment from the loss of water areas; (d) the fill would occur on land to which the project proponent has adequate title; and (e) the activity would minimize harmful effects to the Bay's natural resources.

19-4 **Minimum Fill Necessary.** Page A-56 of the DEIR correctly states that the Commission requires an alternatives analysis for all projects involving fill in the Bay. Appendix A analyzes potential alternatives to the proposed transbay cable and concludes, based on a fixed set of screening criteria, that the alternatives considered are not capable of achieving the project objectives. For purposes of seeking Commission review and authorization of a fill project and providing it with adequate information to determine whether that project would involve the least volume of fill, it will be necessary when submitting a BCDC permit application to quantify the amount of Bay fill associated with the alternatives considered in Appendix A. It would be helpful if this information were provided in the Final EIR (FEIR).

19-5 **Upland Alternatives and Public Benefits Outweigh Public Detriment.** The alternatives analysis in Appendix A cites a variety of reasons for the elimination of various alternatives to the transbay cable, including anticipated lengthy schedules for obtaining regulatory approval, the unlikelihood of securing an exception for encroachments at Caltrans right-of-ways, technical difficulties for running a cable along certain corridors (e.g., the transbay BART tube or Caldecott Tunnel), and complex land ownership and related title issues. From reviewing this section of the DEIR, it appears that in several cases the conclusion regarding feasibility of implementing alternatives is based on assumptions and not necessarily on

conclusive investigation into the potential legal, regulatory, or technical obstacles. In conducting its review of the transbay cable, the Commission would need more definitive information about whether upland alternatives are feasible and, therefore, any additional information that would elaborate on project alternatives feasibility would be extremely helpful either at the time of BCDC permit application submittal or issuance of the FEIR. Ultimately, this information will assist the Commission in determining both whether the public benefits of the project would outweigh the detriment associated with the fill and there is not available upland location.

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Adequate Title. Because the Commission's law requires that all projects involving fill in the Bay can occur only on property at which project proponents have sufficient title, it will be necessary for the project proponent to identify the party(ies) that own the Bay property where the transbay cable would be placed, and either those property owners must be co-applicants or the applicant must have sufficient property interests from those parties.

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Minimize Harmful Effects to the Bay. Section 4.6 of the DEIR discusses the impacts to marine resources related to the transbay cable project. However, this section omits a discussion about the Commission's regulatory requirements governing the protection of the Bay's natural resources, including fish, other aquatic organisms, and wildlife, and certain habitat needed for their protection, including tidal flats and marshes and subtidal areas. Per the Bay Plan policies on fish, other aquatic organisms, and wildlife, in evaluating Bay projects for authorization, the Commission must find that marshes, mudflats, and subtidal habitat would be "conserved, restored, and increased." Furthermore, in making this determination, the Commission must consult with and give appropriate consideration to the state and federal resource agencies, and not authorize any project resulting in a "taking" of a listed species unless found appropriate by the resource agencies. According to the Bay Plan policies on tidal marshes and tidal flats, and subtidal areas, all projects subject to Commission consideration should also be sited and designed to minimize or avoid adverse resource impacts at these areas. And lastly, the Bay Plan policies regarding subtidal areas state, in part, that Commission approval of projects potentially disturbing these areas is partly contingent on the effect such projects would have on local and Bay-wide hydrology, sediment movement, bathymetry, and various other factors affecting the Bay. The FEIR should, at a minimum, acknowledge that the Commission has regulatory authority governing the protection of the Bay's natural resources and habitats per its laws and policies.

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Cable Installation and Turbidity. The DEIR states that the installation of the transbay cable would increase turbidity in the water column but that the impact to fish and other species would not be significant. The document does not mention how far or wide the resulting plume would extend and, thus, the FEIR should address whether any lateral movement of the plume would affect important habitat (e.g., eelgrass beds) whose viability is partly dependent on clarity of the water column.

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Protective Mattresses and Rocky Habitat. Although briefly mentioned, the DEIR refers to protective mattresses that would be placed atop certain rocky substrate areas of the Bay where trenching of the transmission cable is not possible. Moreover, the DEIR states that these areas, once recolonized, may support habitat types that differ from what currently exists. The FEIR should clarify the location and size of the affected rocky areas, any anticipated habitat loss, and expectations as to the type and extent of replacement

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19-9 | communities. The project proponents should understand that the protective mattresses would be considered fill in the Bay and, thus, need to meet the Commission's requirements regarding allowable fill as cited previously.

19-10 | **Directional Drilling and Noise Thresholds.** The DEIR mentions horizontal directional drilling associated with installation of the transmission cable but does not appear to indicate if this activity would comply with any noise thresholds as proscribed by the resource agencies; this should be clarified in the FEIR.

19-11 | **Work Windows.** Page 4.9-14 of the DEIR states that the transbay cable would be installed in recognition of the work windows for Pacific herring and, if not practical, cable-laying operations would be coordinated with the U.S. Coast Guard and Vessel Traffic Management. The project proponents should be aware that the Commission's regulations provide that any work outside of the herring window would need to be coordinated with the State Department of Fish and Game, whose approval of a schedule deviation would be necessary for the Commission to concur with a schedule change. In addition, the FEIR should address how restrictions regarding other listed species, including salmon, steelhead, Delta smelt, and, most recently, North American green sturgeon, would be incorporated into the project schedule.

19-12 | **Maintenance and Repair.** The DEIR states that maintenance and repair requirements for the transbay pipeline would be minimal. Nevertheless, any maintenance and repair activities in the Bay would require Commission authorization and, thus, its review of, among other things, any related impacts to Bay resources. Therefore, the FEIR should explain any anticipated maintenance and repair activities, including the location of repair, the materials used during operations, and associated potential impacts. Page 4.9-16 and Appendix A discuss repair options in the event of an emergency. However, these sections do not discuss any potential damage to resources if such an emergency were to occur. The FEIR should address the impact of emergency events, such as a break in the cable, its impacts on resources, and any proposed mitigating measures.

19-13 | **Cable Extension and Decommission.** Page A-51 of the DEIR states that the expected as-built project life of the transbay cable would be 40 years and that extending its life would be possible if certain activities were undertaken. The FEIR should describe the types of activities involved in extending the cable's life and discuss any potential resource—or other—impacts to the Bay associated with these activities. Further, the FEIR should address any impacts associated with decommissioning, and removing or abandoning the cable in-place, as indicated in the document.

19-14 | **Mitigation.** In the event that the proposed project would result in adverse environmental impacts that cannot be avoided and for which mitigating measures have not yet been proposed in the DEIR, the FEIR should discuss such measures. The Commission's policies regarding mitigation state, in part, that "projects should be designed to avoid adverse environmental impacts to [the] Bay" and, further, that "[w]henver adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable....[and] measures to compensate for...impacts should be required."

Dredging and In-Bay Disposal. As discussed in Section 4.4 of the DEIR, the proposed transbay cable would involve dredging at two locations where the transmission cable would cross below an existing shipping channel and thus be at a depth that is inaccessible by the hydroplow. The DEIR states that 38,000 cubic yards of material would be dredged at each location to create a 400-foot-long by 30-foot-wide trench, 15 to 20 feet below the Bay floor. The material would be used to backfill these two sites following construction or used at an appropriate upland site.

Commission regulations allow in-Bay disposal of new dredged material only if the activity is consistent with the dredging policies of the Bay Plan, which state, in part, that: (1) the material would be placed at a site designated by the Commission; (2) the volume of material placed in the Bay would meet site limits adopted by the Commission; (3) the quality of material would be consistent with the advice of the Regional Water Quality Control Board and the Dredged Materials Management Office (DMMO); and (4) the disposal activity would be consistent with the advice of the resource agencies. The FEIR should address these dredging and in-Bay disposal issues recognizing that: (1) the in-Bay disposal location discussed in the DEIR has not been designated by the Commission, the Regional Board, the resource agencies, and the DMMO have not taken final action on the proposed dredged material quality or current disposal options; and (2) the Commission's policy preference for beneficial reuse of dredged material.

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Further, as described in the DEIR, the laying of the transmission cable over a four- to five-month period would occur between June 1 and November 30 of each calendar year, consistent with current restrictions to protect certain sensitive fish species. However, the DEIR does not appear to mention existing windows to protect certain species when dredging and disposal activities occur, and the FEIR should address this issue.

Section 4.4.2.3 of the DEIR incorrectly refers to the Commission's regulatory authority as "local." The FEIR should correct this information to indicate that the Commission has state regulatory authority. (You should also note that a similar error is made on Page 4.9-10 of the document.) Moreover, Section 4.4.3.4.1 (page 4.4-32) indicates that the DMMO issues permits. The FEIR should clarify this statement by indicating that the DMMO is a review body *only* and its action typically precedes that of the permitting authorities, including the Commission.

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Lastly, although not specifically mentioned in the DEIR, it appears that at least a portion of the cable would be placed in the Suisun Bay, an area where sand mining regularly occurs. Please address how on-going sand mining activities would be affected by the proposed construction activities and any precautionary measures to be taken to protect the transbay cable from on-going mining activity.

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Water Quality. Section 4.4 of the DEIR indicates that the placement of the transmission cable would avoid areas of contaminated sediment. Additionally, this section states that the near- and offshore locations adjacent to the proposed San Francisco converter site contain elevated levels of PAHs that, if disturbed—i.e., through the placement of a cable—could cause substantial water quality impacts. Per the Commission's water quality policies in the Bay Plan, pollution in the Bay's water "should be prevented to the greatest extent feasible." Further, per the Bay Plan policies, in considering a project like the underwater cable the Commission would need to consult with and base its decision on the Regional Board's

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19-19 | evaluation of and advice on the proposed project and any potential water quality impacts. Therefore, it is advisable that the project proponents conduct early consultation with and obtain all necessary authorization from the Regional Board to aid the Commission in determining whether the project would adversely impact the Bay's water quality.

Commission's Suisun Marsh Jurisdiction

19-20 | **Environment.** The maps contained in the DEIR show that a section of the proposed transbay cable would be located in portions of the Suisun Bay within Solano County and, thus, in the Commission's primary management jurisdiction of the Suisun Marsh. Therefore, it would be necessary to obtain a Commission marsh development permit for this element of the project. According to the *Suisun Marsh Protection Plan* (Marsh Plan) policies on environment, various habitats of the Marsh "...are critical...for marsh-related wildlife and are essential to the integrity of the Suisun Marsh." The FEIR should examine any potential impacts of the construction and operation of the transbay cable on Suisun Marsh habitat, and, if necessary, describe measures to mitigate these effects.

19-21 | **Utilities and Improvements.** Further, the Marsh Plan policies on utilities, facilities and transportation state, in part, that underground cables in the Marsh should be permitted by the Commission only if no alternative route is feasible and the design meets certain standards, including, that: (1) trenches should be "only slightly wider" than the utility line of which they house to minimize wetland disturbance; (2) any vegetation disturbed by cutting a trench in marsh areas should be reseeded within one growing season if revegetation does not occur naturally; and (3) cable installation in the Bay should be scheduled to avoid major fish migrations. Included in these policies is guidance that all construction plans affecting the Marsh should be reviewed by the State Department of Fish and Game to assure minimal resource impact. Lastly, regarding dredging and dredged material disposal activities in the Marsh, these policies provide similar guidance to that contained in the Bay Plan's dredging policies but adds that dredging should be conducted in a manner that protects "important Marsh fisheries and wildlife and their habitat..." and that dredged material disposal should occur in "non-tidal areas where the materials can be used beneficially...."

In light of these policies of the Marsh Plan, the FEIR should: clearly identify the location of the transbay cable in the Suisun Marsh and show its location in relation to wetland areas; identify any potential project-related impacts to wetlands in the Marsh and measures for mitigating these effects; provide a construction schedule for any work affecting wetland area in the Marsh; identify the width of the proposed trench in relation to the cable width; discuss the consistency of construction schedule in the Marsh with fish migration windows; specify dredging locations on a map and discuss potential beneficial reuse options for dredged material.

Commission's Shoreline Band Jurisdiction

19-22 | The DEIR does not include a map that identifies the proposed San Francisco converter site in relation to the Commission's 100-foot shoreline band jurisdiction. However, it appears that at least a portion of the 23,000-square-foot, 64-foot-tall converter structure and ancillary facilities, associated on-land or overhead transmission line, and lay-down areas would be located in the Commission's shoreline band jurisdiction. Section 66602 of the

McAteer-Petris Act states, in part, that: "...that maximum feasible public access, consistent with a proposed project, should be provided." In evaluating projects with potential impacts on existing or future public access to the Bay, the Commission relies on its law and also related policies of the Bay Plan.

Public Access. Section 4.8 of the DEIR discusses public access and its relationship to the proposed San Francisco converter facility and ancillary facilities and operations. The document states that the use of the San Francisco site for the proposed new converter facility precludes the development of public access amenities at the site because of the facility's industrial nature and concerns about public safety. Further, the document concludes that this impact will be mitigated—and thereby rendered "less than significant"—by working with our staff to meet the Commission's conditions regarding public access to the Bay.

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Since the Commission's law and policies regarding public access state that a project, such as the one under consideration, needs to provide the maximum feasible public access consistent with the project, the project proponent should initiate the process of exploring and preparing appropriate public access improvements as early as possible in the planning process. As stated in the DEIR, on-site access may not be feasible due to the nature of the proposal; in that case, in-lieu access at an appropriate location could be considered and explored. Including a proposed public access package in the FEIR would allow the Commission staff and the other interested parties an opportunity for early comment and input. In addition, it would be helpful if the FEIR included a map of existing or planned San Francisco Bay Trail segments and existing and planned public shoreline access, and the location of these features in relation to the San Francisco converter site.

Public Views. Section 4.13 of the DEIR discusses visual impacts of the project. Based on its regulations, the Commission must consider a project's potential impacts on public views of the Bay. Further, the Commission's Bay Plan policies on appearance, design and scenic views state, in part, that "[a]ll bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas...." Therefore, the FEIR should include figures that depict the potential view impact of the project from the immediate and nearest public road showing how the Bay view would be affected from that location, and also from the adjacent Warm Water Cove Park. The FEIR should consider any impact of the new converter facility on the view from the park and consider the use of screening effects or breaking down the massing and height of the 64-foot-tall facility, if feasible.

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Non-Point Source Pollution and Water Quality. Section 4.4 of the DEIR regarding the proposed San Francisco converter site does not discuss potential non-point source pollution control measures related to construction and operation of the facility. In evaluating shoreline projects for approval, among other things, the Commission must consider whether any potential impacts from increased impervious surfaces and land disturbances could be offset by incorporating measures such as vegetated swales, permeable pavement materials, and vegetation. Therefore, such measures should be considered for the proposed project and discussed in the FEIR in accordance with the Bay Plan policies on water quality.

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Lastly, Section 4.14 of the DEIR discusses hazardous materials and remediation activities associated with the proposed San Francisco converter site. The project proponent should be aware that such activities occurring in the Commission's jurisdiction, including any

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demolition, would require its authorization and an explanation as to the type of measures employed to prevent any water quality impacts. Further, in evaluating remediation projects, the Commission would rely on the advice of the Regional Board and the state Department of Toxics Substances Control and, therefore, the advice and/or concurrence of these agencies should be sought and obtained, and provided to the Commission.

Thank you for the opportunity to comment on this DEIR. If you have any questions regarding this letter or the Commission's policies, please call me at (415) 352-3613.

Sincerely,

A handwritten signature in black ink, appearing to read "JAIME MICHAELS", with a long horizontal flourish extending to the right.

JAIME MICHAELS
Coastal Program Analyst

JM/

cc: State Clearinghouse