

## 6.0 Coordination and Consultation

This section describes the initial and ongoing coordination and consultation efforts by the City and FTA during the Draft EIR/EIS and FEIS phases to engage the local community and public agencies, including those with permitting authority for the project regarding the environmental review of the proposed Hercules ITC project.

### 6.1 Public and Agency Scoping

The project environmental review process was initiated by the issuance publication of the Notice of Preparation (NOP), submitted to the State Clearinghouse and the publication of the Notice of Intent (NOI) in the Federal Register on November 20, 2009 (Appendix B). The NOP and NOI announced that City in coordination with the FTA is preparing a Draft EIR/EIS for the construction of a proposed intermodal transit center project. The announcement described the project background and alternatives considered. It explained the scoping process, including the location of the public scoping meetings and methods to submit comments on the issues to be addressed in the Draft EIR/EIS.

The City and FTA sent joint letters of invitation (Appendix B) to public agencies to participate in the project environmental review process. The recipients are listed in Table 6.1-1. The City held an interagency meeting on November 18, 2009 at the USACE's offices in San Francisco with state and federal agencies (Table 6.1-2).

**Table 6.1-1 Recipients of Participating Agency Letter**

Name	Agency
Jacqueline Wyland	Environmental Protection Agency, Region 9
	California Department of Conservation
	California Regional Water Quality Control Board
Gunther Moskat	California Department of Toxic Substance Control
	California Department of Conservation, Division of Mines and Geology
	Bay Area Rapid Transit, Real Estate Dept.
Craig Goldblatt	MTC
	Contra Costa County Health Department, Environmental Division
Barney Opton	U.S. Army Corps of Engineers
Robert Nagel	AMTRAK
	California Department of Transportation, District 4.
	California Department of Transportation, Division of Rail
Carl Wilcox	California Department of Fish & Game

**Table 6.1-1 Recipients of Participating Agency Letter (continued)**

Name	Agency
	California State Native American Heritage Commission
	California State Lands Commission
Paul Maxwell	Contra Costa Trans. Authority
	Bay Area Air Quality Management District
	Contra Costa Joint Powers Authority
Janet McBride	Association of Bay Area Governments
Don Hankins	U.S. Fish & Wildlife Service
	California Governor's Office of Planning & Research
	California Office of Historic Preservation
	Contra Costa County Flood Control and Water Conservation Dist.
Jim Townsend	East Bay Regional Park District
	Contra Costa County Community Development Department
Charlie Anderson	Western Contra Costa Transit Authority
	Federal Aviation Administration
	National Oceanic and Atmospheric Administration, Fisheries Service
	U.S. Coast Guard
	U.S. Department of Homeland Security – Transit Security Agency
	California Public Utilities Commission
	West Contra Costa Unified School District
	Contra Costa Water District

**Table 6.1-2 Public Scoping Meetings and Agency Comments**

Meeting Date	Meeting Location / Correspondence Type	Meeting Type / Discussion Topic
November 18, 2009	U.S. Army Corps of Engineers San Francisco, CA	Pre-application Meeting with FTA, USACE, RWQCB, EPA, and USFWS
November 19, 2009	San Francisco Bay Conservation Development Commission Office, San Francisco, CA	Pre-Application Meeting
December 8, 2009	City of Hercules Public Library	Public Scoping Meeting
March 18, 2010	Conference Call with BCDC	Permitting and coordination with the BCDC
June 24, 2010	Letter from USACE	Comments on Admin Draft of EIR/EIS
April 27, 2010	Project Site: Hercules, CA	Site visit with the USFWS
July 23, 2010	Letter from USFWS	Technical Assistance

On November 18, 2009, the City met with the USACE to provide an update on the progress of the project and obtain feedback on the Draft EIR/EIS scope. Meeting attendees included: City Staff and their consultant team, and several members of the USACE, USEPA, San Francisco RWQCB, FTA and USFWS. The interagency meeting provided an informal introduction to project scoping and included a PowerPoint presentation followed by discussions focused on issues particularly relevant to the Draft EIR/EIS and possible alternatives. Attendees were informed that in order to submit formal scoping comments, they could make a comment at the scoping meetings or submit written comments by December 30, 2009. The meeting agenda, summary and sign-in sheet can be found in Appendix B.

A formal scoping meeting was conducted by the City to gather input and comments prior to the development of the joint Draft EIR/EIS. The Public Scoping Meeting was held on December 8, 2009 at 5:30 p.m. at the Hercules Library, located at 109 Civic Drive, Hercules, CA 94547. Approximately 10 people attended the scoping meeting.

The meeting format included an informal open house, brief presentation, and comment period. This format offered attendees the opportunity to view a variety of project displays and illustrations of the project area and environmental process, talk one-on-one with project team members, learn more about the overall project, and provide formal comments. The presentation, conducted through PowerPoint, included project background, purpose and need, project development process, and environmental process. Five verbal comments and one written comment were provided during the meeting. Recurring comments and issues that were provided during this meeting included concerns regarding noise, access (vehicular and pedestrian), and traffic/circulation. A summary of key issues identified at the scoping meeting is presented in Table 6.1-3.

**Table 6.1-3 Summary of Scoping Comments Key Issues**

Purpose and Need	
◆	Concerned that the description of project purpose, as presented in the NOI, too narrowly defines the purpose and therefore restricts the range of alternatives that may fulfill the transportation needs of the project.
◆	Focus on the underlying problems that will be addressed by the transportation project for the purpose and need.
◆	Should not be written in a way that includes the solution itself, or other elements that may or may not relate to the transportation issues.
◆	Concerned that broadening the scope of this transit project to include non-transportation-related goals may limit the range of potential alternatives that could achieve the transportation goals of the project.
◆	Clarify if the stream restoration elements are connected to the transportation goals of the project in the DEIS. If not, separate environmental analysis and implementation of activities related to creek restoration from project elements related to transportation needs.
◆	Revise the following statement in the purpose and need, "implement the City of Hercules Waterfront Master Plan Initiative and its directive to construct and intermodal transit center on Block 1," to include "..., consistent with state and federal regulations."
◆	Consistency with local land use plans and regulations should not be used to preclude alternatives from consideration.

**Table 6.1-3 Summary of Scoping Comments Key Issues (continued)**

Cumulative Impacts	
◆	Consider other projects in Hercules: downtown on Bayfront Boulevard is becoming more residential and office, and less other uses. The New Town Center (NTC) project nearby may be taking away the economic viability of making the Bayfront Boulevard downtown truly mixed-use. Encourage the two projects (NTC & Anderson Pacific's downtown) to be studied to prevent NTC from cannibalizing on the retail, restaurants, etc. on Bayfront Boulevard.
◆	Clarify how much of the EIR/EIS takes into account the other ongoing projects in terms of cumulative effects.
◆	Consider cumulative rail safety-related impacts created by other projects.
◆	Explore the extent to which proposed alternatives will integrate with existing transportation facilities.
◆	Discuss how the project will impact existing vehicle lanes, bicycle lanes, and pedestrian paths due to project construction or operation.
◆	Address measure to minimize or mitigate impacts to vehicle lanes, bicycle lanes, and pedestrian paths.
◆	Identify the opportunities available to better connect all modes of transportation in all potential alternatives.
◆	Discuss FTA and the City of Hercules's coordination with the Capitol Corridor JPA, the Water Emergency Transportation Authority, and other local transit providers.
◆	Identify which elements of the project are being proposed to accommodate potential future ferry service.
Alternatives	
◆	Clarify how project alternatives will be considered and discussed and if alternative project sites will be considered.
◆	Ensure that any build alternative which would affect track alignment and platform characteristics meets the same operational standards as planned in the preferred alternative CCJPA/UPRR/Amtrak has already been involved with. If the operational standards could not be met in any alternative, there is a strong likelihood that the alternative could not be feasible from the aspect of rail operations or that there would need to be additional in-depth review and probably modification by/with CCJPA/UPRR/Amtrak to ensure the alternative could be made feasible.
◆	Ensure that alternatives that meet CCJPA standards are also acceptable to UPRR. Any alignment which would deviate from UPRR's design criteria would also not satisfy CCJPA's criteria.
Green Design and Operations	
◆	Commit to facilities that are certified as "green buildings" per the Leadership in Energy and Environmental Design (LEED) green building rating system
◆	Encourage implementation of "green infrastructure" in onsite storm water management features.
◆	Construct new infrastructure with industrial materials recycling, or the reusing or recycling of byproduct materials generated from industrial processes.
◆	Identify how industrial materials recycling can be incorporated into project design.
◆	Implement an Environmental Management System for the proposed facility.
Transit Plaza & Building G Comments	
◆	Prefer a Farmers market for the use of the square and allowance of the farmers' trucks next to vendor stalls up on the plaza.
◆	Concerned about cars doing "donuts" in the plaza, recommend a design to dissuade this activity such as removable barriers.

Table 6.1-3 Summary of Scoping Comments Key Issues (continued)

◆	Building G's relationship with the plaza is unengaged. The plaza is not embracing this building and is turning its back to it. Anderson Pacific needs to be pressed and commit to the design of the plaza side of building G, so the plaza can reflect its design. The two go hand-in-hand. The plaza space next to G is a great opportunity for restaurant tables and seating from G to fill the square.
◆	Plaza is uninspired and bland. Would like to see the guiding landscape renderings that show the intent of the plaza design. These renderings should be freehand, loose, and very conceptual. Would like to know the point and purpose for this plaza.
◆	Clarify what is historic about the current design.
◆	Include a historical consultant to actively research the history of the site and incorporate that into the design. Specifically, the design of the café, plaza, and building G needs to be created in a fashion tied to the history of the area.
◆	Concerned about the plaza becoming a haven for skateboarders.
◆	Clarify where the police substation is located.
<b>Pedestrian/Bicycle Circulation</b>	
◆	Ensure that John Muir Parkway remains a pedestrian friendly roadway.
◆	Recommend, as a regular Capitol Corridor rider, a crosswalk from the planned parking garage to the station.
◆	Suggest that the entire road area from the east end of the Transit Loop bridge to the bus drop off area, or a hugely significant part of that area, be considered to be striped as pedestrian crossing.
◆	Support (County) the key project objective to develop a trail linkage between the project and Rodeo. The preferred trail linkage should provide direct and convenient access to the project by bicycling or walking. Ensure such a linkage would not conflict with the project objective to improve safety along the railroad corridor by excluding pedestrian access.
◆	Projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor right-of-ways.
◆	Orient the transit center to maximize opportunities for pedestrian and bicyclist traveling to the station.
◆	Align transit center with Bayfront development streets to facilitate walking and biking as a means of promoting mass transit use and reducing regional vehicle miles traveled and traffic impacts on the state highways.
<b>Access</b>	
◆	Recommend two access points to Hercules Point, one where the former railroad bridge was, and the second from the ferry pier; the park will be substantially enhanced by easy access.
<b>Parking</b>	
◆	Clarify if there will be a charge for commuters to use the new surface parking and if the City will manage this parking to ensure it will be available for transit passengers rather than others who are not taking the train or ferry.
<b>Traffic</b>	
◆	Concerned with traffic impacts to Promenade Street and other arterials.
◆	Concerned that new developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at the at-grade highway-rail crossings.
◆	Address the new grade separated crossing in the traffic impact study.
◆	Ensure compliance with General Order 26-D clearance requirements.
◆	The proposed project has the potential to increase vehicular and pedestrian traffic in the vicinity.

**Table 6.1-3 Summary of Scoping Comments Key Issues (continued)**

◆	Clarify whether there will be a conflict between transit vehicles and private vehicles.
◆	Concerned about traffic impacts from the proposed alternative routes: alternative routes to John Muir Parkway going to Sycamore to Railroad Avenue to Bayfront Boulevard is to indirect. The most direct route is Sycamore to Promenade Street straight up to the station. Taraya at Sycamore is a difficult intersection and Taraya also has the “dog leg” curve at Sanderling. If John Muir Parkway is backed up, cars will travel first on Promenade Street, not Taraya or Railroad Avenue. Traffic calming measures will need to be implemented to slow cars along the length of Promenade. Traffic calming (such as larger sidewalk bulb-outs) need to be implemented to dissuade cars from leaving (number 1) the bus loop and from then entering (number 2) at Bayfront and Promenade.
◆	Traffic mitigation fees should be specifically identified in the environmental document.
◆	Include an analysis of the impacts of the proposed project on State highway facilities in the vicinity of the project site.
◆	Traffic Impact Study should be prepared to provide the following:
▲	Information on the plan’s traffic impacts in terms of trip generation, distribution, and assignment. Address assumptions and methodologies used in compiling this information. Show the percentage of project trips assigned to State facilities.
▲	Current Average Daily Traffic and AM and PM peak hour volumes on all significantly affected streets, highway segments and intersections.
▲	Schematic illustration and level of service analysis for 1)existing, 2) existing plus project, 3) cumulative, and 4) cumulative plus project for the roadways and intersections in the project area.
▲	Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the State highway facilities being evaluated.
▲	Identified mitigation measures where plan implementation is expected to have a significant impact.
◆	Traffic Impact Study should use the procedures contained in the 2000 update of the Highway Capacity Manual should be as a guide for the analysis, as well as the Caltrans “Guide for the preparation of Traffic Impact Studies.”
<b>Safety</b>	
◆	Consider impacts such as collisions between trains and vehicles, and between trains and pedestrians.
◆	Consider measures to reduce adverse impacts to rail safety in the DEIR, recommendations include the following:
▲	Installation of grade separations at crossings.
▲	Improvements to warning devices at existing highway-rail crossings.
▲	Installation of additional warning signage.
▲	Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption.
▲	Installation of median separation to prevent vehicles from driving around railroad crossing gates.
▲	Prohibition of parking with 100 feet of crossings to improve the visibility of warning devices and approaching trains.
▲	Installation of pedestrian-specific warning devices and channelization and sidewalks.
▲	Construction of pull out lanes for buses and vehicles transporting hazardous materials.
▲	Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way.
▲	Elimination of driveways near crossings.
▲	Increased enforcement of traffic laws at crossings.

Table 6.1-3 Summary of Scoping Comments Key Issues (continued)

▲	Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings.
<b>Noise</b>	
◆	Concerned about the noise level, given the large number of homes, and businesses near the Transit Center.
◆	Minimize track noise when straightening the track by using the best materials possible as this project will be the best opportunity to make this improvement.
◆	Implement procedures (e.g., mandatory slowing) to further minimize noise.
◆	Concerned about the added noise and smog pollution caused by the Transit Center's location and its impact upon the Promenade development.
◆	Concerned about a funnel for noise created by constant traffic flow of the "loop" this is aligned to the Promenade and providing a view down Promenade Street. Compounding this will be the reverberant energy sent from the hardscape of the Intermodal Transit Center's main building structure up the funnel now known as Promenade Street.
◆	Concerned about noise from the "kiss and drop" area, with honking to the arriving/departing passengers.
◆	Concerned about noise and smells this project will bring to my house at night when windows are open to enjoy the cool nights.
<b>Air Quality</b>	
◆	Concerned about the air pollution that will be generated by the idling busses and cars as well as their comings and goings and the polluted air being blown into the Promenade neighborhood.
◆	Include, in the DEIS, a thorough analysis of potential air quality impacts for each of the alternatives and identify opportunities to reduce emissions.
◆	Address potential air quality impacts during the construction period in the DEIS.
◆	Include the following recommended mitigation measures in the DEIS to reduce construction emissions:
<b><u>Fugitive Dust Source Controls:</u></b>	
▲	Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate.
▲	Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions.
▲	Prevent spillage and limit speeds to 15 miles per hour when hauling material and operating non-earthmoving equipment. Limit speed of earthmoving equipment to 10 miles per hour.
<b><u>Mobile and Stationary Source Controls:</u></b>	
▲	Reduce use, trips, and unnecessary idling from heavy equipment.
▲	Maintain and tune engines per manufacturer's specifications to perform at EPA certification, where applicable, levels and to perform at verified standards applicable to retrofit technologies. Employ periodic, unscheduled inspections to limit unnecessary idling and to ensure that construction equipment is properly maintained, tuned, and modified consistent with established specifications.
▲	Prohibit any tampering with engines and require continuing adherence to manufacturer's recommendations.
▲	Lease new, clean equipment meeting the most stringent of applicable Federal or State Standards and commit to using the best available emissions control technologies on all equipment.

**Table 6.1-3 Summary of Scoping Comments Key Issues (continued)**

<b>Administrative Controls:</b>	
▲	Identify all commitments to reduce construction emissions and update the air quality analysis to reflect additional air quality improvements that would result from adopting specific air quality measures.
▲	Identify where implementation of mitigation measures is rejected based on economic infeasibility.
▲	Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking. Meet EPA diesel fuel requirements for off-road and on-highway, and use alternative energy sources such as natural gas and electric.
▲	Develop a construction, traffic and parking management plan that minimizes traffic interference and maintains traffic flow.
▲	Identify sensitive receptors in the project area and minimize impacts to them.
<b>Water/Water Quality</b>	
◆	Incorporate water conservation measures through EBMUD and request that the City include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, Model Water Efficient Landscape Ordinance.
◆	Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.
◆	The project area is within unformed Drainage Areas 69 and 112, mapped by the Contra Costa Flood Control & Water Conservation District (FC District). These drainage areas define the watersheds for Pinole Creek and Refugio Creek; they have not been studied and do not have drainage fees in place.
◆	The FC District has inadequate maintenance funding for Pinole Creek and Refugio Creek watershed facilities. The City of Hercules (City) should ensure that a perpetual funding source is in place for maintenance of the new drainage facilities installed by this development, as well as the prorated share of the watershed facilities that are utilized by this development.
◆	Request that the joint EIR provide a map of the watersheds where the project is located, including watershed boundaries, show all existing watercourses, tributaries, and man-made drainage facilities within the project site that could be impacted by this project, mitigation measures, and also identify FC District's right of way.
◆	Recommend that the least amount of impact to natural watercourses results from the project development. Currently, Pinole Creek does not have capacity to accommodate a 100-year event. Discuss mitigation measures for replacement of the railroad bridge and construction of Bayfront Boulevard over Refugio Creek and any impacts to downstream watercourses.
◆	Develop a Drainage Master Plan for this specific area. This plan should be approved by the City and the FD District prior to allowing further development in the area. The Drainage Master Plan should include detailed hydrologic modeling of the watershed that considers land use, existing facilities, soil, and topographic data. The Drainage Master Plan should also result in a plan with descriptions of proposed flood control facilities (which typically include basins, channels, and storm drains), compliance with discharge and water quality requirements, cost estimates, and schedules.
◆	Incorporate creek enhancements since realignment and restoration of segments of Refugio Creek are part of the project improvements. Improvements may include improving the riparian corridor, incorporating public access, and creek-oriented site layout. This approach is an opportunity to enhance the habitat value of the creeks while providing an amenity to retail customers and the residential neighborhood.
◆	Recommend that the joint EIR quantify the amount of runoff that would be generated by the project and discuss how the runoff entering and originating from the site would be distributed between the natural watercourses and to any man-made drainage facilities.
◆	Discuss the adverse impacts of the runoff from the project site to the existing drainage facilities and drainage problems in the downstream areas, including those areas outside of the project site.

Table 6.1-3 Summary of Scoping Comments Key Issues (continued)

◆	Recommend that the joint EIR address the design and construction of storm drain facilities to adequately collect and convey stormwater entering or originating within the project area to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed, per Title 9 of the County Ordinance Code. Mitigation measures for any improvement or relocation of drainage facilities, specifically the outfall to Refugio Creek, should be addressed in the joint EIR.
◆	Recommend that the adequacy and stability of the drainage facilities within the project area be studied to determine if local drainage design criteria are met, as well as FEMA National Floodplain Insurance requirements. If those are not met, then the joint EIR should discuss the potential impacts and propose mitigation measures to address those impacts. The discussion should also include an analysis of the capacity and erosion potential of the existing watercourses.
◆	Make efforts to avoid and minimize the project's impacts on water resources. Impacts include construction activities, replacement of a bridge crossing on Refugio Creek, realignment and restoration of a portion of Refugio Creek, relocation of an outfall to the creek, and potential loss of special aquatic sites such as tidal wetlands, mudflats, and riparian areas.
◆	Demonstrate in the DEIS that potential impacts to waters of the United States have been avoided and minimized to the maximum extent practicable prior to obtaining a CWA Section 404 permit.
◆	Include in the DEIS a waters assessment of an appropriate scope and detail to identify sensitive areas or aquatic systems with functions highly susceptible to change, including the following recommendations:
▲	Estimate the acreage of waters of the United States within the project area using CWA jurisdictional determinations, which should be submitted to the Army Corps of Engineers for verification.
▲	Identify all protected resources with special designations and all special aquatic sites and waters within state, local, and federal protected lands. Take additional steps to avoid and minimize impacts to these areas.
▲	Provide specific descriptions of proposed activities in CWA regulated waters including grading plans and cross sections.
▲	Include the classification of waters and the geographic extent of waters and adjacent riparian areas.
▲	Characterize the functional condition of waters and adjacent riparian areas.
▲	Describe the extent and nature of stream channel alteration, riverine corridor continuity, and buffered tributaries.
▲	Include wildlife species affected that could reasonably be expected to use waters or associated riparian habitat and sensitive plant taxa that are associated with waters or associated riparian habitat.
▲	Analyze the potential flood flow alteration.
▲	Characterize the hydrologic linkage to any impaired water body.
▲	Analyze the potential water quality impact and potential effects to designated uses.
▲	Identify specific techniques proposed for minimizing surface water contamination due to increased runoff from additional impervious surfaces.
◆	Explore onsite alternatives to avoid or minimize impacts to specific waters.
◆	Include, in the DEIS, a complete systematic analysis for drainage crossings which identifies and prioritizes the potential for improvements to the aquatic system and for wildlife use at each crossing, including the following recommendations:
▲	Demonstrate that all potential impacts to waters of the United States have been avoided and minimized. The DEIS analyses should clearly demonstrate how cost, logistical, or technological constraints preclude avoidance and minimization of impacts, if these resources cannot be avoided.
▲	Quantify temporary and permanent impacts to waters of the United States for each alternative studied. Report these numbers in table form for each impacted water and wetland feature in the DEIS.

**Table 6.1-3 Summary of Scoping Comments Key Issues (continued)**

<ul style="list-style-type: none"> <li>▲ Identify design measures and modifications to avoid and minimize impacts to water resources. Quantify the benefits achieved for each alternative studied.</li> </ul>
<ul style="list-style-type: none"> <li>▲ Include a compensation proposal for unavoidable impacts to CWA regulated waters that complies with new regulations for compensatory mitigation promulgated in April 2007.</li> </ul>
<ul style="list-style-type: none"> <li>◆ Appreciate the goals of “continue to improve and protect Refugio Creek as a major environmental amenity” and “improve Refugio Creek to allow adequate flows into the Bay without resulting in flooding.”</li> </ul>
<p><b>Utilities</b></p>
<ul style="list-style-type: none"> <li>◆ Gas and electric service is available to the project. Extensions of these facilities will be made in accordance with PG&amp;E’s gas and electric rules and regulations on file with the CPUC at the time the applicant applies for gas and electric service. Any relocation of existing facilities would be done at the developer’s expense.</li> </ul>
<p><b>Climate Change</b></p>
<ul style="list-style-type: none"> <li>◆ Include discussion of the potential impacts of climate change on the proposed project and identify adaptive management strategies to protect the project area from those impacts.</li> </ul>
<ul style="list-style-type: none"> <li>◆ Would like to be able to review the analysis and baseline test protocols that will be used to provide assurance that the people of Promenade development, will not be adversely affected. Provide times and places where the data and analysis can be reviewed.</li> </ul>
<p><b>Mitigation</b></p>
<ul style="list-style-type: none"> <li>◆ For all proposed mitigation measures fully discuss the project’s fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring.</li> </ul>
<ul style="list-style-type: none"> <li>◆ Any mitigation measures within Pinole Creek will require a separate Flood Control Permit.</li> </ul>
<ul style="list-style-type: none"> <li>◆ Discuss mitigation measures required by U.S. Army Corps of Engineers, the State Department of Fish, and Game and the State Regional Water Quality Control Board that may be necessary.</li> </ul>
<p><b>Permits</b></p>
<ul style="list-style-type: none"> <li>◆ Complete any required roadway improvements prior to issuance of project occupancy permits.</li> </ul>
<ul style="list-style-type: none"> <li>◆ Ensure resolution of the Department’s California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application.</li> </ul>
<ul style="list-style-type: none"> <li>◆ Apply for an encroachment permit for any work or traffic control that is necessary within the State Right-of-Way.</li> </ul>
<ul style="list-style-type: none"> <li>◆ Recommend that the joint EIR contact the appropriate environmental regulatory agencies, such as the U.S. Army Corps of Engineers, the State Department of Fish and Game and the State Regional Water Quality Control Board, to explore the permits, special conditions, and mitigation that may be necessary for this project.</li> </ul>
<p><b>Hazardous Materials</b></p>
<ul style="list-style-type: none"> <li>◆ Provide APN or latitude and longitude information on the project to help identify any hazardous substances release sites at or near the project.</li> </ul>
<p><b>Coordination with Agencies</b></p>
<ul style="list-style-type: none"> <li>◆ Involve the Capitol Corridor in the joint EIR/EIS process and in the review of interim documents as well as the administrative drafts shared with partner agencies.</li> </ul>
<ul style="list-style-type: none"> <li>◆ Include the San Francisco Bay Conservation Development Commission in your agency coordination plan as a participating agency.</li> </ul>

**Table 6.1-3 Summary of Scoping Comments Key Issues (continued)**

◆	Coordinate preparation of the Traffic Impact Study with Caltrans (two copies).
◆	Provide opportunity for Caltrans to review the scope of work and environmental document (two copies).
◆	Provide opportunity for the United States Environmental Protection Agency to review the environmental document (two copies).
◆	Provide additional time to review the notices of preparation for the proposed Intermodal Transit Center and the Bayfront project for the City of Pinole.
◆	Obtain CPUC approval to modify an existing highway-rail crossing or to construct a new crossing.
◆	Coordinate with the East Bay Municipal Utility District (EBMUD), owner and operator of the water distribution pipelines within the proposed project area, on any proposed construction activity in public streets. Relocation of the water mains may be required, at the project sponsor's expense.
◆	The FC District holds fee title as well as having easement and maintenance responsibility for a portion of Pinole Creek downstream of the project area, and therefore should be involved in the review of any proposals that will potentially impact those creeks. The FC District should also be included in the review of all drainage facilities that have a region-wide benefit, that impact region-wide facilities, or that impact FD District-owned facilities (Pinole Creek). The FC District is available to provide technical assistance during the development of the DEIR, including hydrology and hydraulic information and our HYDRO6 method, under our Fee-for-Service program.
◆	Recommend that the project's CEQA document state if this project will include land transaction involving the FC District in the appropriate sections.
<b>Environmental Justice and Community Involvement</b>	
◆	Identify how the proposed alternatives may affect the mobility of low-income or minority populations in the surrounding areas and provide appropriate mitigation measures for any anticipated adverse impacts.
◆	Include a description of the area of potential impact used for the analysis and provide the source of the demographic information.
◆	Identify whether the proposed alternatives may disproportionately and adversely affect low-income or minority populations in the surrounding area and provide appropriate mitigation measures for any adverse impacts.
◆	Include opportunities for incorporating public input to promote context sensitive design.
◆	Expand upon the process for participation in the scoping phase of the project; explain the notification process for the meetings, when or where they will be held.
◆	Notify the public of the EIR during the review and comment period.
◆	Request adequate notification to future public meetings/hearings.
<b>Funding</b>	
◆	Recommend the identification and securing of funding to complete the project.
◆	To receive approval and allocation of funds from the California Transportation Commission (CTC), the lead agency must notify CTC at completion of the environmental process.
◆	Prior to CTC approval for future funding consideration, lead agency must provide written assurance of consistency of the project programmed by the Commission and the final EIR/EIS document.
<b>Miscellaneous</b>	
◆	Clarify if the Bay Trail is going to be improved as part of this project at the same time as the construction of the Transit Center.

**Table 6.1-3 Summary of Scoping Comments Key Issues (continued)**

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|---|--|
| ◆ | Conduct baseline testing across 20 points at locations within a 200 yard radius of the proposed site. Envision multiple tests in both the A and B scales taken over a period of two weeks.   |
| ◆ | Move the transit loop so that it does not align with any street. Prevent parking and idling of busses for more than three minutes in front of the terminal. Prohibit use of horns in the area except as safety devices. Move the transit loop back to one of its past locations 200 feet down the track. |
| ◆ | Support the goals of providing improved connectivity and access to transit service to the community since it has the potential to increase transit mode share and reduce air quality impacts from automobile emissions, as well as provide improved service for existing transit riders.                 |

Written comments were accepted at the meeting and via mail, fax, and e-mail until December 30, 2009. All comments were to be submitted to Lisa Hammon, Assistant City Manager. The formal comment period was extended from November 23, 2009 to December 30, 2009.

The agenda, meeting summary, example comment card, and sign-in sheet are provided in Appendix B Public Scoping Meeting Materials.

## 6.2 Distribution of the Draft EIR/EIS

As discussed in Section 1.6, the Notice of Availability (NOA) of the Draft EIR/EIS was published in the Federal Register on September 17, 2010. Comments were received through November 15, 2010. Two public hearings were held on October 18, 2010 at 3:00 pm and 7:00 pm at Hercules City Hall.

The following Table 6.2-1 provides the distribution list for entities that received a copy of the Draft EIR/EIS.

**Table 6.2-1 Draft EIR/EIS Distribution List**

Recipient	Address
<b>Federal</b>	
U.S. Postal Service	Post Master 499 Parker Avenue Rodeo, CA 94572
U.S. Army Corps of Engineers	Ian Liffmann 1455 Market St., #1760 San Francisco, CA 94103
U.S. Environmental Protection Agency (EPA)	Jacqueline Wyland 75 Hawthorne Street (E-3) San Francisco, CA 94105
U.S. Department of Interior (DOI)	Office of Environmental Policy and Compliance U.S. Department of the Interior Main Interior Building MS 2340 Washington, DC 20240  <i>Note: Department of Interior handles internal distribution to component agencies, including U.S. Fish and Wildlife Service Regional Offices</i>
AMTRAK	Robert Nagel, Dir. of Engineering 1303 Third St. Oakland, CA 94607
<b>State</b>	
Department of Conservation	801 K Street, 24th Floor Sacramento, CA 95814
Department of Transportation – District CEQA Coordinator	Caltrans District 4 P. O. Box 23660 Oakland, CA 94623-0660
Governors Office/Plan & Research	P.O. Box 3044 Sacramento, CA 95812-3044
San Francisco Bay Regional Water Quality Control Board	Kathryn Hart 1515 Clay Street Oakland, CA 94612

**Table 6.2-1 Draft EIR/EIS Distribution List (continued)**

Recipient	Address
California State Clearinghouse	State Clearinghouse 1400 Tenth Street Sacramento, CA 95814
Department of Fish and Game	Diane Harais P.O. Box 47 Yountville, CA 94599
Department of Fish and Game	1416 Ninth Street Sacramento, CA 95814
Department of Toxic Substance Control	Gunther Moskat, HQ-18 P. O. Box 806 Sacramento, CA 95812-0806
State Native American Heritage Commission	915 Capital Mall, Room 288 Sacramento, CA 95814
Caltrans – Division of Rail	1120 N Street, MS 74 Sacramento, CA 95814
Division of Mines and Geology	801 "K" Street, MS 09-06 Sacramento, CA 95814-3531
State Lands Commission	Executive Director 100 Howe Ave., 100 South Sacramento, CA 95825
Office of Historic Preservation	P.O. Box 942896 Sacramento, CA 94296-0001
Department of General Services	Div. of the State Architect 1515 Clay Street, Suite 1201 Oakland, CA 94612
<b>County/Regional</b>	
Contra Costa Transportation Authority	Paul Maxwell, Chief Deputy 2999 Oak Road, Suite 100 Walnut Creek, CA 94597
Contra Costa County Flood Control and Water Conservation District	255 Glacier Drive Martinez, CA 94553
Bay Area Rapid Transit (BART)	Real Estate Dept. Mgr. 300 Lakeside, 22nd Floor Oakland, CA 94612
Bay Area Air Quality Management District	939 Ellis Street San Francisco, CA 94109 Dir. for CC County
East Bay Regional Park District (EBRPD)	Mr. B. Holt 2950 Peralta Oaks Court Oakland, CA 94605
Metropolitan Transportation Commission (MTC)	Craig Goldblatt 101 8th Street Oakland, CA 94607-4700

Table 6.2-1 Draft EIR/EIS Distribution List (continued)

Recipient	Address
Capitol Corridor Joint Powers Authority (CCJPA)	300 Lakeside Drive 14th Floor, East Oakland, CA 94612
Contra Costa County Community Development Department	Director 651 Pine Street, 4th Fl, N. Wing Martinez, CA 94553
Contra Costa County Health Department	Environmental Division 2120 Diamond Blvd., Suite 200 Concord, CA 94520
Association of Bay Area Governments (ABAG)	Janet McBride P. O. Box 2050 Oakland, CA 94604-2050
Western Contra Costa Transit Authority (WestCAT)	Charlie Anderson 601 Walter Avenue Pinole, CA 94564
West Contra Costa Transportation Advisory Committee (WCCTAC) (West County)	Christina M. Atienza, P.E. 13831 San Pablo Avenue San Pablo CA 94806
Contra Costa County Clerk	822 Main Street Martinez, CA 94553
Contra Costa County Historical Society	Raymond J. O'Brien 610 Main Street Martinez, CA 94553-1129
Bay Conservation and Development Commission (BCDC)	Ming Yeung 50 California St. San Francisco, CA 94111
Water Emergency Transportation Authority (WETA)	John Sindzinski Pier 9, Suite 111, The Embarcadero San Francisco, CA 94111
<b>City</b>	
Hercules Library	109 Civic Drive Hercules, CA 94547
Hercules Municipal Utility (HMU)	111 Civic Drive Hercules, CA 94547
Rodeo-Hercules Fire Protection District (RHFPD)	Fire Chief 326 3rd Street Rodeo, CA 94572
<b>Other Local Area</b>	
City of San Pablo	Planning Division 13831 San Pablo Ave San Pablo, CA 94806

**Table 6.2-1 Draft EIR/EIS Distribution List (continued)**

Recipient	Address
Vallejo Ferry	Planning Division P.O. Box 2287 Vallejo, CA 94592
Solano County	Planning Division 675 Texas St Fairfield, CA 94533
City of Vallejo	Planning Division 555 Santa Clara St. Vallejo, CA 94590
Vallejo Transit	Planning Division 1850 Broadway St. Vallejo, CA 94589
City of Richmond	Planning Division 1401 Marina Way South Richmond, CA 94804
Local Agency Formation Commission (LAFCO)	c/o Lou Ann Texeira 651 Pine St. 6th Floor Martinez, Ca 94553
City of Pinole	Community Development Director 2131 Pear Street Pinole, CA 94564
Richmond Sanitary Service	PO Box 4100 Richmond, CA 94804
West CCC Unified School Dist.	Superintendent 1108 Bissell Avenue Richmond, CA 94801-3135
John Swett Unified School District	Superintendent 400 Parker Avenue Rodeo, CA 94572-1400
West County Times	Attention: Tom Lochner 4301 Lakeside Drive Richmond, CA 94806-5281
Golden Gateway Associates	1163 Chess Drive, Ste. J Foster City, CA 94404
<b>Other Parties</b>	
AT&T Cablevision	2900 Technology Richmond, CA 94806
PG&E	Attn: Envir. and/or New Business 1100 S. 27th St. Richmond, CA 94804
AT & T Corporate	Attn: Envir. and/or New Business 175 East Houston Street San Antonio, TX 78205

Table 6.2-1 Draft EIR/EIS Distribution List (continued)

Recipient	Address
East Bay Municipal Utility District (EBMUD)	D. Rehstrom/ Sr. Civil Engr. Planning Division 375 11th Street/ MS 701 Oakland, CA. 94607
Bixby Development Company LLC	Attention: John Baucke 125 East Victoria Street, Suite L Santa Barbara, CA 93101
M. R. Wolfe & Associates	49 Geary Street, Suite 200 San Francisco, CA 94108
Jeffrey Wisniewski	1102 Avocet Drive Hercules, CA 94547
Mohamed Ibrahim	Environmental Project Scientist 3800 Watt Avenue, Suite 210 Sacramento, CA 95821
Joanna Malaczynski	1225 Cole Street San Francisco, CA 94117
Patrick P., Emily M. & Kaylynn K. c/o Allen Matkins Leck Gamble Mallory & Natsis LLP	515 S. Figueroa St., 9th Floor Los Angeles, CA 90071
Adams Broadwell Joseph & Cordozo	601 Gateway Blvd., Ste. 100 So San Francisco, CA 94080-7037
Retail Solutions	P.O. Box 834 Bloomington, CA 92316-0834
The Friends of Hercules	P.O. Box 5613 Hercules, California 94547
Nor-Cal Carpenters Rgnl Cncl Alex Lantsberg Research Department	265 Hegenberger Rd., Ste. 220 Oakland, CA 94621
Anderson Pacific	Ethan Sischo 6701 Center Dr. West, Ste. 710 Los Angeles, CA 90045
Robert Spencer	1700 Broadway, 6th Floor Oakland, CA 94612
ZG Planning and Design	PO Box 77105 San Francisco, CA 94107
C. Wade Albritton	1124 Promenade St. Hercules, CA 94547
David Cury	200 7 <sup>th</sup> Avenue Santa Cruz, CA 95062
Union Pacific Railroad	James Smith 9451 Atkinson St. Roseville, CA 95747
Bio-Rad Laboratories	John Stier 6000 James Watson Drive Hercules, CA 94547

**Table 6.2-1 Draft EIR/EIS Distribution List (continued)**

Recipient	Address
Verizon Business	Rebecca Daniels 2175 North California Blvd. Suite 303 Walnut Creek, CA 94596
Qwest Communications	Brett Hankins 1009 Enterprise Way, Suite 300 Roseville, CA 95678
Level 3	Matt Williams 1025 El Dorado Blvd. Broomfield, CO 80021
Kinder Morgan	Gregg Lies 1100 Town and Country Road Orange, CA 92868
Shell Pipeline LLC	Russell J. Guidry Jr. 20945 S. Wilmington Ave. Carson, CA 90810

### 6.3 Comments on the Draft EIR/EIS

At the end of the comment period, public and agency comments were recorded and categorized, and responses to the comments were prepared. A total of 18 written comment letters or emails were received during the written comment period for the Draft EIR/EIS (September 17, 2010 to November 15, 2010). An additional verbal comment was received at the Public Hearing Public Hearing for the Draft EIR/EIS, held on October 18, 2010. Table 6.2-2 provides a list of all commenters on the Draft EIR/EIS during the public review period. All comments have been assigned a letter number and comments are numbered with a binomial. For example, Comment 2-5 refers to the fifth comment in comment letter number two in the list of commenters. Responses corresponding to each comment binomial follow each comment letter. The comments and responses to the comments follow Table 6.2-2.

**Table 6.3-1 Hercules ITC Draft EIR/EIS Commenters**

No.	Name of Commenter	Title	Organization/Affiliation	Date Received
<b>Federal Agencies</b>				
1	David H. Sulouff	Chief, Bridge Section	U.S. Coast Guard 11 <sup>th</sup> District	November 15, 2010
2	Connell Dunning	Transportation Team Supervisor	U.S. Environmental Protection Agency	November 15, 2010
3	Patricia Sanderson Port	Regional Environmental Officer	U.S. Department of the Interior	November 3, 2010
<b>State Agencies</b>				
4	Scott Wilson	Acting Regional Manager, Bay Delta Region	California Department of Fish and Game	November 3, 2010
5	Lisa Carboni	District Branch Chief, Local Development-Intergovernmental Review	California Department of Transportation	November 12, 2010
6	Cy R. Oggins	Chief, Division of Environmental Planning and Management	California State Lands Commission	October 26, 2010
<b>Regional and Local Agencies</b>				
7	Ian Peterson	Environmental Planner	Bay Area Air Quality Management District	November 8, 2010
8	Ming Yeung	Coastal Program Analyst	Bay Development and Conservation Commission	November 10, 2010
9	Dean Allison	Director of Public Works	City of Pinole	October 18, 2010
10	Belinda B. Espinosa	City Manager	City of Pinole	November 5, 2010
11	Joseph G. Doser	Supervising Environmental Health Specialist	Contra Costa Health Services	October 1, 2010
12	William R. Kirkpatrick	Manager of Water Distribution Planning	East Bay Municipal Utility District	October 22, 2010
<b>Individuals and Organizations</b>				
13	Jeffrey Wisniewski	-----	General Public	October 29, 2010

## Chapter 6

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14	Myrna L deVera	-----	General Public	November 14, 2010
15	Cletia Hart	-----	General Public	November 15, 2010
16	Sherry McCoy	-----	General Public	November 15, 2010
17	Mike Bowermaster	-----	General Public	November 15, 2010
18	Steve Kirby	Hercules Project Coordinator for the West Contra Costa County Executive Committee	Sierra Club	October 11, 2010
19	Mike Bowermaster	-----	General Public	October 18, 2010

Letter 1\_U.S. Coast Guard  
Page 1 of 4



National Environmental Policy Act (NEPA)

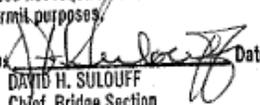
You are here: EPA Home Compliance and Enforcement National Environmental Policy Act  
(NEPA) EIS Database EIS Data

## EIS Data

<b>Title</b>	Hercules Intermodal Transit Center, Construction To Improve Access to Public Transit, Funding, Contra Costa County, CA		
<b>EIS Number</b>	20100369	<b>State</b>	CA
<b>Document Type</b>	Draft EIS	<b>Lead Agency</b>	FTA
<b>Federal Register Date</b>	09/17/2010	<b>Contact Name</b>	Paul Page
<b>EIS Comment Due/ Wait Period Date</b>	11/15/2010	<b>Contact Phone</b>	415-744-3133
<b>Amended Notice Date</b>	11/12/2010		
<b>Amended Notice</b>	Revision to FR Notice Published 09/17/2010: Extending Comment Period from 11/01/2010 to 11/15/2010.		
<b>Supplemental Information</b>			
<b>Website</b>			
<b>Comment Letter Date</b>		<b>Rating, if Draft EIS</b>	

[Return](#)

Under the provisions of the Coast Guard Authorization Act of 1982, the Coast Guard has determined this project does not require Coast Guard involvement for bridge permit purposes.

Signature: 

DAVID H. SULOUFF  
Chief, Bridge Section  
11th Coast Guard District  
By direction of District Commander

Date: 11/15/2010

1-1

<http://yosemite.epa.gov/oeca/webcis.nsf/EIS01/BFD55C20261D36AE852577D9002109...> 11/12/2010

69434

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free at 1-866-206-3676, or for TTY, 202-502-8659.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact David Turner by telephone at 202-502-6091 or by e-mail at [David.Turner@ferc.gov](mailto:David.Turner@ferc.gov).

Kimberly D. Bose,  
Secretary.

[FR Doc. 2010-28472 Filed 11-10-10; 8:45 am]

BILLING CODE 6717-01-P

#### ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8993-6]

#### Environmental Impacts Statements; Notice of Availability

**Responsible Agency:** Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nepa/>.

Weekly receipt of Environmental Impact Statements Filed 11/01/2010 Through 11/05/2010 Pursuant to 40 CFR 1506.9.

#### Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the *Federal Register*. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: <http://www.epa.gov/compliance/nepa/eisdata.html>. Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the *Federal Register*.

**EIS No. 20100439, Final EIS, USFS, WI, Twin Ghost Project, Proposes to Implement Vegetation and Transportation Management Activities, Great Divide Ranger District, Chequamegon-Nicolet National Forest, Ashland, Bayfield, Sawyer Counties, WI, Wait Period Ends: 12/13/2010, Contact: Debra Proctor 715-634-4821 Ext.325.**

**EIS No. 20100440, Draft EIS, USFS, MT, Warm Springs Habitat Enhancement Project, Restoring and Promoting Key Wildlife Habitat Components by Managing Vegetation, Reducing Fuels, and Promoting a More Resilient Fire Adapted Ecosystem, Helena Ranger District, Helena National Forest, Jefferson County, MT, Comment Period Ends: 12/27/2010, Contact: Liz Van Genderen 406-495-3749.**

**EIS No. 20100441, Second Draft EIS (Tiering), NCP, DC, Tier-2 DEIS—Smithsonian Institution National Museum of African American History and Culture (NMAAHC), Construction and Operation, Between 14th and 15th Streets, NW, and Constitution Avenue, NW, and Madison Drive, NW, Washington, DC, Comment Period Ends: 01/11/2011, Contact: Jane Passman 202-633-6549.**

**EIS No. 20100442, Draft Supplement, FTA, WA, East Link Rail Transit Project, New and Updated Information, Proposes to Construct and Operate an Extension of the Light Rail System From Downtown Seattle to Mercer Island, Bellevue, and Redmond via Interstate 90, Funding and US Army COE Section 404 and 10 Permits, Seattle, WA, Comment Period Ends: 12/27/2010, Contact: John Witmer 206-220-7950.**

**EIS No. 20100443, Final EIS, NOAA, WA, PROGRAMMATIC—Incorporation of the Revised Washington Shoreline Management Act Guidelines into the Federally Approved Washington Coastal Management Program, Amendment No. 4 Approval, Coastal Counties in WA, Wait Period Ends: 12/13/2010, Contact: Bill O'Beirne 301-563-1160.**

#### Amended Notices

**EIS No. 20100369, Draft EIS, FTA, CA, Hercules Intermodal Transit Center, Construction to Improve Access to Public Transit, Funding, Contra Costa County, CA, Comment Period Ends: 11/15/2010, Contact: Paul Page 415-744-3132.**

Revision to FR Notice Published 09/17/2010: Extending Comment Period from 11/01/2010 to 11/15/2010.

**EIS No. 20100386, Draft EIS, BLM, UT, Uinta Basin Natural Gas Development Project, To Develop Oil and Natural Gas Resources within the Monument Butte-Red Wash and West Tavaputs Exploration and Developments Area, Applications for Permit of Drill and Right-of-Way Grants, Uintah and Duchesne Counties, UT, Comment Period Ends: 11/30/2010, Contact: Mark Wimmer 435-781-4464.**

Revision to FR Notice Published 10/01/2010: Extending Comment Period from 11/15/2010 to 11/30/2010.

Dated: November 8, 2010.

Robert W. Hargrove,  
Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2010-28503 Filed 11-10-10; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-9225-4]

#### Public Water System Supervision Program Revision for the State of Montana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In accordance with the provisions of section 1413 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g-2, and 40 CFR 142.13, public notice is hereby given that the State of Montana has revised its Public Water System Supervision (PWSS) Primacy Program by adopting federal regulations for the Lead and Copper Rule Short Term Regulatory Revisions which correspond to the National Primary Drinking Water Regulations (NPDWR) in 40 CFR part 141 and 142. The EPA has completed its review of these revisions in accordance with the SDWA and proposes to approve Montana's primacy revisions for the above stated Rule.

Today's approval action does not extend to public water systems in Indian country, as defined in 18 U.S.C. 1151. Please see **SUPPLEMENTARY INFORMATION**, Item B.

**DATES:** Any member of the public may request a public hearing on this determination by December 13, 2010. Please see **SUPPLEMENTARY INFORMATION**, Item C, for details. Should no timely and appropriate request for a hearing be received, and the Regional Administrator (RA) does not elect to hold a hearing on his own motion, this determination shall become effective December 13, 2010. If a hearing is granted, then this determination shall not become effective until such time following the hearing as the RA issues an order affirming or rescinding this action.

**ADDRESSES:** Requests for a public hearing shall be addressed to: James B. Martin, Regional Administrator, c/o Breann Bockstahler (6P-W-DW), U.S. EPA, Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129.

## Executive Summary

The City of Hercules, California (Hercules) proposes to construct an intermodal transit center (Hercules ITC), associated roadway improvements, and ancillary facilities at a site adjacent to San Pablo Bay in Contra Costa County. The City is the lead agency for the California Environmental Quality Act. The City intends, in part, to construct this facility with federal funding; therefore, the Federal Transit Administration is acting as the federal lead agency for the project. The City of Hercules will also coordinate with the Capital Corridor Joint Powers Authority (CCJPA) to provide intercity passenger rail service to the site and the West Contra Costa Transit Authority (WestCAT) to provide bus connections.

The area surrounding the proposed Hercules ITC site is being redeveloped with transit oriented housing and business developments, and the proposed project would improve access to public transit (intercity rail and local buses) for residents and workers. Providing access to public transit is also expected to reduce congestion on the nearby Interstate 680, as well as local arterials.

The Hercules ITC includes pedestrian access to the existing Union Pacific Railroad (UPRR) line and a newly constructed passenger platform. Train service would be available throughout most of the day with the Hercules ITC serving passengers traveling throughout the Bay area making connections with Bay Area Rapid Transit (BART), local mass transit systems, and interconnecting trains going as far south as Los Angeles, and as far north as Sacramento and Oregon. Train passengers would be able to either walk from nearby residential units, bike along the multi-use path connection that is part of the proposed project, or park their motor vehicles in the parking lot that is part of the proposed project. Transit center patrons would also be able to access the site via public bus service that will be extended to the proposed Hercules ITC as part of this project. The proposed project includes development of a small café to serve commuters, nearby residents, and workers. The Water Emergency Transportation Authority is considering the construction of a ferry terminal in Hercules and the proposed Hercules ITC would accommodate a connection to the Hercules ferry terminal and it will be only be considered under cumulative effect analysis in this document.

Because the site is currently undeveloped (it was previously used for the production of explosives and fertilizer and has undergone hazardous materials remediation), nearby roadways would need to be extended to access the site. The John Muir Parkway would be extended as part of the project and two new bridges would be built over Refugio Creek to provide access to and circulation through the site. A temporary surface parking lot would be constructed immediately as part of the project and a three-story park structure is included in the project as a future proposed action. The project would also include relocation of existing utility pipelines, including a natural gas line.

In order to improve operation of the rail line, the UPRR track would be realigned to the east (away from San Pablo Bay) and a new railroad bridge would be constructed over Refugio Creek. Refugio Creek would also be realigned and the creek channel into San Pablo Bay would be dredged to improve flow during heavy rain events and high tides.

*Executive Summary*

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Potential transit center sites were first limited to sites along the existing Union Pacific rail line. Locating a new rail line would not be efficient or practicable; therefore, the intermodal transit center had to be located adjacent to an existing line. The proposed Hercules ITC site was selected based on the projected ridership and safety. Other sites in the area would have fewer projected riders or are on curved stretches of track that have inadequate visibility for safe train operation. The Draft EIS/EIR considers a second action alternative (east of Refugio Creek) that would provide equal access to public transit, but this alternative would reduce the functionality of the adjacent properties and would require the threat of condemnation to acquire the site from a private party. This alternative was not selected as the proposed action for these reasons.

The potential adverse environmental effects, the severity of each effect, and proposed mitigation measures are shown below in **Table ES-1**.

**Letter 1 – U.S. Coast Guard**

**Response to Comment 1-1.**

Comment noted. Commenter notes that the project would construct new bridge crossings, but would not require U.S. Coast Guard bridge permits.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

November 15, 2010

Mr. Paul Page  
Federal Transit Administration, Region IX  
201 Mission Street, Suite 1650  
San Francisco, CA 94105

Subject: Draft Environmental Impact Statement for the Hercules Intermodal Transit Center,  
Hercules, California (CEQ #20100369)

Dear Mr. Page:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

We commend the Federal Transit Administration (FTA) and the City of Hercules for seeking to increase access to and connectivity of public transportation services. We also commend the inclusion of pedestrian, bicycle, and multi-use trail improvements and amenities, and the incorporation of renewable energy elements, with the goal of achieving LEED certification. We encourage the incorporation of as many green infrastructure approaches (see <http://cfpub.epa.gov/npdes/greeninfrastructure/technology.cfm>) as possible to minimize impacts of runoff to San Pablo Bay.

EPA has some concerns and recommendations about the analysis of impacts to wetlands and waters of the U.S., air quality, and consultation with the Capitol Corridor Joint Powers Authority. Therefore, we have rated this document EC-2, *Environmental Concerns, Insufficient Information*. Please see the attached *Rating Factors* for a description of our rating system.

We appreciate the opportunity to review this DEIS. When the Final EIS is released for public review, please send two copies to the address above (mail code: CED-2). If you have any questions, please contact Carolyn Mulvihill, the lead reviewer for this project, at 415-947-3554 or [mulvihill.carolyn@epa.gov](mailto:mulvihill.carolyn@epa.gov).

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Letter 2\_U.S. EPA  
Page 2 of 7

Sincerely,



Connell Dunning, Transportation Team Supervisor  
Environmental Review Office  
Communities and Ecosystems Division

Enclosures:

Summary of EPA Rating Definitions  
EPA's Detailed Comments

cc: Lisa Hammon, Assistant City Manager, City of Hercules  
Ian Liffman, U.S. Army Corps of Engineers  
John Cleckler, U.S. Fish and Wildlife Service  
Kathryn Hart, San Francisco Bay Regional Water Quality Control Board  
Lindy Lowe, Bay Conservation and Development Commission  
Craig Goldblatt, Metropolitan Transportation Commission

EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR  
THE HERCULES INTERMODAL TRANSIT CENTER, NOVEMBER 15, 2010

**Wetlands and Other Waters of the United States**

EPA has a few concerns and recommendations regarding the analysis of potential impacts to wetlands and waters of the United States resulting from the proposed project.

*John Muir Parkway Extension*

The Draft Environmental Impact Statement (DEIS) states that the construction of the John Muir Parkway extension would require construction of a culvert crossing of the North Channel of Refugio Creek. The DEIS does not demonstrate that potential impacts to the North Channel resulting from this construction have been minimized to the maximum extent practicable. The Final Environmental Impact Statement (FEIS) should identify what other alternatives for the road crossing were considered and whether it is possible to construct a bridge crossing rather than a culverted crossing to reduce impacts to the channel. The FEIS should also discuss what criteria were used to choose the potential culvert sizes, and include information on what size storm the proposed culverts would pass.

2-1

**Recommendations:**

- Identify in the FEIS what other road crossing alternatives were considered and whether it is possible to construct a bridge crossing to reduce impacts to the channel.
- Discuss in the FEIS what criteria were used to choose culvert sizes, including information on what size storm the proposed culverts would pass.

*Union Pacific Railroad Bridge Replacement*

In the description of the Union Pacific Railroad (UPRR) bridge replacement, the DEIS does not indicate how the timber trestles will be removed, or whether they have been treated with creosote. The DEIS also does not discuss potential impacts from removal of the trestles. The FEIS should include this information, as well as a discussion of how storm water runoff from the tracks will be directed and the amount of new riprap that will be placed in the creek.

2-2

**Recommendations:**

- Include a discussion in the FEIS of how the timber trestles of the existing UPRR bridge will be removed, whether they have been treated with creosote, and what impacts may result from their removal.
- Include a discussion in the FEIS of how stormwater runoff from the tracks will be directed in the new bridge structure, and clarify how much new riprap will be placed in the creek as a part of this element of the project.

*Dredging*

The Water Resources chapter of the DEIS states that approximately 400 cy of San Pablo Bay sediment would be dredged as part of the Refugio Creek Restoration. However, no quantitative data is provided in the Biological Resources chapter to identify the extent of impact to various habitat types from this dredging. This information should be included in the FEIS. Also please include a discussion on the status of consultation with the U.S. Fish and Wildlife Service.

The FEIS should also clearly identify the extent of proposed dredging on a figure. For example, clarify on the legend of Figure 4.9-1 or in the text whether the indicated 150ft by 40ft footprint is the full extent of proposed dredging. Also demonstrate in the FEIS that the dredging footprint is the minimum necessary to complete the project.

The DEIS indicates that the City of Hercules will coordinate sediment testing with the Dredged Material Management Office (DMMO). If dredged material is proposed for aquatic placement, coordination with the DMMO is required. However, if only upland placement is proposed, coordination through the DMMO is optional. Depending on the disposal option chosen, sediment testing could be required by the Regional Water Quality Control Board (RWQCB), U.S. Army Corps of Engineers (USACE), EPA, and/or Bay Conservation and Development Commission.

Section 4.10.3, Mitigation Measure WR-1a states that "[i]f the results of the SAP indicate that water quality will not be impacted by dredging, a consolidated Dredging-Dredge Material Reuse/Disposal permit would be issued by the USACE," which is "functionally equivalent to the RWQCB Report of Waste Discharge." While DMMO does use a consolidated dredging permit application, there is currently no consolidated dredging permit. The project will require a Clean Water Act (CWA) 404/River and Harbors Section 10 permit from USACE as well as a separate CWA 401 Certification/Waste Discharge Requirements from RWQCB.

*Recommendations:*

- Include quantitative information in the Biological Resources chapter of the FEIS regarding the estimated impacts to various habitat types from bay dredging. Also include a discussion on the status of consultation with the U.S. Fish and Wildlife Service.
- Include in the FEIS a figure that illustrates the dredging footprint. Demonstrate in the FEIS that the dredging footprint is the minimum necessary to complete the project.
- Clarify in the FEIS where dredged material is proposed to be disposed, which will inform the required coordination process.

*Compensatory Mitigation*

The DEIS states that a jurisdictional determination (JD) of waters of the U.S. for the project site was issued by the USACE in December 2008, but that project design modifications, which enlarged the study area boundary and potential impacts, occurred in 2009. A new delineation was prepared in fall 2009 but has not yet been verified by the USACE. The JD of this delineation should be issued prior to the FEIS so that verified impacts can be included in the FEIS.

The compensatory mitigation proposal for these impacts must comply with the 2008 EPA/USACE Mitigation Rule (40 CFR 230, Subpart J). The DEIS indicates that compensatory mitigation for impacts to waters of the U.S. could be provided at the North Channel, Refugio Creek, and/or Chelsea Wetlands. According to a City of Hercules website on the Chelsea Wetlands Restoration project, the City has obtained over \$240,000 in local and federal funding for the restoration project. Compensatory mitigation "credit" can only be given for work done in these areas above and beyond any work already funded by federal, state, or local grants.

2-4

**Recommendations:**

- Obtain the JD and include information on potential impacts to waters of the U.S. in the FEIS.
- Ensure that mitigation proposed for the impacts resulting from this project is not part of a previously-funded restoration project and complies with the 2008 Mitigation Rule.

**Air Quality**

In the Air Quality chapter, the DEIS lists the criteria for determining project conformity, including the project being included in a currently conforming transportation plan and transportation improvement program (TIP). However, the following analysis does not state whether the project is included in these documents. The FEIS should include this information.

The DEIS also states that "USEPA has granted a one-year grace period from the effective date of the new nonattainment designation before transportation conformity applies (USEPA 2009). Therefore, transportation conformity is not required for the PM<sub>2.5</sub> nonattainment area, and a hot-spot evaluation for PM<sub>2.5</sub> was not completed for this project." The referenced grace period will end on December 14, 2010. Since this project will not receive a Record of Decision by that date, FTA will need to follow the new procedures for projects in PM<sub>2.5</sub> nonattainment areas, which is to engage the metropolitan planning organization (in this area, the Metropolitan Transportation Commission [MTC]) to determine whether this project is a "project of air quality concern (POAQC)." If the project is a POAQC, then a PM<sub>2.5</sub> hot spot analysis must be performed. If the project is

2-5

not a POAQC, then FTA will just need to complete the interagency consultation process to get concurrence on that decision with the appropriate interagency partners.

Finally, Table 4.7-1 lists the total net operational emissions for the project and indicates that all emissions will decrease. The FEIS should clarify what the model-year is for these estimates and provide an explanation for the decreases (decreases in vehicle traffic versus improving vehicle fuels and engines, etc.).

**Recommendations:**

- Clarify in the FEIS whether the project is included in the region's conforming transportation plan and TIP.
- Consult with MTC on whether the project is a POAQC. If it is determined to be a POAQC, perform a PM<sub>2.5</sub> hot spot analysis and include the results of that analysis in the FEIS. Report the outcome of consultation with MTC in the FEIS.
- Clarify in the FEIS what the model-year for the emissions estimates is, and provide an explanation for the decreases in emissions.

**Coordination with Capitol Corridor Joint Powers Authority**

The DEIS states that the proposed project would provide access to the Capitol Corridor intercity passenger rail line, but does not discuss FTA and the 'City of Hercules' coordination with the Capital Corridor Joint Powers Authority (CCJPA). It is unclear whether CCJPA has agreed to add a Hercules stop to its Capitol Corridor route. This information should be clarified in the FEIS.

**Recommendation:**

- Include in the FEIS a discussion of the status of consultation between FTA, the City of Hercules, and the CCJPA. Clarify whether CCJPA has agreed to add a Hercules stop to its route.

2-5  
Cont.

2-6

**SUMMARY OF EPA RATING DEFINITIONS\***

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

**ENVIRONMENTAL IMPACT OF THE ACTION*****"LO" (Lack of Objections)***

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

***"EC" (Environmental Concerns)***

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

***"EO" (Environmental Objections)***

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

***"EU" (Environmentally Unsatisfactory)***

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

**ADEQUACY OF THE IMPACT STATEMENT*****"Category 1" (Adequate)***

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

***"Category 2" (Insufficient Information)***

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

***"Category 3" (Inadequate)***

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

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**Letter 2 – U.S. Environmental Protection Agency (U.S. EPA)****Response to Comment 2-1**

The John Muir Parkway crossing at the North Channel was designed to accommodate a 100-year storm event that would include the run-off from the adjacent business park, adjacent streets, and the planned flow from the Bayfront Development. The proposed crossing type was evaluated in consideration of technical constraints, functional requirements, and cost, and to mitigate environmental concerns.

The crossing type must be coordinated with existing and proposed utilities that will be placed within the road right-of-way and footprint. Due to geometric constraints, utilities such as a sanitary sewer line must be placed below the North Channel while other utilities (water, storm water, and electrical) will be placed above the channel in the road bed.

As described on page 2-9 of the FEIS, a clear span bridge was considered as an alternative to cross the North Channel. However, due to the soft soils present on the site and utility constraints, construction of a bridge or an open bottom culvert would require an elaborate foundation system and significantly higher costs to address the low flows anticipated in the intermittent drainage, and thus standard culvert construction is considered more practicable. The culvert has been designed to allow the plan and profile of the fresh water intermittent drainage to continue unencumbered under John Muir Parkway and sized to accommodate both the minimum hydraulic requirement and a 100-year flood event. The culvert crossing was initially sized as a forty-eight (48) inch reinforced concrete pipe (RCP) (or alternatively a 4-ft box culvert) with an earth bottom to satisfy the calculated hydraulic conveyance.

The proposed culvert has been widened in consideration of smaller frequent storms and will have a natural bottom. The culvert will be wide enough to support an active channel with a floodplain bench extending through the culvert. The active channel will convey anticipated base flow and up to a two-year event; the active channel width will be designed at ten (10) times the flow depth in the two-year event. The culvert will be 1.5 times the width of the active channel to allow for flood plain benches on either side of the channel. This will result in a culvert that is sized significantly larger than a culvert designed strictly for hydraulic performance.

Additionally, in response to requests from the SFRWQCB regarding creek crossings and stabilization, no armor is proposed as part of the John Muir Parkway crossing. Rather, banks will be stabilized using native vegetation.

**Response to Comment 2-2**

Relocation of the UPRR bridge will require demolition and removal of the existing bridge structure including the removal of the wood trestles. Removal of the existing UPRR timber trestle at Refugio Creek will take place during the staged track work improvements for MT1 (Main Track 1) and MT2 (Main Track 2) and after installation of the temporary pipe culverts, and the construction of the Station Track. Due to the age of the materials, the wood trestles are assumed to have been treated with creosote.

The rail traffic will be routed to the Station Track and one of the main tracks while the bridge is removed from under the other adjacent main track, which will be inactive. The drainage in Refugio Creek will be carried through the bridge removal area by the temporary pipe culverts installed under the existing bridge. The rail, ties, and ballast can then be removed from the existing bridge deck on the inactive track. The

bridge timber plank decking, handrails, timber bridge stringers, and timber caps can be removed from above by a small crane. The existing timber piles will be cut off and removed to 1 foot below the existing mud line. Any debris dislodged during the bridge removal process will be prevented from entering the creek or the Bay since the temporary culverts are in place to carry the creek flow through the bridge removal area. The culverts are to be augmented with silt fences to prevent the migration of any spoils to the bay. Once the bridge components are removed the area can be backfilled around the temporary pipe culverts. When the fill is in place the ballast, ties, and rails can be rebuilt and the track placed in operation.

The procedure described above will be repeated for the removal of the remaining half of the bridge by making the inactive main track active and the active main track inactive. The remaining bridge portion can then be removed from under the inactive track.

The new UPRR bridge can then be constructed at the new location of Refugio Creek. Following this construction, Refugio Creek can be diverted to the new alignment under the new UPRR bridge. The existing temporary pipe culverts on the old creek alignment will be completely filled in and abandoned in place. During the filling of the culverts the downstream end of the pipe culvert will be protected by a cofferdam and silt fences to prevent debris and sediment from entering the bay.

Contaminated materials, such as the wood trestles, will be removed, contained and off-hauled to an approved facility in accordance with local, state, and federal requirements. Upon completion of the demolition activities, the area would be filled with suitable material and compacted to construct the rail road berm. As demolition of the existing bridge and removal of the trestles is not anticipated to increase turbidity or release potential contaminants, no significant environmental impacts will occur.

Stormwater runoff from areas outside of the UPRR tracks including the platform will be treated using infiltration treatment facilities. UPRR is exempt from stormwater treatment requirements according to 40 Code of Federal Regulations Section 122.26(a)(9)(D)(iii)(b)(14). Runoff from within the UPRR right of way will drain through the ballast into open channels, or the San Pablo Bay, or Refugio Creek.

Footings and abutments for the new UPRR bridge and the Transit Loop bridge will be armored with approximately 21,890 square feet (0.5 acre) of rock slope protection (RSP) to ensure stability of the rail and transit bridges. Upstream, the Bayfront Bridge and the John Muir Parkway crossing of the North Channel will not include any RSP but will be stabilized and protected using native vegetation.

### **Response to Comment 2-3**

As shown on Figure 4.9-1 in the FEIS, excavation will be limited to an area approximately 40-ft. x 150-ft. for the new channel area which will involve dredging approximately 400 cubic yards (cy) of bay sediments. Dredging will result in direct effects to 0.008 acres of California cordgrass tidal marsh habitat and approximately 0.207 acre of Intertidal mudflat. This impact has been included in the FEIS discussion of biological resources under Impact BIO-14 (page 4-100). Total impacts of Alternatives 1 and 2 are compared in Tables 4.9-1 and 4.9-2 of the FEIS. As discussed under Impact BIO-14, realignment of the Refugio Creek channel will eliminate three existing 90-degree turns of the channel and will improve the hydrologic conveyance of the channel. These abrupt turns are the result of historic modifications of the creek channel and include vertical banks of concrete bags and a debris shelf in the bay. Excavation will

restore the creek to a more natural meandering channel and remove construction debris in the bay including creosote logs, bricks, pipe, etc. that remain from the historic Hercules Powder Company.

USFWS staff visited the site in April 2010 and provided comments recommending the initiation of formal consultation in July 2010. Biological Assessments were prepared and submitted to the USFWS and the NMFS in February 2011, with the requests to initiate formal consultation. The USFWS requested additional clarifications in the fall of 2011 and issued the Biological Opinion on December 30, 2011. The NMFS conducted a visit to the site on March 22, 2011. Coordination with NMFS continued through 2011 and additional information was provided to NMFS on July 26, October 31, 2011 and January 26, 2012. NMFS issued the Letter of Concurrence for Endangered Species Act compliance as well as Essential Fish Habitat provisions of the Magnuson Stevens Fishery Conservation and Management Act on January 30, 2012. While FTA and the City will continue regular coordination with the USFWS and NMFS, the Biological Opinion and Letter of Concurrence conclude the necessary consultations with the USFWS and NMFS as required under Section 7 of the Endangered Species Act. Inclusion of the recommendations from USFWS and NMFS are included throughout Section 4.9 of the FEIS addressing species and habitat specific mitigation and conservation measures. Figure 4.9-1 of the FEIS provides the planned dredging/excavation footprint proposed to realign Refugio Creek in San Pablo Bay. The bottom low flow channel would be approximately 20 feet wide with a depth of 3.5 feet. Slopes would rise at approximately 1:1 and tie into the existing top of the mudflat to minimize sloughing and erosion back into the channel. Figure 4.9-1 also shows the approximate existing Refugio Creek Channel and the third right angle change as it flows out into the Bay. This footprint of a 20 foot bottom width continues the proposed restoration work upstream and allows for a gradual widening as it enters the Bay. Design of the new channel and the necessary excavation/dredging has a straight alignment that is a direct connection between Refugio Creek outfall and existing low-flow channel within San Palo Bay. The proposed channel has also been designed to avoid existing cordgrass and minimize loss of vegetation. This design is the minimum necessary to reestablish a new channel and does not propose any additional excavation. Please refer to Figure 4.9-2 for the proposed dredging footprint. A restoration plan has been prepared and is included in the FEIS (Appendix G).

The City will coordinate with the Dredged Materials Management Office (DMMO), as necessary, to ensure compliance with all applicable laws. The dredged material will be disposed in accordance with local, state and federal requirements; as such, no significant environmental impact will occur. The City will coordinate with the USACE for a Clean Water Act (CWA) 404/Rivers and Harbors Section 10 permit and with the RWQCB for a CWA 401 certification for the project.

#### **Response to Comment 2-4**

A delineation of waters of the United States was submitted to the USACE and a verification visit was conducted on November 16, 2010. Revisions to the delineation requested during the verification site visit were completed and the revised delineation submitted to the USACE on March 7 2011 to the. The USACE issued the verified wetland delineation and jurisdictional determination (JD) on July 6, 2011. All impacts presented in the FEIS are based on the verified delineation data. This information is available in the FEIS in pages 3-140 and 4-111.

The City has prepared a compensatory mitigation plan in accordance with the USEPA and USACE 2008 Mitigation Rule. As described in the FEIS Section 4.9, all compensatory mitigation for the project will be

completed within the Refugio Creek and North Channel corridors. No part of these areas is part of a previously funded restoration project.

### **Response to Comment 2-5**

The project is included in the regional emissions analysis prepared for the *Transportation 2035 Plan: Change in Motion* (Transportation 2035 Plan), adopted by the Metropolitan Transportation Commission (MTC) in April 2009 and the *2011 Transportation Improvement Program* (2011 TIP and current), adopted by the MTC in October 2010. The MTC has determined that both the Transportation 2035 Plan and the 2011 TIP are consistent with and conform to the intent of the State Implementation Plan, as demonstrated in the Transportation-Air Quality Conformity Analysis for the Transportation 2035 Plan and the 2011 TIP, dated October 27, 2010.

As the project sponsor, the City of Hercules coordinated with the MTC to determine if the project is a Project of Air Quality Concern (POAQC) and to evaluate the draft qualitative hot-spot analysis prepared for the Hercules ITC. In December 2010, EPA released final modeling guidance for performing quantitative PM<sub>2.5</sub> and PM<sub>10</sub> hot-spot analyses at the project level for transportation projects, and established a two-year grace period for the implementation of the new guidelines. Quantitative hot-spot analyses will not be required for Transportation Conformity under 40 CFR §93.123(b)(4) until the end of the implementation grace period in December 2012. During the grace period, transportation projects that are within nonattainment or maintenance areas for particulate matter and are not exempt require a qualitative analysis that “must document that no new local PM<sub>2.5</sub> violations will be created and the severity or number of existing violations will not be increased as a result of the project” (FHWA 2006).

After release of the Draft EIR/EIS, a qualitative PM<sub>2.5</sub> hot-spot analysis (following the EPA’s and FHWA’s joint guidance) was conducted for the proposed project using a comparison approach and the analysis and results are included in Appendix I of the FEIS. Nine transit stations along the Capitol Corridor line and eight PM<sub>2.5</sub> air quality monitoring stations were included in the comparison. The analysis concluded that the proposed project would have the anticipated net effect of reducing the regional impacts on air quality from those that would occur if the proposed Hercules ITC project was not completed.

The decrease in emissions for the model year 2035 is due to a combination of the following:

- Diesel bus and train emissions are not major contributors to ambient concentrations of PM<sub>2.5</sub> in the Bay Area. According to EPA emission summaries, all on-road motor vehicles including a small percentage of diesel buses, accounts for about 12.6% of total PM<sub>2.5</sub> emissions in the Bay Area.
- Residential wood combustion and industrial processes are the largest source of PM<sub>2.5</sub> emissions in the Bay Area, accounting for more than half (53.5%) of all emissions of PM<sub>2.5</sub> (EPA 2005)
- Ambient PM<sub>2.5</sub> monitoring in areas most similar to the Hercules ITC project site were below the National Ambient Air Quality Standards and California standards.
- The Build/No Build emission test conducted by the MTC for the RTP and TIP conformity analysis demonstrated that emissions from the Build scenario, which includes the proposed Hercules ITC, would be lower than the No Build scenario.

The Federal Transportation Conformity Rules (40 CFR §93.126) requires that projects determined to be non-exempt conduct a project-level review and an interagency consultation with the Air Quality Conformity Task Force (AQCTF). The AQCTF consists of members from the Environmental Protection Agency, the Federal Highways Administration, and the California Department of Transportation, and other agencies and serves to determine if construction of a project will result in negative air quality impacts of fine particulate matter in the project area. The MTC as the San Francisco Bay Area region's Metropolitan Planning Organization handles the project level review and the interagency consultation in the Hercules area.

The City initiated consultation with the AQCTF using the streamlining process in April 2011 and sought concurrence on the Project of Air Quality Concern (POAQC) determination and review of the qualitative hot-spot analysis. At an AQCT meeting on May 26, 2011, the AQCT concurred that the project is a POAQC but the project does not substantially cause or contribute to PM<sub>2.5</sub> exceedance. The MTC sent the City a letter of project-level conformity completion on June 21, 2011 (Appendix C).

#### **Response to Comment 2-6**

The City of Hercules has closely coordinated the project with the Capitol Corridor Joint Powers Authority (CCJPA) in cooperation with the host railroad, Union Pacific Railroad (UPRR) and the passenger rail operator, Amtrak. Amtrak and CCJPA must work under Federal Railroad Administration (FRA) guidelines with respect to safe design and operations.

Since the Hercules Intermodal Transit Center will exclusively serve trains managed by CCJPA, a station stop approval will ultimately be required from the CCJPA Board. The City has been coordinating with CCJPA throughout the development of the project. CCJPA does not provide any formal commitment to provide service to a station but rather has a Train Station Policy (Policy) that includes guidelines and minimum requirements for a proposed station to be considered. If the proposed station meets the minimum requirements, CCJPA will consider providing service but reserves the right to refuse service for other reasons. Minimum requirements include basic facilities, minimum distance between stations, coordination with UPRR, mitigation for impacts to service (travel time), etc. As noted in the Policy, mitigation for service impacts can include track and signal improvements to increase track speed, reduced station dwell times, relocation of station stops, incorporating skip stops, express service, and/or limited service.

Beyond meeting the core design and operational requirements, which have been reviewed and coordinated with Amtrak and UPRR (entities integral to CCJPA's ability to approve the station), a full funding plan for the station is required along with travel time mitigation, which usually includes track improvements elsewhere and/or schedule adjustments which offset the travel time impacts for stopping at the station.

For the Hercules Project, CCJPA noted in 2010 that a proposed station stop in Hercules would result in increased travel time and would require mitigation. The City worked with HDR to conduct a value engineering effort in May 2010 to identify cost saving measures and mitigation measures to address the impacts to service. Track Option B was developed as part of the value engineering effort. The improvements in Track Option B include a dedicated station track (7,800 foot siding) which will reduce freight and passenger conflicts on the main tracks and mitigate the travel time impact of adding a station

## *Chapter 6*

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stop. The City of Hercules continues to coordinate and finalize a full funding plan and travel time mitigation plan between all the parties (Amtrak, CCJPA, UPRR, and the City of Hercules).

NOV-03-2010 10:01 From:

To: 15107992521

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## United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
Pacific Southwest Region  
1111 Jackson Street, Suite 520  
Oakland, California 94607

IN REPLY REFER TO:  
ER#10/784

*Filed Electronically*

29 October 2010

Lisa Hammon  
Assistant City Manager  
City of Hercules  
111 Civic Drive  
Hercules, CA 94547

Subject: **Review of Draft Environmental Impact Report/Environmental Impact Statement for Construction of Intermodal Transit Center, City of Hercules, Contra Costa County, CA**

Dear Ms. Hammon,

The Department of the Interior has received and reviewed the subject document and has no comments to offer.

Thank you for the opportunity to review this project.

Sincerely,

Patricia Sanderson Port  
Regional Environmental Officer

cc:  
Director, OEPC  
Staff Contact, OEPC  
Office of Planning & Program Management, Paul Page

**Letter 3 – U.S. Department of the Interior**

**Response to Comment 3-1.**

Comment noted. The City appreciates the Department of the Interior's review. No response is required.



State of California – The Natural Resources Agency     **ARNOLD SCHWARZENEGGER**, Governor  
 DEPARTMENT OF FISH AND GAME     **John McCamman**, Director  
 Bay Delta Region  
 7329 Silverado Trail  
 Napa, CA 94558  
 (707) 944-5500  
[www.dfg.ca.gov](http://www.dfg.ca.gov)



Letter 4\_CDFG  
 Page 1 of 4

November 3, 2010

Ms. Lisa Hammon  
 City of Hercules and Federal Transit Administration  
 111 Civic Drive  
 Hercules, CA 94547

Dear Ms. Hammon:

Subject: Hercules Intermodal Transit Center Project, Draft Environmental Impact Statement/Environmental Impact Report, SCH #2009112087, Contra Costa County

The proposed project consists of the construction of the Hercules Intermodal Transit Center (Hercules ITC), which would include a new passenger train station on the existing Capitol Corridor line, a transit bus terminal, access roadways, trails and parking facilities. Additionally, the facility would be designed to accommodate potential future ferry service. Three project alternatives are analyzed in the draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR), including a No-Action Alternative.

Both action alternatives involve realignment and restoration of Refugio Creek. The alternatives also involve construction of a station platform within the railroad right of way, construction of a surface parking lot adjacent to Refugio Creek, installation of a creek trail, and at least one public plaza.

Alternative 1 would involve construction of a station building immediately to the west of the mouth of Refugio Creek. A transit loop road at the terminus of John Muir Parkway would be installed, necessitating two additional bridges over the creek. A public promenade, a small park, and a plaza would be installed adjacent to the proposed bridges. Future phases of construction would involve construction of a parking garage adjacent to the park.

Alternative 2 would involve construction of a station building immediately to the east of the mouth of Refugio Creek. One new bridge would be installed to connect John Muir Parkway to Sanderling Drive. The public promenade, small park, and plaza proposed under Alternative 1 would be replaced by a conference and banking center with parking.

The Department of Fish and Game (DFG) has reviewed the documents provided for the subject project and offers the following comments.

*Conserving California's Wildlife Since 1870*

Ms. Lisa Hammon  
November 3, 2010  
Page 2

**CHAPTER 3.9, AFFECTED ENVIRONMENT – BIOLOGICAL RESOURCES**

**California Endangered Species Act/California Environmental Quality Act**

**Definition of Take.** Page 3-117 of the EIS/EIR indicates that "take" should be "interpreted to mean the direct killing of a species." Take is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." This definition also applies under the California Endangered Species Act (CESA).

4-1

**CESA Consultation for State Lead Agencies.** On page 3-117, the EIS/EIR states:

Under CESA, State agencies are required to consult with the California Department of Fish and Game (CDFG) when preparing CEQA documents. Consultation ensures that proposed projects or actions do not have a negative effect on state-listed species.

There does not appear to be a state lead agency for the proposed project. Therefore, the CESA consultation procedure for a state lead agency (CESA, Section 2053) does not apply. The project sponsor is responsible for obtaining a CESA Incidental Take Permit or Consistency Determination if incidental take of a state-listed species is expected to occur with implementation of the proposed project. CESA permits allow incidental take of individuals of a species only if the project's impacts would be "minimized and fully mitigated" [CESA, Section 2081(b)].

4-2

**Fish and Game Code**

**Fully Protected Species.** DFG recommends that the following text be added to the regulatory discussion of CESA on pages 3-117 to 3-118:

Certain species have been designated as "fully protected" under Sections 3511 and 4700 of the Fish and Game Code. By law, DFG cannot issue permits or licenses, including CESA incidental take permits, for take of fully protected species. DFG may only authorize the taking of such species for necessary scientific research.

4-3

California clapper rail (*Rallus longirostris obsoletus*), California black rail (*Laterallus jamaicensis*), and the salt marsh harvest mouse (*Reithrodontomys raviventris*), species thought to exist in the project area, are designated as fully protected species under Fish and Game Code.

**Sensitive Biological Resources**

**California Black Rail (*Laterallus jamaicensis coturniculus*).** Table 3.9-1 on page 3-135 indicates that protocol-level surveys for this species were last conducted in 2007 and are at least three years old. Although no individuals of this species were found in the Environmental Study Limit (ESL) during such surveys, individuals were documented in the nearby tidal marsh in 2001, adjacent to the southern-end of the project boundary for Track Option B. Since suitable nesting habitat occurs in the ESL and this species is known to exist in the immediate vicinity, it is reasonable to conclude that there is potential for this species to occur in the project area.

4-4

Ms. Lisa Hammon  
November 3, 2010  
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#### CHAPTER 4.9, ENVIRONMENTAL CONSEQUENCES – BIOLOGICAL RESOURCES

##### Impacts

**Future Ferry Service Impacts.** Alternatives 1 and 2 propose different locations for the station, each of which would result in a different configuration for the future ferry pier. The wave action impacts associated with future ferry service are a foreseeable consequence of the choice of a location for the station and could vary across the alternatives. For full disclosure, the EIS/EIR should analyze and compare potential wave action impacts on nearshore habitat associated with each of the two station location alternatives.

4-5

**Potential Impacts to Sensitive Natural Communities.** Table 4.9-1 lists approximately 8,014 to 8,199 acres of potential wetland impacts. All impacts to creeks and wetlands should be avoided where possible and there should be no net loss of either wetland acreage or wetland habitat value. Proposed mitigation measures for wetland impacts and restoration of Refugio Creek should be determined in coordination with the resource agencies and fully disclosed in the CEQA document prior to certification of the EIR.

4-6

##### Mitigation Measures

**CNDDDB Reporting.** All mitigation measures requiring pre-construction biological surveys should require that any special-status species found during the surveys will be reported to the California Natural Diversity Database.

4-7

**Notification to DFG.** Mitigation Measures BIO-2 and BIO-4 should be revised to require notification to DFG at least 48 hours prior to construction if California clapper rail or salt marsh harvest mouse are found during pre-construction surveys.

4-8

**California Clapper Rail Avoidance.** The breeding season reported in Mitigation Measure BIO-3 (page 4-89) should be revised to read "January 15 to August 31." Construction should be avoided within 700 feet of identified calling centers during this period until DFG is consulted. California clapper rail is a fully protected species under Fish and Game Code, and take of this species cannot be authorized.

4-9

**Salt Marsh Harvest Mouse Avoidance.** Salt marsh harvest mouse is a fully protected species under Fish and Game Code, and take of this species cannot be authorized. If any areas with pickleweed or vegetation within 50 feet from the edge of pickleweed need to be cleared for project activities, vegetation should be removed only with non-mechanized hand tools (i.e. trowel, hoe, rake, and shovel). No motorized equipment, including weed wackers or lawn mowers, should be used to remove this vegetation. Vegetation should be removed under the supervision of a qualified biologist approved by DFG. If a mouse of any species is observed within the areas being removed of vegetation, DFG should be notified. Unless otherwise approved by DFG, the mouse should be allowed to leave on its own. Vegetation removal may begin when no mice are observed, or with DFG approval, and should start at the edge farthest from the salt marsh and work its way towards the salt marsh. This method of removal provides cover for salt marsh harvest mouse and allows them to move towards the salt marsh on their own volition as vegetation is being removed.

4-10

Ms. Lisa Hammon  
November 3, 2010  
Page 4

Visqueen fencing should be installed between areas of salt marsh harvest mouse habitat and work sites immediately following vegetation removal and before excavation activities begin to prevent entry of the mice into cleared areas. The fencing should be trenched into the ground and backfilled to prevent salt marsh harvest mouse from moving underneath the fencing. Fence stakes should face towards the work site, away from the habitat. The final design and proposed location of the fencing should be reviewed and approved by DFG prior to placement. The qualified biologist will have the ability to make field adjustments to the location of the fencing depending on site-specific habitat conditions.

A qualified biologist or site manager should monitor site fencing a) periodically throughout each work day during work within 300 feet of the fence; b) at least twice per week during clear weather; and c) within 24 hours after a storm. Maintenance of the fencing should be conducted as needed throughout the work period. Any necessary repairs to the fencing should be completed within 24 hours of the initial observance of the damage. Work should not continue within 300 feet of the damaged fencing until the fences are repaired and the site is surveyed by a qualified biologist to ensure that salt marsh harvest mouse have not entered the work area.

4-10

Prior to the initiation of work each day during a) all vegetation removal; b) the construction of the exclusion fencing; and c) all work within 300 feet of tidal or pickleweed habitats, the qualified biologist should thoroughly inspect the work area and adjacent habitat areas to determine if salt marsh harvest mouse, California clapper rails, California black rails, or other special-status species are present in these areas. The qualified biologist should remain on-site throughout these days while work activities are occurring. The qualified biologist should have the authority to stop work if deemed necessary for any reason to protect salt marsh harvest mouse, California clapper rail, California black rail, or any other special-status species.

If you have any questions, please contact Ms. Randi Adair, Environmental Scientist, at (707) 944-5596; or Mr. Liam Davis, Habitat Conservation Supervisor, at (707) 944-5529.

Sincerely,



Scott Wilson  
Acting Regional Manager  
Bay Delta Region

cc: State Clearinghouse

---

**Letter 4 – California Department of Fish and Game****Response to Comment 4-1.**

The definition of ‘take’ on page 3-113 of the FEIS has been to include the pursuit, capture, or killing of a species as follows:

The California Endangered Species Act (CESA) of 1970 (CDFG Code Section 2050 et seq., and CCR Title 14, Subsection 670.2, 670.51) prohibits the take (interpreted to mean the direct or attempt to pursue, catch, capture, or killing of a species) of species listed under CESA (14 CCR Subsection 670.2, 670.5).

**Response to Comment 4-2.**

The FTA, as federal lead agency, has initiated consultation with the USFWS and the NMFS pursuant to Section 7 of the federal Endangered Species Act (FESA). The USFWS issued the Biological Opinion on December 30, 2011 and NMFS released the Letter of Concurrence on January 30, 2012. The City has been coordinating with CDFG staff to ensure conformance of the project with the California Endangered Species Act (CESA). CDFG staff participated in the review and drafting of the biological opinion and consensus provided in an email on October 26, 2011.

The CDFG has progressed away from completing consistency determinations for compliance with CESA. However, species listed under CESA and potentially affected by the Hercules ITC are fully protected (California clapper rail, California black rail, salt marsh harvest mouse) and the CDFG cannot issue take permits for fully protected species. Consequently, the City and FTA have including the consultation of the CDFG into the protection measures and conservation recommendations prepared for the USFWS BO (Appendix E of the FEIS) to ensure that the project will avoid take of California fully protected species. The City and FTA will implement the necessary avoidance and protection measures and will continue to consult with CDFG during implementation of the project. However, no further compliance is necessary under CESA.

**Response to Comment 4-3.**

The California Endangered Species Act discussion on page 3-114 of FEIS has been updated to include the following text:

Certain species have been designated as “fully protected” under Sections 3511 and 4700 of the Fish and Game Code. By law, DFG cannot issue permits or licenses, including CESA incidental take permits, for take of fully protected species. DFG may only authorize the taking of such species for necessary scientific research.

Listing status for each species with the potential to occur in the project site and vicinity is described in Table 3.9-1 of the FEIS. The listing status for California black rail has been updated as follows:

In Table 3.9-1 Project Area Sensitive Species/Natural Communities Table: --/ST, SFP/--

**Response to Comment 4-4.**

Table 3.9-1 indicates that the California black rail does have the potential to occur within the project site; however, due to the reasons indicated in Table 3.9-1, the potential for occurrence is low. California black

rail shares similar habitat requirements (tidal marsh, pickleweed, etc) as the fully protected California clapper rail. Similar protection measures as for the California clapper rail will also provide adequate protection for the California black rail. The FEIS includes identified mitigation measures on pages 4-90 and 4-91 including completing preconstruction surveys for California Black Rail and restricting construction activities within 500 feet of active nests (MM BIO-5). While no surveys have been completed since 2007, protocol level preconstruction surveys will be completed prior to construction. If California black rail is found, the City of Hercules will coordinate with the CDFG to incorporate adequate avoidance measures for California black rail to avoid take.

### **Response to Comment 4-5.**

A detailed wake wash analysis was conducted by Coast Harbor Associates (CHA) in 2007 to evaluate potential wake-related impacts to shoreline and biological resources along the proposed ferry route from Hercules to San Francisco. The analysis consisted of compilation of background data, review and analysis of existing physical processes of San Pablo Bay and biological resources, computational fluid dynamics (CFD) modeling of wakes by the proposed ferry, modeling of wake wash transformation to the shoreline, sediment transport modeling on the mudflats and swash zone areas, field investigations, model verification and final impact analysis.

Wake wash was predicted for the candidate 149-passenger, 25-knot vessel using CFD modeling. The modeling was performed for a range of depths and vessel speeds encompassing 28 scenarios and hydrodynamic conditions ranging from subcritical (deepwater), trans-critical (depth-Froude  $\sim 1$ ) and supercritical flow regimes. The fully-characterized three-dimensional wake field was transformed into energy spectra and used for wake wash transformation modeling over the large areas of San Pablo Bay. Field wake wash measurements were conducted using the 149-passenger catamaran ferry near the navigation channel at Hercules and within the Petaluma River channel near Port Sonoma. The tests incorporated numerous runs with the ferry past a set of two gauges, one near the sailing line and one in the far-field.

The results of the modeling, analysis, and field investigations indicate that the wake wash heights reaching vulnerable portions of the shoreline within San Pablo Bay are expected to be very small, measuring approximately 5-10 cm at the shoreline along nearly the entire Hercules route. Additionally, the proposed Hercules route will include a navigation channel from deeper water aligned normal to the shoreline. Vessels will most likely operate at 25-knot speed in the channel, but would be required to slow to a low- or no-wake speed of approximately 8-12 knots prior to entering the proposed turning basin. Further analysis would be conducted to determine the boundaries on the low- or no-wake zone and the optimal speed limit within the zone based on the final vessels selected for operation on the route. If the no-wake zones are observed, the impact analysis, including sediment transport in the swash zone and mudflat vertical scouring analysis, indicate that the impacts of the proposed ferry traffic are negligible in comparison to existing ongoing physical processes due to environmental factors and existing vessel traffic (CHA 2007).

The two ferry terminal locations will be located near the end of the mudflat area approximately 600 feet from the station building at locations that are approximately 300 feet apart. Habitat communities nearest to the ferry turning basin located on Hercules Point are primarily ruderal habitat and rocky intertidal remaining from the Hercules Powder Company. However the area does support some pickleweed and

cordgrass habitat. Potential wave impacts from either alternative are considered to be negligible on nearshore habitats. Consequently, the two alternatives are not anticipated to have a significant difference from each other with respect to potential wave action impacts on sensitive nearshore habitat communities.

**Response to Comment 4-6.**

The FTA and the City coordinated extensively with the resource agencies in preparation of the Draft and Final EIS. A pre-application meeting was held with the regulatory agencies at the USACE office in San Francisco on November 18, 2009 and included representatives from FTA, the City, USACE, USEPA, SFRWQCB, and USFWS. Site visits were conducted with the USFWS on April 27, 2010, with the USACE on November 16, 2010, with the SFRWQCB on December 7, 2010 and with the CDFG and NMFS on April 4, 2011. Results of this coordination have been included in the FEIS. The USACE-verified wetland delineation is provided in Appendix G of the FEIS. In response to a request from the SFRWQCB, the crossing of North Channel will no longer include any rip rap armor (see Figure 2.2-3 of the FEIS). Results of consultation with the USFWS and NMFS are included in the final biological opinion issued by the USFWS and the letter of concurrence issued by the NMFS (Appendix E). CDFG was consulted and provided comments to the USFWS on the biological opinion. The FEIS identifies potential impacts to sensitive natural communities and includes detailed mitigation measures including avoidance, minimization, and compensatory replacement of affected habitats. Impacts to wetlands and other waters of the U.S., mitigation ratios, mitigation acreage, and location of proposed mitigation are summarized in Table 4.9-2 of the FEIS. A Compensatory Mitigation Plan has been prepared in accordance with the USEPA and USACE 2008 Mitigation Rule and is included in the FEIS (Appendix G). Compensatory mitigation includes replacement ratios of 3:1 for unavoidable impacts. Permits will be secured from responsible regulatory agencies including USACE, SFRWQCB, CDFG, and BCDC prior to initiating any construction activities. All permit conditions will be followed.

**Response to Comment 4-7.**

Preconstruction surveys are proposed as an essential element for mitigation of potentially significant effects to numerous species including California red-legged frog (BIO-1), California clapper rail (BIO-3), salt marsh harvest mouse (BIO-4), and California black rail (BIO-5), as well as special status birds and mammals. All mitigation measures that require preconstruction surveys now include required reporting of the findings to the California Natural Diversity Database.

**Response to Comment 4-8.**

The CDFG commenter notes that Mitigation Measures BIO-2 and BIO-4 should be revised to require notification to CDFG at least 48 hours prior to construction if California clapper rail or salt marsh harvest mouse are found during preconstruction surveys. The commenter likely intended to refer to BIO-3 and BIO-4. Mitigation Measures BIO-3 and BIO-4 have been revised to include notification to both CDFG and USFWS as indicated in responses 4-9 and 4-10 below.

**Response to Comment 4-9.**

Mitigation Measure BIO-3 in Section 4.9, page 4-87, of FEIS has been revised to read:

If construction begins during the breeding season (January 15 to ~~April 15~~ August 31), a USFWS approved biologist will conduct a preconstruction survey of California cordgrass tidal marsh habitat for California clapper rail prior to any construction activities occurring within 500 feet of those habitats. The survey will include searching all accessible California cordgrass tidal marsh habitats in

and within 500 feet of the project site for California clapper rail. The surveys shall be conducted within two weeks prior to the commencement of construction activities. If California clapper rail is not found, no further avoidance and minimization measures are necessary. If California clapper rail is found, the biologist will note whether or not a nest was observed and record the behavior of the bird(s) (e.g., exhibiting courtship/nesting behavior, foraging, etc.). Detection of California clapper rail will be reported to the USFWS and CDFG and findings will be submitted to the California Natural Diversity Database. If California clapper rail is detected, construction activities will be avoided within 700 feet of identified clapper rail locations and occupied California cordgrass tidal marsh habitat until USFWS and CDFG are consulted regarding appropriate avoidance measures and permission is granted by USFWS and CDFG to commence work. If California clapper rail is observed nesting or is determined by the biologist to be potentially intending to utilize the habitat for nesting, construction activities will be delayed within 500 feet of the California cordgrass tidal marsh where the bird(s) is found, and USFWS will be notified of the finding. Work will not commence within 500 feet of California cordgrass tidal marsh occupied by California clapper rail until USFWS is consulted regarding appropriate avoidance measures and permission is granted by USFWS to commence work.

Preconstruction survey(s) will be conducted again as specified above, if a lapse in construction activities of two weeks or more occurs at any time during the breeding season such that no more than two weeks will have elapsed between the last survey and the commencement of construction activities.

### **Response to Comment 4-10.**

As shown on page 4-88, Mitigation Measure BIO-4 has been revised to read:

A USFWS approved biologist will conduct a preconstruction survey of the northern coastal salt marsh habitat in the project site prior to any construction activities occurring within 500 feet of those habitats. If salt marsh harvest mice are found in or adjacent to the project site during preconstruction surveys, USFWS and CDFG will be notified of the finding and consultation will be initiated. Findings of the preconstruction surveys will be reported to the California Natural Diversity Database. Construction activities within 500 feet of the northern coastal salt marsh will be delayed until consultation has been completed with USFWS.

If any areas with pickleweed habitat or vegetation within 50 feet from the edge of pickleweed habitat need to be cleared for project activities, vegetation will be removed only with non-mechanized hand tools (i.e., trowel, hoe, rake, and shovel). No motorized equipment, including weed whackers or lawn mowers, will be used to remove this vegetation. Vegetation will be removed under the supervision of a qualified biologist approved by USFWS and CDFG. If a mouse of any species is observed within the areas being removed of vegetation, USFWS and CDFG will be notified. Unless otherwise approved by USFWS and CDFG, the mouse will be allowed to leave on its own. Vegetation removal may begin when no mice are observed, or with USFWS and CDFG approval, and will start at the edge farthest from the salt marsh and work its way toward the salt marsh. This method of removal provides cover for salt marsh harvest mouse and allows them to move toward the salt marsh on their own volition as vegetation is removed.

Visqueen fencing will be installed between areas of salt marsh harvest mouse habitat and work sites immediately following vegetation removal and before excavation activities begin to prevent entry of the mice into cleared areas. The fencing will be trenched into the ground and backfilled to prevent mice from moving under the fencing. Fence stakes will face toward the work site and away from pickleweed habitat. The final design and proposed location of the fencing will be submitted to USFWS and CDFG for review and approval prior to placement. The qualified biologist will have the ability to make field adjustments to the location of the fencing based on site-specific habitat conditions.

A qualified biologist or site manager will monitor site fencing as follows:

- periodically throughout each day during which work is conducted within 300 feet of the fence;
- at least twice per week during clear weather; and
- within 24 hours after a storm.

Maintenance of the fencing will be conducted as needed throughout the work period. Any necessary repairs to the fencing will be completed within 24 hours of the initial observance of damage. Work will not continue within 300 feet of the damaged fencing until the fence is repaired and the site is surveyed by a qualified biologist to ensure that salt marsh harvest mice have not entered the work area.

Prior to initiation of work each day during all vegetation removal; the construction of the exclusion fencing; and all work within 300 feet of tidal or pickleweed habitats, the qualified biologist will thoroughly inspect the work area and adjacent habitat areas to determine if salt marsh harvest mouse or other special-status species are present in these areas. The qualified biologist will remain on-site while work activities that meet one of the criteria above are being conducted. The qualified biologist will have the authority to stop work if necessary to protect salt marsh harvest mouse or other special-status species.

~~If no salt harvest mice are found during preconstruction surveys, salt marsh harvest mouse exclusion fencing will be installed around the perimeter of the northern coastal salt marsh to prevent salt marsh harvest mice from entering the project site and being harmed by construction activities. Location and design specifications for the proposed exclusion fencing will be submitted to USFWS for review and approval. A USFWS approved biologist will monitor installation of the fencing in order to ensure that the fencing is installed appropriately to ensure total exclusion of the salt marsh harvest mouse as well as to ensure that no individuals are harmed during installation.~~

~~A USFWS approved biologist monitor will be present during construction activities within and immediately adjacent to the northern coastal salt marsh habitat. The biological monitor will have the authority to stop construction activities if a salt marsh harvest mouse is found within the construction area. If a salt marsh harvest mouse is found in the project site during construction, work will immediately cease in the vicinity and USFWS will be notified.~~

## *Chapter 6*

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Construction personnel would participate in a USFWS-approved worker environmental awareness program. A qualified biologist would inform all construction personnel about the life history of salt marsh harvest mouse and its potential presence in the project area and explain the state and federal laws pertaining to protecting this species and its habitat. Construction personnel would be informed of the presence of a biological monitor and receive instruction regarding reporting requirements if a salt marsh harvest mouse is found during construction.

Letter 5\_CALTRANS  
Page 1 of 2

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF TRANSPORTATION**

111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 622-5491  
FAX (510) 286-5559  
TTY 711



*Flex your power!  
Be energy efficient!*

November 12, 2010

CC080024  
CC-080-10.06  
SCH #2009112087

Ms. Lisa Hammon  
City of Hercules  
111 Civic Drive  
Hercules, CA 94547

Dear Ms. Hammon:

**Hercules Intermodal Transit Center Project— Draft Environmental Impact Report/  
Environmental Impact Statement (DEIR/EIS)**

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the Hercules Intermodal Transit Center Project. The following comments are based on the DEIR/EIS. As the lead agency, the City of Hercules is responsible for all project mitigation, including any needed improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan of the environmental document. Required roadway improvements should be completed prior to issuance of the Certificate of Occupancy. Since an encroachment permit is required for work in the State right of way (ROW), and the Department will not issue a permit until our concerns are adequately addressed, we strongly recommend that the City of Hercules work with both the applicant and the Department to ensure that our concerns are resolved during the environmental process, and in any case prior to submittal of a permit application. Further comments will be provided during the encroachment permit process; see the end of this letter for more information regarding encroachment permits.

5-1

5-2

**Cultural Resources**

The Cultural Resources studies and mitigation measures in the Cultural Resources Section of the DEIR/EIS satisfy environmental legal compliance for cultural resources within State ROW for the Department. Should ground disturbing activities take place as part of this project, these mitigation measures shall be implemented for an archaeological discovery. If there should be an inadvertent archaeological or burial discovery within State ROW, the Department's Office of Cultural Resource Studies shall be contacted at (510) 286-5618. A staff archaeologist will evaluate the finds

5-3

*"Caltrans improves mobility across California"*

Ms. Lisa Hammon  
November 12, 2010  
Page 2

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within one business day after contact. The Department requires review of any potential data recovery plans within the State ROW.

↑ 5-3 cont.

**Encroachment Permit**

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process. See the website link below for more information. <http://www.dot.ca.gov/hq/traffops/developserv/permits/>

5-4

Michael Condie, District Office Chief  
Office of Permits  
California DOT, District 4  
P.O. Box 23660  
Oakland, CA 94623-0660

Please feel free to call or email Luis Melendez of my staff at (510) 286-5606 or [Luis\\_Melendez@dot.ca.gov](mailto:Luis_Melendez@dot.ca.gov) with any questions regarding this letter.

Sincerely,



LISA CARBONI  
District Branch Chief  
Local Development -- Intergovernmental Review

c: State Clearinghouse

**Letter 5 – California Department of Transportation (CALTRANS)**

**Response to Comment 5-1.**

The City and FTA have prepared a Mitigation Monitoring and Reporting Program for all mitigation measures in FEIS.

**Response to Comment 5-2.**

No work is planned to take place within State rights-of-way, thus a Caltrans encroachment permit is not needed. If that changes, the City will apply for an encroachment permit from Caltrans District 4.

**Response to Comment 5-3.**

Ground disturbing activities are not anticipated to take place within State rights-of-way.

**Response to Comment 5-4.**

Please see response to comment 5-2. The City appreciates information on the encroachment permit process.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA STATE LANDS COMMISSION  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer  
(916) 574-1800 FAX (916) 574-1810  
California Relay Service From TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1900  
Contact FAX: (916) 574-1885

October 26, 2010

File Ref: SCH# 2009112087

Lisa Hammon  
City of Hercules  
111 Civic Drive  
Hercules, CA 94547

**Subject: Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Hercules Intermodal Transit Project, City of Hercules, Contra Costa County**

Dear Ms. Hammon:

Staff of the California State Lands Commission (CSLC) has reviewed the Draft EIR/EIS for the above-proposed project. Under the California Environmental Quality Act (CEQA), the city of Hercules, in cooperation with the Federal Transit Administration (FTA), is the Lead Agency and the CSLC is a Responsible and/or Trustee Agency for any projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

As background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. Such lands include, but are not limited to, the beds of more than 120 navigable rivers and sloughs, nearly 40 navigable lakes, and the 3-mile wide band of tide and submerged lands adjacent to the coast and offshore islands of the State. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. The boundary of these State-owned lands is generally the mean high tide line, except for fill and artificial accretion.

In December 2009, CSLC staff submitted comments in response to the Notice of Preparation to prepare a Draft EIR/EIS (attached). In order to determine the State's interest in the proposed Hercules Intermodal Transit Project, CSLC staff requested a more detailed map showing exactly where the proposed project would be located. The Draft EIR/EIS contains information sufficient to determine the State's interest.

Pursuant to Boundary Line Agreement (BLA) 144, recorded in Contra Costa County on April 22, 1974 between the State of California and Hercules Incorporated,

6-1

Letter 6\_CSLC Page 2 of 2

Lisa Hammon  
SCH# 2009112087

Page 2

October 26, 2010

Sequoia Refining Corporation, and Signal Oil and Gas Company, a portion of Refugio Creek within the proposed project site retains a Public Trust Easement. Based on the information provided in the Draft EIR/EIS, the proposed realignment and restoration of Refugio Creek appears to be consistent with the Public Trust Doctrine. As such, the CSLC will not require a lease or permit for the use of this easement.

↑  
6-1 cont.

This determination is without prejudice to any future assertion of State ownership or public rights, should circumstances change, or should additional information come to our attention. In addition, this letter is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction.

CSLC staff appreciates the opportunity to comment on the Draft EIR/EIS. If you have any questions or concerns relating to environmental issues, please contact Joan Walter, Environmental Scientist, at 916-574-1310 or via email at [Joan.Walter@slc.ca.gov](mailto:Joan.Walter@slc.ca.gov). If you have any questions relating to jurisdiction, the Public Trust Easement, or the Boundary Line Agreement, please contact Drew Simpkin, Public Land Management Specialist, at 916-574-2275 or via email at [Drew.Simpkin@slc.ca.gov](mailto:Drew.Simpkin@slc.ca.gov).

Sincerely,



Cy R. Oggins, Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
D. Simpkin, CSLC  
J. Walter, CSLC

**Letter 6 – California State Lands Commission (CSLC)**

**Response to Comment 6-1.**

Comment noted. CSLC has commented that the project is consistent with the Public Trust Doctrine and will not require a lease or permit from the CSLC.

Letter 7\_BAAQMD  
Page 1 of 1

**From:** Ian Peterson [<mailto:ipeterson@baaqmd.gov>]  
**Sent:** Monday, November 08, 2010 4:55 PM  
**To:** Stanich, Serge  
**Cc:** [lhammon@ci.hercules.ca.us](mailto:lhammon@ci.hercules.ca.us)  
**Subject:** Hercules ITC - Draft EIR/EIS

Hi Serge,

In following up with our prior communications regarding the Hercules ITC project, I am reviewing the Draft EIR/EIS. I understand the air quality analysis considers the regional implications and anticipated net reductions in overall transportation-related emissions as a result of increased transit-ridership and other alternative modes primarily available to commuters. Could you point me to where in the analysis local conditions have been addressed (i.e. concentrations levels of PM and TACs as result of increased frequency of bus and rail use in the immediate area)? Appendix I has a variety of information but I don't quite understand where it fits into this analysis.

7-1

Feel free to call if you have any questions and thank you for your time.

~

Ian Peterson  
Bay Area Air Quality Management District | Environmental Planner  
939 Ellis Street | San Francisco, CA 94109  
Office: 415.749.4783  
[ipeterson@baaqmd.gov](mailto:ipeterson@baaqmd.gov) | [www.baaqmd.gov](http://www.baaqmd.gov)

**Letter 7 – Bay Area Air Quality Management District**

**Response to Comment 7-1.**

The air quality analysis includes quantification of regional concentrations of various pollutants [including Particulate Matter (PM)] as described under Impact AIR-2 beginning on page 4-62 of the FEIS. Local air quality concerns from Carbon Monoxide (CO) are addressed quantitatively under Impact AIR-3, on page 4-65 in the FEIS. Local air quality concerns from Toxic Air Contaminants (TACs) and Diesel Particulate Matter (DPM) are addressed qualitatively, along with the potential health risk, under Impact AIR-4, on page 4-67 of the FEIS. Quantification of the PM and TAC impacts could not be made because, although future train frequency would be similar to current schedules, detailed bus schedule and route changes as a result of the Hercules ITC were not available. As described in the FEIS, the changes in PM and TAC concentrations are expected to be minimal and the impact would be less than significant. Although not addressed in the Draft EIR/EIS, full documentation of the Qualitative PM<sub>2.5</sub> Hot-spot Analysis is included in Appendix I of the FEIS.



Making San Francisco Bay Better

Letter 8\_BCDC  
Page 1 of 6

November 10, 2010

Ms. Lisa Hammon  
Assistant City Manager  
City of Hercules  
111 Civic Drive  
Hercules, CA 94547

**SUBJECT:** Comments to the Draft Environmental Impact Report for  
the Hercules Intermodal Transit Center Project; SCH #2009112087  
(BCDC File No. CC.HC.7410.1)

Dear Ms. Hammon:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Hercules Intermodal Transit Center Project, located at a site adjacent to San Pablo Bay in the City of Hercules, Contra Costa County. The project would involve the construction of an intermodal transit center, associated roadway improvements, and ancillary structures at the site. Below are the staff's comments on the DEIR. Some of these comments may address specific BCDC-issues that will need to be addressed either in the FEIR or through the BCDC permitting process.

The Commission is a responsible agency for this project and will rely on the DEIR when it considers the project. Although the Commission itself has not reviewed the DEIR, the staff comments are based on the McAteer-Petris Act, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally approved management program for the San Francisco Bay, and the federal Coastal Zone Management Act (CZMA).

#### **Jurisdiction**

The Commission's jurisdiction includes all tidal areas of the Bay up to the line of mean high tide (or in marshlands, the inland edge of marsh vegetation, up to five feet above mean sea level), all areas formerly subject to tidal action that have been filled since September 17, 1965, and a "shoreline band," which extends 100 feet inland from and parallel to the Bay shoreline.

Commission permits are required for construction of buildings, roadways, infrastructure and other improvements, changes in use, and dredging and dredged material disposal within its area of jurisdiction. To authorize a project, the Commission must be able to find the activities to be consistent with the McAteer-Petris Act and the policies and findings of the Bay Plan. In addition to any needed permits under its state authority, federal actions, permits, and grants that affect the Commission's jurisdiction are subject to review by the Commission, pursuant to the CZMA, for their consistency with the Commission's federally-approved management program for the Bay.

State of California • SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION • Arnold Schwarzenegger, Governor  
50 California Street, Suite 2800 • San Francisco, California 94111 • (415) 352-3600 • Fax: (415) 352-3606 • info@bcdc.ca.gov • www.bcdc.ca.gov

Ms. Lisa Hammon  
City of Hercules  
Comments to Hercules ITC DEIR  
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Based on the location of the project site, and as appropriately noted in the DEIR, a large portion of the project would occur within the Commission's jurisdiction and require Commission authorization. In order to fully evaluate the project's consistency with the Commission's laws and policies, staff will need to determine what components of the project fall within the Commission's Bay and shoreline band jurisdictions. The Commission will need a detailed site plan that depicts the Commission's Bay and shoreline band jurisdictions, describes the existing conditions and the proposed project, identifies areas where fill would be placed and removed, describes the proposed uses at the site, and clearly denote proposed public access areas and improvements.

8-1

#### Bay Fill

Section 66605 of the McAteer-Petris Act states, among other things, that further filling of the Bay should only be authorized if the fill is the minimum necessary to achieve the purpose of the fill and if the harmful effects associated with the fill are minimized. According to the Act, Bay fill is limited to water-oriented uses (such as ports, water-related industry, and water-oriented recreation and public assembly), minor fill for improving shoreline appearance, or public access.

The DEIR indicates that Bay fill will be involved to construct the railroad bridge, the transit loop bridge, bayfront bridge, and a portion of the Transit Center, install shoreline protection, and restore Refugio Creek. In addition, because of the existing location of Refugio Creek, a portion of the Transit/Civic Plaza and café/retail building may also involve Bay fill. Because Bay fill is limited to certain uses, please note that the uses of these buildings may be limited to the uses required in the Act. The widening of Refugio Creek and the construction of the creekside park and plaza will extend the Commission's Bay and shoreline band jurisdiction in these areas. As part of the permitting process for this project, the City of Hercules will be required to quantify the total amount of fill proposed to be placed with the project and to assess the impacts associated with its placement. The City should also be prepared to quantify and illustrate the extension of the Commission's jurisdiction as a result of the proposed project.

8-2

#### Public Access and Views

Section 66602 of the McAteer-Petris Act states that, "...existing public access to the shoreline and the waters of the San Francisco Bay is inadequate and that maximum feasible public access to the Bay, consistent with a proposed project, should be provided...." The Bay Plan policies on public access state that, "the public access improvements provided as a condition of any approval "should be consistent with the project and the physical environment..." and "...should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline..." The Bay Plan policies on Appearance, Design and Scenic Views further state that "all bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay" and that "maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore."

The DEIR states that the project design would include an approximately 5,300-foot-long and 14-foot-wide paved Class 1 segment of the Bay Trail through the project site. Additional public access would be provided outside the Commission's jurisdiction, including the creekside trail and park and possible future public access on Hercules Point (though this is not included in the project at this time). The project was reviewed by the Commission's Design Review Board (DRB) on January 11, 2010. The DRB commented favorably on the project especially on the

8-3

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proposed Bay Trail connection. One Board member, in particular however, stated that public access should be made available on Hercules Point as early as possible since the only thing missing from the project is an actual connection to the Bay.

In its permit application, the City of Hercules will be required to more specifically quantify the total public access provided as part of the project and to assess its consistency with the Commission's laws and policies outlined above. The DEIR should include further analysis on how the project is designed to "provide, enhance, or preserve views of the Bay and shoreline" such as by providing viewing opportunities along the Bay trail, at the transit station, or elsewhere, or the use of glass and other transparent materials for the station building. The DEIR should indicate where, if any, view corridors are provided from the public street to the Bay.

8-3 cont.

Because much of the proposed Bay Trail would be located inland of the existing UPRR tracks and not adjacent to the shoreline (with portions going through the station building), the Commission staff strongly encourages the City to pursue the development of Hercules Point as a public access park as soon as possible. It would also be helpful to include the City's proposed schedule for developing the park at Hercules Point. The development of Hercules Point as a public access park in the future will provide an integral component of shoreline public access needed in this location. In the interim, the Commission staff has indicated in previous conversations with the City that it would like to see overlooks provided Bayward of the transit station building where future connections to the ferry terminal are contemplated. This would provide passengers and the public with a much-needed viewing area at the shoreline in the interim, since no direct public access to the Bay would be provided at this time. In addition, because a segment of the Bay Trail would be co-located with the sidewalk along Transit Loop Drive, the City should explore options to minimize conflicts of the joint use of this space by Bay Trail users and disembarking transit users, either by providing alternative trail options or widening this segment of the Bay Trail to accommodate the number of users.

8-4

#### **Other Bay Plan Policies**

The following are several other categories of issues raised by the proposed project's DEIR that the Commission has addressed through its Bay Plan policies:

1. **Fish, Other Aquatic Organisms and Wildlife.** The policies in this section address the benefits of fish, other aquatic organisms and wildlife and the importance of protecting the Bay's subtidal habitats, native, threatened or endangered species and candidates for listing as endangered or threatened. The DEIR indicates that impacts to biological resources would be mitigated to less than significant levels with the incorporation of mitigation measures such as pre-construction surveys for special-status species, construction work windows, and the use of best management practices, in consultation with the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG) and the National Marine Fisheries Services (NMFS). The Commission generally relies on the advice of these agencies with respect to impacts on special-status species and requires the submittal of a final Biological Opinion to deem a permit application complete. The DEIR should sufficiently address how the construction and use of the proposed project would minimize impacts to special-status species and habitat in the Bay, including impacts from the placement of Bay fill, pile-driving, creek restoration and shoreline protection.

8-5

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2. **Water Quality.** The policies in this section address water quality and require Bay water pollution to be prevented to the greatest extent feasible. Policy 3 in particular requires new projects to be sited, designed, constructed and maintained to prevent or minimize the discharge of pollutants in the Bay by controlling pollutant sources at the project site, using appropriate construction materials, and applying best management practices. The DEIR states that the construction activities will be performed in accordance with the NPDES General Permit for Storm Water Discharges and will mitigate water quality impacts to less than significant. The Commission will rely on the best management practices included in the DEIR and the advice of the RWQCB to determine whether the project is consistent with its water quality policies.

8-6

3. **Water Surface Area and Volume.** Policy 1 in this section states that the surface area of the Bay and the total volume of water should be kept as large as possible and that filling that reduces area and water volume of the Bay should be allowed only for purposes providing substantial public benefits and only if there is no reasonable alternative. The DEIR should discuss how the proposed project would maintain or improve water circulation in the Bay, with particular attention to the proposal to widen and restore Refugio Creek and increase the Bay in this location.

8-7

4. **Tidal Marshes and Tidal Flats, Subtidal Areas and Mitigation.** Policy 1 of the Tidal Marshes and Tidal Flats section states, "tidal marshes and tidal flats should be conserved to the fullest possible extent." Policy 2 of the Subtidal Areas section states, "subtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife (e.g., eelgrass beds, sandy deep water or underwater pinnacles) should be conserved. Filling, changes in use, and dredging projects in these areas should therefore be allowed only if: (a) there is no feasible alternative; and (b) the project provides substantial public benefits." If adverse impacts to Bay natural resources, such as to water surface area, volume, or circulation, fish, other aquatic organisms, and wildlife habitat, or subtidal areas, tidal marshes or tidal flats, cannot be avoided, Policy 1 of the Mitigation section of the Bay Plan states, "they should be minimized to the greatest extent practicable [and] measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required."

The DEIR indicates that construction and dredging activities could result in the modification or disturbance of special aquatic sites including eelgrass beds, mudflats and tidal marshes that provide fish habitat. The DEIR states that these areas are of limited quantity and quality and have little potential to provide habitat for special-status fish species. The DEIR should include details of the size and kind of subtidal habitat that may be impacted, a discussion of how tidal marshes, tidal flats, and subtidal areas will be conserved, and describe how impacts to these areas would be minimized to the greatest extent practicable. If unavoidable adverse impacts would result, the City will need to mitigate for these impacts, as required by our Bay Plan policies. Because the proposed restoration of Refugio Creek would increase tidal marsh vegetation in this area, benefit habitat and marsh species, and provide increased flood control in this area, the restoration should provide a good amount of mitigation for the project. As indicated in the DEIR, a Mitigation and Monitoring Program will be required to quantify the loss in habitat and how these areas will be mitigated. The Commission staff will rely on the information of the Mitigation and Monitoring Program to ensure the project is consistent with these policies.

8-8

5. **Safety of Fills and Sea Level Rise.** Policy 4 in this section states that structures on fill or near the shoreline should have adequate flood protection including consideration of future relative sea level rise as determined by competent engineers. The policy states, "as a general rule, structures on fill or near the shoreline should be above the wave runup level or sufficiently

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set back from the edge of the shore so that the structure is not subject to dynamic wave energy. In all cases, the bottom floor level of structures should be above the highest estimated tide elevation. Exceptions to the general height rule may be made for developments specifically designed to tolerate periodic flooding." During review of the project by the Commission's Engineering Criteria Review Board (ECRB), the following rates of global sea level rise were provided to the applicant for analysis: (1) a low rate of 0.08 inches (2 mm) per year; (2) a medium rate of 0.18 in (4.6 mm) per year; and (3) a higher rate of 0.33 in (8.4 mm) per year. The City has provided some information directly to the Commission on the possible flooding impacts of the project.

In order to approve the project, the Commission will need to find that the public access and Bay fill project elements are designed with adequate flood protection including consideration of future sea level rise. The DEIR should explain how these project elements are designed to sufficiently address sea level rise and flooding during the life of the project (including storm surges). This discussion could include an analysis of how the structures could be raised, or designed to withstand flooding, or set at an elevation to accommodate sea level rise. If the structures cannot be constructed at an elevation high enough to withstand periodic flooding, the City should explain why this cannot be done at this time, and how the structures would be adapted in the future.

6. **Shoreline Protection.** The Bay Plan contains several policies regarding shoreline protection around the Bay. In particular, Policy No. 1 states that, "New shoreline erosion control projects...should be authorized if: (a) the project is necessary to protect the shoreline from erosion; (b) the type of protective structure is appropriate for the project site and the erosion conditions at the site; and (c) the project is properly designed and constructed...." The staff encourages the City to review the shoreline protection policies in the Bay Plan to ensure that these policies have been addressed in the DEIR.

7. **Dredging.** The Commission's dredging policies state, in part, that dredging should be authorized when the Commission can find that "dredging is needed to serve a water-oriented use or other important public purpose, such as navigational safety" and "the siting and design of the project will result in the minimum dredging volume necessary for the project."

The DEIR states that dredging activities could impact marine mammals (Impact BIO-13). It is unclear whether the dredging activities evaluated in the DEIR include the possible dredging resulting from the proposed future ferry terminal (which would be analyzed in a future EIR but are being included in this DEIR as cumulative impacts), or dredging required for the work proposed in Phases 1 - 3 of the project. The DEIR should clarify whether dredging is proposed as part of the initial project and, if so, the location and amount of material to be dredged, where the material would be placed or disposed of, and whether this dredging has the potential to impact marine mammals.

If the dredging impacts are being analyzed as cumulative impacts resulting from the future placement of a ferry terminal at this location, these impacts should be further evaluated. The DEIR should, at a minimum, address how the goals of the project can be achieved while minimizing the volume of dredging resulting from a potential ferry terminal at this particular location.

8-9

8-10

8-11

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Again, we thank you for providing staff with the opportunity to review the DEIR for the Hercules Intermodal Transit Center project. Please feel free to contact me at (415) 352-3616, or email me at [mingy@bcdc.ca.gov](mailto:mingy@bcdc.ca.gov) if you have any questions regarding this letter or the Commission's policies and permitting process.

Sincerely,



MINGYEUNG  
Coastal Program Analyst

MY/mm  
cc: State Clearinghouse

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**Letter 8 – Bay Development and Conservation Commission (BCDC)****Response to Comment 8-1.**

The location of the Bay Conservation and Development Commission's (BCDC) Bay and shoreline band jurisdiction is depicted in Figure 2.2-2: Alternative 1 Phasing Plan of the FEIS. The City has been coordinating with the BCDC in developing the overall site plan and has met with the BCDC Design Review Board and Engineering Criteria Review Board. The City is currently developing a permit application for the BCDC and will coordinate with the BCDC through the permitting process to ensure that all needed elements are included. The permit application package will include a detailed site plan that will include all of the project elements and clearly notes the jurisdictional boundaries of the BCDC.

**Response to Comment 8-2.**

The City and its engineering team have considered the various project elements and the necessary discharges required to construct the elements. Construction and discharges have been designed to avoid aquatic resources and discharges of fill will be kept to the minimum necessary to meet design standards and safety criteria. The City understands that discharges of fill into the bay can only be permitted for certain uses and proposes only to discharge fill as necessary to accommodate restoration activities and establish access and circulation. The City of Hercules is preparing a permit application for the BCDC that will include a detailed site plan noting the existing jurisdictional boundaries of the BCDC. The City has been coordinating extensively with the BCDC in preparation of the permit application and has coordinated with the BCDC Design Review Board and with the Engineering Criteria Review Board. Additionally, the City understands that as a result of realigning Refugio Creek, the extent of the San Francisco Bay and its tidal influence may change and may expand the jurisdiction of the BCDC. The City will work with the BCDC during the permit application process to ensure that all necessary project elements, including the total amount of fill proposed to be placed within the project, are included to satisfactory detail for the BCDC to complete its necessary review.

**Response to Comment 8-3.**

The FEIS analysis on visual and aesthetic resources is generally focused on potential project impacts on scenic vista/character according to CEQA guidelines. There are beneficial elements built into the proposed project that are designed to “provide, enhance, or preserve views of the Bay and shoreline.” Page 4-43 of the FEIS describes these elements in more detail.

The proposed Bay Trail segment would provide the public with a recreation facility that connects with existing segments of the Bay Trail and views of San Pablo Bay and its shoreline. The Point Pedestrian Bridge would be a connection to the future park at Hercules Point. As it stands, the Point Pedestrian Bridge would afford the public an elevated view of the Bay, shoreline, and Hercules Point. The Station Building has been designed with 22,000 square feet of glass wall area for passive solar heating, but also takes advantage of views of the Bay from inside the building. As discussed in Section 2.0, Alternatives Considered of the FEIS, the Waterfront Promenade proposed for east and north of Refugio Creek is a public space that would include benches from which to view the Bay and shoreline.

It should be noted that the proposed Bay Trail is located inland of the UPRR corridor as the UPRR corridor lies immediately adjacent to San Pablo Bay. Construction of the Hercules ITC would enhance existing public access to the Bay by completing 5,900 feet of Bay Trail that currently does not exist and

connect Rodeo to Pinole. Additionally, the Hercules ITC includes three new crossings of the UPRR right-of-way that currently do not exist including:

- An emergency vehicle access at the western end of the platform, which would provide restricted access (City and emergency vehicle access only);
- A public pedestrian (and City maintenance vehicle) access to Hercules Point, which will be made available when Hercules Point is developed into a public open space; and
- A public viewing platform and access to the future WETA ferry terminal.

The location and number of public streets in the project area would change with the project, as will some of the views from those public streets. Portions of the existing Bay views from Bayfront Boulevard would be limited from the construction of the Station Building. Views would be provided by the proposed Bay Trail segment, the Waterfront Promenade, and the Point Pedestrian Bridge.

The City continues to coordinate regularly with the BCDC while the site plans are being developed. The permit application will include refined square footage and acreage of project elements that will provide public access to the Bay, as well as other project elements that will be located within the BCDC jurisdiction.

#### **Response to Comment 8-4.**

The City will work to develop Hercules Point as a public park as soon as possible, while integrating opportunities with funding, property access and additional remediation activities, if necessary. At this time, the City does not have a schedule for completion of the park. While a portion of the proposed Promenade and Bay Trail are collocated with the Transit Loop, the combined Promenade and Bay Trail will be approximately 20 feet wide, which is expected to accommodate both Bay Trail users and Transit Center users. The City will evaluate options to provide greater separation between Bay Trail users and Transit Center users to minimize conflicts. Plans will be coordinated with the BCDC as part of the permitting process.

#### **Response to Comment 8-5.**

Sections 3.9 and 4.9 of the FEIS discuss the existing baseline and affected environment for biological resources and also discuss potential impacts and mitigation measures of the Hercules ITC on biological resources. Mitigation Measures BIO-1 through BIO-25 include measures such as preconstruction surveys, exclusion fencing, wetland restoration and construction, driving piles “in the dry”, and others that will avoid and/or substantially reduce potential impacts to biological resources.

Additionally, the City and FTA have consulted extensively with resource agencies involved with the protection of the fish and wildlife including the CDFG, USFWS and NMFS. USFWS staff visited the site in April 2010 and provided comments recommending the initiation of formal consultation in July 2010. Biological Assessments were prepared and submitted to the USFWS and the NMFS in February 2011, with the requests to initiate formal consultation. The USFWS requested additional clarifications in the fall of 2011. During this coordination with the USFWS, the CDFG was consulted and provided comments to the USFWS for their concurrence on the draft language for the biological opinion. The USFWS then issued the Biological Opinion on December 30, 2011. The NMFS and the CDFG conducted a visit to the site on March 22, 2011. Coordination with NMFS continued through 2011 and

additional information was provided to NMFS on March 15, July 26, October 31, 2011 and January 26, 2012. NMFS issued the Letter of Concurrence for Endangered Species Act compliance as well as Essential Fish Habitat provisions of the Magnuson Stevens Fishery Conservation and Management Act on January 30, 2012. While FTA and the City will continue regular coordination with the USFWS and NMFS, the Biological Opinion and Letter of Concurrence conclude the necessary consultations with the USFWS and NMFS as required under Section 7 of the Endangered Species Act.

Results of the consultation with the resource agencies and issuance of the biological opinion and letter of concurrence include conservation measures that are consistent with the mitigation measures identified in the FEIS including preconstruction surveys, biological monitoring during construction, development of SWPPP and Erosion Control Plans, installation of exclusion fencing etc. The biological opinion and letter of concurrence can be found in the FEIS in Appendix E.

**Response to Comment 8-6.**

Comment noted. The City will implement standard construction best management practices as part of the stormwater pollution prevention plan and will coordinate with the SFRWQCB as part of the Section 401 water quality certification to ensure that the project conforms to water quality standards. This information is discussed in Section 4.9 and 4.10 of the FEIS. Section 4.10 includes Mitigation Measure WR-2 which discusses compliance with the NPDES General Permit for Storm Water Discharges for Associated with Construction Activities (Construction Storm Water Permit) and identifies some of the required best management practices for construction. The Construction Storm Water Permit is an existing general permit that allows project proponents to obtain coverage by complying with certain measures. Compliance requires the preparation of a standard erosion control plan referred to as a storm water pollution prevention plan (SWPPP). The State Water Resources Control Board (SWRCB) has standardized the preparation of a SWPPP and requires individuals to be certified to prepare SWPPPs. Once the SWPPP is completed it will be submitted to the SFRWQCB along with a Notice of Intent (NOI). Coverage by the Construction Storm Water Permit is provided within 48 hours of submitting the NOI. The SWPPP will include detailed plans to control erosion and sediment loss from storms, include response plans in the case of accidental spills, and will include reporting requirements.

**Response to Comment 8-7.**

Sections 2 and 3.9 of the FEIS describe the existing degraded conditions of Refugio Creek resulting from past land uses. Additionally, Section 4.9 discusses impacts and mitigation of the proposed project. Periods of high flows have resulted in scour; creek banks are steep and eroded. Immediately adjacent to the UPRR bridge, the incised banks have been stabilized with stacked concrete bags (see Figure 2.2-11 of the FEIS). The existing UPRR bridge is inadequate in passing storm flows. The project will open the channel corridor and create flatter and lower banks that will provide for increased tidal influence and will diversify vegetation to include a mosaic of low and high tide marsh as well as riparian habitat. Currently, significant flow constraints exist at the UPRR bridge with the three 72-inch culverts beneath the service road and at the earthen pedestrian bridge upstream. Restoration of Refugio Creek will remove these constraints to flow and create a wider, approximately 200-foot, corridor that will improve hydrologic conveyance and ecological value. Additionally, it is expected that increasing the wetland vegetation and tidal marsh areas will improve nutrient and sediment retention, and the wider channel is anticipated to improve flows out to San Pablo Bay, as well as tidal influence upstream into the upper reaches of Refugio

Creek. See Figure 4.9-1 in the FEIS for an exhibit of the restoration plan for Refugio Creek and North Channel.

### **Response to Comment 8-8.**

As discussed in Section 4.9.3 of the FEIS, mitigation for impacts is implemented in a three step process that requires first avoidance of the impact, second minimization of the necessary footprint of the impacts, and finally compensation for unavoidable impacts through the construction of compensatory mitigation. The design of the Hercules ITC has been developed through the consistent application of the three step mitigation process. As discussed under cumulative impacts in Section 4.9, Biological Resources, and in Section 6, Evaluation of Alternatives, potential cumulative impacts from the WETA ferry project and the Bayfront Development have also been incorporated into the overall mitigation design consideration. Unavoidable, permanent impacts will be compensated for through the restoration and expansion of the Refugio Creek floodplain to provide for expanded wetland vegetation, including tidal marsh and riparian habitats. The City has prepared a mitigation plan that will support the Joint Aquatic Resource Permit Application package that will be submitted to the USACE, BCDC, RWQCB, and CDFG in the spring of 2012. The mitigation plan identifies community types that will be constructed, performance and success criteria, adaptive management activities, and long term maintenance and is included in Appendix G of the FEIS.

### **Response to Comment 8-9.**

The FEIS addresses sea level rise within the Section 4.10, Water Resources. The project will be constructed at an elevation higher than existing conditions to accommodate the grade separation elements of the project and should protect development from inundation due to flood and sea level rise.

### **Response to Comment 8-10.**

As discussed in Section 4.2, Land Use, of the FEIS, the City has reviewed the Bay Plan and confirmed that the FEIS is consistent with the shoreline protection policies.

### **Response to Comment 8-11.**

The project will require some dredging in the tidal mudflat in San Pablo Bay to realign Refugio Creek and establish a new channel outflow. Dredging for the project will require a small dredging footprint approximately 40-ft by 150-ft and resulting in approximately 400 cy of dredged material. . As depicted in Figure 4.9-2 of the FEIS, the proposed channel will connect to the existing low flow channel in the Bay and is the minimum footprint necessary to accommodate the new channel. Prior to initiation of construction, a sampling and analysis plan will be conducted to determine the potential for contaminants. Dredged material will be removed and disposed of in accordance with local, state and federal requirements. FTA has consulted with the NMFS on potential effects to fisheries and NMFS provided concurrence on January 30, 2012 that the project is not likely to adversely affect fisheries. Mitigation measures to minimize the effects include dredging at low tide and use of silt curtains. Marine mammals are not expected to be present during construction and are not expected to be affected by the project.

Additionally, anticipating the construction of necessary improvements for the implementation of ferry service to the site and to account for potential cumulative effects, the FEIS provides an estimate of the necessary dredging for the proposed ferry channel. The dredging described in the FEIS Section 4.9.4, Biological Resources, Environmental Consequences addresses cumulative effects and impacts associated with the dredging of the proposed ferry project. WETA continues to evaluate alternatives to ferry service

including use of hover crafts to minimize dredging. While the proposed project and the future ferry project will have cumulative effects to aquatic resources, implementation of the ferry project will require a separate environmental review and coordination with resource agencies. Dredging necessary for the construction of the ferry channel and turning basin will be required to avoid and minimize potential impacts and identify the minimum footprint necessary to complete the project.

**From:** Dean Allison [<mailto:DAllison@ci.pinole.ca.us>]  
**Sent:** Monday, October 18, 2010 10:57 AM  
**To:** Lisa Hammon  
**Cc:** Winston Rhodes  
**Subject:** Traffic Study for ITC

Lisa,

Hope all is well with you.

Winston and I are working on a comment letter to the ITC report.

It appears that there is a typo in one of the tables in the traffic study. See attached. Please verify and let me know the correct number.

9-1

I have minimal comments regarding Traffic/Wastewater/Geology. Winston is reviewing the documents for the remainder issues and may have more. I left you a message requesting additional time we may need if we wish to have my letter go before our City Council at their next, November 4, 2010 meeting. Yes Thursday due to the election.

Dean

Dean Allison  
City of Pinole  
Director of Public Works  
510.724.9017

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Hercules Intermodal Transit Center (HITC)

TABLE ES 1 INTERSECTION LEVEL OF SERVICE SUMMARY – A.M. PEAK

Int #	Intersection Name	Existing		Background		Project		Cumulative 2035 "No Project"		Cumulative 2035 "With Project"	
		V/C	LOS	V/C	LOS	V/C	LOS	V/C	LOS	V/C	LOS
1	Willow Ave /I-80 WB off-ramp	0.208	A	0.221	A	0.221	A	0.591	A	0.591	A
2	Willow Ave/Hawthorne Dr	0.284	A	0.301	A	0.301	A	0.781	C	0.781	C
3	San Pablo Ave/Willow Ave	0.244	A	0.218	A	0.22	A	0.806	D	0.807	D
4	San Pablo Ave/John Muir Pkwy	0.427	A	0.513	A	0.524	A	0.764	C	0.78	C
5	San Pablo Ave/Sycamore Ave	0.674	B	0.927	E	0.933	E	0.859	D	0.865	D
6	San Pablo Ave/Hercules Ave	0.507	A	0.598	A	0.598	A	0.758	C	0.758	C
7	San Pablo Ave/Pinole Valley Rd	0.378	A	0.48	A	0.48	A	0.889	D	0.889	D
8	San Pablo Ave/Tennent Ave	0.536	A	0.651	B	0.651	B	1.138	F	1.138	F
9	San Pablo Ave/Appian Wy	0.297	A	0.36	A	0.632	A	0.624	B	0.626	B
10	Sycamore Ave/Bayberry Ave	0.808	D	0.975	E	0.979	E	0.656	B	0.66	B

9-1 cont.

Notes: V/C: Volume to Capacity Ratio LOS: Level of Service

Intersections operating below acceptable LOS are bold.

**Letter 9 – City of Pinole**

**Response to Comment 9-1.**

The commenter is correct that there is an error on Table ES1 Intersection Level of Service in Appendix E of the DEIR/DEIS (Appendix J of the FEIS). The Traffic Study states that volume to capacity ratios (V/C) must be less than 0.60 to warrant a LOS A rating. Table ES1 shows the V/C ratio at San Pablo Ave/Appian Way under project conditions as 0.632; level of service at this intersection should be LOS B rather than LOS A. This correction does not result in the identification of a substantial adverse impact, since LOS B is still an acceptable condition.



# CITY OF PINOLE

Development Services Department  
Public Works

2131 Pear Street  
Pinole, CA 94564

Tel: (510) 724-9010  
Fax: (510) 724-4921

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November 5, 2010

City of Hercules  
111 Civic Drive  
Hercules, CA 94547

Attention: Lisa Hammon, Assistant City Manager

**Subject: Comment Letter Intermodal Transit Center**

The City of Pinole has reviewed the Draft Environmental Impact Report for the Hercules Intermodal Transit Center and the supporting traffic study. The City of Pinole has the following comments:

**TRAFFIC**

- 1- The traffic study analyzed 10 intersections, three of which are in the City of Pinole
  - o San Pablo Avenue at Pinole Valley Road
  - o San Pablo Avenue at Tennent Avenue
  - o San Pablo Avenue at Appian Way.
- 2- The traffic study concluded that there were no measureable project impacts to the intersection of San Pablo Avenue at Pinole Valley Road and San Pablo Avenue.
- 3- Table ES1 on Page 6 of the Traffic Impact Report states that for intersection 9, San Pablo Avenue and Appian Way,
  - o Existing + Background AM Peak is .362 with a LOS A
  - o Existing + Background + Project AM Peak is .632 with a LOS A
 The post project V/C and LOS A are inconsistent, and there appears to be a typographical error.
- 4- With the V/C for intersection 9, for Existing +Background + Project AM Peak equal to 0.632 the City of Pinole sees this impact as significant and requests that additional studies be conducted to determine what mitigation measures should be part of the project.
- 5- If, however, if there is a typographical error, and the V/C listed for intersection 9 is .362 rather than .632; this means that there will be no impact and the City of Pinole has no concerns with respect to impact on this intersection.

10-1

10-2

10-3

10-4

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- 6- The City of Pinole requests that the project include conditions that require all construction traffic to take access to and from the freeway within the City of Hercules.

10-5

**UTILITIES – Wastewater**

- The ITC project puts only a minor demand on the wastewater plant. The ITC includes restrooms and a small café as wastewater generators.
- The report correctly points out that the wastewater collected is treated at the Pinole/Hercules Wastewater; however, the report incorrectly states that the dry weather capacity of the treatment plant is 4.06 Million Gallons per Day. The dry weather capacity of the treatment plant is 3.52 Million Gallons per Day.
- To determine if there is capacity at the plant the EIR references a 2005 East Bay Municipal Utility District (EBMUD) Urban Water Management Plan (UWMP). The City of Pinole is not familiar with this plan. Furthermore the City of Pinole does not believe such a report should serve as the basis for determining if the plant has adequate capacity for the project.

10-6

Rather the EIR should compare plant capacity with current flows at the plant, plus previously approved projects, timetables for those project, and expected project flows

- The comment letter requests that staff from the Pinole/Hercules Water Pollution Water Pollution Control Plant review building permits non-residential building construction to assure that proper grease and other devices are constructed.

10-7

The City of Pinole thanks the City of Hercules for the opportunity to review and comment on the Environmental Impact Report for the Intermodal Transit Center.

Sincerely,



Belinda B. Espinosa  
City Manager for the City of Pinole

cc:  
Chron File  
Dean Allison, Director of Public Works / City Engineer

x:\director of public works\engineering\cip\cooridor mobility project\comment letter.doc

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## Letter 10 – City of Pinole

### Response to Comment 10-1.

The three intersections cited in the comment letter are included in the Traffic Study, which is Appendix E of the Draft EIR/EIS (Appendix J of the FEIS).

### Response to Comment 10-2.

It is correct that the traffic study concluded that there were no measurable project impacts to the intersections cited in the FEIS (Table 4.1-5).

### Response to Comment 10-3.

As stated above (Comment letter 9, response 9-1), there is an error on Table ES1 Intersection Level of Service in Appendix E of the Draft EIR/EIS (Appendix J of the FEIS). The Traffic Study states that volume to capacity ratios (V/C) must be less than 0.60 to warrant a LOS A rating. Table ES1 shows the V/C ratio at San Pablo Ave/Appian Way with the project as 0.632, therefore the level of service at this intersection will be revised to be LOS B rather than LOS A. This correction does not result in a substantial adverse impact.

### Response to Comment 10-4.

As noted above (Comment letter 9, response 9-1), adding project related traffic to the intersection of San Pablo Avenue and Appian Way would reduce the level of service (LOS) from LOS A (excellent) to LOS B (good). The FEIS defines a traffic impact as significant if adding project related traffic would cause an intersection operating at an acceptable LOS A, B, C, or D to operate at an unacceptable LOS E or F. Adding project related traffic to the intersection of San Pablo Avenue and Appian Way would not reduce the LOS to an unacceptable level and would not result in a substantial adverse effect requiring mitigation.

### Response to Comment 10-5.

The Traffic Study found that the three intersections within the City of Pinole currently operate at LOS A. Because traffic conditions are “excellent”, it would be unreasonable and unwarranted to restrict construction traffic from using these public roadways.

Restricting construction traffic to within Hercules City limits is uncalled for due to the proximity of I-80 to the site via the John Muir Parkway. Most construction related traffic would use this direct route rather than travelling a longer route through the City of Pinole to access the same highway.

### Response to Comment 10-6.

The capacity of 4.06 million gallons per day (MGD) for the Pinole/Hercules Wastewater Treatment Plant was taken from the EBMUD Urban Water Management Plan 2005 as discussed in the FEIS (page 3-177). Additionally, the City of Pinole’s website for the Wastewater Treatment Plant notes a capacity of 4.06 MGD. While the commenter notes that the dry weather capacity of the treatment plant is 3.52 MGD, the City of Pinole’s website notes that the average daily flow is approximately 3.5 MGD. Based on the City of Pinole’s website, additional capacity of the Pinole/Hercules Wastewater Treatment Plant is greater than 500,000 gallons per day.

The Pinole/Hercules Wastewater Treatment Plant is located at the foot of Tennent Avenue in the City of Pinole. It was originally built in 1955 as a primary treatment facility. Since then, it has had two major

expansions and several modifications in order to meet the needs of these cities' growing populations. In 1972 the plant was upgraded from a primary to a secondary treatment facility, with a 2 MGD flow capacity. In 1985, the plant was again upgraded to handle a flow of 4.06 MGD. The plant serves a combined population of approximately 40,000, with an average daily flow of 3.5 million gallons. ([http://www.ci.pinole.ca.us/publicworks/treat\\_plant.html](http://www.ci.pinole.ca.us/publicworks/treat_plant.html))

As stated in the FEIS on page 4-151, and confirmed by the commenter, the Hercules ITC is anticipated to contribute a minor demand on the wastewater plant resulting from restrooms supporting the Hercules ITC and the Transit Annex/Café building. It is estimated that the Hercules ITC and associated Transit Annex/Café would generate approximately 300 to 400 gallons per day. As the estimated additional capacity for the Pinole/Hercules Wastewater Treatment Plant is in excess of 500,000 gallons per day, the addition of the Hercules ITC is expected to result in only negligible increased demand on the facility's capacity and would not result in a substantial adverse impact.

The Hercules Bayfront project would be constructed concurrent or subsequent to the Hercules ITC. The Bayfront EIR (certified in October 2011) assessed the impacts of the project at maximum build-out with estimated wastewater generation rates of 220,560 gpd of wastewater. As noted in the Bayfront EIR, the Pinole-Hercules Wastewater Treatment Plant has enough existing capacity to serve the Bayfront project. The Bayfront project would also contribute approximately \$6.24 million in Development Impact Fees toward any future wastewater collection and treatment facilities. (*Draft EIR for the Hercules Bayfront Project*, pp. 15-29).

The Sycamore North Project will include 96 multi-family residential units and 40,000 sq. ft. of retail space. The anticipated waste treatment demand generated by the Sycamore North Project would be 15,200 gpd. The project is anticipated to be completed sometime in 2014.

While the Hercules Bayfront and Sycamore North Projects may generate potentially significant contributions to the Pinole/Hercules Wastewater Treatment Plant, the anticipated 300-400 gpd contribution of the Hercules ITC is not considered a significant contribution.

### **Response to Comment 10-7.**

The City of Hercules will coordinate with staff from the Pinole/Hercules Water Pollution Control Plant to review building permits for non-residential building construction to assure that proper grease and other devices are constructed.

Letter 11\_CCHS  
Page 1 of 2

WILLIAM B. WALKER, M.D.  
HEALTH SERVICES DIRECTOR  
SHERMAN L. QUINLAN, REHS, MPH  
ENVIRONMENTAL HEALTH DIRECTOR



CONTRA COSTA  
ENVIRONMENTAL HEALTH

2120 Diamond Blvd., Suite 200  
Concord, California 94520  
Ph (925) 692-2500  
Fax (925) 692-2502  
www.cocoeoh.org

September 28, 2010

Paul Page  
Office of Planning & Program Management  
Federal Transit Administration, Region IX  
201 Mission Street, Ste 1650  
San Francisco, CA 94105

RE: Hercules Intermodal Transit Center – Draft EIR

Dear Ms. Hammon:

The Contra Costa Environmental Health Division (CCEHD) has received a request for agency comments for the above referenced project. The following are our comments:

1. A permit from CCEHD is required for any well or soil boring prior to commencing drilling activities, including those associated with environmental investigation and cleanup, and geotechnical investigation. 11-1
2. Any abandoned wells (water, environmental, or geotechnical) and septic tanks must be destroyed under permit from CCEHD. If the existence of such wells or septic tanks are known in advance or discovered during construction or other activities, these should be clearly marked, kept secure, and destroyed pursuant to CCEHD requirements. 11-2
3. It is recommended that the project be served by public sewer water. 11-3
4. A health permit is required for retail food facilities. Food facilities include restaurants, stores, bars, cafeterias, snack bars, kiosks at transit sites, and any business or operation that sells or gives food away to the public (including employees or students). Plans must be submitted to CCEHD and approved prior to the issuance of building permits for such facilities. Prior to the submission of plans, CCEHD staff is available to meet with prospective developers/operators to discuss the requirements for these facilities and the plan review process. 11-4
5. Dumpster areas serving retail food facilities are required to have a drain to the sanitary sewer and provided with a hot/cold water supply. It is recommended that 11-5



• Contra Costa Community Substance Abuse Services • Contra Costa Emergency Medical Services • Contra Costa Environmental Health • Contra Costa Health Plan •  
• Contra Costa Hazardous Materials Programs • Contra Costa Mental Health • Contra Costa Public Health • Contra Costa Regional Medical Center • Contra Costa Health Centers •

developers be informed of this requirement, since it is usually easier to plan for the installation of sewer and water in dumpster areas during initial construction rather than install these afterwards.

↑ 11-5 Cont.

6. All retail food facilities must have approved restrooms. This includes kiosks located at transit sites. It is recommended that developers be informed of this requirement, since it is usually easier to plan for the installation of restrooms during initial construction rather than install these afterwards.

↑ 11-6

These comments do not limit an applicant's obligation to comply with all applicable laws and regulations. If you should have any questions, please do not hesitate to call me at (925) 692-2535.

Sincerely



Joseph G. Doser, REHS  
Supervising Environmental Health Specialist

JGD:lj

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**Letter 11 – Contra Costa Health Services (CCHS)**

**Response to Comment 11-1.**

The City would coordinate with the CCEHD on obtaining necessary permits for any well or boring work on the project site.

**Response to Comment 11-2.**

The site has undergone extensive remediation under the supervision of the California Department of Substance Control. No remaining tanks are known or believed to exist on the site. If during excavation and construction, wells are encountered, removal would be coordinated with responsible agencies including Contra Costa Health Services and appropriate permits would be secured prior to removal. Additionally, Mitigation Measure HAZ-1b addresses response measures if contaminated soils are encountered during construction.

**Mitigation Measure HAZ-1b:** If affected or potentially affected soil and/or sediments are encountered during construction activities (grading and excavation), these materials would be excavated, stockpiled, and characterized to evaluate appropriate reuse or disposal alternatives. Confirmation of materials, sample characterization of stockpile materials using analytical data, and soil reuse/disposal plans would be submitted to the City for review and acceptance.

**Response to Comment 11-3.**

As discussed in FEIS Water Supply Impact UT-4, the project water supply would be provided by existing municipal water supply.

**Response to Comment 11-4.**

Transit Annex will be constructed as a shell & core space and may contain either a retail food facility or other retail space constructed by a tenant. Tenants would be responsible for obtaining required permits for the tenant space. Should the Transit Annex include a retail food facility, the tenant will be required to submit the plans to Contra Costa Environmental Health Department (CCEHD) and obtain approval prior to issuance of the building permit for the tenant improvements.

**Response to Comment 11-5.**

This information has been provided to the City of Hercules for design consideration.

**Response to Comment 11-6.**

This information has been provided to the City of Hercules for design consideration.



October 22, 2010

Lisa Hammon, Assistant City Manager  
City of Hercules  
111 Civic Drive  
Hercules, CA 94547

Re: Notice of Availability of a Draft Environmental Impact Report for the Hercules Intermodal Transit Center Project

Dear Ms. Hammon:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Hercules Intermodal Transit Center Project located in the City of Hercules (City). EBMUD has the following comments.

**GENERAL**

On page 3-186, first paragraph, the first sentence should be revised to read "City of Hercules is served by the 22.3-million-gallon ~~Maloney~~ Maloney Reservoir located in the City of Pinole."

12-1

**WATER SERVICE**

EBMUD's Maloney Pressure Zone, with a service elevation between 0 and 200 feet, will serve the proposed project area. A main extension, at the project sponsor's expense, may be required to serve the proposed project depending on EBMUD's metering requirements and fire flow requirements set by the local fire department. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water mains and services requires substantial lead-time, which should be provided for in the project sponsor's development schedule.

12-2

The project sponsor should be also be aware that EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment

12-3

375 ELEVENTH STREET • OAKLAND • CA 94607-4240 • TOLL FREE 1-866-40-EBMUD

Lisa Hammon, Assistant City Manager  
October 22, 2010  
Page 2

plants. Applicants for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the applicant must provide a legally sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater.

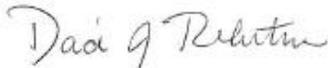
12-3 cont.

EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the applicant is insufficient EBMUD may require the applicant to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the applicant's

12-4

If you have any questions, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,



*fdz*

William R. Kirkpatrick  
Manager of Water Distribution Planning

WRK:AMW:djr  
sb10\_213.doc

## Letter 12 – East Bay Municipal Utilities District

### Response to Comment 12-1.

In the FEIS, under Section 3.13.2, Existing Conditions, the last paragraph of Water Supply has been revised as follows.

The City of Hercules is served by the 22.3-million-gallon ~~Mahoney~~ Maloney Reservoir located in the City of Pinole. Based on current projections of the UWMP, the Mokelumne watershed is of sufficient size to meet the near term water needs of the EBMUD and the City, including the proposed project area.

### Response to Comment 12-2.

Comment noted. The City of Hercules will coordinate with East Bay Municipal Utility District to complete a water estimate and determine requirements for providing water to the proposed development prior to the initiation of any construction.

### Responses to Comment 12-3 and Comment 12-4.

As discussed in the FEIS Section 3.12, the project area that comprises the former Hercules Powder Company has undergone extensive remediation under the oversight of the California Department of Toxic Substances Control. All areas except Hercules Point have been remediated to residential standards. Hercules Point has been remediated to industrial and commercial standards and carries a deed restriction requiring DTSC approval prior to any work being completed on Hercules Point. Additionally, the FEIS includes two mitigation measures that address unexpected discoveries of hazardous materials during earth moving activities.

**Mitigation Measure HAZ-1a:** The construction contractor shall develop a project-specific Health and Safety Plan that includes a project-specific contingency plan for hazardous materials and waste operations. This plan shall be submitted to and approved by the City before construction activities are allowed to proceed. The Health and Safety Plan, applicable to all grading and excavation activities, shall establish policies and procedures to protect workers and the public from potential hazards posed by hazardous wastes. The Health and Safety Plan shall be prepared according to federal and state OSHA regulations.

**Mitigation Measure HAZ-1b:** If affected or potentially affected soil and/or sediments are encountered during construction activities (grading and excavation), these materials would be excavated, stockpiled, and characterized to evaluate appropriate reuse or disposal alternatives. Confirmation of materials, sample characterization of stockpile materials using analytical data, and soil reuse/disposal plans would be submitted to the City for review and acceptance.

Letter 13\_Jeffrey Wisniewski  
Page 1 of 1

**From:** Jeffrey Wisniewski [<mailto:jeff3w@gmail.com>]  
**Sent:** Friday, October 29, 2010 4:21 PM  
**To:** Lisa Hammon  
**Subject:** ITC Draft EIR Comment

Ms. Hammon-  
I have the following comment for the Draft EIR for the ITC project:

Appendix E

John Muir Parkway. John Muir Parkway is a four-lane extension of the SR-4 terminus, located west of I-80. John Muir Parkway serves as a local roadway between the North Shore Business Park and San Pablo Avenue. East of San Pablo Avenue, access is provided to I-80 eastbound and westbound, and to SR-4 eastbound. John Muir Parkway has recently been extended west to the Hercules Intermodal Transit Center property line and a new bridge has been constructed from John Muir Parkway to Tsushima Drive. SR-4 is commonly known as John Muir Parkway from the City of Hercules to the City of Martinez. John Muir Parkway has a posted speed limit of 35 mph.

The posted speed limit west of Alfred Nobel Drive is 25 mph.  
-Jeff



13-1

**Letter 13 – Jeffrey Wisniewski**

**Response to Comment 13-1.**

The speed limit for John Muir Parkway is posted at 25 miles per hour west of the intersection with Alfred Nobel Drive and is posted at 35 mph east of the same intersection. No change to the document is necessary.

Letter 14\_Myrna L deVera  
Page 1 of 3

**From:** [MyrnaLdeVera@aol.com](mailto:MyrnaLdeVera@aol.com) [mailto:MyrnaLdeVera@aol.com]  
**Sent:** Sunday, November 14, 2010 8:36 PM  
**To:** Dennis Tagashira; Lisa Hammon  
**Subject:** Comments on Draft EIR for Hercules Intermodal Transit Station

**Page 1-15: Project Phase Description Table** – Are the dates on these table updated? Phase 1 shows the ITC Station to Start on 2010, so this seems to be a previous estimated schedule. Please update project phase description table. 14-1

**Page 2-2:** I applaud the plan for the Hercules ITC to incorporate energy conservation measures and designed to achieve a U.S. Green Building Council (USGBC) LEED for Building Design and Construction Silver certification.

**Page 2-53, first paragraph, on Construction:** Are these dates updated considering the recent delay on the ITC funding? Please update. 14-2

**Page 4-7, Table 4.1-3, second paragraph:** Concerning the statements:

*“Since Hercules and the surrounding areas of western Contra Costa County are for the most part a bedroom community, it was assumed that morning peak trips would originate in the Hercules area and that these same trips would return to the Hercules area during the afternoon peak.”*

*“It was assumed that there would be no “reverse commuting” such as traveling from San Francisco to Hercules during the morning commute.”*

Question: Why assume that all commuters will be only from Hercules and the surrounding cities and that there will be “no reverse commute”? Our vision of having the ITC and Waterfront is to turn Hercules from a bedroom community to a destination. The EIR statements seem contrary to our city's vision. Our pending developments were planned to create businesses and shops to attract out of town people to visit into Hercules. Is this flawed assumption (of only considering commuting to San Francisco and no reverse commute) going to affect the planning of parking and traffic flows? Already, many people from other cities commute into Hercules for their employment such as Bio-Rad. 14-3

**Page 4-13** Regarding the forecasted number of inbound park-and-ride and outbound park-and-ride, the numbers seem low. Why is the outbound PM more than the AM commuters? Why were these based on the existing travel patterns and not projected for the future more populated Hercules and surrounding cities? Did the study consider that other neighboring city residents possibly as far as Vallejo would use the train and bus services? 14-4

**Page 4-16 Parking Impacts.** The deficit of 39 parking spaces will impact the residents of Bayfront and Promenade. The Planning Commission had designed a draft parking ordinance that includes residential parking permits. I suggest that the parking ordinance be reviewed and approved by Council as part of the mitigation measures for the parking deficit. 14-5

**Page 4-19** The final design provides for bicycle lanes along the future John Muir Parkway extension, however, there are no bicycle lanes along Sycamore Avenue. Is it possible to provide bike lanes at this point in time? Also, I am highly concerned about the sharing of pedestrian and bicycles on one lane due to safety issues. I would like to see a separation of lanes by pavement material or line markings on the pavements.

14-6

**Page 4-24** The statement that *“No existing structures are found in the proposed project area; consequently, there would be no project-specific impacts or adverse disruption to land uses or communities.”*

14-7

Were the community disruption and displacement effects on the nearby Promenade neighborhood considered?

**Page 4-30** The EIR assumes that the socioeconomic benefit is purely increasing transit options and improving transit services for nearby residents and businesses, and that less than 1000 transit riders are expected, thus there is only a “minor effect.”

14-8

What about the benefits of outside cities accessing Hercules for its shops and restaurants? Again, the study assumes that only Hercules commuters will use the transit options to travel outside of Hercules instead of attracting outside commuters to visit Hercules as the DESTINATION that we have envisioned.

**Page 4-117** Regarding the statements: *“The Hercules ITC and HB development, while related and part of the WDMP, are independent projects that are being evaluated under separate environmental review documents. Neither project is dependent upon the other for implementation ....”*

*“Consequently, both projects are being evaluated for the potential impacts perspective to project elements in whole so that if either project does not occur, the other project may proceed.”*

14-9

The statements are contrary to what I had envisioned as a planning commissioner when working on the Waterfront project (ITC and HB developments.) I had always considered both projects to be dependent on each others’ completion for each component’s success. Thus, the statements disturb me since they imply that the ITC could be built without the Transit-oriented mixed-use development we envisioned to feed into the transit center. Without the Bayfront development, we will not achieve the people’s vision of Hercules evolving into a destination. Rather, the waterfront will be a center for pushing people out of Hercules in trains and buses.

**Page 4-131** *“While the UPRR tracks and waterside facilities are at risk due to location and the projected changes in inundation associated with climate change, the UPRR will be subject to such changes well beyond the boundaries of this project. At some point in the future, the railroad will likely need to be elevated. The Hercules ITC will either continue to operate as a transit center or be used in some other capacity.”*

14-10

Letter 14\_Myrna L deVera  
Page 3 of 3

If the UPRR tracks are forecasted to be below the flood levels, why not locate the UPRR tracks above the projected flood elevation as the ITC is elevated, thus avoiding the future exorbitant expenses of relocating the railroad?

↑ 14-10  
cont.

Letter 14 – Myrna de Vera

**Response to Comment 14-1.**

The dates included in the FEIS have been updated. Construction of the project will be dependent upon securing all necessary environmental approvals and funding. Currently, construction is planned to begin in 2012 and continue through 2016. Table 1.5-1 on page 1-15 of the FEIS has been revised as follows:

**Table 1.5-1 Hercules ITC Project Implementation**

<b>Project Phase Description</b>	<b>Start</b>	<b>Complete</b>
Phase 1 –Station & Access Infrastructure	<del>2010</del> <u>2012</u>	<del>2013</del> <u>2016</u>
Phase 2 – Café & Plaza	<del>2012</del> <u>2015</u>	<del>2013</del> <u>2016</u>
Phase 3 – Hercules Point Access	<del>2013</del> <u>2016</u>	<del>2014</del> <u>2017</u>
Phase 4* – Point Park & Open space	<del>2014</del> <u>2018</u>	<del>2015</del> <u>2019</u>
Phase 5* – Ferry Pier & Parking Garage	<del>2017</del> <u>2019</u>	<del>2018</del> <u>2020</u>

\*dependent upon separate environmental clearance and funding availability

**Response to Comment 14-2.**

The schedule in FEIS has been updated as noted in response to comment 14-1. The discussion of the construction schedule in Section 2 page 2-50 has been revised as follows:

Construction of the Hercules ITC would proceed in phases over approximately ~~24 months~~ five (5) years. The initial phase, beginning in 2012, would include construction of retaining walls, the Bay Trail, John Muir Parkway extension, Bayfront Boulevard extension, and upstream portions of Refugio Creek restoration, North Channel, and Bayfront Bridge.

Construction of the rail platform, track relocation, signals, railroad bridge, and downstream portion of Refugio Creek Transit Loop and temporary surface parking lot, and station building is anticipated to begin in ~~2011-2014~~ and require from 24 to 30 months to complete. Construction of the station building, Transit Loop and surface parking lot is anticipated to begin in 2015, with the intention that the train station and bus terminal could be completed and operation commence in 2016~~late 2012 to early 2013 with operation commencing late 2013.~~ No schedule has been established at this time for the construction of the permanent parking structure. Timing of these facilities would depend on funding, economic conditions, and the development phasing of the surrounding the ~~H~~ Bayfront development.

**Response to Comment 14-3.**

It is acknowledged that the City of Hercules plans to increase business development within the City and that other proposed projects in the vicinity of the Hercules ITC would increase the number of jobs within the City. Given the size of the current employment base within the City relative to the employment base of the San Francisco Bay Area, it is assumed that the vast majority of transit riders would leave the City of Hercules in the morning and relatively few would come into the City. The traffic study included the simplified assumption that that there would be no reverse commute.

An additional reason for making this assumption is that transit commuters coming into the City of Hercules in the morning would continue their journey on foot, by bicycle, or via public transit. These

reverse commuters would not increase automobile traffic on the local roads or demand for space at the Hercules Transit Center parking lot/structure and need not be included in any estimate of traffic impacts or adequacy of the parking lot/structure.

**Response to Comment 14-4.**

Comment noted. The transit center rail ridership forecast is based on the Capitol Corridor ridership forecast, information on station access facilities such as feeder bus service, parking availability, as well as local land use within one-half mile of the project that could attract riders by primarily non-motorized means.

Afternoon traffic peaks are commonly higher and more compressed than morning peaks, because people tend to stagger the starting time of their work day and tend to leave work between 5:00 p.m. and 6:00 p.m.

The long-term projections for rail ridership correspond to forecast years of 2020 and 2025 and included growth in the City of Hercules and the surrounding areas. The forecasts do not, however, incorporate any drastic changes in land use patterns within the City or economic activity relative to the current employment centers.

The traffic study considered the “catchment area” for the Hercules Transit Center to include the entire City of Hercules, Pinole, and Rodeo-Crockett. Vallejo was not considered to be within the “catchment area” for the Hercules Transit Center; bus riders from Vallejo would be expected to access the transit system at the Crockett park-and-ride lot.

**Response to Comment 14-5.**

The City can approve a parking ordinance at any time. While the interim lot may have a deficiency of 39 parking spaces, this is anticipated to be temporary until long term parking is provided for through the buildout of the Hercules Bayfront Project. Additionally, the short-term deficiency of 39 parking spaces at the interim surface parking lot for the ITC project will be mitigated by the availability of approximately 60 additional on-street parking spaces along Bayfront Boulevard that are not dedicated to any other purpose and which are outside the Promenade and Bayfront Neighborhoods.

**Response to Comment 14-6.**

The FEIS concludes on page 4-16 that the proposed project would not result in an increased hazard to pedestrians or bicyclists and would not conflict with adopted policies, plans, or programs promoting walking or bicycling due to operation of the project. Based on the traffic analysis conducted for this project, providing additional bicycle lanes outside the project area or adding a separation of lanes is not a warranted mitigation.

**Response to Comment 14-7.**

The comment references impacts addressed under Section 4.2 of the FEIS discussing existing land use, plans and policies including the potential to disrupt or divide an existing community and specifically addresses Community Disruption and Displacement. Currently, the project area is vacant and under private ownership. Additionally, the proposed project is consistent with and planned for in the Hercules General Plan, the Waterfront District Master Plan and the Waterfront Now Initiative. Consequently, as the Project area is unimproved and consistent with existing plans and policies implementation of the Project will not have an adverse effect to existing land use nor divide an existing community.

Figure 2.2-7 in Section 2.0, Alternatives Considered of the FEIS, depicts the boundary for the Hercules ITC project. The statement cited from the FEIS in the comment is accurate. There are no structures located within the project boundary. The Promenade neighborhood was considered as part of the analysis; however it is located outside of this project boundary and will not be directly affected by the Project.

The community, including the Promenade neighborhood, may experience some disruption due to construction activities including increased traffic, noise and permanent visual impacts. Effects to the community resulting associated with traffic, noise and visual changes are addressed in the FEIS in Sections 4.1, 4.4 and 4.5 respectively. Mitigation measures have been incorporated to avoid and minimize adverse effects. Temporary disruption to the community, which includes the Promenade neighborhood, from construction related activities are analyzed in the FEIS in Impact LU-1: Potential of temporary affects or displaced land uses in or near the project sites resulting from construction activities, and Impact LU-2: Potential disruption or displacement of existing land uses or communities. These temporary impacts are not considered substantial.

### **Response to Comment 14-8.**

People from outside the City of Hercules would come into the City to access the intermodal transit center and may frequent local shops and restaurants. Any economic impact would, however, be generally attributable to transit riders who use the Hercules Intermodal Transit Center.

### **Response to Comment 14-9.**

The City's vision to have both the Hercules ITC and the HB project completed is noted. The HB project is currently undergoing its own environmental review and development plans are being processed by the City. The City is the project proponent and sponsor for the Hercules ITC. The applicant and sponsor for the HB development is a private developer. The City cannot require the HB project to be built. Thus, the environmental review for the Hercules ITC and HB projects must proceed independently of each other.

The Draft FEIS notes that both the Hercules ITC and the HB development are related and part of the WDMP. However, while related, the two projects are not dependent upon one another to be developed and constructed. The Hercules ITC has the purpose of providing transit options to the greater community and its utility is independent from the HB development. Similarly, the HB development provides residential and commercial redevelopment, and the project can be implemented without the construction of the Hercules ITC; it does not depend on the construction of the Hercules ITC to be developed.

### **Response to Comment 14-10.**

Changing the elevation of the UPRR to above sea-level rise elevation would necessitate changing the tracks well beyond the boundaries of the project. Such action would need to be initiated and implemented by UPRR, and is beyond the scope of this document. Additionally, the FEIS addresses sea level rise within Section 4.10, Water Resources Environmental Consequences (page 4-134). The project will be constructed at higher elevation than existing conditions to accommodate the grade separation elements of the project and should protect development from inundation to flood and sea level rise.

**From:** Cletia Hart [<mailto:cletiahart@hotmail.com>]  
**Sent:** Monday, November 15, 2010 8:44 AM  
**To:** Lisa Hammon  
**Subject:** Commetns for ITC

Hi Lisa -

Attached are my brief comments regarding the EIR for the ITC. I will see you tonight at the meeting.

Thanks  
Cletia

---

Here are my comments about the EIR for the ITC.

The EIR didn't present any overwhelming concerns for me about the project.

The financing for the project is a concern given that we don't have all the funds in place. I know there are many things in the works to obtain the necessary funds to complete this project once it begins but until all the funds are in place, it is a concern given the dollar amount involved.

15-1

Traffic access to/from the ITC, while not an immediate issue, could be a future issue given the projects planned for the surrounding area. While John Muir Parkway will be extended to the ITC, should the ITC be used by more individuals than currently planned, traffic could be an issue given the limited access to that area and the overall limited access in Hercules. Parking has been adequately addressed in the project plan with the future garage being built.

15-2

While the project plan is for an anticipated 1000 individuals a day using the ITC, hopefully more individuals will utilize the transportation offered in order to lessen traffic on I80.

I did have questions regarding the issue raised in the EIR about the rise of the sea levels over the years. In talking with Jesse Harder about this, he told me about the plans to raise the platform and the tracks at the ITC as well as the retaining walls to address potential sea level increases. The concern over the tracks along the Bay would be the responsibility of the Union Pacific. The project plan is addressing the issue for the future and the life of the buildings.

In the EIR, it stated there will be about 600 jobs created during the life of the project. Will the contractors be hiring local individuals when possible?

15-3

Overall, I feel confident about the success of getting this project started and finished as a first step in completing the Master Plan for projects planned in the Waterfront area of Hercules. It is exciting to see this finally happening after so many years of planning and waiting for the ITC and subsequent projects.

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**Letter 15 – Cletia Hart**

**Response to Comment Letter 15-1.**

Comment noted. The City of Hercules has secured numerous grants and identified other funding for the Hercules Intermodal Transit Center project. The proposed project will be fully-funded through a mix of federal, State, regional and local sources. Currently, the project has secured federal funding through High Priority Project earmarks and two STIP-TE grants. Future federal sources include additional appropriation requests, TIGER II and TIGER III grant requests and FRA Rail and Realignment and Improvement funds. Federal funding for environmental analysis for the Transit Loop, as well as construction of Transit Loop Drive and Bridge and the bus shelter/colonnade (approximately \$10.3 M); State funding has been secured through the State Traffic Congestion Relief Fund, and the STIP - Regional Improvement Program (\$8 M), which include funds for the for preconstruction, construction of the rail station, Bayfront Bridge, and Bay Trail.

Regional funding sources will include Contra Costa County Measure J funds, West County Transportation Mitigation Program funds and East Bay Regional Park District Measure WW funds. Regional funds would be applied to the rail station and the Bay Trail (\$9 M). City staff will continue to submit grant applications at all levels.

**Response to Comment Letter 15-2.**

Comment noted. The Traffic Impact Analysis projected growth in roadway traffic to the year 2035. Actual conditions may be higher or lower depending upon development in the City of Hercules and the San Francisco Bay Area.

**Response to Comment Letter 15-3.**

The extent to which local individuals are hired for construction will depend on the qualified firms and their staffing base.

To: Lisa Hammon, Asst City Manager  
 From: Sherry McCoy  
 Subject: Questions and Comments for Draft EIR/EIS for the Hercules Intermodal Transit Center

Given below are my questions and comments for the Draft EIR/EIS for the Hercules Intermodal Transit Center.

Please contact me if you have any questions.

**Comments/Questions:**

Pg ES-1, paragraph 2 – “.....expected to reduce congestion on the nearby Interstate 680.....”  
 Should this be 80? 16-1

Pg 2-5 – There will be 3 EIRs (/EIS) for the five phases of the Hercules ITC project plus an EIR for the Hercules Bayfront Project, 4 EIRs altogether - correct? 16-2

Pg 2-9, paragraph 2 – Why, initially, are there 2 northbound lanes and only 1 southbound lane? 16-3

Pg 2-25, last paragraph – What is the plan for use of the energy from the solar panels? 16-4

Pg 2-33, paragraph 5 – Is the pedestrian trail shown in any of the Figures? 16-5

Pg 2-53 and Pg 2-56 – On pg 2-53, it says construction of the Hercules ITC is anticipated to take 24 months. On pg 2-56, it says that the project with Track Option A will take 30 months, but IF Track Option B is implemented, this would be reduced by 6 – 9 month or 21-24 months for the project. Does the information on pg 2-53 assume that Track Option B will be implemented? 16-6

Pg 2-57, Creekside Trail – “The trail width will vary from 8-20 feet.....” Is this wide enough to easily accommodate pedestrians and bikers at peak commute times? (Pg 2-41 says the Creekside Trail will be approximately 10ft wide.) 16-7

Pg 3-111 – “.....but trains would be expected to sound their horns as they approach the station, particularly through trains such as freight” - How many trains, including freight trains, are anticipated to go through the station, and how many of those would be between 11PM and 6AM? 16-8

Pg 4-2, bottom of pg, first two bullet points – shouldn't the first be complete and the second, under construction. 16-9

There are two TABLE 4.1-4 16-10

Comparison of Table 3.1-2 (Existing), Table 4.1-2 (Future Baseline) and Table 4.1-4 (Project Scenario – pg 4-14)

- Why does the Intersection 3, morning peak V/C ratio go down (Existing to Future Baseline/Project Scenario)? 16-11

- At a LOS of F, Intersection 10 is beyond the policy of the General Plan – not in Existing but Future Baseline and Project Scenario – a concern for any project. 16-12

- Given the LOS of E at San Pablo and Sycamore, has traffic movement to other streets been incorporated in the analysis (ie Railroad to Hercules Ave, etc)? 16-13

Letter 16\_Sherry McCoy  
Page 2 of 2

- Why does the V/C ratio increase at Appian only in the AM?	16-14
- According to Automobile Trip Assignment (pg 4-8), there are approximate twice evening peak hour trips compared to morning peak hour trips, yet the impact to Intersection 5 is less. Is this accurate?	16-15
Table 4.1-4 (Pg 4-8) – State Route 4 instead of 84.	16-16
Pg 4-15 – WestCAT would operate local and express bus service at the Hercules ITC.	
- Would this include LYNX service?	16-17
- Given the location of the Hercules Transit Center, the buses going to the ITC would go through the Sycamore/Willow, Sycamore/San Pablo and San Pablo/John Muir Pkwy intersections. Was this factored in the numbers in Table 4.1-4 (pg 4-14) and is WestCat committed to this?	16-18
Table 4.1-5 – Are the numbers under the column labeled “Delay” time? (Centering is off on LOS columns for Intersection 8).	16-19
Are the LOS values in Table 4.1-5 and -6 based on different factors from the ones in Table 4.1-4 (pg 4-14)?	16-20
Pg 4-48/49 – There needs to be a balance between light/glare and safety for commuters and residents (at ITC non-use hours). Will lights in the station be set at one level or will it change with train movement through the station?	16-21
Pg 4-131, fourth paragraph – Is there an estimated time-frame for the elevation of the railroad? What scenario would cause the ITC to stop operating as a transit center?	16-22
<b>General Comment:</b>	
In most of the analyses, the afternoon numbers are higher than the morning numbers (peak hour ridership, peak hour trips, etc) – what is the rationale for this (one would think they would be about the same)?	16-23
<b>Editorial Comments:</b>	
Pg 1-9, paragraph 3, line 3 – There should be a period between “....Waterfront Area)The WDMP....”	16-24
Pg 1-9, paragraph 4, line 2 and line 4; and pg 1-10, paragraph 1, line 1 – It appears that WDMP should be WMP (Initiative).	
Pg 2-2, paragraph 3 – extra period (line 4)	
Pg 2-15, paragraph 1, sentence 1 – undertaken (instead of undertake)	
Pg 3-52, ¾ down the pg – “Objective 13.....” Is the spacing/font size on this correct?	
Pg 3-56 – missing a ) at the end of the sentence.	

**Letter 16 – Sherry McCoy**

**Response to Comment 16-1.**

The following edit has been made to the last paragraph on the first page of the FEIS Executive Summary:

Providing access to public transit is also expected to reduce congestion on the nearby Interstate 680, as well as local arterials.

**Response to Comment 16-2.**

Pages 2-5 and 2-6 of the FEIS list the five phases of the project. The current Hercules ITC FEIS evaluates phases 1 through 3. Phases 4 and 5 would be evaluated under a separate environmental document for the future WETA ferry service to Hercules pursuant to CEQA and/or NEPA requirements. The HB Development project has completed a separate environmental review under CEQA and was certified by the City of Hercules on October 11, 2011. See page 1-10 of the FEIS.

**Response to Comment 16-3.**

The second northbound lane is to expedite bus left turns onto Bayfront Boulevard.

**Response to Comment 16-4.**

The energy generated from the proposed solar panels would be used by the Station Building and site lighting.

**Response to Comment 16-5.**

This pedestrian trail was not included in any of the figures; however, as noted by the comment, this pedestrian trail would follow the edge the North Channel Restoration Area at the top of slope.

**Response to Comment 16-6.**

To clarify, the project, with Track Option A, is anticipated to require approximately 30 months for the construction of the railroad station improvements. With the inclusion of Track Option B, the temporary shoofly track will not be necessary and the construction duration is likely to be shortened by approximately 6 months. Therefore, with Track Option B, the construction of the track improvements, including rail, platform, and UPRR bridge is expected to require approximately 24 months. The information on page 2-53 of the FEIS is based on implementation of Track Option B.

Since publication of the DEIR/DEIS, a preferred alternative has been selected. The preferred alternative is Alternative 1 with Track Option B. Section 5 of the FEIS discusses the selection of the preferred alternative. Construction of the station is anticipated to require approximately 24 months to complete. Initial site preparation is expected to begin in 2012 with substantial work on the retaining walls and track work beginning in 2013. Construction would be largely completed by 2015 with operation anticipated to begin in 2016.

**Response to Comment 16-7.**

The Creekside Trail is designed to accommodate pedestrians and bicycles. The average width of the Creekside trail is 10-feet. The trail width varies from 8-ft. to 20-ft. through Creekside Park to facilitate adjacent uses. The Creekside trail is a Class I bikeway per Caltrans design standards with a minimum paved width of 8-ft. (2.4 meters).

**Response to Comment 16-8.**

The noise monitoring survey indicated that between 45 and 50 trains travel along the Union Pacific Railroad line that runs along the shoreline of San Pablo Bay during a normal, 24-hour period. Freight traffic could be expected to be similar after project construction is complete. The Capitol Corridor operates approximately 32 trains in both directions (16 each way). While beginning and ending times for the termini are 4:30 a.m. and 11:30 p.m., trains generally pass through the Hercules area slightly later in the morning and earlier at night. It is unknown how many freight trains UPRR will operate at night between 11:00 p.m. and 6:00 a.m. as schedules will be determined by UPRR according to the needs of its business operations.

**Response to Comment 16-9.**

Comment noted. The bullet points on page 4-2 of the FEIS has been revised as follows:

- Commercial building: 9,850 sf of commercial uses at Willow Avenue/I-80 (~~under construction~~ complete & majority of space occupied).
- Sycamore Downtown: 96 units over 40,000 sf of retail commercial space on Sycamore Avenue between Front and Tsushima Street (~~approved-under construction~~).

**Response to Comment 16-10.**

The following table titles in the FEIS have been changed:

Table 4.1-4-4.1-5 Project Scenario Level of Service Summary

Table 4.1-5-4.1-6 LOS Comparison Summary – A.M. Peak

Table 4.1-6-4.1-7 LOS Comparison Summary – P.M. Peak

**Response to Comment 16-11.**

The Existing Conditions for the intersection of San Pablo Avenue and Willow Avenue (Intersection #3) shows a morning volume/capacity (V/C) ratio of 0.244 and the Future Baseline condition indicates a V/C ratio of 0.218. Appendix B of the Hercules Intermodal Transit Center Traffic Impact Analysis (in Appendix J of the FEIS) shows a 2006 base volume at the intersection of 103 vehicles (Existing AM), increasing to 132 vehicles in 2010 (Future Background Volume). The V/C ratio at the intersection improves, despite an increase in traffic volume, because the traffic signal is optimized and the light cycle shortened.

**Response to Comment 16-12.**

The cumulative ratio with and without project will improve to LOS B at morning peak and LOS C at evening peak.

**Response to Comment 16-13.**

Traffic modeling considers the current or existing conditions, estimates the volumes and conditions when project construction is complete, and applies a growth rate to estimate conditions at some future date. Traffic models are generally not iterative and do not consider drivers moving to other streets in response to congestion.

**Response to Comment 16-14.**

Comment noted. The Traffic Impact Analysis assumes that transit riders travel to the Hercules ITC during the morning commute and away from the Hercules ITC in the afternoon. Morning traffic at San Pablo

## Chapter 6

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Avenue and Appian Way would have only a slight adverse effect on intersection performance (.680 to .683), and the intersection performance in the afternoon traffic would be the same with or without the project.

### Response to Comment 16-15.

The FEIS accurately states that the Hercules ITC project would generate an estimated 40 morning peak hour trips and 71 evening peak hour trips (page 4-8) and that the proposed project would remove vehicles from the roadway network to reflect a shift from auto travel to transit. This would result in fewer regional trips on I-80 but more trips on the local network as drivers travel to the Hercules ITC. By way of comparison, peak hour traffic volume on I-80 is approximately 12,200 vehicles per hour (FEIS page 3-6), and the direct project-related impact is not expected to be substantial either for the morning or afternoon peak.

### Response to Comment 16-16.

The following entry in Table 4.1-4 of the FEIS has been changed.

Origin/Destination	Percent Distribution to/from Hercules ITC (Parcel K) garage
State Route 84 (eastbound)	5%

### Response to Comment 16-17.

The City continues to coordinate with WestCAT regarding bus service to the Hercules ITC, including LYNX Transbay service. At the time of preparation of the FEIS and based on existing operating budget, WestCAT estimates approximately 35 JPX buses per day based on 15-minute peak frequency and hourly off-peak frequency for weekday service only. Currently, additional bus service, including LYNX, has not been defined or formally established with WestCAT.

### Response to Comment 16-18.

When the Traffic Impact Study (Appendix J of the FEIS) was prepared, the number of travelers connecting from the Hercules ITC to the Hercules Transit center was not known and future traffic analysis did not include any additional bus traffic at the intersections mentioned. This effect is not expected to be substantial due to the limited number of commuters who would take transit to access the Hercules ITC. As shown on Table 4.1-3 (page 4-7) of the FEIS, an estimated 6 transit riders would board the train in the morning peak hour and 7 would connect to transit from the train in the afternoon.

### Response to Comment 16-19.

The column refers to "Delay" in minutes.

### Response to Comment 16-20.

The LOS values in the FEIS assess project impact on the operation of the intersections and provides an estimate of whether the project decreases intersection performance. The LOS values in Tables 4.1-5 (page 4-14) and 4.1-2 (page 4-6) assess the delay at the intersections with and without the project, respectively.

### Response to Comment 16-21.

The general operation of the Hercules ITC would include manual switch control, automatic time-scheduled shut off, and after-hour override capability. The project will also be subject to a Final Lighting Plan to be reviewed and approved by the City Planning Commission. See FEIS page 4-48.

**Response to Comment 16-22.**

The forecast sea level rise is for 20-55 inches by the end of the century. Elevation of the track would require a regional track elevation program and would be implemented by UPRR. There is no forecast as to when this would happen. Traffic modeling for the Hercules ITC is forecasted to 2035. It is anticipated that the Hercules ITC would continue to operate well beyond this point. Passenger facilities (Station Building, Platform, Trail and Roadways) with the Hercules ITC are located above projected flood elevation and sea level rise. It would be purely speculative to forecast as to when the Hercules ITC would stop operating; NEPA does not require such speculation.

**Response to Comment 16-23.**

Afternoon traffic peaks are commonly higher and more compressed than morning peaks because people tend to stagger the starting time of their work day, but tend to leave work between 5:00 p.m. and 6:00 p.m.

**Response to Comment 16-24.**

The following are changes to the FEIS text.

Page 1-9, paragraph 3 first sentence:

Pursuant to General Plan Programs 8A.2 and 8A.3, on July 25, 2000, the City Council approved the Waterfront Development Master Plan (WDMP) for 167-acres of property, including the proposed Hercules ITC site (generally known as the Waterfront Area).

Page 1-9, paragraph 4 first sentence:

On July 22, 2008, the Hercules City Council adopted the Waterfront ~~Now~~ Master Plan Initiative (WMP Initiative).

Page 2-5, paragraph 3 first sentence:

In keeping with “new urbanist” principles of creating a safe, walkable community, pedestrian and bicycle use would be promoted by orienting streets, wide sidewalks, and dedicated trails to enhance safety and separating cyclists and pedestrians from vehicular traffic. Vehicular access would be limited to public streets.

Page 2-19, paragraph 3 first sentence:

Track Option B emerged from a value engineering (VE) study, undertaken by the City of Hercules to identify improvements to the Hercules ITC project.

Page 3-50, paragraph 13

~~**Objective 13: Attain compatible land uses within existing and planned development areas.**~~  
~~**Circulation Element**~~

## Chapter 6

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Objective 13: Attain compatible land uses within existing and planned development areas.

### *Circulation Element*

Page 3-54, paragraph 2 last sentence:

... Corporation, a corporate research and development facility, as well as the North Shore Business Park (office, research, and light industrial). ...

Letter 17\_Mike Bowermaster  
Page 1 of 4

Comments from Mike Bowermaster.

**From:** Mike Bowermaster [mailto:mkbower@yahoo.com]  
**Sent:** Monday, November 15, 2010 4:34 PM  
**To:** Lisa Hammon  
**Subject:** ITC Draft EIR - Comments - JPGs

*Dear Lisa, the follow are my comments, and 2 jpeg images are attached:*

While I am critical of mainly the lack of dedicated bike lanes and the lack of traffic calming on Promenade Street, it is important to underline the big-picture view of the ITC project. The ITC project is a great transit-oriented, smart-growth, pedestrian friendly, mixed-use project that will be a shining example of unique urban planning. It holds the potential to be a great example of progressive and smart urban planning for not only the Bay Area, but also the state and the broader nation as a whole.

1) Completion of the East Bay Regional Parks District trail (Bay Trail) that will link all the way from Pinole to Rodeo is a big recreational as well as commute benefit for the area (V1 Section 2 part 2; Bay Trail and Waterfront Promenade). 17-1

2) Bike lanes are needed along John Muir Parkway and Sycamore Avenue. The project has proposed bicycles on the sidewalk for the "Creekside Trail" (V2 Appendix E Traffic Impact Analysis; 2.4 Bicycle Network and Pedestrian Facilities). Biking on the sidewalk is bad (regardless of the sidewalk width), unless a dedicated bike lane is painted on the ground separating the sidewalk from pedestrians & bikes. Dedicated bike lanes should be apart of all roads in the project, including Bayfront Bridge. Hercules currently is very bike unfriendly because of a lack of bike lanes. Other than the bay trail the project isn't advancing the poor bike situation in town. (V2 Appendix E Traffic Impact Analysis; 5.4 Vehicle Site Access and Circulation; "For pedestrians and bicyclist, the project would include crosswalks and sidewalks [but no dedicated bikelanes - MIKE]." 5.7 Pedestrian and Bicycle Facilities; "West of San Pablo Avenue, bicyclists would share Sycamore Avenue [no dedicated bikelanes - MIKE] with motor vehicles to access the intermodal transit center.") 17-2

3) All of HDR's "Transit Connectivity" slides the last 18 months have shown the alternate route to the station in an inaccurate location (see attached image #1, yellow arrow). The primary route to the station is on John Muir Parkway. The second most likely route will be on Promenade Street to Sycamore Ave (see attached image #2, purple arrow). Taraya Terrace will not be as likely because of the extra dog-leg intersection at Sanderling as well as the blind corner @ Sycamore. If Promenade is the path of least resistance, and therefore the second busiest route, traffic calming measures must be taken to slow cars down on Promenade Street. As the street is currently designed, it is easy to speed by hugging the side of the street where there is no parallel parking. I commented on this topic vocally at the Public Scoping Meeting (12/08/2009), in written form for the Scoping portion of the EIR (see email below dated 12/23/2009), vocally at the Planning Commission meeting that focused on the Draft EIR (10/18/2010), and the City published the comments in the Draft EIR under V1 Section 7; Traffic. To date the City has not acknowledged that Promenade Street joins John Muir Parkway as the two main vehicular routes to the ITC, or the significant traffic impacts the project will place on Promenade Street. 17-3

4) Lynx Bus should have a stop as apart of this multi-modal station, like it currently does in Victoria by the Bay. This is especially important for San Francisco commuters at least until ferry service arrives (V1 Section 3; 3.1.3; Transit Service; "Currently, WestCAT does not provide service to the waterfront area where the proposed intermodal transit center would be located.") 17-4

5) BioRad imagery/history/artwork should be used as apart of the largest portion of the retaining wall (V1 Section 2 part 1; Union Pacific Railroad Track Relocation and Railroad Bridge Replacement), which is between BioRad and the baytrail. 17-5

6) The City should continue to be aggressive about really pushing to get ferry service as a part of the project (V1 Section 1; 1.3.1; Water Transit Services). From my experience the last few years on the Promenade HOA Board of Directors, there is a big demand for ferries to San Francisco from the numerous communities living in walking distance to the ITC.

17-6

7) Speaking of Promenade, I find the use of the word "Promenade" in reference to a portion of the new baytrail (V1 Section 2 part 2; Bay Trail and Waterfront Promenade) confusing with the Promenade neighborhood nearby. Is this an attempt to give meaning to the Promenade neighborhood's name after the fact? [Hercules has a history of having redundant and confusing names: Sycamore Ave, Sycamore North, Sycamore Downtown, Sycamore Crossing, etc]

17-7

From: Mike Bowermaster [mailto:mkbower@yahoo.com]  
Sent: Wednesday, December 23, 2009 12:55 PM  
To: Lisa Hammon  
Subject: Station EIR & Plaza Comments (Scoping)

Good afternoon Lisa,

I would like to clarify points I've made verbally at the meetings here in writing.

**Bayfront EIR:**

*Large scale in relation to other projects in Hercules:* The downtown on Bayfront Blvd is becoming more residential and office, and less other uses. The New Town Center (NTC) project nearby may be taking away the economic viability of making the Bayfront Blvd downtown truly mixed-use. I encourage the two projects (NTC & Anderson Pacific's downtown) to be studied to prevent NTC from cannibalizing on the retail, restaurants, etc on Bayfront Blvd.

**Train Station EIR:**

*Traffic:* All powerpoint presentations from the station team erroneously present alternative routes to John Muir Exp as going Sycamore to RR ave to Bayfront blvd. The most likely alternative is not this *indirect* route. The most direct route is Sycamore to Promenade Street straight up to the station. Taraya at Sycamore is a difficult intersection and Taraya also has the "dog leg" curve at Sanderling. If John Muir Exp is backed up, cars will travel first on Promenade St, not Taraya or RR. Traffic calming measures will need to be implemented to slow cars along the length of Promenade. Traffic calming (such as larger sidewalk bulb-outs) need to be implemented to *dissuade* cars from leaving (number 1) the bus loop and from then entering (number 2) at Bayfront & Promenade.

17-8

**Transit Plaza & Building G Comments:**

1) From opening day there needs to be metal poles or barriers of some sort to prevent cars from doing "donuts" in the plaza. These barriers should be *removable* to allow firetrucks in or to allow farmers market vehicles in at

17-9

Letter 17\_Mike Bowermaster  
Page 3 of 4

appropriate times. I like the idea of farmers' trucks next to vender stalls up on the plaza to help encourage farmers markets in the plaza. Farmers markets are my personal favorite use of the square.

17-9  
Cont'd

2) Bldg G's relationship with the plaza is unengaged. The plaza is not embracing this building and is turning its back to it. Anderson Pacific needs to be pressed and commit to the design of the plaza side of bldg G, so the plaza can reflect its design. The two go hand-in-hand. The plaza space next to G is a great opportunity for restaurant tables and seating from G to fill the square.

17-10

3) Plaza is uninspired and bland. Where are the guiding landscape renderings showing the intent of the plaza design? These rendering should be freehand, loose, and very conceptual. I'm not convinced we know the point and purpose for this plaza because the design is so vague. What is historic about the current design?

17-11

4) The whole intermodal transit station team needs a historical consultant who is actively researching the history of the site and incorporating that into the design. More specifically, the design of the cafe, plaza, and building G needs to created in a fashion tied to the history of the area.

17-12

5) What is being done to prevent the plaza from becoming a haven for skateboarders?

17-13

6) Where is the police substation?

17-14

7) Will there be video surveillance cameras with complete coverage of the plaza, station, and cafe recording at all times? This would be very effective at preventing crime.

17-15

Thank you for your time,  
Mike



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**Letter 17 – Mike Bowermaster**

**Response to Comment 17-1.**

Comment noted. This comment does not raise issues related to the substance of the FEIS and/or environmental analysis and no response is required.

**Response to Comment 17-2.**

The FEIS concludes on page 4-16 that the proposed project would not result in an increased hazard to pedestrians or bicyclists and would not conflict with adopted policies, plans, or programs promoting walking or bicycling due to operation of the project. Based on the traffic analysis conducted for this project, providing additional bicycle lanes outside the project area or adding a separation of lanes is not a warranted mitigation as no substantial adverse environmental impact would occur.

**Response to Comment 17-3.**

While commuters could use Promenade Street to access the Hercules ITC, the City will also install directional signage to designate John Muir Parkway as the primary access route to the Hercules ITC to minimize potential diversionary use of Promenade Street by commuters. If congestion becomes an issue after the Hercules ITC begins operation, the City can consider adding traffic calming measures to the street, if necessary. No substantial adverse environmental impact will result.

**Response to Comment 17-4.**

The City is coordinating with WestCAT regarding potential bus service to the Hercules ITC and will review the potential for a LYNX Transbay service to originate at the Hercules ITC.

**Response to Comment 17-5.**

The City is evaluating art work available for the retaining wall.

**Response to Comment 17-6.**

WETA is responsible for the implementation schedule of the proposed ferry project. The City will continue coordination with WETA on the ferry project.

**Response to Comment 17-7.**

The Promenade refers to pedestrian accessible portions of the Transit Loop and the retaining wall that will provide public views of the San Pablo Bay.

*The Comments below were submitted during the Scoping Period and were considered during the preparation of the Draft EIR/EIS. However, as the email was attached to the comments on the Draft EIR/EIS, the City and FTA have provided the following responses.*

**Response to Comment 17-8.**

See response 17-3

**Response to Comment 17-9.**

Comment noted. The City will consider including access restriction such as removable metal poles to prevent illegal vehicle access while allowing for public safety or emergency vehicle as well as potential farmers' market trucks to access the Plaza.

### **Response to Comment 17-10.**

The commenter addresses an issue outside of the scope of the Hercules ITC FEIS. Development of Lot G is proposed as part of the HB Development and undergoing a separate environmental review. However, the City will continue to work with the developer and the community to ensure that the development continues a consistent vision with the Waterfront.

### **Response to Comment 17-11.**

Since the comment was received during the scoping period, the City has held numerous public workshops to incorporate community input into the plans and design of the Hercules ITC, which has been revised to incorporate historic elements into the nature of the structures. The conceptual drawings included in the FEIS reflect this coordination with the public.

### **Response to Comment 17-12.**

See response 17-11. The City has not included a historical consultant. However, through the public workshops on the design of the Hercules ITC, numerous historic photographs of the area were reviewed to enhance the design and include contextual references. FEIS Figure 2.2-8 reflects the culmination of the public workshops including the smoke stacks of the Café/Transit Annex and the Plaza. However, as addressed in response 17-10, Lot G is not included in the development of the Hercules ITC and is outside the scope of this document.

### **Response to Comment 17-13.**

The use of the Plaza by skateboarders is not likely to result in a substantial environmental impact. However, in the interest of public safety, the City may restrict skateboarding in the plaza if such activity presents a nuisance or threat to public safety.

### **Response to Comment 17-14.**

Alternative 2 includes a small retail complex that would include space for a security office or police substation. Alternative 1 includes a smaller structure and does not include space for a security or police substation. As discussed on page 4-157 of the FEIS, implementation of the project is not expected to result in a substantial increased demand on police protection services.

### **Response to Comment 17-15.**

Comment noted. The City may consider installing a surveillance system to increase security for the Hercules ITC and the Plaza. This comment does not raise or relate to an environment impact so no additional response is provided in this document.

Lisa Hammon, Assistant City Manager  
City of Hercules  
111 Civic Drive  
Hercules, CA 94547

Hercules City Council

Steve Kirby  
104 Whaler Circle  
Hercules, CA 94547  
799 - 9472

October 11<sup>th</sup>, 2010

Hello Lisa,

I just started reading the DEIR last week. In addition to my interest as a Hercules resident and an initial follower of this project, I will be reading for and reporting to the Sierra Club, as its Hercules Project Coordinator for the West Contra Costa County Executive Committee.

Over the years I have kept our ExCom / Club apprised of this project and we anticipate no serious concerns or objections.

My personal concern is based upon the length and depth of this particular report. I will be hard pressed to read, digest, and perhaps write any comments before the deadline at the end of this month. My assumption is that there are other individuals and / or groups who share this same concern. In addition, with the Public Meeting scheduled for the 18<sup>th</sup>, there are then only two weeks before the close of the comment period. My next meeting with the WCCCEXCom will not be until the 27<sup>th</sup>, which will allow only 5 days for comments prior to the deadline.

This is a very significant project and the DEIR should be as thorough as possible. Especially in light of the recent need for an interim City Manager, I am requesting that the City Council consider authorizing an extension to this 45-day public review period for the purpose of ensuring maximum and adequate public participation on such a complex and important project.

18-1

Sincerely,



Steve

**Letter 18 – The Sierra Club**

**Response to Comment 18-1.**

The original comment deadline of November 1, 2010 was extended by 14 days to November 15, 2010.

Comment Received During Draft EIR/EIS Public Hearing October 18, 2010 7:00 PM

**PLANNING COMMISSION**

CITY OF HERCULES  
Council Chambers, City Hall  
111 Civic Drive Hercules, CA 94547  
**October 18, 2010**  
**7:00 p.m.**

**Commission Officers**

Chair Sherry McCoy  
Vice-Chair Myrna L. DeVera

**Commission Members**

Jose Bibal  
Cletia Hart  
Richard Mitchell

Comments by Mike Bowermaster, video transcript 1:17:18  
[http://hercules.granicus.com/MediaPlayer.php?view\\_id=5&clip\\_id=342](http://hercules.granicus.com/MediaPlayer.php?view_id=5&clip_id=342)

Hi my name is Mike Bowermaster. I live on Promenade Street, and could we actually Robert pull up David's slide that's right before the plaza plan that's about transit connectivity.

I also want to say that I'm here in support, especially of the Bay Trails, the big recreation benefit linking from Rodeo all the way to Pinole. I think that's great.

19-1

I also wanted to comment on bike lanes. It would be great to have bike lanes in the project along Sycamore Ave and John Muir Parkway. Riding on the sidewalks is not good. I think I spoke about this previously, and the comment was that the Bay Trail essentially extends along John Muir Parkway on the sidewalk, and that's while it works down on the Bay Trail it doesn't work where the sidewalks are long John Muir Parkway.

19-2

Can you go to the slide right before that? And, can you bring up the arrows that go along with the slide? As we see here, the yellow arrow on the left shows an alternative by means of circulation, and honestly I think people would probably take Promenade Street from Sycamore Avenue to Bayfront Boulevard. And with that, I think it would be very important to not only study but definitely implement a traffic calming along Promenade Street between Bayfront Boulevard and Sycamore Avenue. Because there's definitely going to be a lot more cars moving along Promenade Street, as that's kind of big link there from Sycamore Avenue to Bayfront Boulevard—or to a—John Muir Parkway.

19-3

Also it would be great if the Lynx bus—I'm not sure if this is part of the EIR, but it would be great if the Lynx bus could have a stop at the train station, especially for the San Francisco commuters until ferry service arrives in Hercules. And I really think that the city should be very aggressive in really pushing for getting the ferry on board as soon as we can. And what else do we have—I think that's it. Thank you.

19-4  
19-5

**Verbal Comment 19 – Mike Bowermaster (City of Hercules resident)**

One commenter was present at the Public Hearing for the Draft EIR/EIS, held on October 18, 2010.

**Response to Comment 19-1.**

Comment noted.

**Response to Comment 19-2.**

Bikes lanes are proposed for John Muir Parkway and will connect to the Creekside Trail and to the Bay Trail to provide bicycle commuter opportunities through the project area.

**Response to Comment 19-3.**

While commuters could use Promenade Street to access the Hercules ITC, the City will also install directional signage to designate John Muir Parkway as the primary access route to the Hercules ITC to minimize potential diversionary use of Promenade Street by commuters. If congestion becomes an issue after the Hercules ITC begins operation, the City can consider adding traffic calming measures to the street, if necessary. No substantial adverse environmental impact will result.

**Response to Comment 19-4.**

The City continues to coordinate with WestCAT regarding bus service to the Hercules ITC, including LYNX Transbay service. At the time of preparation of the FEIS, the City estimated approximately 35 JPX buses per day based on 15-minute peak frequency and hourly off-peak frequency for weekday service only. Currently, bus service, including LYNX, has not been defined or formally established with WestCAT.

**Response to Comment 19-5.**

The City of Hercules does not control the schedule or funding of the WETA Hercules Ferry project. The City will continue to coordinate with WETA and facilitate the progress and eventual implementation of having ferry service at the City of Hercules

## 6.4 Required Permits and Approvals

The following Table 6.4-1 provides a list of permits and approvals and agencies with jurisdiction or approval authority.

**Table 6.4-1 Agency Approvals or Permits Required**

Agency	Permit/Review/Approval
<b>Federal</b>	
United States Army Corps of Engineers	Clean Water Act, Section 404 Permit for filling or dredging waters of the United States
United States Fish and Wildlife Service	Federal Endangered Species Act, Section 7 Consultation for Threatened and Endangered Species
National Marine Fisheries Service	Federal Endangered Species Act, Section 7 Consultation for Threatened and Endangered Species
United States Environmental Protection Agency	Interagency consultation for conformity and air quality planning in the project area
<b>State</b>	
California Department of Fish and Game	Section 1600 Agreement for Streambed Alteration State Endangered Species Act, Consultation for Threatened and Endangered Species
State Historic Preservation Office	Consultation for concurrence on a finding of "no historic properties affected."
California State Lands Commission	Letter of Non-Objection
San Francisco Bay Conservation and Development Commission	Design Review, Major Permit Application
San Francisco Bay Regional Water Quality Control Board	Clean Water Act, Section 401 Water Quality Certification Clean Water Act, Section 402, National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permit
California Public Utilities Commission	Consultation for authority to construct pursuant to the Public Utility Code, Sections 1201-1205 an at-grade crossing of a railroad track or an overpass or underpass of a railroad track.
California Department of Toxic Substances Control	Coordination regarding excavation of areas under deed restriction
<b>Local</b>	
City of Hercules	Design Review, Utility, Use, and Encroachment Permits
City of Rodeo	Coordination and Design Review, Utility, Use, and Encroachment Permits
City of Pinole	Coordination and Design Review, Utility, Use, and Encroachment Permits
Contra Costa County	Coordination on project planning, consistency with local plans, and efforts to ensure there are minimal impacts to residents and business owners
East Bay Municipal Utility District	Coordination on water service
Contra Costa County Flood Control	Flood Control Permit
Bay Area Air Quality Management District	Conformity Determination, Consultation for an Authority to Construct and Permit to Operate.
Capitol Corridor Joint Powers Authority	Coordination for consistency with Train Station Policy

Agency	Permit/Review/Approval
Union Pacific Railroad Company	Consultation prior to receiving authority to construct by the California Public Utilities Commission for a construction and maintenance agreement. Transfer of title.
East Bay Regional Parks	Coordination on project planning, Memorandum of Agreement

The FTA and the City coordinated extensively with the resource agencies in preparation of the Draft and Final EIS. A pre-application meeting was held with the regulatory agencies at the USACE office in San Francisco on November 18, 2009, which included representatives from FTA, the City, USACE, USEPA, SFRWQCB, and USFWS. Site visits were conducted with the USFWS on April 27, 2010, with the USACE on November 16, 2010, with the SFRWQCB on December 7, 2010 and with the CDFG and NMFS on April 4, 2011. Results of this coordination have been included in the FEIS.

A delineation of waters of the United States was submitted to the USACE and a verification visit was conducted on November 16, 2010. Revisions to the delineation requested during the verification site visit were completed and the revised delineation submitted to the USACE on March 7 2011 to the. The USACE issued the verified wetland delineation and jurisdictional determination (JD) on July 6, 2011. All impacts presented in the FEIS are based on the verified delineation data. Upon completion of NEPA and the release of the ROD, the City will coordinate with the USACE to secure necessary permits with the USACE as required under Section 404 of the CWA.

Consultations with USFWS and NMFS in accordance with Section 7 of the Endangered Species Act had continued from the release of the Draft EIR/EIS. USFWS staff visited the site in April 2010 and provided comments recommending the initiation of formal consultation in July 2010. Biological Assessments were prepared and submitted to the USFWS and the NMFS in February 2011, with the requests to initiate formal consultation. The USFWS requested additional clarifications in the fall of 2011 and issued the Biological Opinion on December 30, 2011. The NMFS conducted a visit to the site on March 22, 2011. Coordination with NMFS continued through 2011 and additional information was provided to NMFS on July 26, October 31, 2011 and January 26, 2012. NMFS issued the Letter of Concurrence for Endangered Species Act compliance as well as Essential Fish Habitat provisions of the Magnuson Stevens Fishery Conservation and Management Act on January 30, 2012. While FTA and the City will continue regular coordination with the USFWS and NMFS, the Biological Opinion and Letter of Concurrence conclude the necessary consultations with the USFWS and NMFS as required under Section 7 of the Endangered Species Act. The BO and LOC are included in Appendix E.

Additionally, FTA and the City have been coordinating with CDFG staff to ensure conformance of the project with the California Endangered Species Act (CESA). CDFG staff participated in the review and drafting of the biological opinion and consensus provided in an email on October 26, 2011.

FTA has been participating in ongoing consultation with the California SHPO in accordance with Section 106 of the National Historic Preservation Act. FTA submitted to SHPO a Cultural Resources Survey Report on September 21, 2001 with a request for concurrence of no adverse

effect to historic properties. The SHPO reviewed the Cultural Resources Survey Report and provided comments requesting additional clarification to FTA on November 9, 2011. In response, the City and FTA prepared an Addendum to the Report and submitted the Addendum to the SHPO on March 8, 2012. On April 13, 2012, the SHPO provided concurrence that the undertaking will have no adverse effects on historic properties.

## 6.5 Distribution of the Final EIS

The Notice of Availability (NOA) of the FEIS was published in the Federal Register on April 27, 2012. Comments may be submitted to FTA no later than May 28, 2012.

The following Table 6.2-1 provides the distribution list for entities that received a copy of the FEIS.

**Table 6.5-1 FEIS Distribution List**

Recipient	Address
<b>Federal</b>	
U.S. Army Corps of Engineers	Ian Liffmann 1455 Market St., #1760 San Francisco, CA 94103
U.S. Coast Guard	David Sulouff, Commander Eleventh Coast Guard District (dpw) Building 50-2 Alameda, CA 94501-5100
NOAA's National Marine Fisheries Service	Daniel Logan Protected Resources Division 777 Sonoma Avenue, Room 325 Santa Rosa, California 95404-6515
U.S. Fish and Wildlife Service	Stephanie Jentsch Fish and Wildlife Biologist 2800 Cottage Way, Room W-2605 Sacramento, CA 95825
U.S. Environmental Protection Agency (EPA)	Connell Dunning 75 Hawthorne Street (CED-2) San Francisco, CA 94105
U.S. Department of Interior (DOI)	Office of Environmental Policy and Compliance U.S. Department of the Interior Main Interior Building MS 2340 Washington, DC 20240  <i>Note: Department of Interior handles internal distribution to component agencies, including U.S. Fish and Wildlife Service Regional Offices</i>
AMTRAK	Robert Nagel, Dir. of Engineering 1303 Third St. Oakland, CA 94607
<b>State</b>	
Department of Transportation – District CEQA Coordinator	Caltrans District 4 P. O. Box 23660 Oakland, CA 94623-0660
San Francisco Bay Regional Water Quality Control Board	Kathryn Hart 1515 Clay Street Oakland, CA 94612
Department of Fish and Game	Diane Harais P.O. Box 47 Yountville, CA 94599

Recipient	Address
State Native American Heritage Commission	915 Capital Mall, Room 288 Sacramento, CA 95814
State Lands Commission	Executive Director 100 Howe Ave., 100 South Sacramento, CA 95825
Office of Historic Preservation	P.O. Box 942896 Sacramento, CA 94296-0001
<b>County/Regional</b>	
Contra Costa Transportation Authority	Paul Maxwell, Chief Deputy 2999 Oak Road, Suite 100 Walnut Creek, CA 94597
Contra Costa County Flood Control and Water Conservation District	255 Glacier Drive Martinez, CA 94553
Bay Area Air Quality Management District	939 Ellis Street San Francisco, CA 94109 Dir. for CC County
East Bay Regional Park District (EBRPD)	Mr. B. Holt 2950 Peralta Oaks Court Oakland, CA 94605
Metropolitan Transportation Commission (MTC)	Craig Goldblatt 101 8th Street Oakland, CA 94607-4700
Capitol Corridor Joint Powers Authority (CCJPA)	300 Lakeside Drive 14th Floor, East Oakland, CA 94612
Contra Costa County Health Department	Environmental Division 2120 Diamond Blvd., Suite 200 Concord, CA 94520
Western Contra Costa Transit Authority (WestCAT)	Charlie Anderson 601 Walter Avenue Pinole, CA 94564
West Contra Costa Transportation Advisory Committee (WCCTAC) (West County)	Christina M. Atienza, P.E. 13831 San Pablo Avenue San Pablo CA 94806
Contra Costa County Clerk	822 Main Street Martinez, CA 94553
Bay Conservation and Development Commission (BCDC)	Ming Yeung 50 California St. San Francisco, CA 94111
Water Emergency Transportation Authority (WETA)	John Sindzinski Pier 9, Suite 111, The Embarcadero San Francisco, CA 94111

Table 6.5-2 FEIS Distribution List (continued)

Recipient	Address
<b>City</b>	
Hercules City Hall	111 Civic Drive Hercules, CA 94547
Hercules Library	109 Civic Drive Hercules, CA 94547
<b>Other Local Area</b>	
City of Pinole	Community Development Director 2131 Pear Street Pinole, CA 94564
Contra Costa Times	Attention: Tom Lochner 2640 Shadelands Drive Walnut Creek, CA 94598
<b>Other Parties</b>	
Steve Kirby	104 Whaler Circle Hercules, CA 94547
PG&E	Attn: Envir. and/or New Business 1100 S. 27th St. Richmond, CA 94804
East Bay Municipal Utility District (EBMUD)	William Kirkpatrick Planning Division 375 11th Street/ MS 701 Oakland, CA. 94607
Jeffrey Wisniewski	1102 Avocet Drive Hercules, CA 94547
Anderson Pacific	Ethan Sisco 6701 Center Dr. West, Ste. 710 Los Angeles, CA 90045
Union Pacific Railroad	James Smith 9451 Atkinson St. Roseville, CA 95747
Bio-Rad Laboratories	John Stier 6000 James Watson Drive Hercules, CA 94547
Verizon Business	Rebecca Daniels 2175 North California Blvd. Suite 303 Walnut Creek, CA 94596
Qwest Communications	Brett Hankins 1009 Enterprise Way, Suite 300 Roseville, CA 95678
Level 3	Matt Williams 1025 El Dorado Blvd. Broomfield, CO 80021
Kinder Morgan	Gregg Lies 1100 Town and Country Road Orange, CA 92868

Recipient	Address
Shell Pipeline LLC	Russell J. Guidry Jr. 20945 S. Wilmington Ave. Carson, CA 90810