

DUTCH SLOUGH TIDAL MARSH RESTORATION PROJECT SCH # 2006042009

EXHIBIT C STATEMENT OF OVERRIDING CONSIDERATIONS

Section 15093 of the CEQA *Guidelines* states:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological or other benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the Department shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record. . (CEQA Guidelines Section 15093)

The Department specifically adopts this Statement of Overriding Considerations and finds that, as part of the approval process, (a) the proposed project has eliminated or substantially lessened all significant effects on the environment where feasible, and (c) the remaining unavoidable impacts of the proposed project are acceptable in light of the environmental, economic, legal, social, technological, and other considerations set forth herein, because the benefits of the proposed project outweigh the significant and unavoidable impacts of the proposed project.

The project’s potentially significant effects which may not be avoided or substantially lessened, as described in the Draft EIR, are summarized below.

1. Impact 3.4.1-9: Potential Impacts to Burrowing Owls. Avian surveys (2006-2009) have not detected Burrowing Owls on site, though there is suitable habitat and the species had been previously reported from the site. If Burrowing Owls are present in the Project area, project construction may cause them to abandon their burrows. This is a potentially significant impact which may persist after mitigation because the feasibility of mitigation is unknown, particularly the availability of appropriate off-site compensatory habitat. Therefore it is possible that impacts would not be effectively mitigated.
2. Impact 3.5.1-6: Creation of Habitat that Benefits Non-native Fish Species. While the goal of the Project is to create tidal and freshwater wetland habitats for the benefit of native fishes, there is a chance that the created habitats could favor

non-native species that prey on native species. The fish assemblages found in tidal freshwater wetlands in the Delta are dominated by alien species. This impact applies mainly to the open water and subtidal portions of the Project. Because the final outcome of the created aquatic habitat cannot be determined, the significance of this impact cannot be predetermined and it will be considered potentially significant. The problems caused by nonnative fishes are ubiquitous throughout the Delta and the subsequent invasion of the site by these species may be an unavoidable consequence of the Project.

3. Impact 3.12.1-2: Demolition of Historic Structures/Landscape Features that Contribute to Rural Historic Landscape. The buildings and landscape features on the Dutch Slough Project and the adjacent City Community Park sites appear to be eligible for the California Register as a “Rural Historic Landscape”. Under the CEQA Statutes and Guidelines a “substantial adverse change” such as “...demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historic resource would be materially impaired” is considered to be a significant effect on historic resources. The Dutch Slough Project and related City Community Park Project propose to demolish all but four buildings and substantially modify all related landscape features on the three parcels. Four buildings will be retained in the “Historic Area” of the City Park. The mitigation measures identified in the EIR would reduce the Project impacts, however this would remain a significant and unavoidable impact.

CONCLUSIONS

The Department makes the following conclusions and findings:

1. The proposed Project cannot be implemented in a way that accomplishes the fundamental project purposes and basic objectives without resulting in the significant and unavoidable impacts described above. The Department has balanced the economic, legal social, technological, and other benefits of the proposed project and determined that the benefits of the proposed project outweigh its unavoidable adverse environmental impacts.
2. Specific impacts
 - a. Impacts to burrowing Owls. If Burrowing Owls are present in the project area, project construction may cause them to abandon their burrows. Potentially significant impacts may persist after mitigation because the feasibility of mitigation is unknown, particularly the availability of off-site compensatory habitat. However, this impact is unlikely to occur, as avian surveys (2006-2009) have not detected the species on the project site.
 - b. Creation of aquatic habitat that may benefit non-native fish species. The Project will result in increased habitat suitable for native species, but there is no known way to block non-native species from the created habitats. Because non-native

fish species are common throughout the Delta, there is a significant risk that the Project's open water areas and tidal channels may be inhabited by non-native fish species which will compete with the native species the Project is designed to benefit. This is an unintended but unavoidable consequence of creating or opening up habitat that benefits native species.

- c. Demolition of historic buildings and agricultural landscape features. The site of the Dutch Slough Project and adjacent City Community Park were formerly dairy lands; most of the site is open agricultural land, but there are several buildings associated with the dairies, including three residences, several large barns, and numerous smaller outbuildings. Together, the agricultural landscape and associated buildings of the Project site make up a "Rural Historic Landscape" of local cultural significance. Preserving the Rural Historic Landscape is incompatible with the proposed future uses of the site (restored natural habitats and City Park). Moving the structures is unlikely due to the poor condition of the buildings, engineering difficulties of moving the structures, and lack of public or private interest in moving the buildings to a new site. On the City Park site, several buildings from the original dairy will be preserved. However, on the Dutch Slough Project site, the new land use (natural habitat restoration) is not compatible with maintaining structures that reflect the past agricultural/dairy uses, so this loss is unavoidable.

The Department has determined that the Dutch Slough Tidal Marsh Restoration would provide the following public benefits that justify proceeding with the project despite the environmental cost of the residual significant effects:

1. Restore a diversity of habitats historically present in the Delta including freshwater emergent marsh, tidal channels, riparian woodland, and native grassland.
2. Provide habitat for native species, including listed and sensitive species.
3. Contribute to the recovery of endangered and other at-risk species and native biotic communities.
4. Support the Delta food web by producing and exporting nutrients.
5. Contribute to scientific understanding of restoration processes and increase the success of other Delta restoration projects.
6. Provide shoreline access, recreational, and educational opportunities.