

CALIFORNIA ENVIRONMENTAL QUALITY ACT NEGATIVE DECLARATION

Department of Toxic Substances Control
Site Mitigation and Restoration Program
700 Heinz Avenue, Suite 200
Berkeley, CA 94710

Subject: DRAFT FINAL MITIGATED

Project Title: Proposed RCRA Corrective Action Remedy Selection for the Chemtrade Bay Point Facility

State Clearinghouse No.: 2019109061

Project Location: 501 Nichols Road Bay Point, California 94565

County: Contra Costa

Project Description: The California Department of Toxic Substances Control (DTSC) has drafted a Resource Conservation Recovery Act (RCRA) Corrective Action Statement of Basis for the Chemtrade West US LLC (Chemtrade) Bay Point Facility site (Site) in Bay Point, California, pursuant to Health & Safety Code, Division 20, Chapter 6.5. The 26-acre Facility is predominately comprised of three areas of concerns (AOCs) and the Chemtrade Near Bay Area (NBA) are described below:

- AOC-1: the main (operations) portion of the Facility.
- AOC-2: the former wastewater treatment lagoon.
- AOC-3: the former caustic storage area.
- Chemtrade-NBA: undeveloped 0.35-acre tidal wetland adjacent to Suisun Bay.

The proposed Corrective Measures would include the following activities to address low pH, elevated metals and volatile organic compounds (VOCs) in soil and groundwater at the Proposed Project Site:

- Construct subsurface hydraulic barrier walls with French drains around the western, eastern, and northern boundaries of the three AOCs with sections of permeable reactive barriers along the northern boundaries to passively treat groundwater;
- Sample soil to define conditions near Suisun Bay in the northern portion of AOC-2 and AOC-3;
 - Remove soil if chemicals are present above cleanup levels,
 - Backfill with clean fill to create a Clean Zone at the Shoreline;
- Pave approximately 1.4 acres of AOC-1;
- Construct a soil cap with an asphalt skirt over AOC-2 and a portion of AOC-3;
- Perform groundwater monitoring to confirm reductions in VOC concentrations by natural processes (Monitored Natural Attenuation) and effectiveness of the hydraulic barrier walls, PRBs and soil cover; and
- Restrict land use, soil disturbance, and groundwater uses by recording a Land Use Covenant.

Activities associated with the Corrective Measures would occur over an approximately 32-week period.

Finding Of Significant Effect On Environment: *(An Initial Study supporting this finding is attached.)*

After conducting an Initial Study of the potential environmental impacts of the proposed project, DTSC has identified potentially significant effects on the environment, but (1) implementation of the proposed project, with the mitigation measures described below included, would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence, in light of the whole record before DTSC, that the proposed project with the mitigation measures included, may have a significant effect on the environment.

Mitigation Measure:

DTSC has determined the following mitigation measures would be required beyond those incorporated as part of the proposed project to ensure that impacts would be less than significant. In order to minimize the impact of the project to biological resources, a biological mitigation monitoring plan will be completed and implemented prior to and during construction activities in collaboration with the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS). The following mitigation measures will be implemented including but not limited to:

- A qualified biologist shall conduct a Biological Resources Education Program briefing to all contractor and subcontractor personnel prior to any site entry. The qualified biologist shall train all personnel on the location of sensitive habitat, identification of all special status species, instructions of procedure when encountering one, and applicable environmental laws, statutes, ordinances. A fact sheet conveying this information will be prepared and distributed to the above-mentioned people and anyone else who may enter the project site. Upon completion of training, employees will sign a form stating that they attended the training and understand all the conservation and protection measures.
- If ground-disturbing activities are scheduled within the avian nesting season, a pre-construction clearance survey for nesting birds shall be conducted by a qualified biologist within three days prior to any ground disturbing activities to ensure that no nesting birds would be disturbed during construction. Nesting season generally extends from February 1 through August 31, but can vary from year to year, based upon seasonal weather conditions.
- The biologist conducting the clearance survey shall document a negative survey indicating that no impacts to active bird nests would occur. If an active avian nest is discovered during the 3-day pre-construction clearance survey, the nest location shall be mapped, and buffers shall be established around the active nest. Buffer sizes would differ depending on the species and the nest's location. Minimum buffer sizes shall be 100-feet for active migratory bird nests and 250-feet buffer for active raptor nests. Buffer sizes shall be subject to CDFW approval to ensure that the potential for take is avoided and potential impacts are reduced to a less than significant level. Additionally:
 - If special status avian species are identified during the pre-construction survey, a biological monitor shall be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, normal construction activities can occur. Pursuant to FGC section 3503, it is unlawful to destroy any birds' nest or any birds' eggs that are protected under the MBTA. Further, any birds in the orders Falconiformes or Strigiformes (birds of prey, such as hawks and owls) are protected under FGC 3503.5 which makes it unlawful to take, possess, or destroy their nest or eggs.
- A consultation with CDFW and/or USFWS (dependent on the species) shall be required prior to the removal of any raptor nest on the Proposed Project Site, if a raptor nest is determined to be located on Site during the pre-construction clearance survey.
- If a Western Pond Turtle is encountered, it will be relocated by a qualified biologist into the adjacent marsh off-site in accordance with CDFW Scientific Collecting permit procedures. The biologist will have a CDFW Scientific Collecting permit with authorization to handle and relocate any turtles encountered.
- A habitat assessment will be conducted prior to the start of construction activities to ascertain that no suitable habitat for special-status species is present. If suitable habitat is present, focused surveys for one or more target special-status plant species would be conducted according to CDFW's *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (2018) prior to the initiation of construction. If special-status plant populations are identified in the work area, the populations would be avoided and a buffer with a radius of at least 25 feet would be established around the avoided plants. The buffer would be maintained throughout project activities. No parking, storage of equipment or materials, or staging would be allowed within the buffers. If impacts to special status plants on-site cannot be avoided, the Project proponent would protect in perpetuity through a conservation easement or other mechanism (i.e., purchase of mitigation credits at an approved mitigation bank, deed restriction or other suitable mechanism to protect or compensate for the species being impacted) an area equivalent to three times the size of the impact area of the Project prior to construction.
- A qualified biologist will conduct a habitat assessment in accordance with the CDFW *Staff Report on Burrowing Owl Mitigation* prior to the start of construction activities. The habitat assessment will determine if suitable burrowing owl burrow surrogates are present within the Site and proposed construction area. Potential suitable burrow surrogates will be mapped as part of the assessment. To ensure no burrowing

owls are present, a take avoidance survey will be conducted prior to construction activities in accordance with the CDFW *Staff Report on Burrowing Owl Mitigation*. This survey will consist of two Site visits following the habitat assessment survey, one within 14 days of the start of construction and one within 24 hours of the start of construction. Mitigation for loss of foraging habitat may be required only if there are past records of use from the Site or vicinity or if active nesting or wintering burrows for burrowing owls are observed during the survey. A copy of all survey results will be sent to CDFW.

During ground-disturbing activities:

- Site personnel shall thoroughly inspect the work area and adjacent habitat areas, prior to the initiation of work each day, to determine if special status species are present in these areas. If a special status species (as listed above) or nest is observed within the work area (or within 500 feet of the work area), then work shall not be initiated or shall be stopped immediately; a qualified biologist shall be contacted and conduct a site visit to confirm the presence of a special status species or nest. The qualified biologist would notify CDFW and USFWS within 1 business day and no work shall commence until the special status species leaves the work area on its own volition. If the special status species does not leave the work area or if a nest is present within the work area (or within 500 feet of the work area of nesting birds), work shall not be reinitiated until CDFW and USFWS are contacted and determine the best course to proceed with work activities.
- Equipment and personnel shall be limited to the areas where vegetation has been cleared and not venture into heavily vegetated areas of the Site or adjacent land.
- Excavation and haul equipment shall be confined to the access routes, designated staging areas in paved locations, and designated construction areas.
- Project-related vehicular traffic within the project area will observe a 15-mph limit or less.
- Equipment decontamination shall be located within the designated staging area, away from wetland habitat and Suisun Bay.
- All construction work shall occur during the daytime.



Branch Chief Signature

2/11/2020

Date

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