

EXHIBIT B

Bryte Landfill Remediation Project

Response to Comments and Summary of Text Changes

Comments Received

The Sacramento Area Flood Control Agency (SAFCA) circulated the Initial Study/Proposed Mitigated Negative Declaration (IS/MND) for the proposed Bryte Landfill Remediation Project for a 30-day public review period from August 14, 2017 to September 12, 2017. At the close of the public review period, five comment letters or emails had been received. These letters/emails are attached. The following summarizes responses to the comments received.

- **Central Valley Flood Protection Board (CVFPB)** – SAFCA is coordinating with CVFPB staff. While the work would be outside of CVFPB’s normal jurisdiction, it appears CVFPB may have rights on the Bryte landfill parcel that exceed their typical jurisdiction.
- **Yolo County Community Services** – The email from YCCS conveyed that Yolo County Environmental Health did not have comments and the Yolo County Principal Planner will not review.
- **Central Valley Regional Water Quality Control Board (CVRWQCB)** – Before construction begins, SAFCA will prepare a Storm Water Pollution Prevention Plan (SWPPP) and obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit Order No. 2009-009-DWQ).

SAFCA will also obtain a Water Quality Certification from CVRWQCB and a Nationwide Permit pursuant to Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers prior to construction. Waste Discharge Requirements for discharges to waters of the State will not be needed because the CWA 401 Water Quality Certification will cover this.

At this time, it is not anticipated that dewatering would be necessary, but should it be required, SAFCA will obtain coverage under the General Order for Dewatering and Other Low Threat Discharges to Surface Waters (Low Threat General Order) prior to such activity.

SAFCA will coordinate with DWR regarding regulatory compliance for commercially irrigated agriculture for the existing landfill site. If, after clean-close of the landfill site, the area is used for commercially irrigated agriculture, coverage may be necessary, but SAFCA may not have ultimate land use authority for the existing landfill site.

A Phase I/II Municipal Separate Storm Sewer System (MS4) Permit, Industrial Storm Water General Permit and National Pollutant Discharge Elimination System (NPDES) Permit are not applicable to the proposed project.

- **California Department of Fish and Wildlife (CDFW)** – SAFCA has augmented relevant mitigation measures to provide more detail on the mitigation approach and minimum compensatory mitigation

requirements to address CDFW's concern regarding deferred mitigation.

Mitigation Measure BIO-4 has been revised to indicate that Western Pond Turtle would be allowed to leave the area on their own before a biologist attempts to capture and relocate them. Also, monitoring during excavation of suitable nesting habitat has been added. Language stating that handling would be avoided was not added because (1) that could result in construction being stopped for an extended period, (2) Western Pond Turtle is not a listed species, and (3) moving a small number of turtles would not be a significant impact.

Compensatory mitigation or burrowing owl is not warranted because (1) habitat removal would be temporary, (2) the clean-closed landfill site would likely provide better habitat following remediation, and (3) abundant foraging habitat is present in the area. In the unlikely event owls are present, impacts to any nesting owls would be avoided, and if non-breeding owls are excluded from burrows, they could reoccupy the site after waste removal is complete.

Although active nests of other species are protected by MBTA and the Fish and Game Code, their loss as a result of the proposed project would not be a significant impact under CEQA. The IS/MND states that SAFCA would conduct pre-construction surveys for nesting birds and implement avoidance measures to avoid violation of either law, but it is not required as mitigation because it is not connected to a significant impact. General Conditions included in all SAFCA construction specifications include these measures.

The project would not result in a significant impact to bats. Very few, if any trees would be removed, and potential for them to support enough roosting bats for their loss to be considered significant is extremely low.

The only State-listed species there may be potential for the project to result in take of is giant garter snake (GGS). Mitigation Measure BIO-3 already states that SAFCA will get take authorization under the California Endangered Species Act for GGS, if necessary.

- **Yolo-Solano Air Quality Management District (YSAQMD)** – If SAFCA decides to use best management practices (BMPs) other than the BMPs published by the District to reduce fugitive dust emissions below the YSAQMD threshold of significance, SAFCA will contact YSAQMD to discuss the BMPs to ensure they will be sufficient.

Summary of Text Changes to the proposed MND

This errata presents changes to mitigation measures identified in the proposed MND resulting from comments received and/or staff initiated text changes. New text is shown in an underline and text to be deleted is shown in ~~strike-out~~. The changes identified below are incorporated into the final MND and do not result in new unavoidable significant impacts that cannot be reduced to less-than-significant levels, or result in new mitigation measures that would result in new significant impacts that have not been previously disclosed to the public, or that would result in new unavoidable significant impacts.

Page MND-i, first paragraph on the "Findings" heading (Staff initiated):

An Initial Study/proposed Mitigated Negative Declaration (IS/proposed MND) has been prepared under the California Environmental Quality Act (SAFCA 2017). The IS to assessed the project's potential effects on the physical environment and the significance of those effects. Based on the IS and considering comments received on the IS/proposed MND, it has been determined that the proposed project would not have any significant adverse effects on the physical environment after implementation of mitigation measures identified in the IS and subsequently modified as presented in this MND. This conclusion is supported by the following findings:

Page MND-ii, first paragraph after bullet 4. (Staff initiated):

Following are the mitigation measures that would be implemented by SAFCA to avoid, minimize, rectify, reduce, eliminate, or compensate for potentially significant environmental impacts. Several mitigation measures for biological resources in the proposed MND have been modified in this MND to incorporate recommendations suggested by the California Department of Fish and Wildlife. These modifications clarified or made the proposed mitigation measures more effective. Implementation of these mitigation measures would reduce the potentially significant environmental impacts of the proposed project to less-than-significant levels.

Page MND-2, first sentence under Mitigation Measure AG-2a: Rezone the CAMU Site.” (Staff initiated):

Prior to initiation of construction, SAFCA shall submit an application to Yolo County to rezone the CAMU site out of the A-N intensive agricultural designation and placed it into a different zoning designation such that use of the site for emplacement of treated landfill material and associated facilities (e.g., drainage improvements, groundwater monitoring wells, and security fencing) would represent a compatible land use.

Page MND-v, Mitigation Measure BIO-1b: “If Avoiding Construction-related Effects on Special-status Plants is Infeasible, Minimize and, where Appropriate, Compensate for Effects on Special-status Plant Species and Loss of Habitat.” (In response to CDFW comment letter):

If Avoiding Construction-related Effects on Special-status Plants is Infeasible, Minimize and, where Appropriate, Compensate for Effects on Loss of Special-status Plant Species and Loss of Habitat.

If the focused surveys described above in Mitigation Measure BIO-1a have been completed and avoiding effects on special-status plant species is infeasible, SAFCA will ensure the measures described below are implemented to minimize loss of special-status plants.~~If the focused surveys described above in Mitigation Measure BIO-1a have been completed and avoiding effects on special-status plant species is infeasible, SAFCA will coordinate with CDFW to determine acceptable methods for minimizing or compensating for effects on the species. SAFCA will ensure the measures described below are implemented to minimize and compensate for effects of remediation activities on special-status plants.~~

- **Transplant Special-status Plants that Cannot be Avoided.** If habitat occupied by woolly rose-mallow or Sanford's arrowhead cannot be avoided during project construction, individual plants or rhizome-containing mud will be collected and translocated to an appropriate area. If translocation is not feasible, mitigation may include preserving in perpetuity other known populations of these species in the project vicinity at ratios of or greater than 1:1.

- ~~**Develop and Implement a Mitigation Plan for Directly Affected Special-status Plants.** A mitigation plan will be prepared and implemented by SAFCA. The plan will describe short- and long-term maintenance, management, and monitoring measures designed to ensure that the appropriate habitat conditions are provided and survival of the translocated or preserved plants is maximized. ~~If habitat occupied by special status plants cannot be avoided during project construction, an appropriate and feasible mitigation plan to compensate for direct loss of special status plants will be developed by SAFCA and provided to CDFW for approval. The plan will detail appropriate compensation measures determined through consultation with CDFW, methods for implementation, success criteria, monitoring and reporting protocols, and contingency measures to be implemented if the initial mitigation is unsuccessful. Implementation methods may include salvaging and transplanting individual plants, collecting the seeds of affected plants, and collecting and translocating seed and rhizome-containing mud. Compensation also may include preserving in perpetuity other known populations of these species in the project vicinity at ratios of or greater than 1 to 1. The plan will be developed in consultation with and approved by CDFW before remediation activities begin in areas containing special status plant species. SAFCA will implement the CDFW-approved plan.~~~~

Page MND-vi, Mitigation Measure BIO-2b: “If Avoiding Construction-related Effects on Elderberry Shrubs is Infeasible, Minimize and, where Appropriate, Compensate for Effects on Valley Elderberry Longhorn Beetle and Loss of Habitat.” (In response to CDFW comment letter):

Mitigation Measure BIO-2b: If Avoiding Construction-related Effects on Elderberry Shrubs is Infeasible, Minimize and, where Appropriate, Compensate for Effects on Valley Elderberry Longhorn Beetle and Loss of Habitat.

If the Yolo County HCP/NCCP has not taken effect and been fully complied with as required in Mitigation Measure BIO-2a, and if the focused surveys described in Mitigation Measure BIO-2a have been completed and avoiding direct effects on valley elderberry longhorn beetle is infeasible, SAFCA will coordinate with USFWS to determine acceptable methods for minimizing or compensating for effects on this species. SAFCA will ensure that the measures described below are implemented to minimize and compensate for effects of the project on valley elderberry longhorn beetle and its habitat, such that there is no net loss of habitat for the species.

- ~~**Transplant and Compensate for Elderberry Shrubs That Cannot be Avoided.** Elderberry shrubs that cannot be avoided and require removal will be transplanted by SAFCA to a USFWS-approved area. Transplant activities will be conducted in accordance with USFWS guidelines (USFWS 2017). If elderberry shrub removal is required and the transplanted shrubs have valley elderberry longhorn beetle exit holes, compensation measures consistent with USFWS guidelines (USFWS 2017) will be implemented, including transplanting elderberry shrubs to approved areas and planting compensatory elderberry seedlings and associated native plantings in a number and area adequate to provide a minimum 1:1 ratio of impacted shrubs to compensatory plantings. Compensatory mitigation may be fulfilled through purchase of credits at a USFWS-approved mitigation bank.~~
- ~~Elderberry shrubs that cannot be avoided and require removal will be transplanted by SAFCA. Transplant activities will be conducted in accordance with USFWS guidelines (USFWS 2017). If ground disturbing activities are to occur within 20 feet of the dripline of an elderberry shrub, minimization and compensation measures consistent with USFWS guidelines (USFWS 2017) will be implemented. These measures include transplanting elderberry shrubs to approved areas and planting compensatory elderberry seedlings and associated native plantings.~~

- **Prepare and Implement a Mitigation Plan.** A mitigation plan consistent with success standards and monitoring requirements outlined in USFWS guidelines (2017) will be prepared and implemented by SAFCA. The mitigation plan will specify how to manage the elderberry transplant area to ensure that the appropriate habitat conditions are provided. If SAFCA does not purchase required compensatory mitigation from a bank, the plan also will specify the number of replacement elderberry shrubs and associated native plants to be established and associated success criteria; specify remedial measures to be undertaken if survival success criteria are not met; and describe short- and long-term maintenance and management.~~The mitigation plan will specify how to manage the elderberry transplant area to ensure that the appropriate habitat conditions are provided. At a minimum, the plan will specify the number of replacement elderberry shrubs and associated native plants to be established and associated success criteria; specify remedial measures to be undertaken if survival success criteria are not met; and describe short- and long-term maintenance and management.~~
- **Consult with USFWS, Obtain Appropriate Take Authorizations, and Implement All Conditions.** If it is determined that implementation of remediation activities would result in take of valley elderberry longhorn beetle, despite implementation of avoidance and minimization measures, SAFCA will confirm existing take authorization for the American River Common Features Project covers the remediation activities or will seek supplemental take authorization. All measures developed through consultation with USFWS will be implemented by SAFCA to mitigate adverse impacts to this species, such that there is no net loss of habitat for the species.

Page MND-vii, Mitigation Measure BIO-3: Minimize and, where Appropriate, Compensate for Effects on Giant Garter Snake,” 3rd, 4th, and 7th bullets (Staff initiated and in response to CDFW comment letter):

- **Conduct Initial Earth-movement Activities within Suitable Upland Habitat for Giant Garter Snake between May 1 and October 1.** When possible, SAFCA will complete ground-disturbing activities within suitable upland habitat for the giant garter snake between May 1 and October 1, the initial earth-moving is expected to correspond with the snake’s active season (as feasible in combination with minimizing disturbance of nesting Swainson’s hawks). Work in giant garter snake upland habitat may also occur between October 2 and November 1 or between April 1 through and April 30, provided ambient air temperatures exceed are between approximately 75°F and 90°F during work and maximum daily air temperatures have exceeded approximately 75°F for at least 3 consecutive days immediately preceding work. During these periods, giant garter snakes are more likely to be active in aquatic habitats and less likely to be found in upland habitats above ground. Where feasible, before construction activities occur in potentially suitable terrestrial giant garter snake habitat, during periods when snakes are active (between May 1 and October 1 when ambient air temperatures exceed 75 °F), SAFCA will mow areas of herbaceous vegetation surrounding planned work areas to a height of no less than 6 inches during periods when snakes are more likely to be underground (October 1 to May 1 or when ambient air temperatures are below 75°F or above 90°F), where and when feasible to increase visibility and the probability of giant garter snake detection during surveys and monitoring.~~When possible, SAFCA will complete ground-disturbing activities within suitable upland habitat for the giant garter snake between May 1 and October 1. Initial earth-moving is expected to correspond with the snake’s active season (as feasible in combination with minimizing disturbance of nesting Swainson’s hawks). Work in giant garter snake upland habitat may also occur between October 2 and November 1 or April 1 through April 30, provided ambient air temperatures exceed approximately 75°F during work and maximum daily air temperatures have exceeded approximately 75°F for at least 3 consecutive days immediately preceding work. During these periods, giant garter snakes are more likely to be active in aquatic habitats and less likely to be found in upland habitats. Where feasible, before construction activities occur in potentially suitable~~

terrestrial giant garter snake habitat during periods when snakes are active (between May 1 and October 1 when ambient air temperatures exceed 75 °F), SAFCA will mow areas of herbaceous vegetation surrounding planned work areas to a height of no less than 6 inches where and when feasible to increase visibility and the probability of giant garter snake detection during surveys and monitoring.

- **Conduct a Pre-construction Survey within Suitable Giant Garter Snake Habitat within 3 Days before Commencement of Ground-disturbing Activities.** SAFCA will ensure that a qualified biologist surveys areas of planned ground disturbance for burrows, soil cracks, and crevices that may be suitable for use by giant garter snakes when within suitable terrestrial habitat. Surveys will be completed no more than 3 days before conducting any ground-disturbing maintenance activities in terrestrial habitat potentially supporting giant garter snakes. Any identified burrows, soil cracks, crevices, or other habitat features will be marked by the qualified biologist. Disturbance of areas supporting these features will be minimized, if feasible. The construction area will be reinspected by a qualified biologist whenever a lapse in construction activity of 2 weeks or greater has occurred at any particular construction site. SAFCA will ensure that a qualified biologist surveys areas of planned ground disturbance for burrows, soil cracks, and crevices that may be suitable for use by giant garter snakes when within suitable terrestrial habitat. Surveys will be completed no more than 3 days before conducting any ground-disturbing maintenance activities in terrestrial habitat potentially supporting giant garter snakes. Any identified burrows, soil cracks, crevices, or other habitat features will be marked by the qualified biologist. The construction area will be reinspected by a qualified biologist whenever a lapse in construction activity of 2 weeks or greater has occurred at any particular construction site.
- **Develop and Implement a Mitigation Plan to Offset Unavoidable Loss of Habitat.** SAFCA will develop and implement an appropriate and feasible mitigation plan to compensate for potential disturbance, displacement, injury, or the mortality of individuals. The plan will be provided to USFWS and, as necessary, CDFW for approval. Compensation for direct impacts on giant garter snake habitat will include preserving, enhancing, and/or creating giant garter snake habitat at an on- or off-site location at a minimum 1:1 ratio of impacted habitat to compensatory habitat. Mitigation may be provided by purchasing credits at a USFWS-approved mitigation bank. SAFCA will implement the plan once the plan is approved by USFWS (and CDFW, as necessary). ~~SAFCA will develop and implement an appropriate and feasible mitigation plan to compensate for potential disturbance, displacement, injury, or the mortality of individuals. The plan will be provided to USFWS and, as necessary, CDFW for approval. Compensation for direct impacts may include preserving, enhancing, and/or creating giant garter snake habitat at an on- or off-site location, or purchasing credits at a USFWS-approved mitigation bank may be identified as appropriate mitigation. SAFCA will implement the plan once the plan is approved by USFWS (and CDFW, as necessary).~~

Page MND-ix, Mitigation Measure BIO-4: “Avoid and Minimize Impacts to Northwestern Pond Turtle and Its Habitats,” 2nd, 3rd, and 4th bullets (In response to CDFW comment letter):

- **Conduct a Pre-construction Survey for Northwestern Pond Turtles within Suitable Aquatic Habitats and Adjacent Suitable Uplands within 24 Hours of Project Disturbance and Immediately after Dewatering and Monitor Initial Ground Disturbance in Suitable Habitat.** A pre-construction survey for northwestern pond turtles within aquatic habitats and adjacent suitable uplands to be disturbed by project activities will be conducted by a qualified biologist. In aquatic habitats to be dewatered during project construction, surveys will be conducted immediately after dewatering and before any subsequent initial

habitat disturbance. The biologist will also be onsite to monitor initial disturbance of suitable habitat. Elsewhere, surveys will be conducted within 24 hours before project disturbance.

- **Stop Work if Northwestern Pond Turtle Observed in Construction Area and, with CDFW Approval, Allow the Turtle to Leave the Area or Move Animal It to the Nearest Suitable Habitat Outside the Area if Found On-site.** If northwestern pond turtles are observed in a construction area, SAFCA will stop work within approximately 200 feet of the turtle, and a qualified biologist will be notified immediately. If possible, the turtle will be allowed to leave the construction area on its own and the qualified biologist will remain in the area until the biologist deems his or her presence no longer necessary to ensure that the turtle is not harmed. If the turtle does not leave the construction area, the qualified biologist may attempt to capture and relocate the turtle, unharmed and with prior CDFW approval, to suitable habitat at least 200 feet from the construction area. ~~Conduct a Pre-construction Survey for Northwestern Pond Turtles within Suitable Aquatic Habitats and Adjacent Suitable Uplands within 24 Hours of Project Disturbance and Immediately after Dewatering. A pre-construction survey for northwestern pond turtles within aquatic habitats and adjacent suitable uplands to be disturbed by project activities will be conducted by a qualified biologist. In aquatic habitats to be dewatered during project construction, surveys will be conducted immediately after dewatering and before any subsequent disturbance. Elsewhere, surveys will be conducted within 24 hours before project disturbance.~~

- ~~**Stop Work if Northwestern Pond Turtle Observed in Construction Area and, with CDFW Approval, Move Animal to the Nearest Suitable Habitat Outside the Area if Found On-site.** If northwestern pond turtles are observed in a construction area, SAFCA will stop work within approximately 200 feet of the turtle, and a qualified biologist will be notified immediately. If possible, the turtle will be allowed to leave the construction area on its own and the qualified biologist will remain in the area until the biologist deems his or her presence no longer necessary to ensure that the turtle is not harmed. Alternatively, the qualified biologist may attempt to capture and relocate the turtle, unharmed and with prior CDFW approval, to suitable habitat at least 200 feet from the construction area.~~

Page MND-x, Mitigation Measure BIO-5b: “Avoid and Minimize Impacts to Northwestern Pond Turtle and Its Habitats,” 2nd bullet (In response to CDFW comment letter):

- **Provide a Protective Buffer for Occupied Burrows during the Breeding Season and Monitor Burrows to Ensure that Project Activities do not Result in Adverse Effects on Nesting Burrowing Owls.** Burrows occupied during the breeding season (February 1 through August 31) will be provided with a protective buffer until a qualified biologist verifies through noninvasive means that either (1) the birds have not begun egg-laying, or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. The size of the buffer will depend on distance from the nest to area of project disturbance, type and intensity of disturbance, presence of visual buffers, and other variables that could affect susceptibility of the owls to disturbance. Monitoring will be conducted by a qualified biologist to confirm that project activity is not resulting in detectable adverse impacts on nesting burrowing owls. If such impacts are apparent, buffers will be increased as necessary to minimize impacts and potential for nest failure. ~~Burrows occupied during the breeding season (February 1 through August 31) will be provided with a protective buffer until a qualified biologist verifies through noninvasive means that either (1) the birds have not begun egg laying, or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. The size of the buffer will depend on distance from the nest to area of project disturbance, type and intensity of disturbance, presence of visual buffers, and other variables that~~

~~could affect susceptibility of the owls to disturbance. Monitoring will be conducted to confirm that project activity is not resulting in detectable adverse impacts on nesting burrowing owls.~~

Page MND-xii, Mitigation Measure BIO-6b: “If Avoiding Construction-related Effects on Other Nesting Special-status Birds is Infeasible, Implement Minimization Measures.” 1st paragraph (Staff initiated):

Mitigation Measure BIO-6b: If Avoiding Construction-related Effects on Other Nesting Special-status Birds is Infeasible, Implement Minimization Measures.

If the measures described above in Mitigation Measure BIO-6a have been completed and avoiding effects on nesting special-status birds is infeasible, SAFCA will ~~coordinate with CDFW to determine acceptable methods for minimizing effects on these species.~~ SAFCA will ensure that the measures described below are implemented to minimize effects of the project on nesting special-status birds, such that there is no direct loss of individuals of these species or project-related nest failure.

Page MND-xiv, Mitigation Measure BIO-7b: “Obtain and Comply with Necessary State Permits/ Authorizations and Develop and Implement a Mitigation Plan,” 2nd bullet (In response to CDFW comment letter):

- **Develop and Implement a Mitigation Plan to Compensate for Loss of Sensitive Habitats.** A riparian habitat mitigation plan ~~resulting in~~ that ensures there is no-net-loss of riparian functions and values will be prepared to compensate for any permanent loss of riparian vegetation. This mitigation plan will be developed and provided to the appropriate regulatory agencies for review and approval. The plan will detail ~~appropriate~~ specific compensation measures determined through consultation with CDFW, methods for implementation, success criteria, monitoring and reporting protocols, and contingency measures to be implemented if the initial mitigation fails. The plan will be developed in consultation with and approved by the appropriate regulatory agencies before construction activities begin in areas containing sensitive habitats. The plan will be implemented by SAFCA.

Page MND- xviii, Mitigation Measure HAZ-2: “Prepare and Implement a Traffic Control and Road Maintenance Plan,” 1st bullet (Staff initiated):

- Implement a plan to manage expected construction-related traffic to the extent feasible, and to avoid and minimize potential traffic congestion during project-related construction. The traffic control and road maintenance plan shall outline the phasing of activities and the use of specific routes to and from the work site locations to minimize the daily volume of traffic on individual roadways, and shall be approved by Yolo County prior to the start of construction.

Page MND-xx, Mitigation Measure REC-1: “Prepare and Implement a Bicycle Detour Plan for On-street Bicycle Routes, and Provide Construction Period Information on Closures” (Staff initiated):

Timing:

Before and during construction. ~~Prepare bicycle detour plan and coordinate with primary construction contractor(s) before the start of construction activities; implement the bicycle plan and provide construction period information on bicycle and recreation facility closures prior to and during construction; and coordinate with the Yolo County Parks Department after construction to restore access.~~

Page 4-1, "References, "Mitigated Negative Declaration":

Sacramento Area Flood Control Agency. 2017 (August). Bryte Landfill Remediation Project Initial Study/Proposed Mitigated Negative Declaration (State Clearinghouse No. 2017082037). Prepared by GEI Consultants, Inc. Sacramento, CA.

SAFCA. See Sacramento Area Flood Control Agency.

CENTRAL VALLEY FLOOD PROTECTION BOARD

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August 15, 2017

Mr. Dan Tibbitts
Sacramento Area Flood Control Agency
1007 7th Street, 7th Floor
Sacramento, California 95814

Subject: Bryte Landfill Remediation Project, Initial Study Mitigated Negative Declaration,
SCH Number: 2017082037

Location: Yolo County

Dear Mr. Tibbitts,

Central Valley Flood Protection Board (Board) staff has reviewed the subject document and provides the following comments:

The proposed project is adjacent to the Yolo Bypass, Sacramento Bypass and Sacramento River regulated streams under Board jurisdiction, and may require a Board permit prior to construction.

The Board's jurisdiction covers the entire Central Valley including all tributaries and distributaries of the Sacramento and San Joaquin Rivers, and the Tulare and Buena Vista basins south of the San Joaquin River.

Under authorities granted by California Water Code and Public Resources Code statutes, the Board enforces its Title 23, California Code of Regulations (Title 23) for the construction, maintenance, and protection of adopted plans of flood control, including the federal-State facilities of the State Plan of Flood Control, regulated streams, and designated floodways.

Pursuant to Title 23, Section 6 a Board permit is required prior to working within the Board's jurisdiction for the placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment, excavation, the planting, or removal of vegetation, and any repair or maintenance that involves cutting into the levee.

Permits may also be required to bring existing works that predate permitting into compliance with Title 23, or where it is necessary to establish the conditions normally imposed by

Mr. Dan Tibbitts
August 15, 2017
Page 2 of 2

permitting. The circumstances include those where responsibility for the works has not been clearly established or ownership and use have been revised.

Other federal (including U.S. Army Corps of Engineers Section 10 and 404 regulatory permits), State and local agency permits may be required and are the applicant's responsibility to obtain.

Board permit applications and Title 23 regulations are available on our website at <http://www.cvpfb.ca.gov/>. Maps of the Board's jurisdiction are also available from the California Department of Water Resources website at <http://gis.bam.water.ca.gov/bam/>.

Please contact James Herota at (916) 574-0651, or via email at James.Herota@CVFlood.ca.gov if you have any questions.

Sincerely,



Andrea Buckley
Environmental Services and Land Management Branch Chief

cc: Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street, Room 121
Sacramento, California 95814

From: SAFCARReview
To: [Shephard, Andrea](#); [Dunn, Phil](#)
Subject: FW: Old Bryte Landfill CEQA comments
Date: Thursday, August 31, 2017 12:29:46 PM

From: Jianmin Huang
Sent: Thursday, August 31, 2017 12:29:35 PM (UTC-08:00) Pacific Time (US & Canada)
To: SAFCARReview
Cc: April Meneghetti; Suzie Dawley
Subject: Old Bryte Landfill CEQA comments

Please see Yolo County Environmental Health comments as below:

The potential threat to the public health and safety as well as environment was adequately discussed. However, we can't comment on whether the health risk assessment and proposed mitigation measures are sufficient because we are not knowledgeable enough in this area to feel comfortable to provide comments.

Yolo County Principal Planner has a copy of the Bryte Landfill Remediation Project: Initial Study/Proposed Mitigated Negative Declaration. However, he will not review it since there is no planning permit issued for the project.

Jianmin Huang
Supervising Environmental health Specialist
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(Our office hours are 8 am – noon, and 1 pm – 4 pm)

Making a difference by enhancing the quality of life in our community

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Central Valley Regional Water Quality Control Board

5 September 2017

Dan Tibbitts
Sacramento Area Flood Control Agency
1007 7th Street, 7th Floor
Sacramento, CA 95814

CERTIFIED MAIL
91 7199 9991 7035 8421 1601

COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, BRYTE LANDFILL REMEDIATION PROJECT, SCH# 2017082037, YOLO COUNTY

Pursuant to the State Clearinghouse's 14 August 2017 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Bryte Landfill Remediation Project, located in Yolo County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases,

the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:
http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Caltrans Phase I MS4 Permit, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/caltrans.shtml.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance (i.e., discharge of dredge or fill material) of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements (WDRs)

Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

Land Disposal of Dredge Material

If the project will involve dredging, Water Quality Certification for the dredging activity and Waste Discharge Requirements for the land disposal may be needed.

Title 27

Section 2.4: The Discharger states: “*Based on previous analysis of de-ionized waste extraction tests (DI-WET) for lead from the landfill material, It is assumed that stabilized materials, one placed in the CAMU, would be inert as defined by Title 27, and therefore would not require waste discharge requirements (WDRs).*”

Staff does not agree with this statement. Section 20230 of Title 27 states: “*the RWQCB can prescribe individual or general WDRs for discharges of Inert waste.*” The Central Valley Regional Water Board has issued WDRs for inert waste disposal facilities or inert waste management units within a larger facility. The information included in the negative declaration does not meet the data standard necessary to excuse the need to issue WDRs. Consequently, the Sacramento Area Flood Control Agency will need to submit a complete Report of Waste Discharge under the guidelines outlined in Section 21750 of

Title 27. This information will provide the Central Valley Regional Water Board with the information necessary to properly evaluate the appropriate regulatory action (i.e. WDRS, Resolution, or an Enforcement Order).

Local Agency Oversight

Pursuant to the State Water Board's Onsite Wastewater Treatment Systems Policy (OWTS Policy), the regulation of septic tank and leach field systems may be regulated under the local agency's management program in lieu of WDRs. A county environmental health department may permit septic tank and leach field systems designed for less than 10,000 gpd. For more information on septic system regulations, visit the Central Valley Water Board's website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/owts/sb_owts_policy.pdf

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups

charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.

- 2. Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

From: SAFCARReview
To: [Shephard, Andrea](#); [Dunn, Phil](#)
Subject: FW: Bryte Landfill Remediation Project
Date: Tuesday, September 12, 2017 12:53:51 PM

From: Buss, Stephanie@Wildlife
Sent: Tuesday, September 12, 2017 12:53:36 PM (UTC-08:00) Pacific Time (US & Canada)
To: SAFCARReview
Cc: Wildlife R2 CEQA
Subject: Bryte Landfill Remediation Project

Mr. Tibbitts

CDFW has completed the review of the Bryte Landfill Remediation (Project) Mitigated Negative Declaration (MND) (SCH#20170820037). The Project will remove and relocate all waste material in the old Bryte Landfill as well as impacted sediment within the drainage canal and native soil underlying the waste that contains constituents of concern exceeding the remedial goals and place this waste in the Corrective Action Management Unit that is located north and contiguous to the Bryte Landfill. CDFW has the following comments regarding the MND:

1. Numerous mitigation measures in the MND defer mitigation measures for various species/habitats (such as special-status plants and giant garter snake) to future mitigation plans and/or CDFW approval. The MND states mitigation plans will compensate for the impacts and will be developed and provided to CDFW for approval. Public Resource Code 21081.6 (b) states the MND “shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.” Appropriate measures should not defer mitigation to a future time or consultation with agencies. Proposed mitigation measures must be presented in sufficient detail for readers of the MND to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less-than-significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. CDFW recommends that the MND be revised to identify and discuss appropriate avoidance, minimization, and mitigation measures to offset impacts to biological resources.

2. Mitigation Measure BIO-4 states if a western pond turtle (WPT) is encountered, a qualified biologist may attempt to capture and relocate the WPT with prior CDFW approval. CDFW cannot approve relocation of WPT. Further, impacts within the 325-foot upland habitat could be deleterious to WPT hatchlings, as literature indicates that most WPT hatchlings over winter in the nest and move into the waterway the following spring. CDFW recommends the MND be revised to state handling of WPT would be avoided. A qualified biologist will be present during construction activities in WPT habitat. If WPT are encountered during construction

activities, the qualified biologist would have the authority to halt construction activities within 200 feet of the WPT and the WPT would be allowed to leave the construction area on its own accord. The qualified biologist would remain in the area until the qualified biologist deems the WPT is out of harms way.

3. Mitigation Measure BIO-5a and 5b reference's the 2012 CDFW Staff Report on Burrowing Owl Mitigation. Although the proposed mitigation measures follow the survey timing and buffers discussed in the report, CDFW recommends the project also mitigate all significant impacts to nesting, foraging, wintering and dispersal burrowing owl habitat to less-than-significant. The Project should provide permanent habitat compensation that is roughly proportional to the impacts to burrowing owls and their habitat.

4. Mitigation Measures BIO-6a and 6b focus only on special-status nesting birds. Nesting bird surveys should not be limited to special-status bird species as Fish and Game Code § 3503.5 states it is unlawful to take, possess, or destroy any birds in the orders of Falconiformes or Strigiformes (birds-of-prey or raptors) or take, possess, or destroy the nest or eggs of any such bird. In addition, Fish and Game Code 3503 protects nest or eggs of all birds. In order to avoid the destruction of nests, CDFW recommends the following mitigation measure be incorporated into the CEQA document: pre-construction surveys for nesting birds shall be conducted within 14 days prior to tree removal and/or breaking ground at the project site by a qualified avian biologist if construction activities will take place between February 1 and September 15. If nesting birds are found, the qualified avian biologist shall establish suitable buffers prior to tree removal and/or ground-breaking activities. To prevent encroachment, the established buffer(s) shall be clearly marked by high visibility material and monitored daily by the qualified avian biologist. The established buffer(s) shall remain in effect until the young have fledged and are independent or the nest has been abandoned as confirmed by the qualified avian biologist. If birds are showing signs of agitation within the established buffer(s), the buffer(s) shall be expanded to prevent birds from abandoning their nest. To more effectively identify active nests and to facilitate project scheduling, CDFW recommends initial nesting surveys begin as early as February when the foliage on the trees are at a minimum and the nest building activity is high.

5. Bats can occupy trees year round and are particularly susceptible to disturbance during the maternity season and during hibernation. CDFW recommends inclusion of the following mitigation measure: A qualified bat biologist will conduct a habitat assessment for potentially suitable bat habitat within six months of Project activities. If the habitat assessment reveals suitable bat habitat then tree trimming and/or tree removal should be only conducted during seasonal periods of bat activity (from August 31 through October 15, a period prior to hibernation when young are self-sufficiently volant, and from March 1 to April 15, to avoid hibernating bats and prior to formation of maternity colonies) under supervision of a qualified biologist. Trees should be trimmed and/or removed in a two-phased removal system conducted over two consecutive days. The first day (in the afternoon), limbs and branches should be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures should be avoided, and only branches or limbs without those features

should be removed. On the second day, the entire tree should be removed. Project proponents should consult with a qualified bat biologist to determine suitable buffers around roost and/or hibernaculum sites. Buffers may vary depending on species and Project activity being performed.

6. The MND states in Mitigation Measure 7b and 8b that the necessary state permits will be obtained for a CDFW Streambed Alteration Agreement and a RWQCB 401 Certification; however, the MND has identified potential take of state and federal species listed under the California Endangered Species Act and/or the federal Endangered Species Act. Please be advised that a California Endangered Species Act (CESA) Permit must be obtained if the Project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. CDFW recommends the MND be revised to include the requirement of obtaining appropriate permits for take of listed species.

Stephanie Buss
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September 12, 2017

Mr. Dan Tibbitts
Sacramento Area Flood Control District
1007 7th Street, 7th Floor
Sacramento, CA 95814

Re: **Bryte Landfill Remediation Project Mitigated Negative Declaration**

Dear Mr. Tibbitts:

The Yolo-Solano Air Quality Management District (District) has received the Mitigated Negative Declaration for the above referenced project. The District has the following comment:

Mitigation Measure AQ-1 is described on page 3-17 of the document. This mitigation measure is designed to reduce the fugitive dust from the project to a less-than-significant level. The mitigation measure commits to implementing the District's best management practice for the suppression of fugitive dust, or else implement measures that perform equally as well as the District's best management practices. If the project proponent decides to use measures other than the best management practices published by the District, the proponent should contact the District to discuss these measures to ensure that they will be sufficient for reducing fugitive dust to levels below the District's threshold of significance.

The District appreciates receiving this document for review. If you require additional information or would like to discuss the comments contained in this letter, please feel free to contact me at (530) 757-3668.

Sincerely,

A handwritten signature in blue ink that reads "Matthew R. Jones".

Matthew Jones
Planning Manager
Yolo-Solano Air Quality Management District