

Mary Gutekanst for the  
Brisbane Baylands Community Advisory Group (BBCAG)  
Remarks to the Brisbane Planning Commission regarding Baylands Final EIR  
November 16, 2015

RECEIVED  
NOV 16 2015  
Comm. Dev. Dept. Brisbane

The BBCAG submitted lots of comments on the Draft EIR related to hazards to human health and the environment. I'm not going to repeat those comments. However, I hope that the Planning Commissioners and members of the City Council read those comments, and consider them as they decide what kind of uses they will recommend in the Baylands.

I want to organize these remarks under three topics:

1. There are many important things that we don't know about the Baylands.
2. The Mitigation Monitoring and Reporting Plan does not adequately address long-term monitoring and maintenance needs.
3. What happens when Brisbane doesn't approve the landowner's plan for development?

#### Important things we don't know about the Baylands

First, we don't know about contamination in the lagoon. The EIR argues that we don't need to have baseline information about the lagoon, because proposed development isn't going to affect the lagoon. However, just because there is no building proposed in the lagoon proper does not mean that the lagoon won't be affected by development next to it.

Whatever happens on the Baylands will increase traffic, and increase contamination from runoff from the streets. There is going to be grading, and that means dust and silt entering the lagoon. There are proposals for active and passive recreation along the lagoon, and that will affect wildlife, and it will increase exposure to contaminants in the lagoon.

The lagoon waters and lagoon sediments have to be sampled and analyzed for contaminants that are potentially harmful to people and to wildlife.

Another area of partial ignorance is the delineation of water-bearing layers under the surface. There is a plume of VOC contaminants in groundwater below the Schlage Lock

site, and the plume extends into OU1 on the Brisbane side of the property. The VOC plume was treated with substances intended to eventually break down the VOCs into non-toxic substances. While this treatment was going on, the consultants who were working on the plume concluded that earlier characterizations of the geology and hydrogeology were misleading.

Those consultants reproduced some cross-sections of the water-bearing units. Copies of those cross-sections are attached to the text of my remarks. My point is that the various water-bearing units are not as uniform nor as distinct as suggested in various parts of the EIR.

There is another important point to be taken away from looking at these cross-sections. That is that the water-bearing unit, or aquifer, that is referred to as the Colma Formation, as well as the fill layer which intersects with the Colma Formation, receive recharge from the surrounding hillside. Water drains from the surrounding area into the fill and into the aquifer. That water will carry contaminants into the Bay and into the lagoon.

There's a scenario that's been put forward by the landowners' consultants that says that caps will prevent water infiltration into the fill, and therefore the buried contaminants will not come into contact with the environment. That scenario is no more than wishful thinking.

What will be the effect of sea level rise on the contaminants in the Baylands? If more of the fill material is in contact with larger volumes of water, we can expect increased contamination in the Bay and the lagoon. There is no forward-looking analysis in the EIR of mitigations for increased contamination of the Bay.

Members of the BBCAG have argued for many years that wetlands can be designed to remove toxic substances, and to contain contaminants or to change their chemical compositions to make them less harmful to the environment. A distinguished expert in the field of constructing wetlands for decontamination spoke at a BBCAG meeting a couple of years ago, and we were fortunate to be able to film his presentation. There is a link to

the video on the BBCAG's website at BBCAG.org. Properly designed wetlands will actually remove contaminants, not just cover them up for a time. They should be part of any plan for expanding the uses on the Baylands.

Other things that are as yet unknown include the exact composition of the waste. The site received military and hospital waste streams. Is there radioactive waste out there? It would be prudent to assume that there is.

Even where certain contaminants are documented, the exact location is not known— for example, where is the bulldozer that sank into the muck? What are the exact locations of the piles of tires that are documented in old news videos?

The EIR deals with all these unknowns by requiring geotechnical investigations before building or grading, and by saying that these unknowns are the concern of regulatory agencies like the Department of Toxic Substance Control, the Water Quality Control Board, and San Mateo County.

But there are interconnections between different areas that are as yet improperly understood. There's a big pile of toxic substance A underneath area X, but it's leaking out into the bay at area Y.

What happens when the Baylands gets divided into parcels and sold off to different entities?

### Mitigation Monitoring & Reporting

The MMRP does not take into account the long-term monitoring that will be necessary if we want to minimize exposure to harmful contaminants.

The MMRP says, "Mitigation monitoring activities, including costs for the designated Monitoring Coordinator shall be paid for by the Baylands developer." What developer? How long are Tuntex's successors going to be around?

If there's no "development" going on at some point, does that mean there's no monitoring?

If you look at the MMRP matrix, the items related to "adverse effects on riparian habitat" (starting on p. 4-28) refer, for the most part, to grading and construction design. Compliance is indicated by: "Issuance of permits for grading or other ground disturbing activities in compliance with Mitigation Measure 4.C-2a" and Measure 4.C-2b and Measure 4.c-2c "... along with approval of site-specific development projects in compliance with Mitigation Measure 4.C-2c."

There are some conditions related to wetland creation/enhancement that refer to monitoring over the first 5 years. What happens after that? After 5 years everything takes care of itself?

On p. 4-60, the impact "increase in the amount of runoff and potential flooding" is covered. Once the city engineer approves the designs, that mitigation is done. What if something doesn't work as designed? What if proper maintenance isn't carried out? Who is checking on that?

On p. 4-34, the property owners' association is designated to enforce rules against feeding feral cats and prohibiting unleashed domestic animals. Restrictions like these are important protections for the large numbers of birds who use the wetlands and other areas. Why should we rely on a POA to decide how much energy they're going to put into enforcing these restrictions?

There is no plan to remove all the toxic contaminants in the Baylands. It will be toxic forever. The applicant plans to install covers: dirt, asphalt or concrete, some non-porous materials. Sooner or later, the caps will fail. Who monitors the caps over 600 acres?

There will be restrictions on digging and plantings. If you put trees that will develop deep root systems on top of the cap, those roots will grow through the caps and potentially transport contaminants above the surface. If you have ever had tree roots in your sewer

drain, you know that roots can grow through a lot of substances. Who is going to monitor plantings across this 600 acres?

I'm just pointing out a few things that will need to be monitored forever. I don't see provisions for that monitoring in the EIR.

In an earlier presentation, former Mayor Clara Johnson discussed setting up an independent monitoring and maintenance entity that would be funded by all the landowners and/or developers. Ms. Johnson noted that a Mello-Roos district could be a way to fund such an entity. A property owners' association would not necessarily be motivated to investigate potential problems with contaminants. City of Brisbane staff are neither equipped nor motivated to deal with them. And of course we constantly hear that City staff do not have time to perform many functions that are suggested by residents.

Dr. G. Fred Lee was very clear in recommending that an independent body be responsible for monitoring and maintenance. Such a body should be part of any plan for use of the Baylands.

### The future of the Baylands

There are a number of possible scenarios for the next 20-30 years on the Baylands.

What happens if the EIR is approved, but the City of Brisbane does not approve a development plan that the property owners want to follow?

Will the property just sit there for another 20 or 30 years until the property owners think the political climate has become more favorable to them? The EIR doesn't expire. It would still be the starting point for whatever anyone wants to propose 30 years from now.

Will the owners sell off the property in pieces? How will this EIR fit a pattern of multiple owners? How will the new owners deal with interconnections between

different parcels? Many of those interconnections are imperfectly understood right now, part of the many things we don't know about what's out there.

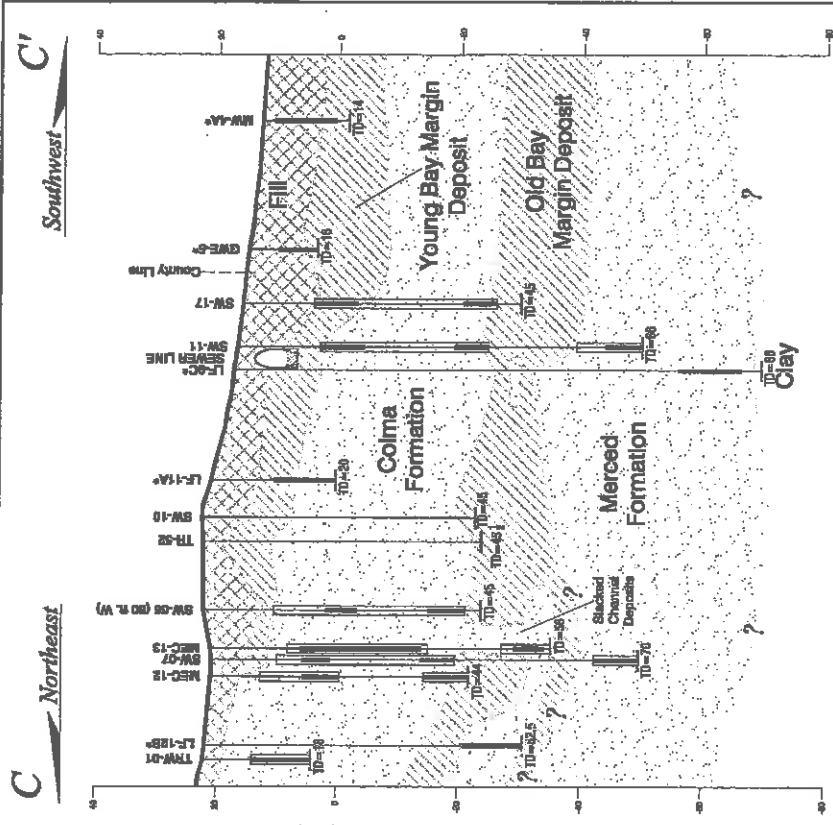
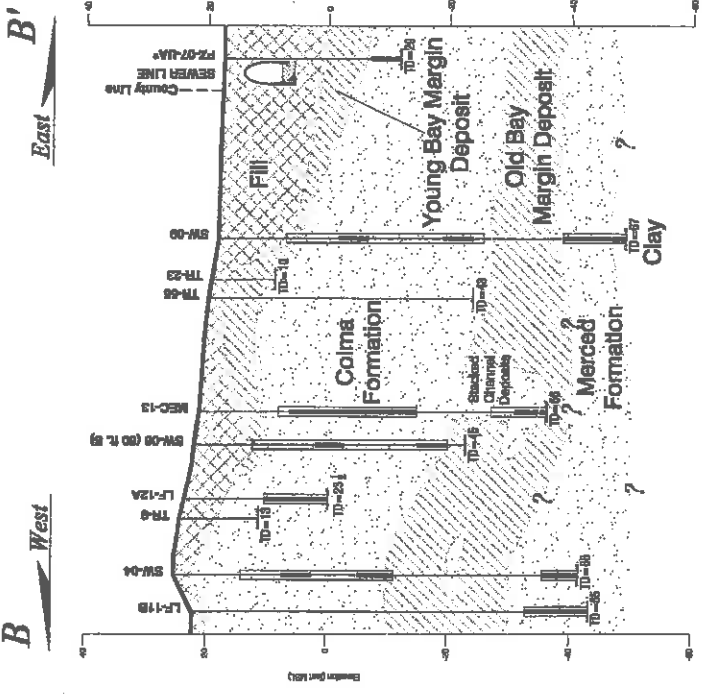
Will the owners pick and choose the elements of a plan that the city approves, going ahead with some elements and then walking off before other elements are completed? How does that affect the mitigations included in the EIR?

What happens if the EIR is not approved? The City of Brisbane can request that the applicant present a plan for development that the City Council and the residents would be likely to approve. When the applicant presents such a plan, the environmental review resumes.

You can recommend that the City Council proceed in this way, and you can recommend what elements need to be included in any future plan.

I encourage you to recommend a permanent, independent entity to monitor compliance with environmental mitigations, and compliance with development agreements.

I further encourage you to recommend inclusion of wetlands that are designed to treat the contamination that was dumped into the Bay.



**Legend**

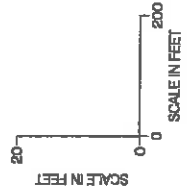
Geologic Units (as described on different logs):

- Coarse Material (Gravel & Sand)
- Fine Material (Silt, Clay & Peat)
- Fill

Well Location and Depth

- Screen Interval
- Gravel Pack
- Total Depth of Well

Notes:  
 \* = Well Information for screened interval only



ISSUED	PCB	JOB NUMBER	408608822
ENGINEER		SCALE	AS SHOWN
CHECKED	NAM	DATE	4/2010
APPROVED		DATE	

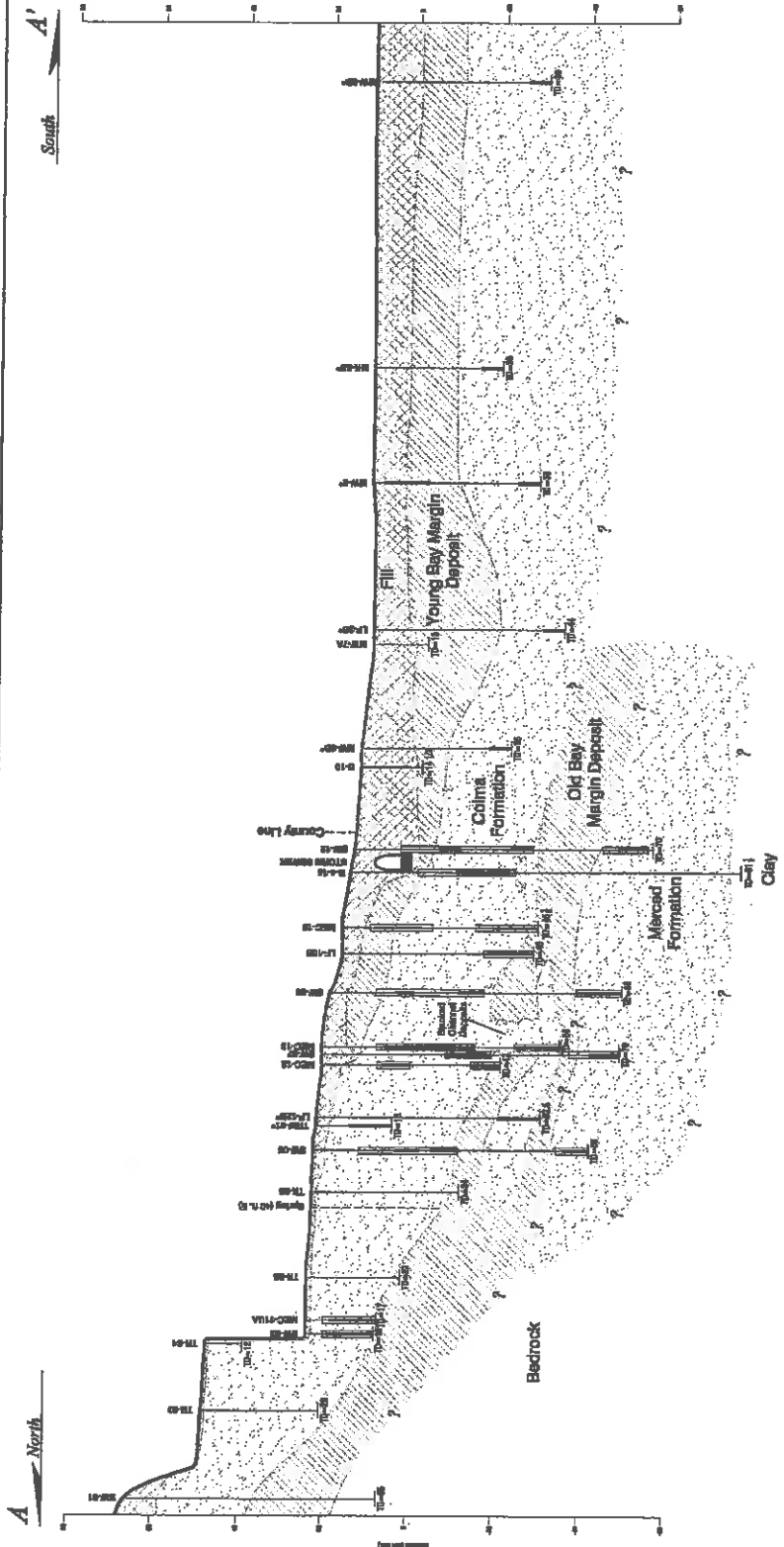


Quarterly Groundwater Monitoring Report  
 Schlage OU  
 San Francisco and Brisbane, California

Appendix B  
 Cross-Section B-B' and C-C'

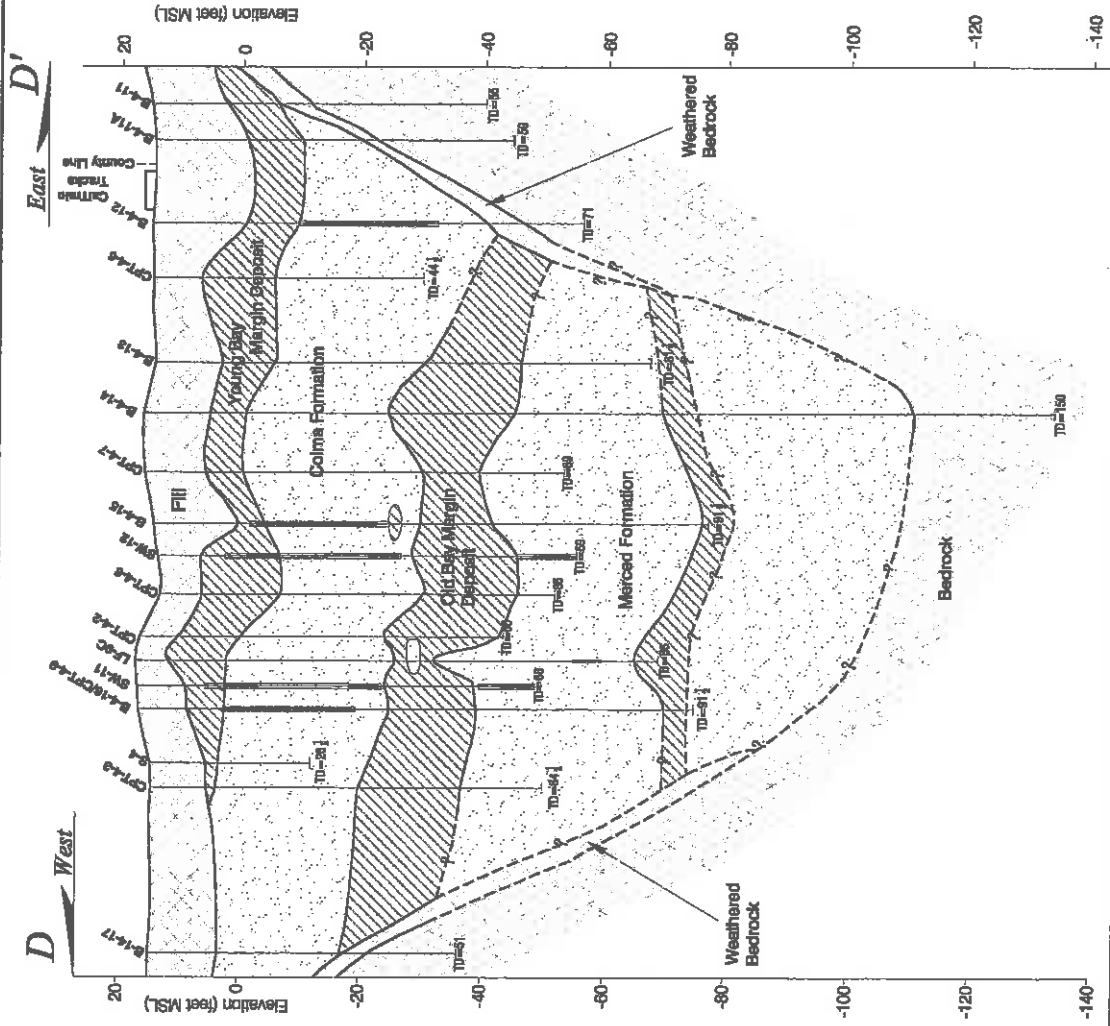
FIGURE  
 B-3

408608822100.DWG 1.0  
 20100821.1110



<p>Quantity Geotechnical Consulting Report          Redondo CA          San Francisco and Berkeley, California</p>		<p>Appendix B          Cross-Section A-A'</p>	
<p>PROJECT</p>		<p>B-2</p>	
<p>DATE</p>	<p>SCALE</p>	<p>PROJECT</p>	<p>DATE</p>
<p>NO. OF SHEETS</p>	<p>NO. OF SHEETS</p>	<p>NO. OF SHEETS</p>	<p>NO. OF SHEETS</p>
<p>PROJECT NO.</p>	<p>PROJECT NO.</p>	<p>PROJECT NO.</p>	<p>PROJECT NO.</p>
<p>CLIENT</p>	<p>CLIENT</p>	<p>CLIENT</p>	<p>CLIENT</p>
<p>DATE</p>	<p>DATE</p>	<p>DATE</p>	<p>DATE</p>

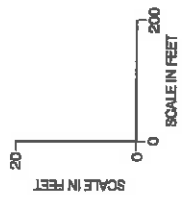




**Legend**

Geologic Units (as described on driller's logs):

- Coarse Material (Gravel & Sand)
- Fine Material (Silt, Clay & Peat)
- PH
- Bedrock
- Weathered Bedrock



4080986322101 DWG 10.0

		<b>Groundwater Monitoring Report</b> Schlage OU San Francisco and Brisbane, California		<b>FIGURE</b> <b>B-4</b>	
DRAWN PCB	JOB NUMBER 4080986322	CHECKED BLS	DATE 4/20/10	<b>Cross Section D-D'</b>	