



**Yana Garcia**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

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**Gavin Newsom**  
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### SENT VIA ELECTRONIC MAIL

May 9, 2024

Kelsey Gunter

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Governor's Office of Planning & Research

**May 09 2024**

**STATE CLEARINGHOUSE**

RE: NOTICE OF PREPARATION (NOP) OF A DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE BAY WALK MIXED USE PROJECT (PROJECT), DATED APRIL 9, 2024, STATE CLEARINGHOUSE NUMBER [2022100572](#)

Dear Kelsey Gunter:

As a Responsible Agency, the Department of Toxic Substances Control (DTSC) received a NOP of a DEIR for the Bay Walk Mixed Use Project (Project). The proposed Project would include remedial activities such as the demolition of the vacant Pittsburg Power Plant and all associated structures, as well as implementing remedies for various media (e.g., soil, sediment, soil vapor and groundwater). The development of a range of uses including approximately 1,800 residential units, including approximately 30 Live/Work units, 35,000 square feet of Employment Center Industrial (ECI) and/or commercial uses, 40,000 square feet of retail or commercial uses, and various park, recreation, and open space areas, as well as internal pedestrian trails and a potential connection to East Bay Regional Park's Great California Delta Trail system.

Development of the Project site would occur over three phases. The Project would require initiation of annexation proceedings into the City of Pittsburg City Limits for the 13-acre portion

of the proposed Project site for development that is located outside of City limits, as well as approval of a Specific Plan; a Pre-zone/Rezone; a General Plan Amendment; a Development Agreement; Vesting Tentative Maps; and a Design Review.

DTSC conducted its review of the NOP of a DEIR with a focus on the potential environmental impacts by the proposed Project on the [PG&E Shell Pond/Carbon Black Area and Power Plant](#), two related facilities, both permitted by DTSC, and subject to DTSC corrective action oversight. The proposed Project is being developed within the footprint of one of these facilities, the former PG&E Power Plant (Site). The Site's industrial facilities and history are summarized on pages 5 and 6 of the NOP, and potential contaminants of concern are summarized on page 13 of the NOP. Potential media affected on the Site includes groundwater, soil, sediments, soil vapor, and surface water.

The Corrective Action, or cleanup of the properties, is under the oversight of DTSC and the San Francisco Bay Regional Water Control Board (SFB-RWQCB). Based on our Project review, DTSC requests consideration of the following comments:

1. In the Project Location and Setting Section of the NOP, the following pertinent information is missing and needs to be discussed in detail in future environmental documents:
  - a. The vacant grassland/ruderal vegetated land is traversed by a buried, approximately 12-inch-diameter natural gas transmission pipeline. The Project indicates this infrastructure is owned and operated by others, but it is on land owned by the proposed Project site owner, presumably with an easement granted to the pipeline owner. DTSC suggests that this buried natural gas pipeline be included in the proposed Project site description and suggests the Planning Division contacts the Office of State Fire Marshall (OSFM) and California Public Utilities Commission (CPUC) regarding the status and process of abandoning this pipeline. DTSC notes neither of these agencies are currently listed as responsible agencies under the Summary Form and recommends any future comments regarding this issue should be addressed by OSFM and CPUC.

- b. The discussion of five discharge pipelines/outfalls at the river/on the river bottom north of the plant. These were used for stormwater discharges (NPDES Outfalls 001 to 005) but may have discharged some hazardous materials/hazardous waste as well.
  - c. A historical ferry terminal, including its debris and any residual hazardous materials/hazardous waste, on the north side of "Mallard Island."
  - d. A historical railway segment, including any residual hazardous materials/hazardous waste, that no longer is visible, ran through the wetlands.
  - e. A current dewatering system for the wetlands has operated for decades and discharges to the river. DTSC understands that this dewatering may be conducted in coordination with the Contra Costa Mosquito and Vector Control District (CCMVCD), currently not listed as a responsible agency under the Summary Form (Notice of Completion). The Planning Division should reach out to CCMVCD to understand CCMVCD requirements and solicit CCMVCD comment.
  - f. A natural gas metering station is located on the Project site.
  - g. Water intakes/pipelines located in the river, that are part of the Project assets.
2. Figure 2 of the NOP of a DEIR should include the potential hazardous materials/hazardous waste located outside of the Project property limits, and in the river.
3. On Page 5 of the NOP of a DEIR, surrounding facilities are described. Contra Costa Water District has an inactive desalination pilot plant (and associated underground piping) located near or (for pipelines) traversing the site boundary. DTSC suggests contacting Contra Costa Water District (CCWD) regarding this CCWD asset, to see if CCWD has any requirements or comments related to this CCWD-owned infrastructure and adding this pilot plant to the list of surrounding facilities. DTSC notes that CCWD is not listed as a responsible agency under the Summary Form (Notice of Completion). DTSC recommends discussing the

existing/active NPDES outfalls and historic ferry terminal and historic rail line serving the ferry terminal, that are located on/outboard of the north property line. DTSC recommends the Lead Agency to reach out to CCWD with any future comments or concerns regarding this issue.

4. On Page 6 of the NOP of a DEIR, DTSC suggests adding verbiage on ownership/status of the buried natural gas and fuel oil transmission pipelines that served and traverse the site. There is a natural gas metering station currently operated by others (DTSC understands it may be owned by others on site) on site, scheduled for decommission during and within the footprint of the Project, which should be discussed. Also, under the Previous and Current Remediation Section, DTSC recommends adding verbiage on decommissioning condition and status of the buried natural gas and transmission pipelines, and the natural gas metering station.
5. On Page 7, Project Components Section, it states: "The project also includes remediation activities implementing a remedy for various media (i.e., soil, soil vapor and groundwater) to be detailed in a separate Corrective Measures Study for each development area reviewed and approved by the DTSC. DTSC requests the City's Planning Department to add "sediment" to the potential "various media" section. Additionally, on Page 7 of the NOP of a DEIR, under the Demolition Activities Section, DTSC suggests contacting other potential responsible agencies that may have purview over infrastructure associated with the Project. This may include the following infrastructure/activities: the decommissioning and/or demolition of the buried natural gas transmission pipeline and the active natural gas metering station; the active stormwater pipeline/outfalls, cooling water pipelines/intake structures located in the river; the inactive railway that crosses the vacant grassland/ruderal vegetated land; the removal of any debris of former ferry terminal that may be navigable waters; and any other pipeline decommissioning (beyond cut/cap at property line) for hazardous materials transmission pipelines required by OSFM, US Coast Guard (USCG), or other regulator. Other potential responsible agencies that are not listed under the

Summary Form (Notice of Completion), but the Planning Division may want to contact related to the above infrastructure includes CPUC for transmission pipelines, U.S. Army Corps of Engineers (USACE) for current/former infrastructure located in the river. DTSC recommends the Lead Agency to reach out to the OSFM and USCG with any future comments/concerns regarding this issue.

6. Figure 6, Demolition Plan (3) should include demolition of the inactive railway, and natural gas and fuel oil transmission lines, as applicable.
7. Under Remediation Activities, Page 13 of the NOP of a DEIR, DTSC recommends the following change: ... “RCRA requires...” to “RCRA and California Hazardous Waste Cleanup Law (HWCL) require...” Note that this corrective action obligation is for both on-site impacts, and impacts that may have migrated off site.
8. On Page 15 of the NOP of a DEIR add the following under Section, the soil/sediment remedies may consist of one or more of the following components:
  - a. “in-situ chemical oxidation (ISCO), in-situ chemical reduction (ISCR), and in-situ biological remediation (ISB).”
  - b. “If needed, sediment dredging and/or installation of an underwater cap.”
9. On Page 15 of the NOP of a DEIR add the following under Section, the groundwater remedies may consist of one or more of the following components:
  - a. “If needed, groundwater treatment at groundwater well head.”
10. On Page 16 of the NOP of a DEIR, DTSC recommends the following language to be added to the first paragraph. “Additionally, the remedy for one of more of the OUs may include an Operation and Maintenance Plan (OMP), Operation and Maintenance Agreement (OMA), Soil Management Plan (SMP) and/or Groundwater Management Plan (GMP) which will define how the remedy is conducted, how contamination that is left in place is to be managed, DTSC’s oversight of the remedy, and future disturbance of any contamination left in place.”

11. On Page 25 of the NOP of a DEIR, it states: “In addition, the following agency permits and approvals may be required in order to implement the proposed project.” DTSC recommends adding the following under “Department of Toxic Substance Control (DTSC) – The DTSC would approve selected cleanup remedy, including:”
  - a. Approving Corrective Measure Studies (CMSs) and Statements of Basis (SoBs) approving remedies.
  - b. Approving LUCs
  - c. Approving OMAs, and approving OMPs, SMPs, GMPs, and other technical documents.
12. On Page 26, DTSC suggests the following:
  - a. DTSC recommends that the Planning Division review pipeline decommissioning requirements with USCG, USACOE, and OFSM, including natural gas and fuel oil transmission lines, and any intakes/outfalls/pipelines located in the river that are associated with cooling water intake or stormwater discharge, and summarize requirements for final disposition of these facilities.
  - b. The Planning Division contact USEPA Region 9 for involvement under federal Toxic Substances Control Act (TSCA) for characterization/abatement of/mitigation for PCB contamination of the existing built environment (e.g., electrical and power plant equipment and structures) at the Project site.
  - c. The Planning Division contact SFB-RWQCB to confer on SFB-RWQCB responsible agency oversight and issues. DTSC, based on its coordination with SFB-RWQCB is aware of several potential issues under SFB-RWQCB purview, including: 1) potentially issuance of a Beneficial Use Exception (BUE) for shallow groundwater at the site, 2) joint approval (with DTSC) of decommissioning of one or more solid waste management units (SWMUs), and 3) potential issuance of an order related to investigation of

PFOA and PFOS substances. DTSC recommends any future comments regarding this issue be addressed to SFB-RWQCB.

- d. Change "...CMS for each OU which selects a proposed remedy for soil, soil vapor, and groundwater." to "...CMS/SoB for each OU which selects a proposed remedy for soil, sediment, soil vapor, and groundwater."
13. On Page 26, DTSC recommends the following: Add "sediment" to the list of media potentially requiring remediation activities. Add "mitigation" to "excavation, containment, extraction ..."
14. For decades, PG&E has continuously operated a pump station to dewater/control water level in the wetlands of the site. DTSC requests that the City's Planning Department include the history and flow rate/duty cycle of dewatering operations in the EIR, including whether long-term dewatering operations will continue, or be terminated in the future. The uncertainty about the scale of, and continuance, of dewatering activity complicates analyzing aspects of site hydrogeology, including (but not limited to): sea level rise effects of groundwater levels at site, and fate and transport of groundwater contamination at the site.
15. DTSC understands that the proposed Project states that it will be transferring some of the project's open space lands to a Geologic Hazard Abatement District (GHAD) overseen by the California Department of Conservation (CDC). DTSC did not see CDC listed as a responsible agency under the Summary Form. DTSC suggests that the Planning Division seek comment from CDC so specifics of the lands that may be transferred to the State under a GHAD, including (but not limited to) residual contamination that the State may become liable for, existing or former infrastructure associated with such open space lands, and whether the characteristics of the land constitute a "geologic hazard" as required for use of a GHAD, are considered by CDC.

DTSC believes the City of Pittsburg must address these comments to determine if any significant impacts under the California Environmental Quality Act (CEQA) will occur and, if necessary, avoid significant impacts under CEQA. DTSC appreciates the opportunity to

comment on the Project. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances.

If you have any questions or would like any clarification on DTSC's comments, please reach out to the Project Manager, Whitney Smith at [Whitney.Smith@dtsc.ca.gov](mailto:Whitney.Smith@dtsc.ca.gov) or respond to this letter via [email](#) for additional guidance.

Sincerely,

*Tamara Purvis*

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