

Final Draft

Brisbane Baylands Community Advisory Group

159 Lake Street Brisbane, CA 94005

June 7, 2017

Mayor Liu and Brisbane City Council

Brisbane City Hall, 50 Park Place

Brisbane, CA 94005

Dear Mayor Liu and Councilmembers

The Brisbane Baylands Community Advisory Group was established in the Spring of 2005 under the auspices of the CA Dept. of Toxic Control as provided for in California law. We have operated under the following mission statement since then.

*The purpose of the Brisbane Baylands Community Advisory Group is to provide an open forum and community based input from the communities of Brisbane, Daly City and San Francisco and to advise the agencies charged with the remediation actions on three contiguous sites commonly referred to as the Brisbane Baylands.*

Over the last twelve years, the speaker who exerted the greatest influence and provided us with the greatest insight into the Baylands site and how we might understand it and make comments and give advice on it to you and other regulators, has been Dr. G. Fred Lee, Phd, PE, BCEE, F.ASCE. He is both highly respected and uniquely qualified to provide guidance in the field of toxic contamination and remediation. Dr Lee has only one goal and that is to protect human health and the environment. He works to inform the public and those responsible for making decisions on both what the risks are and what the potential and unknown risks may be. His approach is comprehensive, not narrowly drawn. His approach embraces the full range of possibilities. He does not seek to promote any outcome for the sake of that result. His qualifications are fully stated on his website, [www.gfredlee.com](http://www.gfredlee.com). We contracted with Dr. Lee to review and make recommendations on the Baylands. He did a remarkable job and he was remarkably generous with his time, giving us, gifting us with many times the effort that we were able to pay for. We recommend and urge you to hire Dr. G. Fred Lee as your ongoing environmental advisor on the Brisbane Baylands. It will be one of the best decisions you will

make, as a Councilmember. Dr. Lee's expertise and work ethic will assure that you will have the best and unbiased advice available whichever alternative development plan you select.

We will be happy to discuss our recommendation with you. Thank you for considering it.

I want to commend you for the extensive public input that you have pursued in the processing of this application. You have followed one of the noblest traditions of the City of Brisbane in doing so.

The BBCAG has considered the safety of this project for this site for more than a decade. Dana Dillworth petitioned the State of California to create this group of citizens who were independent of any government agency to represent the people. We have had some members for the entire duration of the effort. Some have joined along the way and we have lost many who joined us for a while. There is one thing we can say with certainty and that is, there are many uncertainties and more than a few data gaps regarding the Baylands toxic contamination. It is with these insufficiencies in mind plus the established presence of various toxic chemicals and metals that we make our recommendations to you.

Please note the selected pages from the Operations and Management Plan for Groundwater on the Schlage Site and OU1 are on the wall. Further remediation is not being required at this time. The groundwater investigation included the contamination on the OU1 site in Brisbane, as well. The pages show where monitoring wells are located and they show the amounts of the ten most threatening chemicals, CVOC's (chlorine based volatile organic compounds) in specific wells over time. There have been attempts at remediation and they have achieved some success. The problem is that the amounts in some of those wells have been bouncing around. They bounce down then they bounce up. There is sometimes an explanation but many times there isn't. This indicates to us that they don't fully understand the size of the reservoir of the toxic CVOC's. Perhaps there are other factors that are not fully understood. This is a data gap. The pages also show the areas of greatest concentration of the chemical TCE and the depth of the groundwater in two of the three types of formation that the underlay the surface. They are fill, merced formation and colma formation.

The CA Dept. of Toxic Substance Control has permitted development on this site only subject to a recorded Land Use Covenant including numerous conditions and prohibitions. The monitoring of this site will continue in perpetuity. Engineering controls to protect against soil vapor intrusion are required for all buildings. These kinds of requirements are not placed on property without careful consideration of the risk involved. We believe that the imposition of these limitation, are an indication of the risk. They are also based on laws that were developed

considering not only human health and environmental quality risks but also the costs of lowering those risks to the property owner. We believe that they don't adequately protect the public and that they should be more restrictive. Since there is an element of risk that not fully understood. There is also arsenic and lead in the form of arsenated lead on the northern railyard site. Please note that the CDC has declared "no safe lead blood level in children has been identified." The remediation of these chemicals that is proposed is to sweep them under asphalt and hope they stay there. The Remedial Action Plan (RAP) for CVOC impacted soil in OU1 has not been developed yet nor has one been developed for the arsenated lead. We believe that the groundwater directions in OU1 should be reviewed before any action is taken. We also believe that the impacts of sea level rise and intrusion into groundwater in OU1 and Schlage should be investigated and evaluated for inclusion in the decision making regarding any future remedial action plan. We must remember that the source of the CVOC's is on the Schlage site. The monitoring wells extend into OU2, the Southern Brisbane Railyard where there are two wells.

State of the art ground imaging spectography, ground penetrating radar and GIS technology should be used to better understand risks throughout the Baylands. These technologies are available now and will be cheaper soon. The development of the OU1 soil RAP is a good place to start using these tools that will help to close data gaps. They might also provide better, more detailed and reliable answers to questions about how the ground, including fill might react: in an earthquake, to sea water intrusion, to compaction efforts.

Since there have been recent lowering of the maximum contaminant level (MCL) for some chemicals e.g. Benzene, arsenic in drinking water. it is possible that the MCL for other toxic chemicals found on the Baylands will be lowered thereby revealing a greater risk than is currently understood.

OU2, the Southern portion of the Brisbane Railyard is one of the larger geographic areas of the Baylands, 180 acres. The Bay Area Regional Water Quality Control Board is responsible for overseeing OU2 and making sure that it is remediated. In the last seven years, the only mention of it on the Board's website, Geotracker are references to the fact that it is a Brownfield site and to their representative's presentations to the BBCAG. There hasn't been any substantive action on OU2 for a decade or more. There is also a confusion whether OU2 is only the Southern Railyard site or that it may include the Industrial Way site. It appears that it should only be the southern railyard site because of its description and size but UPC has shown the Industrial way site as a part of OU2. There is a second confusion on Geotracker . It says that the Southern Railyard site is identified by their ID number R2-2008-0019 but that ID

belongs to the Kinder Morgan facility when you call up the ID. These mix ups are not confidence inspiring.

It is the opinion of the Brisbane Baylands Community Advisory Group that the investigation of the OU2 portion of the Baylands is inadequate and must be improved upon in order to allow a judgment as to the degree that the area represents a risk to human health and to the environment. We have concerns regarding the "actual" southern portion of the SP Railyard and we are concerned about the area that is along Industrial Way and to the east of the North Ditch. The ditch connects the Levinson Marsh and its known toxic contamination problems to the San Francisco Bay. OU2 has been described originally as containing only the southern portion of the SP Railyard while at other times, the Industrial Way land has been included in it.

A process was begun in 2006 to develop a Remedial Action Plan (RAP) for OU2. That process stopped. A new Human Health Risk Assessment is needed and an entirely new RAP must be developed for OU2 reflecting any new investigations and all new information that has come to light from 2006 onward. We think that additional investigations are needed since so many years have passed since the last ones were done. We are particularly concerned that a community wide public meeting should be held to explain to the public all that is known about the contamination. The meeting should include discussion of: what the plan for remediation is and how it will be accomplished and when it will be done and what monitoring is planned for the residual contamination. There needs to be an explanation of whether Industrial Way properties are considered a part of OU2 or not.

The UPC Development application envisions that the area along Industrial Way will either be used as a commercial district or as a residential area. The last sampling of this area was done in 2002. It is a 15 year old report that included only chlorinated solvents and referred to other analytes that were shown on the laboratory report but not included in the Report from Burns McDonald. The Water Board's Geotracker Case Summary report gives its case number as 41S0066. It does not provide any other information except that it mentions Lead. There needs to be further investigation that would evaluate the current level of soil contamination of the 15 VOC's shown and all additional toxins that are present. The character of the contamination has not been established nor has the extent of the contamination. These are data gaps.

There should also be an investigation of the groundwater on this site. It isn't clear whether the Consoildated Chemicals Bldg, the Tannery or the oil water separator (that is on the Railyard but is north and slightly upland of the sampled sites) are the possible historic sources of contamination. This is a data gap.

Other reports on OU2/Industrial Way appear to not include the sampling wells included in the 2002 Report. This contradiction needs to be resolved. This site was considered for listing as a superfund site but since there were a huge number of potential super fund sites at that time and there were a limited number that could be realistically dealt with, this site was not included. This fact does not address the level of contamination present on Industrial Way. There needs to be further investigation to understand the character and extent of the contamination before any decisions are made with regard to the degree of risk that this land represents to human health and the environment. It would be gross neglect to ignore the clear data gaps that exists in the Industrial Way toxic site and on OU2.

We also believe that the impacts of sea level rise and intrusion into groundwater in OU2, Industrial Way, The Landfill and Kinder Morgan should be investigated and evaluated for inclusion in the decision making regarding any future remedial action plans.

The Landfill occupies more than 300 acres. The Landfill Closure Plan process needs to have more than one large public meeting in order to provide an opportunity for the public to comment on the plan before it is finally decided upon. We realize that there are regulatory minimums but the public may have valuable suggestions to add.

There is an excellent report on Dr. Lee's website about post-closure issues on closed landfills. It discusses the tremendous fiscal impact of long term liabilities associated with the landfills can have on local government and how there are often inadequate provisions to protect them. He also writes, **"Local/regional/state jurisdictions that will bear the impacts of landfill failures and to which responsibility for ad infinitum landfill care will eventually fall often do not have full understanding of the truly long-term nature of the hazards posed by Subtitle D-permitted "dry-tomb" landfills."**

The only leachate found to be leaching from the Landfill is unionized Ammonia. The Natural Resources Defense Council has published a list of nine dangerous chemicals that you'll find in a municipal solid waste landfill. They are: Arsenic, Benzene, Cadmium, Nickel, Chromium, Lead, Mercury, Chloroform and Ethylbenzene. We talked about lead before but here is another dangerous toxic that has no MCL, Chloroform. It should be one microliter per liter. Chloroform and Ethylbenzene have a tendency to leak into the groundwater around landfills. Is there a circle of monitoring wells in the area around the extent of the waste? I don't think so. Do we even know the exact extent of the waste, it may be under the Lagoon on the south side? This was an unregulated landfill, a free for all of anything and everything. It deserves to be carefully and comprehensively monitored with the groundwater being a priority and we should look for more than leachate. The methane monitoring system has indicated there is methane and some

other volatile gases present. The system is old and is probably not in good shape. A new monitoring system is needed and it should not wait until the owner is ready to build on the landfill to be replaced. It should be replaced as soon as possible so that we know what is going on there.

The BBCAG recently learned that there is an airborne source of carbon tetrachloride coming from somewhere in Brisbane. It was discovered by a monitor at the VWR Scientific contamination site. Perhaps, it is coming from the Landfill. We don't know.

The people of Brisbane and our neighbors deserve to have contamination promptly and comprehensively remediated but it doesn't happen unless we fight for it. It can't just be left to regulators who are understaffed and overworked despite their good intentions. The system also tries to protect the owners of the offending property and that means it is only cleaned up to the minimum level necessary under the law and that is different from saying that it is safe., The people and government of Brisbane must be proactive and dedicated to the long term goal of providing a safe environment to protect the general welfare of our people and the environment we live and breathe in.

The Lagoon's contamination is a mystery because of inadequate studies of its sediment and its organisms. How will we cope with the sea level rise in the Lagoon and the roads that lie beside it? These are data gaps.

Kinder Morgan is low enough that sea level rise will likely impact it but the Regional Water Quality Control Board representative told us last month that she doesn't see any problem. There is an order for remediation for the tank farm and it is monitored but we have not been satisfied with answers that say it doesn't matter how much water sits on the asphalt at the front of the tank farm because the contamination is not so bad there.

VWR Scientific has a contamination problem and it is being voluntarily remediated by its new owner and the Water Board is overseeing it. We don't know how long it will be monitored when it is remediated or what its impact on the Lagoon will be.

The Brisbane Baylands Community Advisory Group recommends that you see to it that the actions mentioned in this report are taken and that you approve the project alternative that places the least intense use on the Baylands, the Renewable Energy Alternative, which is the environmentally preferred alternative and it was the recommendation that was made by the Planning Commission. There are not any credible fiscal analyses available on this mostly undescribed project application that does not have a realistic water supply. Even the renewable energy alternative has a huge amount of built space, 1 to 2 million square feet. The

other alternatives represent a nightmare alternative to the people of Brisbane and their love of our land and our relatively peaceful lives. We believe that the Final EIR does not adequately describe the project nor its environmental impacts.

There is a huge pile on Brisbane's contamination to be remediated plate and we cannot pretend that someone else is going to take care of it. Any consultants that are hired will need to be carefully overseen by the people and the government of Brisbane. That is because, as the poet Gary Snyder once said (to paraphrase) you can only trust people to make decisions about the place where they live. He also said, "Find your place on the planet. Dig in, and take responsibility from there."

The weight of this decision is a great burden to carry and we wish you wisdom and reflection on the legacy of the traditions and values of Brisbane, as you make this judgment.

Thank-you

Clara Johnson, Acting Chair and Vice Chair

BBCAG