

Mendocino Railway – Fort Bragg Mill Site
December 17, 2024 Pond 8 and Mill Pond Dam Meeting

Meeting Location: Virtual
Meeting Date and Time: 17 December 2024 at 2:00pm PST

Attendees:

DTSC: Morgan Bigelow, Jerry Aarons, Peter Gathungu, Kate Cooper, Marikka Hughes
RWQCB: Craig Hunt
DSOD: Nicole Castillo, Eric Malvick
California Coastal Commission (CCC): Melissa Kraemer, Matthew Christen, Hollie Hall, Jeremy Smith
City of Fort Bragg (City): Sarah McCormick, Krista MacNevin Jee
Kennedy Jenks (KJ): Rachel Morgan, Jeremie Maehr, Cayla Whiteside
Mendocino Railway: Mike Buck

Meeting Minutes:

1. Introductions

2. Project Context

- a. Pond 8 and Mill Pond Dam overview
 - i. Dioxins in Pond 8 sediment require a remedy
 - ii. Pond 8 receives and treats City stormwater; also classified as wetland and ESHA
 - iii. Dam is existing structure lawfully constructed prior to Coastal Act
 - iv. Any alternative for addressing sediments in Pond 8 and necessary modifications to the Mill Pond Dam will require balancing many agency requirements, including DTSC, DSOD, RWQCB, Coastal Commission, Army Corps of Engineers, California Department of Fish & Wildlife, the City, and the Sherwood Valley Band of Pomo Indians.
- b. City comment:
 - i. The City understands that a solution is needed, and that will require agency/City partnership and collaboration with Mendocino Railway.
 - ii. Per DTSC, the Environmental Impact Report (EIR) will need to address all OU-E areas of concern (AOCs) that require a remedy in the OU-E Remedial Action Plan (RAP), not just the Pond 8 AOC.
 1. KJ: Pond 8 has been the focus of discussion due to the complexity of the project, but understood that the EIR will address the other AOCs in the OU-E RAP requiring a remedy.

3. Updates since April 2024 Meeting

- a. ARARs Table
 - i. Purpose: request feedback from agencies on the requirements listed in the ARARs table so we can be in alignment regarding the applicable requirements when considering potential alternatives to the remedies presented in the OU-E Feasibility Study (FS) and Draft OU-E RAP; continue a collaborative approach that involves agencies in the process

- ii. Status:
 - 1. July 2024: Prepared tables summarizing agency requirements (ARARs) and shared with DTSC; DTSC distributed to RWQCB, DSOD, CCC, City, and others to solicit feedback
 - 2. August - December 2024: received feedback from CCC, City, RWQCB, and DTSC
 - 3. DSOD: communicated that DSOD policy requires direct communication from dam owner or owner's consultant. Where DSOD feedback is needed, requests will be submitted directly to DSOD in future per DSOD request.
 - 4. Outstanding responses:
 - a. Have not received feedback from CA Dept of Fish & Wildlife, NOAA, USACE
 - b. Coordination with Sherwood Valley Band of Pomo Indians handled separately by the DTSC Department of Environmental Equity.
 - c. DTSC update on outstanding responses:
 - i. Sherwood Valley Band of Pomo Indians would like to have presence on site during ground-disturbing work.
 - ii. DTSC has not received feedback from other agencies. DTSC requests that MR follow up with remaining agencies as needed. [MR action item]
- b. Draft List of Alternatives
 - i. Purpose: Request feedback from agencies regarding draft list of alternatives to be evaluated in the OU-E FS Addendum to understand if agencies are supportive of the analysis moving forward
 - ii. Status:
 - 1. August 2024: submitted letter with project objectives and draft alternatives list to DTSC
 - 2. September 2024: DTSC shared letter with RWQCB, DSOD, CCC, City
 - iii. EIR & OU-E FS:
 - 1. City comment: DTSC and the City have discussed holding a joint public scoping meeting to align the FS and the CEQA EIR; propose holding public scoping meeting prior to finalizing OU-E FS Addendum, rather than holding after the OU-E FS Addendum is finalized (which is current order of operations). City intends to coordinate with Mendocino Railway in planning the scoping meeting.
 - a. KJ Response: Mendocino Railway supportive of this approach, pending timing of public scoping meeting and DTSC deadline for OU-E FS Addendum (3 April 2024). Request that City and DTSC agree to keep Mendocino Railway and KJ in the loop on scheduling.
 - 2. DTSC comment: a goal of public scoping meeting should be to provide transparency and clarity on CERCLA and CEQA processes. Dual purposes of project – must both address dioxins in Pond 8 sediment as well as DSOD requirements for modification of the Mill Pond Dam.
 - a. KJ Response: Agree. CERCLA authority is protection of human health and the environment, and governs the evaluation of alternative remedies to address identified impacts to human health

and the environment. In contrast, CEQA evaluates one proposed project for potentially significant environmental impacts and may recommend alternative designs to project elements to reduce or eliminate these environmental impacts; CEQA does not evaluate alternatives to the proposed project. The project would also benefit from a clear CEQA project description. Can support with communicating these points clearly.

iv. Project Objectives

1. City comment: Retaining Pond 8 for continued stormwater management is not necessarily a project objective for the City. There may be other alternatives that would provide equivalent stormwater treatment.
 - a. KJ Response: This is acknowledged. However, RWQCB requires that if Pond 8 no longer provides stormwater treatment, a new facility providing equivalent treatment would be required. Ultimately, the most feasible option for meeting this requirement is retention of Pond 8 for stormwater treatment. MR will revise project objectives accordingly.

v. Draft List of Alternatives

1. Six (6) alternatives have already been evaluated in the 2019 OU-E FS. At least seven (7) other alternatives had also been considered previously but determined to not be viable.
 - a. Recommended alternative in 2019 OU-E FS: Institutional Controls, containment of sediment in place, land use controls, and long-term O&M. Containment requires dam improvements, currently proposed as a northern buttress, dividing wall in middle of pond, and rock slope protection at cribwall.
2. Two new alternatives: on-site consolidation and excavation of Pond 8 West with dam modifications
 - a. These alternatives are added in response to DTSC requests (DTSC letters dated 27 December 2022 and 28 March 2024).
 - b. Excavation of Pond 8 West alternative requires additional evaluation and discussion with DSOD on Dam Modifications.
3. Four iterations of previously-evaluated remedial alternative: institutional controls with four alternatives to current RSP design at cribwall
 - a. These alternatives considered changes to dam modifications, specifically alternatives to armoring at the cribwall in accordance with CCC, City, and community request.

4. Agency comments:

- a. City:
 - i. Request that the alternative evaluation consider public beach access.
 - ii. Creek daylighting listed as previously considered but not viable. Why did the creek daylighting alternative not make it into the OU-E FS, and why is it not proposed for the OU-E FS Addendum? There is interest at City Council and the community.
 1. KJ Response: Mendocino Railway is following DTSC's Order, which covers response actions to contamination at the Mill Site. Creek daylighting does not provide protection of human health or the environment from pond sediment. A creek daylighting project is not a remedial action for pond sediment, and only remedial actions were

evaluated in the OU-E FS. Also, removing the beach berm would expose the Mill Pond Dam face to ocean activity, which would negatively impact stability of dam. If pond sediment remains in place, the beach berm and dam must also remain in place. An explanation regarding creek daylighting can be included in the OU-E FS Addendum. [MR action item]

b. DSOD:

- i. DSOD requirements depend on if the dam remains in DSOD jurisdiction.
- ii. This site is vulnerable to seismic activity. If the dam remains in jurisdiction, it would be subject to the strictest requirements/standards (no movement requirement). Design earthquake would be a magnitude 9.
- iii. If the dam is divided into two impoundments, it would no longer meet State Water Code definition of a dam and therefore, would be removed from DSOD jurisdiction and subject to lower requirements/standards (no breach requirement).
 1. State water code defines a dam as > 25' in height and > 50 AF in storage.
 2. These two impoundments would still need to meet geotechnical stability evaluation.
- iv. Two of four proposed dam design alternatives not anticipated to be permissible by DSOD: secant pile wall and jet grouting.
 1. KJ Response: These alternatives will be screened out due to this feedback [MR action item].
- v. DSOD requests direct communication from KJ/MR to continue assessing dam modification design.
 1. KJ Response: requests for feedback from DSOD will be made directly to DSOD going forward. [MR action item].

c. DTSC:

- i. The dam will still need to meet Title 22 requirements for containment structures if the dam is removed from DSOD jurisdiction.
 1. KJ Response: DSOD requirements exceed DTSC requirements for landfill or other containment structures. Meeting DSOD requirements would also meet DTSC requirements.
- ii. Beach berm protects mill pond dam from ocean intrusion/wave action. Will the beach berm be part of alternative evaluations? Will the beach berm and dam be evaluated after the recent earthquake?
 1. KJ Response: Dam was inspected the day of the earthquake. No change in dam conditions noted. There is an in-progress wave study and sea level rise evaluation currently ongoing. There have been discussions regarding including the beach berm. Resolution on the Pond 8 alternatives step is critical to proceed further with these evaluations.
- iii. DTSC Request: Climate change and sea level rise should be addressed as part of FS Addendum.
 1. KJ Response: Climate change and sea level rise have been considered throughout the process. [MR action item]
- iv. DTSC Request: Evaluate climate impacts of utilizing rail instead of trucks for off-site haul and disposal of sediment for the excavation of Pond 8 West project.
 1. KJ Response: This will be included in the FS Addendum. [MR action item]
- v. Has the project team considered removal of sediment such that the dam can be moved farther from the coastline?

1. KJ Response: Yes, the excavation of Pond 8 West is the alternative that considers this. The evaluation will be presented in the OU-E FS Addendum.
- d. RWQCB:
- i. The consolidation alternative would result in creation on a landfill on site and would not be permittable by RWQCB.
 1. KJ Response: There is an existing letter from RWQCB to this effect, and accordingly this alternative will be screened out in the OU-E FS Addendum. [MR action item].
- e. Coastal Commission:
- i. Requested consideration of disconnecting City stormwater from Pond 8 since this stormwater has untreated concentrations of dioxins and is increasing the pollution load. If Pond is being kept as treatment for City stormwater, this should be made more explicitly in the FS Addendum.
 1. KJ Response: RWQCB requires replacing lost stormwater treatment from Pond 8 with equivalent treatment, and based on past evaluation a pond of similar size would likely be required. Not feasible alternative; see response above (Item 3.b.iv.1.a). Can include a description in the OU-E FS Addendum.
 - ii. Is KJ/MR looking for written comments on the alternatives?
 1. KJ Response: yes, if there are critical items that would immediately eliminate an alternative from consideration. Do not want to spent time evaluating something that does not have the potential to move forward.
 - iii. CCC: Not clear if CCC has concerns regarding the cribwall. Discussion will be had internally with CCC's team. CCC will provide a written letter to address concerns regarding alternatives.

5. Summary of Action Items

- a. Mendocino Railway:
 - i. Follow up with remaining agencies on ARARs feedback, as needed.
 - ii. Coordinate with DSOD directly, as needed.
 - iii. Provide support to City and DTSC for EIR public scoping meeting, including supporting communication of CERCLA vs. CEQA processes.
 - iv. Revise project objectives for Pond 8 and stormwater treatment to clarify requirement is for equivalent stormwater treatment, rather than retention of Pond 8 for stormwater treatment.
 - v. Complete OU-E FS Addendum
 1. Address Pond 8's role as providing treatment for City stormwater.
 2. Address creek daylighting in context of OU-E sediment and CERCLA requirement for remedial action.
 3. Include climate change and sea level rise considerations.
 4. Evaluate transportation of excavated soil via rail instead of trucks for excavation of Pond 8 West alternative.
 5. In response to agency feedback, three alternatives included in August 2024 letter will be noted in OU-E FS Addendum but will be screened out prior to FS evaluation: 1) on-site terrestrial treatment and consolidation; 2) construction of a secant pile wall instead of rock slope protection at the cribwall; and 3) jet grouting instead of rock slope protection at the cribwall

- vi. Consider analysis of beach berm to address future tidal conditions and sea level rise
- b. City:
 - i. Schedule public scoping meeting in coordination with DTSC, Mendocino Railway, and KJ
 - ii. Coordinate with DTSC and Mendocino Railway/KJ to prepare agenda and meeting materials.
- c. DTSC:
 - i. Schedule public scoping meeting in coordination with City, Mendocino Railway, and KJ
 - ii. Coordinate with City and Mendocino Railway/KJ to prepare agenda and meeting materials.
 - iii. Coordinate with Mendocino Railway regarding OU-E FS Addendum deadline (3 April 2024), relative to public scoping meeting schedule.
- d. Coastal Commission:
 - i. Provide comments on alternatives in August 2024 letter.