

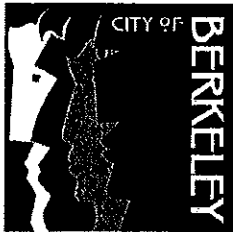
Office of the City Manager

## TO BE DELIVERED AGENDA MATERIAL

**Meeting Date:** November 27, 2007  
**Item Number:** 32  
**Item Description:** Dredging in Aquatic Park

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Office of the City Manager

INFORMATION CALENDAR  
November 27, 2007

To: Honorable Mayor and  
Members of the City Council

From: Phil Kamlarz, City Manager *lim to*

Submitted by: Claudette Ford, Director, Public Works *for PK*

Subject: Dredging in Aquatic Park

INTRODUCTION

On November 8, 2007 the City ceased operations on the subject project because it was notified by the Regional Water Quality Control Board (RWQCB) that proper procedures were not followed to submit an application and a work plan to them for review and approval in advance of the work. Among other things, the Board had also received reports and complaints from citizens concerned about the environmental impacts on Aquatic Park and its habitats.

The City immediately started an investigation into what went wrong in the City's administration of the project. The City's project manager stated that he had contacted all three of the regulatory agencies with jurisdiction (the RWQCG, the Bay Conservation and Development Commission, and the Corps of Engineers) and was told that a permit was not needed due to the limited scope of the work. However, not only were those contacts not properly documented, but an application and work plan still needed to be submitted ahead of time. The City failed to do so before the contractor started work.

At the time that operations were suspended, the excavation work had been completed at the site of the Strawberry Creek storm drain outfall. The City then had its contractor, W. R. Forde, provide protection of the stockpiled spoils next to the lagoon. The next step of starting the clearing of the tide tube inlets is on hold until the work plan has been submitted to, and approved by, the RWQCB. It is expected that the plan will be completed by November 21, 2007. The contractor will resume work according to the specifications of the approved work plan.

Staff will be back for the Council meeting on December 18, 2007 with a full report on the approved work plan, the final test results, and the ultimate disposal plan for the spoils.

CURRENT SITUATION AND ITS EFFECTS

On November 5, 2007 the City's contractor commenced work on the subject project, which included clearing sediment within a 50-foot radius of the tide tubes and the Strawberry Storm Drain overflow outfall in Aquatic Park. On November 7, 2007, the

City was informed that the Regional Water Quality Control Board (RWQCB) had received reports of apparent dredging operations with questions as to whether the City had obtained permits for such work.

City staff met with the Board on November 8, 2007 and provided a full report of the current operations, including information and photos of the present work. The City also had the contractor immediately stop any further digging operations and concentrate on consolidation and better protection for the stockpiled spoils (making the spoils area water tight, berming to prevent drainage of the "decant" water back into the lagoon, and covering the spoils area in anticipation of wet weather over the weekend).

### BACKGROUND

The tide tubes and the storm drain overflow outfall require periodic clearing and cleaning to ensure their proper functioning. If the tide tubes are allowed to silt up excessively, tidal action is inhibited from cleansing the lagoon sufficiently. If the Strawberry storm drain overflow is not cleaned and maintained, there is added chance of flooding occurring in west Berkeley during heavy rains. Historically this maintenance has been done approximately every fifteen years, the last time being in 1992. At that time the spoils were allowed to be barged out and deposited near Alcatraz Island, but this is no longer permitted.

The ideal time for such work is during the dry weather of the summer months, and this is when this project was originally scheduled. However, the project fell behind schedule, and in Engineering's quest to expedite the work before the rainy season, it failed to follow advance procedures with the regulating agencies, as noted above. Further, when the work actually started, Engineering did not inform the regulatory agencies, the staff in the Parks, Recreation and Waterfront Department, nor the Public Works Director.

Unfortunately, the prescribed protocol was not followed and the ultimate responsibility for this incident resides with Engineering management. The Public Works Director will work with the Manager of Engineering and appropriate staff to preclude further such occurrences.

### POSSIBLE FUTURE ACTION

To move forward, Engineering staff is working with the contractor to prepare a work plan for the balance of the work. As part of the work plan, the City has requested that Laurel Marcus, the environmental consultant working on the Aquatic Park Improvement Program, review and identify any additional measures that should be applied to the spoils area and dredging location (Strawberry storm drain outfall).

A critical component will be a thorough testing program. The contractor is taking samples of the sediment at the tide tubes area and samples of the spoils to determine whether any contaminants are present and identify where the spoils can be disposed.

These samples are sent to a separate testing laboratory, Analytical Sciences of Petaluma, California, following standard protocols for independent analysis.

The two additional things the RWQCB is concerned with and wants the City to include in the work plan is whether the cleaning operation caused any water issues (Turbidity and DOD - Dissolved Oxygen Demand) or if any of the decant water made its way back to the lagoon). Signs of turbidity or DOD would have been either a fish kill or fowl kill. Nothing was observed.

Additionally, at the spoils site, the RWQCB wants to know whether any of the decant water from the spoils was allowed to get into the lagoon. Again no evidence of decant making its way back into the lagoon was observed. The decant water is where the contaminant would be found if there are any.

Currently, the preliminary test results indicate that the soils are not classified as hazardous material and therefore can be trucked to a Class 2 dumpsite. The remaining issue is that the stockpiles are very moist, and it would be preferable to allow them to dry out. As such, there are three alternatives being considered for disposal of the spoils.

First, both the existing spoils from the storm drain site and the upcoming new spoils from the tide tube site could be hauled as-is in watertight trucks to the Altamont Class 2 site, the cost of which is not yet known but would be higher than if the soil were dry.

Second, the contractor, W. R. Forde, has indicated that it could take charge of the material and haul it off to its own facility. Their price proposal to do so has not yet been provided.

Third, the City could build a completely watertight containment on-site to allow for the soil to dry out by evaporation, a period likely to be 2 – 3 months. The scope of these three alternatives is being evaluated at this time. If the third method were proposed, staff would plan to provide a detailed layout and description of the method and the setup for Council consideration.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Additional costs for the services of Laurel Marcus, and for other expenses associated with environmental mitigations resulting from the stockpiling of the spoils, are estimated not to exceed \$20,000. There may also be additional costs for disposal of contaminated materials. These costs would have been incurred regardless of errors in advance approvals.

#### CONTACT PERSON

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