

<b>Wetlands on Walters Road Property</b>		
<b>Location</b>	<b>Feature Type</b>	<b>Acreage</b>
Wetland 1	Seasonal Wetland	0.065
Wetland 2	Seasonal Wetland	0.018
Wetland 3	Seasonal Wetland	0.219
Wetland 4	Seasonal Wetland	0.379
Wetland 5	Seasonal Wetland	0.007
Wetland 6	Seasonal Wetland	0.041
Wetland 7	Seasonal Wetland	0.012
Wetland 8	Seasonal Wetland	0.038
Wetland 9	Seasonal Wetland	0.091
Wetland 10	Seasonal Wetland	1.452
Wetland 11	Seasonal Wetland	0.192
Wetland 12	Wetland Drainage Swale	0.433
Wetland 13	Seasonal Wetland	0.049
<b>Total Wetlands</b>		<b>2.996</b>

A vegetated drainage ditch and 12 seasonal wetlands were identified across the property. All 13 features meet the Corps criteria for wetlands.

These features were observed to be dominated by hydrophytic vegetation, had primary and secondary hydrology indicators and contained hydric soils. The hydrology feeding these wetlands originates mostly from intercepted rainfall, except in the case of the vegetated drainage ditch, which receives urban runoff from the neighboring developments.

### ***Drainage Ditch***

Wetland 12 is a constructed drainage ditch, flowing from north to south. This drainage was dug across the property at an unknown date, but has been showing up on USGS maps for decades. It contains a defined channel, sign of scouring, drift lines and generally perennial flowing water. The drainage ditch flows approximately 1,100 linear feet, discharges into a concrete culvert beneath Highway 12 and goes through and underground culvert beneath the southern residential development, after which it resurfaces. The ditch is also identified on the USGS quadrangle map as a dashed blue line feature which is tributary to Hill Slough to the south (Attachment 1, Figure 3). Hill Slough enters the northern portion of Suisun Slough and the Delta.

The drainage ditch is characterized by an excavated channel with steep earthen banks. It is vegetated with a moderate to thick growth of cattails (*Typha latifolia*-OBL). Other species observed to grow in the channel and on the lower bank include water plantain (*Alisma plantago-aquatica*-OBL), curly dock (*Rumex crispus*-FACW-), and Mexican rush (*Juncus mexicanus*-OBL). A few newly germinated sapling cottonwood (*Populus fremontii*-FACW) and arroyo willow (*Salix lasiolepis*-FACW) were also observed to be approximately three feet tall. The banks are vegetated with disturbance tolerant non-native forbs and grasses including Harding grass (*Phalaris aquatica*-FAC+), sweet fennel (*Foeniculum vulgare*-FACU), black mustard, and pepper grass (*Lepidium latifolium*-FACW).

The constructed drainage ditch was dominated by hydrophytic vegetation and meets the Corps criteria as a jurisdictional wetland.

The California Department of Fish and Game has taken jurisdiction over the drainage ditch and therefore the Project applicant negotiated a Streambed Alteration Agreement with the Department of Fish and Game.

### ***Seasonal Wetland***

Wetlands 1 through 11 and Wetland 13 are seasonal adjacent wetlands containing a mix of native and non-native wetland plant species. The site in general has poor drainage due to soils with high clay content, as well as the presence of an area of fill situated west of the drainage ditch. The property contains several shallow depressions that seasonally pond during the rainy season. The seasonal wetlands support some native vernal pool flora including popcorn flower (*Plagiobothrys stipitatus*-OBL), valley downingia (*Downingia pulchella*-OBL), dwarf sack clover (*Trifolium depauperatum* var. *depauperatum*-FAC), brass buttons (*Cotula coronopifolia*-OBL), cow clover (*Trifolium fucatum*-FAC), white tipped clover (*Trifolium varigatum*-FACW-), toad rush (*Juncus bufonius*-FACW+), water-starwort (*Callitriche* sp.-OBL) and flowering quillwort (*Lilaea scilloides*).

Other less common vernal pool associates consist of coyote thistle (*Eryngium vasyii*-FACW) and alkali mallow (*Malvella leprosa*-FAC\*). Other non-native dominant species found in the depressions consist of loosestrife (*Lythrum hyssopifolia*-FACW), spiny-fruited buttercup (*Ranunculus muricatus*-FACW+), rabbit's foot grass (*Polypogon monspeliensis*-FACW+), and Mediterranean barely (*Hordeum marinum* var. *gussoneanum*-FAC).

The wetlands exhibit rutting from past disking and have uneven surfaces throughout. Depending upon the length of inundation the plant species within the pools varies. Where topographic depressions occur on the property wetland areas occur and exhibit a dominance of hydrophytic vegetation.

### **3.5 The Proposed Project**

The Project involves the development of the entire 20.8-acre site with an integrated shopping center, as is shown in Attachment 1, Figure 6. The Project will include an approximately 215,000-square foot Wal-Mart Supercenter; commercial uses that complement the Supercenter such as a gas station with a car wash and a sitdown restaurant, and associated parking and infrastructure to support the commercial development.

Development of the site will require the placement of fill into approximately 2.947 acres of the total 2.996 acres of jurisdictional wetlands regulated by the Corps. Approximately 2.637 acres of wetland swale would be permanently filled and 0.310 acres of drainage channel habitat identified as wetland would be placed within a culvert in association with the planned development. Discharge material would consist of approximately 13,000 cubic yards of permanent clean earthen fill spread over the entire Project site. It is estimated that 2,000 cubic yards of that fill will be discharged directly into the jurisdictional wetlands. An additional 1,500 cubic yards of culvert and related fill materials will be discharged into the wetland drainage channel.

Permanent impacts to Corps jurisdictional wetlands will be mitigated at a 1:1 ratio with the purchase of mitigation credits at the North Suisun Mitigation Bank, which is three miles east of the Project in designated critical habitat for vernal pool fairy shrimp and vernal pool tadpole shrimp. Impacts to on-site wetlands within critical habitat will be mitigated by purchasing wetland preservation credits at a 3:1 ratio and creation credits at a 1:1 ratio. On-site impacted uplands within critical habitat will be mitigated through the purchase of preservation credits at a 1:1 ratio. On-site impacts to wetlands outside critical habitat will be mitigated through the purchase of creation credits at a 1:1 ratio. The proposed mitigation is subject to approval by regulatory permitting agencies.

In addition, Wal-Mart has negotiated a Streambed Alteration Agreement with the California Department of Fish and Game for impacts to the drainage ditch. Pursuant to that agreement, Wal-Mart will mitigate impacts to the drainage ditch by purchasing stream replacement credits from the Elsie Gridley Mitigation Bank or other approved mitigation bank at a ratio of 2:1.

### **4.0 ASSESSMENT OF POTENTIAL OFF-SITE ALTERNATIVES**

To identify a market area appropriate for the development of a regional shopping center, Wal-Mart, based on its decades of experience, looks at several factors such as traffic patterns, the presence or lack thereof of existing retail outlets in the area, and population to identify the area for a project and the size of a project appropriate for the market area. Based on their experience and evaluation of the relevant factors, Wal-Mart determined that Suisun City is a currently underserved market area given its large population and its lack of commercial facilities. To capture this market, including the local and the regional demand, a regional shopping market would need to be located within the City limits and would need to be situated on a major roadway.

## 4.1 Screening Procedures for Off-Site Alternatives

Based on the factors identified above, the Project team identified screening criteria to assess the practicability of alternative locations for the Project as required under the Section 404(b)(1) Guidelines. This screening process was conducted at two levels. Under the first level of screening, the Project team eliminated those sites that are not practicable because they are manifestly unsuitable for accommodating the overall Project purpose due to inadequate parcel size and location. Under the second level of screening criteria, sites were evaluated for practicability based on cost, logistical, technological, and environmental considerations in light of the Project purpose. Further, to be practicable, a site must be available for development of the proposed Project.

As is detailed below, none of the potential off-site alternatives survived the practicability screening process. Had any of the alternatives survived, they would have been considered potentially practicable, and would have been subsequently analyzed in accordance with Subparts C through H of the 404(b)(1) Guidelines (40 CFR §§ 230.20-230.77).

### 4.1.1 Level 1 Screening Procedures

Site selection criteria represents the first level of screening for availability of possible alternatives to the proposed Project site that achieve the Project purpose. These criteria are designed to exclude from further evaluation sites that would clearly not be practicable. Selection criteria used for screening potential alternative sites include the following:

**Parcel Size:** The alternative site must have a minimum of 17 undeveloped acres. This parcel size is the minimum size that could accommodate a regional commercial center with a Wal-Mart Supercenter of sufficient size to provide a wide range of product availability and selection, associated commercial uses such as a gas station and restaurant, and associated parking.

**Location:** The alternative site must be located within the jurisdiction of Suisun City or its Sphere of Influence. As is described above, the purpose for the Project is to provide commercial services to meet the demands of the Suisun City market area. Other locations would therefore not meet the Project purpose.

### 4.1.2 Level 2 Screening Criteria for Potential Off-site Alternatives

Site screening criteria represents the second level of screening for practicability of alternative sites identified in the first level of assessment. The following screening criteria were used to assess potential alternative sites for practicability:

**Project Purpose:** The alternative site must have sufficient acreage to allow for development of an integrated shopping center with a Supercenter of sufficient size to accommodate the needs of Suisun City and the region (more than 172,000 square

feet), complementary commercial uses such as a gas station and restaurant, and necessary parking and infrastructure to meet the City's fiscal and retail needs.

**Logistics:**

- > The alternative site must be adjacent to a freeway/expressway or arterial street, as defined in the City's General Plan.
- > The alternative site must be at a location where utilities and infrastructure are available or can be extended at a reasonable cost.
- > The alternative site must not be within Zones A, B1, or B2 of the Solano County Travis Air Force Base Land Use Compatibility Plan. Sites located in areas identified as Zone A, B1, or B2 cannot be approved for major commercial development due to safety considerations.

**Environmental:** Development of the alternative site must result in significantly less impacts on aquatic resources than would development of the Project site, without having other significant adverse environmental impacts.

**Cost:** The alternative site must have development costs that are not significantly greater than the Project site.

**Availability:** The alternative site must be undeveloped and available to purchase for development purposes. A site is not considered available if it is currently approved for development or if there are development proposals pending. Further, sites that are subject to conservation easements which preclude or significantly restrict development are not considered available.

These criteria are "negative screeners" in that any alternative that met one or more of the criteria was rejected as not practicable for the Project's intended purpose. Failure to pass any single criterion is considered sufficient to reject a site as not practicable under the 404(b)(1) Guidelines.

#### **4.2 Analysis of Off-Site Alternatives**

Under Level 1 practicability screening, the Project team identified all potential off-site locations within Suisun City or its Sphere of Influence that met the Level 1 screening criteria, listed above. To accomplish this, the Project team examined aerial photographs of the vicinity of the City and the City's land use ordinances and restrictions. A copy of the aerial photographs showing all the sites considered is included as Attachment 1, Figure 7. All undeveloped sites on the photographs meeting the above criteria were selected for Level 2 screening analysis.

A total of six potential off-site alternatives passed Level 1 screening (see Attachment 1, Figure 7, which identifies Sites A through F, which passed Level 1 screening, and Site G, which did not pass

Level 1 screening as it comprises significantly less than 17 acres). The following discussion applies the Level 2 screening criteria to the six off-site alternatives that passed the Level 1 screening. (Attachment 2, Table 1 summarizes this Level 2 screening analysis.) None of these six alternative sites meet the Level 2 screening criteria.

#### 4.2.1. Site A

This alternative site consists of 490.5 acres located in an unincorporated area, just west of Suisun City. Site A is known as the Gentry-Suisun site.

**Project Purpose:** This alternative site provides sufficient acreage for an integrated shopping center consisting of a Wal-Mart Supercenter, compatible retail uses such as a gas station and restaurant, and parking.

**Logistics:** This alternative site is adjacent to State Route 12, which is a freeway/expressway in this location per the City's General Plan. Furthermore, we anticipate that infrastructure is or can be made readily available to the site.

This alternative site is not within Travis Air Force Base Land Use Compatibility Zones A, B1, or B2 and therefore the Travis Air Force Base Land Use Compatibility Plan would not prohibit development of the Project on this site.

**Environmental:** The site is more than 75% wetlands containing 330 acres of jurisdictional waters spread throughout the site. Development of the site with the proposed Project likely would impact more waters of the United States than proposed on the current Project site.

**Cost:** Because the property does not survive the other screening criteria, detailed, quantitative cost estimates for site development were not prepared.

**Availability:** The City is currently considering a development application for the Gentry-Suisun site and therefore the site is not available for construction of the proposed Project.

**Overall:** Given that development of the Project at this alternative site would have greater environmental impacts than development of the Project at the proposed site and that this alternative site is not available for development of the Project, this is not a practicable alternative.

#### 4.2.2 Site B

This alternative site consists of approximately 250 acres located south of State Route 12 and east of Marina Boulevard.

**Project Purpose:** This alternative site provides sufficient acreage for an integrated shopping center consisting of a Wal-Mart Supercenter, compatible retail uses such as gas station and restaurant, and parking.

**Logistics:** This alternative site is adjacent to State Route 12, which is a freeway/expressway in this location per the City's General Plan. Furthermore, we anticipate that infrastructure is or can be made readily available to the site.

This alternative site is not within Travis Air Force Base Land Use Compatibility Zones A, B1, or B2 and therefore the Travis Air Force Base Land Use Compatibility Plan would not prohibit development of the Project on this site.

**Environmental:** It is estimated through the use of aerial photographs of the site (see Figure 7) that the property is almost entirely waters of the United States. Construction of the proposed Project on this site would have far more impacts to aquatic habitats than would construction of the Project at the proposed site.

**Cost:** Because the property does not satisfy the other screening criteria, detailed, quantitative cost estimates for site development were not prepared.

**Availability:** Owing to the presence of extensive tidal and seasonal marsh wetlands, this property is currently a protected parcel and is managed by the California Department of Fish and Game for wildlife habitat. It is therefore not available for development of the proposed Project.

**Overall:** Given that development of the Project at this alternative site would have greater environmental impacts than development of the Project at the proposed site and that the site is not available for development of the Project, this is not a practicable alternative.

#### 4.2.3 Site C

This alternative site consists of approximately 57 acres located directly east of the proposed Project site, and on Walters Road.

**Project Purpose:** This alternative site provides sufficient acreage for an integrated shopping center consisting of a Wal-Mart Supercenter, compatible retail uses such as a gas station and restaurant, and parking.

**Logistics:** This alternative site is adjacent to State Route 12, which is a freeway/expressway in this location and Walters Road, which is an arterial street per the City's General Plan. Furthermore, we anticipate that infrastructure is or can be made readily available to the site.

This alternative site is not within Travis Air Force Base Land Use Compatibility Zones A, B1, or B2 and therefore the Travis Air Force Base Land Use Compatibility Plan would not prohibit development of the Project on this site.

**Environmental:** The property contains more sensitive biological resources than the currently proposed site. Unlike the proposed parcel, the entire site is within designated critical habitat for various vernal pool species and is afforded greater protection. An investigation of aerial photographs suggests that the site has a greater density of wetlands, estimated to be around 25% to 50% of the site (14 to 28 acres). Development of the site would not constitute an in-fill development because the parcel is largely surrounded by open areas, some of which are known to be populated by protected species such as Contra Costa goldfields and vernal pool fairy shrimp. Given the constraints on the site, it is likely that development of a commercial project would impact a higher quality and larger area of sensitive biological resources and wetlands.

**Cost:** Given that the site does not satisfy the other screening criteria, detailed, quantitative cost estimates for site development were not prepared.

**Availability:** We understand that this site is available for development of the proposed Project.

**Overall:** Given that development of the Project at this alternative site would result in more impacts to aquatic resources and other adverse environmental impacts than development of the Project at the proposed site, this is not a practicable alternative.

#### 4.2.4 Site D

This alternative site consists of approximately 29.7 acres located at the northeast corner of Highway 12 and the railroad tracks.

**Project Purpose:** This alternative site provides sufficient acreage for an integrated shopping center consisting of a Wal-Mart Supercenter, compatible retail uses such as a gas station and restaurant, and parking.

**Logistics:** This alternative site is adjacent to State Route 12, which is a freeway/expressway in this location per the City's General Plan. Furthermore, we anticipate that infrastructure is or can be made readily available to the site.

This alternative site is not within Travis Air Force Base Land Use Compatibility Zones A, B1, or B2 and therefore the Travis Air Force Base Land Use Compatibility Plan would not prohibit development of the Project on this site.



**Environmental:** We are not aware of any environmental issues that would preclude development on this site or that would cause the Project to result in far more impacts to aquatic habitats than would construction of the Project at the proposed site.

**Cost:** Given that the site does not satisfy the other screening criteria, detailed, quantitative cost estimates for site development were not prepared.

**Availability:** The City is currently considering a development application for a mixed-use project on the site and therefore the site is not available for development of the proposed Project.

**Overall:** Given that the site is not available for development of the Project, this is not a practicable alternative.

#### 4.2.5 Site E

This alternative site consists of the area located east of the Project site, north of State Route 12, and south of Travis Air Force Base, within the City's Sphere of Influence.

**Project Purpose:** This alternative area provides sufficient acreage for an integrated shopping center consisting of a Wal-Mart Supercenter, compatible retail uses such as a gas station and restaurant, and parking.

**Logistics:** This alternative area is adjacent to State Route 12, which is an arterial street in this location per the City's General Plan. Furthermore, we anticipate that infrastructure is or can be made readily available to the area.

The majority of this alternative site is within Travis Air Force Base Land Use Compatibility Zones A, B1, or B2 and therefore the Travis Air Force Base Land Use Compatibility Plan would prohibit development of the Project on this site. A portion of the site is outside these compatibility zones.

**Environmental:** The portion of the site that is outside Compatibility Zones A, B1, and B2 contains more sensitive biological resources than the currently proposed site. The area is within designated critical habitat for various vernal pool species and is afforded greater protection. An investigation of aerial photographs suggests that the site has a greater density of wetlands. Development of the site would not constitute an in-fill development because the parcel is largely surrounded by open areas. Given the constraints on the site, it is likely that development of a commercial project would impact a higher quality and larger area of sensitive biological resources and wetlands.

**Cost:** Given that the site does not satisfy the other screening criteria, detailed, quantitative cost estimates for site development were not prepared.

**Availability:** We understand that this site is available for development of the proposed Project.

**Overall:** The Travis Air Force Base Land Use Compatibility Plan would preclude development of the Project on a majority of this site. Development of the Project on the remainder of the site would result in more impacts to aquatic resources and other adverse environmental impacts than development of the Project at the proposed site. Therefore, this is not a practicable alternative.

#### 4.2.6 Site F

This alternative site consists of the area located northeast of the Project site, between the City limit line and Travis Air Force Base, within the City's Sphere of Influence.

**Project Purpose:** This alternative site provides sufficient acreage for an integrated shopping center consisting of a Wal-Mart Supercenter, compatible retail uses such as a gas station and restaurant, and parking.

**Logistics:** This alternative site is not adjacent to a freeway/expressway or an arterial street per the City's General Plan. We anticipate that infrastructure is or can be made readily available to the site.

This alternative site is not within Travis Air Force Base Land Use Compatibility Zones A, B1, or B2 and therefore the Travis Air Force Base Land Use Compatibility Plan would not prohibit development of the Project on this site.

**Environmental:** We are not aware of any environmental issues that would preclude development on this site or which would cause the Project to result in far more impacts to aquatic habitats than would construction of the Project at the proposed site.

**Cost:** Given that the site does not satisfy the other screening criteria, detailed, quantitative cost estimates for site development were not prepared.

**Availability:** Travis Air Force Base owns an easement over the majority of this area, which precludes any change in use from the currently undeveloped status of the site and therefore the area is not available for development of the Project.

**Overall:** Given that the site is not adjacent to a freeway/expressway or arterial street and is not available for development of the Project, this is not a practicable alternative.

## 5.0 ON-SITE ALTERNATIVE SCREENING

This section analyzes possible on-site alternative designs to the proposed Project. The purpose of this analysis is to determine if one or more alternative designs could attain the overall Project purpose while causing significantly less impacts to waters of the United States, without having other significant environmental consequences.

### 5.1 Screening Criteria

The following criteria were used to evaluate alternative on-site designs for the Project:

**Project Purpose:** The alternative design must be able to accommodate an integrated shopping center with a Supercenter of sufficient size to accommodate the needs of Suisun City and the region (more than 172,000 square feet), compatible retail uses such as a gas station and restaurant, and parking to meet the City's fiscal and retail needs.

**Logistics:** The alternative design must:

> **Circulation:** The alternative design must have a safe, efficient internal circulation pattern; accommodate installation of the necessary infrastructure; provide adequate access to and from Walters Road and Peterson Road; provide sufficient parking to service the commercial uses; and provide adequate delivery truck access and circulation;

> **Land Use Restrictions:** The alternative must not conflict with the Travis Air Force Base Land Use Compatibility Plan safety criteria; and

> **Energy Efficiency:** The alternative must not conflict with the Project's energy efficiency goals. Wal-Mart will incorporate many sustainable features into the Supercenter building design that will reduce the building's demand for resources, will utilize non-toxic materials, and will promote waste reduction. For instance, Wal-Mart may include the following features in the Supercenter building design:

- **Daylighting:** Skylights will be equipped with auto dimming sensors to the internal lighting network. This system will auto adjust lighting depending on the weather.
- **Night Dimming:** Lights will dim to about 65% illumination during the late night hours.
- **Energy Efficient HVAC Units:** Wal-Mart utilizes "super" high efficiency packaged HVAC units. While the industry standard EER (Energy Efficiency Ratio) is 9.0, Wal-Mart units are rated at between 12.1 to 14.3.

- **Central Energy Management:** The store will be equipped with an energy management system that will be monitored and controlled from the Home Office in Bentonville, Arkansas.
- **Water Heating:** The store will capture waste heat from the refrigeration equipment to heat water for the kitchen preparation areas of the store.
- **White Roofs:** Wal-Mart participates in the Energy Saving Cool Roof Program and uses a "white" single ply roof in warmer climates, versus most applications that are a darker color. The high solar reflectivity of this membrane results in lowering the "cooling" load by about 10%.
- **LED Signage Illumination:** Wal-Mart uses LED lighting in all of the internally illuminated building signage for all new construction. With longer lamp life, using LEDs significantly reduces need to manufacture and dispose of fluorescent lamps.

**Cost:** The alternative design must have development costs that are not significantly greater than the Project.

**Environmental:** The alternative design must have significantly less adverse impacts to aquatic ecosystems without having other significant adverse environmental effects.

**Overall:** An alternative is not a practicable alternative to the Project unless it meets all of the above criteria.

## 5.2 Analysis of Alternative On-Site Designs

As described above, the Project site includes 2.996 acres of jurisdictional waters. A drainage swale totaling 0.310 acres bisects the site. The remaining wetlands are scattered through out the site (see Attachment 1, Figure 5). To determine if there is any feasible way of reducing impacts to waters of the United States, the Project team analyzed seven alternatives for practicability in terms of the criteria listed immediately above. (Attachment 2, Table 2 summarizes this analysis.)

### 5.2.1 Alternative Design 1: Full Avoidance

This alternative was designed to test the practicability of avoiding impacts to all of the site's aquatic features. This resulted in a reduction of developable area and an increase in open space. Attachment 1, Figure 8 shows the layout of this alternative and the impacts to aquatic resources.

**Project Purpose:** Under this alternative, only an approximately five-acre portion of the site would be available for development. Five acres is not a sufficient size to construct the proposed Project; the proposed Wal-Mart Supercenter building foot print alone, without parking, is approximately four acres. Avoidance of the

jurisdictional features would eliminate the Project and therefore is not consistent with the Project purpose as it does not provide for construction of a regional shopping center.

**Logistics:** This alternative would not allow adequate space to provide internal roadways, infrastructure, parking or necessary access. It therefore does not meet the logistical criteria necessary for the Project.

**Cost:** This alternative design eliminates the Project and therefore there would be no development costs associated with the alternative design.

**Environmental:** This alternative design would avoid all impacts to aquatic ecosystems and would not create other environmental impacts therefore this alternative design would have less impacts on the environment.

**Overall:** This alternative design does not allow development that would meet the Project purpose or the logistical criteria therefore it is not a practicable alternative.

### **5.2.2 Alternative Design 2: Avoidance of Unnamed Ditch**

This alternative was designed to test the practicability of avoiding the unnamed ditch. This would be accomplished by constructing the Supercenter to the east of the ditch and constructing all required parking and most shops to the west of the ditch as is shown in Attachment 1, Figure 9. Pedestrian and delivery truck access to the Supercenter would be provided by three bridged truck crossings and four bridged pedestrian crossings of the ditch. Under this alternative, the ditch would remain an open channel for most of its length, excluding the seven crossings.

**Project Purpose:** This alternative design would provide for the development of a shopping center consisting of an approximately 129,500-square foot Wal-Mart Supercenter, gas station, restaurant, and parking. A Supercenter of this size would not allow sufficient area to provide the range and quantities of goods necessary to serve the Suisun City market area and to meet the City's fiscal needs. Therefore, this alternative design does not meet the Project purpose.

#### **Logistics:**

> **Circulation:** This alternative design presents pedestrian/vehicular conflicts. Pedestrians and vehicles, including 18-wheel delivery trucks, would share at least three of the bridged crossings along the ditch. This would not only create issues with circulation, but it would pose a safety hazard as well. In addition, Wal-Mart would need to construct an ADA path over one or more of the bridges, which would present further engineering and safety concerns. Finally, the presence of an open ditch also presents a safety hazard for pedestrians. Overall, this alternative design fails to

efficiently utilize the site and presents safety concerns due to pedestrian/vehicular conflicts.

> Consistency with Travis Air Force Base Land Use Compatibility Plan safety criteria: The Travis Air Force Base Land Use Compatibility Plan prohibits more than 300 people per acre for the Project (in addition to other clustering requirements). To determine the density of the Project, the Travis Air Force Base Land Use Commission looks at the number of parking spaces provided and assumes a vehicle occupancy rate of 1.7 people per vehicle.<sup>2</sup> Based upon a 129,500-square foot Supercenter (2.97 acres of building space) and 1,217 parking spaces for the Supercenter, this alternative design would result in a density of 697 people per acre inside the building. This is not consistent with the Travis Air Force Base Land Use Compatibility Plan.

> Conflicts with the Project's energy efficiency goals: We anticipate that this alternative would not conflict with the Project's energy efficiency goals.

**Cost:** Wal-Mart estimates that the bridges alone will cost an additional \$656,018.88 to build, which is significant.<sup>3</sup>

**Environmental:** Avoidance of the ditch would not significantly reduce long-term impacts to the aquatic ecosystem. Impacts to waters of the United States would be reduced from 2.947 to approximately 2.563, a minor decrease in total acreage. Furthermore, under the existing conditions the ditch provides little functions to the ecosystem. Generally, the only function it provides is sediment and pollutant filtration with a nearly negligible habitat value. If the Project were constructed as proposed in this alternative, any small habitat value contained within the ditch would be completely lost due to the close proximity of development. While filtration functions would remain, the ditch's capacity for filtration of sediments and pollutants would be exceeded because of the new surrounding development. Owing to its open air design, the ditch would receive larger amounts of incidental trash and pollutants from the development which would likely result in an over all decrease in water quality.

**Overall:** Because physical avoidance of the ditch would not meet the Project purpose, would create logistical concerns, and would result in a significantly higher

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<sup>2</sup> The 1.7 people/vehicle ratio is the ratio that the Solano County Airport Land Use Commission required the City to use in its analysis of the Project when the City requested a determination from the Commission regarding the Project's consistency with the Travis Air Force Base Land Use Compatibility Plan. The City maintained the position that the correct ratio is closer to 1.5 people/vehicle, but to be conservative, this analysis uses 1.7 people/vehicle.

<sup>3</sup> Table 3, which is provided under Attachment 2, includes a breakdown of this cost estimate.

cost of development it is not practicable. Further, because it does not result in a significant reduction in impacts to aquatic resources, it does not constitute the LEDPA.

### 5.2.3 Alternative Design 3: Two-Story Wal-Mart Supercenter

This alternative tested the practicability of constructing a two story Wal-Mart Supercenter, thereby reducing the store's foot print by approximately half. This would result in a store covering 129,000 square feet at ground level, instead of 215,000, allowing 0.67 acres of the site's wetlands to remain undeveloped, as shown in Attachment 1, Figure 10.

**Project Purpose:** This alternative design would allow for the development of a shopping center consisting of an approximately 200,000-square foot Wal-Mart Supercenter, complementary commercial uses such as a gas station and restaurant, and required parking and infrastructure to meet the City's fiscal and retail needs.

**Logistics:**

> Circulation: This alternative design presents vehicular and truck circulation problems. The parking layout is challenging due to the fact that the wetlands are scattered throughout the site and to avoid them, the site plan needs to provide drive aisles that meander around the wetlands. This site plan also eliminates the truck turn-arounds due to a lack of space, which precludes the necessary efficient delivery systems. The presence of open wetlands on the site also presents a safety hazard for pedestrians.

> Consistency with Travis Air Force Base Land Use Compatibility Plan safety criteria: The Travis Air Force Base Land Use Compatibility Plan prohibits more than 300 people per acre for the Project (in addition to other clustering requirements). To determine the density of the Project, the Travis Air Force Base Land Use Commission looks at the number of parking spaces provided and assumes a vehicle occupancy rate of 1.7 people per vehicle. Based upon a 129,000-square foot footprint (2.96 acres) and 954 parking spaces for the Supercenter, that would result in a density of 548 people per acre within the store. This is not consistent with the Travis Air Force Base Land Use Compatibility Plan.

> Conflicts with the Project's energy efficiency goals: The two-story alternative would significantly increase the energy demand of the Supercenter. A two-story store would require freight and passenger elevators and passenger and shopping cart escalators, all of which demand energy to operate. The two-story building would include fewer skylights given the smaller surface area of the roof and the skylights would provide light only to the second story of the building. Therefore, the store

would consume more energy to light the first floor. Finally, fan horsepower would need to increase in order to distribute air to the first floor.

**Cost:** A two-story retail structure would cost approximately \$118 per square foot to build, as compared to a single-story Supercenter, which would cost approximately \$87 per square foot to build.<sup>4</sup> This results in an approximately 36% increase in construction costs, or almost \$6.5 million more than the City approved project.

A two-story structure would also cost more to operate. Such a store would require additional employees to staff the two levels and to move merchandise between the floors. Further, a two-story structure would also demand more energy than a two-story structure, thereby increasing the overall cost of energy for the store.

**Environmental:** This design would only avoid approximately 0.67 acres of wetlands. Although these avoided wetlands would not be directly impacted, they would be indirectly impacted by the surrounding development and the hydrologic characteristic of the wetlands would be changed. Following Project construction, the avoided wetlands would be surrounded by development, with the Wal-Mart store the east, Highway 12 to the south and west, and Peterson Road to the north. In addition to being completely ecologically isolated by surrounding development, the hydrologic regime that supports the wetlands would also be truncated by Project construction. Although these wetlands are partially supported by direct rainfall, they also receive important contributing saturation from the surrounding uplands. The site is underlain by a heavy clay pan that acts as a barrier between the groundwater basin and the surface water. Rainfall that falls on the surrounding upland areas moves through the soil above the claypan and creates a zone of saturation. This zone of saturation provides additional hydrology for the lower-elevation wetlands as through-flow from the surrounding landscape. Creation of the Project will prevent rainwater from infiltrating the top soil of the surrounding uplands and reaching the wetland areas. Given that under existing conditions these wetlands exhibit very short ponding and saturation periods, it is anticipated that any reduction of the hydrologic support for these areas is likely to significantly impact the duration and surface area of saturation in these wetlands. Overtime, it is anticipated that these wetlands would shrink in size and lose the limited functions that they currently possess. Because of the significant indirect impacts to wetlands, this alternative would not result in a significant reduction in impacts to waters of the United States.

**Overall:** Because a two-story Wal-Mart Supercenter would create logistical concerns and would result in a significantly higher cost of development it is not a practicable alternative. Further, because it does not result in a significant reduction in impacts to aquatic resources, it does not constitute the LEDPA.

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<sup>4</sup> Table 4, which is provided under Attachment 2, includes a breakdown of this cost estimate.



#### 5.2.4 Alternative Design 4: Partial Avoidance

The "Partial Avoidance Alternative" was designed to test the practicability of avoiding impacts to all wetlands except wetlands 7, 8 and 9, as depicted on the Army Corps verified delineation. This results in a reduction of developable area, an increase in open space, and avoidance of 2.855 acres of wetlands. Attachment 1, Figure 11 shows the layout of this alternative and the impacts to aquatic resources.

**Project Purpose:** Under this alternative, only an approximately 10.6-acre portion of the site would be available for development, with the acreage spread into three disjointed areas separated by aquatic features. The largest parcel would be 8.7 acres and would be used for the Wal-Mart Supercenter. An 10.6-acre site is not a sufficient size to construct the proposed Project. To fit a Wal-Mart building and required parking within 8.7 acres, the Wal-Mart store could be no larger than 115,200 square feet. A Supercenter of this size would not allow sufficient area to provide the range and quantities of goods necessary to serve the Suisun City market area and to meet the City's fiscal needs. Therefore, this alternative design does not meet the Project purpose.

#### **Logistics:**

> Circulation: This alternative design presents several problems with circulation. Given that the wetlands are randomly scattered throughout the site, the roadways and parking areas are forced to awkwardly meander around the site in order to avoid the wetlands. This would result in compromised traffic circulation. Pedestrians moving between Wal-Mart and the restaurants/gas station areas would be forced to use the same bridged crossing as the main vehicular entrance to the shopping center creating dangerous conditions for pedestrians and poor traffic circulation. The presence of the open ditch and wetlands on the site also presents a safety hazard for pedestrians. Overall, this alternative design fails to efficiently utilize the site and presents safety concerns due to pedestrian/vehicular conflicts.

> Consistency with Travis Air Force Base Land Use Compatibility Plan safety criteria: We anticipate that this alternative would not conflict with the Travis Air Force Base Land Use Compatibility Plan.

> Conflicts with the Project's energy efficiency goals: We anticipate that this alternative would not conflict with the Project's energy efficiency goals.

**Cost:** Wal-Mart estimates that the two clearspan bridges crossing the wetland ditch and adjacent wetland would cost approximately \$2,482,107.<sup>5</sup> This cost is

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<sup>5</sup> Table 5, which is provided under Attachment 2, includes a breakdown of this cost estimate.

significant, especially when amortized over the reduced size of the shopping center in this alternative.

**Environmental:** This alternative design would fill approximately 0.141 acres of aquatic resources and would not directly impact the remaining 2.855 acres of wetlands. The remaining 2.855 acres of wetlands would, however, incur significant *indirect* impacts from the proposed Project. Following Project construction, the avoided wetlands would be surrounded by development, Highway 12 to the south and west, and Peterson Road to the north.

With respect to the wetlands on the west side of the site, in addition to being completely ecologically isolated by surrounding development, the hydrologic regime that supports the wetlands would also be truncated by Project construction. Although these wetlands are partially supported by direct rainfall, they also receive important contributing saturation from the surrounding uplands. The site is underlain by a heavy clay pan that acts as a barrier between the groundwater basin and the surface water. Rainfall that falls on the surrounding upland areas moves through the soil above the claypan and creates a zone of saturation. This zone of saturation provides additional hydrology for the lower-elevation wetlands as through-flow from the surrounding landscape. Creation of the Project will prevent rainwater from infiltrating the top soil of the surrounding uplands and reaching the wetland areas. Given that under existing conditions these wetlands exhibit very short ponding and saturation periods, it is anticipated that any reduction of the hydrologic support for these areas is likely to significantly impact the duration and surface area of saturation in these wetlands. Overtime, it is anticipated that these wetlands would shrink in size and lose the limited functions that they currently possess.

Furthermore, as in the "Avoidance of Unnamed Ditch Alternative", the ditch would remain an open air channel, except for two crossings. Owing to its open air design, the ditch would receive larger amounts of incidental trash and pollutants from the development which would likely result in an overall decrease in water quality.

Because of the significant indirect impacts to wetlands and the potential decrease in overall water quality associated with avoiding the ditch, this alternative would not result in a significant reduction in impacts to waters of the United States.

**Overall:** Because partial avoidance of the wetland features would not meet the project purpose, would create logistical concerns, and would result in a significantly higher cost of development it is not a practicable alternative. Further, because it does not result in a significant reduction in impacts to aquatic resources, it does not constitute the LEDPA.

### 5.2.5 Alternative Design 5: Two-Story Parking Structure

The "Two-Story Parking Structure Alternative" was designed to test the practicability of avoiding aquatic features by utilizing a two-story parking garage that would elevate some parking above ground, thereby reducing the need for surface parking. Attachment 1, Figure 12 shows the layout of this alternative and the impacts to aquatic resources.

**Project Purpose:** This alternative would meet the Project purpose.

**Logistics:**

- > Circulation: Under this alternative, the Supercenter parcel would fail to meet the City Zoning Code requirements for parking. The Zoning Code requires a minimum of 4 parking spaces per 1,000 square feet of floor area. Under this alternative, the Supercenter would only be able to provide 3.8 parking spaces per 1,000 square feet.
- > Consistency with Travis Air Force Base Land Use Compatibility Plan safety criteria: We anticipate that this alternative would be consistent with the Travis Air Force Base Land Use Compatibility Plan safety criteria.
- > Conflicts with the Project's energy efficiency goals: We anticipate that this alternative would not conflict with the Project's energy efficiency goals.

**Cost:** Construction of the two-story parking structure would cost approximately \$5,535,998.<sup>6</sup> This figure represents only the cost of building the parking structure and does not reflect potential additional costs related to site work or architectural finishes that would be required to mask the two-story parking structure. Given the City's aesthetic requirements and the site's location at the gateway of the City and immediately adjacent to significant residential uses, we anticipate that these additional costs would greatly increase the cost of the two-story parking structure. Even without these additional costs, the cost of constructing a two-story parking structure is significantly greater than is normally associated with the type of project proposed and therefore the increased cost renders this alternative not practicable.

**Environmental:** This alternative design would avoid approximately 0.729 acres of wetlands. The avoided 0.729 acres of wetlands would, however, incur significant *indirect* impacts from the proposed Project. Following Project construction, the avoided wetlands would be surrounded by development, with the Wal-Mart store to the east, Highway 12 to the south and west, and Peterson Road

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<sup>6</sup> Table 6, which is provided under Attachment 2, includes a breakdown of this cost estimate.

to the north. In addition to being completely ecologically isolated by surrounding development, the hydrologic regime that supports the wetlands would also be truncated by Project construction. Although these wetlands are partially supported by direct rainfall, they also receive important contributing saturation from the surrounding uplands. The site is underlain by a heavy clay pan that acts as a barrier between the groundwater basin and the surface water. Rainfall that falls on the surrounding upland areas moves through the soil above the claypan and creates a zone of saturation. This zone of saturation provides additional hydrology for the lower-elevation wetlands as through-flow from the surrounding landscape. Creation of the Project will prevent rainwater from infiltrating the top soil of the surrounding uplands and reaching the wetland areas. Given that under existing conditions these wetlands exhibit very short ponding and saturation periods, it is anticipated that any reduction of the hydrologic support for these areas is likely to significantly impact the duration and surface area of saturation in these wetlands. Overtime, it is anticipated that these wetlands would shrink in size and lose the limited functions that they currently possess. Because of the significant indirect impacts to wetlands, this alternative would not result in a significant reduction in impacts to waters of the United States.

**Overall:** Because this alternative design would not satisfy the logistical criteria and would result in a significantly higher cost of development it is not practicable. Further, because it does not result in a significant reduction in impacts to aquatic resources, it does not constitute the LEDPA.

#### **5.2.6 Alternative 6: Avoidance of the Western Wetlands**

The "Avoidance of the Western Wetlands Alternative" was designed to test the practicability of protecting the wetlands on the west side of the Project site. In order to avoid the wetlands on the west side of the site, the total square footage of the shopping center must be reduced. Thus, the alternative design results in the elimination of the restaurant parcel. Attachment 1, Figure 13 shows the layout of this alternative and the impacts to aquatic resources.

**Project Purpose:** Under this alternative, the Project would need to remove the restaurant parcel in order to protect the wetlands on the west side of the site. Therefore, this alternative design does not meet the Project purpose because it does not provide for an integrated shopping center.

**Logistics:**

> Circulation: Under this alternative, the Supercenter parcel would fail to meet the City Zoning Code requirements for parking. The Zoning Code requires a minimum of 4 parking spaces per 1,000 square feet of floor area. Under this

alternative, the Supercenter would only be able to provide 3.4 parking spaces per 1,000 square feet.

> Consistency with Travis Air Force Base Land Use Compatibility Plan safety criteria: We anticipate that this alternative would be consistent with the Travis Air Force Base Land Use Compatibility Plan safety criteria.

> Conflicts with the Project's energy efficiency goals: We anticipate that this alternative would not conflict with the Project's energy efficiency goals.

**Cost:** We do not anticipate that this alternative would cost significantly more than the proposed Project.

**Environmental:** This alternative design would not directly impact approximately 0.729 acres of wetlands on the western corner of the parcel. As described above, these avoided wetlands, however, would experience significant indirect impacts as a result of Project construction. Given that the avoided wetlands would shrink in size and over time lose the limited functions currently provided, this alternative does not result in a significant reduction in impacts to aquatic resources.

**Overall:** Because this alternative design would not meet the project purpose or satisfy the logistical criteria, it is not practicable. Further, given that it would not result in a significant reduction in impacts to aquatic resources, it does not constitute the LEDPA.

### **5.2.7 Alternative Design 7: Avoidance of the Eastern Wetlands**

The "Avoidance of the Eastern Wetlands Alternative" was designed to test the practicability of protecting the wetlands on the east side of the Project site. By avoiding the wetlands on the east side of the site, the developable area of the site is greatly reduced. Therefore, the alternative design results in a small Supercenter building and the elimination of both the restaurant and gas station parcels. Attachment 1, Figure 14 shows the layout of this alternative and the impacts to aquatic resources.

**Project Purpose:** Under this alternative, the Wal-Mart store could be no larger than 124,000 square feet. A Supercenter of this size would not allow sufficient area to provide the range and quantities of goods necessary to serve the Suisun City market area and to meet the City's fiscal needs. In addition, the Project would need to eliminate the gas station and restaurant parcels changing the Project from a regional shopping center to a single store. Therefore, this alternative design does not meet the Project purpose.

**Logistics:**

> Circulation: Under this alternative, access would be limited to Peterson Road, which is a two-lane road with abutting residential uses. Peterson Road is not appropriate for the only point of access to the Supercenter since it does not have sufficient capacity to handle the anticipated traffic and it would disrupt the residential uses that abut Peterson Road to the north.

> Consistency with Travis Air Force Base Land Use Compatibility Plan safety criteria: The Travis Air Force Base Land Use Compatibility Plan prohibits more than 300 people per acre for the Project (in addition to other clustering requirements). To determine the density of the Project, the Travis Air Force Base Land Use Commission looks at the number of parking spaces provided and assumes a vehicle occupancy rate of 1.7 people per vehicle. Based upon a 124,000-square foot Supercenter (2.85 acres of building space) and 596 parking spaces for the Supercenter, this alternative design would result in a density of 356 people per acre inside the building. This is not consistent with the Travis Air Force Base Land Use Compatibility Plan.

> Conflicts with the Project's energy efficiency goals: We anticipate that this alternative would not conflict with the Project's energy efficiency goals.

**Cost:** We do not anticipate that this alternative would cost significantly more than the proposed Project.

**Environmental:** This alternative design would fill approximately 0.870 acres of aquatic resources and would not directly impact the remaining 2.077 acres of wetlands.

**Overall:** Because this alternative design would not meet the project purpose or the logistical criteria, it is not practicable.

## 6.0 CONCLUSION

The proposed Project is the only practicable alternative for accomplishing the overall Project purpose. Therefore the proposed Project is determined to be the LEDPA. Pursuant to the 404(b)(1) Guidelines, this alternative analysis also takes into consideration the other factors listed in 40 CFR § 230.10(b) and (c) in identifying the LEDPA. The proposed Project, including the purchase of wetland mitigation credits at an approved mitigation bank, is not likely to cause or contribute to any of the following:

- violations of any applicable toxic effluent standard or prohibition;

- jeopardy to any federally-listed threatened or endangered species or destruction or adverse modification of designated critical habitat;
- violations of any applicable state water quality standard; or
- degradation of waters of the United States.

# **ATTACHMENT 7**





Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board

## San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612  
(510) 622-2300, Fax (510) 622-2460  
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold  
Schwarzenegger  
Governor

March 12, 2009  
Site No. 02-48-C0394 (jgu/wbh)  
CIWQS Place No.: 722750  
Corps File No. 2006-303520N

**Sent via electronic mail: No hard copy will follow**

Wal-Mart Stores, Inc.  
Robert A. Karn & Associates  
707 Beck Avenue  
Fairfield, CA 94333  
Attention: Mr. Todd Anderson  
[TAnderson@RAKengineers.com](mailto:TAnderson@RAKengineers.com)

**SUBJECT: Application for Clean Water Act Section 401 Water Quality Certification for the Walters Road West Development Project, City of Suisun, Solano County**

Dear Mr. Anderson:

Thank you for your application for water quality certification for the Walters Road Development Project (Project), proposed to be developed in the City of Suisun City, Solano County. The application was submitted on behalf of Wal-Mart Stores, Inc., (Applicant) by Olberding Environmental, Inc., and was received by Water Board staff on January 22, 2009.

This letter serves as notification that the Water Board does not issue water quality certification for this Project as proposed in the application materials. The Water Board has expressly requested that any approval of water quality certification for the Project be brought before it at one of its monthly meetings. What follows are the issues that must be addressed and resolved before the staff can bring the Project before the Board and recommend its approval.

### Alternatives Analysis

As discussed further below, the application's Alternative Analysis (Analysis) does not demonstrate that the proposed Project alternative is the Least Environmentally Damaging Practicable Alternative (LEDPA) pursuant to the CWA Section 404(b)(1) Guidelines, which have also been incorporated into the Water Board's San Francisco Bay Basin Water Quality Control Plan (Basin Plan). The Water Board is required to consider them during its evaluation of proposals for wetland fill. The Analysis:

1. Incorporates inappropriate off-site and on-site screening criteria;
2. Fails to analyze potentially practicable off- and on-site alternatives;

*Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years*

3. Improperly excludes off- and on-site alternatives that were considered, without sufficient information or analysis demonstrating their impracticability; and
4. In evaluating the practicability of on-site alternatives, uses store acreage numbers that are 23% different than the minimum acreage identified as practicable elsewhere in the Analysis.

### **Basic Project Purpose**

The Analysis defines the basic project purpose as the construction of “a commercial development.” We concur that this is an acceptable basic project purpose. However, all decisions regarding practicability are made using a more detailed project purpose. The more detailed purpose incorporates project requirements, such as a gas station and restaurant that are not sufficiently substantiated in the Analysis as necessary to the Project, and then uses them to exclude alternatives that may be otherwise practicable.

### **Off-Site Alternatives**

#### ***Location Constraint: Within Suisun City***

The Analysis states that it is the Project’s intent to “meet the unmet needs of the residents of Suisun City and regional consumers” and to provide tax revenue to the City of Suisun City. These justifications are used to limit the Applicant’s off-site search to within the existing city limits of Suisun City. However, the Analysis does not define or describe the “unmet” needs of regional consumers and city residents. By extension, it does not explain why meeting them requires construction of a Wal-Mart within Suisun City limits.

Separately, we note that there are seven existing Wal-Marts within 20 miles of Suisun City, including a Wal-Mart at 300 Chadbourne Road in Fairfield, roughly 5 or 6 miles down Highway 12 from most Suisun City residents—about a 10-minute drive. There is another recently permitted Wal-Mart store located on North Texas Street in Fairfield which is about to open, approximately 5 miles from the Project site. As such, it is apparent that regional consumers and Suisun City residents are already well-served by Wal-Mart. In addition, numerous other commercial developments serve Suisun City residents, including both “big box” and traditional retail stores. This includes the significant outlet store and retail commercial development along Interstate 80 in Vacaville, approximately a 14-mile drive (20 minutes) away.

It is not clear why the Analysis does not consider renovation of existing retail stores as part of its alternatives. We are well aware that Wal-Mart has a practice of constructing larger stores in areas where it may have existing stores, and in some cases closing the existing store. Given the project goal of serving the regional area with a store of sufficient size, would it be practicable to modify an existing store to better serve the region? The Analysis should consider this alternative.

We note that Suisun City has not applied to construct this Project. As such, it is unclear why the City’s desire for additional tax revenues has been incorporated as a project screening criterion. The City would be unable to prevent construction of the project outside its city limits—indeed, as noted above, Wal-Mart and other retailers have already constructed stores in adjacent Fairfield and nearby Vacaville.

Thus, this proposed constraint is not supported by the Analysis. To acceptably demonstrate that the proposed project is the LEDPA, the Analysis must be revised to consider regional alternatives outside Suisun City that would meet the basic project purpose.

***Local Requirements Constraint: Travis Air Force Base Land Use Compatibility Plan***

The Analysis uses as a screening criterion the land use restrictions in the above-referenced Compatibility Plan (Plan). We recognize that local requirements, such as the Plan, remain subject to State and federal law, including the CWA. It may be helpful to include in the Analysis a discussion of how CWA requirements, including the 404(b)(1) Guidelines, were incorporated into the Plan's development process and how they are reflected in the Plan, or otherwise why the Plan should be permitted to take precedence over federal and State law.

Also, the Plan's interpretation is subject to significant change, as the Applicant is well aware: the Plan's apparent requirements on the proposed Project site were significantly revised as a part of the City's approvals for the proposed Project. At its November 8, 2007, meeting, the Solano County Airport Land Use Commission found that construction of the proposed Project within the Air Force Base's safety buffer zone was inconsistent with the Plan for safety reasons. This decision was overruled on February 12, 2008, by a vote of the City Council. Given that the Plan's apparent requirements have been revised at least once - for the subject Project - it is possible that the City Council could do so again for a similar project at a different location, or for a different project design at the proposed Project site. As such, the Analysis should be revised to exclude this as a screening criterion, which will result in the inclusion of several on-site alternatives as potentially practicable, or to provide a significantly more detailed explanation demonstrating why the Plan's requirements are now no longer subject to reinterpretation.

***Acreage of Off-Site Parcels Unsupported***

The Analysis states that a minimum area of 17 acres is necessary for off-site parcels to be practicable. However, it is unclear how this number was reached. The Analysis does not provide information sufficient to support it. It appears that this area is the amount necessary for the applicant's preferred alternative of a one-story "big box" with appurtenant surface parking that would be provided free to store customers. The parking requirements were apparently determined based on Suisun City zoning codes.

The Analysis does not provide information necessary to demonstrate why it excluded smaller alternatives with designs similar to those considered for on-site alternatives. For example, commercial developments, including "big box" retail stores, have been constructed with two stories or more (e.g., the Albany Target, the South Loop Target in Chicago), as well as with multi-story parking (e.g., the Walnut Creek Target, the South Loop Target in Chicago). Such design alternatives would allow a much smaller project footprint and should either be considered in the off-site analysis, or information should be presented sufficient to demonstrate their impracticability.

***Off-Site: Analysis Insufficient to Allow a Determination of Impracticability***

*Site A:* The Analysis evaluates a 490.5 acre site that is reported to have 330 acres of wetlands. This information, by itself, is insufficient to demonstrate that Site A would be impracticable for the proposed Project, which is not larger than 17 acres, and potentially significantly smaller.

*Site B:* See comments for Site A. Additionally, it is unclear, quantitatively, what portion of this 250-acre site consists of waters of the State. How does that compare with the acreage necessary to meet the applicant's basic project purpose?

*Sites C, D and E:* See comments for Site A.

*Site F:* See comments for Site A. Additionally, this site has been excluded because it is reportedly not served by existing arterial roads or highways. However, the Analysis does not consider whether necessary transportation alternatives could be extended to Site F as a part of the project. We recognize that such changes are frequently a part of local project approvals. As such, a site may be impracticable if it would be impracticable to extend appropriate transportation links to it, but the existence of such links prior to construction does not necessarily lead to a finding of impracticability. Please revise the Analysis to include a discussion of this issue.

### **On-Site Alternatives**

The Analysis incorporates a variety of screening criteria that have been used to include or exclude evaluated on-site alternatives. While many of these criteria may provide helpful guidance to the applicant in its consideration of potential project alternatives, as a whole they venture far beyond the concept of practicability that is part of 404(b)(1) Alternatives Analysis.

For example, the economic feasibility screening criteria is inappropriately stated as: "The alternative design must have development costs that are not significantly greater than the proposed Project design." Similarly, the Applicant may desire a project that includes a gas station and restaurant, but it will meet its basic project purpose without these features. Indeed, the contemporary American landscape is replete with examples of commercial developments, including "big box" retail stores like Wal-Mart, built without them.

The same appears true of the Applicant's stated energy efficiency goals, store area, and parking requirements. It is unclear whether the Applicant's stated facility energy efficiency goals would ever preclude an alternative, or why they have been included here. While beneficial, we recognize that the in-store efficiency goals are overwhelmed by a project design that typically requires customers to drive to shop there.

### ***Store Size***

The Analysis improperly uses a 215,000 square foot store size as a screening criterion for on-site alternatives, when it elsewhere has determined that a 172,000 square foot store size is practicable.

Even the methodology by which the Applicant arrived at its stated store area requirement of 172,000 square feet is unclear. Our understanding is that Wal-Mart currently operates “regular” Wal-Marts ranging in size from 51,000 to 224,000 square feet, and “Supercenters” ranging in size from 98,000 to 261,000 square feet, with average store sizes of about 102,000 square feet and 197,000 square feet, respectively. The Analysis states that the proposed Project is intended to meet the unmet needs of regional and Suisun City shoppers, but does not define the region from which shoppers are intended to be drawn. Given that the Applicant operates a number of stores significantly smaller than the proposed Project, and the lack of other information in the Analysis sufficient to describe the Applicant’s project evaluation, it is unclear how the Applicant has determined its project requires at least 172,000 square feet of interior space to be practicable. As such, the Analysis should be revised, and other space limits considered, as appropriate.

### ***Parking Requirements***

The Applicant has stated that the Project must include 4 parking spaces per 1,000 feet of interior space in order to comply with Suisun City zoning requirements. Two on-site alternatives are excluded in part because they would provide only 3.8 or 3.4 spaces per 1,000 square feet.

The required parking number appears to be much higher than that necessary for a practicable project. Specifically, it is the same as the number that resulted from the 1982 and 1999 Urban Land Institute (ULI) studies titled “Parking Requirements for Shopping Centers.” The 1982 study determined that provision of 4.0 spaces per 1,000 square feet of gross leasable area was sufficient to “...serve patrons and employee needs at the 20<sup>th</sup>-busiest hour of the year, and allow a surplus during all but 19 hours of the remainder of the more than 3,000 hours during which a typical center is open annually. During 19 hours of each year, which are distributed over 10 peak shopping days, some patrons will not be able to find vacant spaces when they first enter.”

That is, the Applicant is claiming that the only practicable project is one where some parking spaces are likely to be vacant more than 99.7% of the time. We note that the above requirement was developed for sites where parking is free to drivers. When the ULI repeated the study in 1999, it found that parking was generally oversupplied by about 1 space per 1,000 square feet of gross leasable area for spaces smaller than 600,000 square feet, stating “...this suggests that parking supply is not constricting demand. Moreover, it suggests that building more parking spaces will not result in increased traffic volumes and, subsequently, in increased sales at centers.” The ULI noted that employees accounted for about 20% of parking at peak periods. The 1999 study also found that at 43% of evaluated shopping centers, parking lots were never more than 85% occupied even at the busiest hour of the year.

Because a significant portion of the proposed Project design is occupied by surface parking, this issue is a crucial one for the Analysis. The Applicant could reasonably seek a variation of zoning requirements that would reduce parking by as much as 25% (i.e., to 3 spaces from 4 per 1,000 square

feet)--even with a surface parking lot. Similarly, the Applicant could determine it will impose a small charge for parking, which would be expected to lead customers to choose alternative transportation methods, such as carpooling, taking fewer trips (but buying more during each trip), or taking alternative transportation to the Project. This should also result in a reduction in the required number of parking spaces. Finally, it could identify alternative parking options for its employees - for example, providing a shuttle from an off-site lot - during busy periods. These and similar alternatives are not considered in the Analysis, but it should be revised to address them.

As noted above, the Analysis does not include a discussion of interior store area sufficient to establish a minimum practicable area, although it does find that a store must be at least 172,000 square feet (which would lead to a parking requirement of 688 spaces under the stated zoning requirement). Alternatives that have reduced floor area - and thus reduced parking - should also be considered, and that consideration made explicitly in the Analysis.

Finally with respect to parking, the Analysis excludes alternatives that would include the construction of a parking structure, stating the cost "...would be significantly greater than is normally associated with the type of project proposed." This analysis is insufficient to meet the necessary demonstration of impracticability **for this Project**. An appropriate test could be whether it would be impracticable for the Wal-Mart Corporation to fund and operate a store with such a parking lot. As discussed above, other commercial developments, including "big box" retail stores, operate outlets with multi-story parking garages, and we are aware of Wal-Mart stores elsewhere with multi-story parking garages. Thus, such a design could be practicable for the subject Project, and the Analysis may not exclude it without providing additional information.

### ***Two-story Retail Store***

The Analysis improperly excludes a proposed two-story retail store design on cost grounds. While the Analysis states that a two-story store would be more expensive than a one-story store, that does not necessarily lead to a finding of impracticability, and the Analysis does not present information sufficient for the Board to make such a finding. The question is not whether it is more expensive than a different design, but rather whether such a design would be impracticable **for this Project**.

### **Practicability of Proposed Project**

The Analysis does not evaluate the practicability of the proposed Project. It should be revised to include such an evaluation. As noted in our comments, the proposed Project would be considered impracticable by the Analysis due to conflicts with the Travis Air Force Base Plan. However, that conflict was removed by the Suisun City Council.

The Analysis does not consider costs of wetland mitigation in its evaluation of the proposed Project design or other alternatives. The application proposes purchasing mitigation credits at the North Suisun Mitigation Bank or other mitigation bank within the Project's service area. Mitigation credits for seasonal wetlands/vernal pool habitat at the North Suisun mitigation Bank cost \$175,000 per acre. Additionally, the North Suisun Mitigation Bank does not sell mitigation credits for channel impacts. Consequently, once an acceptable Analysis has been completed, the Applicant must provide an alternative mitigation plan that provides for the creation of successful in-kind habitat to

compensate for impacts to the channel feature. A proposal for the creation of channel habitat will be both challenging to find and expensive to construct. The Applicant should revise the Analysis to evaluate potential alternatives with the inclusion of potential mitigation costs.

The Analysis' stated zoning-based parking requirements of 4.0 spaces per 1,000 square feet would result in on-site parking of approximately 688 spaces for the 172,000 square foot store the Analysis states is practicable, and which we therefore assume is the proposed Project design. However, the proposed Project has almost 1,000 parking spaces, or 45% more. This is a significant additional cost burden to the Project and will result in greater impacts to on-site waters than even a design that was limited to the already-oversupplied parking required by existing zoning. The Analysis does not draw a link between this apparently additional parking, the proposed Project design, and practicability. In the absence of such a link or other discussion, parking for the proposed design should be decreased to levels discussed above, consistent with efforts to avoid and minimize impacts to waters.

### **Other Issues of Practicability**

The Analysis raises other issues of practicability, including:

- The Analysis states the proposed Project will generate so much trash and pollution that it will create significant impacts to those wetlands in or near the Project. Thus, it does not matter whether the wetlands are filled directly or not, because they will ultimately be impacted. While it is appropriate to consider whether a project may indirectly impact waters such that all beneficial uses are effectively removed, we are surprised at the expected lack of effective pollution control measures anticipated by the Applicant. In the absence of additional discussion, we cannot concur that any project design that avoids wetlands will result in significant indirect impacts to all avoided wetlands. The Analysis should be revised with a more thorough discussion of this issue.
- Project costs to cross existing wetlands and waters are unnecessarily inflated by selecting expensive methods of making those crossings, when other methods may be practicable and permissible. For example, the Analysis considers only clear span bridges. The Analysis includes language suggesting that crossings that include pedestrian and/or ADA access would be difficult to construct, even though they are so common as to be unremarkable.

### **Mitigation Proposal**

The application's proposal of out-of-kind mitigation habitat to compensate for the proposed filling of 1050 linear feet (0.31 acre) of an unnamed channel is unacceptable. This drainage channel is identified on the USGS Denverton, CA Quadrangle as a blue line stream. The channel has defined bed and banks and the State Department of Fish and Game has issued a Streambed Alteration Agreement under which the City of Suisun is conditionally authorized to maintain the channel. Purchasing 0.310 acres of seasonal wetlands at a mitigation bank as proposed will not adequately mitigate for the proposed loss of channel habitat. Thus, the application must be revised to provide adequate compensatory mitigation.

### **Low Impact Development**

*Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years*

The State Water Board adopted Board Resolution No. 2008-0030 on May 6, 2008, directing the Regional Water Boards to incorporate Low Impact Development Practices (LID) into projects they permit. LID practices reduce urban impacts to receiving waters by designing sites (starting with the site layout, and the grading and compaction phases of construction) that:

- a) disturb only the smallest area necessary;
- b) minimize soil compaction and imperviousness; and
- c) preserve natural drainages, vegetation, and buffer zones.

The Project as proposed fails to meet these LID design principles in that it would require grading of nearly the entire site, and would render the site's acreage impervious aside from creating a number of swales, and planted tree sites within the parking areas. Additionally, the Project design would eliminate all of the site's natural drainages, wetlands and vegetation. Further, the Analysis also indicates that the Project would indirectly impact waters due to incidental trash and pollutants from the Project. Thus, the Project should be redesigned consistent with LID design principles and to minimize impacts from trash and other pollutants.

### **Conclusion**

Before the staff can bring the Project before the Board and recommend its approval, the Applicant must submit a revised Analysis and Mitigation Plan proposal as discussed above. The current Analysis does not appropriately consider off- or on-site alternatives or demonstrate that the proposed Project is the LEDPA. In the absence of a revised and acceptable Alternatives Analysis and Mitigation Plan, staff will need to recommend that the Board deny the Project's application for water quality certification.

My staff and I are available to meet with you and Project representatives to discuss these issues, and what is necessary in a revised application for staff to recommend the Board approve this Project.

Sincerely,



Bruce H. Wolfe  
Executive Officer

Digitally signed  
by Bruce Wolfe  
Date:  
2009.03.12  
17:11:00 -07'00'



Mr. Karn  
Application for Water Quality Certification  
Planned Wal-Mart Walters Rd W, Suisun  
Site No. 02-48-C0394

- 9 -

Cc: SWRCB-DWQ, Bill Orme [401Stateboard@waterboards.ca.gov](mailto:401Stateboard@waterboards.ca.gov)  
U.S. EPA, David Smith [R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov)  
ACOE, SF Regulatory Branch,  
Bryan Matsumoto [bryan.t.matsumoto@usace.army.mil](mailto:bryan.t.matsumoto@usace.army.mil)  
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Beth Garber [egarber@ufcw5.org](mailto:egarber@ufcw5.org)  
George Guynn, Jr. [georgejr@hotmail.com](mailto:georgejr@hotmail.com)  
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Richard Hanson [hansonra@sbcglobal.net](mailto:hansonra@sbcglobal.net)

# **ATTACHMENT 8**



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board

## San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612  
(510) 622-2300, Fax (510) 622-2460  
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold  
Schwarzenegger  
Governor

Date: April 24, 2009  
Site No. 02-48-C0394 (jgu/wbh)  
CIWQS Place No.: 722750  
Corps File No. 2006-303520N

**Sent via electronic mail: No hard copy will follow**

Wal-Mart Stores, Inc.  
Robert A. Karn & Associates  
707 Beck Avenue  
Fairfield, CA 94333  
Attention: Mr. Todd Anderson  
[TAnderson@RAKengineers.com](mailto:TAnderson@RAKengineers.com)

**SUBJECT: Application for Clean Water Act Section 401 Water Quality Certification for the Walters Road West Development Project, City of Suisun, Solano County; Corps File No. 2006-303520N**

Dear Mr. Anderson:

Thank you for providing the Addendum to the Alternatives Analysis (Addendum) supplementing your application for water quality certification for the Walters Road Development Project (Project), City of Suisun City, Solano County. The Addendum was submitted on behalf of Wal-Mart Stores, Inc., (Applicant) by Olberding Environmental, Inc., and Sheppard Mullin Richter and Hampton, LLP, and was received by the Water Board on March 27, 2009. Thank you also for having the Project team meet with our staff on March 13, 2009.

We have determined that the application, incorporating the supplemental information provided in the Addendum, does not demonstrate that the Project as proposed constitutes the Least Environmentally Damaging Practicable Alternative (LEDPA) pursuant to the CWA Section 404(b)(1) Guidelines as required by the Water Board's Basin Plan. We are required to consider this as we evaluate applications for wetland fill. The Alternative Analysis, incorporating the supplemental information submitted in the Addendum (Analysis):

1. Fails to properly analyze potentially practicable on- and off-site alternatives; and
2. Improperly excludes on- and off-site alternatives that were considered without sufficient information or analysis demonstrating their impracticability.

Accordingly, this letter serves as notification that the Water Board does not issue water quality certification for the Project as proposed in the application materials. Comments on the Analysis are detailed below.

Mr. Todd Anderson  
Application for Water Quality Certification  
Planned Wal-Mart Waters Road, Suisun City

### **Overall Project Purpose**

The 404(b)(1) Guidelines define "practicable" as available and capable of being done, taking into account cost, existing technology and logistics in light of the overall project purpose [40CFR 230.10(a)(2)]. EPA guidance defines the term "overall project purpose" as the basic project purpose plus consideration of costs and technical and logistical feasibility. An overall project purpose does not include project amenities.

For this Project, the application states that the basic project purpose is a commercial development. The overall project purpose as stated is to construct a commercial retail shopping center that includes a supercenter of sufficient size to service the needs of the residents of Suisun City and the surrounding region, complementary commercial uses such as a gas station and restaurant, and associated parking and infrastructure. Consistent with EPA guidance, we have determined that the proposed gas station and restaurant constitute amenities to the basic and overall project purpose of commercial retail shopping development and are not functionally linked to the supercenter.

The Analysis considers the gas station and restaurant as necessary parts of the overall project purpose in evaluating the practicability of alternative Project designs. However, the gas station and restaurant are clearly not functionally necessary to satisfy the overall project purpose. This point is more apparent taking into account the Streambed Alteration Agreement application submitted for the Project, in which the Applicant states the following in referring to the gas station and restaurant :

"The fuel station and restaurant are currently proposed uses in conjunction with the Wal-Mart store; however, the subparcels [separate parcels partitioned off for the gas station and restaurant] may be developed with any use that is consistent with the General Commercial zoning for the site."

If the subparcels set aside for the gas station and restaurant can be developed with any appropriate substitute commercial use, the gas station and restaurant are not part of the overall project purpose, and alternatives need to be considered without these features. Each on-site alternative design considered in the Analysis places the gas station and restaurant on separate subparcels located on the Project site.

Re-evaluating Project alternatives without the gas station and restaurant subparcels would enable consideration of additional Project design alternatives which might better avoid and minimize impacts to wetlands, the creek channel and associated beneficial uses. The Project as proposed would fill all of the Project site's vernal pool and seasonal wetlands, and the full length (1100 linear feet) of the blue line creek channel transecting the site. Therefore, the Analysis must evaluate revised alternative Project designs without the gas station and restaurant amenities for the purpose of avoiding and minimizing impacts to wetlands and the channel feature.

## **On-Site Alternatives**

### **Creek Avoidance Alternative**

The creek avoidance alternative was dismissed as impracticable because: 1) it wouldn't provide for the desired store size of 215,000 sq. ft., and 2) it would be cost prohibitive. During our meeting in March, staff pointed out that the channel avoidance alternative appeared to be designed so as to assure its impracticability in that it does not take advantage of obvious design options that would accommodate a much larger store size, and reduce construction costs.

For example, the channel transecting the site partitions it into two tracts with unequal areas; the area west of the channel being larger than the eastern tract. Yet the creek avoidance alternative places the footprint of the store within the smaller eastern tract, instead of the larger tract, thus constraining the size of the store unnecessarily. Creek avoidance alternatives locating the store on the larger tract (such as in the example put forward below) should have been, and need to be, evaluated. Similarly, much less expensive pedestrian channel crossing alternatives are available than those used in the alternative considered, that would suitably accommodate pedestrian traffic over the channel. The channel is only several feet wide, and yet the creek avoidance alternative design included placement of four 30 foot long pedestrian bridges made of precast concrete with steel girders at an estimated cost of greater than \$ 32,000 each. Clearly, less expensive crossings of this narrow channel are available and should be considered as part of creek avoidance alternative designs. Additionally, instead of limiting the number of parking spaces in the creek avoidance alternative to a number commensurate with the store size, the Analysis placed an unwarranted, disproportionately large number of parking spaces (within the larger western tract) and dismissed the alternative as impracticable stating that if all the parking spaces were in use, the number of people per sq. ft. in the store would exceed the City's density criteria. The Analysis placed the store on the smaller tract and argued that it wouldn't provide sufficient store space, and placed an over abundance of parking spaces on the larger tract and claimed it would result in too many shoppers in the store. For these reasons, we do not believe that the Applicant diligently evaluated the practicability of a creek avoidance alternative.

### **Modification of On-Site Alternative No. 6**

Staff believe On-Site Alternative 6 (depicted in Figure 13 in the January 2009 report) can be modified in a manner that will provide a LEDPA which meets the Project's specified screening criteria. If the building footprint is shifted to the west of the channel, and the gas station and restaurant subparcels incorporated into the superstore and parking facilities, there should be sufficient room to avoid the creek channel, as well as a significant amount of the potential vernal pool crustacean habitat within the lower half of Wetland Area 10. Wetland Area 10 has been identified as potentially providing suitable habitat for vernal pool crustaceans during years of normal to wet rainfall. Eliminating disking of this wetland area would promote both the reestablishment of vernal pool plant species as well as vernal pool crustaceans. Additionally, it appears that such a modified design should easily meet the 172,000 sq. ft. store size screening criteria, and possibly the 215,000 sq. ft. desired for the Project. Construction of a two story parking garage and or a parking area beneath the store would further avail opportunities to minimize impacts to existing wetland habitat and the channel feature, and for creation of mitigation habitat on-site.

Mr. Todd Anderson  
Application for Water Quality Certification  
Planned Wal-Mart Waters Road, Suisun City

### **Avoidance of On-Site Designated Critical Habitat**

Approximately 2.4 acres of the southeast corner of the site, encompassing portions of Wetland Area 10 and the channel feature, is within designated critical habitat for the vernal pool fairy shrimp and vernal pool tadpole shrimp. Although only the southern most part of Wetland Area 10 lies within the designated critical habitat zone, it has been reported that portions of Wetland Area 10 outside, but adjacent to the designated area may provide some habitat for vernal pool crustaceans in some years. No alternatives focusing on the practicability of avoiding all or portions of the designated critical habitat or the potential crustacean habitat associated with Wetland Area 10 have been considered. Additionally, the benefit of enhancing and protecting potentially suitable vernal pool crustacean habitat as mitigation for Project impacts has not been seriously explored as part of the Project plan development.

### **Practicability of a Two Story Parking Structure**

Because a significant portion of the proposed Project design is occupied by surface parking, this issue is a crucial one for the Analysis. We acknowledge that constructing a two story parking structure might involve costs significantly greater than filling wetlands to construct a surface parking lot. However, the Applicant has not suitably demonstrated that construction of two story garage would render construction of the Project impracticable. We disagree with the assertion that construction of a parking structure for a commercial retail supercenter of the Project's size would amount to costs "...significantly greater than is normally associated with the type of project being proposed." While the cost of building a two story parking structure may be significant, the analysis is insufficient to meet the necessary demonstration of impracticability for this Project. Similarly, with respect to consideration of a two story parking structure, the Applicant's representative has asserted in March 18, 2009 correspondence to the Water Board that the ultimate demonstration as to whether an alternative is practicable or not is whether an applicant would construct the project if it was the only approvable alternative. This approach to determining practicability is not consistent with the 404(b)(1) Guidelines.

### **Off-Site Alternatives**

While we believe that an as-of-yet undeveloped on-site LEDPA most likely exists, there are several notable off-site alternatives that need to be re-examined.

#### **Off-Site Alternative G**

Off-Site Alternative G is a 14 acre property located at the southeast corner of Sunset Avenue and Railroad Avenue within Suisun City. This alternative is dismissed as impracticable asserting that the site is not of sufficient size to accommodate the Project and would only support an approximately 125,000 sq. ft. store size, with no room for the restaurant or gas station. As described above, room to accommodate the restaurant and gas station cannot be used as a basis for determining impracticability of an alternative. Moreover, it appears that this 14 acre rectangular site would provide approximately 609,840 sq. ft. of developable area. The Analysis does not provide any information demonstrating why this 609,840 sq. ft. area is insufficient to construct a 215,000 sq. ft. store. Subtracting the store area from the 14 acres of developable area leaves a remainder of 9 acres for construction of parking facilities and other infrastructure.

Mr. Todd Anderson  
Application for Water Quality Certification  
Planned Wal-Mart Waters Road, Suisun City

### **Off-Site Alternative D**

The Analysis states that this site is not practicable because it is unavailable. It states that the City currently has an application pending for development of the site. It was recently brought to our attention that the City does not have an application pending for this site. We will be following up with City staff shortly to confirm the status of this site.

### **Former Albertson's Site**

The Analysis indicates that this site is impracticable because it is not available for development and does not provide sufficient acreage to accommodate the Project. There is no explanation as to why this site is not available for development. Also, while we understand that about half of the vacant building has been leased and that the remainder of the building and its less than 8 acre site would not provide sufficient acreage to accommodate the Project, the aerial photograph submitted in the Addendum depicts a large undeveloped site bordering the Albertson's site. There is no discussion as to the availability or practicability of utilizing this undeveloped site in conjunction with the Albertson's site for development of the Project. The non-availability of the Albertson's site should be explained and practicability of the Albertson's site in conjunction with the neighboring undeveloped site should also be analyzed.

### **Mitigation Proposal**

As we discussed at our recent meeting, the application currently proposes out-of-kind mitigation for the Project's proposed culverting of the 1100 linear foot channel transecting the site. This mitigation proposal for the channel impacts is not acceptable. Once it has been clearly demonstrated that the Project impacts have been avoided and minimized to the extent practicable, our staff will work with the Applicant's representatives to develop an appropriate mitigation and monitoring plan.

### **Conclusion**

We recommend that the applicant submit a revised Analysis and Mitigation Plan proposal as discussed above. The current Analysis does not adequately consider on- and off-site alternatives or demonstrate that the proposed Project is the LEDPA. In the absence of a revised and acceptable Alternatives Analysis and Mitigation Plan, staff will recommend the Board deny the Project's application for Water Quality Certification.

My staff and I are available to meet with you and Project representatives to discuss these issues, and what is necessary in a revised application for staff to recommend the Board certify this Project.

Mr. Todd Anderson  
Application for Water Quality Certification  
Planned Wal-Mart Waters Road, Suisun City

Sincerely,

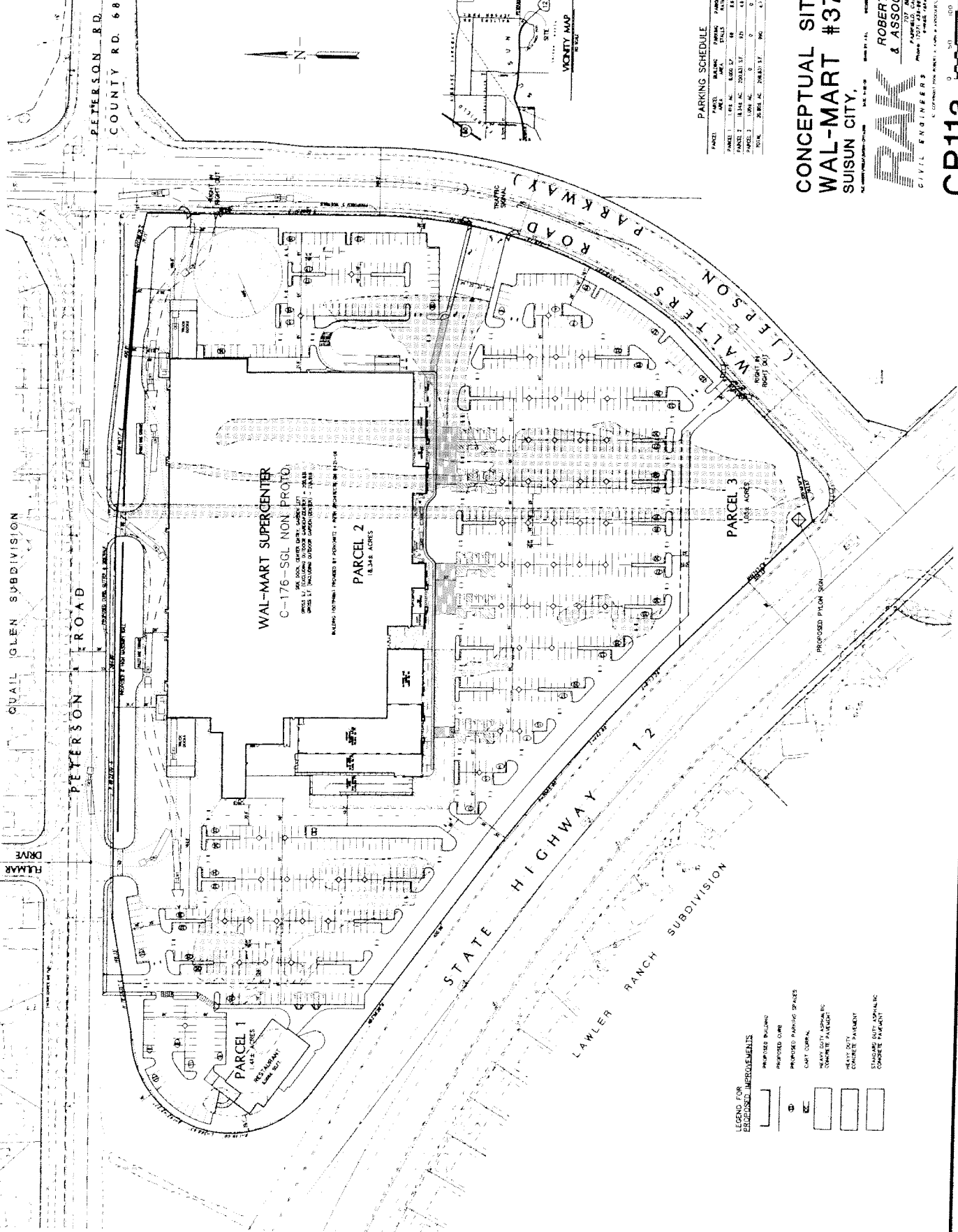
 acting for

Bruce Wolfe  
Executive Officer

Cc: SWRCB-DWQ, Bill Orme [401Stateboard@waterboards.ca.gov](mailto:401Stateboard@waterboards.ca.gov)  
U.S. EPA, David Smith [R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov)  
ACOE, SF Regulatory Branch,  
Bryan Matsumoto [bryan.t.matsumoto@usace.army.mil](mailto:bryan.t.matsumoto@usace.army.mil)  
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CA Department of Fish & Game, Liam Davis [ldavis@dfg.ca.gov](mailto:ldavis@dfg.ca.gov)  
Michelle Tovar [Michelle\\_Tovar@fws.gov](mailto:Michelle_Tovar@fws.gov);  
Robert Karn <mailto:RKarn@RAKEngineers.com>  
Ella Foley-Gannon <mailto:efoleygannon@sheppardmullin.com>  
Jeff Olberding <mailto:Jeff@olberdingenv.com>  
Heather McCollister [hmccollister@suisun.com](mailto:hmccollister@suisun.com)  
Anthony Moscarelli [archerone@comcast.net](mailto:archerone@comcast.net)  
Phil Tucker <mailto:pgtucker@aol.com>  
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George Guynn, Jr. [georgejr@hotmail.com](mailto:georgejr@hotmail.com)  
Wayne Monger <mailto:wmonger@comcast.net>  
Richard Hanson [hansonra@sbcglobal.net](mailto:hansonra@sbcglobal.net)



# **ATTACHMENT 9**



**PARKING SCHEDULE**

PARKING TYPE	NO. OF SPACES	NO. OF SPACES PER 1,000 SQ. FT. OF GROSS FLOOR AREA
Handicap	10	1.0
Standard	1,000	100.0
<b>Total</b>	<b>1,010</b>	<b>101.0</b>

**CONCEPTUAL SITE PLAN  
WAL-MART #3708-01  
SUISUN CITY, CALIFORNIA**

DESIGNED BY: **RAY**  
**ROBERT A. KARN & ASSOCIATES, INC.**  
 CIVIL ENGINEERS  
 207 ANNE AVENUE  
 SUITE 100  
 SUI SUN CITY, CALIFORNIA 94588  
 PHONE: (925) 434-1111  
 FAX: (925) 434-1112  
 E-MAIL: rkar@rayinc.com

**CP11a**  
 GRAPHIC SCALE

- LEGEND FOR PERMITTED IMPROVEMENTS**
- ▭ PROPOSED BUILDING
  - ⊕ PROPOSED DRIVE
  - ⊖ PROPOSED PARKING SPACES
  - ⊙ CURB CORNER
  - ▭ DRIVE DRIVEWAY
  - ▭ DRIVE DRIVEWAY
  - ▭ DRIVE DRIVEWAY
  - ▭ DRIVE DRIVEWAY
  - ▭ DRIVE DRIVEWAY

QUAIL GLEN SUBDIVISION

PETERSON ROAD

PETERSON RD.  
COUNTY RD. 68

**WAL-MART SUPERCENTER  
C-176-SGL NON-PROFIT**

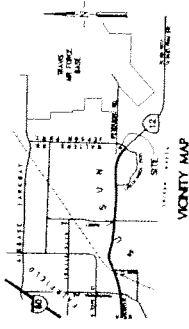
**PARCEL 2  
8.348 ACRES**

**PARCEL 3  
142 ACRES**

STATE HIGHWAY 12

WALTERS PARKWAY

LAWLER RANCH SUBDIVISION



# **ATTACHMENT 10**



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May 21, 2010

Writer's Direct Line  
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Our File Number: 15CM-130472

***VIA FACSIMILE AND EXPRESS MAIL***

Bruce H. Wolfe  
Executive Officer  
California Regional Water Quality Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Facsimile: (510) 622-2460


Re: Request to Prepare Staff Record for the Second Denial Without Prejudice of the Application for Water Quality Certification for the Walters Road West Development Project, Site No. 02-48-C0394 (WBH)

Dear Mr. Wolfe:

On behalf of our client, Wal-Mart Stores, Inc., we have petitioned the State Water Resources Control Board to reconsider the above-referenced denial of the application for water quality certification. A copy of this petition is enclosed with this letter. Pursuant to Section 3867(d)(9) of Title 23 of the California Code of Regulations, we ask that you prepare the staff record for this matter.

Please let me know if you have any questions about the petition.

Very truly yours,

  
Robert J. Uram

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

W02-WEST:5ENS1\402658081.1

Enclosures

cc: Jeannette L. Bashaw, SWRCB