

January 11, 2009  
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### **Position Statement on the Dutra Asphalt Plant**

Dutra Company proposes to build an asphalt production and recycling plant on half of 38 acres of land they own across the Petaluma River from Shollenberger Park in Petaluma. The property is just south of the Shamrock Corporation aggregate off-loading site on the west side of the river. The Dutra site contains the local nesting colony for Herons and Egrets. This colony produced 85 fledged chicks in 2008.

The proposed asphalt plant site is about 200 feet upwind from Shollenberger Park and according to Dutra's draft EIR would generate HIGHER THAN LEGALLY ALLOWED air pollution, noise, night light, and toxic fumes which could be only "partially" mitigated. Their final EIR did include 135 mitigation measures but still causes great concern in several areas:

1. Excessive levels of odors and toxic chemicals that would escape their enclosure design. Dutra calls the design "total enclosure" but in fact it is only partial enclosure.
2. Recycling old asphalt generates noise and dust, adding to negative impacts to the site.
3. Mitigations for the nesting colony will probably not be effective because the birds will still be exposed to high levels of noise, pollution, and human activity day and night.
4. Off-loading barges of aggregate at night would produce high levels of noise and light that will disturb wildlife, perhaps all night long. This aggregate would travel along an enclosed 1840 foot, raised conveyor belt.
5. Production of "Rubberized Asphalt" is extremely smelly and emits noticeably higher levels of toxic vapors according to the Bay Area Air Quality Control Board website and Dutra themselves. At a recent site visit of a comparable asphalt plant in Irvine, CA, several Petalumans were confronted with rubberized asphalt being made (by cooking up old rubber tires with the asphalt mix), which smelled awful and made them all sick within 30 minutes. All this could happen just 200 feet up-wind from Shollenberger Park. Shollenberger Park is heavily used by the public, including families and dogs. These industrial activities are not appropriate here.
6. A recent letter from Marin Audubon alerted us to the fact that Dutra has continued its long-held practice of being a bad neighbor. At the San Rafael plant/quarry they continue to accrue frequent violations of their permit and carry out other illegal activities such as dumping a load of dredge spoils near the Farallon Islands which resulted in a \$750,000 fine from the U.S. Environmental Protection Agency. All of this can be read on the Marin Independent Journal site (reference the site).
7. This pattern of behavior, coupled with the polluting nature of their business, would produce a devastating impact on Shollenberger Park, its visitors, and its wildlife and **should not be permitted at this present site.**
8. Mr. Lindsey Mickles, an environmental member of our community, along with David Keller and the Open Space and Water Resource Protection & Land Use Foundation (O.W.L. Foundation) have recently

hired the law firm Lozeau and Drury to fight this project. In a 36-page summary document these lawyers scrutinized the EIR, listed many mistakes, and detailed how the Dutra Company and the Sonoma County Planning Dept. were not interpreting the CEQA law correctly when dealing with the non-mitigatable issues.

Before PWA learned about rubberized asphalt and Dutra's long track record of bad behavior toward the neighbors in San Rafael, we were willing to work with them-- provided they used state-of-the-art equipment, true total containment, no asphalt recycling, or nighttime operations, and only 70% of full-capacity operations. These were the conditions of **"Alternate C" of the EIR** plus the addition of full containment.

**We have now changed our preferred position on this project to EIR Alternate A "no project on this site" because of items listed above.**

### **ACTION REQUESTED:**

The next and perhaps **final hearing on this project is scheduled for 3 February, 2:00 PM in the Sonoma County Board of Supervisors Chambers, 575 Administration Drive, Room 102A, Santa Rosa, California**

We request support from the Bay Area Chapters.

In order to have any possibility of getting a fair resolution on this project we need the continued support of the lawyers - which costs money. **We are therefore requesting financial help from the community and local environmental organizations to retain our legal support.**

**Supporting letters to the Board of Supervisors would also be helpful.**

Board of Supervisors

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For your information:

The O.W.L. Foundation is a respected nonprofit in Sonoma County which fights for water rights and water purity in Sonoma County and serves as an umbrella for organizations like the Petaluma River Council and the Sebastopol Water Information Group. O.W.L. Foundation is located at 1390 N. McDowell Blvd., Suite G 306, Petaluma, CA 94954.

Lozeau and Drury is a respected environmental law team. One of this team used to be the S.F. Bay Water Keeper. They are located at 1516 Oak St., Suite 216, Alameda, CA 94501. Please send checks to the O.W.L. Foundation.