

2 **1.1 PROJECT TITLE**

3 DuPont Oakley Outfall Removal and Final Closure Project

4 **1.2 CEQA LEAD AGENCY NAME AND ADDRESS**

5 California State Lands Commission (CSLC)  
6 100 Howe Avenue, Suite 100-South  
7 Sacramento, CA 95825

8 Contact person:

9 Cynthia Herzog, Staff Environmental Scientist  
10 Division of Environmental Planning and Management  
11 Cynthia.Herzog@slc.ca.gov  
12 (916) 574-1890

13 **1.3 PROJECT APPLICANT NAME AND ADDRESS**

14 E.I. du Pont de Nemours and Company (DuPont or Applicant)  
15 Corporate Real Estate  
16 Mr. Bert Heilman  
17 974 Centre Road, CRP 730-3110-7  
18 Wilmington, DE 19805

19 **1.4 PROJECT LOCATION AND REGULATORY GUIDANCE**

20 DuPont proposes to remove an obsolete National Pollutant Discharge Elimination  
21 System (NPDES) outfall pipe from sovereign land in the San Joaquin River adjacent to  
22 6000 Bridgehead Road, near the city of Oakley in Contra Costa County (Figure 1-1).  
23 The CSLC has jurisdiction over sovereign lands or lands held in public trust by the State  
24 of California, which include the tide and submerged lands situated in the San Joaquin  
25 River below the ordinary high water mark (OHWM).

26 On August 15, 1956, the CSLC authorized a 49-year Right-of-Way Easement to  
27 DuPont. On October 18, 2012, the CSLC issued a new 4-year General Lease – Right-  
28 of-Way Use to DuPont for the outfall that extended the lease period to October 18,  
29 2016. The new lease is an interim arrangement allowing DuPont the time to prepare a  
30 removal plan and obtain the necessary permits for final removal of the outfall pipe from  
31 sovereign lands; the lease may be terminated early should DuPont remove the outfall  
32 pipe prior to the lease’s end date.



1 In November 2012, DuPont submitted an application to the CSLC to remove the outfall  
 2 pipe. In order to take action on DuPont's application to amend its existing lease to  
 3 implement the proposed Project, the CSLC must address the potential environmental  
 4 effects associated with the Project. Therefore, in accordance with the California  
 5 Environmental Quality Act (CEQA), the CSLC has prepared this Initial Study/Final  
 6 Proposed Mitigated Negative Declaration (IS/MND), which includes a discussion of the  
 7 Project's potential effects on the existing environment and the identification of Applicant  
 8 Proposed Measures (APMs) and mitigation measures (MMs) to address impact  
 9 avoidance and minimization. The purpose of this document is to present to decision-  
 10 makers and the public the potential environmental consequences of implementing the  
 11 Project.

## 12 1.5 SUMMARY OF FINDINGS

13 The Project would have no permanent environmental impacts because it is a demolition  
 14 project that does not involve new permanent structures, facilities or activities; however,  
 15 some impacts could result from the proposed removal and demolition of the outfall pipe.  
 16 These impacts could be reduced to less than significant with the incorporation of  
 17 mitigation measures. Based on the issues evaluated in Section 3, Environmental  
 18 Checklist, the CSLC has been determined that the Project would have no impact, less  
 19 than significant impact, or less than significant impacts after the incorporation of  
 20 mitigation measures to the following resource areas:

| No Impact                                                                                                                                                                                                                                                                                           | Less than Significant Impact                                                                                                                                             | Less than Significant Impact with Mitigation                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Agricultural and Forestry Resources</li> <li>• Cultural Resources</li> <li>• Geology and Soils</li> <li>• Land Use and Planning</li> <li>• Mineral Resources</li> <li>• Population and Housing</li> <li>• Public Services</li> <li>• Recreation</li> </ul> | <ul style="list-style-type: none"> <li>• Aesthetics</li> <li>• Air Quality/Greenhouse Gas Emissions</li> <li>• Noise</li> <li>• Utilities and Service Systems</li> </ul> | <ul style="list-style-type: none"> <li>• Biological Resources</li> <li>• Hazards and Hazardous Materials</li> <li>• Hydrology and Water Quality</li> <li>• Transportation/Traffic</li> </ul> |

## 21 1.6 PUBLIC REVIEW AND COMMENT

22 Consistent with the direction provided in State CEQA Guidelines sections 15072 and  
 23 15073, this IS/MND was circulated to local and State agencies and to interested

1 individuals for review and comment. The following entities submitted written comments  
2 to the CSLC during the 30-day public review period:

- 3 • Contra Costa County Public Works Department
- 4 • California Department of Fish and Wildlife (CDFW)
- 5 • Central Valley Regional Water Quality Control Board (CVRWQCB)

6 The CSLC has considered these comments in preparing this Final Proposed MND.

## 7 **1.7 PERMITS, APPROVALS AND REGULATORY REQUIREMENTS**

8 During the planning and pre-mobilization phase of the Project, several permits and  
9 approvals must be obtained in order to comply with federal, State, and local regulations.  
10 Planning permits include environmental permits and must be obtained prior to the start  
11 of construction. The primary environmental permits required are a Clean Water Act  
12 Section 404 / Rivers and Harbors Act Section 10 (Nationwide) permit from the U.S.  
13 Army Corps of Engineers (USACE) and a Streambed Alteration Agreement issued by  
14 CDFW. Construction or operations permits regulate specific actions that are necessary  
15 to conduct the Project and would be obtained either immediately before or during  
16 demolition activities. These include, for example, a permit from the U.S. Coast Guard  
17 (USCG) to operate in the river and a municipal storm water permit from the Central  
18 Valley Regional Water Quality Control Board (RWQCB). Anticipated permits and  
19 approvals for the proposed Project are provided in Table 1-1 (see also Table 3-1.2 in  
20 Section 3, Environmental Checklist).

21 Not all agencies listed in the table that have jurisdiction over resources affected by the  
22 proposed Project issue permits. For example, several agencies issue certifications or  
23 provide clearance through the Section 404 permit. These approvals include the Section  
24 401 Water Quality Certification from the RWQCB, clearance of the Project by the State  
25 Office of Historical Preservation, and consultation with the U.S. Fish and Wildlife  
26 Service (USFWS) under Section 7 of the Endangered Species Act (the San Joaquin  
27 River is designated critical habitat for the Delta smelt). State agencies with approval  
28 authority, including the CDFW and Central Valley RWQCB, require CEQA  
29 documentation before they can approve their permits for the Project.

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**Table 1-1  
Federal, State, and Local Permitting Agencies**

| Permitting Agency                                                                                                                                        | Anticipated Approvals, Authorization and Regulatory Requirements                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Federal Agencies</b>                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                         |
| <b>U.S. Army Corps of Engineers</b><br>Sacramento District<br>1325 J Street<br>Sacramento, CA 95814                                                      | <b>Clean Water Act (CWA), Section 404 Nationwide Permit</b><br>Work within waters of the United States or wetlands<br><b>Rivers and Harbors Act, Section 10 Permit</b><br>Work or structures in, over, or under any navigable water of the United States, including any obstruction or alteration in a navigable water (processed concurrently with Section 404 permit) |
| <b>U.S. Fish and Wildlife Service</b><br>Bay-Delta Office<br>650 Capitol Mall, 8th Floor<br>Sacramento, CA 95814                                         | <b>Endangered Species Act (ESA), Section 7 Compliance</b><br>Review of threatened, listed or proposed endangered species or critical habitat (timing coincides with Section 404 permit)                                                                                                                                                                                 |
| <b>National Marine Fisheries Service</b><br>Habitat Conservation Division<br>777 Sonoma Ave, Room 325<br>Santa Rosa, CA 95404                            | <b>ESA, Section 7 Compliance</b><br>Review of threatened, listed or proposed endangered species or critical habitat (timing coincides with Section 404 permit)                                                                                                                                                                                                          |
| <b>United States Coast Guard</b><br>Eleventh Coast Guard District<br>Building 50-2, Coast Guard Island<br>Alameda, CA 94501                              | <b>33 CFR, Part 66, Private Aids to Navigation</b><br>Agency regulates aid to maritime navigation in waters of the United States                                                                                                                                                                                                                                        |
| <b>State Agencies</b>                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                         |
| <b>California Department of Fish and Wildlife</b><br>Bay Delta Region<br>7329 Silverado Trail<br>Napa, CA 94558                                          | <b>Streambed Alteration Agreement, Fish and Game Code section 1602</b><br>Agreement applies to construction within banks or channels of streams or other riparian corridors<br><b>California Endangered Species Act (CESA)</b><br>Consultation with CDFW during the CEQA document review process.                                                                       |
| <b>California State Office of Historic Preservation</b><br>State Historic Preservation Officer<br>1416 Ninth Street, Room 1442-7<br>Sacramento, CA 95814 | <b>Compliance with National Historic Preservation Act, Section 106</b><br>Project review of impacts to historic or archaeological sites according to National Register criteria (timing coincides with Section 404 permit)                                                                                                                                              |
| <b>Central Valley Regional Water Quality Control Board (Region 5)</b><br>11020 Sun Center Drive, Suite 200<br>Sacramento, CA 95670                       | <b>CWA, Section 401 Water Quality Certification</b><br>State certification for discharges to "navigable waters of the United States (timing coincides with Section 404 permit)<br><b>CWA, Section 402</b><br>East Contra Costa County Municipal NPDES Permit Order R5-2010-0102, No. CAS083313                                                                          |
| <b>Local Agencies</b>                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                         |

| Permitting Agency                                                                                                            | Anticipated Approvals, Authorization and Regulatory Requirements                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Contra Costa County Public Works Department</b><br>Flood Control Division<br>255 Glacier Drive<br>Martinez, CA 94553-4825 | <b>Drainage Permit to Work in Accordance with Contra Costa County Drainage Ordinance 1010</b><br>The Contra Costa County Ordinance Code requires a drainage permit for the purposes of reviewing and inspecting proposed drainage work. |

1 **1.8 DOCUMENT ORGANIZATION**

2 This document is organized as follows:

- 3 • **Section 1** provides an introduction to the environmental review process. It  
 4 describes the purpose and organization of this document and presents a  
 5 summary of findings.
- 6 • **Section 2** describes the proposed Project, including background and need, the  
 7 schedule for construction and future maintenance, and provides a summary of  
 8 the design features.
- 9 • **Section 3** presents an analysis of a range of environmental issues identified in  
 10 the CEQA Initial Study Checklist. From this analysis, the following identifications  
 11 are made:
- 12 ○ The existing setting for each issue;
  - 13 ○ The corresponding range of impacts that would result;
  - 14 ○ A discussion of various Project changes and/or mitigation measures that,  
 15 if incorporated into the Project and implemented, would mitigate or avoid  
 16 such impacts, such that no significant effect on the environment would  
 17 occur.

18 The range of impacts includes no impact, less than significant impact, less than  
 19 significant impact with mitigation, or a potentially significant impact.

- 20 • **Section 4** presents the CSLC’s Environmental Justice Policy.
- 21 • **Section 5** presents the Mitigation Monitoring Program (MMP).
- 22 • **Section 6** provides information on report preparation of this IS/MND and lists the  
 23 references used in preparation of this IS/MND.
- 24 • **Appendices** - The appendices include plans, data, and other information  
 25 submitted by the Applicant and analyzed in this IS/MND.
- 26 ○ **Appendix A:** 65% Design Plan, 36-Inch Steel Outfall Pipe Removal,  
 27 Oakley, California;

- 1           ○ **Appendix B:** Air Emissions Calculations; and
- 2           ○ **Appendix C:** Reconnaissance-Level Biological Survey Report (Parsons
- 3           2010).