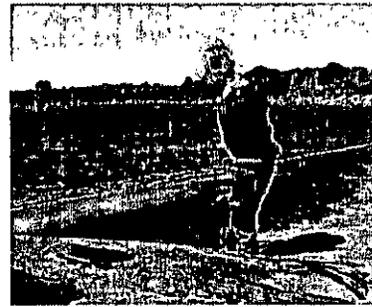
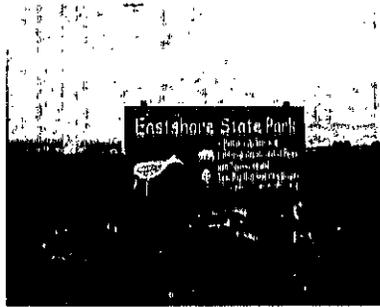


EASTSHORE PARK PROJECT GENERAL PLAN

FINAL ENVIRONMENTAL IMPACT REPORT RESPONSES TO COMMENTS



STATE CLEARINGHOUSE # 2002022051



October 2002

EASTSHORE PARK PROJECT GENERAL PLAN

FINAL ENVIRONMENTAL IMPACT REPORT RESPONSES TO COMMENTS

STATE CLEARINGHOUSE # 2002022051

Gray Davis
Governor

Mary D. Nichols
Secretary for Resources

Ruth Coleman
Acting Director of Parks and Recreation
P.O.Box 942896
Sacramento, CA 94296-0001



October 2002

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
A.	PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT.....	1
B.	FINAL EIR.....	1
C.	ENVIRONMENTAL REVIEW PROCESS.....	1
D.	DOCUMENT ORGANIZATION.....	2
II.	LIST OF COMMENTING AGENCIES, ORGANIZATIONS AND PERSONS.....	3
A.	FEDERAL, STATE, REGIONAL, AND LOCAL AGENCIES.....	3
B.	ORGANIZATIONS.....	4
C.	INDIVIDUALS.....	5
D.	PUBLIC WORKSHOP COMMENTS.....	6
E.	EIR MENTIONED BUT NO CEQA COMMENTS.....	7
F.	NO MENTION OF EIR AND NO CEQA COMMENTS.....	8
III.	COMMENTS AND RESPONSES.....	11
A.	FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES.....	12
B.	ORGANIZATIONS.....	93
C.	INDIVIDUAL COMMENTS AND RESPONSES.....	204
D.	PUBLIC WORKSHOP COMMENTS AND RESPONSES.....	260
E.	EIR MENTIONED BUT NO CEQA COMMENTS.....	263
F.	NO MENTION OF EIR AND NO CEQA COMMENTS.....	278
IV.	DRAFT EIR TEXT REVISIONS.....	279
V.	REPORT PREPARATION.....	281
A.	FINAL EIR PREPARERS.....	281
B.	GENERAL PLAN PREPARERS.....	282

I. INTRODUCTION

A. PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT

This report has been prepared to respond to comments submitted on the July 2002 Draft Environmental Impact Report (Draft EIR) for the proposed *Eastshore Park Project Preliminary General Plan* (the Preliminary General Plan). The Draft EIR identifies the likely environmental consequences associated with implementation of the Preliminary General Plan. The evaluation in the Draft EIR of each topical issue found that the Preliminary General Plan incorporates specific guidelines to mitigate to a less-than-significant level all adverse potential impacts.

This document responds to comments on the Draft EIR and makes revisions to the Draft EIR, as necessary, in response to these comments or to clarify any previous errors, omissions, or misinterpretations of material in the Draft EIR. Comments on the Preliminary General Plan will be presented to the decision-making body, the State Park and Recreation Commission.

B. FINAL EIR

This document, together with the Draft EIR, will constitute the Final EIR if the California Department of State Parks and Recreation (State Parks) certifies the Final EIR as complete and adequate under the California Environmental Quality Act (CEQA).

C. ENVIRONMENTAL REVIEW PROCESS

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project, and to provide the general public with an opportunity to comment on the Draft EIR.

The Draft EIR was made available for public review on July 15, 2002 and distributed to local and State responsible and trustee agencies. The general public was advised of the availability of the Draft EIR through public notices in the following local newspapers: Oakland Tribune, Alameda Times Star, West County Times (Richmond Area), Alameda Journal, Montclairion, El Cerrito Journal, Berkeley Voice, Piedmonter, Berkeley Daily Planet, and The Daily Californian. The Draft EIR was also posted on the project's website at www.eastshorestatepark.com. CEQA mandates a minimum 45-day public comment period on the Draft EIR, which ended on August 28, 2002.

Copies of all written and oral comments received on the Draft EIR during the comment period are contained in this report.

The Preliminary General Plan, Final EIR, and the comments will be presented to the State Park and Recreation Commission at a public hearing on December 5 and 6, 2002, at which time the Commission will consider a recommendation regarding the approval of the General Plan and the EIR.

Upon this approval from the Commission, the Director of State Parks, or her designee, will certify the EIR based on the findings of the Notice of Determination.

D. DOCUMENT ORGANIZATION

This Response to Comments document consists of the following chapters:

- *Chapter I: Introduction.* This chapter discusses the purpose and organization of this Final EIR.
- *Chapter II: List of Commenting Agencies, Organizations, and Persons.* This chapter contains a list of agencies, organizations, and persons who submitted written comments on the Draft EIR.
- *Chapter III: Comments and Responses.* This chapter contains reproductions of all comment letters received on the Draft EIR, as well as summaries of oral comments received on the Draft EIR. A written response for each CEQA-related comment received during the review period is provided. Each response is keyed to the preceding comments.
- *Chapter IV: Draft EIR Text Revisions.* Corrections to the Draft EIR necessary in light of comments received and responses provided, or necessary to clarify any errors, omissions or misinterpretations, are contained in this chapter.
- *Chapter V: Report Preparation.* A summary of those involved in report preparation are contained in this chapter.

II. LIST OF COMMENTING AGENCIES, ORGANIZATIONS AND PERSONS

The following list of written comments were submitted to California Department of Parks and Recreation (State Parks) during the public review period on the Draft EIR. The comments are grouped by the affiliation of the commenting entity as follows: federal, State, regional, and local agencies (Section A), organizations (B), individuals (C), and public workshop comments (D). Of those organizations or individuals who submitted letters on the project, 14 of the letters mentioned the Draft EIR, but contained no comments on the Draft EIR. These letters have been compiled after the letters offering substantive comments or raising questions about the Draft EIR. Fifty-six letters contained comments on the Preliminary General Plan, but did not mention or contain a comment on the Draft EIR. These letters have not been included in this document, but will be addressed in the report given to the State Park and Recreation Commission for their consideration. The persons who sent these letters are listed in Section G of this chapter.

A. FEDERAL, STATE, REGIONAL, AND LOCAL AGENCIES

- A1 State of California, Governor's Office of Planning and Research, State Clearinghouse; Tal Finney, Interim Director (July 31, 2002)
- A2 California Department of Fish and Game; Robert W. Floerke, Regional Manager, Central Coast Region (August 28, 2002)
- A2a California Department of Fish and Game; Robert W. Floerke, Regional Manager, Central Coast Region (October 1, 2002)
- A3 California Department of Toxic Substances Control; Barbara J. Cook, P.E., Chief, Northern California Coastal Cleanup Operations Branch (August 28, 2002)
- A4 City of Berkeley, Office of the City Manager; Lisa Caronna, Director of Parks, Recreation & Waterfront (September 1, 2002)
- A5 Berkeley Waterfront Commission; Paul Kamen, Chair (August 24, 2002)
- A6 City of Berkeley; Marco Barrantes, Parks and Recreation Commissioner, Waterfront Commissioner (August 30, 2002)
- A7 City of Emeryville; John A. Flores, City Manager (August 28, 2002)
- A8 National Park Service; Brian O'Neill, General Superintendent (August 23, 2002)

- A9 San Francisco Bay Area Water Transit Authority; Thomas G. Bertken, Chief Executive Officer (August 19, 2002)
- A10 East Bay Regional Park District; Larry Tong, Interagency Planning Manager (August 15, 2002)
- A11 San Francisco Bay Conservation and Development Commission; Joseph LaClair, Senior Planner (August 29, 2002)

B. ORGANIZATIONS

- B1 Sierra Club, San Francisco Bay Chapter; Norman La Force, Chair (August 28, 2002)
- B2 Sierra Club, San Francisco Bay Chapter; Norman La Force, East Bay Lands Committee Chair, San Francisco Bay Chapter Legal Committee (August 1, 2002)
- B3 Citizens for the Eastshore State Park; Robert C. Cheasty, President (August 20, 2002)
- B4 Citizens for the Eastshore State Park; Robert C. Cheasty, President (August 29, 2002)
- B5 Golden Gate Audubon Society; Arthur Feinstein, Executive Director (August 28, 2002)
- B6 Golden Gate Audubon Society; Jacqui Smalley, Chair, East Bay Conservation Committee (August 27, 2002)
- B7 Albany Let It Be; Marilyn Saarni, Missy Brosnan, Susan Synarski, Marie Jones, Thomas Dubberke, and Janine Band, Ph.D. (August 27, 2002)
- B8 Friends of the Albany Ferry; Jerri Holan, Captain (August 16, 2002)
- B9 Berkeley Ferry Committee; Linda Perry, President (August 12, 2002)
- B10 San Francisco Boardsailing Association; Peter Thorner, President (August 21, 2002)
- B11 Berkeley Design Advocates; David Snippen, Secretary (August 28, 2002)
- B12 Citizens for the Albany Shoreline; William Dann, Co-chair (August 26, 2002)
- B13 Traffic and Safety Commission; Lubov Mazur, Chair (August 7, 2002)
- B14 El Cerrito Soccer Club; Richard Ivry, President (August 26, 2002)
- B15 Save The Bay; David Lewis, Executive Director (August 27, 2002)

C. INDIVIDUALS

- C1 Kristin Ohlson (August 26, 2002)
- C2 John Slaymaker (August 28, 2002)
- C3 Jim McGrath (August 16, 2002)
- C4 Bradford Smith, Ph.D. (August 25, 2002)
- C5 Gregory M. Herek, Ph.D. (August 4, 2002)
- C6 Corinne Greenberg (August 26, 2002)
- C7 Corinne Greenberg (August 25, 2002)
- C8 Lillian T. Fujii (August 26, 2002)
- C9 Susan Schwartz (August 5, 2002)
- C10 Abiud Amaro (September 4, 2002)
- C10 Andrew H. Baker (September 4, 2002)
- C10 Linda Behnaw (August 25, 2002)
- C10 Julia Browne (August 25, 2002)
- C10 Armando Chenyek (August 26, 2002)
- C10 Juan Diaz (September 1, 2002)
- C10 Thomas M. Donnelly (August 26, 2002)
- C10 Mario Giurretto (September 4, 2002)
- C10 Esfandiar Imani (August 25, 2002)
- C10 Dean Jacobs (September 20, 2002)
- C10 Charles D. Kemp (September 4, 2002)
- C10 Allen F. King (September 5, 2002)
- C10 Gudrun Klose (September 20, 2002)
- C10 Eric Lazar (September 25, 2002)

- C10 Mazi Maghscodnia (August 25, 2002)
- C10 Leif Magnuson (August 25, 2002)
- C10 K. McCarten-Gibbs (September 4, 2002)
- C10 Vickie Nolan (August 26, 2002)
- C10 Nallip D. Omran (August 26, 2002)
- C10 Carolyn Peterson (August 26, 2002)
- C10 Guy Petraborg (August 25, 2002)
- C10 Steven Porter (August 26, 2002)
- C10 Pierre S. Thiry, Ph.D. (September 4, 2002)
- C10 Melinda White (September 4, 2002)

D. PUBLIC WORKSHOP COMMENTS

- D1 Juliet Lamont, Sierra Club
- D2 Norman La Force, Sierra Club
- D3 Arthur Feinstein, Golden Gate Audobon Society
- D4 Susan Reynolds
- D5 Peter Thorner, San Francisco Boardsailing Association
- D6 Jean Robertson
- D7 Anne McClintock, CALDOG
- D8 Tom Dubberke, Let It Be
- D9 Melissa Brosnan
- D10 Richard Powers
- D11 Sharon Shafran
- D12 Kate Nichol

D13 Doris Sloan

D14 Marilyn Saarni, Let it Be

D15 Robert Cheasty

D16 Paul Kamen, Berkeley Waterfront Commission

E. EIR MENTIONED BUT NO CEQA COMMENTS

The following organizations and individuals sent comments to State Parks that referenced the EIR, but did not contain a comment on the EIR.

Organizations

E1 Berkeley Waterfront Commission; Paul Kamen, Chair (August 24, 2002)

E2 City of Albany; Beth Pollard, City Administrator (August 29, 2002)

Individuals

E3 Wayne Gesing (August 29, 2002)

E4 Jon Broderick (August 15, 2002)

E4 Mr. & Mrs. Hugo Evans (August 15, 2002)

E4 Patty Evans (August 15, 2002)

E4 Peter Evans (August 15, 2002)

E4 Renee Evans (August 15, 2002)

E4 Robin P. Evans (August 15, 2002)

E4 William and Yvonne Evans (August 15, 2002)

E4 Lori & Wanda Guido (August 15, 2002)

E4 E. Lee (August 15, 2002)

E4 Michelle & Joseph Marte (August 15, 2002)

E4 Keith Stover (August 15, 2002)

F. NO MENTION OF EIR AND NO CEQA COMMENTS

The following organizations and individuals sent letters to State Parks commenting on the Preliminary General Plan. These letters did not reference or contain any comments on the Draft EIR. Copies of these letters are not contained in Chapter III of this document.

Organizations

Association of Sports Field Users; Douglas Fielding, Chairperson (July 24, 2002)

Bay Access; M. Casey Walker, Executive Director; Maryly Snow, Treasurer (August 29, 2002)

Berkeley Design Advocates; Michael O'Leary, President; Jay Claiborne, Member of the Steering Committee; Lisa Howard, Member of the Steering Committee; Gail Keleman, Member of the Steering Committee; David Snippen, Member of the Steering Committee; David Stoloff, Member of the Steering Committee; John Vilett, Member of the Steering Committee; Dorothy Walker, Member of the Steering Committee (August 14, 2002)

Citizens for the Eastshore State Park; Robert C. Cheasty, President (July 30, 2002)

League of Women Voters of the Bay Area; Nancy Bickel, President – Albany, Emeryville; Louise Vogelsberg, Acting President – Richmond Area; Eva Alexis Bansner, President – Berkeley (August 23, 2002)

Point Isabel Dog Owners' Association and Friends (PIDO); Eleanor Yukic, Chairperson (August 23, 2002)

Individuals

Brenda Bailey (August 18, 2002)

Ruth Bird (August 26, 2002)

Bei Brown (August 17, 2002)

V. Louise Bruene (August 8, 2002)

Richard W. Bush (August 25, 2002)

Julia Cato (August 18, 2002)

Jon Del [signature unclear] (August 16, 2002)

Anna Desenberg (August 13, 2002)

Judith Dunham (August 27, 2002)

Barbara Farrell, DVM (August 5, 2002)

Dr. and Mrs. Lawrence Feigenbaum (August 15, 2002)

Elizabeth and Robert Fisher (August 28, 2002)

Patricia M. Gannon (August 13, 2002)

Chris Gilbert (August 12, 2002)

George Goth (August 21, 2002)

Corinne Greenberg (August 21, 2002)

Paul Gruner (August 6, 2002)

Margie Gurdziel (September 16, 2002)

David W. Hamilton (August 12, 2002)

Norma J. F. Harrison (August 19, 2002)

Leonard Horwitz (August 12, 2002)

Allen King (August 26, 2002)

Carolyn Kolka (August 28, 2002)

Kathy Labriola (August 18, 2002)

Juliet Lamont (August 23, 2002)

Sylvia C. McLaughlin (August 27, 2002)

Sara Ann Mikesell (August 19, 2002)

Doug and Jennifer Milliken (August 8, 2002)

Susan Obayashi (August 23, 2002)

Theodore Osmundson (August 27, 2002)

Nancy Page (August 15, 2002, October 1, 2002)

Rudolph and Eugenie Pipa (August 10, 2002)

Malcolm D. Plant (August 14, 2002)

Nancy Powell (August 23, 2002)

Susan Powning (August 26, 2002)

Stephanie J. Quick and Anthony J. Rich (August 12, 2002)

Susan Reynolds (August 21, 2002)

Constance Rivernale (August 27, 2002)

Daniel Rosen (August 14, 2002)

Dorothy Sanchirico (August 8, 2002)

Laurie Slama (August 20, 2002)

Nancy E. Smith (August 26, 2002)

Jane Stanbrough (August 27, 2002)

Emilie Strauss (August 29, 2002)

Jackie Stroud (August 18, 2002)

Sylvia L. Sykora (August 20, 2002)

Jerry Weisberg (August 26, 2002)

Edward C. Wiemken (August 27, 2002)

Don Williams (August 10, 2002)

Eleanor Clarke Yukic (August 23, 2002)

Alexandra Yurkovsky (August 25, 2002)

III. COMMENTS AND RESPONSES

This chapter includes a reproduction of each letter that commented on the Draft EIR, grouped by the affiliation of the commenting entity as follows: Federal, State, regional and local agencies (A), organizations (B), individuals (C), public workshop comments on the Draft EIR (D), and letters which cited or mentioned the Draft EIR, but which had no comments on the Draft EIR (E). The comments are numbered consecutively following the A, B, C, D, or E designation. The letter number (for example A-1, the first agency comment letter) is shown in a box in the upper right-hand corner of each page of the letter. Specific comments on the Draft EIR are annotated in the margin of each letter according to the following code:

Federal, State, Regional, and Local Agencies:	Letter Number A# and comment #
Organizations:	Letter Number B# and comment #
Individuals:	Letter Number C# and comment #

When cross-referenced in the text, the comment is referred to as A#-# where the number following the letter refers to the letter number, and the number following the hyphen refers to the comment number within that letter. For example, comment C3-8 refers to the eighth comment within the third letter submitted by an individual.

Persons who indicated on their speaker card that they would like to comment on the Draft EIR, or who had a comment on the Draft EIR during the public workshop are listed in Section D. in order of appearance at the workshop. Brief summaries of the individual comments and responses to comments on the Draft EIR follow the list of commentors.

Letters received during the public comment period on the Draft EIR are provided in their entirety in the following pages. Each letter is immediately followed by responses keyed to the specific comments.

Please note that the term "*Draft General Plan*" that was used throughout the Public Review Draft EIR has been changed herewith to "*Preliminary General Plan*" throughout the Draft EIR.

A. FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES

Letter
A-1



Gray Davis
GOVERNOR

STATE OF CALIFORNIA

Governor's Office of Planning and Research
State Clearinghouse



Tal Finney
INTERIM DIRECTOR

ACKNOWLEDGEMENT OF RECEIPT

DATE: July 31, 2002
TO: Ronald Schaefer
Dept. of Parks and Recreation
250 Executive Park Blvd
Suite 4900
San Francisco, CA 94134
RE: Eastshore Park Project General Plan
SCH#: 2002022051

RECEIVED
AUG 19 2002
NORTHERN SERVICE
CENTER

This is to acknowledge that the State Clearinghouse has received your environmental document for state review. The review period assigned by the State Clearinghouse is:

Review Start Date: July 15, 2002
Review End Date: August 28, 2002

We have distributed your document to the following agencies and departments:

Air Resources Board, Major Industrial Projects
California Coastal Commission
Caltrans, District 4
Delta Protection Commission
Department of Fish and Game, Region 3
Department of Health Services
Department of Housing and Community Development
Department of Parks and Recreation
Department of Toxic Substances Control
Native American Heritage Commission
Office of Historic Preservation
Public Utilities Commission
Regional Water Quality Control Board, Region 2
Resources Agency
San Francisco Bay Conservation and Development Commission
State Lands Commission

The State Clearinghouse will provide a closing letter with any state agency comments to your attention on the date following the close of the review period.

Thank you for your participation in the State Clearinghouse review process.
1400 TENTH STREET, P.O. BOX 3044, SACRAMENTO, CALIFORNIA 95812-3044
916-445-0613 FAX 916-323-3018 www.opr.ca.gov



COMMENTOR A1

State of California, Governor's Office of Planning and Research, State Clearinghouse; Tal Finney, Interim Director (July 31, 2002)

A1-1: This letter acknowledges that the California State Department of Parks and Recreation (State Parks) has complied with the State Clearinghouse review requirements for draft environmental documents. This letter does not relate directly to adequacy of the Draft EIR or the analysis contained therein. Therefore, no further response is necessary.

State of California



Memorandum

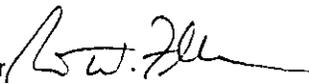
To: Ms. Judith Malamut
Department of Parks and Recreation
250 Executive Park Boulevard, Suite 4900
San Francisco, CA 94134
Via Fax (510) 540-7344

Date: August 28, 2002

LSA ASSOCIATES, INC.

AUG 29 2002

Berkeley

From: Robert W. Floerke, Regional Manager, 
Department of Fish and Game - Central Coast Region, Post Office Box 47, Yountville, California 94599

Subject: Proposed Eastshore Park Project General Plan Draft Environmental
Impact Report (EIR) Cities of Emeryville, Oakland, Berkeley,
Alameda and Richmond, Alameda and Contra Costa Counties,
SCH 200202205

Department of Fish and Game (DFG) personnel have reviewed the Draft EIR, dated July 2002, for the proposed Eastshore Park Project General Plan. The General Plan is a long-range master plan for a new State Park along the eastern shore of the San Francisco Bay. The project includes approximately 8.5 miles of shoreline, consisting of approximately 1,800 acres. Of this, approximately 185 acres are upland, and the remaining 1,615 acres are tidelands. The project proposes to enhance the area's natural values while improving public access to the shoreline and creating new opportunities for public recreation. The project includes creek "daylighting," wetland enhancements, upland revegetation, removal of exotic species, debris removal, interpretive facilities, visitor-serving and operations facilities, enhanced public access, parking lots and commercial recreation-oriented concessions in the Cities of Emeryville, Oakland, Berkeley, Alameda, and Richmond.

It is DFG's opinion that the Draft EIR is inadequate in the survey of sensitive plants, the discussion of recreational and trail impacts, overall impacts to sensitive habitats and cumulative impacts. The Draft EIR does not adequately address the permanent effects of development and recreational activities in conservation and recreation areas. Additionally, preservation areas are adjacent to areas proposed for recreational activities, which may result in permanent adverse effect on, or degraded value of, potential habitat for sensitive plants and wildlife due to the construction of facilities and

Ms. Judith Malamut

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August 28, 2002

the increased use of uplands and tidelands with designations as conservation and recreation areas. The Final EIR should adequately address the temporal and permanent effects of development and recreational activities as noted above. We recommend the document not be certified until these issues are addressed.

1
cont.

The Albany Mudflats are discussed in the Draft EIR, and preservation of the area is emphasized to protect wetlands and associated fish and wildlife values. The property is administered by DFG through a 49-year lease from the State Lands Commission, along with an adjoining lease from the Department of Transportation in 1982. The Final EIR and any other documents for the project should describe the area as the Albany Mudflats Ecological Reserve.

2

Three land-use designations are indicated in the project description, including preservation areas, conservation areas and recreation areas. The proposed project area may experience an estimated number of 2.5 million visitors annually, with peak periods of use during the spring through fall months, which also coincides with major seasonal use of the area by sensitive species and other wildlife. The document concludes that no significant cumulative impacts on biological resources are expected, but does not provide adequate support for such a conclusion. The document does not adequately address the cumulative impacts of such a high level of recreational use on the habitat quality and the species known and potentially found in the project area. Recreational activities, including passive activities such as hiking and wildlife viewing, can have significant impacts on species sensitive to increased public use. The potential cumulative impacts to sensitive species and habitats due to recreational activities should be sufficiently described in the Final EIR and considered in the design of the project, and measures or restrictions to mitigate these effects should be included. DFG recommends any permitted use be consistent with maintaining sensitive wildlife habitat in areas such as tideland, wetland, riparian and upland habitat.

3

The Draft EIR does not provide detailed information regarding the proposed development, recreational and maintenance activities and the potential adverse effects of such activities on sensitive species or their habitats during the construction and operational phases of the project. As stated in DFG's

4

Ms. Judith Malamut

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August 28, 2002

response to the Notice of Preparation (NOP), dated March 22, 2002 regarding the NOP, the document should identify and evaluate all activities which may impact fish and wildlife populations or their habitats, energy supplies, and reproductive requirements. The Final EIR should include sufficient details on the proposed development, recreational and maintenance activities, the potential adverse effects of such activities on sensitive species or their habitats during the construction and operational phases, and any measures necessary to mitigate potential adverse effects to less than significant levels. Impacts to biological resources and specific mitigation measures necessary to offset those impacts should be identified and discussed. We recommend impacts be avoided and minimized, as unavoidable impacts require added mitigation.

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cont.

"Table II-1: Summary of Land Use Designation Distribution" describes 56 percent of the total park area as designated for recreation purposes and providing 29 percent and 15 percent for preservation and conservation purposes, respectively. As stated in the project description and supporting documents, the Emeryville Crescent, the Albany shoreline and the South Richmond marshes are ecologically very important areas, contributing significantly to the nearshore and coastal ecosystems and providing important habitat for large concentrations of shorebirds and other sensitive species. We noted in the alternatives analysis that "Alternative A: Conservation" did not include the shoreline trail, vista points and parking areas in the Emeryville Crescent area, while "Alternative B: Recreation" provided these features. The preferred project proposes the same features at this location as the recreation alternative, which could result in substantial adverse impacts to sensitive resources. Similarly, at the South Berkeley/North Emeryville area, the Albany Shoreline and the Pt. Isabel/South Richmond Shoreline, except for a somewhat reduced area of promenade, floating kayak docks and two water access points, the proposed project closely mirrors the Recreation alternative. Given the sensitive nature of the resources, the project should consider designating a higher percentage of the area to preservation and conservation.

5

The document includes various figures showing the proposed locations of trails. "Table II-2: Eastshore Development and Improvement Summary" indicates that the project includes 1.3 miles of proposed Bay Trail spur extensions, not including new

Bay Trail spine segments which are not quantified, as well as 6.6 miles of proposed internal trails. The Draft EIR is inadequate in its discussion of the need for numerous trails, some of which are adjacent to other proposed and existing trails, and lacks an analysis of the potential adverse impacts to sensitive species and associated habitats due to the construction of the internal trails and the Bay Trail systems. While DFG recognizes the need for formal trails to accommodate alternate modes of transportation and for visitor access to help promote the understanding and appreciation of the natural resources of the park, we have concerns about the locations and extent of some of the trails within or adjacent to sensitive habitats. Trails may facilitate unrestricted pedestrian access to sensitive habitats which may disturb sensitive species or otherwise prevent sensitive species from accessing refugia, and may increase vulnerability of some species to avian or terrestrial predation. The importance of the project area for shorebird use is especially critical, as noted in the Draft EIR and supporting documents, and the proximal effects of the presence and potential disturbance of shorebirds are generally known to affect foraging behavior, and ultimately the reproductive success and overall health of the various species. DFG recommends that trails only be located in less sensitive areas, with greater consideration for proposed locations with adjacent sensitive habitats such as the preservation areas. Additionally, the Draft EIR should address that fencing and other structural modifications and seasonal restrictions may not adequately minimize disturbance or other adverse effects on sensitive species. Poor or non-compliance with posted regulations intended to prevent or minimize disturbances to wildlife and common violations with respect to pet and leash laws and trail users entering restricted areas are an unfortunate reality that also needs to be considered in the document.

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"Table II-3: Specific Area Land Use Summary" describes the land use designations, upland and tideland areas for various locations. At the Emeryville Crescent, no upland acreage is provided. Upland area should be included in the preservation area to provide high-tide refugia for wildlife. The development of parking or recreational related facilities should not adversely affect the use of uplands for high tide refugia. No upland preservation area is provided in the Berkeley Meadow, the North Basin and the Albany Bulb and Neck, which are known, or

10

may provide, habitat for several sensitive species, including raptors such as Northern harrier, loggerhead shrike and white-tailed kite. This conflicts with the statement in the Setting, Impacts and Mitigation Measures (3a), which indicates that preservation areas will be provided for long-term protection in upland areas. Furthermore, the description of development and operational/maintenance activities for the proposed park trails in these areas does not adequately address potential impacts due to habitat loss or reduction of habitat value due to increased public access from recreational activities.

10
cont.

The Draft EIR includes "Table II-5: Agency Approvals and Regulatory Review" that provides information on the Lead, Responsible and Trustee agencies. DFG was correctly listed as a Trustee agency; however, the table should also include DFG as a responsible agency for Streambed Alteration Agreements (SAA) for activities that may affect creeks and other drainage features under the DFG's jurisdiction in Section 1600 et seq. of the Fish and Game Code. Such activities include the "daylighting" of creeks noted in the project description.

11

DFG would support such work to improve riparian habitat and water quality. The Draft EIR does not include adequate information regarding proposed activities altering creeks, including construction of bridges, such as at Strawberry Creek, and for any storm drains or other structures that may be conveyed to and constructed within the banks of the stream channels, such as those associated with proposed parking areas. Such activities may also require an SAA. The Final EIR should adequately discuss project design and mitigation requirements for all work within creeks and include a requirement to apply for an SAA. DFG personnel are available to assist with the design of the project's creek daylighting activities.

12

The Draft EIR provided an assessment of the likelihood of sensitive plants occurring on-site based on suitable habitat, and indicates that field surveys were conducted on February 28, March 6 and March 7, 2002. DFG's previous comments on the NOP recommended that surveys for sensitive species, specifically plants, should be conducted at the proper time of the year to adequately identify the presence of the species. Only two of the eight sensitive plant species' blooming period coincided with the field surveys. Surveys for all sensitive species are not required if the property with suitable habitat will not be

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affected or no impacts due to recreational activities are expected. The Draft EIR includes guidelines to perform pre-construction surveys, which were included as mitigation measures for potential impacts due to projects that will be undertaken when the project is in the operational phase. Pre-construction surveys are not a substitute for surveys conducted at the appropriate time of year, nor are they considered to be mitigation for potential impacts. Appropriate survey data, and a description of impacts and mitigation, must be included in the document so they may be subject to public review. Future and unknown surveys and mitigation are not adequate under the California Environmental Quality Act (CEQA). For all areas with suitable habitat that may be affected by the proposed project, DFG recommends that surveys be performed during the next blooming period. The Draft EIR will be considered inadequate until surveys are conducted at the appropriate time of year and impacts and mitigation are included in the document.

13
cont.

The Draft EIR discusses substantial areas that would likely be delineated as Federal jurisdictional wetlands and also describes less than significant impacts to creeks or other unnamed drainages. Since the U. S. Army Corps of Engineers (Corps) has jurisdiction over activities which include the discharge of fill material in wetland areas under Section 404 of the Clean Water Act, we recommend that the areas be delineated and verified according to Corps protocols early in the planning process to determine permit requirements. It is also the policy of DFG that a project should cause no net loss of either wetland acreage or habitat value. In this case, "wetland" means both marshy areas and stream zones. Unavoidable impacts to wetland habitat should be mitigated to provide comparable habitat functions and values on-site and in-kind. If such mitigation is not available on-site, enhancement of on-site, out-of-kind habitat or off-site, in-kind compensatory mitigation should include sufficient acreage to mitigate for the loss of impacted habitat, functions and values and to satisfy all applicable regulatory requirements.

14

The Draft EIR included General Project-wide Management Goals and Guidelines. Guidelines for the Berkeley Meadow (BM/NB-1) incorrectly identified the non-nesting season as generally October through March; this period should rather be generally considered September through February. Grassland areas are used for nesting and foraging by raptors such as

15

Ms. Judith Malamut

7

August 28, 2002

Northern harrier, a species of special concern. Disturbance to such areas should emphasize avoiding potential impacts by restricting public access in the case of trails, and by appropriately timing maintenance activities, including fuel hazards abatement. Removal of any trees should also not be conducted during the nesting season (February-August), as this would be considered a significant impact if the trees are actively used for nesting and fledging by additional raptors such as white-tailed kites and peregrine falcons. Any disturbance to nesting activities or the loss of nests is a violation of both State and Federal laws.

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cont.

The Draft EIR and the draft policies, guidelines and measures are intended to mitigate potential impacts to sensitive species to less than significant levels. DFG is unable to determine if impacts have been adequately mitigated due to the lack of a list of sensitive plants potentially found on-site and failure to provide the acreages of the habitats, as requested in our NOP response. This information should be provided in the Final EIR.

16

The park-wide goals and draft guidelines for operations indicates that specific project plans will be prepared and will balance the need for new or enhanced public facilities with their potential adverse impacts to plant and wildlife resources, particularly avoiding adverse impacts to critical resource areas and values. The document should more thoroughly describe the anticipated intensity of future recreational activities and the anticipated seasonal or annual operational and maintenance activities at each sub-area, their potential for significant impacts to natural resources and potential enhancement or mitigation measures. The maintenance plan for the park has not yet been developed and OPER-4 indicates it "should be developed as soon as possible after park operations begin..." DFG recommends that the maintenance plan be developed prior to commencement of operations to ensure that sensitive resources are not adversely affected in the interim of a final plan being completed. If this is not practicable, the document should describe the potential adverse effects of operational activities and measures necessary to mitigate those effects. For example, if the operational and maintenance activities include fire breaks for fuels management, DFG recommends that a qualified biologist survey the area prior to treatment and assist the operations by directing where adverse impacts to wildlife,

17

Ms. Judith Malamut

8

August 28, 2002

especially ground nesting raptors, will be avoided. DFG recommends that fuel loads be reduced in break areas by mowing, and discing should be avoided.

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cont.

The park-wide goals and draft guidelines for wildlife management state that activities will be conducted as necessary to control pest species such as rats, feral cats, non-native red foxes and perhaps some native predators, and will maintain and minimize adverse effects to healthy native wildlife populations (WILDLIF-12). However, there is no further information in the document that describes the potential effects of the pest control activities, mechanisms for long-term management and methods that will be used. DFG encourages pest control activities where they can be effectively implemented, supports the removal of non-native predators and recommends that a formal plan be prepared. The elements of the plan noted above should be described in the Final EIR and general plan guidelines.

18

A thorough description of annual monitoring activities and success criteria associated with proposed mitigation measures should be included in the project and identified in the Final EIR. The length of the mitigation monitoring period should be based on the impacts and mitigation proposed. For example, wetland restoration or creek daylighting activities should be monitored annually for five years or until success criteria described in the monitoring plan are successfully met.

19

The presence of any vegetated inter-tidal or sub-tidal area at the project site is always of particular concern to DFG. The presence of eelgrass (*Zostera marina*) within the project area was confirmed in the Initial Study and in the Draft EIR. The potential impacts to the resource values of these vegetated inter-tidal or sub-tidal habitats due to construction and operation of water access points and associated recreation were not thoroughly described and discussed in the Draft EIR. Unavoidable, project-induced losses of habitat or potential adverse impacts due to construction and operation activities should be discussed in the Final EIR and compensation for direct impacts to fish and wildlife habitat should be provided in the form of habitat replacement, restoration, and enhancement.

20

DFG is also concerned with any potential for excessive turbidity or siltation. The Draft EIR does not sufficiently address any erosion which might be caused by deflected wave or

21

Ms. Judith Malamut

9

August 28, 2002

water current energy or other forces influenced by structures proposed to be placed in the water. DFG staff must consider any influences on water currents, flushing, sedimentation, and normal sediment transport.

Where a structural shoreline treatment is proposed, such as along the south side of University Avenue, and where revetment, promenade, seawall, bulkhead, or rip-rap may be proposed, such as at the North Basin Strip and at Point Isabel shoreline areas, construction materials should be identified and potential impacts should be discussed in the Final EIR. Where rip-rap or rubble is to be used, materials should be considered for use that are of suitable diameter to approximate natural rock habitat. DFG also has a position of not approving the placement of creosote-treated wood products (e.g., pilings) into waters of the State.

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cont.

The Draft EIR indicates that shoreline areas may be recontoured or otherwise regraded in various locations, but does not describe these activities in detail, or the potential for construction related impacts. Where dredging and dredge material disposal are concerned, the Draft EIR should demonstrate whether this is maintenance or new work dredging, describe the aerial extent and types of habitat impacted, identify the volume of materials and proposed location of disposal, and discuss the quality of sediments to be removed. Potential water and sediment quality problems which should be addressed include operational discharges during dredging and various resource-related impacts from disposal specific to individual disposal sites.

22

Existing fish and wildlife populations, habitat uses and types, and human uses such as fishing, clamming, or nature study in and adjacent to the project area should be maintained, including areas which have been informally or unofficially designated for such uses in the past, except where degradation of important or sensitive habitat has historically occurred or will likely occur in the near future. Development of infrastructure or facilities for formal designation of these uses in any area should consider the recreational and subsistence uses that have been provided informally or otherwise utilized in the past, as well as the resource protection goals of the project.

Ms. Judith Malamut

10

August 28, 2002

Alternative A has significantly fewer impacts to the sensitive resources on-site, and DFG recommends it be adopted as the preferred project to ensure adverse impacts to sensitive resources are minimized. This is particularly important for areas proposed for restoration and/or mitigation activities, which will increase the habitat value of such areas for fish and wildlife. Recreational activities could substantially lessen the habitat functions and values associated with restoration and could also result in potentially adversely affecting sensitive species.

23

We appreciate your consideration of our comments. DFG personnel are available to address these concerns in greater detail. For terrestrial resources, please contact Mr. John Krause, Associate Wildlife Biologist, at (415) 454-8050; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584. For marine resources, please contact Ms. Becky Ota, Environmental Scientist, DFG Marine Region Office, 350 Harbor Boulevard, Belmont, CA 94002, telephone (650) 631-6789.

cc: Mr. David Clore
LSA Associates
2215 5th Street
Berkeley, CA 94705

Mr. Ronald Schaefer
Department of Parks and Recreation
Via fax: (415) 330-6312

State Clearinghouse

COMMENTOR A2

California Department of Fish and Game; Robert W. Floerke, Regional Manager, Central Coast Region (August 28, 2002)

A2-1: In this initial comment, the commentor outlines a number of areas in which it is the opinion of the California Department of Fish and Game (CDFG) that the Draft EIR is inadequate because the temporal and permanent effects of development and recreational activities are not sufficiently addressed. The commentor then makes a recommendation that the Final EIR not be certified until the issues are addressed. Each issue in letter A2 is further discussed in the remainder of the letter. However, in a follow-up letter from Robert Floerke, CDFG Regional Manager (included in this document as letter A2a), he states that, "DFG believes that the General Plan guidelines are comprehensive and will provide a basis for assessing future activities, and to ensure that any proposed activities will mitigate for potential impacts to sensitive resources." Therefore, CDFG has modified the contentions contained in letter A2 with new conclusions in letter A2a.

To the initial comment in letter A2 that the temporal and permanent effects of development and activities proposed in the Preliminary General Plan are not sufficiently addressed, State Parks as lead agency and the EIR authors have the following response.

General plans for individual units of California State Parks provide the initial framework for evaluation of the resources, a defined purpose and vision, and long term goals and guidelines for park use and development. The Public Resources Code (PRC), Division 5, Chapter 1, Article 1, Section 5002.2 requires that a general plan be prepared prior to the development of permanent facilities in any park unit. General plans look at the big picture, evaluating individual elements of park potential, regional planning goals, recreational needs, natural and cultural resources, and current and future land uses. The documents are goal-oriented and, as such, offer a direction or overall purpose, but do not necessarily provide specifics on how or when these goals may be attained. Because a general plan provides the skeletal guidelines for park development, it must have longevity (parks endure a long time), while maintaining the flexibility to adapt to changing circumstances and demands.

As a rule, the environmental review section of a park's general plan constitutes an Environmental Impact Report (EIR), as required by PRC Sections 5002.2 and 21000 et seq, and identified in Article 9 (State *CEQA Guidelines* Sections 15120-15132). California State Parks' general plans employ "tiering" as a means of evaluating the general issues related to the initial planning stages, and therefore, potential impacts are analyzed at the same level of detail as the proposed actions. Before the actual projects or specific management plans identified in a general plan are implemented, they will be subject to subsequent CEQA review, and project-specific mitigation measures will be identified. All State Parks' plans and projects must also be in compliance with federal, State, and regional permitting and regulatory requirements.

The use of tiering allows State Parks to deal with broad environmental issues at the general planning stage, followed by a more detailed examination of actual development projects (that are consistent with the general plan) in subsequent environmental review documents. Later CEQA documents will incorporate, by reference, the general discussions from the broader EIR on the general plan, but will concentrate primarily on the issues specific to the later project under evaluation (Public Resources Code (PRC) Section 21093: State *CEQA Guidelines*, CCR Section 15152). Tiering is encouraged throughout CEQA (PRC Section 21000 et seq) and the California *CEQA Guidelines* (Sections 15146, 15152, 15166) as a means of avoiding repetition and duplicative analysis and encouraging project-specific reviews necessary to adequately evaluate potential impacts.

Many of the following comments made by CDFG indicate a concern that potential projects resulting from the implementation of this General Plan would have a significant adverse impact on the natural resources within and adjacent to the proposed park boundaries. CDFG makes a specific request that State Parks "identify and evaluate all activities which may impact fish and wildlife...[and should] include sufficient details on the proposed development, recreational and maintenance activities...during the construction and operational phases..." (see comment A2-4). The Preliminary General Plan developed for the Eastshore Project (and all other State parks) deals with issues in broad generalities. As noted in *Atherton v. Board of Supervisors of Orange County* [(1983) 146 Cal. 3d 346], the EIR need not engage in a speculative analysis of environmental consequences for future and unspecified development. For example, projects associated with a recreational land use designation can vary from locating and installing a sign to developing a visitor center or a complex of trails. Although potential uses are explored within the Preliminary General Plan document, actual project development will be subject to environmental review when specific projects are proposed, as indicated above. These later CEQA and resource evaluations could even result in a change to a land use designation.

The actual projects proposed within any particular area cannot be reasonably determined during the general plan phase of development, and attempts to adequately analyze potential impacts from these hypothetical projects could easily overlook a significant impact that would be obvious during the project definition and design phase. The Preliminary General Plan for the Eastshore Park Project and its associated Draft EIR provides sufficient information for State Parks decision-makers to understand the environmental impacts of the proposed General Plan. The Draft EIR also permits a reasoned evaluation of a range of environmental alternatives, which could feasibly attain most of the project's basic objectives and avoid or substantially lessen any of the significant effects of the Preliminary General Plan. The Preliminary General Plan also allows sufficient flexibility to encompass differing projects over an extended period of time. Before any of the project recommendations included in the Preliminary General Plan document are implemented, CDFG will have an opportunity to review and comment on the actual project design, both in the early consultation period and in response to the resulting environmental document.

- A2-2: Comment noted. CDFG holds a lease from the State Lands Commission for the public trust easement over the area within the Eastshore Park Project boundaries known as the Albany Mudflats. The purpose of this 49-year lease is to preserve "the State interest in the land

in its natural state," as an ecological unit for scientific study, as open space, and as an environment providing habitat for birds and marine life. Whereas the underlying fee title to the property was under private ownership in 1982 when the lease was initiated, the fee title to the parcel is now held by State Parks, forming part of the land area designated as the Eastshore Park Project.

Consistent with CDFG's lease, the Preliminary General Plan recommends (on page III-5) that the Albany Mudflats be classified as a Natural Preserve, in recognition of the area's significant and sensitive resources value. Since this area is predominantly aquatic in nature, the Plan also recommends that the area seaward of mean high tide line should be classified as a State Estuarine Reserve (PRC Section 5019.56 a). Pursuant to the Marine Managed Areas Improvement Act (Chapter 7, Section 36600 of Division 27), the State Park and Recreation Commission must receive the concurrence of the State Fish and Game Commission on this classification.

- A2-3: This comment apparently uses the term "cumulative impacts" to refer to the combined impacts of all proposed features of the park project. The Draft EIR (pages 80-86) discusses potential impacts on each type of biological resource, taking into account all of the proposed project features, including the expected increase in visitor use and recreational activities. The Preliminary General Plan incorporates numerous guidelines that would avoid, minimize, or compensate for such impacts; these guidelines are also referenced in the Draft EIR (pages 80-86). In addition, the section on cumulative biological impacts (page 248) discusses other reasonably foreseeable future projects and explains why these projects, in combination with the Eastshore Park Project, would not result in significant cumulative biological impacts.
- A2-4: The Draft EIR describes the proposed project features, including recreational and maintenance activities, at an appropriate level of detail for a General Plan level EIR (see Response to Comment A2-1). Numerous mitigation measures have been incorporated into the Preliminary General Plan (see Response to Comment A2-3). Potential adverse impacts and mitigation measures will be addressed at an appropriate level of detail in the project-specific CEQA review of future projects within the park.
- A2-5: The EIR authors do not agree that the proposed shoreline trail, vista points, and parking area at the Emeryville Crescent could result in substantial adverse impacts to biological resources. The Draft EIR (pages 83 to 85) addresses the potential adverse effects of such public access features on tidal marshes, associated special-status species, and water birds (including shorebirds), and identifies specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for such effects. In addition, management guidelines EC-1, EC-4, and EC-10 would further minimize such effects. The Draft EIR (first and last paragraphs on page 84) is hereby revised to reference these guidelines, as follows.
- e. Limiting access to tidal and non-tidal salt marshes by visitors and dogs, by means of trail design, buffers, and fencing, as needed to minimize adverse effects, and prohibit off-leash dogs in these marshes (see guidelines WILDLIF-11, OPER-5, A-14, and PI/SR-8, EC-1, EC-4, and EC-10).

- b. Protecting important shorebird roost-sites and other important water bird habitats from disturbance by means of trail design, buffers, fencing, and signs (see guidelines WILDLIF-11, EC-4, A-9, A-10, A-21, A-22, ~~and~~ PI/SR-4, EC-1, EC-4, and EC-10).

- A2-6: The Draft EIR provides considerable analysis of the potential adverse effects of new trails on sensitive species and their habitats. The Draft EIR discusses the potential effects of trails on nesting raptors and shrikes (page 81), tidal and non-tidal salt marsh and associated special-status species (page 83), and water birds (page 84) due to increased disturbance by people and dogs. It also notes (on page 81) that establishment of trails could have adverse effects on nesting raptors and shrikes due to increased disturbance. Numerous management guidelines contained in the Preliminary General Plan contain measures that would avoid, minimize or compensate for the effects of trails. Such measures include conducting pre-construction surveys for sensitive species and modifying development plans (including the locations and design of trails) to avoid or minimize effects. These guidelines are identified in the Draft EIR discussions of special-status plant species (pages 80-81, item 4), nesting raptors and shrikes (page 82, items 3.a, 3.b, 3.d, and 3.e), burrowing owls (page 82, item 1), tidal and non-tidal marsh and associated special-status species (page 83, items 3.a, 3.b, and 3.e), water birds (page 84, items 3.a and 3.b), and wetlands and aquatic habitats (pages 85-86, items 2, 4.b, 4.c, and 4.d). These guidelines require pre-construction surveys for numerous special-status species, as specified in the Preliminary General Plan, Appendix A.
- A2-7: Under existing conditions, there is unrestricted pedestrian access to all areas of the park. The Draft EIR identifies numerous measures that would avoid or minimize effects on sensitive biological resources by the appropriate design and location of trails (see Response to Comment A2-6). These measures would also minimize the possibility that trails could increase predation on sensitive species.
- A2-8: The Draft EIR identifies several management guidelines contained in the Preliminary General Plan that would avoid or minimize effects on sensitive species by the appropriate design and location of trails (see Response to Comment A2-6). Poor or non-compliance with public access regulations is an issue that was considered in developing these management guidelines. Compliance issues will be addressed in future project-specific plans within the park, through measures such as appropriate trail siting, signage, fencing, and vegetative buffers, "as necessary to minimize disturbance of wildlife" (as specified in management guideline WILDLIF-11 in the Preliminary General Plan). These issues will be addressed in more detail in the project-specific CEQA reviews of future projects within the park (see Response to Comment A2-1).
- A2-9: See Response to Comment A2-8.
- A2-10: The commentor is correct that no upland areas are designated as Preservation areas in the Berkeley Meadow, North Basin, or Albany Bulb and Neck. At the Emeryville Crescent (although not indicated in Table II-3), there is a narrow strip of upland between the tidal marsh and I-80, along the eastern and southern sides of the marsh. Public access will not be allowed in this upland area, and at least a portion of it may be part of the designated Preservation area.

The EIR authors could not find statement (3a) referred to in this comment. However, the Draft EIR (pages 80-86) identifies numerous guidelines in the Preliminary General Plan that would protect sensitive species from adverse effects due to habitat loss and increased public access (see Responses to Comments A-6, A-7, A-8, and A-9). These guidelines would provide a substantial level of protection in Conservation areas as well as in Preservation areas.

The Draft EIR identifies several guidelines in the Preliminary General Plan that would protect high tide refugia for wildlife. In particular, please refer to the Draft EIR sections on shorebirds (page 84, item 3) and tidal marsh species (pages 83-84). These management guidelines will provide protection for high tide refugia within the upland Conservation area and other upland areas at the Emeryville Crescent.

- A2-11: Comment noted and page 33 of the Draft EIR is herewith changed to add the following line under the topic of **Responsible Agencies** in Table II-1:

California Department of Fish and Game (CDFG)	Streambed Alteration Agreements
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See also Response to Comment A2-1 regarding the requirement for future project specific environmental assessment as Section 1600 Streambed Alteration Agreements will be developed and acquired at the time specific projects effecting creeks and other drainage features are planned and undertaken.

- A2-12: Thank you for offering to assist with the design of the park project's creek daylighting activities. The Draft EIR and Preliminary General Plan discuss two activities that would alter creeks in the park project: constructing a pedestrian bridge over Strawberry Creek (at its outfall) and daylighting Schoolhouse Creek within the North Basin Strip. The Eastshore project would not have adverse effects on the two existing creeks, because both creeks are culverted in the areas to be affected. The details of project design for any work in creeks (including the possible need for a Stream Alteration Agreement) are appropriately deferred to the future, project-specific CEQA review of such activities (see Response to Comment A2-1).
- A2-13: As noted above (Response to Comment A2-1), subsequent CEQA review will be required for the specific projects that will be developed for the park in the future. The Draft EIR (pages 80-81, item 4) appropriately defers the special-status plant surveys until the specific project plans are developed and identifies the specific management guidelines contained in the Preliminary General Plan that would address potential adverse effects on such plants. These guidelines require that the pre-construction surveys be conducted at the appropriate time of year and, if special-status plant species are found, that the project activities be modified as necessary to avoid, minimize or compensate for adverse effects on these plants.
- A2-14: The Draft EIR (pages 85-86) addresses potential adverse effects on Wetlands and Other Aquatic Habitats and identifies several specific management guidelines contained in the Preliminary General Plan that would avoid, minimize, or compensate for these effects. These guidelines would ensure that the project does not result in a net loss of wetland acreage or habitat value. This section of the Draft EIR was modified, as part of Response

to Comment A2-12, to address potential effects on creeks as well as other wetlands. The specific delineations of wetlands to be affected, and the specific mitigation measures for those impacts would be most appropriately addressed at the time that specific projects are defined and proposed (see Response to Comment A2-1).

- A2-15: The comment is noted. The Draft EIR (page 81, item 3.a) identifies management guidelines contained in the Preliminary General Plan that require pre-construction surveys for nesting raptors and protection of active nests. Guideline BM/NB-1 in the Preliminary General Plan (page III-72) is hereby revised to identify the non-nesting season as:

“generally, September through February.”

- A2-16: The Draft EIR (page 68) lists the three special-status plant species that have the potential to occur on the project site. The Eastshore Park Project Resource Inventory (Resource Inventory) provides additional information on special-status plant species that have previously been found in the general vicinity of the site. The Resource Inventory is a public document that is available on the Eastshore Park Project website at www.eastshorestatepark.org.

The commentor also requests that the Final EIR include “the acreages of the habitats” in order “to determine if impacts have been adequately mitigated.” Presumably the commentor is requesting the total acreage, and the acreage of impact for each habitat type. These specific acreages cannot be determined at this time, because the project is at the general plan level of detail. This information can be provided, as appropriate, as part of subsequent CEQA reviews undertaken for specific projects and management plans in the future (see Response to Comment A2-1). Please note, however, that the Draft EIR incorporates specific management guidelines contained in the Preliminary General Plan that will result in no net loss of wetland acreage or habitat value.

- A2-17: More detailed descriptions of future recreational, operational, and maintenance activities will be provided as part of subsequent CEQA review undertaken for specific projects and management plans in the future (see Response to Comment A2-1).

The second part of this comment addresses the biological impacts associated with ongoing maintenance activities that may occur before the maintenance plan for the park is developed. These maintenance activities are part of the existing conditions that were identified and discussed in the *Resource Inventory* and the existing conditions sections of the Draft EIR. As such, they are not proposed as part of the Preliminary General Plan.

- A2-18: Park-wide guideline OPER-4 in the Preliminary General Plan states that the “procedures, techniques, and timing of integrated pest management activities” should be included as part of the maintenance plan for the park. The Draft EIR (pages 80, 81, 82, 83, 84, and 85) identifies guideline OPER-4 as one of the specific provisions of the Preliminary General Plan that would avoid, minimize, or compensate for adverse effects on various biological resources. The maintenance plan will be subject to a more detailed CEQA review before it is finalized (see Response to Comment A2-1).

- A2-19: As noted above (Response to Comment A2-1), subsequent CEQA review will be undertaken for specific projects and management plans in the future. These project-specific CEQA documents will be able to provide more detailed analysis of potential biological impacts and mitigation measures, including requirements for monitoring and success criteria (where applicable).
- A2-20: The Draft EIR (page 86) addresses potential adverse effects on intertidal and subtidal habitats that are vegetated by eelgrass and identifies management guidelines in the Preliminary General Plan that would avoid or minimize these effects. This issue will be addressed (where applicable) in more detail in subsequent CEQA reviews that will be undertaken for specific projects in the future (see Response to Comment A2-1).
- A2-21: The Draft EIR (page 134) identifies specific management guidelines in the Preliminary General Plan that would avoid, minimize, or compensate for potential adverse effects on water quality, including the effects of erosion and sedimentation. This issue (where applicable) will be addressed in more detail in subsequent CEQA reviews that will be undertaken for specific projects and management plans in the future (see Response to Comment A2-1). The comment regarding creosote-treated wood products is noted, but does not require a response.

Additionally, subsequent studies will be necessary to adequately evaluate the resources and potential impacts of specific shoreline projects. At that time, State Parks shall determine pertinent and applicable resource protection requirements for shoreline protection projects as defined by Regional Water Quality Control Board (RWQCB), CDFG, U.S. Army Corps of Engineers, and Bay Conservation and Development Commission (BCDC). These requirements will govern all studies and construction activities for structural shoreline treatments, including sediment and erosion control, endangered species protections and mitigation activities.

In general, structural shoreline treatments are proposed in locations where existing construction debris has been placed indicating a response to erosion or other protection requirements. Appropriate approaches and materials for shoreline protection would be identified and developed at the specific project level.

- A2-22: The commentor requests more details on proposed dredging, including disposal of dredged materials, and the potential impacts of these activities on water quality and sediment quality. Identification and analysis of such details could only be undertaken during the subsequent CEQA reviews that will be required for specific projects and management plans in the future (see Response to Comment A2-1). See also Response to Comment A2-21.
- A2-23: The comment is noted. The Draft EIR (page 224, Table IV-1) indicates that the overall impacts of Alternative A would be less than those of the project. The mission of State Parks is to protect park resources while providing public access and recreational opportunities. This balance is best served by the proposed project. It is important to note that Table IV-1 also indicates that all potential impacts of the proposed project would be less than significant.

State of California



Memorandum

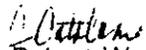
To: Ms. Robin Ettinger
Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Date: October 1, 2002

J. ASSOCIATES, INC.

OCT 02 2002

10/02/02

From: 
Robert W. Floerke, Regional Manager
Department of Fish and Game - Central Coast Region, Post Office Box 47, Yountville, California 94599

Subject: Additional Comments on the Proposed Eastshore Park Project
General Plan Draft Environmental Impact Report (EIR), Cities of
Emeryville, Oakland, Berkeley, Alameda and Richmond, Alameda and
Contra Costa Counties, SCH # 200202205

On September 20, 2002, Department of Fish and Game (DFG) staff met with Mr. Don Neuwirth, project manager, and Mr. Steve Granholm, project biologist, to review the proposed project and discuss DFG's concerns. We appreciate the opportunity to discuss and provide further clarifying comments in regard to the proposed Eastshore Park Project General Plan.

DFG understands the General Plan is a wide-ranging, long-term master plan for a new State Park along the eastern shore of the San Francisco Bay, consistent with the California Environmental Quality Act (CEQA). We further understand that California State Parks General Plans are considered a "program" EIR, and will utilize "tiering" of CEQA documents for subsequent projects. DFG hereby acknowledges that the DEIR establishes the basis for subsequent, tiered, project review under CEQA, and that more detailed, project-specific activities and specific resource management plans will be developed over time. DFG's previous comments were intended to ensure that the DEIR be as specific and comprehensive as possible regarding the known and potential occurrences of sensitive resources in the area that may be directly or indirectly impacted, and in describing land-use alternatives which may be under consideration in the future. DFG recommends that, as well as providing the proposed plan's resource protection measures and guidelines, the "program" document clearly state that subsequent "tiered" documents will be prepared for specific activities, subject to CEQA review.

Ms. Robin Ettinger

2

October 1, 2002

The Eastshore Park General Plan, as related to its function as an initial framework, is a goal-oriented, general document identifying potential projects and activities that does not necessarily provide details on if, how, and when each goal may be attained. DFG continues to have concerns about various aspects of the plan, including proposed facilities and trails in or adjacent to sensitive resources, and staff will provide more specific comments on such facilities and trails during the planning process and subsequent CEQA review. We would like to emphasize that as a program-level document, subsequent project-specific plans will be required to ensure sensitive resources are adequately protected. Furthermore, any given facility or trail location identified in the General Plan should not be considered approved; rather, each project will be subject to more detailed evaluation and must provide adequate justification of the need for the project, and will be evaluated on its own merits.

2

Consistent with the September 20, 2002 discussion with DFG staff, DFG recommends that the General Plan prescribe surveys for species of concern during the planning process, and the results must be provided in subsequent CEQA documents. The DEIR inappropriately describes pre-construction surveys for special status species, particularly for plants, as adequate protection measures; however, surveys should be performed during the planning process for future projects, the results of which should guide the planning and CEQA processes. The information provided in the DEIR did not include comprehensive surveys. It is important to perform comprehensive surveys, particularly for plants, at the appropriate time of year (blooming period), and survey results as well as a description of potential impacts and proposed mitigation must be included in subsequent CEQA documents so they may be subject to public review. Pre-construction surveys should be used to protect species of concern from construction activities, supplementing surveys and information provided in CEQA review for specific projects. This is especially important for animal species of concern, particularly raptors given that wildlife species are subject to seasonal movement and that the programmatic CEQA review and documentation has identified potential impacts and mitigation measures in the DEIR and the proposed General Plan guidelines.

3

Ms. Robin Ettinger

3

October 1, 2002

DFG believes that the General Plan guidelines are comprehensive and will provide a basis for assessing future activities, and to ensure that any proposed activities will mitigate for potential impacts to sensitive resources. We recommend, in addition to the specific guidelines, the General Plan describe general enforcement actions that may be undertaken when measures or designs fail to produce the desired level of protection, and further action may be warranted to ensure that sensitive resources are protected.

4

We appreciate your consideration of our additional comments and clarification of areas of concern to DFG. DFG personnel are available to address these concerns in greater detail. For terrestrial resources, please contact Mr. John Krause, Associate Wildlife Biologist, at (415) 454-8050; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584. For marine resources, please contact Ms. Becky Ota, Environmental Scientist, DFG Marine Region Office, 350 Harbor Boulevard, Belmont, CA 94002, or telephone at (650) 631-6789.

5

cc: ✓ Mr. David Clore
LSA Associates
2215 5th Street
Berkeley, CA 94705

Mr. Don Neuwirth
Planning Manager
Post Office Box 460173
San Francisco, CA 94146-0173

Mr. Ronald Schaefer
Department of Parks and Recreation
Via fax (415) 330-6312

State Clearinghouse
Sacramento, CA

COMMENTOR A2a

California Department of Fish and Game; Robert W. Floerke, Regional Manager, Central Coast Region (October 1, 2002)

- A2a-1: Thank you for clarifying that CDFG understands that the Draft EIR is a program EIR and that a “tiered” approach will be used to meet the requirements of CEQA for this project. Please note that the Draft EIR (page 1) states that “subsequent individual development projects, management plans, area development plans, and specific project plans implementing the Preliminary General Plan will be subject to additional environmental review under CEQA.”
- A2a-2: This comment states that the specific facilities and trail locations identified in the General Plan should not be considered “approved,” but should be subject to further evaluation as part of the specific project plans and project-specific CEQA documents to be prepared in the future. As noted in the Response to Comment A2a-1, the Draft EIR and Preliminary General Plan clearly state that specific project features will, in fact, be subject to further evaluation as part of the future CEQA process for specific project plans. As part of those project-specific CEQA processes, CDFG will have an opportunity to submit comments regarding sensitive biological resources, including the potential impacts of specific facilities and trails.
- A2a-3: This comment addresses the “pre-construction surveys” described in the Draft EIR. The commentor states that (1) such surveys are not adequate as protection measures for special-status species; (2) the surveys should be performed during the planning process for specific projects in the future; and (3) the results of the surveys should guide the planning process and CEQA process for the specific projects. These issues have been addressed in the Draft EIR, but require clarification due to an unconventional use of the term “pre-construction surveys” in that document. The Draft EIR (page 80, item 4; page 81, item 3.a; page 82; item 2.a; page 83, item 3.a; and page 84, item 3.a) notes that “pre-construction surveys” will be conducted for various special-status plant and animal species and identifies the specific management guidelines in the Preliminary General Plan that require such surveys (PLANTS-12, -13, and -14 and WILDLIF-4, -5, and -6). These guidelines apply to special-status plants, raptors, shrikes, burrowing owls, salt marsh bird species, and important high-tide shorebird roosts. The guidelines specify that the surveys be “appropriately timed” (i.e., conducted during the correct season and time of day) and require that protection measures be implemented if any of the special-status species are found. Thus, although the Draft EIR refers to the surveys as “pre-construction surveys”, the surveys are not only intended to protect special-status species during construction; they also trigger requirements to avoid, minimize, or compensate impacts on special-status species that are found. Such protection measures will be specified at a greater level of detail in the project-specific CEQA documents, and they may include changes to trail locations or other facilities. The surveys will not necessarily be conducted before the completion of the CEQA document, but the document will specify the protection measures that will be triggered if the special-status species are found. The surveys will be conducted, and the specified protection measures will be implemented, prior to construction of a project.

- A2a-4: This comment acknowledges that the management guidelines in the Preliminary General Plan will ensure that future projects that implement the General Plan will include mitigation measures, as necessary, for potential impacts to sensitive biological resources.
- A2a-5 This comment recommends that the General Plan describe enforcement actions to be undertaken to ensure adequate protection for sensitive resources. Through this document, your comments will be provided to the lead agency, State Parks, and the decision-makers, the State Park and Recreation Commission.

AUG 29 02 06:31P

Letter
A-3



Department of Toxic Substances Control

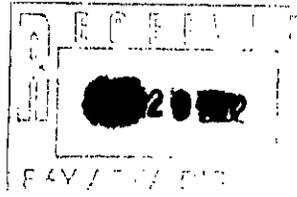


Edwin F. Lowry, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency

Gray Davis
Governor

August 28, 2002



VIA FACSIMILE

Mr. Ronald Schaefer
California Department of Parks and Recreation
250 Executive Park Boulevard, Suite 4900
San Francisco, California 94134

Re: Eastshore Park Project General Plan, Draft Environmental Impact Report (EIR)

Dear Mr. Schaefer:

Thank you for the opportunity to comment on the Eastshore Park Project General Plan draft Environmental Impact Report (Draft EIR) [SCH #2002022051]. As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a potential Resource Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

The Draft EIR addresses issues related to the exposure to contaminated soils and landfill gases. Mitigation measures include, but are not limited to, the preparation of Specific Project Plans for each management zone or sub-zone, site specific analysis and environmental review, and review of available site specific chemical data.

The Draft EIR should be revised to note that the San Francisco Bay Regional Water Quality Control Board (RWQCB) was designated the lead administering agency for the East Shore State Park Properties pursuant to California Health and Safety Code, Division 20, Chapter 6.65 in two resolutions: Resolution No. 97-07 (April 24, 1997) and Resolution No. 98-12 (December 10, 1998). The RWQCB is thus responsible for overseeing all site investigation and remedial action at this Site. The RWQCB certified the East Shore State Park site on December 18, 1998 subject to specific conditions. These conditions are outlined in the December 18, 1998 letter from Loretta K. Barsamian, Executive Officer, RWQCB, to James Adams, Catellus Development Corporation. The Draft EIR should require that any activities comply with the conditions

1

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at www.dtsc.ca.gov.

Aug 29 02 06:31p

Letter
A-3
cont.

Mr. Ronald Schaefer
August 28, 2002
Page Two

outlined in the Certificate of Completion. This would include compliance with the requirements of the May 1998 Remediation and Risk Management Plan and the June 1998 Remediation and Risk Management Plan Addendum.

1
cont.

If you have any questions, please contact Mr. Stephen Hill, San Francisco Bay Region, Regional Water Quality Control Board, at (510) 622-2361.

Sincerely,



Barbara J. Cook, P.E., Chief
Northern California
Coastal Cleanup Operations Branch

cc: Mr. Stephen Hill
San Francisco Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612

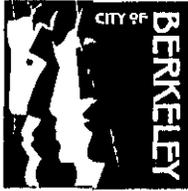
Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95814-3044

Mr. Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

COMMENTOR A3

California Department of Toxic Substances Control; Barbara J. Cook, P.E., Chief, Northern California Coastal Cleanup Operations Branch (August 28, 2002)

A3-1: Comment noted. The Draft EIR addresses the issue of ongoing RWQCB oversight on page 108, and other specific management guidelines are listed in the Preliminary General Plan that would avoid, minimize or compensate for the effects associated with hazardous materials within the Eastshore Park Project.



Office of the City Manager

Letter
A-4

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NORTHERN SERVICE
CENTER

September 1, 2002

ORIGINAL FAXED 8/29/02

Robin E. Ettinger, ASLA
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

RE: Comments on the Eastshore Park Draft Environmental Impact Report

Dear Mr. Ettinger:

Thank you for the opportunity to comment on the Eastshore Park ("the Park") Draft Environmental Impact Report ("DEIR"). City of Berkeley staff and citizens have actively participated in the year and a half-long planning process and, overall, we believe the Preliminary General Plan offers a reasonable balance of preservation, conservation and recreational opportunities.

Our comments on the DEIR are listed below: first general comments and then comments on specific EIR issues.

General Comments:

The City of Berkeley believes that the Eastshore Park Draft Environmental Report (DEIR) provides excellent baseline information, but that it is inadequate in two broad areas:

A. Insufficient Evidence of No Substantial Impact on the Environment

There is insufficient evidence in the record to support, in many instances, the findings that the proposed project will not have substantial impacts on the environment. The document's deferral of analysis to future projects is insufficient and inappropriate. While this is a programmatic environmental impact report, it is still required to identify, evaluate, and mitigate potential environmental impacts at a level of detail commensurate with the information at hand. Generally, this has not been done. Instead, the document frequently relies on the existence of General Plan policies that, in turn, only call for further study.

1

B. Insufficient Analysis of Impacts on City of Berkeley Resources and Facilities

The DEIR does not analyze impacts beyond the State Park boundaries. In particular, the DEIR does not provide adequate analysis of the potential impacts this project may have on the City of Berkeley's facilities and resources, such as the Marina, Cesar Chavez Park, and Aquatic Park. The EIR needs to consider regional impacts beyond the Park boundaries, including the affected resources and facilities east of I-80. While we understand that many impacts cannot be determined until site-specific projects are further developed, a programmatic EIR does have some responsibility to identify, evaluate, and mitigate potential impacts, as they are now known.

2

For example, Eastshore Park is expected to draw users from throughout the state and the nation, not just from the Bay Area. It is reasonable to assume that these Park users often will not differentiate between state and local facilities. It is also reasonable to assume that use of City of Berkeley facilities, particularly roadways, parking areas and recreational facilities, will increase as a result. The EIR should address the impacts of the General Plan on the existing City resources and services, including the increased demand for police and other emergency services.

Additional comments, below, are arranged by EIR issue areas and, in many instances, clarify or elaborate on the issues raised in the general comments above.

I. AESTHETICS

Views of the Brickyard and SF Bay from Bike/Pedestrian Bridge

The City of Berkeley believes it is important and appropriate for the EIR to acknowledge potential visual impacts of locating the proposed uses, such as an operations and visitor center, in the Brickyard area. Berkeley's new bridge provides an important pedestrian and bicycle access to the central portion of Eastshore Park and crossing the bridge also offers spectacular views of the San Francisco Bay and the city's skyline, with the Brickyard area in the foreground. The view of the Brickyard will set the stage for the visitor's experience of the Eastshore Park, the Berkeley Marina and the San Francisco Bay. It is, therefore, imperative that the uses proposed, as well as the eventual specific designs, are suitable to such a high-profile location. Any development in the Brickyard should not block or negatively impact the extraordinary views to the west.

3

II. BIOLOGICAL RESOURCES

City staff has noted killdeer and plovers currently nest within the Meadow and by University Avenue near the Seabreeze Market. The EIR should acknowledge the killdeer and plovers in these locations.

4

III. GEOLOGY & SOILS

Seismic vulnerability maps are now available and should be analyzed in the EIR. The City is particularly concerned about the impacts of the project in the event of an earthquake? What would be the effect of the liquefaction that is likely to occur in this area? What happens to the cap in the Meadow as a result of a large seismic event? The EIR should also acknowledge that unless the slopes are adequately stabilized, removing riprap may increase the impact of a seismic event, particularly in the Meadow area. Reconfigured shoreline areas, as well as constructed wetlands, may require mitigation to re-stabilize the landfill material.

5

IV. HAZARDS

There is inadequate analysis of potential hazards that may result from implementation of the project. For example, Hazards 2.b. (4) states that exposure to existing chemical toxics could pose a potential health hazard. The section goes on to conclude that this potential could be eliminated or minimized through the implementation of the General Plan's guidelines that call for future plans and analysis. The following are additional comments regarding specific areas:

6

Berkeley Beach Area

The shoreline area just west of West Frontage Road is identified in the General Plan as Berkeley Beach. The word "beach" connotes a place where one can spread a blanket on clean sand and go swimming in clean ocean water. But, the area is basically a mud flat with potential safety obstacles such as mud, opaque bay water, concrete chunks, variable water quality and other hazards. The City is concerned that even with the clean up proposed, it may not be wise to encourage people to use this area as a beach. The EIR should provide better evaluation of the existing conditions of the proposed beach areas and should recommend mitigation measures needed to make this area suitable for increased public access.

7

Toxic Areas in Berkeley Meadow

The EIR should address the condition and integrity of the existing cap in the Meadow. For example, is the cap patchworked? Does it need to be improved? What is the plan for maintaining the cap? What is the impact of a major seismic event on the cap in the Meadow and on the Meadow itself?

City officials have observed garbage protruding through the cap. Ground squirrels penetrate the cap and bring garbage up to surface. The high wave activity on the south side of the North Basin, along with proposed "softening" of the shoreline, could increase erosion and expose more garbage in the northern portion of the Meadow. There is the potential for water contamination as water filters through the cracks in the cap. These are also questions that are not addressed in the DEIR.

8

The EIR should also identify the need to ensure that any site improvements, including vegetation removal, do not compromise the integrity of the cap. The EIR should clearly state that all future site improvements, such as pathways, trails and roads, should, in fact, improve and extend the cap as much as possible.

V. HYDROLOGY & WATER QUALITY

There is inadequate analysis of potential hydrologic and water quality impacts that may result from implementation of the Eastshore Park project. For example, Hydrology and Water Quality 2.b. (8) properly addresses potential water quality impacts from construction and creating new parking areas. But the section goes on to find that these impacts can be mitigated to less-than-significant levels through the General Plan guidelines that appear to be unrelated to the impacts. These are potential impacts that can be analyzed, at this time, in general terms, and mitigations can be developed at a matching level of detail.

9

Water Quality

The DEIR recognizes that the water quality in the project area is impacted by storm water runoff that may contain pollutants and that, in the past, there have been occasional spills of raw sewage

10

or runoff from industrial, residential or commercial zones upstream that end up in the project area at the creek outfall locations. However, the DEIR does not adequately analyze the ramifications of bringing more people in close contact with these water sources when the water quality does not meet regulatory standards. For example, the State advises that heavy metals and persistent chemicals are found in Bay fish species, in all Bay waters. According to the City of Berkeley's Environmental Health Division, the quantity of these toxins is sufficient, at times, to warrant concern for individuals who eat Bay fish only once or twice per month. The City has been diligent about posting advisory signs in the Marina, North and South Sailing Basins, the Berkeley Pier, and along Frontage Road. Since the Eastshore Park General Plan proposes to improve the Berkeley Beach area as a fishing zone, the EIR should identify the mitigation measures necessary to protect the health of Park users who may be exposed to potentially toxic fish and water. One example might be for the State to coordinate posting warning signs with local jurisdictions.

**10
cont.**

Specifically, the EIR should recognize that drainage from industrial areas is different than that from residential and commercial areas, and should address the following:

1. the impact of providing public access to constructed wetlands/creek outfalls that that may be contaminated by heavy metals, organic chemical and sewage spills coming down creeks, including unreported spills;
2. the need to coordinate water testing with local jurisdictions;
3. the need to trap and remove floating trash without affecting fish migration;
4. the need to coordinate posting advisory signs regarding fish and water quality;
5. the need for the State to conduct a study and monitor the water quality to determine if it is appropriate to encourage swimming from the shore in areas where that activity is being encouraged.

Constructed Wetlands/Water Treatment

The Preliminary General Plan indicates that wetlands will be constructed at the outfall areas of both Strawberry and Schoolhouse Creeks in Berkeley. Presumably, these wetland areas will serve to clean the debris and water coming out of the creeks, provide increased habitat, and also provide an educational opportunity for the public. Constructed wetlands/water treatment should also be considered at the Potter Street and Gilman Street outfall areas. It is important to note that at certain outfalls, particularly at Gilman Street, there may be chemical contamination due to the proximity to an industrial area. Constructed wetlands at creek outfalls should be of adequate size to effectively treat the water.

11

Creek Outfalls

As mentioned above, the creeks periodically experience discharges from sewer lines. Occasionally, there have been unreported sewage discharges that can only be detected by proactive sampling for coliform bacteria. The creeks have to be posted when Regional Water Quality Control Board guidelines are exceeded. Typically, the City has notified the SFBRWQCB (water board) and the posted the area of the affected creek. All the creeks have been posted in the past, but Strawberry Creek seems to be more problematic and closest to the proposed "beach". The EIR should evaluate these impacts.

12

In addition, trash frequently collects at creek outfall areas and the EIR should address means to minimize and correct these occurrences at all creek outfalls within the Eastshore Park, including at the Potter Street and Gilman Street outfalls.

13

VI. LAND USE & PUBLIC POLICY

The DEIR references the City of Berkeley's 1986 Waterfront Plan, but the Eastshore Park Preliminary General Plan is not consistent with it and other City of Berkeley planning documents in some instances. For example, the plan identifies the Gilman area as an attractive passive use area; this conflicts with plans to locate a future ferry terminal at the bottom of Gilman Street and is inconsistent with City's 2002 General Plan (which incorporates the 1986 Waterfront Plan.) Restricting use of the North Sailing Basin during the winter months is also inconsistent with the City's General Plan and could have significant consequences for the use of the privately held developable lands along the shoreline, including a future ferry terminal. The General Plan needs to better define the limited areas of the North Basin to still allow for access to the privately owned shoreline parcels. These impacts are not adequately identified nor analyzed in the DEIR.

14

VII. NOISE

The Noise 2.b. (2) section identifies portions of the project, the park and bay trails, which would be exposed to noise levels in excess of standards. On its face, this appears to be an unmitigatable adverse impact, but the document justifies the excessive noise levels by citing the absence of available land. This situation should, instead, be identified as a significant impact and either mitigated or addressed at some future time by making findings of overriding considerations, not by simply finding that the impact would be less-than-significant. In the following section (3) no analysis of construction noise is attempted, but is rather deferred to the evaluation of specific future construction projects. An appropriate level of analysis could be completed now, given knowledge of the noise levels typically generated by construction activities and the general location of proposed projects.

15

VIII. PUBLIC SERVICES

As stated above, the DEIR fails to adequately evaluate the impact of the Park development on neighboring jurisdictions, particularly as they relate to police and fire safety services. Development of Eastshore Park will clearly result in an increased demand for these services. Who will be responsible for providing these extra patrol services that will be necessary? How will Park police services, for example, be coordinated with the local agencies' services?

16

Additionally, the Eastshore Park General Plan and EIR should acknowledge the potential safety concerns with regard to parking areas, and the importance of maintaining visibility, access and appropriate lighting in all areas of the Park. The Plan and EIR should also address the need for a vegetation management program that is compatible with fire safety concerns.

17

The City also questions the need for both a visitor center and an interpretive center in close proximity of one another. The need for these services has not been adequately determined. No alternatives have been explored for utilizing already existing facilities and resources, such as the City's maintenance facilities and the Shorebird Nature Center.

18

IX. TRANSPORTATION & CIRCULATION

Perhaps the weakest area of the DEIR is its analysis regarding the State Park's impact on traffic, circulation and parking. The City of Berkeley does not agree with the conclusion that this project will result in no significant impact in these areas. Quite the contrary, the City is very concerned about potential impacts to the traffic and parking facilities in the Berkeley areas near the Park.

A number of sensitive transportation issues are not addressed in the DEIR, including those listed below:

Potential Ferry Service at Gilman Street

For example, the DEIR notes the Bay Area Water Transit Study (1999) that identifies several potential passenger services routes in the Berkeley area as well as other locations near Eastshore Park. It does not, however, analyze the impact that the Park would have on a future ferry terminal at Gilman Street. The ferry should be further discussed in light of the Water Transit Authority's recent report, and with regard to the City of Berkeley's 2002 General Plan (Policy T-9) as well as City Council action (Res. No. 61,726-N.S., 7/23/02) in support of environmentally responsible ferry service. The City of Berkeley believes this is a significant oversight and that impact analysis is sorely needed.

19

Impact on Traffic

The City does not agree with the assessment that there will be no impact to traffic and circulation in several areas, most notably at the Frontage Rd. intersections with both University Avenue and Gilman Street. The City believes that the DEIR uses inadequate criteria for determining a significant impact: if the LOS is already at F, the percentage beyond level F is irrelevant. This means that the intersection does not adequately function now and will certainly not function well when the new park is established.

20

The City also questions the use of traffic generation examples. It might be appropriate to use examples from other urban parks, whether federal, state or locally owned.

21

Parking

The City of Berkeley believes that the DEIR analysis of parking is inadequate—one paragraph only. If Eastshore Park does not provide parking near the Meadow, the existing City of Berkeley parking areas—now operating at capacity during most weekends in the summer and during special events—will be greatly impacted by the increased use the entire area will experience as a result of the Eastshore Park.

22

For example, the park user will not distinguish between State Park, City, or Marina facilities. Once the user passes the parking areas accessible from Frontage Road, he would then enter University Avenue and the only option would be to park in the City of Berkeley parking areas, which would greatly impact the City's facilities. This impact will be even greater if fees are charged to enter and/or park at Eastshore Park facilities. There is no discussion of park fees in the EIR. The EIR should propose mitigation for these impacts, such as adding parking along University Avenue or Marina Boulevard, and/or providing shuttle service from well-signed off-site parking lots.

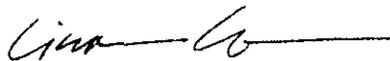
The EIR needs to evaluate parking capacity during weekends, the summer, and special events, such as the Fourth of July and the Annual Kite Festival. Particularly significant is the demand for additional egress from special events in the Marina area, which will be exacerbated by increased use as a result of Eastshore Park. The EIR needs to address these impacts and propose appropriate mitigation measures. One such mitigation might be to allow special event egress, in addition to emergency vehicle access, at the Virginia Street extension pathway.

22
cont.

In conclusion, the City believes that further work on the EIR is needed to adequately identify all impacts that are now known. Further, since so much of the EIR analysis is deferred to the project development stage, the City of Berkeley believes it is crucial that the public and local communities be offered adequate opportunity to comment on the detailed designs, as they are developed. This should include public meetings in locations near the affected communities, much the way the planning workshops have been held in local areas.

We thank you for the opportunity to comment on the Draft Environmental Impact Report and look forward to continuing our partnership with the State and East Bay Regional Parks District.

Sincerely,



Lisa Caronna
Director of Parks Recreation & Waterfront

Cc: Weldon Rucker, City Manager
Peter Hillier, Assistant City Manager for Transportation
Carol Barrett, Director of Planning & Development
Roy Meisner, Acting Police Chief
Reg Garcia, Fire Chief
Zach Cowan, Assistant City Attorney
Cliff Marchetti, Waterfront Manager, Waterfront Commission Secretary
Jay Kelekian, Parks & Recreation Commission Secretary
Steve Solomon, CEQA Officer
Alex Schneider, Environmental Health
Nabil Al-Hadithy, Toxics
Paul Church, Disability Compliance Program
Lorin Jensen, Public Works Engineering

COMMENTOR A4

City of Berkeley, Office of the City Manager; Lisa Caronna, Director of Parks, Recreation & Waterfront (September 1, 2002)

- A4-1: See Response to Comment A2-1 regarding the appropriate level of detail for impact analysis of a general plan (i.e., potential impacts are analyzed at the same level of detail as the proposed actions). It should also be noted that the Draft EIR summarizes Preliminary General Plan management guidelines, which contain specific policy direction and actions necessary to implement the General Plan goals.
- A4-2: As noted in the comment, the future impacts of specific development projects within Eastshore Park on adjacent areas cannot be determined until site-specific projects are proposed and evaluated. When the environmental evaluation is conducted for specific Eastshore Park development projects within the City of Berkeley and elsewhere, appropriate mitigation measures would be identified for any significant adverse impacts. As required by *CEQA Guidelines* section 15130, potential cumulative impacts were evaluated on pages 246 through 250 of the Draft EIR. The Draft EIR addresses the potential for increased demand for police and other emergency services and the potential for impacts on adjacent parks and related facilities on pages 173 through 175 and identifies the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for the effects associated with park development.
- A4-3: Comment noted. The Draft EIR addresses the potential for adverse impacts to views on pages 45 through 49 and identifies the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for potential impacts on visual resources associated with the park's creation and development.
- A4-4: Comment noted. Through this document, comments on the Draft EIR and responses will be provided to the lead agency, California Department of Parks and Recreation, and the lead agency's decision-makers, the State Parks and Recreation Commission. Please note that the killdeer is a species of plover, and no other species of plovers would be likely to nest in the Eastshore Park. Killdeers are commonly observed in the park, primarily along shorelines and in upland habitats with sparse or low-growing vegetation, and they probably nest in some of these areas.
- A4-5: The comment does not raise questions or identify errors contained in the Draft EIR. Specific management guidelines are listed in the Preliminary General Plan that would avoid, minimize, or compensate for the effects associated with seismic vulnerability within the Eastshore Park Project. See also Response to Comment A2-1 regarding the requirement that when individual and site specific plans and projects are proposed, such as at the Meadow, they will be subject to environmental review under CEQA and project specific mitigation measures, as appropriate.
- A4-6: The Draft EIR authors do not agree with the commentor's conclusion. The specific management guidelines that would avoid, minimize, or compensate for the effects

associated with hazardous materials within the Eastshore Park Project are listed in the Preliminary General Plan. The commentor also identifies specific areas in the Draft EIR concerning hazardous materials in the comments below.

- A4-7: See Response to Comment A2-1. Further environmental evaluation of the shoreline area west of Frontage Road will be undertaken, as necessary, when specific remediation or development projects are proposed. If needed, mitigation measures would be identified at that time as well. The State of California is not required to follow local regulations unless the local jurisdiction is a "Charter City." State Parks provides local jurisdictions courtesy review opportunities on specific plans. All State Parks' plans and projects must be in compliance with federal, State, and regional permitting and regulatory requirements.
- A4-8: The comment does not raise questions or identify errors contained in the Draft EIR. The Draft EIR addresses the issue of the existing cap on page 111 and discusses RWQCB ongoing risk management measures on page 108. Specific management guidelines that would avoid, minimize, or compensate for the effects associated with site improvements are identified in the Draft EIR.
- A4-9: The EIR authors disagree with the comment that the Preliminary General Plan guidelines (see pages 134 and 135 of the Draft EIR) are unrelated to and do not mitigate the potential water quality impacts identified on pages 133 and 134 of the Draft EIR. As identified in Response to Comment A2-1, potential adverse impacts associated with specific projects proposed within any particular area cannot be reasonably determined during the General Plan phase of park development; attempts to analyze and mitigate potential impacts from hypothetical projects would be speculative and could overlook significant impacts that would be obvious during subsequent project definition and design phases. Moreover, State Parks will undertake appropriate geotechnical, engineering, hazardous materials, soils, drainage and other design studies to support future project development. Furthermore, the EIR, across 250 pages of text, tables and graphics, provides a detailed presentation of potential impacts and then specifically links each potential adverse impact to mitigatory guidelines in the General Plan. In many instances, the mitigatory guidelines in the General Plan derive from the iterative process used to prepare the Plan: preliminary impact findings were used to develop internal mitigation. Such a "self-mitigating" plan (in which the eventually proposed plan can be found to create very few or no significant adverse environmental impacts) is entirely consistent with CEQA and the *CEQA Guidelines*.
- A4-10: The comments are noted. As noted in Response to Comment A2-1, activities and land uses at the Park will be required to comply with RWQCB regulations applicable to the final ranges of activities specified for the Park. Specific plans for management of activities, water quality monitoring and posting of water quality conditions will be developed (and evaluated for potential environmental impacts) in the future relative to the specific locations and land uses determined by State Parks. The activities associated with improvements to the shoreline are difficult to predict at this time, although management and regulatory programs (see guidelines OPER-1 and OPER-4) would be developed to determine and manage appropriate activities. Currently, activities including fishing, windsurfing and boating are undertaken within the proposed project limits. Furthermore, the Draft EIR authors do not agree with the commentor's conclusion. The specific

management guidelines that would avoid, minimize, or compensate for the effects associated with the potential for contact with contaminated materials (including water) are listed on pages 120 and 121 in the Draft EIR (see also guidelines OPER-1, OPER-4, OPER-7, OPER-8, and OPER-17). The Draft EIR addresses the issues of potential impacts related to water quality, runoff, development at the shoreline, and new shoreline uses at the project site on pages 132-136. The recommendation that State Parks should coordinate with local jurisdictions over posting warning signs is noted.

- A4-11: Comment noted. The comment relates specifically to development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary. Please note that the area within the Eastshore Park Project associated with the creeks identified in the comment may not be large enough to effectively treat water entering the site.
- A4-12: The comment references existing conditions at creek outfalls and is noted. See responses and comments A4-10 and A4-11 related to the evaluation in the Draft EIR of potential water quality impacts associated with implementation of the Preliminary General Plan. When specific plans for development, management and maintenance throughout the proposed project are proposed and evaluated, appropriate mitigations such as procedures for posting of water quality conditions would be developed relative to specific locations and land uses as determined by State Parks. Collaborative water quality monitoring programs between the cities and State Parks, consistent with other programs elsewhere around the San Francisco Bay, should be developed. See also response and comment A2-1.
- A4-13: The comment references an existing condition and is noted. See also Response to Comment A4-2. The Draft EIR addresses the issue of maintaining and enhancing water quality and shoreline areas within the park boundaries on pages 133 through 136 and identifies the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for the effects associated with park development including minimizing and correcting trash occurrences at creek outfalls.
- A4-14: This comment appears to be on the Preliminary General Plan, in that the commentor says that "the plan" is inconsistent with the City's 2002 General Plan and the 1986 Waterfront Plan, and the plan needs to better define uses and areas within the North Basin. Regarding the potential for a ferry terminal at the foot of Gilman Street, see Responses to Comments B1-29 and B9-1 where that issue is discussed in greater detail. Regarding the commentor's request that the Draft EIR define and evaluate the specific use periods and "limited areas" of the North Sailing Basin to allow for access on privately-owned parcels outside the boundaries of the Eastshore Park Project, the use periods and specific area design will be determined and evaluated at a later stage of park development, when specific projects for the North Sailing Basin are proposed.
- A4-15: The City of Berkeley Noise and Land Use Compatibility Guidelines (see Figure III.I-1 on page 158 in the Draft EIR) states that for outdoor sports and Recreation areas, exterior noise exposure over 65 decibels is "conditionally acceptable" after detailed analysis of the noise environment and project characteristics to determine whether noise insulation or protection features are required. Trails are not specifically mentioned in the Berkeley

Compatibility Guidelines, and the Bay Trail is currently being constructed by the City of Berkeley along Frontage Road and adjacent to I-80 between Ashby and University Avenues. The Bay Trail and other trails that provide a protected right-of-way for trail users are often close to major roadways that are generally sources of noise. The authors of the Eastshore Preliminary General Plan and associated EIR believe that the proposed trails have been evaluated sufficiently to determine that they are an acceptable use per the Berkeley Noise and Land Use Compatibility Guidelines; that the many benefits of providing trails, especially the regional San Francisco Bay Trail, outweigh the potential for trail users to be exposed to noise at the levels that would be anticipated; and that exposure of people to noise who are visiting the Eastshore Park Project area and using future trails does not constitute a significant adverse impact as defined by CEQA. The commentor is correct in that the Draft EIR on page 163 identifies Preliminary General Plan guidelines that require future analysis and environmental review when specific projects (e.g., visitor center, parking areas, a hostel) are proposed to identify and mitigate potential noise exposure impacts, as necessary. In response to the request that an analysis of future potential construction noise for the project be included in the Draft EIR, see Response to Comment A2-1.

- A4-16: See Response to Comment A4-2. The Draft EIR addresses the issue of coordination with local service agencies on page 174 and identifies management guideline COMM-2 that requires the coordination with local municipalities and service providers. The guideline assumes that State Parks and local service agencies will coordinate their provision of specific services.
- A4-17: See Response to Comment A2-1, regarding the design, siting and evaluation of future specific projects (including parking areas) and the inclusion of appropriate mitigation measures (such as appropriate lighting), as necessary. The Draft EIR addresses the issue of vegetation management to respond to fire safety concerns on page 174 and identifies management guideline OPER-4 that requires the preparation of a Maintenance Plan to allow for operational activities such as fuel modification and fire prevention activities.
- A4-18: Comment noted. Although potential uses are explored within the Preliminary General Plan and generally evaluated in the Draft EIR, a visitor center and an interpretive center will be subject to full environmental review when these specific projects are proposed, as indicated above. These later CEQA and resource evaluations could even result in changes to the proposed locations or eventual development of these projects.
- A4-19: *CEQA Guidelines* Section 15126.2 specifies that an EIR shall “normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published.” Because the proposed future ferry terminal at Gilman Street does not qualify as an “existing physical condition” under the provisions of CEQA, the proposed project’s potential environmental impacts to the proposed ferry terminal are not discussed in the Draft EIR. See also Response to Comment B1-29 that notes that because the preferred location of the ferry, its facilities, and details regarding the establishment of future ferry service (or subsequent actions of the Berkeley City Council) had not been determined, this information was neither included in the Draft EIR nor reflected in the Draft EIR’s project impact and cumulative impact evaluations. Attempts to

analyze the potential impacts of the Preliminary General Plan on a future ferry terminal would be speculative and premature at this time.

- A4-20: As outlined in the criteria of significance section on page 191 of the Draft EIR, the project would impact an already deficient intersection when the intersection's total delay was increased by the project by 10 percent or more over the baseline condition. In the absence of criteria developed by the lead agency or the regional Congestion Management Agency, the Draft EIR provided a conservative criterion based on delay. As disclosed in the Draft EIR, three study area intersections operate at LOS F in the existing condition. This existing condition does not constitute a significant project impact and the responsibility for mitigating it does not fall to the Eastshore Park Project. Rather, the project is responsible for mitigating any significant impact over and above the existing deficient condition, as defined on pages 190-191 in the Draft EIR.
- A4-21: Application of trip generation rates from other urban parks would be inappropriate in the case of the Eastshore Park Project because the Eastshore Park as envisioned in the Preliminary General Plan would not contain the typical uses of an urban park. The Eastshore Park Project proposes many different types of recreational uses. Most of these uses exist today, and are therefore accounted for in the existing traffic volumes. The Preliminary General Plan provides guidelines for park development; however, specific projects have not yet been identified. As a result, there is no land use variable with which to generate project trips, therefore expected increases in the capacity of the park (i.e., parking spaces) were used to estimate the future project trips. When specific projects are identified and implemented, more refined land use information will be available. This information will be analyzed in subsequent project-specific CEQA documents and, if warranted, project-specific mitigation will be identified.
- A4-22: The comment on parking areas within the City of Berkeley is noted. Entrance or parking fees have not been proposed in the Preliminary General Plan and were, therefore, not evaluated in the Draft EIR. The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not raise questions or identify errors contained in the Draft EIR. As stated in the Response to Comment A4-21, the Preliminary General Plan provides guidelines for park development; however, specific project details, such as those addressed in this comment, have not yet been identified.

Comments on the Eastshore State Park Preliminary General Plan and Environmental Impact Report.

From: Paul Kamen
Chair, Berkeley Waterfront Commission
5 Northgate Ave. Berkeley CA 94708
510-540-7968 510-219-8106 pk@well.com
www.BerkeleyWaterfront.org

To: Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

August 24 2002

This is a brief analysis of the Preliminary General Plan and Environmental Impact Report for the Eastshore State Park as published in July 2002.

The ESP planning team deserves a great deal of credit for successfully navigating a perilous course among the various interest groups and political forces brought to bear on this planning process. They have clearly had to make some serious compromises. But the result shows a reasonable balance of the various forces at play. There is something in the plan for all of the major interest groups, although naturally they all perceive this "balance" as being less than ideal with respect to their own particular priorities.

This evaluation is no exception: the plan is light on access to water-borne recreation, and especially light on water-borne recreation that does not require ownership of one's own boat.

But this element is not absent from the plan, and if the details are implemented the right way, it could be a very successful waterfront park even from the water access perspective.

Commentary on the Plan, South to North

Emeryville Crescent

This area evokes the least controversy. There is consensus that it should be a nature preserve, with no human use of the narrow uplands and restricted water access.

The possibility of artificial islands, however, is mentioned in the plan as a means of expanding bird habitat. Representatives Sierra Club and Audubon (Norman La Force and Arthur Feinstein) have previously made it clear that they considered this a question that "had already been decided" and was no longer on the table as an option.

Even with new habitat islands, the Plan does not propose re-aligning the Bay Trail to the shoreline. This was one idea promoted in conjunction with artificial islands (so that upland habitat would not be lost). The Bay Trail now goes inland through the Emeryville commercial zone from Powell Street to the Bay Bridge.

Berkeley Beach and the Bay Trail, Ashby to University

This is another area that evokes relatively little controversy. Some CESP members (Ed Bennett) are still interested in converting frontage road to a northbound one-way, allowing a wider trail and more access. This is not in the plan. Presumably this would be strongly opposed by CalTrans, but as far as the park is concerned, there is no compelling reason to object to that configuration.

The Brickyard

There has been some interest by kayakers in water access points on the Brickyard, and this is reflected in the Plan. However, these access points may be somewhat misplaced.

The composite photo/rendering shows a high tide shoreline - if the photo were taken at low tide, the water access would be seen to be highly problematic. While it's true that most kayakers know how to read a tide book, it's also true that there are much more suitable locations for water access that could have been used instead, with much better utility at all tide levels.

A "promenade" is shown along the Brickyard Peninsula, and there is some objection to this from both the CESP and the "Let it Be" camps. However, it seems to be the word more than the actual design feature that evokes the negative response. "Promenades" may be unnatural features, but they are no more unnatural than the inhospitable rip-rap that this "hardened" edge treatment would replace.

The recreational beach shown inside (to the east of) the Brickyard Peninsula might also be misplaced. At low tide this

entire cove is a mudflat, and the beach is notorious for rapid accumulations of trash (despite the annual beach clean-up). This cove, between the Peninsula and the freeway, would probably be more appropriately designated for wetland restoration and should be given preserve status.

The treatment of the Strawberry Creek outflow is good, but this was not an area of any significant controversy.

The Brickyard itself is to be one of the primary park entry points and the probable location of park headquarters and the main visitor center.

Provision is made for allowing a café/market/food service concession to remain, and with any luck Seabreeze Market will be allowed to continue exactly as it is now. It is very easy to imagine a State Parks bidding process resulting in a new concessionaire, and the same mediocre food service that characterizes other State Park food concessions. This is definitely something that is not broken and should not be fixed, even if it involves a lease-back to the City to avoid State Park protocols.

The amount of parking on the Brickyard is not specified. There is a critical need for more parking during waterfront festival events (Berkeley Bay Festival, Fourth of July, Kite Festival), and if the park becomes a popular family destination, parking will be in high demand on all summer weekends. The right amount of parking will remain an unresolved controversy.

Playing fields have also been left out of the plan for the Brickyard. Arguably they work better here than on the Albany Plateau, due to (probably) more stable ground and much better bicycle and bus access. But the Brickyard is not as big

as the Plateau, and if there is a compelling advantage to having all the fields in one place, the Plateau can absorb more of this use. Absent this economy of scale - which seems somewhat questionable- it might make more sense to scale back the proposed 3-5 fields on the Plateau in favor of some fields on the Brickyard and/or North Basin Strip.

The Meadow

The Northwest Corner of the Meadow is one of the best locations for a boating facility, but the Meadow is sacred turf to CESP and the politics made this a difficult proposition from the beginning. It is much to the planning team's credit that the development of a small portion of the meadow was shown on some of the earlier alternatives, but inevitably and unfortunately this feature had to go.

The plan now reflects the very strong desire by CESP to leave all of the meadow as a conservation area.

The north shore of the Meadow is a shoreline that is to be "softened" by removing or covering the rip-rap shoreline to produce a more gentle slope into the water of the North Sailing Basin. Most of the waterfront is badly in need of this kind of "naturalization" treatment, and this is not an inappropriate place for it. The very small-scale details of the water's edge are critical to the waterfront experience, so this is a very positive element of the plan.

Unfortunately the all-conservation approach to the Meadow leaves no room for active recreation. The case can be made that, like the Brickyard, the Meadow would have been a better location than the Plateau for playing fields. It has also

been argued that if only two or three of the 73 acres of the Meadow were used for parking (at 135 cars/acre), then a much wider range of park users could served, even during the most popular times of the week.

The North Basin Strip

The daylighting of Schoolhouse Creek is positive and non-controversial. The promenade to be developed along the strip evokes negative reactions for the same reasons as the Brickyard promenade proposal, but in this case there is little choice. The beach along this shoreline is extruding glass and other landfill constituents as it erodes, and a "hard urban edge" is probably the only treatment of the water's edge that is practical here.

The Plan calls for a launch facility and boathouse for non-motorized watercraft. This is the single most positive element of the Plan. It recognizes the importance of allowing park visitors an opportunity to float on the water instead of just looking at it, and this is where the real connection between the East Bay communities and the Bay itself can be re-established. Water-related activities are the only activities that are unique to the waterfront, and they are the surest way to build an environmental constituency.

Unlike the South Sailing Basin, which already hosts a number of sailing and windsurfing programs, the North Sailing Basin is a relatively large body of protected water that is suitable for entry-level rowing, kayaking, dragon boat paddling, outrigger canoe instruction, and primary instruction in very small sailboats. In summer when the wind is up, it is a far more

appropriate location for youth programs than the South Sailing Basin.

There appears to be some hint of recognition in the plan that non-profit cooperatives may have an important role to play here. Still, there is a danger that the usual State Parks pattern will be followed, and commercial concessions will take over the facility and only offer expensive market-rate access.

Non-profits, especially cooperatives that rely on volunteer labor, can dramatically outperform both commercial concessions and municipal programs in terms of boating access delivered at very low price points. This probably goes beyond the scope of the plan itself, but it is critical that the boating facility be implemented in a way that encourages and supports cooperative non-profits as the primary tenants. Otherwise, access to water-borne recreation will be available only to those who own their own boats, or to those who don't mind paying expensive commercial rental rates.

Organized boating programs now have the potential to serve the recreational needs of a large segment of the local community in a much more cost-effective and interesting way than playing fields: Consider the high cost of acquiring and maintaining a field, and the limited number of people who can use it at any one time. Also consider the new popularity of team paddling sports such as dragon boat and outrigger canoe racing. The water surface doesn't need maintenance, and the boats are inexpensive and easily maintained compared to fields. Perhaps more important, competitive paddling or rowing attracts many young people who are bypassed by the school athletic culture. It can make a huge difference in the lives of a large number of youth.

CESP and the Sierra Club have taken the position that the North Sailing Basin is critical habitat for diving ducks from October through April, and that even non-motorized boating should be prohibited during these seven months of the year.

However, there is no clear evidence that the proposed sailing and paddling activities would have a measurable negative impact on the ducks. Note that the South Sailing Basin, with several relatively intense programs in operation year round, continues to be popular duck habitat. Also note that in nearly all other conservation areas that need protection from boating activity, it is considered adequate to prohibit powerboats while allowing kayaks, canoes, and small sailboats. (This is the case in nearby Aquatic Park, a much more constricted body of water with equal or greater habitat value. Paddling and rowing is allowed all year in Aquatic Park, but water-skiing is prohibited during the winter migrating bird season.)

There is complete consensus that all boating activity near the shores of the Eastshore State Park should be non-motorized. The Plan calls for the "appropriate resource agencies" to evaluate the need for further restrictions. This means that it will probably fall on the California Department of Fish and Game to make the call.

This is a very positive element of the plan, as it removes this evaluation from the local politics of the Sierra Club, CESP and other interested parties, and puts it in the hands of a State agency which is much more likely to follow a scientific and objective process. If this process determines that restrictions are in fact necessary, they might take the form of access channels or buoyed "no-sail" areas within the North Sailing Basin that protect the habitat yet still allow the boating facility to function year-round.

One deficiency of the plan is that it does not provide for a buffer between the freeway and the North Basin Strip. The freeway is far and away the most significant negative environmental factor on the waterfront, especially on the relatively narrow North Basin Strip, and a berm covered with dense vegetation would go a long way to mitigating this existing negative impact. Some CESP members (Sylvia McGlaughlin) insist that a berm would block views from the freeway, but in fact there is no existing view of the Bay or of the North Sailing Basin from a mid-sized car driving along the part of the freeway in question. (See the brief photo essay on this subject at <http://www.well.com/user/pk/waterfront/EastshoreStatePark/Berm.html>.) The valuable view is from the Gilman overpass, and this would not be affected by a barrier berm along the portion of the North Basin Strip that is in the Eastshore State Park.

Albany Beach

The plan calls for this to be a recreational beach with some efforts made to preserve the existing sand dunes behind it. However, existing use is heavily skewed towards off-leash dog running, and the plan ignores this very large constituency. Dog-friendly beaches are extremely rare, and the plan should make some accommodation. One possibility is the smaller beach to the south of Albany Beach, near the abandoned Fleming Point pier.

One of these two beaches should be designated as a dog beach, while the other should be dog-free. Even if the dog beach is the smaller one, it would be a compromise that the

dog lobby would probably be happy to accept, and it would have the practical effect of making the dog prohibition on the larger and more sensitive Albany beach more easily enforceable.

Albany Plateau

Bob Arnold of CESP continues to characterize the Eastshore State Park Plan as "trying to put three gallons in a two gallon container." But with over eight miles of shoreline and 260 dry-land acres, the metaphor is more accurately stated as "three gallons in a ten gallon container." Considering the urban environment, perhaps it would have been a more balanced plan if this big container held four or five gallons and not just three.

A good example of this is the plan for the Plateau. Speakers at workshops and public hearings wax poetic about their experience of the Plateau as a wild and natural place for solitary walks and contemplative views. Study the aerial photo/rendering of the Plateau in the plan: Even with four playing fields, the wide band of natural perimeter around the fields allows the same solitary walks and the same contemplative views. Add a couple of trails down to the secret beaches on the Plateau's north-west side, and the potential for a natural and isolated experience is enhanced, not compromised, by the park plan.

Playing fields continue to be a major area of contention, but the need is compelling and the City of Albany is officially in favor. Criticisms that the site is too cold and too windy are mostly unfounded. Differential settlement could be a

problem, but this is a technical question that cannot be answered by public opinion.

Playing fields, aside from their primary purpose, might have a significant role to play in popularizing the Eastshore State Park. Families will come to the waterfront for one purpose and discover others, especially those recreational opportunities unique to the waterfront.

The Neck

The Plan shows a compromise with windsurfers - although they really would like vehicular access to the south-east corner of the Bulb. If done right, this would open up the best windsurfer launch site on the entire East Bay shoreline.

But this was not considered a sufficiently compelling reason to allow cars on any part of the Neck or Bulb, so the access point has been placed about half-way out on the Neck, with no cars allowed on the Neck itself. It's not so far from parking to make it totally impractical, and it leaves the Neck and Bulb totally non-automotive. But it remains to be seen how far the windsurfers will carry their sails, masts, booms and boards while suited up for high-wind sailing. The water access point on the neck, without the vehicular access to make it an attractive place to launch, might prove to be a failure.

The Bulb

Here is where the plan has it seriously wrong. "Let it Be," the group advocating a "hands off" policy with respect to dogs, art and building debris, appears to represent the overwhelming

consensus of the people who use the Bulb now and are likely to continue using it in the future.

And, as a practical matter, enforcement of dog and art prohibitions is going to be expensive and ineffective. These rules will beg for the kind of low-stakes civil disobedience that will ultimately be a major embarrassment for State Parks if the policy isn't adapted to local preferences.

Point Isabel and surrounding tidal flats

The plan gets good marks here. There is provision for improved sailboard access, and the North Point Isabel (Battery Point) area is retained for off-leash dogs.

Appropriate barriers are planned to protect the mudflat habitat area from dogs. Albany mudflat is properly designated a preserve area, and all boating activity is restricted.

The EIR

The recurring theme throughout the EIR is "no significant effect." This has left the planning team free to work with the perceived merits of various land use and project options, at least to the extent permitted by the political realities. The EIR does not appear to give any of the various factions the validation they would need to launch a credible challenge to the Plan.

However, the statement that the Eastshore State Park will have no serious impacts on nearby park facilities in the

Berkeley Marina is not supported by any analysis or even by any developmental arguments in the remainder of the EIR.

In fact it is very likely that the popularity of this park will have a very significant effect on the usage patterns of Marina parks. The EIR needs to take these park use impacts into account. The result might be a recognition of the need for additional parking or other facilities needed in response to this increased loading.

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The transportation element of the EIR conspicuously omits the possibility of ferry service. This was called for in the planning guidelines recommended by both the Berkeley Waterfront Commission and Parks and Rec Commission.

(<http://www.well.com/user/pk/waterfront/EastshoreStatePark/Resolution-020313.html>).

Ferry service is also a part of the Berkeley General Plan's transportation element. WTA has recently identified the Berkeley-SF route as one of the most viable and most likely to be implemented. And finally, independent of WTA, GGNRA is considering a ferry service to link waterfront parks in the central Bay Area.

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How, then, can the planners justify omitting any discussion of the effects of a ferry service? Of course the ferry itself is "out of the park," but obviously it would have an effect on all park roads and intersections.

On the classification issue: Should the Eastshore State Park be a "Park" or a "Recreation Area?"

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The EBRPD voted for "Park," and so did the Berkeley Waterfront and Parks and Rec Commissions (with this commentator, among others, dissenting).

This is understandable in view of the long history of advocacy for a "park," and it would be a symbolic blow to the people who devoted so much time and energy to the creation of the park. There is probably little of substance at stake here, but the planning team seems to feel that it fits the definition of "Recreation Area" more closely, and that "recreation" is the primary intent of the enabling legislation. They insist that "recreation area" is necessary "to maintain the integrity of the State classification system."

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The planning team is of course correct on this point, but the problem remains that it serves no-one's interest to insult CESP. Some accommodation needs to be found, whether through a legislative accommodation or a multiple classification scheme. Or perhaps we can call it the "Eastshore State Park Recreation Area," even if it's not officially known by that name.

More background and commentary at
www.BerkeleyWaterfront.org



Paul Kamen
Chair, Berkeley Waterfront Commission

Double click "index.html" in the Website Image folder to view the enclosed CD.

COMMENTOR A5

Berkeley Waterfront Commission; Paul Kamen, Chair (August 24, 2002)

A5-1: The EIR authors do not agree with the comment's conclusion. The observations of the EIR authors and substantial scientific evidence indicate that non-motorized watercraft can disturb waterfowl. Based on a review of several thousand scientific journal articles and books, Korschgen and Dahlgren (1992) identified four categories of human disturbance to waterfowl.¹ The second most disruptive category was defined as overwater movement with little noise (sailing, windsurfing, rowing, and canoeing). Moreover, diving ducks such as ruddy duck and lesser scaup, both of which winter in large numbers on the North Basin, are especially vulnerable to disturbance (Korschgen and Dahlgren 1992). Waterfowl respond both to loud noises (i.e., motorized boats) and visible features and movement (i.e., sailboats and kayaks), and they expend valuable energy on flight (rather than feeding) when disturbed. To minimize disturbance to waterfowl, Preliminary General Plan guideline BM/NB-12 requires the establishment of management guidelines for boating prior to constructing proposed water access improvements on the North Basin Strip.

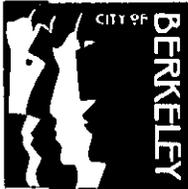
The EIR authors agree that the South Sailing Basin supports large numbers of waterfowl, but most of these birds are typically located in areas with few if any boats, in the eastern part of the basin. Water conditions that appeal to many users of kayaks, canoes, and other non-motorized boats (i.e., calm surface water) are also ideal conditions for feeding and resting waterfowl. Therefore, water birds in the park are vulnerable to increased disturbance from non-motorized boats, and the Preliminary General Plan guidelines identified in the Draft EIR (page 85, item 3.c) are appropriate.

A5-2: A discussion and evaluation of the potential for increased demand on local parks in the vicinity of the proposed Eastshore Park Project is found on pages 174 and 175 in the Draft EIR.

A5-3: A discussion of future ferry service in the vicinity of the project site is found on pages 181 and 182 of the Draft EIR in Chapter IV.K., Transportation and Circulation. See Response to Comment A4-19 regarding analysis of the proposed project's impacts on future ferry service.

A5-4: See Response to Comment A6-5.

¹ Korschgen, C.E., and R.B. Dahlgren, 1992. *Human Disturbances Of Waterfowl: Causes, Effects, And Management*. Fish and Wildlife Leaflet (Waterfowl Management Handbook) 13.2.15.



Marco Barrantes
Parks and Recreation Commissioner
Waterfront Commissioner

Subject: Comments for the Draft EIR for the Eastshore State Park

As a citizen of Berkeley and a frequent visitor of the waterfront area, I am very excited by the opportunity to enhance the environment of our shoreline presented by designating the area a State Park. The Eastshore State Park is an instant opportunity for many different interest groups; however, on a mythical scale it is the hard-fought epic of saving the Bay and the dream of witnessing the beauty and abundance of this ecosystem revived from the trash heap of our history. The Eastshore State Park could be the last chance to restore our endangered Bay ecology and shape the harmonious future of our urban-to-bay landscapes.

Unfortunately, the present Draft EIR and the Draft General Plan, while strongly advocating for conservation in fragmented sections, fails to express the opportunity of restoring our contiguous shoreline in a manner consistent with it being a whole ecosystem. Many people are concerned that current plans for the Eastshore State Park will seal the fate of these remaining open Bay lands with asphalt, turf, and other artificial landscapes in such a way as to preclude the possibility of long-term ecological restoration. Berkeley in particular wants their portion of the Eastshore State Park to be natural in feel and appearance, even wild. Sadly, Berkeley's area is currently slated to be the most developed. The classification of this State Park as a recreation area will inevitably lead this land towards more human encroachment and artificial landscapes. Lets engender a slice of wild in our metropolis – designate this area a State Park.

Most of the habitat that we see today is the ecology restoring itself over long periods of time – we can also help to restore the ecology of the land considered disturbed and currently relegated to a future of parking lots and grass lawns. Why doesn't the Draft EIR even mention

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this possibility? Do we want our cities to meet the Bay with concrete reinforcement, wind-blown turf lawns and parking lots? Or, could we possibly allow for the opportunity to recreate a wholly integrated ecosystem, a State Park that will only get better with time due to our careful stewarding of its natural resources. The Draft EIR fails to express the fragmentation of the ecosystem that will occur with the current Draft General Plan. The current plan for this State Park looks like a patchwork of disconnected habitats fragmented by excessively large turf areas, roads, buildings, etc...

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cont.

A plan to steward a State Park would include wildlife habitat corridors connecting the extent of the future State Park, systematic creek daylighting of all culverted creeks, and naturalizing of shoreline revetment with tidal marshes. We can save millions of dollars by avoiding excessive development on these lands and use a portion of these savings for a full-scale ecological restoration of the entire Eastshore State Park. Berkeley could set a powerful precedent for urban wasteland reclamation: even a former trash dump can regrow into a beautiful, ecological State Park.

The Draft EIR repeatedly states that certain developments will have “Less Than Significant” impact since the land is currently degraded. The fact of the matter is that if the land is developed into parking lots, turf fields, concrete promenades, and buildings we will be losing scarce opportunities to steward functional ecosystems of the future. If we initiate this State Park with plans to roll over half of it with asphalt and turf we will be seriously impacting the environment and denying the opportunity to conserve the overall ecosystem by expanding its potential regrowth area! The Draft EIR states that the two new parking areas of 550 spaces total proposed for Berkeley “located in disturbed areas with little scenic quality, would not degrade the existing visual quality of the project site” (pg. 46). As a matter of fact, the areas designated for parking in the North Basin Strip is already habitat for many birds and mammals, not to mention land being re-vegetated and presently affords nice views of a natural shrub area or a possible future climax ecosystem. Even the brickyard could be cultivated to provide a beautiful ecosystem for the park’s entrance from the new pedestrian- and bike-bridge. Do we really want parking lots and turf to predominate Berkeley’s greatest new view of this area? The shoreline promenades, sports fields, and turf areas would not only impact the current

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environment, despite claims of 'Less Than Significant,' but they would also impact the possible future of this area. The Draft General Plan and the Draft EIR fail in their long-term understanding of environmental impacts.

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cont.

The following are other questions concerning the Draft EIR:

- 1) What are the long-term environmental impacts of designating the Eastshore 1) a State Park or 2) a Recreation Area?
- 2) What is the long-term environmental impact of irrigating acres of turf lawns adjacent to wetland ecosystems with chloramine-treated water? How will the fish be impacted? Will the ecosystems be helped or hindered with this plan?
- 3) What is the long-term environmental impact of building concrete promenades where tidal marshes and gravel beaches could or do exist?
- 4) What is the environmental impact now and for the future of constructing buildings, parking lots, and turf fields throughout the entire Berkeley area, surrounding and isolating the Berkeley Meadow conservation area with intensive levels of human activity, including noise, pollution, dogs, etc.?

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I trust that this park planning process will take into account the concepts and concerns expressed in this letter. Hopefully we can integrate the needs of the various human interest groups with the natural, and not just impose another landscaped recreation area onto a struggling ecosystem. Let's work together to create a unique, ecologically restored State Park in the midst of this large metropolitan area thirsty for wild, natural areas.

COMMENTOR A6

**City of Berkeley; Marco Barrantes, Parks and Recreation Commissioner, Waterfront
Commissioner (August 30, 2002)**

- A6-1: The EIR authors do not agree with the comment's conclusion regarding fragmentation. The upland habitats within the park project are already highly fragmented (i.e., the existing blocks of ruderal scrub and ruderal grassland habitat are separated by substantial areas that have been developed). Development of the proposed park would reduce the size of some of the larger blocks of upland habitat (e.g., the Berkeley Meadow/North Basin Strip and the Albany Bulb/Neck/Plateau). However, the areas to be developed are adjacent to existing developed areas. Thus, although some blocks of habitat will be reduced in size, the amount of fragmentation will not be substantially changed.
- A6-2: In this comment, it is unclear where specifically in the Draft EIR the commentor disagrees with the analysis. See Response to Comment A6-1 regarding the "overall ecosystem." Generally, this comment addresses the Preliminary General Plan and not analysis contained in the Draft EIR.
- A6-3: The Draft EIR addresses the broad environmental issues of the Preliminary General Plan. When specific projects, such as parking areas, are proposed, subsequent environmental review will be undertaken. As required by Preliminary General Plan guidelines, the siting and design of new facilities will take into account the existing vegetation and potential habitat as well as adjacent habitats. Similarly, potential impacts to visual resources will be considered during the subsequent evaluation of individual projects.
- A6-4: The EIR authors do not agree with the comment that the identification of less-than-significant impacts in the Draft EIR is incorrect, and that the Draft EIR fails in its long-term understanding of environmental impacts. The EIR across 250 pages of text, tables and graphics, provides a detailed presentation of potential future impacts and then specifically links each potential adverse impact to mitigatory guidelines in the General Plan, which is entirely consistent with CEQA. Furthermore, as required by CEQA, significant irreversible changes associated with the project are identified on pages 245-246 of the Draft EIR, cumulative impacts are identified on pages 246-250, and the relationship between the short-term and long-term uses of the environment is addressed on page 251.
- A6-5: During the preparation of the Preliminary General Plan, it was decided to proceed with the planning and let the findings of the planning process determine the appropriate classification. The initial recommendation set forth in the Preliminary General Plan was to classify the unit as a "State Recreation Area". However, based on public input in opposition to the "Recreation Area" classification, and the fact that the unit does not meet the criteria for classification as a "State Park," the planning team is now recommending that the State Parks Commission adopt a "State Seashore" classification for the unit. The findings of this planning process are that the unit is best suited for a "State Seashore" classification. The following is the language in the Public Resource Code that describes the State Seashore classification:

5019.62. State seashores consist of relatively spacious coastline areas with frontage on the ocean, or on bays open to the ocean, including water areas seasonally connected to the ocean, possessing outstanding scenic or natural character and significant recreational, historical, archaeological, or geological values. State seashores may include underwater areas within them, but may not be established solely in the underwater environment.

The purpose of state seashores shall be to preserve outstanding natural, scenic, cultural, ecological, and recreational values of the California coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities which are consistent with the preservation of the principal values and which contribute to the public enjoyment, appreciation, and understanding of those values.

Improvements undertaken within state seashores shall be for the purpose of making the areas available for public enjoyment, recreation, and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological, and recreational value. Improvements which do not directly enhance the public enjoyment of the natural, scenic, cultural, ecological, or recreational values of the seashore, or which are attractions in themselves, shall not be undertaken.

The long-term environmental impacts of the Preliminary General Plan would be the same under any classification, because the land uses and projects proposed in the Plan would remain the same under each classification. The Plan establishes the management goals and determines the land uses that will occur within the park unit. It is the specific land uses and management practices that have the potential to result in impacts, not the classification. These land uses and management practices cannot be changed without a General Plan Amendment. The State Park and Recreation Commission must approve any amendment and evaluate its potential for environmental impacts under CEQA.

A6-6: See Response to Comment A6-3 regarding future environmental analysis of specific projects. Runoff from turfed areas is addressed on pages 133-135 of the Draft EIR and identifies specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for the effects associated with runoff from irrigated areas.

Use of herbicides, pesticides, and fertilizers in the park would not result in significant impacts to wetlands, fish, or wildlife, given that the water quality protection measures identified in the discussions of Stormwater Runoff and Water Quality in the Draft EIR (pages 132-135) would reduce water quality impacts to a less-than-significant level.

A6-7: In general, hardened shoreline treatments and promenades located along the shoreline would limit opportunities for tidal marsh and beach establishment. However, buffers or setbacks along the shoreline could be established to allow for promenades behind naturalized shoreline areas. The Draft EIR addresses the issue of adverse impacts related to proposed shoreline treatments and protection on pages 135-136 and identifies the management guidelines contained in the Preliminary General Plan that would avoid, minimize or

compensate for potential adverse impacts. As noted in Response to Comment A2-1, when specific projects for hardening the shoreline are proposed, further project specific environmental analysis will be required. Additionally, all specific projects must be in compliance with federal, State and regional permitting and regulatory requirements. The Draft EIR evaluated the shoreline hardening proposed at a general level in the Preliminary General Plan and found no significant adverse impacts that could not be mitigated to less-than-significant levels; no further response is necessary.

- A6-8: Throughout the Draft EIR, potential environmental impacts associated with the proposed development in the Berkeley area, activity levels, and compatibility of adjacent land uses are identified, evaluated, and addressed. Specific mitigatory guidelines are identified in the Preliminary General Plan. Specifically, see pages 148-149 regarding open space/urban land interface, new land uses within the park, and on and off-leash dogs. Additionally, see Response to Comment A6-4 regarding analysis contained within the Draft EIR.

The Draft EIR (pages 80-86) addresses the potential impacts on biological resources at the Berkeley Meadow and other portions of the park and identifies the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for such impacts.



CITY OF EMERYVILLE

INCORPORATED 1896

2200 POWELL STREET, 12TH FLOOR
EMERYVILLE, CALIFORNIA 94608

TEL: (510) 596-4300 FAX: (510) 658-8095

August 28, 2002

Robin Ettinger, Associate Landscape Architect
California Department of Parks and Recreation
Northern Service Center, Environmental Division
1 Capitol Mall, Suite 500
Sacramento CA 95814

Re: Draft EIR for Eastshore Park Project Preliminary General Plan

Dear Park Planners:

Thank you for the opportunity to comment on the Draft EIR for the Eastshore Park Project Preliminary General Plan ("the Eastshore Plan"). Overall, the draft Eastshore Plan strikes a good balance between recreational needs and the natural environment. The Draft EIR is thorough; however, the City does have a few comments.

Most of the comments are about the proposed parking along Powell Street next to the Emeryville Crescent. The City is considering eliminating a travel lane on Powell Street from the Fire Station east to the existing bus stop, in order to provide on-street parking in lieu of the proposed parking lot included in the Eastshore Plan. The Traffic Committee approved the proposal on August 27, 2002, and the City Council will consider it on September 3, 2002.

In the Project Description section of the Draft EIR, on page 19, the Parking column of Table II-4 lists up to 20 spaces along Powell Street. The Eastshore Plan (page III-64) discusses on-street parking as the primary option, and a parking lot as a fallback option. The City of Emeryville is vehemently opposed to any possibility of an off-street parking lot on the south side of Powell Street, and will take all appropriate action to uphold the plans and policies of the City of Emeryville if the parking lot is included in the final Eastshore Plan.

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Due to three policy conflicts, paving 7,000 square feet of the meadow on the south side of Powell Street for a parking lot would constitute a significant environmental impact which has not been identified in the Draft EIR. In the Biological Resources Section, the significance criteria include conflict with an approved local policy protecting biological resources. Plan Guideline EC-12 and Figure III-5 conflict with the Emeryville General Plan and two Emeryville ordinances.

In the Emeryville General Plan, Biological Resources Policy 1 states that "Wildlife habitat along the Bay shoreline should be preserved and enhanced." This policy does not limit protection to special-status species, nesting areas, or any other measure of habitat significance. The Draft EIR describes ruderal/non-native grasslands as refuge and foraging habitat for many animal species including small mammals, songbirds and predatory birds. A parking lot would conflict with this policy of the Emeryville General Plan.

In the Shoreline Protection Ordinance of 1987 (Ordinance No. 87-09), "The People of the City of Emeryville find that it is in the public interest to preserve and protect the existing open space ..., coastal areas, ... and irreplaceable shoreline areas of the City," including the portion of land adjacent to San Francisco Bay south of Powell Street and east of the City-owned land (now occupied by the Fire and Police stations). The People further find "that the subject existing open space constitutes environmentally sensitive, irreplaceable, and unique ...meadows, coastline, wildlife habitat, and other features of the natural ecology; that it is in the public interest to preserve, protect, reclaim, and/or restore all said portion of the shoreline open space in a natural, open, and undeveloped form". A parking lot would conflict with this voter initiative.

In 1987 the Emeryville City Council adopted the conclusions and recommendations in the report titled "Public Trust Rights and Needs in the Emeryville Tide and Submerged Lands - A Portion of the San Francisco Bay at Emeryville, California" by the State Lands Commission and the City of Emeryville, dated March 1989. The report finds that upland habitat bordering wetlands has value as high water refuge, nesting and foraging habitat and a buffer against people and pets; that undeveloped non-trust lands within the Study Parcel include the strip of land south of Powell Street from the City Hall (now the Police Station) east to Frontage Road; and that the most important uplands in the Study parcel, because of their value to the adjacent wetlands, include that area. In 1999 the City Council codified the 1987 adoption resolution (Ordinance 99-11). A parking lot would conflict with this ordinance codifying adoption of the conclusions and recommendations in the Public Trust report.

Accordingly, the City of Emeryville respectfully requests that these conflicts between Emeryville's adopted policies and the proposed Eastshore Plan be avoided by deleting all references within the Eastshore Plan to an off-street parking lot along the south side of Powell Street, including deletion of the last three sentences of Guideline EC-12, which refer to the construction of a parking lot if on-street parking cannot be provided, and moving the "P" in Figure III-5 of the Plan from the grassland to Powell Street.

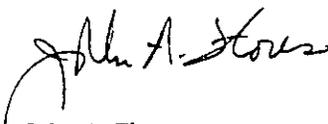
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cont.

Our last comment simply updates the description of Emeryville's noise ordinance. The City Council adopted a new noise ordinance in May 2002. It prohibits making "noise so as to disturb or cause discomfort to any reasonable person of normal sensitivity in any dwelling unit before 7:00 a.m. or after 9:00 p.m. on a weekday or before 8:00 a.m. or after 9:00 p.m. on Saturday or Sunday." This update should be made on page 157 of the Draft EIR.

2

I trust that responses to these comments will be included in the Final EIR. Meanwhile, I look forward to working with you to implement the on-street parking option and develop the new Eastshore State Park.

Sincerely,



John A. Flores
City Manager

cc: Larry Tong, Interagency Planning Manager, East Bay Regional Park District
Ronald Schaefer, Bay Area District Superintendent, Calif. Dept. of Parks and Recreation
Don Neuwirth, Eastshore Park Planning Manager, Neuwirth Associates
Robert Cheasty, President Citizens for the Eastshore State Park
Emeryville City Council Members
Charles S. Bryant, Planning Director, City of Emeryville
Diana Murrell, City Planner, City of Emeryville

COMMENTOR A7

City of Emeryville; John A. Flores, City Manager (August 28, 2002)

- A7-1: The comment and the commentor's opposition to an off-street parking lot on the south side of Powell Street and the recommendation that all references to the off-street parking lot be deleted in the Plan are noted. In general and pursuant to Section 15125 of the *CEQA Guidelines*, the EIR must include a description of environmental conditions against which the proposed project is evaluated at the time the Notice of Preparation (NOP) for the EIR was published (i.e., February 2001 in the case of the Eastshore Park Project). Because specific projects are not defined in the Preliminary General Plan, the Draft EIR evaluated the potential project at a general level of detail that attempted to take into account the greatest possible level of foreseeable development. However, specific projects, such as future parking areas, will be subject to full environmental review when these specific projects are proposed, as indicated in Response to Comment A2-1. The compatibility of the proposed projects with the current plans, policies, ordinances and guidelines of local jurisdictions, such as the City of Emeryville, will be taken into account as part of such future environmental reviews. These subsequent CEQA and resource evaluations could certainly result in changes to the proposed locations or eventual development of these projects.
- A7-2: The comment regarding the Emeryville noise ordinance, which was updated in May 2002, is noted. As noted above (Response to Comment A7-1), the setting information for the Draft EIR was current at the time the Notice of Preparation for the Eastshore Park Project was published and circulated (February 2001). Subsequent environmental analysis of individual projects in the City of Emeryville will take into account the current conditions, policies and ordinances as they exist at the time specific projects are proposed.



United States Department of the Interior

NATIONAL PARK SERVICE
Golden Gate National Recreation Area
Fort Mason, San Francisco, California 94123

IN REPLY REFER TO:

D-18 (GOGA-SPI)

August 23, 2002

Robin E. Ettinger, ASLA
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Dear Ms. Ettinger:

This letter is in response to your Draft EIR for the Eastshore State Park Project. We look forward to working with you on realizing your goals for reuse herein as part of a broader Bay Area network of parks and open space with the Golden Gate National Recreation Area (GGNRA). In that regard, we believe it is important to share with you our findings on a recent visitor research survey we have completed concerning "recreational ferry access" from Berkeley to other sites in the Bay Area, such as our GGNRA sites.

At the behest of the Metropolitan Transportation Commission (MTC), the Golden Gate National Recreation Area, as a follow-up to an earlier, 1977 Congressionally-mandated study of improving access to GGNRA, undertook in 2001-2002 an extensive data collection and modeling effort to better understand the "recreational travel demand" in the Bay Area. This was both to evaluate demand for alternative access to park sites, given increasing congestion and emissions from personal vehicles, and to offer East Bay residents more direct access, while providing a "quality visitor experience" in both their trip to and in the park.

We have recently completed over 4800 intercept surveys at park and non-park sites throughout the Bay Area, and 1200 telephone surveys, which have been utilized in building a "unique recreational travel demand model" with reliable estimates of ridership for a Bay Area ferry "circle-line" connecting the Eastshore with San Francisco and MARIN park sites and hubs. The preliminary results confirm that Berkeley and an Eastshore ferry connection have one of the strongest residential and non-Bay area visitor demands, as both a boarding area and alighting stop for recreational ferry access in the Bay Area.

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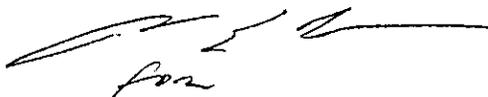
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This only reinforces the earlier recommendations in the 1977 Congressional Travel Study to implement a ferry connection between Berkeley and GGNRA, confirmed again in MTC congestion and traffic studies, such as the 1992 ferry study recommending a water transit terminal in the Berkeley/Albany area.

In bringing this to your attention, we wish to work with you on realizing this recreational ferry access site within the context of the Eastshore State Park EIR. It is clear that it has significant public interest, both regionally and state-wide, per our public surveys, for inclusion in your land planning and environmental analysis and documentation. To do any less would ignore an opportunity to address that of a critical public interest in the future of the Eastshore State park and its connection to other park and open space areas here in the Bay Area.

We welcome the opportunity to share more of our work with you, and to continue to work with you, collaboratively, in realizing a true network of natural, cultural, scenic and recreational values which people now, and in the future, can enjoy here in the Bay Area. Please contact Mike Savidge, Director of Strategic Planning at (415) 561-4725 for any clarifications and follow-up.

Sincerely,



Brian O'Neill
General Superintendent

**1
cont.**

COMMENTOR A8

National Park Service; Brian O'Neill, General Superintendent (August 23, 2002)

A8-1: This comment addresses the potential consideration of a ferry access site and terminal when implementing the Preliminary General Plan and does not comment on the content or adequacy of the Draft EIR. See also Response to Comments A9-1 and B1-29. No further response is necessary.

WATER TRANSIT AUTHORITY

WTA

BOARD OF DIRECTORS
President
Charlene Haught Johnson
Vice President
Captain Nancy Wagner

Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814
August 19, 2002

Hon. Ralph Appezato

RE: Draft EIR for the Eastshore Park Project General Plan

Hon. Albert Boro

Dear M. Ettinger:

Hon. James Fang

Joseph Freitas, Jr.

Hon. Anthony J. Intintoli, Jr.

Hon. Gavin Newsom

Dr. Rocco L. Mancinelli

Marina V. Secchitano

Anthony Withington

Chief Executive Officer

Thomas G. Bertken

As one public agency to another, we want to congratulate you on your Draft EIR for the Eastshore Park Project General Plan. We look forward to a collaborative planning process as you proceed with your exciting plans. This letter is intended to comment on your EIR, suggesting that it might be appropriate to acknowledge the continued planning efforts of our agency within your environmental planning document.

As you may know the Water Transit Authority is completing its own Draft Programmatic EIR. Our public comment period will run August 26 – Oct. 31. The WTA's plan for expanded ferry service includes a future proposed Berkeley/Albany ferry site. This site, serving approximately 3,000 daily riders by the year 2025, showed one of the highest ridership demands of all of the areas we surveyed.

Because of the proximity of the Eastshore State Park and Bay Trail to a new Berkeley/Albany ferry terminal, planning coordination between our two state agencies should occur as soon as possible. The Berkeley 2001 General Plan (Transportation Policy T-9), the Albany 2000 Traffic Management Plan, as well as Albany's 1995 Proposal for the Eastshore State Park, all cite future ferry service as part of waterfront development for the area. Earlier this year, the City Councils of both Berkeley and Albany supported policies to study ferry service as a way to reduce congestion and to increase recreational facilities at the Eastshore State Park.

Although our Programmatic EIR does not study specific sites, some sites that the community has identified as potentially appropriate include: University Avenue, Gilman Street, and Buchanan Street, Berkeley Pier, Fleming Point, and just south of Buchanan Street.

We would be happy to answer any questions you may have about our plan. Feel free to contact me at 415-291-3377.

Sincerely,



Thomas G. Bertken
CEO, Water Transit Authority

cc: Assemblymember Dion Aroner
Albany City Council
Berkeley City Council
Berkeley Ferry Committee
Friends of the Albany Ferry

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COMMENTOR A9

San Francisco Bay Area Water Transit Authority; Thomas G. Bertken, Chief Executive Officer (August 19, 2002)

A9-1: The planning efforts of the Water Transit Authority to evaluate expansion of ferry service in the Bay Area are referenced on pages 142, 143, 181, and 182 of the Draft EIR. The remainder of the comment addresses the consideration of potential ferry service when implementing the Preliminary General Plan and does not address the adequacy of the Draft EIR. See also Response to Comment B1-29. No further response is necessary.

Letter
A-10

EAST BAY REGIONAL PARK DISTRICT



BOARD OF DIRECTORS

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August 15, 2002

Robin E. Ettinger, ASLA
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Re: Transmittal of East Bay Regional Park District Resolution No. 2002-8-181
regarding Eastshore Park Project

Robin

Dear Mr. Ettinger:

District staff is pleased to transmit to the California Department of Parks and Recreation, as Lead Agency under CEQA Guidelines, East Bay Regional Park District Resolution No. 2002-8-181. The resolution indicates that the District, as a Responsible Agency under CEQA Guidelines, has no comments on the Draft Environmental Impact Report for the Eastshore Park Project. The resolution also indicates the District's acceptance and support for the General Plan, and the District's recommendation for operation of the Eastshore Park Project as a unit of the State Park System.

As a separate transmittal, additional comments from District Board members regarding the General Plan will be submitted to the State after approval of the minutes of the Board meeting of August 6, 2002.

Sincerely,

Larry Feng
Interagency Planning Manager

Enclosure

Cc: Eastshore Planning Team



Letter
A-10
Attach.

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO. 2002-8- 181

Tuesday, August 6, 2002

ACCEPTANCE OF AND SUPPORT FOR THE GENERAL PLAN AND ENVIRONMENTAL
IMPACT REPORT FOR THE EASTSHORE PARK PROJECT: EASTSHORE STATE PARK

WHEREAS, State law provides that the East Bay Regional Park District is to act as the agent for the State for the purposes of acquiring, planning, and developing the Eastshore park project (Eastshore State Park); and

WHEREAS, State law provides that the East Bay Regional Park District is to submit the plan for the Eastshore Park Project to the State for approval; and

WHEREAS, State law provides that, after completion of the planning process and provision of funding, the East Bay Regional Park District and the California Department of Parks and Recreation are to negotiate, in good faith, regarding the operation and maintenance of the park; and

WHEREAS, the CEQA Guidelines specify that a Responsible Agency should comment on a Draft Environmental Impact Report (EIR) for projects it will later be asked to approve; and

WHEREAS, the East Bay Regional Park District has taken the lead, in collaboration with the California Department of Parks and Recreation, to acquire and remediate the properties for the park; and

WHEREAS, the East Bay Regional Park District has taken the lead, in collaboration with the California Department of Parks and Recreation and the California State Coastal Conservancy, in forming a consultant team to develop the General Plan and EIR for the park; and

WHEREAS, the East Bay Regional Park District has been identified as a Responsible Agency for CEQA purposes; and

WHEREAS, it is uncertain whether there will be some future role for the East Bay Regional Park District which will require that it use the EIR for its own CEQA compliance as a Responsible Agency; and

WHEREAS, Staff has been directly involved in the preparation of the General Plan and EIR and has not identified any significant impact on the East Bay Regional Park District; and

WHEREAS, the Executive Committee has recommended the full Board's preliminary consideration of the General Plan for the Eastshore Park Project as a unit of the State Park system, with an opportunity for individual members of the Board to comment, and directing staff to transmit to the State any additional preliminary comments made by the Board or individual members;

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CERTIFICATION
I, Debra Fassler, Clerk of the Board of Directors of the East Bay Regional Park District, do hereby certify that the above and foregoing is a full, true, and correct copy of Resolution 2002-8-181 adopted by the Board of Directors at a regular meeting held on August 6, 2002.

Debra Fassler

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby accepts and supports the General Plan for the Eastshore Park Project as a unit of the State Park system; and

BE IT FURTHER RESOLVED that the Board of Directors hereby finds, in its capacity as a Responsible Agency, that it has no comments on the Draft EIR; and

BE IT FURTHER RESOLVED that the Board of Directors hereby recommend to the California Department of Parks and Recreation and to the State Park and Recreation Commission that the Eastshore Park Project be operated as a State Park Unit and encourage its development and operation as a State Park Unit consistent with the recommended General Plan; and

BE IT FURTHER RESOLVED that the Board of Directors hereby direct staff to transmit to the State any additional comments made by the Board or individual Board members; and

BE IT FURTHER RESOLVED that the General Manager is hereby authorized and directed, on behalf of the District and in its name, to execute and deliver such documents and to do such acts as may be necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director Severin, seconded by Director Lane, and adopted this 6th day of August, 2002, by the following vote:

FOR: Directors Beverly Lane, Ted Radke, Carol Severin, Jean Siri,
John Sutter, Ayn Wieskamp
AGAINST: None
ABSTAIN: None
ABSENT: Director Doug Siden

COMMENTOR A10

East Bay Regional Park District; Larry Tong, Interagency Planning Manager (August 15, 2002)

A10-1: This letter states that the East Bay Regional Park District (EBRPD) has no comments on the Draft EIR. No further response is necessary.

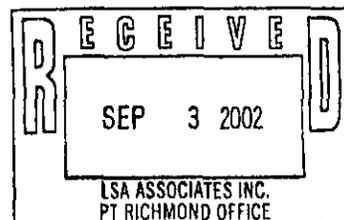
Letter
A-11

STATE OF CALIFORNIA

GRAY DAVIS, Governor

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

50 CALIFORNIA STREET, SUITE 2600
SAN FRANCISCO, CALIFORNIA 94111
PHONE: (415) 352-3600
<http://www.bcdc.ca.gov>



August 29, 2002

Mr. Robin Ettinger
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, California 95814

SUBJECT: BCDC Inquiry File No. AL.MC.8205.1 Public Review Draft
Eastshore State Park Project General Plan Environmental Impact Report; State
Clearing House No. 2002022051

Dear Mr. Ettinger:

Thank you for the opportunity to review *Public Review Draft Eastshore State Park Project General Plan Environmental Impact Report; State Clearing House No. 2002022051*, which was dated July 2002, and received in our office on July 17, 2002 for the proposed Eastshore Park Project General Plan. The Commission has not had the opportunity to review the *Public Review Draft Eastshore State Park Project General Plan Environmental Impact Report (EIR)*, however; the following staff comments are based on the McAteer-Petris Act and the San Francisco Bay Plan. The Eastshore Park Project General Plan articulates an exciting vision of a new park along the East Bay shoreline that will provide for a wide variety of *recreational opportunities for Bay Area residents and all Californians*. The comments in this letter are intended to assist the California Parks and Recreation Department and the East Bay Regional Park District to refine that vision, consistent with the McAteer-Petris Act and the *San Francisco Bay Plan*.

The Commission's Jurisdiction and the Proposed Project

The Commission's Bay jurisdiction at this location includes Bay waters up to the mean high tide line and in marsh areas up to the line five feet above mean sea level, and the land area 100 feet upland and parallel to the shoreline which defines the Commission's 100-foot "shoreline band" jurisdiction. Although it is not stated in the EIR, the elements of the project which appear to be located in the Commission's jurisdiction include: (1) shoreline protection and shoreline structural treatments proposed throughout the park, including riprap, ramps, and promenades; (2) three bridges; (3) changes of land use and related *improvements within the shoreline band*; and (4) *restoration of wetlands*. It should be noted that some of the restored wetlands would likely be constructed within the 100-foot shoreline band, and would convert these lands to Baylands, potentially expanding the Commission's Bay jurisdiction over some or all of

Mr. Robin Ettinger
August 29, 2002
Page 2

these lands. The revised EIR should identify those project elements within the Commission's jurisdiction and which will require BCDC authorization. The project alternatives include: (1) the proposed project Draft General Plan; (2) the maximum conservation alternative; and (3) the maximum recreation alternative.

1
cont.

Existing BCDC Permits

The EIR includes adequate reference to the existing BCDC permits within the project area and it generally notes that some of the shoreline areas (the Emeryville Crescent and the Albany Mudflat as well as the banks of Cordonices Creek) are improved pursuant to mitigation requirements in both BCDC and US Army Corps of Engineers permits for Caltrans' I-80 Operational Improvement Project. The EIR and the proposed General Plan do not expressly identify these areas nor address measures or policies to protect these mitigation areas. Since these mitigation improvements are to be maintained as required in the approved mitigation plans for these areas, it is important that the State Parks and Recreation Department and its agent the East Bay Regional Park District make express policy commitments in the management plan to steward these important resources in a manner consistent with the mitigation requirements as detailed in approved mitigation and monitoring plans.

2

Consistency with the San Francisco Bay Plan Policies on Fill

On pages 18 through 23 the EIR describes the specific improvements that are proposed in the project, including proposals for shoreline treatments and protection. On pages 135 and 136, the EIR discusses the potential impacts from shoreline treatments and protection. The project descriptions on pages 18 through 23 do not state whether the proposed improvements would require Bay fill. The EIR does state that,

"...structural shoreline treatments and pedestrian promenades within the project site could adversely affect the nearshore, shoreline and upland zones, as well as the creeks within the project site. Potential impacts include habitat loss, changes to sediment transport regimes, and altered hydrology.....changing existing environmentally valuable conditions, limiting natural erosional processes and tidal action.....Alternatively, structural shoreline treatments may benefit the hydrologic resources and water quality at the project site in areas where existing shoreline treatments are inadequate for shoreline stability and erosion control. Since the specific structural shoreline projects are currently in the conceptual phase, it is not possible for this EIR to provide site or project specific mitigations for construction and post construction impacts."

Pursuant to Section 66605 of the McAteer-Petris Act, the Commission can authorize fill in the Bay "only when no alternative upland location is available for such purposes..."when... "the water area authorized to be filled should be the minimum necessary to achieve the purpose of the fill;...the nature, location and extent of any fill should be such that it will minimize harmful effects to the Bay Area, such as, the reduction or impairment of the volume surface area or

Mr. Robin Ettinger
August 29, 2002
Page 3

circulation of water, water quality, fertility of marshes or fish or wildlife resources, or other conditions impacting the environment, as defined in Section 21060.5 of the Public Resources Code...."

The EIR should include a more thorough discussion of the potential impacts that might accrue from the proposed shoreline treatments and the likely range of mitigation measures that would successfully address those impacts. The recently adopted amendments to the Bay Plan policies regarding Tidal Marshes and Tidal Flats clarified the conditions under which the Commission could allow fill in these types of Baylands. The EIR discussion should reflect these new policies. The EIR should discuss how any proposed Bay fill would be consistent with the policies that will inform the Commission's deliberations on the various proposals for Bay fill that are included in the General Plan.

3

Consistency with the San Francisco Bay Plan Priority Use Designations

The EIR, on page 146, discusses the San Francisco Bay Plan and references the recreation policies that apply within park priority use areas designated in the Bay Plan. Substantial areas of the Eastshore park project are within waterfront park priority use areas in the Bay Plan. The EIR and the General Plan make no mention of this Bay Plan land use designation. Resolution 16 and Bay Plan Map 4 designate the following shoreline areas for park priority use: (1) the northern edge of the Emeryville Peninsula up to and including the shoreline surrounding Brickyard Cove; (2) from the north edge of the Berkeley Meadow along the east shore of the North Basin up to and including the Albany Neck; (3) the entire Albany Neck, Plateau and Bulb; (4) the shoreline surrounding the Albany Mudflat, up to Point Isabel; (5) the southern portion of Point Isabel Park; and the southern shoreline of the Emeryville Peninsula adjacent to the Emeryville Crescent. The EIR and Draft Plan should acknowledge these priority use designations and that uses and development within these areas should be consistent with the recreation policies in the Bay Plan for waterfront parks.

The shoreline of the Emeryville Crescent from Powell Street to the I-80/I-880/West Grand Avenue connector at the Bay Bridge Toll Plaza is designated for wildlife refuge priority use in the Bay Plan. The EIR states, in part that "The marine areas west of the Emeryville Crescent and north of Albany Plateau and Neck are proposed for designation as wildlife area and ecological reserve, respectively under the Bay Plan Marshes and Mudflats update." The Emeryville Crescent shoreline areas have been designated for wildlife refuge since 1970 when the Commission and the Legislature adopted Resolution 16, fixing the priority use areas in the Bay Plan. The wildlife refuge designation of the areas north of Albany Plateau and Neck has been adopted by the Commission and is in force and effect. This change should be noted in the EIR and General Plan along with the other priority use areas that were not mentioned in either document.

4

Finally, on page 146, the EIR indicates that Bay Plan Map 4 includes a proposed Policy Y addressing the Eastshore State Park. This plan map policy No. 16 has been adopted by the Commission and is in force and effect.

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Mr. Robin Ettinger
August 29, 2002
Page 4

Consistency with the San Francisco Bay Plan Policies Tidal Marshes and Tidal Flats

The EIR includes a thorough discussion of Tidal Flats on page 74, and shallow subtidal areas, including eelgrass beds on page 75. The General Plan discusses tidal wetlands on Page III-16 where it states that "Wetlands in the Eastshore park project include tidal salt marshes, brackish marshes seasonal wetlands and seeps." There are substantial tidal flats within the Eastshore park project area and these should be acknowledged in the General Plan consistent with the EIR. The Bay Plan states, in part that "Examples of wetland habitats associated with the Bay include tidal flats....Tidal flats occur from the elevation of the lowest tides to approximately Mean Sea Level and include mudflats, sandflats, and shellflats. Mudflats comprise the largest area of tidal flat areas and support an extensive community of invertebrate aquatic organisms, e.g., diatoms, worms and shellfish, fish that feed during high tides and plants such as algae and occasionally eelgrass. Shorebirds feed on tidal flats. Few mammals, however, inhabit tidal flats, the harbor seal being the most notable exception. Historically, around 50,000 acres of tidal flats occurred around the margins of the Bay, approximately 29,000 acres remain--a reduction of over 40 percent." Thus tidal flats are an important wetland resource and there are extensive tidal flats within the Eastshore park project, especially at the Emeryville Crescent, the Albany Mudflat, Brickyard Cove, and Bayward of the Stege Marsh. The General Plan should specifically address these resources and include policies to protect these resources.

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In addition, the General Plan omits specific reference and policies that address stewardship of the extensive shallow subtidal areas that are included within the Eastshore park project area and discussed in the EIR. The Bay Plan states, in part that, "the subtidal areas of the Bay encompass the land and water below mean low tide and.....are important for fish, other aquatic organisms and wildlife....subtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife...should be conserved. Filling, changes in use and dredging projects in these areas should therefore be allowed only if: (a) there is no feasible alternative; and (b) the project provides substantial public benefits." The General Plan includes many policies designed to control the effects of human recreation on wetland areas, however, it should address with specific policies the goal of conserving these habitats from the perspective of all human changes, including any proposed fills.

8

Consistency with the San Francisco Bay Plan Policies Fish, Wildlife and Other Aquatic Organisms

In figure II-2b: Land Use and Conservation in the EIR, area B at the western extreme of the Emeryville Crescent may abut California Clapper Rail habitat at its southeastern corner. Area B is designated for "Open Water/Conservation. Consultation with resource agencies can confirm the location of these habitat areas, however it may be appropriate to extend the more conservative Estuarine Preserve designation along the southern edge of Area B.

9

Mr. Robin Ettinger
August 29, 2002
Page 5

Consistency with the San Francisco Bay Plan Public Access Policies

BCDC Permit No. 8-92 requires that public access be provided along Buchanan Street in Albany from the East side of the I-80 freeway, thence beneath the I-580 freeway and across the on an off ramps to the shoreline at the west side of the I-580 freeway. This permit also requires that public access be provided beneath the I-80 freeway along Gilman Street to required public access on the west side of the I-80 freeway along Westshore Frontage Road in the City of Berkeley. The EIR transportation section opines that no significant traffic impacts would occur at these intersections because the trip generation rates of the park are low. The EIR acknowledges that the modelling software cannot accurately predict the impacts of additional traffic for intersections that are already operating at a level of service F, as is Gilman Street at its intersection with the I-80 westbound off- and on-ramps. The EIR does not include any analysis of impacts at the Buchanan Street intersection with I-80/I-580. This limits the Commission's understanding of potential impacts to existing require public access from the proposed project.

10

Connections to the park from inland communities are essential to the success of the park. The I-80 and I-580 freeways represent significant barriers to access to these shoreline lands. The Commission in partnership with Caltrans endeavored to overcome these barriers to some limited degree with the improvements required in BCDC Permit No. 8-92. In addition, the Cities of Berkeley and Emeryville have made improvements at University Avenue and Powell Street to improve access across or beneath the freeway. Since traffic will be added to the Gilman Street intersection by the project, there is some potential for impacts to existing required public access. The Commission will carefully consider these impacts and may need additional information at the time it considers permits for projects within the park to better assess these impacts. The EIR should provide an analysis of potential impacts to the I-80/I-580/Buchanan Street intersection, particularly effects traffic may have on pedestrian and bicycle access to the shoreline.

11

The Circulation Guideline 1 in the draft General Plan states "Establish standards for new and improved circulation facilities within the park project, including project entry points, gateways and roadways, pedestrian and bicycle facilities, transit facilities, parking and signage." Circulation guideline 11 states "Work with local jurisdictions to enhance bicycle and pedestrian trail connections from the adjacent communities into the park project, with particular emphasis on providing safe, efficient and attractive connections across (i.e., over or under) the I-80/580 corridor." These are commendable policy statements and it may be preferable to supplement these with more specific initiatives in the planning areas for the park. For example, Powell Street, Gilman Street and Central Avenue provide relatively dangerous, uncomfortable accessways across the I-80/580 corridor at present, despite recent investments to improve conditions there. Identifying the need for specific improvements at these gateways, even if

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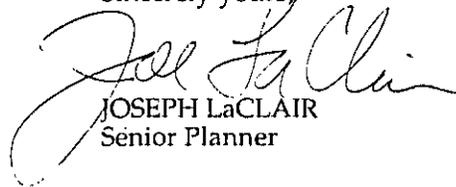
Mr. Robin Ettinger
August 29, 2002
Page 6

they are outside of the park will help to articulate the public interest in overcoming these barriers and could facilitate a partnership with a sister state Agency--Caltrans--who will be a necessary partner in any efforts to address these issues.

12
cont.

If you have any questions regarding the comments in this letter, please do not hesitate to phone me at (415) 352-3656.

Sincerely yours,



JOSEPH LaCLAIR
Senior Planner

JL/rs

cc: Katie Shulte Joung, State Clearinghouse
Don Neuwirth, Neuwirth and Associates
Larry Tong, East Bay Regional Park District

COMMENTOR A11

San Francisco Bay Conservation and Development Commission; Joseph LaClair, Senior Planner (August 29, 2002)

A11-1: Page 151 of the Draft EIR states: "Per BCDC regulations, the project applicant would have to apply for a construction permit from BCDC before initiating any projects associated with the Draft EIR that are within BCDC jurisdiction." The comment is noted and the following paragraph is hereby added to page 151 of the Draft EIR after the above quotation:

The components of the General Plan that may be within BCDC jurisdiction include the following: 1) shoreline protection and shoreline structural treatments, including riprap, ramps, and promenades; 2) the pedestrian bridge for the Bay Trail spur south of University Avenue; 3) the pedestrian bridge linking North Basin Strip and the Berkeley Meadow; 4) the pedestrian bridge across Hoffman Channel; 5) wetland restoration; and 6) all improvements and land use changes within the 100-foot "shoreline band" that is under BCDC jurisdiction. However, until specific projects are sited, establishing a comprehensive list is premature.

A11-2: The Draft EIR identifies the mitigation areas at the Emeryville Crescent and Albany Mudflats on pages 138 and 140, respectively, of the Draft EIR. The commentator notes that the Preliminary General Plan should include measures or polices to protect these mitigation areas. Therefore, the remainder of this comment specifically relates to the Preliminary General Plan and does not raise questions or identify errors contained in the Draft EIR; therefore, no further response is necessary.

A11-3: As noted previously in this letter, pages 135 and 136 of the Draft EIR contain a discussion of the potential environmental impacts resulting from shoreline treatment and protection, in addition to Preliminary General Plan guidelines that would reduce these impacts to a less-than-significant level. As noted on page 135, it is not possible for the Draft EIR to contain a more thorough analysis of potential environmental impacts resulting from proposed shoreline treatment and protection because shoreline projects are currently only conceptual. A more thorough evaluation of environmental impacts resulting from specific shoreline improvement projects will occur in subsequent environmental documentation associated with specific projects. This environmental documentation for such specific projects would evaluate the project's consistency with the BCDC policies referenced in this comment.

A11-4: The comment is noted and page 146 of the Draft EIR is revised as follows:

BCDC Resolution 16 and Bay Plan Map 4 designate the following areas in and around the project site for park priority use: 1) the southern shoreline of the Emeryville Peninsula adjacent to the Emeryville Crescent and the northern edge of the Emeryville Peninsula up to and including the shoreline surrounding Brickyard Cove; 2) the north edge of the Berkeley Meadow along the east shore of the North Basin up to and including the Albany Neck; 3) the entire Albany Neck, Plateau, and Bulb; 4) the shoreline surrounding the Albany Mudflats, up to Point Isabel; and 5) the southern portion of

Point Isabel. The Bay Plan contains development guidelines that are specific for ~~sub areas of the Bay, including land in and around the project site~~ these park priority areas. In addition, ~~the marine and shoreline areas in and around west of the Emeryville Crescent and north of the Albany Plateau and Neck are proposed for designation as wildlife area and ecological reserve, respectively~~ have been designated as wildlife refuge by BCDC as part of ~~under the Bay Plan Marshes and Mudflats update~~. Specific Bay Plan policies for the project site (Maps 4 and 5) include the following: . . .

A11-5: The comment is noted and page 146 of the Draft EIR is revised as follows:

- *Map 4: (~~Proposed~~) Policy Y*. Eastshore State Park. Park being planned from Bay Bridge to Marina Bay in Richmond for multiple uses including recreation, wildlife and aquatic life protection. Protect wildlife and aquatic life values at sites such as Emeryville Crescent, Hoffman Marsh and Albany Mudflats.

A11-6: This comment specifically relates to the Preliminary General Plan and does not raise questions or identify errors contained in the Draft EIR; therefore, no further response is necessary.

A11-7: This comment specifically relates to the Preliminary General Plan and does not raise questions or identify errors contained in the Draft EIR; therefore, no further response is necessary.

A11-8: This comment specifically relates to the Preliminary General Plan and does not raise questions or identify errors contained in the Draft EIR; therefore, no further response is necessary.

A11-9: This comment specifically relates to the Preliminary General Plan and does not raise questions or identify errors contained in the Draft EIR; therefore, no further response is necessary.

A11-10: This comment specifically identifies recommended changes to the Preliminary General Plan and does not raise questions or identify errors contained in the Draft EIR; therefore, no further response is necessary.

A11-11: The Preliminary General Plan does not outline specific project details or operation information for the sports fields. See Response to Comment A4-21 regarding the identification of appropriate trip generation rates and the analysis of potential traffic and public access impacts when specific projects are proposed to implement the Preliminary General Plan. See also Responses to Comments B1-31 and B7-41 regarding trip generation and future analysis of potential traffic impacts.

A11-12: Because no specific project details or operation information have been identified for the park, it would be premature to speculate about the future volumes of vehicular, pedestrian, or bicycle traffic associated with future specific projects or the potential impacts that could occur at the Buchanan Street/I-80/I-580 interchange. The Draft EIR found no unmitigable significant impacts on public access to the Park. See also Responses to Comments A11-11 and A2-1 regarding how future specific projects will be identified and analyzed.

A11-13: This comment specifically relates to the Preliminary General Plan and does not raise questions or identify errors contained in the Draft EIR; therefore, no further response is necessary.

B. ORGANIZATIONS



San Francisco Bay Chapter

Serving the counties of Alameda, Contra Costa, Marin and San Francisco

Robin E. Ettinger, ASLA
California Dept. of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Re: Draft Environmental Impact Report on
The Eastshore Park Project General Plan
State Clearinghouse # 2002022051

Dear Mr. Ettinger:

The Sierra Club makes the following comments on the Draft Environmental Impact Report (DEIR) for the Eastshore State Park General Plan. The Club incorporates by reference all comments made by Citizens for the Eastshore State Park, and the Golden Gate Audubon Society.

General Statement

Overall the Club finds that the DEIR is inadequate and utterly deficient in analyzing the impacts of the proposed uses for the new park unit. The DEIR fails to adequately address the impacts of recreational use, fails to put forward realistic and meaningful alternatives, fails to identify reasonable alternatives adjacent to or nearby the proposed park for certain uses, and fails to address at all the positive and beneficial impacts from alternatives that enhance and re-create lost habitat and wildlife.

More Specific Comments

The Club makes the following specific comments.

Significant Impacts and Lack of Mitigation Measures

The EIR consistently overlooks impacts or generally identifies impacts and then jumps to the conclusion that the impacts have been mitigated to a less-than-significant level by the broad General Plan Guidelines. Every potential impact identified for the proposed project is found to be less-than-significant without a clear rationale for this conclusion.

Sierra Club Comments on DEIR for 1
Eastshore State Park General Plan
Office: 2530 San Pablo Ave., Suite I, Berkeley, CA 94702 Tel. (510) 848-0800 E-mail: san-francisco-bay.chapter@sierraclub.org
Bookstore: 6014 College Avenue, Oakland, CA 94618 Tel. (510) 658-7470 E-mail: info@sierraclubbookstore.com ©

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Section 15382 of the CEQA Guidelines defines "Significant effect on the environment" as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." In the biological resources section in particular, impacts to wildlife and habitat values from intensive recreational use are repeatedly overlooked. The DEIR should clearly identify each impact and identify the specific guidelines that would mitigate the impact. Additional mitigation measures should be proposed to ensure that all impacts identified are mitigated or the impacts should be identified as significant unavoidable impacts.

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cont.

Indeed, the DEIR should analyze the general plan assuming that impacts should not be created will require mitigation. There is no rationale for a state park unit to promote a use that will require mitigation of an impact to habitat or wildlife when another use or protection of the area for habitat and wildlife would not create an impact. Nowhere does the DEIR state the legal basis for allowing recreational uses in a state park which will result in an impact on wildlife or their habitat requiring mitigation.

Scope of EIR

Recreation is dealt with within the public services section. With recreation being such a key issue in the proposed park, the DEIR should include recreation as a separate environmental topic. The recreation analysis should quantify the demand for sports fields and identify more appropriate in-land alternative locations for non-water dependent, active recreation. For open water recreation, the DEIR does not include any mitigation measures to ensure that sensitive wildlife such as diving ducks and waterfowl are protected. Moreover, the DEIR fails to identify other types of recreational uses such as bird watching and environmental educational programs that would have not have a significant impact on wildlife and their habitat. Instead, the DEIR assumes that "recreational use" means active uses that require the construction of facilities for their full and proper use. In this respect, the DEIR is an inadequate analysis.

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Lack of Balance

The General Plan specifically states that one goal of the park is to balance access to its scenic and recreational resources with the protection and restoration of its natural resources for the enjoyment of the people of the San Francisco Bay region and the State of California. The demand for sports fields, a non-water dependent use, and active recreation take precedence over the critical need to provide a passive, more natural, recreational experience in a populated urban area. The alternatives analysis on page 222 concludes that the maximum conservation alternative "would result in a waterfront park in which most visitors can **observe**, but not **experience**, the aquatic portions of the project site." Watercraft activities and facilities are clearly given preference over the value of passive and informal recreation, such as trail use, bird watching, and quiet time in nature.

8

The statement that in a maximum conservation alternative, visitors can only “observe but not experience” is a value judgment by the DEIR evaluating team. Some of the most valuable experiences are from observation of wildlife. Indeed, if the rationale advanced in the DEIR were applied to any state park unit, then there would be no grounds for preservation of habitat and wildlife. Indeed, if this statement were taken at face value, then the park should not restrict access to the Emeryville Crescent and Albany Mudflats since people can only “observe” and not “experience” those areas. In fact, however, the Crescent and Albany Mudflats were protected under the public trust as units of ecological study, and the study of wildlife and habitat areas through observation is an extremely important “experience” and is valuable in educating the public about the values of our environment.

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cont.

Moreover, the statement assumes that observation does not result in an experience. But, of course, some of the most important national and state parks and monuments are only experienced through observation. Hence, this statement lacks any rational, scientific, or empirical basis for its use as a means of rejecting the maximum conservation alternative.

In addition, the DEIR failed to include alternatives with less than maximum conservation protection that would allow access or “experience” of the aquatic portions of the park unit while providing for conservation. One such alternative was the Sierra Club and CESP Conservation and Habitat Restoration Plan that was provided to the DEIR team and planners early in the planning process. The failure of the DEIR to analyze impacts to recreation from such other more feasible and realistic alternatives is fatal flaw.

9

Geology and Soils Hazards

The DEIR fails to adequately discuss the impacts on geology and soils from the development of turfed ball fields on the Plateau. What will be the impact on soils on the Plateau from the need to either excavate or level the area for ball fields? How will this development affect drainage, leaching, and soil subsidence? None of those issues are addressed in the DEIR.

10

Aesthetics

The EIR concludes that the turf areas for informal recreation and sports fields would not substantially change the visual appearance of these areas. Manicured, green lawns will create a more urban, linear, and less natural look at the North Basin in Berkeley and the Albany Plateau. For those seeking a refuge from urban development, structured, green turf will degrade the existing visual character of these areas.

11

The DEIR also fails to analyze the aesthetic impacts from the continued operation of the Knapp Excavation "put-and-pull" or "dirt hotel," as the Sierra Club refers to it, on the Brickyard both in terms of the park overall and for impacts at the Brickyard. Since the State Parks Administration and East Bay Regional Park District have maintained in public correspondence that this operation will continue until funding for Park operations is available and that currently there is no funding available in the foreseeable future for operations, this is a use that can, in theory, continue for years and years. The failure of the DEIR to analyze this impact is a fatal flaw.

12

Biological Resources

Special Status Plant Species: The Preliminary General Plan on pages II-22 and 23 identifies seven key resource species that deserve special attention and identifies the Berkeley Meadow, Albany Bulb and Neck and north slope of the Albany Plateau, North Basin Strip and the Brickyard as important upland and seasonal wetland habitats. The loss of seasonal wetland habitat at the Albany Plateau and North Basin strip should be clearly identified as a significant unavoidable impact of the proposed project.

13

Nesting Raptors and Shrikes: What potential impacts will surrounding developments have on the nesting and foraging northern harriers in the Berkeley Meadow and North Basin? The text identifies that development of the park could substantially reduce the areas of suitable upland foraging habitat for raptors and shrikes and suitable nesting and roosting sites for burrowing owls at the Albany Plateau and North Basin strip. It then assumes that the management guidelines in the General Plan would avoid, minimize, or compensate for these impacts. It is unclear how these measures, such as a maintenance plan and construction buffers will mitigate for the loss of habitat. Impacts to nesting raptors should be identified as an unavoidable significant impact of the project.

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Moreover, the DEIR does not explain, because it cannot, how management guidelines are a mitigation for the loss of habitat from the transformation of the Albany Plateau's current habitat, which is used by the northern harrier and other raptors, into turfed, manicured playing fields which northern harriers and other raptors cannot use. This is another fatal flaw of the DEIR.

15

Special Interest Species and Habitats: The DEIR identified shorebird roost-sites and diving ducks as important resources, but does not address the impacts of proposed active recreation on these resources. The DEIR mentions that waterfowl and other water birds are vulnerable to disturbance by boating and windsurfing and assumes such impacts are mitigated by the General Plan guidelines. The General Plan suggests that appropriate management guidelines for boating be developed and that the guidelines "may" include measures such as partial or full closures of the North and South Coves to boating during the rafting season. However, it does not commit to implementing any specific management measures. The potential impact to wintering ducks and birds should be identified in the DEIR and restrictions on boating use during the rafting season (November 1st through April) are required as a mitigation measure.

16

Moreover, the assumption that a use should be placed in the State park unit which will create an impact on wildlife and require mitigation is an improper value judgment. Again, the issue for analysis should be what uses will not impact state park unit habitat and wildlife, and thus will not require mitigation measures, whatever they maybe. The failure of the DEIR to analyze uses that will not require mitigation measures is a fatal flaw.

17

Finally, the DEIR fails to analyze the impacts of the continued Knapp "Dirt Hotel" operation on the Brickyard. Nor does the DEIR analyze the beneficial impacts if that dirt operation were removed now from the park. This is another fatal flaw with the DEIR.

18

Hydrology and Water Quality

The assessment of new shoreline uses does not address the use of herbicides and fertilizers on the new turf areas of the park and the potential for runoff to contaminate water quality. Turfed, structured playing fields on the Albany Plateau may require herbicides and pesticides that can drain into the Albany mudflats and damage wildlife. This is a significant impact that should be identified and mitigated. All turfed areas should be required to utilize alternative pest management methods.

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Nor does the DEIR analyze the potential for leaching resulting from the construction of the ball fields on the Albany Plateau.

20

Land Use and Public Policy

The significance criteria articulated on page 147 says that the Draft General Plan would have a significant impact on land use and public policy if it would "introduce new land uses that would conflict with established uses." Placement of turfed, structured playing fields on the Albany Plateau and intensive recreational uses at the North Basin Strip will conflict with the existing wildlife habitat. This is a significant impact that should be identified.

21

BCDC's Fish and Wildlife Policy states, "The benefits of fish and wildlife in the Bay should be insured for present and future generations of Californians." This policy should be added to the discussion of Recreation and Public Access policies.

22

Public Services

While this section mentions some of the other play areas/sports fields in the area, it does not assess the current demand for existing fields. It also does not directly discuss the current extent of passive recreation in the park. The issue of recreation should be a stand alone section that focuses on the range of recreational opportunities offered by the site, including the benefits offered by undeveloped open space where stressed urban dwellers can "get away from it all", view wildlife or reconnect with nature.

23

The DEIR has a bias that the addition of recreation and support facilities, such as restrooms and sports fields, would “not only enhance the visitor experience to the area, but would also be necessary to avoid impacts to existing private and municipal facilities that could result from increased visitation to the project area.” The EIR ignores that as many as 2.5 million people currently visit the park each year, enjoying the passive recreational experiences offered by the area without any of the facilities that are proposed. The removal of this passive open space and replacement with structures like parking lots and sports fields should be identified as a significant impact. **24**

Transportation and Circulation

Figure III.K-5 and other figures with maps are difficult to decipher. Is the key missing some labels? Without adequate marking one cannot analyze this data. **25**

Table III.K-5 quantifies the project contribution to the total traffic volumes at each intersection. The Gillman/I-80 Intersections currently operate at unacceptable levels during peak PM hours. The DEIR estimates that during peak PM hours only 4 additional trips would be added to the Gillman/I-80 intersections and thus is not a significant impact. Only 4 new trips seem unrealistic when these intersections are so close to a parking lot with 350 spots. How was the distribution and assignment of trips to this intersections calculated? **26**

Moreover, the DEIR fails to analyze the full traffic impacts from ball field use. The advocates of the sports fields have stated at public meetings that they expect over 1,000 players and spectators a day. That will generate more than 4 additional trips. The DEIR simply fails to use real traffic numbers for analyzing the traffic impacts at Buchanan and Gilman Streets, and therefore is fatally flawed. **27**

Nor does the DEIR analyze the impact of proposed ferry service at Gilman Street. The Water Transit Authority has identified this location as a potential site for a ferry with capacity for close to 3,000 commuters and a 600 car parking garage. Yet, the DEIR makes no attempt to analyze this development in relation to the proposed ball field use and the traffic that would generate. **28**

Nor does the DEIR analyze the traffic impact from the proposed Magna development. This development should have been included in the analysis. It calls for 1.4 Million square feet of commercial development with a 10,000 person capacity convention center and somewhere between 2,800 and 5,000 parking spaces for cars. Again, the DEIR is flawed because it does not analyze this traffic impact in the context of the large traffic impact that will result from ball field use. This is another fatal flaw with the DEIR. **29**

The parking analysis for the Albany lands is confusing. The project description says that they plan to add 60 new spaces for Albany Beach, in addition to the existing 20 spaces and use 60 existing spaces located on Golden Gate Fields and 20 existing spaces on Buchanan Road for the Albany Plateau. The transportation and circulation section analyzes traffic generation for the Albany lands based on 120 new parking spaces. The existing 40 spaces are not included in the traffic generation assessment. It seems logical that the sports field at the Albany Plateau will generate a significant increase in traffic during peak use and potentially increase the use of the existing parking spaces. What level of trips does a sport-field typically generate? This issue should be more directly addressed in the DEIR. The DEIR does not address how the un-used gravel area adjacent to Marine Blvd. in Berkeley could be used for parking.

31

Alternatives

The alternatives analysis looks at two extremes of the spectrum—maximum conservation and maximum recreation, both politically unfeasible alternatives given the variety of demands the park must meet. The DEIR should analyze more feasible alternatives, including the one Citizens for Eastshore State Park (CESP) presented to the planners. The conservation and habitat restoration plan balances the need to provide recreational opportunities with protecting wildlife and habitat values.

32

Table IV-1 attempts to summarize the issues of the proposed project relative to proposed project. Because almost all the impacts for the proposed project are identified as LTS—less-than-significant, this table is misleading. The assessment of the maximum conservation option leads readers to believe such an alternative would have only slightly less insignificant impacts than the proposed project. In reality, the maximum conservation option would provide beneficial impacts to biological resources, significantly reduce traffic generation and air quality impacts, and maximize passive recreational opportunities that would allow users to experience a more natural park. The conclusion that the Conservation and Recreation alternatives would result in impacts similar to the proposed Draft General Plan is neither sound nor logical.

33

Moreover, the DEIR should include a table showing the **beneficial impacts** resulting from the protection, enhancement, and re-creation of lost habitats. The DEIR should analyze the way in which protecting and enhancing various areas of the park for wildlife will result in great abundance or protection of wildlife, already scarce in the urban sites of the Bay Area. The DEIR is fatally flawed because it fails to include any such analysis.

34

Under the Recreation alternative, the increased impacts from additional recreational activities at Berkeley Meadow and the North Basin strip would have significant biological impacts that the Draft General Plan guidelines would not necessarily mitigate. For example, opening the Albany Bulb to vehicle access in the Recreation alternative would have significant land use and public policy impacts due to incompatibility with current land uses. The alternatives analysis adds additional

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recreational facilities without fully addressing the impacts on biological resources, land use, traffic and parking.

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cont.

Indeed, the DEIR fails to include in its analysis any reasonable feasible alternatives to the proposed plan. CEQA requires that reasonable feasible alternatives be included, not unrealistic alternatives as are in the DEIR. The plan put forward by CESP and Sierra Club was such a reasonable feasible alternative, and its failure to be included was apparently a political decision. Such political or policy decisions are not permitted under CEQA in preparing a DEIR since all such decisions are for the decision maker. Most distressing, was the failure of the DEIR to include a process for the inclusion of alternatives.

36

Lack of Analysis of Beneficial Impacts to Wildlife Due to Reasonable Alternatives

A fundamental goal of an EIR is to determine if a project or a reasonable alternative rehabilitates or enhances the environment. The DEIR fails to address this goal or to analyze alternatives and how they would enhance and rehabilitate the environment. None of the analysis shows how this important goal of CEQA would be advanced.

37

Specifically, the DEIR fails to analyze an alternative that keeps ball fields off the Plateau but allows this area to be used as a future habitat area. Evidence supports the use of the Plateau for wildlife. But the DEIR and the planners have ignored that evidence.

The Club believes that an analysis would show that the Plateau could be an area that would enhance and rehabilitate the environment. Lacking such an analysis, the DEIR is flawed and inadequate.

Comments on the Brickyard and Other Areas

- A. Brickyard Cove is designated as an aquatic conservation area, not recreation area in the proposed general plan, yet a water access/ launching facility of some sort is proposed here. Brickyard Cove has one of the largest tidal mudflats in the Park outside the Preservation Areas (the DEIR notes it as an "important tidal flat", p. 74). It is heavily used by hundreds of shorebirds at low tide when the mudflat is exposed and by diving ducks during a large portion of the year at high tide for rest and foraging in calm water. A boat ramp, floating dock or other launch facility would be unusable at low tide twice in a 24 hour period since the mudflat extends at least to the southern tip of the Brickyard peninsula at low tide. The environmental effects of an intensive recreation use in an important tidal flat noted as a conservation area in the Plan are not considered in the EIR.

38

The description of the proposed project regarding Brickyard Cove is inadequate and incomplete. Table II-4 of the DEIR, which lists Draft General Plan Specific Area Proposed Development and Enhancements, does not have ANY mention water access, boat ramp or floating dock in the Brickyard Cove. The only place a boat ramp or floating kayak dock is mentioned in the DEIR in narrative form is Table IV-2: Key

Differences Between the Project and the DEIR Alternative, under Alternative B, **Recreation Alternative**. Under Brickyard Cove, it states: "Addition of kayak storage, waterfront promenade along shoreline south of Univ. Ave., and a floating kayak dock as part of the water trail campsite in the Brickyard Cove Area." Under Conservation Alternative, it mentions removing water access in the Cove. Given the lack of description and explanation of "water access" it's unclear what is proposed here.

There is no adequate environmental analysis of the impact of water access, be it a floating kayak dock or boat launch facility in Brickyard Cove. Under p. III-67, of the General Plan, it states as a guideline that "prior to constructing proposed water access improvements to Brickyard Cove, consult with approp. resource agencies to establish approp. guidelines for boating", yet no analysis has been done on the impact of either: 1) construction and use of facilities in a tidal mudflat area, thus affecting foraging shorebirds, or 2.) The impact of fill in a tidal mudflat required to build a boat ramp, 3). Analysis of impact of boating on the diving ducks that use the Brickyard Cove for resting and foraging at high tide. 3) Impact of a floating dock at either high and at low tide; the latter where it would be resting directly on the tidal mudflat and the impact on the mudflat feeding area of a floating dock anchorage. There are no specifics on the effects of boat use, (use by people, equipment) on the water which will flush waterfowl, the types of waterfowl that use the Brickyard Cove, the numbers and status of such wildlife, etc.

In the general plan document, page III-3, it states that upland conservation areas include...the shoreline around Brickyard Cove", and tideland conservation areas include the Brickyard Cove, but there is no discussion of the inconsistency of permitting an intensive recreation use within an area designated for conservation. . There is no analysis of the impact of increased people and boating equipment on the shoreline.

B. The DEIR concludes that less than significant effects will occur from water access improvements and non-motorized boating in Brickyard Cove because "...like the proposed project, guidelines in the Draft General Plan would reduce any impacts to a less than significant level." (DEIR, p. 244). But there is no analysis supporting this summary conclusion. In addition, the guidelines in the General Plan provide no clear restrictions or operating ground rules for water access in the Cove; They merely that the state should consult to figure out appropriate guidelines for boating. There is no analysis of why the guidelines are adequate to reduce environmental effects of an intensive recreation use permitted within a conservation area.

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- C. There is no discussion in the DEIR of how water access facilities would conflict with the goals of the General Plan. Specifically, those goals include: "the long term preservation and enhancement of the park project's wildlife habitat; the long-term preservation and enhancement of the park project's marine habitat areas; and preserve and enhance habitat values at appropriate upland, creek, open water and wetland areas so that the character of the park project's conservation and preservation areas more closely resemble the natural bay shoreline." (See p. 10). **40**
- D. p. 79 of DEIR states that a criterion of significant environmental effect would be if the plan created any "substantial interference with the movement of any native resident or migratory fish or wildlife species." There is no discussion of the effect of water access use and facilities on the migration of diving ducks which reside in the park for a large portion of the year, including the Brickyard Cove, and migratory shorebirds who use the mudflats of the Central SF Bay as one of their necessary stopping, resting and feeding grounds on their migrations to and from the Arctic and Central and South America. **41**
- E. The DEIR states that the Plan would not "conflict with the provisions of an approved local regional or state policy or ordinance protecting biological resources, such as a tree preservation policy or ordinance". (P. 80). There is no discussion of the Plan's conflict with the Bay Conservation and Development Commission's newly adopted policy on fill in a tidal flat. A boat ramp facility in Brickyard cove tidal flat would require fill. BCDC's policy states, " Tidal marshes and tidal flats should be conserved to the fullest extent possible. Filling, diking, and dredging projects that would substantially harm tidal marshes or tidal flats should be allowed only for purposes that provide substantial public benefit and only if there is no feasible alternative." **42**
- F. There is no thorough discussion of the Conservation alternative as to how it would mitigate the impact to waterfowl and shorebirds of water access facility in Brickyard Cove. **43**
- G. Under the Analysis of the Recreation Alternative, p. 242, it states that the recreation alternative could result in significant impacts to biological resources but that biological resources impacts would be reduced to less than significant levels with the implementation of the guidelines in the Draft General Plan. There is no support for the conclusion that the guidelines would reduce impacts to less than significant levels. **44**
- H. There is no analysis of the Plan's impact on existing recreational uses of the park, including but not limited to birdwatching. There is no discussion of the removal of the Albany Plateau for bird watching, or the elimination of habitat for specific bird species at the Albany Plateau and Cordonices Creek outlet, North Basin, and Brickyard Cove by the Plan's proposal for ball fields and other intensive recreation uses in these areas. **45**

I. The DEIR concludes that the Plan could substantially reduce the area of suitable upland foraging habitat for raptors and shrikes, primarily in the Albany Plateau and the North Basin Strip. (DEIR, p. 81). It suggests as a mitigation designating the northern and eastern perimeter of the Plateau as conservation area. This is not viable because raptors and shrikes cannot utilize a foraging area that is a strip of land surrounded on its entire border by turfed ball fields and intensive recreation uses. Raptors require large, broad areas to view and hunt prey that are not disturbed by dense numbers of people, noise and structures. The ball fields will eliminate the Plateau as habitat to such an extent that no foraging raptors will remain. To suggest that a remaining border strip of the Plateau is a sufficient mitigation for the loss of raptor and shrike habitat is unsupported. The plan will eliminate raptors including white tailed kite and Northern Harrier species of special concern, and eliminate bird watching from the Albany Plateau. The only way to mitigate this is to designate the Plateau as a conservation area with no structures or intensive recreation permitted.

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J. The section on Parking in the DEIR is inadequate. There are over 6000 existing parking spaces immediately adjacent to or within Park property. Golden Gate Fields Northern asphalt lot holds 2721 spaces. Golden Gate Fields' overflow asphalt lot adjacent to the Bay holds 920 spaces. Golden Gate Field's dirt lot adjacent to the asphalt overflow lot and directly next to Albany Beach is not even included in these figures. It holds at least 200 cars. Berkeley waterfront areas including restaurant and hotel parking include 2198 spaces. Emeryville Marina holds 295 spaces. (Figures obtained from officials at the cities of Emeryville and Berkeley and from Golden Gate Fields.) Despite this abundance of existing parking, the Plan omits mention of this and shows over 600 new spaces in what are the scarce upland areas of the Park. There is no discussion of the environmental impacts of new parking on the wildlife habitat of the Albany Plateau. There is no analysis of the impact of parking on scenic views at the Albany Beach, Albany Plateau, and North Basin. There is no analysis of the impact of drainage from new parking lots into the Albany mudflats, Albany Beach, the North Basin and the Emeryville Crescent. There is no discussion of the necessity to enter into agreements with existing owners of parking spaces as a means to mitigate the environmental impact of additional new parking spaces in scarce upland areas of the park.

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K. There is no analysis of the effects of the intensive uses proposed for the North Basin Strip on the waterfowl that use the North Basin, including hundreds of diving ducks (greater and lesser scaup, ruddy ducks, bufflehead and canvasback) for a large portion of the year and other waterfowl including but not limited to grebes, cormorants, egrets. These waterfowl can be flushed by watercraft. Repeated flushing can change their energetics and make it impossible for them to successfully complete their migrations north in the spring. There is no adequate analysis of the impact of a Recreation designation for the North Basin on the

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wildlife, which use this area. There is no support for the conclusion in the EIR that the Plan's guidelines will mitigate impacts to less than a significant extent.

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cont.

Failure to Address Alternatives For Uses At Other Locations

The DEIR fails to analyze alternative locations that are close by. For example, the East Bay Regional Park District is developing large sailing use area at the Miller-Knox Park that would include access for windsurfers, kayakers and other boaters. Yet, there is no discussion of this location, or for that matter, other locations for such uses right close by instead of at the Eastshore State Park.

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Nor did the DEIR analyze the potential use of large asphalt areas of the Golden Gate Fields parking lots for parking, or the use of parking spaces in other locations instead of construction new spaces in the park. Yet, the planners are aware of these areas and their potential use for parking.

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Finally, the DEIR failed to analyze alternative locations outside the park for ball fields, such as proposed around Gilman Street or in other close by areas.

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These lack of analyzes are fatal flaws of the DEIR.

The DEIR Fails to Address The Club's Comments From the Scoping Sessions

On March 15, 2002, the Club submitted comments regarding the proposed scope of the DEIR. A copy of that letter is attached hereto and incorporated herein by reference. So far as the Club can tell none its comments in that letter were addressed in the DEIR. In particular, the finding that "new land uses proposed in the General Plan, because they represent contiguous parkland, would have higher ecological value than the uses that currently exist on site" lacked any empirical or logical basis and still lacks any such basis in the DEIR. Specifically, how can one state that transforming the habitat area of the Plateau into manicured ball fields is a "higher ecological value than allowing it to remain and further develop as a habitat area? The fact that there is a contiguous park has no logical connection with the construction of ball fields on the Plateau. The two are entirely separate, and the construction of ball fields will, ipso facto, destroy habitat currently used by the northern harrier and other raptors.

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The Cumulative Impacts and Growth Inducing Impacts Analysis is Woefully Inadequate

The DEIR makes no attempt to address two key cumulative impacts and growth inducing impacts from proposed recreational uses. Those are increasing the off leash dog area and the inclusion of ball fields on the Plateau.

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The DEIR fails to analyze what cumulative impacts and growth inducing impacts will result from increasing the off leash dog area at Point Isabel. Testimony for the Point Isabel Dog Owners organization and other dog owners has been that increasing the size of the off leash dog area will actually increase the demand for use of the proposed off leash dog area for off leash dog use. PIDO and other dog owners have stated that this new area will increase the demand for off leash dog use on other areas in the park where off leash dogs are not allowed. Yet, the DEIR does not even identify this as an issue, let alone analyze it. This is fatal flaw in the DEIR.

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Similarly, the DEIR fails to address the cumulative impacts and growth inducing impacts of the construction of 3-5 ball fields on the Plateau. Will this increase demand for ball fields? Will this increase demand for other users to use those fields. For example, Albany recently completed a reconstruction of a ball field for local use. It is now renting this facility out to the national women's soccer organization for their use. Nowhere in the DEIR is there any discussion of the growth inducing impacts from the creation of 5 ball fields on the Plateau.

56

Failure to Analyze the Impacts of the Lack of Enforcement on Habitat Areas

It is no secret that currently there is no funding for the operations of the new park. The planners, State Parks, and the East Bay Regional Park District have stated this fact. It is no secret that off leash dog proponents have made it clear that they will continue to run their dogs off leash in areas where they are not supposed to go. So how will the park enforce rules protecting areas like the Bulb and Meadow from off leash dog impacts? The DEIR is silent on this analysis and does not analyze the negative impacts that will result from a lack of enforcement. Indeed, the DEIR does not identify the level of enforcement in terms of staffing necessary to protect these and other areas from the impacts of off leash dogs. This is a fatal flaw of the DEIR.

57

Failure to Analyze the Impacts for Art Creation on the Bulb

A similar problem to the one concerning enforcement of leash laws involves the continued presence of artwork on the Bulb. What is the level of enforcement necessary to keep this use out of the proposed conservation area? What will be the impacts if this enforcement is inadequate? The DEIR needs to analyze those negative impacts. It is flawed because it does not.

58

Failure to Identify the Public Trust Exercised Over the Emeryville Crescent and the Albany Mudflats

The DEIR and the general plan nowhere discuss the actual exercise of the public trust over the Emeryville Crescent and the Albany Mudflats and the protection that has given those areas. While not a fatal flaw, the lack of mention of these two important trust exercised is just bizarre. Indeed, it borders on an intentional omission, because the Sierra Club has made this an issue in the past.

59

Conclusion

The DEIR is inadequate and should not be certified. It is unfortunate that after a year and half of work, the DEIR is so lacking in analysis of key issues. It is especially important for the planning team to remove the policy judgments and value assumptions they make in the document which skew the documents analysis and conclusions and which do not have a scientific, logical, or legal basis under CEQA.

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Sincerely yours,



Norman La Force, Chair
Sierra Club San Francisco Bay
Chapter's East Bay Public Lands
Subcommittee and General Counsel,
San Francisco Bay Chapter

Letter
B-1
Attach.



San Francisco Bay Chapter

Serving the counties of Alameda, Contra Costa, Marin and San Francisco

Reply to 802 Balra Drive, El Cerrito, CA 94530

March 15, 2002

Judith Malamut
LSA Associates
2215 Fifth Street
Berkeley, CA 94710

Larry Tong
Interagency Planning Manager
East Bay Regional Park District
Box 5381
Oakland, CA 94601

Ronald Shaefer
Calif. Dept. of Parks and
Recreation
250 Executive Blvd. #4900
San Francisco, CA 94134

Re: Comments on Notice of Preparation of EIR for
Eastshore Park Project General Plan

Dear Ms. Malamut and Messrs. Tong and Shaefer:

The Sierra Club provides the following comments regarding the proposed EIR for the Eastshore State Park project.

B. Project Description:

The description is inadequate and fails to identify the wildlife and habitat values for both the wetland areas within the park and the upland areas. The statement that upland areas "now provide some environmental values" is an inaccurate description of those lands, especially of the Meadow and Albany Bulb. Moreover, there is no description of the seasonal wetlands located on the Meadow and their value as habitat. No criteria are provided to explain the basis of the conclusions regarding the type of habitat and the is value.

The scoping document is inadequate because it fails to identify with specificity the preferred plan and the other alternatives. Hence, one is unable to determine the nature and extent of a proposed use, structure, or other activity in order to determine whether the appropriate box was checked off on the check list.

I. Aesthetics

Proposals for structured facilities such as boat houses, a café, and other types of buildings may have an impact on scenic vistas that cannot be mitigated. Consequently, the check list under

Sierra Club Letter to State Parks
Re: Comments on Scoping for ESP EIR
3/15/2002, pg. 2

this category should identify potentially significant impacts which cannot be mitigated.

Similarly, lighting in the evening in such areas as the Meadow, Brickyard, North Basin Cove, the Tidal Basin, and the Albany Plateau will have significant negative impacts on wildlife in those areas and in areas adjacent to the lights. Therefore, this impact should be shown as one that is potentially significant for which there is no mitigation.

III. Air Quality

Unfortunately, without knowing what the "Preferred Plan" is for the park, it is impossible to make any intelligent analysis of air quality impacts. If automobile parking is non-existent or limited, then the use of automobiles, the single greatest source of air pollution, will presumably be very low and there will be a corresponding small amount of air pollution generated for such low auto use. Alternatively, if the plan proposes large scale parking sites, this will promote automobile use which will result in a corresponding high amount of air pollution and air quality impacts. Since the project as describe provides no description of the mitigation measures that would be incorporated, it is inaccurate for the Scoping document to identify air quality impacts as ones which would potentially significant unless mitigated.

Moreover, since the project description does not provide any description of the types of mass transit that would or could be provided, it is questionable whether reliance on auto use for access to the park can be mitigated.

IV. Biological Resources

The Scoping document fails to properly characterize the impacts on biological resources from various proposed facilities identified in the "Concept" plan. Moreover, it is questionable from a legal and policy standpoint for the "Preferred Plan" to propose uses within the park which would have a potentially significant adverse environmental impact that would require mitigation. Mitigation should not be used to allow the development of park areas with uses or facilities that would be damaging to wildlife and habitat. Yet, this is what is proposed.

At this early stage, the "Concept" Plan shows the location of parking lots, structures and facilities, and boat launch facilities in the area of the Meadow where the Nature Resource Inventory identifies the nest of a Harrier, a species of Special Concern. Is it proposed in the plan that the destruction of this habitat will be mitigated? If so, why is that allowed in a park plan? What mitigation is proposed that one can say with a reasonable degree of scientific certainty would result in a mitigation of the impact? None of these questions are asked in the scoping document. Nor does the document adequately identify whether those questions will even be

Sierra Club Letter to State Parks
Re: Comments on Scoping for ESP EIR
3/15/2002, pg. 3

asked, let alone answered. The same problem and issue applies to proposals for ballfields on the Albany Plateau, an area rich in bird life, the North Basin Cove, which harbors rafting waterfowl in the winter, yet is proposed to be a site for active water recreation, and the proposed water access point on the Brickyard.

Since we know that the "Preferred Plan" proposes development and uses in these wildlife areas, but does not describe the mitigation that could legally be implemented or should be used, the scoping document should show there will be potentially significant impacts that cannot be mitigated. Thus, the first box should be checked for categories a), b), c), and d).

As for category e), conflict with local policies, the scoping document fails to identify the local policies or ordinances protecting biological resources and incorrectly identifies the impact will be less than significant. This is because the City of Berkeley passed policies in 1983-84 protecting the seasonal wetlands in the Meadow and requiring their continued protection and enhancement. Nor is there any proposal for analysis of impacts from development on the Albany mudflats, especially the impact from ball fields on the mudflats.

Moreover, the North Basin Cove area is within one of the major identified wildlife corridors for migratory birds. Proposed active recreational use in the North Basin Cove could have a potentially devastating impact on migratory birds protected by the Migratory Bird and Treaty Act. (We are relying on memory here for the correct title of the act). The scoping document does not identify this potentially conflicting treaty and corresponding federal regulations regarding it.

VIII. Hydrology and Water Quality

Again, the absence of any identification of what constitutes the project makes this section meaningless at this time. If we rely on the "Concept" Plan, we see that turfed, manicured playing fields are proposed for the Albany Plateau. If these fields are natural grass fields, then standard maintenance practices will require extensive use of fertilizers, herbicides, and pesticides to ensure that they are in a suitable condition for sports. The drainage of the residue from fertilizers, herbicides, and pesticides could have a significant adverse environmental impact on the Albany mudflats, which may not be mitigatable. Similarly, the runoff from automobile oil and tire residues will have a significant adverse impact that cannot be mitigated. Indeed, on page 20 of the scoping document, it is stated that the project will have to be evaluated for the effects of pollution. Therefore, category a), needs to show that this is a potentially significant impact.

Sierra Club Letter to State Parks
Re: Comments on Scoping for ESP EIR
3/15/2002, pg. 4

IX Land Use and Planning

As noted earlier, the City of Berkeley passed a resolution calling for the protection of seasonal wetlands on the Meadow. Bay Conservation and Development Commission regulations concerning playing fields on the shoreline may also conflict with proposed uses in the park. Therefore, it is inaccurate to check off the box for "no impacts."

XIII Public Services

The proposed project as sketchily identified in the "Concept" plan shows extensive public facilities such as parking lots, eateries, storage facilities, bathrooms, and other such facilities. These facilities can have a major impact on wildlife and habitat as discussed above. Therefore, the box in category a) is inaccurate when it states that the impact of these facilities will be less than significant. These facilities can have a potentially significant impact that cannot be mitigated, and the scoping document should more accurately note that.

XIV Recreation

Category b) is simply inaccurate when the box for having a less than significant impact is checked. As noted above, the location of a boat launch facilities, parking lots, and other facilities right smack dab in the area of the Harrier nest site, a species of special concern, will create a an actual significant adverse environmental impact, to wit, the nest site will be wiped out!! The construction of turfed playing fields on the Albany Plateau will also destroy existing wildlife habitat on that site. The use of the North Basin Cove for active water recreation during the winter months will adversely affect rafting waterfowl which use that area. The location of water access at the small cove on the eastern side of the Brickyard will adversely impact shorebirds and waterfowl in that area, too. Therefore, to be accurate, the box under "Potentially Significant Impact" should be checked.

XV. Transportation

Depending on the amount of auto parking made available, there could be extensively adverse traffic impacts that might not be mitigable. Many adverse impacts from the use of the automobile could result from extensive automobile use. Therefore, until the level of traffic is know it is premature to check off boxes that indicate that impacts can be mitigated. Many probably cannot be adequately mitigated.

Sierra Club Letter to State Parks
Re: Comments on Scoping for ESP EIR
3/15/2002, pg. 5

XVII Mandatory Findings

The statement that the "new land uses proposed in the General Plan, because they represent contiguous parkland, would have higher ecological value than the uses that currently exist on the site" is simply inaccurate. Currently, the Meadow, North Basin Cove, Albany Bulb, and Albany Plateau all have tremendous ecological value. Therefore, that statement should be changed to reflect the environmental reality of the site.

Sincerely yours,



Norman La Force, Chair
Sierra Club East Bay Public Lands Committee &
General Counsel for the Sierra Club San Francisco
Bay Chapter

cc: Dwight Steele, CESP
Art Feinstein, Golden Gate Audubon Society
Briggs Nesbit, Save the Bay

COMMENTOR B1

Sierra Club, San Francisco Bay Chapter; Norman LaForce, Chair (August 28, 2002)

B1-1: The first comment, under the heading General Statement, is a summary of specific comments provided in detail throughout the comment letter. As such, the various points made in this comment are responded to in the following responses.

B1-2: The second comment also offers a series of arguments over three paragraphs which, in several instances, lack the specificity required for a detailed response.

The EIR's authors do not agree that the EIR "overlooks" impacts or "jumps to the conclusion that the impacts have been mitigated to a less-than-significant level". Rather, the EIR, across 250 pages of text, tables and graphics, provides a detailed presentation of potential impacts and then specifically links each potential adverse impact to mitigatory guidelines in the Preliminary General Plan. In many instances, the mitigatory guidelines in the Plan derive from the iterative process used to prepare the Plan: preliminary impact findings were used to develop internal mitigation. Such a "self-mitigating" plan (in which the eventually proposed plan can be found to create very few or no significant adverse environmental impacts) is entirely consistent with CEQA and the *CEQA Guidelines*. Such an approach appears to be criticized toward the beginning of the comment, but endorsed in the third paragraph.

Where the comment raises specific topical or procedural points, each is presented in greater detail in the following comments and responses.

B1-3: The choice to locate analysis of Recreation in the Public Services section was made because any likely *adverse* (as opposed to *beneficial*) effects of the General Plan on recreation were thought to relate to the potential effects on provision of recreation as a service by the various municipalities adjacent to the Eastshore Park site. In other words, with one of the Eastshore Park's objectives being the creation of recreational opportunities for residents of the East Bay and greater California, the likelihood that significant adverse recreation impacts (in and of themselves) would result seemed sufficiently remote as to not merit a separate section for the topic. Nothing in the EIR's analysis of recreation suggests that this assumption was incorrect.

B1-4: A program EIR on a general plan begins with the proposed plan as the focus of analysis. In the absence of conclusions that the particular land use mix set forth in a general plan would result in significant adverse environmental impacts, there is no need for quantification of the market demand for any of the land uses included in the plan.

B1-5: The Draft EIR (page 84) addresses potential disturbance of waterfowl and other birds due to boating and windsurfing and identifies on page 84 (item 3) the specific management guidelines contained in the Preliminary General Plan that would be implemented to avoid or minimize these effects. The Draft EIR authors found that implementation of these

guidelines would reduce any potential significant impacts, as a result of the Preliminary General Plan, to a less than significant level.

- B1-6: The EIR authors considered recreational uses such as birdwatching and environmental education when conducting their analysis on future potential activities and land uses identified in the Preliminary General Plan (see pages 14-30). As stated by the commentor, these types of recreational uses in and of themselves would not have a significant impact on wildlife and their habitat. The analysis of potential impacts on wildlife and their habitat (pages 80-86) takes into account these kinds of recreational activities as well as activities that require construction of more extensive facilities.
- B1-7: The Draft EIR analyzes the Preliminary General Plan as proposed. It is not the responsibility of the EIR to redesign the land use program for the Plan, except in the chapter that defines and analyzes alternatives as a way of avoiding or lessening significant adverse impacts.
- B1-8: The EIR authors agree with the comment's conclusion that the study of wildlife and habitat areas through observation is a valid activity. The differentiation between an experience and an observation is a judgement, but not a negative one. The Plan provides for a full variety of experiences from active to passive without any connotation other than that the level of use not adversely impact the resource base. The EIR authors found (on pages 221 and 222 in the Draft EIR) that a maximum conservation alternative as defined in the Draft EIR would not adequately meet the Eastshore Park Project objectives of providing and improving access to the Bay and its shoreline to meet the recreational needs of the people of the region and the State and was therefore rejected from further consideration. As noted in the *CEQA Guidelines* Section 15151 and the 1998 California Supreme Court Laurel Heights decision, "...the purpose of CEQA is to compel government at all levels to make decisions with environmental consequences in mind. CEQA does not, indeed, cannot guarantee that these decisions will always be those which favor environmental considerations..., so long as those environmental issues are addressed."
- B1-9: Much of the water area of the project site is designated as Conservation for the protection of marine resources and to promote appropriate levels of use. State Parks and East Bay Regional Park District (EBRPD) consider the Sierra Club and CESP Conservation and Habitat Restoration document to be a thoughtful policy statement, and not a plan. Resource inventory and resource analysis data were not supplied along with the brochure for adequate analysis. In Alternative A: Conservation Alternative, that was evaluated in the Draft EIR, access to the aquatic portions of the park could occur at the sand beaches (Brickyard Cove and Albany Beach) which would allow access to the Bay. The *CEQA Guidelines* require an analysis of a range of reasonable alternatives to the proposed project which could feasibly attain most of the project's basic objectives and avoid or substantially lessen any of the significant effects of the proposed project. In coordination with State Parks and the planning team, the EIR authors identified and evaluated a range of reasonable alternatives in Chapter IV of the Draft EIR starting on page 221.
- B1-10: The Draft EIR authors do not agree with the comment's conclusion. The specific management guidelines that would avoid, minimize, or compensate for the effects

associated with constructing turf ball fields on the Plateau and the potential for contaminated soils and leachate are listed on pages 120 and 121 in the Draft EIR (see also guidelines OPER-1, OPER-4, OPER-7, OPER-8, and OPER-17). The Draft EIR addresses the issues of potential impacts related to the geology and soils at the project site on pages 104 and 105 (see also OPER-11 through OPER-15). Potential impacts related to drainage and leaching are also addressed on pages 133-135 of the Draft EIR. See also Response to Comment A2-1 regarding the requirement for future project specific environmental evaluations that will address development of the sports fields.

- B1-11: The issue is not whether change will gradually occur at the Eastshore Park and be visible within the Park or from outside viewpoints, but rather whether the evolution of these areas toward the uses and design envisioned in the Preliminary General Plan, when taken as a whole, constitute a significant adverse environmental impact. Drawing such a conclusion in the case of aesthetics is a much more subjective process than in the case of most other environmental topics. The EIR authors do not believe that the land use changes allowed by the Plan will lead to visual and aesthetic effects that exceed the threshold for calling them significant and adverse. While some viewers of the new park may prefer certain areas to remain as they are at present, others will no doubt welcome the planned changes. In terms of the Draft EIR, the environmental review process under CEQA is not the appropriate way to reconcile such differing viewpoints; criteria for determining the significance of physical impacts are not useful in such debates. The Draft EIR's description of existing visual and aesthetic conditions and analysis of potential impacts constitutes an adequate presentation of the issues in a program EIR.
- B1-12: The current soil stockpiling activity at the Brickyard is an interim use that will not occur when implementation of the Preliminary General Plan has been completed. The Draft EIR identifies the existing Knapp Excavation as a negative visual intrusion. The Preliminary General Plan calls for the removal of this facility at the appropriate time following legal requirements of the existing lease, approval of the plan and identification of alternative funding sources for park operations. Since this is an existing condition that is to be removed, an impact analysis for it to remain in operation is not required. The operation is required to follow all existing rules and regulations and requirements of the existing lease. Therefore, in no way does the manner in which the Draft EIR addresses the current Knapp Excavation activity at the Brickyard constitute an inadequacy in the Draft EIR.
- B1-13: The EIR authors do not agree with the comment's conclusion. The Draft EIR (page 85) acknowledges that the project could have adverse effects on seasonal wetlands and identifies on page 85-86 (items 4.a, 4.b, 4.c, and 4.d) the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for such effects. Thus, although some effects on wetlands may be unavoidable, the net impact would not be significant.
- B1-14: The EIR authors do not agree with the comment's conclusion. The Draft EIR (pages 81-82) addresses potential effects on nesting raptors, shrikes, and burrowing owls and identifies the specific management guidelines contained in the Preliminary General Plan that would avoid or minimize these effects. Although the extent of raptor foraging habitat will be substantially reduced at the Albany Plateau and North Basin Strip, large areas of

foraging habitat will be protected elsewhere (e.g., at the Berkeley Meadow and the Albany Neck and Bulb), and the overall loss of foraging habitat in the park project is not considered significant. Similarly, some potential nesting and roosting sites for burrowing owls would be lost, but many others would be protected, and the overall loss is not considered significant.

- B1-15: The EIR authors do not agree with the comment's conclusion. Although foraging habitat for raptors and shrikes will be lost at the Albany Plateau and the North Basin Strip, this impact is not considered significant, due to the protection of substantial areas of foraging habitat elsewhere in the park (see Response to Comment B1-14).
- B1-16: The EIR authors do not agree with the comment's conclusion. The Draft EIR (pages 84-85) addresses the effects of "disturbance" (including active recreation) on shorebird roost-sites and waterfowl (including diving ducks), and it identifies the specific management guidelines contained in the Preliminary General Plan that would avoid or minimize these effects. The Draft EIR (page 85, item 3.c) identifies management guidelines that would minimize disturbance of water birds in the North Basin and Brickyard Cove (presumably these are the areas that the commentor calls the North Cove and South Cove). The specific boating guidelines are to be developed prior to constructing water access improvements adjacent to these waters, and will be addressed in more detail in the project-specific CEQA reviews for future projects within the park (see Response to Comment A2-1).
- B1-17: The EIR authors do not agree with the comment's conclusion. The requirement for boating guidelines (see Response to Comment B1-16) is incorporated as part of the proposed project (i.e., it is part of the Preliminary General Plan) and thus it is not considered a mitigation measure.
- B1-18: The existence and impacts of the current Knapp Excavation activities were adequately addressed in the Draft EIR as part of the current baseline conditions for the project site (see Response to Comment B1-12). While it would often be more "beneficial" to immediately eliminate certain existing conditions at any venue, for environmental protection, cost savings, or simple expedience, State Parks is bound by legal and fiscal constraints that often prevent immediate action. It should be noted that the "dirt operation" at the Brickyard is not part of the Preliminary General Plan for Eastshore and, therefore, it would be inappropriate to address impacts for which no recourse to mitigation exists. Potential beneficial impacts of the Plan elements or other nearby proposals were not discussed in the EIR because such a discussion is not required by CEQA.
- B1-19: The EIR authors do not agree with the comment's conclusion. The Draft EIR addresses the issue of potential water quality impacts associated with runoff from landscaped and irrigated turf areas on page 134 and identifies on pages 134 and 135 the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for the effects associated with potential water quality impacts. See also Response to Comment B1-10. The plan provides unit-wide and area resource management goals and guidelines that establish the essential framework for more focused site-specific planning that occurs through management plans and specific project plans following General Plan approval. A project level environmental analysis will be prepared

prior to project implementation that will address potential environmental impacts to natural resources. The General Plan specifically requires the qualifying entity to develop and operate the sport fields to provide facilities and a management plan that “ensures adequate protection for adjacent habitat areas” (guideline A-7, page III-81). In addition, the sustainability guidelines (pages III-54-55) identify numerous techniques for reducing impacts to natural resources, including the use of integrated pest management (IPM) practices to combat weeds and pests.

- B1-20: See responses and comments B1-10 and B1-19.
- B1-21: The Draft EIR explains why such land use changes as those proposed in the Preliminary General Plan would not constitute significant adverse impacts when evaluated in light of the established significance criteria. Examples of land use change that would cause a significant conflict between two uses might be the introduction of an industrial manufacturing plant in the middle of a residential neighborhood, of the location of a dairy next to a hospital. None of the Eastshore Park’s proposed uses would lead to external effects of a type or severity that would constitute a significant adverse impact as envisioned by CEQA.
- B1-22: The Draft EIR contains Chapter III.C, Biological Resources, that addresses the topic of Biological Resources and identifies the regulatory context and agencies, which have jurisdiction over biological resources. When future projects that would implement the Preliminary General Plan are proposed, they must also be in compliance with federal, State, and regional permitting and regulatory requirements, including those of the San Francisco Bay Conservation and Development Commission (BCDC). Adding the BCDC policy, identified in the comment, to the discussion of Recreation and Public Access policies would not further or clarify the analysis contained in the Draft EIR, in the opinion of the EIR authors.
- B1-23: The comment is incorrect. The Draft EIR on pages 168 through 172 describes the existing conditions throughout the planning area and details the numerous forms of public usage that occur at present. See Response to Comment B1-3 for a detailed discussion of why the topic of Recreation was addressed as one of the issues within the Public Services section.
- B1-24: This conclusion in the Draft EIR simply points out that if additional park users are drawn to the area as a result of the other improvements that are planned, then some types of facilities would need to be constructed in order to handle the increased numbers of visitors.
- B1-25: As noted in Response to Comment B1-23, the Draft EIR does not ignore the current use of the area that will become the Eastshore Park by people (and their pets). Several references to current usage of the planning area are found in the Draft EIR. The comment seems to suggest that the improvements envisioned by the General Plan will in some way preclude such continued recreational use of the planning area in the future. No factual basis is presented for such an argument. On the contrary, use of portions of the planning area for passive recreation will continue to occur. The introduction of new active Recreation areas would in no way constitute a significant adverse impact to the current recreational use of the area. See also Responses to Comments A4-19 and B1-29.

- B1-26: There are no labels missing on this figure. The figure is intended to show the existing plus project peak hour and daily traffic volumes. The peak hour volumes are clearly indicated in the call out boxes on the left side of the figure. The daily volumes are indicated on the map. Figure III.K-5 provides three types of traffic volumes for the 21 intersections and 18 roadway segments analyzed in the Draft EIR: (1) AM peak hour volumes; (2) PM peak hour volumes; and (3) average daily traffic (ADT) volumes. The legend provides the key to reading the intersection peak hour data (with the numerator of the xxx/yyy symbol being the AM number and denominator being the PM number). It also shows the white on black symbol for the ADT data for roadway segments (e.g., 182,106). While it is true that the figure contains a large amount of data, its layout is a standard one in environmental review documents of this type and size.
- B1-27: As shown in Table II.K-3, the 350-space parking lot that the comment refers to is forecast to generate approximately 21 PM peak hour trips. This estimate is based on parking turnover rates provided by the EBRPD and trip rates in the Institute of Transportation Engineers, *Trip Generation*, 6th Edition. Because the land use assumed was recreational, the parking lots would not be expected to operate at capacity during the weekday peak hours. Some percentage of these trips will go north or south on the frontage road and not access the freeway, the remaining trips will access the freeway via both University Street and Gilman Street. It is not logical to believe that all 21 PM peak hour trips will be destined to the Gilman Street interchange. Project trip distribution percentages are clearly illustrated in Figure III.K-4.
- B1-28: As the comment states, “advocates of the sports fields have stated at public meetings.” The Preliminary General Plan does not outline specific project details or operation information for the sports fields. A statement by an advocate at a public meeting does not constitute a defined project. Please see Response to Comment A2-1 for an explanation of how specific projects will be identified and analyzed for environmental impacts under CEQA.
- B1-29: Pursuant to Section 15125 of the *CEQA Guidelines*, the EIR must include a description of environmental conditions against which the proposed project is evaluated at the time the Notice of Preparation (NOP) for the EIR is published (i.e., February 2001 in the case of the Eastshore Park Project). In March 2001, LSA contacted Lisa Klairmont of the San Francisco Bay Area Water Transit Authority to obtain the most up-to-date information on future ferry service, which was incorporated into the Draft EIR (see pages 142, 143, 181, and 182). Because the preferred location of the ferry, its facilities, and details regarding the establishment of future ferry service had not been determined at the time the Eastshore NOP was prepared, this information was neither included in the Draft EIR, nor reflected in the Draft EIR’s project impact and cumulative impact evaluations. In addition, the WTA’s Draft EIR was not available at the time the NOP for the Draft EIR was published, and information contained in the WTA Draft EIR was not incorporated into the Eastshore Park Project Draft EIR.
- B1-30: An analysis of 2025 Baseline and 2025 Baseline Plus Project traffic volumes is provided in the Draft EIR. Under the provisions of CEQA, rather than analyzing individual cumulative projects, an adopted traffic model may be used to identify cumulative traffic volumes. (Such an approach is often referred to as a “projections” method as opposed to a “list”

method.) As stated on page 199 of the Draft EIR, forecasts of year 2025 traffic volumes were obtained from the Alameda County Congestion Management Agency's adopted Countywide Travel Demand Model. The year 2025 analysis examines cumulative impacts associated with the build-out of the General Plans of each City and is consistent with the requirements of CEQA.

- B1-31: As stated on page 192 of the Draft EIR, "vehicle trips generated by existing land uses are accounted for in the existing traffic counts and are reflected in the existing LOS operation of roadways and intersections." As this excerpt explains, the existing 40 spaces are not included in the traffic generation assessment because including the existing spaces would result in double counting of project trips. The period of time analyzed represents the weekday peak commute hours when traffic is at its highest and potential project impacts would affect the greatest population. The peak time of ball field use may occur outside this period. As stated in Response to Comment A2-1, the Preliminary General Plan provides a direction or overall purpose for the park, but does not necessarily provide specifics on how or when these goals may be attained. Because individual projects (including the sports field) have not been developed, it is not yet possible to provide an accurate estimate of trip generation for this use. Once individual projects are proposed, they will be subject to subsequent CEQA review.
- B1-32: See Response to Comment B1-9 for a discussion of the alternatives selection process. It should be emphasized that CEQA does not require that alternatives proposed by other agencies or organizations be analyzed as part of an EIR. The comment refers to the lead agency's decision to not include an alternative proposed by CESP and the Sierra Club as a "political decision" and goes on to state that "such political or policy decisions are not permitted under CEQA in preparing a Draft EIR..." This comment is not correct, in either case. First, the choice of alternatives for the Draft EIR was undertaken as described in Response to Comment B1-9 and was not a "political decision". Second, nowhere does CEQA or the *CEQA Guidelines* constrain the criteria used to select alternatives in the ways suggested in this comment. The *CEQA Guidelines* require that the EIR analyze a range of reasonable alternatives to the proposed project, which could feasibly attain most of the project's basic objectives and avoid or substantially lessen any of the significant effects of the proposed project. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice.
- B1-33: What Table IV-1 does is to illustrate two phenomena: (1) the proposed General Plan has no significant unavoidable adverse impacts; and (2) the difference between the alternatives is subtle in environmental terms. However, the table does show some distinctions among the alternatives.
- B1-34: Comment is incorrect. Discussions of beneficial impacts are not a requirement of CEQA, which defines "significant effect on the environment" to mean an *adverse* change in the environment (Pub. Resources Code, Section 21068).
- B1-35: The Preliminary General Plan guidelines were not drafted to mitigate the impacts associated with the Plan alternatives. If uses such as vehicle access to the Albany Bulb had

been included in the Preliminary General Plan, appropriate mitigatory guidelines would also have been included to avoid, minimize or compensate for potential impacts. See Response to Comment B1-2.

Under CEQA, the discussion of the alternatives and their potential impacts need not be discussed to the same level of detail as the proposed project. The alternatives analysis in the Draft EIR acknowledges that activities under alternatives could result in more severe or additional impacts than those that would result under the Preliminary General Plan.

B1-36: See Response to Comment B1-32.

B1-37: The language of this comment is incorrect. Nowhere does CEQA or the *CEQA Guidelines* refer to either rehabilitation or enhancement of the environment as objectives of an EIR's alternatives. What the *Guidelines* do say is that alternatives should aim to avoid or substantially lessen any of the significant effects of the proposed project. In the case of a proposed general plan which internally mitigates all impacts, that purpose has been accomplished and the usefulness of alternatives is consequently lessened.

B1-38: See Response to Comment C1-1.

B1-39: See Response to Comment C1-2.

B1-40: See Response to Comment C1-3.

B1-41: See Response to Comment C1-4.

B1-42: See Response to Comment C1-5.

B1-43: See Response to Comment C1-6.

B1-44: See Response to Comment C1-7.

B1-45: See Response to Comment C1-8.

B1-46: See Response to Comment C1-9

B1-47: See Response to Comment C1-10.

B1-48: See Response to Comment C1-11.

B1-49: One of the objectives of the Eastshore Park is to plan for the entire study area. Locating and analyzing an off-site alternative would not assist in the attainment of this objective. This is especially true in light of the absence of significant adverse impacts resulting from the proposed Plan.

B1-50: The Preliminary General Plan confined itself to planning for the properties that are either owned or have tentatively committed (e.g., Albany Bulb) for inclusion in the Eastshore

Park. State Parks has no authority to plan for adjacent and nearby private properties such as the parking areas at Golden Gate Fields.

- B1-51: See Response to Comment B1-49. It should also be noted that the City of Berkeley Parks and Waterfront Department has studied the potential for ball field creation and has found the opportunities to be extremely limited, on even a citywide basis.
- B1-52: The Draft EIR authors reviewed the letter dated March 15, 2002 as identified in the comment and included it in Appendix A of the Draft EIR. The main request in the letter was that for most topics identified in the Initial Study Checklist, the boxes for impacts that are “potentially significant unless mitigation provided” or “significant and unmitigable” should have been checked. The EIR authors disagree. To prepare the Initial Study, the EIR authors used their best professional judgement to forecast the level of potential impacts without having evaluated the Preliminary General Plan. The Draft EIR then provided an objective and comprehensive analysis of the potential environmental impacts of the Preliminary General Plan for the Eastshore Park Project.
- B1-53: The Draft EIR authors are not sure where “the finding” referred to in the comment is located and therefore cannot respond to that portion of the comment. Specifically, nowhere in the Draft EIR is it stated that a ball field has a higher ecological value than any particular habitat type. The potential effects of ball fields on raptors and their habitat at the Albany Plateau are addressed in the Draft EIR (pages 81-82). See also Responses to Comments B1-14, B1-15, and B1-46.
- B1-54: Cumulative impacts of the Preliminary General Plan are addressed on pages 246-250 of the Draft EIR. Growth Inducement is addressed on page 245 of the Draft EIR.
- B1-55: The comment is incorrect, the Preliminary General Plan does not increase the area for off-leash dog use at Pt. Isabel. The Plan authorizes the continued use of North Pt. Isabel for such use. Therefore, no cumulative or growth inducing impacts related to such a change would result.
- B1-56: The EIR authors do not agree with the comment’s conclusion that there would be growth inducing impacts associated with construction of the ball fields at the Plateau, and attempting to identify potential growth inducing impacts would be speculative at this stage of the planning process. In numerous locations, as identified above, the Draft EIR identifies mitigatory guidelines that would address potential impacts associated with the ball fields (for example, see Responses to Comments B1-15 and B1-19). Furthermore, as stated in Response to Comment A2-1, when the construction of the ball fields is proposed as an actual project, it will be subject to subsequent environmental review under CEQA.
- B1-57: It is not the purpose of a general plan to make recommendations or establish required levels of funding for staffing and operations of a park unit or for a Draft EIR to evaluate such recommendations. Funding requests for staffing and equipment are submitted annually to the Legislature and must be approved by the Governor. Staffing and operational needs change each year. All general plans assume that at least a minimum level of funding will be available to meet legal responsibilities and carry out the mission of the State Parks

Department. General plans and EIRs do not provide an analysis of impacts due to the lack of funding.

Additionally, the Draft EIR addresses the potential adverse effects on wildlife due to disturbance by people and dogs, and identifies numerous management guidelines contained in the Preliminary General Plan that would minimize such disturbance (see Response to Comment A2-6). Many of these measures would help offset the problem of non-compliance with regulations against off-trail use and off-leash dogs (e.g., by appropriate siting of trails, fencing, and vegetative screening). The expected level of enforcement, and of non-compliance with regulations, are issues that are appropriately addressed during subsequent project-specific CEQA reviews of proposed developments in the park (see Response to Comment A2-1).

- B1-58: See Response to Comment B1-57. Analysis and removal of unauthorized uses in the park will be carried out and enforced as funding allows. A general plan does not set operational deadlines and a Draft EIR does not evaluate them.
- B1-59: The EIR authors disagree with the comment. In numerous locations the Draft EIR identifies public trust and regulatory agencies (see pages 77-79 and 143-147) that would oversee, permit and regulate uses and activities proposed for the Emeryville Crescent and the Albany Mudflats.
- B1-60: The EIR authors do not agree with the comment's conclusion. Each specific comment provided in this letter has been responded to in a way that should clarify for readers that the Draft EIR represents an objective and comprehensive analysis of the potential environmental impacts of the proposed project. Also explained above is the iterative process that the Plan went through in order to ensure that otherwise significant impacts were internally mitigated through guidelines in the Preliminary General Plan.

Received
August 2, 2002

Letter
B-2



San Francisco Bay Chapter

Serving the counties of Alameda, Contra Costa, Marin and San Francisco

EAST BAY PUBLIC LANDS SUBCOMMITTEE

REPLY TO 802 Balra Drive, El Cerrito, CA 94530

August 1, 2002

Ayn Wieskamp, President and Members of the Board
of Directors for the East Bay Regional Park District
Box 5381
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Draft General Plan for Eastshore State Park
And Draft Environmental Impact Report

Dear President Wieskamp and Members of the Board:

A. Introductory Comments

The Sierra Club has the following comments about the Draft General Plan for the Eastshore State Park. These comments are made after consideration of the plan and are based on 40 years of work to first save the East Bay Shoreline from fill and commercial development and then to create the Eastshore State Park.

To begin with, the Sierra Club joins in the comments from Citizens for the Eastshore State Park (CESP), a copy of which is enclosed with this letter. Rather than reiterate those points, the Club will highlight its concerns that go beyond those expressed in the CESP letter.

B. The Positive Aspects of the Draft Plan

The Sierra Club commends the planning team for a number of features of the draft plan that protect habitat and wildlife. The Club is pleased that the planners did not attempt to circumvent the protections provided to the Emeryville Crescent and the Albany Mudflats through the exercise of the Public Trust over those lands in the 1980's by Emeryville and Albany respectively and in conjunction with the State Lands Commission.

Sierra Club to Park District, 8/1/2002
Re: Eastshore State Park, page 2

The Club also is pleased that the draft plan designates the Berkeley Meadow, Albany Bulb, Neck, and Beach as "Conservation Areas." These are critical habitat areas for Bay coastal

wildlife which have colonized these landfill areas after much of their habitat was wiped out by the hand of man. The Club appreciates the action of the planners in removing active recreation facilities from the Berkeley Meadow. The Club also supports the protection of the Hoffman Marsh, which the plan provides.

C. Issues That Remain

The Club remains very concerned about many aspects of the plan, however. The draft plan does not fully meet the goals and standards of the Club's Conservation and Habitat Restoration Plan, a copy of which was provided to the Board and planning team many months ago. The elements of the draft plan that do not meet those standards are unacceptable.

1. Designation as a State Recreation Area

The Sierra Club does not support the designation of this new park unit as a State Recreation Area. The Club has advocated for a designation as a State Seashore or Park. Given recent history over the planning of this park, the Club is concerned that the term "Recreation Area" will be used to justify more active recreation in the park that is warranted for the protection and enhancement of wildlife and their habitat. The designation as a "Seashore" or "Park" better expresses the desires of the many people who worked to create this park and better exemplifies the principles that we believe this Park should stand for. The Sierra Club asks that the Board join with us and many other organizations in urging a change in designation to "Park" or "Seashore."

2. Structured Sports Fields on the Albany Plateau

The Sierra Club supports active recreation in the appropriate park setting. In fact, the Club is on record urging the acquisition of the remaining Berkeley lands owned by Golden Gate Fields North and South of Gilman Street for active recreational use such as structured sports fields. Encompassing 46 acres those lands could theoretically provide space for 20 sports fields.

The Club remains opposed to the location of any playing fields on the Albany Plateau for two reasons. First, the plateau is an existing habitat area. Birders and others have identified many bird species that use the plateau, including Marsh Hawks. With so much of coastal upland habitat lost in the Bay Area, the Sierra Club believes it is time we began the process of protecting

Sierra Club to Park District, 8/1/2002
Re: Eastshore State Park, page 3

areas in which the coastal wildlife now find their existence. Is it too much to ask that we try to recreate some of that lost habitat where it is returning?! The Plateau is too important an area to be lost for uses that are not allowed in a State Park, which is the Club's second point.

State law prohibits structured sports fields in a State Park or Recreation Area. The Public Resources Code is very clear on this point. The planners admit this prohibition exists and so state in the plan. They try to get around this prohibition in two ways that are not legal or proper.

First, the plan contends that special legislation for this park requires that any plan be consistent with each city's general plan. The argument runs that because Albany created a conceptual waterfront plan in the 1990's which provides for ball fields on the plateau, the park plan must follow that plan. This argument fails because that concept plan was never adopted by the City of Albany as an element of its general plan. It never went through a general plan process to be formerly voted on by the Council for inclusion in the city's general plan. The argument also fails because it State law pre-empts and supercedes local laws that are inconsistent with State law, even if they are in the general plan. Otherwise, State Park planning law would be completely at the whim of local decisions and would trump the laws of the State. According to the planners' logic if, for example, Albany's general plan provided that the Plateau was to be an active recreation with a gambling casino, then the State Park Plan would have to plan for such a use in the State Park. Just using an example like this one shows the absurdity of the planners' argument.

The draft plan tries to get around this point with a legal fiction, to wit, state park lands will be leased away to an outside group in the form of an exclusive sports franchise. A special JPA of exclusive sports users will operate the fields for their members benefit. The park lands will not be open to all Californians as they should be. This legal fiction means that the State is taking away lands owned for the use and enjoyment of all Californians for the benefit of a limited user group. Such a transfer is not legal.

Therefore, the Sierra Club urges the Board to join with it and expressing its opposition to the proposed ballfields on the Plateau.

3. Lack of Adequate Protection for Wildlife

a. Dogs

The Plan does not adequately protect wildlife or their habitat. The Sierra Club is very concerned about the ambiguities regarding off leash and leashed dog regulations and their enforcement. The draft general plan states contradictory statements on the issue. Without further clarification, it appears that many areas that are critical to wildlife would be open to off leash dog

Sierra Club to Park District, 8/1/2002
Re: Eastshore State Park, page 4

use, and "Who Let the Dogs Out," would become the theme song for the Park. The Club urges the Board to insist that the Park have strict rules banning off leash dogs from all areas of the park except North Point Isabel and Point Isabel. The Club also maintains that unless the State Parks or East Bay Regional Park District put forward a plan for real enforcement of the off leash dog prohibition, then leashed dogs should also be prohibited from the Brickyard, Meadow, Bulb, Neck, Beach, Plateau, and Trail by Hoffman Marsh. Without real enforcement, dog owners will allow their animals to run off leash in areas where they should not be allowed.

b. Better Protection for Wildlife

The Meadow and Bulb need to have stronger and better protections for wildlife than the existing policies provide. Too many trails are proposed. There are too many facilities adjacent to these protected areas. The policies in the draft plan are contradictory and appear to allow activities that would be harmful to wildlife. Rafting ducks also need better protection in the water areas such as the Brickyard Cove and the North Basin Cove. The Club urges the Board to join with it in insisting on real verifiable measures that will enhance and protect wildlife.

4. Too Much Parking and Too Many Facilities

The draft plan calls for too much parking, some 700 parking spaces with 300 of them on the North Basin Strip. The planners should be looking to adjacent city lands for these uses.

The draft plan also calls for locating too many facilities on the park land. The number and size of these facilities should be reduced.

C. The Process Has Failed The Participants

Over the course of the planning process, it has become evident that the process has not worked. To begin with, it is clear that the voices of all of those who have supported the Club's Conservation and Habitat Restoration Plan have not been adequately heard. Despite the tremendous out pouring of support in cards, letters, and at meetings for the Club's plan, the planners have made virtually no changes in the plan since the first concept plan. The only change that was made, protecting the Meadow and Bulb, was done only after the Sierra Club and Golden Gate Audubon Society made it clear they would actively oppose any plan that did not protect the Meadow and Bulb.

Planning should proceed from first principles. Instead the planners have sought to put together a compromise plan that gives something to everyone, but pleases no one and which cannot be justified by policies or the law.

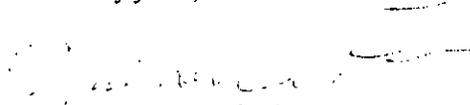
Sierra Club to Park District, 8/1/2002
Re: Eastshore State Park, page 5

Equally troublesome is the rush to judgment the planners have imposed. The public is forced to react in a very short time period to the plan and DEIR. More time should be allowed for the public to comment. The time period from when the draft plan was released to the close of comments on the DEIR is too short. More time should be allowed to the public for it to comment on the plan and DEIR, especially with the extra time allowed for the final approval by the State Parks Commission.

D. Conclusion

The Club urges the Board to take a pro-active role in this process and actively comment on the plan. It should also support the Sierra Club, CESP, and Golden Gate Audubon Society and articulate a vision for this park that protects wildlife.

Sincerely yours,


Norman La Force, Chair
East Bay Public Lands Committee
Chair, San Francisco Bay Chapter Legal
Committee

cc: Ron Schafer, Bay Area District Superintendent, Dept. of Parks and Recreation
Don Neuwirth, Planning Team Leader for ESP Planning
Mayor Shirley Dean, Berkeley & Members of the Berkeley City Council
Mayor Petty Thomsen and Members of the Albany City Council
Robert Cheasty, Sylvia McLaughlin, and Stana Heame, CESP
Arthur Feinstein and Russ Wilson, Golden Gate Audubon Society
Briggs Nesbitt, Save the Bay
Steven Krieg and Ed Bennett, Chapter ExCom,

COMMENTOR B2

**Sierra Club, San Francisco Bay Chapter; Norman La Force, East Bay Lands Committee Chair,
San Francisco Bay Chapter Legal Committee (August 1, 2002)**

B2-1: Consistent with CEQA and the *CEQA Guidelines*, the Draft EIR was published on July 15, 2002 and was circulated for the mandatory 45-day review period that ended on August 29, 2002.



Citizens for the Eastshore State Park
P.O. Box 6087, Albany, CA 94706

PHONE - 510 339-9028

FAX 510 526 - 2629

Dwight Steele
Chair

Norman La Force
Vice Chair

Tom Bates
Vice Chair

Sylvia McLaughlin
Secretary

Ed Bennett
Treasurer

Robin E. Ettinger
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

August 20, 2002

AUG 29 2002

NORTHERN SERVICE
CENTER

Re: Comments on the July 15, 2002 Preliminary General Plan ("the Plan") for the East Shore State Park ("the park") and the accompanying Draft Environmental Impact Report ("the DEIR" or "EIR")

Dear Mr. Ettinger:

I write on behalf of the Citizens for the Eastshore State Park ("CESP"), a large group of organizations who have worked tirelessly over the last twenty years to bring this improbable park from a vague hope and a prayer to the life it now has. We have nursed and spread this dream and now look forward to the establishment of this park on the East Shore of the San Francisco Bay. We share with you here our thoughts.

I.

The Citizens for the Eastshore State Park are concerned about this Preliminary General Plan and Draft EIR, dated July 15, 2002, for the Eastshore Park Project. To the extent that these comments address problems with the draft General Plan, please consider our concerns extended to the DEIR.

Speaking for those who have cherished this project for decades and who have worked so hard to bring it to life, we would like to thank the California Department of Parks and Recreation and the East Bay Regional Park District Board for your efforts in seeing the park forward and in lending your energy and resources to this valuable project.

Regarding this draft of the Preliminary General Plan and DEIR, there are many things to commend. The attention to the protection of wildlife and the recognition of sensitive habitat areas such as the Meadow and the Bulb show the appreciation the park deserves. We applaud the recognition of the value of native flora and of habitat for foraging species that are endangered such as the California least tern and the respect shown for visiting birds, fish and mammals. The Preliminary Plan calls for daylighting of creeks, and re-creation of salt marsh, ideas benefiting all park users. We also recognize the successful

Supporting organizations include: Bay Area League of Women Voters - Berkeley League of Women Voters - California Native Plant Society - Ecology Center - Oakland Waterfront Coalition - Environmental Defense Fund - Citizens Committee to Complete the Refuge - Friends of Aquatic Park - Golden Gate Audubon Society - Oceanic Society - Regional Parks Association - San Francisco Sierra Club - Save San Francisco Bay Assn - Urban Creeks Council - Friends of Five Creeks - Berkeley Partners for Parks - CA State Park Foundation

efforts to provide recreational opportunities such as the improved water access for windsurfers and small boat users on the Albany neck.

However, some aspects of the Plan raise questions and issues that we believe should be clarified prior to final action on this Plan.

1. The Meadow. We believe the intent is to have the interior of the Meadow as off limits to human and pet incursion. There is, however, mention of a trail through the Meadow (page 374 BM/NB-6) that raises concern. Are these provisions simply inconsistent or is there some provision for a trail through the meadow that can still keep the Meadow protected? We seek more clarity on this. 1

2. Dogs. We appreciate that the Plan states there will be no off leash areas in the Park other than Point Isabel (page 350). In other discussions in the Plan, however, this is not spelled out so clearly. We believe clarity will help avoid conflict and disappointment as the Park comes on line. We also would welcome direct language in the Preliminary Plan that speaks to protecting the wildlife values and enforcing the regulations regarding conduct by the few inconsiderate dog owners who allow their dogs to destroy habitat or disturb nesting, feeding and resting wildlife, or to create conflict and possible danger for children and others using the park foreexercise around dogs who are not under their owner's control. 2

3. Brickyard boat launch. We applaud the efforts to allow access to the water for small non-motorized craft, but the particular spot picked for a ramp and launch in Brickyard Cove is at a mud flat that extends a few hundred feet outward into the Bay. At low tide, getting through the mudflats will be difficult to impossible, while at high tide the area is populated by diving ducks. We believe that this is an oversight in the Preliminary Plan, as this entry runs counter to the wildlife and habitat protection espoused elsewhere in the Plan. The impacts on wildlife in this setting do not appear to be sufficiently addressed in the DEIR. 3

4. Parking. The amount of parking suggested in the Preliminary Plan is excessive. The documentation provided does not justify the 550 potential spaces at the Brickyard and the North Basin Strip or even the 60 parking spaces suggested at the Plateau. (III 69 et seq.) The wording indicating that parking "can be phased" would be better stated "should be phased" so as to avoid more incursion than necessary. The preferable approach to parking would be to adhere to policy Circ. 10, III 43, which calls for working with municipalities and contiguous landowners to acquire parking rights without incursion into Park space. 4

5. Ballfields. These are contrary to State Parks policies. We maintain our position that this Park is best served with passive, less formal recreation. The Plateau provides valuable habitat and can provide excellent opportunities for passive recreation that is compatible with the status of the park as a waterfront park. It will be far less costly to designate this area for passive, unstructured recreation than to pay to build and maintain playing fields. Bringing in outside operators to create ballfields presents many practical difficulties. It would be preferable to identify other space. For example, land just north of 5

the North Basin Strip might be acquired by a Joint Powers Agreement.

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cont.

6. Trails at University Avenue (III 70). The three trails paralleling University Avenue seem duplicative. Consolidation would be economical, especially as regards the two that appear to be planned for just south of University and that will likely run within a few yards of each other. Regarding the trail discussed for north of University, it is called a parkway, a term that is not clear to us. We assume no vehicular parkway is envisioned and ask for a clarification.

6

7. Promenades. Our understanding is that the three planned urban promenades, in aggregate taking up more than a mile of shoreline, are planned to be concrete-intensive, with a railing between the viewers and the Bay. While we support the concept of a secure surface that provides ample access for those with disabilities and for users to pass each other with safety, we believe the goal can be reached more economically and aesthetically by installing waterfront trails slightly set back so as not to encroach on the stabilizing revetment while keeping the view of the water open. An example can be found at the Cesar Chavez Park, where the perimeter trail is stable and not intrusive. Viewing points can be incorporated if the goal is to enable the disabled to get out to the water.

8. Buildings. We believe this Park will be best served by less construction. The Preliminary Plan calls for multiple structures that duplicate each other. Coupling these would save money and meet the perceived need while saving valuable space for Park and recreational uses. Thus the Plan should allow for the possibility of combining the corporation yard, interpretive center and visitors center and possibly consolidating concessions at one location. As funds will be tight this approach will make a better park with fewer dollars. (III 68, 69, 75.) In addition, looking to adjacent properties such as the Marina or Golden Gate Fields for some of these uses, e.g. lodging, parking and concession areas, would reduce costs, open these facilities earlier than possible with solely park construction in many instances and maintain more of the limited park space for recreation and habitat. (See, Visit-6, III 38.) The wording in the Plan should allow for the facilities themselves to be on adjacent sites, not just other "compatible" uses.

9. Magna Corporation Development proposal (Rancho San Antonio). The Plan should be clear that large development in the center of the Eastshore State Park, such as suggested in the plans recently submitted by Magna Corporation (the new owners of Golden Gate Fields), is not in harmony with the Park Plan and will have adverse impacts upon the park, upon traffic circulation, upon habitat and upon recreational opportunities. The section on future acquisition should cite, for possible future purchase, the areas that Magna does not need for its horse racing operation.

10. Designation. We believe the Park should be designated as a State Park rather than as a Recreation Area, as the Plan proposes. The Plan justifies the Recreation Area designation by suggesting other parks are more pristine in condition. CESP does not believe that this criteria should preclude this particular shoreline park from the designation as Park. When Citizens for the Eastshore State Park began this effort to preserve the shoreline and assemble the parcels for acquisition, the shoreline parcels were in varying states of disarray. We have witnessed the rebirth of many of these parcels as

they have been reclaimed by vegetation and wildlife. This revitalization and return to nature can continue if we let it. Designating this magnificent shoreline area as the Eastshore State Park we have all been planning and creating will allow it to remain true to the vision of a space where urban children of all ages can come and share nature, whether they are hiking, riding in a wheelchair, windsurfing, paddling, fishing, playing or bird watching. The Park designation will protect the open and the more wild - the rarest and most precious qualities of our shoreline. A Recreation designation allows for greater development. In an urban setting you can always add more development, but you can almost never reverse it.

II.

Significant Impacts and Lack of Mitigation Measures

The DEIR consistently overlooks impacts or generally identifies impacts and then concludes that the impacts have been mitigated to a less-than-significant level by the broad General Plan Guidelines. Every potential impact identified for the proposed project is found to be less-than-significant without a clear rationale for this conclusion. We believe the reasons for these conclusions must be spelled out for the environmental impacts to be understood, in accordance with the California Environmental Quality Act (CEQA).

7

Section 15382 of the CEQA Guidelines defines "Significant effect on the environment" as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." In the biological resources section in particular, impacts to wildlife and habitat values from intensive recreational use are repeatedly overlooked. The DEIR should clearly identify each impact and identify the specific guidelines that would mitigate the impact. Additional mitigation measures should be proposed to ensure that all impacts identified are mitigated or the impacts should be identified as significant unavoidable impacts.

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Recreation in the DEIR (Scope)

Recreation is dealt with within the public services section. With recreation being such a key issue in the proposed park, the DEIR should include recreation as a separate environmental topic. The recreation analysis should quantify the demand for sports fields and identify more appropriate in-land alternative locations for non-water dependent, active recreation. For open water recreation, the DEIR does not include any mitigation measures to ensure that sensitive wildlife such as diving ducks and waterfowl are protected.

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Non-Water Related Active Recreation
Promoted Over Passive Recreation and
Waterfront Related Recreation
(Lack of Balance)

The General Plan specifically states that one goal of the park is to balance access to its scenic and recreational resources with the protection and restoration of its natural resources for the enjoyment of the people of the San Francisco Bay region and the State of California. The demand for sports fields, a non-water dependent use, and active recreation take precedence over the critical need to provide a passive, more natural, recreational experience in a populated urban area. The alternatives analysis on page 222 concludes that the maximum conservation alternative "would result in a waterfront park in which most visitors can **observe**, but not **experience**, the aquatic portions of the project site." Watercraft activities and facilities are clearly given preference over the value of passive and informal recreation, such as trail use, bird watching, and quiet time in nature.

14

Geology and Soils

The DEIR points to serious settlement concerns about the plateau area in Albany and yet this observation seems to be ignored in the planners' treatment of the plateau and in the designations for use as structured playing fields (ballfields). The is inadequate treatment of the impacts of the construction needs upon this land area if it is to be used as active playing fields, with the repetitive need for soils stabilization and the possible consequences of the disturbing of the existing conditions of the soils there. Nor are the potential adverse impacts of this soils disturbance adequately examined for its affects upon the area designated as a nature preserve just north of the plateau.

15

Aesthetics

The EIR concludes that the turf areas for informal recreation and sports fields would not substantially change the visual appearance of these areas. Manicured, green lawns will create a more urban, linear, and less natural look at the North Basin in Berkeley and the Albany Plateau. For those seeking a refuge from urban development, structured, green turf will degrade the existing visual character of these areas.

16

Biological Resources

Special Status Plant Species: The Preliminary General Plan on pages II-22 and 23 identifies seven key resource species that deserve special attention and identifies the Berkeley Meadow, Albany Bulb and Neck and north slope of the Albany Plateau, North Basin Strip and the Brickyard as important upland and seasonal wetland habitats. The loss of seasonal wetland habitat at the Albany Plateau and North Basin strip should be clearly identified as a significant unavoidable impact of the proposed project.

17

Nesting Raptors and Shrikes: What potential impacts will surrounding developments have on the nesting and foraging northern harriers in the Berkeley Meadow and North Basin? The text identifies that development of the park could substantially reduce the areas of suitable upland foraging habitat for raptors and shrikes and suitable nesting and roosting sites for burrowing owls at the Albany Plateau and North Basin strip. It then assumes that the management guidelines in the General Plan would avoid, minimize, or compensate for these impacts. It is unclear how these measures, such as a maintenance

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plan and construction buffers, will mitigate for the loss of habitat. Impacts to nesting raptors should be identified as an unavoidable significant impact of the project.

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cont.

Special Interest Species and Habitats: The EIR identified shorebird roost-sites and diving ducks as important resources, but does not address the impacts of proposed active recreation on these resources. The EIR mentions that waterfowl and other waterbirds are vulnerable to disturbance by boating and windsurfing and assumes such impacts are mitigated by the General Plan guidelines. The General Plan suggests that appropriate management guidelines for boating be developed and that the guidelines “may” include measures such as partial or full closures of the North and South Coves to boating during the rafting season. However, it does not commit to implementing any specific management measures. The potential impact to wintering ducks and birds should be identified in the EIR and restrictions on boating use during the rafting season (November 1st through April) be required as a mitigation measure.

19

Hydrology and Water Quality

The assessment of new shoreline uses does not address the use of herbicides and fertilizers on the new turf areas and the potential for runoff to contaminate water quality. Turfed, structured playing fields on the Albany Plateau ordinarily are treated with herbicides and pesticides that can drain into the Albany mudflats and damage wildlife. This is a significant impact that should be identified and mitigated. All turfed areas should be required to utilize alternative pest management methods.

20

Land Use and Public Policy

The significance criteria articulated on page 147 says that the Draft General Plan would have a significant impact on land use and public policy if it would “introduce new land uses that would conflict with established uses.” Placement of turfed, structured playing fields on the Albany Plateau and intensive recreational uses at the North Basin Strip will conflict with the existing wildlife habitat. This is a significant impact that should be identified.

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BCDC’s Fish and Wildlife Policy states, “The benefits of fish and wildlife in the Bay should be insured for present and future generations of Californians.” This policy should be added to the discussion of Recreation and Public Access policies.

22

Public Services

While this section mentions some of the other play areas/sports fields in the area, it does not assess the current demand for existing fields. It also does not directly discuss the current extent of passive recreation in the park. The issue of recreation should be a stand alone section that focuses on the range of recreational opportunities offered by the site, including the benefits offered by undeveloped open space where stressed urban dwellers can “get away from it all”, where park visitors from inland areas of California as well as coastal residents can view wildlife, and in particular shoreline wildlife as it interacts with the water and the shoreline environment, and can reconnect with nature.

23

The DEIR displays a bias that the addition of recreation and support facilities, such as sports fields and related facilities, would “not only enhance the visitor experience to the area, but would also be necessary to avoid impacts to existing private and municipal facilities that could result from increased visitation to the project area.” The DEIR ignores that as many as 2.5 million people currently visit the park each year, enjoying the passive recreational experiences offered by the area. The removal of this passive open space and replacement with structures like parking lots and sports fields should be identified as a significant impact.

24

Transportation and Circulation

Figure III.K-5 and other figures with maps are difficult to decipher. The figure is difficult to understand without the proper markings. The key appears to be missing some labels.

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Table III.K-5 quantifies the project contribution to the total traffic volumes at each intersection. The Gillman/I-80 Intersections currently operate at unacceptable levels during peak PH hours. The DEIR estimates that during peak PM hours only 4 additional trips would be added to the Gillman/I-80 intersections and thus is not a significant impact. Only 4 new trips seems unrealistic when these intersections are so close to a parking lot with 350 spots. How the distribution and assignment of trips to this intersections was calculated needs to be expressed clearly so it can be properly evaluated.

26

The parking analysis for the Albany lands is confusing. The project description says that they plan to add 60 new spaces for Albany Beach, in addition to the existing 20 spaces and use 60 existing spaces located on Golden Gate Fields and 20 existing spaces on Buchanan Road for the Albany Plateau. The transportation and circulation section analyzes traffic generation for the Albany lands based on 120 new parking spaces. The existing 40 spaces are not included in the traffic generation assessment. It seems logical that the sports field at the Albany Plateau will generate a significant increase in traffic during peak use and potentially increase the use of the existing parking spaces. The DEIR fails to adequately address the question of what level of trips the sports fields will typically generate. This issue should be more directly addressed in the DEIR. Additionally, the DEIR does not address how the un-used gravel area adjacent to Marine Blvd. in Berkeley could be used for parking.

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The DEIR does not adequately address the impacts of the ballfields on traffic, nor does it address the impacts of the ferry terminal proposed for Gilman Street, nor the impact of the development (in excess of a million feet) proposed by Golden Gate Fields Racetrack (by its parent company, Magna Corp.) for the areas just north and south of Gilman Street.

30

Alternatives

The alternatives analysis looks at two extremes of the spectrum-maximum conservation and maximum recreation, both politically unfeasible alternatives given the variety of demands the park must meet. The DEIR should analyze more feasible alternatives, including the one Citizens for Eastshore State Park (CESP) suggested, the conservation

31

and habitat restoration plan that balances the need to provide recreational opportunities with protecting wildlife and habitat values.

31
cont.

Table IV-1 attempts to summarize the issues of the proposed project relative to proposed project. Because almost all the impacts for the proposed project are identified as LTS-less-than-significant, this table is misleading. The assessment of the maximum conservation option leads readers to believe such an alternative would have only slightly less insignificant impacts than the proposed project. In reality, the maximum conservation option would provide beneficial impacts to biological resources, significantly reduce traffic generation and air quality impacts, and maximize passive recreational opportunities that would allow users to experience a more natural park. The conclusion that the Conservation and Recreation alternatives would result in impacts similar to the proposed Draft General Plan is not sound nor logical.

32

Under the Recreation alternative, the increased impacts from additional recreational activities at Berkeley Meadow and the North Basin strip would have significant biological impacts that the Draft General Plan guidelines would not necessarily mitigate. For example, opening the Albany Bulb to vehicle access in the Recreation alternative would have significant land use and public policy impacts due to incompatibility with current land uses. The alternatives analysis adds additional recreational facilities without fully addressing the impacts on biological resources, land use, traffic and parking.

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Overall the DEIR fails to examine the benefit accorded the park area by the balanced alternative that offers greater habitat, wildlife and environmental protection. In that sense it fails to examine the true alternatives in a way that comports with the spirit and letter of CEQA.

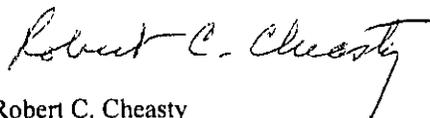
34

III. Conclusion

CESP hopes to see this project concluded soon. We believe the problems with this DEIR and Draft Plan can be properly addressed and that reasonable solutions are within reach. We hope that the Department will agree and that the consultants can be given the appropriate encouragement to see this project through.

Thank you for your time and attention. We look forward to working with you to complete the creation of this magnificent public natural resource, a stellar addition to our wonderful park system and one that all Californians can use and enjoy.

Sincerely,



Robert C. Cheasty
President
Citizens for the Eastshore State Park

COMMENTOR B3

Citizens for the Eastshore State Park; Robert C. Cheasty, President (August 20, 2002)

- B3-1: The Berkeley Meadow is designated as a Conservation area, an area whose natural habitat values will be protected and enhanced while accommodating lower intensity recreation that is compatible with and dependent on those values. The Preliminary General Plan includes specific measures and guidelines to minimize disturbance of natural habitat, flora, and fauna in the Berkeley Meadow through appropriate trail design and the prohibition of off-leash dogs (guidelines WILDLIF-1 and OPER-5), as well as the designation of a large area in the central portion of the Meadow as off-limits to public access and installation of fencing and signs to prevent off-trail access by visitors and dogs (guidelines BM/NB-1 and BM/NB-6).
- B3-2: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not raise questions or identify errors in the Draft EIR; therefore, no further response is necessary.
- B3-3: *The first part of the comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan. The EIR authors do not agree with the conclusion in the second part of the comment. The Draft EIR (page 84) addresses potential disturbance of waterfowl and other water birds due to boating and windsurfing and identifies on pages 84-85 (items 1 and 3) the specific management guidelines and land-use designations contained in the Preliminary General Plan that would avoid or minimize these effects.*
- B3-4: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not raise questions or identify errors in the Draft EIR; therefore, no further response is necessary.
- B3-5: Comment noted. The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not raise questions or identify errors in the Draft EIR; therefore, no further response is necessary.
- B3-6: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not raise questions or identify errors in the Draft EIR; therefore, no further response is necessary.
- B3-7: See Response to Comment B1-2.
- B3-8: See Response to Comment B1-2.
- B3-9: See Response to Comment B1-2.
- B3-10: See Response to Comment B1-2.

- B3-11: The EIR authors do not agree with the comment's conclusion. See Response to Comment B1-3.
- B3-12: See Response to Comment B1-4.
- B3-13: See Response to Comment B1-5.
- B3-14: See Response to Comment B1-8.
- B3-15: See Response to Comment B1-10.
- B3-16: See Response to Comment B1-11.
- B3-17: See Response to Comment B1-13.
- B3-18: See Response to Comment B1-14.
- B3-19: See Response to Comment B1-16.
- B3-20: See Response to Comment B1-19.
- B3-21: See Response to Comment B1-21.
- B3-22: See Response to Comment B1-22.
- B3-23: See Response to Comment B1-23.
- B3-24: See Responses to Comments B1-24 and B1-25.
- B3-25: See Response to Comment B1-26.
- B3-26: See Response to Comment B1-27.
- B3-27: See Response to Comment B1-31.
- B3-28: See Response to Comment B1-31.
- B3-29: See Response to Comment B1-31.
- B3-30: The Preliminary General Plan does not outline specific project details or operation information for the sports fields. See Response to Comment A2-1 for an explanation of how specific projects will be identified and analyzed under the General Plan. See Response to Comment B1-29 for an explanation of how proposed ferry service was addressed in the Draft EIR. See Response to Comment B1-30 for an explanation of how cumulative project impacts are addressed in the Draft EIR. Additionally, see Responses to Comments B1-28 and B1-29.

B3-31: See Response to Comment B1-32.

B3-32: See Response to Comment B1-33.

B3-33: See Response to Comment B1-35.

B3-34: See Responses to Comments B1-34 and B1-37.



Citizens for the Eastshore State Park
P.O. Box 6087, Albany, CA 94706

PHONE - 510 339-9028

FAX 510 526 - 2629

Dwight Steele
Chair

Norman La Force
Vice Chair

Tom Bates
Vice Chair

Sylvia McLaughlin
Secretary

Ed Bennett
Treasurer

August 29, 2002

Robin E. Ettinger
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Re: Additional Comments on the July 15, 2002 Preliminary General Plan ("the Plan") for the East Shore State Park ("the park") and the accompanying Draft Environmental Impact Report ("the DEIR" or "EIR")

Dear Mr. Ettinger:

In addition to the the letter that was sent to you, dated Aug. 20, 2002, on behalf of the Citizens for the Eastshore State Park ("CESP"), I am attaching hereto a letter written on behalf of the Audubon Society raising thoughtful questions about the inclusion of a hostel in the Plan. This hostel appears to be designed for usage by boaters and there has not yet been the study of the impacts that this hostel is likely to have on the operation of the park as well as on the surrounding waterfowl if the hostel brings about watercraft usage during periods that would be detrimental to the waterfowl.

CESP joins in incorporating the comments in the attached letter with our prior comments forwarded to you. Thank you again for your attention and your efforts to help make this the best possible park facility.

Sincerely,

Robert C. Cheasty
President
Citizens for the Eastshore State Park

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AUG 30 2002

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COMMENTOR B4

Citizens for the Eastshore State Park; Robert C. Cheasty, President (August 29, 2002)

- B4-1: This comment introduces the remarks included in an attached letter from the Audubon Society, which is included in this document as letter B5. Issues raised in the Audubon Society letter are addressed in the Responses to Comments for letter B5. Section 21060.5 of CEQA defines "environment" as "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance." Therefore, impacts to park operations in and of themselves do not constitute significant effects on the environment and need not be evaluated in the Draft EIR. Environmental impacts to waterfowl resulting from use of watercraft are addressed on page 85 of the Draft EIR. Because the Draft EIR is a program-level EIR that evaluates the environmental impacts of the Preliminary General Plan broadly, impacts resulting from construction and operation of the hostel will be evaluated in subsequent environmental documents.

Letter
B-5



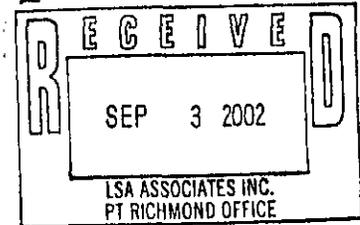
Golden Gate Audubon Society

2530 San Pablo Avenue, Suite G • Berkeley, CA 94702
Phone: (510) 843-6551 • Fax: (510) 843-5351 • E-mail: ggas@goldengateaudubon.org

Americans Committed to Conservation • A Chapter of the National Audubon Society

original sent by fax 8/29/02

August 28, 2002



Robert Ettinger, ASLA
California State Parks
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Re: Draft Environmental Impact Report (DEIR), Eastshore State Park General Plan, State Clearinghouse # 2002022051

Dear Mr. Ettinger:

These comments on the above referenced DEIR are in addition to any other comments you have received from the Golden Gate Audubon Society. This letter specifically addresses the proposal to put a hostel on the North Basin Strip (Visit-5).

We believe this use is in conflict with BM/NB-12, "Minimize disturbance to the large rafts of wintering ducks and other water birds in the North Basin..." And with mitigation measure (5) 3. c. (page 85) of the Biological Resources section of the DEIR.

While we appreciate the fact that the DEIR and General Plan require the creation of guidelines to protect rafting ducks prior to "water access improvements" this language does not also ask for these guidelines to be established prior to hostel construction. Yet the hostel is to be located immediately adjacent to the water and to the future boating facilities and is clearly designed to serve boaters.

The building of the hostel will establish a commercial interest with a bias for boating and one that may well be dependent upon boating clientele. Thus when the Park Managers create the management guidelines for boating to protect the rafting ducks in the North Basin (as provided for by BM/NB-12) there will be a powerful constituency as part of the park infrastructure that will have strong motivation to have those guidelines be as weak as possible. Seasonal restrictions on boating will undoubtedly affect the hostel. The hostel owners will have a strong economic argument to make to the Park Managers that there should be no such seasonal restrictions.

The DEIR does not this impact, specifically the decreased likelihood of having adequate restriction s on boating in the North Basin due to the inclusion in the park infrastructure of a commercial interest that will advocate against boating restrictions and the resulting impacts on wildlife due to insufficient boating restrictions.

For these reasons we urge you to make either of two revisions to the General Plan and to the DEIR.

Alternative 1. Remove the hostel from the Plan. There are several reasons for this, in addition to that presented above, that have not been adequately analyzed in the DEIR.

- A. The presence of a hostel will bring with it increased policing needs for the protection of hostel residents. The DEIR does not adequately address the ability of the park manager to provide for this increased police presence.
- B. The presence of a hostel is unnecessary since the Parks in an urban area already abundant with hotels and motels.
- C. The hostel will become a destination for boaters and increase the constituency against boating restrictions.

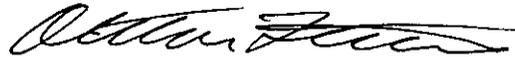
Alternative 2. Develop the Boating Guidelines for the North Basin immediately, or as soon as possible. The presence of large rafts of ducks in the North Basin is acknowledged in the DEIR and General Plan, as is the potential impact on these species by boating (thus the need for BM/NB-12). If our Alternative 2 is implemented the creation of a hostel will no longer impact the boating guidelines development since that development will have taken place prior to the creation of the hostel. This alternative does not, however, answer the policing problems.

Finally, once the Park is established one may assume that there will be an increase in boating regardless of lack of boating facilities (there are other places boats can launch from in the East Bay). With the establishment of the Park it will become a boating destination just from the name. We feel confident that boating will increase prior to boating facility construction. This increased boating will impact rafting ducks (see above). Immediate development of boating guidelines and restrictions will solve this problem. It makes sense to prevent a problem rather than act after the fact. We urge you, again, to revise the General Plan and the DEIR so as to require the Boating Guidelines to be created soon after the park is established rather than wait until waterfowl are impacted by increased boating.

Failing immediate development of Boating Guidelines we believe that the DEIR is lacking in requiring sufficient monitoring of the North Basin. If boating guidelines (BM/NB-12) are not developed until just prior to facility construction and yet boating traffic increases, as we assume, due to the creation of the Park, then impacts to rafting ducks may occur prior to facility construction. The DEIR should require that a monitoring plan be established for the North Basin that will enable Park Managers to detect increased levels of boating and associated wildlife impacts. At a minimum, monthly monitoring during the waterfowl season should be recommended in the DEIR.

Thanks you for your attention to our concerns.

Sincerely yours,



Arthur Feinstein
Executive Director

COMMENTOR B5

Golden Gate Audubon Society; Arthur Feinstein, Executive Director (August 28, 2002)

B5-1: The first part of the comment takes issue with the lack of adequate protection measures in the Draft EIR and Preliminary General Plan to protect ducks and other water birds in the North Basin prior to hostel construction. The EIR authors do not agree with the comment's conclusion. Construction and operation of a hostel is not considered likely to result in a substantial increase in boating in the North Basin, unless water access improvements are also constructed. The requirement to establish management guidelines for boating "before constructing water access improvements," along with the other protection measures cited in the Draft EIR (pages 84-85), would ensure that potential impacts on water birds are mitigated to a less-than-significant level.

The latter part of the comment recommends: (1) removing the hostel from the Preliminary General Plan; (2) developing boating guidelines for the North Basin immediately, or as soon as possible; or (3) monitoring the wildlife impacts of boating in the North Basin, so that boating guidelines can be developed and implemented when necessary. The EIR authors do not agree that such measures are necessary to mitigate impacts on water birds to a less-than-significant level.

Please note that pages 84-85 of the Draft EIR point out guidelines from the Preliminary General Plan that incorporate protection measures for water birds in the Maintenance Plan for the park (guideline OPER-4), require pre-construction surveys to identify important high-tide shorebird roosts, and require implementation of appropriate measures to offset unavoidable impacts (guidelines WILDLIF-4,-5, and -6 and Appendix A in the Preliminary General Plan).



Golden Gate Audubon Society

2530 San Pablo Avenue, Suite G • Berkeley, CA 94702 • Phone: (510) 843-2222 • Fax: (510) 843-5351

Americans Committed to Conservation • A Chapter of the National Audubon Society

August 27, 2002

Robbin Ettinger, ASLA
State of California Dept. of Parks and Recreation
Northern Service Center
1 Capital Mall, Suite 500
Sacramento, CA 94814

Re: Eastshore State Park Preliminary General Plan and Environmental Impact Report;
State Clearinghouse # 2002022051

Dear Ms. Ettinger:

Since the beginning of the planning process for the Eastshore State Park, the Golden Gate Audubon Society has consistently advocated a number of positions. We have consistently opposed dogs in wildlife areas, consistently advocated protection for the Berkeley Meadows, the Albany Plateau, Neck and Bulb, and the North Basin and North Basin Strip. With the possible exception of the Berkeley Meadows, the general plan falls woefully short in protecting the wildlife and wildlife habitat in these last remaining undeveloped areas of the East Bay shore. Moreover, by proposing the development of sports fields at the Albany Plateau, and extensive development and recreational use in the North Basin and North Basin Strip, it fails to offer recreational opportunities harmonious with the park's natural setting.

The timing of the plan and EIR's release, when many people take extended summer vacations, has prevented Golden Gate Audubon from submitting a more detailed criticism of these documents. The main purpose of this letter is to express Golden Gate Audubon's deep disappointment with the plan, and to pledge our continued opposition to the above-mentioned inappropriate use of and development in the park.

One of GGAS's members, Corinne Greenberg (her efforts to protect the Northern Harriers at the Berkeley Meadows is featured in Golden Gate Audubon's September newsletter), has written an excellent letter and has given us permission to incorporate her letter in this one. That letter is attached. Her letter reflects Golden Gate Audubon's views and outrage over the plan.

Very truly yours,

Jacquie Smalley
Chair, East Bay Conservation Committee

Attach.

cc: Board of Directors, East Bay Regional Park District
Ruth Coleman, Acting Director of Parks and Recreation
California Coastal Conservancy
Arthur Feinstein, Executive Director, Golden Gate Audubon Society
Corinne Greenberg

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COMMENTOR B6
Golden Gate Audubon Society; Jacqui Smalley, Chair, East Bay Conservation Committee
(August 27, 2002)

B6-1: See responses to comment letter C7.

ALBANY LET IT BE
P O BOX 84, EL CERRITO, CA 94530

"A place of exceptional imagination, a uniquely successful experiment
in biological and cultural diversity..." – Osha Neumann, artist and attorney

August 27, 2002

Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

**REF: Eastshore Park Project General Plan: Environmental Impact Report
State Clearinghouse #2002022051**

Gentlemen and Ladies:

On behalf of the Albany Let It Be group, we submit our comments regarding the
above EIR, and **request that the State Parks and Recreation Commission not
certify the current proposed Eastshore Park Project's General Plan and EIR,
and deny approval of this plan.**

We base this request on:

- Inadequate EIR
- Recent major project proposals with major cumulative impacts on the Eastshore
State Park and not considered within this EIR or General Plan
- Violation of mandatory public notification requirements

Based on our evaluation of the Environmental Impact Report, even though it's a
"Program EIR" which does not provide much specificity due to its general intent, we
conclude that it is inadequate for wise decision-making, and does not address
significant impacts of varying sorts that will likely occur if this proposed plan is
implemented.

As of May 2002 the Magna Entertainment Corporation (for plan and EIR, see
<http://www.albanyca.org/specificplan.html>) has proposed massive intensive-use
development (retail and hotel/conference center—see Appendices for layouts)
adjacent to elements of the proposed recreation plan. As of August 20, 2002, the Bay
Area Water Transit Authority (created by Senate Bill 428 in 1999, and funded by state
legislature for studies in 2000) has proposed an exciting, large-scale San Francisco
Bay Area ferry system (see <http://www.watertransit.org/> for proposal and EIR; see
Appendices) that will feed into the Berkeley shoreline.

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The Magna Entertainment Corporation owns the largest block of land—approx 98 acres—within the length of the proposed Eastshore State Park, and is contiguous to both the Berkeley North Basin and to the Albany Waterfront (our group's focus). The Bay Area Water Transit Authority proposes two possible locations for a Berkeley/Albany ferry landing, the favored at this time being at the south end of the Magna Entertainment Corporation lands, near Berkeley's Gilman Street.

Both of these very recent proposals will generate intense use and will have great influence on the Eastshore State Park's development, and visa versa. They will drastically change transit and access points of visitors to the park and potentially draw many more visitors than projected in the EIR. These changes are inevitable. The Magna Entertainment Corporation's plans fit within the current Berkeley and Albany General Plans which govern its construction. Albany is highly motivated to acquire the revenues generated by the new retail activities in the Magna Entertainment Corporation proposal. And the Berkeley/Albany ferry landing is very popular with the local residents.

In addition, we have heard that City of Albany is reviewing plans for a Target store to be located approximately 300 feet from the Buchanan/I-580/I-80 interchange. A new exit off of Buchanan has just been completed to allow access to the new Target. This will also increase traffic impacts significantly.

The current General Plan's proposals for structures, locations of intensive use, promenades, and so forth must be reconsidered in light of these proposals. Much of this General Plan can no doubt be retained (particularly wildlife preserves, which of course are already in place), but the probable increased cumulative impacts of all four of these projects need to be reassessed, particularly for Eastshore State Park's current users, wildlife, habitat, traffic generation, neighboring residents and city parks etc. It can be reasonably concluded that each of these projects will be competing for extremely limited resources (i.e., parking, traffic volume, air quality, etc.) that, if considered cumulatively, would result in significant unavoidable impacts.

We recommend that a new General Plan be created **in collaboration** with all of these new major projects, and that particular care be taken that the new General Plan maintains open space buffers between these new intensive uses and the preserves, and that the new access foci integrate with siting of intense use areas.

The rest of this EIR response is organized as follows:

- Comments on the Public Notification and Review Process
- Comments on the Environmental Impact Report

- **Appendices:**
 - Documentation re. members' experiences of public notification and case summaries re. mandatory notification requirements
 - Some additional information about the Magna Entertainment Corporation and the San Francisco Bay Area Ferry System proposals
 - Documentation of value of Art at the Albany Bulb and its cultural context
 - Articles describing alternative vision of Aesthetics and Habitat Rehabilitation
 - Articles about Albany Waterfront and Albany Let It Be
 - Articles about continued hazardous waste problems in park
 - Approximately 3000 signatures supporting that the Albany Waterfront be left as it is—"Albany Waterfront • Let It Be"

Please note that, though we noticed a number of EIR omissions or disagreed with the planners' conclusions in many areas, we as a group have decided to focus primarily on how the EIR addresses impacts on the Albany Waterfront area. The Albany Waterfront represents nearly a third of all the upland area within the Eastshore State Park. Our group formed in March 2002 after the publication of the first EIR and represents roughly 600-700 of the users of the Albany Waterfront.

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Comments on the Public Notification and Review Process

We challenge whether public notification for review of this draft EIR and General Plan has met legal requirements. It is clear to us that multiple barriers have been deliberately placed to stop the Albany Waterfront users from having opportunities to review the General Plan and EIR.

- No postings of public meetings by the Eastshore Planners or other agencies were placed at the Albany Waterfront or on many parts of the multiple non-contiguous sites of the Eastshore State Park.
- We tried to post notices of all Eastshore Park Public Hearings and City/Agency meetings reviewing Eastshore State Park planning at the Albany Waterfront Park, and witnessed that City of Albany and EBPRD staff were tearing them down. Upon inquiry of EBPRD staff, we found out that they were directed by Dee Tilson, EBPRD manager, to tear down all of our notices (notices about lost dogs, cleanup days and fundraisers were allowed to remain).
- We requested permission to install a small bulletin board for the Albany Waterfront users similar in design (but smaller) to that at Point Isabel Regional Park (that bulletin board is used by PIDO, a non-profit dog owners group), and were denied by Dee Tilson, EBPRD.

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- Several of our members requested notification as individuals and received none.¹
- Most of our members say that the only notifications they have received are from our email announcement list and from our small notices at the Albany Waterfront (before they were torn down).
- Kinko's in Emeryville repeatedly ran out of copies of EIR and General Plan to hand out, and staff there were uncooperative about reprinting them (one of us made FOUR trips to pick up a complete packet). We also found that many people were unaware that EIR Technical Appendices were available, which included critical information in the form of reviews of the Feb 2002 preliminary draft EIR from other government agencies and other stakeholders.

In addition, we found that many users of the Albany Waterfront were unaware that it was destined to become part of the Eastshore State Park! Several still are confused, and believe that the Albany Waterfront is part of the East Bay Regional Parks. If the park user does not have internet access, we cannot educate them except by word of mouth. The "Eastshore State Park" signboard that has been cited by the planners as being adequate notice is located by the freeway interchange and right next to the Albany Mudflats, and is easily not associated with the Albany Waterfront (the sign is approximately 350 feet away from the parking and the park access points). It says nothing about planning notices. It also only provides a URL for more information, thereby making the information inaccessible to many of our users who are elderly or low income and don't have internet access.

California Public Resources Code §21092(b)(3) says that:

"The notice required by this section shall be given to the last known name and address of all organizations and individuals who have previously requested notice and shall also be given by at least one of the following procedures: ..."

Clearly this has been violated repeatedly. In the judgments *Plaggmier v. City of San Jose* (1980 101 Cal. App. 3d 842) and *Stevens v. City of Glendale* (1981 Cal. App. 3d 986), this notification was found to be mandatory and non-compliance will have the effect of invalidating the government actions to which they relate.²

The California Public Resources Codes says that legal compliance only requires one of the following procedures:

- publication in a newspaper of general circulation
- posting of notice on and off site in the area where the project is located

¹ See Appendices for documentation

² See Appendices for documentation

- through mailings to owners of contiguous properties

However, we feel that the destruction of our own efforts to post notice to the users of the Albany Waterfront can be construed as intent to prevent that specific stakeholder group from receiving public notice of public hearings, the General Plan and the EIR, and therefore their right to comment on the Eastshore State Park plan.

Again we urge that this General Plan and EIR be returned to the drawing board, this time with appropriate public notification and inclusion of ALL stakeholders.

A last note before continuing...we ask for the understanding of the reader. This document was produced by volunteers under what was, for us, a severe time constraint and learning curve! We thank you for your patience.

Comments on the Environmental Impact Report

Refer to EIR Section III - A. Aesthetics³⁴

Proposed Sports Fields and Turf Area on the Albany Plateau

The report claims the construction of sports fields on the Albany Plateau would not substantially impact the overall scenic quality of the area. This is arguable and subjective. Manicured expanses of turf, chain link fencing and concession buildings would destroy the current wild scenic quality of the plateau, which is a significant portion of the Albany Landfill. The plateau is a large area of wild grasses, fennel and other native and non-native vegetation. It is a biologically diverse meadow of high scenic quality and visual interest both from within its border and from far distances.

The view of the Albany plateau from I-80 and I-580 would be impaired. Per *The San Francisco Bay Plan* (see the San Francisco Bay Conservation and Development Commission Staff Comments on NOP 02/19/2002 in their letter of March 22, 2002, EIR Technical Appendices):

"Maximum efforts should be made to provide, enhance or preserve views of the Bay and shoreline.... Views of the Bay...from...roads should be maintained by appropriate arrangements and heights of all developments and landscaping between the view areas and the water."

³ Section on III-A Aesthetics written by Susan Synarski

⁴ Note that significant impacts of removal of Art from the Albany Bulb are being addressed within the context of Section III - D. Cultural/Historical Resources.

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The *San Francisco Bay Plan* designates Interstate 80 and the Bay Bridge as scenic roadway by. In addition, I-580 also provides drivers with spectacular bay and marsh views where it touches the Eastshore State Park eastern border (approximately four miles in length). The current view is a near-continuous stretch of marshlands, the Plateau's grasses and brush, and the salt marsh and the willows along Cordonices Creek's outlet which screens much of Golden Gate Fields

The BCDC staff also requested in this memo that impacts on views down street corridors and from major vantage points (such as the west side of Albany Hill and the more distant Berkeley Hills) be evaluated. In spite of this request, the current EIR still states "less than significant" visual impacts on the part of the General Plan in spite of the BCDC staff request.⁸

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The EIR authors limit their aesthetics evaluations for views only from within the Albany Waterfront, with no consideration of views from exterior vantage points, with the exception of the visual impact from the freeways of the expanded parking lots on the southern side of the Albany Plateau. The judgment standard also does not hold undeveloped wild land as having significant aesthetic value in of itself.

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Instead of viewing a natural open space, drivers will see a fenced, golf-course-like patch on an otherwise naturalistic setting of wild lands and marsh. This effect is visually jarring and out of character with the shoreline. The tall chain link fences required for the sports fields to protect the preserve on the north from trash and balls will probably obstruct the view of San Francisco's skyline from I-580, a portion of I-80 and some surface streets on Albany Hill. In addition, street lights and other utility poles necessary for parking areas and utility service would also contribute to a distinctly "non-natural" view from several vantage points and corridors (for example, the artery Solano Avenue) to the east.

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We submit that sports fields on the Albany Bulb would "have a substantial adverse effect on a scenic vista" and "substantially degrade the existing visual character and quality of the site." Both of these are cited as "Criteria of Significance" on pg. 45, section (a), *Environmental Impact Report (07/2002)*.

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Furthermore, we submit that the Brickyard Cove or North Basin in Berkeley is a more desirable location for sports fields for the following reasons:

1. The City of Berkeley supports the location of such fields at the Brickyard Cove or the North Basin. The Brickyard Cove is serviced by more public transportation (Amtrak, city buses and a pedestrian/bicycle overpass). Public transit options

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⁸ We want to note that the General Plan's revised playing fields proposal did mitigate for night-time glare, which concerned us for many reasons (not just aesthetic), and appreciate that issue being addressed.

could mitigate parking problems and unaesthetic (and costly) expansion of parking. Similarly, the North Basin is also closer to public transit options and pedestrian/bicycle access at Gilman Street. Albany Waterfront has no public transit service at this time, and pedestrian/bicycle access is more challenging than at these other sites.

2. The Berkeley lands are aesthetically more compatible with sports fields since numerous other facilities already exist there, with several more structures being proposed within the General Plan. Current facilities include: The Berkeley Marina and Harbor, a hotel, restaurants, a market/deli, Cal Recreation facilities for boating/kayaking, Cesar Chavez Park (city park), Berkeley's Marine Interpretive Center. Proposed in the current Eastshore State Park General Plan are promenades, a visitor's center, another interpretative center, hostel, boathouse, recreation concessions, a boat launch, irrigated turf areas, and increased parking. In addition, from distant vistas (Berkeley Hills and I-80) irrigated playing fields will blend in with the cultivated Berkeley Marina and Cesar Chavez Park to the west.
3. The land at Brickyard Cove has already been cleared during construction of the pedestrian overpass and currently is mostly bare dirt. The ground in this location is geotechnically more stable and less contaminated than the Albany Plateau. North Basin land has been rented for short-term commercial ventures such as Christmas tree sales lots for over a decade. While the EIR geotechnical assessment for the North Basin seems incomplete for decision-making purposes, aesthetically it would also be a better site for playing fields than the Albany Plateau, and in fact would potentially enhance the views, as is set as a priority by the *San Francisco Bay Plan*.

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cont.

Mitigation Measures

To mitigate these aesthetic issues, we recommend that the General Plan be revised to relocate the proposed playing fields from the Albany Plateau to the Brickyard Cove (first alternative) or the North Basin (second alternative due to incomplete geotechnical information).

We recommend that the Albany Plateau be left as it is, a naturally evolving wild land on unstable landfill, with low-intensity, passive use such as off-leash dog walking, birding, hiking and occasional small nature field trips from local schools. Visitors can then continue to enjoy the progressive changes of a habitat recovery and its seasons, wildlife and floras.

Refer to Section III - C. Biological Resources⁶

The Resource Inventory used as a basis in decision-making for the general plan and the basis for the EIR is inadequate. For example the Resource Inventory—and consequently the EIR and the East Shore Park General Plan—**do not** address the presence of a nesting pair of California Least Terns in the North Basin Strip. The California Least Tern was federally listed as endangered in 1970, and listed as State endangered in 1971. I [writer Susan Synarski] observed this pair of California Least Terns and their young in the gravel and shell patch in the North Basin Strip. While I notified the East Shore Park planning effort of this omission after I noticed they were not included in the Resource Inventory, the omission was not corrected. There are other examples of important biological resources omitted from the Resource Inventory, such as the presence of a nesting pair of Grey Herons in the east portion of the Berkeley Meadow. There are no assessments for terrestrial invertebrates and reptiles. Because the Resource Inventory is incorrect and incomplete, neither the General Plan nor the EIS proposes mitigation measures that are adequate to insure the protection of important animal, bird and plant life.

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Additionally, there are several areas of seasonal wetlands on the Albany Plateau that are not mentioned in the Resource Inventory. The creation of sports fields in this area will certainly eliminate these seasonal wetland areas and associated wildlife. Biological assessments appropriate to General Plan decisions should have been made before making a decision to site playing fields on top of seasonal wetlands. The EIR should be modified to indicate mitigation measures for these seasonal wetland areas.

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Intensive recreation use such as playing fields on the Albany Plateau will impact wildlife in the preserve's mudflats immediately north of the Plateau. Four issues of particular concern are the impacts on the plant and animal life in the neighboring preserve:

- **Runoff from the irrigation of the soccer fields**—Mudflat areas are both biologically very delicate and productive. While runoff may not directly kill flora and wildlife in the preserve, it is likely to cause damage. In addition, the "weathered hydrocarbons" already analyzed in current seepage on the north side of the plateau may increase substantially, since the substrate of the plateau is not well known at this time.
- **Trash generated by players**—Currently new trash at the Albany Plateau tends to appear at the base of the Plateau, either tossed by those in the parking lot or blown in from the racetrack crowd. (Albany Let It Be members frequently clean

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⁶ Section on III - C. Biological Resources written by Marie Jones

up this trash.) It is naturally blocked from the preserve. However, players generate trash that is likely to endanger birds in the preserve. Mitigating the trash danger by building tall fences to block the trash from blowing into the preserve creates more negative impacts (see below).

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- **Balls falling into the preserve**—The high winds and close proximity of five playing fields in intense use will result in play equipment such as soccer and baseballs and Frisbees going into the mudflats area, in spite of fencing. Balls and people pursuing their gear in spite of prohibition will disturb nesting and feeding in the preserve. Tall fences cannot entirely prevent this impact, and also in turn will create other negative impacts.
- **Fences interfering with flight ways**—Tall fences (typically 30 feet required for a baseball backstop, probably 12 feet for the remaining fence along the playing fields' north and east borders to protect the preserve from trash and balls) will interfere with the low flight ways of the many birds that fly over the plateau to the feeding areas at the Golden Gate Fields and the brackish marsh where *Codornices* flows. The egrets and geese have often been observed to fly only about 30 feet above the ground level at the Plateau. Also trash will build up at the base of the fences, creating an environment for rats.

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Additional concern without evaluation is the environmental impact of increased, all-year mosquito populations (from irrigated, poorly-drained fields—the only kind that can exist on the substrate of the Albany Plateau) upon birds—including endangered species—in the preserve, especially in light of bird deaths caused by the West Nile virus which is due to arrive in the San Francisco Bay Area in 2003. (Bird mortality list is available at the Center for Disease Control's website:

19

<http://www.cdc.gov/ncidod/dvbid/westnile/birdspecies.htm> . List includes night and Great Blue herons, Cooper's and sharp-shinned hawks,⁷ several warblers and goldfinches.) Humans can use DEET and are less likely to sicken from the West Nile virus, but only keeping mosquito populations under control will protect wild birds.

Mitigation Measures

The EIS should evaluate and recommend effective mitigation measures for all of these potential impacts.

We recommend avoiding all significant impacts by relocating playing fields away from the Albany Mudflats preserve, preferably in well-drained land to avoid increasing all-year mosquito populations within the Eastshore State Park.

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⁷ Cooper's and sharp-shinned hawks are both Species of Special Concern and known to pass through the Albany Mudflats

We recommend that the Albany Plateau be left as it is, with current low-intensity uses such as: off-leash dog walking, hiking, birding, and occasional nature field trips from local schools. We also suggest evaluation of slow, considered habitat enrichment for terrestrial invertebrates and reptiles that are compatible with low-intensity recreation uses. A more comprehensive assessment of sensitive species, their habitats, the seasonal wetlands, and wintertime fungus populations must be performed before any changes are proposed for the current land use patterns.

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Refer to Section III – C. Cultural Resources⁸

Public Art at the Albany Bulb as a Cultural Resource

Page 91 paragraph 1. The report defines the “wild” or impromptu collection of art on the Albany Bulb as a “Possible Cultural Resource.” It also notes on page 94, section 2, that “Removal of Art Installations.... would adversely affect the unregulated practice of creating ephemeral art along the waterfront.”

Page 91 paragraph 2. The report notes: “The installations are interesting and unique to the area. As such the General Plan requires that appropriate review be conducted by a cultural resource professional prior to any disturbance. As part of this review, State Parks will determine whether the practice of art making along the East Bay shoreline warrants consideration as a cultural resource.” The language of this is unclear. Would the State Parks determine if art making on the Albany Bulb is a cultural resource? What qualifies them to make this ruling?

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The art and art making on the Albany Bulb is outside the usual parameters for art in State Parks. It is not typical of committee-juried art and the usual State Park channels cannot determine its value. No study has been conducted to determine how many visitors come to the park to view the art and the artists at work. Its removal may result in the irrevocable loss of a valuable public asset.

The public art of the Albany Bulb is listed in the archives of Sheffield Hallam University (UK) as a “public artworks under threat.” See <http://www.shu.ac.uk/services/lc/slidecol/pubart.shtml> and link to “What’s New.”

The public art of the Albany Bulb is also listed with the Public Art Research Institute (Japan): http://www.publicart.co.jp/company_j/news.html (home page at: <http://www.publicart.co.jp/>)

The art of the Albany Bulb is of international interest, let alone as a California cultural resource.

⁸ Section on III – C. Cultural Resources written by Susan Synarski

Public Art at the Albany Bulb as a Historical Resource

Page. 91 paragraph 1. "The northern East Bay waterfront has a tradition, which involves individuals building and depositing impromptu art installations along the shoreline. This wild art has been a part of the waterfront since at least the late 1960s."

We submit that the art at the Albany Bulb is the last stand of the East Bay waterfront art tradition and as such its removal would constitute a substantial adverse change in the significance of a cultural and historical resource (pg.93, section 2a).

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We also object to the extremely biased way the planners present the art works in the plan. The draft plan and EIR state or imply that the art is either "ephemeral" and thus has no lasting significance; or if more permanent, then it must necessarily incorporate items brought to the landfill recently from somewhere else.

This is simply not true. The vast majority of materials in all the art pieces described above come from the landfill. For example, only paint, nails, and a few bags of concrete used in Mark's castle did not come from the Landfill. Mark got the bags of concrete as cast-off bags that got wet when the I-80 overpass was being built in the late 1990's across from the racetrack. The blocks of concrete he has used come from the landfill.⁹

Much of the art at the Landfill is not "ephemeral." The so-called "Icarus" rebar sculpture (also known as "First Flight") standing above the sculpture garden/bicycle graveyard was built circa 1993. According to Fletcher Oakes (professional photographer who has spent many years documenting the public art at the Bulb), "Icarus" was built by the artist who built the fennel hut this year. This artist may also have been responsible for the shopping cart arches built in 1999-2000, which would likely still be standing if not for destruction by the EBRPD staff at the order of Dee Tilson, EBPRD manager. Another of this artist's welded rebar creations was photographed and included as the picture on the Table of Contents page of the City of Albany June 1995 Proposal for the Eastshore State Park. Tom Dubberke has prominently incorporated a piece of this work (it is a cut metal banner of sorts) in the bicycle wall in the sculpture garden which he began building in March of 2000 and which is an ongoing project.

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The artists' collective know as Sniff began to work at the Landfill in their area on the Albany Bulb in 1998, initially painting blocks of concrete which are still in place. Mad Mark began his fairy castle in 1998 and it is an ongoing work. An artist, who

⁹ See Tom Dubberke's letter in the Appendices

signed his works "Picasso," painted on concrete between 1997 and late 1999 and produced many pieces that are still intact. All of these pieces are hardly ephemeral.

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cont.

Mitigation Measures

Given the unique nature of this cultural and historical resource, and because its loss would have a direct significant impact on the cultural heritage and resources of the local communities and would constitute a substantial adverse change in the significance of a historical resource, we recommend the EIR assess the following mitigations:

1. A visitor analysis of current and potential users to determine whether or not this art should be removed and if impromptu public art making should be allowed to continue.
2. A survey on the value of the art and art making on the Bulb from a meaningful cross-section of Bay Area Arts groups and the California Arts Commission.
3. A survey of the value of the art and art making on the Bulb from a meaningful cross-section of local Art and Art History professors.
4. That the results of these studies be used in determining the Eastshore State Park policy on public art at the Albany Bulb.

27

Loss of Mixed Cultural Community

Although it does not meet the criteria for "cultural resource" as defined by the California Register, we submit that the Albany Waterfront constitutes a cultural resource for a "mixed cultural community" of recreational users. Currently the area is heavily frequented by a wide variety of users including fishermen, dog-walkers, artists and admirers of art, hikers, birdwatchers, bicyclers and schoolchildren on nature field trips. These users of all ages and cultures find value in the park as it is and in each other's company.

In many ways the Albany Waterfront is a model of multi-use compatibility. Many of these users, without any organization, contribute hours of volunteer time to clean up trash (including batteries, roofing material coming through the dirt from the substrate, plastics, racetrack crowd debris) and remove invasive non-native plants (such as star thistle). They have shown consideration of each other and the varied interests over the years. To disenfranchise the people who use it most would result in a loss of this unrecognized cultural resource.

28

Mitigation Measures

We recommend the EIR require the following mitigations:

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EASTSHORE STATE PARK EIR RESPONSE

AUGUST 2002

1. A study to determine what user groups currently frequent the Albany Waterfront and in what numbers.
2. A study to determine impacts upon displaced users (one significant subgroup being disabled dog walkers with few or no alternatives for walking their dogs off-leash; Point Isabel's density of use makes it difficult for many disabled to use.).
3. To require that all significant current user groups be accommodated at the Albany Waterfront within the *General Plan*.

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Refer to Section III – E. Geology and Soils¹⁰

The Initial Study for the Eastshore Park Project General Plan, prepared by LSA Associates, Feb. 2002, describes the Geology and Soils conditions in section VI of the Environmental Checklist. Subsection VI a) poses the question: "Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: ... strong seismic ground shaking, ... or seismic-related ground failure, including liquefaction?" The LSA preparers appropriately indicate that the risk of loss, injury, or death is "Potentially significant unless mitigation incorporated" for the related hazards of seismic ground shaking and ground failure. Also, Subsection VI c) LSA found that the landfill material comprising the Bulb, Plateau and Neck in Albany is unstable and that it could potentially result in landslides, lateral spreading, subsidence, liquefaction or collapse.

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The combination of unstable fill material overlying a thick section of Bay Mud is an excellent setting in which collapse and ground failure could occur during a seismic shaking event. The northern segment of the Hayward Fault is just under four miles east-northeast of the Albany "Neck." **The most recent probability estimates for the occurrence of an expected earthquake have an estimated 60% likelihood within the next 30 years for an earthquake of magnitude 6.9 (USGS, 2000).** A M6.9 earthquake on the Hayward Fault would likely result in landsliding and/or lateral spreading along the steep, unstable sides of the Plateau, Neck and Bulb, as well as generate local areas of collapse where voids in the fill cave-in or where surface material moves into the voids during ground shaking. All of these effects could endanger people and structures.

My [writer Janine Band] view on this potential effect is that any structures placed on the landfill site would likely have to be considered "sacrificial" in the event of a

¹⁰ Section on III – E. Geology and Soils written by Janine Band, Ph.D., a registered geologist familiar with the site, with the Eastshore plan, with the EIR process, and possessing over 10 years of Bay Area geologic experience.

ALBANY WATERFRONT — LET IT BE

- 13 -

large earthquake, and the Eastshore Park Project Maintenance Plan and Budget should include plans for replacement of structures and the water, gas, or sewer lines leading to them. This may ultimately be too expensive, especially on the Plateau where larger facilities managed by concessionaires are planned. Other structures such as parking lots would have to be re-graded and repaved at intervals due to normal compaction of the fill material and underlying Bay Mud. This too would have to be considered in the budget.

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The Geology and Soils section of the Initial Study does not address the status of natural geologic processes currently at work on the Albany Bulb and Neck. My personal observations of the condition of the shoreline along all portions of the Neck and Bulb are that the rate of erosion is very high, especially where wave action is strong. Each time I cross the margin of the lagoon at the west side of the Bulb, I notice that the last high tide has in most places completely overtopped the rocky margin, and that the grassy soil layer at the northwest corner of the lagoon is becoming progressively smaller due to erosion by tide and waves. This portion of the lagoon margin is provisionally planned to be converted to an "island" for the nesting of shore birds. In light of my observations of erosion and tidal inundation, this planned use does not seem possible.

My walks around the lagoon are spaced approximately two to four weeks apart and I can see changes with each visit. Site visits by consulting geologists and engineers cannot provide the continuous observations as made by a regular user of the area such as myself, thus they may have overlooked this important issue.

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In recent weeks I have also noticed the shifting of very large blocks along the south side of the Neck. If the Albany Neck and Bulb are to be safe and become more intensely used according to the proposed Eastshore plan, then the issue of stabilization of the actively eroding margins will be necessary. Stabilization may include creating rock-crib structures outboard of the present shoreline to dissipate wave energy, and softening of the shoreline by encouraging the growth of salt marsh-type plants or reeds placed either on or behind the rock-crib. Other solutions are possible as well, but this issue is one of the most critical at the Albany site because continued erosion has the potential to undermine other improvement efforts and expenditures.

My final observation is of the dune field adjacent to Albany Beach. This narrow strip of dunes is ephemeral. My years of observations of these natural dunes indicate that yearly, winter storms quite thoroughly rework the sands and move the very large driftwood logs around. I cannot imagine that a wooden boardwalk to the beach would survive even one winter. The reason there are no long-standing boardwalks on beaches lying directly downwind of the Golden Gate is that the natural erosion and re-deposition effects of the wind, waves, tides and storms are too vigorous. This small stretch of sandy beach is a natural treasure. It is the only place in the

31

Eastshore north of Alameda where there is direct access to the water that is not across artificially placed riprap or looking down from a pier. Allowing the annual migration of dunes and driftwood would be the best way to showcase this example of native beach and dunes.

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cont.

I hope that these comments will contribute to the knowledge base of the conditions at the old Albany landfill, and help the board to make informed decisions.

Sincerely, Janine Weber Band, PhD, RG #6968
535 Key Route Blvd, Albany CA 94706

Refer to Section III – H. Land Use and Public Policy¹¹

Land Use

City of Albany Municipal Code (2002.16) indicates that zoning for the areas west of I-580 is Waterfront District. Under this code, park use is a conditional use for the Albany Bulb. Please clarify how the Eastshore State Park General Plan is exempted from the City of Albany's current Municipal Code as no application for a conditional use designation has been submitted or approved at this time. In addition, Measure C requires that an amendment to the existing General Plan would require a ballot measure by a majority of City voters, and such a ballot measure has not been undertaken with regard to this plan.

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Page 151 of the EIR states: "implementation of the Draft General Plan will not result in significant land use impacts at the program level of analysis." However, adoption of this plan will significantly increase the utilizations of the park facilities within the City of Berkeley Marina. The Eastshore Park General Plan specifically outlines strategies to add 350 additional parking facilities within easy walking distance of the Berkeley Marina. This is likely to increase visitor loads to the Marina. This issue has not been adequately assessed in this EIR.

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Of course, without joint analysis of the cumulative impacts of the Magna Entertainment Corporation plan for Golden Gate Fields, the new ferry landing in Berkeley, and the new Target store at the Buchanan/I_80 intersection, as well as the Eastshore State Park, there can be many more unforeseen land use issues. These projects are not addressed either in the General Plan or in the EIR.

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Control of Visitor Thresholds

The general plan claims: "as a park unit in an urban setting with multiple entry points and unrestricted access, implementing a visitor limit will be a management

¹¹ Section on III – H. Land Use and Public Policy written by Marie Jones

challenge." However, the Park can implement a mitigation measure to insure that excess visitor impact on the park does not occur. Urban access to the Eastshore State Park is currently limited by the freeway and railroad tracks that make pedestrian and bicycle access to the park challenging. Other than the Berkeley Bicycle Overpass, there are no pedestrian or bicycle friendly access points to the park. Consequently park access can be controlled by the quantity of parking provided at the site as well as bus and shuttle services to the site. Please consider the value of a mitigation measure of providing for sequenced development both between the different management zones and within the management zones to insure that wildlife habitat, natural features, and the natural setting of the park are not significantly degraded by too many visitors.

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Refer to Section III – J. Public Services¹²

Public health and safety does not adequately address many key items, which has an impact upon the plan design and public safety. There is no indication where increased staffing and funding for Fire Department or Police Department personnel will come from or if it even can be provided. Increasing easy night-time access to the far west end of the Albany Bulb is likely to increase crime, as has been experienced at the Berkeley Marina and Cesar Chavez Park (outside of the off-leash dog portion).

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The potential need for additional animal control enforcement, due to increasing usage at Point Isabel beyond its threshold, is not even mentioned. In fact, no analysis of appropriate threshold limits for users at Point Isabel is presented in the EIR.

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Substantially reducing off-leash areas in the face of serious local shortages may seriously impact local shelters' ability to place dogs, as urban pet guardians faced with few options to adequately exercise their pets are forced to surrender their dogs. (An estimated cost of placing a dog into adoption from a shelter ranges from \$300 to \$700.) This burden can be substantial as estimates of households with dogs in Albany, Berkeley and Oakland range from 22% to 37%.

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Safety requirements for the proposed increase of water-oriented activities are not addressed. There is no mention of a potential need for increased Coast Guard support or if the Coast Guard was notified and asked for input on the proposed plan. Potential increased impacts of water rescue operations are not addressed in this EIR.

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¹² Section on III – J. Public Services written by Missy Brosnan

Refer to Section III – K. Transportation and Circulation

One critical intersection is omitted in its entirety in the Plan: the Buchanan Street interchange. This is one of the two major arteries that serve Golden Gate Fields during racing season and **the only public access to the Albany Waterfront**. This omission also means that no traffic impacts were addressed for Albany Hill residents. Impacts on local streets, such as those on Albany Hill serving as access from I-80 southbound, are not evaluated in the EIR. To reach the Albany Waterfront from I-80 southbound, exiting at the Albany exit, requires traveling several blocks of quiet residential streets on Albany Hill, as there is no direct access to Buchanan westbound from Jacuzzi Street. Albany Hill residents fought fiercely for decades to relocate the I-80 entrance/exit to preserve their quiet and finally succeeded in relocating these exits only a few years ago. To substantially increase the visitor load to the Albany Waterfront by creating a regional, high-intensity sports facility would undo this work.

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Berkeley residents, currently the largest portion of Albany Waterfront users, are likely to use the newly opened Eastshore Highway (frontage road) from Gilman Street, intersecting with the traffic generated by the new Target just a few hundred feet from the Buchanan/I-80 interchange. This cumulative impact is not addressed in the EIR.

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The demographic change proposed is a shift to primarily youth activities from primarily adult activities with some children. The physical location of the Albany Plateau is prohibitive to ready access by youths who are not accompanied by their parents. Parents will have to drive children to the park and its facilities. In this, the plan ignores the population of less-than-privileged youth. The plan calls for building a bike trail on the Eastshore Highway (Resource Inventory page R-13). The speed of the traffic on the Eastshore Highway would prohibit children and adults from riding their bikes safely on this road. The Eastshore Freeway is also heavily used by industrial trucks, which would detract from the overall biking experience.

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There is no proposal to solve the break in the Bay Trail at Albany. The only solution posed is, again, the bike Trail along Eastshore Freeway. According to the plan, access through Golden Gate Fields property is not viable, leaving the only option for direct vehicular access the freeway or the Buchanan Street underpass. Obviously this is no longer true, since Magna Entertainment Corporation's proposal includes just such a proposal.

Of course, the new Magna Entertainment Corporation proposal also includes possible alternative Bay Trail circulation, but this is not considered within either this General Plan or the EIR.

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The EIR states that General Plan policies create a framework for alternate transportation (page 207), yet there is no clarity in vision for how this will be

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implemented. There is no public transportation to the Albany Waterfront, and bike and pedestrian access is limited and unsafe. The Waterfront as it exists today does not offer a viable location for bus service and there is inadequate space to develop a turnaround for bus service. Water transportation is touched on but not addressed.

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cont.

Traffic impacts as cited in the EIR are not clear. The EIR indicates <1% increase in patterns on westbound and eastbound I-80 with the park proposal, with total daily volume of less than 30+/- . But the proposed projects daily increase was 1,200 +/- per day. Calculations do not match population and trends figures cited in the General Plan (page II-49). Given traffic estimates of <1% increase in usage, if there is intended to be a shift in usage patterns (i.e. soccer, etc.), then where are the displaced activities currently on site supposed to be shifted to? The <1% increase also begs another question: is this plan financially viable?

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The EIR cites that the Level of Service (LOS) is currently unacceptable at many intersections and will continue to be unacceptable with implementation, but no mitigation efforts are addressed in the Plan or the EIR.

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The EIR states (page 206): "As a recreational trip is discretionary and not a mandatory trip for visitors to the park, if parking is not available, motorists could seek alternative recreational opportunities." This theory will not promote the proposed field location as viable to parents that are trying to deliver their children in a timely fashion to soccer practice or soccer games. The General Plan and EIR indicate that the number of parking spaces affects number of trips, and both documents are inconsistent as to the number and location of parking spaces that will be needed for the Albany Waterfront recreation area. The overall need for parking is not addressed in a logical manner—the General plan calls for 60 additional spaces at Albany while the EIR calls for 120. If one reads between the lines and assumes that some of these will be located off site, where will the off-site location(s) be and how will children and adults get from this location to the proposed fields?

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Refer to Section III – L. Utilities

EBMUD's request¹³ to mitigate impacts on water supply by using recycled/non-potable water for irrigation and toilet flushing has not been addressed. The plan and EIR do not address whether Magna Entertainment Corporation's proposed development would allow for the proposed park facilities to piggyback on Golden Gate Fields for water and waste service. Site-related underground pipe installation/maintenance/repair in case of earthquake are not addressed.

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¹³ Letter of 03/20/02, in response to prior EIR; see EIR Technical Appendices

There is no mention of whether the proposed electric extensions would be overhead services or underground. Visual analysis does not take potential overhead pole lines to service planned concessions and other facilities into consideration. Likelihood of high maintenance/replacement of underground utilities is not evaluated (all of the Albany Waterfront is on unstable ground subject to both uneven settlement and liquefaction in the event of an earthquake). The actual cost of electric, gas and telephone service extensions is mentioned, but there is no indication if funding is available or what the source of the funding would be.

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The concept of the concession services is not adequately addressed, as the planners judged that these fall to the purview of future Specific Project Plans and DEIRs. There is no analysis of the potential solid waste created by the proposed landfill cleanup. The necessity for additional daily clean-up requirements as a result of the proposed increased visitor load to the Albany Waterfront and the impact on EBRPD's personnel and budget costs are not addressed.

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The lack of information on concurrent projects' cumulative impacts provided in the General Plan and the EIR, along with insufficient findings, analysis and conclusive determinations prohibit one from reaching the conclusion of less than significant impacts upon utilities. Any detailed EIR will require financial analysis to determine utility impacts and feasibility of mitigations due to costs. The lack of alternative proposals creates a bias in favor of the plan as it stands, and does not provide a well-rounded determination on the value of the proposal.

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Conclusion

On behalf of the Albany Let It Be group, we hope our research and observations on the Eastshore State Park EIR and proposed General Plan will prove helpful.

Again, we request that the State Parks and Recreation Commission not certify the current proposed Eastshore Park Project's General Plan and EIR, and deny approval of this plan. We found that the EIR is inadequate and the General Plan seriously flawed when it came to planning analyses for the Albany Waterfront.

Recent major project proposals with major cumulative impacts on the Eastshore State Park were not considered within this EIR or General Plan due to the planning process schedule. However, these new projects are such large land-use changes, and will have such strong influences on the Eastshore State Park, not to incorporate these major land-use changes into the planning process is to court serious, unforeseen impacts.

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And finally, the pattern of violating mandatory public notification requirements is worrisome. We had suspected something, but only when we polled our members via email over this last weekend did we find that there were persistent problems for

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several of us. We can only conclude that many other members of the public have been denied their opportunities to contribute to this planning process.

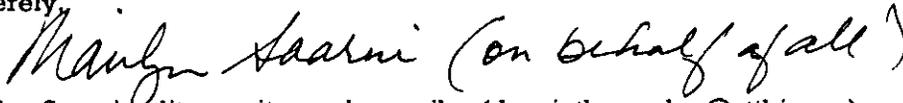
We hope, as this planning process continues, that efforts will be made to assure that appropriate public notification takes place, including on the sites. We also ask that aggressive interference on the part of government agency staff members to prevent public notification will halt.

For many of us in Albany Let It Be, this is our first interaction with the State Parks and Recreation, or indeed in political activism. We are a widely diverse group, in every way, many of us bringing not only our enthusiastic dogs, but our young children to enjoy the wild or discover an errant art piece. And this park, without any additional modification, already is used by many disabled, from those in wheelchairs who watch their Companion Dogs swim at the beach from the bluff above to those whose footing is not steady or tire easily, who contentedly walk the short distance to the Plateau to throw balls for their dogs and observe the newest strange mushroom growing. Many of us love the Albany Waterfront because we enjoy the solitary walks it provides, with surprises around the turn. We realize, of course, that the Eastshore State Park planners were unaware that the Albany Waterfront had a passionate group of users who love it and visit it several times a week, who value the unique culture of sharing and tolerance its users have created, and the marvelous art and creativity it inspires.

We thank you for this opportunity to provide this information for your consideration.

In the hope of a better, future Eastshore State Park for all of us,

Sincerely,



Marilyn Saarni (on behalf of all)

Marilyn Saarni, editor, writer and compiler (dogsinthegarden@attbi.com)

Missy Brosnan, writer and compiler (mbrosnan@california.net)3

Susan Synarski, writer

Marie Jones, writer

Thomas Dubberke, attorney, research

Janine Band, Ph.D., Registered Geologist, writer

On behalf of ALBANY LET IT BE

<http://www.albanyletitbe.com>

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cont.

Note

We include bulky Appendices with supporting documentation. We felt that it is important for those who reside elsewhere in the state to have a better understanding of our concerns, and since we are such a newly-formed group (we formed in March 2002), we are not well-known and wanted to provide more information about our perspectives, perhaps endemic to the East Bay region.

For example, we have included several emails from our members regarding the problems with notification. We also include case summaries for relevant judgments. We include several discussions from media documenting both the widespread recognition of the "Art at the Albany Bulb" and for differing perspectives on appreciating an evolving landscape. We include some information (very brief) about the Magna Entertainment Corporation and San Francisco Bay Area Ferry System. And we include the 3,000 petition signatures (with a summary by city of residence) that support our position of leaving the Albany Waterfront as it is—allowing its artists to continue their magic, and for its off-leash dog walkers to enjoy and care for the park as they have for 12 years or more.

We have tried to make the appendices easier to scan by separating sections with colored paper and listing summaries of each section's contents and relevance.

COMMENTOR B7

Albany Let It Be; Marilyn Saarni, Missy Brosnan, Susan Synarski, Marie Jones, Thomas Dubberke, and Janine Band, Ph.D. (August 27, 2002)

- B7-1: This comment summarizes the general message of the succeeding comments in the letter. The issues brought up in this comment will be addressed below point by point.
- B7-2: Section 15125 of the *CEQA Guidelines* states that an EIR must include a description of the physical environmental conditions in the vicinity of the project as they exist at the time the Notice of Preparation (NOP) is published. The NOP for the Draft EIR was published on February 15, 2002. The two projects mentioned in this comment were proposed after the NOP for the Draft EIR was published. Additionally, when preparing the cumulative analysis for the Draft EIR, the EIR authors contacted the planning staff at each of the cities within which the project site exists to compile a list of past, present, and probable future projects (see Appendix F of the Draft EIR).
- B7-3: The comment erroneously cites the date of the publication of the Draft EIR. The Draft EIR was published on July 15, 2002. The comment may be referring to an early concept of the Preliminary General Plan.
- B7-4: Public noticing for preparation of the Plan and EIR and their availability met and even exceeded all statutory requirements of the *CEQA Guidelines*. The planning team published public notices in local newspapers, sent mass mailings, set up Internet communications at the project's website, made copies of the Draft EIR documents available to the public at Kinko's, on the website, and at local libraries, and that effort resulted in thousands of participants and hundreds of comments identified in this document. However, while it is true that the notice for the meetings were not physically posted anywhere on the site at the request of field staff; such posting is not a CEQA requirement when other noticing methods are used. This comment also addresses difficulties in the participation of the planning process for the Preliminary General Plan. No further response is necessary.
- B7-5: The Draft EIR is a program EIR, and analyzes the impacts of the proposed project at the same level of detail as the General Plan (see also Response to Comment A2-1). The Preliminary General Plan does not include any specific project details for the construction of sports fields on the Albany Plateau. Additionally, the Draft EIR identifies specific guidelines in the Plan to avoid, minimize, or compensate for visual resource impacts that future construction projects would be subject to under subsequent environmental review (see page 49).
- B7-6: See Response to Comment B7-5.
- B7-7: Comment is incorrect. The Draft EIR includes an analysis of potential impacts on views along street corridors and from major vantage points (pages 45-49 of the Draft EIR).

No specific project details for potential new construction have been formally proposed in the Preliminary General Plan. When specific details for potential development are formally proposed, these projects will be required to undergo subsequent environmental review. At that time, visual impacts will be evaluated and mitigated, as necessary.

- B7-8: The EIR authors disagree with this comment. The Draft EIR includes an impact evaluation for views from exterior vantage points outside of the project site (pages 45-49 of the Draft EIR). The EIR authors do not believe that the land use changes allowed by the Preliminary General Plan will lead to visual and aesthetic effects that exceed the threshold for calling them significant and adverse. While some viewers of the new park may prefer certain areas to remain as they are at present, others will no doubt welcome the planned changes. In terms of the Draft EIR, the environmental review process under CEQA is not the appropriate way to reconcile such differing viewpoints; criteria for determining the significance of physical impacts are not useful in such debates. The Draft EIR's description of existing visual and aesthetic conditions and analysis of potential impacts constitutes an adequate presentation of the issues in a program EIR.
- B7-9: See Responses to Comments B7-5, B7-7, and B7-8.
- B7-10: See Responses to Comments B7-5, B7-7, and B7-8.
- B7-11: See Responses to Comments B7-5, B7-7, and B7-8.
- B7-12: The observation of California least terns nesting at the North Basin Strip was not discussed in the *Resource Inventory* or the Draft EIR, because the authors of those documents were not aware of this observation and, thus, were unable to assess its accuracy. The North Basin Strip would be an unusual location for least terns to nest, due to the current level of disturbance by people, dogs, and predators (e.g., raptors, feral cats, rats, and raccoons). It is highly unlikely that least terns would nest again at that location, or at other mainland locations within the park. Least terns could nest on islands within the park, where they would be more protected from disturbance; and in fact, 12 pairs did nest in 2000, on a constructed island south of Central Avenue, near the park boundary (see the *Resource Inventory*). Potential impacts on California least terns, and other special-status species, will be addressed in the project-specific CEQA reviews of future projects within the park (see Response to Comment A2-1). Implementation of management guidelines WILDLIF-4, -5, and -6 in the Preliminary General Plan would avoid, minimize or compensate for these potential impacts.
- B7-13: Presumably, by "Grey Herons," the commentator is referring to great blue herons. The authors of the *Resource Inventory* and the Draft EIR were not aware that this species has nested in the Berkeley Meadow. Nevertheless, any potential impacts on this species, or other special-status wildlife species, will be addressed and mitigated (if necessary) as part of the project-specific CEQA reviews of future projects within the park (see Response to Comment B7-12).
- B7-14: The EIR authors do not agree with the comment's conclusion. The Plant Life section of the *Resource Inventory* (Figure PL-3) identifies seasonal wetlands at the Albany Plateau. The

Draft EIR (page 85) addresses potential effects on seasonal wetlands and identifies (on pages 85-86, items 3 and 4) the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for these effects. The specific assessment of wetland impacts, and the specific mitigation measures for those impacts will be addressed during project-specific CEQA review of the proposed activities at the Albany Plateau (see Response to Comment A2-1).

- B7-15: The EIR authors do not agree with the comment's conclusion. Use of herbicides and pesticides in the park would not result in significant impacts to plants and animals, given that the water quality protection measures identified in the Stormwater Runoff and Water Quality sections of the Draft EIR (pages 132-135) would reduce water quality impacts to a less-than-significant level. The specific assessment of the biological impacts of these chemicals, and the specific mitigation measures for those impacts, will be addressed during project-specific CEQA review of the proposed activities at the Albany Plateau (see Response to Comment A2-1).
- B7-16: The EIR authors do not agree with the comment's conclusion. Management guideline A-7 in the Preliminary General Plan requires that the operator of the sports fields on the Plateau "provide a facilities operations and management plan that ensures adequate protection for adjacent habitat areas." The specific assessment of potential biological impacts, and the specific mitigation measures for those impacts, will be addressed during project-specific CEQA review of the proposed activities at the Albany Plateau (see Response to Comment A2-1).
- B7-17: See Response to Comment B7-16.
- B7-18: See Response to Comment B7-16.
- B7-19: Properly designed and maintained sports fields would not be poorly drained, and would not necessarily support more mosquitoes than the existing seasonal wetlands at the Plateau. See also the Response to Comment B7-16.
- B7-20: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not raise questions or identify errors in the Draft EIR; therefore, no further response is necessary. However, please note that the Draft EIR (pages 80-86) addresses the potential biological impacts at the Albany Plateau and identifies the specific management guidelines contained in the Preliminary General Plan that would mitigate those impacts to a less-than-significant level.
- B7-21: See Response to Comment B7-20.
- B7-22: See Response to Comment B7-20.
- B7-23: See Response to Comment B7-20.
- B7-24: As the lead agency, the California Department of Parks and Recreation will be responsible for implementing the specific management guidelines in the Preliminary General Plan

which relate to artwork at the Albany Bulb. The commentor's remarks about the value of the artwork, the artwork's unique nature, and the need for further study of the artwork will be provided to the lead agency, the California Department of Parks and Recreation, and the decision-makers, the State Park and Recreation Commission.

- B7-25: Whether or not removal of the Albany Bulb artwork will constitute a substantial adverse change in the significance of a cultural and historical resource is unknown (see Draft EIR page 94). Once the park managers and the lead agency has determined whether the artwork is a "historical resource" as defined by Section 15064.5 of the *CEQA Guidelines*, it will be possible for environmental review of subsequent specific projects to determine whether the removal of the artwork constitutes an adverse impact requiring mitigation.
- B7-26: The commentor is correct in noting that the Draft EIR describes the Albany Bulb art as "ephemeral" (see pages 91 and 94), and is also correct in indicating that many of the artworks now installed at the Albany Bulb are not intended to be ephemeral. The Draft EIR section authors did not intend this term as a criticism of the artwork. As indicated above in the Response to Comment B7-25, no determination of significance has been made regarding the artwork.
- B7-27: Comment noted regarding appropriate mitigation measures for the Albany Bulb artwork. Through this document, comments on the Draft EIR and responses will be provided to the lead agency, California Department of Parks and Recreation, and the decision-makers, the State Park and Recreation Commission.
- B7-28: The comment relates to the proposed project's impact on a "mixed cultural community of recreation users." The purpose of CEQA is to inform decision-makers and the public of the potential significant adverse *physical* impacts of a proposed project. CEQA does not require an analysis of the social impacts of a proposed project. Chapter III.H, Land Use and Public Policy, of the Draft EIR (pages 137-152) evaluates the potential land use related impacts of the Preliminary General Plan.
- B7-29: Comment noted regarding potential geology and soils hazards and potential effects on the park budget. These comments and responses will be provided to the lead agency, California Department of Parks and Recreation, and the decision-makers, the State Park and Recreation Commission. The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary.
- B7-30: Comments regarding potential shoreline erosion and stabilization are noted (see Response to Comment B7-29). Regarding the development of an "island" for the nesting of shorebirds, this Draft EIR evaluated the proposals contained within the Preliminary General Plan at a general level. The siting, design and establishment of such an island and the potential for erosion is an example of a future project which will be addressed in more detail in the project-specific CEQA review of such a project within the park (see Response to Comment A2-1).

- B7-31: Comments regarding a wooden boardwalk at the Albany Beach and the potential for erosion are noted. The comment relates specifically to development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary.
- B7-32: In general, the State is exempt from a City's land use and zoning regulations (*Hall v. City of Taft*), 47 Cal. 2d 177 (1956). As a future park of the California State Department of Parks and Recreation, Eastshore Park is a State property and is not subject to local land use jurisdiction, zoning regulations, or other related regulations. Thus, the Preliminary General Plan is exempted from the City of Albany's Municipal Code and would not need to obtain a conditional use permit. Furthermore, the Draft EIR addresses this issue on pages 145 and 150.
- B7-33: See Response to Comment B7-32.
- B7-34: The comment advances the argument that the introduction of the Eastshore Park with its various recreational and restorational activities into the context of the general vicinity of its planning area will draw a greater number of total visitors to the area than would be accommodated by its own facilities. Secondly, the comment points out that visitors will not distinguish between the Eastshore Park and other municipal parks and recreational facilities that are nearby, resulting in significant effects on their usage patterns and the need for additional parking or other facilities in response to increased loading. To the extent that the demand for a facility like the Eastshore Park exists, it is not the park per se that creates that demand. Creation of a new park facility of this size and diversity would provide a greater number of areas and opportunities for recreation and restoration than are currently available in the East Bay. In this way, its implementation should reduce existing impacts to other nearby municipal parks and recreational facilities.
- B7-35: See Responses to Comments B7-2 and B1-29.
- B7-36: The comment is noted. Page III-61 of the Preliminary General Plan provides three (3) guidelines (CAPACITY-1, -2, and -3) that address visitor capacity with the goal of ensuring that the level, character and timing of uses within the Eastshore Park are managed in such a way that habitats and natural features are not significantly degraded by too many visitors. No further CEQA evaluation or mitigation measures are necessary.
- B7-37: Pages 173-174 of the Draft EIR address the potential impacts on police and fire services of the proposed project and cites guidelines of the Preliminary General Plan that would require the development of management plans and periodic staff and funding reviews. Additionally, as new park facilities are proposed, the specific project details for each will be subject to subsequent environmental review for adverse impacts to police and fire services.
- B7-38: Comment is incorrect. The Draft EIR discussion related to police and fire services includes animal control enforcement. Page 174 of the Draft EIR cites Preliminary General Plan guidelines which would require a visitor capacity management program, as well as periodic

assessments of operational impacts and coordination with local municipalities and service providers, to provide a unified delivery of enforcement services.

- B7-39: The comment relates to the proposed project's impact on the animal shelter population and the costs associated with animal adoption. The purpose of CEQA is to inform decision-makers and the public of the potential significant adverse *physical* impacts of a proposed project. CEQA does not require an analysis of the social and economic/fiscal impacts of a proposed project.
- B7-40: The Draft EIR addresses proposed increases in water-oriented activities, as well as other recreational activities, and the potential increased impacts of water rescue operations on page 174. Additionally, since the EBRPD Fire Department will likely assume jurisdiction over the project site, they will be the most affected by the increased recreational activity. The EIR authors consulted with officials at the EBRPD Fire Department for input on the proposed project.
- B7-41: As shown in Table III.K-3, based upon the project information contained in the Preliminary General Plan, the Albany Lands will generate seven weekday PM peak hour trips. This trip generation would be negligible when added to a regional interchange, and no significant impact would be expected. As the commentor states, a sports facility is included in the Preliminary General Plan. However, as stated in the Response to Comment A2-1, the Preliminary General Plan provides guidance for the future development of the park, not a list of specific projects. When the sports fields are proposed, subsequent CEQA evaluation would be undertaken, including potential traffic impacts to the Albany Hill residents. The disclosure of project trips provided in the Draft EIR is adequate to satisfy the requirements of this program level analysis.
- B7-42: See Response to Comment B1-30.
- B7-43: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary.
- B7-44: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary.
- B7-45: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary. See Response to Comment B1-29 for a discussion of water transportation.
- B7-46: The comment incorrectly refers to a traffic estimate of less than 1.0 percent increase in usage. The less than 1.0 percent increase refers to the increase in traffic when compared to the existing traffic. No estimate of percent increase in the usage of Eastshore Park under the Preliminary General Plan is provided in the Draft EIR. Existing traffic on the study area network includes not only trips destined for current Eastshore Park planning area

locations, but ambient traffic as well. As shown in Figure III.K-4, the proposed project will contribute approximately 382 daily trips to eastbound and westbound I-80, not 30 trips as stated in the comment. As shown on Figure III.K-3, existing daily traffic volume on I-80 ranges from 282,000 to 178,000 daily trips in the project area. An increase of 382 daily trips constitutes less than 1.0 percent increase on a roadway carrying 178,000 daily trips.

B7-47: See Response to Comment B7-46.

B7-48: See Response to Comment A4-20.

B7-49: As stated in the Response to Comment A2-1 "General plans look at the big picture, evaluating individual elements of park potential, regional planning goals, recreational needs, natural and cultural resources, and current and future land uses. The documents are goal-oriented and, as such, offer a direction or overall purpose, but do not necessarily provide specifics on how or when these goals may be attained." For a discussion of how specific project impacts will be addressed in the future (such as the proposed sports fields), see Response to Comment A2-1.

B7-50: The EIR authors consulted with EBMUD staff about impacts on water supply by using recycled/non-potable water for irrigation and toilet flushing and were informed that the proposed plan does not include sufficient information to determine whether proposed development could be supplied with recycled water in a cost-effective way (page 216 of the Draft EIR). When the details of specific projects are formally proposed, projects will be subject to subsequent environmental review, at which time impacts to water supply and the use of recycled water can be analyzed.

B7-51: See Response to Comment B7-2.

B7-52: The Draft EIR is a program EIR. No specific locations for proposed development or infrastructure improvements have been determined. When specific projects are defined, they will be subject to subsequent environmental review for impacts to infrastructure systems in the event of an earthquake.

B7-53: See Response to Comment B7-52, the conclusion of which would also apply to visual impacts of electronic extensions.

B7-54: See Response to Comment B7-52, the conclusion of which would also apply to seismic impacts of underground utilities.

B7-55: Analysis of potential funding sources is not required under CEQA. The purpose of CEQA is to analyze the adverse *physical* effects that may result from the implementation of a proposed project.

B7-56: See Response to Comment A2-1.

B7-57: See Responses to Comments A2-1 and B7-5.

- B7-58: CEQA does not require an analysis of fiscal impacts resulting from a proposed project. The purpose of CEQA is to provide an analysis of the potential adverse *physical* impacts of a proposed project.
- B7-59: The Draft EIR discusses cumulative impacts of the project together with the other projects causing related impacts in Chapter V. Section 15130(a)(1) of the *CEQA Guidelines* states that “an EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.” Additionally, Section 15130(b) of the *CEQA Guidelines* states that “the discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone.” Because the proposed project would not lead to significant impacts related to utilities, a discussion of the cumulative impacts on utilities resulting from concurrent projects is not required under CEQA.
- B7-60: CEQA does not require an analysis of financial impacts resulting from the proposed project. The purpose of CEQA is to provide an analysis of the potential adverse *physical* impacts of a proposed project.
- B7-61: Chapter IV of the Draft EIR provides a full discussion of alternatives to the proposed project. The discussion in the alternatives chapter includes two alternatives that were considered but rejected, as well as two other alternatives, in addition to the CEQA-required No Project alternative, whose impacts were analyzed relative to the impacts of the proposed Preliminary General Plan.
- B7-62: See Response to Comment B7-2.
- B7-63: See Response to Comment B7-4.

Friends of the Albany Ferry

1393 Solano Avenue, #B, Albany, CA 94706
510/559-9119

August 12, 2002

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AUG 16 2002

NORTHERN SERVICE
CENTER

Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Dear M. Ettinger:

This letter is in response to your Draft EIR for the Eastshore State Park Project. The Park Project will be a wonderful addition to the State Park system and the many facilities and amenities it encompasses are certainly improvements needed on our urban waterfront. Given the proximity to urban development, it is obvious that successful traffic management will be one of the most important planning issues for the future park. Therefore, we are concerned that major omissions and outdated information regarding regional transportation systems and ferry service were found in your Draft EIR especially in regard to future Berkeley/Albany ferry service.

As mandated by the State Legislature, the San Francisco Water Transit Authority (WTA) will be completing their General EIR for a regional ferry system for San Francisco Bay in August, 2002. Their studies indicate that a new terminal somewhere along the Berkeley/Albany waterfront would be a top-priority, Tier 1 site. They estimate that by 2025 approximately 3000 riders could be using this ferry service every day, necessitating 500-600 parking spaces.

The idea of a ferry in this area is well-documented in Berkeley's 2001 General Plan (Transportation Policy T-9), Albany's 2000 Traffic Management Plan, and Albany's 1995 Proposal for Eastshore State Park. These important ferry policies are not mentioned in your Draft EIR. However, both communities, waterfront property owners, and many advocacy groups strongly support new ferry service here as it will reduce traffic congestion and increase recreational facilities in the Park.

It appears that the two state agencies who are concurrently studying this portion of the East Bay's shoreline are not coordinating their efforts. Such planning oversights will only hinder the Park's and ferry's success. Given the impacts of this popular new transportation element and the many people who will eventually be connecting to a ferry somewhere in the vicinity of the State Park (all of whom must cross the Bay Trail somewhere), your planning omission could adversely impact the Park. Therefore, we request that the following errors or omissions in your Draft EIR be corrected and addended with accurate information from the WTA's Draft EIR and existing land use plans and policies:

- p.21-Omitted Ferry Terminal from Structures/Facilities column, omitted ferry parking;
- p.29-Ferries should be identified as part of primary circulation system, connecting to Golden Gate National Recreation Areas;
- p.30-More detail needed on future ferry service from WTA;
- p.31-Alternate ferry sites need to be located on this Circulation Map per Albany & Berkeley Policies;

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- p.139-Potential Ferry use should be identified on Golden Gate Fields;
- p.142-(#8) Cite Berkeley Transportation Policy T-9 of General Plan Ferry use at this site;
- p.143-(#5) Identify other potential ferry sites per T-9 (University Avenue) and update WTA info with General EIR, ferry size, parking, etc.;
- p.144 - Draft 2002 Marina Plan info updated;
- p.145-Update info (Pedestrian Bridge completed) and add ferry info;
- p.145-Omitted info about ferry from 1995 Albany Proposal for Eastshore State Park;
- p.145-Add 2000 Albany Traffic Management Plan which cites ferry on shoreline;
- pp.145-46-Add info about both Berkeley & Albany City Councils recently supporting WTA ferry studies;
- p.147-(#7) Somewhere need to study direct impacts of 3000 ferry users to Bay Trail;
- p.148-(#3) Add some language about potential new ferry service;
- p.171-72-List ferry as recreation in Vicinity of Project Site;
- p.172-List fishing pier renovation as possible ferry site;

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ENTIRE TRANSPORTATION SECTION NEEDS TO BE REVISED TO INCLUDE REGIONAL FERRY SYSTEM INFORMATION AND PROJECTIONS;

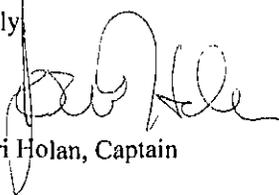
- p.177-(#1) List ferry as connecting to 580 & 80 and Alcatraz Island, Angel Island, San Francisco, etc.
- p.178-Univ. Ave., Gilman, & Buchanan Streets need to be listed as potential ferry sites;
- p.181- (#d) List future ferry service under public transpo;
- p.181-2 - (#7) OUTDATE INFO;
- p.196-Map Needs to add new ferry riders;
- p.197-Add ferry info for future traffic increases/decreases;
- p.199-(#4) Add 2025 projected ferry service from WTA;
- pp.201-208-Update 2025 baselines w/ferry rider info;
- p.250-(#k) Needs to add impacts of ferry traffic.

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With all its resources and its two agencies simultaneously conducting waterfront planning, we want to make sure the State gets our Eastshore Park right. Ferry service has the potential to open up the entire Bay to all East Bay Park users. In fact, ferry service would meet over half of the Park's Goals listed on pp. 10-13 of the Draft EIR. By connecting our state park to other parks already successfully utilizing ferry service such as Golden Gate National Recreation Areas, more of the public will truly be able to enjoy the Park's natural, cultural, and scenic resources.

Thank you for your attention to these items. We look forward to our Park's successful fruition.

Truly



Jerri Holan, Captain

- cc: Berkeley City Council
- Peter Hillier, Assistant City Manager for Transportation, City of Berkeley
- Albany City Council
- San Francisco Water Transit Authority
- Assemblywoman Dion Aroner
- Peter Tunney, Magna Entertainment Corp.
- Mike Savidge, Golden Gate National Recreation Area

COMMENTOR B8

Friends of the Albany Ferry; Jerri Holan, Captain (August 16, 2002)

- B8-1: The first comment is a summary of specific comments provided in detail throughout the comment letter. As such, the various points made in this comment are responded to in the following responses. See Responses to Comments A9-1 and B9-1 regarding the inclusion of municipal policies supporting the development of water transit that would serve the project site.
- B8-2: See Response to Comment B1-29.
- B8-3: Table II-4 (which is referred to in this comment), that begins on page 19 of the Draft EIR, lists facilities proposed in the Preliminary General Plan. Ferry parking is not listed in this table because such parking is not included in the Plan. Because this comment is concerned with the Plan rather than the adequacy of the Draft EIR, no further response is needed.
- B8-4: This comment pertains to a section of the Draft EIR that identifies the circulation system currently serving the project site. Because the project site is not currently served by water transit, it would be inappropriate to include ferry service as part of the primary circulation system for the park. The potential for ferry and/or water taxi service to be part of the project site's future circulation system is referenced on page 30 of the Draft EIR.
- B8-5: Greater detail on future ferry service was not available at the time the NOP for the Draft EIR was published. See Response to Comment B1-29.
- B8-6: See Response to Comment B1-29.
- B8-7: This comment pertains to a section in the Draft EIR that describes *existing* land uses in and around the project site. It would be inappropriate to identify *future* potential ferry use at Golden Gate Fields in this section. Furthermore, Golden Gate Fields is not included within the project site boundaries. Page 182 of the Draft EIR indicates that future water transit could serve portions of the East Bay shoreline between Richmond and Berkeley.
- B8-8: Berkeley General Plan Transportation Policy T-9, states that the City will "Continue to evaluate the possibility of working with the City of Albany, the racetrack owners, regional transportation agencies, and AC Transit to establish a ferry terminal and regular San Francisco ferry service from Berkeley at the foot of Gilman Street or at the foot of University Avenue as an alternative to the Bay Bridge and as an essential recovery element following a significant seismic event." Citation of this policy on page 142 of the Draft EIR is not relevant to the environmental setting. Analysis in the Draft EIR of Policy T-9 would not alter the conclusions of the environmental analysis in the Draft EIR.

B8-9: The comment is noted and the Draft EIR text on page 143 has been amended as follows:

The areas at the ~~foot of~~ western ends of Gilman Street in Berkeley and University Avenue have been identified as a potential sites for ferry terminals if ferry service expands.

Regarding the comment on updating the WTA information, please see Response to Comment B1-29.

B8-10: The updated 2002 Draft Marina Plan was not available at the time the NOP for the Draft EIR was published. See Response to Comment B1-29.

B8-11: This comment refers to the updated 2002 Draft Marina Plan. See Responses to Comments B8-10 and B9-1.

B8-12: The specific policies regarding ferry service within the 1995 Albany Proposal for Eastshore State Park, which "encourage(s) the EBRPD to incorporate ferry access in its planning," are not relevant to the environmental analysis of the Preliminary General Plan. Inclusion of these policies in the Draft EIR would not alter the environmental analysis of the proposed project in the Draft EIR or result in the identification of adverse environmental impacts other than the ones already identified.

B8-13: The 2000 Albany Traffic Management Plan is not relevant to the environmental analysis of the Preliminary General Plan. See Response to Comment B9-1.

B8-14: See Response to Comment A9-1.

B8-15: This comment references environmental impacts resulting from potential future ferry service to Berkeley, Albany, and/or Richmond. The comment does not relate to environmental impacts resulting from the Preliminary General Plan, which is the subject of this Draft EIR. Environmental impacts resulting from potential future ferry service are best analyzed in the Draft EIR that evaluates the environmental impacts of such ferry service.

B8-16: The section of the Draft EIR referenced in this comment discusses potential environmental impacts of the Preliminary General Plan resulting from the juxtaposition of different proposed land uses within the project site. Ferry service is not included as part of the Plan, and is not an existing land use in the project site. Therefore, ferry service cannot be evaluated within the Draft EIR as representing an existing land use that would potentially conflict with proposed land uses.

B8-17: The section of the Draft EIR referenced in this comment discusses existing recreational and support facilities in the vicinity of the project site. The ferry is not an existing recreational or support facility in the vicinity of the project site. Therefore, inclusion of the ferry in this section of the Draft EIR would be inappropriate.

B8-18: See Response to Comment B8-17.

- B8-19: Existing water transit, which serves Oakland, San Francisco, Angel Island, and other locations, is not in close proximity to the project site and therefore is not considered part of the regional transportation system that serves the project site. Existing water transit would not be directly affected by implementation of the Preliminary General Plan. Therefore, existing ferry service need not be analyzed.
- B8-20: See Response to Comment B1-29.
- B8-21: Future ferry service is discussed on page 181 of the EIR under item (7) Water Transport.
- B8-22: See Response to Comment B1-29.
- B8-23: See Response to Comment B1-29.
- B8-24: See Response to Comment B1-29.
- B8-25: See Response to Comment B1-29.
- B8-26: See Response to Comment B1-29.
- B8-27: See Responses to Comments B8-15 and B1-29.

Berkeley Ferry Committee

2118 Marin Avenue, Berkeley, CA 94707
510/525-1743

August 12, 2002

Robin E. Ettinger, ASLA
California Dept. of Parks & Recreation, Northern Service Center
One Capital Mall, Suite 500
Sacramento, CA 95814

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AUG 16 2002

NORTHERN SERVICE
CENTER

Dear M. Ettinger:

The hard work of the entire consulting team has paid off in the Eastshore Park Project General Plan and its Draft EIR. A delicate balance of competing visions and interests has been well addressed, and produced a Plan that will add an important new asset to our state's natural and recreational resources.

I write on behalf of the Berkeley Ferry Committee, a water transit advocacy group that has been working to encourage the planning of a ferry service from the Berkeley or Albany waterfront since a tunnel fire in the BART tube created the need for ad hoc ferry service in 1979. The EIR appears to have been written without knowledge of existing policies of the cities of Berkeley and Albany concerning the potential for development of a ferry terminal serving the area. For instance, Policy T-9 of the 2001 Berkeley General Plan calls for study of a terminal at the foot of Gilman St. or University Ave. and Albany's 2000 Traffic Management Plan calls for ferry service in the waterfront vicinity [see attached Plans]. In addition, both cities have recently adopted Resolutions supporting ferry service [see attached Resolutions]. Accordingly, we believe that the Park EIR should include consideration of these matters, since a new ferry service most likely would affect various aspects of the Park Plan.

Furthermore, the SF Bay Area Water Transit Authority, at the direction of the state legislature, has been engaged in a two-year process of planning and research for a regional ferry system, including a Berkeley/Albany service as one of the new sites with the greatest promise for success. On August 26, 2002, the WTA will release its Draft Programmatic EIR and an Implementation and Operations Plan for public review. Moreover, we understand that the National Park Service is planning a ferry service to connect various points within the Golden Gate National Recreation Area with other parks on the Bay such as the Eastshore State Park.

We believe that these plans and policies should be noted in the Plan before it is finalized and that any relevant planning areas should consider their potential impacts, since current timetables put their implementation at five years into the future, well within the time period projected for study through 2025.

We do urge the various state and federal entities currently studying the use of this area to communicate with each other, even though each one has their own complex and worthwhile mission. We understand the need to move forward with this planning process and trust that the insertion of these additional existing policy considerations will not cause any substantial delay.

Again, congratulations on a balanced and sensitive approach to a park that will satisfy the vast majority of likely users very well!

Yours,

Linda Perry (LIP)

Linda Perry, President

Attachments

cc: Berkeley City Council
Peter Hillier, Assistant City Manager for Transportation, City of Berkeley
Albany City Council
San Francisco Water Transit Authority
Assemblywoman Dion Aroner
Peter Tunney, Magna Entertainment Corp.
Mike Savidge, Golden Gate National Recreation Area

FROM BERKELEY'S GENERAL PLAN
(ADOPTED BY CITY COUNCIL NOV., 2001)

Continue to maintain and improve access and mobility for the disabled, seniors, and youth with programs such as Para transit, the taxi voucher program, and senior vans.

Action:

- A. Work with Para transit service providers to better meet the needs of the disabled community, including: accommodating scooters and all types of wheelchairs, improving response time, expanding hours of service, and requiring drivers to take sensitivity training to better assist disabled riders.

Policy T-8 Amtrak

Encourage additional Amtrak service to Berkeley and pursue platform and vicinity improvements to make the train stop more attractive and safe.

Actions:

- A. Continue to pursue future opportunities to establish a staffed train station in Berkeley.
- B. Consider joint use possibilities for a new station and possible reuse of the former China Station restaurant as a passenger station.
- C. Consider designating some of the available parking spaces as all day parking spaces dedicated to Amtrak users.
- D. Pursue joint marketing strategies with Amtrak, 4th Street, West Berkeley, and Marina merchants to advertise and promote train access to West Berkeley.
- E. Expand express transit/shuttle connections to Amtrak stations and connections from Amtrak to the BART stations.

★ **Policy T-9 Ferry Service**

Continue to evaluate the possibility of working with the City of Albany, the racetrack owners, regional transportation agencies, and AC Transit to establish a ferry terminal and regular San Francisco ferry service from Berkeley at the foot of Gilman Street or at the foot of University Avenue as an alternative to the Bay Bridge and as an essential recovery element following a significant seismic event.

Actions:

- A. Ensure transit, shuttle and bicycle connections are in place before beginning ferry service to minimize parking demand and traffic caused by people driving to the ferry service.
- B. Prioritize transit, pedestrian and bicycle public expenditures over expenditures of public funds for ferry service, and ensure that new ferry service will not result in a reduction in public subsidies for existing transit services.
- C. Ensure that ferry services are less environmentally detrimental than the automobile. Advocate for low emission, environmentally sensitive ferries.

Automobile Use Reduction

**CITY OF ALBANY
TRAFFIC MANAGEMENT PLAN**

KORVE ENGINEERING, INC.

Prepared for:

THE CITY OF ALBANY

Prepared by:

**Korve Engineering, Inc.
155 Grand Avenue, Suite 400
Oakland, CA 94612**

**Adopted on
May 15, 2000
by the Albany City Council**

Implementation of the Transit Preference Policy

Although the City has not yet adopted a Transit Preferential Plan (to be inserted in the Circulation Element of the General Plan), as called for in the Transit Preference Policy document, it has taken significant steps to implement some of the recommendations of the document. On August 3, 1998, the City of Albany enacted a Joint Exercise of Powers Agreement by and between AC Transit, the County of Alameda, and the cities of Albany, Berkeley, Emeryville, Fremont, Hayward, Newark, and San Leandro. This agreement provides for the AC Transit District to act as administrator of a county-wide effort to obtain bus shelters for the transit-riding public. A Multi-Agency Bus Shelter Committee has been created, which will provide recommendations to the District on all aspects of the bus shelter project, and develop criteria for such shelters, including advertising content and shelter design. It is anticipated that the shelters and associated costs would be provided by an advertising contractor to be selected by the Committee.

Ferry Service Planning Efforts

The 1998 Regional Ferry Plan update identifies a ferry route between Albany/Berkeley and San Francisco as one of its top ranked potential new ferry service lines. The City of Albany supports introduction of a new ferry service from the foot of Gilman Street in Berkeley.

In response to its Waterfront Committee involvement and interest in potential new ferry service serving the City of Albany, the City of Albany City Council has instructed City staff to continue its work with the MTC at the Technical Advisory Committee level, and to explore coordination issues regarding new ferry service with the City of Berkeley.

Eastshore State Park suggests a facility development cost of \$2.5 to \$3 million exclusive of parking lot acquisition. Potential service to downtown San Francisco as well as to San Francisco International Airport and San Francisco Treasure Island from the Cities of Albany and Berkeley are again being evaluated as new commuter ferry routes, as well as weekend and recreation-oriented service as well. MTC updated the Regional Ferry Service Plan in March 1999. This Plan contains a detailed reevaluation of the feasibility of new routes and recommends the Berkeley/Albany to San Francisco route. Such Plan also recommends the foot of Gilman Street as the location for the ferry terminal.

In 1999, Governor Davis signed into law a bill establishing the creation of a Bay Area Water Transit Authority. This Agency will implement and administer a regional ferry plan and program. However, the authorizing legislation did not include funding for the implementation of the ferry plan or any capital expenditure. In an upcoming session, the state legislature is anticipated to consider possible funding sources for the Water Transit Authority.

RESOLUTION NO. 61,726--N.S.

AUTHORIZING THE APPOINTMENT OF THE ASSISTANT CITY MANAGER FOR TRANSPORTATION TO PARTICIPATE IN THE WATER TRANSIT AUTHORITY (WTA) COMMUNITY ADVISORY COMMITTEE; AUTHORIZING THE CITY MANAGER TO SEND A LETTER TO THE WTA AFFIRMING BERKELEY'S INTEREST IN AN ENVIRONMENTALLY RESPONSIBLE FERRY SERVICE FROM THE BERKELEY-ALBANY WATERFRONT TO SAN FRANCISCO AND OTHER DESTINATIONS IN THE BAY AREA, TAKING INTO ACCOUNT THE SIERRA CLUB'S FOURTEEN POINTS OF CONCERN AND STATING BERKELEY'S INTEREST IN CONSIDERING AN ENVIRONMENTALLY RESPONSIBLE FERRY SERVICE; AND ENSURING THE FERRY SERVICE BE ACCESSIBLE TO ALL LEVELS OF INCOME AND ACCESSIBILITY WITH CONSIDERATION FOR ADDING SEAMLESS TRANSIT CONNECTIONS BETWEEN FEEDERS AND FERRIES WITH AC TRANSIT DESIGNATED AS THE OPERATOR

WHEREAS, the General Plan: Transportation Element – Policy T-9 Ferry Service states the City of Berkeley will "Continue to evaluate the possibility of working with the City of Albany, the racetrack owners, regional transportation agencies, and Alameda Contra Costa Transit to establish a ferry terminal and regular San Francisco ferry service from Berkeley at the foot of Gilman Street or at the foot of University Avenue as an alternative to the Bay Bridge and as an essential recovery element following a significant seismic event;" and

WHEREAS, the California State Legislature established the San Francisco Bay Area Water Transit Authority (WTA) to investigate and plan for the establishment of an environmentally sound public ferry system providing affordable water transit for the San Francisco Bay Area; and

WHEREAS, by September 2002, the WTA must issue its draft Programmatic EIR and its Implementation and Operations Plan, including recommendation for new ferry routes; and

WHEREAS, the Transportation Commission recommendations incorporated reports from other commissions, including the Waterfront Commission, Parks and Recreation Commission, Disaster Council, Community Environmental Advisory Commission, Disability Commission and Commission on Aging; and

WHEREAS, the Transportation Commission recommended that the City Council appoint the Assistant City Manager for Transportation to the Water Transit Authority Community Advisory Committee; and authorize the City Manager to send a letter to the WTA affirming Berkeley's interest in an environmentally responsible ferry service from Berkeley-Albany to San Francisco and other Bay Area destinations, such letter to be consistent with Policy T-9 of the Berkeley General Plan; to take into account the Sierra Club's fourteen points of concern and ensure access to all levels of income and accessibility; and

WHEREAS, the City Council added the request that the WTA consider adding seamless transit connections between feeders and ferries and having AC Transit designated as the operator; and

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley hereby authorizes the appointment of the Assistant City Manager for Transportation to participate on the Water Transportation Authority Advisory Committee; takes into account the Sierra Club's fourteen points of concerns; ensures that the Ferry service consider all income levels and accessibility for all; and requests the Water Transit Authority consider adding seamless transit connections between feeders and ferries with AC Transit designated as the operator.

BE IT FURTHER RESOLVED, that the City Council authorize the City Manager to send a letter to the Water Transit Authority affirming Berkeley's interest in an environmentally responsible ferry service from the Berkeley-Albany waterfront to San Francisco and other destinations in the Bay Area, such letter to be consistent with Policy T-9 of the Berkeley General Plan.

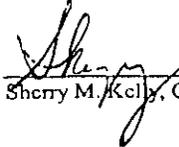
The foregoing Resolution was adopted by the Berkeley City Council on July 23, 2002 by the following vote:

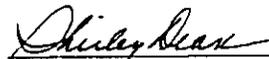
Ayes: Councilmembers Armstrong, Breland, Hawley, Maio, Olds, Spring and Mayor Dean.

Noes: None.

Abstained: Councilmember Worthington.

Absent: Councilmember Shirek.

Attest: 
Sherry M. Kelly, City Clerk


Shirley Dean, Mayor

RESOLUTION

Whereas Albany's 1999/2000 *Traffic Management Plan* and *A proposal for the Albany Portion of the Eastshore State Park, June 1995* propose a future ferry terminal somewhere in the vicinity of Gilman Street, the City of Albany should coordinate with the City of Berkeley, AC Transit, regional transit authorities, local landowners, and other interested parties to explore the establishment of regular ferry service from the Albany-Berkeley waterfront; and

Whereas the California State Legislature established the San Francisco Bay Area Water Transit Authority (WTA) to investigate and plan for the establishment of an environmentally sound public ferry system providing affordable water transit for the San Francisco Bay Area; and

Whereas by September of 2002, the WTA must issue its *Draft Programmatic Environmental Impact Report (EIR)* and its *Implementation and Operations Plan*, including recommendations for new ferry routes;

Now, therefore, be it resolved by the Albany Traffic and Safety Committee and the Albany Waterfront Committee to recommend the City Council take the following actions:

1. Prior to August, 2002, send a letter to the WTA affirming Albany's support for an environmentally responsible ferry service from the Albany-Berkeley waterfront to San Francisco and other destinations in the Bay Area (such as Angel Island and the Golden Gate National Recreation Area) consistent with City policies and compatible with the Eastshore State Park General Plan; and
2. Instruct Albany's representative to WTA's Citizens Advisory Council to take timely action to advocate establishment of ferry service from the Albany-Berkeley waterfront and actively participate in the WTA planning process in order to ensure that Albany's adopted policies and interests are effectively advocated during the WTA's *EIR* and planning processes.

APPROVED
UNANIMOUSLY
5/20/02

COMMENTOR B9

Berkeley Ferry Committee; Linda Perry, President (August 12, 2002)

B9-1: See Response to Comment A9-1. An evaluation of municipal policies and resolutions that support or promote the development of ferry service to Berkeley or Albany is not necessary to adequately analyze the environmental impacts of the proposed project in the Draft EIR. The incorporation of analysis of such policies into the EIR would not result in the identification of adverse environmental impacts other than those that have already been identified in the EIR. The remainder of the comment addresses the inclusion of ferry service in the Preliminary General Plan and does not relate directly to the adequacy of the EIR.



SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

Robin E. Ettinger
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

August 21, 2002

Subject: Windsurfing Issues, the East Shore State Park plan and EIR

Dear Mr. Ettinger,

The Planning for the East Shore State Park was to be done under the legislative mandate for a "... recreational facility harmonious with its natural setting..." The plan also must be consistent with the Constitutional mandate (Article 10, Section 4) that holds, "No individual...possessing the frontage of a ...bay...shall be permitted to exclude the right of way to such water ... so that access to the navigable waters ... shall always be attainable..."

The current plan fails to meet the constitutional mandate for access to the waters of the Bay. Windsurfing is one of the most popular forms of recreation on the Bay, and a failure to provide meaningful access for windsurfing is ultimately an exclusion of our right of way to the Bay that is prohibited by the California Constitution. For windsurfers, meaningful access means vehicular access to navigable waters. For windsurfers, navigable waters are those waters where consistent and strong winds meet the shore and where the water depth allows for launching and sailing (navigable waters). Although the State has acquired or will ultimately acquire 8 ½ miles of shoreline, no new launch sites with parking or a convenient drop off point will be available within the park.

The irony lies in the fact that meaningful access could be easily provided at the Albany Bulb using a road that already exists. Since 1997, windsurfers have identified south side of the Albany Bulb as a site uniquely suited for windsurfing access. This land juts out into the windiest part of the Bay, where the predominant wind direction is directly across the Bay from the Golden Gate. There are many days when the winds at that location are significantly stronger than the winds at the existing launches at Berkeley Marina and Point Isabel. On these days, meaningful access at the Albany Bulb would open up the possibility of Bay access and recreation to windsurfers who are not equipped to deal with the lighter winds at the other sites. In order for the plan to satisfy the demands of our State Constitution, we believe that the plan must provide meaningful access at the Albany

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Bulb, which would include use of the existing dirt road, a parking area and a safe means of accessing the water across the rubble covered shore on the south side of the Albany Bulb.

Windsurfing is not only an established recreational use in the East Bay; it is one of the predominant forms of recreation on the Bay. On many days, windsurfers outnumber all other recreational users of the Bay. All of the existing East Bay launch sites are heavily used from April through October when the thermal winds blow on the Bay. Windsurfing is a manner of recreation that is dependent on wind, water and complex equipment. The wind changes constantly and the equipment has to be selected, or changed to suit the conditions. Sailing on properly selected gear reduces the likelihood of being injured or carried away by the tides and allows the sport to be an enjoyable form of recreation instead of a mere form of transportation. Therefore, meaningful access requires that windsurfers have access to their equipment close to a launching area. For equipment access, parking for windsurfing should be located adjacent to the water launch areas, or at the very least, a place to drop off equipment should be provided.

The Plan does include policies (A-15 and A-16) that would allow launching from the Bay Trail on the Albany Bulb, and might result in shoreline restoration that would enhance both public access and habitat. However, those token measures do not reflect the legislative and constitutional mandates for navigational access. The EIR, in a fundamental inadequacy, fails to even consider the constitutional mandate as part of the policy framework for consideration.

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The rubble covered shoreline as it now exists is hazardous to people and equipment. This highly altered shoreline presents a hazard to anyone approaching it from the water, and the remediation of the shoreline needs to be thoroughly addressed in the EIR. We believe that the shoreline can be remediated, creating a more gradual slope into the water that provides superior access and superior and more natural habitat.

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We believe that careful design can accommodate a small parking area without compromising any existing habitat values. The Plan does not reject this approach in order to protect existing, sensitive habitat as part of an effort to find a balance among legitimate uses and satisfy legislative concern for harmony with existing resources. On the contrary, the EIR notes that "...natural upland communities are largely absent in the project site (p. 65). Instead, the plan asserts that it is essential to "preserve this sense of naturalness and isolation..." and that somehow removal of rubble and provision of parking would sacrifice these values. The EIR rationalizes the denial of meaningful access by relying on a subjective aesthetic opinion but it does not identify any legitimate concerns that would or should preclude meaningful access. No effort is made to harmonize this planning objective with either of the underlying legislative or constitutional mandates.

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SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

If recreational access can be so easily denied based upon a subjective aesthetic evaluation, then the guarantees of navigational and recreational access that are provided by the State Constitution and the McAteer-Petris act are meaningless. Those who do not want to see any people, vehicles, or equipment in any of their views now have the power to exclude any active recreation. The spirit of the law holds that active recreation on the waters of the Bay is just as valid a use as are the more passive uses such as walking near the Bay or looking at the Bay. In this specific case, the visual and noise impacts from road use would be minor when one considers the limited area of impact as compared with the entire Albany Bulb and neck. While road use might create a reduction in the "sense of naturalness and isolation" in a small portion of the upland area, it would also allow windsurfers to enjoy a pronounced "sense of naturalness and isolation" on the waters of the Bay including the waters that are a part of the Eastshore State Park.

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There has also been some discussion of limiting recreational access in favor of habitat creation. It is clearly allowable to limit recreational access where it will have impacts on existing habitat or a restoration area. If recreation can be restricted in favor of habitat creation, then there is no location where recreation cannot be excluded since habitat could potentially be created anywhere. The Albany Bulb consists of fill that was dumped into shallow areas of the Bay. That area will not truly be restored unless the fill is removed. At the present time, there are no plans to remove the fill. Steps should be taken to enhance the habitat value of the Albany Bulb as an upland area, while recognizing that habitat creation differs from restoration. Because the Albany Bulb encompasses over 40 acres, there is room for habitat, possibly nesting or hunting areas, and for windsurfing access using the existing road.

6

Very truly yours,

Peter Thomer, President
SFBA

e-mail: eyes4hire@aol.com
phone: (415) 454-3522 ext. 104

Cc: Don Neuwirth, Planning Team
Larry Tong, Interagency Liaison
Robin Ettinger, State Parks
Assemblywoman Dion Aroner
Paul Kamen, Berkeley Waterfront Commission
Joe LeClaire, Bay Conservation & Development Commission

COMMENTOR B10

San Francisco Boardsailing Association; Peter Thorner, President (August 21, 2002)

- B10-1: The Draft EIR authors disagree with the commentor's statement that the EIR fails to consider the constitutional mandate protecting public access to the San Francisco Bay and other waterways. On pages 146 and 147 of the Draft EIR, the policies of the San Francisco Bay Plan that pertain to the proposed project, including those policies requiring the provision of public access to the Bay, are explicitly referenced and discussed. These policies, which fall under the provisions of the McAteer-Petris Act, are entirely consistent with the constitutional mandate to protect "access to navigable waters." Indeed, the San Francisco Bay Plan policies listed in the Draft EIR clarify the nature of such access (see page 146). The Preliminary General Plan's consistency with the mandate to provide public access to the Bay is discussed in detail on pages 149 and 150 of the Draft EIR.
- B10-2: Many opportunities exist to improve upon existing shoreline conditions. Opportunities and priorities for shoreline improvements including reconfiguration of hazardous sections are not addressed at the developmental stage represented by the Preliminary General Plan. Such features would be developed more fully as projects are identified and undertaken. The Preliminary General Plan includes recommended guidelines which address the issues raised in this comment at an appropriate level of detail.
- B10-3: The Draft EIR's analysis of potential environmental impacts relating to the provision of vehicular access to the Albany Bulb is not "a subjective aesthetic opinion," as claimed by the commentor and does, in fact, identify "legitimate concerns" that preclude vehicular access to the Albany Bulb. The rationale behind the Draft EIR's conclusion that the prohibition of motor vehicle access to the Albany Bulb does not constitute a significant environmental impact is found on page 149 of the Draft EIR. The reasons listed to support this determination include the protection of existing passive recreational uses on Albany Bulb, such as bird-watching; the provision of public vehicular access at water access in other areas of the project site; and the fact that the road to the Albany Bulb is not currently accessible to motor vehicles.

The rationale discussed in the Draft EIR is entirely consistent with CEQA requirements for the consideration and discussion of significant environmental impacts (Section 15126.2), which specify: "In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area." As discussed in the Draft EIR (page 149), the continued restriction of vehicular access to the Albany Bulb does not constitute an adverse environmental change to the physical conditions of the Albany Bulb and therefore does not qualify as a significant environmental impact under the provisions of CEQA. The Preliminary General Plan cannot "deny" vehicular access to the Albany Bulb because vehicular access to the Albany Bulb does not currently exist.

- B10-4: As described on page 149 of the Draft EIR, the Preliminary General Plan, far from rendering the State Constitution and McAteer-Petris Act "meaningless," is consistent with

the State's water access mandate. The San Francisco Bay Plan states that public access "usually consists of pedestrian and other non-motorized access to and along the shoreline of San Francisco Bay" (see page 149 of the Draft EIR). Therefore, the Preliminary General Plan, which would result in the development of a public trail along the entire shoreline, as well as a number of direct water access points into the Bay, provides sufficient meaningful public access as defined by both the State and the San Francisco Bay Plan.

- B10-5: The authors of the EIR note the commentor's claim that State legislation acknowledges the validity of both recreation and more passive uses in Bay waters. Discussion of the level of severity of impacts resulting from road use at the Albany Bulb is irrelevant to the environmental analysis in the Draft EIR because road use is not a component of the proposed project, which is the subject of the Draft EIR.
- B10-6: This comment addresses the Preliminary General Plan and does not comment on the adequacy of the EIR. No further response is necessary.

BERKELEY DESIGN ADVOCATES

Date: August 28, 2002

To: Robin Ettinger, ASLA
State of California
Department of Parks and Recreation, Northern Service Center
One Capital Mall, Suite 500
Sacramento, CA 95814

Re: Response to Eastshore Park Environmental Impact Report

Berkeley Design Advocates, an association of architects, planners, landscape architects design professionals and builders, has been following the planning process for the Eastshore Park General Plan by reviewing the documents, attending the public meetings and receiving presentations at two of our monthly meetings for the Eastshore Park General Plan. We are very excited that this eight and half miles of shoreline is being developed as a park and believe that the EIR is thorough in its evaluation of the proposed Park Plan with the exception of a few points. We would like to offer the following comments:

1. Technicalities of Restoring Natural Systems in an Urban Environment

We support the restoration of natural systems because the restoration of such systems will enrich the biodiversity of the Bay and will enhance the visitor's experience of the park. However, we understand that restoring such systems in an urban environment is very complex. Below we have addressed areas of concern that are not discussed in the EIR.

a. Daylighting Creeks - The EIR discusses daylighting creeks on page 127; however, several issues of daylighting are not discussed in this section.

- What are the considerations for flood control?
- Where and from what upstream point would the creeks be daylighted?
- What environmental changes would accompany daylighting the creeks?
- Would there be more fresh water along the bay frontage?

b. "Seasonal Wetlands" on the Berkeley Meadow - In general the EIR is clear in the description of the creation of the upland areas of the park, which are generally created from fill, including garbage, but it is our understanding that the CDFG (is this the correct agency?) does not permit standing water on landfills.

- Is it technically feasible, and allowable by overseeing agencies, to create "seasonal wetlands" on fill?

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PO BOX 7233, BERKELEY, CA 94707

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• If so, this statement should be qualified in the EIR?

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c. "No-Access" Area in Berkeley Meadow – On page III-72 of the Park Plan in policy BM/NB-1 protection and enhancement of the upland Meadow area is proposed to be accomplished by fencing the central portion of the Meadow; however, there is no discussion of any necessary remediation for this large "no-access" area including emergency and maintenance vehicles which are restricted to the non-nesting season.

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2. Future Plans for Golden Gate Fields

Although the parcels that constitute Golden Gate Fields are not owned by the EBRPD or the State Parks, they are a significant piece of landmass in terms of size and would connect the Berkeley upland parcels to the Albany upland parcels. Acquiring this parcel should be a top priority for the Park Plan and referencing future plans that are being considered for this area should be included in the Plan and EIR.

4

3. Ferry Terminal

On page 143 of the EIR the discussion for the rationale for the preferred location of the future ferry terminal should be more specific. It is critical that there be more detail in the report addressing the interfaces between the future ferry terminal and the park trails, open spaces and park use policies. The San Francisco Bay Water Transit Authority is actively pursuing this site for a future terminal by State Legislature mandate. Further discussion on the ferry occurs on page 182 of the EIR; however, the discussion will need to be updated to include recently published data, priorities and projected dates for establishing future service.

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Overall we are happy with most aspects of EIR. Our concern is with the lack of information in the three points discussed above.

Respectfully Submitted,



David Snippen, Secretary

Berkeley Design Advocates

COMMENTOR B11

Berkeley Design Advocates; David Snipper, Secretary (August 14, 2002)

B11-1: The Draft EIR addresses the issue of flooding on page 133 and identifies the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for adverse effects. Creek daylighting and outfall reconfiguration projects are proposed in the Preliminary General Plan for Schoolhouse and Strawberry Creeks. The specific extents and elements of these proposed projects are not developed at the Preliminary General Plan stage. The subsequent specific projects will be defined and evaluated on a project by project basis. The specific delineation and potential effects of creek restoration projects and the specific mitigation measures for any potential adverse impacts associated with those projects are appropriately deferred to the future, project-specific CEQA review of such activities (see Response to Comment A2-1). Additional information on creek restoration activities follows.

Flood control considerations were generally assessed in developing recommendations for creek daylighting and shoreline reconfiguration projects. Creek daylighting and outfall reconfiguration projects within the proposed project limits are not anticipated to change water surface elevations or result in flood hazards in the re-opened channels.

Creek daylighting will return open channel, estuarine and wetland habitat to an area that is currently in a concrete culvert. Typical benefits and changes include the establishment of and improvement to aquatic habitat, flood terrace with intertidal zones, and riparian corridor vegetation.

Creek daylighting will not increase fresh water along the Bay frontage. Fresh water conveyed to the Bay within the proposed project limits is a function of runoff from the watersheds to the east. Creek daylighting and outfall reconfiguration projects would expand estuarine and wetland areas which may increase the perception of freshwater along the Bay shoreline.

B11-2: It is technically feasible, and allowable, and to create seasonal wetlands on fill, and this has previously been done in the Bay Area. Such projects must first address the potential impacts due to water quality and hazardous materials issues. The analysis of these potential impacts would be analyzed as part of the project-specific CEQA review of such wetland creation projects (see Response to Comment A2-1).

B11-3: The EIR authors are unclear about the necessary "remediation" referred to in the comment. Guideline BM/NB-1 was designed to protect and enhance the upland habitat in the Meadow for raptors and other birds and wildlife. Access to the area is restricted to emergency and maintenance vehicles. Guidelines WILDLIF-1, -2, and -6 also provide additional requirements to ensure that impacts to wildlife at the Meadow are minimized.

B11-4: Section 15125 of the *CEQA Guidelines* states that an EIR must include a description of the physical environmental conditions in the vicinity of the project as they exist at the time the

notice of preparation (NOP) is published. The NOP for the Draft EIR was published on February 15, 2002. Preliminary details of the future development at Golden Gate Fields known at the time the EIR was written is included on page 144 of the Draft EIR. The Magna Entertainment Corporation submitted a Specific Plan Application for the site to the City of Albany in May 2002, after the NOP for the Draft EIR was submitted.

B11-5: See Response to Comment B1-29.

Citizens for the Albany Shoreline

1604 Solano Avenue
Albany, CA 94707

August 26, 2002

Robin E. Ettinger
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Re: Preliminary General Plan for the East Shore State Park and the accompanying Draft Environmental Impact Report

Dear Mr. Ettinger:

The Citizens for the Albany Shoreline, a group that has been advocating for a state park on the Eastbay Shoreline for approximately the last two decades, welcomes the progress we see in the planning and the implementation of the Eastshore State Park. We want to thank you and the staff at the Department of Parks and the Board and staff of the East Bay Regional Park District for your work in bringing this park into reality.

There are certain issues of concern about the direction of the Draft General Plan and the coverage of the Draft Environmental Impact Report that we want to comment on and that we feel can be improved upon. We join in the comments that have been forwarded to you by the Citizens for the Eastshore State Park (copy attached) with the exception that we believe that absent an alternative site already acquired to house playing fields, we feel that carefully placing two playing fields upon the plateau in Albany would be appropriate under the circumstances and conditions, including the soils and habitat concerns that we all share.

Thank you for considering our comments and those of the Citizens for the Eastshore State Park.

Yours truly,

William Dann mg

William Dann
Co-Chair, Citizens for the Albany Shoreline

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COMMENTOR B12

Citizens for the Albany Shoreline; William Dann, Co-chair (August 26, 2002)

- B12-1: The comment refers to letter B3, which is included in this document. The commentor supports the comments in letter B3 with the exception of the comment regarding the placement of playing fields upon the Albany Plateau. The comment regarding the placement of sports fields on the Albany Plateau is noted. See letter B3 for Responses to Comments contained therein.

August 7, 2002

Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

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Dear M. Ettinger:

Your Draft EIR for the Eastshore Park Project General Plan requires comment from one of the many interested citizens who support the ferry service that will come to the Berkeley/Albany shore area.

Your information regarding future ferry terminal locations may not be current. The San Francisco Water Transit Authority is currently concluding their General EIR for a future regional ferry system for San Francisco Bay per Senate Bill 346. The Berkeley/Albany shoreline is a top-priority, Tier One location for new ferry service that has been estimated to serve 3000 riders per day. Those riders will be accessing the ferry terminal directly from the Eastshore Park, and many intend to bicycle through the park to the ferry. Both Berkeley and Albany City Councils, local advocacy groups, and the interests at Goldengate Fields have expressed active support for the ferry service.

Their support should not be disregarded.

The future water transit system will bring visitors of the Eastshore park from all over the bay area. These additional users will have an impact on the Eastshore Park project and should be considered in any reports being prepared at this time.

Sincerely,



Lubov Mazur
Chair, Traffic and Safety Commission
947 Ordway St.
Albany CA 94706

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COMMENTOR B13

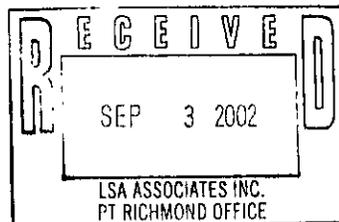
Traffic and Safety Commission; Lubov Mazur, Chair (August 7, 2002)

B13-1: See Response to Comment B1-29. The San Francisco Water Transit Authority EIR was not available at the time the NOP for the Eastshore Park Project Draft EIR was published. Therefore, information contained therein is not included in the Draft EIR.

B13-2: See Response to Comment B8-15.

August 26, 2002

Mr. Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814



RE: Eastshore State Park Project General Plan and Draft EIR

Dear Eastshore Park Planners:

I am president of the El Cerrito Soccer Club, one of the clubs that forms the Alameda-Contra Costa Youth Soccer League. We have 500 kids playing for ECSC and we constantly face a shortage of adequate field space. We are impressed with the General Plan proposal for the Eastshore Park. Having such a naturally rich park developed as part of the urban landscape of the East Bay is unique. The Eastshore Park will be of great value to Northern Californians and the visitors that travel to this region. However, the General Plan and Draft EIR do not include sports fields at the North Basin Strip on Berkeley Lands. A City of Berkeley study determined that 11 more sports fields were necessary to serve the recreational needs of the Berkeley community alone. Only two fields have been built since that study. Nine more fields are needed in Berkeley alone! The need for sports fields in the East Bay region as a whole is much, much greater. Sports fields at the North Basin Strip are supported by the Berkeley Waterfront Commission, the Berkeley Parks & Recreation Commission, the Berkeley City Council, other City leaders, and a large community of adult and youth recreational interests in the East Bay region.

Please respect the interests of Berkeley by including sports fields at the Berkeley North Basin Strip in the Plan and in the Draft EIR for CEQA evaluation!

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Ivry".

Richard Ivry
President, El Cerrito Soccer Club
1321 Devonshire Court
El Cerrito, CA 94530

COMMENTOR B14

El Cerrito Soccer Club; Richard Ivry, President (August 26, 2002)

B14-1: The Recreation Alternative (Alternative B), which was evaluated on pages 236 to 243 of the Draft EIR, includes sports fields in the North Basin Strip. Potential impacts associated with sports fields are evaluated throughout the Draft EIR. Please note the Preliminary General Plan identifies turf areas for informal recreation at the North Basin Strip (see page III-75).

1600 Broadway, Suite 300
Oakland, CA 94612-2100

t. 510.452.9261
f. 510.452.9266

www.savesfbay.org

August 27, 2002

Robin E. Ettinger
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, California 95814

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Re: Comments on Eastshore Park Project Preliminary General Plan and
Draft Environmental Impact Report

Dear Mr. Ettinger:

Save The Bay's vision for this unique shoreline is for a park that provides public access to the Bay and to enhanced and restored tidal areas, marshes, mudflats, and creek mouths. Save The Bay's vision is for a shoreline park that will re-connect people to the Bay watershed, educate them about the Bay's diverse ecosystem, encourage civic pride in the Bay, and build public support for Bay restoration.

Our vision for Eastshore State Park is consistent with state law intended to protect California's natural resources and the health of San Francisco Bay. It is in accord with the principles and plans of the regulatory agencies—local, regional, and statewide—that have jurisdiction in the Bay. Our vision is grounded in the scientific knowledge of and extensive research conducted in the Bay, as well as in the long history of public interest in and activism to save this shoreline.

Save The Bay commends the agencies and planners involved in creating a preliminary park plan that accurately reflects the desires and concerns of the public, and of diverse activist and environmental groups to create a park for people and for the Bay. We applaud the innovative resource enhancements such as creek "daylighting," creek mouth marsh restoration, and shoreline naturalization. We are pleased that irreplaceable Bay resources such as the Emeryville marshes and Albany mudflats will be protected. In general we find the plan responsive to the need for public access to the shoreline and to water-dependent recreation, with the emphasis on non-motorized water craft use of the park's open waters.

However, Save The Bay is concerned about the potential clash between recreational facilities and natural resource sites as described in the park plan. The danger here is that in juggling competing demands, we may lose sight of the shoreline's historical geography.

SAVE THE BAY

and natural environment—the very features that inspired so many people to fight for shoreline protection. We cannot afford to lose the very thing that makes this shoreline so special.

Primarily, we object to designation of this shoreline as a State Recreational Area because it substantially alters the purpose for which this shoreline was acquired, that is, to protect and enhance a Bay resource. The purpose of the shoreline park is to provide a place to observe and be close to the natural processes and vistas of San Francisco Bay, not to create a destination for recreational activities that do not depend on the Bay's proximity or natural features.

Save The Bay strongly urges that the Eastshore Park Project be designated as a State Park. Such a designation has important ramifications for the delicate balance that must be achieved between recreational development and conservation of the shoreline's fragile resources, and protection of sensitive wildlife habitats, particularly in the Bay's open water areas. A Recreation Area designation will allow greater development for recreational sites and facilities which Save The Bay sees as promoting imbalance in the essential purpose of this park as a place to enjoy the natural aspects and resources of the Bay. A State Park designation will shape the priorities for implementation of the General Plan. Restoration and enhancement of the shoreline should be the first priority; recreational improvements should not come at the expense of resource enhancements.

COMMENTS ON THE PRELIMINARY GENERAL PLAN

Save The Bay would like to bring attention to specific features of the park plan that have the potential to negatively impact Bay resources along the shoreline, or do not adequately address the needs of potential users:

Urban promenades proposed in the park plan take up more than a mile of the 8.5 miles shoreline at three separate sites. These hard-surface walkways are to be located along tidal mudflats and shallow water areas that are frequented by shorebirds and waterfowl. Prominent hard-surface walkways with railings have the potential to substantially alter the aesthetic enjoyment of these Bay wildlife habitats, and to create destinations that do not enhance the natural resources of the shoreline. Such promenades also have the potential to increase debris and litter associated with intensive pedestrian traffic. Setting shoreline walks further inland and using permeable materials would remove the potential negative impact. Inland walkways do not require railing that would obstruct views of the mudflats (particularly at low tides) and would be more in keeping with the purpose of the trails for passive recreation along the shore.

Visitor Services and Buildings proposed in the park plan are extensive and may have adverse impacts on conservation areas in their proximity. In particular, visitor-serving development proposed in the North Basin Strip has the potential to negatively impact views and wildlife viewing. Associated parking and turf areas increase the potential for negative impacts to the Bay and wetland enhancements from runoff, and pesticide and herbicide use.

Linkage between Eastshore park and land use features located outside the park is weak and does not increase the park plan's integration and coherence. Figure III-9 indicates a "G" or Gateway at the northern limit of the park shoreline but is not described in the text of the plan. Figure I-4 shows an "Arrival Zone" at the same point but no "City Connection." The South 51st Street entrance to the Bay Trail in Richmond should be developed as a major "Gateway". It is readily accessible from I-580 via the Bayview exit, provides convenient access to the Bay Trail and offers excellent opportunities to interpret estuarine ecology along Baxter Creek where it enters the Bay. In addition, a South 51st Street gateway would provide ready access to a new shoreline and trail corridor which East Bay Regional Park District is obtaining from Zeneca on the north side of Stege Marsh.

Bay-dependent recreation should be a particular focus of the park plan's recreational development. The park plan makes special accommodation for non Bay-dependent recreation such as general field sports. In particular, windsurfing or sailboarding launch sites do not adequately address the specific needs of this popular Bay water activity. The San Francisco Bay Conservation and Development Commission's (BCDC) San Francisco Bay Plan Recreation Policies specify that "Launching lanes should be placed where wind and water conditions would be most favorable for smaller boats...Launching facilities should include adequate car and trailer parking...". Save The Bay believes such access should be provided consistent with protection of sensitive habitat and wildlife.

The park's interpretive program concentrates on modification of the park's shoreline by humans but neglects the role of existing but altered watersheds that are important to Bay hydrology and ecology. In particular, the park's shoreline is the termination of nine creeks whose outflows along the shore should be identified and their role in the ecology of the Bay highlighted.

COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (EIR)

The conclusion of this EIR is that all potential impacts of the preliminary park plan and proposed park development have been mitigated to a less-than-significant level by the General Plan Guidelines. In most instances, the preparation of a Specific Plan prior to implementation of development is deemed sufficient to mitigate any potential adverse impact. Although the development proposed is intended to enhance the qualities of the shoreline, specific developments may have negative impacts on fragile Bay habitats, and may also negatively impact the aesthetics of the visitor experience.

Aesthetics of the shoreline may be adversely altered by proposed development of promenades, visitor-serving and park maintenance buildings, and sports field facilities. The effects of hard-edged pavement promenades and railings that can obstruct the visual continuity of vistas have not been addressed--nor have the effects of sport field fencing or of urban turf areas in what are now relatively wild open spaces. Save The Bay recommends that the potential impacts of hard-surface walkways, railings, fencing, and

turf on the visitor's experience of the Bay as, essentially, a wilderness environment be addressed.

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Biological resources, particularly waterfowl, may not be adequately protected in specific areas that have been designated "Recreation Areas." For instance, the entire open water areas of the North Basin are designated recreational acreage and do not specify measures to protect waterfowl from disturbance. Designation of the shoreline as a State Recreational Area may have future negative impacts on the protection of wildlife for whom the Bay's open waters are essential habitat, another critical reason why it should be designated as a State Park.

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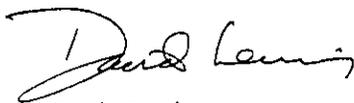
Hydrology and water quality of the Bay may be adversely affected by runoff from infrastructure such as parking lots, impermeable surface promenades, and from turf areas requiring fertilization and other chemical management regimes. No new infrastructure or facilities to process runoff from impermeable surfaces, or from turf areas are proposed in the plan. Save The Bay recommends that the potential effects of such runoff be addressed.

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Save The Bay is committed to conservation and restoration of this shoreline in balance with the recreational needs of local communities and the public at large. Although the plan integrates competing interests, the balance is precarious. We urge you to consider the long-term implications of the shoreline's designation, particularly in view of the long-term environmental impacts of development.

We look forward to continuing to work with you to develop a plan for this unique shoreline that will create a showcase urban park, a visionary park that celebrates our connection to the Bay while ensuring it remains a vital ecosystem for future generations.

Sincerely,



David Lewis
Executive Director

COMMENTOR B15

Save The Bay; David Lewis, Executive Director (August 27, 2002)

- B15-1: Comments on the Preliminary General Plan are noted. For a number of potential adverse impacts, the Draft EIR identifies both the preparation of a specific plan or identification of a specific project (guideline OPER-1) and subsequent environmental analysis under CEQA (guidelines OPER-2 and CAPACITY-2) to mitigate potential adverse impacts. Regarding the potential effects of promenades, railings, sport field fencing, and turf areas on specific vistas and visual resources, the Draft EIR addresses the potential environmental impacts of the Preliminary General Plan. When specific projects (which may include hard-surface trails, promenades, turf, landscaping, and sports fields) are proposed, a more detailed examination will be undertaken of the actual development projects. As required by Preliminary General Plan guidelines, the siting and design of new facilities will take into account potential impacts on visual resources. The EIR authors disagree that the Eastshore Park Project area is a "wilderness environment" and cannot comment on any individual visitor's experiences of the Bay or the Eastshore Park as such.
- B15-2: The EIR authors do not agree with the comment's conclusion. The Draft EIR (page 84) discusses the potential impacts on waterfowl and other water birds due to boating and windsurfing, as well as disturbance along the shoreline. The Draft EIR also identifies (on pages 84-85) management guidelines contained in the Preliminary General Plan that would avoid or minimize these impacts throughout the park, including open water Recreation areas such as the North Basin. A more specific analysis of impacts and mitigation measures will be addressed during project-specific CEQA review of proposed developments (see Response to Comment A2-1). See Response to Comment B1-5 regarding protections for waterfowl. See Response to Comment A6-5 regarding the park designation.
- B15-3: The Draft EIR addresses the issue of storm water and drainage runoff on pages 132-135 and identifies specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for the effects associated with runoff. Specific infrastructure and drainage facilities will be identified when specific projects are defined, designed and evaluated (see Response to Comment A2-1).

C. INDIVIDUAL COMMENTS AND RESPONSES

Kristin Ohlson
1010 Pomona Avenue
Albany, CA 94706

August 26, 2002

Robin E. Ettinger, ASLA
Calif. Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Dear Mr. Ettinger:

Here are my comments on the Draft Environmental Impact Report for the Eastshore State Park Project General Plan:

- A. Brickyard Cove is designated as an aquatic conservation area, not recreation area in the proposed general plan, yet a water access/ launching facility of some sort is proposed here. Brickyard Cove has one of the largest tidal mudflats in the project area outside the Preservation Areas; (the EIR notes it as an "important tidal flat", p. 74). It is heavily used by hundreds of shorebirds at low tide when the mudflat is exposed and by diving ducks during a large portion of the year at high tide for rest and foraging in calm water. A boat ramp, floating dock or other launch facility would be unuseable at low tide twice in a 24 hour period since the mudflat extends at least to the southern tip of the Brickyard peninsula at low tide. The negative environmental effects of an intensive recreation use in an important tidal flat noted as a conservation area in the Plan are not considered in the EIR.

The description of the proposed project regarding Brickyard Cove is inadequate and incomplete. Table II-4 of the EIR which lists Draft General Plan Specific Area Proposed Development and Enhancements does not have ANY mention of water access, boat ramp or floating dock in the Brickyard Cove. The only place a boat ramp or floating kayak dock is mentioned in the EIR in narrative form is Table IV-2: Key Differences Between the Project and the EIR Alternative, under Alternative B, **Recreation Alternative**. Under Brickyard Cove, it states: "Addition of kayak storage, waterfront promenade along shoreline south of University Avenue..., and a floating kayak dock as part of the water trail campsite in the Brickyard Cove Area." Under Conservation Alternative, it mentions removing water access in the Cove. Given the lack of description and explanation of "water access" it's unclear what is proposed here.

There is no adequate environmental analysis of the impact of water access, be it a floating kayak dock or boat launch facility in Brickyard Cove. Under p. III-67, of the General Plan, it states as a guideline that "prior to constructing proposed water access

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improvements to Brickyard Cove, consult with appropriate resource agencies to establish appropriate guidelines for boating”, yet no analysis has been done on the impact of either: 1) construction and use of facilities in a tidal mudflat area, thus affecting foraging shorebirds, or 2.) the impact of fill in a tidal mudflat required to build a boat ramp, 3). analysis of impact of boating on the diving ducks that use the Brickyard Cove for resting and foraging at high tide. 3) impact of a floating dock at either high and at low tide; the latter where it would be resting directly on the tidal mudflat and the impact on the mudflat feeding area of a floating dock anchorage. There are no specifics on the effects of boat use, (use by people, equipment) on the water which will flush waterfowl, the types of waterfowl that use the Brickyard Cove, the numbers and status of such wildlife, etc.

1
cont.

In the general plan document, page III-3, it states that upland conservation areas include... the shoreline around Brickyard Cove”, and tideland conservation areas include the Brickyard Cove, but there is no discussion of the inconsistency of permitting an intensive recreation use within an area designated for conservation. . There is no analysis of the impact of increased people and boating equipment on the shoreline.

B. The EIR concludes that less than significant effects will occur from water access improvements and nonmotorized boating in Brickyard Cove because “...like the proposed project, guidelines in the Draft General Plan would reduce any impacts to a less than significant level.” (EIR, p. 244). But there is no analysis supporting this summary conclusion. In addition, the guidelines in the General Plan provide no clear restrictions or operating ground rules for water access in the Cove; they merely state that the state should consult to determine appropriate guidelines for boating. There is no analysis of why the guidelines are adequate to reduce environmental impacts resulting from an intensive recreation use permitted within a conservation area.

2

C. There is no discussion in the EIR of how water access facilities would conflict with the goals of the General Plan. Specifically, those goals include:

“the long term preservation and enhancement of the park project’s wildlife habitat; the long-term preservation and enhancement of the park project’ marine habitat areas; and “preserve and enhance habitat values at appropriate upland, creek, open water and wetland areas so that the character of the park project’s conservation and preservation areas more closely resemble the natural bay shoreline.” (See p. 10).

3

D. p. 79 of the EIR states that a criteria of significant environmental effect would be if the plan created any “substantial interference with the movement of any native resident or migratory fish or wildlife species.” There is no discussion of the effect of water access use and facilities on the migration of diving ducks which reside in the project area for a large portion of the year, including the Brickyard Cove, and migratory shorebirds who use the mudflats of the Central SF Bay as one of their necessary stopping, resting and feeding grounds on their migrations to and from the Arctic and Central and South America.

4

- E. The EIR states that the Plan would not “conflict with the provisions of an approved local regional or state policy or ordinance protecting biological resources, such as a tree preservation policy or ordinance”. (P. 80). There is no discussion of the Plan’s conflict with the Bay Conservation and Development Commission’s newly adopted policy on fill in a tidal flat. A boat ramp facility in the Brickyard Cove tidal flat would require fill. BCDC’s policy states, “Tidal marshes and tidal flats should be conserved to the fullest extent possible. Filling, diking, and dredging projects that would substantially harm tidal marshes or tidal flats should be allowed only for purposes that provide substantial public benefit and only if there is no feasible alternative.” 5
- F. There is no thorough discussion of the Conservation alternative as to how it would mitigate the impact to waterfowl and shorebirds of water access facilities in Brickyard Cove. 6
- G. Under the analysis of the Recreation Alternative, p. 242, it states that the recreation alternative could result in significant impacts to biological resources but that biological resources impacts would be reduced to less than significant levels with the implementation of the guidelines in the Draft General Plan. There is no support for the conclusion that the guidelines would reduce impacts to less than significant levels. 7
- H. There is no analysis of the Plan’s impact on existing recreational uses of the park, including but not limited to birdwatching. There is no discussion of the removal of the Albany Plateau for birdwatching, or the elimination of habitat for specific bird species at the Albany Plateau and Cordonices Creek outlet, North Basin, and Brickyard Cove by the Plan’s proposal for ball fields and other intensive recreation uses in these areas. 8
- I. The EIR concludes that the Plan could substantially reduce the area of suitable upland foraging habitat for raptors and shrikes, primarily in the Albany Plateau and the North Basin Strip. (EIR, p. 81). It suggests as a mitigation designating the northern and eastern perimeter of the Plateau as conservation area. This is not viable because raptors and shrikes cannot utilize a foraging area that is a strip of land surrounded on its entire border by turfed ball fields and intensive recreation uses. Raptors require large, broad areas to view and hunt prey, areas which cannot be disturbed by dense numbers of people, noise and structures. The ball fields will eliminate the Plateau as habitat to such an extent that no foraging raptors will remain. To suggest that a remaining border strip of the Plateau is a sufficient mitigation for the loss of raptor and shrike habitat is unsupported. The plan will eliminate raptors including white tailed kite and Northern Harrier species of special concern, and eliminate birdwatching from the Albany Plateau. The only way to mitigate this is to designate the Plateau as a conservation area with no structures or intensive recreation permitted. 9

J. The section on Parking in the EIR is inadequate. There are over 6000 existing parking spaces immediately adjacent to or within the project area. Golden Gate Fields' northern asphalt lot holds 2721 spaces. Golden Gate Fields' overflow asphalt lot adjacent to the Bay holds 920 spaces. Golden Gate Field's dirt lot adjacent to the asphalt overflow lot and directly next to Albany Beach is not even included in these figures. It holds at least 200 cars. Berkeley waterfront areas including restaurant and hotel parking include 2198 spaces. Emeryville Marina holds 295 spaces. (Figures obtained from officials at the cities of Emeryville and Berkeley and from Golden Gate Fields.) Despite this abundance of existing parking, the Plan omits mention of this and shows over 600 new spaces in what are the scarce upland areas of the Park. There is no discussion of the environmental impacts of new parking on the wildlife habitat of the Albany Plateau. There is no analysis of the impact of parking on scenic views at the Albany Beach, Albany Plateau, North Basin. There is no analysis of the impact of drainage from new parking lots into the Albany mudflats, Albany Beach, the North Basin and the Emeryville Crescent. There is no discussion of the necessity to enter into agreements with existing owners of parking spaces as a means to mitigate the environmental impact of additional new parking spaces in scarce upland areas of the park.

10

K. There is no analysis of the effects of the intensive uses proposed for the North Basin Strip on the waterfowl that use the North Basin, including hundreds of diving ducks (greater and lesser scaup, ruddy ducks, bufflehead and canvasback) for a large portion of the year and other waterfowl including but not limited to grebes, cormorants, egrets. These waterfowl can be flushed by even nonmotorized watercraft. Repeated flushing can change their energetics and make it impossible for them to successfully complete their migrations north in the Spring. There is no adequate analysis of the impact of a Recreation designation for the North Basin on the wildlife which use this area. There is no support for the conclusion in the EIR that the Plan's guidelines will mitigate impacts to less than a significant extent.

11

Sincerely,



Kristin Ohlson

COMMENTOR C1

Kristin Ohlson (August 26, 2002)

- C1-1: The EIR authors do not agree with the comment's conclusion. The Draft EIR (pages 84-85) does consider the environmental effects of recreation on shorebirds and waterfowl in the Brickyard and it identifies management guidelines (on page 85, items 3.c and 3.d) that would minimize disturbance of water birds in Brickyard Cove. The Final General Plan will not have a water access designation in the Brickyard Cove. Based on public comment on the Preliminary General Plan and analysis regarding siltation of the area, the Planning Team is recommending to the State Park and Recreation Commission that water access facilities not be developed in the Brickyard Cove area. Additionally, the proposed project does not include a floating kayak dock. The biological impacts of recreational uses at Brickyard Cove are analyzed at an appropriate level of detail for a general plan EIR. These issues will be addressed in more detail in the future, in the project-specific CEQA review of proposed facilities at Brickyard Cove (see Response to Comment A2-1).
- C1-2: See Responses to Comments C1-1 (regarding no water access facility at Brickyard Cove), B1-2 (regarding the preparation of a "self-mitigatory" plan), B1-38 (that identifies the location of specific mitigatory guidelines), and A2-1 (that describes the tiering process used to prepare a program EIR). The EIR authors do not agree with the comment's conclusion that the Draft EIR does not contain analysis that supports the identification of Preliminary General Plan guidelines to mitigate the potential adverse impacts of the project. The requirement for boating guidelines (see Response to Comment B1-16) is incorporated as part of the proposed project (i.e., it is part of the Preliminary General Plan) and thus it is not considered a mitigation measure.
- C1-3: The Draft EIR is not required to address the extent to which proposed facilities conflict with the goals of the Preliminary General Plan. Furthermore, the Plan authors feel that the guidelines contained in the Preliminary General Plan support the stated goals of the plan. See also Response to Comment C1-6.
- C1-4: See Response to Comment B1-16. The commentor does not explain why the construction and use of non-motorized boat launch facilities might interfere with the migration of diving ducks or shorebirds that occur in the project area; furthermore, the EIR authors consider such interference unlikely.
- C1-5: See Response to Comment C1-1, regarding no water access facility at Brickyard Cove. Furthermore, the Preliminary General Plan does not include the specific design of any proposed boat launch facilities and does not speculate about whether they would require fill in a tidal flat or in the Bay. The specific design of the facilities, and evaluation of associated project-specific impacts and mitigation measures, are appropriately deferred to the future, project-specific CEQA review of such activities (see Response to Comment A2-1).

- C1-6: Comment noted. Please note that the Conservation alternative does not include a water access facility in Brickyard Cove (see the Draft EIR, page 229). See also Response to Comment C1-1 regarding no launch facility at Brickyard Cove. Furthermore, it is not the purpose of general plans to provide detailed management guidelines or project-specific mitigation measures. The Preliminary General Plan provides resource guidelines that require detailed measures to be in place prior to any improvements (page III-67 SB/NE-6). Prior to the development of water access improvements, a management and operations plan will be developed for the marine habitat areas. Agencies that enforce water use rules and regulations along with agencies that are involved with resource preservation will be consulted. These site-specific plans will follow all appropriate agency approval and CEQA regulations as identified in the Draft EIR.
- C1-7: The comment is noted, and Chapter IV, Alternatives, section (3) on page 242 of the Draft EIR is hereby revised as follows:

(3) Biological Resources. Implementation of the Recreation alternative could result in significant impacts to biological resources as this alternative proposes more intensive development, particularly at the Berkeley Meadow and North Basin Strip. The potential for impacts resulting from this alternative would generally be greater than that of the proposed *Draft General Plan* since the amount and degree of development proposed in this alternative is greater than the proposed *Draft General Plan* and the level of visitation would be higher. ~~However, Most~~ biological resources impacts would be reduced to less-than-significant levels with the implementation of the guidelines in the *Draft General Plan*. No significant impacts to wetlands and other waters subject to Corps and RWQCB jurisdictions would occur because all impacts would be ~~offset~~ reduced to a less-than-significant level through appropriate wetland restoration activities. Due to the more intensive development in the Berkeley Meadow, however, it may not be possible to reduce impacts on nesting raptors (particularly northern harriers) to a less-than-significant level. Thus, impacts on nesting raptors could be considered potentially significant under the Recreation alternative.

In addition, Table IV-1 (page 224) is changed to show the "Impacts to nesting raptors" for "Alternative B," as follows:

~~LTS~~ S

In addition, the second paragraph on page 244 is changed as follows:

Both the Conservation alternative and the Recreation alternative would result in impacts similar to the proposed *Draft General Plan*; they would differ from the *Draft General Plan* only in terms of the level and amount of proposed development and environmental enhancement programs. In general, the potential for adverse impacts would be less and less noticeable under the Conservation alternative and greater under the Recreation alternative, ~~but~~. For the Conservation alternative, like the proposed project, guidelines in the *Draft General Plan* would reduce any impacts to a less-than-significant level. The Recreation alternative, however, could result in a

potentially significant impact on nesting raptors. Although both these alternatives meet the primary goal and objectives of the project, each alternative presents a less balanced approach than the proposed project. Thus, each of these alternatives would not meet each of the primary objectives equally, nor would they meet the needs of the widest range of park users.

- C1-8: See Responses to Comments B1-25 and B1-57. The Draft EIR addresses the issue of land use compatibility on page 148 and identifies the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for the potential adverse effects. On pages 81-85, the Draft EIR discusses potential impacts on birds and their habitats at the Albany Plateau, Albany Mudflat (which includes the Codornices Creek outlet), North Basin, and Brickyard Cove.
- C1-9: The EIR authors do not agree with the comment's conclusion. The designated Conservation area along the northern and eastern perimeter of the Albany Plateau is bordered on one side by the Recreation area (including the ball fields) and on the other side by a large Preservation area (the Albany Mudflat). Raptors will likely forage in this Conservation area; and in fact, raptors have been observed foraging in narrow strips of habitat adjacent to other ball fields in west Berkeley and the Berkeley Hills (LSA Associates, personal observations). Although the extent of raptor foraging habitat will be substantially reduced at the Plateau, large areas of foraging habitat will be protected elsewhere in the park (e.g., the Berkeley Meadow and the Albany Neck and Bulb) and overall loss of foraging habitat in the park project is not considered significant.
- C1-10: It is unclear from this comment what is intended by the listing of parking spaces the commentor believes are provided on nearby public and private properties in the vicinity of the Eastshore Park planning area. By definition, these spaces are presently supporting existing uses at these locations. Well over half of the spaces cited in the comment (3,841 out of 6,334) are used by Golden Gate Fields, and those spaces would not be available for use by visitors to the Eastshore Park (unless there is a future agreement regarding the use of off-site spaces, see Preliminary General Plan page III-81). The Draft EIR (pages 80-86) discusses the overall impacts on wildlife habitat at the Albany Plateau. This discussion includes the impacts of parking as well as all other proposed facilities. The Draft EIR (pages 45-49) discusses the overall impacts on scenic views. This discussion includes the visual impacts of providing additional parking. See Response to Comment B1-10 regarding drainage from parking lots. In the absence of any evidence that the proposed levels of parking at the Park would lead to significant unavoidable adverse impacts, agreements with existing owners of parking spaces would not be necessary.
- C1-11: The EIR authors do not agree with the comment's conclusion. The Draft EIR (page 84) discusses the potential impacts on waterfowl due to boating and windsurfing, as well as disturbance along the shoreline, and (on page 85, items 3.c and 3.d) identifies management guidelines contained in the Preliminary General Plan that would avoid or minimize these impacts at the North Basin. A more specific analysis of impacts and mitigation measures is appropriately deferred to the future, project-specific CEQA review of proposed developments adjacent to the North Basin (see Response to Comment A2-1).

From: John Slaymaker
PO Box 21381
Oakland, CA 94620

To: Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Date: 28 August '02

Re: **Formal Comments on the Eastshore State Park Draft General Plan & Draft Environmental Impact Report**

Dear Mr. Ettinger,

Thank you for your deliberative consideration of the following comments on the Eastshore State Park Draft General Plan and Draft Environmental Impact Report.

There are several salutary aspects of the proposed management of Eastshore State Park, including the removal of invasive exotic vegetation; daylighting of the creek mouths; a stated intent to preserve ground squirrel burrows, which provide vital habitat for Burrowing Owls and other species; reductions in harassment of resident and migratory wildlife by off-leash dogs; and appropriate controls on jet skis and other motorized watercraft.

There are also, however, several significant areas of concern, including a number of instances where the analyses presented in the Draft General Plan and Draft EIR in support of proposed land-use designations, development projects, and management regimes are internally contradictory and/or inconsistent with stated park project goals, the broader mandates of the Eastshore State Park and the California State Park System, and other applicable laws, policies, and regulations.

1

* * * * *

BURROWING OWL

THE PROPOSED DEVELOPMENTS WITHIN LARGE EXPANSES OF BURROWING OWL HABITAT CANNOT BE RATIONALLY RECONCILED WITH THE "PROTECTION OF [BURROWING OWL] UPLAND AND SEASONAL WETLAND HABITAT AND PROTECTION FROM DISTURBANCE BY VISITORS AND DOGS" (Draft EIR at 82).

- At page 72 of the Draft EIR it is stated that the Burrowing Owl is a California Species of Special Concern.
- It is further stated that it is "known to occur ... along the North Basin Strip" and has been "recorded south of University Avenue, near the Berkeley Meadow and along the south shoreline of the North Basin"; further, "suitable habitat occurs in portions of the Berkeley Meadow and Albany Plateau." Draft EIR at 72.

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- At page 82 of the Draft EIR it is stated that "wintering burrowing owls have been observed in the park at North Basin Strip, the northern perimeter of the Berkeley Meadow, the shoreline area south of University Avenue, and the Albany Bulb. These and other upland areas of the park provide foraging habitat and potential nesting habitat for burrowing owls." Draft EIR at 82.
- At page 79 of the Draft EIR, under the heading "**Criteria of Significance**," it is stated that "the proposed Draft General Plan would have a significant impact on biological resources if it would result in **substantial reduction in numbers of, restriction in range for, or loss of habitat for** a population of any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or USFWS." Draft EIR at 72. [Emphasis added.]
- At page 77 of the Draft EIR it is stated that "project-related impacts to species on the State lists of ... species of special concern are considered 'significant' under *CEQA Guidelines*." Draft EIR at 77.
- At page 82 of the Draft EIR, under the heading "**Burrowing Owls**," it is acknowledged that the proposed park developments "could **substantially reduce** the area of suitable upland foraging habitat for burrowing owls" and "could also **substantially reduce** the availability of suitable nesting and roosting sites for burrowing owls ..." Draft EIR at 82. [Emphasis added.]

The proposed measures to avoid, minimize, or compensate for these substantial habitat reductions, including "protection of upland and seasonal wetland habitat and protection from disturbance by visitors and dogs" (Draft EIR at 82), are clearly incompatible with the extensive network of trails proposed for the Berkeley Meadow and with the intense and extensive developments proposed for the North Basin Strip and the Berkeley Beach, Brickyard and South of University Avenue areas.

2

Berkeley Meadow: At page 20 of the Draft EIR it is proposed that the Berkeley Meadow be crisscrossed by several major trails and nearly a mile of interpretive trails. This is plainly inconsistent with the "protection of upland and seasonal wetland [Burrowing Owl] habitat and protection from disturbance by visitors and dogs." Draft EIR at 82.

North Basin Strip: At page 21 of the Draft EIR it is proposed that the North Basin Strip be heavily developed, with proposed developments to include a hostel with 20-40 beds; parking for up to 350 vehicles; a developed turf area; boathouse and recreation concessions facilities; an interpretation center; a formal urban pedestrian promenade (*see* Draft EIR at 48); picnic facilities; restroom facilities; a pedestrian bridge; and a small boat launch.

This intense and extensive degree of proposed development in a habitat where the **burrowing owl is currently known to occur** (Draft EIR at 72, 82) is clearly inconsistent with the "protection of upland and seasonal wetland [Burrowing Owl] habitat and protection from disturbance by visitors and dogs" (Draft EIR at 82).

3

Berkeley Beach, Brickyard and South of University Avenue: At pages 19-20 of the Draft EIR it is proposed that this area be heavily developed, with proposed developments to include a park operations facility; *another* visitor interpretation center, within walking distance of the one proposed for the North Basin Strip; *another* major parking lot, with parking for up to 200 vehicles; concessions facilities, including recreation equipment, café/restaurant, market, etc.; *another* formal urban pedestrian promenade (*see* Draft EIR at 48); restroom facilities; a pedestrian trail system "throughout Brickyard area"; drop-off area and trail access to the vital shorebird resting areas at Brickyard Cove Beach; two "Vista Points"; picnic areas; and *another* developed turf area.

The Burrowing Owl has been recorded south of University Avenue (Draft EIR at 72); "wintering burrowing owls have been observed in the park ... [in] the shoreline area south of University Avenue" (Draft EIR at 82). The intense and extensive level of development proposed for the Berkeley Beach, Brickyard, and South of University Avenue area is clearly inconsistent with the "protection of upland and seasonal wetland [Burrowing Owl] habitat and protection from disturbance by visitors and dogs" (Draft EIR at 82).

CONCLUSION: The "protection of [Burrowing Owl] upland and seasonal wetland habitat and protection from disturbance by visitors and dogs" (Draft EIR at 82) is offered as a primary means to "avoid, minimize, or compensate" for the "substantial" reductions in Burrowing Owl habitat resulting from proposed park developments. (Draft EIR at 82.)

In other words, it is being proposed that the intense and extensive developments throughout Burrowing Owl habitat be avoided/minimized/compensated for by "protection of" the same habitat areas that are proposed for development. This is a **logical disconnect**, much like proposing to dam and preserve as free-flowing the *same stretch of river*.

4

There aren't a million acres of upland to play around with here. The North Basin Strip uplands cannot be simultaneously heavily developed and "protected" as Burrowing Owl habitat, and the same holds true for the other Burrowing Owl habitat areas currently proposed for development. **The Biological Resources Impacts of the proposed Draft General Plan developments in Burrowing Owl habitat thus cannot accurately be characterized as "Less-than-Significant."**

CONCLUSION: One of the formal goals of the park project is "the long-term preservation and enhancement of the park project's wildlife habitat." Draft EIR at 10. The intense and extensive development proposed throughout Burrowing Owl habitat is clearly not consistent with this project goal.

* * * * *

BRICKYARD COVE

THE VARIOUS ELEMENTS OF THE DRAFT EIR ANALYSIS OF BRICKYARD COVE BIOLOGICAL IMPACTS RESULTING FROM THE DRAFT GENERAL PLAN PROPOSED DEVELOPMENTS WITHIN AND ADJOINING BRICKYARD COVE, WHEN CONSIDERED TOGETHER WITH THE PROPOSED MEASURES TO AVOID, MINIMIZE, OR COMPENSATE FOR THESE EFFECTS, ARE NOT RATIONALLY CONSISTENT AND DO NOT PROVIDE A REASONED BASIS FOR DECISION.

- At page 84 of the Draft EIR, under the heading "Shorebirds, Waterfowl, and Other Water Birds", it is stated that "the park area is noteworthy for its abundance of water birds, especially shorebirds and waterfowl" and that "thousands of shorebirds forage in the shallow waters and mudflats of the park area." Draft EIR at 84.
- At page 84 of the Draft EIR it is further stated that "the mudflats at Brickyard Cove ... are .. important as shorebird foraging areas.... In addition to shorebirds, thousands of waterfowl and other water birds occur... in the nearshore waters of the park." Draft EIR at 84. [Emphasis added.]

- It is acknowledged in the Draft EIR that "development of the park could increase disturbance of shorebirds, waterfowl, and other water birds by park visitors and dogs. Such disturbances could have adverse effects on shorebirds and waterfowl that are roosting or feeding along the shoreline. Additionally, waterfowl and other water birds are vulnerable to disturbance by boating and windsurfing." Draft EIR at 84.
- In order to "avoid, minimize, or compensate for these effects" it is proposed that Brickyard Cove be designated as a Conservation Area. Draft EIR at 84.

Despite this recognition of the high value and vulnerability of the existing shorebird, waterfowl, and other water bird habitats at Brickyard Cove, however, at page 20 of the Draft EIR it is proposed that there be developed a "drop-off area and trail access to Brickyard Cove Beach." At page 19 of the Draft EIR it is proposed that there be created a "pedestrian trail system throughout Brickyard area." In Figure II-3b of the Draft EIR it is indicated that a Water Access point is proposed for the heart of the Brickyard Cove and its mudflat Restoration Area. Further, it is proposed that picnic facilities and yet *another* developed turf area be included in some portion of this "Berkeley Beach, Brickyard, South of University area," not to mention the intense and extensive developments proposed for the adjoining Brickyard uplands. Draft EIR at 19,20.

These proposed developments are clearly inconsistent with the level of protection necessary for the persistence of the large numbers of shorebirds, waterfowl, and other water birds that currently rely upon the relative isolation and relatively low visitor use of the Brickyard Cove and mudflats. Further, these proposed developments are clearly inconsistent with the protections sought to be afforded these bird species by the "Conservation Area" designation proposed in the Draft EIR at page 84.

In fact, these proposed developments in the Brickyard Cove area encourage precisely the "increase[d] disturbance of shorebirds, waterfowl, and other water birds by park visitors and dogs" (Draft EIR at 84) that the Brickyard Cove "Conservation Area" designation is purportedly intended to address, despite the Draft EIR acknowledgement that this increased disturbance will have potentially "adverse effects on shorebirds and waterfowl that are roosting or feeding along the shoreline" and that "waterfowl and other water birds are vulnerable to disturbance by boating and windsurfing." Draft EIR at 84.

5

CONCLUSION: The various elements of the Draft EIR analysis of Brickyard Cove biological impacts resulting from the Draft General Plan proposed developments within and adjoining Brickyard Cove, when considered together with the proposed measures to avoid, minimize, or compensate for these effects, are **not rationally consistent and do not provide a reasoned basis for decision.**

Furthermore, from a good-faith perspective, calling something a "conservation area" in name while encouraging precisely the sorts of disturbance that are acknowledged as likely to negate the area's conservation value is, well, questionable, as well as a disservice to the English language.

CONCLUSION: The high value and vulnerability of the existing shorebird, waterfowl, and other water bird habitats in Brickyard Cove is specifically acknowledged in the Draft EIR. One of the formal goals of the park project is "the long-term preservation and enhancement of the park project's wildlife habitat." Draft EIR at 10. The level of development proposed within the Brickyard Cove and adjoining habitats is clearly not consistent with this project goal.

* * * * *

DEVELOPMENT OF SPORTS FIELDS IN EXISTING UPLAND OPEN SPACE AND HABITATS WITHIN THE PARK PROJECT

DEVELOPMENT OF SPORTS FIELDS WITHIN THE EASTSHORE STATE PARK IS CLEARLY NOT CONSISTENT WITH THE LEGISLATIVE MANDATE THAT PARK RECREATION BE "HARMONIOUS WITH ITS NATURAL SETTING", NOR IS IT CONSISTENT WITH THE PROJECT GOAL OF FACILITATING AND ENHANCING ENJOYMENT AND APPRECIATION OF THE PARK'S "NATURAL, CULTURAL, AND SCENIC RESOURCES."

- At page 13 of the Draft EIR it is stated that the park project goals include achieving "a balanced range of high quality recreational opportunities that facilitate and enhance the public's enjoyment and appreciation of the Eastshore park project's **natural, cultural, and scenic resources.**" Draft EIR at 13. [Emphasis added.]
- At page 10 of the Draft EIR it is partially acknowledged that Public Resources Code Section 5003.03(h) mandates (not "proposes"; this is codified California law, not a proposal) that the Eastshore State Park project "shall be a recreational facility harmonious with its natural setting." [Emphasis added.]

CONCLUSION: The development of sports fields within the park project is clearly not consistent with this mandate of the Legislature, as there is nothing about developed soccer fields which is remotely "harmonious with [the] natural setting" of the Eastshore Park project.

CONCLUSION: Furthermore, the development of sports fields is clearly not consistent with the park project goal of "facilitat[ing] and enhancing the public's enjoyment and appreciation of the Eastshore park project's natural, cultural, and scenic resources." Draft EIR at 13. Developed soccer fields have nothing whatsoever to do with the "natural, cultural, and scenic resources" of the Eastshore Park project.

Kayaking and windsurfing, though they have their own potential impacts on various park resources, are clear examples of activities harmonious with the natural setting, as well as splendid ways to enjoy and appreciate Eastshore State Park's natural, cultural, and scenic resources; indeed, kayaking and windsurfing would not be possible here without the Bay and shoreline. A soccer field, however, can be built in a parking lot, in a brownfield, inside a shopping mall, on the roof of Costco – it plainly has no place whatsoever in a park created to protect and enhance the open space, wildlife habitat, and natural recreational values of the shoreline of one of the most magnificent estuarine ecosystems on the face of the planet.

DEVELOPMENT OF SPORTS FIELDS WITHIN THE UPLAND OPEN SPACE AND HABITATS WITHIN THE EASTSHORE STATE PARK IS CLEARLY:

- NOT CONSISTENT WITH THE PROJECT GOAL OF PRESERVING NATURAL OPEN SPACE;
- NOT CONSISTENT WITH THE PROJECT GOAL OF NOT EXCEEDING THE CARRYING CAPACITY OF PARK PROJECT RESOURCES;
- NOT CONSISTENT WITH THE PARK PROJECT GOAL OF LONG-TERM PRESERVATION AND ENHANCEMENT OF THE PARK PROJECT'S WILDLIFE HABITAT;
- NOT CONSISTENT WITH THE HISTORY OR MISSION OF THE STATE PARKS SYSTEM

- At page 13 of the Draft EIR it is stated that the park project goals include preservation of "a setting where all Californians can enjoy dramatic Bay views and **natural open space** in the midst of an urban setting." Draft EIR at 13. [Emphasis added.]

- At page 13 of the Draft EIR it is stated that the park project goals include "ensur[ing] that the level and character of use within the Eastshore park project are managed in such a way so **as not to exceed the carrying capacity of park project resources.**" Draft EIR at 13. [Emphasis added.]
- At page 2 of the Draft EIR it is stated that the park project consists of "approximately 2,262 acres" of which "approximately 260 acres are uplands." Draft EIR at 2. In other words, upland areas constitute less than 11.5% of the Eastshore State Park project.
- At page II-23 of the Draft General Plan it is stated that the Albany Plateau is among the "upland and seasonal wetland habitats" that "due to their large size, low level disturbance, and proximity to the Bay ... support a **high diversity of wildlife** and are often used by **burrowing owls** and wide-ranging predators such as **white-tailed kites** and **northern harriers.**" Indeed, **the Plateau is ranked among "the most important wildlife habitats" in the park project.** Draft General Plan at II-23.
- At page 10 of the Draft EIR it is stated that one of the formal goals of the park project is "the long-term preservation and enhancement of the park project's wildlife habitat." Draft EIR at 10.

CONCLUSION: A major impetus for the tireless citizen advocacy of this park project has been the protection of the tiny remaining fragments of near-shore open space that now lie within the park project boundaries. Whether or not some of this open space now occurs on top of historic fill is completely beside the point; this open space exists, it is existing habitat for multiple wildlife species, and it is highly valued by the populace as "natural open space in the midst of an urban setting." Draft EIR at 13. To build developed sports fields within this tiny and thus immensely valuable shred of remaining open land along the Bay would be to urbanize it, and thus to negate one of the very goals the park project claims to be striving for.

Furthermore, given that the 260 acres of upland open space and habitat constitute less than 11.5% of the park project area, the elimination of the existing resource values – open space, wildlife habitat, opportunity for dispersed recreation – of the large upland areas required for creation of developed sports fields clearly contravenes the park project goal of "not [exceeding] the carrying capacity of park project resources." Draft EIR at 13.

8

Most tellingly, the Draft EIR itself admits that "**State Parks is not in the practice of developing or operating formal sports facilities....**" Draft EIR at 29. Developed sports facilities are clearly not consistent with the history or mission of the State Parks system.

It has also been suggested, in various forums, that developed sports fields should be built within the Eastshore Park project because there is purportedly an urgent need for them by organized sports teams in neighboring communities. Well, is there not also an urgent need for affordable housing? For additional power plants? Would these be acceptable within the Eastshore Park project? A power plant actually bears more of a rational relationship to the shoreline than a sports field does, as power plants often require adjacency to large bodies of water for cooling purposes whereas adjacency to the damp, frigid, windswept margin of the Bay is hardly a rational place to locate a sports field.

DEVELOPMENT OF SPORTS FIELDS WITHIN THE UPLAND OPEN SPACE AND HABITATS WITHIN THE EASTSHORE STATE PARK IS NOT OF BENEFIT TO ALL CALIFORNIANS; THIS WOULD CONSTITUTE A MARKED DEPARTURE FROM THE HISTORY AND MISSION OF THE STATE PARKS SYSTEM AND IS INCONSISTENT WITH A STATED GOAL OF THE EASTSHORE PARK PROJECT.

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It is worth emphasizing that page 13 of the Draft EIR states that park project goals include preservation of "a setting where all Californians can enjoy dramatic Bay views and **natural open space** in the midst of

an urban setting." Draft EIR at 13. [Emphasis added.] This is as it should be, for the natural open spaces, dramatic views, and resident and migratory wildlife of the State Parks system are the common wealth of all Californians and open to all to appreciate and enjoy.

These qualities of the State Parks have great value even from afar; for example, Mount Diablo and the redwood State Parks are treasured by immense numbers of people who may themselves rarely or never have the opportunity to set foot in them; and the people who enjoy migratory waterfowl and shorebirds in Humboldt Bay and along the coast of Southern California benefit measurably and directly from actions taken to protect the habitat of these bird species right here along the Eastshore.

This would not be the case with developed formal sports fields, built in response to pressure from sports teams in local communities. People from Fresno or Redding, visiting State Parks throughout California on their summer vacation, can easily "enjoy [the] dramatic Bay views and natural open space in the midst of an urban setting" offered by the Eastshore State Park (Draft EIR at 13); indeed, this is likely to be precisely what draws them to visit the Eastshore – which is theirs in common wealth and property as much as if they lived in Oakland or Albany – in the first place. People do not undertake the time and expense of travel far from home to tour soccer fields, and it strains credulity to contemplate that the populace of the State would look kindly on such a diversion of resources and conversion of existing open space and wildlife habitat into purposes clearly outside the history and mission of the State Parks system.

* * * * *

CLASSIFICATION OF THE EASTSHORE STATE PARK

- Since its first conception by forward-looking, public-spirited citizens many years ago, this park project has been conceived of as the Eastshore State Park.
- The fiscal resources, statutes, and other measures through which the populace have continued to tirelessly manifest their collective will to preserve and protect the lands and waters encompassed by the park project have been in furtherance of the creation of an Eastshore State Park.
- **The handsome signs which, at this very moment, welcome the citizenry to the open spaces encompassed by the park project clearly indicate that this is the future site of the "Eastshore State Park."** (Photographic documentation available upon request.)
- **The very website which serves as the official online presence of the park project is www.eastshorestatepark.com/ ("Eastshore State Park Dot Com").**
- At page 1-14 of the Draft General Plan it is acknowledged that "in 1988, the California Parks and Wildlife Act (CalPAW) allocated **\$25 million for Eastshore State Park**, funds that were crucial in the acquisition of lands that would comprise the park project." [Emphasis added.]

Given that the populace has participated in this project for many years, raised and spent moneys, supported and passed legislation, all in furtherance of Eastshore State Park – a park whose existence is affirmed, to this very day, by the official signage currently posted throughout the park project, as well as by the current website address of the official online presence of the park project -- it is at the very least disingenuous to propose, now, that the park not be a State Park at all.

It is sincerely to be hoped that the Final General Plan and Final EIR will correct this error and reaffirm the Eastshore State Park name and classification under which the Eastshore Park project has long represented itself, and by which it has long been known in the public consciousness.

* * * * *

DEVELOPMENT OF "FORMAL URBAN PROMENADES"

- At page 13 of the Draft EIR it is stated that the park project goals include preservation of "a setting where all Californians can enjoy dramatic Bay views and **natural open space in the midst of an urban setting.**" Draft EIR at 13. [Emphasis added.]
- At page 48 of the Draft EIR it is stated that "the Draft General Plan would ... result in the **development of formal urban promenades along the shoreline** in Brickyard Cove, North Basin, Pt. Isabel, and North Pt. Isabel." Draft EIR at 48. [Emphasis added.]
- At page II-23 of the Draft General Plan it is stated that the Brickyard and the North Basin Strip are among the "upland and seasonal wetland habitats" that "due to their large size, **low level disturbance, and proximity to the Bay** ... support a **high diversity of wildlife** and are often used by burrowing owls and wide-ranging predators such as white-tailed kites and northern harriers." [Emphasis added.] Indeed, the Brickyard and the North Basin Strip are ranked among "the most important wildlife habitats" in the park project. Draft General Plan at II-23.
- At page 10 of the Draft EIR it is stated that one of the formal goals of the park project is "the long-term preservation and enhancement of the park project's wildlife habitat." Draft EIR at 10.

CONCLUSION: The proposal in the Draft General Plan for "development of formal urban promenades along the shoreline" (Draft EIR at 48) is clearly inconsistent with the park project goal of providing "natural open space in the midst of an urban setting" (Draft EIR at 13). **By definition, any "formal urban promenades" that are built will BECOME an urban setting.**

CONCLUSION: The proposal for "development of formal urban promenades along the shoreline" of the Brickyard and the North Basin Strip (Draft EIR at 48) is clearly inconsistent with preservation of the resource values that rank these two areas among "the most important wildlife habitats" in the park project. Draft General Plan at II-23. The "low level disturbance" at close proximity to the Bay which makes these areas so valuable for wildlife (Draft General Plan at II-23) is plainly incompatible with the "development of formal urban promenades along the shoreline in Brickyard Cove [and] North Basin." Draft EIR at 48. The proposed formal urban promenades are thus clearly inconsistent with the park project goal of "long-term preservation and enhancement of the park project's wildlife habitat." Draft EIR at 10.

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CONCLUSION: There is a glaring oversight in the Draft General Plan and Draft EIR analysis of the proposed "development of formal urban promenades along the shoreline" (Draft EIR at 48). This oversight can be summarized in one word: "skateboards."

The people who come to stroll the paths of Eastshore State Park are not people in search of shopping-mall concourses. The current "gravel or dirt shoreline walkways" (Draft EIR at 48) are, at present, perfectly negotiable by people of all ages and levels of physical mobility, as evidenced by the persons of tender years and of advanced age that can be seen strolling along these paths on any given day. These paths are also perfectly straightforward for modern wheelchairs to negotiate.

The Draft EIR provides no demonstration of need nor demand for an expensive commitment of resources to these "formal urban promenades." There is no evidence presented that the existing "gravel or dirt shoreline walkways" (Draft EIR at 48) are in any way inadequate or inconvenient; indeed, the presence of people of all levels of mobility who daily enjoy these paths and open spaces along the shoreline are convincing evidence to the contrary.

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The practical effect of developing "more formal walkways" will be to smooth the way for skateboards, roller blades, and high-speed riding by bicyclists. Each of these wheeled conveyances has its place, of course, and indeed the Bay Trail is already well populated with them. If the desire is to smooth the way for elderly people and others of limited mobility, however, the replacement of dirt and gravel by "more formal walkways" will instead have the diametrically opposite effect of subjecting these vulnerable members of society to more and greater threats to their peaceful enjoyment of the dramatic views and natural open spaces of the Eastshore State Park.

The failure of the Draft General Plan and Draft EIR to consider these impacts in its analysis of the proposed development of formal urban shoreline promenades is an oversight sufficient to negate the validity of the promenade analysis as a rational basis for decision. These impacts must be addressed in the Final General Plan and Final EIR.

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PROPOSED CONSTRUCTION OF PEDESTRIAN BRIDGE ACROSS THE HOFFMAN CHANNEL

THE AESTHETIC IMPACTS OF THE PROPOSED PEDESTRIAN BRIDGE OVER THE HOFFMAN CHANNEL WERE NOT ADDRESSED IN THE DRAFT EIR, AND THERE IS NO DEMONSTRATION OF NEED NOR DEMAND FOR AN EXPENSIVE STRUCTURE OF THIS KIND

- At page III-88 of the Draft General Plan it is proposed that "a pedestrian bridge [be built] across the Hoffman Channel, linking Point Isabel and North Point Isabel."
- The Draft EIR analysis of visual impacts of "Proposed Construction on Richmond Lands" is found on pages 47-48 the Draft EIR. The visual impacts of the proposed pedestrian bridge over the Hoffman Channel are not addressed by this analysis; indeed, the pedestrian bridge is not mentioned at all.

Failure to address the aesthetic impacts of this proposed bridge is a significant omission. The view westward along the Hoffman Channel, towards the Bay, is one of the finer views in the entire Point Isabel area, especially with reflections off the water during a golden sunset. The proposed pedestrian bridge will completely eliminate this experience.

14

Furthermore, the Draft EIR provides no demonstration of need nor demand for an expensive commitment of resources to this view-compromising structure. There is no evidence presented that the existing bridge over the Hoffman Channel is in any way inadequate or inconvenient; indeed, the multitudes of people of all levels of mobility who daily enjoy the paths and open spaces of North Point Isabel are convincing evidence to the contrary.

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Both of these issues should be addressed in the Final General Plan and Final EIR.

* * * * *

ALLOCATION OF FINANCIAL AND OTHER PROJECT RESOURCES

THE DRAFT GENERAL PLAN PROPOSES AN ALLOCATION OF RESOURCES, INCLUDING THE SIGNIFICANT COMMITMENT OF PUBLIC FINANCES, TO EXPENSIVE, URBANIZING PROJECTS FOR WHICH THERE IS NO DEMONSTRATED PUBLIC NEED NOR DEMAND.

In the case of both the "formal urban shoreline promenades" (Draft EIR at 48), and the proposed pedestrian bridge across the Hoffman Channel (Draft General Plan at III-88), the Draft General Plan and Draft EIR propose the major allocation of resources, including the significant commitment of public moneys, to the construction of expensive, urbanizing structures for which there is no demonstration of public need nor demand. There is demonstrated need for public investment in many other projects throughout Eastshore State Park, projects that cannot help but suffer from the diversion of these public moneys and human and natural resources into the expensive, urbanizing development of these structures.

The Final General Plan and Final EIR should provide the factual basis, if any, for the promotion of these expensive and urbanizing development projects.

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SOUTHERN SEA OTTER, HARBOR SEAL, AND CALIFORNIA SEA LION

- At page 77 of the Draft EIR it is stated that "a southern sea otter was observed in January 2002 near the western tip of the Albany Bulb."
- The southern sea otter is federally listed as Threatened.
- At page 77 of the Draft EIR it is stated that "harbor seals and California sea lions have been observed in the project area."
- At page M-8 of the "Marine Life and Ecology" section of the Revised Resource Inventory Draft dated 19 April 2001, available at <http://www.eastshorestatepark.com/eastshore/documents.asp>, it is stated that "Harbor seals and California sea lions are protected by the Marine Mammal Protection Act. Both species frequently use shallow subtidal habitats for foraging and may venture into tidal mudflat areas when submerged at high tides. Both species, sea lions in particular, also use intertidal areas for hauling out. **Harbor seals have been reported near the study area California sea lions have been observed in the offshore portions of the study area and may occasionally haul out on the breakwaters near the northern end of the site.**"
- At page 10 of the Draft EIR it is stated that the goals of the Eastshore Park project include:
 - "The long-term preservation and enhancement of the park project's marine habitat areas"
 - "Manage the park project's resources by balancing access to its scenic and recreational resources with the protection and restoration of its natural resources for the enjoyment of the people..."[Emphasis added.]

There is a splendid opportunity here, one which the Draft General Plan and Draft EIR fail to address -- people love sea lions, as any visit to Pier 39 in San Francisco will clearly demonstrate. People love seals. And people absolutely adore sea otters. It is the praiseworthy goal of the Eastshore Park project to protect and restore natural resources "for the enjoyment of the people of the San Francisco Bay region and the State of California." Draft General Plan at 10. And it is also a worthy goal of the Park project to foster

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"the long-term preservation and enhancement of the park project's marine habitat areas." Draft General Plan at 10.

What better way to achieve both of these goals than by encouraging the return of these marine mammals in greater numbers to the Eastshore State Park? The Draft General Plan suggests the possibility of water bird viewing blinds and other wildlife interpretive aids, and there are several instances where wildlife habitat restoration is proposed, but there is no mention of the marine mammals in this regard. Sea lions do, in fact, haul out in the project area and vicinity, as those of us who sea kayak have had opportunity to observe.

Given the extensive modifications of the shoreline throughout Eastshore State Park proposed by this Draft General Plan and Draft EIR, including modifications of rip-rap, shoreline recontouring, and development of formal urban shoreline promenades, it is surprising that the impacts of these measures on potential hauling-out sites and other habitat requisites of these special-status species were not addressed in the Draft EIR.

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It would be most welcome if the Final General Plan and Final EIR were to address these potential impacts, as well as the opportunities for incorporating habitat enhancements for all three marine mammal species into the extensive shoreline modifications proposed in the Draft General Plan and Draft EIR.

* * * * *

CONSIDERATION OF AREAS ADJOINING THE CURRENT PARK BOUNDARIES FOR LATER ACQUISITION AND INCLUSION WITHIN THE STATE PARK

It is unfortunate that the Draft General Plan and Draft EIR do not address the opportunities that may exist for expansion of the Eastshore State Park beyond its current boundaries. It is common for other local and regional plans to acknowledge that their initial planning boundaries are biologically, functionally, and/or otherwise fragmented or inadequate in significant regards, and that there may be opportunities for later inclusion of neighboring parcels within the park boundary in furtherance of the Park's goals and mission.

Neighboring landscape and habitat features and parcels that should be addressed in the Final General Plan and Final EIR include Hoffman Marsh, the wetlands between Meeker Slough and the Albany Mudflats, Stege Marsh, the Zeneca freshwater ponds, the former Liquid Gold site, all or a portion of the Golden Gate Fields property at the Albany/Berkeley border, and a mechanism for addressing other worthwhile acquisition opportunities that may present themselves.

19

It would contribute to the development of a coherent Vision for the Eastshore State Park, and would be highly conducive to the development of a whole, biologically and functionally integrated and manageable State Park unit, if the Final EIR were to address these adjoining landscape and habitat features, parcels, and possible opportunities.

Respectfully yours,



John Slaymaker
PO Box 21381
Oakland, CA 94620

COMMENTOR C2

John Slaymaker (August 28, 2002)

- C2-1: Please note that the commentor adopts a format wherein information from the Draft EIR is presented, and then a conclusionary statement is presented in which specific analysis undertaken in the Draft EIR may not be questioned or disputed. In the following responses, the EIR authors have attempted to respond to specific comments on the adequacy of the Draft EIR and the evaluation contained therein. This first comment identifies several significant areas of concern in the Draft EIR which are the subject of the following specific comments and responses.
- C2-2: The EIR authors do not agree with the comment's conclusion. The Draft EIR identifies numerous management guidelines contained in the Preliminary General Plan that would minimize the adverse effects of trails on wildlife. See Response to Comment A2-6.
- C2-3: The EIR authors do not agree with the comment's conclusion. Although some habitat for burrowing owls would be lost, large areas of suitable habitat would be protected, and the overall impact is not considered significant. See Response to Comment B1-14.
- C2-4: The EIR authors do not agree with the comment's conclusion. See Responses to Comments C2-2 and C2-3.
- C2-5: The EIR authors do not agree with the comment's conclusion. See Response to Comment B1-38.
- C2-6: State Parks, as lead agency, and the authors of the General Plan and Draft EIR do not agree with the comment's conclusion. Ball fields are recreational facilities consistent with Public Resources Code Section 5003.03 (h) and the Preliminary General Plan. The Draft EIR identifies mitigatory General Plan guidelines to ensure that ball fields will be appropriately sited to avoid any significant adverse environmental impacts (see guideline A-7, page III-81 in the Preliminary General Plan).
- C2-7: When proposed, designed and developed, any sports fields will be subject to subsequent environmental evaluation to ensure that they are located in a manner that avoids impacts to significant habitat areas and is consistent with the project goal of being a recreational facility harmonious with its natural setting.
- C2-8: See Responses to Comments C2-6 and C2-7. Additionally, the proposed sports fields represent less than 5 percent of the upland area of the unit and require a significant number of mitigating performance criteria to be met before they can be built. Such a proposed use, with the guidelines provided in the Preliminary General Plan, will not exceed the ability of the unit to sustain itself in balance with other demands.
- C2-9: The enabling statute for the Eastshore project characterizes the unit as a "recreational facility harmonious with its natural setting." Because it is a "recreational facility", sports

fields are possible, if operated by a third party, consistent with the provisions of the Preliminary General Plan.

- C2-10: See Response to Comment A6-5. In response to strong opposition by the public to the "Recreation Area" classification, and the fact that the unit does not meet the criteria for classification as a "State Park," the planning team is recommending that the State Parks Commission adopt a "State Seashore" classification for the unit. No further evaluation under CEQA is required for this change, as the land uses, facilities and development proposed in the Plan would not change and have been evaluated in the Draft EIR.
- C2-11: See response and comment A6-7 regarding the potential development of promenades as proposed in the Preliminary General Plan and evaluated in the Draft EIR. The Draft EIR addresses the issue of adverse impacts related to proposed shoreline treatments and protection on pages 135-136 and identifies the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for potential adverse impacts. See also Response to Comment C2-7 regarding the Plan guidelines being designed to implement the Plan goals and objectives. No further response is necessary.
- C2-12: See response and comment A6-7 regarding the potential development of promenades as proposed in the Preliminary General Plan and evaluated in the Draft EIR. Additionally, the Draft EIR evaluates the potential impacts of the Preliminary General Plan at a general level and identifies mitigatory guidelines throughout the document that reduce potential impacts to a less-than-significant level. In the absence of conclusions that a particular structure or land use mix set forth in a General Plan would result in significant adverse environmental impacts, there is no need for quantification of the need or market demand in the Draft EIR for any of the structures or land uses included in the plan.
- C2-13: See responses and comments C2-10, C2-11 and C2-12. Furthermore, in no way does the manner in which the Draft EIR addresses the proposal of promenades in the Preliminary General Plan constitute an inadequacy in the Draft EIR.
- C2-14: The EIR authors disagree with the comment's conclusion. A program EIR on a General Plan begins with the proposed plan as the focus of analysis. When specific projects, such as a pedestrian bridge, to implement the plan are proposed, project specific environmental analysis will be conducted to ensure that any significant impacts on resources, including visual resources, are avoided or mitigated (see Response to Comment A2-1). On page 49, the Draft EIR identifies guidelines that would avoid or minimize to a less-than-significant level potential impacts to visual resources associated with the construction of new facilities proposed in the plan (see guideline AESTH-10).
- C2-15: Comment noted. See also Response to Comment C2-12 that clarifies that there is no need for quantification of the need or market demand in the Draft EIR for any of the structures or land uses included in the plan.
- C2-16: Comment noted. See Response to Comment C2-15. Additionally, it should be noted that CEQA does not call for, and the Draft EIR does not contain, a proposal for or evaluation of the allocation of resources and finances to particular projects or plans.

- C2-17: Comment noted. The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary.
- C2-18: All of the shoreline areas that are proposed for modifications are currently subject to relatively high levels of human disturbance and thus are unlikely to be used as hauling-out sites by marine mammals, except perhaps on an infrequent basis. Thus, no significant impacts on potential hauling-out sites are expected.
- C2-19: A State Park General Plan cannot specifically recommend further acquisition or suggest land use designations for adjacent properties not under State Park control. The Preliminary General Plan confined itself to planning for the properties that are either owned by the State or are at least tentatively committed to the State for incorporation into Eastshore Park. The Draft EIR evaluated the Preliminary General Plan. However, the Plan does recognize the potential opportunities for enhancing the unit through future land acquisition, and establishes criteria for evaluating such opportunities (guideline OPER-3, page III-48).

Jim McGrath
2301 Russell Street
Berkeley, CA 94705
August 16, 2002

RECEIVED

AUG 19 2002

NORTHERN SERVICE
CENTER

Robin E. Ettinger
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

Subject: Comments on the East Shore State Park plan and EIR

Planning for the East Shore State Park was to be done under the legislative mandate for a "... recreational facility harmonious with its natural setting..." and the Constitutional mandate (Article 10, Section 4) that "No individual... possessing the frontage of a ... bay... shall be permitted to exclude the right of way to such water ... so that access to the navigable waters ... shall always be attainable...". The plan fails to meet these mandates for access to the Bay for windsurfing. Although the State has acquired 8 1/2 miles of shoreline, no new launch sites with parking or a convenient drop off point will be available within the park.

I recognize that the planning team and the oversight agencies have had a difficult task with the disparate interest groups that advocated visions. Since many of those visions were exclusionary, rather than inclusionary, it proved impossible to develop a consensus. Some of the techniques, such as the focus groups, were effective. I appreciate the efforts of the planning team to craft an overall park vision that would survive the political process.

There is a covenant entailed in acquisition of the property for a public park. Because taxpayers from all of the State have agreed to purchase the land, it will be protected from commercial development. But the pact made with the public who purchased the land is that it will thus be made available to a larger group of users. That pact is explicit in the legislative mandate for a recreational facility; the language does not call for restoration of the entire site, but for recreation. Despite this direction, the plan has limited the designation of recreational use, and the plan that is the subject of the EIR is more restrictive than the draft plan. Areas that have high value for recreation, particularly for windsurfing access and formal or informal sports fields, have instead been designated for restoration of habitat, with limitations on access not warranted by existing habitat values. In effect, the legislative mandate has been reversed; the plan seeks to recreate a natural setting with only recreation use that is harmonious to that recreated setting allowed. It is not clear that such habitat can be recreated; it is clear that the result conflicts with the mandate for planning the park. Neither the plan nor the EIR establish the cost of such recreation of habitat, the likelihood of success, nor the impacts of the necessary construction work. Nevertheless, the plan rejects proposals for more intensive recreational uses without thoroughly analyzing those alternatives in the EIR.

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The East Shore State Park is highly altered land, large enough to provide enhancements for nearly all of those who have participated in the planning process if they would only share. I support a broader designation of areas for active recreation, in keeping with the legislative mandate, including:

- well regulated dog use
- preservation of existing sensitive areas with restricted or limited access where that is required to protect **existing** values
- habitat enhancement in areas where it does not preclude shoreline access
- provision of additional ball fields, as long as the general public can use those fields when not scheduled
- new access to the shoreline for non-motorized boating, including support parking

There is no evidence in the EIR that the extensive areas within the Berkeley Meadow and the Albany Bulb (130 of the 345 acres of upland) designated for conservation must be protected from recreational uses because of sensitive habitat values. Instead, the EIR notes that "...natural upland communities are largely absent in the project site" (p. 65). The EIR does not establish a set of unique conditions at the site which mandate restoration of the land; indeed, the habitat values that exist on the land are characteristic of a highly disturbed site that bear little relationship to a Bay or coastal environment. Without natural groundwater, or a hydrogeological relationship to the surrounding watersheds, it is not clear that the conditions for restoring habitat can even be created. In contrast, windsurfing, which is dependent on the unique wind and water resources at the site, does not merit designation of a new site with the necessary support. Nor does the *plan or EIR try to rationalize the lack of navigational access with the Constitutional* mandate for such access.

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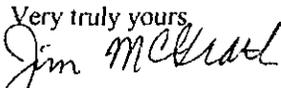
While the proposed plan does provide sufficient designations for launching non-motorized craft, other than windsurfing, and locates those sites in suitable areas, I fear that the regulatory approach embedded in the plan is misguided. First, efforts to regulate navigable waters are likely to be impossible; the doctrine of navigational servitude as an element of ongoing Federal jurisdiction preserves the rights of navigation in such waters. Recent case law extends that doctrine, even where navigation is only available for kayaks and canoes. Second, the plan ignores the nature of eco-tourism, and fails to utilize an educational or stewardship approach that is likely to be more effective. I use my kayak for bird watching in the winter, and most of the kayakers I know also do so. In order to watch birds, I need to make careful observations about what disturbs birds, where they are, how closely I can approach, under what tide and weather conditions, and so forth. During the winter of 2001-2002, I kayaked over the entire margin of the East Shore State Park. I observed rafting ducks, shorebirds, and migratory waterfowl. One physical fact limits the impact of kayaks, even at high densities: the very flat slopes of the submerged lands in the Emeryville Crescent and Albany Mudflats prevent access, even with shallow-draft vessels like kayaks, to the active intertidal area heavily used by birds. A kayak will run aground about 100-150 yards away from that intertidal zone in all but the most extreme high tides. I would submit that it is preferable to use the non-motorized boating

communities as a source of education about stewardship than ill-conceived regulatory schemes. Save San Francisco Bay already has such a program. Further, during all of the time that I spent on the Bay during last winter I did not see another kayaker. Thus, the argument made by some, and reflected in the plan, that non-motorized boating will adversely affect habitat is not supported by substantial information.

The EIR for this plan is fundamentally flawed and inadequate in two ways. First, it trivializes alternative analysis on the glib assertion that there are no significant impacts that need to be avoided. As pointed out earlier, both the construction efforts to attempt restoration, and the possibility of failure of restoration efforts raise the potential for significant impacts that are not adequately dealt with in the EIR. Even if an adequate EIR could dispose of those issues, windsurfers would still ask for analysis of parking along the lower road at Albany Bulb; we don't believe that a small parking area of less than one acre would add any significant impacts at such a disturbed site that is designated for modification. Second, the EIR does not consider the mandate for access to the water contained in the California Constitution as part of the regulatory and planning considerations. It is established law that conflicts with such regulatory provisions constitute significant impacts. Since I raised this issue in my scoping comment letter, and the document fails to deal with it in any level, you have created an inadequate document that requires recirculation.

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I have attached a number of more detailed comments.

Very truly yours,

Jim McGrath

Enclosure

Copies: East Bay Regional Park District, California Coastal Conservancy, Don Neuwirth

DETAILED COMMENTS ON ESSF PLAN AND EIR

EIR COMMENTS

P. 84. The conclusion is reached on page 84 that "...waterfowl and other water birds are vulnerable to disturbance by boating and windsurfing..." No citation is given for this conclusion, and it is contrary to my observations at the site. Indeed, the document acknowledges that rafting of birds is very high in the South Basin, where boating and windsurfing use is greatest. My observations of the area for the last 25 years leads me to conclude that rafting occurs on relatively calm water, and only occupies a small area of the basin, generally shoreward of the areas suitable for boating. This conclusion, without supporting information or analysis, is not sufficient to support the policies suggested on page 85; no nexus has been established.

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P. 114. The EIR does not include any information about what remediation has occurred or remains to be done at Albany Bulb. Remediation work can entail substantially greater site disturbance than would construction of a small parking lot for access. More basically, an adequate EIR needs to contain sufficient information for the public to comment on mitigation measures in a meaningful way. The document fails to meet this test for hazardous materials at Albany Bulb.

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Hydrology discussion in general. On page 127, the EIR identifies 9 creeks, representing the many square miles of the west-facing Berkeley flatlands and hills, which flow into the park. This watershed area is highly altered by urban development; supplies of sand-sized sediment are a fraction of what they once were because of the construction of impervious surfaces and channelization of streams. Those same changes have caused poor quality runoff to flow into the bay. Textbooks for planning for thirty years have reflected the work done by Luna Leopold that showed such changes were related to the percentage of impervious surfaces, with little change noticeable where impervious surfaces are less than 20%, and greater impact with greater urbanization. Instead of providing meaningful analysis of the legacy of current urbanization, the EIR uses a boilerplate approach and asserts on page 134 that new parking areas on the park will become a source of contaminants to be concerned about. This sloppy drafting might bolster the arguments of those that oppose cars on philosophical grounds, but does not reflect any understanding of either the existing situation or the potential for impact. So little area of the park will be covered with impervious surfaces that runoff can readily be directed to areas where contaminants will settle out. As such, a properly designed parking area should not have a detectable impact, much less a significant impact.

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Land Use and Public Policy, p. 137. As noted in the cover letter, this discussion omits State Constitutional policies assuring priority for access to the Bay for navigation, despite my scoping comment letter. As such, the discussion is clearly inadequate. This should have been discussed on page 149, where the designations of the Albany General plan are seen as determinative, without consideration of this State policy.

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Plan Comments

II-66. It will be difficult to achieve the stated vision of a more geographically diverse and potentially larger number of visitors with the balance in the plan skewed so heavily to restoration and closure of areas that are suitable for higher intensity recreation. Regarding access for dogs (II-68), I believe that the plan has found the right balance. Dog walking is an important recreational use, and status quo at Point Isabel. However, that use does prevent full habitat values of the shallow water and intertidal areas in the vicinity. Substantial mudflat areas, well protected from any disturbance by dogs by loose mud and distance, are present at the Emeryville Crescent and Albany mudflats, so the *diminution in value at Point Isabel is not unreasonable.*

Habitat Restoration, conceptually (p. III-7 on). To begin with, the scope of habitat restoration contemplated in the land use designation is beyond the scope of the legislative mandate "recreational facility harmonious with its natural setting." Contrary to the definition on page III-7, the areas designated as Conservation Areas are not limited to areas simply needing enhancement. Natural values, the target of the policy, are largely lacking. *Indeed, the natural condition of the site was aquatic habitat.* The restoration objective appears to be terrestrial habitat that, for many of the species cited, needs no close relationship to the Bay. The scale of habitat restoration implied in the areas of designation is vast, and would require a very large budget and large-scale construction. This type of project, on a site where the status of remediation is not clear, is almost certain to have significant construction impacts. Exposure to hazardous materials during construction is also a concern, and CEQA now requires full disclosure of those impacts. The current EIR falls well below that test.

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III-25. I support these policies as drafted, particularly Marine-3.

III-26, creation of salt marsh and shoreline morphology in general. Any successful restoration effort must utilize natural processes. I have systematically observed the shoreline of this park for more than 25 years. Until the last century, San Francisco Bay was rapidly filling with sediment; the entire system of marshes in the Bay and Delta formed in the last 8,000 years. With mud depths over 100 feet in many places, that is very rapid. However, construction of hundreds of dams in the Sierra Nevada has dramatically reduced the supply of sediment flowing into the Bay. Some observers, most notably Bruce Jaffe of the USGS, believe that the Bay may no longer be depositional.

In these circumstances, the shape of the land and the condition of local watersheds become critical to determining the course of restoration efforts. Within the ESSP, three landforms are now causing localized sedimentation that can be expected to continue. First, the small gap between the toll plaza and the Emeryville landfill has acted like artificial headlands, dissipating wave energy and trapping fine sediment. Second, the peninsula that extends south from the Berkeley pier dissipates wave energy and has caused increased sedimentation in South Basin, particularly near the shore and the outlet of Strawberry Creek. Third, the small gap between the Albany Bulb and Point Isabel has caused similar sedimentation to that observed in the Emeryville Crescent.

from the Dept. of the Navy) Similar patterns have been noted within the Port of Los Angeles that support the benefits of created shallow water habitats for fisheries resources (MEC Analytical, Merkel & Associates, and SAIC. in prep. Biological Baseline Surveys and Analysis for the Port of Long Beach and Port of Los Angeles.). In the latter study, the highest values were found in areas that included beaches.

III-67. Policy SB/NE-6 seems appropriate. However, from my observations, the beach/mudflat at Brickyard Cove has higher habitat value than any of the shoreline in the North Basin. It is of lower utility to launch kayaks at low tides because of the extensive mudflats.

III-68. Policy SB/NE-14. See my comments about shoreline morphology. This area is prograding and beginning to form channels. That will eventually result in a tidal marsh/mudflat system that will prograde westerly dependent on sediment supply and wave sheltering. Adding current areas of upland to this system would be very challenging to wetland restoration professionals, and might jeopardize the existing system.

III-74. BM/NB-5. This is a nice idea, but note the concerns about sediment supply.

III-75. I support this designation and policies.

III-76. BM/NB-12. I support this policy, but note earlier comments about the *conclusions drawn in the EIR without facts. This policy should generate facts.*

III-78. It appears that land use designation for the Bulb is driven by a desire for a "sense of naturalness and isolation", rather than by the legislative mandate for a recreational facility harmonious with its natural setting. In fact, the Bulb is artificial land, studded with construction-debris and human artifacts. If the East Bay Regional Park District manages it, it will have an all-weather road and frequent maintenance activity. To characterize this as a natural area where more intensive recreation is inappropriate is positively Orwellian.

III-79. A-5. I support this policy.

III-83. A-15. I also support this policy. Indeed, restoration of beaches should enhance both habitat and access, and is an example of coalition building planning.

III-84. A-17. I oppose this policy. Nothing in the planning process or EIR demonstrates that limited vehicular access for handicapped people and for launching non-motorized craft would adversely affect either existing habitat values, or a sense of isolation. Nowhere in these documents has there been any explicit effort to consider the Constitutional mandate for navigational access.

III-89. PI/SR-1 and 2. I support these policies. With the western exposure, wave energy at the site will remain high. Creating coves on a larger scale modeled after the two access points should provide both improved access and habitat.

COMMENTOR C3
Jim McGrath (August 16, 2002)

- C3-1: This comment addresses the Preliminary General Plan and does not comment on the adequacy of the EIR. No further response is necessary.
- C3-2: CEQA Section 21068 defines “significant effect on the environment” as “a substantial, or potentially substantial, adverse change in the environment.” CEQA Section 21060.5 defines “environment” as “the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance.” The Draft EIR, therefore, does not—and, consistent with CEQA, need not—consider the monetary cost of habitat restoration, or the likelihood for success of habitat restoration, except as this likelihood relates to direct physical environmental impacts resulting from implementation of the proposed project. Potential impacts resulting from ecological restoration-related construction work are addressed throughout the EIR, including pages 80 to 86 of Chapter IV.C., Biological Resources.
- C3-3: CEQA requires EIRs to analyze alternatives to the proposed project at a level of detail that would allow for “meaningful evaluation, analysis, and comparison with the proposed project” (*CEQA Guidelines* Section 15126.6). Alternative B, the Recreation Alternative, is analyzed in the EIR (see pages 236 to 243) at a level of detail consistent with the mandate of CEQA. This evaluation of the Recreation Alternative includes a discussion of the principal characteristics of the alternative in addition to an analysis of the potential impacts of the alternative as they relate to each of the environmental topics addressed in the Draft EIR.
- C3-4: The Draft EIR contains evidence throughout Chapter IV.C., Biological Resources, that the Berkeley Meadow and Albany Bulb contain sensitive habitat values that could be impacted by the development of recreational facilities. Habitat values present at the Berkeley Meadow include: existing seasonal wetlands (see page 66 of the Draft EIR); stands of native arroyo willow (page 67); suitable habitat for protected raptors (page 69); known presence of northern harrier and white-tailed kite (page 71); suitable habitat for burrowing owl (page 72 and 82); and suitable habitat for Contra Costa goldfields (page 80). Habitat values present at the Albany Bulb include: two small seeps (page 66); salt marsh (page 66); brackish marsh (page 66); arroyo willow (page 67); suitable habitat for protected raptors, including northern harrier (page 72 and 81); and known presence of burrowing owl (page 72) and sea otter (page 76). The EIR’s claim that natural upland communities are largely absent from the project site is in no way meant to preclude the claim, evidenced in the previous page references in this response, that sensitive habitat values exist within the project site. In addition, the EIR, consistent with the provisions of CEQA, need not “establish a set of unique conditions at the site which mandate restoration of the land;” rather, the EIR must analyze the environmental impacts of the proposed project, which, in the case of the Preliminary General Plan, includes restoration components.

- C3-5: CEQA does not require the EIR to “rationalize” the environmental impacts of the project that is being evaluated. Rather, CEQA requires the EIR to “limit its examination to changes in the existing physical conditions in the affected area” (*CEQA Guidelines* Section 15126.2).
- C3-6: The EIR’s finding that implementation of the Preliminary General Plan would not result in significant environmental impacts is not a “glib assertion.” Rather, this finding is based on careful environmental analysis of the Preliminary General Plan itself, which was developed as a “self-mitigating” plan: a plan that used preliminary impact findings to develop internal mitigation. Because the Plan’s authors incorporated internal mitigation to reduce all significant environmental impacts to a less-than-significant level, the EIR found that the proposed project would result in no significant environmental impacts. The evaluation (including evaluation of all project alternatives) and ultimate findings contained in the EIR are entirely consistent with the provisions of CEQA and the *CEQA Guidelines*.
- C3-7: Parking along the lower road of the Albany Bulb is evaluated as part of Alternative B, Recreation Alternative, on pages 236 to 243 of the Draft EIR.
- C3-8: See Response to Comment B10-1.
- C3-9: See Response to Comment A5-1.
- C3-10: Page 114 of the Draft EIR indicates that “documents reviewed by Subsurface Consultants Incorporated (SCI) to date do not indicate which remediation activities have been implemented” at the Albany Bulb. Based on information obtained by SCI in October of 2002, page 114 of the Draft EIR is revised as follows:

(6) Albany Bulb (aka Albany Landfill). The Albany Landfill was operated for the City of Albany from 1963 to 1983. The landfill was intended to accept demolition debris. From circa 1966 to 1975, wastes accepted also included street sweeping waste, wood and vegetation waste from landscape maintenance, and similar materials. In 1985, the RWQCB issued Order No. 84-89, which named the City of Albany, the Albany Landfill Company, and Santa Fe Land Improvement Company (now Catellus) as dischargers. Order 84-89 required clearing and disposing of existing vegetation, filling of the Bay to flatten landfill sideslopes, grading to facilitate water drainage, import and placement of relatively impermeable capping soil, and re-establishment of vegetative surface cover. Although Order 84-89 required capping of the landfill, remedial alternatives have been proposed, including monitoring of soil, sediment and leachate on a semi-annual basis. ~~Documents reviewed by Subsurface Consultants Incorporated (SCI) to date do not indicate which remediation activities have been implemented.~~ It is presumed that no remediation was conducted because the proposed landfill development was never implemented, and the subsequent Order 99-068 not only rescinded the previous Order, it did not require any specific remedial efforts.

Preliminary General Plan policies related to the remediation of hazardous substances located at the Albany Bulb were based on the premise that the status of remediation

activities on the Albany Bulb was unknown. However, implementation of Preliminary General Plan policies would reduce any potential impacts resulting from on-site hazardous substances (even if the site has not been remediated) to a less-than-significant level. *CEQA Guidelines* Section 15125 states: "The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives." Because the setting section of the EIR discusses the known documented status of remediation at the Albany Bulb, which is sufficient for a reasonable impact analysis (which is based on the premise that the status of remediation activities on the Albany Bulb is unknown), the setting section is consistent with the provisions of CEQA.

- C3-11: As noted in Response to Comment C3-10, *CEQA Guidelines* Section 15125 states: "The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives." A full analysis of the "legacy of current urbanization" as it relates to hydrology would exceed the volume of text needed for the lead agency to make an informed decision on the project, and would conflict with the CEQA mandate to prepare concise EIRs containing only the information needed for the evaluation of project-related impacts. The purpose of the hydrology analysis in the Draft EIR is not to argue the detailed history of incremental increases in impervious surfaces on hydrological systems but rather to evaluate the hydrological impacts of the Preliminary General Plan.

The statement on page 134 that the development of new parking facilities could result in discharge of pollutants associated with vehicle use is a generally-accepted premise in the realm of field hydrology and does not represent a "boilerplate approach." It is true that properly-designed parking areas may not have a detectable impact on water quality; however, specific designs for parking areas were not included in the program-level Preliminary General Plan, so it is not appropriate to state in the Draft EIR that the proposed parking areas would have minimal impact on water quality. This determination would be made during environmental review of specific projects, as indicated on page 135 of the Draft EIR.

- C3-12: See Response to Comment B10-1.
- C3-13: The EIR authors do not agree with the comment's conclusion. The Draft EIR (pages 80-86) addresses potential biological impacts during construction (which includes the construction of restoration projects) and identifies numerous management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for these effects. These issues will be addressed in more detail in the environmental review of specific projects within the park (see Response to Comment A2-1).

A discussion of potential impacts resulting from exposure to hazardous materials during the project construction period is found on page 119 (see (1) Hazardous Materials Release) and page 120 (see (4) Contaminated Soils and Landfill Gases) of the Draft EIR.

Bradford Smith, Ph.D.
1205 Francisco Street
Berkeley, CA 94702
(510) 524-1938
bsmith@dnai.com

August 25, 2002

Robin E. Ettinger, ASLA
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

RE: Draft Eastshore Park Project General Plan Environmental Impact Report

Dear Ms. Ettinger:

I am concerned with part 2b(2) ("Parks") of Section J ("Public Services") of the Public Review Draft of the *Eastshore Park Project General Plan Environmental Impact Report* (EIR), which states, in part:

"The implementation of the *Draft General Plan* would not substantially increase demand for neighborhood parks, regional parks, or recreational facilities that would accelerate their physical deterioration or decrease the quality of the facilities or users' experience..." (Page 174)

I will limit my remarks to the City of Berkeley, for which I have served as a Waterfront Commissioner for the past nine years. The statement above is unsubstantiated by data or analysis. In addition to the Berkeley Marina, Eastshore State Park (ESP) will be adjacent to several municipal parks in Berkeley including Adventure Playground, Aquatic Park, Cesar E. Chavez Park, Horseshoe Park, and Shorebird Park. There is good reason to believe that, far from not substantially increasing demand for Berkeley's recreational facilities and parks at the Marina (hereafter, the Berkeley Marina), the public will make little distinction between municipal and state parks and the number of visitors to the entire Berkeley Waterfront will increase substantially as ESP comes on line. While I have no problem with this increase in the number of visitors to state and local lands along the Berkeley Waterfront, I think it should be acknowledged in the EIR and that plans for ESP include the likelihood of this eventuality.

The potential impacts on existing road capacity, particularly at major intersections such as I-80, Frontage Road, Gilman, Ashby, and University Avenue are a concern for access to Berkeley's Marina. There is a very real need to provide adequate access to and egress from Berkeley's Marina across ESP lands, particularly during events at the Berkeley Marina that draw large crowds (Berkeley Bay Festival, Fourth of July, Kite Festival). It may very well be the case that such an analysis will disclose the need for two roadways.

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to and from the Berkeley Marina, one along University Avenue and the other along the Virginia Street extension. There may very well be inadequate parking planned for the ESP and as a consequence, users of ESP will use Berkeley's parking facilities.

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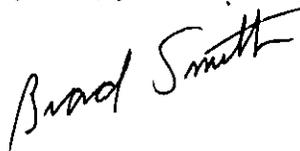
Picnic areas seem to be lacking throughout the ESP plan. Without them, people who come to ESP for a picnic, something I believe most people expect to be able to do in a state park, will move on to the Berkeley Marina. Our Parks and Recreation staff report an increasing demand for large picnic areas for family reunions and other groups of people who would like access to BBQs, tables, and benches. Not only don't the EIR and Preliminary ESP Plan address these issues, but they are also silent on the nature of the relationship that will exist between the City of Berkeley and Eastshore State Park. Such considerations might include: (1) the joint development and administration of an interpretative center; (2) shared use of maintenance facilities, (3) shared parking, and (4) shared planning of circulation and access to the Berkeley Marina and ESP. On that last point, for a number of reasons including greater access to the shore and a wider Bay Trail, the Waterfront Commission has discussed making Frontage Road one-way north between Ashby and University. This, and other issues of circulation and access to the Berkeley Waterfront, should be coordinated with the California Department of Parks and Recreation.

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I have closely participated in the planning process throughout and overall feel the consultants have done a good job. I'm not entirely happy with the draft General Plan and EIR, but, if I were, it would probably be evidence they hadn't done their job. Throughout the planning process, there was always considerable tension between those who would do as little as possible to change the park as it is now and those who would like to see more opportunities for recreation. My own vision for the Berkeley Meadow is something much closer to Golden Gate Park in San Francisco. That doesn't seem to be in the cards, but there are more recreational opportunities proposed than those who would leave things as they are now would like. I think the plan demonstrates that the planners listened carefully to a wide range of stakeholders and then produced a rational proposal. Berkeley's a tough place to do planning.

Respectfully yours,



Brad Smith, Vice-Chair
Berkeley Waterfront Commission

COMMENTOR C4

Bradford Smith, Ph.D. (August 25, 2002)

- C4-1: See Response to Comment B7-34.
- C4-2: The Draft EIR addresses potential impacts related to traffic, circulation and parking in Chapter III.K, Transportation and Circulation, pages 177-208. That analysis considers traffic volumes from implementation of the Preliminary General Plan, their effect on levels of service at nearby intersections, emergency access, parking, transit, and other alternative forms of transportation including bicycles, buses, and boats. See Response to Comment A2-1 regarding future evaluation as specific projects are proposed.
- C4-3: The Preliminary General Plan recommends the inclusion of picnic facilities in several areas throughout the park unit. Picnicking is recognized as an important recreational activity. Areas that are designated on the plan as Recreation areas contain day-use picnic facilities. As site specific planning proceeds, the location, level and type of day-use picnic areas will be determined. Picnic facilities are suggested in the following areas: the Brickyard area (page III-69); North Basin Strip (page III-75); Albany Plateau (page III-80), and Point Isabel (page III-89).
- C4-4: As site-specific planning proceeds, State Parks will consult with adjacent jurisdictions and explore the potential for sharing public use and maintenance facilities. The Preliminary General Plan recognizes the interdependent nature of the park unit with uses and facilities in adjoining communities. The parkwide goals and guidelines on pages III-46 and 47 of the Plan encourage ongoing communication and coordination with local communities "in order to maximize the potential benefits and opportunities each might bring to the other and minimize potential conflicts." These agreements are best identified and determined at the point of funding. No further response regarding the adequacy of the Draft EIR is required.

Gregory M. Herek, Ph.D.

P.O. Box 11196
Berkeley, CA 94712-2196 USA

August 4, 2002

Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento CA 95814

Dear Robin Ettinger:

I am writing about the Eastshore State Park Project General Plan and draft Environmental Impact Report. I am a long-time Berkeley resident and frequently use the public lands affected by the General Plan. I visit the Albany Bulb/Plateau and Point Isabel approximately 5-6 times each week.

In my opinion, the proposed plan for the Albany Plateau and Bulb is unrealistic and destructive. The installation of sports fields on the Plateau will add a tremendous amount of vehicle traffic to the area, which will overwhelm roads and parking areas. Consequently, the entire park will be effectively unavailable for the rest of the public whenever the fields are being used for practice or games. In addition, the children and adolescents using the playing fields – as well as the many people who accompany and watch them – will have a very negative impact on the adjacent wildlife habitats.

I am strongly opposed to the plan to eliminate the pieces of art that have been spontaneously installed in the park over the last several years. The art is an important aesthetic component of the Albany Bulb and plays a significant role in mitigating the visual impact of the construction materials left in the landfill over the years. In effect, the art work transforms much of the debris and garbage into a unique and visually interesting Bulb attraction. The value of this contribution is minimized in the EIR (e.g., see pages 91 and 94). In addition, the EIR suggests that none of the art will be removed without “appropriate review” by a “cultural resource professional” (p. 91). However, presentations by officials at public meetings (e.g., the Berkeley regional workshop in March) made it clear that a decision has already been made to remove the art from the Bulb.

I also strongly oppose the plan to require all dogs to be on leashes at the Albany Bulb. The accessibility of the park to dog walkers, which accommodates overflow from the heavily used Point Isabel, is another of the Bulb’s most valuable features. The proposed plan will eliminate off-leash dog walking (see page 149). Currently, visitors who come to the park to enjoy the art, to hike, to observe wildlife, and to walk their dogs coexist happily. We should be allowed to continue to do so.

Like many of my neighbors, I have urged a rethinking of the General Plan over the past year through my attendance and oral testimony at public meetings, my written comments, and my letters to public officials. As best I can tell, this has been a complete waste of time. Despite

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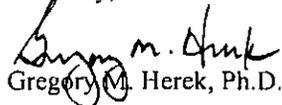
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considerable local opposition to developing the Albany Bulb as proposed (including opposition from the Berkeley City Council), the plan is proceeding without any noticeable modifications. The public input process appears to have been a sham.

Consequently, I am now joining my neighbors in opposing any changes or "improvements" to the Albany Plateau and Bulb. I also will oppose allocation of any funds to the Eastshore State Park as long as the current plans for the Albany Plateau and Bulb remain in place.

Sincerely,


Gregory M. Herek, Ph.D.

cc: Hon. Dion Aroner, California State Assembly
Hon. Don Perata, California State Senate

COMMENTOR C5

Gregory M. Herek, Ph.D. (August 4, 2002)

- C5-1: The Draft EIR analyzes traffic, circulation and parking impacts in Chapter III-K, Transportation and Circulation, pages 177-208 and concludes that no significant adverse impacts would result. Wildlife habitats, and the effect of park visitors on the biological resources that exist throughout the park planning area, are analyzed in Chapter III-C, Biological Resources, pages 65-86. Working with the authors of the Draft EIR, the authors of the Preliminary General Plan have incorporated a variety of management guidelines related to wildlife. With incorporation of these guidelines into the Plan, no significant adverse environmental impacts to wildlife associated with implementation of the Plan would result. As future projects are proposed they will be evaluated and appropriate mitigations identified, as necessary.
- C5-2 Please note that it was not the intention of the Draft EIR to “minimize” the value of the art that is found on the Bulb. The comment is correct that the General Plan states that appropriate review will be conducted by a cultural resource professional prior to any disturbance of the art. As part of this review, State Parks will determine whether the practice of art making along the East Bay shoreline warrants consideration as a cultural resource. The commentator’s perceptions of the presentations made by the project sponsors at public hearings are not something the EIR authors feel qualified to respond to.

Corinne Louise Design 626 The Alameda Berkeley CA 9407 (510) 526-3593
Corinne Greenberg, MA Principal corinnelouisedesign@yahoo.com

Robin E. Ettinger, ASLA
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

August 26, 2002

Dear Robin Ettinger,

Enclosed is a letter regarding my concerns about the plans for the new Eastshore State Park, which spans the S. F. Bay shoreline from Richmond to Emerville.

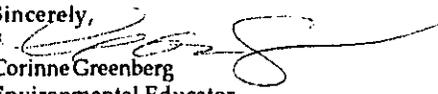
The EIR is inadequate and the Draft Plan is flawed. Two major reasons for my concerns are:

1. The Plan, if implemented, will be in direct violation of the CEQA requirement to protect Species of Special Concern and their habitats.
2. The Planner propose a high intensity Recreation Area rather than following the preservation mandates of the State Park System.

Please read the letter, and encourage the Planners, Don Neuwirth and Associates, to design a park that preserves open space habitat and protects wildlife.
(Neuwirth and Associates, (415) 550-8575, neuwirth@well.com)

Thank you for your consideration,

Sincerely,


Corinne Greenberg
Environmental Educator
East Bay Lands Conservation Committee Sierra Club and Audubon Society
Board Member, Berkeley Partners for Parks

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COMMENTOR C6

Corinne Greenberg (August 26, 2002)

- C6-1: The EIR authors do not agree with the comment's conclusion. The Draft EIR addresses special-status species and their habitats on pages 67-68, 70-73, and 75-76, and identifies on pages 81-86 the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize, or compensate for potential impacts on these biological resources.
- C6-2: This comment addresses the merits of the Preliminary General Plan and not the adequacy of the Draft EIR. No further response is necessary.

Ruth Coleman
Acting Director of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296-0001

August 25, 2002

SUBJECT: Comments on Eastshore Park Project Preliminary General Plan and its accompanying Environmental Impact Report. State Clearinghouse #2002022051

Dear Ruth Coleman:

This new State Park includes the last undeveloped S.F. Bay shoreline and Bay waters between Richmond and Emeryville. Eastshore State Park is about to become a disaster area for wildlife if the latest brainstorm by the Park Planners is implemented. The mandate of the State Parks to protect the natural resources will be dislodged in favor of a plan to create a high intensity recreation area that degrades and destroys critical wildlife habitat in the Central S.F. Bay area.

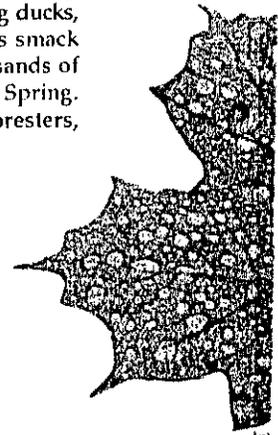
As an Environmental Educator, member of the East Bay Lands Conservation Committees of the Sierra Club and Audubon Society, and Board Member of Berkeley Partners for Parks, I am deeply concerned that much of the recommended usages do not properly consider cumulative impacts as required by the California Environmental Quality Act. In fact, if implemented, the Plan will, in some cases be in direct violation of the CEQA requirement for protecting Species of Special Concern and their habitats.

Following are my comments on specific problems with the Draft Plan and the EIR. My critique is based on two years of field work observations that I carried out 2001-2002 in specific areas of the Park, documentation of the area's wildlife by preparers of the Alameda and Contra Costa Counties Breeding Bird Atlas, biologists, and knowledgeable Audubon Society and Sierra Club observers. I also formed my comments on the proposed impact on wildlife from information from biologists, educators, and Kera Abraham of the University of California, who conducted a study of the impacts of domestic dogs on wildlife in the Berkeley Meadow section of the Park.(2001)

In 1988, the California Parks and Wildlife Act allocated millions of dollars to buy out this land so that natural open space could be protected and formed into a new park. The General Plan claims to enhance the natural values of the park lands, but, in fact, degrades and destroys much of them. Specifically, Albany Plateau, Pt. Isabel Shoreline, North and South Basin waters and shoreline, Brickyard Cove, and the Berkeley Meadow and its shoreline.

The Plan also contends that these areas have limited habitat value. However, it is these very areas that host some of the richest diversity of raptors, songbirds, shorebirds, and diving ducks, and provide crucial habitat for them that is not duplicated for many miles. The Park is smack in the middle of the Pacific Flyway, which is a path followed by migratory birds, thousands of whom utilize this area for crucial stopovers on their way south in Fall, and north in Spring. Some species winter here from as early as August to late May. Others, such as Foresters, Caspian, and Least Terns come to this area in Spring and Summer to feed or breed.

Following are some particular areas of concern:



ALBANY PLATEAU

One example of the Plan's inadequate analysis of habitat value is this area, which is a combination of seasonal short grassland, taller succession grasslands, and borders of large scrub and trees that supports a breeding ground for Western Meadowlarks and foraging area for many species. These include: birds such as Loggerhead Shrike, White Tail Kite, Northern Harrier, American Kestrel, American Robin, American Goldfinch, Redwing Blackbird, Mockingbird, Anna's Hummingbird, Bushtit, Ruby Crowned Kinglet, Yellow Rumped Warbler, California Towhee, Golden Crown, White Crown, Song, and Savannah Sparrows, and House Finches. The Shrike, Kite, and Harrier are Species of Special Concern, meaning their populations are in decline. They require large swaths of this type of habitat to successfully view and hunt prey, free from the incursions of large groups of people, their noise, and structures.

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The plan to turf, install sports fields, and pave the Plateau, and erect a concession will eliminate this valuable habitat. Additional negative impact on this area includes:

1. Loss of opportunity to use the Plateau as a valuable nature study area for children and others. There are actually 4 habitats directly adjacent to each other here.
 - a) the grasslands of the plateau
 - b) the willow corridors on the southern border which supports songbirds and raptor perching
 - c) the waters on the northern boundary that give view to many types of rafting and diving ducks, raptors such as Osprey and Peregrine Falcons, Forester's, Caspian, and Least Terns. The Least Terns and Endangered Species who have started to nest on the gravel site built for them just across the water south of Central Ave.
 - d) Albany Mud flats on the eastern border, which, with the Emeryville Crescent, supports 60% of the North S.F. Bay shorebird population.

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The elimination of the Plateau as viable habitat will also impact the ability to observe these adjacent areas.

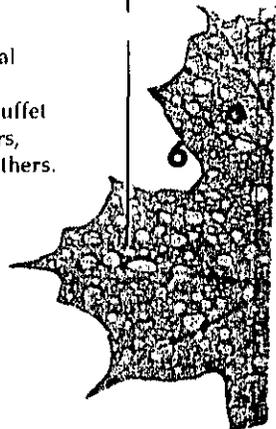
2. Noise, congestion, traffic activity, vandalism, domestic dogs, and trash will intrude into the valuable adjacent habitat areas mentioned above, and flush wildlife away from their life supporting activities.

4

3. Large turf and asphalt areas likely to be contracted to a private entity for management will probably use herbicides and pesticides. There is no mention for restricting these, and run off from these toxic substances and from the petrochemical in the parking lot will compromise the health integrity of the mud flat and negatively affect the birds that feed there. Cumulative impact from persistent exposure to these chemicals includes endocrine disruption affecting breeding and behaviors involved in raising young, calcium leaching which leads to eggshell thinning, breakage, and unsuccessful hatching, and poisoning.

5

4. Sports fields do not support wildlife, do not enhance the aesthetics of the natural features, and in fact, provide a biological desert monoculture, and an unappealing disruption of Bay and wildlife viewing. Due to the extremely strong winds that buffet this area most afternoons year round, dissatisfactions will arise for the sports users, who will advocate for protective fences, which will further degrade the site for others. There is also some misgivings regarding the stability of the geological strata underlying this area.



pg 3

5. The State Parks System is not in the business of sponsoring sports fields, but is responsible for preserving, restoring and enhancing the natural and ecological values of mandated areas for present and future generations. (refer to statute 5019.53) Sports fields are a municipal matter. There are many potential resources in the area to satisfy this desire for ball fields.

7

NORTH BASIN

The EIR and Plan display flawed analysis of the value of the Basin. Even in its estimation of the area's aesthetics, the EIR states that there is an absence of distinctive visual features, and sees its visual attributes only in terms of viewing past the Basin to the sunset, Golden Gate Bridge, Mt. Tamalpais, San Francisco skyline, and the entering fog. There is no stated appreciation for the water itself, the beauty of the movements of its tides, and the awesome, year-round view of wildlife that feed in, take shelter from, and fly over its waters.

8

Thousands of migrating diving and rafting ducks and shorebirds make crucial use of these waters from August through June, yet the North Basin itself does not rate its own section in the Draft Plan Table II-4, but is viewed largely as related to plans for the North Basin Strip. Also, the mentioned October - April rafting season for migrating birds is incorrect. Additionally, it does not refer to other important Spring/Summer usage by Black Crowned Night Herons, Oystercatchers, Godwits, Whimbrels, and Terns, early arriving (August) Black Belly Plovers, and late leaving (May, June, July) Scaup and Grebes. The Double-crested Cormorants that I see often in the waters are a Species of Special Concern. The Least Terns that I've seen diving there this summer are Federally Endangered. The Scaups are suffering continental wide decline. The Surf Scotors are declining worldwide. What will happen to them with the planned intensive development? That and water craft use will flush them away from feeding and rest, and repeated occurrences will exhaust their resources and impair them from completing their migrations.

9

There is no analysis of the effects on North Basin waterfowl and other marine life by the intensive, intrusive, and over designed uses proposed for the North Basin Strip. The overblown designs for pedestrian promenade, small craft launch, and preposterously large square footage for the hostel and boathouse/recreational facilities will overwhelm and eliminate a precious area where birds feed on shore, and where Species of Special Concern Burrowing Owls have been seen living. The planned parking lot for this area is unnecessarily large and redundant as there already are 6000 existing parking spaces in the park area or immediately adjacent. Also, the large Interpretive Center is unnecessary as there is a perfectly good one run by the City of Berkeley in the next door Marina. The planning team's facile plans to spend so much money on the superfluous could be better spent on protecting wildlife, restoring habitat, education, and necessary park management.

10

Naturalizing the Berkeley Meadow Shoreline on the south shore of the Basin might sound like a great idea, but there are problems with the plan. As it exists now, the shoreline is a rough amalgam of California native gum plant (great butterfly nectar source), pickle weed, rocks, concrete rip rap, and muddy shoreline exposed during low tide. It is currently difficult for people and many dogs to get to this part-time mud flat beach. This is a good thing, as this rough and tumble shoreline becomes a protection for the Black and Ruddy Turnstones, Oystercatchers, Whimbrels, Willets, Egrets, Yellow Legs, Herons, Black Crowned Night Herons, and many shorebirds that use this area for foraging and rest. Also, the many rafts of waterfowl that use these near waters for shelter would be inhibited by the intrusions allowed if the shore were naturalized. Even with this helpful rip rap/rocky barrier, I have seen a Ruddy Duck dead on shore above from a dog bite, and have seen dogs go into the water and harass the birds. Additionally, the current mix of rocks and rip rap provides shelter for creatures that become food for the foraging birds.

11

BERKELEY MEADOW

The Berkeley Meadow is the only area of the plan that shows some merit. After receiving much information from myself and many others as to the incredible habitat value of the Meadow, the planners relented from turfing half those 72 acres, and agreed to remove all planned structures, which would have been built directly on the ground nesting site of some Northern Harriers, Species of Special Concern. The Harriers had 3 babies fledge the nest last year, but one was killed by seasonal mowing. This year the Harriers had 2 babies successfully fledge the nest. Harriers have been nesting in this same area for at least the last 8 years. The Plan does sensibly recommend maintenance activities to occur in the non-nesting season.

12

However, the Plans implementation recommendations do not recognize the Meadow and its important seasonal wetlands as one interactive ecosystem, and in this it is flawed. It is not enough to protect only some vague central portion of the meadow, for while the Harriers nested there this year, last year and all the previous years they nested in the northwest corner of the Meadow. And, of course, there are animals that live throughout the Meadow that need protecting, including another Species of Special Concern, the White Tail Kite that regularly uses this territory for courting, breeding, hunting, and feeding its young. It is not sufficient to circle a seasonal wetland here and there with a fence, or to merely post signs. In order for this area to really work as a protected habitat, there must be a fence surrounding the entire 72 acres, as well as interpretive signs posted. I am concerned about the amount and extent of the planned interpretive trails; they might encourage too intensive activity.

13

Dogs and protected wildlife are incompatible. Many times I have seen loose dogs and leashed dogs flush and startle Harriers, Kites, and other birds out of their hunting, feeding, nesting, and resting activities here. This chronic disturbance is more than just a mere irritation for the birds... it impacts their survival. The truth of how leash laws are responded to around here is that dog owners drape the leash around their own necks, let their dogs run free with the leash dangling behind, and just ignore the law entirely. There is no way to enforce the leash laws adequately to protect the wildlife given the limited resources of the EBRPD. Dogs should not be allowed in the Meadow nor on its shoreline.

14

I have chosen not to comment on my dissatisfaction with the plans for the Brickyard Cove and adjacent areas, but the issues and my concerns are quite similar for those areas as they are for all the areas I have addressed.

Finally, I would like to say that there is an unmentioned equity issue. When people refer to untamed places, nature, and wild creatures, they usually think of somewhere far away. It is likely that many of the people living in the S.F. Bay area have gotten their taste of the natural world by driving 2 to 3 hours away. There are many who do not have that time or opportunity. For those people, and for anyone else who desires a more modest, and immediate experience to soothe their souls in natural open space or witness an animal being itself in the wild, these public lands of the new Eastshore State Park could provide such an opportunity. I urge you to reject the current Draft Plan, and instead send it back for re-design so that preserves that precious rarity: a wild protected place in the very middle of the urban grid.

Thank you for your consideration.

Sincerely,

Corinne Greenberg, MA
East Bay Lands Conservation Committee Sierra Club and Audubon Society

COMMENTOR C7

Corinne Greenberg (August 25, 2002)

- C7-1: The Draft EIR addresses biological resources in Chapter III.C. Existing conditions and species of special concern are described in detail on pages 65-79. The analysis of potential impacts of the Preliminary General Plan on species of special concern is provided on pages 80-86. Cumulative impacts are addressed on pages 246-250. Specific concerns cited by the commentor as to the adequacy of the Draft EIR are addressed in the following responses. See Response to Comment C6-1.
- C7-2: The EIR authors do not agree with the comment's conclusion. The Draft EIR, Biological Resources section (pages 65-86), addresses the habitat value and potential impacts at the Plateau at an appropriate level of detail for a General Plan EIR (see Response to Comment A2-1).
- C7-3: Comment noted. The question of whether to designate the Plateau as a nature study area, rather than developing ball fields and other recreational facilities, relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not imply that the analysis in the Draft EIR is inadequate; therefore, no further response to this portion of the comment is necessary. The second part of the comment relates to biological impacts at the Plateau and is addressed in Response to Comment C7-4.
- C7-4: The Draft EIR (pages 84-85) addresses disturbance of water birds and their habitats and identifies on page 84 (item 3.b) the specific management guidelines contained in the Preliminary General Plan that would avoid, minimize or compensate for the effects associated with development of the Albany Plateau and other areas. In addition, guideline A-8 in the Preliminary General Plan provides protection for the willow riparian habitat along the south side of the Plateau.
- C7-5: Use of herbicides and pesticides in the park would not result in significant impacts to water birds, given that the water quality protection measures identified in the discussions of Stormwater Runoff and Water Quality in the Draft EIR (pages 132-135) would reduce water quality impacts to a less-than-significant level.

Regarding how the Draft EIR addresses the potential for adverse water quality effects related to runoff from impervious surfaces (such as parking areas) and landscaped or turfed areas, see Responses to Comments B1-10 and B15-3. See also Response to Comment A2-1 regarding project-specific CEQA reviews for future projects within the park. The comment regarding effects on birds from persistent exposure to chemicals is noted.

- C7-6: See Response to Comment A2-1 regarding future project-specific CEQA review for proposed development projects. Identifying potential impacts relative to future uses at facilities which are neither designed nor specifically sited, would be speculative at this stage of the planning process. The Draft EIR addresses the potential impacts relative to the geologic stability of the project site on pages 103-105 and identifies specific mitigatory

Preliminary General Plan guidelines that would reduce potential impacts to a less-than-significant level. When a specific project, such as sports fields, is proposed, subsequent CEQA evaluation will be undertaken.

- C7-7: See Responses to Comments C2-6 and C2-7 regarding sports fields. See also Response to Comment B1-51.
- C7-8: The EIR authors disagree that the analysis of potential adverse impacts to visual resources at the Berkeley North Basin as a result of General Plan implementation is flawed because there is no stated appreciation for views of the Bay and its attendant wildlife from the area. On the contrary, the Draft EIR in a number of locations identifies and takes into account in the analysis of visual resources the magnificent and world-renowned vistas and views from the Eastshore Park Project site (which would include the North Basin area). Please note that evaluating the aesthetics of a project is a much more subjective process than in the case of most other environmental topics. The Draft EIR found that there would be no significant adverse impacts to the views of the water, the tides, and the wildlife with implementation of the Preliminary General Plan.
- C7-9: The Draft EIR (page 84) identifies October through April as the period when waterfowl and other water birds (excluding shorebirds) are most numerous in the park. The EIR authors recognize that smaller numbers of water birds are present in North Basin during the remainder of the year. The Draft EIR (page 85, item 3.c) identifies several guidelines contained in the Preliminary General Plan that would minimize the effects of development and recreational uses at the North Basin and Brickyard. These issues will be addressed in more project-specific detail in the CEQA reviews of future projects within the park (see Response to Comment A2-1).
- C7-10: The Draft EIR (page 84) notes that “development of the park could increase disturbance of shorebirds, waterfowl, and other water birds” and the commentor is correct in stating that such disturbance could occur at the North Basin Strip. Adverse effects on water birds would be minimized by several guidelines contained in the Preliminary General Plan (see Response to Comment C7-9).
- C7-11: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary.
- C7-12: Comment noted.
- C7-13: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary.
- C7-14: The comment relates specifically to the guidelines and development recommendations in the Preliminary General Plan and does not identify errors or improper analysis contained in the Draft EIR; therefore, no further response is necessary.

Lillian T. Fujii
5617 Barrett Ave.
El Cerrito, CA 94530
August 26, 2003

Robbin Ettinger, ASLA
State of California Dept. of Parks and Recreation
Northern Service Center
1 Capital Mall, Suite 500
Sacramento, CA 94814

Re: Eastshore State Park Preliminary General Plan and Environmental Impact Report;
State Clearinghouse # 2002022051

Dear Ms. Ettinger:

The preliminary General Plan for the Eastshore State Park is a disaster for wildlife.

My friend and fellow bird-enthusiast Corinne Greenberg has given me permission to attach her letter to Acting Parks Director Ruth Coleman, to this letter, and incorporate her views as mine. Corinne expresses my views more eloquently than I can.

I am a former Golden Gate Audubon Society Board member and an active current member of the Golden Gate Audubon East Bay Conservation Committee. This past spring, my husband and I lead a Golden Gate Audubon bird walk through the area known as the **Albany Plateau**. Although the field trip was not well advertised because of the unexpected lateness of the Golden Gate Audubon newsletter, over twenty people joined the field trip to explore this important area of the new park. The trip participants were dismayed to learn that the State Park planners were even considering placing sports fields in the Albany Plateau, which was alive with singing Savannah Sparrows. Unfortunately, the worst has come to pass, with the general plan proposing sports fields in this, one of too few significant undeveloped and wildlife-supporting areas of the new park. If you place sports fields here, the Savannah Sparrows that breed here will be displaced, possibly with no where else to go. Sports fields are important, but the Albany Plateau is not the place to put them.

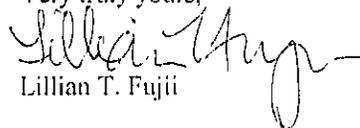
The plan for the area known as the **North Basin Strip** is similarly appalling. I frequently observe White-tailed Kite hunting in this area, currently slated for parking and recreational facilities.

Please do not adopt the current anti-wildlife plan.

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Very truly yours,


Lillian T. Fujii

Letter

C-8

cont.

Attach.

cc: Board of Directors, East Bay Regional Park District
Ruth Coleman, Acting Director of Parks and Recreation
California Coastal Conservancy
Corinne Greenberg (w/o attachment)

COMMENTOR C8

Lillian T. Fujii (August 26, 2002)

- C8-1: Comment noted. The EIR authors recognize that Savannah sparrows and other common wildlife species will be displaced from portions of the park project where ball fields and other facilities are developed. Such effects do not, however, meet the criteria of significance under CEQA. Also see responses to comment letter C7.
- C8-2: Comment noted. Through this document, comments on the Draft EIR and responses will be provided to the lead agency, California Department of Parks and Recreation, and the decision-makers, the State Parks, and Recreation Commission.

1236 Oxford St.
Berkeley, CA 94709
510 848 9358, susanschwa@aol.com
August 5, 2002

Robin Ettinger, ASLA
California Dept. of Parks and Recreation, Northern Service Center
One Capitol Mall, Suite 500
Sacramento, CA 95814

Re: Draft EIR and Preliminary General Plan for Eastshore State Park

Dear Parks and Recreation Staff and Planners:

I am writing this letter as an individual with considerable experience in the Eastshore State Park, where I have for years spearheaded volunteer efforts to control invasive non-natives in the park. Although I do not agree with every decision, the Preliminary General Plan for the Eastshore State Park appears to be fair and balanced, striking reasonable compromises on difficult issues and clustering development in suitable spots. I particularly appreciate the following:

- Emphasis on replacing invasive non-native plants that seriously threaten both recreational use (e.g. yellow star thistle) and wildlife habitat (e.g. perennial pepperweed).
- Plans to daylight the mouth of Schoolhouse Creek, enhance the mouth of Strawberry Creek, and create salt marsh where possible.
- Protection for seasonal wetlands in the Meadow.
- Good facilities for water-related recreation, informal sports, and picnics, with seasonal restrictions to protect wildlife.

However, several aspects related to the overall level of development should be changed. The draft EIR should be changed to adequately consider the effects of these, as outlined below. In addition, one section of the draft EIR, dealing with views, should be rewritten.

Urban promenades

The specific plans envisions engineering and building "urban promenades" on every west-facing bluff over 4 feet high, except one windsurf area – that is, the Brickyard, North Basin Strip, Point Isabel, and Battery Point, every place one might walk along the shore facing open Bay. These are to be paved, engineered "urban promenade" with railings between people and the Bay. Certainly there should be one such promenade, if only for elderly people with uncertain balance. But *more than a mile* (5,800 linear feet) of this highly urbanized treatment would be extremely costly, unneeded for safety, and inappropriate to the surroundings. This is not what people come to the Bay to experience.

One can see appropriate approach on the existing Bay Trail -- e.g. Emeryville and Richmond use a railed, engineered waterfront treatment only in highly developed areas, respectively next to high-rises and a marina. The North Basin waterfront in particular, with its very low bluff and popular gravel beach, should not be urbanized in this way. Trails for walking, cycling, rollerblading, etc. can just be set back a bit. Users will still see the Bay, and the millions saved can be spent on real improvements.

The specific plans fly in the face of the moderate wording in Hydrologic Resources (III 28-30). There, engineered solutions would be only "considered"; emphasis is on "adaptive management," pilot projects, an experimental approach, and preference for less-structural treatment options (Hydro-5) and integrating

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the desire for shoreline protection with other priorities, from biology to economics (Hydro-7). This moderate phrasing should be incorporated into the sections of the plan that deal with specific areas.

These promenades would lock in a costly vicious cycle of hardening the bluff to protect the railings and trail. Neither the plan nor the draft EIR present adequate rationales for paved, railed promenades atop long stretches of wave-battered bluff, and the draft EIR certainly does not analyze their potential effects, e.g. on shore line such as native oysters.

1

Buildings and facilities

This plan recommends (III 68, 69, 75) *at a minimum* a park operations facility (corp yard) and visitor center at the Brickyard, *and* an interpretive center at the North Basin Strip, about 10 minutes' walk away. It also recommends *at a minimum* recreation concessions in both locations – as well as a café/restaurant/market at the Brickyard and a boathouse and hostel at the North Basin Strip. This seems both economically optimistic and excessive. To clarify that not all these may be needed, or that overlapping facilities may be combined, the wording should be “*Appropriate facilities may include but are not restricted to....*”

Visit-6 (III 38) recommends evaluating whether local entities, such as the adjacent Berkeley Marina and presumably privately owned Golden Gate Fields property, could provide *complementary* facilities [emphasis mine]. The wording should be changed to include evaluating whether these already-urbanized immediate neighbors might provide some of the facilities themselves, especially those with potential for high costs and profits, like a hostel or some types of equipment rentals. The Draft EIR similarly should be re-worded to clarify that it's OK to combine facilities and consider providing facilities at adjoining properties.

2

The corp yard probably is better placed at the north end of the North Basin Strip. There, it wouldn't spoil the beautiful view from the top of the overpass or require a long road cutting off the pedestrian overpass from the water. The Draft EIR should consider the disadvantages of the current recommended location, and the alternative location.

3

Trails and parking

Three trails closely paralleling University Avenue (III 70) also seem a bit much. With a Bay Trail spur immediately south of University, one hardly needs a “parkway” (whatever that is) immediately to the north. A simple foot trail will do. Engineered rock or revetments and a third trail along the “bluff” south of University also seem unneeded. The meadow here is narrow – the planned benches and picnic tables would be only a few steps from the Bay Trail spur. And the “bluff” between meadow and beach is only 2-4 feet high – neither the EIR nor the plan present any rationale for engineering this shoreline.

4

Parking for 550 cars at the Brickyard and North Basin Strip, and for 20 at the small area in Emeryville next to Powell Street, also may be excessive (III 69, 76). No data is presented justifying the need for these spaces for “typical use,” as opposed to special events (see Circ-10, III 44). If traffic studies or use projections exist, they should be provided as part of the draft EIR. Otherwise, the EIR should make clear that these estimates are just guesstimates subject to change. Appropriate wording in the plan would be “Parking *should be* [not “can be”] phased in order to monitor use and demand.”

5

There is an obvious current need for more parking at the Albany Bulb and Point Isabel. The plan should follow policy Circ 10, III 43, which recommends working with municipalities and landowners to avoid *encroaching on recreational space*. For example, *angled parking might be provided along the east side of Rydin Road*, where the curb was recently painted red, eliminating many spaces. Similarly, the draft EIR should encourage these cooperative approaches.

6

The EIR's views on views

I find it curious that the draft EIR spends more than two pages (pp. 39-42) discussing views from automobiles, while brushing off views from cities to the east with a single paragraph ("The project site also does not play a significant role in the views from developed areas east of the freeway....The narrow strip of the project site forms a relatively narrow strip of the viewshed.")

In addition to the curious emphasis, this logic is fallacious and should be eliminated from the draft EIR. By this line of thinking, one could place an eyesore in the middle of any beautiful panorama, because it would occupy only "a relatively narrow strip of the viewshed." Bay views are a major amenity for residents of Oakland, Berkeley, Albany, El Cerrito, Kensington, and Richmond. The waterfront – that is, the park – along with the bridges and distant San Francisco and Marin, is *what one looks at* when enjoying views from homes, parks, streets, walkways, and popular vantage points like the Campanile or Lawrence Hall of Science. The misrepresentation and logical error are not critical for this document. But they could have serious consequences if echoed in plans that involve, for example, large waterfront buildings or parking areas. The Draft EIR should be changed on this point.

7

Thank you for considering these points.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Schwartz", with a long horizontal flourish extending to the right.

Susan Schwartz

COMMENTOR C9
Susan Schwartz (August 5, 2002)

- C9-1: The Draft EIR is a program EIR; see comments and responses A2-1 and A6-7. No specific promenade projects have been identified or designed at this time. In general, hardened shoreline treatments located along the shoreline would limit opportunities for tidal marsh and beach establishment. However, buffers or set backs along the shoreline could be established to allow for promenades behind naturalized shoreline areas. The appropriate location, configuration and character of promenades will be developed and evaluated and specific mitigation measures proposed as specific projects are identified and undertaken by State Parks.
- C9-2: The purpose of the Draft EIR is to identify adverse environmental impacts of the Preliminary General Plan as proposed, and recommend mitigation measures for identified impacts. When specific project details for new visitor-serving facilities are formally proposed, projects will be subject to subsequent environmental review.
- C9-3: Comment noted regarding a location for the corporation yard to serve the Park. The Draft EIR is a program EIR; see Response to Comment A2-1. The location recommended for the park operations facility (corporation yard) in the Preliminary General Plan is just that, a recommendation. Guideline SB/NE-16 on page III-68 of the Preliminary General Plan states "until facility concept plans are prepared for the Brickyard and North Basin Strip, the precise facilities and their distribution will remain flexible." No location for the park operations facility has been determined. When specific project details for the location of the park operations facility are formally proposed, the project will be subject to subsequent environmental review.
- C9-4: See comments and responses A2-1, A6-7 and C9-1. In general, structural shoreline treatments are proposed in locations where existing non-engineered shoreline protection (typically, construction debris) has been placed indicating a response to erosion or other protection requirements. Appropriate materials and approaches for shoreline protection would be identified and developed at the specific project level. Armored shoreline treatments may or may not be required along the southern edge of University Avenue however appropriate studies of erosion potential, tidal and wave action and the character of the landfill will be undertaken to guide the planning and design for the shoreline treatment (see guidelines HYDRO-5 and HYDRO-6).
- C9-5: Traffic and circulation area analyzed in the Draft EIR in detail on pages 177-208. The methodology used in that analysis is specifically described on pages 183-184. The last phrase in the comment addresses guidelines and development recommendations in the Preliminary General Plan, and no further response is necessary.
- C9-6: In the absence of significant parking impacts, it is not the job of the Draft EIR to make recommendations in regard to such planning approaches. No further response is necessary.

C9-7: The comment is noted, and pages 42 and 43 of the Draft EIR are revised as follows:

Development East of the Freeway. The project site ~~also does not play a significant role in the~~ provides for views from developed areas east of the freeway. Areas immediately east of the freeway that have views of the project site include high-rise residential structures such as the Gateview condominiums in Albany, the Pacific Park Plaza condominiums in Emeryville, and the single-family residential neighborhood on Albany Hill. From these elevated viewpoints, the narrow strip of the project site forms a small ~~relatively insignificant~~ segment of the viewshed. However, foreground elements such as the freeway, Golden Gate Fields, the Berkeley Marina, and the Emeryville peninsula, and background elements such as the Bay, Golden Gate Bridge, San Francisco skyline, and Mt. Tamalpais are much more prominent and visually significant elements from these viewpoints.

Bay views across the site are a major amenity for residents of Oakland, Emeryville, Berkeley, Albany, El Cerrito, Kensington, and Richmond. The waterfront, including the park project, the bridges, and distant San Francisco and Marin, are views enjoyed from homes (especially those in the hillside neighborhoods), parks, streets, walkways, and popular vantage points, such as the UC Berkeley Campanile or Lawrence Hall of Science. The project site is slightly visible from a number of hillside neighborhoods in Albany and Berkeley. However, as previously stated, the site does not form a large segment of the total viewshed.

However, the Albany Plateau, which actually is a very significant foreground element from views in the Albany Hill area, provides an exception to this rule. The Albany Plateau is quite visible from Albany Hill residences and Albany Hill Park.

Armando Chenyek
1023 Merced St.
Berkeley, CA 94707

August 26, 2002

Mr. Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

RE: Eastshore State Park Project General Plan and Draft EIR

Dear Eastshore Park Planners:

Congratulations on a great General Plan proposal for the Eastshore Park. Having such a naturally rich park developed as part of the urban landscape of the East Bay is unique. The Eastshore Park will be of great value to Northern Californians and the visitors that travel to this region.

However, the General Plan and Draft EIR do not include sports fields at the North Basin Strip on Berkeley Lands. A City of Berkeley study determined that 11 more sports fields were necessary to serve the recreational needs of the Berkeley community alone. Only two fields have been built since that study. Nine more fields are needed in Berkeley alone! The needs for sports fields by the East Bay region as a whole is much, much greater. Sports fields at the North Basin Strip are supported by the Berkeley Waterfront Commission, the Berkeley Parks & Recreation Commission, the Berkeley City Council, other City leaders, and a large community of adult and youth recreational interests in the East Bay region.

Please respect the interests of Berkeley by including sports fields at the Berkeley North Basin Strip in the Plan and in the Draft EIR for CEQA evaluation!

Sincerely,



ARMANDO CHENYEK
BERKELEY RESIDENT

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COMMENTOR C10

Armando Chenyek (August 26, 2002)

C10-1: Comment addresses the need for sports fields in Berkeley and the East Bay. See Response to Comment B14-1.

Please note that the following persons also submitted identical letters:

Abiud Amaro
Andrew H. Baker
Linda Behnaw
Julia Browne
Thomas M. Donnelly
Juan Diaz
Mario Giurretto
Esfandiar Imani
Dean Jacobs
Charles D. Kemp
Allen F. King
Gudrun Klose
Eric Lazar
Mazi Maghscodnia
Leif Magnuson
K. McCarten-Gibbs
Vickie Nolan
Nallip D. Omran
Carolyn Peterson
Guy Petraborg
Steven Porter
Pierre S. Thiry, Ph.D.
Melinda White

D. PUBLIC WORKSHOP COMMENTS AND RESPONSES

State Parks, EBRPD, Coastal Conservancy and the General Plan team held a public workshop on the Eastshore Park Project Preliminary General Plan and the Draft EIR on August 15, 2002 from 7:00 p.m. to 10:30 a.m. at HS Lordships Restaurant in Berkeley, California. Persons who indicated on their speaker card that they would like to comment on the Draft EIR, or who had a comment on the Draft EIR during the public workshop are listed below in order of appearance at the workshop. Brief summaries of the individual comments and responses to comments on the Draft EIR follow.

- D1: Juliet Lamont, Sierra Club
- D2: Norman La Force, Sierra Club
- D3: Arthur Feinstein, Golden Gate Audubon Society
- D4: Susan Reynolds
- D5: Peter Thorner, San Francisco Boardsailing Association
- D6: Jean Robertson
- D7: Anne McClintock, CALDOG
- D8: Tom Dubberke, Let It Be
- D9: Melissa Brosnan
- D10: Richard Powers
- D11: Sharon Shafran
- D12: Kate Nichol
- D13: Doris Sloan
- D14: Marilyn Saarni, Let it Be
- D15: Robert Cheasty
- D16: Paul Kamen, Berkeley Waterfront Commission

D1: Juliet Lamont: No playing fields at the Albany Plateau. Maintain more habitat as it exists now.

Response to D1: This comment addresses a development project proposed in the Preliminary General Plan. The comment does not relate to the Draft EIR.

D2: Norman La Force: Norman La Force prepared comment letters on the Draft EIR. See comment letters B1 and B2 and responses.

D3: Arthur Feinstein: Arthur Feinstein prepared a comment letter on the Draft EIR. See comment letter B5 and responses.

D4: Susan Reynolds: The promenade bridge at Pt. Isabel is not needed and would obscure views of the Golden Gate Bridge from the existing bridge at the end of the channel.

Response to D4: The Draft EIR evaluates potential adverse impacts related to the General Plan on pages 48-49. On page 49, the Draft EIR identifies General Plan guidelines that would avoid or minimize to a less-than-significant level potential impacts to scenic views due to implementation of General Plan. See also Response to Comment C2-14.

D5: Peter Thorner: Peter Thorner prepared a comment letter on the Draft EIR. See comment letter B10 and responses.

D6: Jean Robertson: The State classification should be as a "State Park" not a "State Recreation Area." Retain the area as it currently is. Let it be.

Response to D6: This comment addresses development projects and guidelines proposed in the General Plan. The comment does not relate to the Draft EIR. See also Response to Comment A6-5 regarding a proposed change in the designation to State Seashore.

D7: Anne McIntock: Leave the Albany Bulb, Neck and Plateau as they currently are.

Response to D7: This comment addresses development projects and guidelines proposed in the General Plan. The comment does not relate to the Draft EIR.

D8: Tom Dubberke: EIR states that there was a chemical factory for most of the first half of the 20th Century in the area. Soccer supporters are being set up for a fall when more thorough environmental studies show toxics in the Albany Plateau.

Response to D8: Chapter III.F, Hazards, of the Draft EIR evaluated potential impacts related to hazardous materials associated with implementation of the General Plan. The Draft EIR on the General Plan is a program EIR that identifies potential impacts related to implementation of the General Plan. Specific environmental impacts related to park development projects would be evaluated in subsequent CEQA documents (see Response to Comment A2-1).

D9: Melissa Brosnan: The EIR left out the Albany Plateau Superfund Site, Caltrans decided not Bulb or plateau remediation because of cost. Leave the Albany Bulb, Neck and Plateau the way they are and allow the current uses and activities.

Response to D9: See Response to Comment E8.

D10: Richard Powers: The EIR has a contradiction in it, on page 29 it says that South and North Pt. Isabel will allow off-leash dog uses, and on page 234 the Draft EIR shows there will be no off-leash dog uses at North Pt. Isabel.

Response to D10: Proposed uses at South and North Pt. Isabel are described on page 29 of the Draft EIR. The General Plan proposes that off-leash dogs would be allowed at South and North Pt. Isabel. An *alternative* to the project, the Conservation alternative, is described (on page 234) and evaluated. As shown on Figure IV-1e, this alternative proposes that no off-leash dogs be allowed at North Pt. Isabel.

D11: Sharon Shafran: Leave the Albany Beach, Bulb, Neck and Plateau the way they are and allow the current uses and activities.

Response to D11: This comment addresses development projects and guidelines proposed in the General Plan. The comment does not relate to the Draft EIR.

D12: Kate Nichol: Page 179 of the EIR is missing.

Response to D12: While it appears that page 179 may be missing, no text or graphics are actually missing. Through a rare coincidence, the Draft EIR suffered a word processing header numbering error in which the Transportation setting section was mis-numbered, 1.a, 1.b, 1.d, etc. (missing 1.c). While, at the same time and at the same location in the Draft EIR, Kinkos reduced an 11- x 17-inch figure which requires a blank back (Figure III.K-1 on page 179) to an 8.5- x 11-inch size figure. When Figure III.K-1 was reduced, Kinkos dropped the blank back (the missing page 180), and copied on both sides (i.e., double-sided the page as 179/181). Because the text on page 178 ended with section 1.b.(8) Frontage Road and started on page 181 with 1.d. Public Transportation Systems, it looks like there is a missing page 180 and section 1.c. The web version at www.eastshorestatepark.org shows the blank back (page 180) for Figure III.K-1.

D13: Doris Sloan: There is a lack of clarity in the EIR over unleashed dogs.

Response to D13: This comment was not specific regarding where in the EIR there was a lack of clarity. See also Response to Comment E10.

D14: Marilyn Saarni: The EIR should include a wintertime biological assessment of wildlife and plants at the Albany Plateau, Neck and Bulb. There needs to be geotechnical engineering at the Plateau.

Response to D14: Chapter III.C, Biological Resources, identified potential plant and animal species that are known to occur or could potentially occur at the project site at any time of the year. Chapter III.E, Geology and Soils, of the Draft EIR evaluated potential impacts related to geotechnical conditions associated with implementation of the General Plan. The Draft EIR on the General Plan is a program EIR that identifies potential impacts related to implementation of the General Plan. Specific environmental impacts related to park development projects will be evaluated in subsequent CEQA documents.

D15: Robert Cheasty, Citizens for Eastshore State Park: The EIR says that the Berkeley Meadow is protected, but that is not consistent with having trails in the meadow. Clarify where dogs are allowed on-leash. Maintain the Brickyard area as it is. Too much parking is proposed. No ball fields at the Plateau. Only one trail in needed on University Avenue. No concrete promenades are needed. Combine park uses in fewer buildings.

Response to D15: Mr. Cheasty prepared comment letters on the Draft EIR which fully characterize his comments. See comment letters and responses B3 and B4.

D16: Paul Kamen: Paul Kamen prepared a comment letter on the Draft EIR. See comment letter A5 and responses.

E. EIR MENTIONED BUT NO CEQA COMMENTS

A number of letters were received by the lead agency from organizations and individuals who mentioned the EIR (either in the subject line of their letter or in the text), but did not provide comments that relate to the EIR. Copies of these letters follow:

Organizations

- E1 Berkeley Waterfront Commission; Paul Kamen, Chair (August 24, 2002)
- E2 City of Albany; Beth Pollard, City Administrator (August 29, 2002)

Individuals

- E3 Wayne Gesing (August 29, 2002)
- E4 Jon Broderick (August 15, 2002)
- E4 Mr. & Mrs. Hugo Evans (August 15, 2002)

The remaining ten letters were the same form letter as that submitted by Mr. and Mrs. Evans.

- E4 Patty Evans (August 15, 2002)
- E4 Peter Evans (August 15, 2002)
- E4 Renee Evans (August 15, 2002)
- E4 Robin P. Evans (August 15, 2002)
- E4 William and Yvonne Evans (August 15, 2002)
- E4 Lori and Wanda Guido (August 15, 2002)
- E4 E. Lee (August 15, 2002)
- E4 Michelle & Joseph Marte (August 15, 2002)
- E4 Keith Stover (August 15, 2002)

Comments on the Eastshore State Park Preliminary General Plan and Environmental Impact Report.

From: Paul Kamen
Chair, Berkeley Waterfront Commission
5 Northgate Ave. Berkeley CA 94708
510-540-7968 510-219-8106 pk@well.com
www.BerkeleyWaterfront.org

To: Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

August 24 2002

How to Fix the Preliminary General Plan for the Eastshore State Park

Public hearings are neither democratic expressions of the political will, nor are they scientific evaluations of public preferences. However, we can still learn a lot about the political and public reactions to certain elements of the Plan by paying attention to what is being said.

This document suggests some ways that the Preliminary General Plan can be modified to satisfy a large part of the criticism being leveled against it. Some compromises will still

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be necessary, but in general the mix of uses does not change very much under these proposals.

I am personally aligned strongly with the "active recreation" side of the debate. Therefore I think I can make the following recommendations with both objectivity and credibility, because they work mostly to increase protected habitat and reduce the "hard" urban features that are now part of the Plan.

Here's how to fix the Plan for the Eastshore State Park:

1) Scale down the playing fields on the Plateau, and move some of the fields to the Brickyard or North Basin Strip.

There is broad support for playing fields in the Eastshore State Park, but there is also significant opposition to locating them on the Albany Plateau. The Brickyard really is a better place. It is much closer to good bicycle access, and closer to other active recreational and commercial uses (park main entrance/visitor center, café/deli/market, Marina water-related recreation). Also, the land under the piles of earth at the Brickyard's "put and take" topsoil operation appears to be very stable and flat, being significantly older and probably cleaner fill than the Plateau.

Sketching out a possible arrangement of fields, I find room for three full-size soccer fields plus a Little League diamond, without reducing the large existing parking area. This plan also retains a kayak launch area on the west side of the Brickyard, with additional parking close to the water. The proposed lawn area would be replaced by these fields, but

there has been virtually no expressed support for lawns at the various workshops and hearings.



2) Delete the "promenade" on the Brickyard Peninsula.

There appears to be very little enthusiasm for a "promenade" here. While it may be true that the existing rip-rap is every bit as "hard" and "unnatural" as a promenade with railings and built-up viewing areas, spending the money to develop the promenades seems out of place in this location.

3) Designate the Brickyard Peninsula as a conservation area, probably with dogs prohibited.

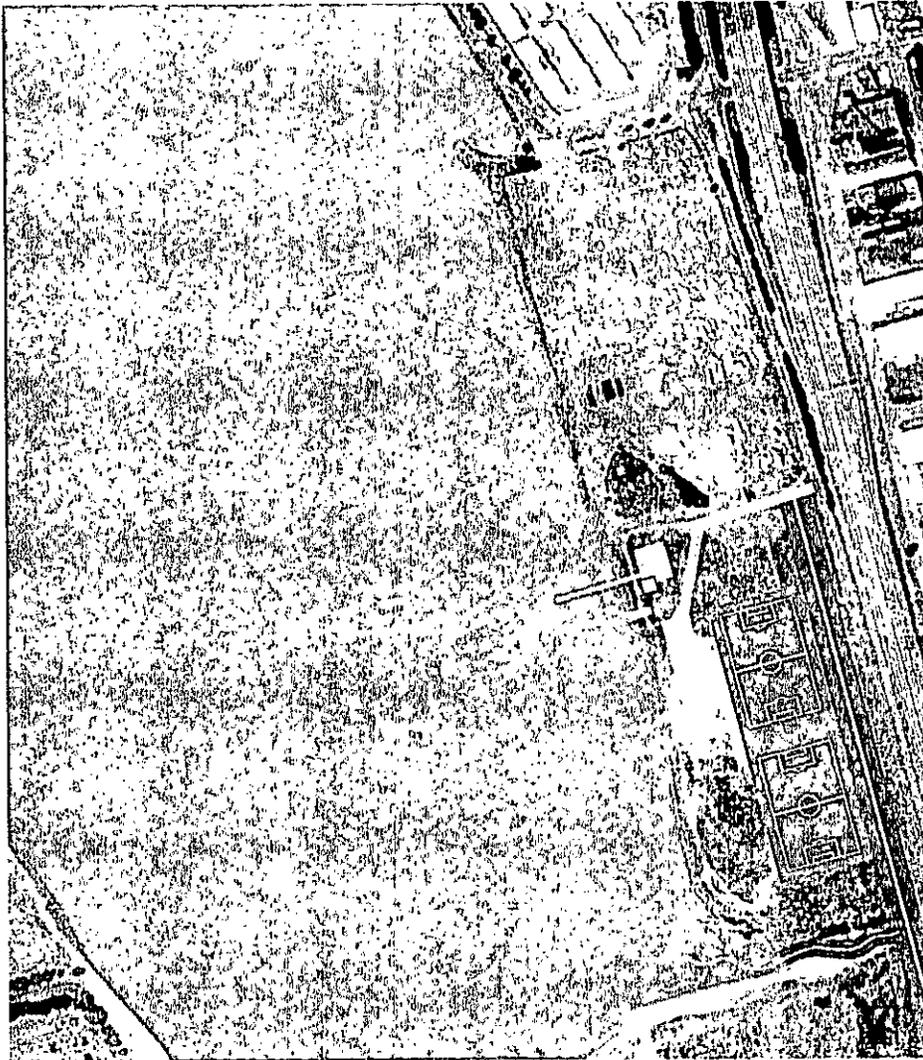
This is one place where it would be possible to control dog access (narrow entrance and close to park headquarters), and proximity to the developing salt marsh to the east of the Peninsula suggests relatively rich habitat value.

4) Limit kayak launch facilities to the west side of the Brickyard.

The water access inside the cove east of the Peninsula only works at high tide. Kayakers have tide books and can work around this, but the value of a launch site east of the Peninsula compared to a nearby location on the west side of the Peninsula, with many more hours of access every day, is dubious. The cove could be designated as a preservation area without seriously compromising active uses.

5) Consider additional fields on the North Basin Strip.

The North Basin Strip seems to be accepted as an area for active recreation, and there would be a positive synergy between field sports facilities and water-related recreation centered at the boathouse. Kids who come down to the waterfront for a game will very likely get their first glimpse of a kayak, dragon boat, outrigger or small sailboat in motion, with the resulting expansion of their recreational horizons.



The Plan should retain the promenade along the North Basin Strip - it is much easier to justify this treatment here because of the continuing erosion of the shoreline and dangerous materials constantly being extruded from the landfill. The only viable option here is to "harden" the water's edge with a bulkhead and a shoreline walkway.

Two fields will also fit in the "Measure Q lands" north of the current park boundary and south of Gilman Street, if efforts to acquire these lands are successful.

6) Designate the small beach near Fleming Point as a dog beach.

There really is a legitimate need for a dog beach in the area. If Albany beach is considered too valuable for sand dunes and for people who need a dog-free environment, then it makes sense to allow off-leash dogs on the smaller beach to the south. Technically this is out of the park boundary, but it's all well within BCDC's hundred feet of high water and will almost certainly be within an easement for the Bay Trail to the west of the racetrack.

7) Designate most of the Albany Plateau as conservation area, and scale back the playing fields.

Although it has been stated by park planners that "economy of scale" requires all the playing fields in one place, there is no real justification for this. Certainly the expense of duplicating equipment storage lockers is not significant, and maintenance vehicles should have no trouble moving from one set of fields to another in a very short time. The important thing is that the public is better served by having fields at different locations to choose from.

8) Allow vehicular access and parking at least half-way out along the lower road on the Albany Neck.

This is the only way to meet the need for windsurfer access to the best launch site on the entire East Bay shoreline. It would be better to adopt the windsurfers' plan for a parking area at the west end of the Neck, but some compromise appears to be necessary here. Vehicular access would only have to go a few hundred yards beyond the existing barrier, along the existing road. This would not have any noticeable effect on the wild and vehicle-free character of the Bulb itself.

9) Leave the dogs and art on the Albany Bulb.

"Let it Be" is going to win this one anyway, and the planning team and State Parks would be well advised to cut their losses and get with the program. See, for example, Jon Carroll's August 23 column in the San Francisco Examiner, at

<http://sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2002/08/23/DD20837.DTL>

The reason for the ultimate success of "Let it Be" is simple: Bringing an off-leash dog to the Bulb or making a driftwood sculpture will continue to be attractive acts of low-stakes civil disobedience. There seem to be thousands of people ready to keep on doing what they do now with their dogs, and it is very unlikely that the Sniff artists will desist just because of some park rules. In fact the art is probably more meaningful if it's clearly in violation.

Breaking the rules for what is perceived to be a just cause, especially when it is both convenient and safe, is a temptation that is difficult to resist. In fact it is a long and honorable tradition in the community served.

So leash laws and art bans on the Bulb will be very very difficult to enforce - and In the context of tight budgets, State Parks will look very bad if it dedicates significant resources to opposing these community values.

10) Remove construction debris from the Albany Bulb only as necessary for safety, and make no significant effort to replace invasive plant species with natives.

Dangerous building debris should be removed from the Bulb, but only to the extent that this is clearly necessary for safety. There is a huge difference between doing only what is necessary for safety, and the current plan to completely cover up and/or remove the visible industrial fill. The expense of removing all traces is simply not justified. Same with invasive plant species - it's expensive and has dubious benefit when weighed against the expressed community values.

More background and commentary at
www.BerkeleyWaterfront.org



Paul Kamen
Chair, Berkeley Waterfront Commission

Double-click "index.html" in the Website Image folder to view the enclosed CD.

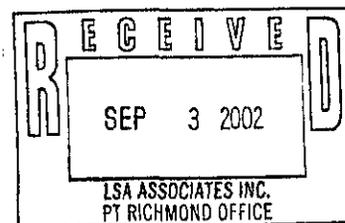


City of Albany

1000 SAN PABLO AVENUE • ALBANY, CALIFORNIA 94706-2295

August 29, 2002

Robin Ettinger, ASLA
California Department of Parks and Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814



CITY ADMINISTRATOR
PH. (510) 528-5710
FAX (510) 528-5797

CITY ATTORNEY
PH. (510) 524-9205
FAX (510) 526-9190

CITY CLERK
PH. (510) 528-5720
FAX (510) 528-5797

CITY COUNCIL
PH. (510) 528-5720
FAX (510) 528-5797

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FAX (510) 528-5774

PERSONNEL

PH. (510) 528-5714
FAX (510) 528-5797

POLICE

PH. (510) 525-7300
FAX (510) 525-1360

RECREATION & COMMUNITY SERVICES

1249 Marin Avenue
PH. (510) 524-9283
FAX (510) 528-8914

- Friendship Club/Childcare Program
PH. (510) 524-0135
- Senior Center
PH. (510) 524-9122
FAX (510) 524-8940
- Teen Center
PH. (510) 525-0576

Subject: City of Albany Response to EIR for Eastshore State Park Plan

Dear Mr. Ettinger:

The City of Albany would like to submit the following comments regarding the Draft EIR for the Eastshore State Park Project. The City of Albany:

1. Supports construction of playing fields on the Albany Plateau.
2. Recommends that public and private art activities should cease on the Albany Neck and Bulb, which is identified as an environmentally sensitive area.
3. Recommends against the construction of a paved road or parking area to provide vehicular access for windsurfers along the south side of the Neck and Bulb.
4. Recommends that the State work with Golden Gate Fields to move the water access for boaters off the south end of the beach to the site of the old pier and restore the pier, if possible, to help reduce activity in the sensitive beach and dune area. This suggestion is based on the assumption that the pier site is within Eastshore State Park land.
5. Recommends that the State consider incorporating the San Francisco Water Transit Authority studies, as it relates to the proposed ferry service, into the Plan. It is further recommended that the City's position regarding new ferry service be incorporated into the Plan. At the May 20, 2002 meeting, the Albany City Council unanimously directed staff to send a letter of support for an environmentally responsible ferry service located at the Albany-Berkeley Waterfront, pending review.
6. Supports the Draft Plan's recommendation to permit dogs off-leash only at Point Isabel. The City further recommends that there should be no off-leash dogs permitted within the Albany portion of the park or in sensitive habitat areas, including the beach and lagoons.

Thank you very much for your attention to these matters.

Very truly yours,

Beth Pollard
City Administrator

cc Albany City Council
Albany Waterfront Committee



2431 Lincoln Ave # A
Alameda, Ca 94501
August 26 ,2002

Robin Ettinger ASLA
California Department of Parks and Recreation
Northern Service Center
1 Capital Mall, Suite 500
Sacramento, Ca. 95814

Dear Robin,

I attended the August 15th meeting of the Eastshore Park Project Regional Workshop on the Preliminary General Plan & Draft (EIR) for the Eastshore State Park. The following is comment on the presentation of the plan and public comment.

I am a avid windsrurfer that is concered about the acces to the water in the east bay. The plan calls for water access at Brickyard Cove. For windsurfing that point of entrance is most of the time to shallow and muddy for windsurfing. A cove like that also has a big wind shadow and will not provide enough wind to get out into the bay.

Water access at the neck of the Albany Bulb has plenty of wind but lacks the proper dynamics for a person to launch a windsurfing board and sail. The problem being that like a sail boat a windsurfer can not go straight into the wind. The ideal launch for a windsurfer is the wind blowing parallel to the shore line which allows the windsurer launch a windsufing board on a beam reach, which is defined in sailing terms as the wind blowing from the side of the board or boat. The ideal water access here is any point on the south side of the Albany Bulb. At that point a windsufer can launch on a beam reach.

Having windsurfed virtually since the inception of the sport and sailed the bay on many sail boats, the winds in the summer at the Albany Bulb are the best in the east bay. Winds at the Albany Bulb are winds that originate at the Golden Gate Bridge. These winds offer great winds for world class sailing regattas on the San Francicso Cityfront not to mention windsurfing. These winds continue past Alcatraz. At this point they change direction a few degrees north. They then pass the north end of Treasure Island. This area is now being developed into windsurfing site. This wind that originated at the Golden Gate bridge makes landfall at the Albany Bulb. The winds along this corridor average 20 to 25 mph. This makes this the windest spot in the East Bay. These winds continue over the east bay hills

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and supply the wind for windsurfing at Sherman Island near Rio Vista Ca. There final destination is there cooling effect in the Sacramento Valley. This wind corridor can be visibly seen on a summer afternoon as a finger of fog from the Golden Gate Bridge to the East Bay Hills.

Having access to the bay at the south end of the Albany Bulb for windsurfing will give the East Bay a world class windsurfing site that will attract windsurfers from all over the state and country. This site will be in the same caliber as San Francisco Cityfront and Sherman Island and as a popular.

Many groups and the City of Albany do not want any access by cars to the Albany Bulb. Windsurfing is a form of recreation that requires rather bulky equipment and cars to carry them. To carry this equipment even part of the way up the Albany Bulb will discourage ninety nine per cent of the windsurfers from sailing these great winds. Having a road and a parking lot on the south side of the Albany Bulb can have a very small footprint on the Albany Bulb. This road and a parking lot for about one hundred cars can be designed to be environmental friendly. A road will also allow other people easier access to other activities. Fisherman have a great fishing spot in the lagoon. This will allow easier access to this great spot for the elderly fisherman that may not have physical ability to walk out their. Families with small children, elderly parents, or family members with disabilities will have better access to the bulb to enjoy its beauty. Having this kind of access will greatly increase the number of people that will be able to enjoy the sites and sounds of the Albany Bulb. Even though I am a windsurfer, and partial to having access to the bulb by car, as a state park in a very large urban area, cars are a fact of life. Easy access to the bulb for all should be a priority by the state.

The plan for water access at Pt Isabel or as in the concept plan called it the South Richmond Shoreline is very well designed. It has good parking, good upwind access, and provides for rigging and washing of gear. Even though it is relative close to the Albany Bulb, its winds are always less than the Albany Bulb and are less consistent as it is wind that branches off from that wind corridor from the Golden Gate to East Bay Hills. This area will find itself with greater use not only from windsurfers but with many other forms of water recreation such as kiteboarding, canoes, sea kayaks etc.

The rest of the comments are more general in nature. Every group seems to want its plan for the park to be the only one with no room for compromise. The people who want dogs off leash, were at odds with the the people who were birdwatchers. Environmentist were at odds with the people who want playing fields. The artist do not want anything done to the bulb. Windsurfers who want access at the bulb are at odds with the naturalist and the environmentst that want to wipe all cars off the face of

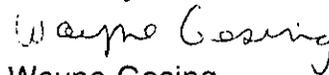
the earth.

Its hard not to disagree with most of these groups arguements. As you stand at the tip of the Albany Bulb and look south you see Ceasar Chavez Park. This a very under utilized park. This would be a great addition to, or if some joint agreement could be made between the State of California and the City of Berkeley to develop this park with playing fields on the southeast part of the park, water access at the northwest part of the park, more dogs off leash aera, more fishing access, picnic areas for families, etc. This would take pressure off the water access issue at the bulb and playing fields at the plateau. This would give balance to the east bay for recreation and park conservation.

Another area of concern is Golden Gate Fields. When are the owner going to realize that there proptery will be more profitable as high end housing project than a very underused race track. This parcel of land cuts the park in half and would give future residents there own private park. Any decisions on the park should also consider any change in use of Golden Gate Fields and its affect on access to the park.

I hope that these comments will find favor with you.

Sincerley,



Wayne Gesing

Robin E. Ettinger, ASLA
California Department of Parks & Recreation
Northern Service Center
1 Capitol Mall, Suite 500
Sacramento, CA 95814

August 15, 2002

RE: Draft EIR
Support of Off-leash Recreation at Albany Bulb, Eastshore State Park.

Dear Robin E. Ettinger,

For years, the Eastshore State Park area at Albany Bulb was a regional garbage dump. While the land underwent severe environmental neglect and abuse by state and local government, it has become a refuge for wildlife, artists, dog owners, and persons who appreciate the nature and culture of the Bay Area community.

The site currently provides the only **wild, vegetated off-leash refuge** for artists and responsible dog owners along the shore. People travel from all over the East Bay to enjoy the Albany Bulb **as it is**. We want the California Department of Parks & Recreation to continue to permit off-leash recreation at this site in support of the health and expressive well-being of the community.

As persons who honor freedom of expression, as supporters of the Sierra Club; and as environmentally informed voters, we respect the park lands that our tax dollars maintain and support. Our quality of life is influenced by the ability to enjoy off-leash recreation in the Eastshore State Park system.

We believe it is vital to the health of Bay Area residents and communities to leave the Albany Bulb as it is. A choice to restrict off-leash recreation from Albany Bulb is a choice to discriminate against the needs of the community, to diminish the quality of life for East Bay residents, and to contribute to greater incidents of stress-related/aggressive behaviors in humans and dogs.

Thank you for your responsible leadership. Make the Albany Bulb an Eastshore State Park that: honors the unique nature of the Bay Area environment; preserves the beauty of our shoreline; and supports the health of the community in providing vegetated, off-leash recreation for humans and dogs. **Let it be!**

Sincerely Yours,



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Please note that the following individuals submitted a duplicate letter to the one submitted by Jon Broderick (E4):

- E4 Mr. and Mrs. Hugo Evans
- E4 Patty Evans
- E4 Peter Evans
- E4 Renee Evans
- E4 Robin P. Evans
- E4 William and Yvonne Evans
- E4 Lori and Wanda Guido
- E4 E. Lee
- E4 Michelle & Joseph Marte
- E4 Keith Stover (August 15, 2002)

F. NO MENTION OF EIR AND NO CEQA COMMENTS

A number of letters were received by State Parks, the lead agency, from organizations and individuals during the 45-day public review period for the Draft EIR that did not mention the Draft EIR. We have listed the authors of those letters in Chapter II.F.

IV. DRAFT EIR TEXT REVISIONS

The following pages have been extracted from the Draft EIR and revised in response to comments raised during the public review. Revised text is indicated by underline text. Text deleted from the Draft EIR is shown in ~~strikeout~~ (text with a horizontal line running through it). Only pages that have been modified in response to comments are reprinted in this section. Page numbers correspond to the page numbers of the Draft EIR. Where additional pages resulted from modifications, the new page numbers are designated by the original page number followed by a, b, c, etc. These revised pages, in addition to the public comments and responses to comments, make up the Final EIR, which must be read with the Draft EIR to provide context. This Final EIR addendum, in conjunction with the Draft EIR, constitutes the complete EIR document.

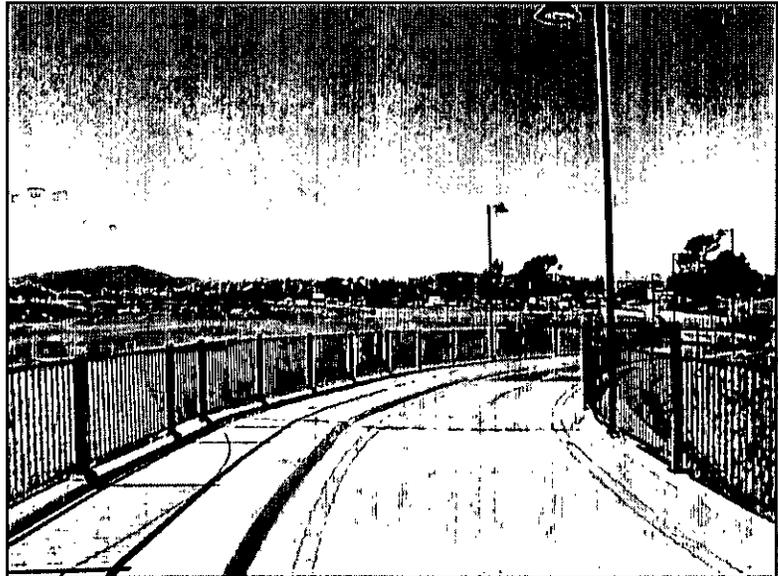
Table II-1: Agency Approvals and Regulatory Review

Lead Agency	Permit/Approval
State of California Department of Parks and Recreation (State Parks)	<ul style="list-style-type: none"> • <i>Draft General Plan</i> review and acceptance • EIR Certification
Responsible Agencies	
East Bay Regional Park District (EBRPD)	<ul style="list-style-type: none"> • <i>Draft General Plan</i> review and comment
San Francisco Bay Conservation and Development Commission (BCDC)	<ul style="list-style-type: none"> • Approval of any physical development located in the Bay or within 100 feet of the shoreline
East Bay Municipal Utility District (EBMUD)	<ul style="list-style-type: none"> • Approval of water line, water hookups and review of water needs • Approval for sewer treatment capacity
California Department of Transportation (Caltrans)	<ul style="list-style-type: none"> • Approval of plans and encroachment permits
California Regional Water Quality Control Board (RWQCB)	<ul style="list-style-type: none"> • National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharge • Section 401 Water Quality Certification under the Clean Water Act
US Army Corps of Engineers (Corps)	<ul style="list-style-type: none"> • Section 10 or Section 404 Permits for impacts on wetlands and waters of the U.S.
Environmental Protection Agency (EPA)	<ul style="list-style-type: none"> • Oversight of Section 404 Program
California Department of Fish and Game (CDFG)	<ul style="list-style-type: none"> • <u>Streambed Alteration Agreements</u>
Other Agencies	
Pacific Bell (PacBell)	<ul style="list-style-type: none"> • Approval of communication line improvements and connection permits
Pacific Gas & Electric (PG&E)	<ul style="list-style-type: none"> • Approval of natural gas improvements and connection permits
California Department of Toxic Substances Control (DTSC)	<ul style="list-style-type: none"> • Approval and oversight of hazardous material remediation
Bay Area Air Quality Management District (BAAQMD)	<ul style="list-style-type: none"> • Review of air quality pollution emissions
Trustee Agencies	
California Department of Fish & Game (CDFG)	<ul style="list-style-type: none"> • Address state Endangered Species Act requirements and protection measures for other special-status species.
US Fish and Wildlife Service (USFWS)	<ul style="list-style-type: none"> • Biological opinion and incidental take permits, if required, for species listed as Threatened and Endangered under the federal Endangered Species Act.
National Marine Fisheries Service (NMFS)	<ul style="list-style-type: none"> • Address protection measures for anadromous fish, marine fish, and marine mammals, including Endangered Species Act requirements for federally listed species.
State Lands Commission (SLC)	<ul style="list-style-type: none"> • Approvals for facilities or activities in sovereign and public trust lands including coastal tide lands per requirements of the Public Trust Doctrine.

Source: LSA Associates Inc., 2002.

in the Brickyard, the Christmas tree/pumpkin patch lease area, and the race track parking areas, that were relatively insignificant when viewed from the freeway, play a much more prominent, and less positive, role in determining the quality of the visual experience from West Frontage Road.

(2) Views From Adjacent and Nearby Properties. The urban surroundings of the project site provide extensive views into the site itself. Areas with views fall into two broad categories: areas on the west side of the freeway and immediately adjacent to the project site, and areas east of the freeway.



View 3: The put and take operation at the Brickyard, viewed from the Berkeley Pedestrian/Bicycle Bridge

Adjacent Development Areas. Generally, the project site does not play a significant role in the views from developed areas adjacent to the project site. In fact, not only do the majority of the uses west of the freeway not focus on the project site, they do not even face it. The bulk mailing facility and the “big box” commercial uses off Central Avenue are generally indoor operations that do not have windows facing the project site or the Bay. Golden Gate Fields essentially turns its back on the Bay and the project site, in order to buffer its visitors from winds. The Berkeley Marina and the hotel and restaurants surrounding it are logically focused on views out to the Bay, rather than toward the project site. Marina Boulevard, which parallels the Meadow, and Cesar Chavez Park both provide views out over the Meadow and the North Basin area, but do not focus on these areas. Residential, office and commercial development on the Emeryville peninsula are the only adjacent uses that provide significant views out toward the project site. Generally, the marshlands of the Emeryville Crescent and the area north of the peninsula play a benign role in views from these areas, comprising a foreground to more sweeping and distant vistas.

Development East of the Freeway. The project site ~~also does not play a significant role in the~~ provides for views from developed areas east of the freeway. Areas immediately east of the freeway that have views of the project site include high-rise residential structures such as the Gateview condominiums in Albany, the Pacific Park Plaza condominiums in Emeryville, and the single-family residential neighborhood on Albany Hill. From these elevated viewpoints, the narrow strip of the project site forms a small ~~relatively insignificant~~ segment of the viewshed. However, foreground elements such as the freeway, Golden Gate Fields, the Berkeley Marina, and the Emeryville peninsula, and background elements such as the Bay, Golden Gate Bridge, San Francisco skyline, and Mt. Tamalpais are much more prominent and visually significant elements from these viewpoints.

Bay views across the site are a major amenity for residents of Oakland, Emeryville, Berkeley, Albany, El Cerrito, Kensington, and Richmond. The waterfront, including the park project, the bridges, and distant San Francisco and Marin, are views enjoyed from homes (especially those in the

hillside neighborhoods), parks, streets, walkways, and popular vantage points, such as the UC Berkeley Campanile or Lawrence Hall of Science. ~~The project site is slightly visible from a number of hillside neighborhoods in Albany and Berkeley. However, as previously stated, the site does not form a large segment of the total viewshed.~~

~~However, the Albany Plateau, which actually is a very significant foreground element from views in the Albany Hill area, provides an exception to this rule. The Albany Plateau is quite visible from Albany Hill residences and Albany Hill Park.~~

(3) Views From the Bay. The Bay itself, including water areas both inside and outside of the project site, provides excellent opportunities for viewing both the project site and surrounding visual resources. Views from the Bay are experienced by a much smaller number of people than from the land-based viewpoints described above, but they have the advantage of being free of the foreground distractions and impediments, such as buildings and cars, that can compromise viewpoints on land. Even such elements as the freeways and industrial development that detract from views from within the project site become more benign as one moves away from the shoreline, allowing these elements to blend into the larger panorama. Thus, the quality of the visual experience from the Bay is very high and is available both to individuals who are windsurfing or kayaking, and to groups who are sailing or taking a commercial cruise.

The lands within the project site generally do not comprise a significant visual element within the viewshed. Due to the relatively flat topography and absence of trees, the project site generally forms a benign foreground element to the scenically significant background of the Berkeley/Oakland Hills.

d. Visual Resource Considerations. Following is a brief discussion of key visual attributes that contribute to the aesthetic quality of the project site and its vicinity.

Ephemeral Conditions. Two ephemeral conditions (i.e., conditions that are transitory in nature, happening either occasionally and/or for limited periods of time) affect the project site in ways that influence the visitor's experience of the project site's visual resources.

Due to the west-facing orientation of the shoreline, sunsets are significant ephemeral events that enhance the already high scenic quality of Bay views from the project site. The coloration of the setting sun backlights distinctive features such as Mt. Tamalpais, the Golden Gate Bridge, and the San Francisco skyline. Many people visit the project site on a regular basis to view the sunset.

Fog is the other ephemeral condition that affects views from the project site. Often during the summer (June – August), fog rolls in during the late afternoon and may not dissipate until mid-morning the following day. The project site's location directly opposite the Golden Gate Bridge and the opening to San Francisco Bay places it in the "fog belt." Typically, the fog banks roll in through the Golden Gate and move directly across to the east shore. It is not uncommon for the fog banks to touch ground in Albany, before they begin to spread laterally north and south to areas on the west side of the Bay. The effects of the fog can be dramatic, and some individuals find it a unique and intriguing visual element.

Dumping and Debris. Many areas within the project site show evidence of its historical landfill use. Since the majority of the landfill material consisted of construction debris, the debris that is still visible on the surface tends to be materials such as bricks, concrete, and steel reinforcing bar. The two principal areas with visual evidence of significant construction material are the Brickyard and the Albany Plateau and Bulb. Given the length of time these materials have been in place, vegetation has covered much of the surface. Thus, the negative visual impact associated with this material is experienced primarily by those visiting the area. These materials are generally not prominent enough to

- d. Prohibiting the planting of trees within 200 feet of tidal and non-tidal salt marsh areas that may support special-status wildlife species. Trees provide perches for avian predators that prey on these species (see guideline WILDLIF-10).
- e. Limiting access to tidal and non-tidal salt marshes by visitors and dogs, by means of trail design, buffers, and fencing, as needed to minimize adverse effects, and prohibit off-leash dogs in these marshes (see guidelines WILDLIF-11, OPER-5, A-14, and PI/SR-8, EC-1, EC-4, and EC-10).

(5) Shorebirds, Waterfowl, and Other Water Birds. The park area is noteworthy for its abundance of water birds, especially shorebirds and waterfowl. During the non-breeding season (primarily August through April), thousands of shorebirds forage in the shallow waters and mudflats of the park area. The Albany Mudflats and Emeryville Crescent have been identified as the most important mudflat areas for shorebirds in the north San Francisco Bay (between the Bay Bridge and the Richmond-San Rafael Bridge), and the mudflats at Brickyard Cove and the South Richmond Marshes are also important as shorebird foraging areas. The project area also contains several important high-tide shorebird roost-sites, which are critical habitat elements for these species. In addition to shorebirds, thousands of waterfowl and other water birds occur during the non-breeding season (primarily October through April) in the nearshore waters of the park.

Development of the park could increase disturbance of shorebirds, waterfowl, and other water birds by park visitors and dogs. Such disturbances could have adverse effects on shorebirds and waterfowl that are roosting or feeding along the shoreline. Additionally, waterfowl and other water birds are vulnerable to disturbance by boating and windsurfing. The *Draft General Plan* incorporates specific management guidelines (which are referenced below) and land-use designations (described below) that would avoid, minimize, or compensate for these effects by:

1. Designating most of the tidal mudflat areas in the park as preservation areas (e.g., Emeryville Crescent, Albany Mudflats, and South Richmond Marshes) or conservation areas (e.g., Brickyard Cove), and designating selected subtidal areas as conservation areas (e.g., at the western part of the Emeryville Crescent and the west end of the Albany Bulb).
2. Incorporating protection measures for water birds in the Maintenance Plan for the park (see guideline OPER-4).
3. Requiring the following protection measures for shorebirds, waterfowl, and other water birds as part of the Specific Project Plans to be prepared prior to developing park facilities in various areas:
 - a. Conducting pre-construction surveys to identify important high-tide shorebird roosts; establishing construction buffers (to the extent feasible) to protect the roosts until construction is completed; and implementing appropriate measures to offset unavoidable impacts (see guidelines WILDLIF-4, -5, -6, and Appendix A in the *Draft General Plan*).
 - b. Protecting important shorebird roost-sites and other important water bird habitats from disturbance by means of trail design, buffers, fencing, and signs (see guidelines WILDLIF-11, EC-4, A-9, A-10, A-21, A-22, and PI/SR-4, EC-1, EC-4, and EC-10).

to 1975, wastes accepted also included street sweeping waste, wood and vegetation waste from landscape maintenance, and similar materials. In 1985, the RWQCB issued Order No. 84-89, which named the City of Albany, the Albany Landfill Company, and Santa Fe Land Improvement Company (now Catellus) as dischargers. Order 84-89 required clearing and disposing of existing vegetation, filling of the Bay to flatten landfill sideslopes, grading to facilitate water drainage, import and placement of relatively impermeable capping soil, and re-establishment of vegetative surface cover.³⁶ Although Order 84-89 required capping of the landfill, remedial alternatives have been proposed, including monitoring of soil, sediment and leachate on a semi-annual basis. ~~Documents reviewed by Subsurface Consultants Incorporated (SCI) to date do not indicate which remediation activities have been implemented. It is presumed that no remediation was conducted because the proposed landfill development was never implemented, and the subsequent Order 99-068 not only rescinded the previous Order, it did not require any specific remedial efforts.~~

The COPCs in soil and groundwater identified during site assessment activities included metals, VOCs, SVOCs, pesticides, PCBs. COPCs identified in leachate samples included ammonia, nitrate, sulfate.³⁷

Numerous environmental and geotechnical tests have been completed on the site since 1969. Investigations included soil borings, sediment samples, installation of monitoring wells, seep studies, ground and surface water collection and testing.

It has been reported that ammonia is generated within the landfill due to bacterial decomposition of wood and plant debris.³⁸ Seep and surface water samples were collected twice in 1999. Analytical results of pH, total ammonia do not appear to present significant aquatic risks to aquatic life in San Francisco Bay.³⁹

A Conceptual Plan for Reclamation of the West and East Lagoons was prepared for the City of Albany.⁴⁰ Reportedly, the west lagoon is a cell of the former landfill that was never filled, but is surrounded by dikes. The east lagoon is a portion of the former landfill that was partially filled. Years ago, the dike was partially breached. The sediment within the west lagoon has been sampled, analyzed, and reportedly found to contain chemicals in similar concentrations to the sediment in the surrounding Bay.⁴¹

As discussed in the Landfill Closure Plan, methane gas controls are reportedly unnecessary as long as the proposed surface treatment will allow for the natural escape of gases in nonharmful amounts in the atmosphere. If future construction or paving is contemplated, methane gas control systems should be considered.

³⁶ Streamborn, 1997. Evaluation of Public Health and Environmental Risks Potentially Posed by the Albany Landfill and Evaluation of Capping to Mitigate the Potential Risks. April.

³⁷ Ibid.

³⁸ Streamborn, 1999. Letter Report Surface Water Monitoring Albany Landfill. May.

³⁹ Harlan Tate Associates, 1990. Seep Study – Albany Landfill. October.

⁴⁰ Streamborn, 1999, op. cit.

⁴¹ Streamborn, 1997, op. cit.

communities. The areas at the ~~foot of western ends of Gilman Street in Berkeley~~ and University Avenue have been identified as a potential sites for ferry terminals if ferry service expands.

(6) National Park Service Headquarters. The National Park Service is currently establishing a headquarters in the Ford Plant, a newly-designated historic monument in Richmond. The "Smokestack," the "Rosie the Riveter" sculpture, and the Ford Building mark three key waterfront points that are part of the National Park area. The National Park area would be linked to the Eastshore Park project area by the Bay Trail.

e. Regulatory Considerations. The following section discusses municipal, regional, and State policies that relate to land use in and around the project site. The municipal policies are organized according to city; the regional and State policies are organized by document. For more detailed information on regulatory considerations, please refer to pages L-7 through L-15 of the *Resource Inventory*.

(1) City of Oakland. The main guiding document for land use in and around the small portion of the project site within Oakland is the City of Oakland General Plan, Land Use and Transportation Element.

City of Oakland General Plan, Land Use and Transportation Element. The entire north side of the Bay Bridge spit is designated in the City of Oakland General Plan Land Use and Transportation Element as a "Resource Conservation Area." This classification is intended to "identify, enhance and maintain publicly-owned lands for the purpose of conserving and appropriately managing undeveloped areas which have high natural resource value, scenic value, or natural hazards which preclude safe development." The *Draft General Plan* envisions that any development within Resource Conservation areas be very limited, and that any development must relate to the conservation and management of natural resources, public open space, and natural hazards. The *Draft General Plan* also contains specific guidelines for development of the City's waterfront.

(2) City of Emeryville. Guiding land use policy documents in Emeryville that are relevant to the project site include the City of Emeryville General Plan and the City of Emeryville Zoning Ordinance.

City of Emeryville General Plan. The City of Emeryville General Plan promotes the provision of recreational opportunities along the Bay shoreline and the protection of sensitive natural communities.

City of Emeryville Zoning Ordinance. A 1987 ballot initiative required the City to maintain the natural character of the Emeryville Crescent. The area is zoned "Shoreline Management" for ecological benefit. Human access is allowed if it does not adversely effect environmental quality.

Current zoning designations for the Emeryville Peninsula include Medium Density Residential, Mixed Use, General Commercial, Shoreline Management (Civic), and Outdoor Recreation. Additional development of vacant and underused sites will continue east of I-80/I-580. New residential units, light industrial campus-type facilities, and Mixed Use Planned Unit Developments are planned for the South Bayfront property on Shellmound Street.

The General Plan sets clear goals for open space protection for Pt. Isabel and the extended wetlands and marsh areas north of Pt. Isabel. Public access to these areas is further encouraged through trails, street connections, and transit.

(6) San Francisco Bay Plan. The San Francisco Bay Plan (Bay Plan) is a policy tool that, under the provisions of the McAteer-Petris Act, allows BCDC to “exercise its authority to issue or deny permit applications for placing fill, extracting materials, or changing the use of any land, water, or structure within the area of its jurisdiction,” an area that includes all of the Bay, a shoreline band 100 feet from the water, and salt ponds, managed wetlands and certain waterways associated with the Bay. The Bay Plan stipulates: “Any public agency or private owner holding shoreline land is required to obtain a permit from the Commission before proceeding with [shoreline] development.”

BCDC issued Permit Nos. 4-92, 11-93, M92-13, and 8-92 to Caltrans for the I-80 Operational Improvement Project and the Cypress Replacement Project, which require that continuous shoreline public access be provided in the project area and that substantial mitigation improvements be maintained. In addition, BCDC also issued permit M94-40 for trail and other improvements between Pt. Isabel and Meeker Slough, within the project site.

Recreation policy in the Bay Plan states that “. . . parks should emphasize hiking, bicycling, and riding trails, picnic facilities, viewpoints, beaches, and fishing facilities. Recreational facilities that do not need a waterfront location, e.g., golf courses and playing fields, should generally be placed inland, but may be permitted in shoreline areas if they are part of a park complex that is primarily devoted to water-oriented uses.” The Bay Plan also mandates the provision of “public launching facilities for a variety of boats where feasible” and the protection of natural habitat. In addition, the Bay Plan permits small restaurants in parks, “provided they are clearly incidental to the park use, are in keeping with the basic character of the park, and do not obstruct public access to and enjoyment of the Bay.” Limited commercial development is also allowed, where appropriate.

Public Access policy in the Bay Plan states that “. . . maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline. . . Access to the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. . .” The Bay Plan mandates that public access should be permanently guaranteed when it is provided as a condition of development.

BCDC Resolution 16 and Bay Plan Map 4 designate the following areas in and around the project site for park priority use: 1) the southern shoreline of the Emeryville Peninsula adjacent to the Emeryville Crescent and the northern edge of the Emeryville Peninsula up to and including the shoreline surrounding Brickyard Cove; 2) the north edge of the Berkeley Meadow along the east shore of the North Basin up to and including the Albany Neck; 3) the entire Albany Neck, Plateau, and Bulb; 4) the shoreline surrounding the Albany Mudflats, up to Point Isabel; and 5) the southern portion of Point Isabel. The Bay Plan also contains development guidelines that are specific for ~~sub~~ areas of the Bay, including land in and around the project site ~~these park priority areas.~~ In addition, ~~the marine and shoreline areas in and around west of the Emeryville Crescent and north of the Albany Plateau and Neck are proposed for designation as wildlife area and ecological reserve,~~ respectively have been designated as wildlife refuge by BCDC as part of, ~~under~~ the Bay Plan

Marshes and Mudflats update. Specific Bay Plan policies for the project site (Maps 4 and 5) include the following:

- *Map 4: Policy 15.* Albany-Berkeley-Emeryville. Develop public and commercial recreation areas. Some fill may be needed to create usable shoreline areas, protected water areas and park space.
- *Map 4: ~~(Proposed)~~ Policy Y.* Eastshore State Park. Park being planned from Bay Bridge to Marina Bay in Richmond for multiple uses including recreation, wildlife and aquatic life

obstruct public access to the shoreline. Per BCDC regulations, the project applicant would have to apply for a construction permit from BCDC before initiating any projects associated with the *Draft General Plan* that are within BCDC jurisdiction.

The components of the General Plan that may be within BCDC jurisdiction include the following: 1) shoreline protection and shoreline structural treatments, including riprap, ramps, and promenades; 2) the pedestrian bridge for the Bay Trail spur south of University Avenue; 3) the pedestrian bridge linking North Basin Strip and the Berkeley Meadow; 4) the pedestrian bridge across Hoffman Channel; 5) wetland restoration; and 6) all improvements and land use changes within the 100-foot "shoreline band" that is under BCDC jurisdiction. However, until specific projects are sited, establishing a comprehensive list is premature.

The *Draft General Plan*, by proposing the development of a contiguous section of the Bay Trail throughout the entire length of the project site, also upholds the policies of the Bay Trail Plan (see guidelines VISIT-12, CIRC-8, CIRC-9, CIRC-10). In addition, by preserving coastal tidelands where feasible, the *Draft General Plan* is consistent with the mandate of the Public Trust Doctrine (see guidelines PLANTS-1, PLANTS-5, PLANTS-6, PLANTS-7, PLANTS-8, MARINE-7).

(8) Habitat/Natural Community Conservation Plan. Because no applicable habitat conservation plans or natural community conservation plans apply to the project site, implementation of the *Draft General Plan* would not impact any such plans.

c. Significant Land Use Impacts. Implementation of the *Draft General Plan* would not result in significant land use impacts at the program level of analysis.

Table IV-2: Summary of Alternative Issues Relative to Draft General Plan Issues^a

Issues	Level of Significance			
	Proposed Project	No Project Alternative	Alternative A: Conservation Alternative	Alternative B: Recreation Alternative
A. Aesthetics				
Scenic vista impacts.	LTS	LTS	LTS	LTS
Visual character and quality impacts.	LTS	S	LTS++	LTS--
Light and glare impacts.	LTS	LTS	LTS++	LTS--
B. Air Quality				
Stationary source impacts.	LTS	LTS	LTS++	LTS--
Vehicular traffic impacts.	LTS	LTS	LTS++	LTS--
Construction emissions impacts.	LTS	LTS	LTS++	LTS--
C. Biological Resources				
Impacts to soft bird's-beak, Pt. Reyes bird's-beak, and Contra Costa gold fields.	LTS	LTS	LTS++	LTS--
Impacts to nesting raptors.	LTS	LTS	LTS++	LTS-- S
Impacts to burrowing owls.	LTS	LTS	LTS++	LTS--
Impacts to tidal marsh habitat and associated special-status wildlife species.	LTS	LTS	LTS++	LTS--
Impacts to shorebirds, waterfowl, and other water birds.	LTS	LTS	LTS++	LTS--
Impacts to wetlands and other waters of the U.S. subject to Corps and RWQCB jurisdictions.	LTS	LTS	LTS	LTS
Impacts to eelgrass beds.	LTS	LTS	LTS	LTS--
D. Cultural Resources				
Cultural resources impacts associated with ground-disturbing construction.	LTS	LTS	LTS++	LTS--
Cultural resources impacts associated with ground-disturbing environmental enhancements.	LTS	LTS	LTS--	LTS++
Paleontological/geological resources impacts associated with ground-breaking activities.	LTS	LTS	LTS	LTS
Albany Bulb art installation impacts.	LTS	S	LTS	LTS
Cultural resources impacts associated with construction within culturally-sensitive areas.	LTS	LTS	LTS	LTS--
Cultural resources impacts associated with activities within or adjacent to recorded cultural resources.	LTS	LTS	LTS	LTS

Notes: LTS = Less-than-Significant; S = Significant; ++ = Alternative's impacts are less than the project; -- = Alternative's impacts are worse than the project.

b. Analysis of Recreation Alternative. Table IV-1 provides a summary of the impacts that could result from implementation of the Recreation alternative compared to the impacts that could result from implementation of the proposed *Draft General Plan*. The Recreation alternative could result in the following impacts:

(1) Aesthetics. The Recreation alternative proposes new construction and structures. However, because development projects under the Recreation alternative would be subject to the same height restrictions and design guidelines included in the *Draft General Plan*, implementation of this alternative would result in visual impacts that are similar to the proposed project's.

Implementation of the Recreation alternative would not result in significant impacts to scenic vistas.

(2) Air Quality. Implementation of the Recreation alternative would result in similar impacts to those identified for the proposed project. However, the greater level of development, increased number of parking spaces and associated trips could result in more emissions from vehicular traffic, and construction activities than for the proposed project. However, the increase in emissions from these sources is not anticipated to result in a significant impact, when measured against the pertinent significance criteria.

(3) Biological Resources. Implementation of the Recreation alternative could result in significant impacts to biological resources as this alternative proposes more intensive development, particularly at the Berkeley Meadow and North Basin Strip. The potential for impacts resulting from this alternative would generally be greater than that of the proposed *Draft General Plan* since the amount and degree of development proposed in this alternative is greater than the proposed *Draft General Plan* and the level of visitation would be higher. ~~However, Most~~ biological resources impacts would be reduced to less-than-significant levels with the implementation of the guidelines in the *Draft General Plan*. No significant impacts to wetlands and other waters subject to Corps and RWQCB jurisdictions would occur because all impacts would be offset-reduced to a less-than-significant level through appropriate wetland restoration activities. Due to the more intensive development in the Berkeley Meadow, however, it may not be possible to reduce impacts on nesting raptors (particularly northern harriers) to a less-than-significant level. Thus, impacts on nesting raptors could be considered potentially significant under the Recreation alternative.

(4) Cultural Resources. Impacts similar to those identified for the proposed project would occur with implementation of the Recreation alternative. The potential for impacts to cultural resources resulting from ground-breaking construction would be greater than the potential impacts from the proposed project. Impacts resulting from environmental resource enhancements would be less than the proposed project.

(5) Geology and Soils. The Recreation alternative would result in the same less-than-significant impacts identified in Chapter III.E, Geology and Soils, as this alternative proposes new development and environmental enhancements at the project site.

(6) Hazards. The Recreation alternative would result in similar less-than-significant impacts as those identified in Chapter III.F, Hazards.

(7) **Hydrology and Water Quality.** Implementation of the Recreation alternative would result in the same less-than-significant impacts as those identified in Chapter III.G, Hydrology and Water Quality. However, those impacts, which are associated with the development of park and recreational watercraft use and facilities; small craft launches; turf areas; multiple-use sports fields;

C. ENVIRONMENTALLY-SUPERIOR ALTERNATIVE

CEQA requires that an environmentally-superior alternative be identified in the EIR. The No Project alternative (existing project site conditions) would not provide for any of the environmental enhancements proposed by the Project; thus, issues related to aesthetics, cultural resources, geology and soils, hazards, and hydrology and water quality would remain unchanged, as discussed above. As noted, continued deterioration of certain resources or environmental conditions on the site would also constitute an impact of the No Project alternative. Additionally, the No Project alternative would not meet the primary goal of the project, which is to create a recreational facility harmonious with its natural setting.

Both the Conservation alternative and the Recreation alternative would result in impacts similar to the proposed *Draft General Plan*; they would differ from the *Draft General Plan* only in terms of the level and amount of proposed development and environmental enhancement programs. In general, the potential for adverse impacts would be less and less noticeable under the Conservation alternative and greater under the Recreation alternative, ~~but~~. For the Conservation alternative, like the proposed project, guidelines in the *Draft General Plan* would reduce any impacts to a less-than-significant level. *The Recreation alternative, however, could result in a potentially significant impact on nesting raptors.* Although both these alternatives meet the primary goal and objectives of the project, each alternative presents a less balanced approach than the proposed project. Thus, each of these alternatives would not meet each of the primary objectives equally, nor would they meet the needs of the widest range of park users.

The proposed *Draft General Plan* would not result in significant impacts with the implementation of the guidelines proposed, as discussed in Chapter III of this EIR. The proposed *Draft General Plan* also meets the primary goal and objectives of the project and addresses the needs of the widest range of potential park users. Both the Conservation and Recreation alternatives would fail to meet all the goals and objectives, and could result in potentially significant impacts or in less-than-significant impacts similar to those identified for the proposed *Draft General Plan*.

Thus, because implementation of the proposed *Draft General Plan* would not result in unmitigable significant environmental impacts, presents the most balanced approach of the available alternatives, and provides a shoreline park with both recreation and environmental enhancement opportunities for the people of the San Francisco Bay region and the State of California, the proposed *Draft General Plan* is the Environmentally-Superior alternative.

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V. REPORT PREPARATION

A. FINAL EIR PREPARERS

LSA Associates, Inc., Prime Consultant: *Project Management, Draft EIR and Final EIR Report Preparation.*

2215 Fifth Street
Berkeley, CA 94710

David Clore, AICP, Principal-in-Charge
Judith Malamut, AICP, Associate, Project Manager
Wynne Kwan, Assistant Project Manager
Adam Weinstein, Project Planner

Other staff contributors:
Skip Shimmin, Graphics Manager
Patty Linder, Graphics and Report Production
Sue Smith, Word Processing
Bo Dash, Word Processing

157 Park Place
Pt. Richmond, CA 94801

Laura Lafler, Principal
Stephen Granholm, PhD., Principal
Christian Gerike, Associate
Sara Palmer, Archaeologist
Matt Ricketts, Biologist

20 Executive Park, Suite 200
Irvine, CA 92614

Tony Petros, Principal
Tony Chung, Associate
Meghan Macias, Project Manager

Fugro West, Inc., Subconsultant: *Geology and Soils; Hazards.*

1000 Broadway, Suite 200
Oakland, CA 94607

Glenn Young, R.G., Associate Geologist
Terrance J. McManus, Vice President
Mark Stanley, P.E., Senior Engineer

Philip Williams & Associates: *Hydrology and Water Quality.*

720 California Street, Suite 600
San Francisco, CA 94108

Jeffrey Haltiner, Managing Director
Jorgen Blomberg, Associate

B. GENERAL PLAN PREPARERS

The Eastshore Park Project General Plan was prepared by:

Staff of the East Bay Regional Park District:

Robert E. Doyle, Assistant General Manager, Land Division, Eastshore Project Coordinator
Tom Mikkelsen, Assistant General Manager, Planning/Stewardship/Design & Construction
Larry Tong, Interagency Planning Manager (Lead)

Staff of California Department of Parks and Recreation:

Robin Ettinger, Associate Landscape Architect, Environmental Design Division
Ronald Schaefer, District Superintendent – Bay Area District
Shaelyn Raab Strattan, Associate Park & Recreation Specialist

Staff of California State Coastal Conservancy:

Brenda Buxton, Project Manager

Staff of Wallace Roberts & Todd:

Stephen Hammond, Director of Planning
John Gibbs, Project Landscape Architect
Brent Raymond, Landscape Designer
Laura Burnett, Senior Landscape Architect
Kevin A. Harper, Planner

Staff of Neuwirth & Associates:

Donald B. Neuwirth, Principal
Rebecca S. Neuwirth, Associate

Staff of LSA Associates, Inc.:

Laura Lafler, Principal-in-Charge, Resource Inventory and General Plan
David Clore, Principal-in-Charge, EIR
Stephen Granholm, PhD., Principal, Biological Resources
Judith Malamut, Associate, EIR Project Manager
Tony Petros, Principal, Traffic and Circulation
Christian Gerike, Associate, Cultural Resources
Tony Chung, Associate, Air Quality and Noise
Meghan Macias, Project Manager, Traffic
Carmen Borg, Project Manager, Resource Inventory

Staff of Fugro West, Inc.:

Terrence J. McManus, Vice President
Glenn Young, R.G., Associate Geologist
Mark Stanley, P.E. Senior Engineer

Staff of Philip Williams & Associates:

Jeffrey Haltiner, Managing Director
Jorgen Blomberg, Associate

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