



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
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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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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.

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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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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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 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?

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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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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.

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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.

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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.

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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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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.

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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.

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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.

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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.

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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