Draft Environmental Impact Report

Albany Beach Restoration and Public Access Project

for the East Bay Regional Park District

SCH # 2012032072

July 11, 2012

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1 INTRODUCTION

This Tiered Draft Environmental Impact Report (EIR) has been prepared to assess the potential environmental consequences of the proposed Albany Beach Restoration and Public Access Project (also referred to as "the Proposed Project") at the Albany Peninsula and the bay shoreline between Buchanan and Gilman Streets, in the cities of Albany and Berkeley, California.

This EIR identifies mitigation measures and alternatives that would avoid or reduce significant impacts. It is intended to inform decision makers, other agencies, and the public, of the Proposed Project.

This EIR has been prepared in accordance with the California Environmental Quality Act (CEQA). The East Bay Regional Park District (EBRPD) is the lead agency for the Project.

This EIR is tiered from the 2002 *Eastshore Park Project General Plan Environmental Impact Report* (State Clearinghouse No. 2002022051), in accordance with CEQA Guidelines Sections 15152 and 15168 and Public Resources Code Section 21094. The Eastshore Park Project General Plan is a long-range master plan for development of a new Eastshore State Park along the eastern shore of San Francisco Bay. The Eastshore State Park includes approximately 8.5 miles of shoreline, extending north from the Oakland Bay Bridge to the Marina Bay neighborhood in Richmond. The CEQA concept of "tiering" refers to the evaluation of general environmental matters in a broad program level EIR, with subsequent focused environmental documents for individual projects that implement the program. CEQA and the CEQA Guidelines encourage the use of tiered environmental documents to reduce delays and excessive paperwork in the environmental review process. CEQA Guidelines Section 15168(d) provides for simplifying the preparation of environmental documents for individual parts of the program by incorporating by reference analyses and discussions that apply to the program as a whole. Where an EIR has been prepared or certified for a program or plan, the environmental review for a later activity consistent with the program or plan should be limited to potentially significant effects on the environment from that later activity that were not analyzed as significant in the prior EIR, that are susceptible to substantial reduction or avoidance (CEQA Guidelines Section 15152(d)), or that were not adequately addressed in the prior EIR (CEQA Guidelines Section 15152(f). The Proposed Project is consistent with the Eastshore Park Project General Plan described in the *Eastshore Park Project General Plan EIR*.

The *Eastshore Park Project General Plan EIR* and other documents incorporated by reference in this EIR are available for public review at EBRPD headquarters at 2950 Peralta Oaks Court, Oakland, California.

1.1 Proposed Action

The Albany Beach Restoration and Public Access Project consists of three components (see **Figure 3-2** in Chapter 3, Project Description):

1) Shoreline repair and reconstruction, including habitat enhancement and accessibility improvements to 2,000 feet of existing trail (San Francisco Bay Trail Spur) along the Albany Neck shoreline (Area 1); and northern beach access;
2) Beach and dune enhancement, recreation improvements, restroom, parking and construction of approximately 800 feet of new San Francisco Bay Trail at Albany Beach (Area 2); and
3) Construction of 4,200 feet of new San Francisco Bay Trail between Albany Beach and Gilman Street (Area 3).

In addition to the three main project areas listed above, the project would also involve beneficial reuse of Albany Neck shoreline material to repair voids on the Albany Plateau, after which this area would be

backfilled with suitable soil, covered, and seeded. The areas proposed for debris placement are already impacted from unauthorized metals scavenging activities (landfill debris such as concrete and sharp metal is exposed) and these areas would be repaired as part of the project. The majority of the concrete debris would be hauled off-site to an approved landfill for recycling.

In the areas listed above, the proposed project would involve the following:

- **Shoreline reconstruction**: removal of debris including concrete and metal rubble, possible (optional) recontouring shoreline slopes to create intertidal and subtidal habitat, placement of stabilized rock toe and slope protection, shoreline rock, soil and geotextile fabric placement, and planting native grasses and shrubs on upper slopes. The goal is to minimize bay fill to only that which is required to maintain public and emergency vehicle access along the south Neck and for beneficial habitat enhancement and needed shoreline stabilization. The crest or upper elevation of the shoreline rock revetment would be at an elevation of +11 or +12 feet (NAD88) with a 1.5:1 slope. For reference purposes, the existing trail is mainly at an elevation of +14 to +15 feet. Approximately 12,000 to 13,000 tons of armoring rock would be imported to stabilize the eroding shoreline, and about 10,000 to 12,000 cubic yards of concrete rubble would be removed.
- **Intertidal and subtidal habitat enhancement (optional):** with a focus on creating habitat for shorebird foraging and roosting, native oysters, and intertidal algal communities. The optional intertidal and subtidal habitat enhancement elements would add an additional 2,500 to 3,000 cubic yards of rock, including 250 – 300 tons of pebble and sand, for a new 0.1-acre pocket beach, and up to 300 cubic yards of oyster shell. Optional enhancement components include a pocket pebble beach, headlands finger and offshore avian roosting rocks, rock crescent and oyster reefs, as well as porous tide pools.
- **Accessibility improvements**: removal of debris, including broken concrete, asphalt, and metal rubble along the existing trail, grading of trail to provide positive drainage, placement of permeable trail surface to meet accessibility guidelines along Albany Neck; and earthwork to grade an ADA compliant access to the sandy beach. Removable sand mats would provide ADA access further westward onto the soft beach sands.
- **Vegetation management**: removal of nonnative invasive species adjacent to trail, planting new native grasses and shrubs, and installation of post and cable fence to limit access to restored planting areas and steep shoreline slopes.
- **Beach and dune enhancement**: earthwork and demolition to remove treated wood, inorganic debris and invasive plants at beach area, demolition of a 2.8-acre paved parking area, sand placement to help support a broad low-profile beach, and support existing and expanded dune features and adapt to anticipated conditions under sea level rise. Approximately 2,000 cubic yards of carefully selected clean sand would be placed on the beach above the line of highest tide, and an additional 3,000 cubic yards placed to enhance and expand the dunes within the existing parking lot. The dunes would be stabilized using native dune vegetation.
- **Seasonal wetlands enhancement**: earthwork to expand existing seasonally inundated wetlands and planting with native vegetation and removal of invasive plants and inorganic debris from wetlands. The existing seasonal wetland would be protected during construction.
- **Stormwater management**: earthwork to create bioswales and ponding areas to manage and treat on-site runoff from impervious surfaces. A major portion of this would be routed through the enhanced seasonal wetlands.
- **Parking and Water Trail access:** facilities for non-motorized watercraft, 20-stall parking lot to provide ADA access, and non-motorized watercraft access and staging.

- **Restroom and site furnishings:** dual vault-type restroom, bicycle racks, picnic benches, park signage, and interpretive exhibits.
- **Trails**: Reconstruction of existing trail at Albany Peninsula as ADA accessible trail (San Francisco Bay Trail Spur); and new segment of San Francisco Bay Trail from Buchanan Street to Gilman Street.

After construction, the project area would be operated and maintained by EBRPD.

1.2 Planning Process

Project Background

The project site is within Eastshore State Park. The Eastshore State Park General Plan, which describes a long-range master plan for Eastshore State Park, including the project site, was completed in 2002. In 2010 EBRPD contracted with a team of consultants lead by LSA Associates, Inc. to prepare more detailed studies evaluating restoration and public access options identified in the Eastshore State Park General Plan for improvements at Albany Beach. These planning documents, in addition to public input from the EBRPD's Board Executive Committee in September 2010, January 2011, and April 2011, and workshops held in December 2010 and February 2011, formed the basis for the Preferred Project Plan for Restoration and Public Access for Albany Beach (applicable to Areas 1 and 2) that is described herein and is the subject of this environmental analysis.

Concepts for the Bay Trail along Golden Gate Fields (Area 3) were separately developed by Questa Engineering, in consultation with EBRPD, over the period from 2006 through 2010. EBRPD also consulted with the operators of Golden Gate Fields in developing the proposed alignment for the Bay Trail.

Additional public meetings followed as part of the EIR process (see below).

Consultation with Resource Agencies

As the Proposed Project would affect seasonal wetland areas and tidal waters of the Bay, consultation with the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA), San Francisco Bay Regional Water Quality Control Board (RWQCB), Bay Conservation and Development Commission (BCDC), and U.S. Army Corps of Engineers was initiated early in the process to define a strategy to protect and restore biological resources and water quality. The US Coast Guard was consulted regarding their notification requirements for the proposed (optional) sub-tidal structures for oyster habitat, which are potential navigation hazards.

1.3 Environmental Review Process

Initial Study

An Initial Study (IS) checklist was completed for the Proposed Project at the time this EIR was prepared, and is included in Appendix A.2. The IS included a project description and an analysis of the following issues:

- Aesthetics
- Agriculture and Forest Resources
- Air Quality
- Biological Resources

- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services (police and fire protection)
- Recreation
- Transportation/Traffic
- Utilities and Service Systems

The IS concluded that there could be potentially significant impacts in all issues except for:

- Agriculture and Forest Resources
- Mineral Resources
- Population and Housing
- Public Services (schools and libraries)

No impacts were found for these four issues.

Because there could be potentially significant impacts from the Proposed Project for the other 14 issues listed above, an EIR was prepared to evaluate these issues in more detail.

Notice of Preparation

A Notice of Preparation (NOP) of an EIR was published on March 29, 2012. This announced the date and venue for the public Scoping Meeting. The NOP described the environmental issues to be covered in the EIR and invited comments on the proposed EIR scope. The NOP was sent to the State Clearinghouse, as required under CEQA, and to over 100 interested parties. These included: government agencies with a responsibility or interest over the Proposed Project, non-governmental agencies (NGOs), adjacent and property owners and residents. EBRPD also posted links to the NOP on its website.

Public Scoping Meeting

A public scoping meeting to describe the EIR process and to solicit comments on issues that should be covered in the EIR was held at the Board Room of the EBRPD headquarters in Oakland, on April 12, 2012.

Comments Received

Comments were received verbally at the Scoping Meeting and have been summarized for this EIR. Written comments received in the 30-day comment period following publication of the NOP are included, along with the summary of oral Scoping Meeting comments, in Appendix B of this EIR.

Draft EIR Availability

A copy of this Draft EIR has been sent to the State Clearinghouse and to those who requested a copy by responding to the NOP. It is also available for downloading from the EBRPD website at www.ebparks.org. Electronic copies are also available at the Albany Library at 1247 Marin Avenue, Albany; and at the Berkeley Public Library, Central Library at 2090 Kittredge Street, Berkeley.

Draft EIR Comments

This Draft EIR was published on July 11, 2012, which marks the start of the 45-day comment period as required under CEQA. Written comments should be received no later than 5 p.m. on August 27, 2012 and should be sent to:

Chris Barton
East Bay Regional Park District
Land Division
2950 Peralta Oaks Court
PO Box 5381
Oakland, CA 94605
Comments can also be sent via email to cbarton@ebparks.org.

Comments should focus on the environmental impacts and the adequacy of the EIR. Section 15151 of the State *CEQA Guidelines* defines the standards for EIR adequacy as follows:

> *An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR would summarize the main points of disagreement among the experts. The courts have looked not for perfection; but for adequacy, completeness, and a good faith effort at full disclosure.*

Final EIR and Responses to Comments

All comments received within the comment period and pertaining to the environmental impacts and adequacy of the Draft EIR will be responded to in writing. CEQA does not require responses to comments on the project merits, or unsubstantiated comments. Responses, together with comment letters and emails, will be included in the Final EIR, along with any necessary revisions to the contents of the Draft EIR.

Final EIR Approval and Project Approval

The Final EIR will be made publicly available in the same manner as the Draft EIR. After publication of the Final EIR, the EBRPD Board of Directors will consider whether to certify the Final EIR, adopt findings, and approve the project.

The EBRPD meeting for EIR certification and project approval will be a public hearing where additional comments may be received.

1.4 Report Organization

This EIR is organized into the following chapters:

- **Chapter 1, Introduction.** Chapter 1 provides background and an overview of this EIR document.
- **Chapter 2, Report Summary.** Chapter 2 is a synopsis of the Project description, required permits, environmental impacts of the Proposed Project, alternatives, and CEQA conclusions.
- **Chapter 3, Project Description.** Chapter 3 describes the Proposed Project.
- **Chapter 4, Environmental Evaluation.** Chapter 4 evaluates the potential environmental impacts of the Proposed Project.
- **Chapter 5, Alternatives.** Chapter 5 considers the No Project Alternative and five other project alternatives, and identifies the "Environmentally Superior Alternative."
- **Chapter 6, CEQA-Required Assessment Conclusions.** Chapter 6 evaluates effects with regard to growth inducement, significant irreversible changes, cumulative impacts, and impacts found not to be significant.
- **Chapter 7, Report Preparers.** Identifies the preparers of the EIR.
- **Appendices.** Includes relevant background materials.

2 REPORT SUMMARY

This summary presents an overview of the analysis contained in this EIR. The chapter summarizes the following: 1) the Project under review, 2) areas of controversy, 3) significant impacts and mitigation measures, 4) unavoidable significant impacts, and 5) alternatives to the Project. Additional detail on the Proposed Project is provided in Chapter 3. Additional detail on the environmental impacts is provided in Chapter 4. Alternatives are described and evaluated in Chapter 5.

The Albany Beach Restoration and Public Access Project is one of the actions evaluated in the *Eastshore Park Project General Plan EIR*, which is a Program EIR for the Eastshore State Park General Plan, the Master Plan for development of Eastshore Park. The *Eastshore Park Project General Plan EIR* evaluated the general environmental impacts of all the components encompassed in the master plan. A "tiered" approach is used for environmental review of subsequent development of specific components of the Master Plan, such as the Albany Beach Restoration and Public Access Project analyzed in this EIR, in which the environmental document for the subsequent project focuses on project-specific impacts that were not covered in the *Eastshore Park Project General Plan EIR*.

2.1 Project Under Review

Location and Setting

The 63-acre Albany Beach project area (of which 20 acres is proposed for improvements) is the subject of the proposed restoration and public access Project. It is located on the Albany shoreline in northwestern Alameda County, including lands in the city limits of Albany and Berkeley (see **Figure 3-1**). The Project site is bounded by the Albany Peninsula to the north, Golden Gate Fields (GGF) racetrack and Buchanan Street to the east, Gilman Street to the south, and San Francisco Bay and City of Albany lands to the west. This geographic context of the site is shown in more detail in **Figure 3-2**.

Project Characteristics

The Proposed Project consists of three components (**Figure 3-2**):

4) Shoreline repair and reconstruction, including habitat enhancement (optional) and accessibility improvements to 2,000 feet of existing trail (San Francisco Bay Trail Spur) along the Albany Neck shoreline (Area 1), and northern beach access;
5) Beach and dune enhancement, recreation improvements, restroom, parking and construction of 800 feet of new San Francisco Bay Trail at Albany Beach (Area 2); and
6) Construction of 4,200 feet of new San Francisco Bay Trail between Albany Beach and Gilman Street (Area 3).

In addition to the shoreline and trail work in Area 1, an approximately 2-acre area on the east end of the Albany Plateau, which has been damaged by metal scavenging and uneven landfill ground settlement, would be repaired. The repair areas would consist of five or six separate small sites, each less than ½ acre in size. This would be completed by beneficially re-using some of the finer demolition materials removed during the shoreline revetment work. The repair areas would be cleared and grubbed as needed, backfilled with 1,200 to 1,500 cubic yards of excavation materials to create low (2- to 3-foot maximum) mounds, covered by clean soil and re-vegetated.

Required Permits and Approvals

It is estimated that permits and/or approvals would be required from eleven separate agencies. These are:

Federal Agencies

- U.S. Army Corps of Engineers – Any needed permits for work in wetland areas, shoreline stabilization on the south shore of the Neck and south of Albany Beach, and (possibly) placement of habitat shoals offshore under Section 404 of the Clean Water Act.
- U.S. Fish and Wildlife Service – Consultation/Biological Opinion under Section 7 of Federal Endangered Species Act.
- National Marine Fisheries Service – Consultation/Biological Opinion under Section 7 of Federal Endangered Species Act.

State Agencies

- Department of Fish and Game – coordination and consultation for issues associated with potential project impacts on eelgrass beds and on other marine and terrestrial organisms.
- State Lands Commission – Consultation and coordination with State Lands Commission during environmental review and plan review, regarding Public Trust Lands and Leases for construction of segment of Bay Trail and public access improvements at Albany Beach, and placement of habitat structures in Bay water.
- San Francisco Bay Regional Water Quality Control Board (RWQCB) – Water Quality Certification under Section 401 of the Clean Water Act and Notice of Intent NOI for construction activity.
- San Francisco Bay Conservation and Development Commission (BCDC) – Permit for work in wetland areas, public access, and conformance with climate change policies.
- Bay Area Air Quality Management District - Construction work involving use of heavy equipment.

County and Local Agencies

- Alameda County Public Health Department – Permit for vault toilet.
- City of Albany – Encroachment Permit, Temporary Construction Easement, Grading and Building Permits.
- City of Berkeley – Encroachment Permit, Temporary Construction Easement, and Grading Permits.

In addition, the project would require acquisition or condemnation of a 2.8-acre portion of Area 2 located east of Albany Beach, and the Bay Trail alignment in Area 3, which are privately owned by the owners of Golden Gate Fields.

2.2 Areas of Controversy

The Proposed Project raises the following areas of controversy: dogs' use of the Albany Beach, public art, preservation and protection of biological resources, use of Golden Gate Fields property for the Project, and the viability of restoration.

2.3 Significant Impacts and Mitigation Measures

Significant Impacts and Mitigation Measures are summarized in **Table 2-1**.

TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
AESTHETICS			
Impact AESTH-1: The Project's impact on the wild art could result in a potential significant impact on the visual character of the site.	S	Mitigation Measure AESTH – 1: In order to mitigate potential adverse impacts to the character of the site as a result of the wild art, pieces of art that are durable, contain unique features, and pose no health or safety risk, such as the "Rubik's Cube," shall be relocated to another location near the site of their original location.	LTS
AIR QUALITY			
The project would not result in significant impacts related to air quality; therefore, no mitigation measures are required.			
BIOLOGICAL RESOURCES			
Impact BIO-1: Burrowing owl, a special status wildlife species and other nesting birds protected by the Migratory Bird Treaty Act could be harmed by the construction phase of the project.	S	Mitigation Measure BIO-1a: Protocol-level surveys (as described in CDFG 2012) shall be conducted in suitable habitat areas for burrowing owl each year of the proposed construction activity. Suitable habitat includes concrete rubble and rip rap located within the construction areas, such as along Albany Neck and along portions of the slope of Fleming Point. If active nests are found, consultation with CDFG staff shall occur to determine appropriate setbacks or work windows to ensure construction will not have a substantial adverse effect on burrowing owls. Mitigation Measure BIO-1b: Pre-construction nesting surveys shall be conducted for all nesting birds protected by the Migratory Bird Treaty Act. Surveys shall be conducted by a qualified biologist within 14 days of the onset of disturbance to nesting habitats. If nests are found, they shall be flagged and a suitable buffer area would be established in consultation with CDFG to ensure construction will not have a substantial adverse effect on nesting birds protected by the Migratory Bird Treaty Act. No work would be conducted within this buffer area until young have fledged and are independent of the nest. Breeding bird surveys are not needed for work conducted outside the nesting season (between September 1 and January 31).	LTS

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
Impact BIO-2: California least tern, a special status avian species, could potentially be harmed during the construction phase of the project.	S	Mitigation Measure BIO-2a: A debris boom to control floating construction debris and reduce water turbidity shall be installed prior to initiation of shoreline revetment construction along Albany Neck. (See also Mitigation Measure HYDRO-1b). Mitigation Measure BIO-2b: The Contractor shall prepare and implement a Spill Control and Countermeasures Plan that includes protocols to prevent spills and exposure of people, wildlife and sensitive resources to contaminants. The plan shall include use of a containment boom to prevent spread of any toxic materials that may be released into Bay waters during demolition debris removal and construction of the rock riprap. The debris boom described above may be modified to serve this purpose, and would serve to prevent any spills that do occur from impacting the least terns. (See also Mitigation Measures HYDRO-1a, HYDRO-1b), GEO-4a, and GEO-4b).	LTS
Impact BIO-3: Marine mammals including harbor seal, California sea lion and southern sea otter, special status wildlife species protected by the Marine Mammal Protection Act could be disturbed during the construction phases of the projects.	S	Mitigation Measure BIO-3a: A biological monitor shall be present during subtidal and tidal zone work activities. Should a marine mammal be spotted within 500 feet of the construction area, the monitor shall instruct the Contractor to halt work until the mammal(s) have left the area.	LTS
Impact BIO-4: Remnant coastal scrub (poison oak scrub) would be impacted by construction of the SF Bay Trail.	S	Mitigation Measure BIO-4a: The final Bay Trail alignment through the poison oak scrub shall be laid out to minimize impacts to this habitat type. Mitigation Measure BIO-4b: As described in Mitigation Measure HYDRO-1b, an Erosion Control and Revegetation Plan shall be prepared as part of the final Construction Plans. The Revegetation Plan shall include a component that restores an undisturbed area of ruderal scrub vegetation in close proximity to the poison oak scrub with a mixture of native grasses, forbs, and shrubs that were a part of the historic coastal scrub plant community in the East Bay Area. The Erosion Control and Revegetation Plan shall provide for replacement planting of the disturbed poison oak scrub at a ratio of 2:1.	LTS

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
Impact BIO-5: Eelgrass, a special status plant species and fish habitat could be harmed during construction of the shoreline revetment and optional habitat enhancement components of the project.	S	Mitigation Measure BIO-5a: Prior to initiation of construction work, an eelgrass survey shall be completed to map eelgrass resources within the project area as required by regulatory permit conditions. Mitigation Measure BIO 5b: A debris boom shall be installed shoreward of existing eelgrass beds. The boom shall be kept a minimum of 10 feet away from existing eelgrass beds. (See also Mitigation Measures HYDRO-1a, and HYDRO-1b). Mitigation Measure BIO-5c: The Contractor shall prepare and implement a Spill Control and Countermeasures Plan (see also Mitigation Measure HYDRO-1b). The plan shall include use of a containment boom to prevent spread of toxic materials that may be accidentally released into Bay waters during debris removal and revetment installation. The debris boom described above (BIO-2a) may be modified to serve this purpose. Mitigation Measure BIO-5d: The Contractor shall implement a Stormwater Management and Erosion Control Plan to prevent stormwater pollution and siltation from reaching the SF Bay. Measures shall include but are not limited to: covering stockpiled material prior to rain events, and providing equipment and staff as required to repair and/or implement erosion/sediment control measures (see also Mitigation Measures HYDRO-1b, GEO-4a, and GEO-4b). Mitigation Measure BIO-5e: Following completion of construction activities, the Applicant shall complete a post-construction eelgrass survey within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Any impacts shall then be mitigated through on-site eelgrass transplant or other means to ensure any damaged eelgrass is restored.	LTS

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
Impact BIO-6: The project would temporarily impact seasonal wetlands, and the shoreline stabilization portion of the work and the optional marine enhancement elements would temporarily impact marine resources.	S	Mitigation Measure BIO-6a: A qualified biological monitor shall be present on-site, as required by regulatory permit conditions, during subtidal and tidal zone work activities to inspect work areas for compliance with construction documents and permit conditions, and halt work if necessary, if permit conditions are being violated. Mitigation Measure BIO-6b: Contractor employees shall be educated and trained to be aware of the shoreline environment and wildlife and plants with which they are working, and to take suitable precautions for the protection of wetlands and water quality. Mitigation Measure BIO-6c: EBRPD shall obtain any needed permits and authorizations for work in wetlands. These include a Section 404 permit for any work in wetlands, a Section 401 water quality certification, and compliance with regional and local plans and protocols.	LTS
CULTURAL RESOURCES			
Impact CUL-1: Project construction could disturb the wild art on the site.	S	Mitigation Measure CUL – 1: See Mitigation Measure AESTH-1, which calls for relocation of wild art pieces such as such as the "Rubik's Cube," that are durable, can be physically moved, contain unique features, and pose no health or safety risk.	LTS
Impact CUL-2: Project excavation for the Bay Trail could adversely impact the existing concrete wall located in Area 3, a potentially significant historical structure.	S	Mitigation Measure CUL-2: In order to mitigate potential adverse impacts to the existing concrete wall structure, the detailed project design for the Bay Trail spine in Area 3 shall avoid the 10-foot x 6-foot wall located in the brush slope area in Area 3, or incorporate the wall intact into the design of the trail, unless it is determined following slope brush clearing for trail construction that the retaining wall is not associated with another structure and thus has no independent integrity as was determined by the Fentress Study. It then may be demolished.	LTS

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
Impact CUL-3: Earthwork associated with the proposed project could negatively impact undiscovered historic features from the shipwreck, the San Francisco Chemical Company, and Giant Powder Works.	S	Mitigation Measure CUL-3: In order to mitigate potential adverse impacts to intact historic features discovered during construction, work shall be halted within 50 feet of the discovery until the features have been inspected and evaluated by a qualified archaeologist. The archaeologist shall, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[1], identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.	LTS
Impact CUL-4: Excavation and earth moving activities for the proposed project could have an adverse impact on currently undiscovered Native American cultural objects.	S	Mitigation Measure CUL-4: Construction contractors shall be trained by EBRPD staff to recognize Native American cultural objects. In order to mitigate potential adverse impacts to Native American cultural objects discovered during construction, work shall be halted within 50 feet of the discovery until the objects have been inspected and evaluated by a qualified archaeologist. The archaeologist shall, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[2], identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.	LTS

[1] East Bay Regional Park District, 1989. Oakland, California.

[2] East Bay Regional Park District, 1989. Oakland, California.

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
Impact CUL-5: Construction of the Bay Trail could impact fossil containing rock units.	S	Mitigation Measure CUL-5: Construction contractors shall be trained by EBRPD staff to recognize fossils and possible unique geological features. EBRPD shall be notified if these are uncovered during construction of the Bay Trail. Work shall halt within 50 feet of the find until the situation can be assessed by a qualified Geologist or Paleontologist. The geologist or paleontologist shall identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.	LTS
Impact CUL-6: Excavation and earth moving activities for the proposed project could have an adverse impact on currently undiscovered human remains.	S	Mitigation Measure CUL-6: Construction contractors shall be trained by EBRPD staff to recognize human remains. In order to mitigate potential adverse impacts to human remains discovered during construction, work shall be halted within 100 feet of the discovery until the materials or features have been inspected and evaluated by a qualified archaeologist. The archeologist shall identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository. In addition, the discovery must be reported to the County Coroner. If the Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Heritage Commission will assign a Most Likely Descendant to provide recommendations for the proper treatment of the remains taking into account the possibility of multiple human remains, and comply with Public Resources Code section 5097.98 and the Native American Graves Protection and Repatriation Act, if applicable.	LTS
GEOLOGY AND SOILS			
Impact GEO-1: The site is likely subject to strong seismic ground shaking during the design	S	Mitigation Measure GEO-1: Completion of a Design Level Geotechnical Investigation. EBRPD shall comply with a design level geotechnical report	LTS

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
life of the project, this could result in damage to improperly designed structures.		that provides design recommendations for the Proposed Project to protect people and structures from ground shaking, liquefaction, landslides, earthquakes, substantial soil erosion or loss of topsoil, and unstable soils. • The design-level geotechnical investigation shall be performed to identify methods for site preparation and grading to stabilize existing fill areas and prepare the site for foundation and retaining wall construction. Measures may include reworking of existing fill soils, removal of oversized concrete and debris from fill and crushing and or off-haul of oversized and unstable materials. • The design level geotechnical investigation shall analyze the potential hazards of liquefaction/ground failure, seismic ground shaking, expansive soils, and slope instability. • The design-level geotechnical investigation shall determine 2010 California Building Code seismic design parameters. • The geotechnical design investigation shall include design recommendations for retaining walls, foundations, concrete slabs, pavements, walkways, surface and subsurface drainage. • Recommendations of the project geotechnical engineer shall be incorporated into the project design. • The geotechnical investigation shall identify the geotechnical observation and testing services recommended during construction. During construction, the geotechnical engineer (or civil engineer and engineering geologist) shall perform observations and testing services and shall prepare a final report documenting results of his work, consistent with geotechnical investigation recommendations. • The geotechnical investigation shall include a map prepared by a land surveyor or civil engineer that shows the locations and elevation of key features (e.g., keyways, subdrains and their cleanouts, cut slopes and cut pads). The map shall include a statement that the locations and limitations of the features are accurate representations of said features as they exist on the ground, were placed on this map by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.	

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
Impact GEO-2: Seismically induced liquefaction could damage site structures such as the restroom and proposed Bay Trail, exposing site users to risks.	S	Mitigation Measure GEO-2: See Mitigation Measure GEO-1.	LTS
Impact GEO-3: Landslides could damage site structures such as the Bay Trail segment in Area 3, exposing site users to risks.	S	Mitigation Measure GEO-3: See Mitigation Measure GEO-1.	LTS
Impact GEO-4: Earthwork, ground disturbance and soil cut and fill could result in soil erosion and siltation to the Bay, wetlands, and other sensitive plant and wildlife habitat. Increased park visitors, accompanied by dogs could lead to erosion of the enhanced sandy dune complex unless adequately protected.	S	Mitigation Measure GEO-4a: EBRPD shall complete an Erosion Control and Revegetation Plan that will include winterization, dust control, wind and water erosion control and stormwater runoff and pollution control measures conforming to the Association of Bay Area Government (ABAG) Manual of Standards for Erosion and Sediment Control Measures and the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice Handbook Portal: Construction. The Erosion Control Plan shall describe the "Best Management Practices" (BMPs) to be used during and following construction to control pollution resulting from both storm and construction water runoff. The Plan shall include locations of vehicle and equipment staging, portable restrooms, mobilization areas, and planned access/haul routes. Recommended soil stabilization techniques include: placement of straw wattles, silt fences, berms, and gravel construction entrance areas or other control to prevent tracking sediment onto city streets and into storm drains, and use of properly engineered rock revetment structures for shoreline erosion protection. Mitigation Measure GEO-4b: EBRPD shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the Proposed Project to prevent erosion and siltation during the construction phase of the project. The SWPPP and Notice of Intent must be submitted to the State Water Resources Control Board to receive a Construction General Permit. The updated plan shall address National Pollutant Discharge Elimination System (NPDES) requirements and be designed to protect water quality both during	LTS

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		and after construction. The Project SWPPP shall include a description of the "Best Management Practices" (BMPs) used to prevent the discharge of other construction-related NPDES pollutants beside sediment (i.e. paint, concrete, etc) to downstream waters and adjacent Bay waters. Performance standards for effectiveness of the Erosion Control Plan and SWPPP are built into the SWRCB requirements through the Risk Level calculation. This calculation takes in to account the site topography and sediment risk of the receiving water (in this case the San Francisco Bay) and implements requirements for monitoring based upon the risk of erosion and sedimentation of the particular project and would ensure effectiveness of this mitigation. After construction is completed, all drainage facilities shall be inspected for accumulated sediment from the Project, and these drainage structures shall be cleared of debris and sediment (see also Mitigation Measure HYDRO-1b). Performance standards to be included in the SWPPP, and verified during and following construction in anticipated in regulatory permit conditions include the following minimum standards: 1. Not result in an increase in Bay Water Turbidity above background levels by more than 10%. 2. Not have pH levels in stormwater runoff from disturbed or stabilized areas of less than 6.5 or more than 8.5. 3. Not have salinity in stormwater runoff from disturbed or stabilized areas of an amount large enough to have an appreciable impact on the salinity of San Francisco Bay. <u>Mitigation Measure GEO-4c:</u> Fencing shall be established around the enhanced dune area to prevent access and resultant erosion by park users and pets. This would prevent erosion of the restored sandy dune complex due to use by park visitors.	

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
Impact GEO-5: Ground disturbance and construction of public access and recreation improvements on un-stable geologic units could result in damage to the improvements, and Park visitors within, on, or near such structures and improvements at the time of failure risk injury.	S	Mitigation Measure GEO-5: See Mitigation Measure GEO-1.	LTS
GREENHOUSE GAS EMISSIONS			
The project would not result in significant impacts related to greenhouse gas emissions; therefore, no mitigation measures are required.			
HAZARDS AND HAZARDOUS MATERIALS			
Impact HAZ-1: The project area is located on a site that has been the subject of clean-up and remediation efforts to remove environmental contamination, some quantities of which may remain in the subsoil and could potentially be exposed during construction activities, including partial excavation of the existing concrete rubble revetment and replacement with engineered rock rip rap, and repair of the areas damaged by metal scavenging and ground settlement on the Plateau. This impact is addressed in the *Eastshore Park Project General Plan EIR*.	S	Mitigation Measure HAZ-1a: Minimization of Overburden Removal on Albany Neck. Surface and near surface soils previously impacted with contamination could be exposed if significant amounts of overburden is removed as part of the Albany Neck restoration and shoreline stabilization work. The construction shall minimize the amount of surface material removed as part of shoreline restoration to prevent exposing contaminated subsurface materials. Removal of debris and soils on the slopes of Albany Neck shall be limited to only that which is unstable and must be removed to maintain the integrity of the slope on either side of the existing trail, or for habitat enhancement. Mitigation Measure HAZ-1b: Cover and Revegetate Disturbed Areas. Areas disturbed during construction of the shoreline revetment or repair of the damaged areas on the Plateau, and not protected by rock, shall be backfilled with a minimum of 1 foot of clean soil and shall be revegetated. Mitigation Measure HAZ-1c: EBRPD shall notify and receive concurrence from RWQCB before any work is performed within the risk remediation areas described in the Eastshore Park General Plan Resource Inventory.	LTS

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		Mitigation Measure HAZ-1d: Require site screening and chemical testing with consideration of Regional Park Preliminary Remediation Goals prior to off-site disposal. Prior to off-site disposal of excavated site soils, site screening, field evaluation, and chemical testing where appropriate and in accordance with RWQCB guidelines and permit conditions shall be performed on representative samples of excavated material to determine suitability for re-use or disposal in appropriate landfill facilities.	
		Mitigation Measure HAZ-1e: Development of a Site Specific Health and Safety Plan by the Contractor. During construction activities that could involve disturbance of site soils in remediated areas, EBRPD shall require that the contractor develop and implement a site specific Health and Safety Plan that addresses the potential for the presence of contaminated soils in the subsurface. The Health and Safety plan shall include Best Management Practices (BMPs) (including, but not limited to use of proper personal protective equipment, training for recognition of contaminated soils, and proper procedures for limiting excavation of site sub-soils) to minimize exposure to contaminants by site workers. The contractor shall hold daily tailgate safety meetings to ensure all site workers are familiar with these procedures prior to working on the project site.	
HYDROLOGY AND WATER QUALITY			
Impact HYDRO-1: During construction the Proposed Project could potentially violate water quality standards or waste discharge requirements if sediment-laden runoff from disturbed work areas enters San Francisco Bay and increases turbidity or if fuel or other construction chemicals are accidentally spilled or leaked into the water.	S	Mitigation Measure HYDRO-1a: Detailed plans for temporary construction-related erosion control shall be incorporated in the Project plans. Construction plans shall specify all erosion and sediment control measures, including (where applicable): • Limiting access routes and stabilizing access points. • Stabilizing graded areas as soon as possible with seeding, mulching, erosion control materials, or other effective methods. • Delineating clearing limits, easements, setbacks, sensitive areas, vegetation, and drainage courses by marking them in the field.	LTS

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		• Stabilizing and preventing erosion from temporary conveyance channels and outlets. • If rainfall occurs, using sediment controls and filtration to remove sediment from water collected on-site during construction. <u>Mitigation Measure HYDRO-1b:</u> A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared by EBRPD. Specific measures, as cited below, shall be adapted from the most current edition of the Stormwater Best Management Practice Handbook for Construction, published by the California Stormwater Quality Association (CASQA). The SWPPP shall include Best Management Practices (BMPs) to prevent or minimize stormwater pollution during construction activities, and post construction. The project Erosion Control and Revegetation Plan (to minimize erosion for the post-construction phase of the project, and ensure re-vegetation of disturbed soil areas), and a Spill Control and Countermeasures Plan (to ensure oils and fluids used for equipment maintenance are prevented from entering the environment), shall be included in the SWPPP, and in the Construction Documents (see also Mitigation Measure GEO 4b). BMPs shall be prepared and implemented to control short-term construction-related water quality impacts. BMPs shall include at a minimum the following measures: • Use temporary measures, such as flow diversion, temporary ditches, and silt fencing or straw wattles. • Surface disturbance of soil and vegetation shall be minimized; existing access and maintenance roads shall be used wherever feasible. • Any stockpiled soil shall be placed, sloped, and covered in the event of rain so that it would not be subject to accelerated erosion. • Accidental discharge of all project-related materials and fluids into San Francisco Bay shall be avoided by using straw rolls or silt fences, constructing berms or barriers around construction materials, or installing geofabric in disturbed areas with long, steep slopes. All these	

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		materials shall be stockpiled at the project job site to quickly and effectively respond to an accidental release or spill. • After ground-disturbing activities are complete for each area, all graded or disturbed areas shall be covered with protective material such as mulch, and re-seeded with native plant species. The Erosion Control and Revegetation Plan shall include details regarding site preparation, topsoiling, seeding, plant palette (including sizes, quantities, and varieties of native plants) fertilizer, mulching, and watering during plant establishment. • An off-shore debris boom capable of controlling any siltation created during excavation of the existing concrete rubble shoreline and placement of the rock rip rap protection shall be deployed. The debris boom shall be designed to protect the offshore eelgrass beds, and be adaptable to attachment of oil absorbent materials for deployment in case of an oil spill or leak (see also Mitigation Measures BIO-2a and BIO-2b).	
LAND USE AND PLANNING			
The project would not result in significant project or cumulative impacts related to land use and planning; therefore, no mitigation measures are required.			
NOISE			
The project would not result in significant project or cumulative impacts related to noise; therefore, no mitigation measures are required.			
PUBLIC SERVICES			
The project would not result in significant project or cumulative impacts related to public services; therefore, no mitigation measures are required.			
RECREATION			
The project would not result in significant project or cumulative impacts related to recreation; therefore, no mitigation measures are required.			
TRANSPORTATION AND TRAFFIC			
The project would not result in significant project or cumulative impacts related to transportation and traffic; therefore, no mitigation measures are required.			
UTILITIES AND SERVICE SYSTEMS			
The project would not result in significant project or cumulative impacts related to utilities and service systems; therefore, no mitigation measures are required.			

2.4 Unavoidable Significant Impacts

Section 15126.2(b) of the CEQA Guidelines requires that an EIR identify any significant impacts that cannot be avoided, even with the implementation of feasible mitigation measures. No Significant and Unavoidable Impacts were found.

2.5 Alternatives to the Project

This CEQA review analyzes the following alternatives to the Proposed Project:

No Project Alternative

Under the No Project Alternative, the site would remain in its existing condition. The Albany Neck (Area 1) and Albany Beach (Area 2) would continue to be accessible to the public, including hikers, dog walkers, birdwatchers, windsurfers, and kitesurfers, but some portions of the site would not provide ADA-compliant access. The existing trail along Albany Neck (Area 1) would provide a route to the Albany Bulb, and Albany Beach would be open to recreational use. The 2.8-acre western portion of Area 2 would not be acquired for public use, and would remain in its current use as part of the Golden Gate Fields parking area. Area 3 would remain in private ownership, and no Bay Trail would be developed along the shoreline. While informal use by the public, including hikers and bicyclists, might continue to occur along the Golden Gate Fields access road and parking lot in Area 3, there would be no formalized, approved access, public access could be terminated at any time, and there would there be no Bay Trail providing a separate through-route for pedestrians and bicycles on the Bay Trail from Richmond south to Emeryville and Oakland.

Conservation Alternative

The Conservation Alternative, as identified and described in the *Eastshore Park Project General Plan EIR*, would focus on protection and enhancement of the natural and biological resources within the project site. The Optional subtidal habitat enhancement elements of the Proposed Project would be constructed, and the concepts for these would be expanded upon in the Alternative. Within the Albany Bach project site, the 2.8-acre western portion of Area 2 would not be acquired for public use, and would remain in its current use as part of the Golden Gate Fields parking area. The *General Plan* guidelines would still apply to the Conservation Alternative, but the guidelines for the specific areas would change accordingly to reflect the increased efforts to enhance resources. With this alternative, the following elements would differ, compared to the proposed project:

- Inclusion of less intrusive, more passive recreation.
- Inclusion of more buffers and low fences to protect sensitive habitat.
- Increased efforts to protect the shoreline; fencing to preclude access; create and enhance wetlands; and create, enhance, and restore upland habitat.
- Fewer recreational activities.

Specific changes in facilities and programs from the *General Plan* applicable to the Albany Beach project site include addition of low wooden fences along trails, upland, dune and seasonal wetland habitat restoration/creation, shoreline protection, and intertidal and subtidal habitat enhancement. Under this alternative, there would not be a launching facility for non-motorized watercraft, picnic facilities, restroom or bicycle racks at Albany Beach.

Recreation Alternative

The Recreation Alternative, as identified and described in the *Eastshore Park Project General Plan EIR*, would construct a variety of new facilities to enhance recreational opportunities. There would be less emphasis placed on comprehensive Neck shoreline stabilization and habitat enhancement. The 2.8-acre western portion of Area 2 would not be acquired for public use, and would remain in its current use as part of the Golden Gate Fields parking area. The components of the Conservation Alternative in the *Eastshore Park Project General Plan EIR* applicable to the Albany Beach project site include vehicle access along the Albany Neck to the Albany Bulb, water access at the northwest end of Albany Beach, and improved fishing access.

Minimal Improvements Alternative

The Minimal Improvements Alternative would consist of a limited set of improvements at the project site, with a focus on the highest environmental priorities at the site such as stabilization along the most seriously eroding areas of the Albany Neck shoreline.

At the Albany Neck (Area 1), the Minimal Improvements Alternative would make localized, discontinuous repair of the eroding shoreline. The existing (lower) trail on the Neck would remain in its current condition, and there would be no enhanced intertidal or subtidal habitat, revegetation with native species, trail improvement for ADA access to Albany Beach, or interpretive signage.

At Albany Beach (Area 2), the existing parking and site access at the end of Buchanan Street would remain in its current condition. The Minimal Improvements Alternative would include pavement striping and signage to delineate the location of the Bay Trail on the pavement at the edge of the existing Golden Gate Fields parking lot. Only the area required for the Bay Trail alignment would be acquired through eminent domain, not the entire 2.8-acre area that would include space for a new parking lot under the Proposed Project. The Minimal Improvements Alternative also would include Beach access and removal of invasive plant species in the beach and dune area, but would not include project features such as removal of creosote-impregnated timbers, enhancement of existing dunes and creation of new dune area, 20-vehicle parking lot, bicycle parking, enhancement and expansion of existing wetlands, stormwater management bioswales, staging area for non-motorized watercraft, restroom, picnic tables, or interpretive signs.

At the Bay Trail spine (Area 3), the Minimal Improvements Alternative would acquire, through eminent domain, an easement along the shoreline on the existing street and parking area, and locate a trail on the existing pavement consisting of signage and striping of bicycle lanes only. There would be no facilities for pedestrians, and the trail would not be ADA compliant because the street grades would exceed recommended standards.

Enhanced Project Alternative

The Enhanced Project Alternative would, in addition to the features of the Proposed Project, include additional public access and recreational features in Area 2 (Albany Beach):

- A 60-vehicle parking lot (compared to the 20-vehicle lot of the Proposed Project)
- Bicycle parking for 80 bicycles (compared to 10 bicycles for the Proposed Project)
- Group picnic facilities to accommodate 80 users (compared to approximately three picnic tables of the Proposed Project)
- Designated storage and/or concession facilities for non-motorized watercraft users
- Two–stall restroom with water and shower facilities (compared to waterless two-stall restroom of the Proposed Project)
- Extend utilities including water and electricity, to restroom, staging, and group picnic area, including potential lighting

Bay Trail Through Golden Gate Fields Alternative

The Bay Trail Through Golden Gate Fields Alternative would be similar to the Proposed Project except for the alignment of the Bay Trail segment in Area 3, which would pass through the GGF site rather than along and near the shoreline.

Bay Trail East of I-80 Alternative

The Bay Trail East of I-80 Alternative would be similar to the Proposed Project except for the alignment of the Bay Trail segment in Areas 2 and 3, where the Trail would utilize the existing east-west Bay Trail spur north of Buchanan Street to connect with the Project Site. This alignment is the closest potential route to San Francisco Bay that avoids lands owned by GGF and Caltrans (except for existing undercrossings of I-80 on Buchanan and Gilman).

This alignment would begin at the existing Bay Trail segment located on the north side of Buchanan Street and utilize the existing asphalt path located on the north side of Buchanan, crossing under the I-80 freeway and under the Buchanan/Eastshore Frontage Road railroad overpass structure via an existing service road to the southwest side of Eastshore Frontage Road. The existing path currently terminates at an unsignalized mid-block crossing north of the Target shopping center driveway, and bicyclists and pedestrians can use a sidewalk along the Target property frontage. South of the shopping center, the existing bicycle lane terminates, and there are neither bicycle lanes nor continuous sidewalks from the shopping center intersection south to Gilman Street. At Gilman Street, trail users would utilize asphalt paths and crosswalks across the frontage roads and I-80 access ramps to get to the south side of Gilman and continue west or south on the existing Bay Trail. Eastshore Frontage Road south of Target contains approximately thirty feet of paved travel lanes and a 3- to 5-foot separation from I-80.

For the portion of this alignment within the City of Albany, potential future improvements to correct safety hazards and improve access for bicyclists and pedestrians are described in Project 13 of the Albany Active Transportation Plan.[3]

This alternative would require reconfiguring the travel lanes of Eastshore Frontage Road, and bicycle/pedestrian safety improvements at the crossings of Buchanan, Eastshore Frontage Road, and Gilman Streets, as well as I-80 access points at each street.

Environmentally Superior Alternative

The Conservation Alternative would be the Environmentally Superior Alternative.

[3] Albany Active Transportation Plan, July 2011, Chapter 6, Project Information Sheets

3 PROJECT DESCRIPTION

3.1 Introduction and Summary

This chapter describes the proposed Albany Beach Restoration and Public Access Project that is analyzed in this EIR.

The Albany Beach Restoration and Public Access Project at Eastshore State Park is proposed by East Bay Regional Park District (EBRPD), consisting of shoreline repair and reconstruction, (optional) habitat enhancement, beach renovation, recreational amenities, and construction of approximately 1.3 miles of the San Francisco Bay Trail (the Bay Trail) public access improvements consistent with the Eastshore State Park General Plan at Albany Beach. Albany Beach is located on the Albany shoreline in northwestern Alameda County (**Figure 3-1**), including lands in the city limits of Albany and Berkeley.

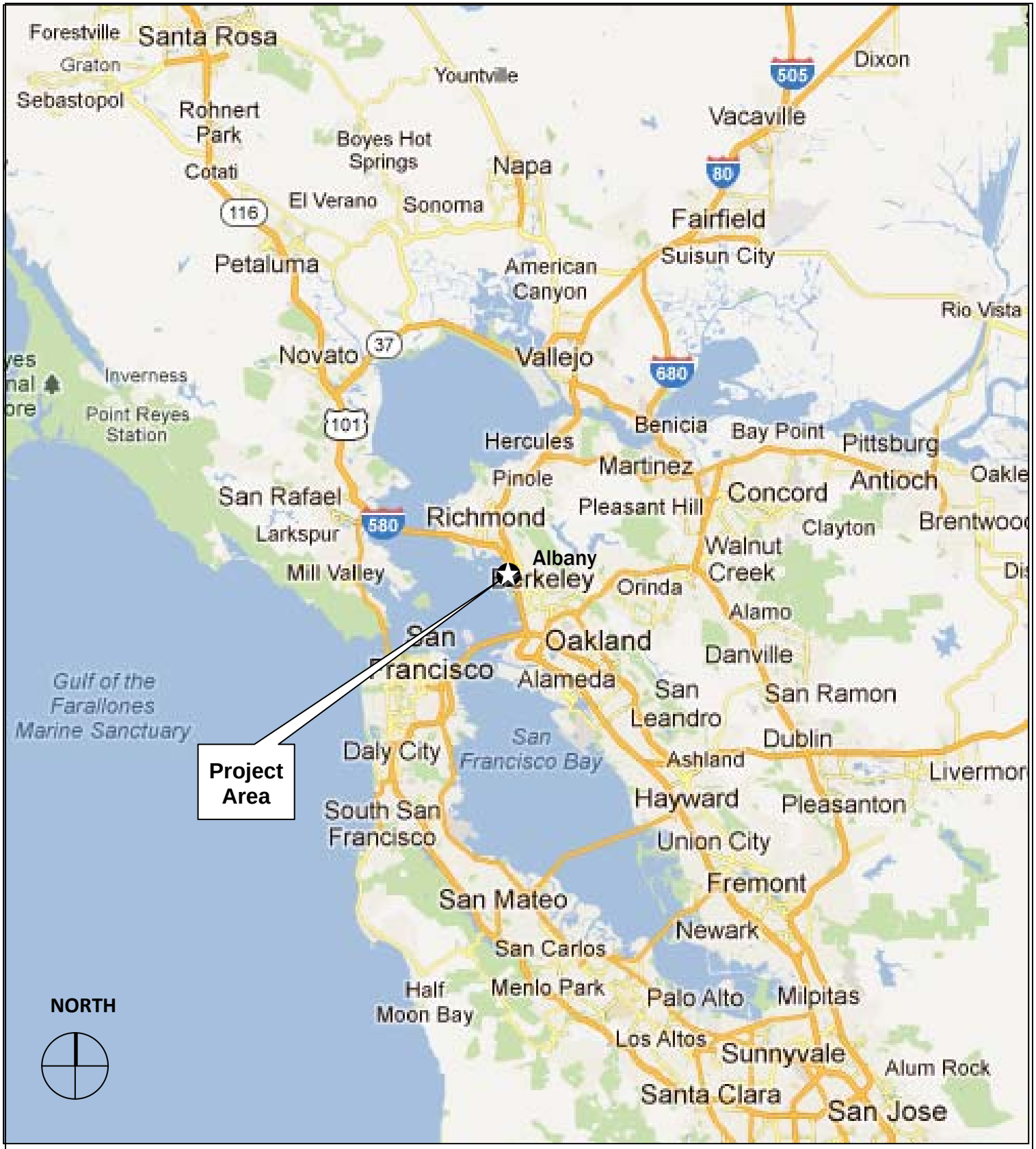
The Albany Beach Restoration and Public Access Project is one of the actions evaluated in the *Eastshore Park Project General Plan EIR*, which is a Program EIR for the Eastshore Park Project General Plan, the Master Plan for development of Eastshore Park. The *Eastshore Park Project General Plan EIR* evaluated the general environmental impacts of all the components encompassed in the master plan. A "tiered" approach is used for environmental review of subsequent development of specific components of the master plan, such as the Albany Beach Restoration and Public Access Project analyzed in this EIR, in which the environmental document for the subsequent project focuses on project-specific impacts that were not covered in the *Eastshore Park Project General Plan EIR*.

The Albany Beach Restoration and Public Access Project consists of three main components (**Figure 3-2**):

7) Shoreline repair and reconstruction, including potential habitat enhancement (optional), and accessibility improvements to 2,000 feet of existing trail (San Francisco Bay Trail Spur) along the Albany Neck shoreline (Area 1); and northern beach access;
8) Beach and dune enhancement, recreation improvements, restroom, parking and construction of 800 feet of new San Francisco Bay Trail at Albany Beach (Area 2); and
9) Construction of 4,200 feet of new San Francisco Bay Trail between Albany Beach and Gilman Street (Area 3).

Construction of this area would involve the temporary closure to the public of one of the existing access routes connecting the City of Albany parking area along Buchanan Street (east of the project area) to the Albany Bulb (west of the project area). Although this route would be closed to the public at times during construction, the construction contractor would be required to maintain a 14-foot-wide emergency response vehicle lane at all times during construction.

The Neck shoreline habitat enhancement improvements proposed for Area 1, including a 0.1-acre pebble beach, bird roosting islands, and oyster shelf reef, are optional project elements. They are analyzed in this document for CEQA purposes. They would be implemented by EBRPD only if subsequent planning work indicates that habitat enhancement is cost effective, has a net beneficial impact despite bay fill requirements, is acceptable to the regulatory agencies that must issue project permits, and is funded by grants or other non-EBRPD sources of money.



Healthy Parks Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 3-1

REGIONAL LOCATION

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Healthy Parks Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 3-2

AREAS OF ANALYSIS

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK

In addition to the shoreline revetment and trail work in Area 1, an approximately 2-acre area on the east end of the Plateau, which has been damaged by metal scavenging and uneven landfill ground settlement, would be repaired. The repair areas consist of five or six separate small sites, each less than ½ acre in size. This would be completed by beneficially re-using some of the finer demolition materials removed during the shoreline revetment work. The repair areas would be cleared and grubbed as needed, backfilled with 1,200 to 1,500 cubic yards of excavation materials to create low (2- to 3-foot maximum) mounds, covered by clean soil, and re-vegetated.

3.2 Location, Ownership, and Surrounding Land Uses

Eastshore State Park is jointly owned by the State of California Department of Parks and Recreation (CDPR) and East Bay Regional Park District (EBRPD). The California State Lands Commission has an interest in the beach area. In 2002, the State of California classified 2,262 acres of uplands and tidelands with frontage on San Francisco Bay as a State Seashore and named the unit Eastshore State Park (Park). The Park consists of approximately 2,002 acres of tidelands and 260 acres of upland areas along a nine-mile stretch of the East Bay shoreline, between the City of Oakland on the south and the City of Richmond on the north.

EBRPD manages and operates the Park through an agreement with CDPR. As lead agency under the California Environmental Quality Act (CEQA), CDPR certified a *Final Environmental Impact Report* and approved the *Eastshore State Park General Plan* in 2002 (General Plan). The General Plan establishes land uses and identifies potential improvements for the Park. The approved General Plan was the result of a 22-month planning process that included four stakeholder meetings followed by four regional workshops to incorporate public input. Stakeholders included agencies, landowners, businesses, user groups and environmental groups. At Albany Beach, the General Plan calls for improvements to restore (stabilize) the shoreline, prevent landfill erosion, improve public access, extend the Bay Trail, and provide and incorporate shoreline habitat enhancement. The proposed Albany Beach project is entirely consistent with the Eastshore State Park General Plan, the City of Albany General Plan, and the City of Berkeley Waterfront Master Plan.

The project site is bounded by the Albany Peninsula to the north, Golden Gate Fields (GGF) racetrack and Buchanan Street to the east, Gilman Street to the south, and San Francisco Bay and City of Albany lands to the west. The Albany Peninsula (Neck and Bulb) is a former landfill that has been covered with soil and colonized by ruderal vegetation. The project site includes the southern shoreline and southern (lower) trail (with connection to Albany Beach) on the Peninsula, a portion of the Buchanan Street parking lot, portions of the western Albany Plateau, turnaround and trailheads, part of San Francisco Bay, a portion of GGF's northwestern parking lot, a bedrock outcrop known as Fleming Point, and the western shoreline edge along Golden Gate Fields, from Fleming Point south to Gilman Street, in Berkeley.

The entire project area (Neck and Bulb, Beach, Golden Gate Fields strip) encompasses about 63 acres. The project area where improvements are proposed is approximately 20 acres and encompasses portions of multiple parcels owned by various public and private entities: the State of California, East Bay Regional Park District, the City of Albany, and Magna Entertainment Corporation (MEC), operators of the racetrack. A portion of the southern limits of the Bay Trail will be within the City of Berkeley's Gilman Street right-of-way. The Beach and the subtidal baylands in the project area are co-owned by the State of California and EBRPD, as is the Albany Neck. EBRPD owns the shoreline and intertidal land south of the Beach (including the base of Fleming Point Pier). The City of Albany owns the Bulb and partially owns the vehicle access road along the south Neck leading to the Bulb. A 2.8-acre portion of Area 2 located east of Albany Beach and proposed as parking in Area 2, and the Bay Trail alignment in Area 3, are associated with Golden Gate Fields, which is privately owned. Magna International Development (MID) agreed to purchase Golden Gate Fields from MEC in 2010; however, parcel records for Alameda County still list the property ownership as MEC Land Holding. The project would require purchase or condemnation of a 2.8-acre Fee Parcel (for the parking

facility in Area 2) and a Trail Easement (for the Bay Trail spine in Area 3) currently owned by MEC Land Holding.

Areas 1 and 2, and the northern portion of Area 3 (located west and north of the Golden Gate Fields racetrack), are within the City of Albany. The southern portion of Area 3 (located south of the racetrack) is within the City of Berkeley.

3.3 Site Access

Access to Albany Beach is provided via Buchanan Street in Albany and via informal use of Golden Gate Field's parking lot connecting the San Francisco Bay Trail between Gilman Street and Buchanan Street. The closest BART station is El Cerrito Plaza, approximately 2 miles northeast. AC Transit bus service is available on Buchanan Street, east of I-80, approximately one half mile east of the project site. Unimproved Buchanan Street right of way continues past the existing street terminus west (through the project site) to Albany Bulb, owned by the City of Albany. Albany Beach is also accessible from the Bay.

The southern portion of the site is accessible from Gilman Street in Berkeley and an existing segment of the San Francisco Bay Trail, which connects to the Golden Gate Fields access road.

3.4 Site History

The Albany shoreline was historically located east of where the shoreline and beach are located today, near I-80. Most land features in the project area were created in the last 100 years by placement of fill over bay mud or marshlands. Fleming Point was once an island separated from the East Bay shoreline by Buchanan Marsh and is the only shoreline feature in the project area that matches the historic shore alignment.

Industrial uses occupied Fleming Point in the early 1900s, prior to construction of Golden Gate Fields racetrack around 1939. The remains of a water taxi dock that once linked travelers between San Francisco and the Golden Gate Fields racetrack are visible within the project area just north of Fleming Point.

The Albany Peninsula was filled between the early 1960s and 1980s, forming a 90-degree angle in the shoreline opposite the entrance to San Francisco Bay, where tidal currents enter and exit. Albany Beach was formed by sand and sediments that accreted by altered tidal currents in this corner of the shoreline.

Albany Beach, the Neck and the Bulb are publicly owned lands used daily by the public for hiking, dog walking, water access and other activities. Golden Gate Fields operates live and televised horse racing events, and the area immediately to the east of the shoreline along Golden Gate Fields is used for an access road and parking.

3.5 Existing Conditions

Project Areas

The project site consists of three areas: 1) the southern portion of Albany Neck, 2) Albany Beach, and 3) the proposed Bay Trail along and above the shoreline south of Albany Beach. All three areas border San Francisco Bay and are generally flat and near sea level, with the exception of the bluffs south of Albany Beach at Fleming Point, in Area 3. In addition to the three main project areas listed above, an additional optional part of the project would also involve repairing areas at the west side of Albany Plateau where landfill debris such as concrete and sharp metal are exposed. This repair would involve placement of select small concrete

debris and soil associated with the Albany Neck restoration to fill voids, backfilling these areas with suitable soil to bring them to or just above adjacent grade, and subsequently seeding with native grasses. The majority of the concrete debris excavated during construction of the new rock shoreline revetment and habitat enhancement would be hauled off-site to an approved landfill for recycling.

With the exception of Fleming Point, which was once an island separated from the East Bay shoreline by Buchanan Marsh, the project site was created by placement of fill over bay mud or marshlands. As discussed above, Albany Beach was formed after the Albany Peninsula was filled, which created altered tidal currents and new sand deposition patterns.

Photographs of the project site are presented in **Figures 3-3 to 3-6** in this chapter, and in Section 4.1, Aesthetics. **Table 3-1** provides a summary of acreages of improvements and features for existing conditions and for the proposed project.

TABLE 3-1 ACREAGE OF EXISTING CONDITIONS AND PROPOSED PROJECT

Area 1: Albany Neck

Item	Existing Conditions	Proposed Project
Rock revetment	1.3 acres	1.3 acres (1,800 LF)
Trail	1.1 acre	0.8 acre (1,800 LF)
Upland Habitat *	0.7 acre	1.0 acre
Intertidal/Subtidal		
Rock Groin	0	(5,800 SF)
Bird Roosting Island	0	(2,500 SF)
Pebble beach	0	(3,250 SF)
Oyster Shell Reef	0	(6,120 SF)
Intertidal/Subtidal Subtotal	*0*	*0.4 acres*
Area 1 Total	**3.1 acres**	**3.5 acres**

Area 2: Albany Beach

Item	Existing Conditions	Proposed Project
Trail	0	0.2 acre (700 LF)
Paved Parking Area	2.8 acres	0.6 acre
Planted Habitat Enhancement	<0.1 acre	1.1 acre
Sand Dunes	0.8 acre	1.3 acre
Tree Canopy	0.5 acre	0.4 acre
Sand Beach	1.0 acre	1.0 acre
Wetland swale	200 lf	1600 lf
Seasonal Wetland	<0.1 acre	0.3 acre
Public facilities (staging area, picnic area, bicycle parking, restroom)	<0.1	0.5 acre
Area 2 Total	**5.4 acres**	**5.4 acres**

Area 3: Bay Trail

Item	Existing Conditions	Proposed Project
Trail	0	1.4 acres (4,200 LF)
Unpaved landscape area	0.3 acre	0
Pavement/Parkway	1.1 acre	0
Area 3 Total	**1.4 acres**	**1.4 acres**

* Between Trail and Top of Shoreline Revetment

Albany Neck (Area 1)

The Albany Neck consists of fill, primarily concrete rubble and miscellaneous construction debris. Construction debris is visible among the vegetation that has grown since the fill was placed, especially along the shoreline at water level. Terrestrial vegetation and associated wildlife habitats at the Neck are dominated by ruderal vegetation and ornamental trees and shrubs. Ruderal refers to vegetation that occurs on disturbed land and is generally dominated by non-native weedy plant species and wildlife adapted to disturbed habitat.

For the purpose of discussion in this CEQA document, the Albany Neck area of the project site includes the nearshore subtidal area of bayland south of the Neck and west of Albany Beach, as well as the middle of the Neck, where temporary construction access road improvement may be made, as well as the east end of the Plateau, where areas damaged by metals scavenging and uneven ground settlement would be repaired. The proposed repair areas are west of the existing burrowing owl preserve. An approximately ½-acre Contractor staging area would also occur to the west of the burrowing owl preserve.

Albany Beach (Area 2)

Albany Beach lies in a right-angled pocket created between the Albany Neck and the Golden Gate Fields parking lots (**Figure 3-2**). The narrow sandy beach, littered with woody debris, is backed by a small dune field and areas of seasonal ponding. Steep slopes on the ends of the beach are defined by fill armored by concrete, construction debris and dumped rock materials. Albany Beach is one of the few examples of a sandy beach–dune complex in the Central Bay. It is a recently formed beach that has established over the past 60 years due to the orientation of the landfill on the south Albany Neck that has captured and accumulated wave-driven drifts of bay sand. The present configuration of Albany Beach and the surrounding area has been stable since about 1969. The eastern end of the beach area is a low-lying paved parking lot that provides seldom-used over-flow parking for racetrack events and occasional staging for tractor trailers associated with racetrack operations. Portions of this area flood and pond water during very high tides and large storm events. On non-race days, beach visitors enter via Gilman Street and the Golden Gate Fields access road, and use this parking lot on an informal basis.

Bay Trail (Area 3)

The Bay Trail area of the proposed project passes near the shoreline from Albany Beach on the north to Gilman Street on the south. The proposed southern portion of the Bay Trail alignment would be located along the existing paved Golden Gate Fields access road that extends north from the west end of Gilman Street, and the unpaved "jockey lot", a shoreline parking lot. North of the "jockey lot", the Bay Trail would be constructed along a steep slope to the west of the Golden Gate Fields parking lot. Between the bluff area and Albany Beach further to the north, the Bay Trail alignment follows the west edge of the Golden Gate Fields access road/parking lot as it slopes downward to Albany Beach. The portions of the Bay Trail along the Golden Gate Fields access road and the "jockey lot", and the portion north of the bluff, are relatively flat and level, near the water level, and have little vegetation. The bluff area between the two relatively flat sections is steeply sloping and vegetated, primarily by ruderal vegetation and ornamental trees and shrubs, although a remnant stand of coastal scrub vegetation also occurs here, and would be impacted by the proposed Bay Trail.

Much of this portion of the project site is underlain by dense sandstone bedrock. The area underwent extensive grading and disturbance when the Golden Gate Fields racetrack was constructed. An undetermined amount of fill was placed on top of existing bedrock, and significant amounts of large sandstone boulders were placed at the foot of the slope of the bluff, and in San Francisco Bay.

Construction of the Bay Trail across the 1,200 feet of Fleming Point bluff slopes would require cutting a 15- to 17-foot-wide bench in the bedrock, with approximately 80 feet of retaining walls on both the east and west sides where the bedrock and soil areas are softer and less stable.

Healthy Parks
Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 3-3

AREA 1 PHOTOS

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Healthy Parks
Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 3-4

AREA 2 PHOTOS

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Healthy Parks
Healthy People

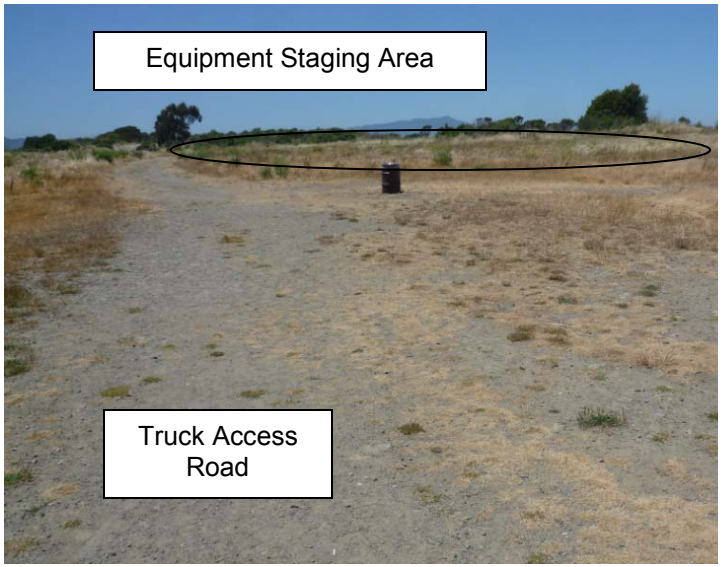
East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 3-5

AREA 3 PHOTOS

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK



Healthy Parks Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 3-6

CONSTRUCTION STAGING AREA PHOTOS

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Existing Site Features

Vegetation and Habitat Types

Terrestrial vegetation and associated wildlife habitats in the project area are dominated by ruderal vegetation and ornamental trees and shrubs. Habitats that are not defined on the basis of dominant plant species, such as sandy beaches or rocky shoreline, also are present within the overall project area. Surveys did not identify any special-status plant species on the project site.

Fish and Wildlife

Inshore waters and mudflats adjacent to and in the project area are used by a number of game fish species and smaller schooling fish. Numerous other fish species are potentially present in the near shore waters of the project area, particularly where eelgrass beds are present. Many invertebrate species are harbored among eelgrass beds. Several special-status fish species including salmon and steelhead could occur in the waters adjacent to the project area on occasion. While juveniles of these species may find suitable habitat in eelgrass beds, generally these species would be expected in the deeper water channels of the bay. The green sturgeon (*Acipenser medirostris*) is another special-status fish species that could occasionally occur in the project area, but as with salmon and steelhead, this anadromous species generally is found in deeper water areas.

The concrete debris and riprap along the Neck in the northwest portion of the project site provide shelter and basking habitat for western fence lizard, a reptile that is common throughout the Bay Area. Common urban-adapted species such as California slender salamander, Sierran treefrog, and southern alligator lizard are expected to occur wherever suitable cover is present.

Forty species of birds were observed during a survey of the project site. However, more than 160 bird species have been recorded in Eastshore State Park, and with the exception of species that primarily occur in tidal marsh, most of these can be expected to occur on or adjacent to the project area on at least an occasional basis.

California ground squirrel and Botta's pocket gopher were the only mammal species detected during a survey of the project site; these species primarily occur in the northern portion of the project area on the Albany Neck, where the abundant construction debris and riprap provides numerous crevices, recesses, and nooks that provide cover from predators. Common urban-adapted mammals such as northern raccoon, rats, and opossum likely forage in the project area at night. The construction debris and riprap provide habitat for Norway rats, an introduced species. Feral cats also are known to occur at the Albany Neck. Harbor seals may occasionally venture into the shallow subtidal waters within the project area to forage on small fish. California sea lion and southern sea otter have been observed in the offshore waters of Eastshore State Park, but their occurrence within the project area is sporadic because both are more typically associated with deeper marine waters in central San Francisco Bay and the outer coast. No haul-out sites for these species are present in the project area or within the larger Eastshore State Park.

In intertidal and subtidal habitats, such as the riprapped and rocky shorelines and the muddy substrate at the bottom of the Bay, small marine invertebrate animals that live in or burrow through the sand and/or mud substrate are likely to be present, including predatory polychaete and nemertian worms, predatory gastropod mollusks (e.g., snails), suspension-feeding bivalve mollusks (e.g., clams), and suspension-feeding worms (e.g., lugworms). Numerous invertebrate species are harbored among the blades and inflorescences of eelgrass, including amphipods, isopods, and copepods, and the total number of individual invertebrates are relatively high in areas of eelgrass as compared to other areas.

The remains of pier pilings and other hard substrates (i.e., riprap and rocky shoreline) in the intertidal and subtidal zones of the project area provide habitat for sessile (i.e., attached) and motile marine invertebrates. Barnacles, oysters, mussels and anemones will commonly colonize such hard substrates in the Bay. The only

oyster species endemic to the west coast of North America, including San Francisco Bay, is the California or Olympia oyster (*Ostreola conchaphila*). This species grows on loose boulders and other hard substrates in the intertidal zone and is fairly common along the rocky shorelines in the project area.

San Francisco Bay is now host to hundreds of non-native marine invertebrate species, many of which are invasive and may occur in the project area.

Based on the habitat types present within the project area, 20 special-status animal species could potentially occur in the project vicinity. Several of these species have at least some potential to visit the project area on an occasional basis, but are not expected to regularly forage or nest there due to a lack of suitable habitat and/or existing disturbance levels associated with recreational use of the trails and beaches. Burrowing owl (*Athene cunicularia*) has moderate potential to winter among the concrete riprap along the Albany Neck. Although there are no records of burrowing owls nesting in the project site, this species has been observed wintering at the Albany Bulb (around piles of concrete), and in other locations in Eastshore State Park. A burrowing owl enclosure area was constructed on the Albany Plateau area near, but east of where fill placement is being considered to repair areas disturbed during metal scavenging and land settlement; however, no debris would be placed within the land area preserved for burrowing owl.

Creeks and Wetlands

No creeks or tidal wetlands occur in the project area, however the existing seasonal wetlands near Albany Beach are likely influenced by waves and 'tidal action' during specific extreme events. Codornices Creek, which enters the Bay on the north side of the Albany Plateau, is the nearest creek (0.3 mile) just north of Albany Beach. Schoolhouse Creek enters the Bay 1.3 miles south of Albany Beach.

Buchanan Street

Buchanan Street is a two-lane paved road providing direct vehicular access to Albany Beach and Albany Neck on the north side of the project site, from the interchange with Interstates 80 and 580. Buchanan Street terminates at a one-way loop turnaround that is adjacent to the Albany Beach area of the project site. Just east of the turnaround there is limited on-street 2-hour parking for users of the trail system at the Beach, Bulb, Neck and Plateau. The turnaround is located on land owned by the City of Albany and the parking spaces are located on privately owned land. Farther east of the turnaround, additional parallel parking spaces are located along Buchanan Street. West of the turnaround, an unpaved single lane road into the Albany Neck (not part of Buchanan Street) serves as a trail and provides access for authorized vehicles. This dirt roadway would be improved as a Bay Trail spur as part of the project.

Gilman Street/Golden Gate Fields Access Road

Gilman Street, a paved road with two westbound travel lanes and one eastbound travel lane in the segment near the San Francisco Bay shoreline, provides direct vehicular access to the south side of the project area. At this point, Gilman Street connects with the Golden Gate Fields access road, a paved north-south two-lane road that passes along the shoreline and connects with Golden Gate Fields and its parking lots. The Golden Gate Fields access road and parking lots form a continuous paved vehicular route along the Bay Trail (Area 3) of the project site. Sports fields are located just across Gilman Street to the south, and a segment of the Bay Trail runs southward from Gilman Street. As part of the project, the west edge of the Golden Gate Fields access road and shoulder area, north of Gilman Street, would be improved as Bay Trail.

Trails and Pedestrian Access

A spur of the Bay Trail extends west along the Albany Neck from the Buchanan Street turnaround, and terminates at a vista point that overlooks Albany Beach and San Francisco Bay. From this point, two unpaved trails provide access parallel to one another along the Neck for hikers, dog walkers and cyclists. These two trails also provide access for authorized vehicles such as law enforcement patrol cars. Currently, Albany

Beach can be accessed on foot via any number of unimproved footpaths from the Buchanan Street parking lot, the Golden Gate Fields parking lot, or the vista point on City property that overlooks the Bay.

Although no formal trail exists, the general Bay Trail area of the project area is accessible to pedestrians from Albany Beach to the north and Gilman Street to the south, and from the adjacent Golden Gate Fields access road and parking lot throughout its length. This route contains slopes as steep as 10% and therefore does not meet the standards of the Americans with Disabilities Act (ADA).

Bicycle Access

An off-street bicycle path (Buchanan Bicycle and Pedestrian Path) runs on the north side of Buchanan Street from Pierce Street west to Albany Point, near the northern boundary of the project site. A portion of the Bay Trail travels north from the Buchanan Bicycle and Pedestrian Path along I-580 and then west along Central Avenue in the City of Richmond. In the southern portion of the project site there are no formally designated bicycle routes, but the parking lot and access road of Golden Gate Fields are used informally by bicyclists traveling between Gilman Street at the southern end of the project site and Buchanan Street at the northern end. Bicycle and pedestrian improvements have been proposed along Buchanan Street East of 1-80 by the City of Albany. When completed, Buchanan Street will provide an important non-motorized access route from the City to Albany Beach.

Parking

Immediately to the north of the project site, limited public on-street parallel parking is permitted on the north side of Buchanan Street, providing approximately 60 unmarked spaces. At the western terminus of Buchanan Street and perpendicular to the chain link fence that separates Buchanan Street from Golden Gate Fields, 43 marked stalls are provided for users of the Albany Waterfront. These 43 spaces are located on Golden Gate Fields property and have been made available for public use by an informal agreement between Golden Gate Fields and the City of Albany.

Adjacent to the proposed Bay Trail area of the project are three large private parking lots that are part of Golden Gate Fields, and are used by patrons and employees of the racetrack. A portion of the northwestern parking lot is informally used by park visitors on non-race days. A 2.8-acre portion of the northwestern Golden Gate Fields parking lot adjacent to Albany Beach would be used for the parking facility in Area 2, and a swath of the Golden Gate Fields property along the shoreline, between Albany Beach and Gilman Street, would be used for the Bay Trail spine in Area 3.

Structures

Few structures and facilities are located within the project site. At the Buchanan Street parking lot and trailhead on City of Albany property, immediately north of the Albany Beach portion of the project site, visitors have access to one portable toilet, a bulletin board, one bench, several trash receptacles, and a steel sculpture titled "Herons". The vista point at the terminus of the Bay Trail spur (also immediately north of the Albany Beach portion of the project site) provides two benches, a bicycle rack, interpretive signage, and several trash receptacles. No picnic tables are located on the project site. Just east of the vista point is a public art installation constructed of stacked concrete slabs that serves as a subterranean wind shelter known as "The Cove".

A concrete stairway with metal railings connects the northern end of the "jockey lot" with the Golden Gate Fields parking lot and access road at the top of the slope. Boulders, sections of K-rail, or painted concrete barriers are located along most of the Golden Gate Fields access road, separating it from the slope of the bluff.

Water Supply and Wastewater Collection

The East Bay Municipal Utility District (EBMUD) supplies water to several locations in Eastshore State Park, but does not supply water to the project site. The nearest known publicly owned water main is under Buchanan Street, west of I-80, which terminates east of the project site. Connected to this water main is a 1- to 2-inch diameter PVC irrigation line (aboveground) that parallels the north side of Buchanan Street, and ends approximately 400 feet east of the turnaround at the end of Buchanan Street.

There are no sewer lines serving the project site. The nearest sewer line extends west under I-80 near the southern end of the Bay Trail area of the project, and terminates approximately 400 feet east of the project site.

Storm Drainage

No storm drains are located in or near the project site. Based on site reconnaissance and field observations it appears that storm water runoff is restricted to dispersed or overland flows generated locally on the project site. In the northern portion of the project site, most storm water runoff appears to accumulate and flow over impervious areas to low-lying zones in the northwest corner of the Golden Gate Fields parking lot. These areas are subject to shallow standing water after major storm events. The low-lying areas behind the dunes at Albany Beach drain into a simple network of shallow swales that convey storm water from the site into the dunes. A small wetland feature retains most flows, although large events may flow through the dunes and outlet on the beach. In the Bay Trail area of the project site, storm water flows over impervious surfaces directly into San Francisco Bay.

Energy and Telecommunications

The project site has no existing or planned electricity or natural gas service points. There is no wire-based telephone service to the project area. The nearest landline available services Golden Gate Fields. The nearest cellular telephone towers are located on the 500 block of Cleveland Avenue, approximately one half mile northeast of Albany Beach, in the City of Albany.

Current and Projected Site Use

All three areas of the project site are currently open to the public. The Albany Neck and Albany Beach (Areas 1 and 2) are open for recreational use. Albany Beach is used for a variety of beach-related recreational purposes. Dogs on leash are allowed subject to East Bay Regional Park District regulations. Unleashed dogs currently use the Beach and Neck in violation of these regulations. While there is no formally designated trail along the proposed Bay Trail area (Area 3), the western edge of the parking area is accessible to the public and patrons of Golden Gate Fields. In addition to racetrack patrons and employees, it is used informally by bicyclists and pedestrians, who can access the area from both the north, at Albany Beach, and the south, at Gilman Street. This route, however, contains slopes as steep as 9 or 10% and therefore does not meet the standards of the Americans with Disabilities Act (ADA).

The entire Albany Beach project site (encompassing Areas 1, 2, and 3) is open to the public, either formally or informally. Current users of the Albany Beach site include walkers and hikers, dog owners, bicyclists, kite surfers and windsurfers and scavengers/recyclers. Nearby, individuals make parts of the Bulb their home on a temporary or semi-permanent basis. Current use of the project site was surveyed over a five-week period, including weekdays and weekends, in June and July 2011.[4] The survey counted users at each of the three project areas at varying times throughout the day and evening. Estimated average daily use based on this survey is shown in **Table 3-2**.

[4] Alessandro Bruno, Environmental Review Intern, East Bay Regional Park District, *Summer 2011 East Bay Regional Parks Land Review Internship Report,* August 17, 2011.

TABLE 3-2 ESTIMATED CURRENT DAILY USERS AT PROJECT SITE

Type of User	Average Daily Users
Walker/Hiker (without dog)	170
Walker/Hiker (with dog)	262
Bicyclist	232
Kitesurfer or Windsurfer	10
Adult with Child or Children Under 5	19
Person with Wheelchair or Walker	4
Scavenger or Homeless Person	39
Other Non-motorized Watercraft User	0
TOTAL	**735**

NOTE: Individual components do not sum to total due to rounding.

The proposed project would enhance existing recreational resources at the site and close a major gap in the San Francisco Bay Trail to allow transit on foot and bicycle from Richmond on the north to Berkeley and Emeryville to the south. Thus, the project would attract both additional bicyclists and recreational users. Additional bicyclists following construction of the Bay Trail was estimated using US Census information on travel to work, and residential population estimates within 0.5 to 1.5 miles of a proposed bicycle route, at 376 bicyclists per day.[5] This would be a substantial increase over the existing average of 232 bicyclists shown in **Table 3-2**, above, consistent with expectations for a project that would close the last gap in the Bay Trail in a region with a substantial number of potential recreational and commuting bicyclists. More information on this is provided in Section 4.13, Transportation and Traffic.

The number of additional recreational users was estimated, using the likely number of vehicle trips generated by the amount of useable open space, at 144 vehicles on weekdays, 775 vehicles on Saturdays, and 260 vehicles on Sundays.[6] At an average vehicle occupancy of two, this corresponds to 288 users on weekdays, 1,550 users on Saturdays, and 520 users on Sundays, or 501 users on an average day. Assuming that the bicyclists, metal scavengers, and homeless identified in **Table 3-2**, above, do not travel to the site in motor vehicles, the current average estimated daily number of users who travel to the project site by vehicle is 464. Thus, the proposed project on average would generate an additional 37 daily users who travel by vehicle to the site per day. This is also consistent with expectations for a project that would enhance recreational amenities at a site that is currently heavily used. It would be expected that many visitors/site users would stay at the Project site only 1 to 2 hours, enough time for a hike, dog walk, or other recreational purpose.

Use is expected to be highest on weekends, and seasonal, with twice as many users expected during spring and summer than in late fall and winter. In addition, there currently is some group use of the Albany Beach area such as by school groups, hiking and bicycling groups, and scouting outings, and this group usage would be expected to increase with improved facilities. Such occasional use by groups would not be expected to be much larger than 30 to 40 people.

3.6 Project Need and Objectives

The south shoreline of Albany Neck is currently eroding and degraded by construction debris and concrete blocks, and there are widespread invasive plants, providing poor-quality wildlife habitat. Few visitor amenities

[5] Calculated using National Highway Cooperative Research Program. *Guidelines for Analysis of Investments in Bicycle Facilities.* Transportation Research Board 2006, Washington, DC.

[6] Calculated using Institute of Transportation Engineers (ITE), 2008. *Trip Generation Handbook, 8th Edition.*

are currently provided at Albany Beach. The beach is somewhat degraded by debris and its habitat also is impaired by invasive plants. The land is scenically attractive, and provides a sandy beach and open space close to urban areas. Construction of a segment of San Francisco Bay Trail through the project site would close one of the major gaps in the San Francisco Bay Trail in the East Bay and allow transit on foot and bicycle from Richmond on the north to Berkeley and Oakland to the south.

The Proposed Project has been conceived with following objectives in mind:

1. Implement improvements identified by the Eastshore State Park General Plan for the Albany Beach area, including shoreline reconstruction, habitat enhancement, and trail improvements along the Albany Neck; beach enhancement and improvements at Albany Beach; and a new segment of San Francisco Bay Trail between Albany Beach and Gilman Street, aligned so as to provide continuous scenic views of the San Francisco Bay and to avoid the physical and environmental site constraints associated with the alignments shown in the Eastshore State Park General Plan and ABAG Bay Trail Master Plan.
2. Implement the following guidelines identified in the Eastshore State Park General Plan for the Albany Beach area:

   A-2: Restore the dune vegetation by removing noxious weeds (e.g., iceplant and Kikuyu grass) and planting locally native species that are adapted to this habitat, and explore the feasibility of re-introducing rare or endangered species that are native to the Bay Area, such as California seablite, San Francisco spineflower, and robust spineflower, to the dune area.

   A-5: Enhance beach/Bay access for non-motorized water craft by creating a vehicle drop-off and parking at the south end of the beach. Locate restroom facilities near the beach water access.

   Consider placement of fill (sand, gravel, cobbles or soil) over the rubble in some select locations to improve habitat, planting, access, safety, etc.;

   In some locations, align trail and access routes against the hill slope to create more potential space for shoreline grading;

   CIRC-6: Provide a convenient and attractive system of multi-use trails throughout the park that links all subareas of the park project into an integrated whole.

   CIRC-7: To the extent feasible, the trail system will be designed and constructed to provide universal access.

   CIRC-8: Recognize the Bay Trail as the park project's primary nonvehicular transportation corridor and an important means of unifying public use areas within the non-contiguous portions of the park project.
3. Improve and expand the quality and function of existing visitor facilities.
4. Comply with the California Regional Water Quality Control Board's Order No. 98-072 to maintain the stability of the Albany Landfill at south Albany Neck, while minimizing excavation of landfill materials.
5. Provide habitat enhancement and public access while providing a multi-purpose, net-beneficial project.
6. Provide connections to other local trails and circulation systems.
7. Develop improvements that can be permitted and completed within 5 years.
8. Phase project implementation with the highest priority placed on stabilizing the eroding landfill along the south Albany Neck.
9. Design improvements for low maintenance with a minimum 25 year design life, consistent with BCDC projections for sea-level rise.
10. Provide facilities that can accommodate multiple recreation uses, not a single purpose.

3.7 Proposed Project

Introduction and Background

The project site is within Eastshore State Park. The Eastshore State Park General Plan, which describes a long-range master plan for Eastshore State Park, including the project site was completed in 2002. In 2010, the East Bay Regional Park District contracted with a team of consultants lead by LSA Associates, Inc. to prepare more detailed studies evaluating restoration and public access options identified in the Eastshore State Park General Plan for improvements at Albany Beach. In addition to public outreach, the following reports were prepared and are incorporated herein by reference:

- Existing and Future Conditions Report, January 2011, a comprehensive inventory of site resources
- Opportunities and Constraints Report, January 2011, providing the basis for project planning and analysis.
- Concept Alternatives Report, March 2011, that outlined a series of options for restoration and public access.
- Implementation Approach, June 2011, which describes the proposed project that has been identified by EBRPD, including a summary of project components, and permitting and environmental review requirements.

These planning documents, in addition to public input from the EBRPD's Board Executive Committee in September 2010, January 2011 and April 2011, and workshops held in December 2010 and February 2011, formed the basis for the Preferred Project Plan for Restoration and Public Access for Albany Beach (applicable to Areas 1 and 2) that is described herein and is the subject of this environmental analysis.

Development of concepts for the Bay Trail along Golden Gate Fields (Area 3) were separately prepared by Questa Engineering, in consultation with EBRPD, over the period from 2006 through 2010.

Project Summary

The Proposed Project encompasses both the improvements at Albany Beach and the Bay Trail discussed above, and consists of environmental restoration and public access improvements to three areas: 1) Area 1: Albany Neck shoreline reconstruction and trail restoration (San Francisco Bay Trail Spur, optional habitat enhancement, and Albany Plateau erosion repairs; 2): Area 2: Albany Beach enhancement and recreation improvements, and 3) Area 3: construction of a segment of the Bay Trail between Buchannan and Gilman Streets (**Figure 3-2**). Project components include:

- **Shoreline reconstruction**: removal of debris including concrete and metal rubble, recontouring shoreline slopes to create intertidal and subtidal habitat, placement of stabilized rock toe and slope protection, shoreline rock, soil and geotextile fabric placement, and planting native grasses and shrubs on upper slopes. The goal is to minimize San Francisco Bay fill to only that which is required to maintain public and emergency vehicle access along the south Neck, and for beneficial habitat enhancement and needed shoreline stabilization by removing debris and reconfiguring and armoring the shoreline. The crest or upper elevation of the shoreline rock revetment would be at an elevation of +11 or +12 feet (NAD88) with a 1.5:1 slope. For reference purposes, the existing trail is mainly at an elevation of +14 to +15 feet. Approximately 12,000 to 13,000 tons of armoring rock would be imported to stabilize the eroding shoreline, and about 10,000 to 12,000 cubic yards of concrete rubble would be removed to an appropriate facility for recycling and disposal.

- **Intertidal and subtidal habitat enhancement (optional)**: with a focus on creating habitat for shorebird foraging and roosting, native oysters, and intertidal algal communities. The optional intertidal and subtidal habitat enhancement elements would add an additional 2,500 to 3,000 cubic yards of rock, including 250 – 300 tons of pebble and sand, for a new 0.1-acre pocket beach, and up to 300 cubic yards of oyster shell. Optional enhancement components include a pocket pebble beach, headlands finger and offshore avian roosting rocks, rock crescent and oyster reefs, as well as porous tide pools.

- **Accessibility improvements**: removal of debris, including broken concrete, asphalt, and metal rubble along the existing trail, grading of trail to provide positive drainage, placement of permeable trail surface to meet accessibility guidelines along Albany Neck; and earthwork to grade an ADA compliant access to the sandy beach. Removable sand mats would provide ADA access further westward onto the soft beach sands.

- **Vegetation management**: removal of non-native invasive plant species adjacent to trail, planting new native grasses and shrubs, and installation of post and cable fence or barrier to limit access to restored planting areas and steep shoreline slopes.

- **Beach and dune enhancement**: earthwork and demolition to remove treated wood, inorganic debris and invasive plants at beach area, demolition of a 2.8-acre paved parking area, sand placement to help support a broad low-profile beach, and support existing and expanded dune features and adapt to anticipated conditions under sea level rise. Approximately 2,000 cubic yards of carefully selected clean sand would be placed on the beach above the line of highest tide, and an additional 3,000 cubic yards placed to enhance and expand the dunes within the existing parking lot. The dunes would be stabilized using native dune vegetation.

- **Seasonal wetlands enhancement**: earthwork to expand existing seasonally inundated wetlands and planting with native vegetation, and removal of invasive plants and inorganic debris from wetlands. The existing seasonal wetland would be protected during construction.

- **Stormwater management**: earthwork to create bioswales and ponding areas to manage and treat on-site runoff from impervious surfaces. A major portion of this would be routed through the enhanced seasonal wetlands.

- **Parking and Water Trail access:** facilities for non-motorized watercraft, 20-stall parking lot to provide ADA access, and non-motorized watercraft access and staging.

- **Restroom and site furnishings:** dual vault-type restroom, bicycle racks, picnic benches, park signage, and interpretive exhibits.

- **Trails**: Reconstruction of existing trail at Albany Peninsula as ADA accessible trail (San Francisco Bay Trail Spur); and new segment of San Francisco Bay Trail from Buchanan Street to Gilman Street.

Project Areas

The three Proposed Project areas are described in more detail below, and shown in plan and cross-section in **Figures 3-7A, 3-7B, 3-8A, 3-8B, 3-9A, and 3-9B**.

Area 1: Albany Neck Shoreline and Trail Restoration

Project elements in this area (**Figures 3-7A and 3-7B**) include comprehensive shoreline stabilization and enhancement of the eroding shoreline "Neck" between Albany Bulb and Beach. This area would be stabilized to prevent erosion, protect water quality and enhance habitat values. This area is considered a first phase priority for implementation to prevent shoreline erosion, maintain vegetative cover, stabilize landfill slopes, provide ADA-compliant public access and to enhance existing habitat. The following work is included in this area:

1. Stabilization and enhancement of south Albany Neck shoreline (approximately 1,800 linear feet), by removal of concrete rubble and debris, and installation of a stabilized rock toe and rock shoreline revetment, with upper slope soil cover and native plant landscaping. The crest or top elevation of the rock revetment would be placed at elevation 12 feet (NAD88) in consideration of the need for protection of the landfill materials against future sea level rise.
2. Repair of existing trail surface (San Francisco Bay Trail Spur) from existing paved trail near Buchanan Street turnaround to Albany Bulb, for drainage and accessibility. Trail width would be modified from the existing 25- to 30-foot width to a minimum 14-foot width to avoid net Bay fill, maximize opportunities for additional shoreline habitat planting sites and to manage site stormwater and drainage. The trail would be surfaced with a semi-permeable material and outsloped to provide diffuse drainage.
3. Removal of non-native invasive species along Bay side of trail and shoreline, with limited removal immediately adjacent to trail on North side.
4. Placement of topsoil as needed, and replanting of slope below trail and above rock revetment crest with native vegetation.
5. Optional project component: provision of structures for intertidal and subtidal habitat enhancement, including rock groin clusters and oyster reefs, pebble beach, offshore rock bird roosting islands, and porous tide pools.
6. Provision of low fencing (post and cable) to limit access to restored planting areas and steep shoreline slopes.

Specific constrained (steep and narrow) sections of shoreline would be stabilized through a combination of grading and excavation to remove exposed and concrete rubble revetment and placement of engineered rock armoring. In less constrained areas, the shoreline would be reconfigured to create a more gently sloped condition where a combination of materials such as coarse cobble, rock and vegetation would be used above the revetment to protect the upper shoreline. Optional habitat enhancement would include construction of a rock groin to retain coarse sand and pebble beach, placement of coarse sand and pebble in new beach area to ensure non-disruption of natural shoreline sediment transport to Albany Beach, construction of offshore rocky bird roosting islands, and construction of subtidal rock and oyster shell reef, excavation and construction of porous tide pools, removal and disposal of invasive non-native plants and debris, and removal and reuse of informal artwork in these areas, where feasible.

Concrete debris would be removed and sorted on-site within the staging area. Debris would be transported to an appropriate facility for recycling and reuse; suitable material would be processed on site and may be utilized for trail repair, and a small amount (less than 1,200 cubic yards) buried on site to cover and repair exposed upland areas on portions of the west Albany Plateau. A small amount of the rubble may be used to construct the habitat enhancement features, where large concrete rubble would be ideally suited for reef and groin containment structures and would allow maintenance of some of the existing algae to jump-start desired intertidal habitat development.

<u>Slope and Habitat Protection</u>: A low post and cable fence would be installed between the trail and top of the shoreline slope repair to segregate public access areas from steep shoreline stabilization areas and habitat enhancement zones. The fence would be designed to not obstruct views.

Optional Intertidal and Subtidal Habitat Features: Intertidal rubble and soft subtidal environments extend the length of the Albany Neck in a relatively consistent linear form with varying size classes and types of rubble creating a gently ramping intertidal slope that transitions to mud bottom at a scarp that defines the edge of the original fill. Opportunities to incorporate shoreline enhancement features include elements such as a small headland point and pocket pebble beach, as well as water protected rocks near shore and unique reef and pool features that are not represented on the artificial shoreline but which are found in the few natural rocky shorelines along the bay.

Rock clusters, a pocket beach and headland, and crescent reefs to contain oyster shell substrate would be placed in the nearshore subtidal zone adjacent to the south shore of the Albany Neck in order to create substrate suitable for native oyster and rockweed recruitment, provide habitat and refugia for marine organisms, and to serve as bird roosting islands (See **Figure 3-7A**).

The pocket beach and headlands would be constructed by extending a raised rock and rubble headland bayward at a southwesterly angle from the new revetment slope. The headland would extend into the existing unvegetated subtidal shallows at the lower edge of the existing rubble shoreline. At the terminal end of the headlands, a series of rock islands would be placed to create bird roosting sites protected from the shoreline by a small separation of subtidal water. The islands would rise to an elevation of approximately +7.5 feet NAVD88 but would include lower shoulders at an elevation of approximately +3.5 feet NAVD88 to support algal communities providing desirable foraging habitat for many shore birds. The V-shaped cove between the new revetment and the headland would be filled with coarse sand and pebble to create a pocket beach suitable for beach organism colonization and shorebird foraging. Because of its limited accessibility, principally intertidal nature, and interrelationship with the rocky shore and bird islands, this beach would be expected to provide higher wildlife resource value per unit area than the larger Albany Beach.

Along the eastern end of the rubble shoreline are several segments of shore defined by concrete pours that were historically discharged from the fill of the Albany Neck and allowed to flow towards the bay. These have solidified into gradually sloping benches characterizing habitats similar to natural bedrock platforms. However, the sloping surface does not support the same pool-forming nature of a naturally eroded terrace and as such, habitat features characteristic of natural rocky shorelines that are missing from the Albany Neck are tide pools and surge channels. These features provide unique refugia for fish and invertebrates, provide settling points for invertebrate larvae requiring still water for settlement, and provide important foraging areas for fish foraging birds. On the Albany Neck shoreline, the monolithic concrete flows are separated by gaps supporting rubble slopes that similarly do not pool water. In order to create small partial tide pool environments, the rubble between concrete flows would be excavated, leaving a rubble plug at the lower end of the pools. Because of the porous nature of the debris fills, water would be isolated from the bay as the tide falls, but would continue to drain slowly with the falling tide. The deepest portions of the excavated pools would retain water permanently while pooling areas at higher elevations would drain down and then refill with the incoming tides. It is proposed that up to six of these pooling features could be developed along the shoreline.

At the western end of the Albany Neck in the wave-protected area generated by the Albany Bulb, opportunities for oyster habitat and algal reef development exists near the shoreline on the soft bottom of the Bay. The primary crests of the crescent reefs that retain oyster shell would be constructed to approximately +3.5 feet NAVD88. This elevation is set to promote intertidal algal habitat development, including rockweed. High points rising to approximately +7.5 feet NAVD88 would be set along the crescent to provide a visible indication of the reef presence at all tidal heights and to provide bird roosting opportunities at all tides. Shoreward of the crescent reefs the gap between the reef and existing rubble shoreline would be filled with oyster shell to an elevation of +2 feet NAVD88. Oyster shell promotes settlement of larvae of native oysters; however, the material is too light to remain stationary unless wave attenuation is incorporated into project

design. The containment reef serves this purpose while providing valuable habitat in its own right. Over time, the oyster shell would flatten to an interlocked armored surface and would accumulate silts that would further aid in interbedding the shell substrate increasing its resistance to movement from wave surge.

No areas of existing eelgrass would be impacted directly or indirectly by shoreline reconstruction or habitat enhancement activities.

Middle Neck Haul Road Improvements and Temporary Pedestrian Access: Construction of the shoreline stabilization and Bay Trail along the Neck may potentially necessitate improving the existing middle Neck pathway, so that a truck loop in the Neck shoreline and along the improved middle Neck pathway can be achieved. A separate, temporary (minimum) 5- to 8-foot pedestrian pathway would be constructed on the north side of the improved middle pathway, separated from the construction haul road by temporary 6-foot chain link fencing.

The decision to improve the middle Neck pathway would be left to the discretion of the Contractor at the time of bidding. Improvements would involve widening narrow areas to 12-foot minimum, as well as leveling off high points and filling in low points to make the pathway more evenly graded. This decision would be based on their determination as to whether it is more cost effective in terms of truck flow and construction efficiency to make the pathway improvements, or to utilize only the lower existing Neck pathway and accept delays in truck loading and unloading. This efficiency analysis and determination would be reflected in Contractor bid prices. If the middle Neck pathway is improved for use as a temporary haul road, speed on the improved pathway would be kept to 10 miles per hour and dust control activities, such as pathway watering, would be enforced. The middle Neck pathway would be closed during unloading and the time of improvements, but the overall work would be staged to allow for continued bicycle and pedestrian usage of either the lower or middle pathway. The 5-foot wide sections of the temporary pedestrian path may necessitate that bicyclists dismount and walk their bicycles. For CEQA purposes, the analysis contained in this document assumes that the middle Neck pathway would be improved to a 12-foot minimum dirt haul road width, and a temporary 5-foot minimum, fenced-off, dirt pedestrian pathway.

Repair Area at Albany Plateau: In addition to the shoreline revetment, optional habitat enhancement, and trail work in Area 1, an approximately 2-acre area on the east end of the Plateau, which has been damaged by metal scavenging and uneven ground settlement, would be repaired. This would be completed by beneficially re-using some of the finer demolition materials removed during the shoreline revetment work. The repair areas would be brought to grade or mounded 1 to 2 feet, covered by clean soil, and re-vegetated.

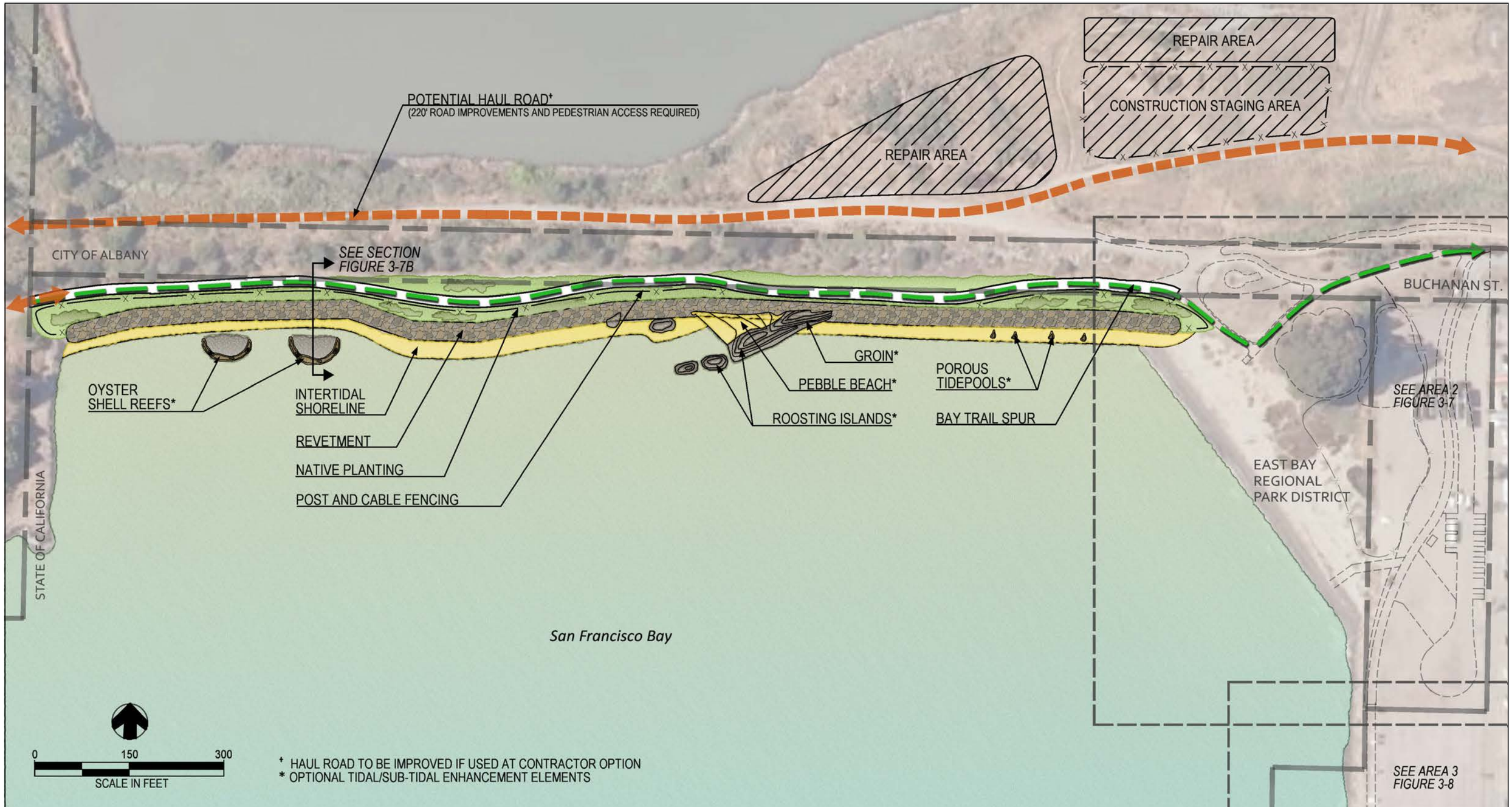


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FIGURE 3-7A

AREA 1SITE PLAN

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

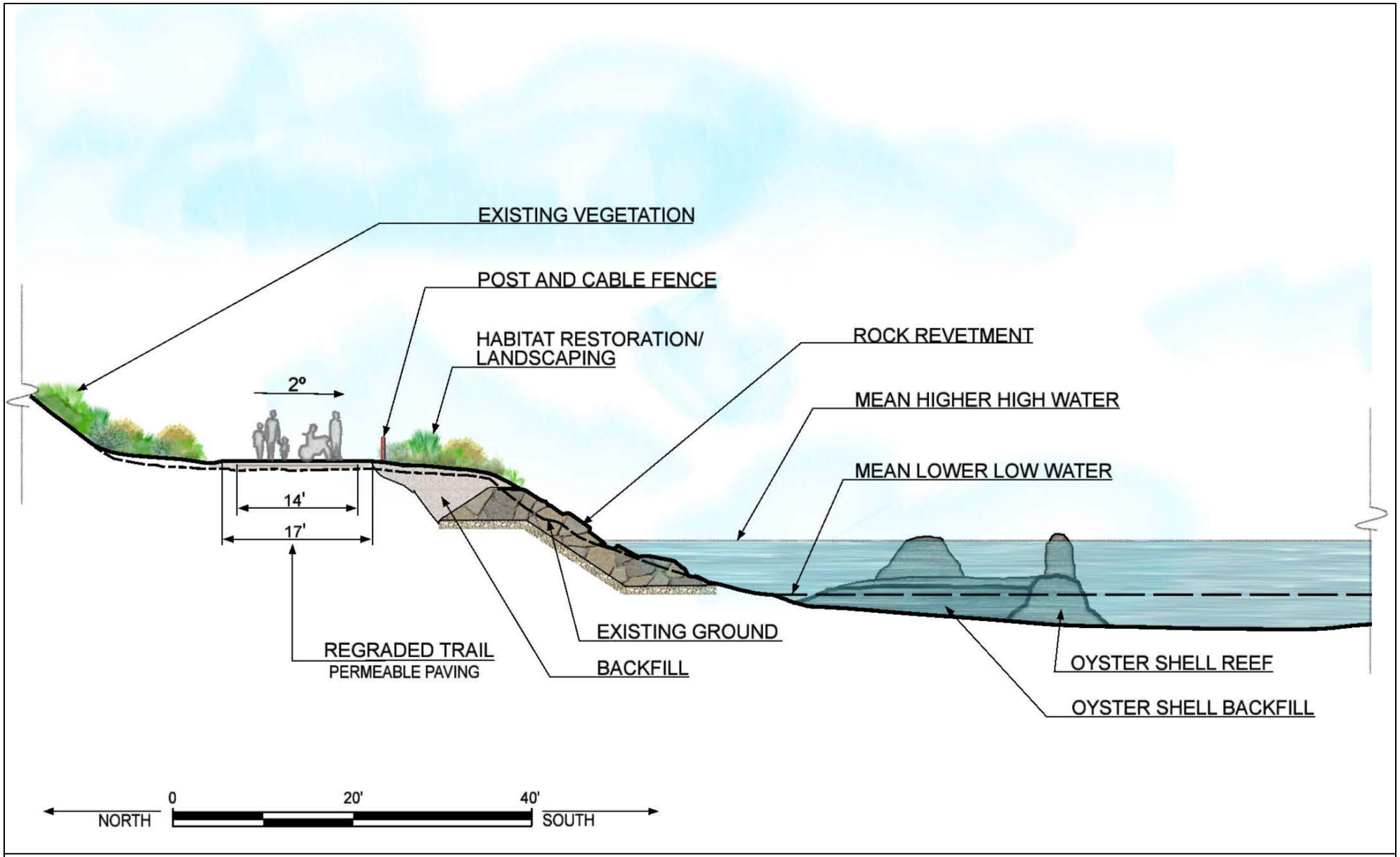

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FIGURE 3-7B

AREA 1 SECTION

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Area 2: Albany Beach Enhancement and Recreation Improvements

Project elements in Area 2 (**Figures 3-8A and 3-8B**) include beach debris cleanup and enhancement, construction of a parking lot, water access, picnic facilities, restroom, upper beach enhancement and dune enhancement and expansion, seasonal wetland enhancement, stormwater management facilities, landscaping with native plants and Bay Trail construction in the vicinity of Albany Beach. The new parking lot would include a non-motorized watercraft staging area as part of San Francisco Bay Water Trail access. The following work is included in this area:

1. Improvement of trail access to north end of Albany Beach, by grading an accessible ramp and level pad for future picnic facilities. Accessibility improvements such as movable sand mats may be provided to improve shoreline access.
2. Installation of beach access ramp for pedestrians and non-motorized watercraft access at the south end of Albany Beach.
3. Removal of creosote-treated wood and inorganic debris within dune area and placement of sand on the beach and dunes, and a portion of the existing parking lot, to help support a broad low-profile beach, support enhanced and expanded dune features, and adapt to anticipated sea level rise.
4. Construction of 20-stall parking lot, staging area, vehicular access road and separated San Francisco Bay Trail segment within existing paved footprint.
5. Installation of pre-engineered, self-contained two-stall vault-type restroom.
6. Installation of site furnishings, including picnic tables, trash receptacles, bicycle racks, park signage, interpretive exhibits, and landscaping near the new parking lot.
7. Construction of a segment of 14-foot-wide paved Bay Trail adjacent to Albany Beach.
8. Planting of dunes and seasonal wetlands with native species.
9. Provision of fencing to limit access to restored planting and wetland areas. The final design for the restored habitat protection fencing has not been developed yet, but it would be a maximum of 4 feet in height and would preclude human (and dog) access to the enhancement areas. In dune enhancement areas, the fencing would not substantially interfere with wind patterns that shape and form the dunes. The eastern edge of the dunes would include fencing that minimizes blown sand into the proposed Bay Trail.
10. Pruning and removal of hazardous non-native trees in picnic area.
11. Seasonal wetland expansion and enhancement

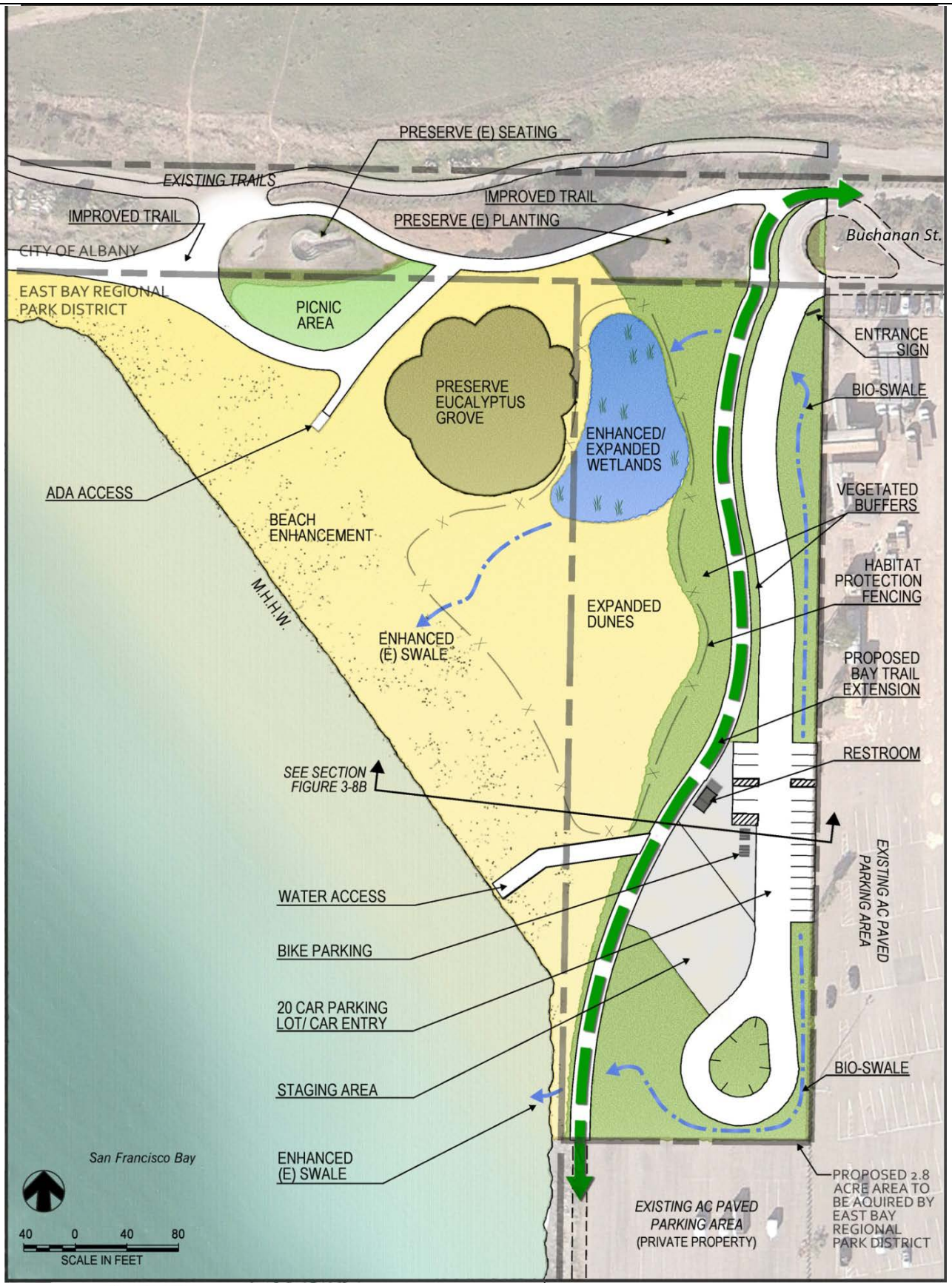

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FIGURE 3-8A
AREA 2 SITE
PROPOSED BEACH IMPROVEMENTS
ALBANY BEACH RESTORATION AND PUBLIC ACCESS
AT EASTSHORE STATE PARK

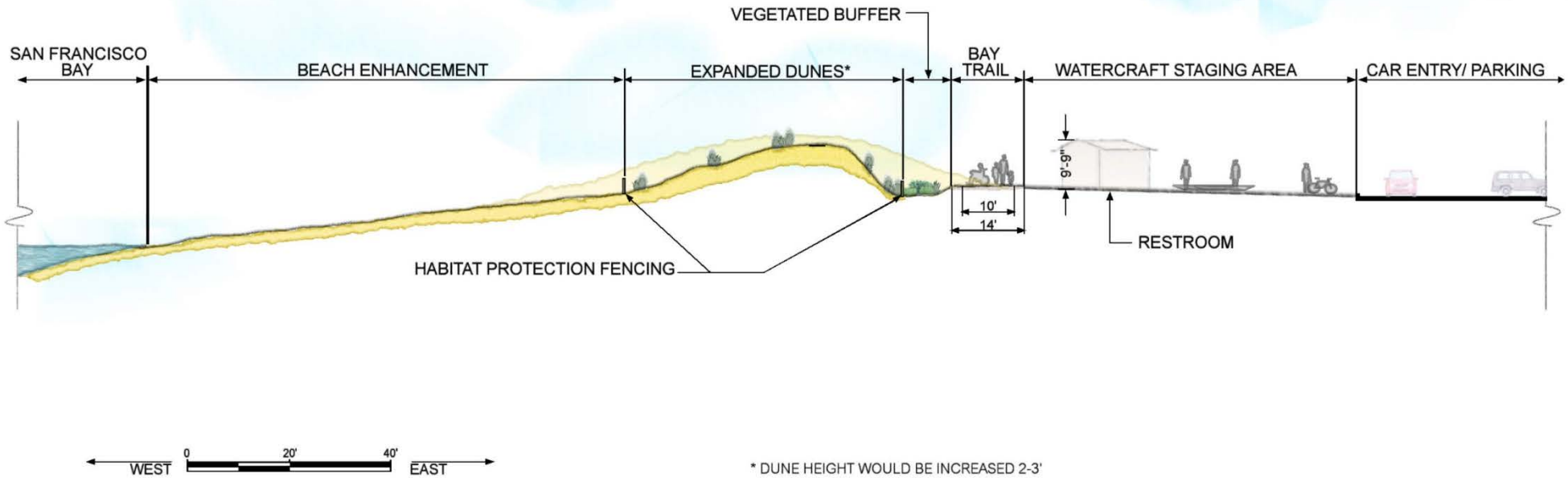

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FIGURE 3-8B

AREA 2 SECTION

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Removal of wood debris: The work in this area includes removal of inorganic and creosote-treated woody debris, which would be disposed of offsite at an appropriate landfill facility. Debris that supports the existing network of interdune seasonal wetlands may be left in place, if feasible. Clean dune sand would be imported, placed, graded, and planted with native species to foster dune establishment and restore disturbed areas.

Invasive/Non-native Plant Removal: Invasive non-native plant species would be removed and disposed. Non-native Myoporum shrubs located east of the eucalyptus grove would be removed. The eucalyptus grove will be preserved. Healthy trees will remain and dead or dying trees or limbs that present a hazard will be removed.

Beach Enhancement: 2,000 cubic yards of clean sand would be imported and placed to support a broad sandy beach and related dune features.

Dune Expansion: An existing paved parking lot would be demolished and partially used for dune expansion. 3,000 cubic yards of clean sand would be imported and placed to expand the dune zone. Dune sand would be graded and planted with native species to foster dune establishment and restore disturbed areas.

Enhance and Expand Existing Wetland: Inorganic debris and invasive non-native plant species would be removed from the existing seasonal wetland in a manner that minimizes or avoids soil disturbance. The wetland would be expanded by grading wetland features within the expanded dunes. The existing wetland would be protected during grading. Wetland expansion would be sized to provide sufficient capacity for integrated onsite storm water treatment. The wetlands would be planted with appropriate low-maintenance native wetland species.

Storm Water Management: Surface runoff from impervious areas would be directed through a network of vegetated swales (bioswales) prior to entering the expanded seasonal wetlands, and then through an additional bioswale prior to exiting on the beach. Native species would be planted to improve storm water treatment.

San Francisco Bay Trail: The project would construct a segment of the San Francisco Bay Trail adjacent to the beach. The trail would conform to East Bay Regional Park District trail standards. (10-foot paved, with two 2-foot shoulders, 5% maximum slope, and 2% cross-slope). Trail design would include features that help adapt the site to future sea level rise, hold sand in place and define the expanded shoreline. This would include elevating the trail on fill 1.5 to 2.5 feet above adjacent grade, with a minimum design elevation of 12.0 feet (NAD88) and providing periodic under-drains to connect to the bioswale.

Buffer: A low-height, low-maintenance buffer, consisting of native plants, decomposed granite, and/or unirrigated grass, would be installed to define the edge between the dunes/wetlands, parking area, Bay Trail and, in some areas, the adjacent Golden Gate Fields property. The buffer would direct public access, protect sensitive habitats, and limit sand deposition on paved areas.

Signage: A park entrance sign would be installed at Buchanan Street. The sign will be sized and positioned to not interfere with site distance or obstruct views. Interpretive exhibits would be installed at two locations. Informational signs would be installed near the park entrance and on trails to assist with pedestrian and bicycle circulation, and to display park rules and regulations. Exhibits and informational signs will be designed to not obstruct views and positioned adjacent proposed trails.

Improve Northern Beach Access: The existing northern access point connecting the existing trail system to the beach would be re-aligned slightly, graded and resurfaced to meet ADA standards and to accommodate future installation of a bench overlooking the beach.

Habitat Protection: Low fencing would be installed to protect sensitive habitat associated with the dune/wetland complex and to help define trails. Fencing would be designed to be low-maintenance and not obstruct views of San Francisco Bay, or impact sand dune aerodynamics. Redundant fencing or barricades onsite would be removed and disposed.

New Picnic Facility: Approximately three tables and trash/recycling receptacles would be installed, with at least one ADA accessible table.

New Southern Beach Access and Non-Motorized Watercraft Staging: An area would be graded and surfaced for staging non-motorized watercraft, installation of a bench, and access to the beach. Beach access would meet ADA standards. The staging area would be incorporated into the design of the parking lot.

New Parking Lot: A new 20-vehicle asphalt and concrete curbed parking lot would be installed east of the beach. Access would be via a new two-way access driveway at the terminus of Buchanan Street. A pipe gate and one-way traffic control/flow plate (i.e., "dragon's teeth") would be installed to manage access. The parking lot would be integrated into the site's storm water management design. Parking spaces may be designated for the following uses:

- Five spaces designated for drop-off of non-motorized watercraft
- Five ADA accessible spaces (including one van accessible)
- Ten unrestricted spaces

New Restroom: A double (two toilet stalls) vault toilet facility would be installed near the non-motorized watercraft staging area. The facility would be placed to minimize obstruction of views, site circulation or park amenities.

Bicycle Racks: A low maintenance bicycle rack capable of holding at least 10 bicycles, with expansion capability up to 30, would be installed near the parking area and non-motorized watercraft staging area.

Area 3: Bay Trail, Albany Beach to Gilman Street

Project elements in this area (**Figure 3-9A and 3-9B**) include completion of approximately 4,200 linear feet of multi-use, ADA-accessible San Francisco Bay Trail from the Albany Beach parking area (Area 2) to Gilman Street. Portions of the trail (over 1,200 linear feet) would be constructed on a new bench cut into the rock slope face west of the GGF parking area at Fleming Point.

The work includes completion of a 14-foot-wide trail section (10-foot-wide paved trail with two-foot shoulders) throughout the area. Retaining walls and slope stabilization are proposed along Fleming Point, in addition to drainage improvements, fencing, signs and pavement striping. The following work is included in this area:

1. New Trail Pavement: Approximately 1,200 LF (12,000 SF) of existing pavement would be cleaned, patched and sealed; 3,000 LF (30,000 SF) of new asphalt pavement with rock base would be installed.
2. Post and Cable and Chain Link Fence: Up to 800 LF of post and cable fencing, and up to 1,000 LF of 30" high chain link fence, both using non-reflective metal materials, would be installed.
3. Excavation and Earthwork for Trail Surface: Approximately 7,000 to 10,000 cubic yards of soil and rock would be excavated and regraded to accommodate a trail along the 1,200-foot long slope face.
4. Soil and Slope Stabilization: Up to 1,000 LF of slope protection would be installed to prevent erosion adjacent to the trail. Cut and fill soil slopes constructed for the trail would be hydroseeded and/or planted to provide vegetative cover.
5. Retaining Wall: Up to 2,500 LF of up to 3-foot high retaining wall would be placed along the GGF entrance road to protect the trail surface from potential inundation.

6. Structural Retaining Wall: Up to 1,000 linear feet of concrete structural retaining wall (4 to 8 feet high), with surface treatment using flat, native colors, along the slope face to accommodate the trail.
7. Drainage features: Two small catch basins and drainage culverts would be placed along the trail to capture existing drainage and convey it away from the trail section.
8. Six to eight non-native Australian tea trees and shrubs may be removed to accommodate the trail alignment.
9. The trail would be aligned to avoid an existing old concrete retaining wall near the top of slope at Fleming Point, or the existing wall may be incorporated into the trail structural design if feasible.

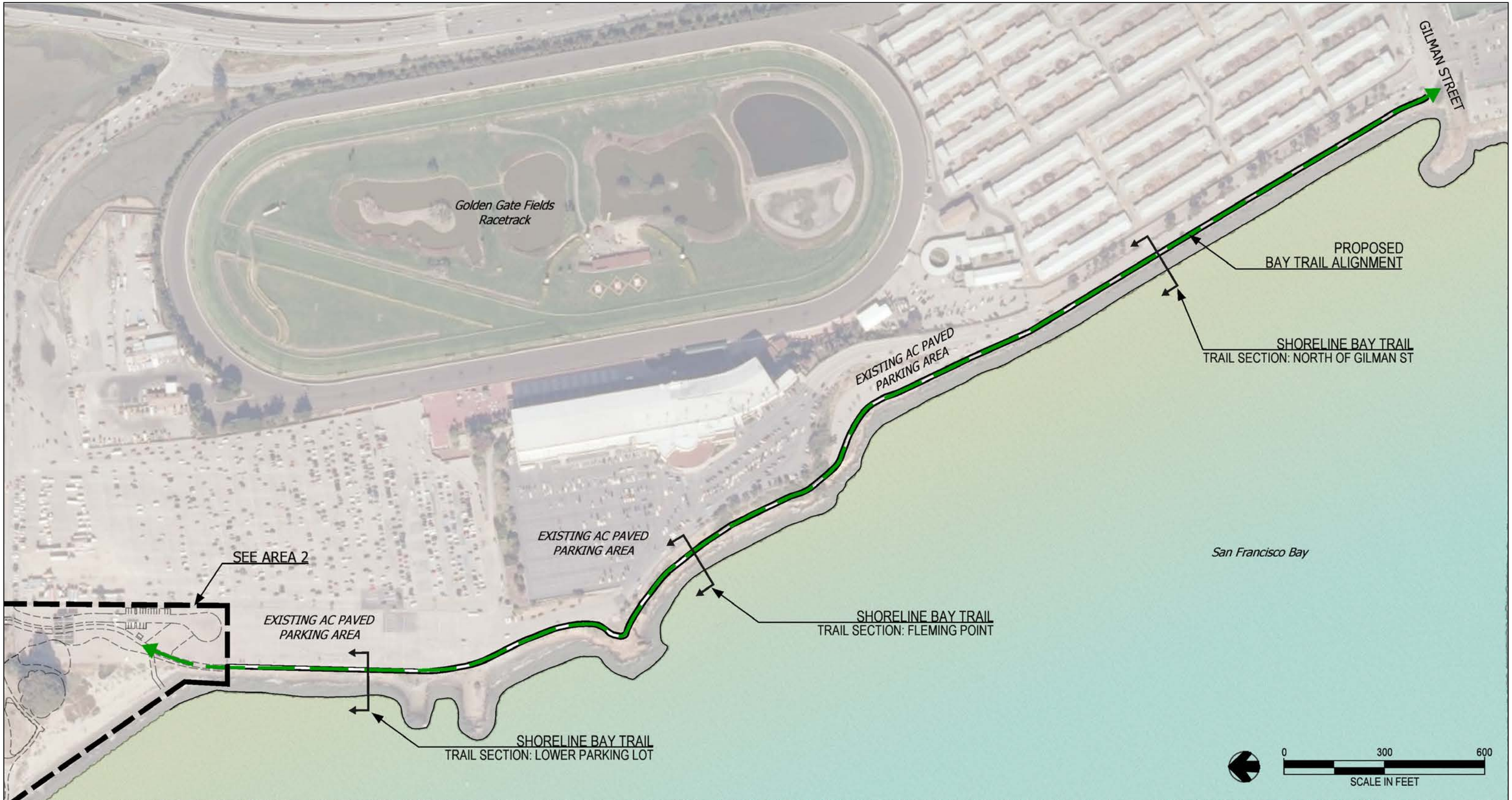

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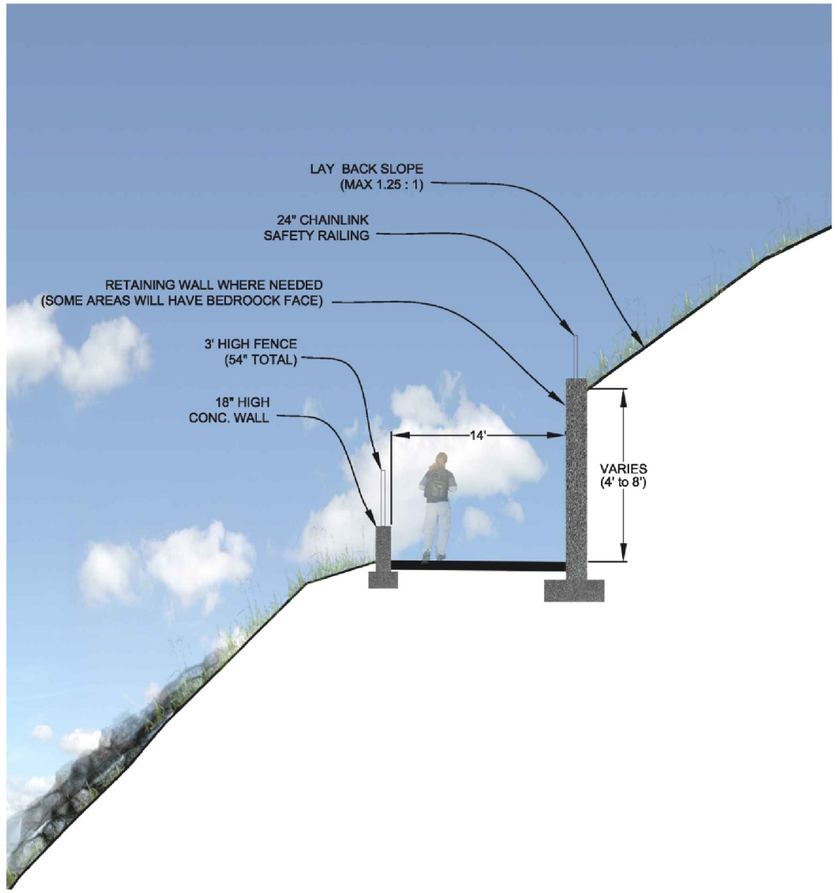
FIGURE 3-9A

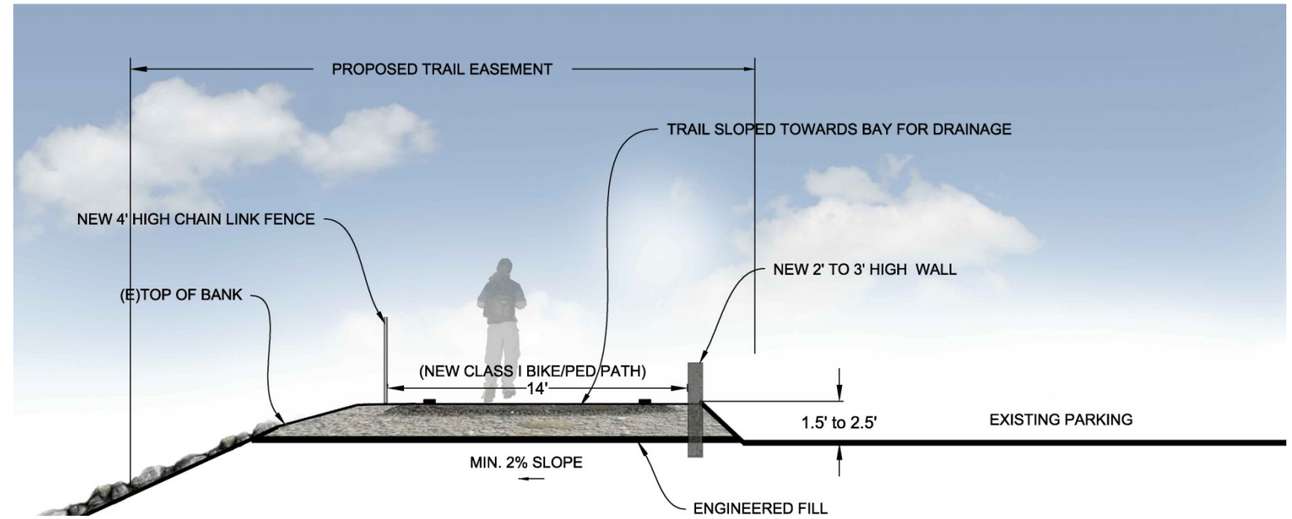
AREA 3: BAY TRAIL, ALBANY BEACH TO GILMAN SITE PLAN

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

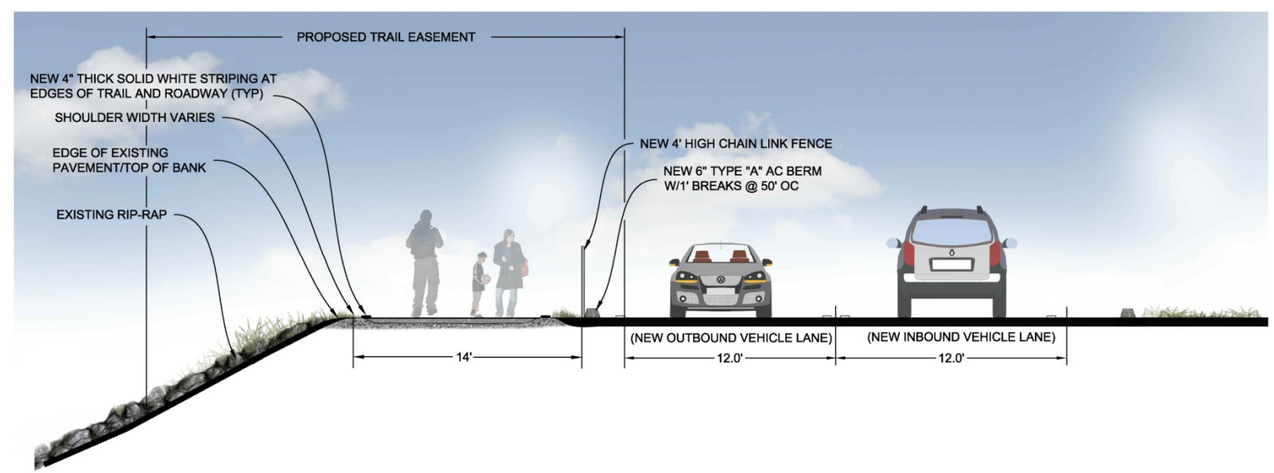
AT EASTSHORE STATE PARK



SHORELINE BAY TRAIL: FLEMING POINT
SCALE: NTS



SHORELINE BAY TRAIL: LOWER PARKING LOT
SCALE: NTS



SHORELINE BAY TRAIL: NORTH OF GILMAN STREET
SCALE: NTS

Healthy Parks
Healthy People
East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 3-9B

AREA 3 SECTIONS: BAY TRAIL, ALBANY BEACH TO GILMAN

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Isolation of Construction Activities

The work areas would be temporarily fenced to preclude public access during project construction. As public safety permits, the existing south shoreline trail along the Neck to the Bulb would be open to the public during weekends as construction work proceeds, to the extent feasible. Access to Albany Bulb would be maintained during construction by fencing and signs that direct pedestrians to the existing trail located near the center of the Neck.

Demolition and Disposal

A portion of the concrete rubble removed during shoreline improvement would be processed and reused onsite as rubble for the base of fill areas. Some of the finer-grained and smaller-sized concrete rubble and earthen materials (up to 1,500 cubic yards) from on-site processing of demolition debris could be used to repair areas of the Albany Plateau where landfill debris such as concrete and sharp metal are exposed, or where general settlement has occurred. The surface of repair areas would be backfilled with clean soil and seeded with native grasses. The beneficially reused material from excavation of the shoreline for reconstruction of the rock revetment would be screened and evaluated by the Project Engineer, consistent with Regional Water Quality Control Board permit requirements. Demolition material that contains rebar, miscellaneous metals, asphalt, concrete or other wastes that cannot feasibly be reused on-site would be removed to an approved off-site landfill or concrete recycling facility. All fine earth or soil-like material to be off-hauled to a disposal or recycling site would be tested consistent with local and state regulatory requirements and permit conditions. Some of the wet, excavated material may need to be stockpiled and dried prior to off-haul, consistent with regulatory and permit requirements. The destination of the demolition material and concrete rubble that is not reused on site or buried on the Plateau was not known at the time this EIR was prepared, but it would most likely go to the West Contra County Sanitary Landfill Processing Facility/Golden Bear Transfer Station, located approximately 5 miles northwest of the site, off of Richmond Parkway.

Vegetation Removal

Vegetation would be removed from the work areas using mowing and cutting machines prior to grading. A biological monitor would inspect the area shortly before the area is cleared, to avoid impacts to wildlife. Exclusion fencing would be installed around cleared areas to prevent wildlife re-entry, if required by regulatory permit condition, after the vegetation has been removed.

Grading

A preliminary grading plan has been prepared for the Proposed Project that shows areas of the site that would be restored and stabilized by removing concrete rubble and debris, and placing imported rock riprap for shoreline stabilization of the Neck. Preliminary site plans and grading plans have also been prepared for the Phase I work, shoreline stabilization and Bay Trail, as well as for Phase II beach improvements, and Phase III Bay Trail. Total earthwork volumes are summarized in **Table 3-3**. Approximately 1,500 cubic yards of material would be relocated on-site for upland grading.

The Proposed Project has been designed to minimize the amount of landfill material excavation, off-haul of rubble and import of rock for shore protection, while also minimizing the amount of San Francisco Bay fill to protect existing marine intertidal and subtidal organisms and create new and beneficial intertidal and subtidal habitat. Total earthwork, which is the summation of excavation and off-haul of concrete rubble, and the importation and placement of rock and other fill, is approximately 26,500 cubic yards in Area 1, approximately 9,600 cubic yards in Area 2, and approximately 9,300 cubic yards in Area 3. The shoreline revetment work would result in a maximum of 9,500 square feet of fill of Bay waters, with the placement of a maximum of 3,800 cubic yards of rock fill for shoreline slope protection, while the optional habitat enhancement components would result in approximately 17,700 square feet of Bay fill, and would add an

additional 2,500 to 3,000 cubic yards of rock, including 250 to 300 tons of pebble and sand, and up to 300 cubic yards of oyster shell. Off-haul of rubble and unsuitable soil is estimated to total about 11,000 cubic yards, with import of approximately 2,500 cubic yards of rock and 2,500 cubic yards of soil for native plant restoration below the trail.

Preliminary engineering plans, including the location of cut sections and retaining walls for construction of the Bay Trail along the slopes of Fleming Point, have also been developed.

TABLE 3-3 EARTHWORK QUANTITIES[1]

Area 1: Albany Neck		
Sub-Areas	**Excavation/Offhaul[2]**	**Fill/Import**
Shoreline Revetment		
Below MHW	2,300 CY (Concrete Rubble)	3,800 CY (Rock Riprap)
Above MHW	8,200 CY (Concrete Rubble)	7,600 CY (Rock Riprap)
Revetment Sub-Totals	**10,500 CY (Concrete Rubble)**	**11,400 CY (Rock Riprap)**
Intertidal/Subtidal Enhancement		
Rock Groin	0	740 CY (Rock Riprap)
Bird Roosting Islands	0	430 CY (Rock Riprap)
Pebble Beach	0	260 CY (Rounded Gravel)
Oyster Reef	0	120 CY (Rock Riprap)
Porous Tide Pools	100 CY (Bay Mud & Rubble)	100 CY (Rock Riprap)
Upland Landscape Enhancement	100 CY (AC & Rubble)	500 CY (Soil)
Bay Trail Spur (1800 LF)	200 CY (AC & Rubble)	500 CY (Stabilized AB)
Upland Repair Areas	100 CY	1,500 CY (Rubble & Soil) [3]
Area 1 Totals	**11,000 CY**	**15,500 CY**

Area 2: Albany Beach		
Sub-Areas	**Excavation/Offhaul[2]**	**Fill/Import**
Beach Nourishment	0	2,000 CY (Sand)
Dune Enhancement	500 (AC & Rubble)	3,000 CY (Sand)
Planted Habitat Enhancement	0	200 CY (Top Soil)
Seasonal Wetlands/Bioswales	2,000 CY (AC & Rubble)	0
Parking Areas & Recreational Features	750 CY (AC & Rubble)	750 CY (AB & AC)
New Shoreline Trail (700 LF)	200 CY (AC & Rubble)	200 CY (AC)
Area 2 Totals	**3,450 CY**	**6,150 CY**

Area 3: Golden Gate Fields Bay Trail		
Sub-Areas	**Excavation/Offhaul[2]**	**Fill/Import**
North Shoreline (850 LF)	120 (AC & Rubble)	120 CY (AB & AC)
Hillside Trail (1,200 LF)	7,500 CY (Bedrock & Soil)	650 CY (AB & AC)
South Shoreline (2,150 LF)	300 (AC & Rubble)	300 CY (AB & AC)
Unpaved Landscape Areas	100 CY (AC & Rubble)	200 CY (Soil)
Area 3 Totals	**8,020 CY**	**1,270 CY**

[1]Cubic yards in-place
[2]Materials disposed of offsite
(CY) Cubic Yards; (LF) Linear Feet; (AB) Aggregate Base; (AC) Asphalt Concrete
[3]Reuse of clean material from shoreline excavation for revetment

Construction Staging Areas

Two construction staging areas are shown on **Figure 3-2**, an approximately 1.1 acre area in Area 1, east of the Burrowing Owl Preserve on the Albany Plateau, and a portion of the 2.8 acre paved parking area east of the beach in Area 2. The Construction Documents will designate that all equipment and materials be stored in

the construction staging areas when not in use, and that all equipment servicing and fueling take place in the staging areas. These areas will have temporary fencing deployed around them for safety and security reasons during project construction.

Construction Equipment

A combination of light and heavy equipment and hand labor would be utilized to construct project elements such as shoreline reconstruction, pavement, trails, shoreline and beach debris removal, retaining walls, fences, picnic areas, pre-fabricated restroom, signs and other facilities. As noted subsequently in Section 3.8, EBRPD will require the construction contractor to use new low emission (Tier 3) equipment.

Habitat Enhancement

Disturbed areas and portions of the site designated for revegetation would be seeded and planted with native plant materials appropriate for the site based on a Restoration Planting Plan that would be prepared for each phase or area of the project. Seasonal wetlands, bioswales, and dune areas would be planted with native grasses, forbs and woody plants. Areas that are restored would be fenced during plant establishment (from one to five years), and some of the sensitive areas, such as the restored dunes, would be permanently fenced. These areas would be monitored and maintained by EBRPD staff. Monitoring and maintenance requirements for the optional intertidal and subtidal Habitat Enhancement Program will be developed through discussions with resource agencies, and during development of regulatory permit conditions.

Construction Phasing and Scheduling

Depending on the timing of project funding and eminent domain process for land acquisition, the Proposed Project may be constructed in one or several phases. If the Project is constructed in more than one phase, construction in Area 1 of the Project, including stabilization of the shoreline and trail improvements, would be implemented first, to counteract the ongoing erosion along the shoreline of Albany Neck. Phase I construction is anticipated to take from four to five months to complete, with regulatory requirements not allowing work in Bay waters after November 1st. The restoration and associated recreational and public access improvements at Albany Beach, in Area 2 of the proposed project, are anticipated to be the second phase of the project, although grading of the picnic area and construction of the beach access in Area 2 would be completed in the first phase. Construction of the Bay Trail, Area 3, could occur concurrent with, or independently and after completion of Areas 1 and 2. Phase II and III work activities are anticipated to require three or four months to complete, and anticipated permit conditions will also require completion prior to November 1st. The objective of the Project is to complete all approved improvements and components within five years.

Hours of Operation and Trail Rules

As with other facilities operated by EBRPD, the site day-use facilities would be open from sunrise to sunset every day of the year, including holidays. However, the proposed parking lot and/or trails may be closed periodically to protect public safety or to perform maintenance activities, such as to repair storm damage or repave the trails. A locked gate to the parking lot entrance would prevent vehicular access outside these times. Although the park would be officially closed, the Bay Trail would be accessible to bicycles and pedestrians from 5 a.m. to 10 p.m., in line with EBRPD's hours for regional trails.[7] No lighting would be provided in either the parking area or along the trail. Trail rules, as listed on signs at park entry points, are listed below.[8]

[7] There would be sufficient gaps for bikes between the bollards, even after the park is closed.

[8] East Bay Regional Park District rules are codified in District Ordinance 38, Rules and Regulations, Revised July 2010. Available on the internet at: http://www.ebparks.org/activities/ord38.

- Public use period 5:00 am to 10:00 pm. (Park opening hours are sunrise to sunset most days of the year.)
- Trails subject to closure for maintenance of adjacent facilities
- No alcoholic beverages or smoking on trail or within picnic areas
- Equestrian use prohibited
- Dumping/littering prohibited
- Dogs permitted on leash only
- Dog owners responsible for pet waste
- No motorized vehicular access by public

Maintenance and Ongoing Management

As the native plants are being established during the first five years, maintenance work would be required. This would consist of watering and plant replacement, as necessary, weed control (to remove non-native plants), and maintenance of fences, gates, and signs. Maintenance would continue in Year 4 and beyond, but could be considerably reduced in scale, depending on progressive success of restoration efforts. It is expected that by the end of Year 5, it would no longer be necessary for EBRPD to intensively maintain the native planting areas. Weed control in these areas would be performed periodically by park volunteers and EBRPD staff.

3.8 Avoidance and Minimization Measures

In addition to mitigation measures identified in the *Eastshore Park Project General Plan EIR*, the following features are incorporated into the project description to avoid and minimize possible environmental impacts. Additional procedures have been included in Chapter 4 as mitigation measures. Further measures would be added as terms and conditions of permits issued for the project. All these measures would be made a part of the project's construction documents and contractor work requirements.

During Construction

Biological Monitoring

A qualified construction monitor shall be present on-site, as required by regulatory permit conditions, during flagging and staking of project work limits and during subtidal and intertidal zone work activities below elevation +4 feet NAVD88 to inspect work areas for compliance with construction documents and permit conditions to ensure that all sensitive biological resources are fully protected, including potentially making appropriate field design modification, relocating and adjusting work activities and work schedules.

Contractor Education

Contractor employees shall be educated and trained to be aware of the shoreline environment and wildlife and plants with which they are working, and to take suitable precautions for the protection of wetlands and water quality. A separate Contractor education program regarding hazardous materials would be developed and implemented for any excavation work in landfill materials along the Neck shoreline. Contractor Education will help ensure that all employees know the nature of the sensitive resources that are present and must be protected, understand all permit conditions, actions and activities that are prohibited, and Best management practices that will be utilized.

Stormwater Management

A Stormwater Management, an Erosion Control Plan and Revegetation Plan, and a Spill Control and Countermeasures Plan shall be prepared that ensures protection of water quality and the sensitive eelgrass beds, and meets all project-specific NPDES requirements. The plans would include measures to protect water quality and sensitive resource areas during construction, and to quickly respond to accidental spills and

releases of construction materials. The Plan shall also include permanent stormwater treatment measures, such as use of bioswales. The Plan shall address all phases of work, including mobilization, clearing and grading, construction of public access improvements, restoration planting, and post construction maintenance and monitoring. The Plan shall be prepared by a Qualified Stormwater Designer (QSD), who would also be responsible for water quality monitoring and storm event sampling and inspections, and implemented by a Qualified Stormwater Practitioner (QSP). Best management practices to be included in the project during construction include silt fences, construction entrances, straw wattles, vegetated drainage swales, permeable pavement, erosion control seeding and revegetation, and other design treatments in accordance with Alameda County stormwater management requirements.

Restoration Planting Plan

A Restoration Planting Plan that compensates for the disturbance to all sensitive habitats and wetlands areas, and that specifies plant materials and plant establishment techniques for enhancement areas, and stabilizes disturbed areas with a native plant cover, shall be prepared as a component of all Erosion Control and Revegetation Plans, and shall be a part of the Construction Documents for each phase of work for each area. The Restoration Planting Plans shall cover all disturbed areas, with special focus on: 1) the upland landscape strip between the Bay Trail and revetment top and Plateau repair areas in Area 1, 2) the seasonal wetlands and dune restoration in Area 2, and 3) the coastal scrub plant community establishment in Area 3. The Restoration Planting Plans shall include information on site preparation, seeding, and planting, including sources, quantities and spacing of planting and seeding, a plant palette, methods of establishment and planting, site irrigation and maintenance during the plant establishment period, expected success and proposed monitoring.

Use of Newer Construction Equipment

The construction contractors shall be required to use construction equipment rated by the United States Environmental Protection Agency as having Tier 3 or higher exhaust emission limits for equipment over 50 horsepower. Tier 3 engines between 50 and 750 horsepower have been available since the 2008 model year. A list of construction equipment by type and model year shall be maintained by the construction contractor onsite. The construction contractor shall ensure that all construction equipment is properly serviced and maintained in designated staging areas and to keep all equipment within the staging areas to the manufacturer's standards to reduce operational emissions. The construction contractor shall limit nonessential idling of construction equipment to no more than five consecutive minutes.

Control of Fugitive Dust

The Proposed Project shall comply with BAAQMD Basic Control Measures for reducing construction emissions of fugitive dust:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title

13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

Post-Construction Restoration Monitoring and Management Actions

Integrated Pest Management

In accordance with adopted EBRPD policy, plant and animal pest species shall be controlled by using integrated pest management (IPM) procedures and practices to minimize the impact of undesirable species on natural resources and to reduce pest control related health and safety risks to the public.

Annual Monitoring Reports

EBRPD shall prepare and implement any monitoring reports required by regulatory agencies, and submit to the regulatory agencies that have jurisdiction over the project. The annual report(s) shall document:

- Results of monitoring activities.
- Any remedial or management measures needed or conducted.
- Recommendations for future actions, such as re-planting and re-seeding, and invasive plant control measures.

3.9 Required Permits and Approvals

It is estimated that permits and/or approvals would be required from the following separate agencies:

Federal Agencies

- **U.S. Army Corps of Engineers** – Permits for any earthwork in wetland areas under Section 404 of the Clean Water Act; placement of habitat shoals offshore and revegetation/enhancement of the existing seasonal wetlands may be covered under a Corps Nationwide Permit 27 – *Aquatic Habitat Restoration, Establishment, and Enhancement Activities*. Shoreline stabilization is likely to exceed 500 linear feet of affected area, which is the threshold for coverage under Nationwide Permit 13 – *Bank Stabilization*; however, there is a possibility of having this criterion waived by the Corps District Engineer. Rock armoring and placement of rock groins in jurisdictional waters as part of the shoreline stabilization is likely to exceed 25 cubic yards per linear foot, which is the threshold for coverage under Nationwide Permit 18 – *Minor Discharges*, although the Corps has some discretion in this requirement. An individual permit may be required should the Park District not obtain the necessary waivers (as described above) to implement shoreline stabilization on the south shore of the Neck and south of Albany Beach.
- **U.S. Fish & Wildlife Service and National Marine Fisheries Service** – The Corps of Engineers may initiate consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries

Service in accordance with Section 7 of the Endangered Species Act because of activities in tidal waters, such as placement of habitat shoals offshore, and activities that extend into the Bay, such as bank stabilization measures or construction of a water access ramp at the south end of the beach. The agencies may consult on the potential impacts of the proposed project to special status fish and wildlife species and their habitat, including eelgrass.

State Agencies

- **Department of Fish and Game** – Although a Section 1600 Stream or Lakebed Alteration Agreement would not be required from the California Department of Fish & Game, coordination and consultation with them would be required for issues associated with potential project impacts on eelgrass beds and on other marine and terrestrial organisms.
- **State Lands Commission** – Consultation and coordination with State Lands Commission during environmental review and plan review, regarding Public Trust Lands and Leases for construction of the Bay Trail and public access improvements at Albany Beach, and placement of habitat structures in Bay water.
- **San Francisco Bay Regional Water Quality Control Board (RWQCB)** – Water Quality Certification under Section 401 of the Clean Water Act and Notice of Intent NOI for construction activity.
- **San Francisco Bay Conservation and Development Commission (BCDC)** – Permit for work in wetland areas, public access, and conformance with climate change policies.
- **Bay Area Air Quality Management District** - Construction work involving use of heavy equipment.

County and Local Agencies

- **Alameda County Public Health Department** – Permit for vault toilet
- **City of Albany** – Encroachment Permit, Temporary Construction Easement, Grading and Building Permits
- **City of Berkeley** – Encroachment Permit, Temporary Construction Easement, and Grading Permits

The project also would require acquisition or condemnation of a 2.8-acre portion of Area 2 located east of Albany Beach, and the Bay Trail alignment in Area 3, which are privately owned by the owners of Golden Gate Fields.

4 ENVIRONMENTAL EVALUATION

This chapter consists of an evaluation of the environmental impacts of the proposed Albany Beach Restoration and Public Access Project. In accordance with Appendix G of the CEQA Guidelines, the potential effects of the Proposed Project on the following issues are analyzed in Chapter 4 of this EIR:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services (police and fire protection)
- Recreation
- Transportation/Traffic
- Utilities and Service Systems

The following issues were determined by the Initial Study (IS) to have no impacts, and are therefore not included in the EIR.

- Agriculture and Forest Resources
- Mineral Resources
- Population and Housing
- Public Services (schools and libraries)

Format of the Environmental Evaluation

Each section in Chapter 4 follows the same format and consists of the following subsections:

- The **Regulatory Framework** subsection contains an overview of the federal, State, and local laws and regulations applicable to each environmental review topic.
- The **Existing Conditions** subsection describes current physical conditions with regard to the environmental factor reviewed.
- The **Standards of Significance** subsection tells how an impact is judged to be significant in this EIR. Where noted, these standards are based on the CEQA Guidelines and other regulatory criteria.
- The **Impact Discussion** gives an overview of potential impacts of the Project and explains why impacts are found to be *significant*, *less than significant,* or *no impact*.
- The **Impacts and Mitigation Measures** subsection numbers and lists identified impacts and suggested measures that would mitigate each impact, where such measures are available.

Cumulative Impact Analysis

The CEQA Guidelines require consideration of the potential cumulative impacts that could result from a proposed project in conjunction with other projects. A cumulative impact consists of an impact created as a result of the combination of the Proposed Project evaluated in this EIR together with other current and reasonably foreseeable future projects causing related impacts. Cumulative impacts are considered for each issue separately. The following proposed or approved projects in the vicinity of the Project site could affect many, or all, of the issues and are considered in the EIR's cumulative impact analysis. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[9] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared. [10]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[11]

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[9] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[10] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction. [12]

[11] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

[12] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.1 Aesthetics

This chapter describes the existing aesthetic character of the Project site and evaluates the potential aesthetic impacts associated with the Proposed Project. This chapter also includes a discussion of cumulative aesthetic impacts. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document. This section incorporates by reference Section III.A of the *Eastshore Park Project General Plan EIR*. That section evaluates aesthetic impacts at the project site and the regulatory framework related to aesthetics.

Regulatory Framework

With the exception of the San Francisco Bay Plan, the *Eastshore Park Project General Plan EIR* does not discuss local plans and policies on aesthetics. The information in this section, which describes local regulations and policies that are relevant to the CEQA review process for aesthetics, supplements the *Eastshore Park Project General Plan EIR*.

State Regulations and Policies

State Scenic Highways

The California Scenic Highway Program, created in 1963, maintained by the California Department of Transportation (Caltrans), protects designated scenic State highway corridors from changes which would diminish the aesthetic value of lands adjacent to the highways. I-80 and I-580 are not designated as Scenic Highways within the Cities of Albany or Berkeley. [13]

Eastshore State Park

The Eastshore State Park General Plan[14] includes park-wide goals and guidelines that address aesthetics. Those that are applicable to the Project site include:

Landscape Character

- **AESTH-4:** To the degree practicable, all landscape plantings in improved areas, not including turf areas, (e.g., around buildings, picnic areas, paths, etc.) should use California native species that are endemic to the East Bay shoreline in order to introduce the public to the area's biotic heritage and to enhance habitat values for native wildlife species. All landscaping should also emphasize plant species with low water requirements.

Lighting

- **AESTH-5:** In order to minimize disturbance to wildlife, lighting shall not be permitted in areas designated as preservation areas or in areas with sensitive habitat values. Night lighting should generally be restricted to the more developed areas of the park project (i.e., buildings, paths, parking lots, etc.) consistent with security and safety needs. Lighting plans shall be reviewed for compatibility with habitat values prior to construction.
- **AESTH-7:** Lighting levels (i.e., intensity/foot-candles) should generally be kept as low as possible, consistent with public safety standards. Luminaires should focus the light downward and prevent the splay of ambient light to other areas. Whenever possible use path-level or bollard type fixtures that keep

[13] California Department of Transportation website, Officially Designated State Scenic Highways, http://www.dot.ca.gov/hq/LandArch/scenic/schwy.htm, accessed October 6, 2011.

[14] California Department of Parks and Recreation. Eastshore State Park General Plan. December 6, 2002.

the light source closer to the ground. Color-tinted and lower wattage lamps should be used to help reduce lighting-related disturbance.

The Eastshore State Park General Plan also identifies specific guidelines for the Albany Beach and Neck directing the enhancement of aesthetic values for the Albany Neck. These guidelines include.

- **Guideline A-15:** Explore options for enhancing the safety, aesthetic, structural and habitat conditions along the south shoreline of the Albany Neck, including the following:
  - Address transition from Albany Beach into armored shoreline areas including the potential for extending sand beach condition further west;
  - Break up large concrete and construction debris to improve appearance, reduce safety hazards, etc.;
  - Consider placement of fill (sand, gravel, cobbles or soil) over the rubble in some select locations to improve habitat, planting, access, safety, etc.;
  - In some locations, align trail and access routes against the hill slope to create more potential space for shoreline grading;
  - Consider and balance necessary structural function and potential habitat enhancements;
  - Consider creation of small pocket beaches (shallower profile shoreline) within this straight section to increase sand and gravel beach habitat as well as recreational access;
  - Consider re-grading northwest corner (intersection of neck and bulb) to shallow slope condition to create sand or gravel beach.

Local Regulations and Policies

City of Albany General Plan

The Conservation, Recreation, and Open Space Element of the City of Albany General Plan[15] places a high value on the natural resources of its waterfront area including its visual aesthetics, both in terms of its scenic natural open areas and beaches, and as a point from which to view the spectacular surrounding scenery. General Plan goals and policies that relate to scenic qualities and that are applicable to the Project site are:

- **Goal CROS 5.** Continue to value the Policies: importance of the Albany Waterfront area and shoreline as a place of scenic beauty.
- **Policy CROS 5.1.** Consider the scenic and visual importance of the waterfront area in any future private and public development.
- **Policy CROS 5.2.** Further preserve the scenic value of the Albany shoreline by prohibiting construction of any building or structure within a 100-foot minimum of the shoreline.

City of Berkeley General Plan

The Land Use Element of City of Berkeley General Plan[16] identifies the Project site as within the waterfront/Marina land use. The Open Space and Recreation Element of the General Plan identifies the Project site as a portion of a Regional/State Park. A series of Area Plans for detailed policy guidance complement the General Plan, of which the Project site is within the city's Waterfront Master Plan[17]. The Waterfront Master Plan does identify that north of Gilman Street a shoreline band of open space and public access should connect to Fleming Point in Albany. Waterfront Master Plan goals and policies that relate to scenic qualities and that are applicable to the Project site are:

[15] City of Albany. Albany California General Plan 1990 – 2010. Adopted December 7, 1992.
[16] City of Berkeley. City of Berkeley General Plan: A Guide for Public Decision-Making. 2003.
[17] City of Berkeley. Waterfront Master Plan *Goals & Policies*. 1986.

- **Policy W-79.** Limit the negative visual impacts of parking by placing it in less visible locations and by landscaping.
- **Policy W-80.** Design buildings and landscaped areas so that they will be visually interesting and attractive both at the ground level and at a distance.

Existing Conditions

This section, which describes the visual or aesthetic qualities of the Project site and its surroundings, supplements the *Eastshore Park Project General Plan EIR*. **Photos #1 through #17** provide an overview of the Project site as seen from a variety of surrounding viewpoints. The locations of these photos points are presented on **Figure 4.1-1**.

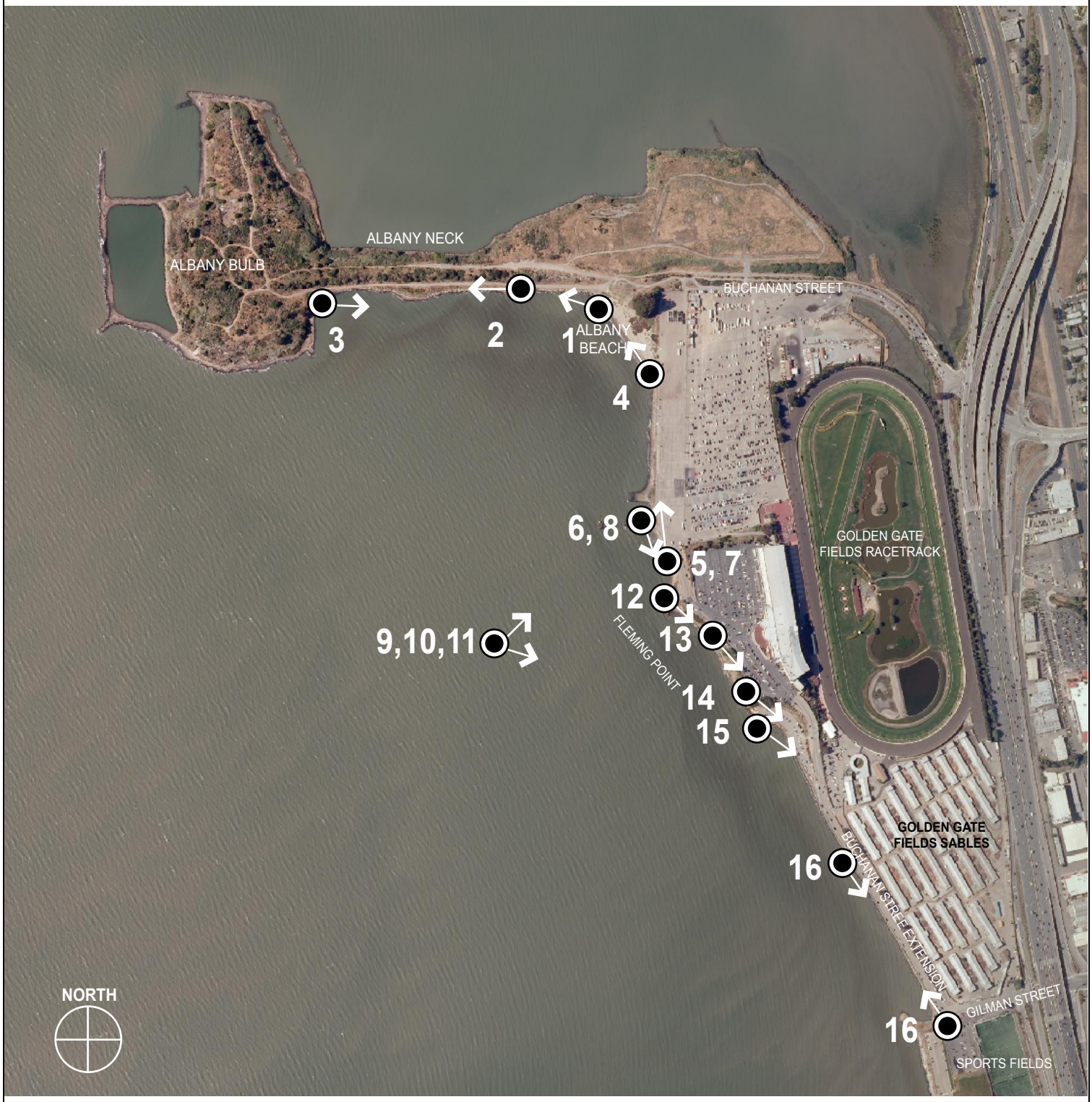
Visual Character

The overall visual character of the Project site is that of disturbed landscape consisting of landfill, scattered construction debris through it, an un-engineered and eroding shoreline, with construction rubble and expanses of open paved parking areas, roads, ruderal vegetation, non-native plants, and an eclectic mix of light standards, fencing, signage, and debris that has washed up on the shoreline. (**Photos #1 through #3**). The Albany Beach presents the most naturalistic feature of the Project site (**Photo #4**). The Project site inland from the existing Beach is a paved parking area (**Photos #5 and #7**).

The Golden Gate Fields grandstand area was constructed, in part, by blasting the top off of Fleming Point, once a natural hill. The shoreline slopes of Fleming Point were created by that construction and are dominated by concrete and rock debris that has been pushed over the bank and the largely non-native vegetation that has become established (**Photos #6, #8, #12, and #13**). Some minor natural rock outcropping is evident along with a remnant of native California coastal scrub vegetation. The portion of the Project site from the southern end of Fleming Point to Gilman Street consists again of pavement to a rip-rap shoreline edge (**Photos #14 through #16**).

"Wild" or "plop" art is present on the Project site and contributes to the visual character of Albany Beach. As discussed in The Eastshore General Plan, the shoreline area has provided a source for community artistic expression since the late 1960's. The material used in this wild art includes discarded items, imported materials such as paint, as well as material found on site, such as concrete rubble and scrap metal. Some of the artistic elements are transient, subject to painting, discard or salvage, and other art is more durable and has unique characteristics that beach visitors are familiar with, such as the driftwood "Spinner" and "Throne" on the Beach, and the "Rubik's Cube" along the Neck. Wild art that can be seen from within the Project site is included in **Figure 4.1-2**.

The dominant visual features of the Project site are the waters of the San Francisco Bay, the eucalyptus grove adjacent to the beach, the beach itself, and the shoreline edge. One-hundred-eighty degree panoramic views across the San Francisco Bay exist from most locations within the Project site, except at the west end where views of San Francisco are blocked by the Albany Bulb.



LEGEND

14	Photo Key		Photo Point and Direction of View

Healthy Parks Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.1-1

PHOTO POINTS

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK

Photo #1: Albany Neck from north end of Albany Beach looking northwest. Date of photograph 5/4/12

Photo #2: Albany Neck looking west. Date of photograph 5/4/12

Photo #3: Albany Neck looking east from west end of Project site. Date of photograph 5/4/12

Photo #4: Albany Beach looking north. Date of photograph 5/4/12

Photo #5: Albany Beach and Project site looking north from Fleming Point. Date of photograph 5/4/12.

Photo #6: Fleming Point looking south from Albany Beach. Date of photograph 3/12/12

Photo #7: Panorama view to Albany Beach and Albany Neck looking north from Fleming Point Date of photograph 5/4/12

Photo #8: Panorama view to beginning of Fleming Point looking south from near the jetty. Date of photograph 5/4/12

Photo #9: Panorama view of Fleming Point from San Francisco Bay looking east. Date of photograph 5/2/12

Photo #10: Panorama view of Fleming Point from San Francisco Bay looking east. Date of photograph 5/2/12

Photo #11: Panorama view of Fleming Point from San Francisco Bay looking east. Date of photograph 5/2/12

Photo #12: Fleming Point looking southeast. Date of photograph 5/4/12

Photo #13: Upper elevations of Fleming Point looking southeast. Date of photograph 3/12/12

Photo #14: Upper elevations of Fleming Point looking southeast. Date of photograph 3/12/12

Photo #15: "Jockey" parking area and Golden Gate Fields access road looking southeast from Fleming Point. Date of photograph 3/12/12

Photo #16: Golden Gate Fields access road looking southeast toward terminus at Gilman Street. Date of photograph 5/4/12

Photo #17: Golden Gate Fields access road looking northwest at end of Gilman Street from Eastshore State Park picnic area parking lot. Date of photograph 5/4/12

"Rubik's Cube" Unpainted (7-2-2010)

"Rubik's Cube" Painted (5/1/2012)

Stencils (12/01/2011)

"Throne" (6/21/2012)

"Herons" (6/21/2012)

"Spinner" (6/21/2012)

Mosaic (6/21/2012)

Sign (5/31/2012)

Healthy Parks
Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.1-2

WILD ART PHOTOS

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Scenic Quality

Scenic quality is the relative worth of a landscape from a visual perception point of view. Outstanding scenic quality is a rating reserved for landscapes that would be what a viewer might think of as "picture postcard" landscapes. Landscapes that are considered of low scenic quality are often dominated by visually discordant cultural (man-made) modifications and do not provide views that people would find inviting or interesting.

From any location, the Project area shoreline offers open panoramic views of the central San Francisco Bay. When combined with the relatively natural appearing Albany Beach, a high quality results. However, the scenic quality of the remainder of the Project site is low. This is principally based on the disturbed character of the area, a lack of unity between cultural modifications, and the variety of uses that occur including recreational, massive parking areas and intermittent uses for open storage of racetrack-related materials, and disparate architectural materials. Seven key factors of the Project site and its immediate foreground setting, as described below, were used in this determination:

1. Landform: The Project site is generally level with some topographic variance presented by Fleming Point and the Albany Neck and Bulb landfill.

2. Vegetation: The vegetation within the Project site is an eclectic mixture of predominantly non-native species including but not limited to: Canary Island Date Palm (*Phoenix canariensis*), Acacia (*Acacia spp.*); Pampas Grass (*Cortaderia sp.*); Broom (*Cytisus sp.*); Fennel (*Foeniculum vulgare*); Myoporum (*Myoporum laetum*); Australian tea tree (*Leptospermum laevigatum*); Late Cotoneaster (*Cotoneaster lacteus*); Silverleaf Cotoneaster (*Cotoneaster pannosus*); and Trailing African Daisy (*Osteospermum fruticosum*). One prominent grove of Eucalyptus (*Eucalyptus globulus*) marks the northeast corner of the Beach and serves somewhat as a landmark orienting visitors to the Beach. Some native species present are: Blue Elderberry (*Sambucus mexicana*); Willow (*Salix spp.*); and Coyote Brush (*Baccharis pilularis*). The visually dominant vegetation includes the acacias along the Albany Neck, the eucalyptus grove adjacent to the beach, a formal row of acacias along the Golden Gate Fields access road adjacent to the Golden Gate Fields stables, and a row of Australian tea trees along the edge of the upper Golden Gate Fields parking lot (**Photos #2, #7, #16**).

3. Color: Colors are chiefly attributable to the green to brown color of the Bay waters, gray-green to yellow green of the vegetation, and gray of the rip-rap shoreline. The Albany Beach is light sand color. Natural outcrops along Fleming Point are yellow-brown.

4. Water: the open waters of the San Francisco Bay are the visually dominant feature of the Project site with a high scenic quality.

5. Adjacent Scenery: The landscapes surrounding the Project site are:
   - to the immediate north: a former landfill with a visually eclectic combination of exotic vegetation, exposed metal and concrete debris, and exposed construction materials
   - to the east: roads, open parking areas, the Golden Gate Fields grandstand, and Golden Gate Fields stables
   - to the south: the Gilman Field parking area and lighted sports field complex
   - to the west: the San Francisco Bay.

6. Scarcity: The Project site includes a small beach. There are only a few other sandy beach areas within the immediate East Bay shoreline from Emeryville to Richmond.

7. Cultural (Man-Made) Modifications**:** The scale of the Golden Gate Fields parking areas, grandstands, observation towers, and numerous overhead cobra-type lights within the complex dwarf other structures surrounding the immediate Project site. Other cultural modifications within the Project site that are distinguishable include: remnant components of a pier extending from Fleming Point; numerous overhead lights along the Golden Gate Fields access road as it curves over Fleming Point to Gilman Street; Golden Gate Fields stables with green slatted screening fencing along the Golden Gate Fields access road, and architectural screening along Gilman Street; and the Tom Bates Sports complex.

   Wild art and graffiti are visually dominant elements along the Albany Neck, with graffiti located on permanent sculptures, signs, walls, and exposed landfill materials. Although much of this work is transient in nature in response to the elements and the whims of artists and visitors, there are some works that are more durable or unique, such as the "Rubik's Cube", a large cubic block of concrete along the Neck shoreline and two wood structures known locally as the "Throne" and the "Spinner" at the Beach that are readily recognized by park visitors. The Rubik's Cube was painted sometime after 2010 and is an example of the transient and changing nature of the wild art. In addition to these ephemeral art works, there are also some more permanent pieces in the Albany area, including a round seating area/fire pit structure just north of the Beach portion of the Project site that was commissioned by the city of Albany, called "the Cove". Wild art elements in the Albany Bulb area are outside the Project Area, not visible from the site, and will not be affected by the Project.

Visual Character of the Surrounding Area

There are no natural features in the immediate foreground of the surrounding area. The visual character, while vivid, lacks unity.

To the immediate north and west of the Albany Neck is an elevated area of landfill that, like the north edge of the Albany Neck (**Photos #1, #2, and #3**), comprise a disparate mix of non-native vegetation, exposed construction demolition materials, a variety of volunteer trails and volunteer art works created from items found within the landfill. Graffiti is abundant. To some, the visual chaos of the area may compromise a sense of management and safety, while to others it creates an "urban wilderness" visual experience.

To the east, the dominant visual features are related to the Golden Gate Fields complex that is generally oriented away from the Project site. These include: vast expanses of paved parking, the Golden Gate Fields access road, entrance booths, a variety of fencing and vehicle control features, overhead lighting, miscellaneous permanent and temporary storage facilities, the grandstand, and stables with perimeter screening fences. The scale of the grandstand makes it the most dominant element. The grandstand and stables block eastern views from the Project site.

To the south views from the Project site terminate at improvements within the Eastshore State Park. These include a small picnic area at the terminus of Gilman Street, parking areas, and an elevated lighted sports field complex.

To the west of the Project site is the vivid, unified, and intact San Francisco Bay.

Views Within and Across the Project Site

There are no designated scenic vistas within the project area or with views to the Project area.

One-hundred-eighty degree panoramic views across the San Francisco Bay exist from virtually anywhere within the Project site. From the Albany Beach to Gilman Street, these views are directed west and extend to the Emeryville/Oakland skyline, Berkeley's Cesar Chavez Park, the Bay Bridge, Yerba Buena and Treasure

Islands, the San Francisco skyline, the Golden Gate Bridge, Angel Island, and Mount Tamalpais. At the higher elevations along Fleming Point the panorama is most commanding. From the Albany Neck views are equally panoramic and include a south orientation to portions of the East Bay hills and Golden Gate Fields (**Photo #3**). Further east along the Albany Neck views to the San Francisco skyline and the Golden Gate Bridge are blocked by the Albany Bulb landform.

From the north side of Fleming Point views over the Project site include Albany Beach and Albany Bulb (**Photo # 7**).; From the south side of Fleming Point views over the Project site include a parking area and Golden Gate Fields access road (**Photo # 15**).

Views of the Project Site from the Surrounding Area

Foreground visibility to the Project site from surrounding areas is limited.

The linear Project site is approached from the north and the City of Albany via Buchanan Street, and from the south and the City of Berkeley via Gilman Street. Both approaches involve traveling under Interstate 580 or Interstate 80. These freeway overcrossings essentially serve as visual barriers for any foreground and middle ground views to the Project site from further east. From Buchanan Street, the low-lying Albany Beach might be first seen behind the Golden Gate Fields parking area. However, views east along Buchanan Street are either blocked or filtered by fences, parked vehicles (cars, trucks, and trailers), intermittently stored racetrack related materials, and parking along Buchanan Street. The site is not totally visible until the cul-de-sac at the end of Buchanan Street, where the Project site would be entered.

From Gilman Street after going under Interstate 80, the Project site is blocked from view by the Golden Gate Fields stable complex.

The Project site is clearly visible from the elevated portions of the Albany Bulb and from the higher elevations of Fleming Point in front of the Golden Gate Fields grandstand area. However, the orientation of the Golden Gate Fields grandstands and racetrack is to the east, away from the Project site.

Some middle ground views (2 to 4 miles) exist to the Project site from the East Bay hills.

Views of the Project site from the Bay are similar to those that exist from the end of the Albany Neck looking east. Boats on the Bay would view the Project from the west (**Photo #3 and Photos #9, #10, and #11**).

Standards of Significance

Aesthetic or visual changes associated with the Project would be considered significant if the Project would:

a. Have a substantial adverse effect on a scenic vista.

b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway.

c. Substantially degrade the existing visual character or quality of the site and its surroundings.

d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

Impact Discussion

The *Eastshore Park Project General Plan EIR* analyzes aesthetic impacts of development on the project site that differs in detail from the Proposed Project (e.g., size of parking lot, and number and size of restrooms). This section, which supplements the *Eastshore Park Project General Plan EIR,* discusses the impacts of the Proposed

Project on aesthetic resources in the area. The discussion of potential Project impacts is organized by, and responds to, each of the Standards of Significance.

Project Analysis

Principal Project elements that would be readily seen and that would alter the characteristic landscape include:

Area 1: Albany Neck

- Reconstructed shoreline with a San Francisco Bay Trail spur trail
- Removal of large concrete painted or decorated elements between the existing shoreline and access road or wild art removal, such as Rubik's Cube
- Low post and cable fencing along Bay-side of trail

Area 2: Albany Beach

- Removal of pavement, concrete, creosote treated wood and metal rubble; expansion of beach, dune, and seasonal wetlands.
- Entrance drive and 20-stall parking area.
- Post and wire fence around restoration areas
- San Francisco Bay Trail, at or near existing grade
- Vault restroom and screening vegetation near the east property line.
- Trim or remove hazardous trees and remove Myoporum northeast of existing Eucalyptus grove.

Area 3: San Francisco Bay Trail – Albany Beach to Gilman Street

- Reduction of Golden Gate Fields parking and narrowing of Golden Gate Fields access road to accommodate San Francisco Bay Trail.
- Engineered San Francisco Bay Trail along the west-facing slopes of Fleming Point involving cut-and-fill grading and engineered trail structures, including walls varying in height from 3 to approximately 8 feet. The concrete walls would be constructed to emulate native bedrock in color and in structure.

Repair/Soil Placement Area (Albany Plateau)

- Reuse/recycling of excavated shoreline material to repair areas at the west side of Albany Plateau where landfill debris such as concrete and sharp metal are exposed, that would elevate existing topography and enhance views.

a. Have a substantial adverse effect on a scenic vista.

There are no designated scenic vistas within the Project site or surrounding lands.

As discussed, the Project site provides open visibility to the San Francisco Bay. These views would not be blocked. On the contrary, the Proposed Project would provide access facilities that do not now exist that would bring people to the shoreline and take advantage of these views.

The proposed parking lot, restoration area fencing, and pre-fabricated restroom building would be located east of the Albany Beach. These facilities would not affect any existing view corridors to the Bay or views from the existing City of Albany parking area serving the Albany Bulb. The proposed restroom building has

dimensions of approximately 12 by 15 feet and has been located so as not to block any views that may exist to the Bay from the proposed parking area. The restoration area fencing would be designed to keep people and dogs out of the wetlands and dune areas and would also not detract from views of this area or the Bay.

The Proposed Project would not result in a substantial adverse effect on scenic vistas but rather take advantage of them by providing new or upgraded public access facilities to the shoreline. Therefore, the Proposed Project would have a beneficial impact on scenic impacts and such impact would be *less than significant*.

b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway.

The Project site is not within view of a designated State Scenic highway. The project is consistent with and furthers the guidelines, goals and directions of the City of Albany, City of Berkeley, and Eastshore State General Plan described above in Section a. Several non-native Australian tea trees would be removed and existing bedrock and embankment fill would be exposed in the vicinity of Fleming Point. Approximately 500 ft. of bedrock outcrop would be exposed north of Fleming Point, which would be visible from Albany Neck and Beach. Two hundred fifty feet at the south end of Fleming Point, adjacent to the existing parking area (Jockey lot) would be altered and appear as a terrace along the existing rock face. This would be visible from the water and distant views from Albany Bulb. Five hundred feet of trail between the two bedrock areas would be constructed on embankment fill, with retaining walls to provide slope stabilization. As indicated in the Project Description, all retaining walls would be colored and/or textured to match existing rock conditions, and all disturbed slopes will be hydroseeded and planted with native species to provide vegetative cover. This would not result in substantial damage to a scenic resource because the area has been previously substantially disturbed.

Vegetation removal would include removal of approximately 6-8 non-native trees at the top of slope as well invasive shrubs in the vicinity of the trail section. The removal of these elements would not negatively impact the visual quality of the site because the site is already substantially disturbed with non-native invasive vegetation, other vegetation will remain, and disturbed areas will be replanted with native plant species. Therefore, the impact of the Proposed Project on scenic resources would be *less than significant.*

c. Substantially degrade the existing visual character or quality of the site and its surroundings.

As discussed, the Project site and the area surrounding it, with the exception of the Albany Beach and eucalyptus grove, is of low visual quality. The Proposed Project calls for enhancing the natural character of the Albany Neck shoreline and eastern portions of the Albany Beach while preserving the existing Albany Beach and eucalyptus grove and upgrading area facilities. This includes converting significant portions of an existing paved area behind Albany Beach into a native landscape of dunes and seasonal wetlands. The impacts would be beneficial to the existing character of the Project site.

The Proposed Project also calls for construction of the San Francisco Bay Trail along the western slopes of Fleming Point, through existing parking areas on either side of Fleming Point and along the Golden Gate Fields access road from Fleming Point to Gilman Street. With the exception of Fleming Point itself, these changes would result in removal of parking spaces and replacing them with a public trail. As seen from the Golden Gate Fields grandstand entrance, the trail would not be readily evident. However, the construction of the San Francisco Bay Trail along the slopes of Fleming Point would alter the character of the landscape when looking east from the Bay and from the Albany Bulb by adding a visual line to the slope. Five factors would reduce the visual contrast of the proposed trail as seen from the west:

- The existing disturbed slopes already include an engineered, level top edge that is not natural in appearance and would be mimicked by the trail alignment.

- Flat, native colors would be used in any retaining walls or materials associated with cantilevered trail sections.
- Non-reflective metal materials would be used.
- Cut and fill soil slopes constructed for the trail would be hydroseeded and/or planted to provide vegetative cover.
- The presence and scale of the Golden Gate Field grandstand would continue to be a dominating visual element.

Thus, the trail would improve the visual quality and character of the site.

The wild art on the Project site, including the subterranean stacked concrete slab structure referred to as the "Cove", the wood structures known as the "Throne" and the "Spinner", and the large concrete block along the Neck shoreline known as the "Rubik's Cube" could also be considered to contribute to the visual character of the project area.

None of the proposed project activities would affect the "Cove". The "Spinner" and the "Throne", if determined to contain creosote treated wood would be removed, and the items could potentially be impacted by the beach nourishment or placement of beach sands above mean higher high water (MHHW). The Rubik's Cube and other paintings on the concrete rubble along the Neck could also potentially be impacted by revetment construction.

Impact AESTH-1: The Project's impact on the wild art could result in a *potential significant* impact on the visual character of the site.

> Mitigation Measure AESTH – 1: In order to mitigate potential adverse impacts to the character of the site as a result of the wild art, pieces of art that are durable, contain unique features, and pose no health or safety risk, such as the "Rubik's Cube," shall be relocated to another location near the site of their original location.
>
> Significance after Mitigation: Overall, the Proposed Project would enhance the aesthetic qualities of the Project site. Given that some pieces of the Wild Art will remain undisturbed on the site, and with the implementation of Mitigation Measure AESTH – 1, other Wild Art will be relocated to other areas close to their original locations, the Proposed Project will not substantially degrade the existing visual character or quality of the site and its surroundings. Thus, the Proposed Project's impact on the visual character and quality of the site would be reduced to a *less than significant* level.

d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

Currently, there are numerous tall overhead cobra-style parking area lights associated with the Golden Gate Fields complex where direct and ambient light affect the Albany Beach and the Golden Gate Fields access road. The Proposed Project would not include any lighting. Materials used for fencing and structures for the Proposed Project would be non-reflective. The parking area would be closed after dark. There would therefore be *no light or glare impact* from the Proposed Project.

Cumulative Analysis

Cumulative impacts on aesthetics were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR* and are incorporated herein. The *Eastshore Park Project General Plan EIR* determined that the Eastshore Park Project, in combination with other planned projects in the vicinity, would not result in significant cumulative aesthetic impacts.

At the time this EIR was prepared, the following projects in the vicinity of the Proposed Project site have been proposed or recently approved. No nearby projects were under construction.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.18 Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[19]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[20]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan

18 Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

19 Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

20 Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[21]

The locations of the proposed and recently approved projects identified above are dispersed. From any single vantage point in the Project vicinity, only one or a small number of these projects would be visible, and none of the Proposed Project would be visually prominent. Together, these projects would not significantly alter the visual character to the Project vicinity. For these reasons, the effects of past, current and probable future projects would not result in a significant cumulative impact on aesthetics. As discussed above, as an overall result of the Proposed Project, the aesthetic conditions of the Project site within Areas 1 and 2 would remain in open space and be enhanced. Construction of the San Francisco Bay Trail in Area 3 would enhance the aesthetics of the shoreline and bring more individuals to the shoreline to enjoy views to the San Francisco Bay. Therefore, the Proposed Project would not have a cumulatively considerable impact on aesthetics because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. The Proposed Project's cumulative impact on aesthetics would be *less than significant*.

21 Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.2 Air Quality

This section of the EIR evaluates the impacts of the Proposed Project on local and regional air quality. This project EIR tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon and updates background information, significance criteria and analytical methodology presented in that document. Specifically, this section incorporates by reference Section III.B of the *Eastshore Park Project General Plan EIR*, which evaluates air quality impacts. Air pollutant emission model data and dispersion model output supporting the Health Risk Assessment (HRA) discussed in this section are included in Appendix D.

Regulatory Framework

Section III.B of the *Eastshore Park Project General Plan EIR* addressed existing air quality conditions in the General Plan area, and the standards, plans and policies applicable to maintaining and improving air quality locally and regionally. The following discussion summarizes and updates information presented in the "Setting" subsection of Section III.B of the *Eastshore Park Project General Plan EIR*, and supplements that EIR with additional setting information specific to the Albany Beach project, as necessary.

The Project site is in the San Francisco Bay Area Air Basin (Bay Area) and is subject to the rules and regulations imposed by the Bay Area Air Quality Management District (BAAQMD), as well as by the California Air Resources Board (CARB) and the U.S. Environmental Protection Agency (EPA). Federal, State and regional laws, regulations, air quality improvement plans, or agency guidelines that are applicable to the evaluation of the Proposed Project's air quality impacts are summarized below.

Ambient Air Quality Standards

The Clean Air Act (CAA) was passed in 1963 by the U.S. Congress and has been amended several times since then. The 1970 CAA amendments strengthened the original legislation and laid the foundation for the specific control regulations implemented in the 1970s and 1980s. The 1977 CAA amendments introduced "nonattainment" designations for areas not meeting federal ambient air quality standards (AAQS) and implemented the Prevention of Significant Deterioration (PSD) program in areas where federal AAQS were being met. The CAA allows states to adopt more stringent state AAQS for pollutants with a federal AAQS, and to adopt additional state AAQS for other pollutants that they consider pose in-state threats to health and welfare. The California Clean Air Act (CCAA), signed into law in 1988, requires all areas of California to achieve and maintain the California AAQS by the earliest practical date.

The AAQS limit the concentration of pollutants in the air as determined to be necessary to protect public health and welfare with a margin of safety included. They are designed to protect those "sensitive receptors" most susceptible to further respiratory distress, such as the elderly, children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. Healthy adults can tolerate occasional exposure to air pollutant concentrations above the AAQA before adverse effects are observed.

Both California and the federal government have established AAQS for the first seven air pollutants shown in **Table 4.2-1:** ozone (O_3), nitrogen dioxide (NO_2), carbon monoxide (CO), sulfur dioxide (SO_2), coarse inhalable particulate matter (PM_{10}), fine inhalable particulate matter ($PM_{2.5}$), and lead (Pb). California has set AAQS for a few additional pollutants that have no federal AAQS: sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing particles.

TABLE 4.2-1 AMBIENT AIR QUALITY STANDARDS FOR CRITERIA POLLUTANTS

Pollutant	Averaging Time	California Standard	Federal Primary Standard	Major Pollutant Sources
Ozone (O_3)	1 hour	0.09 ppm	*	Motor vehicles, paints, coatings, and solvents.
	8 hours	0.070 ppm	0.075 ppm	
Carbon Monoxide (CO)	1 hour	20 ppm	35 ppm	Internal combustion engines, primarily gasoline-powered motor vehicles.
	8 hours	9.0 ppm	9 ppm	
Nitrogen Dioxide (NO_2)	Annual Average	0.030 ppm	0.053 ppm	Motor vehicles, petroleum-refining operations, industrial sources, aircraft, ships, and railroads.
	1 hour	0.18 ppm	0.100 ppm	
Sulfur Dioxide (SO_2)	Annual Average	*	*1	Fuel combustion, chemical plants, sulfur recovery plants, and metal processing.
	1 hour	0.25 ppm	0.075 ppm[a]	
	24 hours	0.04 ppm	*[a]	
Suspended Particulate Matter (PM_{10})	Annual Arithmetic Mean	20 μg/m³	*	Dust and fume-producing construction, industrial, and agricultural operations, combustion, atmospheric photochemical reactions, and natural activities (e.g. wind-raised dust and ocean sprays).
	24 hours	50 μg/m³	150 μg/m³	
Suspended Particulate Matter ($PM_{2.5}$)	Annual Arithmetic Mean	12 μg/m³	15 μg/m³	Dust and fume-producing construction, industrial, and agricultural operations, combustion, atmospheric photochemical reactions, and natural activities (e.g. wind-raised dust and ocean sprays).
	24 hours	*	35 μg/m³	
Lead (Pb)	Monthly	1.5 μg/m³	*	Present source: lead smelters, battery manufacturing & recycling facilities. Past source: combustion of leaded gasoline.
	Quarterly	*	1.5 μg/m³	
	3-Month Average	*	0.15 μg/m³	
Sulfates (SO_4)	24 hours	25 μg/m³	*	Industrial processes.
Visibility	8 hours	ExCo	No Federal	Visibility-reducing particles consist of suspended particulate matter, which is a

Pollutant	Averaging Time	California Standard	Federal Primary Standard	Major Pollutant Sources
Reducing Particles		=0.23/km visibility of 10≥ miles1	Standard	complex mixture of tiny particles that consists of dry solid fragments, solid cores with liquid coatings, and small droplets of liquid. These particles vary greatly in shape, size and chemical composition, and can be made up of many different materials such as metals, soot, soil, dust, and salt.
Hydrogen Sulfide	1 hour	0.03 ppm	No Federal Standard	Hydrogen sulfide (H_2S) is a colorless gas with the odor of rotten eggs. It is formed during bacterial decomposition of sulfur-containing organic substances. Also, it can be present in sewer gas and some natural gas, and can be emitted as the result of geothermal energy exploitation.
Vinyl Chloride	24 hour	0.01 ppm	No Federal Standard	Vinyl chloride (chloroethene), a chlorinated hydrocarbon, is a colorless gas with a mild, sweet odor. Most vinyl chloride is used to make polyvinyl chloride (PVC) plastic and vinyl products. Vinyl chloride has been detected near landfills, sewage plants, and hazardous waste sites, due to microbial breakdown of chlorinated solvents.

Notes: ppm: parts per million; $\mu g/m^3$: micrograms per cubic meter
* Standard has not been established for this pollutant/duration by this entity.
[a] When relative humidity is less than 70 percent.
Source: CARB, Ambient Air Quality Standards (February 2012); accessed at http://www.arb.ca.gov/research/aaqs/aaqs2.pdf.

Air Pollutants of Concern

Criteria Air Pollutants

Air pollutants for which AAQS have been established are referred to as "criteria" air pollutants. More detailed descriptions of the five major criteria pollutants that have both federal and California AAQS, and are the current focus of major federal, state and local control efforts are presented below:

Ozone *(O_3)***,** commonly referred to as "smog," is a gas that is formed when volatile organic compounds (VOCs) and nitrogen oxides (NO_x) (both being combustion by-products contained in internal combustion engine exhaust) undergo chemical reactions in the presence of sunlight. O_3 concentrations are generally highest during the summer months when direct sunlight, light winds, and warm temperatures create favorable conditions for its formation. O_3 levels usually build up during the day and peak in the afternoon hours. Short-term exposure to high concentrations can irritate the eyes and cause constriction of the airways. Besides causing shortness of breath, it can aggravate existing respiratory diseases such as asthma, bronchitis and emphysema. Chronic exposure to high ozone levels can permanently damage lung tissue. O_3 can also damage plants and trees, and materials such as rubber and fabrics.[22]

Carbon Monoxide (CO) is a colorless, odorless gas produced by incomplete combustion of carbon compounds, such as gasoline or diesel fuel. CO concentrations tend to be the highest during calm winter evenings and early mornings. Motor vehicles operating at slow speeds are the primary source of CO in the Bay Area. CO emissions are highest during cold starts, hard accelerations, and stop-and-go driving conditions. New findings indicate that CO emissions per mile are lowest at about 45 mph for the average light-duty motor vehicle and begin to increase again at higher speeds. When inhaled at high concentrations, CO combines with hemoglobin in the blood and reduces its oxygen-carrying capacity, consequently reducing the oxygen reaching the brain, heart and other body tissues. This condition is especially debilitating for people with cardiovascular diseases, chronic lung disease or anemia, and to children, born and unborn. Even healthy people exposed to high CO concentrations can experience headaches, dizziness and fatigue, and if the concentrations are extreme, unconsciousness and even death.[23]

Nitrogen Dioxide (NO_2), along with nitric oxide (NO), is a byproduct of fuel combustion. However, NO reacts with oxygen and is quickly converted to NO_2, which is an irritant and, in equal concentrations, is more injurious than NO. There is evidence of a relationship between NO_2 exposure and chronic pulmonary fibrosis, and of its causing an increase in bronchitis in children. NO_2 absorbs blue light; the result is a brownish-red cast to the atmosphere and reduced visibility.

Sulfur Dioxide (SO_2) is a colorless, pungent, irritating gas formed by the combustion of high-sulfur-content fossil fuels, mostly at chemical plants and oil refineries. In contrast, gasoline and natural gas have very low sulfur content and do not release significant quantities of SO_2 when they are burned by facilities and vehicles that use them. At sufficiently high concentrations, SO_2 may irritate the upper respiratory tract, and when combined with fine, suspended particulates, SO_2 may injure lung tissue.[24]

Inhalable Suspended Particulate Matter *(PM_{10} and $PM_{2.5}$)* consists of fine solids or liquids such as soot, dust, aerosols, fumes, and mists. Inhalable coarse particles, or PM_{10}, have an average aerodynamic diameter of 10 microns (i.e. 10 millionths of a meter or 0.0004 inch) or less. Inhalable fine particles, or $PM_{2.5}$, have an average aerodynamic diameter of 2.5 microns (i.e. 2.5 millionths of a meter or 0.0001 inch) or less. PM_{10} and

[22] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, Appendix C: Sample Air Quality Setting, (Updated May, 2011).

[23] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, Appendix C: Sample Air Quality Setting, (Updated May, 2011).

[24] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, Appendix C: Sample Air Quality Setting, (Updated May, 2011).

$PM_{2.5}$ are of concern because they bypasses the body's natural filtration system more easily than larger particles, and can lodge deep in the lungs. The EPA and the state of California revised their PM standards several years ago to apply only to these size categories of inhalable particles.

Some inhalable particulate matter, such as pollen, is naturally occurring. In the Bay Area, most particulate matter of concern as an air pollutant is caused by combustion (especially of motor vehicle fuels), industrial processes, construction activities, structural demolition, and agricultural activities. Motor vehicles are currently responsible for about half of the inhalable particulates in the Bay Area, while wood burning in fireplaces and stoves are another substantial source.[25]

Both PM_{10} and $PM_{2.5}$ adversely affect the human respiratory system, especially in people who are naturally sensitive or susceptible to breathing problems. These health effects include premature death and increased hospital admissions and emergency room visits (primarily the elderly and individuals with cardiopulmonary disease); increased respiratory symptoms and disease (children and individual with asthma); and alterations in lung tissue and structure and in respiratory tract defense mechanisms.[26] Diesel particulate matter (DPM) is classified by the California Air Resources Board (CARB) as a carcinogen.

Toxic Air Contaminants (TACs)

In addition to the criteria air pollutants, many additional chemical compounds, called toxic air contaminants (TACs) are recognized as posing significant threats to human health and welfare due to their airborne exposures. Since the last update to the TAC list in December 1999, CARB has designated 244 compounds as TACs.[27]

Public exposure to air TACs is a significant environmental health issue in California. In 1983, the California Legislature enacted a program to identify the health effects of TACs and to reduce exposure to these contaminants to protect the public health. The California Health and Safety Code defines a TAC as "an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health." Under federal law, a TAC is a substance listed as a hazardous air pollutant pursuant to Section 112(b) of the federal CAA (42 United States Code § 7412[b]). Under State law, the California Environmental Protection Agency (Cal/EPA), acting through CARB, is authorized to identify a substance as a TAC if it determines that the substance is an air pollutant that may cause or contribute to an increase in mortality or to an increase in serious illness, or may pose a present or potential hazard to human health.

California regulates TACs primarily through AB 1807 (Tanner Air Toxics Act) and AB 2588 (Air Toxics "Hot Spot" Information and Assessment Act of 1987). The Tanner Air Toxics Act sets formal procedures for CARB to designate substances as TACs. Once a TAC is identified, CARB adopts an "airborne toxics control measure" for sources that emit designated TACs. If there is a safe threshold for a substance (i.e. a point below which there is no toxic effect), the control measure must reduce exposure to below that threshold. If there is no safe threshold, the measure must incorporate best available control technology to minimize TAC emissions. To date, CARB has established formal control measures for 11 TACs, all of which are identified as having no safe threshold.

TACs from stationary sources are also regulated in California under AB 2588. TAC emissions from individual facilities are quantified and prioritized by the appropriate air quality management or air pollution control

[25] BAAQMD, *California Environmental Quality Act Air Quality Guidelines,* Appendix C: Sample Air Quality Setting, (Updated May, 2011).

[26] South Coast Air Quality Management District (SCAQMD), 2005, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning,* (May, 2011).

[27] CARB, *Final Staff Report: Update to the Toxic Air Contaminant List.* (December 1999)

districts. High priority facilities are required to perform a health risk assessment and, if specific thresholds are exceeded, to communicate the results to the public in the form of public notices or meetings.

The majority of the estimated health risks from TACs can be attributed to relatively few compounds, the most important being particulate matter from diesel-fueled engines (DPM). Almost all diesel exhaust particle mass is 10 microns or less in diameter. Because of their extremely small size, these particles can be inhaled and eventually trapped in the bronchial and alveolar regions of the lungs.

BAAQMD's Community Air Risk Evaluation (CARE) program was initiated in 2004 to evaluate and reduce health risks associated with exposures to outdoor TACs in the Bay Area. Based on the annual emissions inventory of TACs for the Bay Area, DPM was found to account for approximately 80 percent of the cancer risk from airborne toxics. The highest DPM concentrations occur in the urban core areas of eastern San Francisco, western Alameda, and northwestern Santa Clara counties.

Air Quality Management and Planning

Air quality conditions in the Bay Area have improved significantly since the BAAQMD was created in 1955.[28] BAAQMD prepares air quality management plans (AQMPs) to attain ambient air quality standards in the Bay Area in coordination with the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC). The BAAQMD also prepares Ozone Attainment Plans (OAPs) for the federal O_3 standard and Clean Air Plans for the California O_3 standard.

The most recent adopted comprehensive plan is the 2010 Bay Area Clean Air Plan, which incorporates updated emissions inventories, ambient air pollutant measurements, meteorological data, and air quality modeling tools. The purpose of the 2010 Clean Air Plan is to: 1) update the Bay Area 2005 Ozone Strategy in accordance with the requirements of the California Clean Air Act to implement all feasible measures to reduce O_3; 2) consider the impacts of O_3 control measures on PM, TAC, and greenhouse gases (GHGs) in a single, integrated plan; 3) review progress in improving air quality in recent years; and 4) establish emission control measures to be adopted or implemented in the 2009-2012 timeframe. The 2010 Clean Air Plan also provides the framework for Bay Area to attain the California AAQS.

Areas that meet AAQS are classified as "attainment" areas, while areas that do not meet these standards are classified as "nonattainment" areas. The attainment status of the Bay Area with regard to the major criteria air pollutants are shown in **Table 4.2-2.**

Local Regulations and Policies

There are no Alameda County, City of Albany, or City of Berkeley air quality regulations or policies that would substantially influence the evaluation of the Proposed Project's air quality impacts in this EIR. Compliance with federal and state AAQS and criteria for acceptable health risk from TACs, and a CEQA analysis following BAAQMD significance criteria and analytical methodology, would assure that any county and city concerns about maintaining and improving air quality in their jurisdictions would be adequately addressed.

[28] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*. Appendix C: Sample Air Quality Setting (Updated May, 2011).

TABLE 4.2-2 ATTAINMENT STATUS OF BAY AREA WITH RESPECT TO CRITERIA AIR POLLUTANT AAQS

Pollutant	State	Federal
Ozone – 1-hour	Nonattainment	Classification revoked (2005)
Ozone – 8-hour	Nonattainment	Nonattainment
PM_{10}	Nonattainment	Unclassified
$PM_{2.5}$	Nonattainment	Nonattainment
CO	Attainment	Attainment
NO2	Attainment	Attainment
SO2	Attainment	Attainment
Pb	Attainment	Attainment
Sulfates	Attainment	Unclassified
All others	Unclassified	Unclassified

Source: Bay Area Air Quality Management District (BAAQMD); http://hank.baaqmd.gov/pln/air_quality/ambient_air_quality.htm; accessed April 25, 2012.

Existing Conditions

Air Pollution Potential

Air quality is affected by the strength of local pollutant sources and by the meteorological, climatological and topographical conditions that influence air movement and pollutant dispersal.

Factors Influencing the Regional Air Pollution Potential

The most important topographical, meteorological and climatological factors influencing air quality in the Bay Area are:

- **Low wind speeds**, which allow higher ambient air pollutant concentrations because pollutants are dispersed more slowly by light winds. Light winds occur most frequently during periods when sunlight intensity is low (i.e., seasonally in the late fall and winter, and diurnally in early morning, late afternoon and at night). These episodes often coincide with periods when air pollutant emissions from some sources are at their peak (e.g., commute traffic in the early morning/late afternoon, and wood-burning stove use at night). Topography can also restrict air movement (e.g., mountain valleys have limited ventilation capacities compared with similar areas in more open terrain).

- **Temperature inversions** (i.e., a layer of warmer air over a layer of cooler air closer to the ground, contrary to the more usual configuration of cooler air at higher elevations), which limit vertical air movement and increase air pollutant concentrations in air near the ground. There are two types of inversions that occur regularly in the Bay Area: 1) *subsidence inversions* are more common in the summer and fall when a warmer layer of descending subtropical air caps a cooler marine air layer next to the surface; 2) *radiation inversions* are more common in the winter when the ground cools more quickly after sunset causing the air in contact with it to cool faster than the air layer directly above it.

- **Solar radiation and temperature**, which are higher during the summer and fall. This promotes ozone-producing reactions between the precursor VOCs and NO_x. Since sunlight intensity and temperature in inland portions of the Bay Area are higher than in coastal areas, inland areas are more prone to high ozone levels.

Thus, the portions of the Bay Area having the highest air pollution potential are those that experience the highest temperatures in the summer, the lowest temperatures in the winter, and restrictions on air movement imposed by terrain. Specifically, these would be inland areas that are sheltered by mountainous terrain from the moderating effects of marine air and its accompanying cloud/fog cover, and not coastal areas, which are cooler and better ventilated.

Factors Influencing the Local Air Pollution Potential of the Project Site and Vicinity

The Project Site lies in the Northern Alameda/Western Contra Costa climatological sub-region of the Bay Area. This area stretches from Richmond to San Leandro (north-south), and from the San Francisco Bay east shore to the Oakland-Berkeley Hills (west-east). Its air pollutant potential is influenced by a unique combination of topographical, meteorological and climatological factors.

The westerly marine air flow through the Golden Gate is predominant in this sub-region, but the Oakland-Berkeley Hills cause it to slow and divert to the north and to the south as it approaches the East Bay shore. Compared with inland areas, temperatures in this sub-region have a narrower range with lesser extremes, and a lesser solar radiation intensity because of increased fog and cloud cover. Thus, the air pollution potential of this sub-region is less than most inland areas. And within this sub-region, the air pollution potential is lowest in areas closest to the Bay, which includes the Project Site.

This sub-region contains a variety of industrial air pollution sources, which are especially concentrated in the portions of Albany and Berkeley west of San Pablo Avenue. It is also traversed by the I-80/I-580 freeways, which are major sources of ozone precursors, CO and TACs. Local pollutant concentrations would usually be highest in the evenings and early mornings when winds are lightest and pollutant emissions are highest.

Existing Ambient Air Quality

Existing levels of ambient air quality and historical trends and projections in the vicinity of the Project site are best documented by measurements made by the BAAQMD. The air quality monitoring station closest to the Project site is the Berkeley-6th Street Monitoring Station. The five most recent years of data from this station is summarized in **Table 4.2-3**. The data shows recurring violations of the federal $PM_{2.5}$ standard. The O_3, CO, SO_2, NO_2 and PM_{10} standards have not been exceeded in the last five years at this monitoring station.

Sensitive Receptors

General Considerations

Some population groups are considered to be more sensitive to air pollution's effects than others, including children, the elderly and the acutely and chronically sick (especially those with cardio-respiratory diseases). Residential areas, schools, hospitals, senior centers and retirement facilities are considered to be the most sensitive to air pollution's effects because children, the elderly and sick can be present there for extended periods of time. Outdoor recreational facilities are somewhat less sensitive. Exercise places a high demand on respiratory functions, which can be impaired by air pollutant exposure, but users of recreational facilities tend to be healthier than the general population and their exposure time at these facilities are usually shorter (i.e., on the order of a few hours, rather than a full day) than residents, school children or hospital patients at theirs. Exposures at office, commercial, retail, and industrial uses are of lesser concern because the exposure periods are relatively short (e.g., 8-hour workday versus 24-hour exposure time in residential areas), workers

tend to be indoors most of the time where pollutant levels are lower, and the worker population tends to be healthier than the general population and less susceptible to pollutant effects.

Specific Sensitive Uses in the Project Site Vicinity

The local sensitive receptors of most concern because of their potential long-term exposure to emissions from project and existing pollutant sources (for the latter, especially the I-80/I-580 freeway) include the residential neighborhood in Albany east of I-80 and north of Buchanan Street (about 2500 feet from the closest portion of the project site); the University Village residential complex in Berkeley, east of the Union Pacific Railroad (UPRR) line, between Buchanan Street and Harrison Street (about 2500 feet from the closest portion of the project site); and the residential uses in Berkeley at the western end of Harrison Street (about 1800 feet from the project site). Also, there is a significant local population of homeless people who use the waterfront parks, vacant lots and areas under I-80 and its on/off ramps for encampments. Homeless encampments would not be considered as sensitive to air pollutant exposures as permanent residential areas because of the relatively transient nature of the homeless population compared with that of permanent residential areas (where for the latter it is usually common to assume a 70-year residence time when performing a TAC health risk assessment).

There are existing outdoor recreational uses all along the Albany and Berkeley waterfront, including the Proposed Project site itself (where beach improvement and trails would be constructed) and existing athletic fields along the waterfront south of Gilman Street. The Golden Gate Fields racetrack is located just east of the Proposed Project site. Between the predominantly recreational uses on the waterfront and the areas east of the UPRR railroad tracks, where residential uses begin to predominate, the land uses are completely commercial and industrial, which are much less sensitive to air pollutant exposures.

TABLE 4.2-3 AMBIENT AIR QUALITY MONITORING SUMMARY

	Number of Days Threshold Were Exceeded and Maximum Levels During Such Violations[a]				
Pollutant/Standard	**2007**	**2008**	**2009**	**2010**	**2011***
Ozone (O_3)					
State 1-Hour ≥ 0.09 ppm	0	0	0	0	0
State 8-hour ≥ 0.07 ppm	0	0	0	0	0
Federal 8-Hour > 0.075 ppm	0	0	0	0	0
Max. 1-Hour Conc. (ppm)	0.038	0.053	0.063	0.075	0.057
Max. 8-Hour Conc. (ppm)	0.032	0.049	0.049	0.049	0.048
Carbon Monoxide (CO)					
State 8-Hour > 9.0 ppm	0	0	0	0	0
Federal 8-Hour ≥ 9.0 ppm	0	0	0	0	0
Max. 8-Hour Conc. (ppm)	1.56	1.74	2.03	1.49	2.65
Nitrogen Dioxide (NO_2)					
State 1-Hour ≥ 0.18 (ppm	0	0	0	0	0
Max. 1-Hour Conc. (ppm)	0.047	0.055	0.050	0.053	0.062
Sulfur Dioxide (SO_2)					
State 24-Hour ≥ 0.04 ppm	0	0	0	0	0
Max. 24-Hour Conc. (ppm)	0.005	0.005	0.004	0.003	0.003
Coarse Particulates (PM_{10})					
State 24-Hour > 50 μg/m^3	0	0	0	0	--
Federal 24-Hour > 150 μg/m^3	0	0	0	0	--
Max. 24-Hour Conc. (μg/m^3)	35.8	43.5	33.5	42.8	--
Fine Particulates ($PM_{2.5}$)					
Federal 24-Hour > 35 μg/m^3	0	3	1	0	1
Max. 24-Hour Conc. (μg/m^3)	23.1	39.2	39.5	30.7	43.1

Notes: ppm: parts per million; μg/m^3: or micrograms per cubic meter;
[a] Data obtained from the Berkeley-6th Street Monitoring Station.
* Data for 2011 obtained from the West Oakland Monitoring Station; monitoring at Berkeley-6th Street was discontinued in 2010.
Source: California Air Resources Board (CARB), http://www.arb.ca.gov/adam/index.html.

Standards of Significance

The Proposed Project would have significant impacts on air quality if it would:

a. Conflict with or obstruct implementation of the applicable air quality plan.

b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation.

c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).

d. Expose sensitive receptors to substantial pollutant concentrations.

e. Create objectionable odors affecting a substantial number of people.

BAAQMD Project-Level and Cumulative Thresholds

CEQA allows local air quality management/air pollution control districts to define specific thresholds relating to what constitutes a significant air quality impact. Specific Bay Area thresholds were adopted by BAAQMD in June 2010 and updated May 2011.[29,30,31] The BAAQMD *CEQA Air Quality Guidelines* (Guidelines) also include screening and detailed methodology for evaluating project-level and cumulative impacts from criteria air pollutants, TACs and odors. The detailed thresholds of significance established by the BAAQMD are described below and used for purposes of determining if the Proposed Project exceeds the standards of significance identified above.[32]

Criteria Air Pollutants

Regional Emission Thresholds

BAAQMD's thresholds for the regional significance for project construction and operational criteria air pollutant emissions are shown in **Table 4.2-4**.

TABLE 4.2-4 REGIONAL PROJECT-LEVEL CRITERIA AIR POLLUTANT THRESHOLDS

	Construction	Operational	
Pollutant	**Average Daily (lbs./day)**	**Average Daily (lbs./day)**	**Maximum Annual (tpy)**
Reactive Organic Gases (ROG)	54	54	10
Oxides of Nitrogen (NO_x)	54	54	10
Coarse Inhalable Particulate Matter (PM_{10})	82 (exhaust)	82	15
Fine Inhalable Particulate Matter ($PM_{2.5}$)	54 (exhaust)	54	10
PM_{10}/$PM_{2.5}$ Fugitive Dust	BMPs[a]	N/A	N/A

Notes: BMPs = Best Management Practices
N/A = Not Applicable
[a] If BAAQMD Best Management Practices (BMPs) for fugitive dust control are implemented during construction, the impacts of such residual emissions are considered to be less than significant.
Source: Bay Area Air Quality Management District, *2011 May (Revised), California Environmental Quality Act Air Quality Guidelines*.

[29] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, Table 2-1 Air Quality CEQA Thresholds of Significance (Updated May, 2011).

[30] BAAQMD, *California Environmental Quality Act Guidelines Update, Proposed Thresholds of Significance*, May 3, 2010

[31] BAAQMD, *Revised Draft Options and Justification Report, California Environmental Quality Act Thresholds of Significance*, October 2009.

[32] The EIR's analysis of air quality impacts relies on BAAQMD's 2010 CEQA Thresholds of Significance. While the Alameda Superior Court recently ordered that BAAQMD set aside its approval of the 2010 Thresholds and not disseminate them as officially sanctioned air quality thresholds until BAAQMD conducts CEQA review of them, the court did not rule that the 2010 Thresholds lacked substantial evidence to support them or that they were substantively flawed or scientifically unsound. Rather, it simply held that BAAQMD is required to conduct further environmental review of the Thresholds before it can readopt them. Accordingly, the basis for using the Thresholds remains valid and use of the threshold is supported by substantial evidence.

Local CO Hotspots

The elevated concentrations of CO at congested intersections are referred to as "hotspots." CO concentrations at hotspots are significant if they exceed the California AAQS for CO, which is 9.0 ppm (8-hour average) and 20.0 ppm (1-hour average). However, with the turnover of older vehicles, introduction of cleaner fuels, and implementation of control technology, CO concentrations in the Bay Area have steadily declined and the Bay Area is in attainment of the California and National AAQS. Because of this improvement, BAAQMD does not require project-specific CO modeling as part of the CEQA air quality analysis if the following criteria are met:

- The project is consistent with an applicable congestion management program established by the County Congestion Management Agency for designated roads or highways, regional transportation plan, and local congestion management agency plans;
- The project would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour; and
- The project would not increase traffic volumes at affected intersection to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g. tunnel parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).[33]

Community Risk and Hazards

The BAAQMD provides the following significance thresholds for project-level and cumulative community risk and hazards associated with TACs and $PM_{2.5}$ exposures.

Project-Level Community Risk and Hazards

Project emissions of TACs or $PM_{2.5}$ that impact sensitive receptors within 1,000 feet of the project site and exceed any of the thresholds listed below are considered significant:

- Non-compliance with a qualified Community Risk Reduction Plan;
- An excess cancer risk level of more than 10 in one million, or a non-cancer (i.e. chronic or acute) hazard index greater than 1.0;
- An incremental increase of greater than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

Cumulative Community Risk and Hazards

Cumulative impacts of TACs and $PM_{2.5}$ include the combined effects of project sources, plus all freeways, state highways and high volume roadways (i.e., the latter defined as having volumes of 10,000 vehicles or more per day, or 1,000 trucks per day), plus all BAAQMD-permitted stationary sources within 1,000 feet of the project site.[34] Such cumulative emissions of TACs or $PM_{2.5}$ that impact sensitive receptors within 1,000 feet of the project site and exceed any of the thresholds listed below are considered cumulatively significant:

- Non-compliance with a qualified Community Risk Reduction Plan; or
- An excess cancer risk levels of more than 100 in one million or a chronic non-cancer hazard index (from all local sources) greater than 10.0; or
- 0.8 $\mu g/m^3$ annual average $PM_{2.5}$.

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[33] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, Carbon Monoxide Impacts, Page 3-4 (Updated May, 2011).

[34] BAAQMD, *Recommended Methods for Screening and Modeling Local Risks and Hazards*, Cumulative Analysis, page 77 (May, 2010).

Construction Risk and Hazards

The Threshold of Significance for construction-related local community risk and hazard impacts is the same as that for Project operations. BAAQMD has adopted screening tables for air toxics evaluation during construction.[35] Construction-related TAC and PM impacts should be addressed on a case-by-case basis, taking into consideration the specific construction-related characteristics of each project and proximity to off-site receptors, as applicable.[36]

Odors

BAAQMD's odor thresholds of significance are qualitative in nature. A project that would site a new odor source near existing sensitive receptors or locate new sensitive receptors near an existing odor source could be responsible for significant odor impacts. BAAQMD has established odor screening distances for various source types that are known to have a high potential to cause substantial odor complaints. For such odor sources if there are no sensitive receptors within the screening distances, significant odor impacts are unlikely. If sensitive receptors are within the screening distances, odor impacts would be significant if it is likely that at least five confirmed complaints per year, averaged over three years, would occur.[37] Construction sites/activities are not among the odor source types listed by the BAAQMD as having a high potential for causing substantial odor complaints.

Impact Discussion

Section III.B of the *Eastshore Park Project General Plan EIR* addresses air quality impacts. The EIR found that all air quality impacts of the General Plan would be less than significant. The following discussion supplements the "Impacts and Mitigation Measures" subsection of Section III.B of the *Eastshore Park Project General Plan EIR*, by presenting an analysis of air quality impacts specific to the Albany Beach project under the most current version of the BAAQMD CEQA Air Quality Guidelines.

Project Analysis

Consistency with Clean Air Planning Efforts

The Proposed Project would involve shoreline repair and reconstruction, (optional) habitat enhancement, beach renovation, recreational amenities and construction of approximately 1.3 miles of San Francisco Bay Trail public access improvements, and, therefore, is not a regionally significant project that would warrant Intergovernmental Review by MTC pursuant to the CEQA Guidelines. The Proposed Project does not have the potential to substantially affect housing, employment, and population projections within the region, which is the basis of the Clean Air Plan projections. Furthermore, as discussed further below, regional emissions generated by the Proposed Project would be less than BAAQMD emissions thresholds, and therefore not a substantial source of air pollutant emissions. The Proposed Project would not conflict or obstruct implementation of the AQMP and impacts are *less than significant* in this regard.

Criteria Air Pollutants

Regional Emission Thresholds

Construction Emissions

Project construction activities would produce air pollutant emissions from the following sources: 1) exhaust from powered construction equipment; 2) dust (which includes PM_{10} and $PM_{2.5}$) generated by earthmoving, excavation, grading and other activities; and 3) exhaust from material delivery and debris removal motor

[35] BAAQMD, *Screening Tables for Air Toxics Evaluations during Construction* (May, 2011).

[36] BAAQMD, *California Environmental Quality Act Air Quality Guidelines* (Updated May, 2011).

[37] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, page 2-6; and Table 3-3: Odor Screening Distances, page 3-4 (Updated May, 2011).

vehicle trips. Such emissions from construction activities onsite would vary daily as construction activity levels change. The portion of the Project site that would be subject to project construction activity would amount to 20 acres. A detailed estimate of the Proposed Project's emissions from construction equipment and haul trucks was conducted as described further below and shown in **Table 4.2-5**. The amount of fugitive dust produced by on-site construction activities was not quantified as application of the standard dust suppression measures recommended by the BAAQMD would ensure the fugitive dust from the Proposed Project would not have a significant air quality impact.

For purposes of analysis, Project construction activities are anticipated to commence in April 2013 and be completed (in Areas 1, 2, and 3) by the end of August 2013. Concurrent construction in the three Project areas is assumed because it represents a worst case in terms of air emissions, with all emissions occurring in a single period of continuous construction. Construction in Area 2 (approximately two months) and/or Area 3 (approximately five months) could occur later than in Area 1. In this case, air emissions during the individual phases of construction would be less than those analyzed below. Air pollutant emission estimates were based on the project-specific construction schedule, construction equipment use, soil/material haul data provided by Questa Engineering, and the air quality features for the Project (Control of Fugitive Dust and Use of Newer Construction Equipment) described in 3.8 Avoidance and Minimization Measures. The daily construction emissions from equipment and motor vehicles are shown in **Table 4.2-5**, along with comparisons to BAAQMD significance thresholds.

TABLE 4.2-5 DAILY CONSTRUCTION EMISSIONS

	Maximum Daily Construction Emissions (lbs./day)			
Construction Period	**ROG**	**NO_x**	**Exhaust PM_{10}**	**Exhaust $PM_{2.5}$**
April 2013	5.3	48.6	2.4	2.4
May 2013	4.9	46.6	2.2	2.2
June 2013	5.0	41.70	2.3	2.3
July 2013	2.0	6.9	0.7	0.7
August 2013	1.3	3.4	0.4	0.4
BAAQMD Daily Threshold	54	54	82	54
Exceeds Threshold	No	No	No	No

Source: Based on project construction phasing, equipment use, and soil/material transport provided by Questa Engineering, the construction equipment pollutant emission rates provided by the CARB's OFFROAD model, and motor vehicle pollutant emission rates provided by the CARB's EMFAC2007 model. Emissions estimates for NOx also incorporate the Avoidance and Minimization Measures for Control of Fugitive Dust and Use of Newer Construction Equipment (see 3.8 Avoidance and Minimization Measures). Emissions estimates for ROG and PM do not incorporate the Avoidance and Minimization Measures for Control of Fugitive Dust and Use of Newer Construction Equipment, thus conservatively overstating the ROG and PM emissions. Because the conservative estimates of ROG and PM emissions are well below the BAAQMD thresholds, calculation of emissions incorporating the Avoidance and Minimization Measures is not warranted.

Grading and other ground-disturbing activities would produce temporary fugitive dust, which could add to airborne particulate concentrations and contribute to any continuing PM_{10} and $PM_{2.5}$ nonattainment designations of the Bay Area.

As stipulated in Section 3.8, Avoidance and Minimization Measures, Control of Fugitive Dust, the project incorporates BAAQMD Basic Control Measures for reducing construction emissions of fugitive dust. Adherence to the BAAQMD Basic Control Measures would ensure that ground disturbing activities would not generate a significant amount of fugitive dust and would result in a *less than significant* impact.

Use of heavy construction equipment and debris/fill/construction material transport vehicles would temporarily produce substantial emissions of ROG and NO_x, which could exceed the BAAQMD thresholds of significance and could contribute to the continuing of the O_3 and particulate matter nonattainment designations of the Bay Area.

Use of construction equipment that meet or exceed EPA Tier 3 emission standards, as required by Use of Newer Construction Equipment (see 3.8 Avoidance and Minimization Measures), would reduce ROG emissions during project construction to an estimated maximum daily average of 5.3 lbs., and reduce NO_x emissions to an estimated maximum daily average of 48.6 lbs., both of which are below the BAAQMD 54 lbs./day significance threshold. This impact would be *less than significant*.

Operational Emissions

Long-term air pollutant emissions generated by this type of project are typically associated with fossil fuel combustion by cars and trucks (mobile sources) and fuel combustion by landscaping/maintenance equipment (area sources) used on the project site. The primary source of long-term criteria air pollutant emissions generated by the Proposed Project would be emissions produced from project-generated motor vehicle trips.

After the implementation of project improvements, including shoreline repair and reconstruction, (optional) habitat enhancement, beach renovation, recreational amenities, construction of additional San Francisco Bay Trail segment and a new parking lot, about 144 weekday trips, 775 Saturday trips, and 260 Sunday trips is expected.[38] Operational criteria air pollutant emissions associated with the maximum estimated Project trips (775 Saturday trips) were estimated using URBEMIS software, which uses a land use emissions inventory model designed specifically for California to estimate greenhouse gas and criteria pollutant emissions under particular scenarios involving construction, area, and other sources. Calculations are shown in Appendix D. Operational emissions would be as shown in **Table 4.2-6** and would not exceed the BAAQMD's significance criteria. Consequently, the Proposed Project's regional operational emissions would be *less than significant*.

[38] The total of 144 weekday trips, 775 Saturday trips, and 260 Sunday trips includes existing trips as well as Project-generated trips; thus it conservatively overestimates Project trip generation (see 4.13 Transportation).

TABLE 4.2-6 DAILY OPERATIONAL EMISSIONS

	Average Daily Operational Emissions (lbs./day)			
Emission Source	**ROG**	**NO_x**	**Exhaust PM_{10}**	**Exhaust $PM_{2.5}$**
Mobile	4.56	7.89	9.94	1.90
Area	0.0	0.0	0.011	0.01
Total	4.56	7.89	9.95	1.91
BAAQMD Daily Threshold	54	54	82	54
Exceeds Threshold	No	No	No	No

Source: URBEMIS 2007 model.

CO Hotspots

The Proposed Project would generate about 775 vehicle trips per day on Saturdays, the busiest date at the Project. With this small addition to the total Bay Area and Alameda County traffic volumes, the Proposed Project would not conflict with county or regional congestion management programs. Furthermore, the Project would fall far short of increasing traffic volumes at affected intersections to the more than 44,000 vehicles per hour that the BAAQMD has determined would be necessary to cause or worsen a CO hotspot. Thus, motor vehicle trips associated with the Proposed Project would not threaten to exceed the CO standard and this impact would be *less than significant*.

Community Risk and Hazards

Passive uses (e.g. trails, beaches, etc.) associated with the Proposed Project are not considered sensitive uses under BAAQMD's risk criteria and, therefore, an assessment of long-term community risk and hazards associated with the Proposed Project is not warranted. However, construction of the Proposed Project would elevate local concentrations of DPM during construction activities. A construction risk assessment was conducted for DPM generated by the Project pursuant to BAAQMD's methodology as described below.

BAAQMD has developed a screening methodology for assessing potential health risks from construction activities associated with standard residential, commercial and industrial developments. Under this methodology, a maximum radius of potentially significant TAC impact is based on the type/size of the project (e.g., number of residential units or square footage of commercial/industrial development) or the acreage of the project site. For the Proposed Project, with an active construction site size of 20 acres, any sensitive receptors (i.e., defined by the BAAQMD as residential uses, schools, hospital, nursing homes, etc., but not transient residential like hotels and homeless encampments, nor recreational and work-related uses) would have to be located closer than 800 feet from the project site boundary before a potentially significant TAC impact would be probable. Although this is not the case for the Proposed Project (i.e., the closest residential uses to the project site are located more than 1000 feet away), because the project does not fit the standard land use categories defined by the BAAQMD screening methodology, additional screening dispersion modeling was conducted using TAC emissions derived from the specific schedule and equipment proposed to be used for project construction.

Potential exposures to TACs from project construction activities were evaluated for the closest off-site sensitive receptors to the site, specifically the residential neighborhood in Albany east of I-80 and north of Buchanan Street, and the residential uses in Berkeley at the western end of Harrison Street. Using the

SCREEN3 air dispersion model, receptor concentrations were estimated and excess lifetime cancer risks, non-cancer hazard indexes and $PM_{2.5}$ concentrations were calculated using the TAC emission rates associated with project construction. These risks were then compared to the significance thresholds identified in the BAAQMD CEQA Guidelines.

Results of the health risk assessment indicate that the highest incremental cancer risks for residents closest to the Project site, based on the maximum ground-level TAC concentrations for the four-month, 8-hour workday outdoor exposure during construction are less than 1 per million and, therefore, less than the significance threshold of 10 per million. For non-carcinogenic effects, the hazard indices are substantially less than one and, therefore, within acceptable limits. The $PM_{2.5}$ annual concentrations would be below the BAAQMD 0.3 ug/m^3 significance thresholds. The results are summarized in **Table 4.2-7**.

The results of this construction risk assessment indicate that the Proposed Project would have a *less than significant* health risk impact during the four-month construction period.

Odors

The Proposed Project involves waterfront, beach and trail improvements. The Proposed Project is not a type of project that has the potential to generate substantial odors or to allow a substantial number of people associated with Project uses to be affected by existing odors. *No impact* would occur.

TABLE 4.2-7 CONSTRUCTION PERIOD TAC RISK

Period	Cancer Risk	Chronic /Acute Hazard Index	$PM_{2.5}$
Albany Residential	0.34E-06	0.03/0.07	0.17 ug/m^3
Berkeley Residential	0.26E-06	0.03/0.05	0.13 ug/m^3
BAAQMD Project-Level Threshold	10E-06	1.0	0.3 ug/m^3
Exceeds Threshold	No	No	No

Sources: Screen View, Lakes Environmental, Version 3.5.0 of the EPA's SCREEN3 air dispersion model. BAAQMD, *Recommended Methods for Screening and Modeling Local Risks and Hazards*. May 2011; OEHHA, *Air Toxics Hot Spots Program Risk Assessment Guidelines*. August 2003.

Cumulative Analysis

Cumulative impacts on air quality were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR* and are incorporated herein by reference. In the EIR, it was determined that the General Plan, in combination with other planned projects in the vicinity, would not cause significant cumulative adverse impacts on air quality.

As stated in BAAQMD's guidelines for CEQA analysis:[39]

> "By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in [regional] nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant."

Thus, any project that produces a significant project-level regional impact (e.g., exceeding the BAAQMD project-level emissions thresholds shown in **Table 4.2-4**) or local impact (e.g., exceeding a federal or state AAQS) would also have a correspondingly significant cumulative impact. However, as described above, the Proposed Project would have no significant construction or operational project-level air quality impacts on criteria air pollutants. Therefore, the Proposed Project would not contribute to cumulative impacts on criteria air pollutants. This impact would be *less than significant*.

However, under BAAQMD methodology, a project's TAC emissions, even if their impacts are not significant at the project level, could contribute considerably to significant cumulative impacts if the total risk/hazard of project TACs, together with those of TACs from high-volume roadways (i.e., freeways, state highways or local streets having traffic volumes of 10,000 vehicles or more per day, or 1,000 trucks per day) and from BAAQMD-permitted stationary sources, both within 1,000 feet of the project site, exceed BAAQMD cumulative risk and hazard thresholds (as specified above) at sensitive receptors within this 1000-foot zone of influence.

There are no sensitive receptors (as the BAAQMD defines them) within 1000 feet of the project site, as shown in **Figure 4.2-1**. The closest residential uses are in Albany and Berkeley, east of I-80, are 1800 feet or more from the project site boundary. Therefore, the effects of the Proposed Project's construction TAC emissions are not additive at these receptors to the effects of TACs from major roadways and permitted stationary sources that affect them, and the Proposed Project would not contribute to cumulative air quality impacts from TACs during construction activities. This impact would be would be *less than significant*.

[39] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, Updated May, 2011, page 2-1.

Healthy Parks
Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.2-1

AIR QUALITY PROJECT BUFFER

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

4.3 Biological Resources

This section contains information about biological resources on the Albany Beach Restoration and Public Access project site. It provides an overview of the current regulatory framework, describes existing conditions, and analyzes the potential impacts of the project. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication. Specifically, this section incorporates by reference Section III.C from the *Eastshore Park Project General Plan EIR*, which evaluates impacts on biological resources, and is summarized below. This section includes a summary of the results of field surveys by LSA Associates, Inc. in 2011 and reconnaissance biological investigation completed by Questa and Merkel and Associates in April and May 2012. Additional information is included in the *Existing and Future Conditions Report (LSA 2011).*

Regulatory Framework

Federal Laws and Regulations

Special-Status Species

The Federal Endangered Species Act (FESA) of 1973 prohibits federal agencies from authorizing, permitting, or funding any action that would jeopardize the continued existence of a plant or animal species listed or a candidate for listing as Threatened or Endangered under the FESA. If a federal agency is involved with a proposed action or project that may adversely affect a listed plant or animal, that agency must enter into consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7(a)(2) of the FESA.

Activities that could result in take of a federally listed threatened or endangered species require an incidental take authorization resulting from a Section 7 consultation or a Section 10 permit. For restoration and public access improvements at Albany Beach, a Section 7 consultation with USFWS and NMFS would be initiated by the Corps prior to issuing a Section 404 permit for fill or grading in wetlands or other waters. Section 7 consultation may result in the issuance of a Biological Opinion specific to the project or in the project being appended to a Programmatic Biological Opinion for a given listed species.

Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act

The Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711) makes it unlawful to possess, buy, sell, purchase, barter or, "take" any migratory bird listed in Title 50 of the Code of Federal Regulations Part 10. "Take" is defined as possession or destruction of migratory birds, their nests, or eggs. Disturbances that causes nest abandonment and/or loss of reproductive effort or the loss of habitats upon which these birds depend would be in violation of the MBTA. Most of the native bird species that occur in the region of the Eastshore State Park are covered by this Act; therefore, any activity related to restoration and/or public access improvements at Albany Beach that is conducted during the nesting season (January 1 through August 31) must be implemented in a manner that complies with this Act.

Clean Water Act Section 404 and 401

The U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA) regulate the discharge of dredged or fill material into waters of the United States, including wetlands, under Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). Waters of the United States are defined in Title 33 CFR Part 328.3(a) and include a range of wet environments such as lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds. The lateral limits of jurisdiction in those waters may be divided into three categories – territorial seas, tidal waters, and non-tidal waters – and is determined depending on which type of waters is present (Title 33 CFR Part 328.4(a), (b), (c)). Activities in waters of the United States regulated under Section 404 include fill for development, water resource projects (such as dams and levees), infrastructure developments (such as

highways and airports), and mining projects. Section 404 of the CWA requires a federal license or permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities).

In general, a Corps permit must be obtained before placing fill or grading in wetlands or other waters of the United States. At Albany Beach, fill or grading in Corps jurisdiction could result from shoreline reconstruction and stabilization on the Neck, or reconfiguration of seasonal wetlands for dune expansion. Before issuing a permit for such activities, the Corps would be required to consult with the U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) under Section 7 of the Endangered Species Act (discussed below) if the action subject to Clean Water Act permitting could result in take of federally listed species.

Section 401 of the Clean Water Act (33 U.S.C. 1341) requires any applicant for a federal license or permit to conduct any activity that may result in a discharge of a pollutant into waters of the United States to obtain a certification from the state in which the discharge originates or would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the affected waters at the point where the discharge originates or would originate, that the discharge would comply with the applicable effluent limitations and water quality standards. A certification obtained for the construction of any facility must also pertain to the subsequent operation of the facility. The responsibility for the protection of water quality in California rests with the State Water Resources Control Board (SWRCB) and its nine Regional Water Quality Control Boards (RWQCBs). The Proposed Project is under the jurisdiction of the San Francisco Region RWQCB. The RWQCB's Water Quality Control Plan for the North Coast Basin (Basin Plan) and the California Water Code define Waters of the State as follows: "'Waters of the State' means any surface water or groundwater, including saline waters, within the boundaries of the state (Water Code §13050 (e))." This definition is broader than that of "waters of the United States" and consequently should always be considered when determining impacts upon water resources.

Rivers and Harbors Act

The Corps has jurisdiction over "navigable waters" under Section 10 of the Rivers and Harbors Act of 1899. "Navigable Waters of the U.S.", as defined in 33 CFR Part 329, are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the water body, and is not extinguished by later actions or events that impede or destroy navigable capacity. The upper limit of navigable water is at the point along its length where the character of the river changes from navigable to non-navigable, such as at a major fall or rapids. Tidal habitats below Mean High Water (MHW)[40] also fall under Section 10 jurisdiction. The definition of "navigable waters of the U.S." under 33 CFR Section 329.1 states that this definition does not apply to authorities under the Clean Water Act defined under 33 CFR Parts 323 and 328.

Marine Mammal Protection Act of 1972

The Marine Mammal Protection Act (MMPA) establishes a federal responsibility to conserve marine mammals, with management for pinnipeds (other than walrus) and cetaceans vested in the National Marine Fisheries Service (NMFS/NOAA Fisheries) and management for other marine mammals, including sea otters, vested in the USFWS. Among other prohibitions, the Act prohibits the "take" of a marine mammal. In addition to the exceptions explained in the Act, it is unlawful to possess a marine mammal or marine mammal product taken in violation of the Act, or to transport, purchase, sell, import or export a marine mammal.
Prior to issuing a Section 404 permit for fill or grading in wetlands and other waters at Albany Beach, the Corps would initiate a Section 7 consultation with NMFS (and possibly with USFWS). If activities are

[40] MHW is the extent of the line on the shore reached by the plane of the mean (average) high water established by survey with reference to the available tidal datum averaged over a period of 18.6 years.

proposed that would temporarily disturb marine mammals or their habitat, there may be a need to apply for an Incidental Harassment Authorization (IHA) under the MMPA. Noise disturbance during construction is the most likely form of "harassment" that could result from project activities.

Essential Fish Habitat

Essential Fish Habitat (EFH) is regulated through the National Marine Fisheries Service (NMFS), a division of the National Oceanic and Atmospheric Administration (NOAA). Protection of EFH is mandated through changes implemented in 1996 to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to protect the loss of habitat necessary to maintain sustainable fisheries in the United States. The Magnuson-Stevens Act defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity" (16 U.S.C. 1802(10)). NMFS further defines essential fish habitat as areas that "contain habitat essential to the long-term survival and health of our nation's fisheries" (NMFS 2007). EFH can include the water column, certain bottom types such as sandy or rocky bottoms, vegetation such as eelgrass or kelp, or structurally complex habitats such as coral reefs. Under regulatory guidelines issued by NMFS, any federal agency that authorizes, funds, or undertakes action that may affect EFH is required to consult with NMFS (50 CFR 600.920). NMFS is in the process of finalizing the California Eelgrass Mitigation Policy (NMFS, in review) which will provide the guidelines for assessing and mitigating impacts to eelgrass resources. Reconstruction of Albany Beach and Albany Neck shoreline, as well as installation of reef structures will require EFH consultation.

State Laws and Regulations

California Endangered Species Act

The State of California enacted similar laws to the FESA, the California Native Plant Protection Act (NPPA) in 1977, and the California Endangered Species Act (CESA) in 1984. The CESA expanded upon the original NPPA and enhanced legal protection for plants, but the NPPA remains part of the California Fish and Game Code. To align with the FESA, CESA created the categories of "threatened" and "endangered" species. The State converted all animal species listed as "rare" under the FESA into the CESA as threatened species, but did not do so for rare plants. Thus, these laws provide the legal framework for protection of California-listed rare, threatened, and endangered plant and animal species. CDFG implements NPPA and CESA, and its Wildlife and Habitat Data Analysis Branch maintains the California Natural Diversity Database (CNDDB), a computerized inventory of information on the general location and status of California's rarest plants, animals, and natural communities. During the CEQA review process, CDFG is given the opportunity to comment on the potential of the Proposed Project to affect listed plants and animals.

The Natural Community Conservation Planning Act

The Natural Community Conservation Planning (NCCP) Act of 1991 represents an unprecedented effort by the State of California, and numerous private and public partners, to broaden its orientation and objectives beyond those of the CESA and FESA (refer to discussions above). The primary objective of the NCCP Act is to conserve natural communities at the ecosystem scale while accommodating compatible land use. The NCCP seeks to anticipate and prevent the controversies and gridlock caused by species' listings by focusing on the long-term stability of wildlife and plant communities, including key interests in the process. There are no NCCPs that cover the Project area.

Fully Protected Species & Species of Special Concern

The classification of "fully protected" was CDFG's initial effort to identify and provide additional protection to those animals that were rare or faced possible extinction. Lists were created for fish, amphibian and reptiles, birds, and mammals. Most of the species on these lists have subsequently been listed under CESA and/or FESA. The Fish and Game Code sections (fish at Section 5515, amphibian and reptiles at Section 5050, birds at Section 3511, and mammals at Section 4700) dealing with "fully protected" species states that these species "…may not be taken or possessed at any time and no provision of this code or any other law

shall be construed to authorize the issuance of permits or licenses to take any fully protected species," although take may be authorized for necessary scientific research. This language makes the "fully protected" designation the strongest and most restrictive regarding the "take" of these species. In 2003, the code sections dealing with fully protected species were amended to allow CDFG to authorize take resulting from recovery activities for State-listed species. Implementation of restoration and public access improvements at Albany Beach must be conducted in a manner that avoids take of listed species.

Species of Special Concern (SSC) are broadly defined as animals not listed under the FESA or CESA, but which are nonetheless of concern to CDFG because they are declining at a rate that could result in listing or historically occurred in low numbers and known threats to their persistence currently exist. [41] This designation is intended to result in special consideration for these animals by CDFG, land managers, consulting biologist, and others, and is intended to focus attention on the species to help avert the need for costly listing under FESA and CESA and cumbersome recovery efforts that might ultimately be required. This designation also is intended to stimulate collection of additional information on the biology, distribution, and status of poorly known at-risk species, and focus research and management attention on them. Although these species generally have no special legal status, they are given special consideration under CEQA during project review.

California Fish and Game Code Sections 3503 & 3513

According to Section 3503 of the California Fish and Game Code, it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird (except English sparrows (*Passer domesticus*) and European starlings (*Sturnus vulgaris*)). Section 3503.5 specifically protects birds in the orders Falconiformes and Strigiformes (birds-of-prey). Section 3513 essentially overlaps with the MBTA, prohibiting the take or possession of any migratory, non-game bird. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by CDFG.

California Native Plant Protection Act

The Native Plant Protection Act (NPPA) of 1977 gave the California Fish and Game Commission the power to designate native plants as "endangered" or "rare" and protects endangered and rare plants from take.

California Native Plant Society

The California Native Plant Society (CNPS) publishes and maintains an Inventory of Rare and Endangered Vascular Plants of California in both hard copy and electronic version. The Inventory assigns plants to the following categories:

1A Plants Presumed Extinct in California
1B Plants rare, threatened, or endangered in California and elsewhere
2 Plants rare, threatened, or endangered in California but more common elsewhere
3 Plants about which information is needed-a review list
4 Plants of limited distribution-a watch list

Threat Ranks

The CNPS Threat Rank is an extension added onto the California Rare Plant Rank and designates the level of endangerment by a 1 to 3 ranking with 1 being the most endangered and 3 being the least endangered. A Threat Rank is present for all California Rare Plant Rank 1B's, 2's, 4's, and the majority of California Rare Plant Rank 3's. California Rare Plant Rank 4 plants are seldom assigned a Threat Rank of 0.1, as they generally have large enough populations to not have significant threats to their continued existence in California; however, certain conditions exist to make the plant a species of concern and hence be assigned a California Rare Plant Rank. In addition, all California Rare Plant Rank 1A (presumed extinct in California),

[41] The term Species of Special Concern (SSC) is defined in the CDFG CNDDB Special Animals List, January 2011.

and some California Rare Plant Rank 3 (need more information) plants, which lack threat information, do not have a Threat Rank extension.[42]

1 seriously threatened in California (high degree/immediacy of threat)
2 fairly threatened in California (moderate degree/immediacy of threat)
3 not very threatened in California (low degree/immediacy of threats or no current threats known)

Impacts to plants on lists 1 and 2 are typically assumed to meet CEQA's threshold of significance. This EIR considers plants listed as 1 and 2 as special-status species. Very few list 3 and 4 plants meet the definitions of Section 1901 Chapter 10 Native Plant Protection Act or Sections 2062 and 2067 California Endangered Species Act of the CDFG Code and are eligible for State listing. However, these species are fully considered during the preparation of environmental documentation relating to CEQA. This may be particularly appropriate for the type and locality of a List 4 plant, for populations at the periphery of a species range or in areas where the taxon is especially uncommon, or has sustained heavy losses, or from populations exhibiting unusual morphology, or occurs on unusual substrates. In addition, plants deemed significant by an experienced botanist may be considered to be significant under CEQA.

Porter-Cologne Water Quality Control Act

Waters of the State are defined by the Porter-Cologne Act as "any surface water or groundwater, including saline waters, within the boundaries of the state." The RWQCB protects all waters in its regulatory scope, but has special responsibility for isolated wetlands and headwaters. These water bodies have high resource value, are vulnerable to filling, and may not be regulated by other programs, such as Section 404 of the CWA. Waters of the State are regulated by the RWQCB under the State Water Quality Certification Program, which regulates discharges of dredged and fill material under Section 401 of the CWA and the Porter-Cologne Water Quality Control Act. Projects that require a Corps permit, or fall under other federal jurisdiction, and have the potential to impact waters of the State are required to comply with the terms of the Water Quality Certification Program. If a Proposed Project does not require a federal license or permit, but does involve activities that may result in a discharge of harmful substances to Waters of the State, the RWQCB has the option to regulate such activities under its State authority in the form of Waste Discharge Requirements or Certification of Waste Discharge Requirements.

California Fish and Game Code Section 1600

Streams, lakes, and riparian vegetation as habitat for fish and other wildlife species, are subject to jurisdiction by the CDFG under Sections 1600-1616 of the California Fish and Game Code. Any activity that will do one or more of the following: 1) substantially obstruct or divert the natural flow of a river, stream, or lake; 2) substantially change or use any material from the bed, channel, or bank of a river, stream, or lake; or 3) deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into a river, stream, or lake; generally require a 1602 Lake and Streambed Alteration Agreement. The term "stream," which includes creeks and rivers, is defined in the California Code of Regulations (CCR) as follows: "a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation" (14 CCR 1.72). In addition, the term stream can include ephemeral streams, dry washes, watercourses with subsurface flows, canals, aqueducts, irrigation ditches, and other means of water conveyance if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife.[43] Riparian is defined as, "on, or pertaining to, the banks of a stream;" therefore, riparian vegetation is defined as, "vegetation, which occurs in and/or adjacent to a stream and is dependent on, and

[42] CNPS Ranking System, http://www.cnps.org/cnps/rareplants/ranking.php, accessed on April 19, 2012

[43] California Department of Fish and Game (CDFG), Environmental Services Division (ESD), 1994, *A Field Guide to Lake and Streambed Alteration Agreements, Sections 1600-1607*, California Fish and Game Code.

occurs because of, the stream itself."[44] Removal of riparian vegetation also requires a Section 1602 Lake and Streambed Alteration Agreement from CDFG.

Sensitive Vegetation Communities

Sensitive vegetation communities are natural communities and habitats that are either unique, of relatively limited distribution in the region, or of particularly high wildlife value. However, these communities may or may not necessarily contain special-status species. Natural communities considered sensitive are those identified in local or regional plans, policies, regulations, or by the CDFG. CDFG keeps records of sensitive community occurrences in its Natural Diversity Database.[45] Sensitive plant communities are identified by CDFG (2003, 2007)[46] and, more recently, in the *List of Vegetation Alliances*.[47] CNDDB vegetation alliances are ranked 1 through 5 based on NatureServe's (2010) methodology, with those alliances ranked globally (G) or statewide (S) as 1 through 3 considered sensitive.[48] Impacts to sensitive natural communities identified in local or regional plans, policies, regulations or by the CDFG or USFWS must be considered and evaluated under CEQA (California Code of Regulations: Title 14, Div. 6, Chap. 3, Appendix G). Specific habitats may also be identified as sensitive in City or County General Plans or ordinances.

Regional and Local Regulations and Policies

Bay Area Conservation and Development Commission (BCDC)

The California Coastal Commission acts carry out its mandate locally through the San Francisco Bay Area Conservation and Development Commission (BCDC). BCDC has regulatory jurisdiction, as defined by the McAteer-Petris Act, over the Bay and its shoreline, which generally consists of the area between the Bay shoreline and a line 100 feet landward of and parallel to the shoreline. Prior to implementation of the Proposed Project, EBRPD would have to obtain a permit from the BCDC. The following BCDC plans, policies, and associated areas are relevant to the Proposed Project: BCDC San Francisco Bay Plan (2008) and the BCDC Shoreline Spaces: Public Access Design Guidelines for the San Francisco Bay (2005). These areas are defined in the McAteer-Petris Act (PRC Section 66610) as:

- *San Francisco Bay* (includes San Pablo Bay), being all areas that are subject to tidal action from the south end of the Bay to the Golden Gate (Point Bonita-Point Lobos) and to the Sacramento River line (a line between Stake Point and Simmons Point, extended northeasterly to the mouth of Marshall Cut), including all sloughs, and specifically, the marshlands lying between mean high tide and five feet above mean sea level (msl); tidelands (land lying between mean high tide and mean low tide); and submerged lands (land lying below mean low tide).
- *A shoreline band* consisting of all territory located between the shoreline of San Francisco Bay as defined above a line 100 feet landward of and parallel with that line, but excluding any portions of such territory which are included in other areas of BCDC jurisdiction; provided that the Commission may, by resolution, exclude from its area of jurisdiction any area within the shoreline band that it finds and declares is of no regional importance to the Bay.

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[44] California Department of Fish and Game (CDFG), Environmental Services Division (ESD), 1994, *A Field Guide to Lake and Streambed Alteration Agreements*, Sections 1600-1607, California Fish and Game Code.

[45] California Department of Fish and Game (CDFG), 2010, Natural Diversity Database, Wildlife and Habitat Data Analysis Branch, Sacramento.

[46] California Department of Fish and Game (CDFG), 2003, *List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database Wildlife and Habitat Data Analysis Branch*, Vegetation Classification and Mapping Program. California Department of Fish and Game (CDFG), 2007. List of California Vegetation Alliances, Biogeographic Data Branch. Vegetation Classification and Mapping Program.

[47] California Department of Fish and Game (CDFG), 2009a, *List of Vegetation Alliances*, Biogeographic Data Branch, Vegetation Classification and Mapping Program.

[48] NatureServe, 2010, NatureServe Conservation Status, http://www.natureserve.org/explorer/ranking.

Since the issuance of the Governor's Executive Order S-13-08 in November 2008, BCDC has followed other Natural Resource Agencies in planning for two sea level rise scenarios: 16 inches by mid-century and 55 inches by the end of the century. In April 2009, BCDC published its report with maps indicating zones that could be flooded due to sea level rise and that were based on existing elevations.[49] In September 2011, BCDC published a revised draft of its proposed amendments to its master planning document, the *Bay Plan.* This revised report received considerable public review and environmental review, and was approved in October 2011.[50] These amendments include revised findings and policies to adapt to the effects of sea level rise.[51,52]

Several findings in the *Bay Plan* describe migration of the tidal marsh inland as a consequence of the sea level rise and the recommended adaptation. Finding o. in the new section on Climate Change states:

> *"Approaches for ensuring public safety in developed vulnerable shoreline areas through adaptive management strategies include but are not limited to: (1) protecting existing and planned appropriate infill development; (2) accommodating flooding by building or renovating structures or infrastructure systems that are resilient or adaptable over time; (3) discouraging permanent new development when adaptive management strategies cannot protect public safety; (4) allowing only new uses that can be removed or phased out if adaptive management strategies are not available as inundation threats increase; and (5) over time and where feasible and appropriate, removing existing development where public safety cannot otherwise be ensured…"*

City of Albany

Eastshore State Park lands, such as Albany Beach, that are co-owned by the State of California and the East Bay Regional Park District are not subject to the City of Albany General Plan or Municipal Code, including zoning. However, the Albany Bulb is owned by the City and the public has access to Albany Bulb and Beach via a City right-of-way along Buchanan Street (Figure 3). In the interest of compatibility with the adjacent jurisdiction, this EIR includes a review of the City's General Plan. The City of Albany updated its General Plan in 1992 to provide a current and useful policy guide for planning and decision making over a 20-year period (1990-2010). The policies relevant to Biological Resources and their consistency with the Proposed Project are analyzed in Section 4.9, Land Use and Planning, **Table 4.9-4**.

City of Berkeley

The Proposed Project would require acquisition or condemnation of (as authorized by California Public Resources Code Section 5003.03) the Bay Trail alignment in Area 3 (part of which is in the City of Berkeley). Upon acquisition, these areas would become part of the Eastshore State Park, and therefore not be subject to local land use jurisdiction (Figure 3). In the interest of compatibility with the adjacent jurisdiction, this EIR includes a review of the City of Berkeley's General Plan. The 1986 Waterfront Master Plan, and Measures Q and N, serve as the Plan's implementing ordinances, are the primary policy documents for non-open space land use along the Berkeley waterfront. The policies relevant to Biological Resources and their consistency with the Proposed Project are analyzed in Section 4.9, Land Use and Planning, **Table 4.9-5**.

California Department of Parks and Recreation

The State Park and Recreation Commission named Eastshore State Park and classified it as a State Seashore on December 6, 2002, pursuant to Section 5019.50 of the Public Resources Code. The California Department

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[49] BCDC, 2011, *Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on its Shoreline,* as revised through September 23, 2011.

[50] BCDC, 2011, *Commission Resolution to Adopt Bay Plan Amendment No. 1-08*, approved by the Commission on October 6, 2011.

[51] A recent court case (*Ballona Wetlands Land Trust* et. al., *v. City of Los Angeles (2009). Cal. App.4th. Nov. 9, 2011, Case No. B231965)* ruled that the effects of sea level rise on new developments did not have to be taken into account in CEQA documents.

[52]

of Parks and Recreation (CDPR) is charged with managing and operating all state park units. In the case of Eastshore State Park, the East Bay Regional Park District acts as agent for the State in management and operations. Management and operation of potential park improvements at Albany Beach will be subject to the rules and regulations pertaining to state parks. These rules are described in the Eastshore State Park General Plan (CDPR et al. 2002a) and are discussed in Section 4.9 Land Use and Planning, **Table 4.9-2**.

East Bay Regional Park District (EBRPD) Master Plan

The EBRPD Master Plan of 1997 sets policies and guidelines for resource conservation, management, interpretation, public access, and recreation for regional parks within the East Bay including Eastshore Park. Consistency with these policies is analyzed in Section 4.9, Land Use and Planning, **Table 4.9-2**.

Eastshore State Park General Plan

The Eastshore State Park General Plan contains goals and guidelines that seek to balance scenic and recreational values with protection and restoration of natural resources.

Plants

The guidelines for native plant communities (PLANTS-1 through PLANTS-4) include actions to remove non-native plant species and re-vegetate with locally native plant species and possibly re-introduce rare and endangered plant species. The guidelines for wetland areas (PLANTS-5 through PLANTS-8) include actions to delineate wetlands as a part of area specific projects, avoid or minimize impacts to delineated wetlands, mitigate the loss of any disturbed wetland, and enhancing existing wetlands. The guidelines for preservation and enhancement of native plant populations (PLANTS-9 through PLANTS-16) include actions to manage and enhance or restore native plant communities. In addition, the guidelines call for identifying special status plant species that might be affected by proposed projects, avoiding or minimizing impacts to special status plant species, offsetting unavoidable impacts to special status plant species, minimizing disturbance to foredune areas of undisturbed beaches, and maintain a list of native and non-native plants observed during surveys conducted for individual projects.

Animals

The guidelines for wildlife habitat (WILDLIF-1 through WILDLIFE-12) include actions for the long term protection of existing wetland and non-wetland habitat, protection and enhancement of foraging and nesting habitat for burrowing owls, locating visitor serving facilities in areas of low resource value, identifying special status wildlife species prior to implementing proposed projects, minimizing or avoiding potential impacts during and after construction, offsetting unavoidable impacts to special status wildlife species, installing interpretive signage discussing wildlife habitats and species, maintaining a list of wildlife species observed during surveys conducted for individual projects, planting buffers between trails and sensitive habitat areas, prohibiting planting of trees near tidal marshes, restricting access by people and dogs to sensitive wetland and upland habitat areas, and controlling pests.

Marine Life Management

The guidelines for preservation and enhancement of marine habitat areas (MARINE-1 through MARINE-10) include prohibiting use of motorized boats throughout the park, prohibiting the use of non-motorized vessels in all aquatic preservation areas, developing guidelines for using non-motorized vessels in selected aquatic areas, discouraging launching of non-motorized vessels from sensitive shoreline areas, prohibit fishing in aquatic preservation areas, prohibiting the collection of food or bait in tidal mudflats and installing signage restricting fishing and collection of invertebrates.

Habitat enhancement activities described in the Eastshore State Park General Plan that are relevant to the Albany Beach Restoration Project include:

- Enhance seasonal wetlands, particularly at the Berkeley Meadow. Explore the feasibility of enhancing seasonal wetlands by deepening or enlarging them to pond water for increased lengths of time, thereby benefiting water birds, amphibians, and aquatic invertebrates;
- Restore coastal scrub habitat at the Berkeley Meadow, Albany Neck and Bulb, Brickyard, and other upland areas by removing invasive species and planting locally native species;
- Remove invasive plant species, and restore native marsh and riparian vegetation, along the drainage channels at the eastern edge of the Brickyard and the southeastern edge of the Albany Plateau;
- Create artificial islands to provide roost-sites for shorebirds and potential nest-sites for California least terns, American avocets, black-necked stilts, and killdeer. Islands provide protection from disturbance by humans, dogs, and predators. The most suitable locations for creating islands include the aquatic preservation areas at Emeryville Crescent, the Albany Mudflats, and the waters north of North Point Isabel;
- Restore and expand eelgrass beds in the tidal waters of the park, including sites off the South Richmond Shoreline, Albany Beach, the North Basin, and Emeryville Crescent.

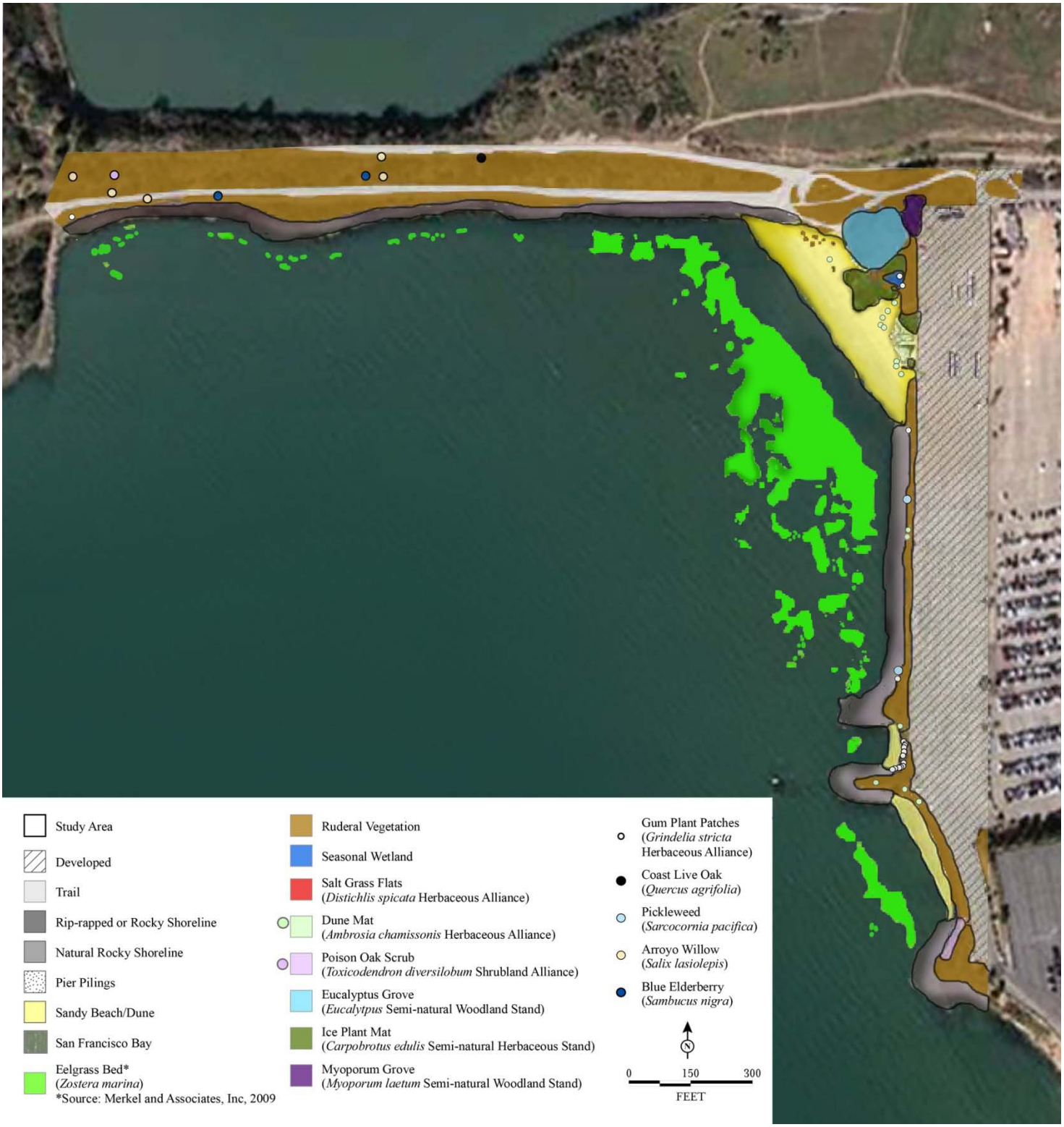
Existing Conditions

This section is based primarily on the Albany Beach Restoration and Public Access Existing and Future Conditions Report:/Feasibility Study (2011 LSA Associates, Inc) and the *Eastshore Park Project General Plan EIR* (2002 LSA Associates, Inc). Terrestrial Plant Community/Habitat mapping information was also taken from the San Francisco Estuary Institute's Bay Area Aquatic Resource Inventory BAARI (http://www.sfei.org/BAARI), and from field investigations by Questa and Merkel & Associates in April and May 2012.

Existing Biological Communities

Biological communities on the project site are illustrated in **Figures 4.3-1** and **4.3-1A**. Note that some of the biological communities are too small to map at the map scale provided, and are shown as a circle (dot) on the figure. Dominant features of each biological community are described below.

Ruderal Vegetation. Ruderal vegetation is not a natural community but refers to a general category of vegetation that occurs in developed areas and disturbed landscapes and is typically dominated by weedy, non-native plant species. Ruderal vegetation may consist of shrubs, broadleaved species and grasses. This vegetation type is widely distributed throughout all segments of the project area. In Area 1 at the northern portion of the project area , the Albany Neck and the Albany Plateau are almost entirely vegetated by ruderal scrub, including a wide variety of ornamental species. Coyote brush (*Baccharis pilularis*) is the only native shrub species that is co-dominant with nonnative trees and shrubs in this area. There are a few individuals of other native tree and shrub species present on the slopes above the trails including coast live oak (*Quercus agrifolia*), arroyo willow (*Salix lasiolepis*), blue elderberry (*Sambucus nigra*), and poison oak (*Toxicodendron diversilobum*). Non-native trees and shrubs that are dominant in this part of the project area include blackwood acacia (*Acacia melanoxylon*), silver wattle (*Acacia dealbata*), kangaroo thorn (*Acacia paradoxa*), French broom (*Genista monspessulana*), firethorn (*Pyracantha* sp.), cotoneaster (*Cotoneaster* sp.), and pampas grass (*Cortaderia* sp.). Where trees and shrubs are not present, vegetation is dominated by non-native grasses and forbs, such as soft chess (*Bromus hordeaceus*), ripgut brome (*Bromus diandrus*), fennel (*Foeniculum vulgare*), black mustard (*Brassica nigra*), Italian thistle (*Carduus pyncocephalus*), bull thistle (*Cirsium vulgare*), and Bermuda buttercup (*Oxalis pes-caprae*).



Note: Area 1, Area 2, and northern section of Area 3 are shown. Southern section of Area 3 is primarily Rip-rapped Shoreline with some Natural Rocky Shoreline and Ruderal Vegetation.

SOURCE: East Bay Regional Park District, *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study*, Jan. 2011, PDF file, Fig. 19.

Healthy Parks
Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.3-1
EXISTING VEGETATION AND HABITAT
ALBANY NECK TO BAY TRAIL
ALBANY BEACH RESTORATION AND PUBLIC ACCESS
EASTSHORE STATE PARK

Healthy Parks
Healthy People
East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.3-1A
EXISTING VEGETATION AND HABITAT
BAY TRAIL TO GILMAN STREET
ALBANY BEACH RESTORATION AND PUBLIC ACCESS
EASTSHORE STATE PARK

In Area 2, ruderal vegetation is also the dominant vegetation/habitat type at the entrance point to the Albany Beach area from the parking lot at the western terminus of the Buchanan Street extension. Most of this area is open grassland characterized by annual species such as hare barley (*Hordeum murinum*), blue grass (*Poa annua*), cheeseweed (*Malva parviflora*), and fennel. A few ornamental trees were planted near the parking lot, including several Torrey pines (*Pinus torreyana*), red flowering gum (*Eucalyptus ficifolia*) and Catalina ironwood (*Lyonothamnus floribundus*). A long, narrow strip of ruderal vegetation separates the beach and the southern shoreline from the gravel parking area behind Golden Gate Fields. This highly disturbed habitat is characterized by typical weedy upland species intermixed with native and non-native coastal species. Hare barley, Bermuda grass (*Cynodon dactylon*), Kikuyu grass (*Pennisetum clandenstinum*), wild radish (*Raphanus sativus*) and African daisy (*Osteospermum ecklonis*) can be found growing next to small patches of New Zealand spinach (*Tetragonia tetragonioides*), sea rocket (*Cakile maritima*) and iceplant (*Carpobrotus edulis*). Small stands of native coastal species also occur in this area and include beach bur-sage (*Ambrosia chamissonis*), gumplant (*Grindelia stricta*) and pickleweed (*Sarcocornia pacifica*).

Ruderal vegetation is also the dominant cover type in Area 3**.** Weedy herbaceous species grow in occasional patches adjacent to riprap with occasional mirror plant (*Coprosma repens*). Australian tea tree (*Leptospermum laevigatum*), planted as an ornamental at Golden Gate Fields in the past, has become naturalized at Fleming Point, where it is a dominant species along with French broom, poison oak, and coyote brush. Typical herbaceous species in this area include wild oats (*Avena* sp.), sheep sorrel (*Rumex acetosella*), English plantain (*Plantago lanceolata*) and vetch (*Vicia* sp.). The area where the Bay Trail is to be placed is primarily pavement of the Golden Gate Fields parking lot and devoid of vegetative cover. Approximately 750 feet south of Fleming Point the Trail would be located along the cliffside adjacent to the parking lot.

Dune Mat (*Abronia latifolia-Ambrosia chamissonis* Herbaceous Alliance). This vegetation type is characterized by one or two dominant native species: yellow sand verbena (*Abronia latifolia*) and/or beach bur-sage (*Ambrosia chamissonis*). It occurs on sand dunes of coastal bars, river mouths, and spits along the immediate coastline of California. In Area 2 of the project area, this vegetation type (approximately 0.05 acre) occurs in small patches throughout the small dunes at Albany Beach. These areas are rarely impacted by saltwater overwash during storms. The dominant species are non-woody and well adapted to the nutrient-poor, rapidly draining conditions of dune sand. Beach bur-sage is the dominant native species; however, the species composition varies from sand-mound to sand-mound and often includes non-native species such as Kikuyu grass, Bermuda grass, sea rocket, New Zealand spinach, ice plant, or annual grasses. Yellow sand verbena is not present in the project area.

Ice Plant Mats (*Carpobrotus edulis* Semi-natural Herbaceous Stands). Ice plant is a prostrate non-native succulent that invades dunes and other coastal habitats in California. This species occurs in small patches throughout the project area but is concentrated in Area 2 (approximately 0.29 acre) on the dunes at Albany Beach, where it forms large impenetrable mats that have been holding the dunes in place for many years.

Saltgrass Flats (*Distichlis spicata* Herbaceous Alliance). This vegetation type occurs in coastal salt marshes, swales, and terraces along washes that are typically intermittently flooded. Salt grass, a native rhizomatous grass, is the dominant species and is often associated with other species that are tolerant of alkaline soils. This vegetation type occurs in Area 2 at Albany Beach in one of two seasonal wetlands that have developed within a network of interdune swales west of the gravel parking area behind Golden Gate Fields. The vegetation in the smaller wetland (240 square feet) consists predominantly of salt grass; therefore, this wetland was labeled as Salt Grass Flats unlike the larger wetland which is mapped as Seasonal Wetland, described below.

Gum Plant Patches (*Grindelia stricta* Provisional Herbaceous Alliance). Gumplant is a native perennial glandular composite with showy, yellow flowers and a woody stem when mature. It grows on slightly elevated

or drier ground that is adjacent to coastal dunes, salt marshes, or alkaline marshes. It is one of the more abundant native species with individuals and patches occurring throughout in the project area.

Poison Oak Scrub (*Toxicodendron diversilobum* Shrubland Alliance). Poison oak constitutes a scrub community where it grows in dense stands, as it often does on the coast both in moist areas that receive salt-laden fog and on disturbed dry slopes. One small patch in the project area is located within the ruderal vegetation on the Albany Neck in Area 1. A substantially larger and older stand (approximately 0.04 acre) is located on the steep west-facing bluffs at Fleming Point in Area 3. Here, the poison oak is dense and gnarled, having been shaped by wind blowing landward off the bay. Also present in this scrub community at Fleming Point are coyote brush, a common native scrub species in the East Bay, and seaside woolly sunflower (*Eriophyllum staechadifolium*), a native scrub species that occurs at only a few locations in the East Bay, including within the shoreline habitat at Point Molate in Richmond. Seaside wooly sunflower, although unusual in the East Bay, is not on the CNPS list of Rare and Endangered Vascular Plants. The community is considered a remnant of the natural California coastal scrub vegetative type, which has few occurrences in the East Bay Area, but more common within the Bay Area coastal counties.

Eucalyptus Grove (*Eucalyptus globulus* Semi-natural Woodland Stands). A large blue gum eucalyptus grove (approximately 0.41 acre) is located in Area 2 where the landward edge of the Albany Beach dune area meets the parking lot and trail junction. The trees at the center of the grove are mature and at least 30 feet high. What little vegetation there is growing underneath the canopy consists predominantly of non-native species, including cheeseweed, annual blue grass, roadside brome (*Bromus stamineus*), and pineapple weed (*Chamomilla suaveolens*).

Myoporum Grove (*Myoporum laetum* Semi-Natural Woodland Stands). Myoporum is an escaped ornamental tree that forms dense, single-species stands in coastal areas of California. Its purple fruits are attractive to birds, which disperse them. While individuals of this species occur sporadically among the ruderal vegetation on the Albany Neck, a large dense grove is located in Area 2 immediately east of the blue gum eucalyptus grove near the Buchanan Street parking area.

Seasonal Wetlands. A preliminary delineation of the extent of potential waters of the United States within the project area was conducted on March 26, 2010 by LSA. The complete delineation report is provided in Appendix H of the "Existing and Future Conditions Report for the Albany Beach Restoration and Public Access Feasibility Study (LSA 2011). Potential waters of the U.S. consist of two seasonal wetlands and an unvegetated drainage, all located within a network of interdune swales west of the asphalt and gravel parking area behind Golden Gate Fields in Area 2. Precipitation and runoff from the parking area collect in these swales for several hours to days during and after heavy storms. The runoff carries silt and sediment into the swales, creating a shallow lens of water-retaining soil on top of rapidly draining sand. These small wetland features serve a function in the improvement of water quality in the project area by filtering runoff before it joins the groundwater or drains into the Bay.

The larger vegetated wetland (1,090 square feet) supports predominantly non-native grasses and herbaceous weeds including Bermuda grass, Italian ryegrass (*Lolium multiflorum*), cutleaf plantain (*Plantago coronopus*), and curly dock (*Rumex crispus*). The smaller vegetated wetland (240 square feet) supports predominantly native salt grass. The unvegetated drainage is part of a footpath to the beach from the Golden Gate Fields parking lot and may have been created entirely by foot traffic compacting the sand. The drainage is lower in elevation than the adjacent parking lot; therefore, water drains into this feature when the parking lot is flooded. The drainage is 65 feet long and one foot wide on average; the entire footpath is more than twice this length. Only the segment of footpath that exhibits an Ordinary High Water Mark (OHWM in the form of water mark and sediment/debris deposits) is mapped as a potential water of the U.S.

Sandy Beaches/Dunes. The project area includes three sandy beaches (approximately 2.07 acres), Albany Beach in Area 2 and two smaller beaches are located in the southern portion, just north of Fleming Point near Area 3. These smaller pocket beaches abut riprapped shoreline and support little or no dune/beach vegetation. Albany Beach is the largest of the three beaches. This beach is characterized by a substantial deposit of large woody debris (mostly treated wood)at the high tide line, beyond which is located a small complex of vegetated and unvegetated dunes (vegetated dunes are described above). These sandy beaches are dynamic areas subject to wave action, sediment transport, and longshore drift. These physical factors may drastically change the profile of the beach and influence the associated beach organisms as well as the adjacent subtidal habitat. The sandy beaches within the project area are important habitats because of their limited distribution along the East Bay shoreline.

Riprap or Rocky Shoreline. Much of the project area shoreline is comprised of concrete or rock riprap placed to prevent shoreline erosion. The riprap along the North Shore in Area 1 consists of a conglomeration of concrete blocks, slabs, and other hard debris. The rocky shoreline in Area 3 consists of native and imported rock and concrete riprap that was likely placed during construction of Golden Gate Fields, although scattered concrete slabs are also present. The lower elevation portions of the rocky shoreline are intertidal and support sparse to dense communities of marine flora. The predominant vegetation within the rocky intertidal habitat include seaweeds or macro-algae (non-vascular plants), particularly green algae (Division Chlorophyta) and red algae (Division Rhodophyta). Two species of commonly occurring green algae, *Ulva lactuca* and *U. intestinalis*, were observed in most of the intertidal zone during a March 26, 2010 reconnaissance survey conducted by LSA. Scattered clumps of red algae are attached to many of the pieces of riprap and debris; *Endocladia muricata*, *Mastocarpus* spp., and *Bangia fusco-purpurea* are three species that were formally documented in the project area by LSA in 2001 (LSA 2002b). Rockweed (*Fucus distichus)* and sargassum (*Sargassum muticum*), both species brown algae (Division Phaeophyta), are common in Area 1 on the riprap along the Albany Neck shoreline. The riprap, pebbles, cobbles, and miscellaneous debris within the project area also provide substrate for attachment and refuge for a number of invertebrates species. Common invertebrates include encrusting sponges and bryozoans, bay mussel (*Mytilus edulis galloprovincialis*), barnacles (*Chthamalus dalli* and *Balanus glandula*), isopods (*Idotea* sp.), and yellow shore crab (*Hemigrapsus oregonensis*). The native Olympia oyster (*Ostrea lurida*) is fairly common among the concrete riprap rubble. The shoreline provides forage habitat for a number of shorebird species including black oystercatchers, ruddy turnstones, and black turnstones. Above the high tide line, the riprapped and rocky shoreline supports some ruderal vegetation and gum plant patches, as described above.

Natural Rocky Shoreline. One noteworthy area of rocky shoreline within Area 3 is at Fleming Point , where naturally occurring bedrock is present. This stretch of shoreline is one of the few remaining natural features along the East Bay shoreline. Not only is Fleming Point unique because of its natural rock formation, but it also supports a diversity of rocky intertidal organisms that is among the highest in the region. Numerous red algae, including *Rhodoglossum affine, Ceramium* sp., *Ralfsia* sp., and *Gracilaria* spp., were formally documented at Fleming Point in 2001 by LSA but not observed at any other location within Eastshore State Park. Similarly, marine invertebrates such as littorine snails (*Littorina* spp.), bryozoans, polychaete worms, encrusting sponges, and splash zone isopods (*Ligia occidentalis*) were only observed at Fleming Point in 2010 LSA surveys. The habitat at Fleming Point includes several tidepools as well as rock outcrops that form small offshore reefs that provide a forage base and shelter for fish and that support numerous algal and invertebrate species, including the native Olympia oyster. Above the high tide line, terrestrial vegetation at Fleming Point includes ruderal vegetation and poison oak scrub, as described above.

Pier Pilings. Two derelict piers occur near Area 3 of the project area, just north of Fleming Point. Fleming Point Pier is the largest and most visible; the second pier or dock is located 100 feet north of the larger pier. Their remains consist of partially submerged concrete blocks and wood pilings, which provide substrate for a suite of sessile and mobile organisms. The species of algae and invertebrates typically associated with such structures are similar to those previously described for the Rocky Shoreline habitat. Fishes, especially perches,

are also usually present and are considered representative members of the "piling community." In addition to providing substrate for algae, invertebrates, and fish, the piers, pilings and breakwaters provide perch and roost sites for a variety of birds. The remnant structures of Fleming Point Pier serve as important roost sites for shorebirds, gulls, and other waterbirds.

Shallow Subtidal Unvegetated Habitat The subtidal zone is seaward of the intertidal zone and thus, is continually submerged. Within the project area, the shallow subtidal unvegetated habitat consists of soft-bottom substrate with limited algal cover. A diverse assemblage of animals is known to occur within this habitat throughout the San Francisco Bay region (SFEP 1992a and 1992b). For example, USACOE/Port of Richmond (1996) reported that a variety of crustaceans, tube-dwelling polychaetes, clams, and gastropods have been collected during benthic sampling in the nearby Richmond Inner Harbor. It is probable that many of these taxa are present in the nearshore zone of the project area.

In addition to the benthic invertebrates, an assortment of fish species are also typically present in such nearshore areas. NOAA/CDFG-OSPR (1998) reported that American shad, bat ray, brown rockfish, chinook salmon, leopard shark, striped bass, and white croaker potentially occur within the Richmond Harbor and Inner Harbor Channel areas. Smelt, northern anchovy, shiner perch, starry flounder, and speckled sanddab have also been reported in the nearshore environment in the central Bay and at Brooks Island (EBRPD 1985, SFEI 1992b). These species are likely present within the project area, although unlike the invertebrates, they may not be year-round residents.

The subtidal habitats in the project area also provide foraging and/or resting (rafting) areas for many species of birds, including loons, grebes, cormorants, terns, gulls, California brown pelican, scoters, redbreasted merganser, and diving ducks. Large flocks of diving ducks, often numbering in the thousands, winter in nearshore subtidal areas such as the north side of the Albany Neck and Bulb. Marine mammals, primarily include harbor seal and California sea lion, but also rarely southern sea otter.

Eelgrass Beds. A valued aquatic resource, eelgrass (*Zostera marina*), occurs as a collection of small to large persistent beds within the project area off the shoreline of Albany Beach. Eelgrass vegetated habitats are an important component of California's coastal marine environment. Eelgrass beds function as habitat for a variety of invertebrate, fish, and avian species. For many species, eelgrass beds are an essential biological habitat component for at least a portion of their life cycle, providing resting and feeding sites along the Pacific Flyway for avian species, and nursery sites for numerous species of fish. Eelgrass also enhances water quality through nutrient cycling and stabilization of marine sediment.

Eelgrass occurs in approximately 3,700 acres of the San Francisco Estuary, with nearly half of the area between Point Pinole and Point San Pablo (Wyllie-Echeverria and Rutten 1989; Merkel and Associates 2004, 2009 and 2012). Within the project area, approximately 0.7 acre was present in 2003 according to a survey using sidescan sonar (Merkel and Associates 2004). The acreage of eelgrass within the project area increased to 3.75 acres between 2003 and 2009, according to a survey using the same methods in fall 2009 (Merkel and Associates 2009). The results of the most recent 2012 eelgrass survey of the project area revealed 2.02 acres of eelgrass (Merkel and Associates 2012). A composite of survey results from the three most recent eelgrass surveys are depicted in **Figure 4.3-1**. This figure illustrates the maximum extent of eelgrass within the project area along with a ten-foot buffer that represents the minimum setback for construction activities that should be implemented along with protective measures in order to avoid impacts to eelgrass resources. The figure indicates that a persistent eelgrass bed, which has expanded since 2003, occurs within the overall project area. The expansion evident from these survey results perhaps reflects the mild winters and resulting low turbidity in the Bay over the past several years.

Special Status Plant Species

Prior to conducting fieldwork, LSA searched the *California Natural Diversity Data Base* (CNDDB) (CDFG 2010), the *Consortium of California Herbaria* (Consortium 2010), and the *CNPS Electronic Inventory* (CNPS 2010) to locate records of special-status plants in the general region of the Albany Beach project site. Using information from these databases and staff knowledge of the San Francisco Bay shoreline vegetation, LSA developed and evaluated a list of potentially occurring special-status species. During a March 26, 2010 field survey, LSA's botanist made an assessment of the current habitat conditions and evaluated the site's potential to support special-status plant species and sensitive plant communities. The scientific and vernacular nomenclature for the plant species used are from the following standard sources: Hickman (1993); California Native Plant Society (CNPS 2010) on-line inventory of rare and endangered plants; and Beidleman and Kozloff (2003). Five (5) special-status plant species have the potential to occur in plant communities similar to those in the Albany Beach project area. These "target" species include those that might occur in the natural vegetation communities present on the site (i.e., coastal scrub, sandy beaches and dunes, and rocky coastline). Four of these species are limited to salt marsh, tidal sloughs and coastal wetlands: soft bird's-beak (*Chlorpyron molle* ssp. *molle, formerly Cordylanthus mollis* ssp. *mollis)*, Mason's lilaeopsis (*Lilaeopsis masonii*), California seablite (*Suaeda californica*), and Suisun marsh aster (*Symphyotrichum lentum*). Another potentially occurring target species associated with coastal dune and scrub communities is robust spineflower (*Chorizanthe robusta* var. *robusta*). These five species are described below with their potential to occur in the project area.

Robust spineflower is a federally endangered annual herb and is on California Native Plant Society's Inventory of Rare Plants List 1B.1. This plant occurs in coastal dunes, coastal scrub, chaparral, and cismontane woodland. Coastal scrub and dune habitat is present in the Albany Beach project area; however, the mixed fill soils and steep slopes of the coastal scrub and the dense infestations by non-native plants in the dunes do not provide suitable microhabitat for this species. Furthermore, this species is thought to be extirpated from the San Francisco Bay region and has not been reported in Alameda County since collections made in the 1890s near Alameda (CNDDB 2010). Currently there are only 11 populations, all located in Santa Cruz County over a range of approximately 21 miles (USFWS 2010a). This species is not likely to occur within the project area.

Soft bird's-beak is on CNPS List 1B.2 and is a federally listed endangered and state-listed rare annual herb that is known from fewer than 15 occurrences (CNPS 2010). The nearest CNDDB occurrences are from the Point Pinole and Mare Island areas. This species is not expected to occur in the project area due to lack of tidal marsh habitat.

Mason's lilaeopsis is on CNPS List 1B.1, and is a state-listed rare, perennial herb that is found on silty soils on eroding brackish slough banks, and occasionally on old wharf pilings. The closest CNDDB occurrences are from around Mare Island in Solano County. This species requires brackish waters with salt concentrations that are lower than those at the Albany Beach site. There is no slough habitat on site, and the existing pilings are not degraded enough to support this species. It is highly unlikely that Mason's lilaeopsis would naturally occur within the project area.

California sea-blite is on CNPS List 1B.1 and is a federally endangered, salt-tolerant perennial shrub native to only two localities: Morro Bay and San Francisco Bay. The primary natural habitat of this species is a very narrow high tide zone along sandy salt marsh edges or estuarine beaches (Baye 2006). The nearest natural occurrence identified in the CNDDB is a 1912 record from the Fleming Point area. Because this species' habitat has been severely disturbed throughout its range, the U.S. Fish and Wildlife Service has sponsored recent efforts to re-establish California sea-blite at restored tidal sites within the San Francisco Bay (Presidio 2004; CNDDB 2010; LSA 2009). The nearest re-introduced population is located at the Emeryville Crescent Marsh, approximately 4 miles south of Albany Beach. This population was transplanted in 2007 and 8 reproducing colonies were observed by monitors in 2008 (USFWS 2010b). This re-introduced population is too far to be a likely source of propagules for natural recruitment at Albany Beach. This distance and the

highly disturbed, narrow shoreline conditions in the project area make it unlikely for California sea-blite to occur in the project area now or in the future (Baye, personal communication).

Suisun marsh aster is a CNPS List 1B perennial rhizomatous herb in the sunflower family that occurs in freshwater and brackish marsh habitat. This species is endemic to Suisun Bay and the Sacramento San Joaquin river delta (CNPS 2001) and was historically known from the East Bay portion of the San Francisco Bay area (CSCC 2003). The nearest extant population identified by the CNDDB is in a seasonally wet area at Point Molate in West Richmond. Although seasonal wetland habitat is present on the site, it is unlikely that the highly disturbed project area provides the microhabitat suitable for this species.

Eelgrass is considered a special aquatic site under the 404(b)(1) guidelines of the Clean Water Act (40 C.F.R. § 230.43). Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA), eelgrass is designated as Essential Fish Habitat (EFH) for various federally-managed fish species within the Pacific Coast Groundfish and Pacific Coast Salmon Fisheries Management Plans (FMP) (PFMC 2008). Eelgrass is also considered a habitat area of particular concern (HAPC) for various species within the Pacific Coast Groundfish FMP. An HAPC is a subset of EFH; these areas are rare, particularly susceptible to human-induced degradation, especially ecologically important, and/or located in an environmentally stressed area.

Other Sensitive Plants

Twelve (12) other plant species were considered in the LSA assessment but are unlikely to occur, as they are either considered extirpated from Alameda County or they require a habitat different than those present in the project area. Species considered that are unlikely to occur include alkali milk vetch (*Astragalus tener* var. *tener*), San Francisco spineflower (*Chorizanthe cuspidata* var. *cuspidata*), Bolander's water-hemlock (*Cicuta maculata* var. *bolanderi*), Point Reyes bird's-beak (*Chlorpyron maritimum* ssp. *palustre*), delta button celery (*Eryngium racemosum*), fragrant fritillary (*Fritillaria liliaecea*), Santa Cruz tarplant (*Holocarpha macradenia*), Kellogg's horkelia (*Horkelia cuneata* ssp. *sericea*), Contra Costa goldfields (*Lasthenia conjugens*), Antioch Dunes evening primrose (*Oenothera deltoides* ssp. *howellii*), Gairdner's yampah (*Perideridia gairdneri* ssp. *gairdneri*), and adobe sanicle (*Sanicula maritima*).

Existing Wildlife

The following section is excerpted from the LSA Existing and Future Conditions Report (2011, LSA Assoc. Inc.) The LSA assessment was supplemented by information obtained from biological reconnaissance surveys completed by Questa and Merkel and Associates in April and May 2012.

Fish. Inshore waters and mudflats adjacent to and in the project area are used by a number of game fish species such as California halibut (*Paralichthys califonicus*), starry flounder (*Platichthys stellatus*), and striped bass (*Morone saxatilis*). Smaller schooling fish, such as topsmelt (*Atherinops affinis*), northern anchovy (*Engraulis mordax*) and Pacific herring (*Clupea pallasii*), would be expected in deeper water in the project area and are important as food for game fish and fish-eating birds. The longjaw mudsucker (*Gillichthys mirabilis*), a typical species of shallow bays and mud flats, is also likely present in the project area. Elasmobranchs typical of near shore waters in San Francisco Bay include leopard shark (*Triakis semifasciata*), brown smoothound (*Mustelus henlei*), and bat ray (*Myliobatis californicus*) (Ebert 2003), all of which are likely to occur in the project area. The sevengill shark (*Notorynchus cepedianus*), a large powerful predator, also occurs in San Francisco Bay and will forage in shallow water (Ebert 2003) may also occasionally occur in the project area. Numerous other fish species are potentially present in the near shore waters of the project area, particularly where eelgrass beds are present. Many invertebrate species are harbored among eelgrass beds. These invertebrates provide food resources for resident fishes such as the bay pipefish (*Syngnathus leptorhynchus*) and shiner surfperch (*Cymatogaster aggregata*) (L. Carr and K. Boyer, unpublished data). Eelgrass is known to serve as spawning and nursery habitat for Pacific herring (*Clupea pallasi*) (Spratt 1981), the primary commercial fishery species in the Bay. Local eelgrass beds probably provide food and shelter for out-migrating juveniles of several diadromous fish species as in the Pacific Northwest (Simenstad 1994); acoustic monitoring devices show visitation of

tagged Chinook salmon (*Oncorhynchus tshawytscha*) and steelhead (*Oncorhynchus mykiss*) to eelgrass and oyster reef structures at the Marin Rod and Gun Club, just north of the Richmond - San Rafael Bridge (B. Abbott, Environ Corp., unpublished data). Such devices are planned for installation not far from the project site, just off the north end of Cesar Chavez Park in Berkeley, at an upcoming oyster shell and eelgrass pilot restoration project (B. Abbott, K. Boyer, and others), and these could be helpful in determining the degree of visitation in the vicinity of Albany Beach.

Amphibians and Reptiles. The concrete debris and riprap in Area 1 of the project area provide shelter and basking habitat for western fence lizard (*Sceloporus occidentalis*), a reptile that is common throughout the Bay Area. No other amphibians or reptiles were observed during the reconnaissance surveys, although common urban-adapted species such as California slender salamander (*Batrachoseps attenuatus*), Sierran treefrog (*Pseudacris sierra*), and southern alligator lizard (*Elgaria multicarinata*) are expected to occur wherever suitable cover is present. The seasonal wetlands in Area 2 are not inundated for a long enough period to provide breeding habitat for treefrogs or other amphibians.

Birds. LSA biologists observed 40 species of birds during a March 2011 reconnaissance survey. However, more than 160 bird species have been recorded in Eastshore State Park (Brad Olson, pers. com. 2012)), and with the exception of species that primarily occur in tidal marsh, most of these can be expected to occur on or adjacent to the project area on at least an occasional basis. The timing of LSA's survey coincided with the beginning of the breeding season for many terrestrial land birds, so most species detected in the ruderal scrub in Area 1 likely nest there or in adjacent areas (i.e., Albany Bulb). The dense shrubs and small trees in this area, although primarily non-native, provide nesting and foraging habitat for native bird species typical of less disturbed coyote brush scrub throughout the central California coast bioregion, including Anna's hummingbird (*Calypte anna*), bushtit (*Psaltriparus minimus*), Bewick's wren (*Thryomanes bewickii*), California towhee (*Pipilo crissalis*), and Nuttall's white-crowned sparrow (*Zonotrichia leucophrys nuttallii*). During the winter, these year-round residents are joined by species that breed further north, such as ruby-crowned kinglet (*Regulus calendula*), hermit thrush (*Catharus guttatus*), yellow-rumped warbler (*Dendroica coronata*), and golden-crowned sparrow (*Zonotrichia atricapilla*), as well other subspecies of white-crowned sparrow.

Although not present within the project area, tidal mudflats such as those north of the Albany Plateau provide valuable foraging habitat for large concentrations of shorebirds that migrate through or winter in the San Francisco Bay Estuary from July through early May. Western and least sandpiper (*Calidris mauri*, *C. minutilla*), dunlin (*Calidris alpina*), dowitchers (*Limnodromus* spp.), marbled godwit (*Limosa fedoa*), and willet (*Tringa semipalmata*) are some of the more abundant shorebird species known to occur in the San Francisco Bay Estuary during these periods (Stenzel et al. 2006), and all of these species are common to abundant at Eastshore State Park (GGA 2006; LSA obs.). During high tides when mudflats are unavailable for foraging, shorebirds roost on old piers, remnant dock structures, breakwaters, and other barren areas above the high tide line that are free of disturbance (LSA 2002b).

Within the project area, old pier pilings and adjacent rocks provide such high-tide shorebird roosting habitat, as evidenced by the observation of hundreds of western sandpipers, dowitchers, dunlin, willets, and other shorebirds using these structures during the March 26, 2010 reconnaissance survey. These structures also provide roosting habitat for gulls, terns, and cormorants. The rocky shoreline that characterizes much of the area between Albany Beach and Fleming Point provides habitat for shorebird species that favor rocky intertidal habitats, such as black oystercatcher (*Haematopus bachmani*), black and ruddy turnstones (*Arenaria melanocephala*, *A. interpres*), and surfbird (*Aphriza virgata*), although the latter two are considered rare in Eastshore State Park (GGA 2006). The presence of such rocky shore specialists is somewhat noteworthy for this location given that none of these species are abundant in San Francisco Bay, numbering at most in the low hundreds (Takekawa et al. 1999). Many birds forage for invertebrates, fish, and fish roe in the Bay's eelgrass beds, particularly during winter and spring migration, including Forster's (*Sterna forsteri*), least (*Sternula antillarum browni*), and elegant terns (*Sterna elegans*), double-crested cormorants (*Phalacrocorax auritus*), and

several shorebird and diving duck species (S. Wainwright-de la Cruz, USGS, personal communication). While Brant geese (*Branta bernicla*) are important eelgrass grazers along the Pacific Coast, they are not currently found in San Francisco Bay in numbers; only one pair has been sited in recent years (near the Richmond Marina). Canada geese (*Branta canadensis*) have been observed consuming eelgrass at a number of locations around the Bay (Boyer, pers. obs.; S. Kiriakopolos, San Francisco State University masters thesis, in progress).

The open waters of San Francisco Bay within the project area provide foraging and resting (rafting) habitat for various species of gulls, terns, grebes, loons, and double-crested cormorant (*Phalacrocorax auritus*). Diving ducks such as greater and lesser scaup (*Aythya marila*, *A. affinis*), surf scoter (*Melanitta perspicillata*), bufflehead (*Bucephala albeola*), and ruddy duck (*Oxyura jamaicensis*), winter in large numbers on San Francisco Bay and occasionally venture into project area waters. These species may also forage among the riprap and abandoned pilings in the project area as these features often provide surfaces that attract prey such as mussels, barnacles, small fish, and various crustaceans (Evens 2005). Dabbling ducks such as mallard (*Anas platyrhynchos*), American wigeon (*Anas americana*), and gadwall (*Anas strepera*) are also likely to occur in the project area as they rest or feed on the vegetation and small invertebrates associated with shallow subtidal waters or tidal mudflats. Wading birds such as great blue heron (*Ardea herodias*), great egret (*Ardea alba*), and snowy egret (*Egretta thula*) forage along the project area shoreline for small fish, invertebrates, and small mammals.

The blue gum eucalyptus grove within Area 2 provides marginal nesting habitat for raptors such as red-tailed hawk (*Buteo jamaicensis*) and red-shouldered hawk (*Buteo lineatus*), although no such nests have been recorded to date, perhaps due to the high intensity of human recreation in the area. Urban-adapted songbirds such as northern mockingbird (*Mimulus polyglottos*), American goldfinch (*Carduelis tristis*), and house finch (*Carpodacus mexicanus*) also may nest in the grove and other nearby ornamental trees.

Mammals. California ground squirrel (*Spermophilus beecheyi*) and Botta's pocket gopher (*Thomomys bottae*) were the only mammal species detected during LSA's reconnaissance survey; these common species primarily occur in Area 1, where the abundant construction debris and riprap provides numerous crevices, recesses, and nooks that provide cover from predators. Common urban-adapted mammals such as northern raccoon (*Procyon lotor*) and opossum (*Didelphis marsupialis*) likely forage in the project area at night. The construction debris and riprap also provide habitat for Norway rats (*Rattus norvegicus*), an introduced pest species that can have major impacts on native small mammals and ground-nesting birds. Feral cats also are known to occur at the Albany Bulb and Neck (LSA 2002a) and can adversely affect native bird populations. Harbor seals (*Phoca vitulina*) may occasionally venture into the shallow subtidal waters within the project area to forage on small fish. California sea lion (*Zalophus californianus*) and southern sea otter (*Enhydra lutris nereis*) have been observed in the offshore waters of Eastshore State Park, but their occurrence within the project area is sporadic because both are more typically associated with deeper marine waters in central San Francisco Bay and the outer coast. No haul-out sites for these species are present in the project area or within the larger Eastshore State Park (Goals Project 1999).

Marine Invertebrates. The project area includes several habitat types that support, or have the potential to support, invertebrate animals that live in or close to the Bay. Many of these invertebrates are prey species for wading birds, as well as other invertebrates. While a formal survey and identification of marine invertebrate species was not conducted for this project, the general status and distribution of marine invertebrates in San Francisco Bay are well documented.

The invertebrate organisms that inhabit sandy beaches and dunes are able to burrow rapidly and/or deeply into the sand to avoid displacement by passing waves, permanent burial by moving sediment, desiccation, or predation. Generally, the most numerically abundant taxa on sandy beaches along the coast and San Francisco Bay are crustaceans, especially sand crabs, amphipods (beach hoppers), and isopods (beach "lice"). Some of these motile animals as well as some sessile invertebrates may wash onto the beach with the kelp, eelgrass or debris to which they are attached.

In intertidal and subtidal habitats, such as the riprapped and rocky shorelines and the muddy substrate at the bottom of the Bay, taxa that live in or burrow through the sand and/or mud substrate are likely to be present. These "infauna" include predatory polychaete and nemertian worms, predatory gastropod mollusks (e.g., snails), suspension-feeding bivalve mollusks (e.g., clams), and suspension-feeding worms (e.g., lugworms) (Kozloff 1993). Numerous invertebrate species are harbored among the blades and inflorescences of eelgrass, including amphipods, isopods, and copepods (Kitting and Wyllie-Echeverria 1992; Hanson 1998; Carr 2008), and numbers of individual invertebrates are high within San Francisco Bay eelgrass compared to other regions (Carr et al. in review). The remains of pier pilings and other hard substrates (i.e., riprap and rocky shoreline) in the intertidal and subtidal zones of the project area provide habitat for sessile (i.e., attached) and motile marine invertebrates. Barnacles, oysters, mussels and anemones will commonly colonize such hard substrates in the Bay (Kozloff 1993).

The only oyster species endemic to the west coast of North America, including San Francisco Bay, is known as the California or Olympia oyster (*Ostreola conchaphila*). This species grows on loose boulders and other hard substrates in the intertidal zone (Kozloff 1993) and is fairly common along the rocky shorelines in the project area (Katharyn Boyer, personal observation, March 2010).

San Francisco Bay is now host to hundreds of non-native marine invertebrate species, many of which are invasive and have been observed to negatively impact native invertebrate communities (Carlton 1979; Cohen 2005). Invasive non-native invertebrate species that may occur in the project area (based on the presence of suitable habitat) include the following (Cohen 2005): Eastern mud whelk (*Ilyanassa obsoleta*), channeled whelk (*Busycotypus canliculatus*), rough periwinkle (*Littorina saxatilis*), Atlantic oyster drill (*Urosalpinx cinerea*), ribbed mussel (*Geukensia demissa*), green bagmussel (*Musculista senhousia*), Eastern soft-shell clam (*Mya arenaria*), overbite clam (*Corbula amurensis*), Japanese littleneck clam (*Venerupis philippinarum*), European green crab (*Carcinus maenus*), colonial bryozoa (*Bugula neritina*, *Cryptosula pallasiana*, *Watersipora subtorquata*), and sea squirts (*Botrylloides violaceus*, *Botryllus schlosseri*, *Styela clava*).

Special Status Animal Species

LSA biologists conducted surveys for special status species in March 2010 as a part of the Albany Beach Restoration and Public Access Existing and Future Conditions Report:/Feasibility Study (2011 LSA Associates, Inc) and identified 20 special status animal species with potential to occur within 5 miles of the project area., These are included in Table 8-1 of the LSA Report, Appendix G.

Fish. Several special-status fish species occur in San Francisco Bay, including many distinctive populations of salmon and steelhead, that have unique genetically based adaptations to local and regional environments (Moyle 2002). Some of these distinctive populations, often referred to as runs or stocks, are recognized by the resources agencies as evolutionarily significant units (ESU). Several ESUs of salmon and steelhead could occur in the waters adjacent to the project area on occasion. While juveniles of these species may find suitable habitat in eelgrass beds, generally these species would be expected in the deeper water channels of the bay. The green sturgeon (*Acipenser medirostris*) is another special-status fish species that could occasionally occur in the project area, but as with salmon and steelhead this anadromous species generally is found in deeper water channels. The tidewater goby is considered extirpated from San Francisco Bay and no suitable habitat for this species occurs within the project area.

Birds. The majority of special status avian species presented in Table 8.1 (Appendix G) are known to only occasionally forage or disperse within the project area. No raptor species are known to nest within the project area due to lack of suitable habitat. The ruderal scrub that dominates the upland habitat is considered to be of low forage quality. In addition, the ongoing disturbance associated with recreational users and dogs within the project area provides a further deterrent for nesting raptors. Burrowing owls are known to occur near the project area. In human modified areas burrowing owls often use burrows under the edges of concrete,

asphalt, rubble piles, and riprap. Although there are no confirmed records of burrowing owls nesting in the project area, this species has been observed wintering in Cesar Chavez Park in recent years as well as at the Albany Bulb (around piles of concrete), the North Basin Strip, the south shoreline of North Basin (in riprap) and south of University Avenue (west of the Strawberry Creek outfall). The concrete debris along the Albany Neck in Area 1 provides suitable crevices and cover that could potentially be used by migrating or wintering burrowing owls, and the presence of ground squirrel burrows among the concrete debris and rocks increases habitat suitability for burrowing owls. An 8-acre burrowing owl enclosure area was constructed on the Albany Plateau, and was fenced to restrict access.

The waters adjacent to the project area are utilized by foraging California least terns. The nearest active nesting colony for California least tern is located at Alameda Naval Air Station, approximately seven miles south of the project site. The Alameda site consistently supports the largest numbers of nesting least terns within San Francisco Bay (Burton and Terrill 2010). The Caltrans Albany Mitigation Islands, located adjacent to the Albany Mudflats (0.6 mile from the project area) supported 12 pairs of nesting California least terns in 2000; however, this site has not been utilized in subsequent years.

Mammals. Harbor seal, California sea lion, and southern sea otter have all been observed in the offshore waters of Eastshore State Park, but are considered to be only occasional visitors. No haul-out sites or breeding habitat for marine mammals is present within the project area.

Standards of Significance

Biological resource impacts associated with the project would be considered significant if the project would:

a. Have a substantial adverse effect, either directly or through habitat modifications, on 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 U.S. Fish and Wildlife Service.

b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, seasonal wetland, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means.

d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

e. Conflict with applicable local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or State habitat conservation plan.

Impact Discussion

Assessment Methodology

Using the Standards of Significance listed above, the impact analysis evaluates how Proposed Project activities during construction and operation would affect biological resources by using the information presented in Existing Conditions section of this document, literature information about the responses of biota to

disturbances and pollutants, and preparer expertise and judgment in evaluating existing information regarding species and habitats present and how the components of the Project would interact with the environment.

The impact discussion in Section III.C, Biological Resources, of the *Eastshore Park Project General Plan EIR* was also used in this analysis and is incorporated by reference. This document generally required a site-specific and project-specific analysis of biological resources, the minimization and avoidance of impacts through design measures, and where biological resource impacts could not be avoided, the provision of mitigation measures to offset impacts.

The assessment of impacts assumes that the Proposed Project would conform to State and federal regulations and would include the acquisition of, and compliance with, appropriate permits and certifications associated with construction, stormwater management, and disposal of contaminated materials, as required. Specifically, it is assumed that the Project would include the following:

- A Section 404 of the Clean Water Act; for work associated with placement of offshore habitat shoals and revegetation/enhancement of the existing seasonal wetlands, may be covered under a Corps Nationwide Permit 27 – *Aquatic Habitat Restoration, Establishment, and Enhancement Activities*. However, an individual permit may be required to place the rock armoring and groin for shoreline stabilization on the south shore of the Neck and south of Albany Beach.
- The Corps may initiate consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service in accordance with Section 7 of the Endangered Species Act because of activities in tidal waters, such as placement of habitat shoals offshore, and activities that extend into the Bay, such as shoreline stabilization measures or construction of a water access ramp at the south end of the beach. The agencies may consult on the potential impacts of the proposed project to special status fish species and their habitat.
- A Section 401 (CWA) Water Quality Certification from the RWQCB for construction activities and Notice of Intent (NOI) for construction activity.
- Consultation with the U.S. Coast Guard to determine whether the proposed sub-tidal structures for oyster habitat are navigation hazards, and require special navigation safety markings.
- A permit from San Francisco Bay Conservation and Development Commission (BCDC) for work in wetland areas, public access, and conformance with climate change policies.
- Permits from the San Francisco Bay Regional Water Quality Control Board, including a 401 Water Quality Certification, and a NPDES stormwater permit would be required for shoreline excavation and revetment construction, construction of the public access and recreational elements of the Project, as well as for making the repairs on the Plateau.
- Preparation and compliance with a Stormwater Management and Erosion Control and Revegetation Plan.
- Compliance with the regulations of Bay Area Air Quality Management District, Alameda County Public Health Department, and the Cities of Albany and Berkeley.

Project Analysis

a: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species?

The impact discussion in the Eastshore Park General Plan EIR is incorporated by reference followed by further discussion of the impacts specific to the Proposed Project.

Implementation of the Proposed Project would not adversely affect candidate or sensitive, or special-status species. The Proposed Project includes protection measures such as: conducting pre-construction biological

surveys, having a qualified biological monitor present during portions of the work in sensitive habitat areas, and holding a contractor informational training session to acquaint contractors with the biological resources of the area and review Best Management Practices and permit conditions. These measures, in addition to the elements of the project that enhance dune and seasonal wetlands habitat, and fence them to restrict access would protect and/or enhance habitat for candidate, sensitive or special-status species. The Eastshore Park General Plan contains guidelines that would avoid or minimize to a less-than-significant level potential adverse impacts associated with candidate, sensitive or special status species such as:

1. Requiring preparation of a survey of special status plant species prior to project implementation (PLANTS-12)
2. Requiring that proposed projects will be planned and designed to avoid or minimize potential impacts to special status plant species (PLANTS-13).
3. Requiring that if disturbance of special-status plant species is unavoidable that the impacts are offset (PLANTS-4)
4. Requiring protection of upland and non-tidal wetland wildlife habitat (WILDLIFE-1).
5. Requiring protection and enhancement of foraging and nesting habitat for burrowing owls (WILDLIF-2).
6. Requiring the preparation of a wildlife survey for potential habitat for special status wildlife species (WILDLIFE-4).
7. Requiring that proposed projects will be planned and designed to avoid or minimize potential impacts to special status wildlife species (WILDLIFE-5)
8. Requiring that if disturbance to special status wildlife species is unavoidable, that mitigation measures be implemented to offset those impacts (WILDLIF-6)
9. Requiring plantings in upland buffers between trails and sensitive habitat areas (WILDLIF-9)
10. Restricting access by people and dogs to sensitive upland habitat areas (WILDLIF-11).

Through the design of and environmental review of the Proposed Project, these guidelines have been implemented for the Albany Beach Restoration.

Special Status Plant Species

Of the 17 special-status terrestrial plant species known to occur in the vicinity of the project site, there is suitable habitat on the project site for five of them. Previous protocol level plant surveys and site reconnaissance by LSA detected none of the five species that could potentially occur and are as a result highly unlikely to be present. Therefore, impacts to special-status terrestrial plants would be *less then significant* and no mitigation is required.

Eelgrass is not a protected aquatic plant species per se but is a special aquatic habitat under 404 (b) 1 of the Clean Water Act and is designated as Essential Fish Habitat (EFH). The project has been carefully designed to include a setback or buffer from areas of eelgrass. No direct impacts to eelgrass are anticipated.

Special Status Animal Species

Burrowing owl has potential to be impacted where ground disturbance activities are proposed. Although there are no records of burrowing owls nesting in the project area where this species has been observed wintering in Cesar Chavez Park in recent years as well as at the Albany Bulb (around piles of concrete), the North Basin Strip, the south shoreline of North Basin (in riprap) and south of University Avenue (west of the Strawberry Creek outfall. The concrete debris along the Albany Neck in Area 1 provides suitable crevices and cover that could potentially be used by migrating or wintering burrowing owls. The presence of ground squirrel burrows among the concrete debris and rocks also provides suitable habitat for burrowing owls. A burrowing owl enclosure area was constructed on the Albany Plateau approximately 800 feet east of where repairs to the landfill cover is being considered; no debris would be placed within the land area reserved for burrowing owl, and the existing fence would be maintained.

Nesting birds, including special status birds, may be impacted if construction activities occur in or near potential breeding habitat during the breeding season, from February through August. Pruning and removal of hazardous Eucalyptus trees in the picnic area and removal of non-native Myoporum shrubs located east of the eucalyptus grove that are proposed as part of this project could potentially impact nesting migratory bird species.

Impacts to special status wildlife species including the burrowing owl, and other nesting birds protected by the Migratory Bird Treaty Act would be *significant* impacts under CEQA.

Impact BIO-1: Burrowing owl, a special status wildlife species and other nesting birds protected by the Migratory Bird Treaty Act could be harmed by the construction phase of the project.

> Mitigation Measure BIO-1a: Protocol-level surveys (as described in CDFG 2012) shall be conducted in suitable habitat areas for burrowing owl each year of the proposed construction activity. Suitable habitat includes concrete rubble and rip rap located within the construction areas, such as along Albany Neck and along portions of the slope of Fleming Point. If active nests are found, consultation with CDFG staff shall occur to determine appropriate setbacks or work windows to ensure construction will not have a substantial adverse effect on burrowing owls.
>
> Mitigation Measure BIO-1b: Pre-construction nesting surveys shall be conducted for all nesting birds protected by the Migratory Bird Treaty Act. Surveys shall be conducted by a qualified biologist within 14 days of the onset of disturbance to nesting habitats. If nests are found, they shall be flagged and a suitable buffer area would be established in consultation with CDFG to ensure construction will not have a substantial adverse effect on nesting birds protected by the Migratory Bird Treaty Act. No work would be conducted within this buffer area until young have fledged and are independent of the nest. Breeding bird surveys are not needed for work conducted outside the nesting season (between September 1 and January 31).
>
> Significance after Mitigation: Implementation of the pre-construction surveys contractor training, Best Management Practices, the presence of a qualified biological monitor, establishment of buffers, and limitations on the timing of construction activities taken together, would reduce impacts to special-status wildlife species and nesting birds to a *less-than-significant* level.

The nearest active California least tern nesting colony is located at Alameda, seven miles to the south of Albany Beach. Studies indicate that least terns typically forage within 3.5 miles of nesting site (Ehrler et al. 2006). However, California least terns are occasionally observed foraging within the project area (LSA Associates 2011). Project-related impacts to least terns may include equipment noise and human activity that disrupts access to foraging areas, increased turbidity which could hinder foraging, and increased exposure to contaminants released from sediments during debris removal. These impacts to California least tern are potentially significant.

Impact BIO-2: California least tern, a special status avian species, could potentially be harmed during the construction phase of the project.

> Mitigation Measure BIO 2a: A debris boom to control floating construction debris and reduce water turbidity shall be installed prior to initiation of shoreline revetment construction along Albany Neck. (See also Mitigation Measure HYDRO-1b).
>
> Mitigation Measure BIO-2b: The Contractor shall prepare and implement a Spill Control and Countermeasures Plan that includes protocols to prevent spills and exposure of people, wildlife and

sensitive resources to contaminants. The plan shall include use of a containment boom to prevent spread of any toxic materials that may be released into Bay waters during demolition debris removal and construction of the rock riprap. The debris boom described above may be modified to serve this purpose, and would serve to prevent any spills that do occur from impacting the least terns. (See also Mitigation Measures HYDRO-1a, HYDRO-1b, GEO-4a, and GEO-4b).

Significance after Mitigation: Implementation of the above mitigation measures would reduce any impacts to California least tern to a *less-than-significant* level.

Marine mammals are uncommonly observed within the project area. Marine mammals would be expected to leave the site for adjacent waters if disturbed by project work; thus, it is not expected that any long-term harm would occur to marine mammals. However, the Marine Mammal Protection Act prohibits "take" of marine mammals. The definition of take under the Act, like that of the Endangered Species Act, includes "harassment". For this reason, a potentially significant impact to marine mammals could occur if animals are disturbed during construction activities (such as from construction-related noise), even if they are not harmed by the activities.

Impact BIO-3: Marine mammals including harbor seal, California sea lion and southern sea otter, special status wildlife species protected by the Marine Mammal Protection Act could be disturbed during the construction phases of the projects.

Mitigation Measure BIO-3a: A biological monitor shall be present during subtidal and tidal zone work activities. Should a marine mammal be spotted within 500 feet of the construction area, the monitor shall instruct the Contractor to halt work until the mammal(s) have left the area.

Significance after Mitigation: Implementation of the above mitigation measures would reduce any impacts to marine mammals to a *less-than-significant* level.

b: Have a substantial adverse effect on any riparian habitat or other sensitive natural community?

The impact discussion in the Eastshore Park General Plan EIR is incorporated by reference followed by further discussion of the impacts specific to the Proposed Project.

Implementation of the Proposed Project would not adversely affect riparian habitat or other sensitive natural communities, such as the dune habitat and seasonal wetlands. The proposed project includes protection measures such as conducting pre-construction biological surveys, having a qualified biological monitor present during portions of the work in sensitive habitat areas, and holding a contractor informational training session to acquaint them with the biological resources of the area and review Best Management Practices and permit conditions. These measures, in addition to the elements of the project that enhance dune and seasonal wetlands habitat, and fence them to restrict access would protect and/or enhance riparian habitat or other sensitive habitat community.

There are several sensitive natural communities present within the project area. Three sensitive biological communities have been identified on the project site, including seasonal wetlands, dune mat vegetation, and eelgrass beds. According to the avoidance and minimization measures included in the Project Description, during the enlargement and enhancement of the seasonal wetlands, the existing seasonal wetlands would be fenced off and construction equipment would be precluded from encroachment into existing wetlands. As a result, there would be no impacts to seasonal wetlands. Potential impacts to eelgrass and marine habitats are described below.

Dune mat vegetation in Area 2 is relatively uncommon adjacent to San Francisco Bay and is considered to be a sensitive natural community. Habitat enhancement including earthwork and removal of treated wood,

inorganic debris and invasive plants at the beach area, as well as sand placement to help support a broad low-profile beach are part of the Proposed Project. Existing and expanded dune features would be supported and managed to adapt to anticipated conditions under sea level rise. Approximately 3,000 cubic yards of carefully selected clean sand would be placed on the beach above the line of highest tidal activity, (+ 9.0 feet NAD88), and an additional 2,000 cubic yards would be placed to enhance the dunes, mostly in the existing Golden Gate Fields parking area that would be demolished. The dunes would be stabilized using native dune grasses and forbs. This habitat would be temporarily disturbed but would be expanded, restored, and maintained. Inorganic and creosote-treated wood debris would be removed from the beach and dune areas and disposed of offsite at an appropriate landfill facility. Debris that supports the existing network of interdune seasonal wetlands would be left in place. Dune sand would be graded and planted with native species to foster dune establishment and restore disturbed areas. These elements of the plan would result in improved habitat values for wildlife. As such there would be no impacts to dune mat vegetation.

A large portion of the project site is comprised of disturbed lands containing ruderal vegetation, which is not typically considered to be a sensitive natural community. The project would also involve disposal of some material associated with Neck repair and restoration on the Albany Plateau, after which this area would be backfilled with suitable soil, covered, and planted with native vegetation. Any construction disturbance to these ruderal areas would be considered *less than significant*. Along Area 3, a Trail is proposed that would include a portion of the Trail along the steep face of Fleming Point. Retaining walls and associated drainage structures are also proposed. Vegetation in this area consists mainly of introduced tea trees mixed with other native and non-native plants, supporting a low level of wildlife diversity. The removal of this vegetation would not be considered to be a significant impact.

As noted in the Existing Conditions portion of this Section, a portion of the Trail in the northern part of Area 3 would pass through an area of remnant coastal scrub on Fleming Point, shown on **Figure 4.3-1** as poison oak scrub. Approximately 250 feet of Bay Trail in a disturbance zone 25 feet wide (6,250 square feet or 0.14 acres) would be removed. Although there are no known rare plants or wildlife species associated with this habitat type, and it is not on the CDFG List of Sensitive Plant Communities, nonetheless it is a unique habitat in the East Bay Area, and disturbance of this habitat for Bay Trail construction represents a *potentially significant* impact.

Impact BIO-4: Remnant coastal scrub (poison oak scrub) would be impacted by construction of the SF Bay Trail.

> Mitigation Measure BIO-4a: The final Bay Trail alignment through the poison oak scrub shall be laid out to minimize impacts to this habitat type.
>
> Mitigation Measure BIO-4b: As described in Mitigation Measure HYDRO-1b, an Erosion Control and Revegetation Plan shall be prepared as part of the final Construction Plans. The Revegetation Plan shall include a component that restores an undisturbed area of ruderal scrub vegetation in close proximity to the poison oak scrub with a mixture of native grasses, forbs, and shrubs that were a part of the historic coastal scrub plant community in the East Bay Area. The Erosion Control and Revegetation Plan shall provide for replacement planting of the disturbed poison oak scrub at a ratio of 2:1.
>
> Significance after Mitigation: Implementation of the above mitigation measures, would reduce any impacts to remnant coastal scrub to a *less-than-significant* level.

Proposed vegetation management would include removal of nonnative invasive species adjacent to the parking area and public access facilities, planting native grasses and shrubs, and installation of a post and wire fence or barrier to limit access by dogs and humans to restored dune areas. Proposed fencing of this area

would help protect dune habitat values for wildlife and would assist in stabilizing the dune sand but would have little effect in blocking wind and would not impact areas of existing dune sand. A post and cable fence would be installed between the trail and top of the shoreline slope repair to separate public access areas from steep shoreline stabilization areas and habitat enhancement zones. The fence would be designed to not obstruct views.

In accordance with adopted EBRPD policy, plant and animal pest species would be controlled using integrated pest management (IPM) procedures and practices to minimize the impact of undesirable species on natural resources and to reduce pest control related health and safety risks to the public.

The eelgrass habitat within the project area would not be directly physically impacted by project construction. However, proposed revetment work is substantial and there is a potential risk of indirect damage to eelgrass during construction, either through increased turbidity associated with onshore construction work or from accidental release of contaminants during debris removal.

Impact BIO-5: Eelgrass, a special status plant species and fish habitat could be harmed during construction of the shoreline revetment and optional habitat enhancement components or the project.

> Mitigation Measure BIO-5a: Prior to initiation of construction work, an eelgrass survey shall be completed to map eelgrass resources within the project area as required by regulatory permit conditions.
>
> Mitigation Measure BIO 5b: A debris boom shall be installed shoreward of existing eelgrass beds. The boom shall be kept a minimum of 10 feet away from existing eelgrass beds. (See also Mitigation Measures HYDRO-1a, and HYDRO-1b).
>
> Mitigation Measure BIO-5c: The Contractor shall prepare and implement a Spill Control and Countermeasures Plan (see also Mitigation Measure HYDRO-1b). The plan shall include use of a containment boom to prevent spread of toxic materials that may be accidentally released into Bay waters during debris removal and revetment installation. The debris boom described above (BIO-2a) may be modified to serve this purpose.
>
> Mitigation Measure BIO-5d: The Contractor shall implement a Stormwater Management and Erosion Control Plan to prevent stormwater pollution and siltation from reaching the San Francisco Bay. Measures shall include but are not limited to: covering stockpiled material prior to rain events, and providing equipment and staff as required to repair and/or implement erosion/sediment control measures (see also Mitigation Measures HYDRO-1b, GEO-4a, and GEO-4b).
>
> Mitigation Measure BIO-5e: Following completion of construction activities, the Applicant shall complete a post-construction eelgrass survey within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Any impacts would then be mitigated, through on-site eelgrass transplant or other means to ensure any damaged eelgrass is restored.
>
> Significance after Mitigation: With appropriate construction measures enacted to mark eelgrass beds, minimize turbidity and contaminant drift during revetment work, and to inform and restrict Contractor activities to avoid damage by equipment, all impacts to eelgrass would be reduced to a *less-than-significant* level.

Other marine habitats that may be impacted include riprap or rocky shoreline and subtidal unvegetated habitat. Stabilization and optional enhancement measures proposed for South Albany Neck shoreline would

result in temporary impacts to algal and marine invertebrate communities, including rockweed. The project has been designed to minimize impacts to rockweed. Following construction, algal and invertebrate species would be anticipated to rapidly colonize the new rock placed to stabilize the South Albany Neck shoreline. Additionally, newly constructed rock clusters for oyster recruitment would also promote establishment of rockweed. Because impacts to rocky shoreline are temporary and because project construction would yield additional intertidal rocky habitat of equal or greater amounts, impacts to riprap or rocky shoreline are considered *less than significant*.

Construction of rock clusters, groins, reefs, and other wave attenuation structures along the Albany Neck shoreline (an optional part of the Proposed Project) would result in a small permanent impact to subtidal unvegetated habitat. However, the rock groin would increase shoreline complexity, reflecting the structure of the natural rock shoreline observed at Fleming Point. The groin would provide reef habitat for fish and invertebrates as well as protected cobble beach habitat for avian foraging. Rock clusters installed along the shoreline would promote settlement of native oyster larvae along with other invertebrate species, and rockweed and other algae. The enhanced biological function of the rock groin and reefs would offset impacts to subtidal unvegetated habitat, making impacts less than significant. These structures are also intended to dissipate wave energy and encourage sand deposition along the Neck shoreline, which would provide potential habitat for eelgrass recruitment and expansion of the existing beds.

c: Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act?

A preliminary wetlands delineation was completed for the project site by LSA in 2011. The project site contains 45 acres of San Francisco Bay, a navigable tidal water of the United States. There are 0.031 acre of seasonal wetlands and other waters that are likely subject to Corps jurisdiction under Section 404 and Section 10 of the Clean Water Act and under the Porter Cologne Act and Section 401 of the Clean Water Act. These jurisdictional features include 0.030 acre of seasonal wetlands and 0.001 acre of seasonal drainage. Since the project area borders the San Francisco Bay, all tidal wetlands within the Project area are within the jurisdiction of the BCDC.

Inorganic debris and invasive non-native plant species would be removed) from the existing seasonal wetland. The wetland would be expanded by grading wetland features within the expanded dunes, Wetland expansion would be sized and finished grade elevation set to provide sufficient capacity for integrated onsite storm water treatment. The wetlands would be planted with appropriate low-maintenance native wetland species.

The Proposed Project is a restoration project and would benefit federally protected wetlands by expanding 0.031 acre of poor/low quality wetlands and seasonal drainage and creating a total of 0.30 acres of new seasonal wetlands. The converted wetlands would have significantly improved hydrology and would provide higher quality habitat for wildlife. There would be temporary impacts to existing wetlands from grading and during native plant re-planting, but it is estimated that new wetlands would develop significantly enhanced function within 3-5 years. Temporary impacts would be offset by the overall long-term benefits of the site restoration.

The Proposed Project would remove concrete, metal rubble and treated wood, re-contour shoreline slopes to create tidal and subtidal habitat, place stabilized rock toe protection, shoreline rock, soil and geotextile fabric, and plant native grasses and shrubs on upper slopes. The project goal is to minimize bay fill to only that which is required to protect the underlying landfill materials from erosion-induced exposure, maintain public and emergency vehicle access along the south Neck, and for beneficial habitat enhancement and shoreline stabilization by removing debris, repairing areas of existing erosion, and reconfiguring and armoring the shoreline. The preliminary plans for shoreline stabilization for the Neck include placing up to 9,500 sq. ft. of rock rip rap (up to 3,800 Cubic Yards) within Bay waters to stabilize the shoreline toe. The Optional subtidal habitat enhancement would include placement of up to 17,700 square feet (1,650 Cubic Yards) of large rock

clusters, groins or other hard structures in nearshore subtidal zones below the south shore of the Albany Neck to create substrate suitable for native oyster and rockweed recruitment, to provide refugia for juvenile fish, and to provide roosting habitat for birds. These structures would be placed in a manner so as to minimize creation of navigational hazards, and flagged accordingly. These structures are also intended to dissipate wave energy and encourage sand deposition along the Neck shoreline, which would provide potential habitat for eelgrass recruitment or expansion of the existing population.

Impact BIO-6: The project would temporarily impact seasonal wetlands, and the shoreline stabilization portion of the work and the optional marine enhancement elements would temporarily impact marine resources.

> Mitigation Measure BIO-6a: A qualified biological monitor shall be present on-site, as required by regulatory permit conditions, during subtidal and tidal zone work activities to inspect work areas for compliance with construction documents and permit conditions, and halt work if necessary, if permit conditions are being violated.
>
> Mitigation Measure BIO-6b: Contractor employees shall be educated and trained to be aware of the shoreline environment and wildlife and plants with which they are working, and to take suitable precautions for the protection of wetlands and water quality.
>
> Mitigation Measure BIO-6c: EBRPD shall obtain any needed permits and authorizations for any work in wetlands. These include a Section 404 permit for work in wetlands, a Section 401 water quality certification, and compliance with regional and local plans and protocols.
>
> Significance after Mitigation: The Proposed Project, when completed, would have an overall benefit to federally protected wetlands that would offset both temporary and permanent impacts to wetlands. As a result impacts to federally protected wetlands would be *less than significant*.

d: Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Implementation of the Proposed Project is not expected to impede the use of a native wildlife nursery site or migratory wildlife corridor. The term "corridor" as applied to wildlife habitat and movement has been defined in various ways by ecologists and wildlife biologists. For the purposes of this EIR, a corridor is defined as land that links larger areas of habitat within a landscape, allowing the movement of any established native resident or migratory fish or wildlife species. Although limited and occasional movement may occur between the project site and urban open space areas along creeks to the east, and nearby open water areas, the project site does not serve as a significant linkage or movement corridor between larger habitat areas for terrestrial wildlife. The Proposed Project is not anticipated to interfere with movement or migration of any marine fish or mammal species.

In order to be considered a wildlife nursery, a relatively large share of juveniles from such areas should become incorporated into the local adult population. More young of the species would reach adulthood from that area , as compared to other habitats used by juveniles. Additionally, native wildlife nursery sites are generally located in areas with good habitat conditions, providing abundant food, good cover, and protection from disturbance, thereby fostering successful rearing of young for a sustainable wildlife population. The project site does not have these habitat conditions.

Several features of the Proposed Project design would allow wildlife to have unimpeded movement, while preventing human access into wildlife areas. For example, fences would have a 4-inch minimum gap at the base to allow small mammals and amphibians to crawl underneath and cross the trail and other public uses.

In addition, fences and gates would restrict movement of humans and dogs into enhanced habitats. When the Proposed Project is completed, it would enhance existing habitat and create additional habitat for wildlife occurring in the project vicinity. Therefore, impacts associated with wildlife movement are considered *less than significant*.

As discussed more thoroughly in Section 4.9, Land Use, the Proposed Project contains public access and recreation improvements that would attract more visitors to Albany Beach, including more visitors that would bring their dogs. Even though the Project will increase visitor diversity, including attracting more people that do not bring their dogs, it will also increase the number of visitors with dogs, which could impact wildlife, specifically birds. As discussed in Section 4.9, as a worse case estimate for CEQA analysis purposes, up to 108 additional dogs per day (with an average of 33 dogs per day) may visit the project area, including the Bulb, Neck, Beach area and Bay Trail. Approximately half of these visitors with dogs are expected to use Albany Beach (a maximum of 54 additonal dogs per day or an average of 17). Because the Project would create additional public space that is accessible to people with dogs, the anticipated maximum intensity of dogs with the Project would be 38.5 dogs per accessible acre, which is lower than the current intensity of approximately 43.7 dogs per accessible acre. The lower concentration of dogs will decrease the impact of dogs on wildlife.

In addition, because of the current presence of people and dogs on the beach, this part of the project area has little or no existing bird usage, and the beach area does not provide habitat for protected or sensitive species of birds. Thus, the increase of dogs on the beach will not impact the birds on the beach or birds flying over the site. Birds will use the new habitats created by the Proposed Project, and dogs will be excluded from these areas to avoid impacts on habitat and wildlife.

Although EBRPD has regulations requiring pet owners to keep dogs on leash and prohibiting people and dogs from some areas, such as restoration areas and sensitive wildlife habitat, not all park visitors adhere to these regulations. The Proposed Project will increase current compliance with these regulations by providing signage containing specific public education and informational items about the impacts of dogs on wildlife and water quality, and the importance of keeping dogs on leash and out of sensitive areas. In addition, an important part of the Proposed Project will be enhancing the seasonal wetlands and portions of the dune areas, and fencing these areas to restrict people and dog access.

In conclusion, although there may be an increase in dog visits to Albany Beach as a result of the Proposed Project, the overall public access facility would be increased in size, dispersing visitors with dogs over a larger area, thereby decreasing the intensity and degree of impact, and EBRPD's proposed fenced enhancement areas and its Park visitor education and signage program will reduce the current level of dog impacts on wildlife (birds) and provide for expanded, useable habitat such that the net effect of the increase in dogs at Albany Beach as a result of the construction of Proposed Project improvements would be *less-than-significant*.

e: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The Proposed Project would conform to local, state and federal policies and ordinances related to protection of vegetative, water, fish and wildlife resources. Mitigation measures proposed as part of the project or recommended as part of this EIR would ensure sensitive resources are adequately protected or mitigated in compliance with the goals and objectives set forth in both the City of Albany General Plan Policies and Local Coastal Program Policies, as detailed in the Section 4.9, Land Use and Planning of this EIR.

The City of Albany's "City Tree Removal Policy and Procedures" has jurisdiction over trees occurring within the public right-of-way, limiting their removal without a valid tree removal permit. None of the trees proposed for removal or trimming within the project area are located on City of Albany public right-of-way, and, as a result, are not within Albany's jurisdiction. Therefore, any tree removal or trimming would not

conflict with any local City policies regarding trees. No trees would be removed or trimmed within areas under jurisdiction of the City of Berkeley.

f: Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?

No Habitat Conservation Plans or Natural Community Conservation Plans have been designated within the project's boundaries. The project area is not situated within the planning boundaries of any formally adopted conservation plans. Therefore, the Proposed Project would not conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan and there would be no impact.

The Proposed Project has been planned and designed to be consistent with and implement the Eastshore General Plan for the Albany Beach area. The General Plan includes biological resource goals, objectives, guidelines, and habitat enhancement activities, which were summarized in the Regulatory Setting section.

Cumulative Analysis

The Eastshore State Park General Plan EIR found that the *General Plan* does not propose any changes to the project site that would result in significant impacts to biological resources. By designating any potentially sensitive habitat areas for preservation and conservation, and by including mitigation measures, the biological values of the General Plan Area, which includes the Albany Beach project area, would not be degraded. Thus, implementation of the *General Plan* would not result in significant cumulative impacts related to biology.

At the time this EIR was prepared, the following projects in the vicinity of the Proposed Project site have been proposed or recently approved. No nearby projects were under construction.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes placement of boat docks and addition of parking spaces and restroom at the Berkeley Marina. Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[53]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

[53] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[54]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[55]

In the Project vicinity, the effect of the combination of the existing built environment, plus the proposed and approved projects identified above, is a significant loss of habitats including bay wetlands, and significant reductions in the populations in a number of plant and animal species. As a result, these species have been identified by the state and/or federal governments as requiring protection. This is a significant cumulative impact on biological resources. Given the minimal impact on biological resources expected by the Project, and the extensive project specific mitigation measures proposed for the Project, which would reduce the Project's impacts to biological resources to a less than significant level, the Project would not have a cumulatively considerable impact on biological resources. Thus, the Proposed Project would not make a considerable contribution to significant cumulative impacts on biological resources. This impact would be *less-than-significant*.

[54] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

[55] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.4 Cultural Resources

This section provides the environmental and regulatory background necessary to analyze the impacts of the proposed Albany Beach Restoration and Public Access Project to cultural resources. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication. Specifically, this section incorporates by reference Section III.D from the *Eastshore Park Project General Plan EIR*, which evaluates impacts on cultural resources, and is summarized below. This section also contains information from the Cultural Resources technical reports prepared by LSA for the *Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park* project [56], and an Archaeological Reconnaissance and Literature Search for the Proposed Bay Trail, prepared by Jeff Fentress.[57]

Regulatory Framework

The *Eastshore Park Project General Plan EIR* does not discuss federal laws and regulations relating to cultural resources. The following discussion supplements the *Eastshore Park Project General Plan EIR*.

Federal Laws and Regulations

National Historic Preservation Act (NHPA), Section 106

Section 106 of the NHPA (36 CFR 800) requires federal agencies and those they fund or have approval authority over to consider the effects of their actions on properties that may be eligible for listing or are listed in the NRHP. To determine whether an undertaking could affect NRHP eligible properties, cultural resources (including archaeological, historical, and architectural properties) must be inventoried and evaluated for listing in the NRHP. Although compliance with Section 106 is the responsibility of the lead federal agency, in this case the U.S. Army Corps of Engineers (USACE), others can undertake the work necessary to comply with Section 106. The Section 106 process entails four primary steps, listed below.

1. Initiation of consultation with consulting parties (36 CFR 800.2)
2. Identification and evaluation of historic properties within the Area of Potential Effects (APE) (36 CFR 800.4)
3. Assessment of adverse effects on historic properties within the APE (36 CFR 800.5)

- If there are historic properties that will be affected, consult with the CA State Historic Preservation Officer (SHPO regarding adverse effects on historic properties. This consultation will result in a memorandum of agreement (MOA), if determined appropriate (36 CFR 800.5(d)(2))
- If there are no historic properties that will be affected, implementation of the project in accordance with the findings of no adverse effect shall proceed (36 CFR 36 800.5(d)(1))

4. Resolution of adverse effects and proceeds in accordance with the MOA, if determined appropriate (36 CFR 800.6).

[56] LSA, 2011. *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California.*

[57] Fentress, Jeff. 2012. *Archaeological Reconnaissance and Literature Search for the Proposed Bay Trail, Albany Beach Restoration and Public Access at Eastshore State Park Project, Alameda County, California.*

National Register of Historic Places (NRHP)

Criteria for Evaluation

Cultural resources significance is determined using the NRHP's Criteria for Evaluation at 36 CFR 60.4, which state that a historic property is any district, site, building, structure, or object:

a) that is associated with events that made a significant contribution to the broad patterns of our history (Criterion A);

b) that is associated with the lives of persons significant to our past (Criterion B);

c) that embodies the distinctive characteristics of a type, period, or method of construction; or that represents the work of a master, or that possesses high artistic values; or that represent a significant and distinguishable entity whose components may lack individual distinction (Criterion C); and/or

d) that has yielded, or may be likely to yield, information important in prehistory or history (Criterion D).

In addition to meeting one or more of the criteria identified above, the resource must typically be at least fifty (50) years old.[58]

Archaeologists generally evaluate archaeological resources using Criterion D in order to determine their potential to yield information. Criterion D emphasizes the importance of the information encompassed in an archaeological site rather than its inherent value as a surviving example of a particular architectural type, or its historical association with an important person or event. If the SHPO determines that a cultural resource is eligible for inclusion to the NRHP, then it is automatically eligible for the California Register of Historic Resources (CRHR). If a resource does not have the level of integrity necessitated by the NRHP, it may still be eligible for the CRHR, which allows for a lower level of integrity (see below).

Seven Aspects of Integrity

Cultural resources integrity is determined using the NRHP's seven aspects of integrity at 36 CFR 60.4, which state that a historic property must not only be shown to be significant under the National Register criteria, but it also must retain historic integrity. The seven aspects of integrity include location, design, setting, materials, workmanship, feeling, and association. A property must meet one or more of the Criteria for Evaluation before a determination can be made about its integrity (National Register Bulletin 15).

The following discussion of local and state laws and regulations relating to cultural resources summarizes the *Eastshore Park Project General Plan EIR,* and presents additional discussion of California Public Resources Code §5097.98 regarding human remains. The next section summarizes the applicable cultural resources policies and protective measures of the cities of Albany and Berkeley.

State Laws and Regulations

California Environment Quality Act (CEQA)

The CEQA Statute and Guidelines (Title 14 of the California Code of Regulations 15064.5) include procedures for identifying, analyzing, and disclosing potential adverse impacts to historical resources. CEQA defines a "historical resource" as a resource that meets any of the following criteria:

- A resource listed in, or determined to be eligible for listing in, the NRHP or CRHR.
- A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code (PRC), unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

[58] U.S. Department of the Interior, National Park Service, National Register Criteria for Evaluation, Available on the internet at http://www.nps.gov/nr/publications/bulletins/nrb15_2.htm. Accessed 22 May 2012.

- A resource identified as significant (e.g., rated 1-5) in a historical resource survey meeting the requirements of PRC Section 5024.1(g) (Department of Parks and Recreation Form 523), unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, provided the determination is supported by substantial evidence in light of the whole record. Generally, a resource is considered "historically significant" if it meets the criteria for listing on the CRHR.

California Register of Historical Resources (CRHR)

Criteria of Evaluation

The CRHR is a listing of State of California resources that are significant within the context of California's history, and includes all resources listed in or formally determined eligible for the NRHP. The CRHR is a state-wide program of similar scope to the NRHP. In addition, properties designated under municipal or county ordinances are also eligible for listing in the CRHR. A historic resource must be significant at the local, state, or national level under one or more of the following criteria defined in the CCR Title 14, Chapter 11.5, Section 4850:

1. It is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States (Criterion 1); or
2. It is associated with the lives of persons important to local, California, or national history (Criterion 2); or
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values (Criterion 3); or
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation (Criterion 4).

In addition to meeting one or more of the criteria identified above, the resource must typically be at least fifty (50) years old so that sufficient time has passed to understand its historical significance.[59,60] Any resource that meets one of the above criteria, is more than fifty years old, and retains its historic integrity is considered an historical resource under CEQA.

California Public Resources Code §5097.98

Section 5097.98 (Notification of Native American human remains, descendants; disposition of human remains and associated grave goods) mandates that the lead agency adhere to the following regulations when a project results in the identification or disturbance of Native American human remains:

1. Whenever the Native American Heritage Commission receives notification of a discovery of Native American human remains from a county coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendents may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The

[59] Title 14 California Code of Regulations, Section 4852(d)(2). Available on the internet at: http://www.archive.org/stream/ca.ccr.14.2/ca.ccr.14.2_djvu.txt. Accessed 22 May 2012.

[60] U.S. Department of the Interior, National Park Service, National Register Criteria for Evaluation, Available on the internet at: http://www.nps.gov/nr/publications/bulletins/nrb15/nrb15_2.htm. Accessed 22 May 2012.

descendents shall complete their inspection and make their recommendation within 24 hours of their notification by the commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

2. Whenever the Native American Heritage Commission is unable to identify a descendent, or the descendent identified fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendent, and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.

The following Local Regulations and Policies section is in addition to what is contained in *the Eastshore Park Project EIR*.

Local Regulations and Policies

EBRPD Master Plan

The EBRPD Master Plan (Master Plan) defines the long-term vision for lands managed by EBRPD. The Master Plan provides a decision-making framework for EBRPD management, and identifies policies that will achieve district-wide objectives. Park development objectives, land use classifications, and planning and management guidelines are established by the Master Plan. Policies for the preservation and interpretation of cultural resources are woven throughout the Master Plan, including provisions for public participation, interpretation, environmental compliance, open space protection, land acquisition, land use planning, and facility development. Those policies most pertinent to cultural resources in the Project Area are summarized below.

- Interpretation. EBRPD will provide a variety of interpretive programs that focus attention on the region's natural and cultural resources. Programs will encourage an appreciation for the preservation of natural and cultural resources, and will provide for volunteer opportunities.
- Environmental Compliance. EBRPD will develop all planning documents in compliance with CEQA [and, as part of the review process, will consider potential impacts to cultural resources].
- Facility Development. Park improvements will be designed to avoid or minimize impacts on wildlife habitats, plant populations, and other resources

EBRPD Ordinance 38, Sections 805-808

Portions of EBRPD Ordinance 38 address the disturbance of objects or features of cultural significance on EBRPD lands. Each section is briefly summarized below.

- Section 805. This section states that no person shall damage, injure, collect or remove earth, rocks, sand, gravel, fossils, minerals, features of caves, or any article or artifact of geological interest or value located on EBRPD parklands. Though oriented toward natural features, this ordinance may be construed as applying to objects or features that, while appearing natural, are actually modified by human action (e.g., cave pictographs misperceived as natural discoloration).
- Section 806. This ordinance states that no person shall damage, injure, collect or remove any object of paleontological, archaeological or historical interest or value located on EBRPD parklands. In addition, any person who willfully alters, damages, or defaces any object of archaeological or historical interest or value or enters a fenced and posted archaeological or historical site shall be arrested or issued a citation pursuant to California Penal Code §622.5.

- Section 807. This ordinance states that special permission may be granted to remove, treat, disturb, or otherwise affect plants or animals or geological, historical, archaeological, or paleontological materials for research, interpretive, educational, or park operational purposes.
- Section 808. This ordinance states that no person shall cut, carve, paint, mark, paste, or fasten on any tree, fence, wall, building, monument, or other property in EBRPD, any bill, advertisement, directional or informational signs, or inscription whatsoever.

EBRPD Guidelines for Protecting Parkland Archaeological Sites

The document entitled *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[61] contains guidance for EBRPD staff on the treatment of archaeological sites in the Project Area. Guidance is provided about archaeological site identification and protection; Native American input regarding proposed treatment of archaeological sites and human remains; and special zoning concessions for Native American and non-Native American archaeological sites.

City of Albany General Plan

The Conservation, Recreation and Open Space Element of the Albany General Plan 1990-2010 (adopted 1992) includes the following goal for the protection of cultural resources:

Goal CROS 4: Strive to maintain and improve the quality of Albany's natural environment and cultural resources, and natural resources in general. [62]

City of Berkeley General Plan

The City of Berkeley General Plan includes an Urban Design and Preservation Element.[63] The overall goal of the Urban Design and Preservation Element is to: Protect and enhance Berkeley's special built environment and cultural heritage by carefully conserving the numerous existing good buildings, areas, and other features and ensuring that new elements are so located and designed as to respect and strengthen the whole.

Element Objectives

Berkeley's Urban Design and Preservation Element goal requires pursuing four objectives through its policies and proposed actions:

1. Protection of Existing Resources - Preserve historically or culturally important structures, sites, and areas and protect the character of Berkeley's neighborhoods and districts. (See the Land Use Element for more policies on the Character of Berkeley.)

2. Preservation Incentives - Provide incentives for the preservation of historic and cultural resources.

3. New Construction and Alterations - Ensure that new construction and alterations are well designed and respect and enhance the existing environment.

4. Outreach - Promote awareness and understanding of Berkeley's built environment and cultural heritage, and of how to preserve and improve them.

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[61] East Bay Regional Park District, 1989. Oakland, California.

[62] City of Albany, 1992. *General Plan 1990-2010.*

[63] City of Berkeley General Plan: A Guide for Public Decision-Making (2003)

Eastshore State Park General Plan

The *Eastshore State Park General Plan,* adopted in 2002, includes the following goal and guidelines regarding cultural resources:

Goal

- Appropriate protection, preservation, and interpretation of significant cultural resources identified within the park project.

Guidelines

CULT-1: As part of the planning and design process for area-specific projects, and prior to commencement of any ground disturbance, grading, or construction related to new facilities or enhancements, a qualified cultural resource professional will conduct appropriate record reviews of any necessary fieldwork to determine the presence of cultural resources or culturally sensitive areas.

CULT-2: If the cultural resource investigations indicated the presence of cultural resources or culturally sensitive areas within or adjacent to areas that will be affected by the proposed activities, such activities will be planned and designed to avoid or minimize impacts to the identified resources.

CULT-3: In the event that some disturbance to cultural resources is unavoidable, appropriate measures will be identified and implemented in consultation with a qualified cultural resource professional. Such measures shall be consistent with all applicable rules and regulations relating to the protection of cultural resources. [64]

Existing Conditions

The following information is summarized from *the Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* prepared by LSA[65] and a cultural resources report prepared by Jeff Fentress. [66] This information supplements the *Eastshore State Park Project General Plan EIR*. Neither of these reports are formal federal Section 106 reports. Formal Section 106 cultural resource reports are not required under CEQA.

History of the Site

Area 1, Area 2, Area 3, and Albany Plateau:

The project area and vicinity consists primarily of artificial fill and bay mud. Artificial fill, consisting of various construction and demolition debris, was deposited on tidal mudflats and open water in the project area beginning in 1963 to create the Albany Bulb and Plateau (Subsurface Consultants, Inc., 2002). Neither the artificial fill nor bay mud, which are up to 40 and 65 feet thick, respectively (Subsurface Consultants, Inc. 2002), are known to contain significant paleontological resources.

Human occupation of the Bay Area began between about 7,000 and 4,000 years ago as Holocene glacial melt flooded the coastal valley of what is now San Francisco Bay (Moratto 1984). Native groups settled around the bayshore at places close to marsh resources with sources of fresh water, such as at the mouths of perennial creeks. These native groups left remnants of their occupation along the East Bay shoreline, the most notable

[64] California Department of Parks and Recreation, 2002. *Eastshore General Plan.*

[65] LSA, 2011. *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California.*

[66] Fentress, Jeff. 2012. *Archaeological Reconnaissance and Literature Search for the Proposed Bay Trail, Albany Beach Restoration and Public Access at Eastshore State Park Project, Alameda County, California.*

of which are "shellmounds," extensive archaeological deposits containing a rich, diverse assemblage of dietary remains, artifacts, and human remains.

The West Berkeley shellmound is located approximately one mile south of the project site, at the west end of University Avenue near the original shoreline. In addition there were five Native American sites located around Albany Hill adjacent to the project site. Other Native American sites are located in the Richmond Harbor and Brooks Island. It also is assumed that there were Native American sites on and around Fleming Point Island.

The historic land uses at Fleming Point Island have involved significant changes to the land since the settlement of the Native American people. The San Francisco Chemical Works and Giant Powder Works were located on Fleming Island by the 1870's. The plant exploded on the island in 1879, 1883, and 1892. There was also a shipwreck on the Island in 1879. The City of Berkeley operated a waste incinerator from 1908 to 1923. After 1923, waste burning was replaced by "fill and cover" disposal. Fleming Point Island was then leveled for the construction of the Golden Gate Fields racetrack, which opened in 1941. This has likely buried or obliterated the archaeological resources on the island. By 1942 the Fleming Point area had merged with the mainland and became the Berkeley-Albany shoreline. In 1947, a concrete and wood pier was constructed at Fleming Point, possibly serving as a landing for a water taxi to San Francisco.[67]

Paleontological Resources

Area 1, Area 2, Area 3, and Albany Plateau

Fossiliferous Franciscan Formation deposits underlie the artificial fill and bay mud at depth in most of the project site, with the exception of the Fleming Point area, discussed below. Neither the artificial fill nor the bay mud at the site, which are up to 40 and 65 feet thick, respectively, are known to contain significant paleontological resources. Jurassic-Cretaceous Franciscan Formation deposits, which have the potential for containing invertebrate and vertebrate fossils, are exposed at Fleming Point in Area 3.

Archaeological Cultural Resources

Area 1, Area 2, and Albany Plateau

As discussed in more detail in *the Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* prepared by LSA[68], which is hereby incorporated by reference, there are no known prehistoric or historical archaeological sites recorded in Areas 1 or 2; however, there are sites recorded east of these areas in and around Albany Hill.

Area 3

As discussed in more detail in *the Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* prepared by LSA[69], which is hereby incorporated by reference, the debris from a shipwreck on Fleming Point in 1879 could possibly be located under the fill in this area, although the location of the wreck is unknown.

Built Environmental Cultural Resources

Area 1, Area 2, and Albany Plateau

There are no historic structures of cultural significance in Areas 1 and 2 or the Albany Plateau. There is a history of local artists constructing "wild art" or "plop art" projects in the Albany area, although in recent

[67] Fentress, Jeff. 2012. *Archaeological Reconnaissance and Literature Search for the Proposed Bay Trail, Albany Beach Restoration and Public Access at Eastshore State Park Project, Alameda County, California.*

[68] LSA, 2011. *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California.*

[69] LSA, 2011. *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California.*

years this activity has occurred around the upland and shore areas of the Albany Bulb, which is outside of the project area. There are wild art installations in the beach area, including driftwood pieces (some containing toxic creosote) called "The Throne" and "Spinner," and a large concrete block along the Neck shoreline that has lately been painted to resemble a Rubik's cube. All of these features are less than 50 years old and are therefore not considered historic resources.

Area 3

The remains of a wood and concrete L-shaped pier built in 1947 are located at Fleming Point. The Fleming Point Pier may constitute an important element of Golden Gate Fields racetrack complex history.

A 10-foot long by 6-foot wide, low concrete retaining wall is located on the slopes in the general vicinity of the proposed trail in Area 3. As a stand-alone feature, this structure would not have historic significance. However, it may be part of a larger underground structure that could potentially have historical significance. A brick-lined path and a 10-foot by 10-foot concrete box feature are located on the lower slopes along the shoreline that could potentially be historically significant; however, they are outside of the area that would be affected by the proposed trail.

Native American Cultural Resources

Area 1, Area 2, and Albany Plateau

There may potentially be Native American cultural resource sites located in the project vicinity, such as buried under the concrete landfill rubble, as the area from Berkeley to Richmond was home to intensive Native American activity. Several Native American cultural resources sites have been found near the project area at Albany Hill. According to the LSA report prepared for Areas 1 and 2, the Native American Heritage Commission (NAHC), local Native American representatives, and the Albany Historical Society were contacted in 2010 regarding possible Native American cultural resources in the project areas. The NAHC responded that their Sacred Lands File did not indicate any Native American cultural resources in the immediate project area. No responses were received from Native American representatives and the Albany Historical Society. Therefore, despite the potential, there are no known Native American cultural resource sites in Area 1 and 2.

Area 3

There were possibly Native American cultural resource sites located on Fleming Island prior to the subsequent development of the Golden Gate Fields area; however, considering the amount of land disturbance which occurred here during construction of Golden Gate Fields, it is unlikely that Native American cultural resources could still exist in this area. The NAHC was contacted in 2012 regarding possible Native American cultural resources in Area 3. No response by the NAHC was received.

Even if Native American cultural resources did still exist, due to the intensive subsequent disturbance of this area in grading and leveling Fleming Point Island during construction of Golden Gate Fields, it is unlikely that any Native American cultural resources found will have the integrity to be eligible for listing on the California Register of Historic Resources.

Standards of Significance

For purposes of this EIR, the Project would have a significant impact on an historical resource if it would:

a. Cause a substantial adverse change in the significance of a historical resource as defined in the California Code of Regulations Section 15064.5;

b. Cause a substantial adverse change in the significance of an archaeological resource as defined in the California Code of Regulations Section 15064.5;

c. Directly or indirectly destroy a unique paleontological resource or unique geologic feature; or

d. Disturb any human remains, including those interred outside of formal cemeteries.

Impacts Discussion

Project Analysis

The following discussion incorporates information from *the Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* prepared by LSA and the cultural resources report prepared by Jeff Fentress, which supplements the analysis contained in the *Eastshore Park Project General Plan EIR*.

a. Cause a substantial adverse change in the significance of a historical resource as defined in the California Code of Regulations Section 15064.5

Area 1, Area 2, and Albany Plateau

Wild Art

As discussed in The Eastshore General Plan, the shoreline area has provided a source for artistic expression since the late 1960's. This material includes discarded items, use of imported materials such as painted concrete, as well as material found on site, such as concrete rubble and driftwood, made into art objects often termed wild art or plop art.

The Eastshore State Park General Plan contains guidelines to ensure that features that reflect wild art (such as "Rubik's Cube") will be evaluated prior to any disturbance and, if determined to be cultural resources, that appropriate mitigation measures will be developed prior to area-specific project implementation. The pertinent guidelines (CULT-1, CULT-2, and CULT-3) are reproduced under Eastshore State Park General Plan, above. Given that the wild art on the Project site is less than fifty years old, it would not typically be considered a historical resource. Nonetheless, because some consider the wild art to be historically and artistically significant, it is considered a historical resource for purposes of this EIR. Wild art features are also discussed further in Section 4.1, Aesthetics.

Impact CUL-1: Project construction could disturb the wild art on the site. This represents a *potentially significant* impact.

Mitigation Measure CUL-1: See Mitigation Measure AESTH-1, which calls for relocation of wild art pieces such as such as the "Rubik's Cube," that are durable, can be physically moved, contain unique features, and pose no health or safety risk.

Significance after Mitigation: Cultural Resources guideline CULT-1, which requires a record review and appropriate fieldwork by a qualified cultural resource professional, and Cultural Resources guideline CULT-2, which requires project planning to avoid or minimize impacts to identified cultural resources were implemented as discussed above. Cultural Resources guideline CULT-3 requires identification and implementation of appropriate mitigation measures for cultural resources that may be disturbed by the Project, and is included herein. Mitigation Measure CUL-1 is identified in this EIR for wild art that would be disturbed by the Project. With the implementation of these cultural resources guidelines in the Eastshore State Park General Plan, and the Mitigation Measure CUL – 1, the impact of the Proposed Project on wild art would be reduced to a *less than significant* level.

Area 3

The cultural resources report prepared by J. Fentress for Area 3 identifies and evaluates cultural resources and proposes mitigation measures that are specific to this project and implement the guidelines contained in the *Eastshore Park Project General Plan*. These resources are described below.

Pier at Fleming Point

The pier at Fleming point is identified as a cultural resource in the *Eastshore Park Project General Plan EIR* and may be eligible for inclusion on the California or National Registers of Historical Resources. [70] Consistent with Cultural Resources guideline CULT-2, the project is planned to avoid impacts to the Fleming Point Pier. The proposed project does not involve alterations to this pier and therefore there would be *no impact*.

10-foot x 6-foot Wall

The wall located in the brushy slope area in Area 3 may potentially be a part of a historically significant structure that has not been unearthed or adequately evaluated. If the wall is part of a larger structure that would be removed in order to construct the Bay Trail, a historical resource could potentially be affected.

Impact CUL-2: Project excavation for the Bay Trail could adversely impact the existing concrete wall located in Area 3, a potentially significant historical structure.

As discussed in the *Eastshore Park Project General Plan EIR*, the Eastshore State Park General Plan contains guidelines to ensure that all possible cultural resources will be evaluated prior to any disturbance and, if determined to be significant, that appropriate mitigation measures will be developed prior to area-specific project implementation. The pertinent guidelines (CULT-1, CULT-2, and CULT-3) are reproduced under Eastshore State Park General Plan, above.

The *Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* prepared by LSA identifies cultural resources for Areas 1 and 2 and the Albany Plateau. In addition, a cultural resources report prepared by J. Fentress for Area 3 identifies and evaluates cultural resources, and proposes mitigation measures that are specific to this project. Both of these implement the Cultural Resources Guidelines of the *Eastshore Park Project General Plan*. Mitigation Measure CUL-2 is additional to what is contained in the *Eastshore Park Project General Plan EIR*.

> Mitigation Measure CUL-2: In order to mitigate potential adverse impacts to the existing concrete wall structure, the detailed project design for the Bay Trail spine in Area 3 shall avoid the 10-foot x 6-foot wall located in the brush slope area in Area 3, or incorporate the wall intact into the design of the trail, unless it is determined following slope brush clearing for trail construction that the retaining wall is not associated with another structure and thus has no independent integrity as was determined by the Fentress Study. It then may be demolished.
>
> Significance after Mitigation: With the implementation of Mitigation Measure CUL – 2, the impact of the Proposed Project on the 10-foot x 6-foot wall located in the brush slope area in Area 3 would be reduced to a *less than significant* level.

Shipwreck, San Francisco Chemical Company, Giant Powder Works

It is unlikely that cultural resources associated with the shipwreck and historic land uses would be adversely affected by the Proposed Project. Due to extensive disturbance of the soil as a result of the explosions at the site and the use of the area for a landfill, it is unlikely that the remains of these historic structures retain the

[70] California Department of Parks and Recreation, 2001. *Eastshore State Park Project General Plan EIR*.

integrity required for eligibility to the California Register of Historic Resources (as discussed above, the seven aspects of integrity are location, design, setting, materials, workmanship, feeling, and association). However, there is the possibility that these undiscovered resources could be adversely impacted by construction.

Impact CUL-3: Earthwork associated with the proposed project could negatively impact undiscovered historic features from the shipwreck, the San Francisco Chemical Company, and Giant Powder Works.

> Mitigation Measure CUL-3: In order to mitigate potential adverse impacts to intact historic features discovered during construction, work shall be halted within 50 feet of the discovery until the features have been inspected and evaluated by a qualified archaeologist. The archaeologist shall, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[71], identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.
>
> Significance after Mitigation: With the implementation of Mitigation Measure CUL-3, the impact of the Proposed Project on subsurface historic features would be reduced to a *less than significant* level.

b. Cause a substantial adverse change in the significance of an archaeological resource as defined in the California Code of Regulations Section 15064.5

Area 1, Area 2, Area 3, and Albany Plateau

Due to the intensity of the settlement of Native American people in the project vicinity, there is a small potential for encountering Native American cultural objects such as obsidian, mortars, etc., during excavation and grading.

Impact CUL-4: Excavation and earth moving activities for the proposed project could have an adverse impact on currently undiscovered Native American cultural objects.

> Mitigation Measure CUL-4: Construction contractors shall be trained by EBRPD staff to recognize Native American cultural objects. In order to mitigate potential adverse impacts to Native American cultural objects discovered during construction, work shall be halted within 50 feet of the discovery until the objects have been inspected and evaluated by a qualified archaeologist. The archaeologist shall, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[72], identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.
>
> Significance after Mitigation: With the implementation of Mitigation Measure CUL-4, the impact of the Proposed Project on Native American cultural objects would be reduced to a *less than significant* level.

[71] East Bay Regional Park District, 1989. Oakland, California.

[72] East Bay Regional Park District, 1989. Oakland, California.

c. Directly or indirectly destroy a unique paleontological resource or unique geologic feature

The Eastshore State Park General Plan EIR does not address paleontological resources. The following discussion supplements the Eastshore State Park General Plan EIR.

Area 1, Area 2, and Albany Plateau

Due to the depths involved, the Fossiliferous Franciscan Formation deposits underlying the bay mud and artificial fill would not likely be disturbed during excavation for the Project. These deposits are under artificial fill and bay mud, which are up to 40 and 65 feet thick, respectively, at the site. At such a depth, they would unlikely be affected by the proposed project; therefore, the impact would be *less than significant.*

Area 3

Jurassic-Cretaceous Franciscan Formation has the potential for containing invertebrate and vertebrate fossils, and is exposed at Fleming Point. This is somewhat unlikely in that the Franciscan Formation is not particularly fossil rich. The proposed project involves construction of the Bay Trail, including horizontal and vertical cuts unto bedrock that could potentially impact fossil containing rock units. This represents a *potentially significant* impact.

Impact CUL-5: Construction of the Bay Trail could impact fossil containing rock units.

Mitigation Measure CUL-5: Construction contractors shall be trained by EBRPD staff to recognize fossils and possible unique geological features. EBRPD shall be notified if these are uncovered during construction of the Bay Trail. Work shall halt within 50 feet of the find until the situation can be assessed by a qualified Geologist or Paleontologist. The geologist or paleontologist shall identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.

Significance After Mitigation: With the implementation of Mitigation Measure CUL-5, the impact to fossils and unique geological features would be less than significant.

d. Disturb any human remains, including those interred outside of formal cemeteries.

Area 1, Area 2, Area 3, and Albany Plateau

Due to the intensity of the settlement of Native American people in the project vicinity, there is the potential of encountering Native American human remains during excavation and earth moving activities. There is also the potential of encountering other human remains during construction of the proposed project.

Impact CUL-6: Excavation and earth moving activities for the proposed project could have an adverse impact on currently undiscovered human remains.

Mitigation Measure CUL-6: Construction contractors shall be trained by EBRPD staff to recognize human remains. In order to mitigate potential adverse impacts to human remains discovered during construction, work shall be halted within 100 feet of the discovery until the materials or features have been inspected and evaluated by a qualified archaeologist. The archeologist shall identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository. In

addition, the discovery must be reported to the County Coroner. If the Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Heritage Commission will assign a Most Likely Descendant to provide recommendations for the proper treatment of the remains taking into account the possibility of multiple human remains, and comply with Public Resources Code section 5097.98 and the Native American Graves Protection and Repatriation Act, if applicable.

Significance after Mitigation: With the implementation of Mitigation Measure CUL-6, the impact of the Proposed Project on human remains would be reduced to a *less than significant* level.

Cumulative Analysis

Cumulative impacts were evaluated in Section V.C, Cumulative Impacts, of the Eastshore Park Project General Plan EIR. In the EIR, it was determined that the Eastshore Park Project in combination with other planned projects in the vicinity, is not expected to cause significant adverse impacts to cultural resources.

The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[73] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[74]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

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[73] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[74] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[75]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[76]

The effect of the combination of past projects, the current projects identified in the Project vicinity, and probable future projects could result in a significant loss of cultural and archaeological resources, including Native American shellmounds along the bay. This is a significant cumulative impact on cultural resources.

Given the past destructive activities on the Project site, the minimal impact on cultural resources expected by the Project, and the extensive project specific mitigation measures proposed for the Project, which would reduce the Project's impacts to cultural resources to a less than significant level, the Project would not have a cumulatively considerable impact on cultural resources. The incremental effects of the Project are not considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less than significant*.

[75] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

[76] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.5 Geology and Soils

This section provides the environmental and regulatory background necessary to analyze the impacts of the proposed Albany Beach Restoration and Public Access Project to Geology and Soils. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication. Specifically, this section incorporates by reference Section III.E from the *Eastshore Park Project General Plan EIR*, which evaluates impacts on geology and soils, and is summarized below. In addition to this source of information, the analysis is based on information contained in the Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, LSA, June 2011 (included in Appendix G), a preliminary geotechnical investigation completed by Questa Engineering, May 2012, and a Coastal Engineering Analysis completed by Coast and Harbor, Inc., in June 2012 (included in Appendix F).

Regulatory Framework

This section describes federal, State, and local environmental laws and policies that are relevant to the CEQA review process for geology, soils and seismicity.

California State Regulations

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed in 1972 to mitigate the hazard of surface faulting to structures used for human occupancy.[77] The main purpose of the Act is to prevent the construction of buildings used for human occupancy on top of active faults. The Act only addresses the hazard of surface fault rupture and is not directed toward other earthquake hazards, such as ground shaking or landslides.[78]

The law requires the State Geologist to establish regulatory zones (known as Earthquake Fault Zones or Alquist-Priolo Zones) around the surface traces of active faults, and to issue appropriate maps.[79] The maps are then distributed to all affected cities, counties and State agencies for their use in planning and controlling new or renewed construction. Generally, construction of habitable structures within 50 feet of an active fault zone is prohibited. The nearest Alquist-Priolo Earthquake Fault Zone is for the Hayward Fault, located approximately 2.5 miles east-northeast of the project site.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act, passed in 1990, addresses non-surface fault rupture earthquake hazards, including liquefaction and seismically-induced landslides.[80] Under this Act, Seismic Hazard Zones are mapped by the State Geologist to assist local governments in land use planning. The Act states that "it is necessary to identify and map seismic hazard zones in order for cities and counties to adequately prepare the safety element of their general plans and to encourage land use management policies and regulations to reduce and mitigate those hazards to protect public health and safety."[81] Section 2697(a) of the Act states that: "cities and counties shall require, prior to the approval of a project located in a seismic hazard zone, a geotechnical

[77] Called the *Alquist-Priolo Special Studies Zones Act* until renamed in 1993.

[78] California Geological Survey, Alquist-Priolo Earthquake Fault Zones, http://www.consrv.ca.gov/CGS/rghm/ap/, accessed on January 10, 2012.

[79] California Geological Survey, Alquist-Priolo Earthquake Fault Zones, http://www.consrv.ca.gov/CGS/rghm/ap/, accessed on January 10, 2012.

[80] California Geological Survey, Alquist-Priolo Earthquake Fault Zones, http://www.conservation.ca.gov/CGS/rghm/ap/Pages/Index.aspx, accessed on April 16, 2012.

[81] California Public Resources Code, Division 2, Chapter 7.8, Article 7.8, Section 2691(c).

report defining and delineating any seismic hazard."[82] The requirement for a Geotechnical Report for sites in seismic hazard areas as mapped pursuant to this Act, is typically a standard condition of approval for projects. The Albany Beach and Albany Neck areas of the project site are mapped as liquefaction hazard zone on the Seismic Hazard Map for the Richmond Quadrangle. California Building Code
The California Building Code (CBC), also known as the California Building Standards Code, is included in Title 24 of the California Code of Regulations. The CBC incorporates the International Building Code, a model building code adopted across the United States.

The CBC is updated every three years, and the current CBC from 2010 took effect January 1, 2011. Through the CBC, the State provides a minimum standard for building design and construction. The CBC contains specific requirements for seismic safety, excavation, foundations, retaining walls and site demolition. It also regulates grading activities, including drainage and erosion control.[83]

Local Regulations

Albany General Plan

The Albany City Planning Division of the Community Development Department and the Public Works Department take the lead in the review of grading and drainage plans, and supporting engineering geologic and geotechnical reports. Occasionally, the City uses peer review geotechnical consultants to assist in the review. The City of Albany General Plan 1990-2010 outlines the proposed land use, and the City enforces the requirements of the California Building Code on Proposed Projects, as indicated in chapter 12.6 of the Albany Municipal Code. [84]

The Albany General Plan 1990-2010 and Final EIR were adopted December 7, 1992. The Albany General Plan includes the following policies, relevant to the Project's impact on seismicity, grading, drainage, flooding, and stormwater management:

- Conserve riparian and littoral habitat within the area 100 feet from creek centerline in appropriate areas both for its importance in reducing flood impacts and for its aesthetic value. (CHS1.1)
- Review and revise City Codes and regulations to ensure that future construction of critical facilities (Schools, police stations, fire stations, etc.) in Albany will be able to resist the effects of an earthquake of M 7.5 on the Hayward Fault and sustain only minor structural damage, remain operative, safe, and quickly be able to be restored to service. (CHS1.2)
- Develop a seismic safety structural inventory and assessment program which reviews the structural integrity of all existing critical facilities and identifies what reconstruction would be necessary to meet a seismic safety standard. After this survey is completed the City should evaluate the safest places to locate critical services and facilities. (CHS 1.3)
- Require that a geologic investigation be conducted on new construction of critical facilities in areas identified on the Environmental Hazards Map as having Medium-High to High susceptibility to ground failure during an earthquake. (CHS 1.4)

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[82] California Geological Survey-SHZP: About the Maps, http://www.conservation.ca.gov/cgs/shzp/Pages/SHMPDisclaimer.aspx, accessed on April 16, 2012. Welcome to the CGS Seismic Hazard Zonation Program (SHZP) Data Access Page, http://gmw.consrv.ca.gov/shmp/MapProcessor.asp?Action=SHMP &Location=All&Version=5&Browser=Netscape&Platform=Win, accessed on April 16, 2012.

[83] California Building Standards Commission website. http://www.bsc. ca.gov/, accessed January 10, 2012.

[84] The Albany General Plan 1990-2010 was adopted by the Albany City Council on December 7, 1992. From the Albany, CA Planning and Zoning Department web page at http://www.albanyca.org/index.aspx?page=439 , accessed on April 27, 2012.

- Require review of the Environmental Hazards Map at the time a development is proposed. Assure implementation of appropriate mitigation measures if hazards are identified. (CHS 1.6)
- Continue to develop a City-wide disaster preparedness program to organize and train residents and area employees so that they can assist themselves and others during the first 72 hours following an earthquake or other major disaster. This program should also include improved emergency procedures and assistance for businesses with disaster preparedness efforts. (CHS2.1)
- Update and revise the Multi-hazard Functional Plan as appropriate, as part of the City-wide earthquake preparedness program. As part of this effort, review the data and information available from other cities that responded to the 1989 Loma Prieta earthquake. In particular, the plan should include community and business resources that could be gathered to help with emergency response efforts (equipment, food, medical care, etc.). (CHS 2.2)

Berkeley General Plan

The City of Berkeley General Plan (2003) outlines the proposed land uses, and the City enforces the requirements of the California Building Code on proposed projects as indicated in chapter 12.6 of the Berkeley Municipal Code.[85]

Grading and Excavation

Chapter 23 of the Albany Municipal Code includes the Grading Ordinance. This chapter sets forth guidelines, rules, regulations and minimum standards to control excavation, grading, erosion, and earthwork construction, including cut-and-fill embankments. It also establishes administrative procedures for issuance of permits, and provides the process for approval of plans and inspections during construction and subsequent maintenance.

Chapter 23, Section 23-2 of the Albany Municipal Code includes the Grading Permit Requirement. The Ordinance states that no person shall do any grading without first obtaining a grading permit from the Director of Community Development and Environmental Resources. Separate grading permits shall be obtained for multiple sites and may cover both excavations and fills.

City of Berkeley grading and excavation regulations are detailed in Title 19 of the Berkeley Municipal Code. This section sets forth guidelines, rules, regulations, and minimum standards to control excavation, grading, erosion, and earthwork construction, including cut-and-fill embankments. It also establishes administrative procedures for issuance of permits, and provides the process for approval of plans and inspections during construction and subsequent maintenance.

Stormwater Quality Management and Discharge Control

Chapter 15.4 of the Albany Municipal Code includes the Stormwater Management and Discharge Control Ordinance. This chapter sets forth stormwater quality requirements and pollution prevention best management practices for development projects. This ordinance requires the use of best management practices and standards to control pollution including the management of litter, sidewalks, parking lots, construction activities and hazardous materials. These requirements would limit erosion and siltation due to construction activities. Additional information regarding the NPDES permitting system is included in Section 4.7, Hydrology and Water Quality.

[85] The Berkeley City Council adopted the Disaster Preparedness and Safety Element of the General Plan on April 23, 2001. Obtained from the City of Berkeley Planning and Development Website at http.//wwci.berkeley.ca.ius/ContentDisplay.aspx?id=488, accessed April 27, 2012.

Alameda Countywide Clean Water Program (ACCWP)

The Cities of Albany and Berkeley participate in the Alameda Countywide Clean Water Program, which educates the public on how to keep businesses and homes from contributing to stormwater pollution. This includes programs to ensure NPDES requirements are followed for projects and operations in Alameda County, and sources of pollutants to stormwater are properly managed and reduced to the maximum extent possible. Proper management of stormwater limits erosion and siltation due to altered water flows.

Existing Conditions

The following setting information is summarized from Section III.E, Geology and Soils, of the *Eastshore Park General Plan EIR*.

Regional Setting and Active Faults

Fleming Point and the Albany shoreline lie in the tectonically active Coast Ranges Geomorphic Province of Northern California. The geologic and geomorphic structure of the northwest trending ridges and valleys in the region are controlled by active tectonism along the boundary between the North American and Pacific Tectonic Plates, defined by the San Andreas Fault System. Regional faults have predominantly right-lateral strike-slip (horizontal) movement, with lesser dip-slip (vertical) components of displacement. Horizontal and vertical movement is distributed on the various fault strands within a fault zone. Throughout geologic time the fault strands experiencing active deformation change in response to regional shifts in stress and strain from plate motions.

The active Hayward Fault is located approximately 2.5 miles east-northeast of the project site.[86] The fault trace displays "creeping" or slow movement in this area. Other nearby active faults include the Concord/Green Valley Fault, located approximately 16 miles east, the San Andreas Fault, located approximately 16 miles to the southwest, and the Rodgers Creek Fault located approximately 18 miles to the north.[87] A listing of active earthquake faults located in the Project vicinity is presented in **Table 4.5-1**.

[86] California Division of Mines and Geology, Digital Images of Alquist-Priolo Earthquake Fault Zones of California, Richmond Quadrangle, 2000.

[87] Jennings, C.W., 1994. *Fault Activity Map of* California, California Division of Mines and Geology

TABLE 4.5-1 ACTIVE EARTHQUAKE FAULTS IN PROJECT VICINITY

Fault Name	Distance from Project Site (mi/km)	Direction	Last Surface Rupture	Status	Maximum Characteristic Moment Magnitude
Hayward	2/3	NE	Historic	Active	6.9
Concord	16/26	E	Historic	Active	6.9
San Andreas	16/26	SW	Historic	Active	7.9
Rogers Creek	18/29	N	Holocene	Active	6.9
Napa	18/29	NE	Holocene	Active	6.7
Calaveras	19/30	SE	Holocene	Active	6.9
Greenville	27/43	E	Historic	Active	6.9

Seismicity of the Project region has resulted in several major earthquakes during the historic period, including the 1868 Hayward Earthquake, the 1906 Great San Francisco Earthquake, and most recently, the 1989 Loma Prieta Earthquake. Given this history, it is likely that major earthquakes will occur in the region in the future, and all structural elements of the Proposed Project must be designed accordingly.

Regional Geology

The project area is located along the eastern edge of the northern portion of San Francisco Bay, largely on artificial fill placed over bay mud. The geologic structure of the San Francisco Bay was formed in late Pliocene or Pleistocene time by the depression of a large tectonic block west of the Hayward Fault. This structural block rotated to the east; the uplifted western front formed the San Francisco and Marin hills, and the depressed western edge formed the asymmetric depression in which the Bay now lies. The fault block east of the Hayward fault formed the steep westward-facing front of the Berkeley Hills.

The greater San Francisco Bay area is characterized by northwest trending mountain ranges and valleys oriented sub-parallel to faults of the San Andreas Fault System. In general, Tertiary strata (Orinda sandstone Moraga basalt and andesite in the Berkeley Hills to the east) commonly rest on older rocks of the Franciscan complex, which is composed of weakly to strongly metamorphosed greywacke (sandstone), argillite, limestone, basalt, serpentinite, and chert. The rocks of the Franciscan Complex are ancient Jurassic to Cretaceous oceanic crust and deep marine (pelagic) deposits accreted onto the edge of the North American Continent and metamorphosed as a result of accretion and partial tectonic subduction. Bedrock outcrops along Fleming Point in the project vicinity include sandstone, siltstone, and shale of the Cretaceous age Novato Quarry Terrane.[88] These bedrock materials occur near the surface in the area around Golden Gate Fields and are estimated to occur at depths of 5 to 50 or more feet beneath the sediments in the Beach and Neck (Areas 2 and 1 of the site, respectively).

Deposition from the Pleistocene (1.85 million years ago) to the present time has been closely related to global fluctuations in sea level primarily related to glaciations, in addition to erosion of landforms. In the east bay

[88] Graymer, Jones, and Brabb, Preliminary Geologic Map Emphasizing Bedrock Formations in Alameda County, California: Derived from the Digital Database Open-File 96-252, USGS, 1996.

plain area, wherein the project site is located, bedrock is locally overlain by marine deposits, sediments of Pleistocene and Holocene age, and, more recently, by artificial fills. The Holocene and older deposits include alluvial (deposited by water) and colluvial (deposited by gravity) soil deposits and bay mud and marsh deposits. Subsequent erosion and deposition of sediments from the Berkeley Hills formed the alluvial plain of the East Bay shoreline.

Site Geology

The site geology portion of this EIR is summarized from Section III.E, Geology and Soils, of the *Eastshore Park General Plan EIR*:

The historic shoreline consists of alluvial fan deposits of the Temescal Formation, which consists of inter-fingered lenses of clayey gravel, sandy silty clay and sand silt clay mixtures.[89] Much of the project site consists primarily of artificial fill placed west of the original shoreline. The artificial fill is underlain by soft, compressible, young bay mud of variable thickness. The bay mud consists of clayey, sandy silt with shells and other organic material and lenses of fine sand. The Albany Neck, Bulb and Plateau consist primarily of construction debris, but also contain paper and vegetation waste from street sweeping, landscape maintenance and similar activities. Fill in this area is thought to be about 30-40 feet thick, underlain by soft to medium stiff bay mud. The bay mud thickness in the area generally increases from zero near the Golden Gate Fields Grandstand area to approximately 25 feet thick near the Albany Neck.

The following information is in addition to that included in the *Eastshore Park General Plan EIR*:

The Albany Beach area consists of artificial fill placed over bay mud between the Albany Neck and Fleming Point during construction of Golden Gate Fields in the late 1930s. The shoreline and Albany Neck form a 90 degree corner that has resulted in continued deposition of sand and the development of the sandy beach-dune complex at Albany Beach. Based on an analysis of historic maps and aerial photography completed as part of the June 2011 LSA Feasibility Study, and additional analysis completed by Questa Engineering and Coast and Harbor in May 2012, the beach and dune complex appear to be relatively stable in size and geometry since the late 1960s. However, this area is potentially at risk if the 1.5 feet of sea level rise, which has been predicted to occur by the mid 2100s does occur.

The landfill shoreline along the Albany Beach Neck is partially protected by a revetment constructed of concrete rubble and demolition debris. This revetment was not designed and constructed using current geotechnical and coastal engineering standards and is subject to failure during periods of high wave energy during extreme tide and strong storm events. The concrete rubble revetment is eroding in several places, exposing underlying landfill material to wave erosion. Since the underlying landfill materials potentially contain water quality contaminants, this is considered to be of serious concern to the SF Bay RWQCB. In 1998, RWQCB issued order #98-072 which requires all successor property owners to operate and maintain the landfill, including ensuring erosion protection and repairing damaged and vulnerable areas. In addition, with a top or crest elevation ranging in height in many areas to only 9 or 10 feet (NAD88), the underlying landfill materials are vulnerable to attack during periods of high tides and strong wave energy. This shoreline erosion hazard will increase in severity with sea level rise.

The western part of the Albany Beach Plateau, just north of Albany Beach, also requires on-going erosion and drainage repair. This is due to uneven landfill settlement, which has created a number of small (1/4 to ½ acre) areas where water can pond in the rainy season and infiltrate into the landfill. In addition, a number of small areas (five in total, up to ½ acre in size) have been damaged by un-authorized metal scavenging activities, stripping and removing vegetation and soil cover, and exposing underlying demolition debris.

[89] Radbruch, Dorothy, H., Arial and Engineering Geology of the Oakland West Quadrangle, California, USGS Miscellaneous geologic Investigations Map I-239, 1957.

As part of a Phase II Environmental Site Assessment, Tetra Tech advanced four shallow boreholes on the northern end of Fleming Point. These borings penetrated gravelly sand and sandy gravel materials (likely fill) in the upper 10 feet below ground surface.[90]

The Fleming Point area (hill adjacent to Golden Gate Fields) consists of sandstone, siltstone, and shale bedrock of the Novato Quarry Terrane[91]. There are turbidite sequences (sandstone, siltstone, and shale rock composed of layered particles that grade upward from coarser to finer sizes, indicating formation on deep-sea sedimentary fans) outcropping near the northern edge of Fleming Point, while massive sandstone beds outcrop at the southern edge of Fleming Point. Much of the slopes along the hillside adjacent to the Golden Gate Fields upper parking lot are covered in debris, likely consisting of material pushed off the edge of the hill from the grading of the parking lots. Based on a geophysical field investigation completed by Questa Engineering and NorCal Geophysical Consultants, Inc., in May 2012, the debris varies in thickness from a few feet to as much as 20 feet. The very southern portion of this area consists of artificial fill placed over bay mud. **Figure 4.5-1** presents a Geologic Map of the Project site.

Soils

According to the USDA Web Soil Survey of Alameda County, the entirety of the project site is classified as "Urban Land". Native bay mud (elastic silt and silty clay) soils have been covered by artificial fill and pavement in Areas 1 and 2. Sandstone bedrock and debris are found at the surface in Area 3.

Standards of Significance

Geology and soils impacts associated with the Proposed Project would be considered significant if the Project would:

a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
   - *i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault. Refer to Division of Mines and Geology Special Publication 42.*
   - *ii. Strong seismic ground shaking.*
   - *iii. Seismic-related ground failure, including liquefaction.*
   - *iv. Landslides.*

b. Result in substantial soil erosion or the loss of topsoil.

c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property.

e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water.

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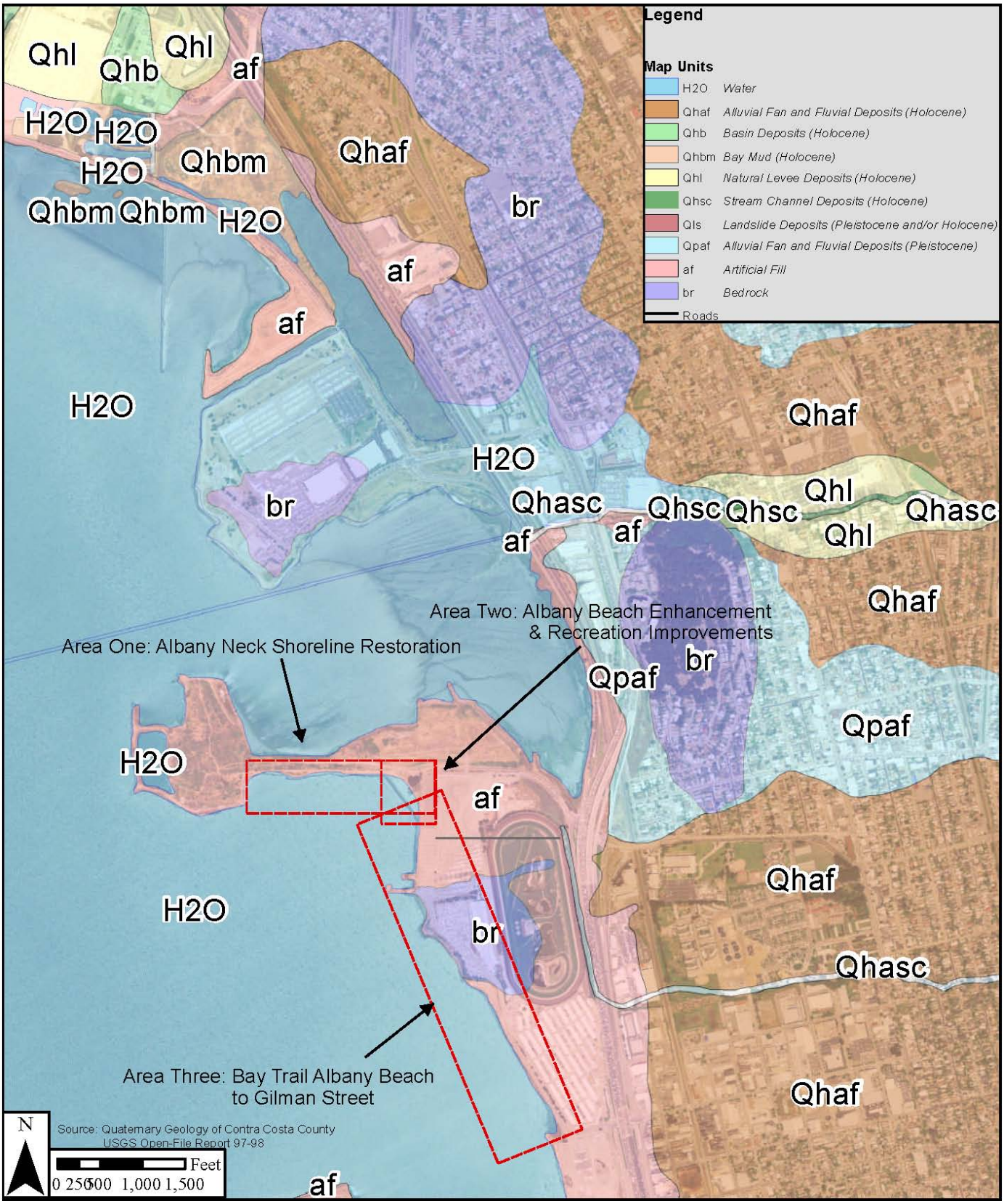
[90] Tetra Tech, Phase II ESA, Fleming Point, Albany, CA, September 15, 1994.

[91] Graymer, et al, Preliminary Geologic Map Emphasizing Bedrock Formations in Alameda County, CA. USGS Open-File 96-252, 1996.



Healthy Parks Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.5-1

GEOLOGIC MAP OF PROJECT SITE

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Impact Discussion

Project Analysis

a. Expose people or structures to potential substantial adverse effects, including: the risk of loss, injury, or death involving:

i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map.

The impact analysis in the *Eastshore Park General Plan Program EIR* is sufficient to address the impacts of fault rupture for the Albany Beach project and is summarized as follows:

The nearest active fault subject to the Alquist-Priolo Earthquake Fault Zoning Act is the Hayward Fault, located approximately 2.5 miles northeast of the project area. There are no faults crossing the project site mapped as active. Thus the Project would not expose people or structures to potential substantial adverse effects involving rupture of a known earthquake fault, and the Project impact related to earthquake fault rupture is *less than significant*.

ii. Strong seismic ground shaking.

The impact analysis in the *Eastshore Park Project General Plan EIR* is sufficient to address the impacts of strong seismic ground shaking for the Albany Beach project and is summarized as follows:

Movement along any of the regionally significant active faults (Hayward, Rogers Creek, Concord, San Andreas, Greenville, and Calaveras) could produce very strong ground motion that could affect Proposed Project public access facilities and other improvements. As described above, the Hayward Fault is located only 2.5 miles away from the project site and there are a number of other active faults in the vicinity with the potential to generate strong seismic ground shaking. There is a 63 percent chance of a 6.7 or larger magnitude earthquake to occur in the San Francisco Bay Area by the year 2037.[92] The hazards related to ground shaking vary somewhat depending on which area of the project is being discussed so the three areas are discussed separately below.

Area 1: Area 1 consists of 15 to 40 feet of artificial fill placed over approximately 40 feet of soft bay mud. These materials would likely amplify seismic shaking due to a major earthquake. If not designed to resist seismic forces, improvements in this area could be damaged by strong seismic ground shaking. Area 1 also includes surficial repairs to the plateau; however these repairs would be unlikely to be damaged by strong seismic shaking.

Area 2: Area 2 also consists of artificial fill placed over bay mud. However, the fill is much thinner in this area and ground response to seismic shaking would be more in line with the properties of the underlying bay mud and shaking would likely be amplified. Improvements, including trails and the restroom, could be damaged by strong seismic ground shaking.

Area 3: Area 3 is underlain by a solid sandstone bedrock knob. Seismic ground shaking in this area would be much less than in the areas underlain by bay mud and artificial fill. However, due to the magnitude of earthquakes possible in the project vicinity, seismic shaking is still likely to be quite strong.

The Eastshore State Park General Plan includes the following guidelines that would avoid or minimize to a less-than-significant level effects associated with seismic shaking:

[92] 2007 Working Group on California Earthquake Probabilities (WGCEP), 2008. *Uniform California Earthquake Rupture Forecast, Version 2*. USGS Open File Report 2007-1437, CGS Special Report 20.

1. Requiring environmental review and the identification of potential negative impacts associated with site-specific development projects for the implementation of the General Plan in accordance with the California Environmental Quality Act (CEQA). (Guideline CAPACITY-2)
2. Requiring the consideration of surface soil conditions and the performance of site specific geotechnical investigations during the design phase of individual projects (such as this one). (Guidelines OPER-12, OPER-13, and OPER-14)
3. Requiring a comprehensive and detailed geotechnical study including slope geometries, and performance of a geotechnical review of final design documents. (Guideline OPER-13)

Impact GEO-1: The site is likely subject to strong seismic ground shaking during the design life of the project, this could result in damage to improperly designed structures.

Mitigation Measure GEO-1: Completion of a Design Level Geotechnical Investigation. EBRPD shall comply with a design level geotechnical report that provides design recommendations for the Proposed Project to protect people and structures from ground shaking, liquefaction, landslides, earthquakes, substantial soil erosion or loss of topsoil, and unstable soils.

- The design-level geotechnical investigation shall be performed to identify methods for site preparation and grading to stabilize existing fill areas and prepare the site for foundation and retaining wall construction. Measures may include reworking of existing fill soils, removal of oversized concrete and debris from fill and crushing and or off-haul of oversized and unstable materials.

- The design level geotechnical investigation shall analyze the potential hazards of liquefaction/ground failure, seismic ground shaking, expansive soils, and slope instability.

- The design-level geotechnical investigation shall determine 2010 California Building Code seismic design parameters.

- The geotechnical design investigation shall include design recommendations for retaining walls, foundations, concrete slabs, pavements, walkways, surface and subsurface drainage.

- Recommendations of the project geotechnical engineer shall be incorporated into the project design.

- The geotechnical investigation shall identify the geotechnical observation and testing services recommended during construction. During construction, the geotechnical engineer (or civil engineer and engineering geologist) shall perform observations and testing services and shall prepare a final report documenting results of his work, consistent with geotechnical investigation recommendations.

- The geotechnical investigation shall include a map prepared by a land surveyor or civil engineer that shows the locations and elevation of key features (e.g., keyways, subdrains and their cleanouts, cut slopes and cut pads). The map shall include a statement that the locations and limitations of the features are accurate representations of said features as they exist on the ground, were placed on this map

by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2, and the requirements of Guidelines OPER-12, OPER-13, and OPER-14 must be completed in order to secure building and grading permits to begin work on the project. With implementation of Mitigation Measures GEO-1, and these guidelines, the impact of strong seismic ground shaking would be reduced to a level of *less-than-significant*.

iii. Seismic-related ground failure, including liquefaction.

The impact analysis for seismic-related ground failure in the *Eastshore Park Project General Plan EIR* is sufficient to address liquefaction impacts of the Albany Beach Project and is summarized as follows:

Liquefaction occurs when a large earthquake event violently shakes saturated unconsolidated to semi-consolidated sediments. Ground settlement and ground failure can occur following liquefaction, and could severely damage overlying structures, including the proposed restroom, trails, and boardwalk sections. Much of the artificial fill at the project site consists of undocumented materials that may or may not have been properly compacted and may be subject to liquefaction during strong seismic ground shaking. Bay mud underlying the artificial fills could also be subject to liquefaction and associated settlement during earthquake events. Structural damage, warping, cracking of roads, trails, parking areas, and sidewalks may occur if liquefaction settlement is not considered during design and construction of improvements. The Association of Bay Area Governments (ABAG) has produced liquefaction hazard maps, which show areas of susceptibility to liquefaction. On those maps, the Neck and Beach (Areas 1 and 2) of the project site are shown as a having a very high liquefaction potential, and the area underlain by bedrock on Fleming Point in Area 3 is shown as having a very low liquefaction potential.[93] Liquefaction potential is highest in areas underlain by poorly engineered artificial fills placed over Bay Mud, and unconsolidated alluvium that contains saturated coarse silts and sands. These areas include Areas 1 and 2, the Albany Neck and Beach areas. Repairs to the surface of the plateau would be unlikely to be impacted by seismically induced ground failure.

However, the Eastshore State Park General Plan includes the following guidelines that would address the impact of seismically induced soil failure:

1. Requirement of environmental review and the identification of potential negative impacts associated with site-specific development projects for the implementation of the General Plan in accordance with the California Environmental Quality Act (CEQA). (Guideline CAPACITY-2)
2. Requirement of the consideration of surface soil conditions and the performance of site specific geotechnical investigations during the design phase of individual projects. (Guidelines OPER-12, OPER-13, and OPER-14)
3. Requirement of a comprehensive and detailed geotechnical study including slope geometries, performance of a geotechnical review of final design documents, and provision of oversight by a geotechnical engineer during construction. (Guidelines OPER-13 and OPER-15)

Impact GEO-2: Seismically induced liquefaction could damage site structures such as the restroom and proposed Bay Trail, exposing site users to risks.

Mitigation Measure GEO-2: See Mitigation Measure GEO-1.

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2, and the requirements of Guidelines OPER-12, OPER-13, OPER-14, and

[93] These maps are available online at http://quake.abag.ca.gov/liquefaction/.

OPER-15 must be completed in order to secure building and grading permits to begin work on the project. With implementation of these guidelines, in conjunction with Mitigation Measure GEO-1, the impact of seismically induced ground failure is reduced to a level of *less-than-significant*.

iv. Landslides.

The impact analysis for the *Eastshore Park Project General Plan EIR* stated that "the project site is not located on a historical landslide, active landslide, or in a hilly area; therefore, implementation of the proposed project would not subject people or structures to landslides." This discussion is sufficient for Areas 1 and 2 of the Albany Beach project. However, Area 3 of the Albany Beach project would be located on steep slopes partially mantled by surface debris which could be destabilized by construction of the Bay Trail segment, leading to localized landslides and potential injuries to Bay Trail users. The following Eastshore Park General Plan Guidelines would avoid and minimize to a less than significant level effects associated with slope failure:

1. Requiring environmental review and the identification of potential negative impacts associated with site-specific development projects for the implementation of the General Plan in accordance with the California Environmental Quality Act (CEQA). (Guideline CAPACITY-2)
2. Requiring the consideration of surface soil conditions and the performance of site specific geotechnical investigations during the design phase of individual projects. (Guidelines OPER-12, OPER-13, and OPER-14)
3. Requiring a comprehensive and detailed geotechnical study including slope geometries, performance of a geotechnical review of final design documents, and provision of oversight by a geotechnical engineer during construction. (Guidelines OPER-13 and OPER-15)

Impact GEO-3: Landslides could damage site structures such as the Bay Trail segment in Area 3, exposing site users to risks.

Mitigation Measure GEO-3: See Mitigation Measure GEO-1.

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2, and the requirements of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15 must be completed in order to secure building and grading permits to begin work on the project. With implementation of these guidelines, in conjunction with Mitigation Measure GEO-1, the impact of landsliding would be reduced to a level of *less-than-significant*.

b. Result in substantial soil erosion or the loss of topsoil

The impact analysis and mitigation measures in the *Eastshore Park Project General Plan EIR* are sufficient to address many of the impacts of the Proposed Project on soil erosion and loss of topsoil and are summarized as follows:

The *Eastshore Park Project General Plan EIR* explained that the surface conditions throughout the project site would be considered by the design team during the conceptual design phase of any specific project to evaluate the potential for soil loss by erosion and to develop means (by grading, structural measures and/or other improvements) to control erosion. Soil erosion and loss of topsoil during grading activities is potentially significant and is discussed in 4.8 Hydrology and Water Quality of this EIR.

In addition to soil erosion associated with construction activities that is analyzed in the *Eastshore Park Project General Plan EIR* and Section 4.8 of this EIR, the Proposed Project includes 1) stabilization of the Albany Neck Shoreline through partial excavation of the concrete revetment, and replacement with engineering rock on the lower and mid-slope soil placement and native plant revegetation of the upper slopes, and existing Bay Trail spur reconstruction to correct the drainage and ADA problems, 2) construction of the Bay Trail across

the steep and potentially erosive slopes of Fleming Point (Area 3), and 3) restoration and enhancement of the sandy beach and dune complex at Albany Beach (Area 2). This would include placement of approximately 3,000 cubic yards of clean sand on the beach, and an additional 3,000 cubic yards would be placed to enhance the dunes. The dunes would be stabilized using native grasses. These enhanced dunes could be subject to erosion due to wind and water. In addition to wind and water, Albany Beach is a popular destination for dog owners. Dogs could run through the enhanced dunes and cause further erosion.

Additional bay fill to create the optional enhancement structures along the Albany Neck could potentially catch tide driven sand, assisting in the buildup of new pebbly beach adjacent to the Neck, but potentially decreasing sand supply to the existing beach and dune area. This potential was assessed in the coastal engineering analysis completed by Coast and Harbor in June 2012, who found that neither the shoreline revetment or optional habitat enhancement elements would lead to increased erosion and would be a less than significant impact.

Surface repairs on the plateau would reduce ponding and concentrated stormwater runoff, thereby reducing the impact of erosion and siltation and would be less than significant.

Creation of the enhanced wetland area behind the sandy beach would include construction related erosion impacts, as described above. However, upon completion of the wetland area, less erosion would occur than does under the site's current conditions, because the wetland area would better slow stormwater run-off than the current condition. The post-construction impact of soil erosion from construction of enhanced wetlands would be less than significant.

Because the Project could result in substantial soil erosion or the loss of topsoil due to construction related soil erosion, dogs, and wind, the Project would have a *significant* geology and soils impact.

Impact GEO-4: Earthwork, ground disturbance and soil cut and fill could result in soil erosion and siltation to the Bay, wetlands, and other sensitive plant and wildlife habitat. Increased park visitors, accompanied by dogs could lead to erosion of the enhanced sandy dune complex unless adequately protected.

> Mitigation Measure GEO-4a: EBRPD shall complete an Erosion Control and Revegetation Plan that will include winterization, dust control, wind and water erosion control and stormwater runoff and pollution control measures conforming to the Association of Bay Area Government (ABAG) Manual of Standards for Erosion and Sediment Control Measures and the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice Handbook Portal: Construction. The Erosion Control Plan shall describe the "Best Management Practices" (BMPs) to be used during and following construction to control pollution resulting from both storm and construction water runoff. The Plan shall include locations of vehicle and equipment staging, portable restrooms, mobilization areas, and planned access/haul routes.
>
> Recommended soil stabilization techniques include: placement of straw wattles, silt fences, berms, and gravel construction entrance areas or other control to prevent tracking sediment onto city streets and into storm drains, and use of properly engineered rock revetment structures for shoreline erosion protection.
>
> Mitigation Measure GEO-4b: EBRPD shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the Proposed Project to prevent erosion and siltation during the construction phase of the project. The SWPPP and Notice of Intent must be submitted to the State Water Resources Control Board to receive a Construction General Permit. The updated plan shall address National Pollutant Discharge Elimination System (NPDES)

requirements and be designed to protect water quality both during and after construction. The Project SWPPP shall include a description of the "Best Management Practices" (BMPs) used to prevent the discharge of other construction-related NPDES pollutants beside sediment (i.e. paint, concrete, etc) to downstream waters and adjacent Bay waters. Performance standards for effectiveness of the Erosion Control Plan and SWPPP are built into the SWRCB requirements through the Risk Level calculation. This calculation takes in to account the site topography and sediment risk of the receiving water (in this case the San Francisco Bay) and implements requirements for monitoring based upon the risk of erosion and sedimentation of the particular project and would ensure effectiveness of this mitigation. After construction is completed, all drainage facilities shall be inspected for accumulated sediment from the Project, and these drainage structures shall be cleared of debris and sediment (see also Mitigation Measure HYDRO-1b).

Performance standards to be included in the SWPPP, and verified during and following construction in anticipated in regulatory permit conditions include the following minimum standards:

- Not result in an increase in Bay Water Turbidity above background levels by more than 10%.
- Not have pH levels in stormwater runoff from disturbed or stabilized areas of less than 6.5 or more than 8.5.
- Not have salinity in stormwater runoff from disturbed or stabilized areas of an amount large enough to have an appreciable impact on the salinity of San Francisco Bay.

Mitigation Measure GEO-4c: Fencing shall be established around the enhanced dune area to prevent access and resultant erosion by park users and pets. This would prevent erosion of the restored sandy dune complex due to use by park visitors.

Significance after Mitigation: With the implementation of these mitigation measures, in conjunction with Mitigation Measure HYDRO-1b identified in Section 4.8, Hydrology and Water Quality, which stipulate an appropriate Erosion Control and Revegetation Plan and a SWPPP, the impact on soil erosion would be reduced to *less than significant*.

c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

The *Eastshore State Park General Plan EIR* does not explicitly address the impact of unstable geologic units or soils. However, it does include analysis of the different types of unstable geologic conditions that do occur on the site: slope instability and potentially liquefiable subsurface materials. Section a. above also discusses the potential instability of the Project site. The fill materials located on the steep slopes of the Albany Neck in Area 1, and along portions of Fleming Point in Area 3, and the fill placed over areas of historic Bay Mud in Area 2 represent potentially unstable geologic units. Disturbance of these materials on steep slopes, including construction of retaining walls, slope revetments, and paved trails could result in landslides or ground failure.

Strong ground shaking, seismically induced liquefaction, lateral spreading, or lurching failure could also potentially damage structures such as the proposed restroom, retaining walls, paved areas, and other public access and recreation related improvements. Park site visitors within, near, or on these structures and improvements at the time of failure risk injury. This represents a *significant impact*.

Impact GEO-5: Ground disturbance and construction of public access and recreation improvements on unstable geologic units could result in damage to the improvements, and Park visitors within, on, or near such structures and improvements at the time of failure risk injury.

Mitigation Measure GEO-5: See Mitigation Measure GEO-1.

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2, and the requirements of Guidelines OPER-12, OPER-13, and OPER-14 must be completed in order to secure building and grading permits to begin work on the project. With implementation of Mitigation Measures GEO-1, and these guidelines, the impact of disturbing or building on unstable geologic units would be reduced to a level of *less-than-significant*.

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property.

The *Eastshore State Park General Plan EIR* found that many of the soils underlying the Eastshore State Park site have moderate to high shrink-swell potential, and identified General Plan Guidelines to avoid or reduce the impacts associated with expansive soil. However, surface soils in areas 1 and 2 of the Albany Beach project site consist of artificial fill, not expansive soil. According to soil borings completed on the Albany Plateau and Neck, the upper one to two feet of fill consists of sand, gravel, and clay. Below this surface material the fill largely consists of concrete and construction debris. The fill material upon which project improvements are proposed to be constructed consists largely of granular material and is unlikely to include significant expansive materials, and this is a *less than significant* impact.

Area 3 of the project site is underlain by relatively shallow sandstone bedrock and artificial fill (gravelly sand and sandy gravel) created from excavated sandstone with a low expansion index and this would be a *less-than-significant* impact.

e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water.

As septic tanks would not be used for the Proposed Project, there is *no impact*.

Cumulative Analysis

Cumulative impacts on geology and soils were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and found that *General Plan* does not propose any changes to the geology at the project site. New development at the Eastshore Park site would not increase the risk of geologic hazards. As it is likely that many of the park's visitors would be from the Bay Area or California, their visit to the project site would not expose them to any greater risks than other parts of the East Bay shoreline because California is seismically-active in general. For these reasons, the *Eastshore Park Project General Plan EIR* determined that implementation of the *General Plan*, in combination with other planned projects in the vicinity, would not result in significant adverse cumulative impacts on geology and soils.

The impacts of locating the proposed and approved projects identified in the Project vicinity in a seismically active zone are mostly project specific local impacts that would not contribute to, in an additive sense, the cumulative impacts on geology and soils. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on geology and soils. The Proposed Project would not have a cumulatively considerable adverse impact on geology and soils as the impact will be local and will not contribute to, in an additive sense, the cumulative impact. Moreover, the incremental effects of the Project,

with mitigation, would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[94] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[95]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[96]

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[94] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[95] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[96] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[97]

The impacts of locating the proposed and approved projects identified above in a seismically active zone are mostly project specific in that there is no cumulative effect on these impacts from other nearby projects. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on geology and soils. The proposed project would not have a cumulatively considerable adverse impact on geology and soils because the incremental effects of the Project, with mitigation, would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

[97] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.6 Greenhouse Gas Emissions

This section of the DEIR evaluates the potential for the Proposed Project to cumulatively contribute to global greenhouse gas (GHG) emissions. Because individually no single project is large enough to result in a measurable increase in global concentrations of GHG emissions, global warming impacts of a project are considered on a cumulative basis.

Also, this section evaluates consistency of the Proposed Project with the strategies outlined in the California Air Resources Board's (CARB) Scoping Plan, in accordance with the GHG reduction goals of Assembly Bill 32 (AB 32), and strategies proposed by the Metropolitan Transportation Commission (MTC) to reduce vehicle miles traveled (VMT) in the region, in accordance with Senate Bill 375 (SB 375). The analysis also considers policies and mitigation suggested by the California Attorney General and the California Air Pollution Control Officer's Association (CAPCOA) to reduce GHG emissions. Construction GHG emissions were modeled using project-specific construction schedule and equipment data provided by Questa Engineering and equipment GHG emission rates generated by the CARB's OFFROAD model. Operational GHG emissions were estimated using the CalEEMod model. Model input and results are included in Appendix D.

This project EIR tiers off the *Eastshore Park Project General Plan EIR*. That EIR did not evaluate GHG emissions. This section supplements the *Eastshore Park Project General Plan EIR*.

Environmental Setting

The earth's atmosphere contains a group of naturally occurring gases that are responsible for maintaining a habitable climate. These gases allow sunlight to enter the earth's atmosphere freely and then prevent a portion of the resulting heat from exiting the atmosphere. Because of their ability to contain heat, these gases are known as greenhouse gases (GHGs). GHGs have always been part of the earth's atmosphere. However, increased GHG emissions from human activities have elevated the atmospheric concentrations of GHGs and upset the natural balance that existed a few hundred years ago. With this increased GHG concentration, the "greenhouse effect" is enhanced and "global warming" occurs.

Greenhouse Gases

The mechanism by which GHGs trap heat in the troposphere, the lowest portion of Earth's atmosphere, is as follows: 1) short-wave radiation emitted by the Sun is absorbed by the Earth; 2) the Earth emits a portion of this energy in the form of long-wave radiation, and 3) such long-wave radiation is partly absorbed by GHGs in the upper atmosphere and radiated back toward the Earth.

The three most important GHGs are described briefly just below. California State law also defines GHGs to include hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride.[98]:

- ***Carbon dioxide (CO_2)*** enters the atmosphere through the burning of fossil fuels (e.g., oil, natural gas, and coal) and biomass (e.g., wood, agricultural waste, etc.), and the decay of solid waste and other biomass. CO_2 is also emitted to and removed from the atmosphere (sequestered) through respiration by animals and plants as part of the biological carbon cycle.
- ***Methane (CH_4)*** is emitted during the production and transport of coal, oil and natural gas. Methane is also emitted by livestock and decay of organic matter, including waste in municipal landfills and water treatment facilities.

[98] Health and Safety Code, Section 38505(g).

- ***Nitrous oxide (N_2O)*** is emitted by agricultural and industrial activities, and by the combustion of fossil fuels and solid waste.

Table 4.6-1 below shows the various global warming potentials and atmospheric lifetimes of these three major GHGs.[99]

TABLE 4.6-1 GREENHOUSE GASES AND THEIR RELATIVE GLOBAL WARMING POTENTIAL COMPARED TO CO_2

GHGs	Atmospheric Lifetime (Years)	Global Warming Potential Relative to CO_2[a]
Carbon Dioxide (CO_2)	50 to 200	1
Methane (CH_4)[b]	12 (±3)	21
Nitrous Oxide (N_2O)	120	310

[a] Based on 100-Year Time Horizon of the Global Warming Potential (GWP) of the air pollutant relative to CO_2.
[b] The methane GWP includes the direct effects and those indirect effects due to the production of tropospheric ozone and stratospheric water vapor. The indirect effect due to the production of CO_2 is not included.
Source: United States Environmental Protection Agency (USEPA), 2009, *Global Warming Potentials and Atmospheric Lifetimes,* Non-CO_2 Gases Economic Analysis and Inventory. http://www.epa.gov/climatechange/glossary.html#GWP.

Human Influence on Climate Change

Human activities are directly altering the chemical composition of the atmosphere through the buildup GHGs.[100] For approximately 1,000 years before the Industrial Revolution, the amount of GHG in the atmosphere remained relatively constant. But during the 20th century scientists began to observe an increase in atmospheric CO_2 levels and to correlate this increase with climate change attributable to human activities. The amount of atmospheric CO_2 has increased by more than 35 percent since preindustrial times. Since 1960 its average rate of increase has been 1.4 parts per million (ppm) per year, mainly due to combustion of fossil fuels and to deforestation.[101] Consequently, the global mean temperature is increasing at a rate that cannot be explained by natural causes alone.

California's GHG Sources and Relative Contribution

Among states, California is the second largest emitter of GHGs (only surpassed by Texas); compared with other nations, it is the tenth largest GHG emitter in the world.[102] However, because of its more stringent air emission regulations, in 2001 California ranked fourth lowest among states in GHG emissions per capita, and fifth lowest in GHG emissions from fossil fuel consumption per unit of gross state product (GSP, the total state economic output of goods and services). In 2004, California produced 492 million metric tons (MMT) of CO_2-equivalent (CO_2e) GHG emissions,[103] of which 83.2 percent were CO_2, (mainly from the combustion

[99] Global Warming Potential is a factor by which a particular gas would increase the trapping of radiant heat and increase the greenhouse effect, by comparison with carbon dioxide.

[100] California Climate Action Team (CAT), 2006*, Climate Action Team Report to Governor Schwarzenegger and the Legislature*, March.

[101] Intergovernmental Panel on Climate Change (IPCC), 2007, *Fourth Assessment Report: Climate Change 2007*, New York: Cambridge University Press.

[102] California Energy Commission (CEC), 2005. Climate Change Emissions Estimates from Bemis, Gerry and Jennifer Allen, Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2002 Update. California Energy Commission Staff Paper CEC-600-2005-025. Sacramento, California. June.

[103] CO_2-equivalence is used to show the relative potential that different GHGs have to retain infrared radiation in the atmosphere and contribute to the greenhouse effect. The global warming potential of a GHG, is also dependent on the lifetime, or persistence, of the gas molecule in the atmosphere.

of fossil fuels), 5.7 percent were from methane, and 6.8 percent were from N_2O. The remaining 2.9 percent of GHG emissions were from high-global-warming-potential gases, which include hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.[104]

CO_2 emissions from human activities make up 84 percent of California's total GHG emissions. California's transportation sector is the single largest generator of GHG emissions, producing 40.7 percent of the state total. Electricity consumption is the second largest source, comprising 22.2 percent, while industrial activities account for 20.5 percent. Other major sources of GHG emissions include mineral production, waste combustion, land use changes, agriculture, forestry, and commercial and residential activities.[105]

Potential Climate Change Impacts for California

Climate change is not a local environmental impact; it is a global impact with local implications. Unlike criteria pollutants and toxic air contaminants, CO_2 emissions do not have direct adverse health effects on human populations. However, human-caused increases in GHG have been shown to be highly correlated with increases in the surface and ocean temperatures.[106] The extent of these impacts on environmental systems, however, is not clear at present.

In California and western North America, the following climatic trends have been observed: 1) a trend toward warmer winter and spring temperatures; 2) a decreasing fraction of precipitation falling as snow; 3) diminished spring snow accumulation in the lower and middle elevation mountain zones; and 4) snowmelt and flower blooms occurring 5 to 30 days earlier in the Spring.[107]

The Intergovernmental Panel on Climate Change's (IPCC) Fourth Assessment Report (2007) projects that the range of global mean temperature increase over the next century will range from 1.4 to 5.8°C (2.5 to 10.4°F) depending upon the magnitude of GHG emissions. In the past, gradual changes in the earth's temperature gradually influenced the distribution of species, availability of water, and other environmental characteristics. However, human activities are accelerating this process such that these changes may no longer occur in a geologic timeframe, but within a human lifetime.[108]

The environmental consequences of gradual changes in the Earth's temperature are hard to predict. But according to the California Energy Commission (CEC), *The Future Is Now, An Update on Climate Change Science, Impacts, and Response Options for California*, (2008) the global climate change risks, as shown in **Table 4.6-2**, are possible.

According to the California Climate Action Team (CAT), even if actions could be taken to immediately curtail GHG emissions, the potency of emissions that have already built up, their long atmospheric lifetimes, and the inertia of the Earth's climate system could produce as much as 0.6°C (1.1°F) of additional warming. Consequently, some impacts from climate change are now considered unavoidable.

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[104] California Energy Commission (CEC), 2006, *Inventory of California Greenhouse Gas Emissions and Sinks 1990 to 2004*, Report CEC-600-2006-013-SF, December.

[105] California Energy Commission (CEC), 2006, *Inventory of California Greenhouse Gas Emissions and Sinks 1990 to 2004*, Report CEC-600-2006-013-SF.

[106] Intergovernmental Panel on Climate Change (IPCC), 2007, *Fourth Assessment Report: Climate Change 2007*, New York: Cambridge University Press.

[107] California Climate Action Team (CAT), 2006, *Climate Action Team Report to Governor Schwarzenegger and the Legislature*, March.

[108] Intergovernmental Panel on Climate Change (IPCC), 2007, *Fourth Assessment Report: Climate Change 2007*, New York: Cambridge University Press.

Regulatory Framework

Federal Laws and Regulations

On April 2, 2007, the United States Supreme Court ruled that the U.S. Environmental Protection Agency (EPA) has the authority to regulate carbon dioxide (CO_2) emissions under the Federal Clean Air Act.

In 2009, EPA adopted findings that GHG emissions threaten the public health and welfare of the American people, and that GHG emissions from on-road vehicles contribute to that threat. This allowed the EPA to finalize the GHG emission standards proposed in 2009 for new light-duty vehicles.[109] The EPA's endangerment finding covers emissions of six key GHGs: CO_2, CH_4, nitrous oxide), hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride (SF_6) (of which the first three are relevant to this project).

In response to the endangerment finding, the EPA issued the Mandatory Reporting of GHG Rule that requires substantial emitters of GHG emissions (e.g. large stationary sources, etc.) to report GHG emissions data. Facilities that emit more the 25,000 MT or more per year are required to submit annual reports.

[109] United States Environmental Protection Agency (USEPA), 2009. EPA: Greenhouse Gases Threaten Public Health and the Environment. Science overwhelmingly shows greenhouse gas concentrations at unprecedented levels due to human activity. December. http://yosemite.epa.gov/opa/admpress.nsf/0/08D11A451131B CA585257685005BF252.

TABLE 4.6-2 SUMMARY OF GLOBAL CLIMATE CHANGE RISKS TO CALIFORNIA

Impact Category	Potential Risk
Public Health Impacts	Poor air quality made worse More severe heat
Water Resources Impacts	Decreasing Sierra Nevada snow pack Challenges in securing adequate water supply Potential reduction in hydropower Loss of winter recreation
Agricultural Impacts	Increasing threats from pests and pathogens Declining productivity Irregular blooms and harvests
Ecosystem Impacts	Northward and upward shifts of biomes, species Altered timing of migration and mating habits Loss of sensitive or slow-moving species
Landscape Alteration	Movement of forest areas Conversion of forest to grassland Changes to water bodies
Wildfire Risk	Increased risk and severity of wildfire Lengthening of wildfire season
Coastal Sea Level Impacts	Accelerated sea level rise Increasing coastal floods Worsened impacts on infrastructure
Forestry Impacts	Increasing wildfires Increasing threats from pest and pathogens Declining forest productivity Shifting vegetation and species distribution
Energy Demand Impacts	Potential reduction in hydropower Increased energy demand

Sources: California Energy Commission (CEC), The Future Is Now, An Update on Climate Change Science, Impacts, and Response Options for California, 2008 Report, PIER Publications, CEC-500-2008-077, 2008. California Climate Action Team (CAT), Climate Action Team Report to Governor Schwarzenegger and the Legislature, March 2006.

State Laws and Regulations

AB 32, the Global Warming Solutions Act

Current State of California guidance and goals for reductions in GHG emissions are generally embodied in AB 32, the Global Warming Solutions Act, and Executive Order S-03-05.

AB 32 was passed by the California state legislature on August 31, 2006, to place the state on a course toward reducing its GHG emissions. AB 32 follows the 2020 tier of emissions reduction targets established in Executive Order S-3-05, signed June 1, 2005. Executive Order S-03-05 set the following GHG reduction targets for the State:

- Return to 2000 GHG levels by 2010
- Return to 1990 GHG levels by 2020
- Reduce GHG emissions 80 percent below 1990 levels by 2050

AB 32 directed the California Air Resources Board (CARB) to adopt discrete early action measures to reduce GHG emissions and outline additional reduction measures to meet the 2020 target. Based on the GHG emissions inventory conducted for the Scoping Plan by CARB, GHG emissions in California by 2020 are anticipated to be approximately 596 MMT. In December 2007, CARB approved a 2020 emissions limit of 427 MMT for the State. Thus, the 2020 target requires a total emissions reduction of 169 MMT, 28.5 percent from the projected emissions of the business-as-usual (BAU) scenario for the year 2020 (596 MMT).[110,111]

In order to effectively implement the emissions cap, AB 32 directed CARB to: 1) establish a mandatory reporting system to track and monitor GHG emissions levels for large stationary sources that generate more than 25,000 metric tons (MT) per year; 2) prepare a plan demonstrating how the 2020 deadline can be met; and 3) develop appropriate regulations and programs to implement the plan by 2012. The Climate Action Registry Reporting Online Tool was established through the Climate Action Registry to track GHG emissions. The final Scoping Plan was adopted by CARB on December 11, 2008.

Key elements of CARB's GHG reduction plan that could relate to the Proposed Project are:

- Establishing targets for transportation-related GHG emissions for regions throughout California, and pursuing policies and incentives to achieve those targets;
- Adopting and implementing measures pursuant to state laws and policies, including California's clean-car standards, goods movement measures, and the Low Carbon Fuel Standard (LCFS);
- Creating target fees, including a public goods charge on water use, fees on high global warming potential gases, and a fee to fund the administrative costs of the state's long-term commitment to AB 32 implementation.

Energy Conservation Standards

Energy conservation standards for new residential and nonresidential buildings were adopted by the California Energy Resources Conservation and Development Commission in June 1977 and most recently revised in 2008 (Title24, Part 6 of the California Code of Regulations [CCR]).[112] Title 24 requires the design of building shells and building components to conserve energy. The standards are updated periodically to allow for consideration and possible incorporation of new energy efficiency technologies and methods.

Vehicle Emission Standards/Improved Fuel Economy

Vehicle GHG emission standards were enacted under AB 1493 (Pavley I) and the Low Carbon Fuel Standard (LCFS). Pavley I is a clean-car standard that reduces GHG emissions from new passenger vehicles (light duty auto to medium duty vehicles) from 2009 through 2016 and is anticipated to reduce GHG emissions from new passenger vehicles by 30 percent in 2016. The LCFS requires a reduction of 2.5 percent in the carbon intensity of California's transportation fuels by 2015 and a reduction of at least 10 percent by 2020.

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[110] California Air Resources Board (CARB), 2008, *Climate Change Proposed Scoping Plan, a Framework for Change*, October.

[111] CARB defines BAU in its Scoping Plan as emissions levels that would occur if California continued to grow and add new GHG emissions but did not adopt any measures to reduce emissions. Projections for each emission-generating sector were compiled and used to estimate emissions for 2020 based on 2002–2004 emissions intensities. Under CARB's definition of BAU, new growth is assumed to have the same carbon intensities as was typical from 2002 through 2004.

[112] Although new building energy efficiency standards were adopted in April 2008, these standards did not go into effect until 2009.

Regulation of GHG Emissions on a Regional Level

In 2008, Senate Bill 375 (SB 375), Sustainable Communities and Climate Protection Act, was adopted to connect the GHG emissions reductions targets established in the Scoping Plan for the transportation sector to local land use decisions that affect travel behavior. Its intent is to reduce GHG emissions from automobiles and light-duty trucks (but excludes from consideration reductions in GHG emissions from heavier trucks associated with goods movement) by aligning regional long-range transportation plans, investments, and housing allocations to local land use planning to reduce VMT and vehicle trips. Specifically, SB 375 required CARB to establish GHG emissions reduction targets for each of the 17 regions in California managed by a metropolitan planning organization (MPO). The Metropolitan Transportation Commission (MTC) is the MPO for the nine-county San Francisco Bay Area region. MTC's targets are a 7 percent reduction from 2005 by 2020, and 15 percent reduction from 2005 by 2035.[113]

SB 375 requires the MPOs to prepare a Sustainable Communities Strategy (SCS) in their regional transportation plan. The SCS sets forth a development pattern for the region, which, when integrated with the transportation network and other transportation measures and policies, would reduce GHG emissions from transportation (excluding goods movement). The SCS is meant to provide individual jurisdictions with growth strategies that, when taken together, achieve the regional GHG emissions reduction targets. However, the SCS does not require that local general plans, specific plans, or zoning be consistent with the SCS, but provides incentives for consistency for governments and developers. If the SCS is unable to achieve the regional GHG emissions reduction targets, the MPO is required to prepare an Alternative Planning Strategy that shows how the GHG emissions reduction target could be achieved through other development patterns, infrastructure, and/or transportation measures.

Local Regulations and Policies

Most of the Proposed Project site is in the City of Albany, which adopted the *City of Albany Climate Action Plan* (Albany CAP) in April 2010. The Albany CAP's goal is to reduce municipal and community-wide GHG emissions generated by building and transportation energy use and to obtain additional GHG reductions through the implementation of waste reduction/diversion, water conservation, and green infrastructure enhancement measures. The GHG emission inventory compiled for the Albany CAP determined that the City and community of Albany generated about 70,000 MT of GHG in 2004 and set a goal to reduce its GHG emissions to 25% below this baseline level by the year 2020.

The Albany CAP's reduction strategies are as follows:

- **Buildings and Energy**: Energy efficiency retrofits for existing buildings, enhanced energy performance requirements for new construction, increased use of renewable energy, and improved community energy management.

- **Transportation and Land Use**: Reduced automobile emissions through improved pedestrian and bicycle infrastructure, enhanced public transit service, promotion of pedestrian- and transit-oriented development, discouragement of single-occupancy vehicle use, and improvements to the City's vehicle fleet.

- **Waste Reduction**: Increased waste diversion rates and residential waste reduction education programs.

[113] California Air Resources Board (CARB), 2010, *Staff Report Proposed Regional Greenhouse Gas Emission Reduction Targets for Automobiles and Light Trucks Pursuant to Senate Bill 375*, August.

- **Green Infrastructure**: Expanding the City's urban forest for additional carbon sequestration.

- **Water Conservation**: Implement conservation measures applicable to both indoor and outdoor water use in existing buildings and new construction.

- **Food and Agriculture**: Strengthen the regional food system, including urban agriculture, and increase awareness of sustainable food choices.

- **Community Challenge**: Community mobilization to achieve additional reductions through higher levels of community participation in the above-mentioned strategies and implementation of additional measures not envisioned at present.

The southern portion of the Proposed Project site is in the City of Berkeley, which adopted the *City of Berkeley Climate Action Plan* (Berkeley CAP) in June 2009. The Berkeley CAP's goal is to reduce local GHG emissions by promoting more efficient energy use from conventional sources and an increased proportion of future energy from renewable sources, enhancing access to sustainable transportation modes, increasing waste recycling and building local food systems. The GHG emission inventory compiled for the Berkeley CAP determined that Berkeley generated about 632,000 MT of GHG in 2000 and set a goal to reduce its GHG emissions to 33% below this baseline level by the year 2020.

The Berkeley CAP's reduction strategies are as follows:

- **Sustainable Transportation & Land Use**: Reduce vehicle miles traveled in the community promoting cycling, walking, public transit, and other sustainable mobility modes, and increase vehicle fuel efficiency and the utilization of low carbon fuels.

- **Building Energy Use**: Reduce conventional energy use in Berkeley's homes, businesses, and institutions through high-quality energy efficiency retrofits and a greater reliance on renewable energy.

- **Waste Reduction & Recycling**: Eliminate solid waste at its source and maximize reuse and recycling throughout the community.

- **Community Outreach & Empowerment**: Educate and empower community members on the personal and group actions necessary for the success of the CAP.

- **Prepare for Climate Change Impacts**: The City will partner with local, regional, and state agencies to develop a plan of action for adaptation to climate change and its adverse effects.

Existing Conditions

Currently, the Proposed Project site contains recreational uses. There are no stationary sources on site that would be considered substantial sources of GHGs. However, it is an indirect source of GHG emissions in that many park users travel to and from it in motor vehicles and energy use is required for its maintenance and operation, both of which generate GHG.

Standards of Significance

GHG impacts associated with the Proposed Project would be considered significant if the Plan would:

a. Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment.

b. Conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs.

Bay Area Air Quality Management District – Project-Level GHG Thresholds

BAAQMD adopted its CEQA Air Quality Guidelines in June 2010 (revised in May 2011). The Guidelines include methodology and thresholds for GHG impacts.

BAAQMD has a tiered approach for assessing GHG emissions impacts of a project. If the project is within the jurisdiction of an agency that has a "qualified" GHG reduction strategy, the project can assess consistency of its GHG emissions impacts with the reduction strategy outlined. Although the City of Albany and the City of Berkeley have adopted CAPs, these plans do not contain methodologies and criteria for assessing the compliance of development projects with CEQA. However, relevant aspects of the Proposed Project are discussed qualitatively below as they relate to CAP implementation strategies.

BAAQMD, in contrast, has adopted a 1100 MT/year GHG operational emissions significance criterion for development projects that would be applicable to the Proposed Project.[114,115,116] Development projects include public use recreational facilities such as the Proposed Project. Their GHG emissions include those from the on-site combustion of fossil fuels by motor vehicles for transportation and by maintenance equipment and indirect emissions from off-site energy production and water conveyance systems. Biogenic CO_2 emissions are not included in the quantification of a project's GHG emissions because biogenic CO_2 is derived from living biomass (e.g. organic matter present in wood, paper, vegetable oils, animal fat, food, animal, and yard waste) as opposed to fossil fuels.

BAAQMD does not have thresholds of significance for construction-related GHG emission, but requires the quantification and disclosure of such emissions.

Impact Discussion

Project and Cumulative Analysis

As stated above, GHG analyses measure a project's contribution to what is an inherently cumulative impact. Project-related GHG emissions are shown in **Table 4.6-3**.

Construction-Related GHG Emissions

Construction of the Proposed Project would generate about 186 MT during its four-month construction period in 2013, as shown in **Table 4.6-3**. The GHG emissions were calculated using the CalEEMod, a

[114] The EIR's analysis of air quality impacts relies on BAAQMD's 2010 CEQA Thresholds of Significance. While the Alameda Superior Court recently ordered that BAAQMD set aside its approval of the 2010 Thresholds and not disseminate them as officially sanctioned air quality thresholds until BAAQMD conducts CEQA review of them, the court did not rule that the 2010 Thresholds lacked substantial evidence to support them or that they were substantively flawed or scientifically unsound. Rather, it simply held that BAAQMD is required to conduct further environmental review of the Thresholds before it can readopt them. Accordingly, the basis for using the Thresholds remains valid and use of the threshold is supported by substantial evidence.

[115] BAAQMD, *California Environmental Quality Act Guidelines Update, Proposed Thresholds of Significance*, May 3, 2010

[116] BAAQMD, *Revised Draft Options and Justification Report, California Environmental Quality Act Thresholds of Significance*, October 2009.

statewide land use emissions computer model designed to provide a uniform platform for quantifying potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operation from a variety of land use projects. The model quantifies direct emissions from construction and operation (including vehicle use), as well as indirect emissions, such as GHG emissions from energy use, solid waste disposal, vegetation planting and/or removal, and water use. The model was developed in collaboration with the air districts of California. Detailed calculations are shown in Appendix D. Because construction emissions are minimal, short-term, and would cease upon completion of construction, GHG from construction activities would only nominally contribute to GHG emissions impacts. Also, the construction equipment to be used for the Proposed Project would contain modern EPA Tier 3 rated engines that would emit less GHG than older model equipment (see Section 3.8, Project Description, Avoidance and Minimization Measures). Consequently, GHG emissions generated by project-related construction activities are considered *less than significant*.

Operational-Related GHG Emissions

Operation of the Proposed Project would contribute to global climate change through indirect emissions of GHG from transportation, water/power use, and waste disposal. BAAQMD has adopted screening criteria for operation-related GHG emissions. There are no specific screening thresholds for beach restoration and waterfront improvements. Therefore, the Proposed Project was compared to the closest similar project defined by the CalEEMod model, which is a "City Park." According to BAAQMD's CEQA Guidelines, only a City Park larger than 600 acres would need further analysis for its GHG emissions. As the total Project area is 63 acres, it is well below the BAAQMD screening threshold. **Table 4.6-3** confirms that GHG emissions associated with the Proposed Project would be substantially below the BAAQMD's 1100 MT/year significance threshold. Operational GHG emissions were calculated using the CalEEMod computer model discussed above.

Because the GHG emissions associated with operation of the Project would not exceed BAAQMD's screening criteria, the Proposed Project's cumulative contribution to GHG emissions would be *less than significant*.

TABLE 4.6-3 PROJECT-RELATED GHG EMISSIONS

Category	GHG (MT/Year)[a]
Construction	
2013	186
Operation	
Area Sources	0
Energy –Natural Gas and Purchased Electricity	0
Mobile Source	105
Waste	3
Water	77
Total Operation	**184**

[a] The quantities used for these calculations assumed that the measures for Use of Newer Construction Equipment stipulated in Avoidance and Minimization Measures in 3.8 Project Description, Avoidance and Minimization Measures, would be implemented, and that Tier 3 construction equipment would be used for project construction and that there would be limits on the daily number of trucks disposing of material to landfill.

Source: CalEEMod Version 2011.1.1. Details of these calculations is included in Appendix D.

Consistency with Applicable Plans, Policies, and Regulations Adopted for the Purpose of Reducing Emissions of GHGs.

In accordance with AB 32, CARB developed the Scoping Plan to outline the State's strategy to achieve 1990 level emissions by year 2020. To estimate the reductions necessary, CARB projected statewide 2020 Business-As-Usual (BAU) GHG emissions (i.e. GHG emissions in the absence of statewide emission reduction measures). CARB identified that the State as a whole would be required to reduce GHG emissions by 28.5 percent from year 2020 BAU to achieve the targets of AB 32.[117]

Statewide strategies to reduce GHG emissions include the Low Carbon Fuel Standard, California Appliance Energy Efficiency regulations, California Building Standards (e.g. California Green Building Code [CALGreen] and the 2008 Building and Energy Efficiency Standards), California Renewable Energy Portfolio standard (33 percent RPS), changes in the corporate average fuel economy standards (e.g. Pavley I and Pavley II), and other measures would ensure the state is on target to achieve the GHG emissions reduction goals of AB 32. Statewide GHG emissions reduction measures that are being implemented over the next 10 years would reduce the Project's GHG emissions.

Both the Albany and Berkeley CAPs feature GHG reduction strategies that promote the reduction of GHG from transportation sources. By implementing the proposed waterfront, beach and trail improvements to an existing park located within the two cities, the Proposed Project would provide a local recreational facility easily reachable by mass transit or bicycle from both cities, consequently reducing GHG emissions and helping to reach the goals set by the CAPs. Also, the Berkeley CAP has a specific strategy that commits the City to adapting to climate change and its adverse effects. Since the Proposed Project's waterfront and beach repairs, wetlands restoration and trail improvements would be designed to be responsive to the sea level rise expected over the next century, project implementation would be compatible with this goal of the Berkeley CAP. The Project would be consistent with the GHG reduction goals of AB 32 and Albany and Berkeley CAPs and thus GHG impacts associated with conflicts with applicable plans would be *less than significant*.

[117] California Air Resources Board (CARB), 2008, *Climate Change Proposed Scoping Plan, a Framework for Change*, October.

4.7 Hazards and Hazardous Materials

This section provides the environmental and regulatory background necessary to analyze the impacts of the proposed Albany Beach Restoration and Public Access Project to Hazards and Hazardous Materials. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication. Specifically, this section incorporates by reference Section III.F from the *Eastshore Park Project General Plan EIR*, which evaluates hazardous materials impacts at the project site and the regulatory framework related to hazards. This information was supplemented by completion of a site reconnaissance, information from the *Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* prepared by LSA[118], an investigation of online data sources that report hazardous waste sites and incidents, including EnviroStor, GeoTracker, and the California Department of Resources Recycling and Recovery (CalRecycle).

Regulatory Setting

This section summarizes information on regulatory agencies contained in Section III.F, Hazards, of the *Eastshore Park Project General Plan EIR*, and supplements that document with additional information pertinent to the Proposed Project.

Federal Agencies

U.S. Environmental Protection Agency (EPA)

The EPA is the federal agency responsible for enforcement and implementation of federal laws and regulations pertaining to hazardous materials. Legislation enforced by the EPA includes the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (commonly referred to as "Superfund"), the Superfund Amendments and Reauthorization Act (SARA) of 1986, and the Resource Conservation and Recovery Act of 1976 (RCRA). The EPA provides oversight and supervision for site investigations and remediation projects, and has developed land disposal restrictions and treatment standards for the disposal of certain hazardous wastes.

U.S. Department of Transportation

The United States Department of Transportation (DOT) regulates the transportation of hazardous materials by truck and rail. The DOT also establishes criteria for safe handling procedures of hazardous materials, including the types of containers, labeling, and other restrictions to be used in the movement of such material on interstate highways.

Occupational Safety and Health Administration (OSHA)

Enacted in 1970, the Occupational Safety and Health Act established this administration to ensure healthy working conditions in the United States. There are approximately 2,100 OSHA inspectors, who along with other experts and support staff, establish and enforce protective standards in the workplace. California, under an agreement with OSHA, operates an occupational safety and health program in accordance with Section 18 of the Occupational Safety and Health Act of 1970. The program applies to all public and private sector places of employment in the State, with the exception of federal employees, the United States Postal Service (USPS), private sector employers on Native American lands, maritime activities on the navigable waterways of the United States, private contractors working on land designated as exclusive Federal jurisdiction, and employers that require Federal security clearances.

[118] LSA, 2011. *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California.*

State Agencies and Regulations

California Environmental Protection Agency (Cal/EPA)

Within the State of California, Cal/EPA serves as the umbrella agency for six boards and departments: the California Air Resources Board (CARB), the Department of Pesticide Regulation (DPR), the Department of Toxic Substance Control (DTSC), the California Department of Resources Recycling and Recovery (CalRecycle), the Office of Environmental Health Hazard Assessment (OEHHA), and the State Water Resources Control Board (SWRCB) and its associated regional Water Boards. Each of these agencies is described below.

- **California Air Resources Board.** CARB has the responsibility for developing and enforcing regulations to achieve and maintain ambient air quality standards in the district. CARB is responsible for enforcing the Clean Air Act and California's State Ambient Air Quality Standards.

- **California Department of Resources Recycling and Recovery (CalRecycle).** CalRecycle provides grants and funds to help California municipalities and private companies meet the State's waste reduction, reuse, and recycling goals. Funds are also allocated to clean up solid waste disposal sites, and promote alternatives to the illegal disposal of used oil.

- **Department of Pesticide Regulation.** The DPR has the primary responsibility for regulating all aspects of pesticide sales and use to protect public health and the environment. The DPR's mission is to evaluate and mitigate impacts of pesticide use, maintain the safety of the pesticide workplace, ensure product effectiveness, and encourage the development and use of reduced-risk pest control practices while recognizing the need for pest management in a healthy economy.

- **Department of Toxic Substance Control.** The DTSC works in conjunction with the EPA to enforce and implement specific laws and regulations pertaining to hazardous wastes. California legislation, for which the DTSC has primary enforcement authority, includes the Hazardous Waste Control Act and the Hazardous Substance Account Act. Most State hazardous waste regulations are contained in the California Code of Regulations, Title 22 and 27. The DTSC often acts as the lead agency for soil and groundwater cleanup projects when the project is not under the purview of the RWQCB and establishes cleanup and action levels for subsurface contamination that are equal to, or more restrictive than, federal levels. The Department of Toxic Substance Control manages the EnviroStor online database, which provides public access to detailed information on hazardous waste permitted and corrective action facilities, as well as existing site cleanup information. Access to EnviroStor is available via the DTSC webpage located at http://www.envirostor.dtsc.ca.gov/public/.

- **Office of Environmental Health Hazard Assessment.** The mission of the OEHHA is to protect and enhance public health and the environment by objective scientific evaluation of risks posed by hazardous substances.

- **State Water Resource Control Board.** The SWRCB, through its regional boards, regulates discharge of potentially hazardous materials to waterways and aquifers and administers basin plans for groundwater resources in various regions of the State. The SWRCB provides oversight for sites at which the quality of groundwater or surface waters is threatened, and has the authority to require investigations and remedial actions. The San Francisco Bay Regional Quality Water Quality Control Board is the regional board that has jurisdiction over the Cities of Albany and Berkeley.

The California Department of Transportation (Caltrans)

Caltrans manages more than 50,000 miles of California's highway and freeway lanes, provides inter-city rail services, permits more than 400 public-use airports and special-use hospital heliports, and works with local agencies. Caltrans is also the first-responder for hazardous material spills and releases that occur on those highway and freeway lanes and inter-city rail services.

California Building Code

The California Building Code (CBC) is Part 2 of California Code of Regulations Title 24. The 2010 CBC is based upon the 2009 International Building Code (IBC) and contains building requirements and California modifications to the IBC to minimize risks to life and safety.

County Regulations

Alameda County Department of Environmental Health (ACEH)

The Alameda County Department of Environmental Health serves area residents by responding to emergencies and monitoring hazardous materials. It is the Certified Unified Program Agency (CUPA) for unincorporated Alameda County as well as a number of incorporated areas within the county, including the City of Albany, which regulates businesses that store a minimum 55 gallons of hazardous materials as a liquid, 500 pounds of hazardous materials as a solid, or 200 cubic feet of hazardous materials as a gas. ACEH is also the Local Enforcement Agency (LEA) under CalRecycle.

Regulated businesses must report their inventory annually on forms sent out by ACEH every December. Besides the annual reporting requirement, a regulated business is required to have a current emergency response plan and site diagram on file at ACEH. A copy of these documents is forwarded to the local fire departments so they are aware of the hazardous materials on site.

These documents fulfill the requirements of a SARA Title III, also known as the Community Right to Know Act, as well as State regulations. They are also useful in the emergency response and planning that occurs in the county. Currently, the Draft 2010 Alameda County Hazard and Mitigation Plan, which includes emergency disaster relief planning policies, is undergoing a period of public comment prior to adoption.[119]

Alameda County Emergency Services

The mission of the Alameda County Office of Homeland Security and Emergency Services (OES) is to prepare Alameda County to respond efficiently and effectively to emergencies; minimize loss of lives, destruction to property, and damage to the environment; and ensure the continuity of government services.[120]

Existing Conditions

The following setting information is summarized from Section III.F, Hazards, of the *Eastshore Park General Plan EIR* and describes the Hazards and Hazardous Materials setting of the Albany Beach Restoration and Public Access Project.

Prior to the construction of Golden Gate Fields in 1939, Fleming Point consisted of an island hill separated from the mainland by a shallow marsh where the current racetrack exists. The main shoreline was located well to the east, in the vicinity of the existing railroad tracks east of Interstate 80. The marsh was filled in and the hill was leveled to build the Golden Gate Fields grandstand and upper parking lot. Much of the material obtained by leveling the top of the hill was used to fill in the marsh area north of Fleming Point for

[119] http://www.acgov.org/mitigationplan.htm, accessed 5/18/12.
[120] http://www.acsooes.org/ accessed 5/29/12.

construction of the lower parking lot. During the following decades the Albany Plateau, Neck and Bulb were constructed by dumping material, generally construction demolition debris, but also includes waste from street sweeping and landscaping. Filling of the area ended in the 1980s.

Site Features

Figure 3-2 in Chapter 3, Project Description, shows the Existing Conditions and the site features described below.

Albany Neck and Plateau (Area 1)

The Neck and Plateau areas of the project site consists of construction debris and artificial fill material placed over bay mud and former marsh areas along the historic edge of the San Francisco Bay. The Neck area (Area 1 of the project), is a relatively narrow isthmus connecting the Albany Bulb and Plateau. It has an approximately 40-foot wide bench with a trail running along the southern side at an elevation of approximately 14 to 15 feet above mean sea level (msl). Above this bench the Neck slopes upward to a total height of approximately 35 to 40 feet above msl. The Plateau is an approximately 20-acre area, roughly trapezoidal shaped, and underlain by artificial fill placed north of the lower parking lots for Golden Gate Fields.

Albany Beach (Area 2)

Albany Beach is a sandy beach-dune complex that has developed due to the natural accretion of sand following construction of the Albany Bulb/Neck and the resulting 90 degree angle between the shoreline and the Neck. The southern end of the Beach is armored in rock rip-rap and concrete debris.

Fleming Point – Golden Gate Fields (Area 3)

This area consists of a bedrock hill rising from the surrounding bayside flats, which was previously an island prior to placement of artificial fill on the bayside flats and marshes surrounding. This has been the location of Golden Gate Fields since its construction beginning in 1939.

Previous Site Investigations and Agency Oversight

A Phase I environmental site assessment was prepared for a large portion of the Project area in 1993 by Tetra Tech and is summarized in the LSA *Existing and Future Conditions Report*. The Phase I ESA included the collection and analysis of five surface soil samples: three from Fleming Point, and two from the Albany Beach shoreline. The results showed low concentrations of diesel and gasoline in each of the five samples and one polychlorinated biphenyl (PCB) compound in three of the five samples. Metals were characterized as generally low, although elevated concentrations of lead were found in samples from Fleming Point. Soluble lead concentrations from one location in this area exceeded the California Soluble Threshold Limit Concentration (STLC) for hazardous waste levels of lead, indicating that, once excavated, this soil would require handling and disposal as a hazardous waste.

A Phase II investigation was then conducted by Tetra Tech in 1994[121] to characterize the extent of lead contamination in the Fleming Point area. The Tetra Tech Phase II Study is included as an appendix in the LSA *Existing and Future Conditions Report*. The investigation included drilling and sampling of four soil borings and collection of ten surface soil samples. Deeper samples contained low concentrations of lead, well below applicable screening thresholds for unrestricted land use. Three of the ten surface samples contained soluble lead in excess of the STLC. The conclusion of the Phase II report was that lead-contaminated near surface soil was located within a 20-foot wide strip of land directly adjacent to the west edge of the Golden Gate Fields parking area.

[121] Tetra Tech. 1994. *Phase II Site Assessment, Fleming Point Property, Albany, California*. Prepared for East Bay Regional Park District, September 15, 1994. TC 9604-11

In 1984 the RWQCB issued Order 84-89, which named the City of Albany, the Albany Landfill Company and the Santa Fe Land Improvement Company (now Catellus) as dischargers. The Order required clearing and disposing of existing vegetation, filling of the bay to flatten sideslopes, grading to facilitate water drainage, import and placement of relatively impermeable capping soil, and re-establishment of vegetative cover. Although the order required capping of the landfill, remedial alternatives have been proposed, including monitoring of soil, sediment, and leachate on a semi-annual basis. Chemicals of Potential Concern (COPCs) in soil and groundwater identified during assessment activities included metals, VOCs, SVOCs, pesticides, PCBs. COPCs identified in leachate samples included ammonia, nitrate, sulfate. An important part of the Order was to ensure continued stabilization of the shoreline to protect the underlying landfill materials from wave action and erosion into Bay waters.

It has also been reported that ammonia is generated within the landfill (consisting of the Albany Bulb, Neck, and Plateau) due to bacterial decomposition of wood and plant debris contained in the landfill materials. Seep and surface water samples were collected twice in 1999. Analytical results of pH, total ammonia do not appear to present significant risks to aquatic life in San Francisco Bay. According to the Landfill Closure Plan, methane gas controls are reportedly unnecessary as long as the proposed surface treatment will allow for the natural escape of landfill gases in non-harmful amounts in the atmosphere. The trail surface in this area would consist of aggregate base and would not significantly limit the ability of the landfill gases to escape through the ground surface.

In 1998, under the terms of the March 1997 land transfer agreement between Catellus Development Corporation (Catellus), the East Bay Regional Park District (EBRPD) and the California Department of Parks and Recreation (State Parks), the Regional Water Quality Control Board (RWQCB) issued Order No. 98-072 adopting Site Cleanup Requirements for portions of Eastshore Park, including Albany Plateau (inclusive of the Neck and Fleming Point, but not including the Beach), in the vicinity of the project site.

As part of the transfer agreement, Catellus completed remediation work at 19 locations in Eastshore Park where detected COPCs exceeded site-specific action levels established for upland soil in the project site, referred to as Regional Park Preliminary Remediation Goals (PRGs).

Sampling in the project area included 244 soil samples, four groundwater grab samples, multiple groundwater sampling events from eleven monitoring wells, and one sediment sample. COPCs in soil and groundwater identified at the Albany Plateau during site assessment activities included arsenic, lead and nickel, TRPH, BTEX, TPHd, TPHg, oil and grease, PCBs, and basic/neutral extractable compounds (BNA). Concentrations of methane, vinyl choride, hydrogen sulfide, and benzene were detected in soil gas samples.

Under the Order, Catellus was required to perform remediation at seven sites at the Albany Plateau: six due to exceedances of metals action levels and one site due to exceedances of metals and PCB action levels. Two areas at Fleming Point with elevated lead concentrations were covered with clean fill material and erosion control measures were implemented. Excavation of metals-contaminated soil at two locations on the Albany Neck in the Project area was also part of these remedial activities. From these areas approximately 2,100 cubic yards of soil were disposed of off-site as Class I and II waste; the resulting excavation was backfilled and capped with 2 feet of clean fill. Remediation was completed and approved by RWQCB in their letter dated December 18, 1998. Post-closure monitoring is conducted annually on behalf of EBRPD and includes site inspections to check the remediation areas and shoreline erosion.

Groundwater Analyses

The Phase II ESA included four groundwater grab samples and multiple groundwater sampling events from eleven monitoring wells. Individual groundwater samples from the Plateau contained petroleum hydrocarbons such as gasoline, zinc, mercury, and the semi-volatile organic compound bis(2-ethylhexyl)phthalate above action levels, but the RRMP concluded that these sporadic exceedances were not

representative of groundwater quality near the Albany Plateau, and therefore did not need remediation. RWCQB concurred with this finding.

Sensitive Receptors

There are no existing schools within one-quarter mile of the site. Ocean View Elementary School, which is the closest, is approximately 0.6 miles east of the project site.

Wildland Fires

The California State Wildlands Fire map shows the project site is not in a Very High Fire Hazard Severity Zone.[122]

Standards of Significance

Hazards and hazardous materials impacts associated with the Proposed Project would be considered significant if the Project would:

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼-mile of an existing or proposed school.

d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.

f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area.

g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

[122] California Department of Forestry and Fire Website. Map of Alameda County: http://frap.cdf.ca.gov/webdata/maps/alameda/fhszl_map.1.pdf. Accessed April 26, 2012.

Impact Discussion

Project Analysis

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

The *Eastshore Park Project General Plan EIR* found that the General Plan would, with adherence to existing regulations concerning hazardous materials, have a less–than-significant impact on hazardous material releases. As is typical for small construction projects, the Proposed Project may use small quantities of hazardous materials such as fuels, oils and hydraulic fluids, paints and varnishes, concrete and asphalt. The chemicals would be handled in compliance with OSHA health and safety regulations (and in accordance with the requirements of a Stormwater Pollution Prevention Plan (SWPPP), required under the State Water Resource Control Board Construction General Permit (as described in 4.5 Geology and Soils and 4.8 Hydrology and Water Quality of this DEIR). These regulations and requirements were created to reduce the impacts from hazards to acceptable levels. Thus with the Project's compliance with OSHA regulations and the SWPPP, the small use of hazardous materials at the site would not create a significant hazard. Once the project is completed, there would not be regular transportation, use or disposal of significant quantities of hazardous materials that could create a significant hazard to the public or the environment. As discussed in section 3.0 Project Description, Post-Construction Restoration Monitoring and Management Actions, plant and animal pest species would be controlled by using integrated pest management (IPM) procedures and practices in accordance with adopted EBRPD policy, which would avoid significant hazard to the public or the environment.

Impact HAZ-1: The project area is located on a site that has been the subject of clean-up and remediation efforts to remove environmental contamination, some quantities of which may remain in the subsoil and could potentially be exposed during construction activities, including partial excavation of the existing concrete rubble revetment and replacement with engineered rock rip rap, and repair of the areas damaged by metal scavenging and ground settlement on the Plateau. This impact is addressed in the *Eastshore Park Project General Plan EIR* and the analysis is summarized as follows:

Construction workers and future site users may come into contact with contamination in near-surface soil and/or fill materials. Proposed project activities, such as dune and wetland restoration, shoreline revetment improvements, and Plateau repair areas could result in exposure to soil containing chemicals of potential concern (COPCs). Surface and near surface soil (up to 1-foot below ground surface BGS) has been previously investigated, and surface and near-surface areas comprising concentrations of COPCs exceeding Risk Based Screening Levels (RBSLs) established for the Park have been remediated by Catellus. However, deeper soil and/or fill material have the potential to contain COPCs throughout the project site.

During implementation of the proposed project, construction workers could come into contact with potentially explosive landfill gases, such as hydrogen sulfide and methane or other contaminants contained in the exposed landfill materials. Exposure to these gasses could pose potential health risks. The Eastshore Park General Plan includes the following guidelines to avoid or minimize to a less-than-significant level effects associated with exposure to contaminated soils and landfill gases:

1. Require the preparation of Specific Project Plans for each management zone of sub-zone and prior to initiation of major development or enhancement projects. The Specific Project Plans would establish the nature, scale, and location of new development such as visitor facilities and service uses (guidelines VISIT-1, OPER-4).
2. Require site specific analysis, environmental review and the identification of potential negative impacts associated with site-specific development projects, management plans, and Specific Project Plans for the implementation of the General Plan in accordance with the California Environmental Quality Act (CEQA) (guidelines OPER-2, CAPACITY-2, HYDRO-6).

3. Require the review of available site specific chemical data, consideration of the potential presence of COPCs and landfill gases, and additional testing as necessary during the design of Specific Project Plans, resource enhancement projects of other development plans (guidelines OPER-6, OPER-7).
4. Require the review of available chemical data, additional testing and consideration of Regional Park Preliminary Remediation Goals if design, improvement or development plans involve on-site re-use or off-site disposal of soil (guideline OPER-8).
5. Require review of available chemical data, additional testing and consideration of sediment screening and beneficial reuse criteria established by the Regional Water Quality Control Board (RWQCB) if design, improvement or development plans involve wetland creation or restoration (guideline OPER-9).
6. Require notification and concurrence by RWQCB if design, improvement or development plans involve work in the risk remediation and landfill cap areas described in the Resource Inventory (guideline OPER-10).

The *Eastshore Park Project General Plan EIR* found that impacts associated with hazardous materials sites would be reduced to a less-than-significant level by implementation of the guidelines above. For the Proposed Project, the requirements of the these guidelines would be fulfilled through implementation of the following mitigation measures:

Mitigation Measure HAZ-1a: Minimization of Overburden Removal on Albany Neck.
Surface and near surface soils previously impacted with contamination could be exposed if significant amounts of overburden is removed as part of the Albany Neck restoration and shoreline stabilization work. The construction shall minimize the amount of surface material removed as part of shoreline restoration to prevent exposing contaminated subsurface materials. Removal of debris and soils on the slopes of Albany Neck shall be limited to only that which is unstable and must be removed to maintain the integrity of the slope on either side of the existing trail, or for habitat enhancement.

Mitigation Measure HAZ-1b: Cover and Revegetate Disturbed Areas.
Areas disturbed during construction of the shoreline revetment or repair of the damaged areas on the Plateau, and not protected by rock, shall be backfilled with a minimum of 1 foot of clean soil and shall be revegetated.

Mitigation Measure HAZ-1c: EBRPD shall notify and receive concurrence from RWQCB before any work is performed within the risk remediation areas described in the Eastshore Park General Plan Resource Inventory.

Mitigation Measure HAZ-1d: Require site screening and chemical testing with consideration of Regional Park Preliminary Remediation Goals prior to off-site disposal.

Prior to off-site disposal of excavated site soils, site screening, field evaluation, and chemical testing where appropriate and in accordance with RWQCB guidelines and permit conditions shall be performed on representative samples of excavated material to determine suitability for re-use or disposal in appropriate landfill facilities.

Mitigation Measure HAZ-1e: Development of a Site Specific Health and Safety Plan by the Contractor.
During construction activities that could involve disturbance of site soils in remediated areas, EBRPD shall require that the contractor develop and implement a site specific Health and Safety Plan that addresses the potential for the presence of contaminated soils in the subsurface. The Health and Safety plan shall include Best Management Practices (BMPs)

(including, but not limited to use of proper personal protective equipment, training for recognition of contaminated soils, and proper procedures for limiting excavation of site sub-soils) to minimize exposure to contaminants by site workers. The contractor shall hold daily tailgate safety meetings to ensure all site workers are familiar with these procedures prior to working on the project site.

Significance after Mitigation: Implementation of these mitigation measures would reduce the impact of a hazard to the public or environment due to transport, use, or disposal of hazardous materials on the previously contaminated project site to a level of *less-than-significant*.

b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

The *Eastshore Park Project General Plan EIR* addressed the impact of reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment and is summarized as follows: Construction of General Plan improvements (including the proposed project) could potentially include excavation, transport, and reuse of soil containing concentrations of potentially hazardous materials. These activities would be required to comply with Federal, State, and local requirements for managing hazardous materials described previously, including regulations regarding the testing of materials and the safe transport and ultimate disposal or re-use of the materials. Although these requirements cannot completely eliminate the potential for hazardous materials releases, adherence to current regulations would reduce the potential effects of a release to a less-than-significant level. Once the project construction period is over, no routine, transport, use, production, upset, or disposal of hazardous materials would occur during normal operation of the park. This analysis of foreseeable conditions involving hazardous materials in the *Eastshore Park Project General Plan EIR* adequately addresses the impacts of the Proposed Project, and the Project's impact of reasonably foreseeable hazardous material release would be *less-than-significant*.

c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼-mile of an existing or proposed school.

The *Eastshore Park Project General Plan EIR* does not identify schools within one-quarter mile of the Proposed Project site. There are no schools within one quarter mile of the Albany Beach project site. Furthermore, there would be no hazardous emissions from the project, or handling of acutely hazardous materials, substances, or waste. There would be *no impact* related to hazardous emissions or the handling of hazardous or acutely hazardous materials, substances, or waste within ¼-mile of an existing or proposed school.

d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.

The Proposed Project site in not on the list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, commonly called the "Cortese List." There would be *no impact*.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.

The *Eastshore Park Project General Plan EIR* does not evaluate safety impacts associated with public airports. There are no public airports within 2 miles of the project site. There would therefore be *no impact*.

f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area.

The *Eastshore Park Project General Plan EIR* does not evaluate safety impacts associated with public airports. As discussed in the Initial Study for the Proposed Project, the closest private airstrip to the Project site is the University of California – Richmond Field Station Heliport, which is approximately two miles north of the Project. Due to the distance from the project site, the low frequency of use of this private heliport, and the vertical approach patterns used by helicopters, there would not be a substantial safety hazard to people visiting or working at the Project site. This impact would be *less than significant*.

g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

The emergency response and evacuation plan analysis performed in the *Eastshore Park Project General Plan EIR* is sufficient to address the impact of physical interference with an adopted emergency response plan or emergency evacuation plan at the Albany Beach project and is summarized as follows:

Construction or operation of the proposed project would not impair the implementation or interfere with an emergency response or evacuation plan. This is a *less-than-significant* impact.

h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

The wildland fire hazard analysis performed in the *Eastshore Park Project General Plan EIR* is sufficient to address the impact of wildland fires at the Albany Beach project and is summarized as follows:

Construction or operation of the proposed project would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires. On the contrary, the construction, operation, maintenance and security provisions envisioned for the park would generally reduce any existing potential for wildland fires at the park site. In addition implementation of General Plan guideline OPER-4, which requires the preparation of a maintenance plan that addresses fuel modification and fire prevention activities, would further ensure that potential impacts associated with wildland fire would be *less-than-significant*.

Cumulative Analysis

Cumulative impacts on hazards and hazardous materials were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and found that, because guidelines identified in the *General Plan* would reduce the risks of exposure of construction workers and future users to hazardous materials to a less-than-significant level, and ongoing operation would not introduce new hazardous materials to the site, implementation of the *General Plan* would not result in significant cumulative impacts related to hazardous materials. For these reasons, the EIR determined that implementation of the *General Plan*, in combination with other planned projects in the vicinity, would not result in significant adverse cumulative impacts on hazards and hazardous materials.

The Proposed Project would not increase the impact of hazards or hazardous materials in the general vicinity of the project area. Stabilization of the potentially contaminated fill material would reduce the likelihood of release to the environment. The Project's hazardous material impact would be a local impact and would not contribute to the cumulative impact of hazardous materials. Likewise, other development projects in the Project area would not contribute to, in an additive sense, the cumulative impacts of hazardous materials to the environment. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on geology and soils. Moreover, the Project would not make a cumulatively considerable contribution to a significant cumulative impact of hazardous materials because the incremental

effects of the Project, with mitigation, would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[123] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[124]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[125]

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[123] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[124] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[125] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[126]

The Proposed Project would not increase the impact of hazards or hazardous materials in the general vicinity of the project area. Stabilization of the potentially contaminated fill material would reduce the likelihood of release to the environment. The Project's hazardous material impact is a local impact and would not contribute to the cumulative impact of hazardous materials. Likewise, other development projects in the Project area would not contribute to, in an additive sense, the cumulative impacts of hazardous materials to the environment. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on hazardous materials. Moreover, the Proposed Project would not make a cumulatively considerable contribution to a significant cumulative impact of hazardous materials because the incremental effects of the Project, with mitigation, would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

[126] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.8 Hydrology and Water Quality

This section provides the environmental and regulatory background necessary to analyze the impacts of the proposed Albany Beach Restoration and Public Access Project to hydrology and water quality. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication. Specifically, this section incorporates by reference Section III.G from the *Eastshore Park Project General Plan EIR*, which evaluates impacts on hydrology and water quality. Other sources of information used to prepare this section include: 1) *Coastal Engineering Analysis, Albany Beach Restoration and Public Access Project, Albany Beach, CA*, by Coast and Harbor Engineering, June 2012 (included in Appendix F); and 2) *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, CA*, by LSA, January 2011 (included in Appendix G).

Regulatory Framework

This section describes the regulatory setting as it relates to hydrology and water quality in the Albany beach Restoration and Public Access Project area.

There is a well-established regulatory framework of federal and State laws for bay levels, floodplain management and protection of water quality, which would apply to the Albany Beach Area. These regulations establish requirements for development in flood-prone areas, including areas of bay and coastal flooding, and water quality criteria for the protection of human health and the environment, including storm water discharges to surface water. The regulations are discussed below.

Federal Agencies, Programs and Regulations

Federal Emergency Management Agency

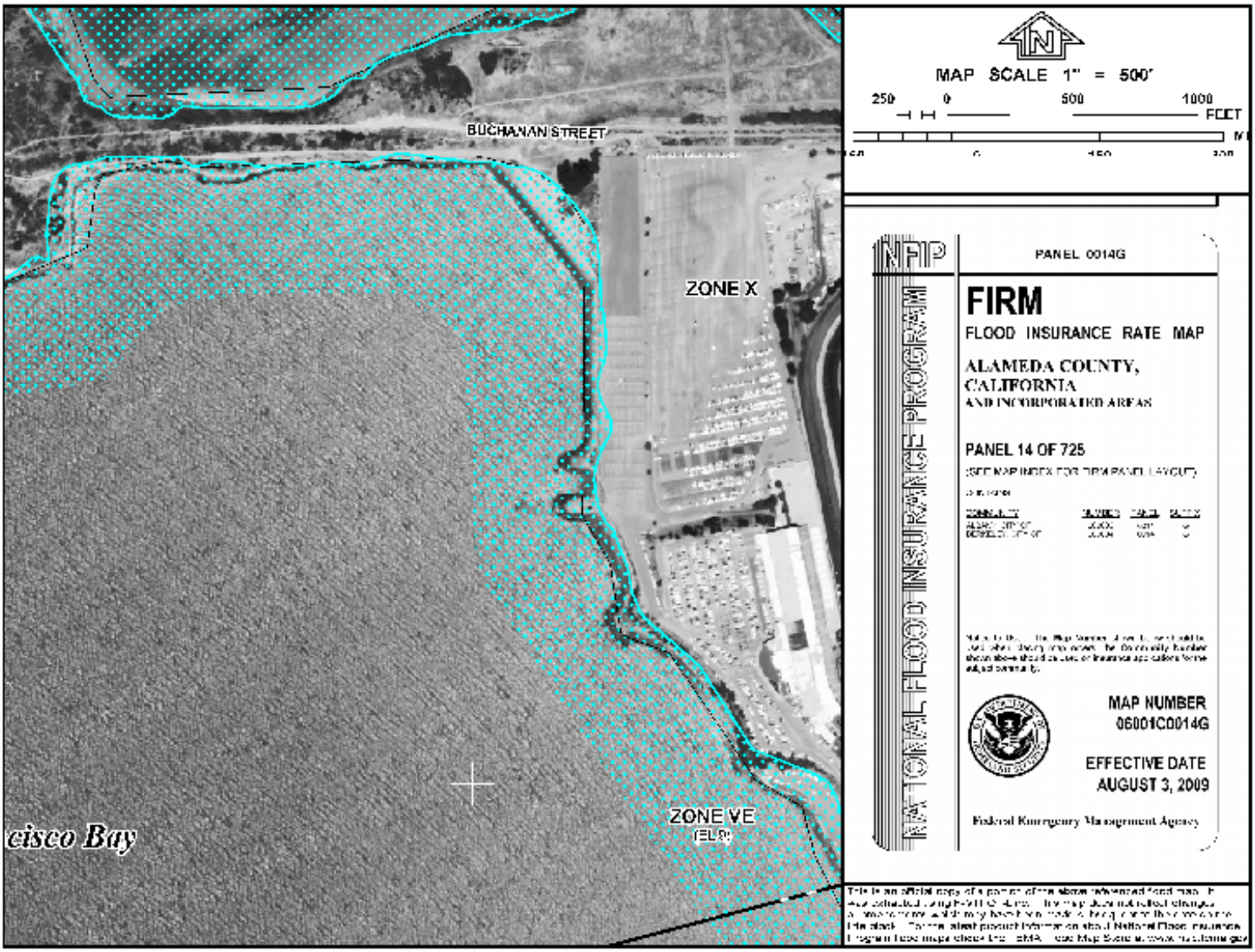
The Federal Emergency Management Agency (FEMA) issues Flood Insurance Rate Maps (FIRMs) that identify which land areas are subject to flooding. These maps provide flood information and identify flood hazard zones in the community. The design standard for flood protection is established by FEMA. FEMA's minimum level of flood protection for new development is the 100-year flood event, also described as a flood that has a 1-in-100 (1 percent) chance of occurring in any given year. The area with this designation is also referred to as the 100-year flood plain. FEMA also designates the area with a 1-in-500 chance (0.2 percent) of flooding in a given year, or the 500-year flood plain.

The FIRM for the Albany Beach restoration area is reproduced in **Figure 4.8-1**. The map is dated August 3, 2009 and there have been no amendments since that time. The 2009 FIRM shows the portions of the project site along the San Francisco Bay shoreline as Zone VE, which is the 100-year coastal flood zone with velocity hazard (wave action). A base flood elevation of 9 feet is given for this zone.

FEMA administers the National Flood Insurance Program (NFIP) to provide subsidized flood insurance to communities that comply with FEMA regulations limiting development in floodplains. The insurance rate offered to communities is based on the designations shown on the FIRMs and recorded in the updates known as Letters of Determination.

Clean Water Act (CWA)

The Clean Water Act (CWA) of 1972 is the primary federal law that governs and authorizes water quality control activities by the U.S. Environmental Protection Agency (EPA) as well as the states. Various elements of the CWA address water quality, and they are discussed below. Wetland protection, which is administered by the U.S. Army Corps of Engineers (the Corps) under Section 404 of the CWA, including permits to dredge or fill wetlands, is discussed in Section 4.3, Biological Resources, of this EIR.



Healthy Parks Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.8-1

FLOOD INSURANCE RATE MAP

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Section 401: Wetland Filling

Under Section 401 of the CWA, an applicant for a Section 404 permit to discharge dredged or fill material into waters of the United States must first obtain a certificate from the appropriate State agency stating that the fill is consistent with the State's water quality standards and criteria. In California, the authority to either grant water quality certification or waive the requirement is delegated by the State Water Resources Control Board (SWRCB) to the nine Regional Water Quality Control Boards (RWQCBs). In this case the San Francisco Bay Regional Water Quality Control Board, located in Oakland, CA has jurisdictional authority.

Section 303: Water Quality Standards and Total Maximum Daily Loads (TMDLs)

Section 303 of the CWA requires states to adopt water quality standards for all surface waters of the United States. As defined by the CWA, water quality standards consist of two elements: (1) designated beneficial uses of the water body in question and (2) criteria that protect the designated uses. Water Quality standards applicable to the Project site are listed in the Water Quality Control Plan for the San Francisco Bay Basin. Section 303(d) of the CWA requires states to make a list of waters that are not attaining standards and requires them to develop a set of Total Maximum Daily Loads (TMDLs) (see below under State Water Resources Control Board (SWRCB)). San Francisco Bay Central is on the Section 303(d) list as impaired by: chlordane, DDT, dieldrin, dioxin compounds, exotic species, furan compounds, mercury, PCBs, and selenium.

National Pollutant Discharge Elimination System

The National Pollutant Discharge Elimination System (NPDES) permit program was established by the CWA to regulate municipal and industrial discharges to surface waters of the United States from their municipal separate storm sewer systems. NPDES permit regulations have been established for broad categories of discharges, including point-source municipal waste discharges and nonpoint-source stormwater runoff. NPDES permits generally identify limits on allowable concentrations in the effluent and receiving water, and/or mass emissions of pollutants contained in the discharge; prohibitions on discharges not specifically allowed under the permit; and provisions that describe required actions by the discharger, including industrial pretreatment, pollution prevention, self-monitoring and other activities. NPDES permits are issued by the SWRCB (see below).

State Plans, Policies, and Regulations

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) of 1969 is California's statutory authority for the protection of water quality. Under the Act, the State must adopt water quality policies, plans and objectives that protect the State's waters for the use and enjoyment of the people. The Act sets forth the obligations of the SWRCB and Regional Water Quality Control Boards (RWQCBs) to adopt and periodically update water quality control plans (Basin Plans). Basin Plans are the regional water quality control plans required by both the CWA and Porter-Cologne Act in which beneficial uses, water quality objectives and implementation programs are established for each of the nine regions in California. The Albany Beach, Albany Neck and Fleming Point areas fall under the San Francisco Bay Region Hydrologic Basin Planning Area Map.

The Act also requires waste dischargers to notify the RWQCBs of their activities through the filing of Reports of Waste Discharge (RWD) and authorizes the SWRCB and RWQCBs to issue and enforce waste discharge requirements (WDRs), NPDES permits, Section 401 water quality certifications, or other approvals.[127]

[127] Porter-Cologne Water Quality Act's website. http://ceres.ca.gov/wetlands/permitting/porter.html, accessed September 8, 2009.

State Water Resources Control Board (SWRCB)

In California, the SWRCB has broad authority over water quality control issues for the State. The SWRCB is responsible for developing statewide water quality policy and exercises the powers delegated to the State by the federal government under the CWA. Regional authority for planning, permitting and enforcement is delegated to the nine RWQCBs. The regional boards are required to formulate and adopt water quality control plans for all areas in the region and establish water quality objectives in the plans.

NPDES Construction General Permit

The SWRCB permits all regulated construction activities under the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.[128] The permit is administered at the County level. Construction activities that disturb one acre or more of land must comply with a Construction General Permit that regulates storm water leaving construction sites. The Project applicant must file Permit Registration Documents (PRDs) before beginning construction, including filing a Notice of Intent (NOI), and a Stormwater Pollution Prevention Plan (SWPPP).

The SWPPP must be implemented and monitored to ensure its effectiveness. The plan, which must also address control of pollutants in stormwater post-construction, must be on-site and available to inspectors. A SWPPP must include "Best Management Practices" (BMPs) designed to reduce potential impacts to surface water quality through the construction and life of the Project. Under the 2009 revision to the Construction General Permit, for discharges to water bodies that have beneficial uses such as fish spawning and fish migration, the Project would at least be a Risk Level 2 project subject to Numeric Action Levels and some additional monitoring requirements. If erosion potential is considered high, the Project could be determined to be a Risk Level 3 project subject to Numeric Effluent Limits, and more rigorous monitoring requirements, including receiving water monitoring or bio-assessment.

NPDES Post-Construction Stormwater Quality

Post-construction stormwater management is covered by a different set of BMPs under the NPDES permit system. The intent of these regulations is to rigorously control the quality and quantity of stormwater runoff from any new development that creates or replaces impervious area over 10,000 square feet, so that receiving waters downstream are not adversely impacted.

To comply with these requirements, new projects are required to install water quality, stormwater runoff BMPs that filter or treat rainfall runoff generated from storm events up to approximately the 85th percentile rainfall event (or approximately the 1-inch storm event) before discharging into storm drains or natural drainage systems. Projects over 10,000 square feet are required to capture 100 percent of rainfall runoff from new impervious surfaces and to treat it in post-construction stormwater systems. Projects that begin after December 2012 must reuse the water on-site, unless that reuse is proven to be "infeasible." If the water is reused in irrigation, it is returned to the aquifer.

Regional and County Programs and Regulations

San Francisco Bay Area Conservation and Development Commission (BCDC)

The California Coastal Commission carries out its mandate locally through the San Francisco Bay Area Conservation and Development Commission (BCDC). BCDC's jurisdiction over San Francisco Bay includes all sloughs, marshlands between mean high tide and five feet above mean sea level, tidelands, submerged lands, and land within 100 feet of the Bay shoreline. The precise boundary is determined by BCDC on request. For planning purposes, BCDC assumes that trail projects have a 25-year life span. Consistency with policies from the BCDC master planning document, the *Bay Plan*, is analyzed in Section 4.9 Land Use.

[128] Order No. 2009-009-DWQ, NPDES No. CAR000002, adopted September 2, 2009.

Since the issuance of the Governor's Executive Order S-13-08 on November 2008, BCDC has followed other Natural Resource Agencies in planning for two sea level rise scenarios: 16 inches by mid-century and 55 inches by the end of the century. In April 2009, BCDC published its report with maps indicating zones that could be flooded due to sea level rise and that were based on existing elevations.[129] In September 2011, BCDC published a revised draft of its proposed amendments to its master planning document, the *Bay Plan*. This revised report received considerable public review and environmental review, and was approved in October 2011.[130] These amendments include revised findings and policies to adapt to the effects of sea level rise.[131,132]

Since the Albany Beach Restoration and Public Access Project is a small project that does not involve the siting of critical infrastructure or residential, commercial, or industrial development, only a limited number of BCDC climate change policies are relevant to it. Specifically, Policies 7.d, 7.f, and 7.h are most applicable to the project as they respectively relate to the encouragement of projects which enhance the environment, are small, and/or are public parks. The text of these policies may be found in **Table 4.9-1** in Section 4.9, Land Use and Planning.

Regional Water Quality Control Board (San Francisco Bay Region)

The Albany Beach Restoration and Public Access Project area is within the jurisdiction of the San Francisco Bay RWQCB. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the San Francisco RWQCB's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives.

Regional Water Quality Control Board Order 98-072

In July 1998, under the terms of the March 1997 land transfer agreement between Catellus Development Corporation (Catellus), the East Bay Regional Park District, and the California Department of Parks and recreation, the Regional Water Quality Control Board, San Francisco Bay Region (RWQCB) issued Order No 98-072, which adopted Site Clean-Up Requirements for six properties along the water front areas later designated within Eastshore State Park, The Albany Plateau (inclusive of Albany Neck and Fleming Point) was among the properties affected by the Order. Prior to issuance of the Order, a Remediation and Risk Management Plan (RMMP) for the Eastshore properties was prepared under RWQCB oversight. The clean-up requirements under the order were completed in November, 1998.

Basin Plan for San Francisco Bay

The Basin Plan established water quality objectives for total dissolved solids (TDS), mineral constituents, and turbidity on a watershed-by-watershed basis within the region, while objectives for total and fecal coliform bacteria, nutrients (total nitrogen and total phosphorus), pH, dissolved oxygen, and un-ionized ammonia are set on a region-wide basis.

Total Maximum Daily Loads (TMDLs)

Under section 303(d) of the Clean Water Act, States, territories, and authorized tribes are required to develop lists of impaired waters. These are waters that are too polluted or otherwise degraded to meet the water

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[129] BCDC, 2011. *Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on its Shoreline.* As revised through September 23, 2011.

[130] BCDC, 2011. *Commission Resolution to Adopt Bay Plan Amendment No. 1-08.* (Approved by the Commission on October 6, 2011.)

[131] A recent court case (*Ballona Wetlands Land Trust* et. al., *v. City of Los Angeles (2009). Cal. App.4th. Nov. 9, 2011, Case No. B231965)* ruled that the effects of sea level rise on new developments did not have to be taken into account in CEQA documents.

[132] Kristina D. Lawson. *Court rejects the need for CEQA analysis of sea level rise and invalidates CEQA guideline.* Online at www.manatt.com/prints/printNewsletter
Areas-new-aspx?id=15522. Accessed December 7, 2011. It is expected that the supreme court will be petitioned to review the case.

quality standards set by the relevant regulatory agency. The law requires that these jurisdictions establish priority rankings for waters on the lists and develop a calculation of the maximum amount of a pollutant that the impaired water body can receive and still safely meet water quality standards.[133] This calculation is called a Total Maximum Daily Load (TMDL). The TMDL approach provides a framework for evaluating pollution control efforts and for coordination between federal, State, and local efforts to meet water quality standards. TMDLs are adopted as amendments to the Basin Plan.

Alameda County Clean Water Program (ACCWP)

The Cities of Albany and Berkeley are among 14 jurisdictions in Alameda County that partner with the Alameda County Flood Control and Water Conservation District (ACFCWCD) to operate and fund a countywide Alameda County Clean Water Program (ACCWP). The program was necessary to comply with the federal water quality requirements and was implemented on a countywide level to save on program costs.

City of Albany

NPDES Municipal Regional Stormwater Permit

As part of the Alameda County Clean Water Program, the City of Albany is covered under a Municipal NPDES permit. Besides regulating post-construction stormwater management practices, the permit requires municipalities to adopt trash and street sweeping programs to regulate discharges into storm drain systems or directly into Waters of the United States.

Planning & Building Departments

The Planning & Building Departments are responsible for review of grading, drainage, and building plans for conformance with City of Albany Municipal Code, including stormwater management and floodplain regulations.

City of Albany Municipal Code

The following sections of the Municipal Code are relevant to the hydrology and water quality aspects of the Proposed Project:

- Chapter 15.4 describes policies to protect and enhance water quality by requiring new development that might result in release of stormwater pollutants to undertake all practical measure to reduce these pollutants.
- Chapter 20.52 includes detailed standards of construction of buildings and structures in designated flood zones.

Existing Conditions

This section describes the Project site and its current condition, with reference to water quality and hydrology issues. It is summarized from the Eastshore Park General Plan EIR, with additional site-and-project-specific information added when appropriate from the references cited in the first paragraph of this section.

Rainfall and Climate

The climate of the San Francisco Bay is characterized as Mediterranean with cool wet winters and relatively warmer dry summers. The nearest National Weather Service station is located in Berkeley, three miles south of the project site. Data for this station, which has been in operation since 1893, is distributed by the Western Regional Climate Center. The mean annual temperature for the City of Berkeley is 57.1°F. Because the

[133] U.S. Environmental Protection Agency (EPA). *Impaired Waters and Total Maximum Daily Loads*, http://www.epa.gov/OWOW/tmdl/, accessed on February 25, 2010.

Project site is at low elevation and close to the Bay, winter temperatures rarely drop below freezing. Snowfall has very rarely been recorded at the Berkeley weather station. The average winter (December to February) temperature in Berkeley is 50.6°F, and the average summer (June to August) temperature in Berkeley is 61.8°F.

Annual rainfall varies considerably from year to year. Although the average annual rainfall in Berkeley is 23.4 inches, individual years can vary quite widely in precipitation totals. In 1929, the year of lowest annual rainfall, only 9.29 inches of rain fell in Berkeley. In contrast, in 1983, the year of highest rainfall, 48.42 inches of rain were recorded. Over 90 percent of annual rainfall typically falls between the months of November and April. Analysis of long-term precipitation records indicate that wetter and drier cycles, lasting several years, are common in the region.

Drainage

There are no managed stormwater facilities in the project area and stormwater runoff is primarily by overland drainage to the bay shoreline. The project site is divided into three distinct areas for the purposes of CEQA analysis. These areas are as shown on **Figure 3.2** in Chapter 3, Project Description, and drainage for each is described below.

Area 1

Stormwater runoff in area 1 begins as sheet flow on the slopes of Albany Neck and flows across the existing unimproved trail and down the concrete rubble revetment to San Francisco Bay.

Area 2

Stormwater runoff in area 2 also begins as sheet flow in the area behind Albany Beach and on the Golden Gate Fields parking lot. Some run off ponds in low areas behind Albany Beach during and after storm events, while most of the runoff flows to San Francisco Bay via concentrated overland flow.

Area 3

Stormwater runoff in area 3 begins as sheet flow towards the bay on the Golden Gate Fields entry road and parking lot and proposed Bay Trail alignment. Run-off then flows down the steep slopes of the shoreline revetment and Fleming Point to San Francisco Bay.

Flooding

Most floods on undeveloped bay margins are caused by an intense rainstorm that comes after a prolonged period of rainfall has saturated the ground. Flooding is most common in the low-lying areas around the mouths of rivers that drain to the Bay. In urban areas, flooding can also result from the overflow of undersized or blocked storm sewers. Coastal floods are exacerbated by high tide events that tend to push the water landward and resist the flow down the river.

Figure 4.8-1 shows the FEMA FIRM covering the Project site and surroundings. As described above under Regulatory Framework, the shoreline portion of the project area is within the 100-year coastal flood plain. With respect to flooding, the site can be divided into the following areas.

Area 1

Area 1 consists of the Albany Neck area and is the northern and westernmost portion of the project area. As the existing shoreline follows the Albany neck, the lower reaches of the slope are within zone VE, the 100 year coastal flood zone with velocity hazard (wave action). The base flood elevation for this zone is given as 9 feet. Trail improvements in this area would be constructed above this level.

Area 2

Area 2 consists of the Albany Beach area. The low-lying sandy beach is located within zone VE, the 100-year coastal flood zone with velocity hazards (wave action). The base flood elevation for this zone is given as 9 feet.

Area 3

The westernmost strip of Area 3 is also located within the 100 year coastal flood zone; however structures (such as trail improvements) would be constructed above the base flood elevation.

Tides, Currents, and Coastal Processes

National Oceanic and Atmospheric datum information from the Berkeley Station indicates that tides at the project site range from a Mean Lower Low Water tide level of 0.13 feet to a Mean Higher High Water Level of 6.23 using the NAVD88 vertical datum. The Coastal Engineering Analysis performed for the project indicates that tidal currents are negligible at the project site due to its sheltered location. Wind-waves are the dominant transport mechanism in the project area. Thus wave-generated (alongshore) currents can be used to discern sediment transport patterns. Results of the analysis indicated that along the eastern half of Albany Neck, wave generated currents transport sediment towards the existing beach. Along the North-South shoreline to the east, wave generated currents also transport sediment towards the existing beach. These processes have led to the development of the existing Albany Beach.

The present configuration of Albany Beach and the surrounding area has been stable since about 1969. Sand has accumulated over a period of 60 years forming the beach in the cove defined by the shoreline at the Albany Bulb. The incident wave direction that drives the longshore sand transport is set by the predominant offshore wave direction, the wave refraction pattern over the shoals and wave diffraction pattern around the Albany Bulb. The stability of Albany Beach is derived from the fact that the beach is swash-aligned, meaning that most of the transport is oriented up and down the beach rather that alongshore. The dune field behind the beach is likely to be fed by wind-blown sand derived from the beach when it is dried out.

Tsunami Hazards

The Alameda County Tsunami Inundation Map for Emergency Planning, produced by the California Emergency Management Agency, California Geological Survey, and University of Southern California – Tsunami Research Center, and dated July 31, 210, shows the entirety of the project site as subject to inundation due to tsunami.[134]

Surface Water Quality

Surface water at the project site consists of runoff from the project's direct vicinity. No rivers, creeks, perennial waterways or stormdrain systems that could introduce external surface water impairments exist on the project site. Impairments to surface water quality would be due largely to non-point source pollution picked up during stormwater run-off. The Phase II Environmental Site Assessment performed on the project site by Tetra Tech in 1994 identified some contamination in site soils. Soils at 10 out of 244 locations exceeded action levels for arsenic, chromium, copper, lead, mercury, molybdenum, and/or zinc. The Remediation and Risk Management Plan prepared under RWQCB oversight concluded that concentrations of metals was localized and linked to contaminants in fill materials. As the site does not receive run-on from other areas, this would be the main source of potential surface water contamination.

[134] Tsunami Inundation Map for Emergency Planning – Richmond Quadrangle, California EMA, CGS, USC, 2009. Obtained from http://www.conservation.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Alameda/Documents/Tsunami_Inundation_Richmond_Quad_Alameda.pdf accessed on June 22, 2012

Groundwater

The project area is located with the East Bay Plain sub-basin of the Santa Clara Groundwater Basin. Groundwater is contained in the unconsolidated sediments within the Project site in two distinctly separate and poorly interconnected formations: Bay Mud and unconsolidated alluvial fan deposits or artificial fill.

Groundwater is found approximately 5-10 feet above sea level, which would be approximately 10 feet below ground surface (BGS) along the route of the trail improvements in area 1. Groundwater under the parking lot at Golden Gate fields (adjacent to area 2) is found approximately 4.5-5.5 feet BGS. Groundwater at Fleming Point (area 3) has been encountered at depths ranging from 5 to 8.5 feet BGS.[135] Depth to groundwater increases as ground elevation increases on Fleming Point in Area 3.

The groundwater surface within the Project site is relatively flat, and the water flows slowly to the west towards San Francisco Bay.

Groundwater Quality

According to the California Department of Water Resources Groundwater Bulletin 118 for the East Bay Plain sub-basin calcium bicarbonate type groundwater occurs mostly in the upper 200 feet of the subsurface, while sodium bicarbonate waters are common from about 200 to 1,000 feet depth. The San Francisco Bay Regional Water Quality Control Board identified 13 distinct locations within the sub-basin as areas of major groundwater pollution. These were identified as having plumes of contamination greater than 1,000 feet in length due to release of fuels and solvents. Most contamination appears to be restricted to the upper 50 feet of the subsurface.[136]

A phase II Environmental Site Assessment Performed by TetraTech evaluated groundwater in the vicinity of the project site and found that individual groundwater samples contained petroleum hydrocarbons as gasoline, zinc, mercury, and the semi-volatile organic compound bis(2-ethylhexyl)phthalate, but the Remediation and Risk Management Plan (RMMP) prepared under RWQCB oversight concluded that these sporadic exceedances were not representative of the groundwater quality throughout Albany Plateau and the surrounding areas (i.e. neck and beach areas), and therefore did not require remediation.

There are no known drinking water supply wells within at least 5 miles of the Albany Beach property.

Standards of Significance

Hydrology and water quality impacts associated with the Proposed Project would be considered significant if the Project would:

a. Violate any water quality standards or waste discharge requirements.

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).

[135] LSA Associates, Existing and Future Conditions Report – Albany Beach and Public Access Feasibility Study, Eastshore State Park, California, January 2011.

[136] California Department of Water Resources, Bulletin 118, Hydrologic Regions of California – East Bay Plain sub basin of the Santa Clara Groundwater Basin. February 27, 2004. Obtained from http://www.water.ca.gov/pubs/groundwater/bulletin_118/basindescriptions/2-9.04.pdf accessed 6/19/2012.

c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site.

d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.

e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.

f. Otherwise substantially degrade water quality.

g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.

h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows.

i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.

j. Expose people or structures to a significant risk of loss, injury or death due to inundation by seiche, tsunami, or mudflow.

Impact Discussion

Project Analysis

a. Violate any water quality standards or waste discharge requirements

The analysis below supplements the discussion in the Eastshore Park EIR of potential violations of water quality standards and waste discharge requirements.

Once constructed, the Proposed Project would not violate any water quality standards or waste discharge requirements. One of the primary project objectives is to address existing shoreline erosion along the Albany Neck that is currently exposing landfill materials, in response to Regional Board Order 98-072. While long-term water quality impacts from shoreline stabilization are expected to be beneficial by protecting the landfill, construction activities that disturb soil could potentially cause short-term impacts to the Project site and these would be *potentially significant*.

As discussed more thoroughly in Section 4.9, Land Use, the Proposed Project contains public access and recreation improvements that would attract more visitors to Albany Beach, including more visitors that would not bring dogs. Even though the Project will increase visitor diversity, it will increase the number of dogs at the Project site by up to 108 additional dogs per day (with an average of 33 dogs per day). Approximately half of these visitors with dogs are expected to use Albany Beach. Because the Project would create additional public space that is accessible to people with dogs, the anticipated maximum intensity of dogs with the Project would be 38.5 dogs per accessible acre, which is lower than the current intensity of approximately 43.7 dogs per accessible acre. Although EBRPD has regulations that it enforces requiring pet owners to pick up animal wastes, not all park visitors adhere to these regulations. The Proposed Project will increase current compliance with waste pick up regulations by providing signage containing specific public education and informational items about the impacts of dogs on wildlife and water quality, and providing bag dispensers and containers for the pick-up and disposal of animal wastes.

Even with enforcement and the Project improvements, some water quality impacts associated with elevated fecal coliform counts from dogs can occur, but the level of impact is far less than the contributing effects of local wildlife and bird populations, and also less than the effect from upstream urban runoff and from leaking underground sanitary sewers and urban stormwater runoff. In addition, while water quality is a very important consideration for Parks where the beach and water facilities are designated as "swimming beaches," with allowed water contact recreation, Albany Beach is not a swimming beach.

Even though there may be an increase in dog visits to Albany Beach as a result of the Proposed Project, the overall public access facility would be increased in size, dispersing the animal wastes over a larger area, thereby decreasing waste concentration effects. In addition, the Project contains a bioswale and bioretention system that would be effective in stormwater runoff clean-up of a large portion of the expanded facility. Based on the above analysis, the impact on water quality of the increase in dogs at Albany Beach as a result of the construction of Proposed Project improvements would be *less-than-significant*.

Impact HYDRO-1: During construction the Proposed Project could potentially violate water quality standards or waste discharge requirements if sediment-laden runoff from disturbed work areas enters San Francisco Bay and increases turbidity or if fuel or other construction chemicals are accidentally spilled or leaked into the water.

Mitigation Measure HYDRO-1a: Detailed plans for temporary construction-related erosion control shall be incorporated in the Project plans. Construction plans shall specify all erosion and sediment control measures, including (where applicable):

- Limiting access routes and stabilizing access points.
- Stabilizing graded areas as soon as possible with seeding, mulching, erosion control materials, or other effective methods.
- Delineating clearing limits, easements, setbacks, sensitive areas, vegetation, and drainage courses by marking them in the field.
- Stabilizing and preventing erosion from temporary conveyance channels and outlets.
- If rainfall occurs, using sediment controls and filtration to remove sediment from water collected on-site during construction.

Mitigation Measure HYDRO-1b: A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared by EBRPD. Specific measures, as cited below, shall be adapted from the most current edition of the Stormwater Best Management Practice Handbook for Construction, published by the California Stormwater Quality Association (CASQA). The SWPPP shall include Best Management Practices (BMPs) to prevent or minimize stormwater pollution during construction activities, and post construction. The project Erosion Control and Revegetation Plan (to minimize erosion for the post-construction phase of the project, and ensure re-vegetation of disturbed soil areas), and a Spill Control and Countermeasures Plan (to ensure oils and fluids used for equipment maintenance are prevented from entering the environment), shall be included in the SWPPP, and in the Construction Documents (see also Mitigation Measure GEO 4b). BMPs shall be prepared and implemented to control short-term construction-related water quality impacts. BMPs shall include at a minimum the following measures:

- Use temporary measures, such as flow diversion, temporary ditches, and silt fencing or straw wattles.
- Surface disturbance of soil and vegetation shall be minimized; existing access and maintenance roads shall be used wherever feasible.

- Any stockpiled soil shall be placed, sloped, and covered in the event of rain so that it would not be subject to accelerated erosion.
- Accidental discharge of all project-related materials and fluids into San Francisco Bay shall be avoided by using straw rolls or silt fences, constructing berms or barriers around construction materials, or installing geofabric in disturbed areas with long, steep slopes. All these materials shall be stockpiled at the project job site to quickly and effectively respond to an accidental release or spill.
- After ground-disturbing activities are complete for each area, all graded or disturbed areas shall be covered with protective material such as mulch, and re-seeded with native plant species. The Erosion Control and Revegetation Plan shall include details regarding site preparation, topsoiling, seeding, plant palette (including sizes, quantities, and varieties of native plants) fertilizer, mulching, and watering during plant establishment.
- An off-shore debris boom capable of controlling any siltation created during excavation of the existing concrete rubble shoreline and placement of the rock rip rap protection shall be deployed. The debris boom shall be designed to protect the offshore eelgrass beds, and be adaptable to attachment of oil absorbent materials for deployment in case of an oil spill or leak (see also Mitigation Measures BIO-2a and BIO-2b).

Significance after Mitigation: With implementation of the control measures described above: preparation of and adherence to a SWPPP (inclusive of an Erosion Control and Revegetation Plan and SCCP), impacts to water quality standards would be reduced to *less than significant*.

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level

The impact discussion in the Eastshore Park General Plan EIR addresses groundwater supply impacts at the Albany Beach Restoration and Public Access Project and is incorporated by reference and summarized as follows:

Implementation of the *General Plan,* including the Proposed Project, would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge because no groundwater extraction is proposed in the *General Plan*, and the General Plan area that would be newly covered with impervious surfaces (e.g., parking areas, paved trails and roadways, and structures) is very small in relation to the existing upland area (approximately 8 acres, or less then 3 percent of the total upland area). The new impervious surfaces associated with the Proposed Project, 0.3 acres, are even less than that analyzed in the General Plan EIR. As a result, the Proposed Project is unlikely to have any significant effect on groundwater supply or recharge. This is a *less than significant impact.*

c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site

The impact discussion in the Eastshore Park General Plan EIR is incorporated by reference and summarized below, and followed with further discussion of the impacts specific to the Proposed Project.

Implementation of the *Draft General Plan*, including the Proposed Project, would not substantially alter existing drainages such that substantial erosion, siltation, or flooding would occur on property in adjacent municipalities. Proposed enhancements to the hydrologic resources and the development of facilities within the project site would prove to be opportunities to improve drainage conditions locally and systemically

throughout the project site. The *Draft General Plan* contains guidelines that would avoid or minimize to a less-than-significant level potential adverse impacts associated with alteration of drainages by:

1. Requiring the development of Specific Project Plans (see guideline OPER-1) for major enhancement projects.

2. Requiring additional environmental evaluation of all proposed facilities and resource enhancements such as creek daylighting (see guidelines CAPACITY-2, HYDRO-6).

3. Considering other project priorities along with environmental enhancement programs (see guideline HYDRO-7).

A coastal engineering analysis completed as part of Proposed Project engineering design examined the coastal processes at the project site and is included in Appendix F. The analysis examined the potential impact the shoreline revetment and optional intertidal and subtidal project elements on littoral sand transport and its potential impact on the stability of the beach and dune system. The coastal analysis concluded that changes in alongshore currents and thus sediment (sand) movement would be localized in the vicinity of the habitat features (groin, pebble beach, and avian roosting islands). The alongshore current pattern east of the habitat features would remain essentially unchanged and it is not likely that the project would have a significant impact on the morphology of the existing beach. This is a *less than significant* impact.

d. <u>Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff or otherwise substantially degrade water quality</u>

The impact discussion in the Eastshore Park General Plan EIR is summarized below and supplemented with further discussion of the impacts specific to this project.

Implementation of the *Draft General Plan* would neither create nor substantially contribute to runoff water which would exceed the capacity of existing or planned stormwater drainage systems or create an increase in calculated peak flood discharges, requiring the construction or substantial expansion of existing facilities. The project site is not served by a municipal stormdrain system and stormwater runoff from the site is by overland flow and through ephemeral drainages across Albany Beach. The actual anticipated increase in runoff as a result of proposed facilities (restroom, trails, parking areas, etc) is not significant relative to the existing runoff regimes and the capacity of the undeveloped stormwater drainage system. Additionally, the proposed project plans for the Albany Beach area include a bio-retention facility that will slow run-off and improve water quality through the use of a new constructed wetlands drainage system.

The *Draft General Plan* incorporates guidelines that would avoid or reduce to a less-than-significant level potential impacts related to stormwater runoff by: The design of and environmental review for the Proposed Project. comply with these guidelines.

1. Requiring environmental review and the identification of potential negative impacts associated with site-specific development projects, management plans, and Specific Project Plans for the implementation of the *Draft General Plan* in accordance with the California Environmental Quality Act (CEQA) (see guidelines OPER-2, CAPACITY-2, HYDRO-6).

2. Conserving water and protecting water quality (see guideline OPER-17).

The Proposed Project would not result in a substantial increase in stormwater runoff, and therefore would not adversely affect capacity of the existing off-site stormwater drainage system. The small parking area near

Albany Beach would be constructed on an area that is currently paved and thus not increase stormwater runoff; the 2.8-acre existing parking area would be reduced in size to 0.6 acres, with most of this area being converted to seasonal wetlands and dune habitat. Stormwater runoff would decrease. Additionally, stormwater flow will be directed to a constructed wetland, planted using native plants, that would sufficiently maximize infiltration and minimize and treat runoff. The project would not provide substantial sources of polluted runoff. Criteria a above discuses water quality issues associated with construction related activities. The impact associated with the Project's runoff is considered a *less-than-significant* impact.

e. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.

The impact discussion in the Eastshore Park General Plan EIR is summarized below and supplemented with discussion of impacts specific to the project.

The Proposed Project would not alter any streams or rivers. The Proposed Project would alter the topography of the site by enhancing the sandy dune complex and constructing a wetlands drainage system in Area 2. However, as discussed in Criterion h below, would not result in increased flooding either on or off site. Additionally, the construction of the wetland bio-retention system would serve to provide increased potential for slowing and infiltrating of surface runoff and would not increase the amount or rate of surface runoff in a manner that would result in flooding or drainage on or off site. This is a *less than significant* impact.

f. Otherwise substantially degrade water quality.

In general, construction of the Proposed Project would improve water quality over existing conditions. Construction of the wetlands drainage system in Area 2 would improve water quality in existing stormwater runoff from the adjacent Golden Gate Fields, and surface repair to portions of Area 1 would prevent potentially hazardous materials in the plateau subsurface from being mobilized by stormwater runoff. As noted in criterion a, degradation of water quality due to construction activities would be addressed by Mitigation Measures Hydro-1a and Hydro-1b. The project would not otherwise substantially degrade water quality and the impact would be *less than significant*.

g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map

No housing would be built as part of the Project and there would be *no impact*.

h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows

Structures associated with the project would be constructed above the 100-year flood elevation, including a vault toilet restroom, which would be elevated a minimum of 1 foot above the 100 year flood height. However as part of the proposed project, as much as 5,000 cubic yards of clean sand would be placed within the 100-year coastal flood zone. As the flooding hazard in this location is tidal, placement of material in the flood zone would not increase the base flood elevation and would not re-direct flood flows leading to flooding hazards elsewhere. This is a *less than significant* impact.

i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.

As stated above, portions of the project site is located within the 100-year coastal flooding zone, with a base flood elevation of 9 feet. However, structures associated with the project would be elevated a minimum of one foot above the 100 year flood elevation. The project site is not subject to inundation due to the failure of a dam or levee. This is a *less than significant* impact.

One of the risks of sea level rise is the increased risk of flooding, including potentially more frequent occurrences and with greater flood depths. Along coastal areas, the 100-year flood risk is associated with extreme tides, and with higher sea levels, extreme tides will have higher tidal flood elevations. Currently the 100-year flood elevation at Albany Beach has been designated by FEMA as elevation 9.0 feet, NAD 88. Sea level rise over the next 40 to 50 years may increase that by an estimated 1.0 to 1.5 feet, depending on the source of the sea level rise projection used.

The design elevations of Proposed Project facilities and improvements have been established in consideration of BCDC policies regarding the effects of sea level rise on a project, including those policies specific for recreational and open space facilities that have an estimated 25 year design life. Based on the Coastal Engineering Analysis of the potential effects of sea level rise on project improvements, the top or crest elevation of the shoreline revetment was set at 12 feet (NAD88), and this elevation was also used as the minimum elevation for the Bay Trail and other recreational facilities that may be substantially damaged or require extensive maintenance with sea level rise over the next 25-30 years. Based on this, the impacts of sea level rise on project facilities is *less than significant*.

j. Expose people or structures to significant risk of loss, injury or death due to inundation by seiche, tsunami, or mudflow

While there is no risk of inundation by mudflow at the Project site, the trails and other public access facilities could potentially be inundated by a large tsunami or seiche event. Portions of the Project site are located within a tsunami hazard zone as indicated on the July 2009 Tsunami Inundation maps published by Cal Emergency Services Agency.[137] However, only minor structures (restroom, bicycle racks, benches, picnic tables) are associated with this Proposed Project that could be damaged by a seiche or tsunami. Also, as described in Section 4.7 Hazards and Hazardous Materials, the Alameda County Emergency Services would rely on its existing system of emergency notification developed for multi-hazard response to warn trail users through the use of signage warning trail users of the hazard of tsunami. Given the lack of any major structures within the tsunami zone, the available emergency notification system, and the remote chance that people would be in the bayside area when a tsunami of sufficient magnitude reaches the Proposed Project site, the impact would be *less than significant*.

Cumulative Analysis

Cumulative impacts on hydrology and water quality were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and found that enhancements to the shoreline and hydrologic resources of the project site, in addition to control measures and drainage systems to address anticipated storm water runoff where necessary, would limit potential impacts. However, construction period activities and the operation and maintenance of General Plan facilities in combination with other cumulative impacts associated with activities off of the project site could add to both the overall volume of the storm water runoff carried by the drainage systems and to the amount of contaminants carried in the runoff, adversely effecting water quality in the receiving waters of the San Francisco Bay. Identification of and adherence to pertinent and applicable resource protection requirements for the construction and operation of projects as defined by Regional Water Quality Control Board (RWQCB), California Department of Fish and Game (CDFG), U.S. Army Corps of Engineers (Corps), and Bay Conservation and Development Commission (BCDC) would further reduce the potential for cumulative impacts. Coordination with local municipalities and project specific mitigation measures would be incorporated into the *General Plan* Specific Project Plans to reduce these impacts to a less-than-significant level. For these reasons, the *Eastshore Park*

[137] California Emergency Management Agency, 2009, *Tsunami Inundation Map for Emergency Planning: Richmond Quadrangle/San Quentin Quadrangle*, http://www.conservation.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/ContraCosta/Pages/ContraCosta.aspx.

Project General Plan EIR found that the General Plan would not result in significant cumulative impacts on hydrology and water quality.

The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[138] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[139]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[140]

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[138] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[139] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[140] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[141]

In the Project vicinity, the effect of the combination of the existing built environment, plus the proposed and approved projects identified above on hydrology and water quality, is a significant increase in waterborne contaminants, and velocity and volume of stormwater runoff. This is a significant cumulative impact on hydrology and water quality. The Proposed Project would not have a cumulatively considerable adverse impact on hydrology and water quality since measures are required to be in place to avoid project-related water quality and hydrology impacts, and the Project would comply with applicable resource protection requirements for construction and operation of the Project that were created by agencies, such as RWQCB, DFG, and BCDC, to avoid water quality and hydrology impacts. As a result, the Proposed Project would not measurably contribute to cumulative water quality and hydrology impacts. Thus, the incremental effects of the Project, with mitigation, would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

[141] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.9 Land Use and Planning

This section contains information about Land Use and Planning for the Albany Beach project site. It provides an overview of the current regulatory framework, describes existing conditions, and analyzes the potential impacts of the Albany Beach Restoration and Public Access Project. This project EIR tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document. This section incorporates by reference Section III.H of the *Eastshore Park Project General Plan EIR*. That section evaluates land use and public policy impacts at the project site and the regulatory framework related to land use and public policy.

Regulatory Framework

Section III.H of the *Eastshore Park Project General Plan EIR* addresses the plans and policies applicable to the Park. The following discussion summarizes information presented in the "Setting" subsection of Section III.H of the *Eastshore Park Project General Plan EIR*, updated with current data, and information specific to the Albany Beach project, as necessary.

Federal Laws and Regulations

Federal Emergency Management Agency

The Federal Emergency Management Agency (FEMA) issues Flood Insurance Rate Maps (FIRMs) that identify which land areas are subject to flooding. These maps provide flood information and identify flood hazard zones, known as the 100-year and 500-year flood hazard zones. The FEMA 100-year hazard zone demarcates an area where there is a 1-in-100 chance of a flood occurring in any given year; the 500-year zone where there is a 1-in-500 chance each year.

U.S. Environmental Protection Agency, U.S. Army Corps of Engineers and Clean Water Act

The U.S. Environmental Protection Agency (EPA) is the lead federal agency responsible for water quality management. The Clean Water Act (CWA) of 1972 is the primary federal law that governs and authorizes water quality control activities by the EPA as well as the states. Under Section 401 of the CWA, an applicant for a Section 404 permit to discharge dredged or fill material into waters of the United States must first obtain a certificate from the appropriate State agency stating that the fill is consistent with the State's water quality standards and criteria. In California, the authority to either grant water quality certification or waive the requirement is delegated by the State Water Resources Control Board (SWRCB) to the nine Regional Water Quality Control Boards (RWQCBs). Section 404 of the CWA gives authority to the U.S. Army Corps of Engineers to issue permits to dredge or fill wetlands.

Under federal law, the EPA has published water quality regulations under Volume 40 of the Code of Federal Regulations (40 CFR). Section 303 of the CWA requires states to adopt water quality standards for all surface waters of the United States. As defined by the CWA, water quality standards consist of two elements: (1) designated beneficial uses of the water body in question and (2) criteria that protect the designated uses. Section 304(a) requires the EPA to publish advisory water quality criteria that accurately reflect the latest scientific knowledge on the kind and extent of all effects on health and welfare that may be expected from the presence of pollutants in water. Where multiple uses exist, water quality standards must protect the most sensitive use. In California, the EPA has designated the SWRCB and its RWQCBs with authority to identify beneficial uses and adopt applicable water quality objectives.

State Laws and Regulations

California State Lands Commission

The California State Lands Commission (CSLC) has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. Under Public

Resources Code sections 6301 and 6306, the CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

It is the responsibility of CSLC to ensure that these lands are not sold for development that is incompatible with the uses covered by the Public Trust Doctrine. This includes preservation of these lands in their natural state in order to protect scenic and wildlife habitat values.

San Francisco Bay Area Conservation and Development Commission

The California Coastal Commission carries out its mandate locally through the San Francisco Bay Area Conservation and Development Commission (BCDC). BCDC's jurisdiction on San Francisco Bay includes all sloughs, marshlands between mean high tide and 5 feet above mean sea level, tidelands, submerged lands, and land within 100 feet of the Bay shoreline. The precise boundary is determined by BCDC on request. For planning purposes, BCDC assumes that projects located above low-lying areas that are vulnerable to rising sea level have a lifespan of at least 50 to 90 years. BCDC policies for projects in low-lying areas, such as the beach and low-lying trails of the Proposed Project, are based on the life of the project, which is approximately 25 years for the Proposed Project improvements.[142]

Since the issuance of the Governor's Executive Order S-13-08 on November 2008, BCDC has followed other Natural Resource Agencies in planning for two sea level rise scenarios: 16 inches by mid-century and 55 inches by the end of the century. In April 2009, BCDC published its report with maps indicating zones that could be flooded due to sea level rise and that were based on existing elevations; this has since been revised.[143] In September 2011, BCDC published a revised draft of its proposed amendments to its master planning document, the *Bay Plan.* This revised report received considerable public review and environmental review, and was approved in October 2011.[144] These amendments include revised findings and policies to adapt to the effects of sea level rise.[145,146]

Projects approved by BCDC must be consistent with the McAteer-Petris Act and its master planning document, the *Bay Plan.*[147] The McAteer-Petris Act provides for fill in the Bay for water-oriented uses and requires that proposed projects include maximum feasible public access consistent with the project to the Bay and its shoreline. The *Bay Plan* includes priority land use designations for certain areas around the Bay to ensure that sufficient lands around the Bay are reserved for important water-oriented uses such as ports, water-related industry, parks, and wildlife areas. Plan Map 4, Central Bay North, designates the entire Project site as "Waterfront Park, Beach".

Since the Albany Beach Restoration and Public Access Project is a small project that does not involve the siting of critical infrastructure or residential, commercial, or industrial development, only a limited number of

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[142] BCDC, Resolution No. 11-08, Adoption of Bay Plan Amendment No. 1-08 Adding New Climate Change Findings and Policies to the Bay Plan; And Revising the Bay Plan Tidal Marsh and Tidal Flats; Safety of Fills; Protection of the Shoreline; and Public Access Findings and Policies, undated.

143 BCDC, 2011. Living with a Rising Bay: Vulnerability and Adaptation in San *Francisco Bay and on its Shoreline.* As revised through September 23, 2011.

[144] BCDC, 2011. *Commission Resolution to Adopt Bay Plan Amendment No. 1-08*. (Approved by the Commission on October 6, 2011.)

[145] A recent court case (*Ballona Wetlands Land Trust* et. al., *v. City of Los Angeles (2009). Cal. App.4th. Nov. 9, 2011, Case No. B231965)* ruled that the effects of sea level rise on new developments did not have to be taken into account in CEQA documents.

[146] Kristina D. Lawson. *Court rejects the need for CEQA analysis of sea level rise and invalidates CEQA Guideline.* Online at http://www.manatt.com/newsletter-areas.aspx?id=15522, accessed December 7, 2011. It is expected that the supreme court will be petitioned to review the case.

[147] BCDC, 2011. *San Francisco Bay Plan.* Most up-to-date version available online at: http://www.bcdc.ca.gov/pdf/bayplan/Plan_Map_4.pdf, accessed April 3, 2012.

BCDC climate change policies are relevant to it. Specifically, Policies 7.d, 7.f, and 7.h are most applicable to the Albany Beach project as they respectively relate to the encouragement of projects which: enhance the environment, are small, and/or are public parks. Relevant policies from the *Bay Plan*, including those pertaining to sea level rise, are listed in **Table 4.9-1**.

Local Regulations and Policies

East Bay Regional Park District

East Bay Regional Park District (EBRPD) owns and manages more than 110,000 acres of parkland in 65 parks in Alameda and Contra Costa counties—acres with over 1,200 miles of trails for hiking, biking, horseback riding, and nature study. Its mission is to acquire, develop, manage, and maintain a high quality, diverse system of interconnected parklands that balances public usage and education programs with protection and preservation of our natural and cultural resources. EBRPD is a Special District whose mandate is described under California Public Resources Code Article 3, 5500 Series.

EBRPD published its Master Plan in 1997 and in 2012 is soliciting public input as part of the update process.[148,149] In the meantime, the 1997 document remains in effect. Relevant policies from that document and the Project's consistency with those policies are included in **Table 4.9-2**.

Ordinance 38 establishes rules and regulations that apply to all EBRPD parklands.[150] Violation of the Ordinance is punishable as a misdemeanor or an infraction. Recent amendments to the Ordinance include addition of a requirement that dogs be on leash in developed areas if within 200 feet of a parking lot, trailhead, or staging area. The Ordinance is adopted by the Board of Directors pursuant to sections 5541, 5558, 5559, and 5560 of the California Public Resources Code.

San Francisco Bay Trail (Bay Trail)

Senate Bill 100, authored by then-state Senator Bill Lockyer and passed into law in 1987, directed the Association of Bay Area Governments (ABAG) to develop a plan for a "ring around the Bay" of bicycling and hiking trails. It will connect the shoreline of all nine Bay Area counties, link 47 cities, and cross the major toll bridges in the region. To date, over 300 miles of the alignment have been completed. This represents over 60 percent of the Bay Trail's ultimate length. The Bay Trail Plan, adopted by ABAG in July 1989, includes a proposed alignment; a set of policies to guide the future selection, design and implementation of routes; and strategies for implementation and financing. The proposed route of the Bay Trail through the Albany Beach project area, as described in the *Bay Trail Plan,* is shown in **Figure 4.12-1** in Section 4.12, Recreation. This shows a Bay Trail spur along the Albany Neck (Area 1 of the proposed project), a segment of Bay Trail spine east of Albany Beach (Area 2 of the proposed project), and a segment of Bay Trail spine along the shore between Albany Beach and Gilman Streets (Areas 2 and 3 of the proposed project). Policies relevant to the alignment and design of routes and the Project's consistency with the Bay Trail are shown in **Table 4.9-3**.

[148] EBRPD, 1997. Master Plan 1997.

[149] EBRPD, *The District Master Plan*, http://www.ebparks.org/planning/mp, accessed April 3, 2012.

[150] EBRPD Ordinance 38 is available on the internet at: http://www.ebparks.org/activities/ord38.

TABLE 4.9-1 BCDC BAY PLAN FINDINGS AND POLICIES RELEVANT TO LAND USE AND PLANNING

#	Policy	Consistency
Part III - The Bay as a Resource **Water Quality**		
3	New projects should be sited, designed, constructed and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by: (a) controlling pollutant sources at the project site; (b) using construction materials that contain nonpolluting materials; and (c) applying appropriate, accepted and effective best management practices, especially where water dispersion is poor and near shellfish beds and other significant biotic resources.	Several features are included in the project to use construction materials that contain nonpolluting materials, and to minimize discharge of pollutants to the Bay, and construction and post-construction soil erosion, as per EBRPD Best Management Practices.
7	Whenever practicable, native vegetation buffer areas should be provided as part of a project to control pollutants from entering the Bay, and vegetation should be substituted for rock riprap, concrete, or other hard surface shoreline and bank erosion control methods where appropriate and practicable.	The project would use native plants in its restoration component. It is not feasible to remove all of the fill from the shoreline of the Albany Neck (Area 1).
Part III - The Bay as a Resource **Tidal Marshes and Tidal Flats**		
1	Tidal marshes and tidal flats should be conserved to the fullest possible extent. Filling, diking, and dredging projects that would substantially harm tidal marshes or tidal flats should be allowed only for purposes that provide substantial public benefits and only if there is no feasible alternative.	Tidal marshes and flats would not in general be affected by the Project. Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access. There would be substantial benefits to habitat and wildlife, and to the public overall, as a consequence of the project.
2	Any proposed fill, diking, or dredging project should be thoroughly evaluated to determine the effect of the project on tidal marshes and tidal flats, and designed to minimize, and if feasible, avoid any harmful effects.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access. Tidal marshes and flats would not in general be affected by the Project.
3	Projects should be sited and designed to avoid, or if avoidance is infeasible, minimize adverse impacts on any transition zone present between tidal and upland habitats. Where a transition zone does not exist and it is feasible and ecologically appropriate, shoreline projects should be designed to provide a transition zone between tidal and upland habitats.	The Project is designed to minimize adverse impacts to the transition zone between tidal and upland habitats, and would enhance the quality of habitat in the transition zone.
6	Non-native species should not be used in habitat restoration projects. Any habitat restoration project approved by the Commission should include a program for the periodic monitoring of the site for non-native species and a program for control and, if appropriate and feasible, eradication should an introduction occur. The use of non-native plant species in public access landscape improvements should be avoided where a potential exists for non-native plants to spread into the Bay, other waterways, or transition zones between tidal and upland habitats.	Only native species would be planted. Non-native species eradication and control is discussed in Chapter 3 Project Description and Section 4.3 Biological Resources of this EIR.

#	Policy	Consistency
8	Based on scientific ecological analysis and consultation with the relevant federal and state resource agencies, a minor amount of fill may be authorized to enhance or restore fish, other aquatic organisms, or wildlife habitat if the Commission finds that no other method of enhancement or restoration except filling is feasible.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access. Fill would not occur without authorization by all relevant federal and state resource agencies. Placement of groins in the subtidal area would enhance oyster and fish habitat.
Part IV - Development of the Bay and Shoreline **Safety of Fills**		
4	To prevent damage from flooding, structures on fill or near the shoreline should have adequate flood protection including consideration of future relative sea level rise as determined by competent engineers. As a general rule, structures on fill or near the shoreline should be above the wave runup level or sufficiently set back from the edge of the shore so that the structure is not subject to dynamic wave energy. In all cases, the bottom floor level of structures should be above the highest estimated tide elevation. Exceptions to the general height rule may be made for developments specifically designed to tolerate periodic flooding.	The two-stall restroom would be the project's only structure, and would be installed on a pad above the 100-year floor elevation, with a watertight vault, outside of areas subject to dynamic wave energy.
Part IV - Development of the Bay and Shoreline **Recreation**		
1	Diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels. Periodic assessments of water-oriented recreational needs that forecast demand into the future and reflect changing recreational preferences should be made to ensure that sufficient, appropriate water-oriented recreational facilities are provided around the Bay. Because there is no practical estimate of the acreage needed on the shoreline of the Bay, waterfront parks should be provided wherever possible.	The Project provides access to the Bay shoreline for hiking, biking, picnicking, and water-oriented recreational activities, as well as a shared-access pedestrian and bicycle trail along the new segment of San Francisco Bay Trail.
	Waterfront land needed for parks and beaches to meet future needs should be reserved now, because delay may mean that needed shoreline land could otherwise be preempted for other uses. However, recreational facilities need not be built all at once; their development can proceed over time. Interim use of a waterfront park priority use area prior to its development as a park should be permitted, unless the use would prevent the site from being converted to park use or would involve investment in improvements that would preclude the future use of the site as a park.	The Project consists of three areas that may be constructed at different times; however, the project would reserve the entire project site for waterfront park use.
3	Recreational facilities, such as waterfront parks, trails, marinas, live-aboard boats, non-motorized small boat access, fishing piers, launching lanes, and	(1) The Project site is close to urban, densely populated areas of the Cities of Albany and Berkeley. (2) The priority use of the site is as a public waterfront

#	Policy	Consistency
	beaches, should be encouraged and allowed by the Commission, provided they are located, improved and managed consistent with the following standards: a. General Recreational facilities should: (1) Be well distributed around the shores of the Bay to the extent consistent with the more specific criteria below. Any concentrations of facilities should be as close to major population centers as is feasible; (2) Not pre-empt land or water area needed for other priority uses, but efforts should be made to integrate recreation into such facilities to the extent that they are compatible; (3) Be feasible from an engineering viewpoint; and (4) Be consistent with the public access policies that address wildlife compatibility and disturbance. In addition: (5) Different types of compatible public and commercial recreation facilities should be clustered to the extent feasible to permit joint use of ancillary facilities and provide a greater range of choices for users. (6) Sites, features, or facilities within designated waterfront parks that provide optimal conditions for specific water-oriented recreational uses should be preserved and, where appropriate, enhanced for those uses, consistent with natural and cultural resource preservation. (7) Access to marinas, launch ramps, beaches, fishing piers, and other recreational facilities should be clearly posted with signs and easily available from parking reserved for the public or from public streets or trails. (8) To reduce the human health risk posed by consumption of contaminated fish, projects that create or improve fishing access to the Bay at water-oriented recreational facilities, such as fishing piers, beaches, and marinas, should include signage that informs the public of consumption advisories for the species of Bay fish that have been identified as having potentially unsafe levels of contaminants. (9) Complete segments of the Bay and Ridge Trails where appropriate, consistent with policy 4-a-6. b. Marinas. c. Live-aboard boats. d. Launching Lanes. (1) Launching lanes should be placed where wind and water conditions would be most favorable for smaller boats. (2) Some launching lanes should be located near prime fishing areas and others near calm, clear water suitable for waterskiing. (3) Additional launching facilities should be located around the Bay shoreline, especially where there are few existing facilities. These facilities should be available free or at moderate cost. Launching facilities should include adequate car and trailer parking, restrooms, and public access. (4) In marinas, launching facilities should be encouraged where there is adequate upland to provide needed support facilities. (5) New ramps and improvements to existing ramps should provide for use by a wide variety of boats, including	park. (3) The Project is feasible. (4) The proposed site plan has been developed after a thorough review of site opportunities and constraints, including habitat, topography and views, drainage, geotechnical conditions and Bay access. The planning effort included multiple public workshops/community meetings for both the Eastshore State Park General Plan and the Albany Beach Restoration and Public Access Project, and extensive stakeholder outreach and agency coordination. (5) The project is adjacent to recreational land at the Albany Bulb (owned by the City of Albany), Golden Gate Fields racetrack, and other areas of Eastshore State Park, and there would be opportunities for shared use of area facilities. (6) The Project preserves and enhances the area consistent with its use as a publicly accessible waterfront park. (7-8) Signs would be provided by EBRPD that describe the site facilities including the Bay Trail, access for fishing and signs advising of the health risks from eating contaminated fish. (9) The Project includes a segment of Bay Trail spine, as well as a spur trail extension. b-d. These are not applicable. The site does not include a marina and has no live-aboard boats. e. The project includes beach access for non-motorized small boats. f. This is not applicable. Neither the project site nor the proposed project contains a fishing pier. g-h. The project includes preservation and restoration of Albany Beach, with habitat enhancement features.

#	Policy	Consistency
	power boats and non-motorized small boats. (6) Fill for ramps into the water, docks, and similar facilities should be permitted. Other fill should not be permitted. e. Non-Motorized Small Boats. Where practicable, access facilities for non-motorized small boats should be incorporated into waterfront parks, marinas, launching ramps and beaches, especially near popular waterfront destinations… f. Fishing Piers g. Beaches. Sandy beaches should be preserved, enhanced, or restored for recreational use, such as swimming, consistent with wildlife protection. New beaches should be permitted if the site conditions are suitable for sustaining a beach without excessive beach nourishment.	
	To assure optimum use of the Bay for recreation, the following facilities should be encouraged in waterfront parks and wildlife refuges. a. In waterfront parks. (1) Where possible, parks should provide some camping facilities accessible only by boat, and docking and picnic facilities for boaters. (2) To capitalize on the attractiveness of their bayfront location, parks should emphasize hiking, bicycling, riding trails, picnic facilities, swimming, environmental, historical and cultural education and interpretation, viewpoints, beaches, and fishing facilities. Recreational facilities that do not need a waterfront location…(3) Where shoreline open space includes areas used for hunting waterbirds…(4) Public launching facilities for a variety of boats and other water-oriented recreational craft, such as kayaks, canoes and sailboards, should be provided in waterfront parks where feasible. (5) Except as may be approved pursuant to recreation policy 4-b, limited commercial recreation facilities, such as small restaurants, should be permitted… (6) Trails that can be used as components of the San Francisco Bay Trail, the Bay Area Ridge Trail or links between them should be developed in waterfront parks. San Francisco Bay Trail segments should be located near the shoreline unless that alignment would have significant adverse effects on Bay resources; in this case, an alignment as near to the shore as possible, consistent with Bay resource protection, should be provided. Bay Area Ridge Trail segments should be developed in waterfront parks where the ridgeline is close to the Bay shoreline. (7) Bus stops, kiosks and other facilities to accommodate public transit should be provided in waterfront parks to the maximum extent feasible. Public parking should be provided in a manner that does not diminish the park-like character of the site. Traffic demand management strategies and alternative transportation systems should be developed where appropriate to minimize the need for large parking lots and to ensure parking for recreation uses is sufficient. (8) Interpretive information	a. 1) The site is intended for day use only. 2) The site provides facilities for hiking, biking, picnicking, and non-motorized watercraft access, as well as interpretive elements. 3) Hunting is not permitted. 4) Access to the beach area for non-motorized watercraft access is included in the Project. 5) No commercial recreation facilities are included in the Project. 6) The Project includes a segment of Bay Trail spine and spur trail as close to the shoreline as feasible. 7) The closest bus route is on Buchanan Street east of I-80, approximately one half mile east of the project site. There are no bus stops at the project site. Proposed public parking is considered adequate for the projected site usage. 8-9) Interpretative signs would inform the public about wildlife and its habitats. 10) The proposed project does not involve installing utilities on the project site. b. There are no historic buildings on the site.

#	Policy	Consistency
	describing natural, historical, and cultural resources should be provided in waterfront parks where feasible. (9) In waterfront parks that serve as gateways to wildlife refuges, interpretive materials and programs that inform visitors about the wildlife and habitat values present in the park and wildlife refuges should be provided. Instructional materials should include information about the potential for adverse impacts on wildlife, plant and habitat resources from certain activities. (10) The Commission may permit the placement of public utilities and services, such as underground sewer lines and power cables, in recreational facilities provided they would be unobtrusive, would not permanently disrupt use of the site for recreation, and would not detract from the visual character of the site. b. In waterfront parks and wildlife refuges with historic buildings…	
5	Bay resources in waterfront parks and, where appropriate, wildlife refuges should be described with interpretive signs. Where feasible and appropriate, waterfront parks and wildlife refuges should provide diverse environmental education programs, facilities and community service opportunities, such as classrooms and interpretive and volunteer programs.	The Project would include interpretive and educational signs consistent with existing EBRPD policy.
6	To enhance the appearance of shoreline areas, and to permit maximum public use of the shores and waters of the Bay, flood control projects should be carefully designed and landscaped and, whenever possible, should provide for recreational uses of channels and banks.	The Project is not designed as a flood control project.
	Because of the need to increase the recreational opportunities available to Bay Area residents, small amounts of Bay fill may be allowed for waterfront parks and recreational areas that provide substantial public benefits and that cannot be developed without some filling.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access. Placement of groins in the subtidal area to enhance oyster and fish habitat would not decrease public access. The project would provide substantial benefits to public access and wildlife habitat.
	Signs and other information regarding shipping lanes, ferry routes, U.S. Coast Guard rules for navigation….	This is not applicable. The Project does not provide for motorized boating access.
7	Ferry terminals may be allowed in waterfront park priority use areas.	This is not applicable. The Project site does not provide a ferry terminal.
Part IV - Development of the Bay and Shoreline **Public Access**		
1	A proposed fill project should increase public access to the Bay to the maximum extent feasible, in accordance with the policies for Public Access to the Bay.	Bay fill would be minimized, and would occur only to the extent that is required for and shoreline protection, and stabilization to improve public access. Placement of groins in the subtidal area to provide shoreline protection and potentially enhance oyster and fish habitat would not affect public access. The project would provide substantial benefits to public access.

#	Policy	Consistency
2	In addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, 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, whether it be for housing, industry, port, airport, public facility, wildlife area, or other use, except in cases where public access would be clearly inconsistent with the project because of public safety considerations or significant use conflicts, including unavoidable, significant adverse effects on Bay natural resources. In these cases, in lieu access at another location preferably near the project should be provided.	The Project has been designed to provide maximum feasible access to the Bay. The access provided is consistent with site setting, natural resources, and restoration goals and objectives of the Project.
3	Public access to some natural areas should be provided to permit study and enjoyment of these areas. However, some wildlife are sensitive to human intrusion. For this reason, projects in such areas should be carefully evaluated in consultation with appropriate agencies to determine the appropriate location and type of access to be provided.	Public access components of project are being coordinated with regulatory agencies including California Department of Fish & Game, and possibly U.S. Fish & Wildlife Service. Vegetative buffer zones, native plant landscaping, fencing, and signs are included in the Project design to protect sensitive plants and wildlife.
4	Public access should be sited, designed, and managed to prevent significant adverse effects on wildlife. To the extent necessary to understand the potential effects of public access on wildlife, information on the species and habitats of a proposed project site should be provided, and the likely human use of the access area analyzed. In determining the potential for significant adverse effects (such as impacts on endangered species, impacts on breeding and foraging areas, or fragmentation of wildlife corridors), site specific information provided by the project applicant, the best available scientific evidence, and expert advice should be used. In addition, the determination of significant adverse effects may also be considered within a regional context. Siting, design, and management strategies should be employed to avoid or minimize adverse effects on wildlife, informed by the advisory principles in the Public Access Design Guidelines. If significant adverse effects cannot be avoided or reduced to a level below significance through siting, design and management strategies, then in lieu public access should be provided, consistent with the project and providing public access benefits equivalent to those that would have been achieved from on-site access. Where appropriate, effects of public access on wildlife should be monitored over time to determine whether revisions of management strategies are needed.	Public access would be controlled within the Project site with the following measures employed to reduce public access conflicts with wildlife. *Construction Materials:* The parking area and trail segments would consist of paved as well as permeable pavement areas, such as stabilized quarry fines, and would incorporate into their designs water quality stormwater swales to reduce erosion and water quality impact to adjacent habitats. *Fencing/Buffers:* The Albany Neck (Area 1) would include fencing or buffers to limit access to revegetated shoreline areas. Fencing would be installed to allow establishment of vegetation associated with the dune/wetland complex at Albany Beach (Area 2) and to help define trails. *Educational/Interpretive Signs:* Interpretive signs would be installed to: ♦ increase knowledge of users (regarding wildlife and the implications of users actions, ♦ decrease damaging user behavior, ♦ explain trail policies (i.e., leash requirements, closures, etc.), ♦ increase compliance with regulations, and ♦ foster public support for site revegetation and shoreline stabilization.
5	Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed. This should be done wherever appropriate by requiring dedication of fee title or easements at no cost to the public, in the same manner that streets, park sites, and school sites are dedicated to the public as part of the subdivision process in cities and counties.	All public access improvements would be located on lands to be purchased or are owned or managed by EBRPD. Ownership of these lands would vary, including property owned by EBRPD, jointly by EBRPD and State of California, the City of Albany, and privately owned land with an easement for public access.

#	Policy	Consistency
6	Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife, and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for the physically handicapped to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs.	The Bay Trail spine is a multi-use trail for hiking and biking. Picnic tables and beach access would be provided. The Project includes protection and enhancement of sensitive habitat: signage, and regular maintenance by EBRPD employees. The public access improvements are designed to fully meet standards under the Americans with Disabilities Act (ADA).
7	In some areas, a small amount of fill may be allowed if the fill is necessary and is the minimum absolutely required to develop the project in accordance with the Commission's public access requirements.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area to enhance oyster and fish habitat would not affect public access. The project would provide substantial benefits to public access and wildlife habitat.
8	Access to and along 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. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.	The Project contains design elements (e.g. landscaping, buffer, fencing, signage) to keep trail users on the trail and within designated areas on Albany Beach, and to avoid intrusion onto sensitive habitat (see also Policy #4 above).
11	Roads near the edge of the water should be designed as scenic parkways for slow-moving, principally recreational traffic. The roadway and right-of-way design should maintain and enhance visual access for the traveler, discourage through traffic, and provide for safe, separated, and improved physical access to and along the shore. Public transit use and connections to the shoreline should be encouraged where appropriate.	The project does not include any new public roadways.
Part IV - Development of the Bay and Shoreline		
Appearance, Design, and Scenic Views		
1	To enhance the visual quality of development around the Bay and to take maximum advantage of the attractive setting it provides, the shores of the Bay should be developed in accordance with the Public Access Design Guidelines.	One of the purposes of the Project is to provide public access to this section of the Bay shoreline, in a setting with high visual quality that would be further improved through enhancement activities.
2	All bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore. To this end, planning of waterfront development should include participation by professionals who are knowledgeable of the Commission's concerns, such as landscape architects, urban designers, or architects, working in conjunction with engineers and professionals in other fields.	The Project is designed to provide the best views of the Bay from a multi-use trail., Fences would be located to ensure that visual access is not impeded. Professionals with expertise in trail design and restoration have been included in the project design team.

#	Policy	Consistency
	Climate Change Findings and Policies	
7	Until a regional sea level rise adaptation strategy can be completed, the Commission should evaluate each project proposed in vulnerable areas on a case-by-case basis to determine the project's public benefits, resilience to flooding, and capacity to adapt to climate change impacts. The following specific types of projects have regional benefits, advance regional goals, and should be encouraged, if their regional benefits and their advancement of regional goals outweigh the risk from flooding: … d. a natural resource restoration or environmental enhancement project. The following specific types of projects should be encouraged if they do not negatively impact the Bay and do not increase risks to public safety: … f. a small project; h. a public park.	The Proposed Project would be consistent with the types of projects that are to be encouraged under the BCDC's climate change policies. Specifically, the Project would serve to restore natural resources and the environment; it is small; and it would be a public park. The EIR in section 4.8 Hydrology and Water Quality analyzes the Project's resilience to flooding, and chapter 3 Project Description describes project design features that would adapt to climate change impacts.

Source: BCDC, 2012. *San Francisco Bay Plan.* http://www.bcdc.ca.gov/laws_plans/plans/sfbay_plan#25, accessed April 3, 2012.

TABLE 4.9-2 EBRPD MASTER PLAN POLICIES AND CONSISTENCY WITH PROPOSED PROJECT

Policy	Consistency
Natural and Cultural Resources	
EBRPD will maintain, manage, conserve, enhance, and restore park wildland resources to protect essential plant and animal habitat within viable, sustainable ecosystems	The Proposed Project would be consistent with this policy, by restoring and enhancing wetlands, native plants, and habitat.
EBRPD will maintain and manage vegetation to conserve, enhance, and restore natural plant communities; to preserve and protect populations of rare, threatened, endangered, and sensitive plant species and their habitats; and, where possible, to protect biodiversity and to achieve a high representation of native plants and animals.	The Proposed Project would be consistent with this policy, by restoring and enhancing wetlands, native plants, and habitat.
EBRPD will evaluate eucalyptus, pine and cypress plantations, and shrubland or woodland areas occurring along the wildland/urban interface on a case-by-case basis for thinning, removal, and/ or conversion to a less fire-prone condition. EBRPD will construct and maintain fuel breaks, as necessary, to manage hazardous fuels and contain wildfires. EBRPD will minimize the widespread encroachment of monotypic stands of coyote brush, poison oak, and broom on park land.	The Project site contains a grove of eucalyptus trees near Albany Beach (Area 2). Hazardous eucalyptus trees would be removed, with select pruning of remaining eucalyptus to remove hazardous branches. The eucalyptus grove on the site is isolated, and does not present a major wildfire hazard.
EBRPD will conserve, enhance, and protect native animal species and enhance their habitats to maintain viable wildlife populations within balanced ecosystems. Non-native and feral animals will be managed to minimize conflicts with native wildlife species.	The Project would remove invasive species and replant native species. The dune/wetland complex at Albany Beach (Area 2) would be fenced to prevent access. Dogs would be permitted on leash only consistent with EBRPD policies.
EBRPD will conserve, enhance and restore native fish and amphibian populations and their habitats; will develop aquatic facilities, where appropriate, to create a wide variety of fisheries; will monitor fisheries resources to determine species composition, size, population, and growth rates; and will cooperate with the State Department of Fish and Game to conserve, enhance and manage its fisheries resources for ecological and recreational benefit.	The Project would include habitat reefs in the subtidal area, which would enhance aquatic species. Wetland enhancement would benefit amphibian habitats.
EBRPD will identify, evaluate, conserve, enhance, and restore rare, threatened, endangered, or locally important species of plants and animals and their habitats, using scientific research, field experience, and other proven methodologies. Populations of listed species will be monitored through periodic observations of their condition, size, habitat, reproduction, and distribution. Conservation of rare, threatened, and endangered species of plants and animals and their supporting habitats will take precedence over other activities, if EBRPD determines that the other uses and activities would have a significant adverse effect on these natural resources.	Section 4.3 of this EIR, Biological Resources, provides this information and concludes that with avoidance and minimization measures included in the Project, and suggested mitigation measures there would not be a significant adverse effect.
Park water resources will be used for beneficial purposes. Water quality will be monitored to comply with established standards. EBRPD will participate in cooperative efforts to plan comprehensive watershed management, and will adopt "best management practice" guidelines for EBRPD land use activities to minimize potential storm water pollution. EBRPD will monitor land use planning and development activities by other agencies and cities to avoid potential adverse impacts to park land from pollutants generated by offsite or upstream sources.	Water quality is generally only monitored by EBRPD at swimming beaches and drinking water springs and wells. There are no plans to monitor water quality or adjacent land activities at Albany Beach as it is affected by factors beyond EBRPD's control such as Codornices

Policy	Consistency
	Creek, Cerrito Creek, Schoolhouse Creek, and San Francisco Bay water pollutants. BMPs would be employed during Project construction and post-construction to reduce sedimentation. Parking lots would drain to drainage swales. The restroom would be placed above the FEMA 100-year flood elevation, with a watertight vault.
EBRPD will manage riparian and other wetland environments and their buffer zones to preserve and enhance the natural and beneficial values of these important resources and to prevent the destruction, loss, or degradation of habitat. EBRPD will participate in the preservation, restoration, and management of riparian and wetland areas of regional significance, and will not initiate any action that could result in a net decrease in park wetlands. EBRPD will encourage public access to the Bay/Delta shoreline, but will control access to riparian and wetland areas, when necessary, to protect natural resources.	Riparian and wetland environments would be maintained and managed under the Proposed Project. The Project would result in wetland enhancement. Fences would prevent human (and canine) intrusion into wetland areas.
EBRPD will identify existing and potential erosion problems and take corrective measures to repair damage and mitigate causative effects. EBRPD will manage the parks to assure that an adequate cover of vegetation remains on the ground to provide soil protection. Where vegetative cover has been reduced or eliminated, EBRPD will take steps to restore it, using native or naturalized plants adapted to the site. EBRPD will minimize soil disturbance associated with construction and maintenance operations and avoid disruptive activities in areas with unstable soils, whenever possible. EBRPD will arrest the progress of active gully erosion, where practical, and take action to restore these areas to stable conditions. EBRPD will notify adjacent property owners of potential landslide situations on EBRPD lands to warn of potential risks and conform with applicable law, and will protect important geological and paleontological features from vandalism and misuse.	Existing and potential erosion problems are identified in Section 4.8 Hydrology and Water Quality of this EIR. After weeding, areas would be replanted. Existing and potential landslides are discussed in Section 4.5 Geology and Soils of this EIR. There are no important geological features, and fossils would be protected according to the mitigation measures identified in this EIR.
EBRPD will conserve, enhance, and restore biological resources to promote naturally functioning ecosystems. Conservation efforts may involve using controlled grazing, in accordance with Wildland Management Policies and Guidelines, prescribed burning, mechanical treatments, integrated pest management, and/or habitat protection and restoration. Restoration activities may involve the removal of invasive plants and animals or the reintroduction of native or naturalized species adapted to or representative of a given site.	The Proposed Project includes habitat protection and restoration. Restoration would involve removal of invasive plants and animals and reintroduction of native species.
Plant and animal pest species will be controlled by using integrated pest management (IPM) procedures and practices adopted by the Board of Directors. EBRPD will employ integrated pest management practices to minimize the impact of undesirable species on natural resources and to reduce pest related health and safety risks to the public within developed facilities and/or high-use recreational areas.	IPM procedures and practices adopted by the Board of Directors would be employed as per Chapter 3 Project Description of this EIR.
EBRPD will maintain a current map and written inventory of all cultural features and sites found on park land, and will preserve and protect these cultural features and sites "in situ," in accordance with Board policy. EBRPD will evaluate significant cultural and historic sites to determine if they should be nominated for State Historic Landmark status or for the National Register of Historic Places; may acquire cultural and historic resource sites when they are within lands that meet parkland acquisition criteria; and will maintain an active archive of its institutional history and the history of its parklands and trails.	EBRPD has evaluated the site for cultural resources and this information is contained in 4.4 Cultural Resources of this EIR. The Trail has been designed to avoid known cultural resources. If any unknown subsurface archaeological resources are revealed during Proposed Project construction, mitigation

Policy	Consistency
	measures described in this EIR would be employed to prevent their destruction.
Public Access and Services	
EBRPD will provide access to parklands and trails to suit the level of expected use. Where feasible, EBRPD will provide alternatives to parking on or use of neighborhood streets.	EBRPD would provide bicycle parking racks and an adequately-sized vehicle parking lot, as described in Section 4.13 Transportation and Traffic of this EIR.
EBRPD will provide areas and facilities that serve the recreational needs of park users, in accordance with the plans, policies, and park classifications adopted by the Board of Directors. EBRPD will generally not develop or provide facilities that are more appropriately provided by local recreational and park agencies. Where possible and appropriate, EBRPD will provide multiple-use facilities to serve recreational needs.	EBRPD would provide appropriate areas and facilities, in the form of enhanced beach and dunes, an enhanced multi-use Bay Trail spur, and a new segment of multi-use Bay Trail spine, which are consistent with the Eastshore State Park General Plan and the Bay Trail Plan.
EBRPD will expand its comprehensive trail system by providing more hiking and equestrian narrow trails and more multiple-use paved and unpaved trails. A primary objective will be to provide inter-connecting trails and to link the regional parks through a EBRPD-wide system of trails.	The Proposed Project satisfies a primary objective of providing an inter-connecting trail by closing a gap in the Bay Trail between Buchanan and Gilman Streets.
EBRPD will expand its unpaved multi-use trail system as additional acreage and new parks are added. EBRPD will continue to provide multi-use trails to link parks and to provide access to park visitor destinations.	The multi-use Bay Trail spur on the Albany Neck (Area 1) would be surfaced with a semi-permeable material. The spine of the Bay Trail (Area 3) Main Trail would be a multi-use trail that links adjacent portions of the Eastshore State Park and enhances access to visitor destinations.
EBRPD will continue to develop group and family picnic facilities throughout the parks system.	The Proposed Project would contain three picnic tables in a new picnic facility at Albany Beach (Area 2).
EBRPD will continue to plan, develop, and provide a regional system of aquatic facilities at parks that can support these activities. EBRPD will strive to improve public access to lakes and to the San Francisco Bay and Delta shorelines for boating and fishing, and will increase access to swimming beaches.	The Proposed Project would provide direct access to the Bay via the spine and spur Bay Trail (Areas 1 and 3, respectively), and would provide watercraft and beach access at Albany Beach (Area 2).

Source: EBRPD Master Plan, 1997.

TABLE 4.9-3 BAY TRAIL POLICIES AND CONSISTENCY WITH PROPOSED PROJECT

Policy	Consistency
Trail Alignment Policies	
1. Ensure a feasible, continuous trail around the Bay.	The Proposed Project supports this policy by completing a gap in the Trail between Buchanan and Gilman Streets.
2. Minimize impacts on and conflicts with sensitive environments.	Fencing or buffers would be installed to protect restored or enhanced habitat along the shoreline (Area 1), and associated with the dune/wetland complex at Albany Beach (Area 2).
3. Locate Trail, where feasible, close to the shoreline.	The spine and spur trail segments would be located as close to the shoreline as possible, on an alignment similar to that shown in the Bay Trail Plan.
5. Investigate water trails as an enhancement to the Trail system where necessary or appropriate.	The proposed project includes water access for non-motorized boats at Albany Beach (Area 2).
8. Where existing trails through wetlands are well-maintained and well-managed, the Bay Trail can feasibly be routed there. In these cases, trails should be used according to current regulations. Alternate routes should be provided where necessary and additional buffering/transition areas designed to protect wetland habitats should be provided where appropriate to protect wildlife.	The trail would be an EBRPD trail that would serve as a section of the Bay Trail. It would be subject to EBRPD rules and regulations. The trail would not be located on or within existing wetlands. Buffering or fencing would be provided where the trail is adjacent to enhanced habitat areas.
9. In selecting a trail alignment, use existing stream, creek, slough, and river crossings where they are available. This may require bridge widenings in some locations. In selecting trail alignments, new stream, creek, and slough crossings should be discouraged. Where necessary because acceptable alternatives do not exist, bridging may be considered.	The Proposed Project would not involve any stream, creek, slough, or river crossings.
10. In order to minimize the use of existing staging areas along the shoreline and to reduce the need for additional staging areas, the choice of trail alignment should take full advantage of available transit, including rail service (e.g., Caltrain, BART), ferries, and bus service.	AC Transit bus service is available on Buchanan east of I-80, approximately one half mile east of the project site. The closest BART station is El Cerrito Plaza, approximately 2 miles northeast.
11. Connections to other local and regional trail and bikeway systems should be actively sought in order to provide alternatives to automobile access to the Bay Trail. In particular, opportunities should be explored for trail connections to the Bay Area Ridge Trail, which is envisioned to circle the Bay along the region's ridgelines.	The trail would close a gap in the Bay Trail, providing a continuous bicycle route along the east bay shoreline, and would provide access to the Buchanan Bicycle and Pedestrian Path along Buchanan Street.
Trail Design Policies	
12. Provide access wherever feasible to the greatest range of trail users on each segment.	The trail would be a multi-use trail for pedestrians, bicyclists, dogs on leash, and would be wheelchair accessible.
13. Wherever possible, new trails should be physically separated from streets and roadways to ensure the safety of trail users.	The spur trail (Area 1) would be physically separate from roadways, and the spine trail (Areas 2 and 3) would be physically separated or separated from the roadway by a post and cable barrier or chain link fence.

Policy	Consistency
14. Create a trail that is as wide as necessary to accommodate safely the intended use, with separate alignments, where feasible, to provide alternative experiences.	The spur trail (Area 1) and spine trail (Area 3) would be 10 feet wide with two 2-foot shoulders (14 foot width) through most of their length. This would accommodate pedestrians, bicyclists and wheelchairs.
15. Highlight the interpretive potential of certain trail segments, including opportunities for interpretation, education, rest, and view enjoyment.	Interpretative signs would be positioned at several locations on the trail.
16. Incorporate necessary support facilities, using existing parks, parking lots, and other staging areas wherever possible.	There would be a new parking lot and restroom at Albany Beach (Area 2). These facilities would be near and accessible from the existing turnaround and parking area at the terminus of Buchanan Street.
17. Design new segments of trail to meet the highest practical standards and regulations, depending on the nature and intensity of anticipate use, terrain, existing regulations, and standards on existing portions of the trail.	The trail would be built to EBRPD standards. The spine trail (Area 3) and spur trail (Area 1) would be 10 feet wide with two 2-foot shoulders through most of their length.
18. Minimum and maximum standards by use, width, surface, etc. should be developed, to ensure safe enjoyment of the trail and compatibility with surroundings and existing facilities, and to encourage use and design of surfaces for which long-term maintenance will be cost-effective.	The Trail would be built to EBRPD standards given the expected number of trail users.
19. Design and route the trail to discourage use of undesignated trails.	Appropriate segments of the trail would be fenced to discourage use of undesignated trails.
20. A consistent signing program should be established throughout the trail system, using a Bay Trail logo which will identify trails within the Bay Trail system as distinct from other connecting trails. The choice of materials used should be the concern of the individual implementing jurisdictions and agencies.	Bay Trail signs would be displayed along the trail, together with EBRPD signs.
21. The Bay Trail signing program may include necessary cautionary and regulatory signing, including warnings of seasonal trail closings and other restrictions on trail use. Interpretive signing may be provided to help educate trail users about the surrounding environment and the importance of observing trail use restrictions and staying on designated trails.	EBRPD would provide interpretative signing and trail rules.
22. The trailhead signing program may include a variety of information which will enhance the Bay Trail experience. This may include a description of the length and relative difficulty of the trail as a guide for trail users with mobility limitations, available support facilities, available access to other connecting trails, and a description of the habitat resource which emphasizes interpretive information as well as the need to observe posted trail use restrictions.	EBRPD would provide interpretative signing and trail rules.
Environmental Protection Policies	
23. To avoid impacts in wetlands habitats, the Bay Trail should not require fill in wetlands, and should be designed so that use of the trail avoids adverse impacts on wetland habitats.	The Project would expand and enhance the existing wetland at Albany Beach (Area 2), leading to a net benefit. The trail would avoid this wetland.

Policy	Consistency
24. Future support facilities serving the Bay Trail should be designed and constructed in such a manner that they do not impact fish and wildlife resources, especially wetlands. These facilities should be located and designed in a way that no fill of wetlands will be required.	Support facilities would consist of a new parking lot, picnic area, non-motorized watercraft access, restroom, bicycle racks, and signage. These support facilities would be designed and constructed in such a manner that they do not impact fish and wildlife resources, including the wetlands at Albany Beach (Area 2). The Project would expand and enhance the existing wetland at Albany Beach (Area 2), leading to a net benefit.
25. The Bay Trail should not be defined as a continuous asphalt loop at the Bay's edge, but as a system of interconnecting trails, the nature of which will vary according to the locale and the nature of the terrain and resources in the vicinity of each particular trail segment.	The Bay Trail spine (Areas 2 and 3) would connect to the existing Bay Trail at Buchanan Street on the north and Gilman Street on the south. It would be similar in design to other EBRPD trails and appropriate for the location.
26. The path will not always follow the Bay shoreline; inland reaches may be more appropriate, especially for bicycle travel, in some parts of the San Francisco Bay region.	The trail alignment is as close to the shoreline as feasible and connects with Buchanan Street on the north and Gilman Street on the south, which facilitates longer distance bicycle travel. The nearest inland routes would be less direct, and therefore less appropriate for bicycle travel, than the shoreline trail alignment.
27. The path should be designed to accommodate different modes of travel (such as bicycling and hiking) and differing intensities of use, possibly requiring different trail alignments for each mode of travel, in order to avoid overly intensive use of sensitive areas.	The trail is designed for bicycling and hiking. It does not preclude the establishment of another segment of Bay Trail inland along City Streets that would facilitate more rapid commuting.
28. Where the alignment of the Bay Trail may more appropriately be located away from the shoreline in order to protect particularly sensitive habitats, access to shoreline areas may be possible by connecting the Bay Trail to existing loop trails and other interpretive facilities. These access points should be planned and designed to make clear the distinction between the continuous Bay Trail and the interpretive trail. (Features may include different trail surfaces, marked entry points to interpretive areas, expanded facilities for education and shoreline interpretation, signage, regulation and enforcement of regulations.)	The Bay Trail spine and spur of the Proposed Project are both located near the shoreline.
Transportation Access Policies	
Implementation Policies	
35. Domestic pets should be prohibited on new trails if the managing agency determines that their presence would conflict with habitat values or other recreational users. This prohibition is not intended to apply to service animals such as guide dogs.	In accordance with EBRPD policy, dogs would be allowed on leash on the Bay Trail spur (Area 1) and spine (Area 3) of the Proposed Project. The dune/wetland complex at Albany Beach (Area 2) would be fenced to prevent dog intrusion.

Source: San Francisco Bay Trail Plan, adopted 1989. http://www.baytrail.org/baytrailplan.html.

San Francisco Bay Area Water Trail Plan

The San Francisco Bay Area Water Trail Project strives to create a network of launch and landing sites, or "trail heads," to allow people in human-powered boats and beachable sail craft to enjoy the historic, scenic and environmental richness of San Francisco Bay through continuous, multiple-day and single-day trips on the Bay. The San Francisco Bay Area Water Trail Plan is a guide to trail implementation for the agencies and organizations that will develop and manage water trail access points and programs, as well as trail proponents and other stakeholders also involved in implementation. The 2011Enhanced San Francisco Bay Area Water Trail Plan[151] identifies one access point in the Proposed Project site: the existing launch site at Albany Beach.

City of Albany

Three key City planning documents provide guidance for the future of the waterfront: the City of Albany 1990-2010 General Plan, the City of Albany Municipal Code, and a 1995 proposal for the portion of the project site within the City of Albany. In addition, the *Voices to Vision* community engagement process for the Albany Waterfront is discussed below.

City of Albany General Plan 1990-2010. The General Plan goal for the waterfront is to: "Achieve a complimentary mix of private and public use at the Albany Waterfront which provide for maximum feasible open space, recreation and public access to the waterfront area." **Table 4.9-4** contains relevant policies from the Albany General Plan 1990-2010 and an assessment of the Project's compatibility with them.

City of Albany Municipal Code (Chapter XX Planning and Zoning, Section 20.12.070). All of the City of Albany portion of the Project site is within the WF (Waterfront) zoning district, which provides for the water-oriented uses called for in the Waterfront Master Plan, as well as the open space conservation, parks and recreation, and commercial recreation uses outlined in the Land Use Element and the Conservation Recreation and Open Space Element of the General Plan, in the area west of the Interstate 80 and 580 Freeways. Permitted uses include gaming and associated uses as authorized and regulated through a 1994 Development Agreement. Conditionally permitted uses include: commercial recreation; waterfront and sports-related commercial sales and services; restaurant/bars; commercial parking lots; marinas and boat launching ramps and related uses; parks, golf courses, open space areas and other recreational facilities; and public utility and public service structures and installations.

The zoning designation codifies the requirements of Measure C, the Citizens Waterfront Approval Initiative, which was approved by voters in June 1990. This measure mandates that any amendment to the existing General Plan waterfront land use designations, Waterfront Master Plan or other specific plan for the waterfront area, waterfront zoning, or development agreement for the waterfront area, will require passage of a ballot measure approved by a majority of the City's voters.

The Proposed Project would require acquisition or condemnation (as authorized by California Public Resources Code Section 5003.03) of a 2.8-acre portion of Area 2 located east of Albany Beach (within the city of Albany), as well as the Bay Trail alignment in Area 3 (part of which is in the City of Albany). Upon acquisition, these areas would become part of the Eastshore State Park, and therefore not be subject to local land use jurisdiction.

[151] California State Coastal Conservancy, Adopted March 17, 2011. *Enhanced San Francisco Bay Area Water Trail Plan,* http://scc.ca.gov/webmaster/project_sites/watertrail/enhanced-water-trail-plan-final.pdf **Error! Hyperlink reference not valid.**, accessed 19 May 2012.

TABLE 4.9-4 ALBANY GENERAL PLAN 1990-2010 PLAN GOALS AND POLICIES, AND CONSISTENCY WITH THE PROPOSED PROJECT

#	Policy/Action	Consistency
Conservation, Recreation and Open Space Element		
Goal CROS 5	Continue to value the importance of the Albany Waterfront area and shoreline as a place of scenic beauty.	The Project would retain the open space uses of the site, and preserve or enhance the aesthetic and habitat values at the Project site.
Policy CROS 5.1	Consider the scenic and visual importance of the waterfront area in any future private and public development.	The Project would retain the open space uses of the site, and preserve or enhance the aesthetic and habitat values at the Project site.
Policy CROS 5.2	Further preserve the scenic value of the Albany shoreline by prohibiting construction of any building or structure within a 100 foot minimum of the shoreline.	The only structure of the Project is a two-stall restroom, which would be located more than 100 feet from the shoreline of Albany Beach.
Goal CROS 7	Achieve a complimentary mix of private and public uses at the Albany Waterfront which provide for maximum feasible open space, recreation and public access to the waterfront area.	The Proposed Project would maintain the existing open space at the Project site, and would enhance recreational opportunities and public access.
Policy CROS 7.1	Implement the Bay Trail Plan along the Albany shoreline. Work with the landowner, the track operator, appropriate citizen and environmental groups, the State Department of Parks and Recreation, Caltrans, the East Bay Regional Park District, the Coastal Conservancy and ABAG to achieve this goal.	The Project would construct a segment of the Bay Trail in Albany in accordance with the Bay Trail Plan.
Policy CROS 7.2	Consider the important, surrounding wildlife and vegetation resources that must be adequately protected when developing the alignment of the Bay Trail.	The Project would construct a segment of the Bay Trail in Albany in accordance with the alignment identified in the Bay Trail Plan, and would enhance both upland and subtidal habitat. The Project includes fencing and signage to protect sensitive habitat.
Policy CROS 7.3	Require that public access to the shoreline and to Albany Point be a part of any future waterfront development plans, and that future automobile, pedestrian and bicycle access be consistent with and coordinated with future State and regional park and open space plans at the Waterfront.	The Project enhances public access to the shoreline and Albany Point, and includes automobile, pedestrian and bicycle access that is consistent with the Eastshore Park General Plan, the Bay Trail Plan, the Bay Plan, and East Bay Regional Park District policies.
Policy CROS 7.4	Continue to work with the State Department of Parks and Recreation, the cities of Emeryville and Berkeley, and other State regional, and local agencies to develop the former Albany landfill site into a State Waterfront Park and to develop the first phase of the Eastshore State Park.	The Project would implement a portion of the Eastshore State Park, in a manner consistent with the Eastshore Park General Plan, the Bay Trail Plan, the Bay Plan, and East Bay Regional Park District policies.
Policy CROS 7.5	Work closely with EBRPD, the cities of Berkeley, Emeryville, Richmond and Oakland, and other State, regional and local groups to complete the acquisition, planning and development of the Eastshore State Park.	The Project would implement a portion of the Eastshore State Park, in a manner consistent with the Eastshore Park General Plan, the Bay Trail Plan, the Bay Plan, and East Bay Regional Park District policies.

1995 Proposal for the Albany Portion of the Eastshore State Park. In 1995 the City of Albany submitted a proposal to EBRPD that was intended to serve as a statement of the City's recommendations and guidance for the development of the Albany portion of the project site. The proposal, which is consistent with Albany's General Plan 1990-2010, provides specific sub-area recommendations for land use and conservation, and was incorporated into the 2002 Eastshore State Park General Plan.

Voices to Vision. For many years the City of Albany and its residents have discussed plans for the Albany Waterfront, which includes City-owned lands and the privately held lands where Golden Gate Fields is located. In March 2008, the City hired consultants to develop and facilitate a process to educate and engage residents in identifying a shared vision for the future of the waterfront. The result of this process is *Voices to Vision*, a comprehensive report published in 2010 that summarizes the public engagement process and provides guidelines for realizing the community vision for the waterfront. These guidelines do not override current zoning or previously approved planning documents, such as the Eastshore State Park General Plan, but rather reflect a vision that appears to be supported by a majority of residents. *Voices to Vision* includes eleven illustrative site concepts, several of which overlap with the Albany Beach project area. Six of the site concepts include some kind of proposed activity and/or redevelopment of the Fleming Point Pier for public access. All eleven concepts include completion of the Bay Trail along the shoreline between Gilman Street in Berkeley and Buchanan Street in Albany.

City of Berkeley

The City of Berkeley has actively supported and planned for the recreational uses of its waterfront. City policy calls for publicly-owned waterfront land to be held as permanent open space. Key City of Berkeley documents guiding land use within the project site include: the City of Berkeley 2002 General Plan, 1986 Waterfront Master Plan (Amendment to the City's Master Plan), and Measures Q and N.

City of Berkeley 2002 General Plan. The General Plan elements adopted in 2002 describe waterfront land use in the City of Berkeley. For land within the project site, a discussion of "planning considerations" is presented without detailed land use policy. The General Plan also emphasized the need to unify park programming between different jurisdictions. The General Plan designates the waterfront areas west of I-80 and north of Gilman Street (the southern portion of Area 3 of the proposed project) as Waterfront/Marina. The objective of the "Waterfront/Marina" designation is to maintain and preserve areas adjacent to the bay for "open space, recreational uses, waterfront-related commercial and visitor services, boating, and water transit facilities."

City of Berkeley Zoning. All of the City of Berkeley portion of the Project site is zoned SP (Specific Plan). The specific Plan applicable to the Project site is the Waterfront Master Plan, which is discussed below.

1986 Waterfront Master Plan and Measures Q and N. The 1986 Waterfront Master Plan, and Measures Q and N, which serve as the Plan's implementing ordinances, are the primary policy documents for non-open space land use along the Berkeley waterfront. Land use policy in the 1986 Waterfront Master Plan includes objectives for continuous shoreline access and an increase in the quantity and quality of open space for habitat and recreation. The 1986 Waterfront Master Plan stipulated limits on commercial development on the Golden Gate Fields property, and requires a continuous 100-foot shoreline setback for public access purposes. Measure Q (adopted in 1986), as modified by Measure N (adopted in 2002), require that amendments to the Waterfront Master Plan be submitted to a vote of the people of Berkeley. **Table 4.9-5** contains relevant policies from the Berkeley Waterfront Master Plan and an assessment of the Project's compatibility with them.

TABLE 4.9-5 BERKELEY WATERFRONT MASTER PLAN (1986) GOALS AND POLICIES, AND CONSISTENCY WITH THE PROPOSED PROJECT

#	Goal/Policy	Consistency
Goals		
Goal 1	Establish the waterfront as an area primarily for recreational, open space, and environmental uses, with preservation and enhancement of beaches, marshes, and other natural habitats.	The Project would consist of recreational, open space, and environmental uses, and would preserve and enhance Albany Beach and enhance subtidal habitats.
Goal 2	Develop the waterfront as part of a continuous east bay shoreline open space system.	The Project would develop the waterfront as part of a continuous east bay shoreline open space system, by implementing a portion of the Eastshore State Park, in a manner consistent with the Eastshore Park General Plan and the Bay Trail Plan.
Goal 5	Establish uses and activities that reflect and enhance the unique character of the waterfront and foster the community's relationship with the shoreline.	The Project would consist of recreational, open space, and environmental uses, which reflect and enhance the unique character of the waterfront and foster the community's relationship with the shoreline.
Waterfront Land Use Policies		
Policy W-1	Preserve and protect the open space, views, wetlands, mudflats, seasonal ponds, creeks, meadows, and beaches of the Berkeley waterfront.	The Project would consist of recreational, open space, and environmental uses, which would preserve and protect the open space and views of the project portion of the Berkeley waterfront.
Policy W-2	Restore and improve the features of the natural environment so that the waterfront approximates the character of the original shoreline wherever feasible.	The Project would not substantially alter the natural environment along the Bay Trail (Area 3), and would restore and enhance natural features at Albany Beach (Area 2) and the Albany Neck (Area 1).
Policy W-4	Express the primary recreational, open space and environmentally significant character of the waterfront.	The Project would consist of recreational, open space, and environmental uses, which would express the primary recreational, open space and environmentally significant character of the waterfront.
Policy W-5	Create an environment, which enhances the unique qualities of Berkeley's waterfront and its special meaning to the city and region.	The Project would consist of recreational, open space, and environmental uses, which would enhance the unique qualities of Berkeley's waterfront and its special meaning to the city and region.
Policy W-16	Provide transition of Berkeley's waterfront to the waterfront development in Albany and Emeryville.	The Project would provide a consistent transition between waterfront development in Berkeley and Albany.

#	Goal/Policy	Consistency
Policies for Uses		
Policy W-19	Waterfront Recreation and Open Space These are priority uses for the Waterfront. They should encompass a range of recreational and environmental uses, including: • Continuous shoreline public accesses band of at least 100 feet in width, with an additional setback of up to 100 feet for structures, wherever possible • Wildlife habitat • Recreational uses for people of different ages, classes, cultures, and abilities. • Water recreational uses, including protection of shoreline areas used for fishing from the impact of motor boats • Between 20 and 25 acres of playing fields • Active recreation facilities such as a play-learning center, and play structures for children. • Berkeley Beach is a high priority whether in the short or long term. It should not be precluded by short-term development or other uses. • Facilities for cultural activities and the arts, such as galleries and performance spaces, to be integrated within the development so that visitors may enjoy the rich cultural diversity of Berkeley and local artists may profit from their patronage. • Other public uses may be considered in the future provided they share a relationship with the Waterfront and the Berkeley community, involve facilities, structures, and the land uses which are minimal in nature, and provided that the feasibility and benefits of such proposed uses are weighed against the private and public uses already considered and against other competing similar uses.	The Project would provide: • A continuous shoreline public accesses band. The only Project structure would be a two-stall restroom, which would be set back from the shoreline by at least 100 feet. • Wildlife habitat • Recreational uses for people of different ages, classes, cultures, and abilities • Water recreational uses, including a launching facility at Albany Beach (Area 2) for non-motorized boats

#	Goal/Policy	Consistency
Policies for Locations		
Policy W-20	Stables Area (Gilman to the Albany Border) The easterly area is designated for development of a hotel or other lodging of up to 250 rooms (up to 165,000 square feet) with related restaurants and food services (up to 10,000 square feet) on a 20-acre site during the second phase of the development. The shoreline band of open space and public access should connect to Fleming Point in Albany. Other possible uses in the Stable Area include a composting facility north of the hotel provided the facility is properly screened and all environmental concerns are met.	The Proposed Project would be located along the shoreline of the Stables Area, and would provide open space and public access connecting with Fleming Point in Albany.
Circulation Policies		
Policy W-24	Improve bicycle, pedestrian, and disabled access to and circulation within the waterfront, while avoiding conflict with vehicular circulation. These routes should serve commuter as well as recreational needs.	The Proposed Project would improve bicycle, pedestrian, and disabled access to and circulation within the waterfront, while avoiding conflict with vehicular circulation, by closing a gap in the Bay Trail between Buchanan and Gilman Streets, and by providing disabled access to Albany Neck and Albany Beach, and along the new Bay Trail segment. The Bay Trail portion of the project would serve commuter as well as recreational needs.
Policy W-25	Create a continuous view of the San Francisco Bay and the Golden Gate Bridge for those who travel along the waterfront.	The Proposed Project would create a continuous view of the San Francisco Bay and the Golden Gate Bridge for those who travel along the waterfront by closing a gap in the Bay Trail between Buchanan and Gilman Streets.
Policy W-28	Create pedestrian areas entirely separated from automobiles.	The Bay Trail spine (Area 3) and spur (Area 1) of the Project would be separated from automobiles.
Policy W-31	Link different parts of the waterfront by pedestrian and bicycle paths that are separated from traffic corridors.	The Proposed Project would link different parts of the waterfront with a pedestrian and bicycle path that is separated from traffic corridors, by closing a gap in the Bay Trail between Buchanan and Gilman Streets.
Conservation / Recreation / Open Space Policies		
Policy W-39	Restore and improve natural and cultural resources and environmentally sensitive areas, such as mudflats, wetlands and the marine environment.	The Proposed Project would restore and enhance upland habitat and sensitive areas such wetlands and the marine environment.
Policy W-43	Enhance popular understanding of natural process, the marine environment, and the history and significance of the Berkeley waterfront.	The Proposed Project would include interpretive exhibits to enhance popular understanding of natural process, the marine environment, and the history and significance of the waterfront.

#	Goal/Policy	Consistency
Policy W-45	Enhance public access to the Bay, by providing a continuous shoreline open space, creating a variety of water's edge experiences, and improving the opportunity for linear recreation activities such as jogging, bicycling, sightseeing, walking and wheelchair access.	The Proposed Project would enhance access to the Bay, by providing a Bay Trail spur and closing a gap in the Bay Trail between Buchanan and Gilman Streets to create a continuous pedestrian and bicycle path along the water's edge with opportunities for linear recreation, as well as providing wheelchair access and enhancing Albany Beach and its recreational opportunities.
Policy W-46	Provide a variety of recreational, educational, and cultural activities appropriate to this unique waterfront setting.	The Proposed Project would enhance opportunities for a variety of recreational, educational, and cultural activities appropriate to its waterfront setting.
Policy W-47	Help to meet Berkeley's and the region's future needs for open space and recreation.	The Proposed Project would preserve and enhance open space and opportunities for recreation at the site.
Policy W-49	Link with and complement recreational activities at Ceasar Chavez North Waterfront Park, Aquatic Park and the Marina.	By closing a gap in the Bay Trail between Buchanan and Gilman Streets, the Project would link Albany and areas to the north with, and complement recreational activities at, Ceasar Chavez North Waterfront Park, Aquatic Park and the Marina.
Policy W-50	Encourage water-related sports especially appropriate for this setting.	The Project would provide a non-motorized watercraft access for water-related sports that are appropriate to the Project setting.
Policy W-51	Minimize the use of rip-rap wherever possible, subject to shoreline stability requirements.	The existing concrete rubble and debris along the Albany Neck (Area 1) would be removed, and replaced by a stabilized rock toe, rock shoreline revetment with soil cap, crenulated sandy shoreline and subtidal habitat areas, and revegetation with native species. Replacement of the existing concrete rubble and debris (rip-rap) with stabilized rock toe, rock shoreline revetment with soil cap, and crenulated sandy shoreline would result in a net reduction of rip-rap at the Project site.
Location Policies		
Policy W-54	Establish a continuous shoreline public access band of at least 100 feet in width with improvements for bicycles, pedestrians, and the disabled.	The Project would close a gap in the Bay Trail between Buchanan and Gilman Streets to create a continuous shoreline public access band with improvements for bicycles, pedestrians, and the disabled.

#	Goal/Policy	Consistency
Safety Policies		
Policy W-66	Locate structures where there will be the least risk to life and property from seismic hazards: ground shaking, ruptures, liquefaction, and tsunami. Generally, confine development to the brickyard and north basin strip.	The only Project structure would be a two-stall vault toilet. The Project site is not located within an Alquist-Priolo Earthquake Fault Zone, and the risk of fault rupture is low. The risk from ground shaking and liquefaction would be reduced to a less than significant level by Eastshore State Park General Plan guidelines discussed in 4.5 Geology and Soils of this EIR. The bayside Project site is located within an area that is susceptible to tsunami damage and wave run up from the Pacific Ocean. However, the risk of tsunami damage to structures would be limited because the Project includes only one small restroom structure.
Policy W-67	Place no structures within the 100-foot setback from the water's edge, to minimize danger from slope failure.	The only structure of the Project is a two-stall restroom, which would be located more than 100 feet from the shoreline of Albany Beach.
Community Design Policies		
Policy W-78	Protect and enhance vistas and view corridors to and from the waterfront.	The fences of the Project would be designed not to obstruct views, and the Project would not otherwise detract from existing vistas and view corridors.
Policy W-78	Create an attractive and safe environment, which promotes pedestrian, wheelchair and bicycle use.	The Project trail segments would conform to East Bay Regional Park District trail standards, and the Project would include wheelchair access facilities and wheelchair accessible trails, which would create an attractive and safe environment that promotes pedestrian, wheelchair and bicycle use.
Development Design Policies		
Policy W-86	View corridors down east-west streets to the waterfront should be retained.	The Project would not affect view corridors down east-west streets to the waterfront.
Policy W-88	The Berkeley waterfront should have a pleasing connection to other areas on the east bay shoreline.	The trail would close a gap in the Bay Trail, providing a continuous route along the east bay shoreline, and connecting the Berkeley waterfront with shoreline areas in Albany and to the north.

The Proposed Project would require acquisition or condemnation (as authorized by California Public Resources Code Section 5003.03) the Bay Trail alignment in Area 3 (part of which is in the City of Berkeley). Upon acquisition, these areas would become part of the Eastshore State Park, and therefore not be subject to local land use jurisdiction.

Draft Berkeley 2002 Marina Plan and Waterfront Overview. The 2002 Draft Berkeley Marina Plan and Waterfront Overview, which had not been adopted at the time this EIR was prepared, sets forth detailed recommendations for the Marina peninsula, but does not encompass the Albany Beach project site.

Existing Conditions

Existing Land Use

Area 1 of the project site on the Albany Neck contains an unpaved spur of the Bay Trail and shoreline area, and is currently used for a variety of recreational purposes. The beach at Albany Beach (Area 2) is also used for recreation. Area 3 of the project site contains portions of the Golden Gate Fields access road and the "jockey lot" parking lot, as well as undeveloped shoreline and bluff areas. While there is no formally designated trail in Area 3, this area is accessible to the public and patrons of Golden Gate Fields. In addition to racetrack patrons and employees, it is used informally by bicyclists and pedestrians, who can access the area from both the north, at Albany Beach, and the south, at Gilman Street.

The main vehicular access to the Albany Neck (Area 1), Albany Beach (Area 2), and the northern portion of the proposed Bay Trail spine segment (Area 3) is from Buchanan Street. Vehicle access to the southern portion of proposed Bay Trail spine segment (Area 3) is from Gilman Street.

Existing Land Ownership

The project area is approximately 20 acres[152] and encompasses portions of multiple parcels owned by various public and private entities: the State of California, East Bay Regional Park District, the City of Albany, and Magna Entertainment Corporation (MEC), operators of the racetrack (see **Figure 4.9-1**). A portion of the southern limits of the Bay Trail may be within the City of Berkeley's Gilman Street right-of-way. The Beach (Area 2) and the subtidal baylands in the project area are co-owned by the State of California and EBRPD, as is portions of the Neck (Area 1). EBRPD owns the shoreline and intertidal land south of the Beach, including the base of Fleming Point Pier (the northern portion of Area 3). The City of Albany owns the Bulb and partially owns the vehicle access road along the south Neck leading to the Bulb. A 2.8-acre portion of Area 2 located east of Albany Beach and proposed as parking in Area 2, and the Bay Trail alignment in Area 3, are privately owned by the owners of Golden Gate Fields.[153,154]

Surrounding Land Ownership and Use

Figure 4.9-1 shows land ownership surrounding the project site.

Golden Gate Fields

The privately-owned Golden Gate Fields racetrack is located east of the project site. As discussed above, portions of the proposed project site are within the boundaries of the property owned by Golden Gate Fields.

- [152] The Eastshore State Park General Plan, page II-5, states that "The Albany portion of the park project includes approximately 613 acres of tideland and 65 acres of upland area." The 65 acres of upland area includes the entire Albany Beach, Neck, Bulb, and Plateau, while the Proposed Project includes only portions of the Albany Beach, Neck, Bulb, and Plateau.
- [153] Magna International Development (MID) agreed to purchase Golden Gate Fields from MEC in 2010; however, parcel records for Alameda County still list the property ownership as MEC Land Holding.
- [154] Implementation of the Project would require acquisition or condemnation of this privately owned property.

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East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.9-1

PROPERTY OWNERSHIP

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK

Albany Bulb and Buchanan Street Right-of-Way

As mentioned above, the Albany Bulb to the west of Albany Neck (Area 1) is owned by the City of Albany. The City partially owns the access road along the Neck that is located to the north of the Area 1.

Eastshore State Park

The shoreline area south of the project site is part of Eastshore State Park, which is jointly owned by the State of California Department of Parks and Recreation (CDPR) and East Bay Regional Park District (EBRPD).

Bay Trail

Existing segments of the Bay Trail are identified in the *Bay Trail Plan,* and are reproduced in **Figure 4.12-1**. From the northern portion of Albany Beach in the Project site, a spur of the Bay Trail extends westward along the Albany Neck (Area 1 of the Project site) to the Albany Bulb, and the spine of the Bay Trail extends eastward along Buchanan Street to the intersection with Interstate 580. From this intersection, the Bay Trail continues north to the City of Richmond. From Gilman Street at the southern end of the project site, the Bay Trail extends southward to the City of Oakland.

Standards of Significance

Land use and planning impacts associated with the Proposed Project would be considered significant if the Project would:

a. Physically divide an established community.

b. Create or exacerbate a conflict between land uses on the project site and in the surrounding area.

c. Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. In the event a conflict with an applicable land use plan, policy or regulation already exists, the land use and planning impacts associated with the Project would be considered significant if the Project would increase that conflict by substantially increasing the environmental impact that the policy, plan or regulation was meant to avoid or mitigate.

Impact Discussion

Project Analysis

a. Physically divide an established community.

The *Eastshore Park Project General Plan EIR* found that the Eastshore Park General Plan would not divide an established community or impede access to the commercial and recreation areas adjacent to the Eastshore Park site. The Albany Beach project also would not divide any established community or interfere with circulation, and would not result in any impacts not addressed in the *Eastshore Park Project General Plan EIR*. There would therefore be *no impact*.

b. Create or exacerbate a conflict between land uses on the project site and in the surrounding area.

Open Space/Urban Land Interface. The *Eastshore Park Project General Plan EIR* found that development of formal recreation, conservation, and preservation areas through implementation of the General Plan would be compatible with existing residential, industrial, and commercial land uses adjacent to the project site (see guideline VISIT-1, reproduced below), and that conflicts that could occur from the juxtaposition of parkland

and urbanized areas could be ameliorated through design, such as fences, paved areas, and signage that would be proposed in future project-specific plans for individual components of the General Plan.

> *VISIT-1: Prepare a Specific Project Plan for each management zone in order to establish the nature, scale, and location of new visitor facilities and associated services, including facilities related to recreation, interpretation and education, visitor services, and operations. Such facilities and associated services must reflect the intent of the land use designations of the park project with respect to resource protection, permitted uses, intensity of uses, and access. Specific Project Plans will also specify where and how utilities (e.g., sewer, water, and drainage) will be provided.*

A project-specific impact that is not addressed in the *Eastshore Park Project General Plan EIR* is the potential for conflicts between activities at the Golden Gate Fields racetrack and users of the new Bay Trail segment in Area 3. The proposed project would create a formal Bay Trail segment along the shoreline, adjacent to the Golden Gate Fields access road and parking lots, and upgrade and add amenities in Areas 1 and 2 of the Project site that could increase formalized use of the portion of the project site adjacent to Golden Gate Fields. Under current conditions, the public uses the project site, including access roads and parking areas operated by the racetrack along the Bay Trail alignment in Area 3, for walking and biking, and some users park next to the "jockey" parking lot near the entrance to the racetrack. This public usage is currently unmanaged, with the potential for conflicts between patrons and employees of the racetrack, and the public, including bicyclists/pedestrians and vehicles. The proposed project would create a new parking lot for project users and provide clearly designated trails, with fences and signage, that would define the boundaries between Golden Gate Fields and public lands, and channel trail and park users to the developed park facilities. Compared to existing conditions, this could reduce traffic/access and land use conflicts between project users and Golden Gate Fields. Therefore, this impact would be *less than significant*.

New Land Uses Within the Park. The *Eastshore Park Project General Plan EIR* found that implementation of the General Plan would result in the juxtaposition of a variety of new land uses within the park, but that the General Plan contains guidelines OPER-4, CAPACITY-1, and CAPACITY-3, reproduced below, that would eliminate or reduce these impacts to a less than significant level. Existing EBRPD policies and operations govern the park. These include implementation of the EBRPD's Master Plan, Operating Agreement,[155] Ordinance 38, and EBRPD-wide administration of park operations, which satisfy OPER-4 and CAPACITY-1. The Albany Beach Project would not add any land uses to those identified in the General Plan, or create conflicts within the park, and the evaluation of juxtaposition of new land uses within the park contained in the *Eastshore Park Project General Plan EIR* also applies to the proposed project. Therefore, with implementation of the guidelines identified in the General Plan, the impact of new land uses within the project site would be *less than significant*.

> *OPER-4: A maintenance plan, consistent with guidelines and protocols of the operating agency, should be developed as soon as possible after park operation begins to guide the maintenance and operations procedures and practices for the Eastshore park project. The maintenance plan should address operational topics such as:*
>
> - *Procedures, techniques, and timing of maintenance and cleanup activities in tidal marshes and other wetland habitat areas;*
> - *Procedures, techniques, and timing of maintenance and cleanup activities in upland habitat areas;*
> - *Procedures, techniques, and timing of fuel modification and fire prevention activities in upland habitat areas;*
> - *Procedures, techniques, and timing of integrated pest management activities;*
> - *Procedures, techniques, and timing of irrigation and water use to conserve water wherever possible and reduce the amount of excess surface runoff;*
> - *Information on the known locations of wetlands, special status plant and animal species, and sensitive wildlife habitat areas;*

♦ [155] California State Resources Agency, Department of Parks and Recreation, Concessions Division, Operating Agreement with East Bay Regional Park District for Eastshore State Park, 31 August 2006.

- *Training for park staff regarding the park project's biological resources, and the staff's responsibilities for protecting those resources. Park staff should help educate park visitors about the wildlife protection measures that need to be observed.*

CAPACITY-1: Establish a visitor capacity management program that will monitor the carrying capacity of each management zone and establish appropriate use limits for the protection of park project resources. The capacity management program must include an ongoing monitoring and assessment program to ensure that established use limits are responsive to changing conditions.

CAPACITY-3: Use the Eastshore State Park Project General Plan management zones established in this Plan as the guide for allowing and managing appropriate types and levels of public use of park resources. Periodically assess resource conditions and design and implement appropriate actions to manage public and department operational impacts while assuring maintenance of acceptable resource conditions.

On and Off-Leash Dog Use. As discussed in the *Eastshore Park Project General Plan EIR*, the General Plan limits off-leash dog use in areas that were previously used for this activity, including Albany Beach and Bulb (see guidelines WILDLIF-11 and OPER-5, reproduced below). The *Eastshore Park Project General Plan EIR* found that while off-leash dog use restrictions would change the previous uses, they would not qualify as a significant land use conflict with existing uses due to the following reasons: 1) off-leash dog use would be allowed in a portion of the Eastshore Park project site including Pt. Isabel and North Pt. Isabel, in addition to Cesar Chavez Park; and 2) the land use impacts associated with allowing off-leash dog use (e.g., harassment of wildlife, conflicts with other recreational uses, such as bird watching and bicycling) in the areas where it would not be allowed would be more environmentally adverse than the land use conflicts resulting from restricting off-leash dog use to select areas.

WILDLIF -11: Disturbance to wildlife will be minimized by restricting access by people and dogs to sensitive wetland and upland habitat areas. Marsh birds, shorebirds, waterfowl, and other water birds are vulnerable to disturbance when people and dogs are allowed too close to important nesting, feeding, or roosting areas. Park visitors and dogs can also disrupt nesting activities of raptors and other birds in upland areas. Trails and other facilities should be sited to maintain appropriate distances from sensitive areas. Signs should be posted restricting access to sensitive habitat areas. Fencing and vegetative buffers can be used between trails and sensitive habitat areas, as necessary to minimize disturbance of wildlife. Dogs can be prohibited from sensitive habitat areas or restricted to access while on leash.

OPER-5: Dog use and activity in the park project will be managed according to State Parks' guidelines in order to protect habitat values and enhance public safety. As such, dogs will not under any circumstances be permitted in management sub-zones designated as preservation areas or on any beach. The Point Isabel/North Point Isabel area is the only area of the park project in which off-leash dog use will be permitted (see area-specific guidelines for more detailed guidelines affecting the Point Isabel/North Point Isabel area).

The proposed Albany Beach project would not change the provisions of the General Plan with regard to dog use, or change the existing dog use policies of the East Bay Regional Park District (EBRPD), which currently manages and operates Areas 1 and 2 of the project site (Albany Neck and Albany Beach, respectively). EBRPD would continue to be responsible for operation and management, after project construction. EBRPD rules for developed park areas, which allow dogs on leash, and which currently apply to Areas 1 and 2 including Albany Beach, would apply to the Project site with the exception of the wetland/dune restoration area in Area 2. Unleashed dogs currently use the Beach and Neck in violation of these regulations.

At the Project site, there are currently 9.0 acres of public space within Areas 1 and 2 including the Albany Plateau, all of which is available for use by visitors with dogs.[156] The project would include acquisition of 2.8 acres in Area 2, which would consist of 1.1 acres of dune and wetlands expansion enclosed with a fence to protect habitat, and 1.7 acres publicly accessible open space in the form of planted areas, trail, bioswales, and staging area. In Area 3, the Project includes acquisition of approximately 2.9 acres for a new Bay Trail segment. The expanded Project area would total 14.7 acres of public space, of which 1.1 acres would be fenced and inaccessible to people and dogs, as well as 0.6 acre of new road and parking area. The remaining 13 acres of the Project area would be available for use by visitors with dogs. Compared to current conditions, this would be a net increase of 4 acres of public area available for use by visitors with dogs.

Visitor use of the Project site averages 735 visitors per day, based on a survey by EBRPD staff over several weeks during the summer months of 2011 (see Chapter 3, Project Description, Current and Projected Site Use). Higher use would be expected on spring and summer weekends; thus, the survey represents the highest expected use of the Project site. Of these users, approximately 30 percent, or 232, arrived by bicycle, and approximately 35 percent, or 262, had dogs. This is consistent with reports from the American Veterinary Medical Association that approximately 32 percent of California households have dogs, and a Gallup poll that indicated over half of California households have dogs.[157,158] Almost all of the current users with dogs visit the Neck (Area 1) and Beach (Area 2), in approximately equal proportions. Few users with dogs use Area 3 of the Project site, which currently contains no Bay Trail. In Area 3, the public uses the existing Golden Gate Fields access road and parking lot on an informal basis to travel between the existing Bay Trail segments to the north and south. Visitors with dogs (some of which are professional dog walkers with up to six dogs per person) have an estimated average of approximately 1.5 dogs per person[159]. Currently, 262 visitors with dogs (or 393 dogs) use the 9.0 acres available to visitors with dogs, which is an intensity of approximately 29.1 visitors with dogs, or 43.7 dogs, per accessible acre.

The expanded visitor serving facilities proposed for the Beach (Area 2) include 20 additional parking spaces, with five reserved for ADA access, and five reserved for visitors with non-motorized watercraft. For comparison purposes, approximately 80 parking spaces are currently available along Buchanan Street west of I-80, located along the north side of the street and on lands owned by Golden Gate Fields. At the south end of the Project site, additional parking is available at the Tom Bates Regional Sports Complex at the end of Gilman Street, where there are 100 parking spaces. The Proposed Project would increase the amount of parking in the Project area by about 10 percent.

Although some site users with dogs may travel to the site by walking or bicycling, for purposes of this analysis it is assumed that most visitors accompanied by a dog arrive by vehicle. Visits typically last 1½ to two hours.[160] Conservatively assuming a typical visit lasts 1½ two hours (consistent with parking regulations on Buchanan Street), the 15 new parking spots (excluding those designated for watercraft users) would accommodate a maximum of 120 vehicles during a 12-hour period (1½-hour visits by each vehicle mean the 15 parking spots can accommodate 120 visitors over a 12 hour period.)

Approximately 60 percent of site visitors who arrive by vehicle (excluding those who arrive by walking or bicycling) are accompanied by one or more dogs. If additional visitors attracted by the Project are similar to existing visitors, 60 percent of the maximum 120 new visitors who arrive by vehicle would have one or more

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♦ [156] Existing Land Ownership, above, states that the project area is 20 acres, which includes construction haul roads, staging areas, and other areas such as privately-owned Area 3 that are not part of the 9.0 acres of public space currently within Areas 1 and 2 and the Albany Plateau.

[157] The National Council on Pet Population Study & Policy (NCPPSP) http://www.petpopulation.org

[158] The American Veterinary Medical Association http://www.avma.org (see U.S. Pet Ownership and Demographics)

[159] Brad Olson, Environmental Programs Manager, Environmental Programs, East Bay Regional Park District, email to Questa Engineering Inc., 9 July 2012.

[160] Scott Possin, Park Supervisor, Eastshore State Park, personal communication, 14 June 2012.

dogs. Thus, a maximum of approximately 72 additional visitors accompanied by dogs could use the park each day, which could occur on days when the site is heavily or fully utilized. As discussed in Section 3, Project Description, Current and Projected Site Use, use of the site is much higher on Saturdays than other days of the week. On an average day, an additional 37 daily users would travel by vehicle to the site. If 60 percent of these visitors have dog(s), there would be 22 additional visitors with dogs on an average day. Based on current usage, approximately half of the average daily visitors with dogs would use Albany Beach (Area 2), or 36 users with dogs on a maximum day and 11 on an average day. The Project is not anticipated to substantially alter the average number of dogs per visitor.[161] Thus, with the project, there would be 33 additional dogs at the Project site on an average day, and 108 additional dogs on a maximum day.

Land use conflicts at the Project site, including Albany Beach, generated by Project-related visitors with dogs, including conflicts between dogs, conflicts between dogs and people, and impacts of dogs on wildlife, would not be significant for the following reasons:

- It is a project objective to make the Albany Beach area appeal to a broad park user base. Improvement of existing park amenities (restrooms, bike racks, parking lot) and new amenities (picnic area) would increase the appeal of the park to non-dog walkers, ADA, bicyclists and non-motorized water craft users. While these users currently use the area, the Proposed Project would likely increase the number of users that do not bring dogs. The Project-generated increase in these users would not result in new types of conflicts between dogs and people, because these types of users currently use the Project site. Potential conflicts with these users related to intensity of dog use are discussed below. In addition, the increased usage of the site by non-dog users may discourage dog-users from frequenting the site.

- Some visitors to the Project site (with and without dogs) may not use the beach, but instead be attracted to other destinations in the area such as the new Bay Trail and picnic facility, and enhanced Albany Neck. Thus, users would be dispersed throughout the Project site, diverting users from the beach to the new improved portions of the site in Area 2 and Area 3. This would decrease the conflicts between dogs and dogs and dogs and people.

- On days that live (not simulcast) races are conducted at Golden Gate Fields, racetrack fans occupy the park's parking lot on Buchanan Street because the racetrack levies a fee to use their parking lot. GGF visitors typically do not have dogs, which would limit the number of potential dog visits during these times.

- The primary ecological function of the currently unprotected beach area is to provide potential habitat for shorebird foraging and connectivity to dune area refugia at high tide. The presence of dogs under existing conditions significantly degrades this habitat value, by deterring shorebirds from using this area. Because the presence of any dogs can reduce shorebird use of this area during the daytime, the relatively small number of additional Project-related dogs in this area would not increase or intensify this existing impact on the environment. The impacts of dogs on the physical environment are discussed in Sections 4.3, Biological Resources and 4.8 Hydrology and Water Quality.

- Fencing around the sensitive 1.1-acre dune vegetation and wetlands (the most ecologically valuable area of the beach) would protect these areas of the beach from people and the adverse impacts of dogs discussed above and help make recreational uses consistent with conservation purposes, as stipulated in the General Plan designation of Albany Beach as a "Conservation Area". Thus the

♦ [161] Scott Possin, Park Supervisor, Eastshore State Park, personal communication, 14 June 2012.

Proposed Project would decrease the conflict between dogs and the sensitive habitat on the Albany Beach by fencing off this area.

- There are other off-leash dog parks available to visitors in the area, including Point Isabel, Cesar Chavez Park, and the Albany Bulb.

In conclusion, the Proposed Project would generate a daily average of 22 additional visitors with dogs, or 33 dogs, and a maximum of 72 additional visitors with dogs, or 108 dogs, at the Project site, and create 4 additional acres of public space available to visitors with dogs. On an average day, the Project would result in an intensity of approximately 21.8 users with dogs, or 32.8 dogs, per accessible acre. On a maximum day, the Project would result in an intensity of 25.7 users with dogs, or 38.5 dogs, per accessible acre. These are lower than the current intensities of approximately 29.1 visitors with dogs, or 43.7 dogs, per accessible acre. Because the with-Project intensity of dogs would be lower than existing conditions, and because of the factors discussed above, the Project, compared to existing conditions, would not result in increased dog intensity at Albany Beach or the Project site. Therefore, there would not be an increase in land use conflicts involving dogs, including conflicts between dogs and people, and conflicts among dogs. The impact of the proposed project on potential land use conflicts related to dog use would be *less than significant*.

Homeless at Albany Bulb. The homeless encampment at the Albany Bulb is outside the Project site, and would not be affected by the Project. The upper (northern) trail along the Albany Neck between Buchanan Street and the Bulb would potentially be used as a haul route during construction of the Project, at the option of the Contractor, but would remain open to pedestrian access. Thus, access to the Bulb for homeless people would not be interrupted by the Project. Operation of the Project would result in a small increase in visitors to the site, but would not substantially alter they types of visitors, or create conflicts between homeless and other site visitors that differ substantially from existing conditions. For these reasons, the impact of conflicts between the Project and nearby homeless people would be *less than significant*.

In summary, the Proposed Project would not create a conflict between land uses due to open space/urban land interface, new land uses within the park, on and off-leash dog use, or motorized vehicle access to Albany Bulb, and the impacts would be *less than significant*.

c. Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project.

The *Eastshore Park Project General Plan EIR* found that the Eastshore Park General Plan would not conflict with regional and state plans and policies, including the BCDC Bay Plan and the Bay Trail Plan, and that the Eastshore Park General Plan would not conflict with local land use plans or policies applicable to the project site. Consistency with plans and policies specific to the Albany Beach project, including plans not evaluated in the *Eastshore Park Project General Plan EIR*, is discussed below. Although the Project would be exempt from the land use requirements of local agencies such as the Cities of Albany and Berkeley because it would take place within a state park (Eastshore State Park), plans and policies of local agencies are included below for informational purposes.

San Francisco Bay Plan

The *Eastshore Park Project General Plan EIR* evaluated consistency with the *Bay Plan,* and found no inconsistencies. This EIR analyzes consistency of the Albany Beach project with the *Bay Plan* in greater detail, in **Table 4.9-1**. The project is consistent with all these *Bay Plan* policies. There would therefore be *no impact* from inconsistency with these land use policies.

EBRPD Master Plan

The EBRPD *Master Plan 1997* contains policies guiding project operation. The *Eastshore Park Project General Plan EIR* did not evaluate consistency with the EBRPD *Master Plan 1997*. Consistency of the Albany Beach project with *Master Plan 1997* policies is analyzed in **Table 4.9-2**. The project is consistent with all these EBRPD *Master Plan 1997* policies. There would therefore be *no impact* from inconsistency with these land use policies.

Bay Trail Plan

The *Bay Trail Plan* includes a proposed alignment and a set of policies to guide the future selection, design, and implementation of routes. The proposed alignment shown on the Bay Trail route map, reproduced in **Figure 4.12-1** in Section 4.12, Recreation, is essentially the same as the alignment of the Bay Trail segments in the proposed project. The *Eastshore Park Project General Plan EIR* evaluated consistency with the *Bay Trail Plan,* and found no inconsistencies. This EIR analyzes consistency of the Albany Beach project with the *Bay Trail Plan* in greater detail, in **Table 4.9-3**. The project is consistent with all these *Bay Trail Plan* policies. There would therefore be *no impact* from inconsistency with these land use policies.

San Francisco Bay Area Water Trail Plan

The *San Francisco Bay Area Water Trail Plan* identifies one access point on the project site, the existing water access at Albany Beach. The Proposed Project includes a launching facility for non-motorized watercraft at Albany Beach. The *Eastshore Park Project General Plan EIR* does not evaluate consistency with the *San Francisco Bay Area Water Trail Plan*. Because the Proposed Project includes an access point at Albany Beach, it would be consistent with the *San Francisco Bay Area Water Trail Plan*. There would therefore be *no impact* from inconsistency with these land use policies.

City of Albany General Plan 1990-2010 Policies

The *Eastshore Park Project General Plan EIR* found that the General Plan is consistent with municipal land use policies, including those of the City of Albany, but does not evaluate consistency with individual policies of the *City of Albany General Plan 1990-2010*. This EIR analyzes consistency of the Albany Beach project with policies of the *City of Albany General Plan 1990-2010*, in **Table 4.9-4**. The project is consistent with all these *Albany General Plan 1990-2010* policies. There would therefore be *no impact* from inconsistency with these land use policies.

As mentioned above, the Project would be exempt from the land use requirements of the City of Albany because it would take place within a state park. However, an encroachment permit would be required from the City of Albany for work on their property. Such a permit is an administrative process.

City of Berkeley Waterfront Master Plan Policies

The *Eastshore Park Project General Plan EIR* found that the General Plan is consistent with municipal land use policies, including those of the City of Berkeley, but does not evaluate consistency with individual policies of the *City of Berkeley Waterfront Master Plan*. This EIR analyzes consistency of the Albany Beach project with policies of the *City of Berkeley Waterfront Master Plan*, in **Table 4.9-5**. The project is consistent with all these *Berkeley Waterfront Master Plan* policies. There would therefore be *no impact* from inconsistency with these land use policies.

Eastshore State Park General Plan

The Eastshore State Park General Plan contains project-wide policies applicable to the entire Park, governing Resource Management and Protection, Project-wide Interpretation, Project-wide visitor Services, and Visitor Capacity; as well as guidelines governing specific areas of the Park including the Albany Area. These include OPER-5, reproduced below.

OPER-5: Dog use and activity in the park project will be managed according to State Parks' guidelines in order to protect habitat values and enhance public safety. As such, dogs will not under any circumstances be permitted in management sub-zones designated as preservation areas or on any beach. The Point Isabel/North Point Isabel area is the only area of the park project in which off-leash dog use will be permitted (see area-specific guidelines for more detailed guidelines affecting the Point Isabel/North Point Isabel area).

This guideline prohibits dogs on beaches, including Albany Beach, and conflicts with current uses at Albany Beach where dogs on and off-leash frequent the beach. This conflict would continue with the Proposed Project. The guideline was adopted to protect habitat values and protect public safety. As described above, the incremental increase in dogs would not increase the public safety impacts associated with conflicts between dogs and dogs, and dogs and people. Likewise, it would not substantially increase the dogs' environmental impacts on habitat, as discussed under On and Off-Leash Dog Use, above, 4.3 Biological Resources, and 4.8 Hydrology and Water Quality. Therefore, the Project would not increase the existing conflict with OPER-5 in such a manner so as to substantially increase the environmental impacts that the policy was meant to avoid or mitigate.

The Proposed Project would be consistent with the other project-wide guidelines, and guidelines for the Albany Area, in the General Plan. Because the Project would not increase the existing conflict with guideline OPER-5 so as to substantially increase the environmental impacts that policy was meant to mitigate, and would be consistent with other Eastshore State Park General Plan guidelines, there would be *no impact* from inconsistency with these land use policies.

Cumulative Analysis

Cumulative impacts on land use and planning were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference. The *Eastshore Park Project General Plan EIR* found that the General Plan, in combination with other projects in adjacent municipalities that were reasonably foreseeable when that EIR was prepared, would not result in significant cumulative impacts on land use. The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina. [162] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared. [163]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

- [162] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.
- [163] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[164]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction. [165]

None of the proposed and approved projects identified above involve land uses that would physically divide an established community, create a significant land use conflict, conflict with applicable plans and policies, or increase existing conflicts with applicable plans and policies. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on land use and planning. As discussed in this section, the Albany Beach Project has been found to have *no impact* or a *less-than-significant* impact on land use, and none of the proposed and approved projects identified above would be incompatible with the Proposed Project. For these reasons, the Proposed Project would not make a cumulatively considerable contribution to a significant cumulative impact on land use and planning because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

- [164] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.
- [165] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.10 Noise

This section contains information about noise conditions at the Albany Beach project site. It provides an overview of the current regulatory framework, describes existing conditions, and analyzes the potential impacts of the Albany Beach Restoration and Public Access Project. This project EIR tiers off the *Eastshore Park Project General Plan EIR* and this section incorporates by reference Section III.I of the *Eastshore Park Project General Plan EIR*. That section evaluates noise impacts at the project site and the regulatory framework related to noise. This project EIR relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication.

Regulatory Framework

The *Eastshore Park Project General Plan EIR* does not discuss the federal and State regulatory framework related to noise. The following information supplements the *Eastshore Park Project General Plan EIR*.

Federal Regulations

U.S. Environmental Protection Agency (EPA)

In 1972, Congress enacted the Noise Control Act and established the Office of Noise Abatement and Control (ONAC). This act authorized the EPA to publish descriptive data on the effects of noise and establish levels of sound "requisite to protect the public welfare with an adequate margin of safety." [166] These levels are separated into health (hearing loss) and welfare (annoyance) levels, as shown in **Table 4.10-1**. The EPA cautions that these identified levels are not standards because they do not take into account the cost or feasibility of the levels. [167]

The EPA activity and interference guidelines are designed to ensure reliable speech communication at about 5 feet in the outdoor environment. For outdoor and indoor environments, interference with activity and annoyance should not occur if levels do not exceed 55 dBA and 45 dBA, respectively.

[166] "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety" EPA/ONAC 550/9-74-004, March, 1974.

[167] For historical perspective, in 1981 the Administration concluded that noise issues were best handled at the State and local level. As a result, ONAC was closed and primary responsibility of addressing noise issues was transferred to State and local governments. However, EPA retains authority to investigate and study noise and its effect, disseminate information to the public regarding noise pollution and its adverse health effects, respond to inquiries on matters related to noise, and evaluate the effectiveness of existing regulations for protecting the public health and welfare, pursuant to the Noise Control Act of 1972 and the Quiet Communities Act of 1978.
Source: http://www.epa.gov/air/noise.html.

TABLE 4.10-1 SUMMARY OF EPA NOISE LEVELS

Effect	Level	Area
Hearing loss	$L_{eq}(24)$ < 70 dB	All areas.
Outdoor activity interference and annoyance	L_{dn} < 55 dB	Outdoors in residential areas and farms and other outdoor areas where people spend widely varying amounts of time and other places in which quiet is a basis for use.
	$L_{eq}(24)$ < 55 dB	Outdoor areas where people spend limited amounts of time, such as school yards, playgrounds, etc.
Indoor activity interference and annoyance	L_{eq} < 45 dB	Indoor residential areas.
	$L_{eq}(24)$ < 45 dB	Other indoor areas with human activities such as schools, etc.

Source: U.S. Environmental Protection Agency, "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety." March, 1974.

The noise effects – such as sentence intelligibility, complaints, and annoyance – associated with an outdoor L_{dn} of 55 dBA are summarized in **Table 4.10-2**. With an outdoor noise environment of 55 dBA L_{dn}, no community reaction would be expected. However, 1 percent of the population may complain about noise at this level and 17 percent may indicate annoyance.

State Regulations

California Building Code

The State of California has established regulations that help prevent adverse impacts to occupants of buildings located near noise sources. Referred to as the "State Noise Insulation Standard," it requires buildings to meet performance standards through design and/or building materials that would offset any noise source in the vicinity of the receptor. These requirements are found in the California Code of Regulations, Title 24 (known as the Building Standards Administrative Code), Part 2 (known as the California Building Code), Appendix Chapters 12 and 12A.

TABLE 4.10-2 SUMMARY OF HUMAN EFFECTS IN AREAS EXPOSED TO 55 DBA L_{DN}

Type of Effects	Magnitude of Effect
Speech – Indoors	100 percent sentence intelligibility (average) with a 5 dB margin of safety.
Speech – Outdoors	100 percent sentence intelligibility (average) at 0.35 meters. 99 percent sentence intelligibility (average) at 1.0 meters. 95 percent sentence intelligibility (average) at 3.5 meters.
Average Community Reaction	None evident; 7 dB below level of significant complaints and threats of legal action and at least 16 dB below "vigorous action."
Complaints	1 percent dependent on attitude and other non-level related factors.
Annoyance	17 percent dependent on attitude and other non-level related factors.
Attitude Towards Area	Noise essentially the least important of various factors.

Source: U.S. Environmental Protection Agency, "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety." March, 1974.

The following section summarizes information in the *Eastshore Park Project General Plan EIR* on the local regulatory framework related to noise.

Local Regulations

City of Albany

The City of Albany Municipal Code, Chapter VIII, Law Enforcement, contains a noise control ordinance. The noise control ordinance sets exterior and interior noise standards for single- or multiple-family residential in addition to public facility uses. **Tables 4.10-3** and **4.10-4** identify exterior noise standards.

Table 4.10-3 CITY OF ALBANY NOISE LIMITS FOR RECEIVING LAND USE – PROPERTIES IN ALL RESIDENTIAL AND PUBLIC FACILITIES ZONES

Cumulative Number of Minutes in Any 1-Hour Time Period	Daytime 8:00 a.m. - 10:00 p.m.	Nighttime 10:00 p.m. - 8:00 a.m.
30	55 dBA	50 dBA
15	60 dBA	55 dBA
5	65 dBA	60 dBA
1	70 dBA	65 dBA
0	75 dBA	70 dBA

[a] Includes R-1 (Residential Low Density Single-Family), R-2 (Residential Moderate Density), R-3 (Residential High Density), R-4 (Residential Towers) and HD (Hillside District).

Source: City of Albany, 2012.

TABLE 4.10-4 CITY OF ALBANY NOISE LIMITS FOR RECEIVING LAND USE – PROPERTIES IN ALL OTHER ZONES

Cumulative Number of Minutes in Any 1-Hour Time Period	Daytime 8:00 a.m. - 10:00 p.m.	Nighttime 10:00 p.m. - 8:00 a.m.
30	65 dBA	60 dBA
15	70 dBA	65 dBA
5	75 dBA	70 dBA
1	80 dBA	75 dBA
0	85 dBA	80 dBA

[a] Includes C-1 (General Commercial), C-2 (Highway Commercial), and C/S/LI (commercial, Service, Light Industrial).

Source: City of Albany, 2012.

Area 1 (Albany Neck), Area 2 (Albany Beach), and the northern portion of Area 3 (Bay Trail) of the project site, are located within the City of Albany in the Waterfront Zone (WF) district. As stated in Chapter VIII, 8-1.4.c of the City of Albany Municipal Code, the noise level limits for WF areas of the City are as follows: during the period from 8:00 a.m. to 10:00 p.m. the noise limits shall be as dictated in **Table 4.10-4**. After 10:00 p.m., the limits shall be as dictated in **Table 4.10-3**.

In the event the measured ambient noise level exceeds the applicable standards, the 30-minute noise standards in **Tables 4.10-3 or 4.10-4** shall be adjusted so as to equal the ambient noise level plus 5 dBA, with the 15-, 5-, 1-, and 0-minute standards adjusted upwards in 5 dBA increments, based on the ambient noise level measured. The ambient level standard should not exceed a 100 dBA standard for the 0-minute measurement, which is the instantaneous noise measure.

Construction and demolition activities conducted within the City of Albany are permitted with the following constraints: Albany prohibits operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration, or demolition work between weekday and Saturday hours of 6:00 p.m. and 8:00 a.m., or 6:00 p.m. and 10:00 a.m. on Sundays or legal holidays such that the sound from equipment operation creates a noise disturbance across a residential or commercial real property line, except for emergency work of public service utilities.

The noise ordinance also requires that all construction equipment used in the City of Albany shall be equipped with appropriate sound-muffling equipment, which shall be properly maintained and used at all times such equipment is in operation.

City of Berkeley

The southern portion of Area 3 (Bay Trail) of the project site is located within the City of Berkeley, in the Waterfront/Marina land use designation. Policies in the City of Berkeley General Plan, Environmental Management Element identify issues and actions for the control of noise impacts in the City. For outdoor parks and public open space uses, the City considers areas with noise levels less than 65 dBA to be acceptable and noise levels between 65 and 80 dBA to be "conditionally acceptable." If noise exposure is within the conditionally acceptable range, the City requires that prior to permitting a specific land use, detailed analysis of the noise environment and the project characteristics is required to determine whether noise insulation or protection features are necessary. Berkeley provides no noise standards for park buildings (the Project does not include any buildings within Berkeley). For office and commercial buildings, Berkeley considers sound exposure less than 70 dBA to be acceptable and between 70 and 85 dBA to be conditionally acceptable, as defined above. For a hotel or motel, Berkeley considers an exterior noise exposure of less than 60 dBA to be acceptable and between 60 and 75 dBA to be conditionally acceptable. There are no residential uses adjacent to the Albany Beach project site in the City of Berkeley.

The City of Berkeley's Noise Control Ordinance restricts exterior noise as listed in **Table 4.10-5**.

TABLE 4.10-5 EXTERIOR NOISE LIMITS IN THE CITY OF BERKELEY (LEVELS NOT TO BE EXCEEDED MORE THAN 30 MINUTES IN ANY HOUR)

Zoning District	Time Period	Noise Level (dBA)
R-1, R-2, R-1A, R-2A, and ESR	7:00 a.m. – 10:00 p.m. 10:00 p.m. – 7:00 a.m.	55 45
R-3 and Above	7:00 a.m. – 10:00 p.m. 10:00 p.m. – 7:00 a.m.	60 55
Commercial	7:00 a.m. – 10:00 p.m. 10:00 p.m. – 7:00 a.m.	65 60
Industry	Anytime	70

Source: City of Berkeley, Municipal Code, Chapter 13.40.070, 2012.

The City of Berkeley's Noise Control Ordinance restricts construction and demolition activities to the hours between 7:00 a.m. and 7:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends or federal holidays. Where technically and economically feasible, construction activities are to be conducted in such a manner that the maximum sound levels at affected property lines would not exceed those listed in **Tables 4.10-6 and 4.10-7**.

TABLE 4.10-6 MOBILE EQUIPMENT SHORT-TERM OPERATION (LESS THAN 10 DAYS) NOISE LIMITS IN THE CITY OF BERKELEY

Land Use	Daily 7 a.m. - 7 p.m.	Weekends (& Legal Holidays) 9 a.m. – 8 p.m.
Residential, R-1 and R-2	75 dBA	60 dBA
Multi-Family Residential, R-3 and Above	80 dBA	65 dBA
Commercial/ Industrial	85 dBA	70 dBA

Source: City of Berkeley, Municipal Code, Chapter 13.40.070, 2012.

TABLE 4.10-7 STATIONARY EQUIPMENT LONG-TERM OPERATION (10 DAYS OR MORE) NOISE LIMITS IN THE CITY OF BERKELEY

Land Use	Daily 7 a.m. - 7 p.m.	Weekends (& Legal Holidays) 9 a.m. – 8 p.m.
Residential, R-1 and R-2	60 dBA	50 dBA
Multi-Family Residential, R-3 and Above	65 dBA	55 dBA
Commercial/ Industrial	70 dBA	60 dBA

Source: City of Berkeley, Municipal Code, Chapter 13.40.070, 2012.

Fundamentals of Noise

The following information summarizes the characteristics of sound, as described in the *Eastshore Park Project General Plan EIR*.

Sound is a pressure wave transmitted through the air. It is described in terms of loudness or amplitude (measured in decibels), frequency or pitch (measured in Hertz [Hz] or cycles per second), and duration (measured in minutes or hours). The standard unit of measurement for sound intensity is the decibel (dB), with 0 dB corresponding roughly to the threshold of hearing.

Typical human hearing can detect changes in sound levels of approximately 3 dB under normal conditions. However, the human ear is not equally sensitive to all frequencies. Sound waves below 16 Hz are not heard at all and are "felt" more as a vibration. Similarly, while people with extremely sensitive hearing can hear sounds as high as 20,000 Hz, most people cannot hear above 15,000 Hz. In all cases, hearing acuity falls off rapidly above approximately 10,000 Hz and below approximately 200 Hz.

Noise is defined as unwanted sound and is known to have several adverse effects on people, including hearing loss, speech and sleep interference, physiological responses, and annoyance. Based on these known adverse effects of noise, the federal government, the State of California, and many local governments have established maximum allowed noise levels to protect public health and safety and to prevent disruption of certain activities.

Various noise measurements are used to assess the level and the annoyance potential of community noise such as that generated by aircraft activity and arterial traffic. They include:

A-Weighted Sound Level (dBA)

The A-weighted sound pressure level is commonly abbreviated dBA. The dB refers to a measurement in decibels. The "A" identifies a particular setting of the measurement instrument, the sound level meter. The A-weighted sound level provides a scale with the range and characteristics

most consistent with human hearing ability. The dBA measures sound over a period of time, typically 1 hour, to identify the minimum and maximum levels and the statistical variation of fluctuating sounds.

Continuous Equivalent (Average) Noise Level (Leq)

The continuous equivalent (average) noise level is an energy equivalent level of fluctuating noise for a measured time period. Data from this measurement are applied to the 24-hour measurement of noise.

Community Noise Equivalent Level (CNEL) or Day-Night Sound Level (Ldn)

A given level of noise may be more or less tolerable depending on the time of day and duration of exposure experienced by an individual. The U.S. Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA) have adopted the Ldn as their standard unit of measurement for noise levels. This measure increases the average noise level (Leq) for late evening and early morning hours (10:00 p.m. to 7:00 a.m.) by 10 dBA. The daytime noise levels (7:01 a.m. to 9:59 p.m.) are then combined with these weighted levels and are averaged to obtain a 24-hour averaged noise level. The State of California CNEL, which weights noise events in the late evening through early morning, as well as noise events occurring between 7:00 p.m. and 10:00 p.m. (increasing them by 5 dBA), is also widely used by jurisdictions concerned with noise.

Change in Ambient Noise Levels

In addition to the thresholds stated above, the significance of noise impacts may be described by the expected change in ambient noise levels that would occur as a result of a project.

Expected reactions to changes in ambient noise levels for persons who are exposed to noise have been reported by Egan[168] and others, quantified by metrics that define short-term exposure (e.g., hourly Leq, Lmax, and Ln). These metrics are usually used to describe noise impacts due to industrial operations, machinery, and other sources that are not associated with transportation. According to Egan and others, as shown in **Table 4.10-8**, an increase of at least 3 dBA is usually required before the change would be clearly noticeable.

TABLE 4.10-8 SUBJECTIVE REACTION TO CHANGES IN NOISE LEVELS OF SIMILAR SOURCES

Change In Level (dBA)	Subjective Reaction	Factor Change in Acoustical Energy
1	Imperceptible (Except Tones)	1.3
3	Barely Perceptible	2.0
6	Clearly Perceptible	4.0
10	About twice (or half) as Loud	10.0

Source: Egan, M. David, 1988. *Architectural Acoustics*.

The Leq, Lmax, and Ln units of measurement are used in assessing existing noise levels and the impacts that may result from unwanted noise.

[168] Egan, M. David, 1988. *Architectural Acoustics*.

Existing Ambient Noise and Vibration

The Project site is located adjacent to an urban area and is, therefore, influenced by several surrounding noise sources. The primary sources are roads, railroads, and the Golden Gate Fields racetrack, which are described below.

Roadway Noise

Traffic flows are the primary source of ambient noise in the vicinity of the Project site. The main vehicular noise source is Interstates 80 and 580, which are located east of the project site and, in the project vicinity, run concurrently south of their intersection at Buchanan Street.

As discussed in the *Eastshore Park Project General Plan EIR,* the Federal Highway Association (FHWA) Highway Traffic Noise Prediction Model[169] was used to calculate future noise levels along I-580/I-80. As shown in Table III.I-2, page 156 of the *Eastshore Park Project General Plan EIR*, noise generated by I-80/I-580 between Gilman and Buchanan Streets is 70 dBA within 692 feet, 65 dBA within 1,488 feet, and 60 dBA within 3,204 feet. The southern section of the Bay Trail (Area 3), the portion of the project site closest to the highway, falls within the 70 or 65 dBA noise contour. Most of the project site is within the 60 dBA noise contour, and the western portion of the Albany Neck is outside the 60 DBA noise contour of I-80/I-580.

The *Eastshore Park Project General Plan EIR* does not discuss other vehicular noise sources at the project site, but noise is also generated at the site by traffic on Buchanan Street, Gilman Street, and the Golden Gate Fields access road and parking lot. Traffic on these local streets is lower in volume and speed than highway traffic, and it generates less noise at the project site except in the immediate proximity of these streets.

Railroad Noise

The *Eastshore Park Project General Plan EIR* does not discuss railroad noise. The following discussion of railroad noise supplements the *Eastshore Park Project General Plan EIR.*

The closest rail lines in the Project vicinity run north-south, parallel to and east of I-80/I-580. The tracks are used by Amtrak, Union Pacific, and the Burlington Northern Santa Fe (BNSF) Railway for freight and passenger trains. Noise is generated by train pass-bys and train horns. Because the railroad tracks are east of I-80/I-580 and trains are intermittent, train noise contributes less to the noise environment at the project site than vehicular noise on I-80/I-580.

Golden Gate Fields Racetrack

As discussed in the *Eastshore Park Project General Plan EIR,* the Golden Gate Fields racetrack, located adjacent to the project site to the east, is an existing use that contributes to local noise levels. The racetrack portion of Golden Gate Fields is located in the City of Albany, and the stable area is located in the City of Berkeley. The racetrack is located outdoors.

At the time this EIR was prepared, the race season at Golden Gate Fields included approximately 180 live race days between mid-August and mid-June, with no live races between mid-June and mid-August.[170]

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[169] Federal Highway Administration, 1978. Federal Highway Administration Highway Traffic Noise Prediction Model (FHWA-RD-77-108). December.

[170] http://www.goldengatefields.com/events/calendar/2012, accessed 6 May 2012.

The Golden Gate Fields clubhouse is open year-round, Wednesday to Sunday and some Monday/ Tuesday holidays. The clubhouse is located indoors and has an average daily occupancy of approximately 900 people.

Noise associated with horse racing generally comes from the amplified speakers during the race and vehicular traffic along access roads before and after the race. As discussed in the *Eastshore Park Project General Plan EIR,* the design of the racetrack speaker system keeps the sound from going beyond the racetrack boundary.[171] Therefore, during a horse race event, associated noise does not significantly affect areas surrounding the racetrack, including the project site. Noise associated with vehicular traffic before and after the race is limited to areas adjacent to the access roads.

Other Noise in the Vicinity

The following discussion of other noise sources in the project vicinity supplements the *Eastshore Park Project General Plan EIR*. The Project site is bordered by the Albany Neck and Bulb to the north and northwest, which are used for non-motorized recreation that generates limited noise at the project site. The transient population living at the Albany Bulb does not generate substantial noise at the project site. San Francisco Bay is located west of the Project site and there is only minor wave action to generate noise near the shoreline. Gilman Street borders the project site to the south, and generates traffic noise as described above. There are no other substantial noise sources in the project vicinity.

Existing Site and Vicinity Vibration

The *Eastshore Park Project General Plan EIR* does not discuss vibration. The following discussion of vibration supplements the *Eastshore Park Project General Plan EIR*.

There are no significant sources of vibration on the Project site and no vibration field assessment was conducted. The major source of existing off-site vibration is the pass-by of trains on the rail lines east of I-80/I-580. According to the Federal Transit Administration (FTA)[172], locomotive-powered passenger and freight rail movements (at 50 mph) can be expected to generate vibration velocity levels between 74 and 78 VdB[173] at distances between 100 and 150 feet from the track centerline. These distances are substantially less than the distance between the rail lines and the project site.

Standards of Significance

Noise impacts associated with the Proposed Project would be considered significant if the Project would result in:

a. Exposure of persons to or generation of noise levels for an extended period of time in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

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[171] LSA Associates, Inc., Eastshore Park Project General Plan Draft EIR, State Clearinghouse #2002022051, July 2002, page 155.

[172] Federal Transit Administration (FTA), *Transit Noise and Vibration Impact Assessment*, prepared by Harris Miller, Miller & Hanson Inc. for the U.S. Department of Transportation, document FTA-VA-90-1003-06, May 2006, Figure 10-1.

[173] VdB: vibration velocity level measured in dB, a logarithmic scaling of vibration magnitude.

d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

e. Exposure of people residing or working in the project area to excessive noise levels for a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport.

f. Exposure of people residing or working in the project area to excessive noise levels for a project within the vicinity of a private airstrip.

Impact Discussion

Project Analysis

a. Exposure of persons to or generation of noise levels for an extended period of time in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Exposure of Project Site Visitors to Surrounding Noise Sources

With implementation of the Proposed Project, the Project site would continue to be used by the public for recreation. People and dogs would be present in the parking area, Bay Trail spine and spur, beach, and picnic area. As described above, there are several existing sources of noise to which future site visitors could be exposed. Their exposure would vary according to the distance from the noise source(s) and the time spent in any given noise environment.

There is constant ambient noise from nearby roads, notably I-80/I-580. These highways are located as near as 500 feet from the nearest portion of the project site (the southern portion of the Bay Trail in Area 3), although most of the project site is substantially more distant (approximately 2,000 feet) and/or screened from the highways by the structures of the Golden Gate Fields racetrack.

The railroad lines that run east of the site are actively used. The railroad line nearest the project site is approximately 1,500 feet east of the southern end of the Bay Trail (Area 3) at Gilman Street. In this vicinity, I-80 is approximately 500 feet from the project site. Elsewhere on the Project site, the rail lines are both more distant from the site, and located east of I-80/I-580. Typically, the loudest noise from the train lasts for less than two minutes as each train passes by. For these reasons, highway noise is more apparent than railroad noise at the project site.

Overall, visitors to the site could be exposed to notable noise levels from I-80/I-580, as well as from train pass-bys. While the highway noise is constant, train noise is relatively short-lived. As discussed above, Golden Gate Field does not generate substantial noise levels at the project site. With the proposed project, the noise exposure to visitors would be the same as visitors to the site currently experience. Like current visitors, future visitors to the project site would be there by choice, and they can choose to move from the noisier portions of the project site to quieter areas.

The northern portion of the Project site would be subject to the noise standards of the existing City of Albany Noise Ordinance in Chapter VIII of the Municipal Code. For areas in the Waterfront (WF) district, the daytime noise limits in **Table 4.10-4** (65 dBA more than 30 minutes in any one-hour time period) may not be exceeded between 8:00 a.m. and 10:00 p.m., and the nighttime noise limits in **Table 4.10-3** (50 dBA more than 30 minutes in any one-hour time period) may not be exceeded between 10:00 p.m. and 8:00 a.m., as stipulated in Chapter VIII, 8-1.4.c of the City of Albany Municipal Code. Although the project site would be closed at night, it generally would be open after dawn, and the nighttime noise limits would apply until 8:00 a.m.

Most of the project site within Albany is more than 1,488 feet from I-80/I-580, with noise levels of 65 dBA or less, as discussed in Roadway Noise, above. Approximately 400 feet of the southern portion of the Bay Trail (Area 3) in the City of Albany has noise levels exceeding 65 dBA. The entire Project site is exposed to noise levels greater than 50 dBA. Under the Proposed Project, the City of Albany daytime noise limit of 65 dBA would not be exceeded except for the southern approximately 400 feet of the Bay Trail. Future visitors to the entire project site within Albany would be exposed, between the opening of the park at dawn and 8:00 a.m., to noise levels exceeding the nighttime noise limit of 50 DBA.
The entire stretch of the Bay Trail within the City of Berkeley has noise levels of 65 to 70 dBA, and visitors would be exposed to this noise level under the project. The southern portion of the Project site would be subject to the noise standards of the existing City of Berkeley General Plan policies for outdoor parks and public open space uses, for which noise levels over 65 dBA are "conditionally acceptable". The City requires that prior to permitting outdoor recreation land uses in areas with sound levels over 65 dBA, detailed analysis of the noise environment and the project characteristics are required to determine whether noise insulation or protection features are necessary. The project would consist of an outdoor trail, with no structures, within the City of Berkeley.

All of the project site is currently used by the public, who are exposed to existing noise levels. The *Eastshore Park Project General Plan EIR* found that the Eastshore Park would not create any new stationary sources of noise, and that the additional traffic generated by the Park would increase traffic noise levels by a maximum of 0.1 dBA. Traffic from the Albany Beach project, which does not contain any noise-generating components that are not evaluated in the *Eastshore Park Project General Plan EIR*, is included in the traffic evaluated in the *Eastshore Park Project General Plan EIR*. Thus, the Albany Beach project would increase traffic noise levels by no more than 0.1 dBA.

The *Eastshore Park General Plan* contains the following guidelines that would avoid or minimize to a less-than-significant level effects associated with traffic noise by:

1. Requiring the preparation of Specific Project Plans for each management zone or sub-zone and prior to initiation of major development or enhancement projects. The Specific Project Plans would establish the nature, scale, and location of new development such as visitor facilities and service uses and would take into account specific site conditions, such as noise related to highway traffic and the need for acoustical studies (see guidelines VISIT-1, OPER-1, reproduced below).

2. Requiring environmental review and identification of potential negative impacts associated with site-specific development projects, management plans, and Specific Project Plans for the implementation of the Draft General Plan in accordance with the California Environmental Quality Act (CEQA) (see guidelines OPER-2, CAPACITY-2, HYDRO-6, reproduced below).

> *VISIT-1: Prepare a Specific Project Plan for each management zone in order to establish the nature, scale, and location of new visitor facilities and associated services, including facilities related to recreation, interpretation and education, visitor services, and operations. Such facilities and associated services must reflect the intent of the land use designations of the park project with respect to resource protection, permitted uses, intensity of uses, and access. Specific Project Plans would also specify where and how utilities (e.g., sewer, water, and drainage) will be provided.*
>
> *OPER-1: Specific project plans would be prepared for each management zone or sub-zone prior to any major development or enhancement projects. These plans would include project area resource surveys and monitoring as necessary. They would also take into account potential impacts of facilities and visitation increases on the*

resource base, the relationship of the new facilities to those already existing, traffic and access, views, etc. Specific project plans would specify where and how utilities (e.g., sewer, water, and drainage) would be provided, and local service providers would be coordinated with to ensure a unified delivery of services.

OPER-2: The need for new public facilities would be balanced with their potential negative impacts to plant and wildlife species, scenic resources, and the spirit of the place. In particular, avoid adverse impacts to critical resource areas.

CAPACITY-2: Prior to site-specific development or development of management plans, survey and review areas of potential impacts, employing appropriate personnel and responsible agencies, in accordance with the California Environmental Quality Act (CEQA).

HYDRO-6: Design and construct all proposed resource enhancements (e.g., daylighting of Schoolhouse Creek, shoreline recontouring at mouth of Strawberry Creek) and facilities (e.g., restrooms, boat launches, etc.) only after site-specific environmental analysis has been conducted for factors such as local hydrology, soil suitability, visual resources, cultural resources, subsurface toxics, water quality protection, and wetland habitat.

The *Eastshore Park Project General Plan EIR* found that the Eastshore Park General Plan, with implementation of the guidelines discussed above, would have a less than significant impact on exposure of persons to or generation of noise levels in excess of established standards. The specific project plans prepared for the Albany Beach project, and the environmental analysis contained in this EIR, satisfy the requirements of guidelines VISIT-1, OPER-1, OPER-2, CAPACITY-2, and HYDRO-6. The specific project plans, which include a noise study, gave priority to protection and enhancement of existing resources, rather than altering the existing noise environment. The plans account for the nature of the Project as an outdoor recreational facility. Because the only Project structure is a two-stall restroom located in the City of Albany, which would be occupied for a limited time by any single user, noise insulation features for Project buildings would not provide a substantial reduction in the noise exposure of Project users. There is no alternative location for the Project's trail and other amenities at the Albany Neck and Beach that would avoid exposure to highway noise. Other land-based locations for the Bay Trail would be closer to the freeway and would be exposed to higher nose levels. Project activities (primarily in the parking lot area) would add negligible contributions to the existing noise environment. The strong prevailing westerly winds tend to inhibit noise transmission from the highway toward the site. While traffic noise would be noticeable at times on the Project site, it would not be so great as to interfere with communication or be generally distracting. Although lower noise levels would be desirable, the nature of the use (outdoor recreation such as hiking, dog-walking, and use of non-motorized watercraft) and the limited duration of exposure (normally less than 2 hours for individual visitors, with even less time spent on the portion of the site subject to excessive traffic noise) have to be considered. Visitors to the Albany portion of the project site would be exposed to noise levels exceeding the Albany nighttime standard only between the hours of dawn and 8:00 a.m., and would be exposed to noise levels exceeding the daytime standard only in the southern 400 feet of the Bay Trail. The project would not alter existing noise conditions, and future visitors to the site would be exposed to the same noise levels as current visitors. . Therefore, the Project would not result in exposure of persons to noise levels for an extended period of time in excess of established standards, and this impact would be considered *less than significant*.

Exposure of Surrounding Neighborhoods to Project Noise

Construction Phase

Construction of the Proposed Project would generate noise in the short-term. There are no sensitive receptors (defined as residences, hospitals, schools, and libraries) adjacent to or near the project site.

The closest off-site receptors to construction noise impacts would be transient residents at the Albany Bulb, and patrons and employees of Golden Gate Fields.

The City of Albany noise control ordinance limits permissible sound levels in Waterfront Zoned (WF) areas of the City, prohibits creation of noise disturbances between weekday and Saturday hours of 6:00 p.m. and 8:00 a.m., or 6:00 p.m. and 10:00 a.m. on Sundays or legal holidays, and requires that all construction equipment used in the City of Albany shall be equipped with appropriate sound-muffling equipment. The City of Berkeley noise control ordinance restricts construction and demolition activities to the hours between 7:00 a.m. and 7:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends or federal holidays, and limits noise from mobile (short-term) and stationary (long-term) equipment.

The *Eastshore Park Project General Plan EIR* found that construction noise impacts would not be significant because no sensitive uses are located adjacent to the project site, and because compliance with noise requirements specified in the noise ordinances of the applicable local jurisdictions would reduce construction noise impacts to a less-than-significant level. The Albany Beach project does not contain any noise-generating elements that are not evaluated in the *Eastshore Park Project General Plan EIR*. Construction of the Bay Trail segment along the cliff face of Area 3 would require cutting a bench through the existing rock, which would generate varying levels of noise depending on construction technique. Because this noise would be generated on the bay side of the cliff, Golden Gate Fields would be shielded from this noise by both the grandstand area of the racetrack and the cliff itself. As discussed above, there are no sensitive receptors such as schools or hospitals located near the Albany Beach project site, and project construction would be required to comply with the City of Albany and City of Berkeley noise ordinances. In Albany, the Code Enforcement section of the Building Division of the Community Development Department is responsible for enforcement of City codes regulating construction, including construction in violation of City noise standards.[174] In Berkeley, the Environmental Health Division of the Department of Health Services is responsible for enforcement of the Community Noise Program, which includes construction noise standards.[175] For these reasons, construction noise impacts of the Project would not expose persons to or generate noise levels for an extended period of time in excess of standards established in Albany and Berkeley's noise ordinances. Thus the impact of Project construction noise would be *less-than-significant*.

Operations Phase

The Project site would continue to be open to the public for recreation uses after the construction phase, and is anticipated to increase the number of visitors to the area. There would be periodic noise from maintenance and emergency vehicles on the trails. The sounds associated with Project's recreational use visitors would be similar to those of current users, and would include car arrivals and departures in the parking lot, car door slamming, occasional car alarms, conversations, and dog barking.

The *Eastshore Park Project General Plan EIR* found that the Eastshore Park General Plan would not generate significant noise that would affect surrounding neighborhoods. Given the lack of nearby residents or other sensitive receptors, the existing levels of visitor-generated noise, and the low sound energy from parking lot and hiking activities, it is unlikely that the anticipated additional Project users at the parking lot or on the beach and trail would contribute notable noise levels to the existing

[174] City of Albany website, Community Development Department, Building Division, Code Enforcement, http://www.albanyca.org/index.aspx?page=415. Accessed 29 May 2012.

[175] City of Albany website, Department of Health Services, Environmental Health Division, Community Noise Program, http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=6238. Accessed 29 May 2012.

conditions. For these reasons, operational noise impacts of the Project are adequately analyzed in the *Eastshore Park Project General Plan EIR*. The impact of Project operational noise would be *less-than-significant*.

b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels

Exposure of Project Site Visitors to Surrounding Groundborne Noise and Vibration Sources

The *Eastshore Park Project General Plan EIR* does not discuss vibration impacts. The following discussion of vibration impacts supplements the *Eastshore Park Project General Plan EIR*.

Groundborne noise is the response of structures to vibratory energy that is transmitted through the ground and into the structure. As such, the vibration of floors and walls may cause perceptible induced vibration effects, such as the rattling of windows, the jittering of items on the wall or on shelves, and/or an overall, low-frequency rumbling noise. The only building associated with the Project would be a two-stall vault restroom, whose users would be temporary visitors at the site.

The Project would bring additional people into an area with rail lines, which are a major source of groundborne noise and vibration. However, the rail lines are located approximately 1,500 feet or more from the Project site. Groundborne vibration from rail pass-bys can be considered as negligible beyond 300 to 500 feet, given the drop-off with distance and the relatively soft soil conditions at the Project site (which would result in inefficient vibration propagation). Thus, for Project visitors, groundborne vibration from the rail line source would be inconsequential.

For these reasons, the Project would not result in the exposure of park visitors to excessive surrounding groundborne noise and vibration. Thus, this noise impact would be *less-than-significant*.

Exposure of Project Site Visitors and Surrounding Neighborhoods to Project Groundborne Noise and Vibration Sources

Implementation of the Proposed Project would result in construction activities, including site preparation and debris handling activities using heavy earthmoving equipment. Construction would take place in discrete steps, each of which would have its own mix of equipment and, consequently, its own vibration characteristics. The Project would not involve pile driving, which is generally the greatest source of construction vibration.

For groundborne vibration, the FTA has established impact criteria that can be broken into three general categories.[176] Category 1 is for buildings where vibration would interfere with interior operations (such as vibration-sensitive manufacturing facilities, hospitals with vibration-related equipment, and research operations). Category 2 applies to residences and buildings where people normally sleep (i.e. housing tracts, hotels, and hospitals). Category 3 uses are institutional land uses with primarily daytime use (such as schools, churches, and office buildings). The only land use in the immediate vicinity of the Project site is the Golden Gate Fields racetrack, a Category 3 institution with primarily daytime use.

The *Eastshore Park Project General Plan EIR* did not evaluate the impacts of groundborne noise and vibration. However, given the distance from the project site to sensitive receptors, the lack of structures at the project site, the relatively soft soil conditions at the Project site (which would result in inefficient vibration propagation), the type and timing of use at Golden Gate Fields, the lack of pile driving, and the temporary nature of construction, the Project would not expose individuals on

[176] Federal Transit Administration (FTA), *Transit Noise and Vibration Impact Assessment*, prepared by Harris Miller, Miller & Hanson Inc. for the U.S. Department of Transportation, document FTA-VA-90-1003-06, May 2006, Section 8.1.1.

or near the project site to excessive groundborne noise and vibration impacts during construction, and thus this impact would be *less than significant*.

c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

Implementation of the Proposed Project would result in a small permanent increase in ambient noise. The site is currently open to the public for recreational uses, but the Project is anticipated to increase the number of recreational users at the site. Visitors would primarily arrive at the site by vehicle or bicycle and there would be associated noise such as car door slamming, conversation, dog barking, and other related sounds. A single parking lot that accommodates 20 vehicles would be located near Albany Beach (Area 2), with access from Buchanan Street. Public use of the park would be limited to the parking area, beach, trails, and picnic area from sunrise to sunset nearly every day of the year. Outside of these park hours, the Bay Trail (Area 3) would be accessible to bicycles and pedestrians from 5 a.m. to 10 p.m. The Bay Trail spine and spur (Areas 3 and 1, respectively) would also be accessible to small patrol and emergency response vehicles (pick-up truck rated).

There are no permanent residences or other sensitive noise receptors located near the Project site. There is a semi-permanent homeless encampment on the Albany Bulb. Implementation of the Proposed Project would result in a permanent increase in ambient noise due to additional users of the Project site, but, as discussed in the *Eastshore Park Project General Plan EIR*, this noise would be a very small increase over existing noise levels, and would not be perceptible to Project site visitors, or people near the site including homeless people at Albany Bulb. Therefore, the Project would not result in a substantial permanent change in ambient noise levels in the project vicinity, and thus this impact would be *less-than-significant*.

d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

Implementation of the Proposed Project would result in construction activities, including site preparation activities, using heavy earthmoving equipment. This short-term noise is discussed under a. and b., above. The Project would generate short-term construction noise that would exceed ambient noise levels in the project vicinity existing without the project. This construction noise would be temporary, and would be required to comply with the City of Albany and City of Berkeley noise ordinances. For these reasons, this impact would be *less than significant*.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels.

The *Eastshore Park Project General Plan EIR* did not evaluate noise impacts associated with public airports. As discussed in the Initial Study for the Proposed Project, there are no public airports in the area and there would be *no impact* associated with public airports.

f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels.

The *Eastshore Park Project General Plan EIR* did not evaluate noise impacts associated with private airstrips. As described in the Initial Study for the Proposed Project, the closest private airstrip to the Project site is the University of California – Richmond Field Station Heliport, which is approximately two miles north of the Project. Due to the distance from the project site, the low frequency of use of this private heliport, and the vertical approach patterns used by helicopters, the Project would not result in the exposure of people to this noise source, and thus this impact would be *less than significant*.

Cumulative Analysis

Cumulative impacts on noise were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR* and are incorporated herein. The *Eastshore Park Project General Plan EIR* found that no significant cumulative noise impacts would occur on offsite sensitive uses. The Proposed Project does not contain any noise-generating components that are not evaluated in the *Eastshore Park Project General Plan EIR*, and, as discussed above, the Proposed Project would not substantially increase or change the existing ambient noise conditions. The site would continue to be used for recreation, and nearby noise generators, including railway and roadway corridors, would not change.

The following projects in the vicinity of the Project site are proposed or approved. No nearby projects were under construction at the time this DEIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina. [177] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared. [178]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

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[177] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[178] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[179]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction. [180]

The *Eastshore Park Project General Plan EIR* evaluated cumulative (Year 2025) traffic noise levels, which take into account projected vehicular trips along roadway links in the project vicinity generated by existing development plus anticipated growth in the project area, including the projects identified above. The *Eastshore Park Project General Plan EIR* found that the General Plan would add up to 0.1 dBA to area roadway links over the corresponding Year 2025 baseline (without the project) levels, a noise level change that is not discernible by the human ear and is considered less than significant. The Proposed Project would make a smaller contribution to cumulative traffic noise than the General Plan. The cumulative projects identified above would generate noise primarily through additional vehicle traffic. Non-traffic noise generated by these projects would not contribute to cumulative noise at any one receptor because the projects are not located close enough to generate cumulative noise impacts. The *Eastshore Park Project General Plan EIR* found that growth in vehicle traffic due to past, current and probable future projects in the project vicinity may generate a cumulative noise impact, but that the Eastshore State Park would not make a cumulatively considerable contribution to that cumulative noise impact. For similar reasons, the Albany Beach project would not have a cumulatively considerable noise impact because the incremental effects of this Project are not considerable when viewed in connection with the effects of past, current and probable future projects. For these reasons, the cumulative noise impacts of the Project are adequately analyzed in the *Eastshore Park Project General Plan EIR*. The Proposed Project would have a *less than significant* impact on cumulative noise.

[179] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

[180] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.11 Public Services

This section provides the environmental and regulatory background necessary to analyze the impacts of the proposed Albany Beach Restoration and Public Access Project to public services. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication. Specifically, this section incorporates by reference Section III.J from the *Eastshore Park Project General Plan EIR*, which evaluates impacts on public services, and is summarized below.

Regulatory Framework

Eastshore Park Project General Plan

The *Eastshore Park Project General Plan EIR* identifies General Plan guidelines that would reduce to a less-than-significant level potential impacts on police, fire, and emergency services by:

> "Requiring environmental review and the identification of potential negative impacts associated with site-specific development projects, management plans, and Specific Project Plans for the implementation of the *Draft General Plan* in accordance with the California Environmental Quality Act (CEQA) (see guidelines OPER-2, CAPACITY-2, HYDRO-6)".

The *Eastshore Park Project General Plan EIR* does not discuss laws and regulations of jurisdictional cities pertaining to public services. This section supplements the *Eastshore Park Project General Plan EIR,* summarizing the local agencies' regulations that govern police and fire protection services in the Project area.

City of Albany General Plan Community Services and Facilities Goals and Policies

Goal LU 8: Maintain and improve Albany's high quality educational system and other public services.

Policy LU 8.1. Evaluate the potential impacts of future major development proposals upon Albany's schools, police, fire and emergency services, and park and recreational facilities.

City of Berkeley Disaster Preparedness and Safety Element Policies

Policy S-21 Fire Preventative Design Standards

Develop and enforce construction and design standards that ensure new structures incorporate appropriate fire prevention features and meet current fire safety standards.

Actions:

C. Maintain City standards for minimum width and vertical clearance, and ensure that new driveways and roadways meet minimum standards of the Uniform Fire Code or subsequent standards adopted by the City.

Policy S-22 Fire Fighting Infrastructure

Reduce fire hazard risks in existing developed areas.

Actions:

A. Develop proposals to make developed areas more accessible to emergency vehicles and reliable for evacuation. Consider restricting on-street parking, increasing parking fines in hazardous areas, and/or undergrounding overhead utilities. Require that all private access roads be maintained by a responsible party to ensure safe and expedient passage by the Fire Department at any time, and require approval of all locking devices by the Fire Department. Ensure that all public pathways are maintained to provide safe and accessible pedestrian evacuation routes from the hill areas.

B. Evaluate existing access to water supplies for suppression. Identify, prioritize, and implement capital improvements and acquire equipment to improve the supply and reliability of water for fire suppression. Continue to improve the water supply for fire fighting to assure peak load water supply capabilities. Continue to work with EBMUD to coordinate water supply improvements. Develop aboveground (transportable) water delivery systems.

C. Provide properly staffed and equipped fire stations and engine companies. Monitor response time from initial call to arrival and pursue a response time of four minutes from the nearest station to all parts of the city. Construct a new hill area fire station that has wildland firefighting equipment and ability.

Existing Conditions

This section discusses the existing police protection and fire and emergency services the Albany Beach Project area. This section summarizes information contained in the *Eastshore Park Project General Plan EIR* and supplements the *Eastshore Park Project General Plan EIR* by including current staffing levels for the police and fire departments.

Existing Police Protection Services

The City of Albany and the City of Berkeley, in cooperation with the East Bay Regional Park District, provide police protection services to the project site. EBRPD managed lands are patrolled regularly by EBRPD police officers and park rangers. The municipal police departments have jurisdiction and respond to emergencies within the project area. Currently, EBRPD has 64 police positions, the City of Albany has 26 police positions, and City of Berkeley has 163 police positions. The City of Berkeley has one officer patrolling the waterfront. The main City of Berkeley Police Department is located within 2.6 miles of the project site. The City of Albany Police Department, located on San Pablo Avenue, is within 1 mile of the project site.

Existing Fire and Emergency Services

The portion of the project site that is located in the City of Berkeley (the southern portion of Area 3) is served by the City of Berkeley Fire Department. The portion of the project site that is located in the City of Albany is served by the City of Albany Fire Department. Emergency response on existing EBRPD managed lands is also provided by the EBRPD Fire Department working cooperatively with the two cities. Both cities, Berkeley and Albany, have fire stations within 1 mile of the project site. EBRPD's nearest fire station is in Tilden Park in the Berkeley Hills. Currently, the City of Berkeley has 130 firefighter positions, the City of Albany has 6 Fire Department staff positions, and EBRPD has 50 firefighter positions. The City of Albany provides emergency response to the existing Bay Trail spur in Area 1, recreational facilities in Area 2, and the northern section of Area 3 that is within the Albany city limits. The City of Berkeley provides emergency response to the portion of Area 3 that is within Berkeley city limits.

Standards of Significance

The project would have a significant impact related to public services if it would:

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services.

Impacts Discussion

Project Analysis

The Initial Study found that the Proposed Project would have no impacts associated with need for new schools, libraries or other public facilities that would need to be analyzed in the EIR. The Initial Study found that Project impacts on police and fire protection services would be potentially significant. These impacts are evaluated below.

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services.

As discussed in Regulatory Framework, above, the *Eastshore Park Project General Plan EIR* found that the *General Plan* incorporates guidelines that would avoid or reduce to a less-than-significant level impacts related to police and fire protection by, among other things, requiring environmental review and the identification of potential negative impacts associated with site-specific developments projects in accordance with the California Environmental Quality Act (CEQA). The following discussion, which supplements the *Eastshore Park Project General Plan EIR*, evaluates police and fire protection services impacts of the Proposed Project and implements the General Plan guideline requirement for CEQA review.

Police Protection Services

It is anticipated that proposed Albany Beach Project would increase the number of visitors to the area by attracting 376 additional users on bicycles and an average of 37 users from vehicles per day. The attraction of a higher volume of visitors may increase the demand for police protection services. As discussed below, the proposed project, however, would not create a significant demand for new staff positions or new facilities.

Fire and Emergency Medical Service

Based on the anticipated number of new visitors per day, the demand for fire protection and emergency medical response services may increase slightly. The proposed project, however, would not create a significant demand for fire or emergency medical response services and as discussed below, no new staff positions or new facilities would be needed to maintain acceptable service ratios and response times.

Conclusion

All departments stated that an emergency response lane to the Albany Bulb should be available during construction to enable adequate provision of police and fire services. As discussed in the Project Description, Area 1: Albany Neck Shoreline and Trail Restoration, while one of the routes

connecting the parking area along Buchanan Street (east of the project area) to the Albany Bulb (west of the project area) would be closed to the public during construction, the contractor would be required to maintain a 14-foot-wide emergency response vehicle lane at all times.

Prior to acquiring property for the Proposed Project (2.8 acres in Area 2 and Bay Trail alignment in Area 3), the Board of Directors of EBRPD would consider a fire emergency response plan prepared by the EBRPD Fire Department to address new park needs and ensure adequate fire response to the Project site.

The implementation of the proposed project would slightly increase the demand on the existing police and fire departments. Based on discussions of the proposed project with the City of Albany and City of Berkeley Police and Fire Departments, the proposed project is not anticipated to require additional staffing or necessitate the construction of new police and fire department facilities[181,182]. Therefore, the impact on police and fire protection services would be *less than significant*.

Cumulative Analysis

Cumulative impacts on public services, including police and fire protection, were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference. In the EIR, it was determined that the Eastshore Park Project, in combination with other planned projects in the vicinity, would not cause significant adverse impacts on public services, including police and fire protection.

The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[183] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[184]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an

[181] Mike McQuisten, Chief of Police, City of Albany, Personal Communication, May 9, 2012.

[182] Brian Crudo, Fire Marshall, City of Albany, Personal Communication, May 15, 2012.

[183] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[184] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[185]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[186]

The result of the proposed and approved projects identified above, in combination with past development, is a level of demand that requires both new and physically altered police and fire facilities, including police and fire stations, police and fire protection vehicles and equipment, and police and fire protection personnel. This is a significant cumulative impact on police and fire protection. As discussed above, the Proposed Project would not require new or physically altered police or fire facilities. Because the Proposed Project would have a minimal effect on the need for new public services, including fire and police, the Project would not have a cumulatively considerable impact on public services. The incremental effects of this Project are not considerable when viewed in connection with the effects of past, current and probable future projects. Therefore, the Project's cumulative impacts on public services, including police and fire protection, would be *less than significant*.

[185] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

[186] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.12 Recreation

This section contains information about Recreation for the Albany Beach project site. It provides an overview of the current regulatory framework, describes existing conditions, and analyzes the potential impacts of the Albany Beach Restoration and Public Access Project. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document. This section incorporates by reference Section III.J of the *Eastshore Park Project General Plan EIR*. That section evaluates potential impacts on public services, including parks and recreation, and is summarized below.

Regulatory Framework

Section III.J of the *Eastshore Park Project General Plan EIR* addresses the plans and policies applicable to Recreation at the Park. The following discussion summarizes information presented in the "Setting" subsection of Section III.J of the *Eastshore Park Project General Plan EIR*, and supplements that EIR with current data, and information specific to the Albany Beach project, as necessary.

Federal Laws and Regulations

Americans with Disabilities Act

The United States Congress enacted the Americans with Disabilities Act (ADA) in 1990 to address discrimination against individuals with physical and mental disabilities. The ADA requires that all public sites and buildings be accessible to those with disabilities.

Regional and Local Regulations and Plans

San Francisco Bay Trail (Bay Trail)

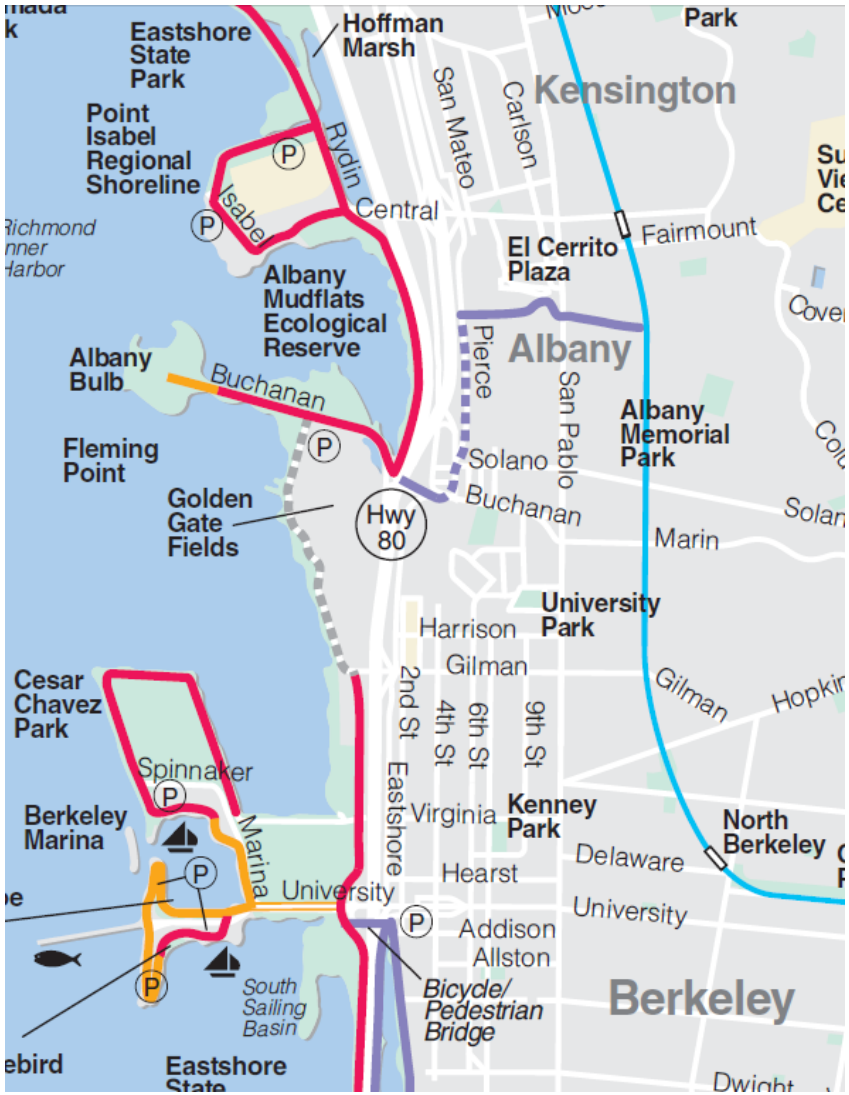
The Bay Trail is a planned recreational corridor that, when complete, will encircle San Francisco and San Pablo Bays with a continuous network of bicycling and hiking trails. It will connect the shoreline of all nine Bay Area counties, link 47 cities, and cross the major toll bridges in the region. To date, approximately 310 miles of the alignment – over 60 percent of the Bay Trail's ultimate length – have been completed.

Senate Bill 100, authored by then-state Senator Bill Lockyer and passed into law in 1987, directed the Association of Bay Area Governments (ABAG) to develop a plan for this "ring around the Bay," including a specific alignment for the Bay Trail. The Bay Trail Plan, adopted by ABAG in July 1989, includes a proposed alignment; a set of policies to guide the future selection, design and implementation of routes; and strategies for implementation and financing.

The City of Albany constructed a spur of the Bay Trail that extends west from the end of Buchanan Street and terminates in the Project Area at a vista point that overlooks Albany Beach and San Francisco Bay. From this point, two unpaved trails provide access parallel to one another along the Neck to the end of the Bulb for hikers, dog walkers and cyclists. These two trails also provide access for authorized vehicles such as waste management trucks and law enforcement patrol cars and emergency response vehicles. The proposed project would improve the southerly trail to ADA standards.

The Eastshore Park General Plan also identifies extending the Bay Trail spine along the Beach between the Buchanan Street parking lot and Gilman Street. This spine of the Bay Trail would provide direct access to Albany Beach from Gilman Street.

The route of the Bay Trail through the Albany Beach project area is shown in **Figure 4.12-1**.



Bay Trail (off street)
Shared-use paved or gravel paths

Bay Trail (on street)
Bike lanes and sidewalks

Unimproved Bay Trail (off street)
Narrow path and/or rough surface

Unimproved Bay Trail (on street)
No bike lanes and/or no sidewalks

Planned Bay Trail
Future route – not developed

Other Trail
Paved or gravel paths connecting to Bay Trail

Planned Other Trail
Future connection to Bay Trail – not developed

Graphic: Portions of the San Francisco Bay Trail Map (Source: ABAG)

Healthy Parks
Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org

FIGURE 4.12-1

SAN FRANCISCO BAY TRAIL PLAN

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

San Francisco Bay Area Water Trail (Water Trail)

The Water Trail was authorized by the San Francisco Bay Area Water Trail Act signed into law in September 2005. The Act directed the San Francisco Bay Conservation and Development Commission, in coordination with other agencies and organizations, to conduct a public process to develop the San Francisco Bay Area Water Trail Plan, and assigned the California State Coastal Conservancy to be the lead agency for implementing the Plan. The San Francisco Bay Area Water Trail Final Environmental Impact Report was certified by the California State Coastal Conservancy on March 17, 2011. The Water Trail will be a network of access sites (or "trailheads") that will enable people using non-motorized, small boats or other beachable sailcraft, such as kayaks, canoes, dragon boats, stand up paddle and windsurf boards, to safely enjoy single and multiple-day trips around San Francisco Bay. This regional trail has the potential to enhance Bay Area communities' connections to the Bay and create new linkages to existing shoreline open space and other regional trails, such as the Bay Trail. The Water Trail is to include educational, stewardship, and outreach components. Albany Beach (Water Trail Site A1) is designated as an existing Water Trail Backbone Site, meeting two criteria: have launch facilities or planned facilities (e.g., ramp, float, etc.) or launch areas (e.g., a beach) that are used for NMSB (non-motorized small boat) access or are planned for this use; and are open to the public. The nearest High Opportunity Site (where there are existing launch facilities and minimal management issues; potential for future trailhead) is located at the Berkeley Marina. Albany Beach is not a designated High Opportunity Site.

City of Albany General Plan

Parks and Recreation is discussed in the City of Albany's Conservation, Recreation and Open Space Element. Adopted in 1992, the General Plan predates the Eastshore Park Plan, and states that gaining increased park and open space lands and public access to the waterfront area are important City goals. The Plan also calls for working with EBRPD and other groups to acquire and develop Eastshore State Park and develop the Bay Trail along the shoreline.

City of Berkeley General Plan

The City of Berkeley's Open Space and Recreation Element contains the City's goals, objectives, policies and programs for recreational facilities. **Policy OS-13: Waterfront Open Space and Recreational Facilities calls for** implementation of the 1986 Waterfront Plan policies to establish the waterfront as an area primarily for recreational, open space, and environmental uses, with preservation and enhancement of beaches, marshes, and other natural habitats, including:

- Work collaboratively with the East Bay Regional Park District, Albany, Emeryville, and Oakland to plan and complete the new Eastshore State Park as part of a continuous East Bay shoreline open space and recreational area.
- Assure that new development along the shoreline recognizes its unique location, considers sensitive natural resources, and maintains adequate shoreline access and views.
- Maintain Cesar Chavez Park as a City-owned park.
- Complete the Berkeley portion of the Bay Trail and connections to Cesar Chavez Park and links to the Berkeley Marina.

Parks and Recreation Facilities

Use of the East Bay shoreline as a recreation area has evolved over the last twenty years; historically, the shoreline was associated with commercial, industrial, and maritime uses. Parks, trails, and visitor facilities have been developed in the project vicinity to enhance public recreation. Point Isabel

Regional Shoreline is owned and managed by EBRPD, with other facilities that are generally either municipal or private facilities.

The Eastshore Park General Plan calls for a wide range of recreational activities, including passive and active sports as well as land based and water oriented facilities. Guidelines for visitor-serving facilities at the project site include facilities that facilitate the public's enjoyment of the natural setting; reflect a balance between the need for resource protection, recreation, and interpretation and education; enhance the recreational use of Bay waters by kayakers, windsurfers, dragon boats, and other human-powered watercraft by providing safe and convenient Bay access facilities; provide upland facilities such as parking, restrooms, potable water, lay-down areas, etc. that support aquatic recreation uses; keep existing trails and introduce new trails that ensure opportunities for visitors to enjoy the diverse topography, biotic communities, avian habitat areas, and scenic views in the park project, and provide fencing or signing of trails where necessary to protect adjacent resources.

Existing Conditions

The Albany Beach site (Area 2) is open to general public use. The main vehicular access is from Buchanan Street in Albany, and bicyclists access the site through Golden Gate Fields lands. The site is not gated to preclude overnight use of the site, and the adjoining Albany Bulb area has an existing population of semi-permanent residents.

The site is used by a range of recreation users, with primary activities in the area including hiking, dog-walking, and plant and wildlife observation. The Beach (Area 2) and the Neck (Area 1) provide expansive views of the Bay and San Francisco skyline. Additional discussion of site use and facilities (including dog use) is contained in Section 4.9, Land Use.

The Bay Trail portion of the Project site (Area 3) contains no public recreation facilities, but it is open to the public and is used informally by bicyclists and pedestrians.

Existing park and recreational facilities within the project site and vicinity include:

Albany Plateau, Neck, Bulb, and Beach. The Albany Plateau, Neck, Bulb, and Beach are distinct and contiguous open space areas within and adjacent to the project site. (Portions of the Plateau and Neck are in Area 1, and the Beach is in Area 2.) These areas contain few improvements or formal recreation facilities. The Plateau contains trails and an 8 acre fenced area identified for burrowing owl habitat. The Neck contains two paths that extend through the Neck to the Bulb: an upper trail that follows the ridge down the middle of the Neck; and a lower trail that extends along the south side of the Neck. Many narrow, meandering trails exist on the Bulb. Albany Beach contains a sandy beach area. The entry area to the site contains a portable restroom, paved and unpaved trails, remnant post and cable fencing, and a round seating area/fire pit structure just north of the Beach that was commissioned by the city of Albany, called "the Cove".

Adjacent Park Facilities within Eastshore State Park

Bay Trail. The Bay Trail is not continuous throughout the project site; the alignment terminates at the end of Buchanan Street and begins again at the end of Gilman Street within the Tom Bates Regional Sports Complex. From this location, the Bay Trail continues south as a Class I separated alignment adjacent to the I-80 frontage road to Emeryville and Oakland, with numerous trail spurs and pedestrian trail segments within the Berkeley Marina and Meadow.

From Buchanan Street north, the trail is a continuous off-street segment connecting Point Isabel to Marina Bay, and also provides connections to residential neighborhoods in Albany, El Cerrito and Richmond.

Berkeley Beach. The upland portion of the Berkeley Beach consists of a broad shoulder between West Frontage Road and the riprap that stabilizes the shore. This area is a popular fishing location. The strip of land is wide enough for visitors to pull off the roadway and fish from the rocky shore. The wide shoulder is also used by auto dwellers to illegally park overnight.

Berkeley Brickyard. The beach along Brickyard Cove and the spit of land that extends along the west side of the cove are used for recreation. These areas are used for activities such as bird-watching, dog-walking, and strolling. The spit provides a clear view of the Bay.

The Seabreeze Market, located at the south-west corner of University Avenue and West Frontage Road, operates as a concession, offering a range of food products from prepared foods to fresh produce. On-site facilities include several tables for outdoor dining and portable restrooms. Parking is accommodated in the large unpaved and unstructured lot at the rear of the market.

Berkeley Meadow. The Berkeley Meadow contains fenced habitat enhancement areas, trails, interpretive signs and site furnishings. The Meadow is used by bird-watchers and dog-walkers, with informal trails as well as an older paved section of Virginia Street that extends between West Frontage Road and Marina Boulevard along the north side of the Meadow. This corridor allows pedestrian access along the North Basin shoreline away from vehicular traffic to and from Cesar Chavez Park. This paved corridor also provides a connection for bicyclists between the Bay Trail on West Frontage Road and the Berkeley Marina area.

Point Isabel Regional Shoreline. The Point Isabel Regional Shoreline, located one mile north of the project area, includes 21 acres of open area with trails, two parking areas, permanent and portable restroom facilities, a lawn area, running water for dog rinsing, and a dog-washing concession. It is the most actively used area within Eastshore State park, containing the largest off-leash dog park in the East Bay region. The Point Isabel Regional Shoreline accommodates roughly 900,000 to 1 million visitors annually.[187]

Recreation in the Vicinity of the Project Site

The following discussion focuses on park and recreational resources and facilities in the vicinity of the project site.

- *Albany*. Albany has six parks near the project site as well as Albany Bulb and Ohlone Greenway. Albany's parks support a range of uses, from walking in natural areas to playing in sports fields. Public parks in the vicinity of the project site, but east of Interstate 80 (I-80), include: Albany Hill Park, providing views of the project site; and Ocean View Park, located on Buchanan Street. Albany has adopted a regulation prohibiting dogs in some parks at certain times and on certain days.
- *Berkeley*. Of the five cities adjoining the project site, Berkeley maintains the largest number and most diverse range of parks and recreational facilities near the project site. The area of the Berkeley Marina provides a broad range of recreational facilities and support uses on 297 acres of publicly-owned land. The 97-acre Cesar Chavez Park is the largest upland facility in the Marina area, providing for unstructured recreation (including a 17-acre off-leash dog area).

  Other park spaces include Shorebird Park and Adventure Playground along the shore at the South Sailing Basin, and Horseshoe Park fronting the Marina basin. Aquatic Park is a large open space and recreational resource that is directly linked to the project site with the completion of the City's pedestrian overpass of the freeway, located immediately south of University Avenue. The nearest parks that include structured sports facilities such as ball fields and tennis courts are:

[187] EBRPD, 2001; Pt. Isabel Dog Owners Association and Friends, Inc. (PIDO), 2001.

Harrison Fields at Sixth and Harrison Streets adjacent to Codornices Creek, and James Kenney Park and Recreation Center at Seventh and Delaware streets.

- *El Cerrito*. El Cerrito has thirteen parks and recreation facilities, as well as a fenced dog park, a 79 acre nature area that allows off-leash dog use, and the Ohlone Greenway, a 2.5 acre linear park.
- *Richmond*. Shoreline Parks in Richmond include: Shimada Friendship Park, Jay and Barbara Vincent Park, Marina Green and Marina Park, Sheridan Point, and the Lucretia W. Edwards Shoreline Park.
- *Emeryville*. City parks along the Emeryville shoreline include Marina Park; 61st Street Mini Park; and Christie Park.

Recreational and Support Facilities. A number of recreational support facilities in the vicinity of the project site are located in each of the municipalities.

- *Marinas*. Four marinas currently exist in the project vicinity: two in Emeryville and one each in Berkeley and Richmond, with a total of 2,295 berths. Recreational facilities within the Berkeley Marina area include: the 3,000-foot Berkeley Pier, a popular location for fishing and sightseeing; the Nature Center, an education and interpretive center dedicated to teaching children about the Bay ecology; and the Bay Trail. These recreational facilities are complemented by nine commercial leaseholders, including a hotel, three restaurants, boat repair and marine supply uses, kite-flying concessions, and water-related sports concessions such as sailing and kayaking. The Berkeley marina is a designated Water Trail High Opportunity site.

  A windsurfing staging area is located at the north end of the Emeryville Marina Park. Windsurfers access the water's edge from various points within and near the Berkeley Marina properties. Windsurfers and kayakers enter the water at either the Richmond Marina or at informal access points along the Richmond Shoreline Trail.
- *Play Areas/Sports Fields*. Tom Bates Regional Sports Complex opened in 2008 and consists of two all-purpose lighted synthetic fields built to accommodate soccer, rugby, and lacrosse, located on the south side of Gilman Street, immediately south of the Project site. Three non-lighted natural turf fields can also accommodate baseball. The second phase of the facility includes additional fields, parking and site amenities.

  Playgrounds and sports fields are also available in adjacent communities to accommodate a wide range of sports activities. Two parks in Oakland include play areas and/or sports fields: Raimondi Park (with soccer fields and baseball diamonds) and Poplar Recreation Center (multi-purpose turf with supporting facilities). In Berkeley, Aquatic Park, Cesar Chavez Park, and Shorebird Park provide multi-purpose turf, tot lots, Adventure Playground, "Dreamland for Kids," and other school-age play areas. James Kenney Park and Harrison Fields in Berkeley provide additional soccer practice fields, basketball courts, tennis courts, baseball/softball diamonds, a skate park, and a gym. In Albany, University Village and Ocean View Park provide multi-purpose sports fields. Tennis and basketball courts and a multi-purpose play structure for young children are also available at Ocean View Park. Playgrounds are located at Vincent Park along the Shoreline Trail and the Marina Park/Marina Green in Richmond.
- *Bay Trail*. The San Francisco Bay Trail in the project vicinity is complete, except for the segment within the project site, between Buchanan and Gilman Streets.
- *Picnic Facilities*. Picnic facilities are provided in many nearby parks, including Port View Park in Oakland; Marina Park and Davenport Mini-Park in Emeryville; Shorebird Park, Adventure Playground, Cesar Chavez Park, Marina Mall, Aquatic Park, and James Kenney Park in Berkeley; Ocean View Park in Albany; and Marina Park/Marina Green, Shimada Friendship Park, and Vincent Park in Richmond.

- *Interpretive Centers/Exhibits.* Oakland, Berkeley, Albany, and Richmond have interpretative signage, exhibits, or other facilities located along sections of the Bay Trail and waterfront. The Shorebird Nature Center in Berkeley provides hands-on educational programs and tidal zone wildlife exhibits. The Bay Trail in Richmond has interpretive signage with ecological and historical information. The "Rosie the Riveter" National Historical Park, located in Richmond's Marina Bay, includes an interpretive monument.
- *Fishing Piers.* Three functional fishing piers exist along the East Bay shoreline: Port View Park in Oakland; Marina Park and City Marina in Emeryville; and Berkeley Marina in Berkeley.
- *Private Recreational Resources.* In addition to the public recreational resources, the Golden Gate Fields racetrack provides private recreation (on-site horse racing and wagering) that attracts visitors to the shoreline.
- *Restrooms.* Some parks in each of the municipalities include public restroom facilities: Tom Bates Regional Sports Complex; Marina Park in Emeryville; Adventure Playground, Aquatic Park, Horseshoe Park, Marina Mall, and Shorebird Park in Berkeley; Ocean View Park in Albany; and Shimada Friendship Park, Pt. Isabel Regional Shoreline, and Marina Bay Park in Richmond.

Standards of Significance

Recreation impacts associated with the Proposed Project would be considered significant if the Project would:

a. Increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated.

b. Result in substantial adverse physical impacts associated with the provision of new or physically altered park and recreational facilities, or result in the need for new or physically altered park and recreational facilities, the construction of which could cause significant environmental impacts.

Impacts Discussion

Project Analysis

a. <u>Increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated.</u>

This Project portion of Eastshore State Park is already in use, with primary use by hikers, bicyclists and visitors with dogs. As indicated in 3. Project Description, Current and Projected Site Use, a projected daily increase of 37 users who arrive by vehicle, and a daily increase of 144 bicyclists can be expected due to provision of improved park facilities, including accessibility improvements to existing trails, completion of missing trail segments, addition of picnic and watercraft access staging facilities, and provision of dedicated parking and access facilities.

It is estimated that improved facilities (including additional area available for use for visitors with dogs) at the project site may increase use by visitors with dogs which may be diverted from the adjacent dog park at Point Isabel.

The proposed project would also close a major gap in the San Francisco Bay Trail, to allow authorized transit on foot and bicycle from Richmond on the north to Berkeley and Emeryville to the south. This would reduce the existing trespass on Golden Gate Fields property by bicyclists, and would have a *beneficial* impact by reducing visitor conflicts between visitors to Golden Gate Fields and bicyclists and hikers on the new, separated Bay Trail segment.

In conclusion, the project is likely to increase the number of visitors at the existing facilities at Albany Beach, including those arriving by car and bike. However, the Proposed Project facilities would have sufficient capacity to satisfy this demand. The Project would not increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated. This impact would be *less than significant*.

b. Result in substantial adverse physical impacts associated with the provision of new or physically altered park and recreational facilities, or result in the need for new or physically altered park and recreational facilities, the construction of which could cause significant environmental impacts.

The Project would provide new recreational facilities and would increase recreational enjoyment of Albany Beach at Eastshore State Park. The Project would not result in the need for new or physically altered park and recreational facilities. Impacts to recreational facilities in the Project vicinity are addressed above under a. The environmental impacts of the Proposed Project are evaluated in Chapter 4 of this EIR. These impacts, with implementation of mitigation measures identified in Chapter 4 of this EIR, would be reduced to a *less than significant* level.

Cumulative Analysis

Cumulative impacts on recreation were evaluated in Section V.C, Cumulative Impacts, of the Eastshore Park Project EIR and are incorporated herein by reference. In the EIR, it was determined that the Eastshore Park Project, in combination with other planned projects in the vicinity, would not cause significant adverse impacts on parks and recreation.

Implementation of park and recreation improvements has been part of an ongoing process since approval of the Eastshore State Park General Plan in 2002. Planning for the Albany Beach site has been part of an extensive process to provide amenities that allow a range of recreational uses as well as balance habitat protection and restoration objectives. Proposed facilities include an access road, parking area, picnic facilities, ADA accessible trails, bicycle facilities watercraft staging and access areas.

The Proposed Project would provide a connection to the Tom Bates Regional Sports Complex at the south end of the project site, which would improve public access and reduce existing trespass.

The Golden Gate Fields Property, east of the Project site, has had a variety of potential planning and development proposals in recent years, but none have been approved, and there are no pending development applications for the site.

The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[188] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

[188] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[189]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[190]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the

[189] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[190] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[191]

The proposed and approved projects identified above include several recreation projects that would improve recreational facilities and opportunities in the Project vicinity. The projects identified above, both singly and in combination, and in combination with past projects, would not create significant adverse impacts on recreation. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on recreation.

The Proposed Project would provide new recreational facilities and would not impact other recreational facilities or contribute to the need for new or physically altered park and recreational facilities. Thus, the Proposed Project would not contribute to cumulative impacts on recreation. This impact would be *less than significant*.

[191] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

4.12 Transportation and Traffic

This section describes the transportation and traffic conditions in the area surrounding the Albany Beach project, and identifies transportation impacts and required mitigation measures associated with the implementation of the Proposed Project. The analysis includes a summary of the relevant regulatory setting and existing conditions, and it addresses potential impacts to intersections and roadway segments; pedestrian, bicycle, and transit networks; and internal site circulation. Significant impacts and mitigation measures (as necessary) are identified to address these impacts. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication. Specifically, this section incorporates by reference Section III.K from the *Eastshore Park Project General Plan EIR*, which evaluates impacts on traffic and transportation, and is summarized below. This section was prepared based on the *Eastshore Park Project General Plan EIR* discussed above, the Section on Traffic and Circulation in the *Existing and Future Conditions Report*, LSA Associates, January 2011, and an analysis of projected increased bicycle and automobile site visits prepared by Questa Engineering in May 2012. The 2011 LSA traffic study included parking and traffic counts, and an analysis of Level of Service for the I-580 northbound and southbound ramps at Buchan Street. Technical analyses related to this Project are provided in Appendix K.

Regulatory Framework

Applicable State, County, and local transportation/traffic plans and regulations that are relevant to the project area are summarized below. Streets in the Project area are generally under the jurisdictions of the Cities of Albany and Berkeley. State facilities in the Project area which are under Caltrans' jurisdiction include the I-80 and I-580 freeways, and San Pablo Avenue (SR 123).

State Laws and Regulations

California Department of Transportation (Caltrans)

Caltrans owns and operates California's highway system. Interstate 80 and Interstate 580 are Caltrans facilities. Caltrans maintains a volume monitoring program and reviews local agencies' planning documents to assist in its forecasting of future volumes and congestion points.

Caltrans has as an objective to maintain a target level of service at the transition between Level of Service (LOS) "C" and "D." Levels of Service are defined in **Table 4.12-1**. However, according to the Caltrans' *Guide for the Preparation of Traffic Impact Studies*, Caltrans recognizes that this might not always be feasible. Within Alameda County, the County Transportation Commission (Alameda CTC) provides the applicable LOS and Measure of Effectiveness (MOE) for State highways.

TABLE 4.12-1 SIGNALIZED INTERSECTION LEVEL OF SERVICE DEFINITIONS

Level of Service	Description	Average Control Delay Per Vehicle (Seconds)
A	Signal progression is extremely favorable. Most vehicles arrive during the green phase and do not stop at all. Short cycle lengths may also contribute to the very low vehicle delay.	10.0 or less
B	Operations characterized by good signal progression and/or short cycle lengths. More vehicles stop than with LOS A, causing higher levels of average vehicle delay.	10.1 to 20.0
C	Higher delays may result from fair signal progression and/or longer cycle lengths. Individual cycle failures may begin to appear at this level. The number of vehicles stopping is significant, though many still pass through the intersection without stopping.	20.1 to 35.0
D	The influence of congestion becomes more noticeable. Longer delays may result from some combination of unfavorable signal progression, long cycle lengths, or high volume-to-capacity (V/C) ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 55.0
E	This is considered by most drivers to be the limit of acceptable delay. These high delay values generally indicate poor signal progression, long cycle lengths, and high volume-to-capacity (V/C) ratios. Individual cycle failures occur frequently.	55.1 to 80.0
F	This level of delay is considered unacceptable by most drivers. This condition often occurs with oversaturation, that is, when arrival flow rates exceed the capacity of the intersection. Poor progression and long cycle lengths may also be major contributing causes of such delay levels.	Greater than 80.0

Source: Transportation Research Board, 2000 Highway Capacity Manual (Washington, D.C., 2000).

Local Regulations and Policies

Metropolitan Transportation Commission (MTC)

The Metropolitan Transportation Commission (MTC) is responsible for transportation planning for the Bay Area as a whole, and is the federally designated Metropolitan Planning Organization for the Bay Area. Its *Regional Transportation Plan* covers a 20-year time framework and is updated every 2 years. The MTC administers State funding for transportation projects.

East Shore Park Project General Plan

The Eastshore State Park General Plan includes park-wide goals and guidelines that address Traffic and Circulation. Those that are applicable to the Project site include:

Goal

An integrated and efficient multi-modal circulation system that facilitates visitor access to, and movement within, the park project.

Guidelines

General

CIRC-2: Design a circulation system that separates vehicular from nonvehicular traffic as much as possible in order to enhance nonvehicular modes and reduce potential conflicts.

CIRC-3: In order to minimize increases in traffic and the demand for parking, provide facilities that encourage and support alternate modes of transportation to the Eastshore park project, including pedestrian, bicycle, bus, and boat.

CIRC-4: Emphasize walking, biking, and non-motorized boating as the primary and preferred modes of transportation within the Eastshore park project.

Trails

CIRC-6: Provide a convenient and attractive system of multi-use trails throughout the park that links all subareas of the park project into an integrated whole.

CIRC-7: To the extent feasible, the trail system will be designed and constructed to provide universal access.

CIRC-8: Recognize the Bay Trail as the park project's primary nonvehicular transportation corridor and an important means of unifying public use areas within the non-contiguous portions of the park project.

CIRC-9: In order to improve access to and through the park project, support neighboring jurisdictions in their efforts to expedite the completion of the Bay Trail as set forth in ABAG's Bay Trail Master Plan.

CIRC-10: Improve access to the park project from the Bay Trail by adding spurs, laterals, and loops from the main trail corridor into the park project.

Parking

CIRC-17: Ensure that adequate parking is provided to accommodate public access to the park project and serve park uses and facilities.

CIRC-18: Distribute parking areas strategically throughout the Eastshore park project to support proposed activities and facilities.

CIRC-19: Given the limited amount of upland area within the park project, parking strategies that minimize the use of upland habitat for the development of parking lots should be explored, including the following:

-Pursue shared parking arrangements with adjoining municipalities and landowners;

-Work with local municipalities to explore the feasibility of increasing on-street parking in public rights-of-way on both a permanent and special event basis;

Alameda County Transportation Commission

The Alameda County Transportation Commission (Alameda CTC) was created by a merger of the Alameda County Congestion Management Agency (ACCMA) and the Alameda County Transportation Improvement Authority (ACTIA) in July 2010. It is managed by elected officials and their representatives from all of the cities in the County, and a County elected official. The merger resulted in a more efficient and streamlined project delivery system for Alameda County transportation projects, including improvements for vehicular safety, travel efficiency, and congestion relief, and for bicycle and pedestrian travel.

The Alameda CTC plans, funds and delivers transportation programs and projects that expand access and improve mobility with the objective of fostering a more vibrant and livable Alameda County. The Alameda CTC coordinates countywide transportation planning and prepares the expenditure plan for the half-cent sales tax approved by Alameda County voters in 2000. This includes preparing the County-wide Transportation Plan, the Congestion Management Program (CMP), as well as the in-progress update of the 2006 Countywide Bicycle and Strategic Pedestrian Plans. The CMP establishes thresholds for designated roadways, which in the vicinity of the project area are I-80/580, San Pablo Ave. (SR-123) and Ashby Ave. (SR-13). For most projects, the Alameda CTC Technical & Policy Guidelines uses a 100-tripPM Peak (increase) threshold, which if exceeded, would require a detailed traffic study.

Several advisory committees, composed of staff representatives from each city and the county, provide technical guidance to the Alameda CTC. In addition, a separate Bicycle and Pedestrian Advisory Committee (BPAC) composed of citizens appointed by the cities and county make recommendations to the Alameda CTC and staff on development and implementation of bicycle and pedestrian programs, including the updating of the countywide plans.[192]

Association of Bay Area Governments (ABAG) San Francisco Bay Trail

Senate Bill 100, passed into law in 1987, directed ABAG to develop a plan for a trail around the Bay. The *Bay Trail Plan*, adopted by ABAG in 1989, described the 500-mile proposed alignment; design guidelines for trail width, surface, and grades; a set of policies to guide the future selection, design, and implementation of routes; and strategies for implementation and financing.[193,194] The *Bay Trail*

[192] Alameda County Transportation Commission website, www.actc.org, 2010

[193] ABAG, 2009. *Bay Trail Plan*. Adopted July 1989

Plan describes a main alignment or Bay Trail spine, and side trails, called Spur Trails, where the Bay Trail does not follow the shoreline. Although ABAG is not a regulatory agency, the *Bay Trail Plan* provides guidance that is used by cities, counties, and special districts in planning for non-motorized vehicles. Projects are evaluated for adherence to the *Bay Trail Plan* policies and routes.

City of Albany

The City of Albany General Plan Circulation Element establishes the following general goals for implementation of the Circulation Element:

- Goal CIRC 1: Preserve the character of residential areas near arterial streets.
- Goal CIRC 2: Protect residential neighborhoods from excessive parking demand.
- Goal CIRC 3: Maintain adequate circulation throughout the City and improve the parking capacity on Solano and San Pablo Avenues.
- Goal CIRC 4: Support public transit and other means to reduce reliance on the automobile as the primary means of transportation.
- Goal CIRC 5: Ensure that the I-80 reconstruction project meets the City's goals for improved earthquake safety on the Buchanan/I-80/580 interchange and the Buchanan Street overpass, improved automobile safety of the interchange, improved pedestrian and bicycle safety of the interchange, and improved access to the Albany Waterfront.
- Goal CIRC 6: Improve and enhance the City's bicycle route and path system.

The Circulation Element contains 26 specific policies that are intended to achieve these goals. The Element also includes maps illustrating peak hour roadway congestion and the Circulation Plan Map.

City transportation policies that most directly relate to the proposed project include the following:

- Policy CIRC 3.1: Monitor critical intersections (e.g., such as Buchanan/Jackson, Buchanan/San Pablo, Solano/San Pablo, Marin/Santa Fe, Marin/Key Route) for indications of necessary traffic improvements. Develop specific improvement plans to reduce impacts of increased traffic and incorporate into the City's Capital Improvements Plan.
- Policy CIRC 3.2: Conduct more detailed studies to address the traffic effects and needed improvements associated with specific development proposals.
- Policy CIRC 4.3: Continue to work with the City's Trip Reduction Ordinance and continue to develop programs and incentives for the use of carpools, staggered work hours, bicycling, walking and the increased use of public transit for community residents and employees in the community.
- Policy CIRC 4.7: Assure that sidewalks, pathways, and trails used by pedestrians are safe and provide unhindered access for all.

In addition, the City of Albany Bicycle Master Plan includes the following goals:

- Goal 1: Support bicycling and the development of a comprehensive bicycle transportation system as a viable alternative to the automobile.
- Goal 2: Use available state and federal funding for bicycle improvements in Albany.
- Goal 3: Improve upon existing bikeway facilities and programs in Albany.

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[194] A description of the *Bay Trail Plan* is available at http://www.abag.ca.gov/bayarea_info/baytrail/baytrailplan.html.

- Goal 4: Develop a bicycle system that meets the needs of commuter and recreation users, helps reduce vehicle trips, and links residential neighborhoods with regional destinations.
- Goal 5: Maximize multi-modal connections to the bicycle system.
- Goal 6: Improve bicycle safety in Albany.
- Goal 7: Develop detailed bicycle facility improvement proposals.
- Goal 8: Encourage public participation and creation of an ongoing Advisory Committee.
- Goal 9: Develop a coordinated strategy to encourage bicycling in Albany.

The Bicycle Master Plan also includes specific objectives intended to achieve these goals. The Master Plan also includes a map illustrating proposed bicycle facilities in the City. Existing and planned bicycle facilities in the vicinity of the proposed project were described on page 37. Policies that most directly relate to the proposed project include the following:

- Objective 1.4: Encourage infill development concepts whose goal is the reduction of automobile use for short commute, shopping, and recreation trips.
- Objective 3.2: Encourage the use of existing natural and manmade corridors such as creeks, railroad right of ways, and other open space corridors for bike path and trail alignments, as shown in this Plan.
- Objective 4.1: Develop a commuter route system connecting residential neighborhoods and regional employment areas, multi-modal terminals, schools, and shopping areas.
- Objective 4.3: Develop incentives that will encourage people to bicycle to work.
- Objective 4.6: Continue to work to address barriers to bicycling, such as the lack of secure bicycle parking and signals that do not detect bicycles.
- Objective 4.7: Encourage development concepts and standards such as mixed-use and neighborhood-serving retail and employment opportunities.

City of Berkeley

City of Berkeley General Plan Circulation Element, Berkeley Bike Plan, and Berkeley Pedestrian Master Plan contain the following relevant goals and policies related to bicycle and pedestrian facilities:

Circulation Element of General Plan

- Policy T-42 Bicycle Planning: Integrate the consideration of bicycle travel into City planning activities and capital improvement projects, and coordinate with other agencies to improve bicycle facilities and access within and connecting to Berkeley.
- Policy T-48 Pedestrian Plan: Create a Pedestrian Plan for the purpose of developing additional strategies and policies to make Berkeley safer for pedestrians and to make Berkeley a more pedestrian-friendly city.
- Policy T-54 Pathways: Develop and improve the public pedestrian pathway system.

Berkeley Bike Plan (2000)

Mission Statement

To create a model bicycle-friendly city where bicycling is a safe, attractive, easy, and convenient form of transportation and recreation for people of all ages and bicycling abilities.

Goals

1. Planning: Integrate the consideration of bicycle travel into City planning activities and capital improvement projects, and coordinate with other agencies to improve bicycle facilities and access within and connecting to Berkeley.

Policies:

- 1.1 Coordinate the bikeway network plan with adjacent governmental entities, public service companies, coordinating agencies and transit agencies.
- 1.2 Establish clear roles and responsibilities for all affected City departments in the implementation of the Bicycle Plan, including the funding, construction, operation, and maintenance of the bikeways.
- 1.3 Ensure that all traffic impact studies, analyses of proposed street changes, and development projects address impacts on bicycling and bicycling facilities. Specifically, the following should be considered:
  - Consistency with General Plan and Bicycle Plan policies;
  - Impact on the existing Bikeway Network;
  - Degree to which bicycle travel patterns are altered or restricted due to the projects; and
  - Safety of future bicycle operations (based on project conformity to accepted design guidelines and standards).
- 1.4 Encourage the Congestion Management Agency (CMA) to include bicycle facilities in the list of exempt projects whose implementation may cause a project to exceed Congestion Management Program (CMP) and level of service (LOS) standards.
- 1.5 Integrate bicycle network and facility needs into all City planning documents and capital improvement projects.
- 1.6 Work with transit providers to increase accessibility on board transit vehicles to bicycle users, especially during peak commute hours, and to provide secure bike parking at stations.

2. Network and Facilities: Develop a safe, convenient, and continuous network of bikeways that serves the needs of all types of bicyclists, and provide bicycle parking facilities to promote cycling.

Policies:

- 2.1 Develop a citywide system of designated bikeways that serves both experienced and casual bicyclists. The network should serve all bicyclists' needs, especially for travel to employment centers, schools, commercial districts, transit stations, institutions, and recreational destinations.
- 2.2 Ensure that all city streets open to bicycles are safe for bicycling, while focusing bikeways primarily on streets with lower volumes of auto traffic.

- 2.3 Provide bikeway facilities that are appropriate to the street classification, traffic volume, and speed including the development of a new bikeway classification - the bicycle boulevard - such that the entire city is served by the bikeway network.
- 2.4 Design the street system to provide a safe network for bicyclists, pedestrians, the disabled community, and emergency response.
- 2.5 Adopt and adhere to citywide design standards for bikeways and bike rack placement. Ensure that standards for roadway maintenance meet bicyclists' needs for smooth, deterrent-free roads.
- 2.6 Maintain all streets, roadways, and designated bike routes to be free of deterrents to bicycling (such as pot holes, debris, and overgrown landscaping) to the greatest extent possible.
- 2.7 Incorporate bicyclists' needs into the City's guidelines and timetables for maintenance activities, including re-paving, and ensure proper funding levels for routine bicycle-related maintenance activities.
- 2.8 Ensure that roadway and pedestrian corridor designs do not include any actions that would compromise bicycle safety, such as the extreme narrowing of a curb lane.
- 2.9 Monitor bicycle parking supply within the City right-of-way and installed by private developers under the city ordinance to ensure that adequate bike parking is available.

Berkeley Pedestrian Master Plan (2010)

Vision Statement

Create a model bicycle and pedestrian friendly city where bicycling and walking are safe, attractive, easy and convenient forms of transportation and recreation for people of all ages and abilities.

Goals

- 1: Plan, Build and Maintain Pedestrian Supportive Infrastructure
- Policy 1.3: Pathways – Develop and improve the public pedestrian pathway system.
- 2: Provide Universally Safe and Equal Access.
- Policy 2.1: Improve pedestrian access for the entire disabled community.

Existing Conditions

Setting

The scope of this analysis, the analysis methodology, the existing setting for transportation and circulation issues, and an analysis of future transportation and circulation issues are described below.

Vehicular Access

The following section describes the transportation system in the project area, including the roadway, transit, pedestrian, and bicycle networks.

Regional Access Routes

Regional access in the vicinity of the project site is provided via the following routes:

Interstate 80. I-80 is a major east-west freeway that begins in San Francisco County at Highway 101 and extends cross-country to New Jersey in the east. In Alameda County, I-80 is a major commute route connecting residents in the northeast Bay Area to employment centers in the region. In the vicinity of the project, I-80 has a north-south orientation. I-80 is also designated I- 580 through Albany, Berkeley, and Emeryville. I-80 would provide direct access to the project site via its interchange at Buchanan Street. I-80 provides between three to six mixed-flow lanes and one high-occupancy vehicle (HOV) lane in each direction. Access to the project site from I-80 is provided via interchanges at Buchanan Street and Gilman Street. According to Caltrans, I-80 has an average daily traffic (ADT) volume of 277,000 vehicles per day between Buchanan Street and Gilman Street interchanges.

Interstate 580. I-580 is a major east-west freeway that begins in Marin County at Highway 101 and traverses east through Alameda and Contra Costa Counties into San Joaquin County where it joins with Interstate 5. I-580 is also designated I-80 through Albany, Berkeley, and Emeryville. West of the junction with I-80, I-580 provides three westbound and two eastbound mixed-flow lanes. Access to the project site from I-580 is provided via ramps at Buchanan Street. I-580 has an ADT of 88,000 vehicles per day west of the junction with I-80.

San Pablo Avenue (State Route 123). San Pablo Avenue is a major four-lane north-south arterial with a center median or two-way left turn lanes located east of I-580/I-80. San Pablo Avenue connects the cities of Richmond, Albany, Berkeley, Emeryville, and Oakland. The portion of San Pablo Avenue in the project area has a mix of fronting retail and office uses with on-street parking in both directions and a posted speed limit of 35 mph. San Pablo Avenue is a designated State highway and according to Caltrans, has an ADT of 25,500 vehicles per day south of Marin Avenue.

Local Access Routes

Local access in the vicinity of the project site is provided via the roadways discussed below.

Buchanan Street. Buchanan Street is a four-lane undivided east-west street in the City of Albany. Buchanan Street provides access to the project site from its interchange with I-580/I-80. West of I-580/I-80, Buchanan Street is a multi-lane road that provides direct access to Albany Beach and the parking lots of Golden Gate Fields, a horse racing track located adjacent to Albany Beach. The lane configuration of the road varies depending on the use of the existing racetrack. The posted speed limit on Buchanan Street is 25 mph.

Gilman Street. Gilman Street is a two lane east-west street in the City of Berkeley. Gilman Street connects the southern end of the project site with the I-580/I-80 interchange via a private access road to the Golden Gate Fields parking lot. Existing land uses along Gilman Street, between I-580/I-80 and San Pablo Avenue, include mainly industrial and retail/commercial uses. Most of the intersections along Gilman Street are un-signalized. Bicycle lanes are provided west of San Pablo Avenue. Gilman Street has a posted speed limit of 35 miles per hour.

Eastshore Highway. Eastshore Highway is a two-lane north-south collector that runs parallel to and east of I-80/580 and extends between University Avenue to the south and Buchanan Street to the north. On-street parking is provided on some segments in the northbound direction. The posted speed limit on Eastshore Highway is 25 miles per hour.

Public Transit

Public Transportation Systems. Public transportation currently provided in the vicinity of the project includes bus, train, and paratransit services. Bus service within the community of Albany and the surrounding cities of Oakland, Emeryville, Berkeley, and Richmond is primarily provided by

Alameda-Contra Costa Transit District (AC Transit), while rapid rail transit is provided by Bay Area Rapid Transit (BART). Inter-city passenger rail service is provided by the Amtrak Capitol Corridor route which serves Oakland, Emeryville, Berkeley, and Richmond. The public transit in the area is described below.

BART

The BART system constitutes the spine of the regional transit network. BART trains run between Milbrae in the west, Pittsburg in the east, Fremont in the south, and Richmond in the north. Nearby BART stations are located within the Cities of Richmond and El Cerrito, and include the Richmond Station, the line's northern terminus, located at 1700 Nevin Avenue; the El Cerrito del Norte Station located at 6400 Cutting Blvd. in El Cerrito, and the El Cerrito Plaza Station located at 6699 Fairmount Avenue in El Cerrito. AC Transit provides local bus service from the BART stations in the vicinity of the project site.

AC Transit

AC Transit is the primary bus service provider in the vicinity of the project site. AC Transit serves 13 cities and adjacent unincorporated communities in the East Bay. Three AC Transit bus routes provide service to within one half of a mile of the project area. The L provides weekly AM and PM Transbay commuting service from San Pablo and Richmond to San Francisco. The nearest stop is located at the intersection of Solano Avenue and Pierce Street approximately a half mile northeast from the entrance to Albany Beach, which is located just south of the turnaround. The Z also provides Transbay service during the morning and afternoon commute hours and can be caught at the intersection of Gilman Street and Sixth Street. The 25 bus runs every 40 minutes from 7:00 am to 8:30 pm, providing a loop service to and from El Cerrito Plaza BART station and travels as far as downtown Berkeley. The nearest stop to the site is located at the intersection of Buchanan Street and Cleveland Street approximately one half mile to the east. The 52 bus offers weekday service from the nearby UC Village to downtown Berkeley every 15 and 34 minutes during peak and off-peak hours, respectively, and operates from approximately 6:00 am to 5:00 pm. The bus runs every 34 minutes on the weekend from approximately 8:00 am to 8:15 pm. The closest stop to the site is located near the intersection of Jackson Street and Gooding Drive, just under one mile to the east.

East Bay Paratransit

East Bay Paratransit is a service of AC Transit and BART which provides transportation for people who, because of a disability, cannot access, board, or ride public transportation. East Bay Paratransit serves all overlapping AC Transit and BART service areas in Contra Costa and Alameda Counties.

Golden Gate Transit

Golden Gate Transit provides connecting service to AC Transit routes that serve the project site. Golden Gate Transit primarily operates busses and ferries for Marin and Sonoma county commuters. A Golden Gate Transit bus serves the El Cerrito Del Norte BART station and provides service to Marin and Sonoma Counties.

Amtrak

Amtrak provides intercity passenger rail throughout the U.S. In the vicinity of the project site, Amtrak's Capital Corridor route provides passenger rail service from Oakland, Emeryville, Berkeley and Richmond to Sacramento and points beyond to the east and to San Jose in the south. The San Joaquin route provides service to the San Joaquin and Central Valleys. The Amtrak stations in Emeryville and Berkeley are near enough to the project area to allow intermodal access. The Emeryville station is located just off Powell Street and is accessible to AC Transit Route Y, which goes to the Emeryville Peninsula. The Berkeley station is located beneath the University Avenue

overpass at Third Street. The pedestrian bridge over I-80 provides pedestrian and bicycle access from the Amtrak station to the project area.

Water Transport

Ferry service in the project area is provided by the San Francisco Bay Ferry's recently opened East Bay-SSF line. The route operates Mondays through Fridays during peak commute periods, with three morning departures from Alameda Main Street and Oakland's Jack London Square, and two evening return departures from South San Francisco's Oyster Point ferry terminal. Bicycle and pedestrian facilities and connecting transit services are provided to the Ferry Terminals.

Bicycle and Pedestrian Access

There are several bicycle and pedestrian facilities in and near the project site, most notably the paved section of the San Francisco Bay Trail which connects to both sides of the project area. Additionally a bike/pedestrian Class I path runs underneath I-80/I-580, allowing cyclists and pedestrians to traverse the freeway. The Ohlone Greenway includes a spur that runs east to west approximately 1.5 miles to the east from the Project area, providing access to the main Ohlone Greenway Trail, a significant north-south class I facility spanning Berkeley and Richmond. Marin Avenue provides a class II lane before it turns into Buchannan Street to the west. No facilities exist from the intersection at Marin Avenue and Stannage Avenue to the beginning of the class I facility running along Buchannan Street traversing I-80/I-580; however, the City of Albany is seeking Safe Routes to School funds in order to close this gap. Gilman Street provides class II bike lanes on both sides of the street until reaching I-80/I-580. Upon crossing the freeway underpass, cyclists can access the Bay Trail running north to south along the I-80 Frontage Road.

Bay Trail

The Bay Trail has been designed to provide a continuous trail around San Francisco Bay for use by both recreational and commuter bicyclists and pedestrians. Many segments have already been constructed but in other locations the trail is only conceptual at this time. The proposed plan for the Bay Trail in the project area includes a segment adjacent to the Albany shoreline starting at the intersection Gilman Street and I-80 Frontage Road, then continuing north through the Project Site until it connects with the existing Bay Trail segment at Buchanan Street to the north of the Project Site.

Project Site Access

Primary access to the project is provided via Buchanan Street. Buchanan Street provides a two-lane paved road with direct vehicular access to Albany Beach from the interchange with Interstate 580. The western paved portion terminates at a one-way loop turnaround that is located just outside of the project area. An unpaved single lane road that serves as a trail and provides access for authorized vehicles to the Albany Neck and Bulb continues westward into the project area. Just east of the turnaround there is limited on-street 2-hour parking for users of the trail system at the Beach, Bulb, Neck and Plateau. The turnaround is located on land owned by the City of Albany and the parking spaces are located on privately owned land. No additional direct access via other public roads is planned.

The City of Albany constructed a spur of the Bay Trail (that extends west from Buchanan Street and terminates in the project area at a vista point that overlooks Albany Beach and San Francisco Bay. From this point, two unpaved trails provide access parallel to one another along the Neck to the end of the Bulb for hikers, dog-walkers and cyclists. These two trails also provide access for authorized vehicles such as law enforcement patrol cars. The Eastshore State Park General Plan identifies the Bay Trail spur to be extended west to the end of Albany Bulb, and to maintain and enhance existing unimproved trails along the Neck and Bulb.

Currently, Albany Beach can be accessed on foot via a number of unimproved footpaths from the Buchanan Street parking lot, the Golden Gate Fields parking lot, or the vista point on City property that overlooks the Bay. The General Plan identifies extending the Bay Trail spine along the Beach between the Buchanan Street parking lot and Gilman Street (south of the Project area).

Existing Parking

Limited public on-street parallel parking is permitted on the north side of Buchanan Street, providing approximately 60 unmarked spaces. At the western terminus of Buchanan Street and perpendicular to the chain link fence that separates Buchanan Street from Golden Gate Fields, 43 marked stalls are provided for users of the Albany Waterfront. These 43 spaces are located on Golden Gate Fields property and have been made available for public use by an informal agreement between Golden Gate Fields and the City of Albany. There is no agreement in effect that guarantees the availability of the parking spaces for public use in perpetuity. In addition to parking along Buchanan Street, there are approximately 100 parking spaces available at and near the Tom Bates Regional Sports Complex at Gilman Street.

Standards of Significance

Transportation and traffic impacts associated with the Proposed Project would be considered significant if the Plan would:

a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.

c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

d. Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).

e. Result in inadequate emergency access.

f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.

Impact Discussion

Project Analysis

a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system.

The *Eastshore Park Project General Plan EIR* found that the General Plan would have a less than significant effect on the circulation system.

Project Vehicle Trip Generation Analysis

The estimated daily trips for the project were calculated using trip generation rates from the Institute of Transportation Engineer's (ITE) *Trip Generation Handbook*, *(Eighth Edition)*. Land use code 412, "County Park", was applied as this designation most closely resembles the types of use and amenities proposed for the site. Projected project trips were calculated for weekday average daily trips, weekday AM and PM peak hour trips (7 am-9 am and 4 pm-6 pm, respectively), Saturday and Sunday average daily trips, and Saturday and Sunday peak hour trips. The trip rates and estimates are given in **Table 4.12-2**. As shown in **Table 4.12-2**, average daily trips for the project site are calculated at 144 weekday trips, 775 Saturday trips, and 260 Sunday trips.

TABLE 4.12-2 ESTIMATED PROJECT TRIP GENERATION

Land Use	Size (Acres)	Weekday Daily Trips *	AM Peak Trips	PM Peak Trips	Saturday Daily Trips *	Sunday Daily Trips *	Saturday Peak Trips	Sunday Peak Trips
Open Space	63	144	33	37	775	260	141	227
T = Trip rate per acre								
1. ITE Land Use Category 412 County Park								
Weekday Daily:	T = 2.28							
AM:	T = 0.52							
PM:	T = 0.59							
Saturday Daily:	T = 12.14							
Sunday Daily:	T = 4.13							
Saturday Peak Hour:	T = 2.24							
Sunday Peak Hour:	T = 3.6							

Source: ITE Trip Generation Handbook, 8th edition, 2008
** Note that 144 weekday trips, 775 Saturday trips, and 260 Sunday trips are a conservative overestimate because they do not subtract out existing trips*

Park usage estimates are highest during weekends when local streets and freeways are least congested. Estimated weekday peak hour trips, 33 AM and 37 PM, are well below Caltrans and local significance standards, and are not expected to result in perceptible impacts to existing traffic operations.

An analysis of the existing and future traffic conditions was prepared for the Eastshore State Park General Plan (2002). In 2011, the *Existing and Future Conditions Report* for the *Albany Beach Restoration and Public Access Feasibility Study* prepared by LSA Associates reexamined the freeway ramp intersections of I-580 SB Ramps/Buchanan Street and I-580 NB Ramps/Buchanan Street, the principle point of vehicular entry to Albany Beach. The increase in PM Peak trips are below the threshold of 100 that Alameda CTC uses as a criteria that triggers a detailed traffic study.

Intersection turn movement counts were collected in April 2010 for both the a.m. and p.m. peak periods on a day when Golden Gate Fields offered live racing. Levels of service (LOS) for these intersections were calculated using Highway Capacity Manual (HCM; Transportation Research Board 2000) parameters within TRAFFIX version 8.0 level of service software. The Alameda County Congestion Management Program (CMP) defines LOS E as the threshold for acceptable intersection

operations at the two freeway ramp intersections. As shown in **Table 4.12-3** below, both intersections meet the level of service standard.

TABLE 4.12-3 EXISTING LEVEL OF SERVICE SUMMARY

Intersection	AM Peak Hour		PM Peak Hour	
	LOS	Delay (Sec.)	LOS	Delay (Sec.)
1. I-580 SB Ramps/Buchanan St.	B	17.3	B	17.9
2. I-580 NB Ramps/Buchanan St.	C	30.1	E	75.8

Future Traffic Conditions

The Existing and Future Conditions Report examined the State Transportation Improvement Plan (STIP), the Association of Bay Area Governments Regional Transportation Improvement Plan (RTIP), and the City of Albany Circulation Improvement Program (CIP) and did not identify any planned roadway improvements affecting automobile travel to Albany Beach. Under the future conditions scenario, additional project trips were distributed to the roadway network based on the distribution determined from existing traffic counts. **Table 4.12-4** displays the resulting intersection LOS. With the additional project trips, both intersections would continue to operate at LOS E or better for both a.m. and p.m. peak hours.

TABLE 4.12-4 EXISTING PLUS PROJECT LEVEL OF SERVICE SUMMARY

Intersection	Existing				Existing Plus Project			
	AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
	LOS	Delay (Sec.)	LOS	Delay (Sec.)	LOS	Delay (Sec.)	LOS	Delay (Sec.)
1. I-580 SB Ramps/Buchanan St.	B	17.3	B	17.9	B	18.5	C	20.6
2. I-580 NB Ramps/Buchanan St.	C	30.1	E	75.8	C	30.6	E	77.3

The forecasts used to determine future trip generation for the proposed project (full utilization of a new parking lot and doubling the existing parking utilization) represent a conservative, worst case scenario. Even under this scenario, the project is not forecast to impact the nearby intersections of I-580 SB Ramps/Buchanan Street or I-580 NB Ramps/Buchanan Street. Increases in vehicular traffic would not be expected to impact bicycle traffic because of the off-street bicycle path provided adjacent to Buchanan Street. As a result, the project would have a *less than significant* impact on the circulation system.

Projected Bicycle Use Analysis

The number of new bicyclists who might use the Buchanan Street to Gilman Street section of Bay Trail for either commuting, or for recreational riding, was calculated on the basis of local demographics and use patterns, including population density and the percentage of likely bicyclists, based on 2010 census information. A total of 376 new bicycle users, of which 330 would likely be

commuters, was estimated as the average number of daily cyclists. [195] This would not be a significant increase in bicyclists given the proposed design width of the Bay Trail, and is well within its design capacity, as well as the capacity of the adjoining sections of the Bay Trail and local streets. In addition, existing bike routes provide access to the site.

Based on the above analysis, the additional bicyclists generated by the Proposed Project would not add significantly to the existing use on the local street system, or cause traffic flow and safety problems. This impact would be *less than significant.*

b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.

The *Eastshore Park Project General Plan EIR* did not evaluate effects on applicable congestion management programs.

The number of projected new vehicle trips generated by the Project would be relatively low compared to intersection and on-ramp capacity, with the greatest increase on weekends. The Level of Service analysis at Buchanan Street on- and off-ramps completed by LSA in 2011 found that there would not be a significant impact , and that no travel demand mitigation measures would be necessary. In addition, closure of a significant gap in the Bay Trail, as would be accomplished by the Proposed Project, is anticipated to lessen vehicle usage by providing a safe and convenient way to travel by bicycling and walking, including bicycle commuting. There would be no conflict with the Alameda County Congestion Management Program (CMP), and the Proposed Project would implement bicycle and pedestrian components of the CMP, resulting in a *less than significant* impact.

c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

The *Eastshore Park Project General Plan EIR* did not evaluate safety impacts associated with public airports. The closest private airstrip to the Proposed Project site is the University of California – Richmond Field Station Heliport, which is approximately two miles to the north. Due to the distance from the project site, the low frequency of use of this private heliport, and the vertical approach patterns used by helicopters, there would not required change in air traffic patterns. There would be no tall structures associated with the Project and no other effects upon air traffic, and, as a result, there would be *no impact*.

d. Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).

The *Eastshore Park Project General Plan EIR* did not evaluate transportation safety hazards.

The east end of Buchanan Street at the turn-around point would be extended via a 48-foot-radius turn to the south to provide vehicle access and a drop off point to a new proposed 20 car parking lot. The Project design for this area meets City of Albany standards for road width, turning radius, and other design requirements and would not increase existing traffic hazards or create incompatible uses on the road.

Other potential hazards, and the bicycle and pedestrian design features included in the Proposed Project to reduce safety hazards include:

[195] More detail for the calculations for vehicle and bicycle usage can be found in the *Traffic and Parking Assessment Technical Report* in Appendix K.

1. Wind-blown sand on trail, an ADA and trip hazard – the project is designed with buffers and special fencing to avoid or minimize the amount of wind-blown sand;

2. Trail flooding during extreme tide and storm conditions- the trail will be elevated 1.5 to 2.5 feet to substantially reduce the recurrence rate of this hazard;

3. Motor vehicle conflicts with pedestrians and bicycles – the motor vehicle driveway is designed so that bicycles and pedestrians will not need to cross a lane of traffic to access the beach;

4. Site distance and position of new vertical structures, including signage and restroom– the Proposed Project has been designed to position signs so as to not impair site distance. The location of the restroom will not impair site distance for bicyclists, pedestrians or motor vehicles.

The Proposed Project would require a building permit and an encroachment permit from the City of Albany, and a building permit from the City of Berkeley. The City of Albany would be responsible for checking and ensuring that the design for the extension of Buchanan Street from the turnaround into the new parking area is in accordance with its existing street and parking design and construction regulations, including turning radius and safety of pedestrian crossings. Both the Cities of Albany and Berkeley would review the submitted Plan, and verify that addresses other potential bicycle and pedestrian safety hazards. In addition, the Project plans would be reviewed by the City of Albany Police and Fire Departments to ensure that on-going patrol and emergency response access to the Beach and Bulb during construction is provided per their requirements.

The proposed Bay Trail along the western edge of Golden Gate Fields in Area 3 would connect to the existing Bay Trail at the Tom Bates Regional Sports Complex, after crossing Gilman Street in the City of Berkeley. The southbound Bay Trail becomes a Class I trail after crossing Gilman Street. Since the proposed bicycle and pedestrian crossing would be located at the terminus of Gilman Street, outside of the vehicle travel way, there are no hazards or safety conflicts at this location.

The Proposed Project in Area 3 would separate bicycle and pedestrian traffic from the current route that is informally used along and through the Golden Gate Fields access road and parking lot. Signage, stripping and barriers would be provided to alert trail users and vehicles to traffic requirements. This would be a safety improvement over existing conditions, a beneficial impact.

Both the proposed Bay Trail Spine along the shoreline near Golden Gate Fields, and the Bay Trail spur along the Albany Neck, would be designed in conformance with EBRPD trail guidelines and would serve as segments of the Bay Trail. Bicyclists, including those who arrive via car in the parking lot, could connect to the existing Bay Trail segments to the North and to the South, beginning at Gilman Street in Berkeley or at Buchanan Street in Albany.

In conclusion, the impact to safety due to design of proposed improvements or creation of incompatible uses would be *less than significant.*

e. Result in inadequate emergency access.

The *Eastshore Park Project General Plan EIR* found that the General Plan would not alter existing emergency access to, through, and in the vicinity of the Eastshore State Park, and that the General Plan would have a less than significant effect on emergency access.

As noted in "d" above, the Proposed Project has been designed to provide continuous emergency vehicle access to the Beach, Neck, Plateau, and Bulb areas, and the Bay Trail alignment along the western edge of Golden Gate Fields has also been designed in terms of width, load limits, etc. to allow routine surveillance and patrol, and emergency response. Per the requirements of the City of Albany, an emergency vehicle response lane with a minimum width of 14 feet would be provided along the Albany Neck at all times, both during construction, and following completion of construction and opening of the improved public access and recreational facilities. As a result, there would be *no impact* on emergency access.

f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.

The *Eastshore Park Project General Plan EIR*, which is incorporated by reference, found that the General Plan would not result in adverse impacts to alternative transportation and transit.

The Project includes a new section of the Bay Trail that would fill in a significant gap in the Bay Trail Plan. It would connect to the existing segment at Gilman Street and Buchanan Street per the Bay Trail Plan and the Bicycle Plans of the cities of Albany and Berkeley. As the Bay Trail is an EBRPD project, it would be designed to EBRPD standards, and provide adequate capacity for reasonably foreseeable trail use to accommodate the anticipated bicycle and pedestrian traffic. As the Project is in accordance with EBRPD standards, the Bay Trail Plan, and the City of Albany and Berkeley Bicycle and Pedestrian Plans, there would be *no impact*.

Cumulative Analysis

Cumulative impacts on transportation were evaluated in Section III.K, Transportation and Circulation, of the *Eastshore Park Project General Plan EIR*, which forecasted Year 2025 traffic levels, based on the Alameda County Congestion Management Agency's Countywide Travel Demand Model. The *Eastshore State Park General Plan EIR* found that the General Plan would generate a small number of vehicle trips in the project area, which would have a correspondingly small effect on levels of service at local intersections and roadway segments. For these reasons, the EIR determined that implementation of the *General Plan*, in combination with other planned projects in the vicinity, would not result in significant adverse cumulative impacts on Transportation and Circulation.

The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[196] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[197]

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[196] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[197] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[198]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[199]

The proposed and approved projects identified above are accounted for in the Alameda County Congestion Management Agency's Countywide Travel Demand Model and the Year 2025 traffic

[198] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

[199] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

levels forecasted in the *Eastshore Park Project General Plan EIR*, and would not change the conclusions of that EIR regarding Year 2025 traffic levels. The traffic generation of the Proposed Project (which would be smaller than that of the General Plan) would, as discussed above, be small and would have a less than significant effect on the circulation system. Therefore, the Project would not have a cumulatively considerable adverse impact on transportation and traffic because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

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4.14 Utilities and Service Systems

This section provides the environmental and regulatory background necessary to analyze the impacts of the proposed Albany Beach Restoration and Public Access Project to utilities and service systems. This project tiers off the *Eastshore Park Project General Plan EIR* and this section relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication. Specifically, this section incorporates by reference Section III.L from the *Eastshore Park Project General Plan EIR*, which evaluates impacts on utilities, and is summarized below.

Regulatory Framework

The *Eastshore Park Project General Plan EIR* does not discuss laws and regulations relating to water. This section, which supplements the *Eastshore Park Project General Plan EIR,* summarizes key federal, State, and local agencies and regulations that govern water service in the Project area.

Federal Regulatory Agencies and Regulations

United States Environmental Protection Agency (EPA)

The EPA is the federal agency assigned to maintain safe water throughout the country. Albany and Berkeley are in EPA Region 9, which includes Arizona, California, Hawaii, Nevada, and over 147 federally recognized tribes in the Pacific Southwest.[200]

Federal Safe Drinking Water Act

The Safe Drinking Water Act (SDWA), adopted in 1974, authorizes the EPA to set national standards for drinking water, called the National Primary Drinking Water Regulations, to protect against both naturally-occurring and man-made contaminants. These standards set enforceable maximum contaminant levels in drinking water and require all water providers in the United States to treat water to remove contaminants, except for private wells serving fewer than 25 people. In California, the State Department of Health Services conducts most enforcement activities. If a water system does not meet standards, it is the water supplier's responsibility to notify its customers.

State and Regional Agencies, Regulations, and Plans

California Department of Public Health (CDPH)

The CDPH Drinking Water Program (DWP) is within the Division of Drinking Water and Environmental Management.[201] The DWP regulates public water systems; certifies drinking water treatment and distribution operators; supports and promotes water system security; provides support for small water systems and for improving technical, managerial, and financial capacity; and provides funding opportunities for water system improvements.

California State Water Resources Control Board (SWRCB)

The SWRCB and the nine Regional Water Quality Control Boards (RWQCBs) are responsible for controlling water pollution sources to protect the State's surface waters and ground waters for all beneficial uses, including domestic and municipal water supply uses.

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[200] U.S. Environmental Protection Agency, *About EPA's Region 9 Office in San Francisco (Pacific Southwest)*, http://www.epa.gov/aboutepa/region9.html, accessed on May 26, 2010.

[201] California Department of Public Health (CDPH), *Drinking Water Program*, http://www.cdph.ca.gov/programs/Pages/DWP.aspx, accessed March 16, 2011.

California Department of Water Resources (DWR)

The DWR is responsible for the overall management of California's water resources. DWR oversees regulation of water service availability, including Senate Bills (SB) 610 and 221 and the California Urban Water Management Planning Act, as described below.

Assembly Bill 1881

Assembly Bill (AB) 1881 required that DWR distribute a model water efficient landscape ordinance to counties and cities by January 1, 2009. By January 1, 2010, every county and city, was required to adopt either DWR's model ordinance or a water efficient landscape ordinance that is at least as effective as the DWR model ordinance. If a county or city failed to adopt an ordinance, AB 1881 requires that local officials enforce DWR's model ordinance as if it had been adopted by the county or city.

Regulations for Water Use Efficiency

The California Constitution prohibits the waste, unreasonable use, unreasonable method of use and unreasonable method of diversion of water. It also declares that the conservation and use of water "shall be exercised with a view to the reasonable and beneficial use thereof in the public interest and for the public welfare." Water Code Section 275 directs DWR and SWRCB to "take all appropriate proceedings or actions before executive, legislative, or judicial agencies to prevent waste or unreasonable use of water."

Regional Plans and Regulations

East Bay Municipal Utilities District (EBMUD) Strategic Plan

The first EBMUD Strategic Plan was adopted in 2004 and outlined the goals, strategies, objectives, and performance indicators to help carry out EBMUD's mission. The most recent Strategic Plan, adopted in July 2010, builds upon the efforts of the first three plans, with many of the same goals, strategies, and objectives. The updated Strategic Plan reflects the completion of an updated water supply management program, as well as the inclusion of new issues such as the elimination of wet weather facility discharges to San Francisco Bay and current fiscal challenges.[202]

Urban Water Management Plan

The Urban Water Management Plan (UWMP) provides an overview of EBMUD's water supply sources and usage, recycled water and conservation programs. The UWMP is updated every five years and is part of EBMUD's long-range planning to ensure reliable water service for EBMUD customers, especially during multiple-year drought periods. EBMUD adopted a new plan in June, 2011.[203]

Water Supply Management Program 2040

On October 13, 2009, the EBMUD Board of Directors approved a 30-year Water Supply Management Plan (WSMP) to provide water for all of EBMUD's customers, which are expected to grow to 1.7 million by the year 2040. The WSMP will meet future water supply needs by:

- Maximizing conservation, saving 39 million gallons a day;
- Aggressively recycling, stretching the supply by 11 million gallons a day;
- Limiting drought rationing to 15 percent; and

[202] EBMUD, *Strategic Plan*, July 2010, page 4.
[203] EBMUD, 2010. *Urban Water Management Plan 2010.*

- Developing 43 million gallons a day of additional water supplies through a combination of water transfers, groundwater storage and regional supply projects.

The WSMP stresses EBMUD's goals and objectives a set forth in the Strategic Plan.[204]

Existing Conditions

This section discusses water supply and demand in the Albany Beach Project area.

Water Supply

The following information is summarized from the *Eastshore Park Project General Plan EIR*. EBMUD currently obtains its water from the Mokelumne River watershed. The supply from current sources and facilities, allowing for a 25 percent rationing during droughts, is less than 200 million gallons per day. EBMUD has developed a Water Supply Management Program comprised of supplemental water supply, water banking, water conservation and recycling, and watershed improvements to help accommodate future demand in EBMUD's service area.

Water Lines

The following information is summarized from *Eastshore Park Project General Plan EIR*.

Area 1 and Area 2

A water line extends west from I-80/1-580 at Buchanan Street and serves Golden Gate Fields. There are no existing pipelines within these two areas of the project site between Golden Gate Fields and Central Avenue in the City of Richmond.

Area 3

A 12-inch water line that crosses I-80/1-580 and extends to the project site at Gilman Street serves Golden Gate Fields.

The following information supplements the *Eastshore Park Project General Plan EIR*.

Areas 1, 2, and 3

As mentioned above, a publicly owned water main under Buchanan Street, west of I-80, terminates east of the project site. Connected to this water main is a 1- to 2-inch diameter PVC irrigation line (aboveground) that parallels the north side of Buchanan Street, and ends approximately 400 feet east of the turnaround at the end of Buchanan Street.

Water Demand

EBMUD has calculated water demand until 2035 on a regional basis based on population projections by the Association of Bay Area Governments (ABAG). These figures have been used by EBMUD in their 2010 Urban Water Management Plan to ensure there is an adequate supply, even in multiple dry years, out to 2035.

[204] EBMUD Website, http://www.ebmud.com/our-water/water-supply/long-term-planning/water-supply-management-program-2040, accessed on March 24, 2011.

Standards of Significance

The project would have a significant impact related to water supply if it would:

a. Have insufficient water supplies available to serve the project from existing and identified entitlements and resources.

Impacts Discussion

Project Analysis

The Initial Study found that the Proposed Project would have no impacts associated with need for new or expanded water supply facilities, wastewater, solid waste, existing stormwater drainage facilities, or energy consumption. Stormwater runoff, drainage, and related water quality issues from the Project site are analyzed in Section 4.8, Hydrology and Water Quality. The Initial Study found that Project impacts on water entitlements and resources are potentially significant. These impacts are evaluated below.

a. Have insufficient water supplies available to serve the project from existing and identified entitlements and resources.

The *Eastshore Park Project General Plan EIR* found that the *General Plan* incorporates guidelines that would avoid or reduce to a less-than-significant level impacts related to water supply by, among other things, requiring environmental review and the identification of potential negative impacts associated with site-specific developments projects in accordance with the California Environmental Quality Act (CEQA). The following discussion, which supplements the *Eastshore Park Project General Plan EIR*, evaluates water supply impacts of the Proposed Project.

The East Bay Regional Park District has indicated that watering of all plantings, which would be done for the first five years until the plants are established, would be done by water truck, or a temporary irrigation system consisting of a tank and small irrigation line with drip or overhead spraying, using water supplied by EBMUD. The project includes planting disturbed areas with species that are native to the project area and appropriate for the site microclimate. These native plants would be considered to have "Very Low" water needs according to the Water Use Calculations of Landscape Species[205] (WUCOLS), which is used in the landscape industry to calculate water use and irrigation needs. Species assigned to the Very Low (VL) category are considered to need little or no irrigation during years of average rainfall. The project site is within Region 1 climate zone and evapotranspiration area[206]. The project would also comply with the Alameda County Water Efficient Landscape Ordinance (WELO)[207] that requires use of native and drought tolerant species and efficient irrigation use. Of the approximately two-acre habitat restoration area, approximately one acre would be planted with very low water use native plant species, and one acre would be hydroseeded with native grass and shrub species that would not receive supplemental irrigation. The Maximum Applied Water Allowance (MAWA) for the one-acre planting area would be 790,230 gallons per year, with an Estimated Total Water Use (ETWU) of approximately 113,000 gallons per

[205] University of California Cooperative Extension California Department of Water Resources, *A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California The Landscape Coefficient Method and WUCOLS III*, August 2000.

[206] California climate zones are described in University of California Publication 3328, Generalized Plant Climate Zones of California and Sunset Western Garden Book. ETo Zones are described in the California Irrigation Management Information System (CIMIS) Reference Evapotranspiration Map, 1999.

[207] Alameda County adopted the California Water Efficient Landscape Ordinance (WELO) by default with the statewide adoption of this ordinance on January 1. 2010.

year, or approximately 310 gallons per day. Plant species would be utilized that are adapted to seasonal irrigation and anticipated to survive without supplemental irrigation after initial establishment. The quantity of water used would be small relative to existing supplies identified in EBMUD's Urban Water Management Plan.[208]

Repair of the west side of Albany Plateau would not require substantial amounts of water for either construction or operation.

The Proposed Project includes a waterless vault toilet in Area 2 that would not require water to be supplied. Drinking fountains and showers are not proposed. No drinking water, showers, flush toilets or permanent landscape irrigation system would be constructed. There would be no Project demand for water other than the small amount for temporary watering of planting discussed above. The impact of the Proposed Project on water supplies would be *less than significant.*

Cumulative Analysis

Cumulative impacts on utilities and service systems were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR*, which is incorporated by reference. In the EIR, it was determined that the Eastshore Park Project, in combination with other planned projects in the vicinity, would not cause significant adverse impacts on utilities and service systems, including water supply.

The following projects in the vicinity of the Proposed Project site are proposed or approved. No nearby projects were under construction at the time this EIR was prepared.

Proposed Projects

South Sailing Cove Improvement Project. This project proposes replacement of boat docks and addition of parking spaces and restroom at the Berkeley Marina.[209] Funding for design of this project has been approved, but construction of the project itself was not approved or funded at the time this EIR was prepared.

Berkeley Ferry Terminal. A ferry terminal located at the south end of Seawall Drive in the Berkeley Marina, with parking and berths for two ferries, proposed by the Water Emergency Transportation Authority (WETA) was undergoing environmental review at the time this EIR was prepared.[210]

University Village Project. As part of the 6.3-acre University Village project, located on the west side of San Pablo Ave. and including the parcels located north and south of the Monroe Street/San Pablo Avenue intersection, the University of California has proposed a new 55,000 sq. ft. grocery store on the north side of Monroe St. and a mixed-use retail space and senior living project on the south side of Monroe St. No action on this proposal had been taken by the City Albany at the time this EIR was prepared.

Albany Boutique Auto Center. A proposed 8,304-square-foot commercial building with 63 parking spaces to be used as a car sales facility and repair facility, at 1035 Eastshore Highway adjacent to an

[208] EBMUD, Urban Water Management Plan (UWMP) 2010, adopted June 28, 2011. Available on the internet at: http://www.ebmud.com/our-water/water-supply/long-term-planning/urban-water-management-plan. Accessed 25 May 2012.

[209] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

[210] Mann, John. Waterfront Manager, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 24 April 2012.

improved parking lot and park of a larger commercially developed site (Target Store), was undergoing environmental review at the time this DEIR was prepared.

I-80/Central Avenue Interchange Improvement Project. At the time this DEIR was prepared, the Contra Costa Transportation Authority was studying alternatives for improving the I-80/Central Avenue interchange, to alleviate heavy congestion and poor traffic operations.

City of Albany Public Works Division Facility and Park. The City of Albany has purchased 4.5 acres immediately adjacent to highways I80 and I580, bounded by Pierce Street on the east and Cleveland Avenue on the south. At the time this DEIR was prepared, the City was preparing plans for a new Public Works Division maintenance facility, office space for City engineering staff and project managers, potential multi-use space, a passive use public park, and a Class I bikeway on the site.

Approved Projects

Berkeley Bay Trail Extension Phase 1. Approximately one-third mile of 12-foot-wide paved bicycle trail in the Berkeley Marina area along the south side of University Avenue between West Frontage Road and the windsurf launch site (to the south of the east side of the Berkeley Marina).[211]

Buchanan Street Bikeway and Buchanan/Marin Merge Realignment. The Buchanan/Marin bikeway project includes a Class I bicycle facility along the south side of Marin and Buchanan Street from San Pablo Avenue to the Buchanan Bridge overcrossing, extension of the bicycle lanes on Marin Avenue from Cornell Avenue to San Pablo Avenue, a traffic signal at the intersection of Pierce and Buchanan, the Buchanan Avenue closure (access to Cleveland Avenue from Buchanan Street), several bulb outs along the south side of Buchanan Street that serve as areas to replace trees that would be impacted by the project and as traffic calming, and realignment of the United States Department of Agriculture (USDA) driveway on Buchanan Street.

Tom Bates Regional Sports Complex Phase III. Phase III of the Tom Bates Regional Sports Complex project consists of construction of a field house and two baseball fields, all within the footprint of the existing sports fields south of Gilman Street west of I-80. At the time this EIR was prepared, Phase III had been approved but funds were not available for construction.[212]

In the Project vicinity, the effect of the proposed and approved projects identified above, in combination with past development, is a level of demand that requires both new and physically altered water supply facilities, including dams, reservoirs, pipelines, pumping stations, and water treatment plants. This is a significant cumulative impact on water supply. As discussed above, the Proposed Project would not require new or physically altered water supply facilities, and the water demand of the Project would be minimal. Therefore, the Project would not contribute to cumulative impacts on water supply facilities or utilities and service systems. This impact would be *less than significant*.

[211] Richards, Brad. Landscape Architect, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 23 April 2012.

[212] Miller, Roger. Senior Management Analyst, Department of Parks, Recreation, and Waterfront, City of Berkeley. Personal communication with Michael Kent, Questa Engineering. 7 May 2012.

5 ALTERNATIVES

According to the CEQA Guidelines Section 15126.6:

> *An EIR shall describe a range of reasonable alternatives to the project, or the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.*

A No Project Alternative is required as one of the "reasonable range of alternatives" that could feasibly attain most or all of the project's objectives. Besides the No Project Alternative, five other alternatives, called the: 1) Conservation Alternative, 2) Recreation Alternative, 3) Minimal Improvements Alternative, 4) Enhanced Project Alternative, 5) Bay Trail Through Golden Gate Fields and Codornices Creek Alternative, and 6) Bay Trail East of I-80 Alternative are analyzed. Each alternative is analyzed against the Project Objectives presented and significance thresholds considered in Chapter 4 and the impacts compared to those of the Proposed Project.

The Project Objectives (Chapter 3) include:

11. Implement improvements identified by the Eastshore State Park General Plan for the Albany Beach area, including shoreline reconstruction, habitat enhancement, and trail improvements along the Albany Neck; beach enhancement and improvements at Albany Beach; and a new segment of San Francisco Bay Trail between Albany Beach and Gilman Street, aligned so as to provide continuous scenic views of the San Francisco Bay and to avoid the physical and environmental site constraints associated with the alignments shown in the Eastshore State Park General Plan and ABAG Bay Trail Master Plan.
12. Implement the following guidelines identified in the Eastshore State Park General Plan for Albany Beach:

    A-2: Restore the dune vegetation by removing noxious weeds (e.g., iceplant and Kikuyu grass) and planting locally native species that are adapted to this habitat, and explore the feasibility of re-introducing rare or endangered species that are native to the Bay Area, such as California seablite, San Francisco spineflower, and robust spineflower, to the dune area.

    A-5: Enhance beach/Bay access for non-motorized water craft by creating a vehicle drop-off and parking at the south end of the beach. Locate restroom facilities near the beach water access.

    Consider placement of fill (sand, gravel, cobbles or soil) over the rubble in some select locations to improve habitat, planting, access, safety, etc.;

    In some locations, align trail and access routes against the hill slope to create more potential space for shoreline grading;

    CIRC-6: Provide a convenient and attractive system of multi-use trails throughout the park that links all subareas of the park project into an integrated whole.

    CIRC-7: To the extent feasible, the trail system will be designed and constructed to provide universal access.

    CIRC-8: Recognize the Bay Trail as the park project's primary nonvehicular transportation corridor and an important means of unifying public use areas within the non-contiguous portions of the park project.
13. Improve and expand the quality and function of existing visitor facilities.

14. Comply with the California Regional Water Quality Control Board's Order No. 98-072 to maintain the stability of the Albany Landfill at south Albany Neck, while minimizing excavation of landfill materials.
15. Provide habitat enhancement and public access while providing a multi-purpose, net-beneficial project.
16. Provide connections to other local trails and circulation systems.
17. Develop improvements that can be permitted and completed within 5 years.
18. Phase project implementation with the highest priority placed on stabilizing the eroding landfill along the south Albany Neck.
19. Design improvements for low maintenance with a minimum 25 year design life, consistent with BCDC projections for sea-level rise.
20. Provide facilities that can accommodate multiple recreation uses, not a single purpose.

Table 5-1 shows how the Proposed Project and the alternatives are in accordance, or not, with the project objectives. Comparative impacts for the No Project Alternative, Conservation Alternative, Recreation Alternative, Minimal Improvements Alternative, Enhanced Project Alternative, and Bay Trail East of I-80 Alternative are summarized in **Table 5-2**.

Figures 5-1 through 5-6 show the Conservation Alternative, Recreation Alternative, Minimal Improvements Alternative, Enhanced Project Alternative, Bay Trail Through Golden Gate Fields Alternative, and Bay Trail East of I-80 Alternative.

The environmentally superior alternative is then identified. At the conclusion of this chapter, there is an account of alternatives considered earlier in the planning process but rejected because they were infeasible, failed to achieve most of the project objectives, or did not reduce the Proposed Project's significant impacts.

This chapter incorporates by reference Chapter IV, Alternatives, of the *Eastshore Park Project General Plan EIR*. That chapter evaluated alternatives to the Eastshore Park General Plan. That information is supplemented in this chapter with evaluation of additional alternatives that are specific to the Albany Beach project. Note that Alternative A as presented in the LSA Concept Alternatives Report (March 2011) as contained in Appendix G, is somewhat similar to the Minimal Improvements Alternative. The Proposed Project contains elements of both LSA alternatives B and C, but the restoration and enhancement portions of these alternatives south of Albany Beach are not included.

TABLE 5-1 COMPARISON OF ALTERNATIVES TO PROJECT OBJECTIVES

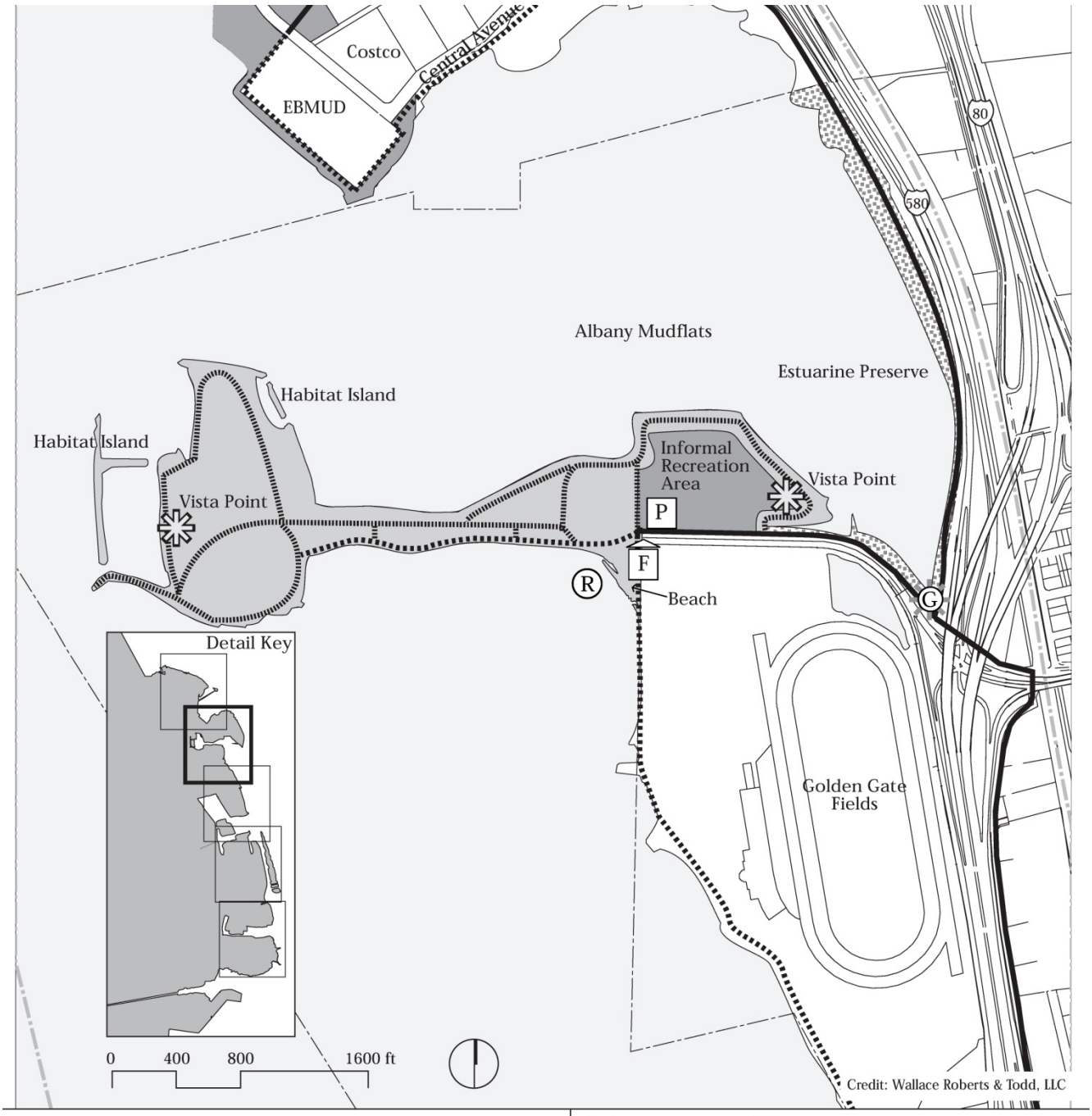
#	Objective	Proposed Project	No Project Alternative	Conser-vation Alternative	Recreation Alternative	Minimal Improve-ments Alternative	Enhanced Project Alternative	SF Bay Trail through GGF Alter-native	SF Bay Trail East of I-80 Alternative
1	Implement improvements identified by the Eastshore State Park General Plan for the Albany Beach area.	Yes	No	Yes	Yes	No	Yes	No	No
2	Implement guidelines identified in the Eastshore State Park General Plan for the Albany Beach area.	Yes	No	Yes	No	No	Yes	No	No
3	Improve and expand the quality and function of existing visitor facilities.	Yes	No	No	Yes	No	Yes	Yes	No
4	Comply with the California Regional Water Quality Control Board's Order to maintain the stability of the Albany Landfill at south Albany Neck.	Yes	No	Yes	Yes	No	Yes	Yes	No
5	Provide habitat enhancement and public access while providing a multi-purpose, net-beneficial project.	Yes	No	No	No	No	Yes	Yes	No
6	Provide connections to other local trails and circulation systems.	Yes	No	Yes	Yes	No	Yes	Yes	Yes
7	Develop improvements that can be permitted and completed within 5 years.	Yes	No	Yes	Yes	Yes	Yes	No	No
8	Phase project implementation with the highest priority placed on stabilizing the eroding landfill along the south Albany Neck	Yes	No	Yes	Yes	No	Yes	Yes	No
9	Design improvements for low maintenance with a minimum 25 year design life, consistent with BCDC projections for sea-level rise.	Yes	No	Yes	No	Yes	No	Yes	Yes
10	Provide facilities that can accommodate multiple recreation uses, not a single purpose.	Yes	No	No	Yes	Yes	Yes	Yes	No

Source: Questa Engineering, 2012.

TABLE 5-2 IMPACTS OF PROJECT ALTERNATIVES COMPARED TO PROPOSED PROJECT

	Proposed Project – Maximum Impact	No Project Alternative – Impact Comparison	Conser-vation Alternative – Impact Comparison	Recreation Alternative – Impact Comparison	Minimal Improve-ments Alternative – Impact Comparison	Enhanced Project Alternative – Impact Comparison	SF Bay Trail through GGF Alternative– Impact Comparison	SF Bay Trail East of I-80 Alternative– Impact Comparison
Aesthetics	LTS	–	+	–	=	–	–	–
Air Quality	LTS with Mitigation	=	=	=	+	=	=	=
Biological Resources	LTS with Mitigation	–	+	–	–	–	+	+
Cultural Resources	LTS with Mitigation	=	=	=	+	=	+	+
Geology and Soils	LTS with Mitigation	–	=	–	–	–	+	+
Greenhouse Gas Emissions	LTS	=	=	+	+	=	=	=
Hazards and Hazardous Materials	LTS with Mitigation	–	=	–	–	–	=	=
Hydrology and Water Quality	LTS with Mitigation	–	–	–	–	–	–	+
Land Use and Planning	LTS	–	=	=	–	–	–	–
Noise	LTS	+	=	–	+	–	–	–
Public Services	LTS	+	+	=	+	-	=	=
Recreation	LTS	=	–	+	–	+	–	–
Transportation/ Traffic	LTS	+	+	–	=	–	–	–
Utilities and Service Systems	LTS	+	–	–	+	–	=	=

LTS = Less than significant
SU = Significant and Unavoidable
– impact increased, or less beneficial, compared to Proposed Project/deterioration
+ impact decreased compared to Proposed Project/improvement
= equivalent impact compared to Proposed Project
Source: Questa Engineering, 2012.



Eastshore Park Project EIR - Public Review Draft
Alternative A: Conservation

Figure IV-1d:
ALBANY SHORELINE

Recreation	Bridge	Bay Trail-Exist
Conservation	Restoration Area	Bay Trail-Prop'd
Preservation	Parking	Park Trail
Promenade	Gateway	Facility
Constructed Wetland	Vista Point	Water Access

Healthy Parks Healthy People

East Bay Regional Park District
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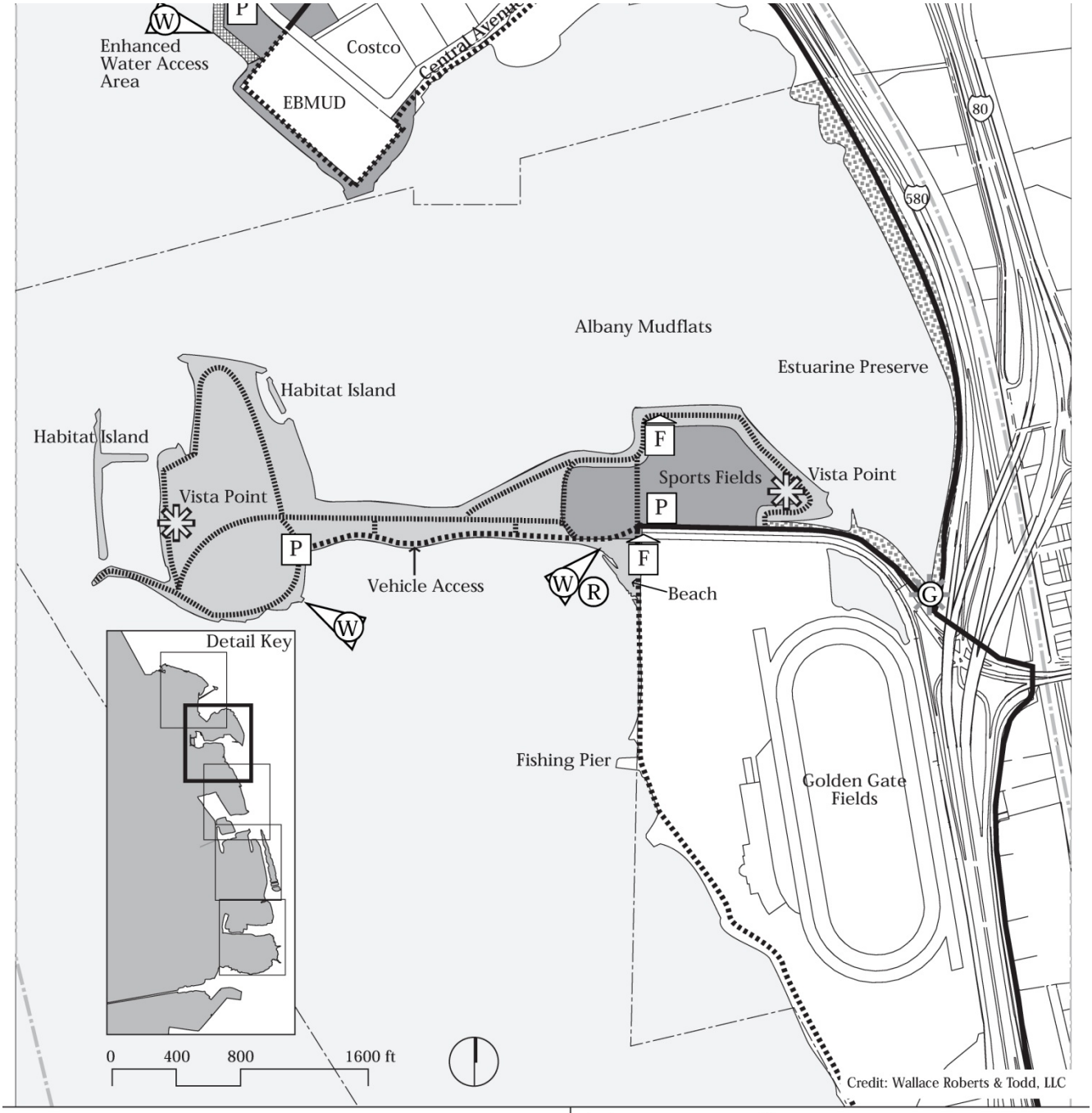
www.ebparks.org

FIGURE 5-1

CONSERVATION ALTERNATIVE

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK



Eastshore Park Project EIR - Public Review Draft
Alternative B: Recreation

Figure IV-2d:
ALBANY SHORELINE

Healthy Parks Healthy People

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FIGURE 5-2

RECREATION ALTERNATIVE

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK

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Healthy People

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FIGURE 5-3

MINIMAL IMPROVEMENT ALTERNATIVE

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK

Healthy Parks
Healthy People

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FIGURE 5-4

ENHANCED PROJECT ALTERNATIVE

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK

FIGURE 5-5

BAY TRAIL THROUGH GGF ALTERNATIVE
BAY TRAIL EAST OF GGF
ALONG CODORNICES CREEK ALTERNATIVE

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK

Healthy Parks
Healthy People

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FIGURE 5-6

BAY TRAIL EAST OF I-80 ALTERNATIVE

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

EASTSHORE STATE PARK

Healthy Parks
Healthy People

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5.1 No Project Alternative

Principal Characteristics

Under the No Project Alternative, the site would remain in its existing condition. The Albany Neck (Area 1) and Albany Beach (Area 2) would continue to provide public access for users, including hikers, dog walkers, birdwatchers, windsurfers, and kitesurfers, but some portions of the site would not provide ADA-compliant access. The existing trail along Albany Neck (Area 1) would provide a route to the Albany Bulb, and Albany Beach would be open to recreational use. The 2.8-acre western portion of Area 2 would not be acquired for public use, and would remain in its current use as part of the Golden Gate Fields parking area. Area 3 would remain in private ownership, and no Bay Trail would be developed along the shoreline. While informal use by the public, including hikers and bicyclists, might continue to occur along the Golden Gate Fields access road and parking lot in Area 3, there would be no formalized, approved access, public access could be terminated at any time, and there would be no Bay Trail to provide a separate through-route for pedestrians and bicycles on the Bay Trail from Richmond south to Emeryville and Oakland.

Impact Analysis

Aesthetics

The Project site would look the same as present and there would be no aesthetic change. There would be no shoreline revetment work and no Bay Trail spine constructed along the parking lot edge and Fleming Point slopes in Area 3, and the site would not be improved as proposed under the Project, by removal of debris and weeds, and enhancement of dunes and native vegetation. Because the Proposed Project would have an overall beneficial aesthetic impact on the site, the No Project Alternative, while having no impacts, would be *worse than* the Proposed Project for Aesthetics.

Air Quality

Without the program of debris removal and new construction, there would be no emissions from construction. In addition, there would be no change in visitors from current levels. By definition, there would be *reduced* air quality impacts compared to the Proposed Project. To the extent that the Proposed Project encourages use of the Bay Trail for Bicycle and Pedestrian travel, instead of by automobile, there would be a net reduction in vehicle trips, which would benefit air quality. Therefore, the No Project Alternative would have *similar and equivalent* potential impacts than Proposed Project for Air Quality.

Biological Resources

The Proposed Project would create and enhance 0.3 acres of seasonal wetlands, 0.5 acres of dunes, and provide about 1.0 acre of enhanced uplands consisting of native plantings, seeded areas and bioretention areas. In addition, the Proposed Project contains optional intertidal and subtidal habitat enhancement elements. In contrast, the No Project Alternative would not create or enhance any acreage. As sea level rises, more wetlands may be created and some of the existing paved areas would be inundated more often.

In the absence of the grading for the shoreline revetment, enhanced wetlands, and dune expansion that is required for the Proposed Project, there would be no short-term, construction-related impacts to wildlife species, jurisdictional waters, or sensitive communities, such as eelgrass beds. However, invasive, non-native plant species would not be removed, the Project site would not be restored with native vegetation, and additional seasonal wetlands and dune areas would not be created, enhanced, or protected from disturbance by fencing. There would not be an increase in wildlife habitat and sensitive dune community, as would occur under the Proposed Project.

The No Project Alternative would not produce the biological benefits provided by the Proposed Project, as the existing seasonal wetlands would be of smaller size and lower quality for wildlife than the Proposed

Project, and not provide the hydrologic function in remediating stormwater runoff from parking areas and native plants. Overall, although the No Project Alternative would not have biological impacts, it would be *less beneficial* than the Proposed Project for Biological Resources.

Cultural Resources

With no site grading, and public access improvements, including fencing and repair of shoreline erosion areas, there would be no potential impacts to the cultural resources, such as the wild art at the site, or areas of presently unknown and buried resources. However, there are ongoing impacts to these resources related to metal scavenging activities as well as natural erosion and displacement, including increased shoreline erosion due to sea level rise. The potential impacts on cultural resources of the Proposed Project would be small and would be reduced to a less-that-significant level by mitigation measures identified in this EIR. Therefore, the impacts of the No Project Alternative would be *similar* compared to the Proposed Project and the No Project Alternative would be *equivalent* for Cultural Resources.

Geology and Soils

The No Project Alternative would not result in construction of public access facilities on a Project site that includes areas of steep, erosive slopes and areas underlain by Bay mud. With appropriate construction practices, facilities could be built to standards that could withstand the likely strong ground shaking, liquefaction, and other effects of a major earthquake. If the public access facilities were not built, and if the Proposed Project – that would bring additional visitors into this area – did not take place, the risks of injury from such an earthquake and accompanying strong ground shaking would be *reduced*. However, the existing concrete rubble revetment on the Neck shoreline would continue to erode, which is considered to be a more serious problem, and the No Project Alternative would have *greater* impacts than the Proposed Project for Geology and Soils.

Greenhouse Gas Emissions

Without construction equipment, activity associated with grading and site improvements, and with no change in the number of site visitors, there would be lower greenhouse gas (GHG) emissions for the No Project Alternative. To the extent that the Proposed Project encourages use of the Bay Trail for bicycle and pedestrian travel, instead of by automobile, there would be a net reduction in vehicle trips, which would benefit air quality. The No Project Alternative would therefore have *similar* potential impacts for GHG emissions compared to the Proposed Project and would be *equivalent* to the Proposed Project for GHG emissions.

Hazards and Hazardous Materials

The No Project Alternative would not involve the use of construction equipment and materials, and therefore the risk of accidental spills of fuels, lubricants, etc. would not occur, and impacts associated with construction would not take place. However, with continued shoreline erosion along the Neck, there would be an increased risk of pollution to San Francisco Bay from the eroding landfill. This is an area of concern to Regional Water Quality Control Board. Therefore, the No Project Alternative would have *greater* potential impacts than the Proposed Project for Hazards and Hazardous Materials.

Hydrology and Water Quality

Without the construction of the shoreline revetment, habitat enhancement and public access components, there is less possibility of soil erosion and sedimentation causing turbidity in the Bay, and in this respect, the No Project Alternative would result in reduced short-term impacts than the proposed project. However, continued shoreline erosion under the No Project Alternative, which is likely to worsen with sea level rise, would cause decreased Bay water quality, and may potentially result in the release of water quality contaminants contained in newly exposed landfill materials. The conditions and requirements of the Regional Board Order 98-072 requiring landfill shoreline stabilization would not be met, which is a primary project

objective. In addition, since the bioretention/bioswale structures in Area 2 would not be constructed, and would not remediate existing parking lot stormwater runoff impacts to the Bay, water quality would be worse. Therefore, the No Project Alternative would have *greater* impacts than the Proposed Project for Hydrology and Water Quality.

Land Use and Planning

No significant land use impacts would result from the Proposed Project from division of an established community or conflicts in land uses. As the No Project would have no effect on established communities or conflicts in land uses, there would be little difference between the Proposed Project and the No Project Alternative.

The No Project Alternative would not fill a gap in the Bay Trail or increase public access to the waterfront, and is inconsistent with the goals expressed through these policies and would increase land use impacts related to conflicts with plans and policies. Therefore, the No Project Alternative would therefore have *greater* impacts than the Proposed Project for Land Use and Planning.

Noise

Without the construction phase of the Project, there would be less temporary noise disturbance to the visitors to Albany Beach. Ambient noise exposure would remain the same. Compared to the Proposed Project, the No Project Alternative would expose fewer visitors to the noise from the I-80 freeway. Overall, the No Project Alternative would have *lesser* impacts and be *better* than the Proposed Project for Noise.

Public Services

The Proposed Project would slightly increase the demand for police, fire, and emergency medical service, but would not require additional staff or new or altered facilities, and this impact would be less than significant. The No Project Alternative would avoid this slight increase, and thus would have a slightly less impact than the Proposed Project on public services.

Recreation

The No Project Alternative would not result in an increase in visitors to Albany Beach and future users of the expanded Bay Trail system. However, there would not be ADA accessible public access improvements or expansion of recreational facilities as with the Proposed Project. The Proposed Project would result in less-than-significant impacts to recreational facilities and therefore the No Project Alternative would be *similar* to the Proposed Project with *equivalent* impacts for Recreation.

Transportation/Traffic

The additional pedestrian and bicycle use, and passenger vehicles on local streets as a consequence of the Proposed Project, would contribute negligible additions compared to the existing conditions of local streets at times of maximum park use. There would be no traffic safety concerns associated with the Proposed Project, or inadequate emergency access (including during construction), and no conflicts with transit policies were identified. With the No Project Alternative, there would be fewer park users and fewer vehicle trips to the Project site. Thus, the No Project Alternative would have a slightly less impact than the Proposed Project in terms of Transportation/Traffic impacts.

Utilities and Service Systems

The No Project Alternative would not result in the use of water or other utilities. However, the Proposed Project would use very small amounts of irrigation water for restoration planting but does not propose to provide potable water for human consumption. The Proposed Project would result in less-than-significant impacts to utilities and service systems. Because the No Project Alternative would have no impact on water or other utilities, its impact on Utilities and Service Systems would be slightly less than the Proposed Project.

Comparison to Project Objectives

As summarized in **Table 5-1**, the No Project Alternative would fail to meet all of the project objectives, including the objectives of complying with the California Regional Water Quality Control Board's order to maintain the stability of the Albany Landfill at south Albany Neck. There would be no shoreline reconstruction along the Neck, Beach enhancement and improvements, or new segment of San Francisco Bay Trail between Albany Beach and Gilman Street.

5.2 Conservation Alternative

Principal Characteristics

The Conservation Alternative includes improvements as identified and described in the *Eastshore Park Project General Plan EIR*, for the portion of the site within the Albany Beach project site. Work would focus on protection and enhancement of the natural and biological resources within the project site. The Optional subtidal habitat enhancement elements of the Proposed Project would be constructed, and the concepts for these would be expanded upon in the Alternative. Within the Albany Bach project site, the 2.8-acre western portion of Area 2 would not be acquired for public use, and would remain in its current use as part of the Golden Gate Fields parking area. The *General Plan* guidelines would still apply to the Conservation Alternative, but the guidelines for the specific areas would change accordingly to reflect the increased efforts to enhance resources. With this alternative, the following elements would differ, compared to the Proposed Project:

- Inclusion of less intrusive, more passive recreation.
- Inclusion of more buffers and low fences to protect sensitive habitat.
- Shoreline repair and protection, fencing to preclude access; create and enhance wetlands; and create, enhance, and restore upland habitat.
- Fewer recreational activities.

Specific changes in facilities and programs from the *General Plan* applicable to the Albany Beach project site include addition of low wooden fences along trails, upland, dune and seasonal wetland habitat restoration/creation, shoreline protection, and intertidal and subtidal habitat enhancement. Under this alternative, there would not be a launching facility for non-motorized boats, picnic facilities, restroom or bicycle racks at Albany Beach. **Figure 5-1** provides a graphic representation of the Conservation Alternative.

Aesthetics

The Conservation Alternative would look slightly different from the Proposed Project in that it would, like the Project, include shoreline protection, wetland enhancement, and dune and intertidal and subtidal habitat enhancement, but would not have restrooms, picnic tables or bicycle racks. In addition, the Bay Trail would be built as part of this alternative. In other respects, the Conservation Alternative would have similar aesthetic impacts as the Proposed Project. Because the Conservation Alternative would not have any aesthetic impacts associated with any improvements, it would have *less* of an impact than the Proposed Project for Aesthetics.

Air Quality

The area graded and disturbed for habitat enhancement would be slightly larger for the Conservation Alternative than the Proposed Project; however, there would be less use of construction equipment because public access and recreational improvements would be reduced. Since there would be about the same amount of heavy equipment operating for similar hours, air emissions would be similar to the Proposed Project, and the Conservation Alternative would be *equivalent* for Air Quality.

Biological Resources

The Conservation Alternative would create or enhance seasonal wetlands, dune areas, intertidal, subtidal, and upland habitat. This alternative would also have less area for public access and recreational facilities and therefore less chance of conflicts between recreational uses and wildlife. Overall, the Conservation Alternative would be *more beneficial* than the Proposed Project for Biological Resources.

Cultural Resources

Although a slightly larger area might be graded and disturbed for habitat enhancement for the Conservation Alternative than for the Proposed Project, the potential for disturbing previously unknown cultural resources in the project areas is low and would be reduced to a less than significant level by mitigation measures identified in this EIR. Potential disturbance of areas containing wild art would be similar. Therefore, the Conservation Alternative and the Proposed Project would have similar potential impacts and would be *equivalent* for Cultural Resources.

Geology and Soils

Like the Proposed Project, the Conservation Alternative would include trail construction in the Fleming Point area on steep, erosive slopes, and shoreline revetment and habitat enhancement grading work in a former landfill with demolition debris. There would be more grading and increased risk of erosion for habitat enhancement construction, but less grading disturbance and less erosion associated with public access and recreation related improvements. Therefore, impacts would be *similar* and the Conservation Alternative would be *equivalent* to the Proposed Project for Geology and Soils.

Greenhouse Gas Emissions

The area graded and disturbed for habitat enhancement would be slightly higher for the Conservation Alternative as compared to the Proposed Project; however, balancing this would be less grading and heavy equipment use for public access and recreation improvements. Heavy equipment would be operating during similar hours and GHG emissions would be about the same. Impacts would be *similar* to the Proposed Project, and the Conservation Alternative would be *equivalent* for GHG emissions.

Hazards and Hazardous Materials

Under the Conservation Alternative, there would be some increased risk of accidental spills of heavy equipment diesel and hydraulic fluids associated with site grading for the larger amount of habitat enhancement that would be created, but less risk of equipment related spills because of reduced construction of public access and recreation improvements. Both alternatives would have about the same risk and impacts associated with disturbance of landfill materials for shoreline revetment construction. Overall, the risks are considered similar between the Conservation Alternative and the Proposed Project, and impacts would be *equivalent* for Hazards and Hazardous Materials.

Hydrology and Water Quality

Both the Conservation Alternative and the Proposed Project have as project priorities re-construction of the Neck shoreline revetment to stop shoreline erosion and exposure of potential water quality contaminants in landfill materials. The Conservation Alternative would involve more grading, and consequently more risk of erosion for habitat enhancement than the Proposed Project, but the Proposed Project would have more grading and risk of erosion associated with construction of public access and recreation improvements. Overall, these erosion risks would be about equal. The Proposed Project would replace 2.8 acres of existing paved parking lot with a smaller paved footprint, as well as increased stormwater management features. Overall, the Conservation Alternative would be *less beneficial* than the Proposed Project for hydrology and water quality impacts.

Land Use and Planning

Overall, impacts from the Conservation Alternative on established communities, conflicts in land uses, and conflicts with plans and policies would be similar to those of the Proposed Project. The Conservation Alternative would be *equivalent* in impacts to the Proposed Project for Land Use and Planning.

Noise

Noise impacts during the construction phases of the Conservation Alternative would be similar to the Proposed Project, as there would be more grading and equipment use for enhancement but less for construction of recreational elements. Compared to the Proposed Project, the Conservation Alternative would have fewer Park visitors who would be exposed to existing ambient noise conditions. Overall, the Conservation Alternative would have similar noise impacts and be *equivalent* to the Proposed Project.

Public Services

The Proposed Project would slightly increase the demand for police, fire, and emergency medical service, but would not require additional staff or new or altered facilities, and this impact would be less than significant. The Conservation Alternative may avoid some of this slight increase and thus would have a *slightly less* impact on public services than the Proposed Project.

Recreation

The Conservation Alternative would have less area and fewer facilities available for recreation use. Potential impacts would be *greater than* the Proposed Project for Recreation.

Transportation/Traffic

Since there would be fewer public access improvements constructed for the Conservation Alternative, the number of visitors to Albany Beach would be similar to existing conditions, or less, due to decreased recreational opportunities. The number of additional bicycles and pedestrians and automobile traffic that would be generated by the proposed project is considered negligible to the existing conditions of the local streets, and no traffic safety hazards would be created. In addition, closure of a key gap in the Bay Trail would have offsetting beneficial impacts by encouraging greater travel by bicycling and walking, including during commute periods. Consequently, the Conservation Alternative would be *equivalent* to the Proposed Project for Transportation/Traffic.

Utilities and Service Systems

The Conservation Alternative would use slightly more water for native plant establishment irrigation than the Proposed Project; however, this would be a negligible amount. Impacts for the Conservation Alternative would be *slightly more* than the Proposed Project for Utilities and Service Systems.

Comparison to Project Objectives

As shown in **Table 5-2**, the Conservation Alternative would not meet all the project objectives, especially those related to recreation.

5.3 Recreation Alternative

Principal Characteristics

The Recreation Alternative includes improvements as identified and described in the *Eastshore Park Project General Plan EIR*, for the portion of the site within the Albany Beach project site. Within the Albany Bach project site, project elements would include a variety of new facilities to enhance recreational opportunities. There would be less emphasis placed on comprehensive Neck shoreline stabilization and habitat

enhancement. The 2.8-acre western portion of Area 2 would not be acquired for public use, and would remain in its current use as part of the Golden Gate Fields parking area. The components of the Recreation Alternative in the *Eastshore Park Project General Plan EIR* applicable to the Albany Beach project site include vehicle access along the Albany Neck to the Albany Bulb, water access at the northwest end of Albany Beach, and improved fishing access. **Figure 5-2** provides a graphic representation of the Recreation Alternative.

Impact Analysis

Aesthetics

The Recreation Alternative would contain elements that are not part of the Proposed Project, including allowing private vehicle access along Albany Neck to Albany Bulb, and a fishing pier at Fleming Point. Vehicular access to the Bulb would introduce vehicles and a parking lot to an area that currently has a more or less natural visual character. A fishing pier at Fleming Point would also add a contrasting structure to a shoreline with a natural visual character. Both of these components of the Recreation Alternative would detract from the natural character of the project site. Therefore, impacts would be *greater* than the Proposed Project, and the Recreation Alternative would be *worse* for Aesthetics.

Air Quality

The total area graded and disturbed would be slightly less for the Recreation Alternative than the Proposed Project as less emphasis is placed on comprehensive Neck shoreline stabilization and habitat enhancement. However, there would be more asphalt, concrete and structures built for the public access and recreational components, and more construction equipment used with more operating hours. Overall, air quality emissions and impacts would be similar to the Proposed Project, and the Recreation Alternative would be *equivalent* for Air Quality.

Biological Resources

In the Recreation Alternative, there would be fewer total acres of seasonal wetlands, intertidal, subtidal, dune and upland habitat created and enhanced than the Proposed Project. Short-term, construction—related biological impacts would be less, but these would be reduced to a less than significant level by mitigation measures identified in this EIR, and the beneficial aspects of habitat enhancement and protection of the Proposed Project would not occur. Since more public access and visitor serving facilities would be constructed, there would be more visitors attracted to Albany Beach and a greater likelihood of habitat disturbance and visitor/wildlife conflicts. Overall, the Recreation Alternative would be *less* biologically beneficial than the Proposed Project and potential impacts would be *greater* for Biological Resources.

Cultural Resources

The impacts of this alternative to cultural resources would be similar to the Proposed Project, which would be *less than significant* with mitigation measures identified in this EIR. Cultural resource impacts related to the Recreation Alternative would be considered similar to and *equivalent* for the Recreation Alternative.

Geology and Soils

Similar to the Proposed Project, the Recreation Alternative would also result in trail construction in an area on Fleming Point that contains steep slopes and erosive soils. With less emphasis on shoreline stabilization and habitat enhancement, overall there would be less grading and less disturbance and risk of erosion during construction than the Proposed Project. As with the Conservation Alternative, the existing shoreline erosion along the Neck would not be comprehensively addressed and ongoing shoreline erosion would continue, and would be expected to increase with sea level rise. Because of this, the Recreation Alternative is considered to have *less* short-term construction related impacts on Geology and Soils than the Proposed Project, but because existing shoreline erosion problems would not be resolved, the Recreation Alternative would have *greater* potential impacts for Geology and Soils.

Greenhouse Gas Emissions

The total area graded and disturbed would be slightly less for the Recreation Alternative than the Proposed Project, as less emphasis is placed on comprehensive Neck shoreline stabilization and habitat enhancement. However, there would be more asphalt, concrete and structures built, and more construction equipment used with more operating hours for construction of the greater public access and recreational components of this alternative. Overall, GHG emissions would be slightly less than for the Proposed Project, and the Recreation Alternative would be *better* for GHG.

Hazards and Hazardous Materials

The Recreation Alternative would involve less shoreline slope grading and use of heavy equipment than the Proposed Project, so the risk of accidental spills and releases of construction chemicals would be less. In addition, since less landfill materials would be excavated, the risk of potential exposure of contaminants contained in these materials would be less. These are short-term, construction-related impacts that would be greater for the Proposed Project than for the Recreation Alternative, but that can be mitigated to a less than significant level. Not comprehensively stabilizing the Neck shoreline would in the long run increase the risk of exposure of landfill materials that potentially contain contaminants. This is a concern of the Regional Water Quality Control Board, and a major project objective, and therefore the Recreation Alternative would have *greater* potential impacts for Hazards and Hazardous Materials.

Hydrology and Water Quality

The Recreation Alternative would involve slightly less grading and land disturbance than the Proposed Project, so the short-term risk of soil erosion and water quality impacts during construction would be less, including water quality impacts associated with accidental spills and releases of construction chemicals and materials. However, there would be more overall paved surface area for recreational and visitor serving facilities and less area available for use of stormwater treatment systems, such as bioswales, resulting in *greater* hydrology and water quality impacts for the Recreation Alternative than the Proposed Project. In addition, as noted above under Hazardous Materials, the concern of the Regional Board over potential water quality impacts associated with continued erosion of Neck shoreline slopes and exposure of landfill material would not be adequately addressed in the Recreation Alternative. Therefore, the Recreation Alternative would have *greater* potential impacts for Hydrology and Water Quality than the Proposed Project.

Land Use and Planning

Overall, impacts from the Recreation Alternative on established communities, conflicts in land uses, and conflicts with plans and policies would be similar to those of the Proposed Project. The Recreation Alternative would be *equivalent* in impacts to the Proposed Project for Land Use and Planning.

Noise

Because shoreline stabilization needs would not be comprehensively addressed, the Recreation Alternative would have slightly lower noise impacts than the Proposed Project with respect to construction noise. There would be greater ambient noise impacts to humans visiting the sites, since vehicles would be allowed to access the Neck and Bulb. More recreational users would be attracted to the site and would be subject to somewhat elevated noise levels. Overall, potential impacts would be *greater* for the Recreation Alternative for Noise.

Public Services

The Proposed Project would slightly increase the demand for police, fire, and emergency medical service, but would not require additional staff or new or altered facilities, and this impact would be less than significant. The effect of the Recreation Alternative would be *similar* to the Proposed Project with *equivalent* impacts on public services.

Recreation

The Recreation Alternative would provide expanded recreational opportunities for a diverse array of visitors and would have beneficial impacts. Therefore, the Recreation Alternative would be *better* than the Proposed Project for Recreation.

Transportation/Traffic

As the expected number of park visitors would increase to a level greater than the Proposed Project with the Recreation Alternative, and there would be vehicular access to the Neck and Bulb, this alternative would have the potential for increased conflicts between vehicles and recreational trail users. Traffic impacts on local streets would be *greater* for the Recreation Alternative, which would be *worse than* the Proposed Project for Transportation/Traffic.

Utilities and Service Systems

The Recreation Alternative would require extension of utilities to supply restrooms, drinking fountain and other recreational amenities. Impacts would be *greater* for the Recreation Alternative for Utilities and Service Systems.

Comparison to Project Objectives

As shown in **Table 5-1**, the Recreation Alternative would not meet all the project objectives, as does the Proposed Project, including those objectives associated with habitat enhancement and provision of self sustaining, low maintenance amenities.

5.4 Minimal Improvements Alternative

Principal Characteristics

The Minimal Improvements Alternative would consist of a limited set of improvements at the project site, with a focus on the highest environmental priorities at the site such as stabilization along the most seriously eroding areas of the Albany Neck shoreline.

At the Albany Neck (Area 1), the Minimal Improvements Alternative would make localized, discontinuous repair of the eroding shoreline. The existing (lower) trail on the Neck would remain in its current condition, and there would be no enhanced intertidal or subtidal habitat, revegetation with native species, trail improvements for ADA access to Albany Beach, or interpretive signage.

At Albany Beach (Area 2), the existing parking and site access at the end of Buchanan Street would remain in its current condition. The Minimal Improvements Alternative would include pavement striping and signage to delineate the location of the Bay Trail on the pavement at the edge of the existing Golden Gate Fields parking lot. Only the area required for the Bay Trail alignment would be acquired through eminent domain, not the entire 2.8-acre area that would include space for a new parking lot under the Proposed Project. The Minimal Improvements Alternative also would include beach access and removal of invasive plant species in the beach and dune area, but would not include project features such as removal of creosote-impregnated timbers, enhancement of existing dunes and creation of the expanded dune area, 20-vehicle parking lot, bicycle parking, enhancement and expansion of existing wetlands, stormwater management bioswales, staging area for non-motorized watercraft, restroom, picnic tables, or interpretive signs.

At the Bay Trail spine (Area 3), the Minimal Improvements Alternative would acquire, through eminent domain, an easement along the shoreline on the existing street and parking area, and locate a trail on the existing pavement consisting of signage and striping of bicycle lanes only. There would be no separate

facilities for pedestrians, and the trail would not be ADA compliant because the existing street and parking lot grades would exceed recommended standards.

Figure 5-3 provides a graphic representation of the Minimal Improvements Alternative.

Impact Analysis

Aesthetics

The Minimal Improvements Alternative, which would be limited to discontinuous repairs of the shoreline at the Neck (Area 1), removal of invasive species, construction of beach access, and creation of Bay Trail segments on existing paved areas, would involve fewer aesthetic changes than the Project. Other components of the Proposed Project, such as removal of debris, and enhancement of dunes and native vegetation, would not occur. In other respects, the Minimal Improvements Alternative would have similar aesthetic impacts as the Proposed Project, and there would be *equivalent* impacts to the Proposed Project for Aesthetics.

Air Quality

The area graded and disturbed for shoreline stabilization, habitat enhancement, and public access and recreational improvements would be much smaller for the Minimal Improvements Alternative than the Proposed Project. Air emissions would be smaller and impacts would be *less* than the Proposed Project, and the Minimal Improvements Alternative would be *better* for Air Quality.

Biological Resources

Since comprehensive shoreline stabilization, habitat enhancement, and public access and recreational improvements would be much less for the Minimal Improvements Alternative than the Proposed Project, short-term, construction related disturbance impacts on biological resources would be less. The Minimal Improvements Alternative would not protect, expand, or enhance existing biological resources. Areas of existing seasonal wetlands and dune areas that are currently degraded and disturbed would not be protected or enhanced. Since only minimal shoreline stabilization of existing eroding areas would take place, temporary construction related impacts on marine biological resources in intertidal and subtidal areas would be less than for the Proposed Project. However, without stabilization, existing shoreline erosion would also increase in extent and severity over the long term, damaging the marine biological resources in these areas. If the optional habitat enhancement parts of Area 1 shoreline stabilization of the Proposed Project are constructed, they would provide additional beneficial impacts. Under this alternative, no enhancement of intertidal and subtidal biological resources would occur. For these reasons, the Minimal Improvements Alternative is considered to be *less* biologically beneficial and biological impacts would be *worse* than the Proposed Project.

Cultural Resources

Project impacts on cultural resources, with mitigation measures identified in this EIR, would be less than significant. The Minimal Improvements Alternative would have less site disturbance and thus would have a *slightly less* impact on cultural resources than the Proposed Project.

Geology and Soils

Overall, there would be less grading and less disturbance and risk of erosion than the Proposed Project for the Minimal Improvements Alternative. The Minimal Improvements Alternative would not result in trail construction in Area 3 that contains steep slopes and erosive soils, and would have fewer potential Geology and Soils impacts. However, as with the Conservation Alternative, the existing shoreline erosion along the Neck would not be comprehensively addressed. Because of this, the Minimal Improvements Alternative is considered to have *greater* impacts on Geology and Soils than the Proposed Project.

Greenhouse Gas Emissions

The area graded and disturbed for shoreline stabilization, habitat enhancement, and public access and recreational improvements would be much smaller for the Minimal Improvements Alternative than the Proposed Project. GHG emissions would be significantly smaller, and impacts would be *less* than the Proposed Project, and the Minimal Improvements Alternative would be *better* for GHG.

Hazards and Hazardous Materials

The Minimal Improvements Alternative would involve substantially less shoreline slope grading and construction of public access and recreation improvements; therefore, use of heavy equipment would be less than the Proposed Project, so the risk of accidental spills and releases would be less. In addition, since less landfill materials would be excavated, the risk of potential exposure of contaminants contained in these materials is less. These are short-term, construction-related impacts that would be greater for the Proposed Project than for the Minimal Improvements Alternative, but can be reduced to a less than significant level with mitigation measures identified in this EIR. Not comprehensively stabilizing the Neck shoreline would increase long-term risk of exposure of landfill materials through erosion. This is a concern of the Regional Water Quality Control Board, and a major project objective, and therefore the Minimal Improvements Alternative would be *worse* than the Proposed Project for Hazards and Hazardous Materials.

Hydrology and Water Quality

The Minimal Improvements Alternative would involve less grading and land disturbance than the Proposed Project, so the short-term risk of soil erosion and water quality impacts during construction would be less, including water quality impacts associated with accidental spills and releases of construction chemicals and materials. The concern of the Regional Water Quality Control Board over potential water quality impacts associated with continued erosion of Neck shoreline slopes and exposure of landfill material would not be adequately addressed in the Minimal Improvements Alternative. The project would result in a reduction of impervious surfaces compared to the minimal improvements alternative. Therefore, the Minimal Improvements Alternative would have *greater* potential impacts for Hydrology and Water Quality Impacts than the Proposed Project.

Land Use and Planning

Impacts from the Minimal Improvements Alternative on established communities, and conflicts with plans and policies would be similar to the Proposed Project. However, locating the Bay Trail on the existing road and parking area in Area 3 would not improve ADA accessibility or provide separated facilities for pedestrians. This conflicts with adopted Land Use policies, in addition to physical land use conflicts, which would be greater than the Proposed Project. Therefore, the Minimal Improvements Alternative would be *worse* than the Proposed Project for Land Use and Planning.

Noise

With a reduced construction effort associated with the Minimal Improvements Alternative, there would be less noise disturbance to the visitors to Albany Beach. Also, compared to the Proposed Project, the Minimal Improvements Alternative would expose fewer visitors to the noise from the I-80 freeway. Overall, the No Project Alternative would have *lesser* impacts and be *better* than the Proposed Project for Noise.

Public Services

The Proposed Project would slightly increase the demand for police, fire, and emergency medical service, but would not require additional staff or new or altered facilities, and this impact would be less than significant. The Minimal Improvements Alternative may avoid some of this slight increase, and would thus have a *slightly smaller* impact than the Proposed Project on public services.

Recreation

The Minimal Improvements Alternative would result in a slight increase in visitors to Albany Beach and future users of the expanded Bay Trail system. However, there would not be the same amount of public access improvements or expansion of recreational facilities as with the Proposed Project. Locating the trail on existing road and parking area in Area 3 would not improve ADA accessibility or provide separated facilities for pedestrians. The Minimal Improvements Alternative would be *worse* than the Proposed Project for Recreation.

Transportation/Traffic

As the expected number of park visitors arriving by automobile would not be affected by this Alternative, traffic impacts would be similar for the Minimal Improvements Alternative for Transportation/Traffic. The Minimal Improvements Alternative would not construct the Bay Trail to ADA standards, but this should not affect traffic impacts. Therefore, the Minimal Improvements Alternative would have *similar* and *equivalent* impacts to the Proposed Project for Transportation/Traffic.

Utilities and Service Systems

The Minimal Improvements Alternative would use less water than the Proposed Project for establishment of plants and thus would have a slightly less impact than the Proposed Project for Utilities and Service Systems.

Comparison to Project Objectives

As shown in **Table 5-1**, the Minimal Improvements Alternative would not meet most of the project objectives, including those objectives associated with habitat enhancement and shoreline stabilization.

5.5 Enhanced Project Alternative

Principal Characteristics

The Enhanced Project Alternative would, in addition to the features of the Proposed Project, include additional public access and recreational features in Area 2 (Albany Beach):

- A 60- vehicle parking lot (compared to the 20-vehicle lot of the Proposed Project)
- Bicycle parking for 80 bicycles (compared to at least 10 bicycles for the Proposed Project)
- Group picnic facilities to accommodate 80 users (compared to approximately three picnic tables of the Proposed Project)
- Designated storage and/or concession facilities for non-motorized watercraft users
- Two–stall restroom with water and shower facilities (compared to waterless two-stall restroom of the Proposed Project)
- Extend utilities including water and electricity, to restroom, staging, and group picnic area, including lighting

Figure 5-4 provides a graphic representation of the Enhanced Project Alternative.

Impact Analysis

Aesthetics

The Enhanced Project Alternative would look different from the Proposed Project in the Beach area (Area 2) in that it would have larger buildings, more facilities, and a much larger parking area. These differences would be visually significant and there would be *greater* impacts than the Proposed Project for Aesthetics.

Air Quality

The area graded and disturbed would be greater for the Enhanced Project Alternative than the Proposed Project. Air quality emissions during construction would be slightly greater than the Proposed Project. In addition, with enhanced recreational facilities, and a larger parking facility, more visitors would be attracted to Albany Beach compared to the Project. If current use patterns remain the same, most of the park visitors would travel to the site by automobile, slightly increasing non-construction related air quality emissions. These increased emissions would likely be potentially offset by the increased use of alternative modes of transport (bicycle/pedestrian), that both the Proposed Project and Enhanced Project Alternative would encourage, making increased operational air quality emissions negligible and equivalent. The provision of non-motorized watercraft storage facilities at the site may enable some users to travel to Albany Beach by bicycle or walk, or may allow them to travel directly from their place of employment to the site, without stopping at home to pick up their watercraft. These air quality emission reduction benefits would offset the increased number of motor vehicle trips to the site created by the Enhanced Project over the Proposed Project. Therefore, the Enhanced Project and the Proposed Project are considered to be *equivalent* in terms of Air Quality Impacts.

Biological Resources

The provision of increased facilities, including a 60-vehicle parking lot in the Enhanced Alternative would result in less area available for expansion and enhancement of seasonal wetlands and dune areas. Because of this, the Enhanced Project would be *less beneficial* for biological resources than the Proposed Project.

Cultural Resources

Project impacts on cultural resources would be less than significant for the Proposed Project, with mitigation measures identified in this EIR. The Enhanced Project alternative would have a similar level of site disturbance and potential for impacts on cultural resources as the Proposed Project. Cultural resource impacts would be similar and *equivalent* for the Enhanced Project Alternative.

Geology and Soils

The Enhanced Project Alternative would involve slightly more grading and ground disturbance for construction of the expanded public access and recreational project elements in the Beach area, and therefore the risk of soil erosion is slightly higher than for the Proposed Project. Therefore, Geology and Soils related impacts are considered *slightly worse* for the Enhanced Project than the Proposed Project.

Greenhouse Gas Emissions

The area graded and disturbed would be greater for the Enhanced Project Alternative than the Proposed Project. GHG emissions during construction would be slightly *greater* than the Proposed Project. In addition, with enhanced recreational facilities, and a larger parking facility, more visitors would be attracted to Albany Beach. If current use patterns remain the same, most of the park visitors would travel to the site by automobile, slightly increasing operational GHG emissions. These increased emissions would likely be offset by the increased use of alternative modes of transport (bicycle/pedestrian) that both the Proposed Project and Enhanced Project Alternative would encourage, making increased operational air quality emissions negligible and equivalent. The provision of non-motorized watercraft storage facilities at the site may enable some users to travel to Albany Beach by bicycle or walk, or may allow them to travel directly from their place of employment to the site, without stopping at home to pick up their watercraft. These GHG emission reduction benefits would offset the increased number of motor vehicle trips to the site created by the Enhanced Project relative to the Proposed Project. Therefore, the Enhanced Project and the Proposed Project are considered to be *equivalent* in terms of GHG impacts.

Hazards and Hazardous Materials

Both the Enhanced Project and the Proposed Project would comprehensively address Albany Neck shoreline stabilization needs to prevent exposure of landfill materials and the potential release of hazardous materials. Since there would be more grading, land disturbance and use of construction equipment for the Enhanced Project than the Proposed Project, there would be a slightly increased risk of accidental release and spills of construction chemicals and materials. Therefore, the Enhanced Project has potentially *worse* impacts for Hazards and Hazardous Materials.

Hydrology and Water Quality

The Enhanced Project would have greater impacts on Hydrology and Water Quality because there would be more grading and land disturbance and a comparatively larger parking area (60 vs. 20 spaces), and therefore more risk of erosion and less area for stormwater runoff. In addition, the larger footprint of the proposed recreational facilities would result in a smaller area in which to accommodate bioswale, bioretention facility, and stormwater treatment wetlands that are included in the Proposed Project design. Therefore, the Enhanced Project would *worse* than the Proposed Project for Hydrology and Water Quality.

Land Use and Planning

Impacts from the Enhanced Project Alternative on established communities, and conflicts with plans and policies would be similar to the Proposed Project. However, this alternative would attract more recreational users, including users with dogs, than the Proposed Project, which could create more land use conflicts involving dogs than the Proposed Project. Therefore, the Enhanced Project Alternative would be *worse* than the Proposed Project for Land Use and Planning.

Noise

During the construction phases of the Enhanced Project Alternative, there would be more construction noise exposure to Park visitors than the Proposed Project. Also, compared to the Proposed Project, the Enhanced Project Alternative would have more visitors who would be exposed to existing ambient noise conditions. Overall, the Enhanced Project Alternative would have *greater* noise impacts and be *worse* than the Proposed Project for Noise.

Public Services

The Proposed Project would slightly increase the demand for police, fire, and emergency medical service, but would not require additional staff or new or altered facilities, and this impact would be less than significant. The Enhanced Project Alternative would have a similar or slightly greater effect, but, like the Proposed Project, the impact would be small and would not require additional staff or new or altered facilities. Therefore, this alternative would be *slightly worse* than the Proposed Project for public services.

Recreation

The Enhanced Project Alternative would result in a wider array of recreational opportunities for visitors. Impacts would be *more beneficial* than the Proposed Project and the Enhanced Project Alternative would be *better* than the Proposed Project for Recreation.

Transportation/Traffic

As the expected number of park visitors with the Enhanced Project Alternative would be greater than the Proposed Project, traffic impacts on local streets would be *greater* and the Enhanced Project Alternative would be *worse* than the Proposed Project for Transportation/Traffic.

Utilities and Service Systems

The Enhanced Project Alternative would use water for habitat enhancement and irrigation, as well as for restrooms, a shower and a drinking fountain, which would require extension of water lines to the site. Impacts from this would be *worse* than the Proposed Project for Utilities and Service Systems.

Comparison to Project Objectives

As shown in **Table 5-1**, the Enhanced Project Alternative would meet most of the project objectives, as does the Proposed Project, but not meet project objectives for low maintenance facilities. Structures with utility connections such as lighting, plumbing for showers or concession use, HVAC and/or other structural components would require ongoing maintenance to ensure proper operation compared to the Proposed Project. The Enhanced Project Alternative would not provide as much dune and seasonal wetlands habitat but more recreational opportunities than the Proposed Project.

5.6 Bay Trail Through Golden Gate Fields Alternative

A comment on the NOP[213] requests that the EIR evaluate "one or more alternative trail alignments running through the interior of the Golden Gate Fields site." The Bay Trail Through Golden Gate Fields Alternative would be similar to the Proposed Project except for the alignment of the Bay Trail segment in Area 3, which would pass through the Golden Gate Fields (GGF) site rather than along and near the shoreline.

Figure 5-5 provides a graphic representation of potential Bay Trail Through Golden Gate Fields Alternative (Bay Trail Through GGF Alternative).

Analysis

Aesthetics

The Bay Trail Through GGF Alternative would have a Bay Trail alignment located east of Area 3, near the north of the upper parking lot, with a ramp structure needed along the edge of the lot to achieve a 5% trail grade. This would be a visually prominent feature, visible from both the Bay side and racetrack side. In addition, a concrete retaining wall would need to be constructed adjacent to the upper parking lot area to provide enough room to accommodate the Bay Trail and vehicular access. These differences would be visually significant and there would be *worse* impacts than the Proposed Project for Aesthetics.

Air Quality

Air Quality impacts would be similar between the Bay Trail Through GGF Alternative and the Proposed Project, if the ramp structures described under Aesthetics, above, were built. The Bay Trail Through Golden Gate Fields Alternative and the Proposed Project are considered to be *equivalent* in terms of Air Quality Impacts.

Biological Resources

Since the Bay Trail would not be constructed on the slopes of Fleming Point, potential impacts to the ruderal scrub and coastal scrub remnant (poison oak scrub) plant communities would not occur. Although these potential impacts to Biological Resources would be reduced to a less than significant level by mitigation measures identified in this EIR for the Proposed Project, the Bay Trail through GGF Alternative would be *better* than the Proposed Project in terms of Biological Resources.

Cultural Resources

The Bay Tail Alignment of the Proposed Project passes very near an old concrete retaining wall on the slopes north of the jockey parking lot that would require mitigation to reduce the impacts to a less than significant level, either by realigning the trail to miss the retaining wall, or by incorporating the wall structure in the trail design. Although this potential impact to Cultural Resources would be reduced to a less than significant level by the mitigation measure identified in this EIR, the Bay Trail Through GGF Alternative would avoid this feature and would have *lesser* impacts than the Proposed Project in terms of Cultural Resources for this feature

Geology and Soils

Since the Bay Trail would not be constructed on the steep and erosive slopes of Fleming Point, potential Geology and Soils impacts associated with the Bay Trail Through GGF Alternative would be *less* than for the Proposed Project.

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[213] William Most, Briscoe Ivester & Bazel LLP, letter o Chris Barton, East Bay Regional Park District Land Division, *Re: Scoping Comments for the EIR for Proposed Bay Trail Construction at Golden Gate Fields*, 30 April 2012.

Greenhouse Gas Emissions

GHG impacts would be similar between the Bay Trail Through GGF Alternative and the Proposed Project, if the ramp structures described under Aesthetics, above, were built. The Bay Trail Through GGF Alternative and the Proposed Project are considered to be *equivalent* in terms of GHG impacts.

Hazards and Hazardous Materials

Hazards and Hazardous Materials Impacts, including the stabilization of the Albany Neck shoreline to prevent exposure of landfill materials and the potential release of hazardous materials during construction, would be similar for the Bay Trail Through GGF Alternative and the Proposed Project, and they are considered *equivalent*.

Hydrology and Water Quality

If a ramp structure described under Aesthetics, above, were built to accommodate ADA access, there would be substantially more grading and earthwork for the Bay Trail Through GGF Alternative, including work on the steep slopes of the site, compared to the Proposed Project. Other potential impacts on Water Quality during project construction would be similar for the Proposed Project and for the Bay Trail Through GGF Alternative Because of the potential for more grading and earthwork than the Proposed Project, the Bay Trail Through GGF Alternative would be *worse* for Hydrology and Water Quality.

Land Use and Planning

Impacts from the Bay Trail Through GGF Alternative on established communities, and conflicts with plans and policies would be worse than the Proposed Project. This alternative alignment of the Bay Trail segment would conflict with the San Francisco Bay Trail Plan, which identifies a trail along the shoreline in Area 3. The Bay Trail, under this alternative, would need to be located very near to, through or across existing facilities within the GGF site, such as the stables, parking areas, access roads, operations area, grandstands, racetrack, communications area and concession areas, in order to complete an accessible route between the two segments. Even then, without substantial grading and construction of ramp structures, trail grades could exceed ADA requirements. In addition, there would be land use conflicts between trail users and GGF patrons and employees. Therefore, the Bay Trail Through GGF alternative would be *worse* than the Proposed Project for Land Use and Planning.

Noise

Construction of the Bay Trail either on the slopes of Fleming Point (under the Proposed Project), or through GGF (under this alternative), would involve use of noise-generating heavy equipment, but construction within GGF would likely expose people at the racetrack to greater construction noise than the Proposed Project. During project operation, noise impacts to users would be the similar, but trail users may, at times the racetrack is in operation, be exposed to greater noise while on the segment of trail within GGF. Therefore, the Bay Trail Through GGF Alternative would be *worse* than the Proposed Project for Noise.

Public Services

The Proposed Project would slightly increase the demand for police, fire, and emergency medical service, but would not require additional staff or new or altered facilities, and this impact would be less than significant. The Bay Trail Through GGF Alternative would result in a similar increase, but because the impact would be small, this alternative would be *similar* to the Proposed Project with *equivalent* impacts on public services.

Recreation

The Bay Trail Through GGF Alternative would not have the Proposed Project's recreational benefits of placing the Bay Trail on the slopes of Fleming Point, which would include a shoreline-oriented recreational user experience, and fewer potential conflicts with racetrack users, and vehicles. In other recreational impacts,

the Bay Trail Through GGF Alternative and the Proposed Project would be similar. Overall, the Bay Trail Through GGF Alternative would be *worse* than the Proposed Project for Recreation.

Transportation/Traffic

The Bay Trail Through GGF Alternative would have greater Transportation/Traffic impacts because it could result in traffic and safety conflicts by placing bicycle and pedestrian use areas adjacent to traffic lanes. The Bay Trail Through GGF Alternative would have *worse* impacts on transportation than the Proposed Project.

Utilities and Service Systems

Both the Proposed Project and the Bay Trail Through GGF Alternative would have similar (slight) demands on Utilities and Service Systems. The impacts of this alternative would be *equivalent* to the proposed project.

Comparison to Project Objectives

As shown in **Table 5-1**, the Bay Trail Through GGF Alternative would meet the majority of the project objectives, but would not meet four project objectives, including those related to adopted General Plans and Bay Trail Plans for this segment for a trail along the shoreline with views of the Bay. This alignment would not achieve the objective of the Proposed Project to "Implement guidelines identified in the Eastshore State Park General Plan for the Albany Beach area: …CIRC-9: In order to improve access to and through the park project, support neighboring jurisdictions in their efforts to expedite the completion of the Bay Trail as set forth in ABAG's Bay Trail Master Plan."

5.7 Bay Trail East of I-80

A comment on the NOP[214] requests that the EIR evaluate "one or more alternative trail alignments to the east of the Golden Gate Fields site." The Bay Trail East of I-80 Alternative would be similar to the Proposed Project except for the alignment of the Bay Trail segment in Areas 2 and 3, where the Trail would utilize the existing east-west Bay Trail spur north of Buchanan Street to connect with the Project Site. This alignment is the closest potential route to San Francisco Bay that avoids lands owned by GGF and Caltrans (except for existing undercrossings of I-80 on Buchanan and Gilman).

Figure 5-6 provides a graphic representation of a potential Bay Trail East of I-80 Alternative.

This alignment would begin at the existing Bay Trail segment located on the north side of Buchanan Street and utilize the existing asphalt path located on the north side of Buchanan, crossing under the I-80 freeway and under the Buchanan/Eastshore Frontage Road railroad overpass structure via an existing service road to the southwest side of Eastshore Frontage Road. The existing path currently terminates at an unsignalized mid-block crossing north of the Target shopping center driveway, and bicyclists and pedestrians can use a sidewalk along the Target property frontage. South of the shopping center, the existing bicycle lane terminates, and there are neither bicycle lanes nor continuous sidewalks from the shopping center intersection south to Gilman Street. At Gilman Street, trail users would utilize asphalt paths and crosswalks across the frontage roads and I-80 access ramps to get to the south side of Gilman and continue west or south on the existing Bay Trail. Eastshore Frontage Road south of Target contains approximately thirty feet of paved travel lanes and a 3- to 5-foot separation from I-80.

[214] William Most, Briscoe Ivester & Bazel LLP, letter o Chris Barton, East Bay Regional Park District Land Division, *Re: Scoping Comments for the EIR for Proposed Bay Trail Construction at Golden Gate Fields*, 30 April 2012.

For the portion of this alignment within the City of Albany, potential future improvements to correct safety hazards and improve access for bicyclists and pedestrians are described in Project 13 of the Albany Active Transportation Plan.[215]

This alternative would require reconfiguring the travel lanes of Eastshore Frontage Road, and bicycle/pedestrian safety improvements at the crossings of Buchanan, Eastshore Frontage Road, and Gilman Streets, as well as I-80 access points at each street.

Analysis

Aesthetics

The Bay Trail East of I-80 Alternative would have a Bay Trail alignment located east of Areas 2 and 3 that is essentially on or adjacent to city streets, freeway, railroad right of way and commercial and industrial areas. Design of trail components would not affect the aesthetic character of the surrounding area, however, the aesthetic experience for the user and proximity to existing views and vistas would be *worse* than the Proposed Project for Aesthetics.

Air Quality

Air Quality impacts would be similar to the Proposed Project, with similar needs for construction equipment to excavate and reconfigure the street to accommodate a Bay Trail. Therefore, the Bay Trail East of I-80 Alternative and the Proposed Project are considered to be *equivalent* in terms of Air Quality Impacts.

Biological Resources

Since the Bay Trail would not be constructed within any habitat areas, potential impacts to the ruderal scrub and coastal scrub remnant (poison oak scrub) plant communities would not occur. Although these potential impacts to Biological Resources would be reduced to a less than significant level by mitigation measures identified in this EIR for the Proposed Project, the Bay Trail East of I-80 Alternative would be *better* than the Proposed Project in terms of Biological Resources.

Cultural Resources

The Bay Trail East of I-80 Alternative would be constructed on or within existing roads. The Bay Trail East of I-80 Alternative would have *lesser* impacts than the Proposed Project in terms of Cultural Resources.

Geology and Soils

Since the Bay Trail would not be constructed on the steep and erosive slopes of Fleming Point, potential Geology and Soils impacts associated with the Bay Trail East of I-80 Alternative would be *less* than for the Proposed Project.

Greenhouse Gas Emissions

GHG impacts would be similar between the Bay Trail East of I-80 Alternative and the Proposed Project. The Bay Trail East of I-80 Alternative and the Proposed Project are considered to be *equivalent* in terms of Greenhouse Gas Impacts.

Hazards and Hazardous Materials

Hazards and Hazardous Materials Impacts, including the stabilization of the Albany Neck shoreline to prevent exposure of landfill materials and the potential release of hazardous materials during construction, would be similar for the Bay Trail East of I-80 Alternative and the Proposed Project, and they are considered *equivalent*.

[215] Albany Active Transportation Plan, July 2011, Chapter 6, Project Information Sheets

Hydrology and Water Quality

This alternative would utilize existing roads and paths, including an existing ramp structure and undercrossing of the Buchanan Street Railroad Grade Separation. Other potential impacts on Water Quality during project construction would be similar for the Proposed Project and for the Bay Trail Through GGF Alternative. Less grading would be required for the Bay Trail East of I-80 Alternative and this alternative would be *better* for Hydrology and Water Quality.

Land Use and Planning

The Bay Trail East of I-80 Alternative for the Bay Trail segment would conflict with adopted alignment shown in the San Francisco Bay Trail Plan, which identifies a trail along the shoreline in Areas 2 and 3, as well as city General Plans for the Bay Trail. The Bay Trail, under this alternative, would be located on surface streets and would not meet Bay Trail Objectives for a recreational route close to the shoreline, with views of the Bay. Therefore, the Bay Trail East of I-80 Alternative would be *worse* than the Proposed Project for Land Use and Planning.

Noise

Construction of the Bay Trail under this alternative would involve use of noise-generating heavy equipment that is in closer proximity to residential receptors. Users of the trail would also be exposed to more noise, since the trail would be located next to the primary noise source, I-80. Therefore, the Bay Trail East of I-80 Alternative would be *worse* than the Proposed Project for Noise.

Public Services

The Proposed Project would be located on or near existing streets, with a similar demand for police, fire, and emergency medical service, but would not require additional staff or new or altered facilities, and this impact would be less than significant. The Bay Trail East of I-80 Alternative would result in a similar increase, but because the impact would be small, this alternative would be *similar* to the Proposed Project with *equivalent* impacts on public services.

Recreation

The Bay Trail East of I-80 Alternative would be located on or near existing streets and would serve primarily as a transit route, not as a recreational trail, because it would be constructed as a component of a city street with bicycle lanes and sidewalks, rather than a separated trail. It would not have the Proposed Project's recreational benefits of a shoreline-oriented recreational user experience. The Bay Trail East of I-80 Alternative would be *worse* than the Proposed Project for Recreation.

Transportation/Traffic

The Bay Trail East of I-80 Alternative would be constructed on or adjacent to city streets, with ten crosswalks (some currently unmarked) including streets, freeway on- and off-ramps. This alignment has significantly higher potential vehicle-trail user conflicts including crosswalks, mid-block crossings and unsignalized intersections. The Bay Trail East of I-80 Alternative would have greater Transportation/Traffic impacts because it could result in traffic and safety conflicts by placing bicycle and pedestrian use areas in and adjacent to traffic lanes. The Bay Trail East of I-80 Alternative would have *worse* impacts on Transportation than the Proposed Project.

Utilities and Service Systems

Both the Proposed Project and the Bay Trail East of I-80 Alternative would have similar (slight) demands on Utilities and Service Systems. The impacts of this alternative would be *equivalent* to the proposed project.

Comparison to Project Objectives

As shown in **Table 5-1**, the Bay Trail East of I-80 Alternative would meet the objective of providing connections to other local trails, and could be designed for low maintenance and to withstand challenges of sea-level rise, but would not meet other project objectives, including those related to implementation of a shoreline-oriented Bay Trail in adopted General Plans and the Bay Trail Plan for this segment. This alignment would not meet Eastshore General Plan objectives for a recreation-oriented facilities, or design of project components that separate vehicles from trail users.

5.8 Environmentally Superior Alternative

The Conservation Alternative would be the Environmentally Superior Alternative. It would have fewer environmental impacts than the other alternatives, would have less of an impact than the Proposed Project in four areas, including less of an impact on biological resources, and would have greater environmental impacts than the Proposed Project only with respect to Recreation, Utilities and Hydrology.

5.9 Alternatives Considered But Rejected

Several alternatives for public access and restoration were considered during the planning stages. The following alternatives were considered but rejected.

Maximum Conservation Alternative

Under the Maximum Conservation Alternative considered in the *Eastshore Park Project General Plan EIR*, the entire Eastshore Park project site would be set aside as a preservation area, conservation area, or as undeveloped open space. Under this alternative, fewer trails, no parking, no visitor-serving park structures, and only low-intensity recreational uses would be developed within the park. The Albany Plateau would be set aside for preservation and conservation, in addition to the areas identified for these uses in the proposed *General Plan*.

The Maximum Conservation Alternative for the Albany Beach project corresponding to that of the *Eastshore Park Project General Plan EIR* would consist of the restoration components of the proposed project (including shoreline repair and habitat enhancement on the Neck (Area 1), subtidal habitat enhancement (Area 1), and habitat, wetland, and dune restoration at Albany Beach (Area 2)). The Maximum Conservation Alternative for the Albany Beach would not include a Bay Trail segment (spine) in Area 3 or improvement of the existing Bay Trail spur along the Neck (Area 1), nor would it include a parking area or recreational features such as non-motorized boat launch facility or picnic facility at Albany Beach (Area 2).

The *Eastshore Park Project General Plan EIR* found that the Maximum Conservation Alternative focuses primarily on open space preservation and habitat protection along the East Bay shoreline and does not adequately address the other objectives of providing and improving public access to the Bay and its shoreline to meet the recreational needs of the people of the region and the State through use of the Bay Trail, and recreation areas to be provided in the park. This alternative would not promote opportunities for aquatic recreation activities and would result in a waterfront park in which most visitors can observe, but not experience, the aquatic portions of the project site because of the restrictions to watercraft activities and a lack of facilities for and in support of recreational uses of the water. Upland recreational uses, with the exception of bird watching and trail use, would essentially be eliminated. For these reasons, this alternative was considered but rejected by the *Eastshore Park Project General Plan EIR* for not meeting the basic objectives of the project.

For reasons similar to those described above, the Maximum Conservation Alternative for the Albany Beach project also would not meet several project objectives; it would not promote opportunities for aquatic recreation, and it would not meet the stated objective to provide habitat enhancement and public access while providing a multi-purpose, net-beneficial project. The Maximum Conservation Alternative for the Albany Beach project would not substantially alter the characteristics of the Maximum Conservation Alternative considered in the *Eastshore Park Project General Plan EIR*, and the evaluation of Maximum Conservation Alternative contained in the *Eastshore Park Project General Plan EIR* also applies to the Maximum Conservation Alternative to the proposed project. In addition, a variation of the Maximum Conservation Alternative, the Conservation Alternative, is evaluated in this EIR, above. Therefore, the Maximum Conservation Alternative to the proposed project is rejected.

Maximum Recreation Alternative

Under the Maximum Recreation Alternative considered in the *Eastshore Park Project General Plan EIR*, much of the upland portion of the project site would be developed with facilities to allow active sports and aquatic recreation activities. New facilities would support kayaking, paddling, rowing, and windsurfing, including launching and rigging areas, tidal steps, and ramps, storage facilities, rental concessions, parking, and vehicular access and more parking areas close to the water. This alternative includes additional water-borne activity staging areas and facilities including boat storage in the southern portion of the Albany Bulb; however, motorized watercrafts are prohibited in this alternative. Upland facilities to support active recreation would include playing fields, BMX biking facilities, trails, and supporting facilities, such as restrooms, food concessions, interpretive centers, picnic areas, and parking.

The Maximum Recreation Alternative for the Albany Beach project corresponding to that of the *Eastshore Park Project General Plan EIR* would include project features such as shoreline repair on the Neck (Area 1), restoration of Albany Beach (Area 2), and Bay Trail segment (spine) in Area 3. In addition, this alternative would include vehicular access along the Bay Trail spur on Albany Neck (Area 1), a non-motorized watercraft launching area at the northwest end of Albany Beach rather than the southeast end, and off-leash dogs allowed at Albany Neck (Area 1) and Albany Beach (Area 2).

The *Eastshore Park Project General Plan EIR* found that the Maximum Recreation Alternative would provide a diverse range of recreational opportunities but would not adequately protect sensitive species and habitat areas from potential visitor-related impacts within the project site. The Maximum Recreation alternative would allow more active recreational uses and off-leash dogs in areas of the park, which could adversely impact sensitive habitat areas. This alternative would not meet the stated objective of managing the resources by balancing the protection and restoration of the natural resources against the provision of greater recreational opportunities and facilities. For these reasons, the Maximum Recreation alternative was considered but rejected by the *Eastshore Park Project General Plan EIR* from further evaluation because it does not meet several of the basic objectives of the proposed project.

For reasons similar to those described above, the Maximum Recreation Alternative for the Albany Beach project also would not meet several of the Albany Beach project's fundamental objectives, including the objective to provide habitat enhancement and public access while providing a multi-purpose, net-beneficial project. The Maximum Recreation Alternative for the Albany Beach project would not substantially alter the characteristics of the Maximum Conservation Alternative considered in the *Eastshore Park Project General Plan EIR*, and the evaluation of Maximum Recreation Alternative contained in the *Eastshore Park Project General Plan EIR* also applies to the Maximum Recreation Alternative to the proposed project. In addition, a variation of the Maximum Recreation Alternative, the Recreation Alternative, is evaluated in this EIR, above. Therefore, the Maximum Recreation Alternative to the proposed project is rejected.

Alternative Locations for the Entire Proposed Project

The *Eastshore Park Project General Plan EIR* did not consider alternative locations for provision of the programs and facilities in the *General Plan* because those programs and facilities are specific to the unique conditions of the 8½ miles of shoreline included within the Eastshore State Park project site. Selecting an alternative location for implementation of the *General Plan* would fundamentally fail to meet the purpose and objectives of the proposed project, and this alternative was rejected by the *Eastshore Park Project General Plan EIR*.

For reasons similar to those described above, alternative locations for the Albany Beach project also are specific to the project site, and an alternative location would fundamentally fail to meet virtually all of the purposes and objectives of the proposed Albany Beach project. The physical characteristics that define Albany Beach as a unique area are simply not present in other areas along the Richmond-Albany, Berkeley, and Emeryville waterfront. Therefore, an offsite location as an alternative for the proposed project is rejected.

Restricted Dog Use Alternative

A comment on the NOP[216] requests that the EIR evaluate "an alternative that has enforcement of the on leash dog rules and also looks at limitations on the number of dogs even on leash that could allowed in specific areas of the Beach restoration site." The Proposed Project does not include any change to existing rules on dog use, and the project objectives do not include any change to dog use rules. The purpose of the Proposed Project is to make certain improvements to the site to achieve the project objective, not to address potential changes to existing regulations or EBRPD policies. Furthermore, such an alternative would otherwise be similar to the Proposed Project and would have similar impacts as the Project. Under CEQA, a project alternative must at least generally achieve the objectives of the project, and must reduce at least one potentially significant impact of the project. Because the Restricted Dog Use Alternative would be the same as the Proposed Project other than the additional dog restrictions, it would achieve the objectives of the project, but it would not reduce or avoid any of the potentially significant impacts of the project. Therefore, a Restricted Dog Use Alternative is rejected.

Project Developed Concurrently with Golden Gate Fields Redevelopment

A comment on the NOP[217] requests that the EIR evaluate an "alternative of developing the Bay Trail in coordination with and concurrently with redevelopment of the Golden Gate Fields site." Such an alternative could be similar to the Proposed Project except for the timing of implementation, although final alignment of the trail along Fleming Point may change. Because the owners of Golden Gate Fields are currently only now accepting proposals for redevelopment of the site, while the Proposed Project is at a later stage of development, an alternative of development of the Proposed Project concurrent with redevelopment of Golden Gate Fields is speculative, and would very likely delay implementation of the Project. If the entire project were delayed to accommodate Bay Trail development in coordination with redevelopment, this alternative would also lead to the increased potential for impacts on water quality due to delay in stabilizing the shoreline or Neck. In addition, based on the anticipated length of the entitlement process, the controversy and delays associated with past development proposals at the GGF site, the site's location and regulatory review within two cities, and the unknown timeline of the GGF redevelopment process, it is unlikely that the entitlement process for redevelopment of the Golden Gate Fields site could be completed within five years.

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[216] Norman La Force, Chair, East Bay Public Lands Committee, Sierra Club, email to Chris Barton, East Bay Regional Park District, *Subject: Sierra Club Comments on NOP of EIR for the Albany Beach Restoration*, 15 April 2012.

[217] William Most, Briscoe Ivester & Bazel LLP, letter o Chris Barton, East Bay Regional Park District Land Division, *Re: Scoping Comments for the EIR for Proposed Bay Trail Construction at Golden Gate Fields*, 30 April 2012.

This would not fulfill the objective of the Proposed Project to *develop improvements that can be permitted and completed within 5 years*. Because a coordinated Redevelopment with Golden Gate Fields Alternative would not fulfill the project objective of completion within five years, would not reduce or avoid any of the Project's potentially significant impacts, and would increase potential impacts on water quality, this alternative is rejected.

Bay Trail East of GGF Along Codornices Creek

A comment on the NOP[218] requests that the EIR evaluate "one or more alternative trail alignments to the east of the Golden Gate Fields site." This EIR evaluates an alternative through the Golden Gate Fields site (discussed under Bay Trail Through Golden Gate Fields, above). An alternative trail alignment east of the GGF site could be located farther east than the Bay Trail Through Golden Gate Fields Alternative, along Codornices Creek where it parallels I-80 immediately west of the freeway. An alternative with an alignment of the Bay Trail along Codornices Creek and I-80 would be similar to the Proposed Project except for the alignment of the Bay Trail segment in Area 3. **Figure 5-5** provides a graphic representation of the Bay Trail East of GGF Along Codornices Creek Alternative.

East of GGF, Codornices Creek separates the GGF racetrack from I-80. East of the creek, this segment of highway includes the southbound merge of I-580 and I-80, as well as the Buchanan Street approach ramp and the Gilman Street exit ramp. Under this alternative, a trail segment within (or near) the east edge of GGF would include a crossing of the Buchanan marsh on the south side of Buchanan Street (approximately 300 feet), 2,000 feet of trail adjacent to Codornices Creek, and 1,500 feet of trail either within the GGF stables area or along the I-80 Gilman Street off ramp. Codornices Creek in this area is a 38- to 50-foot-wide realigned trapezoidal channel with willows and riparian vegetation. The channel bottom is approximately twelve feet wide, with 2:1 side slopes, and top of bank ranging from a few feet to six or seven feet wide. Within its current footprint, the creek area is not wide enough at top of bank on either side to allow a 14-foot-wide Bay Trail alignment. To create a Bay Trail segment at this location, additional right of way would be needed, either by reconfiguring the travel lanes of I-80, removing or realigning a portion of the adjacent racetrack, developing a cantilevered boardwalk, or filling the creek along the bank in narrow sections, which would not likely be permitted by regulatory agencies. This route would also require bridges or boardwalks across Buchanan marsh, acquisition of a portion of the racetrack, and acquisition of right-of-way within the stable area. Completion of this segment as a Bay Trail would also require bicycle/pedestrian safety improvements at the crossings of Buchanan and Gilman Streets. This alignment along Codornices Creek is not shown on the adopted Bay Trail Plan, but is part of Albany's Active Transportation Plan as a potential route, in addition to a shoreline Bay Trail. Since the route is not within the Proposed Project area, it would not be subject to EBRPD standards for width and surface, nor would EBRPD be the lead agency for project implementation.

As noted above, this alternative would require reconfiguring the travel lanes of I-80 or realigning the GGF racetrack, bridges or boardwalks across the marsh, acquisition of a portion of the racetrack, acquisition of right of way within the stable area, and bicycle/pedestrian safety improvements at the crossings of Buchanan and Gilman Streets. Because portions of the alignment are located within a dense willow canopy, emergency response, patrol and trail user safety would need to be considered in project design. Approval of the acquisitions and changes to existing facilities of this magnitude would be time-consuming, and ultimate approval is uncertain. Because an alternative with a Bay Trail segment passing along Codornices Creek would not fulfill the project objective of implementing the Bay Trail as specified in the Bay Trail Plan, would require various potentially infeasible acquisitions and alterations to existing facilities, and would not reduce or avoid any of the Project's potentially significant impacts, this alternative is rejected.

[218] William Most, Briscoe Ivester & Bazel LLP, letter o Chris Barton, East Bay Regional Park District Land Division, *Re: Scoping Comments for the EIR for Proposed Bay Trail Construction at Golden Gate Fields*, 30 April 2012.

Alternative Bay Trail Alignment Along Shoreline

A comment on the NOP[219] requests that the EIR evaluate "one or more alternative trail alignments along the Bay Shoreline." Such an alternative would be similar to the Proposed Project except for the alignment of the Bay Trail segment in Area 3, which would be located on the shoreline along an alignment differing from the proposed project, such as within the existing paved access road and parking areas on GGF lands. The existing road and parking lot access is flat along the south 1,500 feet and north 900 feet within Area 3, and climbs to the top of Fleming Point at grades in excess of 9 percent. This route is used informally by bicycles, but does not meet accessibility guidelines for pedestrian travel. At its narrowest location (east of the parking area known as the "Jockey Lot"), configuration of the road to provide dedicated lanes for pedestrian and bicycle travel may affect the usability of the road for vehicular travel. Because an alternative with a Bay Trail segment aligned along the existing access road and parking areas on GGF lands would reduce usability and/or create safety hazards for vehicles, would not create a Bay Trail accessible to a range of users such as pedestrians and wheelchairs as specified in the Bay Trail Plan, and would not reduce or avoid any of the Project's potentially significant impacts, this alternative is rejected.

[219] William Most, Briscoe Ivester & Bazel LLP, letter o Chris Barton, East Bay Regional Park District Land Division, *Re: Scoping Comments for the EIR for Proposed Bay Trail Construction at Golden Gate Fields*, 30 April 2012.

6 CEQA REQUIRED ASSESSMENT

As required by CEQA, this chapter provides an assessment of the proposed Albany Beach Restoration and Public Access Project with respect to growth inducement, unavoidable significant impacts, significant irreversible changes, impacts found not to be significant, cumulative impacts, and relationship between short-term and long-term uses of the environment. This project EIR tiers off the *Eastshore Park Project General Plan EIR* and this section incorporates by reference Section V of the *Eastshore Park Project General Plan EIR,* which evaluates growth inducement, unavoidable significant impacts, significant irreversible changes, impacts found not to be significant, cumulative impacts, and relationship between short-term and long-term uses of the environment. This project EIR relies upon background information presented in that document and, where appropriate, incorporates information from that document by reference to avoid unnecessary duplication.

6.1 Growth Inducement

A project is considered to be growth inducing if it fosters economic or population growth beyond the boundaries of the project site by, for example, the extension of urban services or transportation infrastructure to an underserved area, or the removal of major barriers to development. Not all growth inducement is necessarily negative. Negative impacts associated with growth inducement occur only where the projected growth would cause adverse environmental impacts.

Growth-inducing impacts fall into two general categories: direct or indirect. Direct growth-inducing impacts would occur if the proposed project directly increased population growth in the area. Providing urban services to a site, and the subsequent development, can serve to induce other landowners in the vicinity to convert their property to urban uses. Indirect, or secondary growth-inducing impacts, consist of growth induced in the region by additional demands for housing, goods and services associated with the population increase caused by, or attracted to, a new project.

Direct Impacts

The *Eastshore Park Project General Plan EIR* found that the Eastshore Park General Plan would not directly increase population or housing in the project area, or foster significant economic or population growth, and therefore would not result in significant growth-inducing impacts of significantly exceed growth that is projected for the cities of Albany and Berkeley. The proposed Albany Beach project is a restoration and public access project, consisting of components identified in the General Plan, that would not result directly in any new housing or jobs in the area, and would not have any direct growth-inducing impacts not addressed in the *Eastshore Park Project General Plan EIR*. Therefore, the proposed project would not have a significant direct growth-inducing impact.

Indirect Impacts

The *Eastshore Park Project General Plan EIR* found that the Eastshore Park General Plan would not result in any significant indirect growth-inducing impacts in the project area, and would not significantly exceed growth that is projected for the cities of Albany and Berkeley. As a result of the Proposed Project, the shoreline and public recreation opportunities of this area of Albany and Berkeley would be enhanced. It is likely this would attract visitors to the area. However, the area is already open and used for shoreline recreation, there are several shoreline parks in the area, and the addition of trails and enhancement of the shoreline on the Project site would not be a major change to the area. Overall, the proposed project would not have any indirect growth-inducing impacts not addressed in the *Eastshore Park Project General Plan EIR*. Therefore, the proposed project would not have a significant indirect growth-inducing impact.

6.2 Significant Unavoidable Impacts

The *Eastshore Park Project General Plan EIR* found that the Eastshore Park General Plan would not result in unavoidable significant impacts. No Significant and Unavoidable Impacts were found to result from the Proposed Project.

6.3 Significant, Irreversible Changes

CEQA requires that an EIR assess whether a project would result in significant irreversible changes in the environment. The CEQA Guidelines describe three distinct categories of irreversible changes that should be considered, as further detailed below.

Changes in Land Use that Commit Future Generations

The *Eastshore Park Project General Plan EIR* found that the Eastshore Park General Plan is consistent with the municipal land use plans of Albany and Berkeley. The proposed Albany Beach project is not a development project, in the sense that it restores the land to a more natural state, with the exception of the addition of a Bay Trail segment and minor facility upgrades such as a replacing a portable single toilet with two-stall restroom. Because the proposed project would not change the land use of the project site, it would not make land use changes that commit future generations. The proposed project would not have any indirect growth-inducing impacts not addressed in the *Eastshore Park Project General Plan EIR*. Therefore, the proposed project would not make land use changes that commit future generations.

Irreversible Damage from Environmental Accidents

The *Eastshore Park Project General Plan EIR* found that irreversible changes to the environment could occur from accidental releases of hazardous materials associated with facility development, but that compliance with hazardous materials regulations and policies would reduce this impact to a less-than-significant level, and that no other irreversible changes would result from implementation of the Eastshore Park General Plan. As discussed in Section 4.7 Hazards and Hazardous Materials of this EIR, compliance with hazardous materials regulations and policies would reduce the impact of accidental releases of hazardous materials associated with the proposed Albany Beach project to a less-than-significant level. The Proposed Project would not result in any other irreversible changes not addressed in *Eastshore Park Project General Plan EIR*.

Consumption of Natural Resources

The *Eastshore Park Project General Plan EIR* found that the number of facilities within Eastshore Park that would require energy would be low and therefore not result in a substantial increase in energy use, and that no agricultural lands would be converted and no access to mining reserves would be lost. The Albany Beach project would have a similar effect on consumption of natural resources, would not result in a substantial increase in energy use, and would not result in any consumption of natural resources that is not addressed in the *Eastshore Park Project General Plan EIR*.

6.4 Impacts Found Not to be Significant

Under CEQA, environmental issues for which there is no likelihood of an impact do not need to be included in the EIR and may be "scoped out" during the EIR scoping process. The following issues were "scoped out" by the Initial Study and are not analyzed further in this EIR.

- Agriculture and Forest Resources
- Mineral Resources

- Population and Housing
- Public Services (schools and libraries)

In addition, no significant impacts after mitigation were found in the 14 subjects discussed in this EIR:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services (police and fire protection)
- Recreation
- Transportation/Traffic
- Utilities and Service Systems

6.5 Cumulative Impacts

CEQA requires consideration of the potential cumulative impacts that could result from a project in conjunction with other similar projects in the vicinity. Such impacts can occur when two or more individual effects together create a considerable environmental impact or compound other environmental consequences. The potential cumulative effects of the Proposed Project are analyzed in Chapter 4 of this EIR, and those analyses are summarized below. The goal of such an evaluation is twofold: first, to determine whether the combined impacts of all such projects would be cumulatively significant; and second, to determine whether the proposed project itself would cause a "cumulatively considerable" (and thus significant) incremental contribution to any such cumulatively significant impacts.

Aesthetics

Cumulative impacts on aesthetics were evaluated in Section V.C. Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and determined that the Eastshore Park Project, in combination with other planned projects in the vicinity, would not result in significant cumulative aesthetic impacts. The locations of proposed and recently approved projects in the project vicinity are dispersed. From any single vantage point in the Project vicinity, only one or a small number of these projects would be visible, and none of the project would be visually prominent. Together, these projects would not significantly alter the visual character to the Project vicinity. For these reasons, the effects of past, current and probable future projects would not result in a significant cumulative impact on aesthetics. As an overall result of the Proposed Project, the aesthetic conditions of the Project site within Areas 1 and 2 would remain in open space and be enhanced. Construction of the San Francisco Bay Trail in Area 3 would enhance the aesthetics of the shoreline and bring more individuals to the shoreline to enjoy views to the San Francisco Bay. Therefore, the Proposed Project would not have a cumulatively considerable impact on aesthetics because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current

and probable future projects. The Proposed Project's cumulative impact on aesthetics would be *less than significant*.

Air Quality

Cumulative impacts on air quality were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR*, which is incorporated by reference and determined that the General Plan, in combination with other planned projects in the vicinity, would not cause significant cumulative adverse impacts on air quality.

The Bay Area Air Quality Management District (BAAQMD) guidelines for CEQA analysis state "*By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in [regional] nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant.*" Thus, any project that produces a significant project-level regional or local impact would also have a correspondingly significant cumulative impact. The Proposed Project would have no significant construction or operational project-level air quality impacts on criteria air pollutants. Therefore, the Proposed Project would not contribute to cumulative impacts on criteria air pollutants. This impact would be *less than significant*.

However, under BAAQMD methodology, a project's toxic air contaminant (TAC) emissions, even if their impacts are not significant at the project level, could contribute considerably to significant cumulative impacts if the total risk/hazard of project TACs, together with those of TACs from high-volume roadways and from BAAQMD-permitted stationary sources, both within 1,000 feet of the project site, exceed BAAQMD cumulative risk and hazard thresholds at sensitive receptors within this 1,000-foot zone of influence. There are no sensitive receptors within 1,000 feet of the project site. The closest residential uses are in Albany and Berkeley, east of I-80, are 1,800 feet or more from the project site boundary. Therefore, the effects of the Proposed Project's construction TAC emissions are not additive at these receptors to the effects of TACs from major roadways and permitted stationary sources that affect them, and the Project would not contribute to cumulative air quality impacts from TACs during construction activities. This impact would be would be *less than significant*.

Biological Resources

The *Eastshore Park Project General Plan EIR* found that the *General Plan* does not propose any changes to the project site that would result in significant impacts to biological resources. By designating any potentially sensitive habitat areas for preservation and conservation, and by including mitigation measures, the biological values of the General Plan Area, which includes the Albany Beach project area, would not be degraded. Thus, implementation of the *General Plan* would not result in significant cumulative impacts related to biology. In the Project vicinity, the effect of the combination of the existing built environment, plus the proposed and approved projects identified in 4.3 Biological Resources, Cumulative Analysis, is a significant loss of habitats including bay wetlands, and significant reductions in the populations in a number of plant and animal species. As a result, these species have been identified by the state and/or federal governments as requiring protection. This is a significant cumulative impact on biological resources. Given the minimal impact on biological resources expected by the Project, and the extensive project specific mitigation measures proposed for the Project, which would reduce the Project's impacts to biological resources to a less than significant level, the Project would not have a cumulatively considerable impact on biological resources. Thus, the Proposed Project would not make a considerable contribution to significant cumulative impacts on biological resources. This impact would be *less-than-significant*.

Cultural Resources

Cumulative impacts were evaluated in the *Eastshore Park Project General Plan EIR,* which determined that the Eastshore Park Project, in combination with other planned projects in the vicinity, is not expected to cause significant adverse impacts to cultural resources. The effect of the combination of past projects, the current projects identified in the Project vicinity (see 4.4 Cultural Resources, Cumulative Analysis), and probable future projects could result in a significant loss of cultural and archaeological resources, including Native American shellmounds along the bay. This is a significant cumulative impact on cultural resources. Given the past destructive activities on the Project site, the minimal impact on cultural resources expected by the Project, and the extensive project specific mitigation measures proposed for the Project, which would reduce the Project's impacts to cultural resources to a less than significant level, the Project would not have a cumulatively considerable impact on cultural resources. The incremental effects of the Project are not considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less than significant*.

Geology and Soils

Cumulative impacts on geology and soils were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and found that *General Plan* does not propose any changes to the geology at the project site. New development at the Eastshore Park site would not increase the risk of geologic hazards. As it is likely that many of the park's visitors would be from the Bay Area or California, their visit to the project site would not expose them to any greater risks than other parts of the East Bay shoreline because California is seismically-active in general. For these reasons, the *Eastshore Park Project General Plan EIR* determined that implementation of the *General Plan*, in combination with other planned projects in the vicinity, would not result in significant adverse cumulative impacts on geology and soils.

The impacts of locating the proposed and approved projects identified in the Project vicinity in a seismically active zone are mostly project specific local impacts that would not contribute to, in an additive sense, the cumulative impacts on geology and soils. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on geology and soils. The Proposed Project would not have a cumulatively considerable adverse impact on geology and soils as the impact will be local and will not contribute to, in an additive sense, the cumulative impact. Moreover, the incremental effects of the Project, with mitigation, would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

Greenhouse Gas Emissions

Greenhouse gas (GHG) emissions were not evaluated in the *Eastshore Park Project General Plan EIR*.

Because no single project is individually large enough to result in a measurable increase in global concentrations of GHG emissions, global warming impacts of a project are considered on a cumulative basis in section 4.6 Greenhouse Gas Emissions. Construction of the Proposed Project would generate about 186 metric tons (MT) of GHG during its four-month construction period. Because construction emissions are short-term and would cease upon completion, GHG from construction activities would only nominally contribute to GHG emissions impacts. Operation of the Project would contribute to global climate change through indirect emissions of GHG from transportation, water/power use, and waste disposal. The size of the Project area is well below the Bay Area Air Quality Management District (BAAQMD) screening threshold, and operational GHG emissions associated with the Project would be substantially below the BAAQMD's 1100 MT/year significance threshold. In addition, the Project would be consistent with the GHG reduction goals of California's AB 32, and the City of Albany and City of Berkeley Climate Action Plans. For these reasons, the Project's cumulative contribution to GHG emissions during construction and operation would be *less than significant*.

Hazards and Hazardous Materials

Cumulative impacts on hazards and hazardous materials were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and found that, because guidelines identified in the *General Plan* would reduce the risks of exposure of construction workers and future users to hazardous materials to a less-than-significant level, and ongoing operation would not introduce new hazardous materials to the site, implementation of the *General Plan* would not result in significant cumulative impacts related to hazardous materials. For these reasons, the EIR determined that implementation of the *General Plan*, in combination with other planned projects in the vicinity, would not result in significant adverse cumulative impacts on hazards and hazardous materials.

The Proposed Project would not increase the impact of hazards or hazardous materials in the general vicinity of the project area. Stabilization of the potentially contaminated fill material would reduce the likelihood of release to the environment. The Project's hazardous material impact would be a local impact and would not contribute to the cumulative impact of hazardous materials. Likewise, other development projects in the Project area would not contribute to, in an additive sense, the cumulative impacts of hazardous materials to the environment. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on hazardous materials. Moreover, the Project would not make a cumulatively considerable contribution to a significant cumulative impact of hazardous materials because the incremental effects of the Project, with mitigation, would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

Hydrology and Water Quality

Cumulative impacts on hydrology and water quality were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and found that, with compliance with applicable regulations and mitigation measures identified in the EIR, the General Plan would not result in significant cumulative impacts on hydrology and water quality. In the Project vicinity, the effect of the combination of the existing built environment, plus the proposed and approved projects identified in 4.8 Hydrology and Water Quality, Cumulative Analysis, is a significant increase in waterborne contaminants, and velocity and volume of stormwater runoff. This is a significant cumulative impact on hydrology and water quality. The Proposed Project would not have a cumulatively considerable adverse impact on hydrology and water quality since measures are required to be in place to avoid project-related water quality and hydrology impacts, and the Project would comply with applicable resource protection requirements for construction and operation of the Project that were created by agencies, such as RWQCB, DFG, and BCDC, to avoid water quality and hydrology impacts. As a result, the Proposed Project would not measurably contribute to cumulative water quality and hydrology impacts. Thus, the incremental effects of the Project, with mitigation, would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

Land Use and Planning

Cumulative impacts on land use and planning were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and found that the General Plan, in combination with other projects in adjacent municipalities that were reasonably foreseeable when that EIR was prepared, would not result in significant cumulative impacts on land use. None of the projects that are proposed and approved in the Project vicinity involve land uses that would physically divide an established community, create a significant land use conflict, conflict with applicable plans and policies, or increase existing conflicts with applicable plans and policies. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on land use and planning. As discussed in this EIR, the Albany Beach Project has been found to have no impact or a less-than-significant impact on land use, and none of the proposed and approved projects identified in the Project vicinity would be

incompatible with the Proposed Project. For these reasons, the Project would not make a cumulatively considerable contribution to a significant cumulative impact on land use and planning because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

Noise

Cumulative impacts on noise were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and found that no significant cumulative noise impacts would occur on offsite sensitive uses. The Proposed Project does not contain any noise-generating components that are not evaluated in the *Eastshore Park Project General Plan EIR*, and the Proposed Project would not substantially increase or change the existing ambient noise conditions. The site would continue to be used for recreation, and nearby noise generators, including railway and roadway corridors, would not change. The *Eastshore Park Project General Plan EIR* evaluated cumulative (Year 2025) traffic noise levels, which take into account projected vehicular trips along roadway links in the project vicinity generated by existing development plus anticipated growth in the project area, including proposed or approved projects identified in the vicinity of the Project site. The *Eastshore Park Project General Plan EIR* found that the General Plan would add up to 0.1 dBA to area roadway links over the corresponding Year 2025 baseline (without the project) levels, a noise level change that is not discernible by the human ear and is considered less than significant. The Proposed Project would make a smaller contribution to cumulative noise than the General Plan. The cumulative projects identified in the Project vicinity would generate noise primarily through additional vehicle traffic. Non-traffic noise generated by these projects would not contribute to cumulative noise at any one receptor because the projects are not located close enough to generate cumulative noise impacts. The *Eastshore Park Project General Plan EIR* found that growth in vehicle traffic due to past, current and probable future projects in the project vicinity may generate a cumulative noise impact, but that the Eastshore State Park would not make a cumulatively considerable contribution to that cumulative noise impact. For similar reasons, the Albany Beach project would not have a cumulatively considerable noise impact because the incremental effects of this Project are not considerable when viewed in connection with the effects of past, current and probable future projects. For these reasons, the Proposed Project would have a *less than significant* impact on cumulative noise.

Public Services

Cumulative impacts on public services, including police and fire protection, were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR,* which is incorporated by reference and determined that the Eastshore Park Project, in combination with other planned projects in the vicinity, would not cause significant adverse impacts on public services, including police and fire protection. The result of the proposed and approved projects identified in the Project vicinity (see 4.11 Public Services, Cumulative Analysis), in combination with past development, is a level of demand that requires both new and physically altered police and fire facilities, including police and fire stations, police and fire protection vehicles and equipment, and police and fire protection personnel. This is a significant cumulative impact on police and fire protection. As discussed in 4.11 Public Services, the Proposed Project would not require new or physically altered police or fire facilities. Because the Proposed Project would have a minimal effect on the need for new public services, including fire and police, the Project would not have a cumulatively considerable impact on public services. The incremental effects of this Project are not considerable when viewed in connection with the effects of past, current and probable future projects. Therefore, the Project's cumulative impacts on public services, including police and fire protection, would be *less than significant*.

Recreation

Cumulative impacts on recreation were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR*, which is incorporated by reference and determined that the Eastshore Park Project,

in combination with other planned projects in the vicinity, would not cause significant adverse impacts on parks and recreation.

The projects proposed and approved in the Project vicinity include several recreation projects that would improve recreational facilities and opportunities. These projects, singly, in combination, and in combination with past projects, would not create significant adverse impacts on recreation. Therefore, the effects of past, current and probable future projects would not result in a significant cumulative impact on recreation. The Proposed Project would provide new recreational facilities and would not impact other recreational facilities or contribute to the need for new or physically altered park and recreational facilities. Thus, the Proposed Project would not contribute to cumulative impacts on recreation. This impact would be *less than significant*.

Transportation and Traffic

The proposed and approved projects identified in 4.13 Transportation and Traffic, Cumulative Analysis, are accounted for in the Alameda County Congestion Management Agency's Countywide Travel Demand Model and the Year 2025 traffic levels forecasted in the *Eastshore Park Project General Plan EIR*, and would not change the conclusions of that EIR regarding Year 2025 traffic levels. The traffic generation of the Proposed Project (which would be smaller than that of the General Plan) would, as discussed in 4.13 Transportation and Traffic, be small and would have a less than significant effect on the circulation system. Therefore, the Project would not have a cumulatively considerable adverse impact on transportation and traffic because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less-than-significant*.

Utilities and Service Systems

Cumulative impacts on utilities and service systems were evaluated in Section V.C, Cumulative Impacts, of the *Eastshore Park Project General Plan EIR*, which is incorporated by reference and determined that the Eastshore Park Project, in combination with other planned projects in the vicinity, would not cause significant adverse impacts on utilities and service systems, including water supply.

In the Project vicinity, the effect of the proposed and approved projects identified in 4.14 Utilities and Service Systems, Cumulative Analysis, in combination with past development, is a level of demand that requires both new and physically altered water supply facilities, including dams, reservoirs, pipelines, pumping stations, and water treatment plants. This is a significant cumulative impact on water supply. As discussed in 4.14 Utilities and Service Systems, the Proposed Project would not require new or physically altered water supply facilities, and the water demand of the Project would be minimal. Therefore the Project would not contribute to cumulative impacts on water supply facilities or utilities and service systems. This impact would be *less than significant*.

Summary of Cumulative Impacts

As discussed above, the Proposed Project would not make a considerable contribution to any significant cumulative impacts.

6.6 Relationship Between Short-Term and Long-Term Uses of the Environment

The *Eastshore Park Project General Plan EIR* found that implementation of the *General Plan* would not result in any significant impacts. Potential environmental impacts would be offset with the implementation of the proposed guidelines in the *General Plan*. The long-term purpose of the proposed *General Plan* is to provide direction and guidance for the future development of the Eastshore Park. The *General Plan* is intended to be sensitive to the project site's environmental resources and is subject to California State standards and

guidelines, many of which ensure that strategic choices take appropriate account of long-term costs and benefits.

The Proposed Project consists of components identified in the General Plan, which would have a similar relationship between short-term and long-term uses of the environment. Therefore, the relationship between short-term and long-term uses of the environment of the Project is adequately analyzed in the *Eastshore Park Project General Plan EIR*.

7 REPORT PREPARERS

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Comments and Responses for
Draft Environmental Impact Report

Albany Beach Restoration and Public Access Project

for the East Bay Regional Park District

SCH # 2012032072

November 8, 2012

SCH # 2012032072

November 8, 2012

Comments and Responses for Draft Environmental Impact Report

Albany Beach Restoration and Public Access Project

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for the East Bay Regional Park District

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Exhibit A Staff Report on Burrowing Owl Mitigation, State of California Natural Resources Agency, Department of Fish and Game (March 7, 2012)
Exhibit B City of Albany Existing and Proposed Bikeway Network
Exhibit C City of Berkeley Existing and Proposed Bikeway Network

1 INTRODUCTION

A. Purpose of the Environmental Impact Report

This Comments and Responses document and the Draft Environmental Impact Report (EIR) together comprise the Final EIR for the Albany Beach Restoration and Public Access Project.

The Draft EIR described the Proposed Project, identified the environmental impacts associated with the Project, and identified mitigation measures that could reduce those impacts. The Draft EIR evaluated seven alternatives to the Project: the No Project Alternative, Conservation Alternative, Recreation Alternative, Minimal Improvements Alternative, Enhanced Project Alternative, Bay Trail Through Golden Gate Fields Alternative, and Bay Trail East of I-80 Alternative.

This document responds to comments received during the public review period on the Draft EIR and makes revisions to the Draft EIR, as necessary, in response to these comments. The revisions are limited to correcting errors, omissions, or misinterpretations.

This document, together with the Draft EIR, will be presented to the East Bay Regional Park District (EBRPD) Board of Directors at a public meeting to certify as a complete and adequate analysis of the environmental effects of the Project, under the California Environmental Quality Act (CEQA), prior to taking action to approve the Project. The EBRPD Board must consider the conclusions of the EIR and make findings regarding that information as part of any approval.

As discussed in the Draft EIR, this EIR is tiered from the *2002 Eastshore Park Project General Plan Environmental Impact Report*. The Eastshore Park Project General Plan is a long-range master plan for development of a new Eastshore State Park along the eastern shore of San Francisco Bay. The CEQA concept of "tiering" refers to the evaluation of general environmental matters in a broad program level EIR, with subsequent focused environmental documents for individual projects that implement the program. The *Eastshore Park Project General Plan EIR* and other documents cited or incorporated by reference in this EIR are available for public review at EBRPD headquarters at 2950 Peralta Oaks Court, Oakland, California.

B. Environmental Review Process

Notice of Completion of Draft EIR and Review Period

A Notice of Completion of the Draft EIR (NOC) was filed with the Governor's Office of Planning and Research (OPR). The public review period began on July 11, 2012, and ended on November 5, 2012.

Draft EIR Availability for Public Review

The Draft EIR was made available for downloading from the EBRPD website at www.ebparks.org. Electronic copies were also available the Albany Library at 1247 Marin Avenue, Albany, and at the Berkeley Public Library, Central Library, at 2090 Kittredge Street, Berkeley.

The public was advised of the availability of the Draft EIR through a Notice of Availability mailed to owners and occupants of property within 300 feet of the site, as required by law. In addition, the Notice of Availability of the Draft EIR was posted in the office of the Alameda County Clerk and mailed to individuals and organizations that participated in planning workshops and meetings or otherwise requested to be included on the project mailing list compiled by EBRPD.

Agency Review

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 environmental impact analysis that is prepared for a project. Several federal, State, and local agencies were contacted by EBRPD or through the Governor's Office of Planning and Research and sent a copy of the Draft EIR summary and/or a compact disk with the entire Draft EIR.

Public Hearing on Final EIR, Certification, and Project Adoption

A Public Hearing will be held at an EBRPD Board meeting following publication of the Final EIR. Certification of the EIR and adoption of the project will be considered at that meeting.

Notice of the meeting will be sent to the same parties that were notified of the publication of the Draft EIR and any additional parties that request notification.

C. Document Organization

This document is organized into the following chapters:

- **Chapter 1: Introduction**. This chapter discusses the use and organization of this Comments and Responses document and the Final EIR.
- **Chapter 2: List of Commenters**. Names of organizations and individuals who commented on the Draft EIR are included in this chapter.
- **Chapter 3: Comments and Responses**. This chapter contains a tabular listing of each comment and responses to them; master responses to commonly-made comments; and reproductions of the letters received from organizations and individuals on the Draft EIR.
- **Chapter 4: Revisions to the Draft EIR**. Additional corrections to the text and graphics of the Draft EIR are contained in this chapter. Underlined text represents language that has been added to the EIR; text with ~~strikethrough~~ has been deleted from the EIR.

2 LIST OF COMMENTERS

A. Overview

This chapter lists the sources of all letters and comments received on the Albany Beach Restoration and Public Access Project during the public review period.

B. List of Those Who Commented on the Draft EIR

The comments are sorted in the following order: state agencies, regional/county agencies, local agencies, non-profit and community-based groups, and private firms and individuals. Comments within each category are arranged approximately in the order received. The commenters are identified by an abbreviation that is used in the table of responses and in annotations to the letters and transcripts in Chapter 3.

CEQA Section 15088 requires a response to comments that pertain to the significant environmental issues raised. Several other types of comments are included in these letters, such as those pertaining to: conditions of project approval, project merits, and other expressions of opinion. These latter types of comments do not require a response under CEQA. However, the comments will be forwarded to the EBRPD Board for its review and consideration prior to any decision on the Project.

TABLE 2-1 COMMENT LETTERS AND TRANSCRIPTS ON DRAFT EIR

Date Received	Name	Acronym
STATE AGENCIES		
August 27, 2012	California State Lands Commission	SLC
August 30, 2012	State of California Governor's Office of Planning and Research	OPR
REGIONAL/COUNTY AGENCIES		
August 10, 2012	San Francisco Bay Regional Water Quality Control Board (L. Whalin)	WBLW
August 23, 2012	San Francisco Bay Regional Water Quality Control Board (B. Wines)	WBBW
September 18, 2012	San Francisco Bay Conservation and Development Commission	BCDC
LOCAL AGENCIES		
August 30, 2012	City of Albany (J. Bond)	CA
NON-PROFIT AND COMMUNITY-BASED GROUPS		
August 15, 2012	Sierra Club, San Francisco Bay Chapter	SC
August 15, 2012	Sustainability, Parks, Recycling and Wildlife Legal Defense Fund	SPRAWLDEF
August 25, 2012	Citizens for East Shore Parks	CESP
August 26, 2012	Jewish Youth for Community Action	JYCA
August 27, 2012	Albany Landfill Dog Owners Group	ALDO
August 27, 2012	Point Isabel Dog Owners Association	PIDO
November 5, 2012	Golden Gate Audubon Society	GGAS
PRIVATE FIRMS AND INDIVIDUALS		
July 18, 2012	John Nelson	JN
August 9, 2012	Melanie Hofmann	MH
August 21, 2012	Kenneth and Barbara Berniker	KBB
August 21, 2012	Annie Frantzrskos	AF
August 21, 2012	Benjamin Caprile	BC
August 22, 2012	Patricia Murphy	PM
August 23, 2012	Eva Ulfeldt	EU
August 24, 2012	Keith McAllister	KM1
August 26, 2012	Keith McAllister	KM2
August 27, 2012	Joy Susan Hutchinson	JSH
August 27, 2012	Amber Lynn Whitson	ALW
August 27, 2012	ECORP Consulting, Inc.	ECORP
August 27, 2012	Golden Gate Land Holdings LLC	GGLH
August 27, 2012	Liz Rottger	LR
August 30, 2012	Alison Horton	AH
October 5, 2012	Jeff Finn	JF
October 11, 2012	Michael Robben	MR

3 COMMENTS AND RESPONSES

Each comment letter or email listed in Chapter 2 is reproduced on the following pages, with individual comments identified by number. Responses follow each comment letter or email, identified by number.

A. State Agencies

California State Lands Commission

STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

CURTIS L. FOSSUM, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: **(916) 574-1900**
Contact FAX: **(916) 574-1885**

August 23, 2012

File Ref: SCH #2012032072

EBRPD
AUG 27 2012
LAND DEPARTMENT

Mr. Chris Barton
East Bay Regional Park District
Land Division
2950 Peralta Oaks Court
P.O. Box 5381
Oakland, CA 94605

Subject: Draft Environmental Impact Report (DEIR) for the Albany Beach Restoration and Public Access Project, Alameda County

Dear Mr. Barton:

The California State Lands Commission (CSLC) staff has reviewed the subject DEIR for Albany Beach Restoration and Public Access Project (Project), which is being prepared by the East Bay Regional Park District (District). The District, as the public agency proposing to carry out the project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The CSLC is a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. Additionally, because the Project involves work on sovereign lands, the CSLC will act as a responsible agency. SLC-1

<u>CSLC Jurisdiction and Public Trust Lands</u>

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust. SLC-2

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion

or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections. SLC-2 (cont.)

Based on a preliminary review, a portion of the Project is located within a public trust easement. On June 26, 1985, the CSLC exercised its public trust easement on lands within the Project area for "public water-dependent recreational and ecological purposes in order to preserve and enhance these lands for these trust uses." This public trust easement exercise appears to include the southern portion of Area 1, Area 2, and those portions of Area 3 within the City of Albany. The CSLC further directed that "future development activities within the trust exercise parcel must be reviewed for consistency with this trust exercise by the CSLC prior to the commencement of such development." As a result, the District will need to request a determination from the CSLC that the Project is consistent with the public trust easement prior to commencing Project activities. SLC-3

In regards to the northern portion of Area 1, certain lands within that area may also include lands where the CSLC has a public trust easement. On October 28, 1982, the CSLC exercised its public trust easement over certain lands, restricting the use of those lands for preservation of the lands in their natural state, open space, and environments that provide food and habitat for birds and marine life, and that public fishing, boating, access, and recreation be permitted to the extent the ecological needs of the trust exercise parcel are not damaged. The CSLC further leased this trust easement parcel to the California Department of Fish and Game (CDFG) for 49 years, giving CDFG the authority to resolve any conflicts that may arise relating to the designated uses of the land. SLC-4

This conclusion is without prejudice to any future assertion of State ownership or public rights, should circumstances change, or should additional information become available. This letter is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction. SLC-5

Please contact Grace Kato, with our Land Management Division to further discuss CSLC's jurisdiction and the process for requesting a public trust easement consistency determination. The staff of the CSLC looks forward to working with the District on the development contemplated in the DEIR.

Project Description

The Project is located at the Albany Peninsula and the bay shoreline between Buchanan and Gilman Streets, in the cities of Albany and Berkeley, California, and consists of three components:

1. Shoreline repair and reconstruction, including habitat enhancement and accessibility improvements to 2,000 feet of existing trail (San Francisco Bay Trail Spur) along the Albany Neck shoreline (Area 1); and northern beach access;
2. Beach and dune enhancement, recreation improvements, restroom, parking and construction of approximately 800 feet of new San Francisco Bay Trail at Albany Beach (Area 2); and
3. Construction of 4,200 feet of new San Francisco Bay Trail between Albany Beach and Gilman Street (Area 3).

SLC-6

In addition to the three main Project areas listed above, the Project would also involve beneficial reuse of Albany Neck shoreline material to repair voids on the Albany plateau, after which this area would be backfilled with suitable soil, covered, and seeded. The areas proposed for debris placements are already impacted from unauthorized metals scavenging activities (landfill debris such as concrete and sharp metal is exposed) and these areas would be repaired as part of the Project. The majority of the concrete debris would be hauled off-site to an approved landfill for recycling.

Environmental Review

Because the CSLC will need to rely on the DEIR for issuance of a consistency determination, CSLC staff requests the District consider the following comments and suggestions when preparing the final EIR for certification. SLC-7

Introduction

1. The CSLC has jurisdiction over a part or all of Area 1, Area 2, and those portions of Area 3 within the City of Albany. As noted above, any development activities within this area of jurisdiction must be reviewed by the CSLC for consistency with the former trust exercise prior to the commencement of such development. For this reason, CSLC staff believes that the CSLC should be mentioned in the Section 1.2, "Consultation with Resource Agencies" paragraph, as a responsible agency. SLC-8

Biological Resources

2. The Biological Resources, *Regulatory Framework* section of the DEIR notes that the Project is subject to consultation with the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and CDFG; however, the DEIR does not include a discussion of consultation with these agencies. To ensure disclosure of the breadth of resources used to identify and characterize potentially significant impacts and ensure meaningful environmental review, CSLC staff recommends incorporation in the EIR a discussion of the District's SLC-9

consultation with these agencies, and any specific impacts, sensitive species, or other issues identified, and any mitigation measures suggested or directed by these agencies for compliance with applicable federal and State laws. SLC-9 (cont.)

In addition, the DEIR states that marine mammals, including harbor seal, California sea lion, and southern sea otter, which are special-status wildlife species protected by the Marine Mammal Protection Act and the California Fish and Game Code, could be disturbed during the construction phases of the Project. Therefore, in addition to the proposed monitoring activity, CSLC staff recommends the development and implementation of a Marine Mammal Contingency Plan to minimize impacts to marine resources during construction. SLC-10

Cultural Resources

3. Submerged Resources: The DEIR mentions one shipwreck associated with Fleming Island in 1879; however, it is not clear what other efforts were made to ensure the DEIR discloses all that it feasibly can in regard to potential impacts on submerged resources. In order to provide a more complete analysis of existing conditions, CSLC staff believes the District should conduct further research regarding the potential for submerged cultural resources. The CSLC maintains a shipwrecks database that can assist with this analysis. CSLC staff requests that the District contact Senior Staff Counsel Pam Griggs at the contact information noted at the end of this letter to obtain shipwrecks data from the database and CSLC records for the Project site. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in State waters for more than 50 years is presumed to be significant. SLC-11

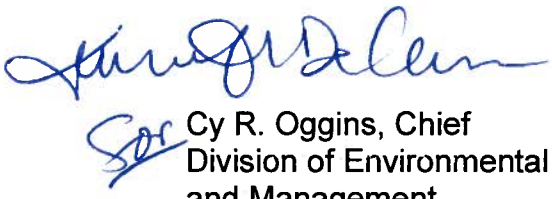
4. Title to Resources: The DEIR should indicate that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC. As a result, CSLC staff requests that the District consult with Senior Staff Counsel Pam Griggs at the contact information noted at the end of this letter, should any cultural resources on State lands be discovered during construction of the Project. SLC-12

Thank you for the opportunity to comment on the DEIR for the Project. As a responsible agency, the CSLC will need to rely on the Final EIR for the issuance of a consistency determination as specified above and, therefore, we request the District consider our comments and revise the EIR as appropriate prior to certification of the EIR. SLC-13

Please send additional information on the Project to the CSLC environmental review staff listed below as plans become finalized. In addition, please send copies of future Project-related documents, including an electronic copy of the Final EIR, Mitigation Monitoring and Reporting Program (MMRP), Notice of Determination (NOD), and CEQA Findings when they become available. For questions concerning environmental review SLC-14

please contact Cynthia Herzog, Environmental Scientist, at (916) 574-1310 or via e-mail at Cynthia.Herzog@slc.ca.gov. For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Senior Staff Counsel Pam Griggs at (916) 574-1854 or via email at Pamela.Griggs@slc.ca.gov. For questions concerning CSLC jurisdiction, please contact Grace Kato, with the Land Management Division, at (916) 574-1227, or via email at Grace.Kato@slc.ca.gov. SLC-14 (cont.)

Sincerely,



Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
Grace Kato, LMD, CSLC
Cynthia Herzog, DEPM, CSLC
Jennifer Lucchesi, Legal, CSLC

Response to Comments SLC-1 through SLC-14

Response SLC-1

The comment is noted. No response is required.

Response SLC-2

The comment is noted. No response is required.

Response SLC-3

The second bulleted item on page 8 of the Draft EIR, under the heading State Agencies, is amended as follows:

- **State Lands Commission** – ~~Consultation and coordination with~~Determination by the State Lands Commission that the Project is consistent with the state's ~~during environmental review and plan review, regarding~~ Public Trust easement on portions of the project site~~Lands and Leases for construction of the Bay Trail and public access improvements at Albany Beach, and placement of habitat structures in Bay water~~.

The first paragraph under the heading 3.2 Location, Ownership, and Surrounding Land Uses, on page 28 of the Draft EIR, is amended as follows:

Eastshore State Park is jointly owned by the State of California Department of Parks and Recreation (CDPR) and East Bay Regional Park District (EBRPD). The California State Lands Commission holds a public trust easement on the southern portion of Area 1, Area 2, and the portions of Area 3 within the City of Albany~~has an interest in the beach area~~. In 2002, the State of California classified 2,262 acres of uplands and tidelands with frontage on San Francisco Bay as a State Seashore and named the unit Eastshore State Park (Park). The Park consists of approximately 2,002 acres of tidelands and 260 acres of upland areas along a nine-mile stretch of the East Bay shoreline, between the City of Oakland on the south and the City of Richmond on the north.

The second bulleted item on page 64 of the Draft EIR, under the heading State Agencies, is amended as follows:

- **State Lands Commission** – ~~Consultation and coordination with~~Determination by the State Lands Commission that the Project is consistent with the state's ~~during environmental review and plan review, regarding~~ Public Trust easement on portions of the project site~~Lands and Leases for construction of the Bay Trail and public access improvements at Albany Beach, and placement of habitat structures in Bay water~~.

Response SLC-4

See Response SLC-3.

Response SLC-5

The comment is noted. No Response is required.

Response SLC-6

The comment is noted. No response is required.

Response SLC-7

See Response SLC-3 and Responses SLC-8 through SLC-14.

Response SLC-8

Section 1.2 Planning Process, Consultation with Resource Agencies sub-section on page 3 of the Draft EIR discusses consultations that the District has held with government agencies. Prior to publication of the Draft EIR, the District had not formally consulted with the State Lands Commission. Such consultation was conducted after publication of the Draft EIR. As discussed in Response SLC-3, the appropriate sections of the Draft EIR have been modified to indicate that the Project would require a review by the State Lands Commission for consistency with its public trust easement.

Response SLC-9

At the time the Draft EIR was prepared, the District had not submitted an application to the US Army Corps of Engineers and therefore the District did not consult with the U.S Fish and Wildlife Service, the National Marine Fisheries Service, or the California Department of Fish and Game as it pertains to formal consultation that must be initiated by the US Army Corps of Engineers. Consultation with these agencies under CEQA was initiated by the District after publication of the Draft EIR. Section 4.3 Biological Resources of the EIR evaluates potential impacts of the Proposed Project on biological resources and identifies mitigation measures that would reduce all impacts on biological resources to a less-than-significant level. This consultation does not alter the conclusions of the biological resources analysis in Section 4.3 Biological Resources.

Response SLC-10

As discussed in the Draft EIR, Mitigation Measure BIO-3a, on page 134, is sufficient to reduce Impact BIO-3 (marine mammals) to a less–than-significant level. To further reduce this insignificant impact and strengthen the mitigation measures for Impact BIO-3, an additional mitigation measure is added as described below. With implementation of Mitigation Measure BIO-3a, on page 134, and Mitigation Measure BIO-3b, below, impacts to marine mammals would be less than significant.

An additional mitigation measure has been added on page 134 of the Draft EIR, under the Special Status Animal Species sub-section in the Impact Analysis Section. Following Impact BIO-3 and Mitigation Measure BIO-3a, new text is added that reads:

- <u>Mitigation Measure BIO-3b: Prior to the initiation of construction activities, the District shall retain a qualified biologist to prepare a Marine Mammal Contingency Plan (Contingency Plan) to identify the actions taken in the event that, in spite of the requirement to stop work if a marine mammal is present in the vicinity of the construction activity, a marine mammal is injured. The Contingency Plan shall include but not be limited to notification protocols, identification of</u>

rescue centers, information for key contacts, and plans of action to address any injury. The applicant shall ensure that this measure is implemented for the duration of inwater construction activity.

The additional mitigation measure has also been added on page 10 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures. Following Impact BIO-3 and Mitigation Measure BIO-3a, new text is added that reads:

Mitigation Measure BIO-3b: Prior to the initiation of construction activities, the District shall retain a qualified biologist to prepare a Marine Mammal Contingency Plan (Contingency Plan) to identify the actions taken in the event that, in spite of the requirement to stop work if a marine mammal is present in the vicinity of the construction activity, a marine mammal is injured. The Contingency Plan shall include but not be limited to notification protocols, identification of rescue centers, information for key contacts, and plans of action to address any injury. The applicant shall ensure that this measure is implemented for the duration of inwater construction activity.

Response SLC-11

The evaluation of cultural resources in Section 4.4 Cultural Resources incorporates background documents including the *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California*, as noted under Archaeological Cultural Resources, Area 1, Area 2, and Albany Plateau, on page 118 of the Draft EIR. As noted on page 96 of *Existing and Future Conditions Report*, that document included a search of the California States Lands Commission Shipwreck inventory, which identified the shipwreck on Fleming Point discussed under Area 3 on page 148.

The paragraph under the headings Archaeological Cultural Resources, Area 1, Area 2, and Albany Plateau, on page 148 of the Draft EIR, is amended as follows:

As discussed in more detail in *the Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* prepared by LSA[1], which is hereby incorporated by reference, there are no known prehistoric or historical archaeological sites recorded in Areas 1 or 2; however, there are sites recorded east of these areas in and around Albany Hill. The databases investigated by the *Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* included the California States Lands Commission Shipwreck inventory.

Response SLC-12

The following new paragraph is added to page 152 of the Draft EIR, after the first paragraph and before Mitigation Impact CUL-3:

Title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on public trust land is vested in the State and under the jurisdiction of the State Lands Commission.

As discussed in the Draft EIR, Mitigation Measure CUL-3, on page 152, is sufficient to reduce Impact CUL-3 (undiscovered historic features) to a less–than-significant level. To further reduce this already insignificant impact and strengthen the mitigation measures for

[1] LSA, 2011. *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California.*

Impact CUL-3, a revision to Mitigation Measure CUL-3 is described below. With implementation of the revised Mitigation Measure CUL-3, impacts to undiscovered historic features would be less than significant.

Mitigation Measure CUL-3, on page 13 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-3: In order to mitigate potential adverse impacts to intact historic features discovered during construction, work shall be halted within 50 feet of the discovery until the features have been inspected and evaluated by a qualified archaeologist. The archaeologist shall, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[2], identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~ If encountered and recovery is deemed necessary to minimize construction impacts to the feature, a qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report and file it with the Northwest Information Center affiliated with Sonoma State University and provide for the permanent curation of the recovered materials. .

If any cultural resources are discovered on state lands that are under the jurisdiction of the State Land Commission, the project proponent shall consult with staff counsel of the State Lands Commission regarding those cultural resources.

Mitigation Measure CUL-3, on page 152 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-3: In order to mitigate potential adverse impacts to intact historic features discovered during construction, work shall be halted within 50 feet of the discovery until the features have been inspected and evaluated by a qualified archaeologist. The archaeologist shall, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[3], identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~ If encountered and recovery is deemed necessary to minimize construction impacts to the feature, a qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report and file it with the Northwest Information Center affiliated with Sonoma State University and provide for the permanent curation of the recovered materials.

If any cultural resources are discovered on state lands that are under the jurisdiction of the State Land Commission, the project proponent shall consult with staff counsel of the State Lands Commission regarding those cultural resources.

---

[2] East Bay Regional Park District, 1989. Oakland, California.

[3] East Bay Regional Park District, 1989. Oakland, California.

Response SLC-13

See Responses SLC-1 through SLC-12.

Response SLC-14

The comment is noted. No response is required.

State of California Governor's Office of Planning and Research

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

August 27, 2012

Chris Barton
East Bay Regional Parks District
2950 Peralta Oaks Court
Oakland, CA 94605

Subject: Albany Beach Restoration and Public Access Project
SCH#: 2012032072

Dear Chris Barton:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on August 24, 2012, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

EBRPD
AUG 30 2012
LAND DIVISION

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2012032072
Project Title Albany Beach Restoration and Public Access Project
Lead Agency East Bay Regional Parks District

Type EIR Draft EIR

Description 1) Albany Neck shoreline and trail restoration, 2) Albany Beach enhancement and recreation improvements, and 3) construction of a segment of the San Francisco Bay Trail between Albany Beach and Gilman Street. Project components include shoreline stabilization/reconstruction, accessibility improvements, vegetation management, beach enhancement, seasonal wetlands enhancements, stormwater management, subtidal habitat enhancement, parking and water trail access, restroom and site furnishings, and trails.

Lead Agency Contact

Name Chris Barton
Agency East Bay Regional Parks District
Phone 510 544 2627 **Fax**
email
Address 2950 Peralta Oaks Court
City Oakland **State** CA **Zip** 94605

Project Location

County Alameda
City Albany
Region
Lat / Long 37° 53' 20.75" N / 122° 18' 58.24" W
Cross Streets Western terminus of Buchanan Street
Parcel No. 066-2675-003
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 580, 80
Airports
Railways Amtrak/UPRR/BNSF
Waterways San Francisco Bay
Schools
Land Use Recreation/Waterfront

Project Issues Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Coastal Zone; Flood Plain/Flooding; Geologic/Seismic; Noise; Public Services; Recreation/Parks; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects; Other Issues; Aesthetic/Visual

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Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; California Highway Patrol; Caltrans, District 4; Regional Water Quality Control Board, Region 2; Native American Heritage Commission; State Lands Commission

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Date Received 07/10/2012 **Start of Review** 07/11/2012 **End of Review** 08/24/2012

Note: Blanks in data fields result from insufficient information provided by lead agency.

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

August 23, 2012
CIWQS Place ID No. 204880 (BKW)

RECEIVED
AUG 23 2012
STATE CLEARING HOUSE

8/24/12
Dear
R

Sent via electronic mail: No hardcopy to follow

East Bay Regional Park District – Land Division
2950 Peralta Oaks Court
Oakland, CA 94605

Attn: Chris Barton (cbarton@ebparks.org)

Re: Comments on the Draft Environmental Impact Report for the Albany Beach Restoration & Public Access Project
SCH Number: ~~2006120320~~72
2012032072

Dear Mr. Barton:

Regional Water Quality Control Board (Water Board) staff have reviewed the Draft Environmental Impact Report for the Albany Beach Restoration & Public Access Project (DEIR). Water Board staff have the following comments on the DEIR.

Comment 1
2. Report Summary, 2.1, Project under Review, Required Permits and Approvals (page 8). The bullet item for the Water Board only addresses the issuance of a Clean Water Act Section 401 certification for the project and coverage under the General NPDES Permit for Construction Activity. This bullet item should be revised to include the issuance of Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

Comment 2
Table 2-1, Summary of Impacts and Mitigation Measures, Mitigation Measure BIO 6-c. This mitigation measure should be revised by adding the potential need for the project to obtain WDRs from the Water Board pursuant to the Porter-Cologne Act.

Comment 3
3.9 Required Permits and Approvals, State Agencies (page 64). The bullet item for the Water Board only addresses the issuance of a Clean Water Act Section 401 certification for the project and coverage under the General NPDES Permit for Construction Activity. This bullet item should be revised to include the issuance of Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

Comment 4
4.3 Biological Resources, Regulatory Framework, State Laws and Regulations, Porter-Cologne Water Quality Control Act (page 114). The description of Porter-Cologne authority is not completely correct, since the Water Board does not issue "Certifications of Waste Discharge Requirements". The term "certification" is only used with respect to the Water Board's authority under Section 401 of the Clean Water Act to certify that federal permits are consistent with state water quality standards. The following paragraph should be used to explain the permitting authority of the Water Board over federal and non-federal waters.

The Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in conjunction with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, seasonal streams, intermittent streams, channels that lack a nexus to navigable waters, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general waste discharge requirements (WDRs).

Comment 5

4.3 Biological Resources, Existing Conditions, Seasonal Wetlands (page 122). This section of the DEIR only discusses seasonal wetlands that may be regulated as waters of the United States. Isolated wetlands that are not subject to federal jurisdiction are still subject to the jurisdiction of the Water Board as waters of the state.

Comment 6

4.3 Biological Resources, Existing Conditions, Impact Discussion (page 131). The bullet item for the Water Board only addresses the issuance of a Clean Water Act Section 401 certification for the project and coverage under the General NPDES Permit for Construction Activity. This bullet item should be revised to include the issuance of Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

If you have any questions, please contact me at (510) 622-5680 or by e-mail at bwines@waterboards.ca.gov.

Sincerely,

Brian Wines
Water Resources Control Engineer

cc State Clearinghouse (state.clearinghouse@opr.ca.gov)

Exhibit 5: Environmental Impact Report (EIR)

STATE OF CALIFORNIA

EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

CURTIS L. FOSSUM, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: **(916) 574-1900**
Contact FAX: **(916) 574-1885**

August 23, 2012

File Ref: SCH #2012032072

RECEIVED
AUG 23 2012
STATE CLEARING HOUSE

8/24/12
Clear
e

Mr. Chris Barton
East Bay Regional Park District
Land Division
2950 Peralta Oaks Court
P.O. Box 5381
Oakland, CA 94605

Subject: Draft Environmental Impact Report (DEIR) for the Albany Beach Restoration and Public Access Project, Alameda County

Dear Mr. Barton:

The California State Lands Commission (CSLC) staff has reviewed the subject DEIR for Albany Beach Restoration and Public Access Project (Project), which is being prepared by the East Bay Regional Park District (District). The District, as the public agency proposing to carry out the project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The CSLC is a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. Additionally, because the Project involves work on sovereign lands, the CSLC will act as a responsible agency.

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion

or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

Based on a preliminary review, a portion of the Project is located within a public trust easement. On June 26, 1985, the CSLC exercised its public trust easement on lands within the Project area for "public water-dependent recreational and ecological purposes in order to preserve and enhance these lands for these trust uses." This public trust easement exercise appears to include the southern portion of Area 1, Area 2, and those portions of Area 3 within the City of Albany. The CSLC further directed that "future development activities within the trust exercise parcel must be reviewed for consistency with this trust exercise by the CSLC prior to the commencement of such development." As a result, the District will need to request a determination from the CSLC that the Project is consistent with the public trust easement prior to commencing Project activities.

In regards to the northern portion of Area 1, certain lands within that area may also include lands where the CSLC has a public trust easement. On October 28, 1982, the CSLC exercised its public trust easement over certain lands, restricting the use of those lands for preservation of the lands in their natural state, open space, and environments that provide food and habitat for birds and marine life, and that public fishing, boating, access, and recreation be permitted to the extent the ecological needs of the trust exercise parcel are not damaged. The CSLC further leased this trust easement parcel to the California Department of Fish and Game (CDFG) for 49 years, giving CDFG the authority to resolve any conflicts that may arise relating to the designated uses of the land.

This conclusion is without prejudice to any future assertion of State ownership or public rights, should circumstances change, or should additional information become available. This letter is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction.

Please contact Grace Kato, with our Land Management Division to further discuss CSLC's jurisdiction and the process for requesting a public trust easement consistency determination. The staff of the CSLC looks forward to working with the District on the development contemplated in the DEIR.

Project Description

The Project is located at the Albany Peninsula and the bay shoreline between Buchanan and Gilman Streets, in the cities of Albany and Berkeley, California, and consists of three components:

1. Shoreline repair and reconstruction, including habitat enhancement and accessibility improvements to 2,000 feet of existing trail (San Francisco Bay Trail Spur) along the Albany Neck shoreline (Area 1); and northern beach access;
2. Beach and dune enhancement, recreation improvements, restroom, parking and construction of approximately 800 feet of new San Francisco Bay Trail at Albany Beach (Area 2); and
3. Construction of 4,200 feet of new San Francisco Bay Trail between Albany Beach and Gilman Street (Area 3).

In addition to the three main Project areas listed above, the Project would also involve beneficial reuse of Albany Neck shoreline material to repair voids on the Albany plateau, after which this area would be backfilled with suitable soil, covered, and seeded. The areas proposed for debris placements are already impacted from unauthorized metals scavenging activities (landfill debris such as concrete and sharp metal is exposed) and these areas would be repaired as part of the Project. The majority of the concrete debris would be hauled off-site to an approved landfill for recycling.

Environmental Review

Because the CSLC will need to rely on the DEIR for issuance of a consistency determination, CSLC staff requests the District consider the following comments and suggestions when preparing the final EIR for certification.

Introduction

1. The CSLC has jurisdiction over a part or all of Area 1, Area 2, and those portions of Area 3 within the City of Albany. As noted above, any development activities within this area of jurisdiction must be reviewed by the CSLC for consistency with the former trust exercise prior to the commencement of such development. For this reason, CSLC staff believes that the CSLC should be mentioned in the Section 1.2, "Consultation with Resource Agencies" paragraph, as a responsible agency.

Biological Resources

2. The Biological Resources, *Regulatory Framework* section of the DEIR notes that the Project is subject to consultation with the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and CDFG; however, the DEIR does not include a discussion of consultation with these agencies. To ensure disclosure of the breadth of resources used to identify and characterize potentially significant impacts and ensure meaningful environmental review, CSLC staff recommends incorporation in the EIR a discussion of the District's

consultation with these agencies, and any specific impacts, sensitive species, or other issues identified, and any mitigation measures suggested or directed by these agencies for compliance with applicable federal and State laws.

In addition, the DEIR states that marine mammals, including harbor seal, California sea lion, and southern sea otter, which are special-status wildlife species protected by the Marine Mammal Protection Act and the California Fish and Game Code, could be disturbed during the construction phases of the Project. Therefore, in addition to the proposed monitoring activity, CSLC staff recommends the development and implementation of a Marine Mammal Contingency Plan to minimize impacts to marine resources during construction.

Cultural Resources

3. Submerged Resources: The DEIR mentions one shipwreck associated with Fleming Island in 1879; however, it is not clear what other efforts were made to ensure the DEIR discloses all that it feasibly can in regard to potential impacts on submerged resources. In order to provide a more complete analysis of existing conditions, CSLC staff believes the District should conduct further research regarding the potential for submerged cultural resources. The CSLC maintains a shipwrecks database that can assist with this analysis. CSLC staff requests that the District contact Senior Staff Counsel Pam Griggs at the contact information noted at the end of this letter to obtain shipwrecks data from the database and CSLC records for the Project site. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in State waters for more than 50 years is presumed to be significant.

4. Title to Resources: The DEIR should indicate that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC. As a result, CSLC staff requests that the District consult with Senior Staff Counsel Pam Griggs at the contact information noted at the end of this letter, should any cultural resources on State lands be discovered during construction of the Project.

Thank you for the opportunity to comment on the DEIR for the Project. As a responsible agency, the CSLC will need to rely on the Final EIR for the issuance of a consistency determination as specified above and, therefore, we request the District consider our comments and revise the EIR as appropriate prior to certification of the EIR.

Please send additional information on the Project to the CSLC environmental review staff listed below as plans become finalized. In addition, please send copies of future Project-related documents, including an electronic copy of the Final EIR, Mitigation Monitoring and Reporting Program (MMRP), Notice of Determination (NOD), and CEQA Findings when they become available. For questions concerning environmental review

please contact Cynthia Herzog, Environmental Scientist, at (916) 574-1310 or via e-mail at Cynthia.Herzog@slc.ca.gov. For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Senior Staff Counsel Pam Griggs at (916) 574-1854 or via email at Pamela.Griggs@slc.ca.gov. For questions concerning CSLC jurisdiction, please contact Grace Kato, with the Land Management Division, at (916) 574-1227, or via email at Grace.Kato@slc.ca.gov.

Sincerely,

for Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
Grace Kato, LMD, CSLC
Cynthia Herzog, DEPM, CSLC
Jennifer Lucchesi, Legal, CSLC

Response to OPR

This letter forwarded two comment letters from state agencies, the San Francisco Bay Regional Water Quality Control Board, and the State Lands Commission. For responses to these two comment letters, see Responses WBBW-1 through WBBW-6, and SLC-1 through SLC-14, respectively.

B. Regional/County Agencies

San Francisco Bay Regional Water Quality Control Board (L. Whalin)

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

August 10, 2012
CIWQS Place ID: 204880(LW)

East Bay Regional Park District - Land Division
Attn: Chris Barton
2950 Peralta Oaks Ct.
P.O. Box 5381
Oakland, CA 94605
(*sent via email to* cbarton@ebparks.org)

Subject: Water Board Groundwater Protection Division comments on the Draft Environmental Impact Report for the Albany Beach Habitat Restoration and Public Access Project pursuant Albany Landfill, Alameda County

Dear Mr. Barton:

This letter provides my comments on the draft Environmental Impact Report (dEIR) for the Albany Beach Restoration and Public Access Project. As the San Francisco Bay Water Board case manager for the Albany Landfill, my comments will be limited to aspects of the Project involving the landfill. WBLW-1

As you are aware, I have been concerned about erosion along the south shoreline of the Albany Neck (Area 1), and the resultant impacts to water quality in the Bay. This portion of the landfill was constructed within the Bay through the creation of a levee using sand and clay fill, and construction debris. Erosion of the levee allows discharges of the sand, clay, and debris (concrete rubble, plastic, wires, etc.) to the Bay. . Given the degree of erosion, I have also been concerned about the structural stability of the levee and the safety hazards posed to park visitors by large pieces of exposed debris.

I am pleased to see that the solutions we have discussed to mitigate these concerns are included in the proposed project, and I therefore support the plan. The following elements of the plan will specifically address my concerns in Area 1: WBLW-2

- The reconstruction of the shoreline through the removal of construction debris and recontouring of slopes to increase stability, cover exposed debris, and enhance shoreline habitat.
- The beneficial reuse of removed materials to fill holes in the landfill cap in the plateau area, created by erosion and metal scavenging.
- Vegetation enhancement along the slope to minimize future erosion.
- The installation of a fence between the trail and the slope to protect the slope and habitat from destruction by foot traffic.
- The proposed Best Management Practices to protect water quality during construction.

While we support the plan as outlined in the dEIR, I respectfully suggest you include a discussion of the Regional Water Board's role in enforcement of California Code of Regulations, Title 27 (which pertains to the regulation of solid waste facilities) be included in the Hydrology and Water Quality section (4.5). This section covers state plans, policies and regulations. Though the project area is not covered under Waste Discharge Requirements, portions of the Title 27 regulations apply and a discussion of our role in section is therefore appropriate. WBLW-3

Thank you for the opportunity to comment on the dEIR. If you have any questions or concerns, please contact me at (510) 622-2363 or lwhalin@waterboards.ca.gov.

Sincerely,

Lindsay Whalin
2012.08.10
15:43:39 -07'00'

Lindsay Whalin, MS, PG
Groundwater Protection

CC: Brian Wines – RWQCB Watershed Management
bwines@waterboards.ca.gov

Cleet Carlton – RWQCB Toxics Cleanup
ccarlton@waterboards.ca.gov

Maria Mendoza – Alameda County Department of Environmental Health
Maria.mendoza@acgov.org

Response to Comments WBLW-1 through WBLW-3

Response WBLW-1

The comment is noted. No response is required.

Response WBLW-2

The comment is noted. No response is required.

Response WBLW-3

The following sub-section is added to page 199 of the Draft EIR, after the NPDES Post-Construction Stormwater Quality sub-section at the bottom of the page in Section 4.8 Hydrology and Water Quality, Regulatory Framework, State Plans, Policies, and Regulations sub-section.

California Code of Regulations, Title 27

Title 27 pertains to the regulation of solid waste facilities (landfills) by both the California Integrated Waste Management Board and the California Regional Water Quality Control Board. Portions of the closed Albany landfill are owned and/or managed by three agencies: the City of Albany (Albany Bulb), the California State Department of Parks and East Bay Regional Park District (Albany Neck). Although the landfill portions of the Albany Beach project area are not covered under Waste Discharge Requirements, portions of the Title 27 regulations apply, including the requirement for periodic visual inspection and monitoring, the requirement to address any problems uncovered during inspection and monitoring, such as shoreline erosion and exposure of landfill materials.

San Francisco Bay Regional Water Quality Control Board (B. Wines)

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

August 23, 2012
CIWQS Place ID No. 204880 (BKW)

Sent via electronic mail: No hardcopy to follow

East Bay Regional Park District – Land Division
2950 Peralta Oaks Court
Oakland, CA 94605

Attn: Chris Barton (cbarton@ebparks.org)

Re: Comments on the Draft Environmental Impact Report for the Albany Beach Restoration & Public Access Project
SCH Number: 20012032072

Dear Mr. Barton:

Regional Water Quality Control Board (Water Board) staff have reviewed the Draft Environmental Impact Report for the Albany Beach Restoration & Public Access Project (DEIR). Water Board staff have the following comments on the DEIR.

Comment 1

2. Report Summary, 2.1, Project under Review, Required Permits and Approvals (page 8). The bullet item for the Water Board only addresses the issuance of a Clean Water Act Section 401 certification for the project and coverage under the General NPDES Permit for Construction Activity. This bullet item should be revised to include the issuance of Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act. WBBW-1

Comment 2

Table 2-1, Summary of Impacts and Mitigation Measures, Mitigation Measure BIO 6-c. This mitigation measure should be revised by adding the potential need for the project to obtain WDRs from the Water Board pursuant to the Porter-Cologne Act. WBBW-2

Comment 3

3.9 Required Permits and Approvals, State Agencies (page 64). The bullet item for the Water Board only addresses the issuance of a Clean Water Act Section 401 certification for the project and coverage under the General NPDES Permit for Construction Activity. This bullet item should be revised to include the issuance of Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act. WBBW-3

Comment 4

4.3 Biological Resources, Regulatory Framework, State Laws and Regulations, Porter-Cologne Water Quality Control Act (page 114). The description of Porter-Cologne authority is not completely correct, since the Water Board does not issue "Certifications of Waste Discharge Requirements". The term "certification" is only used with respect to the Water Board's authority under Section 401 of the Clean Water Act to certify that federal permits are consistent with state water quality standards. The following paragraph should be used to explain the permitting authority of the Water Board over federal and non-federal waters. WBBW-4

The Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in conjunction with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, seasonal streams, intermittent streams, channels that lack a nexus to navigable waters, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general waste discharge requirements (WDRs). WBBW-4 (cont.)

Comment 5

4.3 Biological Resources, Existing Conditions, Seasonal Wetlands (page 122). This section of the DEIR only discusses seasonal wetlands that may be regulated as waters of the United States. Isolated wetlands that are not subject to federal jurisdiction are still subject to the jurisdiction of the Water Board as waters of the state. WBBW-5

Comment 6

4.3 Biological Resources, Existing Conditions, Impact Discussion (page 131). The bullet item for the Water Board only addresses the issuance of a Clean Water Act Section 401 certification for the project and coverage under the General NPDES Permit for Construction Activity. This bullet item should be revised to include the issuance of Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act. WBBW-6

If you have any questions, please contact me at (510) 622-5680 or by e-mail at bwines@waterboards.ca.gov.

Sincerely,

Brian Wines
Water Resources Control Engineer

cc State Clearinghouse (state.clearinghouse@opr.ca.gov)

Response to Comments WBBW-1 through WBBW-6

Response WBBW-1

The third bulleted item on page 8 of the Draft EIR, under State Agencies sub-section in Section 2.1 Project Under Review, Required Permits and Approvals sub-section, is amended as follows:

- San Francisco Bay Regional Water Quality Control Board (RWQCB) – Water Quality Certification under Section 401 of the Clean Water Act, ~~and~~ Notice of Intent NOI for construction activity, and Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

Response WBBW-2

As described in the Draft EIR, Mitigation Measures BIO-6a, BIO-6b, and BIO-6c, on page 138, are sufficient to reduce Impact BIO-6 (seasonal wetlands and marine resources) to a less–than-significant level. To further reduce this insignificant impact and strengthen the mitigation measures for Impact BIO-6, a revision to Mitigation Measure BIO-6c is described below. With implementation of Mitigation Measures BIO-6a and BIO-6b on page 138, and the revised Mitigation Measure BIO-6c, below, impacts to seasonal wetlands and marine resources would be less than significant.

Mitigation Measure BIO-6c on page 12 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure BIO-6c: EBRPD shall obtain any needed permits and authorizations for work in wetlands. These include a Section 404 permit for any work in wetlands, a Section 401 water quality certification, potential WDRs, and compliance with regional and local plans and protocols.

Mitigation Measure BIO-6c on page 138 of the Draft EIR, in Section 4.3 Biological Resources, Impact Discussion, Project Analysis, c: Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act? sub-section, is amended as follows:

Mitigation Measure BIO-6c: EBRPD shall obtain any needed permits and authorizations for work in wetlands. These include a Section 404 permit for any work in wetlands, a Section 401 water quality certification, potential WDRs, and compliance with regional and local plans and protocols.

Response WBBW-3

The third bulleted item on page 64 of the Draft EIR, under State Agencies sub-section in Section 3.9 Required Permits and Approvals, is amended as follows:

- **San Francisco Bay Regional Water Quality Control Board (RWQCB)** – Water Quality Certification under Section 401 of the Clean Water Act, ~~and~~ Notice of Intent NOI for construction activity, and Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

Response WBBW-4

The Porter-Cologne Water Quality Control Act sub-section on page 114 of the Draft EIR, in Section 4.3 Biological Resources, Regulatory Framework, State Laws and Regulations sub-section, is amended as follows:

~~Waters of the State are defined by the Porter-Cologne Act as "any surface water or groundwater, including saline waters, within the boundaries of the state." The RWQCB protects all waters in its regulatory scope, but has special responsibility for isolated wetlands and headwaters. These water bodies have high resource value, are vulnerable to filling, and may not be regulated by other programs, such as Section 404 of the CWA. Waters of the State are regulated by the RWQCB under the State Water Quality Certification Program, which regulates discharges of dredged and fill material under Section 401 of the CWA and the Porter-Cologne Water Quality Control Act. Projects that require a Corps permit, or fall under other federal jurisdiction, and have the potential to impact waters of the State are required to comply with the terms of the Water Quality Certification Program. If a Proposed Project does not require a federal license or permit, but does involve activities that may result in a discharge of harmful substances to Waters of the State, the RWQCB has the option to regulate such activities under its State authority in the form of Waste Discharge Requirements or Certification of Waste Discharge Requirements.~~

The Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in conjunction with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, seasonal streams, intermittent streams, channels that lack a nexus to navigable waters, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general waste discharge requirements (WDRs).

Response WBBW-5

Comment noted; no isolated waters have been identified. This will be confirmed during the Section 401 permit submittal and review process, and through RWQCB coordination.

Response WBBW-6

The third bulleted item on page 131 of the Draft EIR, under Assessment Methodology sub-section in Section 4.3 Biological Resources, Impact Discussion sub-section, is amended as follows:

- A Section 401 (CWA) Water Quality Certification from the RWQCB for construction activities, ~~and~~ Notice of Intent (NOI) for construction activity, and Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

San Francisco Bay Conservation and Development Commission

bcdc

Making San Francisco Bay Better

EBRPD
SEP 18 2012
LAND DIVISION

September 13, 2012

Mr. Chris Barton
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, California 94605

SUBJECT: Draft Environmental Impact Report: Albany Beach Restoration and Public Access Project

Dear Mr. Barton:

Thank you for the opportunity to comment on the draft environmental impact report (draft EIR) for the Albany Beach Restoration & Public Access Project, East Bay Regional Park District, State Clearinghouse Number 2012032072 received in our office on July 16, 2012. While the San Francisco Bay Conservation and Development Commission (Commission) has not had the opportunity to reviewed this draft EIR, the staff comments in this letter are based on the *San Francisco Bay Plan* (Bay Plan) and the McAteer-Petris Act.

The project as described is located on the Albany shoreline in northwestern Alameda County, and consists of three components:

- Shoreline repair and reconstruction, including habitat enhancement and accessibility improvements to 2,000 feet of the existing San Francisco Bay Trail Spur, along the Albany Neck shoreline, and northern beach access;
- Beach and dune enhancement, recreation improvements, restroom, parking and construction of 800 feet of new San Francisco Bay Trail at Albany Beach; and
- Construction of 4,200 feet of new San Francisco Bay Trail between Albany Beach and Gilman Street. BCDC-1

In addition to the shoreline and trail work in Area 1, an approximately 2-acre , uneven landfill ground settlement), would be repaired.

As you may know, the Commission has jurisdiction over all areas of the Bay subject to tidal action as defined by mean high water, except in marsh areas, where the it extends to five feet above mean sea level or the extent of marsh vegetation. Additionally, the Commission has "shoreline band" jurisdiction, which begins at the Bay's edge, and extends inland 100 feet and parallel to the shoreline.

In accordance with provisions of the McAteer-Petris Act, the Commission controls filling and dredging within its "Bay" jurisdiction. The Commission also administers permits for development within its 100-foot "shoreline band" jurisdiction. In addition, the Commission has designated certain areas within the 100-foot "shoreline band" for specific priority uses for ports, water-related industry, water-oriented recreation, airports, and wildlife refuges. The Albany Beach Restoration & Public Access Project is located on the Albany shoreline in areas subject to

tidal action. The project is therefore subject to the Commission's "Bay" jurisdiction, "shoreline band" jurisdiction and some portions of the project appear to be within a wildlife refuge and waterfront park, beach priority use area. BCDC-1 (cont.)

In the sections of your draft EIR that reference the Commission's jurisdiction, we have encountered a few inconsistencies and minor errors that should be resolved. For example, with regard to the Commission's shoreline band jurisdiction, on pages 115, 199 and 214, the description of the 100-foot shoreline band should say that it extends inland from mean high tide line. Also, descriptions of necessary permits and approvals should specify that permits and approvals are required from BCDC for work in the shoreline band and in the "Bay", in addition to wetland areas, public access and conformance to climate change policies as mentioned (e.g. pages 8, 64, and 131). The following paragraphs provide information about BCDC's jurisdiction and authority to discuss in the regulatory setting sections of the report: BCDC-2

Biological Resources and Public Access. The San Francisco Bay Plan policies on Fish, Other Aquatic Organisms and Wildlife state, in part:

1. To assure the benefits of fish, other aquatic organisms, and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased.
2. Specific habitats (...) should be protected, whether in the Bay or behind dikes. In reviewing or approving habitat restoration programs the Commission should be guided by the recommendations in the Baylands Ecosystem Habitat Goals report and should, where appropriate, provide for a diversity of habitats to enhance opportunities for a variety of associated native aquatic and terrestrial pant and animal species.
3. The Commission may permit a minor amount of fill or dredging in wildlife refuges shown on the plan maps necessary to enhance fish, other aquatic organism and wildlife habitat or to provide public facilities for wildlife observation, interpretation and education. BCDC-3

The San Francisco Bay Plan policies on Public Access to the Bay state, in part:

1. Public access to some natural areas should be provided to permit study and enjoyment of these areas. However, some wildlife are sensitive to intrusion. For this reason, projects in these areas should be carefully evaluated in consultation with appropriate agencies to determine the appropriate location and type of access to be provided.
2. Public access should be sited, designated and managed to prevent significant adverse effects on wildlife. To the extent necessary to understand the potential effects of public access on wildlife, information on the species and habitats of a proposed project site should be provided, and the likely human use of the access area analyzed. In determining the potential for significant adverse effects (such as impacts on endangered species, impacts in breeding and foraging areas, or fragmentation of wildlife corridors), site specific information provided by the project applicant, the best available scientific evidence, and expert advice should be used. In addition, the determination of significant adverse effects may also be considered within a regional context. Siting, design and management strategies should be employed to avoid or

minimize adverse effects on wildlife, informed by the advisory principles in the Public Access Design Guidelines. Where appropriate, effects of public access on wildlife should be monitored over time to determine whether revisions of management strategies are needed.

3. Public access should be sited, designed, managed, and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.
4. Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier-free access for persons with disabilities to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs.

BCDC-3 (cont.)

The Albany Beach Restoration & Public Access Project is a restoration project designed to restore and increase tidal habitat and improve public access to the restored shoreline.

The significant impacts listed in the draft EIR pertain to the construction phase of the project. The species taken into consideration are Burrowing owl, California least tern, harbor seal, California sea lion, southern sea otter, eelgrass, and Remnant coastal scrub. For each anticipated impact to these species, as for each anticipated impact to coastal habitat, mitigation measures are identified.

BCDC-4

Although the draft EIR addressed the significant impacts anticipated during the construction phase of the project, there is no evaluation of the potential impacts on the biological resources *beyond* the construction phase. Evaluation and discussion of long-term indirect impacts may be necessary, as well as the suggestion of additional necessary mitigation measures. For example, the sustained protection of the burrowing owl may require periodic closure of the public access trail during reproduction or nesting periods. In addition, a plan for monitoring the effects of public access on wildlife over time to determine whether revisions of management strategies are needed should be included in the project EIR.

BCDC-5

BCDC-6

Mitigation. The San Francisco Bay Plan policies on Mitigation state, in part: "Projects should be designed to avoid adverse environmental impacts to Bay natural resources (...). Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required."

The mitigation measures listed in the draft EIR reduce all significant impacts to aesthetics, biological resources, cultural resources, geology and soils, hazards and hazardous materials, and hydrology and water quality to classification as Less-Than-Significant.

BCDC-7

On page 12 of the Executive Summary, three mitigation measures are listed to reduce the impact of the project on wetlands and marine resources. Figure 3-2 ("Areas of Analysis"), shows the proposed Bay Trail segment traversing planned dune habitat on Albany Beach and Albany neck. To encourage interaction between humans and wildlife without inflicting damage to the area (e.g. sand compaction, collection of sensitive plant species), the Bay Trail should

incorporate over-crosses wherever necessary for dune protection made in natural building materials, with educational signage explaining to the public the importance of the habitat that they are viewing. BCDC-7 (cont.)

Several mitigation measures for the preservation of the wetlands and the habitat during the construction activities (education of the workers to ensure correct behavior in the work area, all the necessary permits and authorizations for work in wetlands) are listed. However, the project EIR should include additional information about the type of heavy construction equipment (e.g. excavators, trucks, earth-movers, etc.) that will be used during the work activities: since part of the project is in Albany Beach, it is essential that the stability of the dune system is not compromised during the transit of heavy equipment (excavators, trucks). For this reason, in order to limit the compaction of sand and sediment mitigation measures such as the use of tracked vehicles or the use of battens (to improve the weight distribution of wheeled vehicles) should be specified. BCDC-8

Bay Fill. The draft EIR indicates consistency with BCDC Bay Plan findings and policies on Bay Fill as follows: "Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access". A proposed project should be approved if the filling is the minimum necessary to achieve its purpose, and if it meets one of the following three conditions:

1. The filling is in accord with the Bay Plan policies as to the Bay-related purpose for which filling may be needed and is shown on the Bay Plan maps as likely to be needed;
2. The filling is in accord with the Bay Plan policies as to purposes for which some fill may be needed if there is no other alternative or;
3. The filling is in accord with the Bay Plan policies as to minor fills for improving shoreline appearance or public access.

BCDC-9

Some proposed aspects of this project, particularly the creation of crescent oyster reefs, may not meet one of the criteria above, as they are described in the DEIR. To be consistent with BCDC Bay Plan findings and policies on Bay Fill, further justification for the proposed fill may be necessary. Please note that fill required for "beneficial habitat enhancement" should fully describe the need for the habitat improvements or conversion in comparison to the existing habitat, and additional consideration should be given to habitat creation alternatives.

Thank you for your consideration of these comments. If you have any questions regarding this letter, or any other matter, please do not hesitate to contact Marie-Laure Causin of my staff at (415) 352-3622, or via email at marielc@bcdc.ca.gov. BCDC-10

Sincerely,

for BRENDA GEODEN
Sediment Program Manager

BG/MLC/rca

Response to Comments BCDC-1 through BCDC-10

Response BCDC-1

The comment is noted. No response is required.

Response BCDC-2

The text under the heading "Bay Area Conservation and Development Commission (BCDC)" on page 115 in Section 4.3 Biological Resources of the Draft EIR is amended as follows:

Bay ~~Area~~ Conservation and Development Commission (BCDC)

The California Coastal Commission acts carry out its mandate locally through the San Francisco Bay ~~Area~~ Conservation and Development Commission (BCDC). BCDC has regulatory jurisdiction, as defined by the McAteer-Petris Act, over the Bay and its shoreline, which generally consists of the area between the Bay shoreline and a line 100 feet landward of and parallel to the mean high tide line~~shoreline~~. Prior to implementation of the Proposed Project, EBRPD would have to obtain a permit from the BCDC. The following BCDC plans, policies, and associated areas are relevant to the Proposed Project: BCDC San Francisco Bay Plan (2008) and the BCDC Shoreline Spaces: Public Access Design Guidelines for the San Francisco Bay (2005). These areas are defined in the McAteer-Petris Act (PRC Section 66610) as:

The text under the heading "San Francisco Bay Area Conservation and Development Commission (BCDC)" on page 199 in Section 4.8 Hydrology and Water Quality of the Draft EIR is amended as follows:

San Francisco Bay ~~Area~~ Conservation and Development Commission (BCDC)

The ~~California Coastal Commission carries out its mandate locally through the San Francisco~~ Bay ~~Area~~ Conservation and Development Commission (BCDC)~~. BCDC's~~ has jurisdiction over San Francisco Bay, including ~~includes~~ all sloughs, marshlands between mean high tide and five feet above mean sea level, tidelands, submerged lands, and land within 100 feet of the mean high tide line~~Bay shoreline~~. The precise boundary is determined by BCDC on request. BCDC has regulatory authority over placement of fills, building, grading, changes in uses, and subdivision of property within its jurisdictional area. For planning purposes, BCDC assumes that trail projects have a 25-year life span. Consistency with policies from the BCDC master planning document, the *Bay Plan*, is analyzed in Section 4.9 Land Use.

The text under the heading "San Francisco Bay Area Conservation and Development Commission" on page 214 in Section 4.9 Land Use and Planning of the Draft EIR is amended as follows:

San Francisco Bay ~~Area~~ Conservation and Development Commission

The California Coastal Commission carries out its mandate locally through the San Francisco Bay ~~Area~~ Conservation and Development Commission (BCDC). BCDC's jurisdiction on San Francisco Bay includes all sloughs, marshlands between mean high tide and 5 feet above mean sea level, tidelands, submerged lands, and land within 100 feet of the mean high tide line~~Bay shoreline~~. The precise boundary is determined by BCDC on request. For planning purposes, BCDC assumes that projects located above low-lying areas that are vulnerable to rising sea level have a lifespan of at least 50 to 90 years. BCDC policies for projects in low-lying areas, such as the beach and low-lying trails of the Proposed Project, are based on the life of the project, which is approximately 25 years for the Proposed Project improvements.

Response BCDC-3

The fourth bulleted point under the heading "State Agencies" on page 8 in Chapter 2 Report Summary of the Draft EIR is amended as follows:

- San Francisco Bay Conservation and Development Commission (BCDC) – Permit for work in the shoreline band, San Francisco Bay, wetland areas, public access, and conformance with climate change policies.

The fourth bulleted point under the heading "State Agencies" on page 64 in Section 3.9 Required Permits and Approvals of the Draft EIR is amended as follows:

- **San Francisco Bay Conservation and Development Commission (BCDC)** – Permit for work in the shoreline band, San Francisco Bay, wetland areas, public access, and conformance with climate change policies.

The fifth The fifth bulleted item on page 131 of the Draft EIR, under Assessment Methodology sub-section in Section 4.3 Biological Resources, Impact Discussion sub-section, is amended as follows:

- A permit from San Francisco Bay Conservation and Development Commission (BCDC) for work in the shoreline band, San Francisco Bay, wetland areas, public access, and conformance with climate change policies.

Table 4.9-1, page 217 in Section 4.9 Land Use and Planning, is revised as follows:

8	Based on scientific ecological analysis and consultation with the relevant federal and state resource agencies, a minor amount of fill may be authorized to enhance or restore fish, other aquatic organisms, or wildlife habitat if the Commission finds that no other method of enhancement or restoration except filling is feasible.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access. Fill would not occur without authorization by all relevant federal and state resource agencies. Placement of groins in the subtidal area would enhance oyster and fish habitat.
Part III - The Bay as a Resource **Fish, Other Aquatic Organisms and Wildlife**		
1	To assure the benefits of fish, other aquatic organisms and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased.	Tidal marshes and flats would not in general be affected by the Project. Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area would enhance oyster and fish habitat.
2	Specific habitats that are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered, species that the California Department of Fish and Game has determined are candidates for listing as endangered or threatened under the California Endangered Species Act, or any species that provides substantial public benefits, should be protected, whether in the Bay or behind dikes.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area would enhance oyster and fish habitat.
3	In reviewing or approving habitat restoration programs the Commission should be guided by the recommendations in the Baylands Ecosystem Habitat Goals report and should, where appropriate, provide for a diversity of habitats to enhance opportunities for a variety of associated native aquatic and terrestrial plant and animal species.	Tidal marshes and flats would not in general be affected by the Project. Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area would enhance oyster and fish habitat.
5	The Commission may permit a minor amount of fill or dredging in wildlife refuges, shown on the Plan Maps, necessary to enhance fish, other aquatic organisms and wildlife habitat or to provide public facilities for wildlife observation, interpretation and education.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access. Fill would not occur without authorization by all relevant federal and state resource agencies. Placement of groins in the subtidal area would enhance oyster and fish habitat.
Part IV - Development of the Bay and Shoreline **Safety of Fills**		

The policy on Public Access to the Bay identified as policy #1 in the comment is addressed in Table 4.9-1, in the second row on page 221 of the Draft EIR.

The policy on Public Access to the Bay identified as policy #2 in the comment is addressed in Table 4.9-1, in the third row on page 221 of the Draft EIR.

The policy on Public Access to the Bay identified as policy #4 in the comment is addressed in Table 4.9-1, in the first row on page 222 of the Draft EIR.

Table 4.9-1, pages 221-222 in Section 4.9 Land Use and Planning, is revised as follows:

4	Public access should be sited, designed, and managed to prevent significant adverse effects on wildlife. To the extent necessary to understand the potential effects of public access on wildlife, information on the species and habitats of a proposed project site should be provided, and the likely human use of the access area analyzed. In determining the potential for significant adverse effects (such as impacts on endangered species, impacts on breeding and foraging areas, or fragmentation of wildlife corridors), site specific information provided by the project applicant, the best available scientific evidence, and expert advice should be used. In addition, the determination of significant adverse effects may also be considered within a regional context. Siting, design, and management strategies should be employed to avoid or minimize adverse effects on wildlife, informed by the advisory principles in the Public Access Design Guidelines. If significant adverse effects cannot be avoided or reduced to a level below significance through siting, design and management strategies, then in lieu public access should be provided, consistent with the project and providing public access benefits equivalent to those that would have been achieved from on-site access. Where appropriate, effects of public access on wildlife should be monitored over time to determine whether revisions of management strategies are needed.	Public access would be controlled within the Project site with the following measures employed to reduce public access conflicts with wildlife. *Construction Materials:* The parking area and trail segments would consist of paved as well as permeable pavement areas, such as stabilized quarry fines, and would incorporate into their designs water quality stormwater swales to reduce erosion and water quality impact to adjacent habitats. *Fencing/Buffers:* The Albany Neck (Area 1) would include fencing or buffers to limit access to revegetated shoreline areas. Fencing would be installed to allow establishment of vegetation associated with the dune/wetland complex at Albany Beach (Area 2) and to help define trails. *Educational/Interpretive Signs:* Interpretive signs would be installed to: ♦ increase knowledge of users (regarding wildlife and the implications of users actions, ♦ decrease damaging user behavior, ♦ explain trail policies (i.e., leash requirements, closures, etc.), ♦ increase compliance with regulations, and ♦ foster public support for site revegetation and shoreline stabilization.
5	Public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.	The two-stall restroom would be the project's only structure, and would be installed on a pad above the 100-year floor elevation, with a watertight vault, outside of areas subject to dynamic wave energy. The Proposed Project would be consistent with the types of projects that are to be encouraged under the BCDC's climate change policies. Specifically, the Project would serve to restore natural resources and the environment; it is small; and it would be a public park. The EIR in section 4.8 Hydrology and Water Quality analyzes the Project's resilience to flooding, and chapter 3 Project Description describes project design features that would adapt to climate

		change impacts.
6~~5~~	Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed. This should be done wherever appropriate by requiring dedication of fee title or easements at no cost to the public, in the same manner that streets, park sites, and school sites are dedicated to the public as part of the subdivision process in cities and counties.	All public access improvements would be located on lands to be purchased or are owned or managed by EBRPD. Ownership of these lands would vary, including property owned by EBRPD, jointly by EBRPD and State of California, the City of Albany, and privately owned land with an easement for public access.
7~~6~~	Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife, and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for the physically handicapped to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs.	The Bay Trail spine is a multi-use trail for hiking and biking. Picnic tables and beach access would be provided. The Project includes protection and enhancement of sensitive habitat: signage, and regular maintenance by EBRPD employees. The public access improvements are designed to fully meet standards under the Americans with Disabilities Act (ADA).
8~~7~~	In some areas, a small amount of fill may be allowed if the fill is necessary and is the minimum absolutely required to develop the project in accordance with the Commission's public access requirements.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area to enhance oyster and fish habitat would not affect public access. The project would provide substantial benefits to public access and wildlife habitat.
9~~8~~	Access to and along 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. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.	The Project contains design elements (e.g. landscaping, buffer, fencing, signage) to keep trail users on the trail and within designated areas on Albany Beach, and to avoid intrusion onto sensitive habitat (see also Policy #4 above).
10~~11~~	Roads near the edge of the water should be designed as scenic parkways for slow-moving, principally recreational traffic. The roadway and right-of-way design should maintain and enhance visual access for the traveler, discourage through traffic, and provide for safe, separated, and improved physical access to and along the shore. Public transit use and connections to the shoreline should be encouraged where appropriate.	The project does not include any new public roadways.

Response BCDC-4

The comment is noted. No response is required.

Response BCDC-5

The Draft EIR discusses visitor impacts (human activity) on least tern in Biological Impacts in Section a, page 133 in Section 4.3 Biological Resources of the Draft EIR, and includes a discussion of non-construction visitor use impacts on resident and migratory wildlife, in Section d, pages 138-139. See also Response to Comment SC-9, which discusses potential impacts to subtidal habitat from non-motorized watercraft use.

No change in land use is proposed along the Albany Neck, Area 1 (the Neck currently is used as a walking path and will continue to be) and only a modest increase in park visitor use is expected in the Beach area (Area 2) and the south shoreline and Fleming Point area (Area 3). These areas currently receive substantial numbers of visitors and the wildlife that occupies the habitats in these areas have become acclimated to the accompanying noise and disturbance created by visitors, including visitors to the Golden Gate Fields racetrack.

The rip rap slope below the existing Neck pathway, which constitutes apparently unoccupied potential Burrowing Owl habitat, is currently un-fenced. The Proposed Project includes construction of a post and cable fence along and below the Neck trail to decrease existing habitat disturbance. Similarly the dune and seasonal wetlands in Area 2 are currently unfenced and unprotected areas. The Project also includes fencing of these areas, which will provide additional protection above existing conditions.

Regarding the possible need to close the Neck trail to public use during periods of Burrowing Owl reproduction or nesting activity, the following discussion is provided. The fencing along and below the trail on the Neck will protect existing habitat from trail users. In addition, although suitable habitat exists along Albany Neck, including in voids in the rock rip rap, no Burrowing Owls have been observed along Albany Neck, Albany Beach, Albany Plateau, or along the south shoreline of Area 3, at least since biological investigations were begun by LSA in 2002 as part of the East Shore State Park Master Plan. A wintering (early fall to spring) population of returning Burrowing Owls have been observed for at least 10 years in rip rap at nearby Caesar Chavez Park in Berkeley, including in a fenced-off area near the northeast corner of the Park, adjacent a heavily used walking path, as well as un-fenced areas, indicating they are not easily disturbed or displaced by park visitors. Degradation by feral cats is a bigger existing concern, of which there is a large population at Albany Bulb and the Plateau. There would be no increase in feral cat populations as a result of this project.

In cooperation with the cities of Albany and Berkeley, an approximately 8-acre area was set aside as fenced and protected Burrowing Owl habitat in 2007 as mitigation for Burrowing Owls that were found to overwinter at the site of the Tom Bates Sports Complex, located just south of Gilman Avenue in Berkeley. However, based on a report by Avocet Research Associates, who monitored the Albany Plateau Burrowing Owl Preserve in May 2011 and

again in May 2012, no Burrowing Owls have been observed within the Preserve, although they considered the habitat suitable.

The information provided above does not alter the conclusions of the biological resources analysis in Section 4.3 Biological Resources of the Draft EIR.

Response BCDC-6

The District's Park Rangers and Stewardship Manager regularly assess each Park's natural resources within the District's system to determine if damage to habitat, including wetlands and wildlife, is occurring from routine visitor use, and unexpected or unauthorized activities. The District's police officers respond to safety, security and trespass occurrences that could impact park resources. Based on this analysis they develop management plans in response, such as temporary area closures for protection, repair and restoration. Because of this, a formal plan for monitoring the project site's natural and biological resources as a part of the FEIR is not necessary to assess the effects of public access on wildlife.

The information provided above does not alter the conclusions of the biological resources analysis in Section 4.3 Biological Resources of the Draft EIR.

Response BCDC-7

The Bay Trail in the Beach Area (Area 2) would not traverse any area of existing or planned dune or wetlands; it is proposed for an area that is currently paved parking owned by Golden Gate Fields (GGF) that would be acquired by the District. With implementation of Mitigation Measure GEO-4c, fencing will be established around the enhanced dune area to prevent access and resultant erosion by park users and pets. A small non-motorized watercraft launch facility for Bay Water Trail access would be constructed in areas of the beach outside of sensitive dune habitat. Also, paved trails will channel users to hardened surfaces away from sensitive resource areas. The Albany Beach area is currently used for launching non-motorized watercraft with impacts to existing dune habitat. The project facility for launching non-motorized watercraft, which is expected to continue to attract users of non-motorized watercraft, would not significantly impact dune habitat beyond the current impact by current users. As with other users of the Project, the fencing around the enhanced dune area, mentioned above, would prevent access by users of non-motorized watercraft and resultant erosion. As discussed on Page 43 of Chapter 3 Project Description (Restrooms and Site Furnishings), interpretive signage and park rules, including precautionary and educational signage regarding protection of Park resources would be installed as part of Phase II.

The information provided above does not alter the conclusions of the environmental analysis in the Draft EIR.

Response BCDC-8

A listing of types of equipment anticipated to be used in construction of all phases of the proposed project is presented in Draft EIR Appendix D - Air Quality/Greenhouse Gas

Modeling, in the table entitled "Albany Beach-On-site Construction Emissions." It includes the following:

- Track excavator
- Track loader
- End and bottom dump trucks
- Grader
- Roller/motor compactor
- Skid steer loader
- Concrete truck
- AC paver
- Pickup trucks

As discussed in Biology Impacts "b." bottom of P. 134 of the DEIR, there would be temporary construction-related impacts to the existing sand dune while it is being expanded and enhanced. This sand dune is currently un-fenced and un-protected from existing Albany Beach visitors, and as a result is degraded and dominated by the presence of the non-native succulent, ice plant. Since the majority of the enhanced dune area would be protected by new fencing, this would represent an improvement in condition, or a beneficial impact, despite the fact that the proposed facility improvements would result in an increase in the number of beach visitors.

By its nature sand is very difficult to "over-compact" and easy to restore or loosen by discing or tilling following completion of earth work. The kinds of equipment that are anticipated to be used are a track excavator and track loader, with any needed dump trucks either operating from the existing paved parking area, or on temporary construction mats that are needed to provide stability and access for the trucks. In terms of earthwork for restoration within the dunes, dune restoration and enhancement would include loosing of any areas of dune that are over dense or compacted prior to planting.

The information provided above does not alter the conclusions of the biological resources analysis in Section 4.3 Biological Resources of the Draft EIR.

Response BCDC-9

As stated in the Draft EIR, the goal of the project "is to minimize San Francisco Bay fill to only that which is required to maintain public and emergency vehicle access along the south Neck, and for beneficial habitat enhancement and needed shoreline stabilization by removing debris and reconfiguring and armoring the shoreline" (page 42, Section 3.7 Proposed Project, Project Summary sub-section). The intertidal and subtidal enhancement elements are an optional portion of the project, and would be implemented based upon budget considerations and permit requirements. These enhancement elements have been given careful consideration with regards to benefits of enhancement, conservation planning goals for San Francisco Bay, and impacts to existing habitats and bay fill. The San Francisco Bay Subtidal Habitat Goals Project, a collaborative effort for natural resource planning between the San Francisco Bay Conservation and Development Commission (BCDC),

California Ocean Protection Council (OPC)/California State Coastal Conservancy (SCC), NOAA Habitat Conservation, NOAA Restoration Center, and the San Francisco Estuary Partnership (SFEP), indicates that rock substrate and shellfish beds are two habitats within the Bay that require substantial research and restoration focus, including bay fill to establish suitable substrate for recruitment of suitable species.

Potential adverse and beneficial impacts to subtidal habitat were discussed in the Section 4.3 Biological Resources, Impact Sections b., page 136, and c, page 137, of the Draft EIR. This analysis considers impacts to existing habitats as a result of implementation of optional enhancement to be less than significant due to the substantial increased habitat values provided by enhanced areas. This discussion is considered adequate for CEQA purposes. Additional, more detailed information will be provided that addresses compliance with BCDC policies with respect to Bay Fill in the BCDC Major Permit application submittal.

The information provided above does not alter the conclusions of the biological resources analysis in Section 4.3 Biological Resources of the Draft EIR.

Response BCDC-10

See Responses BCDC-1 through BCDC-9.

C. Local Agencies

City of Albany (J. Bond)

City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

August 27, 2012

Chris Barton
East Bay Regional Park District
2950 Peralta Oaks
Oakland, CA 94605

Subject: Comments on Albany Beach Draft EIR

Dear Chris,

Thank you for the opportunity to comment on the draft environmental impact report for the Albany Beach project. As you know, the City of Albany enthusiastically supports the project and looks forward to supporting the District in the implementation of the project. In the City staff review of the draft EIR, we do note that the proposed Bay Trail improvements are described as a 10-foot wide paved trail with 2-foot wide shoulders. The American Association of State Highway and Transportation Officials (AASHTO) recently released a new version of their "Guide for Development of Bicycle Facilities." The AASHTO guidelines call for a minimum paved width of 10 feet plus two foot shoulders on each side. They also recommend a paved width of 14 feet for facilities with higher use and wider variety of users. We can expect the Bay Trail to be a well-used link in the Bay Trail network, and thus would encourage the District to widen the trail to 14 feet to meet AASHTO guidelines if possible. CA-1

Regards,

Jeff Bond

Jeff Bond
Community Development Director

EBRPD
AUG 30 2012
LAND DIVISION

The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of a diverse community, and providing a safe, healthy and sustainable environment.

Response to Comment CA-1

The comment is noted. The comment requests a change in the project design, but does not pertain to the evaluation of environmental impacts of the Proposed Project, which is the purpose of this EIR. The comment will be forwarded to the EBRPD Board for its consideration prior to any decision on the Project.

D. Non-Profit and Community-Based Groups

Sierra Club, San Francisco Bay Chapter

SIERRA CLUB
FOUNDED 1892
San Francisco Bay Chapter
Serving Alameda, Contra Costa, Marin and San Francisco Counties

EBRPD
AUG 15 2012
LAND DIVISION

August 14, 2012

Chris Barton
East Bay Regional Park District
Land Division
2950 Peralta Oaks Court
Box 5381
Oakland, CA 94605

Re: Draft EIR for Albany Beach Restoration & Public Access Project
SCH # 2012032072

Dear Mr. Barton:

The Sierra Club makes the following comments on the DEIR.

First, the DEIR fails to address the impacts of off leash dog use in the areas under consideration, especially at Albany beach and the proposed dune expansion area. The response from the East Bay Regional Park District (the "Park District") on this entire issue is a facile refusal to deal with the issue. The Park District responded that the issue of off leash dog use is one about the use of the park areas and that the project is not about uses. Yet, the very title of the project states this is a public access project. Public access includes in any common understanding public use of the site. The Park District cannot dodge the issue by trying to define it away. SC-1

A major public access issue for this site is the fact that many people who do not have dogs including many families with children do not go to the beach precisely because they have safety and other concerns about the off leash dog use of the beach. One of the reasons for the project, as stated explicitly in the doucment itself, is to increase public acces and public use of the site by improving it in many different ways. If, however, a large user group does not want to use the site because of concerns about off leash dog access at the site, then this is a direct negative impact of the project. The DEIR does not even try to address this issue. SC-2

Moreover, while the DEIR focuses on accessibility issues for disabled who have a physical handicap, the Americans with Disabilities Act includes disabled with intellectual and mental disabilities. There are significant numbers of disabled persons who due to the intellectual or mental disability are afraid of dogs. For example, the article in BARK, The Service Dog Dilemna, October 19, 2010 discusses the fact that there are people with a phobia of dogs. It is diagnosed as cynophobia and is catelogued inthe DSM IV. I specifically refer the Park District to the following citations:

- Antony, Martin M. *Phobic Disorders and Panic in Adults: A Guide to Assessment and Treatment.* Washington DC: American Psychological Association, 2000.
- Antony, Martin M., and Randi E. McCabe. *Overcoming Animal Insect Phobias: How to Conquer Fear of Dogs, Snakes, Rodents, Bees, Spiders More.* Oakland: New Harbinger Publications, 2005.
- Barlow, David H. *Anxiety and its Disorders: The Nature and Treatment of Anxiety and Panic.* New York: Guilford Press, 2002.
- Bruce, Timothy J., and William C. Sanderson. *Specific Phobias: Clinical Applications of Evidence-Based Psychotherapy.* Northvale: Jason Aronson Inc., 1998.
- Di Nardo, Peter A., et al. "Etiology and Maintenance of Dog Fears." *Behaviour Research and Therapy* 26.3 (1988): 241-4. SC-3
- Di Nardo, Peter A., Lawrence T. Guzy, and Rita M. Bak. "Anxiety Response Patterns and Etiological Factors in Dog-Fearful and Non-Fearful Subjects." *Behaviour Research and Therapy* 26.3 (1988): 245-51.
- *Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR).* 4th ed. Washington DC: American Psychiatric Association, 2000.
- Doogan, Sharon, and Glyn V. Thomas. "Origins of Fear of Dogs in Adults and Children: The Role of Conditioning Processes and Prior Familiarity with Dogs." *Behaviour Research and Therapy* 30.4 (1992): 387-94.
- Hoffmann, Willem A., and Lourens H. Human. "Experiences, Characteristics and Treatment of Women Suffering from Dog Phobia." *Anthrozoös* 16.1 (2003): 28.
- King, Neville J., Viv Clowes-Hollins, and Thomas H. Ollendick. "The Etiology of Childhood Dog Phobia." *Behaviour Research and Therapy* 35.1 (1997): 77.
- Maj, Mario, et al., eds. *Phobias.* Chichester: J. Wiley, 2004.
- Mavissakalian, Matig, and David H. Barlow, eds. *Phobia: Psychological and Pharmacological Treatment.* New York: Guilford Press, 1981.
- Öhman, Arne. "Face the Beast and Fear the Face: Animal and Social Fears as Prototypes for Evolutionary Analyses of Emotion." *Psychophysiology* 23.2 (1986): 123-145.
- Öst, Lars-Göran. "One-Session Treatment for Specific Phobias." *Behaviour Research and Therapy* 27.1 (1989): 1-7.
- Rachman, S. "The Conditioning Theory of Fear Acquisition: A Critical Examination." *Behaviour Research and Therapy* 15.5 (1977): 375-87.

- Rentz, Timothy O., et al. "Active-Imaginal Exposure: Examination of a New Behavioral Treatment for Cynophobia (Dog Phobia)." *Behaviour Research and Therapy* 41.11 (2003): 1337-53.
- Secret, Mary, and Martin Bloom. "Evaluating a Self-Help Approach to Helping a Phobic Child: A Profile Analysis." *Research on Social Work Practice* 4.3 (1994): 338-48.
- Wiederhold, B. K. *Virtual Reality Therapy for Anxiety Disorders: Advances in Evaluation and Treatment.* 1st ed. Washington DC: American Psychological Association, 2005.

SC-3 (cont.)

As the Park District is aware, disability access must be addressed in this DEIR. The Park District's failure to address the issue of disability access for people with cynophobia is a gross inadequacy of the document.

Moreover, the DEIR states that the project will increase use because more people will have access to the beach area after the project is completed. But the DEIR does not analyze the increase in use of off leash dog users at the beach or other areas. This renders the DEIR inadequate. SC-4

The DEIR is also inadequate because it fails to analyze the impacts of dog urine and feces on the beach and the dune restoration area and also on wate quality. Recent information found on the web states the following:

Dog waste is cited as the 3rd or 4th largest contributor of bacterial pollution in urban watersheds. E coli, salmonella and giardia readily infect humans and can cause serious illness or death. Parasites: hookworms, roundworms, and tapeworms can be passed from dog feces to humans. Typically transmission occurs when skin comes into contact with the larva. Roundworm eggs can't be seen by human eyes. They hatch in human intestines and attacks can include attacking the retina, causing blindness. SC-5

Each gram of dog feces can contain 23 million fecal coliform colonies.

A study done at a Seattle watershed found 20 percent of bacteria in water could be attributed to dogs (EPA, 2001).

Dog feces has higher phosphorous rates than that found in cow manure, broiler chicken litter or swine manure.

As noted in the studies cited below when dogs urinate on grass, they are dumping concentrated nitrogen and soluble salts onto the turf. This produces a fertilizer "green up" effect in small amounts and burn spots in larger amounts. Animal urine can damage any turfgrass species in any climate. Urine appears to cause the most damage on turf with low soil moisture, in months when turf is not actively growing, and on over-fertilized turf.

Puppies and female dogs are more likely than males to squat and urinate all at once in one spot, rather than "marking" in small amounts throughout the lawn. This can intensify lawn problems for these dog owners.

Dog feces also add surplus nitrogen to lawns, but it is released much more slowly than through urine. Solid wastes mainly cause damage through smothering turf and killing it. This problem can be alleviated by raking up and disposing of the feces in a separate area.

See, SC-5 (cont.)

L. Trenholm, *Minimizing Traffic Damage to Your Florida Lawn* (ENH152), Environmental Horticulture Department (08/2000).
T. Friday, "The Dog-Scaped Yard" (273KB pdf), UF/IFAS Sarasota Extension (09/2008).
A. Harivandi, "Lawns 'n' Dogs (8255)" (1MB pdf),*University of California-Davis Division of Agriculture and Natural Resources* (2007).
C. Bigelow, et al, "Animal Urine Damage in Turf (AY-327-W)" (221KB pdf), *Purdue University Turfgrass Extension* (5/2006).
S. Thompson, "'Dog-On-It' Lawn Problems," *Texas A&M University Aggie Horticulture* (retrieved 03/2011).

The DEIR does not address the impact of dog feces and urine on the restoration area. It is insufficient for the Park District to claim that if it fences the dune restoration area this is adequate. The Park District knows from its experience at the adjacent area at the Albany Plateau that people with off leash dogs have broken through the fences in that area to walk their dogs on the Albany mudflat areas. SC-6

The Park District does not address how it will enforce keeping dogs from going over or breaking into the fenced areas without rigorous enforcement. Hence, the DEIR is inadequate for failing to address the potential significant adverse impacts from dog feces and urine on the dune restoration. SC-7

A further deficiency is that the Albany beach and dune restoration area are within the jurisdiction of the East Shore State Park and thus governed by the State Park's regulations regarding dogs which require dogs to be on leash. Yet, nowhere in the DEIR does the document address the contradiction between the general plan for the Park and the requirement to comply with the State Park's regulations and the existing and increased off leash dog use in this park area, which is due to the failure of the Park District to enforce the State Park regulations. SC-8

The DEIR cannot consistently assert that the project is consistent with and in compliance with the general plan for the State Park but not address this glaring issue.

Turning to another issue, the DEIR includes a proposed access area for non-motorized water craft. While this may be worthwhile and valuable from a recreational standpoint, the DEIR must address the impacts of this use on intertidal and subtidal habitat in the area. Watercraft users will undoubtedly impact intertidal and subtidal habitats when getting into an out of craft or when they ply the waters in the area. The DEIR merely states that an "optional" act would be to do an intertidal and subtidal habitat enhancement. The DEIR does not explain why this is only optional. SC-9

Nor does it discuss why the eelgrass beds that are found at the site are not identified as one of the subtidal habitats that should be enhanced. SC-10

Nor does the DEIR discuss why an attempt to establish a native oyster bed is only optional especially when there is a clear need for them. See SFGATE article entitled, "Once-abundant West Coast oysters near extinction." SC-11

The DEIR also fails to address the impacts of water craft use on birds. The literature on this subject is immense. The Sierra Club refers the Park District to comments made on this very issue in the EIR for the general plan for the East Shore State Park and the peer review studies at the Point Reyes Bird Observatory on this issue which is too numerous to cite here. SC-12

In sum, the DEIR needs to fully analyze these issues to be an adequate document. SC-13

Sincerely yours,

Norman La Force, Chair
East Bay Public Lands Committee

Response to Comments SC-1 through SC-13

Response SC-1

The Draft EIR states that off-leash dog use occurs at the project site on page 39 of Chapter 3 Project Description. Section 4.3 Biological Resources, pp. 130-139, discusses the impacts on biological resources of the additional dogs that would come to the site as a result of the project, and discusses the reasons why these impacts would be less than significant, including project design features and the decrease in density of dogs per acre. Section 4.8 Hydrology and Water Quality, pp. 205-207, evaluates the potential water quality impacts resulting from additional dog use, and discusses the reasons why these impacts would be less than significant. Section 4.9 Land Use and Planning, pp. 242-245, estimates the number of additional dogs that would come to the site as a result of the project, evaluates the associated land use conflicts, and discusses the reasons why these impacts would be less than significant.

Response SC-2

Dogs are currently present at the project site. As stated on page 39 of Chapter 3 Project Description, some of these dogs are off-leash. The presence of off-leash dogs may currently dissuade some potential users from visiting the project site. The project would result in continued use of the site by dogs. As discussed in Section 4.9 Land Use and Planning, pp. 242-245, the project would result in both additional dogs on the site and additional acreage accessible to dogs. The net effect would be a decrease in intensity of dogs (dogs per acre). To the extent that the presence of off-leash dogs deters some potential users from visiting the project site, this effect would not be increased by the project.

Response SC-3

Dogs are currently present at the project site. As stated on page 39 of Chapter 3 Project Description, some of these dogs are off-leash. The presence of both on-leash and off-leash dogs may currently dissuade people with a phobia of dogs from visiting the project site. The project would result in continued use of the site by dogs. As discussed in Section 4.9 Land Use and Planning, pp. 242-245, the project would result in both additional dogs on the site and additional acreage accessible to dogs. The net effect would be a decrease in intensity of dogs (dogs per acre). To the extent that the presence of dogs deters people with a phobia of dogs from visiting the project site, this effect would not be increased by the project.

Response SC-4

The Draft EIR states that off-leash dog use occurs at the project site on page 39 of Chapter 3 Project Description. Section 4.3 Biological Resources, pp. 130-139, discusses the impacts on biological resources of the additional dogs, including off-leash dogs, that would come to the site as a result of the project, and discusses the reasons why these impacts would be less than significant, including project design features and the decrease in density of dogs per acre. Section 4.8 Hydrology and Water Quality, pp. 205-207, evaluates the potential water quality impacts resulting from additional dog use, including off-leash dogs, and discusses the reasons why these impacts would be less than significant. Section 4.9 Land Use and

Planning, pp. 242-245, estimates the number of additional dogs that would come to the site as a result of the project (including off-leash dogs), evaluates the associated land use conflicts, and discusses the reasons why these impacts would be less than significant.

Response SC-5

Section 4.8 Hydrology and Water Quality, pp. 205-207, and Section 4.3 Biological Resources, pp. 135-136 and 138-139 evaluate the potential water quality and biological impacts resulting from additional dog use and associated dog waste at the project site, and discusses the reasons why these impacts would be less than significant. Regarding dog waste impacts on turf areas, no turf grass is proposed at the Project site. In addition, dog waste on turf is an appearance issue, and for athletic fields, a safety issue. In terms of nutrient impacts, the proposed restoration area will drain to and include a bioswale or bio-treatment facility to treat stormwater runoff, including nutrients.

Response SC-6

As discussed in Section 4.3 Biological Resources, pp. 135-136 and 138-139, and Section 4.8 Hydrology and Water Quality, pp. 205-207, effects of dogs on restoration areas would be reduced to a less-than-significant level by dispersing dogs over a larger area, fences and gates that would restrict access of dogs to enhancement areas, and signage containing specific public education and informational items about the impacts of dogs on wildlife and water quality, and the importance of keeping dogs on leash and out of enhancement areas. As part of normal routine park maintenance activities conducted by the District, fencing is inspected by the Park District Ranger on a frequent basis, including habitat protection fencing, and damaged fencing is repaired as soon as practical when problems are discovered.

Response SC-7

See Response SC-6.

Response SC-8

Section 4.9 Land Use and Planning, pp. 246-247, discusses the existing conflict between the Eastshore State Park General Plan guideline OPER-5 and the current use by on and off-leash dogs at Albany Beach. This conflict would continue with the Proposed Project. The guideline (OPER-5) was adopted to protect habitat values and protect public safety. As described in Section 4.9 Land Use and Planning, pp. 242-245, the incremental increase in dogs would not increase the public safety impacts associated with conflicts between dogs and dogs, and dogs and people. Likewise, it would not substantially increase the dogs' environmental impacts on habitat, as discussed in Section 4.9 Land Use and Planning, pp. 242-245, 4.3 Biological Resources, and 4.8 Hydrology and Water Quality. Therefore, the Project would not increase the existing conflict with guideline OPER-5 in such a manner so as to substantially increase the environmental impacts that the policy was meant to avoid or mitigate.

Response SC-9

Page 42 in Chapter 3 Project Description of the Draft EIR states that the intertidal and subtidal habitat enhancement elements of the Proposed Project are "optional," as the District currently has not obtained funding for construction, performance monitoring, and maintenance. The non-motorized small watercraft indicated in the Draft EIR includes kite surfers, kayakers and windsurfers. Non-motorized small watercraft typically have no impact on intertidal and shallow subtidal habitats. Unlike motorized watercraft, or fixed keel sailboats, which have deeper drafts and/or motors that can drag through and damage subtidal habitats, small non-motorized watercraft have very shallow drafts and inadequate mass to cause drag damage when the crafts do ground. At low tide, users of boards and kayaks typically carry the boards and boats to the water's edge and then float them into the water rather than dragging them through eelgrass habitat. Any damage to eelgrass beds from wading watercraft users would be minor and transient in effect, comparable to minor areas of damage caused by low density foraging by rays. Albany Beach and the adjacent intertidal and subtidal areas are currently actively used by non-motorized watercraft. The Project would include a facility for launching non-motorized watercraft, and five spaces of the new 20-space parking lot may be designated for drop-off of non-motorized watercraft.

Currently Albany Beach is used primarily by kite boarders, with little or no usage by wind surfers, kayaks or canoes. The Albany Beach user survey, completed by an intern for East Bay Regional Park District during the summer of 2011, found a total of 51 kite board user days, but did not record any kayak or canoe use. Because of shallow waters and the occurrence of mud flats off of the beach at low tide, kayaking conditions are not optimal and can be challenging during certain periods of low tide. Although the proposed non-motorized boat launch facility will make it easier and more convenient to launch kite boards, wind surf boards, kayaks and canoes, a significant increase in non-motorized watercraft use is not expected to occur following completion of the project.

The project will improve the quality of non-motorized watercraft launching experience but will not increase the capacity for this activity. The project will reserve five spaces for non-motorized watercraft launching, whereas under existing conditions non-motorized watercraft users access the beach from private property where parking for general beach use and non-motorized access is undefined. Use of this undefined parking area on private property has significantly more parking capacity than what is proposed by the project. For these reasons, the non-motorized watercraft would not have a significant impact on eelgrass.

Given the current level of use of non-motorized watercraft at the site, the Project would not likely result in a substantial increase in use of non-motorized watercraft. For these reasons, the non-motorized watercraft would not have a significant impact on eelgrass.

There is little potential for small non-motorized watercraft users to disturb waterbirds. There are no nesting colonies of waterbirds at Albany Beach. Therefore, potential disturbance would be limited to rafting birds (such as seasonally occurring waterfowl), loafing birds (such as gulls or shorebirds on Albany Beach), and foraging birds (such as aerial fish foragers or shorebirds). Current human usage at Albany Beach is high. The site is actively utilized by hikers, joggers, and dog owners with dogs and is already an actively used

launch point for kite surfers in San Francisco Bay; as a result, there is a baseline of high use by non-motorized personal watercraft and other park visitors. As discussed above, the improvements at Albany Beach are not anticipated to significantly increase human usage related to non-motorized watercraft. Because of this existing usage and the fact that the improvements at Albany Beach are not anticipated to significantly increase human usage related to non-motorized watercraft, the impacts of the project related to non-motorized watercraft are not considered to be significant. However, the proposed informational and park rules signage discussed on page 52, in Chapter 3 Project Description, of the Draft EIR, will inform park users of aquatic and other sensitive park resources and advise non-motorized watercraft users to avoid eelgrass beds.

The information provided above does not alter the conclusions of the biological resources analysis in Section 4.3 Biological Resources of the Draft EIR.

Response SC-10

The purpose of this EIR, as stipulated in CEQA and the CEQA Guidelines, is to evaluate the potential environmental impacts of the project as proposed by the project sponsor. Section 4.3 Biological Resources, pp. 136-137, evaluates impacts on eelgrass, and identifies mitigation measures that would reduce the project's impacts on eelgrass to a less-than-significant level. Mitigation includes eel grass restoration if Project construction damages any eelgrass. The proposed project would not result in impacts to eelgrass. As a result, eelgrass enhancement is not needed to reduce the Project's impact on eelgrass.

Other proposed intertidal and subtidal habitat enhancement areas are ancillary to the primary project purpose, which is to repair the shoreline of the south Albany Neck, enhance Albany Beach, and construct portions of the San Francisco Bay Trail. Intertidal and subtidal habitat enhancement is an optional element and is not intended as mitigation for environmental impacts.

Response SC-11

Oyster habitat is a valuable aquatic resource. The proposed project would not result in significant impacts to oysters. As a result, oyster bed restoration is not needed to reduce the Project's impact on oyster beds. Establishment of an oyster bed at the project site would be beneficial to the aquatic environment, but this is not required to mitigate the effects of the project, and is not required to be part of the project. The comment about the need for oyster beds will be forwarded to the EBRPD Board for its consideration prior to any decision on the Project.

Response SC-12

Please refer to Response to SC-9.

Response SC-13

See Responses SC-1 through SC-12.

Sustainability, Parks, Recycling and Wildlife Legal Defense Fund

SPRAWLDEF

Sustainability, Parks, Recycling And Wildlife Legal Defense Fund

802 Balra Drive, El Cerrito, CA 94530
510 526-4362 www. sprawldef.org n.laforc@comcast.net

August 14, 2012

EBRPD
AUG 15 2012
LAND DEPARTMENT

Chris Barton
East Bay Regional Park District
Land Division
2950 Peralta Oaks Court
Box 5381
Oakland, CA 94605

Re: Draft EIR for Albany Beach Restoration & Public Access Project
SCH # 2012032072

Dear Mr. Barton:

SPRAWLDEF-1

SPRAWLDEF joins in the comments of the Sierra Club in regard to the DEIR for this project.

Sincerely yours,

Norman La Force
President

Response to Comment SPRAWLDEF-1

See responses SC-1 through SC-13.

Citizens for East Shore Parks

Citizens for East Shore Parks

Mail: PO Box 6087, Albany, Ca 94706 Office: 520 El Cerrito Plaza, El Cerrito CA 94530
Ph: 510. 524.5000 Fax: 510.524.5008 eastshorepark@hotmail.com www.eastshorepark.org

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Hon. Tom Bates
Hon. Whitney Dotson
Hon. Robert Lieber

Executive Director:
Patricia V. Jones

Chris Barton August 24, 2012
EBRPD, Land Division
PO Box 5381 Oakland, CA 94605-0381

Re: Albany Beach Restoration/Public Access DEIR comments –SCH#2012032072

Dear Mr. Barton:

Citizens for East Shore Parks (CESP) commends the EBRPD for its plans to preserve and restore this heavily used portion of Eastshore State Park. And, CESP looks forward to the completion of this important project to close the broken link in the San Francisco Bay Trail. CESP-1

However, we have specific comments on the DEIR (please see more detail in the Sierra Club's letter of August 14, 2012): CESP-2

- The primary issue that needs to be adequately addressed in the EIR is the off-leash dogs that currently overrun the beach and neck. Specifically: CESP-3
  1. Flora and fauna impacts of dogs running over the area; CESP-4
  2. Impacts of dog urine and feces on the restoration areas and surface and subsurface hydrology; CESP-5
  3. Aesthetic impacts of a small area overrun with a single use; CESP-6
  4. Impacts on other park users, especially seniors, handicapped and families with children who do not want to go to this area and loss to them of an exceptional recreational and scenic location that they cannot enjoy; CESP-7
  5. Impacts of dog-on-dog incidents documented by cities and other agencies who have had to police dog attacks on other dogs; CESP-8
  6. The lack of enforcement of on-leash dog rules; CESP-9
  7. Impact on enforcement and the environment from people who in the past have torn down or defaced signs noting that dogs are supposed to on-leash CESP-10
  8. The DEIR does not address the contradiction between the Eastshore State Park General Plan's requirement to comply with State Park regulations and the existing failure to enforce off-leash dogs. CESP-11

- The DEIR does not adequately evaluate the impact of water craft on the intertidal/subtidal habitats or on the impacts of birds. CESP-12

Thank you. Sincerely,

Patricia V. Jones

Patricia V. Jones
Cc: Robert Cheasty, Norman LaForce, Mike Lynes, Whitney Dotson

The mission of Citizens for East Shore Parks is to create a necklace of shoreline parks from the Oakland Estuary to the Carquinez Strait.

Response to Comments CESP-1 through CESP-12

Response to CESP-1

The comment is noted. No response is required.

Response CESP-2

See Responses CESP-3 through CESP-12.

Response CESP-3

As stipulated in CEQA, this EIR evaluates the impacts of the proposed project compared to the baseline of existing conditions. The impacts of off-leash dogs that currently use the project site are an existing condition, rather than impacts of the proposed project.

Response CESP-4

As discussed in Response CESP-3, impacts on biological resources of dogs that currently use the project site are an existing condition, rather than impacts of the proposed project. Section 4.3 Biological Resources, pp. 130-139, discusses the impacts on biological resources of the additional dogs, including off-leash dogs, that would come to the site as a result of the project, and discusses the reasons why these impacts would be less than significant, including project design features and the decrease in density of dogs per acre.

Response CESP-5

As discussed in Response CESP-3, impacts on hydrology and water quality of dogs that currently use the project site are an existing condition, rather than impacts of the proposed project. Section 4.3 Biological Resources, pp. 135-136 and 138-139, and Section 4.8 Hydrology and Water Quality, pp. 205-207, evaluate the potential water quality and biological impacts resulting from additional dog use and associated dog waste at the project site, including on restoration areas, and discusses the reasons why these impacts would be less than significant.

Response CESP-6

Impacts on aesthetics from dogs that currently use the project site are an existing condition, rather than impacts of the proposed project. Section 4.1 Aesthetics, pp. 68-90, evaluates the potential aesthetic impacts resulting from the project. The project will not result in a small area overrun with dogs as suggested by the commenter. Rather, the project will result in a greater diversity of users and will decrease the density of dogs per acre. Thus, no aesthetic impacts associated with the Project's additional dog use were identified.

Response CESP-7

See Response SC-2.

Response CESP-8

Dogs are currently present at the project site. As stated on page 39 of the Project Description, some of these dogs are off-leash. Dog-on-dog incidents that currently occur at the site are an existing condition, not an impact of the Project. The project would result in continued use of the site by dogs. As discussed in Section 4.9 Land Use and Planning, pp. 242-245, the project would result in both additional dogs on the site and additional acreage accessible to dogs. The net effect would be a decrease in intensity of dogs (dogs per acre). Therefore, the Project would not increase the frequency of dog-on-dog incidents, and may decrease their frequency.

Response CESP-9

The Proposed Project would not change existing dog-related policies or their enforcement at the site.

Response CESP-10

Past incidents of defacement of signage regarding dog policies are an existing condition, rather than impacts of the proposed project. The Proposed Project would not change existing dog-related policies or their enforcement at the site. The environmental impacts of the Project, including changes in dog use, are evaluated throughout Section 4. Environmental Evaluation, pages 65-304, including Land Use and Planning, pp. 242-245, Biological Resources, pp. 135-136 and 138-139, and Hydrology and Water Quality, pp. 205-207. With implementation of mitigation measures identified in the Draft EIR, all impacts would be reduced to a less-than-significant level.

Response CESP-11

See Response SC-8.

Response to CESP-12

See responses SC-9 and SC-12.

Jewish Youth for Community Action

From: Chris Barton
To: thawbaker@questaec.com; Jeff Peters (jpeters@questaec.com)
Subject: FW: Save Albany Bulb!
Date: Thursday, September 27, 2012 8:57:26 AM

Another comment from my junk email folder.

-----Original Message-----
From: Molly Cohen [mailto:mollyc@ahs510.org]
Sent: Sunday, August 26, 2012 12:40 PM
To: Chris Barton
Subject: Save Albany Bulb!

Hello, we are Bay Area residents and members of Jewish Youth for Community Action. We love the Albany Bulb and don't want the beautiful artwork and sculptures to be demolished. JYCA-1

Thank you,
Ophir, Sasha, Bet, Frieda, and Molly

Response to Comment JYCA-1

The Project would not affect the Albany Bulb, including the art at the Bulb. As discussed in Section 4.4 Cultural Resources, page 150, the Project could disturb the wild art on the Project site, which includes the Albany Neck and Albany Beach. With the implementation of the cultural resources guidelines in the Eastshore State Park General Plan, and the Mitigation Measure AESTH–1, on page 88 in Section 4.1 Aesthetics, which calls for relocation of wild art pieces such as the "Rubik's Cube" that are durable, can be physically moved, contain unique features, and pose no health or safety risk, the impact of the Proposed Project on wild art would be reduced to a *less-than-significant* level.

Albany Landfill Dog Owners Group

August 27, 2012

Chris Barton
East Bay Regional Park District, Land Division
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Albany Beach Restoration and Public Access Project
Draft Environmental Impact Report (DEIR)

Dear Mr. Barton:

Thank you for the opportunity to review the Draft Environmental Impact Report – and congratulations on a clear, comprehensive document and a plan that attempts to balance public access and recreation with conservation and preservation. We welcome the additional acreage, recreational opportunities and habitat that the beach project will provide. ALDO-1

Thanks also for calling out several art objects that should be preserved, including the Rubik's Cube and, if possible, the driftwood chair and other artworks.

Albany Landfill Dog Owners Group (ALDOG) strongly supports the comments submitted by the Point Isabel Dog Owners Association and echoes its concerns about retaining recreational uses for park visitors with dogs under voice control. ALDO-2

ALDOG believes that East Bay Regional Park District (EBRPD) dog polices should apply throughout the Albany waterfront. ALDOG supports having dogs on leash in developed areas, on paved trails, and in parking lots. However, we believe that, consistent with Ordinance 38, dogs should be allowed under voice control in undeveloped areas. ALDO-3

There are excellent reasons for that and our comments during the scoping period detailed many of those. It may suffice here to note that on page 241 the DEIR states that, "Existing EBRPD policies and operations govern the park" and Figure 4.9-1 shows EBRPD ownership of the Albany Plateau and much of the Neck. ALDO-4

To be consistent with EBRPD policies, we recommend making the following corrections to the DEIR:

- Page 39: "Dogs on leash are allowed subject to East Bay Regional Park District regulations. Unleashed dogs currently use the Beach and Neck in violation of those regulations." Clearly the Neck, an unpaved trail, is an undeveloped area where dogs can be under voice control under Ordinance 38. ALDOG also believes that the beach is an undeveloped area and an important multi-use recreational option for all East Bay residents, including people with dogs under voice control. ALDO-5

- Page 61: "Dogs permitted on leash only" should be changed to "Dogs permitted under voice control in undeveloped areas." (You may want to add that dogs should be on leash in parking lots, developed areas, and on paved trails.) ALDO-6

- Page 215: "Recent amendments to the Ordinance include addition of a requirement that dogs be on leash in developed areas if within 200 feet of a parking lot, trailhead, or staging area." This is not quite accurate. On April 17, 2012, the Board agreed to insert the important words "as posted." (The wording provided to us by EBRPD Public Affairs is this: "No person shall bring into, or permit any dog, cat, or animal, to enter any Developed Area or be within 200 feet of any parking lot, trail head or staging area, as posted, unless such animal is securely leashed and under control of that person.") ALDO-7

- Page 224: "The Project would remove invasive species and replant native species. The dune/wetland complex at Albany Beach (Area 2) would be fenced to prevent access. Dogs would be permitted on leash only consistent with EBRPD policies." If this refers to the dune/wetland complex specifically, surely neither dogs nor people will be permitted within the fenced area? If it refers to the park in general, then Ordinance 38 should apply. ALDO-8

- Page 229: "In accordance with EBRPD policy, dogs would be allowed on leash on the Bay Trail spur (Area 1) and spine (Area 3) of the Proposed Project. The dune/wetland complex at Albany Beach (Area 2) would be fenced to prevent dog intrusion." All undeveloped parts of the Bay Trail Spur and spine should allow dogs under voice control. ALDO-9

- Page 242: The paragraph at the bottom mischaracterizes the Albany Neck and Albany Beach as "developed park areas." The Neck is unarguably undeveloped – as is the beach, which is not a designated swimming beach (and will never have a lifeguard, dedicated ranger, visitor center, changing facilities, or even running water). Neither area is posted to restrict dogs – and many issues about users and uses of at the Albany waterfront have been unresolved since Eastshore State Park (ESSP) was established in 2002. The DEIR may overstep when it says that, "Unleashed dogs currently use the Beach and Neck in violation of these regulations." ALDO-10

  Regarding that lack of resolution: The EBRPD district website says that, "Over 4,000 major stakeholders and interested parties reached substantial consensus on the future uses and improvements for the park." (Apparently a list of those participants no longer exists; however, the General Plan notes that, "Four newsletters were prepared corresponding to the workshops and mailed out to approximately 4,000 names on the project mailing list." Very likely that's where the "4,000" number comes from.) There is no way of knowing how many of the 4,000 reached consensus regarding the Albany waterfront, and even the state park commissioners noted at the ESSP hearing that the issues were not resolved. We do know that 3,000 signatures were submitted of park users who wanted to grandfather in ALDO-11

existing, long-time activities at the Albany waterfront, including off-leash dog-walking – and that another 10,000 signatures were presented to the Board this past December. ALDO-11 (cont.)

- Page 244: The fourth bullet ("The primary ecological function…") states that, "The presence of dogs under existing conditions significantly degrades this habitat value, by deterring shorebirds from using this area." This statement is incomplete without adding "and people." While the public has access, shorebirds will avoid the beach. ALDO-12

- Page 245: The Albany Bulb isn't an off-leash dog park – and Point Isabel is a multi-use park that allows off-leash dogs. We would suggest changing the bullet at the top of the page to, "There are other off-leash dog options available to visitors in the area, including Point Isabel, a portion of Cesar Chavez Park, and the Albany Bulb." ALDO-13

We would have liked more discussion in the DEIR of improving public use of "South Beach." It would be great to tie in this attractive, clean beach, which is apparently part of the original shoreline and would make a fine people-only beach, to the Albany Beach project. ALDO-14

Lastly, we would ask you to perhaps revisit the allocation of spaces in the new parking area. We strongly support ADA access (and people who bring dogs to the waterfront also need and use those spaces, of course). However, the Estimated Current Daily Users at Project Site (page 40) suggests that an average of four users with mobility issues visit the waterfront each day. The new parking calls for 10 unrestricted spaces, five for drop-off of non-motorized watercraft, and five ADA accessible spaces (including one van accessible). This would be in addition to several ADA parking spots already on Buchanan Street. ALDO-15

If this project doubles the number of people with disabilities who use the waterfront – and that would be wonderful – that would provide one spot all day, every day, for each of those users. The reality, as noted in the DEIR, is that most visitors park for a couple of hours at most and there is quite a bit of turnover during the day.

Finally, we applaud the plan to improve signage and provide bag dispensers and containers. Thank you for all your hard work on this. We look forward to working with you on public education and on making the waterfront welcoming to and enjoyable for all. ALDO-16

Best regards,

Mary Barnsdale
Albany Landfill Dog Owners Group

Linda Yoshikawa
Albany Landfill Dog Owners Group

cc: East Bay Dog Alliance Working Group, PIDO

Response to Comments ALDO-1 through ALDO-16

Response ALDO-1

The comment is noted. No response is required.

Response ALDO-2

See Responses PIDO-1 through PIDO-16.

Response ALDO-3

The comment does not pertain to the EIR's evaluation of environmental impacts of the Proposed Project and thus no response is required. The comment will be forwarded to the EBRPD Board for its consideration prior to any decision on the Project.

Response ALDO-4

The comment is noted. Comments on the Notice of Preparation of an EIR (i.e., comments during the "scoping period") that pertain to the environmental impacts of the Proposed Project were incorporated into the determination of the issues to be evaluated in the Draft EIR.

Response ALDO-5

The Albany Beach and Neck are classified by the District as developed park areas, where dogs are required to be leashed. The next-to-last paragraph on page 39 of the Draft EIR in Chapter 3 Project Description accurately states "Dogs on leash are allowed subject to East Bay Regional Park District regulations. Unleashed dogs currently use the Beach and Neck in violation of these regulations."

Response ALDO-6

The list of bullet points at the top of page 61 of the Draft EIR in Chapter 3 Project Description, including "Dogs permitted on leash only", accurately describes District rules.

Response ALDO-7

The third paragraph under the headings Local Regulations and Policies, East Bay Regional Park District, on page 215, is amended as follows:

Ordinance 38 establishes rules and regulations that apply to all EBRPD parklands.[150] Violation of the Ordinance is punishable as a misdemeanor or an infraction. Recent amendments to the Ordinance include addition of a requirement that "No person shall bring into, or permit any dog, cat, or animal, to enter any Developed Area or be within 200 feet of any parking lot, trial head or staging area, as posted, unless such animal is securely leashed and under control of that person."~~dogs be on leash in developed areas if within 200 feet of a parking lot, trailhead, or staging area.~~ The Ordinance ~~is~~ was adopted by the Board of Directors pursuant to sections 5541, 5558, 5559, and 5560 of the California Public Resources Code.

At the Project site, signage with leash requirements has been installed numerous times in the past, but has been removed or vandalized by the public. The Project would include more durable/permanent signs for posting the leash requirement. Currently, in the absence of signage, park staff and District police verbally advise violators of the dogs on leash rule. Nonetheless, Ordinance 38 policies still apply regardless of the presence or absence of regulatory signage.

Response ALDO-8

As stated under Habitat Enhancement on page 60 of the Draft EIR in Chapter 3 Project Description, sensitive areas, such as the restored dunes, would be permanently fenced. As stated under Area 2: Albany Beach, on page 86 in Section 4.1 Aesthetics, the Project would include post and wire fencing around restoration areas. As stated under Impact BIO-4, on page 135 in Section 4.3 Biological Resources, the Project would include installation of a post and wire fence or barrier to limit access by dogs and humans to restored dune areas. As stated under Item d, on page 139, fences and gates would restrict movement of humans and dogs into enhanced habitats.

The discussion of Consistency in the fourth row of Table 4.9-2, on page 224 of the Draft EIR in Section 4.9 Land Use and Planning, is amended as follows:

The Project would remove invasive species and replant native species. The dune/wetland complex at Albany Beach (Area 2) would be fenced to prevent access by people and dogs. Dogs would be permitted on leash only, consistent with EBRPD policies.

Response ALDO-9

The Albany Beach and Neck are classified by the District as developed park areas, where dogs are required to be leashed.

Response ALDO-10

As discussed in Response ALDO-7, signage with leash requirements has been installed numerous times in the past at the Project site, but been removed or vandalized by the public. The Project would include more durable/permanent signs for posting the leash requirement. Currently, in the absence of signage, park staff and District police verbally advise violators of the dogs on leash rule. Nonetheless, Ordinance 38 policies still apply regardless of the presence or absence of regulatory signage.

The last paragraph on page 242 of the Draft EIR in Section 4.9 Land Use and Planning, which states that Areas 1 and 2 of the project site (Albany Neck and Albany Beach, respectively) are classified as developed park areas, is accurate. The statement in the same paragraph that unleashed dogs currently use the Beach and Neck in violation of EBRPD regulations also is accurate.

Response ALDO-11

The comment is noted but does not pertain to the evaluation of environmental impacts of the Proposed Project. Thus no response is required.

Response ALDO-12

The fourth bulleted item on page 244 of the Draft EIR in Section 4.9 Land Use and Planning accurately states that the presence of dogs under existing conditions significantly degrades this habitat value, by deterring shorebirds from using this area. Any deterrence of shorebirds caused by the presence of people is additional to the effect of dogs, and does not change the fact that the presence of dogs significantly degrades habitat value by deterring shorebirds.

Response ALDO-13

The bulleted item at the top of page 245 is amended as follows:

There are other off-leash dog options~~parks~~ available to visitors in the area, including Point Isabel, Cesar Chavez Park, and the Albany Bulb.

Response ALDO-14

The comment requests a change to the Proposed Project. It does not pertain to the evaluation of environmental impacts of the Project as proposed, and thus no response is required. The comment will be forwarded to the EBRPD Board for its consideration prior to any decision on the Project.

Response ALDO-15

The comment requests a change to the Proposed Project. It does not pertain to the evaluation of environmental impacts of the Project as proposed, and thus no response is required. The comment will be forwarded to the EBRPD Board for its consideration prior to any decision on the Project.

Response ALDO-16

The comment is noted. No response is required.

Point Isabel Dog Owners Association

August 27,2012

Chris Barton
East Bay Regional Park District
Land Division
2950 Peralta Oaks Court
P.O. Box 5381
Oakland, CA 94605

Re: Albany Beach Restoration & Public Access Project Draft EIR
Comments of the Point Isabel Dog Owners Association (PIDO)

Dear Mr. Barton,

The Point Isabel Dog Owners Association ("PIDO) appreciates the opportunity to comment on the Albany Beach Restoration & Public Access Project (the "Project") and the Environmental Impact Report (the "EIR") on the Project.

PIDO and Its Interest In the Project: PIDO is a nonprofit organization with more than 5,000 members. The purpose of PIDO is to work closely with the East Bay Regional Park District (EBRPD) to maintain and protect Point Isabel as an voice-control dog area; to educate park visitors about their responsibilities in following park rules; and to preserve the natural environment at Point Isabel.

PIDO members are enthusiastic conservationists and strong supporters of an extensive system of national, state, regional, and municipal parks and natural areas in the San Francisco Bay Area. PIDO members are united by an interest in recreation opportunities within the parks for those with dogs, especially opportunities to enjoy recreation with their dog under voice control. PIDO-1

The interests of PIDO's members are directly affected by the proposed Project because many PIDO members engage in recreation in the Project area, and also because Point Isabel may be significantly impacted by actions taken with respect to the management of the Project site. Many PIDO members are among the roughly 10,000 supporters of dog recreation who participated in the scoping for the Project by submitting signatures supporting such recreation at the project site.

PIDO Comments on the Project and the Environmental Impact Report: There is much about the Project that PIDO strongly supports. PIDO applauds the efforts at habitat restoration and erosion control and improved infrastructure including bathrooms, additional parking, accessibility improvements, and upgraded trash facilities. PIDO-2

However, PIDO is deeply dismayed at the proposed elimination of recreation by people with dogs under voice control rather than leash control, and by the deficient discussion treatment in the EIR of this issue of critical importance to the users of the area. PIDO-3

PIDO accepts the necessity of the exclusion of both humans and dogs from critically sensitive restoration areas. We support habitat enhancement and soil stabilization, and recognize the potentially disruptive effect of human access (with or without dogs, and with or without leashes). PIDO-4

PIDO strongly objects, however, to the Project's proposed exclusion of persons accompanied by dogs under voice control from the Albany Beach and Neck. The document indicates that EBRPD is planning to PIDO-5

take this dramatic action to change the existing conditions in reliance on a provision of the 2002 East Bay Regional Parks Master Plan that contemplated that 'off-leash' dog walking would become a prohibited use to be eliminated altogether from East Bay shoreline parks other than Point Isabel. PIDO-5 (cont.)

Reliance on the outdated 2002 Master plan is misplaced. It is at odds with the reality that, over the past decade, this form of recreation has (1) increased dramatically within the Project area and at Point Isabel, (2) become a 'de facto' permitted use (in the absence of prohibitory signage and the lack of any enforcement effort), and (3) in fact become the primary recreational use of the area. PIDO-6

These changed realities, and the ever-increasing demand for off-leash recreation opportunities driven by social and demographic trends in the region, require that an update to the Master Plan and its accompanying environmental document be completed before any action is undertaken that would change the existing condition with respect to use by persons accompanied dogs under voice control. PIDO-7

The EIR fails to adequately address this issue. The quality of its analysis is impacted by a pervasive failure to recognize any difference between the preferences and experiences of park users who choose to be accompanied by dogs on leashes, and the preferences and experiences of park users who choose to be accompanied by dogs under voice control. For example, Table 3-2 (p. 40) provides a count for the category "Walker/hiker (with dog)" without any distinction between leashed and unleashed dogs. PIDO-8

From the perspective of a person who enjoys the parks in the company of a dog, the experience offered by the opportunity to allow the dog off leash may differ significantly from the opportunity to walk with the dog on a leash. PIDO believes it is precisely this factor – the opportunity to allow one's dog to walk under voice control - that has made Point Isabel the most heavily used park in the EBRPD system. PIDO-9

The EIR's failure to distinguish between these two types of recreation leads to confusion and to analytic errors in the evaluation of potential impacts. For example, the EIR's conclusion that the Project will lead to more visits in the category "Walker/hiker (with dog)" may well be erroneous, if many of the current visits in that category are by persons seeking off-leash recreation opportunities who will be exposed signage prohibiting that particular activity as a result of the Project. PIDO-10

The same confusion leads to an inadequate analysis in the document of the likelihood that persons seeking off-leash recreation opportunities will choose to recreate at Pt. Isabel, thereby adding to the congestion already experienced there at peak times, rather than choosing to 'leash up' and remain at the Project site. PIDO-11

PIDO's Suggestions Regarding Modifications to the Project and the EIR

PIDO urges that the physical improvements that are the core of the proposed Project be separated from the unrelated management proposal to reduce or eliminate the predominant recreational use of the Project site – namely the enjoyment of the area by recreationists with their dogs under voice control. The signage to be constructed as a part of the Project should be limited to the transmission of educational information about the necessity for both humans and dogs to stay out of the restoration areas, and other information useful in parks frequented by dogs (such as clean-up requirements and bags). PIDO-12

It is counterproductive to the fulfillment of the purpose and need of the Project to include signage that informs park patrons of the existence of leash regulations that have never previously been enforced. PIDO-13

PIDO believes the effect of such signage will be to discourage recreation at the site by rule-abiding dog owners with a preference for enjoyment of the parks with their dogs under voice control. The members of this user group – including the members of PIDO - are not only the primary users of the area, but are a positive force for the care of the parks that accommodate their activities. PIDO-13 (cont.)

PIDO suggests that EBRPD defer to another day the question whether the well-established predominant use of the area should be allowed to continue or signed against. That issue should be taken up only after a meaningful analysis has been conducted of the desirability and the potential impacts of the prohibition of this user group. Such an analysis would include, for example: factual data on what proportion of the current users of the area are engaged in this recreational activity (recognizing the meaningful distinction on-leash and voice-control enjoyment), an updated review of the growth in demand for this form of recreation, and an adequate analysis of the potential impacts of its proposed prohibition at the Project site on Pt. Isabel and at other potential alternative sites for enjoyment with dogs under voice control. PIDO-14

Conclusion

The members of PIDO love the Albany Beach and its environs. Many members of PIDO look to this area to provide a unique recreational experience, unavailable at Point Isabel or Cesar Chavez Park – the opportunity to enjoy a sandy beach in the company of dogs controlled without leashes. Please do not take this away from us. Please give PIDO the opportunity to become an enthusiastic supporter of the Project, and to become a partner in fostering self-policing by dog recreationists at the site. PIDO-15

Thank you for your consideration of these comments, we look forward to working with you to support a Project that will encourage the responsible recreation activities of PIDO's membership and others who enjoy the Albany Beach and its surroundings in the company of dogs. PIDO-16

Sincerely,

Dianne Sequoia; PIDO, Chairperson.

Response to Comments PIDO-1 through PIDO-16

Response PIDO-1

The petition was submitted to the District Board of Directors on December 20, 2011 during the public comment period for proposed changes to Ordinance 38. The petition was not submitted in response to the CEQA Notice of Preparation scoping process.

Response PIDO-2

The comment is noted. No response is required.

Response PIDO-3

The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control.

Response PIDO-4

The comment is noted. No response is required.

Response PIDO-5

The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control.

Response PIDO-6

The Proposed Project, including its relationship to the 2002 Eastshore State Park General Plan, is described in Chapter 3 Project Description, pages 25-64. The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control.

Response PIDO-7

The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control. The request for revision to the 2002 Eastshore State Park General Plan and East Bay Regional Park District Master Plan does not pertain to the evaluation of environmental impacts of the Proposed Project, which is the purpose of this EIR. The State, not EBRPD, is responsible for any changes to the Eastshore State Park General Plan.

Response PIDO-8

The Proposed Project, which would not change existing policies at the site regarding dogs, is described in Chapter 3 Project Description, pages 25-64. This EIR evaluates the potential environmental impacts of the Project, identifies mitigation measures as necessary to reduce impacts to a less-than-significant level, and evaluates project alternatives, at a level of detail

that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project. The information on site users presented in Table 3-2 on page 40 is sufficient for this EIR to comply with CEQA, and additional analysis is not required.

Response PIDO-9

The comment is noted. No response is required.

Response PIDO-10

The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control. Thus, the EIR uses data regarding the existing number of users with dogs to estimate the number of future users with dogs.

Response PIDO-11

The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control. Thus, the Project will not likely lead to increased usage at Point Isabel.

Response PIDO-12

The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control. At the Project site, signage with leash requirements has been installed numerous times in the past, and will be installed as part of the Project.

Response PIDO-13

The Proposed Project would include signage regarding dog policies, but would not change the existing policies at the site regarding dogs, including policies on leash and voice control.

Response PIDO-14

The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control. This comment does not concern the EIR's discussion of the environmental impacts of the Project, but it will be forwarded to the EBRPD Board for consideration prior to any decision on the Project.

Response PIDO-15

The Proposed Project would not change existing policies at the site regarding dogs, including policies on leash and voice control.

Response PIDO-16

The comment is noted. No Response is required.

Golden Gate Audubon Society

November 5, 2012

Via Email and US Mail
Chris Barton
EBRPD Parks & Land Division
2590 Peralta Oaks Court
Oakland, CA 94605
Email: cbarton@ebparks.org

RE: Comments regarding Albany Beach Restoration Project EIR

Dear Mr. Barton:

I am writing on behalf of the Golden Gate Audubon Society (GGAS) and its members and supporters regarding the Environmental Impact Report (EIR) for the Albany Beach Restoration and Public Access Project. In all, we support the Proposed Project's components of (1) habitat improvement (2) recreation and facilities enhancement, and (3) completion of a spur of the Bay Tail. (*See* EIR, at 1)

GGAS' mission is to protect Bay Area birds and other wildlife, to conserve and restore native habitat, and to connect people of all ages with the natural world. Our members use and enjoy the Albany Shoreline to engage in outdoor recreation, including strolling and bird-watching. The Shoreline and the adjacent mudflats are recognized as an Audubon Important Bird Area of statewide significance and contribute to the quality of the San Francisco Bay as a site of hemispheric significance for shorebirds and seabirds. The site provides habitats for birds and other wildlife that have become increasingly scarce due human activity and disturbances. GGAS-1

GGAS provides these comments to improve the protection and enhancement of the site's ecological features. We primarily focus on biological benefits and impacts arising from the Proposed Project. Overall, we encourage greater use of scientific surveys to assess ongoing impacts, public publication of results from surveys, and adoption of an adaptive management plan if the impacts resulting from the project are greater than those anticipated in the DEIR.

I. Biological Benefits and Impacts

Overall, GGAS is enthusiastic about this project. While GGAS generally recommends adoption of the most environmentally-sensitive alternative, we understand that this unit is a multi-use park that must meet the needs of a diversity of users in a heavily urbanized environment. We therefore recognize that the adoption of the Preferred Alternative is an effort to meet those needs and only ask that wildlife and habitat values be protected to the extent described in the DEIR. GGAS-2

GOLDEN GATE AUDUBON SOCIETY
2530 San Pablo Avenue, Suite G Berkeley, California 94702
phone 510.843.2222 *fax* 510.843.5351 *web* www.goldengateaudubon.org

To that end, GGAS encourages implementation of the optional Intertidal and Subtidal Habitat Features. (EIR, at 45-46) These features would likely improve wildlife habitat features at the site and may take some of the multi-use burdens (and conflicts) that may arise from restoration and improvement along Albany Beach (which is likely to see more human use, impacts from dogs, etc.). GGAS-2 (Cont.)

A. Impacts BIO-1, BIO-6

Mitigation Measure BIO-1a states that Burrowing Owl surveys will be conducted at the site each year of the construction project. (EIR, at 9, Table 2-1) GGAS recommends that the surveys be conducted during the winter (December-February), as that is the time that Burrowing Owls are mostly likely to occur at the site. GGAS-3

GGAS approves of Mitigation Measure BIO-1b, which would require pre-construction surveys during the breeding season to be conducted no more than 14-days prior to initiation of activity. (EIR, at 9, Table 2-1) We note that due to construction at San Francisco's Pier 70 near Aqua Vista Park, Caspian Terns may lose the only other nearby nesting area other than Brooks Island. Arguably, this increases the importance of Brooks Island for Caspian Tern nesting in the Central Bay. GGAS-4

As discussed above, monitoring reports should be made available to the public. While the DEIR states that the District will make annual reports to permitting agency, it does not state that the District will provide the results to the public. (*See* DEIR, at 63) GGAS recommends that Mitigation Measure BIO-1b be amended to require that the results of the bird surveys be made publicly available (preferably through the East Bay Regional Park District's website). The results will not only provide assurances that breeding birds are not disturbed, they will also provide useful information about birds breeding at the site, which will contribute to regional monitoring efforts regarding shorebirds and other species using the shoreline. GGAS-5

B. Impact BIO-2

GGAS is very concerned about potential impacts to the endangered California Least Terns that by occur due to the project. (*See* EIR, at 10, Table 2-1) Overall, GGAS agrees that the likelihood of negative impacts is relatively small; however, given that the California Least Tern is an endangered species with a fragile rate of recovery, the consequences for negative impacts on the terns could be very significant.

GGAS is concerned that Mitigation Measures BIO-2a and BIO-2b may be insufficient to adequately protect the endangered California Least Terns. At a minimum, the project should include active monitoring of the site during construction to assess impacts and the efficacy of the Mitigation Measures. The results of the surveys should be provided to the public and published with other such resulted on the District's website. GGAS-6

C. Impact BIO-5

GGAS is very concerned about the protection of eelgrass at the site. Mitigation Measure BIO-5e states that after the project, the contractor will conduct a post-construction survey of the eelgrass and, if damage has occurred, will conduct restoration to offset the damaged eelgrass. (EIR, at 11, Table 2-1) GGAS recommends that the Mitigation Measure be modified to require that the post-construction eelgrass report be publicly posted on a website (preferably the East Bay Regional Park District's website) and that concerned citizens and community members be contacted regarding the release of the report. GGAS-7

Moreover, it is our understanding that eelgrass restoration can cost more than one hundred thousand dollars per acre. We are concerned that there will be insufficient funds to conduct restoration once the project is complete. Therefore, we ask that the Mitigation Measure BIO-5e be amended to require either a restoration bond or an equivalent instrument to ensure that funds are available should restoration be necessary. GGAS-8

D. The EIR Should Assess Other Impacts to Biological Resources

While the project shows promise for improvements at the shoreline, the EIR fails to consider several serious impacts that are likely to be exacerbated as a result of the project. Impacts from off-leash dogs and watercraft recreation are but two of the activities that should be addressed with greater precision. GGAS-9

1. The EIR Should Be Revised to Assess Impacts from Off-leash Dogs.

The DEIR's analysis of dog-related recreation at the site is unclear. (*See* DEIR, at 215, 242-245) The site is currently heavily used by dog owners as a site for off-leash dog recreation. (*See* DEIR, at 39, 139) Off-leash dog recreation has significant negative impacts on the local ecology, affecting wildlife (especially birds), plants, and other park visitors. (*See, e.g.*, National Park Service. 2011. *Draft Dog Management Plan/Environmental Impact Statement*, at i-ii, 109-220 (Table 5. Environmental Impacts); *see also* DEIR, at 242-245) GGAS notes that many, but not all, dog owners comply with leash requirements. The problems arise from the large (and apparently growing) number of noncompliant dog walkers. GGAS-10

The heavy off-leash dog recreation is in violation of park regulations which prohibit dogs on the beach or, at a minimum, require dogs to be on leash. (*See* DEIR, at 39, 215, 242) Moreover, the activity contradicts some of the central tenets of the park's General Plan, which require the protection of wildlife. (*See, e.g.*, Eastshore State Park General Plan, at II-25 (identifying the park's sandy beaches as important for their ecological resources, including foraging and roosting sites for birds, and because of their limited availability within the park unit); *see also* DEIR, at 242)

The DEIR concludes that because public access space will be expanded by the project, the average number of dogs per acre will decline. (DEIR, at 139, 245) The DEIR provides no

evidence to support this conclusion. We think it equally if not more likely that the number of dog walkers will increase with expanded public access, or at a minimum remain the same. Moreover, the DEIR does not seem to account for the growing local population, a growing subset of which will have dogs and visit the park for recreation. Finally, the DEIR does not account for loss of the beach and other shoreline to sea-level rise, which will force birds, dogs and other users into using smaller spaces and result in more conflicts. GGAS-10 (Cont.)

Therefore, the DEIR should be revised to better consider how the different alternatives affect the frequency of and impacts from off-leash dog recreation. It is not adequate for the DEIR to assume that off-leash dog recreation will not occur because signage will be improved. Because this illegal activity is widespread and because enforcement is almost non-existent, the DEIR should assume that the activity will continue (and likely grow) and assess those impacts. Moreover, the DEIR should be revised to include adaptive management measures if the initial estimates about dog recreation usage and impacts are in error. (*See, e.g.*, DEIR, at 139, 245)

a. If unchecked, off-leash dog recreation will threaten dune creation and enhancement.

The project plans to create or enhance dunes with native plant life will not be successful unless the restored areas are protected from recreational users and dogs. The EIR should assume that the restoration sites will see impacts and should include mitigation measures such as fencing and improved education and enforcement. While the DEIR identifies that some fencing will be installed, it is unclear how effective the "low" fencing will be. (*See* DEIR, at 53, 244-245) GGAS recommends that the District consult with the National Park Service about fencing installed at the Crissy Field Wildlife Protection Area in the Presidio unit in San Francisco; the fencing there has been demonstrated to be effective without negatively affecting aesthetic or biological values. GGAS-11

b. The EIR should include measures to mitigate impacts from dogs.

The EIR should include mitigation measures to reduce or otherwise offset these impacts. For example, an enclosed off-leash dog recreation area may be appropriate. The enclosed off-leash dog recreation areas at Point Isabelle and Cesar Chavez Park are extremely popular and successful. Perhaps a similar enclosed area can be constructed at or near the project site. GGAS-12

GGAS strongly encourages the Park District to conduct outreach to local dog owners to avoid confusion or surprise when and if changes in current dog uses are implemented. Elsewhere, dog owners have complained about sudden and unfair enforcement of regulations. GGAS encourages the land managers to avoid this problem by conducting rigorous six-month outreach program prior to the commencement of issuing citations. A robust compliance program should be implemented after the six-month introductory phase. We also strongly encourage working with local dog-owner and dog-walking groups to help educate other dog-walkers and create a culture of compliance with park rules.

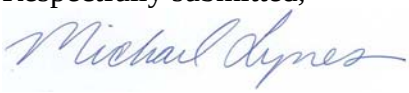
To this end, the EIR should include a mitigation measure that will ensure adequate education about and enforcement of leash requirement regulations. The promise of only more education and signage (*see* EIR, at 139) will not be realized without a commitment to enforce the regulations. As we have seen in San Francisco, where public agencies fails to enforce leash regulations, scofflaw behavior spreads and becomes engrained, creating a sense of entitlement and culture of noncompliance that fosters conflicts—a result that is unwieldy for the managing agency, unfair to other park users, and ultimately extremely expensive and controversial. The longer the issue goes unaddressed, the greater the impacts to other people and park resources and the harder it is to mitigate. We encourage the Park District to address this matter immediately and forthrightly rather than glossing over it in the EIR. GGAS-12 (Cont.)

2. The EIR Should Be Revised to Consider Impacts from Increased Watercraft at the Site.

On-water recreation is overall a positive outdoor activity that connects people with nature and can be a source of important exercise. However, watercraft can be extremely disturbing to birds, fish, marine mammals and subtidal habitats. The EIR does not discuss how watercraft recreation may change at the site or how its impacts may result in cumulative impacts given other aspects of the project (e.g., impacts from construction, ferry services, etc.). Therefore, GGAS recommends that the EIR be revised to include an assessment of impacts from watercraft and, if necessary, mitigation measures to lessen or offset those impacts. At a minimum, impacts from watercraft should be assessed as part of an ongoing monitoring and adaptive management effort at the site. GGAS-13

Thank you for the opportunity to comment on DEIR. If you would like more information about our comments or to discuss them further, please do not hesitate to contact me at (510) 843-6551 or mlynes@goldengateaudubon.org.

Respectfully submitted,



Mike Lynes
Conservation Director
Golden Gate Audubon Society

Response to Comments GGAS-1 through GGAS-13

Response GGAS-1

Thank you for the information, comments, and letter of support. The District already uses many of the same methods and procedures mentioned, including conducting site surveys and informal assessments of resource conditions and needs for use in developing and implementing on-going resource restoration, protection and management activities. These issues are discussed further in the following responses.

Response GGAS-2

The Optional Habitat Enhancement Project could be implemented by the District if it can obtain the needed funding for implementation, including construction, monitoring, and maintenance, and provided it is successful in obtaining regulatory permits from the resource management agencies. This is also discussed in SC-9.

Response GGAS-3

Burrowing owl surveys are currently conducted during the winter time period at the Albany Plateau Burrowing Owl Preserve, though no burrowing owls have been found to occupy the site since the Preserve was fenced and set aside for this species in 2007. It is appropriate that burrowing owl surveys be conducted no sooner than two weeks prior to initiation of project construction activities. . As described in revised Mitigation Measure BIO- 1a, if burrowing owls are found to be present at that time, then the District will consult with the Department of Fish and Game in implementing the DFG March 7, 2012 Staff Report on Burrowing Owl Mitigation, which may involve either temporary avoidance or relocation.

Response GGAS-4

Pre-construction biological surveys completed by qualified biologists typically note all wildlife observed during the field visits, in addition to the presence of actively used nests. The nesting bird surveys that will be conducted by a qualified biologist will note the presence of Caspian Terns, California Least Terns, as well as marine mammals, and other sensitive or protected wildlife species, if they occur within the project impact area.

Response GGAS-5

The District manages 65 individual regional parks and open space areas with over 112,000 acres of land, and prepares numerous reports on its planning, management and monitoring activities. The District currently has a process in place for interested members of the public to obtain information and reports upon request, and will provide the public with information regarding monitoring reports consistent with the California Public Records Act. Requests for biological resource related surveys and reports can be made to the District's Stewardship Manager. . Providing survey results and reports on-line at the District's home page will not increase the effectiveness of the Mitigation Measure.

Response GGAS-6

Based on the biological information collected and evaluated to date and as described in Section 4.3 Biological Resources, page 133 of the DEIR it is highly unlikely that California Least Tern would occur within the project area during construction and would be impacted directly by construction equipment or activities. Therefore an on-site biological monitor for protection of this species is not needed. However, even though potential direct construction impacts on Least Terns are not expected, and a specific mitigation measure requiring the presence of a qualified biological monitor was therefore not specified it should be noted as a result of Mitigation Measure BIO-3, a qualified biological monitor will be present during work within the inter tidal and sub tidal zone, for protection of marine mammal species. As a Migratory Bird, Mitigation Measure BIO- 1b, requiring pre-construction biological surveys for nesting birds would also apply. The qualified biological monitor can address any unexpected biological issues that arise during construction. In addition, the District will provide a qualified biological monitor to be present to protect sensitive or protected species and essential fish habitat during construction above the intertidal and subtidal area if required by project regulatory permit conditions, as issued by the Army Corps of Engineers in consultation with the US Fish and Wildlife Service and NOAA Fisheries As noted in response to GGAS-5, the results of any preconstruction biological surveys, or reports of observations during biological monitoring can be requested directly from the District Stewardship Manager.

Response GGAS-7

As noted above, the results of any preconstruction biological surveys, reports of observations during biological monitoring of construction activity, including the post construction eel grass surveys can be requested directly from the District Stewardship Manager. Providing survey results and reports on-line at the District's home page will not increase the effectiveness and efficacy of the Mitigation Measure.

Response GGAS-8

As the largest and one of the most respected Public Lands and Open Space Management special districts in the United States, East Bay Regional Park District has the necessary expertise, procedures in place, financial resources, and history of honoring commitments, whether they are in the form of CEQA Mitigation Measures, Permit Conditions, and obligations of an adopted Management Plan to undertake restoration of eel grass without the need to post a Bond.

Response GGAS-9

Potential impacts of increased dog use and increased non-motorized watercraft use on biological resources and water quality were addressed in the DEIR in Section 4.3 Biological Resources, pp.100-139, and in Section 4.8 Hydrology and Water Quality on pp.205-206. Additional information is presented in the response to comments SC-5, SC-6, SC-8, and SC-9.

Response GGAS-10

As discussed in Section 4.9 Land Use, pp. 242-243, the analysis of probable dog use increase in the DEIR was based on an analysis of current user statistics on the number of people with dogs, and expectations on increased visitor usage based on ITE vehicle trip generation and amount of parking spaces available.

In regards to sea level rise and loss of beach area resulting in additional wildlife/dog conflicts over the reduced beach and shoreline area, because of the slope of the beach, the loss of the beach area at Albany Beach will be minimal. For instance as shown on revised Figure 3.8a the beach area at Mean High Water would shift eastward about 20 feet at 2050, (a loss of less than ¼ acre of beach and shoreline) with a projected sea level rise increase of 16 inches. In comparison, the Proposed Project would reclaim between about 70 to 140 feet westward in converting the existing 2.8 acre parking area to dune sands, with about 2 acres of enhancement.

Response GGAS-11

The proposed Project Description (Section 3.0, pp 52-60) includes resource protection measures, including fencing, user education, and on-going enforcement of applicable laws and ordinances at a similar level of effort, to minimize impacts of dogs on sensitive and restored areas.

The District and its consultants reviewed the information developed on potential dog impacts on biological resources at Crissy Fields at the Presidio in San Francisco, as part of development of the Albany Beach Project Description and preparation of the Draft EIR, including inspecting the fencing used there to protect sensitive areas from dogs. The District will use this information to inform detailed construction plans for habitat protection fencing.

As a practice the District's design staff and its consultants regularly coordinates with and researches what other Regional Parks, the State Park system and the National Park Service do for resource sensitive design and protection, as well as on a variety of other topics, such as ADA design. The District will continue to informally coordinate with GGNRA staff on dog issues, including fencing design recommendations during the development of Area 2 design plans.

Response GGAS-12

The project will not alter leash law policies or enforcement. The project will slightly alter use patterns on the ground with fencing of sensitive dune habitat, increase of usable park area with acquisition of additional land and construction of park furnishings and signage. These improvements are not expected to cause confusion or surprise among dog owners. Construction project informational brochures routinely provided by the District before and during construction projects will help alleviate any confusion or surprise the public may have in response to implementation of park renovations. Providing a newly designated off-leash dog area within the Albany Beach Project Area is not consistent with the conservation area land use designation or project goals and objectives of the East Shore State Park General Plan.

The District has already conducted significant public outreach for this project. The District conducted 6 public meetings during the completion of the Albany Beach Planning and Feasibility Studies, and as a part of the Scoping for the DEIR. In addition, a number of public meetings were also held during the preparation of the East Shore State Park General Plan and EIR. All of these were well attended by residents of Albany Berkeley, Richmond, and other nearby communities with an interest in Albany Beach. The issue of the allowance of off leash dogs, the enforcement of existing rules, and the environmental impacts of dogs on wildlife and water quality was discussed at length at these meetings, and many local residents and beach users are already aware of opposing views on the issue and of the need for proper conduct at the beach when they are accompanied by dogs.

Fencing sensitive areas, posting information on dog regulations, and informally monitoring site resources are a part of the proposed Project Description for management of dog related issues. The proposed project does not include a revision of any rules regarding dog use at Albany Beach. Enforcement of existing regulations is not considered to be a CEQA issue.

Response GGAS-13

Additional information on potential non-motorized watercraft impacts on biological resources is presented in Response SC-9.

As indicated in Response BCDC-6 the District currently utilizes an informal adaptive management approach to managing all of its parks and public lands, and this approach will also be employed at Albany Beach. Park staff regularly assess the resources and management needs of all lands under their responsibility in conjunction with the District Stewardship Manager. Any areas of damage, land use conflict, or in need of additional protection and restoration are noted. These areas are either fenced off temporarily while undergoing restoration and enhancement, or additional protective fencing or other barrier or signage is installed to protect these areas. These same principals apply to wetlands and upland areas, as well as submerged tidelands and inter tidal and sub tidal habitats such as eel grass areas.

E. Private Firms and Individuals

John Nelson

Tom Hawbaker

From: John K Nelson [nelsonj@usfca.edu]
Sent: Wednesday, July 18, 2012 10:32 AM
To: cityhall@albanyca.org
Cc: Patricia Jones; Chris Barton
Subject: homeless task force / Albany Bulb

Dear City Council members, Ms. Jones, and Mr. Barton,

The recent initiative by the EBRPD to improve the trails, beach, and public access to the Albany shoreline is commendable and one that I support fully. JN-1

I wonder, however, whether this project is part of a more comprehensive plan to restore the entire "bulb" for public access and recreation. Right now, as you are no doubt aware, the bulb is overrun with squatters and homeless, whose disregard for safety (fires are common), cleanliness, sanitation, and the ecosystem (they strip trees of branches for their fires) compromise the enjoyment of being in this unique open space on the Bay. JN-2

I would appreciate a link to a website or a document that indicates the City is moving in a proactive way to deal with this problem. I know that funds are tight but it seems irresponsible to me that taxpayer's money is not being used to improve a local resource of great benefit to the community. JN-3

Sincerely,

John Nelson

John Nelson
Professor and Chair
Department of Theology and Religious Studies
Interim Executive Director, USF Center for the Pacific Rim
University of San Francisco
2130 Fulton St., San Francisco, CA. 94117
Office: 415-422-5093

Response to Comments JN-1 through JN-3

Response JN-1

The comment is noted.

Response JN-2

The effects of homeless people living at the Albany Bulb are an existing condition that would not be altered by the Proposed Project. The East Bay Regional Park District operates the Albany Neck, Albany Plateau and the Albany Beach area, and is the sponsor of the Proposed Project. The Albany Bulb is owned and operated by the City of Albany. The City of Albany, rather than the East Bay Regional Park District, would be responsible for any improvements to the Albany Bulb.

Response JN-3

See Response JN-2.

Melanie Hofmann

Tom Hawbaker

From: Melanie Hofmann [moonfiretextiles@sbcglobal.net]
Sent: Thursday, August 09, 2012 6:20 PM
To: Chris Barton
Subject: Albany Bulb

Chris: I was out at the Bulb today and saw the info about the proposed renovations to the facilities at the Bulb. As a photographer, specializing in Bay Area hummingbirds (mostly Anna's and Allen's), I was curious what is planned in terms of enhancing and maintaining their habitat. It seems to me that adding some food sources like a selection of native flowering sages might be a good plan. All the hummingbirds there now are attracted to the *Pride of Madeira* that grows near the parking area and out at the castle. The flowering season is not that long for this plants, so more flowers would be a great addition! Coyote Hills has done a lovely job with the nectar garden, creating a wonderful habitat for birds, butterflies and other wildlife. MH-1

Here is a link to some of my photos taken at the bulb:
http://www.facebook.com/media/set/?set=a.1299587857219.44985.1456088705&type=3&l=1913543774

I have more photos of the hummingbirds if you are interested in seeing them.

Thanks,
Melanie Hofmann
Berkeley
510 439-6672

Response to Comment MH-1

The Albany Bulb is owned and operated by the City of Albany. The City of Albany, rather than the East Bay Regional Park District, would be responsible for any improvements to the Albany Bulb.

East Bay Regional Park District owns and operates the Albany Neck, Albany Plateau and the Albany Beach area. The District is in the process of developing the Proposed Project (the subject of this EIR), which consists park and trail improvements for the beach area, south neck area and the San Francisco Bay Trail from Buchanan Street to Gilman Street.

The District is not currently developing detailed planting plans at this stage in the process; however, the comment regarding flowering plants for enhancing bird habitat is noted. Additional information on the project is available on the District's website at http://www.ebparks.org/planning#albany

Kenneth and Barbara Berniker

Tom Hawbaker

From: mkent@questaec.com
Sent: Tuesday, August 21, 2012 2:53 PM
To: Tom Hawbaker
Subject: FW: Albany Bulb [Kenneth, Barbara Berniker 08.21.12]

-----Original Message-----
From: Chris Barton [mailto:cbarton@ebparks.org]
Sent: Tuesday, August 21, 2012 2:35 PM
To: Jeff Peters (jpeters@questaec.com); mkent@questaec.com
Subject: FW: Albany Bulb [Kenneth, Barbara Berniker 08.21.12]

E-mail comment.

-----Original Message-----
From: Kenneth Berniker [mailto:berniker@alum.mit.edu]
Sent: Tuesday, August 21, 2012 2:32 PM
To: Chris Barton
Subject: Albany Bulb

Please leave the artwork alone. KBB-1

Thank you,

Kenneth Berniker
Barbara Berniker
El Cerrito
510-508-8504

Response to Comment KBB-1

The Project would not affect the Albany Bulb, including the art at the Bulb. As discussed in Section 4.4 Cultural Resources, page 150, the Project could disturb the wild art on the Project site, which includes the Albany Neck and Albany Beach. With the implementation of the cultural resources guidelines in the Eastshore State Park General Plan, and the Mitigation Measure AESTH–1, on page 88 in Section 4.1 Aesthetics, which calls for relocation of wild art pieces such as the "Rubik's Cube" that are durable, can be physically moved, contain unique features, and pose no health or safety risk, the impact of the Proposed Project on wild art would be reduced to a *less-than-significant* level.

Annie Frantzrskos

Begin forwarded message:

From: Annie <dgfennario@msn.com>
Date: August 21, 2012 10:32:14 AM PDT
To: "cbArton@ebayparks.org" <cbArton@ebayparks.org>
Subject: Art at Albany bulb

Dear Mr Barton
I am strongly opposed to both regulating and removing art at Albany bulb. I walk there several times a week with my dog. I believe that it would be unwise to " fix what isn't broken" . AF-1
Thank you .

Annie Frantzrskos
839 Neilson
Berkeley, Ca
94707
510-965-5782

Michael Kent
Principal
Michael Kent & Associates
5931 Golden Gate Avenue
San Pablo CA 94806-4126
voice/fax: 510.965.9002
michael@kentassoc.com

Response to Comment AF-1

The Project would not affect the Albany Bulb, including the art at the Bulb. As discussed in Section 4.4 Cultural Resources, page 150, the Project could disturb the wild art on the Project site, which includes the Albany Neck and Albany Beach. With the implementation of the cultural resources guidelines in the Eastshore State Park General Plan, and the Mitigation Measure AESTH–1, on page 88 in Section 4.1 Aesthetics, which calls for relocation of wild art pieces such as the "Rubik's Cube" that are durable, can be physically moved, contain unique features, and pose no health or safety risk, the impact of the Proposed Project on wild art would be reduced to a *less-than-significant* level.

Benjamin Caprile

Tom Hawbaker

From: Michael Kent [michael@kentassoc.com]
Sent: Tuesday, August 21, 2012 4:38 PM
To: Tom Hawbaker
Subject: Fwd: Albany bulb sculptures [Benjamin Caprile 08.21.12]

Begin forwarded message:

From: Chris Barton <cbarton@ebparks.org>
Date: August 21, 2012 2:26:24 PM PDT
To: "Jeff Peters (jpeters@questaec.com)" <jpeters@questaec.com>, "Michael Kent (michael@kentassoc.com)" <michael@kentassoc.com>
Cc: "Tamara S. Galanter (galanter@smwlaw.com)" <galanter@smwlaw.com>
Subject: FW: Albany bulb sculptures [Benjamin Caprile 08.21.12]

Another e-mail comment attached.

Chris Barton
Senior Planner | Environmental Programs
East Bay Regional Park District
2950 Peralta Oaks Court, Oakland, CA 94605
Tel: 510-544-2627 | Fax: 510-569-1417
cbarton@ebparks.org | www.ebparks.org

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From: bcaprile@gmail.com [mailto:bcaprile@gmail.com]
Sent: Tuesday, August 21, 2012 2:22 PM
To: Chris Barton
Subject: Albany bulb sculptures

Hello,

As a frequent user of the albany bulb trails, I think it would be a shameful mistake to remove any of the artwork at Albany bulb. The art located around the albany water front park is the least of the park's problems, and it is a valuable location in the context of east bay recycled art. The sculptures along the beach are a testament to the creative force of the residents of the bay area, and to remove them would be a blow to bay area culture. BC-1

-Benjamin Caprile

Response to Comment BC-1

See Response AF-1.

Patricia Murphy

Tom Hawbaker

From: Chris Barton [cbarton@ebparks.org]
Sent: Wednesday, August 22, 2012 10:49 AM
To: Jeff Peters (jpeters@questaec.com); mkent@questaec.com; thawbaker@questaec.com
Subject: FW: Albany Bulb [Patricia Murphy 08.22.12]

Another short e-mail comment.

-----Original Message-----
From: Murphy, Patricia [mailto:PMurphy@nektar.com]
Sent: Wednesday, August 22, 2012 10:43 AM
To: Chris Barton
Subject: Albany Bulb

Please let the art work be!

It is greatly appreciated.

PM-1

Thank you,
Pat

Response to Comment PM-1

See Response AF-1.

Eva Ulfeldt

Tom Hawbaker

From: Chris Barton [cbarton@ebparks.org]
Sent: Thursday, August 23, 2012 4:09 PM
To: thawbaker@questaec.com; Jeff Peters (jpeters@questaec.com); Michael Kent (michael@kentassoc.com)
Subject: FW: Albany bulb [Eva Ulfeldt 08.23.12]

Email comments

Chris Barton
Senior Planner | Environmental Programs
East Bay Regional Park District
2950 Peralta Oaks Court, Oakland, CA 94605
Tel: 510-544-2627 | Fax: 510-569-1417
cbarton@ebparks.org | www.ebparks.org

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From: eva@ulfeldt.com [mailto:eva@ulfeldt.com]
Sent: Thursday, August 23, 2012 4:04 PM
To: Chris Barton
Subject: Albany bulb

The public art at the Albany bulb is some of the most valuable and relevant in all of the bay area. I hope that in your upcoming review you will recognize this and preserve this local treasure . EU-1
Best,
Eva Ulfeldt

Sent from my Verizon Wireless Phone

Response to Comment EU-1

See Response AF-1.

Keith McAllister (1)

August 24, 2012

Chris Barton
East Bay Regional Park District, Land Division
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Albany Beach Restoration and Public Access Project
Draft Environmental Impact Report (DEIR)

Dear Mr. Barton,

Thank you for providing a copy of the Albany Beach project DEIR. It is in many respects a fine piece of work by EBRPD and Questa Engineering. However a few items require further attention as you prepare the Final Environmental Impact Report. KM1-1

1. The viability of native plant restorations on the site. The DEIR acknowledges on page 8 that viability of restoration is an "area of controversy," but the DEIR does not deal with that controversy. No evidence is presented that the proposed plantings will thrive on the site. Recent EBRPD experience with "native plant restorations," e.g. irrigated Berkeley Meadow and Oyster Bay, show that the expected result is quick reinvasion, and a natural replacement of the plantings by the original ruderal vegetation. Both the "neck" and the dunes behind Albany Beach are subject to considerable erosion by water and wind, respectively. What is EBRPD's plan for the site when the "restored" vegetation fails in the absence of irrigation, herbicides, and continual gardening? KM1-2
2. The effect of the project on Point Isabel. The DEIR argues that the likely effect of the project will be that people with dogs will be drawn from Point Isabel to the Albany Beach area. The argument, based on land area and number of parking spaces, is wholly unconvincing. The argument fails to distinguish between walking with a dog on-leash and walking with a dog off-leash. That distinction may not be significant to land use planners sitting in an office, but is crucial to people recreating on the ground. The project area is now a de-facto off-leash area. If the project will change that status, a realistic analysis of the effect on the already over-crowded Point Isabel is necessary. KM1-3

Some items to clarify are:

3. Status of the "Plateau." Figure 4.9-1 on page 239 indicates that the "Plateau" is owned by EBRPD. In that case, Ordinance 38 should apply, leaving that undeveloped area as "off-leash." KM1-4
4. Status of the Bulb. The DEIR on page 245 identifies the Bulb as an off-leash area. Although the Bulb is certainly a de-facto off-leash area, technically it is not. KM1-5

Thank you for your attention.

Keith McAllister
4127 Gilbert St
Oakland, CA 94611

Response to Comments KM1-1 through KM1-5

Response KM1-1

See Responses KM1-2 through KM1-5.

Response KM1-2

The proposed restoration areas on the Project site are currently occupied by ruderal vegetation. In case the restoration is not fully successful and some or all of the restoration areas revert to ruderal vegetation, this would be a return to existing conditions, rather than an adverse impact of the Project.

Response KM1-3

The Proposed Project would not change the existing dog use policies at the site. No revision to the analysis of effects on Point Isabel in the Draft EIR is required.

Response KM1-4

The Project site, including the Albany Plateau, is classified as a Developed Area by the District. District Ordinance 38 requires that dogs be on leash in Developed Areas and prohibits dog within sensitive resource areas such as the fenced Albany Plateau Burrowing owl project area.

Response KM1-5

The Albany Bulb is under the jurisdiction of the City of Albany. The City's Municipal Code, Section 10-4.2, states "*Except as otherwise provided, no domestic animal, except cats, shall be permitted to be on public property or the private property of anyone other than the guardian/owner unless under proper control and supervision by a capable person.*" Thus, dogs are required to be under voice control, but leashes are not required. Therefore, the characterization of the Albany Bulb as an "off-leash" area is accurate in the first bulleted point at the top of page 245 of the Draft EIR.

Keith McAllister (2)

August 26, 2012

Chris Barton
East Bay Regional Park District, Land Division
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Albany Beach Restoration and Public Access Project
Draft Environmental Impact Report (DEIR)
Second Comment Letter

Dear Mr. Barton,

Please consider this second DEIR comment letter, in addition to the letter I sent 8/24/2012, when constructing the Final Environmental Impact Report for the Albany Beach Restoration project. KM2-1

West Nile Virus

We have been reminded this summer that West Nile Virus can appear and spread rapidly in California. The 2012 outbreak occurred after the risk analyses that led to the published DEIR, and is not considered in the report. It is important that the Albany Beach "restoration" not contribute to the risk of West Nile Virus in East Bay communities. In this respect, the Final Environmental Impact Report should examine the wetland area to be constructed behind Albany Beach: KM2-2

1. Will the constructed wetlands harbor the mosquitoes which serve as vector for the West Nile Virus?
2. If so, how will the mosquitoes be controlled without the use of toxic pesticides? KM2-3

Thank you for subjecting this issue to rigorous analysis in the Final Environmental Impact Report. KM2-4

Best regards,

Keith McAllister
4127 Gilbert St
Oakland, CA 94611

Response to Comments KM2-1 through KM2-4

Response to KM2-1

See Responses KM2-2 and KM2-3.

Response to KM2-2

According to the Draft EIR in Section 4.3 Biological Resources, page 136:

"In accordance with adopted EBRPD policy, plant and animal pest species would be controlled using integrated pest management (IPM) procedures and practices to minimize the impact of undesirable species on natural resources and to reduce pest control related health and safety risks to the public."

The enhanced seasonal wetland would be expanded from an existing seasonal wetland of 0.03 acres to 0.3 acres, which will continue to be subject to ongoing management by local mosquito control agencies.

Response to KM2-3

According to the Draft EIR, p 136:

"In accordance with adopted EBRPD policy, plant and animal pest species would be controlled using integrated pest management (IPM) procedures and practices to minimize the impact of undesirable species on natural resources and to reduce pest control related health and safety risks to the public."

The first full paragraph on page 136 of the Draft EIR, in Section 4.3 Biological Resources, Impact Discussion, Project Analysis, subsection b is amended as follows:

In accordance with adopted EBRPD policy, plant and animal pest species would be controlled using integrated pest management (IPM) procedures and practices to minimize the impact of undesirable species on natural resources and to reduce pest control related health and safety risks to the public. <u>Primary control of mosquitoes by the Alameda Mosquito Abatement District is done through the use of bacterial larvicides that have no effect on other living things, and growth hormones that prevent maturation of mosquito larvae.</u>

Response KM2-4

See Responses KM2-2 and KM2-3.

Joy Susan Hutchinson

Tom Hawbaker

From: Chris Barton [cbarton@ebparks.org]
Sent: Monday, August 27, 2012 4:10 PM
To: Jeff Peters (jpeters@questaec.com); mkent@questaec.com; thawbaker@questaec.com
Subject: FW: Albany Bulb [Joy Susan Hutchinson 08.27.12]

Follow Up Flag: Follow up
Flag Status: Flagged

Email comment

Chris Barton
Senior Planner | Environmental Programs
East Bay Regional Park District
2950 Peralta Oaks Court, Oakland, CA 94605
Tel: 510-544-2627 | Fax: 510-569-1417
cbarton@ebparks.org | www.ebparks.org

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From: Joyjoy [mailto:joyjoy@sonic.net]
Sent: Monday, August 27, 2012 2:45 PM
To: Chris Barton
Subject: Albany Bulb

Hi there. I love Albany Bulb just as it is. Please do not remove any art. Leave it be. JSH-1
Thanks,
Joy Susan Hutchinson

Sent from my Samsung Epic™ 4G Touch

Response to Comment JSH-1

See Response AF-1.

Amber Lynn Whitson

Tom Hawbaker

From: Chris Barton [cbarton@ebparks.org]
Sent: Tuesday, August 28, 2012 8:03 AM
To: thawbaker@questaec.com; mkent@questaec.com; Jeff Peters (jpeters@questaec.com)
Cc: Tamara S. Galanter (galanter@smwlaw.com); Brad Olson
Subject: FW: Albany Beach Project [Amber Lynn Whitson 08.27.12]

Categories: Albany Beach

DEIR email comments below.

-----Original Message-----
From: Amber [mailto:phlamber@live.com]
Sent: Monday, August 27, 2012 4:37 PM
To: Chris Barton
Subject: Albany Beach Project

Dear Mr. Chris Barton,

As a resident of the ("homeless encampment on the") Albany Bulb, I feel it neccessary to write you with regards to the impacts your agency's Albany Beach Project would have on my community.

According to the research, presented to the public:
"There is no established community on the project site. There is a homeless encampment on the Albany Bulb, outside the boundaries of the project site, but the project would not alter the Bulb or physically divide this community. There would therefore be no impact. This issue will not be examined further in the EIR." ALW-1

That is incorrect. There are members of our very established community living within the boundaries of the project. And to force them, or any of us, to move would indeed physically(as well as socially) divide our community.

Also, the project, supposedly:
"would not physically affect this community or displace any of the homeless on the Bulb." and that "As there would be no impact on population and housing, this issue will not be discussed further in the EIR." ALW-2

I also fail to see how not being able to access the land on which we dwell between the hours of 10pm and 5am would have "no impact" on my community.

" Also, there is a significant local population of homeless people who use the waterfront parks, vacant lots and areas under I-80 and its on/off ramps for encampments. Homeless encampments would not be considered as sensitive to air pollutant exposures as permanent residential areas because of the relatively transient nature of the homeless population compared with that of permanent residential areas (where for the latter it is usually common to assume a 70-year residence time when performing a TAC health risk assessment)." ALW-3

Mr. Barton, the very members of my community whose residences within the project boundaries were overlooked by your research team, also have health challenges, including respiratory difficulties. ALW-4

This land was mudflats. Period.

Mankind saw fit to pollute those "worthless" mudflats by "fill"ing them with trash, toxic and otherwise. Trash was thrown in, to sink as far down as it could, only to have more trash thrown in on top of it. And, as it should, nature prevailed. Out of the trash grew life, naturally. ALW-5

And, now that the Parks System has seen that flora and fauna can thrive on the trash-based Albany Waterfront, they want to regulate and Man-icure it.

Who are you, or anybody, to tell Nature what is Natural? Just because you have developed some standard for "non-native" or "invasive" plants and animals, you think that gives you the right to bury or remove the living things that you deem unfit for occupancy of this miracle of an ecosystem? ALW-6

The very construction of Sports Fields, which is suggested for placement on the Plateau, next to the "Burrowing Owl Habitat", is a perfect example of how your agency treats the living things that are in the way of the State Parks System and the Eastshore State Parks Bay Trail. I can only hope that my community, out here on the Albany Bulb, fares at least as well as the rest of the local wildlife will. ALW-7

Thank you,
Amber Lynn Whitson
Albany Bulb Resident

Response to Comments ALW-1 through ALW-7

Response ALW-1

The Project would not displace any residents of the homeless encampment on the Albany Bulb as stated in the section regarding "Homeless at Albany Bulb", on page 245 in Section 4.9 Land Use and Planning. Albany Bulb is owned and operated by the City of Albany and not within the project site. There are no visible homeless encampments within the boundaries of the project site. No people, including homeless, would be displaced by the project.

Response ALW-2

Placement of signage regarding hours of operation of the Project site would not displace homeless residents or preclude access to and from the Albany Bulb. The Project would not affect the Albany Bulb, or displace any residents of the homeless encampment on the Albany Bulb. As discussed in Homeless at Albany Bulb on page 245 in Section 4.9 Land Use and Planning, the upper (northern) trail along the Albany Neck between Buchanan Street and the Bulb would potentially be used as a haul route during construction of the Project, at the option of the Contractor, but would remain open to pedestrian access. Thus, access to the Bulb for homeless people would not be interrupted by the Project.

Response ALW-3

See Response ALW-4.

Response ALW-4

As stated under Specific Sensitive Uses in the Project Site Vicinity, on page 99 in Section 4.2 Air Quality of the Draft EIR, homeless encampments would not be considered as sensitive to air pollutant exposures as permanent residential areas because of the relatively transient nature of the homeless population compared with that of permanent residential areas (where for the latter it is usually common to assume a 70-year residence time when performing a toxic air contaminant (TAC) health risk assessment). People in the project vicinity, including the homeless on Albany Bulb, would be exposed to TAC emissions from project construction activities that have a very limited term (4 months). The project would have essentially no permanent operational TAC emissions. Thus, the estimated cancer risk and chronic/acute hazard levels to sensitive receptors at Albany Bulb would be low because of the short-term exposures to project TAC emissions (even though the air concentrations of TACs at the racetrack and waterfront are higher than at off-site residential areas). In addition, emissions generated from the project will generally occur down-wind from prevailing winds in proximity to receptors at the Albany Bulb.

Response ALW-5

The comment does not pertain to the evaluation of environmental impacts of the Proposed Project, and thus no response is required.

Response ALW-6

The potential environmental impacts of the Proposed Project are evaluated in Chapter 4 Environmental Evaluation, which found that, with implementation of mitigation measures identified in the EIR, all impacts would be reduced to a less-than-significant level.

Response ALW-7

The Project does not include sports fields on the Albany Plateau. As stated in Section 1.1 Proposed Action on pages 1-2, in Chapter 3 Project Description, Demolition and Disposal sub-section on page 57, and in Section 4.1 Aesthetics, Repair/Soil Placement Area (Albany Plateau) sub-section on page 86, the project would involve beneficial reuse of material to repair voids on the Albany Plateau, after which this area would be backfilled with suitable soil, covered, and seeded. The areas proposed for debris placement are already impacted from unauthorized metals scavenging activities (landfill debris such as concrete and sharp metal is exposed) and these areas would be repaired as part of the project. As discussed in Chapter 4 Environmental Evaluation, pages 65-304, all impacts of the Project, including repair of voids on the Albany Plateau, would be reduced to a less-than-significant level by implementation of mitigation measures identified in the EIR.

ECORP Consulting, Inc.

ECORP Consulting, Inc.
ENVIRONMENTAL CONSULTANTS

27 August 2012

J. Cleve Livingston
The Livingston Law Firm
400 Capitol Mall, Suite 2555
Sacramento, California 95814

RE: Biological and Cultural Resources Technical Review for the Albany Beach Restoration and Public Access Draft EIR (DEIR), Eastshore State Park

Dear Mr. Livingston:

At your request, we have performed a review of the biological and cultural resources analyses provided in the DEIR for the above-referenced project. The purpose of this review is to analyze the existing biological and cultural resources setting with respect to proposed project impacts and mitigation measures required by CEQA as well as applicable laws, regulations, policies and guidelines governing biological and cultural resources. ECORP-1

Overall, the sections in the DEIR lack sufficient specificity and detail in several key areas that can better help decision makers make informed decisions regarding the project's potential effects on biological and cultural resources on the project site. These key areas are discussed below as are individual comments that are directly referenced to the DEIR. As part of this analysis, we reviewed the biological and cultural resources sections of related EIRs and supporting documentation for compliance with applicable biological and cultural resources laws, regulations, policies, and guidelines. The documents reviewed include: ECORP-2

- Eastshore Park Project General Plan: Final Environmental Impact Report (Public Review Draft, July 2002),
- Existing and Future Conditions Report: Albany Beach Restoration and Public Access Feasibility Study (January 2011),
- Archaeological Reconnaissance and Literature Search for the Proposed Bay Trail, Albany Beach Restoration and Public Access at Eastshore State Park Project, Alameda County, California (April 2010), and
- Cultural resources inventory report for the proposed Bay Trail prepared by Jeffery Fentress, PhD, for Questa Engineering Corporation to assist the ERPD in its compliance with Section 106 of the National Historic Preservation Act (2010).

The Eastshore General Plan DEIR was prepared by LSA Associates, Inc. to assist the California Department of Parks and Recreation (DPR) in developing a general plan for the Eastshore State Park, the property for which was acquired in 2002. The Albany Beach Restoration and PublicAccess DEIR (Albany Beach DEIR) was prepared by Questa Engineering Corporation to assist the Eastbay Regional Park District (ERPD) in assessing the potential environmental

• 2525 Warren Drive • Rocklin, California 95677 • Phone: (916) 782-9100 • Fax: (916) 782-9134 • Web: www.ecorpconsulting.com

consequences of the proposed Albany Beach restoration and public access project on the Albany Peninsula and the bay shoreline between Buchanan and Gilman Streets, in the cities of Albany and Berkeley, California. This DEIR was prepared as a tiered environmental impact report, meaning that it is a separate environmental report tiered from the broader Eastshore General Plan DEIR because it is a project that could have separate environmental impacts that were not fully addressed in the Eastshore General Plan EIR. The Existing and Future Conditions Report was prepared by LSA Associates, Inc. for ERPD as a precursor to the Albany Beach DEIR to examine the feasibility of implementing improvements identified in the General Plan guidelines and to provide resource information on the environmental conditions of the Albany Beach study area. These three documents, both DEIRs and the existing and future conditions report, were written to assist the DPR and the ERPD in their compliance with the CEQA process. The cultural resources inventory report for Area 3 of the proposed Bay Trail was prepared by Jeffery Fentress, PhD, for Questa Engineering Corporation to assist the ERPD in its compliance with Section 106 of the National Historic Preservation Act (Section 106). ECORP-2 (cont.)

The peer review of the above-referenced cultural resources documentation was performed by ECORP Senior Archaeologist Katherine Knapp, MS, RPA, while the biological review was completed by Brian Mayerle (ECORP Senior Biologist). Ms. Knapp has 18 years of professional experience in cultural resources management, archaeology, and anthropology, and meets the Secretary of the Interior's Professional Qualifications Standards for prehistoric archaeology. Mr. Mayerle has over 22 years of professional consulting experience in biological resources management and regulatory compliance.

BIOLOGICAL RESOURCES

As discussed, this section 4.3 beginning on page 110 lacks sufficient specificity and detail in several key areas. Given this lack of comprehensiveness, the section fails in its attempt to help decision makers make informed decisions regarding the project's potential effects on biological resources on the project site. These key areas are discussed below as are individual comments that are directly referenced to the DEIR biological resources section. ECORP-3

Methodology

Overall, the existing setting starting on page 118 in the DEIR with respect to the vegetation and wildlife appears to adequately integrate relevant information from a review of existing documentation and findings of recent studies. However, no discrete methodology subsection is provided within the biological resources section of the DEIR. The referenced feasibility study provides this information as an introduction, as does the DEIR. However, given the extensive literature available that is relevant to the proposed project, as well as the extent of field assessment/survey conducted for the DEIR, the DEIR biological resources section should specifically describe the actual literature review and survey methodology in a more detailed and concise format. Moreover, the DEIR references a tiered approach to analyzing the project's effects, specifically deriving information from the programmatic General Plan EIR. This EIR also lacks a subsection on methods and, as such, should not form the basis for methods used in this project EIR. ECORP-4

Existing Conditions

As described above, the existing conditions portion of the document describes the existing vegetation and wildlife resources. It also addresses special-status species and sensitive resources. However, the section does not include a table of special-status species that were considered for the project analysis. A table that was included in the feasibility analysis is referenced as an attachment, but should be integrated into the actual DEIR section. ECORP-5

Impacts/Mitigation Discussion

The biological resources impact discussion starting on page 130 in the DEIR lacks sufficient specificity and detail necessary to ensure adherence to federal and state regulations and local provisions regarding biological resources. In general, the impacts discussion needs to fully assess the project design's effects on the biological resources in the project area. Although the existing setting considers the biological resources that may be affected by the project, the impacts discussion does not fully determine the extent of biological resource impacts associated with the project's implementation. ECORP-6

Although the DEIR includes a bulleted list of permits or consultations that may be required, the DEIR fails to accurately identify if, in fact, the permits would be required for the project through a more comprehensive impacts analysis. Furthermore, in the impacts "project analysis" section, this DEIR applies certain provisions set forth in the General Plan EIR to essentially mitigate for certain species. This tiered approach is certainly understandable given the extensive history of environmental review in the project area, however somewhat confusing given the level of inconsistency and uncertainty with individual impact conclusions. The following impact comments that are discussed below further explain the need for consistency and comprehensiveness. ECORP-7

Impact BIO-1: Burrowing Owl and Other Nesting Birds

Although the DEIR on page 132 acknowledges that burrowing owls may be present on the project site and could be impacted by the proposed project, the DEIR fails to provide the survey results that would help determine if this species is in fact present on the site and, if so, where they are located. Lacking this information, the DEIR also fails to analyze how the proposed project may impact this species if present on the site and the steps needed to mitigate these impacts. These are studies and analyses that need to be included as part of the DEIR, not as subsequent tasks. Burrowing owls could likely be nesting in an area that will be impacted by construction. The DEIR states that consultation with the California Department of Fish and Game (CDFG) shall occur. However, according to CDFG's own mitigation guidance for project effects to burrowing owl, the DEIR should more fully delineate the steps to dealing with known burrowing owl burrows in the construction zone (e.g. relocation, exclusionary burrow devices, etc.). Furthermore, the DEIR fails to explain what shall occur once surveys are completed and documented nests are vacated. According to CDFG guidance, these measures could include collapsing vacated burrows or relocation. ECORP-8

Impact BIO-2: California Least Tern

As stated in the DEIR, "project-related impacts to least terns may include equipment noise and human activity that disrupts access to foraging areas, increased turbidity which could hinder foraging, and increased exposure to contaminants released from sediments during debris removal". The proposed mitigation for potential impacts to California least terns (BIO 2a and BIO 2b) are focused on water quality protection measures (i.e., turbidity and toxicity protection measures). While these measures are warranted, additional measures to protect this species should be implemented to address potential construction-related impacts to California least tern foraging success. ECORP-9

California least terns are known to forage in the vicinity of the project and potential project related impacts that may limit or discourage California least tern foraging in or near the project area could be considered a significant impact. Additional mitigation measures to protect California least tern foraging success should include timing restrictions that limit construction activities in potential foraging habitat (aquatic habitats: tidal, subtidal, and eel grass beds) during the breeding season for this species (April – September).

Impact BIO-5: Eelgrass Beds

As stated in the DEIR on page 136, eelgrass beds are a sensitive resource that supports fish habitat and could be harmed during construction of the shoreline revetment and optional habitat enhancement components of the project. However, the project states that "eelgrass is known to serve as spawning and nursery habitat for Pacific herring (*Clupea pallasi*), the primary commercial fishery species in the Bay", and that no direct impacts to eelgrass are anticipated. Pacific herring are known to occur in the vicinity of the project and are known to use eelgrass as spawning substrate. The proposed mitigation for potential impacts to eelgrass (BIO 5a - BIO 5e) include eelgrass delineation surveys, water quality protection measures (i.e., turbidity and toxicity protection measures) during construction, and post-construction monitoring of eelgrass distribution and quality of habitat. While these measures are warranted, they should be part of the original project design, not identified as subsequent measures following project approval. Furthermore, additional measuresto protect this species should be implemented to address potential construction-related impacts to Pacific herring spawning success including timing restrictions that limit construction activities near potential spawning habitat (aquatic habitats: tidal, subtidal, and eel grass beds) during the spawning season for this species (fall-winter). ECORP-10

Impact BIO-6: Seasonal Wetlands

As stated in the DEIR, the project would temporarily impact seasonal wetlands. The shoreline stabilization work would also potentially result in indirect effects to the tidal zone. Again, this impact analysis is not sufficiently conclusive as to the requirement for permits with the respective agencies. The proposed mitigation for potential impacts to wetlands include monitoring and water quality protection measures (i.e., turbidity and toxicity protection measures) during construction. While these measures are warranted, the impact analysis needs to accurately identify whether the project as designed would require a federal Clean Water Act permit and not simply conclude that it may require permits. Furthermore, it is unclear in the ECORP-11

DEIR whether the wetland delineation has been verified by the U.S. Army Corps of Engineers. The current status of the delineation needs to be clearly stated in the DEIR. ECORP-11 (cont.)

CULTURAL RESOURCES

The purpose of this review was to identify any potential flaws in the cultural resources analysis that could negatively affect project approval or other adjacent proposed projects. As part of this review, ECORP consulted: the official project descriptions, as presented in the DEIR or cultural resource inventory report; Project Description sections within the larger reports provided to ECORP on 25 July 2012; the California Environmental Quality Act (CEQA), Title 14, CCR, Article 5, Section 15064.5 and related sections; and Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations in 36 CFR Part 800.

The standards to which Fentress's cultural resources inventory report was measured include: for General Comments, the *Archaeological Resource Management Reports (ARMR): Recommended Contents and Format* (February 1990), published by the California Office of Historic Preservation (hereafter, ARMR Guidelines); and *Instructions for Recording Historical Resources* (March 1995), published by the Office of Historic Preservation (hereafter, IRHR). Both publications were available to the author at the time of the submission of the report. ECORP-12

The standards to which the DEIRs and the Existing and Future Conditions Report were measured were CEQA guidelines; specifically CCR Title 14, Sections 15126.4 and 15064.5 and a variety of Public Resource Codes relied upon during the CEQA process and within the CEQA guidelines; CCR Title 14, Sections 5024.5, 5097.8, and 2108.2.

A summary of the key issues with the documents reviewed include:

- The project-specific EIR does not definitively identify historical resources within the project area, when there is a reasonable opportunity to do so. Historical resources, by definition, are those that are determined eligible for inclusion in the California Register of Historic Resources or National Register of Historic Places, or are listed in an officially adopted historic resources inventory or survey. For example, the lack of Fleming Point Pier significance determination opens the issue of deferral of significance, which the courts have found to be in violation of CEQA. Madera Oversight Coalition, Inc. v. County of Madera and Tesoro Viejo Inc. et. al.,, 199 Cal. App. 4th 48; 131 Cal. Rptr. 3d 626 (2011 Cal. App.). The Fleming Point Piers shoreline is within Area 3 of the project area, but the remainder of it is outside of the project area. ECORP-13

- The documentation does not specify the methods used in identifying historical resources. In particular, the lack of a specific mention of survey coverage or the inclusion of the Eastshore Park Project Resource Inventory report as an attachment brings into question the legal defensibility of fieldwork performed. There is question as to whether or not a good faith effort was made to meet CEQA or Section 106 standards for identification of significant cultural resources. The lack of specific reference to personnel qualifications also calls into question the legal defensibility of the analysis, which supports the CEQA documentation. ECORP-14

2002 Eastshore Park Project General Plan EIR (Public Review)

1. The qualifications of the personnel that conducted the archaeological and historic resources studies and literature reviews is not provided, which calls into question whether or not the data presented within the 2002 General Plan EIR is legally defensible. ECORP-15

2. The only mention of the fieldwork conducted for the 2002 General Plan EIR was found in the January 2011 Albany Beach Existing and Future Conditions Report. In the 2011 report, it lists fieldwork that was completed for the 2002 General Plan EIR by LSA Associates, Inc. Fieldwork is listed as a reconnaissance survey that is described as, 'visual or cursory pedestrian review of filled areas' and a 'more intensive survey, in 10-meter wide zig-zag transects, conducted within areas that had not been filled (i.e. Fleming Point)', (LSA 2011). In this same 2011 report, there is no other mention of fieldwork methods or results. In regard to the 2002 General Plan EIR, although CEQA guidelines do not require a survey coverage map in an environmental report, one showing the areas that were subjected to varying intensities of coverage, would have eliminated any doubt of whether LSA's fieldwork was sufficient enough to gather the necessary data to make the required resource assessments of the property beyond the basic literature review. Archival research was completed, but there is no indication as to when it took place, i.e. one year or more ago. In general, literature reviews should not be more than 2 years old, and depending upon the project, pedestrian surveys should not exceed 25 meter transect intervals and are generally considered obsolete after 5 to 10 years ECORP-16

   Without a more detailed explanation of the actual areas covered during the reconnaissance survey, including the methods used in the survey and records search, there is an outstanding question as to whether the survey coverage was adequate enough to be legally defensible. Additionally, if the authors of the 2002 General Plan EIR based their evaluations of significance on an archival review as well as the less than adequate survey coverage, there is an issue of deferral of analysis.

   The 2002 General Plan EIR includes a relatively unstructured and unfocused discussion on whether the Fleming Point Piers have historical significance but fails to make a determination in this regard. The discussion relies too heavily on archival research for the Fleming Point Piers, does not have the resource evaluation necessary for a significance determination, and states that 'further study is necessary.' Such an approach raises an issue of deferral of significance, which according to CEQA Guidelines (CCR Title 14, Section15126.4(b)), Mitigation Measures Related to Impacts on Historic Resources, and recent CEQA case law, Madera Oversight Coalition, Inc. v. County of Madera, is unacceptable. ECORP-17

3. Additionally, as per Public Resource Code Section 5024.5, if a project will affect State-owned property, ,consultation with the State Historic Preservation Officer must be initiated. There is no mention of this occurring within the body of the 2002 General Plan EIR. ECORP-18

4. There are several references to areas within the General Plan project area that have the potential to have a lot of cultural resources, but they give no indication, beyond archival research, that any attempt was made to investigate further, i.e. subsurface testing, intensive cultural resources pedestrian inventory. Generally, the Office of Historic Preservation does not accept a finding of no impact to historical resources when a good faith identification effort (when feasible) has not been made. ECORP-19

5. The potential for Native American remains, based on their archival review only, is suggested as a possible issue in the project area; however, they mention it once and do not address it again within the body of the report. As per Public Resource Code 5097.8, relied upon in the CEQA process, if there is the possibility of Native American remains within a project area, consultation with the Native American Heritage Commission is necessary. There is no indication within the body of the report that this consultation was initiated. ECORP-20

6. On Page 90 and 91 there is a discussion of possible cultural resources that were observed during a visit that is not discussed. They include a number of possible historic features as well as the 'wild art' features. They are deemed 'of indefinite age', yet it seems, based on descriptions of some of them, that they could easily be associated with a historic period of use. As mentioned earlier, a deferral of significance evaluation is not acceptable under CEQA standards. ECORP-21

7. Page 93 presents the mitigation measures set forth in the 2002 General Plan EIR. CEQA, as per CCR Title 14, Section 15126.4, has very specific standards for which they consider mitigation measures to be adequate. The mitigation measures set forth in the 2002 General Plan EIR are similar to Best Management Practices (BMPs) and less like mitigation measures. BMPs are simply the best way to manage resources, in this case cultural resources, within the project area and cannot be considered mitigation measures. There are no mitigation measures presented within the cultural resources section in this 2002 General Plan EIR that conform to CEQA standards. ECORP-22

8. In general, the conclusion that there are no significant impacts to cultural resources project-wide directly contradicts several statements made throughout the report suggesting the intensity of Native American use of the area as well as the extensive historic use. Without intensive fieldwork with possible presence/absence testing in areas believed to be of higher sensitivity, this impact assessment is not supported, given the historic and prehistoric use of the area. This harks back to the deferral of analysis issue so prevalent throughout this discussion. By making statements such as 'further study is needed' or that there are 'no significant impacts' based on what appears to be less than adequate fieldwork and an archival review, the authors have deferred analysis and thus brought into question the legal defensibility of the cultural resources section of the 2002 General Plan EIR. ECORP-23

2011 Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study

1. This report is a supporting document to the Albany Beach EIR, upon which the EIR relies for a portion of the analysis. The report states that it relies on fieldwork conducted for ECORP-24

the *Eastshore Park Project Resource Inventory* performed for the 2002 General Plan EIR. Although the authors state that this limited survey is sufficient, it does not meet the standard professional definition of a good-faith identification effort. The Resource Inventory fieldwork was presumably performed in 2001/2002 based on the 2002 publication date of the inventory report. In the 2011 Existing and Future report, no field results are reported for the 2002 General Plan EIR Resource Inventory report. Because the Resource Inventory appears to have inadequate coverage, this could create issues with deferral of significance evaluations because the authors made these evaluations based on inadequate fieldwork and used mostly archival review. Therefore there is a question of the cultural resource data presented in the 2011 Existing and Future report as legally defensible based on recent *Madera Oversight Coalition, Inc. et al. v. County of Madera and Tesoro Viejo, Inc., et al.* (2011) and CEQA guidelines mentioned elsewhere in this letter. ECORP-24 (cont.)

2. Page 93 reports the Park District Master Plan guidelines for the management of cultural resources, but does not clarify what the guidelines are. ECORP-25

3. Section 9.5.2 states that there are no archaeological or historical resources found within the study area, however, there has been little intensive survey of the area or subsurface testing (if necessary). Archival research indicates that there is a high potential for a significant amount of buried cultural resources (archaeological and historic). ECORP-26

4. There is no information provided about how the cultural resources were evaluated, what the evaluation concluded and under what National Register/California Register criteria; however, there are repeated statements about the necessity of further study for cultural resources within the project area. As in *Madera Oversight Coalition, Inc. et al. v. County of Madera and Tesoro Viejo, Inc., et al.* (2011), the concept of 'further study is necessary' is unacceptable according to CEQA guidelines and thus presents a potential for deferral of identification and evaluation of historical resources. ECORP-27

2010 Archaeological Reconnaissance and Literature Search for the Proposed Bay Trail, Albany Beach Restoration and Public Access at Eastshore State Park Project, Alameda County, California

1. Fentress's study was conducted only for the purpose of compliance with Section 106 and was not conducted for the purpose of compliance with CEQA. While resources found eligible for inclusion in the NRHP are automatically eligible for the California Register of Historic Resources (CRHR), resources that are found ineligible for the NRHP might still meet the criteria for the CRHR. The sites must be evaluated for eligibility using the CRHR criteria (Pub. Res. Code § 5024.1, Title 14 CCR, Section 4852; ARMR Guidelines 1990:16). Because the evaluation of resources conducted by Fentress did not include evaluation relative to the CRHR criteria, the report could be challenged if used in conjunction with an EIR. The report author could be asked to revise the report to include an evaluation of the resources relative to the CRHR ECORP-28

2. A survey coverage map, showing the areas that were subjected to varying intensities of coverage, was not provided in the Fentress report, which is required by ARMR ECORP-29

Guidelines (1990:10). Because Fentress observed sites outside of the impact area, it is assumed that the survey coverage extended beyond the impact area. ECORP-29 (cont.)

3. The recommendations for unanticipated discovery should provide specific instructions for the management of unanticipated discoveries of cultural resources and human remains, and should include a protocol for communication between construction crew, the lead agency, a professional archaeologist, the Native American Heritage Commission, and the County Coroner. ECORP-30

2012 Albany Beach Restoration and Public Access Project for the East Bay Regional Park District, Draft EIR

1. The report states that there are Native American sites presumed to be on and around the project area, but no survey has been conducted or subsurface presence/absence testing. As per Public Resource Code 5097.8, relied upon in the CEQA process, if there is the possibility of Native American remains within a project area, consultation with the Native American Heritage Commission (NAHC) is necessary. The report authors state that the NAHC was contacted along with the Albany Historical Society in an effort to ascertain whether there were Native American sacred sites or Native America sites within the project area. The authors state on page 149 that because no responses were received from either of these entities, it is assumed that no Native American cultural resources are within the project area. This again presents an issue of deferral of analysis because the authors are relying on other sources as well as archival reviews from the 10 year old 2002 General Plan EIR and Fentress's 2010 inventory report for Area 3, rather than performing full coverage survey and possible presence/absence testing to verify the existence of Native American cultural remains. Relying on the archival reviews is an issues because the 2002 General Plan EIR is outdated and Fentress's report was for a finite portion of the project area. ECORP-31

2. This 2012 Draft EIR states that it relies on fieldwork completed for the 2002 General Plan EIR, Fentress's 2010 fieldwork which was completed for the 2011 Existing and Future Conditions Report, as well as archival research, which are now obsolete and appear to be incomplete respectively. Additionally, Fentress's Bay Trail survey report was conducted for a very small part of the overall project area and, therefore, cannot provide a realistic picture of the historic or archaeological resources throughout the entire project area. In relying on outdated fieldwork and archival reviews, the cultural resources section of the 2012 Draft EIR may not be legally defensible. Additionally, the authors of the cultural resource section have deferred analyses of significance because they do not have recent and full coverage fieldwork to account for any cultural resources that may be located within the project area or recent archival review to reflect the same. ECORP-32

3. Mitigation measures have been presented as BMPs with the 'standard recommendations,' rather than as mitigation measures specific to the resources or project area and impacts. CEQA, as per CCR Title 14, Section 15126.4, has very specific standards for which they consider mitigation measures to be adequate. The 'standard recommendations' and BMPs presented in the 2012 Draft EIR are inadequate according to CEQA guidelines. ECORP-33

The fieldwork and literature review for the 2012 Draft EIR are both pulled from the reports listed within this review letter. This could present issues of how up-to-date the research may be in regard to the current project. ECORP-34

Please contact me at 916-782-3100 or bmayerle@ecorpconsulting.com if you have any questions or need additional information.

Sincerely,

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Response to Comments ECORP-1 through ECORP-34

Response to ECORP-1

See Responses ECORP-2 through ECORP-34.

Response to ECORP-2

See Responses ECORP-3 through ECORP-34.

Response to ECORP-3

See Responses ECORP-4 through ECORP-11.

Response to ECORP-4

The methodology for the preparation of Section 4.3 Biological Resources of the Draft EIR is covered sufficiently in the introduction to that section on page 110, which states:

"Specifically, this section incorporates by reference Section III.C from the *Eastshore Park Project General Plan EIR*, which evaluates impacts on biological resources, and is summarized below. This section includes a summary of the results of field surveys by LSA Associates, Inc. in 2011 and reconnaissance biological investigation completed by Questa and Merkel and Associates in April and May 2012. Additional information is included in the *Existing and Future Conditions Report (LSA 2011)*." The biological resource impact assessment methodology is presented on pages 130 and 131 of the Draft EIR.

Response to ECORP-5

Reproduction of the table of special-status species is not necessary as it is incorporated into the Draft EIR by reference.

Response to ECORP-6

The potential biological impacts that could result from the project are identified and discussed in Section 4.3 Biological Resources of the Draft EIR. When the EIR identifies a biological impact as significant, it proposes mitigation measures to minimize the impact, and then concludes whether the impact has been reduced in to a level of insignificance.

Response to ECORP-7

Section 4.3 Biological Resources of the Draft EIR identifies the permits that the Project will likely require. Because the resource agencies ultimately determine what permits the Project must obtain, the requirements for permits cannot be definitively determined until the appropriate agencies consider the Project, including the information contained in this EIR.

Response to ECORP-8

Because occasional winter observations have been made of burrowing owls in the greater project area (Tom Bates Sports Complex and Cesar Chavez Park in Berkeley), impacts could potentially occur to this species as a result of construction activities. Although there is little likelihood of burrowing owls being present within work zones at the project site, the District is taking precautions to provide further protection of this species. The Draft EIR thus assumes conservatively that Project impacts on burrowing owls are potentially significant and proposes mitigation measures to reduce this impact to a less-than-significant level. After preconstruction surveys, if burrowing owls are present, mitigation measures may include avoidance of construction activities in the vicinity of nests, collapsing of vacated burrows, or other mitigations developed in coordination with the California Department of Fish and Game.

Mitigation Measures BIO-1a and BIO-1b, on page 133, are sufficient to reduce Impact BIO-1 (burrowing owls) to a less–than-significant level. To further reduce this insignificant impact and to strengthen the mitigation measures for Impact BIO-1, a revision to Mitigation Measure BIO-1b is described below. With implementation of Mitigation Measure BIO-1a on page 133, and the revised Mitigation Measure BIO-1b, below, impacts to burrowing owls would be less than significant.

Mitigation Measure BIO-1b on page 133 of the Draft EIR is modified as follows:

Mitigation Measure BIO-1b: Pre-construction nesting surveys shall be conducted for all nesting birds protected by the Migratory Bird Treaty Act. Surveys shall be conducted by a qualified biologist within 14 days of the onset of potential disturbance to nesting habitats. If nests are found, they shall be flagged and a suitable buffer area would be established in consultation with CDFG to ensure construction will not have a substantial adverse effect on nesting birds protected by the Migratory Bird Treaty Act. No work would be conducted within this buffer area until young have fledged and are independent of the nest. If burrowing owls are found, mitigation measures included in the CDFG Staff Report on Burrowing Owl Mitigation (March 7, 2012) shall be followed. Breeding bird surveys are not needed for work conducted outside the nesting season (between September 1 and ~~January~~ December 31).

Mitigation Measure BIO-1b on page 9 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is also modified as follows:

Mitigation Measure BIO-1b: Pre-construction nesting surveys shall be conducted for all nesting birds protected by the Migratory Bird Treaty Act. Surveys shall be conducted by a qualified biologist within 14 days of the onset of potential disturbance to nesting habitats. If nests are found, they shall be flagged and a suitable buffer area would be established in consultation with CDFG to ensure construction will not have a substantial adverse effect on nesting birds protected by the Migratory Bird Treaty Act. No work would be conducted within this buffer area until young have fledged and are independent of the nest. If burrowing owls are found, mitigation measures included in the CDFG Staff Report on Burrowing Owl Mitigation (March 7, 2012) shall be followed. Breeding bird surveys are not needed for work conducted outside the nesting season (between September 1 and ~~January~~ December 31).

The California Department of Fish and Game *Staff Report on Burrowing Owl Mitigation* is provided as Exhibit A.

Response to ECORP-9

As indicated in the Draft EIR in Section 4.3 Biological Resources, page 130, the nearest active California least tern nesting colony is located at Alameda, seven miles to the south of Albany Beach. Studies indicate that least terns typically forage within 3.5 miles of nesting site (Ehrler et al. 2006). The project area is not anticipated to be heavily utilized by foraging least terns. Further, inwater construction would be limited to debris removal and riprap placement along 1,800 linear feet of shoreline along Albany Neck. The majority of this work would occur in supratidal and intertidal habitat not suitable for least tern foraging. Any potential impacts of increased turbidity or contaminants that result from this work have been addressed through incorporation of Mitigation Measures BIO-2a and BIO-2b.

There is little information regarding direct impacts to least terns resulting from noise generated by inwater construction (such as dredging, riprap repair, etc.). Least terns are highly vocal during courtship and breeding (Atwood and Minsky 1983) and extended noise could disturb communication. However, many successful breeding colonies are located within industrial areas (such as Alameda Point, Long Beach Harbor, the San Diego International Airport, and multiple naval air stations) with high ambient noise levels. The limited area of inwater construction for the proposed project, along with distance from least tern nesting colonies and infrequent use of the area for foraging, indicate that impacts to least terns from construction noise are unlikely and would be less than significant. Thus, restricting construction to outside of the breeding season is unwarranted.

The information provided above does not alter the conclusions of the biological resources analysis in Section 4.3 Biological Resources of the Draft EIR.

Response to ECORP-10

Additional text has been added on the subject of Pacific herring (Clupea pallasi). Text has been inserted after the second full paragraph on page 136 of the Draft EIR, as follows:

Pacific herring (*Clupea pallasi*) is considered to be an "Ecosystem Component Species" in the Coastal Pelagic Species Fisheries Management Plan prepared by the Fisheries Management Council (2011) to define and regulate essential fish habitat for several commercially important pelagic fish species. Eelgrass habitat is considered EFH and Pacific herring are known to spawn in this habitat. Impacts to eelgrass are not anticipated and, therefore, impacts to spawning Pacific herring in this habitat would be *less then significant* and no mitigation is required. However, Pacific herring may also spawn on low intertidal to shallow subtidal rocks and riprap within the project area, and may be affected by increased turbidity associated with onshore construction work or from accidental release of contaminants during debris removal.

Mitigation Measures BIO-5a, BIO-5b, BIO-5c, BIO-5d, and BIO-5e, on page 136, are sufficient to reduce Impact BIO-5 (eelgrass, a plant species and fish habitat) to a less–than-significant level. To further reduce this insignificant impact and strengthen the mitigation measures for Impact BIO-5, an additional mitigation measure is added as described below.

With implementation of BIO-5a, BIO-5b, BIO-5c, BIO-5d, and BIO-5e, on page 136, and Mitigation Measure BIO-5f, below, impacts to eelgrass would be less-than-significant.

An additional mitigation measure has been added after Mitigation Measure BIO-5e on page 136:

Mitigation Measure BIO-5f: Within the spawning season for Pacific herring (November through February) a qualified biologist shall inspect the low intertidal and shallow subtidal riprap shoreline within the construction area prior to any debris removal or other construction work. If egg masses are located, areas of spawn would be excluded from the work area until such time as hatching is completed at which time, work would be completed within the vacated spawning locations.

The additional mitigation measure has also been added on page 11 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures. Following Mitigation Measure BIO-5e, new text is added that reads:

Mitigation Measure BIO-5f: Within the spawning season for Pacific herring (November through February) a qualified biologist shall inspect the low intertidal and shallow subtidal riprap shoreline within the construction area prior to any debris removal or other construction work. If egg masses are located, areas of spawn would be excluded from the work area until such time as hatching is completed at which time, work would be completed within the vacated spawning locations.

Response to ECORP-11

The requirements for permits cannot be definitively determined until the appropriate agencies consider the Project. Mitigation BIO-6c on page 138 of the Draft EIR states that "EBRPD shall obtain any needed permits and authorizations for any work in wetlands. These include a Section 404 permit for work in wetlands, a Section 401 water quality certification, and compliance with regional and local plans and protocols."

With regard to the wetlands delineation, page 122 of the Draft EIR explains that a "preliminary delineation" was made for seasonal wetlands on the site and describes the results of that survey. The U.S. Army Corps of Engineers has not verified the wetland delineation.

Response to ECORP-12

See Responses ECORP-13 through ECORP-34.

Response to ECORP-13

Fleming Point Pier is discussed on pages 96 and 97 of the 2011 LSA *Existing and Future Conditions Report* (included in Appendix G of the Draft EIR) as well as on page 2 of the Fentress Archaeological Reconnaissance and Literature Search (Appendix E of the Draft EIR). However, there are no project elements or activities that would impact the potentially historic Pier. Thus, the Project would not have a significant impact on the historic significance of Fleming Point Pier. Please note that there was a typographical error on the Fentress Cultural Resources Assessment report cover; the fieldwork and report should have the date of April 2012, not 2010. Page 3 of the report states the reconnaissance was

conducted on March 30, 2012. This typographical error does not affect the validity of the Fentress report, or change the environmental conclusions of the Draft EIR.

To correct this typographical error, the title page of the Archaeological Reconnaissance and Literature Search Report, after the Appendix E - Cultural Resources Assessment divider sheet, is amended as follows:

April, ~~2010~~2012

Response to ECORP-14

Section 9.2 (pages 89-90) of the 2011 LSA *Existing and Future Conditions Report* (included in Appendix G of the Draft EIR) and pages 1 and 3 and Figure 4 of the Fentress *Archaeological Reconnaissance and Literature Search* (Appendix E of the Draft EIR) include information on methodology and describe the coverage of the area in sufficient detail for an EIR.

As required under CEQA, the Draft EIR provided a list of preparers on page 349. As discussed on page 9 of the 2011 LSA *Existing and Future Conditions Report* (included in Appendix G of the Draft EIR) the cultural and historic resources analysis was completed by LSA Senior Cultural Resources Manager E. Timothy Jones; Andrew Pulcheon, LSA Principal /Cultural Resources Manager, also assisted in the preparation of the report. Additional cultural and historic resources analysis was completed by Jeffrey Fentress, PhD (Appendix E of the Draft EIR), who addressed portions of Area 3 not covered in the LSA report.

While CEQA does not require that the EIR include the qualifications of the persons conducting the environmental analysis, the following information is provided. Dr. Fentress is a well qualified archaeologist with over 20 years of professional experience and is Coordinator of the San Francisco State University Native American Graves Protection and Repatriation Act (NAGPRA) Program; Dr. Fentress has been a consulting archaeologist for EBRPD for 20 years.

E. Timothy Jones, LSA Senior Cultural Resources Manager, is a Registered Professional Archaeologist (#15531) with twelve years of experience in cultural resources management and technical document preparation. From 1998 through 2005, Mr. Jones worked for a variety of private- and public-sector cultural resources/historical research firms and institutions with projects in northern California, and was a Project Review Specialist at the Northwest Information Center of the California Historical Resources Information System at Sonoma State University. In December 2004 Mr. Jones joined the LSA Cultural Resources Group as an archaeologist and cultural resources planner. Since then he has prepared numerous CEQA Initial Studies and Environmental Impact Reports for public- and private-sector clients and associated technical studies involving archival research, field survey, archaeological excavations, and laboratory analysis. He has a BA in Anthropology from San Francisco State University and an MA in Cultural Resource Management from Sonoma State University.

Andrew Pulcheon, LSA Principal /Cultural Resources Manager, has a B.A. in Anthropology, with a minor in Geography, from Humboldt State University; an M.A. in Cultural Resources

Management from Sonoma State University; and a Certificate in Land Use and Environmental Planning from U.C. Davis Extension. He is a Registered Professional Archaeologist (#11693); a Registered Professional Historian (#581); and a member of the American Institute of Certified Planners (#21490). He meets the Secretary of the Interior's Standards for prehistoric and historical archeology, and history. Mr. Pulcheon has 17 years of experience in cultural resources management, including project management; archival research; laboratory analysis; ethnographic, historical, and architectural research; field survey; prehistoric and historical excavation; laboratory analysis; and collections management. Mr. Pulcheon is experienced in preparing Memoranda of Agreement and Historic Property Treatment Plans, Section 106 and CEQA eligibility evaluations; NEPA analysis; Initial Studies; and project- and program-level Environmental Impact Reports in both urban and rural settings. He has conducted fieldwork and research for projects throughout northern and central California. Since October 2009, Mr. Pulcheon has headed the LSA northern California Cultural Resources Group, where he is responsible for obtaining new work, reviewing all cultural resources documents for quality control, and managing the personnel, administrative, and operational functions of a group that includes six permanent staff.

Response to ECORP-15

See Response to ECORP-14.

Response to ECORP-16

As noted in Response to Comment ECORP-34, archival research was conducted for the entire project area by Dr. Fentress on March 29, 2012. No new or additional information was available from that noted in the 2011 LSA *Existing and Future Conditions Report*. See also Response to ECORP-14.

Response to ECORP-17

As indicated in response to ECORP-13, there are no project elements or activities proposed that could potentially impact the historic Fleming Point Pier structure. The Limits of Work in this area, and throughout the project area, will be fenced using temporary construction fencing as a standard construction practice to ensure that the Pier will not be impacted by project construction activities.

Response to ECORP-18

Public Resources Code section 5024.5 and CEQA Guidelines section 15064.5(b)(5) require consultation with the State Historic Preservation officer only when a state agency is the lead agency.

Response to ECORP-19

The analysis of cultural resources for the Albany Beach project in the Draft EIR Section 4.4 Cultural Resources, pages 142-155, is based on multiple documents and investigations, which together provide sufficient data to support the conclusions of the Draft EIR. The Albany

Beach Draft EIR does not rely solely on the 2002 *Eastshore Park Project General Plan Environmental Impact Report;* rather, it supplements the General Plan with additional information where necessary. See also Responses to ECORP-31 and ECORP-34.

Response to ECORP-20

As indicated on page 97 of the 2011 LSA *Existing and Future Conditions Report* (included in Appendix G of the Draft EIR), representatives of LSA contacted the Native American Heritage Commission (NAHC) on April 27, 2010. NAHC provided LSA with a list of local Native American representatives and LSA representatives contacted them by letter. No responses were received.

Dr. Fentress also contacted the NAHC in April of 2012, but did not receive a response from them.

Response to ECORP-21

The analysis of cultural resources for the Albany Beach project in the Draft EIR Section 4.4 Cultural Resources, pages 142-155, is based on multiple documents and investigations, which together provide sufficient data to support the conclusions of the Draft EIR. The Albany Beach Draft EIR does not rely solely on the 2002 *Eastshore Park Project General Plan Environmental Impact Report,* rather, it supplements the General Plan with additional information where necessary. This includes project-specific information on historic features and wild art, presented in 4.4 Cultural Resources, pages 142-155, which evaluates potential impacts on these cultural resources adequately, in compliance with CEQA.

Response to ECORP-22

The comment refers to mitigation measures in the 2002 *Eastshore Park Project General Plan Environmental Impact Report.* The analysis of cultural resources for the Albany Beach project in 4.4 Cultural Resources, pages 142-155 of the Draft EIR, is based on multiple documents and investigations, which together provide sufficient data to support the conclusions of the Draft EIR. The Albany Beach Draft EIR does not rely solely on the 2002 *Eastshore Park Project General Plan Environmental Impact Report;* rather, it supplements the General Plan EIR with additional information where necessary and provides its own mitigation measures to address the Project's potential significant impacts. See also Response ECORP-33.

Response to ECORP-23

The comment refers to analysis of cultural resources in the 2002 *Eastshore Park Project General Plan Environmental Impact Report.* The analysis of cultural resources for the Albany Beach project in the Draft EIR Section 4.4 Cultural Resources, pages 142-155, is based on multiple documents and investigations, which together provide sufficient data to support the conclusions of the Draft EIR. The Albany Beach Draft EIR does not rely solely on the 2002 *Eastshore Park Project General Plan Environmental Impact Report,* rather, it supplements the General Plan EIR with additional information where necessary and reaches its own conclusions about the Project's impact on cultural resources.

Response to ECORP-24

The Project Area has from 5 feet to as much as 20 feet or more of fill, including soil, demolition debris, rock rip rap, and concrete or asphalt concrete paving placed over the former baylands and hill slope areas where there is a possible or potential occurrence of cultural resources. All areas of the project area, including Fleming Point, have been significantly disturbed. The fill has resulted from multiple episodes of historic destruction and subsequent development. Considering that no prehistoric sites or intact historic features have been recorded in the project area despite 100 years of intense archaeological research along the Berkeley-Albany shoreline, there is almost no likelihood that any cultural resources would be observed during additional intensive pedestrian surveys of these fill areas, beyond the surveys already conducted. It is impractical to conduct subsurface testing of these thick fill areas, as there is no basis to direct the location of subsurface testing; such testing would be random and very unlikely to uncover any cultural resource objects. Mitigation measures are included with the project to address any historic or cultural resources that are uncovered where excavation and fill removal and replacement with engineered materials and rock rip rap is proposed. On page 4 of his *Archaeological Reconnaissance and Literature Search* (Appendix E of the Draft EIR), Dr. Fentress did not recommend additional subsurface presence/absence testing in the project area.

The information provided above does not alter the conclusions of the cultural resources analysis in Section 4.4 Cultural Resources of the Draft EIR.

Response to ECORP-25

The analysis of cultural resources for the Albany Beach project in Section 4.4 Cultural Resources, pages 142-155 of the Draft EIR, is based on multiple documents and investigations, which together provide sufficient data to support the conclusions of the Draft EIR. The Albany Beach Draft EIR does not rely solely on the *Existing and Future Conditions Report (LSA 2011),* rather, it supplements this background document with additional information where necessary. The Park District Master Plan guidelines regarding cultural resources are described in the Draft EIR on page 147.

Response to ECORP-26

See Response to ECORP-24 and Response to ECORP-23.

Response to ECORP-27

The analysis of cultural resources for the Albany Beach project in Section 4.4 Cultural Resources, pages 142-155 of the Draft EIR, is based on multiple documents and investigations, which together provide sufficient data to support the conclusions of the Draft EIR. The Albany Beach Draft EIR does not rely solely on the *Existing and Future Conditions Report (LSA 2011);* rather, it supplements the General Plan with additional information where necessary. This includes project-specific information on historic features and wild art, presented in Section 4.4 Cultural Resources, pages 142-155, which evaluates potential

impacts on these cultural resources adequately, in compliance with CEQA. See also Responses to ECORP-31 and ECORP-34.

Response to ECORP-28

The Fentress *Archaeological Reconnaissance and Literature Search* (Appendix E of the Draft EIR) was not completed solely for purposes of meeting Section 106 requirements, but was primarily completed to assist with CEQA analysis, which was why it was included as a reference document in the Appendix (Fentress 2012:1).

Response to ECORP-29

The Archaeological Resource Management Reports (ARMR) guidelines provide recommendations (not requirements) for the preparation of archeological reports; they do not provide requirements for the contents of EIRs. See also Responses to ECORP-14 and ECORP-27.

Response to ECORP-30

Information on the procedures that will be employed should unexpected discoveries of historic and cultural resources be made during project construction are contained in Mitigation Measures CUL-3, CUL-4, CUL-5, and CUL-6. In addition, specific procedures and requirements that address this issue will be included on the Cover Sheet of Construction Notes for the final Construction Plans and specifications for each phase of the Project. See also Response to ECORP-33.

Response to ECORP-31

As discussed on page 89 of the LSA *Existing and Future Conditions Report* (included in Appendix G of the Draft EIR), additional fieldwork was completed by LSA archaeologist E. Timothy Jones in March 2010. See also Response to ECORP-24 above, which discusses the practicality of and lack of need for additional intensive field surveys and subsurface testing in this heavily disturbed area.

Response to ECORP-32

There is a typographical error on the cover of the Fentress cultural resources report;[4] the fieldwork and report should have the date of April 2012, not 2010. Page 3 of the report states the reconnaissance was conducted on March 30, 2012. This typographical error does not affect the validity of the Fentress report, or change the environmental conclusions of the Draft EIR.

The Albany Beach Draft EIR does not rely solely on the Fentress report and fieldwork (performed in 2012), rather, it is based on multiple documents and investigations, which

[4] Fentress, Jeff. 2012. *Archaeological Reconnaissance and Literature Search for the Proposed Bay Trail, Albany Beach Restoration and Public Access at Eastshore State Park Project, Alameda County, California.*

together provide sufficient data to support the conclusions of the Draft EIR. This includes project-specific information on portions of the project site not covered by the Fentress fieldwork, which is presented in Section 4.4 Cultural Resources, pages 142-155. The evaluation of potential impacts on cultural resources is adequate and complies with CEQA. See also Response ECORP-34.

Response to ECORP-33

Mitigation Measures CUL-4, on page 152, CUL-5, on page 153, and CUL-6, on pages 153-154, are sufficient to reduce Impact CUL-4 (undiscovered Native American cultural objects), Impact CUL-5 (fossils), and Impact CUL-6 (undiscovered human remains), respectively, to a less–than-significant level. To further reduce these insignificant impacts and to strengthen the mitigation measures for Impacts CUL-4, CUL-5, and CUL-6, revisions to Mitigation Measures CUL-4, CUL-5, and CUL-6 are described below. With implementation of the revised Mitigation Measures CUL-4, CUL-5, and CUL-6, impacts to undiscovered Native American cultural objects, fossils, and undiscovered human remains, respectively, would be less than significant. See also Response to ECORP-30.

Mitigation Measure CUL-4 on page 13 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure CUL-4: Construction contractors shall be trained by EBRPD staff to recognize Native American cultural objects. In accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[5] and CEQA, any previously undiscovered resources found during construction shall be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated by a qualified archaeologist to determine if it is an historical resource under CEQA, and if so, whether the Project would cause a substantial adverse change in the significance of the historical resource. In order to mitigate potential adverse impacts to Native American cultural objects discovered during construction, work shall be halted within 50 feet of the discovery until the objects have been inspected and evaluated by ~~a~~ the qualified archaeologist. If after evaluation by the archaeologist, the resource is determined to be a historical resource under CEQA and the Project would cause a substantial adverse change in the significance of the historical resource, the archaeologist shall ~~, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Site* identify and evaluate the significance of the discovery~~ develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. If encountered and recovery is deemed necessary to minimize construction impacts to the feature, a qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report and file it with the Northwest Information Center, affiliated with Sonoma State University and provide for the permanent curation of the recovered materials. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~

Mitigation Measure CUL-4, on page 152 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-4: Construction contractors shall be trained by EBRPD staff to recognize Native American cultural objects. In accordance with *EBRPD Guidelines for Protecting*

[5] East Bay Regional Park District, 1989. Oakland, California.

Parkland Archaeological Sites[6] and CEQA, any previously undiscovered resources found during construction shall be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated by a qualified archaeologist to determine the resources are historical resources under CEQA, and if so, whether the Project would cause a substantial adverse change in the significance of the historical resource. In order to mitigate potential adverse impacts to Native American cultural objects discovered during construction, work shall be halted within 50 feet of the discovery until the objects have been inspected and evaluated by ~~a~~ the qualified archaeologist. If after evaluation by the archaeologist, the resource is determined to be a historical resource under CEQA, and if the Project would cause a substantial adverse change in the significance of the historical resource, the archaeologist shall~~, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Site,* identify and evaluate the significance of the discovery~~ develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. If encountered and recovery is deemed necessary to minimize construction impacts to the feature, a qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report and file it with the Northwest Information Center, affiliated with Sonoma State University, and provide for the permanent curation of the recovered materials.~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~

Mitigation Measure CUL-5 on page 14 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure CUL-5: Construction contractors shall be trained by EBRPD staff to recognize fossils and possible unique geological features. EBRPD shall be notified if these are uncovered during construction of the Project~~Bay Trail~~. Work shall halt within 50 feet of the find until the situation can be assessed by a qualified ~~Geologist or~~ paleontologist, in accordance with Society of Vertebrate Paleontology standards. The ~~geologist or~~ paleontologist shall ~~identify and~~ evaluate the ~~significance of the discovery~~ resource to determine if the resource is a historical resource under CEQA, and if so, whether the Project would cause a substantial adverse change in the significance of the historical resource and develop recommendations for treatment as described below to ensure any impacts to the cultural resource are less than significant. If the find is determined to be significant and EBRPD determines that avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards that includes salvage of unearthed fossil remains, preparation of salvaged fossils for curation, identification, cataloging, curation, repository storage of prepared fossil specimens, and a final report of the finds and their significance. The plan shall be submitted to the EBRPD for review. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~

Mitigation Measure CUL-5, on page 153 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-5: Construction contractors shall be trained by EBRPD staff to recognize fossils and possible unique geological features. EBRPD shall be notified if these are uncovered during construction of the Project~~Bay Trail~~. Work shall halt within 50 feet of the find until the situation can be assessed by a qualified ~~Geologist or~~ paleontologist, in accordance with Society of

[6] East Bay Regional Park District, 1989. Oakland, California.

Vertebrate Paleontology standards. The ~~geologist or~~ paleontologist shall ~~identify and~~ evaluate the ~~significance of the discovery~~resource to determine if the resource is an historical resource under CEQA, and if so, whether the Project would cause a substantial adverse change in the significance of the historical resource and develop recommendations for treatment as described below to ensure any impacts to the cultural resource are less than significant. If the find is determined to be significant and EBRPD determines that avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards that includes salvage of unearthed fossil remains, preparation of salvaged fossils for curation, identification, cataloging, curation, repository storage of prepared fossil specimens, and a final report of the finds and their significance. The plan shall be submitted to the EBRPD for review. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~

Mitigation Measure CUL-6 on page 14 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure CUL-6: Construction contractors shall be trained by EBRPD staff to recognize human remains. In order to mitigate potential adverse impacts to human remains discovered during construction, work shall be halted within 100 feet of the discovery until the materials or features have been inspected and evaluated by a qualified archaeologist. The archeologist shall identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant~~. Standard recommendations may include~~, including avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository. In addition, the discovery must be reported to the County Coroner. If the Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Heritage Commission will assign a Most Likely Descendant to provide recommendations for the proper treatment of the remains taking into account the possibility of multiple human remains, and comply with Public Resources Code section 5097.98 and the Native American Graves Protection and Repatriation Act, if applicable. If the Native American Heritage Commission is unable to identify a most likely descendent, or the most likely descendent fails to make a recommendation within 24 hours after being notified by the commission, or EBRPD rejects the recommendation of the descendant, and mediation by the Native American Heritage Commission fails to provide measures acceptable to the EBRPD, then the Native American human remains and associated grave goods shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

Mitigation Measure CUL-6, on pages 153-154 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-6: Construction contractors shall be trained by EBRPD staff to recognize human remains. In order to mitigate potential adverse impacts to human remains discovered during construction, work shall be halted within 100 feet of the discovery until the materials or features have been inspected and evaluated by a qualified archaeologist. The archeologist shall identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant~~. Standard recommendations may include~~, including avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository. In addition, the discovery must be reported to the County Coroner. If the Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Heritage Commission will assign a Most Likely Descendant

to provide recommendations for the proper treatment of the remains taking into account the possibility of multiple human remains, and comply with Public Resources Code section 5097.98 and the Native American Graves Protection and Repatriation Act, if applicable. If the Native American Heritage Commission is unable to identify a most likely descendent, or the most likely descendent fails to make a recommendation within 24 hours after being notified by the commission, or EBRPD rejects the recommendation of the descendant, and mediation by the Native American Heritage Commission fails to provide measures acceptable to the EBRPD, then the Native American human remains and associated grave goods shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

Response to ECORP-34

As discussed on page 1 of the Fentress *Archaeological Reconnaissance and Literature Search* (Appendix E of the Draft EIR), Dr. Fentress visited the NWIC on March 29, 2012 and conducted additional archival and literature review that included the entire area, not just Area 3. No additional sites were included in the archival files. Note also that in the period between 2002, when LSA conducted their first archival review and fieldwork, and 2010, W. Self conducted an *Archaeological Survey and Cultural Resources Assessment for the Golden Gate Fields Project in Albany*. This was included in the Fentress Report. The 2006 W. Self report on file at NWIC was reviewed and referenced by Dr. Fentress and did not reveal any new or additional information.

Golden Gate Land Holdings LLC

COMMENT LETTER
ON THE
ALBANY BEACH RESTORATION AND PUBLIC ACCESS PROJECT
DRAFT ENVIRONMENTAL IMPACT REPORT
(SCH#2012032072)

August 27, 2012

Respectfully Submitted to the EBRPD Board of Directors
By Golden Gate Land Holdings LLC

OPENING STATEMENT AND EXECUTIVE SUMMARY

The fundamental problem with the Albany Beach Restoration and Public Access Project Draft Environmental Impact Report (the "DEIR") is that it is not what it purports to be. It is a draft environmental impact report in name only. If judged by its content and the information it provides regarding (a) project-related environmental impacts, (b) feasible mitigation measures, and (c) alternatives of lesser effect, the DEIR has all the substance of an Initial Study only, and not a DEIR. That is to say, it reflects a level of analysis that would be of best use in determining whether the Proposed Project may potentially have significant impacts on the environment. But it is not a document that provides the information and analysis required to enable decision makers such as the East Bay Regional Park District ("EBRPD" or "Park District") to make informed decisions that take into consideration: GGLH-1

- **the ways in which the Proposed Project will impact the environment,**
- **the significance of those impacts, and**
- **the feasibility of mitigating those impacts by way of:**
  - (i) **changes to the design of the Project,**
  - (ii) **mitigation measures targeting residual impacts, and/or**
  - (iii) **alternatives that avoid or result in reduced impacts.**

If the DEIR is to serve these functions -- which are the essential functions of an EIR -- not only will it need to be rewritten to provide the content and substance it currently lacks, but it will also need to incorporate substantial new studies and analysis that have been impermissibly deferred.

Critical Deficiencies to be Addressed in a Revised DEIR

In the comment letter of which this Opening Statement is a part, we have identified a host of substantive deficiencies that will need to be addressed in a revised DEIR to bring it into compliance with the requirements of CEQA. By way of example, those deficiencies include the following: GGLH-2

1. **Failure to Identify a "Preferred Project Plan."** The DEIR Project Description makes reference to a "Preferred Project Plan" which purportedly defines the project for purposes GGLH-3

of environmental review but which is not included in the DEIR and is apparently unavailable. The absence of a Preferred Project Plan that provides a comprehensive and integrated understanding of the project parameters and reflects a level of planning and design detail that will enable effective CEQA review represents the omission of a critical prerequisite to a legally adequate DEIR. GGLH-3 (cont.)

2. **Failure to Address Sea Level Rise.** The DEIR acknowledges that sea level rise poses a reasonably foreseeable threat to the physical integrity of the Proposed Project (i.e., its long term survival as a public resource) but the document fails to satisfy CEQA by including:

- a competent examination of the scope and character of the problem;
- an evaluation of alternative strategies to mitigate the problem;
- an assessment of the comparative impacts associated with the alternative mitigation strategies; and
- a mitigation strategy to protect the project from sea level rise and appropriate mitigation measures to protect the environment from the adverse impacts of such a strategy.

GGLH-4

As a result, the Project as proposed is designed to fail and the impact analysis is at best deferred resulting in a legally unacceptable piecemeal approach to environmental review under CEQA.

3. **Failure to Identify and Mitigate Impacts to Burrowing Owls**. The DEIR acknowledges the likely presence of burrowing owls on the Proposed Project site but fails to satisfy CEQA by including:

- an appropriate assessment of the scope and character of the burrowing owl presence;
- an analysis of the ways in which the burrowing owls that are present will be negatively impacted by the Proposed Project;
- an analysis of Project impacts to burrowing owl habitat; and
- appropriate mitigation measures to protect the burrowing owl from Project impacts and to mitigate impacts to owl habitat.

GGLH-5

4. **Failure to Properly Analyze and Mitigate Traffic Impacts.** Not only is the DEIR legally defective because its analysis of project-related transportation and traffic impacts:

- is based on inadequate information and flawed assumptions;
- is internally inconsistent; and
- is methodologically defective,

GGLH-6

but the DEIR is also legally inadequate in that it completely ignores the impacts of the approximately 4,500 heavy truck trips (assuming the use of trucks capable of hauling on average 10 cubic yards of materials per trip) that will be required (a) to haul 22,470 cubic yards of potentially contaminated debris, rubble and other materials to disposal locations at some distance from the project site and (b) to import 22,920 cubic yards of fill material from offsite source locations, all by way of the Buchanan/I-80/I-580 interchange.

5. **Failure to Analyze and Mitigate Impacts Resulting from Changes to GGF Required to Accommodate the Proposed Project.** Although the Proposed Project will likely require substantial changes to the existing Golden Gate Fields ("GGF") circulation and parking facilities, including reconfiguration and reoperation of the GGF entry roadway off Gilman Street, the DEIR fails to include any analysis:

- of the scope and character of these changes to the physical and operational character of GGF;
- of the impacts of these changes on the environment; and
- of the feasibility of mitigating these impacts by way of changes in the design of the Proposed Project, mitigation measures, and alternatives.

As a result, the DEIR also fails to incorporate appropriate strategies to mitigate the identified impacts associated with these changes to GGF. GGLH-7

Recirculation of the DEIR is Required

CEQA requires that where "significant new information" is added to an EIR after a draft EIR is circulated for public review and comment, the revised DEIR (or the portions thereof containing the new information) must be recirculated for further public review and comment. Pub.Resources Code, § 29092.1; CEQA Guidelines §15088.5; Laurel Heights Improvement Association v. Regents of the University of California (1993) 6 Cal.4th 1112 (Laurel Heights II); Mountain Lion Coalition v. Fish and Game Commission (1989) 214 Cal.App.3d 1043 (Mountain Lion Coalition). As a result of the deficiencies summarized above and other defects addressed in the discussion that follows, the DEIR is "so fundamentally and basically inadequate and conclusory in nature that public comment on the draft [is] in effect meaningless." (CEQA Guidelines, §15088.5, subd. (a); Laurel Heights II at p. 1130); Mountain Lion Coalition at p. 1052. As a result, recirculation of a revised draft document with changes to address the inadequacies discussed in this comment letter will be required. GGLH-8

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August 27, 2012

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Delivered by U.S. Mail and e-mail to the addresses listed above.

Re: Comments on the Albany Beach Restoration & Public Access Project Draft Environmental Impact Report (SCH#2012032072)

Dear Members of the Board:

This comment letter on the Albany Beach Restoration and Public Access Project Draft Environmental Impact Report ("DEIR") is submitted on behalf of Golden Gate Land Holdings LLC ("GGLH") -- the owner of the Golden Gate Fields ("GGF") property, a portion of which the East Bay Regional Park District ("EBRPD" or "Park District") proposes to convert from its existing racetrack-related uses to public recreation/open space/access uses as part of the Proposed Project. In furtherance of these proposed changes in land use, the Park District adopted a Resolution of Necessity on April 5, 2011 condemning the portions of the GGF property identified in the DEIR as "Area 2" and "Area 3." DEIR at p.1. As a result, GGLH has a fundamental interest in the project-related decisions of the EBRPD and other public agencies which this DEIR is intended to inform and has a direct stake in the legal adequacy of the DEIR. GGLH-9

INTRODUCTION

The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) ("CEQA") requires public agencies such as the EBRPD to both document and give consideration to the impacts of their actions on the environment. See Pub. Resources Code, §§21000, 21001; Friends of Mammoth v. Board of Supervisors (1972) 8 Cal. 3d 247, 254-256. An environmental GGLH-10

Impact Report ("EIR") prepared pursuant to and in accordance with CEQA has two principal purposes:

1. The first purpose of environmental impact review under CEQA is not only "to inform decision makers" as the DEIR provides at page 1 but also, and perhaps more importantly, to assure that decision making is informed -- that is, "to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences." CEQA Guidelines Section 15151, emphasis added; see DEIR at p. 5. While this comment letter will focus on the inadequacy of the impact analysis and information provided decision makers by the DEIR, it is important to note that, even if the DEIR reflected an adequate, complete and good faith effort at full disclosure by the District (which it does not), it cannot possibly achieve the first of its two principal purposes -- to enable informed decision making -- because it has been prepared after one of the most important decisions it is intended to inform has already been made.

As noted above, on April 5, 2011, fully fifteen months before the DEIR was published and made available for public review and comment (July 11, 2012), the Park District adopted the Resolution of Necessity to condemn: GGLH-10 (cont.)

- a 2.8 acre portion of the GGF property adjacent to Albany Beach (referenced in the DEIR as "Area 2") upon which the Park District proposes to undertake beach and dune enhancement and construct recreation improvements, a restroom, parking, and approximately 800 feet of new San Francisco Bay Trail ("Bay Trail"); and
- an easement on a 4.88 acre portion of the GGF property that runs along the entire length of the GGF waterfront for the purpose of constructing an additional 4,200 feet of new Bay Trail. See DEIR at p. 1.

According to a recent court decision, the Park District approved a project for the purposes of CEQA when it adopted the Resolution of Necessity. CEQA, however, requires that environmental analysis come *before* project approval, so that decision-makers can "intelligently [take] account of environmental consequences." See CEQA Guidelines Section 15151. As a result, no matter what steps are taken in response to comments which are to be focused on "the environmental impacts and the adequacy of the EIR" (DEIR at p. 5), the DEIR cannot serve its intended purpose unless the Park District vacates and then reconsiders its Resolution of Necessity in light of the information and analysis the EIR will provide. Additionally, since the project has already been approved, the EIR should explain what it means by "the EBRPD Board of Directors will consider whether to . . . approve the project." DEIR at p. 5.

2. While the DEIR makes reference to the first purpose of environmental review under CEQA (i.e., informed decision making), the DEIR is strangely silent with respect to the second purpose of CEQA. As the California Supreme Court has instructed -- "CEQA compels government first to identify the environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives." Sierra Club v. State Board of GGLH-11

Forestry (1994) 7 Cal.4th 1215, 1233; see Pub. Resources Code §21002; see also Mountain Lion Foundation v. Fish & Game Commission (1997) 16 Cal.4th 105, 134.

As a result, the analysis required to identify a project's environmental impact is only the first step of a two step process. If the impact analysis identifies significant adverse environmental effects attributable to the proposed project, then the DEIR must thoroughly assess the availability of feasible mitigation measures or feasible alternatives to the project that can either avoid the significant impacts or reduce them to a less than significant level. Where feasible mitigation measures or alternatives can substantially lessen the significant adverse impacts of a project, agencies are prohibited by CEQA from approving the project as proposed. Chapter 1 of the DEIR needs to be revised to inform the public of this "'substantive mandate' that public agencies refrain from approving projects with significant environmental effects if 'there are feasible alternatives or mitigation measures' that can substantially lessen or avoid those effects. Mountain Lion Foundation v. Fish & Game Commission (1997) 16 Cal.4th 105, 134...." Guide to CEQA (Eleventh Edition), Michael H. Remy, Tina A. Thomas, James G. Moose, and Whitman F. Manley (2007) at p. 1. GGLH-11 (cont.)

In recognition of CEQA's dual purpose as described above, our comments will focus on:

1. the adequacy of the impact analysis contained in the DEIR; and
2. the extent to which the DEIR contains an adequate assessment of feasible mitigation measures and alternatives.

GGLH-12

PROJECT DESCRIPTION
(DEIR Section 3 at pp. 25-64)

An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR. County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 193. The "Albany Beach Restoration and Public Access Project at Eastshore State Park," as proposed by EBRPD, is described in the DEIR as "consisting of shoreline repair and reconstruction, (optional) habitat enhancement, beach renovation, recreational amenities, and construction of approximately 1.3 miles of the San Francisco Bay Trail (the "Bay Trail") public access improvements consistent with the Eastshore State Park General Plan at Albany Beach" (the "Proposed Project" or "Project"). DEIR at p. 25. In describing the Proposed Project, the DEIR also notes that:

- the Eastshore Park General Plan (the "General Plan") is the "Master Plan for development of Eastshore Park" (DEIR at p. 25);
- the environmental impacts of this General Plan were analyzed at a "program" level by the Eastshore Park Project General Plan EIR (the "General Plan EIR") (DEIR at p. 25); and
- the General Plan and General Plan EIR both contemplate that a "'tiered' approach [will be] used for environmental review of subsequent development of specific components of the master plan, such as the Albany Beach Restoration and Public Access Project . . . , in which the environmental document for the subsequent project focuses on project-specific impacts that were not covered in the Eastshore Park Project General Plan." DEIR at p. 25. GGLH-13

While it is certainly the case that the General Plan and General Plan EIR contemplate a "tiered" approach to the subsequent environmental review of project-specific components of the General Plan program,[1] the master plan framework established by the General Plan and General Plan EIR had a very different approach to project-specific implementation in mind than the approach currently being taken by the Park District as reflected in the DEIR.

The General Plan itself describes at some length the process by which the master park program it establishes for the Eastshore State Park is to be implemented through specific project initiatives such as the Albany Beach Restoration and Public Access Project. (See General Plan at pp. I-17 through I-19.) The General Plan's self-subscribed principal purpose is to serve as "the primary management document" for the Eastshore State Park, "establishing its purpose and management direction of the future." General Plan at p. I-17. As such, the General Plan provides "a defined purpose and vision, long term goals, and guidelines" and "defines the broadest management framework for the development, ongoing management, and public use" of the Eastshore State Park. General Plan at p. I-17.

[1] Although the General Plan and General Plan DEIR contemplated a tiered approach to future environmental analysis, almost ten years have passed since the General Plan environmental review was completed. Presumably, circumstances have changed in the intervening period and such changed circumstances present new issues that will need to be addressed in a new EIR on a specific project. If the DEIR is to be "tiered" off the 2002 GP EIR, it should include a discussion of such changed circumstances and the issues they present.

> "Specific objectives and strategies for implementation of the general plan are intended to be developed in subsequent planning efforts as they are needed, including preparation of management plans and specific project plans. . . . 'Management Plans' define the specific objectives, methodologies and/or designs for accomplishing management goals. . . . 'Specific Project Plans' are the detailed implementation plans needed to accomplish specific projects or management plans." General Plan at p. I-18.

The General Plan Guidelines make it clear that "Specific Project Plans" (or "Area-Specific Projects," as they are also called) are to be developed through a "planning and design process" that is carved out at a level of specificity and detail sufficient to accomplish two overriding objectives:

1. to assure that the defined purpose and vision, long term goals, and guidelines established by the General Plan are implemented at the project- and area-specific level; and, more importantly for purposes of this letter, and
2. to enable a thorough CEQA analysis and disclosure of the "potential environmental impacts associated with implementing the proposed project" such that (a) "the project can be modified to avoid or minimize potential impacts" and (b) mitigation measures can be developed to address "impacts that cannot be reduced to a less than significant level" by project modification. DEIR Appendix H, "Implementation Approach, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California," June 16, 2011 (the "Feasibility Study Implementation Plan" or "Implementation Plan"), at p. 7.

GGLH-13 (cont.)

In evaluating the legal adequacy of the DEIR, two major points of inquiry arise:

1. Is the Proposed Project defined in such a way and does it reflect a level of planning and design detail that will enable effective CEQA review?
2. Does the CEQA review reflect a level of analysis that will enable (a) appropriate modifications to be made to the project to avoid or minimize potential impacts and (b) appropriate mitigation measures to be developed to reduce to a less than significant level those project impacts that cannot be addressed through project modifications?

The Albany Beach Restoration and Public Access DEIR falls short of legal adequacy in both regards.

The Proposed Project Is Inadequately Defined to Make Effective Environmental Review Possible

The Proposed Project's Main Components. The DEIR describes the Proposed Project as consisting of "three main components"[2]:

1. "Shoreline repair and reconstruction, including potential habitat enhancement (optional), and accessibility improvements to 2,000 feet of existing trail (San Francisco Bay Trail Spur) along the Albany Neck shoreline (Area 1); and northern beach access;
2. Beach and dune enhancement, recreation improvements, restroom, parking and construction of 800 feet of new San Francisco Bay Trail at Albany Beach (Area 2); and
3. Construction of 4,200 feet of new San Francisco Bay Trail between Albany Beach and Gilman Street (Area 3)." DEIR at p. 1.

Project Components Applicable to Areas 1 and 2. In further describing those components of the Proposed Project applicable to Areas 1 and 2, the DEIR makes reference to the four part Albany Beach Restoration and Public Access Feasibility Study (the "Feasibility Study") that was prepared in 2010-2011 to identify and conceptualize habitat restoration and public access improvements at Albany Beach, consistent with the vision of the adopted General Plan to include:

- restoring and protecting Albany Beach and dune habitats; GGLH-14
- expanding dune areas behind the beach;
- installing compatible public access improvements and other park facilities;
- enhancing water access to San Francisco Bay; and
- closing a key gap in the San Francisco Bay Trail.

According to the DEIR, this Feasibility Study and the public input received in response thereto "formed the basis for the Preferred Project Plan for Restoration and Public Access for Albany Beach" (the "Preferred Project Plan") that "is the subject of [the DEIR] environmental analysis." DEIR at p. 42.

Project Component Applicable to Area 3. In describing the component of the Proposed Project applicable to Area 3, the DEIR refers to the "[d]evelopment of concepts for the Bay Trail along Golden Gate Fields (Area 3) [that] were separately prepared by Questa Engineering, in consultations with EBRPD, over the period from 2006 through 2010." DEIR at p. 42. The DEIR is silent, however, regarding the existence of a preferred project plan which transforms these Bay Trail "concepts" into a project proposal for purposes (a) of processing the discretionary approvals that will be required to proceed with project implement and (b) of conducting the requisite environmental review required before such approvals can be granted.

[2] In addition to the three main components, the DEIR also notes a fourth component consisting of repairs to "an approximately 2-acre area on the east end of the Plateau, which has been damaged by metal scavenging and uneven landfill ground settlement." DEIR at p. 28.

Status of Preferred Project Plans Applicable to Areas 1, 2, and 3. It seems reasonable to assume from the absence of any mention of a preferred project plan proposed for Area 3 that such a formal, stand-alone plan does not exist. Indeed, although (as noted above) reference is made in the DEIR to the existence of a Preferred Project Plan applicable to Areas 1 and 2 (e.g. DEIR at pg. 3), the DEIR neither includes such a plan in the Appendix nor provides directions with respect to where such a plan is made available for public review. These omissions suggest that such a Preferred Project Plan for Areas 1 and 2 also has not yet been prepared. GGLH-15

Absence of Preferred Project Plan Results in Fatally Flawed Environmental Review. If, in point of fact, a Preferred Project Plan applicable to Areas 1, 2, and 3 does not exist separate and apart from the purported description of such a proposed project in the DEIR, then the environmental review done to date is fatally flawed. The DEIR cannot bypass the heavy lifting required to transform the Feasibility Study, the Bay Trail concepts, the related public input, and the other supporting documentation into an actual project proposal by using the DEIR project description to create an illusory Preferred Project Plan that in point of fact has no life outside the covers of the DEIR. GGLH-16

Preparation of Preferred Project Plan Required to Cure Legal Deficiency. If EBRPD, as lead agency, is to correct this fundamental deficiency with both its CEQA review process and the DEIR this process has produced, its first order of business must be to prepare a formal, well-documented, integrated, stand-alone Preferred Project Plan applicable to Areas 1, 2, and 3 which can serve to define the Proposed Project both for purposes of securing the discretionary approvals that are required to proceed with project implementation and for purposes of conducting the environmental review under CEQA that is required to support those approvals. GGLH-17

The Proposed Project Appears to Be Missing the Design Work Required to Make Effective Environmental Review Possible

The fourth part of the Feasibility Study entitled "Implementation Approach" (the "Implementation Plan") lists the tasks that will need to be undertaken in order to implement the Proposed Project. Implementation Plan at p. 7. These tasks include more refined project design to "provide the detail necessary for CEQA analysis" as well as for regulatory review and approval. Implementation Plan at p. 7. GGLH-18

It should be noted, of course, that there is a close relationship between the CEQA review process and the regulatory approval process. Because the CEQA analysis will provide the "needed documentation for [project-related] discretionary approvals (permits)," any project design detail that is required for purposes of processing project approvals will also be required for purposes of CEQA analysis. GGLH-19

In identifying the crucial role that further project design will play in providing "the detail necessary for CEQA analysis" (Implementation Plan at p. 7), the Implementation Plan echoes a common refrain of the General Plan Guidelines that make frequent reference to the importance of "the planning and design process for area-specific projects." Both the General Plan and the Implementation Plan place great emphasis on design refinement and detail precisely because the design process offers a unique opportunity to introduce design solutions to address potential GGLH-20

environmental impacts and to reduce uncertainty leading to more reliable project impact analysis and better informed decision making. GGLH-20 (cont.)

The Implementation Plan's call for additional design refinement and detail raises the following points of inquiry:

- Has the more detailed design work called for by both the General Plan and the June 2011 Feasibility Study Implementation Plan been undertaken? If so, please describe any and all design work undertaken during the time period extending from June 2011 to the present.
- If undertaken but not yet completed, what is the status of the design work currently underway?
- What additional design work remains to be done?
- Has the remaining design work been scheduled and, if so, when is it projected to be completed? GGLH-21
- To the extent such more detailed design work has been completed:
  - Has it been incorporated in the Proposed Project as described in the DEIR?
  - Has it resulted in any changes to the Proposed Project that either avoid or reduce the Project's environmental impacts?
  - Was it made available to EBRPD when the decision was made to proceed with the Preferred Project Plan?
  - Was it considered in reviewing the Preferred Project Plan's environmental impacts and in evaluating the feasibility of measures to mitigate identified impacts under CEQA?
  - Is it presently available for public review and comment?

Explanation of Decision to Reject Feasibility Study Determination to Exclude Bay Trail Improvements from Proposed Project

Among the "improvements analyzed and not included in the Proposed Project" as recommended by the Feasibility Study are improvements located "along the shoreline south of Albany Beach abutting Golden Gate Fields," including construction of the extension of the Bay Trail to Gilman Street, installation of a vegetated buffer between the Bay Trail and the Golden Gate Fields property, and shoreline stabilization and protection south of Albany Beach to lower the risk of erosion and shoreline failure. Implementation Plan at pp. 14-17. The Implementation Plan concludes: GGLH-22

> "These improvements would be more effectively addressed by a separate effort to close a gap in the San Francisco Bay Trail between Buchanan Street and Gilman Street. Additional factors for not extending proposed project improvements south of Albany Beach include: substantial costs, permitted efforts, high potential for unearthing hazardous materials, potential cultural/historic resource impacts, and property ownership constraints on construction staging." Implementation Plan at p. 16.

At some point following the June 2011 completion of the Feasibility Study, however, a decision was apparently made to reject the recommendations of the study and to include as part of the Preferred Project Plan "[c]onstruction of 4,200 feet of new San Francisco Bay Trail between Albany Beach and Gilman Street (Area 3)." DEIR at p. 25, 43. GGLH-22 (cont.)

The DEIR fails to acknowledge this inconsistency between the project as proposed by the Feasibility Study and the Proposed Project as described in the DEIR. As a result, there is no discussion in the DEIR regarding how and why the decision was made to reject the determination of the Feasibility Study that the public access and shoreline improvements applicable to Area 3, including a 4,200 foot segment of the Bay Trail, "would be more effectively addressed by a separate effort." Implementation Plan at p. 16. Nor does the DEIR address "the additional factors for not extending proposed project improvements south of Albany Beach" as referenced above. Implementation Plan at p. 16. The project EIR needs to provide the missing discussion in response to these points of inquiry.

Failure to Include As a Component of the Proposed Project Changes to Golden Gate Fields Land Uses and Site Plan

In order to accommodate the Proposed Project, significant changes will be required with respect to the Golden Gate Fields site plan and related land use. In particular (and as further addressed in the discussion of "Transportation and Traffic" below), construction of the segment of the Bay Trail extending from Gilman Street to the base of Fleming Point will likely require significant changes in the physical configuration and/or operational characteristics of the existing on-site circulation system. Any changes to the physical character or operational characteristics of the Golden Gate Fields site that are occasioned by the Proposed Project must be treated as an integral component of the Proposed Project no different than the "three main components" listed on page 25 of the DEIR. The Proposed Project must include both an analysis of the physical and operational changes that will be required of Golden Gate Fields and a plan for implementing such accommodations, including sufficient design detail to allow for effective environmental impact analysis and to enable feasible modifications to the Proposed Project which will eliminate or reduce potential impacts. Once the Proposed Project has been amended to include this additional component, the CEQA analysis must be redone to include a review of the environmental impacts of the Proposed Project as amended. GGLH-23

Failure to Include Construction Activities As Part of the Proposed Project

Another critical component of the Proposed Project that has not been adequately addressed in the DEIR is the work that will be required to construct the Project improvements. One of the reasons detailed design plays a critical role in defining the Proposed Project for purposes of environmental review and project approval is that, with greater design specificity, a more accurate assessment can be made of the character and scope of the construction work that will be required to build the Project improvements. This assessment in turn allows the Proposed Project to be amended to include such construction-related activities. GGLH-24

While the DEIR includes a cursory discussion of the construction-related aspects of the Proposed Project, it fails to assign to this Project component an importance that is commensurate

with the potential impacts it generates. It is often the case that construction-related environmental impacts can be of greater concern than the impacts of the improvements being constructed. For example, as further addressed in the Transportation and Traffic discussion that follows later in this comment letter, the DEIR includes no consideration of the number of truck trips (and the related impacts that will be generated by the earthwork requirements of the Proposed Project including the import and export of a combined total of approximately 45,000 cubic yards of rock, sand, soil, rubble, demolition debris, and other materials). Dump trucks typically range in sizes capable of carrying from five to twenty tons of material; depending on the size(s) of trucks used, it appears that the Project will entail approximately 2,250 to 9,000 truck trips. A much more careful assessment of the construction-related component of the Proposed Project is required. GGLH-24 (cont.)

This more thorough assessment needs to begin with a more detailed project design. Once the design detail is completed, the construction-related requirements of each project improvement will need to be evaluated and the Proposed Project will need to be amended to include such requirements before it is subjected to environmental review.

Mischaracterization of Existing Bay Trail Connection

The DEIR asserts that the proposed project would "close a major gap in the San Francisco Bay Trail to allow transit on foot and bicycle from Richmond on the north to Berkeley and Emeryville to the south." (DEIR at p. 40.) Diagrams on pages 309 and 310, however, show an existing informal Bay Trial connection between Richmond and Berkeley along existing paths and streets. This existing informal Bay Trail connection is further described as part of the DEIR discussion of the "Bay Trail East of I-80 Alternative" at page 332. In addition, the DEIR makes note of the existing informal Bay Trail connection that makes use of the public access provided by GGF to the paved onsite travelways that extend the length of the GGF waterfront. To characterize these informal Bay Trail alignments as "a major gap" in the Bay Trail is to leave the impression that they do not currently exist. And to represent that the Proposed Project would "close" this "gap" by "allow[ing] transit on foot and bicycle from Richmond on the north to Berkeley and Emeryville to the south" is to leave the impression that existing conditions do not presently allow such transit. The project description needs to be revised to rectify these misimpressions. GGLH-25

AIR QUALITY
(DEIR Section 4.2 at pp. 91-109)

The DEIR discussion of air quality impacts is legally deficient in the following regards. GGLH-26

Standards of Significance
Cumulative Impacts

The DEIR discussion of cumulative air quality impacts references the Bay Area Air Quality Management District's ("BAAQMD's") guidelines for CEQA analysis:

> "By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in [regional] nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contributions to the cumulative impact is considerable, then the project's impact on air quality would be considered significant." See DEIR at p. 108.

In implementing these guidelines, the DEIR employs standards of significance that include an evaluation of whether the project would "[r]esult in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)." DEIR at p. 100. To determine whether the Proposed Project would have such significant cumulative air quality impacts, the DEIR relies on "BAAQMD's thresholds for the regional significance for project construction and operational criteria air pollutant emissions" as such criteria are described in DEIR Table 4.2-4 at page 101 (the "BAAQMD Thresholds" or the "2010 Thresholds"). GGLH-27

In a footnote commenting on the BAAQMD Thresholds, the DEIR explains its continued reliance on these proposed standards of significance in spite of the fact that an "Alameda Superior Court recently ordered that BAAQMD set aside its approval of the 2010 Thresholds and not disseminate them as officially sanctioned air quality standards until BAAQMD conducts CEQA review of them" (DEIR at p. 101):

> "[T]he court did not rule that the 2010 Thresholds lacked substantive evidence to support them or that they were substantially flawed or scientifically unsound. Rather, it simply held that BAAQMD is required to conduct further environmental review of the Thresholds before it can readopt them. Accordingly, the basis for using the Thresholds remains valid and use of the Thresholds is supported by substantial evidence." DEIR at p. 101.

This footnoted reading of the Alameda Court's recent ruling fundamentally misses the point of the Court's decision. Underlying and grounding the Court's order prohibiting

dissemination of the 2010 Thresholds is an implicit determination that, in the absence of an adequate CEQA review, BAAQMD had failed to establish the validity of the 2010 Thresholds as standards of significance and had failed to provide an adequate evidentiary basis supporting use of the 2010 Thresholds as measures of environmental impact. If the Court had intended to endorse continued third party reliance on these 2010 Thresholds pending completion of the CEQA process by BAAQMD, it would not have closed the door to their continued distribution. BAAQMD's own website echoes this point:

> "In view of the court's order, the Air District is no longer recommending that the Thresholds be used as a generally applicable measure of a project's significant air quality impacts. Lead agencies will need to determine appropriate air quality thresholds of significance based on substantial evidence in the record."

GGLH-27 (cont.)

(Available online at www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES.aspx)

All of which is not to suggest that the DEIR for the Albany Beach Restoration and Public Access Project is prohibited from using the 2010 Thresholds as a measure of significant impact. But until the 2010 Thresholds have been readopted by BAAQMD following the Court-prescribed CEQA review, the validity of their use and any reliance placed upon them by the DEIR must be supported by substantial evidence contained within the DEIR itself. That is to say, if the DEIR makes use of the 2010 Thresholds, *it* must explain why these thresholds constitute a valid measure of "cumulatively considerable" incremental environmental effect (see CEQA Guidelines, §15064, subd. (h)(3)) and it must be revised to provide the evidentiary basis to support such use of the BAAQMD Thresholds as the applicable standards of significance. The DEIR does neither.

Air Quality Impact Analysis

The DEIR examines both construction and operational air quality impacts of the Proposed Project.

Construction-Related Air Quality Impacts. The daily construction-related emissions from equipment and motor vehicles are shown on Table 4.2-5 at page 104. The validity of these estimates of daily emissions depends to a large extent on the assumptions that are made relative to the type and scope of the construction activities that will generate the emissions. In this regard, the DEIR indicates "[a]ir pollution emissions estimates were based on the project-specific construction schedule, construction equipment use, soil/material haul data provided by Questa Engineering, and the air quality features for the Project (Control of Fugitive Dust and Use of Newer Construction Equipment) described in 3.8 Avoidance and Minimization Measures." The DEIR does not include any of the data referenced above or any further discussion of the assumptions that have been made regarding the construction activities that generate the emissions. While the assumptions referenced by the DEIR are reflected in spreadsheets that are appended to the DEIR (see DEIR Appendix D), they are presented in a form that is

GGLH-28

understandable only to readers with considerable expertise in air quality analysis. If the DEIR is to afford an opportunity for true public review and comment and is to provide a basis for informed decision making, it must explain and summarize these assumptions using text and figures that can be understood by decision makers and the interested public alike. For example, the "soil/material haul data" and related assumptions should be described in terms of:

- the types and volumes of the materials being hauled;
- for each type of material being imported to or exported from the Project site, the type or equipment to be used in transporting the materials, including the load capacity of the transport vehicle; GGLH-28 (cont.)
- for each type of material being imported to the site, the source location of the material and the related number of trips and trip lengths generated by the import requirements; and
- for each type of material being exported from the site, the destination location for the exported material and the related number of trips and trip lengths generated by the export requirements.

Operations-Related Air Quality Impacts. The DEIR's analysis of the operations-related cumulative air quality impacts of the Proposed Project is based on the motor vehicle trip generation characteristics of the project:

> "Operational criteria air pollutant emissions associated with the maximum estimated Project trips (775 Saturday trips) were estimated using URBEMIS Software." DEIR at p. 105.

As with all modeling, the URBEMIS output estimates of air pollutant emissions are only as good as the input assumptions regarding estimated Project trips. The estimated daily trips for the project "were calculated using the Institute of Transportation Engineers (ITE) Trip Generation Handbook, (Eleventh Edition)" and assuming a "County Park" land use. DEIR at p. 292.

GGLH-29

As discussed in more detail in our comments on Section 4.12 Transportation and Traffic of the DEIR, trip generation estimates based on actual parking counts collected on-site indicate that the ITE "County Park" based estimates of weekday AM and PM peak hour trips dramatically underestimates the actual number of trips generated by the Proposed Project. Although actual parking counts were apparently not analyzed during weekend use, there is no reason to believe that the ITE "County Park" based estimate of 775 Saturday trips used to estimate operational-related criteria air pollutant emissions is any more accurate than the ITE "County Park" based estimates of AM and PM peak hour use. As further discussed at pages ___-___ below, the apparent lack of applicability of ITE "County Park" based standards to the Proposed Project makes it imperative that a detailed traffic study be performed for the purpose of analyzing the Transportation and Traffic impacts of the Proposed Project, with the trip generating characteristics of the Proposed Project estimated based on actual parking and traffic counts. Once this detailed traffic study is completed, the URBEMIS model needs to be rerun using a more accurate estimate of the maximum estimated daily trips generated by the Proposed Project.

It is also important to note that, for the reasons discussed above in our comments on the DEIR's analysis of the construction-related air quality impacts, in the wake of the recent Alameda court's ruling vacating the adoption of and prohibiting the dissemination of BAAQMD's 2010 Thresholds, if the DEIR is to use the BAAQMD 2010 Thresholds as standards of significance for measuring the cumulative air quality impacts of the Proposed Project's operations, it must explain why these Thresholds are valid and must provide a substantial evidentiary basis in support of such use. In making determinations regarding the Proposed Project's air quality impacts, in general, and standards of significance, in particular, the DEIR should make special note (a) of the fact that the Proposed Project is located in a nonattainment area both ozone and particulate matter ("PM") (DEIR at p. 97) and (b) of the need to produce substantial evidence to support a determination that, in spite of the nonattainment status of the air basin in which it is located, the project's emission of ozone precursors and PM, in combination with the emissions of other projects, should not be found to be cumulatively significant even though they will make attainment more difficult to achieve. GGLH-30

Applicability of Air Quality Comments to Discussion of Greenhouse Gas Impacts

The comments which are set forth above relative to Air Quality are equally applicable to the DEIR's discussion of Greenhouse Gas Impacts. GGLH-31

Sensitive Receptors

Although acknowledging that older population groups "are considered to be more sensitive to air pollution's effects" (DEIR at p. 98) and that "senior centers and retirement facilities" are among the receptors that "are considered to be the most sensitive to air pollution's effects" (DEIR at p. 98), the DEIR fails to include (a) the high number of seniors and retirees who frequent the Golden Gate Fields racetrack as among the population groups to be accorded particular attention and (b) the Golden Gate Fields facilities as among the "local sensitive receptors of most concern." In addition, the GGF racetrack is used by athletes -- both horses and riders -- for whom aerobic and anaerobic function is a major factor in performance and who should also be considered sensitive receptors. Because of the proximity of the GGF facilities to the project site, the DEIR needs to be revised to evaluate the air quality impacts of the Proposed Project on the population of seniors and retirees who make use of the track for entertainment and of the horses and riders who use the track for sport. GGLH-32

BIOLOGICAL RESOURCES
(DEIR Section 4.3 at pp. 110-114)

The bulk of our comments on the provisions of the DEIR that address biological resources are contained in the comment letter prepared by ECORP Consulting Inc. and dated August 27, 2012 which is attached as Exhibit 1 and incorporated by this reference. GGLH-33

Although ECORP points out particular key areas where the DEIR "lacks sufficient specificity and detail," ECORP also notes the DEIR's most serious deficiencies involve a failure to adequately analyze impacts of the Proposed Project on biological resources and to formulate mitigation strategies to adequately address identified impacts. The way in which the DEIR approaches potential Project impacts to burrowing owls and eelgrass beds provides examples in this regard. GGLH-34

Burrowing Owl

The DEIR acknowledges the Burrowing Owl, a special status species, is likely present on the Project site and may be impacted by both the construction and operation of the Propossed Project. When such an acknowledgement is made in a Draft EIR, it is incumbent upon the project proponent:

- to determine whether the biological resource of concern is actually present on the project site and, if so, to determine the scope and character of that presence;
- to determine the scope and character of any adverse project-related n the biological resource of concern and its habitat; and
- to determine a feasible mitigation strategy for addressing the project-related impacts that have been identified, with such a mitigation strategy to include consideration of changes to the design of the project, mitigation measures to address impacts that have not been mitigated by changes in design, and alternatives to the project that has been proposed. GGLH-35

These are precisely the tasks an environmental impact report prepared pursuant to and in compliance with CEQA is suppose to perform and precisely the tasks the DEIR fails to perform in its approach to the Burrowing Owl.

Our review of the DEIR indicates there are a number of additional occasions where the DEIR acknowledges that adverse impacts are likely to occur if not mitigated but fails to make the determinations listed above. The DEIR should be thoroughly reviewed by its authors to make certain that these deficiencies are corrected. GGLH-36

Eelgrass Beds

The ECORP comment letter also points out that the DEIR proposes to mitigate for Project-related impacts to Eelgrass Beds (and to the Pacific Herring that frequent the habitat provided by the Eelgrass Beds) through the preparation of eelgrass delineation surveys, the implementation of unspecified water quality control measures during construction, and the post-construction monitoring of Eelgrass habitat that does not specify either monitoring protocols or GGLH-37

the corrective and compensatory measures that will be taken if monitoring determines the habitat has been adversely affected by the Project. As ECORP points out:

- studies are not mitigation measures;
- vague commitments to undertake undefined mitigation measures that are described in terms of their objectives (i.e., protect water quality) as opposed to the means that will be employed to achieve those objectives are not acceptable mitigation under CEQA; and
- post-construction monitoring programs are also flawed as mitigation measures if they do not specify the monitoring protocols that will be employed and the corrective/compensatory actions that will be taken if adverse impacts are found.

GGLH-37 (cont.)

Our review of the DEIR indicates that these are examples of studies, vague commitments to pursue mitigation objectives and monitoring programs that are masquerading as mitigation measures and that will need to be rethought and reconstituited if they are to qualify as mitigation under CEQA.

GGLH-38

Failure of DEIR to Accurately Describe the Reach of BCDC's Regulatory Role

The DEIR begins its discussion of Regional and Local Regulations and Policies with the statement that "[t]he California Coastal Commission acts carry out its mandate locally through the San Francisco Bay Area Conservation and Development Commission [3](BCDC)." (DEIR at 115.) Because BCDC regulates filling of the San Francisco Bay, which the DEIR indicates may be part of the Proposed Project, the role of BCDC in this Project is critical. It is important, therefore, to understand that BCDC's jurisdictional authority is completely independent from that of the Coastal Commission and that the Coastal Commission in no way acts through BCDC.

GGLH-39

Similarly, the DEIR does not accurately capture the role of the State Lands Commission when it says that the Commission "has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways."

GGLH-40

There are at least two aspects of the Proposed Project in addition to bay fill, that will involve BCDC and the State Lands Commission: floodplain and sea level rise.

GGLH-41

Flood Plain. The DEIR suggests that project structures will be a minimum of one foot above the current, nine foot FEMA flood elevation. (DEIR at 209.) In the same section, however, the DEIR points out that the flood elevation will rise significantly due to anticipated sea level rise, and elsewhere suggests that parts of the project area may subside by several feet. (Appendix G page 44.)

GGLH-42

BCDC policy requires the bottom floor level of structures to be above the highest estimated tide elevation. (DEIR at 217.) The proposed project structures should therefore be situated one foot above the anticipated flood elevation (incorporating both sea level rise and land subsidence), rather than the current flood elevation.

[3] The correct name of this regulatory agency is the San Francisco Bay Conservation and Development Commission.

Sea Level Rise. The DEIR's discussion of sea level rise is brief and contains little or no discussion of the impacts of anticipated sea level rise on the project over its supposed 25 year lifespan. Because the proposed project is "at low elevation and close to the Bay" (DEIR at 202), the DEIR should include more than a cursory discussion of sea level rise.

The DEIR uses the *Cayan et al.* estimate of 55 inches of sea level rise in California by 2100. This is no longer the most current and reliable estimate. In June 2012 the National Research Council published a report updating earlier assessments of sea level rise. The new estimate is that sea level along the California coast south of Cape Mendocino may rise as much as 65.5 inches by 2100. The FEIR should use the NRC's new estimates. GGLH-43

The FEIR should also show the anticipated mean higher high water line (incorporating both the NRC's sea level rise estimate and expected land subsidence) on the DEIR's diagrams at pages 48, 50, 51, and 56.

CULTURAL RESOURCES
(DEIR Section 4.4 at pp. 142-155)

Our comments on the provisions of the DEIR that address cultural resources are contained in the comment letter prepared by ECORP Consulting, Inc. and dated August 27, 2012 which is attached as Exhibit 1 and incorporated by this reference. GGLH-44

ECORP's comments on the DEIR's discussion of Cultural Resources questions whether the DEIR reflects a good faith effort to meet CEQA or NHPA Section 106 standards "for identification of significant cultural resources." ECORP cites to a number of examples where the DEIR fails to "definitively identify historical resources within the project area, when there is a reasonable opportunity to do so. As ECORP also points out, where the DEIR acknowledges that significant cultural resources may be present within the project area but does not perform the analysis required to determine (a) if cultural resources that are know to be significant and potentially present on the Project site are in fact present or (b) if potentially significant cultural resources that are known to be present on-site have historical significance. Such a deferral of a significance evaluation is not acceptable under CEQA. See CEQA Guidelines, Section 15126.4(b). GGLH-45

ECORP also found that the DEIR fails in two other respects. First, the mitigation measures it offers to mitigate Project-related impacts to cultural resources are in effect nothing more than Best Management Practices ("BMPs"). Even if these measures had been determined based on a proper analysis of impacts (which they were not), they do not qualify as mitigation measures under CEQA. GGLH-46 Second, the conclusion that there are no significant impacts to cultural resources is legally indefensible because the significance determinations, impact analysis, and mitigation strategy required to support such a conclusion are all either lacking or fundamentally flawed. GGLH-47

GEOLOGY AND SOILS
(DEIR Section 4.5 at pp. 156-172)

The DEIR indicates that without mitigation the Proposed Project would have the following significant impacts on geology and soils: GGLH-48

"a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:
   i. ...
   ii. strong seismic ground shaking [(see DEIR at pages 164-166)],
   iii. seismic-related ground failure, including liquefaction [(see DEIR at pages 166-167)],
   iv. landslides [(see DEIR at page 167)].
b. Result in substantial soil erosion or the loss of topsoil [(see DEIR at pages 167-169)].
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse [(see DEIR at pages 169-170)]." DEIR at p. 162.

With respect to each of the significant impacts listed above, however, the DEIR references "guidelines" included in the Eastshore State Park General Plan "that would avoid or minimize to a less-than-significant level" the Proposed Project's adverse effects. These guidelines include:

- "Capacity-2: Prior to site-specific development or development of management plans, survey and review areas of potential impacts, employing appropriate personnel and responsible agencies, in accordance with the California Environmental Quality Act (CEQA)." General Plan at p. III-61.
- "OPER-11: Consider surface conditions at each of the sites during the conceptual design phase to evaluate the potential for soil loss by erosion and to develop means (by grading, structural measures and/or other improvements) to control site erosion." General Plan at p. III-51.
- "OPER-12: Perform site-specific geotechnical investigations at the conceptual design phase of individual projects including:
  - Review and update geologic hazard data such as seismic site response, liquefaction potential, hazard from flood and inundation, and potential for earthquake-induced ground failure (lurching);
  - Evaluate potential settlements as a result of loads imposed by new buildings and structures, placement of new fills including landscape berms, mounds, levees, trails, roadways, bulkheads, ramps and slope protection measures;
  - Evaluate the impact improvements may have on static and seismic slope stability of existing fill slopes, and wetland slopes;
  - Prepare specific geotechnical recommendations for: seismic hazard mitigation including effects of liquefaction, placement of new fills, reworking of existing fills, placement of slope protection measures, provide geotechnical parameters for

foundation design including estimates of differential settlements of underlying fills and soft clays, and effects of potentially liquefiable soils, and seismic lateral loads;

- Prepare recommendations for construction-related issues including de-watering and temporary excavation support as required for construction of the proposed improvements and remediation activities." General Plan at pp. III-51/52.

- "OPER-13: Prepare a comprehensive, detailed geotechnical design including slope geometries that provide adequate stability during short and long term static conditions and seismic ground shaking, slope stabilization/shoreline protection measures, grading of new habitat enhancement areas, bulkheads, ramps, and structures such as viewing platforms and interpretive centers." General Plan at p. III-52.
- "OPER-14: Perform a geotechnical review of final design documents to check conformance with recommendations of the detailed geotechnical investigations." General Plan at p. III-52.
- "OPER-15: Provide geotechnical engineer oversight for any construction that involves significant re-configuring or grading of the site, including projects such as creek day-lighting and shoreline stabilization or re-configuration." General Plan at p. III-52.

In treating these "guidelines" as "sufficient to address" the significant impacts listed above, the DEIR confuses the investigations, studies and reports that are the subject of the guidelines with the mitigation measures they recommend. Quite simply, investigations, studies, and reports cannot and do not themselves mitigate Project impacts. They are undertaken for the dual purpose of (1) defining the scope, character, and reach of potential Project impacts and (2) identifying mitigation measures that are both feasible and, at the same time, capable of either avoiding the project-related impacts that have been determined to be significant or reducing such impacts to a less-than-significant level. Put simply, it is not the investigations, studies, and reports called for by the General Plan guidelines that mitigate the Proposed Project's significant impacts but rather the measures they recommend for inclusion in the DEIR as conditions of Project approval. Moreover, the success of these investigations, studies, and reports in identifying mitigation measures that are both feasible and effective cannot be assumed. There is always the very real possibility that they will conclude that mitigation to eliminate significant impacts or reduce such impacts to a less-than-significant level is simply not feasible and that the impacts are unavoidable. GGLH-48 (cont.)

Accordingly, it is imperative that these investigations, studies, and reports be undertaken as an integral part of the environmental impact review the results of which (including, in particular, the recommended mitigation measures) are then incorporated in the DEIR. But unless and until feasible mitigation measures (a) have been identified, (b) have been shown to be capable of eliminating or substantially reducing the project-related significant impacts at issue, (c) have been incorporated in the DEIR and made subject to public review and comment, and (d) have been made a part of the Project being approved or a condition of Project approval, the DEIR cannot conclude that the significant impacts under review are avoidable and have been addressed. And if feasible mitigation measures have not been identified and incorporated in the DEIR because the appropriate investigations, studies, and reports (as called for by the General

Plan guidelines) have not been completed in a timely manner, then the environmental impact analysis is fatally flawed and the DEIR legally inadequate.

In particular, the site-specific geotechnical evaluation and design called for by General Plan Guidelines OPER-11, 12 and 13 must be completed and the DEIR discussion of "Geology and Soils" (DEIR Section 4.5 at pp. 156-172) substantially revised to incorporate the resulting impact analysis and recommended mitigation measures. The DEIR must then be recirculated, with its revised content made available to the public for further review and comment. Otherwise, there is no legal justification or basis for finding that the significant impacts of the Proposed Project with respect to seismic ground shaking, seismic-related ground failure including liquefaction, landslides, soil erosion and topsoil loss, and geologic instability including lateral spreading and subsidence, have been either avoided or reduced to a less-than-significant level. GGLH-48 (cont.)

HYDROLOGY AND WATER QUALITY
(DEIR Section 4.8 at pp. 196-212)

The DEIR's determination that the hydrology and water quality impacts of the Proposed Project are less than significant is in part based on findings that the Proposed Project does not "[e]xpose people or structures to a significant risk of loss, injury or death involving flooding . . . ." DEIR at pp. 205, 209-210.The analysis supporting this finding is fundamentally flawed and legally deficient in that it fails to give adequate consideration to the risks posed by the flood hazards resulting from (a) the location of a substantial portion of the Project site, including the entire shoreline area, within the 100-year coastal floodplain and (b) the effects of projected increases in sea level resulting from climate change. GGLH-49

Failure to Adequately Assess and Mitigate for Flood Risks

A significant portion of the Project site, including the entire Project shoreline area, is located within Zone VE, as shown on the Federal Emergency Management Agency ("FEMA") Flood Insurance Rate Map (2009) ("FIRM"). See DEIR discussion at pp. 196 and 202-203 and Figure 4.8-1, FEMA FIRM (2009) at p. 197. Zone VE "is the 100-year coastal flood zone with velocity hazard (wave action)." DEIR at p. 196. "A base flood elevation of 9 feet is given for this zone." DEIR at p. 196.

The DEIR states that impacts associated with flooding will be less than significant because "structures associated with the Project would be elevated a minimum of one foot above the 100 year flood elevation." DEIR at p. 209. Curiously, the DEIR analysis of the existing hydrology and water quality impacts resulting from the Proposed Project's location within the 100-year coastal floodplain and the steps being taken to mitigate these impacts makes no mention of the Coastal Engineering Report ("CER") attached to the DEIR as Appendix F. Perhaps this omission is a result of the fact that a careful reading of this coastal engineering analysis paints a very different picture of the risks associated with coastal flooding than does the DEIR. GGLH-50

As the Coastal Engineering Report points out, coastal flooding is principally caused by extreme tides "with a 100-year predicted still water level at the site of approximately 9.2 ft (NAVD88)." CER at p. 3. Such extreme tides are often associated with extreme storm events also involving high winds. These winds, in turn, generate a wave runup that can create "total water levels" ("TWLs") (water levels which incorporate consideration of wave action runup) substantially higher than the "still water levels" which the DEIR uses to determine flood-related impacts.

The Coastal Engineering Report estimates that when wave runup is included, the total water level during the 100-year storm would reach 15.1 feet (CER, Table 2 at p. 10), approximately six feet above the still water level of 9± feet which the DEIR and CER use to assess flood-related impacts and approximately five feet above Project structures that are elevated at one foot above the 100 year flood elevation (a level the DEIR contends is sufficient to mitigate for flood impacts). As a result, these structures are extremely likely to be subjected

to intense wave action and overtopping during a 100-year event. Yet the DEIR includes no recognition of this impact and no assessment of whether "people or structures [are exposed] to a significant risk of loss, injury or death" as a result of such 100-year total water levels.

Moreover, because total water levels impacting the Project substantially exceed still water levels, the analysis of TWL impacts should not be limited to an examination of impacts associated with a 100-year event. Improvements that are elevated to a level that is one foot above the 100-year still water level will be impacted by total water levels associated with flood events that have a much higher likelihood of occurring in any given year than the 1% likelihood of a 100-year event. The coastal engineering analysis should include a table which examines the correlation between total water levels (particularly those ranging from 9.02 feet to 15.10 feet) and the frequency of the flood events generating such TWLs.

In addition, the DEIR impact analysis needs to examine the effect of wave runup and TWLs not only on the Proposed Project, but also on the host environment, including Golden Gate Fields. For example, if the elevation of the Bay Trail is lower than the 100-year TWL but higher than the elevation of the inboard GGF property, how will the overtopping resulting from wave runup impact the inboard property and environment? How will site drainage be affected? Will the Bay Trail, in effect, act as a dam preventing or slowing the return to the Bay of the flood waters that have overtopped the Bay Trail as a result of wave runup. GGLH-50 (cont.)

As New Orlean's experience with Katrina in 2005 suggests, these are very serious issues that raise very serious concerns and they need to be given very serious attention. A three sentence paragraph asserting without any supporting discussion that elevating structures "a minimum of one foot above the 100 year flood elevation" will result in a less than significant impact (DEIR at p. 209) is hardly sufficient.

It should also be noted that the geographic scope of the coastal engineering analysis reflected in the CER is limited to the Albany Beach and the south Albany Neck. It does not cover the shoreline reach from the Albany Beach to the southern terminus of Project Area 3, all of which is in the 100-year coastal floodplain (and, as will be discussed next, is subject to sea level rise). To be adequate, the Coastal Engineering Report will need to be revised to collect, process and analyze "bathymetry/topography data, tides, winds, wind-waves, tidal currents, wave-generated longshore currents, sea level rise, wave runup and coastal flooding" (CER at p. 1), to the extent applicable to those portions of the Project site south of the Albany Beach (together with those portions of the GGF site that also may be affected).

Failure to Adequately Assess and Mitigate for Sea Level Rise

As the DEIR acknowledges, the risks associated with flooding will be increased by sea level rise, "including potentially more frequent occurrences and with greater flood depths." DEIR at p. 210. In analyzing the increased flood risk associated with sea level rise, the DEIR uses the FEMA "designated" 100-year flood elevation of "9.0 feet, NAD88" and a projected sea level rise "over the next 40 to 50 years" of "1.0 to 1.5 feet, depending on the source of the sea level rise projection used." DEIR at p. 210. (The CER analysis is more precise using 9.02 feet as the 100-year still water level and 1.48 as the predicted sea level rise by 2050 (CER at pp. 9-10).)

In evaluating Project-related flood hazards associated with sea level rise, however, the DEIR again ignores wave runup and total water level effects. This omission is made in spite of the fact that the Coastal Engineering Report contains an analysis of both the 100-year still water level and the 100-year total water level when adjusted to reflect projected sea level rise by 2050 and 2100. While the projected 2050 and 2100 100-year still water levels are 10.50 feet and 13.83 feet, respectively, the projected 2050 and 2100 total water levels are an alarming 18.85 feet and 23.84 feet, respectively – rendering the DEIR's proposed mitigation measures entirely insufficient. Just as the flood risks resulting from 100-year total water levels far in excess of 100-year still water levels need to be analyzed assuming existing tidal elevations, TWL-related flood risks also need to be analyzed taking into consideration projected sea level rise. GGLH-51

In the absence of a DEIR assessment of TWL-related flood risks that takes sea level rise into consideration, the DEIR reaches the conclusion that "the impacts of sea level rise on project facilities is *less than significant*" based on the following rationale:

> "The design elevations of Proposed Project facilities and improvements have been established in consideration of BCDC policies regarding the effects of sea level rise on a project, including those policies specific for recreational and open space facilities that have an estimated 25 year design life. Based on the Coastal Engineering Analysis of the potential effects of sea level rise on project improvements, the top or crest elevation of the shoreline revetment was set at 12 feet (NAD88), and this elevation was also used as the minimum elevation for the Bay Trail and other recreational facilities that may be substantially damaged or require extensive maintenance with sea level rise over the next 25-30 years." DEIR at p. 210.

Not only is this rationale flawed, but it is also misleading for the following reasons:

1. The extent to which "the design elevations of the Proposed Project facilities and improvements have been established in consideration of BCDC [sea level rise] policies" cannot be determined from the information and analysis provided by the DEIR. What can be determined is that the DEIR analysis of the impacts of sea level rise on project facilities does not comply with BCDC policies. Even if we assume that the Proposed Project is among the types of GGLH-52

projects BCDC policies are intended to "encourage" (see DEIR at p. 223), the Proposed Project is in a "vulnerable" area (i.e., a coastal floodplain) and the adequacy of the Project's approach to addressing climate change issues including sea level rise will be evaluated by BCDC "on a case by case basis to determine the project's public benefits, resilience to flooding, and capacity to adapt to climate change impacts." See DEIR at p. 223. As discussed in this comment letter and notwithstanding the DEIR's assertions to the contrary (see DEIR at p. 223), the DEIR fails to provide BCDC with the information or analysis required to determine the extent to which the Proposed Project:

GGLH-52 (cont.)

- is "resilien[t] to flooding";
- "has the capacity to adapt to climate change";
- is "at risk from flooding";
- "negatively impact[s] the Bay"; or
- "increase[s] risk to public safety." See DEIR at p. 223.

If the DEIR is to comply with BCDC policies, it will need to be revised to provide this information and analysis.

2. Treating the site improvements as having a 25 year design life is little more than an attempt to avoid having to plan and design for sea level rise beyond 2050. One of the reasons BCDC policies are intended to encourage "natural resource restoration or environmental enhancement project[s]" and "public parks" (see DEIR at p. 223) is that it is assumed the public benefits that accrue from these projects will be a legacy to be enjoyed by future generations, not simply a limited term gift of the present generations to themselves. While it is certainly true that public facilities on public lands that have been taken for public use have a finite design life and will need to be replaced at the end of their useful life, they need to be designed so they can be replaced.

GGLH-53

In other words, when parklands (and Bay Trail easements) are acquired by the Park District to be improved and put to park use, they are acquired not for 25 years, but in perpetuity. Having invested public funds in and used public authority to acquire, on behalf of the public, lands for public use, it is incumbent upon the Park District to make certain the life of the public parklands so acquired and the public uses to which the parklands are put are protected from loss in the long term. To seek to ignore the long term threat of loss posed by sea level rise to shoreline parklands and parkland uses by characterizing the parkland improvements as having a limited 25 year "design life" is not only unacceptable from the perspective of CEQA, but it is also inappropriate from a park planning perspective.

3. In considering the feasibility of mitigating the impacts of sea level rise, it is important to keep in mind that strategies to mitigate against loss resulting from sea level rise can be "adaptive" in character. Adaptive strategies are features of the initial project design that can be incorporated at a later date when the degree of sea level rise is more certain. Because the DEIR apparently takes the position that the assertion of a 25 year design life for the Proposed Project obviates the need to plan for sea level rise beyond 2050, no consideration is given to adaptive mitigation strategies.

GGLH-54

4. The single strategy that has been incorporated in project design to address 2050 sea level rise is to "set at 12 feet (NAD88)" the "top or crest elevation of the shoreline revetment" as well as "the minimum elevation for the Bay Trail and other recreational facilities that may be substantially damaged or require extensive maintenance with sea level rise over the next 25-30 years." DEIR at p. 210. The DEIR concludes that this design strategy alone is sufficient to reduce the impacts of sea level rise on Project facilities to a less than significant level.

This conclusion, however, ignores the findings of the Coastal Engineering Report upon which it is purportedly "based." DEIR at p. 210. The CER found that sea level rise projections "should be considered during revetment design to ensure that rock stability remains as predicted during coastal engineering analysis for present-day conditions." CER at p. 4. The analysis of 100-year flood elevations contained in the CER further indicates that when sea level rise and wave runup are considered, the 2050 100-year total water level is projected to be at 18.85 feet, almost seven feet above the 12 foot minimum design elevation for the revetment and upland improvements. Applying this projected 18.85 foot TWL to its analysis of "existing trail elevations" the CER concludes:

> "that wave runup and overtopping will effect the areas upland of the revetment, and that preventing this runup and overtopping with the revetment design (i.e., utilizing a higher crest elevation) is not practical, Therefore the effects of runup and overtopping are not considered further in revetment design. However, effects of wave runup and overtopping should be considered in design of upland features such as the landscaping and public access trail."
> CER at p. 9.

GGLH-55

As already noted, the DEIR does not discuss "the effect of runup and overtopping" on any aspects of the Proposed Project including the design of upland features such as the Bay Trail. Without an analysis and understanding of what these effects would be, it is not possible to develop effective mitigation strategies. Indeed, by setting the minimum elevation of the "upland features" of the Project at the same level as the revetment (i.e., 12 feet) -- a level that the CER acknowledges will not mitigate for runup and overtopping, the DEIR implicitly acknowledges that the 12 foot minimum design elevation of the upland features is not the effective mitigation strategy the DEIR claims and that consideration has not been given to the "effects of wave runup and overtopping in design of upland features such as the landscaping and public access trail" as the CER recommends. CER at p. 9.

5. And again, it is important to emphasize the need to include in an evaluation of the impacts of sea level rise, an analysis of the residual impacts that remain after all feasible mitigation strategies have been implemented both to the environment and to the Proposed Project (including the natural resource restoration and environmental enhancements the are features of the Project itself). For example, where the CER asserts that it is "impractical" to construct the revetment with a crest elevation capable of protecting the inboard environment from significant inundation resulting from wave runup and overtopping during a 100-year event, the extent of the flooding that is expected to occur and the impact of the flooding on the inboard environment

GGLH-56

must also be analyzed. Until such an analysis has been completed, the DEIR is not in a position to determine whether the impacts associated with sea level rise have been reduced to a less than significant level. GGLH-56 (cont.)

6. Finally, the DEIR needs to acknowledge the extent to which the strategies that are developed to mitigate the impacts of sea level rise on the Proposed Project may limit the strategies that are available to GGF to mitigate the impacts of sea level rise on the GGF property. The shoreline is in most instances the first line of defense in protecting the inland environment from the impacts of sea level rise. If the Park District does not use the shoreline property it is proposing to acquire from GGF to fully mitigate for sea level rise impacts, then GGF will have to develop an inland based mitigation strategy to address the residual impacts the District fails to mitigate. Where the DEIR concludes that it is not feasible for the Proposed Project to fully mitigate the impacts associated with sea level rise, it needs also to assess the extent to which the residual impacts will affect the GGF property, the feasibility of fully mitigating those residual impacts on the GGF site, and the strategies that would be required to do so. GGLH-57

LAND USE AND PLANNING
(DEIR Section 4.9 at pp. 213-248)

Property Ownership

The DEIR's description of land ownership at the project site is inaccurate. Figure 4.9-1 does not represent true ownership of the various parcels of land, tideland, and open water. For example, the State of California granted all its interest in tidelands within the boundaries of the City of Albany in 1919 to the City. Although the grant was subsequently revoked by the State, it was revived in part in 1977. Similarly, the State conveyed its interest in tidelands in the City of Berkeley by various statutes. These grants specify the uses to which the tide and submerged lands in Albany and Berkeley may be put. The DEIR, however, includes no discussion of whether the proposed project comports with the uses allowed in the State grants. GGLH-58

The DEIR does point out that Public Trust Doctrine applies to these lands, but it neglects to mention that the cities of Albany and Berkeley may hold title to the public trust easement. The District may therefore need to obtain leases from the cities for all work done below the mean high water line. The environmental review of the Proposed project should include discussion of this requirement. GGLH-59

TRANSPORTATION AND TRAFFIC
(DEIR Section 4.12 at pp. 280-298)

1. Inadequacy of "Existing Conditions" Analysis. DEIR at pp. 287-291. The DEIR analysis of existing conditions fails to provide information that is essential to an understanding of:

(b) the existing vehicular and bicycle circulation network,
(c) the public access issues presented by the existing conditions, GGLH-60
(d) the ways in which the Proposed Project purports to address those public access issues,
(e) the changes in the existing conditions that will be required to accommodate the Proposed Project, and
(f) the environmental impacts that will result from those changes.

In particular, the DEIR fails to provide:

- a narrative description with an illustrative exhibit showing the presently available alternative bicycle routes (both formal and informal) connecting the existing Bay Trail north of the Buchanan/ I-80 interchange with the existing Bay Trail south of the Gilman/I-80 interchange; and GGLH-61
- a narrative description with an illustrative exhibit showing the circulation system currently in use by GGF to provide vehicular ingress and egress to the racetrack facilities. GGLH-62

The Bay Trail is currently in use by bicycle commuters and recreational bicyclists. The DEIR estimates that a daily average of approximately 232 bicyclists make use of the project site. DEIR at p. 40. An unspecified number of these bicyclists apparently make use of the public access that is informally provided by GGF through the proposed Bay Trail area (Area 3) to bridge the so-called "gap" in the Bay Trail between the northern and southern boundaries of the GGF site. See DEIR at p. 40. It is also reasonable to assume that an unspecified number of bicycle commuters make use of formal and informal routes on surface streets to the east of the I-80 corridor to link the completed segments of the Bay Trail to the north and south of the GGF site. Where the Park District and other public agencies are considering a Proposed Project which would replace these existing linkages with a new 5,000 foot Bay Trail segment to be constructed along the GGF shoreline, a well considered assessment of the Proposed Project's environmental impacts must start with a more thorough understanding by the decision makers (a) of the alignments currently in use to connect the completed segments of the Bay Trail and (b) of the number of bicyclists currently making use of each of the existing alternative alignments. GGLH-63

Existing Bay Trail Connections East of I-80. The DEIR includes a perfunctory description of "Bicycle and Pedestrian Access" which notes:

> "There are several bicycle and pedestrian facilities in and near the project site, most notably the paved section of the San Francisco Bay Trail which connects to both sides of the project area. Additionally, a bike/pedestrian Class 1 path runs GGLH-64

underneath I-180/I-580, allowing cyclists and pedestrians to traverse the freeway." DEIR at p. 290.

There is no description or discussion of the routes east of I-80 currently used by existing bicycle commuters to get from the Buchanan/I-80 interchange to the Gilman/I-80 interchange. There is not even a map showing the "several bicycle and pedestrian facilities in and near the project site." GGLH-64 (cont.)

Existing Bay Trail Connections West of I-80. The DEIR also acknowledges that bicyclists currently make use of an informal route "along and through the Golden Gate Fields access road and parking lot" to connect the Bay Trail at the northern and southern boundaries of the GGF site. DEIR at p. 295; see DEIR at p. 39. Although the DEIR fails to provide further detail regarding the location of this informal route, the document does suggest that the lack of separation between bicycle and pedestrian traffic, on the one hand, and vehicular traffic, on the other, creates "safety conflicts" (DEIR at p. 295). In addition, the DEIR indicates the informal route "contains slopes as steep as 9 or 10% and therefore does not meet the standards of the Americans with Disabilities Act (ADA)." DEIR at p. 39. Without a more detailed narrative description and/or an illustrative exhibit showing the informal route across the GGF waterfront and its relation to the onsite circulation network, the extent of the "safety conflicts" and ADA compliance issues are very difficult if not impossible to assess. GGLH-65

Without knowledge and information concerning these offsite and onsite, formal and informal routes linking the built segments of the Bay Trail to the north and south of the GGF property and without a better understanding of the functional issues they raise, decision makers are in no position:

- to determine the need for the new Bay Trail alignment,
- to assess the advantages and disadvantage of proceeding with the construction of a new Bay Trail segment along the GGF waterfront,
- to make a comparative assessment of the environmental impacts of the Proposed Project versus the no-project alternative, and
- to consider alternative ways in which the existing conditions could be modified to address the issues they raise in lieu of constructing a new Bay Trail segment adjacent to the shoreline.

2. Inadequacy of "Project Vehicle Trip Generation Analysis." DEIR at pp. 292-293. The DEIR does not include a detailed traffic study. This omission has the effect of leaving decision makers with an inadequate appreciation and understanding of the impacts of the trips generated by the Proposed Project on both the existing circulation system and the environment. The DEIR defends the decision to forego the preparation of a detailed traffic study by using Institute of Transportation Engineers ("ITE") trip generation rates for "County Park" land uses to contend that the Proposed Project will generate an estimated 37 PM Peak Hour trips and by arguing that this "increase in PM Peak trips are [sic] below the threshold of 100 that Alameda CTC uses as a criteria that triggers a detailed traffic study." DEIR at p. 292. The DEIR even suggests the ITE based trip generation estimates "are a conservative overestimate because they do not subtract out existing trips." DEIR at p. 292. The problem with this analysis is that it flies GGLH-66

in the face of the actual measured trip generation characteristics of the project site as well as with projections of project-related trips that are based on the actual existing conditions. The parking utilization survey and analysis prepared in 2010 as part of the Existing and Future Conditions Report (see pp. 24-26) determined (based on first person observations and data generated by a pneumatic counting tube) that the existing conditions generated approximately 48 AM Peak Hour and 112 PM Peak Hour roundtrips into and out of the project site by way of Buchanan. The Existing and Future Conditions Report then used the actual 2010 trip counts to project future trip generation and concluded that the Proposed Project would result in an additional 69 AM Peak Hour roundtrips and 133 PM Peak Hour roundtrips.[4] The following table summarizes the project-related trip generation estimates based on the actual 2010 counts and analysis:

GGLH-66 (cont.)

	Weekday AM Peak Roundtrips	**Weekday PM Peak Roundtrips**	**Weekday AM Peak Single Direction Trips**	**Weekday PM Peak Single Direction Trips**
Existing Conditions	48	112	96	224
Proposed Project	69	133	138	266
Totals	117	245	234	490

With the actual 2010 trip counts in hand showing existing conditions at the project site generating AM and PM Peak Hour single direction trips numbering 96 and 224, respectively, and with the single direction AM and PM Peak Hour trips generated by the existing plus project condition projected to number 234 and 490, respectively, it is more than a little misleading to contend that the existing plus project conditions would only generate 33 AM Peak trips and 37 PM Peak trips based on ITE rates that are clearly inapplicable to both the existing site conditions and the Proposed Project. Moreover, there would seem to be little question that the trip generating characteristics of the Proposed Project itself will result in new PM Peak trips substantially in excess of the number (100) required to trigger the Alameda CTC criteria for a detailed traffic study.

3. Inadequacy of "Future Conditions" Analysis. The DEIR contains no analysis that evaluates the changes to the configuration of the onsite GGF circulation system that will be required to accommodate the construction of the new segment of the Bay Trail in its proposed alignment along the GGF shoreline. Nor does the DEIR analyze the potential effect of those changes on the operations of the Gilman/I-80 interchange and the Gilman/Frontage Road intersection. The entry roadway which provides access to the stable area, the grandstand/ GGLH-67

[4] The Existing and Future Conditions Report states at page 26 that the "forecasts used to determine future trip generation as a result of the Albany Beach Restoration and Public Access Feasibility Study (i.e., full utilization of a new parking lot east of Albany Beach and the doubling of existing parking utilization) represent a conservative, worst case scenario." See DEIR at p. 293. These forecasts do not in fact represent a "worst case" scenario. In forecasting AM Peak trips, the projections assume only 28 of the 103 existing parking spaces are in use; in forecasting PM Peak trips, they assume 66 of the 103 existing spaces are in use. A "worst case" scenario would have assumed full utilization of all 103 existing parking spaces as well as the 21 new spaces. In the event the DEIR proposes to base its worst case forecast on less than full utilization of existing parking, the justification for such a proposal must be explicitly provided. Whether or not the forecasts represent a "conservative" scenario cannot be determined by the underlying analysis. Indeed, the determination to base the forecast on a "doubling of existing parking utilization" appears to be an arbitrary assumption unsupported by any analysis.

clubhouse and other GGF facilities from Gilman Street consists of a three lane private roadway with two inbound lanes and a single outbound lane. The roadway is bordered on its western edge by a narrow paved shoulder and the San Francisco Bay shoreline. Its eastern edge is bounded by a tree-lined landscaped shoulder. In order to accommodate the Bay Trail easement as proposed, it appears likely that one of the two inbound lanes will be eliminated which would, in turn, dramatically affect the functionality of both the private entry roadway and its interface with the Gilman/I-80 interchange. Where the Proposed project will require changes in the physical configuration and/or operational characteristics of the existing circulation system serving the GGF site, it is incumbent upon the project proponent to undertake a thorough analysis: GGLH-67 (cont.)

- of the changes that will be required to accommodate the Proposed Project;
- of the site access issues and environmental impacts that will be raised by those changes; and
- of the measures that will be required to address these site access issues and mitigate those environmental impacts.

Put simply, any physical changes to the GGF site that are made in response to the Proposed Project must be considered part and parcel of the Proposed Project and must be subjected to the same level of environmental scrutiny as any other feature of the Proposed Project.

4. Inadequacy of "Cumulative" Transportation Impact Analysis. The DEIR proposes to rely on the cumulative transportation impact analysis contained in the 2002 East Shore Park Project General Plan EIR which

> "found that the General Plan would generate a small number of vehicle trips in the project area, which would have a corresponding small effect on levels of service at local intersections and roadway segments. For these reasons, the EIR determined that implementation of the *General Plan* in combination with other planned projects in the vicinity, would not result in significant adverse cumulative impacts on Transportation and Circulation."

There are two fundamental problems with the decision to rely on the 2002 East Shore Park Project General Plan EIR in lieu of preparing a new detailed study of project-related cumulative transportation/traffic impacts. First, the General Plan EIR assumptions relative to the trip generation characteristics of the Albany Lands (consisting of the Albany bulb, neck, plateau and beach) are clearly in error. The General Plan EIR assumes the Albany Lands will generate a total of 5 AM Peak Hour trips and 7 PM Peak Hour trips. As already discussed above, project-related trip generation projections derived from actual counts estimate that existing plus project conditions will generate single direction AM and PM Peak Hour trips of 234 and 490, respectively. Second, the intersection level of service ("LOS") analysis that serves as the baseline for the General Plan traffic study and that is the defining measure of significant impact did not include LOS calculations for the Buchanan Street/I-580/I-80 interchange. Third, the 2002 cumulative impact analysis prepared for the General Plan EIR was based on the Alameda County Congestion Management Agency's Countywide Travel Demand Model forecasted Year 2025 traffic levels. The cumulative analysis of project-related traffic impacts should be based on 2035 traffic levels. GGLH-68

5. Inadequacy of "Construction Conditions" Analysis. Remarkably, the DEIR includes no analysis of the traffic/circulation impacts of construction conditions and the trips generated by the process of constructing the Proposed Project, including (as noted in 3 above) changes to the existing condition of the GGF circulation system to accommodate particular features of the Proposed Project such as the new Bay Trail alignment along the GGF shoreline. Of particular note in this regard is the project-related earth work involved in the excavation and offhand of rubble, demolition debris and other unsuitable fill materials previously deposited on the project site and the import and placement of rock, sand, soil, and other clean fill materials on the project site. See DEIR at pp. 57-59. The DEIR estimates that construction of the Proposed Project will require approximately 22,470 cubic yards of material be removed from the project site and approximately 22,920 cubic yards of material be imported to the project site. A determination needs to be made regarding the number of truck trips that will be generated by this project-related earthwork and the impact of these truck trips on the traffic/circulation system needs to be evaluated. GGLH-69

6. Detailed Traffic Analysis Required. For the reasons set forth above, the DEIR needs to be revised to include a detailed traffic analysis. This analysis should include all intersections and roadway segments that will be used by the traffic generated by the Proposed Project. Traffic impacts should be evaluated under existing plus project conditions and cumulative plus project conditions. The cumulative analysis should be based on forecasted Year 2035 traffic levels. The analysis should also be based on traffic conditions assuming Golden Gate Fields is in operations as a live racing facility. GGLH-70

ALTERNATIVES
(DEIR Section 5 at pp. 305-339)

In response to scoping comments on the Notice of Preparation submitted on behalf of Golden Gate Land Holdings LLC, the following two alternatives were added to the range of potentially feasible alternatives to be evaluated in the DEIR:

GGLH-71

> "5) Bay Trail Through Golden Gate Fields and Codornices Creek Alternative, and
> 6) Bay Trail East of I-80 Alternative." DEIR at p. 305.

Bay Trail through Golden Gate Fields and Codornices Creek Alternative

Bay Trail through Golden Gate Fields and Codornices Creek Alternative. As shown on Figure 5-5, the Bay Trail Through GGF Alternative Bay Trail East of GGF Along Codornices Creek Alternative includes two Bay Trail alignments. The Bay Trail Through GGF alignment runs roughly parallel to the Proposed Project alignment but is set back from the shoreline a distance that appears to be 100-300 feet. The Bay Trail Along Codornices Creek alignment follows the Codornices Creek corridor located at the eastern edge of the GGF property. While the DEIR does include an evaluation of the Bay Trail Through GGF alignment, it does not include a comparable assessment of the Bay Trail along Codornices Creek alignment. The DEIR needs to be revised to include (a) a description of this Codornices Creek alignment and the improvements that would be required to accommodate it, and (b) a comparative analysis of this alignment relative to environmental impacts and project objectives. GGLH-72

Bay Trail East of I-80 Alternative. As the DEIR notes, bicyclists (and pedestrians) currently using the Bay Trail have two options to connect the existing built segments of the Bay Trail located to the north of Buchanan Street and to the south of Gilman Street. They can make use of an existing informal access route along the Golden Gate Fields shoreline frontage using paved travelways that are part of the GGF onsite circulation network or they can use the offsite "East of I-80" alternative alignment described in the DEIR at p. 332. Those bicyclists currently using the East of I-80 route rather than the more scenic GGF shoreline route presumably do so because it provides a more direct (and therefore expeditious) means of traversing the distance between the built segments of the Bay Trail north of Buchanan Street and south of Gilman Street. If this presumption is correct, there is good reason to question whether the replacement of the informal Bay Trail alignment along the GGF shoreline frontage with a formal bike trail facility will result in a shift in use from the existing informal route East of I-80 to the new dedicated Bay Trail alignment along the GGF waterfront. And if little or no shift in use is occasioned by the construction of a new formal segment of the Bay Trail where an informal route already exists, then the DEIR's contention that the "Bay Trail east of I-80 Alternative would have *worse* impacts on Transportation than the Proposed Project" may be unfounded and incorrect. GGLH-73

This contention relative to alignment-related transportation impacts is based on a determination that the East of I-80 Bay Trail alignment, even with the safety improvements, would have "significantly higher potential vehicle-trail user conflicts" than the Proposed Project. But the reduction in traffic and safety conflicts occasioned by the Proposed Project as compared to the East of I-80 alternative will only result in safer trail use to the extent that bicyclists who

would otherwise chose the East of I-80 route shift their allegiance to the safer facilities. If this shift in use does not occur, then the safety of those bicyclists who would chose to make use of the East of I-80 alignment in spite of the existence of a newly improved, safer (but longer) alternative route along the GGF shore, would be better served by the safety improvements that would be made as part of the East of I80 Alternative. Accordingly, the DEIR needs to reconsider its comparative assessment of the Transportation Impacts of the Proposed Project and the East of I-80 Alternative based on reasonable expectations relative to use. GGLH-73 (cont.)

The first step in determining the likely characteristics of future Bay Trail use is to develop a clearer understanding (a) of how many existing Bay Trail users currently chose the informal Bay Trail alignment East of I-80 as opposed to the informal Bay Trail alignment along the GGF shoreline and (b) the reasons underlying the choices that are being made. GGLH-74

In addition, as applied to the Bay Trail alignment, the DEIR analysis of comparative impacts should include a category that evaluates the "Transit" benefits of the East of I-80 Alternative when compared to the Proposed Project. While the East of I-80 Alternative may "be worse than the Proposed Project for Recreation" (DEIR at p. 334), it may be better for "Transit." And if it is determined that significantly more use is being and will be made of either the Proposed Project or East of I-80 Bay Trail alignment for transit than for Recreation, it may well be appropriate to assign a higher value to the transit benefits of this segment of the Bay Trail than to the recreation benefits. GGLH-75

Table 5-1 which compares the extent to which the project alternatives meet the "Project Objectives" (DEIR at p. 307) appears to evaluate the East of I-80 Bay Trail alignment as if it is intended to be an alternative not simply to the GGF shoreline alignment of the Bay Trail as contemplated by the Proposed Project, but to the Proposed Project as a whole. If the East of I-80 Alternative consists of replacing the shoreline alignment of the Proposed Project (extending from the southern boundary of Area 2 to Gilman Street) with the East of I-80 alignment (extending from Buchanan Street to Gilman Street) but otherwise leaving the Proposed Project intact, then the capacity of the Proposed Project to meet the following "Project Objectives" would not be affected:

- "Improve and expand the quality and function of existing visitor facilities." DEIR Table 5-1, #3, at p. 307. GGLH-76
- "Comply with the California Regional Water Quality Control Board's Order to maintain the stability of the Albany Landfill at South Albany Neck." DEIR Table 5-1, #4, at p. 307.
- "Provide habitat enhancement and public access while providing a multi-purpose, net beneficial project." DEIR Table 5-1, #5, at p. 307.
- "Develop improvements that can be permitted and completed in 5 years." DEIR Table 5-1, #7, at p. 307.
- "Phase project implementation with the highest priority placed on stabilizing the eroding landfill along the South Albany Neck." DEIR Table 5-1, #8, at p. 307.

Table 5-1 needs to be revised to reflect these findings with respect to Project Objectives.

Minimal Improvements Alternative

According to DEIR Table 5-1 at page 307, the Minimal Improvements Alternative would not:

- "Comply with the California Regional Water Quality Control Board's Order to maintain the stability of the Albany Landfill at South Albany Neck." DEIR Table 5-1, #3, at p. 307.
- "Provide habitat enhancement and public access while providing a multi-purpose, net-beneficial project." DEIR Table 5-1, #5, at p. 307.
- "Provide connections to other local trails and circulation systems." DEIR Table 5-1, #6, at p. 307.
- "Phase project implementation with the highest priority placed on stabilizing the eroding landfill along the South Albany Neck." DEIR Table 5-1, #8, at p. 307. GGLH-77

Nowhere does the DEIR explain why the determination was made to find the Minimal Improvements Alternative as not in accord with these project objectives. This determination is particularly difficult to understand given a description of the Minimal Improvements Alternative that includes a trail connection along the GGF shoreline and "a focus... on stabilization along the most seriously eroding areas of the Albany Neck shoreline." DEIR at p. 323. In this regard, it is important to note that, while the Minimal Improvements Alternative may not promote or advance the project objectives to the same degree as other alternatives, the measure of accord between project alternative and project objectives as reflected in Table 5-1 is not a question of degree. It involves a yes or no assessment. The Table 5-1 assessments need to be redone with this distinction in mind and the DEIR needs to include a narrative explanation whenever an alternative is determined not to be in accord with a particular project objective.

Consideration of Alternatives Rejected Prior To Resolution of Necessity

The DEIR should also include analysis of the two alternatives the Park District staff rejected prior to presenting the project to the Board of Directors in April 2011. In March of 2006, the Park District contracted with Questa Engineering to design a Bay Trail connection across Golden Gate Fields. On September 8, 2007, Questa Engineering sent a letter to the Park District entitled "Alternative Site Plans for San Francisco Bay Trail at Golden Gates Fields, Albany, CA." The letter presented three alternative site plans for a proposed interim Bay Trail with varying costs and levels of impact. GGLH-78

By June 2009, without holding a public Board meeting on the topic, the Park District decided to move forward with one of the three alternatives, involving a "Cliffside" trail alignment. Without any CEQA analysis or public Board decision, this alternative became the basis for the Park District's eminent domain complaint.

Nowhere in the DEIR does the District discuss the two rejected alternatives, or explain why they were rejected. The DEIR should be revised to remedy these omissions and provide analysis of the rejected alternatives.

Consideration of an Interim Measures Alternative

In addition to the seven alternatives to the Proposed Project that are addressed in the DEIR, an "Interim Measures Alternative" should also be developed and subjected to environmental review. This Interim Measures Alternative would be designed to implement those components of the Proposed Project that involve improvements to the Albany beach, neck, bulb, and plateau but defer those components of the Proposed Project that involve the public use of GGF property.

The Interim Measures Alternative could be a negotiated arrangement between the District and the racetrack owners, avoiding the need for condemnation proceedings. The agreement could allow the bulk of project improvements on the neck, plateau, and beach, and could allow for certain interim improvements to the shoreline trail along Golden Gate Fields' shoreline that would meet the District's needs until the site can be comprehensively planned in the future as part of a redevelopment project. The agreement could formalize and ensure continued public access, could address the District's public safety concerns, and could allow the racetrack owners to retain ownership of the shoreline. Such an agreement might time the more significant southern trail construction activities to coincide with redevelopment of Golden Gate Fields, thus minimizing environmental impacts by ensuring that the southern trail area will only undergo reconfiguration and construction at one time. GGLH-79

Conclusion

Thank you for providing us with an opportunity to review the Albany Beach Restoration and Public Access Project DEIR. We hope the comments that we have provided will prove helpful to you in revising the DEIR to cure the deficiencies we have identified and to bring the draft document into compliance with CEQA. As stated in our Opening Statement, the conclusory character of the DEIR's determinations of significance (or lack of significance) together with the fundamental inadequacies of the information and analysis it provides as well as its pervasive failure to provide mitigation strategies that are legally sufficient, all combine to make revision of the DEIR and recirculation an essential part of a CEQA-compliant review process. We look forward to providing further comments on the revised DEIR. If you have any questions or would like to discuss any of the comments contained in this correspondence, please feel free to call J. Cleve Livingston at (916) 947-6972. GGLH-80

Respectfully Submitted

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Response to Comments GGLH-1 through GGLH-80

Response GGLH-1

As discussed in Responses GGLH-2 through GGLH-80, the Draft EIR describes the Proposed Project, evaluates its potential environmental impacts, identifies mitigation measures as necessary to reduce impacts to a less-than-significant level, and evaluates project alternatives, at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project. The Draft EIR is thus in compliance with CEQA, and additional analysis is not required.

Response GGLH-2

See Responses GGLH-3 through GGLH-8.

Response GGLH-3

The Proposed Project is described in Chapter 3 Project Description of the Draft EIR, pages 25-64, at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and is thus in compliance with CEQA. Neither further description of the project, nor preparation of a "Preferred Project Plan", is required.

Response GGLH-4

The potential effects of sea level rise on the project were adequately evaluated in the Draft EIR, even though a relatively recent court ruling held that an EIR was not required to discuss the impact of sea level rise on a project (*Ballona Wetlands Land Trust v. City of Los Angeles and Ballona Ecosystem Education Project v. City of Los Angeles*, No. B231965 -Cal. Ct. App. 2d Dist., Nov. 9, 2011). An analysis of the scope of the problem was contained in the Coast & Harbor Coastal Engineering Report (Appendix F of the Draft EIR) on pages 3, 4, and 9, as well as on pages 43 and 44 of the 2011 LSA *Existing and Future Conditions Report* (Appendix F of the Draft EIR) prepared by PWA (now ESA/PWA), a recognized authority on this issue. Both reports provide design recommendations.

Design alternatives that were examined in developing the project included: 1) further elevating structures to withstand sea level rise within the design life of the structure, 2) hardening or protecting the structures to withstand rising sea level and associated erosion and flooding problems, 3) designing in flexibility so that the structures and facilities can be further elevated, realigned or removed in the future 4) providing for proper drainage to insure that the structures do not effect or block local drainage conditions.

The San Francisco Bay Conservation and Development Commission (BCDC) has regulatory jurisdiction and permitting responsibility over projects in the San Francisco Bay that could be impacted by future sea level rise. Their stated position has been that sea level rise projections are continuing to be refined and change, with a range of scenarios that might occur with respect to the magnitude of rise. Although BCDC has not adopted a specific numerical standard to date, they have been in general agreement that the IPCC's

conservative estimate of 16 inches of rise by mid-century (2050) and 55 inches of rise by 2100 are a good starting point for beginning to assess potential sea level rise effects on a project and its proposed design. These estimates were presented on pages 3-4 in the Coast & Harbor Coastal Engineering Report (Appendix F of the Draft EIR) and used to develop design criteria for the project. This level of analysis and design input is adequate for purposes of analysis in the Draft EIR.

The information provided above does not alter the conclusions of the sea level analysis in the Draft EIR.

Response GGLH-5

Contrary to the comment, Section 4.3 Biological Resources, pages 132-133 of the Draft EIR, does describe the scope and character of the burrowing owl: scattered winter occurrences in the project area are noted. Construction activities are noted as potential impacts to this species, and mitigations are proposed including construction buffers and work scheduling limitations as well as other measures developed in coordination with California Department of Fish and Game.

Mitigation Measures BIO-1a and BIO-1b, on page 133 in Section 4.3 Biological Resources, are sufficient to reduce Impact BIO-1 (burrowing owls) to a less–than-significant level. To further reduce this insignificant impact and strengthen the mitigation measures for Impact BIO-1, a revision to Mitigation Measure BIO-1b is described in Response ECORP-8. With implementation of Mitigation Measure BIO-1a on page 133, and the revised Mitigation Measure BIO-1b (see Response ECORP-8), impacts to burrowing owls would be less than significant.

Response GGLH-6

The following text is added to page 293 of Section 4.13 Transportation and Traffic, above the heading Projected Bicycle Use Analysis:

Construction Traffic
Construction of the Project would require the export from the site of concrete, asphalt concrete, mud, and rubble, and import to the site of rock riprap, sand, soil, gravel, and fill, as shown in Table 3-3, page 59. Most of the material movement for Area 1 (export of 10,500 cubic yards and import of 11,400 cubic yards) would occur during the approximately two-month period of work on the revetment. For Area 2, most of the material movement (export of 2,500 cubic yards and import of 5,200 cubic yards) would occur during an approximately two-week period of work on the beach, dunes, and wetlands. For Area 3, most of the material movement (export of 7,500 cubic yards and import of 650 cubic yards) would occur during an approximately four-week period of work on the trail. If Area 3 is constructed concurrently with Areas 1 and 2, revetment construction in Area 1 and trail construction in Area 3 would occur concurrently, with beach, dunes, and wetlands construction in Area 2 occurring later. Thus, the maximum construction traffic generation would occur during simultaneous work on the revetment in Area 1 and the trail in Area 3. At an average capacity of 18 cubic yards per truck, revetment work in Area 1 would generate approximately 57 truck trips/day or 7 truck trips/hour, and the trail in Area 3 would generate approximately 43 truck trips/day or 6 truck trips/hour. These truck trips would be distributed throughout the working day. In addition, there would be an estimated 20 construction worker vehicle trips during both the AM and PM peak hours.

Thus, there would be a total of up to 33 vehicle trips in the AM and PM peak hours, for a period of four weeks. Construction during other periods of the approximately four-month construction period would generate fewer trips. The number of a.m. and p.m. peak-hour trips associated with project construction is estimated to be the same or less than the trips generated by project operation, which, as discussed above, would not change the existing levels of service at the nearby intersections of I-580 SB Ramps/Buchanan Street or I-580 NB Ramps/Buchanan Street. Therefore, the construction-generated vehicles also would not change the existing levels of service at those nearby intersections.

As shown in Figure 3-2, construction staging would occur on the Albany Plateau and east of the beach area, and would not affect circulation at Golden Gate Fields (GGF). Construction trucks would use existing roads for access, which would not change GGF circulation. Grading would occur in Area 3 (Bay Trail), but this would be on the steep slope rather than the GGF access road, and thus would not interfere with GGF circulation. Work on the Bay Trail segment in Area 3 would be during late June to early August, the season when live races do not occur at GGF. Thus, construction traffic and activities would not affect circulation at GGF.

Project construction and related transportation activities would not alter the existing design or operation of Buchanan Street, nor would it involve any design features or new incompatible uses that would substantially change the existing level of transportation hazards at the site and vicinity. Once project construction is completed, the traffic and circulation system on Buchanan Street and transportation facilities near the project site would be expected to revert to their existing conditions.

For these reasons, and because of the limited duration of construction, this impact would be *less than significant.*

While concurrent construction could only occur for Areas 1 and 3, the analysis in Section 4.2 Air Quality on pages 91-109 makes a worst-case assumption that all three phases would be constructed concurrently. To clarify, the Air Quality analysis is revised as shown below.

The first full paragraph on page 104 is revised as follows:

For purposes of analysis, Project construction activities ~~are anticipated~~were assumed to commence in April 2013 and be completed (in Areas 1, 2, and 3) by the end of August 2013. Although concurrent construction could only occur for Areas 1 and 3, for purposes of analysis ~~C~~concurrent construction in all~~the~~ three Project areas is assumed because it represents a worst case in terms of air emissions, with all emissions occurring in a single period of continuous construction. Construction in Area 2 (approximately two months) and/or Area 3 (approximately five months) could occur later than in Area 1. In this case, air emissions during the individual phases of construction would be less than those analyzed below. Air pollutant emission estimates were based on the project-specific construction schedule, construction equipment use, soil/material haul data (volumes, vehicle capacities, sources, destinations, and number of trips) provided by Questa Engineering, and the air quality features for the Project (Control of Fugitive Dust and Use of Newer Construction Equipment) described in 3.8 Avoidance and Minimization Measures. The daily construction emissions from equipment and motor vehicles are shown in **Table 4.2-5**, along with comparisons to BAAQMD significance thresholds.

As described in the new text above, the transportation impact of construction-generated traffic would be less than significant. No significant new impacts, or substantial increase in the severity of an impact identified in the Draft EIR, are identified by the new text above. Therefore, recirculation of the Draft EIR is not required.

Response GGLH-7

The Proposed Project includes construction of a Bay Trail segment along the shoreline in Area 3. This would involve shifting a portion of the existing Golden Gate Fields (GGF) access road approximately six to ten feet eastward to accommodate the trail, but the number and width of daily travel lanes would not substantially change and would remain similar to existing conditions. This would involve the conversion of the western or Bayside shoulder, with the loss of approximately 25 non-designated parking spaces, and the removal of un-authorized and non-paying parking along the east side of the Golden Gate Fields access road, from Gilman Avenue to the lower or jockey parking area, near the entry to the upper parking area. The turning radii (for right turns entering GGF, and left turns exiting GGF) at the intersection of the west end of Gilman Street and the south end of the GGF access road also would be unchanged. The Proposed Project does not include any operational changes to GGF circulation and designated parking facilities, and the Proposed Project does not require GGF to make any such changes. Changes to GGF circulation and designated parking facilities are not required to implement the Proposed Project, beyond the proposed acquisition area in Area 2, which is occasionally used for temporary overflow parking and truck staging. GGF's facilities would remain functional with implementation of the Project. If GGF chooses to change its circulation and parking facilities, this would be a separate project that would require its own CEQA review. Future circulation and parking designs within the GGF property are unknown at this time and outside of the scope of work of this project, and therefore have not been evaluated under this analysis.

Response GGLH-8

As discussed in Responses GGLH-1 through GGLH-80, no significant new information, significant new impacts, or substantial increases in the severity of impacts identified in the Draft EIR, are identified by the Comments GGLH-1 through GGLH-80. The discussion and analysis in the Draft EIR is at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA. Therefore, recirculation of the Draft EIR is not required.

Response GGLH-9

See Responses GGLH-10 through GGLH-80.

Response GGLH-10

The court decision referenced by the commenter explicitly allowed the Park District to conduct CEQA review after adoption of the resolution of necessity. Specifically, the Alameda County Superior Court found in its Statement of Decision in Golden Gate Land Holding LLC. v. East Bay Regional Park District (RG11-575462) that "a public agency is permitted to adopt a declaration of necessity and to proceed with an eminent domain case before completing CEQA review and . . . it is appropriate to permit the EBRPD to proceed with its eminent domain case before complying with CEQA." (Statement of Decision at 13). The Board of Directors of the District, which is the decision-making body for the

Proposed Project that is described in 3. Project Description, pages 25-64, and is the subject of this EIR, has not acted to approve, approve with modifications, or disapprove the Proposed Project. Before acting on the Project, including any additional actions relating to the acquisition of property needed for the Project, the Board will consider this EIR, as required by CEQA and decide whether to approve the Proposed Project. Since an agency may abandon a proposed acquisition at any time before the actual acquisition (Code Civil Procedure section 1268.510), if the Board does not approve the Proposed Project, it may choose to abandon the eminent domain action.

Response GGLH-11

As stated under Chapter 1 Introduction, on page 1, the Draft EIR identifies mitigation measures and alternatives that would avoid or reduce significant impacts. As stated under Section 2.4 Unavoidable Significant Impacts, page 22, and Section 6.2 Significant Unavoidable Impacts, page 341, with implementation of the identified mitigation measures, no significant and unavoidable impacts would result from the Proposed Project.

For clarification, the third paragraph of Section 1 Introduction, on page 1, is revised as follows:

This EIR has been prepared in accordance with the California Environmental Quality Act (CEQA). <u>The main objectives of CEQA are to disclose to decision makers and the public the significant environmental effect of proposed activities and to require agencies to avoid or reduce the environmental effects by implementing feasible alternatives or mitigation measures.</u> The East Bay Regional Park District (EBRPD) is the lead agency for the Project.

Response GGLH-12

See Responses GGLH-13 through GGLH-80.

Response GGLH-13

The Draft EIR describes the Proposed Project, and evaluates the Project's potential environmental impacts, identifies mitigation measures as necessary to reduce impacts to a less-than-significant level, and evaluates project alternatives, at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project. The Draft EIR is tiered from the 2002 Eastshore Park Project General Plan Environmental Impact Report in accordance with CEQA Guidelines Sections 15152 and 15168 and Public Resources Code Section 21094. Where an EIR has been prepared or certified for a program or plan, the environmental review for a later activity consistent with the program or plan is limited to potentially significant effects on the environment from that later activity that were not analyzed as significant in the prior EIR, that are susceptible to substantial reduction or avoidance (CEQA Guidelines Section 15152(d)), or that were not adequately addressed in the prior EIR (CEQA Guidelines Section 15152(f). For each potential impact, the Draft EIR updated the analysis where circumstances had changed. The Draft EIR thus is in compliance with CEQA, and additional analysis is not required.

Response GGLH-14

See Response GGLH-3.

Response GGLH-15

See Response GGLH-3.

Response GGLH-16

See Response GGLH-3.

Response GGLH-17

See Response GGLH-3.

Response GGLH-18

See Response GGLH-3 and Response GGLH-21.

Response GGLH-19

As stated in Response GGLH-3, the Proposed Project is described in the Draft EIR at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA. No further description of the project is required in the EIR. Any additional detail that may be required for processing project approvals is not required to be in this EIR.

Response GGLH-20

See Response GGLH-3.

Response GGLH-21

Design work called for by the General Plan and previous studies of the project site was considered by the District and has been incorporated into the project description in Chapter 3 Project Description, pages 25-64. The project description was distributed for public review and comment as part of the Draft EIR, in compliance with CEQA. As stated in Response GGLH-3, the Proposed Project is described in the Draft EIR at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA. No further description of the project, or the design process, is required in the EIR. The environmental impacts of the Project are evaluated in Chapter 4 Environmental Evaluation, pages 65-304. If the project is approved, additional detailed design work would be performed before project construction, but this level of detail is not required for an assessment of the Proposed Project's environmental impacts in compliance with CEQA.

Response GGLH-22

A feasibility study, by its nature, identifies options for future development and evaluates their feasibility. There is no requirement that the District adopt or implement recommendations of any feasibility study, which constitutes part of the information that the District evaluated in determining the scope of the Proposed Project, which is described in Chapter 3 Project Description, pages 25-64. The Project Description includes a discussion of the planning process and the feasibility studies considered, under Section 3.7 Proposed Project, on page 42. Additional detail on the feasibility studies is not required.

Response GGLH-23

See Response GGLH-7.

Response GGLH-24

Additions to the Draft EIR to account for impacts of construction-generated traffic are described in Response GGLH-6. With the exception of the impacts of construction-generated traffic on transportation, the Draft EIR evaluates all other construction-related impacts of the Proposed Project in Chapter 4 Environmental Evaluation, pages 65-304, including Section 4.2 Air Quality, pages 91-109, Section 4.6 Greenhouse Gas Emissions, pages 173-183, Section 4.7 Hazards and Hazardous Materials, pages 184-195, Section 4.8 Hydrology and Water Quality, pages 196-212, Section 4.10 Noise, pages 249-264, Section 4.11 Public Services, pages 265-269, and Section 4.14 Utilities and Service Systems, pages 299-304.

As stated in Response GGLH-3, the Proposed Project is described in the Draft EIR at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA. No further description of the project is required in the EIR.

Response GGLH-25

Informal pedestrian and bicycle routes on the project site link segments of the San Francisco Bay Trail to the north and south of the project site, but these routes are on private property subject to closure or are not a formal Bay Trail segment as identified and described in the Bay Trail Plan. The Draft EIR describes these informal routes (see Section 3.3 Site Access, page 29, in Bicycle Access, page 38, Current and Project Site Use, on page 39, Existing Land Use, in Section 4.9 Land Use and Planning on page 238, Open Space/Urban Land Interface on pages 240-241, in Section 4.12 Recreation, Existing Conditions, on page 273, in Section 4.13 Transportation and Traffic, Bicycle and Pedestrian Access, page 290, and Section 4.13 Transportation and Traffic, d. Substantially increase hazards due to a design feature, on page 295). Thus, the Draft EIR does not "leave the impression that existing conditions do not presently allow such transit". The existing gap in the Bay Trail at the project site is the only one between Richmond on the north and Berkeley and Emeryville on the south. On page 40 in Chapter 3 Project Description, the Draft EIR accurately states that the project would "close a major gap in the San Francisco Bay Trail to allow transit on foot and bicycle from Richmond on the north to Berkeley and Emeryville to the south."

Response GGLH-26

See Responses GGLH-27 through GGLH-32.

Response GGLH-27

According to the Bay Area Air Quality Management District's website "*On March 5, 2012 the Alameda County Superior Court issued a judgment finding that the Air District had failed to comply with CEQA when it adopted the Thresholds. The court did not determine whether the Thresholds were valid on the merits, but found that the adoption of the Thresholds was a project under CEQA. The court issued a writ of mandate ordering the District to set aside the Thresholds and cease dissemination of them until the Air District had complied with CEQA.* "[7] As noted in the comment, the District may use the BAAQMD's 2010 thresholds of significance if substantial evidence supports the thresholds. The District has chosen to use the BAAQMD's 2010 thresholds of significance, based on the substantial evidence presented in Appendix D Threshold of Significance Justification of the BAAQMD's *California Environmental Quality Act Air Quality Guidelines, Updated May 2011*. This appendix contains substantial evidence, in the form of extensive scientific analysis and justification for the air quality thresholds of significance.

Footnote 32 on page 101 is revised as follows:

[1] The EIR's analysis of air quality impacts relies on BAAQMD's 2010 CEQA Thresholds of Significance. While the Alameda Superior Court recently ordered that BAAQMD set aside its approval of the 2010 Thresholds and not disseminate them as officially sanctioned air quality thresholds until BAAQMD conducts CEQA review of them, the court did not rule that the 2010 Thresholds lacked substantial evidence to support them or that they were substantively flawed or scientifically unsound. Rather, it simply held that BAAQMD is required to conduct further environmental review of the Thresholds before it can readopt them. Accordingly, the basis for using the Thresholds remains valid and use of the threshold is supported by substantial evidence, in the form of Appendix D Threshold of Significance Justification of the BAAQMD's *California Environmental Quality Act Air Quality Guidelines, Updated May 2011*. This appendix provides extensive scientific analysis and justification for the air quality thresholds of significance.

The revision and information provided above do not alter the conclusions of the air quality analysis in Section 4.2 Air Quality of the Draft EIR.

Response GGLH-28

The detailed air quality calculations reproduced in Appendix D Air Quality/Greenhouse Gas Modeling of the Draft EIR are the basis for the air quality analysis in Section 4.2 Air Quality, pages 91-109 of the Draft EIR. "Albany Beach - Construction Timeline/PM Emissions (On- & Off-Site)", in Appendix D, consists of horizontal bar graphs that clearly show the construction schedule by area and phase. The following pages of Appendix D show, in tabular format for each area and phase, the equipment type, number of each type to be used, the number of days and hours of use for each type, the number of haul truck trips with the volume of material they will haul, and the number of pickup trucks to be used for an hour per day on site. Emission factors also are shown for each pollutant for each source as

[7] Bay Area Air Quality Management District website, Updated CEQA Guidelines, available on the internet at: http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx. Viewed 30 August 2012.

determined by the CARB. Multiplying hours by emission factors produces the subtotal of emission for each sources. Adding the subtotals produces the total emissions that appear in Table 4.2-5 Daily Construction Emissions, page 104 of the Draft EIR, and Table 4.2-6 Daily Operational Emissions, page 106 of the Draft EIR.

For readers who do not wish to go through the detail of Appendix D, Section 4.2 Air Quality summarizes the methodology and results of the air quality analysis.

The comment requests additional detail on types and volumes of materials hauled, load capacity of transport vehicles, sources and destinations of materials, number of trips, and trip length. The type of materials hauled does not substantially affect air emissions.

To clarify the assumptions on volumes, vehicle capacities, sources, destinations, and number of trips used in the air quality analysis, the first full paragraph of page 104 is revised as follows:

For purposes of analysis, Project construction activities ~~are anticipated~~were assumed to commence in April 2013 and be completed (in Areas 1, 2, and 3) by the end of August 2013. Although concurrent construction could only occur for Areas 1 and 3, for purposes of analysis ~~C~~concurrent construction in all~~the~~ three Project areas is assumed because it represents a worst case in terms of air emissions, with all emissions occurring in a single period of continuous construction. Construction in Area 2 (approximately two months) and/or Area 3 (approximately five months) could occur later than in Area 1. In this case, air emissions during the individual phases of construction would be less than those analyzed below. Air pollutant emission estimates were based on the project-specific construction schedule, construction equipment use, soil/material haul data (volumes, vehicle capacities, sources, destinations, and number of trips) provided by Questa Engineering, and the air quality features for the Project (Control of Fugitive Dust and Use of Newer Construction Equipment) described in 3.8 Avoidance and Minimization Measures. The daily construction emissions from equipment and motor vehicles are shown in **Table 4.2-5**, along with comparisons to BAAQMD significance thresholds.

Response GGLH-29

As discussed in Response GGLH-66, Section 4.13 Transportation and Traffic, Project Vehicle Trip Generation Analysis, on page 292, accurately estimates project vehicle trip generation, based on the Institute of Transportation Engineer's (ITE) *Trip Generation Handbook*, *(Eighth Edition)*. As discussed in Section 4.13 Project Vehicle Trip Generation Analysis, on page 292, the estimated daily trips for the project were calculated using Land use code 412, "County Park", because this designation most closely resembles the types of use and amenities proposed for the site, "a mixture of passive open space, and active park uses." As discussed in Response GGLH-70, the analysis of transportation impacts in the Draft EIR, as modified by these responses, is at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA. No additional analysis or study of transportation is required.

Section 4.2 Air Quality, pages 91-109 of the Draft EIR presents operational emissions from motor vehicles of park users during project operation. The emissions are not based on URBEMIS default emissions, rather they are based on the number of trips presented in Section 4.13 Transportation and Traffic, Project Vehicle Trip Generation Analysis. The

operational emissions in the Draft EIR are project specific and not generic. A rerun of the URBEMIS model is not required.

Response GGLH-30

As discussed in Response GLH-27, the air quality thresholds of significance used in Section 4.2 Air Quality, pages 91-109, are based on substantial evidence. As noted in Table 4.2-2, page 97, the Bay Area is in nonattainment for both ozone and particulate matter (PM). Thresholds of significance for cumulative air quality impacts are discussed in Section 4.2 Air Quality, cumulative Analysis, on page 108. The evidence on which the air quality thresholds is based supports the determination that, if a project's emissions are less than the thresholds, the project's emissions of ozone precursors and PM, in combination with the emissions of other projects should not be found to be cumulatively significant.

Response GGLH-31

See Responses GGLH-26 through GGLH-30.

Response GGLH-32

As discussed in Section 4.2 Air Quality, pages 98-99, residents at senior centers and retirement facilities are considered to be sensitive to air pollution's effects because the elderly can be present there for extended periods of time. Outdoor recreational facilities are somewhat less sensitive, because exposure time at these facilities is usually shorter (i.e., on the order of a few hours, rather than a full day) than exposure of residents at their homes, including retirement facilities. Users of Golden Gate Fields facilities, including seniors and retirees, typically would not visit the racetrack every day, and when they do visit, spend only a few hours per visit at the racetrack. The total exposure to users, including the elderly, at Golden Gate Fields is substantially less than at residences, including retirement facilities.

The toxic air contaminant (TAC) emissions to which seniors and retirees visiting GGF, jockeys and racehorses at GGF, and athletes using the Bay side trails would be exposed would come from project construction activities that would have a very limited term (four months). The project would have essentially no permanent operational TAC emissions. Thus, while air concentration of TACS at the racetrack and waterfront would be higher than at residential areas further from the Project site, the estimated cancer risk and chronic/acute hazard levels to sensitive receptors at GGF and at the waterfront would be low because of the short-term exposures to project TAC emissions.

For these reasons, the Project would not expose sensitive receptors to substantial pollutant concentrations and the classification of sensitive uses in the project vicinity in Section 4.2 Air Quality, pages 98-99, is valid. Revision of the air quality analysis is not required.

Response GGLH-33

See Responses ECORP-1 through ECORP-11.

Response GGLH-34

See Responses ECORP-1 through ECORP-11 and Responses GGLH-35 and GGLH-37.

Response GGLH-35

On pages 132-133 of the Draft EIR in Section 4.3 Biological Resources, the scope and character of the burrowing owl presence are described: scattered winter occurrences in the project area are noted. Construction activities are noted as potential impacts to this species, and mitigations are proposed including preconstruction surveys, and if burrowing owls are found, the incorporation of construction buffers, work scheduling limitations, and other measures developed in coordination with California Department of Fish and Game.

Mitigation Measures BIO-1a and BIO-1b, on page 133, are sufficient to reduce Impact BIO-1 (burrowing owls) to a less–than-significant level. To further reduce this insignificant impact and strengthen the mitigation measures for Impact BIO-1, a revision to Mitigation Measure BIO-1b is described in Response ECORP-8. With implementation of Mitigation Measure BIO-1a on page 133, and the revised Mitigation Measure BIO-1b (see Response ECORP-8), impacts to burrowing owls would be less than significant.

Response GGLH-36

It is not possible to determine what specific issues the comment refers to.

Response GGLH-37

Mitigation Measures BIO-5a, BIO-5b, BIO-5c, BIO-5d, and BIO-5e, on page 136, are sufficient to reduce Impact BIO-5 (eelgrass, a plant species and fish habitat) to a less–than-significant level. To further reduce this impact and strengthen the mitigation measures for Impact BIO-5, Mitigation Measure BIO-5e is revised as described below. With implementation of BIO-5a, BIO-5b, BIO-5c, and BIO-5d, on page 136, new Mitigation Measure BIO-5f, described in Response ECORP-10, and revised Mitigation Measure BIO-5e, below, impacts to eelgrass would be less than significant.

Mitigation Measure BIO-5e on page 136 is modified as follows:

Mitigation Measure BIO-5e: Following completion of construction activities, a post-construction eelgrass survey shall be completed within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Survey methods shall utilize a combination of remote sensing using sidescan sonar to determine overall coverage of eelgrass, along with a visual assessment of eelgrass health and bed density using SCUBA. ~~Following completion of construction activities, the Applicant shall complete a post-construction eelgrass survey within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Any impacts would then be mitigated, through on-site eelgrass transplant or other means to ensure any damaged eelgrass is restored.~~ Significant impacts to eelgrass (as determined from a comparison of historical data for this site and pre- and post-construction eelgrass surveys and evidence eel-grass bed disturbance from construction such as unnatural scour or presence of fill or debris) would be mitigated through on-site or off-site eelgrass transplant. Elements of eelgrass mitigation shall be detailed in an Eelgrass Mitigation and

Monitoring Plan. Mitigation/restoration shall utilize a 1.2:1 ratio for transplanted:impacted eelgrass and mitigation shall be implemented within one year of impact. Restoration shall include identification and/or modification of a suitable restoration site, identification of an appropriate donor site, and installation of bare-root bundles at one square meter spacing or more widely spaced seed buoys. Methods shall be based on methods that have proven successful within San Francisco Bay. Monitoring of the restored area shall be completed for a duration of five years following restoration. Detailed restoration methodology, timing, and a monitoring schedule shall be included in the Eelgrass Mitigation and Monitoring Plan.

Mitigation Measure BIO-5e on page 11 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is also modified as follows:

Mitigation Measure BIO-5e: Following completion of construction activities, a post-construction eelgrass survey shall be completed within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Survey methods shall utilize a combination of remote sensing using sidescan sonar to determine overall coverage of eelgrass, along with a visual assessment of eelgrass health and bed density using SCUBA. ~~Following completion of construction activities, the Applicant shall complete a post-construction eelgrass survey within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Any impacts would then be mitigated, through on-site eelgrass transplant or other means to ensure any damaged eelgrass is restored.~~ Significant impacts to eelgrass (as determined from a comparison of historical data for this site and pre- and post-construction eelgrass surveys and evidence eelgrass bed disturbance from construction such as unnatural scour or presence of fill or debris) would be mitigated through on-site or off-site eelgrass transplant. Elements of eelgrass mitigation shall be detailed in an Eelgrass Mitigation and Monitoring Plan. Mitigation/restoration shall utilize a 1.2:1 ratio for transplanted:impacted eelgrass and mitigation shall be implemented within one year of impact. Restoration shall include identification and/or modification of a suitable restoration site, identification of an appropriate donor site, and installation of bare-root bundles at one square meter spacing or more widely spaced seed buoys. Methods shall be based on methods that have proven successful within San Francisco Bay. Monitoring of the restored area shall be completed for a duration of five years following restoration. Restoration methodology, timing, and a monitoring schedule shall be included in the Eelgrass Mitigation and Monitoring Plan.

Response GGLH-38

See Response GGLH-37.

Response GGLH-39

The first paragraph of text on page 199 under Regional Programs and Regulations that pertains to BCDC is amended as follows:

San Francisco Bay Conservation and Development Commission (BCDC)

The ~~California Coastal Commission carries out its mandate locally through the San Francisco~~ Bay ~~Area~~ Conservation and Development Commission (BCDC)~~. BCDC's~~ has jurisdiction over San Francisco Bay, including ~~includes~~ all sloughs, marshlands between mean high tide and five feet above mean sea level, tidelands, submerged lands, and land within 100 feet of the mean high tide line~~Bay shoreline~~. The precise boundary is determined by BCDC on request. BCDC has regulatory authority over placement of fills, building, grading, changes in uses, and subdivision of property within its

jurisdictional area. For planning purposes, BCDC assumes that trail projects have a 25-year life span. Consistency with policies from the BCDC master planning document, the *Bay Plan*, is analyzed in Section 4.9 Land Use.

Response GGLH-40

The only occurrence of the phrase "has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways" in the Draft EIR is under California State Lands Commission at the bottom of page 213. This phrase is a direct quotation from the State Lands Commission's comment letter (see letter SLC, Comment SLC-2).

Response GGLH-41

See Responses GGLH-42 and GGLH-43.

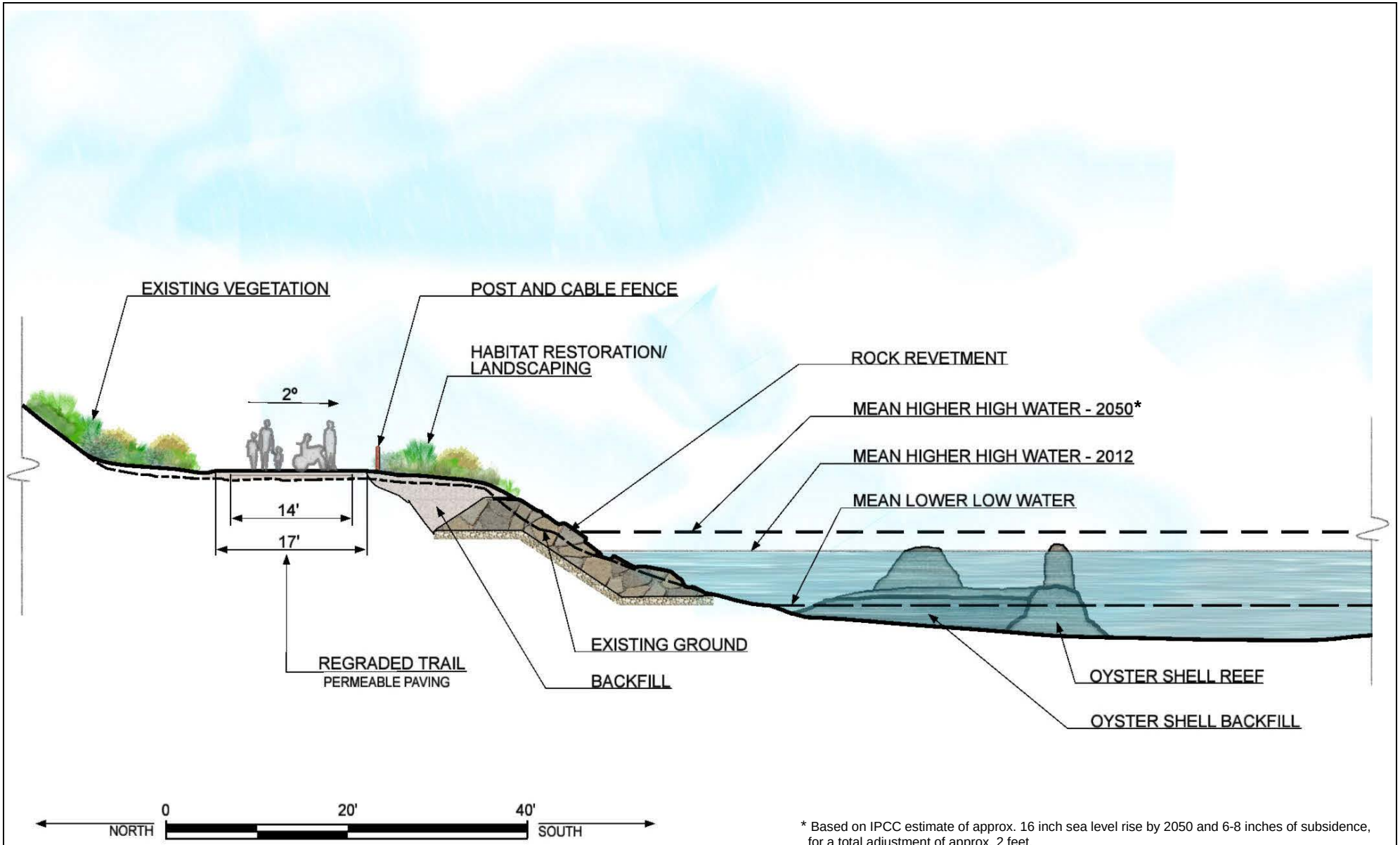
Response GGLH-42

There is only one proposed structure (building) that is subject to BCDC review with respect to lower floor elevation and flood risk. It is a pre-engineered vault restroom building. The preliminary design concept is to elevate this building a minimum of 1 foot above the estimated highest tide level consistent with BCDC policy. If during subsequent BCDC review of Phase 2 permit applications, BCDC determines further building elevation is needed, then the vault restroom will be located consistent with any permit condition. (See also response to comments GGLH-49 and GGLH-50).

Response GGLH-43

The discussion of sea level rise is adequate to address this issue in the Draft EIR. As discussed in Response to GGLH-4, according to Max Delaney, permit analyst with BCDC (email communication, Max Delaney, Permit Analyst, BCDC to Chris Barton, Senior Planner, EBRPD, dated September 16, 2012), BCDC has not yet adopted a specific numerical standard for sea level rise, but uses IPCC estimates. For instance the IPCC estimates are shown on their maps projecting sea level rise inundation areas that are posted to their website.

Figures 3-7B, 3-8A, 3-8B, and 3-9B, on pages 48, 50, 51, and 56, respectively, of the Draft EIR, have been revised to show future Mean High Water Assuming 16 inches of sea level rise by 2050 and 6 to 8 inches of land subsidence due to fill settlement, as informational items to the FEIR reader. The revised Figures 3-7B, 3-8A, 3-8B, and 3-9B are provided on the following pages. The Draft EIR authors do not recommend the June 2012 National Research Council assessment of 65.5 inches of sea level rise by 2100 be used, as it is not appropriate for recreational facility improvements with a 25-year design life. This additional information does not alter the conclusions stated in the Draft EIR that these are less-than-significant impacts of these environmental conditions on the Proposed Project, and that they do not represent significant environmental impacts of the Proposed Project.



* Based on IPCC estimate of approx. 16 inch sea level rise by 2050 and 6-8 inches of subsidence, for a total adjustment of approx. 2 feet.

Healthy Parks
Healthy People

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FIGURE 3-7B

AREA 1 SECTION

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

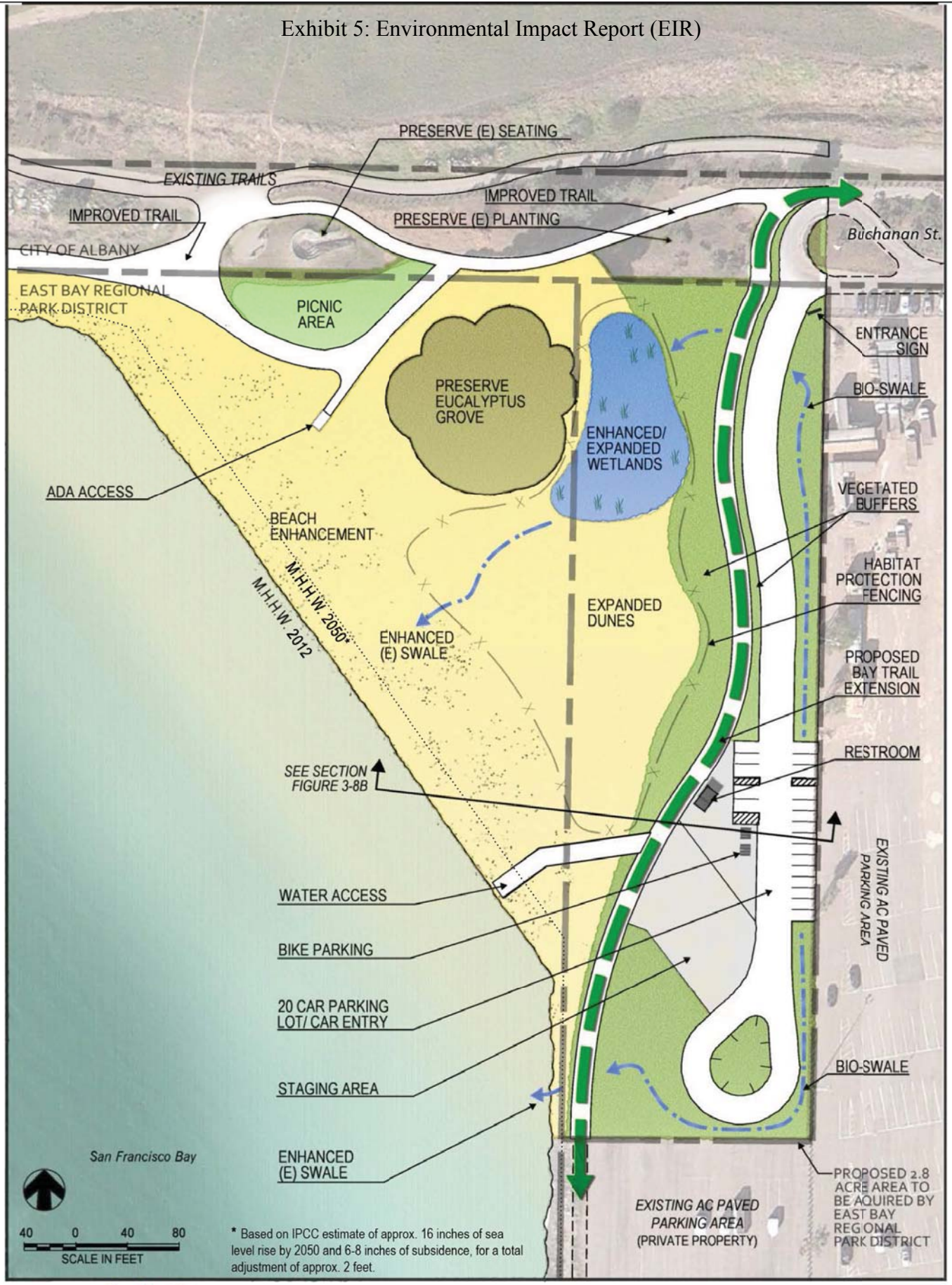

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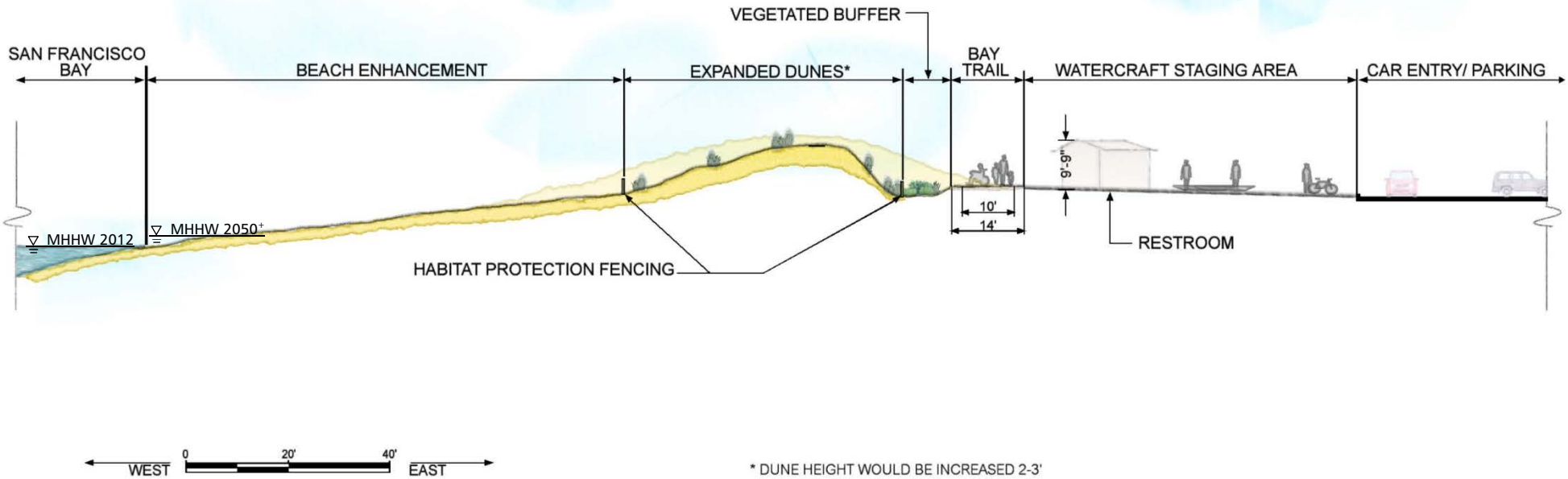
FIGURE 3-8A
AREA 2 SITE
PROPOSED BEACH IMPROVEMENTS
ALBANY BEACH RESTORATION AND PUBLIC ACCESS
AT EASTSHORE STATE PARK



* DUNE HEIGHT WOULD BE INCREASED 2-3'
\+ BASED ON IPCC ESTIMATE OF APPROX. 16 INCH SEA LEVEL RISE BY 2050 AND 6-8 INCHES OF SUBSIDENCE, FOR A TOTAL ADJUSTMENT OF APPROX. 2 FEET.

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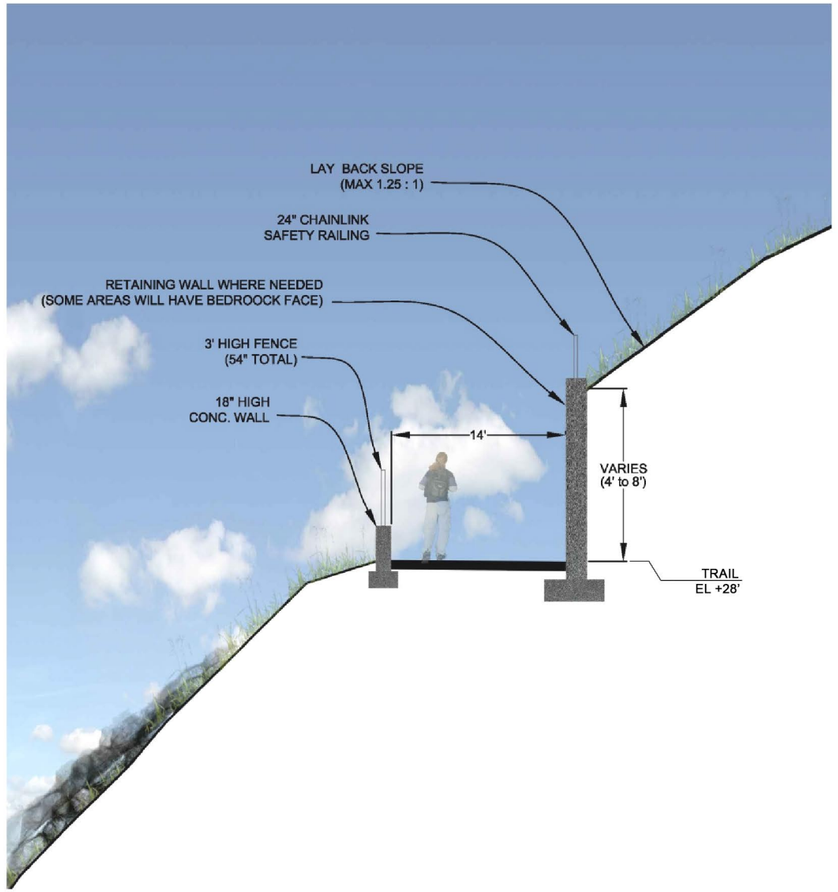
FIGURE 3-8B

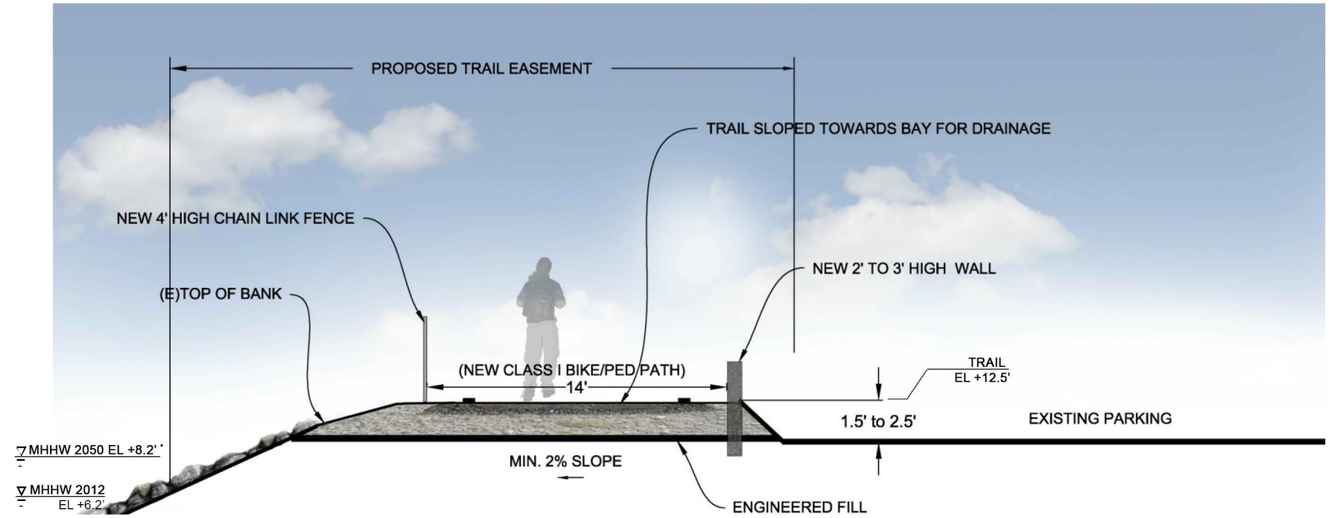
AREA 2 SECTION

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

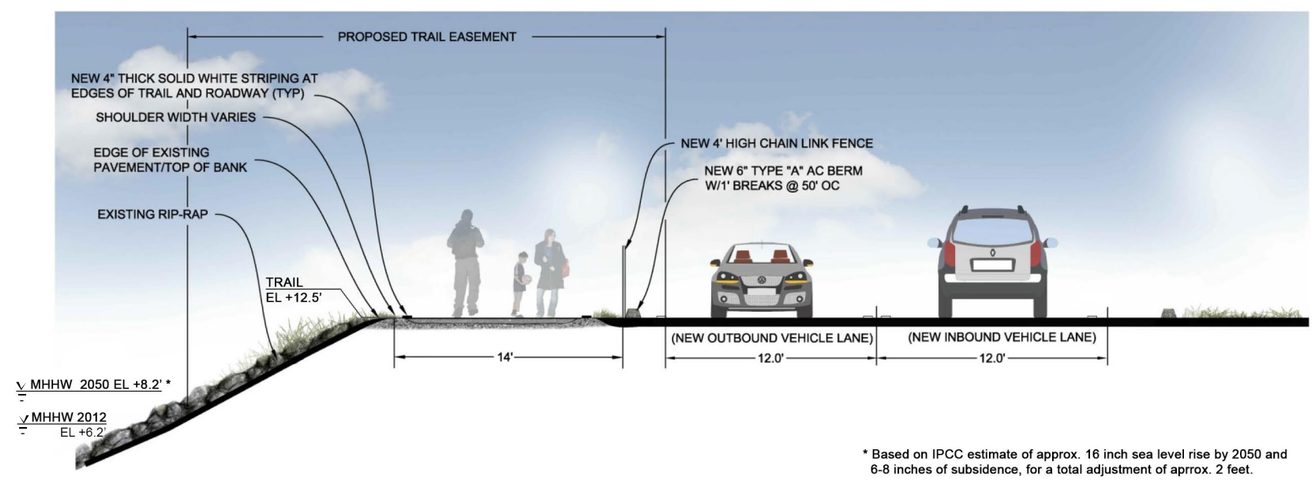
AT EASTSHORE STATE PARK



SHORELINE BAY TRAIL: FLEMING POINT
SCALE: NTS



SHORELINE BAY TRAIL: LOWER PARKING LOT
SCALE: NTS



SHORELINE BAY TRAIL: NORTH OF GILMAN STREET
SCALE: NTS

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Healthy People

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FIGURE 3-9B

AREA 3 SECTIONS: BAY TRAIL, ALBANY BEACH TO GILMAN

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Response GGLH-44

See Responses ECORP-12 through ECORP-34.

Response GGLH-45

See Responses ECORP-12 through ECORP-34.

Response GGLH-46

See Responses ECORP-22 and ECORP-33.

Response GGLH-47

See Responses ECORP-12 through ECORP-34.

Response GGLH-48

Response GGLH 48

A preliminary geologic and geotechnical investigation was completed associated with the preliminary design of the shoreline revetment and trail in Area 1, recreational facility planning in Area 2, and the Bay Trail in Area 3. The work was also used in preparation of the Draft EIR. The completed work was consistent with professional standards of practice. The geotechnical work included: site investigations, field mapping and observations, a review of available literature, including previous geologic maps and geotechnical investigations and borings, and the completion of a geophysical investigation for which the District's consultants obtained a right of entry from Golden Gate Fields. Because of access difficulty for geotechnical drilling on the steep slopes of Fleming Point, this work will occur during the detailed design phase. Consistent with professional standards of practice, additional geotechnical investigations will be completed with the final design of all project elements.

The preliminary geotechnical studies discussed above provide a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus the EIR complies with CEQA. Further detailed geotechnical studies for the Project are not necessary, nor are they required by CEQA as the existing geotechnical studies provide sufficient information to analyze the geological impacts of the Project and provide mitigation measures that ensure any significant geological impacts will be reduced to an insignificant level. Revision of the Draft EIR is not required, nor is recirculation.

Mitigation Measure GEO-1, on pages 165-166, is sufficient to reduce Impact GEO-1 (seismic ground shaking) to a less–than-significant level. To further reduce this insignificant impact and strengthen the mitigation measures for Impact GEO-1, Mitigation Measure GEO-1 is revised as described below. With implementation of the revised Mitigation Measure GEO-1, below, impacts of seismic ground shaking would be less than significant.

Mitigation Measure GEO-1, on pages 14-15 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure GEO-1: Completion of a Design Level Geotechnical Investigation including the elements described below. EBRPD shall comply with a design level geotechnical report that provides design recommendations for the Proposed Project to protect people and structures from substantial adverse effects (including the risk of loss, injury or death) from ground shaking, liquefaction, landslides, earthquakes, substantial soil erosion or loss of topsoil, and unstable soils.

- The design-level geotechnical investigation shall be performed to identify methods for site preparation and grading to stabilize existing fill areas and prepare the site for foundation and retaining wall construction. Measures may include reworking of existing fill soils, removal of oversized concrete and debris from fill and crushing and or off-haul of oversized and unstable materials.

- The design level geotechnical investigation shall ~~analyze~~ further investigate the potential hazards of liquefaction/ground failure, seismic ground shaking, expansive soils, and slope instability as described below.

- The design-level geotechnical investigation shall determine 2010 California Building Code seismic design parameters.

- Hazards of strong seismic ground shaking, landslides and slope instability shall be mitigated through a combination of removal of loose rocks and boulders, the construction of retaining walls and engineered fill buttresses, construction of benches on cut/fill slopes, re-working of existing soils, or a combination thereof. The design level geotechnical investigation shall provide parameters for completion of these mitigation measures.

- Hazards due to expansive or liquefiable soils shall be mitigated through the use of thickened slab foundations, selective removal and replacement of expansive or liquefiable soils with engineered fill, or a combination thereof. The design level geotechnical investigation shall determine the specific extent and parameters of these mitigation measures.

- The geotechnical design investigation shall include design recommendations for retaining walls, foundations, concrete slabs, pavements, walkways, surface and subsurface drainage.

- Recommendations of the project geotechnical ~~engineer~~ professional shall be incorporated into the project design.

- The geotechnical investigation shall identify the geotechnical observation and testing services recommended during construction. During construction, the geotechnical professional~~engineer~~ (~~o~~ geotechnical or civil engineer, ~~and~~ engineering geologist) shall perform observations and testing services and shall prepare a final report documenting results of his work, consistent with geotechnical investigation recommendations. These observations and testing shall include compaction testing of engineered fill where appropriate, and observation of foundation conditions, including drilled pier and footing excavations.

- The geotechnical investigation shall include a map prepared by a land surveyor or civil engineer that shows the locations and elevation of key features (e.g., keyways, subdrains and their cleanouts, cut slopes and cut pads). The map shall include a statement that the locations and

limitations of the features are accurate representations of said features as they exist on the ground, were placed on this map by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.

Mitigation Measure GEO-1, on page 165 of the Draft EIR in Section 4.5 Geology and Soils, is amended as follows:

Mitigation Measure GEO-1: Completion of a Design Level Geotechnical Investigation including the elements described below. EBRPD shall comply with a design level geotechnical report that provides design recommendations for the Proposed Project to protect people and structures from substantial adverse effects (including the risk of loss, injury or death) from ground shaking, liquefaction, landslides, earthquakes, substantial soil erosion or loss of topsoil, and unstable soils.

- The design-level geotechnical investigation shall be performed to identify methods for site preparation and grading to stabilize existing fill areas and prepare the site for foundation and retaining wall construction. Measures may include reworking of existing fill soils, removal of oversized concrete and debris from fill and crushing and or off-haul of oversized and unstable materials.

- The design level geotechnical investigation shall ~~analyze~~ further investigate the potential hazards of liquefaction/ground failure, seismic ground shaking, expansive soils, and slope instability as described below.

- The design-level geotechnical investigation shall determine 2010 California Building Code seismic design parameters.

- Hazards of strong seismic ground shaking, landslides and slope instability shall be mitigated through a combination of removal of loose rocks and boulders, the construction of retaining walls and engineered fill buttresses, construction of benches on cut/fill slopes, re-working of existing soils, or a combination thereof. The design level geotechnical investigation shall provide parameters for completion of these mitigation measures.

- Hazards due to expansive or liquefiable soils shall be mitigated through the use of thickened slab foundations, selective removal and replacement of expansive or liquefiable soils with engineered fill, or a combination thereof. The design level geotechnical investigation shall determine the specific extent and parameters of these mitigation measures.

- The geotechnical design investigation shall include design recommendations for retaining walls, foundations, concrete slabs, pavements, walkways, surface and subsurface drainage.

- Recommendations of the project geotechnical ~~engineer~~ professional shall be incorporated into the project design.

- The geotechnical investigation shall identify the geotechnical observation and testing services recommended during construction. During construction, the geotechnical professional~~engineer~~ (~~or~~ geotechnical or civil engineer, ~~and~~ engineering geologist) shall perform observations and testing services and shall prepare a final report documenting results of his work, consistent with geotechnical investigation recommendations. These observations and testing shall include compaction testing of engineered fill where appropriate, and observation of foundation conditions, including drilled pier and footing excavations.

- The geotechnical investigation shall include a map prepared by a land surveyor or civil engineer that shows the locations and elevation of key features (e.g., keyways, subdrains and their cleanouts, cut slopes and cut pads). The map shall include a statement that the locations and limitations of the features are accurate representations of said features as they exist on the ground, were placed on this map by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.

The discussion of Significance after Mitigation at the top of page 166 is amended as follows:

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2~~, and the requirements of Guidelines OPER-12, OPER-13, and OPER-14 must be completed in order to secure building and grading permits to begin work on the project~~. With implementation of Mitigation Measures GEO-1, which includes implementation of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15,~~and these guidelines,~~ the impact of strong seismic ground shaking would be reduced to a level of *less than significant*.

The discussion of Significance after Mitigation on the bottom of page 166 and the top of page 167 is amended as follows:

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2~~, and the requirements of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15 must be completed in order to secure building and grading permits to begin work on the project~~. With implementation of ~~these guidelines, in conjunction with~~ Mitigation Measure GEO-1, which includes implementation of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15, the impact of seismically induced ground failure is reduced to a level of *less than significant*.

The discussion of Significance after Mitigation at the middle of page 167 is amended as follows:

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2~~, and the requirements of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15 must be completed in order to secure building and grading permits to begin work on the project~~. With implementation of ~~these guidelines, in conjunction with~~ Mitigation Measure GEO-1, which includes implementation of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15, the impact of landsliding would be reduced to a level of *less than significant*.

The discussion of Significance after Mitigation at the top of page 170 is amended as follows:

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2~~, and the requirements of Guidelines OPER-12, OPER-13, and OPER-14 must be completed in order to secure building and grading permits to begin work on the project~~. With implementation of Mitigation Measures GEO-1, ~~and these guidelines,~~ which includes implementation of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15, the impact of disturbing or building on unstable geologic units would be reduced to a level of *less than significant*.

Response GGLH-49

Floodplain regulations are designed to protect industrial, commercial, and residential structures, schools, and government buildings (and those building's occupants), as well as important infrastructure from the risks of flooding. Recreational facilities, including public access pathways such as the Bay Trail, picnic areas, playgrounds, etc., are allowed in FEMA-designated 100-year floodplains, including areas subject to coastal flooding. Open Space areas along streams, river floodplains and bay wetland areas subject to coastal flooding

commonly contain regional trail systems as well as local trails and supporting or visitor serving facilities as an appropriate and preferred land use for such flood hazard areas. As discussed in the Draft EIR, the location of recreational facilities in such areas does not expose people or structures to a significant risk of loss, injury or death involving flooding, as facilities are commonly not used during severe storm events, when coastal flooding occurs. In addition, East Bay Regional Park District, in cooperation with other local emergency services agencies, operates an emergency notification system to alert park visitors to potential earthquake, flood, tsunami and other natural hazard risks. Park District policies and procedures allow the closure of facilities when these risks to the public, such as wildfires, flooding and tsunamis, occur. This emergency notification system is more fully described in revised section 4.7 Hazards and Hazardous Materials, Alameda County Emergency Services.

The following is added after the Maintenance and Ongoing Management sub-section on page 61 in Section 3.7 Proposed Project of the Draft EIR.

Emergency Response and Notification

East Bay Regional Park District will continue to coordinate with the police and fire departments of the Cities of Albany and Berkeley in regards to emergency response to incidents within the project area. East Bay Regional Park District will also continue to coordinate with local emergency services providers, including the Cities of Albany and Berkeley, Alameda County Office of Homeland Security and Emergency Services, and the State Office of Emergency Services regarding multi-hazard planning and response training, radio communication coordination and mutual response, and emergency notifications and alert warnings for hazard incidents within the project area, such as wildfire, earthquakes, tsunamis, chemical and hazardous waste and bay spill incidents, and coastal flooding.

The following is added after the first paragraph under Alameda County Emergency Services on page 186 in Section 4.7 Hazards and Hazardous Materials of the Draft EIR.

The Cities of Albany and Berkeley, East Bay Regional Park District, and the Alameda County Office of Emergency Services all are cooperators in the preparation and implementation of a regional Local Hazard Mitigation Plan (LHMP). The LHMP planning and coordination effort is administered through the Association of Bay Area Governments (ABAG). The multi-jurisdictional and multi-hazard Mitigation Plan addresses the following hazards: earthquakes, and related incidents such as tsunamis, landslides, wildfire, hazardous material releases and bay spill incidents, and flooding.

The LHMP and related emergency notification and response programs are coordinated through the Alameda County Office of Emergency Services, the State Office of Emergency Services, and Federal Homeland Security. In cases of severe earthquakes, flooding or tsunami risk within the Project area, or other hazard incidents as determined by local and state emergency service units, an emergency notification or emergency alert warning is issued through local radio and television stations and by a reverse 911 phone calling system. In addition, the Park Ranger responsible for Albany Beach has the authority to close the facility at any time in response to any incident that poses a risk to the public.

The information provided above does not alter the conclusions of the hydrology and water quality analysis in Section 4.8 Hydrology and Water Quality of the Draft EIR.

See also Responses to Comments GGLH-50, GGLH-51, and GGLH-55.

Response GGLH-50

The two cities having regulatory jurisdiction over riverine and coastal flooding related issues for private development and local public works projects are Albany and Berkeley. For the City of Albany, this is accomplished through enforcement of Section 20.52; "Flood Damage Prevention Regulations" of the City's Municipal Code and Zoning Ordinance, and for the City of Berkeley, Section 17.12, " Flood Zone Development" of the City's Municipal Code and Zoning Ordinance. These provisions and regulations were developed and are designed to protect people, structures, and adjoining property from a significant risk of loss, injury or death from flooding.

Although, as a Special District, East Bay Regional Park District does not participate in the National Flood Insurance Program or the Community Rating System, it instructs its engineers and consultants to comply with local floodplain management regulations and ordinances in the design of visitor serving and public access improvements. Further, since nearly all of the proposed project improvements would be on property owned by the State of California, many of the local regulations including those pertaining to flooding do not pertain to the Project improvements. Nonetheless, the design of the Albany Beach project is in compliance with the City of Albany and Berkeley floodplain management ordinance.

Neither the City of Albany nor the City of Berkeley's local floodplain management regulations prohibit the construction or improvement of public access and recreation facilities in floodplains, provided that no structures (such as bridges and boardwalks) block or divert stormwater or flood flows, or cause damage downstream.

Both of these cities require that all buildings be elevated a minimum of 1 foot above the ***current*** 100-year regulatory or base flood level as shown on the most recent FEMA Flood Insurance Rate Map. There are no special provisions for recreational facilities such as public access trails. Neither of these cities has adopted regulations modifying their local Floodplain Management Ordinance regarding modifying base flood elevations to account for sea level rise. The base flood elevation for coastal flooding, as determined by FEMA, uses the 100-year still water tide level, not total water levels.

Although grading and building permits may not be required from these cities, in order to construct the proposed Albany Beach Restoration and Public Access Project, the District intends to informally consult with them as design proceeds to insure compliance with adopted policies on floodplains and sea level rise. The project structures that are likely to be subject to review are: 1) the shoreline revetment along the Neck in Area 1, 2) the vault restroom in Area 2, and 3) possibly any retaining walls over 3 feet high needed for trail construction, especially in Area 3. If it is determined that more substantial flood protection is warranted during plan review, then the District will comply with the conditions and requirements of the applicable permit issuing agency. Given the recreational nature of the Project, the fact that the project includes only one structure, a vault restroom, the existing emergency notification system that would instruct visitors to leave the Project area in the event of flooding, and the remote chance that people would be in the bayside area during extreme weather events when flooding occurs at the Proposed Project site, the Draft EIR determined that the flood impact would be less than significant. Further, if total water levels

reach 15.1 feet as mentioned in the comment, it is likely that visitors could not reach Albany Beach, as Buchanan Street (which has an approximate elevation of 9 feet (NAD88)), lower Gilman Avenue (which has an approximate elevation of 12 feet (NAD88)), and the parking lots would all be flooded.

In terms of Coastal Analysis, the June 2011 LSA Existing and Future Conditions Report provided an evaluation of wave runup and flooding, including Total Water Levels for Area 1, 2 and a portion of Area 3 (the southern shoreline in the report). Since the south shoreline to Gilman Street is relatively straight and linear, is not affected by protruding land masses or piers, and is entirely protected by rock rip rap, the findings of the LSA coastal engineering analysis are applicable to, and were used for, this area in project preliminary engineering. They provide sufficient detail for CEQA analysis. These results were taken into consideration in the preliminary design of the Bay Trail in Area 3 to create a trail that best withstands the impacts of flooding, wave erosion, and sea level rise and prevents impacts to adjoining property. For example, the trail is elevated to avoid damage from flooding and sea level rise. The Draft EIR considered the impact of the Project on drainage and flooding of the adjoining GGF property. To avoid impacts to adjoining property, the Project elevates portions of the Bay Trail and uses a series of elevated, arched culverts under the trail to provide drainage of the adjacent GGF parking areas. Also see Response GGLH-51.

The list of bulleted item under the heading State Agencies on page 8 of the Draft EIR is amended to add the following item above "Department of Fish and Game":

- **Department of Parks and Recreation** – approval of project in accordance with operating agreement between the Department and East Bay Regional Park District.

The list of bulleted item under the heading State Agencies on page 64 of the Draft EIR is amended to add the following item above "Department of Fish and Game":

- **Department of Parks and Recreation** – approval of project in accordance with operating agreement between the Department and East Bay Regional Park District.

None of the information presented and discussed above alters the conclusions in the Draft EIR that project-related impacts associated with coastal flooding and sea level rise are less than significant.

Response GGLH 51

Setting the crest elevation of the shoreline revetment at elevation 12 feet during Phase I construction in Area 1, with the Bay Trail surface also generally at this minimum elevation does not mean that the project places people in high risk of flood danger or structures at high risk of flood damage. For instance, as a reference point, lower Gilman Street, as well as most of the entrance road to the racetrack facilities and upper parking area, are at or below elevation 12 feet, and lower Buchanan Street is at an elevation of 9 feet (NAD88). Part of the reason elevation 12 feet was selected was that the natural tidal scour zone on slopes abutting the bay in the Albany Beach area is generally at an elevation of about 9 to 10.5 feet (NAD88); with the zone above this well vegetated. This indicates this zone can withstand the occasional extreme tide and total water level, and using elevation 12 provides some

allowance for sea level rise. The slopes above the revetment will be protected from extreme water level tidal erosion by use of erosion control blankets and vegetation.

A good analogy in considering this issue is along a stream course where bank rip rap protection is not often carried up to the 100-year flood water surface elevation, but is placed only along the lower 1/3 of a stream bank, or at the 10-year flood water surface elevation, with vegetative protection above this level. It is more cost effective and environmentally sound to minimize use of rock and rely on vegetative protection on higher zones on slopes. Sea level rise will be gradual over the next 25 years, the design life of the project. Trails along streams are also often at elevations well below 100-year flood water surfaces, and in many instances as low as the 10 year flood height.

There will be the opportunity to further raise the crest elevation of the rock revetment and rise the elevation or remove the trail surface in responses to this as additional information on the magnitude of the problem becomes available and any unforeseen significant maintenance problems develop in the future As described in the Draft EIR and these responses to comments, as currently designed, the Proposed Project will not expose people or structures to a significant risk of loss, injury or death from flooding, sea level rise, tsunamis, mudflows, or waves. Also see response GGLH-53.

None of the information presented and discussed above alters the conclusions in the Draft EIR that project-related impacts associated with coastal flooding and sea level rise are less than significant.

Response GGLH 52

The level of information presented in the Draft EIR is adequate for the analysis of compliance with BCDC policies for a habitat restoration and public access project. BCDC will not rely only on information contained in the Draft EIR in making a determination of compliance with their policies regarding potential sea level rise impacts on a project during their subsequent review of project permit applications. A separate Major BCDC permit application will be required that will contain additional information about the project, including more detailed project plans and specifications. Please note that the District has met with representatives from BCDC and other regulatory agencies on several occasions to discuss the results of the Coastal Engineering Analysis and the preliminary engineering design of the shore protection of the Neck, Habitat Enhancement Elements, and the Bay Trail. Although BCDC has not disagreed with the results of the analysis or the basis of the design, it is understood that the results presented were preliminary, and that full agreement by BCDC in regards to the basis of project design elements will need to wait until their detailed review of the formal permit application and supporting information. The final project plans will comply with all BCDC permit conditions, including those associated with sea level rise and coastal flood hazards.

None of the information presented and discussed above alters the conclusions in the Draft EIR that project-related impacts associated with coastal flooding and sea level rise are less than significant.

Response GGLH-53

The proposed trail and recreational facility design in consideration of sea level rise are consistent with BCDC design requirements for these kinds of projects. The intent is not that these facilities would be abandoned after 25 years, rather because of their short design life they can be more cost effectively reconstructed, at that time, for instance by further elevation of the trail surface, or in the case of the vault toilet restroom, by additionally elevating or replacing the pre-engineered building. Additional flexibility needs to be and has been incorporated into the design because of the need to consider adjacent area elevations, not block drainage, views, etc., and transition between land surfaces. For instance lower Gilman Street is at an elevation of about 12 feet NAD88. Raising the Bay Trail to 15 feet, as suggested is necessary by the commenter, would obviously create major problems in trying to transition to Gilman Street. The ability to simply elevate low portions of the trail in the future in coordination with the cities of Albany and Berkeley and adjacent property owners has been built into the project.

None of the information presented and discussed above alters the conclusions in the Draft EIR that project-related impacts associated with sea level rise are less than significant.

Response GGLH-54

See Response GGLH-53.

Response GGLH-55

Most of the proposed Bay Trail along the Neck and along the center of Area 3, near Fleming Point is currently at elevations exceeding 14 feet. Low portions of the trail are potentially subject to damage during severe weather and extreme tide events in the future, requiring occasional maintenance and repair by the District. This is not unusual; many public Park and Open Space areas have trail and recreational facilities that are constructed along streams and rivers within FEMA designated 100-year floodplains and neither FEMA nor local floodplain regulations preclude such recreational facilities in areas subject to flood damage. This is because there is virtually no trail use during periods of extreme weather, including intense rainfall, high winds, and high wave activity. District policies are to close their facilities (trail closure) during such hazardous conditions. As noted in Response to Comment GGLH-50, the District will coordinate with the Cities of Albany and Berkeley in enacting the local emergency notification system in the event of significant hazard, such as severe storm events or tsunamis.

The trail and recreational facility design do not preclude further elevation of the trail if and when the adjacent areas are redeveloped in the future and are themselves raised to comply with BCDC policies and Cities of Albany and Berkeley coastal flooding and sea level rise policies. Coordination with adjacent landowners and the Cities of Albany and Berkeley will be needed.

The shoreline protection design with the rock revetment crest elevation of 12 feet also includes stabilization and erosion protection in a zone 3 to 4 feet above the 12 foot elevation using erosion control blankets and native plantings. This will provide additional erosion or flood damage protection of the underlying landfill materials during periods of high total water levels that might exceed the 12-foot revetment height. The revetment design does not preclude adding rock to increase the crest elevation at some time in the future, to further stabilize the shoreline and provide additional protection of the landfill slopes.

None of the information presented and discussed above alters the conclusions in the Draft EIR that project-related impacts associated with sea level rise are less than significant.

Response GGLH-56

See Response GGLH-55.

Response GGLH-57

The proposed project does not significantly alter or impact the potential effects of sea level rise on GGF, nor does it preclude future coordinated planning and engineering between the District, the Cities of Albany and Berkeley, and GGF to address this issue. Future modifications or alterations to the trail height and the additions of structures such as constructing a sea wall along low areas can be accomplished in such a way that they benefit and are not detrimental to GGF needs to deal with the sea level rise issue. Also see Response to GGLH-53.

Response GGLH-58

The California Legislature granted to the Cities of Albany and Berkeley by statute certain portions of tidal and submerged land for statewide tidelands trust purposes including preservation of such lands in their natural state for scientific study, open space, wildlife habitat and recreational uses, and construction of recreational facilities. In addition, the State Lands Commission holds a public trust easement over portions of the Project site. (See Response SLC-3) The Proposed Project is consistent with the public trust uses designated by statute and in the easement, and would not preclude any of these uses. EBRPD will obtain all needed authorization from the State Lands Commission and any authorization needed from Berkeley or Albany.

Response GGLH-59

See Response GGLH-58 and Response SLC-3.

Response GGLH-60

The existing vehicular and bicycle circulation network, and existing public access to the project site, are described in Section 4.13 Transportation and Traffic, on pages 287-291. Changes in existing transportation conditions, including public access, are discussed in Section 4.13 Transportation and Traffic, Impacts Discussion, on pages 291-298. The

discussion includes impacts on traffic conditions, bicycle use, transportation hazards, and emergency access, and found that no significant transportation impacts would result from the Proposed Project. Both the existing conditions and the impacts of the Project are discussed at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA.

Response GGLH-61

Existing formal and informal bicycle routes are discussed in Section 3.3 Site Access, page 29, in Bicycle Access, page 38, Current and Projected Site Use, on page 39, Existing Land Use, on page 238, Open Space/Urban Land Interface on pages 240-241, Section 4.12 Recreation, Existing conditions, on page 273, in Section 4.13 Transportation and Traffic, Bicycle and Pedestrian Access, page 290, and Section 4.13 Transportation and Traffic, d. Substantially increase hazards due to a design feature, on page 295. There are no continuous ADA-accessible pedestrian facilities through the project area that connect existing segments of the Bay Trail to the north and south of the project area. These narrative descriptions allow decision-makers to make informed decisions about the environmental impacts of the project. In addition to the Bay Trail Map (Draft EIR Figure 4.12-1), the following exhibits have been provided to illustrate existing and proposed bicycle and pedestrian facilities in and near the project area: Exhibit B - City of Albany Existing and Proposed Bikeway Network and Exhibit C - City of Berkeley Existing and Proposed Bikeway Network. Figure 3-9A, on page 55 of the Draft EIR, has been revised to include existing informal routes that are currently used by bicyclists that travel through the Golden Gate Fields site to access Bay Trail segments north and south of the site. The revised Figure 3-9A is provided on the following page, with red dashed lines illustrating the Existing Informal Bicycle Path of Travel.

The revisions described and information provided above do not alter the conclusions of the transportation and traffic analysis in Section 4.13 Transportation and Traffic of the Draft EIR.

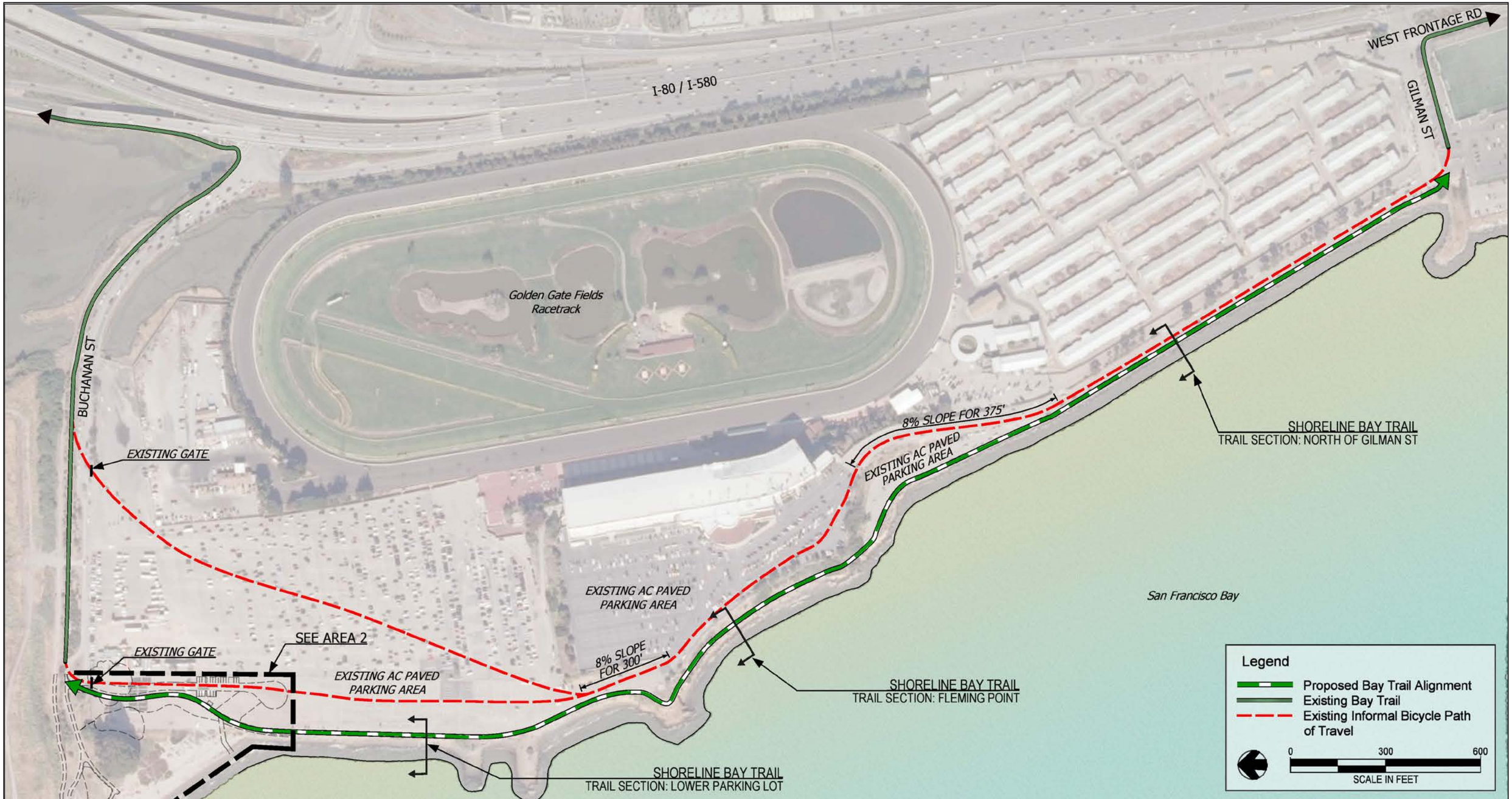

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FIGURE 3-9A

AREA 3: BAY TRAIL, ALBANY BEACH TO GILMAN SITE PLAN

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Response GGLH-62

Vehicular access to the Golden Gate Fields facilities, via Buchanan and Gilman Streets, is described in Section 4.13 Transportation and Traffic, Local Access routes, page 288. Buchanan and Gilman Streets are shown on Figure 3-2, on page 27. Primary access routes to the Golden Gate Fields site include a service entry at the northeast corner of Gilman adjacent to I-80, a parking/service entrance on Buchanan, and patron/parking access on the shoreline frontage road. There are also utility gates along the shoreline access that are served from a separated road that will not be affected by the Project. These narrative descriptions are sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project. An additional graphic is not required for compliance with CEQA.

Response GGLH-63

The Proposed Project would replace the existing informal bicycle route along the Bay shore in Area 3 with a formal Bay Trail segment suitable for multiple users, including bicyclists and pedestrians, but would make no change to the formal and informal routes on surface streets east of I-80. The statement in the comment that the project would replace the existing routes east of I-80 is incorrect. The Berkeley Bicycle Plan Update (Exhibit C) does not show existing or proposed bicycle facilities along the I-80 frontage road. The transportation impacts of the Project as proposed (which would not eliminate use of roads east of I-80) are analyzed in Section 4.13 Transportation and Traffic, Impacts Discussion, on pages 291-298. This analysis includes an estimate of the additional bicyclists that would be attracted by the project, and their impact on the local street system. See also Response to Comment GGLH-61.

Response GGLH-64

Bicycle and pedestrian access connecting to the project site is described in Section 4.13 Transportation and Traffic, Bicycle and Pedestrian Access, page 290, as well as revised Figure 3-9A. This description is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project. An additional graphic is not required for compliance with CEQA.

See also Response to Comment GGLH-61.

Response GGLH-65

The third paragraph on page 295 of the Draft EIR is amended as follows:

The Proposed Project in Area 3 would ~~separate~~ provide bicycle and pedestrian facilities that separate traffic from the current route that is informally used along and through the Golden Gate Fields access road and parking lot (see Figure 3-9A). Pedestrian and bicycle pathway signage ~~Signage,~~ stripping and barriers would be provided to ~~alert~~ separate trail users ~~and vehicles to~~from vehicular traffic ~~requirements~~. This would be a safety improvement over existing conditions (in which pedestrians and bicyclists do not have continuous sidewalks or separate bicycle lanes), a beneficial impact.

With the revisions identified above, the discussion is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA. The revision described above does not alter the conclusions of the transportation and traffic analysis in Section 4.13 Transportation and Traffic of the Draft EIR.

Response GGLH-66

The Draft EIR considers the Project impact on traffic, focusing on the intersections that are the principal point of vehicular entry to Albany Beach and would be most affected by Project traffic: I-580 Southbound Ramps/Buchanan Street and I-580 Northbound Ramps/Buchanan Street. The Draft EIR, as discussed in Section 4.13 Transportation and Traffic, Project Vehicle Trip Generation Analysis, on page 292, estimated daily trips for the project using trip generation rates from the Institute of Transportation Engineer's (ITE) *Trip Generation Handbook*, *(Eighth Edition)*. ITE's trip generation rates are the industry standard, and nationally accepted for estimating trip generation for various land development projects. ITE's trip generation rates are compiled with field survey data throughout United States and are updated periodically as new data comes in. As stated in the note at the bottom of Table 4.12-2 on page 292 of the Draft EIR, the estimated trip generation for the Project site is a conservative overestimate because it includes both existing and Project-generated traffic. In addition, this trip generation is a conservative overestimate because it is based on the peak hour of the generator (the Project) instead of the peak hours of the adjacent street, which is normally used for traffic studies (with rates for the adjacent street, the project would generate 1 AM and 4 PM peak hour trips.) Using the generator (Project) rates, the Project's estimated weekday peak hour trips are 33 AM and 37 PM trips.

While Alameda CTC requires "local jurisdictions" to prepare a detailed traffic study for projects that increase traffic by 100 or more trips, EBRPD is not considered a "local jurisdiction" and is not subject to Alameda CTC's requirements. Nonetheless, the 100 new trip threshold provides a useful indicator of the level of project-generated traffic that could potentially cause significant transportation impacts and thus require more analysis of the Project's traffic impacts. For comparison, examples of uses that would generate more than 100 peak-hour trips, according to ITE trip generation rates and Alameda CTC's Congestion Management Plan include:

- 100 or more single-family homes
- 165 apartment units
- 135 hotel rooms
- 45,000 gross square feet of office space

These projects would generate substantially more activity, vehicles, and trips than the Proposed Project, which primarily involves enhancing facilities that are already in use, with the exception of the addition of three picnic tables, an enhanced non-motorized boat launch, and one toilet. These examples corroborate the calculation that the Project would generate fewer than 100 peak hour trips. Using the ITE trip rates listed on page 292 of the Draft

EIR, in order for a park to generate 100 AM peak hour trips it would have to be at least 192 acres, and in order for a park to generate 100 PM peak hour trips it would have to be at least 169 acres. In both cases, the size of park that would generate 100 peak hour trips is considerably larger than the proposed project.

In addition to using ITE trip generation rates, the Draft EIR analyzes the Project's traffic impacts using the assumptions in the *Existing and Future Conditions Report* for the *Albany Beach Restoration and Public Access Feasibility Study* prepared by LSA Associates (LSA study) and conducts a traffic analysis of the most impacted intersections based on those numbers. As mentioned in the comment, the LSA study found that the project would generate 69 AM peak hour roundtrips (128 vehicle trips), and 133 PM peak hour roundtrips (266 vehicle trips). For the reasons discussed below, the LSA study overestimates Project traffic generation, and thus does not accurately project the Project's traffic impacts. For the sake of analysis early in the planning process, the LSA study made the broad assumption that park use would double because the initial evaluation of potential traffic impacts included an extensive range of possible park improvements that would be feasible under the Eastshore State Park General Plan. The LSA Existing and Future Conditions Report was prepared prior to the more detailed Project-specific analysis of the Constraints and Opportunities Analysis, Concept Alternatives Report, and District selection of a preferred project (the Proposed Project), which primarily involves enhancing facilities that are already in use, along with trail improvements, including closing a gap in the Bay Trail that is currently informally used, and the provision of an enhanced non-motorized boat launching facility. These are not the types or magnitudes of improvements that would draw significant new visitor demand, and are not comparable to other potential uses throughout Eastshore Park such as a new sport field, hostel, interpretive center, recreation concessions, or boathouse facility that would have considerably higher trip generation than the proposed project. For that reason, the LSA study's determination of the number of vehicle trips exceeds those calculated for the Project.

Following completion of the LSA study, a detailed site-specific user survey was conducted over a five-week period, as discussed in pages 39 and 40 of the Draft EIR. (The traffic counts in the LSA study discussed above were limited to a single day.) The user study confirmed the following regarding use and traffic patterns:

- Peak usage occurs on weekends, rather than the weekday PM peak period, which is typical of EBRPD parks.
- The parking lot is rarely full and typically there are not more than 40 cars total at any time.
- The average visit is much longer than 18 minutes assumed by the LSA Study (this is consistent with a traffic study of Point Pinole Regional Shoreline, another popular regional shoreline park in the east bay, where the average visit was one hour 23 minutes[8]). Visitors traveling to the Project site by car typically walk down the neck and/or spend time on the plateau or beach. This can take over one hour; therefore the average visit is closer to 1 hour than 18 minutes.

[8] Fehr & Peers Associates, Inc., *Background Traffic Report: East Bay Regional Park District*, January 21, 1997.

These findings of the user survey are consistent with the estimates of the Project's additional weekday peak hour trips (33 AM and 37 PM) presented in the Draft EIR.

The user survey found that the number of non-bicycle users in weekday early morning and late afternoon periods ranged from 32 to 55 in the early morning, and 88 to 134 in the late afternoon. This may overestimate users and vehicles because some users may have used multiple areas (i.e. beach and neck) and thus been counted twice. In addition, "late afternoon" is defined in the user survey as 3:00 pm to 6:00 pm, which is one hour longer than the PM peak (4:00 pm to 6:00 pm) defined in the Draft EIR. ("Early morning" is defined in the user survey as 7:00 am to 9:00 am, matching the definition of AM peak period used in the Draft EIR). Thus, PM peak period visitors were less than the "late afternoon" counts of the user survey. Assuming two people per vehicle, the numbers of visitors in the user survey correspond to 16 to 21 trips in the morning, and 44 to 67 trips in the afternoon. Even if the project doubles the number of existing park users (which is not expected given the types of improvements at the site), new Project-generated trips would be less than 100 peak hour trips.

In addition, another study of traffic generation at District parks supports the Draft EIR's traffic impact conclusions. This study used parking multipliers for measuring traffic generation at parks, and evaluated several District parks, including Point Pinole Regional Shoreline, which, like the Proposed Project, is a popular regional shoreline park. Point Pinole had an average of 1.37 vehicles per parking space per day. Using this parking multiplier, the Project's 20 spaces would result in 27 vehicles (54 vehicle trips) per day, and fewer trips in the AM and PM peak hours.

For the reasons discussed above, the Draft EIR refined and updated the assumptions in the LSA report, to reflect the actual extent of Proposed Project improvements. The estimated Project weekday peak hour trips, 33 AM and 37 PM, in the Draft EIR are a more accurate assessment of the incremental increase in park demand based on the increase number of parking spaces available, increased usable parkland for visitors, and the ITE trip generation rates discussed above. As discussed above, these estimated trips are conservative because they are based on (Project) generator rates rather than adjacent street rates, and include existing traffic generation.

Nevertheless, the Draft EIR conducted its traffic analysis based on the LSA study numbers, to provide a conservative analysis of Project impacts. The Draft EIR discusses and presents the results of the traffic study on pages 292-293, which found that both study intersections would continue to operate at LOS E or better for both a.m. and p.m. peak hours. This is corroborated by the analysis of an independent qualified transportation consultant, which found that peak hour levels of service at the I-580 NB ramps/Buchanan Street intersection would not be changed by the addition of traffic substantially greater than the Project (5 times the Project generation, or 165 AM peak trips and 185 PM peak hour trips).[9]

[9] Pang Ho, AICP, PHA Transportation Consultants, email to Michael Kent, *Re: Albany Beach response,* Questa Engineering, 31 October 2012.

The second to last paragraph on page 292 of the Draft EIR is amended as follows:

An analysis of the existing and future traffic conditions was prepared for the Eastshore State Park General Plan (2002). In 2011, the *Existing and Future Conditions Report* for the *Albany Beach Restoration and Public Access Feasibility Study* prepared by LSA Associates reexamined the freeway ramp intersections of I-580 SB Ramps/Buchanan Street and I-580 NB Ramps/Buchanan Street, the principle point of vehicular entry to Albany Beach. ~~The increase in PM Peak trips are below the threshold of 100 that Alameda CTC uses as a criteria that triggers a detailed traffic study.~~

The second paragraph under the heading "Alameda County Transportation Commission" on page 283 of the Draft EIR is amended as follows:

The Alameda CTC plans, funds and delivers transportation programs and projects that expand access and improve mobility with the objective of fostering a more vibrant and livable Alameda County. The Alameda CTC coordinates countywide transportation planning and prepares the expenditure plan for the half-cent sales tax approved by Alameda County voters in 2000. This includes preparing the County-wide Transportation Plan, the Congestion Management Program (CMP), as well as the in-progress update of the 2006 Countywide Bicycle and Strategic Pedestrian Plans. The CMP establishes thresholds for designated roadways, which in the vicinity of the project area are I-80/580, San Pablo Ave. (SR-123) and Ashby Ave. (SR-13). For most projects, the Alameda CTC Technical & Policy Guidelines uses a 100-trip PM Peak (increase) threshold, which if exceeded, would require a detailed traffic study. EBRPD is not subject to this requirement for projects that generate more than 100 new peak hour trips because it is not considered a "local jurisdiction".

Footnote 4 of the comment claims that the forecasts in the *Existing and Future Conditions Report,* which are based on "full utilization of a new parking lot east of Albany Beach and the doubling of existing parking utilization" do not represent a "worst case" scenario because they do not assume full utilization of all parking spaces. As described above, the conditions assumed in the *Existing and Future Conditions Report* (LSA study) result in an overstatement of the Project's traffic impacts.

The paragraph under Table 4.13-4 on page 293 in Section 4.13 Transportation and Traffic of the Draft EIR is amended as follows:

The forecasts used to determine future trip generation for the proposed project (full utilization of a new parking lot and doubling the existing parking utilization) ~~represent a conservative, worst-case scenario~~ overstate the Project's traffic impacts because the LSA study assumed more intensive uses on the Project site than are included in the Proposed Project.. Even under this scenario, the project is not forecast to impact the nearby intersections of I-580 SB Ramps/Buchanan Street or I-580 NB Ramps/Buchanan Street. Increases in vehicular traffic would not be expected to impact bicycle traffic because of the off-street bicycle path provided adjacent to Buchanan Street. As a result, the project would have a less-than-significant impact on the circulation system.

These revisions do not alter the conclusions of the transportation analysis in Section 4.13 Transportation and Traffic. No significant new impacts, or substantial increase in the severity of an impact identified in the Draft EIR, are identified by the new text above. Therefore, recirculation of the Draft EIR is not required.

With the revisions identified above, the discussion is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA.

Response GGLH-67

See Response GGLH-7.

Response GGLH-68

The cumulative transportation analysis (see Section 4.13 Transportation and Traffic, Cumulative Analysis, on pages 296-298) provides an updated analysis specific to the Albany Beach project, in addition to discussing the findings of *Eastshore State Park General Plan EIR*. Thus, the cumulative analysis does not rely solely on the cumulative analysis of the *Eastshore State Park General Plan EIR*. The cumulative analysis for the Albany Beach project incorporates the traffic generation that is estimated for the Proposed Project in Section 4.13 Transportation and Traffic.

To clarify this, the text on page 298 in Section 4.13 Transportation and Traffic of the Draft EIR is amended as follows:

levels forecasted in the *Eastshore Park Project General Plan EIR*, and would not change the conclusions of that EIR regarding Year 2025 traffic levels. The traffic generation of the Proposed Project discussed in Project Vehicle Trip Generation Analysis and Future Traffic Conditions, above (which would be smaller than that of the General Plan) would, as discussed above, be small and would have a less-than-significant effect on the circulation system. Therefore, the Project would not have a cumulatively considerable adverse impact on transportation and traffic because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less than significant*.

The intersection LOS analysis in Section 4.13 Transportation and Traffic, Project Vehicle Trip Generation Analysis and Future Traffic Conditions, on pages 292-293, includes LOS calculations for the I-580/Buchanan Street intersection. The text changes to the Draft EIR identified above clarify that this intersection is included in the cumulative traffic analysis for the Albany Beach project.

The Proposed Project would not make a considerable contribution to the cumulative traffic levels forecasted in either the Alameda County Congestion Management 2025 model, or the Alameda County Congestion Management 2035 model. Because 2035 traffic levels would be higher than 2025 traffic levels, Project-generated traffic would be a smaller percentage of total traffic in 2035 than in 2025. Thus, the Project would not have a cumulatively considerable adverse impact on transportation and traffic in either 2025 or 2035, because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. The cumulative impact of the project would be less than significant in both cases.

The paragraph starting at the bottom of page 297 and ending at the top of page 298 in Section 4.13 Transportation and Traffic is amended as follows:

The proposed and approved projects identified above are accounted for in the Alameda County Congestion Management Agency's Countywide Travel Demand Models for 2025 and 2035, and the Year 2025 traffic levels forecasted in the *Eastshore Park Project General Plan EIR*, and would not change

the conclusions of that EIR regarding Year 2025 traffic levels. The traffic generation of the Proposed Project (which would be smaller than that of the General Plan) would, as discussed above, be small and would have a less-than-significant effect on the circulation system, in both 2025 and 2035. Therefore, the Project would not have a cumulatively considerable adverse impact on transportation and traffic because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less than significant*.

These revisions do not alter the conclusions of the transportation analysis in Section 4.13 Transportation and Traffic.

With the revisions identified above, the discussion is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA.

Response GGLH-69

See Response GGLH-6.

Response GGLH-70

The analysis of transportation impacts in the Draft EIR, as modified by Responses GGLH-6, GGLH-65, GGLH-66, GGLH-67, and GGLH-68, is at a level of detail that is sufficient to allow decision-makers to make informed decisions about the environmental impacts of the project, and thus is in compliance with CEQA. No additional analysis or study of transportation is required. No new impacts have been identified by the comments, and recirculation of the Draft EIR is not required.

Response GGLH-71

The comment is noted. No response is required.

Response GGLH-72

As discussed under Bay Trail East of GGF Along Codornices Creek, on page 338, in Section 5.9 Alternatives Considered But Rejected of the Draft EIR, an alternative trail alignment east of the GGF site, along Codornices Creek where it parallels I-80 immediately west of the freeway, was rejected because it would not fulfill the project objective of implementing the Bay Trail as specified in the Bay Trail Plan, would require various potentially infeasible acquisitions (such as acquisition of I-80 right of way) and alterations to existing facilities, may require fill of creeks and wetlands, and would not reduce or avoid any of the Project's potentially significant impacts.

To correct a typographical error, the third paragraph on page 305 in Chapter 5 Alternatives of the Draft EIR is amended as follows:

A No Project Alternative is required as one of the "reasonable range of alternatives" that could feasibly attain most or all of the project's objectives. Besides the No Project Alternative, five other alternatives, called the: 1) Conservation Alternative, 2) Recreation Alternative, 3) Minimal

Improvements Alternative, 4) Enhanced Project Alternative, 5) Bay Trail Through Golden Gate Fields ~~and Codornices Creek~~ Alternative, and 6) Bay Trail East of I-80 Alternative are analyzed. Each alternative is analyzed against the Project Objectives presented and significance thresholds considered in Chapter 4 and the impacts compared to those of the Proposed Project.

The above revision does not alter the conclusions of the alternatives analysis in Chapter 5 Alternatives of the Draft EIR.

Response GGLH-73

The purpose of analysis of alternatives, as stipulated in CEQA, is to evaluate the potential environmental impacts of alternatives that could be implemented instead of the proposed project. Therefore, evaluation of the Bay Trail East of I-80 Alternative is based on the premise that a Bay Trail segment is constructed east of I-80 rather than along the shoreline as is proposed by the project. Under the Bay Trail East of I-80 Alternative, there would be no formal Bay Trail along the shoreline, and there would be no shift of users to a formal Bay Trail along the shoreline. As required by CEQA, the Draft EIR compares potential safety impacts of a trail alignment east of I-80 with a shoreline alignment, and correctly concludes that the Bay Trail East of I-80 Alternative would have greater Transportation/Traffic impacts because it could result in traffic and safety conflicts by placing bicycle and pedestrian use areas in and adjacent to traffic lanes and intersections. This route is not shown as an existing or proposed bicycle facility on the City of Berkeley Bicycle Plan (Exhibit C), a potential land use plan conflict. As stated under Transportation/Traffic on page 334, the Bay Trail East of I-80 Alternative would have worse impacts on Transportation than the Proposed Project.

Response GGLH-74

As discussed in Response GGLH-73, the alternatives analysis in the Draft EIR evaluates the Bay Trail East of I-80 Alternative as an alternative to the Proposed Project. Analysis of users' choice between the two routes does not achieve the purposes of analysis of alternatives stipulated in CEQA, and is not required.

Response GGLH-75

The benefits of a route used as transportation (rather than recreation) depend on the directness and convenience of the route. Given the variety of users' beginning and ending points, it is likely that a trail segment along the shoreline would be preferable for some users, and the route east of I-80 would be preferable for others. Overall, there is no reason to conclude that the route east of I-80 would be substantially superior for transit users compared to the shoreline route. The discussion of Transportation /Traffic impacts of the Bay Trail East of I-80 Alternative on page 334 is valid. No revision is required.

Response GGLH-76

As stated under 5.7 Bay Trail East of I-80, on page 332, "The Bay Trail East of I-80 Alternative would be similar to the Proposed Project except for the alignment of the Bay Trail segment in Areas 2 and 3, where the Trail would utilize the existing east-west Bay Trail

spur north of Buchanan Street to connect with the Project Site." Thus, this alternative would contain the features of the Proposed Project except for the Bay Trail alignment.

Because the Bay Trail East of I-80 Alternative would not provide a shoreline Bay Trail segment, Table 5-1 on page 307 accurately states that this alternative would not "Improve and expand the quality and function of existing visitor facilities", which includes implementing a new segment of San Francisco Bay Trail between Albany Beach and Gilman Street, as stated under 3.6 Project Need and Objectives, Objective #1, on page 41.

Because the Bay Trail East of I-80 Alternative would not provide a shoreline Bay Trail segment, Table 5-1 on page 307 accurately states that this alternative would not "Provide habitat enhancement and public access while providing a multi-purpose, net-beneficial project", which includes providing public access by implementing a new segment of San Francisco Bay Trail between Albany Beach and Gilman Street, as stated under 3.6 Project Need and Objectives, Objective #1, on page 41.

Construction of a trail east of I-80 under the Bay Trail East of I-80 Alternative would require reconfiguring the travel lanes of Eastshore Frontage Road, and bicycle/pedestrian safety improvements at the crossings of Buchanan, Eastshore Frontage Road, and Gilman Streets, as well as I-80 access points at each street. This route is within the jurisdiction of Albany and Berkeley, and Berkeley's Bicycle Plan does not show this as a future bicycle facility. Permitting, acquisition of right-of-way, and construction involving existing roads and highways is typically a lengthy, time-consuming process. Based on experience with similar projects of this nature, it is unlikely that all of the required improvements could be permitted and completed within five years. Therefore, Table 5-1 on page 307 accurately states that this alternative would not "Develop improvements that can be permitted and completed within 5 years".

Table 5-1, on page 307 in Chapter 5 Alternatives of the Draft EIR, is amended as follows:

TABLE 5-1 COMPARISON OF ALTERNATIVES TO PROJECT OBJECTIVES

#	Objective	Proposed Project	No Project Alternative	Conser-vation Alternative	Recreation Alternative	Minimal Improve-ments Alternative	Enhanced Project Alternative	SF Bay Trail through GGF Alter-native	SF Bay Trail East of I-80 Alternative
4	Comply with the California Regional Water Quality Control Board's Order to maintain the stability of the Albany Landfill at south Albany Neck.	Yes	No	Yes	Yes	No	Yes	Yes	Yes~~No~~
8	Phase project implementation with the highest priority placed on stabilizing the eroding landfill along the south Albany Neck	Yes	No	Yes	Yes	No	Yes	Yes	Yes~~No~~

The revisions to Table 5-1, above, do not change the conclusions of the analysis of the Bay Trail East of I-80 Alternative in 5. Alternatives, Comparison to Project Objectives, page 335.

Response GGLH-77

Comparison to Project Objectives, on page 326 in Chapter 5 Alternatives of the Draft EIR, is amended as follows:

Comparison to Project Objectives
As shown in **Table 5-1**, the Minimal Improvements Alternative would not meet most of the project objectives, including those objectives associated with habitat enhancement and shoreline stabilization. The Minimal Improvements Alternative would make only localized, discontinuous repair of the eroding shoreline, would not revegetate Area 1 with native species, would not enhance dunes or create expanded dune area in Area 2, would not enhance or expand existing wetlands in Area 2, and would not create a separated, ADA-compliant Bay Trail segment in Area 3.

The above revision does not alter the conclusions of the alternatives analysis in Chapter 5 Alternatives of the Draft EIR.

Response GGLH-78

This alignment and its variations are discussed in Section 5.6 Bay Trail Through Golden Gate Fields Alternative of the Draft EIR, and a generalized depiction of this alignment is shown in Figure 5-5 of the Draft EIR. The three alternatives discussed in the September 8, 2007 letter from Questa Engineering included two variations of lane reconfiguration and re-striping of the existing Golden Gate Fields access road and parking areas, and one variation to construct a retaining wall to extend the paved surface adjacent to the access road. This alignment and variations of it are considered within Section 5.6 of the Draft EIR.

Response GGLH-79

Compared to the Proposed Project, the alternative described in the comment would have similar effects on the physical environment, and would change only the timing of construction of the trail segment in Area 3. The comment states that the southern trail area would undergo reconfiguration and construction at one time only in the proposed "Interim Measures Alternative", but this also would be true of the Proposed Project. Although the Proposed Project may or may not construct the trail in Area 3 concurrently with construction in Areas 1 and 2, trail construction in Area 3 would only occur once in either case. The proposed "Interim Measures Alternative" would have impacts similar to the Proposed Project. For these reasons, it is not necessary to evaluate the proposed "Interim Measures Alternative" to analyze the reasonable range of alternatives required by CEQA.

The information provided above does not alter the conclusions of the alternatives analysis in Chapter 5 Alternatives of the Draft EIR.

Response GGLH-80

See Responses GGLH-1 through GGLH-79.

Liz Rottger

From: Chris Barton
To: thawbaker@questaec.com; Jeff Peters (jpeters@questaec.com)
Subject: FW: "Removal of Unauthorized Art"
Date: Thursday, September 27, 2012 8:56:30 AM

Cleaning my junk mail folder today. Found this comment. Please log.

-----Original Message-----
From: Liz Rottger [mailto:lizrottger@yahoo.com]
Sent: Monday, August 27, 2012 5:28 PM
To: Chris Barton
Subject: "Removal of Unauthorized Art"

Mr. Barton,
I was visiting the Albany Bulb this past weekend with Dutch friends, showing them the unique works of art along the bay front. I noted a sign indicating that these sculptures may be "removed" since they are deemed "unauthorized artistic expressions." Most expressions of art are in fact unauthorized, stemming as they do from some creative energy deep within us. The message told us to contact you, if we wished express our opposition.

This handwritten message on whiteboard may not be accurate and I apologize if East Bay Regional Parks is not considering removal of the many wonderful sculptures such as, what I call, Mother Courage who steps out of the Bay onto this scarred promontory created from tons and tons of debris, beseeching all of us to care more about our environment and what we throw away. I think EBRP could have no better spokesperson. LR-1

If it is indeed the attention of EBRP to remove these sculptures, would you please inform me when you will be holding public hearings about their removal. Thank you.

Liz Rottger

Sent from my iPad

Response to Comment LR-1

The Project would not affect the Albany Bulb, including the art at the Bulb. As discussed in Section 4.4 Cultural Resources, page 150, the Project could disturb the wild art on the Project site, which includes the Albany Neck and Albany Beach. With the implementation of the cultural resources guidelines in the Eastshore State Park General Plan, and the Mitigation Measure AESTH–1, on page 88 in Section 4.1 Aesthetics, which calls for relocation of wild art pieces such as the "Rubik's Cube" that are durable, can be physically moved, contain unique features, and pose no health or safety risk, the impact of the Proposed Project on wild art would be reduced to a *less-than-significant* level.

Alison Horton

Tom Hawbaker

From: Chris Barton [cbarton@ebparks.org]
Sent: Thursday, August 30, 2012 8:00 AM
To: mkent@questaec.com; thawbaker@questaec.com
Subject: FW: Albany bulb [Late Comment Alison Horton 08.30.12]

Categories: Albany Beach

Late email comment not exactly pertaining to DEIR but let's log anyway.

Chris Barton
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From: alisonhorton@comcast.net [mailto:alisonhorton@comcast.net]
Sent: Thursday, August 30, 2012 4:22 AM
To: Chris Barton
Subject: Albany bulb

Dear Mr. Barton

I've been a resident of Alameda County for the past 30 years. I've been enjoying the many East Bay Parks and their unique individual focus from the stream trains to Lake Anza to Cesar Chavez Park. I would like to see the Albany Bulb continue this tradition. AH-1

I think turning the Bulb into a park is a fine idea if you celebrate the history of the land and how it came into being just like you celebrate the historical farm in other parks. The Bulb is a phoenix and is inspiring precisely because it was born as an illegal dump site. AH-2

I would like to see the vibrant art preserved. I would also like to see an urban farm out there. Might it be possible to allow the people currently living out there to implement and manage it? I think they provide a great example of creative recycling and reuse and I don't want to see them displaced from land. AH-3

Thanks
a

Response to Comments AH-1 through AH-3

Response AH-1

The comment is noted. The Proposed Project would not affect the Albany Bulb.

Response AH-2

The East Bay Regional Park District operates the Albany Neck, Albany Plateau and the Albany Beach area, and is the sponsor of the Proposed Project. The Albany Bulb is owned and operated by the City of Albany. The City of Albany, rather than the East Bay Regional Park District, would be responsible for any improvements to the Albany Bulb.

Response AH-3

The Project would not affect the Albany Bulb, including the art at the Bulb. As discussed in Section 4.4 Cultural Resources, page 150, the Project could disturb the wild art on the Project site, which includes the Albany Neck and Albany Beach. With the implementation of the cultural resources guidelines in the Eastshore State Park General Plan, and the Mitigation Measure AESTH-1, on page 88 in Section 4.1 Aesthetics, which calls for relocation of wild art pieces such as such as the "Rubik's Cube," that are durable, can be physically moved, contain unique features, and pose no health or safety risk, the impact of the Proposed Project on wild art would be reduced to a *less-than-significant* level.

As discussed in Response AH-3, the City of Albany, rather than the East Bay Regional Park District, would be responsible for any improvements to the Albany Bulb, such as an urban farm.

The Project would not displace any residents of the homeless encampment on the Albany Bulb as stated in Homeless at Albany Bulb, on page 245.

Jeff Finn

From: Chris Barton
To: thawbaker@questaec.com; Jeff Peters (jpeters@questaec.com); mkent@questaec.com
Subject: DEIR Comment [Jeff Finn 10.05.12]
Date: Friday, October 05, 2012 8:43:34 AM
Attachments: image001.jpg

DEIR comment

Chris Barton
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From: JF [mailto:1956kiteboarder@gmail.com]
Sent: Friday, October 05, 2012 8:34 AM
To: Chris Barton
Subject: Albany Beach Habitat Restoration and Public Access Project comment

Hello, with the statistics of 262 dog walkers daily, I have concerns based on the current unsanitary unpicked quantity of dog poop, and would want something in the Albany Beach Habitat Restoration and Public Access Project some good signage and enforcement to remedy the current situation. Including leash requirements at all times, currently group of dog owners will just let there dogs run together in packs all over the beach and records show numerous dog bite reports there. JF-1

Regards

Jeff Finn
375 Catalina Blvd Apt 102
San Rafael CA. 94901

Response to Comment JF-1

The Proposed Project would not change existing dog-related policies or their enforcement at the site. Dogs are currently present at the project site. As stated on page 39 of Chapter 3 Project Description, some of these dogs are off-leash. The project would result in continued use of the site by dogs. As discussed in Section 4.9 Land Use and Planning, pp. 242-245, the project would result in both additional dogs on the site and additional acreage accessible to dogs. The net effect would be a decrease in intensity of dogs (dogs per acre), and a corresponding decrease in intensity of dog waste.

Section 4.8 Hydrology and Water Quality, pp. 205-207, and Section 4.3 Biological Resources, pp. 135-136 and 138-139 evaluate the potential water quality and biological impacts resulting from additional dog use and associated dog waste at the project site, and discusses the reasons why these impacts would be less than significant.

Because of the decrease in dog intensity, the Project would not increase the frequency of dog bite incidents, and may decrease their frequency. At the Project site, signage with leash requirements has been installed numerous times in the past, but has been removed or vandalized. The Project would include more durable/permanent signs for posting the leash requirement. Currently, in the absence of signage, park staff and District police verbally advise violators of the dogs on leash rule.

Michael Robben

oct 9, 2012

Dear Sir,

I talked to you last week, and you were kind to me. Thank you. About the Albany Waterfront plans I really like the idea of improving the beach, but as the only wading beach around for miles with direct view of the Gate, I am so sorry that it has been taken over by aggressive dogs and their owners. One can't sit on the beach listen to birds or avoid looking at dogs fight. I thought point Isabele (sp?) is for Dogs. Please either leash

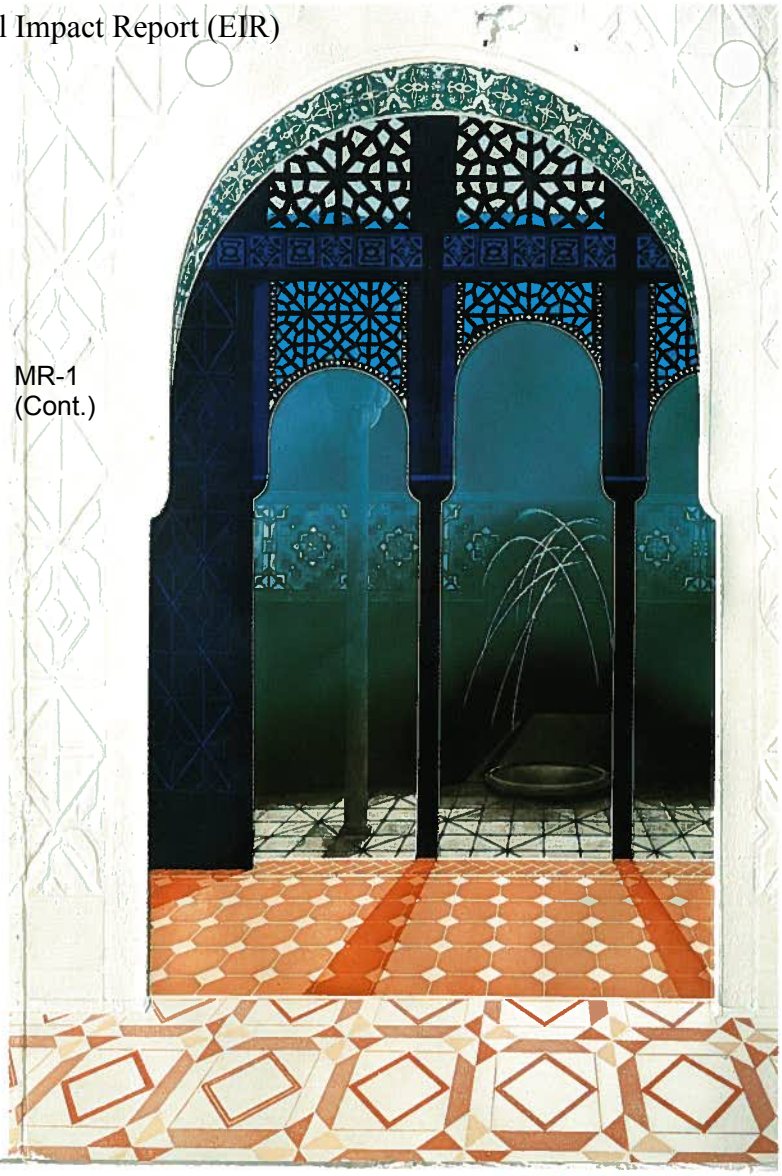
EBRPD
OCT 11 2012
LAND DIVISION

MR-1

Michael Rothe
1964 El Dorado Ave
Berkeley, CA 94707

or otherwise restrict the dogs on the Beach area.
Even the Albany owned land is too kind in my opinion.
Cornell beach is much the same way, but Alameda beach has good vegetation.
Also, who enforces and protects laws favoring people, like me, who are scared of dogs?
Sincerely Michael Robbins

MR-1
(Cont.)



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10 OCT 2012 PM 3 L

Chris Barton
East Bay Regional Parks
Park District Land Division
2950 Peralta Oaks Court
PO Box 5381
Oakland CA 94605

94605038181

Response to Comment MR-1

Through an agreement with the State of California Department of Parks and Recreation (CDPR), EBRPD manages and operates the portions of the project site within Eastshore State Park, which include Albany Beach. After construction, the project area would be operated and maintained by EBRPD. The Proposed Project would not change existing dog-related policies or their enforcement at the site. Dogs are currently present at the project site. As stated on page 39 of Chapter 3 Project Description, some of these dogs are off-leash. The presence of both on-leash and off-leash dogs may currently dissuade people with a phobia of dogs from visiting the project site. The project would result in continued use of the site by dogs. As discussed in Section 4.9 Land Use and Planning, pp. 242-245, the project would result in both additional dogs on the site and additional acreage accessible to dogs. The net effect would be a decrease in intensity of dogs (dogs per acre). To the extent that the presence of dogs deters people with a phobia of dogs from visiting the project site, this effect would not be increased by the project.

4 Revisions to the Draft EIR

This chapter presents specific changes to the Draft EIR that are being made in response to comments made by the public, as well as staff-directed changes including typographical corrections and clarifications. In each case, the revised page and location on the page is presented, followed by the textual, tabular, or graphical revision. Underline text represents language that has been added to the EIR; text with ~~strikethrough~~ has been deleted from the EIR.

None of the revisions constitutes significant changes to the analysis contained in the Draft EIR. As such, the Draft EIR does not need to be recirculated.

Page i, page 280, and throughout

The Transportation and Traffic section was erroneously labeled 4.12 in the Draft EIR and is amended as follows:

~~4.12~~4.13 Transportation and Traffic

All subsequent references to this section, including table and figure numbers within this section, are amended accordingly to reference 4.13.

Page 1

The third paragraph of Section 1 Introduction, on page 1, is revised as follows:

This EIR has been prepared in accordance with the California Environmental Quality Act (CEQA). The main objectives of CEQA are to disclose to decision makers and the public the significant environmental effect of proposed activities and to require agencies to avoid or reduce the environmental effects by implementing feasible alternatives or mitigation measures. The East Bay Regional Park District (EBRPD) is the lead agency for the Project.

Page 8

The second bulleted item on page 8 of the Draft EIR, under State Agencies sub-section in Section 2.1 Project Under Review, Required Permits and Approvals sub-section, is amended as follows:

- **State Lands Commission** – ~~Consultation and coordination with~~Determination by the State Lands Commission that the Project is consistent with the state's ~~during environmental review and plan review, regarding~~ Public Trust easement on portions of the project site~~Lands and Leases for construction of the Bay Trail and public access improvements at Albany Beach, and placement of habitat structures in Bay water~~.

The third bulleted item on page 8 of the Draft EIR, under State Agencies sub-section in Section 2.1 Project Under Review, Required Permits and Approvals sub-section, is amended as follows:

- San Francisco Bay Regional Water Quality Control Board (RWQCB) – Water Quality Certification under Section 401 of the Clean Water Act, ~~and~~ Notice of Intent NOI for construction activity, and Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

The fourth bulleted item on page 8 of the Draft EIR, under State Agencies sub-section in Section 2.1 Project Under Review, Required Permits and Approvals sub-section, is amended as follows:

- San Francisco Bay Conservation and Development Commission (BCDC) – Permit for work in the shoreline band, San Francisco Bay, wetland areas, public access, and conformance with climate change policies.

The list of bulleted item under the heading State Agencies on page 8 of the Draft EIR is amended to add the following item above "Department of Fish and Game":

- **Department of Parks and Recreation** – approval of project in accordance with operating agreement between the Department and East Bay Regional Park District.

Page 9

Mitigation Measure BIO-1b on page 9 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is also modified as follows:

Mitigation Measure BIO-1b: Pre-construction nesting surveys shall be conducted for all nesting birds protected by the Migratory Bird Treaty Act. Surveys shall be conducted by a qualified biologist within 14 days of the onset of potential disturbance to nesting habitats. If nests are found, they shall be flagged and a suitable buffer area would be established in consultation with CDFG to ensure construction will not have a substantial adverse effect on nesting birds protected by the Migratory Bird Treaty Act. No work would be conducted within this buffer area until young have fledged and are independent of the nest. If burrowing owls are found, mitigation measures included in the CDFG Staff Report on Burrowing Owl Mitigation (March 7, 2012) shall be followed. Breeding bird surveys are not needed for work conducted outside the nesting season (between September 1 and ~~January~~ December 31).

Page 10

An additional mitigation measure has been added on page 10 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures. Following Impact BIO-3 and Mitigation Measure BIO-3a, new text is added that reads:

Mitigation Measure BIO-3b: Prior to the initiation of construction activities, the District shall retain a qualified biologist to prepare a Marine Mammal Contingency Plan (Contingency Plan) to identify the actions taken in the event that, in spite of the requirement to stop work if a marine mammal is present in the vicinity of the construction activity, a marine mammal is injured. The Contingency Plan shall include but not be limited to notification protocols, identification of rescue centers, information for key contacts, and plans of action to address any injury. The applicant shall ensure that this measure is implemented for the duration of inwater construction activity.

Page 11

Impact BIO-5 on page 11 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is modified as follows:

Impact BIO-5: Eelgrass~~, a special status plant species and~~ beds provide essential habitat for fish ~~habitat~~ and could be harmed during construction of the shoreline revetment and optional habitat enhancement components of the project.

Mitigation Measure BIO-5e on page 11 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is modified as follows:

Mitigation Measure BIO-5e: Following completion of construction activities, a post-construction eelgrass survey shall be completed within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Survey methods shall utilize a combination of remote sensing using sidescan sonar to determine overall coverage of eelgrass, along with a visual assessment of eelgrass health and bed density using SCUBA. ~~Following completion of construction activities, the Applicant shall complete a post-construction eelgrass survey within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Any impacts would then be mitigated, through on-site eelgrass transplant or other means to ensure any damaged eelgrass is restored.~~ Significant impacts to eelgrass (as determined from a comparison of historical data for this site and pre- and post-construction eelgrass surveys and evidence eelgrass bed disturbance from construction such as unnatural scour or presence of fill or debris) would be mitigated through on-site or off-site eelgrass transplant. Elements of eelgrass mitigation shall be detailed in an Eelgrass Mitigation and Monitoring Plan. Mitigation/restoration shall utilize a 1.2:1 ratio for transplanted:impacted eelgrass and mitigation shall be implemented within one year of impact. Restoration shall include identification and/or modification of a suitable restoration site, identification of an appropriate donor site, and installation of bare-root bundles at one square meter spacing or more widely spaced seed buoys. Methods shall be based on methods that have proven successful within San Francisco Bay. Monitoring of the restored area shall be completed for a duration of five years following restoration. Restoration methodology, timing, and a monitoring schedule shall be included in the Eelgrass Mitigation and Monitoring Plan.

An additional mitigation measure has been added on page 11 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures. Following Mitigation Measure BIO-5e, new text is added that reads:

Mitigation Measure BIO-5f: Within the spawning season for Pacific herring (November through February) a qualified biologist shall inspect the low intertidal and shallow subtidal riprap shoreline within the construction area prior to any debris removal or other construction work. If egg masses are located, areas of spawn would be excluded from the work area until such time as hatching is completed at which time, work would be completed within the vacated spawning locations.

Page 12

Mitigation Measure BIO-6c on page 12 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure BIO-6c: EBRPD shall obtain any needed permits and authorizations for work in wetlands. These include a Section 404 permit for any work in wetlands, a Section 401 water quality certification, potential WDRs, and compliance with regional and local plans and protocols.

Page 13

Mitigation Measure CUL-3, on page 13 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-3: In order to mitigate potential adverse impacts to intact historic features discovered during construction, work shall be halted within 50 feet of the discovery until the features have been inspected and evaluated by a qualified archaeologist. The archaeologist shall, in accordance

with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[10], identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~ If encountered and recovery is deemed necessary to minimize construction impacts to the feature, a qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report and file it with the Northwest Information Center affiliated with Sonoma State University and provide for the permanent curation of the recovered materials. .

If any cultural resources are discovered on state lands that are under the jurisdiction of the State Land Commission, the project proponent shall consult with staff counsel of the State Lands Commission regarding those cultural resources.

Mitigation Measure CUL-4 on page 13 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure CUL-4: Construction contractors shall be trained by EBRPD staff to recognize Native American cultural objects. In accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[11] and CEQA, any previously undiscovered resources found during construction shall be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated by a qualified archaeologist to determine if it is an historical resource under CEQA, and if so, whether the Project would cause a substantial adverse change in the significance of the historical resource. In order to mitigate potential adverse impacts to Native American cultural objects discovered during construction, work shall be halted within 50 feet of the discovery until the objects have been inspected and evaluated by ~~a~~ the qualified archaeologist. If after evaluation by the archaeologist, the resource is determined to be an historical resource under CEQA and the Project would cause a substantial adverse change in the significance of the historical resource, the archaeologist shall~~, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Site*, identify and evaluate the significance of the discovery~~ develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. The qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report and file it with the Northwest Information Center, affiliated with Sonoma State University and provide for the permanent curation of the recovered materials. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~

Page 14

Mitigation Measure CUL-5 on page 14 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure CUL-5: Construction contractors shall be trained by EBRPD staff to recognize fossils and possible unique geological features. EBRPD shall be notified if these are uncovered during construction of the Project~~Bay Trail~~. Work shall halt within 50 feet of the find until the

[10] East Bay Regional Park District, 1989. Oakland, California.

[11] East Bay Regional Park District, 1989. Oakland, California.

situation can be assessed by a qualified ~~Geologist or~~ paleontologist, in accordance with Society of Vertebrate Paleontology standards. The ~~geologist or~~ paleontologist shall ~~identify and~~ evaluate the ~~significance of the discovery~~resource to determine if the resource is an historical resource under CEQA, and if so, whether the Project would cause a substantial adverse change in the significance of the historical resource and develop recommendations for treatment as described below to ensure any impacts to the cultural resource are less than significant. If the find is determined to be significant and EBRPD determines that avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards that includes salvage of unearthed fossil remains, preparation of salvaged fossils for curation, identification, cataloging, curation, repository storage of prepared fossil specimens, and a final report of the finds and their significance. The plan shall be submitted to the EBRPD for review. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~

Mitigation Measure CUL-6 on page 14 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure CUL-6: Construction contractors shall be trained by EBRPD staff to recognize human remains. In order to mitigate potential adverse impacts to human remains discovered during construction, work shall be halted within 100 feet of the discovery until the materials or features have been inspected and evaluated by a qualified archaeologist. The archeologist shall identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant~~. Standard recommendations may include~~, including avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository. In addition, the discovery must be reported to the County Coroner. If the Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Heritage Commission will assign a Most Likely Descendant to provide recommendations for the proper treatment of the remains taking into account the possibility of multiple human remains, and comply with Public Resources Code section 5097.98 and the Native American Graves Protection and Repatriation Act, if applicable. If the Native American Heritage Commission is unable to identify a most likely descendent, or the most likely descendent fails to make a recommendation within 24 hours after being notified by the commission, or EBRPD rejects the recommendation of the descendant, and mediation by the Native American Heritage Commission fails to provide measures acceptable to the EBRPD, then the Native American human remains and associated grave goods shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

Mitigation Measure GEO-1, on pages 14-15 of the Draft EIR, in Table 2-1 Summary of Impacts and Mitigation Measures, in Section 2.3 Significant Impacts and Mitigation Measures, is amended as follows:

Mitigation Measure GEO-1: Completion of a Design Level Geotechnical Investigation including the elements described below. EBRPD shall comply with a design level geotechnical report that provides design recommendations for the Proposed Project to protect people and structures from substantial adverse effects (including the risk of loss, injury or death) from ground shaking, liquefaction, landslides, earthquakes, substantial soil erosion or loss of topsoil, and unstable soils.

- The design-level geotechnical investigation shall be performed to identify methods for site preparation and grading to stabilize existing fill areas and prepare the site for foundation and retaining wall construction. Measures may include reworking of existing fill soils, removal of

oversized concrete and debris from fill and crushing and or off-haul of oversized and unstable materials.

- The design level geotechnical investigation shall ~~analyze~~ further investigate the potential hazards of liquefaction/ground failure, seismic ground shaking, expansive soils, and slope instability as described below.

- The design-level geotechnical investigation shall determine 2010 California Building Code seismic design parameters.

- Hazards of strong seismic ground shaking, landslides and slope instability shall be mitigated through a combination of removal of loose rocks and boulders, the construction of retaining walls and engineered fill buttresses, construction of benches on cut/fill slopes, re-working of existing soils, or a combination thereof. The design level geotechnical investigation shall provide parameters for completion of these mitigation measures.

- Hazards due to expansive or liquefiable soils shall be mitigated through the use of thickened slab foundations, selective removal and replacement of expansive or liquefiable soils with engineered fill, or a combination thereof. The design level geotechnical investigation shall determine the specific extent and parameters of these mitigation measures.

- The geotechnical design investigation shall include design recommendations for retaining walls, foundations, concrete slabs, pavements, walkways, surface and subsurface drainage.

- Recommendations of the project geotechnical ~~engineer~~ professional shall be incorporated into the project design.

- The geotechnical investigation shall identify the geotechnical observation and testing services recommended during construction. During construction, the geotechnical professional~~engineer~~ (~~o~~ geotechnical or civil engineer, ~~and~~ engineering geologist) shall perform observations and testing services and shall prepare a final report documenting results of his work, consistent with geotechnical investigation recommendations. These observations and testing shall include compaction testing of engineered fill where appropriate, and observation of foundation conditions, including drilled pier and footing excavations.

- The geotechnical investigation shall include a map prepared by a land surveyor or civil engineer that shows the locations and elevation of key features (e.g., keyways, subdrains and their cleanouts, cut slopes and cut pads). The map shall include a statement that the locations and limitations of the features are accurate representations of said features as they exist on the ground, were placed on this map by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.

Page 28

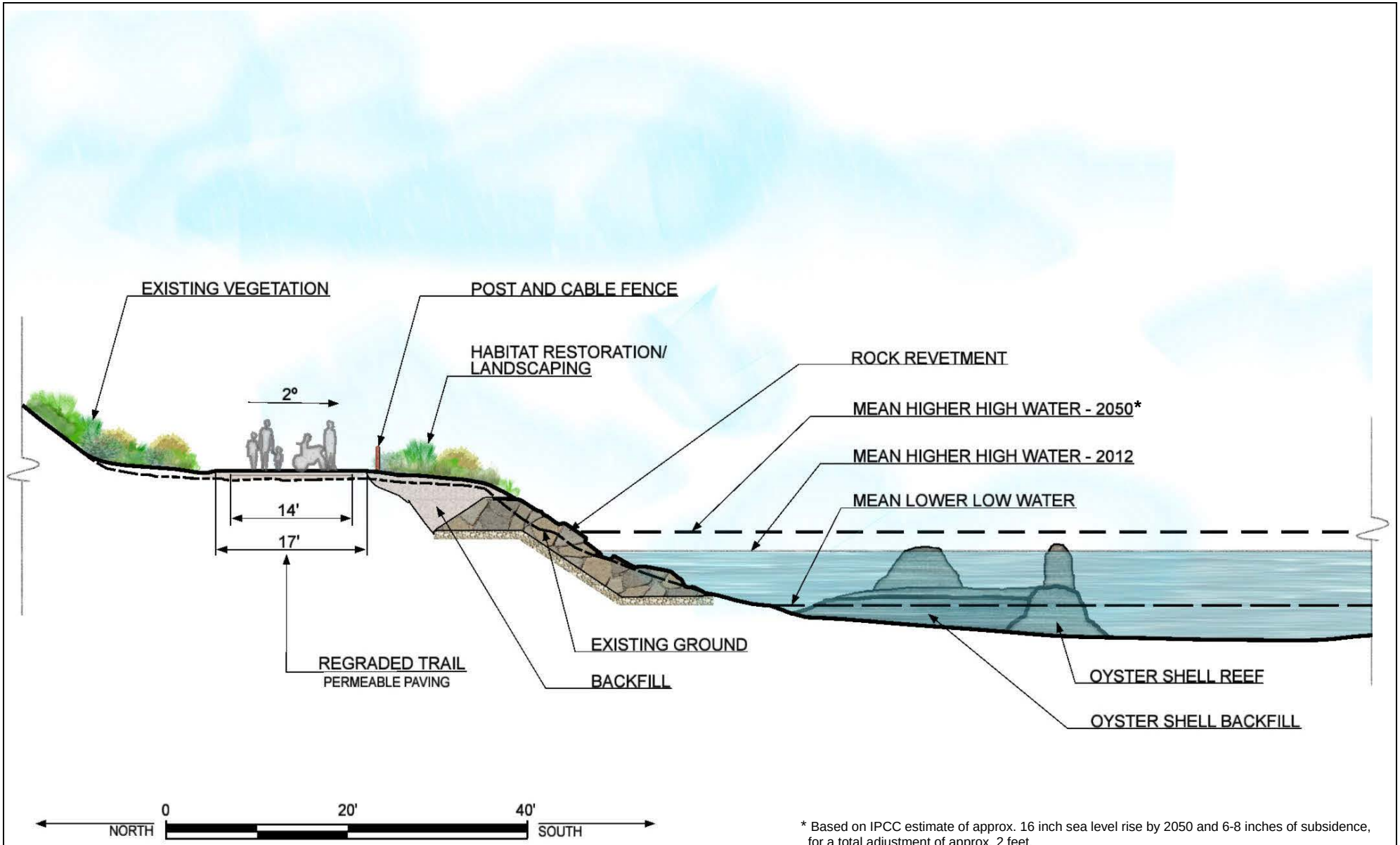
The first paragraph under the heading 3.2 Location, Ownership, and Surrounding Land Uses, on page 28 of the Draft EIR, is amended as follows:

Eastshore State Park is jointly owned by the State of California Department of Parks and Recreation (CDPR) and East Bay Regional Park District (EBRPD). The California State Lands Commission holds a public trust easement on the southern portion of Area 1, Area 2, and the portions of Area 3

within the City of Albany~~has an interest in the beach area~~. In 2002, the State of California classified 2,262 acres of uplands and tidelands with frontage on San Francisco Bay as a State Seashore and named the unit Eastshore State Park (Park). The Park consists of approximately 2,002 acres of tidelands and 260 acres of upland areas along a nine-mile stretch of the East Bay shoreline, between the City of Oakland on the south and the City of Richmond on the north.

Pages 48, 50, 51, 55, and 56

Figures 3-7B, 3-8A, 3-8B, and 3-9B, on pages 48, 50, 51, and 56, respectively, of the Draft EIR, have been revised to show future Mean High Water Assuming 16 inches of sea level rise by 2050 and 6 to 8 inches of land subsidence due to fill settlement, as informational items to the FEIR reader. The revised Figures 3-7B, 3-8A, 3-8B, and 3-9B are provided on the following pages. Figure 3-9A, on page 55 of the Draft EIR, has been revised to include existing informal routes that are currently used by bicyclists that travel through the Golden Gate Fields site to access Bay Trail segments north and south of the site. The revised Figure 3-9A is provided on the following page, with red dashed lines illustrating the Existing Informal Bicycle Path of Travel.



* Based on IPCC estimate of approx. 16 inch sea level rise by 2050 and 6-8 inches of subsidence, for a total adjustment of approx. 2 feet.

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FIGURE 3-7B

AREA 1 SECTION

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

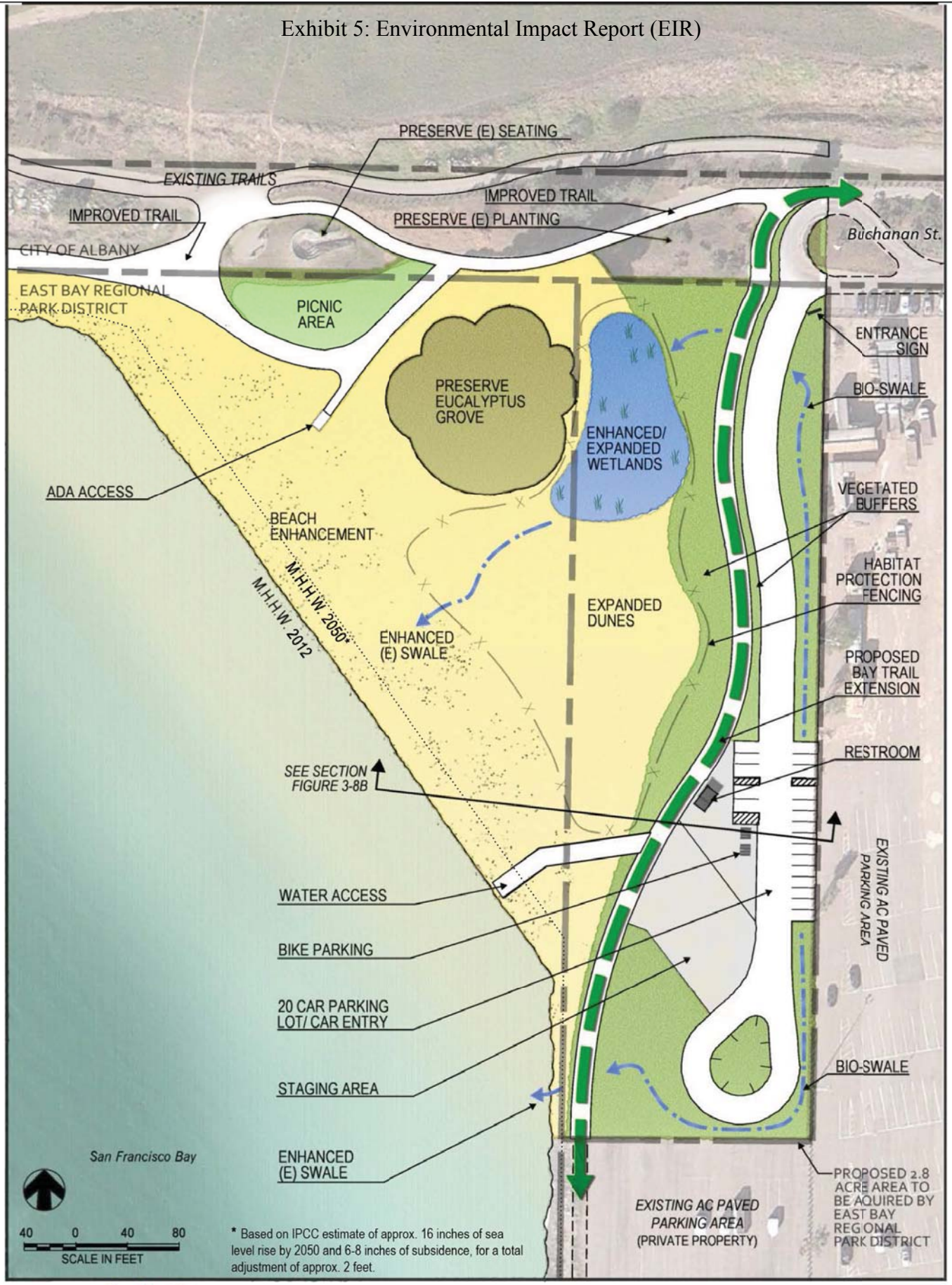

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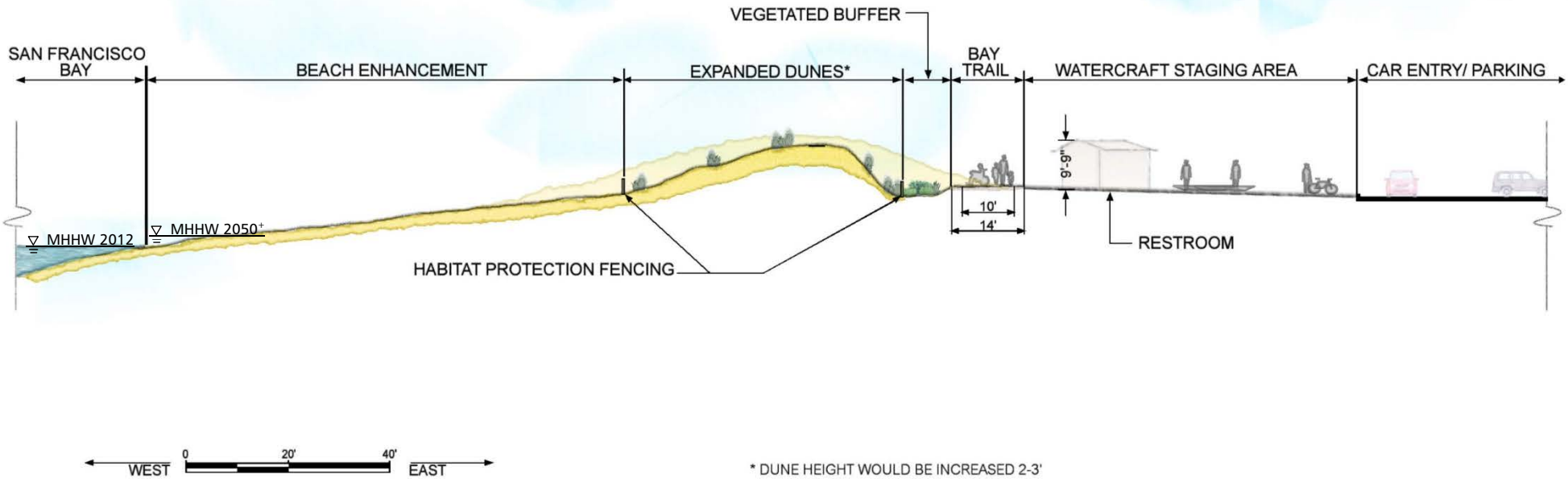
FIGURE 3-8A
AREA 2 SITE
PROPOSED BEACH IMPROVEMENTS
ALBANY BEACH RESTORATION AND PUBLIC ACCESS
AT EASTSHORE STATE PARK



* DUNE HEIGHT WOULD BE INCREASED 2-3'
\+ BASED ON IPCC ESTIMATE OF APPROX. 16 INCH SEA LEVEL RISE BY 2050 AND 6-8 INCHES OF SUBSIDENCE, FOR A TOTAL ADJUSTMENT OF APPROX. 2 FEET.

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FIGURE 3-8B

AREA 2 SECTION

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

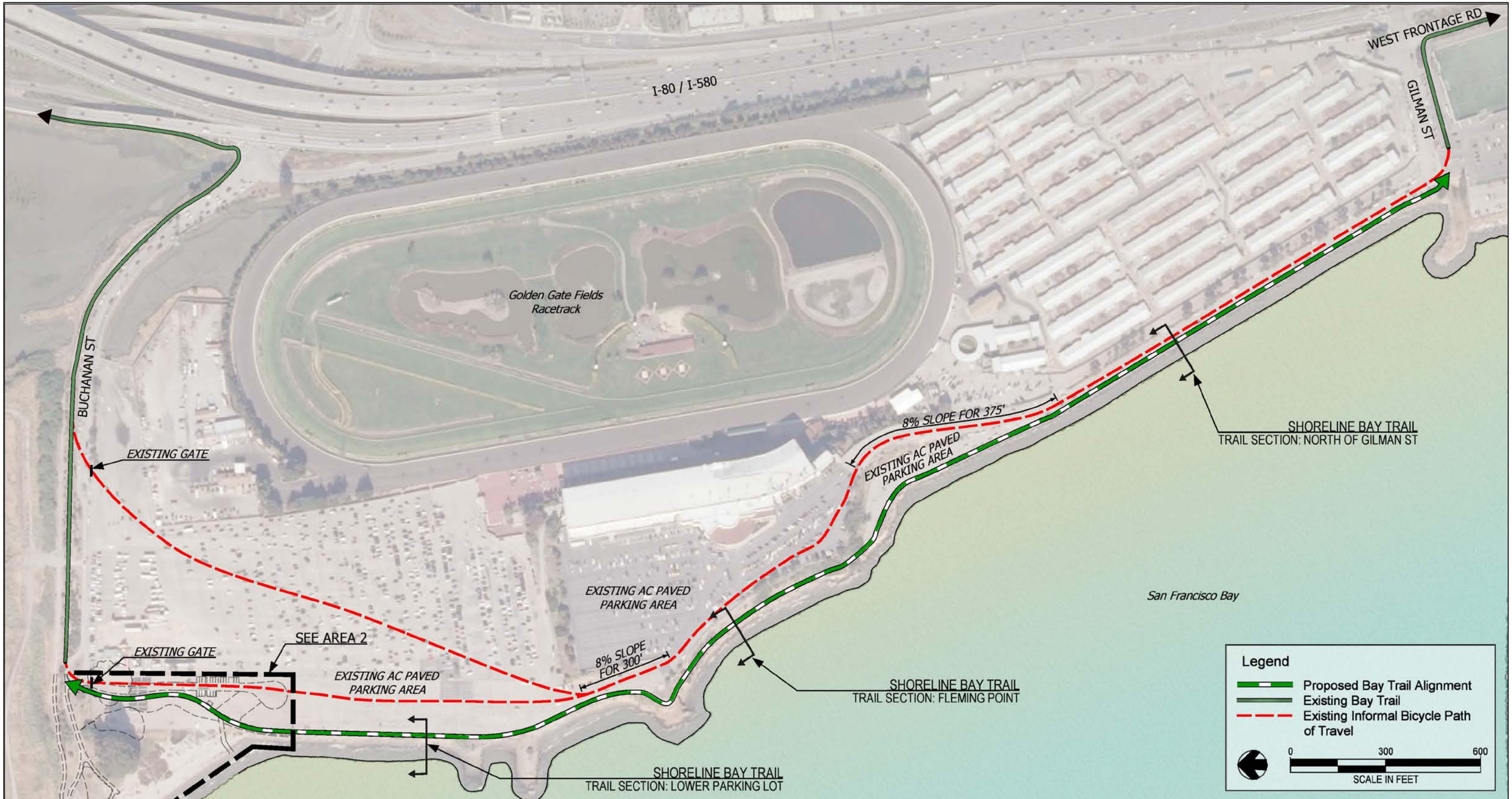

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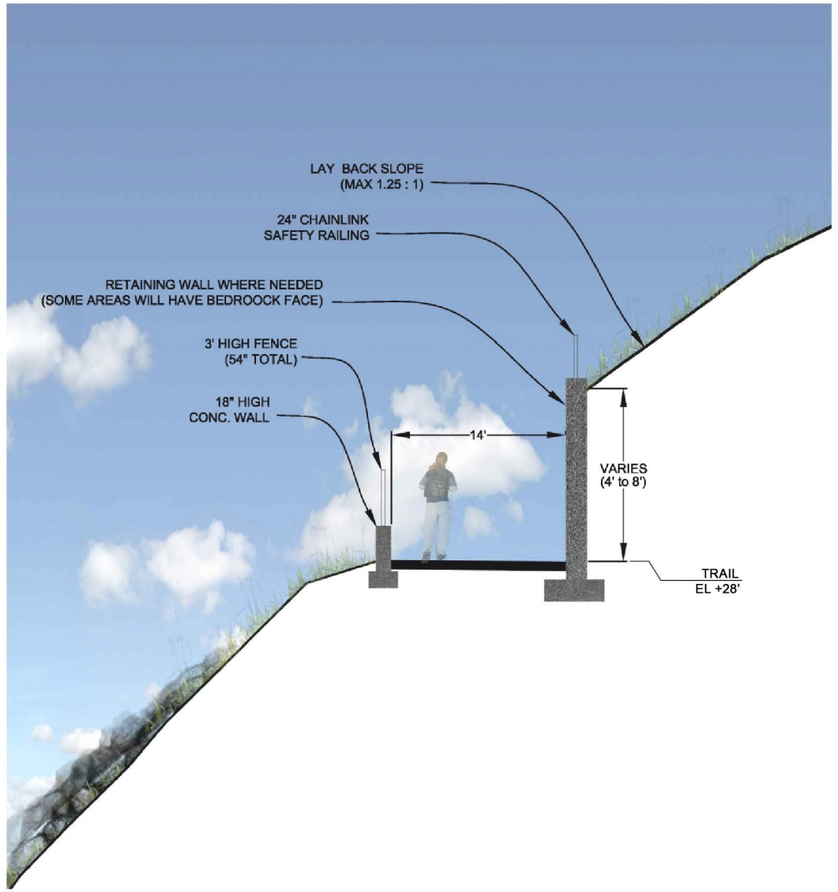
FIGURE 3-9A

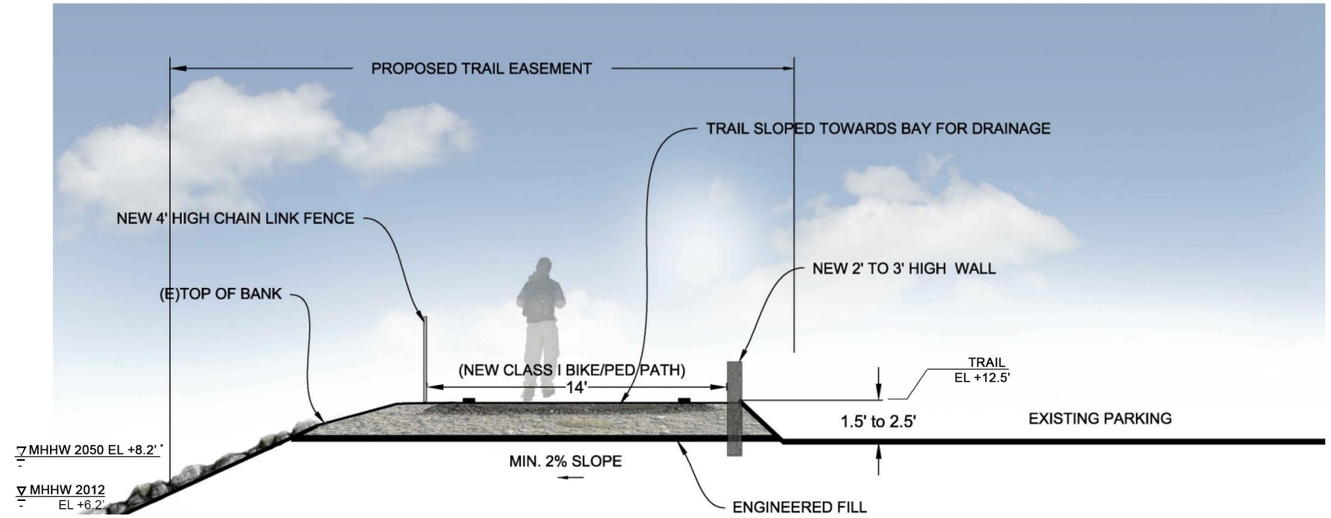
AREA 3: BAY TRAIL, ALBANY BEACH TO GILMAN SITE PLAN

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

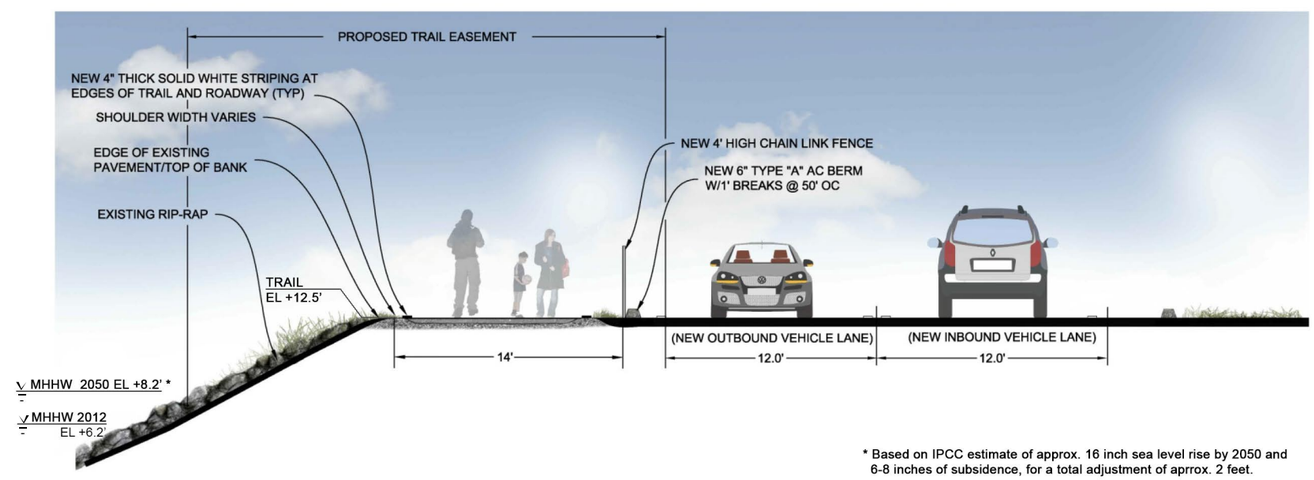
AT EASTSHORE STATE PARK



SHORELINE BAY TRAIL: FLEMING POINT
SCALE: NTS



SHORELINE BAY TRAIL: LOWER PARKING LOT
SCALE: NTS



SHORELINE BAY TRAIL: NORTH OF GILMAN STREET
SCALE: NTS

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FIGURE 3-9B

AREA 3 SECTIONS: BAY TRAIL, ALBANY BEACH TO GILMAN

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Page 61

The following is added after the Maintenance and Ongoing Management sub-section on page 61 in Section 3.7 Proposed Project of the Draft EIR.

Emergency Response and Notification

East Bay Regional Park District will continue to coordinate with the police and fire departments of the Cities of Albany and Berkeley in regards to emergency response to incidents within the project area. East Bay Regional Park District will also continue to coordinate with local emergency services providers, including the Cities of Albany and Berkeley, Alameda County Office of Homeland Security and Emergency Services, and the State Office of Emergency Services regarding multi-hazard planning and response training, radio communication coordination and mutual response, and emergency notifications and alert warnings for hazard incidents within the project area, such as wildfire, earthquakes, tsunamis, chemical and hazardous waste and bay spill incidents, and coastal flooding.

Page 64

The second bulleted item on page 64 of the Draft EIR, under State Agencies sub-section in Section 3.9 Required Permits and Approvals, is amended as follows:

- **State Lands Commission** – ~~Consultation and coordination with~~Determination by the State Lands Commission that the Project is consistent with the state's ~~during environmental review and plan review, regarding~~ Public Trust easement on portions of the project site~~Lands and Leases for construction of the Bay Trail and public access improvements at Albany Beach, and placement of habitat structures in Bay water~~.

The third bulleted item on page 64 of the Draft EIR, under State Agencies sub-section in Section 3.9 Required Permits and Approvals, is amended as follows:

- **San Francisco Bay Regional Water Quality Control Board (RWQCB)** – Water Quality Certification under Section 401 of the Clean Water Act, ~~and~~ Notice of Intent NOI for construction activity, and Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

The fourth bulleted point under the heading "State Agencies" on page 64 in Section 3.9 Required Permits and Approvals of the Draft EIR is amended as follows:

- **San Francisco Bay Conservation and Development Commission (BCDC)** – Permit for work in the shoreline band, San Francisco Bay, wetland areas, public access, and conformance with climate change policies.

The list of bulleted item under the heading State Agencies on page 64 of the Draft EIR is amended to add the following item above "Department of Fish and Game":

- **Department of Parks and Recreation** – approval of project in accordance with operating agreement between the Department and East Bay Regional Park District.

Page 101

Footnote 32 on page 101 is revised as follows:

[1] The EIR's analysis of air quality impacts relies on BAAQMD's 2010 CEQA Thresholds of Significance. While the Alameda Superior Court recently ordered that BAAQMD set aside its approval of the 2010 Thresholds and not disseminate them as officially sanctioned air quality thresholds until BAAQMD conducts CEQA review of them, the court did not rule that the 2010 Thresholds lacked substantial evidence to support them or that they were substantively flawed or scientifically unsound. Rather, it simply held that BAAQMD is required to conduct further environmental review of the Thresholds before it can readopt them. Accordingly, the basis for using the Thresholds remains valid and use of the threshold is supported by substantial evidence, in the form of Appendix D Threshold of Significance Justification of the BAAQMD's *California Environmental Quality Act Air Quality Guidelines, Updated May 2011*. This appendix provides extensive scientific analysis and justification for the air quality thresholds of significance.

Page 104

To clarify the assumptions on volumes, vehicle capacities, sources, destinations, and number of trips used in the air quality analysis, the first full paragraph of page 104 is revised as follows:

For purposes of analysis, Project construction activities ~~are anticipated~~were assumed to commence in April 2013 and be completed (in Areas 1, 2, and 3) by the end of August 2013. Although concurrent construction could only occur for Areas 1 and 3, for purposes of analysis ~~C~~concurrent construction in all~~the~~ three Project areas is assumed because it represents a worst case in terms of air emissions, with all emissions occurring in a single period of continuous construction. Construction in Area 2 (approximately two months) and/or Area 3 (approximately five months) could occur later than in Area 1. In this case, air emissions during the individual phases of construction would be less than those analyzed below. Air pollutant emission estimates were based on the project-specific construction schedule, construction equipment use, soil/material haul data (volumes, vehicle capacities, sources, destinations, and number of trips) provided by Questa Engineering, and the air quality features for the Project (Control of Fugitive Dust and Use of Newer Construction Equipment) described in 3.8 Avoidance and Minimization Measures. The daily construction emissions from equipment and motor vehicles are shown in **Table 4.2-5**, along with comparisons to BAAQMD significance thresholds.

Page 114

The Porter-Cologne Water Quality Control Act sub-section on page 114 of the Draft EIR, in Section 4.3 Biological Resources, Regulatory Framework, State Laws and Regulations sub-section, is amended as follows:

~~Waters of the State are defined by the Porter-Cologne Act as "any surface water or groundwater, including saline waters, within the boundaries of the state." The RWQCB protects all waters in its regulatory scope, but has special responsibility for isolated wetlands and headwaters. These water bodies have high resource value, are vulnerable to filling, and may not be regulated by other programs, such as Section 404 of the CWA. Waters of the State are regulated by the RWQCB under the State Water Quality Certification Program, which regulates discharges of dredged and fill material under Section 401 of the CWA and the Porter-Cologne Water Quality Control Act. Projects that require a Corps permit, or fall under other federal jurisdiction, and have the potential to impact waters of the State are required to comply with the terms of the Water Quality Certification Program. If a Proposed Project does not require a federal license or permit, but does involve activities that may result in a discharge of harmful substances to Waters of the State, the RWQCB has the option to regulate such activities under its State authority in the form of Waste Discharge Requirements or Certification of Waste Discharge Requirements.~~

The Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California

Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in conjunction with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, seasonal streams, intermittent streams, channels that lack a nexus to navigable waters, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general waste discharge requirements (WDRs).

Page 115

The text under the heading "Bay Area Conservation and Development Commission (BCDC)" on page 115 in Section 4.3 Biological Resources of the Draft EIR is amended as follows:

Bay ~~Area~~ Conservation and Development Commission (BCDC)

The California Coastal Commission acts carry out its mandate locally through the San Francisco Bay ~~Area~~ Conservation and Development Commission (BCDC). BCDC has regulatory jurisdiction, as defined by the McAteer-Petris Act, over the Bay and its shoreline, which generally consists of the area between the Bay shoreline and a line 100 feet landward of and parallel to the mean high tide line~~shoreline~~. Prior to implementation of the Proposed Project, EBRPD would have to obtain a permit from the BCDC. The following BCDC plans, policies, and associated areas are relevant to the Proposed Project: BCDC San Francisco Bay Plan (2008) and the BCDC Shoreline Spaces: Public Access Design Guidelines for the San Francisco Bay (2005). These areas are defined in the McAteer-Petris Act (PRC Section 66610) as:

Page 131

The third bulleted item on page 131 of the Draft EIR, under Assessment Methodology sub-section in Section 4.3 Biological Resources, Impact Discussion sub-section, is amended as follows:

- A Section 401 (CWA) Water Quality Certification from the RWQCB for construction activities, ~~and~~ Notice of Intent (NOI) for construction activity, and Waste Discharge Requirements (WDRs) pursuant to California's Porter-Cologne Act.

The fifth bulleted item on page 131 of the Draft EIR, under Assessment Methodology sub-section in Section 4.3 Biological Resources, Impact Discussion sub-section, is amended as follows:

- A permit from San Francisco Bay Conservation and Development Commission (BCDC) for work in the shoreline band, San Francisco Bay, wetland areas, public access, and conformance with climate change policies.

Page 133

Mitigation Measure BIO-1b on page 133 of the Draft EIR is modified as follows:

Mitigation Measure BIO-1b: Pre-construction nesting surveys shall be conducted for all nesting birds protected by the Migratory Bird Treaty Act. Surveys shall be conducted by a qualified biologist within 14 days of the onset of potential disturbance to nesting habitats. If nests are found, they shall be flagged and a suitable buffer area would be established in consultation with CDFG to ensure construction will not have a substantial adverse effect on nesting birds protected by the Migratory

Bird Treaty Act. No work would be conducted within this buffer area until young have fledged and are independent of the nest. If burrowing owls are found, mitigation measures included in the CDFG Staff Report on Burrowing Owl Mitigation (March 7, 2012) shall be followed. Breeding bird surveys are not needed for work conducted outside the nesting season (between September 1 and ~~January~~ December 31).

Page 134

An additional mitigation measure has been added on page 134 of the Draft EIR, under the Special Status Animal Species sub-section in the Impact Analysis Section. Following Impact BIO-3 and Mitigation Measure BIO-3a, new text is added that reads:

- Mitigation Measure BIO-3b: Prior to the initiation of construction activities, the District shall retain a qualified biologist to prepare a Marine Mammal Contingency Plan (Contingency Plan) to identify the actions taken in the event that, in spite of the requirement to stop work if a marine mammal is present in the vicinity of the construction activity, a marine mammal is injured. The Contingency Plan shall include but not be limited to notification protocols, identification of rescue centers, information for key contacts, and plans of action to address any injury. The applicant shall ensure that this measure is implemented for the duration of inwater construction activity.

Page 136

The first full paragraph on page 136 of the Draft EIR, in Section 4.3 Biological Resources, Impact Discussion, Project Analysis, subsection b is amended as follows:

In accordance with adopted EBRPD policy, plant and animal pest species would be controlled using integrated pest management (IPM) procedures and practices to minimize the impact of undesirable species on natural resources and to reduce pest control related health and safety risks to the public. Primary control of mosquitoes by the Alameda Mosquito Abatement District is done through the use of bacterial larvicides that have no effect on other living things, and growth hormones that prevent maturation of mosquito larvae.

Additional text has been added on the subject of Pacific herring (Clupea pallasi). Text has been inserted after the second full paragraph on page 136 of the Draft EIR, as follows:

Pacific herring (*Clupea pallasi*) is considered to be an "Ecosystem Component Species" in the Coastal Pelagic Species Fisheries Management Plan prepared by the Fisheries Management Council (2011) to define and regulate essential fish habitat for several commercially important pelagic fish species. Eelgrass habitat is considered EFH and Pacific herring are known to spawn in this habitat. Impacts to eelgrass are not anticipated and, therefore, impacts to spawning Pacific herring in this habitat would be *less then significant* and no mitigation is required. However, Pacific herring may also spawn on low intertidal to shallow subtidal rocks and riprap within the project area, and may be affected by increased turbidity associated with onshore construction work or from accidental release of contaminants during debris removal.

Impact BIO-5 on page 136 is modified as follows:

Impact BIO-5: Eelgrass~~, a special status plant species and~~ beds provide essential habitat for fish ~~habitat~~ and could be harmed during construction of the shoreline revetment and optional habitat enhancement components of the project.

Mitigation Measure BIO-5e on page 136 is modified as follows:

Mitigation Measure BIO-5e: Following completion of construction activities, a post-construction eelgrass survey shall be completed within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Survey methods shall utilize a combination of remote sensing using sidescan sonar to determine overall coverage of eelgrass, along with a visual assessment of eelgrass health and bed density using SCUBA. ~~Following completion of construction activities, the Applicant shall complete a post-construction eelgrass survey within the project area, as required by regulatory permit conditions, to ensure construction did not negatively impact eelgrass resources. Any impacts would then be mitigated, through on-site eelgrass transplant or other means to ensure any damaged eelgrass is restored.~~ Significant impacts to eelgrass (as determined from a comparison of historical data for this site and pre- and post-construction eelgrass surveys and evidence eel-grass bed disturbance from construction such as unnatural scour or presence of fill or debris) would be mitigated through on-site or off-site eelgrass transplant. Elements of eelgrass mitigation shall be detailed in an Eelgrass Mitigation and Monitoring Plan. Mitigation/restoration shall utilize a 1.2:1 ratio for transplanted:impacted eelgrass and mitigation shall be implemented within one year of impact. Restoration shall include identification and/or modification of a suitable restoration site, identification of an appropriate donor site, and installation of bare-root bundles at one square meter spacing or more widely spaced seed buoys. Methods shall be based on methods that have proven successful within San Francisco Bay. Monitoring of the restored area shall be completed for a duration of five years following restoration. Detailed restoration methodology, timing, and a monitoring schedule shall be included in the Eelgrass Mitigation and Monitoring Plan.

An additional mitigation measure has been added after Mitigation Measure BIO-5e on page 136:

Mitigation Measure BIO-5f: Within the spawning season for Pacific herring (November through February) a qualified biologist shall inspect the low intertidal and shallow subtidal riprap shoreline within the construction area prior to any debris removal or other construction work. If egg masses are located, areas of spawn would be excluded from the work area until such time as hatching is completed at which time, work would be completed within the vacated spawning locations.

Page 138

Mitigation Measure BIO-6c on page 138 of the Draft EIR, in Section 4.3 Biological Resources, Impact Discussion, Project Analysis, c: Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act? sub-section, is amended as follows:

Mitigation Measure BIO-6c: EBRPD shall obtain any needed permits and authorizations for work in wetlands. These include a Section 404 permit for any work in wetlands, a Section 401 water quality certification, potential WDRs, and compliance with regional and local plans and protocols.

Page 148

The paragraph under the headings Archaeological Cultural Resources, Area 1, Area 2, and Albany Plateau, on page 148 of the Draft EIR, is amended as follows:

As discussed in more detail in *the Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* prepared by LSA[12], which is hereby incorporated by reference, there are no known prehistoric or historical archaeological sites recorded in Areas 1 or

[12] LSA, 2011. *Existing and Future Conditions Report, Albany Beach Restoration and Public Access Feasibility Study, Eastshore State Park, California.*

2; however, there are sites recorded east of these areas in and around Albany Hill. The databases investigated by the *Existing and Future Conditions Report for Albany Beach Restoration and Public Access Feasibility Study for Eastshore State Park* included the California States Lands Commission Shipwreck inventory.

Page 152

The following new paragraph is added to page 152 of the Draft EIR, after the first paragraph and before Mitigation Impact CUL-3:

Title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on public trust land is vested in the State and under the jurisdiction of the State Lands Commission.

Mitigation Measure CUL-3, on page 152 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-3: In order to mitigate potential adverse impacts to intact historic features discovered during construction, work shall be halted within 50 feet of the discovery until the features have been inspected and evaluated by a qualified archaeologist. The archaeologist shall, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[13], identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~ If encountered and recovery is deemed necessary to minimize construction impacts to the feature, a qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report and file it with the Northwest Information Center affiliated with Sonoma State University and provide for the permanent curation of the recovered materials.

If any cultural resources are discovered on state lands that are under the jurisdiction of the State Land Commission, the project proponent shall consult with staff counsel of the State Lands Commission regarding those cultural resources.

Mitigation Measure CUL-4, on page 152 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-4: Construction contractors shall be trained by EBRPD staff to recognize Native American cultural objects. In accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*[14] and CEQA, any previously undiscovered resources found during construction shall be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated by a qualified archaeologist. to determine the resources are historical resources under CEQA, and if so, whether the Project would cause a substantial adverse change in the significance of the historical resource. In order to mitigate potential adverse impacts to Native American cultural objects discovered during construction, work shall be halted within 50 feet of the discovery until the objects have been inspected and evaluated by ~~a~~ the qualified archaeologist. If after evaluation by the archaeologist, the resource is determined to be an historical resource under CEQA, and if the Project would cause a substantial adverse change in the significance of the historical resource, the archaeologist shall~~, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Site identify and evaluate the significance of the discovery*~~ develop recommendations for

[13] East Bay Regional Park District, 1989. Oakland, California.

[14] East Bay Regional Park District, 1989. Oakland, California.

treatment to ensure any impacts to the cultural resource are less than significant. The qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report and file it with the Northwest Information Center, affiliated with Sonoma State University, and provide for the permanent curation of the recovered materials.~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~

Page 153

Mitigation Measure CUL-5, on page 153 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-5: Construction contractors shall be trained by EBRPD staff to recognize fossils and possible unique geological features. EBRPD shall be notified if these are uncovered during construction of the Project~~Bay Trail~~. Work shall halt within 50 feet of the find until the situation can be assessed by a qualified ~~Geologist or~~ paleontologist, in accordance with Society of Vertebrate Paleontology standards. The ~~geologist or~~ paleontologist shall ~~identify and~~ evaluate the ~~significance of the discovery~~resource to determine if the resource is an historical resource under CEQA, and if so, whether the Project would cause a substantial adverse change in the significance of the historical resource and develop recommendations for treatment as described below to ensure any impacts to the cultural resource are less than significant. If the find is determined to be significant and EBRPD determines that avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards that includes salvage of unearthed fossil remains, preparation of salvaged fossils for curation, identification, cataloging, curation, repository storage of prepared fossil specimens, and a final report of the finds and their significance. The plan shall be submitted to the EBRPD for review. ~~Standard recommendations may include avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository.~~

Mitigation Measure CUL-6, on pages 153-154 of the Draft EIR, is amended as follows:

Mitigation Measure CUL-6: Construction contractors shall be trained by EBRPD staff to recognize human remains. In order to mitigate potential adverse impacts to human remains discovered during construction, work shall be halted within 100 feet of the discovery until the materials or features have been inspected and evaluated by a qualified archaeologist. The archeologist shall identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant~~. Standard recommendations may include~~, including avoidance of the resource, preparation of a treatment plan that could require recordation collection and analysis of the discovery, or curation of the collection and supporting documentation in an appropriate depository. In addition, the discovery must be reported to the County Coroner. If the Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Heritage Commission will assign a Most Likely Descendant to provide recommendations for the proper treatment of the remains taking into account the possibility of multiple human remains, and comply with Public Resources Code section 5097.98 and the Native American Graves Protection and Repatriation Act, if applicable. If the Native American Heritage Commission is unable to identify a most likely descendent, or the most likely descendent fails to make a recommendation within 24 hours after being notified by the commission, or EBRPD rejects the recommendation of the descendant, and mediation by the Native American Heritage Commission fails to provide measures acceptable to the EBRPD, then the Native American human

remains and associated grave goods shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

Page 165

Mitigation Measure GEO-1, on page 165 of the Draft EIR in Section 4.5 Geology and Soils, is amended as follows:

Mitigation Measure GEO-1: Completion of a Design Level Geotechnical Investigation including the elements described below. EBRPD shall comply with a design level geotechnical report that provides design recommendations for the Proposed Project to protect people and structures from substantial adverse effects (including the risk of loss, injury or death) from ground shaking, liquefaction, landslides, earthquakes, substantial soil erosion or loss of topsoil, and unstable soils.

- The design-level geotechnical investigation shall be performed to identify methods for site preparation and grading to stabilize existing fill areas and prepare the site for foundation and retaining wall construction. Measures may include reworking of existing fill soils, removal of oversized concrete and debris from fill and crushing and or off-haul of oversized and unstable materials.

- The design level geotechnical investigation shall ~~analyze~~ further investigate the potential hazards of liquefaction/ground failure, seismic ground shaking, expansive soils, and slope instability as described below.

- The design-level geotechnical investigation shall determine 2010 California Building Code seismic design parameters.

- Hazards of strong seismic ground shaking, landslides and slope instability shall be mitigated through a combination of removal of loose rocks and boulders, the construction of retaining walls and engineered fill buttresses, construction of benches on cut/fill slopes, re-working of existing soils, or a combination thereof. The design level geotechnical investigation shall provide parameters for completion of these mitigation measures.

- Hazards due to expansive or liquefiable soils shall be mitigated through the use of thickened slab foundations, selective removal and replacement of expansive or liquefiable soils with engineered fill, or a combination thereof. The design level geotechnical investigation shall determine the specific extent and parameters of these mitigation measures.

- The geotechnical design investigation shall include design recommendations for retaining walls, foundations, concrete slabs, pavements, walkways, surface and subsurface drainage.

- Recommendations of the project geotechnical ~~engineer~~ professional shall be incorporated into the project design.

- The geotechnical investigation shall identify the geotechnical observation and testing services recommended during construction. During construction, the geotechnical professional~~engineer~~ (~~or~~ geotechnical or civil engineer, ~~and~~ engineering geologist) shall perform observations and testing services and shall prepare a final report documenting results of his work, consistent with geotechnical investigation recommendations. These observations and testing shall include compaction testing of engineered fill where appropriate, and observation of foundation conditions, including drilled pier and footing excavations.

- The geotechnical investigation shall include a map prepared by a land surveyor or civil engineer that shows the locations and elevation of key features (e.g., keyways, subdrains and their cleanouts, cut slopes and cut pads). The map shall include a statement that the locations and limitations of the features are accurate representations of said features as they exist on the ground, were placed on this map by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.

Page 166

The discussion of Significance after Mitigation at the top of page 166 is amended as follows:

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2~~, and the requirements of Guidelines OPER-12, OPER-13, and OPER-14 must be completed in order to secure building and grading permits to begin work on the project~~. With implementation of Mitigation Measures GEO-1, which includes implementation of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15,~~and these guidelines,~~ the impact of strong seismic ground shaking would be reduced to a level of *less than significant*.

The discussion of Significance after Mitigation on the bottom of page 166 and the top of page 167 is amended as follows:

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2~~, and the requirements of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15 must be completed in order to secure building and grading permits to begin work on the project~~. With implementation of ~~these guidelines, in conjunction with~~ Mitigation Measure GEO-1, which includes implementation of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15, the impact of seismically induced ground failure is reduced to a level of *less than significant*.

Page 167

The discussion of Significance after Mitigation at the middle of page 167 is amended as follows:

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2~~, and the requirements of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15 must be completed in order to secure building and grading permits to begin work on the project~~. With implementation of ~~these guidelines, in conjunction with~~ Mitigation Measure GEO-1, which includes implementation of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15, the impact of landsliding would be reduced to a level of *less than significant*.

Page 170

The discussion of Significance after Mitigation at the top of page 170 is amended as follows:

Significance after Mitigation: This EIR serves to satisfy the requirements of Guideline CAPACITY-2~~, and the requirements of Guidelines OPER-12, OPER-13, and OPER-14 must be completed in order to secure building and grading permits to begin work on the project~~. With implementation of Mitigation Measures GEO-1, ~~and these guidelines,~~ which includes implementation of Guidelines OPER-12, OPER-13, OPER-14, and OPER-15, the impact of disturbing or building on unstable geologic units would be reduced to a level of *less than significant*.

Page 186

The following is added after the first paragraph under Alameda County Emergency Services on page 186 in Section 4.7 Hazards and Hazardous Materials of the Draft EIR.

The Cities of Albany and Berkeley, East Bay Regional Park District, and the Alameda County Office of Emergency Services all are cooperators in the preparation and implementation of a regional Local Hazard Mitigation Plan (LHMP). The LHMP planning and coordination effort is administered through the Association of Bay Area Governments (ABAG). The multi-jurisdictional and multi-hazard Mitigation Plan addresses the following hazards: earthquakes, and related incidents such as tsunamis, landslides, wildfire, hazardous material releases and bay spill incidents, and flooding.

The LHMP and related emergency notification and response programs are coordinated through the Alameda County Office of Emergency Services, the State Office of Emergency Services, and Federal Homeland Security. In cases of severe earthquakes, flooding or tsunami risk within the Project area, or other hazard incidents as determined by local and state emergency service units, an emergency notification or emergency alert warning is issued through local radio and television stations and by a reverse 911 phone calling system. In addition, the Park Ranger responsible for Albany Beach has the authority to close the facility at any time in response to any incident that poses a risk to the public.

Page 199

The following sub-section is added to page 199 of the Draft EIR, after the NPDES Post-Construction Stormwater Quality sub-section at the bottom of the page in Section 4.8 Hydrology and Water Quality, Regulatory Framework, State Plans, Policies, and Regulations sub-section.

California Code of Regulations, Title 27

Title 27 pertains to the regulation of solid waste facilities (landfills) by both the California Integrated Waste Management Board and the California Regional Water Quality Control Board. Portions of the closed Albany landfill are owned and/or managed by three agencies: the City of Albany (Albany Bulb), the California State Department of Parks and East Bay Regional Park District (Albany Neck). Although the landfill portions of the Albany Beach project area are not covered under Waste Discharge Requirements, portions of the Title 27 regulations apply, including the requirement for periodic visual inspection and monitoring, the requirement to address any problems uncovered during inspection and monitoring, such as shoreline erosion and exposure of landfill materials..

The text under the heading "San Francisco Bay Area Conservation and Development Commission (BCDC)" on page 199 in Section 4.8 Hydrology and Water Quality of the Draft EIR is amended as follows:

San Francisco Bay ~~Area~~ Conservation and Development Commission (BCDC)

The ~~California Coastal Commission carries out its mandate locally through the San Francisco~~ Bay ~~Area~~ Conservation and Development Commission (BCDC)~~. BCDC's~~ has jurisdiction over San Francisco Bay, including ~~includes~~ all sloughs, marshlands between mean high tide and five feet above mean sea level, tidelands, submerged lands, and land within 100 feet of the mean high tide line~~Bay shoreline~~. The precise boundary is determined by BCDC on request. BCDC has regulatory authority over placement of fills, building, grading, changes in uses, and subdivision of property within its jurisdictional area. For planning purposes, BCDC assumes that trail projects have a 25-year life span. Consistency with policies from the BCDC master planning document, the *Bay Plan*, is analyzed in Section 4.9 Land Use.

Page 214

The text under the heading "San Francisco Bay Area Conservation and Development Commission" on page 214 in Section 4.9 Land Use and Planning of the Draft EIR is amended as follows:

San Francisco Bay ~~Area~~ Conservation and Development Commission

The California Coastal Commission carries out its mandate locally through the San Francisco Bay ~~Area~~ Conservation and Development Commission (BCDC). BCDC's jurisdiction on San Francisco Bay includes all sloughs, marshlands between mean high tide and 5 feet above mean sea level, tidelands, submerged lands, and land within 100 feet of the mean high tide line~~Bay shoreline~~. The precise boundary is determined by BCDC on request. For planning purposes, BCDC assumes that projects located above low-lying areas that are vulnerable to rising sea level have a lifespan of at least 50 to 90 years. BCDC policies for projects in low-lying areas, such as the beach and low-lying trails of the Proposed Project, are based on the life of the project, which is approximately 25 years for the Proposed Project improvements.

Page 215

The third paragraph under the headings Local Regulations and Policies, East Bay Regional Park District, on page 215, is amended as follows:

Ordinance 38 establishes rules and regulations that apply to all EBRPD parklands.[150] Violation of the Ordinance is punishable as a misdemeanor or an infraction. Recent amendments to the Ordinance include addition of a requirement that "No person shall bring into, or permit any dog, cat, or animal, to enter any Developed Area or be within 200 feet of any parking lot, trial head or staging area, as posted, unless such animal is securely leashed and under control of that person."~~dogs be on leash in developed areas if within 200 feet of a parking lot, trailhead, or staging area.~~ The Ordinance ~~is~~ was adopted by the Board of Directors pursuant to sections 5541, 5558, 5559, and 5560 of the California Public Resources Code.

Page 217

Table 4.9-1, page 217 in Section 4.9 Land Use and Planning, is revised as follows:

8	Based on scientific ecological analysis and consultation with the relevant federal and state resource agencies, a minor amount of fill may be authorized to enhance or restore fish, other aquatic organisms, or wildlife habitat if the Commission finds that no other method of enhancement or restoration except filling is feasible.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access. Fill would not occur without authorization by all relevant federal and state resource agencies. Placement of groins in the subtidal area would enhance oyster and fish habitat.
Part III - The Bay as a Resource **Fish, Other Aquatic Organisms and Wildlife**		
1	To assure the benefits of fish, other aquatic organisms and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased.	Tidal marshes and flats would not in general be affected by the Project. Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area would enhance oyster and fish habitat.
2	Specific habitats that are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered, species that the California Department of Fish and Game has determined are candidates for listing as endangered or threatened under the California Endangered Species Act, or any species that provides substantial public benefits, should be protected, whether in the Bay or behind dikes.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area would enhance oyster and fish habitat.
3	In reviewing or approving habitat restoration programs the Commission should be guided by the recommendations in the Baylands Ecosystem Habitat Goals report and should, where appropriate, provide for a diversity of habitats to enhance opportunities for a variety of associated native aquatic and terrestrial plant and animal species.	Tidal marshes and flats would not in general be affected by the Project. Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area would enhance oyster and fish habitat.
5	The Commission may permit a minor amount of fill or dredging in wildlife refuges, shown on the Plan Maps, necessary to enhance fish, other aquatic organisms and wildlife habitat or to provide public facilities for wildlife observation, interpretation and education.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement, shoreline stabilization, and provision of public access. Fill would not occur without authorization by all relevant federal and state resource agencies. Placement of groins in the subtidal area would enhance oyster and fish habitat.
Part IV - Development of the Bay and Shoreline **Safety of Fills**		

Page 221-222

Table 4.9-1, pages 221-222 in Section 4.9 Land Use and Planning, is revised as follows:

4	Public access should be sited, designed, and managed to prevent significant adverse effects on wildlife. To the extent necessary to understand the potential effects of public access on wildlife, information on the species and habitats of a proposed project site should be provided, and the likely human use of the access area analyzed. In determining the potential for significant adverse effects (such as impacts on endangered species, impacts on breeding and foraging areas, or fragmentation of wildlife corridors), site specific information provided by the project applicant, the best available scientific evidence, and expert advice should be used. In addition, the determination of significant adverse effects may also be considered within a regional context. Siting, design, and management strategies should be employed to avoid or minimize adverse effects on wildlife, informed by the advisory principles in the Public Access Design Guidelines. If significant adverse effects cannot be avoided or reduced to a level below significance through siting, design and management strategies, then in lieu public access should be provided, consistent with the project and providing public access benefits equivalent to those that would have been achieved from on-site access. Where appropriate, effects of public access on wildlife should be monitored over time to determine whether revisions of management strategies are needed.	Public access would be controlled within the Project site with the following measures employed to reduce public access conflicts with wildlife. *Construction Materials:* The parking area and trail segments would consist of paved as well as permeable pavement areas, such as stabilized quarry fines, and would incorporate into their designs water quality stormwater swales to reduce erosion and water quality impact to adjacent habitats. *Fencing/Buffers:* The Albany Neck (Area 1) would include fencing or buffers to limit access to revegetated shoreline areas. Fencing would be installed to allow establishment of vegetation associated with the dune/wetland complex at Albany Beach (Area 2) and to help define trails. *Educational/Interpretive Signs:* Interpretive signs would be installed to: ♦ increase knowledge of users (regarding wildlife and the implications of users actions, ♦ decrease damaging user behavior, ♦ explain trail policies (i.e., leash requirements, closures, etc.), ♦ increase compliance with regulations, and ♦ foster public support for site revegetation and shoreline stabilization.
5	Public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.	The two-stall restroom would be the project's only structure, and would be installed on a pad above the 100-year floor elevation, with a watertight vault, outside of areas subject to dynamic wave energy. The Proposed Project would be consistent with the types of projects that are to be encouraged under the BCDC's climate change policies. Specifically, the Project would serve to restore natural resources and the environment; it is small; and it would be a public park. The EIR in section 4.8 Hydrology and Water Quality analyzes the Project's resilience to flooding, and chapter 3 Project Description describes project design features that would adapt to climate change impacts.
6~~5~~	Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed. This should be done wherever appropriate by requiring dedication of fee title or easements at no cost to the public, in the same manner that streets, park sites, and school sites are dedicated to the public as part of the subdivision process in cities and counties.	All public access improvements would be located on lands to be purchased or are owned or managed by EBRPD. Ownership of these lands would vary, including property owned by EBRPD, jointly by EBRPD and State of California, the City of Albany, and privately owned land with an easement for public access.

7~~6~~	Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife, and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for the physically handicapped to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs.	The Bay Trail spine is a multi-use trail for hiking and biking. Picnic tables and beach access would be provided. The Project includes protection and enhancement of sensitive habitat: signage, and regular maintenance by EBRPD employees. The public access improvements are designed to fully meet standards under the Americans with Disabilities Act (ADA).
8~~7~~	In some areas, a small amount of fill may be allowed if the fill is necessary and is the minimum absolutely required to develop the project in accordance with the Commission's public access requirements.	Bay fill would be minimized, and would occur only to the extent that is required for beneficial habitat enhancement and shoreline stabilization to improve public access. Placement of groins in the subtidal area to enhance oyster and fish habitat would not affect public access. The project would provide substantial benefits to public access and wildlife habitat.
9~~8~~	Access to and along 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. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.	The Project contains design elements (e.g. landscaping, buffer, fencing, signage) to keep trail users on the trail and within designated areas on Albany Beach, and to avoid intrusion onto sensitive habitat (see also Policy #4 above).
10~~11~~	Roads near the edge of the water should be designed as scenic parkways for slow-moving, principally recreational traffic. The roadway and right-of-way design should maintain and enhance visual access for the traveler, discourage through traffic, and provide for safe, separated, and improved physical access to and along the shore. Public transit use and connections to the shoreline should be encouraged where appropriate.	The project does not include any new public roadways.

Page 224

The discussion of Consistency in the fourth row of Table 4.9-2, on page 224 of the Draft EIR in Section 4.9 Land Use and Planning, is amended as follows:

The Project would remove invasive species and replant native species. The dune/wetland complex at Albany Beach (Area 2) would be fenced to prevent access by people and dogs. Dogs would be permitted on leash only, consistent with EBRPD policies.

Page 245

The bulleted item at the top of page 245 is amended as follows:

There are other off-leash dog options~~parks~~ available to visitors in the area, including Point Isabel, Cesar Chavez Park, and the Albany Bulb.

Page 283

The second paragraph under the heading "Alameda County Transportation Commission" on page 283 of the Draft EIR is amended as follows:

The Alameda CTC plans, funds and delivers transportation programs and projects that expand access and improve mobility with the objective of fostering a more vibrant and livable Alameda County. The Alameda CTC coordinates countywide transportation planning and prepares the expenditure plan for the half-cent sales tax approved by Alameda County voters in 2000. This includes preparing the County-wide Transportation Plan, the Congestion Management Program (CMP), as well as the in-progress update of the 2006 Countywide Bicycle and Strategic Pedestrian Plans. The CMP establishes thresholds for designated roadways, which in the vicinity of the project area are I-80/580, San Pablo Ave. (SR-123) and Ashby Ave. (SR-13). For most projects, the Alameda CTC Technical & Policy Guidelines uses a 100-trip PM Peak (increase) threshold, which if exceeded, would require a detailed traffic study. EBRPD is not subject to this requirement for projects that generate more than 100 new peak hour trips because it is not considered a "local jurisdiction".

Page 292

The second to last paragraph on page 292 of the Draft EIR is amended as follows:

An analysis of the existing and future traffic conditions was prepared for the Eastshore State Park General Plan (2002). In 2011, the *Existing and Future Conditions Report* for the *Albany Beach Restoration and Public Access Feasibility Study* prepared by LSA Associates reexamined the freeway ramp intersections of I-580 SB Ramps/Buchanan Street and I-580 NB Ramps/Buchanan Street, the principle point of vehicular entry to Albany Beach.~~ The increase in PM Peak trips are below the threshold of 100 that Alameda CTC uses as a criteria that triggers a detailed traffic study.~~

Page 293

The paragraph under Table 4.13-4 on page 293 in Section 4.13 Transportation and Traffic of the Draft EIR is amended as follows:

The forecasts used to determine future trip generation for the proposed project (full utilization of a new parking lot and doubling the existing parking utilization)~~ represent a conservative, worst case scenario~~ overstate the Project's traffic impacts because the LSA study assumed more intensive uses on the Project site than are included in the Proposed Project.. Even under this scenario, the project is not forecast to impact the nearby intersections of I-580 SB Ramps/Buchanan Street or I-580 NB Ramps/Buchanan Street. Increases in vehicular traffic would not be expected to impact bicycle traffic because of the off-street bicycle path

provided adjacent to Buchanan Street. As a result, the project would have a less-than-significant impact on the circulation system.

The following text is added to page 293 of Section 4.13 Transportation and Traffic, above the heading Projected Bicycle Use Analysis:

Construction Traffic

Construction of the Project would require the export from the site of concrete, asphalt concrete, mud, and rubble, and import to the site of rock riprap, sand, soil, gravel, and fill, as shown in Table 3-3, page 59. Most of the material movement for Area 1 (export of 10,500 cubic yards and import of 11,400 cubic yards) would occur during the approximately two-month period of work on the revetment. For Area 2, most of the material movement (export of 2,500 cubic yards and import of 5,200 cubic yards) would occur during an approximately two-week period of work on the beach, dunes, and wetlands. For Area 3, most of the material movement (export of 7,500 cubic yards and import of 650 cubic yards) would occur during an approximately four-week period of work on the trail. If Area 3 is constructed concurrently with Areas 1 and 2, revetment construction in Area 1 and trail construction in Area 3 would occur concurrently, with beach, dunes, and wetlands construction in Area 2 occurring later. Thus, the maximum construction traffic generation would occur during simultaneous work on the revetment in Area 1 and the trail in Area 3. At an average capacity of 18 cubic yards per truck, revetment work in Area 1 would generate approximately 57 truck trips/day or 7 truck trips/hour, and the trail in Area 3 would generate approximately 43 truck trips/day or 6 truck trips/hour. These truck trips would be distributed throughout the working day. In addition, there would be an estimated 20 construction worker vehicle trips during both the AM and PM peak hours. Thus, there would be a total of up to 33 vehicle trips in the AM and PM peak hours, for a period of four weeks. Construction during other periods of the approximately four-month construction period would generate fewer trips. The number of a.m. and p.m. peak-hour trips associated with project construction is estimated to be the same or less than the trips generated by project operation, which, as discussed above, would not change the existing levels of service at the nearby intersections of I-580 SB Ramps/Buchanan Street or I-580 NB Ramps/Buchanan Street. Therefore, the construction-generated vehicles also would not change the existing levels of service at those nearby intersections.

As shown in Figure 3-2, construction staging would occur on the Albany Plateau and east of the beach area, and would not affect circulation at Golden Gate Fields (GGF). Construction trucks would use existing roads for access, which would not change GGF circulation. Grading would occur in Area 3 (Bay Trail), but this would be on the steep slope rather than the GGF access road, and thus would not interfere with GGF circulation. Work on the Bay Trail segment in Area 3 would be during late June to early August, the season when live races do not occur at GGF. Thus, construction traffic and activities would not affect circulation at GGF.

Project construction and related transportation activities would not alter the existing design or operation of Buchanan Street, nor would it involve any design features or new incompatible uses that would substantially change the existing level of transportation hazards at the site and vicinity. Once project construction is completed, the traffic and circulation system on Buchanan Street and transportation facilities near the project site would be expected to revert to their existing conditions.

For these reasons, and because of the limited duration of construction, this impact would be *less than significant.*

Page 295

The third paragraph on page 295 of the Draft EIR is amended as follows:

The Proposed Project in Area 3 would ~~separate~~ provide bicycle and pedestrian facilities that separate traffic from the current route that is informally used along and through the Golden Gate Fields access road and parking lot (see Figure 3-9A). Pedestrian and bicycle pathway signage ~~Signage,~~ stripping and barriers would be provided to ~~alert~~ separate trail users ~~and vehicles to~~from vehicular traffic ~~requirements~~. This would be a safety improvement over existing conditions (in which pedestrians and bicyclists do not have continuous sidewalks or separate bicycle lanes), a beneficial impact.

Page 297

The paragraph starting at the bottom of page 297 and ending at the top of page 298 in Section 4.13 Transportation and Traffic is amended as follows:

The proposed and approved projects identified above are accounted for in the Alameda County Congestion Management Agency's Countywide Travel Demand Models for 2025 and 2035, and the Year 2025 traffic levels forecasted in the *Eastshore Park Project General Plan EIR*, and would not change the conclusions of that EIR regarding Year 2025 traffic levels. The traffic generation of the Proposed Project discussed in Project Vehicle Trip Generation Analysis and Future Traffic Conditions, above (which would be smaller than that of the General Plan) would, as discussed above, be small and would have a less than significant effect on the circulation system, in both 2025 and 2035. Therefore, the Project would not have a cumulatively considerable adverse impact on transportation and traffic because the incremental effects of the Project would not be considerable when viewed in connection with the effects of past, current and probable future projects. This impact would be *less than significant*.

Page 305

To correct a typographical error, the third paragraph on page 305 in Chapter 5 Alternatives of the Draft EIR is amended as follows:

A No Project Alternative is required as one of the "reasonable range of alternatives" that could feasibly attain most or all of the project's objectives. Besides the No Project Alternative, five other alternatives, called the: 1) Conservation Alternative, 2) Recreation Alternative, 3) Minimal Improvements Alternative, 4) Enhanced Project Alternative, 5) Bay Trail Through Golden Gate Fields ~~and Codornices Creek~~ Alternative, and 6) Bay Trail East of I-80 Alternative are analyzed. Each alternative is analyzed against the Project Objectives presented and significance thresholds considered in Chapter 4 and the impacts compared to those of the Proposed Project.

Page 307

Table 5-1, on page 307 in Chapter 5 Alternatives of the Draft EIR, is amended as follows:

TABLE 5-1 COMPARISON OF ALTERNATIVES TO PROJECT OBJECTIVES

#	Objective	Proposed Project	No Project Alternative	Conser-vation Alternative	Recreation Alternative	Minimal Improve-ments Alternative	Enhanced Project Alternative	SF Bay Trail through GGF Alter-native	SF Bay Trail East of I-80 Alternative
4	Comply with the California Regional Water Quality Control Board's Order to maintain the stability of the Albany Landfill at south Albany Neck.	Yes	No	Yes	Yes	No	Yes	Yes	Yes~~No~~
8	Phase project implementation with the highest priority placed on stabilizing the eroding landfill along the south Albany Neck	Yes	No	Yes	Yes	No	Yes	Yes	Yes~~No~~

Page 326

Comparison to Project Objectives, on page 326 in Chapter 5 Alternatives of the Draft EIR, is amended as follows:

Comparison to Project Objectives

As shown in **Table 5-1**, the Minimal Improvements Alternative would not meet most of the project objectives, including those objectives associated with habitat enhancement and shoreline stabilization. The Minimal Improvements Alternative would make only localized, discontinuous repair of the eroding shoreline, would not revegetate Area 1 with native species, would not enhance dunes or create expanded dune area in Area 2, would not enhance or expand existing wetlands in Area 2, and would not create a separated, ADA-compliant Bay Trail segment in Area 3.

Appendix E - Cultural Resources Assessment

To correct a typographical error, the title page of the Archaeological Reconnaissance and Literature Search Report, after the Appendix E - Cultural Resources Assessment divider sheet, is amended as follows:

April, ~~2010~~2012

Exhibits

Exhibit A

Staff Report on Burrowing Owl Mitigation

State of California

Natural Resources Agency

Department of Fish and Game

March 7, 2012[1]

[1] This document replaces the Department of Fish and Game 1995 Staff Report On Burrowing Owl Mitigation.

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INTRODUCTION AND PURPOSE

Maintaining California's rich biological diversity is dependent on the conservation of species and their habitats. The California Department of Fish and Game (Department) has designated certain species as "species of special concern" when their population viability and survival is adversely affected by risk factors such as precipitous declines or other vulnerability factors (Shuford and Gardali 2008). Preliminary analyses of regional patterns for breeding populations of burrowing owls (*Athene cunicularia*) have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced modest breeding range retraction (Gervais et al. 2008). In California, threat factors affecting burrowing owl populations include habitat loss, degradation and modification, and eradication of ground squirrels resulting in a loss of suitable burrows required by burrowing owls for nesting, protection from predators, and shelter (See Appendix A).

The Department recognized the need for a comprehensive conservation and mitigation strategy for burrowing owls, and in 1995 directed staff to prepare a report describing mitigation and survey recommendations. This report, "1995 Staff Report on Burrowing Owl Mitigation," (Staff Report) (CDFG 1995), contained Department-recommended burrowing owl and burrow survey techniques and mitigation measures intended to offset the loss of habitat and slow or reverse further decline of this species. Notwithstanding these measures, over the past 15+ years, burrowing owls have continued to decline in portions of their range (DeSante et al. 2007, Wilkerson and Siegel, 2010). The Department has determined that reversing declining population and range trends for burrowing owls will require implementation of more effective conservation actions, and evaluating the efficacy of the Department's existing recommended avoidance, minimization and mitigation approaches for burrowing owls.

The Department has identified three main actions that together will facilitate a more viable, coordinated, and concerted approach to conservation and mitigation for burrowing owls in California. These include:

1. Incorporating burrowing owl comprehensive conservation strategies into landscape-based planning efforts such as Natural Community Conservation Plans (NCCPs) and multi-species Habitat Conservation Plans (HCPs) that specifically address burrowing owls.
2. Developing and implementing a statewide conservation strategy (Burkett and Johnson, 2007) and local or regional conservation strategies for burrowing owls, including the development and implementation of a statewide burrowing owl survey and monitoring plan.
3. Developing more rigorous burrowing owl survey methods, working to improve the adequacy of impacts assessments; developing clear and effective avoidance and minimization measures; and developing mitigation measures to ensure impacts to the species are effectively addressed at the project, local, and/or regional level (the focus of this document).

This Report sets forth the Department's recommendations for implementing the third approach identified above by revising the 1995 Staff Report, drawing from the most relevant and current knowledge and expertise, and incorporating the best scientific information

available pertaining to the species. It is designed to provide a compilation of the best available science for Department staff, biologists, planners, land managers, California Environmental Quality Act (CEQA) lead agencies, and the public to consider when assessing impacts of projects or other activities on burrowing owls.

This revised Staff Report takes into account the California Burrowing Owl Consortium's Survey Protocol and Mitigation Guidelines (CBOC 1993, 1997) and supersedes the survey, avoidance, minimization and mitigation recommendations in the 1995 Staff Report. Based on experiences gained from implementing the 1995 Staff Report, the Department believes revising that report is warranted. This document also includes general conservation goals and principles for developing mitigation measures for burrowing owls.

DEPARTMENT ROLE AND LEGAL AUTHORITIES

The mission of the Department is to manage California's diverse fish, wildlife and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public. The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitats necessary to maintain biologically sustainable populations of those species (Fish and Game Code (FGC) §1802). The Department, as trustee agency pursuant to CEQA (See CEQA Guidelines, §15386), has jurisdiction by law over natural resources, including fish and wildlife, affected by a project, as that term is defined in Section 21065 of the Public Resources Code. The Department exercises this authority by reviewing and commenting on environmental documents and making recommendations to avoid, minimize, and mitigate potential negative impacts to those resources held in trust for the people of California.

Field surveys designed to detect the presence of a particular species, habitat element, or natural community are one of the tools that can assist biologists in determining whether a species or habitat may be significantly impacted by land use changes or disturbance. The Department reviews field survey data as well as site-specific and regional information to evaluate whether a project's impacts may be significant. This document compiles the best available science for conducting habitat assessments and surveys, and includes considerations for developing measures to avoid impacts or mitigate unavoidable impacts.

CEQA

CEQA requires public agencies in California to analyze and disclose potential environmental impacts associated with a project that the agency will carry out, fund, or approve. Any potentially significant impact must be mitigated to the extent feasible. Project-specific CEQA mitigation is important for burrowing owls because most populations exist on privately owned parcels that, when proposed for development or other types of modification, may be subject to the environmental review requirements of CEQA.

Take

Take of individual burrowing owls and their nests is defined by FGC section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in FGC Section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill."

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions between the United States and Canada, Japan, Mexico, and Russia for the protection of migratory birds, including the burrowing owl (50 C.F.R. § 10). The MBTA protects migratory bird nests from possession, sale, purchase, barter, transport, import and export, and collection. The other prohibitions of the MBTA - capture, pursue, hunt, and kill - are inapplicable to nests. The regulatory definition of take, as defined in Title 50 C.F.R. part 10.12, means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to hunt, shoot, wound, kill, trap, capture, or collect. Only the verb "collect" applies to nests. It is illegal to collect, possess, and by any means transfer possession of any migratory bird nest. The MBTA prohibits the destruction of a nest when it contains birds or eggs, and no possession shall occur during the destruction (see Fish and Wildlife Service, Migratory Bird Permit Memorandum, April 15, 2003). Certain exceptions to this prohibition are included in 50 C.F.R. section 21. Pursuant to Fish & Game Code section 3513, the Department enforces the Migratory Bird Treaty Act consistent with rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act.

Regional Conservation Plans

Regional multiple species conservation plans offer long-term assurances for conservation of covered species at a landscape scale, in exchange for biologically appropriate levels of incidental take and/or habitat loss as defined in the approved plan. California's NCCP Act (FGC §2800 et seq.) governs such plans at the state level, and was designed to conserve species, natural communities, ecosystems, and ecological processes across a jurisdiction or a collection of jurisdictions. Complementary federal HCPs are governed by the Endangered Species Act (7 U.S.C. § 136, 16 U.S.C.§ 1531 et seq.) (ESA). Regional conservation plans (and certain other landscape-level conservation and management plans), may provide conservation for unlisted as well as listed species. Because the geographic scope of NCCPs and HCPs may span many hundreds of thousands of acres, these planning tools have the potential to play a significant role in conservation of burrowing owls, and grasslands and other habitats.

Fish and Game Commission Policies

There are a number of Fish and Game Commission policies (see FGC §2008) that can be applied to burrowing owl conservation. These include policies on: Raptors, Cooperation, Endangered and Threatened Species, Land Use Planning, Management and Utilization of Fish and Wildlife on Federal Lands, Management and Utilization of Fish and Wildlife on Private Lands, and Research.

GUIDING PRINCIPLES FOR CONSERVATION

Unless otherwise provided in a statewide, local, or regional conservation strategy, surveying and evaluating impacts to burrowing owls, as well as developing and implementing avoidance, minimization, and mitigation and conservation measures incorporate the following principles. These principles are a summary of Department staff expert opinion and were used to guide the preparation of this document.

1. Use the Precautionary Principle (Noss et al.1997), by which the alternative of increased conservation is deliberately chosen in order to buffer against incomplete knowledge of burrowing owl ecology and uncertainty about the consequences to burrowing owls of potential impacts, including those that are cumulative.
2. Employ basic conservation biology tenets and population-level approaches when determining what constitutes appropriate avoidance, minimization, and mitigation for impacts. Include mitigation effectiveness monitoring and reporting, and use an adaptive management loop to modify measures based on results.
3. Protect and conserve owls in wild, semi-natural, and agricultural habitats (conserve is defined at FGC §1802).
4. Protect and conserve natural nest burrows (or burrow surrogates) previously used by burrowing owls and sufficient foraging habitat and protect auxiliary "satellite" burrows that contribute to burrowing owl survivorship and natural behavior of owls.

CONSERVATION GOALS FOR THE BURROWING OWL IN CALIFORNIA

It is Department staff expert opinion that the following goals guide and contribute to the short and long-term conservation of burrowing owls in California:

1. Maintain size and distribution of extant burrowing owl populations (allowing for natural population fluctuations).
2. Increase geographic distribution of burrowing owls into formerly occupied historical range where burrowing owl habitat still exists, or where it can be created or enhanced, and where the reason for its local disappearance is no longer of concern.
3. Increase size of existing populations where possible and appropriate (for example, considering basic ecological principles such as carrying capacity, predator-prey relationships, and inter-specific relationships with other species at risk).
4. Protect and restore self-sustaining ecosystems or natural communities which can support burrowing owls at a landscape scale, and which will require minimal long-term management.
5. Minimize or prevent unnatural causes of burrowing owl population declines (e.g., nest burrow destruction, chemical control of rodent hosts and prey).
6. Augment/restore natural dynamics of burrowing owl populations including movement and genetic exchange among populations, such that the species does not require future listing and protection under the California Endangered Species Act (CESA) and/or the federal Endangered Species Act (ESA).
7. Engage stakeholders, including ranchers; farmers; military; tribes; local, state, and federal agencies; non-governmental organizations; and scientific research and education communities involved in burrowing owl protection and habitat management.

ACTIVITIES WITH THE POTENTIAL TO TAKE OR IMPACT BURROWING OWLS

The following activities are examples of activities that have the potential to take burrowing owls, their nests or eggs, or destroy or degrade burrowing owl habitat: grading, disking, cultivation, earthmoving, burrow blockage, heavy equipment compacting and crushing burrow tunnels, levee maintenance, flooding, burning and mowing (if burrows are impacted), and operating wind turbine collisions (collectively hereafter referred to as "projects" or "activities"

whether carried out pursuant to CEQA or not). In addition, the following activities may have impacts to burrowing owl populations: eradication of host burrowers; changes in vegetation management (i.e. grazing); use of pesticides and rodenticides; destruction, conversion or degradation of nesting, foraging, over-wintering or other habitats; destruction of natural burrows and burrow surrogates; and disturbance which may result in harassment of owls at occupied burrows.

PROJECT IMPACT EVALUATIONS

The following three progressive steps are effective in evaluating whether projects will result in impacts to burrowing owls. The information gained from these steps will inform any subsequent avoidance, minimization and mitigation measures. The steps for project impact evaluations are: 1) habitat assessment, 2) surveys, and 3) impact assessment. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with FGC sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA project activity or non-CEQA project. These three site evaluation steps are discussed in detail below.

Biologist Qualifications

The current scientific literature indicates that only individuals meeting the following minimum qualifications should perform burrowing owl habitat assessments, surveys, and impact assessments:

1. Familiarity with the species and its local ecology;
2. Experience conducting habitat assessments and non-breeding and breeding season surveys, or experience with these surveys conducted under the direction of an experienced surveyor;
3. Familiarity with the appropriate state and federal statutes related to burrowing owls, scientific research, and conservation;
4. Experience with analyzing impacts of development on burrowing owls and their habitat.

Habitat Assessment Data Collection and Reporting

A habitat assessment is the first step in the evaluation process and will assist investigators in determining whether or not occupancy surveys are needed. Refer to Appendix B for a definition of burrowing owl habitat. Compile the detailed information described in Appendix C when conducting project scoping, conducting a habitat assessment site visit and preparing a habitat assessment report.

Surveys

Burrowing owl surveys are the second step of the evaluation process and the best available scientific literature recommends that they be conducted whenever burrowing owl habitat or sign (see Appendix B) is encountered on or adjacent to (within 150 meters) a project site

(Thomsen 1971, Martin 1973). Occupancy of burrowing owl habitat is confirmed at a site when at least one burrowing owl, or its sign at or near a burrow entrance, is observed within the last three years (Rich 1984). Burrowing owls are more detectable during the breeding season with detection probabilities being highest during the nestling stage (Conway et al. 2008). In California, the burrowing owl breeding season extends from 1 February to 31 August (Haug et al. 1993, Thompsen 1971) with some variances by geographic location and climatic conditions. Several researchers suggest three or more survey visits during daylight hours (Haug and Diduik 1993, CBOC 1997, Conway and Simon 2003) and recommend each visit occur at least three weeks apart during the peak of the breeding season, commonly accepted in California as between 15 April and 15 July (CBOC 1997). Conway and Simon (2003) and Conway et al. (2008) recommended conducting surveys during the day when most burrowing owls in a local area are in the laying and incubation period (so as not to miss early breeding attempts), during the nesting period, and in the late nestling period when most owls are spending time above ground.

Non-breeding season (1 September to 31 January) surveys may provide information on burrowing owl occupancy, but do not substitute for breeding season surveys because results are typically inconclusive. Burrowing owls are more difficult to detect during the non-breeding season and their seasonal residency status is difficult to ascertain. Burrowing owls detected during non-breeding season surveys may be year-round residents, young from the previous breeding season, pre-breeding territorial adults, winter residents, dispersing juveniles, migrants, transients or new colonizers. In addition, the numbers of owls and their pattern of distribution may differ during winter and breeding seasons. However, on rare occasions, non-breeding season surveys may be warranted (i.e., if the site is believed to be a wintering site only based on negative breeding season results). Refer to Appendix D for information on breeding season and non-breeding season survey methodologies.

Survey Reports

Adequate information about burrowing owls present in and adjacent to an area that will be disturbed by a project or activity will enable the Department, reviewing agencies and the public to effectively assess potential impacts and will guide the development of avoidance, minimization, and mitigation measures. The survey report includes but is not limited to a description of the proposed project or proposed activity, including the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. Refer to Appendix D for details included in a survey report.

Impact Assessment

The third step in the evaluation process is the impact assessment. When surveys confirm occupied burrowing owl habitat in or adjoining the project area, there are a number of ways to assess a project's potential significant impacts to burrowing owls and their habitat. Richardson and Miller (1997) recommended monitoring raptor behavior prior to developing management recommendations and buffers to determine the extent to which individuals have been sensitized to human disturbance. Monitoring results will also provide detail necessary for developing site-specific measures. Postovit and Postovit (1987) recommended an analytical approach to mitigation planning: define the problem (impact), set goals (to guide mitigation development), evaluate and select mitigation methods, and monitor the results.

Define the problem. The impact assessment evaluates all factors that could affect burrowing owls. Postovit and Postovit (1987) recommend evaluating the following in assessing impacts to raptors and planning mitigation: type and extent of disturbance, duration and timing of disturbance, visibility of disturbance, sensitivity and ability to habituate, and influence of environmental factors. They suggest identifying and addressing all potential direct and indirect impacts to burrowing owls, regardless of whether or not the impacts will occur during the breeding season. Several examples are given for each impact category below; however, examples are not intended to be used exclusively.

Type and extent of the disturbance. The impact assessment describes the nature (source) and extent (scale) of potential project impacts on occupied, satellite and unoccupied burrows including acreage to be lost (temporary or permanent), fragmentation/edge being created, increased distance to other nesting and foraging habitat, and habitat degradation. Discuss any project activities that impact either breeding and/or non-breeding habitat which could affect owl home range size and spatial configuration, negatively affect onsite and offsite burrowing owl presence, increase energetic costs, lower reproductive success, increase vulnerability to predation, and/or decrease the chance of procuring a mate.

Duration and timing of the impact. The impact assessment describes the amount of time the burrowing owl habitat will be unavailable to burrowing owls (temporary or permanent) on the site and the effect of that loss on essential behaviors or life history requirements of burrowing owls, the overlap of project activities with breeding and/or non-breeding seasons (timing of nesting and/or non-breeding activities may vary with latitude and climatic conditions, which should be considered with the timeline of the project or activity), and any variance of the project activities in intensity, scale and proximity relative to burrowing owl occurrences.

Visibility and sensitivity. Some individual burrowing owls or pairs are more sensitive than others to specific stimuli and may habituate to ongoing visual or audible disturbance. Site-specific monitoring may provide clues to the burrowing owl's sensitivities. This type of assessment addresses the sensitivity of burrowing owls within their nesting area to humans on foot, and vehicular traffic. Other variables are whether the site is primarily in a rural versus urban setting, and whether any prior disturbance (e.g., human development or recreation) is known at the site.

Environmental factors. The impact assessment discusses any environmental factors that could be influenced or changed by the proposed activities including nest site availability, predators, prey availability, burrowing mammal presence and abundance, and threats from other extrinsic factors such as human disturbance, urban interface, feral animals, invasive species, disease or pesticides.

Significance of impacts. The impact assessment evaluates the potential loss of nesting burrows, satellite burrows, foraging habitat, dispersal and migration habitat, wintering habitat, and habitat linkages, including habitat supporting prey and host burrowers and other essential habitat attributes. This assessment determines if impacts to the species will result in significant impacts to the species locally, regionally and range-wide per CEQA Guidelines §15382 and Appendix G. The significance of the impact to habitat depends on the extent of habitat disturbed and length of time the habitat is unavailable (for example: minor – several days, medium – several weeks to months, high - breeding season affecting juvenile survival,

or over winter affecting adult survival).

Cumulative effects. The cumulative effects assessment evaluates two consequences: 1) the project's proportional share of reasonably foreseeable impacts on burrowing owls and habitat caused by the project or in combination with other projects and local influences having impacts on burrowing owls and habitat, and 2) the effects on the regional owl population resulting from the project's impacts to burrowing owls and habitat.

Mitigation goals. Establishing goals will assist in planning mitigation and selecting measures that function at a desired level. Goals also provide a standard by which to measure mitigation success. Unless specifically provided for through other FGC Sections or through specific regulations, take, possession or destruction of individual burrowing owls, their nests and eggs is prohibited under FGC sections 3503, 3503.5 and 3513. Therefore, a required goal for all project activities is to avoid take of burrowing owls. Under CEQA, goals would consist of measures that would avoid, minimize and mitigate impacts to a less than significant level. For individual projects, mitigation must be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). In order for mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will improve environmental conditions. As set forth in more detail in Appendix A, the current scientific literature supports the conclusion that mitigation for permanent habitat loss necessitates replacement with an equivalent or greater habitat area for breeding, foraging, wintering, dispersal, presence of burrows, burrow surrogates, presence of fossorial mammal dens, well drained soils, and abundant and available prey within close proximity to the burrow.

MITIGATION METHODS

The current scientific literature indicates that any site-specific avoidance or mitigation measures developed should incorporate the best practices presented below or other practices confirmed by experts and the Department. The Department is available to assist in the development of site-specific avoidance and mitigation measures.

Avoiding. A primary goal is to design and implement projects to seasonally and spatially avoid negative impacts and disturbances that could result in take of burrowing owls, nests, or eggs. Other avoidance measures may include but not be limited to:

- Avoid disturbing occupied burrows during the nesting period, from 1 February through 31 August.
- Avoid impacting burrows occupied during the non-breeding season by migratory or non-migratory resident burrowing owls.
- Avoid direct destruction of burrows through chaining (dragging a heavy chain over an area to remove shrubs), disking, cultivation, and urban, industrial, or agricultural development.
- Develop and implement a worker awareness program to increase the on-site worker's recognition of and commitment to burrowing owl protection.
- Place visible markers near burrows to ensure that farm equipment and other machinery does not collapse burrows.
- Do not fumigate, use treated bait or other means of poisoning nuisance animals in areas where burrowing owls are known or suspected to occur (e.g., sites observed with nesting

owls, designated use areas).

- Restrict the use of treated grain to poison mammals to the months of January and February.

Take avoidance (pre-construction) surveys. Take avoidance surveys are intended to detect the presence of burrowing owls on a project site at a fixed period in time and inform necessary take avoidance actions. Take avoidance surveys may detect changes in owl presence such as colonizing owls that have recently moved onto the site, migrating owls, resident burrowing owls changing burrow use, or young of the year that are still present and have not dispersed. Refer to Appendix D for take avoidance survey methodology.

Site surveillance. Burrowing owls may attempt to colonize or re-colonize an area that will be impacted; thus, the current scientific literature indicates a need for ongoing surveillance at the project site during project activities is recommended. The surveillance frequency/effort should be sufficient to detect burrowing owls if they return. Subsequent to their new occupancy or return to the site, take avoidance measures should assure with a high degree of certainty that take of owls will not occur.

Minimizing. If burrowing owls and their habitat can be protected in place on or adjacent to a project site, the use of buffer zones, visual screens or other measures while project activities are occurring can minimize disturbance impacts. Conduct site-specific monitoring to inform development of buffers (see Visibility and sensitivity above). The following general guidelines for implementing buffers should be adjusted to address site-specific conditions using the impact assessment approach described above. The CEQA lead agency and/or project proponent is encouraged to consult with the Department and other burrowing owl experts for assistance in developing site-specific buffer zones and visual screens.

Buffers. Holroyd et al. (2001) identified a need to standardize management and disturbance mitigation guidelines. For instance, guidelines for mitigating impacts by petroleum industries on burrowing owls and other prairie species (Scobie and Faminow, 2000) may be used as a template for future mitigation guidelines (Holroyd et al. 2001). Scobie and Faminow (2000) developed guidelines for activities around occupied burrowing owl nests recommending buffers around low, medium, and high disturbance activities, respectively (see below).

Recommended restricted activity dates and setback distances by level of disturbance for burrowing owls (Scobie and Faminow 2000).

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Based on existing vegetation, human development, and land uses in an area, resource managers may decide to allow human development or resource extraction closer to these area/sites than recommended above. However, if it is decided to allow activities closer than

the setback distances recommended, a broad-scale, long-term, scientifically-rigorous monitoring program ensures that burrowing owls are not detrimentally affected by alternative approaches.

Other minimization measures include eliminating actions that reduce burrowing owl forage and burrowing surrogates (e.g. ground squirrel), or introduce/facilitate burrowing owl predators. Actions that could influence these factors include reducing livestock grazing rates and/or changing the timing or duration of grazing or vegetation management that could result in less suitable habitat.

Burrow exclusion and closure. Burrow exclusion is a technique of installing one-way doors in burrow openings during the non-breeding season to temporarily exclude burrowing owls, or permanently exclude burrowing owls and close burrows after verifying burrows are empty by site monitoring and scoping. Exclusion in and of itself is not a take avoidance, minimization or mitigation method. Eviction of burrowing owls is a potentially significant impact under CEQA.

The long-term demographic consequences of these techniques have not been thoroughly evaluated, and the fate of evicted or excluded burrowing owls has not been systematically studied. Because burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and satellite burrows may lead to indirect impacts or take. Temporary or permanent closure of burrows may result in significant loss of burrows and habitat for reproduction and other life history requirements. Depending on the proximity and availability of alternate habitat, loss of access to burrows will likely result in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows. Therefore, exclusion and burrow closure are not recommended where they can be avoided. The current scientific literature indicates consideration of all possible avoidance and minimization measures before temporary or permanent exclusion and closure of burrows is implemented, in order to avoid take.

The results of a study by Trulio (1995) in California showed that burrowing owls passively displaced from their burrows were quickly attracted to adjacent artificial burrows at five of six passive relocation sites. The successful sites were all within 75 meters (m) of the destroyed burrow, a distance generally within a pair's territory. This researcher discouraged using passive relocation to artificial burrows as a mitigation measure for lost burrows without protection of adjacent foraging habitat. The study results indicated artificial burrows were used by evicted burrowing owls when they were approximately 50-100 m from the natural burrow (Thomsen 1971, Haug and Oliphant 1990). Locating artificial or natural burrows more than 100 m from the eviction burrow may greatly reduce the chances that new burrows will be used. Ideally, exclusion and burrow closure is employed only where there are adjacent natural burrows and non-impacted, sufficient habitat for burrowing owls to occupy with permanent protection mechanisms in place. Any new burrowing owl colonizing the project site after the CEQA document has been adopted may constitute changed circumstances that should be addressed in a re-circulated CEQA document.

The current scientific literature indicates that burrow exclusion should only be conducted by qualified biologists (meeting the Biologist's Qualifications above) during the non-breeding

season, before breeding behavior is exhibited and after the burrow is confirmed empty by site surveillance and/or scoping. The literature also indicates that when temporary or permanent burrow exclusion and/or burrow closure is implemented, burrowing owls should not be excluded from burrows unless or until:

- A Burrowing Owl Exclusion Plan (see Appendix E) is developed and approved by the applicable local DFG office;
- Permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the Mitigating Impacts sections below. Temporary exclusion is mitigated in accordance with the item #1 under Mitigating Impacts below.
- Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided. Conduct daily monitoring for one week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season.
- Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site (if able to confirm by band re-sight).

Translocation (Active relocation offsite >100 meters). At this time, there is little published information regarding the efficacy of translocating burrowing owls, and additional research is needed to determine subsequent survival and breeding success (Klute et al. 2003, Holroyd et al. 2001). Study results for translocation in Florida implied that hatching success may be decreased for populations of burrowing owls that undergo translocation (Nixon 2006). At this time, the Department is unable to authorize the capture and relocation of burrowing owls except within the context of scientific research (FGC §1002) or a NCCP conservation strategy.

Mitigating impacts. Habitat loss and degradation from rapid urbanization of farmland in the core areas of the Central and Imperial valleys is the greatest of many threats to burrowing owls in California (Shuford and Gardali, 2008). At a minimum, if burrowing owls have been documented to occupy burrows (see Definitions, Appendix B) at the project site in recent years, the current scientific literature supports the conclusion that the site should be considered occupied and mitigation should be required by the CEQA lead agency to address project-specific significant and cumulative impacts. Other site-specific and regionally significant and cumulative impacts may warrant mitigation. The current scientific literature indicates the following to be best practices. If these best practices cannot be implemented, the lead agency or lead investigator may consult with the Department to develop effective mitigation alternatives. The Department is also available to assist in the identification of suitable mitigation lands.

1. Where habitat will be temporarily disturbed, restore the disturbed area to pre-project condition including decompacting soil and revegetating. Permanent habitat protection may be warranted if there is the potential that the temporary impacts may render a nesting site (nesting burrow and satellite burrows) unsustainable or unavailable depending on the time frame, resulting in reduced survival or abandonment. For the latter potential impact, see the permanent impact measures below.
2. Mitigate for permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are replaced based on the information provided in Appendix A. Note: A

minimum habitat replacement recommendation is not provided here as it has been shown to serve as a default, replacing any site-specific analysis and discounting the wide variation in natal area, home range, foraging area, and other factors influencing burrowing owls and burrowing owl population persistence in a particular area.

3. Mitigate for permanent impacts to nesting, occupied and satellite burrows and burrowing owl habitat with (a) permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) sufficiently large acreage, and presence of fossorial mammals. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. If the mitigation lands are located adjacent to the impacted burrow site, ensure the nearest neighbor artificial or natural burrow clusters are at least within 210 meters (Fisher et al. 2007).
4. Permanently protect mitigation land through a conservation easement deeded to a non-profit conservation organization or public agency with a conservation mission, for the purpose of conserving burrowing owl habitat and prohibiting activities incompatible with burrowing owl use. If the project is located within the service area of a Department-approved burrowing owl conservation bank, the project proponent may purchase available burrowing owl conservation bank credits.
5. Develop and implement a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls (see Management Plan and Artificial Burrow sections below, if applicable).
6. Fund the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.
7. Habitat should not be altered or destroyed, and burrowing owls should not be excluded from burrows, until mitigation lands have been legally secured, are managed for the benefit of burrowing owls according to Department-approved management, monitoring and reporting plans, and the endowment or other long-term funding mechanism is in place or security is provided until these measures are completed.
8. Mitigation lands should be on, adjacent or proximate to the impact site where possible and where habitat is sufficient to support burrowing owls present.
9. Where there is insufficient habitat on, adjacent to, or near project sites where burrowing owls will be excluded, acquire mitigation lands with burrowing owl habitat away from the project site. The selection of mitigation lands should then focus on consolidating and enlarging conservation areas located outside of urban and planned growth areas, within foraging distance of other conserved lands. If mitigation lands are not available adjacent to other conserved lands, increase the mitigation land acreage requirement to ensure a selected site is of sufficient size. Offsite mitigation may not adequately offset the biological and habitat values impacted on a one to one basis. Consult with the Department when determining offsite mitigation acreages.
10. Evaluate and select suitable mitigation lands based on a comparison of the habitat attributes of the impacted and conserved lands, including but not limited to: type and structure of habitat being impacted or conserved; density of burrowing owls in impacted and conserved habitat; and significance of impacted or conserved habitat to the species range-wide. Mitigate for the highest quality burrowing owl habitat impacted first and foremost when identifying mitigation lands, even if a mitigation site is located outside of

a lead agency's jurisdictional boundary, particularly if the lead agency is a city or special district.

11. Select mitigation lands taking into account the potential human and wildlife conflicts or incompatibility, including but not limited to, human foot and vehicle traffic, and predation by cats, loose dogs and urban-adapted wildlife, and incompatible species management (i.e., snowy plover).
12. Where a burrowing owl population appears to be highly adapted to heavily altered habitats such as golf courses, airports, athletic fields, and business complexes, permanently protecting the land, augmenting the site with artificial burrows, and enhancing and maintaining those areas may enhance sustainability of the burrowing owl population onsite. Maintenance includes keeping lands grazed or mowed with weed-eaters or push mowers, free from trees and shrubs, and preventing excessive human and human-related disturbance (e.g., walking, jogging, off-road activity, dog-walking) and loose and feral pets (chasing and, presumably, preying upon owls) that make the environment uninhabitable for burrowing owls (Wesemann and Rowe 1985, Millsap and Bear 2000, Lincer and Bloom 2007). Items 4, 5 and 6 also still apply to this mitigation approach.
13. If there are no other feasible mitigation options available and a lead agency is willing to establish and oversee a Burrowing Owl Mitigation and Conservation Fund that funds on a competitive basis acquisition and permanent habitat conservation, the project proponent may participate in the lead agency's program.

Artificial burrows. Artificial burrows have been used to replace natural burrows either temporarily or long-term and their long-term success is unclear. Artificial burrows may be an effective addition to in-perpetuity habitat mitigation if they are augmenting natural burrows, the burrows are regularly maintained (i.e., no less than annual, with biennial maintenance recommended), and surrounding habitat patches are carefully maintained. There may be some circumstances, for example at airports, where squirrels will not be allowed to persist and create a dynamic burrow system, where artificial burrows may provide some support to an owl population.

Many variables may contribute to the successful use of artificial burrows by burrowing owls, including pre-existence of burrowing owls in the area, availability of food, predators, surrounding vegetation and proximity, number of natural burrows in proximity, type of materials used to build the burrow, size of the burrow and entrance, direction in which the burrow entrance is facing, slope of the entrance, number of burrow entrances per burrow, depth of the burrow, type and height of perches, and annual maintenance needs (Belthoff and King 2002, Smith et al. 2005, Barclay et al. 2011). Refer to Barclay (2008) and (2011) and to Johnson et al. 2010 (unpublished report) for guidance on installing artificial burrows including recommendations for placement, installation and maintenance.

Any long-term reliance on artificial burrows as natural burrow replacements must include semi-annual to annual cleaning and maintenance and/or replacement (Barclay et al. 2011, Smith and Conway 2005, Alexander et al. 2005) as an ongoing management practice. Alexander et al. (2005), in a study of the use of artificial burrows found that all of 20 artificial burrows needed some annual cleaning and maintenance. Burrows were either excavated by predators, blocked by soil or vegetation, or experienced substrate erosion forming a space beneath the tubing that prevented nestlings from re-entering the burrow.

Mitigation lands management plan. Develop a Mitigation Lands Management Plan for projects that require off-site or on-site mitigation habitat protection to ensure compliance with and effectiveness of identified management actions for the mitigation lands. A suggested outline and related vegetation management goals and monitoring success criteria can be found in Appendix E.

Mitigation Monitoring and Reporting

Verify the compliance with required mitigation measures, the accuracy of predictions, and ensure the effectiveness of all mitigation measures for burrowing owls by conducting follow-up monitoring, and implementing midcourse corrections, if necessary, to protect burrowing owls. Refer to CEQA Guidelines Section 15097 and the CEQA Guidelines for additional guidance on mitigation, monitoring and reporting. Monitoring is qualitatively different from site surveillance; monitoring normally has a specific purpose and its outputs and outcomes will usually allow a comparison with some baseline condition of the site before the mitigation (including avoidance and minimization) was undertaken. Ideally, monitoring should be based on the Before-After Control-Impact (BACI) principle (McDonald et al. 2000) that requires knowledge of the pre-mitigation state to provide a reference point for the state and change in state after the project and mitigation have been implemented.

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Appendix A. Burrowing Owl Natural History and Threats

Diet

Burrowing owl diet includes arthropods, small rodents, birds, amphibians, reptiles, and carrion (Haug et al. 1993).

Breeding

In California, the breeding season for the burrowing owl typically occurs between 1 February and 31 August although breeding in December has been documented (Thompson 1971, Gervais et al. 2008); breeding behavior includes nest site selection by the male, pair formation, copulation, egg laying, hatching, fledging, and post-fledging care of young by the parents. The peak of the breeding season occurs between 15 April and 15 July and is the period when most burrowing owls have active nests (eggs or young). The incubation period lasts 29 days (Coulombe 1971) and young fledge after 44 days (Haug et al. 1993). Note that the timing of nesting activities may vary with latitude and climatic conditions. Burrowing owls may change burrows several times during the breeding season, starting when nestlings are about three weeks old (Haug et al. 1993).

Dispersal

The following discussion is an excerpt from Gervais et al (2008):

> "The burrowing owl is often considered a sedentary species (e.g., Thomsen 1971). A large proportion of adults show strong fidelity to their nest site from year to year, especially where resident, as in Florida (74% for females, 83% for males; Millsap and Bear 1997). In California, nest-site fidelity rates were 32%–50% in a large grassland and 57% in an agricultural environment (Ronan 2002, Catlin 2004, Catlin et al. 2005). Differences in these rates among sites may reflect differences in nest predation rates (Catlin 2004, Catlin et al. 2005). Despite the high nest fidelity rates, dispersal distances may be considerable for both juveniles (natal dispersal) and adults (postbreeding dispersal), but this also varied with location (Catlin 2004, Rosier et al. 2006). Distances of 53 km to roughly 150 km have been observed in California for adult and natal dispersal, respectively (D. K. Rosenberg and J. A. Gervais, unpublished data), despite the difficulty in detecting movements beyond the immediate study area (Koenig et al. 1996)."

Habitat

The burrowing owl is a small, long-legged, ground-dwelling bird species, well-adapted to open, relatively flat expanses. In California, preferred habitat is generally typified by short, sparse vegetation with few shrubs, level to gentle topography and well-drained soils (Haug et al. 1993). Grassland, shrub steppe, and desert are naturally occurring habitat types used by the species. In addition, burrowing owls may occur in some agricultural areas, ruderal grassy fields, vacant lots and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat in proximity (Gervais et al 2008). Unique amongst North

American raptors, the burrowing owl requires underground burrows or other cavities for nesting during the breeding season and for roosting and cover, year round. Burrows used by the owls are usually dug by other species termed host burrowers. In California, California ground squirrel (*Spermophilus beecheyi*) and round-tailed ground squirrel (*Citellus tereticaudus*) burrows are frequently used by burrowing owls but they may use dens or holes dug by other fossorial species including badger (*Taxidea taxus*), coyote (*Canis latrans*), and fox (e.g., San Joaquin kit fox, *Vulpes macrotis mutica*; Ronan 2002). In some instances, owls have been known to excavate their own burrows (Thompson 1971, Barclay 2007). Natural rock cavities, debris piles, culverts, and pipes also are used for nesting and roosting (Rosenberg et al. 1998). Burrowing owls have been documented using artificial burrows for nesting and cover (Smith and Belthoff, 2003).

Foraging habitat. Foraging habitat is essential to burrowing owls. The following discussion is an excerpt from Gervais et al. (2008):

> "Useful as a rough guide to evaluating project impacts and appropriate mitigation for burrowing owls, adult male burrowing owls home ranges have been documented (calculated by minimum convex polygon) to comprise anywhere from 280 acres in intensively irrigated agroecosystems in Imperial Valley (Rosenberg and Haley 2004) to 450 acres in mixed agricultural lands at Lemoore Naval Air Station, CA (Gervais et al. 2003), to 600 acres in pasture in Saskatchewan, Canada (Haug and Oliphant 1990). But owl home ranges may be much larger, perhaps by an order of magnitude, in non-irrigated grasslands such as at Carrizo Plain, California (Gervais et al. 2008), based on telemetry studies and distribution of nests. Foraging occurs primarily within 600 m of their nests (within approximately 300 acres, based on a circle with a 600 m radius) during the breeding season."

Importance of burrows and adjacent habitat. Burrows and the associated surrounding habitat are essential ecological requisites for burrowing owls throughout the year and especially during the breeding season. During the non-breeding season, burrowing owls remain closely associated with burrows, as they continue to use them as refuge from predators, shelter from weather and roost sites. Resident populations will remain near the previous season's nest burrow at least some of the time (Coulombe 1971, Thomsen 1971, Botelho 1996, LaFever et al. 2008).

In a study by Lutz and Plumpton (1999) adult males and females nested in formerly used sites at similar rates (75% and 63%, respectively) (Lutz and Plumpton 1999). Burrow fidelity has been reported in some areas; however, more frequently, burrowing owls reuse traditional nesting areas without necessarily using the same burrow (Haug et al. 1993, Dechant et al. 1999). Burrow and nest sites are re-used at a higher rate if the burrowing owl has reproduced successfully during the previous year (Haug et al. 1993) and if the number of burrows isn't limiting nesting opportunity.

Burrowing owls may use "satellite" or non-nesting burrows, moving young at 10-14 days, presumably to reduce risk of predation (Desmond and Savidge 1998) and possibly to avoid nest parasites (Dechant et al. 1999). Successful nests in Nebraska had more active satellite burrows within 75 m of the nest burrow than unsuccessful nests (Desmond and Savidge

1999). Several studies have documented the number of satellite burrows used by young and adult burrowing owls during the breeding season as between one and 11 burrows with an average use of approximately five burrows (Thompsen 1984, Haug 1985, Haug and Oliphant 1990). Supporting the notion of selecting for nest sites near potential satellite burrows, Ronan (2002) found burrowing owl families would move away from a nest site if their satellite burrows were experimentally removed through blocking their entrance.

Habitat adjacent to burrows has been documented to be important to burrowing owls. Gervais et al. (2003) found that home range sizes of male burrowing owls during the nesting season were highly variable within but not between years. Their results also suggested that owls concentrate foraging efforts within 600 meters of the nest burrow, as was observed in Canada (Haug and Oliphant 1990) and southern California (Rosenberg and Haley 2004). James et al. (1997), reported habitat modification factors causing local burrowing owl declines included habitat fragmentation and loss of connectivity.

In conclusion, the best available science indicates that essential habitat for the burrowing owl in California must include suitable year-round habitat, primarily for breeding, foraging, wintering and dispersal habitat consisting of short or sparse vegetation (at least at some time of year), presence of burrows, burrow surrogates or presence of fossorial mammal dens, well-drained soils, and abundant and available prey within close proximity to the burrow.

Threats to Burrowing Owls in California

Habitat loss. Habitat loss, degradation, and fragmentation are the greatest threats to burrowing owls in California. According to DeSante et al. (2007), “the vast majority of burrowing owls [now] occur in the wide, flat lowland valleys and basins of the Imperial Valley and Great Central Valley [where] for the most part,...the highest rates of residential and commercial development in California are occurring.” Habitat loss from the State’s long history of urbanization in coastal counties has already resulted in either extirpation or drastic reduction of burrowing owl populations there (Gervais et al. 2008). Further, loss of agricultural and other open lands (such as grazed landscapes) also negatively affect owl populations. Because of their need for open habitat with low vegetation, burrowing owls are unlikely to persist in agricultural lands dominated by vineyards and orchards (Gervais et al. 2008).

Control of burrowing rodents. According to Klute et al. (2003), the elimination of burrowing rodents through control programs is a primary factor in the recent and historical decline of burrowing owl populations nationwide. In California, ground squirrel burrows are most often used by burrowing owls for nesting and cover; thus, ground squirrel control programs may affect owl numbers in local areas by eliminating a necessary resource.

Direct mortality. Burrowing owls suffer direct losses from a number of sources. Vehicle collisions are a significant source of mortality especially in the urban interface and where owls nest alongside roads (Haug et al. 1993, Gervais et al. 2008). Road and ditch maintenance, modification of water conveyance structures (Imperial Valley) and discing to control weeds in fallow fields may destroy burrows (Rosenberg and Haley 2004, Catlin and Rosenberg 2006) which may trap or crush owls. Wind turbines at Altamont Pass Wind Resource Area are known to cause direct burrowing owl mortality (Thelander et al. 2003). Exposure to

pesticides may pose a threat to the species but is poorly understood (Klute et al. 2003, Gervais et al. 2008).

Appendix B. Definitions

Some key terms that appear in this document are defined below.

Adjacent habitat means burrowing owl habitat that abuts the area where habitat and burrows will be impacted and rendered non-suitable for occupancy.

Breeding (nesting) season begins as early as 1 February and continues through 31 August (Thomsen 1971, Zarn 1974). The timing of breeding activities may vary with latitude and climatic conditions. The breeding season includes pairing, egg-laying and incubation, and nestling and fledging stages.

Burrow exclusion is a technique of installing one-way doors in burrow openings during the non-breeding season to temporarily exclude burrowing owls or permanently exclude burrowing owls and excavate and close burrows after confirming burrows are empty.

Burrowing owl habitat generally includes, but is not limited to, short or sparse vegetation (at least at some time of year), presence of burrows, burrow surrogates or presence of fossorial mammal dens, well-drained soils, and abundant and available prey.

Burrow surrogates include culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures.

Civil twilight - Morning civil twilight begins when the geometric center of the sun is 6 degrees below the horizon (civil dawn) and ends at sunrise. Evening civil twilight begins at sunset and ends when the geometric center of the sun reaches 6 degrees below the horizon (civil dusk). During this period there is enough light from the sun that artificial sources of light may not be needed to carry on outdoor activities. This concept is sometimes enshrined in laws, for example, when drivers of automobiles must turn on their headlights (called lighting-up time in the UK); when pilots may exercise the rights to fly aircraft. Civil twilight can also be described as the limit at which twilight illumination is sufficient, under clear weather conditions, for terrestrial objects to be clearly distinguished; at the beginning of morning civil twilight, or end of evening civil twilight, the horizon is clearly defined and the brightest stars are visible under clear atmospheric conditions.

Conservation for burrowing owls may include but may not be limited to protecting remaining breeding pairs or providing for population expansion, protecting and enhancing breeding and essential habitat, and amending or augmenting land use plans to stabilize populations and other specific actions to avoid the need to list the species pursuant to California or federal Endangered Species Acts.

Contiguous means connected together so as to form an uninterrupted expanse in space.

Essential habitat includes nesting, foraging, wintering, and dispersal habitat.

Foraging habitat is habitat within the estimated home range of an occupied burrow, supports suitable prey base, and allows for effective hunting.

Host burrowers include ground squirrels, badgers, foxes, coyotes, gophers etc.

Locally significant species is a species that is not rare from a statewide perspective but is rare or uncommon in a local context such as within a county or region (CEQA §15125 (c)) or is so designated in local or regional plans, policies, or ordinances (CEQA Guidelines, Appendix G). Examples include a species at the outer limits of its known range or occurring in a unique habitat type.

Non-breeding season is the period of time when nesting activity is not occurring, generally September 1 through January 31, but may vary with latitude and climatic conditions.

Occupied site or occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow within the last three years (Rich 1984). Occupancy of suitable burrowing owl habitat may also be indicated by owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site.

Other impacting activities may include but may not be limited to agricultural practices, vegetation management and fire control, pest management, conversion of habitat from rangeland or natural lands to more intensive agricultural uses that could result in “take”. These impacting activities may not meet the definition of a project under CEQA.

Passive relocation is a technique of installing one-way doors in burrow openings to temporarily or permanently evict burrowing owls and prevent burrow re-occupation.

Peak of the breeding season is between 15 April and 15 July.

Sign includes its tracks, molted feathers, cast pellets (defined as 1-2” long brown to black regurgitated pellets consisting of non-digestible portions of the owls’ diet, such as fur, bones, claws, beetle elytra, or feathers), prey remains, egg shell fragments, owl white wash, nest burrow decoration materials (e.g., paper, foil, plastic items, livestock or other animal manure, etc.), possible owl perches, or other items.

Appendix C. Habitat Assessment and Reporting Details

Habitat Assessment Data Collection and Reporting

Current scientific literature indicates that it would be most effective to gather the data in the manner described below when conducting project scoping, conducting a habitat assessment site visit and preparing a habitat assessment report:

1. Conduct at least one visit covering the entire potential project/activity area including areas that will be directly or indirectly impacted by the project. Survey adjoining areas within 150 m (Thomsen 1971, Martin 1973), or more where direct or indirect effects could potentially extend offsite. If lawful access cannot be achieved to adjacent areas, surveys can be performed with a spotting scope or other methods.
2. Prior to the site visit, compile relevant biological information for the site and surrounding area to provide a local and regional context.
3. Check all available sources for burrowing owl occurrence information regionally prior to a field inspection. The CNDDB and BIOS (see References cited) may be consulted for known occurrences of burrowing owls. Other sources of information include, but are not limited to, the Proceedings of the California Burrowing Owl Symposium (Barclay et al. 2007), county bird atlas projects, Breeding Bird Survey records, eBIRD (http://ebird.org), Gervais et al. (2008), local reports or experts, museum records, and other site-specific relevant information.
4. Identify vegetation and habitat types potentially supporting burrowing owls in the project area and vicinity.
5. Record and report on the following information:
   a. A full description of the proposed project, including but not limited to, expected work periods, daily work schedules, equipment used, activities performed (such as drilling, construction, excavation, etc.) and whether the expected activities will vary in location or intensity over the project's timeline;
   b. A regional setting map, showing the general project location relative to major roads and other recognizable features;
   c. A detailed map (preferably a USGS topo 7.5' quad base map) of the site and proposed project, including the footprint of proposed land and/or vegetation-altering activities, base map source, identifying topography, landscape features, a north arrow, bar scale, and legend;
   d. A written description of the biological setting, including location (Section, Township, Range, baseline and meridian), acreage, topography, soils, geographic and hydrologic characteristics, land use and management history on and adjoining the site (i.e., whether it is urban, semi-urban or rural; whether there is any evidence of past or current livestock grazing, mowing, disking, or other vegetation management activities);
   e. An analysis of any relevant, historical information concerning burrowing owl use or occupancy (breeding, foraging, over-wintering) on site or in the assessment area;
   f. Vegetation type and structure (using Sawyer et al. 2009), vegetation height, habitat types and features in the surrounding area plus a reasonably sized (as supported with logical justification) assessment area; (Note: use caution in discounting habitat based on grass height as it can be a temporary condition variable by season and conditions (such as current grazing regime) or may be distributed as a mosaic).

g. The presence of burrowing owl individuals or pairs or sign (see Appendix B);
h. The presence of suitable burrows and/or burrow surrogates (>11 cm in diameter (height and width) and >150 cm in depth) (Johnson et al. 2010), regardless of a lack of any burrowing owl sign and/or burrow surrogates; and burrowing owls and/or their sign that have recently or historically (within the last 3 years) been identified on or adjacent to the site.

Appendix D. Breeding and Non-breeding Season Surveys and Reports

Current scientific literature indicates that it is most effective to conduct breeding and non-breeding season surveys and report in the manner that follows:

Breeding Season Surveys

Number of visits and timing. Conduct 4 survey visits: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. Note: many burrowing owl migrants are still present in southwestern California during mid-March, therefore, exercise caution in assuming breeding occupancy early in the breeding season.

Survey method. Rosenberg et al. (2007) confirmed walking line transects were most effective in smaller habitat patches. Conduct surveys in all portions of the project site that were identified in the Habitat Assessment and fit the description of habitat in Appendix A. Conduct surveys by walking straight-line transects spaced 7 m to 20 m apart, adjusting for vegetation height and density (Rosenberg et al. 2007). At the start of each transect and, at least, every 100 m, scan the entire visible project area for burrowing owls using binoculars. During walking surveys, record all potential burrows used by burrowing owls as determined by the presence of one or more burrowing owls, pellets, prey remains, whitewash, or decoration. Some burrowing owls may be detected by their calls, so observers should also listen for burrowing owls while conducting the survey.

Care should be taken to minimize disturbance near occupied burrows during all seasons and not to “flush” burrowing owls especially if predators are present to reduce any potential for needless energy expenditure or burrowing owl mortality. Burrowing owls may flush if approached by pedestrians within 50 m (Conway et al. 2003). If raptors or other predators are present that may suppress burrowing owl activity, return at another time or later date for a follow-up survey.

Check all burrowing owls detected for bands and/or color bands and report band combinations to the Bird Banding Laboratory (BBL). Some site-specific variations to survey methods discussed below may be developed in coordination with species experts and Department staff.

Weather conditions. Poor weather may affect the surveyor’s ability to detect burrowing owls, therefore, avoid conducting surveys when wind speed is >20 km/hr, and there is precipitation or dense fog. Surveys have greater detection probability if conducted when ambient temperatures are >20º C, <12 km/hr winds, and cloud cover is <75% (Conway et al. 2008).

Time of day. Daily timing of surveys varies according to the literature, latitude, and survey method. However, surveys between morning civil twilight and 10:00 AM and two hours before sunset until evening civil twilight provide the highest detection probabilities (Barclay pers. comm. 2012, Conway et al. 2008).

Alternate methods. If the project site is large enough to warrant an alternate method, consult current literature for generally accepted survey methods and consult with the Department on the proposed survey approach.

Additional breeding season site visits. Additional breeding season site visits may be necessary, especially if non-breeding season exclusion methods are contemplated. Detailed information, such as approximate home ranges of each individual or of family units, as well as foraging areas as related to the proposed project, will be important to document for evaluating impacts, planning avoidance measure implementation and for mitigation measure performance monitoring.

Adverse conditions may prevent investigators from determining presence or occupancy. Disease, predation, drought, high rainfall or site disturbance may preclude presence of burrowing owls in any given year. Any such conditions should be identified and discussed in the survey report. Visits to the site in more than one year may increase the likelihood of detection. Also, visits to adjacent known occupied habitat may help determine appropriate survey timing.

Given the high site fidelity shown by burrowing owls (see Appendix A, Importance of burrows), conducting surveys over several years may be necessary when project activities are ongoing, occur annually, or start and stop seasonally. (See Negative surveys).

Non-breeding Season Surveys

If conducting non-breeding season surveys, follow the methods described above for breeding season surveys, but conduct at least four (4) visits, spread evenly, throughout the non-breeding season. Burrowing owl experts and local Department staff are available to assist with interpreting results.

Negative Surveys

Adverse conditions may prevent investigators from documenting presence or occupancy. Disease, predation, drought, high rainfall or site disturbance may preclude presence of burrowing owl in any given year. Discuss such conditions in the Survey Report. Visits to the site in more than one year increase the likelihood of detection and failure to locate burrowing owls during one field season does not constitute evidence that the site is no longer occupied, particularly if adverse conditions influenced the survey results. Visits to other nearby known occupied sites can affirm whether the survey timing is appropriate.

Take Avoidance Surveys

Field experience from 1995 to present supports the conclusion that it would be effective to complete an initial take avoidance survey no less than 14 days prior to initiating ground disturbance activities using the recommended methods described in the Detection Surveys section above. Implementation of avoidance and minimization measures would be triggered by positive owl presence on the site where project activities will occur. The development of avoidance and minimization approaches would be informed by monitoring the burrowing owls.

Burrowing owls may re-colonize a site after only a few days. Time lapses between project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.

Survey Reports

Report on the survey methods used and results including the information described in the Summary Report and include the reports within the CEQA documentation:

1. Date, start and end time of surveys including weather conditions (ambient temperature, wind speed, percent cloud cover, precipitation and visibility);
2. Name(s) of surveyor(s) and qualifications;
3. A discussion of how the timing of the survey affected the comprehensiveness and detection probability;
4. A description of survey methods used including transect spacing, point count dispersal and duration, and any calls used;
5. A description and justification of the area surveyed relative to the project area;
6. A description that includes: number of owls or nesting pairs at each location (by nestlings, juveniles, adults, and those of an unknown age), number of burrows being used by owls, and burrowing owl sign at burrows. Include a description of individual markers, such as bands (numbers and colors), transmitters, or unique natural identifying features. If any owls are banded, request documentation from the BBL and bander to report on the details regarding the known history of the banded burrowing owl(s) (age, sex, origins, whether it was previously relocated) and provide with the report if available;
7. A description of the behavior of burrowing owls during the surveys, including feeding, resting, courtship, alarm, territorial defense, and those indicative of parents or juveniles;
8. A list of possible burrowing owl predators present and documentation of any evidence of predation of owls;
9. A detailed map (1:24,000 or closer to show details) showing locations of all burrowing owls, potential burrows, occupied burrows, areas of concentrated burrows, and burrowing owl sign. Locations documented by use of global positioning system (GPS) coordinates must include the datum in which they were collected. The map should include a title, north arrow, bar scale and legend;
10. Signed field forms, photos, etc., as appendices to the field survey report;
11. Recent color photographs of the proposed project or activity site; and
12. Original CNDDB Field Survey Forms should be sent directly to the Department's CNDDB office, and copies should be included in the environmental document as an appendix. (http://www.dfg.ca.gov/bdb/html/cnddb.html).

Appendix E. Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans

Whereas the Department does not recommend exclusion and burrow closure, current scientific literature and experience from 1995 to present, indicate that the following example components for burrowing owl artificial burrow and exclusion plans, combined with consultation with the Department to further develop these plans, would be effective.

Artificial Burrow Location

If a burrow is confirmed occupied on-site, artificial burrow locations should be appropriately located and their use should be documented taking into consideration:

1. A brief description of the project and project site pre-construction;
2. The mitigation measures that will be implemented;
3. Potential conflicting site uses or encumbrances;
4. A comparison of the occupied burrow site(s) and the artificial burrow site(s) (e.g., vegetation, habitat types, fossorial species use in the area, and other features);
5. Artificial burrow(s) proximity to the project activities, roads and drainages;
6. Artificial burrow(s) proximity to other burrows and entrance exposure;
7. Photographs of the site of the occupied burrow(s) and the artificial burrows;
8. Map of the project area that identifies the burrow(s) to be excluded as well as the proposed sites for the artificial burrows;
9. A brief description of the artificial burrow design;
10. Description of the monitoring that will take place during and after project implementation including information that will be provided in a monitoring report.
11. A description of the frequency and type of burrow maintenance.

Exclusion Plan

An Exclusion Plan addresses the following including but not limited to:

1. Confirm by site surveillance that the burrow(s) is empty of burrowing owls and other species preceding burrow scoping;
2. Type of scope and appropriate timing of scoping to avoid impacts;
3. Occupancy factors to look for and what will guide determination of vacancy and excavation timing (one-way doors should be left in place 48 hours to ensure burrowing owls have left the burrow before excavation, visited twice daily and monitored for evidence that owls are inside and can't escape i.e., look for sign immediately inside the door).
4. How the burrow(s) will be excavated. Excavation using hand tools with refilling to prevent reoccupation is preferable whenever possible (may include using piping to stabilize the burrow to prevent collapsing until the entire burrow has been excavated and it can be determined that no owls reside inside the burrow);
5. Removal of other potential owl burrow surrogates or refugia on site;
6. Photographing the excavation and closure of the burrow to demonstrate success and sufficiency;

7. Monitoring of the site to evaluate success and, if needed, to implement remedial measures to prevent subsequent owl use to avoid take;
8. How the impacted site will continually be made inhospitable to burrowing owls and fossorial mammals (e.g., by allowing vegetation to grow tall, heavy disking, or immediate and continuous grading) until development is complete.

Appendix F. Mitigation Management Plan and Vegetation Management Goals

Mitigation Management Plan

A mitigation site management plan will help ensure the appropriate implementation and maintenance for the mitigation site and persistence of the burrowing owls on the site. For an example to review, refer to Rosenberg et al. (2009). The current scientific literature and field experience from 1995 to present indicate that an effective management plan includes the following:

1. Mitigation objectives;
2. Site selection factors (including a comparison of the attributes of the impacted and conserved lands) and baseline assessment;
3. Enhancement of the conserved lands (enhancement of reproductive capacity, enhancement of breeding areas and dispersal opportunities, and removal or control of population stressors);
4. Site protection method and prohibited uses;
5. Site manager roles and responsibilities;
6. Habitat management goals and objectives:
    a. Vegetation management goals,
        i. Vegetation management tools:
            1. Grazing
            2. Mowing
            3. Burning
            4. Other
    b. Management of ground squirrels and other fossorial mammals,
    c. Semi-annual and annual artificial burrow cleaning and maintenance,
    d. Non-natives control – weeds and wildlife,
    e. Trash removal;
7. Financial assurances:
    a. Property analysis record or other financial analysis to determine long-term management funding,
    b. Funding schedule;
8. Performance standards and success criteria;
9. Monitoring, surveys and adaptive management;
10. Maps;
11. Annual reports.

Vegetation Management Goals

- Manage vegetation height and density (especially in immediate proximity to burrows). Suitable vegetation structure varies across sites and vegetation types, but should generally be at the average effective vegetation height of 4.7 cm (Green and Anthony 1989) and <13 cm average effective vegetation height (MacCracken et al. 1985*a)*.
- Employ experimental prescribed fires (controlled, at a small scale) to manage vegetation structure;

- Vegetation reduction or ground disturbance timing, extent, and configuration should avoid take. While local ordinances may require fire prevention through vegetation management, activities like disking, mowing, and grading during the breeding season can result in take of burrowing owls and collapse of burrows, causing nest destruction. Consult the take avoidance surveys section above for pre-management avoidance survey recommendations;
- Promote natural prey distribution and abundance, especially in proximity to occupied burrows; and
- Promote self-sustaining populations of host burrowers by limiting or prohibiting lethal rodent control measures and by ensuring food availability for host burrowers through vegetation management.

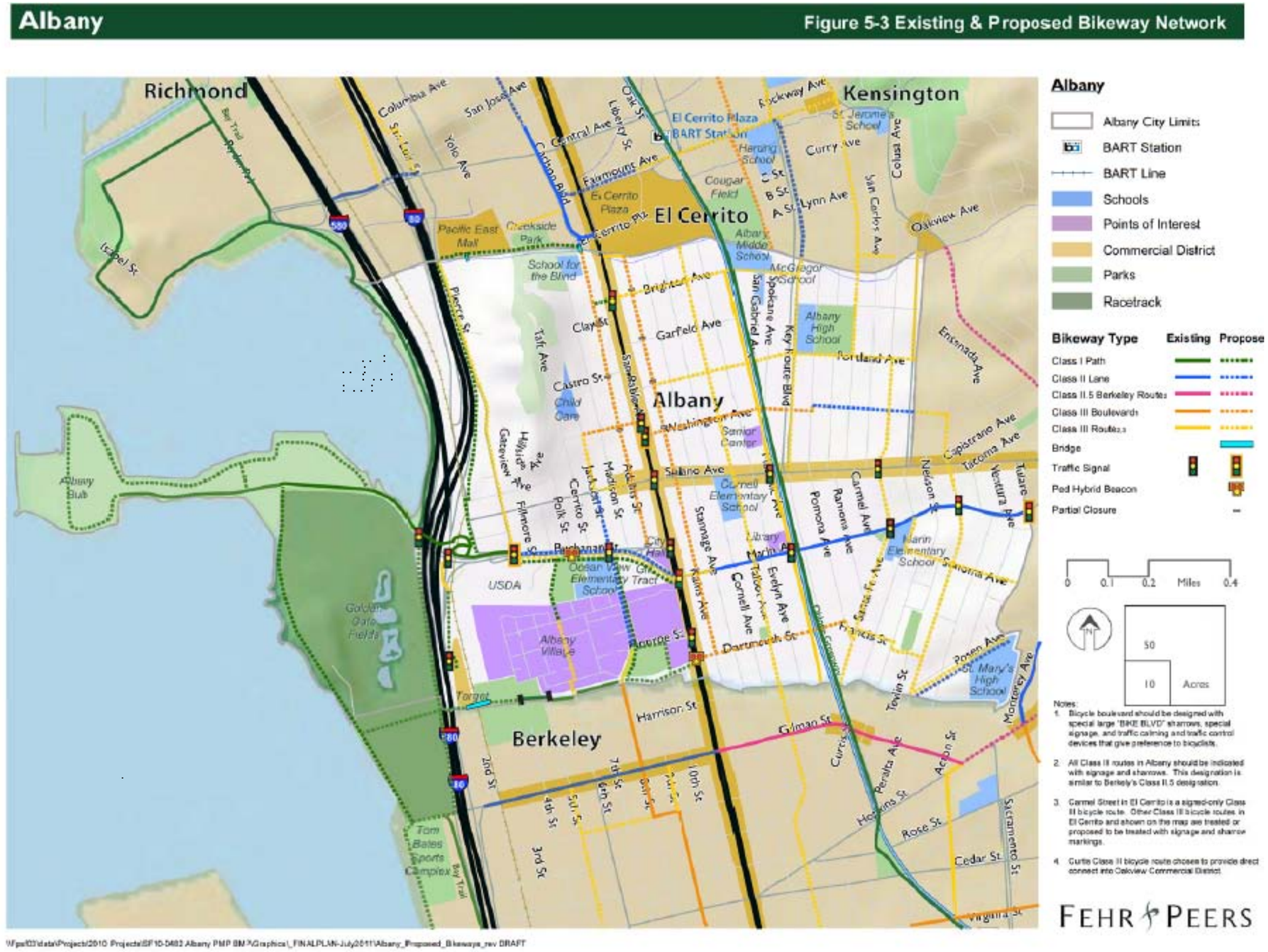
Refer to Rosenberg et al. (2009) for a good discussion of managing grasslands for burrowing owls.

Mitigation Site Success Criteria

In order to evaluate the success of mitigation and management strategies for burrowing owls, monitoring is required that is specific to the burrowing owl management plan. Given limited resources, Barclay et al. (2011) suggests managers focus on accurately estimating annual adult owl populations rather than devoting time to estimating reproduction, which shows high annual variation and is difficult to accurately estimate. Therefore, the key objective will be to determine accurately the number of adult burrowing owls and pairs, and if the numbers are maintained. A frequency of 5-10 years for surveys to estimate population size may suffice if there are no changes in the management of the nesting and foraging habitat of the owls.

Effective monitoring and evaluation of off-site and on-site mitigation management success for burrowing owls includes (Barclay, pers. comm.):

- Site tenacity;
- Number of adult owls present and reproducing;
- Colonization by burrowing owls from elsewhere (by band re-sight);
- Evidence and causes of mortality;
- Changes in distribution; and
- Trends in stressors.



Source: Albany Active Transportation Plan, April 2012, Fehr and Peers

EXHIBIT B

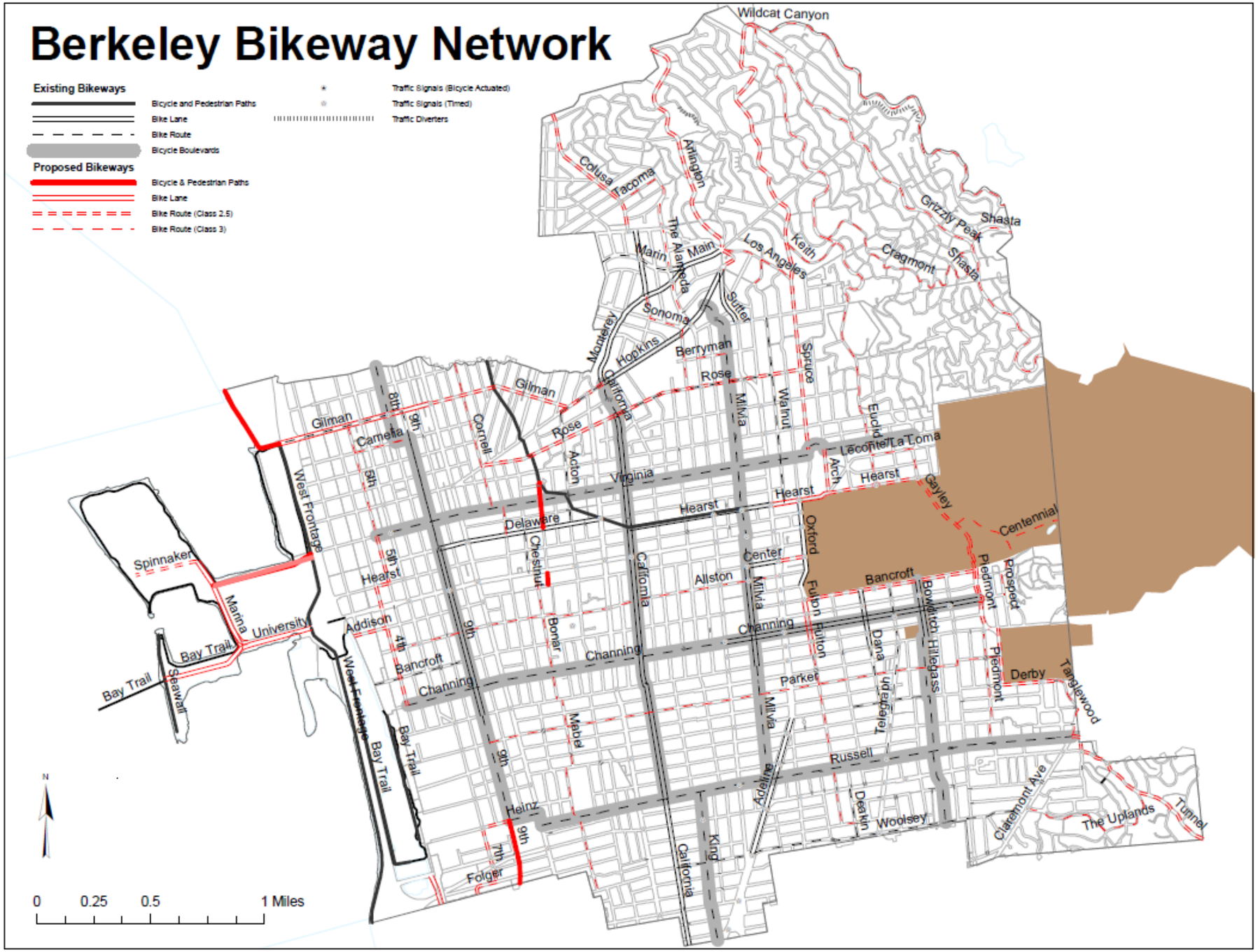
City of Albany Existing and Proposed Bikeway Network

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Healthy Parks
Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org



Source: Berkeley Bicycle Plan Update 2005

EXHIBIT C

City of Berkeley Existing and Proposed Bikeway Network

ALBANY BEACH RESTORATION AND PUBLIC ACCESS

AT EASTSHORE STATE PARK

Healthy Parks
Healthy People

East Bay Regional Park District
P.O. Box 5381, Oakland, CA 94605
www.ebparks.org