

# CANDLESTICK POINT–HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PLAN PROJECT

## Comments & Responses

*Volume IX: Comments & Responses (Letter 87 through Section G)*

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Table VI-15	Comparison of the Significant and Unavoidable Impacts of Variant 3: Candlestick Point Tower to Each of the Alternatives [Revised].....	C&R-2483
Table VI-16	Comparison of the Significant and Unavoidable Impacts of Variant 4: Utilities to Each of the Alternatives [Revised].....	C&R-2485
Table VI-17	Comparison of the Significant and Unavoidable Impacts of Variant 5: 49ers/Raiders Shared Stadium to Each of the Alternatives [Revised] .....	C&R-2487





## ■ Letter 87: San Francisco Bay Trail (1/12/10)

1 of 6



Letter 87

RECEIVED  
JAN 13 2010  
CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
M.E.A.

January 12, 2010

Stanley Muraoka  
San Francisco Redevelopment Authority  
One South Van Ness, Fifth Floor  
San Francisco, CA 94103

Mr. Bill Wycko  
Acting Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2479

**Subject: Candlestick Point—Hunters Point Shipyard Phase II Development  
Plan DEIR**

Dear Mr. Muraoka and Mr. Wycko:

The Bay Trail Project is a nonprofit organization administered by the Association of Bay Area Governments (ABAG) that plans, promotes and advocates for the implementation of a continuous 500-mile bicycling and hiking path around San Francisco Bay. When complete, the trail will pass through 47 cities, all nine Bay Area counties, and cross seven toll bridges. To date, slightly more than half the length of the Bay Trail alignment has been developed.

Within the City and County of San Francisco, 13 of 28 miles of shoreline path are complete, with the majority of this mileage located on the northern waterfront. The current adopted Bay Trail alignment on the southern waterfront is located inland of Hunters Point Shipyard as shoreline access has been historically prohibited. The redevelopment of the Shipyard represents an unparalleled opportunity for the people of San Francisco and the region to regain access to their shoreline via a comprehensive system of parks and open spaces, and a fully connected and continuous Bay Trail.

Our comments on the document will focus on the following sections of the DEIR:

87-1

Administered by the Association of Bay Area Governments  
P.O. Box 2050 • Oakland California 94604 2050  
Joseph P. Bort MetroCenter • 101 Eighth Street • Oakland California 94607 4756  
Phone: 510-464-7935  
Fax: 510-464-7970

2 of 6

- Transportation and Circulation
- Recreation
- Aesthetics
- Project Description

↑  
87-1  
cont'd.

## Transportation and Circulation

### *Bay Trail System Designations*

The Bay Trail consists of "planned" and "adopted" segments, and of "existing" and "proposed" segments. Planned segments have not yet been officially adopted into the Bay Trail system by the organizations' Steering Committee, but are identified on Bay Trail maps and in literature as they are a logical location for a future trail based on known development plans. Hunter's Point Shipyard and various railroad alignments throughout the region are prime examples of segments that are classified as "planned" but not "adopted".

87-2

While the existing vs. proposed designation is self-explanatory, it is important to note that the overarching goal of the Bay Trail project is a Class I, fully separated, multi-use pathway. In certain instances where such a facility is truly infeasible, Class II bike lanes and sidewalks can be considered "complete" Bay Trail if determined appropriate by Bay Trail staff, steering committee, and the local jurisdiction in charge of the project. Page III.D-19 of the DEIR with the heading "San Francisco Bay Trail" properly identifies the Bay Trail as consisting of paved multi-use paths, dirt trails, bike lanes, and sidewalks, but incorrectly states that "...city streets signed as bike routes" are a part of the Bay Trail system. A Class III bike route is never considered "complete" Bay Trail.

On October 12, 2006, the Bay Trail Steering Committee approved staff's recommendation to make minor adjustments to the Bay Trail alignment in southern San Francisco. The reason for the change was to make the Bay Trail's alignment consistent with the City's bike route in this area. From north to south, the current adopted Bay Trail alignment is as follows: Illinois to Third to Phelps to Palou to Keith to Carroll to Fitch (Walker) to Gilman. All of these segments are currently "proposed" as no bike lanes or Class I facilities exist on these streets. The DEIR properly notes that this inland route is currently designated as proposed Bay Trail only because shoreline access through the Shipyard has been infeasible until now. This route will be (happily) removed from the Bay Trail system once a Class I path through the entirety of the site has been constructed.

87-3

### *Streetscape Improvements*

Under the heading "Streetscape Improvements" on pg III.D-45, the document states that Harney Way, Innes, Palou, Gilman, Ingerson and Jamestown Avenues "...would serve as primary routes for pedestrians, bicyclists, transit riders, and drivers", and goes on to say that "Specific streetscape treatments would vary depending on existing right-of-way and traffic demands". If these roadways, carrying significantly increased vehicular loads as a result of the proposed project are to be "primary routes" for bicycles and pedestrians, the streetscape improvements cannot be dependent upon ROW and

87-4

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2

3 of 6

vehicular needs. It is the responsibility of the project proponent to make all of the above-referenced streets safe for bike and pedestrian travel, and this must include Class I or II bike lanes and sidewalks of sufficient width to accommodate and encourage non-motorized trips.

87-4  
cont'd.

*Yosemite Slough and Yosemite Slough Bridge*

The current Bay Trail alignment in this area is along the shoreline adjacent to the Yosemite Slough Restoration Project, and the Bay Trail has funded trail construction by way of a \$172,000 grant to the California State Parks Foundation. The DEIR makes reference to incorporating the Bay Trail into the Yosemite Slough Bridge. It is important to note that this does not reflect our current, planned, or adopted alignment, and as will be discussed further in the Aesthetics section of this letter, the Bay Trail Project has serious reservations regarding the bridging of the Slough. Please remove reference to the Bay Trail as part of the Yosemite Slough Bridge in the Final EIR.

87-5

It is unclear why the Yosemite Slough, which the project proposes to bridge, is not part of the study area. Multiple aspects of the Slough will clearly be impacted by the proposed bridge. Further, the purpose of a DEIR is to examine alternatives. What alternatives to bridging the Slough were analyzed? If no stadium is built, the Yosemite Slough Bridge will presumably serve only Bus Rapid Transit (BRT). Please provide a detailed analysis of subsidy per rider should the Bridge only support this one single user group.

87-6

*Football Stadium*

Table III.D-6 "Projected Football Game Day Trip Generation by Mode" does not list bicycle or pedestrian modes in its projections. With a projected increase of 25,000 residents in the immediate vicinity as a result of the project, and the construction of a world-class multi-use waterfront pathway seamlessly connected to the City's existing and proposed bicycle network, people are sure to arrive by bike and by foot. As referenced elsewhere in the report, bike parking is integral to game days at AT&T Park. Please revise the table in the FEIR to appropriately reflect the number of spectators arriving by bike or by foot via the Bay Trail and other bike/pedestrian facilities, and what tools the project proponent will employ to actively encourage spectators to arrive by non-motorized means.

87-7

As referenced above, a main purpose of CEQA review is the evaluation of alternatives. Please describe in the FEIR how the Bay Trail alignment would change in the absence of the stadium.

87-8

*Bay Trail and Blue Greenway*

Pg. III.D-50 discusses the Bay Trail, the Blue Greenway, and Bicycle Circulation Improvements. It is important to note that the purpose of the Blue Greenway is to link the Bay Trail along the Southeastern waterfront to existing and proposed Water Trail launch sites. The Bay Water Trail is a planned network of launch sites and facilities around the nine-county San Francisco Bay shoreline for human-powered watercraft.

87-9

4 of 6

While SF Bay Water Trail Plan has not been officially adopted and is currently undergoing environmental review, the Final EIR should discuss the draft plan and where proposed water trail sites will be incorporated. Wind Meadow and Northside Park are suggested locations that the FEIR should evaluate.

87-9  
cont'd.

Also in this section (pg. III.D-50) the document states that "Bicycle lanes would be provided along major roadways, consistent with City guidelines..." Please identify in the Final EIR what constitutes a "major roadway" where Class II bicycle lanes will be provided.

#### *Completion of Bay Trail at Yosemite Slough*

The Bay Trail Project is pleased to see that the Candlestick Point-Hunter's Point Shipyard Project proposes to complete the Bay Trail at Yosemite Slough as referenced on pages III.D-50 "Bay Trail, Blue Greenway, and Bicycle Circulation Improvements" and again on page III.D-137 under the heading "Impact TR-42: Stadium 49ers Game State Park Access Impacts". It is also encouraging that while listed under the heading of an impact, the DEIR does not propose completion of the trail at Yosemite Slough as a mitigation, but an integral part of the Project Description thereby assuring ABAG and the public that the Yosemite Slough Bay Trail will be constructed as part of the project irrespective of final plans for the stadium.

87-10

#### **Recreation**

The Recreation section discusses the Bay Trail and shows a detailed map of its location in Figure III.P-2. As referenced above, neither planned, proposed, nor adopted Bay Trail alignments include the Yosemite Slough Bridge and the Bay Trail Project has serious reservations regarding a bridge over the slough. Please remove reference to the Bay Trail as part of the bridge. As referenced above in the Transportation and Circulation Section, completion of the Bay Trail around Yosemite Slough is part of the Candlestick-Hunter's Point Shipyard project. Please note its location around the perimeter of Yosemite Slough on the "Proposed Parks and Open Space" figure as Proposed Bay Trail.

87-11

#### *Land Swap*

Table III.P-2 shows the proposed land swap between California State Parks and the developer, and the proposed swap is also shown in Figure III.P-3. However, the figure indicates that a large amount of City park land is also being removed from the area, but no discussion regarding this loss could be found in the document. In the Final EIR, please provide a detailed discussion of the removal of this public resource.

87-12

#### **Project Description**

##### *Phasing*

Figure II-17 "Proposed Building and Parks Construction Schedule" indicates that a large portion of the HPS development will be complete by 2017, with sizeable tracts facing the

87-13

5 of 6

south basin not scheduled for completion until 2025, and portions of Candlestick State Park not complete until 2029. It is our understanding that the current facilities at Candlestick Point will remain and be accessible to the public in the interim, and that portions marked in brown on this figure will include a complete, open and accessible Class I multi-use Bay Trail. If this is not the case, please clarify in the Final EIR.

The Bay Trail Project fully appreciates the level and amount of remediation work that is required to make this site habitable. However, the timeline for completion of the areas in yellow on Figure II-17 essentially prevent a through connection for the Bay Trail for an additional 8 years after completion of the trail in areas shown in brown. As a continuous alignment is of paramount importance to the Bay Trail, we urge the developer to construct and maintain an interim Bay Trail path along the southwestern edge of the completed sections of the project, facing the south basin. It is understood that fencing would be required to keep the public out of the areas marked in yellow that will be undergoing remediation and shoreline repair work.

The large scale Mission Bay development slightly to the north of the HPS project was pursuing a similar phased development approach to their large-scale construction project several years ago. That project agreed to provide an interim path through a future phase parcel. Today, that path is a critical connection for hundreds of residents and employees on a daily basis. It is not possible to overstate the importance of an interim path to ABAG's San Francisco Bay Trail Project.

#### *Connections to the Bay Trail—North and South*

The Bay Trail in Brisbane, immediately adjacent and south of the proposed project, is located on Sierra Point Parkway. The connection from existing Bay Trail at Candlestick SRA to proposed Bay Trail on Sierra Point Parkway will be made via the new Harney Way Interchange. Current plans shown in the DEIR indicated that a Class I fully separated multi-use path on the south side and a Class II bike lane on the north side will be a part of the newly configured interchange. Regardless of the final configuration, it is of the utmost importance that a seamless, safe, and direct connection between Bay Trail segments in both counties is made through this area.

To the north of the project, there is an adopted, proposed segment of Bay Trail on Hudson Street. While it is our understanding that this segment will be constructed by a separate project, please describe in the FEIR how a seamless connection to this segment of Bay Trail will be made.

#### **Aesthetics**

Page III.E-58 "Aesthetics" under Environmental Setting, Impacts and Mitigation Measures states that "The Yosemite Slough Bridge would change the appearance of a portion of the Slough, with the addition of a bridge structure and roadway approaches....The bridge would replace some views of open water as seen from nearby locations". The paragraph closes with the statement that "Overall, the bridge would not substantially damage a resource that contributes to a scenic public setting."

87-13  
cont'd.

87-14

6 of 6

While Yosemite Slough does not currently consist of a scenic park-like setting, its restoration is currently underway. Once fully restored with a continuous Bay Trail alignment around its perimeter, this portion of the Candlestick Point State Recreation Area will be an important parkland resource for an extremely park-poor community. To determine that placing a bus lane and game-day traffic bridge over the slough, thus blocking views of the Bay from a shoreline park, will have no impact to aesthetics and needs no mitigation is incorrect. Please identify appropriate mitigation for this significant impact to a visual resource in the FEIR.

87-14  
cont'd.

### Conclusion

The Association of Bay Area Governments and the San Francisco Bay Trail Project appreciate the opportunity to comment on this important document. While it may be too early to discuss specific Bay Trail widths within the project area, the developer should bear in mind that the 12-foot path with 2-foot shoulders referenced in the Bay trail guidelines are *minimum* recommended widths, and that the type and intensity of use expected to occur within a development of this size likely calls for much more generous widths.

87-15

As referenced above, it is extremely important to the Bay Trail Project that an interim path around the first phase of development as shown in brown on figure II-17, Section II.F "Development Schedule" be constructed as part of the project. A high-quality shoreline Bay Trail will be completed through nearly 50% of the site by 2017. The Project should connect this important piece of site infrastructure to a temporary path along the perimeter of the completed parcels shown in brown and connecting to bike and pedestrian facilities outside the project area with connections to the Bay Trail around Yosemite Slough. Such progressive construction phasing will demonstrate Lennar's commitment to sustainability, non-motorized transportation, and would give proper recognition of the public's significant underlying interest in this long-shuttered waterfront resource belonging to the people of San Francisco and the region.

The Bay Trail Project intends to remain actively involved in the pursuit of an interim path and welcomes continued collaboration with the City of San Francisco, Lennar Urban and the Bay Conservation and Development Commission in this mission. If you have questions or comments regarding the Bay Trail, please do not hesitate to contact me at (510) 464-7909 or by e-mail at [maureeng@abag.ca.gov](mailto:maureeng@abag.ca.gov).

Sincerely,



Maureen Gaffney  
Bay Trail Planner

## ■ Letter 87: San Francisco Bay Trail (1/12/10)

This letter is identical to Letter 31 (Comments 87-1 through 87-15 are identical to Comments 31-1 through 31-15). Both letters are dated January 12, 2010, and both were jointly submitted to the Agency and the San Francisco Planning Department. Therefore, the responses to this letter are contained in the Responses to Comments 31-1 through 31-15 and are not repeated here.

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## ■ Letter 88: Porter Sumchai, Ahimsa (12/11/09)

1 of 15



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

**Letter 88**

Agency for Toxic Substances  
and Disease Registry  
Atlanta GA 30333

**RECEIVED**

JAN 13 2010

DEC 11 2009

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
M E A

Ahimsa Porter Sumchai, M.D.  
236 West Portal Avenue  
San Francisco, California 94127

Dear Dr. Sumchai:

Thank you for your January 29, 2009, email to the Agency for Toxic Substances and Disease Registry (ATSDR) regarding your concern for the residents and the children attending the schools or daycare centers within one mile of the Hunters Point Shipyard in San Francisco, California. In your email you indicated your concern is due to the level of asbestos that has been detected at a community air monitor adjacent to a residential complex on Donahue Street between December 28 and December 30, 2008. You requested that ATSDR reopen its investigation concerning the potential exposure of the community to naturally occurring asbestos released during the grading and earthmoving activities conducted by Lennar. This letter is sent to describe how your request was reviewed.

As described in our letter dated February 11, 2009, ATSDR conducts public health assessment activities to determine whether people have been, or are currently being exposed to hazardous substances released into the environment from a hazardous waste site. ATSDR then evaluates whether the exposure is harmful, or potentially harmful, and should therefore be stopped or reduced. It is important to note that ATSDR's public health assessment activities are not able to determine the cause of an individual's disease, or identify whether a particular exposure caused a disease. Additionally, ATSDR is a non-regulatory agency and does not conduct investigations of the actions taken by other state, local or federal agencies.

ATSDR worked with the California Department of Public Health (CDPH) and U.S. Environmental Protection Agency (EPA) to review your request and determined that additional ATSDR public health assessment activities would not provide any information beyond that presented in the previous health consultation conducted by our partners in public health at CDPH. The documentation and findings for this health consultation are included in the CDPH September 10, 2007, letter to ATSDR and ATSDR's September 20, 2007, letter to Dr. Bhatia of the San Francisco City and County Department of Public Health. Both of those letters are included with this letter.

Briefly, the 2007 CDPH evaluation identified that some of the reported asbestos concentrations at the monitoring locations were above the regulatory thresholds set by the Bay Area Air Quality Management Board (BAAQMD). While any exposure to the community may be thought to increase the cancer risk for the residents, it is not possible to accurately quantify the risk because the currently available tools and limited data have so many inherent uncertainties. Medical follow-up or screening is not recommended because there are no valid tests to identify past or current exposures or predict whether the exposures would cause future disease. However, ATSDR continues to support the recommendations made by CDPH to reduce dust generation and therefore the potential

88-1

2 of 15

Page 2 – Mr. Sumchai

exposure of the community to dust and asbestos released to the air at the construction site.

As described in the CDPH report, regulatory thresholds were set at asbestos levels that would only marginally increase the risk of cancer if the level was continuous for a 70-year lifetime. Occasional exceedances of the regulatory threshold for asbestos in air would not be expected to measurably increase the predicted lifetime risk of cancer for persons living nearby and breathing that air. Dust in the community may contain asbestos from weathering of rocks containing naturally occurring asbestos, Lennar operations, or other historical grading or earth moving activities conducted in this area. This dust may pose an increased risk to people if their normal activities generate significant quantities of dust into the air that they subsequently breathe. Some simple practices such as wetting an area to reduce dust generation outside and using wet cleaning methods for regular household cleaning inside, can reduce these exposures and associated risks. ATSDR has developed fact sheets giving suggestions for communities in areas of naturally occurring asbestos on how to minimize potential exposures. These fact sheets are also enclosed with this letter. If you desire, we can provide you with additional copies if they would be helpful in your community.

Through this letter we are sharing your continued concerns about the asbestos levels measured at the fence line with our colleagues at EPA, CDPH, BAAQMD, and the City of San Francisco Department of Public Health. ATSDR recommends that you continue to work with BAAQMD to address your concerns about migration of dust and asbestos from the Lennar construction site.

Thank you for forwarding your concerns to ATSDR. If you have any additional questions regarding ATSDR's process to review this petition request or would like additional copies of the enclosed factsheets, please contact CAPT Susan Neurath, ATSDR Petition Coordinator, at (770) 488-3368 or email at [SNeurath@cdc.gov](mailto:SNeurath@cdc.gov).

Sincerely,



William Cibulas Jr., Ph.D.  
CAPT, U.S. Public Health Service  
Director  
Division of Health Assessment and Consultation

Enclosures

cc:

Mr. Mark Ripperda, EPA  
Ms. Dana Barton, EPA  
Ms. Marilyn Underwood, CDPH  
Mr. Richard Lew, BAAQMD  
Ms. Amy Brownell, City of San Francisco Department of Public Health

88-1  
cont'd.

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Agency for Toxic Substances  
and Disease Registry  
Atlanta GA 30333

**FEB 11 2009**

Ahimsa Porter Sumchai, M.D.  
236 West Portal Avenue  
San Francisco, California 94127

Dear Dr. Sumchai:

Thank you for your January 28, 2009, email to the Agency for Toxic Substances and Disease Registry (ATSDR) regarding your concern for the community residents and the children attending one of the schools or daycare centers within one mile of the Hunters Point Shipyard, Parcel A, in San Francisco, California. In your email you indicate your concern is due to the level of asbestos that has been detected at a community air monitor adjacent to a residential complex on Donahue Street between December 28 and December 30, 2008. This letter is sent to confirm our receipt of your petition request and provide information about how your request will be addressed.

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, also known as Superfund), Congress provided ATSDR with the authority to conduct certain public health assessment activities following a request from a community member. The ATSDR Petition Program is designed to identify whether a community member's request is a question that can be evaluated by ATSDR.

ATSDR conducts public health assessment activities such as 'public health assessments' and 'health consultations' to determine whether people have been, or are currently being exposed to hazardous substances released into the environment from a hazardous waste site. ATSDR then evaluates whether the exposure is harmful, or potentially harmful, and should therefore be stopped or reduced. This evaluation is based on the available environmental monitoring data typically gathered by the U.S. Environmental Protection Agency (EPA) or the state environmental regulatory agency. It is important to note that ATSDR's public health assessment activities are not able to determine the cause of an individual's disease or identify whether a particular exposure caused a disease.

We will begin by working with the California Department of Public Health (CDPH), San Francisco Department of Public Health (SFDPH), and other relevant state and federal agencies to gather the most current information related to your specific concern. Once we have gathered the available environmental sampling data we will review it to determine if the data is of sufficient quantity and quality to evaluate whether neighboring residents are exposed to harmful levels of environmental contaminants released at the facility. We will send you a second letter to describe the information we reviewed and to advise you as to whether additional public health assessment activities will be necessary and appropriate to address your concerns.

88-1  
cont'd.

4 of 15

Page 2 – Ahimsa Porter Sumchai, M.D.

Thank you for forwarding your concerns to ATSDR. If you have any additional questions regarding ATSDR's process to review this petition request, please contact CAPT Susan Neurath, ATSDR Petition Coordinator, at (770) 488-3368 or email at [SNeurath@cdc.gov](mailto:SNeurath@cdc.gov).

Sincerely,



William Cibulas Jr., Ph.D.  
CAPT, U.S. Public Health Service  
Director  
Division of Health Assessment and Consultation

88-1  
cont'd.

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Hunters Point Shipyard  
Historical Radiological Assessment

Section 3 – Site Identification and Description

TABLE 3-5 SCHOOLS LOCATED WITHIN A 1-MILE RADIUS OF HPS				
School	Address and Telephone No.	Age Range (Years)	Program Times	No. of Children in Program
Bret Harte Elementary School	14035 Gilman Avenue (415) 330-1520	5 to 10	8:40 – 2:20	350
Bret Harte Pre-K to 5 <sup>th</sup> Grade	950 Hollister Avenue (415) 330-1545	3 to 9	7:00 – 6:00	215
Burnett Nursery & School-Age	1520 Oakdale Avenue (415) 695-5660	3 to 10	3-5 years full day 1-5th Half day	Pre-K: 48 K to 5th: 136
Caheed Infant Daycare	1030 Oakdale Avenue (415) 821-1300	0 to 3	Full day	35 (licensed for 45)
Dr. Charles R. Drew Elementary	59 Pomona Street (415) 330-1526	5 to 10	K; 8:35 – 1:45 1-5; 8:35 – 2:40	260 Pre-K; summer
Frandelja Enrichment Center	950 Gilman Avenue (415) 822-1699	6 weeks to 4 years, 9 months	6:30 – 6:00	70
George Washington Carver Elementary	1360 Oakdale Avenue (415) 330-1540	4 years, 9 months, to 10 years	8:20 – 2:40	320 - 340
Gloria R. Davis Middle School	1195 Hudson Avenue (415) 695-5390	11 to 14	10:00 – 7:00	182
Bayview Beacon (Gloria R. Davis Middle School)	1195 Hudson Avenue (415) 695-5416	6 to 18	7:30 – 4:30 9:00 – 3:00 (summer only)	90
Head Start	125 W. Point Road (415) 824-4686	3 to 5	Full Day	30
Ideal Daycare	1523 La Salle Avenue (415) 821-7269	Newborn to 10	7:00 – 5:30	14
Karen's Family Day Care	1547 Innes Avenue (415) 282-7383	0 to 5	Full day	6
Lucy Harber Academy	1744 Palou Avenue (415) 826-2194	2.5 to 12	7:00 – 6:00	12
Malcolm X Academy	350 Harbor Road (415) 695-5950	5 to 12	7:45 – 6:00	300 – day 120 -after school
Martin Luther King Child Care	200 Cashmere Street (415) 821-7000	2.5 to 8	7 – 5:30	63
Kipp Bayview Academy	1060 Key Avenue (415) 467-2522	9 to 10	7:45 – 5:00	86

88-1  
cont'd.

Muhammad University  
of Islam 195 B Kiskadee Rd

FINAL

Page 1 of 1

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Agency for Toxic Substances  
and Disease Registry  
Atlanta, GA 30333

September 20, 2007

Rajiv Bhatia, M.D., M.P.H.  
Director of Occupational and Environmental Health  
1390 Market Street  
Suite 910  
San Francisco, California 94102

Dear Dr. Bhatia:

On July 17, 2007, you requested that the Agency for Toxic Substances and Disease Registry (ATSDR) respond to concerns related to grading operations at Hunter's Point Shipyard (HPS) Parcel A in San Francisco. As you know, ATSDR funds the California Department of Public Health (CDPH), Site Assessment Section (SAS), to assist us with work within the State of California. The CDPH provided a written evaluation of your request on September 10, 2007. This evaluation is enclosed.

ATSDR concurs with the essential findings, conclusions, and recommendations made by CDPH regarding asbestos and dust levels. There was clear evidence that levels of asbestos exceeded mandated thresholds at both the fence line and in the community. The concentrations of dust could not be interpreted because of the sampling methods. It is reasonable to conclude that levels of dust and asbestos were similar during the months when sampling did not occur. The exposures did result in some increased risk for community residents, although it is not possible to quantify this risk. Medical follow-up or screening is not recommended because there are no valid tests to identify current exposures or predict developing future disease.

Public health follow-up should focus on effective efforts to further reduce exposures and to monitor and verify that these reductions occur. These steps are outlined in the CDPH letter.

You and the Bay Area Air Quality Management District have taken many steps to protect the public from the dust and asbestos generated during work activities at HPS Parcel A. ATSDR and CDPH support your efforts and are committed to helping you address the issues we have raised.

88-1  
cont'd.

7 of 15

Page 2 – Rajiv Bhatia, M.D., M.P.H.

Please feel free to contact CAPT Susan Muza at (415) 947-4316; via email at [Muza.Susan@epamail.epa.gov](mailto:Muza.Susan@epamail.epa.gov) or me at (404) 498-0004; via email at [TSinks@hhs.gov](mailto:TSinks@hhs.gov) if you have comments or concerns.

Sincerely,



Thomas Sinks, Ph.D.  
Deputy Director, National Center for Environmental  
Health/Agency for Toxic Substances and Disease  
Registry

Enclosure:  
Letter from CDPH

cc:  
Dr. Rick Kreutzer, CDPH  
Ms. Karen Henry, USEPA, Region 9  
Mr. Clancy Tenley, USEPA, Region 9  
Dr. Tina Forrester, ATSDR, Division of Regional Operations (DRO)  
CAPT Susan Muza, ATSDR, DRO

88-1  
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**Subject:** FYI : Lennar Found in Violation for the 4th Time!

**From:** Rolandgarret@aol.com

**Date:** Thu, August 23, 2007 4:45 pm

**To:** Aaron.Peskin@sfgov.org ([more](#))

**Priority:** Normal

**Options:** [View Full Header](#) | [View Printable Version](#) | [Download this as a file](#)

According to OOHs science, not OOHs regulations, there are no safe levels of exposure to asbestos.

In April 1980. The National Institute for Occupational Safety and Health (NOSH) -Occupational Safety and Health Administration (OOHS) Asbestos Work Group Wrote a paper titled: WORKPLACE EXPOSURE TO ASBESTOS Review and Recommendations , DHHS (NIOSH) Public:ltion No. 81-103. On page 25 in this report it states:

"Second, all levels of asbestos exposure studied to date have demonstrated asbestos related disease, and a linear relationship appears to best describe the shape of the dose-response curve. These considerations led the committee to conclude that there is no level of exposure below which clinical effects do not occur. Third, the absence of a threshold is further indicated by the dramatic evidence of asbestos-related disease in members of asbestos worker households and in persons living near asbestos-contaminated areas. These household and community contacts involved low level and/or intermittent casual exposure to asbestos. Studies of duration of exposure suggest that even at very short exposure periods (1 day to 3 months) significant disease can occur." <http://www.cd.c.gov/niosh/pdfs/97-162-b.pdf>

Under the Precautionary Principle Ordinance, [www.sfenvironment.com/aboutus/innovative/pp/sfpp.htm](http://www.sfenvironment.com/aboutus/innovative/pp/sfpp.htm), the Board of Health is required to abide by OSHA science -- not the OSHA regulations, which are always a compromise between business and science. The City and Country of San Francisco and the San Francisco Health Department's plan, for asbestos removal at the Lennar construction site, has been in continuous and ongoing violation of this San Francisco law. Lennar Corporation has now been found in violation of even the San Francisco Health Department's non safe-level safety requirements for the fourth time!

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San Francisco City and County  
Newsom, Mayor  
Department of Public Health  
Mitchell H. Katz, ,Director of Health

Gavin

Environmental Health Section  
M.D.,M.P.H.  
1390 Market Street, Suite 210  
Environmental Health  
San Francisco, Ca 94102  
Phone (415) 252-3800  
Fax (415) 252-3875

Rajiv Bhatia,  
Director of

ARTICLE 31  
NOTICE OF VIOLATION  
for August 17, 2007

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cont'd.



9 of 15

August 20, 2007  
Kofi Bonner  
Lennar/BVHP, L.L.C.  
49 Stevenson St., Suite 600  
San Francisco, CA 94105

Dear Mr. Bonner:  
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SFDPH staff conducted the inspection between 2:45 and 4:30 pm on August 17th, 2007 at the Hunters Point Shipyard Parcel A to verify compliance with your approved Article 31 Dust Control Plan. The area of the violation was the soil storage area behind Building 808 and the haul roads going to and from that soil storage area. The inspector observed trucks and other equipment dumping and spreading soil behind Building 808 on the hilltop portion of Parcel A.

The inspector observed two conditions that constitute independent violations of the approved Dust Control Plan: (1) dust crossing the property boundary to Navy property without effective measures of control (Sections 2.1) and (2) visible dust for over 90 minutes without effective measures of control (Section 6.2.2). According to Section 6.2.1., dust crossing the property boundary without immediately implemented effective measure of control constitutes a violation of your Dust Control Plan. The inspector observed visible dust crossing the property boundary between Parcel A and Navy Property and the emissions source (dusty roads and trucks driving on dusty roads).

Section 6.2.2., requires visible dust from soil disturbance or excavation to be effectively controlled within 90 minutes. The inspector observed the site for over 90 minutes. Although limited efforts to control dust, including watering, occurred in the area of the violation, these efforts were not successful in controlling the visible dust within the time required period required by the Plan. According to the Plan, the actions resulting in dust emissions should have been stopped within this time period until effective control practices were implemented.

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88-1  
cont'd.

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Subject: FYI: Lennar Found in Violation for the 4th Time!  
From: Rolandgarret@aol.com  
Date: Thu, August 23, 2007 4:45 pm  
To: Aaron.Peskin@sfgov.org (more)  
Priority: Normal  
Options: View Full Header | View Printable Version | Download this as a file



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ARTICLE 31  
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88-1  
cont'd.



Candlestick Point-Hunters Point Shipyard  
Phase II Development Plan EIR

C&R-1678

SFRA File No. ER06.05.07  
Planning Department Case No. 2007.0946E

**CFC Position Statement on  
Air Quality in Bayview Hunters Point and  
Potential Adverse Health Effects on Residents**

A memo from Dr. Mitchell Katz from the SF Department of Public Health dated Dec. 1 2006 states that *"Article 31 gives SFDPH authority to monitor and manage airborne dust at the Shipyard redevelopment to assure that exposure standards are met and, if problems occur, take corrective actions up to and including ordering all construction activities to cease."* It also states that *"our Department has a longstanding commitment to protecting the health of the Bayview Hunters Point community" and "please let me know if there is anything else I or the Department can do to provide environmental assurance for the Redevelopment Process or to communicate our collective efforts to the residents"*. CFC would like to make a number of comments and suggestions to the DPH and the public regarding this issue.

1. A DPH memo from Amy Brownell dated Nov. 30, 2006 noted that no particulate data was acquired for more than 2 months (May-June 2006) and no asbestos monitoring data was acquired for more than 3 months in 2006. While it is gratifying to note that DPH did issue a notice of violation to Lennar who in turn fired the subcontractor CH2M Hill in charge of performing this monitoring, it is somewhat suspicious that there was not air quality monitoring data for such an extended period of time which somehow happened to coincide with major construction activities in Parcel A which included grinding of a major hillside containing serpentine rock,
2. DPH has not divulged, disclosed, nor adequately explained air quality data to the public. Proper communication should include full disclosure of all asbestos and other air quality monitoring data as well as placing such data in the appropriate context to facilitate understanding of such data by the public. To date, there has not been a single DPH communication to the public that has disclosed asbestos monitoring data (usually done on a daily basis).
3. Dr. Ahimsa – add more recent data documenting repeated violations of asbestos limit as well as numerous data gaps. One could also ask here if DPH is doing their job by simply issuing notices of violation and whether or not their actions should be extended to fining Lennar and shutting down operations until asbestos levels have abated.
4. While DPH has stated that the *"BAAQMD action levels for asbestos are set to trigger corrective action before potentially hazardous conditions develop"* (i.e. enforcing the 16,000 fibers per cubic centimeter limit) and has stated in public on several occasions that asbestos levels in the air are safe, a number of experts in the area of asbestos monitoring and the EPA have noted that there is **no safe level of exposure to asbestos** and any exposure to any level of asbestos can be potentially harmful, especially for children and elderly people [find and cite EPA reference to support this assertion].

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5. DPH as not adequately enforced asbestos dust mitigation plans as required by Cal EPA Air Resources Board regulations ([www.arb.ca.gov/toxics/atcm/asb2atch.htm?PF=Y](http://www.arb.ca.gov/toxics/atcm/asb2atch.htm?PF=Y)). This includes installation of track out measures, enforcement of a maximum 15 mph speed limit, suspending operations when wind speeds are high enough to result in dust emission crossing the property line and covering trucks with tarps.
6. consider adding some info on rock characterization and composition.
7. DPH has neither acquired nor divulged other air quality monitoring data. This should include not only asbestos monitoring data, but particulate matter and toxic metals as well. The serpentine rock formations in Parcel A are known to contain manganese, chromium, lead, and arsenic at concentrations ranging from part-per-million to percent levels. DPH staff should conduct an objective scientifically valid and peer-reviewed study of all of these potentially harmful substances in air samples collected in and around Parcel A to more fully evaluate potential exposure.
8. Given that the 2-3 month gap in asbestos and particulate monitoring data occurred during major construction activities including grinding of a major hillside containing serpentine rock in Parcel A, and that coincided with numerous residents raised concerns and complaints about adverse health effects including trouble breathing, skin rashes, etc., it is not unreasonable to assume that there is a correlation here. Nevertheless DPH has been unwilling to perform any exposure assessments on the residents to date. Despite assertions to the contrary by DPH, such an assessment can and indeed should be done to address community concerns.

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cont'd.

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**Subject:** FYI : Lennar Found in Violation for the 4th Time!

**From:** Rolandgarret@aol.com

**Date:** Thu, August 23, 2007 4:45 pm

**To:** Aaron.Peskin@sfgov.org ([more](#))

**Priority:** Normal

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14 of 15

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Lennar/BVHP, L.L.C.  
49 Stevenson St., Suite 600  
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**To:** Aaron.Peskin@sfgov.org ([more](#))  
**Priority:** Normal  
**Options:** [View Full Header](#) | [View Printable Version](#)

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(415) 252-3800  
(415) 252-3875

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ARTICLE OF VIOLATION  
17 AUGUST 17, 2007

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## ■ Letter 88: Porter Sumchai, Ahimsa (12/11/09)

### ***Response to Comment 88-1***

The comment letters do not directly comment upon the adequacy of the Draft EIR or the information contained therein. No response is required. The information provided will be forwarded to the decision-makers.

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## ■ Letter 89: Da Costa, Francisco (1/12/10)

1 of 4

**Letter 89**

----- Forwarded message -----

From: Francisco Da Costa <fdc1947@gmail.com>

Date: Tue, Jan 12, 2010 at 5:37 PM

Subject: Ohlone Press Release - Ohlone put SF Planning Department on notice.

To: Francisco Da Costa <fdc1947@gmail.com>

Muwekma Ohlone, other Ohlone, Ohlone supporters put SF Planning Department on notice:

<http://www.indybay.org/newsitems/2010/01/12/18635068.php>

Francisco Da Costa

2 of 4

Ohlone supporters hold PRESS RELEASE at SF City Hall and put SF Planning on notice.... Page 1 of 3

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Ohlone supporters hold PRESS RELEASE at SF City Hall and put SF Planning on notice.

by Francisco Da Costa  
Tuesday Jan 12th, 2010 5:18 PM

Ohlone supporters held a Press Release on the steps of San Francisco City Hall and put the SF Planning Department on notice. It is simply wrong to release a 400,400 page document better known as a Draft, Environmental Impact Report (EIR) and not notify the Ohlone the First People of San Francisco - better known as the Muwekma Ohlone. Others on the list that uphold First People cultural resources. This is clearly mentioned in California Senate 18 and basic planning processes.



640\_ohlonepressconf011210...  
original image ( 3264x2448)

Today's Press Release was organized on the steps of City Hall by Jaron Brown who is a lead organizer in the Bayview Hunters Point and works for People Organized to Win Employment Rights (POWER). The podium and sound system was sponsored by Supervisor Chris Daly's office and we thank him for it.

Various Ohlone from all over the Bay Area and beyond were present and so were many Native Americans from Tribes all over this Nation. It was a pleasure to see the Muwekma Ohlone Tribal Chair, Rosemary Cambra present today. Rosemary Cambra made it very clear for all those present that the Muwekma Ohlone had jurisdiction over San Francisco and that she fully cognizant of the Rights of the Muwekma Ohlone over matter of cultural resources and land use.

Today's Press Release was to notify the San Francisco Planning Department that has failed to abide with

89-1

<http://www.indybay.org/newsitems/2010/01/12/18635068.php>

1/13/2010

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Ohlone supporters hold PRESS RELEASE at SF City Hall and put SF Planning on notice.... Page 2 of 3

California Senate Bill 18 and notify not only the Muwekma Ohlone but several other Tribes and entities on the list to be notified by protocol.

Today's Press Release showed a sense of UNITY in this matter - where the City and County of San Francisco thought not to respect the Ohlone and now know that this type of behavior will not be tolerated.

The San Francisco Planning Department has been put on notice and if better sense prevails - the SF City Planning Department will do what is possible to correct this blatant - injustice. Send an apology to the Muwekma Ohlone and to those that are on the list to be notified and were not notified.

The Draft, Environmental Impact Report (EIR) impacts over 1200 acres of land - directly and indirectly. The plan calls to bring in over 30,000 new constituents and has no sound Transportation document. This Draft, EIR has not adequately address Quality of Life issues.

However, what is most lacking and apparent is the lack of respect for the First People and especially the Muwekma Ohlone that has Patrimonial Jurisdiction over all of San Francisco.

We thank the other Ohlone, other Native American Tribes, our ardent supporters for standing with us together - to bring respect and justice to all First People. But, also in this case where some folks think they can get away with murder in broad daylight.

We thank the many speakers who were very articulate. The many First People leaders who took time off to come and speak and do justice to this great cause. The many organizations and their leaders who were present to show solidarity. Leaders from all walks of life and nationalities.

This Draft, EIR some 4,400 pages is rife with mistakes, maps with misinformation, as I mentioned earlier a poor Transportation Document. There are huge areas that are not characterized and the area being a Superfund Site that portion of Hunters Point Shipyard that is nine-five percent landfill must be reviewed in detail.

Of importance is that over six Shellmound - Sacred Burial Grounds are found in the immediate area that the ill conceived Draft, EIR covers.

15 more in the area less than a quarter mile radius - known Shellmounds and all connected. The Draft, EIR makes little of this very sensitive cultural concern - and this time around the SF Planning Department will have to answer the questions that will be posed to the SF Planning Department. For all practical purposes the Draft, EIR is illegal and does more injustice than justice.

The statement made today by the keepers of the Patrimonial Jurisdiction clearly mentioned that the time of silence is over - we can easily muster numbers and put a stop to any illegal project - deemed illegal to those that know better. Enough is enough.

The Ohlone have been here for over 10,000 years and San Francisco Planning Department, the SF Mayor's Office of Economic Development, the SF Redevelopment Agency better pay attention to protocol and more, respect those that this land belongs to. In this case the Muwekma Ohlone.

Here are some photographs:

<http://www.flickr.com/photos/franciscodacosta/sets/72157623074413551/show/>

Francisco Da Costa  
Director  
Environmental Justice Advocacy

\*\*\*\*\*  
\*\*\*\*\*

<http://www.flickr.com/photos/franciscodaco...>

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Ohlone supporters hold PRESS RELEASE at SF City Hall and put SF Planning on notice.... Page 3 of 3

TITLE	AUTHOR	DATE
wait huh?	candace	Wednesday Jan 13th, 2010 3:08 PM

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1/13/2010

## ■ Letter 89: Da Costa, Francisco (1/12/10)

### ***Response to Comment 89-1***

Refer to Master Response 1 (SB 18) for a discussion of consultation with the Native American community under SB 18.

### ***Response to Comment 89-2***

With respect to hazardous conditions at the Project site, including conditions related to the former landfill, Section III.K (Hazards and Hazardous Materials) of the Draft EIR fully analyzes and discloses potential impacts related to hazardous materials resulting from construction and/or operation of the Project. The commenter makes a general statement about mistakes, misinformation, and areas that are not characterized, but does not provide any specific comments; therefore, a specific response cannot be provided.

### ***Response to Comment 89-3***

Draft EIR Section III.J pages III.J-17 through -19 discuss potential prehistoric shellmound sites that could be affected by the Project. Potential effects on such sites and mitigation measures to avoid significant adverse effects are discussed on pages III.J-36 through -42. Refer also to Master Response 1 (SB 18) for a discussion of consultation with the Native American community under SB 18 and to Master Response 2 (Potential Native American Burial Sites).

### ***Response to Comment 89-4***

The comment regarding Ohlone tribe concerns on the Project is not a direct comment on the content or adequacy of the Draft EIR.

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## ■ Letter 90: Hunters Point Shipyard Citizen's Advisory Committee (1/12/10)

1 of 6

**Letter 90**

From: Christine Johnson <chrisdjohn04@gmail.com>  
To: Stanley.Muraoka@sfgov.org, Thor Kaslofski <Thor.Kaslofski@sfgov.org>, "dr. veronica hunnicutt" <vhunnicu@ccsf.edu>  
Date: 01/12/2010 04:25 PM  
Subject: Hunters Point CAC Comments on the EIR

Good afternoon,

Comments to the EIR are attached as a PDF. Please let me know if you need the word version.

Thanks,

Christine Johnson



Hunters Point CAC CAC\_EIR\_Review\_Jan\_2010\_Final.pdf

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From: Christine Johnson <chrisdjohn04@gmail.com>  
To: Stanley.Muraoka@sfgov.org, Thor Kaslofski <Thor.Kaslofsky@sfgov.org>, "dr. veronica hunnicutt" <vhunnicu@ccsf.edu>  
Date: 01/12/2010 04:29 PM  
Subject: Re: Hunters Point CAC Comments on the EIR

Actually. Here is the word version. I know you will need it.

On Tue, Jan 12, 2010 at 4:25 PM, Christine Johnson <chrisdjohn04@gmail.com> wrote:

Good afternoon,

Comments to the EIR are attached as a PDF. Please let me know if you need the word version.

Thanks,

Christine Johnson  
Hunters Point CAC



CAC\_EIR\_Review\_Jan\_2010\_Final.doc

3 of 6

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MEMORANDUM

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**TO:** STANLEY MURAOKA, SAN FRANCISCO REDEVELOPMENT AGENCY  
**FROM:** CHRISTINE JOHNSON, HUNTERS POINT CITIZENS ADVISORY COMMITTEE  
**SUBJECT:** QUESTIONS AND COMMENTS REGARDING PHASE II ENVIRONMENTAL IMPACT REVIEW  
**DATE:** JANUARY 12, 2010  
**CC:** BILL WYCKO, SAN FRANCISCO PLANNING DEPARTMENT  
**CC:** THOR KASLOFSKY, SAN FRANCISCO REDEVELOPMENT AGENCY

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Below is a list of comments and questions regarding the Joint Project Phase II Environmental Impact Review. These comments/questions were gathered from myself, other members of the CAC, and public who attended a workshop on the EIR held by the CAC on December 22, 2009. Minutes and audio transcripts from that meeting are available from the CAC Site Office. This document is not all inclusive and many CAC members may also submit individual comments and questions.

Thank You,

Christine Johnson  
Secretary, Hunters Point Citizens Advisory Committee

QUESTIONS/COMMENTS ON THE PHASE II EIR

A. Comment on the overall structure of the document and implementation of alternatives

- a. The EIR has been presented as a document that is meant to address all reasonable and foreseeable environmental impacts of the proposed Project and its variants/alternatives. Such a thorough review is meant to mitigate costly and timely delays of future environmental reviews in case of a change in the proposed Project. In addition, having a thorough analysis of the environmental impact of the alternatives to the proposed Project allows all stakeholders to make an informed decision about implementing an alternative should the opportunity arise. However, the way that the document is presented actually makes it harder for the lay reader to make an apples-to-apples comparison of the various project alternatives/variants. By grouping together the impacts of all the aspects of the proposed project followed by the impacts of all aspects of the alternatives, and so on, it is hard to make a side-by-side comparison between, say, the impacts of the proposed transportation plan in the proposed Project and the Project Alternative #2 with no Yosemite Slough Bridge.
- b. Also, although it has been stated, the document structure does not help the reader easily imagine how various aspects of project variants and alternatives could be integrated into the Proposed Project. As an example, under what circumstances would the Utilities Variant be integrated? Could some aspects of the variant be integrated but not others (say moving/upgrading the wastewater treatment plant)? The document does not lend itself to easily answering that question. This is particularly important in the event that the plan for a new stadium does not come to fruition and an alternative plan for the space must be implemented.
- c. Could the document preparers comment on the structure of the document and also discuss under what circumstances various aspects of the project alternatives might be integrated into the proposed project.

90-1

4 of 6

**B. Population and Employment**

- a. There is no mention of the potential for direct and indirect Residential Displacement due to differences in the employment sectors offered within the Project Area. Employment is frequently mentioned in terms of jobs but there is no breakdown of the types of employment that will be provided, especially the education/skill level that will be needed. The decidedly economic impact of the education/skill level of the employment being offered becomes an environmental one as the jobs one can get determine where one can afford to live. It is here that the structure of the document becomes a problem. It is hard to determine what the different levels of employment will be across the Proposed Project and its alternatives/variants since the employment section is spread across the document and grouped by Project. Can the document preparers comment on the potential of the employment mix to affect residential displacement? Should employment mix be considered an impact in the document?

90-2

**C. Transportation Questions**

- a. There has been some concern from CAC members about the projected service delivery of transit and the projected use of transit strategies, particularly during the build-out phase of the redevelopment (next 29 years). The EIR does not present any sort of information about the phasing of the transportation plan. What will transit delivery and the transportation mode split look like in 5 years? 10 years?
- b. Impact TR-26 of Section III.D defines Significant and Unavoidable impacts to T-Third transit operations due to traffic congestion in the Project area. However, elsewhere in the document (pg III.D-99) in the Transit Operating Plan, there is mention of extending T-Third service from one car to two car service. It seems that improving service of the T-Third is integral to maintaining the desired mode split and optimal traffic levels. It also seems that perhaps the answer is not extension of the trains but more frequent service. Have the Project Planners considered this?
- c. For transit operation impacts, a repeated mitigation method is to purchase additional transit vehicles as needed to meet demand with financing from Project revenues to the City and "other funding sources". Has this potential cost been forecasted? Is it feasible to assume this could be a mitigation method for multiple transit lines in the Project area within the same period of time?
- d. Employee TDM programs and Employer strategies (Compressed workweeks, etc) are mentioned as support strategies to help achieve the optimal traffic demand/ mode split (III.D-54/55). Have the projected use of these strategies been quantified in any way that would allow planners to measure the potential impact on transit service delivery/traffic congestion/ transit mode split? In other words, is there now a way to determine the difference in transportation and circulation with and without the use of the listed support strategies?
- i. The same question applies to the use of Carpool/Vanpools and Carshare Services. These are related since they are also transportation support strategies that are not 100% under the control of developer or the City.
- e. For most of impacts listed in Section III.D (Transportation Circulation), there are lots of listed impacts in which the Level of Significance After Mitigation will become SU. (Significant and Unavoidable Impact). If these impacts are expected to exceed the defined significance criteria and cannot be eliminated, can those impacts could at least be reduced through operations or implementations. For instance, TR-5 could be addressed by re-signaling at certain intersections in which the Level of Service could be at least maintained. For TR-12, will potential widening of the on-ramp locations help alleviate the impact?
- f. In Alternative 3 [Reduced CP-HPS Phase II Development; San Francisco 49ers Stay at Existing Candlestick Park Stadium; Limited State Parks Agreement; Yosemite Slough Bridge Serving Only

90-3

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Transit, Bicycles, and Pedestrians] how will BRT bus breakdowns on the bridge be handled without causing interruptions to service given no other traffic lanes?

- g. Is it possible to provide BRT service across the Yosemite Slough Bridge in a single-lane alternative-headway configuration if there are also auto traffic lanes?
- h. The transportation element does not include a local jitney-type service as an interim [and perhaps even permanent] local transit connection service other than aforementioned mention of carshare/vanshare services. Does this preclude such a service from being developed — both as a local business opportunity and as an early-adopter amenity?
- i. Won't the very low level of service projected for the Evans/3rd Street intersection and 3rd Street in general negatively impact the marketing potential of the Hunters Point Shipyard R&D areas without auto access via the Yosemite Slough bridge?
- j. Since the South Bay and West Shore communities are served by a number of event venues, why is the traffic generation assumed to be the same for other events as for football games, which draw substantially from the South Bay?
- k. Is Bay barging considered for transporting excavation, landfill, and other materials, and if not why not?
- l. How will the parking demand be changed (not just level of demand but location) by the circulation strategies for the Proposed Project. For example, which arteries will see increased/decreased parking demand? This will affect the availability of parking for existing residents.
- m. What mitigation methods are being implemented to improve quality of life for residents along Innes Avenue, which is envisioned to be a major artery in the Proposed Project circulation strategy.
- n. For NO-6 at page ES-42, if the Level of Significance After Mitigation will become SU, are other less tangible strategies such as using landscape features as buffer for screening noise, limiting heavy commercial vehicles/traffic through certain residential areas etc.

90-3  
cont'd.

**D. Effects of Light and Glare**

- a. In Section III.E there is no mention of the lighting/glare effects for the overall skyline when both the proposed stadium and the current baseball stadium (Pac Bell Park) are simultaneously in use. Has this been investigated?

90-4

**E. Shadow Guidelines**

- a. For Section III. F (Shadows), there should be more assertive or aggressive design guidelines to be implemented so that the quality of any public open spaces/parks will be maintained. For instance, no public open spaces/parks should be located north of any man-made structure in order to optimize the usage of direct light. The notion behind the design of any open spaces/parks should be consistent to the fundamental of the sustainable design principles in terms of (at least) orientation. At a larger scale, the selection/design of the open spaces/parks should be carefully executed to promote pedestrian orientated activities with acceptable human comfort level (wind, shadow, wayfinding, etc)

90-5

**F. Wind Effects**

- a. How appropriate is it to use wind data from SFO for modeling wind patterns in southeast San Francisco?

90-6

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**G. Biological Resources**

- a. In section III.N-60, the mitigation bank is mentioned as a backstop for the loss of wetlands and jurisdictional waters. How does this bank work and what mandates where/when mitigation credits are used?

90-7

**H. Recreation**

- a. Why is no mention made of the Arts District in the plan for Hunters Point Shipyard Phase II? Will its absence from the EIR keep it out of the DDA?
- b. Why is Natural Edge/Riprap a proposed treatment for the Grasslands Ecology Park? A natural edge is not riprap and vice-versa.

90-8

**I. Utilities**

- a. There is no mention in any of the alternatives of residential use of gray/recycled water, something frequently mentioned in context with the Sustainability Plan. Does the exclusion of this from the EIR prevent its inclusion in the development?

90-9

**J. Variants**

- a. For the R+ D Variant, please discuss the phasing of transit service delivery. How does it differ from phasing for the proposed project?

90-10

**K. Land Use Question (not related to a specific section)**

- a. Approximately 100,000 gsf of real estate has been set aside for community serving uses. The land uses have not been fully fleshed out but the potential uses envisioned include police/fire stations, schools and other social service agencies. Is there anything in the EIR that would preclude community serving land being used for urban agriculture? Perhaps there could be an opportunity to provide local farming opportunities on the site.
- b. Related. Are there any land uses that are specifically excluded due to EIR language? For example, could the project include a power plant or hospital? What are the limits?

90-11

## ■ Letter 90: Hunters Point Shipyard Citizen's Advisory Committee (1/12/10)

### **Response to Comment 90-1**

Chapter VI (Alternatives) provides several tables that make these comparisons. Table VI-12 (Comparison of the Significant and Unavoidable Impacts of the Project to Each of the Alternatives), pages VI-173 through VI-179, identifies the significant and unavoidable impacts of the Project and identifies whether any of the alternatives lessens or avoids those impacts. The table identifies whether the alternatives result in the same ( $=$ ), lesser ( $<$ ), or greater ( $>$ ) impacts as compared to the Project. The table also provides the level of significance for the Project and the Alternatives after the implementation of all feasible mitigation measures. In addition, because this EIR includes variants to the Project, any one of which could be approved instead of or in combination with the Project, Table VI-13 (Comparison of the Significant and Unavoidable Impacts of the R&D Variant (Variant 1) to Each of the Alternatives) through Table VI-17 (Comparison of the Significant and Unavoidable Impacts of the 49ers/Shared Stadium Variant (Variant 5) identify the significant and unavoidable impacts of the variants and identify whether any of the alternatives lessens or avoids those impacts. The tables identify whether the alternatives result in the same ( $=$ ), lesser ( $<$ ), or greater ( $>$ ) impacts as compared to the variants. The table also provides the level of significance for the Project and the variants after the implementation of all feasible mitigation measures. Due to the number of Project impacts that are presented across the Project, the variants, and alternatives, the tables are the most concise way to present this information. These summary tables provide a meaningful way to compare the most important environmental impacts (i.e., those that cannot be addressed by mitigation measures) across the Project, variants, and alternatives.

For the commenter's example, comparing the Project, with 52 significant and unavoidable transportation impacts, with Alternative 2, which does not contain a bridge and also results in 52 significant and unavoidable transportation impacts, a broad brush comparison can be done that each option results in a similar number, if not magnitude, of transportation impacts. While some transportation impacts may be reduced by eliminating a bridge, other impacts would occur without a bridge.

### **Response to Comment 90-2**

The potential for direct and indirect residential displacement due to differences in the employment sectors offered within the Project Area is not an environmental impact under CEQA. Residential displacement in the CEQA context means that residents are physically removed from their current residence to allow for development or the development indirectly causes displacement that otherwise would not have occurred. Pages III.C-21 and III.C-22 of the Draft EIR disclose that no residents would be displaced as the residents of Alice Griffith would reside in reconstructed units, and there are no housing units on HPS Phase II. The Project would result in an in-migration of residents, not an out-migration.

The breadth of jobs offered by the Project is not expected to cause existing residents to move from the Bayview; it is expected that existing residents would continue to live in the Bayview; they will either continue working at their present job, wherever that may be, or they could potentially accept a job offered by implementation of the Project. As reflected in the EIR, the existing employment for the

Project site is 529 jobs, whereas once the Project is implemented, it is expected that there would be 10,730 jobs. The Project would result in a substantial increase in employment opportunities at the Project site. Refer to Response to Comment 64-1.

### **Response to Comment 90-3**

Responses to the commenter's transportation questions are provided in the same order as presented in the comment.

**A. Projected Service Delivery of Transit.** Phasing of transit improvements is shown in Table 2 on page 31 of the Project Transportation Study, included as Appendix D of the Draft EIR. A more detailed roadway and transit service timing and phasing plan would be provided as part of the Project's Infrastructure Plan, which would be included in the Project's DDA. The Project would be implemented in four overlapping phases, with transportation infrastructure improvements (both transit and roadway) linked to the development phases. The majority of development and infrastructure improvements would be completed by the end of the second phase, which has a scheduled completion date of 2023.

**B. T-Third Operations.** SFMTA plans for service improvements on the T-Third, which are assumed in the Draft EIR, include expected frequency increases from the existing 8-minute peak hour frequencies to 6-minute frequencies. This improvement is primarily associated with the planned Central Subway Project, and not as a result of the Project.

Impacts TR-21 through TR-27 identify significant impacts to transit routes serving the study area that may experience increased delays due to Project-related traffic generation increases. With the exception of Impact TR-25, mitigation measures have been identified that would improve transit travel times and reduce the magnitude of Project-related impacts, although not to less than significant levels in all cases. Refer to Master Response 8 (Transit Mitigation Measures) for greater detail and supporting graphics to illustrate the specific proposals for mitigation measures intended to reduce transit delays. Because this conclusion is based on a series of assumptions regarding Project and regional traffic increases, as the Project builds out, the Project Applicant is required to conduct a feasibility study of these measures in coordination with SFMTA and other relevant City agencies to determine whether the physical improvements are, in fact, necessary, and whether they are feasible and ultimately desirable to the City. If physical improvements are warranted and feasible, they would be implemented and the purchase of new transit vehicles may not be necessary. However, based on conditions at the time, if they would not reduce Project impacts to transit travel times to less than significant levels, the Project Applicant may be required to purchase new vehicles to allow Muni to maintain proposed headways (albeit at lower travel speeds due to congestion).

**C. Mitigation Measures Requiring Additional Transit Vehicles.** The costs for the additional vehicles required as part of mitigation measures have been estimated. The Project is estimated to generate enough funds through the combination of General Fund revenues (e.g., on-street parking revenues, parking sales tax, and highway user taxes) to pay for capital and operating costs to both implement the phased improvement program, and to cover the cost of the additional vehicles needed to maintain proposed headways. The purchase of new vehicles, if required, and the associated timing would be coordinated with SFMTA.



**D. Proposed TDM Measures.** Although the proposed TDM measures and carpool/vanpool/carshare services provide an important toolbox of measures that encourage walking, bicycling, and transit use, the analysis does not make specific adjustments in the travel demand forecasts based on individual measures. The travel demand analysis is based on a combination of local, regional, and national travel behavior studies and adjustments are based only on those elements where statistically significant relationships have been identified. To date, the body of research on the effectiveness of TDM measures, including promotion of carpooling, vanpooling, and carshare services, has not identified adequately valid and statistically significant relationships between those elements and travel behavior, including their effects on mode choice. Therefore, the analysis is relatively conservative in that it does not account for the enhanced level of TDM measures proposed by the Project relative to other developments in San Francisco, the Bay Area, and nationally.

**E. Operational Improvements.** The comment suggests that operational improvements, such as signal timing adjustments, could at least reduce the magnitude of Project impacts at study intersections. Although the analysis assumes some minor improvements to traffic signal timings, it conservatively does not assume major changes in signal operations. SFMTA regularly monitors and adjusts traffic signal timings as conditions warrant. It is reasonable to assume that by year 2030, particularly with the high level of development anticipated in the southeastern portion of San Francisco, traffic signal timings will continue to be monitored and adjusted as suggested by the commenter, and traffic levels of service may be somewhat better than reported in the Draft EIR. However, this would not be required as part of mitigation since SFMTA already performs this function and will continue to do so in the future.

The comment also suggests that widening the on-ramps listed in Impact TR-12 may alleviate the impacts related to freeway merge sections. On-ramp widening was determined to be infeasible because doing so would exacerbate cumulative impacts to freeway mainline operations, and freeway widening was not considered feasible. Impacts to on-ramp merge sections as identified in Impact TR-12 would remain significant and unavoidable.

**F. Alternative 3 (Reduced CP-HPS Phase II Development; San Francisco 49ers Stay at Existing Stadium; Limited State Parks Agreement; Yosemite Slough Bridge Serving Only Transit, Bicycles, and Pedestrians).** The commenter questions how BRT bus breakdowns on the bridge would be handled without causing interruptions to service if there is only one lane per direction on the bridge. In this Alternative, similar to the Project, the Yosemite Slough bridge would contain two BRT lanes, one in each direction. In the rare circumstance that a vehicle breaks down on the bridge, BRT vehicles would be able to maneuver into the opposing lane and pass the disabled vehicle.

**G. Alternative Yosemite Slough Bridge with a Single Travel Lane.** The bridge is proposed to provide two BRT lanes, one in each direction, whether there is a new NFL stadium (and the associated 40-foot promenade/game day-only traffic lanes) or not. Given the proposed peak period frequencies of five-minutes, and the expected travel time across the bridge (between Carroll Avenue and Shafter Avenue) of over two minutes, providing only a single lane would very likely result in delays to the BRT service since vehicles in one direction would frequently arrive during the period when vehicles were traveling across the bridge in the opposing direction.

**H. Jitney Service.** Local jitney service is not included as part of the Project or its Transportation Plan. However, this type of service would not be precluded by the Project. Jitneys are regulated through the Police Code (Section 1150 – Jitney Permits), and a new jitney route would need to be applied for through the Police Department Permit Bureau and approved by the Police Commission and Board of Supervisors.

**I. Marketing Potential of HPS R&D Without Yosemite Slough Bridge and Poor Operating Conditions on Third Street.** Refer to Response to Comment 17-1, which describes that the Project's Infrastructure Plan will require that the bridge be closed to autos except on football game days, and that the Infrastructure Plan could only be amended by the Board of Supervisors. The issue of the effect of poor intersection level of service on the marketing potential of R&D uses in Hunters Point Shipyard is not an environment issue requiring CEQA analysis.

**J. Geographic Distribution of Secondary Event Patrons.** As noted in the Draft EIR, trip generation and geographical distribution of trips associated with secondary events at the new stadium would vary depending on the type of event. The analysis assumes similar distribution of trips for secondary events as was identified for NFL games at the proposed stadium because it represents a common distribution pattern for a regionally significant event held in this part of San Francisco.

**K. Use of Barges during Construction Activities.** As indicated on page III.D-68 of the Draft EIR, approximately 40 percent of the required import fill materials for the Project would be brought into the Project site via barge.

**L. Project Parking Demand.** Impact TR-35 describes the parking impacts associated with the Project. As shown in Table III.D-21, the Project would result in a shortfall of at least 2,316 spaces. As a result, it is possible that some drivers may seek parking in adjacent Bayview residential and industrial areas to the west. However, as noted in the Draft EIR, if parking is found to exceed supply in the existing Bayview residential area, the City's residential parking permit program could be introduced to the area to help ensure availability of parking for local residents. The extent of spillover into the nearby industrial and residential neighborhoods to the west would be limited by the existing topography (e.g., steep grades due to the Bayview Hill), the distance between the Project site and available parking supply, and concerns related to safety in the industrial area.

In San Francisco, parking supply is not considered a permanent physical condition, and changes in the parking supply would not be a significant environmental impact under CEQA, but rather a social effect. Since the City does not consider parking shortfalls to be a significant impact, no mitigation is required.

**M. Innes Avenue.** Intersections along Innes Avenue were projected to operate within acceptable standards and no specific traffic-related mitigation measures were required for locations on Innes Avenue. The Draft EIR does include mitigation measure MM TR-2, which would require the Project to implement a robust Transportation Demand Management plan to reduce overall auto traffic generation of the Project and minimize the Project's contribution to cumulative significant impacts.

Mitigation measure MM TR-17 would require implementation of the Project's transit operating plan, which would benefit residents of Innes Avenue in two ways. First, this robust transit operating plan would reduce the amount of Project-generated auto traffic that would otherwise be generated. In fact,

the analysis forecasts that approximately 20 percent of all person-trips would be made via transit. Without the transit operating plan, these trips would likely occur via autos, many of which would travel on Innes Avenue. The second benefit of this increased transit is that residents along Innes Avenue would, themselves, get better access to transit, including frequent service on the 44-O'Shaughnessy, 48-Quintara-24<sup>th</sup> Street, and the new HPX, which would include stops along Innes Avenue before traveling non-stop to Downtown San Francisco.

Finally, although not part of any mitigation measure, the Project would also make improvements to Innes Avenue, including new and improved sidewalks, new Class II bicycle lanes, and better transit service, including express bus service to Downtown San Francisco via the HPX.

**N. Noise Impacts.** Landscaping would be provided along the improved roadways; however, Caltrans research has shown that ordinary landscaping along a highway accounts for less than 1 dBA reduction (Hendriks, 1998). In order to provide effective noise reduction, vegetation would have to have a height that extends at least 16 ft above the line of sight between source and receiver, must be at least 100 ft wide and dense enough to completely obstruct a visual path to the source to attenuate traffic noise by 5 dBA. Limiting heavy commercial vehicles through residential neighborhoods would also serve to reduce isolated increases of noise caused by the noisier engines and heavier chassis; however, the total increase in passenger vehicle trips would be the main source of increased ambient roadway noise, as on average, commercial vehicles account for less than 10 percent of vehicle trips that would occur in the Project vicinity.

#### **Response to Comment 90-4**

As described on page III.E-81, third paragraph, of the Draft EIR, the geographic context for cumulative light and glare impacts is "...the area covered by the BVHP Redevelopment Plan, the HPS Redevelopment Plan, and the BVHP Area Plan (of the City's General Plan), as development in these Plan areas could affect the same scenic vistas analyzed for the Project..." Giant Stadium is located approximately 6 miles north of the Project site, and would not contribute to cumulative impacts.

#### **Response to Comment 90-5**

The comment contains opinions regarding design guidelines for the Project to maintain quality of open space, including a suggestion that all open space be south of man-made structures, to reduce shadow impacts on the open space. The comment is not a direct comment on the content or adequacy of the Draft EIR.

Because the sun crosses the southern part of the sky in midday periods, open space with no or relatively shorter buildings to the south would experience reduced shading, compared to open space with taller buildings to the south. Section III.F (Shadows) describes Project shading effects on existing and proposed open space at Candlestick Point and Hunters Point Shipyard Phase II. As shown in Figure III.F-1 (Existing and Proposed Parks and Open Space), open space would be arrayed in a range of locations and overall size, such as new parks within Candlestick Point arrayed within the street grid, and new waterfront open space at HPS Phase II. The open space would be integrated within the overall urban design plan and structures would not, and could not, all be north of open space. However, the range of shadows described in Section III.F would not create significant adverse effects on the use of

open space. The design guideline suggested in the comment to place all new structures north of open space would not be necessary or feasible, and would conflict with other Project goals of integrating open space within the new development at Candlestick Point and HPS Phase II.

Draft EIR Chapter II (Project Description), Section II.E.2 (Parks and Open Space Plan), pages II-24 through II-34, describes the range of parks or open space to be developed, how the open space would be distributed throughout Candlestick Point and HPS Phase II and features, and facilities contemplated at each park that would be intended to enhance public open space and recreational uses. The parks, as noted on Draft EIR pages II-28 to II-29 would be distributed throughout the site:

Overall, the Project would provide a substantial increase in the amount of developed, useable, high-quality parks, recreational facilities, and open space within the Project site. The Project would create a continuous network of interconnected recreational opportunities, promoting the use of the existing parks, such as the CPSRA, as well as the 239.7 acres of new parks, sports fields, and active urban recreation uses. The Project would provide a network of pedestrian and bike pathways that would connect Project uses to the adjacent neighborhoods and would ensure unrestricted public access to the parks and open space on the Project site and the Bay shoreline. Enhanced connectivity of on-site and off-site facilities and new neighborhood parks would allow integration of new and existing facilities into the citywide park network. The proposed bicycle and pedestrian pathways would facilitate dispersal of future demand, which would help to reduce the potential for localized physical deterioration. The improved connectivity would also direct regional users to proposed “destination” parks, parks designed to accommodate regional demand. In addition, the Project would provide a continuous series of waterfront parks from the northernmost part of HPS Phase II to the southernmost part of Candlestick Point.

#### **Response to Comment 90-6**

Draft EIR Section III.G, Wind, pages III.G-1 to III.G-2 includes setting information on existing wind conditions in the Project site and vicinity. The text notes that long-term wind data are available from records from above the old Federal building in San Francisco’s Civic Center, San Francisco International Airport (SFO), and from HPS. Draft EIR page III.G-2 notes that SFO wind data establishes directional patterns but that the “dominant wind direction is known to shift with locations around the Bay, including the Project site.” The Draft EIR wind analysis is thus based on relevant wind data from local and regional sources, and takes into account Project-specific conditions, such as topography. The analysis does not rely only on SFO wind data. Further, as described in revised mitigation measure MM W-1a, the Redevelopment Agency would conduct wind review of high-rise structures above 100 feet.

#### **Response to Comment 90-7**

The commenter asks how a mitigation bank might be used to provide mitigation for Project impacts and what mandates where and when mitigation credits are used. One option for mitigating impacts to jurisdictional habitats on this Project would be the purchase of credits in a bank that has already created or restored habitat of a type that would be impacted by the Project, and that can sell credits to entities requiring mitigation. Regulatory agencies such as the USACE and RWQCB have to approve such banks, and as part of the approval process, these agencies specify the service area for the bank (i.e., the geographic area in which projects can use credits from the bank). If the purchase of credits in a mitigation bank were used to compensate for Project impacts to wetlands, for example, the applicant would purchase the sufficient credits from the bank to satisfy the mitigation acreage requirement

specified by MM BI-4a.1, and the bank would use those funds for the management and monitoring of wetlands that it has already created.

### **Response to Comment 90-8**

The Arts District is mentioned in the Draft EIR on pages II-14, II-18, and II-19 in Chapter II (Project Description). Further, provisions for the artists' space are included in the Community Benefits Agreement, which would be attached to and made part of the Disposition and Development Agreement, a legally binding document that would be subject to approval by the Agency Commission.

The Grasslands Ecology Park is located on the southern shoreline of Hunters Point, on Navy Parcels E and E-2, and adjacent to the Navy's water parcel, Parcel F. The Navy is responsible for clean-up of these sites and as part of the clean-up work will construct improvements of the shoreline edge to protect the land from erosion. Navy-proposed treatments include both construction of tidal wetlands and construction of riprap slope protection.

With respect to why natural edge/riprap is a proposed treatment for the Grasslands Ecology Park, Section III.H (Recreation) does not provide a description of a "natural edge/riprap" proposed as part of the Grasslands Ecology Park; however, Chapter II (Project Description) on page II-58 of the Draft EIR does identify shoreline improvements (specifically, tidal habitat) at the natural edge/riprap of the Grasslands Ecology Park. The use of the term "natural edge/riprap" refers to the location of the appropriate parcels, and not the associated habitat modifications. As described in the footnotes of Table II-13 on page II-58 of the Draft EIR:

Tidal Habitat: Take advantage of sloped surface (or reduce slope where needed) to install aquatic plants and create new tidally-exposed habitat

Further, Section III.N (Biological Resources) also describes how shoreline improvements can facilitate the creation of tidal habitats, as described in Impact BI-4b on page III.N-64 of the Draft EIR:

... the CP/HPS Project would add soil or other materials on the outboard side of the revetment to facilitate the creation of tidal salt marsh in several areas along the southern shoreline of HPS by reducing the revetment's slope and providing a more suitable substrate for colonization by wetland vegetation.

### **Response to Comment 90-9**

Refer to Response to Comment 65-24 regarding recycled water.

### **Response to Comment 90-10**

Refer to Response to Comment 90-3 for a discussion of the proposed phasing of transit service for the Project. Refer also to Master Response 8 (Transit Mitigation Measures) for details regarding implementation of proposed mitigation. With the Project, the Housing Variant (Variant 2) would be implemented in four overlapping phases, with transportation infrastructure improvements (both transit and roadway) linked to the development phases. The majority of development and infrastructure improvements would be completed by the end of the second phase, which has a scheduled completion date of 2023.

### **Response to Comment 90-11**

Community gardens, or growing fruits and vegetables for human consumption in native soil, are not allowed now in certain areas of HPS Phase II covered by some of the RODs already issued by the Navy. Urban agriculture in native soil would likely be precluded in other areas for which RODs have not yet been issued. The Redevelopment Plan amendments for HPS Phase II propose to address this issue. The EIR assumes certain types of uses, and the HPS and BVHP Redevelopment Plan amendments reflect the types of uses proposed for the Project and specifically prohibit certain uses that would be incompatible with planned uses. The Bayview Hunters Point and Hunters Point Shipyard Redevelopment Plans contain several mixed-use districts, each referred to as a “District” or “Land Use District.” Allowable land uses within each District will be those that are consistent with the character of the District as described in the Redevelopment Plans. The specific uses identified in the Redevelopment Plans for each District illustrate the appropriate scope and nature of permitted uses. Community gardens could be permitted in Candlestick Point provided that they are consistent with the objectives of the Bayview Hunters Point Redevelopment Plan. Community gardens could be permitted on the Hunters Point Shipyard, provided that they use aboveground planters that include impermeable separation between planter soil and the ground below and otherwise comply with applicable environmental restrictions.

As to whether any land uses would be excluded due to EIR language, the air quality analysis in the EIR in Section III.H (Air Quality), under Impact AQ-6, analyzes potential stationary sources of toxic air contaminants, and MM AQ-6 requires that each facility with sources of TAC emissions will limit their emissions such that residential cancer risk and chronic non-cancer hazard index evaluated at the facility boundary does not exceed 10 in one million or 1.0, respectively. If these thresholds are exceeded at the boundary, an analysis will be required to show the facility, in conjunction with all other TAC emitting facilities in the R&D areas, will not cause these thresholds to be exceeded at the nearest residential locations. Any type of facility wishing to locate in the Project area, even if allowed by the land use plan, would be required to satisfy this mitigation measure.

## ■ Letter 91: California State Parks (12/23/09)

Letter 91 represented the California State Parks draft comment letter on the Draft EIR (dated December 23, 2009). After the close of the comment period, California State Parks requested removal of its draft letter from the Comments & Responses document and, instead, requested that responses are only provided to its final comment letter, which is dated January 12, 2010. The California State Parks final comment letter is provided in this Comments & Responses document as Letter 86. Letter 91 is intentionally omitted from this document.

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## ■ Letter 92: National Football League (1/12/10)

1 of 2

**Letter 92**

From: "Ludwig, Deborah" <Deborah.Ludwig@nfl.com>  
To: <stanley.muraoka@sfgov.org>  
Cc: <Michael.Cohen@sfgov.org>  
Date: 01/12/2010 03:08 PM  
Subject: Draft EIR, Candlestick Point-Hunters Point Shipyard Phase II

Please see attached regarding the Candlestick Point-Hunters Point Shipyard Phase II draft EIR.

Regards,

Deborah Ludwig  
Assistant to Neil Glat  
National Football League  
280 Park Avenue  
New York, NY 10017  
P: 212.450.2459  
F: 212.847.1742



Draft EIR, Candlestick Point-Hunters Point Shipyard Phase II.PDF

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NATIONAL FOOTBALL LEAGUE

January 12, 2009

Mr. Stanley Muraoka  
Environmental Review Officer  
San Francisco Redevelopment Agency  
One South Van Ness Avenue, Fifth Floor  
San Francisco, CA 94103

Neil Glat  
Senior Vice President  
Corporate Development

RE: Draft EIR, Candlestick Point-Hunters Point Shipyard Phase II

Dear Mr. Muraoka:

At this juncture in the City's project review process, we wanted to write to respectfully emphasize the importance of some of the traffic and parking infrastructure improvements that are currently planned as part of a proposed new stadium project for the San Francisco 49ers at the Hunters Point Shipyard site. Please note that any such stadium project would remain subject to executing necessary agreements with the 49ers and approval of the League membership.

The ability of NFL game attendees to quickly enter and exit a stadium site on gameday has a significant impact on overall fan enjoyment. The following are some of the infrastructure improvements that we would deem critical to providing access to the Hunters Point Shipyard site:

- A Yosemite Slough Bridge;
- A new US 101/Harney Way interchange;
- Adequate number of parking spaces in proximity to the stadium that are accessible in all weather conditions; and
- Public transit infrastructure sized for gameday access.

The feasibility and necessity of the above improvements have been reviewed by our stadium consultant, ICON Venue Group. We hope that all of the improvements in the current plan, including these specific infrastructure improvements, meet with the City's approval and remain an integral part of the overall stadium project plan.

Sincerely,

Neil Glat

cc: Mayor Gavin Newsom  
Michael Cohen

280 Park Avenue, New York, NY 10017 Tel 212.450.2024 Fax 212.847.1739

92-1

## ■ Letter 92: National Football League (1/12/10)

### ***Response to Comment 92-1***

The comment notes the National Football League's opinion that the Yosemite Slough bridge, the US-101/Harney Way interchange, adequate parking supply, and improved public transit infrastructure are critical elements to providing a new stadium in Hunters Point Shipyard. The comment is noted and no response is required.

[This page is intentionally left blank.]

## ■ Letter 93: California State Lands Commission (1/12/10)

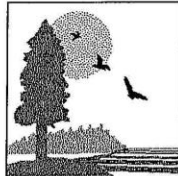
1 of 4

### Letter 93

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

**CALIFORNIA STATE LANDS COMMISSION**  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



**PAUL D. THAYER**, 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**

January 12, 2010

File Ref: SCH# 2007082168

Stanley Muraoka  
San Francisco Redevelopment Agency  
One South Van Ness Avenue  
San Francisco, CA 94103

**Subject: Candlestick Point, Hunters Point Shipyard Phase II**

Dear Mr. Muraoka:

The staff of the California State Lands Commission (CSLC or Commission) has reviewed the Draft Environmental Impact Report (DEIR) for the Candlestick Point-Hunters Point Shipyard Phase II. Under the California Environmental Quality Act (CEQA), the San Francisco Redevelopment Agency (Agency) is the lead agency and the CSLC is a Responsible and/or Trustee Agency for any and all projects that could directly or indirectly affect sovereign lands, their accompanying public trust resources or uses, and the public easement in navigable waters. In this project, we are both a Responsible and Trustee Agency.

93-1

The Candlestick Point – Hunters Point Shipyard Phase II Development Plan Project (Project) proposes development on approximately 702 acres of waterfront lands within the City and County of San Francisco. The Project includes a mixed-use development with a range of residential, retail, office, research and development, civic and community uses, and parks and recreational open space. The Project also includes a new stadium for the San Francisco 49ers National Football League team, a 300-slip marina, and improvements to the Candlestick Point State Recreation Area.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands in trust for the benefit of all people of the State for statewide Public Trust purposes, which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation and open space. The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. The CSLC has certain residual and review authority for tide and submerged lands legislatively granted in trust to local jurisdictions (Public Resources Code Section 6301 and Section 6306).

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Stanley Muraoka

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January 12, 2010

Portions of the Project area within the Candlestick Point involve sovereign tide and submerged lands under the direct jurisdiction of the CSLC. These sovereign lands are currently leased to the California State Parks for the Candlestick Point State Recreation Area. Other portions of the Project area within Candlestick Point involve sovereign tide and submerged lands, which have been granted, in trust, to the City and County of San Francisco (Grantee), pursuant to the Burton Act (Chapter 1333, Statutes of 1968, as amended).

Hunters Point Shipyard involves lands that were historic uplands and lands that were formerly tide and submerged lands. The State Lands Commission asserts a sovereign public trust claim in portions of the Hunters Point Shipyard. The Shipyard was closed by the United States in 1974 and pursuant to a 2004 conveyance agreement with the Agency, the United States Navy has conveyed a portion of the Shipyard to the Agency and has agreed to transfer the remainder to the Agency following remediation of hazardous materials. Pursuant to Chapter 203, Statutes of 2009, any State interest remaining in the lands at Hunters Point Shipyard have been granted, in trust, to the Agency.

The Grantee and the Agency, as trustee, of these sovereign trust lands must ensure that the specific uses proposed on lands impressed with the public trust in the Project are consistent with the provisions of the relevant granting statutes and the common law Public Trust Doctrine. As general concepts, uses, such as residential development, are inconsistent with the Public Trust Doctrine as such a use is not water-dependent and results in the privatization of public property. General commercial, recreational, office and retail uses are also uses inconsistent with the Public Trust Doctrine, as such uses generally serve the local citizenry and are not water-dependent, water-related or visitor serving. In addition, general civic/cultural uses, community parks, including dog parks, and athletic/sports fields are uses inconsistent with the Public Trust Doctrine, as such uses are also not water-dependent or water-related and cater to the local community and do not serve the regional or statewide general public.

As stated in the DEIR and as provided for in Chapter 203, Statutes of 2009, implementation of the Project will require the Commission to consider and approve a land exchange between the Commission, the Agency, the developer and the California State Parks. In addition, in conjunction with a land exchange, California State Parks will be required to obtain a lease from the Commission for use of public trust lands within Candlestick Point for the State Recreation Area.

Representatives of the San Francisco Redevelopment Agency, the developer, California State Parks staff, CSLC staff, and the Office of the Attorney General are currently negotiating the terms of a possible land exchange, as contemplated by Chapter 203, Statutes of 2009. Also, Commission staff has met with public interest groups and individuals regarding such an exchange. Chapter 203, Statutes of 2009 authorizes the land exchange for Hunters Point and Candlestick Point, provided all required findings can properly be made. While the DEIR recognizes that any exchange must be considered and approved by the CSLC, Commission staff believes that the

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cont'd.

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Stanley Muraoka

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DEIR should recognize, for informational purposes, that negotiations are ongoing regarding a possible land exchange at Hunters Point Naval shipyard and Candlestick Point.

93-2  
cont'd.

Staff's specific comments on the DEIR are as follows:

1. Page II-23 (Marina) indicates a possible future need for maintenance dredging. Dredging would require a lease from the State Lands Commission pursuant to Section 11 of Chapter 203, Statutes of 2009. When appropriate the developer should apply to the Dredged Material Management Office (DMMO). The DMMO is a joint program of the San Francisco Bay Conservation and Development Commission, San Francisco Bay Regional Water Quality Control Board, California State Lands Commission, the San Francisco District U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. Under this program dredging applicants are only required to complete one application for their dredging project. The application may be found at the DMMO website at <http://www.spn.usace.army.mil/conops/applications.html>.
2. Page II-31 (New Parks HPS Phase II): According to the proposed plan, various parks within the Phase II development would offer a full range of passive and active uses. Uses would include community gardens, basketball, tennis, and volleyball courts, shade pavilions, children's playground, and restroom. It is unclear where these parks will be located in relation to where the public trust lands are proposed to be as depicted in the final public trust configuration diagram of Chapter 203, Statutes of 2009. Therefore as general concepts and as stated above, programmed uses such as the community garden, basketball, tennis and volleyball courts, and children's playground are not uses consistent with the Public Trust Doctrine. Such uses of public trust lands are municipal in nature and are primarily for the benefit of local residents without any nexus or connection to water related commerce, navigation, or fisheries. It is important to stress that uses of public trust lands must serve a statewide or at least a regional benefit and caution must be taken so as to not confuse purely local or municipal benefits with public trust benefits. Any proposed parks with programmed uses, as described above, should be situated on lands that are not impressed with the public trust.
3. Figure III.B-6 Proposed Land Use Plan shows some retail uses that may be located on public trust lands. While Commission staff understands that details of any proposed retail use are currently unknown, it is important to stress that any retail use on public trust lands must be consistent with the public trust and directly promote trust uses, be directly supportive and necessary for trust uses, or accommodate the public's enjoyment of trust lands. Examples include, but are not limited to, watercraft rentals, bait shops, fishing supplies, hotels, restaurants, cafes, and parking facilities.

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93-4

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Stanley Muraoka

Page 4

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Please contact Grace Kato, Public Land Management Specialist, at 916-574-1227, for information concerning our jurisdiction and leasing requirements. If you have any questions concerning the environmental review, please contact Eric Gillies at (916) 574-1897.

Sincerely,



Marina R. Brand, Acting Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
G. Kato, CSLC  
Jennifer Lucchesi, CSLC  
E. Gillies, CSLC



## ■ Letter 93: California State Lands Commission (1/12/10)

### **Response to Comment 93-1**

The comments are acknowledged and commenter accurately describes the general land uses of the Project, as well as the jurisdiction and authority of the State Lands Commission (CSLC). Section III.B of the Draft EIR, pages III.B-8 and III.B-9 describe the public trust lands within the Project site.

### **Response to Comment 93-2**

In response to this comment, page III.B-10, first paragraph, of the Draft EIR is revised:

***Project Consistency:*** The Project includes both trust consistent and trust inconsistent uses; they will be distributed consistent with the final Trust map approved in Senate Bill 792. A trust exchange agreement will be approved as part of the Project consistent with the final Trust map. Negotiations with the CSLC are ongoing.

### **Response to Comment 93-3**

This comment contains general information about the application process for maintenance dredging, and is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. The comment will be forwarded to the decision makers for their consideration prior to approval or denial of the Project. Refer to mitigation measure BI-12b.1 on page III.N-90 of the Draft EIR, which describes the requirements of the DMMO process and Long-Term Management Strategy.

### **Response to Comment 93-4**

While the specific uses of various park lands have not been determined, all development on lands impressed with the Public Trust will be consistent with the Trust. In particular, parklands proposed for Public Trust lands would offer water-oriented recreation focused on San Francisco Bay, thus providing statewide benefit. Municipal, or neighborhood, park programming would be limited to non-Trust lands.

### **Response to Comment 93-5**

Refer to Response to Comment 93-4 regarding consistency of land uses with Public Trust. Refer to Section III.B (Land Use and Plans) of the Draft EIR for a discussion of the relationship of the Project with trust land requirements. Page III.B-10 of the Draft EIR states “The Project includes both trust consistent and trust inconsistent uses; they will be distributed consistent with the final Trust map approved in Senate Bill 792. A trust exchange agreement will be approved as part of the Project consistent with the final Trust map.”

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## ■ Letter 94: Harvey, Carol (1/12/10)

1 of 1

Letter 94



carol harvey  
<carolharveysf@yahoo.com>  
01/12/2010 04:59 PM

To joy.navarrete@sfgov.org  
cc

Subject Elizabeth Carol Harvey sent a DEIR response to you at 4:55 p.m. on Tuesday, January 12, 2010

My response was entitled: "With Sea Level Rise Predicted To Double and a Very Big Earthquake Due, How Practical Is The SFRA Draft EIR?"

My stats are:

Carol Harvey  
Presidio Gate Apartments  
Apt. 306  
2770 Lombard St.  
San Francisco, CA 94123  
Phone: 415-771-2814  
Thanks, Joy.

94-1

***no wise words.  
just good thoughts.***

***carol***

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## ■ Letter 94: Harvey, Carol (1/12/10)

### ***Response to Comment 94-1***

Refer to Master Response 8 (Sea Level Rise) for a comprehensive discussion of the sea level rise documents reviewed, the levels of sea level rise taken into account for various Project components, and the plan to provide flood protection if higher levels of sea level rise occur. Refer to Master Response 6 (Seismic Hazards) regarding the interaction of earthquakes and sea level rise, and refer to Master Response 7 (Liquefaction) for a discussion of sea level rise effects related to liquefaction.

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## ■ Letter 95: Koepf, Ernie (1/12/10)

1 of 2

Letter 95



Ernie Koepf  
<nearshoreguy@hotmail.com>  
01/12/2010 10:09 AM

To <bill.wycko@sfgov.org>  
cc  
Subject EIR response Candlestick-Bayview-Hunters Point regarding  
herring spawn site near Yosemite Slough

Dear Mr. Wycko,

It has been brought to my attention that the development of the Candlestick-Bayview-Hunters project will include a automobile bridge over Yosemite Slough and that this bridge will be supported by three hundred pilings.

The area around Yosemite Slough is a herring spawn site that is frequently visited by returning schools during the months of December, January and February. In light of this I would request that you consider the following;

1. Pilings should be concrete or should be sheeted in ABS plastic to facilitate the survival of herring eggs that may be deposited on the surfaces of the pilings (if they are seaward of the high tide mark in that vicinity). Un-sheated creosote soaked pilings are unacceptable and toxic to the eggs of fish that utilize them for egg deposition.
2. Placement of pilings should not occur during the spawning

95-1

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season of herring during the months of December through February.

↑  
95-1  
cont'd.

Thank you for your consideration of these requests on behalf of the members of our association and the resource of San Francisco Bay herring.

Ernie Koepf, President  
San Francisco Bay Herring Fishermen's Association

172 Duncan Way  
Oakland, Ca. 94611  
650 678 7124  
[nearshoreguy@hotmail.com](mailto:nearshoreguy@hotmail.com)

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## ■ Letter 95: Koepf, Ernie (1/12/10)

This letter is identical to Letter 37 (Comment 95-1 is identical to Comment 37-1). Therefore, the response to this letter is contained in Response to Comment 37-1 and is not repeated here.

[This page is intentionally left blank.]

## ■ Letter 96: Fox, Jill (1/12/10)

1 of 4

**Letter 96**

From: "Jill Fox" <ibjill@comcast.net>  
To: <stanley.muraoka@sfgov.org>  
Date: 01/12/2010 08:22 AM  
Subject: Comments on HPS EIR

Attached are comments on the Hunters Point Shipyard and Candlestick Park Environment Impact Report from Cab Covay and Jill Fox. Thank you for this opportunity to comment. Please contact me if you have any questions. I would appreciate an acknowledgement of receipt of this, if possible.

Jill Fox  
911 Innes Avenue  
San Francisco 94124

415 420-9887 (cell)



Covay and Fox comments on HPS EIR.doc

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**CAB COVAY & JILL FOX**

January 12, 2010

To Whom It May Concern,

We are the owners and residents of 911 Innes Avenue in San Francisco writing in response to the Environmental Impact Report for the Hunters Point Shipyard Candlestick Park project.

Our home is on the north side—the India Basin side—of the Hunters Point Shipyard approximately ½ mile from the old main gate. Our house has been lived in continuously since 1874.

We are asking that the HPS plan better reflect true community needs and desires, that a new EIR be performed to correct process flaws and take into account HPS design changes desired by the community, and that this EIR redo be an area-wide EIR to include other community developments. We feel that EIR impacts and mitigations must match the phases of the development so that something positive can happen for our neighborhood in our lifetimes rather than India Basin taking on all of the burden of a freeway to the Shipyard, without getting anything in return. We also have specific Quality of Life, Transportation, Open Space, Utilities, and Historic Preservation concerns.

We would like to see specific plan corrections and / or suggested mitigations for the issues we raise in your response to comments and we would like adequate time to comment on your response.

**We feel this EIR process is flawed because:**

- Poor timing, right during the winter holidays made comment a burden
- Comment period very short for such a long document
- No direct outreach to the adjacent community about the severe negative impacts
- No public meetings where a lay person could ask questions
- No easy-to-read summary or other form of communication besides a dense written document

We think a true community process of understanding the HPS plan and this document needs to take place so that regular people can understand what is happening to our neighborhood because of the greed of the Shipyard development.

**We feel the EIR itself is flawed because it is based on a bad plan:**

The HPS plan lacks services and amenities for new and existing community members for at least until full built out over 25 years from now, yet the EIR assumes people will have these needs and not have to travel to find them.

The idea of 1 private car per household is unrealistic and doesn't match the existing car use. The neighborhood does not have the services and amenities – food store, school, library, recreation center, entertainment, coffee place – that most San Franciscans enjoy. We have to drive for everything. This lack will remain for many years during the HPS phase in and the EIR needs to be presented in phases.

The Citizen's Advisory Committee did not include a representative of the India Basin community (despite frequent requests) until after this plan was adopted. This lack meant that the needs of his community were not considered.

Despite this lack of representation we and our neighbors attended many public meetings about HPS, sharing the need for a cohesive design plan of the existing and new communities, the desire that it meet

911 Innes Avenue San Francisco 94124 415 285-9211 [IBJill@Comcast.net](mailto:IBJill@Comcast.net)

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**CAB COVAY & JILL FOX**

service and amenity needs, the need for a school and other community services, and creative solutions to transit issues. NOT A SINGLE IDEA WE PRESENTED WAS INCLUDED IN THIS PLAN.

96-4  
cont'd.

**EIR needs to consider all neighborhood developments:**

The rebuilding of Hunters View, in-fill developments adjacent to the Shipyard and especially the Planning Department and Redevelopment Agency plans for Area C must be considered in any EIR for the Shipyard. This piecemeal approach that is happening now is unfair to existing residents and is just plain dumb. We fear that all of the mitigation impacts will be forced on the last EIR to go through – Area C –while the real elephant in the neighborhood – the Shipyard – gets off without doing anything for the existing community on the north side.

96-5

**Quality of Life**

The HPS plan is a general taking of our street and sidewalk; will cause an unfair increase in traffic and the particle dust that cars, buses, and trucks bring; produces night light that is detrimental to migrating birds we enjoy seeing; and will negatively impact both our property value and, more importantly, our free and fair use of our property including:

96-6

- Access to our home to bring in basic supplies
- Ability to grow our own food in our own yard
- Street safety
- Street trees
- Decrease in light and air and increase in noise and particulate pollution
- Electro-magnetic pollution from more power lines running in front of our home

**Transportation**

The HPS street plan does not blend well with the existing community and this lack of good planning makes an unsafe situation for both existing and new residents. Most especially, Innes Avenue is being burdened with all of the traffic and no benefits.

96-7

- As stated earlier, the idea of 1 private car per household in the new development is unrealistic for at least the first 25 years of the development and doesn't match the existing neighborhood car use
- Removing parking on Innes Avenue is unfair because there are no alternative streets for parking and many homes were built without garages. What compensation is being made for this taking?
- Narrowing the sidewalks along Innes Avenue means the removal of more than 50 thriving street trees. What compensation is being made for this taking?
- Lack of a median, removal of street parking, and removal of street trees does not fit the San Francisco Better Streets Plan
- Lack of a median, removal of street parking, and removal of street trees encourages speeding. Why is Innes being made a freeway for new residents?
- Jerrold Avenue should be made a through street and not a silly pocket park so that it can provide at least some alternative to Innes Avenue. When the inevitable collision occurs on Innes Avenue and all traffic is blocked, how will emergency vehicles get to HPS?
- Mitigation thoughts must include Hudson Avenue as an alternative – especially as a Class 1 commuter bike and pedestrian path that can connect from Cargo Way through India Basin and into the Shipyard, which will take the bike lanes off of Innes and restore parking, median, and street trees
- Other alternative transit options—water taxi, a shuttle to the light rail, and space for future transit ideas including a people mover—must be part of the plan from the beginning and must include stops in India Basin

911 Innes Avenue San Francisco 94124 415 285-9211 [IBJill@Comcast.net](mailto:IBJill@Comcast.net)

Page 2 of 3



4 of 4

**CAB COVAY & JILL FOX**

**Open Space**

- The EIR needs to address how open space will be programmed for new and existing residents and visitors. If ownership is by the Planned Use Development (or owner cooperatives), how will the surrounding community be able to access this park space?
- What mitigation is being made to the existing publicly-owned parks for the increase in dog, children, and other park users?
- The EIR needs to explain the shadow impact of tower buildings on the Bay Trail and other new and existing open space.
- Where in the EIR is mention of the impact of the tower lights and other lights on the dark night sky and, specifically, the impact this may have on migrating birds?
- Where in the EIR are the towers impact on the existing community's light and air?
- We did not see in the EIR the answer to this riddle: If the existing approximately 66 acres of Recreation and Park Department's Candlestick Park is torn down and replaced with homes, but a new football stadium is not built on the Shipyards (and instead the space designated for the football stadium becomes more homes or an industrial park), what happens to that 66 acres of publicly-owned property? What mitigation to the people of San Francisco, and especially this community, is being made for this land grab of the 'Stick'?

96-8

**Utilities**

- Can you explain how all the new development will get water? Is there going to be another water line built to serve this community, and where will it go? We already have horrible water pressure and can't imagine thousands of more users and the impact that will have on the existing community.
- Can you explain how all the new development will get electricity? We already have multiple utility lines running on multiple poles through our neighborhood and are concerned with both the visual and electro-magnetic pollution they cause. Are we to expect even more wires?
- Can you explain how all the new development will get cable, internet, and other utilities? Right now these, too, run on power poles through our neighborhood. Are there more coming?
- Can mitigation for the northern neighborhood include complete utility undergrounding? How many times is Innes Avenue going to be torn up without undergrounding the power lines?

96-9

**Historic Preservation**

We feel it is very important to retain all of the historic building that are left in the Shipyards (including the crane) to use as anchors for a maritime historic district. This historic district should include both the Shipyards and India Basin historic sites, with a huge emphasis on the boat building and shipbuilding that took place in this community for more than 150 years. Photographs of buildings does not mitigation make. IF any historic buildings must be removed, mitigation should be payment into a Historic Preservation Fund for the preservation of other buildings in this historic community as well as for improvements and education and other programming so that this rich history can be shared for many years to come.

96-10

Thank you for this opportunity to comment on the EIR. We look forward to your response.

Cab Covay and Jill Fox

911 Innes Avenue San Francisco 94124 415 285-9211 [IBJill@Comcast.net](mailto:IBJill@Comcast.net)

Page 3 of 3

## ■ Letter 96: Fox, Jill (1/12/10)

### **Response to Comment 96-1**

Refer to Response to Comment 1-1 and Response to Comment 85-5 for a discussion of the adequacy of the public comment period, including the many opportunities for providing comments on the Draft EIR.

In addition to the public hearings on the Draft EIR, page ES-7 describes the other opportunities for providing public comment prior to publication of the Draft EIR:

The Agency and the City filed the NOP with the California Office of Planning and Research, State Clearinghouse, as an indication that an EIR would be prepared. In turn, the State Clearinghouse distributed the NOP to public agencies and interested parties for a 30-day public review period beginning August 31, 2007. In addition, the NOP was also sent to organizations, companies, and/or individuals that the Agency and the City believed might have an interest in the Project. The purpose of the public review period was to solicit comments on the scope and content of the environmental analysis contained in the Draft EIR. In addition, in order to solicit further comments on the scope and content of the environmental analysis to be included in the EIR, the Agency and the City held two public scoping meetings.

In addition, as stated in Response to Comment 85-5, in terms of the planning process for the Project, Section I.B (History of the Planning Process), which is presented on pages I-1 through I-4 of the Draft EIR, describes a planning process that has occurred over three decades and has included hundreds of community meetings and other forms of public outreach.

Lastly, an Executive Summary was published as Volume I of the Draft EIR, which totaled only 134 pages, and was prepared to provide an easy-to-read summary of the entire contents of the Draft EIR.

### **Response to Comment 96-2**

Refer to Response to Comment 48-3 regarding the selection and analysis of alternatives. As described in Chapter II (Project Description, Section II.F Development Schedule), pages II-50 through II-80, of the EIR, each major phase of Project development would include a mix of uses, including residential, recreational, and neighborhood-serving retail. Figure II-16 (Proposed Site Preparation Schedule) and Figure II-17 (Proposed Building and Parks Construction Schedule) show that Alice Griffith Housing would be rebuilt first beginning in 2011. The new stadium would be completed by 2017. The first parks would be constructed at Alice Griffith and around the 49ers football stadium in the same timeframe. As shown in Figure II-17, the HPS Village Center (neighborhood retail) and the CP Center (regional retail) would be built by 2023 (13 years from now). Infrastructure and park development would occur along with building development, and would provide upgraded facilities and recreational uses at each increment of development.

Refer to Section B (Project Refinements) and Section F (Draft EIR Revisions) of this document, which describes changes to the Phasing Plan for the Project, and provides text and figure changes to the Draft EIR, respectively. Specifically, Figure II-16 and Figure II-17 have been revised to reflect that development activities would occur 1 to 2 years later than originally planned.)

### **Response to Comment 96-3**

Limiting the number of permitted off-street parking spaces for residential uses to a maximum of one parking space per unit is consistent with the City's Transit First Policy and the San Francisco Planning Code. In order to encourage use of alternative modes of travel, including walking, bicycling, and transit, by Project residents and visitors, each major phase of Project development would include a mix of uses, including residential and neighborhood-serving retail, as described in Response to Comment 96-2 above. In addition, the transit phasing plan has been designed to encourage transit-oriented travel patterns from the early stages of Project implementation.

Impact TR-35 identified a projected parking shortfall associated with the proposed maximum residential parking ratio. However, as noted on page III.D-124 of the Draft EIR, as part of its "transit first" policy, the City and County of San Francisco does not require that the supply of parking spaces equal the peak demand. Consequently, as noted in the Draft EIR, even though the Project would likely provide the maximum number of spaces permitted, the supply may not be sufficient to meet peak demands.

However, because the parking supply is not considered a permanent physical condition, and also due in part to the City's Transit First Policy, the impact associated with the projected parking shortfall is considered less than significant.

### **Response to Comment 96-4**

The Draft EIR evaluated existing and future public service levels (police, fire, schools, and libraries) in Section III.O Public Services. With regard to police services, "as the Project identifies community service use areas that could be used for police services, and as police services are not tied to a specific station, the SFPD would be able to maintain acceptable levels of police service" (Draft EIR page III.O-12). With regard to fire protection services, "construction of a new SFFD facility on land designated for community-serving uses on the Project site would allow the SFFD to maintain acceptable response times for fire protection and emergency medical services. Construction of 100,000 gsf of community facilities, which could include a new SFFD facility, has been included as a component of the Project" (Draft EIR page III.O-22). With regard to the provision of new schools, while existing neighborhood schools have capacity for Project students, "it is likely that a 12 percent Citywide overcapacity of SFUSD as a result of citywide population growth in 2030 would occur" (Draft EIR page III.O-31). "SFUSD could choose to address its potential future shortfalls in capacity through a wide range of options, including shifting students to other facilities, beginning year-round schools, and/or increasing the use of portable classrooms." "The school impact fees paid pursuant to SB 50 would go toward maintaining or improving school facilities to accommodate growth in school attendance." Finally, with regard to library services, "the new SFPL branches, which would all be completed upon build-out of the Project, would accommodate increased demand from the Project. No additional library facilities would be required to accommodate development proposed in the Project" (Draft EIR page III.O-37). No impacts were identified for public services and no mitigation is required.



### **Response to Comment 96-5**

Reasonably foreseeable projects, such as those planned for Area C, were considered in the cumulative projects for the Project. The analysis of cumulative impacts in each technical section of the Draft EIR accounted for reasonably foreseeable and planned projects in Area C. The Project has included all feasible mitigation measures for impacts of the development of HPS Phase II.

### **Response to Comment 96-6**

The commenter suggests that increasing traffic (and associated effects) on Innes Avenue is a “taking.” Streets are owned and maintained by the City of San Francisco and are considered public facilities. The impacts associated with Project-generated traffic increases at key areas throughout the study area were analyzed and described in the Draft EIR, and the Project would not impede access to existing properties along Innes Avenue.

It should also be noted that intersections along Innes Avenue and Evans Street from the Project boundary to and including Jennings Street were analyzed and are expected to operate acceptably in all three study peak hours in year 2030 with the Project. All streets and street improvements have been designed to accommodate the increased traffic in a safe and practical manner; crosswalks would be clearly marked and signalized intersections would have pedestrian signage to facilitate safe crossing of streets.

The Project would provide a number of streetscape improvements, including sidewalk bulb-outs, cross walks, curb ramps, street trees and planting, bus shelters, and other site furnishings and pavement treatments that would visually tie together the project with Bayview neighborhood.

Night lighting would not be detrimental to migratory birds, which are accustomed to flying through urban areas. Refer to the discussion under Impact BI-20a and Impact BI-20b in Section III.N (Biological Resources), which deals with impacts of artificial lighting on birds. Mitigation measures are included to reduce the impact to less-than-significant levels. The shadows cast by the Project’s new structures would not eliminate sunlight from falling on adjacent properties; refer to Figures III.F-3 through III.F-8 in Section III.F (Shadows) for illustration of how the shadow moves throughout the day. Refer to Section III.H (Air Quality) for a comprehensive analysis of particulate emissions and air quality impacts. As all utilities for the Project would be undergrounded, there would be no electromagnetic pollution from additional power lines in front of the commenter’s home as a result of the Project.

### **Response to Comment 96-7**

Refer to Response to Comment 96-3 for a discussion of proposed parking supply, and Responses to Comments 35-1 and 35-2 for a discussion of development phasing. As discussed in that response, the impacts associated with the removal of on-street parking were identified and discussed in Impact TR-36 in the Draft EIR. As noted in the Draft EIR, this loss of on-street parking is considered less than significant and no mitigation is required. On Innes Avenue the Project would displace about 51 parking spaces between Earl Street and Hunters Point Boulevard. The parking demand on Innes Avenue is low, and the demand would be accommodated along other portions of Innes Avenue or on other streets in the area. At some locations, residents and visitors would have to park further between their parking space

and destination; however, this is not considered a significant impact. On-street parking spaces are publicly owned and not for the sole use of adjacent uses, and therefore, removal of on-street spaces are not considered a taking.

The Project would not narrow sidewalks on Innes Avenue compared to their existing width, and therefore would not be removing any street trees. New sidewalks would be as wide as or wider than existing sidewalks along the roadway.

The guidelines of San Francisco's Better Streets Plan were consulted throughout the planning of the Project streets and sidewalks. In some cases, and specifically Innes Avenue, constraints in topography, transportation engineering, and abutting land uses resulted in proposed sidewalk widths narrow than the idealized suggestions of the Better Streets Plan. In the case of Innes Avenue, constraints resulted in proposed sidewalks that, while American Disabilities Act-compliant (ADA), are narrower than the suggested minimums from the Better Streets Plan.

Street trees would be provided along the portion of Innes Avenue that would be improved as part of the Project. In general, median divided roadways allow for higher, not lower, travel speeds. Therefore, the lack of a median on Innes Avenue would not necessarily encourage speeding, as stated by the commenter.

Extending Jerrold Avenue is not proposed as part of the Project. The analysis indicates that intersections along Innes Avenue would operate acceptably and no mitigation is required.

Innes Avenue is expected to be over 60 feet wide. If a collision were to occur, it is unlikely that it would block the entire width of the street such that emergency vehicle access to the Hunters Point Shipyard area via Innes Avenue would be blocked. However, if such an event were to occur, there are multiple routes through which vehicles and emergency vehicles could reach the HPS, including Palou Avenue and Arellano Walker Avenue via the Yosemite Slough bridge.

The analysis found that intersection operations, pedestrian circulation, and bicycle circulation along Innes Avenue would experience less than significant impacts due to the Project and therefore, no mitigation is required. Proposals to provide bicycle and/or pedestrian routes on Hudson Avenue are not included as part of this Project; however, they are not precluded from being included as part of additional analysis of the separate India Basin/Area C project.

The Project's transit operating plan has been studied in detail by SFMTA and others. The proposed plan is expected to provide a substantial improvement to the existing transit service in the area and is expected to be adequate to serve the Project. The Project's transit plan would also provide substantial improvements to transit serving the India Basin area, including frequent service on the 44-O'Shaughnessy, 48-Quintara-24<sup>th</sup> Street, and the new HPX, which would include stops along Innes Avenue before traveling non-stop to Downtown San Francisco.

### **Response to Comment 96-8**

All of the parks and open space areas proposed for the Project and illustrated in Figure III.P-2 would be open to the public. The Draft EIR discusses the general proposed programming of new open space and

CPSRA, all of which will be publicly owned. The specific programs for individual parks would be determined following future public process, including the CPSRA General Plan Amendment process.

As discussed in Impact RE-2, and Response to Comment 47-28, while usage of existing parks will increase, new parks, improvements to CPSRA, and operations and maintenance funding will prevent deterioration of these facilities. No mitigation is required.

Refer to Impact AE-7, beginning on page III.E-69, for a discussion of the aesthetics of the Project's potential light and glare, and to Impact BI-20a, beginning on page III.N-108, for a discussion of its impact on migratory birds.

Refer to Responses to Comments 86-8 and 47-48 for discussion of shadow impacts on CPSRA.

Refer to Response to Comment 31-12, which states the Candlestick Park stadium site does not provide public outdoor recreation opportunities; therefore, its demolition and redevelopment as part of the Project will not cause significant environmental impacts related to loss of recreational facilities.

#### **Response to Comment 96-9**

With regard to water distribution and connection, the Project will include a new on-site system that is connected to the City's low-pressure water system. As described on page II-45, there is a "...need for increased flow capacity from the City water distribution system to meet the required system performance criteria" and the Project would implement system improvements. The City has confirmed that there is capacity in the off-site system to accommodate the water demand of the Project, as identified on page III.Q-16 "... existing and projected future water supplies could accommodate estimated future water demand, including the Project ...." PG&E or the SF PUC will provide electrical power. All utility electrical, cable, internet, and communication cables would be located on the Project site within an underground joint trench network, as described on pages III.Q-60 and III.Q-61. The system would serve Candlestick Point and HPS Phase II, and not specifically the neighbors on Innes Avenue. It is unknown how often Innes Avenue would be torn up in the future to accommodate utility infrastructure but all work in the streets is regulated by the Department of Public Works under the City's street excavation permit program, which controls the nature of all street work.

#### **Response to Comment 96-10**

As discussed in Draft EIR Chapter II (Project Description), page II-23, the Project would retain structures in this NRHP-eligible Hunters Point Commercial Drydock Historic District, including Drydocks Nos. 2 and 3, and Buildings 104, 204, 205, and 207. Impact CP-1b (Impact of Hunters Point Phase II), pages III.J-33 to -34, notes that the Project would have less than significant impacts on the NRHP-eligible district. Section III.J also identified a larger CRHR -eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District, shown on Figure III.J-2, page III.J-23, that would include Buildings 208, 211, 224, 231, and 253. The Project would demolish those buildings, and as stated in the Draft EIR, this would be an unavoidable significant adverse impact on the CRHR-eligible district. The NRHP-eligible resources would remain and would continue to be part of the NRHP-eligible Hunters Point Commercial Drydock Historic District.

As noted in the comment, mitigation measures MM CP-1b.1 and MM CP-1b.2, pages III.J-34 to -35, requiring documentation of the CRHR-eligible resources before demolition, would reduce but not avoid the significant effect on CRHR-eligible resources.

Refer to Section F (Draft EIR Revisions) of this document, discussing Subalternative 4A (CP-HPS Phase II Development Plan with Historic Preservation Alternative) that would retain the structures in the CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District, and would avoid significant adverse effects on historic resources.

Chapter II (Project Description), page II-23, states that the Re-gunning pier and crane would remain at Hunters Point Shipyard as part of the Project. The India Basin area, north of Hunters Point Shipyard, is not part of the Project. Preservation of historic resources at India Basin would be considered under the separate planning and environmental review process under way for the India Basin Shoreline Plan, as noted on Draft EIR page I-8.

## ■ Letter 97: Brightline Defense Project (1/12/10)

1 of 2

### **BRIGHTLINE DEFENSE PROJECT**

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San Francisco, CA 94103  
415-252-9700 Fax 415-252-9775  
www.brightlinedefense.org

**Letter 97**

January 12, 2010

Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street  
San Francisco, CA 94103

Stanley Muraoka  
Environmental Review Officer  
San Francisco Redevelopment Agency  
One South Van Ness Avenue, Fifth Floor  
San Francisco, CA 94103

Dear Mr. Wycko and Mr. Muraoka:

Thank you for the opportunity to comment on the Draft Environmental Impact Report ("EIR") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan ("the Project").

Brightline Defense Project is a civil rights public policy advocacy non-profit that focuses on environmental justice and community development, particularly in the green jobs sector. Our work is centered on improving the quality of life in Southeast San Francisco with a focus on creating a sustainable Bayview-Hunters Point for many generations to come.

Please consider the following suggestions for inclusion in the Final EIR for the Project:

#### Section III.C Population, Housing, and Employment

At page III.C-24 the report should include an approximate number of the "temporary construction-related jobs" to be created by the Project, broken down by trade and, to the extent possible, by Project phase. The Final EIR should also break down the work by job hour to give an accurate depiction of the actual number of construction jobs to be created by this Project.

97-1

#### Section III.D Transportation and Circulation

##### Section III.H Air Quality

##### Section III.S Greenhouse Gas Emissions

The Draft EIR fails to consider one of the most powerful tools to mitigate impact to transportation and transportation-associated pollutants and greenhouse gas emissions: local hiring. Local hiring, or the practice of mandating a portion of jobs to be performed by qualified residents living in proximity to a particular job site, can also be called "green hiring" because of its positive impact on the environment. While local hiring is often used as a community development tool to leverage a city's public works investment to create jobs in underserved communities, the positive environmental impacts of local hiring should not be understated.

97-2

2 of 2

Jobs created in and around a project site reduce negative impacts on transportation, air quality, and greenhouse gas emissions. The reduction in vehicle emissions associated with medium- and long-range commutes will positively impact not only the residents of Bayview-Hunters Point, but other neighboring communities along commuting pathways.

The Redevelopment Agency has proposed to implement a local-hiring policy through a Project Labor Agreement that would guarantee a certain percentage of construction job hours for qualified residents of the Bayview and Southeast San Francisco. Redevelopment projects typically have a goal of 50% hiring from the surrounding community, while San Francisco Administrative Code Section 6.22(G) sets a goal that San Francisco residents should perform at least 50% of the job hours on projects such as this.

Therefore, the report should use the job data determined for “temporary construction-related jobs” as requested herein to determine both of the following:

- The impact of local community hiring, with 50% of the “temporary construction-related job hours” being performed by residents of zip codes 94124, 94107, and 94134 on Impacts TR-1, AQ 1-3, and GC-1.
- The impact of San Francisco resident hiring, with 50% of the “temporary construction-related job hours” being performed by residents of the City and County of San Francisco on Impacts TR-1, AQ 1-3, and GC-1.

We encourage both the Planning Department and Redevelopment Agency to make a base-line determination of the transportation, air quality, and greenhouse gas emission impacts of past projects of this magnitude which have not met a 50% local hiring goal. The Final EIR can therefore include an evaluation of the level of environmental improvement the people of Bayview-Hunters Point and surrounding areas expect to see if failed “good-faith” local hiring efforts of the past give way to actual results, whether in terms of 50% local community hiring or 50% San Francisco resident hiring.

To the extent that the Final EIR can also incorporate the positive impact that twenty years of construction job creation in Bayview-Hunters Point will have on the sustainability of this vibrant, diverse, and important community you will both have gone beyond even our expectations.

We appreciate you taking these comments into consideration and ensuring that sustainable development is an inherent part of the City and County of San Francisco’s planning process and implementation.

Sincerely,



Joshua Arce  
Executive Director

97-2  
cont'd.

## ■ Letter 97: Brightline Defense Project (1/12/10)

### ***Response to Comment 97-1***

Comment is noted. The construction employment set forth in Section III.C (Population, Housing & Employment) of the Draft EIR is an estimate based on conceptual build-out of the Project. Table III.C-8 on page III.C-13 of the Draft EIR, which has also been revised in Section F (Draft EIR Revisions) to reflect development activities occurring 1 to 2 year later than originally planned, illustrates the maximum number of construction workers per year, for Candlestick Point and Hunters Point Shipyard separately and combined. It would not be accurate at this time to calculate the specific trade hours that will be required, as that will depend in large part on final Project design, finishes selected, and other design parameters. For purposes of a CEQA analysis, the maximum number of construction jobs has been estimated sufficiently to allow a meaningful analysis of the impacts of increased employment on the site, both temporary and permanent. No further details need be specified for environmental clearance.

### ***Response to Comment 97-2***

This comment contains opinion, anecdotal, or general information and is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. The comment will be forwarded to the decision makers for their consideration prior to approval or denial of the Project.

As part of the Community Benefits Agreement, the Project applicant will contribute to a workforce development fund that will be used for workforce development programs designed to create a gateway to career development for residents of District 10. Subject to the fiscal and other provisions of the City's Charter, the City intends to match the Workforce Contribution in services and programs for workforce development in the BVHP Area. The city is also developing an Employment Opportunity Program for the Project. The detailed specific information requested by the commenter about other past projects is not available and is not necessary for an adequate CEQA document on the Project.

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## ■ Letter 98: US Department of the Navy (January 12, 2010)

Letter 98 represented the US Department of the Navy's draft comment letter on the Draft EIR (dated January 12, 2010). After the close of the comment period, the US Department of the Navy requested removal of its draft letter from the Comments & Responses document and, instead, requested that responses are only provided to its final comment letter, which is dated January 14, 2010. The US Department of the Navy final comment letter is provided in this Comments & Responses document as Letter 101. Letter 98 is intentionally omitted from this document.

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## ■ Letter 99: City/County Association of Governments of San Mateo (1/12/10)

1 of 2

**Letter 99**

From: "Tom Madalena " <tmadalena@co.sanmateo.ca.us>  
To: Stanley.Muraoka@sfgov.org  
Cc: "Sandy Wong" <slwong@co.sanmateo.ca.us>  
Date: 01/12/2010 04:14 PM  
Subject: Candlestick Point-Hunters Point Shipyard Phase II Development Plan (Project)

Mr. Muraoka,

Attached please find the comment letter from the City/County Association of Governments (C/CAG) of San Mateo County for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan (Project).

Regards,

Tom

Tom Madalena  
C/CAG of San Mateo County  
650-599-1460 direct  
650-361-8227 fax



Candlestick Point-Hunters Point Shipyard Phase II Development Plan (Project) Comment Letter.pdf

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2 of 2

## C/CAG

CITY/COUNTY ASSOCIATION OF GOVERNMENTS  
OF SAN MATEO COUNTY

*Atherton • Belmont • Brisbane • Burlingame • Colma • Daly City • East Palo Alto • Foster City • Half Moon Bay • Hillsborough • Menlo Park • Millbrae  
Pacifica • Portola Valley • Redwood City • San Bruno • San Carlos • San Mateo • San Mateo County • South San Francisco • Woodside*

January 12, 2010

Stanley Muraoka  
Environmental Review Officer  
One South Van Ness Avenue, 5th Floor  
San Francisco, CA 94103

RE: Candlestick Point-Hunters Point Shipyard Phase II Development Plan (Project)

Dear Mr. Muraoka:

The Congestion Management Agency (CMA) function is specified through State law and the City/County Association of Governments (C/CAG) is the designated CMA for San Mateo County. Thank you for the opportunity to review and comment on the Draft Environmental Impact Report.

As stated in the Draft Environmental Impact Report the Project will result in significant and unavoidable impacts on traffic and transit operations. C/CAG recognizes the efforts of the required Transportation Demand Management (TDM) Plan that is to be approved as part of the Disposition and Development Agreement (DDA). However, the project will still have significant and unavoidable impacts upon San Mateo County roadways. C/CAG recommends additional mitigation for these impacts that will occur in San Mateo County and that the San Francisco County Transportation Authority (SFCTA) coordinate with C/CAG when developing the mitigation for San Mateo County roadways.

Because the Bi-County Transportation Study effort is still underway with no final determination yet, C/CAG requests that Project Applicant shall contribute fair share to other transportation improvement mitigations. These transportation improvement mitigations are to be identified by C/CAG, in San Mateo County to mitigate traffic impacts on the San Mateo County transportation system from the Candlestick Point-Hunters Point Shipyard Phase II Development project, should the mentioned Bi-County Transportation Study fail to do so.

Regards,



Tom Madalena  
C/CAG of San Mateo County  
650-599-1460 direct  
tmdalena@co.sanmateo.ca.us

99-1

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(FRM00440.DOC)

■ **Letter 99: City/County Association of Governments of San Mateo  
(1/12/10)**

***Response to Comment 99-1***

The Draft EIR identifies significant Project impacts to facilities in San Mateo County, and where feasible, identifies mitigation measures to which the Project should contribute. The commenter notes that the Bi-County study is currently the mechanism through which the Project's fair share contribution to roadway improvements in San Mateo County, and in southern San Francisco, shall be determined. If the Bi-County Study is terminated prior to identification of required mitigations and adoption of fair share funding obligations, revised mitigation measures MM TR-6 and MM TR-8 allow for the use of and equivalent mechanism or process for the City and County of San Francisco, the SFCTA, the Redevelopment Agency, and the City of Brisbane to determine the respective fair shares of Project costs, including amounts to be contributed by Project Applicant.

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## ■ Letter 100: Shaffer, Linda (1/12/10)

1 of 3

**Letter 100**

From: Linda Shaffer <shaffer.linda@sbcglobal.net>  
To: Stanley.Muraoka@sfgov.org  
Date: 01/12/2010 04:47 PM  
Subject: Comments on HPS/CP DEIR

Mr. Muraoka,

Attached are a few comments on section III.P in the DEIR. I meant to get them to you today in person, but last night I got bit by the flu bug. I hope it is acceptable to send these comments via email.

Linda Shaffer  
1407 De Haro St.  
San Francisco CA 94107



DEIRletter.doc

2 of 3

Jan. 9, 2010  
1407 De Haro St.  
San Francisco, CA 94107

Stanley Muraoka  
Environmental Review Officer  
San Francisco Redevelopment Agency  
One South Van Ness Avenue, Fifth Floor  
San Francisco CA 94103

Dear Mr. Muraoka;

I wish to submit three comments regarding the Draft EIR for the Hunters Point Shipyard/  
Candlestick Point Redevelopment Project. All pertain to section III.P: Recreation.

**Comment #1:**

**The draft EIR is inadequate because it uses a lower standard for evaluating an element of the plan than it should -- a standard that, if held to, could result in less park space per 1000 residents in this Bayview Hunters Point redevelopment project, than that currently enjoyed by the residents of other, more affluent San Francisco neighborhoods.**

Stating that "the City does not have an adopted parkland-to-population ratio standard" (III.P, p. 11), the decision is made to use 5.5 acres of parkland per 1000 population as an adequate measure of parkland supply within the project area. This ratio was apparently chosen because that was "...the per capita supply of public open space within the City... at the time of the General Plan's adoption [in] 1986" (III.P, p. 11).

Yet on page 1 of III.P, we find that on Jan. 1, 2008, the ratio of acres of publicly-accessible parks and recreational facilities per 1000 residents for the city of San Francisco as a whole was 7.1. I would argue that this is the standard that should have been used. Why use a lower standard for this project?

**Comment #2:**

**The draft EIR is inadequate because it fails to provide sufficient neighborhood park space in the Candlestick Point part of the Project area.**

The benchmark ratio chosen underlies the analysis pertaining to Impact RE-2 (Deterioration or Degradation of Existing Parks and Recreational Facilities), the heart of section III.P.

The main question is whether or not the Project would cause the deterioration of existing parks and recreational facilities through overuse, or result in the need for new parks and facilities. In attempting to answer the question, we find the following:

"Overall, the Project would provide approximately 336 acres of new and/or improved park land and recreational facilities to accommodate the estimated build-out population of approximately 24,465 residents within the Project site..." This would yield "a ratio of about 13.7 acres of parkland per 1000 residents within the Project site". Including 10,730 expected daily employees in the population yields a ratio of "9.5 acres per 1000 employees/residents." (All quotes from III.P, p. 29).

100-1

100-2



3 of 3

Both ratios are greater than the benchmark 5.5 acres/1000 population; therefore, the report concludes its discussion of Impact RE2 as follows: "Overall, the increase in the resident and daytime population of the Project site would not lead to substantial physical deterioration or degradation of existing facilities, nor would it result in the need for new or expanded facilities. The Project would, therefore, not cause a significant impact and no mitigation is required." Stated in plain English: there would be a sufficient supply of parkland.

Since the ratios noted above (13.7 and 9.5) are also both higher than 7.1, the benchmark I think should have been used, changing the benchmark would not by itself affect the adequacy of the EIR. HOWEVER, consider what happens if one separates the two pieces of the Project, and calculates acres of parkland per 1000 population for each part.

HPS Phase II --	Planned Acres of parkland: 231.6
	Projected Population at Build-out: 6,175
	Acres per 1000 population: 37.5
Candlestick Point --	Planned Acres of parkland: 104.8
	Projected Population at Build-out: 18,290
	Acres per 1000 population: 5.7

First, there is quite a discrepancy! Second, although each of these ratios is greater than 5.5, the ratio for Candlestick Point alone is less than 7.1, the ratio I think should have been used. Furthermore, note that only 8.1 acres of the 104.8 at Candlestick Point represents true neighborhood parkland. The rest is the reconfigured Candlestick Point State Recreation Area. As wonderful as that resource will be, I do not see that it will function well as a place where neighborhood children can play. Therefore, I believe there needs to be mitigation in the form of increased neighborhood parkland in the Candlestick Point area.

**Comment #3:**

**Section III.P of this EIR is inadequate because it does not consider construction impacts on Biological Resources.**

In the analysis of Impact RE-1 (Construction of Parks, Recreational Uses, and Open Space) on p. 12, reference is made to several other sections of the EIR which contain "discussion of project-related construction impacts". There is no reference to section III.N (Biological Resources). Surely, there would be construction related impacts to plants and animals, some of which could be significant?

Much of this project is admirably designed, and the redevelopment is certainly badly needed. I hope these comments will help make the project even better than it already is.

Sincerely, Linda Shaffer  
Representative serving on PROSAC from District 10  
Member, Board of Directors, California Native Plant Society, Yerba Buena Chapter  
Member, Sierra Club

100-2  
cont'd.

100-3

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## ■ Letter 100: Shaffer, Linda (1/12/10)

### ***Response to Comment 100-1***

Refer to Response to Comment 47-29 for a discussion of the standard of significance used for determining the Project's impacts on recreational facilities.

### ***Response to Comment 100-2***

Refer to Response to Comment 84-45 for a discussion of the Draft EIR's analysis of the entire Project site.

### ***Response to Comment 100-3***

The commenter states that in the discussion of Project-related construction impacts in Impact RE-1 (Construction of Parks, Recreational Uses, and Open Space), there is no reference to Section III.N (Biological Resources). In response to this comment, the second sentence of the last paragraph in Impact RE-1 on page III.P-12 of the Draft EIR is revised as follows:

Construction activities associated with the proposed parks and recreational facilities are considered part of the overall Project. A discussion of Project-related construction impacts, including those associated with the construction of parks and recreational facilities, is provided in the applicable sections of this EIR, including Section III.D (Transportation and Circulation), Section III.H (Air Quality), Section III.I (Noise), Section III.J (Cultural Resources and Paleontological Resources), Section III.K (Hazards and Hazardous Materials), ~~and~~ Section III.M (Hydrology and Water Quality), and Section III.N (Biological Resources). ...

All construction-related impacts to biological resources would be reduced to a less-than-significant level, in some cases with the implementation of the identified mitigation measures.

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■ Letter 101: US Department of the Navy (January 14, 2010)

1 of 7



DEPARTMENT OF THE NAVY  
BASE REALIGNMENT AND CLOSURE  
PROGRAM MANAGEMENT OFFICE WEST  
1455 FRAZEE RD, SUITE 900  
SAN DIEGO, CA 92108-4310

Letter 101

Ser BPMOW.PJM/0223

JAN 14 2010

Mr. Stanley Muraoka  
Environmental Review Officer  
San Francisco Redevelopment Agency  
One South Van Ness Avenue, Fifth Floor  
San Francisco, CA 94103



Dear Mr. Muraoka:

Thank you for the opportunity to comment on the San Francisco Redevelopment Agency's Draft Environmental Impact Report (DEIR) for Candlestick Point-Hunters Point Shipyard (HPS) Phase II, of November 12, 2009.

As you know, the Navy administers the HPS property, and conducts the Installation Restoration program under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This office reviewed the content of the DEIR for accuracy and consistency with the Supplemental Environmental Impact Statement, which is being prepared in accordance with the National Environmental Policy Act. Our comments are enclosed.

The Navy would like to further discuss certain statements in the DEIR which may be inconsistent with our programs. To coordinate future discussions or to ask any questions, please contact Mr. Patrick McCay at (619) 532-0906.

Sincerely,

DOUGLAS GILKEY  
Base Closure Manager  
By direction of the Director

Enclosure: (1) Department of the Navy Comments on the DEIR

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Comment Matrix for Candlestick Point – Hunters Point Shipyard Draft EIR

TITLE OF DOCUMENT Draft Environmental Impact Report, Candlestick Point – Hunters Point Shipyard Phase II		DATE January 12, 2010
COMMENTOR Department of the Navy		ORGANIZATION OF COMMENTOR U.S. Department of the Navy Base Realignment and Closure Program Management Office

PAGE NO.	PARAGRAPH	LINE NO.	FIGURE NO.	TABLE NO.	RECOMMENDED CHANGES/COMMENTS/QUESTIONS	
ES.	Global				All comments on the body of the EIR also apply to the corresponding section of the executive summary.	101-1
III.J-18	Section CA-SFR-12	2			The Draft EIR states, "More recently, Hamusek-McGann et al. identified the likely location of the site in HPS." This sentence should be changed to incorporate the predictive model that the authors used to make their determination. The sentence should be changed to "More recently, Hamusek-McGann et al. used an archaeological predictive model to identify the likely location of the site in HPS."	101-2
III.J-19	Section CA-SFR-13	2			The Draft EIR states, "More recently, Hamusek-McGann et al. have spotted the likely location of the site in HPS." The use of the word spotted indicates that the authors actually observed the site. This sentence should be changed to incorporate the predictive model that the authors used to make their determination. The sentence should be changed to "More recently, Hamusek-McGann et al. used an archaeological predictive model to identify the likely location of the site in HPS."	101-3
III.J-19	Section CA-SFR-14	2			The Draft EIR states, "More recently, Hamusek-McGann et al. identified the likely location of the site in HPS." This sentence should be changed to incorporate the predictive model that the authors used to make their determination. The sentence should be changed to "More recently, Hamusek-McGann et al. used an archaeological predictive model to identify the likely location of the site in HPS."	101-4
III.J-19	Section CA-SFR-11	2			The Draft EIR states, "More recently, Hamusek-McGann et al. identified the likely location of the site inside HPS." This sentence should be changed to incorporate the predictive model that the authors used to make their determination. The sentence should be changed to "More recently, Hamusek-McGann et al. used an archaeological predictive model to identify the likely location of the site in HPS."	101-5
III.J-21	Para 3				Perhaps it's worth mentioning that the Navy is currently completing a NR Nomination and HAER documentation for the HP Commercial Drydock Historic District pursuant to the MOA.	101-6

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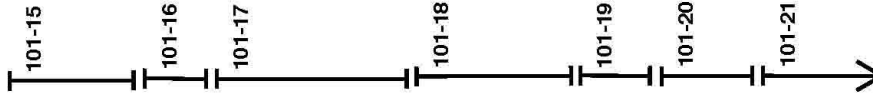
Comment Matrix for Candlestick Point – Hunters Point Shipyard Draft EIR

PAGE NO.	PARA-GRAPH	LINE NO.	FIGURE NO.	TABLE NO.	RECOMMENDED CHANGES/COMMENTS/QUESTIONS	
III.J-21	Para 3				The Draft EIR states that "associated wharves and seawalls" are contributors to the HP Commercial Drydock HD. These features are not being included in the NRHP Nomination and were not called out in the 1997 JRP study. This statement should be removed.	101-7
III.J-24	Para 3	3			The Draft EIR generalizes that both historic districts, the NR-eligible Commercial Drydock HD and Naval Shipyard HD, "encompasses a range of buildings from each of the three primary periods of significance" whereas only the CA-eligible Naval Shipyard HD spans all three periods. This clarification should be made to that a reader does not get the impression that the Commercial Drydock HD also spans all three periods.	101-8
III.K					CERCLA Hazardous Substances: The document incorrectly states in several locations that CERCLA regulates releases of hazardous materials. That is not correct. CERCLA addresses releases of hazardous substances. The State of California has its own State law definition of "hazardous materials" that is broader than CERCLA "hazardous substances" and is an inappropriate term to use to describe the CERCLA cleanup program.	101-9
III.K.2	Scope of Analysis	1			The first sentence under the Scope of Analysis heading states that contaminated HPS sites were caused by "former Navy operations." That is not a correct statement. A substantial portion of the contamination was caused by a Navy tenant named Triple A Machine Shop, Inc. who occupied a portion of the installation from 1976 to 1986.	101-10
III.K-9	Para 1				The description of radiological activity at HPS should be reviewed to make sure it is consistent with RASO's HRA.	101-11
III.K-11	Para 2	1			The first sentence of the second paragraph on p. III.K-11 is incorrect. The Navy typically doesn't need to prepare an RI for all IR sites at its facilities; therefore, check and verify that the Navy prepared an RI for all HPS sites for accuracy.	101-12
III.K-11					The report states at the bottom of p. III.K-11 and top of p. III.K-12 that the Navy has completed the RI/FS process for all parcels except for E and E-2. That is not correct. Navy has not completed the FS for Parcel F.	101-13
III.K-15	Para 2				The report states in the first sentence of the second full paragraph on p. III.K-15 that a revised remedy for Parcel B was documented in a "ROD Amendment". The title of the document was designated as an "Amended ROD". Also, the third sentence incorrectly states that the methane and mercury source removals were conducted pursuant to the revised remedy in the ROD. That is not correct; those cleanups were conducted as separate CERCLA removal actions with their own Action Memorandum decision documents.	101-14

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Comment Matrix for Candlestick Point – Hunters Point Shipyard Draft EIR

PAGE NO.	PARA-GRAPH	LINE NO.	FIGURE NO.	TABLE NO.	RECOMMENDED CHANGES/COMMENTS/QUESTIONS
III.K-17	Para 2				The report misstates CDPH's role in the second-to-last sentence in the second full paragraph on p. III.K-17. CDPH is not the decision maker that decides if rad impacted sites should be cleared for unrestricted release. That decision will be made by the Navy and EPA pursuant to the FFA and concurred upon by DTSC and RWQCB as FFA signatories; FFA approval will be in the form of RACR approval.
III.K-17	Para 2				The EIR indicates that the rad ICs are potentially applicable to an area deep beneath B-140, but the Navy's ROD states that B-140 will be "free released" by the Navy, similar to the sewers and storm drains.
III.K-32	Para 1				The discussion of "Transfer after Completion of Cleanup at HPS" includes some generalities that are not accurate. In the second sentence of the first paragraph under this heading, the report states that, "In conveying property that is completely remediated, the Navy documents its findings in a Finding of Suitability to Transfer (FOST)." The Navy can transfer property when it demonstrates and EPA concurs that the remedy is "operating properly and successfully" (OPS) even though remediation is not complete (e.g., for groundwater remediation). The second to last sentence in the paragraph includes the same inaccuracy.
III.K-32					The discussion of "Transfer Before Completion of Cleanup (Early Transfer) at HPS Phase II" also includes some generalities and inaccuracies. The fourth bullet point at the bottom of page III.K-32 appears to describe the requirements of CERCLA Section 120(h)(3)(C)(i)(IV) as an assurance by the federal government. That provision of the law requires a finding by EPA and is not an assurance. A separate assurance by Don that all necessary response action will be taken is required by CERCLA Section 120(h)(3)(C)(i)(III).
III.K-33					The fourth bullet point at the top of page III.K-33 incorrectly indicates that "oversight activities" will be completed by the transferee. CERCLA Section 120(h)(3)(C) does not mention oversight.
III.K-33, K-36, K-86, etc.					Recent discussions with the City suggest that the "radiologically-impacted area around Building 140" may be excluded from early transfer, along with Sites 7/18. This is not reflected in the DEIR and more coordination is needed.
III.K-56					This discussion appears to identify Navy CERCLA remedial actions (including Institutional Controls (ICs)) as CEQA mitigation measures. Other impact evaluations later in the draft EIR do the same. The Navy's CERCLA decisions are not subject to CEQA. Furthermore, CEQA requires that the project proponent (the City) ensure that mitigation measures are implemented.





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Comment Matrix for Candlestick Point – Hunters Point Shipyard Draft EIR

PAGE NO.	PARA-GRAPH	LINE NO.	FIGURE NO.	TABLE NO.	RECOMMENDED CHANGES/COMMENTS/QUESTIONS
					The City should clarify that CERCLA response actions are not part of their CEQA proposed action and state on the record that response to releases of hazardous substances are addressed separately by the federal government under CERCLA and the NCP. The Navy would like to further discuss and resolve this issue with the City.
III.K-77-78					The EIR states that a CERCLA removal action will be conducted at Parcel E and E-2 to remove "rad" material from the bridge site. This may not be consistent with the Navy's CERCLA program and the Navy would like to further explore and resolve this issue with the City to better understand the City's proposal. Also, in the discussion of mitigation measure MM HZ-9, it appears that the City is considering the CERCLA removal action as mitigation. See previous Navy comment raising concern about the City's approach to mixing CEQA and CERCLA.
III.L-15					Under the Liquefaction section, no mention is made of the Navy's Parcel E-2 Liquefaction Report (a technical memo), which could be used to strengthen this section. The report indicates that "there is little or no risk of large translational movements," but should cite the reference for this. In the vicinity of the landfill, which is of particular interest to the community, citing the Liquefaction Report could be used to quantify the lateral and vertical spreading under a magnitude 7.9 seismic event.
III.L-55					Recommend citing the Parcel E-2 Liquefaction Report when discussing settlement as the cause of seismic events or increasing surface load.
III.M	General				The discussions of the Yosemite Slough Bridge are fine for this section but the Navy needs more specifics on the impact of the road construction to the north of the proposed bridge and its impact on the cover proposed for the rad-impacted area in the panhandle section of Parcel E-2. Navy uncertain that the probable remedy and the proposed road construction are not in conflict. Need more discussion with the City reps to resolve.
III.N-9	3				Revise "One of these wetlands, in the southwestern portion of HPS Phase II, consists of pools that pools are shallow basins that lack drainage outlets."
III.N-21	1				Revise "However, because they tend to gather... is discussed here as a sensitive species."
III.N-22	3				"This striking recovery is due in large measure to the ban on the use of DDT in many places." Clarify that this is a pesticide that has been banned throughout the U.S.
III.N-26	4				Change to "Using the likelihood of occurrence definitions provided in Table III. N-5, this species is "known to occur within the Study Area."

101-21  
cont'd.

101-22

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Comment Matrix for Candlestick Point – Hunters Point Shipyard Draft EIR

PAGE NO.	PARA-GRAPH	LINE NO.	FIGURE NO.	TABLE NO.	RECOMMENDED CHANGES/COMMENTS/QUESTIONS	
III.N-28	1				Change to "The only special-status bat species potentially occurring with in the Study Area..."	101-30
III.N-28	4				Change to "Because the larval forms of oysters are free-floating in the bay, and the large population known south of the Study Area..."	101-31
III.N-32	2				"Fall-run Chinook salmon is the most abundant ESU, documented to comprise about 80..." Is there a reference since it states that it is "documented"?	101-32
III.N-53	5				"... 10,000 net new trees..." Is there a list of possible trees? Make sure it will be nothing invasive.	101-33
III.N-60; 68	3: 3				Is it necessary to provide exact minimum mitigation ratios for MM BI-4a.1 and 3 when the exact mitigation ratios are yet to be determined in the permit process?	101-34
III.N-68	4				Revise "...and implementing construction BMPs to reduce and/or prevent impacts to on waters of the United States..."	101-35
III.N-132				III.N-5	Monarch Butterfly, Habitat and Seasonal Distribution in California: Change to "...early in the season, adults sip nectar from plants including dogbane..."	101-36
III.N-78	3				MM BI-7b proposes enhancement of raptor foraging habitat, however, this measure appears to be part of the HPS Phase II project rather than a mitigation measure in response to an impact from the actual project. We believe that mitigation is not an appropriate term, since the enhancements are actually part of the project.	101-37
III.N-87	2				While the Navy agrees that specific mitigation requirements may successfully be established through the USACE permit process (See MM BI-4a.2), however, compensatory mitigation may be inappropriate if connected with compliance with Section 7 of the Endangered Species Act. Only those actions that minimize or avoid incidental take within the action area should be presented by Federal Agencies (e.g. Navy or USACE) as mitigation measures or accepted as terms and conditions related to incidental take statements in Biological Opinions. Compensatory (i.e. offset) mitigation is neither appropriate or required by the ESA (50 CFR §402.14 (i)(1)(ii and iv), and §402.14 (i)(2), and USFWS and NMFS Consultation Handbook of March 1998.	101-38
III.N-113	4				While the Navy agrees that specific mitigation requirements may successfully be established through the USACE permit process (See MM BI-4a.2), however, compensatory mitigation may be inappropriate if connected with compliance with Section 7 of the Endangered Species Act. Only those actions that minimize or avoid incidental take within the action area should be presented by Federal Agencies (e.g. Navy or USACE) as mitigation measures or accepted as	101-39

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Comment Matrix for Candlestick Point – Hunters Point Shipyard Draft EIR

PAGE NO.	PARA-GRAPH	LINE NO.	FIGURE NO.	TABLE NO.	RECOMMENDED CHANGES/COMMENTS/QUESTIONS
III.N-133					terms and conditions related to incidental take statements in Biological Opinions. Compensatory (i.e. offset) mitigation is neither appropriate or required by the ESA (50 CFR §402.14 (i)(1)(ii and iv), and §402.14 (i)(2), and USFWS and NMFS Consultation Handbook of March 1998
III.N-134				III.N-5	An extra line is dividing "Mollusks"
				III.N-5	Change "Longfin Smelt" to "Longfin smelt"

101-39  
cont d.  
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101-41

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## ■ Letter 101: US Department of the Navy (January 14, 2010)

All of the comments provided in this letter are exactly the same as the comments provided in Letter 98; however, where this letter was submitted as the “final” letter by the US Department of the Navy, Letter 98 represents a “draft” letter. For that reason, full responses are provided in this letter.

### **Response to Comment 101-1**

As requested by the commenter, all comments made to the body of the Draft EIR text that would also apply to the Executive Summary will also be made to the Executive Summary.

### **Response to Comment 101-2**

The comment clarifies the references to the Hamusek-McGann, et al., report cited in Section III.J, pages III.J-18 and -19. The following underlined text changes update the reference:

#### **CA-SFR-12**

Site CA SFR 12 is a shellmound, recorded by Nelson as Site #391 on the south side of Hunters Point. More recently, Hamusek-McGann et al. used an archaeological predictive model identified to identify the likely location of the site in HPS.<sup>241</sup>

#### **CA-SFR-13**

Recorded by Nelson as Site #392, site CA-SFR-13 may be located at the eastern end of Hunters Point.<sup>242</sup> More recently, Hamusek-McGann et al. used an archaeological predictive model have spotted to identify the likely location of the site in HPS.<sup>243</sup> Hamusek-McGann et al. report that based on historical maps the probable location of this site would have placed it at the original shoreline where Drydock 4 was later built. Due to extensive excavations that occurred during construction of the drydock Hamusek-McGann et al. assume that CA-SFR-13 was destroyed; however, as with other sites that were later determined to be wholly or partially intact, such as CA-SFR-7, CA-SFR-17, and CA-SFR-140, this site might also present intact discoveries.

#### **CA-SFR-14**

Site CA-SFR-14 is probably a mound, recorded by Nelson as Site #392a on the northeast end of Hunters Point. More recently, Hamusek-McGann et al. used an archaeological predictive model have identified to identify the likely location of the site in HPS.<sup>244</sup>

#### **CA-SFR-11**

Site CA-SFR-11 is a shell midden recorded as Nelson's Site #390 on the south side of Hunters Point.<sup>245</sup> More recently, Hamusek-McGann et al. used an archaeological predictive model have identified to identify the likely location of the site inside HPS.<sup>246</sup>

### **Response to Comment 101-3**

Refer to Response to Comment 101-2 regarding references to the Hamusek-McGann, et al., report cited in the Draft EIR.

### **Response to Comment 101-4**

Refer to Response to Comment 101-2 regarding references to the Hamusek-McGann, et al., report cited in the Draft EIR.

### **Response to Comment 101-5**

Refer to Response to Comment 101-2 regarding references to the Hamusek-McGann, et al., report cited in the Draft EIR.

### **Response to Comment 101-6**

Refer to Response 34-6, clarifying that the Navy is completing the NRHP listing process for the Hunters Point Commercial Drydock Historic District identified in 1998.

### **Response to Comment 101-7**

The comment clarifies structures identified as part of the Hunters Point Commercial Drydock Historic District on page III.J-21, third paragraph, as shown below in strike-through text:

The Office of Historic Preservation Directory of Properties in the Historic Property Data File included Drydocks 2 and 3 and ~~associated wharves and seawalls,~~ pump houses (Buildings 205 and 140), the western portion of Drydock 1, the Gatehouse (Building 204), and the Paint and Tool Building (Building 207) as the only structures on HPS considered eligible for listing on the NRHP, consistent with the findings of the 1997 JRP report and the subsequent SHPO concurrence. No other buildings or structures had previously been evaluated for listing on the CRHR.

### **Response to Comment 101-8**

Draft EIR page III.J-24, paragraph three, describes the potential CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District and does not describe the NRHP-eligible Hunters Point Commercial Drydock Historic District. The potential CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District does encompass a range of buildings from each of the three primary periods of significance for HPS: early drydocks, Navy use in World War II, and radiological research in the World War II and post-war periods.

The Draft EIR is correct as written.

### **Response to Comment 101-9**

The comment accurately points out that the term “hazardous substance” as defined in CERCLA is narrower than the term “hazardous material” as defined on page III.K-4 in the Draft EIR. Most notably, the term “hazardous substance” under CERCLA does not include petroleum, and the term “hazardous material” as used in the draft EIR (and several state and federal statutes) does include petroleum, as well as all “hazardous substances” as defined in CERCLA. Because the cleanup program the Navy is required to implement under the Federal Facilities Agreement encompasses both “hazardous substances” under CERCLA and petroleum under federal and state underground storage tank cleanup and water quality laws, the Draft EIR uses the broader term “hazardous materials” to refer to the materials addressed by the cleanup program. In any instance in the Draft EIR where specific CERCLA requirements (e.g., the requirements of CERCLA Section 120(h)(3) specifying the requirements for transfer of property with releases of hazardous substances) are referenced as applying to “hazardous materials,” the reader should be advised that those requirements do not apply to petroleum releases.

### **Response to Comment 101-10**

The comment is correct in that a portion of the contamination was caused not by the Navy but by Triple A Machine Shop. As is pointed out on page III.K-9 of the Draft EIR:

HPS was decommissioned in 1974. In 1976, the Navy leased the site to Triple A Machine Shop (Triple A), which was subsequently indicted and convicted for illegal disposal of hazardous substances at Hunters Point. In 1986, Triple A's 10-year lease expired and was not renewed. The Navy is responsible for addressing hazardous material releases resulting from Triple A's activities.

The first sentence on page III.K-2 has been revised as follows:

There are substantial ongoing remediation programs at known hazardous material release sites at portions of the Project site from former Navy operations, Triple A Machine Shop, Inc., and/or its lessees throughout HPS Phase II. ...

### **Response to Comment 101-11**

The comment appears to be incorrect. The Historical Radiological Assessment, Volume II, Use of General Radioactive Materials, 1939–2003, Hunters Point Shipyard states (page 1-1, end of second paragraph), “Volume I [of the HRA] concluded that berthing of and work on nuclear-powered ships at HPS resulted in no adverse effects on the human population or the environment.” This statement implies that the Navy did, in fact, service nuclear powered warships at HPS. No change has been made to the Draft EIR text.

### **Response to Comment 101-12**

The comment is correct in that a RI may not have been prepared for each and every IR and Site Identification (SI) site. Some IR or SI sites may not have required further investigation. The first sentence of the last full paragraph on Draft EIR page III.K-11 has been revised as follows:

After the site identification process, the next step under the Navy's program is the preparation of Remedial Investigation (RI) reports for ~~all~~ the IR sites and other locations of concern in each parcel. ...

### **Response to Comment 101-13**

The comment is incorrect; there is a Final FS for Parcel F, which is dated April 30, 2008. No change has been made to the Draft EIR text.

### **Response to Comment 101-14**

The title of the document is *Amended Parcel B Record of Decision*, and it is typically referred to as the “Amended ROD.”

The second portion of this comment is incorrect. The Parcel B Amended ROD states, under Section 12.1.1 (Summary of the Rationale for the Amended Selected Remedy, Soil), “Soil will be excavated in selected areas where COCs exceed remediation goals. These areas include the methane and mercury sources areas as well as other, smaller areas where metals (lead) or organic chemicals exceed remediation goals.” No change has been made to the Draft EIR text.

### **Response to Comment 101-15**

The referenced text in the Draft EIR accurately reflects DTSC's practice of relying upon the decisions of CDPH about clearance of radiologically impacted sites. The comment accurately states that this practice is not reflected in the Federal Facilities Agreement, which specifies that the decision makers are Navy and US EPA with concurrence from RWQCB and DTSC.

### **Response to Comment 101-16**

The most current field data indicates that an IC may not be necessary or applicable for the deep piping beneath Building 140. However, "free release" is not yet assured. No change has been made to the Draft EIR text.

### **Response to Comment 101-17**

Property transfer will be documented in a FOST when remediation is complete (which includes when the remedy is operating properly and successfully) or in a FOSET before it is complete, as currently described in the Draft EIR on page III.K-32. No change has been made to the Draft EIR text.

### **Response to Comment 101-18**

The fourth bullet on page III.K-32 under the Early Transfer subheading has been revised to describe the "finding by the Federal government" per CERCLA Section 120(h)(3)(C)(i)(IV).

### **Response to Comment 101-19**

The fourth bullet on page III.K-33 has been revised to omit the term "oversight activities" and make any other necessary adjustments to the text to be consistent with CERCLA Section 120(h)(3)(C). It has been revised as follows:

- All remedial investigations, ~~and~~ response actions, ~~and oversight activities~~ will be completed by the transferee notwithstanding the transfer of the property.

### **Response to Comment 101-20**

Although it is possible that the radiologically impacted area around Building 140 could be excluded from early transfer, no such decision has yet been made, and no revision to the Draft EIR text is warranted at this time.

### **Response to Comment 101-21**

The Navy is mistaken that the Draft EIR identifies the Navy CERCLA remedial actions as CEQA mitigation measures. Further, the Draft EIR does not identify the Navy's CERCLA decisions as subject to CEQA. Page III.K-2 expressly states:

The remediation program at HPS Phase II is being carried out under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and through a 1992 Federal Facilities Agreement (FFA) between the Navy and federal and state regulatory agencies. ... these



ongoing remediation activities are not part of the Project. Thus, the goal of this EIR is not to assess the adequacy or impacts of the Navy's remediation actions. ...

The Draft EIR does address any actions that would be taken not by the Navy but by other parties implementing the Project. Page III.K-2 also states:

... However, this EIR does evaluate the potential impacts of certain limited remedial activities proposed to be conducted in conjunction with development activities, as described below.

Instead of identifying the Navy's CERCLA remedial actions as mitigation measures, the Draft EIR requires compliance with any restrictions that may be imposed on the property by the Navy under its remedial action program. Page III.K-3 states:

The mitigation measures set forth in this section require the Project to be consistent with any requirements imposed as part of these (the Navy) remediation programs, and the federal, state, and local laws governing those remediation programs. For example, if such laws require institutional controls such as land use covenants that prohibit certain activities or types of land uses on portions of the Project site or require the preparation and implementation of a Risk Management Plan (RMP), the mitigation measures set forth below impose the same requirements. Similarly, the mitigation measures require the Project to be implemented consistent with the terms of any property transfer document, e.g., if the Navy transfers ownership or leases portions of HPS Phase II prior to completion of remedial activities, the mitigation measures require the transferee to comply with all applicable activity and use restrictions set forth in the lease or deed.

### **Response to Comment 101-22**

The Draft EIR, appropriately, conservatively assumes that the bridge would be constructed prior to transfer of Parcels E and E-2 and, therefore, before the Navy has addressed all radiological hazards on these parcels. The text and mitigation measure MM HZ-9 are designed to identify possible impacts that could occur in such an event and mitigation that would avoid a significant impact as a result of the presence of radiological materials within the bridge construction area. To clarify the text, the following language will be added to page III.K-77 after the first paragraph under Impact HZ-9:

It is expected that construction of the bridge would occur in the early phase of the Project, likely before the Navy completes remediation of Parcels E and E-2. This section describes the impacts that could occur under such a scenario due to the presence of radiological materials and the actions that would be taken to address the presence of radiological materials within the bridge construction area.

MM HZ-9 does not consider a Navy CERCLA removal action as CEQA mitigation. Rather, MM HZ-9 requires the Agency or Project Applicant to take action to avoid an impact identified under CEQA. Obviously, any action taken by the Agency or Project Applicant at the HPS site concerning the handling of hazardous substances must satisfy all regulatory requirements, including CERCLA, but MM HZ-9 does not establish what action the Navy may need to take under the FFA to comply with its own, separate CERCLA responsibilities.

### **Response to Comment 101-23**

In response to the comment, page III.L-15 of the Draft EIR has been revised:

Based on existing data, there is little or no risk of large translational movements.<sup>386a,386b</sup> Design-level liquefaction studies, which are further described in mitigation measures

~~MM GE-4~~MM GE-5a, would address five general types of localized potential hazards, and provide treatment methods, including the following:

<sup>386a</sup> ENGEO, 2009.

<sup>386b</sup> Engineering/Remediation Resources Group, Inc. and Shaw Environmental, Inc., *Remedial Investigation/Feasibility Study Report for Parcel E-2, Hunters Point Shipyard, San Francisco, California, February 2009.*

### Response to Comment 101-24

In response to the comment, page III.L-55 of the Draft EIR has been revised:

... Extensive Young Bay Mud deposits are predominant in Parcels D and E. The rate of settlement of the Young Bay Mud from the load of the artificial fill is now very small, but any increase in loads, whether resulting from placement of new fill or the construction of buildings, would initiate a new cycle of consolidation settlement. <sup>417a,417b</sup> ...

<sup>417a</sup> ENGEO, 2009.

<sup>417b</sup> Engineering/Remediation Resources Group, Inc. and Shaw Environmental, Inc., 2009.

### Response to Comment 101-25

As explained in Response to Comment 101-22, it is assumed that the bridge work would be completed before the Navy has transferred Parcel E-2 to the Agency and it is acknowledged that any work done in the area under such a circumstances will require the approval of the Navy and the regulatory agencies. MM HZ-9, which addresses impacts associated with construction on Navy-owned property states:

MM HZ-9      ... *The City/Agency shall not undertake any activity or approve any Project Applicant activity on Navy-owned property until the Navy and other agencies with approval authority have approved a workplan for the activity.* ...

### Response to Comment 101-26

In response to the comment, the third sentence in the third paragraph, Section III.N (Biological Resources), page III.N-9, has been revised as follows:

... One of these wetlands, in the southwestern portion of HPS Phase II, consists of pools that ~~pools~~ are shallow basins that lack drainage outlets. ...

### Response to Comment 101-27

In response to the comment, the second sentence in the first paragraph, Section III.N (Biological Resources), page III.N-21, has been revised as follows:

... However, because they tend to gather in winter roosting sites along the California coast in relatively few locations, roost sites that are used traditionally by large numbers of individuals are considered sensitive biological resources and, thus, this common butterfly is discussed here as a sensitive species. ...

### **Response to Comment 101-28**

In response to the comment, the third sentence in the last paragraph, Section III.N (Biological Resources), page III.N-22, has been revised as follows:

... This striking recovery is due in large measure to the ban on the use of DDT (a synthetic pesticide) in many places, including the United States. ...

### **Response to Comment 101-29**

In response to the comment, the first sentence in the last paragraph, Section III.N (Biological Resources), page III.N-26, has been revised as follows:

Using the likelihood of occurrence definitions provided in Table III.N-5, this species is “known” to occur within the Study Area. ...

### **Response to Comment 101-30**

In response to the comment, the first sentence in the first paragraph, Section III.N (Biological Resources), page III.N-28, has been revised as follows:

The only special-status bat species ~~likely to occur~~ potentially occurring within the Study Area is the western red bat (*Lasiurus blossevillei*). ...

### **Response to Comment 101-31**

In response to the comment, the third sentence in the last paragraph, Section III.N (Biological Resources), pages III.N-28 and III.N-29, has been revised as follows:

... Because ~~of~~ the larval forms of oysters are free-floating in the Bay, and a large population exists south of the Study Area at Oyster Point Marina,<sup>729</sup> native oysters are likely present on suitable substrate throughout the Study Area.

### **Response to Comment 101-32**

In response to the comment, the second sentence in the first full paragraph, Section III.N (Biological Resources), page III.N-32, has been revised as follows:

... Fall-run Chinook salmon is the most abundant ESU, documented to comprise about ~~8092~~ percent of the Sacramento Basin stock ~~in the early 1980s~~ over the past 10 years of available data.<sup>741a</sup> ...

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<sup>741a</sup> California Department of Fish and Game, Fisheries Branch, Anadromous Resources Assessment. 2009. Chinook Salmon Escapement – All Runs. February 18.

### **Response to Comment 101-33**

A list of possible tree species to be planted on the Project site is provided in Appendix N3 of the Draft EIR (Draft Parks, Open Space, and Habitat Concept Plan). Specifically, examples of native trees and shrubs and examples of site-appropriate non-native species that provide food or structural resources that are particularly valuable to native wildlife are provided on pages 71 and 72 of the plan.

### **Response to Comment 101-34**

As discussed in Impact BI-4a, Impact BI-4b, and Impact BI-4c on pages III.N-59, III.N-65, and III.N-68 of the Draft EIR:

Direct removal, placement of fill into, or hydrological interruption of federally or state-protected wetlands and other waters that would result in a net loss of these areas would be considered a significant impact. However, any alterations of, or discharges into, jurisdictional waters and wetlands must be in conformance with the CWA (via Sections 404 and 401 certification) and Section 10 of the Rivers and Harbor's Act, as applicable. These regulations are designed to ensure, among other things, that there is no net loss of wetlands and that water quality is maintained ...

Therefore, although exact mitigation ratios will be determined through the permitting process, the minimum mitigation ratios provided in MM BI-4a.1 and MM BI-4c are to ensure that the Project does not result in a net loss of wetlands or jurisdictional/regulated waters.

### **Response to Comment 101-35**

In response to the comment, the first sentence of the last paragraph, Section III.N (Biological Resources), page III.N-68, has been revised as follows:

Mitigation measures MM BI-4a.1 and MM BI-4a.2 (first discussed in Impact BI-4a) would be implemented to reduce the effects of construction-related activities to wetlands by mitigating for the temporary and permanent loss of the wetlands and jurisdictional waters through avoidance of impacts, requiring compensatory mitigation (i.e., creation and/or restoration), obtaining permits from the USACE, SFRWQCB, BCDC, and other agencies as applicable that are designed to protect wetlands and jurisdictional waters, and implementing construction BMPs to reduce and/or prevent impacts to ~~on~~ waters of the United States, including wetlands and navigable waters...

### **Response to Comment 101-36**

This comment suggests minor text revisions that do not affect the analysis or conclusions of the Draft EIR. No text change is required.

### **Response to Comment 101-37**

Since the various components of the Draft Parks, Open Space, and Habitat Concept Plan are currently in draft form and have not been finalized as part of the final plan, requiring enhancement measures identified in MM BI-7b will ensure that specific standards associated with enhancement of raptor foraging habitat would occur.

### **Response to Comment 101-38**

Compensatory mitigation is appropriate to mitigate potentially significant impacts to less than significant levels under CEQA. It is understood that the Navy will consult with the USFWS and NMFS in accordance with Section 7 of the Federal Endangered Species Act regarding the potential effects of its actions, including future land conveyance, on federally listed species. However, different standards apply to Section 7 consultation and CEQA analysis. Under Section 7, the federal agency needs only to avoid jeopardizing the continued existence of a listed species, whereas under CEQA, the goal is to mitigate impacts to less than significant levels.

### ***Response to Comment 101-39***

This comment is the same as Comment 101-38. Refer to Response to Comment 101-38 for a discussion of the appropriateness of compensatory mitigation as it relates to compliance with CEQA.

### ***Response to Comment 101-40***

This comment suggests a minor text revision would not affect the analysis or conclusions of the Draft EIR. No text change is required.

### ***Response to Comment 101-41***

In response to the comment, Section III.N (Biological Resources), Table III.N-5, page III.N-134, has been revised as follows:

Longfin Smelt

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## ■ Letter 102: Literacy for Environmental Justice (1/12/10)

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Letter 102

Literacy for Environmental Justice  
800 Innes Avenue #11  
San Francisco, CA 94124

Mr. Stanley Muraoka  
Environmental Review Officer  
San Francisco Redevelopment Agency  
1 South Van Ness Avenue, Fifth Floor  
San Francisco, CA 94103

Mr. Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street  
San Francisco, CA 94103

**RE: Public Comments on the November 12, 2009 Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project Draft EIR**

Literacy for Environmental Justice (LEJ) is an environmental education and youth empowerment organization located in the Bayview Hunters Point neighborhood of San Francisco. Bayview Hunters Point (BVHP) is predominantly a low-income community of color, which has historically served as the dumping ground for San Francisco's most toxic industries. The mission of Literacy for Environmental Justice is to foster an understanding of the principles of environmental justice and urban sustainability in our young people in order to promote the long-term health of our communities. LEJ trains youth from Bayview Hunters Point to become authorities and activists in environmental health research, education, and advocacy; sustainable foods production, marketing, and nutrition education; and environmental conservation, restoration, and horticulture. Our youth programs combine education sessions with action-based projects, drawing concrete linkages between human health, the environment, and urban quality of life:

\* The *Bay Youth for the Environment Program* operates a native plants nursery at Candlestick Point State Park Recreational Area, and is the primary supplier of plant stock to two major restoration projects on San Francisco Bay; including the *Yosemite Slough Restoration Project*.

\* Interns in the *Youth With A Plan* -- an environmental health and justice program contribute a strong youth voice to the redevelopment of southeast San Francisco.

\* LEJ also spearheads the restoration and stewardship at *Heron's Head Park* (formerly Pier 98). Through the efforts of thousands of community volunteers, we've transformed a brownfield into one of the most vibrant wetlands on the southern bay front shoreline. Each year we host some 1,200 school-age youth at the park for free site-based environmental education programs that link science curricula to real-life environmental health and justice issues.

\* We're in the final stages of constructing *The EcoCenter at Heron's Head Park*, a 1,500-square-foot environmental education facility that will model alternative energy and waste water technologies and be San Francisco's first 100% "off-grid" building. Situated at the foot of the former PG&E Hunters Point Power Plant — closed in 2006 after years of community advocacy — the EcoCenter is a success story that will empower youth to act for environmental health and justice.

Youth With A Plan is LEJ's newest program and brings youth engagement to the public process involving the redevelopment of the Hunters Point Shipyard and Candlestick Park. LEJ recruited youth ages 14-17 from area schools to participate in the Youth With A Plan program. These

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paid youth interns were educated about the history of BVHP and this joint redevelopment project, in the context of the standards and practices of urban development. During their first eight weeks, the youth learned about city planning; case studies of other redeveloped communities and attended BVHP public meetings addressing environmental conservation, city planning, redevelopment, safety, community design, and transportation. LEJ youth then convened a community panel of longtime leaders of the Bayview Hunters Point community at the Waden Branch of the San Francisco Public Library. Youth led this meeting which included a presentation and Q&A on their experience living, working, educating, and advocating in the Bayview and their hopes for the community's future. This event generated public engagement around the Youth With A Plan project, formed inter-generational connections between elders and upcoming leaders.

Our goal is to support youth in the community and find effective ways to included youth input into public policy decisions. Our public comments for the draft environmental impact report resulted from a survey created by youth for youth. The surveys were completed by youth who live, work or attend schools in Supervisorial District 10. We have identified four areas that we believe should be addressed in the DEIR. These areas are transportation, housing, youth development and education, and access to parks and open space.

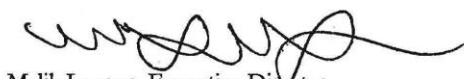
The survey asked youth to answers two key questions:

- 1) *What do youth need to thrive here in Bayview/Hunter's Point?*
- 2) *How can the redevelopment of the southeast San Francisco support youth education and health?*

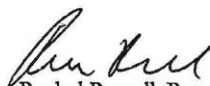
Through our process, 78 surveys were completed. The youth surveyed ranged from age 11 to age 20, with an average age of 15.6. Of the youth surveyed, 66.2% were female. The youth surveyed belonged to the following race/ethnicity groups: 33.8% were Asian/ Pacific Islander, 29.9% were African American/Black, 31.2% were Latino/Hispanic, 2.6 % were White/Caucasian, 2.6% reported more than one race. 60.3 % of the youth surveyed live in District 10, of these 57% live in Hunters Point, 13% live in Candlestick Point/Executive Park. 11% live in Potrero Hill, 15% live in Visitacion Valley.

Out of a total of 42 question asked on the survey, Youth With a Plan have selected the top questions and responses that we believe are important for City Officials and planners to know in order to properly address the needs of youth in District 10. We have found that safety is a reoccurring concern for youth in District 10 and should be addressed during the evaluation of impacts on the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project Draft Environmental Impact Report. What follows below are additional comments gathered from youth by LEJ via this program.

Respectfully Submitted By,



Malik Looper, Executive Director  
Literacy for Environmental Justice



Rachel Russell, Program Manager  
Youth With A Plan

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cont'd.



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**Public Comments on the November 12, 2009 Candlestick Point-Hunters Point Shipyard  
Phase II Development Plan Project Draft EIR**

**TRANSPORTATION**

Safety on transportation is a major concern for youth. An astounding 97.1 % of youth have witnessed a crime while on MUNI/school bus. 89.6 % of the youth surveyed ride MUNI. 73.1 % of the youth surveyed feel unsafe riding MUNI or the school bus in District 10 communities.

How many youth have witnessed a crime while on MUNI/school bus?

- 97.1% of youth surveyed have witnessed a crime while on the MUNI or a school bus

Out of youth riding MUNI/school bus in the following neighborhoods (3<sup>rd</sup> Street, West Point, Harbor, Oakdale, Alice Griffith/Double Rock, Visitation Valley, Potrero Hill, or Candlestick Park/Executive Park), how many feel unsafe?

- 73.1% of the youth surveyed feel unsafe riding the MUNI or a school bus in the following neighborhoods (3<sup>rd</sup> Street, West Point, Harbor, Oakdale, Alice Griffith/Double Rock, Visitation Valley, Potrero Hill, or Candlestick Park/Executive Park)

How many kids ride MUNI?

- 89.6% of youth surveyed ride the MUNI

Out of the youth surveyed, how many have witnessed sexual harassment while on the MUNI or school bus?

- 34.2% of the youth surveyed have witnessed sexual harassment while on the MUNI or school bus

**COMMENT:** *We believe that safety of youth on transportation should be addressed.*

**HOUSING**

During our survey we asked youth if they live near a toxic producing location. We considered near to be any location that is close enough to be considered a concern to one's health. 73.2% of youth surveyed live near one or more toxic-producing location (auto repair shop, dry cleaners, freeways and/or a gas station). 23% of youth surveyed live near a power plant, waste treatment facility or the Hunters Point Naval Shipyard. We also found that of the youth living near a current or past toxic-producing location 46.8% have a family member or is dealing with chronic health issues such as asthma, cancer diabetes or heart disease.

Auto repair shops, dry cleaners, freeways and gas stations all produce toxic chemicals. How many youth live near one of these toxic-producing locations?

- Auto repair shops, dry cleaners, freeways and gas stations all produce toxic chemicals.  
73.1% of youth surveyed live near one of these toxic-producing locations

How many youth live near a power plant, a waste treatment plant or the Hunters Point Naval Shipyard?

- 23.9% of youth surveyed live near a power plant, a waste treatment plant or the Hunters Point Naval Shipyard

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102-3

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How many youth that live near a power plant, waste treatment plant, auto repair shop, dry cleaner, freeway, gas station or the Hunters Point Naval Shipyard have a family member or is dealing with chronic health issues such as asthma, cancer, diabetes or heart disease?

- 46.8% of youth who live near a power plant, waste treatment plant, auto repair shop, dry cleaner, freeway, gas station or the Hunters Point Naval Shipyard have a family member or is dealing with chronic health issues such as asthma, cancer, diabetes or heart disease

Out of the youth surveyed how many do not feel safe in their communities?

- 12.2% of the youth surveyed do not feel safe in their communities

Out of the youth surveyed, how many live in public housing?

- 47.7% of the youth surveyed live in public housing

How many youth have water leaks in their homes?

- 13.8% of the youth surveyed have water leaks in their home

**COMMENT:** *We believe housing development considerations need to address the environmental health of youth and their families.*

#### YOUTH DEVELOPMENT AND EDUCATION

What are the top five extracurricular activities that youth are interested in?

- The top 5 extracurricular activities that youth surveyed are interested in are:
  - o Music: 83.3%
  - o Sports: 81%
  - o College prep: 78.6%
  - o Driving education: 73.8%
  - o Technology: 69%

How many youth are interested in extracurricular activities?

- 100% of the youth surveyed are interested in extracurricular activities

How many youth think that their school has adequate facilities?

- 30.7% of youth surveyed think that their school has adequate facilities

How many youth feel safe at their after school or summer programs?

- Among youth surveyed who attend an after school or summer program, 83.3% feel safe at their after school or summer program

**COMMENT:** *We believe that the need for age-appropriate extracurricular activities for youth should be addressed.*

102-3  
cont'd.

102-4

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PARKS AND OPEN SPACE

Safety is also a concern for youth at their local parks. Only 44.1% of youth surveyed feel safe at their local park. 85.2% of youth surveyed have witnessed a crime at the park they visit.

How many actually go to their local park (the nearest one)?

- 78.9% of youth surveyed actually go to their local park (the one nearest to their home)

How many youth have witnessed a crime at the park they visit?

- 85.2% of youth surveyed have witnessed a crime at the park they visit

How many youth feel safe at their local park?

- 44.1% of youth surveyed feel safe at their local park

**COMMENT:** *We believe that the need for safe local parks and open space should be addressed.*

102-5

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## ■ Letter 102: Literacy for Environmental Justice (1/12/10)

Letter 102 (and its attachment entitled *Public Comments on the November 12, 2009 Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project Draft EIR*) were also provided as an attachment to Letter 83, and they have been bracketed in the same manner. Therefore, responses to this letter reference Letter 83.

### **Response to Comment 102-1**

This comment contains introductory, closing, or general background information and is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. No response is required.

### **Response to Comment 102-2**

Refer to Response to Comment 83-2 for discussion of safety concerns related to increased transit ridership.

### **Response to Comment 102-3**

Refer to Response to Comment 83-3.

### **Response to Comment 102-4**

This comment does not provide a direct comment on environmental issues or the content or adequacy of the Draft EIR. No response is required.

### **Response to Comment 102-5**

Refer to Response to Comment 83-5.

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## ■ Letter 103: San Francisco Bay Conservation and Development Commission (1/12/10)

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Letter 103



January 12, 2010

Stanley Muraoka  
San Francisco Redevelopment Agency  
One South Van Ness Ave, Fifth Floor  
San Francisco, California 94103

**SUBJECT:** Candlestick Point-Hunters Point Shipyard Phase II Project  
(SCH No.: 2007082168)  
(BCDC Inquiry File No. SF.SB.6613.14; BCDC File No. CN 1-99)

Dear Mr. Muraoka:

On November 12, 2009, the San Francisco Bay Conservation and Development Commission (Commission) staff received the Draft Environmental Impact Report (DEIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project at a 702-acre site comprised of two primary areas, the 421-acre Hunter's Point Shipyard Phase II site (Shipyard or HPS) and the 281-acre Candlestick Point (Candlestick) site located in the City and County of San Francisco. The DEIS/R analyzes five alternatives, including the No-Project alternative, and the proposed Project (Project).

The Project, which is the focus of the DEIR, would involve the phased-development (through Year 2029) of two currently separate sites that would ultimately function as one integrated area comprised of nine districts and including the following improvements: 10,500 residential units; a 300-slip marina; a new bridge at Yosemite Slough; a replacement public housing facility; a new/replacement 69,000-seat stadium; 885,000 square feet of retail space; over 2.5 million square feet of office/research and development space; a 150,000-square-foot hotel; a 75,000-square-foot performance center; and a 225,000-square-foot artist's facility. Proposed parks and open space area would total 336 acres. Other proposed activities include demolishing existing structures, raising and grading existing site elevations with imported and on-site material, reinforcing and stabilizing the shoreline, and installing or improving site infrastructure.

The Commission itself has not yet reviewed the DEIR. The staff comments below focus primarily on the above-described Project and are based on the McAteer-Petris Act (Cal. Gov't Code § 66600 *et seq.*), the Commission's *San Francisco Bay Plan* (Bay Plan), the *San Francisco Bay Area Seaport Plan* (Seaport Plan), the Commission's federally-approved management plan for the San Francisco Bay, and the federal Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*; "CZMA").

### Commission Jurisdiction Under State and Federal Law

The Commission's jurisdiction under state law as it applies to the Project includes all tidal areas of the Bay up to the line of mean high tide (MHT) or to the inland edge of wetland vegetation in marshlands, and all areas formerly subject to tidal action that have been filled since September 17, 1965 (which may apply to the Project site, as indicated on Page III.K-8 of the DEIR), and a shoreline band extending 100 feet inland from and parallel to the Bay. Please note that this information in Section III.B, p. 13 of the Final EIR (FEIR). The Commission also has jurisdiction over priority use areas designated in the Bay Plan at the Project site. Within the Commission's jurisdiction, authorization is required for construction, dredging, fill placement, land subdivisions, and substantial changes in use.

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San Francisco Redevelopment Agency  
January 12, 2010  
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Pursuant to the federal CZMA, the Commission is required to review federal projects within its jurisdiction and agree or disagree with the federal agency's determination that a project is consistent with its laws and policies. In March 1999, the Commission issued a Letter of Agreement for Consistency Determination No. CN 1-99 to the Department of the Navy (Navy) for the transfer and reuse of the Hunter's Point Shipyard to the City and County of San Francisco and the San Francisco Redevelopment Agency. Other activities covered by CN 1-99 are identified in the *Environmental Impact Statement/Report for the Disposal and Reuse of Hunters Point Shipyard* (October 1998), including maritime activities at the Shipyard consistent with the port priority use area designated in the Bay Plan, and environmental response actions (e.g., initial remediation of contaminated sediments) that meet the requirements of the CZMA and the Commission's laws and policies.

103-3

The Project would be subject to the Commission's permit application review and authority under state law, and also its federal consistency review and authority under CZMA for activities not previously authorized in Consistency Determination No. CN 1-99. Section II.K of the DEIR, which addresses hazardous materials and remediation at the Project site, states that investigation and remediation activities are already occurring at various Shipyard parcels. From reviewing the DEIR, these initial activities appear to be consistent with CN 1-99. However, other activities appear to require additional Commission authorization, including: demolishing buildings, Piers B and C, Drydocks 5-7, and infrastructure (e.g., stormwater and sewer lines) and installing shoreline improvements (discussed in Section III.K of the DEIR), e.g., the construction of an approximately 1,400-foot-long shoreline revetment system and associated features (e.g., a temporary coffer dam, water-filled tube, and sheet piles) and placing capping material at a submerged area of the Shipyard. (The revetment/capping effort, which as a result of early transfer by the Navy would likely be carried out by the Project proponents, would require a Commission permit. Page ES-5 and Table II-16 of the DEIR, which refers to Bay Plan and Seaport Plan amendments and BCDC permits needed to implement the Project, should also mention (in the FEIR) additional federal consistency authorization.)

103-4

103-5

The DEIR states that approximately 98 acres of the Project site would be located within the Commission's 100-foot shoreline band jurisdiction. It is not clear whether this figure includes these areas where the Navy would conduct activities not previously authorized in CN 1-99. If not, the FEIR should provide a revised figure. Lastly, the Commission's federal consistency authority also applies to activities carried out or funded by the federal government within priority use areas in their entirety, including priority use areas extending beyond the 100-foot shoreline band. Therefore, the FEIR should provide additional information about improvements at Candlestick Park which would be grant-funded by the U.S. Department of Interior.

103-6

#### Commission Policy Issues

**Priority Use Areas.** A 55-acre section of the Shipyard site—specifically the area between the south edge of Dry Dock 4 and J Street to the south—is currently designated for port priority use in the Commission's Bay and Seaport Plans. Section III.B of the DEIR correctly states that implementation of the Project would require an amendment to the Bay and Seaport Plans. The Bay Plan also designates a portion of the Candlestick site for waterfront beach/park priority use whose boundaries would be reconfigured under the Project as part of an agreement with California State Parks and Recreation (State Parks). Section III.B of the DEIR states that "the Project [as it relates to Candlestick Point] is consistent with the intent of the Bay Plan," but does not state that a Bay Plan amendment is needed to change the existing boundaries of the waterfront beach/park priority use area—a point that should be clarified in the FEIR. According to the DEIR, the Project would result

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Stanley Muraoka  
San Francisco Redevelopment Agency  
January 12, 2010  
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in a 23.5-acre reduction of the existing State park boundaries. As part of the Bay Plan amendment process, the Project proponents would need to demonstrate that the decreased area would not compromise or reduce its value as a park/beach facility.

**Bay Fill.** Section 66605 of the McAteer-Petris Act sets forth criteria for Commission authorization of Bay fill including that the fill serve a water-oriented use or is a minor amount for public access and improving shoreline appearance, that the fill is the minimum necessary, that there is no upland alternative, and the fill would minimize adverse effects on the Bay. Fill may only be authorized in land at which the project proponent holds valid title. (The FEIR should note that a public trust land exchange agreement from the State Lands Commission would need to be obtained to file a permit application or consistency determination with the Commission. In the absence of title or land exchange, any entity which owns property in the Bay—or shoreline band—proposed for development would need to be a party to the application process with the Commission.) Bay fill also needs to be constructed in accordance with sound safety standards—which, pursuant to the Bay Plan Safety of Fills Policy No. 1, is evaluated by the Commission's Engineering Criteria Review Board. The FEIR should also note that work at piers predating the Commission's establishment in 1965, which would involve the replacement of all or a substantial portion of a pier deck, additional coverage of the Bay, significant extension of the life of the structure, or a substantial change in use of the structure, is considered work within the Commission's Bay jurisdiction; proposed work that would not result in significant changes or size at such piers is considered work in the Commission's 100-foot shoreline band jurisdiction.

Various activities associated with the Project would involve Bay fill including: the construction of an 81-foot-wide, 902-foot-long bridge supported by 32 columns and abutments across Yosemite Slough; the development of a 300-slip marina, and two concrete sheet-pile breakwaters totaling 1,650 feet; the redevelopment of Drydocks 2 and 3 to establish Heritage Park; public access facilities (e.g., boardwalks, fishing piers, overlooks); repairs or replacement of piles at existing wharves; and the repaving of existing piers. The Project would also involve shoreline improvements and stabilization including: placing rip-rap, rock buttresses (at existing drydocks and along the submarine docks), wave berms, concrete block mats, and replacing seawalls, bulkheads, and piers (e.g., the Re-Gunning Pier) with sloped-edged shoreline treatment. According to the DEIR, existing Bay coverage would also be removed, e.g., Piers B and C, and portions of Drydocks 5-7, Piers 1-3, and the Re-Gunning Pier (Berths 16-20). (Page III.E-13 of the DEIR states that "[Yosemite] Slough is not within the Project site." Because the Project includes the construction of a bridge at the mouth of the slough, this statement is misleading and should be clarified in the FEIR.)

Section III.B, p. 15 of the DEIR suggests that fill associated with the Project would be consistent with the Commission's policies regarding Bay fill. As previously stated, the Commission's authorization of new fill in the Bay is contingent on various factors, including whether an alternative exists at an upland location or involving less fill, and whether the proposed fill minimizes harmful effects on Bay resources. From reviewing the DEIR in its entirety, it is not evident at this time that the proposed bridge across Yosemite Slough meets the fill "tests" presented in the Commission's law.

From reviewing the text and disparate tables (e.g., in Sections II.F, III.K and III.N) in the DEIR, it is clear that the Project would result in a net increase in Bay fill. However, it is extremely difficult to determine the precise quantities. Therefore, the FEIR should include a single comprehensive table (or related series of tables under different development scenarios) associated with the Project that identifies existing fill proposed for removal and proposed new Bay fill, including at all areas below the MHW line, below the inland edge of wetland vegetation, piers, and/or all areas

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formerly subject to tidal action that have been filled since September 17, 1965. Further, the table should categorize the fill as: solid (cubic yards), and pile-supported, cantilevered or floating (square feet).

We understand the difficulty providing precise net fill quantities at this early date since Project details could change. However, at a minimum, the proposed bridge at Yosemite Slough would result—not including the solid fill for bridge pilings and abutments—in approximately 1.7 acres of fill in the Bay: a significant amount of coverage particularly for a facility where the large majority of its coverage is needed to serve vehicles accessing the new stadium only twelve days a year. Further, Chapter VI of the DEIR analyzes various alternatives to the Proposed project, including several that would not involve the construction of a new bridge and yet would meet a majority of the basic project objectives (identified on p. VI-3). For example, Alternative 2 does not include the new bridge and differs from the Project mainly because of game day traffic impacts. Moreover, Alternative 2 would result in a reconfiguration of and significant improvements to the Candlestick Park area that are similar to the Project—unlike Alternatives 4 and 5, which do not include a new bridge and also would not result in the park improvements envisioned under the Project or Alternative 2. Further, Alternatives 2, 4, and 5 would result in a significant reduction in the quantity of fill proposed under the Project and, hence, an overall reduction in the biological and scenic resource impacts. In the event a feasible alternative exists involving less fill in the Bay and fewer resource impacts, the Commission could not find the Project fully consistent with its laws and policies regarding fill—a point that the FEIR should address.

**Safety of Fills and Sea Level Rise.** The Bay Plan policies regarding safety of fills state, in part, that, “[t]o 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.” Additionally, the policies state that, “[t]o minimize the potential hazard to Bay fill projects and bayside development from subsidence, all proposed development should be sufficiently high above the highest estimated tide level for the expected life of the project or sufficiently protected by levees...” The policies also recommend: “[l]ocal governments...with responsibilities for flood protection should assure that their requirements and criteria reflect future relative sea level rise and should assure that new structures and uses attracting people are not approved in flood prone areas or in areas that will become flood prone in the future, and that structures and uses that are approvable will be built at stable elevations to assure long-term protection from flood hazards.” Lastly, the Bay Plan policies regarding recreation state, in part, “[t]o 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.”

According to the DEIR, proposed building structures located away from the immediate shoreline were designed to accommodate a 36-inch sea level rise (by 2075) combined with a 100-year flood zone, while the perimeter system was designed to accommodate a 16-inch rise in current sea level by 2050. As proposed, the Project includes a 9.6-mile trail and a variety of other public amenities directly adjacent to the shoreline. The Commission’s Bay Plan policies regarding public access state, in part, that all fill projects “should increase public access to the Bay to the maximum extent feasible” and, further, that public access areas should be maintained over time. The DEIR states that beyond 2050, the Project would employ “adaptive management” strategies along the perimeter system, and that “...public access improvements have been designed with a development setback to allow any future increases in elevation to accommodate higher SLR [sea level rise] values...” Figures II-23 to II-27 of the DEIR illustrate how the perimeter system would change to adapt to future a sea level rise. Unfortunately—partly due to illegibility and the scale of the drawings—it is difficult to assess precisely how these adaptations would appear. However, it

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can be assumed that over time, levees would need to be raised and, likely, widened at the base, thereby partly or entirely obstructing the public's view of the Bay from inland areas, encroaching upon and reducing the area devoted for public use, and impacting the overall public access experience. In light of these potential impacts on the access area, the Project proponents should consider alternative Project designs (e.g., a wider setback between the perimeter system and developed areas) and/or different adaptation strategies that would accommodate a rising sea level without compromising the size or quality of the dedicated public access area.

**Transportation.** Section III.D of the DEIR states that "there are no state transportation regulations applicable to the Project." The Bay Plan, however, contains Transportation Policies, which apply to the Project. Relevant policies include Bay Plan Transportation Policy No. 1, which states, in part: "[i]f any additional bridge is proposed across the Bay, adequate research and testing should determine whether feasible alternative route, transportation mode or operational improvement could overcome the particular congestion problem without placing an additional route in the Bay..." Further, Bay Plan Transportation Policy No. 3 states, in part: "[i]f a route must be located across the Bay...the following provisions should apply [including] bridges should provide adequate clearance for vessels that normally navigate the waterway beneath the bridge..." Lastly, the Bay Plan Transportation Policy No. 4 states, in part, "[t]ransportation projects should be designed to maintain and enhance visual and physical access to the Bay and along the Bay shoreline." Pursuant to these policies, the FEIR should state whether the proposed design would provide adequate clearance for vessels and how the pile-supported structure would affect visual access of the Bay particularly for visitors at the adjoining shoreline. Bay Plan Transportation Policy No. 5 relates to ferry terminal development. An earlier version of the Project included a new terminal, which is no longer proposed. The FEIR could possibly discuss how a ferry terminal might relieve congestion at the site on game days and possibly eliminate the need for a new bridge at Yosemite Slough.

**Appearance, Design and Scenic Views.** Page III.E-47 to -48 of the DEIR cites Bay Plan policies regarding appearance, design and scenic views applicable to the Project, but omits Policy No. 6, which relates to new bridges and their effect on views of the Bay from the structure itself and from nearby areas and should be included in the FEIR. The text and figures contained in Section II.E provide a general understanding of how existing views would be affected by the Project. The DEIR states that the illustrations "do not show all possible views of the Project site." However, for the Commission to accurately assess the way in which views of the Bay and shoreline "from public areas" at the site and nearest public roads would be "provide[d], enhance[d], or preserve[d]," additional drawings would be necessary. Specifically, the Commission needs images that illustrate immediate views of the Bay and shoreline from the perspective of visitors (e.g., pedestrians, cyclists) at public areas throughout the Project site. Images at a significantly smaller scale than those provided in Section II.E would also be needed. Further, it would be helpful if drawings were prepared to illustrate views of the Bay from public access areas if proposed future "adaptive management" strategies to adapt to a rising sea level were implemented.

The Project would involve constructing clustered developed areas with buildings of varying densities and heights (up to 420-feet-tall). Understandably, final architectural details of these structures are not yet available. The above-cited Bay Plan policies state, in part, that shoreline development "should be built in clusters" to allow "frequent" views of the Bay and shoreline, and that "towers, bridges or other structures near or over the Bay should be designed as landmarks that suggest the location of the waterfront when it is not visible especially in flat areas"—preliminary drawings that illustrate such design features would be useful to include in the FEIR.

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Figure III.E-24 shows that the proposed bridge at Yosemite Slough would clearly impact views of the Bay from the adjacent shoreline. The FEIR should also address how the Bay and its shoreline would appear to those using the proposed bridge, including how any proposed guardrails or other bridge design features may affect Bay views.

**Biological Resources.** Page III.N-45 of the DEIR cites the Bay Plan policies regarding fish, other aquatic organisms, and wildlife. This section should be expanded to cite—or reference—other relevant Bay Plan policies regarding: Tidal Marshes and Mudflats (Policy Nos. 1, 2, 3, 5, and 6); Subtidal Areas (Policy Nos. 1 and 2); Protection of the Shoreline (Policy Nos. 2 through 4); and Mitigation.

Table III.N-4 of the DEIR presents the area of tidal marsh and Section 404 “other waters” (which include mudflats) that would be directly impacted by the Project. In summary, at the Candlestick site, the construction of shoreline improvements and the placement of sediment for marsh or beach enhancement associated with the Project would result in the permanent loss of 0.29 acres of tidal marsh and 4.34 acres of other waters, and temporarily impact 0.01 acres of salt marsh and 0.64 acres of other waters. At the Shipyard site, marina construction, shoreline improvements, slope stabilization, etc., would permanently impact 0.08 acres of tidal marsh and 20.26 acres of other waters, and temporarily impact (during construction) 0.01 acres of tidal marsh and 0.85 acres of other waters. Shipyard activities would also shadow approximately 0.08 acres of other waters. At Yosemite Slough (on- and off-site), 0.04 acres of tidal marsh and 0.36 acres of other waters would be permanently impacted while 1.28 acres of other waters would be temporarily impacted. In addition, at the Slough, approximately 0.96 acres of other waters would be impacted by shadow. As stated earlier, it is difficult to determine whether these fill quantities are definitive since, as explained in Chapter III.N, estimates could change depending on schedules and plans for site remediation, habitat restoration/mitigation, and new bridge construction. As stated earlier, the FEIR should provide as precise an estimate as possible of proposed fill amounts, type of fill, and the uses proposed on fill.

According to the DEIR, the primary impact to wetland and “other waters” would result from constructing shoreline improvements and placing of material at the foreground of these structures to address erosion and flooding concerns. Chapter III-N should also state that all projects involving placement of material below the MHW line or below the existing inland edge of wetland vegetation would need to be consistent with the Commission’s laws and policies regarding Bay fill (as discussed earlier). The FEIR proposes measures to mitigate potential impacts to jurisdictional wetlands including complete avoidance to the “maximum extent practicable” and, if necessary, mitigation and monitoring developed in coordination with, among others, BCD. The FEIR states that the areas proposed for filling located bayward of shoreline improvement structures would be designed and constructed to facilitate colonization by marsh vegetation, and thus be “self-mitigating” (p. III.N-59 and III.N-64). Because of the time involved for restoration and the uncertainties of long-term success, the loss of functioning habitat to fill activities typically requires mitigation—where areas larger than impacted areas are restored.

The FEIR addresses impacts associated with shading related to the proposed bridge at Yosemite Slough. Table III.N-4 indicates that these impacts would total 0.96 acres of “other waters.” The bridge, however, would cover an area of approximately 1.7 acres and because of proximity to the water would appear to result in far greater shading impacts than shown in Table III.N-4. The FEIR states the shaded area “would not result in a complete loss of functions and values” of affected aquatic habitat, and proposes to mitigate the effects of shading at a ratio of

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0.5:1. Due to the likelihood that little vegetation would likely grow beneath the bridge and that the productivity of organisms living in the shaded area beneath the structure would be significantly lower than current conditions, this mitigation ratio appears insufficient to offset the impacts.

Approximately 2.0 acres of eelgrass beds exist within the Project boundaries, which could be directly impacted by proposed shoreline improvement work and indirectly impacted by the release of sediment related to construction activities. Eelgrass is an extremely important and sensitive species in the Bay, and efforts to restore it have had limited success. The Bay Plan policy regarding subtidal areas No. 2 states specifically that eelgrass beds "should be conserved," and filling or changing these areas should only be allowed if there's no feasible alternative or the project provides "substantial public benefits"—the FEIR should include this point.

According to the DEIR, up to 675 pilings would be driven in constructing the proposed marina and up to 20 columns supported by steel piles—activities that could impact fish and marine mammals. Proposed mitigation measures (MM BI-9b) discuss, among other things, employing vibratory hammers, "if feasible," to minimize this potential impact. It is not clear that the pile-driving activity and the use of vibratory hammers would be subject to the advice and recommendations of the resources agencies, including NOAA Fisheries. Pursuant to the Bay Plan policies regarding fish, other aquatic organisms, and wildlife (Policy No. 4), for proposed projects with a potential adverse impact on special-status species, the Commission would consult with the resource agencies and consider their recommendations (including use of the vibratory hammer, if needed to minimize impacts). The Project proponents should take this into consideration in the Project design and planning phase.

The DEIR states that other Project activities (e.g., marina construction, shoreline and bulkhead improvements, bridge construction, etc.) could result in direct and indirect impacts to special status fish species, namely green sturgeon, Chinook salmon, Central Valley steelhead, longfin smelt, and Pacific herring, and a loss of up to 26 acres of designated Essential Fish Habitat (ESH) at some locations. Proposed mitigation measures include avoidance, compensatory mitigation, implementation of construction debris recovery plan, and the creation of open water areas resulting from removal of existing Bay fill. Please clarify whether mitigation measures would include compliance with the LTMS construction work windows for the Bay for the affected fish species. As previously mentioned, proposed activities in the Commission's jurisdiction would need to be consistent with the Bay Plan policies regarding, among other things, fish, other aquatic organisms, and wildlife.

Lastly, if possible, the FEIR should: (1) quantify the area of mudflats impacted by the Project—separating them from the Section 404 "other waters" category; (2) correct information noted in Section III.N specifically that BCDC is a State agency and not a "Regional" governmental body; and (3) provide greater design detail regarding stormwater treatment wetlands and biofiltration ponds proposed at the Bayview Gardens North area, any proposed buffer areas (p. II-34) located between existing or restored habitat and public access areas, and the southeastern corner of the Shipyard site where piers would be removed for purposes of creating roosting habitat. Lastly, if possible, it would be helpful to clarify the status of the planned Yosemite Slough Restoration project particularly in terms of schedule and how bridge construction might affect this area.

**Recreation and Public Access.** Page III.P-9 correctly refers to the Bay Plan policies regarding recreation. In addition, this section should refer to the Bay Plan policies regarding public access and the Bay Plan Map No. 5 that contains specific notes about waterfront park/beach development of the Candlestick area. Bay Plan policies regarding public access—in addition to those previously mentioned—state, in part, that access should "be provided in and through every new development in the Bay or on the shoreline," be designed using the Commission's *Public*

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*Access Design Guidelines* and pursuant to the advice of the Commission's Design Review Board, "encourage diverse Bay-related activities and movement to and along the shoreline," be conveniently located near parking and public transit, "permit barrier free access for the physically handicapped...and include an ongoing maintenance program," and "to prevent significant adverse effects on wildlife." The Bay Plan Map No. 5 states that in developing the Candlestick site: "[s]ome fill may be needed. Preserve fishing, camping, picnicking, windsurfing, hiking and viewing opportunities. Potential water trail camping site. Provide signage regarding fish consumption advisories for anglers." Bay Plan Map No. 5, which currently identifies part of the Shipyard site as a port-priority use area, states: "Develop shoreline park and integrate with Candlestick Point State Recreation Area, consistent with San Francisco redevelopment plan. Potential water trail camping site. Some fill may be needed."

The Project would result in new and improved park and open space areas, and also a reconfiguration of the existing Candlestick state park boundaries. At completion, the Project would include approximately 336 acres of park and open space areas, 104.8 acres at Candlestick and 231.6 acres at the Shipyard. These figures include a variety of neighborhood parks and a 91.6-acre area used as waterfront recreation areas, and a sports field complex and a multi-use lawn that would double as a parking lot on stadium game and event days. These sites are intended to serve the projected population for the Project: 24,465 residents and 10,730 employees. The FEIR should clarify whether the area dedicated for parks and open space takes into account the demands of visitors besides residents and employees, e.g., those attending events at the stadium and performance center, hotel guests, and retail customers as well as visiting the state park.

In October 2009, the Commission's Design Review Board (DRB) reviewed the Project and provided preliminary feedback regarding the design and layout of proposed public access and recreational facilities. The DRB also considered whether the Project would provide adequate and attractive public access with adequate connections to and along the shoreline, maintain and preserve the visual quality of the Bay and shoreline, be adequately designed to address sea level rise effects on access areas, and incorporate interim access improvements prior to project completion in 2029. Some of these issues have already been raised in this letter, others have not and are discussed further below.

The Project would be implemented in phases with portions of the Shipyard's northern shoreline implemented during Phase 1, the remaining areas at the Shipyard site and the portions of the northern shoreline at the Candlestick site implemented during the first three phases 3, and the Candlestick peninsula constructed during the final phase. In light of the phased construction approach and consequent long term delay in implementing the entire suite of proposed access improvements, the FEIR should address whether implementation of an interim access plan (e.g., a informal shoreline path) would be feasible.

Almost one-third of the area proposed for parks and open space area is planned for use as a sports field complex and a multi-use lawn, which would also serve as a parking lot on stadium game and special event days. The FEIR should specify the number of days during which this area would be used for parking and any measures to off-set the loss of this area for recreational purposes. In addition, the FEIR should clarify if the sports field complex and the multi-use lawn would be available to the general public free-of-charge. Further, the FEIR should clarify if all neighborhood parks at the Project site would remain open to the general public or would be restricted for use in any manner.

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The DEIR states that the residential and non-residential parking demand associated with the Project would be for 21,233 vehicles and that 18,917 spaces would be provided as a part of the Project resulting in about 2,300 fewer spaces than what is actually needed. The DEIR does not identify parking areas or spaces dedicated to users of the public access areas at the Project site. Because the demand for off-street parking would likely be high, the FEIR should clarify whether parking for shoreline public access areas would be provided, how such parking spaces would be policed to assure their availability for shoreline users and, if not, where users of these areas would be expected to park.

103-25

The Bay Plan recreation policies state partly that marina development "should include public amenities, such as viewing areas, restrooms, public mooring docks or floats and moorages for transient recreational boaters, non-motorized small boat launching facilities, public parking, [and] substantial physical and visual access..." The FEIR should clarify whether the proposed marina would include such facilities. As noted in the Bay Plan policies, new marinas should be developed at sites that do not "tend to fill up rapidly with sediment." The DEIR states that maintenance dredging would be needed over time but does not provide estimated quantifies—a point that should be clarified, if possible, in the FEIR. (Please note that the remediation measures described on Page III.K-83 would likely require Commission authorization—preceded by review by the Dredged Material Management Office (DMMO); this section should be corrected to state that the DMMO is not a permitting entity.)

103-26

**Water Quality.** The DEIR identifies various activities, including remediation, dredging, construction (earth moving, grading, and excavation), and operational work at the Project site that could result in impacts, including erosion, turbidity, etc. The DEIR states that strategies to mitigate potential water quality impacts include the preparation of a Stormwater Pollution Prevention Plan (SMPPP), the application of Best Management Practices (BMPs), and certification by the San Francisco Bay Regional Water Quality Control Board (RWQCB). The Commission's Bay Plan Water Quality Policy No. 2 states, in part, that "[w]ater quality in all parts of the Bay should be maintained... and...protected from all harmful or potentially harmful pollutants," and, further, that the RWQCB's recommendations provide "the basis for carrying out the Commission's water quality responsibilities." Pursuant to this policy, the RWQCB certification would need to be obtained in order for the Commission to file a permit application or federal consistency determination.

103-27

Thank you for providing the Commission staff with the opportunity to comment on the Project. We realize that the project is in the early design stage and would be happy to meet with the Project proponents to discuss potential changes that may come about through the DEIR process, the Commission's policies, permit or federal consistency procedures, etc. Please contact me with any questions at (415) 352-3613 or jaimem@bcd.ca.gov.

Sincerely,



JAIME MICHAELS  
Coastal Program Analyst

JM/ra

cc: State Clearinghouse

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## ■ Letter 103: San Francisco Bay Conservation and Development Commission (1/12/10)

### **Response to Comment 103-1**

The comment is acknowledged. No response is required.

### **Response to Comment 103-2**

The comment is acknowledged. No response is required.

### **Response to Comment 103-3**

The comment is acknowledged. No response is required.

### **Response to Comment 103-4**

The comment is acknowledged. The Navy, with some exceptions, is subject to the “federal consistency” requirements of Section 307 of the federal Coastal Zone Management Act of 1972. In this regard, the Commission concurred in the Navy’s 1999 consistency determination for the transfer and reuse of the Shipyard. The Navy is preparing a SEIS addressing the effects of changes in the proposed transfer and reuse of the Shipyard. The SEIS should provide the basis for any new or modified consistency determination by the Navy. Neither the City nor the Agency is required to make the consistency determination. Further, Table II-16, page II-80, includes BCDC as a permitting agency for the Project.

### **Response to Comment 103-5**

Refer to Response to Comment 103-4 regarding federal consistency. In response to this comment, Table ES-1, page ES-5, and Table II-16, page II-81, are revised to add a third bullet under “Bay Conservation and Development Commission.”

- Reviews Project land use plan for federal consistency under the Coastal Zone Management Act for activities not previously authorized in Consistency Determination No. CN 1-99.

### **Response to Comment 103-6**

Figures II-18, II-19, and II-20 of the Draft EIR, which are located in Chapter II (Project Description) on pages II-66, II-67, and II-68, respectively, all show the lateral extent of shoreline improvements. In some of these areas, the Navy would separately be conducting remediation work, as further described in Section III.K (Hazards and Hazardous Materials) of the Draft EIR and in Master Response 9 (Status of the CERCLA Process). To the extent that any work on the Project site is carried out or funded by the federal government, it would be subject to the requirements of NEPA. The Navy is preparing an SEIS for the Hunters Point portion of the Project site, and if there is any other federal nexus related to construction or operation of the Project, such as issuance of a Section 404 permit, the appropriate environmental clearance would be obtained by the prevailing federal Lead Agency prior to taking action to approve permits or to grant funds, for example.

In terms of improvements that could occur at CPSRA, regardless of funding source, page II-33 of the Draft EIR states that:

At the CPSRA, ecological enhancements would be identified during the CDPR community planning process and CPSRA general plan update described above ...

In terms of other improvements, again, regardless of funding source, page III.B-11 similarly states that:

The ongoing CPSRA General Plan Amendment process would evaluate previously recommended uses and determine future uses and facilities to serve the local and statewide visitor to the park.

The Draft EIR did describe the process the CPSRA would undergo for evaluating and programming improvements; however, funding for those improvements, particularly the use of grant funding, is entirely within the jurisdiction of the CDPR and does not affect the analysis or conclusions of this Draft EIR.

#### **Response to Comment 103-7**

The comment correctly states that Bay Plan amendments will be required to delete Port Priority Use designation at the Shipyard and also to modify the Park Priority Use designation at Candlestick Point. While there will be a reduction in the total acreage of the CPSRA, much of the present area of the CPSRA is undeveloped. Further, much of that area is also not included within the present Park Priority Use designation. The Project will incorporate the rest of the CPSRA into the Park Priority Use area, and the proposed uses are consistent with Policy 20 on Bay Plan Map 5. In addition, the Project will provide long-term funding and other consideration to enhance the CPSRA, including improvement of the undeveloped areas. Therefore, the decrease in area would not compromise or reduce the value of the CPSRA as a park/beach facility.

#### **Response to Comment 103-8**

The comment correctly states the requirements of the Commission's permit regulations. With respect to the need for a land exchange agreement in connection with the Commission's requirement for proof of legal interest, Commission counsel has determined that under Appendix F of the Commission's regulations, the Conveyance Agreement between the Navy and Agency for the Shipyard meets the proof of legal interest requirements in the *McAteer-Petris Act* and provides a sufficient legal interest in the underlying property to carry out the Project and comply with any conditions that the Commission may require as part of its approval of a permit at the Shipyard. With respect to the Candlestick Point area, Section 31.5(c) of SB 792 provides that:

Notwithstanding any other provision of law, the requirement of subdivision (g) of Section 66605 of the Government Code and of Section 11721, Appendix F of Title 14 of the California Code of Regulations, that an applicant for a BCDC permit demonstrate adequate legal interest in the underlying property shall be deemed satisfied if the agency submits in a form acceptable to BCDC an agreement authorized by Section 23 or 26 of this act, provided the agreement is fully executed, all parties with an interest in the property are parties to the agreement, and the terms of the agreement allow the applicant to undertake the proposed construction and uses for which the permit is sought.

It is anticipated that such an agreement will be in place at the time of any BCDC permit application in the Candlestick area.

### **Response to Comment 103-9**

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) with regard to Project boundary determinations relative to the Yosemite Slough.

### **Response to Comment 103-10**

Pages III.B-13 through III.B-15 provides an analysis of how the Project is consistent with the Commission's policies regarding Bay fill. The final decision in this regard rests with the Commission and will be made as part of the Project's permitting process. Specifically, Page III.B-15 of the Draft EIR states that:

The Project is also consistent with the Bay Plan policies to minimize Bay fill and to preserve the shoreline for uses that are regionally important, water-oriented uses needing or historically located on shoreline sites, such as ports, water-related industry, water-related recreation, airports, and wildlife refuges. The Project involves minimal filling associated with the Yosemite Slough bridge, a marina and improvement of the existing shoreline, waterfront bulkhead, piers and seawall structures. The Project includes improved access to the shoreline through shoreline improvements, open spaces and a waterfront promenade. ...

### **Response to Comment 103-11**

With respect to the commenter's understanding that the Project would result in a net increase in Bay fill, the Shoreline Improvements section of Section II.F.2 (Site Preparation and Earthwork/Grading), page II-56, of the Draft EIR states that:

The net effect of the proposed shoreline improvements would be to increase the land surface area by approximately 0.42 acre at Candlestick Point and reduce the land surface area by approximately 8.51 acres at HPS Phase II.

This statement reflects the amount of bay fill and new bay resulting from the project, 0.42 acre of Bay fill at Candlestick Point and 8.51 acres of new bay created at HPS Phase II. Additionally, Table II-3 (Proposed Land Use) discusses the amount of new Bay or Bay fill resulting from shoreline improvements, the positive change in shoreline indicating Bay fill and the negative change indicating creation of new Bay. In response to the comment, the text of Table II-13, footnote d, has been revised as follows:

d. These numbers represent an average estimated change in the shoreline at the specified location. A positive number indicates an increase in the shoreline (bay fill); and a negative number indicates a decrease in the shoreline (creation of bay).

As the commenter points out in Comment 103-12 there is difficulty in providing precise net fill quantities at this early date since Project details could change slightly. The net increase in Bay being provided by the Project through shoreline improvements serves as evidence of the Project's goals to provide no off site mitigation and to minimize bay fill to the maximum extent possible.

Further, the Draft EIR acknowledges the need to adhere to BCDC policies related to Bay Fill, and has attempted to do so at this preliminary level. The Applicant, the City, and the Agency also recognize that each phase and specific shoreline location along the Project's boundary along the Bay will need to be approved by BCDC, and are committed to doing so. As a part of this commitment the applicant has met with BCDC several times and will continue to work with the BCDC on Project issues.

## Response to Comment 103-12

Page III.B-15 of the Draft EIR states:

The Project is consistent with the intent of the Bay Plan as it relates to the Candlestick Point area. The Project would provide park improvements, and on-going funding for park operation and maintenance. The ultimate configuration of improvements to various areas of the CPSRA would be determined by the ~~CPDR~~CDPR but the Project would not preclude a water trail camping site or fishing, windsurfing, hiking and viewing opportunities. The inclusion of the Yosemite Slough bridge would not conflict with the Bay Plan's policy regarding additional bridges over the Bay, which aims to preserve the visual impact of the large expanse of the Bay. Expansive views of the Bay would remain from numerous vantage points, even with inclusion of the bridge over the neck of the slough.

The Project is also consistent with the Bay Plan policies to minimize Bay fill and to preserve the shoreline for uses that are regionally important, water-oriented uses needing or historically located on shoreline sites, such as ports, water-related industry, water-related recreation, airports, and wildlife refuges. The Project involves minimal filling associated with the Yosemite Slough bridge, a marina and improvement of the existing shoreline, waterfront bulkhead, piers and seawall structures. The Project includes improved access to the shoreline through shoreline improvements, open spaces and a waterfront promenade. ...

With respect to the Project's inconsistency with the Bay Plan's biological resources policies, a summary of the Bay Plan policies related to wildlife, wetlands, and other biological resources are provided in the Regulatory Framework in Section III.N (Biological Resources) on pages III.N-45 and III.N-46:

### **Policies Concerning Fish, Other Aquatic Organisms and Wildlife in the Bay, Tidal Marshes and Tidal Flats Around the Bay, and Subtidal Areas in the Bay**

The SFBCDC shall protect native fish species, other aquatic organisms, other listed wildlife species and their specific habitats under the California Endangered Species Act or federal Marine Mammal Protection Act within the Bay's tidal marshes, tidal flats, and subtidal habitat. To the greatest extent feasible, specific habitats such as tidal marsh, tidal flats, and subtidal habitats shall be conserved, restored, and increased. Specific habitats that are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered, species that the CDFG 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. In reviewing or approving habitat restoration programs the SFBCDC should follow the recommendations in the Baylands Ecosystem Habitat Goals and provide a diversity of habitats for native aquatic and terrestrial plant and animal species. For projects that may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species the SFBCDC should consult and give appropriate consideration to the recommendations of the California Department of Fish and Game and the US Fish and Wildlife Service or the National Marine Fisheries Service and not authorize projects that would result in the "taking" of any plant, fish, other aquatic organism or wildlife species listed as endangered or threatened pursuant to the state or federal endangered species acts, or species that are candidates for listing under the CESA, unless the project applicant has obtained the appropriate "take" authorization from the US Fish and Wildlife Service, National Marine Fisheries Service or the California Department of Fish and Game. However, the SFBCDC 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.

In consideration of these and other policies protecting biological resources, an analysis of the effects of Project construction activities on wetlands (including tidal marshes, tidal flats, and non-tidal marshes)

and jurisdictional waters is provided in Impacts BI-4a, BI-4b, and BI-4c of the Draft EIR. Mitigation measure MM BI-4a.1 on page III.N-60 of the Draft EIR explicitly states that wetlands and jurisdictional waters shall be avoided to the maximum extent practicable, and that permits shall be obtained only where avoidance of existing wetlands and drainages is not feasible:

*MM BI-4a.1 Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts. Wetlands and jurisdictional waters shall be avoided to the maximum extent practicable for all Project components. For example, any measures taken to improve the existing shoreline of Candlestick Point or HPS Phase II for purposes of flood control, erosion control, or repair or stabilization of existing structures shall minimize the amount of fill to be placed in jurisdictional areas.*

*Where avoidance of existing wetlands and drainages is not feasible, and before any construction activities are initiated in jurisdictional areas, the Applicant shall obtain the following permits, as applicable to the activities in question: ...*

Therefore, the Draft EIR provides analysis demonstrating that the Project would be consistent with the Bay Plan. However, the commenter correctly states that if the Commission determines that a feasible alternative exists involving less fill in the Bay, the Commission could not find the Project fully consistent with its laws and policies regarding fill.

### **Response to Comment 103-13**

Comments noted. The Project would be required to adhere to Bay Plan policies related to flooding, public access, and sea level rise for the safety of fills, and the Project has been designed to do so. Moreover, each phase and specific shoreline location along the Project's boundary along the Bay will need to be approved by BCDC, thereby ensuring compliance with the Bay Plan's policies.

### **Response to Comment 103-14**

Refer to Response to Comment 103-13.

### **Response to Comment 103-15**

In response to the comment, the text in Section III.D (Transportation and Circulation), under the State heading, page III.D-27, has been revised as follows:

There are no state transportation regulations applicable to the Project. The San Francisco Bay Plan was prepared by the San Francisco Bay Conservation and Development Commission (BCDC) pursuant to the McAteer-Petris Act of 1965 which established the Commission as a temporary agency to prepare an enforceable plan to guide the future protection and use of San Francisco Bay and its shoreline. The Bay Plan contains the following transportation policies that are relevant to the Project:

- Transportation Policy 1: Because of the continuing vulnerability of the Bay to filling for transportation projects, the Commission should continue to take an active role in Bay Area regional transportation and related land use planning affecting the Bay, particularly to encourage alternative methods of transportation and land use planning efforts that support transit and that do not require fill. The Metropolitan Transportation Commission, the California Department of Transportation, the California Transportation Commission, the Federal Highway Administration, county congestion management agencies and other public and private transportation authorities should avoid planning or funding roads that would require fill in the Bay and certain waterways.

- Transportation Policy 2: If any additional bridge is proposed across the Bay, adequate research and testing should determine whether feasible alternative route, transportation mode or operational improvement could overcome the particular congestion problem without placing an additional route in the Bay and, if not, whether a tunnel beneath the Bay is a feasible alternative.
- Transportation Policy 3: If a route must be located across the Bay or a certain waterway, the following provisions should apply:
  - The crossing should be placed on a bridge or in a tunnel, not on solid fill.
  - Bridges should provide adequate clearance for vessels that normally navigate the waterway beneath the bridge.
  - Toll plazas, service yards, or similar facilities should not be located on new fill and should be located far enough from the Bay shoreline to provide adequate space for maximum feasible public access along the shoreline.
  - To reduce the need for future Bay crossings, any new Bay crossing should be designed to move the largest number of travelers possible by employing technology and operations that increase the efficiency and capacity of the infrastructure, accommodating non-motorized transportation and, where feasible, providing public transit facilities.
- Transportation Policy 4: Transportation projects on the Bay shoreline and bridges over the Bay or certain waterways should include pedestrian and bicycle paths that will either be a part of the Bay Trail or connect the Bay Trail with other regional and community trails. Transportation projects should be designed to maintain and enhance visual and physical access to the Bay and along the Bay shoreline.
- Transportation Policy 5: Ferry terminals should be sited at locations that are near navigable channels, would not rapidly fill with sediment and would not significantly impact tidal marshes, tidal flats or other valuable wildlife habitat. Wherever possible, terminals should be located near higher density, mixed-use development served by public transit. Terminal parking facilities should be set back from the shoreline to allow for public access and enjoyment of the Bay.

A discussion of how the Project relates to each of these five policies is provided below:

Transportation Policy 1 generally states that applicable agencies should avoid new fill in the Bay to provide new transportation facilities. For the reasons stated below, the fill proposed for the proposed bridge should meet permitting requirements.

Transportation Policy 2 generally states that if a bridge is proposed, adequate research and testing should be conducted to determine whether an alternate route or operational improvement would overcome the particular congestion problem without placing a new route in the bay. Refer to Master Response 4 (Purpose and Benefits of the Yosemite Slough Bridge) for discussion of alternative solutions that have been evaluated and determined to provide much lower level of service for bicycles, pedestrians, and transit compared to the bridge. Also refer to Response to Comment 47-109 for discussion of feasibility of tunnel under Yosemite Slough.

Transportation Policy 3a states that if crossing must be provided, it should be in a bridge or tunnel not on fill. It would be prohibitively costly to tunnel under the neck of the slough for a BRT crossing due to the relatively short length (less than 1,000 feet) of the crossing. In addition, a tunnel would require more extensive approaches than an aboveground bridge, which could create additional environmental impacts or increase the severity of impacts identified for the Project.

Transportation Policy 3b states that bridges should provide adequate clearance for vessels that normally navigate the waterway. Refer to Response to Comment 86-12 that describes the bridge's clearance, which would be adequate for recreational paddle craft including canoes and kayaks, which are the only watercraft that would navigate the upper reaches of the Yosemite slough.

Transportation Policy 3c states that toll plazas and service facilities should not be on fill. No toll plazas or service facilities are proposed as part of the Yosemite Slough bridge.

Transportation Policy 3d states that new crossings should be designed to maximize crossing capacity to reduce the need for new crossings. The bridge would accommodate high-frequency transit connections (five-minute frequencies during peak hours) across Yosemite Slough. If additional transit service were required, it could be provided on the bridge without the need to construct a new crossing either through increased frequencies or additional, higher-capacity vehicles.

Transportation Policy 4 states that transportation projects should be designed to maintain and enhance visual and physical access to the Bay and along shoreline. The proposed facility would enhance access along the shoreline by providing a more direct connection across the slough, and would also provide direct connections to the San Francisco Bay Trail. The bridge would accommodate Bay Trail crossings such that users would not have to cross BRT routes.

Transportation Policy 5 relates to ferry terminal construction, which is no longer part of Project). However, the Project does not preclude a ferry terminal, which if added, would relieve congestion on roadways and transit crowding.

### **Response to Comment 103-16**

The Project Applicant will provide all images, drawings, and other information that BCDC requires for permitting purposes at the time of permitting. The level of detail included in the EIR is sufficient for CEQA purposes.

In response to the comment, text on page III.E-47, under the San Francisco Bay Plan heading between Policy 4 and Policy 8, of the Draft EIR has been revised to include Policy 6, as follows:

<u>Policy 6</u>	<u>Additional bridges over the Bay should be avoided, to the extent possible, to preserve the visual impact of the large expanse of the Bay. The design of new crossings deemed necessary should relate to others nearby and should be located between promontories or other land forms that naturally suggest themselves as connections reaching across the Bay (but without destroying the obvious character of the promontory). New or remodeled bridges across the Bay should be designed to permit maximum viewing of the Bay and its surroundings by both motorist and pedestrians. Guardrails and bridge supports should be designed with views in mind.</u>
-----------------	---

Refer to Responses to Comments 31-5, 47-34, 47-36, 47-46, 47-57, 47-73, and 47-75 for discussion of the proposed bridge and its aesthetic impacts on views and the Yosemite Slough. Response to Comment 47-76 also contains additional simulations of the proposed Yosemite Slough bridge from four additional reference points.

There are no graphics illustrating the appearance of potential adaptive management strategies for sea level rise. However, the Draft EIR, page III.E-58, states, about the shoreline at Candlestick Point and HPS Phase II: “The proposed shoreline improvements would improve the aesthetic quality of the shoreline...reducing erosion, including marsh plantings where appropriate, and removing debris. These improvements would represent a beneficial impact of the development, improving the overall visual character of the shoreline.”

#### **Response to Comment 103-17**

Draft EIR Figure IV-13, Figure IV-14, Figure IV-15, and Figure IV-16 provide illustrations of tower locations. Figure III.E-11 through Figure III.E-30 provide numerous simulations of the visual character of the Project. Architectural renderings are not required for the EIR process. When the Project is presented to BCDC, preliminary drawings that illustrate the goals of the design policies will be presented by the Project applicant.

#### **Response to Comment 103-18**

Refer to Response to Comment 47-46 for additional simulations of the proposed bridge. The commenter requested views from the bridge; not every view could be represented in the views of the Project site. However, more than 30 images are presented in Section III.E (Aesthetics) to document the existing conditions and future conditions with the Project. Final architectural renderings are not required for the EIR process. The bridge design may be addressed by the Commission in its consideration of the bridge permit.

#### **Response to Comment 103-19**

The quantitative estimates of the temporary and permanent impacts on the waters of the Bay and the potential mitigation measures for these impacts are the most precise available at this stage of Project design. As the commenter notes, these could change. However, the final assessment of these impacts on the Bay under the Commission’s policies, including any additional mitigation requirements, rests with the Commission and will be made during the permitting process. Therefore, all of the issues raised by the commenter will have to be fully addressed in the course of the Commission’s review of the Project.

Refer to Response to Comment 103-12 for a discussion of the Bay Plan policies related to wildlife, wetlands, and other biological resources that were provided in Draft EIR.

Refer to Response to Comment 103-11 on the proposed fill quantities.

Refer to Response to Comment 101-34 for a discussion of how the Project ensures no net loss of wetlands or jurisdictional/regulated waters.

With regard to mitigation measure MM BI-9b, the commenter correctly states that consideration of recommendations made by resource agencies (i.e., use of pile-driving devices) would be considered by the City/Agency and the Commission.

With regard to the in-water construction work window identified in MM BI-12a.1 on page III.N-89 of the Draft EIR, this window would be applicable to special-status fish species such as green sturgeon,



Chinook salmon, Central Valley steelhead, longfin smelt and Pacific herring. In response to this comment, the following text has been added to Section III.N (Biological Resources) of the Draft EIR, specifically to the discussion of mitigation for Impact BI-11a (page III.N-86):

... Implementation of mitigation measures MM BI-12a.1 and MM BI-12a.2 would reduce effects of construction activities on special-status fish by avoiding in-water construction during periods when sensitive species are most likely to be present in waters of the Project site and by educating construction personnel regarding measures to be implemented to protect fish and their habitats. Implementation of these mitigation measures would minimize any adverse effects on aquatic habitat of special-status fish, ...

In response to this comment, the following text has also been added to the discussion of mitigation for Impact BI-11b (first full paragraph on Draft EIR page III.N-87) and Impact BI-11c (last paragraph on page III.N-87):

... Implementation of mitigation measure MM BI-12a.1 and BI-12a.2 would reduce effects of construction activities on special-status fish by avoiding in-water construction during periods when sensitive species are most likely to be present in waters of the Project site and by educating construction personnel regarding measures to be implemented to protect fish and their habitats. Implementation of these measures would reduce potential adverse effects on special-status fish species to less-than-significant levels.

The commenter correctly notes that BCDC is a State agency and not a Regional government body. This correction has been made to the Regulatory Framework of Section III.N (Biological Resources).

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of shading impacts of Yosemite Slough bridge, and potential impacts on the Yosemite Slough Restoration Project.

### **Response to Comment 103-20**

Public access will be provided all along the shoreline as part of the Project, and will be developed at a pace consistent with the build-out of the Project. The Bay Plan standards will be met. The proposed uses at the CPSRA are consistent with Policy 20 on Plan Map 5.

### **Response to Comment 103-21**

The Draft EIR's analysis includes only residents and people employed on the Project site in its parkland-to-population ratios. The existence of other potential park users does not, however, undermine its conclusions. Initially, the parkland-to-population ratio is a standard measure representing total use. Every park receives some use from people outside the local population, but analyses of the impacts of such use, including the analysis in the current San Francisco General Plan, adopted in 1986, generally use the type of ratio used here. Moreover, for the reasons discussed in Response to Comment 84-45, the Draft EIR's conservative analysis likely overstates the effective population of the Project site. The additional users mentioned by the commenter are unlikely to increase actual use beyond the level provided in the analysis. Moreover, the Draft EIR acknowledges at page III.P-32 that there will be an increase in CPSRA visits by people from outside the Project site, and concludes that this increased use will not cause significant impacts.

### **Response to Comment 103-22**

The comment is acknowledged. No response is required.

### **Response to Comment 103-23**

Refer to Response to Comment 31-13 regarding shoreline access during construction.

### **Response to Comment 103-24**

The multi-use lawn and playing field areas would be used for parking for San Francisco 49er home games (between 10 and 12 days annually). The number of further special events at the stadium that would require the parking area is not known at this time. However, such events would be few enough that the reduction of parkland on these days would not be significant in the context of the entire Project site and the entire year. The multi-use lawn and other parks will be open to the public, subject to those types of restrictions, such as hours of operation, applicable to parks generally. The sports fields similarly will be available to the public, although a reservation system will be required. The details of park management have not been determined yet.

### **Response to Comment 103-25**

Impact TR-35 describes the parking impacts associated with the Project. As noted by the commenter, and as shown in Table III.D-21, the Project would result in a shortfall of at least 2,316 spaces. As a result, it is possible that some drivers may seek parking in adjacent Bayview residential and industrial areas to the west. However, as noted in the Draft EIR, if parking is found to exceed supply in the existing Bayview residential area, the City's residential parking permit program could be introduced to the area to help ensure availability of parking for local residents. The extent of spillover into the nearby industrial and residential neighborhoods to the west, as well as the parking areas for public access to CPSRA, would be limited by the existing topography (e.g., steep grades due to the Bayview Hill), the distance between the Project site and available parking supply, and concerns related to safety in the industrial area.

The location of parking areas for public access to the CPSRA have not been determined, however, the locations and number of spaces would be developed in consultation with State Parks. The SFMTA is responsible for parking enforcement activities on San Francisco Streets, while State Park Peace Officer Rangers are responsible for a variety of enforcement activities in California State Parks.

In San Francisco, parking supply is not considered a permanent physical condition, and changes in the parking supply would not be a significant environmental impact under CEQA, but rather a social effect. Since the City does not consider parking shortfalls to be a significant impact, no mitigation is required.

It should be noted that mitigation measure MM TR-38 requires the stadium operators to develop and maintain a Transportation Demand Management Plan for the stadium. One required element of that plan, as indicated on page III.D-133 of the Draft EIR is for the stadium operator to work with CPSRA to develop measures to ensure that game day spectators do not park in CPSRA day use parking lots.

### **Response to Comment 103-26**

The marina amenities are outlined on page II-23 of Chapter II (Project Description) of the Draft EIR:

The marina would include up to 300 slips accessed by a series of gangways and floating docks. Guide piles would horizontally restrain the floating docks. Each slip would include potable water, electrical, cable television, and telephone connections. The marina would provide sewage pump-out stations at each slip or at a central pull-up station. Landside improvements adjacent to the marina could include parking, restroom facilities, a classroom to teach sailing, and a harbormaster's office.

With respect to maintenance dredging, page II-23 of the Draft EIR discloses that:

... Maintenance dredging would be required in the future to maintain adequate clearance.

At this time, the precise quantities of dredged material resulting from routine operation are not known; however, any such activities would be subject to review by the Dredged Materials Management Office (DMMO). While the DMMO does not issue a permit, per se, the office oversees the approval process. Page III.K-83, the last sentence of bullet a, b, c, and d is revised to reflect their review authority:

- a. ... ~~A Review by the DMMO permit~~ would likely be required.
- b. ... ~~A Review by the DMMO permit~~ would likely be required.
- c. ... ~~A Review by the DMMO permit~~ would likely be required.
- d. ... ~~a review by the DMMO permit~~ would likely be required.

### **Response to Comment 103-27**

Strategies to mitigate Project water quality impacts are described in mitigation measures MM HY-1a.1 (Storm Water Pollution Prevention Plan: Combined Storm Sewer System), starting on page III.M-58 of the Draft EIR; MM HY-1a.2 (Storm Water Pollution Prevention Plan: Separate Storm Sewer System), starting on page III.M-61, MM HY-1a.3 (Groundwater Dewatering Plan), starting on page III.M-65; MM HY-6a.1 (Regulatory Stormwater Requirements), starting on page III.M-82; MM HY-6a.2 (Recycled Water Irrigation Requirements), starting on page III.M-84, MM HY-6b.1 (Limitations on Stormwater Infiltration), on page III.M-88; MM HY-6b.2 (Industrial General Permit), starting on page III.M-89; and MM HY-6b.3 (Clean Marinas California Program), on page III.M-91 of the Draft EIR.

Per the State and local regulatory requirements described starting on page III.M-33 of the Draft EIR, implementation of the mitigation measures does not require certification by the San Francisco Bay Regional Water Quality Control Board (SFRWQCB); however the mitigation measures would assure compliance with the Water Quality Control Plan for the San Francisco Bay Basin, and would reflect the policies, recommendations and decisions of the State Water Resources Control Board and the SFRWQCB. The only SFRWQCB certification required for the Project is a Clean Water Act (CWA) Section 401 Water Quality Certification or Waste Discharge Requirements, for the placement of fill material or other physical changes to waters of the State, as described on page III.M-31 of the Draft EIR. The CWA Section 401 Water Quality Certification or Waste Discharge Requirements would be obtained through the Joint Aquatic Resources Permit Application process described on page III.M-44, at which time BCDC input would be incorporated into the permitting process.

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## ■ Letter 104: Da Costa, Francisco (1/13/10)

1 of 1

Letter 104

From: Francisco Da Costa <fdc1947@gmail.com>  
To: John Rahaim <john.rahaim@sfgov.org>, Stanley Muraoka <Stanley.Muraoka@sfgov.org>, Fred Blackwell <fred.blackwell@sfgov.org>, Bill Wycko <bill.wycko@sfgov.org>, Joy Navarrete <Joy.Navarrete@sfgov.org>, "Gavin. Newsom" <gavin.newsom@sfgov.org>, Michael Cohen <michael.cohen@sfgov.org>, Tiffany Bohee <tiffany.bohee@sfgov.org>, Ron Miguel <rm@well.com>, Linda Avery <Linda.Avery@sfgov.org>, Lawrence Badiner <larry.badiner@sfgov.org>, Espanola Jackson <EspanolaJackson@sbcglobal.net>, Rosemary Cambra <muwekma@muwekma.org>, Matt Dorsey <Matt.Dorsey@sfgov.org>, David Chiu <chiu@sfgov.org>, SFBOS BOS <board.of.supervisors@sfgov.org>, BOS BOS <supervisors@sfgov.org>, SecretaryState Bowen <Secretary.Bowen@sos.ca.gov>  
Date: 01/13/2010 08:52 AM  
Subject: The Ohlone met on the steps of City Hall to protest the Draft, EIR linked to Hunters Point Shipyard and Candlestick Point.

**I am informing you that the Ohlone and the Tribal Chair of the Muwekma Ohlone met on the steps of SF City Hall to protest the Draft, EIR linked to Hunters Point Shipyard and Candlestick Point.**

**This is not the last time you will hear about this issue.**

**The SF Planning Department has not followed protocol and one blatant example is California Senate Bill 18. It was simply wrong - NOT to outreach to the Muwekma Ohlone that have Patrimonial Jurisdiction and others on the list provided by similar processes followed - before:**

**<http://www.indybay.org/newsitems/2010/01/12/18635068.php>**

**Francisco Da Costa**

104-1

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## ■ Letter 104: Da Costa, Francisco (1/13/10)

### ***Response to Comment 104-1***

Refer to Master Response 1 (SB 18) for a discussion of the process required by SB 18 and the process undertaken for this Project.

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## ■ Letter 105: Da Costa, Francisco (1/18/10)

1 of 1

Letter 105

From: Francisco Da Costa <fdc1947@gmail.com>  
To: "Michael J. Lythcott" <mlythcott@e2inc.com>  
Date: 01/18/2010 09:25 AM  
Subject: Wilma Subra Comments

**Michael:**

**Wilma Subra's comments provide some hope to the community. The reason being she is a Scientist. She has focused on the tip on the iceberg and as you know that there is more. This is a good start and we must hurry to save lives - especially that of our children and elders.**

**Proposition P passed in the year 2000 by over 87% - mandated the Hunters Point Shipyard be cleaned to the highest standards. The U.S. Navy polluted the area and they must clean it up. No capping and no short cuts. We want the entire Watershed cleaned up. This is a mandate backed by the Muwekma Ohlone that I represent and who were not notified of the Draft, EIR linked to the Hunters Point Shipyard and Candlestick Park:**

**[www.muwekma.org](http://www.muwekma.org)**

**[www.hunterspointnavalshipyard.com](http://www.hunterspointnavalshipyard.com)**

**In the interim we need focused meetings in the community to educate people about Quality of Life issues. The hospitals have empirical data on the early deaths of so many individuals - among them children in a higher proportion - linked to the very toxic air, and high levels of contaminated soil - much of it radiological in nature. Depleted Uranium was first tested at Hunters Point Naval Shipyard. Hundreds of radiated animals buried all over the Shipyard. Thousands of tons of Methane Gas spewing in the air. One ton of Methane Gas equals twenty two tons of Carbon Dioxide:**

**<http://www.franciscodacosta.com/media/t/TASC-Comments-1-12-10.pdf>**

**Francisco Da Costa  
Director  
Environmental Justice Advocacy**

**4909 Third Street  
San Francisco, CA 94124**

105-1

105-2

105-3

105-4

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## ■ Letter 105: Da Costa, Francisco (1/18/10)

### **Response to Comment 105-1**

With respect to hazardous conditions at the Project site, refer to Section III.K (Hazards and Hazardous Materials) of the Draft EIR, as well as Master Response 7 (Liquefaction), and Master Response 9 (Status of the CERCLA Process), Master Response 10 (Pile Driving through Contaminated Soil), Master Response 11 (Parcel E-2 Landfill), Master Response 12 (Naturally Occurring Asbestos), Master Response 13 (Post-Transfer Shipyard Cleanup), Master Response 14 (Unrestricted Use Alternative), Master Response 15 (Proposition P and the Precautionary Principle), Master Response 16 (Notification Regarding Environmental Restrictions and Other Cleanup Issues), and Master Response 17 (Enforcement of Environmental Restrictions and Mitigation Measures), which also discuss hazardous materials, cleanup to unrestricted use (Proposition P), HPS radiation cleanup and restrictions, containment remedies (capping versus removal), status of the HPS CERCLA process, process for decisions and responsibility for cleanup, and notification regarding restrictions, contaminations, and releases or violations of mitigation measures.

### **Response to Comment 105-2**

Refer to Response to Comment 65-2 for a description of the noticing process relative to release of the Draft EIR. In addition, the Draft EIR was made available on the City's website, as well as at the Planning Department and Agency offices, as described on page I-10 of the Draft EIR.

This comment also provides links to two websites: one, the official homepage of the Muwekma Ohlone California Indian tribe, and the second, a website supported by San Franciscan's for our City's Health with information about the Hunters Point Naval Shipyard. No response is required.

### **Response to Comment 105-3**

Refer to Response to Comment 1-1 for a discussion of the adequacy of the public comment period, including the many opportunities for providing comments on the Draft EIR. Refer to Response to Comment 85-5 regarding the three-decade planning process for the Project which has included hundreds of community meetings and other forms of public outreach.

Refer to Section III.H (Air Quality) of the Draft EIR for a discussion of potential impacts related to toxic air contaminants. Refer also to Section III.K (Hazards and Hazardous Materials) of the Draft EIR for a discussion of hazardous materials at the Project site, including contaminated soil. The specific impact discussions that address the potential for encountering contaminated soil include Impacts HZ-3, HZ-3a, HZ-3b, HZ-18, HZ-18a, HZ-18b, BI-15a, BI-15b, UT-6, UT-6a, and UT-6b. Refer also to Master Response 5 (Health of the Bayview Hunters Point Community) for a discussion of health outcomes in the Bayview community.

### **Response to Comment 105-4**

The comment is acknowledged. No response is required.

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## ■ Letter 106: Da Costa, Francisco (1/18/10)

1 of 1

Letter 106

From: Francisco Da Costa <fdc1947@gmail.com>  
To: Wilma Subra <subracom@aol.com>, Krissy Russell-Hedstorm <krissy@e2inc.com>, "Michael J. Lythcott" <mlythcott@e2inc.com>, Lisa Fasano <LFasano@baaqmd.gov>, J Broadbent <jbroadbent@baaqmd.gov>, Jackson Lisa <Jackson.Lisa@epamail.epa.gov>, Michael Cohen <michael.cohen@sfgov.org>, Fred Blackwell <fred.blackwell@sfgov.org>, Tiffany Bohee <tiffany.bohee@sfgov.org>, Dennis Herrera <CityAttorney@sfgov.org>, Leland Yee <leland.yee@sen.ca.gov>, Tom Ammiano <tom.ammiano@asm.ca.gov>, SecretaryState Bowen <Secretary.Bowen@sos.ca.gov>, Mark Ripperda <Ripperda.Mark@epa.gov>, BCDC BCDC <info@bcdcc.ca.gov>, EPA Region9 <r9.info@epa.gov>, Karen Henry <Henry.Karen@epamail.epa.gov>, Lisa Zayas-Chien <lisa.zayas-chien@sfgov.org>, "Gavin. Newsom" <gavin.newsom@sfgov.org>, Mitch Katz <mitch.katz@sfgov.org>, Amy Brownell <Amy.Brownell@sfdph.org>, Ben Rosenfield <Ben.Rosenfield@sfgov.org>, David Chiu <David.Chiu@sfgov.org>, Chris Daly <Chris.Daly@sfgov.org>, Ron Miguel <rm@well.com>, Christian Holmer <mail@csrsf.com>, Christina Olague <c\_olague@yahoo.com>, John Rahaim <john.rahaim@sfgov.org>, Bill Wycko <bill.wycko@sfgov.org>, Stanley Muraoka <Stanley.Muraoka@sfgov.org>, Willie Ratcliff <Publisher@sfbayview.com>  
Date: 01/18/2010 11:30 AM  
Subject: The U.S. Navy and its dubious plans with Early Transfer.

**The U.S. Navy and its dubious plans with Early Transfer:**  
**<http://www.indybay.org/newsitems/2010/01/18/18635572.php>**  
**Francisco Da Costa**

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■ **Letter 106: Da Costa, Francisco (1/18/10)**

***Response to Comment 106-1***

The comment is acknowledged. No response is required.

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■ Letter 107: Muwekma Ohlone Indian Tribe (1/12/10)

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Letter 107

# MUWEKMA OHLONE INDIAN TRIBE

OF THE San Francisco BAY AREA REGION

'Innu Huššištak Makiš Mak-Muwekma "The Road To The Future For Our People"

January 12, 2010

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Mr. Stanley Muraoka  
San Francisco Redevelopment Agency  
San Francisco Planning Department  
City and County of San Francisco  
1650 Mission St., Suite 400  
San Francisco, Ca. 94103-2479



Dear Mr. Muraoka:

Thank you for contacting our Tribal office with regards to the Draft Environmental Report (EIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project. Although your letter is dated January 5, 2010, the envelope is post marked January 8, 2010. The letter and accompanying CD which I received today, states that "[p]ublic comments will be accepted from November 12, 2009, to 5:00 PM on January 12, 2010." The timing of delivery of your letter and draft EIR (CD) and the close of the comment period makes response in a timely fashion most ridiculous and does not adhere to "good faith" effort on the Planning Department's part under SB 18's Tribal Consultation.

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Both your letter and the CD (Draft EIR) do not provide us any information about the location of any of our ancestral cemetery and/or village site locations, thereby limiting our ability to offer our input and concern even though the document does briefly describe several of the sixteen sites that are "located in or within a quarter-mile of the Project site." Nonetheless, we believe that in addition to the sites already identified there is the possibility of unreported/unrecorded sites located within the proposed redevelopment area.

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Therefore, we are recommending that any proposed construction within this redevelopment area should be carefully evaluated prior to any construction and construction activities be monitored. Should any of our ancestral remains and/or cultural resources be encountered, then our Tribal leadership wants to be fully informed and engaged in the cultural resources management process. Furthermore, these ancestral cemetery sites should then be **preserved and protected from destruction**.

Given the historic adversarial relationship between the archaeological community and our Tribe, we just do not trust most archaeological firms. The work conducted by the majority of archaeological firms has been meaningless to our Tribe. They have absolutely no understanding about our people, our Tribe, our history and heritage. The proof of this statement lies in the fact that your own consultants fail to mention our Tribal existence in the present EIR. Furthermore, there is no mention of Muwekma Ohlone (Park) Sanctuary on Islais Creek in this EIR as far as we can tell. This we call the "politics of erasure" meaning the deliberate attempt to remove our Tribe as stakeholders.

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The following sites have been identified within a quarter-mile of the redevelopment project area: CA-SFR-3, CA-SFR-7, CA-SFR-8, 9, CA-SFR-10, CA-SFR-11, CA-SFR-12, CA-SFR-13, CA-SFR-14, CA-SFR-15, CA-SFR-16, CA-SFR-17, CA-SFR-18, CA-SFR-110, CA-SFR-124 and the Thomas-Hawes Mound.

The following are some of our additional concerns:

- 1) Other unreported/unrecorded archaeological sites may obviously exist within the larger locality as well. Over the years our Tribe has had to conduct salvage archaeology on our ancestral cemetery sites that were either unreported in recent years or impacted by construction projects dating back to the 1960s through the 1980s. For example in the cases of sites CA-SCL-38 and CA-SCL-134 located in Santa Clara County during more recent construction burials were found adhering to the bottom of black top parking lot pavement, while others were integrated in cement matrix poured to support fence posts and retaining walls, and others just simply truncated by previous backhoe trenching operations. In both of these cases none of these burials were reported at the time when they were originally encountered decades ago.
- 2) Given the above, we would like to ask your Planning Department about what kind of **predictive model** is your environmental/cultural resource management firm implementing as part of this EIR process in order to predict the potential additional presence of any of our ancestral cultural resources within or adjacent to the Area of Potential Impact?

Based upon the limited information that we have provided above, it appears to us that the proposed scope work may indeed have potential adverse impacts on subsurface ancestral cultural resources and/or ancestral remains. As in the many cases that have happened so many times in the past, our Tribe does not want to find itself in the position of interfacing with the "good old boy" archaeological mitigation process. Our Tribe wants to be kept fully informed whenever any of our ancestral remains or sites are encountered. As the documented aboriginal, historic and previously **Federally Recognized** Tribe of this area we also want to be responsible for the stewardship for our ancestors and heritage sites.

#### **Historical and Legal Background on the Muwekma Ohlone Tribe**

As the San Francisco Planning Department already knows the Muwekma Ohlone Tribe is comprised of all of the surviving lineages who are aboriginal to the San Francisco Bay region and whom were missionized into Missions Dolores, Santa Clara and San Jose. Our Tribe became Federally recognized through the Congressional Homeless California Indian Appropriation Acts of 1906 and 1908 and later years, and our Tribe was identified as the Verona Band of Alameda County by the Indian Service Bureau and the Reno, and later, Sacramento Agencies between 1906 to 1927. Our family heads enrolled with the BIA under the 1928 California Indian Jurisdictional Act and all of our enrollment applications were approved by the Secretary of Interior. Our families once again enrolled with the BIA during the second (1948-1957) enrollment and during the third (1968-1970) enrollment periods and those applications were also approved by the Secretary of Interior as well.

#### **The Yelamu Ohlone Tribal Group of the San Francisco Peninsula and Marriage Ties to the East Bay Ohlone Tribal Groups**

The Yelamu tribal group of Ohlone Indians controlled the region comprising the City and County of San Francisco. According to the comprehensive mission record and ethnogeographic studies conducted by anthropologist Randall Milliken, it appears that the first four people from Yelamu were baptized by Father Cambon, and the others of the tribe were baptized by Fathers Palou and Santa Maria between

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1777 - 1779. Apparently the first converts from the "*rancheria de Yalamu*" into Mission Dolores also had relations with the neighboring rancherias (villages) of Sitlintac (located about 2.6 miles northeast of Mission Dolores), Chutchui, Amuctac, Tubsinte, and Petlenuc all located within the present boundaries of San Francisco. Sitlintac and Chutchui were located in the valley of Mission Creek. Amuctac and Tubsinte were established in the Visitation Valley area to the south. The village of Petlenuc may have been near the location of the Presidio.

The Ohlone people from the Yelamu territory, as well as other tribal groups to the south, and across the East Bay, were missionized into Mission Dolores between the years 1777 to 1787. According to Fathers Palou and Cambon, the Ssalsones (the Ohlone tribal group located on the San Mateo Peninsula to the south), were intermarried with the Yelamu and they called the Yelamu "*Aguazios*" which means "Northerners".

Based upon genealogical information derived from the Mission Dolores records, the Yelamu Ohlone people of San Francisco were intermarried with other Ohlone tribal groups to the south and across the East Bay (i.e., Contra Costa), prior to contact with the Spaniards. For example, Fathers Palou, Cambon and Noriega over a period of time baptized the family of a Yelamu chief or *capitane* named Xigmacse (a.k.a. Guimas) who was identified by Palou as the "Captain of the village of this place of the Mission". Father Cambon recorded two of Xigmacse's wives, Huitanac and Uittanaca (who were sisters) as coming "from the other shore to the east at the place known as Cosopo".

Recently some scholars have suggested that the ending "-cse" on a man's name (as in the case of Captain Xigmacse) served as an appellation of distinction or preeminence, thus identifying that person as a chief or one of distinguished status and high lineage. In another case of cross-Bay intermarriage between tribal groups involved a Yelamu woman named Tociom. Tociom had a daughter named Jojcote who according to Father Cambon was "born in the mountains to the east on the other side of the bay in the place called by the natives Halchis". The place called "Halchis" is the territory of the Jalquin Ohlone Tribe located within the greater Hayward/San Leandro/southern Oakland region.

It was into this complex and rapidly changing world that a young Jalquin Ohlone man named Liberato Culpecse, at the age of 14 years old (born 1787) was baptized on November 18, 1801 at Mission Dolores, along with other members of his tribe. Seven years later in 1808 Liberato Culpecse had married his first wife Catalina Pispisoboj and she died three years later on October 16, 1811. After the death of his wife, Liberato was allowed to move to the Mission San Jose region, where he met his second wife, Efrena Quennatole. Efrena who was Napian/Karquin Ohlone was baptized at Mission San Jose on January 1, 1815. Father Fortuny married Efrena and Liberato on July 13, 1818. Liberato Culpecse and Efrena Quennatole had a son named Jose Dionisio (Nonessa) Liberato and a daughter, Maria Efrena. Both Jose Dionisio and Maria Efrena married other Mission San Jose Indians and they had children (who included members of the Guzman and Marine lineages) who later became the Elders of the historic Federally Recognized Verona Band (Muwekma) community during the mid 19<sup>th</sup> and 20<sup>th</sup> centuries. The direct ancestors of the Muwekma resided at the following East Bay rancherias: San Leandro/San Lorenzo, Alisal (Pleasanton), Del Mocho (Livermore), Niles, Sunol, and later Newark.

Jose Guzman was one of the direct ancestors of the families enrolled in our Tribe. Jose was probably one of the last knowledgeable participants of the 1870 Ghost Dance which was centered around the Pleasanton/Niles rancherias. In 1930 Harrington recorded 27 songs from him (Harrington Notes). Harrington noted that "Inf's padrasto went to S. Juan when muchachon (sp?) and brot (sic) many Juan, Antoniano and other songs. He was good cantor and bailador" (Notes:277). Apparently Jose Guzman accompanied his stepfather to San Juan Bautista and San Antonio and learned many of their religious ceremonial songs such as Tura, Hiwei, Kuksui and other songs.

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During the interviews with Harrington, Jose talked about various family relations who went to live and work on the west bay and peninsula. Jose said that his "Uncle was good fustero [turner/carpenter], went to live at San Mateo... He was a strong man. Inf. had a brother, said when he left he might never return " (Harrington Notes:23).

During the 1890's Mary Sheldon Barnes from Stanford University photographed and interviewed a Doloreño Indian man named **Pedro Evencio** and his son Joe Evencio. Barnes wrote: "There lives in San Mateo, an old Indian, Pedro Evencio by name, the last of all the gentle race who once filled the Santa Clara Valley with the smoke of their rancherias; the last of the all (sic) the Indians born and bred at the Mission Dolores" (The Stanford Sequoia III, 1894:277-279). Some of this information along with photos taken by Barnes and also appears in Stanger's South From San Francisco (1963). Stanger wrote that:

"**Indian Joe's** grandfather was baptized as a child at the Mission (Dolores?) and became a neophyte named Evencio Gessmon, the latter probably being his native Indian name. In manhood he was made Headman of the neophytes at San Mateo and lived until after 1846. His son, Indian Joe's father, was Pedro Evencio, born in the 1820's and killed by a train in about the year 1900. He is shown in a photograph of the 1890's living in a neat shack in San Mateo and appears to have been a man of character and personality" (1963:31-32).

**Pedro Evencio** and his family were listed on the **1880 Census for San Mateo County**, Township 1. He was identified as **Pedro Abencio**, age 58, (b. ca. 1822), Indian, Farm Laborer; Mary, wife, age 58, Indian; Mary, daughter, age 25, Indian; Refuga, daughter, age 16, Indian; Paul Jose, son, age 22, Indian is crossed out [he was residing elsewhere]; Thomas, son, age 5, Indian. All were born in California. The family was living next to a farmer named Louis Doff and family from France.

Living nearby in the **Millbrae Township** in San Mateo was Pedro's son, **Jose Abencio**. He was listed as Jose Abencio, age 22, [b. ca. 1858], Indian, and working as a stableman for Peter Leyton, who was a hotel proprietor originally from Holland.

**Joe Evencio** was identified on the **1900 Census** living in the City of San Mateo. He was identified as **Joe Evencio**, age 40, born March 1860, Black, laborer and single. Joe was listed as a roomer residing house of C. C. Moore, an engineer from New York and his family.

Another Muwekma/Verona Band lineage were the Binocos (aka Vinoco or Ynoco). Jose Binoco's sister Ambrosia had married Jose Guzman in 1881. Their mother Rita was raised by the Amestes family living in the San Mateo area. In 1930 Jose Binoco registered with the BIA.

**Jose Binoco (BIA Application # 8419)** was enrolled on **October 8, 1930**. The application indicates that he was born October 8, 1842, 86 years old (although Harrington interviewed him in 1929 and he indicated that he was 55 years old) and a full-blooded Indian. Jose was apparently in frail condition in Fairmont hospital in San Lorenzo. He stated that he was a widower and BIA Examiner, Fred Baker indicated that he was too old to answer questions about who his wife was. His father was identified on his BIA application as Francisco and his mother's name was Rita.

Francisco Binoco and Rita were married around 1859. Based upon the 1900 Census which identified Jose Binoco as Indian, age 42, (born ca. 1858). It appears that their first child was Jose Binoco. According to St. Joseph's Church (located in San Jose) baptismal records Jose Binoco was born in 1859. The reason why Jose Binoco was baptized at St. Joseph's was perhaps Francisco and Rita were residing on the Amestes Rancho on the West Bay or on the Alviso Rancho:

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1859 Oct 12, #204, Page 41, **Jose Domingo Ynoco (Binoco) (Indio)**

Born: -1858/59  
Father: Francisco Ynoco  
Mother: Maria Rita  
Godparents: Juan Miranda and Maria de Carena

Jose Domingo was listed on the **1880 Census, Murray Township** as a laborer, age 27 (b. ca. 1853) in California. He was working on the farm of Thomas Pierce from Wales.

Francisco and Rita had three more children by 1863: Maria Esperanza; Francisco (Jr.) and Ambrosia:

1860 Jun 15, #43, Page 9, **Maria Esperanza (Indiana)**

Born: -1860  
Father: Francisco (Binoco)  
Mother: Rita Santos  
Godparents: Silvanio Soto & Paula Berdugo (Paula Verdugo)  
Note: Paula was Avelina Cornates' godmother

1861 Jul, #152, Page 31, **Franciscus (Indian)**

Born: May, 1861  
Father: Francisco (Binoco)  
Mother: Rita (Indicus) [Indians]  
Godparents: Jose Higuera & Maria

1864 Jan 10, # 311, **Ambrosia\* (Indian)**

Born: Dec 8, 1863  
Father: Francisco (Binoco)  
Mother: Rita  
Godparents: Jose Maria Castillo & **Maria Aurora Castillo\***

**\*Note:** Rita Suliej was Ambrosia's mother. Joe Guzman and Angel Colos informed Harrington that her Indian name was *Shale-u* or *Salle-u*. (Harrington notes).

After the death of **Jose Guzman's** first wife Agustia Lasoyo, he then married Ambrosia Binoco in 1881:

1881 May 20, Page 107, **Joseph Guzman & Ambrosia Vinoco**

"Joseph Gusman (viudo) Angustia N. felius Abencte Guzman Y Petra (Indians") con Ambrosia Vinoco filia Francisco Vinoco & Rita N. (Indians) residentes in Pleasanton....Witness: Antonio Gonzales and Maria N. (Indians)"

**1880 Census**, June 19<sup>th</sup> Jose Binoco was listed as **Jose Beno**, Indian, age 25, Laborer; Raphaela, Indian, wife, age 22, keeping house; Melvina (Alta Gracia?), Indian, daughter, age 6 (born 1874), Joseph (faint on the census, but is Joseph), Indian, son, 11 months (July). The family was living at Alisal and living next to Thomas Inigo and his family and several houses away from John Arbios.

As mentioned above, **Jose Binoco** appeared on the **1900 Census** as Indian, age 42 and born in 1858 (**1900 Census, Murray Township**, page 70A). His occupation was listed as "Servant" and he was residing on the land of **Jean Arbios**, "the Frenchman" in Sunol, who Jose Guzman and Maria Colos were alluding to, when Harrington interviewed them in 1925.

In 1903 **Jose Binoco** appeared as a godparent with Susanna Flores (Nichols) for Rafael Marine and Avelina Cornates' last child, Joseph Rafael:



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1903 Jun 21, Page 29, **Joseph Rafael Marino** (of Indian Birth) [St. Augustine]

Born: Apr 25, 1903

Father: Rafael Marino

Mother: Abalina Marina

Godparents: Josephus Binocho (Binoco) & Susanna Flores (Nichols)

Jose Binoco was also listed as **Joe Wenoco** on **Kelsey's 1905-1906 Special Indian Census** for Pleasanton. Five years later, on November 5, 1910, he was interviewed along with Jose Guzman, by C. Hart Merriam. Merriam wrote:

"Joe Benoko, and his father before him, lived at Sunol rancheria and belong to the Han-ne-su tribe. He is not sure however as to whether or not the Han-ne-su territory reached westerly from the San Joaquin valley to near Sunol, or his father's people moved into the Sunol country from the valley" (1967:368).

J. P. Harrington also tried to interview Jose Binoco during the 1920's, but did not obtain any detailed cultural information. He probably felt like Dolores Marine Galvan did, "thought he asked too many questions". However, Jose Guzman and Angela Colos did provide cultural and historical information about the Binocos:

"Miguel Pastor told Binoco to dance once the lole and Binoco tried but made bad go of it. But Binoco's father was a good dancer" (37:671).

**Jose Binoco** was listed on the **1920 Census, Pleasanton, Washington Township**. He was listed as a hired-man, age 70. Jose was working for Jean Sallsberry, from France and living on **Happy Valley Road** near the Crittenden Tract and not far from the Guzman household and the Alisal Rancheria. This was probably the same Frenchmen that Jose Binoco was working for mentioned in the Harrington notes.

Another **Doloreño (Mission Dolores neophyte)** was one of the direct ancestors of the **Marine** lineage who was mentioned above was **Liberato Culpecse** from the **Jalquin Ohlone** tribal group whom occupied the East Bay areas of south Oakland, San Leandro, San Lorenzo, Hayward, Castro Valley and adjacent lands. It was into the complex and rapidly changing world of the emergent Hispanic Empire, that **Liberato Culpecse**, at the age of 14 years old (born 1787) was baptized on November 18, 1801 at Mission Dolores, along with other members of his tribe. Seven years later in 1808, **Liberato Culpecse** had married his first wife **Catalina Pispisoboj** and she died three years later on October 16, 1811.

After the death of his wife, **Liberato** was allowed to relocate to the Mission San Jose region, where he met his second wife **Efrena Quennatole**. **Efrena Quennatole** who was **Napian/Karquin Ohlone** was born in 1797 and baptized at Mission San Jose on January 1, 1815 at the age of 18 years. Father Fortuny married **Liberato** and **Efrena** (who by then was a widow) on July 13, 1818.

**Liberato Culpecse** and **Efrena Quennatole** had a son named **Jose Liberato Dionisio** (a.k.a. **Liberato Nonessa**). **Liberato** and **Efrena** later had a daughter named **Maria Efrena**. Both **Jose Liberato Dionisio** and **Maria Efrena** married other Mission San Jose Indians. **Liberato Dionisio's** second wife was **Maria de Jesus** who was the daughter of **Captain Rupardo Leyo (Leopardo)** and was the younger sister of **Captain Jose Antonio**. **Liberato Dionisio** and **Maria de Jesus** had several children including **Francisca Nonessa Guzman**, born May 7, 1867. **Maria Efrena** had married an Indian man named **Pamfilio Yakilamne** (from the **Ilamne** Tribe of the Sacramento Delta region) and they had several children including their youngest daughter **Avelina Cornates (Marine)**. During the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, **Francisca Nonessa Guzman** and **Avelina Cornates Marine** became two the founding matriarchs of the present-day Guzman and Marine lineages. They, along with the other tribal families, comprised the historic **Federally Recognized Verona Band** tribal community residing at the following

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East Bay rancherias: San Lorenzo, Alisal (Pleasanton), Del Mocho (Livermore), El Molino (Niles), Sunol, and later Newark.

**Avelina Cornates Marine** was born in November 1863 and baptized at Mission San Jose on January 17, 1864. By the late 1880s she had met and married **Raphael Marine**, who came to the United States from Costa Rica, but oral tradition indicates that he was originally from Sicily. Avelina Cornates and Raphael Marine had together nine living children by 1903, six of whom have surviving descendants who are presently enrolled in the Muwekma Tribe.

In the 1880s, the Hearst family purchased part of the Bernal Rancho containing the Alisal Rancheria and Mrs. Hearst permitted the 125 Muwekmas living at Alisal to remain on the land, and even employing some of them to do her laundry. During the early part of the 20th century, the Muwekma Ohlone Indians (later identified as the Verona Band by the BIA) became Federally Recognized and appear on the Special Indian Census conducted by Agent C. E. Kelsey in 1905-1906. Concurrently, during this period of time, Mrs. Phoebe Hearst was responsible for funding the fledgling Department of Anthropology at U.C. Berkeley. Dr. Alfred L. Kroeber, one of the early pioneering anthropologists, became known as "the Father of California Anthropology" interviewed some of the knowledgeable speakers of the Indian languages amongst the Mission San Jose Indians in the East Bay. Tribal Elders were also interviewed by Jeremiah Curtin, Edwin Gifford, C. Hart Merriam, James Alden Mason and John Peabody Harrington.

#### **Shattering the Myth that the Ohlones were Never Federally Recognized**

In 1989 our Tribe sent a letter to the Branch of Acknowledgement and Research in order to have our Acknowledged status restored. After eight years in the petitioning process, and after the submittal of several thousand pages of historic and legal documentation, on May 24, 1996 the Bureau of Indian Affairs' Branch of Acknowledgment and Research (BAR) made a positive determination that:

Based upon the documentation provided, and the BIA's background study on Federal acknowledgment in California between 1887 and 1933, we have concluded on a preliminary basis that the Pleasanton or Verona Band of Alameda County was previously acknowledged between 1914 and 1927. The band was among the groups, identified as bands, under the jurisdiction of the Indian agency at Sacramento, California. The agency dealt with the Verona Band as a group and identified it as a distinct social and political entity.

On December 8, 1999, the Muwekma Tribal Council and its legal consultants filed a law suit against the Interior Department/BIA – naming Secretary Bruce Babbitt and AS-IA Kevin Gover over the fact the Muwekma as a previously Federally recognized tribe it should not have to wait 20 or more years to complete our reaffirmation process.

In 2000 – D.C. District Court Justice Ricardo Urbina wrote in his Introduction of his Memorandum Opinion Granting the Plaintiff's Motion to Amend the Court's Order (July 28, 2000) and Memorandum Order Denying the Defendants' to Alter or Amend the Court's Orders (June 11, 2002) that:

"The Muwekma Tribe is a tribe of Ohlone Indians indigenous to the present-day San Francisco Bay area. In the early part of the Twentieth Century, the Department of the Interior ("DOI") recognized the Muwekma tribe as an Indian tribe under the jurisdiction of the United States." (Civil Case No. 99-3261 RMU D.D.C.)

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On October 30, 2000, response by the Department of Interior's Branch of Acknowledgment and Research/Tribal Services Division of the Bureau of Indian Affairs to Justice Urbina's Court Order regarding the Muwekma Ohlone Tribal enrollment and descendency from the previous Federally recognized tribe, BIA staff concluded:

"... . When combined with the members who have both types of ancestors), **100% of the membership is represented.** Thus, analysis shows that the petition's membership can trace (and, based on a sampling, can document) its various lineages back to individuals *or to one or more siblings of individuals* appearing on the 1900, "Kelsey", and 1910 census enumerations described above."

On July 25, 2002, Congresswoman Zoe Lofgren issued her "Extension of Remarks" on the floor of the House of Representatives stating:

"The Muwekma Ohlone Indian Tribe is a sovereign Indian Nation located within several counties in the San Francisco Bay Area since time immemorial.

"In 1906, the Tribe was formally identified by the Special Indian Census conducted by Indian Agent C. E. Kelsey, as a result of the Congressional Appropriation Act mandate to identify and to purchase land for homeless California Indian tribes.

"At this time, the Department of Interior and the Bureau of Indian Affairs federally acknowledged the Verona Band as coming under the jurisdiction of the Reno and Sacramento Agencies between 1906 and 1927.

"The Congress of the United States also recognized the Verona Band pursuant to Chapter 14 of Title 25 of the United States Code, which was affirmed by the United States Court of Claims in the Case of Indians of California v. United States (1942) 98 Ct. Cl.583.

"The Court of Claims case judgment instructed the identification of the Indians of California with the creation of Indian rolls. The direct ancestors of the present-day Muwekma Ohlone Tribe participated in and enrolled under the 1928 California Indian Jurisdictional Act and the ensuing Claims Settlement of 1944 with the Secretary of the Interior approving all of their enrollment applications.

"Meanwhile, as a result of inconsistent federal policies of neglect toward the California Indians, the government breached the trust responsibility relationship with the Muwekma tribe and left the Tribe landless and without either services or benefits. As a result, the Tribe has suffered losses and displacement. Despite these hardships the Tribe has never relinquished their Indian tribal status and their status was never terminated.

"In 1984, in an attempt to have the federal government acknowledge the status of the Tribe, the Muwekma Ohlone people formally organized a tribal council in conformance with the guidelines under the Indian Reorganization Act of 1934.

"In 1989, the Muwekma Ohlone Tribal leadership submitted a resolution to the Bureau of Indian Affairs' Branch of Acknowledgment and Research with the intent to petition for Federal acknowledgment. This application is known as Petition #111. This federal process is known to take many years to complete.

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“Simultaneously, in the 1980’s and 1990’s, the United States Congress recognized the federal government’s neglect of the California Indians and directed a Commission to study the history and current status of the California Indians and to deliver a report with recommendations. In the late 1990’s the Congressional mandated report – the California Advisory Report, recommended that the Muwekma Ohlone tribe be reaffirmed to its status as a federally recognized tribe along with five other Tribes, the Dunlap Band of Mono Indians, the Lower Lake Koi Tribe, the Tsnungwe Council, the Southern Sierra Miwuk Nation, and the Tolowa Nation.

“On May 24, 1996, the Bureau of Indian Affairs pursuant to the regulatory process then issued a letter to the Muwekma Ohlone tribe concluding that the Tribe was indeed a Federally Recognized Tribe.

“In an effort to reaffirm their status and compel a timely decision by the Department of the Interior, the Muwekma Ohlone Tribe sued the Bureau of Indian Affairs. The Court has mandated that the Department issue a decision this year. That decision is expected in early August.

“Specifically, on July 28, 2000, and again on June 11, 2002, Judge Ricardo Urbina wrote in his Introduction of his Memorandum Opinion Granting the Plaintiff’s Motion to Amend the Court’s Order (July 28, 2000) and Memorandum Order Denying the Defendants’ to Alter or Amend the Court’s Orders (June 11, 2002) affirmatively stating that:

‘The Muwekma Tribe is a tribe of Ohlone Indians indigenous to the present-day San Francisco Bay area. In the early part of the Twentieth Century, the Department of the Interior (“DOI”) recognized the Muwekma tribe as an Indian tribe under the jurisdiction of the United States.’ (Civil Case No. 99-3261 RMU D.D.C.)

“I proudly support the long struggle of the Muwekma Ohlone Tribe as they continue to seek justice and to finally, and without further delay, achieve their goal of their reaffirmation of their tribal status by the federal government. This process has dragged on long enough.

“I hope that the Bureau of Indian Affairs and the Department of Interior will do the right thing and act positively to grant the Muwekma Ohlone tribe our rights as a Federally Recognized Indian Tribe. The Muwekma Ohlone Tribe has waited long enough; let them get on with their lives as they seek to improve the lives of the members of this proud tribe. To do anything else is to deny this tribe Justice. They have waited patiently and should not have to wait any longer.”

On September 30, 2008 the US District Court in Washington, D.C. handed the Muwekma Tribe another victory against the Department of Interior with regards to our reaffirmation as a Federally Recognized tribe. Judge Reginald B. Walton opined:

“... These arguments, and the explanation from the Department giving rise to them, seemingly cannot be reconciled with the Court’s September 21, 2006, memorandum opinion. ...

“... **The Court rejected both of these arguments.** It dismissed the defendants’ “hand-waving reference to ‘highly fact-specific determinations,’” which, in the Court’s estimation, “[did] not free the defendants” of their obligation to justify the decision to treat the plaintiff differently from Ione and Lower Lake based on the administrative record for the plaintiff’s petition. ...

“... **Having rejected all of the defendants’ arguments on the issue of similarity of circumstances,** the Court proceeded to find that “the Department . . . ha[d] never provided a clear and coherent explanation for its disparate treatment of [the plaintiff] when compared

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with Ione and Lower Lake,” nor had it ever “articulated the standards that guided its decision to require [the plaintiff] to submit a petition and documentation under Part 83 while allowing other tribes to bypass the formal tribal recognition procedure altogether.”...

“... Here, the Department’s explanation and the defendants’ arguments in defense of that explanation and in support of summary judgment in their favor would appear to run afoul of the law of the case established in this Court’s prior memorandum opinion. The Court concluded, implicitly if not explicitly, that the plaintiff is similarly situated to Ione and Lower Lake, and remanded the case to the Department for the sole purpose of ascertaining a reason as to why the plaintiff was treated differently. Yet, the defendants do not even acknowledge that their arguments are inconsistent with the law-of-the-case, let alone provide a “compelling reason to depart” from it.

“... The Court rejected that argument, explaining that “[w]hat matter[ed] . . . [was] whether the Department sufficiently justified in the administrative record for [the plaintiff’s] tribal petition its decision to treat [the plaintiff] differently from Ione and Lower Lake.”

“... The Court remanded this case to the Department so it could explain why it treated similarly situated tribes differently, not so that it could construct post-hoc arguments as to whether the tribes were similarly situated in the first place. It certainly did not remand the case so that the Department could re-open the record, weigh facts that it had never previously considered, and arrive at a conclusion vis-à-vis the similarity of the plaintiff’s situation to those of Ione and Lower Lake that it had never reached before.

The Court would therefore be well within its discretion to reject the defendants’ arguments outright, grant the plaintiff summary judgment with respect to its equal protection claim, and bring this case to a close. ... [Emphasis added]

In conclusion, while our Tribe is awaiting a final decision from the U.S. District Court in Washington, D.C. or a settlement agreement with the Department of Interior about our restoration status, we nonetheless, are continuing to exercise our sovereignty and authority as a Recognized Tribe. Therefore, I would once again thank you for contacting our Tribal office with regards to the proposed redevelopment projects located in San Francisco, however because of the efforts in the past by public agencies of excluding our legal history as a previously Federally Recognized Tribe, as well as dismissing our concerns about projects directly involving our ancestral village and cemetery sites, our Tribe would like for this project to include in its ethnographic section accurate and updated historic and legal information about our Tribe in your forthcoming Final Reports.

Based upon the information and concerns stated above, the area within and surrounding the proposed project parcels do indeed have deep historic significance and cultural meaning to our Tribe. Furthermore, our Tribe does not want to find itself in the position of being disenfranchised and caught-up in the “good old boy” archaeological mitigation process again. We insist on being contacted whenever any of our ancestral cemetery or village sites are either threatened or discovered by construction activities. We insist on being full participants in this planning process and also on any recovery program regarding our ancestral burials.

In the past we have been very troubled by the generic treatment in EIRs about our Tribe’s history and heritage, which is usually fraught with myths, stereotypes containing much outdated and undernourished information, and usually cited from either Malcolm Margolin’s interpretive fantasy The Ohlone Way, and/or Richard Levy’s section “Costanoan” in the Handbook on North American Indians, Vol. 8. 1978.


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Furthermore, in most, if not all, of the EIRs there is deliberate effort to expunge the existence of our Tribe from the historical record. Have you ever wondered why on the one hand your department has to follow the guidelines under SB18 and contact Native American tribal groups as part of a consultation process and yet those documented tribal groups are a non-entity on the Final Report? This is what we mean by "politics of erasure."

Should you have any additional questions or would like to obtain primary documentation, please contact our Tribal office at 408-434-1668 or my cell phone at 408-914-5797 and I will be happy to interact with your staff. Finally, I insist on obtaining a copy of the Final Report for this project and we insist that this letter be part of the Tribal consultation record.

Your researchers can obtain useful information from Milliken's publications as well as from our website [www.muwekma.org](http://www.muwekma.org). Should you have any additional questions or would like to obtain primary documentation, please contact our tribal office and we shall consider your request. Finally we would like to obtain a copy of the cultural resource section of your report.

On behalf of the Muwekma tribe,



Rosemary Cambra, Chairwoman

Cc:  
Muwekma Tribal Council  
Cultural Resources File  
SF Planning Department Candlestick Park/Hunters Point

107-3  
cont'd.

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## ■ Letter 107: Muwekma Ohlone Indian Tribe (1/12/10)

### **Response to Comment 107-1**

The comment refers to a Planning Department letter dated January 5, 2010.<sup>124</sup> That letter, as discussed in Master Response 1 (SB 18) is part of City and County of San Francisco outreach with Native American groups related to the General Plan changes proposed as part of the Project; that consultation is not part of the EIR process. The Planning Department letter included a CD of the Draft EIR as information. The November 12, 2009, to January 12, 2010, dates refer to the Draft EIR public review, not the Senate Bill 18 (SB 18) consultation steps.

Refer to Responses to Comments 1-1 and 85-5 with regard to the extension of the Draft EIR comment period and the opportunities to provide public comment on the EIR. Refer to Master Response 1 (SB 18) with regard to consultation with the Native American community under SB 18.

### **Response to Comment 107-2**

Draft EIR Section III.J (Cultural Resources and Paleontological Resources), pages III.J-2 through -5 discusses the prehistoric context, the presence of indigenous Native American peoples, identified as the Ohlone (Costanoan) people. The Draft EIR, pages III.J-17 through -19, then notes and describes the sixteen known prehistoric Native American sites within, or within 0.25 mile of, the Project site. For reasons of confidentiality, the locations of the sites are identified only generally. The Draft EIR concludes that the Project could have potential adverse effects on such Native American sites, as noted in Impact CP-2a, page III.J-36; Impact CP-2b, page III.J-40; and Impact CP-2, pages III.J-40 to -41. The Draft EIR also recognizes that the other potential resources may be present, in addition to identified sites. With regard to HPS Phase II, Impact CP-2b, Draft EIR page III.J-40, states:

Moreover, previous archaeological investigations have shown that prehistoric archaeological sites in the HPS Phase II site tend to be located along the original shoreline. Therefore, it is possible that Project-related construction activities may encounter previously unknown archaeological resources.

The Draft EIR identifies the Project effects and mitigation measures that would avoid significant adverse effects on such sites. Mitigation measure MM CP-2a, Section III.J, pages III.J-36 through -39, provides for a series of steps, for implementation of the Project Archaeological Research Design and Treatment Plan (ARDTP), including preconstruction testing under the direction of a qualified archaeologist, to identify potential cultural resources. The measure requires that all work and reporting by the archaeologists shall be under the further direction and approval of the City's Environmental Review Officer (ERO).

Refer to Master Response 1 (SB 18) with regard to consultation with the Native American community under Senate Bill 18 (SB 18), and to Master Response 2 (Potential Native American Burial Sites), with regard for the potential for disturbance of Native American burial sites on the Project site. As discussed

---

<sup>124</sup> Letter from San Francisco Redevelopment Agency and San Francisco Planning department to Rosemary Cambra, chairperson, Muwekma Ohlone Indian Tribe, regarding availability of the Candlestick Point–Hunters Point Shipyard Phase II Development Plan Project Draft EIR, January 5, 2010.

in Master Response 1, the City is undertaking outreach, separate from the EIR process, intended to elicit a full understanding of concerns that Native American tribes and organizations have about the Project, how the concerns may be addressed, and any other suggestions or recommendations the Native American tribes or organizations may have. Those suggestions or recommendations may include the use of specific research methods at Native American archaeological sites.

The identification of potential prehistoric sites in the ARDTP is not based on a formal predictive model but on the informal predictive model used by the Planning Department MEA Prehistoric Period Archeo GIS Project that employs prior documentation and historical ecology data. Such cultural resources could be present at or near known sites, or elsewhere at the Project site. The ARDTP, as discussed above, relies on the information of known sites, but also includes measures to be implemented should Project development uncover or disturb previously unknown cultural resources.

The comment refers to the Muwekma Ohlone (Park) Sanctuary at Islais Creek. An area on the north shoreline of Islais Creek east of Third Street, about two miles north of Hunters Point, had been improved by community groups. That site is owned by the Port of San Francisco and is now secured, not accessible to the public, and does not provide open space. The area is not a prehistoric or historic Native American cultural resources site. The Project would have no effect on that area.

### **Response to Comment 107-3**

The comments contain information on the history of the Muwekma Ohlone tribe and its legal status as a Native American tribe and are not direct comments on the content or adequacy of the Draft EIR. No response is required.

## ■ Letter 108: Hunters Point Shipyard Citizen's Advisory Committee (12/18/09)

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Letter 108



### THE MAYOR'S HUNTERS POINT SHIPYARD CITIZEN'S ADVISORY COMMITTEE

BVHP SHIPYARD SITE OFFICE PHONE: 415.822.4622  
P. O. BOX 882403 FAX: 415.822.4840  
SAN FRANCISCO, CA 94188 EMAIL: SANFRANCISCOCAC@AOL.COM

December 18, 2009

Mayor Gavin Newsom  
City Hall, Room 200  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Agency Commissioners  
San Francisco Redevelopment Agency  
One South Van Ness Avenue 5th Floor  
San Francisco, CA 94103



Dear Commissioners and Mayor Newsom,

The Hunter's Point Shipyard Redevelopment Citizen's Advisory Committee (CAC) would like to voice their support for remediation strategies that maintain a naturalized shoreline in the Hunter's Point Shipyard and Candlestick Point Joint Redevelopment Project Area. It has been brought to our attention by residents of India Basin that hard riprap is the current remediation strategy for Sites 7 and 18 in Redevelopment Area Parcel B, commonly known as Buck's Beach. This remediation strategy would limit future public uses of the shoreline and would be damaging to the current and future shoreline habitat. Ideally, we would advocate for the sites to be transferred to Parcel F to allow more time for study but we understand that the process is very far along and such a change could cause delay in the project schedule. However, we believe that there is some flexibility in the wording of the ROD that would allow for a different remediation strategy without the need for further study. We hope that the Navy will consider utilizing a remediation strategy that will be less disruptive.

The CAC has consistently been focused on ensuring the Hunter's Point Shipyard development is a livable community that not only provides a great environment for San Francisco residents but also serves as a draw for residents of the greater Bay Area. Accessible and recreationally useful shoreline areas are an important part of reaching that goal.

Attached is a selection of email correspondence that has been forwarded to us regarding the shoreline issue. We hope that this issue can be resolved with the best interests of the environment and current and future residents.

Sincerely,

Dr. Veronica Hunnicutt  
Chair, Hunters Point Shipyard Redevelopment Citizen's Advisory Committee

Cc:

Page 1 of 1

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Michael Cohen, San Francisco Mayor's Office of Economic and Workforce Development  
Tiffany Bohee, San Francisco Mayor's Office of Economic and Workforce Development  
Fred Blackwell, San Francisco Redevelopment Agency  
Thor Kaslofski, San Francisco Redevelopment Agency  
Lara Urizar, United States Navy  
Keith Forman, United States Navy  
Ryan Miya, California Department of Toxic Substances Control  
Ross Steenson, San Francisco Bay Regional Water Quality Board  
Amy Brownell, San Francisco Department of Public Health  
Michael McGowan, Arc Ecology  
Kristine Enea, India Basin Neighborhood Association  
Jeff Austin, Lennar Urban  
Office of Congresswoman Nancy Pelosi  
Office of US Senator Barbara Boxer  
Office of US Senator Dianne Feinstein

Attachments (1)

Page 2 of 2



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*Attachment:*

*Email correspondence regarding a request for alternative remediation strategies on Parcel 7.*

>From: "Mike McGowan" <mikemcgowan@arcecolgy.org>  
>To: "Urizar, Lara L CTR OASN (I&E), BRAC PMO West" <lara.urizar.ctr@navy.mil>, "Kristine Enea" <kristine@indiabasin.org>  
>Cc: "Mike McGowan" <mikemcgowan@arcecolgy.org>, <ripperda.mark@epa.gov>, "Ryan Mya" <rmiva@dtsc.ca.gov>, <RSteenon@waterboards.ca.gov>, "Brownell Amy" <Amy.Brownell@sfdph.org>, "Saul Bloom" <saalbloom@arcecolgy.org>, "Kito, Melanie R CIV NAVFAC SW" <melanie.kito@navy.mil>, "Forman, Keith S CIV OASN (I&E) BRAC PMO West" <keith.s.forman@navy.mil>, "Hamman Michael" <mhamman@igc.org>, "Cohen Michael" <michael.cohen@sfgov.org>, "corinne woods" <Corinnewoods@cs.com>, "Paul Nixon" <pnixonsf@yahoo.com>, "Marcia" <marcia.dale.lewint@me.com>  
>Date: November 30, 2009 10:37:50 AM PST  
>Subject: HPS B IR7: no new ROD, just new draft RD?  
>  
>Ms. Urizar,  
>Thank you for your patience in responding to our concerns. However, there are still some points of disagreement.  
> The scientific evidence does not seem to require a hard riprap armor at IR7. Because of its permanent negative impact to the ecology of the bay and shoreline, riprap should be avoided if at all possible.  
> I believe the language in the ROD says something like "such as a riprap revetment." I don't believe it requires it. The selection of the riprap in the remedial design was based on, in my opinion, lack of a fair evaluation of the living shoreline option despite requests from the public. The ROD may not need amending, just redo the draft RD.  
> It appears that the diagram of the hybrid living shoreline in the report comparing revetment:sheetpile:living shoreline would be a good plan to move forward with for a revised draft RD, with slight modifications to reduce the cost of the breakwater. As it is already prepared and very similar to the revetment diagram, there should be no substantial delay.  
> there will be sediment excavated at the shoreline no matter which alternative is constructed; the differences in tonnage don't seem extreme, especially if a right-sized breakwater saves time and reduces costs substantially over the riprap approach.  
> Parcel E may or may not be a candidate for a living shoreline due to groundwater concerns. Thank you for clarifying that a living shoreline will be considered here. What about the small beach in the northeast corner of B where riprap is now being proposed, just as at IR7? Shouldn't a living shoreline be considered here, too?  
>  
>Correction: The reference to SFO not being appropriate for San Francisco wind data is in the Candlestick-HPS Draft EIR, not in the Moffatt & Nichol report. Sorry for the mistake.  
>  
>Regards,  
>Mike  
>  
>  
>-----Original Message-----  
>>From: "Urizar, Lara L CTR OASN (I&E), BRAC PMO West" <lara.urizar.ctr@navy.mil>  
>>Sent: Nov 30, 2009 9:29 AM

108-1  
cont'd.

4 of 7

>>To: Kristine Enea <kristine@indiabasin.org>  
>>Cc: Mike McGowan <mikemcgowan@arceecology.org>, ripperda.mark@epa.gov, Ryan Mya <rmiva@dtsc.ca.gov>, RStenson@waterboards.ca.gov, Brownell Amy <Amy.Brownell@sfdph.org>, Saul Bloom <saulbloom@arceecology.org>, "Kito, Melanie R CIV NAVFAC SW" <melanie.kito@navy.mil>, "Forman, Keith S CIV OASN (I&E) BRAC PMO West" <keith.s.forman@navy.mil>, Hamman Michael <mhamman@igc.org>, Cohen Michael <michael.cohen@sfgov.org>, corinne woods <Corinnewoods@cs.com>, Paul Nixon <pnixonsf@yahoo.com>, Marcia <marcia.dale.lewinter@me.com>  
>>Subject: RE: HPS B IR7 wind: SF calls SFO data unsuitable  
>>  
>>Kristine,  
>>The Navy, with regulatory involvement, carefully evaluated the options for addressing the contamination at the Site 7 shoreline. The shoreline revetment was first introduced in the Technical Memorandum in Support of a Record of Decision Amendment (TMSRA) in 2007. The Proposed Plan was sent to the public in June 2008, and the Navy held a public meeting in July 2008 in order to gather public input regarding the remedy. Based in input received during this process, the Navy presented the final cleanup decision in the Amended Parcel B ROD. This ROD was signed by the Navy and regulators nearly a year ago, in January of 2009. Once this ROD was signed, the Navy was required to move forward in the CERCLA process towards building the remedy - this included preparing a very detailed Remedial Design.  
>>  
>>I realize you know the CERCLA steps that the Navy went through; however, it is important for you and the rest of the community to understand the time and effort the Navy has gone through in order to comply with CERCLA. It is too late in the process to expect the Navy to change the remedy, or manipulate parcel boundaries for special interests. Due to the potential presence of radionuclides at Sites 7 and 18, the Navy has agreed to install the remedy (including the shoreline revetment) at these sites before property transfer to the City and County of San Francisco. Additionally, the Navy is not allowed, post-ROD, to transfer any square footage from one parcel into another and place it on a different timeline. The Navy has 15 months to initiate a remedy once a ROD has gone final, and that clock cannot be stopped due to the Navy changing parcel boundaries.  
>>  
>>Once again, we encourage you to refocus your efforts on the Parcel E shoreline, which is not as far along in the CERCLA process (it is in the Feasibility Study stage right now). The Navy plans to evaluate a natural shoreline remedy in the Draft Final FS for Parcel E. Thank-you.  
>>  
>>Lara Urizar, P.G.  
>>Project Manager  
>>Hunters Point Shipyard  
>>619-532-0960 (phone)  
>>619-532-0983 (fax)  
>>  
>>-----Original Message-----  
>>From: Kristine Enea [mailto:kristine@indiabasin.org]  
>>Sent: Wednesday, November 25, 2009 15:45  
>>To: Urizar, Lara L CTR OASN (I&E), BRAC PMO West  
>>Cc: Mike McGowan; ripperda.mark@epa.gov; Ryan Mya; RStenson@waterboards.ca.gov;

108-1  
cont'd.

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Brownell Amy; Saul Bloom; Kito, Melanie R CIV NAVFAC SW; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Hamman Michael; Cohen Michael; corinne woods; Paul Nixon; Marcia  
>>>Subject: Re: HPS B IR7 wind: SF calls SFO data unsuitable

>>

>>Hi Lara,

>>

>>Please understand that we are not lobbying for Buck's Beach as an exercise in "keeping you honest." Every party involved in the cleanup has lobbied at some point for a living shoreline there, including the Navy. We have seen the Navy take creative approaches with respect to many other aspects of the cleanup, and we are asking for the same here. Let's not short-change the community in the name of adherence to process. The taxpayers are asking you to save Buck's Beach.

>>

>>The Navy has not indicated any objection to transferring several other parcels early, prior to installing a cover, to save the City the cost of removing that cover and installing another one in the form of a building or a road. Wouldn't that be possible for the small stretches of sand at Buck's Beach?

>>

>>We have also suggested re-assigning Buck's Beach into Parcel F to allow time for further study. Couldn't this administrative transfer take place now, and the analysis for a living shoreline at Buck's Beach be conducted at the same time as for the shoreline at Parcel E?

>>

>>Please advise, thanks.

>>Kristine

>>

>>

>>Kristine Enea

>>[kristine@indiabasin.org](mailto:kristine@indiabasin.org)

>>

>>

>>

>>On Nov 25, 2009, at 3:13 PM, Urizar, Lara L CTR OASN (I&E), BRAC PMO West wrote:

>>

>>> Mr. McGowan,

>>> I appreciate your interest in the Navy's cleanup of HPS. And while it is an excellent exercise to keep us honest, it is unfortunately too late in the CERCLA process at Parcel B. The Final Amended ROD for Parcel B was signed in January 2009, the Remedial Design will go final within weeks, and remedial action activities will begin in Spring 2010.

>>>

>>> Furthermore, the Navy strongly believes that we are doing the right thing to be protective of human health and the environment. The shoreline revetment at Site 7 will cover sediment with PCBs, PAHs, pesticides, metals, and potentially radionuclides.

>>>

>>> You assert that changing this component of the remedy at this point would not delay implementation of the remedy. However, a change of this magnitude would at the very least result in the Navy having to prepare an Explanation of Significant Differences (ESD) to the Amended ROD (estimate 9 months), rewriting the Remedial Design report (estimate another 6 to 9 months), and costing taxpayer money reworking a robust and protective remedy. Furthermore, eliminating the shoreline revetment would result in the need to excavate much sediment from the shoreline and

108-1  
cont'd.

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backfill with clean imported soil that would then require a great deal of operation and maintenance in perpetuity. The Navy feels its efforts would be much better spent if focused on upcoming projects, most notably the Parcel E shoreline.

>>>

>>> Finally, the Navy will move ahead to construct the remedy detailed in the Amended ROD and Remedial Design. However, please keep in mind that once the property is transferred, you can work with the City to get the shoreline remedy changed if you still feel that it is a worthwhile effort. Thank-you.

>>>

>>> Lara Urizar, P.G.

>>> Project Manager

>>> Hunters Point Shipyard

>>> 619-532-0960 (phone)

>>> 619-532-0983 (fax)

>>>

>>>

>>>

>>> -----Original Message-----

>>> From: Mike McGowan [mailto:mikemcgowan@arceceology.org]

>>> Sent: Wednesday, November 25, 2009 14:08

>>> To: Urizar, Lara L CTR OASN (I&E), BRAC PMO West

>>> Cc: ripperda.mark@epa.gov; Ryan Mya; RStenson@waterboards.ca.gov;

>>> Amy.Brownell@sfdph.org; saulbloom@arceceology.org;

>>> kristine@indiabasin.org; Kito, Melanie R CIV NAVFAC SW; Forman, Keith

>>> S CIV OASN (I&E) BRAC PMO West

>>> Subject: HPS B IR7 wind: SF calls SFO data unsuitable

>>>

>>> Ms. Urizar,

>>> There was an interesting reference in Moffatt & Nichol (2009) that discusses the San Francisco Planning Department standards for measuring wind for development projects. The planning department decided that SFO was not suitable as a source of wind data because it is far from the city and because topographic channeling near SFO converts the synoptic westerly winds to northwesterly. City Planning requires site-specific wind measurements, and in some cases, wind tunnel testing of building designs.

>>>

>>> To summarize several emails and technical reports and observations:

>>> Using SFO wind data, a 3 ft wave might be possible from the northeast of the IR7 shoreline, if a 40 mph wind blew continuously for at least an hour from that direction. Building a riprap revetment to withstand the 3 ft wave would be a conservative approach to preventing erosion.

>>>

>>> However, the 3 ft wave would break in shallow water before reaching the revetment and much of its erosive energy would be neutralized. Moreover, the hypothetical 40 mph wind would not blow for the entire fetch used in the estimate due to turbulence downwind of the Bay Bridge. Furthermore, site specific wind observations at IR7 and nearby are different from those at SFO in being quite a bit slower and coming from different directions, proportionally much less time from the northeast. In addition, using SFO data as a proxy for site-specific data is questionable. The settings of the two locations do not appear especially similar and San Francisco Planning Department guidance states that SFO wind data are not suitable for modeling wind in San

108-1  
cont'd.

7 of 7

Francisco.

>>>

>>> The technical basis for needing riprap needs to be re-evaluated because a living shoreline approach, if adequate to prevent erosion, would be superior in terms of visual appeal, public access, and habitat value for the bay. I believe a hybrid living shoreline could be implemented at IR7 for less cost and without major changes to existing plans. These changes should not delay implementation of the remedy.

>>>

>>> Regards,

>>> Mike

>>>

>>>

>>> Michael F. McGowan, Ph.D.

>>> Arc Ecology

>>> 4634 Third Street

>>> San Francisco, CA 94124

>>> 415 643-1190 X-308

>>> 415 643-1142 FAX

>>> [mikemcgowan@arcecolology.org](mailto:mikemcgowan@arcecolology.org)

>>

>

>

>Michael F. McGowan, Ph.D.

>Arc Ecology

>4634 Third Street

>San Francisco, CA 94124

>415 643-1190 X-308

>415 643-1142 FAX

>[mikemcgowan@arcecolology.org](mailto:mikemcgowan@arcecolology.org)

108-1  
cont'd.

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## ■ Letter 108: Hunters Point Shipyard Citizen's Advisory Committee (12/18/09)

### ***Response to Comment 108-1***

The comments in this letter concern the remediation strategy for Installation Restoration (IR) Sites IR-07 and IR-18 in Redevelopment Area Parcel B in the vicinity of Buck's Beach, which, as stated on pages III.K-17 through -18 of the Draft EIR, are subject to remediation by the Navy prior to transfer to the City/Agency. The various e-mail exchanges attached to the comment letter discuss the Navy's process for selecting the remediation strategy as well as the status of the Navy's cleanup. For Parcel B, The Navy has completed the preliminary investigation, site inspection, remedial investigation, feasibility study, and proposed plan, and issued an initial Record of Decision (ROD) in 1997, prepared a remedial design, and proceeded with remedial action implementation. After a decade of work and additional study, it developed a revised remedy. The Navy issued an amended ROD in 2009.

As noted in Master Response 9 (Status of the CERCLA Process), the Navy has completed the remedial design (RD) for Sites IR-07 and IR-18, an area of fill in the northwestern area of the parcel. This RD includes plans for remediation of near-shore sediments and construction of a protective revetment along the shore of San Francisco Bay in IR-07. The method of remediation is determined through the CERCLA process. Even if Sites IR-07 and IR-18 are subject to an early transfer, the Navy must complete remediation of these two specific sites in accordance with the strategies determined in the CERCLA process prior to transfer. Therefore, the selection of specific strategies for and/or remediation process for Sites IR-07 and IR-18 is outside the control of the Lead Agencies and the Project Applicant.

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■ **Letter 109: San Francisco Building and Construction Trades Council  
(1/4/10)**

1 of 1

**Letter 109**

*San Francisco Building and*

1188 FRANKLIN STREET • SUITE 203  
SAN FRANCISCO, CA 94109  
EMAIL: mike@sfbctc.org



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LARRY MAZZOLA  
President

MICHAEL THERIAULT  
Secretary - Treasurer

JOHN O'ROURKE  
KEN OKU  
Vice Presidents

4 January 2010

Mr. Rick Swig  
President  
San Francisco Redevelopment Commission  
One South Van Ness Avenue, 5th Floor  
San Francisco, California 94103



**Re: Adequacy of the Draft Environmental Impact Report for the  
Candlestick Point – Hunters Point Shipyard Phase II Development Plan Project;  
Bayview Hunters Point and Hunters Point Shipyard Redevelopment Project Areas**

Dear President Swig:

On behalf of the San Francisco Building and Construction Trades Council, I have reviewed the summary of the aforementioned document and urge you to act immediately to move this project forward.

The Draft Environmental Impact Report (DEIR), released on 12 November 2009, concludes that the proposed development of Candlestick and Hunters Points will "create a mixed-use community with a wide range of residential, retail, office, research and development, civic and community uses, and parks and recreational open space," thereby improving degraded urban areas with numerous environmental protections and enhancements.

We believe the document is adequate and no further delays for public comment are necessary.

You are well-acquainted with the development's economic benefits. The DEIR's analysis confirms that its land use and design will protect and enhance natural resources in a way consistent with the resource policies of the *San Francisco General Plan* and with all City environmental policies, regulations and laws. It considers alternatives to the development but rejects them for clear, convincing reasons. What remains is the development as proposed. The Southeast of the City needs it. So do we in the Trades.

Please move swiftly to its entitlement.

Sincerely,

Michael Theriault  
Secretary-Treasurer

Cc: Darshan Singh, Vice President  
London Breed  
Miguel Bustos  
Francee Covington  
Leroy King



109-1

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■ **Letter 109: San Francisco Building and Construction Trades Council  
(1/4/10)**

***Response to Comment 109-1***

This letter is in support of the Project and makes no specific comment on environmental issues or the content or adequacy of the Draft EIR.

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## ■ Letter 110: Singer, Sam (1/5/10)

1 of 1

FW: media clip re: Hunters Point - Tahoo! Mail

http://us.mc127.mail.yahoo.com/mc/showmessage?vid=...&cid=...

Letter 110

YAHOO! MAIL  
Classic

FW: Media clip re: Hunters Point

From: "Jason Barnett" <jason@singersf.com>

To: jennrcastro@yahoo.com



Tuesday, January 5, 2010 11:03 PM

received by  
Rev. A. Walker  
P 1/5/10 by

### EPA report: Shipyard project minimizing dust

By John Coté - San Francisco Chronicle, January 5, 2010

For years, critics of the plan to redevelop the Hunters Point Naval Shipyard have said the project is kicking up toxic dust and causing residents to have nosebleeds, headaches and other health problems. But a draft of a federal report obtained by The Chronicle found the project has effective safeguards in place to minimize asbestos exposure.

The report by the Environmental Protection Agency is the latest in a string that have found the project to be safe, despite lawsuits, a record fine and more than three years of heated public hearings as activists seek to halt the work.

The draft report found that monitoring procedures are effectively minimizing "dust generation and limiting asbestos exposure." The EPA also saw "no reason to suspend or stop the construction project," which calls for 10,500 homes to be built over two decades in an ambitious effort to transform the city's southeastern waterfront.

The EPA's analysis is a vindication of sorts for Mayor Gavin Newsom, who has pushed the project. Newsom was hounded on the campaign trail during his failed gubernatorial bid by followers of Nation of Islam minister Christopher Muhammad who contend the project is sickening residents. The local Nation of Islam chapter has a school nearby.

"After more than three years, Minister Christopher Muhammad has still failed to generate a single shred of reputable scientific evidence that the construction on phase one of Hunters Point shipyard was harmful to the surrounding community," said Michael Cohen, head of the mayor's economic development office. "The fact that Barack Obama's EPA has joined the long list of federal, state and local agencies that agree there is no reason to stop this project is important because of the Obama administration's strong commitment to environmental justice."

Still skeptical

Not everyone is convinced of the latest findings, saying that the project is spreading naturally occurring asbestos that is causing health problems among nearby residents. Asbestos, a fibrous mineral, is sent airborne when earth is broken and graded for construction. Long-term exposure can cause cancer.

Marie Harrison, a Bayview-Hunters Point resident and organizer with Greenaction, questioned the EPA's testing methods, especially since individual residents were not screened.

"I would love to believe that they did this, I really truly would. But if I'm going to believe anything, I've got to see it," Harrison said.

Leon Muhammad, dean at the local Nation of Islam school, refused to comment on the EPA report. Christopher Muhammad could not be reached.

The EPA's study looked at existing data from 10 monitors around the 75-acre first-phase site. The monitors work like vacuums, sucking air into a small canister, which contains a filter that is analyzed at a lab. The agency also reanalyzed 34 filters from "some of the worst-case situations" using a more detailed method.

It found that the "oversight of the project is appropriate" and that the standard local officials use actually resulted in a more conservative approach than the EPA method, the draft report said.

The city's public health chief, Mitch Katz, has repeatedly testified that the construction is safe, and the city's efforts have been backed by the state Department of Health Services and U.S. Centers for Disease Control and Prevention.

Fine and lawsuits

However, readying the site for construction hasn't come without problems.

The Bay Area Air Quality Management District fined Lennar Urban, the developer partnering with the city, \$515,000 in September 2008 - the largest fine in the district's history for a dust violation - for failing to properly monitor the air, maintain stations for washing dust off vehicles and contain dust from roadways out of the worksite.

According to air district officials, there was missing data from May through July 2006 after one of Lennar's consultants failed to properly calibrate monitoring equipment.

But the air district maintains that there was no evidence "of any kind of definitive health hazard," said spokeswoman Lisa Fasano.

Two former Lennar employees also sued the company in March 2007, alleging the company violated state law by retaliating against them for raising questions about the dust problems at the construction site. They also claim that they were victims of racial discrimination.

The lawsuit was settled out of court in January 2008 after Lennar failed to get it dismissed, records show. Representatives on both sides declined to comment on the amount.

A second lawsuit, filed in June on behalf of more than a dozen children who live or go to school in the neighborhood, contends Lennar "on many occasions" failed to stop work despite asbestos levels far exceeding the cut-off threshold. A trial is set for July.

Sam Singer, a Lennar spokesman, called the lawsuit "without merit."

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## ■ Letter 110: Singer, Sam (1/5/10)

### ***Response to Comment 110-1***

This letter is a copy of a media clip from the San Francisco Chronicle and makes no direct comment on environmental issues or the content or adequacy of the Draft EIR. Refer to Master Response 12 (Naturally Occurring Asbestos) for a discussion of naturally occurring asbestos and dust minimization.

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## ■ Letter 111: San Francisco Organizing Project (1/5/10)

1 of 1

Letter 111

Rec'd  
1/5/10 by

### SFOP Talking points for Public Hearings 2010

- My name is \_\_\_\_\_ and I am a leader with the San Francisco Organizing Project at (Congregation/School)
- SFOP is a faith-based, grassroots organization that works in over 30 congregations and schools representing 40,000 San Franciscans to develop community leaders and grassroots campaigns. SFOP has a broad-based constituency and our leaders influence public officials to make better decisions about important issues that affect us all -- health care, affordable housing, neighborhood safety, workforce development and education.
- We are a member of the PICO National Network, a coalition of over 50 organizations like ours across the country. Together we are working to build leadership within our congregations, neighborhoods and families to make the changes that our communities need.
- SFOP's long-time Bayview members True Hope COGIC and Providence Baptist Church, in addition to the several affiliate congregations and schools in the District, have organized and won many initiatives for safer streets, youth programs, employment opportunities and affordable housing over the last 25 years.
- As you know, SFOP is a member of the Alliance for District 10 – made up of SFOP, SF ACORN and the SF Labor Council. In May 2008, we signed a historic community benefits agreement with the Lennar Corporation to insure that the families of our congregations and schools in Bayview and Vis Valley will really benefit from the exciting development that is in the works. We are supportive of the project because, working with the City and with Lennar, we will be able to bring roughly 3,500 units of affordable rental and home ownership housing and \$17 million in funding for jobs and job training for local residents.
- From the agreement, we have more than doubled the required amount of affordable housing to be built in the development. In addition, the workforce contribution -- \$8.5 from Lennar to be matched by \$8.5 million of City funds—is unprecedented. We will use this funding in a coordinated strategy targeted at ending the high unemployment and thus the violence that plagues our neighborhoods.
- Thank you for supporting this project – your approval will help us bring these much needed resources to our community.

111-1

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## ■ Letter 111: San Francisco Organizing Project (1/5/10)

### ***Response to Comment 111-1***

This is a handout of talking points for 2010 public hearings on the Project. These comments were raised in oral comment on January 5, 2010. Refer to Response to Comment SRFA2-14.

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