

## ■ Letter 75: Sierra Club (1/12/10)

1 of 17

Letter 75

From: Arthur Feinstein <arthurfeinstein@earthlink.net>  
To: Muraoka Stan <Stanley.Muraoka@sfgov.org>  
Date: 01/12/2010 02:53 PM  
Subject: Sierra Club Comments CANDLESTICK POINT-HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PLAN PROJECT (DEIR)

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Dear Mr. Muraoka ,Here are the Sierra Club comments on the CANDLESTICK POINT-HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PLAN PROJECT Draft Environmental Impact Report (DEIR). thank you for your attention to our concerns.

yours,  
Arthur Feinstein



**San Francisco Bay Chapter**  
Serving Alameda, Contra Costa, Marin and San Francisco

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Sent by email to: Stanley.Maruoka@sfgov.org  
Hard copy to follow

January 12, 2010

RE: CANDLESTICK POINT–HUNTERS POINT SHIPYARD PHASE II  
DEVELOPMENT PLAN PROJECT Draft Environmental Impact Report (DEIR)

Dear Sirs and Mesdames:

The Sierra Club submits the following comments on the Draft EIR referenced above. We find the DEIR fatally flawed in its failure to identify in its analysis of the Preferred Alternative (Project) that Project’s significant and unmitigable impacts to the biological resources and aesthetics of Candlestick Point State Recreation Area (State Park), as well as its failure to meet the goals of Proposition G by failing to adequately connect the Bayview community with the new Project when considering transportation alternatives and failing to provide long-term job opportunities to the Bayview community.

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While being very supportive of the concept of a development at Candlestick/Hunters Point, we believe that any such project must provide real and long lasting benefits to the existing environmental justice Hunters Point/Bayview communities.

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Such benefits should include opportunities for employment other than the low-end and entry-level retail jobs the Project proposes through its proposed mall and other retail elements. The other job-generating feature of the Project is a Research & Development (R&D) element but jobs for R&D require high-end college educated personnel. People with this educational background are not common in the Bayview that has a tradition of blue-collar employment.

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We urge the Planning Department and the Redevelopment Agency to look closely at Arc Ecology’s proposed alternative for the project. The Arc alternative proposes Port-oriented heavy industry as a means of providing such blue-collar jobs. The Sierra Club endorses

75-4

Sierra Club comments  
CP-HPS PHII DEIR

Page 2

the Arc Ecology Alternatives as Alternatives that more adequately address the goals of Proposition G and that avoid the non-mitigable significant environmental impacts that will result from the Project.

We will now address specific issues in the DEIR in which that document fails to address or even identify significant environmental impacts that will result from the implementation of the Project.

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### Impacts to Candlestick Point State Recreation Area

#### Aesthetics

Unbelievably, the DEIR fails to identify the construction of an approximately eighty-one foot wide bridge across Yosemite Slough as an aesthetic impact to the State Park through which this bridge is constructed.

The mission of California State Parks is:

*To provide for the health, inspiration and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.*

A new, as yet unconstructed, bridge cannot be considered a natural resource or a cultural artifact and as can be seen from FIGURE III.E-24, the bridge will present a clear disruption of views from the head of Yosemite Slough to the Bay. Presently, this view provides people seeking to enjoy the natural values and views of the State Park an undisturbed view of the Slough and the South Basin where thousands of waterfowl and shorebirds are feeding in the bay waters or mudflats, depending upon the tides and season. This is the type of experience and views that State Parks were created to preserve and provide as can be seen from the Mission Statement. Steel and concrete and asphalt are not why people go to State Parks. A bridge will forever destroy the ability of people to have that undisturbed nature experience.

The State Park has abundant wildlife and an unusual degree of biodiversity in such an urban setting. In 2003-2004 the Golden Gate Audubon Society undertook a wildlife survey in the State Park. I managed that survey in my position as the Conservation Director of that organization at that time. That survey (*Final Report Yosemite Slough Watershed Wildlife Survey, LSA, July 2004*) identified the presence of 148 species over the time of the survey. Another 36 bird species were identified in the State Park over a 20-year period by expert Audubon birder Alan Hopkins. This adds up to 184 species, and at a recent event in the Park a butterfly expert identified yet another butterfly species not previously seen in San Francisco.

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4 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 3

On each side of Yosemite Slough our wildlife surveyors observed snakes, lizards, amphibians and small mammals such as rabbits as well as many terrestrial avian species. In the bay itself can be seen an abundance of avian species, some rare in the Bay such as oystercatchers and Wandering Tattler (usually an ocean coastal bird). Also in the Bay can be seen the marine mammal the harbor seal. The bridge would prevent people walking and viewing along the Slough from seeing the seals that are hauled out on sandbars off the Hunters Point shoreline and the waterbirds swimming in the Bay waters beyond the bridge. This is clearly an unmitigable impact that deprives people from appreciating the aesthetic experience the State Park was created to provide.

The importance of Candlestick Point State Park to the eastern San Francisco human population cannot be overstated. In this part of San Francisco there are no large parks and no large nature area that would allow people in this highly congested area the opportunity to experience nature and have that escape from urban densities that make large urban parks so essential.

The views along Yosemite Slough are some of the best in the park and the view east from the Slough is spectacular as you see the Bay spring out from the Slough and watch the many waterbirds move to and from the Slough to the Bay as the tide moves in and out. This experience will be totally eliminated by the obstruction of that view by the bridge.

Conversely, looking west along the shoreline while standing east of Yosemite Slough and east of the proposed bridge location, i.e., looking towards where Yosemite Slough enters the South Basin, one presently sees at low tide numerous shorebirds on the Slough's extensive mudflats and many waterfowl just outside the slough following the tide. The bridge will also obstruct this view.

I have personally seen Leopard sharks swimming along the shoreline exactly where the bridge will be constructed. That site (where the current HPS Shipyard fence enters the water) seems to be a place that attracts the sharks close to the shore. The bridge will eliminate that view.

And yet the DEIR states, "As the Project would not substantially obstruct any scenic vistas, this impact would be less than significant. No mitigation is required" (page III.E-57), and further states,

"[T]he Yosemite Slough bridge would limit some foreground views of the Slough; however, overall views of the Bay would remain. Short- and mid-range views of the Slough would be somewhat altered with the inclusion of the proposed bridge. However, short- and mid-range views of the remainder of the Slough would remain as under current conditions..."

and,

"[T]he Yosemite Slough bridge would change the open water character along the bridge route across a relatively narrow portion of the Slough. This would not be



75-5  
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5 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 4

considered a substantial adverse change in the overall visual character of Yosemite Slough, as the bridge would occupy only a small footprint relative to the entire Slough. The remainder of the Slough would remain visible as an open area.” (page III.E-64).

These statements abysmally fail to address the true impacts of this structure and its accompanying access roads.

This approach to a State Park is sobering. It opens the door to the building of structures in all state parks as long as they are locally situated because small impacts are not significant. And yet to someone walking in a State Park to enjoy a nature experience to suddenly come upon a large bridge is neither a small impact nor an insignificant one.

And in all of this, the DEIR ignores the fact that immediately west of the bridge the State Parks Foundation and CalParks propose to restore 34 acres of wetland and upland habitat on both sides of the Slough as well as create bird-nesting islands just west of the proposed bridge’s location. This restoration project will enhance the already wonderful natural surroundings of this area and the building of a bridge will be even more of an aesthetic nightmare for anyone seeking a State Park experience at this location. The DEIR does describe this project but fails to identify any impacts associated with it such as those described here.

The DEIR also ignores the fact that the General Plan of the State Park, developed through a public process that held over 200 public meetings, identifies that northern part of the State Park in which the bridge is proposed to be built as a nature area. So, exactly in the area designated as one for nature appreciation the Project would put a large bridge. The aesthetic conflict is obvious. The bridge can only be seen as a detriment to the aesthetics of a nature area no matter how wonderful a bridge it may be.

It should be remembered that a bridge also requires access roads and that a bridge is built to carry vehicles. We are not just talking about a static structure but also about the noise of the cars, trucks and busses and the visual appearance of the cars, trucks or busses as they move along the access roads and bridge. This can only further detract from the aesthetics of a nature experience for which a state park is created and for which purpose this part of the State Park is specifically identified.

The access roads to the bridge bring their own aesthetic impacts, aside from the bridge, that are ignored by the DEIR. We did not find them mentioned at all in this section of the DEIR. The roads will provide barriers to people seeking to walk along the shoreline and, again, the noise and sight of the vehicles will impact any attempt to have a quiet nature experience.

We also challenge the DEIR’s proposing that the bridge will only be used for BRT and “game-day” traffic. Once built the new residents at both HPS and CP will demand that the bridge be used for general car traffic between HPS and CP regardless of the presence or absence of a stadium.



75-5  
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6 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 5

To conclude, the bridge will:

- Create non-mitigable significant negative impacts on the aesthetics of Candlestick Point State Park.
- The structure will interrupt views from Yosemite Slough into the Bay and vice-versa.
- It will bring noise from vehicles and the visual presence of the vehicles themselves into a site designated as a nature area.
- It will be built in a part of the State Park designated after many public meetings as a nature area.
- It will be built adjacent to a 34-acre wetland and upland habitat restoration project in the State Park and will detract from the ability of people to enjoy the beauty of that nature restoration project.
- It will require access roads that will interfere with any trails along the shoreline and the roads' traffic will create noise and visual disturbances that are antithetical to the aesthetics of a nature experience, again in a State Park and a part of the State Park designated as a nature area.

**It is clear that these are all significant, non-mitigable impacts and as such the DEIR is fatally flawed for failing to identify these impacts and to identify them as unmitigable. The FEIR should correct these flaws and eliminate the bridge from the Project.**

**Transportation:**

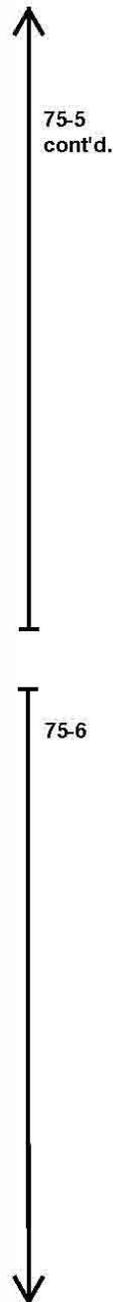
There is, of course, a viable alternative to the bridge. This alternative is clearly identified and analyzed in the Arc Ecology submittal for this DEIR that includes a report from LSA Associates. It is less ably identified, and not always accurately, in the DEIR in Alternative 2. This alternative, as described by LSA, would route the proposed BRT around Yosemite Slough on an existing abandoned railroad right-of-way. This alignment would result in an insignificant increase of travel time for the BRT over the proposed bridge route of approximately just 1 minute 30 seconds. Such a small difference in travel time is insignificant for even short distance trips.

As for game day impacts (which the DEIR states would make the around Yosemite Slough alignment impracticable) the LSA report makes it clear that even with a bridge the large number of vehicles exiting the stadium would overwhelm the Project's street system once over the bridge and so no benefits accrue from the bridge on game day.

The LSA report also indicates many inaccuracies in the DEIR, for example:

**Section 6, Page 30**

“Under Alternative 2, motorized and non-motorized traffic would be required to circumnavigate Yosemite Slough because no bridge would be constructed.”



Sierra Club comments  
CP-HPS PHII DEIR

Page 6

This statement misleads the reader by implying that additional automobiles would be added to the street network without the bridge when in fact, automobiles would not be allowed on the bridge. The section should correctly inform readers that neither the Project or Alternative 2 would provide bridge access for automobiles.”

And,

**Appendix D, Chapter 6, Page 288**

*Comment 28:* Pursuant to State CEQA Guidelines Section 15151, the EIR should provide a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which takes into account the environmental consequences of the project. While an EIR must contain facts and analysis, not just an agency’s conclusions or opinions (Citizens of Goleta Valley v. Board of Supervisors, 1990), no technical analysis is presented in the Draft EIR justifying the claimed travel time savings. Based on the additional distance around Yosemite Slough (3,205 feet) and average BRT travel speeds (20 to 25 miles per hour), the alternate BRT route should require between 1 minute 27 seconds and 1 minute 49 seconds of additional travel time.

*Comment 29:* The third paragraph of Alternative 2-No Bridge asserts that the alternative BRT route would increase travel time by 5 minutes and decreases ridership by 15 percent. These statements are not supported by analysis presented anywhere in the Draft EIR and should be removed from the Final EIR.

We are particularly troubled by the assertion that an increase of 5 minutes travel time would result in a 15% decline in BRT ridership. In other documents (analysis of BTIP uncirculated DEIR) prepared for Arc Ecology by LSA and also submitted for this DEIR by Arc Ecology, it was estimated that riders from the Project going either downtown or to the South Bay could expect MUNI trips of at least 30 to 40 minutes or longer duration. A 5-minute increase in travel time is meaningless when considering so long a commute. We question the assumption that 5 minutes would influence a choice of transit when considering such trips.

One of the Goals of Proposition G, passed by the residents of San Francisco in June 2008, was to ensure that the transportation components of the Project would integrate the new development with the existing Bayview Community thus satisfying some of the environmental justice issues of the Project. Because the bridge, and thus the BRT line, avoids the Bayview community it essentially subjects that community to environmental justice impacts denying that community the benefits of the BRT.

The Arc Ecology alternative (and a component of DEIR Alternative 2) that makes use of the dedicated around-Yosemite Slough right-of-way alignment for the BRT mitigates this problem by bringing the BRT into the Bayview community, serving the warehouse area of the Bayview and, in the Arc alternative, providing easier access to the BRT for the Bayview residential community.



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Sierra Club comments  
CP-HPS PHII DEIR

Page 7

Considering these significant transportation, aesthetic (see above) and ecological (see below) impacts of the bridge and the exorbitant cost of the bridge, estimated to be well over \$100 million (BTIP uncirculated DEIR), **the FEIR should correct the flaws in the DEIR cited above and eliminate the bridge from the Project and instead choose the around-Yosemite Slough dedicated right of way as the appropriate alignment for the BRT.**

The Sierra Club has developed extensive policies for helping the City achieve its goal of being a transit-first community. To ensure that this project is best able to achieve this goal we provide the following suggestions and hope they are incorporated into the Final/EIR:

- A) Provide good transit to connect to the Metro 'T' line, Sunnyside Caltrain Station and the Balboa BART Station. This can be best accomplished by extensions of existing lines now serving the area.
- B) Improve priorities on the 'T' line, at almost no cost. This is a better use of Muni capacity and funding than the new express service to downtown proposed in the Project (also see (D) and (E) below).
- C) Local transit service within the area should be on transit priority streets (TPS), without a new bridge.
- D) After transit leaves the area it should become a "Limited" service with a similar to the "19". The Limited Line should avoid the worst hills, and run to the north side of SF, but not downtown. Because this is a long route it should be BRT and TPS to the greatest extent possible, to maintain reliability. The regular "19" should continue to provide local service on the hills.
- E) The Limited Service line per (D) should be extended to the southwest to Balboa and provide limited service parallel to existing local service or become the proposed BRT using the around-Yosemite Slough alignment thus avoiding an expensive new bridge.
- F) Retail service in the area should be provided under residential mixed-use buildings with village-sized markets that are easily accessible by foot for new residents in the area.
- G) Project parking should be unbundled and limited to 0.5 spaces per unit and include spaces for shared cars.
- H) All curbside parking should be metered 24/7 to reduce local car ownership and provide parking for other neighborhood shoppers without the need for large parking lots or expensive underground parking.
- I) Each Condo should provide a Muni Fast Pass for each apartment as part of the condo fees.



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Sierra Club comments  
CP-HPS PHII DEIR

Page 8

### Impact of Yosemite Slough Bridge on Special Aquatic Sites

Impact BI-4c Construction of the Yosemite Slough bridge would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. (Less than Significant with Mitigation) [Criterion N.c] DEIR Page III.N-67

This is a significantly incomplete analysis of Clean Water Act §404(b)(1) issues faced by this project. While the bridge construction may be no or little impact to wetlands there will certainly be impacts to mudflats. Mudflats, like wetlands, are identified under the §404(b)(1) Guidelines as Special Aquatic Sites. Under the §404(b)(1) Guidelines no permit should be issued for a project that would impact Special Aquatic Sites unless there is no practicable upland alternative site available for the project purpose, and for Special Aquatic Sites there is a presumption that such a practicable, upland site is available for the project purpose (this is called "avoidance"). This presumption must thus exist for the bridge component of the Project since the bridge will impact mudflats, a Special Aquatic Site. And, in fact, a practicable upland alternative does exist for the bridge component of the Project and has been proposed by Arc Ecology and is reflected, in part, in Alternative 2 of the DEIR. **The FEIR should rewrite this section and identify mudflats as Special Aquatic Sites. It should reject the bridge since it violates the avoidance rule of the Guidelines and is therefore unlikely to receive a permit. Since there is a practicable upland alternative to the this component of the Project, the US Army Corps and the US EPA should deny any permit for the bridge. BCDC should also deny the bridge since it is bay fill that is not the minimum possible since there is a feasible upland alternative available.**

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### Impacts of the bridge on Wildlife

The DEIR fails to adequately identify the impacts the proposed bridge would have on wildlife, especially waterbirds. The bridge will be on the direct route of shorebirds and waterfowl on their diurnal migration between the bay (South Basin) and the mudflats of Yosemite Slough as the tides move in and out.

Although the DEIR does state,

The bridge's low, flat profile would allow birds to easily fly over the bridge between the upper part of the slough and South Basin, but the bottom of the bridge deck is high enough to allow swimming birds such as ducks to swim under the bridge when tidal conditions would currently permit such movements. (Pg, IIIN-.95

10 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 9

It is quite likely that on very foggy days bird strikes may occur on the bridge as the birds perform this daily or twice daily movement from bay to the Slough. Birds will be flying quite low as they fly such a short distance.

Double Rock Island is the possible site of nesting oystercatchers. The bridge will be built within feet of the eastern end of Double rock island and thus may pose a significant threat to fledgling oyster catchers as they begin to fly and are not yet fully in control of their flight.

The CalParks' Yosemite Slough Wetland Restoration Project will create two waterbird nesting islands. The proximity of the bridge to these islands may also result in bird strikes and mortality especially since this is an area that gets fog that can mask the bridge. This is of particular significance since one of the species that is projected to use these nesting islands is the listed Western snowy plover. This alone should make this a significant impact.

**The FEIR should identify the bridge as posing a significant impact to waterbird movements (diurnal migration) and to nesting waterbirds. This is an unmitigable impact.**

The DEIR also fails to adequately identify the impact of the access roads to the bridge on the State Park's terrestrial wildlife species. In our Audubon Wildlife Survey reptiles were particularly abundant in the areas surrounding the road alignments (all three snake species and fence lizard) as well as the slender salamander. These species are very susceptible to destruction by automobile and the access roads will bisect these species' habitats. Thus the roads will result in significant increased mortality to these species as well as to small mammals that are common in this area. **The FEIR should recognize this as a significant unmitigable impact.**

### **Impacts to Wildlife of the Project**

Impact BI-2 Implementation of the Project would not have a substantial adverse effect, either directly or through habitat modifications, on any common species or habitats through substantial interference with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (Less than Significant) [Criterion N.d]...Consequently, any impacts of the Project on common species and habitats would have a negligible effect on regional population and would thus be less than significant. No mitigation is required. Page III.N-50

The DEIR's discussion of impacts of the Project to wildlife staggers the imagination, especially as regards impacts to Candlestick Point State Recreation Area. Nowhere does the discussion of impacts recognize that a State Park's function is to preserve the biodiversity and natural beauty of the State. Whether rare or common, any wildlife species is a component of the State's biodiversity. Any diminution of wildlife resources in a State Park is a significant impact because it directly impacts the State Park's ability



75-7  
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11 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 10

to perform its Mission of preserving the State's biodiversity and providing nature experiences.

We also disagree with the City's criterion for significance on this subject (N.d). While possibly regionally common, the wildlife species in the State Park and HPS (and there are over 148 of them – no small number) are rare in San Francisco and their loss would deprive that community of the ability to experience wildlife. As has become well known, nature experiences can play a crucial role in the development of children and in helping urban adult populations maintain their health (Richard Louv, *Last Child in the Woods*, Algonquin Books of Chapel Hill, 2005). Furthermore, if all sites that provide habitat for common species were dismissed as insignificant such common species would soon join the rank of rare or endangered. And, again, the fact that this site is a State Park should certainly make such impacts reach a level of significance.

Also, the statement cited above, "*any impacts of the Project on common species and habitats would have a negligible effect on regional population and would thus be less than significant. No mitigation is required. Page III.N-50*" implies that all wildlife species could be eliminated from the site and yet have no significant ecological impact. This is not credible. Many of these species are prey species for migratory and/or predatory birds. Thus the disappearance of these local species may have far reaching impacts. **The Final EIR should identify Project impacts to wildlife species in the State Park and HPS as significant.**

The DEIR also states, that,

Bird species diversity (a measure of the number of species in a given area) increases with increasing foliage height diversity (a measure of the number and diversity of vertical layers of vegetation in that area).<sup>672,673</sup> While this has been best studied in breeding birds, the structural complexity of habitat also influences the degree to which an area provides resources to migrant birds. Multi-layered vegetation, with well-developed ground, understory, and canopy layers, would support greater diversity of migrants than the structurally simple vegetation that dominates most of Candlestick Point and HPS Phase II. Also, breeding bird abundance is often closely associated with the density or volume of vegetation, with increasingly dense vegetation supporting more individual birds. The sparse vegetation present on most of the Project site limits the value of the site to breeding and migratory birds. Page III.N-13).

This is a generic statement of bird habitat needs. It ignores the fact that specific habitats provide specific functions. The grasslands of California are relatively not diverse in vegetation but still provide immense habitat values for ground-burrowing animals, raptors and many other bird species. The State Park's 5.13 acres of grassland, proposed for destruction by the Project, provide a healthy habitat for reptiles, amphibians, and many grassland bird species such as Meadowlarks. There is sufficient shrubbery in this area so that it sustains species such as goldfinches, white-crowned and golden-crowned sparrows (all categorized as migratory birds) and other grassland related species. I attest



75-7  
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12 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 11

to this from my experience as the leader of the Golden Gate Audubon CPSRA wildlife survey in 2003-2004. Recent studies indicate that grassland birds are the most threatened in the United States due to the loss of that habitat type and indeed, in the Bay Area this is a rapidly disappearing habitat.

**The FEIR should correct this statement and instead identify the grasslands of the State Park as providing valuable habitat for a variety of grassland species both terrestrial and avian.**

Furthermore, the DEIR is deficient in its failure to identify the cumulative impacts of this project on wildlife in San Francisco. This Project site and particularly CPSRA, is the only large open space/Park on the eastern San Francisco shoreline and the only site that provides a diversity and abundance of these wildlife species. Loss of habitat at this location can have a cumulative impact on the abundance and diversity of wildlife species in San Francisco especially the eastern shoreline. **The FEIR should identify this as a significant negative cumulative impact.**

#### **Failure to mitigate for impacts to raptors and loss of grasslands**

The DEIR does recognize one impact to wildlife:

**Impact BI-22 Implementation of the Project would not have a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, by the CDFG, USFWS, or NMFS. (Less than Significant with Mitigation) [Criterion N.a] DEIR page 112.**

Impacts to foraging raptors would be beneficial due to the removal of invasive plants and improvement of existing parkland through the restoration and management of native-dominated grassland. Only 5.13 acres of the lands impacted on Candlestick Point provide non-native grassland habitat that serves as foraging habitat for raptors. In addition, the Project would mitigate impacts to 43 acres of non-native grassland that provides raptor foraging habitat on HPS Phase II by restoring an equivalent amount of higher-quality native-dominated grassland specifically managed for grassland-associated species (see mitigation measure MM BI-7b). These areas would provide high-quality foraging habitat, and a net increase in the quality of raptor foraging habitat would result.

The DEIR is flawed, however, in this analysis. Invasive plants do not necessarily impact raptor foraging. Our native raptors have survived quite well on the non-native grasslands that predominate in our state. We do not suggest that non-native grasslands are preferable to native grasses, obviously not, but they can and do sustain many of our wildlife species.

The mitigation proposed in the DEIR for impacts to raptors is to create new and improved grasslands on Hunters Point. We do not believe this is a viable mitigation for the following reasons.

The Navy has proposed a “cover” remediation remedy to the contaminant problem at HPS (other than those remedies required for specific “hot spots” and “plumes”) on all



75-7  
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13 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 12

HPS parcels other than Parcel E. A Proposed Action has not yet been released for Parcel E for which however, the DEIR states that capping is a likely solution (a solution with which we disagree).

Raptor prey are predominantly ground squirrels and other burrowing small mammals. To propose that grasslands on top of a "cover" will provide raptor habitat is false since the burrowing animals such as ground squirrels, a primary raptor prey, would penetrate the cover and bring up the contaminants the "cover" is designed to keep from exposure to the air.

As we have seen from the Bayview community, community residents are appropriately concerned when threatened by the release of asbestos dust into the air. Such a release could result on HPS if the "cover" is burrowed into and the underneath ground-up sepienite rock (which is the primary contaminant at HPS) is brought to the surface. With the intense winds that occur at HPS it is probable that this sepienite dust would be blown into the adjacent new HPS development community, which will essentially surround the "mitigation" grasslands and also reach the proposed housing at Candlestick Point.

We believe that this new Project community will insist that burrowing animals be controlled. This occurs in many parks in the Bay Area which often see ground squirrels as a nuisance pest rather than an integral component of our native ecology. Thus, any grassland mitigation developed on HPS land will not adequately provide raptor prey since ground-burrowing animals will be controlled and thus will be absent from the grasslands. Thus this mitigation will be unsuccessful.

Additionally, we would argue that in such an urban setting, with immense non-native seed banks surrounding the site, the restoration of grasslands entirely to native grasses is unlikely to be entirely, or even largely, successful. Such restoration (or creation) efforts require intensive removal of exotics and yearly control of non-native grasses usually by controlled burns or through the use of herbicides, neither of which is likely to be possible in San Francisco.

This is not to suggest that we are opposed to native grass restoration, simply that one must recognize that complete success is most unlikely. The reintroduction of native grasses to any extent is a very positive improvement. However, it should not be assumed that such a native grassland creation effort will be successful enough to provide significantly increased value to wildlife species (as opposed to native plant species that will benefit greatly to the extent the effort is successful). Thus MM BI-7b will not fulfill its intention of creating new HPS grasslands that will provide native grassland habitat far superior to existing grasslands.

From the above, we conclude that Mitigation Measure MM BI-7b will fail to mitigate for the impacts to raptors. **The FEIR should remove MM BI-7b. The Project should be redesigned so as to greatly reduce its impacts to raptors by altering the configuration of the project so as to take no State Park lands (thus abandoning the**



75-7  
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14 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 13

**State Park Agreement) and preserving the 5.13 acres of grasslands at the State Park. In addition, the approximately 15 acres of unpaved parking lot in the State Park should be restored to grassland habitat. The remaining 20 to 25 acres of grassland lost at HPS could be mitigated by funding the restoration or creation of grasslands at sites along the eastern shoreline such as Pier 94, Heron's Head Park, Warm Spring Cove, Islais Creek, etc. or by increasing the size of the State Park and creating new grasslands on that increased acreage.**

**Impacts to Wildlife Movement**

The DEIR states,

Impact BI-25 Implementation of the Project would not interfere substantially with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery site. (Less than Significant with Mitigation) [Criterion N.d]

The DEIR also states on pages III.N-36, 37,

Wildlife movement activities usually fall into one of three movement categories: (1) dispersal (i.e., juvenile animals from natal areas, or individuals extending range distributions); (2) seasonal migration; and (3) local movements related to home range activities (foraging for food or water, defending territories, searching for mates, breeding areas, or cover). A number of terms have been used in various wildlife movement studies, such as wildlife corridor, travel route, habitat linkage, and wildlife crossing, to refer to areas in which wildlife move from one area to another...

There is localized movement, as ground-dwelling animals forage for food, mate, and move between habitat patches within the Project site,

and,

Impact BI-2 Implementation of the Project would not have a substantial adverse effect, either directly or through habitat modifications, on any common species or habitats through substantial interference with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (Less than Significant) [Criterion N.d].

We disagree with the DEIR conclusion for Impacts B1-2, BI-25 and, as stated above Criterion N.d.



75-7  
cont'd.

15 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 14

The construction of the Yosemite Slough Bridge and the access roads to the bridge will certainly constrain the movement of terrestrial creatures between the northern and southern parts of the State Park (and Project as a whole) as well as those habitats east and west of the bridge and access roads. We found snakes, lizards and salamanders (and rabbits and ground squirrels) at all these locations. There will certainly be movement between these areas by these wildlife populations. Construction activities may destroy some of these creatures and post-construction the roads and their accompanying vehicles will provide a significant barrier to terrestrial wildlife movement as well as to terrestrial migratory birds or at least result in the death of many of these creatures as they attempt to cross the road or as they fly into the cars and busses using the road (it is well known that cars are responsible for the death of a large number of migratory birds).

While the DEIR does state that,

Although the bridge and the road crossing it would impede movement of terrestrial species from one side of the bridge to the other, sufficient terrestrial space would be present above the high tide line at the abutments to allow terrestrial wildlife to pass under the bridge. Consequently, Project activities within HPS Phase II and Yosemite Slough would not substantially interfere with the movement of any native resident or migratory terrestrial species. Page III.N-95,

A projected sea-level rise of anywhere from 3 to 6 feet would significantly reduce the room for wildlife movement at the bridge abutments. Even at current bay levels, it is well known that a site where wildlife movement is constrained or narrowed can become a predator's delight and could subject wildlife in that area to increased predation.

**Therefore the FEIR should identify the access roads to the bridge as elements of the Project that will interfere with wildlife movement and identify this as a significant impact that is not mitigable.**

### **Impacts to CPSRA**

The Project will remove 23.5 acres of land from the State park. We believe this is a significant negative impact that the DEIR fails to identify. In fact, we believe that the State Park should be expanded not contracted (see above, Failure to mitigate for impacts to raptors and loss of grasslands).

The DEIR fails to address adequately the likely impact on the State Park's wildlife species of the approximately 30,000 new residents who will be living adjacent to the State Park. The DEIR does this by concluding (see above) that no impacts to wildlife in the State Park can be considered significant, even complete annihilation. As stated above we disagree with this conclusion. The loss of 5.13 acres of State Park grassland is significant. The increase of human use of the State Park because of 30,000 new adjacent residents will have significant negative impacts to wildlife. The only way to mitigate for



75-7  
cont'd.

16 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 15

this, since the grassland mitigation on HPS is not a viable mitigation, is to increase the habitat acreage at CPSRA. This can be achieved by preserving the existing State Park grasslands and restoring and increasing other grassland habitats as recommended above.

**Harbor seals:**

The DEIR states:

Harbor seals are year-round residents found throughout the Bay. They use haulouts scattered through the Bay to bask, rest, and use as pupping sites. The most frequently used pupping sites are in the North (Castro Rocks) and South bays (Mowry Slough); both sites are over 15 miles from the Study Area. Pupping season begins in late March and peaks in early May. The closest haulout site is on Yerba Buena Island, about 6 miles from the Project site. There are no known haulout locations within the Study Area. During the 2003–2004 Yosemite Slough Watershed Wildlife Survey, LSA observed nine harbor seals in the outer South Basin (open water between Candlestick Point and HPS Phase II); however, no haulouts were detected during the survey. No harbor seals or haulouts were observed during surveys by PBS&J biologists for this Project. (Page III.N-15).

We disagree. I have personally observed harbor seals hauled out and loafing on mud or sandflats at low tide in the South Basin near the HPS shoreline several times, not just the time during our Audubon wildlife survey. During those observations, the seals were clearly lying on the substrate and were above the water not swimming in the water and thus were “hauled out”.

**The FEIR should identify as a bridge construction impact the potential disturbance of an occasional harbor seal haul out area.**

Thank you for your consideration of our comments. Due to the unreasonably short time period allowed for comments on such an immense document and because the document was released over Thanksgiving, Christmas and New Years shortening an already insufficient time period, we did not have the time to adequately respond to many significant issues treated by the DEIR. One example is the DEIR’s failure to adequately address the impact of the Project’s failure to fully comply with the City’s Proposition P, a measure that required as complete a remediation of the Project site as possible (a cap on Parcel E is a clear violation of that Measure).

A further extension of the comment period would still be greatly appreciated.

Sincerely yours,

Arthur Feinstein  
Vice-Chair  
Sierra Club, San Francisco Bay Chapter Executive Committee



75-7  
cont'd.

17 of 17

Sierra Club comments  
CP-HPS PHII DEIR

Page 16

590 Texas Street  
San Francisco, CA 94107  
415-680-0643

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## ■ Letter 75: Sierra Club (1/12/10)

### **Response to Comment 75-1**

This comment contains introductory, closing, or general background information and also reflects the commenter's opinions. No response is required. However, each of the commenter's general issues regarding biological and aesthetic impacts to the CPSRA, a transportation alternative to construction of the Yosemite Slough bridge, and the provision of long-term job opportunities for the Bayview community are specifically responded to in Response to Comment 64-1.

### **Response to Comment 75-2**

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 75-3**

Refer to Response to Comment 64-1 regarding employment opportunities associated with the Project.

### **Response to Comment 75-4**

Arc Ecology has not asserted that its suggested alternatives avoid the unmitigated (significant unavoidable) impacts of the Project. It is not clear how these alternatives would do so. Refer to Response to Comment 84-23 regarding the Arc Ecology's proposed alternatives. Refer to Response to Comment 84-5 regarding maritime port use as an alternative.

Refer to Response to Comment 48-3 regarding the selection and analysis of alternatives.

### **Response to Comment 75-5**

Refer to Responses to Comments 31-14, 47-34, 47-36, 47-46, 47-58, 47-73, and 47-75 regarding aesthetic impacts relative to the slough, bridge, and CPSRA.

It would be difficult to have an "undisturbed nature experience" in an urban area, as development to the north, south, and west of the Project site are currently being developed and are visible from the Yosemite Slough and CPSRA. The bridge would not be responsible for "forever destroying the ability of people to have that undisturbed nature experience," as commenter asserts. The bridge is but one component of the Project. Page III.P-32 of the Draft EIR describes how the portions of the CPSRA identified for conversion (i.e. near the bridge) are degraded, unimproved, or not maintained, and do not currently provide recreational opportunities. Refer to Response to Comment 47-4 regarding the interrelationship between the Yosemite Slough Restoration Project and the bridge.

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a comprehensive discussion of the less-than-significant impacts on the birds, waterfowl, and other wildlife that frequent the slough. The commenter states that the bridge would prevent people walking and viewing along the slough from seeing the seals that are hauled out on sandbars off the Hunters Point shoreline, leopard sharks, and the waterbirds swimming in the Bay waters beyond the bridge. This could be true for those

walking in the immediate vicinity of the bridge; however, views of the Bay would remain from numerous other vantage points in the slough, and the bridge itself would provide pedestrian paths that would provide an excellent additional viewpoint from which to watch seals and other wildlife in the slough and the Bay.

Noise from the BRT vehicles would be intermittent, and would diminish rapidly with distance from the bridge. Cars would only access the bridge at specific times on game days only, which would limit the impacts of noise from these vehicles on recreational users of the slough and CPSRA.

Refer to Response to Comment 17-1 regarding the bridge; the Project would prohibit automobile use of the bridge except on game days.

### **Response to Comment 75-6**

The comment is identical to Response to Comment 64-3. Refer to Response to Comment 64-3 for discussion of the Yosemite Slough bridge.

### **Response to Comment 75-7**

A number of the components of this comment refer to potential impacts of the Yosemite Slough bridge on biological resources, including sensitive species and habitats. For responses to these comments, refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) which provides a discussion of the Project's potential effects on the biological resources of Yosemite Slough and on the proposed Yosemite Slough Restoration Project. For example, that master response discusses reasons why the western snowy plover, suggested by this commenter as potentially nesting on islands to be created as part of the restoration project, would not nest on those islands.

The commenter suggests that the USACE, USEPA, and BCDC should deny any permit for the bridge. Permitting issues are outside the scope of this CEQA analysis, and the project applicant has already engaged all three agencies in discussions regarding permitting this project. The applicant will continue to work with these agencies to address regulatory issues.

The commenter suggests that birds moving between South Basin and Yosemite Slough may strike the bridge on very foggy days. While the possibility of some such collisions cannot be ruled out, shorebirds in the Bay Area regularly navigate numerous hazards under foggy conditions, and there is no evidence that substantial impacts of this kind will occur.

Refer to Response to Comment 47-89 for a discussion of potential impacts to bird use of Double Rock.

Many of the comments in this letter overlap (generally verbatim) those in the comment letter from San Francisco Tomorrow. Such comments include those regarding consideration of mud flats as Special Aquatic Sites, potential impacts of the project on wildlife movement, wildlife using the CPSRA, the "region" used as the context for determining whether project impacts affect regional populations, the importance of grasslands and the Draft EIR's assessment of impacts to grassland species, the Draft EIR's assessment of cumulative impacts to habitats and species in San Francisco, the potential value and feasibility of proposed grassland restoration, the potential for control of burrowing mammals to be required on HPS, alternative locations for mitigating impacts to grassland off-site, impacts to CPSRA, and impacts to wildlife from an increase in human visitors to the site. Refer to Response to Comment 64-4 for a response to such comments.

The commenter suggests that sea level rise of 3-6 feet would reduce room for wildlife movement under the bridge at the bridge abutments, and that predation of such wildlife may be high in these areas even with existing water levels. The commenter is correct that sea level rise may reduce the area for wildlife movement under the bridge, and predation may be somewhat higher near the bridge if wildlife movement is confined to narrow areas near the abutments. However, it is not expected that wildlife movement past the bridge will be completely eliminated by sea level rise, and there is no evidence to suggest that predation rates on either side of the bridge would increase so sharply as to have substantial effects on the occasional movement by wildlife that is expected to occur in this area. Furthermore, movement of wildlife around the upper end of Yosemite Slough will be constrained by existing industrial land uses that will not change as a result of either the CP/HPS project or the Yosemite Slough Restoration Project. In particular, sea level rise would constrict or eliminate already very narrow avenues for wildlife movement in areas where the proposed restoration site abuts industrial development at the upper end of the slough. As a result, the Project's contribution to constraints on wildlife movement around Yosemite Slough will not be substantial.

The commenter has observed harbor seals hauled out and loafing in South Basin near the HPS shoreline "several times" and suggests that the EIR should identify bridge construction impacts to "an occasional harbor seal haul out area." Harbor seals are capable of hauling out virtually anywhere surrounding the Bay (and in coastal areas) providing mud flats, sand flats, marshes, rocks, or other hard substrates close to the water, and individuals will use such locations opportunistically as they forage throughout the Bay. However, such opportunistic haul-out locations are obviously not limiting Bay-area seal populations due to the abundance of such locations. Rather, haul-out locations that are used repeatedly by numbers of seals are particularly worthy of protection given the importance that the seals place on those traditionally used areas. The Yosemite Slough Watershed Wildlife Survey did not detect any haul-outs in South Basin during its year-long study, nor have any regular haul-outs been reported from anywhere in the project area by other sources. Therefore, the project will not disturb a traditional haul-out used by large numbers of seals. Although seals that occasionally use South Basin or other areas along the shoreline may be disturbed by project-related construction to the point that they avoid areas close to construction, these individuals will be able to find ample haul-out locations elsewhere in the Bay, and such disturbance will have no long-term or population-level effects on harbor seals. Also refer to Impact BI-9b in the Draft EIR, which states on page III.N-81:

It is possible that any of the sensitive fish species listed in the Setting section could be found within aquatic habitats of HPS Phase II during certain times of year. Those include green sturgeon, Chinook salmon, steelhead, and longfin smelt. Marine mammals such as the harbor seal and California sea lion could also be present. Pacific herring and a number of other non-special-status fish could also occur in these waters. The high noise levels generated by pile driving have the potential to disturb, injure, or kill these species.

Also, mitigation MM BI-9b on page III.N-82 in the Draft EIR would reduce impacts from such noise levels. The text in MM BI-9b has been revised as indicated in Response to Comment 37-1.

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■ Letter 76: Whittle, Lola (1/12/10)

1 of 2

Letter 76

**LOLA M. WHITTLE**  
2929 Griffith Street  
San Francisco, California 94124  
Tel: (415) 467-5572  
Email: [never\\_late1@comcast.net](mailto:never_late1@comcast.net)

January 12, 2010

VIA FACSIMILE: (415) 749-2524

Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Robert Smith  
Regulatory Division  
U.S. Army Corps of Engineers  
1455 Market Street  
San Francisco, CA 94103

Ron Miguel  
Commission President  
San Francisco Planning Commission  
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Ed Harrington  
General Manager  
San Francisco Public Utilities Commission  
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San Francisco Public Utilities Commission  
City Hall, Room 400  
1 Dr Carlton B. Goodlett Place  
San Francisco, CA 94102

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 224  
San Francisco, CA 94102

San Francisco Redevelopment Agency  
One South Van Ness Avenue, 5<sup>th</sup> Floor  
San Francisco, California 94103

Re: DEIR – Yosemite Slough Bridge

Dear Gentilepersons,

I am writing this letter as a formal comment to the Draft Environmental Impact Report for the Hunters Point Shipyard Phase II. I am a third generation Bayview Hunters Point resident, and we have lived here our entire lives.

↓  
76-1

2 of 2

January 12, 2010  
Re: DEIR – Yosemite Slough Bridge  
Page Two

For the most part I am excited about this project and was very supportive of Proposition G. I have attended countless meetings on this project so I was thrilled when I learned the DEIR was released as it is a significant step in the development process.

↑  
76-1  
cont'd.

As a resident and homeowner on Candlestick Point and Mariners Village, I support a bridge being built over Yosemite Slough, but I want the City and County of San Francisco to know that the bridge should be open to all residents of the community, and many others share my sentiment.

The proposed bridge should be built large enough so that it is of use to the entire community. Those that drive cars, ride bikes, or take public transportation. I am particularly concerned that our seniors (my mother, aunts, uncles, etc.) will not have access in and out of the community in which they have lived 50 – 80 years. I am unaware of any bridge in San Francisco that prohibits cars so why, once again, should the so-called environmental community, who does not reside in my community, dictate to the City and County of San Francisco what type of vehicles will have access to a bridge being proposed in Bayview Hunters Point.

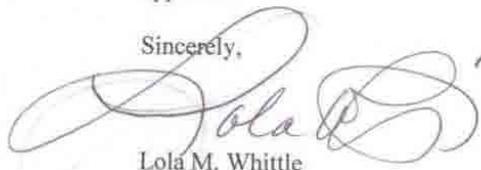
76-2

You propose to build 7500 homes on Candlestick Point, and I do not want those residents using my street to get to work on the Shipyard or downtown when there is a bridge available for them to use. This project should do all it can to minimize negative impacts to the existing community. **Do we matter?** Not allowing people to drive on that bridge will cause negative impact to me, my neighbors and my community.

This letter comes at this late notice because I have been out of town for the past month. However, I have spoken to many people that live in the community, and a petition is circulating on behalf of the Bayview Community stakeholders/residents.

I live here, and I want it on the record that the bridge makes sense only if it's available for the entire Bayview Hunters Point community. I reiterate that there is no other bridge that I am aware of in the City and County of San Francisco with this restriction. I am appalled!

Sincerely,



Lola M. Whittle

## ■ Letter 76: Whittle, Lola (1/12/10)

### ***Response to Comment 76-1***

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 76-2***

The commenter's support for the Yosemite Slough bridge and preference that the bridge be made available for vehicular use year round is noted. Refer to Response to Comment 33-4, which describes that the Board of Supervisors will legislatively require that the bridge be closed to autos except on football game days by designating the bridge as a public right-of-way for transit only, except as specified. The Infrastructure Plan, which the Board will approve, will require a bridge design that controls access. Only the Board, after completion of any required additional environmental review could change the designation, but no such other designation is contemplated by the Project.

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## ■ Letter 77: City and County of San Francisco, Historic Preservation Commission (1/12/10)

1 of 2



### SAN FRANCISCO PLANNING DEPARTMENT

Letter 77

**\*\*\*DRAFT\*\*\***

January 12, 2010

Mr. Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

1650 Mission St.  
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Dear Mr. Wycko,

On December 16, 2009, the Historic Preservation Commission (HPC) held a public hearing and took public comment on the Draft Environmental Impact Report (DEIR) for the proposed Project at Candlestick Point/Hunters Point Shipyard Phase II. The HPC continued the item to January 6, 2010. After discussion, the HPC arrived at the comments below:

- HPC does not agree with the logic of the Historic Resource Evaluation Report. Given the national significance of the Hunters Point Shipyard site both during WWII and afterward, there are very few resources identified and associated with the site history.

The conclusions drawn from the HRER are inconsistent with the Context Statement. In the Context Statement the significance of the architecture is not fully analyzed in terms of the history of modern architecture and the acceptance by the government of modern architecture as an appropriate style. The architects are not identified, some of the buildings are insufficiently examined, and the boundary of the Potential Historic District is much too narrowly drawn. There is also no examination of whether these types of buildings are now as common nationally as they once might have been at the time they were built.

The Context Statement considered the area a significant historic district. However, the document does not evaluate buildings *not* considered historic. Further adding that the zone of the potential historic district could actually be much larger.

- Given the significance of the site, there should be a preservation alternative that also meets the project objectives. Alternative 4 is not sufficient because it has goals which do not focus on preservation. There should be an alternative where preservation is the primary goal and other goals are secondary. However, this preservation alternative should seriously try to achieve the square footage goals achieved by the others. If all of the larger buildings truly cannot be reused, attempts might be made to save at least a few of the larger ones and more of the smaller ones over a wider area.
  - HPC prefers to see an alternative that would retain more historic resources without consideration of so many variables that have little/nothing to do with preservation.

[www.sfplanning.org](http://www.sfplanning.org)

2 of 2

- HPC prefers to see an alternative that would achieve the project objectives on a more global or larger view point/perspective.
- Retaining, celebrating and promoting the history of the site should be among the project objectives. In addition, the story of the site should be integrated throughout the project site as interpretation and public art. Incorporation of the site's history is important for San Francisco history, would significantly enrich the proposed new development, and would be an important marketing tool.
- The DEIR states that the Candlestick Park Stadium (proposed for demolition) is not historically significant and yet it has not been evaluated under the California Register of Historic Places (CRHR). It was found not eligible for the National Register. The CRHR is called out in CEQA as the measure for evaluation. This is a significant flaw in the document. Evaluation of the eligibility should be made not only per the National Register, but also per the California Register.
- The Hazardous Waste section of the DEIR assumes demolition of all buildings, making it difficult to evaluate hazardous materials issues in the event of preservation.
- The Feasibility Study should identify other ways to meet the project objectives. More thought could be put into uses for existing buildings. This could add value to the project site by keeping the existing character and adding to the market value.
- More diagrams should be provided to show what individual buildings are kept and removed for the various alternatives. The existing graphics as they relate to Cultural Resources are not very clear.

The HPC appreciates the opportunity to participate in review of this environmental document.

Sincerely,

Charles Chase, President  
Historic Preservation Commission

**SAN FRANCISCO  
PLANNING DEPARTMENT**

2

## ■ Letter 77: City and County of San Francisco, Historic Preservation Commission (1/12/10)

All of the comments provided in this letter are substantially similar to the comments provided in Letter 39; however, where this letter was submitted as a “draft” letter by the Historic Preservation Commission, Letter 39 represents their “final” letter. Full responses are provided in Letter 39.

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# Letter 78: City and County of San Francisco, Human Rights Commission (1/12/10)

1 of 106

**Letter 78**

City and County of San Francisco

Human Rights Commission



Gavin Newsom  
Mayor

Contract Compliance  
Dispute Resolution/Fair Housing  
San Francisco Local Business Enterprise  
Lesbian Gay Bisexual Transgender & HIV Discrimination

Theresa Sparks  
Executive Director

January 12, 2010

Bill Wycko, Environmental Review Officer  
Planning Department  
City & County of San Francisco  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Dear Mr. Wycko:

We have received complaints regarding the draft Environmental Impact Report ("EIR") of the planned development of the Candlestick Point-Hunters Point area by the Lennar Corporation. The core of these complaints centers around alleged lack of notification and involvement of local Native American community members, most specifically, Most Likely Descendants ("MLDs") of the Ohlone people, the indigenous people of the San Francisco Bay Area.

The Commission held a public hearing on discrimination facing Native American people in San Francisco in 2007. I have enclosed a copy of the report for your review. The Commission received testimony about the negative impact on Native American communities of development projects in San Francisco in the past and how the local indigenous people, the Ohlone, were rarely consulted on the projects. Notification has occurred after the expiration of the comment period.

Finding A.6. of our report states that Ohlone people have worked in the past to assist governmental entities in appropriately dealing with ancestral remains. Recommendations B1-4 state that burial sites should never be disturbed and that Ohlone people should be an integral aspect of any planning and development in San Francisco.

According to Chapter VII of the Executive Summary of the EIR, none of the report preparers or persons consulted were Ohlone MLDs or representatives from the Native American community. Furthermore, we are concerned that the Planning Department did not take sufficient steps to ensure Ohlone participation and relied upon the California Native American Heritage Commission to notify MLDs when local contacts are readily available; indeed, Planning Commission staff have worked closely with Anne-Marie Sayers in the past.

The Commission can coordinate discussions between the Planning Department and local MLDs to ensure the cultural integrity of the site being developed and, to assist in the likely event that ancestral remains are found. We urge the Planning Department to reject the draft EIR until an amended version, which includes Ohlone input, is drafted. We are prepared to assist so this project can move forward appropriately addressing indigenous concerns and their integration into all amendments to the general plan of the San Francisco City and County pursuant to SB 18. Please contact Holy Old Man Bull, our staff liaison to the Native American community at (415) 252-2519.

Thank you for your help in this regard. We look forward to working with the Planning Department to resolve this concern.

Sincerely,

  
Theresa Sparks  
Executive Director

Enclosure



25 Van Ness Avenue  
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[www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights)



78-1

2 of 106

# DISCRIMINATION BY OMISSION

78-2

*Issues of Concern for  
Native Americans in San Francisco*

## A REPORT OF THE SAN FRANCISCO HUMAN RIGHTS COMMISSION

August 23, 2007



SF Human Rights Commission - 25 Van Ness Avenue, Suite 800, San Francisco, CA 94102-6033 - (415) 252-2500  
[www.sfgov.org/sfhumanrights](http://www.sfgov.org/sfhumanrights)



DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO

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“...I will speak to a major form of discrimination that affects Native Americans in the urban areas, particularly in San Francisco. This discrimination is a very subtle form of discrimination – it is discrimination by omission, or we can call it “exclusion from the process,” or it can be called a ‘lack of voice,’ and ‘invisibility.’

...Being invisible, and denying us a voice creates a space where American Indians - who are already suffering from historical and intergenerational trauma, grief, violence, racism - truly become hopeless. When we believe, or internalize the message, that our government officials send us indicating that we don't count, we're not important, then drugs, alcohol, homelessness, lack of self-esteem, lack of confidence and [lack of] self-worth are the result.”

- Michele Maas  
Bad River Band of Lake Superior Chippewa Indians  
Born and raised in San Francisco

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**TABLE  
OF  
CONTENTS**

PREFACE	PAGE 1
ACKNOWLEDGEMENTS	PAGE 1
CHAPTER 1	
EXECUTIVE SUMMARY	PAGE 3
PROCESS SUMMARY	PAGE 3
INFORMATIONAL ESSAYS	
• THE HISTORY OF BLOOD QUANTUM REQUIREMENTS FOR FEDERAL RECOGNITION	PAGE 6
• THE HISTORY OF TRIBAL SOVEREIGNTY	PAGE 8
• POLICIES OF TRIBAL TERMINATION AND NATIVE AMERICAN RELOCATION	PAGE 10
• THE TWO-SPIRITS	PAGE 13
CHAPTER 2	
FINDINGS AND RECOMMENDATIONS	PAGE 16
CHAPTER 3	
ORAL AND WRITTEN TESTIMONY	
• ORAL TESTIMONY	PAGE 32
• WRITTEN TESTIMONY	PAGE 74
APPENDICES	
A. ESSAY: AN OHLONE PERSPECTIVE ON THE STATE OF INDIGENOUS LIFE IN SAN FRANCISCO	PAGE 81
B. ARTICLE: EXAMINING THE REPUTATION OF CHRISTOPHER COLUMBUS	PAGE 86
C. IMAGES OF CONQUEST IN PUBLIC ART	PAGE 88
D. IMAGES OF MASCOTS	PAGE 93
E. RESOURCES	PAGE 95
F. PRESS RELEASE	PAGE 101

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**PREFACE**

The San Francisco Human Rights Commission (“Commission”) is the department of the City and County of San Francisco that enforces its nondiscrimination laws. In addition, the Commission investigates issues of concern as they pertain to protected categories and the impact of discrimination. Often, these investigations take the form of a public hearing in order to inform the Commissioners and the public about important issues facing affected communities. On October 12, 2006, the San Francisco Human Rights Commission held a public hearing to identify and investigate concerns facing Native American people in San Francisco. The public hearing and this report resulted from requests for the Commission to investigate issues of discrimination that specifically affect Native American people.

In order to be as inclusive as possible, this report employs the term *Native American* to describe people with indigenous North, Central, and South American heritage as well as Native Hawaiians, Samoans, and the indigenous people of Guam (whether enrolled, federally or nationally recognized, or not). Some people refer to their heritage as “American Indian” and others use “First Nation” to describe their indigenous roots. Some people prefer the term “Native American” and other individuals prefer to use their tribal affiliation to describe their heritage. Some people use the phrase “Alaska Native” as their descriptor, while others refer to themselves as “California Indians” or the “First Families.” The Commission recognizes and respects that some people may feel alienated by *Native American* being used as the defining label, some people may disagree with the definition, or some people may object to the use of any labels to describe their identities and/or experiences. However, for the purpose of this report, the Commission determined that this was the most widely understood and accepted definition.

**ACKNOWLEDGEMENTS**

The Commission is very grateful to the many people required to produce the public hearing and to publish the report. In all, more than 130 people contributed to this process, including staff, interns, students, faculty, and community members. The Commission is particularly grateful to the Ohlone people for welcoming us to their land by allowing the Commission to convene the meeting in Ohlone territory, and to members of the Native American community for their generous donation of time, resources, and information that made the hearing and report a successful reflection of their concerns.

The Commission especially acknowledges and appreciates the contribution made by staff member natoyiniinastumiik (Holy Old Man Bull, Blackfeet - Pikuni) toward making the public hearing and report successful. He is the principal editor and author of this report.



78-2  
cont'd.

6 of 106



DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO

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# CHAPTER 1

## EXECUTIVE AND PROCESS SUMMARIES AND INFORMATIONAL ESSAYS

San Francisco Human Rights Commission

2

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

**EXECUTIVE SUMMARY**

Native American communities have been systematically excluded in conversations about racism. Native American people also feel left out of processes – that they are only seen as an afterthought, or that they are completely ignored and invisible – and that they lack a voice, even within communities of color in San Francisco. Still others complain that the government systems - local, state, and federal - are out of touch with the realities of modern Native American life and culture, and that these systems do not serve the Native American communities well. The culture that creates invisibility and exclusion for Native Americans has many contributing components including being misclassified as *White, Latino* or *Other*; government-imposed blood quantum standards that became incorporated into tribal policies; a lack of federal recognition as a tribe or as a member of a tribe; erroneous notions about tribal extinctions and the complete genocide of all Native Americans; cultural appropriation of Native American symbols, ceremonies, likenesses, and culture; offensive images of mascots and stereotypes that perpetuate a mistaken idea of what a “Native American” looks like; relocation from tribal homelands in other states; and intra-tribal and inter-tribal tensions.

Examples of discrimination by invisibility and omission are abundant: complete lack of federal recognition for the indigenous people of San Francisco, the Bay Area, and many other places in California; lack of complete demographic data collected by the City government and other jurisdictions about Native American people; disenrollment among tribes that are federally recognized or are seeking such recognition; exclusion from City demographic statistics, such as birth and death records, and health statistics; ongoing recommended budget cuts for federally funded Native American Urban Health Centers; proliferation of offensive mascots, stereotypical images, artwork, and statues; lack of appointments to City Boards, Committees, and Commissions; misinformation being taught in public and private schools that California tribes are extinct; not being invited to participate in and inform conversations about racism, etc.

Recommended solutions are as numerous as the examples of omission and exclusion, including: designating some San Francisco-owned land as accessible to the Ohlone people for their use; creating a Native American Studies program at San Francisco Community College; re-naming streets and boulevards to honor the indigenous people of the Bay Area; removing culturally inappropriate or offensive artwork, statues, and/or monuments; appointing more Native American people to City Boards and Commissions; funding more Native American health and wellness programs; addressing issues of homelessness through City resources; and creating a greater public awareness of the historical and modern contributions of Native American people to the culture of San Francisco and the Bay Area.

**PROCESS SUMMARY**

Since 1995, the San Francisco Human Rights Commission has been working with Native American people to identify important issues and to assess the Commission’s ability to respond to concerns about civil rights violations in San Francisco. In 2005, HRC staff and key Native American community members made several detailed educational presentations to the



78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Commission's Lesbian Gay Bisexual Transgender Advisory Committee (LGBTAC), and to the Issues Committee, and to the Commissioners, defining the issues and requesting approval for a public hearing. Subsequently, the LGBTAC created the Native American Task Force (NATF) in March 2006 to plan for the hearing. The Commission granted approval in June 2006 for the hearing to be held on October 12, 2006.

The NATF worked diligently to ensure comprehensive information from as many different sources as would respond to the call for participation. To this end, two separate community focus groups were held in order to survey Native American community members about community concerns. That body of information helped determine the structure under which the hearing was constructed into four areas of focus: Health and Wellness, Education, Cultural Issues, and Government. Then, NATF members and Commission staff and interns invited Native American people, parents, students, service providers, academicians, legal experts, and government officials to testify at the hearing and/or to submit written testimony.

The hearing was conducted on October 12, 2006 in the San Francisco City Hall Board of Supervisors Legislative Chamber. The Commissioners were Chair Khaldoun Baghdadi, Vice-Chair Cecilia Chung, and fellow Commissioners Carlota del Portillo, Mark Dunlop, Yoel Kahn, Faye Woo Lee, Nazly Mohajer, Pat Norman (Muskogee/Creek), Elloise Patton, Linda Richardson, and Sandra Sohcot.

The Commission staff person assigned to staff the Native American Task Force was natoyiniinastumiik (Holy Old Man Bull, Blackfeet - Pikuni), who is the editor and principal author of this report. Commission Intern Erin McGonigle conducted legal research and analysis and contributed to the informational essays. Michele Maas (Chippewa) also provided additional information for these essays. Anne-Marie Sayers (Mutsun Ohlone) and Chuck Striplen (Amah Mutsun Ohlone) wrote the essay on behalf of the Ohlone people.

Other participating Commission staff included Executive Director Virginia M. Harmon, as well as Larry Brinkin, Cynthia Goldstein, Kabir Hypolite, Yong Lee, Hadas Rivera-Weiss, David Treanor, Dominic Viterbo, Tamra Winchester, Emil DeGuzman, Sophia Simpliciano, Carmen Smith, Carla Vaughn, and Janel Wong. Commission Interns Anna Litvak, Jane Edmonstone, and Daniel Perea also participated in the public hearing, and/or in drafting the report.

LGBTAC members who worked on the Native American Task Force, the hearing, and/or the report include Jane Aceituno, Whitney Bagby, Dora Balcazar, David Cameron, Billy Curtis, Aidan Dunn, Calvin Gipson, Christopher Gomora (Anishnabe), Ted Guggenheim, Roberto Ordeñana, Ren Phoenix, Aleem Raja, Martin Rawlings-Fein, Jason Riggs, Stephen Schwichow, and Morningstar Vancil (Delaware/Lenape/Mohican). Issues Committee members included Michael Berke, Leticia Upton-Brown, Sarah Ching-Ting Wan, Alice Fialkin, John H. Freeman, Bill J. Johnson, Guillermo Mayer, Azalia M. Merrell, Reginald Smith, and Terry Valen.

Faculty and students from the law school at New College in San Francisco volunteered at the hearing by drafting many of the findings and recommendations: Belinda Sifford, Marissa Abadir, Arielle Anderson, Maria Bourn, Jim Cramer, Mike Francis, Jose Gutierrez, Karma, Candace Myers, Gabby Reynoso, Tairon, and Bryndis Tobin.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

Many other people participated on the Native American Task Force, at the hearing, and/or on the report (alphabetical listing): Janeen Antoine (Sicangu Oyate), Marcus Atkinson, Joan Benoit (Chippewa of the Thames, First Nation), Corinna Bolt (Ohlone), Rick Bowman, Larry Bringing Good (Cheyenne/Arapaho), Andrea Bruss, Gayle Burns (Muskogee/Creek), Randy Burns (Northern Paiute), Eddie Dang (Tsalagi/Hawaiian), Don Little Cloud Davenport (Florida Seminole - Bird Clan/Muskogee Creek/Chickasaw/Sudanense - Dinka Tribe), Francisco De Costa, Nancy Delancy, Mark Espinoza (Eastern Cherokee), Eugene Flannery, I. Frank, Sandra George (Washoe/Paiute), Jewell Gomez, Tony Gonzalez (KumKa' Ak - Seri Nation), Kenneth Harper (Cherokee), Eugene Hightower, Espanola Jackson (Ohlone), Andrew Jolivet (Atakapa/Opelousa), Frank Kellum (Choctaw/Chickasaw/African American), Michelle Lee, Michele Maas (Chippewa), Sydney Madsen, Max Martin (Ojibwe), Perry Matlock, Lucia Mele, Tomasita Medál, Anita Mendez (Washoe), Alexandra Monk (Metis), Santos Nic-Manzanilla (Maya), Jenn Oberly (Osage), Diana Oswald, Anna Perez, Sally Ramon (Tohono O'odham), Tomas Reyes (Yaqui), Kay Riley, Mary Jean Robertson (Cherokee), Alberto Saldamando, Anne-Marie Sayers (Mutsun Ohlone), Morrigan Shaw (Tlingit/Haida), Fred Short, Kim Shuck (Tsalagi), Bill Simmons, Myra Smith (Muskogee), Atta Stevenson (Cahto), Mona Stonefish (Mohawk/Potawatomi), Chuck Striplen (Amah Mutsun Ohlone), Anthony Sul (Ohlone), Lori Taguma (Lac Courte Oreilles), Miko Thomas (Chickasaw/Choctaw), Valerie Tolia, Roberto Aria Vargas (Aztec/Chicano), Diane Williams (Athabaskan), Rope Wolf (Apache/Maya), and Wounded Knee (Miwok).

Lydia Zinn provided court-reporting services in order to create a verbatim transcription of the Hearing. It was also recorded by SFGTV, San Francisco government access programming, and will be rebroadcast on San Francisco Cable Channels 26 and 78 through November 2007. DVDs of the hearing can be obtained by contacting SFGTV at (415) 554-4188 or [www.sfgtv.org](http://www.sfgtv.org). (SFGTV staff will make a copy available for the general public through the SF Public Library, Main Branch. These archive recordings will be maintained by the Library.)

After the October 12, 2006 public hearing, HRC staff and interns, as well as Committee and community members of the NATF worked on compiling the report materials, drafting the report, and vetting its contents. The report was unanimously recommended by the LGBTAC on March 20, 2007 to be forwarded to the Commission for its approval.

This report is a summary and compilation of materials, testimony, and information submitted by Native American people – young people, elders, parents, students, service providers, academics, legal experts, advocacy experts, representatives of City agencies and departments, and the public. The report is built upon the words and ideas of those who testified at the public hearing, submitted written materials, and offered commentary on the content of the report and the findings and recommendations. Every attempt has been made to accurately reflect the information submitted. The Findings and Recommendations are based upon the information received from submissions, testimony, and research compiled within this report.

The Commission recognizes that among the recommendations contained in this report are those that urge other government agencies to take action. The Commission remains available to assist these agencies in their efforts to fully understand and implement the Commission's recommendations.

78-2  
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DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO

**INFORMATIONAL ESSAYS**

**The History of Blood Quantum Requirements for Federal Recognition**

Historically, colonial governments enacted blood quantum laws to codify a civil rights hierarchy.<sup>1</sup> In 1705, the colony of Virginia created laws that denied rights for any “negro, mulatto, or Indian,” and that “the child of an Indian...shall be deemed, accounted, held, and taken to be a mulatto.”<sup>2</sup> North Carolina’s codes prohibited marriages between a white person and “an Indian, Negro, Mustee, or Mulatto...or any person of mixed blood to the third generation.”<sup>3</sup>

Under these blood quantum laws, it was significantly more advantageous to have greater degrees of European ancestry than Native American because civil rights and liberties were granted to people of European ancestry and not to those of indigenous (or African) heritage – in fact, rights were denied proportionate to the degree of non-European blood. Because this insidious legal mechanism tracked non-European degrees of blood through offspring, it disenfranchised an entire generation of non-European people. Yet, it encouraged future generations to relinquish or deny their indigenous ancestry in order to have civil rights enjoyed by others. So, people of mixed ancestry would be afforded privileges granted to people of European ancestry only by eliminating all traces of their Native American blood. Accordingly, blood quantum laws would eventually eliminate indigenous populations through a system of assimilation and intermarriage.

To the contrary, in Native American cultures, inter-tribal mixing usually did not diminish tribal recognition; it simply meant that the offspring belonged to either the mother’s or the father’s tribe. It is a Native American value to be inclusive, and many indigenous cultures maintain processes for accepting or adopting outsiders. Over a period of time, non-tribal members could become accepted members of the tribe. Many tribes, such as the Cherokee, had rituals that allowed a living person to take the place of a deceased person. Sometimes members of neighboring or enemy tribes, or European settlers, were captured to replace deceased tribal members. Eventually that person would be given the same status and obligations of the person they had replaced, and their ethnicity was of little concern.<sup>4</sup>

In 1887, Congress enacted the Dawes General Allotment Act (“Dawes Act”)<sup>5</sup>, enforced by the Dawes General Allotment Commission. The use of “full” or “half” degree of blood to identify eligible enrollees was simply an extension of the preceding colonial system. The motive behind the law was based on a theory that Native Americans would become more quickly assimilated into European culture if they owned land and were encouraged to agricultural pursuits, which were considered more civilized than traditional hunting, fishing, and gathering.<sup>6</sup>

<sup>1</sup>Forbes, J.D., *Blood Quantum: A Relic of Racism and Termination*, Indian Times 10 (11) Winter 2001, at 9.

<sup>2</sup>3 Hen. 258 (1705)

<sup>3</sup>Revised Statutes of North Carolina, lxxi. 5, vol. i. 386 sq. (1723)

<sup>4</sup>Berry, Christina, *Blood Quantum – Why It Matters, and Why It Shouldn’t*, All Things Cherokee, November 27, 2006, <[www.allthingscherokee.com/atc\\_sub\\_gene\\_feat\\_040101.html](http://www.allthingscherokee.com/atc_sub_gene_feat_040101.html)>.

<sup>5</sup>24 Stat. 388, 25 U.S.C. 331, et seq.

<sup>6</sup>Nash, Douglas R., *Indian Lands*, University of Idaho School of Law, <<http://library.findlaw.com/1999/Jan/1/241490.html>>.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Under the Dawes Act, the system of “degree of blood” acquired a momentum that still impacts Native Americans by influencing a large segment of Native American land law and policy. Specifically, it provided that land parcels were to be held in trust; the legal title was held by the United States and the “allottee” was given beneficial title (the right to live on, to use, and to occupy that parcel). As long as the title to land was held in trust by the United States, it was not subject to state or local taxation or regulation.<sup>7</sup> More than 250,000 people applied to be listed in the Dawes Rolls, yet the Dawes Commission enrolled little more than 100,000 people. An act of Congress in 1906 closed the rolls on March 5, 1907. In 1914, an additional 312 persons were enrolled by Congressional Act.<sup>8</sup> In some cases non-Natives signed up under the Dawes Act and were included in the Dawes Rolls. In other cases, Natives of mixed ancestry, due to fear of prejudice and discrimination, indicated they had less Native American blood.<sup>9</sup>

The Burke Act of 1906 authorized allotments to be taken out of trust if the allottee was deemed “competent.”<sup>10</sup> (Competency entitled a Native American person to greater privileges, such as the removal of “wardship” restrictions, the right to sell property, the chance to acquire the right to vote, etc.). Not surprisingly, people with more European ancestry were assumed to be more competent than persons with lesser amounts. Paradoxically, to the detriment of the tribe, it was expected that anyone who became “competent” would no longer be an “Indian.” One unspoken purpose of the Dawes Act was to break up the communal land ownership of the tribe. Each head of household of a tribe (band) received 160 acres, and individuals received 80 acres.

This idea spawned the “forced fee patent” process, under which the federal government took the allotment out of trust for people certified as competent - sometimes without their knowledge - thereby rendering those lands subject to taxes. Because the “competent” person was not informed about this process, or perhaps because they did know but were unable to pay the land taxes, these “competent” individuals were forced to sell their land at tax sales to cover the unpaid taxes.

Although the allotment policy was later shown to be ineffective, and was partially reversed by the Indian Reorganization Act (IRA) of 1934, the IRA continued to use those same standards that earlier had denied Indians enrollment and reacquisition of land.<sup>11</sup> Prohibiting any additional allotments of reservation land, the IRA allowed only enrolled tribal members to reacquire surplus land.<sup>12</sup> For Native American tribes who struggled to reacquire land, these provisions are extremely significant. First, original allotment assignments were extended to tribes based on a racist classification system. Historical analysis of blood quantum laws shows that many people of full indigenous ancestry were not counted because they were either of “mixed blood” or they were married to or descendants of non-Federally recognized Native American tribes. Secondly, discriminatory racial identifications threatened Indians with intergenerational isolation, cultural deprivation, and suffering. Many Indians hid their cultural and genealogical histories from government agencies or did not enroll for fear of retaliation. The rules and procedures of the IRA do not take either of these realities into account.

<sup>7</sup> 25 U.S.C. §§ 331-334, 339, 341, 342, 348, 349, 354 and 381.

<sup>8</sup> Act of August 1, 1914, ch. 222, 38 Stat. 582.

<sup>9</sup> Forbes, J.D., *Blood Quantum: A Relic of Racism and Termination*, Indian Times 10 (11) Winter 2001, at 9.

<sup>10</sup> Burke Act, 34 Stat. 182, 25 U.S.C. § 349.

<sup>11</sup> Rules for amending the procedures, Vol. 64 No. 69, Federal Register 17574, April 12, 1999.

<sup>12</sup> The Indian Reorganization Act, June 18, 1934 Section 7, 48 Stat. 984.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Currently, a Certificate of Degree of Indian Blood (CDIB) is issued by the Bureau of Indian Affairs after an applicant supplies a completed genealogy with supporting legal documents such as birth certificates showing their descent, through one or both birth parents, from an enrolled tribal member or from a person listed in a base roll, such as the Dawes Roll. However, when a person's degree of Indian blood derives from a non-enrolled tribe, from a terminated tribe, from an administratively deleted state recognized tribe, from a newly recognized tribe, or through adoptive parents, they do not qualify for a CDIB.

Through the CDIB, the federal blood quantum laws continue to structure Indian eligibility for federal funding. Affecting education, in 1985, the US Congress enacted the Quarter Blood Amendment Act that determines which Native American students are eligible for Native American education programs and tuition-free attendance at Bureau of Indian Affairs (BIA) schools or contracted schools. This eligibility can only be verified by obtaining a CDIB. In addition, without federal recognition, a Native American tribe cannot receive benefits of other Federal Programs such as health care, housing, economic development, or powers of self-governance.<sup>13</sup>

Despite the historically unfair effects of the blood quantum policies on federal tribal recognition, the uncritical continuation of this practice risks overlooking its historical limitations and exclusions. Blood enrollment does not account for how people of Native American ancestry might construct their own Native American identities; by exempting adopted children, it discredits the cultural, psychological, and emotional significance of non-Native American people who have been raised within Native American communities; it does not account for the dispossession of land under treaties that were never fulfilled or ratified; over generations, it discourages having children with non-Native Americans because children of mixed ancestry risk loss of federal and tribal blood quantum requirements; and it may continue to play a role in excluding non-enrolled Native American people from being recognized as Native Americans – by the government, another tribe, or their own tribe.

**The History of Tribal Sovereignty**

In the United States, the federal government recognizes Native American tribes as independent and sovereign powers. Sovereignty is the right of a nation or group of people to be self-governing. As of 1924, Native Americans were allowed to be United States citizens, in addition to being members of their own nations. As US citizens, Native Americans are subject to federal law, but they are not always subject to state law because Native American reservations are held in trust by the federal government.

For more than two hundred years, within the framework of sovereignty, Native American rights and powers have been constructed, defined and shaped by treaties and judicial and congressional action. After the American Revolution, the United States government regarded Native American tribes as being sovereign nations. So, claims by the United States to control the same land that

<sup>13</sup> Indian Self Determination and Education Assistance Act, 25 U.S.C. sec. 450-458; Tribally Controlled Community College Assistance Act, *ibid.* pgs. 1801-1852; Indian Health Care Improvement Act, *ibid.* pgs.1601; Indian Child Welfare Act. *Ibid.*, pgs. 1901-1963.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

the Native Americans occupied and utilized raised legal questions. Although the U.S. Constitution recognizes tribal political sovereignty, the actual status of Native American tribal sovereignty and self-determination has been less clear.

In 1823, in *Johnson v. McIntosh*<sup>14</sup>, the Supreme Court ruled that tribal sovereignty was limited to the extent that the tribes could not give or sell their land to anyone other than the federal government. Native Americans had the right to occupy their land, but their right to dispose of their land to a given person or entity was limited. These rights were diminished because of the colonial principle that the “discoverers” of the New World had exclusive title to the land and its resources (the “Doctrine of Discovery”).

In the early nineteenth century, as waves of white settlers moved west, Native Americans found it increasingly difficult to maintain their status as independent nations because the United States government did little to protect their rights. In 1832, Chief Justice John Marshall (*Worcester v. Georgia*<sup>15</sup>) maintained that Native American tribes had been treated as sovereign nations since the arrival of the Europeans, but that the various treaties under which a tribe became “the protection of the United States” had terminated their status as independent nations.

In 1831, Cherokee people sued the State of Georgia to challenge that state’s takeover of Native American lands (*Cherokee Nation v. Georgia*<sup>16</sup>). The Supreme Court ruled that, although the Cherokee Nation was a state (a distinct political society with territorial boundaries where their authority is exclusive), it was also a “domestic dependent nation.” In other words, the Court found that the relationship of the Cherokee Nation to the United States was one that resembled a ward to a guardian. These findings provided paradoxical benefit to the tribes. The statehood status allowed for stronger tribal sovereignty. Yet, the domestic dependency model created a paternal relationship between tribes and the federal government, which subsequently created limitations on actual tribal sovereignty and powers of self-determination.

Those who wanted to remove Indians from the eastern lands ignored the Supreme Court finding. Consequently, beginning in 1838, the so-called “Five Civilized Tribes” (Cherokee, Choctaw, Chickasaw, Creek, and Seminole) were driven off their traditional lands and forced to walk from Georgia to Oklahoma by the US Army. Most of the Native Americans who traveled the infamous “trail where we cried” died from hunger and disease on this forced journey.

At this point, the Supreme Court limited Native American tribal sovereignty in two ways: restricting how Native Americans could sell or give their land, and with what foreign nations they could enter into relationships. These two limitations on tribal sovereignty are still at the root of the ongoing federal governmental role in tribal affairs.<sup>17</sup>

<sup>14</sup> 21 U.S. (8 Wheat.) 543 (1823)

<sup>15</sup> 31 U.S. (6 Pet.) 515 (1832)

<sup>16</sup> 30 U.S. 1 (1831)

<sup>17</sup> Canby, William C. *American Indian Law in a Nutshell*, 4th ed. (St. Paul, Minn.: West Group, 2004).

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Tribal sovereignty is established and maintained through a federal program of acknowledged recognition that creates a government-to-government relationship between the recognized tribe and the US government. (A tribe is a group of Native Americans that is acknowledged as being a distinct and historically continuous political entity for at least some governmental purposes.) Although federal recognition is an encompassing form, it is a very imprecise and inconsistent process. On one hand, the federal government compiles completely different groups into one tribe. On the other hand, other groups have legal treaty rights but are not recognized by the federal government. And while the Department of Interior is empowered to enter into treaties with groups, a treaty can confer recognition without judicial review.

In 1978, the federal government adopted new criteria of tribal status acknowledgment for non-recognized tribes. The Bureau of Indian Affairs (BIA) has requirements for official recognition of a tribe. Some criteria are simple, such as providing a copy of a group's current constitution. Other standards are more difficult to satisfy. For example, proving authenticity requires a tribe to demonstrate that it "has existed as a community from historical times until the present."<sup>18</sup> Most tribes have not kept written records for that long.

Also, some critics have pointed out arbitrariness in the BIA standards. For example, it is unclear how long of a gap in the tribal record is allowable before it is seen as a break in the tribal historical continuity. It also is not clear what percentage of a tribe's current membership must "descend from a historical Indian tribe." The BIA states that 100 percent isn't necessary, yet it does not offer clarification, such as "most" or "some." During President Clinton's administration, though the BIA had thought it had established that 48 percent wasn't enough, the Assistant Secretary of the Interior, who oversees the BIA, ruled in one case that it was sufficient.<sup>19</sup>

As long as criteria for official federal tribal recognition are unclear and arbitrary, many Native Americans will continue to suffer the lack of acknowledgement of their innate rights as the original people of this land. In addition, they will remain invisible, even to other tribes, and will live without having input into the process that determines either the future survival, or potential cultural extinction, of their people.

**Policies of Tribal Termination and Native American Relocation**

By the twentieth century, the precise legal status of Native Americans was uncertain. In 1924, all Native Americans were given US citizenship under the Indian Citizenship Act (also called the Snyder Act). Under this law, Native Americans received a form of dual US citizenship along with their own tribal membership. In 1934, Congress passed the Indian Reorganization Act (IRA). This Act was meant to reverse the federal government's fifty-year-old assimilation policy that forced many Native Americans to attend boarding school where they were instructed to give up their languages, cultures, and identities and to replace their own tribal traditions with

<sup>18</sup>25 CFR Part 83 §83.7(b)

<sup>19</sup> Nelson, Michael, *The Quest to be Called a Tribe*, Legal Affairs, September/October 2003.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

European culture. The IRA encouraged tribes to form tribal governments and to conduct their own internal affairs. These new tribal governments drafted constitutions and provided tribes with political bodies that could assert tribal sovereign rights.

However, in the 1950s critiques of Native American self-determination led to an ill-conceived federal effort to dismantle the reservation system and free the US government from the expense of protecting Native Americans and their property. The federal government declared that reservation services and Native American benefits should be ended at the earliest possible time. The goals were to encourage the movement of Indians from rural reservations to urban areas through job training programs and housing assistance. Reformers saw the trust relationship between the federal government and tribes as a manipulative obstacle to personal and economic freedom rather than something that protected Native Americans. Reformers did not talk about "civilizing" Native Americans, but spoke instead of "freeing" and "emancipating" them from federal control. Termination policy was equated with the Emancipation Proclamation, which freed slaves during the Civil War.

Beginning in August 1953, the Bureau of Indian Affairs (BIA) initiated the "Termination and Relocation" phase of the IRA. "Termination" as an official federal policy was implemented from 1954 to 1966. Applied to Indian Affairs, "termination" technically refers to the termination of the special relationship of the federal government as trustee over Native American matters. Under termination, tribal governments would no longer exist as sovereign entities, and tribes would no longer be able to govern their internal affairs. However, by withdrawing federal trust responsibility, civil rights for Native Americans, and control of tribal lands, became vulnerable.

Between 1953 and 1968, the trustee relationship of the federal government with over one hundred tribes was terminated, leaving hundreds of thousands of Native Americans no longer qualified for government assistance. Native Americans lost over 1.3 million acres of land by the end of the Termination movement.<sup>20</sup>

Termination meant that Native American tribes would lose any standing they had under federal law: the tax exempt status of their lands would be discontinued; federal responsibility for their economic and social well being would be ended; and the tribes themselves would be effectively dismantled. Tribal property would be divided among individual members who would then be assimilated into the society at large. Termination had several disastrous results for Native Americans: loss of the Indian land base; termination of government services such as education, housing assistance, and health services; the disappearance of tribal governmental structures; and the loss of homeland contributing to the loss of Native American and tribal identity.

In the early 1960s, Congress halted the process of terminating tribes. One reason why termination failed was because tribes no longer received sufficient federal funds to finance basic services. Money the government gave to Indian tribes was not a form of welfare. Instead, it was similar to the federal funds given to local and state governments to build roads, schools, and

<sup>20</sup> Philp, Kenneth R., *Termination Revisited: American Indians on the Trail to Self Determination, 1933-1953*, (1999) University of Nebraska Press.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

electric and water utility plants. Tribes facing termination did not have the necessary tax base to support these services and the funding received from state and federal governments was too low. Additionally, unless Congress explicitly declared otherwise, Native Americans usually retained hunting and fishing rights on their former land. This led to increased conflicts with non-Native Americans who came into possession of the land.

In 1970, President Nixon set the tone for more recent federal policy in a public statement:

Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government. Down through the years, through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. The special relationship between the Indian tribes and the Federal government which arises from these agreements continues to carry immense moral and legal force.<sup>21</sup>

Nixon declared termination a failure and asked Congress to repudiate the policy and to return a policy of trust relationships between Native American tribes and the federal government. He also called for legislation that maximized tribal autonomy in the management of Native American affairs. Congress responded by subsidizing economic development on the reservations. However, those tribes that had already been terminated could only petition Congress in order to regain federal recognition. The practice of federal termination of existing tribes has ceased, but due to its lingering effects, many tribes and bands maintain a precarious existence. Nearing collapse, tribes were forced to distribute land and property among the members and to dissolve the tribal government.

Termination also brought costs to the various states in which specific tribes were terminated. Tribal governments lost federal funds with termination, resulting in a severe impact on many state welfare and/or social service agencies' ability to provide services. In 1953, Public Law 83-280<sup>22</sup> (PL280) was passed by Congress without any discussion with California tribes. This law conferred jurisdiction regarding criminal and certain civil tribal matters to the state. In return, the state became responsible for the welfare of the reservations. California is one of only four states to adopt PL280. As a result of this law, federal services were terminated and county hospitals which accepted federal funding for health care began denying treatment to Native American people. For example, the Kumeyaay in San Diego were regularly denied health and old age care as well as access to state-run programs such as Aid to Families with Dependent Children.<sup>23</sup>

<sup>21</sup> Richard Nixon, Special Message to the Congress on Indian Affairs, July 8th 1970.

<sup>22</sup> 18 U.S.C. §1162; 1360

<sup>23</sup> Pico, Anthony R., *The Kumeyaay Millennium - Part 2: betrayal and broken promises in California; now the promise of gaming*, San Diego Metropolitan, February 2000.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

As a result of the IRA, Native American ‘relocation’ centers were formed in cities across the country. (The Bay Area is one of the largest relocation centers in the US. According to 2000 Census estimates, approximately 12,500 Native American people live in the City and County of San Francisco.) Loss of land, loss of tribal identity and social structure, and loss of tribal traditions led many relocated Native Americans to experience poverty, hunger, alcoholism, substance abuse, discrimination, and violence in the large cities they now occupied. With so many tribes occupying such a relatively small area, inter-tribal and intra-tribal tensions are one consequence of relocation. Additionally, many California tribes became overwhelmed by a flood of relocated people, losing their own sense of tribal identity as the original local authorities. This perpetuates the myth that California tribes are extinct, a myth even held by non-California tribes.

**The Two-Spirits**

In western terms, *Two-Spirit* has been thought to describe lesbian, gay, bisexual, and transgender Native Americans. That definition is an over-simplified interpretation of nuanced, non-bipolar Native American perspectives of what it means to be male and/or female. Gender is not seen as a black-and-white dichotomy, but rather as a spiritual spectrum of possibilities of masculinity and/or femininity. Gender was about behavior and identity – it was not about biological predetermination based upon anatomy that rigidly dictated expected and inflexible gender expression and sexual orientation. In most tribes, Two-Spirit was considered to be a third gender.

Historically, most North American tribes allowed flexibility in gender role expression. Based upon a fairly universal paradigm that spirit was the motivating force behind a person’s life choices, it was inconceivable to have immutable expectations of human nature. So, many tribes had specific names for people who transcended their anticipated gender role in order to live as their spirit guided them. In Dine (Navajo) that word is *nadleh*, in Lakota (Sioux) it is *winkte*, and in Blackfoot/Siksika (Bloods) it is *aawowaakii*.

Until the invasion of colonial settlers and the consequential negative impact of their Christian beliefs on Native American culture, Two-Spirits were often venerated in their tribes, and many had important roles in community life. Two-Spirits were responsible for delivering and naming babies in some tribes, and were diplomats and business negotiators in others. They were healers, history keepers, and protectors of the elders, women, and children from danger when the war and hunting parties left camp for extended forays.

Until recently, *Berdache* was used to describe Two-Spirits.<sup>24</sup> Based upon the concept that a man having relations with other men was inferior or emasculated, the Spanish Jesuits condescendingly referred to male Two-Spirits as *berdachas* (kept boys). Similarly, other western attempts to categorize human behavior and identity, such as *transgender*, *transsexual*, *cross dresser*, *homosexual* or *bisexual*, cannot capture the essence of a person’s sense of sex, gender, sexual orientation, and/or gender identity in the all-encompassing and completely inclusive way that *Two-Spirit* does.

<sup>24</sup> R. Conner, D. Sparks and M. Sparks, *Cassell’s Encyclopedia of Queer Myth, Symbol and Spirit: Gay, Lesbian, Bisexual and Transgender Lore* (1997) at 328.

78-2  
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18 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Tragically, Two-Spirits lost their place of honor when the invading waves of Spanish, French, Dutch, and English refused to trade goods, conduct business, or negotiate treaties with people they viewed to be immoral homosexuals, and so insisted in dealing with non-Two-Spirits, the "real leaders." Indeed, it was the homophobic reaction of the Spanish to their initial contact with the Two-Spirit emissaries that led, in part, to their ethical justification for the complete annihilation of people they deemed to be "morally inferior." While many tribes still maintain an unspoken acceptance of cross-gender behavior that remains completely consistent with their traditional values, others have adopted a westernized condemnation of gender-role transgression, even to the point of denying the historical existence, much less cultural veneration, of Two-Spirits.

Today, there is a renaissance of determined Two-Spirit activists who are working to remind Native Americans of the traditional contributions of Two-Spirits. Societies have been created to provide positive images and education to other Two-Spirits, in rural and urban areas, who lack positive role models or the ability to access information and support networks about Two-Spirits. Many Two-Spirit Societies host yearly gatherings in their home states to bring together Two-Spirit activists, from all over the US and Canada, to share art, culture, and tradition and to mentor organizing and activism skills.

In San Francisco, Bay Area American Indian Two-Spirits (BAAIT-S) hosts monthly potlucks to bring Two-Spirits together to share food, art, culture, and fellowship. BAAIT-S members also attend local, traditional community Pow Wows, providing outreach to Two-Spirits, and acting as bridges with the greater Native American community. (See *Appendix D – Resources* for contact information for BAAIT-S)

78-2  
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19 of 106

## CHAPTER 2

### FINDINGS AND RECOMMENDATIONS

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

**FINDINGS AND RECOMMENDATIONS**

The Human Rights Commission, having conducted a public hearing on October 12, 2006 on the issues and concerns facing Native American people in San Francisco, including the social, legal, and historical aspects of Native American issues and concerns, and having considered verbal and written testimony, hereby finds and recommends that:

**A. FINDINGS: THE OHLONE – THE FIRST PEOPLE OF SAN FRANCISCO**

1. The City and County of San Francisco (The City) is the homeland of the original people of the area, the Ohlone. Ohlone territory extends from the City to Big Sur and from the Pacific Ocean to the eastern side of the Mt. Diablo Range. Within this area there are eight different Ohlone languages, and many Ohlone people who are involved with their culture, community, and native languages.
2. Local tribes have suffered a high degree of decimation. There are seven different Catholic Missions located within Ohlone territory. Due to its involvement in the near-destruction of most coastal California tribes, the Mission system in California contributed to preventing the majority of California tribes from obtaining federal recognition. In addition, treaties that were negotiated by the federal government were never ratified by Congress, keeping many California tribes in the courts fighting for recognition.
3. In 1854, in a federal program called the "California Indian Genocide Policy," the federal government spent in excess of \$1.4 million, at five-dollars-per-head, fifty-cents-per-scalp, to eradicate California tribes. The federal government paid for professional killers, including lodging, bullets and guns, and all expenses necessary to remove the native people, because the government was not able to push the tribes any further west.
4. Because of this policy of genocide, to admit to being Native American was suicidal. This is one reason why five to seven generations of Native Americans are unaware of, or deny, their ancestry.
5. The Muwekma Ohlone tribe was removed from federal recognition in 1927. Due to that removal, the City is not compelled to abide by federal laws that would protect the Ohlone shell mounds [burial sites]. Shell mounds are very sacred to Native American people, and there are shell mounds throughout the hills of San Francisco.
6. The Ohlone people have worked with local, State, and federal government officials and other entities to assess construction sites for shell mounds and other tribal artifacts, and to provide counsel on how to proceed with construction projects in a culturally sensitive and appropriate manner.
7. The federal government will not hold lands in trust for Native American tribes that are not recognized by the federal Bureau of Acknowledged Recognition (BAR) of the Bureau of Indian Affairs (BIA). For that reason, the federal government claims the Ohlone are not allowed land trusts. However, there are more than 300 non-recognized tribes who do hold land in trust with the federal government.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

8. The Ohlone traditionally performed ceremonies at the ocean where they lived. Because the Ohlone no longer have culturally appropriate access to the sea, out of necessity these ceremonies now are performed in the mountains.
9. The City, through its Department of Parks and Recreation, worked successfully with the indigenous people within the Ohlone territory on the Crissy Field project, helping to restore ancestral pride.
10. The San Francisco History Museum in the Old Mint and the San Francisco Historical Society are working on recording the histories, narratives, and perspectives of the Ohlone community.
11. California Native American basketry, carving, and other elements of material culture are heralded as some of the finest in the world. Including images of this art work on public property would elevate the visibility of the Ohlone people and enhance their public image.
12. Community leaders and organizers rarely invite or include Ohlone people, and members of other California tribes, in the planning of Native American events in San Francisco. When organizers do invite Native American people to offer invocation and/or song, Ohlone people, and members of other California tribes, are rarely invited to officiate at such ceremonies. When organizers convene Native American community focus groups, they rarely consult with or invite the participation of Ohlone people, and members of other California tribes.

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**B. RECOMMENDATIONS: THE OHLONE – THE FIRST PEOPLE OF SAN FRANCISCO**

The Commission recommends that:

1. The City preserve Ohlone shell mounds (burial sites).
2. The City protect shell mounds in compliance with federal regulations.
3. The City never disturb Native American burial sites.
4. The City work with local Ohlone community representatives to identify known shell mound sites in the City.
5. The San Francisco Board of Supervisors pass legislation requiring that building permits be issued only after consulting with the appropriate Ohlone representatives who verify that there are no burial sites at the construction site. No new construction should be allowed on any San Francisco site where burial sites have been found. Methods to implement this recommendation could include the preparation of a survey identifying the location of burial sites in the City.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

6. The City identify, in consultation with Ohlone leaders, appropriate City-owned land to be designated for the Ohlone people to use for tribal purposes.
7. The San Francisco Board of Supervisors adopt a resolution supporting federal recognition of the Ohlone people.
8. The City incorporate Ohlone cultural motifs (basket designs, animal motifs, etc.) into City-sponsored construction projects and on City property.

**C. FINDINGS: HEALTH AND WELLNESS**

1. Compared with non-Native American communities, Native Americans are disproportionately affected by stress-related illness, such as high blood pressure and depression.
2. The national average life expectancy of Native American males (45 years-of-age) is much lower than the national average of non-Native American males (per 2004 statistics – 77.9 years-of-age).
3. Although Native American people represent 1.5% of the national population (the most recent population figures come from the 2000 US Census), Native Americans constitute nearly 8% of homeless people. This is particularly ironic and noteworthy in a culture as devoted to community as that of Native Americans. This high rate of recurring homelessness most often applies to individuals who are afflicted with mental illness. Native American people in transitional housing need culturally competent support services, case managers, and mental health service providers who can assist them in the skills needed to regain and maintain balance and wellness.
4. Per capita, Native Americans are the victims of violent crime more than any other ethnicity. According to a US Department of Justice report (1999)<sup>25</sup> Native Americans are violent crime victims at double the rate of the general population. The majority of Native American women in California are victims of repeated violence by non-Native American men. Per capita, Native American women are more likely than non-Native American women to be victims of repeated violence. Unlike most ethnic groups, which experience violence perpetrated by its own members, Native American people are most often victimized by non-Native American people.
5. Elders are very important members of Native American communities and existing resources do not fully address their needs.
6. Uninsured urban Native Americans often return to rural areas that are not equipped to provide them with adequate health care.

<sup>25</sup> "American Indians and Crime" NCJ 173386, February 1999, U.S. Department of Justice, Bureau of Justice Statistics.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

7. Urban health care clinics receive very little funding and continually face program termination. One reason for under-funding is skewed statistical data. According to the Native American Health Center in San Francisco, Native Americans are less likely to receive mental health services from non-Native providers or county providers. When San Francisco Department of Public Health (DPH) statistical data are the only data, then the number of Native Americans counted as receiving mental health services is not accurately represented. Stereotypical notions of who is Native American affects data collection and results in inaccurate data. Many Native American people are misclassified as *Latino*, *White*, or *Other*, and are not counted as Native American. In addition, individuals may not self-identify as Native American if they are not federally recognized or are not enrolled, or if they have been taught to deny their ancestry in order to survive, and may not be counted as such.
8. Native American health care clinics in San Francisco are located in high crime areas. The Native American Health Center is located in an area of frequent drug activity and violence. Older patients, among the most fragile and vulnerable of patients, feel intimidated by these activities and often cancel their appointments. Also, parents of adolescent youth have cancelled appointments and discontinued services entirely due to the negative influences of the drug and violence in the area. The Friendship House (which provides substance abuse recovery services) is located in an area of visible drug activity and alcohol consumption. This adds to the difficulties that people in the recovery program face when confronted with drug and alcohol use.
9. There is a high recidivism rate with alcoholism among Native American people. If there are few funded, culturally appropriate services available for people recovering from the effects of drug addiction, homelessness, alcoholism, violence, generational trauma from the near-genocide, then there is a feeling that one is generally omitted from society's considerations, leading to hopelessness, despair, and recidivism in alcohol and drug abuse.
10. Due to higher rates of diabetes, alcoholism, dental decay, and depression, it is especially important for Native Americans to receive medical, dental, mental health and wellness counseling services.
11. Invisibility, misclassification, misrepresentation, and a lack of funding for adequate service and treatment pose major challenges for mental health and prevention services among urban Native Americans including those in San Francisco.
12. In 2006, the Bush administration (unsuccessfully) proposed eliminating funding for all 38 Native urban clinics throughout the country for the 2007 fiscal year. The administration argued that other community clinics or service providers would serve those patients from the Native clinics. Unfortunately, the cultural component offered to Native American clients was not considered in the Bush administration's analysis. As it is, other urban clinics are already overburdened with their own populations and their ability to serve additional Native American patients with cultural competency is unlikely. The Bush administration's proposed 2008 federal budget includes eliminating funding for the Urban Indian Health Program (Title V).

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

13. In 2005, the San Francisco Community Clinic Consortium (10 clinics, including the Native American Health Center) offered services to more than 70,000 low-income San Francisco residents.
14. The Native American Health Center (NAHC) is open to any and all residents of San Francisco and provides culturally appropriate services to the Native American community. In 2005, there were 3,313 patients, most of which were from the Mission District where NAHC is also located. Yet, NAHC does not receive City funding for primary care and dental services.
15. The national Centers for Disease Control (CDC) report that HIV in the Native American community could kill most Native American people in the 21<sup>st</sup> Century if the current rate of infection continues unabated. National data state that the San Francisco Bay Area has the highest percentage of Native Americans living with AIDS and HIV than any other region in the United States. When population size and rate of infection were taken into account, the Native American population of the Bay Area was ranked third in the rate of HIV/AIDS diagnoses in 2003. The CDC estimated number of AIDS cases among Native American adults and adolescents is 10.4 cases per 100,000 persons. According to San Francisco Department of Public Health data, the HIV prevalence rate is estimated nine per 100,000 among those identifying as Native American. This rate is twice as high as any other ratio or ethnic group per capita.
16. Native American men who have sex with men have a wide range of identities, including heterosexual, gay, bisexual and/or Two-Spirit. Two-Spirit Native American men from all over the country come to San Francisco because there is more acceptance, tolerance, and acknowledgement of their orientation and identity. Gay, bisexual, and Two-Spirit men make up the majority of HIV/AIDS cases in the native community, and many of these men travel between urban areas and reservations.
17. The Native American AIDS Project (NAAP) in San Francisco is one of the most comprehensive, full-service HIV programs for Native Americans in the US, and is the only Native American-specific HIV organization in California. All the services draw upon native cultural, spiritual, behavioral, and medicinal traditions to communicate HIV prevention messages and to care for HIV positive Native American men and women.
18. According to NAAP, among many lesbian, gay, bisexual, and/or transgender (LGBT) Native Americans, injection drug use begins on average at age 13. Often, drug use immediately follows a rape or molestation. Due to cultural displacement and lack of employment, many Native American people have resorted to sex work in urban settings like San Francisco.
19. Mental illness, substance abuse, and a high rate of HIV prevalence are some of the significant problems among some Two-Spirit, bisexual, and gay Native American men, often resulting from homophobia, shame, and unresolved life traumas. This vicious cycle often includes violence and homelessness as well.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

20. The CDC reports that 40.8% of adult Native Americans and Alaska Natives are tobacco smokers (non-ceremonial). This is the highest rate of commercial tobacco use when compared to age, gender, and other ethnic demographics in the United States.
21. Tobacco companies exploit Native American culture by using Native American images in their packaging and advertising.
22. Although Native American populations have a high birth rate per capita, there is also a high infant mortality rate per capita.

**D. RECOMMENDATIONS: HEALTH AND WELLNESS**

The Commission recommends that:

1. The San Francisco Department of Public Health (DPH) increase City funding to Native American urban health centers and Native American AIDS Service Organizations.
2. The San Francisco Board of Supervisors protect Native American health centers and AIDS Service Organizations from devastating federal budget cuts by calling on San Francisco congressional representatives to hold public hearings before authorizing cuts to federally-funded Native American programs.
3. The San Francisco Police Department (SFPD) increase police presence near the Native American Health Center and the Friendship House, which are located in areas with frequent illegal drug activity, alcohol use, and violence.
4. The City create more affordable, dedicated housing that is culturally competent and welcoming for Native American people, and the Mayor's Office on Housing (MOH) commit more funding targeting Native Americans to mitigate the high number of homeless people in that community.
5. The City dedicate additional resources to addressing the needs of Native American elders. Senior services providers should increase the availability of culturally competent services for Native American elders.
6. Two-Spirit people be consulted by and included in City programs that disseminate HIV information in order to ensure that information that targets Native American people is culturally appropriate for Two-Spirits and other Native Americans.
7. The San Francisco DPH Mental Health Board invite Native Americans to participate as program designers, service providers, and consumers whenever there are upcoming changes to the mental health system.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

8. The City appoint Native Americans to be on Mental Health Boards and committees that address health care, substance abuse, mental health, housing issues, and the environment.
9. The DPH create more San Francisco-based, culturally appropriate support systems for Native Americans dealing with substance abuse.
10. Educators teach health care curriculum with cultural sensitivity and competency regarding Native American communities.
11. The DPH educate all mental health and substance abuse service providers about Native American cultural values in order to create a network of programs, rather than just a few, serving the community with cultural competence.
12. Public health educators teach the public the differences between traditional uses and commercial uses of tobacco, and resources be allocated to support the increased availability of smoking cessation programs for Native American communities.

**E. FINDINGS: EDUCATION, YOUTH, AND FAMILIES**

1. The Indian Child Welfare Act (ICWA) of 1978 was enacted because a United States congressional committee found that a disproportionate number of Native American children were being removed from their homes and placed in non-Native American homes.
2. In 1978, the US Congress issued findings regarding the educational and cultural health of Native American children. Congress found that federal domination of Native American service programs has retarded, rather than enhanced, progress for Native American people by not allowing them the full opportunity to cultivate leadership skills necessary to develop self-government. Congress also found that parental and community control of educational content is crucial for culturally competent education of Native American children.
3. Historically, most government policies have led to the fragmentation of indigenous communities. As a result, many Native American families in urban areas find themselves homeless. Many homeless Native American people will not go to shelters because there they are at risk of experiencing theft and assault. In addition, many homeless Native Americans are hesitant to accept help because they are very discouraged by the poor treatment and lack of culturally competent services they received within the system.
4. Younger Native Americans are more likely to attempt suicide than any other racial or ethnic group in the United States. According to U.S. Bureau of Vital Statistics death certificate data, "Alaska Native males had one of the highest documented suicide rates in the world."<sup>26</sup>

<sup>26</sup> Gessner, B.D., *Tempora Trends and Geographic Patterns of Teen Suicide in Alaska, 1979-1993*, Suicide and Life Threatening Behavior, Vol. 27:33, at 264.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

5. It is inappropriate to burden young school children with becoming the classroom Native American representatives; students feel burdened and marginalized by racist images that are evoked in school.
6. Culturally appropriate after-school programming encourages students to stay in school because it provides students with activities they can relate to and feel proud to participate in.
7. Lack of federal recognition [of one's tribe] prevents some Native Americans from accessing higher education due to ineligibility for scholarships and other support systems offered to Native American students who are able to enroll with their tribes. In addition, the federal government has a "one-quarter-blood" requirement for a student to be eligible for federal funds dedicated to Native American students.
8. Children in schools routinely hear a variety of anti-Native American statements:  
"If you're Indian, then you're dead."  
"All the Indians in California were killed off."  
"You don't look Indian."
9. Many generations of Native Americans were forced into attending government-run boarding schools that were set up to teach "assimilation" into non-Native American culture. (The credo of these schools was to "kill the Indian, not the child.") In these schools, Native American children were stripped of their names, clothes, languages, and tribal identities. Currently, the effects of historical trauma from systemic governmental and social service policies, including negative boarding school experiences, are still present in the Native American community. Mental health professionals indicate that it takes at least three generations to overcome the effects of attempted genocide within a community. Intergenerational pathologies will continue until successful healing can be modeled and then passed on to subsequent generations.
10. Native American names are an important and integral part of the Native American community's culture and the forceful stripping of these names is an essential element of actual and/or cultural genocide.
11. Cultural misappropriation causes great harm to the Native American community. Therefore, culturally appropriate use of Native American symbols in public spaces is crucial, especially when considering the high dropout rate of Native Americans students, the low life expectancy rate, and the high percentage of stress-related illnesses.
12. Sports mascots perpetuate negative and racist stereotypes of Native American people, and contrary to the assertions of some who support the use of these mascots, they do not honor Native Americans.
13. The first Native American Studies Program in San Francisco started at San Francisco State University (SFSU) in 1969.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

14. City College of San Francisco (CCSF) does not offer a three-unit independent study course in Native American history, although there are three-unit independent study courses offered in African-American, Latino-American, and Asian-American history. The curriculum at CCSF regarding Native American cultural recognition, critical history, and factual accuracy needs improvement.
15. Native American consultants are paid very little, if at all, for the information that they provide to Native American Studies programs.
16. In a recent survey of parents, Native Americans rated education as their top priority. Non-Native American people rated home, job, and/or transportation as their highest concerns.

**F. RECOMMENDATIONS: EDUCATION, YOUTH, AND FAMILIES**

The Commission recommends that:

1. The California State University Board of Trustees create a Bachelor of Arts degree in Native American studies.
2. City College of San Francisco (CCSF) create a Native American Studies department.
3. The San Francisco Board of Education write letters of support for the creation of a B.A. Degree in Native American Studies at San Francisco State University.
4. The San Francisco Board of Education establish a K-12 Native American Charter school in San Francisco.
5. San Francisco Unified School District (SFUSD) and private educational institutions contract with Native American diversity consultants to create a plan for culturally appropriate curriculum development for all San Francisco K-12 schools, thus ensuring that informational authority in schools remain with Native Americans.
6. SFUSD and all other educational institutions in San Francisco review curricula, holiday activities, and art displayed in public and private schools depicting Native Americans, in order to alleviate racism and cultural insensitivity. Also, SFUSD and other public and private educational institutions remove all inappropriate images and Native American mascots from all schools and educational institutions in San Francisco.
7. The City ensure that funding for after-school programs be used to foster Native American culture in the schools, including Native American dancing and art.
8. The City support and defend the right of Native American people to publicly use the Native American names given to them by their tribes and/or Elders.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

9. Financial aid offices and educational funding programs create more college scholarships for Native American students, especially considering Native American students who are not federally recognized, or who do not meet the “one-quarter blood” requirement for federal scholarships offered to Native American students.
10. Native American community members in San Francisco who are well informed about their respective cultures be used as resources to provide culturally appropriate information on Native American authors and curriculum to students, faculty, staff, and the public.
11. The San Francisco Board of Education adopt a resolution supporting a national ban on Native American mascots.
12. The San Francisco Forty-Niners draft a letter urging other National Football League teams to stop using Native American mascots, and that they reconsider the historical implications and cultural appropriateness of their own name, image, and mascot.
13. The San Francisco Giants draft a letter urging other Major League Baseball teams to stop using Native American mascots.

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**G. FINDINGS: CULTURAL, POLITICAL, AND SOCIAL**

1. Because it is a relocation center, the Bay area has the second largest Native American population in the country. Per capita, California has the largest Native American population in the US, according to the 2000 US Census.
2. According to federal statistics, the majority of Native American people in the US live in urban areas and not on Reservations (federally-recognized tribal lands).<sup>27</sup>
3. The poverty level on reservations is very high; while casinos do produce substantial wealth for some tribes and their members, the majority of Native American tribes do not have casinos. According to the U.S. Bureau of Indian Affairs, the unemployment rate on some reservations exceeds 80%.<sup>28</sup>
4. Native American cultural and social programs, such as the Native American Cultural Center, have no physical location in San Francisco.
5. Conversations, trainings, and community forums about racism rarely include Native American concerns. Native American people are conspicuously absent from the table, and if they are invited, it is often as an after-thought.

<sup>27</sup> U.S. Bureau of the Census, “1990 Census of Population, General Characteristics, of American Indian, Eskimo, or Aleut Persons and Households,” 13.

<sup>28</sup> American Indian Population and Labor Force Report; Local Estimates of Indian Service Population and Labor Market Information, (2003) U.S. Department of the Interior Bureau of Indian Affairs, Office of Tribal Services.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

6. For Native Americans, a federal holiday honoring Christopher Columbus is an insulting gesture. For millions, 1492 marked the beginning of the implementation of policies designed to systematically exterminate Native American people and their cultures.
7. Racial, or ethnic, misclassification often makes it difficult to assess the precise nature of Native American community needs.
8. It is difficult to find an appropriate place for conducting traditional Native American spiritual ceremonies for the entire community.
9. Native Americans are experiencing a cultural renaissance, which includes revitalizing their pre-colonial histories and cultures. Indigenous people throughout the Americas are reclaiming land, resources, cultural, and spiritual life.
10. The International Indian Treaty Council in San Francisco (founded in 1974 by the American Indian Movement in order to take their concerns to an international body) is a United Nations nongovernmental organization, having consultative status to the United Nations Economic Council since 1977.
11. The term *Two-Spirit* was coined in the early 1990s by Native Americans during a lesbian and gay gathering. The LGBT community uses the term to maintain cultural continuity with those Native Americans who manifest a dynamic balance of both feminine and masculine energies. Many tribes held Two-Spirits in sacred positions, honoring them as medicine persons, marriage counselors, and mentors to teenagers. Due to the negative effects of homophobia and certain religious values first imposed on Native Americans by European colonists, most Two-Spirit people have lost positions of honor and respect within their tribes.
12. Through free trade agreements, indigenous people are losing land in Mexico, Central, and South America. Native Americans from Mexico, Central and South America, become invisible in San Francisco because the census only provides a distinction between Latino and Native American. There are 51 native languages spoken in Mexico and 21 in Guatemala. By not giving these people an opportunity to be recognized, the government will be unable to address their needs.
13. Many Native Americans from Mexico, Central and South America, work 14 hours a day in the restaurant and hotel industries in San Francisco, mostly without earning any medical benefits, or without understanding employment discrimination laws - many fear that they may be fired without cause at any moment.
14. Depression and stress are a result of being separated from their country and from working long hours, causing feelings of isolation, discrimination and marginalization. Many Mayan youth seek refuge in drugs, alcohol and gangs. Mayan youth facing criminal charges often lack appropriate translators.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

15. The Native American display at the De Young Museum has been reduced in size to a passageway and a small space underneath a stairway. It is not known if other Native American historical or contemporary artifacts are available for public education in San Francisco.
16. There is a statue in the San Francisco Civic Center (between the Public Library main branch and the Asian Art Museum on Larkin Street) that glorifies the conquest of California Native Americans. It depicts a naked "Plains Indian" on the ground, intimidated by a priest who is gesturing at the sky with one hand while pointing down at the Native American with the other. A Spanish vaquero brandishes his fist in a conquering, menacing gesture.
17. The light poles along Market Street and at the Legion of Honor in San Francisco, which are intended to glorify the conquest of Native Americans, are brass bas-relief sculptures depicting naked "Plains Indians" on horseback and are entitled "Winning of the West."
18. There is a large statue of a Spanish conquistador at Lake Merced in San Francisco, glorifying the conquest of Native Americans.

**H. RECOMMENDATIONS: CULTURAL, POLITICAL, AND SOCIAL**

The Commission recommends that:

1. The City consult with the Native American community on identifying statues and other symbols that represent the conquest and genocide of the Native American people, with the goal of removing them and placing them in an appropriate location, such as a museum where the public can be educated on why such representations are offensive.
2. The City establish an annual Indigenous People's Day (a City holiday), to increase Native American visibility and pride.
3. The City explore a way to celebrate the contributions of Italian Americans and their heritage without honoring Christopher Columbus.
4. The City observe an "International Day of Reconciliation" to acknowledge the sacrifices of Native American people.
5. The City change the names of Junipero Serra Boulevard and Columbus Avenue to names that do not honor people who conquered or brought great harm to Native Americans.
6. The City create street names to honor Native American people, such as Richard Oakes Boulevard and Ohlone Avenue.
7. The San Francisco Art Commission include Native Americans in the process of identifying funding for and approval of public art projects that contain images of or pertain to Native Americans.

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8. The San Francisco Public Library create a Native American resource room at the main branch.
9. The City encourage retailers and other commercial enterprises in the City to refrain from creating or promoting Columbus Day sales.

**I. FINDINGS: GOVERNMENT**

1. The Declaration of Independence refers to Native Americans as “the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is undistinguished destruction of all ages, sexes and conditions.”
2. The federal government’s use of a system of blood quantum requirement makes it difficult for many Native Americans and tribes to obtain legal recognition as Native American. Also, this requirement severely impacts access to scholarships for education, as well as health care and other services, while it perpetuates mental health problems associated with feeling politically and culturally invisible. This system also contributes to under-counting of Native American populations and inadequate funding of programs.
3. According to the 2000 Census, approximately 12,000 Native Americans were identified living in San Francisco. However, only one person who is known to be Native American is currently seated on a City Board or Commission.
4. Some City departments do not track Native Americans when they collect demographic information, instead counting them as “other.” The Department of Public Health does not track Native American births or deaths in San Francisco.
5. The majority of Native Americans who live in San Francisco today are here due to government relocation policy of the 1950s. This policy removed Native Americans from their reservations and relocated them to cities nationwide. The policy actually enticed Native American youth to come to seven large urban areas, including the San Francisco Bay, with promises of job training, housing, and stipends. The promises often fell short; checks did not arrive, job training was for menial labor, and people were housed in inferior housing, separated from their families and extended tribal communities.
6. A tracking system for foster children was created, in part, by the federal Indian Child Welfare Act (ICWA) as a response to the disproportionate number of Native American children who were being removed from their families and placed in non-Native American homes. Despite this, San Francisco Human Service Agency (HSA) administrators do not mention the percentage of Native American children in the system proportionate to the Native American population in San Francisco. The very system created to track Native American children in the child welfare system, and utilized by the City, currently does not track Native American children in San Francisco

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7. San Francisco benefits greatly from its reputation as an “international” city, both in terms of cultural enlightenment and the tourist dollar. Exchanges and interactions with people from other nations and other indigenous communities help improve our understanding of how communities coexist, cooperate, as well as improving community and civic relationships.
8. In Australia in September 2006, the indigenous people were given back their traditional land by Perth, the capital city of western Australia.<sup>29</sup>
9. Rebuilding trust will take time because so many Native American people have had difficult experiences with government agencies.

**J. RECOMMENDATIONS: GOVERNMENT**

The Commission recommends that:

1. The San Francisco Board of Supervisors write a resolution in support of a federal acknowledgement of the characterization of Native Americans in the Declaration of Independence. This resolution should urge local, state, and federal public education curriculum to include lessons on the inappropriate nature of this characterization and the historical and modern negative impacts on indigenous people by being referred to in the Declaration of Independence as “the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is undistinguished destruction of all ages, sexes and conditions”.
2. The City survey the Native communities, including those from Mexico, Central, and South America that are living in San Francisco in order to provide them improved government services.
3. The San Francisco Board of Supervisors write a resolution in support of federal recognition of California tribes.
4. The City support the United Nations Declaration of the Rights of Indigenous Peoples.
5. The City appoint Native Americans to sit on Boards and Commissions, and to work as Department heads.
6. The City hire more Native American people in its various departments.
7. The City develop a qualified pool of translators and provide Native American language translation services where legal counsel is needed for Native American people with English as a second language, or who are monolingual in their own languages.

<sup>29</sup> Bennell v. State of Western Australia [2006] FCA 1243 (19 September 2006).

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8. Data documenting Native Americans in the child-welfare system be included in all reports published by Children and Family Services of San Francisco's Human Services Agency (HSA) to assure compliance, and to address disproportionate numbers of Native American children who may be in foster care or awaiting adoption.
9. The City partner with members of the Native American community to identify funding for the creation of a Native American Center, which would include a place to perform ceremonies and to gather, as well as a space for artistic expression and performances.
10. Encourage and assist more Native American government officials to work as liaisons between their offices and the community.
11. The City should fully support and encourage international indigenous exchanges and collaborations.

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35 of 106

## CHAPTER 3

### ORAL AND WRITTEN TESTIMONY

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

The oral testimony presented below is transcribed from the October 12, 2006 public hearing and are the actual words of the speakers, unedited by the Commission.

**THE OHLONE PEOPLE**

**Anne-Marie Sayers (Mutsun Ohlone)**

Commissioners and body, as an Ohlone person that lives on my traditional lands in Indian Canyon, I welcome you to Costanoan-Ohlone territory. We're still here. The Costanoan-Ohlone territory extends from San Francisco down to Big Sur, from the Pacific Ocean to the eastern part of the Mt. Diablo range. And within that area, there are eight different languages, seven different missions, and many people who are very much involved with their community, with their culture, with their language, with the lands they've always been on pre-contact, and since the beginning of time.

We are still here, although the federal government does not recognize us. In Washington, D.C., the legal opinion is that if you are not a member of a federally recognized tribe, this government cannot hold land in trust for you. In California, the reality is there are in excess of 3,000 California Indians that have land in trust that are not federally recognized.

Fifty percent of California Indians are not federally recognized. There is good reason. Primarily, the mission system is one of the main contributing factors. Indian Canyon, which is a two and a half hour drive from here, just south of Hollister, 15 miles, is a place that we've opened up for all indigenous people who are in need of traditional lands for ceremony. So there's a lot of ceremony that takes place there. We just completed...a California traditional bear dance, which is a four-day ceremony. And it's a place that is very special, and really quite sacred.

I have quite a number of people that come up to Indian Canyon. And they bring to my attention: "Anne-Marie, I am from this mission right here, Mission San Juan Bautista. My friend is from Mission Santa Clara County -- or Mission Santa Clara. And my other friend I'm bringing up is from Mission Dolores in San Francisco. My mother told me that I was Mexican. Her mother told her, my grandmother, that we were Mexican; but her grandmother's sister -- my great aunt -- told me that we were Indian, right here, from the Mission San Juan Bautista. I want to learn more about my culture. I want to know more about my ancestors and honor my indigenous ancestors." I bring to their attention that there's good reason why there has been five and six and seven generations of Indian denial.

In 1854 alone, this government spent in excess of \$1.4 million; \$5 a head, 50 cents a scalp. It was called the "California Indian Genocide Policy." This government paid professional killers and paid for their lodging and paid for their bullets and paid for the guns and paid for their supplies to remove the native peoples, because we could not push them any further west. And so to say you were Indian in the 1850s was suicidal. You have an Indian woman that watches her two sons get killed, her husband get killed. She is telling her daughter to say you aren't Indian for her survival. And what is transpiring because of federal recognition - and one contributing factor happens to be gaming - is intra-tribal differences within the Costanoan-Ohlone community, within many different native communities that this government no longer has to divide and conquer; it's just divide and ignore.

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The fact that the City of San Francisco, which we have had excellent communications with, the limited amount that we have had - Crissy Field is a very good example, working with all of the indigenous people within the Costanoan Ohlone territory. It's proven to be beneficial, extremely helpful in giving our ancestors some form of recognition, some form of dignity, so that when our kids go in school, they don't hear what my daughter heard, which was, "If you're Indian, you're dead." This was only 17 years ago. She's a freshman in college right now.

But I believe this evening, realizing that we are still here -- the original people of the Ohlone territory -- is extremely important. There are many different Ohlone peoples that are extraordinarily sharing. To share our perspective is what's going to be needed for future generations if we are not to be invisible, as we have been. So tonight is an extraordinary important evening. And we have some very good communications that have transpired. I would like to introduce a very good friend of mine. He's a Ph.D. candidate from Berkeley, Chuck Striplen. Perhaps you can share some positive things that are taking place between the County and City of San Francisco, and Ohlone peoples that are still here.

**Chuck Striplen (Amah Mutsun Ohlone)**

Thank you, Anne-Marie. Commissioners, thank you for having us here today. I am also an Ohlone descendant. I wanted to bring you up to speed on some things you might not have heard about going on between our community, the Ohlone Tribes of various Ohlone communities, and the City and County of San Francisco.

Most recently was the welcoming of a Maori contingent of about 80 Maori individuals from New Zealand that came up, in coordination with an exhibit that took place in the Yerba Buena Center in August of last year. We organized a full, traditional welcoming ceremony that took place at Aquatic Park at six o'clock in the morning on August 4th. That was attended by about 1,000 San Francisco residents, during which time Supervisor President Peskin was presented with a feather cloak by the Maori queen and Anne-Marie Sayers and Val Lopez.

Also, we have been working to ensure that story is told at the new San Francisco History Museum in the Mint. I have been appointed to the San Francisco Historical Museum and Mint Advisory Committee. I've been serving on that for about three years, and now also have been appointed to the Story Land Committee of the San Francisco Historical Society. So, just to report some good news, there are positive steps being taken on the City's behalf and on the Tribe's behalf to further integrate our stories, our history [and] our perspectives into the infrastructure of the city.

And I encourage you to continue that trend; to take additional steps to address protection of sacred sites; to ensure that accuracy is reflected in what school children learn about our cultures. And I think that can be done in the form of a creation of an office within the city infrastructure on indigenous affairs, focusing both on local Ohlone tribal issues, and also those issues of natives from outside this area and other parts of California and other parts of the nation. Creation of such an office would start to create an infrastructure where a lot of these issues could be addressed. And with that, I would like to leave.

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SAN FRANCISCO**

**Espanola Jackson (Ohlone)**

Thank you very much. My name is Espanola Jackson, and I'm the spokesperson and liaison for the Ohlone Tribe, and have been an elder since 1982. I would like to thank you for holding this meeting in this great chamber. A meeting of this nature has never been held in San Francisco before, to give recognition to my people and all the people that are here.

I will not repeat of some of the things that have been stated... about what is happening in Bayview-Hunters Point, but we do have problems there dealing with burial mounds. I would like to state that the struggle continues. I'm just saddened that I did not know that meetings were being held to talk about the Native Americans of San Francisco, because I definitely would have been there, but maybe I was not on the list. And maybe there might be a reason for that, because we came before you in '92. And when I say "you," I'm talking about the Commission. And you passed a resolution at that time, giving recognition to the Muwekma Ohlone Tribe. And from that, the Board of Supervisors in this very chamber three times also did the same thing. And nothing yet has really occurred with the concerns that most of the Native Americans in San Francisco have.

So I'm hoping that today, that you will come with a resolution, and make sure that it is a strong resolution when you hear all of the different comments that you will hear here today. You may not get a chance to hear them again, because I don't know how long I'm going to be here, because of the fact some of the tribes are not on the Federal Register. They were illegally removed in 1927, which means that because the Muwekma Ohlone Tribe was removed in 1927, they're not [on] the Federal Register, the State and the City feel as though they cannot abide by what they are supposed to do when it comes to shell mounds in San Francisco. And it is a crime, because I know you would not want your families to be on earth on houses with – built on that land. And I think about the movie Golf Course, or whatever it was, where the earth opened up, you know, and everybody started walking through -- that can't happen right here in San Francisco.

And I want to also let you know that the Park and Rec -- after learning about the Muwekma Ohlone Tribe, they purchased the Bayview Hill, so that...no one can build anything on that hill. That is in Bayview-Hunters Point. And that was done, I believe, in 1994. So I'm just giving you a little history of what has occurred here in San Francisco. You're going to hear a lot more. And please take notes. And some of the people that are here can go to your schools, you know, so people understand the plight of not just the Native Americans, but all of the people of San Francisco.

**Corinna Bolt (Ohlone)**

[inaudible]...which means "good afternoon" in my native language... and this is our land. And I want to thank my ancestors for allowing me to be here. If it was not for their struggles and not for them hiding out, pretending to be someone they weren't, I would not be standing here today.

My main purpose of talking...tonight, is to let you know that I'm one of the organizers for the shell mound walk. And we brought people from all over the world. And, after walking for a good while today -- ten miles, probably -- they came here to be a part of this discussion tonight and to spread the word.

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SAN FRANCISCO**

One of the first things that I have to do in my life, I guess, right now is to let you know that we still exist; but also to be the voice for my ancestors, because they have no voice anymore. And they're buried here in the city of San Francisco under buildings, and maybe in places that we haven't found yet. But one of the things that I want to say is that not one more inch, not one more gravesite. Let's call it what it is; they are living cemeteries for our people.

... I still exist. I'm not a descendant of an Ohlone - I am an Ohlone person. And the cemeteries mean a great deal to us. Because we didn't have headstones, people don't seem to treat them the same way. They are sacred to us. That's where we go to pray, to talk, and ask for advice. And sometimes... when we were walking last year, we came through the city of San Francisco and we stopped at these different places under Macy's, maybe, and had to sit there and pray to our ancestors that were buried deep underneath there and different parts of San Francisco under there.

You know, when I go to Oakland, where most of my recent relatives are buried, I don't have to do that, because I know where they are at. It's very difficult to have to do that - to bring my children along - to tell them, "This is where your ancestors are. We have a great history of being here for thousands of years. And in the very short time that the city of San Francisco sits here, we have created a place that does not honor the ancestors that were here to begin with." So I thank you for listening. I ask that you bring us to the table not as an afterthought, but as people, human beings, that still continue to exist.

**Anthony Sul (Ohlone)**

Good evening. My name is Anthony Sul, and I come from the Ohlone Nation, and I now live in Tracy, California, but my grandmother -- she was born in San Francisco. And I'm here on behalf of and respect of my family and elders who teach me: Tony Sorda and Patrick Orosco.

While now not a big percentage of the Ohlone people live in the area, we find it essential that we have access to the land and the ocean of this area. And I've heard a lot of stories and songs of how we used to gather at the ocean, and how we used to just be at the ocean and around this land.

And a lot of ceremonies that take place nowadays -- they're not anywhere near the ocean, and they're up in the mountains; not that there's anything wrong with that, but it would be more of an impact to be around where we need to be, which would be the ocean.

And from my own experiences...I had one experience of a ceremony at the ocean. It was a good one. It was one of the best ceremonies that I've ever been to, at the ocean. And the ocean is where we need to be from, where we need to be, where we came from.

And right now I would like to give thanks for everybody for letting me speak. I'm a youth. And the way I was taught, youth is the future, and what a better way to show what the future would be [than] by letting somebody like me talk. And I give respect again for the people who have talked years before me.

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**HEALTH AND WELLNESS**

**Mark Espinoza (Eastern Cherokee) – Native American Health Center (NAHC)**

Good afternoon. My name is Mark Espinoza. I'm the executive director of the San Francisco Native American Health Center. First of all, I'd like to thank the Human Rights Commission for the opportunity to address you today. I think it's important that the Commission hears the voices and concerns of the Native American community of San Francisco.

As you may know or will know after the full testimony today, the majority of the population of Native Americans living here in San Francisco is a result of the U.S. government's relocation program of the 1950s. This relocation program took Native Americans off their reservations, and relocated them to various cities across the country.

The need for medical services for Native Americans led to the opening of the first clinic here in San Francisco in 1972. Our clinic is a member of the San Francisco Community Clinic Consortium, which consists of ten clinics throughout the city. These ten clinics are the safety net of the San Francisco Department of Public Health. In fact, last year the ten clinics provided services to more than 70,000 of San Francisco's medically needy and low-income residents, which was more than the San Francisco Department of Public Health provided.

Our organization currently operates clinics in San Francisco, Oakland, Sacramento, and Fresno. The San Francisco clinic is located at 160 Capp Street, in the Mission District. We rent a space that's a little over 10,000 square feet, and we have approximately 41 employees from various ethnicities and backgrounds. Our clinic offers full medical, dental, pediatric dental, HIV services, family and child counseling, and WIC services to the community. Although our initial focus of patients was Native Americans, we are open to any and all residents of San Francisco.

Last year we saw 3,313 patients, with total visits of 10,504 patients. Because of our location, many of our patients are residents of the Mission District, usually below the federal poverty level, in poor health, and in need of health care. We also provide health and dental care to the homeless population of San Francisco.

Although we currently receive funding from federal and state grants, private donations, private insurance, and patient revenue, we receive no funding [for] primary care and dental services for the medically indigent adults from the [City and] County of San Francisco. We have a great need for medical and dental supplies and equipment. We also need funding for substance abuse and mental health services. What makes our clinic unique is that we provide culturally appropriate services to the community that has been removed from their traditional homes and their families. Our staff represents many tribes from across the country. We hire traditional Costanoans from various tribes across the country to come to our clinic and conduct group sessions as well as one-on-one meetings with our clients. As you can imagine, there is a certain level of distrust amongst Native Americans when dealing with government agencies. Therefore, it's very important for our community to receive services from an agency that they can trust. I can honestly say that many of our Native American clients would not seek health care if it were not available -- if we were not available to them.

San Francisco Human Rights Commission

36

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SAN FRANCISCO**

As we know, those who put off even the most basic health care usually present in our ERs of our hospitals, driving up the costs of health care for all of us. With rates of diabetes, alcoholism, dental decay and depression higher than that of the general population, it is important that these clients are able to receive medical, dental, and counseling services, especially those of a preventive nature. Our clients are very comfortable with our center, and some regard it as a community center as well.

Earlier this year, the Bush administration proposed the elimination of funding for all 38 Native urban clinics throughout the country. The administration reasoned that the services we offered were duplication of services. They felt that our patients could easily be folded into our county medical service plans or other community clinics. Their failure to realize, that the cultural component that we offer our clients is of the utmost importance, was sad, to say the least.

Additionally, most urban clinics are located in big cities, such as Minneapolis, Phoenix, Denver, and Los Angeles, to name a few. These cities, like most others, are struggling to provide services to their non-Native populations, and, in many cases, could not absorb the additional patients that would seek services from them. Although Congress has restored these cuts, the budget has not been passed, and the possibility of funding cuts still looms.

One of the things I think I should – that should be mentioned is the area in which our clinic is located. If you're familiar with the location on Capp Street, it's between 16th and 17th, Mission and South Van Ness. You know that it is not a very nice area. We are constantly battling drug dealers, drug users, and the homeless population that lives on Capp Street. On a daily basis, we encounter feces, urine, syringes, and various acts of violence. We have asked that the Mission Police patrol the area on a regular basis, but that has not happened. What troubles me the most is that our elderly and pediatric dental patients, most of whom are the most fragile of our clients, suffer.

Sometimes our patients are so intimidated by the people who congregate on the street, that they cancel their appointments or fail to show up. If you have any contacts in the Police Department, please mention our plight. Our staff and patients would really appreciate any help that the Police Department could give. In closing, I would like to again thank the Commission for its work and its dedication to all of San Francisco's residents. If you would like any more information, you could please contact me. Thank you.

**Myra Smith (Muskogee) – Friendship House Healing Center**

Good evening. My name's Myra Smith. And I just want to thank the Human Rights Commission for hearing us out tonight. I work for a Friendship House Healing Center. It's part of the Friendship House Association of American Indians. We are a drug and alcohol [treatment] program, located in the Mission District. And we've provided service to our Native American community for the past 43 years.

We just recently got a new building. It's about a year and a half old. We have an 80-bed facility located at 56 Julian. We also have a women-with-children program in Oakland. And we also do outreach out in San Jose. And our talk to you tonight is about funding. And it's just, like everybody else...funding is a main topic; a hardship for everybody. We...serve many Native Americans that come from all over into our facility. We help them work through emotional, mental, physical, and spiritually to complete them into a whole person.

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A lot of our women that come in, they get reunited with their children. A lot of people that come through our program -- our program is a one-year program. At six months, they're able to go out, work, become members of society, go back to school, get careers, and come back and even work for our community. So we'll just talk to you tonight about funding.

And...we're also in the Mission District right by the Health Center. And it is a really bad area there. I know sometimes when I walk to the clinic, it's really hard, because I can see people living in their cars and shooting drugs going by there. I know it's hard for elders, and especially for people in recovery. So if you can give us any help at all, we'd really appreciate it ... Thank you.

**Joan Benoit (Chippewa of the Thames, First Nation) – Native American AIDS Project (NAAP)**

Good afternoon. I want to first of all thank you for inviting us to speak, and express our issues to you today. My name is Joan Benoit. I'm executive director of the Native American AIDS Project [NAAP].

In 1984 the American Indian AIDS Institute (AIAI) was established by the Gay American Indians and other concerned members of the community, to meet the demand for culturally competent services for Native Americans living with HIV in San Francisco. AIAI was originally staffed by volunteers to provide case management and practical support services.

The [NAAP] evolved out of AIAI in 1994, and has reached out to serve the most vulnerable and disenfranchised Native Americans in San Francisco. [NAAP] is one of the country's most comprehensive, full-service HIV programs for Native Americans, and is the only native-specific HIV organization in California. All services draw upon Native cultural, spiritual, behavioral, and medicinal traditions to communicate HIV prevention messages, and to care for our HIV positive brothers and sisters. The HIV epidemic is a serious threat to Native American communities. In addition to being seriously affected by HIV, American Indian populations face challenges in accessing health care, prevention services, and treatment.

The San Francisco Bay Area has the highest percentage of American Indians living with AIDS than any other region in the United States. The number of HIV and AIDS diagnoses in the American Indian population represent less than one percent of the total HIV cases reported; however when population size and rate of infection are taken into account, in 2003 the Native American population was ranked third in the rate of HIV/AIDS diagnosis.

Epidemiological data released by the San Francisco Department of Public Health in 2003 indicates that the HIV prevalence estimates among those identifying as Native American is nine percent. This rate is twice as high as any other ratio or ethnic group. The San Francisco prevention plan also cites other studies that indicate a 24 percent HIV prevalence rate among Native American men who have sex with men, and...21 percent [prevalence] among Native American male-to-female transgender [people].

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43 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Additionally...the number of HIV/AIDS diagnoses among Natives are relatively low. These may be affected by racial misclassification. Fifty-six percent of American Indians with AIDS in Los Angeles [were] racially misidentified. Seroprevalence data underestimates the scope among Native Americans

Most recently in San Francisco...[it is] estimated [that] AIDS cases among American Indian adults and adolescents [are] 10.4 cases per 100,000 persons. This is the third-highest rate, just after African Americans and Latinos. Native American men who have sex with men have a wide range of identities, from heterosexual to gay, bisexual or Two-Spirit. American Indian men who have sex with men come to San Francisco from all over the United States, because there is more acceptance, tolerance, and acknowledgment of their orientation and identity than other parts of the country.

Unfortunately, mental illness, substance abuse, and HIV are significant problems among this population, often due to oppression, homophobia, shame, and unresolved life traumas. Gay, bisexual, Two-Spirit men make up the majority of HIV/AIDS cases in the Native community, and many of these men cycle back and forth between urban areas and reservations.

[Concurrent] substance abuse and mental-health disorders are a significant problem among American Indians. Mental...illness is a major problem for American Indians, and is a vicious cycle, which includes substance abuse and violence. [With] LGBT American Indians, the average age of beginning injection drug use [is] 13 years old, [happening] often immediately after a rape or molestation. Due to cultural displacement and lack of employment, many have resorted to prostitution in urban settings like San Francisco, often with multiple sex partners.

Homelessness is also a significant issue with our population. While representing less than one percent of the U.S. population, it is estimated that American Indians constitute eight percent of Americans who are homeless. A study of American Indians admitted to the Emergency Department of San Francisco General Hospital found that the majority of admissions were men between 21 and 64 year of age, and were homeless.

Since the onset of the AIDS epidemic, people with HIV, who also have mental-health and substance-abuse problems, have faced an uncoordinated, fragmented, and often insensitive system when accessing services. Barriers to access are even higher for Native Americans, reflecting the health disparities and the invisibility, misclassification, misrepresentation, and a lack of funding for adequate service and treatment which pose major challenges for mental-health services among urban Native Americans.

For example, many state and local governments erroneously assume that the Indian Health Service is solely responsible for the health needs of American Indians. American Indian tribes and urban Indian organizations are often denied funding opportunities available to other citizens.

In February of 2006, the government proposed the elimination of the entire urban Indian health program from the Indian Health Service budget. This proposal will terminate most urban Indian health projects across the United States. It is essential for the health of the Native community in San Francisco that every effort is made to ensure adequate funding for primary care, mental health, housing, and HIV prevention services. Thank you.

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SAN FRANCISCO**

**Eugene Hightower – Walden House, Reach Program**

Hello. I'm visiting from Walden House... I'm the manager of the Reach Program at Walden House. I'm a psychologist. And what the Reach program is...funded by the Center for Substance Abuse Treatment, which is out of Washington, D.C. CSAT grant. We're starting our fourth year of a five-year contract...[T]he reach program is...an enhancement program at Walden House, where we offer clients in recovery at Walden House, whether they come in the TCs, the psychotherapeutic community outpatient or day treatment -- enhance the cultural services.

We work with African American clients, American Indian clients, Asian/Pacific Islander clients, and Hispanic clients. So with the reach program, we have staff members from each of those ethnic groups working there. And we have many groups that clients share together, such as groups that help them learn how to deal better with stress and emotional upheaval, post-traumatic stress, that sort of thing.

And then we have subgroups, specific groups on building cultural strengths. We invited speakers to come in and speak to the clients and the staff about American Indian cultural values, African American, Hispanic values, Asian/Pacific Islander values. And each of those individual clients groups meet every week. We do a pipe ceremony. We go to sweat lodges. We go to cultural events, such as Pow Wows, American Indian Film Festival.

That's not just to have fun and get out in the community. We try to encourage the clients to have greater pride in their background and in their recovery, and use that in the recovery process. We believe that when a person has an addiction to drugs and alcohol, they feel at the bottom of society; and often they get kind of confused thinking maybe the reason why they're in the bottom of society is because of their ethnicity, as opposed to seeing their ethnicity, identifying what their cultural strengths are.

We're going to help them. We try to encourage that kind of process, both in groups and in individual meetings with clients. When clients leave Walden House...let's say they don't complete their program or they are asked to leave early...sometimes people relapse in program. We work to get them in other programs. We work a lot with programs in the Friendship House. We work with Asian Recovery Services. We work with other groups to get our clients -- our goal [is to] help people recover, whether they do it with us or someone else.

Clients come see us on an outpatient basis. I think we're a very strong enhancement program. I think what's important about our project, too, is that, in terms of the Native American community, you need to have...organizations that are not necessarily Indian organizations, [yet] also have cultural sensitivity and awareness, because with an area like substance abuse, you will have the phenomenon: people don't make it in the program. Either they relapse -- recidivism with alcoholism. You need people to be able to go back and forth between programs.

We've had this with many other programs. People with us leave; go to other programs. Sometimes they come back, or we get them from other programs. But it's good to have sort of a cultural sensitivity in other large city programs or programs that deal with multiple communities, as opposed to just saying, "Oh, just go over to that program." They deal with Asians, Indians, [and] Black People. There's a place

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

where they try to understand as best they can several different groups. We're a good fallback in that way. We're a good resource, I think, in the community that way. And we also have a focus in our program of HIV transmission prevention. So we do a lot of health education and lot of discussions with clients around preventing getting HIV and other things that compromise their wellness.

I want to mention while I'm here, away from my comments on Walden House program...about ten years ago, there was a subcommittee headed by Connie Bear King from Human Rights Commission ... We compiled a report at the end of that. We served it at City services. And ... there should be a report someplace. So I hope you find that, because I think one of the scary things about these kinds of things: you can do a lot of investigation, thinking, write it all up. It goes on a shelf. And ten years later, no one knows what it is.

Things change a lot in ten years. It's helpful to know what was documented before, if you can find that. We did meet. I was on it for over a year at that point, so it was a very long process. So I hope you can find those documents. So I think that's pretty much all I have to say. And I think, again, my hope that when you're looking through this, one of the important things in the committee that I was on before that we thought was pretty important was that all City services become more aware of the cultural values of Indian people, so that when they interact with Indian people, they'll have some sense of the importance of maybe certain attitudes, certain ways of dealing with people that may be different in one community from another.

I had a client came to our program; told me he was in another program once in a city where he got in trouble for burning sage. He wanted to pray, and was burning sage. The person...thought that was weird. And...that person needed to be in a place where people understood that Indian people burn sage where they pray. It's not some kind of far-out, strange ceremony. Some people think they're smoking marijuana when they smell it.

Getting people to be sensitive to [the idea that] Indian people do things differently in that way is kind of important. So I hope that one thing that comes out of this, just to encourage in-service trainings with staff around being more aware of Indian cultural values and sensitivity throughout all the programs, not just, specific places. That's all I have to say. Thank you.

**Ted Guggenheim – California LGBT Tobacco Education Partnership**

...Thank you for the opportunity to testify before you today. My name is Ted Guggenheim. I work for the California Lesbian Gay Bisexual Transgender [LGBT] Tobacco Education Partnership.

The Center for Disease Control [CDC] reports that 40.8 percent of adult American Indians and Alaska Natives are smokers. This is the highest rate of commercial tobacco use among every age, ethnicity, and gender category of the United States. According to the American Indian Tobacco Education Partnership, traditional use of tobacco by American Indians does not resemble the common [inhaled] cigarette smoking (which results in much disease and death). Inhalation of tobacco smoke was not appropriate in ceremonial contexts. Many tobacco companies continue to appropriate American Indian images and

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

cultural symbols for their packaging and marketing campaigns, and the misuse of this imagery is intended to mislead consumers into believing that brands of cigarettes are healthy or show respect for Native culture.

The truth is that tobacco companies such as American Spirit - that is owned [entirely] by R.J. Reynolds - [have] no higher goal than to increase their corporate profits. As you can see in the two American Spirit ads that I've provided, the tobacco industry not only misuses American Indian imagery, but they also target the LGBT community through their manipulative advertising techniques of equating our struggle for the freedom to marry with the freedom to smoke their cigarettes. And for those who can't see this particular ad, it says, "Freedom to speak, to choose to marry, to participate, to be, to disagree, to inhale, to believe, to love, to live. It's all good." And also they have used subtle airbrushing - They've subtly airbrushed a rainbow onto their packaging for ads used on 20 LGBT magazines.

The last handout I provided was developed into a magnet by the American Indian Tobacco Education Partnership to educate about the difference between traditional and commercial tobacco use. For those who can't see that ad, it says, "Tobacco came to us as a gift. Keep tobacco sacred." Lastly, I'd like to recommend that the Commission show their support for efforts to educate the public regarding the differences between traditional use and commercial use of tobacco, to fight against the tobacco industry's misuse of American Indian imagery, and to support the increased availability of smoking-cessation programs for American Indian communities that are disproportionately impacted by commercial tobacco. Thank you.

**EDUCATION, YOUTH, AND FAMILY**

**Eddie Dang (Tsalagi/Hawaiian)**

Good evening. Thank you for inviting me to present tonight. I'm a student enrolled in high school in San Francisco. And I'm coming here with a message for you are folks. We have a bit of a problem. It's more than the singular, but the one I'm going to focus on tonight is the inability of the school district to keep the story straight on Native cultures, both in the past and present.

Going to public elementary school, I had many negative experiences surrounding my heritage, and the misunderstanding of that; a personal favorite of mine being an incident with feathers, little leather straps wrapped around my classmates' heads: Thanksgiving assembly. See a little yelling, screeching, palms vibrating in front of their little mouths: a little party for the slightly bewildered. Buckle hat. Standing about five feet away, I remember sitting there in the audience, not really remembering what to do to fight off the burgeoning headache, watching the teacher swell with pride at his class's acting ability.

Looking back, I wish there was a bit of distinction between dramatization and reality in these things. So I -- what I'm saying is, you know, not allowing blackface from the African American assembly, too, if this is help-able. So middle school wasn't much better. It was most evidently a change. Instead of having a situation where it was primarily, "You can't be an Indian; all those redskins are dead. You don't look like it, so you're white," it became, "Wow. You're Native American."

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

And I soon became the teacher resource, the expert on all things red, regardless of region or culture. I like being able to preach a little bit about the lost Italian. I wasn't exactly an authority on my own tribe's culture, let alone the Native population of the Americas. It put the burden of management, research for all that information on me, a challenge that, at twelve, I was a little ill equipped to face. And even now I couldn't completely outline for a class the current Native perspective, let alone the cultural background and histories for all of that information. It gives me a bit of headache just thinking about it.

This sort of behavior sets me apart from my fellows in a big way. You can imagine having to basically teach a course to your peers. I can't do that, but it's a little bit hard, you know, to make any good, long-lasting friendships, with the chums you hang out with constantly waiting for you to do something interesting and ethnic; wouldn't you say?

Now at my current school, faced with the predicament again, we have a class preaching our utopian societies so terrible, that they're all dead and gone now, with their complete freedoms and racism, free minds. Being a little bit of a jerk, I bring up the highly controversial subject of the slave trade in Indian country during the early 1800s. The best part - no one believes me, singing our praises, which I'm not against, by any stretch; but it is a little aggravating having valid, important information tearing down the argument denied outright. And this problem is just a result of poor education.

If the system were to keep the information consistent, we wouldn't have this problem. It just needs to be accurate and as thorough as it needs to be, so my sister can be allowed to wave the Cherokee flags at our schools in national assembly without having to argue. Thank you.

**Christopher Gomora (Anishnabe)**

First I would like to ask forgiveness from the grandmothers and grandfathers in this room, for being arrogant and speaking before them. Second, I want to acknowledge the people of this land, the Ohlone, because I am a guest here in their homelands. And thank you. My name is Christopher Scott Gomora, Ojibwe Nation, Bear Clan. Fortunate or unfortunate, I was raised in my people's tradition here on the urban "rez." I am a student at City College, San Francisco. Now, for a school that touts about its diversity, this is what I get to experience: [In] my very first English class, I get to read about the savage Indians. In my college prep class, English, I get to read about how Columbus said we would make fine servants. No. Historical fact - he said we would make fine slaves.

I get to face four classes on campus that are not taught by indigenous instructors, but are taught by the oppressors, and they carry the oppressive attitude. As far as representation on campus of indigenous peoples, the only types are either Meso or South American subjugated people, or what I call the "Diego Rivera Indian," which is a representation of a wooden Indian with an artist on bended knee with a stick at his crotch. This particular Indian is - as it has been pointed out by a historian, is that it was [Rivera's] dig at America over what America has done to the indigenous populations. Well, that may be very well, but I, as an indigenous [person], see that representation, and I know that representation comes from a period in American history [when] the only good Indian is a dead Indian. It's wrong.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

In my work with the Commission, I have been trying to get credit for - college credit for the work that I'm doing here. Because I am not African American, Latino, or Asian, I do not have the same access to education; for if I were any of those other races, I would have had a choice of a three-unit independent-study class. Now, I wasted eight weeks of my first semester learning how to navigate the bureaucracy at City College, in the end, to get three units: one in history, one in sociology, and one in leadership. Now, to get those three separate units, I had to write 12 proposals. For finals, I will have to write three separate papers. Is that fairness and equality in education? Thank you for your time, and thank you for hearing me.

**Dr. Andrew Jolivete (Atakapa/Opelousa)**

Good evening. Thank you for the opportunity to speak to you today about issues impacting the Native American community in San Francisco. My name is Dr. Andrew Jolivete. As a professor of American Indian studies at San Francisco State, I'm aware of the myriad social and economic problems facing our community. As a small ethnic group in the United States and in the City of San Francisco, American Indian people are facing enormous health risks and disparities, ranging from a lack of preventative care to diabetes, heart disease, and HIV and AIDS.

At San Francisco State University, we have a number of Native American students who, while active, face many obstacles. One of the most challenging issues for our students has to do with the overall educational system. Because of curricular bias, many students are not prepared to take courses in American Indian studies. This in large part has to do with the failure of school curriculum to go through a thorough anti-bias assessment as it relates to American Indians.

As a former middle school dean in San Francisco, I am also aware of the many obstacles to balancing diverse curriculum while also meeting state standards. However, if there was a way to improve the number of students who are, number one, prepared for college, and, number two, to have accurate and fair information about the history of Native Americans in K to 12 public schools in the city of San Francisco, it would go a long way in addressing issues of feeling invisible and unsupported by the education system.

Having a unique legal status makes American Indian people a unique community to work with and identify. Problems with blood quantum, federal recognition, and tribal enrollment have severe impacts on our students' abilities to obtain scholarships, health care, and other services.

One thing that the Commission can do to support the work that we are doing at San Francisco State would be to write a letter of support for our implementation of a Bachelor's degree in American Indian studies before November 10th. As one of four departments in the only college of ethnic studies in the country, we are the only group without a B.A. degree, and are currently experiencing some political obstacles to this plan, and hope that the Commission would agree that this degree will go a long way in addressing historical inequalities for Native Americans in the City of San Francisco.

From my perspective, the other major problem facing American Indians is the poor cultural representations of them throughout the city of San Francisco. There are too few images that are not stereotypical, and too many that are insulting. Things like a statue of Christopher Columbus, the

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

“Hitler of the American Indian Genocide,” are not, in our mind, an appropriate symbol of the City of San Francisco. I believe that there should be a parade in the City of San Francisco to promote Native American visibility, cultural recovery, and to provide information about services that are available to our community, from health care to adoption, counseling, education, and job opportunities.

Because others are here from several peoples today, I'm keeping my remarks short, and want to focus on my recommendations to the Human Rights Commission regarding the inequities faced by Native people in San Francisco, and what the City can do in a proactive way to ensure that our community will thrive into the future, especially in light of the fact that the average life expectancy in our community is 45 years of age, and we are the only ethnic group that is three times more likely to be the victims of violent crime perpetrated by people outside of our communities. Most violent crime happens within the same ethnic group, except in our case.

We see the continuing colonization of our community, and are pleased that the City of San Francisco is taking the initiative to deal with some of the concerns. So my specific recommendations are the following.

One: [that] the Human Rights Commission...write a letter of support and endorsement for the implementation of a B.A. degree in American Indian Studies at San Francisco State University by the fall of 2007, as is scheduled, and to extend this letter to our university president, Dr. Robert A. Gordon, with a copy going to our department, Chair Dr. Joanne Barker.

Number two: that the Commission increase City funding for urban Indian health centers, because of the possible impact that local Indians will feel, because of last year's federal budget cuts. Seventy percent of Native Americans now live in urban cities; not on reservations. So, without funding for these centers, we will see rises in unemployment, health problems, drug abuse, and homelessness.

Three: that the Commission establish an annual indigenous people's day parade along Market Street in San Francisco in October, to follow the annual gathering on Alcatraz Island the second Monday of October.

Four: that the Commission change the street name of Junipero Serra, near San Francisco State University at Holloway Avenue, to Richard Oakes Boulevard, in honor and recognition of his leadership during the Indian occupation of Alcatraz from 1969 to 1971. Oakes, a Mohawk, was a student at San Francisco State. I believe the name *Junipero Serra* has a bad place in California history, because many of the missions that he founded are responsible for the deaths, decimation of the California Indian population. If the Commission is unable to change this street name, I still encourage that a street be named after Richard Oakes.

Five: that the Commission encourage the City of San Francisco Board of Supervisors and the Mayor to declare a resolution calling for the federal recognition of California tribes in the Bay Area, who are unable to get services because they were the last tribes to be colonized, and the U.S. federal government refuses to acknowledge them. While the City cannot grant [those tribes] federal

78-2  
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50 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

recognition, we can bring national attention to the issue by approving a public resolution on this issue, similar to what happened with the gay marriage issue. I think it brought national attention to that issue. And I think the same could be done for California tribes who need federal recognition.

Six: that the Commission work with the San Francisco Unified School District to establish a K to 12 American Indian Charter School in the city of San Francisco. There is already one charter school in Oakland, and it would be great to have one here, too, to help young Native students learn together create community with non-Natives, and to increase college enrollment rates among American Indians in San Francisco.

Seven: that the Commission work with San Francisco Unified School District to contract a diversity consultant to assess and create an adoptable plan for curriculum reform in all of San Francisco K to 12 public schools where Native Americans are concerned.

Eight: that the Commission work to create an American Indian resource room at the San Francisco Main Library, similar to the one that already exists for other ethnic groups.

Nine: that the Commission considers removing the statue of Christopher Columbus in the vicinity of the library.

Ten: that the Commission work with the City of San Francisco to establish a scholarship program for American Indian students to attend local universities, colleges, and trade or vocational schools.

Eleven: that the Commission work to establish an American Indian community resource center as a clearinghouse for -- and a similar resource like LGBT center on Market Street. The focus of this center would be to bring all American Indian focused community-based organizations and nonprofits together to enhance the lives of our people in San Francisco. This center should house programs in the arts, education, health, homelessness, and a job-training [program] for youth and adults.

And finally, the Commission should work with the state NAGPRA offices -- Native American Graves Protection and Repatriation Act -- to make sure that the City and all facilities housing human cultural and funerary remains of Indian people be in compliance with federal statutes. This should include universities that currently house these remains. I want to thank the Commission for their time. And I'm happy to assist in implementation or planning for any or all of these recommendations. Respectfully yours.

**Lori Taguma (Lac Courte Oreilles)**

Good evening. I would like to thank the San Francisco Human Rights Commission, Mayor Newsom, Marcus Arana [natoyiniinastumiik (Holy Old Man Bull)], for holding this historic event for Native Americans. I'm a bit bleary eyed, because I've just driven -- well, I drove and then flew in from northern Wisconsin, where I just relocated back to my reservation on the Lac Courte Oreilles Reservation in Wisconsin.

San Francisco Human Rights Commission

46

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

I have lived in San Francisco for the past 13 years; in California for the past 28. Currently, I'm still on the board of the American Indian Child Resource Center. I also sit on the board of the Art Commission in Berkeley. I have experienced many things while I've been on those boards, and I've seen many things that are not quite as they should be.

Recently, I did move back to my reservation, to escape the chaos that I found in the urban environment of Berkeley. I found that my reservation was an oasis, compared to what I have experienced here while living in Berkeley. Parts of my life here were great, but I've found that the reunification of my traditional culture, my family, and my community brought back my spirit, which I was not finding, sadly, here.

I am now a general manager of our tribal radio station, a Pacifica Radio affiliate, WOJB 88.9 F.M. And I feel that it is a great voice for our community in the Woodlands area. I left here because I found that there were not many opportunities open for me, as well as other Native Americans. And unfortunately, although I feel I am one [of] the fortunate few that have a degree from U.C. Berkeley, it took me 25 years to get that degree, as I struggled to overcome the genocidal effects of our culture.

My grandparents went to boarding school. I went to boarding school. And I know many people whose parents and grandparents suffered from the boarding-school abuses. And I do wish that I had the 20 years that it took me to overcome the effects of that genocide, although I feel that I'm very stable right now, I would like to help other Native Americans who are following in my footsteps. And they do say that it takes three generations to overcome the effects of genocide within a family system and within a community.

I see those effects daily. The Bay Area has the second largest Native American community in the country, and yet they are mostly living in east Oakland. The opportunity is not opening for them as well as myself up to a certain point. The Child Welfare Act (as well as organizations such as American Indian Child Resource Center) [has] played a large role in the reunification efforts, but we need to stabilize our families within this economic climate as well as our cultural and our land base. I completely agree with the gentleman [who] was here before me - that the California Natives need to define their land base, and they need federal recognition.

We also need to redefine our public art projects. We need to create them for ourselves, in our spiritual way, and with our cultural boundaries intact, replacing the fetishized, sexualized, and reductive imagery that perpetuates the cycle of violence against Native Americans. Otherwise, our culture will remain stagnant. As First Americans, we deserve to live in a community free of poverty, pollution, hostility, and institutional racism, as we all do here in San Francisco. Thank you.

**Kim Shuck (Tsalagi)**

Hello. Thank you for inviting me. And I'd like to reiterate something that a number of people have said - I'd like to also thank the Ohlone people for allowing us to be guests here.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

When I was asked to speak on cultural appropriation, I wasn't really sure where to start, because it's such a huge issue and it's so pervasive that I was wracking my brain. And, then I teach art and math at an elementary school here in San Francisco. So in the process of wracking my brain to figure out what to say, I took a pause and went to go teach my class. And I was noticing these columns of paintings arranged around a school, and didn't really pay them much mind, although some of the top images on these columns had wings. And I thought maybe it seemed a little familiar, but I wasn't sure what that might be.

So I walked into the classroom. And the teacher that I work with said, "Did you see our totem poles?" Oh, no. So I went back outside and looked at them with the new information and thought, well, who knows; it might have been an interesting assignment. So I went back in and asked her, well, what was the rest of the assignment? There wasn't a rest of the assignment. Basically, someone who was teaching art noticed the phenomenon of carved totem poles, extracted all cultural importance from them completely, and turned it into a 2-D drawing lesson for a bunch of second graders. Now they're all over the school.

And I know that part of this hearing is probably a process for you guys of hearing details over and over and over. And I understand that...unless you're in the situation, it might not seem like these details are hugely important, but I'd have to assure you they are, because life is made up of those details and those moments.

And I have to say the reason that I don't teach very often, after 22 years of officially teaching in and out of San Francisco Unified School District as a resource person, after teaching at San Francisco State University in American Indian Studies, I no longer do this stuff. And part of the reason is my heart just can't take it. I'm heartbroken most of the time. If I'm not wandering around through halls of perforated Styrofoam Dreamcatchers that nobody bothered to process information about, it's totem poles or teepees or whatever the heck else, or it's me going in and having to argue with teachers I've worked with to have my children be allowed to carry their flag in the international assemblies around the school district. And it's really depressing.

And I'm sure there are already rules about this, which is why it sort of feels a little embarrassing to have to come and say, hey, by the way, this is difficult. It interferes with our students' ability to continue in school, and it's absolutely culturally inappropriate.

...If, instead, picture life-sized crucifixes on the walls in the schools. I'm sure I would not be the only person having an issue...One project that particularly offended me was a teacher had the students make Native clothing out of paper shopping bags, and then they dressed up in it and went whooping around the school. And when this sort of thing is mentioned, when somebody mentions it, if you can hold your temper and not fall into the trap of becoming shrill and very upset, like you were really upset - In other words, I'm not allowed to use in this setting -- then people will say, well, I think you're overreacting; I think it's an overreaction.

It's not an overreaction when you look at the dropout rates for our students. It's not an overreaction when you see what our life expectancy rate is, a good percentage of which is disease caused by stress or contributed to by stress. This is killing us. It's killing us. The life expectancy for a man

78-2  
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53 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

used to be a joke in my family between me and my father, because you laugh at things in order to not have them affect you too deeply. The year I gave birth to my son, we stopped having it be a joke. It became extremely important to me that this change. I did not go through four days of labor to have that boy in order to have him die at 45.

We need to make sure that it's clear to people that the authority over information about the Native American people needs to rest with us. Twenty years ago, when I started teaching, the problem was articulated as, "we had not produced enough of our own materials for them to be used." That's a bad excuse now, because we've all written books. There are a lot of people standing here in the room today who have written them. I have one. There are a lot of people here who have them. We have the material. It's out there. The curriculum is out there. We are, as [Dr. Andrew] Jolivete pointed out, in a city in which the first Native American Studies Department started. There are people in that program who are excellent, and, if paid, I'm sure would be a great resource, because we also need to not have to do this for free anymore...

This is one of my big bugaboos. I have 30 emails in my in box right now for me to come speak during the season which for me is the period between "Lost Italian Day" [Columbus Day] and "Glutton Day" [Thanksgiving], and I can work every single day, talking about Native issues during this time period, but nobody wants to pay us for it. I have several degrees. No one wants to pay us to do it. And it's depressing. So I would like to say...my recommendations follow so closely on those of Andrew Jolivete. And I do not want to take up your time doing that, but just to review what he had to say, and to just thank you very much for this opportunity to air some of these issues.

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**Anita Mendez (Washoe)**

Good evening. I am from the Washoe Tribe. We have a program that's administered by them here in California. Presently at this time, we have five agencies. [The program] is a temporary agency for needy families. We are federally funded. We're similar to Cal Works, but our agency is especially for Native American Indians. And what it is [that] we try to bring them to self-sufficiency...and our mission is actually to achieve and ensure the integrity of the environment and the way of life that is with one's nature element.

We have a cash assistance program with them, where they receive \$100 more than what Cal Works gives them. We have an incentive-program for them also, ... if a child is receiving a C average, they will receive \$50. If another child is receiving a B average that's \$75. And an A -- they receive \$100. And then with that, we also help them, the Native American Indians. It doesn't matter that they are on the roll, but they just need to be a Native American Indian across the United States or on the California judgment roll. And then what we do is we go ahead and see if they qualify for a program. So if there's only one child that's Native American Indian in that family, then we will serve them.

And with that, we give them traveling expenses to school. We have education monies for them... We try to lead them on into family self-sufficiency. In the career department, we have our own computer lab. We have tutoring. We have marriage promotion, fatherhood promotion, and youth and cultural awareness all available in that program. And, as I said before, we have an agency in Alameda, San Jose, San Mateo, Santa Cruz and San Francisco. And I think that's about it. Thank you.

49

San Francisco Human Rights Commission



DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO

**CULTURAL, POLITICAL, AND SOCIAL**

**Mona Stonefish (Mowhawk/Potawatomi)**

Good evening, fellow Native Americans. First, it's discrimination that our [Eagle] Staff is not up higher with the American flag and the flag of this great state of California. I want to give greetings to the honorable Mayor Gavin Newsom, and the honorable members of the Human Rights Commission that sit here this evening. Please open your hearts and open your minds. We are Native Americans.

My name is Gahawane (phonetic) Mona Stonefish. I hail from the great Mohawk Nation of the Six Nations Confederacy, and the great Potawatomi Nation of the Three Fires Confederacy. I am Bear Clan. My people have been on Turtle Island -- this land now known as North America -- for thousands of years.

San Francisco's homelessness is a national disgrace. Shame on us. Homelessness is a growing problem in San Francisco. As successive governments have reduced social service spending throughout the country, more and more San Franciscans have found themselves without homes and are on the streets. What a shame. There are many reasons for being homeless as there are homeless people. The homeless population includes individuals who are from all walks of life: well educated, and uneducated; highly skilled, and those who have never worked. Many homeless people have become detached or have burned bridges with their family systems, and have nowhere to go except to the streets.

The most striking point about homelessness is the misconception that people choose to be homeless. Historic policies have led to fragmentation of our Native American communities as well as our families. We have Native American families who find themselves homeless. People did not grow up dreaming that some day they hope to sleep in a doorway. They do not grow up aspiring for "three hots and a cot." When they are picked up for vagrancy or public intoxication, people do not grow up wishing to sleep in a concrete driveway, covered with newspapers and soiled clothes, or say, "I want to grow up to be a panhandler." Shame on us.

It is true that some people choose to sleep outside versus to stay in a shelter where they may be at risk for theft or assault. Many homeless people have become very hesitant to accept help. Most homeless people have had a poor experience with the system, and find it difficult to trust others, especially in the areas of mental health services.

This is why it is important that Native American service providers are included in all funding allocations. If you were to offer homeless people the opportunity to have their own place, they would take it. They would choose to be housed if the option was there. There is no question that more affordable housing would go a long way to reduce the number of homeless in San Francisco. But will providing a roof solve the problem? No, absolutely not.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

If homelessness is recurring for many homeless people, we could expect that even if they had a house, even in affordable housing, they may not be able to maintain their housing. Perhaps, particularly for the individuals who are afflicted with mental illness, there may be living-skills deficits that prevent them from being able to maintain their mental health and housing without some outside help.

Homelessness is a problem for Native American peoples. It is also the problem in the broader community of San Francisco. I would like to task this committee to think about how funding is allocated, specifically for Native peoples. We are a people devoted to community. It breaks my heart to see any human being [lying] in a driveway with soiled sleeping bags and clothing. For this reason, my friends, both housing and ongoing support are needed to combat homelessness.

Once people are housed, they need support services, social workers, community Case Workers, and mental health service providers who can assist them in learning new skills and help them regain balance of wellness. Then, they will be residents, to become productive members of our society, first by finding jobs or returning to school. I've seen it happen. Workers are needed who can assist them in reintegrating into their communities or reconnecting [them] with their lost families.

How is this done? Through service providers who the community trusts; by affording funding that allows Native American people to provide the services, not just in the confines of our offices, but through the community, building and developing trust through inclusiveness, and by building trust with those members of our community who have given up hope.

And it is done through the recognition of government officials that Native Americans must be included and have their voices heard at decision-making committees at every level of government, including the Human Rights Commission. What an opportunity for this innovative city of San Francisco to set the example to the rest of the state of California, and this nation to include the voices of Native Americans, by appointing Native Americans to decision-making boards of the City and the County of San Francisco. Ladies and gentlemen, brothers and sisters, I urge you to recommend funding for Native American service providers, so that our community members can assist our relatives and stop the vicious cycle of the homelessness. Together and collectively, we can make a difference. Yes, we can. Thank you.

**Michele Maas (Chippewa)**

Good evening, and good evening to my brothers and sisters. Sorry for my back to you. Let me begin by thanking the honorable Mayor Gavin Newsom, and the City and County of San Francisco Human Rights Commission, as well as Marcus Arana [natoyiniinastumiik (Holy Old Man Bull)], for providing this very important yet long overdue hearing by the City and County of San Francisco on Native American issues.

It is good to be invited to speak about the needs of our community and how discrimination has impacted our lives. My name is Michele Maas. I'm an enrolled member of the Bad River Band of Lake Superior Chippewa Indians. I was born and raised in San Francisco. However, my family relocated here during the World War II era for employment opportunities.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Today, I stand before you as a woman - a Native woman affected by historical genocidal policies of the past, with personal and professional experience on how those policies impacted my life, my family's life, and the lives of my community. I have a Masters of Social Work degree, and I'm currently accruing hours for licensure by the State of California Board of Behavioral Sciences as an LCSW. I currently provide mental health services, psychotherapy for Native Americans at the Native American Health Center Family and Child Guidance in a San Francisco clinic.

What I want to say to you tonight is that it hasn't always been that way for me. And I have currently been growing into my role as a mental health professional. There was a time when I had given up hope and thrown in the towel on life. Today, I have 14 years [of being] clean and sober. I'm a recovering heroin addict and alcoholic. And I understand how I got to where I am today, and the journey that brought me here.

Today I can give back to my community, so that the hopes of other Native American peoples may be restored. As Native Americans, we know in making decisions and choices today, we must consider the next seven generations yet to be born, because our choices and actions will affect those that are yet to be born.

In the interests of time, I will speak to a major form of discrimination that affects Native Americans in the urban areas, particularly in San Francisco. This discrimination is a very subtle form of discrimination. It is discrimination by omission, or we can call it "exclusion from the process," or it can be called a "lack of voice," and "invisibility."

Last night my relative [Mona] Stonefish and I attended the City and County of San Francisco's Mental Health Board meeting here in City Hall. I heard some statistics and alarm from Department of Human Service Child Welfare Administrators about a disproportionate number of African American children in the child welfare system. What I did not hear was any mention of the percentage of Native American children in the system in proportion to the American Indian population in San Francisco. Now, you might say, why is that important?

It's important because there is a federal law called the Indian Child Welfare Act, of which I am very proud to say my relative was part of the activism that propelled that committee and commission into action during the 1970s: [Mona] Stonefish. And I want to acknowledge her for that activism. The law was passed because a United States congressional committee found a disproportionate number of Native American children that were being removed from their homes and placed in non-Native homes.

It is important because nearly 30 years later, I don't hear mention of American Indian children at a Mental Health Board meeting in San Francisco...by the Department of Human Service administrators as they report the needs of and information about the needs of foster care children in mental health services. Once again, we are excluded.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

It is important because I, as a Native American citizen of both the Bad River Nation and the United States, and a resident of San Francisco, don't hear anything mentioned about our needs. This, ladies and gentlemen, is discrimination by omission. I also want to mention that...I didn't see any Native Americans or persons that I knew to be Native American on the Mental Health Board. This, too, ladies and gentlemen, is discrimination by omission. By omission, I repeat. This is.

This is discrimination, to deny a voice to Native Americans that reside in the City and County of San Francisco, when statistics tell us over 60 percent of the Native American population now live in urban areas. The population of Native Americans and Native Americans mixed with at least one other race who identified in the 2000 Census in San Francisco is approximately 10,000. I checked

the United States Census information. I checked some Web sites. I'm not sure if they were official to San Francisco, but the number did not include the number that -- people that identified as Native American and Native American with one other race. This, my friends, is discrimination. As to my knowledge, there is only one Native American person on a board, a City and County board. This, ladies and gentlemen, is discrimination by omission. You make us invisible.

Being invisible and denying us a voice creates a space where American Indians who are already suffering from historical and intergenerational trauma, grief, violence, racism, truly become hopeless. When we believe or internalize the message that our government officials send us, indicating we don't count, we're not important, then drugs, alcohol, homelessness, lack of self-esteem, lack of confidence, and self-worth are the result. We give up, just as I did in my adolescence, at 16 years old. Yes, ladies and gentlemen, not having a seat or a voice at the tables that make important decisions, particularly in areas of funding, is, in fact, a crime of discrimination by omission.

Native Americans living in this unique and beautiful City of San Francisco deserve to be recognized as a population. We deserve our voices -- and please notice I say "our voices," because there are over 500 tribes of Native America that are lumped into the category of Native Americans, and many, many numerous tribes that are indigenous to this state that we now know as California.

And, as urban Indians also living in this city, we have many needs. We also believe we have knowledge to share, methods that may be helpful to the broader community in terms of changes to the mental health system that I hear are under way, but we have not been invited to any meetings until recently, at a conference that was organized in part by the Native American Health Center and state officials. And I was invited by a community member that sits on the board, but not [by] an official. And I'm disappointed to say that.

Today, I am proposing that the City and County of San Francisco stop this blatant discrimination against Native Americans by affording Native American peoples a seat at the numerous decision-making boards of the City. I'm calling upon this committee and Mayor Gavin Newsom to seize this opportunity and expand the City and County decision-making boards, particularly in respect to funding allocations in areas of substance abuse, mental health, prevention services, housing, environmental cleanup areas, and to include the Native American voice. I'd like to thank you. I'd like to thank my brothers and sisters for listening to me. And I'd like to thank the board for listening to my comments.

78-2  
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58 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

**Sally Ramon (Tohono O'odham)**

Ladies and gentlemen...I really wanted to ask the Commission if they could provide for the Native Americans an Indian center. Seemingly every place I've been to, everything I've lived in, there's always been an Indian center, and also a permanent place for us to perform our ceremonies with brush arbor, not to enclose the safety circle, but an arbor around the sacred circle, where people can come and sit. I would like to have a permanent place for that. And that is some of our custom.

I also urge the Commission to support the local tribe, the Ohlone, to be recognized by the federal government and be given tribal homeland in San Francisco. Thank you very much.

**Rope Wolf (Apache/Maya) – Bay Area American Indian Two-Spirits (BAAIT-S)**

Hi. Good evening. I'd like to thank the Ohlone people and the Native Americans of California for welcoming us on their land today. My name is Rope Wolf, and I'm Apache, Mayan, and Irish. I'm a third-generation San Franciscan and, as an urban Native American, I'm also a Two-Spirit, and I am the Co-Chair of Bay Area American Indian Two-Spirits, or BAAIT-S.

Two-Spirit is the term that was coined in the early '90s by Native Americans during a lesbian and gay gathering. Many contemporary LGBTI Native Americans use Two-Spirit to maintain cultural continuity with past cultures, with the past cultures where some individuals possessed and manifested a dynamic balance of both feminine and masculine energies, making them inherently sacred people. Two-Spirits of many people's tribes held honored positions, such as medicine persons, one who married couples, [and] acted as counselors between the sexes handling marital disputes, and teen-agers.

[BAAIT-S] exists to restore and recover the role of Two-Spirit people within the American Indian and First Nations community, by creating forums for the spiritual, cultural, and artistic expression of Two Spirit people. BAAIT-S is a community-based volunteer organization, offering culturally relevant activities for LGBT people or anyone who identifies as Two-Spirit Native American, [and] their families, and friends.

Two-Spirit refers to the commonly shared notion among many Native American tribes that some individuals naturally possessed manifest both masculine feminine spiritual qualities. American society commonly identifies Two-Spirit people as gay, lesbian, bisexual, and transgender. [BAAIT-S] comes together to socialize, share, and network in an alcohol-and-drug-free environment at the San Francisco LGBT Center, and we welcome all people to join us at those events and see what we're up to.

BAAIT-S has recently been awarded a three-year grant for outreach in the LGBT community to provide culturally specific HIV and AIDS prevention [services], and...rapid testing at the San Francisco LGBT Center, for Native Americans and non-Natives. We need help being included in all citywide AIDS health education and outreach, to ensure that Native Americans, straight and gay, can receive culturally appropriate information and referrals.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

Surveys and outreach between our agencies will help serve LGBT Native Americans, including getting future funding for us. So I welcome you to come and find out what Bay Area American Indian Two-Spirits is about and check out our Web site as well. Thank you.

**Bill Simmons – International Indian Treaty Council (ITC)**

Thank you...First of all, I would like to say thank you for taking this opportunity to address the issues at a very, very concerned to Native people, indigenous peoples of this land. The International Indian Treaty Council (ITC), a United Nations nongovernmental organization with consultative status to the United Nations Economic Council since 1977, is pleased to attend this public hearing on Native American issues. A written copy of our presentation will be submitted to you as soon as possible for the record.

American Indians are experiencing a cultural Renaissance. Whole communities are rising up, revitalizing, and taking back their lives and destinies after 514 years, when terrorism began in this hemisphere. Indigenous peoples throughout the Americas are once again reclaiming their land, resources, and spiritual freedoms.

In California, for example, the mighty nation of northern California, who barely lived through the earliest militia period of genocide and colonization during the California gold rush beginning in 1848 into the 1900s, and sanctioned by the California government at the time, has restarted a ceremony not practiced in their territory in over 150 years, called, "Calling of the Salmon." It was held among the Yuba River near Nevada City, led by chairman, Mr. Don Ryberg [phonetic]. The spiritual gathering serves to guide the youth and the generations; that the rivers may flow once again for the health of the nation.

Here in the Bay Area, in the radius of the six-county region, sacred shell mounds of past Ohlone Nation discovered by and protected by indigenous communities. An effort is under way to identify sacred places of ancestors, and not allow them to be disturbed, studied, or removed. The public needs to be educated about respect for the dead, and to honor the living.

Today, October 12th, a federal date of recognition for Christopher Columbus and a state holiday, is a disgraceful gesture and an insult, to say the least, to indigenous peoples of the Americas. Rescinded it must be. And it can begin right here in this room, with members of this chamber. To give honor or respect to this man, that creator of the big lie, and to declare that he discovered America, is like giving recognition to the likes of Adolph Hitler and the Third Reich. This distinguished body gives recognition and credibility to this terrorist period in time, knowing that what ensued was death and destruction. For millions and millions of Indian nations of this hemisphere, 1492 was the beginning of our Holocaust, the extermination of the American Indian.

The American Indian community calls this Commission to communicate to the Better Business Bureau, the Chamber of Commerce, and other business and commercial organizations, and discourage them from further promotion of the Columbus Day sales, and instead, join the new world community, and rename it "International Day of Reconciliation." Further, call on this body to help arrange meetings with the Columbus Day parade organization to initiate a discussion on

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

how the occasion is seen from another perspective. Together, we can make a difference for other regions of the U.S., where this holiday is a dark reminder of a tragic past...Next week, the General Assembly of the United Nations will be discussing the passing...of the universal declaration for the draft of the rights of indigenous peoples. And I think that this City needs to also lend its hand in supporting the rights of indigenous peoples. Thank you very much.

**Alberto Saldamando - International Indian Treaty Council (ITC)**

My name is Alberto Saldamando, and I'm general counsel for the International Indian Treaty Council (ITC)... we have a copy for the Commission of the [draft declaration before the UN General Assembly]...adopted by the Human Rights Council this March...we see it as an advance for the rights of indigenous peoples. Although it's not exactly what we wanted, it does represent a minimum -- minimum standard for the survival of indigenous peoples. It took us over 20 years to negotiate it with the States. And the process -- that was unheard of before, where we actually in a working group negotiated with States. And actually, it was more like insisting; we didn't negotiate.

But that's the result. And we believe it to be a step forward, at a minimum. With regard to the Organization of American States, that has been a much more difficult process. The Organization of American States is not accustomed to dealing with nongovernmental organizations and indigenous peoples, but we managed to set up a process where we are, in fact, in the same room with them, discussing the various proposals by states.

We hope that this gift - this declaration - passes the General Assembly with the next several weeks that it will affect...the Organization of American States process as well. I'd really just like to talk about a little bit -- very briefly -- about the [ITC] and the American Indian Movement. [ITC] was founded in 1974 in South Dakota by the American Indian Movement, in order to take their concerns internationally. If you recall, at the time there was a great deal of oppression [that] had done its worse with Black Panthers, and had begun with the American Indian Movement.

We found a receptive voice at the United Nations - much more receptive than here. And unfortunately, even though now in the United States, despite efforts by some people of very good will, indigenous peoples, Indians are invisible. I think some of the testimony you heard already is that that frustration. Indigenous peoples apparently don't exist. It should be known that the Bay Area houses the third-largest population of Indians in the United States, primarily centered in Oakland, but here in San Francisco as well, as a result of termination and relocation policy in 1950 that was really to break up reservations and have [Native American people] move off the reservation [to] get a job.

The number of -- level of poverty among -- on reservations is very high. Part of the ridicule that Governor Schwarzenegger [articulates regards] casino tribes. Certainly it's true that there are casinos that do produce substantial wealth for their numbers. The fact is that the vast majority of Indian tribes don't have those casinos. They're out in rural areas, and they're pretty much marginalized. So we very much appreciate the hearing. We will raise issues about shell mounds. There are other issues we might want to raise in the future, and we appreciate you giving us this opportunity to address the Human Rights Commission. We thank you very much.

San Francisco Human Rights Commission

56

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**Tony Gonzalez (KumKa' Ak – Seri Nation)**

Thank you, and good evening. I'd like to thank you for this time. And our sister elder who spoke earlier about flags -- we would be honored to have a flag here and to remind everyone that the first flag was a sacred feather of an eagle. That was the first flag motion that we ever saw. And we'd like that placed here in honor of Indian peoples of this land.

Also the shell mounds... that we try to identify the shell mound sites in this area, and particularly, in particular San Francisco, and not disturb, have them disturbed. The United Nations has declared this as a decade for the world's indigenous peoples, and it includes transparency and cooperation. And in that regard, I'd like to thank San Francisco for inviting this Commission to conduct itself the way it is. And it sets a precedent for other cities across this country who are faced not only with the issues of Indian people, but the influx of Indian brothers and sisters, as was said, that are coming here, arriving from Mexico, and Central and South America as well.

How [are] the social services and the health structures set up and prepared for them? This is a good precedence for other cities to conduct similar hearings with their commissions on human rights and other bodies, the boards of supervisors.

I think what's needed here in San Francisco is a facility for Indian communities, Indian NGOs, Indian nonprofit organizations to be established in one central location. There are very few places. We have very little money to provide our activities and our advocacy. Social services are being provided through state and federal funding, but that's the extent -- so a facility for nonprofit Indian organizations.

And more appointments to Commissions, advisories, task forces, committees, and like that. And also perhaps a San Francisco city and Indian community joint Pow Wow. And maybe we can consider that for next year sometime in November. What we're looking for are solutions. So I hope that this talk and everything that was brought out is not just put away somewhere, but it is highlighted, and we're moving forward on these comments and discussions and recommendations. Thank you very much.

**MEXICO, CENTRAL, AND SOUTH AMERICA**

**Santos Nic-Manzanilla (Maya)** (Translated by Ms. Jane Edmonstone)

Ms. Edmonstone: He's happy to be here and have the opportunity to talk in the language of the Mayan Yucateca.

"Commissioners, brothers and sisters of other races and communities, I am grateful for the opportunity to appear before the Human Rights Commission of San Francisco. My presentation today will be in Spanish, and not in my first language, Mayan, because it was not possible to find someone to translate in that language.

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

I came to San Francisco more than 20 years ago, but in the last five years, I have witnessed a wave of Native American and indigenous migration from Latin America to the United States. It is with sadness that I have observed how the economic devastation created by free trade agreements, together with political repression and discrimination, has worked against our people, and forced men, women, children, elders, and entire families to leave their beloved countries and risk everything in search of better futures in this country.

To cross the deserts of Arizona and New Mexico and walk for days, being persecuted and risking our lives and our families' lives is only the first of our problems. To arrive in the city and adapt to a dangerous and hostile way of life is a challenge that our brothers and sisters live with every day.

The way that you see Native American immigration and other issues are two things that are interwoven in our city. Today, more than 25,000 indigenous Mayans live in the Bay Area, and we believe that up to 15,000 could be found living in the City of San Francisco. Even though the pride in our glorious past has helped us keep our ties, in many cases, the drastic changes in our lives have caused devastating consequences. The booming hotel and restaurant business in San Francisco has opened its doors for our youth, who work long hours -- sometimes more than 14 hours-a-day and, in the majority of cases, without any medical benefits for them or their families, and without any guarantee that their workers' rights will be protected, and with the constant risk that they will be unjustly fired at any moment.

Our indigenous youth have been imprisoned because of their involvement with gangs. Victims of gang violence in the last year have included the deaths of more than ten indigenous Mayans from Mexico, who died in the streets of San Francisco. To this we should add all of those who return home at dawn after a long day of work and are physically and emotionally assaulted.

Similar to what happens in our countries, many of our youth who are imprisoned are not connected with the interpretation services and legal council that they need, and because of this, the level of justice that they receive is extremely mediocre. The mental health of our community concerns us enormously. The isolation and separation that we suffer in this country, together with the racism and discrimination that has victimized our youth for years, has marginalized our youth, and caused them to seek refuge in drugs, alcohol, and gangs. Depression, stress, and problems related to long work hours are part of our everyday reality.

While the immigration debate has focused on issues of access to services and on lifting linguistic and cultural barriers for those who speak Spanish and other Euro-centered languages, little has been said about our indigenous migrant communities and our linguistic and cultural needs, the ones that we face here in San Francisco."

Ms. Edmonstone: He says thank you for giving him the opportunity to tell his story, and to listen to his message from his Mayan brothers and sisters.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**Anna Perez – Central American Resource Center**

Buenas tardes. Good afternoon to everyone, especially to our brothers and sisters from the south and the north of this hemisphere. My name is Anna Perez, and I'm the Executive Director of the Central American Resource Center.

As a representative of the Latino immigrant community in San Francisco, I'm here to express our deepest support and respect for the Native American brothers and sisters of the north. We also want to congratulate you, the Commission, for holding this hearing and hearing our concerns. We also want to thank the native peoples of the north for allowing us immigrants from the south, Mestizos, indigenous people, for being here on your land. We want to extend our gratitude also to the International Indian Treaty Council and to Tony Gonzalez's hard work and leadership in working with us immigrants to understand and to create links between North American Indian people and indigenous people from the south.

I was invited here today by Marcus Holy Old Man Bull [natoyiniinastumiik] who graciously accepted some of feedback press release sent by you all Monday. In the [Commission's] press release, some of the language that was expressed created for me some questions about the meaning of the words. The paragraph that I'm referring to reads, "With the national focus on immigration issues, it will be refreshing to address the complex problems facing the original and indigenous people of this country."

First of all, we agree that more conversation needs to be taking place about Native American issues, Native American rights, and that we should not wait for the La Raza or indigenous people's days to begin to talk about this. We believe that it's important to recognize that Native American people of the north have not been compensated for the displacement and devastation they suffer due to colonization, and that they continue to suffer due to colonization and racism.

We trust that the intentions of this Commission were honorable. And we know that you in any way did not intend to create any animosity or any competition between the Native American people and the immigrant people of this city. Native American rights and immigrant rights are deeply linked. A good number of indigenous people that are immigrants that are coming here to San Francisco are from the south, like Santos expressed. They come from southern Mexico, from Central America, from South America.

In Mexico alone, there are 51 native languages that are spoken; in Guatemala, there are 21 [languages]. Indian people from the south become invisible in San Francisco. This is partly because when we take the Census, we ask, "Are you Latino? Are you Native American?" But we don't ask to go into the details about what "Latino" means. Latino is both a cultural term, but also a term that expresses, that encompasses, that brings within it the issue of race. So, by not asking Indian people, and by not giving them the opportunity -- indigenous people from the south to self-identify as indigenous, what we're doing is that we're letting these folks drop right in between the cracks, not being able to have their needs addressed by the Native American community nor by the Latino community.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

And, in many cases, just the term "Latino"...as a Mestiza, or even as a white Latino...white Latinos are seen as the enemy; the folks that have been oppressing native people in the south for many, many decades. So in many ways, Indian people from the south are right now reliving a wave of colonization through free trade agreements that are signed and implemented at the federal level. All these agreements are pushing Indian people far from their lands. NAFTA [North American Free Trade Agreement] alone put 1.3 million campesinos, indigenous people out of work.

So where are these Indian campesinos right now? You know they're right here on the streets of San Francisco. Indigenous folks from the hemisphere have also been working for many, many decades to build links between northern indigenous people and people from the south...[Such as] the border summit that happened a couple of weeks ago. Many indigenous tribes from the north expressed their appreciation, and their objections to building walls, and their support of immigrant rights in the U.S. Also, the 500 years of resistance movement that has been happening for a long time is a way that indigenous people have been linking each other in each other's struggles. Here in

San Francisco, Native American leaders from the north are working to support these new communities of indigenous people that are immigrants from the south. These folks did not ask to be displaced. They did not ask for lands to be taken. [The] taking of their land and their displacement has to do with U.S. foreign policy and economic policy that puts people out of work and takes their land.

So, in light of all the work that native people have been doing - both native people from the south and from the north - we really want to make sure that government agencies, Commissions like yourselves, have a deep understanding of the connections that we have as a people. For us, this misunderstanding or this need to understand is also about appreciating and including all native and indigenous people that are represented here in San Francisco and in the Bay Area.

It would be tragic...if in your efforts to support the needs of one Native American community, we make invisible the existence of another Native American community.

We want to call you to press City government for an initiative, and to direct City departments to survey this growing community in the city of Native American people from the south. As a service provider, it is crucial for organizations like the Central American Resource Center to understand and to know how many native people from the south are here, how many languages are represented, [and] how many nations are represented in this city right now. We must understand their needs, and we need to embrace a new way of providing services to this community.

We also want to welcome the City government to become partners with community organizations like Edison, to be able to identify new resources, to be able to support these new emerging communities. We want to support the International Indian Treaty Council's call for the Human Rights Commission to engage the Columbus Day parade leadership and leaders from...indigenous peoples of the north to come to a dialogue and understand why honoring him is very painful to Native American people of the City.

San Francisco Human Rights Commission

60

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

And I want to end by quoting C. H. Peters, a Sunni leader and a representative of the Seven Generations Fund, “Falls and violent borders have been imposed upon many peoples upon the land, dissecting our mother earth and our home continent in two, in attempting to sever deep connections with the land and with each other. We maintain a recognition and respect for all indigenous brothers and sisters of the Western Hemisphere with whom we traded, we learned from, we loved, we laughed...We are indigenous of this mother earth called Turtle Island, Middle Planet, the Fourth World. We remain bonded together forever, knowing ourselves as the Kiche and Karuk, the Sarawa (phonetic) and Cheyenne, the Cherokee, Chicano, and the Chumash. We are all relations.” Gracias por la oportunidad con ustedes. [Thank you for this opportunity with you.]

**GOVERNMENT**

**Andrea Bruss – Mayor’s Office of Neighborhood Services (MONS)**

Hi. Good evening, Commissioners and all the community members here. My name is Andrea Bruss. I currently work in the Mayor’s Office of Neighborhood Services, primarily doing constituent and neighborhood work with Mission, Portola, and Bernal Heights neighborhoods, as well as Latino communities city wide.

I’d first like to start off by just thanking this Commission as well as all the individuals sitting behind me. As a resident of San Francisco and a representative of this administration, and as a native woman, I would just like to stress my thanks and gratitude for this long overdue and necessary committee hearing that we’re having here tonight.

Recognizing both the complexity and the importance of many of the issues that have been raised here tonight, Mayor Gavin Newsom has, as of today, appointed his Director of Governmental Affairs to lead a unique policy discussion just on Native American issues in the City and County of San Francisco. This will be open to anybody who is willing to participate. Recognizing that the City does not know all it should know about many of these complex and historically culturally pervasive policies, he found it important to designate somebody who would be able to work with the community to independently sit down and address a lot of these issues that have been raised here tonight, both to better educate the City, and – as well as to encourage them on how they can better meet the needs of this population in our community here.

So with that said, we’re hoping that many of the speakers here tonight will participate. And if you have any further questions, you’re welcome to contact myself or my office...and, Mayor Newsom wants to stress that Native Americans deserve and need a voice in the City and County of San Francisco. And so hopefully, through a more designated and independent discussion on many of these complex issues and needs...we can better address and better meet the needs of our community members here in the City. So thank you.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

**Eugene Flannery – Mayor’s Office of Community Development**

Good evening, members of the Commission, members of the community, and members of the Native American tribes that are represented here. My name is Eugene Flannery. I work at the Mayor's Office of Community Development. And I'm here tonight to bring notice to representatives of Native American peoples that we are engaged in a negotiation with the Advisory Council on Historic Preservation and the State Historic Preservation Office that may and most likely will affect cultural and historical resources of your peoples. And on Wednesday, we're holding a public hearing with Landmarks Preservation Advisory Board regarding that programmatic agreement. And we ask and urge you to attend this hearing, to contact me, and to participate in the negotiations of this discussion.

When Ms. Sayers contacted me several weeks ago, regarding this programmatic agreement... I made outreach to descendants of the Ohlone [whom] we were able to contact through the office of the Native American Commission in Sacramento.

[Ms. Sayers] brought two concerns to my attention. One is that Native Americans are always left out. And I'd like to assure you that it is our intention not to leave you out of these discussions. And we invite you to participate in them. And I'd like to also say that this is not an empty promise. And I know that you've been given empty promises before, but please accept our invitation and sit at the table with us. Secondly, she asked that we pay particular attention to the possibility of disturbing the remains of your ancestors. And to do that, we'd need you to participate in these discussions.

So the hearing is on Wednesday [October 18, 2006]...I would like to speak briefly about [the programmatic agreement] and its background. The Community Development Block Grant [CDB] and the Emergency Service Grant programs are programs funded by HUD [the Department of Housing and Urban Development ] primarily intended to benefit low-income persons. As the recipient of those funds, the City and County of San Francisco represents [HUD], and stands in their shoes for the responsibilities under the National Historic Preservation Act and the National Environmental Policy Act. An integral part of those laws are that Native Americans be consulted in regards to any programs that may affect your cultural and historic resources.

So, [with] the CDB grant...we give money to nonprofits to help people who are poor. We provide public service money, economic development money. And what would affect your peoples would be capital grants for the renovations of public facilities, such as giving Walden House money to make a bathroom accessible.

There are some instances when we might just serve services, where issues related to your people would arise. So this is a very technical document. And I apologize for that, but that's necessitated by the nature of our government and our bureaucracy. And I'm going to leave copies of it here. Ms. Sayers...has a copy of it. I also leave copies of the notice for the public hearing on Wednesday.

My phone number is on this notice. And the document can now be accessed on the Mayor's Office of Community Developments web site. And, with that, I thank you.

San Francisco Human Rights Commission

62

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**PUBLIC TESTIMONY**

**Atta Stevenson (Cahto)**

Good morning or good evening. My name is Atta Stevenson, member of the Cahto tribe in northern California. We live below the valley of our creation stories. We have petroglyphs that bear witness to how we live today and all the wrongs that we stand for, and hopefully be aware of witness to things that we are good for, too. I want to talk today about lack of law enforcement...regarding Native American women...Native American women in California - 72 percent are offended against [repeatedly] and [experience] violence against [them by] nonnative men. Seventy-two percent. We do not enjoy the same civil rights as nonnative women in California.

Our children in the eco program have also substandard [treatment]. They do not enjoy the same adoption curriculum of criteria that a nonnative child may need to go through. They don't enjoy those rights. I wanted to also talk to you about disparities in California Native people here. We talked earlier, some of the folks. We talked about regarding urban health. And I'm a rural person, but every one of us stood and wrote to Congress and people here in California, movers and shakers, to support urban health plans, because they are our people. If they have chronic illnesses, where will they go on their last days? They won't come home to rural California. We're not equipped for their health needs.

Whether it be AIDS, HIV - those things we don't have the capabilities that are so dearly underfunded here in San Francisco; but I also wanted to talk mainly about the costs of health care. Who is providing that? This Commission has a right not only to listen, and we really thank them for listening to us, but also to send written comments of support to our tribal people, and say not only [do] we welcome you into these public hearings, but this is your way to get involved. The door has been shut so darn many years, we don't know how to act here. We...talk among ourselves, but it means very little when we don't have the funding resources to do something about it. But today I wanted to thank you for allowing us here and to come forward and always to know that traditional medicine is the power of prayer, and hopefully that we will take part of that with us.

**Mary Jean Robertson (Cherokee)**

Hi. Thank you very much for calling this public hearing. It is way overdue. And I just wanted to...respectfully acknowledge that the Human Rights Commission is one of the few Commissions that has a Native American member on it. Pat Norman is Muscogee/Creek. And I want to thank you for participating as part of this table discussion. I also want to thank all of the Ohlone people who are here and participating, because all of us who are here in this building are living and working and existing on their land. And it's really important to recognize that.

I moved to San Francisco in 1969. I went to San Francisco State. I started working with a radio program called "KPOO Radio." They're the ones that did the Board of Supervisors hearing for a number of years. And I've noticed something very interesting. We're not just homeless individually. We're homeless as programs. We had the American Indian Arts Workshop. The Native American Cultural Center is a homeless program of the Neighborhood Arts Project.

78-2  
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You know, the Mission Cultural Center, the Bayview-Hunters Point, the Western Addition, Kearny Street Workshop all have locations. The Native American Cultural Center has no location for its workshop. The American Indian Contemporary Arts once had a building here in San Francisco where they had a wonderful gallery for people and artists of – modern art and modern areas, to show the American Indian artists are currently doing artwork. That had to close down because of the skyrocketing costs. And it's not the only organization: the California Indian museum on the Presidio. The public library has no American Indian room. And there is no center for Native Americans in San Francisco. So it is the programs that are homeless. Thank you.

**Alexandra Monk (Metis)**

Good evening, brothers and sisters, elders, Commissioners. My name's Alexandra Monk. I'm an HIV research scientist at the University of California San Francisco, and am here to speak both as a human research analyst and as a Native American.

First I'd like to say that every danger associated with HIV has taken place in San Francisco. And it's especially devastating to a community that is constantly in transition, like the Native American community. I'd also like to point out the impact of HIV/AIDS. According to the CDC, HIV/AIDS is still unchecked, and has the capability of wiping out Native Americans in the 21st century. So... if you can, can you imagine the shock that we felt when we heard that?

The Native Americans in the studies I work on, all of [the participants] are HIV positive. All their lives, access to services that are culturally specific... once they come to San Francisco in search of services, and especially Native medical services... these are the agencies which make a difference in the lives of these people, especially to Two Spirit people, who have no real safety net.

And I'd like to say AIDS is a metaphor for a lot of things. We've heard that before, but AIDS is a metaphor for a disunity. And we Native Americans need a cultural center for all Native Americans, Native Alaskans, Native Hawaiians, Aleut, to come together, to meet, be welcomed by the people of the Bay Area and to welcome each other as we come to San Francisco, old and new friends alike.

Like I said, often, however, we have no safety net. And right now we have nowhere to go as Native Americans. Since San Francisco has always served as a haven, as a shelter, and especially in modern times, as a city where wisdom and generosity can be imparted, I'd like to hope we can have a Native American cultural center, so that wisdom and generosity can be imparted to and from each other. Thank you.

**Wounded Knee (Miwok)**

Greetings. First of all, I want to thank my sister, Corrina Bolt [of the] Ohlone people - this is their territory. My name is Wounded Knee. I'm a Miwok. My mother was born on the Tuolumne reservation in Tuolumne, California. She was taken from her home when she was five years old, to boarding schools. Her culture was denied, her hair was cut, and her religion was taken away from her. And they did other things which we know they did to my mother in those boarding schools; what these Catholic priests had done to these little children.

San Francisco Human Rights Commission

64

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

I come to you tonight to deliver a message about sacred sites and burial sites. No sacred or burial sites should be desecrated. There are many, many sacred and burial sites in California. For example, the Pit River Nation is under attack by Calpine. The woman we went to [see] is fighting to protect the river from being flooded by 18 feet of water.

The Glen Cove sacred burial site that is 3,500 years old, dating back to 1500 B.C. - many, many California tribes traveled through that area. For example, the Bay Miwok, Coastal Miwok, the Wappo, the Wintun, the Patwin, the Ohlone, and the Yokut - they came on their tule canoes...to do their ceremonies and, through their ceremonies and cultural dances and other cultural things, had the sacred burial site.

But I come to you tonight and challenge this committee. What are you going to do? We have been promised through many, many treaties - 369 treaties. In each one of them treaties, they gave us rhetoric, jargon, and semantics. I challenge this committee tonight. Can you support us in protecting these sacred burial sites of our ancestors?

So I ask you again. Can you please write a letter to the Vallejo Intertribal Council in support? Challenge you to protect the Glen Cove sacred burial site. I will give you my card. And I want to thank each and every one of you. I want to say one more other thing. Native American people let other people come into these cemeteries because you've got to remember there was racism and discrimination and prejudice. Asian people were brought in to be put in these cemeteries by Indian people. So I ask you to support us in our struggle to protect these sacred sites. It is time to put a halt to it. Enough is enough. So I will give you my card. And I'll be expecting a letter from you. I challenge this board tonight. Thank you very much.

**Fred Short**

My name is Fred Short. I am an American spiritual advisor for the State of California. I came here tonight in support of all of the issues that help in making things better. And I'm thinking some of the words that were said to you; that these are different funding requests that they're looking at generally the possibility that they're able to do...

I started getting into the active field in '71. I'm one of the teachers to bring back our traditional ways and knowledge, and also a traditional healer. I've been on a Spiritual Commission for the State of California; signed treaties of the Department of Corrections to help that the American Indian Freedom Religious Act.

So the things that our people need now, [as] I'm sitting here listening to them, I feel pretty good. A lot of these speakers...because they're older... [over] the last 30-something years...we have people now with M.D.s.

...Hopefully they continue getting these things that they're asking for, and in bringing in people like us, bringing in the elders, bringing in the people...that don't have these other teachings. I don't understand and I don't want to anymore. And since '71...over half of my life now, I've lived as an Indian. And I placed the eagle's staff up there with our bear [indicating California State Flag]. We



78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

are friends with the bear. We're not friends with the other flag [indicating the United States Flag]...because you know the history. And the people here...they continue now to experience what you're listening to. And the desires and stuff - these are the places we need to come to present that knowledge. So I hope you will listen to them.

Those walls for our brothers and sisters -- they should come down, too. That's what this is for, too. They have their relatives here. You know, there should be a better way of handling things like that than there has been.

**Larry Bringing Good (Cheyenne/Arapaho)**

My name is Larry Bringing Good. I'm a Cheyenne Arapaho Indian from Oklahoma. I've been here since 1958. My mother came here in the Indian Relocation Program. She's no longer here. My uncles, aunts are no longer here. They're all dead. They all went back. The ones left here, the people left here now - they have nowhere to go. They're Native Americans that have struggled, that have been here; but a lot of them -- they're not federally recognized. They don't have resources like the tribes do back in their communities.

So there's a lot of people here left with no basic human rights: the right to have teeth; the right to have eyesight; the right to walk on the streets healthy; the right to have medical care for young children and old people. There [are] a lot of resources here. We ask that you listen to our Natives.

And I respect the Ohlone people that are here. This is their land I'm walking right now to help them protect their sacred sites. Months ago, I was sitting out in that lawn, drunk, because I had gone across the United States from San Francisco to Washington, D.C., and I'd seen all the devastation, all the misappropriation of funds that were given to help people survive natural disasters. Our mission across there was to promote paying attention sacred mother earth. Pay attention to the environment.

From there, I went to a world peace conference up there, and I found atrocities that happened up there. I came back here, and I was a lost man. I thought: what the heck? I was out here with these people out here, my brothers out here, drinking on the streets, who gave up hope. I was willing to stay there with them, but something - a higher power - get out of it. Got back to Stockton, where I can come here and stand behind.

This place...reminds me of Roman columns. We all know what happened to that place. We're not here to talk about that. We're here to talk about protecting ourselves and living together in harmony and peace together...we had a ceremony the other day. There...were the four colors of people - the red,

yellow, black, and white - at one of our sacred sites, promoting and talking about peace and harmony and love together on this mother earth. It's not [just] Mother Earth we're going to destroy. We're going to cause our own destruction unless we can get together and work together. Some of this thing can start here, right here in San Francisco. A lot can be done. Thank you.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**Morrigan Shaw (Tlingit/Haida)**

My name is Morrigan Shaw. I'm a member of it the Tlingit and Haida Tribes of Alaska, some 600 of whom live here in the Bay Area I'm also a student at San Francisco State University's Student Council of Intertribal Nations.

One of the speakers brought this up. I want to discuss briefly the glorification of Christopher Columbus in the U.S., and specifically the Bay Area. Every year in San Francisco, there's a parade celebrating Columbus. And in the City of San Francisco, there's a Christopher Columbus Street, and it's a main street in North Beach, glorifying him as a hero in the park - the message being given to children, both at the park and in the public school systems.

In reality, the policies implemented by Columbus resulted not only in the enslavement, torture, and death of millions of Indians. It also set the foundation for legal and social policies regarding Indians still in use in the U.S., Mexico, and Canada. Additionally, holding Christopher Columbus and his deeds up as commendable not only causes mental harm to members of the indigenous community, but also encourages public incitement of genocide, and implies complicity after the fact.

It's important that all events, images, representations glorifying Columbus be removed, as they are especially inappropriate in public settings. And, there needs to be a more accurate, complete history of Columbus being taught in public classrooms from kindergarten through high school, and even in college-level courses. That's all I have to say.

**Tomas Reyes (Yaqui)**

Thank you very much. I don't know if I'll be able to finish what I have to say before [the time is] gone but I'll try my best. I have to thank the Ohlone people also for allowing me to be here on their land all this time that I've been here. I want that thank you for allowing me to speak before this Commission also.

I am Tomas Reyes, and I'm not originally from here. I'm from Fresno, California. My people are from Mexico, on both sides. And I'm currently looking into my own past and ancestral lines and so forth. So as far as I know so far, I'm Yaqui Indian from Mexico on my father's side. In any case, I first came to San Francisco in 1959, a different person, than I am today. I'm 62 years old just two or three days ago. I am also a retiree from the City and County of San Francisco; took an early retirement less than two years ago. And I mentioned that because I kind of see that this is an entity of the City and County of San Francisco. And having spent... a number of years working for the City, I kind of think that it kind of fits in with what I'd like to say.

In any case, I came to San Francisco in 1959 as part of the band, to Kezar Stadium, to watch an East/West game. I was in the high school band. In any case, I stayed in Fresno until maybe 1980. [I] came here to live, finally, after visiting and, of course, coming over here, like many people do, to visit. I just wanted to say that the Bay Area has done a lot for me. And mainly, it has introduced me to the Indian world, and the identity that I carry today. And it has put me in touch with my ancestors and my own cultural heritage. I mention that because...it has to do with respect. And it has to do with how we see ourselves living in this world.

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Five hundred years is really not a long time in terms of historical time. It's just a very small bit of history. And you have to understand that people here have been here for thousands and thousands of years. The Ohlone people were here before San Francisco, long before San Francisco, and are still here.

I'm going to forget about most of what - some of what - I was going to say, other than that everything we enjoy here comes from the ground. Everything here came from the ground, from this earth, from this part of the planet. And I was taught a long time ago in my family that when you're in somebody else's home, you're supposed to be on your best behavior; your best behavior when you're in somebody else's home. And this is still the home of Indian people, primarily. At

least, that's the way I see it. And I think that somehow, if we're going to have a common future, you know, based on respect, we have to come to terms with what this world really is, and what it represents to Indians. And you have to really try to understand what the Indian world is really like, and don't. Thank you very much.

**Roberto Aria Vargas (Aztec/Chicano)**

Good evening. [Thanks to] Creator, for allowing us to be here today. Secondly,...thanks to the Ohlone folks for allowing us to be here in their home. And thirdly, thanks to the International Indian Treaty Council, Tony Gonzalez, for inviting us from the Azteca Chicano community, which I represent, of which I am a member...I should say my name is Roberto Aria Vargas.

As a member of this Chicano community, I'm here to support many of the words that were shared by the many Native peoples here in the Bay Area tonight, very strong statements about the needs of our communities in order to preserve our culture. And I'm here to actually make another one of those very modest requests. As one of our sisters here said tonight, we do have some very modest requests to make, in addition to the powerful requests that are necessary.

Some of those modest requests I believe to be modest are reiterating the need for ceremonial space. We often have a challenge in finding space to have ceremony here in San Francisco. The Azteca Chicano community - you may know many of us as Aztec dancers - we have a difficult time finding space at no cost to have our ceremonies. We have ceremonies throughout the year, giving thanks to the corn, rights of passage for young women into womanhood, giving thanks for our elders, giving thanks for mother earth, many different ceremonies throughout the year.

We often have a hard time getting permits for space, finding spaces where we can park, or finding spaces where we can burn smoke, sage, copal, cedar, and other things, without the neighbors complaining about fire alarms going off, sprinklers drenching us. And, we often get complaints conveyed to us by the SFPD because of our use of drums, our sacred instruments, and prayer.

So I encourage you all to push the City to make sure that we all have ceremonial space available to us throughout the year at no cost, whether it's parking without complaints from the police department, until we do have a space built for us by the City, where all Native peoples can have ceremony and [can] convene ourselves. Thank you.

San Francisco Human Rights Commission

68

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**Kenneth Harper (Cherokee)**

Brothers and sisters, my name is Ken Harper. I was born and raised in the Richmond District of San Francisco, and attended St. Ignatius College Prep, and U.C. Berkeley. Most important, though, is I am an enrolled and voting member of the Cherokee Nation of Oklahoma. I currently work with the San Francisco Study Center, and reside in the Sunset District.

Unlike other minority groups in the United States, American Indians have a unique identity that is characterized by not only ethnicity and culture, but also by a unique political identity due to their citizenship within sovereign Indian nations. I believe this fact and its consequences are often overlooked, and it has detrimental effects on our community.

In my experience, I [have] often seen people chosen to fill roles because of their purported identification as Native Americans. More often than not, these individuals...are not members of federal or state recognized tribes. And I think that is a problem to be greatly concerned about.

In California, the issue of federal recognition is complicated, because many California tribes are in the process of federal recognition. Nevertheless, for people who claim to be members of tribes outside of California, the issue is pretty clear- to be considered American Indian, a person should be a member of a federally recognized or state-recognized tribe.

This would be not so important an issue for me. However, in my experience, I have seen many individuals who are not member of federally recognized tribes abuse their self-proclaimed Indian identity to espouse their personal opinions and, in the process, damage the Indian community. I might sound like a legal -- this is very legalistic, but I come from a long line of legal people. My great-grandfather was a tribal judge in a court in the Saline District of the Cherokee Nation. To not recognize the validity of the process by which tribes say who they are and who are their own members is to violate the very principles of cultural competency when it comes to the understanding of American Indian communities.

... I wish that we could propose some sort of solution to this. And that is when you guys are choosing people to represent Indians on boards and commissions and stuff, look into their backgrounds. Ask for references. Make sure...that if they are not members of federally and state recognized tribes, that they have references in the Indian community that shows their connection. Otherwise, you're going to get people not representing the true interests of our community.

Lastly, I think that when you discuss what services should be provided in the city, you should understand that elders are really important in our community. And there should be more services for elders. And I hope...that some of the testimony that follows me or...comes up in the future will address what it actually means to have anti-Indian policies. Thank you very much.

**Frank Kellum (Choctaw/Chickasaw/African American)**

Mother earth, Great Spirit, Mystery of Mysteries, we thank you for bringing all of you, sisters and brothers, together in this process here tonight. My name is Frank Kellum. I am from the Choctaw and Chickasaw tribes in Alabama. I'm also part Native African American. I grew up in this city.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

I have been very hurt here tonight. I want to talk about three things. The first thing that has hurt me and my ancestors: you spell Ohlone O-h-l-o-n-e. That's how you spell it. Now I'm going to beat you up. It is your duty and your responsibility when you're going to work with a cultural group that you don't insult them. You just sit here and look at that all night on this screen. Okay. Do you hear me? I'm talking to you. That's the first thing I want to talk to you about. [Indicating misspelling on captioned video broadcast.]

The second thing I want to talk to you about; I'm hurt. I'm very hurt. I'm from San Francisco State. I am a member of SKINS. That is the Native American group out there. We go up to Lake Merced. We walk around the lake. We burn sage. We pray to deal with the madness at San Francisco State. What the City of San Francisco saw fit to do was take a statue of a Conquistador from Dolores Park, and bring that out there and put it up on an Ohlone site. And that cost \$2- or \$300,000 to do that. I called the Park and Rec; [and left a message about] who I am; what I want to talk with them about. They didn't even return my call. They didn't. That was a second thing I wanted to talk with you about.

The third thing is a mural. We are trying to erect a cultural mural to the Ohlone at San Francisco State. The president of that institution saw fit to put a moratorium on the mural, without explaining to us what he was doing. I would appreciate it if you look into that.

I close with this Indian prayer. Walk with beauty. Walk with beauty in front of you. Walk with beauty behind you. Walk with beauty all around you...All of you have a wonderful night.

**Perry Matlock**

I was born and raised in San Francisco. I've been a volunteer with the International Treaty Council (ITC) since the late 1980s. You have heard Jimbo Simmons and Alberto Saldamando. They are directors of -- I'm a volunteer [for ITC]...I also volunteer for the Vallejo Intertribal Council, and Indian People Organizing For Change.

I want for the record to know that I am a volunteer. I'm not a spokesperson nor a representative. Nonetheless, an issue I want to address is: I think it's an act of terrorism, it's a hate crime, that the cultural legacy of the ancient monuments, the funerary people Muwekma Ohlone here in the city and county of San Francisco are treated like obstacles. Set it on fire. Rip it to shreds. Why is it that their gravesites, just a few acres of land, cannot be left alone and preserved?

I have backpacked in Britain. And I have seen these ancient stone circles and gravesites of the sacred white people, the ancestors of most Europeans. And they are well protected and preserved. Here, where are the ancient monuments? They are under landfill and under concrete. I ask the Human Rights Commission immediately to make a policy that all Ohlone cemeteries, all cultural sites be given immediate protection; that is, that they are under a building.

Once that building is demolished, no building replaces it, and that area stays preserved. Even if it is a ruin, it is still must be preserved; that absolutely no construction ever occurs on top of, near, or on or about any shell mound, any gravesite belonging to the native people of this city. If you do so,

78-2  
cont'd.

75 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

it is a hate crime. It is an act of terrorism. And you all know that. If someone were to do this in another country, it would be considered an act of war. It disgusts me as non-Native person to see something like this going on, brings me to tears, brings me to anger and hatred.

You must preserve these sites. Make it a priority that no more shell mounds and Ohlone gravesites are ever destroyed or covered over. You must also consult with the Muwekma Ohlone Nation, not the most likely descendants. You must consult with the Muwekma Ohlone Nation in regard to how these sites ought to be taken care of. They are their cultural treasures, their cultural legacies. They belong to them. Once they are gone, it's like ethnic cleansing. Stop ethnic cleansing. You can do it right here in San Francisco by making it a policy, by using eminent domain, taking these sites from the private sector, putting them in a trust for the native people. Thank you.

**Marcus Atkinson**

Hi. First I'd just like to acknowledge the Ohlone people and all the other native people here. I've only been in this country for about four days. I'm from Australia. And I came over to take part in the shell mound walk. And I've been over here many times over the years, taking part in different walks, and a lot of the times in solidarity with native people throughout the country.

In just the last few days, going down to the shell mounds and seeing what's happening there and the development that's happening there, like -- it is something that's happening all around the world. And there needs to be someone who puts a stop to it. And San Francisco has the opportunity to do that.

There are a lot of things happening all around the world. And that's part of the reason why I'm here: - because it is all connected. In Australia just a month ago, there was a huge area of land given back to the indigenous people over there, which actually included part of Perth, which is, like, the capital city in western Australia. So it's not something that can't be done. It just takes some courage. And I hope that the City of San Francisco has the courage to do that, and that it's not just going to use this Human Rights Commission as kind of like we're doing something, but then nothing comes out of it.

Like you all need to put pressure on the City to carry through what's right, because you are a human -- like that's what you're doing. You're not there for the rights of corporations. So you have to stand up to the City, and the corporations that put pressure on the City as well, and make sure that it is the human rights which you are protecting. Thank you.

**Michelle Lee**

I'm Michelle Lee. I was born in California, and I've lived in San Francisco for 21 years. Most of all, I'd like to thank the American Indian people here who are come to these chambers. In a way, it's like coming to the colonial government -- center of a government that doesn't recognize the sovereign rights of Native nations.

I recognize this as Ohlone territory. And I request that the Commission put your efforts into convincing the government here that this is Ohlone territory, and that all their sacred sites be protected and returned to them immediately.

71

San Francisco Human Rights Commission

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

Another thing that I'd like to mention -- I'm a public schoolteacher here in San Francisco. And I'd like to support all the recommendations of Andrew Jolivet. In particular, I would like to see American Indian people, particularly the Ohlone people, be paid to develop curriculum and train San Francisco teachers to appropriately teach our youth the ways of their people. And I think that in this time, we really need to thank the American Indian people, and particularly the people here, the Ohlone people, for the knowledge that they have managed to help survive and are carrying on. And that this may be the way that we can save the planet that our culture has done so much to destroy. Thank you very much.

**Kay Riley**

My name is Kay. I'm from Australia. I also came over here for the shell mound walk, and to participate in the walk this year. I was over last year, and I just want to, before I go further, acknowledge the Ohlone people as well as the native tribes here today that have spoken.

And one the reasons why I've come over to walk is to respect and to honor the Native people here in San Francisco, but also around America and around the world, that are facing the same situations here as what you've heard tonight from all the people, going on about the stories and that; but I urge you to -- listen to the stories and participate with the Native people of this land, and to learn their history and to learn about their culture, because the shell mound walk is really about raising awareness; not only raising awareness, but to deepen our understanding of the history and what's happened here to the Native people. And it's really sad to see their culture being destroyed.

The shell mounds are a part of their culture. And they're all around the San Francisco Bay Area. Last year I learned that, you know, here we are in San Francisco, and it's built on sacred sites. And we need to save those remaining ones and protect those sacred sites for the Native people to continue their culture. We learned from them. They are the people that we can learn from. So I really urge you to listen to their stories and to go out into the streets and to be with the people that know this land. Thank you.

**Nancy Delaney**

My name is Nancy Delaney, and I have a question. Are we willing, as a society, to build our dreams on the death and destruction of a people? And I have learned -- I had to go way out of my way to try to learn California Indian history. And...I learned about how this city was built because of the Gold Rush, because all that gold was gathered, and it was brought here for the banking. And then all the people that were killed because they lived on a river where people wanted to mine gold.

It's my belief that every person that lives in San Francisco, child and adult, needs to know the complete history of what has happened here in California, because otherwise, we're just assuming that European culture -- like I was thinking about the houses that the land told people to have here; the houses made with grasses with rushes. And then we look here. Now this is the result of an empire in Europe; right here, this hall. This language I'm speaking, it comes from another colony.

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

And we don't have [awareness] when we're interacting with each other, so there's this enormous disconnect of being able to respect Indian people, and in particular, the people that were almost completely removed from this area so this European culture could go. And we just go blithely on every day. And we need to have...in our education system, in our public media -- we need daily reminders. We need to wake up everything morning and think about where we are and how we came to be here.

And I'm not talking about blame. I'm talking about living here consciously, with respect. And that especially means about places where people were buried, all of the ancestors, the families who were murdered so that this culture could be here. These people have the right as much as anyone ever anywhere to have -- to leave their burial sites totally alone, and for people to become aware that there are teachings from this land that we don't even dream of in this Eurocentric culture that we're taking for granted.

**Sydney Madsen**

Good evening. It's hard to know what to say. What I've heard so far has been very modest proposals. And maybe I could just add a little context.

I think our challenge here in this country is to decide how, as an imperialist nation, we're going to turn ourselves around. And I propose that we ask the Native people: do you want us all to go home, or can we all figure out a way to work out to live in peace, where everybody has the basic necessities?

When I have to listen to an Ohlone friend of mine say she has no property... I can't keep hearing that. Things have to change. And when you have our -- Senator Feinstein's husband, who has so much property, and all of the other people who -- Realtors and property developers who have so much property, how much of that should they give back to the Indians? Thank you.

**Rick Bowman**

Thank you. My name's Rick Bowman, and I am a student at SF State. My mind was full of a lot of things to say. There certainly is a lot to say on this issue, but I'm going to go with what my heart says. And where my heart has led me is to just this very meeting here. I think that there is a lot of injustice.

And there's a lot of heartbreak that has happened and is still happening. And hearts have a great way of being compassionate. And also they love to hear the truth. And, that... my heart beats right now quite rapidly. I think that there is not enough education and not enough truth going on in the public schools. And it would be very wise and a very just thing to do to teach the truth and to do some justice and to heal some broken hearts. Thank you.

**Francisco De Costa**

My name is Francisco De Costa. And what I want to state to the Commissioners today is that this land that you know as San Francisco belongs to the first people of this area, the Muwekma Ohlone. And I have some documentation over here that I want you to read.

78-2  
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...At Hunters Point at one time, there were two hills. Mostly, wherever there were hills in this area, there were sacred shell mounds. These sites are very sacred to the first people. I want to welcome my friends, Wounded Knee and his followers, that have walked from shell mound to shell mound, to bring to our attention the respect that we have to pay to mother earth. This is very important.

Some years ago, the Human Rights Commission passed a resolution respecting the first people of this area. For your information, the Board of Supervisors three times unanimously passed resolutions respecting and honoring the first people of this area. We thank them for that.

Commissioners, I hope that even though you're going to hear the first people of this nation, that you will respect their wishes through some sort of resolution, because it is pathetic, but it's a reality that the white man loves documentation. So if we have this documentation, maybe future generations will remember that we gathered here in Room 250 in City Hall and tried to convey to the Human Rights Commissioners a message to respect mother earth, the shell mounds, and most importantly, the spirit. Thank you very much.

**WRITTEN TESTIMONY**

**Catherine Herrera**

I am writing to submit a short statement for the meeting this afternoon...I hope I have provided the proper salutations to the respective representatives at the event.

To All My Relations, Honorable Anne-Marie Sayers, Honorable Mayor Gavin Newsom, the Honorable Board of Supervisors, to the seventh generation - mine and yours.

Today when you have come together to listen to the diverse voices that are the Native peoples of the land here, I ask you to hear another expression that comes from a past forever and unforgettably etched in the very land upon which we all stand today. I am next to you, in the present, with a sense that I am now equally as dependent on unity as the air and water we need to live.

I ask today that you become a city filled with the courage to reconcile a past to heal our present. Acknowledge the Ohlone people; in our discussions of history, let's be truthful; in our discussion of progress, let's be inclusive of Mother Earth, and to those who are among the ancient people who knew the earth before technology - just as your people also knew the old truths - for I believe it is here where we can walk on common ground; in discussions of art and culture, hear our songs and respect our dance as our way of life, and offer one small branch which can provide a great healing: recognize our right to access the natural elements and resources that are the backbone of our ceremonial and community life. Lastly, in our tradition we are taught to never forget our elders and in honor of the wisdom that I am so grateful they share with us today, I ask you to consider granting land upon which our community, our elders and later, our children may always have a place to rest their heads until it is their time to cross. Thank you.

San Francisco Human Rights Commission

74

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**Alice Langton-Sloan**

I am writing on behalf of my Native American Family and the many families that have been disenrolled, terminated, reclassified, placed in moratorium, and banished from their tribes. However I am writing to you as a non-Native American citizen.

When I met my husband I fell in love with a man who cherishes his family, hold strong his tribal heritage, gives his commitment to his community and his strength to preserve his tribal culture and identity. When he spoke of the old ways, he spoke of stories told by his elders and related them to present day events. He speaks of the struggles of growing up in a world where isolation and racism was not uncommon, yet he continued his education throughout college. I was very aware of his zest for what life teaches and the relationship of who he is and how it fits into the world around him. I discovered how important it was for him that the children of his tribe learn their cultural heritage and ways. He speaks little of his Native language. What few Cahto words are still spoken in our home are taught to the children and shared with linguists.

I was never more astounded to hear him speak of the hurt and pain his tribe has inflicted upon him, when he told me how his tribe cut him to the core of his very being when they disenrolled him from all that he has known. I was appalled to read how this came to be. After reading numerous documents I saw that he was caught in a "Catch 22" between the Congress of the United States and Tribal Sovereignty.

As an American Citizen, I am amazed that the limited sovereignty that Congress gave to the tribes has no means of which justice can be given to the individual Indian. The very Constitution of the United States, which is supposed to protect all [of] its people, does not protect the individual Indian. We have laws that protect illegal immigrants and criminals. Citizenship given to Indian people years after it was given to others who came here from other countries. Basic Human and

Civil rights found and won here in America by another race, by disability groups, by those who have fought for recognition of their sexual status and orientation all are given the rights to due process, the right to vote, to be heard and to belong in this great nation.

Our ancestors learned from the atrocities inflicted upon the Native Americans over a century ago and now we as American Citizens are allowing tribal governments to control their people through greed, fear and intimidation. We are allowing tribal governments to wipe out entire families who have just as much right to their cultural heritage as anyone else. These tribal governments are no different that Saddam Hussein's reign of terror or Al Qaeda threat to humanity.

The Indian Civil Rights Act of 1968 has no means to protect the individual indians of basic civil right violations and to hold people accountable for their actions. Tribes are purchasing clout with their charity to other governmental entities and gifts to the public. Even though many Indians are concerned about the Infectious Disease of Disenrollment they have no cure and they are afraid to do something for fear it will happen to them.

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80 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

I am attaching a brief history of my husband and his family plight so that you can see for yourself one more story. If you look at many of the rural reservations you will still see aged trailers and shacks people live in that are in dire need of repair. You will see how the money has brought in drugs, corruption, diseases and most importantly the loss of their very being. I ask that each of you take one moment and think "What would I do if my United States Citizenship was stripped from me?" "How would I feel if I could not go to the courts or if my voice was not heard?" Ask yourself how you would feel if everything you've known has been taken from you. You no longer have a right to vote, you can no longer be a part of the community you have always known. These are just a few of the thoughts that plague the families. I ask that you do whatever you can to help bring justice to the Individual Indian and give them the rights afforded to every other American Citizen.

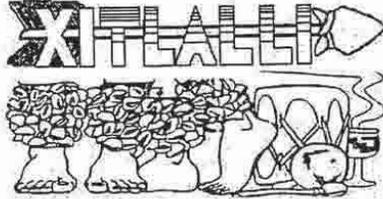
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San Francisco Human Rights Commission

76



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**



**Danza Xitlalli de San Francisco**

327 Prague Street, San Francisco, CA 94112

October 16, 2006  
Mayor Gavin Newsom  
City Hall  
1 Dr. Carlton B. Goodlett Place  
Room 200  
San Francisco, CA 94102

Dear Mr. Mayor:

Danza Xitlalli de San Francisco is an Aztec Ceremonial Dance Group that was honored to dance at the opening of the de Young Museum a year ago. We were appreciative for their commitment to the Americas wing. We saw it as a place that united our ancestors once again, respecting our traditions, history and culture, without artificial borders.

So it is with great disappointment and urgency that we come to you to ask for your help in getting the museum to reconsider the separation of North American indigenous art from our pre-Columbian family of art. During the rebuilding of the DeYoung, much effort was put in by our community to insure that this particular gallery would respect traditions for the display of our ancestor's spiritual and cultural art.

Now we are told that the museum is planning to take down their Native American collection while they rethink how to display it. They have plans to give this space up for contemporary art installations. We are afraid it will never be returned to its intended purpose of displaying indigenous art. The Americas Gallery lost space a while back to 20<sup>th</sup> century art and we fear that this is what will happen again, once the Native American collection is put away.

We need people who understand how to be respectful with artifacts from the past, not only physically, but also spiritually. Many are objects used for ceremonial purposes and require attention to this aspect. Please use your influence to intervene in this, so that the museum can develop a more respectful plan for improving the display of the Native American Collection without separating it from its pre-Columbian partner collection.

It is important for our community to see unity among peoples where it exists. We do not need more fragmentation of cultures, as perpetuated today by borders and turfs. We work in our community to build connections, not to separate. We urge you to push for this in one of San Francisco's premiere institutions of historical and cultural knowledge.

Sincerely,

Macuilxóchitl, Maestra  
cc John Buchanan, Director of Museums  
Cynthia Goldstein, Human Rights Commission

77

San Francisco Human Rights Commission

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

**A PROPOSAL TO THE DE YOUNG MUSEUM CONCERNING THE TREATMENT OF INDIGENOUS AMERICAN ART – Submitted Autumn 2006 by representatives of the Native American community:**

Anne-Marie Sayers, Ohlone Cultural Activist  
Tomasita Medál, Community Activist and participant in de Young Museum plans  
Michael Smith, Director and Founder, American Indian Film Institute  
Janeen Antoine, Executive Director, American Indian Contemporary Arts

**OVERVIEW:** As noted in the de Young website, “the de Young is San Francisco’s oldest museum. Its collections include American paintings, decorative arts and crafts, and arts from Africa, Oceania and the Americas, as well as ... textiles. Long known as the City’s Museum...the de Young re-opened in a new facility in Golden Gate Park on October 15, 2005.”

And, on the Art of the Americas, [the website states] “A walk through the de Young’s collection of objects from Mesoamerica, Central and South America, as well as the West Coast of North America reveals the richness and complexity of art that links the Americas. Notable treasures include the largest group of Teotihuacan wall murals outside of Mexico, a Peruvian mouth mask of hammered gold from the Nazca culture, and a ten-foot totem pole from Alaska.”

As participants in San Francisco’s cultural mosaic, and as representatives of the Bay Area’s indigenous community, we appreciate the opportunity for inclusion within the de Young and are also concerned about how the collections representing native peoples of the America are collected, conceptualized, and presented.

It is no secret that far too often America’s native peoples are excluded from the cultural, economic and social dialog of many institutions within San Francisco as in practically every other city in this country. The San Francisco Arts Commission recently finally designated funds for American Indian cultural activities, not enough to support a facility but at least a nominal amount that funds limited programming. The San Francisco Library’s special collections and rooms recognize many diverse groups but not Native Americans. When the Presidio was returned to the city of San Francisco the hope for a permanent California Indian Museum was dashed after five years of negotiation and work when it became apparent that there would be no accommodation for California’s indigenous peoples. The long neglected and now hugely successful Alcatraz Island was developed only after Indians expressed an interest in acquiring it during the Alcatraz Occupation. It is sadly ironic that in this highly diverse cultural mosaic, the invisibility of native peoples is still remarkable. Our first peoples continue to be invisible.

Even more ironic is the all too common practice of acquiring indigenous cultural patrimony without possessing any real regard, connection or concern for the people of the cultures that have created these works. Collectors of all sorts, professional and hobbyist alike, are infatuated with our historic objects but curiously often have little interest in the actual peoples who have created them or in their historic descendants. It is much easier to deal with a hermetically sealed object that does not talk back, often imposing on it foreign values or attributes with impunity, than to engage with representatives of that culture that require thought, consideration and an effort to breach cultural chasms. Moreover, institutions and individuals feel that they can “own” cultural

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

patrimony without responsibility or accountability to the true descendants of cultural artifacts. This is a cultural anomaly for indigenous people who recognize the ownership of (ceremonial) objects is not vested in an individual or institution but remains with the collective community.

The work of indigenous communities is truly the original American art, and it behooves the de Young and other art institutions to acknowledge and celebrate the existence of this art, and of the cultures which gave them life, as a continuum and a vital, formative influence in this country's artistic heritage. This inclusion is essential if one is to understand and appreciate the true history of the Americas, and the contributions of indigenous peoples to our cultural mosaic.

The de Young has a sizable indigenous art collection, as it should, and is one of the few facilities in the Bay Area where it is possible to see truly indigenous art. For this reason, we are hopeful that we can participate and dialog with the museum's administration in order to make this an exemplary showcase for native arts and to show the continuum of the artistic talents of indigenous peoples. We have discussed the role of the museum, and its Native Americas Wing, and would like to discuss the following proposals. While we recognize there are no legal mandates for entertaining our proposals, we believe there are social and moral considerations and hope that you will recognize our proposals as a desire to truly showcase the collection of indigenous arts in a culturally appropriate and celebratory fashion. We believe this gracious act would speak well of the museum and show the de Young's interest in representing the Native Americas Wing in true indigenous spirit.

**Exhibition Space:** Keep and improve the current exhibition space for North American traditional Native art, and designate the rear gallery for revolving exhibitions of contemporary North American Native art. Out of respect for the unity of the native people of the Americas, and for the spiritual principles respected by Herzog and deMeuron in their architectural design of the America's Wing, and for clarity's sake, the Native Americas Wing should be rendered whole and its unity restored.

**Personnel:** Establish a Native curator position and fill the position with a qualified native curator. In addition, create a Native American/La Raza Advisory Board to work on issues of policy, collection, acquisition, presentation, outreach to the Native American/La Raza community, and conflict resolution.

**Signage and Presentation:** Name the Native Americas Wing with reference to Native America, not just as it is now, "Phyllis Wattis Gallery," [but rather create] credit labels to the person who wrote them, and in the case of Mayan art, post additional signed interpretations by Mayan spiritual guide(s) and provide clearer location signage, so that persons visiting the de Young realize that the Native Americas Wing exists and where to find it.

**Collections:** Expand the collection to include many more works from the West Coast First Nations and in particular works representative of the indigenous peoples of the Bay Area.

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## APPENDICES

- A. ESSAY: AN OHLONE PERSPECTIVE
- B. ARTICLE: EXAMINING THE REPUTATION OF CHRISTOPHER COLUMBUS
- C. IMAGES OF CONQUEST – PUBLIC ART
- D. IMAGES OF MASCOTS
- E. RESOURCES
- F. PRESS RELEASE

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**A. ESSAY: AN OHLONE PERSPECTIVE**

**An Ohlone Perspective on the State of Indigenous Life in San Francisco**

By Anne-Marie Sayers (Tribal Chairperson, Indian Canyon) and Chuck Striplen (Amah Mutsun Ohlone) Ph.D. Candidate, Department of Environmental Science, Policy, & Management, University of California, Berkeley

The region now known as the San Francisco Bay Area, from the Golden Gate to San Jose, and the Monterey Bay to the west side of the Great Central Valley – all lie within the aboriginal territory of the Ohlone People. The term “Ohlone” is used here merely for convenience, given that the various Tribal groups aboriginal to this region have names for themselves, including Mutsun, Chochenyo, Muwekma, Rumsien, etc. There were historically eight languages spoken in the region, several of which are in the process of being reconstructed and used again by modern Ohlones. Hundreds of semi-autonomous, but highly related and interconnected villages dotted the landscape, from the edge of the bay to the crest of the highest ridgeline. We’ve lived here for more than 10,000 years, adapting to a changing climate, coping with catastrophic earthquakes and fires, hunting, fishing, dancing, singing, and even occasionally warring with each other.

The lives of our ancestors underwent an abrupt change in the late 1700s, when Spanish missionaries and explorers arrived in our territory and, using our people for labor, built eight Catholic missions and began the long and painful process of colonization. The method by which this colonization took place was devastating to the local indigenous people. Early Spanish padres learned to manipulate the politics of local communities, created conflict and strife, and eventually relied on depleted natural ecosystems and military force to end traditional village life by 1806. In 1834, secularization of the missions uprooted the Native people yet again and forced many of them into indentured servitude in local ranches, farms, and mines. For most, it was a time of little choice.

By the 1850s, for a family to claim Indian lineage was almost literally to commit suicide. In the year of 1854 alone, the U.S. government paid \$1.4 million, five dollars per-head and 50 cents per-scalp, plus food supplies, guns, and other material goods to professional Indian killers to eradicate Native people who had legitimate claim to lands and resources. [According to the value of goods and services in 1854 calculated in 2005 dollars, the money spent on killing indigenous California people in 1854 equaled \$33,586,000, at \$119.96 per-head or \$12 per-scalp]<sup>30</sup>

In 1851 and 1852, representatives of scores of California Tribes, including Ohlones, signed eighteen treaties with the U.S. government reserving lands, resources, and rights to their traditional lands. Unlike other U.S. treaties with Tribes – which remain the laws of the land to this day – these treaties were never ratified by Congress, largely due to objections from the California legislature and business interests that did not want to relinquish access to immensely valuable resources in California. In fact, the treaty documents themselves were put under an injunction of secrecy until January 18, 1905.

<sup>30</sup> <http://www.measuringworth.com/calculators/uscompare/result.php>. Consumer Price Index [CPI] was used to calculate monies in 2005 dollars.

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It was decades before the Federal government devised a special California Indian Census, designed to account for the population and the needs of tribal peoples in California. If a Native person could prove that his or her ancestors were living in 1851 and 1852, and that they were still living in California in 1928, they were approved as being descendants of the ancestors who signed the treaties of 1851 and 1852, and given Bureau of Indian Affairs (BIA) numbers. They were then allowed to receive funds under the California Lands Claims Act Settlement of 1928. However these funds were not distributed until 1972, at the rate of 47 cents per-acre – for the entire state of California. [According to the CPI, .47 cents in 1972 equals \$2.19 in 2005]<sup>31</sup>

Currently, none of the remaining Tribes within Ohlone territory has a “recognized” status – or a “trust relationship” with the Federal government. Consequently, the Tribes are unable to hold any of their ancestral lands in trust status and to begin to rebuild their communities and cultures. In 1911, one trust allotment was issued (through Federal action) within the Ohlone area. These lands, also known as “Indian Canyon,” are located near Hollister, in San Benito County. This trust patent (#203411) was issued to Sebastian Garcia, and signed by President Taft. In 1988, a second allotment was issued to his granddaughter, Ms. Anne-Marie Sayers. Today, Indian Canyon is open to all indigenous people who are in need of traditional lands for ceremony. It stands alone as a “core” of what was once a vast stretch of Indian Country. Oral histories, as told by the descendants of Indian Canyon, instruct us that when ceremonies, traditional singing and dancing stop, so will the Earth.

Today nearly 50% of California Indians are not federally recognized. There are 118 federally recognized California tribes, and 46 others currently petitioning for federal recognition. Between 1961 and 1967, the Federal government terminated the recognized status of 11 rancherias via Public Laws 85-671 and 88-419. These rancherias have yet to be reinstated with federal recognition. Most of these tribes have yet to be restored. And most significant to our people, not a single “urban” tribe has been restored to Federal status. An unfortunate side effect of this history is that the majority of non-indigenous (notably urban) Californians still believe that California Indians are extinct. This myth is reinforced by an antiquated approach to “cultural studies” in the public schools, poor State relations with tribes, and an indifferent populace mollified by romanticized caricatures of the “Hollywood Indian.” Especially in primary education, San Francisco is in a prime position to lead the development of a state curriculum – in concert with local tribes – that will accurately portray the history, the culture, and the *continuing evolution* of Native Californians.

Our battles with the Federal government and the BIA will continue, and will largely remain outside the purview of counties and municipalities such as San Francisco. However, the relationship between the City and its First Families is as old as the City itself. Through the ebb and flow of time, economies, movements and trends, we remain a part of the City, even if largely invisible. Just as our ancestors largely created the landscapes so favored by early European explorers, we are in no small part responsible for the landscapes that will be encountered by our grandchildren’s great-grandchildren. Our community still retains a physical, cultural, and spiritual relationship to Our Land that is unaffected by “federal status” – and uninfluenced by assimilation policies. It is in this spirit that members of our community have forged relationships over the years with new governments, new mayors, new supervisors, and new residents.

<sup>31</sup> Ibid

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

Through these relationships, a number of positive events and projects have taken place in recent years, highlighting the continued existence of Ohlone peoples in San Francisco. For example, the National Park Service, through their Native American Liaison Paul Scolari, worked proactively with our People to establish a General Agreement pertaining to the development of Crissy Field.

And most recently, the City and County of San Francisco joined with Ohlone People to welcome the “Toi Maori Eternal Thread” exhibit to our City. Early in 2005, we were contacted by a Maori arts organization on behalf of a number of Maori Tribes in New Zealand. They informed us of their plans to put on a major exhibit at the Yerba Buena Center for the Arts. But before doing so, their cultural traditions required that they receive formal permission from our People in order to bring the National Maori Weavers Exhibition into Ohlone territory.

This request was made to our Tribal Elder, Anne-Marie Sayers, at Indian Canyon, which led to one of the most significant and visible cultural events in the City’s history. On the morning of August 5, 2005, a crew of 18 Maori warriors paddled a great, ornately carved *waka* (Maori War Canoe) on to San Francisco’s shore at Aquatic Park. They were met by our Elders, our political leadership, our dancers and singers, and by dozens of other California Natives we’d invited to take part in the Welcoming Ceremony. Two traditionally-constructed tule canoes were paddled out to meet the *waka* by three of our young men, and the party was given permission to come ashore. What followed was an impressive display of dance, song, and words of welcome between cultures spanning the Pacific. Supervisor Aaron Peskin, representing the City and County of San Francisco, was presented a great, feathered cloak by the Maori Queen, Te Arikinui Queen Te Atairangikaahu, Valentin Lopez (Amah Mutsun Ohlone Tribal Chairman), Anne-Marie Sayers (Indian Canyon Tribal Chair), and Alex Ramirez (Amah Mutsun Elder). More than 1,000 people, representing Natives and non-Natives from throughout the region gathered to bear witness to these spectacular events that morning. In the following hours and days, this renewed relationship between Pacific cultures and the City and County of San Francisco gained momentum, as more than 21,000 visitors and local residents toured the Yerba Buena exhibit, taking in both Maori and local Ohlone perspectives on art, culture, song, and solidarity. This went on to become one of the most well attended exhibits ever sponsored by the Yerba Buena Center.

Following these events, and based largely on their unparalleled success, an organization known as the “San Francisco New Zealand Association” was formed, comprised of Ohlone, Maori, and civic officials in both countries. The mission of this organization is to perpetuate and formalize this new cultural relationship in the form of a “Sister City” arrangement between San Francisco and Wellington, New Zealand’s capital. In February 2007, Toi Maori and the Mayor of Christchurch, New Zealand formally invited Ohlone representatives Chuck Striplen and Anne-Marie Sayers to visit Christchurch to participate in the Waitangi Treaty Holiday and Homecoming Celebrations that honored the return of the Toi Maori Eternal Thread exhibit after its tour through San Francisco, Oregon, and Washington. Mr. Striplen and Ms. Sayers attended these events bearing official letters from Mayor Newsom and Board President Peskin. While there, our status as “San Francisco Bay’s Original People” was recognized by the U.S. Ambassador to New Zealand, William McCormick, as he introduced us to the Mayor of Christchurch and a Maori contingent of more than 300.



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These, along with numerous other events, illustrate that the relationship between San Francisco and its First Families can and should be fostered, toward the betterment of both our communities, in the spirit of partnership, mutual respect, honesty, open communication and active engagement.

The City and County of San Francisco - through its legislative and civic initiatives, through the activism of its citizenry, and through the progressive actions of its leadership - positions itself in a unique ethical position among the great US cities. Yet, in terms of progressive and meaningful actions to improve and formalize its relationship with its indigenous people, the City still has much room for improvement. It is the goal of this communication, and hopefully of this Human Rights Commission report, to point out some of these shortcomings and recommend some areas in which the City and County of San Francisco can make needed improvements.

**Recommendations:**

- 1) Establish some mechanism within City/County government to directly liaise with Ohlone tribal government(s) to address cultural matters — such as an “Office of Indigenous Affairs.” In our view, this office may also help the City/County address non-Ohlone, indigenous issues that may exist; however it’s critical that issues of cultural resource protection, cultural representation of the “aboriginal territory” that encompasses the City and County, and any other related matters involve only Ohlone representatives. Other indigenous issues have merit and we encourage the City/County to address them, but we also stress the importance of dealing with these issues separately;
- 2) Placement of Ohlone representatives on City/County boards and advisory groups pertaining to cultural and educational matters. A model for the success of this approach exists in the development of the new San Francisco History Museum. An Ohlone representative (Chuck Striplen) was appointed by the Board of Supervisors to the San Francisco Historical Society and Old Mint Advisory Committee in 2004 – and has remained active in the project (via the SFMHS Storyline Committee) to ensure that Ohlone perspectives remain an important part of the way the City’s history is conveyed. Ohlone representatives should have much greater visibility and access to matters concerning the “culture” of San Francisco, and the interpretation and presentation thereof;
- 3) Consider incorporating Ohlone cultural motifs (basket designs, animal motifs, etc.) into City/County-sponsored construction projects. California Indian basketry, carving, and other elements of material culture are heralded as some of the finest in the world. The simple task of associating our imagery with City/County properties and infrastructure improvements would help elevate the visibility of our community, and enhance our public image through our art. It would also significantly enhance San Francisco as a tolerant, just, and progressive City;

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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

- 4) Consider ceding surplus City/County lands back to our People. Since the Federal government still considers us extinct, and has demonstrated no willingness to fulfill its trust responsibility to us, the City and County of San Francisco is in the position to help rectify shortcomings of the US government, just as it does in Homeland Security and disaster preparedness, health and human services, and environmental protection. In addition to ceding lands, other management-related relationships should be explored, including co-management agreements, Memorandums Of Agreements, Memorandums Of Understandings, special access permits, and collaborative research projects.
- 5) Fully engage and support international indigenous exchanges and collaborations, such as the recently renewed relationship with New Zealand's Maori people. San Francisco benefits greatly from its reputation as an "international" city, both in terms of cultural enlightenment, and the tourist dollar. We can learn much from other nations and other indigenous communities in terms of how they coexist, cooperate, and improve their communities and civic relationships.
- 6) Proactively implement State Senate Bill 18. Tribal consultation has now been made part of local government land use planning processes with the goal to preserve and protect Native American traditional cultural places. All counties in California are now *required* to consult with Tribal governments when amending General Plans and other countywide planning documents that may affect the protection of cultural resources. Given this, we recommend that San Francisco begin meaningful and proactive consultations with Ohlone tribes so that pre-contact, archeological, cultural, spiritual, and ceremonial places can be identified and cooperatively protected.

We make these recommendations with the sincere hope that the City and County of San Francisco will live up to its international reputation as a just and progressive City. The issue of San Francisco's relationship with Ohlone peoples is, in fact, its oldest social justice issue. Given our small "constituency" within San Francisco, we essentially have no voice in local politics and social movements. Therefore we appeal to San Francisco's heralded sense of justice in urging the City to give strong and deliberative consideration to our recommendations.

Unlike previous decades, today our communities are growing, not diminishing. We are better educated, better organized, and fiercely proud of our indigenous heritage. Probably within the next decade, one or more Ohlone tribal governments will regain Federal acknowledgement. Should San Francisco elect to engage any of our recommendations, it will be far better poised to move forward in an enlightened, progressive, and collaborative manner with a Federally-recognized Ohlone government. These efforts will hopefully preempt much of the conflict that we see daily between tribes and cities in California.

Noso-n (In breath so it is in Spirit)

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SAN FRANCISCO**

**B. Article: Examining the Reputation of Christopher Columbus**

**Jack Weatherford**

Examining the reputation of Christopher Columbus  
(*Baltimore Evening Sun*, 1989)

Christopher Columbus' reputation has not survived the scrutiny of history, and today we know that he was no more the discoverer of America than Pocahontas was the discoverer of Great Britain. Native Americans had built great civilizations with many millions of people long before Columbus wandered lost into the Caribbean.

Columbus' voyage has even less meaning for North Americans than for South Americans because Columbus never set foot on our continent, nor did he open it to European trade. Scandinavian Vikings already had settlements here in the eleventh century, and British fishermen probably fished the shores of Canada for decades before Columbus.

The first European explorer to thoroughly document his visit to North America was the Italian explorer Giovanni Caboto, who sailed for England's King Henry VII and became known by his anglicized name, John Cabot. Caboto arrived in 1497 and claimed North America for the English sovereign while Columbus was still searching for India in the Caribbean. After three voyages to America and more than a decade of study, Columbus still believed that Cuba was a part of the continent of Asia, South America was only an island, and the coast of Central America was close to the Ganges River.

Unable to celebrate Columbus' exploration as a great discovery, some apologists now want to commemorate it as the great "cultural encounter." Under this interpretation, Columbus becomes a sensitive genius thinking beyond his time in the passionate pursuit of knowledge and understanding. The historical record refutes this, too.

Contrary to popular legend, Columbus did not prove that the world was round; educated people had known that for centuries. The Egyptian-Greek scientist Eratosthenes, working for Alexandria and Aswan, already had measured the circumference and diameter of the world in the third century B.C. Arab scientists had developed a whole discipline of geography and measurement, and in the tenth century A.D., Al Maqdisi described the earth with 360 degrees of longitude and 180 degrees of latitude. The Monastery of St. Catherine in the Sinai still has an icon painted 500 years before Columbus - which shows Jesus ruling over a spherical earth. Nevertheless, Americans have embroidered many such legends around Columbus, and he has become part of a secular mythology for schoolchildren. Autumn would hardly be complete in any elementary school without construction-paper replicas of the three cute ships that Columbus sailed to America, or without drawings of Queen Isabella pawning her jewels to finance Columbus' trip.

This myth of the pawned jewels obscures the true and more sinister story of how Columbus financed his trip. The Spanish monarch invested in his excursion, but only on the condition that Columbus would repay this investment with profit by bringing back gold, spices, and other tribute from Asia. This pressing need to repay his debt underlies the frantic tone of Columbus' diaries as he raced from one Caribbean island to the next, stealing anything of value.

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

After he failed to contact the emperor of China, the traders of India or the merchants of Japan, Columbus decided to pay for his voyage in the one important commodity he had found in ample supply - human lives. He seized 1,200 Taino Indians from the island of Hispaniola, crammed as many onto his ships as would fit and sent them to Spain, where they were paraded naked through the streets of Seville and sold as slaves in 1495. Columbus tore children from their parents, husbands from wives. On board Columbus' slave ships, hundreds died; the sailors tossed the Indian bodies into the Atlantic.

Because Columbus captured more Indian slaves than he could transport to Spain in his small ships, he put them to work in mines and plantations which he, his family and followers created throughout the Caribbean. His marauding band hunted Indians for sport and profit - beating, raping, torturing, killing, and then using the Indian bodies as food for their hunting dogs. Within four years of Columbus' arrival on Hispaniola, his men had killed or exported one-third of the original Indian population of 300,000. Within another 50 years, the Taino people had been made extinct - the first casualties of the holocaust of American Indians.<sup>32</sup> The plantation owners then turned to the American mainland and to Africa for new slaves to follow the tragic path of the Taino.

This was the great cultural encounter initiated by Christopher Columbus. This is the event we celebrate each year on Columbus Day. The United States honors only two men with federal holidays bearing their names. In January we commemorate the birth of Martin Luther King, Jr. who struggled to lift the blinders of racial prejudice and to cut the remaining bonds of slavery in America. In October, we honor Christopher Columbus, who opened the Atlantic slave trade and launched one of the greatest waves of genocide known in history.

Jack Weatherford is an anthropologist at Macalaster College in St. Paul, Minn. His most recent book is "Indian Givers." He wrote this article for the Baltimore Evening Sun.

<sup>32</sup> Commission note: The assumption that the Taino became extinct is currently being disputed.

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

**C. IMAGES OF CONQUEST – PUBLIC ART**

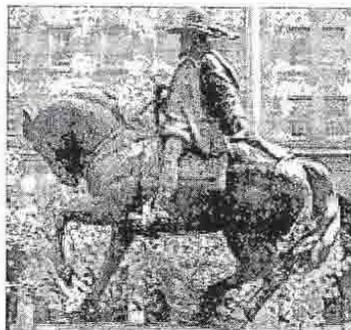
Many of the images are depicting scenes of conquest. Some of the images glorify the subjugation of Native American people, while others romanticize the conquest or visages of the indigenous people of the Americas. Some of the images are disturbing because they illustrate violence perpetrated against Native Americans, and other depictions are offensive because the Native American subjects are portrayed in the nude (which is not a culturally appropriate artistic value when applied to Native American subjects, as nudity in art is not a Native American standard), or they are fetishized or romanticized, historically and culturally inaccurate images.



Christopher Columbus  
(Coit Tower)



Padre Junipero Serra  
(Golden Gate Park)



Don Juan Bautista De Anza  
(Lake Merced)

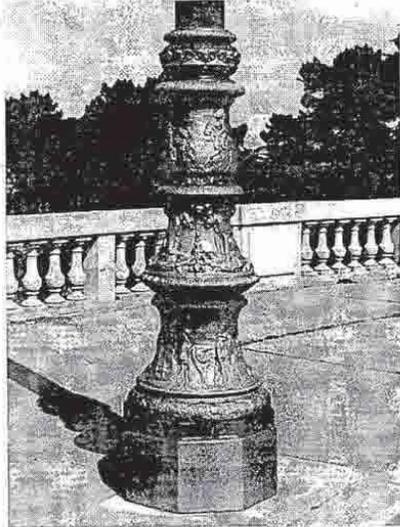
Created the Mission system and Presidio in San Francisco.

San Francisco Human Rights Commission

78-2  
cont'd.



DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO



“The Winning of The West”

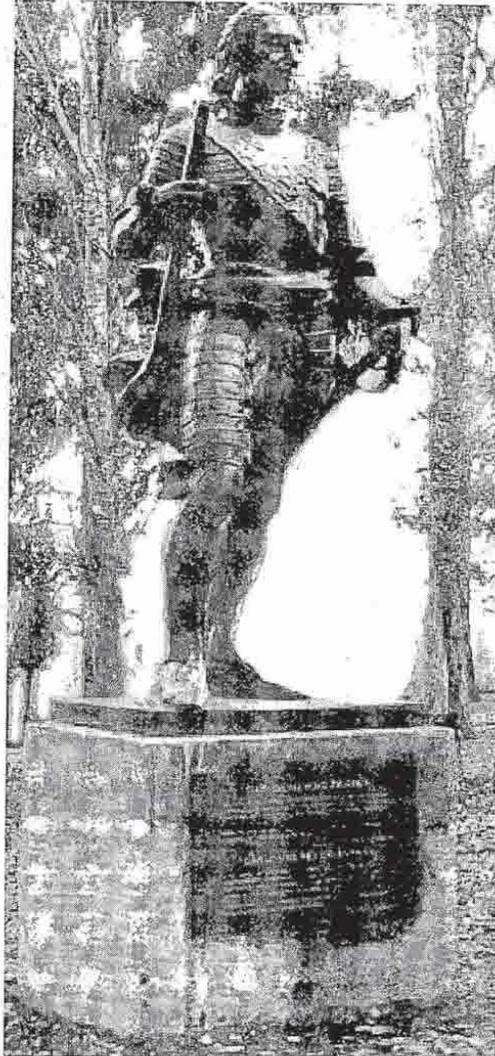
238 light poles along Market Street and surrounding the Legion of Honor

The image is a Plains Indian, not Californian. The subject is nude and riding a horse, which is historically inaccurate. In addition, nudity is not a Native American standard in art and its use in depictions of Native Americans is a European-based concept in art and is considered to be disrespectful by many Native American people. It also perpetrates the misconception that all Native Americans resemble Plains people and culture.

78-2  
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DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO



King Carlos III of Spain  
(Lake Merced)

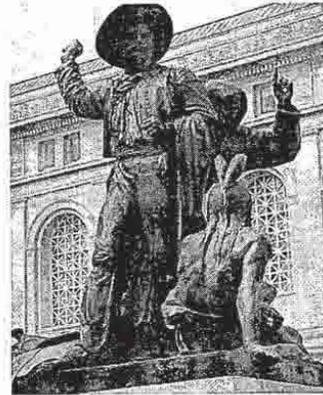
Established the Catholic Missions in San Francisco.

San Francisco Human Rights Commission

90

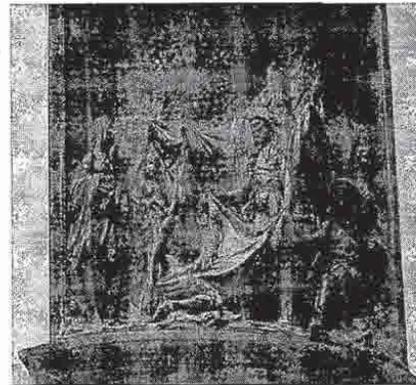
78-2  
cont'd.

The Pioneer Monument (Civic Center Plaza)



In the original rendition of this statue, the Vaquero (rancher), was brandishing a gun. It was removed when the statue was relocated to its current location in 1993.

The image (above) shows a Catholic priest gesturing to heaven with one hand while motioning to the Native American person to stay down on the ground. Although this is a statue that glorifies the conquest of California, the Native American person is a Plains Indian (when considering the feathers and hair style) and not a California Indian, which reinforces the notion that all Native Americans look like Plains Indians. The Native American person is naked (except for a blanket), is barefoot, and is in an inferior, helpless position on the ground with the conquerors standing in a superior position over him.



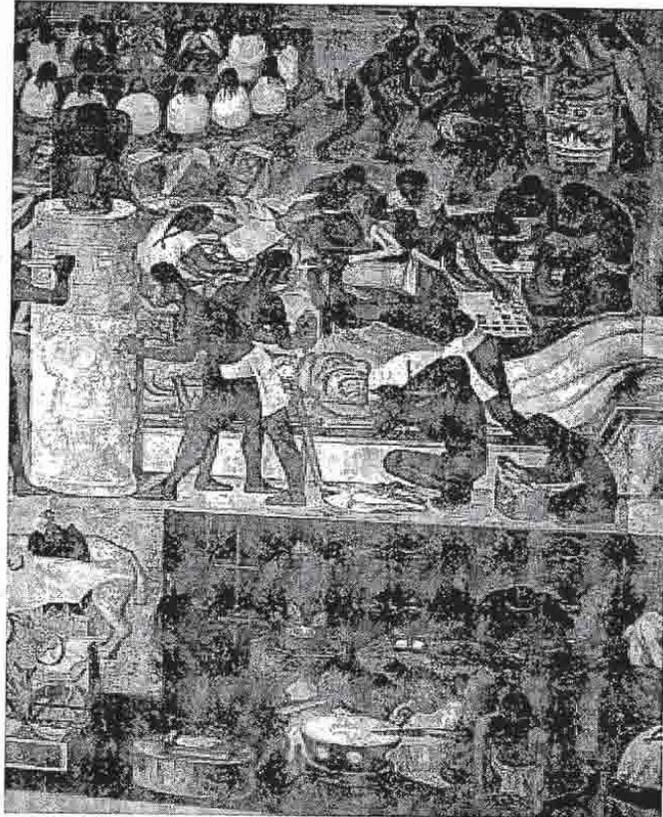
The close-up (above) is of one of the bas-relief panels that encircle the pillar of this monument. The Native American people are all naked and barefooted, and the woman's breast is exposed. The central figure of a European trader is in a superior position to the Native American subjects, one of whom is kneeling at the feet of the trader.



The plaque (left) gives a history of the origin of the statue as well the different locations where it has been erected. It neither offers an explanation of the historical context of the images, nor does it extend any apology for the subjugation and near-annihilation of Native American people.

78-2  
cont'd.

96 of 106



“Marriage of the Artistic Expression of the North and South of this Continent”  
(City College)

“[This image is intended to convey] Pan American unity representing the United States, Canada, and Mexico. Coatlicue, the ancient Aztec Goddess of earth and death dominates the center of the design. Figures present in the mural are the artist, Frida Kahlo, various actors, Dudley Carter, Emmy Lou Packard. The mural was originally created [by Diego Rivera] for the 1939 World’s Fair [in New York].” (SF Arts Commission Website)

While the mural seems to exalt Native American people and culture, it is viewed by many to be cultural assimilation and fetishization of the indigenous people of the area known as Mexico. Additionally, nudity in art is not a Native American standard and is often seen as offensive and inappropriate as the representations depict what many Native Americans see as their ancestors. In this context, nude depictions of what are essentially grandmothers and grandfathers are deemed offensive when viewed through most indigenous values.

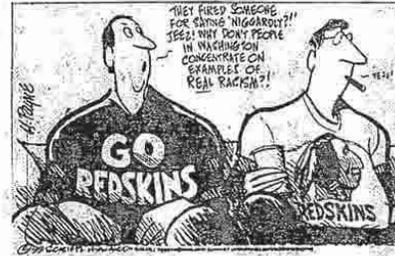
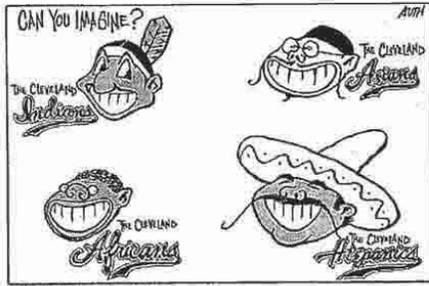
78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

**D. IMAGES OF MASCOTS**

The selection of panel cartoons and sports mascot images are examples of imagery that exploits Native Americans either through ridicule (implied or explicit) or through misrepresentation, objectification, and/or fetishization.



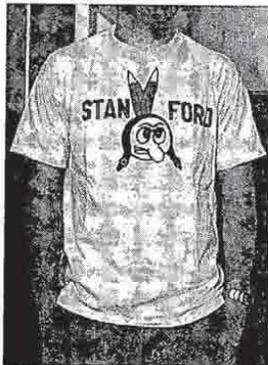
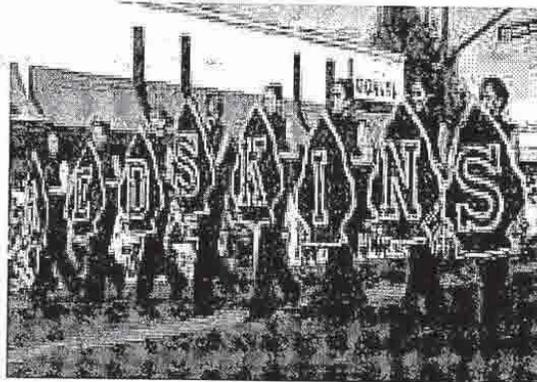
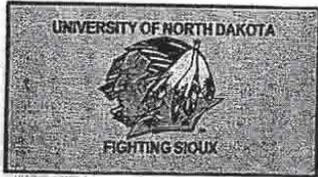
"Chief Wahoo" of the Cleveland Indians

78-2  
cont'd.

98 of 106



DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO



College students performing the so-called, "tomahawk chop" at a game. This very aggressive gesture, which mimics the use of a weapon, first began at Florida State University and is emulated at other public school and professional sports venues. The intention is to intimidate opponents while cheering on the team. The "tomahawk chop" is usually accompanied by a sing-song, Hollywood style "war chant."

Stanford Alumni shirt – circa 1972  
This Stanford mascot was eliminated by student vote, yet this T-shirt was sold by the Stanford Alumni Association in 2006 to raise money.

78-2  
cont'd.



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**E. RESOURCES**

This is a partial list of organizations that serve Native American communities. If your organization has not been listed, please contact the Commission and submit contact information for your organization, for consideration of inclusion in subsequent amended versions of the report.

**ADVOCACY**

**Advocates for Indigenous California Language Survival**

221 Idora Avenue  
Vallejo CA 94591  
(707) 644-6575 [www.aicls.org](http://www.aicls.org)

**American Indian Activity Group/Lawrence Livermore National Laboratory**  
(925) 423-7846

**American Indian Alliance of Santa Clara (Pow Wow calendar; resource directory)**  
467 Saratoga #626  
San Jose, CA 95129  
(408) 246-0343 [aia@americanindianallican.org](mailto:aia@americanindianallican.org)

**American Indian Resources Institute/Indian Law Reporter**  
1025 West Vine Street  
Stockton CA 95203  
(510) 834-9333 [indianlawreporter.org](http://indianlawreporter.org)

**Bay Area American Indian Two-Spirits (BAAIT-S)**  
1800 Market Street  
San Francisco CA 94102  
(415) 865-5616 [www.baaits.org](http://www.baaits.org)

**Black Native American Association**  
(510) 536-1715  
2228 E.15th Street  
Oakland CA 94606 [www.bnaa.org](http://www.bnaa.org)

**California Indian Legal Services**  
405 - 14th Street, Suite 300  
Oakland CA 94612  
(510) 835-0284  
(800) 829-0284  
Fax: (510 ) 835-8045

78-2  
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100 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

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**Department of Veterans Affairs: Native American Program**

(650) 493-5000 ext. 22241

(chapel's extension will direct you to the Cultural Center located in Menlo Park)

**International Indian Treaty Council**

2390 Mission Street, Suite 301

San Francisco CA 94110

FAX (415)641-1298

(415) 641-4482

[www.treatycouncil.org](http://www.treatycouncil.org)

[iitc@treatycouncil.org](mailto:iitc@treatycouncil.org)

**Intertribal Council of California**

2755 Cottage Way, Suite 14

Sacramento CA 95825

(916) 973-9581

**National Congress of American Indians**

1301 Connecticut Avenue NW, Suite 200

Washington DC 20036

(202) 466-7767

[www.ncai.org](http://www.ncai.org)

**National Indian Justice Center**

5250 Aero Drive

Santa Rosa CA 95403

(707) 579-5507

[www.nijc.indian.com](http://www.nijc.indian.com)

**Oyate**

2702 Mathews St.

Berkeley, CA 94702

(510) 848-4815 fax

(510) 848-6700

[www.oyate.org](http://www.oyate.org)

[oyate@oyate.org](mailto:oyate@oyate.org)

**Running Strong for American Indian Youth**

2550 Huntington Avenue #200

Alexandria, VA 22303

(703) 317-9881

[www.indianyouth.org](http://www.indianyouth.org)

**United Indian Nations**

1320 Webster Street

Oakland CA 94612

(510) 763-3410

San Francisco Human Rights Commission

96

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**ARTS**

**Ableza: Native American Arts and Film**

(408) 267-4609  
1279 Mildred Avenue  
San Jose CA 95125

[www.ableza.org](http://www.ableza.org)  
[ableza@pachell.net](mailto:ableza@pachell.net)

**Jesse Peter Native American Art Museum**

(707) 527-4479  
15 Mendocino Avenue  
Santa Rosa CA 95401

[www.santarose.edu/museum](http://www.santarose.edu/museum)

**Machu Pichu Gallery and Museum of the Americas**

(408) 977-0816  
88 South Third Street, #119  
San Jose CA 95113

[www.incagardens.com](http://www.incagardens.com)

**Maidu Interpretive Center**

(916) 774-5934  
1960 Johnson Ranch Drive  
Roseville CA 95661

[www.roseville.ca.us/indianmuseum](http://www.roseville.ca.us/indianmuseum)

**Marin Museum of the American Indian**

(415) 897-4064  
PO Box 864  
Novato CA 94948

[www.marinindian.com](http://www.marinindian.com)

**Native American Cultural Center of San Francisco**

(415) 867-8101

[www.nativecc.com](http://www.nativecc.com)

**Oakland Museum of California**

(510) 238-2200

[www.museumca.org](http://www.museumca.org)

**Phoebe Hearst Museum of Anthropology, UC Berkeley**

(510) 642-3682  
103 Kroeber Hall  
Berkeley CA 94720

[www.heartsmuseum.berkeley.edu](http://www.heartsmuseum.berkeley.edu)

**American Indian Contemporary Arts**

(510) 682-8839

[www.groups.msn.com/bayareaindiancalendar.org](http://www.groups.msn.com/bayareaindiancalendar.org)

**American Indian Film Institute**

(415) 554-0525  
333 Valencia Street  
San Francisco CA 94103

[www.aifisf.com](http://www.aifisf.com)

97

San Francisco Human Rights Commission

78-2  
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102 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

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**California Indian Basketweavers Association**  
(530) 272-5500 [www.ciba.org](http://www.ciba.org)

**California Indian Museum and Cultural Center**  
(707) 579-3004  
5250 Aero Drive  
Santa Rosa CA 95403 [www.cimcc.org](http://www.cimcc.org)

**California Indian Storytelling Association**  
(510) 793-8208  
PO Box 267  
Fremont CA 94537 [www.cistory.org](http://www.cistory.org)

**California State Indian Museum**  
(916) 324-0971  
2618 King Street  
Sacramento CA 95816 [hberry@parksCa.gov](mailto:hberry@parksCa.gov)

**Carl Gorman Museum, UC Davis**  
(530) 752-6567  
1316 Hart Hall  
One Shield Avenue  
Davis CA

**Chaw'Se Regional Indian Museum**  
(209) 296-7488  
14881 Volcano Road  
Pine Grove CA 95665

**Dance for Power**  
(877) 366-7248

**Gallery of the American West**  
(916) 446-6662 [www.gallerywest.com](http://www.gallerywest.com)

**Gathering Tribes**  
(510) 528-9038  
1573 Solano Avenue  
Berkeley CA 94707 [www.gatheringtribes.com](http://www.gatheringtribes.com)

**Grace Hudson Museum and Sun House**  
(707) 467-2836  
431 South Main Street  
Ukiah CA 95482 [www.gracehudsonmuseum.org](http://www.gracehudsonmuseum.org)

San Francisco Human Rights Commission

98

78-2  
cont'd.

103 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**University of California, Berkeley**  
**Ethnic Studies Department**  
**Native American Studies Collection**  
(510) 643-1234 [www.esl@library.berkeley.edu](http://www.esl@library.berkeley.edu)

**Sequoyah Library, DQ University**  
(530) 758-0470  
PO Box 409  
Davis CA 95617

**Society for the Advancement of Chicanos and Native Americans in Science**  
(831) 459-0170  
PO Box 8526  
Santa Cruz, CA 95061 [www.sacnas.org](http://www.sacnas.org)  
[info@sacnas.org](mailto:info@sacnas.org)

**Woodfish Institute**  
(415) 263-0423  
P.O. Box 29044  
San Francisco CA 94129-0030 [www.woodfish.org](http://www.woodfish.org)  
[lgray@woodfish.org](mailto:lgray@woodfish.org)

**Family/Children/Elders**

**American Indian Child Resource Center**  
(510) 208-1870  
522 Grand Avenue  
Oakland, CA 94610  
Fax (510) 208-1886 [www.aicrc.org](http://www.aicrc.org), [aicrc@aicrc.org](mailto:aicrc@aicrc.org)

**Friendship House Association of American Indians**  
(415) 865-0964  
56 Julian Avenue  
San Francisco CA 94103-3547 [www.friendshiphousesf.org](http://www.friendshiphousesf.org)

**Hintil Kuu Child Development Center**  
(510) 879-0840

**Indian Child and Family Preservation Program**  
(707) 463-2644

**Indigenous Nations Child and Family Agency**  
(510) 559-3120

99

San Francisco Human Rights Commission

78-2  
cont'd.

104 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**HEALTH**

**California Rural Indian Health Board**  
(916) 929-9761  
4400 Auburn Boulevard, 2nd Floor  
Sacramento CA 95841      [www.crihb.org](http://www.crihb.org)

**Indian Health Center of Santa Clara Valley**  
(408) 445-2051

**Native American AIDS Project**  
(415) 431-6227  
470 Carolina Street  
San Francisco CA 94107

**Native American Health Center**  
(415) 621-0851      [www.nativehealth.org](http://www.nativehealth.org)  
[info@nativehealth.org](mailto:info@nativehealth.org)

**MEDIA**

**Bay Native Circle: KPFA Berkeley**  
(510) 848-6767      [www.radiocamp.com/baynativecircle](http://www.radiocamp.com/baynativecircle)  
[baynativecircle@radiocamp.com](mailto:baynativecircle@radiocamp.com)

**Native Media Resource Center**  
(707) 875-9835      [www.nativeamericanpublicradio.com](http://www.nativeamericanpublicradio.com)  
[info@nativeamericanpublicradio.com](mailto:info@nativeamericanpublicradio.com)

**News From Native California**  
(510) 549-2802  
PO Box 9145  
Berkeley CA 94709      [www.heydaybooks.com/news](http://www.heydaybooks.com/news)  
[nnc@heydaybooks.com](mailto:nnc@heydaybooks.com)

**Native Voices – Mary Jean Robertson – KPOO 89.5FM**  
3<sup>rd</sup> and 4<sup>th</sup> Wednesdays of the month from 6 p.m. to 8 p.m.

**Red Road – San Francisco Public Access Television – Channel 29**  
1<sup>st</sup> Monday of the month at 7p.m., San Francisco Cable TV

San Francisco Human Rights Commission

100

78-2  
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**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN  
SAN FRANCISCO**

**F. PRESS RELEASE**

**NEWS RELEASE**

**September 28, 2006**

**FOR IMMEDIATE RELEASE**

Contact: Marcus Arana at (415) 252-2519

**SAN FRANCISCO HUMAN RIGHTS COMMISSION TO HOLD  
HISTORIC PUBLIC HEARING ON NATIVE AMERICAN ISSUES**

The San Francisco Human Rights Commission announced today that it will hold a public hearing on Native American issues in San Francisco, on **Thursday October 12, 2006**. The hearing, starting at 4:30 p.m., will be held at San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place, Board of Supervisors Legislative Chamber, 2<sup>nd</sup> Floor, Room 250, and is scheduled to end at 7:30 p.m.

“This will be a historic event for the San Francisco Human Rights Commission,” stated Commission Chair Khaldoun Baghdadi. “We are inviting speakers from many different sectors of the Native American community, so we expect a very comprehensive hearing.”

Commissioner Pat Norman is a member of the Native American Community and is enthusiastic about the timing of the hearing. “This means so much to both local and relocated Native American community members. It will be refreshing to address the complex problems facing the original, indigenous people of this country,” said Commissioner Norman.

The Commission will hear testimony on many different allegations raised in recent community focus groups: San Francisco tribes (Ohlone, Muwekma) are not recognized by the federal Bureau of Indian Affairs and are not granted the rights of tribal sovereignty. The Federal government has proposed severe funding cuts to Native American Urban health centers, potentially impacting thousands of Native American people in San Francisco.

101

San Francisco Human Rights Commission

78-2  
cont'd.

106 of 106



**DISCRIMINATION BY OMISSION: ISSUES OF CONCERN FOR NATIVE AMERICANS IN SAN FRANCISCO**

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Native American people are mostly omitted in conversations about racism. Romanticized images of Native Americans are used to sell everything from cigarettes to fast food. Sports teams on any level, from elementary schools to professional teams, diminish Native Americans to “mascot” status.

Other allegations detail statuary and paintings in San Francisco that demean Native American people. Streets and public buildings in the City are named after conquerors. School children are being taught volumes of misinformation, while Native American children have to navigate an innately hostile environment at school. There are high numbers of homeless, poor Native American people who are not targeted by government outreach programs. The Commission will look at the issue of relocation and how intertribal tensions may affect community relations. And, the Commission will hear from local government on how San Francisco addresses these concerns and issues.

A report with Findings and Recommendations will be created from the information collected from the oral and written testimonies of community members, parents, youth, educators, academics, service providers, and City Department representatives. There will be time set aside for public comment.

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San Francisco Human Rights Commission

102

78-2  
cont'd.

## ■ Letter 78: City and County of San Francisco, Human Rights Commission (1/12/10)

### **Response to Comment 78-1**

Refer 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) regarding the presence and treatment of burial remains and funerary objects discovered at the Project site.

### **Response to Comment 78-2**

The *Issues of Concern for Native Americans in San Francisco*, a report of the San Francisco Human Rights Commission, submitted with the comment, provides general information and is not a direct comment on the content or adequacy of the Draft EIR.

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# Letter 79: San Francisco Bicycle Coalition (1/12/10)

1 of 2



**Letter 79**

995 Market Street Suite 1550  
San Francisco, CA 94103  
415.431.BIKE  
415.431.2468 fax  
www.sfbike.org

Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission St., Suite 400  
San Francisco, CA 94103

January 12, 2010

**RE: Comments on Draft Environmental Impact Report for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan**

Dear Mr. Wycko

On behalf of the 11,000 members of the San Francisco Bicycle Coalition (SFBC), I hereby submit our comments on the Draft Environmental Impact Report (DEIR) prepared for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan. We make the following points on the adequacy of this Draft, and suggest the following revisions and additions

1. Harney Way Widening (Impact TR-16, III.D-97) – On the proposed widening of Harney Way (in separate phases), Figures 9 and 10 in the November 2009 Transportation Plan show the configuration of Harney Way in the Initial Configuration and Ultimate Configuration. For bicycles, the Initial Configuration contains a 12-foot bike path plus a 5-foot bike lane in either direction. The Ultimate Configuration retains the 12-foot bike path, but only one 5-foot bike lane, on the North side of the street. The Final EIR should contain a study of the potential impact of the removal of the bike lane during this widening, and alternatives to removing the bike lane, such as narrowing or removing car travel lanes, or narrowing sidewalks.

In addition, MM TR-16 states that “the Project Applicant shall fund a study to evaluate traffic conditions on Harney Way and determine whether additional traffic associated with the next phase of development would result in the need to modify Harney Way to its ultimate configuration,” in collaboration with the SFMTA. The decision to widen a street widening should be made into a public process, led by SFMTA research and outreach, and not determined by current standards of intersection LOS. When this decision is actually made, the community may prefer options other than those that are present or known currently.

2. Impact TR-32 states that increased traffic volumes and the proposed transit preferential treatments on Palou Ave. (between Griffith and Third St.), could result in a significant and unavoidable impact on bicycle traffic on that current section of official bike network. At this time, the feasibility is uncertain, so as a mitigation, it is stated the applicants will fund a study looking at relocating the bike routes to another neighboring streets. It should be noted that serious bike network connectivity issues may arise by this change. Any feasibility study should include examining the ease and of bike trips throughout the area, and to adjacent neighborhoods. Hills and increased auto traffic (on Third St.) on the new

79-1

79-2

*Continued on next page*

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2 of 2

*Continued from previous page*

bike route may be worse for cyclists than the future Palou St. The Final EIR should include a study of possible likely alternatives, as well as the possibility of having the bike route remain on Palou St.

In addition, under the heading "Streetscape Improvements" on p 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." How is this statement compatible with the removal of bike facilities off of Palou Ave.?

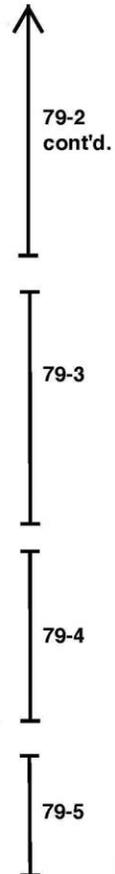
3. Figure 14 of the November 2009 Transportation Plan (page 52) shows a gap in the proposed bikeway network in the area adjacent to Candlestick SRA. Coming off of either the Class I or II facilities on Harney Way and continuing northeast, there is no direct designated route for cyclists to continue north-east onto what will presumably be Donahue St. A Class I facility follows the coastline away from the direct route, and the network of Class III routes crisscross the area in their own network. Since the streets will be essentially created from scratch, a bicycle facility on this segment of roadway should be included in future studies.
4. Impact TR-40 describes bicycle access to the stadium during game days, and states that the trip will be possible, but "difficult." It seems there may be an opportunity to actively build infrastructure for and encourage bicycling to the stadium, as a way to alleviate the impacts from automobiles on those 12 occasions a year. The Final EIR should include analysis of potential bike mode-share on game days, given a safe and attractive route and encouragement to travel there by bike.
5. Impact TR-31 states that there will be "No Impact" on the bicycle network and circulation, because of the expansion of facilities in the Project area, and adjacent to the Project Area. The last sentence states that "the facilities would be adequate to meet the bicycling demand associated with the Project uses." How is this adequacy measured?

I thank you for your consideration on the above points, and hope future reports contain additional and amended studies of alternatives and impacts, as recommended.

Sincerely,



Neal Patel  
Community Planner  
San Francisco Bicycle Coalition  
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neal@sfbike.org



## ■ Letter 79: San Francisco Bicycle Coalition (1/12/10)

### **Response to Comment 79-1**

The analysis in the Draft EIR does examine the impact associated with full buildout of Harney Way. Under this scenario, Harney Way would have a Class I shared bicycle/pedestrian path on its southern side, adjacent to the San Francisco Bay. This facility would accommodate bicycle travel in both the eastbound and westbound directions. However, to provide connections to potential bicycle facilities to the west and reduce the need for bicycles to cross Harney Way, Harney Way would also include a Class II bicycle lane in the westbound direction. As described in Impact TR-31, the Draft EIR determined that there would be no significant adverse impacts to bicycles associated with the planned bicycle configurations.

The ultimate configuration of Harney Way has been developed based on a series of public meetings and workshops, and it is anticipated that Harney Way would be built out as currently proposed in the Draft EIR. However, as indicated in mitigation measure MM TR-16, prior to issuance of grading permits for Phases 2, 3, and 4, the Project Applicant shall fund a study to evaluate traffic conditions on Harney Way and determine whether additional traffic associated with the next phase of development would result in the need to modify Harney Way to its ultimate configuration. The study shall be conducted in collaboration with the SFMTA, which would be responsible for making final determinations regarding the ultimate configuration. Along with other concurrent factors, SFMTA may incorporate public comment into the ultimate configuration, thereby allowing community preferences to help shape viable options that may differ from those currently planned.

### **Response to Comment 79-2**

Comment noted. The purpose of the feasibility study referenced in mitigation measure MM TR-32 would be to examine the connectivity issues, topography, and auto traffic volumes cited by the commenter.

### **Response to Comment 79-3**

The comment refers to Figure 14 in the Project's Draft Transportation Plan. The same figure is included in Figure III.D-10 of the Draft EIR. In response to the comment, Figure III.D-10 in the Draft EIR has been revised to include a Class III bicycle facility on Harney Way from Arelious Walker Drive to the northeastern end of Harney Way within the Candlestick Point site. Refer to Response to Comment 31-9 for the revised figure.

### **Response to Comment 79-4**

The Project would include a number of bicycle-related improvements designed to encourage bicycle use to the new stadium. Refer to Response to Comment 31-4. However, regardless of the amount of bicycle-related infrastructure that could be reasonably provided, due to the very high traffic volume and large volumes of pedestrians in the vicinity of the stadium on game days, bicycling (as with other modes) would become more congested and difficult. However, Impact TR-40 concluded that the impacts to bicycles would be less than significant, because congestion and crowding are generally expected at large sporting events.

### **Response to Comment 79-5**

For purposes of the Draft EIR, the level of significance of Project impacts were measured according to the significance criteria described on pages III.D-31 to III.D-33. Specifically for bicycles, Criteria D.k specifies that impacts to bicycles would be significant if the Project would “create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility to the site and adjoining uses.”

## ■ Letter 80: People Organized to Win Employment Rights (12/11/09)

1 of 1

SUE C. HESTOR

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Letter 80

December 11, 2009

Ron Miguel, President  
Planning Commission  
1650 Mission Street 5<sup>th</sup> fl  
San Francisco CA 94103

RE: 2007.0946E **Candlestick Point-Hunters Point Shipyard Phase II Development Plan DEIR**  
December 17, 2009, 6:30pm Item 20

Dear President Miguel:

On behalf of People Organized to Win Employment Rights (POWER) I request that the Commission establish a 90-day review period for the Candlestick Point/Hunters Point DEIR and that you set a second Planning Commission hearing on the DEIR.

The DEIR was released on November 12 with a Monday, December 28 deadline - a 45-day period for written comments. MEA intends to extend that period to Monday, January 11. The Commission hearing is being held 35 days after DEIR release. Given the complexity and massive project size, as well as the extraordinary length of the DEIR, the public needs much more time to review and prepare adequate written comments. A November 12 - January 11 review period straddles THREE important holiday periods - Thanksgiving, Christmas and New Years - when government offices are closed or operate with minimal staffing for several days at a stretch. **A 90-day review period is appropriate to give the public adequate time to review and prepare written comments on this complex DEIR.**

80-1

The Commission's public DEIR hearing schedule should also be reviewed. December 17 is a day with many holiday events. Several matters on that calendar have potential for substantial discussion - new garages in existing buildings, the Department's financial condition, demolition of sound housing. Even if the DEIR hearing starts promptly at 6:30, an interesting assumption, DEIR testimony will take several hours. DEIR comment helps the public, as well as Commissioners, to begin focusing on important issues that will be coming up. **POWER asks the Commission start testimony Thursday, but set a second date for continued public hearing.** That you will take testimony from those who can't come later and limit the amount of time.

Respectfully submitted,

Sue C. Hestor

cc: Joy Navarrete  
Planning Commissioners  
Jaron Browne, POWER

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## ■ Letter 80: People Organized to Win Employment Rights (12/11/09)

### ***Response to Comment 80-1***

Refer to Response to Comment 1-1 and Response to Comment 85-5 regarding extension of the comment period and opportunities for public comment.

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## ■ Letter 81: Golden Gate Audubon Society (1/12/10)

1 of 14



*inspiring people to protect  
Bay Area birds since 1917*

Letter 81

January 12, 2010

Via U.S. Mail and electronic mail

Mr. Stanley Muraoka  
Environmental Review Officer  
San Francisco Redevelopment Agency  
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Mr. Bill Wycko  
Environmental Review Office  
San Francisco Planning Department  
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San Francisco, CA 94103  
bill.wycko@sfgov.org

**RE: Project Title: Candlestick Point- Hunters Point Shipyard Phase II Development Plan (Project)  
Case Number: SF Redevelopment Agency File #ER06.05.07, Planning Department Case #2007.0946E, State Clearinghouse#2007082168**

Dear Mr. Muraoka and Mr. Wycko:

This comment letter on the above-referenced project and Draft Environmental Impact Report (“DEIR”) is submitted on behalf of the Golden Gate Audubon Society and its more than 10,000 members and supporters in the San Francisco Bay Area, including the Candlestick Point and Hunters Point communities. Because the DEIR fails to adequately identify the significant impacts to the biological resources of the project area and its environs, Golden Gate Audubon finds that the DEIR is fatally flawed and further environmental analysis and revision of the Preferred Alternative (“the Project”) is necessary.

Golden Gate Audubon believes that redevelopment, if planned with adequate environmental protections, could create significant benefits for the community and the natural environment of the Candlestick Point – Hunters Point area. However, the Project Proponents have focused too much on development and glossed over the very real environmental and cultural impacts of their project. We ask that the lead agency not yield to political pressures and ensure that an adequate—and honest—environmental review is completed before the EIR is certified. The reasons for our position are set forth below.

### I. INTRODUCTION

Golden Gate Audubon’s mission is to protect Bay Area Birds and other wildlife, and to conserve and restore native wildlife habitat. Golden Gate Audubon serves to connect people of all ages and

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Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 2 of 14

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backgrounds with the natural world, and educates and engages Bay Area residents in the protection of our shared local environment. We have worked for years conducting conservation research, restoration, education and outreach along San Francisco's southern waterfront, including in the Hunters Point and Bayview communities. From 2003 through 2004, we organized community volunteers to conduct ecological surveys in the Yosemite Slough Watershed Survey (which is cited in several places in the DEIR). We also participated in and commented on the Hunters Point Constructed Storm Water Feasibility Study in July 2004. More recently, we worked to ensure adequate protections of Candlestick Point State Recreation Area and are now commencing a new ecological study of the park.

Golden Gate Audubon believes that there is inherent value in the natural environment, both for the current and future generations. In the highly urbanized San Francisco Bay Area, few natural resources remain available to wildlife and people who appreciate them. We assert that a flourishing, natural environment enriches all members of the community, not just those who watch birds, fish, hike, or engage in other nature-based activities. As author Richard Louv explains:

At the very moment that the bond is breaking between the young and the natural world, a growing body of research links our mental, physical, and spiritual health directly to our association with nature—in positive ways...As one scientist puts it, we can now assume that just as children need good nutrition and adequate sleep, they may very well need contact with nature.

(Richard Louv, Last Child in the Woods, Algonquin Books (2008), at p. 3). Obviously, the benefits of a healthy natural environment are also significant for adults and help to maintain better mental and physical health. (See, e.g., Centers for Disease Control, Physical Activity and Health: A Report to the Surgeon General (1996), at pp. 13-14, available at <http://www.cdc.gov/nccdphp/sgr/summary.htm>). If the City of San Francisco is intent on improving these areas, it must include adequate environmental protections and improvements to ensure a balance of nature and urbanization in this community. Notably, the DEIR completely fails to address environmental and cultural impacts resulting from a significantly higher and denser population using reduced open space and park lands in the area.

Many residents and visitors in the project area and its environs enjoy observing birds and other wildlife that rely on the abundant resources of the Bay and its shoreline. Birding is one of the fastest-growing outdoor recreational activities in North America, generating billions of dollars for businesses adjacent to bird watching destinations. See, e.g., US Fish & Wildlife Service, *Birding in the United States: A Demographic and Economic Analysis*, Report No. 2006-4 (available at [http://library.fws.gov/Pubs/birding\\_natsurvey06.pdf](http://library.fws.gov/Pubs/birding_natsurvey06.pdf)) (finding that birders spent approximately \$36 billion in 2006 on equipment and birding-related trip expenditures, including travel, transportation, food, lodging, and user fees). Much of these expenditures occur in locales that birders visit to see birds and other wildlife. Protecting the birds and bird watching opportunities along Candlestick Point, Hunters Point and Yosemite Slough shoreline will benefit local residents and businesses and contribute to the overall success of the proposed project.

Unfortunately, the project as described in the DEIR misses several opportunities to protect or improve the natural environment in the area and some proposals will actively wreak significant (and unnecessary) environmental harm. For example, the proposal to build a bridge across San Francisco Bay from Hunters Point and through the Candlestick Point SRA would destroy the park's value and harm wildlife that depend on the area for survival. Our concerns about Yosemite Slough and the proposed bridge are discussed more fully below.

81-1

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 3 of 14

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**II. SPECIFIC COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT**

**A. The DEIR Fails to Account for All Significant Negative Impacts on Yosemite Slough that will Occur Because of the Project.**

Yosemite Slough's humble appearance belies its ecological significant to plants, birds, aquatic organisms and other natural life that thrives in the area. Under the Bay Conservation & Development Commission's ("BCDC") San Francisco Bay Plan and McAteer-Petris Act authority, Golden Gate Audubon recommends that a bridge not be permitted over Yosemite Slough. (See III.B-12 to B-19 *BCDC SF Bay Plan and McAteer-Petris*) There are alternative upland routes for this vehicle and bicycle traffic around Yosemite Slough. A bridge would bring vehicle traffic, noise, air, water and light pollution to Yosemite Slough. There are plans to restore this wetland and a bridge though the wetland would severely limit restoration opportunities for wildlife. Shade from the bridge would also negatively impact the wetland, which is an important ecosystem unto itself and generates oxygen and can act as a highly efficient trapper of carbon. The proposed Yosemite Slough bridge also bypasses the new Third Street Light Rail and street improvements thus bypasses the existing businesses and community, contrary to III.B-34 to 36 Operational Impact LU-1 (*Implementation of the Project would not physically divide an established community. (No Impact)*)).

81-2

In 2004, Golden Gate Audubon released the *Final Watershed Report on Yosemite Slough Watershed Wildlife Survey*, which is quoted and relied upon in the DEIR. The 2004 report documented that the area provides valuable habitat for 118 native bird species, 6 mammal species, 5 reptile species, 1 amphibian species and 14 butterfly species. Despite that the area is highly altered and disturbed, the open water and shoreline habitats, undeveloped fields and park land support a great diversity of water birds and land birds. The small salt marsh along the shoreline of Yosemite Slough provides foraging habitat for many shorebirds, while the large open water areas provide loafing and foraging areas for large numbers of water birds as well as marine mammals. Upland areas provide habitat that supports land birds, and resting areas for shorebirds like killdeer and gulls. It is clear that habitat restoration would quickly increase the area's wildlife populations and provide opportunities for the local community to experience the native wildlife that once dominated the shoreline and adjacent waters of Yosemite Slough.

81-3

Yosemite Slough is recognized as an excellent site for habitat creation and restoration. (See California Coastal Conservancy, Yosemite Slough Restoration – Northern Area Construction, Staff Recommendations (October 5, 2006), also available at [http://www.coastalconservancy.ca.gov/sccbb/0610bb/1006Board05\\_Yosemite\\_Slough\\_Restoration.pdf](http://www.coastalconservancy.ca.gov/sccbb/0610bb/1006Board05_Yosemite_Slough_Restoration.pdf) (finding that "The restoration site is part of the Pacific Flyway and serves as important foraging habitat for migrating and wintering shorebirds."), The Yosemite Slough Restoration Plan, a project of the California State Parks Foundation, would clean the area, restore habitat, and provide public access (incorporating the Bay Trail that will skirt the slough). *Id.*

The DEIR repeatedly refers to the bridge as if it is a necessary and presumed part of the Project. (See DEIR, e.g., Figure III B-6 *Proposed Lennar Land Use*, Figure III D-5; *Game Day Network* III D-45; Impact TR-1 *Construction Vehicle and Roadway*; TR 29 III D-117 *Bicycle Plan*; MM TR17 III D-99 Figure III D-13 *Stadium Game Day Traffic*; Figure III D-14 *Stadium Ingress Traffic*; Figure III D-15 *Stadium Egress Traffic*, Figure III P-2, Figure III D-6 *Proposed Roadway Improvements*; *et al.*) The negative environmental impacts to Yosemite Slough caused by the bridge far outweigh any marginal benefit of the bridge.

81-4

Gate Audubon strongly objects to the DEIR's characterization of the bridge over Yosemite Slough as an "improvement." As discussed further below, it will have a negative impact on the local environment,

4 of 14

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 4 of 14

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split the community, and unnecessarily cost millions of dollars to plan, build, and maintain. “Improvements” at the site would be something more in line with those planned by the California Coastal Conservancy and the California State Parks Foundation to create and restore natural habitat in the slough (see above).

81-4  
cont'd.

**1. The Possible Use for Transit to the Stadium Is an Insufficient Benefit Given the Environmental Costs.**

The DEIR asserts that the bridge will serve to ferry fans to the stadium for approximately twelve games per year (if a professional football team agrees to stay in San Francisco). Secondary events at stadium may bring as many as 37,500 attendees. According to the DEIR, SFMTA is to determine if secondary events could use Yosemite Slough Bridge.

81-5

Golden Gate Audubon believes that it is extremely wasteful and unreasonable to invest approximately \$100 million dollars in a bridge intended to support traffic for only twelve event each year, particularly where the bridge will only save two to four minutes of travel time. Given the financial and environmental cost of the bridge, we believe it should be excised from the Project plan.

**2. The DEIR Erroneously States that the Bridge Will Be Part of the Bay Trail.**

The DEIR’s authors attempt to bolster the argument for a bridge over Yosemite Slough by asserting that the bridge will serve as a spur for the Bay Trail. (See Figure III.B-3 Bay Trail). However, the Bay Trail route is around, not through or over, Yosemite Slough. The ABAG Gap Analysis for San Francisco shows a gap in the SF Bay Trail around Yosemite Slough but does not propose an expensive bridge; instead the plan proposed that the trail continue around Yosemite Slough. The proposed cost for the Bay Trail segment #1026 is \$898,633 Category 1 - meaning funded with public money, for the construction, design and permit of 4,206 feet segment around Yosemite Slough. Golden Gate Audubon supports the continuation of the SF Bay Trail around Yosemite Slough as depicted on the map prepared by the ABAG Gap Analysis team (available at <http://baytrail.abag.ca.gov/gap-analysis/maps/SF.pdf>).

81-6

**3. The DEIR Fails to Acknowledge All Impacts or Required Mitigations for the Bridge.**

The DEIR discusses several potential impacts of the Yosemite Slough Bridge. Not surprisingly, the DEIR’s authors dismiss each as less than significant (with or without mitigation).

81-7

As an initial matter, Golden Gate Audubon strongly disagrees with the DEIR’s finding in Impact BI-4c, which states that construction of the bridge will not have significant impacts on adjacent wetlands or aquatic resources. This does not appear to be in compliance with the Clean Water Act or its implementing regulations. More importantly, it ignores that mudflats and tidal wetlands are habitats of significant importance and sensitivity, especially in San Francisco Bay. This DEIR must be revised to account for potential impacts from construction of the bridge, including increases in turbidity, pollution, stirring contaminated sediment, and other disturbances to the natural environment of the site.

Other impacts of particular concern to Golden Gate Audubon include:

- Impact of Yosemite Slough Bridge
- Impact HY-1c Construction of the Yosemite Slough bridge would not cause an exceedance of water quality standards or contribute to or cause a violation of

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 5 of 14

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waste discharge requirements. (Less than Significant with Mitigation) [Criterion M.a]

Combined Impact of Candlestick Point, Hunters Point Shipyard Phase II, and Yosemite Slough Bridge  
Impact HY-1 Construction activities associated with the Project would not cause an exceedance of water quality standards or contribute to or cause a violation of waste discharge requirements. (Less than Significant with Mitigation) [Criterion M.a]

Impact HY-5: Storm Sewer System Capacity  
Impact HY-5 Construction activities associated with the Project would not create or contribute runoff water that would exceed the capacity of existing or planned storm sewer systems or provide substantial additional sources of polluted runoff. (Less than Significant with Mitigation) [Criterion M.e]

Impact of Yosemite Slough Bridge  
Impact HY-6c Implementation of the Yosemite Slough bridge would not contribute to violations of water quality standards or waste discharge requirements. (Less than Significant) [Criterion M.a]

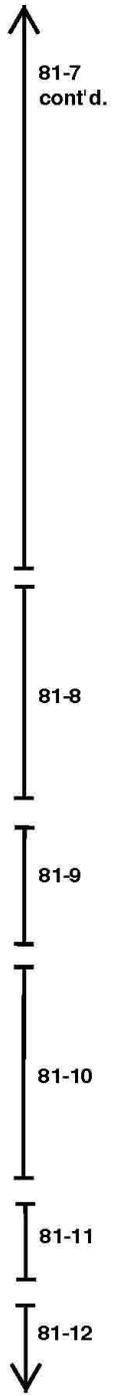
The DEIR fails to address the increased storm water pollution that will result from automobile, transit vehicle, cyclists, and pedestrians over the bridge. Each brings new opportunities to introduce pollutants such as heavy metals, toxic chemicals, trash, food waste, and other debris into Yosemite Slough. (See San Francisco Estuary Institute, *Transport of Contaminants to San Francisco Bay by Stormwater*, (available at [http://www.sfei.org/rmp/rmp\\_news/Estuary%20Insert/Estuaryinsert.pdf](http://www.sfei.org/rmp/rmp_news/Estuary%20Insert/Estuaryinsert.pdf)). The mitigation measures set forth are too vague and in some instances (such as Impact HY-5), no mitigation measure at all are set forth. (See also Jesse R. Barber, Kevin R. Crooks and Kurt M. Fristrup, *The costs of chronic noise exposure for terrestrial organisms*.”.)

Pollution associated with traffic on the bridge will have a negative impact on the ecosystem of Yosemite Slough, including water quality, plants, wildlife, and aquatic organisms. (See *id.*) Moreover, it will negatively affect the aesthetics of the area by detracting from its more open character and introducing significant automobile traffic.

Specifically, Section III.N (*Biological Resources*) also fails to adequately address the impacts to Yosemite Slough (see III N-12). For example, the DEIR fails to acknowledge that the bridge will cause destruction by fill and dividing the 34 acres of the Yosemite Slough wetlands. The DEIR offers nothing about habitat fragmentation at the site and no information about whether the bridge and bridge traffic will affect the ability of wildlife to safely move through the area. Indeed, it offers no concrete information about impacts to wildlife, such as the effects on the proposed nesting islands for birds, the biological impacts of pollution intrusion and storm water runoff from the bridge, and the effects of lights and noise on the local wildlife.

Moreover, the DEIR does not provide enough information to fully evaluate the impacts of shading from the bridge over this portion of the slough. This may have impacts on existing flora and fauna and on the Yosemite Slough Restoration Plan (see above).

Finally, the DEIR fails to discuss the impacts to plant life in and around the slough due to the bridge. For example, how will coastal scrub habitat be affected by the bridge? Will there be plans to reduce and



Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 6 of 14

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prevent invasion by weeds (facilitated by roadways)? What about erosion control and sediment deposition due to traffic? Finally, if revegetation will be necessary, how will it be accomplished? It is apparent that plant monitoring must be part of ensuring compliance with the DEIR, regardless of which alternative is selected.

↑  
81-12  
cont'd.

At a minimum, the DEIR should include a specific plan for the bridge that includes the bridge's height, width, length, materials, construction materials, and fill requirements. The plan should also indicate vegetation effects, lighting, and shading below the bridge. Finally, the plan must include adequate storm water and other pollution controls.

81-13

What are the impacts to the bird, amphibian, mammal, and butterfly species from the bridge? How will they adapt to the shade and lack of vegetation and division to the wetland? The DEIR should provide a diagram which depicts the proposed bridge height, width, and vegetation height, density, and cover. A diagram should depict shadow at various times during the day and the impact on the wetland. Another diagram should depict night lighting of the proposed bridge. At a minimum, we encourage the Project proponents to be required to follow guidelines for the bridge construction similar to those provided by the Arizona Game and Fish Department, in its *Guidelines for Bridge Construction or Maintenance to Accommodate Fish & Wildlife Movement and Passage* (November 2008), (available at <http://www.azgfd.gov/hgis/pdfs/BridgeGuidelines.pdf>)

81-14

Many of the impacts discussed above are not possible to adequately mitigate. Golden Gate Audubon asks that the DEIR be revised to reassess these impacts and provide a forthright accounting of impacts, possible mitigations, and non-mitigatable impacts.

81-15

**C. Impacts to the San Francisco Bay**

**1. The DEIR Understates Impacts from Fill into the Bay as a Result of the Project.**

81-16

The DEIR understates potential impacts to the Bay and incorrectly asserts that the Project is entirely consistent with the Bay Plan. For example, the DEIR states:

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.

(DEIR, at III.B-15). Notably, the DEIR goes on to state that the Project will require an amendment to the Bay Plan. Therefore, the Project is clearly not consistent with the Bay Plan and will not be until the Bay Plan is altered to fit the needs of this project. (*Id.*) We feel that the required amendment is not adequately described in the DEIR and that the potential changes to the Plan (and subsequent impacts to the Bay) cannot therefore be adequately assessed by the DEIR.

**2. The DEIR Fails to Adequately Assess Impacts to Offshore Eelgrass Beds**

81-17

Sections III.N-2 (Study Area Habitats) and III.N-10 (Eelgrass Beds, at p. III.N-20)) briefly describe eelgrass beds adjacent to the Project, but the DEIR fails to adequately address the risks to eelgrass. As the DEIR notes, the eelgrass beds are important for many species of wildlife and have been designated as

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Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 7 of 14

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sensitive by regulatory agencies (*See* p. III.N-20). Culturally, this site was also once an important source of food for Native American inhabitants in the area.

High turbidity, pollution, bay fill, and other human-caused disturbances have resulted in significant declines in eelgrass beds in the Bay, thereby reducing important breeding and foraging habitat for many species of birds and fish.

The DEIR fails to explain how the Project complies with the BCDC Eelgrass Recommendations Report and Restoration Goals for San Francisco Bay. (*See* Bay Conservation & Development Commission, available at [http://www.bcdc.ca.gov/planning/shg/SFSU\\_Boyer\\_EelgrassReport.pdf](http://www.bcdc.ca.gov/planning/shg/SFSU_Boyer_EelgrassReport.pdf)); *see also* Cal. Dept. of Fish & Game, available at [http://www.dfg.ca.gov/marine/status/submerged\\_aquatic\\_plant.pdf](http://www.dfg.ca.gov/marine/status/submerged_aquatic_plant.pdf))

The DEIR should also include mitigations to reduce impacts to adjacent eelgrass beds that include, but are not limited to, signage to inform residents and visitors of the importance and sensitivity of the habitat.

#### D. Impacts to Candlestick Point State Recreation Area

Clearly, the Candlestick Point State Recreation Area (CPSRA) will be significantly impacted by any construction of a bridge over Yosemite Slough (*see above*). Beyond that, the DEIR fails to adequately describe the natural values of the CPSRA. First, Fig III N.2 Candlestick described the park's vegetation as unnaturally landscaped with ornamentals. Yet, the park supports important native plants such as oak and coyote brush, which provide significant habitat for birds, butterflies and other native wildlife. The DEIR also undervalues the CPSRA's diversity of birds and suffers from a very limited biological assessment of the area (*See* III.N.2, admitting that the biological surveys were conducted on only two days). It appears to Golden Gate Audubon that the Project Proponents did not take a hard look at the values of the CPSRA or the impacts to the park that will result from the Project.

For example, DEIR Impact BI-6: Birds, Impact of Candlestick Point (*Construction at Candlestick Point would not have a substantial adverse effect, either directly or through habitat modifications, on any bird species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS. (Less than Significant with Mitigation)*) focuses on nesting hawks and burrowing owls yet there are other nesting birds that should be considered in this report. Breeding birds include Double-crested Cormorants, Black Crowned Night Herons, Mallards, Snowy Egrets, Great Egrets, Red-tailed Hawks, American Kestrel, Killdeer, Black Oystercatcher, American Avocet, Black-necked Stilt, Western Gull, Caspian Tern, Forester's Tern, Rock Pigeon, Morning Dove, Barn Owls, White-throated Swift, Anna's Hummingbirds, Loggerhead Shrike, Western Scrub Jay, American Crow, Common Raven, Barn Swallow, Bushtit, American Robin, Northern Mockingbird, European Starling, Orange-crowned Warbler, California Towhee, Savannah Sparrow, Song Sparrow, White-crowned Sparrow, Red-winged Black Bird, Western Meadowlark, Brewer's Blackbird, Hooded Oriole, Bullocks Oriole, House Finch, Lesser Goldfinch, House Sparrow, American Goldfinch. (*See* San Francisco Field Ornithologist Breeding Bird Atlas 2003 Draft, 165 p., available at <http://sffo1.markeaton.org/Breeding%20Ecology/San%20Francisco%20Breeding%20Bird%20Atlas.pdf>). The DEIR's accounting of the bird diversity at the CPSRA is inexcusably sparse.

The DEIR also fails to address the impacts to the CPSRA that will result from being used by a much larger and denser local population. Increased use of the park will inevitable inflict damage on its natural resources, reducing native vegetation, leaving pollution, and disturbing wildlife.

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81-18

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 8 of 14

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Moreover, the CPSRA will be significantly reduced in size as a result SB 792, which was enacted as a favor to the Lennar Corporation and the City of San Francisco in a public land-for-cash swap. (See III.B-9). The DEIR fails to address how the increased use on reduced lands can be adequately mitigated.

**2. Impacts from Increased Use of the Area by Domestic Pets and Feral Animals**

Certainly, if successful, the proposed project will significantly increase the human population of the area. With that comes an increased number of domestic pets, particularly cats and dogs. Golden Gate Audubon supports the national *Cats Indoors* initiative, which promotes longer-living and healthier cats and reduces the extremely negative impacts to local wildlife that outdoor cats have. (See American Bird Conservancy, *Cats Indoors: The Campaign for Safer Birds and Cats*, available at <http://www.abcbirds.org/abcprograms/policy/cats/index.html>). We also promote reasonable leash requirements for dogs, particularly in ecologically sensitive areas such as areas adjacent to Yosemite Slough, the Candlestick Point State Recreation Area, and along the Bay shoreline. We recommend residents keep domestic pet food inside to prevent wildlife access to this food. (See California's Department of Fish & Game: <http://edis.ifas.ufl.edu/uw090> and [http://www.dfg.ca.gov/wildlife/nongame/nuis\\_exo/dom\\_cat/index.html](http://www.dfg.ca.gov/wildlife/nongame/nuis_exo/dom_cat/index.html), and <http://www.dfg.ca.gov/keepmewild>).

**3. Impacts from Increased Trash and Food Waste**

The DEIR fails to discuss the impacts to the CPSRA resulting from increased use, such as higher levels of trash and food waste, both of which degrade the aesthetics of the park and subsidize populations of bird species such as the Common Raven, American Crow, European Starling and mammals such as rats, feral cats, and raccoons, all of which can have significant negative impacts on native birds, mammals and other local wildlife.

**E. Other Impacts to Local Birds and Other Wildlife and Wildlife Habitat**

The DEIR fails to adequately assess impacts to birds and other wildlife in the area. The DEIR appears to minimize the importance of the area to birds by describing their populations as "limited". It must be remembered that the Yosemite Slough census involved only a small part of the overall area that will be affected by the project. The Yosemite Slough may appear to be degraded habitat, but it is within the larger Candlestick Point State Recreation Area and adjacent to the Hunters Point Shipyard shoreline of San Francisco Bay. Large flocks of waterbirds and shorebirds use the shoreline in winter (See III.N-13). Moreover, the California State Parks Foundation is in the process of improving and restoring 34 acres directly adjacent to the proposed bridge over Yosemite Slough.

Golden Gate Audubon strongly objects to the DEIR's dismissal of California Species of Special Concern as worthy of consideration and protection "only when breeding" (See p. III.N-21). Notably the citation depended upon by the DEIR does not support this argument. The Species of Special Concern designation is intended to be a tool to identify and protect birds before they must be listed as Threatened or Endangered. It is absolutely foolhardy to dismiss conservation concerns about any species because it does not breed (again, based on the DEIR preparer's extremely limited biological surveys) in the Project area. This must be addressed and corrected before the EIR can be certified.

As Section III.N-37 notes, the Project area lies along the Pacific Flyway, the most important waterbird and shorebird migratory route in western North America. Of species found in the area, eleven bird species that occur in the area are on the Audubon Watch List. Fourteen bird species documented at the



Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 9 of 14

---

site are listed by Audubon as “Common Species in Decline”. Examples of the Common Species in Decline documented at Hunters Point and Candlestick SRA are the Loggerhead Shrike which has declined 71%; the Greater Scaup which has declined 75% and Lark Sparrow which has declined 63%. Specific actions called for in the National Audubon report for protecting these species includes protecting local habitat, protecting wetlands, fighting global warming and combating invasive species. Some of these actions are being called for in this project. (See National Audubon Society, *The Audubon Watchlist*, <http://web1.audubon.org/science/species/watchlist/browsewatchlist.php>; see also National Audubon Society, *Watchlist Technical Report*, <http://web1.audubon.org/filerepository/science/speciesprofiles/watchlist/files/TechnicalReport.pdf>; North American Bird Conservation Initiative, *The 2009 State of the Birds*, available at <http://stateofthebirds.audubon.org/cbid/browseSpecies.php>).

Impact BI-6b (Construction at HPS Phase II would not have a substantial adverse effect, either directly or through habitat modifications, on any bird species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS. (Less than Significant with Mitigation)) focuses only on the Peregrine Falcon. There are many other birds that rely on the area (see above).

The DEIR fails to assess impacts to raptors in the Project area and its environs. Impact BI-7: *Foraging Habitat for Raptors (Construction at Candlestick Point would not have a substantial adverse effect on the quantity and quality of suitable foraging habitat for raptors. (Less than Significant))* underestimates effects on raptors. The construction and development of these sites at Hunters Point and Candlestick and planting of 10,000 trees will negatively impact raptor foraging areas. The raptors depend on a variety of rodent and insect species which will be disturbed and destroyed during the construction of Hunters Point Shipyard and Candlestick. The new grassland areas may benefit some raptors (ex. American Kestrel, Red Tailed, Red-shouldered Hawks, Barn and Great Horned Owls) and new wetland restoration at Yosemite Slough and other wetland areas may benefit the Northern Harrier. New trees will not have tree cavities which American Kestrels and other cavity nesting birds require. A plan for suitable nesting boxes (correct size for species) for appropriate species in the appropriate locations (height and direction to available prey) as well as monitoring to ensure that the boxes are not inhabited by non-native species and maintenance so that the of nesting boxes can be used for years as the native trees grow may help. Other raptors that require trees of certain height with the strength to support large stick nests will take years to grow. Ground squirrels and other rodents are primary food sources for many raptor species. These animals will suffer when their burrows will likely be negatively impacted by the construction and development or when “animal control” efforts become necessary due to demands of increased human population in the area. The DEIR fails to adequately assess these impacts.

Impact BI-7b (*Implementation of the Project at HPS Phase II would not have a substantial adverse effect on the quantity and quality of suitable foraging habitat for raptors. (Less than Significant with Mitigation)*) appears to ignore the fact that the Project would result in a loss or alteration of 43 acres of grassland would alter the foraging areas that resident and migratory raptors depend on at Hunters Point and Candlestick. Again, the DEIR’s failure to assess these impacts is glaring and constitutes a fatal flaw in the document.

Finally, the DEIR fails to adequately assess the impact of the construction of tall buildings in the area. (See III B-39 III B-40). Currently there are 20 foot buildings and industrial warehouses. The development will bring new buildings of 270 to 370 feet. Taller buildings, especially those with a lot of clear, glass windows and that may be lit at night pose significant threats to many bird species, especially migratory birds (that are protected by the Migratory Bird Treaty Act). The DEIR fails to assess impacts to birds that will result from new construction of tall buildings in the area.



81-21  
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10 of 14

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 10 of 14

---

Bird-friendly building design resources include:

- **City of Chicago Bird-Safe Building Design Guide**  
<http://www.birdsandbuildings.org/docs/ChicagoBirdSafeDesignGuide.pdf>
- **Bird-Friendly Development Guidelines** (City of Toronto Lights Out Program)  
<http://www.birdsandbuildings.org/docs/TorontoDevelopGuidelines.pdf>
- **Bird-Safe Building Guidelines** (NYC Audubon Program)  
<http://www.birdsandbuildings.org/docs/BirdSafeBuildingGuidelines.pdf>

**F. Other Environmental Impacts that Are Not Addressed by the DEIR.**

**1. Comments Regarding Section III.B-32 Sustainability Plan**

While the project calls for planting 10,000 (mostly native) trees it does not detail the type of trees. We recommend that native trees which are suited to the local geography and weather and have habitat value for native species of insects, birds, and other wildlife be planted to enhance this site. The BCDC Shoreline Design Guidelines are a recommended resource for this planning and can be found at <http://www.bcdc.ca.gov/pdf/planning/PADG.pdf>

The project did not appear to consider the Hunters Point Constructed Storm Water Wetland Feasibility Study prepared for the Golden Gate Audubon Society, Final Report – July 2004.

Based on this study we make the following twelve conclusions and recommendations which are discussed in more detail in Section 7 of the report:

- The development of new wetlands in Parcel E will comply with several of the guidelines set forth in the Hunters Point shipyard Citizen’s Advisory Committee redevelopment plan.
- Remediation of the site should take into consideration the concerns and needs of the community living in and around the shipyard, with a focus on potential health effects.
- A properly constructed and operated wetland could result in an improvement in water quality in the San Francisco Bay by capturing and treating pollutants and sediment in storm water before they reach the Bay.
- Several issues exist related to the ability of the industrial landfill to contain waste and not function as a source of continued contamination to the area. Many of the issues and uncertainties would be ameliorated if the landfill was removed and replaced with a wetland.
- A permanent freshwater wetland system is the preferred alternative for Parcel E at Hunters Point. This alternative meets the multiple objectives of the project including year-round recreational opportunities, year-round habitat for wildlife, and storm water treatment.
- 46 acre-feet of make-up water are needed for the proposed wetland from April through October. The most suitable source of make-up water is recycled water from a satellite wastewater treatment plant proposed for the Hunters Point shipyard.
- A liner system should be installed between the wetland bottom and the existing soils on the site in order to isolate the wetland from contaminated ground water and soils.
- Any wetland design should include a forebay with easy drainage and access capabilities to capture, trap and remove contaminated sediment from storm water and keep it out of the wetland.
- To save money and ease construction, clean soils already on site should be used to fill in the excavated landfill after removal of the waste and to construct a liner to protect the wetland from underlying groundwater and soils.

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81-22

11 of 14

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 11 of 14

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- Wetlands can be designed and maintained to keep mosquito populations to a minimum by eliminating hydraulically static areas, controlling water level, disturbing water surface, minimizing anaerobic zones, and creating access for natural mosquito predators.
- Total construction costs are estimated at \$1 million and annual O&M cost is estimated at \$40,000. This estimated O&M cost is far below the current costs associated with management of the industrial landfill, which likely exceed \$400,000 per year.

(See: [http://www.goldengateaudubon.org/wp-content/uploads/Storm\\_Water\\_Wetland.pdf](http://www.goldengateaudubon.org/wp-content/uploads/Storm_Water_Wetland.pdf))

81-22  
cont'd.

### 2. Comments Regarding Native Plants and Other Terrestrial Flora

Coyote Bush is mentioned in Yosemite Slough and other areas. This plant is also found in Candlestick Point SRA. Coyote Brush is an important plant for San Francisco's coastal scrub habitat. In the state it only exists in 15% of its former area due to agriculture and development. This plant has been used for restoration and is important for local wildlife for food and resting. (See: [http://www.calflora.org/cgi-bin/species\\_query.cgi?where-calrecnum=1031](http://www.calflora.org/cgi-bin/species_query.cgi?where-calrecnum=1031))

Native trees and plants on which native species of bird, butterflies and other wildlife depend include the Coast Live Oak, Toyon, Flannel bush, California Buckeye, California Bay, Elderberry, Monterey Pine, native grasses. Native shrubs include coyote bush, ornamental buckbrush (*Ceanothus* spp.), firethorn (*Pyracantha* spp.), coffeeberry (*Rhamnus californica*), hummingbird sage (*Salvia spathacea*), and black sage (*S.mellifera*). Native plants were historically used by the Native Americans for a variety of uses. Native plants should be planted and educational signage or materials for the residents and visitors to understand the importance of these plants and why they are a key to keeping a healthy local environment. Today birds and other wildlife depend on native plants for food or shelter or to roost,

Section III.N-9 (Salt Marsh) fails to adequately discuss salt marsh plants. Saltwater plants of habitat importance include salt grass (*Distichlis spicata*), European sea rocket (*Cakile maritima*), coastal gumweed (*Grindelia stricta*), and sea lavender (*Limonium californicum*) and upland shrub silver beach bur (*Ambrosia chamissonis*). A coastal plant ecologist should provide a plan for the marsh restoration. The plan should be monitored

81-23

### 3. Comments Regarding Open Space

Golden Gate Audubon is disappointed not to see more park and open space included in the Project plan (See III.N-3 *Park and Open Space*). The DEIR states the current ratio of parks to people in this area is 108 acres per 1000 residents. (See III.P-29). The new proposal is for 13.7 acres per 1000 people yet still within City's General Plan 5.5 acre guidelines. Golden Gate Audubon supports the largest possible area for parks and open space for people and wildlife within San Francisco.

We strongly urge the planting of native grasses and plants where ever possible. Moreover, we strongly recommend that natural grass playing fields and open space be installed instead of synthetic turfs, which contain heavy metals that can leach to groundwater and into storm water.

Moreover, all communal open space should include designated, fenced, dog play areas with waste bag dispensers and covered trash containers away from the shoreline, known bird nesting areas, and wetlands. Dogs should be on leash in other areas of the community and in the State Recreation Area since these are sensitive habitat areas for birds, plants and other wildlife.

81-24

12 of 14

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 12 of 14

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Section III P-G discusses new open space, but is vague in terms of the number of new parks and open space acreage. The DEIR describes the 150 acres of Candlestick Park State Recreation area, which already exists. Moreover, Senate Bill 792 (Leno) reduced the CPSRA by approximately 23 acres in a cash-for-public land swap to benefit the Lennar development at Candlestick Point. Sixty-eight acres of park land described in the DEIR is actually a capped, formerly toxic area that is dedicated to stadium and event parking. A parking lot is not legitimate recreational or wildlife open space.

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Finally, the DEIR fails to address the effects of sea level rise on the open space and park land that are included in the Project. Rising sea levels will significantly alter the shoreline and require certain remediation measures to protect the new development. *See:* Bay Conservation & Development Commission, [http://www.bcdc.ca.gov/planning/climate\\_change/maps/16\\_55/cbay.pdf](http://www.bcdc.ca.gov/planning/climate_change/maps/16_55/cbay.pdf) We believe the DEIR's failure to adequately address sea level and other climate change issues is a significant weakness of the DEIR.

81-25

Golden Gate Audubon also disagrees with the proposition asserted in Impact RE-2 (*Implementation of the Project would not increase the use of existing parks and recreational facilities that would cause the substantial physical deterioration of the facilities to occur or to be accelerated, nor would it result in the need for, new or physically altered park or recreational facilities.*) (Less than Significant with Mitigation)) The DEIR projects that 24,465 new residents in the area will increase the use of existing parks and open space. The current ration of parks to people is 108 acres per 1000 residents; the new proposal will result in 13.7 acres per 1000 residents. We would ask that this discrepancy be clarified in the final EIR.

81-26

**a. Comments Regarding Specific Parks**

81-27

**The Grasslands Ecology Park** and designated large dog play should be very distinct with separation, fencing, and signage. The details provided were vague in terms of the location of each site. The Grassland Ecology Park will be very beneficial to native plant, bird, butterfly, and other species. Within the Grasslands Ecology Park visitors should have sufficient covered trash containers so that wildlife will not have access to human food. Also within the Grasslands Ecology Park dogs need to remain on leash to prevent erosion, damage to plants, and disturbances to wildlife.

**Alice Griffiths Community Park**

Golden Gate Audubon supports the community garden and the fenced and designated dog play area. What is the definition of a specimen tree?

**Candlestick Point Neighborhood Park**

We support the community garden and community area for outdoor recreation which is separate from the Candlestick SRA. A fenced and designated dog play area at either this park and/or the Bayview Gardens Wedge Park is provided if these residents have pets.

**Bayview Gardens Wedge Park**

We support this community park.

**Mini Wedge Park**

We support this park within the residential development area. The dog run is supported but should be fenced to be distinct from the other areas of the park. What are the implications of runoff after bio swale treatment into the Candlestick SRA? How often will the bio swale be monitored and maintenance conducted?

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 13 of 14

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**Median Boulevard Parks**

Golden Gate Audubon encourages the boulevard parks proposed.

**G. Conflicts with Plans, Policies or Regulations.**

Section III.B-36-39 addresses conflicts with other plans, policies or regulations. Notably, Impact LU-2 (*Implementation of the Project would not conflict with land use plans, policies, or regulations adopted to avoid or mitigate an environmental effect. (Less than Significant)*) is erroneous. The plan for the proposed bridge over Yosemite Slough is inconsistent with BCDC and SF Bay Trail plans.

**H. The DEIR's Biological Assessments Were Insufficient and Fail to Reflect the Biodiversity of the Area.**

The biological assessments were conducted on 3 days, one day in August, 2007 one in May, 2008 and one in July, 2008. (*See III.N.2 Biological Resources: Setting; see also III.N.3 Biological Review*) These were drought years in California so species were likely low. The limited survey times also neglected to capture the many species of migratory birds in the spring and fall as well as the birds that spend the winter in this site. Large flocks of a variety of bird species use the Pacific Flyway each spring and fall. A variety of shorebirds and waterfowl depend on this habitat each winter. The records from Golden Gate Audubon's Yosemite Slough Survey in 2003-2004, the San Francisco Field Ornithologist records for the Hunters Point Block and Golden Gate Audubon's Christmas Bird Count Data should also be reviewed for additional documented bird species that depend on Hunters Point and Candlestick SRA.

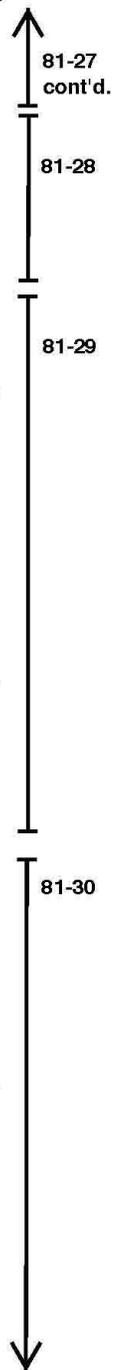
In 2000 the US Navy provided a list of Bird Species Potentially Inhabiting Hunters Point Shipyard see Hunters Point Constructed Storm Water Wetland Feasibility Study page 2-7 including the Western Snowy Plover, Peregrine Falcon, California Black Rail, California Clapper Rail, California Least Tern, Swainson's Hawk, Clarks and Western Grebe, Tri Colored Blackbird, Burrowing Owls, Barrows Goldeneye, Common Loon, Sharp Shinned Hawk, Loggerhead Shrike, California Gull Alameda Song Sparrow, Long-billed Curlew, and Double-crested Cormorant. See table for federal and state status of these species.

**I. The DEIR's Descriptions of Lighting Impacts Are Vague and Confusing.**

All lights that are installed as part of the Project should include measure to reduce light pollution and light "spill" above the horizontal plane of the light fixture. The DEIR and Project plans should also include requirements that light fixtures be shielded to reduce light pollution and, where practicable, require the use of light sources with a CCT no higher than 3000K. Golden Gate Audubon requests a curfew on public lights installed as part of the Project to reduce unnecessary illumination in the area.

Section ES-33 address stadium lighting. Golden Gate Audubon strongly encourages that any new lighting at the stadium be installed with measures that reduce light pollution and conserve energy.

Section MM AE-7a.1 (*Lighting Direction/Fixtures and Screening Walls to Minimize Glare and Light Spill.*) states that the Project Applicant "shall ensure that all parking lots and other security lighting shall be directed away from surrounding land uses and towards the specific location intended for illumination" and that "[s]tate-of-the-art fixtures shall be used, and all lighting shall be shielded to minimize the production of glare and light spill onto surrounding use." Golden Gate Audubon supports these measures and reiterates that any new lighting fixtures should also include measures to promote energy conservation.



14 of 14

Golden Gate Audubon Society comments  
Re: Candlestick Point Hunters Point Shipyard Phase II Development Plan Project  
Page 14 of 14

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Currently, Golden Gate Audubon does not believe that Impact AE-7b (*Implementation of the Project at HPS Phase II would not create a new source of substantial light or glare that would adversely affect day or night views in the area or that would substantially impact other people or properties.*) is accurate. We anticipate that a development of the size anticipated by the Project in the area will significantly increase the background illumination in the area. Moreover, we recommend that the "night views" to specifically mention night sky visibility.

We also find PS MM AE-7b.1 (*Testing of the Field-Lighting System.*) and MM AE-7b.2 (*"Stadium Lighting Orientation and Cut-Off Shields."*) to be vague. The DEIR states that the Stadium Operator shall test installed lighting systems to minimize of light spill. We request that the DEIR be more specific as to what constitutes "operating requirements in the stadium" and "obtrusive spill". We recommend that the DEIR and Project plan include specific language that specifies the maximum acceptable light spill from the stadium. The DEIR should also include provisions that the stadium lighting be "fully shielded" or "fully cut off".

### III. CONCLUSION

The proposed changes to the this community and the surrounding area will be significant and irrevocable. We ask that the lead agencies consider these comments and those of other community members and organizations and ensure that this environmental review is comprehensive and includes measurable and enforceable mitigation measures.

Thank you for this opportunity to comment on these plans. Please feel free to contact me at (510) 843-6551 or via email at [mlynes@goldengateaudubon.org](mailto:mlynes@goldengateaudubon.org) to discuss any of these comments and recommendations further.

Best regards,



Mike Lynes  
Conservation Director

Cc: Saul Bloom, Arc Ecology  
Laura Thompson, San Francisco Bay Trail  
Peter Brastow, Nature in the City  
Jake Sigg, California Native Plant Society  
David Goggin, San Franciscans for Smart Lighting  
Arthur Feinstein, Sierra Club

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## ■ Letter 81: Golden Gate Audubon Society (1/12/10)

### **Response to Comment 81-1**

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the Project's potential effects on wildlife.

### **Response to Comment 81-2**

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the Project's potential effects on biological resources of Yosemite Slough. The proposed bridge would run parallel to Third Street—about 0.7 mile to the east of Third Street—so there is no way that it cannot bypass the existing community and businesses on Third Street. However, it is at the eastern-most edge of San Francisco in an undeveloped area, and, therefore, could not possibly divide an “established community.” Physical division of an established community means that one part of a community is completely cut off from another part, in that the residents/patrons of each portion could not physically travel from one part to the other. This would not occur under the Project.

### **Response to Comment 81-3**

This comment contains introductory or general background information on existing wildlife use of Yosemite Slough and the benefits of the Yosemite Slough Restoration Project, 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 81-4**

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the Project's potential effects on biological resources of Yosemite Slough and to Master Response 4 (Purpose and Benefits of the Yosemite Slough Bridge) for a discussion of the traffic-related justification for the bridge.

### **Response to Comment 81-5**

The transportation-related benefits of the proposed Yosemite Slough bridge extend beyond transit and auto access to the stadium. Refer to Master Response 4 (Purpose and Benefits of the Yosemite Slough Bridge) for discussion of benefits of bridge to transit overall (including non-game days) and to bicycle and pedestrian connectivity between the Hunters Point Shipyard and the Candlestick Point development areas.

### **Response to Comment 81-6**

Refer to Responses to Comments 31-9 and 31-11 for a discussion of the Bay Trail alignment.

### **Response to Comment 81-7**

The commenter disagrees with the Draft EIR's findings that the Yosemite Slough bridge will not have significant impacts on nearby aquatic resources and that the Draft EIR should be revised to address bridge

construction impacts, including increases in turbidity, pollution, mobilization of contaminants in water, and other disturbances to the natural environment related to the Project.

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

As discussed in the Impact BI-4c starting on page III.N-67 of the Draft EIR, construction of the bridge is expected to affect wetlands and aquatic habitats, and therefore, mitigation measures are prescribed to mitigate potentially significant impacts to less than significant levels (MM BI-4a.1, MM BI-4a.2, and MM BI-4c). Mitigation measure MM BI-4a.1 requires the Project Applicant to obtain a CWA Section 404 permit, a CWA Section 401 Water Quality Certification, and a CWA Section 402 National Pollutant Discharge Elimination System permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities. By obtaining CWA permits and certifications and complying with their conditions, construction of the bridge would be in compliance with the CWA and its implementing regulations. In addition, complying with the conditions of the CWA permits would reduce impacts from increased turbidity, pollution, mobilization of contaminants in water, and other disturbances to the natural environment to a less than significant level.

The commenter also expresses concern regarding four impact statements included in the Draft EIR, but does not state what these concerns are. The commenter's concern regarding these impacts statements is noted.

### **Response to Comment 81-8**

The Draft EIR addresses increased stormwater pollution resulting from bridge operation, including pollution originating from automobiles, transit vehicles, cyclists and pedestrians. The Draft EIR states on page III.M-92 that:

Stormwater runoff from the Yosemite Slough bridge and discharges of materials from bridge maintenance activities would not cause or contribute to an exceedance of water quality standards. Primary pollutants of concern in stormwater runoff from transportation-related land uses include fuels, PAHs, sediment, metals, and litter and debris. ...

The primary pollutant associated with pedestrians and cyclists is trash and the primary pollutants associated with automobiles and transit vehicles include fuels (and associated constituents such as PAHs), sediment, and metals.

Automobiles would only be a source of stormwater pollutants on game days, which would occur twelve days out of the year, because the bridge would only allow automobile traffic on game days. Game days are currently scheduled from September through early December, with the post-season extending through January, and therefore would only occur during a portion of the rainy season (the rainy season is typically defined as October 1 through May 31).

The Draft EIR states, on page III.M-92, that:

... Impacts from bridge operation would be reduced via compliance with the existing stormwater runoff programs. ...

Existing stormwater runoff programs are the Phase II Municipal Stormwater General Permit, and local requirements for incorporating site design, source control, and treatment control BMPs into the project (which are subject to approval by the SFPUC). The existing stormwater runoff programs would address potential new pollutants introduced into Yosemite Slough from operation of the bridge. Increased pollution from transit vehicles, pedestrians, and cyclists would be addressed under the Post-Construction Storm Water Management in New Development and Redevelopment element of the Municipal Stormwater General Permit, and implemented through compliance with SFPUC's San Francisco Stormwater Design Guidelines. As described on pages III.M-47 to III.M-48 of the Draft EIR, the San Francisco Stormwater Design Guidelines require capture and treatment of a precipitation depth of 0.75 inch in volume-based BMPs (such as a detention basin), or a rainfall intensity of 0.2 inch per hour for flow-based BMPs (such as a vegetated swale). The City's requirements for stormwater treatment comply with the Maximum Extent Practicable performance standard in the Municipal Stormwater General Permit, which requires that the City ensure that controls are in place that would prevent or minimize water quality impacts from development projects.

As described in Chapter II (Project Description) on page II-38 of the Draft EIR, the Yosemite Slough bridge would be constructed with a 40-foot-wide greenway, which would be converted to automobile travel lanes on 49ers game days only. The greenway would also be designed to provide treatment for stormwater pollutants associated with automobiles, and reduce the impacts of vehicle-related stormwater runoff to a less-than-significant level. Runoff from the transit vehicle lanes would be routed to the greenway, and/or to land-based stormwater treatment controls such as swales. The stormwater treatment components for the bridge would be described in the Project Stormwater Control Plan, which is subject to approval by the SFPUC.

In addition, the Pollution Prevention/Good Housekeeping for Municipal Operations element of the Municipal Stormwater General Permit would address increased pollutants from transit vehicles, pedestrians, and cyclists, because the Permit requires the City to implement a program to reduce the amount and type of pollution that collects on streets and roads. The City would likely implement a street sweeping program to comply with this element of the Permit, and street sweeping would reduce the sediment, litter, debris and oil and grease on the bridge that could potentially be discharged in stormwater runoff. Compliance with existing stormwater runoff programs would reduce the impacts from bridge operation to a less-than-significant level, and therefore no mitigation is required.

In response to the comment and to clarify the elements of the Project related to the bridge and stormwater runoff, the Draft EIR text on page III.M-92 (Impact HY-6c) has been revised as follows:

Stormwater runoff from the Yosemite Slough bridge and discharges of materials from bridge maintenance activities would not cause or contribute to an exceedance of water quality standards. Primary pollutants of concern in stormwater runoff from transportation-related land uses include fuels, PAHs, sediment, metals, and litter and debris. The pollutants could originate from automobiles, transit vehicles, cyclists, and pedestrians. Automobiles would only be a source of stormwater pollutants on game days, which occur twelve days out of the year, because the bridge would only allow automobile traffic on game days. As described in Chapter II (Project Description) on page II-38, the Yosemite Slough bridge would be constructed with a 40-foot-wide greenway, which would be converted to automobile travel lanes on 49ers game days only. The greenway would also provide vegetative treatment for stormwater pollutants associated with automobiles, and would reduce the impacts of automobile-related stormwater runoff to a less than significant level. Runoff from the transit vehicle lanes would also be routed to the greenway and/or to land-based stormwater

treatment controls such as swales. The stormwater treatment measures for the bridge would be described in the Project's Stormwater Control Plan, which is subject to SFPUC's approval.

Bridge maintenance activities such as welding and grinding, sandblasting, and painting can also adversely affect water quality if materials generated from maintenance are allowed to discharge into the Bay. It is anticipated that bridge operation would be under the jurisdiction of the City, and thus stormwater runoff mitigation would be performed under the Municipal Stormwater General Permit, which requires development of a pollution prevention program for municipal operations. The municipal operations program would also include street sweeping to remove litter and sediment-associated pollutants generated by transportation land uses.

Pollutants generated from transit vehicles, cyclists and pedestrians would also be addressed under the pollution prevention program for municipal operations implemented by the City. The pollutants would also be reduced through compliance with local stormwater treatment requirements (i.e., San Francisco Stormwater Design Guidelines), which were put into effect to comply with the new development requirements in the Municipal Stormwater General Permit.

Impacts from bridge operation would be reduced via compliance with the existing stormwater runoff programs, specifically, elements of the Municipal Stormwater General Permit, and local requirements for stormwater treatment measures that would be subject to approval by the SFPUC. Operation of the Yosemite Slough bridge would not cause an exceedance of water quality standards or contribute to or cause a violation of waste discharge requirements and a less than significant impact would result. No mitigation is required.

In response to the comment and to clarify the elements of the Project related to the bridge and stormwater runoff, the Draft EIR text on page II-38 (Project Description) has been revised as follows:

5. **Yosemite Slough Bridge.** A new Yosemite Slough bridge would extend Arelious Walker Drive from Candlestick Point to Hunters Point Shipyard. The 81-foot-wide, seven-lane bridge would cross the slough at its narrowest point and would primarily function for transit, bicycle, and pedestrian use. Figure II-12 illustrates the bridge location. The bridge and its approach streets would have two dedicated 11-foot-wide BRT lanes and a separate 12-foot-wide Class I bicycle and pedestrian facility, which would be open at all times. The bridge would also have a 40-foot-wide greenway, which would be converted to four peak direction auto travel lanes on 49ers game days only. Those four lanes would be open on game days to vehicle traffic in the peak direction of travel. The roadway would be planted with grass and would serve as an open space amenity on all non-game days. Two-foot-tall barriers would separate the BRT lanes from the bicycle/pedestrian plaza and the vehicle lanes. The greenway would be designed to function as a stormwater treatment control facility for the auto travel lanes. Runoff from the BRT lanes would also be routed to the greenway and/or to land-based stormwater treatment facilities, in accordance with the City's requirements for stormwater treatment.

### **Response to Comment 81-9**

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the project's potential effects on biological resources of Yosemite Slough. Due to the low volume of traffic that will be using the bridge, as described in Master Response 3, significant impacts to Yosemite Slough from traffic-related pollution are not expected to occur.

### **Response to Comment 81-10**

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the Project's potential effects on biological resources of Yosemite Slough.

### **Response to Comment 81-11**

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the potential effects of shading on biological resources of Yosemite Slough.

### **Response to Comment 81-12**

The commenter suggests that plant life, including coastal scrub, may be affected by the bridge and asks whether the project will prevent invasion by weeds, erosion, and sediment deposition due to traffic on the bridge. The commenter also asks how revegetation will be accomplished.

A small amount of coastal scrub dominated by coyote brush will be impacted at the southern approach to the Yosemite Slough bridge. However, this regionally abundant plant species and habitat type will continue to be present in other shoreline areas, and some restoration/creation of such habitat is planned. Revegetation efforts are described in the Draft Parks, Open Space, and Habitat Concept Plan provided in Appendix N3 of the Draft EIR. That Plan also describes the process by which invasive plants will be removed, monitored, and controlled on the site. Traffic use of the bridge is not expected to result in increased erosion or sediment deposition.

### **Response to Comment 81-13**

As stated on pages II-38 to II-39 of Chapter II (Project Description) of the Draft EIR, the Yosemite Slough bridge will be approximately 81 feet wide and approximately 900 feet long based on preliminary designs. As the Project proceeds through the final design phase, the bridge design will be refined. Final Project design, including the bridge, will undergo review by City and Agency staff to ensure that any design modifications would not change the environmental analysis in the EIR. For a discussion of effects of the bridge on biological resources from lighting, traffic, and shadow, refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]). Page III.M-58 of Section III.M (Hydrology and Water Quality) describes mitigation measure MM HY-1a.1, which sets forth the requirements for a Storm Water Pollution Prevention Plan that must be prepared by the Project Applicant. As noted on page III.M-72 of Section III.M:

With respect to water quality impacts caused by construction of the Yosemite Slough bridge, including pollutants transported through erosion and sedimentation or the incidental release of construction materials or the accidental spill of substances commonly used in construction directly to the Lower Bay, implementation of mitigation measures MM HY-1a.1 (SWPPP—Combined Sewer System), MM HY-1a.2 (SWPPP—Separate Storm Sewer System), MM HZ-1a (Article 22 Site Mitigation Plan), MM HZ-2a.1 (Unknown Contaminant Contingency Plan), and MM HZ-9 (Navy-Approved Workplans for Construction and Remediation Activities on Navy-Owned Property) would reduce the potential for contaminants, sediments, or pollutants in stormwater runoff to enter the Lower Bay. While mitigation measures MM HY-1a.1 and MM HY-1a.2, each of which require the preparation of a SWPPP, are intended to address runoff that enters either the combined or separate sewer systems, the BMPs could also address bridge construction activities. In addition, because the bridge would be constructed using piles driven in dry conditions (behind coffer dams), water quality impacts would be minimized.

### **Response to Comment 81-14**

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the project's potential effects on biological resources of Yosemite Slough, including wildlife. While some wildlife species will be able to adapt or habituate to shading or other effects of the bridge, others will not, resulting in the loss of a small area of habitat under and immediately adjacent to the bridge.

The commenter suggests that the EIR provide a diagram depicting the bridge dimensions relative to vegetation conditions, a diagram depicting shadow at various times during the day and its impacts on wetlands, and a diagram depicting night lighting from the bridge. Master Response 3 discusses the potential effects of the bridge, including shading and increased night lighting, on wetlands and other sensitive habitats; diagrams are not needed to convey these effects. While some night lighting will be required on the bridge, such lighting will be limited to the minimum necessary for human safety. Given the urban context in which Yosemite Slough occurs, species using the area will have to be habituated to some lighting, and the Lead Agencies do not expect lighting impacts on wildlife to be substantial; refer to Master Response 3 for further discussion of the effects of increased night lighting on biological resources of Yosemite Slough.

The commenter also recommends that the bridge be constructed and designed using guidelines from a reference from the Arizona Game and Fish Department. The design and construction of the bridge generally follow the principles outlined in that publication, although due to the very different conditions in Yosemite Slough as compared to streams in Arizona, site-specific design and construction measures that take into account the types and sensitivity of biological resources at Yosemite Slough have been (and will be) employed.

### **Response to Comment 81-15**

This comment contains introductory or general background information and also reflects the commenter's opinions. No response is required. However, the commenter's general issues regarding impacts are specifically responded to in Responses to Comments 81-2 through 81-14.

### **Response to Comment 81-16**

Chapter III.N (Biological Resources) describes the project's potential impacts to the habitats and species referred to in this comment. The Project applicant has already engaged the BCDC regarding potential Project effects on all resources regulated by that agency, and has met with BCDC staff on several occasions. The applicant will continue to pursue the necessary permits from the BCDC, thus addressing any issues of project consistency with the San Francisco Bay Plan.

The commenter suggests that the Draft EIR underestimates potential impacts to the Bay. Actually, a very conservative approach to estimating Bay fill was taken in the Draft EIR, in that impacts resulting from removal of Bay fill on HPS, as described in Impact BI-4b on pages III.N-64 to III.N-67, were considered "fill" activities because of the movement of existing fill and potential temporary impacts to water quality that might result. In actuality, removal of fill along the shoreline may occur under dewatered conditions, using coffer dams, so that no impacts to water quality will occur. Thus, such activities would actually be beneficial by removing Bay fill even though they are considered impacts to aquatic habitats in the Draft EIR.

### **Response to Comment 81-17**

Refer to Response to Comment 47-88 regarding potential project impacts to eelgrass. Specifically, MM BI-5b.1 and BI-5b.2 have been modified somewhat to require more extensive surveys for eelgrass, both in and within 750 feet of in-water construction activities at HPS Phase II and the Yosemite Slough bridge, prior to such in-water activities. Otherwise, potential project impacts to eelgrass were adequately described in the Draft EIR in Impacts BI-5a and BI-5b on pages III.N-69 and III.N-70, and the associated mitigation measures reduce impacts to eelgrass beds in and adjacent to construction areas to less than significant levels by requiring impact avoidance if practicable, best management practices to avoid water-quality impacts, and compensatory mitigation for unavoidable impacts to eelgrass. Regarding compliance with BCDC's eelgrass recommendations, the Project applicant has already engaged the BCDC regarding potential Project effects on all resources regulated by that agency, and has met with BCDC staff on several occasions. The applicant will continue to pursue the necessary permits from the BCDC, thus addressing any issues of project consistency with the San Francisco Bay Plan.

### **Response to Comment 81-18**

The commenter suggests that the biological conditions of CPSRA were not adequately described and comments that biological surveys were conducted on only two days. The existing conditions section of Chapter III.N (Biological Resources) contains descriptions of the habitat types and wildlife communities of the entire project area, including CPSRA, and Figure III.N-2 maps the habitats in this portion of the project site. Although PBS&J biologists were on-site on only three days, as noted in Section III.N.2 on page III.N-3, the description of biological resources in Chapter III.N was also informed by multiple field visits conducted by H. T. Harvey & Associates biologists during general reconnaissance surveys, wetland delineation surveys, and tree surveys, as well as by a number of background references as described on pages III.N-3 and III.N-4 of the Draft EIR.

The commenter also suggested that the Draft EIR did not adequately describe the bird species that could potentially nest on the site and listed a number of bird species that nest on CPSRA. The intent of Chapter III.N of the Draft EIR was not to provide an exhaustive list of animals that occur on the site, but rather to describe the general wildlife community, noting representative common species that occur on the site, and to provide more detail on potentially occurring special-status species. Some of the species listed by the commenter as breeding on CPSRA, such as double-crested cormorant, black-crowned night-heron, snowy egret, great egret, Caspian tern, white-throated swift, and several others, are not indicated by the 2003 *San Francisco Breeding Bird Atlas* as having been confirmed breeding on CPSRA, and suitable breeding habitat for some of these species is absent from the site.

Regarding the comments pertaining to potential effects on wildlife resulting from increased human use of the site, refer to Response to Comment 64-5 for a discussion of such effects.

### **Response to Comment 81-19**

The commenter suggests that the project will result in an increase in the human population of the area and a concomitant increase in pets, particularly cats and dogs, and makes recommendations for limiting the potential for such animals to impact wildlife. The Impact BI-16a discussion, Draft EIR page III.N-101,

mentions the potential for impacts to wildlife resulting from increased human activity and increased presence of domestic animals, as follows:

Human activity at Candlestick Point following completion of construction would affect wildlife, including invertebrates, reptiles, amphibians, birds, and mammals. Potential adverse effects include disturbance of individuals (including nesting birds) in terrestrial, shoreline, and aquatic habitats due to movement by humans, domestic animals, and vehicles; depredation of native species by domestic animals; injury or mortality of individuals due to vehicular traffic; and other impacts. However, as discussed in Impact BI 2, adverse effects of human disturbance and other operational factors would occur primarily to small numbers of regionally abundant species, and operational impacts would not substantially affect populations of these species. Impacts would be less than significant, and no mitigation is required.

### **Response to Comment 81-20**

The commenter suggests that the project will result in an increase in trash and food waste, which degrade the aesthetics of the park and subsidize populations of nuisance birds and mammals, which could in turn adversely affect more sensitive native wildlife species. The commenter suggests that the Draft EIR did not adequately analyze the impact.

In response to the comment, the Impact BI-2 discussion, Draft EIR page III.N-50, has been revised to add the following sentence after the fourth sentence of the first paragraph under this impact:

... areas/ornamental plants. In addition, an increase in trash, particularly food waste, could potentially subsidize nuisance species such as common ravens (*Corvus corax*), American crows (*Corvus brachyrhynchos*), raccoons, rats, and feral cats, which in turn could increase predation on more sensitive wildlife species. ...

In addition, Impact BI-16a, page III.N-101 of the Draft EIR has been revised to add the following sentence to the second paragraph under this impact, after the second sentence:

... and other impacts. In addition, an increase in trash, particularly food waste, could potentially subsidize nuisance species, which in turn could increase predation on more sensitive wildlife species. ...

### **Response to Comment 81-21**

The commenter suggests that the Draft EIR did not adequately characterize the value of the project area to wildlife. The Draft EIR considered not only the results of the Yosemite Slough Watershed Wildlife Study but also other species that could potentially occur in the project area when describing existing conditions and assessing impacts to habitat.

The commenter disagrees with statements that certain birds were considered California Species of Special Concern only when breeding and states that the reference cited in the Draft EIR does not support this statement. However, the reference cited in the document (a list of bird Species of Special Concern on the CDFG's website [<http://www.dfg.ca.gov/wildlife/nongame/ssc/birds.html>]) and the compendium on which this list is based (Shuford and Gardali 2008) both indicate a "Season of Concern" for these species. The Draft EIR did not "dismiss conservation concerns" regarding species that occur on the project site during the non-breeding season; rather, the importance of the site to all species was considered regardless of the season, even for species that are not considered Species of Special Concern when they occur as nonbreeders on the site. It was determined that those particular species that were considered Species of

Special Concern only during the breeding season, and that occur on the site only as nonbreeders, would not be significantly impacted by the Project, but this was based on the Project-specific impacts to these species' populations rather than on the basis of whether or not they were considered Species of Special Concern.

The commenter notes that a number of birds that have been recorded on the site are on the Audubon Watch List. Impacts to all species, whether or not on a list of species of concern, were considered during impact assessment. The commenter also notes that a number of bird species rely on the project area and questioned why only the peregrine falcon was considered in Impact BI-6b. This impact was not intended to focus only on the peregrine falcon; rather, Impact BI-6b on page III.N-75 in the Draft EIR contained the following text:

Similar to development at Candlestick Point, construction-related activities including, but not limited to, grading, materials laydown, facilities construction, vegetation removal, and construction vehicle traffic may result in loss of a special-status and/or legally protected avian species' active nest and/or mortality of the nest's occupants; this would be considered a significant impact. Implementation of mitigation measures MM BI 6a.1 and MM BI 6a.2 (as detailed in Impact BI 6a) would reduce the effects of Project construction and implementation on nesting special-status and legally protected avian species to less-than-significant levels.

Thus, the Impact BI-6b discussion on page III.N-75 referred to the discussion under Impact BI-6a, Draft EIR page III.N-72, which stated:

In addition to recognized special-status species, as discussed above in Regulatory Framework, all native bird species that may use the site are protected under the MBTA and California Fish and Game Code. These laws protect many common species in addition to those considered special-status species.

Therefore, impacts to all native bird species were addressed in Impacts BI-6a and BI-6b, and mitigation measures MM BI-6a.1 and MM BI-6a.2, Draft EIR pages III.N-73 and -74, were applied to both Candlestick Point and HPS. Peregrine falcons were discussed specifically because they are presently a State-listed endangered species and because a resident pair breeds on the site.

The commenter suggests that impacts to raptors were not adequately analyzed, and claims that Impact BI-7b "appears to ignore the fact that the Project would result in a loss or alteration of 43 acres of grassland." The comments acknowledge that some raptors will benefit from new grasslands and that the nest box program, which is a component of the Draft Parks, Open Space, and Habitat Concept Plan provided in Appendix N3 of the Draft EIR, would benefit additional species. Refer to Response to Comment 64-4 for more discussion of the project's impacts to raptors (e.g., for clarification that the 43 acres of grassland impacted at HPS will be impacted due to grassland restoration efforts).

The commenter suggests that the Draft EIR did not adequately assess the impacts of tall buildings to birds. Refer to Impacts BI-20a and BI-20b on Draft EIR pages III.N-108 to -111; these impacts discuss the potential effects of tall buildings and associated reflections and lighting on birds. These impact discussions also cite some of the same references that are cited by the commenter.

### **Response to Comment 81-22**

The commenter recommends that the 10,000 trees to be planted on the site be natives. The Draft Parks, Open Space, and Habitat Concept Plan, provided in Draft EIR Appendix N3, describes the trees that will be planted as follows:

While native vegetation shall be favored, site-appropriate non-native trees and shrubs that provide food or structural resources that are particularly valuable to native wildlife may also be considered.

It is expected that the vast majority of trees to be planted will be natives.

The commenter also suggested that the project did not appear to consider the Hunters Point Constructed Storm Water Wetland Feasibility Study prepared for the Golden Gate Audubon Society. The majority of the commenter's recommendations pertain to creation of wetlands and remediation issues that are subject to remediation decisions to be made by the Navy, and that are not in the control of the Project applicant.

### **Response to Comment 81-23**

The commenter lists native plants that are present on the site and that provide habitat value for wildlife. This comment is noted; native plants such as these will be planted on the site as described in the Draft Parks, Open Space, and Habitat Concept Plan provided in Appendix N3 of the Draft EIR.

The commenter states that the Draft EIR did not adequately discuss salt marsh plants, yet the description of the salt marsh community on page III.N-9 of the Draft EIR contains all of the plants listed in this comment.

### **Response to Comment 81-24**

The comment regarding open space is noted. The Project's ratio of 13.8 acres per 1,000 residents provides substantial amounts of open space.

The comments regarding native grasses, natural playing fields, and dog play areas are noted. The specific elements of the CPSRA improvements, including landscaping and plantings will be determined through the CPSRA General Plan Amendment process. No synthetic turf is proposed for the Project's playing fields. Dog recreation areas will be accommodated within community parks outside of CPSRA.

Figure III.P-2 shows the location of proposed parks and the reconfiguration of CPSRA. Refer to Responses to Comments 47-3, 47-28, and 47-29 for further discussion of the reconfiguration. As shown on Figure III.P-2, the Candlestick Park stadium area will not be developed as a park, and is not included in any park area calculations.

### **Response to Comment 81-25**

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.

### **Response to Comment 81-26**

Refer to Response to Comment 47-29 for discussion of this standard of significance. While the Project site's parkland ratio will be reduced from its current level (which is particularly high because the area has a very small population), the ultimate ratio of 13.8 acres per 1,000 residents is well above the standard of 5.5 acres provided in the 1986 San Francisco General Plan and used in the Draft EIR. This impact is, therefore, less than significant.

### **Response to Comment 81-27**

The comments regarding park programming are noted. In contrast with typical nursery-grown trees, a "specimen tree" is often older or larger and has particularly exceptional aesthetic qualities. In landscape design, a specimen tree may be used at focal points, in small courtyards, or in other places where the tree's exceptional qualities will be noticed and have a strong impact on the sense of place.

Impacts related to stormwater runoff on Candlestick Point are discussed in Impact HY-6, beginning on Draft EIR page III.M-78.

### **Response to Comment 81-28**

The commenter states there is no basis for the assertion that the Project is consistent with BCDC and Bay Trail plans. Refer to Response to Comment 47-58 for a discussion of the Project's consistency with BCDC policies and the Bay Plan policies with respect to biological resources. Refer also to pages III.B-13 through III.B-15 for a discussion of consistency with BCDC policies related to fill. Project consistency with the Bay Trail Plan is analyzed on pages III.B-16 through III.B-19 of Section III.B (Land Use and Plans) of the Draft EIR.

### **Response to Comment 81-29**

Refer to Response to Comment 81-18 for a discussion of the number of days on which biological resources surveys were conducted and of the information on which the biological resources assessment was based. The bird species listed by the commenter as having been considered as potentially occurring by the Navy in 2000 were all considered during the preparation of the special-status species table and the impact assessment in the Draft EIR.

### **Response to Comment 81-30**

The Draft EIR, page III.E-75 discloses that the Project site will change from an "area of low to moderate-level illumination to moderate to high illumination." Thus, the Project would result in day and night lighting that is typical for other urbanized locations in San Francisco. Page III.E-76 identifies that "views of the night sky are diminished as they are in all urban areas" The Draft EIR identifies mitigation measures that reduce spill light and require shielding of light fixtures to reduce light pollution (refer to mitigation measures MM AE-7a.1 through AE-7a.3, page III.E-72). Mitigation measure MM AE-7a.1 restricts light fixture direction, prescribes state-of-the-art light fixtures, and shielding. Mitigation measure MM AE-7a.2 requires the use of low-level and unobtrusive light fixtures for landscape illumination and exterior sign lighting; and mitigation measure MM AE-7a.3 requires the Applicant to prepare a Lighting Plan for each

phase of the Project to be approved by the Agency prior to issuance of building permits to minimize glare and prevent spill light.

Page III.E-73 of the Draft EIR describes that the requirements for lighting for the stadium are subject to “NFL Sports Lighting Design Criteria.” As these requirements are already in force at Candlestick, the new light and glare attributed to the new 49ers stadium is a relocation of impacts from Candlestick Point to HPS Phase II, that would be reduced to less than significant with mitigation measures MM AE-7b.1 and MM AE-7b.2. No more detail is necessary to identify or address the impact of stadium lighting associated with the Project.

**Response to Comment 81-31**

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. However, the commenter is requesting that the lead agencies consider their comments and those of other community members and organizations. All comment letters and responses will be forwarded to the decision makers for their consideration prior to approval or denial of the Project.