Letter 42: Californians for Renewable Energy, Inc. (1/12/10)

Response to Comment 42-1

This comment contains introductory 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.

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Letter 43: People Organized to Win Employment Rights (1/12/10)

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Letter 43

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2007.0946E Candlestick Point-Hunters Point Shipyard Phase II Draft EIR
Comments on behalf of People Organized to Win Employment Rights (POWER)

II-34 Transportation Comments

Area C omission -

The roadway network for this area provides two main routes from freeways & Third Street into Candlestick Point and Hunters Point - Harney to the south and Innes to the north. BVHP Redevelopment Survey Area C is west of the project area Innes and was formerly an integral part of this project. Major development is slated to occur in this area, which abuts Innes.

Analysis of the development of and impacts from development in this area has been inappropriately removed from this DEIR. I refer to the Notice of Scoping which was issued for the entire Waterfront Project - including new plans for Candlestick Point, Hunters Point Shipyard AND INDIA BASIN SHORELINE AREAS OF SAN FRANCISCO. 43-1

Development of Area C will, in particular affect transportation and circulation in the area. Innes is the route north to the freeways and to 3rd Street and street connections to downtown San Francisco.

Bayview Transportation Improvements Projects DEIS/DEIR (TIP)

Redevelopment and MEA have been simultaneously drafting two separate and major environmental studies for this area of Bayview Hunters Point. One sets out and analyses the impacts of major transportation improvements and involves substantial effort by CalTrans. It is the joint DEIS/DEIR for Bayview TIP. Those improvements are necessary to add the substantial community contemplated by THIS DEIR for CP/HPt Shipyard Phase II. 43-2

Up until very recently all parties planned for the release of the release of the TIP DEIS/DEIR in advance of THIS DEIR. It would provide additional transportation information and inform the readers of THIS DEIR about impacts of transportation plans and alternatives. Around August the schedule switched - environmental analysis of the Transportation Improvements Project had been switched to be released

2 of 3

AFTER close of comments and the desired certification date of THIS (Lennar FEIR), thereby depriving the public and decision makers of information that would bear on evaluation of the Lennar project.

This is being pushed as the integration of EXISTING Bayview/Hunters Point community to the "benefits" of the Lennar project.

43-2 cont'd.

The DEIR states that 75% of new development will be within ¼ mile of transit stop. Please map the remaining areas and explain why THEY do not have similar transit access. Please also explain transit availability for the existing BVHP community since so much of transportation and transit routes occur outside the boundaries of THIS Plan's site.

43-3

Note that Proposed Roadway Improvements (Fig II-12) map shows that they are predominantly outside of CP/HP area. Which means that they will bear brunt of construction impacts. Will land/property have to be acquired for those improvements? Eminent domain?

43-4

Transit passes will be part of homeowners dues for condo owners. What about renters?

43-5

This area is currently isolated from transit access to much of the rest of City because of hills, freeways and geographical context. To reduce environmental impacts, transit use really MUST be not only encouraged, but actually occur. What measures will be implemented to monitor AND CHANGE the situation if transit use in the project area and surrounding communities falls short of expectations set out in the DEIR.

43-6

This includes reducing traffic volumes to/from 3rd St to avoid slow traffic on Innes/Harney. Particularly address traffic on Palou since it will bear the brunt of traffic coming to/from Shipyard towards 3rd Street.

43-7

If the stadium is a NO GO (i.e. the real world) and other uses generate traffic on more of a 365 days/year, Palou could be swamped.

43-8

Commissioner Antonini asked that the bridge over Yosemite Slough operate for autos 365 days a year. Please explain in detail the impacts of such use - particularly on air quality and integrity of restored slough - because it may evolve to auto use full time if it is built.

43-9

Are all of the east-west streets outside area to be redesigned? What involvement to date of residents of the streets to be "improved?" particularly Palou, Ingalls, Crisp, Ingerson, Jamestown, Gilman AND any additional streets improved until any alternative.

43-10

Please explain how Alice Griffith will be integrated (transportation-wise) into both the existing BVHP community and into CP/HP.

43-11

The parking standards seem to require that grocery stores must have PAID parking? Is that so? When and where is a grocery store anticipated to be built? How will is it integrated to the broader BVHP community - both cars and especially TRANSIT. Please note that people using transit will be carrying groceries.

43-12

Please describe the exact use, existing and proposed, on parcel labeled NAP (Not a Part) along Crisp?

43-13

3 of 3

How are the Phase I area/s to be integrated into both the existing BVHP community and into Lennar area? **43-14**

Figure II-13 - It is impossible to understand "Phase I Improvements" on II-40, What is that green blob? **43-15**

Please provide a simple chart that sets out the timing of transportation improvements (road and transit) relative to construction of individual parts of the project. It is necessary to understand what improvements will already be in place as individual parts (e.g. Alice Griffith, initial residences in HP) are completed. **43-16**

Will Alice Griffith continued to be isolated if delay in demo of CPark because 49ers still there until their new stadium complete? **43-17**

Will gas stations be built in CP/HP? If not, where are closest ones located? **43-18**

How much elevation of transit/roadway improvements on Harney and Innes will be necessary to avoid problems if 1.5 meter (5 feet) sea level rise occurs? **43-19**

Need Map of the traffic signals that will be controlled to move traffic to/from stadium. I couldn't find it. **43-20**

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Letter 43: People Organized to Win Employment Rights (1/12/10)

Response to Comment 43-1

The process and assumptions used in developing future year 2030 No Project cumulative conditions are presented in Draft EIR pages III.D-39 and III.D-40. As indicated on page III.D-40, the analysis of future cumulative transportation impacts included traffic expected to be generated as part of the India Basin/Area C development. Therefore, the cumulative effects of Area C traffic, traffic from the Project, and traffic from other reasonably foreseeable developments were incorporated into the analysis and informed the mitigation measures. None of the foreseeable projects are in any way dependent on the other taking place, and could occur regardless of whether the other takes place or not.

Although the NOP for this Draft EIR included the Area C development as part of the Project, Agency and Planning Department staff decided to separate the environmental review of the Area C redevelopment program from the Candlestick Point-Hunters Point Shipyard Redevelopment Plan EIR. This separation was to allow this Draft EIR to fully focus on the Candlestick Point-Hunters Point Shipyard Redevelopment Plan and to accommodate the continuing community participation process on planning for the proposed Area C redevelopment program.

Response to Comment 43-2

The Bayview Transportation Improvement Project (BTIP) began almost a decade ago to review options to provide a major truck and auto route between US-101 and the Hunters Point Shipyard and to the South Basin industrial area, and to reduce through truck traffic on Third Street and east/west residential streets. Auto and truck activity is an essential component of the BVHP commercial and industrial businesses and will continue to be so. Providing designated truck access routes as proposed by the BTIP study would help to:

- Provide a roadway for traffic accessing the BVHP community that minimizes travel time, to attract traffic off of Third Street and other residential streets
- Reduce the wear and tear, and excessive damage to residential streets
- Reduce conflicts between truck traffic and residential uses, including pedestrians and light rail

As the project sponsor for the BTIP, the City & County of San Francisco will comply with state and federal environmental laws requiring analysis and disclosure of the potential environmental impacts of the project. To do so, the San Francisco Department of Public Works has been working with the San Francisco Planning Department, Caltrans, and the Federal Highway Administration to develop a joint Draft Environmental Impact Statement (DEIS)/Draft EIR to satisfy provisions of the CEQA and the National Environmental Policy Act (NEPA). The DEIS/Draft EIR for this project, which is as yet unpublished, is intended to ensure a thorough decision-making process—including the identification of alternatives; assessment of potential impacts; and coordination with environmental permitting agencies and the public.

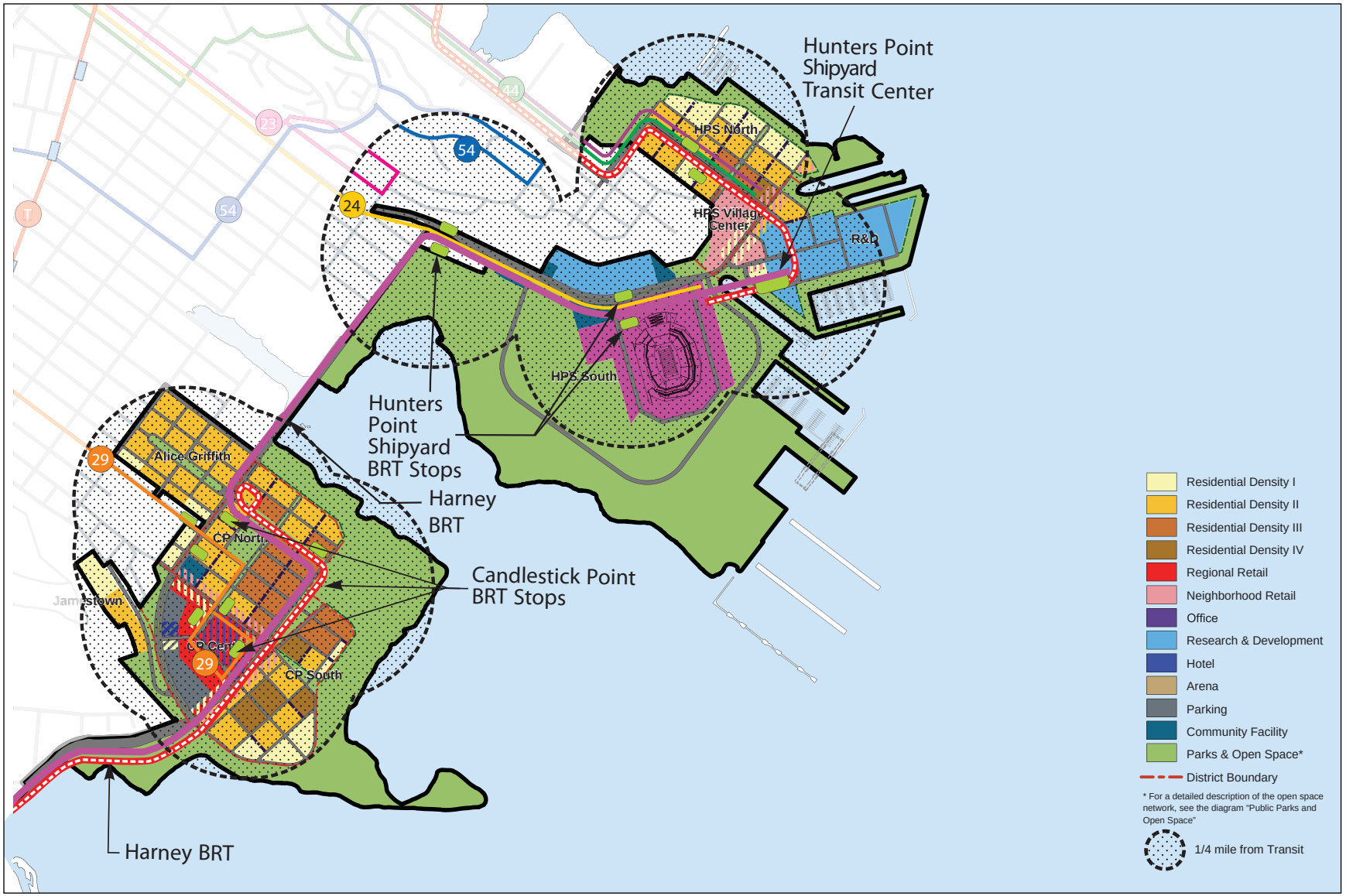
The BTIP requires an extensive environmental review process. Special studies to address the issues identified in the initial site assessments and conceptual engineering reports were completed during 2008 and the information was compiled into an Administrative DEIS/Draft EIR. The BTIP DEIS/Draft EIR was proposed to be published in the summer of 2009; however, reviewing delays were encountered which were out the control of the City & County of San Francisco.

Subsequently, the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project proceeded and published this Draft EIR on November 12, 2009, with more recent assessments. The objectives of the BTIP were considered in developing the transportation circulation network for the CP-HPS Phase II Development Plan, and the CP-HPS Phase II roadway cross-sections incorporate and expand upon the proposed BTIP improvements to meet the needs of the proposed mixed-use development at Candlestick Point and a new stadium at Hunters Point Shipyard. Therefore, the BTIP was included in the CPHPS Draft EIR in the cumulative analysis as a reasonably foreseeable project. However, because of the timing, some of the previously completed BTIP environmental studies are no longer considered relevant or consistent with the latest cumulative analyses in the area. For example, the transportation analysis conducted for BTIP did not assume the proposed CP-HPS Phase II development, and therefore the BTIP roadway improvements, future year traffic volumes, and operational analyses no longer represent an accurate assessment of the cumulative conditions in the area. Consequently, the City is now revising/updating certain technical studies (transportation, air quality, and noise) to reflect the newest updated information available from this Draft EIR, so that the cumulative analyses are consistent and so that decision makers do not have conflicting descriptions of improvements and analysis results.

Response to Comment 43-3

As currently proposed, nearly all of the Project development would be within ¼ mile of a transit stop. The portions of the development that would not be within this distance include the southernmost portion of the dual-use sports fields, parts of the R&D area, and parts of the parks and open space. As proposed, they would be within ½ mile. Refer to Figure C&R-6 (Transit Routes and Stops) illustrating locations of transit stops within the Project and the land uses contained within a ¼-mile radius of those stops. Existing transit services are described on Draft EIR pages III.D-12 to III.D-15, and existing transit routes are depicted on Figure III.D-3 (Existing Transit Network).

Because the new and expanded Muni lines serving the Project would run through surrounding neighborhoods in the Bayview Hunters Point area to varying extent, as well as other city neighborhoods, these areas would generally experience increased transit frequencies and extended access in conjunction with the transit service plan proposed by the Project. These reliabilities of lines would also benefit from transit-priority treatments within and in the Project vicinity. The Muni lines planned for increased coverage, reliability improvements, and/or frequency include the 23-Monterey, 24-Divisadero, 28L-19th Avenue Limited, 29-Sunset, 44-O'Shaughnessey, 48-Quintara-24th Street (replacing portions of the 19-Polk as proposed in the TEP), 54-Felton, and the T-Third.



SOURCE: Fehr & Peers, 2010.

PBS&J 04.12.10 02056 | JCS | 10

FIGURE C&R-6

Candlestick Point — Hunters Point Shipyard Phase II EIR

TRANSIT ROUTES AND STOPS

Response to Comment 43-4

Section II.E.3 of the Draft EIR (on pages II-35 through II-38) states that some of the Project's proposed transportation improvements would require property acquisition. In order to complete both the Harney Way widening improvements described in Section II.E.3 (on page II-35) and the Crisp Road and Arelious Walker Drive improvements described in Section II.E.3 (on page II-38), some property acquisition would need to be required. None of the other transportation improvements proposed by the Project would require the acquisition of private property. The City and the Agency have met with several of the property owners whose property is envisioned to be affected by the roadway improvements. In addition, all property owners received a copy of the Draft EIR. Owners include the State, Lowpensky Family Trust, Regents of the University of California, Murphy Properties, George and Rosalie Yerby, Tuntex Properties, and Sunpark Properties, and several of them have participated in public meetings where the Project has been discussed. In addition, as required by Chapter 31 of the Municipal Code, a Notice of Availability indicating that the Draft EIR was available was also sent to owners and occupants within the 94124 zip code, as well owners and occupants within the Project site and a 300-foot radius beyond the Project site.

BVHP Redevelopment Area Acquisitions

For the improvements to Arelious Walker Drive between Gilman Avenue and Bancroft Avenue proposed by the Project, a total of approximately 2.32 acres would need to be acquired. These include portions of Blocks 4876, 4886-807, 4886-808, 4886-828, 4917-003, and 4935-003. These properties are currently owned by one private owner and the California Department of Parks and Recreation. The acquisition of the California Department of Parks and Recreation property is authorized under SB 792. This is discussed further in the Section III.P (Recreation) of the Draft EIR. There are currently no permitted residences on these properties and no businesses operating on these parcels other than game day parking. The privately owned property is zoned M1.

The properties that would need to be acquired to complete the proposed improvements to Arelious Walker Drive between Gilman Avenue and Bancroft Avenue are within the boundaries of the Bayview Hunters Point Redevelopment Project Area and are subject to the eminent domain limitations and prohibitions of Proposition G, state law, and the Bayview Hunters Point Redevelopment Plan.

Proposition G expressly prohibits, in implementing the Project, the use of eminent domain to acquire any property that is currently residentially zoned, is improved with a building that contains one or more legally occupied dwelling units, is a church or other religious institution, or is publicly owned, including, without limitation, property owned by the Housing Authority of the City and County of San Francisco.

Under state law, eminent domain cannot be used until the Agency "make[s] every effort to acquire property by negotiation, instead of by condemnation or eminent domain; that the Agency pay just compensation based upon fair market value; and that the Agency adopt at a public hearing by a vote of not less than two-thirds of all members of the Agency Commission, a resolution finding that acquisition of such property through eminent domain is in the public interest, and necessary to carry out the Redevelopment Plan."

In addition, the Bayview Hunters Point Redevelopment Plan provides that the use of eminent domain shall be subject to the following limitations and prohibitions:

- The Agency shall not use eminent domain to acquire property without first receiving a recommendation from the PAC or appointed citizens advisory committee. As stated in Section 1.1.6 [of the Bayview Hunters Point Redevelopment Plan], the Agency commits to maintain a PAC or an appointed citizens advisory committee for the duration of this Redevelopment Plan.
- The Agency shall not use eminent domain to acquire publicly owned property including without limitation, property owned by the San Francisco Housing Authority.
- Eminent domain proceedings, if used in Project Area B [which includes Candlestick Point], must be commenced within 12 years from the Effective Date. This time limitation may be extended only by amendment of this Redevelopment Plan, as adopted and approved by the Board of Supervisors and the Agency Commission, following a community process.
- The Agency shall not acquire, through the use of eminent domain, real property in a Residential (R) District, as defined by the Planning Code ("R" zone), as of the Effective Date, in Project Area B.
- The Agency shall not acquire, through the use of eminent domain, property that contains legally occupied dwelling units.
- The Agency shall not acquire, through the use of eminent domain, property owned by Churches or other religious institutions, as defined in Planning Code Section 209.3(j).
- The Agency shall not acquire real property in Project Area B to be retained by an owner pursuant to an Owner Participation Agreement, unless the owner fails to perform under that agreement and as a result the Agency exercises its reverter rights, if any; or successfully prosecutes a condemnation or eminent domain action.
- The Agency shall use eminent domain on a parcel not zoned "R" (Residential) only as a last resort after the property owner has failed, after reasonable notice, to correct one or more of the following conditions:
  - The property contains an unreinforced masonry building (UMB) that has not been seismically retrofitted by the date required by City ordinance.
  - The property contains a building in which it is unsafe or unhealthy for persons to live or work as determined by the Department of Building Inspection, after failure to comply with an order of abatement of such conditions pursuant to Section 102 of the Building Code.
  - The property contains uses that pose a threat to the public's safety and welfare as formally determined through major citations by the appropriate City agencies or departments, including, but not limited to the San Francisco Police Department, San Francisco Fire Department, San Francisco District Attorney's Office, San Francisco Department of Public Health, San Francisco Department of Building Inspection, and San Francisco Planning Department.
  - A parcel that is vacant, used solely as a surface parking lot (not accessory to another use), or contains a vacant or substantially vacant (approximately 75 percent or more of the rentable area) building(s) and the owner has no active plans for a new use or development.
  - Under-utilization of a property of irregular form and shape, and of inadequate size that substantially hinders its economically viable uses for development consistent with this Redevelopment Plan.

Consistent with the BVHP Redevelopment Plan, owners of real property in the BVHP Project Area may participate in the redevelopment of the Project Area by new development or rehabilitation in accordance with the standards for development or the standards for rehabilitation, which are set forth in the OPA Rules that were adopted on March 7, 2006, after a public hearing. The OPA Rules governing participation

by property owners are subject to amendment from time to time. The Agency may require as a condition to participate in redevelopment in the Project Area that each participant enter into a binding written OPA with the Agency by which the property will be developed, maintained or rehabilitated for use in conformity with the Redevelopment Plan, the Planning Code, the OPA Rules, declaration of restrictions, if any, and applicable design guidelines promulgated by the Agency. The proposed amendments to the BVHP Redevelopment Plan provide that owners of property in Zone 1 of the Project Area, which covers Candlestick Point, must enter into an OPA in order to coordinate the delivery of public infrastructure with the development of publicly owned land in the Candlestick Point sub-area. Properties whose owners choose not to participate in development pursuant to an OPA with the Agency will be permitted to continue existing uses as nonconforming uses.

The Agency has a number of avenues available for completing the roadway improvements in the BVHP Redevelopment Plan area. SB 792 authorizes acquisition of the California Department of Park and Recreation property. The private property could be acquired by negotiation, through an OPA process, or by eminent domain as a last resort. The Agency would comply with the requirements of the BVHP Redevelopment Plan and Proposition G provisions in carrying out the roadway improvements.

Acquisitions outside the Redevelopment Project Areas

For the Harney Way widening improvements proposed by the Project, a total of approximately 0.7 acre of property located north of Harney Way between Thomas Mellon Drive and Executive Park East, currently zoned C-2, would need to be acquired. These include portions of Blocks 4991-075 and 4991-074. There are two separate private owners of these properties. On these portions of the respective properties, there are currently no permitted residences or any operating businesses.

Additionally, approximately 1.3 acres of property containing no structures, and located within the Candlestick Point State Recreation Area south of Harney Way, would need to be acquired from the California Department of Parks and Recreation; such an acquisition is authorized under SB 792. This is discussed further in the Section II.P (Recreation) of the Draft EIR. These include portions of Blocks 5076-008, 5076-010, and 5023-101.

In addition, to complete the improvements connecting Arelious Walker Drive to Crisp Road near the HPS Phase II area, approximately 0.81 acres of property on Blocks 4591A-007 (zoned M2) and 4591A-002 (zoned P/M2) would need to be acquired. There are two separate owners for these properties and there are no permitted residences on these properties. Uses currently operating on these properties are a commercial woodshop and institutional research, respectively. No structures would be affected except for a small shed structure on Block 4591A-002, which is on land owned by the Regents of the University of California (UCSF). The Arelious Walker Drive improvements also require approximately 0.24 acres of property on Block 4805-025, which contains no structures and would need to be acquired from the California State Lands Commission as authorized under SB 792. This is discussed further in the Section II.P (Recreation) of the Draft EIR.

The properties that would need to be acquired to complete the Harney Way widening improvements and the connections between Arelious Walker Drive and Crisp Road are not within the boundaries of the Bayview Hunters Point Redevelopment Project Area or the Hunters Point Shipyard Redevelopment

Project Area. The proposed amendments to the Bayview Hunters Point Redevelopment Plan and Hunters Point Shipyard Redevelopment Plan do not change the existing zoning for these properties.

Regardless of whether these properties are located within any redevelopment project area, Proposition G expressly prohibits, in implementing the Project, the use of eminent domain to acquire any property that is currently residentially zoned, is improved with a building that contains one or more legally occupied dwelling units, is a church or other religious institution, or is publicly owned, including, without limitation, property owned by the Housing Authority of the City and County of San Francisco. The Project implementation would be carried out in a manner that would comply with these provisions. None of the property is residentially zoned, improved with dwelling units, or is a church. With the exception of a small portion of property owned by UCSF, use of eminent domain could be employed, consistent with Proposition G. If for any reason negotiation with UCSF were unsuccessful, the Agency could modify the roadway configuration. For example, instead of routing the roadway in a manner that required acquisition of UCSF property, the roadway could be accommodated on adjacent property that the Navy would transfer to the Agency.

With respect to when property acquisitions could occur, they could occur any time after certification of the EIR, if the EIR is ultimately certified by the Lead Agencies. Page II-80 of the Draft EIR further clarifies the time periods during which off-site roadway improvements would be constructed, indicating that it would only be during a portion of the Project's overall construction schedule. (The indicated text changes are a result of updating the development schedule since publication of the Draft EIR.):

> Construction activities in Candlestick Point would occur from ~~2011~~2012 through ~~2028~~2031.[39] Off-site roadway, utility, and shoreline improvements would be constructed ~~during years 2013 through 2021~~ beginning in 2013 and would align with vertical development. …
>
> Construction activities in HPS Phase II would occur from ~~2010~~2011 through ~~2023~~2031.[40] Off-site roadway, utility, and shoreline improvements would be constructed ~~during years 2011 through 2016~~ beginning in 2013 and would align with vertical development. …

Response to Comment 43-5

As described on page II-35 of the Draft EIR, one of the strategies of the TDM would require that homeowner's dues include the cost of transit passes for all households. As currently described in the Draft EIR, a rental household would not specifically include the cost of transit passes.

Response to Comment 43-6

The forecasts for transit usage in the Draft EIR are based on transit mode share forecasting models developed specifically for this analysis and validated based on observed transit usage in other neighborhoods in San Francisco. The models have been designed to account for differences in trip type (work vs. non-work), travel time, parking costs, and transit service levels. Ultimately, the analysis forecasted that 20 percent of weekday AM and PM peak hour trips would occur by transit. The current transit mode share in the Bayview neighborhood is 15 percent. Given the substantial increase in transit service proposed as part of the Project, the slight increase predicted in this analysis is reasonable.

The Project's transit improvements described on Draft EIR pages III.D-48 through III.D-50, and included in mitigation measure MM TR-17 on Draft EIR page III.D-99, would be implemented to meet the needs

of the Project. The phasing plan for implementing this service was designed to ensure that the level of transit provided is generally substantially greater than the Project's transit demand, to ensure that the Project maintains its "transit orientation" throughout the development horizon. If transit use generated by the Project falls short of expectations, measures included in the Project's TDM Plan could be implemented to encourage transit use and discourage auto use. The Project's TDM Plan, which would be approved as part of the Disposition and Development Agreement, would include a provision for monitoring the effectiveness of congestion-reducing and traffic-calming measures. As part of the annual monitoring of the measures and programs, the on-site coordinator, would, in cooperation with SFMTA, review the effectiveness of the Project's transportation measures and other traffic calming measures implemented in the project vicinity. If warranted, the on-site coordinator and SFMTA would consider implementation of additional parking, traffic-calming, and congestion-alleviating measures.

Response to Comment 43-7

The traffic impact analysis includes 14 study intersections on Third Street, four intersections on Evans Avenue/Innes Avenue, four intersections along Harney Way, and four intersections along Palou Avenue. The impacts of Project traffic and traffic associated with cumulative development on study area roadway facilities, including Third Street, Evans Avenue/Innes Avenue, Harney Way, and Palou Avenue were analyzed and are described in Impacts TR-3, TR-5, TR-6, and TR-9. The potential for area congestion to cause traffic to "spill" into adjacent neighborhood streets was described in Impact TR-10. No further analysis is required.

Response to Comment 43-8

Chapter IV of the Draft EIR describes transportation conditions associated with Project Variants 1 and 2, in which case additional development would be provided in the Hunters Point Shipyard site instead of a new NFL stadium. Four intersections along Palou Avenue were analyzed in the Draft EIR including Palou Avenue at Third Street, at Keith Street, at Ingalls Street, and at Crisp Avenue. Under the Project, Variant 1 and Variant 2, traffic operating conditions at the intersection of Third/Palou would be LOS F, due primarily to the cumulative traffic volume increases on Third Street. Under the Project, Variant 1 and Variant 2, the intersections of Keith/Palou, Ingalls/Palou and Crisp/Palou would be signalized as part of the Project. Under Variant 1 and Variant 2, intersection LOS at Ingalls/Palou and Keith/Palou would be LOS C or better, indicating acceptable operating conditions even with the additional development proposed for these project variants. At the intersection of Crisp/Palou, operating conditions would be LOS D for Variant 2. Under Variant 1 the additional R&D development would cause the intersection of Crisp/Palou to fail (i.e., LOS F). As indicated on Draft EIR page IV-19, a mitigation measure was identified that would reduce Variant 1 impacts at this location to less than significant levels.

More detailed analysis of these variants is provided in the Project Transportation Study, which was included as Appendix D of the Draft EIR.

Response to Comment 43-9

As indicated on Draft EIR page II-38 (Project Description), the Yosemite Slough bridge would primarily function for transit, bicycle and pedestrian use. The bridge would have a 40-foot-wide greenway, which would

be converted for peak direction auto travel lanes on 49ers game days only. Refer to Response to Comment 17-1 for a discussion of the process that would be required for the bridge to be open for public use. The Project's Infrastructure Plan, which the Board of Supervisors will approve through the Interagency Cooperation Agreement, would require that the bridge be closed to autos except on football game days. Before the bridge is open for use, the Board of Supervisors, by a legislative act must accept the bridge and designate it as a transit use only lane, except for the limited purpose specified in the Infrastructure Plan. Any subsequent changes to the use of the bridge would require Board of Supervisors approval.

Response to Comment 43-10

As shown on Figure III.D-6, the Project would provide improvements along portions of seven east-west streets outside of the Project Boundary, including Jamestown Avenue, Ingerson Avenue, Gilman Avenue, Carroll Avenue, Thomas Avenue, Palou Avenue, and Innes Avenue/Hunters Point Boulevard. Generally, these improvements consist of resurfacing and some lane reconfiguration within the existing right-of-way, although the sidewalks would be narrowed on Gilman Avenue from existing 15 feet to 12 feet to accommodate two travel lanes in each direction and to maintain on-street parking. (Note that the proposed 12-foot-wide sidewalks would remain consistent with the City's Draft Better Streets Plan guidelines).

As of the date of publication of this document, there have been approximately 236 workshops and public meetings on the Project, including four focused workshops in the spring of 2008 on the topics of transportation, urban design, and open space. A number of design features and priorities from those workshops have been incorporated into the roadway improvements, including maintaining existing on-street parking, provision of new street trees, better connections to the City bicycle network, and generally safer and more walkable sidewalks. In summer 2009, several street-specific community workshops were held in the Bayview and India Basin area, with a focus on design and engineering treatment options for Palou Avenue, Gilman Avenue, Harney Way, and Innes Avenue, among other corridors, the input from which has led to final design decisions for each street.

Response to Comment 43-11

The existing Alice Griffith housing site sits at the eastern end of the Bayview Neighborhood. Internally, the character of the street configuration within the Alice Griffith site is considerably different from the rest of the Bayview neighborhood, offering a more suburban-style, curvilinear street design. As a result, the Alice Griffith site has only two connections to the existing neighborhood, at the intersections of Griffith Street/Gilman Avenue and Hawes Street/Fitzgerald Avenue. These limited connections isolate the site and discourage walking and bicycling. It is currently served by the 29-Sunset bus route, which operates with frequencies of 10 minutes during typical weekday peak periods.

The Project would reconstruct the Alice Griffith housing site and extend the existing street grid network in the Bayview neighborhood through the site, providing a substantial increase in the number of roadway connections and better integrating the site with the rest of the neighborhood. The street grid would continue east into the Candlestick Point development, such that the Alice Griffith site is connected to both the Bayview neighborhood and the Project via a continuous street grid network.

The Project would also double the frequency of service on the 29-Sunset from existing 10 minutes during peak commute periods to 5-minute frequencies. The Alice Griffith site would also be a short walk (less

than ¼ mile) from the proposed new BRT service, which would offer high-quality rapid service in exclusive right-of-way to the Hunters Point Shipyard site to the northeast and across US-101 to the west toward the Geneva Avenue corridor and regional transit connections at the Bayshore Caltrain station and the Balboa Park BART station. The Alice Griffith site would also be within ¼ mile of the new Candlestick Point Express (CPX) bus route offering express service to Downtown San Francisco and connections to other regional transit service (ferries, AC Transit, etc.).

Response to Comment 43-12

As noted on page II-43 of the Draft EIR, "all commercial parking facilities would be paid parking, with measures to discourage single-occupant automobile use, such as designation of preferred parking areas for bicycles, carpools, vanpools, and carshare vehicles." This would include grocery stores.

The Project calls for 125,000 square feet of neighborhood-serving retail each in the Candlestick Point and Hunters Point Shipyard developments. A grocery store is not specifically proposed as part of the Project, but would be allowed under the proposed land uses. Adequate space is proposed at either site to accommodate a grocery store.

Generally, the neighborhood-serving retail spaces are provided adjacent to the primary transit nodes within each site, specifically including both local transit and the proposed BRT. This would allow high-quality and frequent transit access to the retail space. Further, with the proposed extension of the existing street grid system in the Bayview neighborhood into the Project site, patrons could access the neighborhood-serving retail via a direct walk, bicycle ride, or vehicle trip, if desired.

Response to Comment 43-13

The parcel along Crisp that is labeled Not a Part of the Project is owned by the Regents of the University of California and is occupied by an animal testing facility, APN 4591A-002. The property is zoned P (Public uses) (north portion) and M-2 (Heavy Industrial) (south portion).

Response to Comment 43-14

The Project has been designed to transition in a pleasing manner from the adjacent neighborhoods through the use of setbacks, landscaping treatments, and stepped-up building heights and massing oriented primarily toward the center of the development. The street grid system will be extended to connect the Project with adjacent neighborhoods, including HPS Phase I. Although architectural finishes have not yet been chosen, they will be selected to blend harmoniously with existing neighborhoods while still attaining a distinct sense of place.

Response to Comment 43-15

In response to the comment, Figure II-13 (Proposed Transit Improvements), page II-40, in the Draft EIR has been revised to delete "Phase I Improvements" from the legend, and rename "Phase II Improvements" to "Bus Rapid Transit." Figure 7 (Proposed Transit Improvements) from Draft EIR Appendix D (the Transportation Study) is correct. Refer to Response to Comment 7-1 for the revised Figure II-13.

Response to Comment 43-16

Phasing of transit improvements is shown in Table 2 on page 31 of the Project Transportation Study, included as Appendix D of the Draft EIR. A more detailed roadway and transit service timing and phasing plan would be provided as part of the Project's Infrastructure Plan, which would be included in the Project's DDA. The Project would be implemented in four overlapping phases, with transportation infrastructure improvements (both transit and roadway) linked to the development phases. The majority of development and infrastructure improvements would be completed by the end of the second phase, which has a scheduled completion date of 2021.

Response to Comment 43-17

The new Alice Griffith housing is proposed to be constructed as part of the first phase of development, along with construction of the new stadium. Following completion of the new stadium, the old stadium would be deconstructed and new roadway network in Candlestick Point would be constructed. However, access to Alice Griffith would be maintained as the Candlestick Point development proceeds.

Response to Comment 43-18

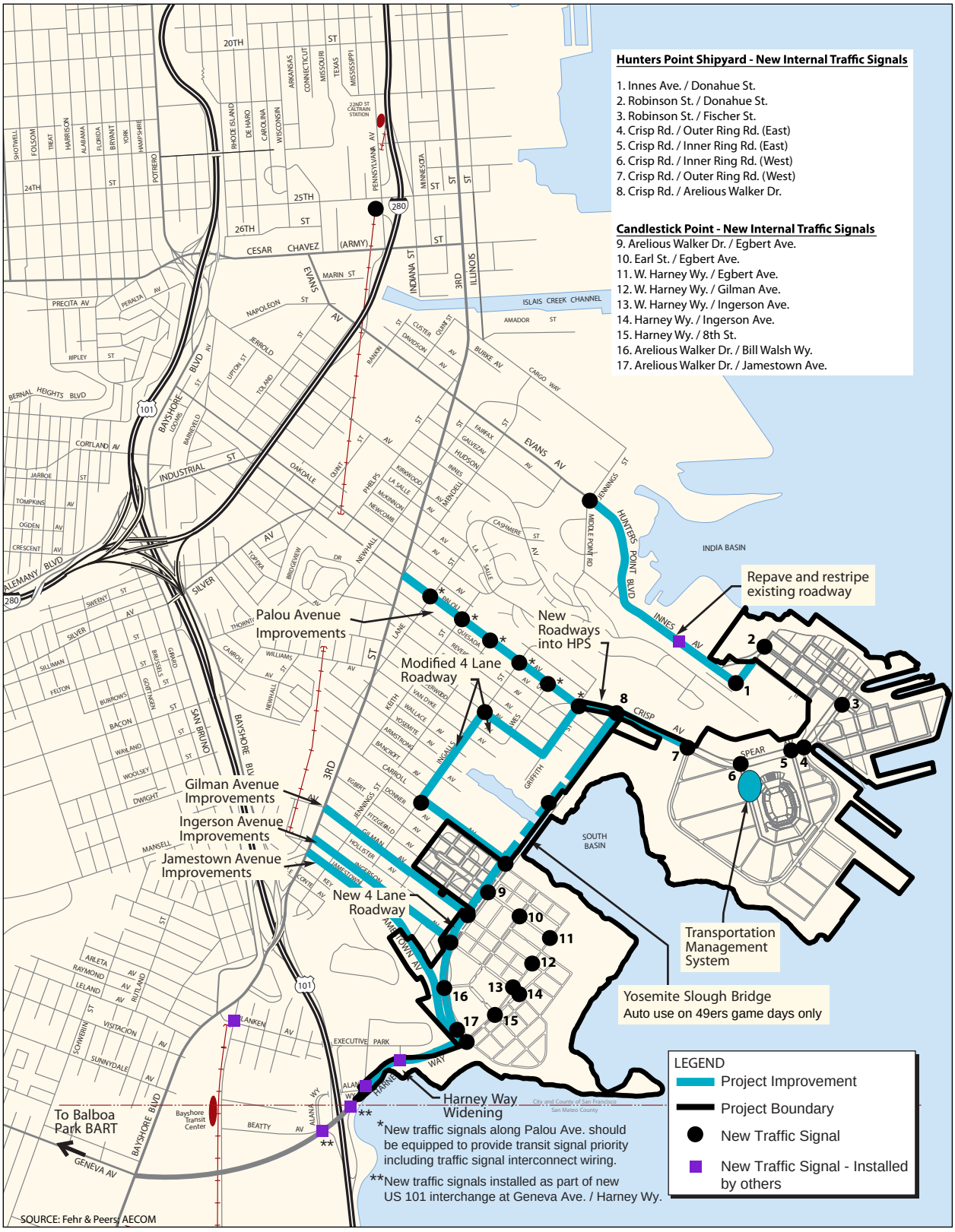
Land uses, including gas stations, in the Project site will ultimately be dictated by the amended Bayview Hunters Point and Hunters Point Redevelopment Plans and not by the Planning Code. Gas stations have not been identified as a Principal use in these amendments.

Response to Comment 43-19

Refer to Master Response 8 (Sea Level Rise) for a discussion of sea level rise taken into account for various Project components and how the Project will provide continued flood protection with greater levels of sea level rise. The shoreline will remain at or very close to the as-proposed Project shoreline location, which implies that only groundwater effects need to be considered for the subject roadway improvements.

Response to Comment 43-20

Figure C&R-7 (Location of New Traffic Signals) presents the locations of proposed on-site and off-site traffic signals. The figure illustrates 26 intersections throughout the Project area and the Bayview neighborhood that would be either manually controlled from within the Stadium's Transportation Management System or by an on-site Traffic Control Officer. The manual control would allow for efficient egress of game attendees from the stadium.



SOURCE: Fehr & Peers, 2010.

PBS&J 05.04.10 05015 | JCS | 10

FIGURE C&R-7

Candlestick Point — Hunters Point Shipyard Phase II EIR

LOCATION OF NEW TRAFFIC SIGNALS

Off-site intersections that would be signalized as part of the Project are also listed on Draft EIR page III.D-46.

The following currently unsignalized off-site intersections would be signalized as part of the transit preferential treatment on Palou Avenue, or when traffic volumes warrant signalization:

- Crisp Road/Arelious Walker Drive
- Crisp Road/Outer Ring Road (West)
- Crisp Road/Inner Ring Road (West)
- Crisp Road/Inner Ring Road (East)
- Crisp Road/Outer Ring Road (East)
- Robinson Street/Fisher Street
- Robinson Street/Donahue Street
- Innes Avenue/Donahue Street
- Palou Avenue and Griffith Street
- Palou Avenue and Hawes Street
- Palou Avenue and Ingalls Street
- Palou Avenue and Jennings Street
- Palou Avenue and Keith Street
- Palou Avenue and Lane Street
- Carroll Avenue and Ingalls Street
- Thomas Avenue and Ingalls Street
- Arelious Walker Drive and Carroll Avenue
- Arelious Walker Drive and Gilman Avenue
- Arelious Walker Drive and Ingerson Avenue
- Arelious Walker Drive and Harney Way
- Pennsylvania Avenue and 25th Street
- Evans Avenue, Jennings Street and Middlepoint Road

Intersection control for new intersections within the Project site will be included in the Project Infrastructure Plan. The following intersections would be signalized:

- Arelious Walker Drive/Harney Way/P Street
- Arelious Walker Drive/Jamestown Avenue
- Arelious Walker Drive/Bill Walsh Way
- Arelious Walker Drive/Ingerson Avenue
- Arelious Walker Drive/Gilman Avenue
- Arelious Walker Drive/Egbert Avenue
- Arelious Walker Drive/Carroll Avenue
- Harney Way/8th Street
- Harney Way/Ingerson Avenue
- West Harney Way/Ingerson Avenue
- West Harney Way/Gilman Avenue
- West Harney Way/Egbert Avenue
- Earl Street/Egbert Avenue

A pedestrian and bicycle-actuated signal would be installed at the Bay Trail crossing of the Yosemite Slough Bridge, about 150 feet north of the slough.

At intersections on major roadways where traffic signals are not installed, STOP signs would be installed on streets intersecting the following major roadways:

- Donahue Street, at Galvez Street
- Robinson Street, between Donahue Street and Fischer Street
- Spear Avenue, between Fischer Street and B Street
- Arelious Walker Drive, between Harney Way and Carroll Avenue
- Harney Way, between Arelious Walker Drive and 4th Street
- West Harney Way, between 8th Street and Donner Avenue
- Palou Avenue and Jennings Street

As noted above, the on-site intersection of Donahue/Innes would be signalized as part of the Project and the intersection of Donahue/Galvez would be STOP-sign controlled (the westbound approach of Galvez Street would have a STOP sign, while Donahue would not be controlled). These two intersections reflect the proposed street network for Hunters Point Shipyard, which differs somewhat from the roadway design in the Hunters Point Shipyard Redevelopment Plan adopted in 1997. The 1997 Redevelopment Plan featured a four lane curved roadway bypassing the intersection of Innes/Donahue in the northeast quadrant of HPS (known as the "S-Curve"). The S-Curve plan included traffic signals at the intersections of Innes/S-Curve and S-Curve/Donahue/Galvez. As the current CP-HPS Phase II planning and design progressed, the roadway was refined, leading to the removal of the S-Curve. Intersection analyses were conducted for 2030 Cumulative plus Project conditions to determine the intersection LOS conditions and if the removal of the S-Curve would affect transit operations.

- Removal of the S-Curve would not affect intersection operations, and both intersections would operate at acceptable levels. During both the AM and PM peak hours, the signalized intersection of Innes/Donahue would operate at LOS C, while at the intersection of Donahue/Galvez, the westbound approach of Galvez Street would operate at LOS C (Donahue Street would be uncontrolled and therefore not be subject to intersection control delays).
- Removal of the S-Curve from the plan would not affect the proposed transit routes that would serve Hunters Point Shipyard (i.e., the 48-Quintara, the 54-Felton and the Hunters Point Expresses). While the proposed plan would increase the bus routes by an additional 300 feet than under the S-Curve plan, the modest increase in travel distance would be offset by the removal of a traffic signal at the intersection of S-Curve/Donahue/Galvez that would be required under the S-Curve plan.

The traffic analysis is detailed in the memorandum *Supplemental Intersection Analysis in the Hunters Point Shipyard*, Fehr and Peers, January 12, 2010.

Letter 44: Neighborhood Parks Council (1/12/10)

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Letter 44

NEIGHBORHOOD PARKS COUNCIL

January 12, 2010

Stanley Muraoka (Stanley.Muraoka@sfgov.org)
San Francisco Redevelopment Agency
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San Francisco, CA 94103

Bill Wycko, Acting Environmental Review Officer (Bill.Wycko@sfgov.org)
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Re: Candlestick Point - Hunters Point Shipyard Phase II DEIR
SFRA File No. ER06.05.07, Planning Dept Case No. 2007.0946E

Gentlemen:

The Neighborhood Parks Council has concerns about the adequacy of the environmental review of the captioned project, particularly as respects the Blue Greenway, which is a segment of both the Bay Trail and the Bay Area Water Trail between AT&T Park and Candlestick Point. 44-1

The DEIR should include reference to and appropriate proposed locations for elements of the Bay Area Water Trail in the Land Use section (IIIB).

Chapter III. D. Transportation and Circulation

This entire section should be rewritten. The focus of the DEIR is the traditional vehicle LOS analysis, without taking into consideration the new 2009 SB 97 Rules (http://ceres.ca.gov/ceqa/guidelines/proposed_guidelines_amendments_and_related_materials.html), where there's not only a requirement to reduce greenhouse gas emissions (Section VII), but a revised Transportation section (XVI). This project is expected to be built out over 20 years, and the transportation analysis should reflect current CEQA guidelines; most significantly, the criteria that determine whether the project would: 44-2

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, **taking into account all modes of transportation including mass transit and non-motorized travel** and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? 44-3

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? 44-4

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NEIGHBORHOOD PARKS COUNCIL

f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities supporting alternative transportation? 44-5

The Bicycle Plan outlined in the DEIR (Figure II-14) does not provide near-term improvements to the bicycle network between Innes Avenue (India Basin/Area C) and Crisp Avenue. Bicycle improvements should also be constructed in Phase I connecting Crisp Avenue, through the Shipyard to Candlestick Point. Class III bike markings will not be safe or adequate, particularly on streets with high vehicle traffic. Since the planned Bay Trail alignment along the shoreline is dependent on environmental remediation, and development of much of this area will not occur until at least Phase III, construction of an interim Class I bike path to provide a short-term connection that is not dependent on the possible Yosemite Slough bridge is very important. A comparable interim bicycle and pedestrian connection in Mission Bay on the south side of Mission Creek under the 280 freeway has been critical to the hundreds of residents and workers in that new neighborhood. 44-6

Chapter III. P – Recreation

While Mitigation measure RE-2 is a good beginning, in that phasing of parks and open space should be linked to residential **and** employment-generating uses, it does not adequately address the need. 44-7

Table III.P-3 should be amended to show, at each phase of development, the park-to-population ratio including the employee population, and should be maintained throughout the development at no less than 5.5 acres per 1,000 residents **and** employees. In addition, there should be an adjacency requirement, so that parks and recreation facilities (including facilities for families and children, if appropriate) are built adjacent to and concurrently with infrastructure and vertical development parcels, and connecting with existing open spaces (India Basin Shoreline Park and Hillside Park and Open Space, for example). 44-8

The proposed Marina and waterfront recreation areas should be sited to provide protection from summer winds (Chapter III.G – Wind) and southern surge in the winter. In addition to an analysis of Windsurfing in the Recreation section, there should be an analysis of appropriate conditions for kayaking and other non-motorized vessel operations along the Bay Area Water Trail. 44-9

Sincerely yours,

NEIGHBORHOOD PARKS COUNCIL

Corinne W. Woods
Blue Greenway Coordinator

For Meredith Thomas, Executive Director

Letter 44: Neighborhood Parks Council (1/12/10)

This letter is identical to Letter 49. Letter 44 was submitted to the San Francisco Planning Department, while Letter 49 was submitted to the Agency.

Response to Comment 44-1

As indicated in Response to Comment 31-9, Figure III.B-3 has been revised to include Bay Area Water Trail access points in the Project vicinity. While the precise location of access points within the Project area will be determined through future public processes, including the CPSRA General Plan Amendment process, the Project will provide access for small non-motorized recreational watercraft and therefore will advance the purposes of the Bay Area Water Trail. Refer to Response to Comment 31-9 for the revised Figure III.B-3.

Response to Comment 44-2

Refer to Draft EIR Section III.S (Greenhouse Gas Emissions) for discussion of the Project's impact to greenhouse gas emissions.

Senate Bill 97 (Chapter 185, 2007) requires the Governor's Office of Planning and Research (OPR) to develop draft CEQA guidelines "for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions." On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the state CEQA Guidelines for greenhouse gas emissions, as required by Senate Bill 97. These proposed CEQA Guideline amendments would provide guidance to public agencies regarding the analysis and mitigation of the effects of greenhouse gas emissions in draft CEQA documents.

At the time the Draft EIR was prepared and released, these guidelines had not been adopted by the Natural Resources Agency. However, On December 31, the Natural Resources Agency formally adopted the proposed new CEQA Guidelines concerning the analysis of greenhouse gas emissions. These new CEQA Guidelines do not become legally effective until the Office of Administrative Law (OAL) approves the Guidelines and transmits them to the Secretary of State for inclusion in the California Code of Regulations. OAL has 30 days to review the Guidelines, and they become legally effective 30 days after OAL submits them to Secretary of State. The OAL approved and filed the guidelines with the Secretary of State on February 16, 2010. The guidelines were be published in the *California Code of Regulations* on March 18, 2010.

With respect to transportation, the revised language is as follows:

> Would the project:
>
> a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?
>
> b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?
>
> c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e) Result in inadequate emergency access?

f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

While the revised guidelines referenced by the commenter had not been adopted at the time the Draft EIR was prepared and circulated for public review, the Draft EIR does include an analysis of Greenhouse Gas Emissions in Section III.S. Further, with respect to the transportation requirements of the CEQA guideline changes, no changes occurred that 'require' any new analysis. Appendix G as cited by the commenter is just a sample of what criteria may be used in an initial study. They are not formal requirements. As discussed in the CEQA Guidelines (Section 15064.7), lead agencies as have the discretion to set their own thresholds for determining significance of project impacts.

The criteria for determining significance for each mode of transportation in the Draft EIR, as established by the City of San Francisco, are described in pages III.D-31 through -33 of the Draft EIR.

The Draft EIR adequately examines the potential traffic-related impacts of the Project in relation to the existing traffic conditions and street system capacity. The Draft EIR also provides detailed analysis of alternative transportation modes including transit (refer to Impacts TR-17, TR-18, TR-19, TR-20, TR-21, TR-22, TR-23, TR-24, TR-25, TR-26, TR-27, TR-28, TR-29, TR-30, TR-39, TR-47, and TR-52), bicycles (refer to impacts TR-31, TR-32, TR-40, TR-48, and TR-53) and pedestrians (refer to Impacts TR-33, TR-34, TR-41, TR-49, and TR-54).

The timing and phasing of transportation improvements would be developed and included in the Project's DDA. Refer also to Master Response 18 (Transit Mitigation Measures) for details and clarity regarding proposed roadway configuration and implementation mitigation measures.

Response to Comment 44-3

The particular comment is one of the proposed amendments to the CEQA guidelines for evaluating transportation impacts. While the revised guidelines had not been adopted at the time the Draft EIR was prepared and circulated for public review, with respect to the transportation requirements of the CEQA guideline changes, no changes occurred that "require" any new analysis. As stated on page III.A-3 of the Draft EIR, the impact significance used in the EIR are appropriately based on the San Francisco Planning Department MEA and Agency guidance regarding environmental effects to be considered significant. Page III.A-3 of the Draft EIR specifically states that:

> The impact significance criteria used in this EIR are based on San Francisco Planning Department Major Environmental Analysis (MEA) and San Francisco Redevelopment Agency guidance regarding the environmental effects to be considered significant. This guidance is, in turn, based upon Appendix G to the CEQA Guidelines and MEA's Initial Study checklist, with some modifications. In cases where potential environmental issues associated with the Project are identified, but are not clearly addressed by the guidance listed above, additional impact significance criteria are presented. The significance criteria used for each environmental topic/resource are presented at the beginning of the impact discussion in each section of Chapter III of this EIR.

Response to Comment 44-4

This particular comment is also one of the proposed amendments to the CEQA guidelines for evaluating transportation impacts. Refer to Response to Comment 44-3 for discussion of revisions to the CEQA guidelines.

Response to Comment 44-5

This particular comment is also one of the proposed amendments to the CEQA guidelines for evaluating transportation impacts. Refer to Response to Comment 44-3 for discussion of revisions to the CEQA guidelines.

Response to Comment 44-6

Figure II-14 does not provide the phasing of the bicycle improvements on the Project roadway network. The timing and phasing of transportation improvements would be defined in the Infrastructure Plan, which would be included in the Project's DDA.

Within Hunters Point Shipyard Class II bicycle lanes would be provided on Innes Avenue, Robinson Street, Fisher Street, and along Crisp Road a Class I off-street facility would be provided. Construction of these streets and development adjacent to these roadways are currently planned to occur within the first phases of CP-HPS Phase II development, and therefore interim bicycle and pedestrian connections would not be necessary. The bicycle network within Hunters Point Shipyard would connect with existing Bicycle Route #7 on Palou Avenue (a Class III facility).

Response to Comment 44-7

The analysis provided in Impact RE-2, beginning on page III.P-15 of the Draft EIR and concluding on page III.P-31, evaluates not only impacts that could occur as a result of the resident and employee population, but also what could occur with the existing population of the Bayview area. The analysis determines that the increase in the Project's resident and employee population and the existing area population would not lead to substantial physical deterioration or degradation of existing and proposed facilities, nor would it result in the need for new or expanded facilities. The Project would, therefore, not cause a significant impact and no mitigation is required. Nonetheless, mitigation measure MM RE-2 has been identified to ensure that parks are phased as development occurs.

Response to Comment 44-8

Page III.P-31 of the Draft EIR has been revised to include Table III.P-3a (Residential Units, Employment, and Park Acreage Provided during Each Stage of Development) following Table III.P-3 in the Draft EIR, page III.P-31:

Table III.P-3a Residential Units, Employment, and Park Acreage Provided during Each Stage of Development [New]

Stage of Development	*Residential Units*	*Population*	*Total Parkland (ac)*	*Park-to-Population Ratio (acres per 1,000 Residents)*	*Employees*	*Park-to-Population Ratio (acres per 1,000 Residents & employees)*
Existing	256	1,113a	120.2	108	—	201.5
Phase 1	3,160	7,363	235.6	32.0	2,346	24.3
Phase 2	5,165	12,035	246.9	20.5	7,474	12.7
Phase 3	7,670	17,872	250.4	14.0	10,595	8.8
Phase 4	10,500	24,465b	336.4	13.8	10,730	9.6

a. Refer to Table III.C-1 (Existing Population [2005]) in Section III.C (Population, Housing, and Employment). This population correlates to the total number of households in the Traffic Analysis Zone, which includes more than the 256 households located in the Candlestick portion of the Project site (e.g., 292). It is likely, therefore, that the population within the Candlestick portion of the Project site is less than 1,113, which would only increase the existing park-to-population ratio.

b. Calculated as 2.33 people per residential unit.

As illustrated in Table III.P-3a, when employees are included in the Project's population, the parkland ratio remains well above the standard of 5.5 acres per 1,000 population at all phases of the Project. The Project will not cause significant physical degradation of exiting park facilities.

Figure II-17 (Proposed Building and Parks Construction Schedule), Draft EIR page II-52, shows that the Project's construction schedule would maintain adjacency between residential development and park construction and improvement. This phasing will be made mandatory by the Project's Disposition and Development Agreement. (Figure II-17 has been revised in Section F [Draft EIR Revisions] to reflect that building construction activities would occur 1 to 2 years later than originally planned.)

Response to Comment 44-9

The comment regarding marina siting is noted. The Project area is not presently used by substantial numbers of small non-motorized craft such as kayaks. Moreover, with the exception of the Yosemite Slough bridge impacts discussed in Response to Comment 47-20, the Project is unlikely to impact conditions for watercraft other than windsurfers.

Letter 45: National Trust for Historic Preservation, Western Office, and California Preservation Foundation (1/12/10)

Letter 45

CALIFORNIA PRESERVATION FOUNDATION

NATIONAL TRUST FOR HISTORIC PRESERVATION
Western OFFICE

January 12, 2010

VIA EMAIL

Stanley Muraoka
Environmental Review Officer
San Francisco Redevelopment Agency
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San Francisco, CA 94103

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

Re: Draft Environmental Impact Report (DEIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project (SFRA File No. ER06.05.07, SFPD File No. 2007.0946E)

Dear Mr. Muraoka and Mr. Wycko,

On behalf of the National Trust for Historic Preservation and the California Preservation Foundation, we appreciate the opportunity to comment on the Draft Environmental Impact Report (DEIR) for Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project (Project). We have serious concerns that the City's analysis of the Project's impacts to historic and cultural resources is inadequate and incomplete.

45-1

After review of the Project alternatives analysis in the DEIR, we find the analysis of alternatives incorporating historic preservation insufficient to meet the strict mandates of the California Environmental Quality Act (CEQA). Of additional concern are the substantial gaps in the identification and evaluation of historic resources on the Project site and inadequate analysis of impacts of Project components on historic resources. The mitigation measures proposed for impacts to historic resources are also insufficient to address the significant adverse impacts posed by the Project. In the foregoing letter, we

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recommend that the City conduct supplemental analysis of the Project in order to give legally sufficient treatment to historic resource and historic preservation issues.

45-1 cont'd.

Interests

The National Trust for Historic Preservation (National Trust) was chartered by Congress in 1949 as a private non-profit membership organization for the purpose of facilitating public participation in the preservation of our nation's heritage. 16 U.S.C. § 468. With the support of over 207,000 members nationwide, including nearly 20,000 members in California, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government. The National Trust has nine regional and field offices around the country, including the Western Office in San Francisco which is responsive to preservation issues in the State of California.

The California Preservation Foundation (CPF) is the only statewide nonprofit organization dedicated to the preservation of California's diverse cultural and architectural heritage. Established in 1977, CPF works with its extensive network of 1,500 members to provide statewide leadership, advocacy and education to ensure the protection of California's diverse cultural heritage and historic places.

45-2

The National Trust and CPF have participated in a number of mandamus actions enforcing CEQA's mandate to "take all action necessary" to protect California's "historic environmental qualities." (Pub. Resources Code § 21001 (b).) Among the CEQA cases in which the National Trust and CPF have recently participated as *amicus curiae* are Uphold Our Heritage v. Town of Woodside (2007) 147 Cal.App.4th 587 and Preservation Action Council v. City of San Jose (2006) 141 Cal.App.4th 1336.

Requirements of the California Environmental Quality Act

CEQA reflects the "policy of the state" that projects with significant environmental impacts should not be approved "if there are feasible alternatives ... available which would substantially lessen the significant environmental effects ..." (Pub. Resources Code § 21002.) CEQA thus requires consideration of alternatives that would "feasibly obtain most of the basic objectives of the project." (Guideline § 15126.6 subd.(a.).) "Feasible" is defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Resources Code § 21061.1.) The listed factors are "taken into account" to the extent that they may impact the capability for accomplishment of the project, but do not stand alone.

45-3

Any project that would demolish an historic resource necessarily has a significant effect on the environment, requiring a lead agency to study and adopt feasible alternatives such as rehabilitation, if available and practical. (Pub. Resources Code § 21081, 21084.1; see

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Architectural Heritage, supra, 122 Cal.App.4th 1095, 1118.) CEQA's requirements to identify and analyze feasible project alternatives in an EIR are of great importance when projects threaten historic resources, as is its substantive mandate that demolition not be allowed if there is indeed a feasible alternative.

45-3 cont'd.

Proposed Impacts to Historic Resources in the Hunters Point Shipyard

The National Trust and CPF are particularly concerned about the significant impacts of the Project on historic resources identified as eligible for listing in the California Register of Historical Places (CR) and determined eligible for listing in the National Register of Historic Places (NR), including demolition and potentially incompatible new construction. As outlined in the DEIR, the Project includes demolition of five of eleven contributing elements in the identified CR-eligible Hunters Point Commercial Dry Dock and Naval Shipyard Historic District: Buildings 208, 211, 224, 231, and 253. This action would result in the removal of all significant buildings associated with the Naval use of the Hunters Point Shipyard from 1941 to 1974 and would result in a significant impact that cannot be reduced to a less-than-significant impact via mitigation.

45-4

The DEIR suggests proposed mitigation measures that are inadequate for reducing impacts, such as written and photographic documentation of the identified district according to National Park Service Historic American Building Survey guidelines and interpretive displays related to the history of the Hunters Point Shipyard. These measures clearly fail to reduce the environmental detriment "to a point where clearly no significant effect" will result. (Pub. Resources Code § 21064.5.) Therefore, the City is required to modify the Project in a manner that would protect historic resources if there are feasible alternatives.

Inadequacy of the Historic Preservation Alternative (Alternative 4)

The DEIR does not sufficiently include historic preservation in its alternatives analysis and does not adequately demonstrate that retention and rehabilitation of the five buildings in the Hunters Point Commercial Dry Dock and Naval Shipyard Historic District proposed for demolition is infeasible or will not meet the Project Objectives.

Alternative 4 is the sole alternative incorporating historic preservation. The DEIR states that Alternative 4, "would fail to meet several of the Project objectives because it would include a reduced development program, including a 30 percent reduction in residential and most non-residential uses, no State Lands agreement, no development of the Yosemite Slough bridge or stadium, and no development of the marina compared to the Project." The associated table analyzing Alternative 4 against Project Objectives (Table VI-8: Attainment of Project Objectives, Alternative 4), however, indicates that the *alternative meets five of the six summarized project objectives*. The sole objective not met by the alternative (no construction of a new stadium for the San Francisco 49ers) is unrelated to the currently identified historic preservation issues on the project sites.

45-5

4 of 7

This alternative also only analyzes the retention of 3 of the 5 eligible historic resources currently being proposed to be demolished. There is no alternative that examines retaining all of the contributing buildings and elements in the Hunters Point Commercial Dry Dock and Naval Shipyard, nor justification for the selection of three of the five resources for preservation and rehabilitation.

Alternative 4 is also the only alternative, other than No Project Alternative, in which all key aspects of the Project were eliminated. There is no examination of historic preservation in alternatives that incorporate key aspects of the Project, including but not limited to the HPS Phase II Stadium, Yosemite Slough Bridge, or the CP-HPS Phase II Development Plan. The placement of historic preservation in an alternative without key Project components prejudices a fair assessment of a viable preservation alternative.

45-5 cont'd.

Due to the lack of alternatives that incorporate the retention of the potential historic resources in the CR-eligible Hunters Point Commercial Dry Dock and Naval Shipyard Historic District, there are potentially other feasible alternatives that would meet the project objectives and lessen the impacts to cultural resources. Since public agencies "should not approve projects as proposed if there are feasible alternatives," additional alternative should be analyzed in a supplemental analysis.

Inadequate Analysis of Impact of Development of Heritage Park

The DEIR does not adequately address potential impacts of the development of Heritage Park on historic resources. The Project Description regarding treatment of Heritage Park states: "Heritage Park (15.6 acres) would retain and reuse historic resources and materials as much as possible while utilizing modern design with industrial character." The majority of the area comprising Heritage Park consists of the Hunters Point Commercial Dry Dock National Register Historic District (NRHD) determined eligible for the NR and the CR in 1998. Per the Hunters Point Shipyard Reuse Final EIR (2000), any construction within the Hunters Point Commercial Dry Dock NRHD must comply with the Secretary of the Interior's Standards for Rehabilitation (Standards). All potential impacts to historic resources in the NR and the CR eligible districts should be analyzed in the DEIR, not just the impact of demolition of historic resources in the district. While the DEIR cites a memorandum from Page & Turnbull analyzing proposed repairs to Dry Docks 2, 3, and 4 for compliance with the Standards, there is no analysis of impacts to the district as a whole from the Project in and around the eligible districts.

45-6

Inadequate Evaluation of the Historic Significance of Candlestick Park Stadium

The DEIR does not adequately evaluate Candlestick Park Stadium for historic significance. The Project includes demolition of Candlestick Park Stadium, the first major league baseball stadium constructed of concrete. Designed by recognized Bay Area architect John Bolles, Candlestick Park was completed in 1960. A historic resource study from 2007 conducted by Jones & Stokes determined that Candlestick Park was ineligible for the NR,

45-7

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as it did not meet the criteria consideration requiring exceptional significance for properties less than 50 years old. The study also noted that the park had undergone modifications for joint use as a baseball and football stadium, including the expansion and enclosure in 1970 and more recent modifications to convert the stadium into a football-only facility.

A critical circumstance has changed concerning the NR eligibility of Candlestick Park Stadium, however, as the Stadium has reached 50 years in age. A fresh evaluation of the Park is required given that the strict "exceptional significance" criteria no longer would apply. However, the DEIR simply asserts that, "The stadium, if reviewed at the 50-year mark, would not meet criteria for listing on the NRHP or CRHR due to lack of physical integrity resulting from the extensive alterations discussed above." The DEIR cites no report or written opinion from a professional meeting the Secretary of the Interior's Professional Qualification Standards for Architectural History to support this assertion. The supporting technical studies prepared by Circa Historic Property Development utilized to prepare the DEIR do not include any recommendation regarding the eligibility of Candlestick Park Stadium for the NR now that it has achieved the 50 year age mark, or evaluation of eligibility of the stadium for the California Register of Historical Resources. Circa Historic Property Development's technical report in fact recommends this analysis.

45-7 cont'd.

Inadequate Evaluation of NR Eligibility for Buildings 208, 211, 224, 231, and 253

The DEIR does not provide adequate and current evaluation of Buildings 208, 211, 224, 231, and 253 for eligibility for the NR. More than ten years has passed since the buildings were evaluated for NR eligibility in 1998, and neither that evaluation nor the present evaluation for CR eligibility includes a comparative evaluation of these resources with similar surviving resources in the San Francisco Bay area. Given the dramatic disposal and demolition of Naval resources in the region, the framework for evaluation of such resources for local significance has changed, and the eligibility of Buildings 208, 211, 224, 231, and 253 should be reevaluated.

45-8

Insufficient Information on Rehabilitation of Historic Resources

The DEIR provides insufficient information on plans to rehabilitate historic resources in the Hunters Point Commercial Dry Dock District. The DEIR states in Section III.J.4 , Impact CP-1b that the project will include rehabilitation of Dry Docks 2 and 3 and Buildings 140, 204, 205, and 207, all contributors to the Hunters Point Commercial Dry Dock District, determined eligible for the NR and the CR in 1998. The DEIR states in the same section that the rehabilitation of these buildings will comply with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. The Project Description does not include any information regarding the proposed rehabilitation, and the DEIR does not contain analysis from a professional meeting the Secretary of the Interior's Professional Qualification Standards for Architectural History that any proposed treatment for these buildings will meet the Standards.

45-9

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NTHP and CPF to SFRA, SFPD
SFRA File No. ER06.05.07, SFPD File No. 2007.0946E
January 12, 2010

Inadequate Mitigation Measures

The DEIR acknowledges that some impacts to historic resources cannot be mitigated to a less-than-significant level, but the mitigation proposed to reduce the impacts, namely Historic American Building Survey documentation and interpretive displays, is both unimaginative and inadequate. The proposed demolition of key buildings associated with the Navy's use of the site between World War II and the 1970s and the history of ship repair during that era removes some of the most substantial reminders of the site's history and destroys more than half of an identified historic district. For this level of impact, more significant and meaningful mitigation should be required.

At a minimum, the Project mitigation measures should include measures outlined in the Hunters Point Shipyard Reuse Final EIR (2000) that have yet to be completed. The Hunters Point Shipyard Reuse Final EIR included an agreement to designate resources on the Project site eligible for the NR as San Francisco Landmarks, or to expressly prohibit the demolition of these structures (Section 4.12.1; page 4-98). Neither the NR-eligible Hunters Point Commercial Dry Dock District or Dry Dock 4, which is individually listed on the CR and was determined individually eligible for the NR in 1998, are San Francisco Landmarks. In addition, the Hunters Point Commercial Dry Dock District has not been formally listed on either the state or national register. Preparation of nomination forms for these designations should be required as part of any mitigation for impacts to historic resources on the site in this phase of development. 45-10

The National Trust and CPF recommend a supplemental analysis to address our comments on the analysis of the treatment of historic resources and historic preservation considerations in the DEIR. Please do not hesitate to contact Elaine Stiles, Program Officer with the Western Office of the National Trust or Jennifer Gates, Field Services Director at the California Preservation Foundation with any questions or responses to these comments.

Sincerely,

Anthea M. Hartig, Ph.D.
Director, Western Office
National Trust for Historic Preservation

Cindy Heitzman
Executive Director
California Preservation Foundation

cc: Joy Navarrete, San Francisco Planning Department
Jack Gold, Executive Director, San Francisco Architectural Heritage
Tina Tam, Historic Preservation Coordinator, San Francisco Planning Department
San Francisco Historical Commission

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NTHP and CPF to SFRA, SFPD
SFRA File No. ER06.05.07, SFPD File No. 2007.0946E
January 12, 2010

Wayne Donaldson, California State Historic Preservation Officer
Gretchen Hilyard, President, Northern California Chapter, DOCOMOMO
Elizabeth Goldstein, President, California State Parks Foundation

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Letter 45: National Trust for Historic Preservation, Western Office, and California Preservation Foundation (1/12/10)

Response to Comment 45-1

This comment contains introductory information and is not a direct comment on the content or adequacy of the Draft EIR. No response is required.

Response to Comment 45-2

This comment contains introductory information and is not a direct comment on the content or adequacy of the Draft EIR. No response is required.

Response to Comment 45-3

Refer to Responses to Comments 28-1 and 39-3, and to Section F (Draft EIR Revisions) of this document, with regard to Alternative 4 (Reduced CP-HPS Phase II Development, Historic Preservation) and Subalternative 4A (CP-HPS Phase II Development Plan with Historic Preservation) as preservation alternatives that would retain the structures in the CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District and would avoid significant adverse effects on historic resources.

Response to Comment 45-4

Draft EIR Section III.J (Cultural Resources and Paleontological Resources) discusses the NRHP-eligible Hunters Point Commercial Drydock Historic District, as identified in 1998. The Hunters Point Commercial Drydock Historic District is shown in Figure III.J-2 (Potential Historic District), page III.J-23. As discussed in Draft EIR Chapter II (Project Description), page II-23, the Project would retain structures in this NRHP-eligible Hunters Point Commercial Drydock Historic District, including Drydocks Nos. 2 and 3, and Buildings 104, 204, 205, and 207. Impact CP-1b, Impact of Hunters Point Phase II, pages III.J-33 to -34, notes that that the Project would have less than significant impacts on the NRHP-eligible district. Section III.J also identified a larger CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District, shown on Figure III.J-2, that would include Buildings 208, 211, 224, 231, and 253. The Project would demolish those buildings, and as stated in the Draft EIR, this would be an unavoidable significant adverse impact on the CRHR-eligible district. (As noted in Section B (Project Refinements), herein, the Project analyzed in the Draft EIR proposed demolishing Buildings 208, 211, 224, 231, and 253. Building 208 will now be retained as an element of the cultural landscape, but would not be occupied.) The NRHP-eligible resources would remain and would continue to be part of the NRHP-eligible Hunters Point Commercial Drydock Historic District.

The NRHP-eligible Hunters Point Commercial Drydock Historic District as part of the Project would be bounded by new R&D development to the west and south and by the shoreline areas of HPS and San Francisco Bay to the north and east. Structures in the historic district, including Drydock Nos. 2 and 3, and Buildings 104, 204, 205, 207, and 208 would be within open space areas, as shown in Draft EIR Figure II-9 (Proposed Parks and Open space), page II-27. (Figure II-9 has been revised in Response to Comment 86-5 to reflect the proposed Bay Trail route around the Yosemite Slough.) With the Project, R&D buildings south of the drydocks would replace large-scale buildings, such as Building 211 and Building 253. While nearby

R&D development up to 105 feet in height would be a different design than the existing structures in the historic district, that new development would not alter the setting of the historic district such that its integrity would be impaired. In addition, the historic district would retain its waterfront setting, including the drydocks. Thus, new development at HPS would not have an adverse impact on the setting and context of NRHP-eligible Hunters Point Commercial Drydock Historic District as part of Project.

Mitigation measure MM CP-1b.1, pages III.J-34 to -35, requiring documentation of the CRHR-eligible resources before demolition, would reduce, but not avoid, the significant effect on CRHR-eligible resources.

Refer to Section F of this document, discussing Subalternative 4A (Proposed Project with Historic Preservation Alternative) that would retain the structures in the CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District and would avoid significant adverse effects on historic resources.

Response to Comment 45-5

Refer to Responses to Comments 28-1 and 39-3, and to Section F (Draft EIR Revisions) of this document, with regard to Alternative 4 (Reduced CP-HPS Phase II Development, Historic Preservation) and Subalternative 4A (CP-HPS Phase II Development Plan with Historic Preservation) as preservation alternatives that would retain the structures in the CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District, consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and would avoid significant adverse effects on historic resources.

Response to Comment 45-6

The Draft EIR found that the Project would not have a significant adverse effect on the NRHP-eligible Hunters Point Commercial Drydock District. As stated on Draft EIR pages III.J-33 to III.J-34:

> The Project proposes to retain the buildings and structures in the potential Hunters Point Commercial Drydock District, identified in 1998 as eligible for listing in the NRHP. Drydocks 2 and 3 and Buildings 140, 204, 205, and 207 would be rehabilitated using the Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. Page & Turnbull, architects and historic resource consultants, reviewed the proposed treatment and rehabilitation of Drydocks 2, 3, and 4. The treatments would include repair of concrete surfaces of the drydocks and addition of guardrails along their perimeter. Page & Turnbull found that the proposed treatments would provide a methodology for resolving severe deterioration issues, and ultimately provide for the longevity of the historic resources; the treatments would be consistent with the *Secretary of the Interior's Standards for Rehabilitation*[266] (refer to Appendix J [Drydock Assessment] of the Draft EIR). Heritage Park is proposed at Drydocks 2 and 3 and would include interpretive display elements related to the history of HPS. Per CEQA Guidelines Section 15064.5(b)(3), these impacts would be mitigated to a less-than-significant level.

As discussed on in Section III.J, pages III.J-33 to -34, the Project would demolish structures identified as part of the CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District; this would be a significant and unavoidable adverse effect. Refer to Response to Comment 28-1 with regard to Subalternative 4A (CP-HPS Phase II Development Plan; Stadium, Marina, Yosemite Slough Bridge, with Historic Preservation), which would retain the structures in the California Register of Historical Resources (CRHR)-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District, and would avoid significant adverse effects on historic resources.

The Draft EIR includes supplementary information on the historic treatment of the Drydocks 2, 3, and 4 as atypical structures. All buildings to be retained in the NRHP-eligible Hunters Point Commercial Drydock Historic District, would, as noted, be rehabilitated under the Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. Draft EIR, page III.J-29, third full paragraph, notes:

> CEQA Guidelines Section 15064.5(b)(3) states that "generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be considered as mitigated to a level of less than a significant impact on the historical resource."

Response to Comment 45-7

Refer to Response to Comment 39-4 on the evaluation of Candlestick Park stadium under NRHP and CRHR criteria. As discussed in that Response, Candlestick Park stadium would not meet NRHP or CRHR criteria as an historic resource.

Response to Comment 45-8

The *Bayview Waterfront Plan Historic Resources Evaluation, Volume II: Historic Resources Survey and Technical Report*, October 2009, by Circa Historic Property Development (Circa Report, cited on page III.J-1), evaluated structures at Hunter Point Shipyard for eligibility for the NRHP, the CRHR, and local historic registers. The Circa Report concluded that Buildings 208, 211, 224, 231, and 253 met criteria as contributors to the CRHR-eligible Hunters Point Commercial Drydock and Naval Shipyard Historic District, described on pages III.J-22 through III.J-25. The Circa Report did consider NRHP criteria in that evaluation, and concluded that Buildings 208, 211, 224, 231, and 253 did not meet criteria for the NRHP. The conclusion is noted on page III.J-22 and Table III.J-1, page III.J-24. Therefore, the Draft EIR provides information that updates the evaluation of historic resources at Hunters Point Shipyard since the 1998 study noted in the comment, the 1998 study is also addressed on Draft EIR, page III.J-21.

To clarify the summary of the Circa Report in the Draft EIR, the following underlined text has been added after the second sentence, first paragraph, page III.J-22:

> … <u>The investigation evaluated the eligibility of buildings and structures for the NRHP, the CRHR, or local historic registers.</u> …

Refer also to Response to Comment 39-1 with regard to evaluation of historic resources at Hunters Point Shipyard.

Response to Comment 45-9

Refer to Responses to Comments 34-4 and 45-6 with regard to preservation of resources in the NRHP-eligible Hunters Point Commercial Drydock Historic District consistent with the Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

Response to Comment 45-10

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

Letter 46: Visitacion Valley Planning Alliance (1/11/10)

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Letter 46

VVPA

VISITACION VALLEY PLANNING ALLIANCE

Joy Navarette
San Francisco Planning Department
Suite 400
1660 Mission Street
San Francisco, CA 94103

January 11, 2010

Dear Ms. Navarette,

I wish to make a few comments regarding the DEIR for the Candlestick Hunters Point Development Project, some of which may not seem appropriate, but are relevant nevertheless.

Overall, the sponsor's community planning outreach process has been deeply flawed. That has had a significant impact on the EIR, because certain issues did not get addressed in a public forum and get answered in the EIR. Our neighborhood, Visitacion Valley, has, except for a single initial meeting, been left out of the planning process. The sponsors of the project refused to hold any further meetings in our neighborhood. One can only think it was because of the huge impacts that the project will have on Visitacion Valley and the sponsor did not want to address them.

46-1

The actual Project is partially in Visitacion Valley. Some of the area south and east of Bayview Hill within the Candlestick Park Stadium area is in Visitacion Valley and our shoreline extends to the tip of CPSRA. Our neighborhood will be deleteriously impacted by this mega project due to the enormous transportation/traffic and open space impacts.

Given the lack of sufficient time to read and respond to the DEIR, I am going to concentrate on a few issues in a general fashion:

1) Transportation, Traffic and Land Use.
The City of San Francisco purportedly adheres to the *Transit First* policy. The EIR states that the Project promotes alleviating the use of single occupancy vehicles and tying land use and transportation, i.e. residents may either walk or take public transportation to their nearby jobs.

46-2

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How does this conform with the entertainment center and regional retail proposed for the Candlestick Point area? Both of these entities will generate traffic from the greater Bay Area and create the need to expand Harney Way to accommodate the expected high volume of traffic. The closest and only link to Candlestick Point from Highway101 is Harney Way, which is bounded on the south by the Bay. Already, Highway 101 cuts the greater Visitacion Valley Watershed from the Bay. Now the shoreline access will be further degraded by the Harney Way expansion to say nothing of the impact on the proposed and existing Executive Park developments. If feasible economically and topographically, build a land bridge across Harney Way to allow easier access to the Bay and continuous interface with the shoreline that was originally envisioned by Executive Park developers and the community.

The proposed LOS at intersections in Visitacion Valley are not acceptable and need to be better mitigated, primarily by better land use planning for the Project, i.e. no regional entertainment and retail center. Already Bayshore Boulevard, Tunnel and Blanken Avenues are congested and this is even before the Schlage Lock, Executive Park, Travelodge and Sunnydale developments are completed.

Our neighborhood is held hostage to traffic and parking congestion on the 49er Game Days and this will only be exacerbated by an entertainment and regional retail center at Candlestick Point.

46-2 cont'd.

2) Regional planning.
There needs to be coordinated regional planning between San Mateo and San Francisco Counties. Visitacion Valley is caught in the middle of unprecedented mega developments that should be working together for the good of the entire region.

- The 600 acre Brisbane Baylands project next door to Visitacion Valley is proposing an Entertainnent Center to replace the Cow Palace, which will eventually have to be closed. The Baylands site, being directly adjacent, has easy access to Highway 101. Why would anyone even consider building another entertainment center at Candlestick Point, which can only be accessed by a single narrow strip of land, i.e. Harney Way?

- The solely commercial development at the Baylands, as well as the research and development and other commercial development proposed for Hunters Point, will generate enormous employment opportunities for the entire region. It does not all have to be included in this Project - to the point of spoiling another neighborhood, Visitacion Valley, which is finally emerging from years of neglect.

46-3

3) Open Space.
We are missing a golden, once and forever opportunity to create a magnificent signature park in the Southeast by not emphasizing the link between Bayview Hill and CPSRA. As an aesthetic consideration, yes, almost anything would be better than the stadium parking there now. However, aesthetically and environmentally, a better alternative, rather than a narrow link across the roadway, would be significant

46-4

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expansion of the connection between the state and city parks. It would create a granc view in both directions from the Hill and the shoreline. It would provide an unfettered safe means for wildlife to travel from hill to shore, as well as increase the open space for the public. A Doyle Drive type of pedestrian/wildlife crossing could be built by culverting the roadway to create a land bridge.

As District 10 residents know, the southeastern waterfront has the potential to offer the kind of quality open space found at other locations such as Crissy Field. Overlooking the potential to better connect Bayview Hill to the Project's broader open space seriously underestimates the value - aesthetic, educational, recreational, environmental and even financial –that such space will bring to the City. This could be a cultural attraction, if an outdoor sculpture garden were created on the order of New York State's Storm King Center.

In any other section of the City, the Candlestick Point portion of the Project would not be acceptable. There has not been sufficient attention paid to development planning at Candlestick, certainly nothing compared to the Shipyards, which has had its own CAC and years of community participation.

46-4 cont'd.

4) Air Quality.
Further studies need to be done specifically for Executive Park and the greater Visitacion Valley intersections. The DEIR does not include air quality studies in Visitacion Valley, only in BVHP. Most anticipated Project traffic will travel along Harney Way and come from 101 and the future Geneva Extension. The southern routes will be those most used, because of accessibility and that is where the air quality will be most heavily impacted. Once again, the well being of our residents is not being addressed.

46-5

• **Aesthetics.**
Although, I am generally favorable of higher density brought about by taller buildings, it is disingenuous for the DEIR to state that there will be no adverse effects visually on the views either towards or from Bayview Hill, which will in effect be obscured. There will be an enormous impact on the view corridors affecting the southern neighborhoods, which will block the bay views. Also, I will reiterate the aesthetic importance of the view corridor that could be created by a significant expansion of the land connecting Bayview Hill and CPSRA. The proposed buildings will forever block the magnificent view from the park up the eastern side of Bayview Hill, which has been degraded on all other sides. This is the only remaining open space left of the Hill that descends to the shore

46-6

Overall, there is much to look forward to in the project, but, again, the Candlestick land use portion and traffic issues in Visitacion Valley have been overlooked. There is a strong sense in our neighborhood that we are being sacrificed to this Project. We are sandwiched between 2 mega developments - one, in our own City and one at the Brisbane Baylands – both of which are ready to go forward without consideration of health and aesthetic issues that will emanate from traffic congestion, upheaval of our neighborhood and quality of life that their projects will produce.

46-7

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I ask that further study be done on the effects of this Project on our neighborhood particularly as concerns the Candlestick Point area in terms of traffic congestion, Harney Way, connecting Bayview Hill and CPSRA, and deleting the regional entertainment and retail centers, which are traffic generators, in favor of local neighborhood serving uses. I have enclosed an alternative concept plan for Candlestick Point that shows an expansion of the land mass between Bayview Hill and CPSRA and an adjacent mixed-use retail/housing area. The mixed-use area would have retail on the ground floor with housing above and be more in keeping with other San Francisco neighborhoods - a main street kind of concept - rather than separating the housing from retail as shown in the Project's plan.

46-7 cont'd.

There is a basic disconnect between some of the City's stated policies, such as the *Precautionary Principle* and *Transit First* and the proposed Project that need to be examined. If given sufficient time, I could have commented more specifically. Although I read portions of the DEIR, I could not give it the attention that such an important document deserves.

Thank you.

Fran Martin

Chairperson
Visitacion Valley Planning Alliance
186 Arleta Avenue
San Francisco, CA 94134
415-216-8560

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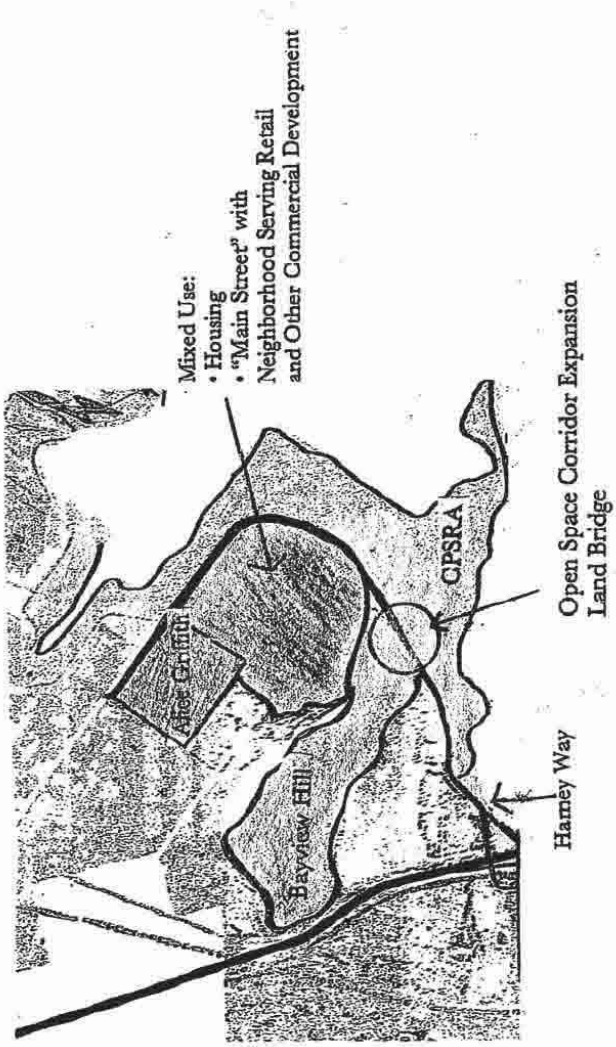
Alternative Plan: Candlestick Point



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Letter 46: Visitacion Valley Planning Alliance (1/11/10)

Response to Comment 46-1

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

Response to Comment 46-2

The comment questions whether construction/approval of an entertainment and regional retail center at the location proposed is consistent with the City's Transit First policy. There would be a robust transit network serving the entertainment and retail sites. These facilities would be served by three transit lines, including:

- 29-Sunset, with service to Mission Street, the Balboa Park BART station, San Francisco City College, and San Francisco State University
- CPX, which would provide express service to the Transbay Terminal in Downtown San Francisco, where patrons can connect to many other local bus lines as well as regional transit systems, including ferries, AC Transit bus service to the East Bay, and Golden Gate Transit bus service to Marin and Sonoma Counties
- 28L BRT, which would provide high-frequency service in exclusive right-of-way to the Hunters Point Shipyard transit hub, the Bayshore Caltrain station, and the Balboa Park BART station

Consequently, patrons from the regional retail and entertainment centers who wish to use transit would be able to connect to destinations throughout the entire Bay Area with only a single transfer between systems or routes. The ability to provide convenient connections to this robust transit network was a key reason for the design and proposed location of these uses.

The Project proposal includes a mix of regional and local transit links to ensure quick access by transit from points throughout the Bay Area to major destinations in the Project area. These include the proposed stadium, the parks, and the entertainment and retail center complex at Candlestick Point. While these land uses are consistent with the voter-approved Proposition G, the transit links proposed in the Project have been designed specifically to ensure that regional attractions (e.g., the arena) have multiple transit route access and strong connections to BART and Caltrain. Thus, the entertainment and retail complex would have direct access to BART and the T-Third by the 28L-BRT and the 29-Sunset, and direct access to Caltrain by the 28L-BRT, as well as multiple pedestrian and bicycle links to the Bayview via Gilman Avenue, Jamestown Avenue, and Ingerson Avenue, and along Harney Way and the State Park; links that would also serve the same local-to-regional transit hubs.

Unlike numerous regional attractions in the Bay Area, transit serving this site would not only provide links to BART, Muni Metro, and Caltrain, it would provide those links on exclusive right-of-way to reduce and minimize conflicts, congestion impacts and other typical delay and unreliability factors of conventional bus transit service. The Project therefore provides a high level of transit orientation and amenity to support the trips to and from the Project, from both San Francisco and the larger Bay Area.

The commenter also suggests that the proposed reconstruction of Harney Way would negatively impact shoreline access. The proposed configuration of Harney Way includes a number of pedestrian amenities designed to improve shoreline access. The reconstruction would include two new signalized intersections,

at Thomas Mellon Drive and Executive Park East. Each of these new signalized intersections would provide new crosswalks across Harney Way and allow controlled crossings for pedestrians. The reconstructed Harney Way has also been designed in two phases—the first being a slightly narrower, interim phase with fewer travel lanes, and the second being a slightly wider ultimate phase with more travel lanes when traffic volumes warrant—such that pedestrian crossing distances across travel lanes would remain a short as possible for as long a duration as possible.

The intersection and freeway facility LOS impacts associated with the Project were analyzed and described in the Draft EIR. The analysis indicated a number of significant traffic-related impacts to the surrounding roadway system, including facilities in Visitacion Valley. The analysis describes mitigation measures to reduce traffic-related impacts to less than significant levels, where feasible mitigation measures were identified. However, at a number of facilities expected to experience significant impacts, no feasible mitigation measures were identified. For those facilities where no feasible mitigation measures were identified, a detailed discussion of mitigation measures considered and why they were determined to be infeasible is provided in the Transportation Study in Appendix D of the Draft EIR.

The commenter also suggests that unacceptable LOS at intersections in Visitacion Valley be mitigated by land use planning for the Project by not providing a regional entertainment and retail center. A number of intersections in Visitacion Valley would operate at LOS E or LOS F under future year 2030 conditions without the Project. Therefore, not providing the Project's regional entertainment and retail center would not mitigate the poor operating conditions at these intersections. Chapter VI of the Draft EIR describes a number of Alternatives to the Project, some of which would generate less traffic than the Project, and would therefore add less traffic to study intersections in Visitacion Valley.

Impacts TR-38 and TR-43 describe traffic and parking impacts, respectively, associated with 49er game day conditions. Although mitigation measures are proposed to reduce the severity of traffic impacts, they would remain significant and unavoidable with mitigation. Parking impacts during 49er game days were found to be less than significant. Visitors to the regional retail and entertainment center during game days would likely use regional facilities, such as US-101 and the Harney Way interchange, rather than local roadways within Visitacion Valley to access the retail and entertainment center.

Response to Comment 46-3

The Project's commercial uses have been designed to provide a range of opportunities to the region, the adjacent neighborhoods, and the new Project residents. The retail market analysis prepared by CBRE Consulting (Appendix U to the Draft EIR) determined that the commercial uses proposed by the Project would be sufficiently supported by growth in the region and the new residents of the Project. The market analysis determined that there would be no adverse urban decay impacts from cumulative development on the surrounding neighborhoods, including Visitacion Valley. Access to the Project area would be improved under the Project with numerous connections, including BRT and a marina, to the greater San Francisco area. It is anticipated that there would be sufficient market base to support more than one entertainment venue.

Response to Comment 46-4

The comment is acknowledged. This proposal does not reduce or avoid any significant and unavoidable impact of the Project.

Response to Comment 46-5

The Draft EIR evaluates potential impacts from the Project construction and traffic along the Harney Way corridor, including Executive Park, as described in Section III.H (Air Quality) and in Appendix H3, Attachments 1, 2, 4 and 6. The greater Visitacion Valley area is farther away than and generally upwind of the Harney Way corridor. As pollutant concentrations from these types of sources decrease with increasing distance and as the predominant wind direction tends to blow from west to east, out to the San Francisco Bay, the air quality impacts in Visitacion Valley would be lower than those in the Harney Way corridor. As discussed in Appendix H3, Attachments 1, 2, 4 and 6, the impacts in the Harney Way corridor were well below the BAAQMD CEQA threshold of significance so no adverse health impacts associated with the Project would be expected for the greater Visitacion Valley area.

Response to Comment 46-6

Refer to Response to Comment 31-5 regarding the subjectivity of aesthetic evaluation. Section III.E (Aesthetics) of the Draft EIR does not indicate there would be no impact on views. Rather, the analysis acknowledges that the towers would partially obstruct some views from different vantage points, which were clearly identified. Figure III.E-22 (View 10: Northeast from Bayview Hill), page III.E-33, of the Draft EIR, shows the view from Bayview Hill. To the east, residential towers at Candlestick Point would be visible. Short and mid-range views of degraded and unmaintained areas would be replaced with well-designed development (page III.E-60 of the Draft EIR). As shown in Figure III.E-21 (View 11: Northwest from CPSRA), page III.E-34, of the Draft EIR from the easterly area of CPSRA, the Bay, Bayview Hill, and Candlestick Point stadium are clearly visible. Views of Bayview Hill would be partially obstructed, as noted on page III.E-60 of the EIR. However, this view would not be completely blocked, as shown in the simulation, and Bayview Hill would remain fully visible from other vantage points.

Response to Comment 46-7

The traffic-related impacts associated with the Project have been analyzed and are presented in the Draft EIR. Specifically, Impacts TR-1 through TR-16, TR-38, TR-46, and TR-51 identify traffic-related impacts due to the Project, their levels of significance, whether mitigation is feasible, and level of significance after mitigation. These impacts include traffic throughout the transportation study area, including a number of intersections in the Visitacion Valley area and the nearest freeway facilities. They also include the cumulative effects of a number of already approved and/or reasonably foreseeable development projects in the study area, as referenced by the commenter.

The health and aesthetic impacts emanating from traffic congestion, as well as quality of life have been addressed in Draft EIR Sections III.I (Air Quality), Section III.E (Aesthetics), and Section III.B (Land Use and Plans) respectively. Further as the Draft EIR includes a cumulative analysis of all impact areas, the combination of the Project with all reasonably foreseeable development has also been addressed in Chapter III (Environmental Setting, Impacts, and Mitigation Measures) under each issue area.

With regard to replacing the regional retail centers with neighborhood-serving uses, these ideas were addressed in Chapter VI Alternatives. A reduced development scenario was presented in Alternative 3, page VI-4, in which retail uses would not be developed.

Refer to Response to Comment 52-7 regarding the neighborhood-serving retail (which includes grocery stores) uses and other services proposed by the Project that would be available and accessible to the larger Bayview community and also to the residents of Alice Griffith. Draft EIR Chapter II (Project Description), page II-16, second paragraph, states:

> Existing 256 public housing units would be demolished on the existing SFHA site and 844 new homes would be constructed in their place along with neighborhood serving retail and services, open space and new streets. The 844 new homes would include a mix of market-rate, affordable and below-market rental and homeownership and public housing replacement units.

Figure II-4 (Proposed Land Use), page II-11, identifies the location of neighborhood-serving retail with a pink striped overlay.

The commenter reiterates a previous comment regarding consistency between the Project and the City's Transit First Policy. Refer to Response to Comment 46-2 for a discussion of the consistency of the City's Transit First policy with the proposed entertainment and regional retail center.

The commenter notes that the specificity of comments was affected by the length of time available to comment. Refer to Responses to Comments 80-1 and 84-11 for a discussion of the adequacy of the public comment period, including the many opportunities for providing comments on the Draft EIR. In addition, refer to Response to Comment 96-1 for a discussion of the other opportunities for providing public comment prior to publication of the Draft EIR. Refer to Response to Comment 85-5 for a discussion of the extensive planning process for the Project.

Finally, the commenter has submitted an alternative concept plan for consideration that replaces the proposed regional retail and entertainment center with residential, neighborhood serving retail and other commercial development. California has declared that the statutory requirements for consideration of alternatives must be judged against a rule of reason. CEQA Guidelines Section 15126.6(f) defines the "Rule of Reason," which requires that an EIR set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to those that would avoid or substantially lessen any of the significant effects of the Project. Of those alternatives, the EIR need examine in detail only those that the Lead Agency determines could feasibly attain most of the basic objectives of the Project. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR is *(i)* failure to meet most of the basic project objectives, *(ii)* infeasibility, or *(iii)* inability to offer substantial environmental advantages over the project proposal (CEQA Guidelines Section 15126.6(c)). Further, CEQA Guidelines Section 15126.6(f)(1) states that "the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent)." Sufficient information is not provided by the commenter on the alternative concept plan to draw any conclusions about its feasibility.

Letter 47: California State Parks Foundation (1/12/10)

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Letter 47

CALIFORNIA STATE PARKS FOUNDATION

January 12, 2010

Via Email and U.S. Mail

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

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

RE: Candlestick Point-Hunters Point Shipyard Phase II Draft Environmental Impact Report; SCH No. 2007082168

Dear Mr. Muraoka and Mr. Wycko,

On behalf of the California State Parks Foundation ("CSPF") and our 115,000 members statewide, we write to comment on the Draft Environmental Impact Report ("DEIR") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project ("Project"). Our comments consist of this cover letter and the attached legal comment letter with exhibits from experts. CSPF is concerned primarily with the Project's impacts to the Candlestick Point State Recreation Area ("CPSRA") and the Yosemite Slough Wetlands Restoration Project.

47-1

The California State Parks Foundation

The California State Parks Foundation is the only statewide non-profit membership organization dedicated to protecting, enhancing and advocating for California's 278 natural, cultural and historic state parks. Through programs that help restore park properties, educate teachers and students about environmental resources in parks, build volunteerism and stewardship in our state parks, and promote sound public policy, we work to protect countless natural, cultural and historical treasures found within our parks, as well as the 280 miles of coastline, 625 miles of lake and river frontage, 18,000 campsites and 3,000 miles of hiking,

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Your Voice for Parks

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biking and equestrian trails. On behalf of our members, we are committed to ensuring that state parks continue to provide recreation, adventure, renewal, and inspiration to all Californians.

Statewide Advocacy to Protect State Parks

In recent years, it has become clear that California's 278 state parks are vulnerable to proposals to use these lands for purposes inconsistent with their acquisition and development as parks. Each year we monitor parkland for these proposed "non-mission" uses. Almost 25% of our state parks are confronting non-conforming uses. These proposals, individually and collectively, are a significant threat to the California State Park system. Heated public dialogue and litigation resulted from proposals to construct a toll road through San Onofre State Beach and a power line through Anza Borrego Desert State Park, for instance.

47-1 cont'd.

Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project and CSPF

Before commenting generally on the DEIR, I want to comment on the nature of the dialogue that has taken place between CSPF and the City regarding this project. I think it is fair to say that we have received the level of respectful, proactive dialogue that you would hope for in a project as complex and far-reaching as this one. This dialogue has given us a high level of confidence that the issues raised in our comments on the DEIR will be resolvable with further dialogue.

We have chosen to send the detailed comment letters that you will find in this package because we also respect the formal nature of this moment in the development of any project and wish to be forthright about our concerns. However, we hope that many of these concerns will be dealt with outside the environmental review process.

47-2

I would also like to comment on our view of the project overall. Although you will see many concerns raised about specific aspects of the project, overall we feel that the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project will provide substantial benefits to the system of both state and city parks in the area and provide the level of residential and commercial development appropriate to the site. It is ultimately the policy makers who must opine on whether this is true. However, it is essential to us to express this more balanced view of the project. It may be too easy to read into the concerns expressed in the following pages an opposition to the overall project which does not exist. We write with the intent to address flaws

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in the DEIR in furtherance of a better disclosure of the impacts of the project, better analysis of alternatives, and our desire to improve it to its full potential.

47-2 cont'd.

The DEIR

CPSRA is a unique and valuable recreational resource, and like all our state parks, merits the utmost protection from any surrounding development. The Project, however, does not recognize and protect the full recreational value of CPSRA.

The Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project DEIR does not convince us that CPSRA will be sufficiently protected. Notwithstanding the Project's planned improvements to certain areas of CPSRA, which CSPF recognizes and appreciates, we remain unconvinced the damage that would occur elsewhere to the park is necessary.

47-3

Yosemite Slough and the Bridge

Frankly this is the area of our biggest concern. The DEIR overlooks impacts to Yosemite Slough – a critically important and valuable part of the state park – are evident.

First, the environmental documentation appears to cloak the true nature of the proposed Yosemite Slough Bridge. Simply put, Yosemite Slough Bridge is a road proposal that runs through a park. However, nowhere in the environmental documentation is the bridge presented as exactly that: a road through a park. Instead, the Project seems intentionally designed to avoid this conclusion. For example, the state park is oddly divided with the Yosemite Slough area being excluded from the project site and treated disparately while the remainder of the park is included as part of the project.

47-4

Second, the Project fails to recognize the importance of the Yosemite Slough Wetlands Restoration Project. No analysis is provided on how the project will affect the California Department of Parks and Recreation's ("DPR") and CSPF's multi-million dollar efforts to revitalize the Slough.

Finally, the impacts from the Yosemite Slough Bridge remain largely unexamined. This manmade infrastructure will impose a significant change to the park setting anticipated both in the parks General Plan and in the Yosemite Slough Wetlands Restoration Project. The DEIR needs to fully examine these impacts. Further, CSPF is concerned that the bridge itself is

unnecessary. Our traffic expert concludes that the DEIR does not contain sufficient justification for the bridge. Additionally, the Project does not advance a no-bridge option if the 49ers Stadium is built elsewhere. If the fundamental purpose of the bridge is to meet game-day traffic needs, an alternative proposal for traffic should be presented in the event no stadium is built.

47-4 cont'd.

Impacts to Candlestick State Recreation Area as a Whole

CSPF also is concerned more generally with the Project's impacts to the entire state park. The DEIR repeatedly asserts that improving the state park in some areas justifies degradation and the take of the park elsewhere, and therefore significant impacts to park resources are minimal. This turns the California Environmental Quality Act ("CEQA") on its head. Significant impacts must be analyzed and fully disclosed prior to any form of mitigation.

Development projects should avoid encroachments on parklands if at all possible, and we are not convinced that this Project is configured in a manner that sufficiently protects our parklands. This project contemplates the take of existing parklands and negative impacts to the remainder. Compensation is presented in the form of replacing or improving upon certain parklands via a reconfiguration deal with DPR. The DEIR, however, fails to clearly analyze the details of this scenario or recognize the severity of park impacts. As a result, we do not believe that the environmental documentation fulfills its legal mandate under CEQA to fully evaluate and inform decision makers and the public as to the merits of the Project.

47-5

We look forward to the continued dialogue regarding this important project.

Yours Truly,

Elizabeth Goldstein
President

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California State Parks Foundation
Legal Comment Letter on the Draft Environmental Impact Report
for the Candlestick Point – Hunters Point Shipyard Phase II Development Plan Project;
SCH #2007082168

We write on behalf of the California State Parks Foundation ("CSPF") to comment on the Draft Environmental Impact Report ("DEIR") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project ("Project"), a joint proposal of the San Francisco Redevelopment Agency ("Agency") and San Francisco Planning Department ("Planning Department").

As explained in detail below, the DEIR for the Project does not comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code §§ 21000 *et seq.* ("CEQA") and the CEQA Guidelines, California Code of Regulations, Title 14, §§ 15000 *et seq.* ("Guidelines"). Approval of the Project also threatens to violate several other state and federal laws. The Agency and Planning Department should not approve the Project or grant any permits for the Project until a revised DEIR is prepared and re-circulated for public review and comment.

47-6

These comments are prepared with the assistance of two technical experts, WRA, Inc. and Tom Brohard, P.E. The comments of each of these two experts are appended hereto as Exhibit A and Exhibit B, respectively. Please note that these expert comments supplement the issues addressed below and should be addressed and responded to separately.

I. INTRODUCTION

The California State Parks Foundation is a nonprofit organization whose mission is to protect, enhance, and advocate for California's 278 magnificent State Parks. CSPF is therefore concerned with the Project's negative impacts to the Candlestick Point State Recreation Area ("CPSRA" or "State Park") and to ongoing efforts to revitalize the Yosemite Slough area of this park.

The massive scope of this project – over 10,000 residential units, over 1 million gross square feet (gsf) of retail and offices space, 2.5 million gsf of research and development uses, a new 49ers stadium, a 900-foot bridge, and a 19-year construction period – would have tremendous impacts on the State Park. Much of the Project's development, including the Yosemite Slough Bridge, would occur on, or immediately adjacent to, existing state parklands. Despite this development's obvious inconsistencies with park purposes, the DEIR consistently underestimates the full scope of significant recreational, visual, biological, and other impacts to CPSRA.

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Yosemite Slough Bridge is of major concern. Its imposing nature and surrounding landscaping will reduce CPSRA's attractiveness to the public. This bridge would decrease the recreational value of the state park by introducing unnatural and discordant visual elements intruding upon previously open vistas of the bay. The DEIR largely ignores these impacts.

Traffic justifications for the Yosemite Slough Bridge also are not persuasive. Our traffic expert finds that the bridge will not significantly alter traffic congestion, and that alternative transportation plans have not been adequately studied and considered. Moreover, if the new 49ers stadium is not built, which is a real possibility, the political impetus for the bridge evaporates. But the Project contains no contingencies for no-bridge alternatives if a new stadium never materializes. Equally disturbing, the DEIR fails to provide any legally enforceable mechanisms to ensure the Yosemite Slough Bridge will not be opened for automobile use on a year-round basis.

47-7 cont'd.

The DEIR's flaws extend to its treatment, more generally, of the Yosemite Slough – an integral part of the State Park. Most notably, the DEIR does not provide any analysis of Project inconsistencies with the Yosemite Slough Wetlands Restoration Project. Sponsored by the California Department of Parks and Recreation ("DPR") in collaboration with CSPF, this wetlands plan will enhance and restore Yosemite Slough's recreational and biological values. The DEIR's failure to consider significant inconsistencies with the wetlands restoration plan violates fundamental CEQA principles, and forecloses the possibility of adopting environmentally superior and feasible alternatives that would allow for the Project to move forward in concert with the wetlands restoration plan, rather than threaten its recreational and biological improvements.

The DEIR is replete with omissions and legal deficiencies with respect to impacts to other areas in CPSRA as well. For example, the DEIR operates under the flawed premise that improving the State Park in some areas justifies degradation elsewhere; and, as a result, the DEIR truncates its analysis of significant impacts to park resources. This violates CEQA requirements to fully disclose impacts.

47-8

Ultimately, the environmental documentation fails to achieve its fundamental purpose of informing the public under CEQA and its Guidelines. The project description is incomplete and misleading; a thorough analysis of significant environmental impacts separate from proposed mitigations is still needed; inconsistencies with other plans remain unidentified; a full discussion of alternatives has yet to be performed; and mitigation measures are insufficient, unenforceable, and often missing altogether. The ability of CSPF, decisionmakers, and the rest of the public to fully understanding Project impacts is therefore severely compromised.

47-9

II. THE DEIR IS INADEQUATE AND FAILS TO COMPLY WITH CEQA

The DEIR fails to realize two of the essential purposes of CEQA. First, CEQA is designed to inform decisionmakers and the public about potential, significant environmental effects of a project. Guidelines § 15002(a)(1). The EIR process is the "heart" of this requirement. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 84. The EIR has been

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described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. Guidelines § 15002(a)(2) and (3); *see also Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400.

47-9 cont'd.

As discussed below, the DEIR falls short of these mandates by failing to inform the public or decision makers about the Project's significant impacts, examine an adequate range of alternatives, and propose adequate mitigation measures.

A. THE DEIR MUST DESIGNATE *ONE* LEAD AGENCY

The DEIR lists both the City's Planning Department and the City's Redevelopment Agency as essentially "co-lead" agencies for the Project. *See, e.g.,* DEIR, I-10. This violates CEQA's requirement that the EIR designate a single lead agency for a project. "If two or more agencies are involved in implementing or approving a proposed project, only one agency can be the lead agency. Guidelines § 15051(a). The Guidelines establish criteria for selecting a single lead agency amongst two or more contenders." Remy, Thomas, *Guide to CEQA* (11th Ed.), 2007, p. 54. Although the Redevelopment Agency takes on projects exclusively within the City and County of San Francisco, it is a separate legal entity from the City and County. As explained on its website, "[t]he San Francisco Redevelopment Agency, incorporated August 10, 1948, is authorized and organized under the provisions of the California Community Redevelopment Law ("CCRL"). The Agency is an entity legally separate from the City and County of San Francisco, but existing solely to perform certain functions exclusively for and by authorization of the City and County of San Francisco." *See* http://www.sfredevelopment.org/index.aspx?page=22. The Redevelopment Agency has its own Commissioners and is charged with its own mandate.

47-10

Failure to properly designate a single lead agency poses significant and unnecessary procedural burdens to the public and results in administrative waste for the relevant agencies. For instance, the DEIR states that there will be a separate EIR certification by the Redevelopment Agency and the Planning Commission. *See, e.g.,* DEIR, ES-4 and Table ES-4. This creates confusion and additional procedural hurdles for the public in making its comments and for purposes of understanding the public's exhaustion responsibilities and attendant appeal rights. The DEIR must be revised to repair this legal defect. One agency should be designated as lead with the other agency designated as a responsible agency. The lead agency must give the responsible agency the opportunity to comment on the project and provide the responsible agency with any and all procedural considerations to which any other responsible agency is entitled under CEQA. A revised DEIR must then be re-circulated for public review and comment.

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B. THE DEIR IS A PROGRAM-LEVEL EIR, NOT A PROJECT-LEVEL EIR

CEQA mandates the use of programmatic EIRs for individual projects with significant environmental effects that are implemented in phases. Guidelines § 15165. Program EIRs serve a vital function by allowing decisionmakers the opportunity to consider the wisdom in pursing a project in its proposed form as early in the process as possible. *See Natural Resources Defense Council v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 271 (City of Los Angeles was required to prepare a tiered EIR to address any new impacts related to Port of Los Angeles project in its more recent and detailed form.)

In this instance, the massive scope of the Project, its preliminary nature, and its phased 19-year construction period, make it inappropriate for project-level analysis. *See*, DEIR, Figure II-16 (timing for different phases). The uncertain nature of the Project is evident. For example, widely divergent plans for a new 49ers stadium include the possibility that the stadium may not be built at all, or that the stadium may be opened for expanded use by the Oakland Raiders. Uncertainties also exist with the Candlestick Point Tower Variants, which offer divergent configurations that could have notably different impacts on CPSRA (e.g., shade, wind, aesthetic impacts). DEIR, Figures IV-13 to IV-16. If the present DEIR is not treated as a programmatic EIR, these ambiguities in the scope of the Project would result in future phases of development avoiding environmental review as they take form. 47-11

As but one example of the anemic analysis of Project variants, the 49ers/Raiders shared stadium scenario entails almost double the number of game days (from 12 to 20 games) and up to 20 secondary smaller events, yet the DEIR provides no meaningful analysis of the impact of doubling the NFL use of the stadium to recreational values in CPSRA. *See* Exhibit B, p. 3; DEIR, IV-238 (less than two pages of analysis of recreational impacts states that "[i]n summary, impacts from the Shared Stadium Variant would be substantially similar to the Project").

The DEIR cannot be a project-specific, comprehensive document aimed at full disclosure of impacts and mitigation while the Project is still conceptual in its present form. Either the DEIR must disclose the nature of the Project with greater specificity, or the present DEIR must be treated as a programmatic document that will be supplemented by tiered environmental review as the Project details unfold.

Ultimately, the public needs to understand how the Project will differ, including its environmental impacts, if the 49ers stadium is expanded in use, if the 49ers stadium is not built. The DEIR, as a project-level document, does not serve this function. The DEIR must be revised to make clear that it is a programmatic document that must be analyzed for sufficiency at each phase of Project development at which major decisions are ripe for review.

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C. THE DEIR FAILS TO ADEQUATELY DESCRIBE THE PROPOSED PROJECT

An accurate, stable, and finite project description is an indispensable prerequisite to a legally adequate EIR. *See County of Inyo, supra,* at 192 ("A curtailed or distorted project description may stultify the objectives of the reporting process."). As one analyst notes:

> "The adequacy of an EIR's project description is closely linked to the adequacy of the EIR's analysis of the project's environmental effects. If the description is inadequate because it fails to discuss the complete project, the environmental analysis will probably reflect the same mistake."

Kostka and Zischke, "Practice Under the California Environmental Quality Act," p. 580 (2/09 update).

47-12

Here, the DEIR provides a project description that is unclear and inconsistent. The DEIR provides no explanation for excluding Yosemite Slough from the Project site and boundaries; no clear description of project objectives related to Yosemite Slough Bridge and the proposed 49ers stadium; no consistent and comprehensive listing of related laws and regulations that the Project must comply with; and no identification or description of reasonable foreseeable future activities. As a result of the DEIR's failure to discuss key Project components, as well as the exclusion of Yosemite Slough from the Project site, potentially significant environmental impacts are not adequately analyzed or addressed.

1. Project Boundaries Are Inappropriately Designed to Exclude Yosemite Slough

Consistent with the DEIR's many attempts to downplay impacts to Yosemite Slough, the Project boundaries, inexplicably, exclude the Yosemite Slough area, even though the rest of the State Park is included. The result is that the majority of CPSRA (120 acres) is included in Project boundaries, while Yosemite Slough, consisting of 34 acres (22% of the park), is excluded. This contradicts CEQA's mandate to accurately describe the project. Lead agencies may not artificially narrow project descriptions to minimize project impacts and undercut public review. *Santiago County Water Dist. v. County of Orange* (1981) 118 CA3d 818, 829-830 (a project description that omits integral components of the project may result in an EIR that fails to disclose all of the impacts of the project); *see also Laurel Heights Improvement Ass'n, supra,* at 253.

47-13

The DEIR minimizes impacts to the State Park by fragmenting it for disparate treatment. In effect, the DEIR removes form the project site the area that may be most affected – Yosemite Slough – and then claims park impacts are less than significant. *See Orinda Ass'n v. Board of*

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Supervisors (1986) 182 CA3d 1145, 1171 (lead agency may not split a single large project into small pieces so as to avoid environmental review of the entire project). Park users are intended to recreate throughout the entire park, walking, hiking, and moving from one area to the next. The State Park's value is as a whole unit. Thus, the DEIR's oft-cited conclusion that Project improvements to the State Park will offset or somehow mitigate negative impacts is baseless if the State Park is artificially divided, or illegally "piecemealed," into segments for analysis.

Moreover, substantial portions of Yosemite Slough Bridge will be built on State Park property. Exhibit A, Figures 1 and 2. Land-based portions of the bridge, both on the north and south side, are located within CPSRA, and no justification exists to exclude Yosemite Slough from project boundaries. Guidelines § 15124. Ultimately, the public and decision makers are not fully informed that this is a bridge to be built on state park lands.

Excluding Yosemite Slough from the Project site also is inappropriate and nonsensical because Project road development would surround Yosemite Slough in all directions. *See* DEIR, Figure II-16. The DEIR categorizes transportation improvements to Carroll Avenue, Ingalls Street, Thomas Avenue, and Griffith Street – arterial routes that surround Yosemite Slough – as "offsite" improvements. *Id.* Treating Yosemite Slough as distinct from the rest of the park when it is surrounded by development is misleading and undercuts public review. *Santiago County Water Dist., supra, at* 829-830.

47-13 cont'd.

Deficiencies in the DEIR stemming from the exclusion of Yosemite Slough from Project boundaries include:

- Inconsistent Methodologies. The DEIR's treatment of Yosemite Slough is inconsistent. The DEIR's analytical methodology fluctuates in maps and diagrams between including and excluding Yosemite Slough as part of the State Park and/or other study areas. *See, e.g.,* Figure III.N-1 (Yosemite Slough included in watershed study area); Figure III.N-3 (only a portion of Yosemite Slough included in habitat study area); Figure III.P-1 (Yosemite Slough included with CPSRA); and Figure III.P-2 (Yosemite Slough excluded from park areas); *see also* Exhibit A, pp. 4-5. An EIR's project description and analysis must be consistent, otherwise public participation is stymied. *County of Inyo, supra,* at 197.

- Confusing Implications. The *Yosemite Slough* bridge – as the name itself denotes – runs across Yosemite Slough; yet the DEIR only includes the bridge and not the slough as part of the Project Site. Exhibit A, Figure 1. No logical reason exists to exclude the remainder of the Yosemite Slough area. Construction of the bridge will include abutments, footings, piers, bridge approaches, and revetment construction – all of which will affect and be intricately tied with the slough itself.

Simply put, the Project proposes to build a roadway through Candlestick State Recreation Area dividing Yosemite Slough from the balance of the park. Manipulating project boundaries to avoid this conclusion is fundamentally misleading to the public and decision-makers; wrongly

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implies that the Project and its impacts are not closely tied to Yosemite Slough; and flaunts the basic requirements of CEQA to fully inform the public. A revised DEIR must include Yosemite Slough in the project site.

47-13 cont'd.

2. The DEIR Sets Forth Project Objectives That Are Inconsistent and Vague

The DEIR's project description fails to adequately discuss fundamental features of the Project with regard to the newly proposed 49ers stadium, related traffic plans, project variants, and the configuration of development in Candlestick Point. A revised and re-circulated DEIR is required to correct these deficiencies. *Mountain Lion Coalition v. California Fish and Game Comm'n* (1989) 214 Cal.App.3d 1043, 1052 (an agency cannot simply release a draft report "that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review").

The DEIR is unclear as to whether the 49ers Stadium will be built and the impacts and changes to the Project that would result if not. Rather than state clear Project objectives, the DEIR sets forth the vague goal of "encouraging the 49ers" to remain in San Francisco, including by providing the necessary transportation structure. DEIR, II-7. The result is a project that imparts no clear guidance on what is required, especially from a transportation perspective. Guidelines § 15124(b); *see also City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406 (DEIR must contain a clear and comprehensive project description).

47-14

The DEIR is inconsistent in its treatment of the 49ers stadium. While the Project objectives describe the 49ers stadium as merely a possibility, elsewhere in the DEIR the 49ers stadium is treated as a foregone conclusion. *See, e.g.*, DEIR, II-7 (project characteristics include 69,000-seat 49ers stadium); DEIR, Table II-3.

The inadequate treatment of the 49ers stadium is particularly troubling with respect to Yosemite Slough Bridge. The DEIR's assertion that a bridge is necessary to accommodate game-day traffic is unjustified even if a new 49ers stadium is built. Exhibit B, pp. 1 and 3-4. Moreover, given the uncertainty of a new stadium, the need for the Yosemite Bridge is even more attenuated.

Even more misleading, the DEIR's project description contains no mention of the scenarios listed as "project variants" elsewhere in the document. *See* DEIR, Chapter II, Project Description; IV-214 to IV-248. Such "variants," which find no basis in CEQA, include: the possibility of a stadium being jointly used by the 49ers and Oakland Raiders, and increased levels of development for housing or research and development should a stadium not be built. *Id.* The existence of these "variants" are a per se violation of CEQA's requirement that the project description be accurate, stable and finite. *See County of Inyo, supra,* at 192.

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The Executive Summary suffers from the same flaws and exclusions. *See* DEIR, Volume I, Executive Summary. No discussion of Project variants is presented in the Executive Summary.

Moreover, the DEIR's discussion of "Project Variants," when it does occur, is perfunctory and incomplete. For example, the DEIR devotes a mere 34 pages of analysis (in an enormous six-volume DEIR with thousands of pages) to specifically address the potential environmental effects should a new stadium be built for two NFL football teams, instead of just one. DEIR, IV-214 to IV-248.

The DEIR's description of project objectives does not comply with CEQA disclosure law. A revised DEIR must be re-circulated to the public that clearly, comprehensively, and consistently describes project objectives relative to the 49ers stadium and associated traffic, and to project variants. If these critical future decisions and uncertainties cannot be ascertained in more detail, the DEIR must address them on a programmatic-EIR level, as discussed above.

47-14 cont'd.

3. The DEIR Minimizes the Extent of the Project By Failing to Describe and Analyze Reasonably Foreseeable Future Activities

The DEIR fails to analyze several reasonably foreseeable aspects of the Project. Before undertaking a project, the lead agency must assess the environmental impacts of all reasonably foreseeable future activities that are a consequence of project approval. *Laurel Heights Improvement Ass'n, supra,* at 396. CEQA mandates that foreseeable future activities not be piecemealed, each only being analyzed for minimal potential impacts, but which cumulatively together may have disastrous consequences. *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283-84; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1452; *see also Natural Resources Defense Council v. City of Los Angeles* (2002) 103 Cal.App.4th 268 ("CEQA process is intended to be a careful examination, fully open to the public, of the environmental consequences of a given project, covering the entire project, from start to finish"). The court in *Laurel Heights* set forth a two-part test to determine whether an EIR must include an analysis of the environmental effects of future expansion or other action: "(1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." *Laurel Heights Improvement Ass'n, supra,* at 396.

47-15

One reasonably foreseeable consequence of approving the Project would be heavy use of the Yosemite Slough Bridge by private automobiles during secondary game events and on a full-time basis by private automobiles, buses, and rail as population and transportation pressures grow. Exhibit B, pp. 5-8. The DEIR in fact identifies no legally enforceable restrictions in its transportation analysis that would prevent the Yosemite Slough Bridge from being used full-time, year-round by automobiles; and the DEIR admits that the bridge is designed to be "rail ready," but fails to analyze likely future impact from new rail infrastructure. *Id.*; *see also* DEIR, III.D-46. Greater use of the bridge by automobiles, buses, and rail would result in significant Project impacts to the environment and CSPRA.

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This is precisely the type of situation CEQA cautions lead agencies against. Environmental problems should be considered at a point in the planning process "where genuine flexibility remains." *Mount Sutro Defense Committee v. Regents of University of California* (1978) 77 Cal.App.3d 20, 34. A revised DEIR must consider the masked environmental impacts that would result from foreseeable uses of the Yosemite Slough Bridge, as well as any associated mitigation measures and cumulative environmental impacts.

47-15 cont'd.

4. The DEIR Fails to Identify Necessary Federal Approvals

Under CEQA, a project description must include "[a] list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements." Guidelines § 15124(d)(1)(C). The DEIR fails to appropriately identify and integrate the required approvals and environmental reviews for the Project.

Under Table ES-1, "Major Project Approvals," there is no mention of the need for permits, approvals, and compliance with the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq*. ("NEPA"), the Endangered Species Act, 16 USC §§1533, *et seq*. ("ESA"), Marine Mammal Protection Act, 16 USC §§ 1631 *et seq*. ("MMPA"), or the Magnuson–Stevens Fisheries Conservation and Management Act, 16 U.S.C. §§ 1801 *et seq*. ("MSA"). But under the heading "Regulatory Framework" for biological resources, the DEIR recognizes the need to comply with the ESA, MMPA, and MSA. DEIR, III.N-38-III.N-40. This is inconsistent. An accurate project description in the DEIR demands that all federal approval processes be clearly and comprehensively listed for major environmental laws.

47-16

5. The DEIR Fails to Describe the Project's Connection to Mitigation Measures for SFO Airport Improvements and the BART Extension

The Yosemite Slough Wetlands Restoration Project fulfills mitigation obligations for (1) the various project and improvements by the San Francisco Airport ("Airport Improvements") and (2) the San Francisco Bay Area Rapid Transit District ("BART") San Francisco Airport Extension Project ("BART Extension"). Both of these projects required permits, certifications, and approvals from numerous public agencies, including the U.S. Army Corps of Engineers ("USACE"), and the California Regional Water Quality Control Board, San Francisco Bay Region ("RWQCB"). The wetlands restoration plan fulfills mitigation obligations related to a USACE Permit and RWQCB Waiver by providing mitigation offsets and credits for wetlands creation by the Airport Improvements and BART Extension.

47-17

The DEIR fails to identify the Project's connection to these mitigation efforts, and whether they would be frustrated, diminished, or altogether nullified by the Project. Particularly disturbing is the possibility that the City of San Francisco is filling in wetlands related to Airport

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Improvements, while weakening attendant mitigation efforts with superceding projects. Without any acknowledgement in the DEIR of these potential impacts, the legal status of the mitigation measures for both the Airport Improvements and BART Extension is unknown. The DEIR must be revised to address this deficiency.

47-17 cont'd.

D. THE DEIR IS INCONSISTENT WITH THE YOSEMITE SLOUGH WETLANDS RESTORATION PROJECT

The DEIR fails to analyze and disclose Project inconsistencies with the Yosemite Slough Wetlands Restoration Project ("Wetlands Restoration Plan"). Avoiding conflicts with other land-use plans *before* development proposals are approved is one of CEQA's principle purposes. *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296, 307 (1988) (CEQA requires that environmental problems be considered at a point in the planning process where "genuine flexibility remains."); Guidelines §§ 15125(d) and (e) (DEIR must discuss any inconsistencies with other plans and any such analysis must discuss "potential future conditions discussed in the plan.") As discussed below, the Project is inconsistent with both the biological and recreational goals of the Wetlands Restoration Plan.

Proposed by the California Department of Parks and Recreation and administered in collaboration with California State Parks Foundation, the Wetlands Restoration Plan already has been approved and obtained funding. DPR prepared a Final Initial Study and Mitigated Negative Declaration (April 2006, SCH# 2005122023). To date, over $13 million has been raised to execute the wetlands and park improvements under the plan. All draft working drawings have been completed and reviewed by DPR, as well as supporting documentation. The project has also received Section 401 Water Quality Certification and Waste Discharge Requirements (July 2007), and San Francisco Bay Conservation and Development Commission Permit Amendments (March 2005 and September 2009). Only a few approvals remain before the Yosemite Slough restoration project is ready for construction.

47-18

The Wetlands Restoration Plan will transform Yosemite Slough both recreationally and biologically, but absolutely no analysis is provided in the DEIR of how the Project will significantly impact these efforts.[1] The massive development proposed by the Project – including the fragmentation of the slough by the Yosemite Slough Bridge – would undermine this multi-million dollar restoration effort and the values, resources, and recreational opportunities this plan was designed to enhance and protect. In consequence, the lead agencies are poised to approve a Project that will conflict with the Wetlands Restoration Plan. Exhibit A, pp. 2-4.

[1] The DEIR recognizes the existence of the Restoration Plan, and even some of the goals and objectives, but then fails to analyze or describe Project impacts to these goals and objectives. *See* DEIR III.N-46.

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As discussed below, the Project's inconsistencies with the Wetlands Restoration Plan constitute separate, undisclosed significant impacts under CEQA which must be disclosed in a revised DEIR that is re-circulated for public review and comment.

47-18 cont'd.

1. The Project Conflicts with the Biological Goals of the Yosemite Slough Wetlands Restoration Plan

The DEIR omits any discussion of Project inconsistencies with the biological goals of the Wetlands Restoration Plan. A non-exhaustive list of biological benefits to be provided by the plan include:

- establishing the largest contiguous wetland area in the County of San Francisco, increasing existing tidally influenced area from 9 to 20 acres, restoring essential wildlife habitat, improving water quality, and preventing erosion along the shoreline of the City of San Francisco;
- creating two isolated bird nesting islands (including one designed specifically for special status species, e.g. western snowy plover and double-crested cormorants);
- providing nursery areas for fish and benthic organisms, as well as transitional and upland areas to buffer sensitive habitats;
- designing restoration to address soil contamination issues, arising from previous fill activities, that could affect human and wildlife health.

47-19

The DEIR omits any discussion of the significant biological impacts that inevitably will result from the Project's inconsistency with the wetlands plan. The Project, for example, would hinder the creation of restored wetlands, adversely impact improved habitat and newly planted wetlands vegetation, and impede or alter currents entering and existing Yosemite Slough that sustain fisheries and other wildlife. Exhibit A, pp. 2-4. These inconsistencies (and others that remain unanalyzed) would have a significant impact on biological resources and must be fully disclosed and analyzed in a revised DEIR.

2. The Project Conflicts with the Recreational Goals of the Yosemite Slough Wetlands Restoration Plan

The DEIR omits any discussion of Project inconsistencies with the recreational goals of the Wetlands Restoration Plan. A non-exhaustive list of recreational benefits to be provided by the plan include:

47-20

- providing park visitors with public access to Yosemite Slough, including by serving Bayview Hunters Point, a community unfairly impacted by environmental degradation;

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- building more than 5,000 feet of new interpretive trails, including connections between the restored wetlands area and the remainder of CPSRA;
- creating five vista points;
- constructing an approximately 1,200 square foot multi-use interpretive center;
- adding 2.5 acres of passive public use areas; and
- providing additional amenities including fencing, lighting, benches and drinking fountains.

47-20 cont'd.

The Project is inconsistent with these recreational elements. The Yosemite Slough Bridge, for example, would be built directly on two scenic vista sites under the plan. Exhibit A, Figure 1. The bridge also would significantly impede other views of the Bay from the newly created recreational areas. *Id.*, p.3. And proposed trail improvements under the Project directly conflict with those of the Wetlands Restoration Plan. *Id.*, p. 8. These inconsistencies (and others that remain unanalyzed) would have a significant impact on recreational resources under the Wetlands Restoration Plan and must be fully disclosed and analyzed in a revised DEIR.

Analyzing inconsistencies with the Wetlands Restoration Plan also necessitates a revised DEIR that includes Yosemite Slough within the Project boundaries. In its current form, the DEIR gives disparate treatment to areas within CPSRA by excluding the slough from the project site, and as a result, the DEIR underestimates significant recreational impacts to planned improvements under the Wetlands Restoration Plan. As but a few examples, the DEIR (1) fails to provide adequate photos depicting views from Yosemite Slough and (2) fails to analyze the effects of the Yosemite Slough Bridge on boaters' ability to utilize the slough. Exhibit A, pp. 4 and 8. A revised DEIR therefore must fully reanalyze recreational impacts with Yosemite Slough as part of the Project Site.

3. The DEIR Treats Yosemite Slough Wetlands Restoration Plan In a Different Manner Than Other Plans

47-21

The DEIR's treatment of the Wetlands Restoration Plan is inconsistent with the DEIR's treatment of other plans. Specifically, the DEIR considers how the Project will affect future improvements planned by the U.S. Navy on lands located within the project site. Exhibit A, p. 3; DEIR, III.N-49. No explanation is given as to why a similar analysis was not provided for the Restoration Plan.

E. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECT'S SIGNIFICANT AND POTENTIALLY SIGNIFICANT IMPACTS

47-22

1. Biological Impacts Are Not Fully Addressed

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The DEIR fails to fully analyze the Project's significant impacts to biological resources. The attached expert report, prepared by WRA, Inc. details but a few of the flaws in the Project's treatment of biological impacts. *See* Exhibit A. Among the conclusions of WRA are that the DEIR: (i) failed to identify numerous significant and potentially significant biological impacts; (ii) underestimated the extent of many of the biological impacts that were identified; (iii) incorrectly analyzed and overestimated the extent to which mitigation would render impacts less-than-significant; and (iv) failed to incorporate feasible mitigation measures to protect biological impacts.

47-22 cont'd.

a. The DEIR Uses Inconsistent, Vague, and Flawed Methodology to Analyze Biological Impacts

The DEIR is inconsistent in its treatment of impacts to biological resources. An EIR must be "organized and written in a manner that will be meaningful and useful to decisionmakers and to the public." Pub. Res. Code § 21003(b). The DEIR downplays impacts to the State Park and Yosemite Slough by using inconsistent study areas. Yosemite Slough is only partially included in the H.T. Harvey study (2009)[2]; yet the entire Yosemite Slough area is included in the Yosemite Slough Watershed Wildlife Study (2004).[3] *See* Figures III.N-1 and III.N-2. The DEIR's failure to include the entire Yosemite Slough area in the H.T. Harvey study precludes a meaningful evaluation of biological impacts to the State Park.

47-23

The DEIR also excludes from its analysis of off-site aquatic resources the "area of construction" within Yosemite Slough. DEIR, III.N- 1 ("[t]he off-site aquatic resources discussed include Yosemite Slough (except the area of construction)…"). No explanation is given for the exclusion of this "area of construction" from the Yosemite Slough analysis. By refusing to define, or justify this area of exclusion, the DEIR fails to adequately inform the public and analyze the full scope of impacts to biological resources in Yosemite Slough.

The above flaws preclude the public and decisionmakers from properly responding to the DEIR.

b. The DEIR Fails to Analyze Biological Impacts to Yosemite Slough

47-24

Yosemite Slough, even in its presently unimproved condition, is a special area as part of a state park and due to its biological importance to wildlife. *See, e.g.,* Exhibit A, pp. 4-7 (discussing Project impacts to biologically important resources in Yosemite Slough). Under CEQA, "[s]pecial emphasis should be placed on environmental resources that are rare or unique

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[2] H.T. Harvey & Associates, Hunters Point Shipyard and Candlestick Point State Recreation Area Final Delineation of Wetlands and Other Waters, San Francisco, California, February 2009 and revised July 13, 2009 and October 13, 2009.

[3] Golden Gate Audubon Society, *Final Report Yosemite Slough Watershed Wildlife Survey 2003–2004*, prepared by LSA, July 27, 2004.

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to that region and would be affected by the project." Guidelines § 15125(c); *Bozung v. Local Agency Formation Comm'n* (1975) 13 Cal.3d 263, 283 (an EIR must describe "environmental resources peculiar to the region.") Rather than give special attention to Yosemite Slough, however, the DEIR does the opposite and glosses over impacts. *See* Exhibit A, pp. 4-7.

47-24 cont'd.

2. Recreational Impacts from the Project Are Significantly Underestimated

The DEIR fails to adequately analyze and mitigate impacts to recreational facilities. The DEIR's recreational analysis violates the basic CEQA requirement that EIRs be "organized and written in a manner that will be meaningful and useful to decision makers." Pub. Res. Code § 21003(b). The DEIR glosses over and minimizes the impacts to recreational resources without providing sufficient detail for a meaningful analysis, and ignores other significant impacts altogether.

47-25

a. The DEIR Underestimates Potentially Significant and Significant Impacts to the State Park from the Yosemite Slough Bridge

CSPF is particularly concerned with the lack of consideration given to impacts from the proposed Yosemite Slough Bridge to CPSRA. Yosemite Slough Bridge is undeniably a proposal to build a road through a park. It carries with it all the negative recreational impacts that roads have on parks. The sense of place and park experience in CPSRA would be drastically altered by a massive intrusion of steel and concrete – carrying buses and cars, and possibly rail – all of which will diminish park connectivity and forever alter the presently open vistas to the Bay.

47-26

The DEIR offers no justification for concluding that potentially significant or significant impacts would not result to the recreational resources of the State Park where the bridge would be located. The analysis is incomplete and uninformative, especially as to those areas of the park that will be directly taken for bridge construction or are immediately adjacent to the proposed bridge. *See* Exhibit A, Figure 1 (showing areas of park directly occupied by and adjacent to proposed bridge). It violates commonsense to conclude that a bridge running through a park would not significantly diminish its recreational worth. Much of CPSRA's value and extraordinary significance lies in its location abutting the open Bay, an increasingly rare resource for urban settings. The proposed Yosemite Slough Bridge would unquestionably and significantly diminish the quality of this park experience. *Id.*, pp. 4 and 8 (discussing aesthetic and recreational impacts to State Park).

b. The DEIR Must Analyze Impacts to Various Recreational Users

47-27

The DEIR fails to analyze the impacts of the Project to specific park users, including bicyclists, kayakers, canoeists, water-dependent recreators, picknickers, beach goers, hikers,

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walkers, bird watchers, and other recreational enthusiasts (with the exception of impacts to windsurfers), all of whom will be adversely affected by the Project. An EIR may conclude that impacts are insignificant *only* if it provides an adequate analysis of the magnitude of the impacts and the degree to which they will be mitigated. *See Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d. 296, 306-07. Thus, if an agency fails to investigate a potential impact, its finding of insignificance simply will not stand.

The Project is massive and involves, among other things, new residential towers, expanded and new roadways, a 81-foot wide and 900-foot long bridge, vegetation and tree removal, and construction activities with building demolitions, pile driving, heavy trucks, ground disturbance, and grading. The massive scope of the project, with buildings in Candlestick Point as high as 420 feet (or 42 stories), and its development encroaching on parklands presently slated for recreational use, will undoubtedly have significant impacts to recreational users.

The DEIR must be revised and re-circulated to analyze Project impacts to different user groups within CPSRA.

47-27 cont'd.

c. The DEIR Fails to Adequately Analyze Impacts Resulting from the Loss of Parklands

The DEIR fails to provide substantial evidence for the conclusion that the loss of 29.2 acres of CPSRA parklands, albeit currently underutilized, is less than significant.

First, the standards of significance adopted by the DEIR related to recreational resources are vague and lack any objective criteria. The DEIR states, for example, that an impact is significant if it is to "adversely affect existing recreational resources." DEIR, III.P-11. The DEIR's application of this criteria to the loss of 29.2 acres is too vague to have any import; in fact, under this meaningless standard, the take of any number of parkland acres could be deemed insignificant. The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. The DEIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." *Santiago County Water Dist., supra,* at 831.

Second, the DEIR confuses significant impacts and mitigation. In effect, the DEIR argues the take of 29.2 acres is not significant because the remainder of CPSRA would be improved. This turns the CEQA analysis on its head by using proposed mitigation as the basis for avoiding a significant impact finding. Indeed, the proposed improvements to the park, if anything, are mitigation for the DEIR's implied significant impact associated with the take of parklands. Taking parklands for development has a significant impact on recreational resources, and the DEIR must be revised to disclose the significant recreational impact of taking 29.2 acres of the CPSRA. Exhibit A, p. 8. If the DEIR is proposing to mitigate that impact by improving the remaining parkland, the DEIR must propose this improvement as a mitigation measure that is subject to public review and comment.

47-28

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d. The DEIR Fails to Adequately Analyze Impacts from Increased Park Visitation

The DEIR omits any meaningful analysis of the impacts of increased park users on CPSRA. The DEIR simply concludes that "[i]ncreased visitation to CPSRA would not significantly and adversely affect the park's existing recreational facilities and opportunities," and that "while the number of additional visitors cannot be accurately predicted at this time, the Project's improvement will increase the amount of land at CPSRA that provides recreational opportunities (as discussed above), and will thus enable the park to accommodate the new demand." DEIR, III.P-32. These bare conclusions are insufficient. *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568 (DEIR must contain facts and analysis). The Project's impacts resulting from the increased use of parklands must be analyzed and considered for protecting parklands and providing necessary infrastructure. This analysis should recognize the number of acres of the State Park currently in use, those that will be brought into use, and the impacts of increased users on both.

47-29

More generally, the DEIR criteria for what constitutes a significant increase in the use of parklands is unjustified. The DEIR selects 5.5 acres of parkland per 1,000 residents as a baseline condition from which to evaluate impacts. DEIR, III.P-11. But the San Francisco General Plan states that *the City should increase the per capita supply of public open space* from the parkland-population ratio at the time of the General Plan's adoption in 1986, which back then was 5.5 acres per 1,000 residents. *Id.* There is no justification for *decreasing* the Project area's current ratio of 108 acres of parkland per 1,000 residents back to the City General Plan's baseline level in 1986. A revised DEIR must recognize significant impacts from a decrease in available parklands per resident.

e. The DEIR's Recreational Analysis Is Inconsistent, Contradictory, and Vague

The DEIR's recreational analysis section is contradictory. The DEIR initially concludes that there will be "no potentially significant or significant impacts and therefore no mitigation measures are included," DEIR, III.P-1; but later in the section the DEIR identifies significant impacts and mitigation measures. *See,* DEIR, III.P-12 (potentially significant impacts from construction purportedly analyzed and referenced throughout other sections of DEIR); DEIR, III.P-31 (mitigation measure identified for recreational impacts). This is inconsistent and confusing for the public and decisionmakers.

47-30

Further, the analysis of construction impacts to recreational resources is flawed with numerous incorrect references to other sections of the DEIR. The DEIR claims to analyze noise impacts from construction in the "Section III.I (Noise)," DEIR III.P-12; however, the referenced section contains *absolutely no analysis of noise impacts to recreational resources*. (*See* detailed discussion on noise analysis below). Another example is Figure 11-21, erroneously cited in the recreational section as the location of new marshland, which actually depicts flood zones and

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potential sea level rises. These flaws must be remedied.

47-30 cont'd.

3. The DEIR Fails to Adequately Analyze and Mitigate Impacts to Transportation and Traffic

The DEIR's traffic analysis is flawed and fails to justify the conclusion that Yosemite Slough Bridge is necessary to meet project objectives. The attached expert report, prepared by Tom Brohard, P.E., details the flaws in the transportation analysis. Exhibit B. As outlined in this report, the bridge would be ineffective at alleviating traffic congestion and transportation alternatives to constructing a bridge have not been adequately explored. Accordingly, a revised DEIR must be prepared to fully evaluate and disclose the necessity for the bridge and fully examine feasible alternatives for transportation.

47-31

As detailed in Mr. Brohard's report, the DEIR fails to substantiate the basis for its conclusions regarding the need for, and impacts from, the Yosemite Slough Bridge. Specifically including:

- the bridge is not necessary to accommodate Project traffic, with or without the new 49ers stadium;
- the project description is too vague to support the traffic analysis relative to the bridge (including with regard to the bridge's relationship with future foreseeable conditions and Project variants);
- the bridge is not necessary for the BRT System; and
- the DEIR fails to analyze bridge impacts on bicyclists and pedestrians, attendant Caltrans safety standards, and conflicts with already planned bicycle and pedestrian trails.

See Exhibit B.

One of the justifications for the Yosemite Slough Bridge is to facilitate efficient handling of game day traffic for the newly proposed 49er's Stadium. But building a proposed 81-foot wide, 900-foot long bridge through a park – especially through and over Yosemite Slough – should be a measure of last resort. The DEIR fails to justify the conclusion that traffic from game days could not be served as well, if not better, with non-bridge alternatives. *Id.*, pp. 3-5. The DEIR is remiss in not analyzing and determining the degree to which traffic could be routed around the CPSRA and Yosemite Slough, rather than build a bridge through a state park. *Id.*

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4. The DEIR Fails to Disclose All Potentially Significant and Significant Aesthetic Impacts of the Project

Aesthetic impacts to CPSRA from the Project are clear-cut, significant, and unmitigable. The DEIR's analysis of aesthetic impacts is glaringly deficient and violates the intent of CEQA to fully disclose environmental impacts.

47-32

The park offers stunning views of San Francisco Bay, including from picnic areas, fishing areas (including two fishing piers), and hiking trails (including a fitness course for seniors and a bike trail). CPSRA is a unique resource, being the first state parkland purposely acquired to bring the State Park System into an urban setting. Yet, the DEIR underplays the park's significance and fails to treat CPSRA as the rare and unique resource it is. Candlestick is the largest park in the Bayview Hunters Point area by far, even in its current configuration. When fully built out, it will dwarf all other park resources in the area. Guidelines §15125(c) ("Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context"); *Kings County Farm Bureau, supra, at* 720 (guidelines are to be interpreted broadly in order to "afford the fullest possible protection to the environment").

a. Simulations of Yosemite Slough Bridge Are Uninformative and Inadequate

47-33

Yosemite Slough Bridge, as currently envisioned, will be a visual blight on the State Park. Yosemite Slough Bridge is a massive new structure – 81 feet wide and 900 feet long – across a previously open vista, and the new bridge will forever alter the panoramic vistas, as well as the visual character and scenic value of the State Park. The DEIR, however, provides only two simulations of the bridge, both of which are deficient. *See* Figure III.E-20 and III.E-24. The limited information presented in the DEIR on the bridge's aesthetic impacts is grossly inadequate to allow a meaningful evaluation by the public.

CEQA requires that an EIR be detailed, complete, and reflect a good-faith effort at full disclosure. Guidelines § 15151. Yet, the primary simulation depicting the bridge, Figure III.E-24, fails to provide a level of information necessary to analyze or comment on its aesthetic impacts. First, the depiction of the bridge is too far away to give a sense of its size. The bridge frame, truss, and/or beam are indiscernible; only three of the supporting legs (of the more than 10) are displayed; and the simulation gives absolutely no sense of the bridge's width of 81 feet. Second, the Bay View depicted is hazy, failing to present the Oakland skyline, one of the more stunning aspects on a clear day. Finally, the bridge simulation is unrealistic because it is devoid of any typical activities; there are no buses, cars, bicyclist, or pedestrians shown on the bridge, which will significantly affect aesthetics.

The other primary simulation of the Yosemite Slough Bridge, Figure III.E-20, is even

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less informative. The simulation is at such as distance as to render the bridge less than a ½" x ½" depiction on the page, a minor part of the 6" x 3.5" simulation, which fails to convey any sense of bridge's massive structure and imposition on the park. Both depictions of the bridge are at long-range. *See* Figure III.E-20 and III.E-24. Mid- and short-range depictions are necessary to analyze aesthetic impacts, especially considering the bridge runs through the State Park, imposing itself within a few feet of recreational users.

Other simulations of Yosemite Slough Bridge were produced by the project applicant, Lennar Urban, and by consultants; however, these other simulations were not included in the analysis of aesthetics or elsewhere in the DEIR. *See* Exhibit A (reference to and attachment of various simulations and graphics that were produced but not included or discussed in the DEIR). These undisclosed simulations show the bridge is greater detail. Two of these simulations depict panoramic views from the southside bay trail and northside plaza; several show the bridge width and use of lanes for buses, cars, and pedestrians from a birds-eye view; others appear to depict the bridge at mid- to short-range distances. An EIR must disclose all potentially significant adverse environmental impacts of a project. Pub. Res. Code § 21100(b)(1); Guidelines § 15126(a). The DEIR must be revised and re-circulated to include these more accurate simulations.

47-33 cont'd.

To provide an accurate sense of the visual impacts to the State Park, the DEIR must include additional photo surveys (along with those noted above that are known to have been produced by Lennar Urban and consultants but not provided in the DEIR) to demonstrate the magnitude of the bridge by depicting the Bay view clearly from the Yosemite Slough area. A full analysis of aesthetic impacts requires depicting a view of the bridge from short-distances in the immediately adjacent State Park, both within Yosemite Slough and along the Candlestick Point shoreline. The DEIR must be revised and re-circulated to include all such relevant information.

b. The DEIR Selects an Deficient Number and Range of Viewpoints of the State Park

47-34

Consistent with ongoing attempts to downplay impacts to Yosemite Slough, the DEIR selects a limited number of views of and into Yosemite Slough. *See, e.g.,* Exhibit A, p. 4.

c. The DEIR Erroneously Concludes that Aesthetic Impacts from Construction Will Be Less Than Significant to the State Park

47-35

The DEIR admits that "construction of the Yosemite Slough Bridge would change the appearance of the Slough," including with bulldozer, trenching equipment, generator, truck, etc. DEIR, III.E-51. But the DEIR concludes without any explanation that the impact would be less than significant to scenic vistas and scenic resources because the equipment is "not tall enough to interfere with views" and "the overall view of the Slough would remain as a scenic resource." *Id.* This conclusion has no support. *Citizens of Goleta Valley, supra, at* 568 (DEIR must contain both facts and analysis, not just an agency's bare conclusions.) Construction of major

infrastructure in a state park is highly significant to recreational users, would change the scenic resource value of Yosemite Slough, and would impede views of the Bay.

Similarly, the DEIR glosses over potential significant impacts from construction light and glare to the State Park. As but one example, the DEIR admits the need for security lighting after hours without analyzing impacts to the State Park from having the Yosemite Slough Bridge illuminated. DEIR, III.E-52. The DEIR must be revised to show potentially significant and significant aesthetic impacts to CPSRA associated with construction of the bridge, and to include mitigation measures for such impacts.

47-35 cont'd.

d. The DEIR Erroneously Concludes that Aesthetic Impacts from Operations Will Be Less Than Significant to the State Park

The DEIR's analysis of aesthetic impacts from operations is replete with errors and fails to identify, analyze, or support with substantial evidence, its conclusions. The DEIR must contain both facts and analysis, not just an agency's bare conclusions. *Citizens of Goleta Valley, supra, at* 568. Below is a non-exhaustive list of the most glaring deficiencies:

47-36

- No meaningful analysis is provided to address the effect Yosemite Slough Bridge will have on scenic vistas. DEIR, 111.E-53 (Impact A-4).

- The DEIR admits that Yosemite Slough Bridge would change the appearance of the Slough and replace views of open water. DEIR, III-E-58. But the DEIR sites Figure III.E-8, two photographs of Yosemite Slough's existing conditions that do nothing to show how the appearance of the Slough would change or views of open water would be obstructed. The DEIR then erroneously concludes, without any pertinent analysis, that the "bridge would not substantially damage a resource that contributes to a scenic public setting." *Id.* This conclusion has no support, let alone the foundational substantial evidence required by CEQA.

- The DEIR admits that "Yosemite Slough bridge would limit some foreground views of the Slough," but no simulations are provided to show the limited foreground impacts. DEIR, III.E-61. The DEIR then dismisses these impacts as insignificant by concluding that "however, overall views of the Bay would remain." *Id.* The Project's significant impact on foreground views must be disclosed and mitigated in a revised DEIR. Furthermore, claimed preservation of "overall views" is not mitigation for significant impacts to foreground views.

- The DEIR admits that "[s]hort- and mid-range views of the Slough would be somewhat altered with the inclusion of the proposed bridge," and states the obvious: that "short- and mid-range views of the remainder of the Slough would remain as under current conditions." *Id.* The DEIR then erroneously concludes that the Project would not substantially degrade the existing visual character or

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quality of the State Park and Yosemite Slough. This conclusion fails CEQA's substantial evidence test for the sufficiency of an EIR's analysis.

- The DEIR admits "[t]he Project would alter the scenic nature of the Project site in that it would create a dense urbanized setting where one does not currently exist." Then, with no explanation or quantitative or qualitative analysis, it concludes that "this change in character would not represent a degradation of scenic quality." DEIR, III.E-64. The DEIR contains no evidence to support this bare conclusion. To clarify, CSPF does not object to parks in urban settings; to the contrary. However, in the context of a DEIR, all impacts that will result in a change in character must be fully analyzed.

- The DEIR admits that "Yosemite Slough bridge would change the open water character along the bridge route across a relatively narrow portion of the Slough" but erroneously concludes that "[t]his would not be 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." DEIR, III.E-64. No analysis is provided as to the nature of and how adverse the change in the open water character would be. *Santiago County Water Dist.*, *supra,* at 831 (an EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be").

47-36 cont'd.

A revised DEIR must be re-circulated to address the foregoing deficiencies.

e. The DEIR Fails to Adequately Analyze and Mitigate Impacts of Light and Glare to the State Park

The DEIR fails to analyze the impacts of light and glare to the State Park. The State Park – as open space area for recreating and with minimal artificial lighting – is not strictly urban in character, though it is located in an urban area. The Project will change an area of low-level illumination into an area of moderate- to high-illumination and will result in a substantial increase in the ambient light from structures and vehicle headlights. *See* DEIR, III-E-58. But the DEIR makes no effort analyze the impact of light and glare specific to *parklands*. Fundamental information such as the hours the State Park is open and will have visitors is missing. The DEIR also fails to analyze the impact of headlights from buses and other vehicles on the Yosemite Slough Bridge, as well as impacts from general operational lighting on the bridge. "[A]n agency must use its best efforts to find out and disclose all that it reasonably can." Guidelines § 15144. The light and glare from vehicle headlights, and the urbanization of Candlestick point, will have significant impacts to biological resources as well as aesthetics in the Project area.

47-37

5. The DEIR Fails to Adequately Examine Potentially Significant and Significant Impacts from Noise and Vibration

47-38

The DEIR's evaluation of potential noise impacts is seriously flawed on three counts: (1) the selection of sensitive noise receptors does not include areas within the State Park; (2) Yosemite Slough Bridge is not analyzed as a source of noise; and (3) no potentially significant or significant impacts from noise to recreational users are identified.

a. Sensitive Noise Receptors Must Include Locations in the State Park

47-39

The DEIR does not provide the legally required disclosure on noise and vibrational impacts to the State Park. Not a single noise measurement location is selected within the State Park. DEIR, Figures III.1-1 and III.1-2. The DEIR categorizes parks and open space as noise-sensitive land areas. *See* Figure III.I-5. However, the DEIR provides no significance threshold and absolutely no quantitative or qualitative analysis for measuring the Project's noise impacts to these noise-sensitive land uses.

An EIR must disclose all potentially significant adverse environmental impacts of a project. Pub. Res. Code § 21100(b)(1); Guidelines § 15125(c); *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 874 (EIR's analysis of significant effects, under CEQA Guidelines § 15125(c), must be as accurate as possible). The DEIR must be revised to include an analysis of the impacts of noise and vibration, both from construction and operation of the Project, to the State Park, including Yosemite Slough. Should the revised analysis show a potentially significant or significant impact associated with noise to the State Park, the DEIR must be further revised to include enforceable mitigation to prevent those impacts.

b. Yosemite Slough Bridge Is Not Analyzed in Traffic Noise Modeling

47-40

The DEIR inappropriately excludes Yosemite Slough Bridge from the analysis of roadway noise levels. DEIR, Figure III.I-7. This oversight is especially troubling considering that the bridge is likely to have numerous and significant noise impacts to the immediately adjacent Yosemite Slough and State Park areas, including from bus and automobile traffic on a long-term basis, as well as noise impacts from constructing the bridge (e.g. pile driving). And such activities would diminish the recreational value of these areas. A revised DEIR must be re-circulated to analyze traffic noise impacts from the proposed Yosemite Slough Bridge.

c. Significant Noise Impacts to Parklands Are Underestimated

47-41

The DEIR's significance thresholds include any permanent increases in the ambient noise levels in the Project vicinity above levels existing without the Project. DEIR, III.I-21 (Significance Criteria I.d). Additionally, the San Francisco Noise Ordinance, which also

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contains significance thresholds, relies on and incorporates World Health Organization ("WHO") guidelines that require existing quiet outdoor areas to be preserved and that the ratio of intruding noise to natural background sound to be kept low.[4] DEIR, Table III.I-2. Under both these significance thresholds, noise impacts to the State Park would be significant, assuming they are similar to projected noise levels identified in the DEIR to surrounding neighborhoods of the State Park and Yosemite Slough. *See* DEIR, III.I-10. Noise impacts to the park from the construction and operation of Yosemite Slough Bridge will be significant, and a revised DEIR must be re-circulated to analyze these impacts.

47-41 cont'd.

6. The DEIR Fails to Adequately Analyze Project Impacts to Air Quality

a. The DEIR Fails to Quantify and Properly Mitigate Significant Fugitive Dust Emissions Due to Construction

The DEIR erroneously concludes that the Project's fugitive dust emissions during construction are less than significant without identifying any significance thresholds or explaining the basis for this conclusion. DEIR, III-H-16. This violates CEQA. "[A]n agency must use its best efforts to find out and disclose all that it reasonably can." Guidelines § 15144. The DEIR then defers mitigation to a "site-specific dust control plan" and concludes that these yet-to-be disclosed mitigated emissions are not significant, again, without referring to any significance thresholds or other bases for this conclusion and without any supporting calculations, e.g., mitigated emissions. DEIR, III-H-17. The DEIR thus reaches contradictory conclusions; namely, that these emissions are not significant, yet will require mitigation in the form of a site-specific dust control plan. *Id.* Without any significance thresholds and post-mitigation quantification, it is impossible to determine if the deferred mitigation will reduce construction emissions of fugitive dust to insignificance.

47-42

The DEIR attempts to find refuge in the lack of significance thresholds in BAAQMD's outdated 1999 CEQA Guidelines and in the City's Health Code. BAAQMD's significance thresholds (or lack thereof) do not save the lead agency from conducting an impact analysis that complies with CEQA. Indeed, the lead agency is fully authorized to develop its own threshold. Guidelines § 15064.7. ("Each agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects"); Pub. Res. Code § 21082 (directing agencies to adopt procedures and criteria for evaluating projects). There are a number of approaches the DEIR could have taken to determine the significance of the Project's construction emissions. The DEIR must be revised to provide an analysis of air quality impacts that complies with CEQA's basic disclosure requirements.

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[4] Claimed compliance with the San Francisco Noise Ordinance does not excuse the DEIR from a fully analysis of the Project's noise impacts to the park. Consistency with local standards or general plans is not enough, by itself, to demonstrate that noise impacts will not be significant. *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881-882 (compliance with 50 dB county general plan standard does not necessarily mean noise impacts are insignificant).

The DEIR's deferral of mitigation, in contradiction of CEQA, is particularly troublesome in this case in light of the high levels of contamination known to exist in the soil in the Project area. DEIR, III-H-17. The DEIR must be revised to specifically describe the mitigation measures that will be employed to reduce the Project's fugitive dust emissions.

47-42 cont'd.

b. The DEIR Cannot Rely on Outdated Significance Criteria that The BAAQMD has Replaced

For purposes of determining the air quality impacts from construction and operation of the Project, the DEIR relies on the outdated BAAQMD CEQA Guidelines published in December 1999. The BAAQMD recently updated its CEQA guidelines in a publicly-available document that is readily accessible on the BAAQMD's website.[5] The new guidelines will be in effect within the next few months and are therefore applicable to this Project. The DEIR's failure to use the appropriate significance thresholds for air quality has resulted in a failure to disclose the full extent of the Project's impacts. As the DEIR admits, under the new, relevant BAAQMD CEQA guidelines, the Project's construction-related emissions of ROG and NOx will be potentially significant and unavoidable. DEIR, III.H-40. Additionally, the DEIR admits that "it is possible that the Project will contribute considerably to a cumulative impact" in the zone of influence of the Project. DEIR, III.H-41. Yet, the DEIR does not attempt to quantify this impact, let alone mitigate it. This violates CEQA's disclosure requirements. The DEIR must be revised to disclose these significant impacts. And, as a consequence of any significant, unavoidable impacts, the lead agency must first identify all possible mitigation for these impacts and prepare a statement of overriding considerations before it may approve the Project.

47-43

c. The DEIR's Analysis of DPM from Construction Must Be Revised to Provide Full Disclosure to the Public

The DEIR claims that DPM emissions from construction activities "were estimated assuming the following mitigation were in place: Construction equipment used for the Project will utilize a phased-in emission control technology in advance of a regulatory requirement such that 50 percent of the fleet will meet USEPA ***Tier 4*** engine standards for particulate matter control (or equivalent) during 2010 and 2011 construction activities…" DEIR, III.H-24 (emphasis added). The document then states that as mitigation for the significant DPM emissions from construction, the Project Applicant shall require construction equipment used for the Project to utilize "emission control technology such that 50 percent of the fleet will meet USEPA ***Tier2*** standards . . . for particulate matter control (or equivalent) during 2010 and 2011 construction activities. . ." DEIR, III.H-25 (emphasis added). These statements contradict each

47-44

[5] These new guidelines are scheduled for approval by the BAAQMD Board of Directors on April 7, 2010, long before project construction would commence. *See* http://www.baaqmd.gov/Divisions/Planning-and-Research/Planning-Programs-and-Initiatives/CEQA-GUIDELINES.aspx.

other (one claims USEPA Tier 4 engine standards will be used, the other claims that US EPA Tier 2 engine standards will be used.) *Id.*

47-44 cont'd.

Furthermore, the DEIR may not "assume" any type of mitigation in making its initial significance determination. In so doing, the DEIR, in violation of CEQA, "double counts" the same mitigation measure (first by using it to artificially reduce the initial DPM emission estimate from construction, then by counting it as mitigation to claim that the impact is less than significant). The DEIR plainly admits that if it did not double-count this mitigation "the impacts would be potentially significant." DEIR, III.H-25. The DEIR makes precisely the same mistake in analyzing DPM emissions from construction on Alice Griffith Public Housing. DEIR, III.H-26. The DEIR also makes the same mistake in analyzing DPM emissions from operation of the Project. DEIR, III.H-34. The DEIR must be revised to correct these deficiencies.

d. The DEIR Illegally Avoids Any Quantification of Toxic Air Contaminant Impacts from Construction

47-45

Instead of quantifying the cancer risk associated with TACs from construction, the DEIR states that an "analysis was not conducted to determine the impact of Project construction activities without the dust control mitigation measures described [above]. However, due to the scale of the construction activities and proximity to adjacent receptors, without these dust control measure[s], the impacts from TACs bound to soil PM10 would likely be above the BAAQMD's significance threshold and would therefore be potentially significant." *See, e.g.*, DEIR, III.H-30. As noted above, this discussion turns CEQA's requirements on their head. Instead of quantifying the impact, then comparing it to a significance threshold, making a significance determination, and finally proposing mitigation to reduce the impact to less than significant, the DEIR uses proposed mitigation as the basis to avoid all of the preceding analytical steps. This fails to comply with CEQA.

7. The DEIR Fails to Adequately Examine Impacts to Cultural and Paleontological Resources

47-46

As WRA, Inc. notes, Double Rock is culturally significant to the local community, and the proposed project, including the bridge, would disrupt views of Double Rock from CPSRA and areas within the surrounding community. Exhibit A, p. 4. A revised DEIR must analyze these cultural impacts.

8. The DEIR Fails to Adequately Examine the Project's Hydrological Impacts

47-47

The DEIR omits analysis of whether the construction of the proposed bridge pilings may impede or alter currents entering and exiting Yosemite Slough, thereby impacting the function of Yosemite Slough and its biological habitats. Exhibit A, p. 7. These impacts must be addressed in a revised DEIR.

9. The DEIR Fails to Adequately Examine Impacts to the State Park from Shadows

Shadow studies indicate that during the winter months CPSRA would be impacted by shadows from noon onward. But the DEIR erroneously fails to identify this impact as significant. 47-48

The significance of shadow impacts is informed by the City of San Francisco planning ordinances. *See* City of San Francisco Planning Code 295 (shadow allowance not to exceed 1% for large City parks).[6] The DEIR should adopt a significance threshold for examining shadow impacts to CPSRA with standards equally as rigorous as those provided by the City in Planning Code 295. But regardless, even under existing significance standards, the DEIR should recognize that exceeding a shadow allowance of 1% for CPSRA will substantially affect outdoor recreational activities in the park. The DEIR should fully analyze this issue and disclose significant shadow impacts. Additionally, the DEIR should analyze steps to minimize these impacts through modified residential tower locations and designs.

Shading impacts from the Yosemite Slough Bridge to biological resources also are inadequately analyzed in the DEIR. Exhibit A, pp. 4-7. A revised DEIR must fully analyze negative impacts to Yosemite Slough's biological resources from the bridge's shading. 47-49

F. THE DEIR FAILS TO IDENTIFY AND INCORPORATE EFFECTIVE MITIGATION MEASURES

CEQA requires that an EIR propose and describe mitigation measures sufficient to minimize the significant adverse environmental impacts of a project. Pub. Res. Code §§ 21002.1(a), 21100(b)(3); *see also* Guidelines § 15370 (mitigation measures must be designed to minimize, reduce or avoid an identified environmental impact or to rectify or compensate for that impact). Lead agencies must adopt feasible mitigation measures that will substantially lessen or avoid the Project's potentially significant environmental impacts. Pub. Res. Code §§ 21002, 21081(a). "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. Guidelines § 15364. Mitigation measures also must be fully enforceable through permit conditions, agreements, or other legally binding instruments. Guidelines § 15126.4(a)(2); *Kings County Farm Bureau, supra*, 727 (a public agency may not rely on mitigation measures of uncertain efficacy or feasibility). 47-50

The DEIR identifies numerous significant and potentially significant environmental impacts of the Project. DEIR, Table ES-2. However, the DEIR lacks effective mitigation for virtually all categories of impacts related to the State Park. Many of the mitigation measures are

[6] If this standard is applied to CPSRA, the park would fall into the large park category with less than a 20% shadow loading factor currently. That would allocate a 1% increase allowance to CPSRA.

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ineffective, deferred, or unenforceable, and feasible mitigation measures are overlooked for several significant impacts. Numerous defective mitigation measures are identified in the attached expert letters. *See* Exhibit A and Exhibit B. Defective mitigation measures include:

47-50 cont'd.

MM BI-4a.1: "Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts." The DEIR states that wetlands and jurisdictional waters shall be avoided to "the maximum extent possible." DEIR, III.N-59. This criteria is vague, unenforceable, and ineffective. The mitigation measure further states that where avoidance of existing wetlands and drainages is not possible such impacts will be mitigated by compliance with other environmental laws. DEIR, III.N-59 to III.N-60. Merely citing compliance with other laws is insufficient as a mitigation measure. *Californians for Alternatives to Toxics v. Dept. of Food & Agric.* (2005) 136 CA4th 1, 38 (EIR defective because it simply presumed compliance with California Department of Pesticide Regulation would prevent adverse impacts from pesticide use.) The DEIR must independently analyze impacts to wetlands and not simply rely on compliance with other laws. The DEIR must be revised to recognize that the impacts MM BI-4a.1 purports to mitigate will be significant and unavoidable, even with mitigation.

MM B1-4c: "Mitigation for Shading Impacts to Jurisdictional/Regulated Waters." This mitigation measure is not sufficiently detailed to allow the public to review its effectiveness. DEIR, III.N-68. Further, the creation or restoration of mitigation for permanent shading from the Yosemite Slough Bridge is not specifically identified and deferred to the future. *Id.*

MM RE-2: "Phasing of parkland with respect to residential and/or employment generated uses." This mitigation measure strives to keep the parkland-to-population ratio at 5.5 acres per 1,000 residents. DEIR, III.P-31. As discussed above (analysis of significant impacts to recreational resources), the provision of 5.5 acres per 1,000 residents is not less than significant; and therefore this mitigation measure fails.

More generally, all DEIR mitigation measures related to limiting the use of Yosemite Slough Bridge by private automobiles are ineffective and unenforceable. Exhibit B, pp. 5-8. No legally enforceable restrictions are identified in the DEIR to prevent the bridge from ultimately being used year round by private automobiles.

The DEIR also fails to identify feasible mitigation measures for Project impacts. For example, the DEIR fails to identify mitigation measures to offset the numerous operational impacts, as discussed above, to recreational facilities in the State Park. *See* DEIR, Section III.P.

G. THE DEIR FAILS TO ADEQUATELY ANALYZE CUMULATIVE IMPACTS

47-51

An EIR must discuss significant "cumulative impacts." Guidelines § 15130(a). To be legally adequate, the cumulative impacts analysis must examine the project over time and in

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conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." Guidelines § 15355(b).

47-51 cont'd.

Here, the DEIR fails to analyze the Project's numerous cumulative impacts, including, but not limited to:

- cumulative recreational impacts with the Yosemite Slough Wetlands Restoration Project. Exhibit A, pp. 2-3; and
- cumulative impacts with the Mitigation Measures for SFO Airport Improvements and the BART Extension. As discussed above, the Yosemite Slough Restoration Project fulfills mitigation obligations for Airport Improvements and the BART Extension. The DEIR fails to analyze the cumulative impacts of the Project and the Project's impediments to these mitigation efforts.

A revised DEIR must fully address all cumulative impacts from the Project.

H. THE DEIR DOES NOT ADEQUATELY ANALYZE PROJECT ALTERNATIVES

47-52

A proper alternatives analysis is critical for achieving CEQA's goal of fostering informed decision-making. Pub. Res. Code § 21061; Guidelines § 15126.6(a). An EIR must evaluate the comparative merits of the alternatives. Guidelines § 15126.6(d). And project objectives under CEQA must not be defined overly narrowly so as to preclude a meaningful analysis of alternatives. *See City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438.

The serious flaws in the DEIR's project objectives and treatment of potentially significant impacts to CPSRA, as discussed above, preclude a proper analysis of Project alternatives. A comparative analysis of alternatives is impossible unless the Project's vague objectives to "encourage" the 49ers to build a stadium are clarified – including the attendant need for the Yosemite Slough Bridge – and until the full scope of impacts to Yosemite Slough and CPSRA are examined. The entire alternatives section needs to be reexamined after the DEIR's numerous other deficiencies are rectified.

1. The DEIR Fails to Provide Substantial Evidence to Reject Project Alternatives without Yosemite Slough Bridge

47-53

If alternatives are rejected, an EIR must explain in meaningful detail why such alternatives do not satisfy the goals of the proposed project, do not offer substantial environmental advantages, or cannot be accomplished. *Laurel Heights Improvement Assn., supra,* at 405; *see also City of Santee, supra,* at 1438.

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Our traffic expert concludes that the DEIR (1) contains serious flaws and fails to consider all reasonable and viable alternatives and (2) fails to justify the traffic need for the bridge, regardless of whether a new 49ers stadium is constructed. Exhibit B, pp. 3-5. A revised DEIR therefore must reanalyze and fully consider the Project alternatives without the Yosemite Slough Bridge.

47-53 cont'd.

2. The DEIR Fails to Consider A Reasonable Range of Alternatives to Minimize Environmental Impacts

47-54

An EIR must analyze a reasonable range of alternatives to the project that would feasibly attain most of the basic project objectives. The consideration of alternatives must be judged against a rule of reason to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by responsible officials. Guidelines § 15126.6(f); *Citizens of Citizens of Goleta Valley v. Bd. of Supervisors* (1990) *52 Cal.3d 553, 564* (citing, *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197; *Laurel Heights at* 399). Alternatives must be adequately discussed, "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." Guidelines § 15126.6(b).

The DEIR should consider less environmentally damaging options to building the Yosemite Slough Bridge, which would significantly impact CPSRA, presents inconsistencies with the Yosemite Slough Wetlands Restoration Project, and significantly impact irreplaceable marsh lands and other waters of the United States. *See* DIER, Table III.N-4. A reasonable range of alternatives for the Project is informed by the scope of the project, its location next to CPSRA and Yosemite Slough, and concerns expressed by the public. Significant environmental impacts that are overlooked in the DEIR are attributable, in many instances, to the Yosemite Slough Bridge. The DEIR therefore should examine the following alternatives to the bridge:

- a tunnel under Yosemite Slough;
- a no bridge alternative if the newly proposed 49ers Stadium is not built; and
- improvements to arterial routes as a traffic alternative to accommodate any game-day traffic.

See Exhibit B (DEIR fails to fully examine alternatives to the Yosemite Slough Bridge that would be equally or more effective at meeting transportation needs).

I. THE DEIR IS INCONSISTENT WITH NUMEROUS OTHER LAND PLANS AND POLICIES

47-55

In addition to inconsistencies with the Yosemite Slough Wetlands Restoration Project (discussed above), the DEIR fails to identify inconsistencies with other plans. Avoiding conflicts with other land-use plans *before* development proposals are approved is one of CEQA's

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fundamental purposes. *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296, 307 (1988) (CEQA requires that environmental problems be considered at a point in the planning process where "genuine flexibility remains."); Guidelines §§ 15125(d) and (e) (DEIR must discuss any inconsistencies other plans and any such analysis must discuss "potential future conditions discussed in the plan.")

47-55 cont'd.

1. The Project Is Inconsistent with the Candlestick Point State Recreation Area General Plan

47-56

The DEIR does not disclose the Project's many inconsistencies with the CPSRA General Plan. The CPSRA plan states:

> "It is the policy of the department to protect the scenic values and to enhance, manage, and protect the biotic and natural resources of the area, while fully realizing the potential of the area for fulfillment of outdoor recreation needs."

See DEIR, III.N.44. However, as discussed above, the Project would degrade scenic values, threaten natural resources, and, in many ways that could be avoided, reduce the recreational value of the park. These inconsistencies are significant.

The DEIR is not forthright in its analysis. The DEIR vaguely asserts that "[t]o the extent that the final improvements to the reconfigured CPSRA would be inconsistent with the CPSRA General Plan, these improvements would be addressed through the State Parks General Plan amendment process." DEIR, III.B-12. This is not full disclosure. No analysis is provided disclosing the extent to which the Project is actually inconsistent with the CPSRA General Plan. The Project's proposed land swap and reconfiguration agreement with DPR must be described and analyzed in more detail to fully inform the public of impacts to the park.

A revised DEIR needs to fully describe and identify inconsistencies with the CPSRA General Plan to comply with CEQA.

2. The DEIR Must Identify All Inconsistencies with Senate Bill 792

47-57

The DEIR must identify all inconsistencies with Senate Bill 792, including conflicts with provisions designed to protect CPSRA. Section 26(a)(3), for example, requires that any agreement to reconfigure the State park will "provide an overall benefit to the state recreation area and will further the objective of preserving the park's natural, scenic, cultural and ecological values for present and future generations." The Project's significant impacts to CPSRA, as discussed herein, raise inconsistencies with SB 792. The DEIR must provide a direct analysis of the Project's inconsistencies with all park-protective provisions within S.B. 792.

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3. The Project Is Inconsistent with the San Francisco Bay Plan and Violates the McAteer-Petris Act

47-58

The McAteer-Petris Act of 1965, Government Code §§ 66600, *et seq.*, and the San Francisco Bay Plan ("Bay Plan") set forth policies to protect the shoreline of the Bay and minimize Bay fill. The San Francisco Bay Conservation and Development Commission ("BCDC") is authorized to issue or deny permit applications for placing fill, extracting materials, or changing the use of any land, water, or structure within the area of its jurisdiction, in conformity with the provisions and policies of both the McAteer-Petris Act and the Bay Plan. Projects inconsistent with the Bay Plan may not be approved. *See* Gov. Code § 66632(f).

The Project would violate the McAteer-Petris Act requirement that Bay fill only be authorized by BCDC if there is no feasible upland location to the project. Gov. Code § 66605. As discussed herein, the DEIR did not adequately discuss feasible traffic alternatives to constructing the Yosemite Slough Bridge that would involve improvements to upland locations. Exhibit B, pp. 3-5.

The Project is inconsistent with Bay Plan policies on "Appearance, Design, and Scenic Views." These policies state:

- "all bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay";
- "maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore";
- "towers, bridges or other structures near or over the Bay should be designed as landmarks that suggest the location of the waterfront when it is not visible especially in flat areas"; and
- "additional bridges over the Bay should be avoided, to the extent possible, to preserve the visual impact of the large expanse of the Bay."

Bay Plan, pp. 61-63. The DEIR fails to fully analyze and disclose the visual impacts from the Yosemite Slough Bridge that would violate these policies. Exhibit A, p. 4.

The Project also is inconsistent with Bay Plan policies protecting wildlife, wetlands, and other biological resources. These policies state:

- "to the greatest extent possible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased." Bay Plan, p. 16 ("Fish, Other Aquatic Organisms, and Wildlife");
- "[t]idal marshes and tidal flats should be conserved to the fullest possible extent," and

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projects that substantially harm tidal marshes or tidal flats are allowed "only if there is no feasible alternative." Bay Plan, p. 23 ("Tidal Marshes and Tidal Flats"); and

- "[s]ubtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife… should be conserved," and "[f]illing, changes in use, and dredging projects in these areas should therefore be allowed only if... there is no feasible alternative." Bay Plan, p. 27 ("Subtidal Areas").

The DEIR must analyze inconsistencies with these policies that would result from the Project's significant impacts to biological resources. *See* Exhibit A, p. 7.

Finally, the proposal to build the Yosemite Slough Bridge is inconsistent with Bay Plan Transportation policies because (1) the bridge would not provide adequate clearance for vessels that normally navigate the waterway beneath the bridge, Bay Plan, p. 47 (policy 3b); *see* Exhibit A, p. 8; and (2) the DEIR does not adequately explore other feasible traffic alternatives (discussed above) to a building a bridge. Bay Plan, p. 47 (policy 2); *see* Exhibit B, p. 9. The DEIR must be revised to recognize these transportation inconsistencies with the Bay Plan.

47-58 cont'd.

4. The Project Is Inconsistent with the Bayview Hunters Point Redevelopment Plan

47-59

The Bayview Hunters Point Redevelopment Plan sets forth the explicit policy to create a "restored and redeveloped Yosemite Slough on CPSRA land." DEIR, III.B-24. Yet, the DEIR erroneously concludes that "[a]lthough the construction of the Yosemite Slough bridge would change this area, it would not detract from its use in the CPSRA or its biological and other resource utility." *Id.* As discussed above, the Project threatens to impede the restoration and redevelopment of Yosemite Slough, and therefore is also significantly inconsistent with the objectives of the Bayview Hunters Point Redevelopment Plan to support restoration of the Slough. A revised DEIR must recognize this inconsistency.

J. THE DEIR MUST BE REVISED AND RE-CIRCULATED

47-60

A supplemental or revised DEIR must be prepared and re-circulated for public review. CEQA requires a lead agency to re-circulate an EIR when significant new information is added to the EIR following public review but before certification. Pub. Res. Code § 21092.1. CEQA Guidelines clarify that new information is significant if "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project" including, for example, "a disclosure showing that … [a] new significant environmental impact would result from the project." Guidelines § 15088.5. Lead agencies cannot rely on an DEIR "that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review." *Mountain Lion Coalition v. California Fish and Game Comm'n* (1989) 214 Cal.App.3d 1043, 1053. As explained by a recent CEQA decision:

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"The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context." (Guidelines, § 15125(c)) We interpret this Guideline broadly in order to 'afford the fullest possible protection to the environment.' (*Kings County Farm Bureau, supra*, 221 Cal.App.3d 692, 720) In so doing, we ensure that the EIR's analysis of significant effects, which is generated from this description of the environmental context, is as accurate as possible. (See also Remy et al., *Guide to the California Environmental Quality Act* (CEQA) (10th ed. 1999), pp. 374-376.)

47-60 cont'd.

Friends of the Eel River v. Sonoma County Water Agency, (2003) 108 Cal. App. 4th 859, 874.

Here, the DEIR is fundamentally inadequate and precludes a meaningful public review of Project impacts, including impacts related to the State Park, the Yosemite Slough Wetlands Restoration Project, recreational users, and biological resources. Substantial new information will be needed to adequately assess the proposed Project's environmental impacts, re-examine feasible alternatives, and identify effective mitigation. A revised DEIR is required to provide the public and decisionmakers with meaningful opportunity to understand the full scope of Project impacts, mitigation measures, and alternatives. Guidelines § 15088.5(b)(4).

III. THE PROJECT MUST COMPLY WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

47-61

The Project has a "federal nexus" that demands review under the National Environmental Policy Act. A federal nexus attaches to a CEQA project when it requires major federal action, including discretionary permits, entitlements, or authorizations. All agencies of the federal government must, to the fullest extent possible, comply with NEPA. *See* 42 U.S.C. § 4332. In particular, if a federal agency's actions may affect wetlands and other important habitats, including critical habitat under the Federal Endangered Species Act the federal agency must comply with NEPA and further produce an Environmental Impact Statement ("EIS"). *See* 40 C.F.R. § 1508.27.

Here, federal approvals or permits are required from the U.S. Navy, Army Corps of Engineers, Department of the Interior, Coast Guard, and Department of Housing and Urban Development, *see* DEIR, ES-6, and the Project proposes to fill wetlands and potential impact critical habitat under the FESA. The DEIR, however, omits any discussion of NEPA requirements. Under CEQA, when a project also is subject to NEPA review, lead agencies should try to prepare a combined environmental review document and, "[t]o avoid the need for the federal agency to prepare a separate document for the same project, the Lead Agency must involve the federal agency in the preparation of the joint document." Guidelines § 15222.

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The Project must comply with NEPA, and the DEIR must be revised to comply with the CEQA Guidelines by listing NEPA among the Project's necessary environmental review processes. **47-61 cont'd.**

IV. THE PROJECT CONFLICTS WITH SECTION 404 OF THE CLEAN WATER ACT **47-62**

As currently configured, the Project does not meet the requirements of Section 404 of the Federal Clean Water Act, 33 U.S.C. §§ 1344, *et seq.* ("CWA"). Under Section 404, a permit must be obtained from the USACE prior to the discharge of dredged or fill materials into any "waters of the United States or wetlands." *Id.* § 1344(b).

The DEIR concedes that a permit from the USACE would be required for the Project. DEIR, III.N-37. However, there is no meaningful discussion regarding the standards for obtaining such a permit or whether the Project can meet those standards. Under the CWA, no permit to fill or discharge into U.S. waters is permitted if there is a "practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences." 40 C.F.R. § 230.10(a). A "practicable" alternative is one that is "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes." *Id.* at § 230.10(a)(2).

A "practicable alternative" exists to building the proposed Yosemite Slough Bridge that would avoid impacts from the bridge to Section 404 waters. *See* Figure III.N-3 and III.N-5 (impacts to wetlands and other waters). As discussed above, the DEIR fails to adequately consider project alternatives that would avoid construction of the Yosemite Slough Bridge, *see also* Exhibit B, and therefore the Project falls short of Section 404 permit requirements to demonstrate that no "practicable alternative" exists to constructing a through the sensitive waters of Yosemite Slough.

V. THE PROJECT POTENTIALLY CONFLICTS WITH NUMEROUS OTHER PROVISIONS OF LAW **47-63**

A. THE PROJECT POTENTIALLY VIOLATES THE LAND AND WATER CONSERVATION FUND ACT OF 1965

Pursuant to the Land and Water Conservation Fund Act of 1965 ("LWCFA"), DPR received three grants between 1979 and 1981 to assist with the development of trails, picnic areas, and other amenities on the CPSRA. The DEIR, however, fails to demonstrate how development and the take of lands on the CPSRA would comply with LWCFA. Instead, the DEIR summarily concludes that the "reconfiguration of the CPSA, discussed below, would comply with LWCFA." DEIR, III.P-6. This bare conclusion is insufficient to demonstrate compliance.

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B. THE PROJECT POTENTIALLY VIOLATES THE CALIFORNIA PUBLIC PARK PRESERVATION ACT

47-64

The Public Park Preservation Act, Pub. Res. Code § 5400 *et seq*., restricts the ability of public agencies to use parklands for other purposes. The Act provides that a public agency that acquires public parkland for non-park use must either pay compensation sufficient to acquire substantially equivalent substitute parklands or provide substitute parklands of comparable characteristics. Pub. Res. Code § 5401. The DEIR should assess the applicability of this provision of State Code given the Project proposes transfers of parklands between public agencies.

C. THE PROJECT POTENTIAL VIOLATES CALIFORNIA PUBLIC RESOURCES CODE SECTION 5096.516

47-65

Public Resources Code ("PRC") section 5096.516 prohibits the transfer of any land being used as a public park unless: the selling or transferring agency prepares a detailed report and specific finding that the land no longer serves a needed conservation purpose; a public hearing is held; and the transfer gains Legislative approval. Pub. Res. Code § 5096.516(a). Several exceptions apply, including for the sale or transfer of property with less than $1 million in fair market value; however, parklands with high scenic values, like areas in CPSRA, likely have market values in excess of this minimum requirement. (The general rule in California for establishing just compensation is the market value of the property determined by the highest and most profitable use for which the property is adaptable.)

To date, CSPF is not aware of any efforts to ensure the Project meets the requirements of PRC 5096.516. The DEIR should identify PRC 5096.516 as a pertinent state law and disclose the time and schedule for Project compliance.

VI. CONCLUSION

47-66

Development projects should avoid impacting State parklands if at all possible, and we are not convinced that this Project, in its present iteration, is designed in a park-friendly manner. CPSRA is a unique resource meriting the utmost protection of our environmental laws.

For the reasons set forth above, the DEIR violates CEQA's fundamental mandates of informing the public and decisionmakers of significant environmental impacts, fails to identify

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all feasible mitigation measures, and fails to analyze a reasonable range of alternatives to the Project. To comply with CEQA and rectify these deficiencies, we request that a revised DEIR be re-circulated for public review.

47-66 cont'd.

Sincerely,

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San Francisco, CA 94109

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1911 Bush St., #2H
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California State Parks Foundation
Hunters Point Shipyard Phase II Development Plan Project; SCH #2007082168

EXHIBIT A

WRA

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California State Parks Foundation
Hunters Point Shipyard Phase II Development Plan Project; SCH #2007082168

EXHIBIT B

Tom Brohard, P.E.

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wra
ENVIRONMENTAL CONSULTANTS

January 5, 2010

James Birkelund, Esq.
840 California St., Suite 45
San Francisco, CA 94108

Re: Technical Comment on the Candlestick Point-Hunter's Point Shipyard Phase II DEIR

Dear Mr. Birkelund,

At the request of the California State Parks Foundation, WRA is preparing this technical review of the Candlestick Point-Hunter's Point Shipyard Phase II DEIR. The purpose of this letter is two-fold: **47-67**

1.) To provide an analysis of potential impacts the Candlestick Point-Hunter's Point Shipyard Phase II Project ("project") may have on the current conditions within Yosemite Slough and impacts the project may have to the Yosemite Slough Wetlands Restoration Project; and

2.) To provide technical review of the DEIR from a CEQA compliance and biological resources perspective.

WRA has been involved in the Yosemite Slough Restoration Project since 2003, providing restoration site design, biological resources surveys, and permitting assistance. At the date of this letter the Yosemite Slough restoration Project has completed a Final Initial Study and Mitigated Negative Declaration (California Department of Parks and Recreation, April 2006, SCH# 2005122023). The project has also received Section 401 Water Quality Certification and Waste Discharge Requirements (July 2007), and San Francisco Bay Conservation and Development Commission Permit Amendments (March 2005 and September 2009). The U.S. Army Corps of Engineers (Corps) Section 404 permit application has been submitted and is nearing completion. The Restoration Project's regulatory permit application requirements will be fulfilled upon the issuance of the Corps permit.

Aspects of the proposed Candlestick Point-Hunter's Point Shipyard Phase II redevelopment project, in particular, the Yosemite Slough Bridge, will have significant impacts to restored wetlands and to recreational values of the Yosemite Slough Restoration Project. These significant impacts could result in the need to at least partially revise the already completed and almost fully permitted Restoration Project design, causing significant delays and at least partial re-application for permits that have already been granted for the project. These potential design and permit revisions would come at great cost to this California State Parks project at a time of limited funding availability. **47-68**

In addition, much of the cost for the Yosemite Slough Restoration Project was funded by wetland impact in-lieu fee funds provided by Bay Area Rapid Transit (BART) and City and County of San Francisco Airport Commission as mitigation for wetlands that have been impacted as part of permitted projects undertaken by these public agencies. If the proposed Candlestick Point-Hunter's Point Shipyard Phase II redevelopment project would impact the

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wetlands to be created as part of the Yosemite Slough Restoration Project, the wetland impacts could affect both the regulatory permits of these public agencies and the funding agreements that have been made with the California State Parks Foundation to provide wetland mitigation in Yosemite Slough.

47-68 cont'd.

In addition to these potential impacts on the Yosemite Slough Restoration Project, the Yosemite Slough bridge has the potential to impact current conditions within the State Park and especially to Yosemite Slough. Based on overlays of the proposed bridge using topographic maps and GIS technology, the proposed Yosemite Slough bridge overlaps with the California State Parks operating boundary, with portions of Parks-owned property, and with significant portions of the planned restoration, including planned viewpoints and created wetlands (see Figures 1 and 2, attached). These impacts were not analyzed in the DEIR. More specific comments on the proposed Candlestick Point-Hunter's Point Shipyard Phase II DEIR are described in detail below in relation to the Yosemite Slough Restoration and current conditions within the DEIR Study Area.

A) <u>Significant and Potentially Significant Impacts of the Candlestick Point-Hunter's Point Shipyard Phase II Redevelopment Project on the Yosemite Slough Restoration</u>

47-69

Comment A1. A comment letter dated September 12, 2007 from the California Department of Parks and Recreation (DPR) was submitted in response to the circulated Notice of Preparation (NOP) for the Candlestick Point-Hunter's Point Shipyard Phase II redevelopment project (Appendix A of the DEIR, NOP Comment Letters). The DPR comment letter on the NOP raised concerns that the proposed redevelopment project (especially the Yosemite Slough bridge) could compromise the Yosemite Slough Restoration. The DEIR failed to analyze these impacts, which were raised by the DPR in its role as a Responsible Agency under CEQA. The potential impacts of the Yosemite Slough Bridge, raised by the DPR as a Responsible Agency under CEQA, should have been analyzed in the DEIR as required by Section 21080.4(a) of the Public Resources Code. The DEIR made every effort to *exclude* an analysis of these potential impacts to Yosemite Slough, repeatedly stating that Yosemite Slough was excluded from the project site and failing to analyze direct, indirect, and cumulative impacts that the bridge could have on the restoration project particularly with regard to Recreation, Aesthetics, and Biological Resources.

47-70

Comment A2. The DEIR fails to acknowledge inconsistencies with the Yosemite Slough Restoration Plan as a pertinent local plan and policy in the Recreational, Land Use, and Aesthetics sections, among others, and fails to analyze the potential conflicts of the project with the established goals of the restoration plan as required by Section 15125(d) of the Public Resources Code. The DEIR recognizes the Yosemite Slough Restoration Plan as a pertinent local plan in the Biological Resources section, but does not include any analysis of inconsistencies with the Yosemite Slough Restoration Plan, including the project's physical impacts to the planned environment and related mitigation. The Candlestick Point-Hunter's Point Shipyard Phase II project would have potential significant impacts because it is inconsistent with the Yosemite Slough Restoration Plan.

47-71

Comment A3. A portion of the DEIR Study Area in the vicinity of the Yosemite Slough bridge overlaps with the Yosemite Slough Restoration Plan, and therefore would have direct impacts to the restoration (see Figure 2, attached). In addition, the Yosemite Slough bridge would conflict with many of the goals of the Yosemite Slough Restoration

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Plan, blocking scenic vistas, affecting recreational opportunities, and impacting portions of the restored wetlands. These impacts and potential impacts were not discussed in the DEIR. **47-71 cont'd.**

Comment A4. The DEIR does not analyze inconsistencies that would be caused by direct, indirect, and cumulative impacts of the project on wetlands that have been designed as part of the Yosemite Slough Restoration Project (Figure 2). **47-72**

Comment A5. Additionally, the DEIR's treatment of the Yosemite Slough Restoration Project is inconsistent with the methodology used in the DEIR to analyze potential impacts of the redevelopment on Navy remediation efforts. On pages III.N-48 and 49 of the DEIR an analysis methodology is discussed for the Navy remediation efforts in which impacts to baseline conditions as they existed at the time of the NOP as well as impacts to baseline conditions as they will exist after completion of the Navy remediation efforts and mitigation planned as part of the remediation. This analysis is appropriate for the Navy remediation efforts because the planned and approved remediation efforts effectively alter the baseline conditions that the Candlestick Point-Hunters Point Shipyard redevelopment project are likely to impact. This methodology is further supported in section III.A-2 which states "*While the baseline condition is generally the physical conditions that existed at the time the NOP is published, which was August 2007, there may be reasons why a different baseline condition should be used for the analysis*". We agree with the above methodology and it should be applied evenly and consistently to other approved projects within and adjacent to the proposed redevelopment area. The Yosemite Slough Restoration Plan is set to begin construction prior to implementation of the Hunters Point redevelopment. The analysis of impacts should specifically address impacts of the redevelopment project on the baseline conditions that would be present at the time of completion of the approved Yosemite Slough Restoration Plan. **47-73**

Comment A6. Based on the extent of the DEIR Study Area, the project will cause significant impacts to wetlands created as part of the Yosemite Slough Restoration. These potential impacts should be considered in the same way the Navy mitigation wetland impacts have been considered. These potential impacts should be addressed in sections III.B and III.N of the DEIR. **47-74**

Comment A7. The Yosemite Slough Bridge will have noise related impacts on the users of the Yosemite Slough Restoration area. The potential impacts to Yosemite Slough Restoration park users from introducing new sources of noise on the Yosemite Slough Bridge should be analyzed in section III.I of the DEIR. **47-75**

Comment A8. The Yosemite Slough Bridge will have aesthetic impacts on the users of the Yosemite Slough Restoration area in the form of blocking viewpoints of Double Rock, the East Bay skyline, and open water of the Bay from the planned Vista Points. The bridge would also have a potential significant impact on views of the restored Yosemite Slough from open water areas and land-based viewpoints to the east of the proposed bridge. These are potential significant impacts, and should therefore be addressed in section III.E of the DEIR. **47-76**

Comment A9. Shading as a result of the Yosemite Slough Bridge has the potential to significantly impact the establishment of wetland vegetation to be planted as part of the **47-77**

3

Yosemite Slough Restoration. These potential impacts should be analyzed in sections III.F and III.N of the DEIR. 47-77 cont'd.

The following comments are not related to the consideration of the completed Yosemite Slough Restoration Project in the baseline conditions for the DEIR. These comments stand alone and should be addressed regardless of inconsistencies with the wetlands restoration plan. 47-78

B) <u>Technical review of the DEIR from a CEQA compliance and biological resources perspective</u>

1) Aesthetics, Section III.E

Comment B1a) The analysis of impacts to aesthetics did not adequately address impacts of the Yosemite Slough Bridge on views from Yosemite Slough and the State Park. Yosemite Slough and other areas of the park provide views of Double Rock, the East Bay Skyline, and open water of the Bay. The viewshed analysis should have included viewpoints, for example, from Yosemite Slough looking east toward the Bay. The only viewpoint that was analyzed in the DEIR from within Yosemite Slough did not incorporate the views of Double Rock, San Francisco Bay, or the East Bay skyline. The proposed Yosemite Slough Bridge will have potentially significant impacts on the views from Yosemite Slough and other areas of the state park out onto the San Francisco Bay, Double Rock, and East Bay skyline. These significant impacts should be analyzed in section III.E of the DEIR. Examples of views from within Yosemite slough that will be significantly impacted due to the Yosemite Slough bridge are shown in the photographs attached to this letter. Two viewpoint graphics developed by Lennar Urban are also attached showing the impact the bridge would have on views from Yosemite Slough. These viewpoints were not included in the aesthetics analysis in the DEIR.

Comment B1b) Double Rock is a defining element of the local community, with many businesses, churches and housing developments bearing the name Double Rock. The proposed project, including the proposed bridge, could limit or entirely block views of Double Rock from portions of the surrounding community (see Figure III.E-20). The blocking of views of Double Rock may be considered a potentially significant impact from an aesthetics well as from a cultural resources perspective. These potential significant impacts should be analyzed in sections III.E and III.J of the DEIR. 47-79

Comment B1c) Blocking the aesthetic viewpoint from Yosemite Slough with the proposed Yosemite Slough bridge is inconsistent with BCDC San Francisco Bay Plan Appearance, Design, and Scenic Policies 2, 4, 6, and 10 (pp 62-63 of the Bay Plan). This inconsistency with the Bay Plan was not disclosed or analyzed as part of the DEIR. 47-80

2) Biological Resources, Section III.N 47-81

Comment B2a) Figure III.N-2 does not indicate any mapped habitat types within the portion of the Study Area that overlaps with the Yosemite Slough Restoration Project area. Therefore, it is unclear if this area was included in the analysis of potential impacts to biological habitats. All habitat types located within the Study

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Area should be identified and impacts should address all of these habitat types affected by the proposed project. Figure III.N-2 should be revised to show the habitat types that exist within this portion of the Yosemite Slough Restoration Area, as the project could have significant impacts to biological habitats in this area. **47-81 cont'd.**

Comment B2b) The Study Area for the Biological Resources analysis is not clearly defined and not clearly maintained throughout the analysis. As an example see the following unclear sentence from page III.N-1: "*The off-site aquatic resources discussed include Yosemite Slough (except the area of construction), the open water area between Candlestick Point and HPS Phase II (known as South Basin), and adjacent open waters that would be impacted by Project components (i.e., breakwaters, gangways, floats, etc.).*" This sentence appears to state that aquatic impacts in the area proposed for construction at Yosemite Slough are not analyzed. The Study Area needs to be clearly defined and all impacts within the Study Area need to be adequately addressed. This is especially true of areas where construction is proposed. **47-82**

Comment B2c) The regulatory setting does not discuss NMFS regulation of eelgrass as Essential Fish Habitat. The NMFS does consider eelgrass Essential Fish Habitat (EFH). **47-83**

Comment B2d) Table III.N-4 is referred to as a reference point for viewing potential self mitigating impacts that are discussed as part of the impacts to wetlands and waters in Impact BI-4a through BI-4c. This table does not clearly show which impacts were determined to be self mitigating, and there is also no figure that shows which impacts have been determined to be self-mitigating. Therefore, the impacts that have been identified as self mitigating are not adequately disclosed. It should be clearly shown which areas of wetland and the extent of wetlands impacted that are considered to be self mitigating and those that will require compensatory mitigation. **47-84**

Comment B2e) The wetland mitigation and monitoring plan requirements (MM BI-4a.1) are inadequate and not consistent with standard wetland mitigation and monitoring plans based on Corps San Francisco District regulatory policy (Corps 2004). There is no requirement for a long term management component of the mitigation and monitoring plan, which is clearly required in Corps guidance. Also, the requirement that mitigation wetlands contain at least 65 percent cover by native species leaves open the possibility that as much as 35 percent of the created mitigation wetlands could be comprised of non-native or invasive species, if the total vegetative cover was 100 percent. This poses a direct conflict with the monitoring requirements of the Yosemite Slough Restoration by allowing higher cover of invasive species in areas directly adjacent to the restoration area. This requirement should be changed to allow no more than 5 percent cover by non-native invasive plant species, independent of the total vegetative cover, to be consistent with commonly applied requirements for invasive species cover in mitigation wetlands. **47-85**

Comment B2f) In the Impact BI-4c it is stated that the proposed bridge would be 81 feet wide by 902 feet long and that 0.94 acres of open water/mudflat habitats would be impacted as a result. A bridge of these dimensions would cover an area approximately 1.7 acres. The DEIR does not clearly identify which other habitat types would be directly shaded by the remaining 0.8 acres of the proposed bridge. **47-86**

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The DEIR should identify and analyze the potential impacts to all habitat types shaded by the bridge. **47-86 cont'd.**

Comment B2g) Shading impacts associated with construction of the new bridge (Impact BI-4c) were not analyzed consistently with the methods that were utilized for impacts from buildings. The shade from the proposed bridge will impact areas adjacent to the bridge in addition to the aerial footprint of the bridge. Solar aspect was considered in the analysis for buildings and should also have been considered in analyzing impacts caused by the bridge. These shading impacts would affect subtidal and intertidal areas in Yosemite Slough, with potential impacts to subtidal and tidal marsh vegetation. Impacts from shading on subtidal and tidal marsh vegetation have been well documented (Kelty and Bliven 2003). Therefore the project would have significant and potentially significant impacts on subtidal habitats due to the proposed bridge. **47-87**

Comment B2h) Though no eelgrass was observed in the area of the Yosemite Slough bridge, this area has been identified as habitat that could potentially support eelgrass (Merkel and Associates 2004), and therefore should be identified as an area for application of eelgrass mitigation measures as part of mitigation measures MM BI-5b.1 through MM BI-5b.4. The previously known locations of eelgrass were identified and analyzed as part of the DEIR, but the evaluation did not account for the fact that the location, aereal coverage, and density of shows extremely wide variation from year to year in San Francisco Bay. Therefore, the location, aereal coverage, and density of eelgrass in the DEIR Study Area may have changed since the time of the baywide eelgrass survey. No new eelgrass survey of the area was performed to evaluate how the eelgrass distribution may have changed since the time of the baywide eelgrass survey. Given the established tendency of eelgrass to vary widely in location, aereal coverage, and density in San Francisco Bay, and the fact that the area of Yosemite Slough has been identified as an area with suitable habitat conditions for eelgrass, the DEIR should require surveys and mitigation as needed for the construction of the Yosemite Slough Bridge. There is potential that eelgrass could occur in the Yosemite Slough bridge area, and therefore potential significant impacts may occur. **47-88**

Comment B2i) The DEIR Impact BI-6 does not consider potentially significant noise impacts of the Yosemite Slough Bridge on potential bird roost and nest sites on Double Rock. Double Rock was identified as an area of potential nesting habitat as part of the *Yosemite Slough Watershed Wildlife Survey*, which was specifically referenced as background documentation in the DEIR. Therefore, there could be significant impacts to the use of Double Rock by birds as a result of noise on the Yosemite Slough bridge. **47-89**

Comment B2j) Potential impacts to Western Red Bat (Impact BI-8), including displacement, injury, or kill of live individuals, are identified but then determined to be less than significant with no mitigation. Western Red Bat has been identified as a California Species of Special Concern and "High Priority" species by the Western Bat Working Group. Based on this designation, impacts to Western red bat, including displacement, injury, or kill of an individual are considered significant under Section 15380(d) of the Public Resources Code, and mitigation should be proposed for this significant impact. **47-90**

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Comment B2k) The noise from construction equipment is cited as being sufficient to rouse Western Red Bat in time for this species to vacate the area of construction (Impact BI-8). However, low frequency noise emitted by machinery is often not detectable to bats. Therefore, the noise related to removal of potential roost sites may not be sufficient to alert the bats to the disturbance in sufficient time to flee the area. The project could therefore result in potential significant impacts to Western Red Bat during construction. **47-91**

Comment B2l) Temporal loss of Oyster habitat was not analyzed as part of Impact BI-10 in the DEIR. New hard substrate material takes time to become suitable for oyster establishment so there will be significant temporal impacts to oysters while the hard substrate develops sufficient biotic material coverage to allow oyster attachment. Additional mitigation is necessary to compensate for these significant temporal impacts. **47-92**

Comment B2m) The potential impacts on EFH and special status fish species of shading from the Yosemite Slough bridge were not discussed as part of the discussion in Impact BI-11 or BI-12. Several studies have demonstrated that shaded structures can have significant impacts on fish behavior, affecting EFH (see Southard, et al. 2006 and Hanson 2003). These significant impacts should be discussed and mitigation proposed as part of the DEIR. **47-93**

Comment B2n) Mitigation measure BI-4a.1, referenced for EFH impacts (Impct BI-12), which includes creation of EFH as a potential mitigation measure, has not been demonstrated to be feasible. Creating EFH habitat in San Francisco Bay is complicated and not well established as a feasible mitigation measure. Most attempts to accomplish creation of EFH within San Francisco Bay have not been successful. This mitigation has not been proven feasible. **47-94**

Comment B2o) Long term impacts on EFH as a result of the operation of the marina that are not related to maintenance dredging are not discussed as part of Impact BI-12b. All potentially significant long term operational impacts of the marina on EFH, such as fuel spillage, motorized boat use, and other factors, should be analyzed in the DEIR. **47-95**

Comment B2p) The project is inconsistent with the BCDC San Francisco Bay Plan Fish, Other Aquatic Organisms, and Wildlife Policies 2 and 4 (pg 16 of the Bay Plan), with Bay Plan Tidal Marshes and Tidal Flats Policies 1 and 3 (pg 23 of the Bay Plan), and with Subtidal Areas Policies 1 and 2 (pg 27 of the Bay Plan). These inconsistencies were not disclosed or analyzed as part of the DEIR. **47-96**

3) *Hydrology, Section III.M, and Biological Resources, Section III.N*

Comment B4a) The DEIR does not address whether the construction of the proposed bridge pilings may impede or alter currents entering and exiting Yosemite Slough, thereby impacting the functioning of the Slough and the biological habitats within Yosemite Slough. Potential impacts from altered currents within Yosemite Slough should be analyzed in the DEIR to determine whether or not the impacts would be significant. **47-97**

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4) *Recreation, Section III.P*

Comment B4a) There is no discussion as to whether construction of the bridge will impede the ability of small boat traffic, such as kayaks and zodiacs, to travel between Yosemite Slough and the Bay. Yosemite Slough is a Traditional Navigable Waterway and the proposed bridge over the slough will have a low overhead clearance during high tides and may impede navigation into or out of Yosemite Slough during the tides when this slough would be accessible to boaters. The DEIR should discuss and analyze potentially significant impacts associated with the restricted use of this area. The bridge is inconsistent with BCDC San Francisco Bay Plan Transportation Policy 3(b) if it does not provide adequate clearance for vessels that normally navigate the waterway beneath the bridge. Based on the bridge specifications, the bridge allows a minimum of 4 feet of clearance, which may not allow small watercraft adequate clearance. **47-98**

Comment B4b) Impact RE-3 in the DEIR discusses the fact that 29 acres of park land would be lost, but dismisses this as a less than significant impact with no mitigation because of the assumption that use of the remaining parks after the redevelopment project implementation would be improved. This appears to be a mixture of an impact and mitigation measure, with the decrease in park land being the impact, and increased use as the mitigation measure. The analysis does not differentiate between these two aspects. The loss of parkland is a significant impact that must be recognized and should have a complete associated mitigation measure. **47-99**

Comment B4c) The project would have significant impacts on recreational trails in the State Park. Figure III.B-3 and the respective sections of the Land Use Chapter show the proposed Bay Trail crossing the proposed Yosemite Slough Bridge, thereby bypassing the portion of the trail that is planned for construction as part of the Yosemite Slough Restoration Plan. This divergence from the Bay Trail Plan and the Yosemite Slough Restoration Plan would realign the trail away from the natural shoreline and may be inconsistent the intent of the bay trail. The recreational analysis in the DEIR does not adequately address the new trail alignment's significant impact on adjacent park lands. **47-100**

Our review disclosed serious flaws and several significant unaddressed issues regarding the Yosemite Slough Bridge. **47-101**

The analysis above provides a non-comprehensive list of defects in the DEIR. WRA's analysis was necessarily limited given the massive scope of the Candlestick Point-Hunter's Point Shipyard Phase II Project and DEIR and given the time constraints that are part of this CEQA review process. Please let me know if you have any questions or comments regarding the above analysis.

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Sincerely,

Justin Semion
Associate Aquatic Ecologist
WRA, Inc.

References Cited:

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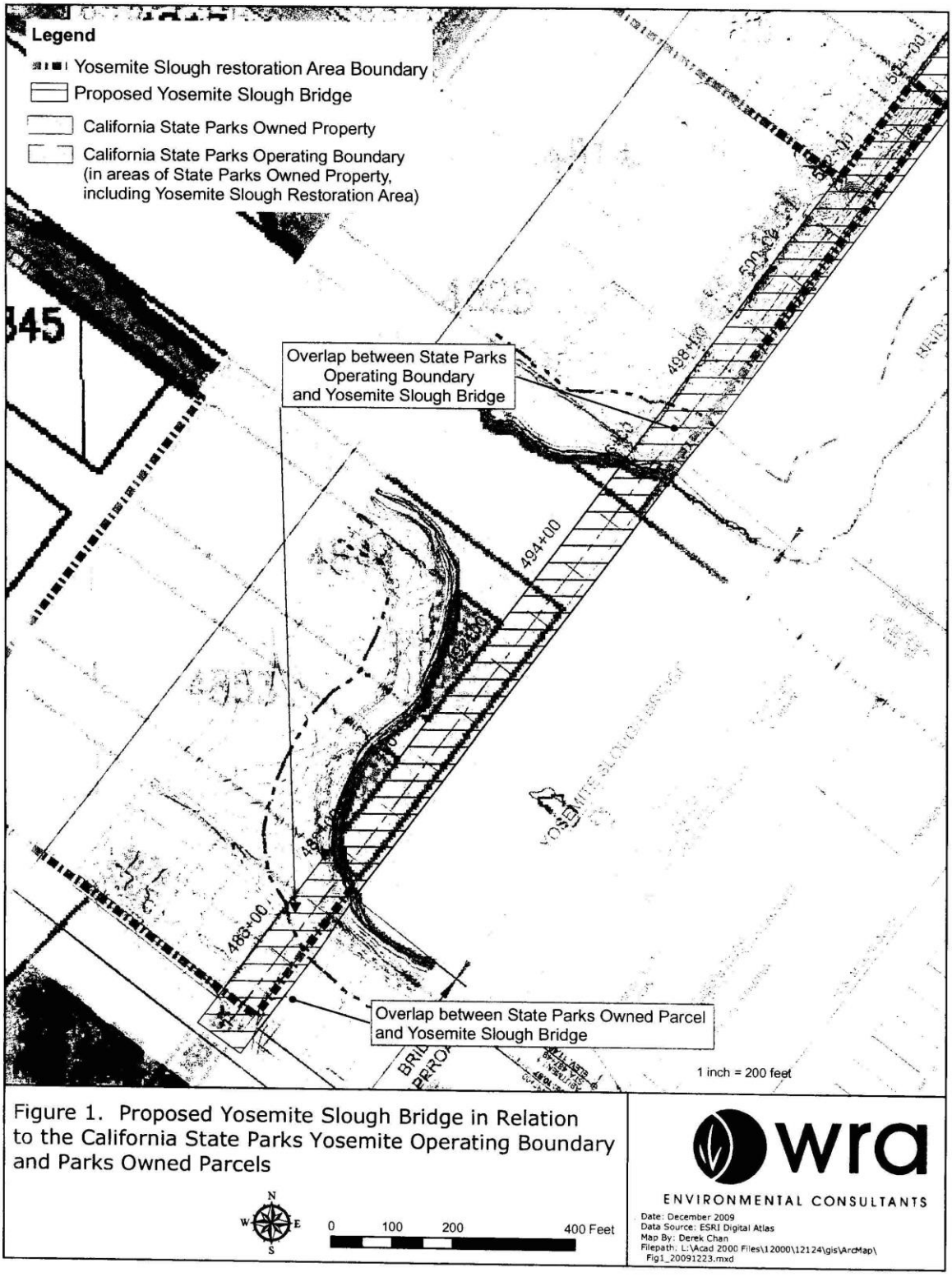

Figure 1. Proposed Yosemite Slough Bridge in Relation to the California State Parks Yosemite Operating Boundary and Parks Owned Parcels

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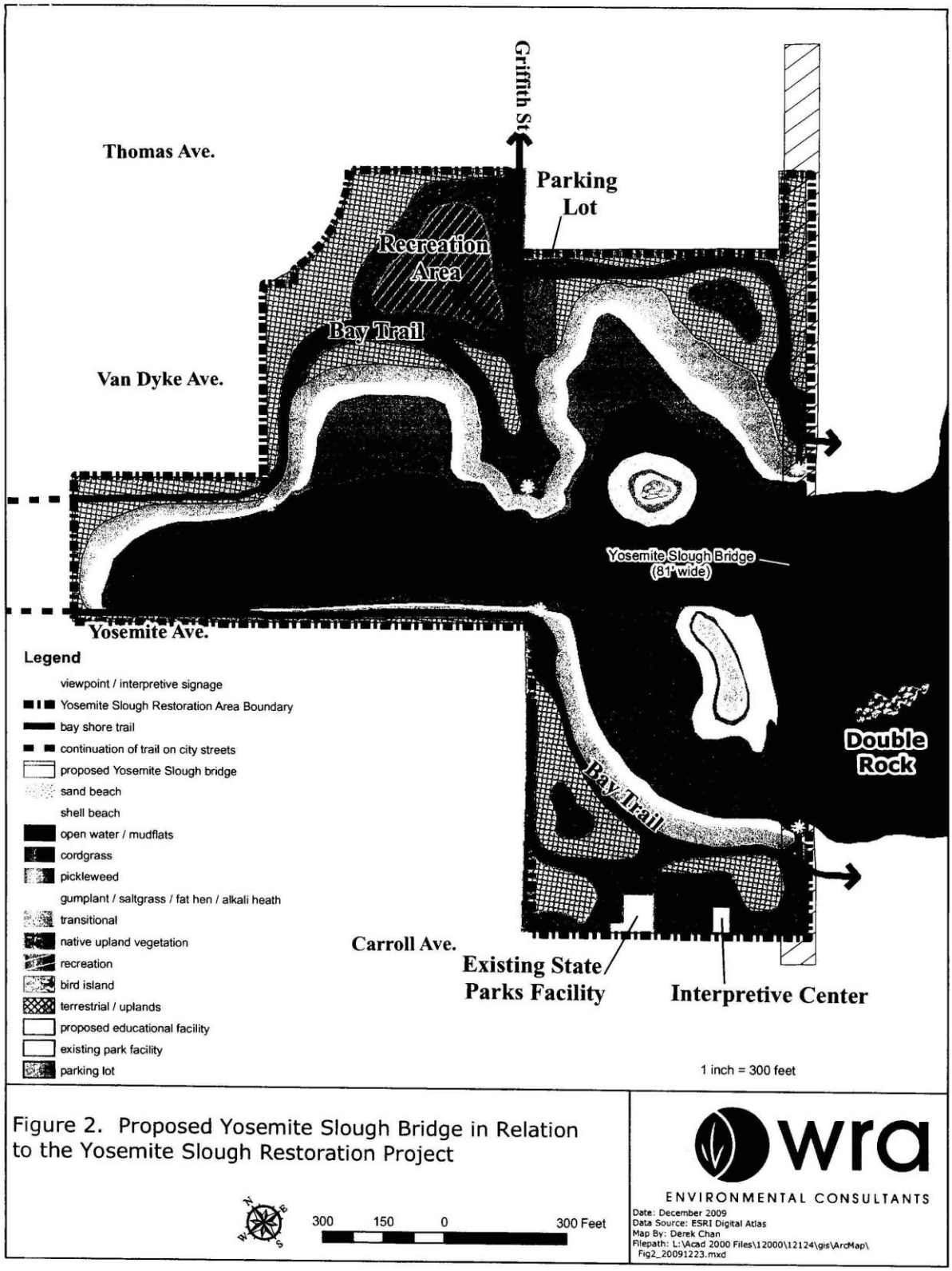
Griffith St
Thomas Ave.
Parking Lot
Recreation Area
Bay Trail
Van Dyke Ave.
Yosemite Slough Bridge (81' wide)
Yosemite Ave.
Legend
viewpoint / interpretive signage
Yosemite Slough Restoration Area Boundary
bay shore trail
continuation of trail on city streets
proposed Yosemite Slough bridge
sand beach
shell beach
open water / mudflats
cordgrass
pickleweed
gumplant / saltgrass / fat hen / alkali heath
transitional
native upland vegetation
recreation
bird island
terrestrial / uplands
proposed educational facility
existing park facility
parking lot
Double Rock
Bay Trail
Carroll Ave.
Existing State Parks Facility
Interpretive Center
1 inch = 300 feet
Figure 2. Proposed Yosemite Slough Bridge in Relation to the Yosemite Slough Restoration Project
300 150 0 300 Feet
wra
ENVIRONMENTAL CONSULTANTS
Date: December 2009
Data Source: ESRI Digital Atlas
Map By: Derek Chan
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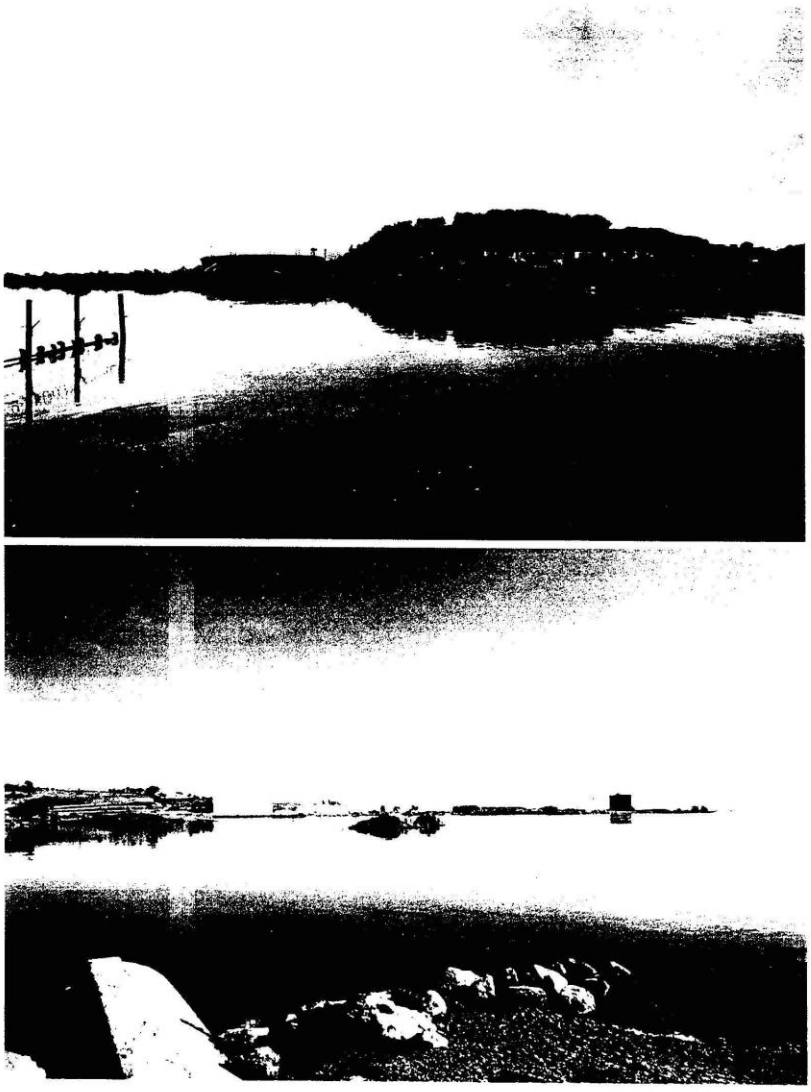

Top: View looking south from a viewpoint planend as part of the Yosemite Slough Restoration, near north side of proposed bridge.
Bottom: View looking northeast from a viewpoint planned as part of the Yosemite Slough Restoration, with Double Rock visible in background.

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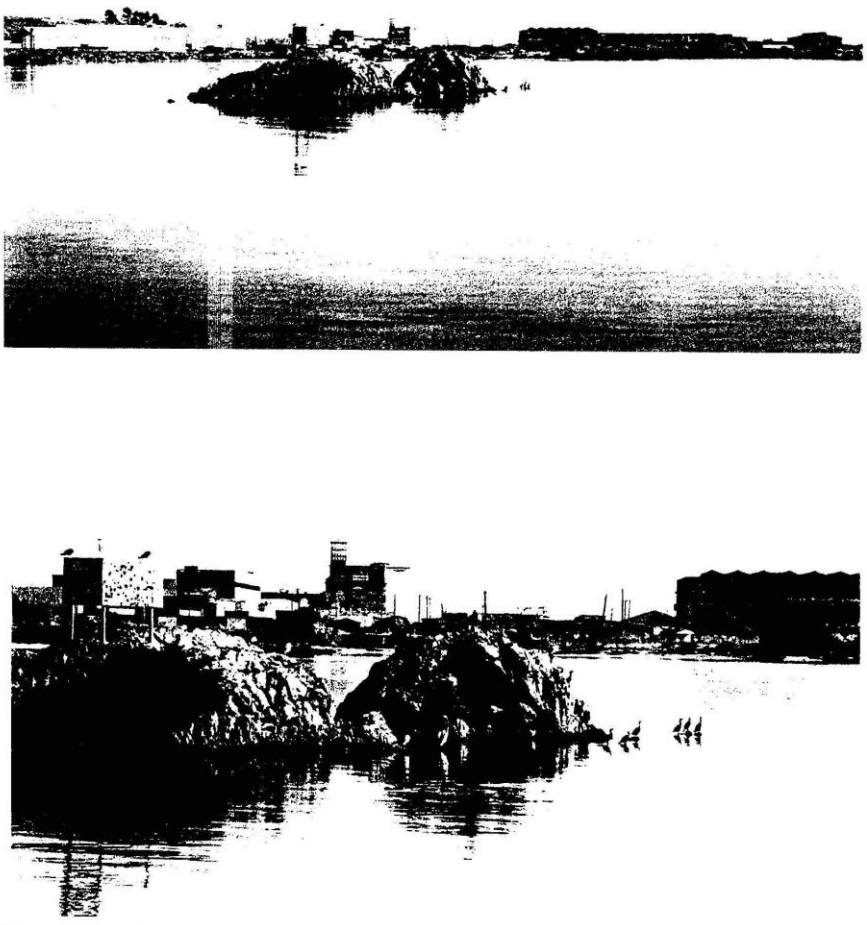

Top: View of Double Rock from planned Yosemite Slough viewpoint near existing parks facility, west of the proposed bridge.
Bottom: Wildlife Viewing at Double Rock from Yosemite Slough planned viewpoint near existing Park Facility. The Proposed Bridge would directly block this viewpoint.

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Top: View looking east from Yosemite Slough planned viewpoint near Van Dyke Ave..
Bottom: View looking west from Yosemite Slough planned viewpoint near end of Griffith St. The proposed bridge would block both of these viewpoints.

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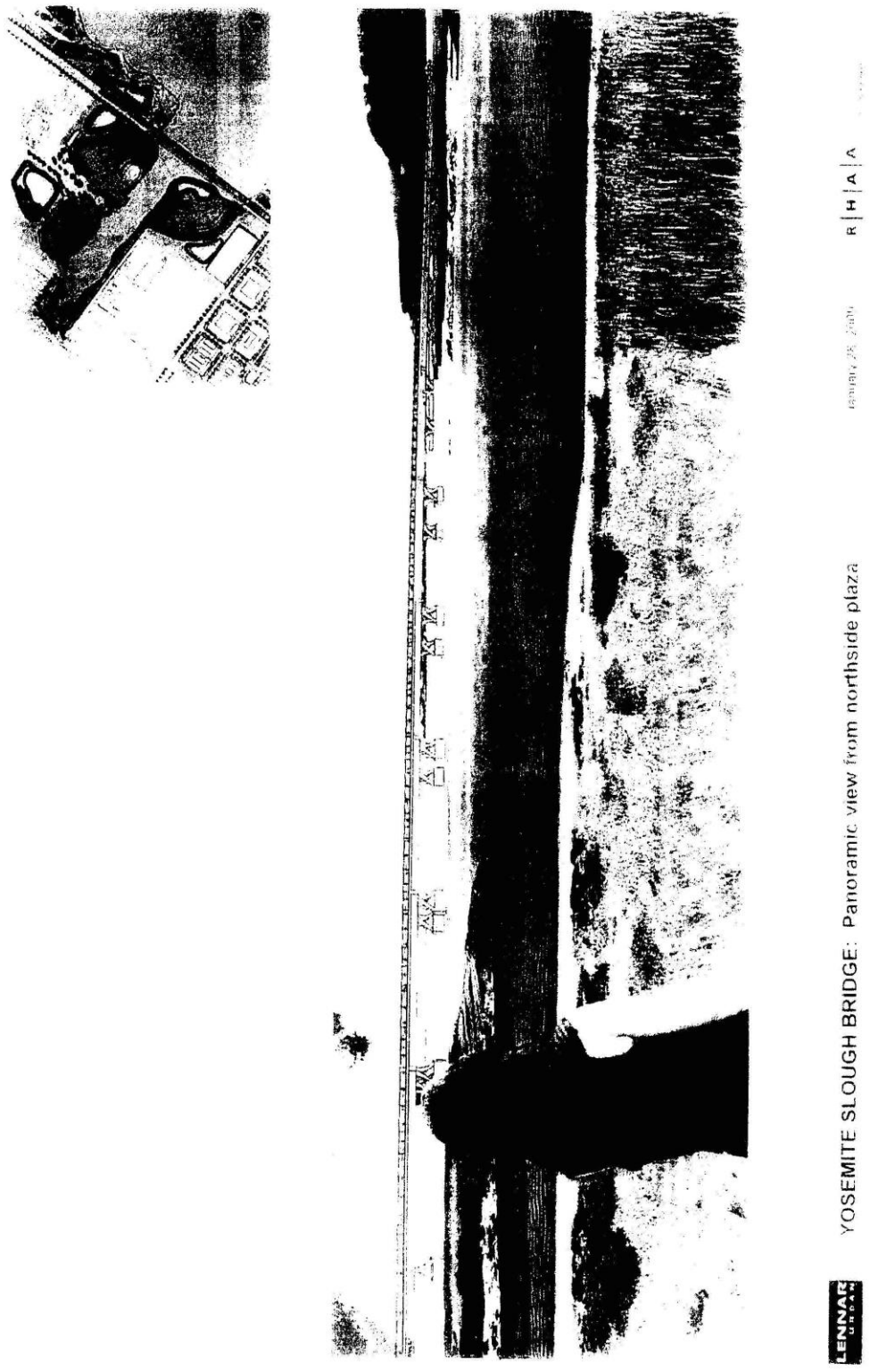
YOSEMITE SLOUGH BRIDGE: Panoramic view from northside plaza
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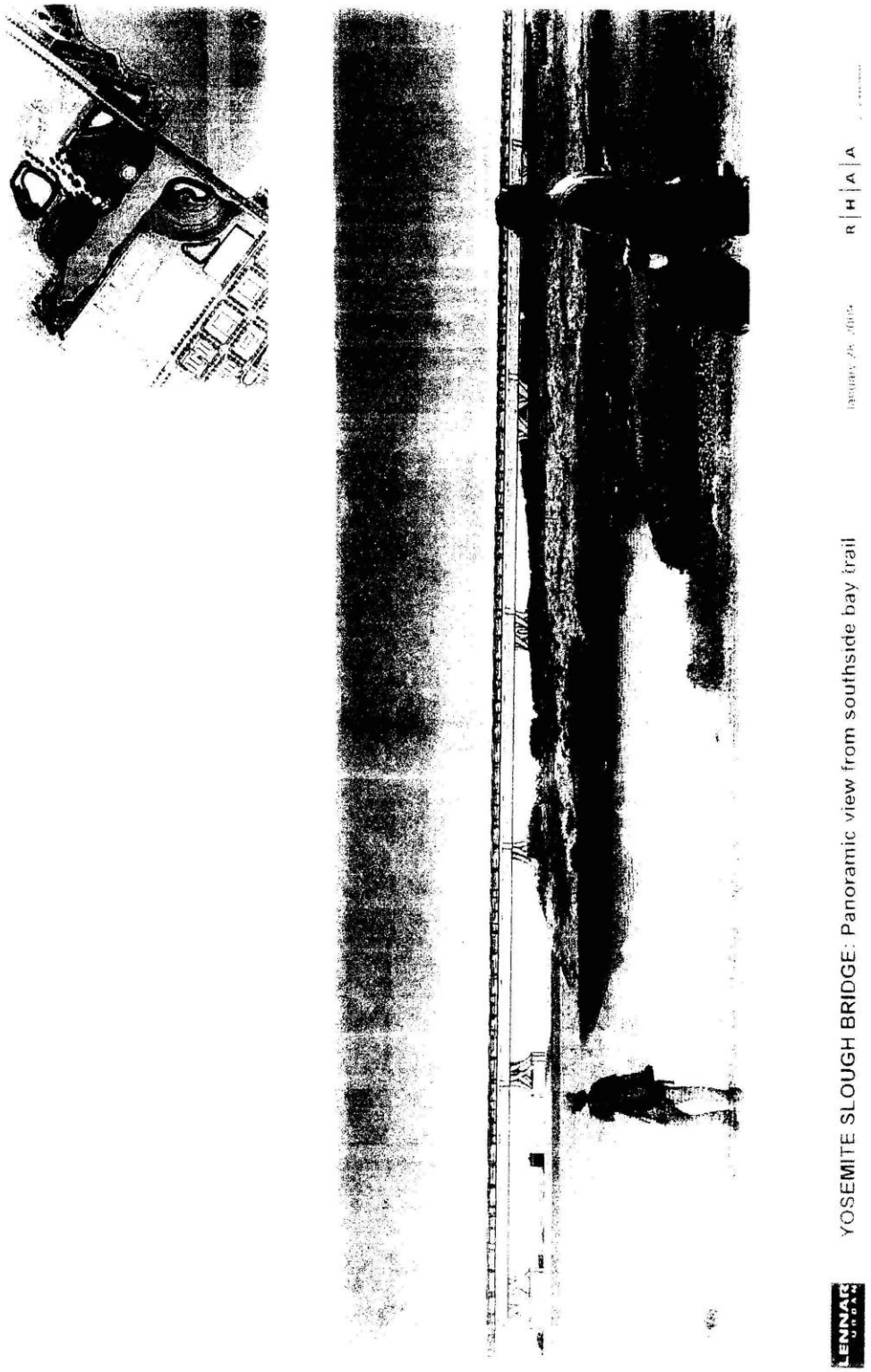
YOSEMITE SLOUGH BRIDGE: Panoramic view from southside bay trail
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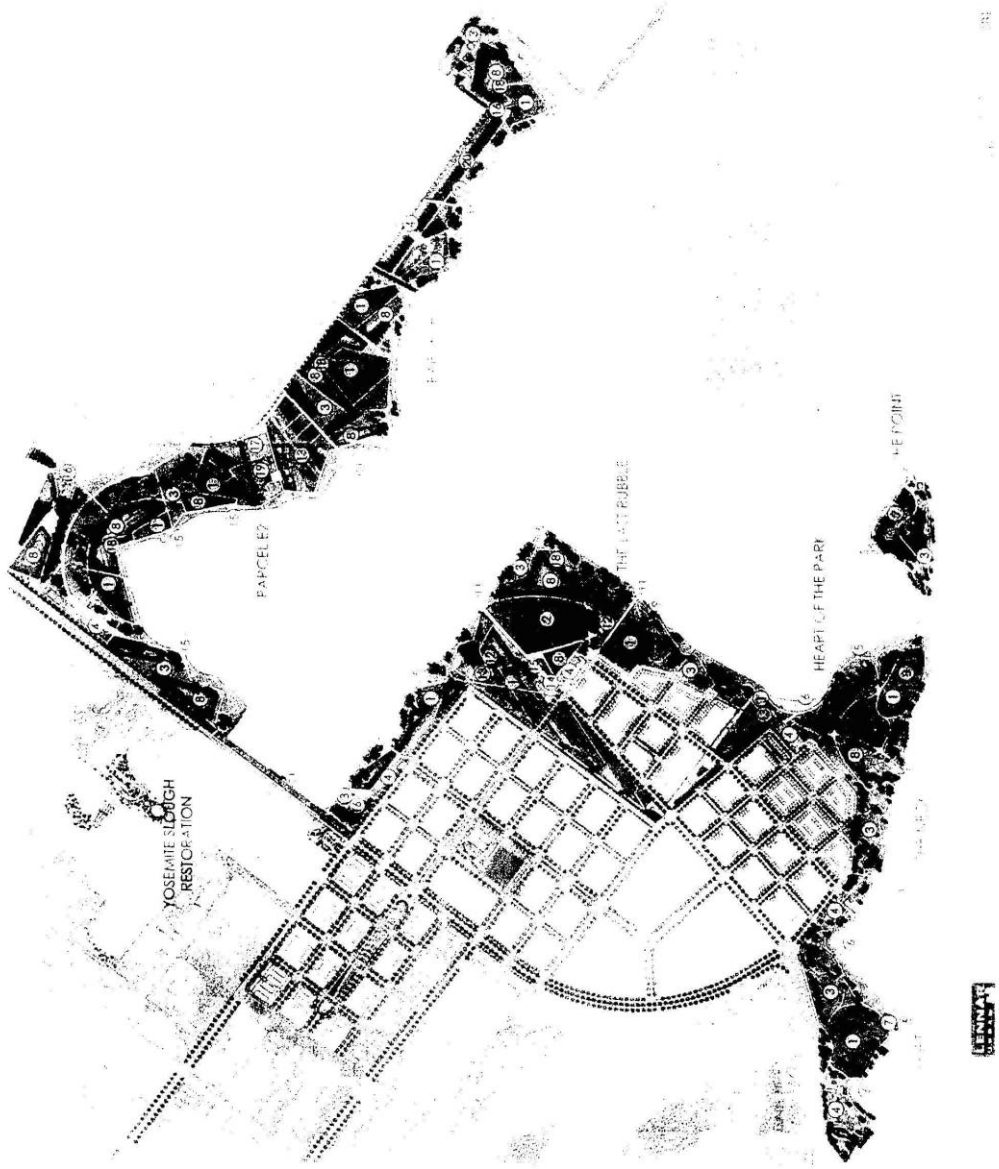

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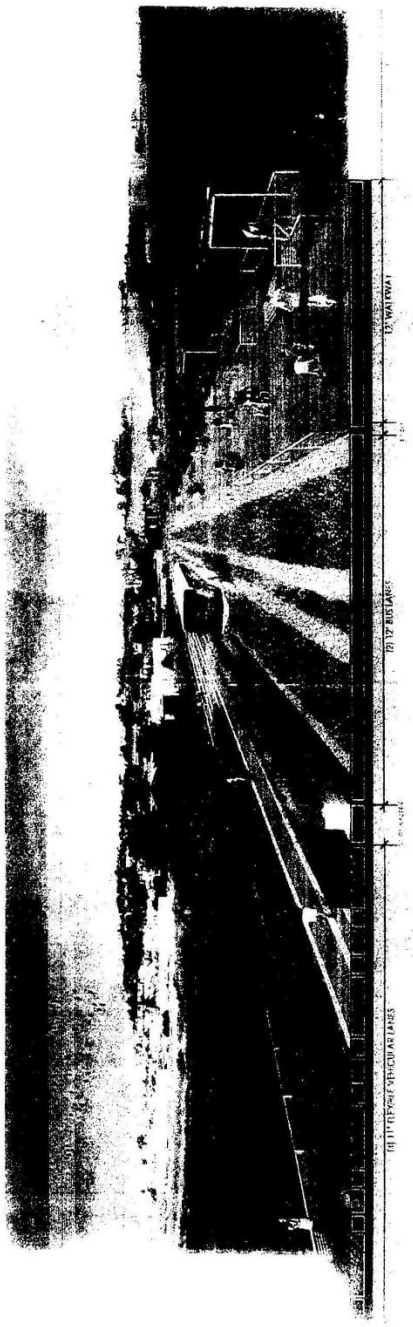

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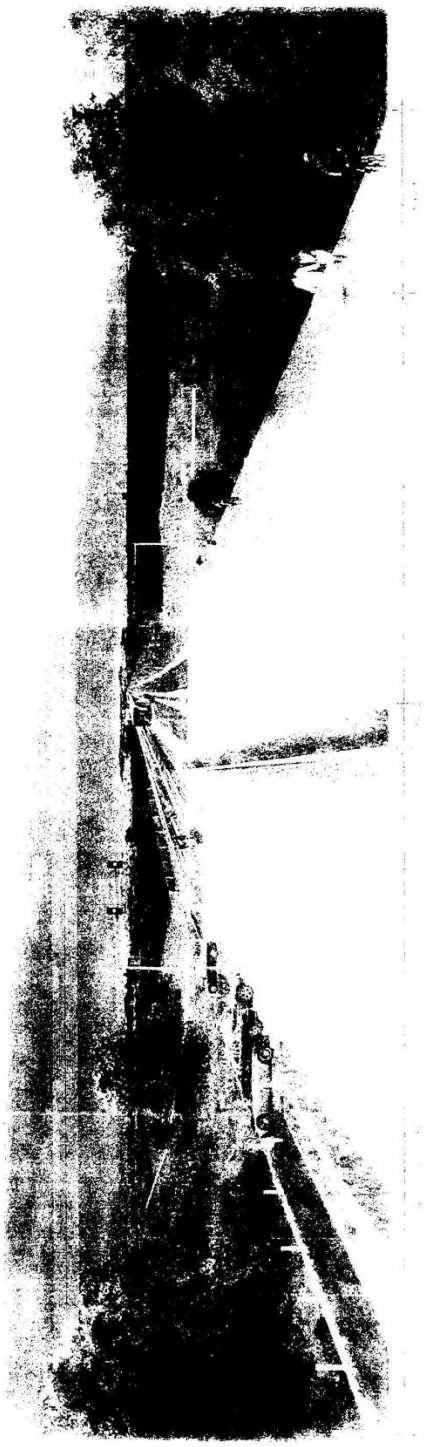

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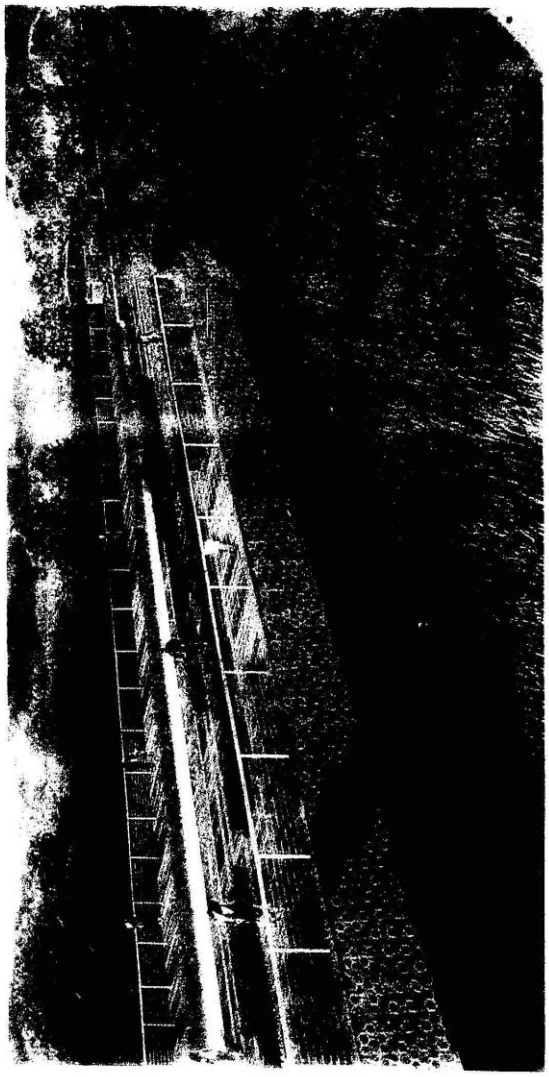

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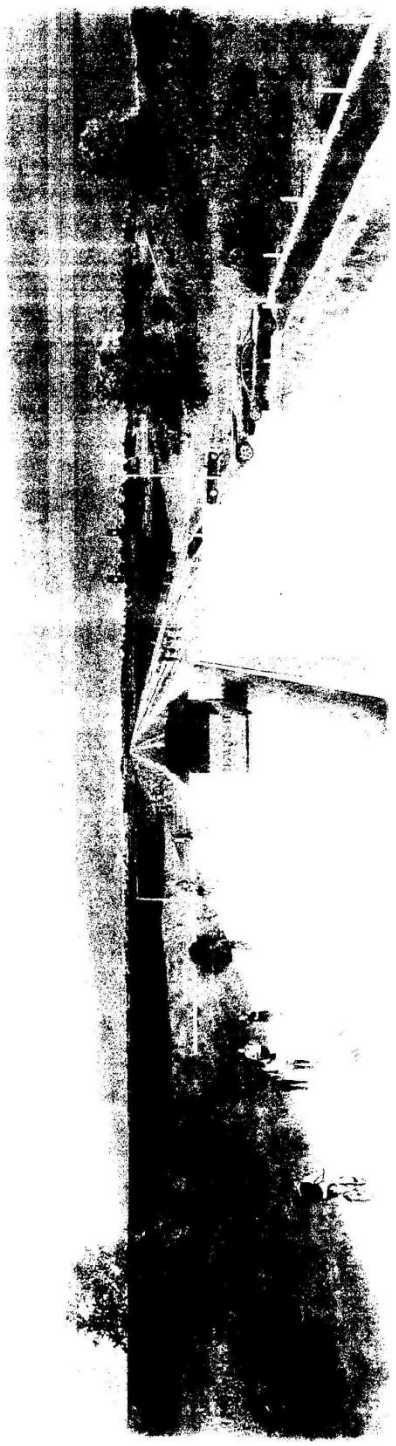

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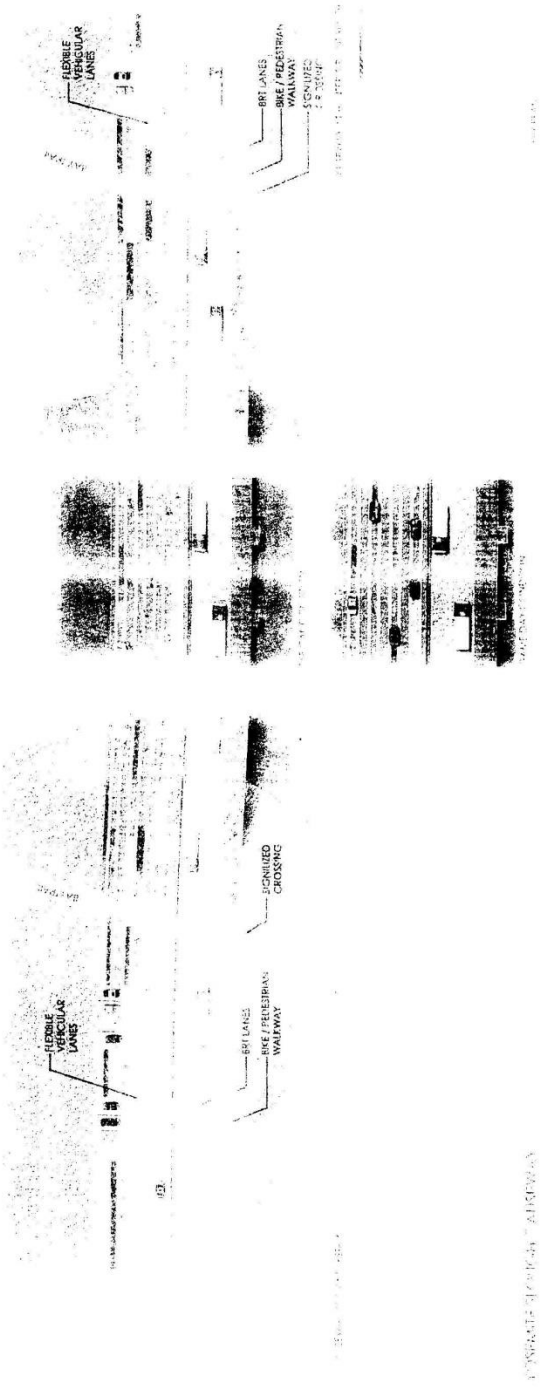
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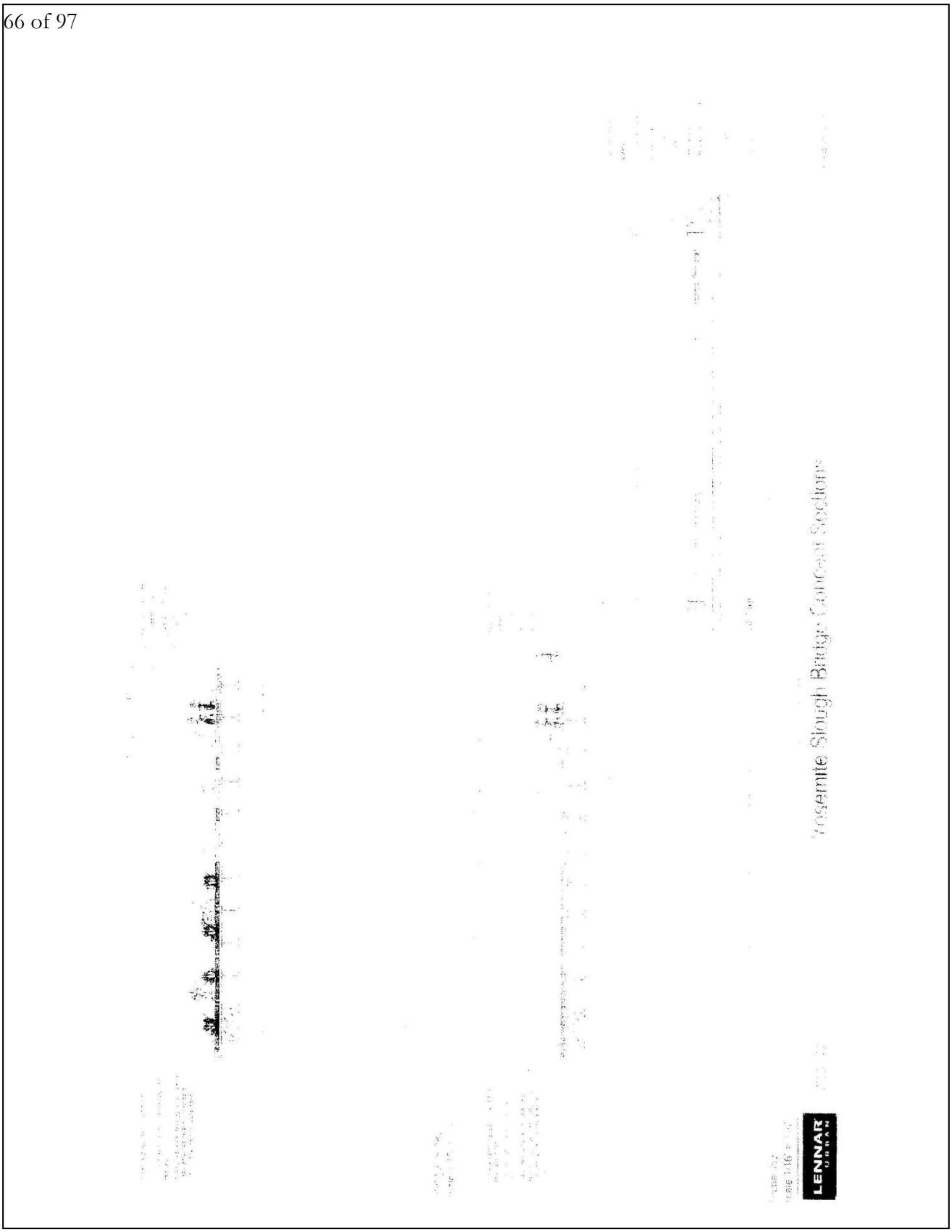

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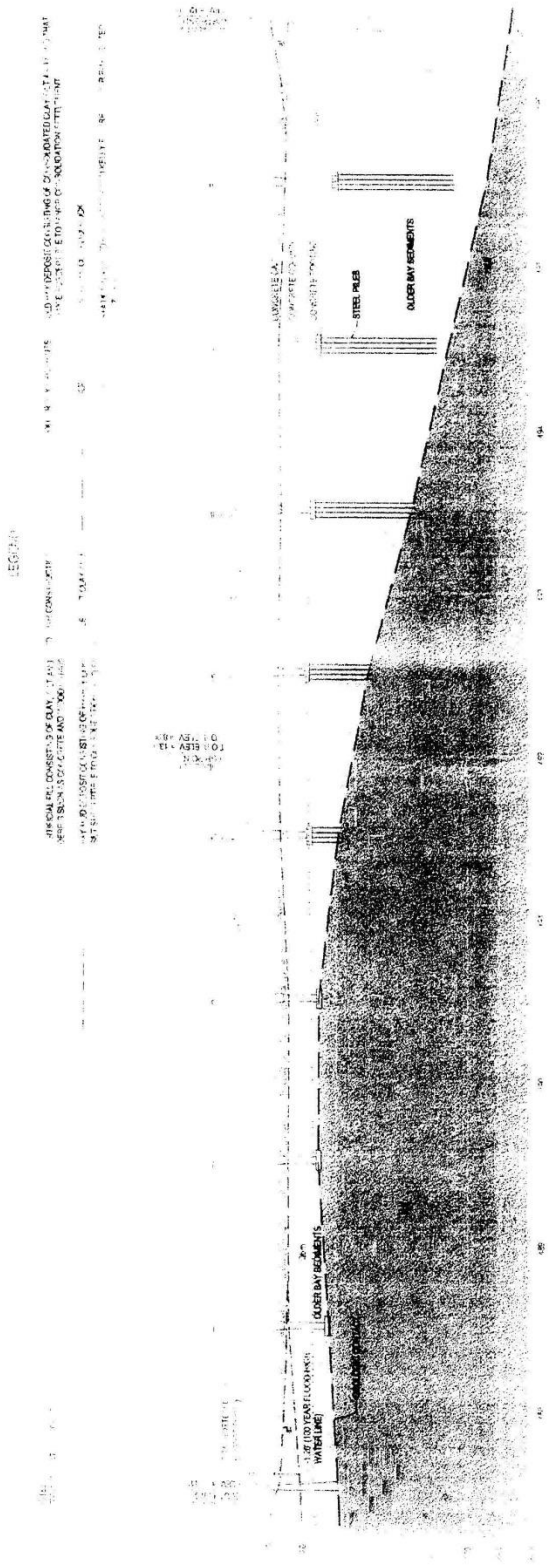

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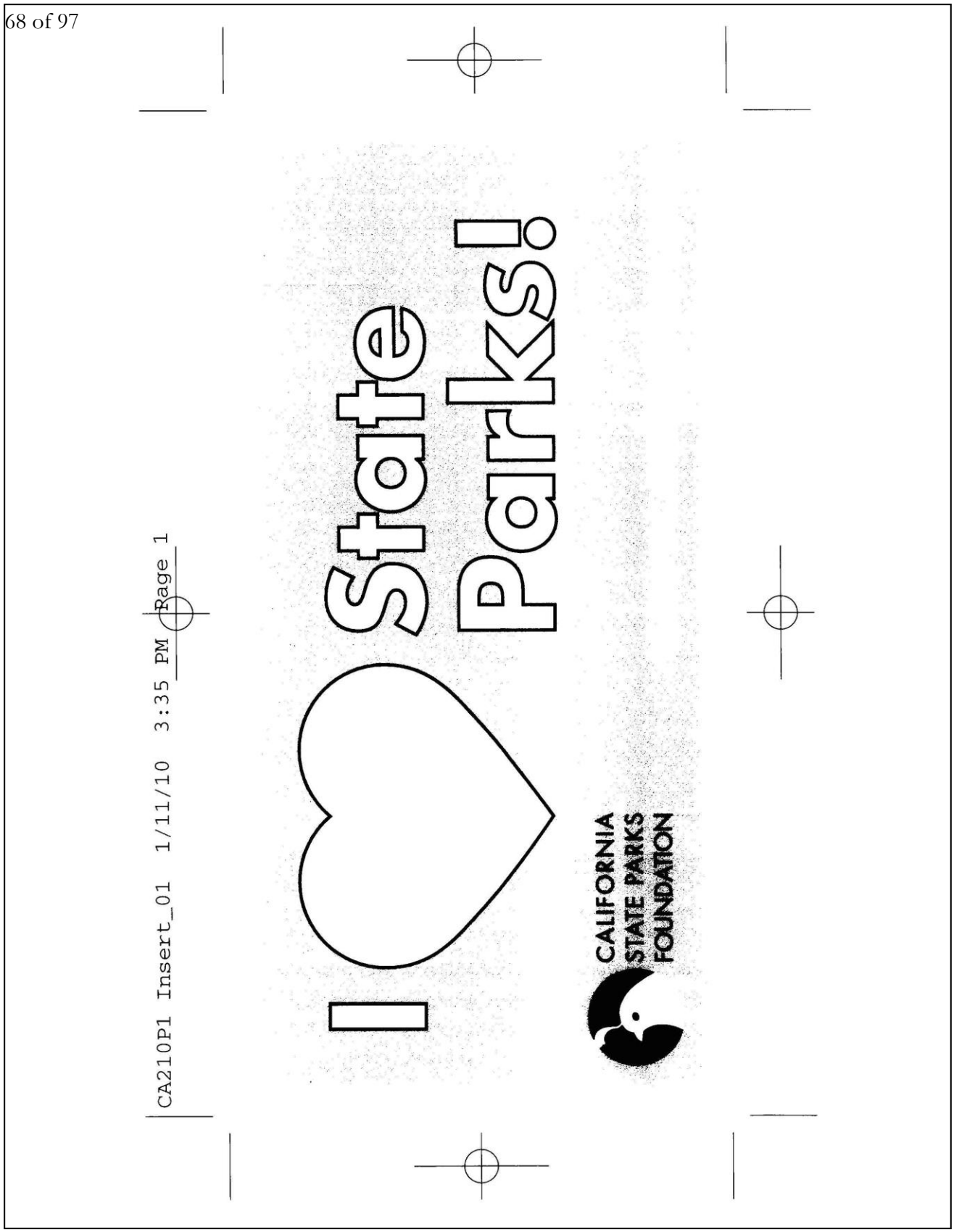
I ♥ State Parks!
CALIFORNIA STATE PARKS FOUNDATION
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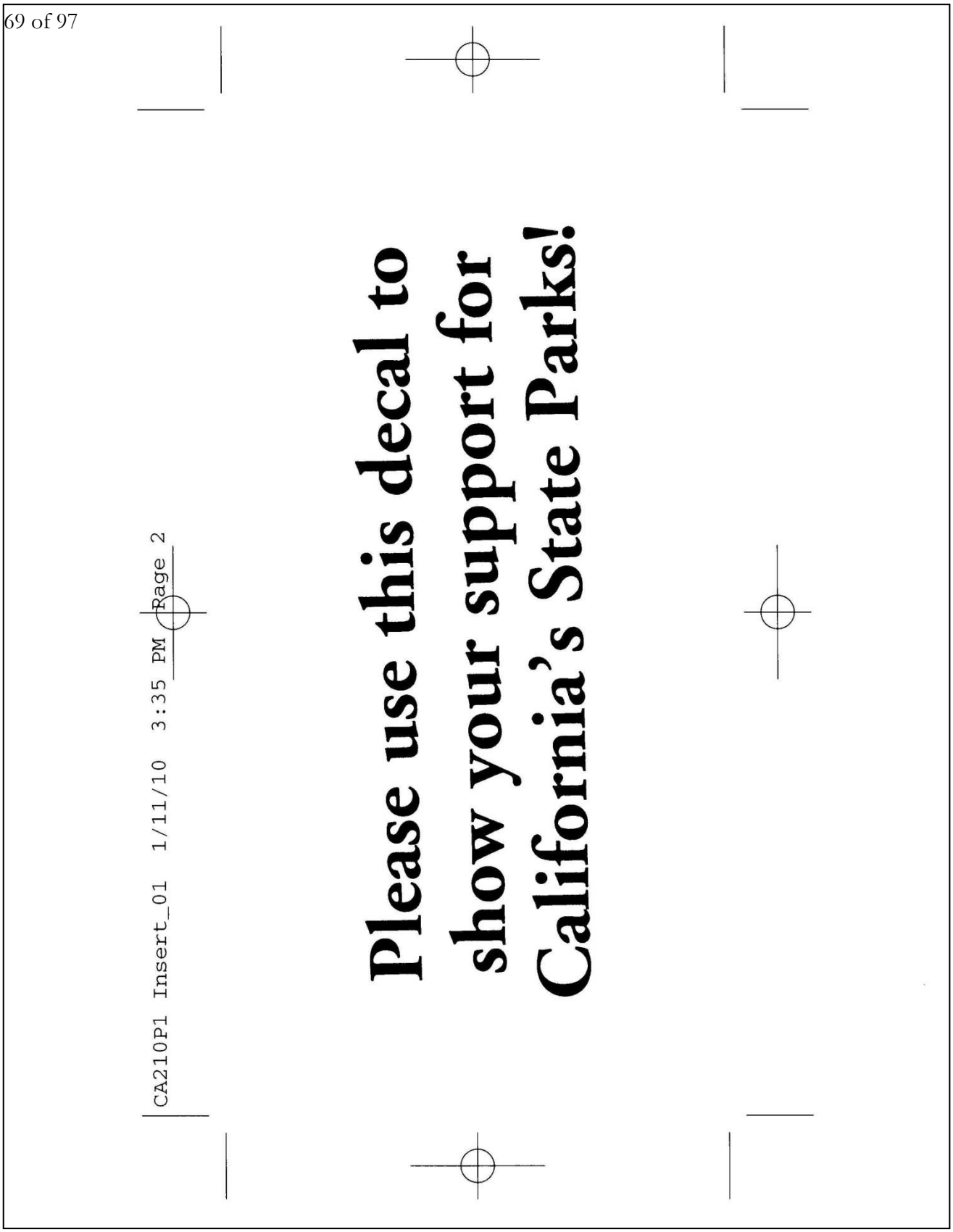
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Please use this decal to show your support for California's State Parks!
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Tom Brohard and Associates

January 7, 2010

Mr. James Birkelund
Law Offices of James Birkelund
840 California St., Suite 45
San Francisco, CA 94108

SUBJECT: Review of the Draft Environmental Impact Report (Draft EIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan in the City of San Francisco – Yosemite Slough Bridge Traffic Issues

Dear Mr. Birkelund:

47-102

Tom Brohard, P.E., has reviewed various portions of the November 2009 Draft Environmental Impact Report (Draft EIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan in the City of San Francisco. Other documents including Appendix D, the November 2009 Hunters Point Shipyard Development Plan Transportation Study as well as various appendices to the Transportation Study, have also been reviewed. My review of these documents has focused on the transportation analysis of the seven-lane Yosemite Slough Bridge that has been proposed as part of the Project

The analysis presented in Chapter VI of the Draft EIR for "No Bridge" (Alternative 2) concludes the seven lanes and various transportation modes proposed on the Yosemite Slough Bridge can be provided elsewhere with no additional impacts. While I generally concur, construction of the bridge creates a number of other issues. As examples, opening the four reversible auto lanes on only 49ers game days will be difficult to continue to restrict during other sell-out secondary events at the stadium and at the arena. Once opened for traffic access to the stadium and the arena, it will not be possible to keep the four lanes closed at all other times as traffic and transit conditions continue to deteriorate in the area with construction and occupancy of the Proposed Project.

The Draft EIR contains serious flaws and fails to consider all reasonable and viable alternatives. The Yosemite Bridge is not required to accommodate "game day" traffic. Other vehicle access opportunities on surface streets on game days have not been analyzed, and all four of the "game day" lanes may be deleted. No justification is provided to construct the bridge as "rail-ready" to accommodate future light rail service. The Draft EIR fails to analyze a tunnel under Yosemite Slough in lieu of the two bus rapid transit lanes on the bridge. Impacts on bicycle and pedestrian access to the California State Parks with the bridge have not been properly assessed. The issues and concerns in this letter must be carefully considered in a recirculated EIR for the Proposed Project.

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Phone (760) 398-8885 Fax (760) 398-8897
Email tbrohard@earthlink.net

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Education and Experience

Since receiving a Bachelor of Science in Engineering from Duke University in Durham, North Carolina in 1969, I have gained over 40 years of professional engineering experience. I am licensed as a Professional Civil Engineer both in California and Hawaii and as a Professional Traffic Engineer in California. I formed Tom Brohard and Associates in 2000 and now serve as the City Traffic Engineer for the City of Indio and as Consulting Transportation Engineer for the City of Big Bear Lake and City of San Fernando. I have extensive experience in traffic engineering and transportation planning. During my career in both the public and private sectors, I have reviewed numerous environmental documents and traffic studies for various projects. Several recent assignments are highlighted in the enclosed resume.

47-102 cont'd.

Description of the Proposed Yosemite Slough Bridge

47-103

Page II-38 of the Project Description in the Draft EIR describes the proposed 81-foot wide, 900-foot long Yosemite Slough Bridge as having "…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."

Page III.D-46 of the Transportation and Circulation Section of the Draft EIR provides further information regarding this facility by stating:

- "The Yosemite Slough Bridge would not be used for vehicular traffic at any other time, including secondary events at the new stadium."
- "The Yosemite Slough Bridge is a fundamental component of the proposed BRT service between Hunters Point Shipyard and points to the west including Candlestick Point, the Bayshore Caltrain station, and the Balboa Park BART station. It… is designed to be "rail ready" (not to preclude possible conversion to light-rail)."
- "The bridge sidewalk and Class I bicycle path would provide a direct connection between Candlestick Point and Hunters Point Shipyard for pedestrians and bicyclists at all times, and would reduce the potential conflicts between BRT vehicles and motorists, pedestrians and bicyclists."
- During game days, the 40-foot wide landscaped median would serve as the primary and most direct route between the stadium parking areas and US-101. This would… reduce the duration of post-game congestion."

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This project description, as discussed further below, is inadequate as it (i) fails to indicate that the alleged traffic need for the bridge would change if the new 49ers stadium is not built; (ii) omits reasonably foreseeable future uses of the bridge; and (iii) fails to indicate that the bridge might be used for two NFL teams or otherwise change under project variants.

47-103 cont'd.

Yosemite Slough Bridge Issues

47-104

Based on the information provided in the Draft EIR and the Transportation Study, my review indicates the following traffic issues and areas of concern regarding the proposed Yosemite Slough Bridge component of the Proposed Project:

1) Yosemite Slough Bridge Is Not Necessary to Accommodate Project Traffic

   a) Eleven Exiting Game Day Traffic Lanes Can Be Provided in Other Ways - In addition to the 11 reversible lanes shown on Figure II.D-13, two contra-flow lanes are proposed on surface streets to provide access to the area in the opposite direction during the 2 two-hour periods of peak demand to and from the new stadium. While the contra-flow lanes provide a convenience, they are not required for other purposes such as providing emergency services.

   On 49ers game days, emergency vehicle access in to and out of the area is planned to occur in the two transit lanes on Palou Avenue. Localized police and fire/emergency medical services within the Project are also proposed. According to Page VI-49 of the Draft EIR analysis of "No Bridge" (Alternative 2), additional police facilities would be funded by the applicant and "...the SFPD would maintain acceptable levels of police service... This impact is considered less than significant, similar to the project." According to Page VI-49 of the Draft EIR analysis of "No Bridge" (Alternative 2), additional fire and emergency medical facilities would be funded by the applicant and "...access strategies for game day and non-game day scenarios would be required pursuant to the SFFD's plan review requirements. Therefore, development under Alternative 2 would not require new or physically altered fire protection facilities to maintain acceptable response times. Additionally, compliance with all applicable provisions of the *San Francisco Fire Code* would ensure that this impact is considered less than significant."

   The Draft EIR has not analyzed removal of the two contra-flow lanes for 2 two-hour periods on game days from the Stadium Game Day Traffic Control Plan together with conversion of these two lanes to provide two additional reversible lanes. Eliminating the two contra-flow lanes and using the space for two more reversible lanes would improve the exiting time significantly over conditions at the existing stadium and would achieve 50

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percent of the parking lot exiting time reduction from the proposed traffic control plan.

47-104 cont'd.

Other opportunities also exist to provide additional lanes on surface streets. While most of the 10 AM to 6 PM game day parking prohibitions in the vicinity of Candlestick Park shown in Table 24 on Page 92 of the Transportation Study would be eliminated, restrictions should continue on Carroll Avenue, Gilman Avenue, and Ingerson Avenue between 3rd Street and Ingalls Street as well as on the north side of Paul Avenue from San Bruno Avenue to 3rd Street. To ease the impact on the adjacent properties, only restrictions on the north side of these streets would be needed to facilitate game day exiting conditions, and the hours could be reduced to only 3 PM to 6 PM on game days. It may also be possible to add a directional 49ers game day lane on Carroll Avenue and other portions of the route that will be improved to a "Modified" four-lane roadway as shown in Figure II-16 on Page II-51 of the Draft EIR. Additionally, there could certainly be similar opportunities on other streets that the Draft EIR has not evaluated or analyzed.

When discussing the elimination of all four reversible lanes on the Yosemite Slough Bridge, Page 342 of the Transportation Study concludes that "... the lower exit capacity would likely render the proposed new stadium site infeasible as a desirable option for an NFL football team." No evidence is presented to support this broad statement.

It appears feasible to provide at least nine of the 11 proposed reversible lanes, and there are other opportunities to spread exiting traffic to other streets. At the same time, the impacts that the adjacent properties have experienced with the existing stadium can be significantly reduced by prohibiting parking only from 3 PM to 6 PM rather than from 10 AM to 6 PM. The Draft EIR must evaluate the viable alternatives presented above before concluding that 11 reversible lanes are required for egress from the stadium.

b) Eleven Game Day Traffic Lanes Are Not Necessary - Figure III.D-13 of the Draft EIR provides an illustration of the Stadium Game Day Traffic Control Plan. As shown on this plan and as described in the Draft EIR, 11 reversible lanes for vehicles are proposed to access the stadium, with these lanes operating inbound for about two hours before the game begins and then operating outbound for about two hours after the game ends.

47-105

In describing Pre-Game Conditions, Page II.D-22 of the Draft EIR states that "For a typical Sunday football game starting at 1:00 PM, vehicle arrival is spread over about six hours with approximately 40 percent of the

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vehicles arriving between one and two hours prior to the game start time, and 60 percent within the other five hours prior to the game. Since the arrival is spread out over a period of time, the game-related traffic does not substantially affect traffic flow... some localized congestion... The vehicles accessing the stadium from Third Street contribute to congestion and queues on the local residential streets..."

47-105 cont'd.

While conditions are analyzed after 4 PM following the end of a 49ers game, the Draft EIR does not analyze conditions before the 49ers game starts at 1 PM. The Draft EIR recommends 11 reversible game day vehicle lanes operating inbound to the stadium for two hours before the game begins. Without analysis supporting this recommendation, operating 11 reversible lanes inbound to the stadium for two hours before 1 PM on 49ers game days does not appear to be justified.

Page 331 of the Transportation Study states that "One result of providing additional egress routes for the proposed new stadium is that traffic congestion is expected to clear the area quicker." Table 94 on Page 332 indicates the existing stadium has a clearance capacity of 7,700 vehicles per hour. The table assumes the new stadium would have a clearance capacity of 11,000 vehicles per hour with a new US101 Interchange at Geneva Avenue/Harney Way. The new stadium's clearance capacity would only be constrained by the parking lot exit gates. Table 94 provides clearance times for the existing and new stadiums, with clearance times under various attendance and departure scenarios reduced by about 40 percent.

While the parking lots will clear quicker at the new stadium, traffic congestion at intersections and freeways in the area will continue long after the parking lots clear. The lower exiting capacity at the existing stadium tends to meter traffic exiting the facility. Even with this metering effect at the existing stadium, congestion continues long after the event has ended, particularly on the US101 Freeway to the north as noted on Page III.D-23 of the Draft EIR. Unless the freeway is widened (and that is not planned), traffic leaving the stadium will experience about the same overall travel times to reach their destination when an additional 3,300 vehicles per hour are released and try to access facilities already operating at LOS "F" as shown in the Draft EIR.

2) Reasonably Foreseeable Future Conditions Include Opening the Yosemite Bridge to Private Automobiles Year Round

47-106

a) Secondary Events Will Create Intense Pressure to Open Bridge to Vehicles - While the Draft EIR proposes to open the four vehicle lanes across the bridge only to expedite traffic to and from up to 12 49ers

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football games during the year, Page III.D-61 states "It is anticipated that other types of events, such as soccer games or concerts, may also be scheduled at the stadium. A typical secondary event at the new stadium could occur at any time of day and on any day of the week, with an expected crowd ranging from 15,000 (e.g., monster truck rally) to sell-out conditions. For purposes of the transportation analysis, an event with 37,500 spectators was analyzed, which reflects events such as a Metallica concert... Secondary events would be limited to 20 total occurrences per year."

For a sell-out secondary event at 7 PM on a weekday, the Draft EIR assumes there would be a small percentage of private charter busses and that most of the 25% transit mode share would be accommodated by Muni with its regularly scheduled service. According to the Draft EIR, this leaves nearly 4,700 private vehicles attempting to reach the stadium between 5 PM and 6 PM during the peak of the normal weekday afternoon commute hour.

Page III.D-145 of the Draft EIR indicates the one-way transit demand in the weekday PM peak hour when a special event is being held at the stadium could be up to 5,725 riders. At the same time, the one-way transit capacity serving the stadium site would be only 3,100 passengers per hour, leaving 2,625 riders that would not be accommodated. While MM TR-47 requires an increase in transit frequency to the maximum with five-minute headways, only an additional 828 passengers to the stadium can be carried, leaving a shortfall of almost 1,800 passengers in the weekday PM peak hour. From the bus loading data on Page III.D-66 of the Draft EIR, on the order of 40 50-passenger busses would be needed during the weekday PM peak hour to accommodate the shortfall. Page III.D-145 indicates that "Generally, the capacity of the express service should compensate for the shortfall..."

Traffic impacts caused by the additional 4,700 vehicles trying to reach the stadium between 5 PM and 6 PM during the peak of the normal weekday afternoon commute will be significant. According to Page III.D-142 of the Draft EIR, special event traffic will add trips to three freeway segments and two off-ramps already operating at LOS "E" or "F" and will cause one additional off-ramp to operate at LOS "F". Special event traffic will also add trips to eleven intersections already operating at LOS "E" or "F" and will cause nine more intersections to operate at LOS "E" or "F".

MM TR-47 requires implementation of a stadium transportation systems plan similar to that developed for game-day operations, and restates that "the Yosemite Slough Bridge shall not be available for private automobiles." However, with special events during the weekday PM peak

47-106 cont'd.

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hour causing grid-locked vehicle traffic together with inadequate transit capacity as an alternative to driving, it is reasonably foreseeable that there will be significant pressure to open the traffic lanes on the Yosemite Slough Bridge before and after many of the 20 annual special events.

47-106 cont'd.

b) Arena Events Will Create Further Pressure to Open Bridge to Vehicles - Once exceptions are made for opening the traffic lanes on the bridge to facilitate traffic for many of the special events at the stadium, other interests will call for opening the lanes for other causes such as events at the proposed arena.

47-107

According to Page III.D-147 of the Draft EIR, one-half of the vehicle trips generated by a weekday evening sell-out event at the 10,000 seat arena would arrive between 5 PM and 6 PM during the peak of the normal weekday afternoon commute hour. These additional 1,333 vehicles will add arena trips to three freeway segments and one off-ramp already operating at LOS "E" or "F". Arena traffic will also add trips to eleven intersections already operating at LOS "E" or "F" and will cause one more intersection to operate at LOS "F".

MM TR-51 requires implementation of an arena transportation systems plan. With arena events causing additional significant traffic impacts during the weekday PM peak hour, it is reasonably foreseeable that there will be further pressure to open the traffic lanes on the Yosemite Slough Bridge before and after many of the arena events.

c) Project Traffic Will Create Additional Pressure to Open Bridge to Vehicles - Once exceptions are made for opening the traffic lanes on the bridge to facilitate traffic for special events at the stadium and events at the arena, the public will call for opening the lanes on the bridge at all times.

47-108

According to Page III.D-72 in the Draft EIR, the Proposed Project will cause 39 of the 60 intersections studied to operate at unacceptable levels during at least one of the peak traffic hours studied. No feasible mitigation measures have been identified in the Draft EIR for nine of the ten intersections where specific project-related impacts are forecast to occur. Page III.D-83 of the Draft EIR indicates no feasible mitigation measures have been identified for 16 of the 20 intersections where specific project-related cumulative impacts are forecast. The streets in the area will experience severe congestion.

With so many intersections in the project area forecast to operate at grid-locked conditions during peak hours together with the lack of feasible mitigation measures at nearly half of the impacted study intersections, it is

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reasonably foreseeable that there will be additional pressure from the public to open the traffic lanes on the Yosemite Slough Bridge at all times.

The Draft EIR, moreover, lacks any enforceable mechanisms for ensuring the bridge is not opened for use by private automobiles at all times.

47-108 cont'd.

3) No Justification Is Provided for Constructing the Bridge to be "Rail Ready" – Page III.D-46 of the Draft EIR states that the two BRT lanes on the Yosemite Slough Bridge are "...designed to be 'rail ready' (not to preclude possible conversion to light-rail)."

The Draft EIR fails to provide any evidence that conversion of the BRT lanes to light-rail will be needed in the future. According to Table 16-20 on Page 756 of the Transportation Planning Handbook published by the Institute of Transportation Engineers, BRT has a vehicle capacity of 120 persons in seats plus standees. With 60 seconds headway between vehicles, a total of 7,200 persons in both directions can be accommodated each hour. With light rail running with 40 seconds headway between vehicles, 14,400 persons in both directions can be accommodated each hour if two vehicles per train unit are used, and 21,600 persons in both directions can be accommodated each hour if three vehicles per train unit are used.

47-109

Page 288 of the Transportation Study states: "If the Yosemite Slough Bridge were not in place, only one transit route (the 28L-19th Avenue/Geneva BRT route) would be affected." Under game-day conditions, Table III.D-24 on Page III.D-134 of the Draft EIR indicates the BRT lanes carrying transit line 28L across the Yosemite Slough Bridge will carry only 800 passengers in the peak hour per direction before and after the 49ers football games. From Footnote a) to Table III.D-24, the Sunday peak hour capacity is 75 percent of the weekday peak hour capacity, and the weekday peak hour capacity in the peak direction would be about 1,100 passengers. With this, only one-third of the theoretical BRT directional capacity of 3,600 passengers in the peak direction will be utilized in 2030 with full development of the area including the stadium. With parallel rail service nearby provided by Caltrain and Bart, conversion of the BRT lanes to light rail across the Yosemite Slough Bridge will not be needed.

Certainly, the structural support for future light rail carried by the bridge will need to be greatly enhanced in comparison to providing a bridge designed to carry only the BRT lanes. As such, more structural members and their bulk that are designed for light rail create additional aesthetic impacts as well as significant unnecessary cost for the Yosemite Slough Bridge.

4) The Bridge is Not Necessary for the BRT System - Alternatives to BRT Lanes on the Bridge have not been fully analyzed. In discussing Alternative 2 (No

47-110

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Bridge), Page 288 of the Transportation Study states: "Although the alternate route around Yosemite Slough would be technically feasible, it would not be the optimal configuration for a BRT system... BRT travel times, particularly between major development and the regional transit connections (e.g., Caltrain and BART) would increase by approximately five minutes. As a result, BRT ridership to and from the Hunters Point Shipyard would decrease by approximately 15 percent to the forecasts presented for the Project. However, because this represents a relatively small portion of the overall transit ridership, the additional traffic generated by the Project Alternative 2 would be minimal... As with the Project, Alternative 2 impacts on transit capacity would be *less than significant*."

In lieu of BRT lanes on the Yosemite Slough Bridge (and assuming the other proposed lanes on the bridge can be adequately accommodated elsewhere as indicated throughout this letter), the Draft EIR fails to consider or analyze the use of a tunnel for the two BRT lanes under Yosemite Slough. Policy 2 of the San Francisco Bay Plan states "If any additional bridge is proposed across the Bay, adequate research and testing should determine whether feasible alternative route, transportation mode or other operational improvement could overcome the particular congestion problem without placing an additional route in the Bay and, if not, whether a tunnel beneath the Bay is a feasible alternative." The Draft EIR is flawed as it fails to analyze a tunnel as an alternative to BRT lanes on the bridge deck.

47-110 cont'd.

5) Bicycle/Pedestrian Lane on Bridge Duplicates Bay Trail Facility – Page III.D-19 of the Draft EIR states: "The San Francisco Bay Trail is designed to create recreational pathway links to the various commercial, industrial, and residential neighborhoods that surround San Francisco Bay." Figure III.D-10 on Page III.D-51 of the Draft EIR, Project Bicycle Network and Bay Trail Improvements, shows a proposed Class I multi-use path across the bridge as part of the Project as well as the proposed California State Parks Bay Trail Yosemite Slough Project around the perimeter of the slough. Figure III.D-11 on Page III.D-53 of the Draft EIR, Project Pedestrian Circulation Plan, shows a proposed pedestrian multi-use path across the bridge as part of the Project as well as pedestrian facilities on the proposed California State Parks Bay Trail Yosemite Slough Project around the perimeter of the slough.

The San Francisco Bay Trail is intended to provide recreational opportunities rather than to be a facility designed to accommodate bicycle commuters. While providing an amenity on the Yosemite Slough Bridge with turnouts for viewing, the need to accommodate bicyclists and pedestrians is well served by the planned California State Parks Bay Trail Yosemite Slough Project that is planned around the perimeter of the slough.

47-111

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As concluded on Page VI-34 of the Draft EIR in the discussion of the "No Bridge" alternative, "The Alternative 2 bicycle trips would be accommodated within the proposed street and network… impacts on bicycle circulation would be less than significant." As concluded on Page VI-35 of the Draft EIR in the discussion of the "No Bridge" alternative, "The Alternative 2 pedestrian trips would be accommodated within the proposed sidewalk and pedestrian network… impacts on pedestrian circulation would be less than significant." **47-111 cont'd.**

6) Joint Use Bicycle/Pedestrian Lane on Bridge Violates Caltrans Guidelines – Page 1000-4 of the Highway Design Manual published by the California Department of Transportation (Caltrans) states "Class I bikeways (bike paths) are facilities with exclusive right of way, with cross flows by motorists minimized. Section 890.4 of the Streets and Highways Code describes Class I bikeways as serving 'the exclusive use of bicycles and pedestrians'. However, experience has shown that if significant pedestrian use is anticipated, separate facilities for pedestrians are necessary to minimize conflicts. Dual use by pedestrians and bicycles is undesirable, and the two should be separated wherever possible." **47-112**

The multi-use path across the bridge is proposed to be 12 feet wide, barely enough for a minimum 8-foot wide two-way bicycle facility and a minimum 4-foot wide area for pedestrians. While the Draft EIR does not quantify the number of bicyclists and pedestrians expected to use the multi-use facility on the bridge, certainly significant pedestrian and bicycle use can be expected on this recreational facility, especially with turnouts for viewing. The Draft EIR fails to address and analyze the conflicts that will occur in the proposed combined facility which has each component designed to barely meet the minimum guidelines for separate bicycle paths and sidewalks.

7) Bicycle/Pedestrian Crossings of Bridge Approaches Have Not Been Analyzed – To reach the proposed California State Parks Bay Trail Yosemite Slough Project around the perimeter of the slough from the Bay Trail, it will be necessary to cross the approaches to the bridge at both ends of this facility. Crossings will involve the BRT lanes at all times and will also include the four reversible auto lanes on 49ers game days. While the BRT crossing could be signalized in a conventional fashion, the crossing of the four reversible auto lanes will be especially challenging, even with traffic signals installed at both ends of the bridge. Traffic signals will also impede the BRT operation as well as the auto traffic in the four reversible lanes. **47-113**

Page III.D-137 of the Draft EIR states "...during game days, access to state park facilities for vehicles, bicyclists, and pedestrians would be constrained, and heavy traffic congestion could discourage use of the park. However, access for vehicles, bicyclists, and pedestrians would be maintained." The

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conclusion that this condition results in a "less than significant" impact is not supported by evidence in the Draft EIR.

47-113 cont'd.

The Draft EIR fails to analyze bicycle and pedestrian crossings from the Bay Trail across the bridge approaches to and from the proposed California State Parks Bay Trail Yosemite Slough Project. There would be no safe way to connect these facilities without either a traffic signal for the at-grade crossings or via a grade separated facility with bicyclists and pedestrians going under the bridge approaches. Without analyzing these conditions, the Draft EIR cannot conclude that the Project has "less than significant" impacts to bicyclists and pedestrians trying to connect between the Bay Trail and the California State Parks Bay Trail, particularly during 49ers game days at the proposed stadium. Only with the elimination of the Yosemite Slough Bridge in Alternative 2 can the Draft EIR conclude that there are "less than significant" impacts to bicyclists and pedestrians for the state park access.

8) Incomplete Analyses of Post Football Game Conditions – With the sole exception of traffic conditions following a 49ers football game, each of the other analyses in the Draft EIR utilizes standard transportation planning methodology to identify the intersection levels of service during the peak hour as well as the locations that will be significantly impacted.

47-114

The Draft EIR did use traditional methodology for the analyses of all other scenarios including a secondary event at the new stadium beginning at 7 PM on a weekday as well as a weekday evening event at the proposed arena. After quantifying the additional significant traffic impacts that will occur during these scenarios, the Draft EIR includes identical mitigation as will be used after 49ers football games such as the preparation of a Transportation Management Plan including "…deploying traffic control officers in the Project vicinity to increase efficiency of pre- and post- event traffic…" In each of these cases, the Draft EIR was able to calculate intersection levels of service.

In attempting to justify why the traditional approach was not used for conditions following 49ers games, Page III.D-131 of the Draft EIR states: "…due to the unique circumstances following a football game, including manual and dynamic control of intersections by traffic control officers and complex travel patterns, traditional methods of calculating intersection levels of service are not appropriate. Instead, for post-game conditions, traffic impacts associated with the new stadium are described in terms of the magnitude, duration, and expected locations of congestion."

The Draft EIR fails to explain why it is inappropriate to calculate levels of service and determine significant traffic impacts after 49ers games. By only listing "Locations of Congestion following San Francisco 49ers Football Games" in Table III.D-23 on Page III.D-132, the Draft EIR then fails to

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disclose, quantify, analyze, and mitigate the significant traffic impacts that will occur following 49ers football games.

47-114 cont'd.

My review disclosed serious flaws and several significant unaddressed traffic issues regarding the Yosemite Slough Bridge, a major component of the Candlestick Point-Hunters Point Shipyard Phase II Development Plan. The various concerns outlined throughout this letter must be carefully considered in a recirculated environmental impact report. If you have questions regarding these comments, please call me at your convenience.

47-115

Respectfully submitted,

Tom Brohard and Associates

Tom Brohard

Tom Brohard, PE
Principal

Enclosures

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Table 16-20 Typical Vehicle and Line Capacities of Different Modes

Mode	TU size n [veh/TU]	Vehicle capacity C_v [sps/veh]	Minimum headway h_{min} [s]	Maximum frequency f_{max} [TU/h]	Max offered line capacity C [sps/h]
1. Standard bus, single stops	1	75	70 – 50	51 – 72	3,800 - 5,400
2. Articulated bus, single stops	1	120	80 – 60	45 – 60	5,400 - 7,200
3. 50% standard, 50% articulated bus, 4-lanes and multiple berthing	1	75 - 120	40 – 20	90 – 180	8,800 - 17,500
4. Streetcar, ROW C, double stops	2	180	60	60	10,800
5. BRT, North America	1	120	60	60	7,200
6. BRT, developing countries	1	180	30	120	21,600
7. Light rail transit, ROW B, single track, double stops	2 - 3	180	90	40	14,400 - 21,600
8. AGT, rubber-tired - Siemens, Bombardier	2	100	90 – 60	40 – 60	8,000 - 12,000
9. AGT – Rail	6	100	100 - 75	36 – 48	21,600 - 28,800
10. Rapid Transit	8	180	100 - 90	36 – 40	51,800 - 57,600
11. Rapid Transit	10	240	150 - 120	24 – 30	67,200 - 72,000
12. Regional rail, diesel	10	200	240 - 180	15 – 20	30,000 – 40,000
13. Regional rail, electric	10	200	180 - 120	20 – 30	40,000 - 60,000

Source: Vuchic, V.R. *Urban Transit Operations Planning and Economics.* Hoboken, NJ, USA: John Wiley & Sons, 2005.

Transit Impacts on the Communities Served

As discussed earlier, transit systems influence a region's mobility, accessibility, economic vibrancy and character. The following considerations influence how well transit systems achieve their regional goals.

Passenger attraction and service quality. The main goal for a transit operator, providing service to passengers, is also the most direct impact of transit on the community or city served. Ridership in a region may be measured by mode split (the percent of trips by transit), which can be further differentiated by peak or off-peak periods. Additional measures of transit ridership are unlinked trips or passenger-miles (-km) traveled. High passenger volumes and high riding habits in a city (measured by the average number of annual trips per resident) reflect the role transit has in providing high population mobility and reducing the pressures of highway congestion and parking requirements, thus, improving quality of life in the city.

Economic, social and environmental impacts on population. The role of transit in supporting regional economies, promoting social objectives (accessibility) and enhancing the environmental health of the city is a direct result of attracting many passengers. Often, these impacts are measured qualitatively, described by the phrase "livability of cities." However, certain quantitative measures exist, including the following.

- Congestion is a measure of overall transportation system performance and can be correlated to regional competitiveness.
- The ratio of the composite cost of travel by transit compared to other modes (walking, private auto) for certain origin destination pairs (low income residences to high employment growth areas, for example) can measure how well transit service provides accessibility.
- Regional air quality (ozone levels, for example) is a measure of transportation impacts on environmental health.

Topic 1003 - Design Criteria

1003.1 Class I Bikeways

Class I bikeways (bike paths) are facilities with exclusive right of way, with cross flows by motorists minimized. Section 890.4 of the Streets and Highways Code describes Class I bikeways as serving "the exclusive use of bicycles and pedestrians". However, experience has shown that if significant pedestrian use is anticipated, separate facilities for pedestrians are necessary to minimize conflicts. Dual use by pedestrians and bicycles is undesirable, and the two should be separated wherever possible.

Sidewalk facilities are not considered Class I facilities because they are primarily intended to serve pedestrians, generally cannot meet the design standards for Class I bikeways, and do not minimize motorist cross flows. See Index 1003.3 for discussion relative to sidewalk bikeways.

By State law, motorized bicycles ("mopeds") are prohibited on bike paths unless authorized by ordinance or approval of the agency having jurisdiction over the path. Likewise, all motor vehicles are prohibited from bike paths. These prohibitions can be strengthened by signing.

(1) *Widths.* **The minimum paved width for a two-way bike path shall be 8 feet. The minimum paved width for a one-way bike path shall be 5 feet. A minimum 2-foot wide graded area shall be provided adjacent to the pavement (see Figure 1003.1A).** A 3-foot graded area is recommended to provide clearance from poles, trees, walls, fences, guardrails, or other lateral obstructions. A wider graded area can also serve as a jogging path. Where the paved width is wider than the minimum required, the graded area may be reduced accordingly; however, the graded area is a desirable feature regardless of the paved width. Development of a one-way bike path should be undertaken only after careful consideration due to the problems of enforcing one-way operation and the difficulties in maintaining a path of restricted width.

Where heavy bicycle volumes are anticipated and/or significant pedestrian traffic is expected, the paved width of a two-way path should be greater than 8-feet, preferably 12 feet or more. Another important factor to consider in determining the appropriate width is that bicyclists will tend to ride side by side on bike paths, necessitating more width for safe use.

Experience has shown that paved paths less than 12 feet wide sometimes break up along the edge as a result of loads from maintenance vehicles.

Where equestrians are expected, a separate facility should be provided.

(2) *Clearance to Obstructions.* **A minimum 2-foot horizontal clearance to obstructions shall be provided adjacent to the pavement (see Figure 1003.1A).** A 3-foot clearance is recommended. Where the paved width is wider than the minimum required, the clearance may be reduced accordingly; however, an adequate clearance is desirable regardless of the paved width. If a wide path is paved contiguous with a continuous fixed object (e.g., block wall), a 4-inch white edge line, 2 feet from the fixed object, is recommended to minimize the likelihood of a bicyclist hitting it. **The clear width on structures between railings shall be not less than 8 feet.** It is desirable that the clear width of structures be equal to the minimum clear width of the path (i.e., 12 feet).

The vertical clearance to obstructions across the clear width of the path shall be a minimum of 8 feet. Where practical, a vertical clearance of 10 feet is desirable.

(3) *Signing and Delineation.* For application and placement of signs, see the Manual on Uniform Traffic Control Devices (MUTCD), Section 9B.01 and the MUTCD and California Supplement Section 9B.01 and Figure 9B-101. For pavement marking guidance, see the MUTCD, Section 9C.03.

(4) *Intersections with Highways.* Intersections are a prime consideration in bike path design. If alternate locations for a bike path are available, the one with the most favorable intersection conditions should be selected.

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Tom Brohard, PE

Licenses: 1975 / Professional Engineer / California – Civil, No. 24577
1977 / Professional Engineer / California – Traffic, No. 724
2006 / Professional Engineer / Hawaii – Civil, No. 12321

Education: 1969 / BSE / Civil Engineering / Duke University

Experience: 39 Years

Memberships: 1977 / Institute of Transportation Engineers – Fellow, Life
1978 / Orange County Traffic Engineers Council - Chair 1982-1983
1981 / American Public Works Association - Member

Tom is a recognized expert in the field of traffic engineering and transportation planning. His background also includes responsibility for leading and managing the delivery of various contract services to numerous cities in Southern California.

Tom has extensive experience in providing transportation planning and traffic engineering services to public agencies. Since May 2005, he has served as Consulting City Traffic Engineer three days a week to the City of Indio. He also currently provides "on call" Traffic and Transportation Engineer services to the Cities of Big Bear Lake and San Fernando. In addition to conducting traffic engineering investigations for Los Angeles County from 1972 to 1978, he has previously served as City Traffic Engineer in the following communities:

- Bellflower ..... 1997 - 1998
- Bell Gardens ..... 1982 - 1995
- Huntington Beach ..... 1998 - 2004
- Lawndale ..... 1973 - 1978
- Los Alamitos ..... 1981 - 1982
- Oceanside ..... 1981 - 1982
- Paramount ..... 1982 - 1988
- Rancho Palos Verdes ..... 1973 - 1978
- Rolling Hills ..... 1973 - 1978, 1985 - 1993
- Rolling Hills Estates ..... 1973 - 1978, 1984 - 1991
- San Marcos 1981
- Santa Ana ..... 1978 - 1981
- Westlake Village ..... 1983 - 1994

During these assignments, Tom has supervised City staff and directed other consultants including traffic engineers and transportation planners, traffic signal and street lighting personnel, and signing, striping, and marking crews. He has secured over $5 million in grant funding for various improvements. He has managed and directed many traffic and transportation studies and projects. While serving these communities, he has personally conducted investigations of hundreds of citizen requests for various traffic control devices. Tom has also successfully presented numerous engineering reports at City Council, Planning Commission, and Traffic Commission meetings in these and other municipalities.

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In his service to the City of Indio since May 2005, Tom has accomplished the following:

- Oversaw preparation and adoption of the Circulation Element Update of the General Plan including development of Year 2035 buildout traffic volumes, revised and simplified arterial roadway cross sections, and reduction in acceptable Level of Service criteria under certain constraints

- Oversaw preparation of plans and provided assistance during construction of a $1.5 million project to install traffic signals and widen three of four ramps at the I-10/Jackson Street Interchange under a Caltrans encroachment permit issued under the Streamlined Permit Process

- Oversaw preparation of traffic impact analyses for Project Study Reports evaluating different alternatives for buildout improvement of the I-10/Monroe Street and the I-10/Golf Center Parkway Interchanges

- Oversaw preparation of plans and provided assistance during construction of 10 new traffic signal installations

- Reviewed and approved temporary traffic control plans as well as for signing and striping for all City and developer funded roadway improvement projects

- Oversaw preparation of a City wide traffic safety study of conditions at all schools

- Prepared over 300 work orders directing City forces to install, modify, and/or remove traffic signs, pavement and curb markings, and roadway striping

- Reviewed and approved traffic impact studies prepared for more than 15 major development projects

Since forming Tom Brohard and Associates in 2000, Tom has reviewed many traffic impact reports and environmental documents for various development projects. He has provided expert witness services and also prepared traffic studies for public agencies and private sector clients. Significant accomplishments during the last eight years include the following:

- Prepared critique of traffic and parking impacts identified in the Initial Study and Traffic Study for the 1960-1998 Market Street Project in the City of San Francisco for Adams Broadwell Joseph & Cardozo (12/2008)

- Prepared critique of traffic and circulation impacts identified in the Supplemental Draft EIR for the US Gypsum Wallboard Plant Project in the Port of Stockton for Lozeau/Drury LLP (11/2008 to 12/2008)

- Prepared critique of traffic and parking impacts identified in the Draft EIR for the Bentley School Major Conditional Use Permit in the City of Oakland for Veneruso & Moncharsh (11/2008 to 12/2008)

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- Prepared critique of the traffic impacts identified in the Addendum to the Master EIR and Initial Study for the Lane Field Development Project in the City of San Diego for Adams Broadwell Joseph & Cardozo (12/2007); prepared critique of parking and transit impacts for the Project's Coastal Development Permit Amendment (11/2008)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Impact Study for the Delta Shores Project in the City of Sacramento for Adams Broadwell Joseph & Cardozo (10/2008)

- Served as an expert witness regarding work area traffic control during roadway construction at a traffic signal on State Route 111 in the City of Palm Desert for Workman Law Office (9/2008)

- Prepared Data Requests for traffic issues associated with the Application for Certification from the California Energy Commission for the Avenal Energy Power Plant in the City of Avenal for Adams Broadwell Joseph & Cardozo (9/2008)

- Prepared critique of traffic and parking impacts identified in the Initial Study and Traffic Study for the 5050 Mission Street Mixed Use Project in the City of San Francisco for Lozeau/Drury LLP (8/2008)

- Prepared critique of traffic and circulation impacts identified in the Draft EIR for the Altamont Motorsports Park Rezoning Project in the County of Alameda for Mark R. Wolfe & Associates (8/2008)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Impact Study for the Fulcrum Property Development Project in the City of West Sacramento for Adams Broadwell Joseph & Cardozo (7/2008 to 8/2008)

- Conducted studies for STOP signs on Plumley Road at two intersections for the City of Cathedral City (5/2008 to 8/2008)

- Prepared critique of traffic and circulation impacts identified in the Draft EIR for the Concord Community Reuse Plan Project in the City of Concord for Lozeau/Drury LLP (6/2008 to 7/2008)

- Prepared critique of the Traffic Impact Study for the Sky Harbor Ranch Project for the Town of Yucca Valley (6/2008 to 7/2008)

- Prepared critique of the traffic impacts identified in the Revised Draft EIR and Traffic Impact Analysis for the Chula Vista Bayfront Master Plan in the City of Chula Vista for Adams Broadwell Joseph & Cardozo (7/2008)

- Prepared critique of traffic and circulation impacts identified in the Draft and Final EIRs for the River Oaks Crossing Specific Plan Project in the City of Oakley for Mark R. Wolfe & Associates (10/2007 to 5/2008)

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- Prepared critique of the Traffic Impact Study for the Downtown Revitalization Project (Bisno Development) for the City of Baldwin Park (4/2008 to 5/2008)

- Prepared critiques of traffic and circulation impacts identified in the Draft EIR, Final EIR and various supporting technical studies for the Bakersfield Winco in the City of Bakersfield for Mark R. Wolfe & Associates (4/2007 to 3/2008)

- Prepared critique of traffic and circulation impacts identified in the Draft and Final EIRs and Traffic Study for the Soledad Shopping Center Project in the City of Soledad for Weinberg, Roger & Rosenfeld (3/2008)

- Prepared critique of the traffic impacts identified in the Initial Study for the Columbus Salami Manufacturing Plant Project in the City of Fairfield for Adams Broadwell Joseph & Cardozo (3/2008)

- Prepared critique of traffic and parking impacts identified in the Draft EIR and Traffic Impact Study for the Sherwin Project in the Town of Mammoth Lakes for Shute, Mihaly, & Weinberger (1/2008 to 2/2008)

- Prepared critiques of traffic and parking impacts identified in the Draft EIR and various supporting technical studies for the Solana Beach Train Station Mixed Use Project in the City of Solana Beach for area residents; presented findings to area property owners and to City Council; prepared rebuttal to responses to comments in the Final EIR for the project (6/2006 to 1/2008)

- Provided technical assistance for the Santa Monica Growth Limitation Ballot Initiative to Shute, Mihaly, & Weinberger (1/2008)

- Prepared critique of the traffic impacts identified in the Initial Study for the United Spiral Pipe Manufacturing Plant Project in the City of Pittsburg for Adams Broadwell Joseph & Cardozo (10/2007 to 11/2007)

- Prepared critique of traffic and parking impacts identified in the Traffic Impact Study for the Initial Study for the Wilshire Parkview Hotel and Residences Project in the City of Los Angeles for Shute, Mihaly, & Weinberger (8/2007 to 9/2007)

- Prepared critique of the traffic impacts identified in the Initial Study with Proposed Mitigated Negative Declaration prepared by Caltrans for the widening of State Route 74, Lower Ortega Highway, in the City of San Juan Capistrano for Shute, Mihaly, & Weinberger (8/2007)

- Prepared critique of traffic and parking impacts identified in the Traffic Impact Analysis for the Providence Medical Center Expansion Project in the City of Los Angeles for Weinberg, Roger & Rosenfeld (11/2006 to 8/2007)

- Prepared critique of the traffic impacts identified in the Draft and Final EIRs for the Rockville Trails Estates Project in Solano County for Shute, Mihaly, & Weinberger (7/2007)

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- Prepared critique of traffic and parking impacts identified in the Draft EIR for the La Bahia Hotel Expansion in the City of Santa Cruz for Mark R. Wolfe & Associates (6/2007 to 7/2007)

- Prepared preliminary critique of the traffic impacts identified in the Draft EIR for the Delano Marketplace Project in the City of Delano for Mark R. Wolfe & Associates; prepared rebuttal to responses in Final EIR (5/2006 to 7/2007)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Live Oak Master Plan Project in the City of Hanford for Adams Broadwell Joseph & Cardozo (5/2007)

- Prepared critique of the traffic impacts identified in the Draft EIR and the supporting traffic study for the La Floresta Development Project in the City of Brea for the City of Yorba Linda (1/2007 to 4/2007)

- Prepared critique of the traffic impacts identified in the Addendum to the Program EIR and Transportation Analysis for the Davidon Homes Project in the City of Antioch for Adams Broadwell Joseph & Cardozo (1/2007)

- Prepared critique of the traffic and circulation impacts identified in the Monterey County 2006 General Plan Final EIR for Mark R. Wolfe & Associates (12/2006)

- Provided expert witness evaluation of traffic and circulation impacts identified in the EIS, Traffic Impact Report, and Updates for the Turtle Bay Resort Expansion Project on the North Shore of Oahu for Alston Hunt Floyd & Ing (9/2006 to 11/2006)

- Prepared trip generation study for a bank and separate drive through bank facility in Century City in the City of Los Angeles for Tract No. 7260 Association (11/2006)

- Prepared preliminary critique of the traffic impacts identified in the Draft EIR and Traffic Impact Study for the Rio Vista Riverwalk Project in the City of Rio Vista for Adams Broadwell Joseph & Cardozo (11/2006)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Impact Analysis for the Chula Vista Bayfront Master Plan (Gaylord Resort Project) in the City of Chula Vista for Adams Broadwell Joseph & Cardozo (10/2006 to 11/2006)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Impact Study for the Antioch Wal-Mart Expansion Project in the City of Antioch for Mark R. Wolfe & Associates (6/2006 to 8/2006); prepared rebuttal to responses to comments in the Final EIR (9/2006 to 10/2006)

- Prepared critique of the traffic and circulation impacts identified in the Revised Partial Draft EIR and the Traffic Study for the Gregory Canyon Landfill Project in San Diego County (7/2006 to 8/2006)

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- Prepared critique of the traffic and circulation impacts identified in the Conditional Use Permit Application for Altamont Motorsports Park in Alameda County for Mark R. Wolfe & Associates (6/2006)

- Prepared response to Initial Study/Notice of Preparation of a Draft EIR for 483 condominiums proposed in three high rise towers in Century City in the City of Los Angeles for Tract No. 7260 Association (6/2005); prepared critique of the Draft EIR for the 10131 Constellation Boulevard Project proposed by JMB (12/2005 to 1/2006); reviewed responses to comments in the Final EIR (5/2006)

- Conducted study which developed traffic engineering measures as well as potential enforcement and legislative actions to deter excessive speeding on Stunt Road adjacent to Calabasas in Los Angeles County for area residents (9/2005 to 4/2006)

- Prepared critique of the Draft EIR and Traffic Impact Analysis for the Rancho Santa Fe Elementary School Project in San Diego County for Coast Law Group (9/2005); prepared rebuttal to responses to comments in the Final EIR (2/2006 to 3/2006)

- Prepared critique of the traffic, circulation, and parking impacts identified in the Traffic Impact Analysis for Los Angeles Unified School District Valley Elementary School #8 in the City of San Fernando (1/2006)

- Prepared critique of the traffic impacts identified in the Focused EIR and Traffic Impact Analysis for the Temecula Regional Hospital Project in the City of Temecula for Adams Broadwell Joseph & Cardozo (10/2005); prepared rebuttal to responses to comments in the Final EIR (1/2006)

- Prepared critiques of the traffic impacts identified in the Draft EIR and in the Revised Draft EIR for the Central Larkspur Specific Plan in the City of Larkspur and prepared responses to comments in the Final EIR for Shute, Mihaly, & Weinberger (7/2002 to 8/2002, 12/2003 to 2/2004, 1/2005 to 3/2005, and 12/2005 to 1/2006)

- Conducted Traffic Impact Analyses for the Sacred Heart Church and School Master Plan in the City of Palm Desert including presentations to community residents and testimony at Public Hearings before the City Council (3/2005 to 12/2005)

- Prepared critique of traffic impacts identified in the Final EIR and Traffic Study for the Preserve at San Marcos Project in Santa Barbara County for the San Marcos Foothill Coalition (10/2005 to 11/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR and the Traffic Impact Analysis for the Borden Ranch Surface Mining Project in Sacramento County for Weinberg, Roger & Rosenfeld (11/2005)

- Prepared critiques of the Mitigated Negative Declaration and Traffic Impact Analysis and of these documents as revised for the Providence Center Specific Plan in the City of Fullerton for Shute, Mihaly, & Weinberger (6/2005 to 7/2005; 11/2005)

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- Prepared critique of the traffic impacts identified in the Draft EIR for the Blue Rock Quarry Expansion near the Town of Forestville in Sonoma County for Weinberg, Roger & Rosenfeld (10/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Study for the Oak to Ninth Project in the City of Oakland for Mark R. Wolfe & Associates (9/2005 to 10/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR for the East Cypress Corridor Specific Plan Project adjacent to the City of Oakley in Contra Costa County for Adams Broadwell Joseph & Cardozo (9/2005 to 10/2005)

- Prepared critique of the Mitigated Negative Declaration for the Providence Medical Center Expansion Project in the City of Los Angeles for Shute, Mihaly, & Weinberger (9/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR for the University District Specific Plan Project adjacent to the City of Rohnert Park in Sonoma County for Mark R. Wolfe & Associates (9/2005)

- Prepared preliminary critique of the traffic impacts identified in the Draft Subsequent EIR for the Mare Island Specific Plan Project in the City of Vallejo for Adams Broadwell Joseph & Cardozo (9/2005)

- Prepared critique of the traffic portions of the Revised EIR and the traffic study of the Deer Creek Park 2 Project in the County of Nevada for Shute, Mihaly, & Weinberger and the City of Nevada City (8/2005 to 9/2005)

- Prepared preliminary critique of the traffic impacts identified in the Draft EIR and traffic study for the Prewett Ranch Project in the City of Brentwood for Adams Broadwell Joseph & Cardozo (7/2005)

- Prepared critique of the traffic and circulation sections of the Draft Subsequent EIR of the County of Ventura Focused General Plan Update and prepared rebuttal to responses for Shute, Mihaly, & Weinberger and the Community of Somis (12/2004 to 1/2005; 6/2005)

- Prepared critique of the traffic and parking impacts identified in the Draft EIR and Traffic Impact Analysis for the Long Beach Memorial Medical Center Expansion in the City of Long Beach for Weinberg, Roger & Rosenfeld (2/2005 to 5/2005)

- Prepared critique of the Draft EIR and traffic study for the Villages at Fairfield Project in the City of Fairfield for Adams Broadwell Joseph & Cardozo (4/2005 to 5/2005)

- Prepared critique of the traffic, circulation, and parking impacts identified in the Traffic Impact Analysis for Los Angeles Unified School District Valley High School #5 in the City of San Fernando (4/2005)

Tom Brohard and Associates

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- Prepared critique of the transportation, circulation, and parking impacts identified in the Draft EIR and the Final EIR for the Wood Street Project in the City of Oakland for the East Bay Community Law Center (3/2005)

- Conducted City wide engineering and traffic surveys confirming enforceable speed limits on 31 street segments for the City of San Fernando (1/2005 to 3/2005)

- Checked plans for traffic signal installations and modifications as well as signing and striping revisions for various projects for Engineering Resources of Southern California and the Cities of Hemet and Palm Springs (12/2003 to 3/2005)

- Prepared critique of the Initial Study and traffic study prepared for the Hidden Canyon (Greenfield) Quarry Use Permit and Reclamation Plan in Monterey County for Weinberg, Roger & Rosenfeld (2/2005)

- Prepared critiques of the traffic impacts identified in the Los Angeles International Airport Master Plan Draft EIS/EIR for Alternatives A, B, and C and in the Supplement Draft EIS/EIR for Alternative D, prepared responses to comments in the Final EIS/EIR, and reviewed Addendum #3 for Shute, Mihaly, & Weinberger and the City of El Segundo (2/2001 to 7/2001, 7/2003 to 10/2003, 11/2004, and 12/2004)

- Prepared critique of the Traffic Study for the 450-460 North Palm Drive Senior Housing Residential Project in the City of Beverly Hills for Luna & Glushon (11/2004)

- Prepared critique of the Draft EIR and traffic study and provided testimony at a public hearing regarding the West Los Angeles College Facilities Master Plan in Los Angeles County for Culver Crest Neighborhood Association (10/2004 to 12/2004)

- Prepared critique of the Draft EIR and the associated traffic impact analysis as well as subsequent rebuttal to responses to these comments in the Final EIR for The Ranch Plan in the County of Orange for the Endangered Habitats League (6/2004 to 7/2004 and 10/2004)

- Prepared preliminary critique of the Draft EIR and traffic study for the Chandler Ranch Specific Plan Project in the City of Paso Robles for Adams Broadwell Joseph & Cardozo (9/2004)

- Prepared critique of the Draft EIR and traffic report associated with the Magnolia Park Project in the City of Oakley for Adams Broadwell Joseph & Cardozo (9/2004)

- Prepared critique of the traffic impacts identified in the Recirculated Draft EIR and traffic study for the McKean Road Sports Complex in Santa Clara County for Shute, Mihaly, & Weinberger (9/2004)

- Prepared critique of the Environmental Assessment for Robie Ranch Reclamation Project in Calaveras County for Weinberg, Roger & Rosenfeld (9/2004)

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- Provided expert assistance to residents in the City of La Mirada during settlement negotiations regarding litigation involving the Big T Residential Development Project in the City of Buena Park (6/2004 to 9/2004)

- Prepared critique of the traffic impacts identified in the Recirculated Draft EIR and the associated traffic study for the Lake Jennings Ralph's Shopping Center in San Diego County for SOFAR and Shute, Mihaly, & Weinberger (8/2004)

- Reviewed Traffic Impact Study prepared for the San Fernando Corridors Specific Plan for the City of San Fernando (7/2004 to 8/2004)

- Prepared critique of the Negative Declaration for the Brisbane Recycling Project in the City of Brisbane for Weinberg, Roger & Rosenfeld (6/2004)

- Reviewed various alternative alignments for the extension of Lexington Drive from Cerritos Avenue to Katella Avenue, a proposed secondary highway, for the City of Los Alamitos; provided expert assistance to the City of Los Alamitos during settlement negotiations regarding litigation of the proposed Cottonwood Christian Center Project in the City of Cypress (4/2004 to 6/2004)

- Prepared critique of the Draft EIR and the associated traffic impact study for the Jaxon Enterprises Mine and Reclamation Expansion Project in the County of Merced for Weinberg, Roger & Rosenfeld (5/2004)

- Prepared critique of the Environmental Secondary Study for the Santa Fe Parcel 6 Mixed Use Project in the City of San Diego for Adams Broadwell Joseph & Cardozo (4/2004 to 5/2004)

- Prepared critique of the Draft EIR and the associated traffic impact analysis for the for the San Mateo Rail Corridor Plan & Bay Meadows Specific Plan Amendment in the City of San Mateo for Adams Broadwell Joseph & Cardozo (3/2004 to 5/2004)

- Reviewed the Edinger Corridor Specific Plan Traffic Analysis for the proposed redevelopment and intensification of adjacent land uses for the City of Huntington Beach (12/2003, 4/2004, and 5/2004)

- Conducted the Traffic Impact Study of the San Fernando Regional Pool Facility Project and the associated street improvements for the City of San Fernando (3/2004 to 4/2004)

- Prepared critique of the Initial Study/Mitigated Negative Declaration and the associated traffic study for the Pixar Headquarters Expansion in the City of Emeryville for Shute, Mihaly, & Weinberger (3/2004 to 4/2004)

- Prepared critique of the Draft EIR and the associated traffic impact analysis for the Lower Lagoon Valley Specific Plan in the City of Vacaville for Adams Broadwell Joseph & Cardozo (3/2004 to 4/2004)

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- Conducted the Traffic Study of Two Parking Alternatives for the City of San Dimas to provide on street parking to complement potential retail/residential development on the east side of San Dimas Avenue north of Arrow Highway (12/2003 to 4/2004)

- Prepared trip generation calculations for various retail and "Big Box" stores in conjunction with a March 2004 ballot measure in Contra Costa County for Mark R. Wolfe & Associates (1/2004 to 2/2004)

- Prepared critique of the Initial Study/Mitigated Negative Declaration and the associated transportation impact analysis for the S&S Farms and Hancock Property Residential Development Plan in the City of Brentwood for Adams Broadwell Joseph & Cardozo (2/2004)

- Prepared critiques of the traffic impacts identified in the Mitigated Negative Declarations as well as subsequent rebuttal to responses to these comments for the Bayfront Live Work Project in the City of Hercules for Adams Broadwell Joseph & Cardozo (4/2003, 10/2003, and 2/2004)

- Conducted the City Wide Traffic Calming Study of Residential Streets in the City of San Fernando including development of traffic calming guidelines and specific recommendations addressing over 70 "Hot Spots" throughout the City including monthly presentations at Transportation & Safety Commission meetings and a presentation of the Final Report to the City Council (5/2003 to 1/2004)

- Prepared critique of the Initial Study/Mitigated Negative Declaration and the associated transportation analysis for the Cottonwood Christian Center in the City of Cypress for the City of Los Alamitos (1/2004)

- Prepared critique of the Recirculated Draft EIR and the associated transportation analysis for the Sand Creek Specific Plan in the City of Antioch for Adams Broadwell Joseph & Cardozo (1/2004)

- Prepared critique of the Initial Study and the associated traffic impact studies for the West Dublin Transit Village in the City of Dublin for Adams Broadwell Joseph & Cardozo (11/2003 to 1/2004)

- Prepared critiques of the Initial Study and the Recirculated Initial Study/General Plan Amendment and Rezoning for the Jack Parker Trucking Site in the City of San Pablo for Adams Broadwell Joseph & Cardozo (9/2003 and 11/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR and rebuttal to responses to comments in the Final EIR for the proposed Wal-Mart in the City of Fremont for Mark R. Wolfe & Associates (7/2002 to 10/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR, rebuttal to responses in the Final EIR, and testimony at a public hearing regarding the Alpine Village Shopping Center in San Diego County for Shute, Mihaly, & Weinberger (6/2002 to 10/2003)

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- Prepared critique of the traffic impacts identified in the Draft EIR, rebuttal to responses in the Final EIR, testimony at public hearings, and assistance during settlement negotiations regarding the 2000 Avenue of the Stars Project in Century City in the City of Los Angeles for Tract No. 7260 Association (9/2002 to 10/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Glen Loma Ranch Project in the City of Gilroy for Adams Broadwell Joseph & Cardozo (9/2003)

- Prepared critique of the traffic impacts identified in the Initial Study and the Traffic Impact Analysis for the Ryder Homes Project in the City of Oakley for Adams Broadwell Joseph & Cardozo (9/2003)

- Prepared critique of the traffic impacts identified in the Initial Study and the Traffic Impact Analysis for the Ravenswood Residential Project in Contra Costa County for Adams Broadwell Joseph & Cardozo (8/2003 to 9/2003)

- Prepared critique of the traffic impacts identified in the Draft Subsequent EIR for the proposed Boronda Crossing Commercial Project in the City of Salinas for Mark R. Wolfe & Associates (8/2002 to 9/2003)

- Prepared four grant applications to Caltrans for $1,115,000 of Hazard Elimination Safety funding to modify traffic signals and to upgrade regulatory, warning, and street name signs in the City of Santa Ana (3/2003 to 8/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR and the Traffic Impact Analysis for the Bluerock Business Center Project in the City of Antioch for Adams Broadwell Joseph & Cardozo (8/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Clark Road Residential Project in the City of Richmond for Adams Broadwell Joseph & Cardozo (8/2003)

- Prepared critique of the traffic impacts identified in the Initial Study and the Traffic Impact Analysis for the Sky Ranch Residential Project in the City of Antioch for Adams Broadwell Joseph & Cardozo (7/2003 to 8/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Cal Poly Student Housing North Project in the City of San Luis Obispo for Adams Broadwell Joseph & Cardozo (7/2003)

- Prepared critique of the traffic impacts identified in the Final EIR for the Lake Jennings Ralph's Shopping Center in San Diego County for SOFAR and Shute, Mihaly, & Weinberger (3/2003 to 7/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Cypress Grove Residential Project in the City of Oakley for Adams Broadwell Joseph & Cardozo (6/2003)

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- Prepared critique of the traffic impacts identified in the Draft EIR for the McKean Road Sports Complex in Santa Clara County for Shute, Mihaly, & Weinberger (5/2003)

- Prepared grant application to Caltrans for $448,000 of Safe Route to School funding to upgrade all school signs at 68 public and private schools in the City of Santa Ana (3/2003 to 5/2003)

- Prepared critique of the traffic impacts identified in the Traffic Impact Analysis for the Blossom Valley Middle School for the Dunbar Lane Task Force in San Diego County (4/2003 to 5/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR and the Traffic Impact Analysis for the Bettencourt Ranch Aggregate Mining Project in Merced County for Weinberg, Roger & Rosenfeld (4/2003)

- Conducted a complete review of the General Plan Circulation Element for the City of Huntington Beach including comparisons to the Orange County Transportation Authority's Master Plan of Arterial Streets and drafted a Request for Proposal to update the City's Circulation Element (8/2002 to 4/2003)

- Prepared critique of the traffic impacts identified in the Traffic Impact Analysis for the proposed Wal-Mart in the City of Gilroy for Mark R. Wolfe & Associates (2/2003 to 3/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Waterfront/Downtown Mixed Use Project in the City of Vallejo for Adams Broadwell Joseph & Cardozo (2/2003)

- Provided expert witness evaluation of the traffic impacts caused by simultaneous construction of various Alameda Corridor Transportation Authority projects for Sullivan, Workman, & Dee (12/2002 to 2/2003)

- Conducted 12 training sessions in Urban Street Design Fundamentals for the Engineering Department staff in the City of Torrance (4/2001 to 4/2002 and 10/2002 to 12/2002)

- Prepared critique of the traffic impacts identified in the Transportation Impact Study for the Western Research Campus in the City of Richmond in Contra Costa County for Adams Broadwell Joseph & Cardozo (11/2002)

- Evaluated Conditions of Approval for the proposed intersection of Mulholland Highway and Hazel Nut Court in Los Angeles County and provided testimony to the Board of Supervisors for Seminole Springs Mobile Home Park (11/2002)

- Reviewed the Traffic Impact Analysis prepared for the Pacific City Project for the City of Huntington Beach (9/2002)

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- Prepared critique of the traffic impacts identified in the Draft EIR for North Yorba Linda Estates in the City of Yorba Linda for Shute, Mihaly, and Weinberger (9/2002)

- Conducted the Hacienda Road Traffic Calming Study and presented the final report at locally televised meetings of the Traffic Committee and the City Council in the City of La Habra Heights (10/2001 to 9/2002)

- Prepared critique of the traffic impacts identified in Initial Studies with Traffic Impact Analyses for three residential subdivisions in the City of Pittsburg for Adams Broadwell Joseph & Cardozo (8/2002)

- Conducted the City Wide Traffic Safety Study and presented the final report at meetings of the Traffic Committee and the City Council in the City of Rolling Hills Estates (4/2001 to 5/2002)

- Prepared critique of the traffic impacts identified in the Draft EIR, rebuttal to responses, and testimony at a public hearing regarding extensions of Corona and Valley View Avenues in the City of Norco for C. Robert Ferguson (1/2002 to 4/2002)

- Prepared critique of the traffic impacts identified in the Draft Initial Study and Environmental Assessment, rebuttal to responses, and testimony at public hearings before the Ventura County Board of Supervisors regarding intersection improvements proposed by Caltrans at State Route 118/State Route 34 in Ventura County for the Community of Somis (12/2000 to 10/2001)

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Letter 47: California State Parks Foundation (1/12/10)

Response to Comment 47-1

This comment contains introductory 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 47-2

The comment is acknowledged. No response is required.

Response to Comment 47-3

Following implementation of the Project, CPSRA will be protected by the same statutory scheme that protects the rest of the State Park System.

As the Draft EIR acknowledges, the proposed reconfiguration would remove 29.2 acres from CPSRA. Of this area, 21.4 acres are currently used as parking for events at Candlestick Park stadium. This land currently does not provide CPSRA with recreational benefit; as such removing it does not damage the Park. Similarly, the land that would be crossed by the proposed Yosemite Slough bridge is not presently available for recreation. As discussed in Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]), with identified mitigation, the Project will have less-than-significant impacts on biological resources in the slough currently or following the Yosemite Slough Restoration Project. The only direct loss to the Park is the 7.8 acres of recreation land (which includes several acres used for CPSRA parking) that would be removed and developed with residential uses essential to the Project's overall success.

In contrast to this relatively small loss, the reconfiguration would provide a substantial net increase in usable recreation land within CPSRA. The proposed reconfiguration would increase the recreational value of CPSRA, in part by providing substantial improvements to parkland in exchange for the land to be removed. The Project, moreover, would not damage any part of the post-reconfiguration park, as discussed more fully in Response to Comment 47-28. Overall the area of CPSRA usable for recreation will increase from the current area of 77.7 acres (about 64 percent of the park's total 120.2 acres, including the slough, which is of minimal recreational value in its unrestored state) to 96.7 acres (the entire future park), a clear improvement.

Response to Comment 47-4

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the Yosemite Slough Wetlands Restoration Project and the biological impacts resulting from construction and operation of the Yosemite Slough bridge; and Master Response 4 (Purpose and Benefits of the Yosemite Slough Bridge) for a discussion of the traffic implications if the Yosemite Slough bridge were constructed.

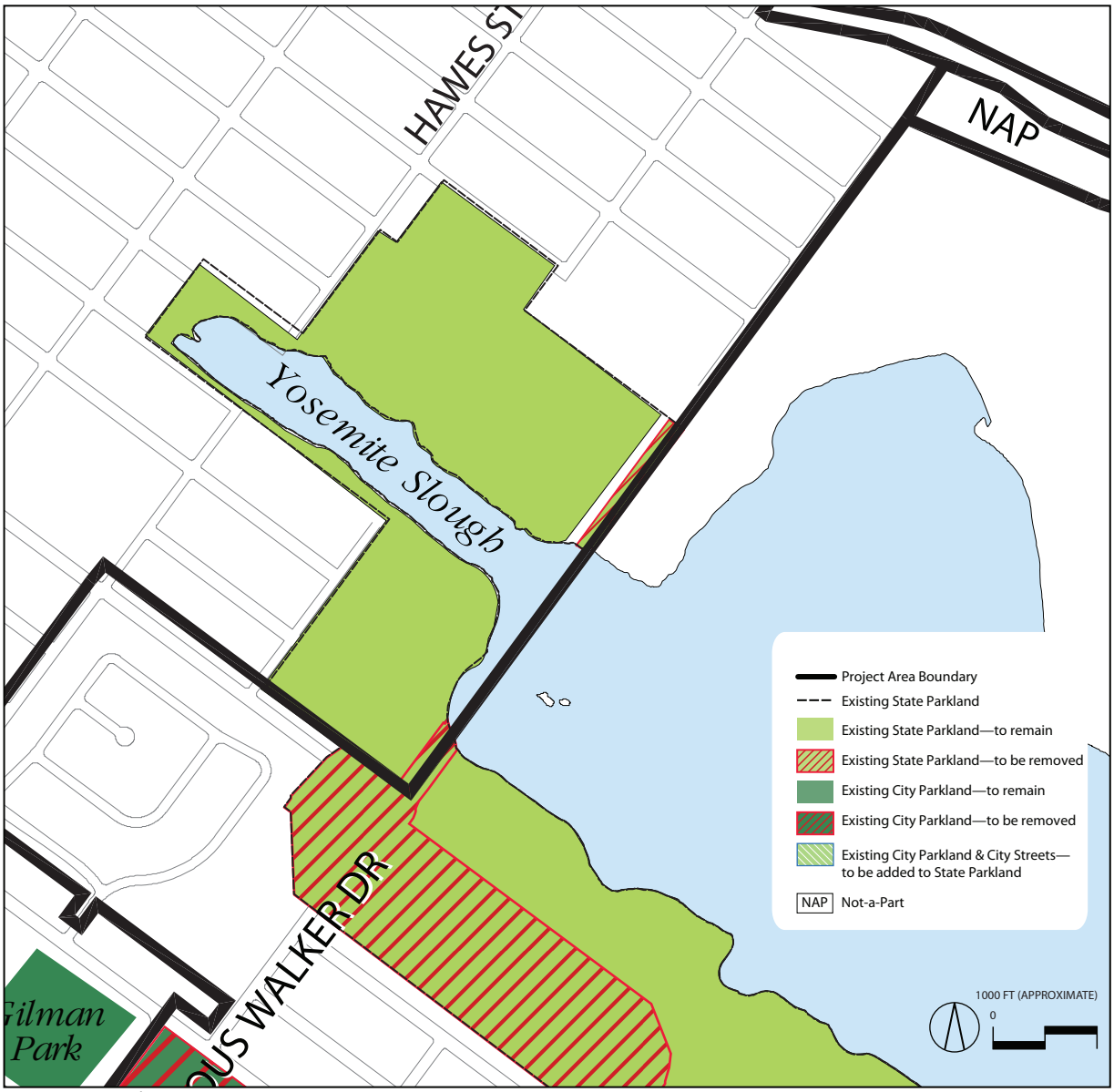
Project Boundaries and the Yosemite Slough Bridge

As noted in Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]), confusion regarding whether or not Yosemite Slough was considered part of the Project and whether impacts to portions of Yosemite Slough outside the Project site were analyzed in the Draft EIR stemmed

in part from reviewers' interpretations of various figures in the Draft EIR, particularly Figure III.N-1 (Biological Resources Study Area). This figure correctly depicted only the mouth of Yosemite Slough as being within the "Project Boundary," while showing that a slightly greater portion of the slough was within the "Study Area" and the entire slough was within the "Yosemite Slough Watershed Wildlife Study Area."

The purpose of Figure III.N-1 was to indicate the relationships of three different geographic areas: the boundary of the Project site (Project Boundary); the boundary of the area that was covered by the wetland delineation performed for the Project (Study Area); and the boundary of the area in which data on wildlife use had been collected during a study performed by LSA Associates, Inc. and volunteers in 2004 (Yosemite Slough Watershed Wildlife Study Area). The Study Area boundary extended beyond the Project boundary because impacts to wetlands and aquatic habitats, both existing and those that would be present after implementation of the Yosemite Slough Restoration Project, were anticipated to occur slightly upstream from the Project boundary during construction of the Yosemite Slough bridge. That the Study Area boundary did not include the entire slough does not indicate that the remainder of the slough was not considered in the impact analysis. Rather, as discussed in the following section, the impact analysis considered direct and indirect effects on all biological resources both within and adjacent to the Project boundary, including all of Yosemite Slough and relevant adjacent areas.

The figures in the EIR depict the location of the proposed Yosemite Slough bridge relative to the Project site boundaries and the CPSRA. In response to this comment, Figure C&R-8 (CPSRA and Project Boundaries) is provided as a larger-scale depiction to illustrate the Project boundaries relative to the slough. This illustration also clearly shows the proposed position of the bridge relative to the CPSRA boundary. The bridge footings on either side of Yosemite Slough would require removal of portions of parkland from the CPSRA (red hatched areas). On the north side of the slough, this would result in 0.8 acre, and on the south side of the slough it would be part of 2.6 acres that would be reconfigured. As evident in the figure, on the north end of the slough, the bridge footings on the north are located at the eastern edge of the park boundary and thus would not "split" the CPSRA. On the south end of the slough, the area removed for bridge footings would impinge on approximately 300 feet or less (270 feet) through the CPSRA. On the south side, the bridge would extend Arelious Walker Drive through a portion of the CPSRA. Persons using the Bay Trail would be able to cross Arelious Walker Drive and easily access the opposite portion of the CPSRA. Thus, while the road and bridge approach on the south side of the slough would cross the CPSRA, it would not act as a physical barrier preventing use of the entire CPSRA. While the proposed road and bridge would cut through the open space in one location, the majority of the restored slough area would remain unaffected and available for its intended use. Further, given the limited automobile use of the bridge (during stadium events only) crossing Arelious Walker Drive would not involve navigating a heavily traveled thoroughfare. Cross-traffic, except on stadium day events, would be limited to the BRT, bicycles, and pedestrians. The current condition of the south side of the slough (the larger shore area) is documented in the Draft EIR, page III.P-26, and states in part: "This area, which runs north along the shoreline from the Boat Launch to Arelious Walker Drive, is currently used for stadium parking and is not available as recreation or open space land. The Project would create grasslands and other habitats and make the area a functioning part of CPSRA's open space."



SOURCE: Lennar Urban, RHAA, 2010.

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Candlestick Point — Hunters Point Shipyard Phase II EIR

CPSRA AND PROJECT BOUNDARIES

FIGURE C&R-8

The Yosemite Slough Restoration Project

Commenters suggested that the Draft EIR did not adequately recognize the Restoration Project as an integral component of the CPSRA or adequately analyze effects of the bridge on the Restoration Project, and suggested that the bridge would conflict with the goals of the restoration. The Restoration Project was discussed in the cumulative context and was considered one of the "planned and in-process wetland Restoration Projects within the Bay area" in the cumulative impact analysis on page III.N-118 of the Draft EIR. In addition, the effects of the Project on the habitats and species that would be expected to use the restoration site were analyzed in the context of direct and indirect impacts to sensitive habitats and special-status/sensitive species both on- and off-site (Impact BI-3a through Impact BI-12c). Direct, explicit reference to the effects of the Project, including the Yosemite Slough bridge, on the Restoration Project itself was limited in the Draft EIR. Because the Draft EIR followed the CEQA requirement to assess impacts with respect to the change that the Project would cause to existing, baseline conditions (under which the Restoration Project has not been implemented), the descriptions of those impacts focused on existing conditions rather than explicitly discussing the Restoration Project. Nevertheless, as explained in more detail, below, the existing slough serves as an appropriate proxy for the restored slough in terms of type of habitat and species that could be impacted by the Project. Although the Restoration Project would increase the extent of tidal aquatic, mudflat, and (especially) tidal marsh habitat in Yosemite Slough, the type of the potentially affected habitats and species present after implementation of the Restoration Project would be similar to existing conditions, and the quantity of impacts to the new/restored habitats would not be substantially greater than the Project's effects on existing Yosemite Slough conditions. Thus, the DEIR assessed impacts to the resources which are the focus of the Restoration Project. To enable the public to see how the analysis covered the impact areas, Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) more directly correlates the biological analysis with the details of the Restoration Project.

The Yosemite Slough Restoration Project was considered in the analysis of cumulative impacts in all technical sections. For clarity, text changes have been made to specifically call out the Restoration Project in the cumulative analysis of each technical section (refer to Section F [Draft EIR Revisions]).

As stated in the Initial Study/Mitigated Negative Declaration issued by the California State Parks Foundation[110] for the Restoration Project, the goals and objectives of the restoration plan include the following:

- Increase the area subject to tidal influence.
- Restore habitat diversity by re-establishing tidal flats and marsh in areas of present upland fill.
- Improve local foraging and roosting habitat for migratory and resident birds.
- Improve quality of life for the surrounding community.
- Remediate, sequester, or remove contaminated soils to reduce potential for human and wildlife contact.
- Create a clean, beautiful, and local park that the public can visit and view wildlife habitat.
- Create an environmental area that local schools can use for educational field trips.

[110] California State Parks Foundation. 2006. Draft Initial Study/Mitigated Negative Declaration. Candlestick Point State Recreation Area Yosemite Slough Restoration Project. SCH # 2005122023, June.

- Benefit local businesses by increasing the number of visitors coming to the area.
- Connect the Bay Trail through CPSRA with the Bay Trail that is proposed for Hunters Point.

As described in Section III.N (Biological Resources) and Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]), all impacts to the slough, restored or unrestored, were analyzed. The Project would not interfere with any of the identified objectives of the Restoration Project. In numerous ways, the Project would further the objectives of the Restoration Project, particularly with respect to improving quality of life for the surrounding community, remediating, sequestering, or removing contaminated soils to reduce potential for human and wildlife contact, benefiting local businesses by increasing the number of visitors coming to the area, and connecting the Bay Trail through CPSRA with the Bay Trail that is proposed for Hunters Point. The Project would rehabilitate and replace dilapidated structures and vacant lots full of rubble and debris with high-quality development that would include numerous acres of open space and local parks. The Project would connect the Bay Trail along the shoreline on Hunters Point. The Project would increase the number of visitors and residents coming to the area, exposing residents and visitors to the CPSRA and the restored slough who might have otherwise not been provided the opportunity. The bridge itself would provide unique viewing opportunities of the slough wetlands and tidal habitat that would not otherwise be available. The area is urban now, although degraded. The Project would create a new, improved development that includes open space and parks that would complement the CPSRA, and would include shoreline improvements that would directly benefit visitors to the CPSRA. The Project and the Restoration Project are not mutually exclusive. The two projects can further the objectives of each other.

Analysis of the Yosemite Slough Bridge and Roadway

As noted in Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) and Section III.N (Biological Resources), Section III.E (Aesthetics), and Section III.P (Recreation) of the Draft EIR, the placement of a bridge across the neck of the slough would not, as demonstrated in the EIR, result in significant and unavoidable impacts to wildlife habitat or recreational users of the slough, or in significant and unavoidable impacts to scenic resources. It is acknowledged that the bridge and roadway would present a structural element that would not otherwise be visible across the neck of the slough. The Project's proposed roadway and bridge through an otherwise entirely recreational open space area would have some adverse impact on the recreational experience, when compared to a natural open space area with no roadway or bridge running through it. Clearly, the introduction of a roadway and bridge, together with activity on and use of those features, would adversely affect the natural feel of this portion of the park. Nevertheless, the EIR does not consider the proposed roadway and bridge to result in a significant adverse impact on the proposed improved recreation area for a variety of reasons. The Slough is presently, and would continue to be, located with an urban environment, bordered in part by developed lots and roads. Hence, even without the proposed roadway and bridge, park users would be aware of and in close proximity to the roads and developed areas bordering the park. In addition, the proposed road and bridge would provide some benefits to the restored park. The bridge would be carefully designed to maximize its integration with surrounding natural areas, including open work, low profile, and architectural finishes that would allow the bridge to blend to the maximum extent feasible with the surrounding environment. The Yosemite Slough is between two urbanized areas, and the "natural" view and feel of the slough as it currently exists would only be sensed if one were wearing blinders, providing the narrowest possible focus directly out from the slough. Otherwise, urban development as it exists would intrude on the "natural feel" of the area, even without the Project. Also refer to Response to Comment 47-20.

Yosemite Slough Bridge Benefits

Refer to Master Response 4 (Purpose and Benefits of the Yosemite Slough Bridge) for a discussion of the need for the bridge and the benefits that it provides. Even without a stadium, the bridge would provide substantial benefits to bicyclists and pedestrians, and facilitates reduced transit times. With a stadium, the bridge would also provide acceptable access to the stadium on game days. The bridge, as noted, above, would provide viewing opportunities for visitors and residents that would not otherwise be available. The pedestrian and bicyclist paths on the bridge would provide unique opportunities for viewing wildlife and the improved wetlands upon completion of the Restoration Project that would otherwise be unavailable. The nesting island and restored wetlands would be highly visible from the bridge and would actually provide a better view in some respects than the view from on the ground. Wildlife traversing the slough could easily be watched from the bridge.

No-Bridge Options

The commenter indicates that there is no analysis in the EIR of a non-stadium option without the Yosemite Slough bridge. A range of development scenarios excluding the Yosemite Slough bridge has been analyzed in the Draft EIR. These include Alternative 2, Alternative 4, and Alternative 5, the analysis of which provides a range of impacts for development without a bridge, from a reduced development scenario without a stadium to a more intense development without a stadium as analyzed under Alternative 5. Alternative 2 analyzes the full Project land use program without construction of the Yosemite Slough bridge. Generally, travel demand associated with all Variants and Alternatives studied would be similar with or without the Yosemite Slough bridge. Because the Yosemite Slough bridge would not accommodate auto travel on non-game days, the traffic circulation patterns are expected to be the same under Alternative 2 as the Project. Similarly, since auto traffic would only use the bridge on game days for any Alternative or Variant considered, the typical non-game day travel patterns for any of the Alternatives or Variants that include the bridge would be the same under conditions without the bridge. If Variant 1 (R&D Variant), Variant 2 (Housing Variant), or Variant 2A (Housing/R&D Variant) were approved, and no bridge were constructed, the impacts would not increase from those identified for Variant 1, Variant 2, or Variant 2A with the bridge. In fact, all operational and construction impacts associated with the bridge, although identified as less than significant, would be eliminated.

Without the bridge across Yosemite Slough, additional travel distance and travel time would have a notable effect on passengers who use the BRT to travel to or from the Hunters Point Shipyard (the analysis indicates a reduction of 15 percent for these trips). However, because this represents a relatively small portion of overall Project-generated transit riders, the overall change in transit ridership and auto trip generation is negligible. This conclusion applies to any Variant or Alternative that was analyzed assuming a bridge over Yosemite Slough.

Operation of the BRT within the rail right-of-way would not affect study intersection operations. Therefore, the traffic impacts associated with Alternative 2 would be the same as the Project. Similarly, traffic impacts associated with any Variant or Alternative that was analyzed assuming a bridge over Yosemite Slough would be the same as the equivalent Variant or Alternative without the bridge.

Table C&R-10 (Development Plan Assumptions for Alternatives 2, 4, and 5) describes the Project components that were analyzed for Alternatives 2, 4, and 5.

Table C&R-10 Development Plan Assumptions for Alternatives 2, 4, and 5

Alternative	*Yosemite Slough Bridge*	*Stadium*	*Intensity of Development Plan*
2	No	Yes	Same as Project
4	No	**No**	Reduced CP-HPS Phase II Development (approximately 30%) with Historic Preservation
5	No	**No**	Same as Project but less development at CP, more at HPS Phase II

While Alternative 2 analyzed the impacts of a no-bridge scenario with the stadium at a similar development intensity as the Project, Alternatives 4 and 5 examined alternative development scenarios, one with a reduced development envelope compared to the Project and the other with the same development program, but different distribution of uses, as the Project, both without a stadium or inclusion of the Yosemite Slough bridge.

Alternative 4 is a reduced-development alternative. A total of 7,350 residential units would be constructed under this alternative, about 30 percent less than proposed with the Project. Consequently, the population growth anticipated under this alternative would be approximately 17,126 compared to approximately 24,465 under the Project. Land uses proposed under Alternative 4 would be similar to those proposed under the Project; however, residential densities and commercial intensities for most uses would be approximately 30 percent less at full build-out in comparison to build-out of the Project.

Alternative 5 would have the same overall land use program as the Project. The total number of housing units would be the same as for the Project. However, approximately 1,350 units would be shifted from Candlestick Point to HPS Phase II, because no State Parks agreement would occur, resulting in a smaller development footprint at Candlestick Point. No Yosemite Slough bridge would be constructed and there would be no stadium at HPS Phase II. As noted on page VI-126 of the Draft EIR, Alternative 5 would retain the existing configuration of the State Park boundary, and would not include improvements or ongoing funding for operations and maintenance as provided by the Project. As a result, the land area available for development at Candlestick Point would be smaller and 1,350 housing units would be shifted to HPS Phase II. A total of 6,500 residential units would be constructed at Candlestick Point with higher densities, resulting in more mid-rise structures and towers than under the Project. The amount of retail, office, community service, hotel, arena uses would remain as proposed under the Project. Research and development uses, neighborhood retail, community-serving uses, the artists' studios, and marina proposed by the Project are also proposed under Alternative 5. Residential development would increase by 1,350 units, for a total of 4,000 units. The San Francisco 49ers football stadium would not be constructed at HPS Phase II.

Therefore, the EIR has analyzed alternatives without a bridge or stadium that range from a 70-percent of Project development to a full Project development with units shifted from Candlestick Point to HPS Phase II. The shifting of these residential units in Alternative 5 would result in more intense development at HPS Phase II than as analyzed for the Project. While the traffic patterns would be somewhat different under Alternatives 2, 4, and 5, the EIR has analyzed an equivalent, a reduced, and a more intense Project at HPS Phase II without inclusion of the bridge.

If the 49ers relocate to a city other than San Francisco, Variants 1, 2, or 2A could be developed. If any of these Variants is ultimately implemented, and there is no Yosemite Slough bridge, impacts with regard to

Land Use and Plans, Population, Housing, & Employment, Aesthetics, Wind, Shadow, Cultural and Paleontological Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Public Services, Recreation, Utilities, Energy, and Greenhouse Gas Emissions would not differ from the analyses in the EIR with respect to these Variants, as impacts on these resource areas are based on intensity of development, population/employment generation, extent of land disturbance, and types of land uses, and would not become more severe or result in additional environmental impacts if a bridge were not constructed. Therefore, the analyses contained in the EIR for any of these Variants would apply if neither the stadium nor the bridge is built.

The only resources that could be affected by routing traffic around the slough would be traffic, transit, air quality, and noise. Alternatives 2, 4, and 5 analyzed routing traffic around the Yosemite Slough rather than across a Yosemite Slough bridge. If Variants 1, 2, or 2A were approved without a bridge, the traffic impacts of routing traffic around the slough has been included in the EIR analysis of Alternatives 2, 4, and 5, and would be greater than the Project. The biological resource impacts would be reduced with no bridge compared to the Project. However, the benefits of the bridge would not be realized, such as decreased transit times and additional wildlife viewing opportunities.

The only area where transportation and circulation would be different without a stadium if the bridge were not built relates to transit travel times. The distance across the Yosemite Slough bridge (from Carroll Avenue to Shafter Avenue) is approximately 0.4 mile. The distance on the route around the slough is approximately 1 mile, a difference of 0.6 mile. The travel time for the BRT route across this distance (assuming an average 10 to 20 mph travel speed) would be approximately 1.25 to 2.5 minutes. The travel time for the BRT route around the slough (assuming an average 7 mph travel speed) would be 8.7 minutes, an increase of over 6 to 7.5 minutes. Therefore, the assumption of a 5-minute difference in travel time as disclosed in the Draft EIR is a reasonable estimate given the uncertainties in estimating actual transit travel time. Further, whether the actual difference in travel time is 5 minutes or 6 minutes, or perhaps even 7 minutes, it would not alter the significance conclusion relative to transit travel since the transit ridership generated would be similar to the Project with a no-bridge development scenario, and transit demand would be accommodated by available capacity, similar to the Project. Further, as described for Alternative 2 in the Draft EIR, traffic volumes would be similar under conditions with or without the bridge, since traffic would not typically be allowed to use the bridge. Therefore, impacts to transit associated with traffic congestion would be similar with or without the bridge.

Response to Comment 47-5

The Draft EIR considers the Project's impacts to recreation opportunities at CPSRA as a whole, while acknowledging that some area would be removed from the park. It concludes that because recreational opportunities would increase overall, the Project would not have a significant physical impact. Refer to Draft EIR at p. III.P-32. As discussed in Responses to Comments 47-20 and 47-26, below, the Project would not significantly degrade existing recreational opportunities at, or any other aspect of, Yosemite Slough as it exists today. Response to Comment 47-20 discusses potential impacts to future uses of the slough. Refer also to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) and to Draft EIR pages III.E-50 through III.E-51, concerning the Project's aesthetic impacts to the slough.

Response to Comment 47-6

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 is specifically responded to in Responses to Comments 47-7 through 47-65.

Response to Comment 47-7

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) and Master Response 4 (Purpose and Benefits of the Yosemite Slough Bridge), which discuss the bridge's effects on biological resources and transportation, respectively. As noted in Master Response 4, although the bridge does provide an important function related to the stadium on game days, the bridge would also serve a vital role in providing effective BRT service to the Hunters Point Shipyard neighborhood and a key pedestrian and bicycle connection between the Hunters Point Shipyard and Candlestick Point neighborhoods. Therefore, the bridge is proposed under Project Variants 1 and 2, which do not include the stadium.

However, the Draft EIR Chapter VI includes an analysis of the Project without the Yosemite Slough Bridge. Alternative 2 (CP-HPS Phase II Development Plan; No Yosemite Slough Bridge) would have the same land use program proposed with the Project, including the State Parks agreement, but would not include the Yosemite Slough bridge. Discussion of impacts of Alternative 2, as compared to the Project, is presented on Draft EIR pages VI-30 to VI-59. Alternative 2 could also be combined for approval with Project land use Variants 1 and 2, also resulting in a Project without the Yosemite Slough bridge. Alternative 4 (Reduced CP-HPS Phase II Development; Historic Preservation; No HPS Phase II Stadium, Marina or Yosemite Slough Bridge) and Alternative 5 (Reduced CP-HPS Phase II Development; No HPS Phase II Stadium, State Park Agreement, or Yosemite Slough Bridge), presented on Draft EIR pages VI-93 to VI-159 also do not include the Yosemite Slough bridge.

The benefit of the bridge with respect to BRT service described above are similar for the land use plans as part of the Project, Project Variants, and Project Alternatives where BRT service is proposed.

Refer to Response to Comment 17-1 for a discussion of the process that would be required for the bridge to be open for public use.

Response to Comment 47-8

Refer to Responses to Comments 47-3 and 47-28 for discussions of the proposed park reconfiguration.

Response to Comment 47-9

This comment is an overview of the commenter's concerns, which are specifically described and responded to above and below in responses to this letter.

Response to Comment 47-10

The Draft EIR identifies both the City and County of San Francisco and the Agency as co-lead agencies for the purposes of carrying out or approving the Project and preparing the CEQA review document. Section 15051(a) of the CEQA Guidelines provides criteria for determining the Lead Agency, stating that

it generally should be the agency that will carry out the Project. Section 15051(d) of the CEQA Guidelines also acknowledges that there may be times in which two or more public agencies have a substantial claim to be the Lead Agency, in which case, the agencies may designate one agency as the lead or may provide for cooperative efforts by two or more agencies, as is the case for the CP-HPS Phase II EIR.

The City and County of San Francisco has adopted guidelines for implementing CEQA, as required by the statute; and those guidelines are codified in its Administrative Code Article 31. Article 31.04 states that the City and all of its officials, boards, commissions, departments, bureaus, and offices shall constitute a single "local agency," "public agency," or "lead agency," as those terms are used in CEQA, except that the Agency shall be a separate "local agency" or "public agency" as specified in CEQA. With regard to the establishment of any redevelopment area, the City shall be the "Lead Agency." In other words, the City has authorized the Agency to be its own Lead Agency except in the instance of the establishment of a redevelopment area.

In this case, the Project does not establish a redevelopment area, so Article 31.04 does not mandate that the "City" serve as the Lead Agency; however, the Project proposes to amend two plans of existing redevelopment areas and that action requires Board of Supervisor approval. The Board also will take a number of other approval actions. The Agency, however, will carry out the Project. The facts here present a situation as recognized in Section 15051(d) where two or more agencies have a substantial claim to be the Lead Agency. Given the language in Article 31.04, it has been the City's experience that the Agency has a substantial claim to be the Lead Agency in circumstances where the Agency proposes to establish redevelopment areas or amend redevelopment plans. Consequently, in addition to having CEQA allow for cooperative efforts by two or more agencies, the City and Agency have long had the practice of jointly preparing CEQA documents for redevelopment plans and plan amendments.

Consistent with CEQA's basic purpose of informing decision-makers and the public about potential significant environmental effects, the identification of cooperative lead agencies increases the opportunity for public disclosure. Rather than creating a problem for the public, if anything, this process results in a better process for the public. It ensures that the Project is well defined, both by the City and the Agency. It requires two commissions to hold public hearings on the draft document, the Redevelopment Commission and the Planning Commission, following both the City's adopted guidelines for carrying out CEQA and the Agency's adopted guidelines. It requires both commissions to certify to the adequacy, accuracy, and completeness of the Final EIR.

As a procedural matter, there is no additional burden on the part of the public by having additional hearings; instead, the public is afforded more opportunities to participate in the process, and any oral comments at any one or more of the hearings are provided equal weight. The public has embraced the practice, as is evident by the number of people who appeared to testify before the commissions. Further, the process does not produce administrative waste because the fact remains that both the City and the Agency have discretionary approval authority over the Project and both agencies must be fully informed as to the potential environmental impacts before acting on the Project.

Consistent with Section 15051(c) of the CEQA Guidelines, to the extent that the City would act first on the Project, it could be considered the primary Lead Agency, if a choice were to be made. However, if the City were designated as the primary Lead Agency and the Agency as a responsible agency (as opposed to

designating co-lead agencies), the conclusions of the EIR would not change, nor would the process by which the EIR has been or will be heard and considered by the City and the Agency. The designation of the City as the primary Lead Agency would not trigger any of the conditions identified in Section 15088.5 of the CEQA Guidelines that require recirculation of an EIR, which include (1) a new significant environmental impact; (2) a substantial increase in the severity of an environmental impact; (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the significant impacts of the project (but the project's proponents decline to adopt it); or (4) precluding meaningful public review and comment.

Response to Comment 47-11

Use of a Project-Level vs. Programmatic EIR and Certainty with Respect to Project Features and/or Variant Features

As stated on page I-6 of the Draft EIR:

> This EIR evaluates the development Project's environmental effects at a project level of detail and examines all phases of the Project, including planning, construction, and operation, as well as the direct, indirect, and cumulative impacts that might result. The Candlestick Point-Hunters Point Shipyard Phase II EIR is a Redevelopment Plan EIR pursuant to CEQA Guidelines Section 15180 and a project EIR pursuant to CEQA Guidelines Section 15161. The CEQA "Project" includes the proposed Candlestick Point-Hunters Point Shipyard Phase II Development project, the proposed amendments of the Bayview Hunters Point and Hunters Point Shipyard Redevelopment Plans, and the proposed amendments of the San Francisco *General Plan* and the San Francisco *Planning Code*.

CEQA does not mandate the use of programmatic EIRs in most circumstances. Section 15168(a) of the CEQA Guidelines provides permissive language regarding the use of Program EIRs, stating, "A program EIR is an EIR which may [emphasis added] be prepared on a series of actions that can be characterized as one large project and are related. …" Section 15165 of the CEQA Guidelines, in its section describing multiple and phased projects, provides guidance as to when a program EIR must be used, stating, "Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the lead agency shall prepare a single program EIR for the ultimate project as described in Section 15168." The identification of a separate section of the CEQA Guidelines to address multiple and phased projects is intended to make clear that an EIR must address the impacts associated with the whole of an action. If the approval of one particular activity could be expected to lead to many other activities being approved in the same general area, such as is the case with multiple or phased projects, the EIR must examine the expected effects of the ultimate environmental changes. Essentially, while CEQA and the CEQA Guidelines allow for different types of environmental documents, such as a program EIR or a project EIR, the type of environmental document ultimately selected must disclose all environmental impacts associated with a project or an action that leads to other reasonably foreseeable actions; impacts cannot be overlooked due to piecemeal development. As further explained in Practice Under the California Environmental Quality Act (Kostka and Zischke 2009), a Program EIR may be used to (1) avoid multiple EIRs, which could otherwise cause piecemeal environmental review or (2) consider broad programmatic issues for related actions at an early stage of the planning process.

The CP-HPS Phase II Project, while it would occur over a 20-year period of time due to the size of the site and magnitude of the undertaking, represents a single and discrete project, the whole of which has been fully

analyzed in the CP-HPS Phase II Project EIR. With respect to the stadium, the EIR evaluates a project that includes a stadium, which is consistent with the development application submitted by Lennar Urban and jointly accepted by the City and County of San Francisco and the Agency. However, because it is possible that the 49ers may not choose to remain in San Francisco, which is a decision made by the 49ers and outside of the control of the lead agencies and the Applicant, it is possible that a stadium would not be necessary at the Project Site; therefore, the EIR evaluated a variant to the Project that did not include a stadium.

With respect to the Tower Variants, the document analyzes different locations and heights of the residential towers at Candlestick Point, while maintaining the same total number of residential units identified for the Project, in order to provide a range of options for the Planning Commission and Board of Supervisors to evaluate. Impacts related to all of the environmental topics, including shade, wind, and aesthetics impacts, are fully evaluated for all of the variants, including the Tower Variants. In fact, as stated on page IV-1 of the Draft EIR (and as revised in this document in Section F [Draft EIR Revisions]):

> Most of the features of the variants would be similar to the features of the Project. None of the variants would alter the Project Objectives, which are provided in detail in Chapter II (Project Description). The Project could be approved in combination with Variants 3 (Tower Variants A, B, C, and D), 4, and/or 5, any of which can be overlaid on the Project. Variants 1, 2, and 2A represent variants of the Project without a stadium; either of these variants, if approved, could also include components of Variants 3 (Tower Variants A, B, C, and D), 4, and/or 5. For all of these variants, this ~~c~~Chapter IV (Project Variants) provides an environmental analysis such that this EIR would be adequate under CEQA for purposes of review and approval for any of the variants of the Project either individually or in combination with elements of the Project. The variants are analyzed at a project-level of detail, which is equal to the Project analysis included in Chapter III (Environmental Setting, Impacts, and Mitigation Measures) Section III.A through Section III.S of this document. The environmental impacts that would result from implementation of the variants are presented following the description of each variant. A comparison of the variant development programs to the Project is presented in Table IV-1 (Comparison of Variants to the Project). Table IV-2 (Impact Comparison of Project Variants) summarizes the effects of the Project compared to the variants. ~~As necessary, figures are included to illustrate key details of the Variants and are presented below with the variant descriptions.~~

The analysis of variants in the EIR does not reflect uncertainty or ambiguities, but, instead, provides flexibility and a range of options for the Lead Agency to consider. In all cases, the variants have been fully evaluated.

All potential components of the proposed development that could occur over the 20-year development schedule have been fully considered in the Draft EIR, either in the analysis of the Project or in the analysis of the variants.

It is acknowledged that some aspects of the Project will need to undergo further design and those further design details will be reviewed and approved by the Agency following the initial approval actions for the Project, consistent with the design review process set forth in the Project approval documents. It is anticipated that these later approvals would require additional environmental analysis only if the specific conditions provided for in CEQA for such later approval action were to occur. As stated on page I-7 of the Draft EIR:

> It is anticipated that each discretionary approval related to the implementation of the Project would rely on this EIR and would not require preparation of subsequent environmental documentation, unless otherwise required by CEQA pursuant to Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 through 15164. Anticipated approvals for the Project are included in Chapter II.

Recreational Impacts Associated with Variant 5

As stated on page IV-238 of the Draft EIR with respect to Variant 5 (49ers/Raiders Shared Stadium):

> Development with the 49ers/Raiders Shared Stadium Variant would be similar to the Project. The Shared Stadium Variant would include the construction and improvement of new parks, recreational facilities, and open space. At build-out of this Variant, approximately 337.5 acres of parks, open space, and recreational uses would be provided, as described in Table IV-1, which is about 0.5 acre more than proposed with the Project.

As stated on page IV-238 of the Draft EIR:

> The Shared Stadium Variant would have the same number of housing units as proposed with the Project, thereby resulting in the same residential population of 24,465, although 0.5 acres more of parkland would be provided. Operational impacts are determined based on a ratio of acres of parkland per resident. Currently, the City provides approximately 7.1 acres of parkland per thousand residents, and the standard used in Section III.P assumes a ratio of 5.5 acres of parkland per 1,000 population is sufficient to meet the demand for recreational facilities without causing or accelerating substantial physical deterioration of facilities or requiring the construction of further facilities. The parkland-to-population ratio associated with the Shared Stadium Variant would be 13.7, which is the same as the Project. The Shared Stadium Variant ratio would be considerably higher than the ratio of 5.5 acres of parkland per thousand residents, which is considered sufficient to meet demand for recreational facilities without causing or accelerating substantial physical deterioration of facilities or requiring the construction of further facilities. Impacts would be less than significant.

As stated on page III.P-29 of the Draft EIR (which provides the same information for Variant 5):

> The Project would also provide approximately 10,730 jobs, which could result in a daytime population of 35,195 (adding the resident population of 24,465, and assuming that no residents were also employees, which is unlikely). Counting the entire daytime population as a part of the population served by the parks on the Project site, the parks-to-population ratio would be 9.5 acres per 1,000 employees/residents, which still exceeds the benchmark ratio of 5.5 acres per 1,000 residents.

In summary, Variant 5 would provide 0.5 acre of additional park facilities, but would result in the same residential and daytime population and associated parks-to-population ratios as the Project, which are considered acceptable.

The Draft EIR assumed there would be 12 game days and 20 other stadium events for the Project, resulting in a total of 32 events. Variant 5 assumes 22 games and 20 other stadium events, for a total of 42 events, an increase of 10 events as compared to the Project.

Environmental Impacts of Shared Stadium and No Stadium Variants

As with the Project, Variant 5 would locate the stadium at Hunters Point, which is not proximate to the CPSRA for purpose of both attending a game and recreating at the CPSRA. As with the Project, it is assumed that individuals that attend a game may arrive early for the purpose of tailgating (refer to page III.D-26 of the Draft EIR), but would not also arrive early (or stay late) for recreation purposes at the CPSRA. Therefore, even with an increase of 10 events, it is unlikely that any of the individuals would impact the recreational values of the CPSRA.

In terms of how the Project will differ in terms of environmental impacts under the 49ers/Raiders Shared Stadium as compared to the Project, refer to the analysis for Variant 5, provided on pages IV-214 through IV-248 of the Draft EIR, as well as Table IV-2 (Impact Comparison of Project Variants). Table IV-2 has

been revised to include Subalternative 4A and is presented in Section F (Draft EIR Revisions). In terms of how the Project will differ in terms of environmental impacts, if the stadium is not built, unlike the Project, refer to the analysis for Variants 1 and 2, provided on pages IV-4 through IV-139 of the Draft EIR, as well as Table IV-2 (Impact Comparison of Project Variants).

Response to Comment 47-12

All of the issues raised in this comment are addressed by the commenter in greater detail in subsequent comments. Therefore, refer to Response to Comment 47-4 for a discussion of why the Yosemite Slough was not included as part of the Project site. Refer to Response to Comment 47-11 for a discussion of reasonably foreseeable future activities associated with the Project. Refer to Response to Comment 47-14 for a discussion of the Project's objectives. Refer to Response to Comment 47-16 for a discussion of necessary federal approvals.

Response to Comment 47-13

Refer to Response to Comment 47-4 regarding the identification and analysis of Yosemite Slough.

Response to Comment 47-14

Chapter II (Project Description) of the Draft EIR clearly indicates that the Project includes construction of a new 49ers stadium, as first described on page II-14 and again described on page II-20. The conceptual design and cross-sections in Figure II-7 (49ers Stadium Conceptual Elevations) and Figure II-8 (Existing and Approved Parks and Open Space), pages II-22 and II-23, further reflect this aspect of the Project. Figure II-8 has been revised and presented in Response to Comment 50-23 to correct the legend and clarify the park boundaries around the stadium site. The Project, including a new 49ers stadium, is evaluated in Chapter III (Environmental Setting, Impacts, and Mitigation Measures) within each environmental topic area.

In this comment, the commenter is identifying one of the six objectives of the Project. Objective 5 on page II-7 of the Draft EIR states:

> 5. The integrated development should encourage the 49ers—an important source of civic pride—to remain in San Francisco by providing a world-class site for a new waterfront stadium and necessary infrastructure, and in so doing should:
>
> - Provide the parking necessary to operate the stadium.
> - Provide the necessary transportation infrastructure, including automobile, public transit and pedestrian connections between Candlestick Point, Hunters Point Shipyard, and the larger BVHP neighborhood, to facilitate the efficient handling of game day traffic.

The Project Objectives are designed to describe the underlying purpose of the Project, as a whole, and to guide in the selection of alternatives. While the City and Agency would like a stadium to be part of the Project, development of an NFL stadium is not the City's or Agency's decision, and is a business decision of the NFL. For the purpose of the analysis of Project impacts, the 49ers stadium is assumed as part of the Project. For example, Section III.D (Transportation and Circulation) evaluates the transportation impacts of a 49ers stadium and identifies mitigation measures to address them.

While the Project includes development of a stadium, several variants to the Project were developed to address a non-stadium scenario. To maintain the same major elements of the Project, while accounting for the potential for the 49ers to relocate to Santa Clara or another jurisdiction, the City identified Variant 1 (R&D Variant) and Variant 2 (Housing Variant), which would develop R&D or housing, respectively, in lieu of a stadium, at levels that would be consistent with population and employment levels associated with a stadium scenario. This analysis is presented in Chapter IV (Variants), and is presented separately from the analysis of a new 49ers stadium within Chapter III. Refer to Master Response 4 (Purpose and Benefits of the Yosemite Slough Bridge) for a discussion of the need for, and benefit of, the Yosemite Slough bridge.

Project variants are addressed on page IV-1, second paragraph, of the Draft EIR. The Draft EIR states that the Project and one or more variants could be adopted ultimately by decision-makers. Nothing in CEQA precludes adoption of a Project that authorizes multiple land uses. The use of the variants in the Draft EIR was done to make it clear which portions of the Project might be developed in alternative ways. Text changes in Section F (Draft EIR Revisions) of this document show new text that has been added to the Executive Summary to discuss Project variants.

As addressed on page IV-214, last paragraph, of the Draft EIR, a stadium shared by two NFL teams would have limited new environmental effects compared to a one-team stadium:

> Overall, the 49ers/Raiders Shared Stadium Variant would not change the amount or type of development compared to the Project. However, the 49ers/Raiders Shared Stadium Variant includes an increase in NFL events per season from 12 to 20 games. Development with this Variant is also likely to result in events occurring weekly for the entire NFL season. Thus, no construction-related environmental effects would occur in excess of those identified for the Project. The potential operational effects of the 49ers/Raiders Shared Stadium Variant would be related to the increase of stadium use and would affect air quality, noise, transportation, utilities, energy, and aesthetics.

As stated in Appendix D of the Draft EIR, pages 35 and 36, the 49ers/Raiders Shared Stadium Variant would have the same impacts as the Project, except that transportation impacts would occur on ten additional days compared to the Project.

Refer to Response to Comment 17-1 for a discussion of allowing the bridge to be open year-round for automobile use.

Response to Comment 47-15

Refer to Response to Comment 17-1 for a discussion of the process that would be required for the bridge to be open to automobile traffic outside of game-day conditions.

Further, the purpose of making the BRT route "rail-ready" is not as a precursor to anticipated implementation of light-rail on this route; rather, it is a common citywide approach to providing new infrastructure, including new BRT routes, that seeks to avoid precluding future modifications or conversions as technology or demands change. Generally, the concept of "rail-ready" implies that roadway designs, including available right-of-way, curve radii, grades, potential station platform areas, and overhead clearances proposed by the Project would not preclude implementation of light rail along the route.

However, there is currently no proposal to implement light rail along the BRT route. If such a proposal were made at a later date, any such proposal would need to go through appropriate environmental review

prior to being considered by SFMTA. Such a project is not foreseeable and cannot, therefore, be analyzed because no such project has been defined or proposed.

Response to Comment 47-16

Table ES-1 (Major Project Approvals), Draft EIR page ES-6, and Table II-16 (Major Project Approvals), Draft EIR page II-82, include the major Project approvals, including regional, state, and federal approvals. The table is not an exhaustive list, as identified in the table note, but describes the major approvals that would be required of the Project. In response to this comment, Table ES-1 and Table II-16 are revised:

Table ES-1 Major Project Approvals [Revised]

...

Redevelopment Agency Commission

...

- ~~Approves~~ Reports to the Board of Supervisors on the amendments to Redevelopment Plans

...

- Approves land transfer agreements with Port Commission, State Lands Commission, and California Department of Parks and Recreation (CDPR)

...

...

Bay Conservation and Development Commission

- Approves amendments of the Bay Plan and Seaport Plan
- Approves permits for activities within BCDC's jurisdiction, including the proposed Yosemite Slough bridge
- Reviews Project land use plan for federal consistency under the Coastal Zone Management Act for activities not previously authorized in Consistency Determination No. CN 1-99

...

US Army Corps of Engineers

- Approves permit for fill related to the Yosemite Slough bridge, shoreline improvements, and other activities.
- Consults with USFWS or NMFS regarding federally listed species prior to carrying out its discretionary authority under Section 404 of the CWA, pursuant to Section 7 of federal ESA
- Consults with NMFS regarding pile-driving and harbor seal and California sea lion prior to carrying out its discretionary authority under Section 404 of the CWA, pursuant to *Marine Mammal Protection Act*
- Consults with NMFS regarding modifying designated EFH prior to carrying out its discretionary authority under Section 404 of the CWA, pursuant to the *Magnuson-Stevens Act*

...

Each federal agency required to take approval actions would determine its NEPA requirements for those actions. The Navy, for example, is preparing a Supplemental Environmental Impact Statement (SEIS) with a Draft SEIS expected to be published in June 2010 and the Final SEIS expected in December 2010.

Response to Comment 47-17

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the potential impacts from construction of the Yosemite Slough bridge on wetlands that are restored as part of the Yosemite Slough Restoration Project as mitigation for impacts from other projects.

Response to Comment 47-18

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the Project's consistency with, and potential effects of the Yosemite Slough Restoration Project. The Yosemite Slough Restoration Project is not an adopted land use plan of a local or regional agency within the meaning of Section 15125(d) or (e) of CEQA.

Response to Comment 47-19

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of potential effects of the project on the Yosemite Slough Restoration Project and its biological goals.

Mitigation measures pertaining to impacts to jurisdictional habitats (i.e., MM BI-4a.1, MM BI-4a.2, and MM BI-4c) would apply to any impacts to the resources present when the project is constructed, whether they currently exist or whether they will exist as a result of the Yosemite Slough Restoration Project. Therefore, no revisions to these mitigation measures are necessary.

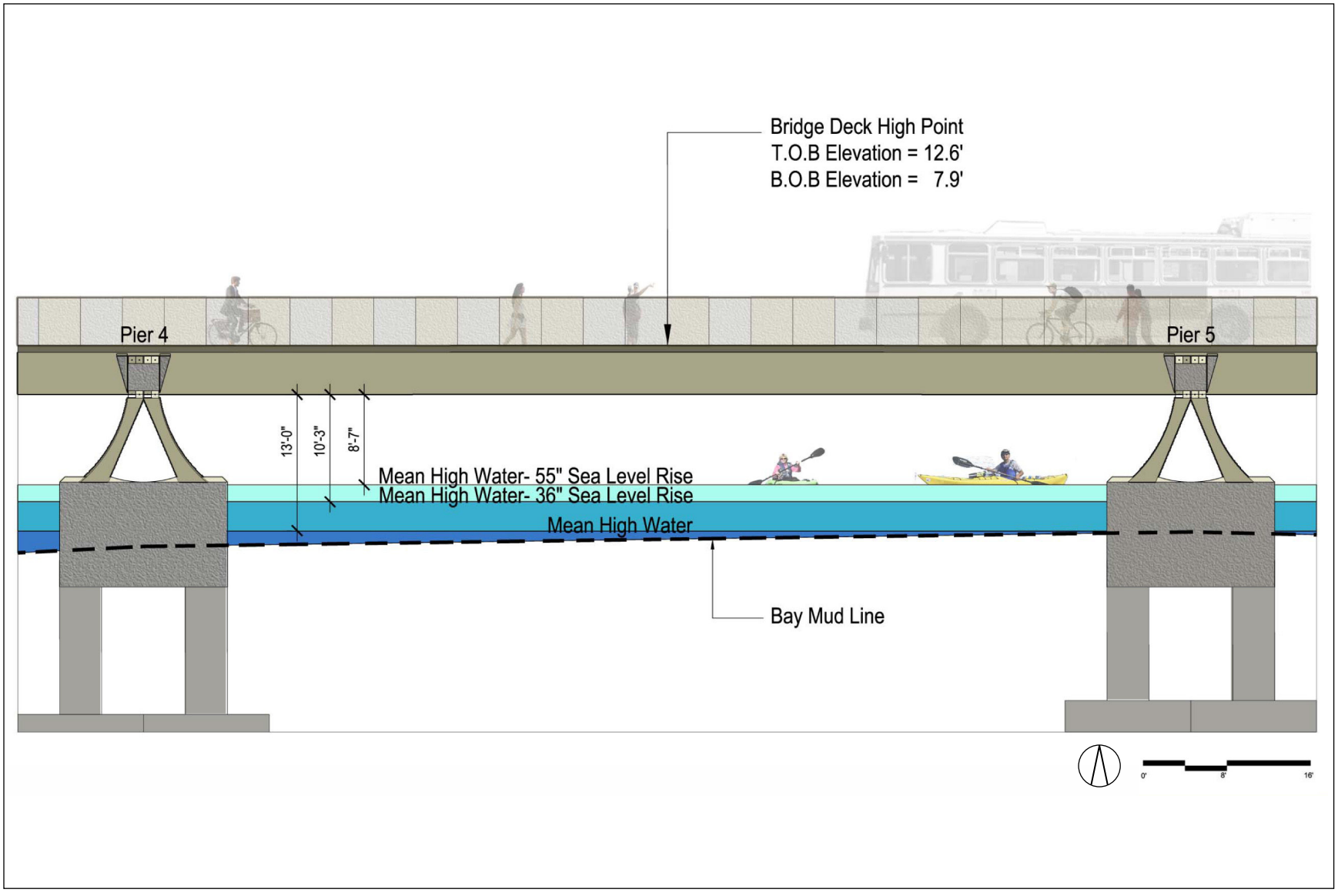
Response to Comment 47-20

The Draft EIR considers, as CEQA requires, the Project's impact on the existing physical environment, which includes Yosemite Slough in its existing, unrestored state. For example, Draft EIR pages III.E-50 through -51 analyze the Project's aesthetic impacts related to the slough. Yosemite Slough currently does not support substantial recreational use, including recreational boating or trails. Thus, the Project would not have a negative impact on existing recreational use.

Analysis of the Project's impact on the future recreational uses associated with the slough and the Restoration Project is difficult. Because these uses do not currently exist, such analysis requires one to project how future visitors may use and experience the slough, and then to project how the Project, particularly the proposed bridge across the slough, would alter those experiences. CEQA normally discourages such speculation. Nevertheless, the commenter has provided information about the proposed future project to create a wetland restoration area around Yosemite Slough and expressed concern that the Project is inconsistent with various elements of the project. Although no such uses exist at this time, assuming the Restoration Project as described by the commenter is eventually constructed, the Project would not have a significant adverse impact on future recreation in the slough, as explained below.

Recreational Boating in the Slough

The proposed bridge across Yosemite Slough would not impede the passage of recreational paddle crafts from the slough into the open bay. Although the precise details of the bridge's design have not been finalized at this time, preliminary plans estimate that under current conditions, the bridge would provide approximately 13 feet of clearance at mean high water—that is, during an average high tide, as illustrated by Figure C&R-9 (Yosemite Slough Bridge—Paddle Craft Clearances). This is sufficient clearance to allow unimpeded navigation by human-powered craft. If sea level rises by 55 inches—a projection at the high end of many estimates of the effects of climate change—clearance would be 8 feet, 7 inches at mean high water, which is still sufficient for paddle craft navigation. And in a more moderate seal level rise scenario of 36 inches, clearance would be 10 feet, 3 inches at mean high water. Thus, there will be no physical impediment to navigation.



SOURCE: RHAA; Lennar Urban, 2010.

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FIGURE C&R-9

Candlestick Point — Hunters Point Shipyard Phase II EIR

YOSEMITE SLOUGH BRIDGE – PADDLE CRAFT CLEARANCES

Some paddlers may feel that their experience is less "natural" because of the bridge and is therefore diminished. Bridges are a frequent feature of water recreation areas in California. For example, most paddlers visiting Elkhorn Slough in Monterey County, a very popular human-powered boating area, pass under Highway 1 at the beginning of their outing. Moreover, the recreational experiences offered by CPSRA and other parks within the Project area involve a mosaic of natural and developed parklands, all connected to urban development. The restored slough will be a more-natural part of the patchwork, but will not be isolated from the developed and urban areas nearby. People visiting the slough, including paddlers, will be aware that they are in an urban park and could expect to see features like the bridge. Thus, while the bridge may detract from the sense of nature that some visitors hope for, on the whole it will not have significant adverse impacts on boaters', or other visitors' recreational experiences, as described below.

The Bay Trail Along the Slough Shoreline

As discussed in Response to Comment 47-28, the Bay Trail alignment proposed in the Draft EIR has been amended in response to public comments. The amended alignment traces the slough shoreline and connects with the proposed Bay Trail alignments on Candlestick Point and Hunters Point. The Bay Trail must cross Arelious Walker Street on both sides of the slough. On the north side, the crossing would be possible without substantial deviation from the shoreline alignment. On the south side, visitors walking the Bay Trail would need to walk along Arelious Walker for a block inland (southward) in order to cross the street, then return to the shoreline. The trail alignment along Arelious Walker would be clearly marked. While this crossing is not exactly the same as identified in the Restoration Project's plans, it is not a significant inconsistency. The Bay Trail will remain a continuous shoreline trail.

Vista Points in the Slough

Proposed vista points associated with the planned Yosemite Slough restoration may also provide recreational experiences in the future. The footprint of proposed bridge may include the areas planned for vista points. While the precise location and nature of these vista points are not known (and CEQA does not require such speculation), it is likely that the proposed bridge will have a less than significant impact on the experience they would offer. On most days of the year, the bridge will be open only to pedestrians, cyclists, and transit vehicles. In this pedestrian-dominated mode, the bridge will be effectively an aspect of the Project's parkland, linking CPSRA with the open space on Hunters Point. The entire length of the bridge will offer scenic vistas both towards the Bay and inward toward the restored slough. The availability of these views essentially provides the experience that the vista points would have offered. Moreover, the bridge's final design may be able to accommodate widened portions of the sidewalks that project over the water and serve as observation decks at either end of the span. These would similarly be effective replacements for the vista points, and would be available at all times, even on those occasions when the bridge is open to private vehicles.

To the extent that the surroundings of a vista point—rather than simply the views on offer—are considered an essential part of the experience, the proposed sites could be relocated within the slough restoration area. For example, overlooks could be constructed along the Bay Trail at points on either side of the slough west of the bridge. These points would provide views of the slough comparable to those from the originally proposed vista sites. Views toward the Bay would include the bridge, which may detract from some viewers' experience. The points would nevertheless offer substantial views of the Bay, the mouth of the slough,

Double Rock, and shoreline features. In light of these views and of viewers' expectations of the urban nature of these parklands, the bridge's impact on views from the slough, and of the recreational experience of Slough viewpoints, would be less than significant.

Overall, while the proposed bridge would result in a different, more urban recreational experience than Slough visitors would obtain without it, the Project would not have a significant adverse impact on potential future recreational opportunists in Yosemite Slough.

Other Elements of Slough Restoration Project

The commenter points to several elements of the Restoration Project and concludes that the Project is inconsistent with these elements. The Project will remove from CPSRA approximately 1.5 acres of the 34 acres in the proposed restoration area, which includes the slough itself. Consequently, the large majority of the Restoration Project is not directly affected by the Project. The Project will not have any effect on recreational access to the slough, one of the Restoration Project's stated purposes; in fact, the connection of Arelious Walker Street across the slough will enhance access to the restoration area and result in more, not fewer visitors to the area. The Project will not prevent the construction of the Restoration Project's proposed interpretative center, fencing, lighting, benches, or drinking fountains. With the exception of the small acreage affected by the bridge construction, the Project will not affect the addition of 2.5 acres of passive public use areas, new interpretative trails, and vista points along those trails. As explained above, small portions of trails and vista points affected by the bridge could be relocated within the slough restoration area without a substantial effect on the recreational opportunity that the Yosemite Slough Restoration Project presents to visitors to the area.

The Project would construct a bridge and roadway in an area that otherwise would, after the restoration project, be used solely for recreation and open-space uses. The construction of these facilities, together with their use and operation, would adversely affect visitor's experience of the restored natural state of the area. However, the slough is now, and would continue to be, located in an urban environment, bordered by roads and developed lands. The bridge would have limited automobile use, primarily serving as a BRT, bicycle, and pedestrian route. Even without the bridge and roadway, users would always be near and aware of the urban environment in addition to the more natural immediate surroundings in the restoration area. Moreover, the majority of the restored slough area would be unaffected. Therefore, any adverse impact would be less than significant.

Response to Comment 47-21

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of potential effects of the Project on wetlands created as part of the Yosemite Slough Restoration Project.

Refer to Response to Comment 47-20 for a discussion of the Project's impacts on future recreation in the slough, and Response to Comment 47-73 for a discussion of the aesthetic impacts of the Project on the restored slough.

Response to Comment 47-22

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the project's potential effects on the Yosemite Slough Restoration Project. As discussed in Master Response 3, impacts on the biological resources that are expected to occur within the Restoration Project area were addressed in the Draft EIR. Also, refer to Responses to Comments 47-67 through 47-101 for responses to individual comments in WRA's letter, and refer to Master Response 3 for a discussion of text added to quantify potential impacts of the Yosemite Slough bridge on wetlands proposed to be created as part of the Restoration Project.

Response to Comment 47-23

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the reasons why different study areas were depicted on Figure III.N-1 (Biological Resources Study Area) and Figure III.N-2 (Study Area Habitats) and for clarification regarding the scope of the project's analysis of impacts to biological resources in on-site and off-site areas (i.e., the impacts to resources in all of Yosemite Slough were included in the impact analysis).

With respect to whether the biological resources impact analysis included Yosemite Slough, page III.N-1 of the Draft EIR states:

> The Study Area for this biological resources analysis includes both developed and undeveloped portions of HPS Phase II and Candlestick Point, including the entire Candlestick Point State Recreation Area (CPSRA), as well as off-site open waters adjacent to the Project site that would be impacted by Project components (i.e., breakwater, pier, etc.); refer to Figure III.N-1 (Biological Resources Study Area). The off-site aquatic resources discussed include Yosemite Slough (except the area of construction), the open water area between Candlestick Point and HPS Phase II (known as South Basin), and adjacent open waters that would be impacted by Project components (i.e., breakwaters, gangways, floats, etc.). For purposes of the evaluation of sensitive species, the Study Area is defined as the Project site and a radius of up to 5 miles beyond the Project site.

Thus, the Draft EIR included Yosemite Slough in the off-site areas in which impacts were analyzed. The phrase "(except the area of construction)" was not intended to indicate that the area of construction was excluded from the impact analysis; rather, this parenthetical phrase was intended to indicate that the area of construction was included in the on-site impact analysis. In response to this comment, Section III.N (Biological Resources), third paragraph, second sentence, page III.N-1, has been revised as follows for clarification purposes:

> … The off-site aquatic resources discussed include Yosemite Slough (except the area of construction, which is included in the on-site impact analysis), the open water area between Candlestick Point and HPS Phase II (known as South Basin), and adjacent open waters that would be impacted by Project components (i.e., breakwaters, gangways, floats, etc.). …

Response to Comment 47-24

Refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of the project's potential effects on the existing biological resources of Yosemite Slough, and the potential effects on the wetlands planned for restoration under the Yosemite Slough Restoration Project.

Response to Comment 47-25

Refer to Responses to Comments 47-26 through 47-30 for discussions of the Draft EIR's analysis of the Project's impacts on existing recreational resources and facilities.

Response to Comment 47-26

The majority of the CPSRA shoreline would not be affected by the proposed bridge. Please refer to Response to Comment 47-20 regarding the bridge's impacts on recreational opportunities in Yosemite Slough.

Response to Comment 47-27

Current recreation in CPSRA consists primarily of windsurfing and land-based uses such as picnicking and walking. The Draft EIR analyzes the Project's impacts on such users. It analyzes the Project's impacts on windsurfing on page III.P-33. The Draft EIR analyzes the Project's impacts on existing land-based uses by considering the area that will be available for such uses. It considers construction-related impacts in Impact RE-1, beginning on page III.P-12. Regarding impacts on future recreational uses in Yosemite Slough, please refer to Response to Comment 47-20. As discussed in Response to Comment 47-3, the Project will enhance the rest of CPSRA (outside the slough), and therefore will not have an adverse impact on future recreational uses.

Response to Comment 47-28

The Draft EIR analyzes recreational impacts in part by considering whether the Project would "adversely impact existing recreational opportunities." This standard goes well beyond what is required by the CEQA Guidelines, which include recreation standards that only address impacts to the physical environment; they do not require any consideration of impacts to recreational users' experiences. Refer to CEQA Guidelines, Appendix G Section XIV. This qualitative standard was selected to acknowledge and analyze the changes that current users of CPSRA will encounter during and after implementation of the Project. In applying this standard to the Project, the Draft EIR recognizes that the proposed reconfiguration of CPSRA would remove some land from the Park. As the Draft EIR shows, and as further identified in Table C&R-11 (CPSRA Recreation Land), this land does not for the most part support recreational uses presently. Specifically, of the 29.2 acres to be removed, only 7.8 acres is presently used for recreation. The remainder is not recreation land, but is used for parking for Candlestick Park stadium events.

Table C&R-11 CPSRA Recreation Land

	Current CPSRA Land (acres)	*Current CPSRA Land to be Removed by Reconfiguration*	*CPSR Land to Be Improved*	*Land to be Added to CPSRA and Improved*	*Total Following Reconfiguration (Current Improved Land + CPSRA Land to be Improved + Land Added to CPSRA)*
Improved Recreation Land	51.5	[3.9]		5.7	96.7
Unimproved Recreation Land	26.2	[3.9]	*22.3*		
Land Unavailable for Recreation	42.5	[21.4]	*21.3*		
Total	***120.2***	***[29.2]***	***43.6***	***5.7***	

At the same time, the Project would provide substantial improvements to CPSRA. These proposed improvements are not mitigation measures. Rather, they are an essential part of the Project. The Draft EIR acknowledges that land would be removed from CPSRA, but concludes that following implementation of the Project, including the improvements, the Park as a whole will not suffer an adverse effect on recreational opportunities. The table below demonstrates the that the Project would remove only small amounts of actual recreation land, while improving large areas of land currently inaccessible or underused.

Specifically, of the 77.7 acres of CPSRA currently in use for recreation, approximately 51.5 acres is developed with facilities and actively used. The remaining 26.2 acres is undeveloped and used less frequently. Following the reconfiguration, 69.9 acres of this land would be improved and available for recreation. Further, 5.7 acres of improved land would be added. The removal of actual recreation land would be minimal: only 7.8 acres, half of which is unimproved. Against that small loss, CPSRA would gain large areas of improved land.

Overall, the reconfiguration and associated park improvements would increase, rather than diminish, recreational opportunities at CPSRA. In short, CPSRA will provide a better recreational experience after the Project than it does now.

Response to Comment 47-29

The Draft EIR considers the Project's impacts on the existing physical environment, and therefore analyzes the impact of increased use on existing recreational facilities. It does not analyze the impacts of increased use of areas that are currently unused for recreation purposes, such as areas of CPSRA that are currently used for stadium parking but will, following the Project, be used for recreation. Because these areas are presently parking lots, future use cannot degrade them to worse-than-current conditions. In other words, future use cannot make these parts of CPSRA worse than the parking lots they currently are.

Thus, the Draft EIR's analysis of CPSRA is concerned solely with the Project's impacts on the 77.7 acres of CPSRA currently available for recreation. Of this area, 7.8 acres would be removed from the park, which, the Draft EIR acknowledges. The remaining 69.9 acres will likely experience increased visitation due to the Project, although CEQA does not require the Draft EIR to speculate about or quantify the precise level of increased visitation. The Draft EIR's analysis thus must take account of the combined impact of the removal of 7.8 acres and increased usage of the remaining 69.9 acres. The Draft EIR reasonably concludes that the park will be able support the increase in visitation without substantial degradation, on the basis of many aspects of the Project: the improvements to the 69.9 acres that will increase the amount of use the area can support, the addition of 26.8 acres to CPSRA's stock of improved recreation land, the Project's funding for CPSRA operations and maintenance, and the availability of large areas of new parkland throughout the Project area. Refer to Draft EIR on page III.P-32. As such, this substantial improvement in the quality of parkland at CPSRA would outweigh the impact of the loss of 7.8 acres of recreation land, thus rendering any impact less than significant.

Moreover, in this context increased visitation is a benefit of the Project: bringing additional visitors to this unique and important state park advances the goals of the City, the Agency, and the State Park System.

Regarding the standard of significance for this impact, CEQA requires analysis of a project's impacts on the physical environment. Thus standards of significance measure whether a project would make the

environment—in this case, recreational facilities—significantly worse than it is without the project. Here, the ratio of parkland to acres to 1,000 residents is used as a way of measuring whether the Project will increase park usage to such a degree that substantial physical degradation would occur or accelerate. The current ratio at the Project site is very high because there is a small population as compared to the size of CPSRA. The Project will inevitably reduce this ratio, but such reduction would not lead to degradation of existing facilities and thus would not cause a significant environmental impact. The Draft EIR selected its standard of 5.5 acres of parkland per 1,000 residents because this was the ratio existing in the City at the time of the 1986 General Plan. Although an improvement in this ratio would be a benefit, maintenance of the ratio would allow the ongoing maintenance of parkland without accelerated degradation. In fact, as demonstrated on pages III.P-30 and -31 of the Draft EIR, parkland ratios at the Project site will be well above 5.5 acres per 1,000 residents at all phases of the Project.

Response to Comment 47-30

In response to the comment, the text in Section III.P (Recreation), page III.P-1, paragraph 1, sentence 3 has been revised as follows:

> … The analysis in this section concludes that ~~no~~ the Project could have potentially significant ~~or significant~~ environmental impacts ~~development would result from the Project~~ related to the timing of proposed park; therefore, ~~no~~ a mitigation measure~~s are~~ is included.

Also in response to the comment, the text in Section III.P (Recreation), page III.P-25, last paragraph, has been revised as follows:

> … In addition, The Last Rubble would contain a new beach area ~~and marshland (refer to Figure II-21)~~. Other features here may include parking, picnic areas, overlook terraces, restrooms, and a restaurant/café.

Noise impacts to CPSRA are encompassed by the analysis in Section III.I (Noise and Vibration). Park users are not considered sensitive receptors.

Response to Comment 47-31

This comment contains introductory information and summarizes an attached letter from Tom Brohard and Associates (Comments 47-102 through 47-115). Responses to specific comments from that letter are provided in Responses to Comments 47-67 through 47-101. Also refer to Master Response 4 (Purpose and Benefits of the Yosemite Slough Bridge) for discussion of transportation issues relating to the Yosemite Slough bridge.

Response to Comment 47-32

The Draft EIR considered impacts of the Project to scenic vistas and scenic resources, including the CPSRA, impacts from increased light and glare, and analyzed whether the Project would substantially degrade the visual character or quality of the site. Regardless of whether the CPSRA is called out specifically in the Draft EIR as a scenic resource or not, impacts to the CPSRA were considered in all applicable technical sections, including Aesthetics, Hazards and Hazardous Materials, Hydrology and Water Quality, Geology and Soils, Noise, Biological Resources, Traffic, Air Quality, and Recreation. The Draft EIR does not underplay the significance of the CPSRA as a resource, contrary to the commenter's assertion. If that

were the case, there would be no analysis in the Draft EIR of impacts to the CPSRA at all or the CPSRA would be briefly mentioned here and there. The fact that the CPSRA, when built out, will dwarf all other park resources in the area, as commenter states, actually provides some substantiation for the fact that the Project, although large, would not adversely affect the CPSRA from a visual standpoint. There are no impacts to the CPSRA that are not disclosed in the Draft EIR, and the commenter does not cite any such specific impacts that were not analyzed. Instead, the commenter relies on the fact that the Draft EIR does not specifically identify the CPSRA as a "scenic resource" in exactly those words. The Draft EIR references the CPSRA repeatedly throughout every section of the document; thus, the impacts of the Project were considered in the full environmental context, pursuant to *Kings County Farm Bureau v. City of Hanford* (1990), 221 C.A.3d 692.

Response to Comment 47-33

Refer to Responses to Comments 31-14, 47-34, 47-36, 47-58, 47-73, and 47-76 for discussion of the proposed bridge and its aesthetic impacts on views. Response to Comment 47-46 also contains additional simulations of the proposed Yosemite Slough bridge from four additional reference points. Impacts on CPSRA would be less than significant.

Response to Comment 47-34

Section III.E (Aesthetics) of the EIR contains 30 figures. Viewpoints were selected for inclusion in the EIR that are representative of the wide range available on such a large site. It is not necessary to include every possible view of a project feature to make a determination of the significance of an impact. Refer to Responses to Comments 31-14, 47-34, 47-36, 47-58, 47-73, and 47-76 for discussion of the proposed bridge and its aesthetic impacts on views. Response to Comment 47-46 also contains additional simulations of the proposed Yosemite Slough bridge from four more reference points. The analysis in the EIR and the amplification of that analysis in the Responses to Comments demonstrates that the Project would have a less-than-significant aesthetic impact on the CPSRA.

Response to Comment 47-35

Construction equipment for the bridge would not block views except from very close up, and the presence of construction equipment would be temporary and intermittent. Views of, across, and from the slough would remain from many vantage points during and after construction of the bridge. Pages III.E-51 and III.E-52 of the Draft EIR state that impacts from construction are potentially significant, and less than significant with mitigation measure MM AE-2 (requiring strict control and storage of construction equipment and staging). With regard to lighting, most recreational users of the CPSRA are on site during daylight hours (the park is open from 8:00 A.M. to 5:00 P.M. daily and slightly longer during summer). Therefore, security lighting at night would not disturb recreational users of the CPSRA. All potentially significant impacts from construction of the Yosemite Slough bridge have been identified and determined to be less than significant in the EIR. Also refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]) for a discussion of impacts of lighting in the bridge area on biological resources.

Response to Comment 47-36

Impact AE-4 analyzes long-range views across the site. From a distance, the Yosemite Slough bridge will not appear as a prominent feature of the Project. Facts to support the conclusions of the EIR as to long-range views were presented on pages III.E-53 through -56, which discussed eight different viewpoints in addition to views across the Bay towards Oakland. With regard to Impact AE-5, the commenter fails to quote the remainder of the paragraph (page III.E-58, second paragraph of the Draft EIR), which sets forth the reasons the potentially significant impact of the bridge would not substantially damage a resource that contributes to a scenic public setting. The bridge would contain "green" auto lanes, with plantings in the middle providing a green boardwalk. Page III.N-95 of the Draft EIR indicates that the bridge would be low enough in profile to easily allow birds to fly over the bridge, and the bottom of the bridge deck would be high enough that swimming birds could swim under during tidal currents that currently allow that. The bridge would be low in profile (9 feet above water at the arch of the span and extending to 16 feet above water at its tallest point) and integrated into the open space on either side of the slough, and would contain piers and pedestrian and bicycle paths for a pedestrian viewing experience. Yosemite Slough would continue as a waterway bordered by open space opening from a narrow channel to the west to the wider South Basin to the east and would remain a scenic resource on the site. Placement of a low-profile bridge at one end of the slough would not substantially damage the scenic resource, as the vast majority of the slough would be untouched, and the impact would be less than significant. Visual simulations included in the Draft EIR show that the bridge would not, in the context of the entire expanse of the slough, substantially damage the resource.

For a discussion of the bridge and aesthetic impacts, refer to Responses to Comments 31-14, 47-34, 47-36, 47-46 (including four new graphics depicting the bridge), 47-58, 47-73, and 47-76. Whether a visual impact is substantial is largely a subjective determination based on an evaluation of facts. The Lead Agencies have made the determination that the bridge would not substantially impede views of the Bay or substantially damage a scenic resource because the bridge would have a small footprint relative to the expanse of the slough, and because its design would be visually integrated into the environment to a substantial degree. The Lead Agencies have determined that the Project, and the bridge in particular, would not result in a substantial adverse change in the visual character or quality of the site. The visual simulations and the extensive analysis contained in this section provide substantial evidence of the nature and magnitude of the change in visual character. The Lead Agencies have concluded based on substantial evidence that the change is not substantially adverse and the impact would be less than significant.

Response to Comment 47-37

Refer to Response to Comment 47-35 regarding light and glare impacts. The CPSRA is not open at night. Therefore, Project lighting would have no adverse effect on recreational users of the CPSRA, which would be on site only during daylight hours. With regard to bridge lighting and vehicle headlight impacts on biological resources, refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]).

Response to Comment 47-38

The comment states that the evaluation of potential noise impacts is flawed for three reasons: (1) the CPRSA was not included as a noise sensitive receptor, (2) the proposed Yosemite Slough bridge is not analyzed as a source of noise, and (3) no potentially significant or significant noise impacts from noise to recreational users are identified. Refer to Responses to Comments 47-39, 47-40, and 47-41 for full responses to these issues. Also refer to Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]).

Response to Comment 47-39

The comment states that the Draft EIR does not disclose potentially significant impacts to recreational users of the CPSRA, and that the Draft EIR provides no significance threshold for analyzing potential noise-related impacts to recreational users of the CPSRA. While it is true that the Draft EIR characterizes parks and open space as noise-sensitive uses, this characterization is based upon the City of San Francisco General Plan's "Land Use Compatibility Chart for Community Noise" presented in the Environmental Protection Element of the *San Francisco General Plan*. The General Plan Land Use Compatibility Chart indicates that new construction of parks should generally not be undertaken in areas where ambient noise levels exceed 75 dBA. As shown in the Draft EIR and further explained in Response to Comment 47-41, implementation of the project would result in an increase in 24-hour noise levels to the areas adjacent to the CPSRA; however, the future ambient noise levels are estimated to be well below the 70 dBA noise exposure that is considered satisfactory by the General Plan. It should also be pointed out that noise-sensitive uses, as per the General Plan, are not the same as noise-sensitive receptors under CEQA. Noise-sensitive receptors are generally considered to be those individuals for whom a long-term exposure to excessive noise could be detrimental to their health or welfare. Uses with noise-sensitive receptors in San Francisco are generally considered to be uses such as residences, schools, hospitals, and rest homes.

The commenter states that no noise measurements were taken within the CPSRA. Noise measurements were taken in close proximity to uses that would experience permanent long-term increases in ambient noise levels as a result of project implementation. As described in Section III.I (Noise and Vibration), existing long-term (24-hours over the course of three days in January 2009 and July 2009) and short-term (15-minute) noise measurements were taken at locations that were identified as having sensitive receptors that would potentially be permanently impacted by implementation of the Project. These noise-sensitive receptors represented residential and educational uses as identified in Table III.I-3 through Table III.I-6. Consistent with the City's Noise Ordinance and General Plan, the A-weighted decibel scale (dBA) was used to measure potential noise impacts. Residential and educational uses were selected, as these uses would have the highest degree of sensitivity to increases in noise levels, and increases in exterior noise levels above 75 dBA L_{max} (L_{max} is the highest peak noise) would result in interference with indoor speech and sleep disruption, and would impact the educational environment of the schools in the vicinity of the Project. While users of the CPSRA would experience a change in ambient noise levels, these recreationists are <u>not</u> considered noise sensitive receptors. Implementation of the Project would not result in ambient noise levels in excess of 70 dBA within the CPSRA, as noise levels along adjacent roadways were modeled to be below 65 dBA L_{dn}. As roadway noise is the predominant source of ambient noise in the Project vicinity, and as the CPSRA is generally located either equal to or further from roadways than the noise

measurement locations used for the EIR, ambient noise levels within the CPSRA would be equal to or less than the noise levels identified at those noise measurement locations. Recreational users of the CPSRA would not be exposed to 24-hour increases in noise levels as would residential uses located along the Project roadways, nor would they be exposed to temporary increases above 75 dBA L_{max} that would occur during stadium events at the new stadium site. In addition, as noted, the CPSRA is not open after dark, which is when most non-football-related stadium events would likely occur. Therefore, the locations selected for both long- and short-term noise measurements meet the requirements of the City of San Francisco and provide an accurate baseline for evaluation of potential project impacts to sensitive receptors as required by CEQA.

As noise levels adjacent to the CPSRA would be substantially below the 70 dBA noise, implementation of the proposed Project would be considered compatible with CPSRA uses. The potential for the project to create permanent increases in ambient noise levels that would exceed the 70 dBA noise exposure limit were evaluated under Impact NO-4, which analyzed operational impacts such as the use of mechanical cooling systems, deliveries of retail and commercial products and activities such as trash collection and Impact NO-6, which analyzed operational impacts due to increase in roadway noise levels. As detailed under these impacts, ambient noise levels associated with the Project would not exceed 70 dBA and noise measurements were not required to be taken in the CPSRA as impacts to users within the CPSRA would be less than significant.

The commenter claims that the Draft EIR provides no significance threshold for determining significant impacts on the CPSRA, in addition to claiming that no quantitative or qualitative analysis was made for determining potential Project-related noise impacts to the CPSRA. As neither the CDPR nor the CPSRA General Plan has established significance criteria for increases in ambient noise levels, the lead agencies utilized the thresholds of significance identified in Section III.I.4 (and further detailed below), in order to determine potential impacts to both existing and future noise-sensitive receptors both on and off site with regard to construction and operational increases in noise. The Lead Agencies utilized the City of San Francisco Noise Ordinance standards for residential uses to evaluate potential permanent increases in noise levels that would occur with implementation of the project for off-site uses, including users of the CPSRA. The residential noise standards are the most restrictive identified in the Noise Ordinance, and, therefore, afford the most protection to off-site users in the vicinity of the Project.

The Draft EIR's significance thresholds are clearly identified on under Section III.I.4 (Impacts) on pages III.I-21 and III.I-22. Specifically, with regard to impacts relating to increase in ambient noise increases that would potentially impact noise-sensitive receptors the following thresholds were identified based upon the City of San Francisco General Plan or Noise Ordinance:

- During Construction
  - > Generate construction noise between the hours of 8:00 P.M. and 7:00 A.M. that exceeds the ambient noise level by 5 dBA at the nearest property line (unless a special permit has been granted by the Director of Public Works or the Director of Building Inspection); or produce noise by any construction equipment (except impact tools) that would exceed 80 dBA at 100 feet. (Criteria I.a and I.d)
- During Operation
  - > Cause an increase in noise (i.e., as produced by "any machine or device, music or entertainment or any combination of same") greater than 5 dBA or 8 dBA above the local

ambient (i.e., defined as the "lowest sound level repeating itself during a minimum 10-minute period as measured with a sound level meter, using slow response and A-weighting") at any point outside the property plane of a residential, commercial/industrial or public land use, respectively, containing the noise source. (Criteria I.a, I.c, or I.d)

> In the case of noise or music generated from a "licensed Place of Entertainment," cause an increase in low frequency ambient noise (i.e., defined as the "lowest sound level repeating itself during a 10-minute period as measured with a sound level meter, using slow response and C-weighting") by more than 8 dBC. (Criteria I.a, I.c, or I.d)

Additionally, the Draft EIR considered noise impacts where quantitative significance thresholds may not be included in the City of San Francisco *General Plan* or Noise Ordinance. The Draft EIR states that the Project would cause or be subject to a significant noise or vibration impact if it would:

- Cause outdoor traffic noise levels at existing or proposed residential and other noise-sensitive uses to increase by more than the FTA criteria specified in Table III.I-9, which vary depending on the baseline ambient noise levels. (Criterion I.c)
- Cause excessive annoyance, activity disruption, or sleep disturbance due to noise from SFO-related aircraft operations at the proposed residential uses to be located on the Project site according to FAA criteria (i.e., aircraft noise level of 65 dBA L_{dn} or greater). (Criteria I.e, I.f, and I.g)

The lead agencies utilized the FTA criteria to evaluate noise impacts from surface transportation modes (i.e., passenger cars, trucks, buses, and rail). The incremental noise allowances established by the FTA extended the EPA's incremental impact criteria to higher baseline ambient levels. As baseline ambient levels increase, smaller and smaller increments are allowed to limit increases in community annoyance (e. g., in residential areas with a baseline ambient noise level of 50 dBA L_{dn}, a 5 dBA increase in noise levels would be acceptable, while at 70 dBA L_{dn}, only a 1 dBA increase would be allowed). Again, these standards, which are designed to protect the most noise-sensitive uses, such as residential and educational uses, were applied to all off-site uses, including users of the CPSRA.

As such, the Draft EIR evaluated potential impacts to all on- and off-site users that would occur due to construction and operation of the Project. As there would be no development within the CPSRA and noise levels from roadways adjacent to the CPSRA (e.g., Harney Way and Gilman Avenue) would be well below the 70 dBA compatibility range, no noise measurements were required to be taken within the CPSRA. No new or additional analysis would be required as suggested in the comment. Further, in response to this comment Figure III.I-5 (Existing and Future Noise Sensitive Land Uses in Project Site and Vicinity) has been modified to more accurately depict land uses identified as noise sensitive by the City of San Francisco's General Plan or Municipal Code.

Response to Comment 47-40

As stated in Master Response 3 (Impacts of the Project on Yosemite Slough [Biological Resources]), ambient noise levels at Yosemite Slough are currently high, due to the industrial and storage uses of the properties on the south side of Yosemite Slough (that are outside both the Yosemite Slough Restoration Project area and the CP/HPS project site, and will thus not be subject to change as a result of either project) that are the source of considerable ambient noise. The Yosemite Slough bridge will be used only by BRT buses except during the 10 to 12 days (or if Variant 5 is approved) annually in which vehicles entering or

SOURCE: Lennar, 2009; CCSF, 2007; PBS&J, 2010. PBS&J 04.21.10

FIGURE III.I-5 ~~Candlestick~~ ~~Point~~ - ~~Hunters~~ ~~Point~~ ~~Shipyard~~ ~~Phase~~ II ~~EIR~~
EXSITING AND FUTURE NOISE SENSITIVE LAND USES IN PROJECT SITE AND VICINITY

exiting the new stadium will be using the bridge. The hybrid buses that would be used on this BRT route would have a maximum noise level (from pull-away to 35 mph) of 70 to 75 dBA, roughly equivalent to the sound of freeway traffic at a distance of 50 feet. The roadway noise modeling performed for the project in the Draft EIR accounts for the total increase in daily vehicle trips to predict the 24-hour increases in roadway noise levels along existing uses that would potentially be impacted by implementation of the project. Development of the Yosemite Slough bridge would result in BRT buses traveling along the bridge over undeveloped portions of the CPSRA, and would not result in an increase in 24-hour noise levels that would exceed standards for sensitive receptors established by the City's Noise Ordinance or the *City of San Francisco General Plan*.

As described below in Response to Comment 47-41, implementation of the project would result in an increase in 24-hour noise levels in the CPSRA that are within the noise exposure that is considered satisfactory with no special noise insulation requirements according to the "Land Use Compatibility Chart for Community Noise" presented in the Environmental Protection Element of the *San Francisco General Plan*. Additionally, while noise levels would increase in the vicinity of the Yosemite Slough bridge, there are no permanent noise sensitive receptors within the vicinity of the bridge (residential, educational, or convalescent uses). While recreationists would be exposed to a new source of noise in the vicinity of the bridge, their exposure would be temporary and below the thresholds of significance identified in the Draft EIR. Refer to Response to Comment 47-41 for greater details regarding potential construction impacts to recreationists within the CPSRA.

Response to Comment 47-41

Permanent increases in ambient noise levels were evaluated and identified in the Draft EIR utilizing the significance standards identified in the City of San Francisco Noise Ordinance, as described in Response to Comment 47-39 above. While the Noise Ordinance does incorporate the World Health Organization Guidelines (WHO), the City utilizes the Environmental Protection Element of the *San Francisco General Plan* in determining compatibility of proposed land uses with existing adjacent uses. Specifically, Objective 11 of the Environmental Protection Element states:

> Promote land uses that are compatible with various transportation noise levels.
>
> Policy 11.1 Discourage new uses in areas in which the noise level exceeds the noise compatibility guidelines for that use.
>
> The "Land Use Compatibility Chart for Community Noise" included in Policy 11.1 specifies the compatibility of different land use types within a range of ambient noise levels.

The "Land Use Compatibility Chart for Community Noise" specifies that for new development to be compatible with Parks and Playgrounds:

- Noise exposure is considered "satisfactory, with no special noise insulation requirements" where the L_{dn} is 70 dBA or less.
- "New construction or development should be undertaken only after a detailed analysis of noise reduction requirements is made and needed noise insulation features included in the design" where the L_{dn} is between 68 dBA and 78 dBA.
- "New construction or development should generally not be undertaken" where L_{dn} is over 75 dBA.

As shown in Table III.I-14 (Modeled Noise Levels along Major Project Site Access Roads), the only two roadways in the vicinity of the CPSRA that would experience increases in roadway noise levels are Harney Way west of Jamestown Avenue, which is modeled to have a noise level of 59.6 L_{dn} in the year 2030 and Gilman Avenue east of Third Street, which is modeled to have a noise level of 64.6 L_{dn} in the year 2030. These noise levels are within the noise exposure that is considered satisfactory with no special noise insulation requirements according to the "Land Use Compatibility Chart for Community Noise" presented in the Environmental Protection Element. Therefore, impacts from increased roadway noise levels are identified and would be less than significant to users of the CPSRA.

Existing CPSRA users are frequently exposed to noise levels that are likely above the 75 dBA maximum identified in the "Land Use Compatibility Chart for Community Noise." These would include football games and special events at the existing stadium site, the Blue Angels flying show that occurs during Fleet Week, and fireworks shows on the Fourth of July. Project-related business and residential uses would be required to comply with the noise limits established by the City of San Francisco Noise Ordinance, and therefore, operational impacts to users of the CPSRA would be less than significant, as identified in the Draft EIR.

Upon approval of the Project, no construction activity associated with development of Candlestick Point would occur within the CPSRA. Further, page 48 of the CPSRA General Plan acknowledges that construction activity associated with proposed CPSRA improvements would be short-term and less than significant. As construction of the Candlestick Point area would comply with the regulations of Section 29 of the Noise Ordinance and identified in mitigation measures MM NO-1a.1 and MM NO-1a.2, construction-related impacts would be less than significant with regard to exposure of persons to or generation of noise levels in excess of standards established in the Environmental Protection Element of the *San Francisco General Plan* or San Francisco Noise Ordinance (Article 29, *San Francisco Police Code*) as identified in the Draft EIR.

The Draft EIR did identify that construction activities occurring within the Project site and in the Project vicinity for roadway and infrastructure improvements would last throughout the 18-year construction phasing, and, therefore, this temporary increase in ambient noise levels would be noticeable and would likely be cause for human annoyance. Implementation of the above-mentioned mitigation measures would reduce the noise levels associated with the loudest construction activities identified above, but not to a less-than-significant level. Therefore, construction-related temporary increases in ambient noise levels for users of the CPSRA would be considered significant and unavoidable as identified in the Draft EIR.

No substantial sources of groundborne vibration would be built as part of the Project; therefore, operation of the Project would not expose sensitive receptors on site or off site to excessive groundborne vibration or groundborne noise levels, and this impact would be less than significant to users of the CPSRA, as identified in the Draft EIR. Construction related vibration would likely not occur within 50 feet of users of the CPSRA, as the general vicinity of the construction area would be secured and CPSRA users would not be located directly adjacent to these construction activities. As such, construction related vibration impacts would be less than significant to users of the CPSRA.

Refer also to Response to Comment 47-40 for a discussion of traffic noise impacts associated with the Yosemite Slough bridge.