



Citizens Committee to Complete the Refuge

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Hayward Area Shoreline Planning Agency
777 B Street
Hayward, CA 94541
Attn: Damon Golubics, Senior Planner

1 December 2020

Re: Hayward Regional Shoreline Adaptation Master Plan, Submitted October 2, 2020

Dear Hon. Members of the Hayward Area Shoreline Planning Agency:

These comments are submitted on behalf of the Citizens Committee to Complete the Refuge (CCCR). We would like to thank the Hayward Area Shoreline Planning Agency (HASPA) for the opportunity to provide comments on the Hayward Regional Shoreline Adaptation Master Plan (Master Plan). We commend HASPA for recognizing the value of incorporating nature-based solutions in the Master Plan to mitigate and adapt to the threat of sea level rise. We also commend the authors of the Master Plan for presenting the elements of the plan in a manner that is accessible to the public. As an example, the inclusion of photos and diagrams to supplement written descriptions of adaptation strategies effectively simplifies complex concepts.

The Citizens Committee to Complete the Refuge (CCCR), with a membership of 1,800, has an ongoing history of interest in wetlands protection, wetlands restoration and wetlands acquisition. Our senior members were part of a group of citizens who became alarmed at the degradation of the Bay and its wetlands. We joined together, and with the support of Congressman Don Edwards, requested that Congress establish the Nation's first national wildlife refuge in an urban setting. The process took seven long years and in 1972 legislation was passed to form the San Francisco Bay National Wildlife Refuge (Refuge). We turned to Mr. Edwards again, and in 1988 (the first year he submitted it), his legislation to double the size of the Refuge was signed into law. The Refuge now bears his name in honor of his efforts.

We have taken an active interest in Clean Water Act (CWA), California Environmental Quality Act (CEQA), Porter-Cologne Water Quality Act and Endangered Species Act (ESA) and California Endangered Species Act (CESA) regulations, policies, implementation, and enforcement. We have established a record of providing information regarding possible CWA and ESA violations to the Corps, EPA, and FWS. We regularly respond to Corps public notices, and inform the public of important local CWA and ESA issues. We review and comment on CEQA documents. We also respond to ESA comment periods including five-year reviews, proposed listings, and recovery plans. All of these actions demonstrate our ongoing commitment to wetland and plant and wildlife issues, and towards protecting the public interest in wetlands, in Section 404 and 401 of the CWA, CEQA, the ESA and the CESA.

Due to time constraints, CCCR has not been as involved in this process as we would have desired to be, but based upon what we have been able to review online, we have the following comments and questions.

Outreach: Appendix A of the Master Plan provides summaries of stakeholder meetings and comments made during these meetings, but it would have been useful to have access to agency comment letters. A review of Appendix A stakeholder outreach indicates that the U.S. Fish and Wildlife Service (USFWS) was contacted and

that comments from the USFWS would be submitted by May 26, 2020. Were those comments received – are they the comments that appear in Appendix A submitted by Steven Schoenberg? Did California Department of Fish and Wildlife (CDFW) provide any additional comments? The letters from these agencies could provide insight into the preferences of one design element over another and whether issues of concern were identified by the agencies. It doesn't appear from the information provided in Appendix A that outreach to the San Francisco Bay Regional Water Quality Control Board (RWQCB) has occurred. Feedback from the RWQCB would be extremely useful and could inform HASPA in advance, of any permitting challenges that might be posed by the preferred alternative. Last, it is unfortunate that environmental groups that advocate for the protection of species such as Audubon, the Citizens Committee to Complete the Refuge, the Sierra Club, etc., were not included as stakeholders or at least included in a focus group discussion prior to final public comment period for the Master Plan.

Lack of access to technical information: As we stated in our opening remarks, the authors of the Master Plan are to be commended for their visual and written presentation of the range of adaptation strategies that might be applied within the plan area. The information provided within the document is a primer for decision-makers planning resilience projects along the edges of San Francisco Bay and is remarkable in the breadth of topics covered ranging from descriptions of the afore-mentioned adaptation strategies, to permitting agencies and their potential concerns, to potential funding mechanisms for various elements of the Master Plan. That being said, it would be extremely useful to provide access to the technical information that may have been relied upon to determine which elements of the preferred alternative were the most feasible. The Hayward Shoreline Adaptation Master Plan website should continue to be maintained and a "Library" or "Resources" section added, similar to the South Bay Salt Pond Restoration Project website - <https://www.southbayrestoration.org/> The website could then provide technical reports/studies as a resource that is continually updated for those members of the public who wish to continue to be engaged with the process of Master Plan implementation and could also serve as an educational outreach platform for the public at large.

Sea Level Rise Estimates Used: Page 119 of the Master Plan states:

"The plan is looking at reducing risk to critical assets from daily tidal inundation and future 100-year storm surge in a up to 4' of sea level rise scenario.

For planning purposes, the Project Team has been considering a target elevation of 14.3'(NAVD 88) to evaluate the various Design Alternatives and to assess the feasibility of the Preferred Alternative.

The plan is based on adapting the project area over a mid-range time frame. Based on State guidance, this time frame is estimated to be between 50 and 60 years long."

According to the Master Plan the estimates utilized were based upon 2018 California Coastal Commission recommendations. In February of this year the California Ocean Protection Council (OPC) approved its "*Strategic Plan to Protect California's Coast and Ocean for 2020-2025*."¹ This document includes as a target,

"1.1.1: Ensure California's coast is resilient to at least 3.5 feet of sea-level rise by 2050 or higher, as consistent with the State's Sea-Level Rise Guidance Document as appropriate for a given location or project. This target will be modified periodically based on the best available science and updates to the State's Sea-Level Rise Guidance Document."

¹California Ocean Protection Council. "*Strategic Plan to Protect California's Coast and Ocean 2020-2025*." February 2020. http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20200226/OPC-2020-2025-Strategic-Plan-FINAL-20200228.pdf

Will HASPA alter its Master Plan Assumptions to incorporate this latest guidance? Will the OPC guidance have any impact on the elevations of interim levees at Oro Loma and the Salt Marsh Harvest Mouse Preserve which have elevations that aim to “reduce risk up to the existing 100-year storm plus 2’ of sea level rise (SLR)?” Does the increase in the rates of predicted SLR inundation impact the time frame within which various components of the Master Plan need to be implemented to provide SLR resilience for existing infrastructure and development? For example, should the California Environmental Quality Act (CEQA) processes for Line of Protection projects be initiated sooner than 2030 and 2045?

General Support of the Preferred Master Plan Alternative: In general, without access to supporting information that demonstrates the various elements of the Preferred Alternative are feasible to implement (e.g. geotechnical and hydrological studies, etc.), we support the Preferred Alternative, including the use of gravel beaches to reduce erosion, expansion of tidal marsh habitat, the use of horizontal levees as part of wastewater treatment facilities and the eventual relocation of the Hayward Shoreline Interpretive Center. As stated earlier, we commend HASPA for incorporating nature-based solutions as adaptation and resilience strategies and for recognizing the ecological value of the Hayward Shoreline to the San Francisco Bay.

Salt Marsh Harvest Mouse Preserve: We do wonder how long the interim levees will be effective against sea level rise and have concerns about the sustainability of the salt marsh harvest mouse (SMHM) preserve. Have any preliminary plans been developed for the SMHM preserve that involve increasing ground elevations within the preserve itself and not just on the ecotone levee? In the short term, the ecotone levee (#2f on page 182) will provide the capability for SMHM habitat to migrate upslope and provide escape habitat for SMHM during periods of inundation, but as sea level rises and tidal marsh habitat is compressed between rising seas and the Bay Trail, there will be less suitable habitat for the SMHM. The Master Plan includes a provision for realignment of the Bay Trail (page 171), “The current alignment of the Bay Trail will be maintained as long as possible (until it is inundated with sea level rise) and connected to the realignment.”

We urge HASPA and the Bay Trail to consider relocation of the Bay Trail before the trail itself is threatened by inundation to provide some higher elevation habitat for the SMHM that is not subjected to human disturbance. As sea level rises, the SMHM population within the plan area will have few places that it can escape to, while recreational uses can be relocated to avoid conflicts with an endangered species.

California Least Tern Breeding Colony: The preferred alternative provides two options for the California Least Tern (LETE) breeding colony – the first is to relocate the breeding pond to the east of its current location, behind the SMHM Preserve interim levee. The second is to leave Pond 3A in place and raise the levee around the pond. The existing condition for the LETE breeding pond is that access to the levees adjacent to the breeding pond is limited to maintenance vehicles, monitoring of the LETE breeding colony, and very occasional access along the levee by classes from the Hayward Shoreline Interpretive Center on their way out to the Bay. The two proposed LETE breeding pond alternatives feature the location of the Bay Trail on two or three sides of the breeding colony pond. The Northern California LETE breeding colonies - the larger Alameda NAS colony and the Pond 3A breeding colony - have had some of the highest rates of recruitment in California. According to the 2016 Season California Least Tern Breeding Survey², “...the San Francisco Bay and central coast areas had the highest minimum fledgling-to-maximum pair ratio,” with the Pond 3A colony have producing 1.80 fledglings per pair. This was one of the highest ratios in the state. Clearly the Hayward LETE breeding colony is

²Frost, Nancy. 2017. “California Least Tern Breeding Survey 2016 Season.” State of California Natural Resources Agency. Department of Fish and Wildlife Wildlife Branch.

of importance in the recovery this species. In recent years LETE have established a breeding colony on Pond E14 within the Eden Landing Ecological Reserve.³

Neither of the options seems ideal from a perspective of exposure of the breeding colony to potential human disturbance. If the Bay Trail wasn't along three sides of the LETE breeding pond, it might make the most sense to leave the pond in its current location and build up the surrounding levees because this would avoid the need to relocate the colony and would provide a greater footprint for the SMHM preserve. However, we know nothing about how this might impact adjacent wetlands, whether the soils could withstand additional fill material for raising the levee, how water levels within the pond would be maintained, etc.

Human Disturbance: The potential conflict between recreational use and protection of wildlife and the habitats that support them was raised during the stakeholder meetings and public comment period. We do not oppose public access; we believe carefully and thoughtfully located public access is a necessity for Bay Area residents. However, we strongly believe that along the edges of the Bay, consideration must be given to the needs of tidal marsh species particularly since we have lost approximately 90% of our historic tidal marshes, and the ability of our remaining tidal marsh habitat to survive sea level rise has been severely compromised by the placement of development right up to the edges of the Bay.

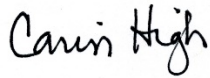
This Master Plan is commendable for the incorporation of tidal marsh restoration as an important goal of the adaptation and resilience plan, and in the short term, some “breathing space” does exist to allow tidal marsh species to distance themselves from human disturbance. Elements of the Master Plan where potential conflicts between recreational use and wildlife may occur are along the proposed gravel beaches – it appears the only location where public access does not extend to the gravel beaches may be on the western side of the Oliver Salt Ponds. These areas may be used by nesting waterbirds and by roosting LETE and may be in close proximity to areas where LETE may forage at high tide. The Bay Trail may completely surround the SMHM Preserve which could be problematic during periods of inundation due to King tides or 100-year flood conditions when SHMH might be forced to the sides of the levees (unless sturdy and taller vegetation is provided as escape habitat within the marsh). Western Snowy Plover may also utilize these areas as well as nesting islands within the LETE breeding colony pond. The San Francisco Bay Bird Observatory (SFBBO) report mentioned earlier states, “Snowy Plover nests are legally protected by a 600 ft radius nest buffer because Snowy Plovers in the San Francisco Bay have been shown to flush off their nests when a perceived predator is at a distance of up to 500ft.” The Master Plan may provide adequate structural habitat for rare and listed species such as the Western Snowy Plover, the California Least Tern or the salt marsh harvest mouse, but without adequate separation from human disturbance, the habitat may go unutilized.

Conclusion: CCCR would like to thank you for the opportunity to provide comments. The Master Plan is a significant undertaking and we commend HASPA for its efforts and for setting enhancement of the Hayward shoreline's ecological value and providing refuge to help endangered tidal marsh species as goals of the Master Plan.

³ Pearl, Benjamin and Yiwei Wang. December 27, 2018. “California Least Tern Breeding at Eden Landing Ecological Reserve.” San Francisco Bay Bird Observatory. <https://alamedawildlife.files.wordpress.com/2019/01/2018-final-report-california-least-tern-breeding-at-eden-landing-ecological-reserve-1.pdf>

We hope there will be future opportunities for public engagement in this planning process and that groups such as CCCR and the Audubon Society can participate as stakeholders . We request that CCCR is added to the notification list for the Master Plan.

Respectfully submitted,

A handwritten signature in black ink that reads "Carin High". The signature is written in a cursive, flowing style.

Carin High, CCCR Co-Chair

CC: Board of Trustees

City of Hayward: Council Member Al Mendall

East Bay Regional Park District: Dennis Waespi

Hayward Area Recreation and Park District: Minane Jameson