

9.0 RESPONSES TO COMMENTS FROM THE NORTH COAST CHAPTER, CALIFORNIA NATIVE PLANT SOCIETY

The comment letter submitted by the North Coast Chapter of the California Native Plant Society (CNPS) includes a number of comments regarding the content of the Draft Management Plan, as well as several comments that relate generally or specifically to the Draft EIR or to CEQA. This chapter includes the District's responses to the CEQA-related comments; the District takes note of the Plan-related comments, but this Final EIR does not address them.

9.1 RANGE OF ALTERNATIVES

This comment states an opinion that the Draft EIR included assessments of a range of alternatives that was "too narrow," although the comment does not indicate other alternatives that the commenter believed should have been addressed.

The District does not agree. In framing the Draft EIR, the District carefully considered the range of alternatives that were available with respect to guidance for District planning and decision-making for Humboldt Bay. In the context of the current District decision, the fundamental alternatives included only two: (1) adopt some version of the proposed Management Plan; or (2) reject the proposed Management Plan and continue to rely on the policy direction of the 1975 Master Plan and other existing policy formulations. Continued reliance on the 1975 Master Plan also effectively constitute the "no project" alternative, however, and for this EIR one of the alternatives that normally would be included in an EIR's coverage is eliminated (more correctly, is concatenated into the second alternative).

The District considered formulating and discussing three "emphasis alternatives"¹ in the Draft EIR, but in developing potential Draft EIR coverage for the alternatives it became evident that the environmental concerns raised for each of these hypothetical alternatives were actually only a subset of the concerns raised for the proposed Plan. That is, the "emphasis alternatives" were not actually alternatives to the proposed Plan. In addition, it was difficult to specify how the District might implement any of the "emphases," given the District's formal commitment to manage for all of the known and expected uses in the bay, balancing the three emphases as part of the proposed Management Plan.

The District also considered the possibility that the Draft EIR might formulate and assess three separate alternatives (one that addressed planning for port- or harbor-related management without consideration of recreation and conservation, a second that addressed management for recreation without port or conservation elements, and a third that addressed conservation without port or recreation elements). It quickly became evident that these "alternatives" did not comport with the District's legislatively established mandate to consider and to balance all of these elements in one management

¹ All of the alternatives would have included essentially the entire policy framework in the draft Plan, with one alternative emphasizing port-related policies, one emphasizing recreational policies, and one emphasizing conservation-related policies.

framework. In addition, there were few substantive differences in potential environmental consequences *within* each of the alternatives from those expected for the same policy framework (e.g., the recreation policies) in the Draft Management Plan, while the absence of policy considerations for the other policy areas (e.g., port and conservation policies) led to substantial potential for adverse effects on the bay's environment. In other words, these alternatives were technically infeasible of accomplishing the mandated "balancing" of management concerns, and including them in the Draft EIR would have been inappropriate.

The result of these considerations was a determination that there were effectively only two "management alternatives" that could be considered in the Draft EIR, the proposed Management Plan and the 1975 Master Plan. Thus the Draft EIR has fully met CEQA's requirements for identifying alternatives, and the comment does not raise substantive new environmental issues.

9.2 EFFECTS OF BILLBOARDS

This comment states a concern about the Draft Plan's lack of a policy on billboards, because billboards are associated with adverse effects on sensitive biological resources in Humboldt Bay.

The District observes that the Draft Plan does include a policy addressing billboards: Policy RVR-7 (Chapter 4.0, Section III, of the Draft Plan). This policy directs the District to identify the District's powers and responsibilities with respect to billboards, including maintenance of existing billboards and (especially) the potential concerns resulting from siting new billboards. While not identified as a relevant reference in the Draft EIR, the District notes that any District regulatory approach to billboard management would need to be consistent with the state's Outdoor Advertising Act (Business and Professions Code § 5200 *et seq.*).

The District takes note of the comment that billboards are associated with significant environmental effects on environmentally sensitive resources, and will seek to work collaboratively with other agencies to develop an overall strategy for managing billboards in tidelands subject to District jurisdiction. However, the District has concluded that this issue is adequately addressed by numerous other policies in the Draft Plan (e.g., CAE-2) and that this is therefore not a new issue for the EIR.

9.3 EFFECTS ON LOCALLY RARE SPECIES

This comment states that locally rare species should be protected pursuant to CEQA requirements.

The District takes note of the comment, but has concluded that the existing policy framework in the Draft Plan already reduces possible effects on locally rare species because of Plan adoption to less-than-significant levels.

9.4 PLAN IMPLEMENTATION AND DEVELOPMENT OF IMPLEMENTATION PLANS

9.4.1 Specific Plans Focused on Conservation Elements

This comment suggests that the Draft Plan's strategy for developing implementation elements through time as the Management Plan is implemented will have adverse effects on environmental resources, including listed species and their habitats, wetlands, and water quality.

The District does not agree with this assertion. None of the policies in the Draft Plan can be interpreted as allowing adverse impacts to any environmentally significant elements while the District is implementing the Management Plan. That is, even if the District has not yet developed a plan that specifically addresses water quality, or a plan that addresses environmentally sensitive species, or implementation plans or elements that address other environmentally related subjects, it would still not be consistent with the Management Plan that the District would authorize adverse impacts to these environmental resources.

The expected value of the implementation plans lies in their collaborative nature, and in their ability to provide approaches that allow the District and other interested parties to go beyond merely identifying and protecting environmental resources to potentially restoring and enhancing them.

The District finds that this issue was fully addressed in the Draft Management Plan and the Draft EIR.

9.4.2 Decisions Establishing Priority for Port-Related Use

This comment appears to state an opinion that the District has already adopted a policy approach for Humboldt Bay's management that favors port-related activities and policies above other interests, and that this decision will lead to adverse effects on conservation values and environmental resources.

The conjecture identified in the comment is invalid. No decisions have been made that would be consistent with the District authorizing adverse effects on environmental resources in order to favor port-related policies or programs, either with respect to the Draft Plan or in a more general management context for Humboldt Bay.

9.4.3 Plans Developed by Other Entities

This comment (which may refer to the Draft Plan rather than to the EIR) appears to state an opinion that an impact of the Draft Plan is that it prevents the development of policies by other entities that would protect environmental resources.

The District notes the comment, but does not find that the Draft Management Plan has any particular effect in preventing the development of policies that protect environmental resources by other regulatory or trustee agencies; this is not a substantive comment about the EIR. Other agencies are required by law to follow the statutory and regulatory requirements that govern their activities, regardless of the District's actions with respect to the Management Plan or this EIR. Notwithstanding that fact, the District has been delegated the statutory authority and given the responsibility to manage the

environmental resources in Humboldt Bay, together with several other local, statewide, and federal agencies, and the District is obliged to develop appropriate management policies to carry out these responsibilities.

9.5 NEED FOR NATIONAL ENVIRONMENTAL POLICY ACT REVIEW FOR THE MANAGEMENT PLAN'S LOCAL ADOPTION

This comment raises a question about the need for an assessment document pursuant to the National Environmental Policy Act (NEPA) for the Draft Management Plan, ostensibly because some of the funding that went into the development of the Management Plan was provided by the U.S. Environmental Protection Agency. While this comment is not specifically a comment about the content of this EIR, the EIR treats it as a comment about the adequacy of the EIR as an environmental assessment and addresses it here.

The comment lacks substance. At the time the EIR was prepared, the District consulted with the USEPA project manager for the project that had provided funding for the Draft Plan's development.² The USEPA project manager indicated that the purpose of the USEPA program that provided funding for the Plan's development had been to foster stewardship in local agency (i.e., the District's) staff and decision-makers, so that the purpose of the grant would be met in the development and implementation of the Plan. The necessary NEPA compliance for the grant program had been addressed by the USEPA when that agency developed the funding program. Finally, because the Draft Plan was not a project or proposal that would be expressly approved by the USEPA, the Plan itself required no NEPA document.

² Documents on file with the District, Eureka, California.

JUN 08 2006

H.B.H.R. & C.D.

California Native Plant Society

North Coast Chapter
P.O. Box 1067
Arcata, CA 95518
June 8, 2006

Mr. Jeff Robinson
and
Board of Commissioners
Humboldt Bay Harbor, Recreation, and Conservation District
P.O. Box 1030
Eureka, CA 95502-1030

Re: Draft EIR for the Humboldt Bay Management Plan

Dear Mr. Robinson and Commissioners,

I am writing this letter on behalf of the North Coast Chapter of the California Native Plant Society (CNPS). CNPS is a statewide nonprofit organization of nearly 10,000 amateurs and professionals dedicated to the preservation of California's diverse native flora. CNPS conducts a variety of conservation efforts focused on long-term protection and preservation of native flora in its natural habitat, and is the foremost non-governmental organization working to protect rare, threatened, and endangered plants in California. The North Coast Chapter is based in Arcata and represents approximately 330 members in Humboldt, Trinity, Del Norte, and western Siskiyou Counties. The majority of our members reside in the Humboldt Bay area.

We appreciate the opportunity to review and comment on the Draft EIR for the Humboldt Bay Management Plan (hereafter called "the Plan"). Major issues of concern to the North Coast Chapter are as follows:

Policy CEP-1 lists the specific exceptions to rules preventing impacts to streams, wetlands, estuaries, and coastal waters. This section should be revised to be consistent with Section 30233 of the California Coastal Act, which states that such exemptions are only allowed "where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects."



Dedicated to the preservation of California native Flora

Advisory Committee Membership

The Advisory Committee should be comprised of specified representatives of various community elements, including fishing, recreation, and conservation advocacy organizations such as CNPS. We also suggest expanding the list of stakeholders to include the many non-profit organizations with interests in the Bay, including CNPS. The current list appears to be inappropriately limited to the organizations that were represented at stakeholder meetings related to the Bay Management Plan.

9.1 Range of Alternatives

The range of alternatives considered is too narrow. Two alternatives, the Plan and the No Action alternative, were the only alternatives considered.

Lack of a Policy on Billboards

9.2 CNPS is concerned about the Plan's lack of a policy on billboards within the District's jurisdiction. There are numerous billboards located on sensitive salt marsh habitat within the District's jurisdiction. Salt marshes of Humboldt Bay are home to two protected plant species protected under Cal. Code Regs. 14 §15380(d) and 15065. Northern coastal salt marsh is a rare plant community,¹ and therefore is protected under Section IV(b) of the CEQA Environmental Checklist (Appendix G of the CEQA Guidelines).

Construction of new billboards and maintenance of existing billboards clearly has the potential to cause significant negative impacts to protected species and habitats. As the Lead Agency regulating activities within the intertidal zone, the District should include a clear policy in the Plan that limits future siting of billboards in habitats that are protected under CEQA. A similar policy should be developed regarding existing billboards: they should be eliminated wherever possible, and contracts for existing billboards should not be renewed upon expiration.

Locally Rare Species

9.3 Locally rare species should be protected pursuant to Cal. Code Regs. 14 §15125(c). Small, isolated peripheral plant populations are more likely than large central populations to be influenced by impacts related to development, changes in microclimate and hydrologic regimes, and other disturbance factors. Although it is a tenet of conservation biology to prioritize protection of larger, core populations, smaller isolated populations are worthy of protection as well due to

¹ List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database, Sept. 2003. California Department of Fish and Game, Sacramento, CA.

the increased risk of extirpation. Studies have found that when a species undergoes a catastrophic range contraction, populations on the edge of their range have a significantly greater survivorship than core populations.² Therefore, locally rare species should be protected to ensure the stability of these native plant species throughout their range. This principle is particularly important in the management and protection of species with restricted ranges, and for those species that are at the edge of their range in the Humboldt Bay area.

Conservation Policies

- 9.4.1 Please assess the potential impacts to public trust resources that may result from the lack of planning specific projects and plans to prioritize conservation goals such as management of protect listed species and critical habitats, restore wetlands, and develop a water quality plan. In general, CNPS is concerned that many of the conservation policies are not policies at all, but rather vague intentions to develop a plan at some unspecified later date. The decision has
- 9.4.2 apparently been made to prioritize specific planning for harbor development, which could have negative impacts on conservation values and natural resources. We believe that timelines should be included wherever possible. It is
- 9.4.3 important to include language that would clarify the District's position on allowing other entities to develop such policies as appropriate. Examples of these non-specific plans are:

- CAE-3, the plan to develop and implement a restoration and enhancement plan for the Bay's aquatic ecosystems, including wetlands;
- CAE-4, the plan to develop and implement a water quality maintenance plan for the Bay;
- CAS-1, the plan to develop a plan to maintain native biological diversity and important habitats;
- CAS-2, the plan to develop a plan to maintain diversity of native and desired commercial species;
- CAS-3, the plan to develop a plan to manage or protect state-listed or federally-listed species and critical habitats.

At the very least, these plans to develop plans should be prioritized, if not given specific timelines for development and implementation. In some instances, there is no need to develop a plan to enable the District to carry out its public trust responsibilities.

Nature Study and Exploration as Recreation

CNPS believes that nature study and exploration are important aspects of recreation on and around Humboldt Bay, and should be recognized as such in

² Channell, R, and M. V. Lomolino. 2000. Dynamic biogeography and conservation of endangered species. *Nature* 403:84-86.

the Plan. Botanizing, birdwatching, research, and other natural history nature-related activities are important to the recreational, educational, and scientific values of Humboldt Bay. Potential impacts to possible recreational opportunities, especially trails and trail access points, should be considered for any action or projects undertaken by the District as well as adjacent areas under the jurisdiction of other agencies.

Encourage Native Landscaping

CNPS urges the District to consider adding a policy to the Plan to encourage native landscaping wherever possible on the District's property and within and adjacent to the District's jurisdiction. The Bay's sensitive ecosystems are susceptible to invasion by non-native plants, and native landscaping can protect wetlands and other habitats from impacts related to fertilizers and pesticides often used on horticultural landscaping plants. The use of local natives is recommended wherever possible. The area between the Bay and the trail behind the new Target store in Eureka is a good example of native landscaping that will help buffer the impact of the development while providing wildlife habitat and scenic continuity with the natural landscape.

Wetlands Conservation

EPA funding granted in 1998 to the District to develop a wetlands management plan (Grant # CD 999967-01-0) required consistency with the California Wetlands Conservation Policy of 1993. How does the Plan fulfill the requirements of the wetlands management plan grant? And how does the Plan ensure consistency with the California Wetlands Conservation Policy as required by the EPA grant?

CNPS believes that a wetlands management plan should be a top priority for the District, and should be conducted in collaboration with the Scientific Advisory Committee on Estuarine Restoration, local and state trustee agencies, and other local wetlands ecologists and restoration practitioners. CNPS also believes that a no-net-loss policy for wetlands is inadequate, since mitigation has failed more often than succeeded in replacing intact wetlands.³ Destruction, development, or disturbance of intact wetland habitats should be limited to the absolute minimum. All mitigation and restoration plans involving public lands, public funding, and/or public permits should require long-term monitoring to examine the success of restoration methods.

- 9.5 | Since the use of federal funding triggers compliance with the policies and processes required by the National Environmental Policy Act (NEPA), we trust that the District will be complying with the requirements of NEPA as well as the California Environmental Quality Act (CEQA).

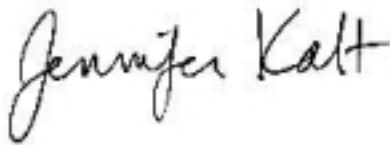
³ R.H. Chamberlain and R.A. Barnhart. 1993. Early use by fish of a mitigation salt marsh, Humboldt Bay, California. *Estuaries* 16: 769-783.

Conclusion

Thank you for the opportunity to comment on the DEIR for the Plan. We look forward to incorporation of our comments, and would appreciate written responses to each of our comments. Please keep CNPS informed about hearings, workshops, and other future opportunities to comment on the Humboldt Bay Management Plan, as well as any other plans or proposals that have potential impacts to native plants and/or vegetation.

Please send correspondence to the address above.

Respectfully,

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

Jennifer Kalt
Conservation Chair
North Coast Chapter

This page is intentionally blank