

SAN FRANCISCO BOARDSAILING ASSOCIATION

January 22, 2014

John Swiecki, AICP, Community Development Director  
City of Brisbane  
50 Park Place, Brisbane, CA 94005

Subject: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE BRISBANE  
BAYLANDS PROJECT (City File No: SP-1-06/GPA-2-10; State Clearinghouse No.  
2006022136)

Dear Mr. Swiecki:

The following are the comments of the San Francisco Boardsailing Association on the subject EIR. We endorse the comments already made by the Candlestick Preservation Association. We find the document fundamentally flawed in its characterization of the impacts on windsurfing in the waters immediately offshore of the proposed project. We think the EIR is flawed in 1) not recognizing the unique and scarce nature of the windsurfing resource that will be affected; 2) using significance thresholds that do not give full recognition to the body of State policies that protect recreational resources; and 3) using a model which underestimates the impacts of the project on the windsurfing resources.

**CANDLESTICK REPRESENTS A RARE AND VALUABLE WINDSURFING RESOURCE**

When Bay Access published their initial map of the “San Francisco Bay Area Water Trail”, in an effort that became legislation that is cited more specifically below, they identified 86 different existing sites that provide access to the water. But for those who engage in windsurfing, only a handful of those sites provide sufficient wind, water depth, and parking to allow significant use by windsurfers and kite boarders. Most of the use occurs on a handful of the sites, including Candlestick, Crissy Field, Third Avenue, Coyote Point, Berkeley, Alameda, Pt. Isabel, Treasure Island and Larkspur. So only nine of the 86 identified Bay Trail sites provide high value windsurfing access.

Windsurfing in the West Bay is particularly rare, and threatened by both development projects and erosion. Only Crissy Field and Candlestick provide windsurfing access in San Francisco County. The two popular sites in San Mateo County, Coyote Point and Third Avenue, are both threatened by ongoing erosion, even without the expected impacts of sea level rise. The EIR does not recognize the relative scarcity of the access points, and use that scarcity in developing thresholds of significance that protect this rare resource.

The nature of the wind resource at Candlestick is different from all of the other access points cited above. At Candlestick, wind comes through the Alemany gap in the hills, but weakens as it moves eastward and particularly southward. The gap acts like a nozzle on a hose, and the wind weakens, as a stream of water would, the further it gets from that nozzle. So in the case of Candlestick, the windsurfing resource, which is accurately shown in GPS tracks on page 4.M-13, is only the small area measuring about 5000 feet by 2000 feet. All of the other windsurfing launch points identified above provide access to a much larger area suitable for windsurfing. In those areas, disturbance of the wind field near the shore may make it more difficult, but not impossible, to sail. In the case of Candlestick substantial alteration of the wind field in the small area that is heavily used can essentially eliminate the ability to sail from the site, at least on some of the days that are now suitable for sailing. The document fails to recognize the scarce and unique resource, and the small area suitable for high wind sailing, and thus fails to analyze the potential of the Baylands Project to significantly impact windsurfing.

### SIGNIFICANCE THRESHOLDS AS A STANDARD FOR IMPACT ANALYSIS

CEQA defines significant effects on the environment as “a substantial, or potentially substantial, adverse change in the environment.” Until 2005, the CEQA guidelines advised that recreational impacts were generally considered significant. While that was changed, this provision in Section 15064(e) of the CEQA Guidelines is of particular importance:

If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect

Thus, in considering the impact on recreation, the actual impact of the physical changes on human activities must be considered. Further, the relative scarcity of the resource must be considered, and the analytical gap between the nature of the project and the physical impacts on existing recreational uses must be bridged. The EIR fails to do this. It establishes this criteria for significance (page 4.M-9):

- Substantially degrade the existing windsurfing recreational resource at CPSRA.

There is no discussion of the relative scarcity of the resource; in our minds a fatal flaw.

The starting point for considering impacts on access to the water must be the California Constitution; recreational access to the Bay is different from other forms of recreation that may be evaluated under CEQA because it has Constitutional standing. Section 4 of Article X of the State Constitution provides, in most relevant part:

**No ... corporation ... possessing the frontage .... of a... bay... in this State, shall be permitted to exclude the right of way to such water** whenever it is

required for any public purpose, **nor to destroy or obstruct the free navigation of such water** (emphasis added)

Thus, a policy that prohibits obstructing the free navigation of the publicly owned waters in the Bay has already been established in the Constitution, and should be used in consideration of this project, which will obstruct the free flow of wind necessary to enjoy the existing recreation on the bay along the site frontage.

The City limits its consideration of adverse windsurfing impacts to one of substantial impairment of prime windsurfing areas, which ignores both the nature of the current recreational use, and its relative scarcity. For perspective, San Francisco Bay has an area of about 400 square miles, or 16,000,000 acres. Yet only a relatively small part of that area is suitable for windsurfing.

The Constitutional language cited above further provides direction that the "...Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof." The MacAteer-Petris Act, which established BCDC and the nation's first Coastal program, and the recently passed Bay Trail are two examples of such legislation. The Bay Plan, developed by BCDC under the MacAteer-Petris Act, includes the following policy language as part of the mapping of Candlestick as a protected waterfront park and beach: "Preserve ...windsurfing...opportunities" (Plan Map 5 notes). It is axiomatic under CEQA that the consistency of a project with adopted planning policies such as these is a threshold of significance.

The Water Trail Act, passed by the legislature to increase public access onto the Bay, is now included in the Public Resources Code, and establishes policies that should have been used in formulating thresholds of significance, including "The San Francisco Bay Area Water Trail, established pursuant to this chapter, shall be implemented consistent with the goals of **improving access to, within, and around the bay**" (Section 6691(f), and "**Water-oriented recreational uses of the San Francisco Bay, including kayaking, canoeing, sail boarding, sculling, rowing, car-top sailing, and the like, are of great benefit to the public welfare of the San Francisco Bay Area.**" (emphasis added)

The City's effort to establish significance thresholds does not include consideration of any of these policies. That effort must be revised, recognizing that state policy is to improve, not degrade access to the water. These policies must then be used as a benchmark in establishing significance thresholds, that is, to preserve and improve access to the Bay, not allow damage to that resource if such damage falls below a rather nebulous "substantial" level.

#### USING WIND TUNNEL STUDIES TO PROVIDE A FAIR ASSESSMENT OF IMPACT

We appreciate the effort in the EIR to evaluate the impact of the proposed land use plan on wind flow. In many circumstances, such an approach would be adequate to assess the likely impact. However, in this particular geographic location, the inherent limitations of the physical model used to predict impacts lead to an incomplete and misleading analysis. A physical model relies on a steady state windfield, using fans or similar devices to compare wind velocities with and

without the proposed development. Such a model is incapable of replicating the nature of compressed flow that is present at the site. As noted above, the wind through the Alemany gap operates as a compressed flow, and the movement of that windfield from west to east, and to the south, diminishes the intensity of the wind in the field. The physical model does not replicate this phenomenon, and thus has weaknesses in predicting impacts, particularly as the field moves south. Second, the resource is very limited in physical area; sailors typically turn around as they move to the south when the wind strength weakens. So the northern portion of the identified windfield is in fact the resource area, and is quite sensitive to disruption in overall strength, as well as increases in gustiness, presented in the model results as turbulence. We believe that the only appropriate metric that should be used to gauge the impact, and whether or not it is in fact “substantial”, is to assess the suitability of the remaining windfield for sailing.

You have already received detailed comments from the Candlestick Preservation Association demonstrating that, in summary, even a 5% wind speed reduction at Candlestick will likely result in a 20% decrease in number of sailable days per year while a 10% decrease will likely cause a 40% decrease in the number of sailable days per year. These are substantial impacts to the pattern of use at the site, and must be addressed as such.

#### MITIGATION MEASURES

Under CEQA, all significant impacts must be reduced to a level that is less than significant, unless it is infeasible to do so. Further, the public is entitled to an opportunity to comment on the sufficiency of mitigation measures to actually reduce impacts. While we have raised major issues with the nature of the analysis in the EIR, we do believe that those issues are resolvable with careful mitigation. This EIR covers a land use plan, not a specific site. It has an overall intensity that is not so great that it is infeasible to carefully cluster development in order to prevent impacts to windsurfing. As noted above, the northern portion of the site closest to the Candlestick Park is the area where the windsurfing resource is located. We have demonstrated that it is much more sensitive to disruption than the model has shown. However, clustering of multi-story development on the southern portion of the plan area has the potential to greatly reduce, if not eliminate, the significant impacts to windsurfing. Further, planning policies could be adopted by the City which require a specific plan for, in particular the northern portion of the plan area, with detailed wind flow analysis that better reflect the available data on wind currently at the site, and the potential for impact.

#### CONCLUSION

We believe that the document is fatally flawed in its analysis of recreational impacts because it failed to adequately describe the existing use at the site, develop thresholds of significance that reflect all established State policies that protect and encourage improved access, or use analytical tools that reflect the unique nature of the compressed flow. While we believe that the impacts on protected recreational use can be mitigated, we think that a revised draft EIR must first be prepared and circulated for comment to correct these shortcomings.

Very truly yours,

Jim McGrath,  
Vice President  
San Francisco Boardsailing Association