



May 11, 2020

Mr. Lawrence J. Goldzband
Executive Director
San Francisco Bay Conservation and Development Commission
375 Beale St., Suite 510
San Francisco CA 94105

Dear Larry:

Thank you for coordinating with the Coastal Conservancy regarding Amendment No. Forty-Six for Permit Number 2001.008.46. The Conservancy understands that this amendment modifies the original mitigation requirements for the San Francisco–Oakland Bay Bridge East Span Seismic Safety Project to require off-site, fee-based mitigation to provide for shorebird roosting habitat, in lieu of the existing requirement to construct a rock island in the Bay.

The Conservancy supports the payment of \$775,000 in fee-based mitigation to the East Bay Regional Park District for the East Island habitat enhancement project at the District’s Martin Luther King, Jr. Shoreline. The East Island project will improve shorebird habitat in the Central Bay and increase the resilience of roosting and nesting habitat to sea level rise.

However, if the East Island project is unable to be completed within the timeframe described in the permit, the Conservancy agrees to accept these mitigation funds and use them to create or enhance shorebird habitat in the Bay Area in accordance with the Permit conditions and the Memorandum of Agreement between the State Coastal Conservancy and the Bay Conservation and Development Commission (BCDC-SCC MOA SFBC #08-09) dated August 11, 2008, and amended on August 23, 2018.

Sincerely,

Sam Schuchat

Samuel Schuchat
Executive Officer
State Coastal Conservancy

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*inspiring people to protect
Bay Area birds since 1917*

Ms. Rebecca Coates-Maldoon
Principal Permit Analyst
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April 29, 2020

Mr. Ethan Lavine
Principal Regulatory and Permit Analyst
ethan.lavine@bcdca.gov

San Francisco Bay Conservation and Development Commission
Bay Area Metro Center
375 Beal Street, Suite 510
San Francisco, CA 94105

Re: BCDC Permit Application No. 2001.008.46
San Francisco–Oakland Bay Bridge East Span Seismic Safety Project
SHOREBIRD ROOSTING HABITAT MITIGATION

Dear Ms. Coates-Maldoon and Mr. Levine,

Golden Gate Audubon Society appreciates this opportunity to contribute our perspective on shorebird habitat mitigation. The work that CalTrans and BCDC have done on the San Francisco-Oakland Bay Bridge to consider benefits for birds and other wildlife is valuable. The mitigation for this project has taken years of research and evaluation. The proposal to improve the East Island at MLK Jr. Shoreline Park as mitigation for the permanent loss of shorebird habitat at the Oakland landing section of the San Francisco – Oakland Bay Bridge offers some benefit for birds facing the threat of climate change. This newest mitigation proposal was not addressed in the initial mitigation proposal and is considerably less desirable than on site mitigation for lost shorebird habitat as proposed at Gateway Park. However, it is worthy of discussion as a temporary measure until commitments to establish a minimum of 500 square feet of protected shorebird habitat at the Gateway Park can be established.

The onsite shorebird mitigation for the shorebirds and specific species negatively impacted at the Bay Bridge as originally envisioned included establishing a minimum of 500 square feet of protected habitat for the same species that occurred prior to the bridge footing alterations. Specifically, the shorebirds that used the Bay Bridge touch down area to feed and roost will not likely fly eight miles (the distance to the proposed mitigation project site). Additionally, some of the species impacted by loss of the touchdown habitat will not benefit from the new proposed mitigation East Island project site because it is not suitable habitat for these particular species. In particular, we refer to the LSA study that documented Black Oystercatcher occupancy at the Bay Bridge touchdown area.

GOLDEN GATE AUDUBON SOCIETY

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Black Oystercatchers, a climate-endangered species, have expanded their occupancy and occurrence from coastal areas to the interior of San Francisco Bay. Biologists speculate that movement to these interior areas is in response to continuing loss of suitable coastal habitat. Now, the Black Oystercatchers have lost their preferred habitat yet again and East Island is unsuitable for them. Therefore, no mitigation is presently under consideration for this climate-endangered species. GGAS urges BCDC and CalTrans to seek a commitment from the land managers and appropriate authorities to establish a protected and appropriately maintained 500 square foot shorebird roosting habitat at the touchdown or Gateway Park so that Black Oystercatchers have a suitable mitigation site in compensation for the loss of their roosting and foraging habitat.

While the proposed East Bay Regional Park District (EBRPD) project at East Island at the MLK Jr. Shoreline Park will provide benefits for a variety of roosting shorebirds from fall through spring, this should serve as a short-term benefit. The longterm benefit of onsite mitigation should be memorialized in all future documents. Although the East Island may be beneficial for breeding birds, we must all be mindful that the East Island improvements offer no benefit for Black Oystercatchers. Bird habitat along or near the East Island shoreline may be a refuge for birds from the projected sea level rise and is critically important. However, this offers no mitigation for Black Oystercatchers. The planners and authorities are urged to commit to onsite mitigation in the form of a protected 500 square foot shorebird habitat that will be seasonally maintained to appropriately and safely support roosting Black Oystercatchers.

Our understanding is that if there should be any problem with implementing the project at East Island, the mitigation funds would go to the State of California's Coastal Conservancy. GGAS supports the EBRPD's proposal for the East Island project as a backup for providing the project funding to the State Coastal Conservancy if it is specifically designated for Gateway Park shorebird habitat.

In addition to EBRPD monitoring of the MLK Jr. Shoreline East Island Project, GGAS strongly recommends that the EBRPD also maintain this site. Maintenance is required so that the island does not become heavily vegetated by invasive plant species or debris. GGAS has partnered with the EBRPD at the MLK Jr. Shoreline Park for many years on bird monitoring and habitat restoration at Arrowhead March. Based on our monitoring of monthly habitat restoration events, GGAS is aware of the ongoing problem with debris that floats in on the high tides as well as the threat to roosting and nesting birds from non-native invasive weeds.

GGAS strongly advocates for two actions for shorebirds at Gateway Park. First, GGAS seeks confirmation that Caltrans will install or has installed signage on the chain link fence to identify and protect the proposed 500 square foot shorebird roosting area. If this has not already happened, GGAS requests that CalTrans install this signage as soon as possible. Second, GGAS seeks a requirement that when CalTrans undertakes the project to address sea level rise at Gateway Park, that it include mitigation for the shorebirds and other species that were not addressed as part of the initial mitigation (ex: shorebirds at the Oakland Touch Down including Black Oystercatcher).

While the East Island proposed mitigation can benefit local resident and migrating birds and provide appropriate maintenance for long term biodiversity and ecological productivity, it does not offer adequate mitigation for Black Oystercatchers. The future project at Gateway Park will benefit Bay and coastal shorebirds, especially Black Oystercatchers, and will also mitigate for the challenges of storm surge and sea level rise.

San Francisco Bay Area residents love our living shorelines and the wildlife that thrive within this area. The overwhelming support of 77% for Measure AA demonstrates the need and demand for restoring and sustaining high value shoreline habitat for Bay area birds and other wildlife. Anything less than onsite protection and maintenance of 500 square feet of dedicated roosting shorebird habitat at Gateway Park is a failure to heed the public's support for thriving wildlife along our Bay shoreline.

We appreciate the opportunity to communicate with CalTrans and BCDC regarding this project in support of habitat for birds today and into our future.

Sincerely,

A handwritten signature in cursive script that reads "Pam Young".

Pam Young
Executive Director

Noreen Weeden

Noreen Weeden
Member, San Francisco Conservation Committee
Golden Gate Audubon Society

Arthur Feinstein

Arthur Feinstein
Member, Sierra Club Bay Chapter Executive Committee

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Making Conservation
a California Way of Life.

May 14, 2020

Ms. Rebecca Coates-Maldoon
Principal Permit Analyst
San Francisco Bay Conservation and Development Commission
Bay Area Metro Center
375 Beal Street, Suite 510
San Francisco, CA 94105

Dear Ms. Coates-Maldoon:

The California Department of Transportation (Department) has requested to amend its San Francisco Bay Conservation and Development Commission (BCDC) Permit (BCDC Permit No. 2001.008.46) for the San Francisco–Oakland Bay Bridge (SFOBB) East Span Seismic Safety Project (SFOBB Project). On May 21, 2020, the Department will be presenting the request to the BCDC Commissioners to remove requirements to mitigate for temporary SFOBB Project impacts through construction of on-site shorebird roosting habitat, and instead to authorize the Department to provide in-lieu funding to the East Bay Regional Park District's (EBRPD) East Island Project at Martin Luther King Jr. Regional Shoreline (MLK Shoreline) to satisfy the SFOBB Project's shorebird roosting habitat mitigation requirement.

Before arriving at this proposal, the Department has met with the Golden Gate Audubon Society (GGAS) 10 times over the course of 6 years, to evaluate potential on- and off-site projects to fulfill the SFOBB Project's shorebird roosting habitat mitigation. Most recently, the Department presented the East Island Project to GGAS in December 2019, and ended the discussion with an understanding that the organization was supportive of the East Island proposal in lieu of creating habitat at the SFOBB Project site, and that the Department also would provide shorebird-related signage at the Oakland Touchdown area.

The Department continued to follow-up for additional input from GGAS on three separate occasions since the December meeting, to which GGAS has been unresponsive. The Department understands and supports the important advocacy work that GGAS pursues in the Bay Area to protect birds and has made every effort to work closely with that organization for nearly 20 years on the SFOBB Project. Unfortunately, the April 29, 2020 letter from the GGAS does not recognize our extensive partnership and their input in reaching the decision to pursue this course, which will provide more than 40 times the amount of habitat to shorebird species in the Bay than what currently is authorized in

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the BCDC Permit. The GGAS letter portrays several items inaccurately and the Department wishes to clarify the record with this letter, providing a response to specific items presented by GGAS under the headings that follow.

Temporary vs. Permanent Impacts

The letter incorrectly states that the Department's shorebird roosting habitat mitigation requirements in the BCDC permit are to offset the permanent loss of shorebird habitat at the Oakland Touchdown. The shorebird roosting habitat mitigation requirement in the BCDC permit is intended to offset 0.8 acre of temporary impact to sandflat habitat. The Department already has fulfilled all the mitigation requirements related to the project's permanent impacts to sandflat habitat and birds. In fact, the SFOBB Project was able to reduce its permanent sandflat impacts by 20 percent during construction but still mitigated for these unrealized impacts.

Focus on Black Oystercatcher

The BCDC Permit requirement is to create roosting habitat for "shorebirds," a broad category that applies to more than 22 common species of birds known to occur in the San Francisco Bay. Of those 22 species, 20 are known to occur at the MLK Shorelineⁱ. The GGAS letter focuses heavily on the need to provide mitigation for a single species—black oystercatcher. Black oystercatchers typically roost on rocky intertidal shorelines, including riprapped shoreline, a habitat type that is not lacking at the SFOBB Project site or in the Bay. Department bird monitors regularly observed black oystercatchers foraging and roosting in the SFOBB Project area during and after project construction. The Department's permit specifies no requirement to mitigate impacts on black oystercatcher or any other specific shorebird species. It also does not require that the habitat accommodate every species that inhabits the Oakland Touchdown area.

Monitoring data collected by the Department at the Emeryville Crescent and by GGAS at MLK Shoreline¹ demonstrate that New Marsh supports predominantly the same shorebird species as the Emeryville Crescent. Both sites are used heavily by small shorebirds, including semipalmated plovers, western sandpipers, least sandpipers, and dunlin. Use of each site by small shorebirds demonstrates that they both have optimal foraging and roosting habitat for these species. Thus, focusing on a single species that does not use both sites (i.e., black oystercatcher) overlooks the benefit of the East Island Project to many species that occur in the SFOBB Project area.

The proposed East Island Project that the Department seeks to fund employs a multi-species habitat approach to benefit as many shorebird species as possible. Although the East Island Project is not specifically designed to focus on black oystercatcher habitat

ⁱ GGAS. 2007. *Project Year 8 Monitoring Report Martin Luther King, Jr. Regional Shoreline Wetlands Project, Oakland, California*. Available: https://goldengateaudubon.org/wp-content/uploads/1044_MLK_Year-8_Monitoring_Report_2007-0221_RDF1.pdf.

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needs, it proposes to create and enhance habitat for shorebird species that would not typically use the riprapped shorelines of the Bay and proposes substantially less “grey” infrastructure (i.e., filling the Bay with rock) to meet that goal.

Use of East Island by Individual Birds that Forage at the SFOBB Project Area

In its letter, GGAS states without support, “Specifically, the shorebirds that used the Bay Bridge touch down area to feed and roost will not likely fly eight miles (the distance to the proposed mitigation project site).” This question has been addressed in discussions with GGAS and in the Department’s report that studied shorebird use of forage habitat in the Bay (submitted with the amendment request to BCDC). This same subject was addressed directly in monitoring reports prepared by GGAS at MLK Shoreline¹. The Department would like to point to a statement made in that GGAS report for the same area where the East Island Project is proposed, which states, “Although shorebirds in the San Francisco Bay area may move more than 20 km (12 miles) between foraging and roosting areas (Shuford et al. 1989), the proximity of alternate high-tide habitat can help to maintain high densities of shorebirds on nearby tidal mudflats (Masero et al. 2000).” It is abundantly clear that the proposed project at East Island would be located near mudflat habitat and would be less than 12 miles from the SFOBB Project area. The Department asserts that the proposed mitigation at East Island would not be limited in serving shorebirds on a species level but likely would serve some of the same individuals that forage in the Bay near the SFOBB Project area.

Long-term Maintenance of East Island

The GGAS letter suggests that East Island should be maintained by the EBRPD to ensure that it remains free of vegetation. The Department made this clear in its discussions with GGAS and would like to confirm again that this already is a component of the proposal to BCDC. The Department’s \$775,000 commitment to the East Island Project includes budgeting for 3 years of maintenance, including vegetation management, to be performed by the EBRPD. After that 3-year period, the EBRPD would maintain the island in perpetuity.

Signage and Gateway Park

The GGAS letter advocates for two actions, the first regarding signage and the second regarding the Gateway Park Project. Regarding signage, four signs regarding shorebirds already have been installed at Judge John Sutter Regional Shoreline. These signs were installed at the shoreline in areas of planned public access, and installation was completed in good faith per a direct request from GGAS to the Department during our December 2019 meeting. The Department partnered with the EBRPD to achieve this and sees this action as a direct and beneficial result of its extended coordination with GGAS. These signs are placed along the riprapped shoreline at the Oakland Touchdown. This riprapped shoreline is an area that will see public use and is a place where species like black oystercatchers are likely to forage and roost.

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The second action advocated by GGAS in its letter concerns habitat creation at the Oakland Touchdown. Specifically, GGAS requests that the Department be required to create shorebird habitat as part of the future Gateway Park Project. The Department is not developing the future Gateway Park Project. That project is under development by the Metropolitan Transportation Commission and the Department rejects the suggestion that it should be required to implement mitigation as part of another project for which the Department is not the lead. In addition, the Department notes that the suggested contribution of funds to this project is not aligned with Bay Plan Mitigation Policy 12 for following reasons:

- (a) Because the Gateway Park Project currently is unfunded and unpermitted, use of the funds within a specified time frame cannot be assured.
- (b) No entity has offered to assume responsibility for the ecological success of a mitigation project at Gateway Park.
- (c) Compensation for time lags between the adverse impact and the mitigation cannot be made, because the Gateway Park Project does not have a schedule for construction.

Because of the uncertainty surrounding the development of the Gateway Park Project, this recommendation is unacceptable, and the Department appreciates BCDC's understanding of our position on this.

The Department appreciates the shorelines and habitats in the Bay. Through this amendment, it seeks to create 20,000 square feet of shorebird roosting habitat and 24,000 square feet of tidal marsh habitat in the Bay. The Department also appreciates the incredibly valuable work being done with Measure AA grant funding in the Bay. We are proud to say that the SFOBB Project mitigation will meet the goals and desires of the nine Bay Area counties to create and enhance shoreline habitats without using any of the Measure AA funds, allowing the great work of others to continue without this contribution affecting their efforts. We thank BCDC for its continuing support to ultimately resolve this permit requirement. If you have any need for further clarification or require more information, please contact me at Stefan.Galvez@dot.ca.gov.

Sincerely,



Stefan Galvez-Abadía
District Division Chief
Division of Environmental Planning and Engineering

cc: Matthew Graul, EBRPD
Brian Maroney, SFOBB Project Chief Engineer