

July 21, 2008

Dear Mayor Bates and Members of the Berkeley City Council,

We are writing to request you revise the preferred hydrology option for environmental review in the Aquatic Park Improvement Program (APIP.) Because the widening of the storm drain discharge outlets at both ends of the park is likely to increase the flow of biological toxins and trash into the shallow tidal lagoons, our groups do not support the proposal.

We applaud your efforts to improve the wildlife habitat values at Aquatic Park and the excellent work done by City staff and consultants. We look forward to design development and environmental review of circulation changes as well as habitat plantings and roosting enhancements throughout the entire park. We do, however, have some serious concerns about the proposed changes to Aquatic Park, as discussed below.

Storm Drain Discharge Outlets. The proposal to widen the discharge outlets from the two storm drains that bracket the park is problematic and controversial, at best. At worst, if these outlets are widened, toxic pollutants will be piped into the City's premier migratory water bird habitat during the season the birds are in residence.

Water Board Order 70-14. Not well addressed in your planning to date is the permanent order of the state Regional Water Quality Control Board prohibiting the City of Berkeley from discharging storm water into Aquatic Park. The lagoons cannot legally be used as storm water surge basins and the City is currently in violation of that order.

We will not support funding for any project that allows the City to continue illegal pollution of the lagoon's waters. Furthermore, we would not support any Water Board permit that voids the storm water discharge prohibition issued in 1970 and replaces it with a permit that legalizes discharges to the lagoons.

Storm Runoff is Toxic to Aquatic Life. The City's goals for habitat improvement at Aquatic Park are clearly at odds with their goals for flood control. Use of Aquatic Park for temporary storage of storm water is antithetical to its role as a wildlife resource. Storm water contains high levels of toxic metals, coliform bacteria, trash, and other solids; and even if completely filtered, it damages habitat values through rapid changes in salinity, loss of high-tide roost sites, and erosion that threatens shoreline trees. Discharge of contaminated water into the lagoons is the primary water quality issue at the park. Therefore, your preferred alternative for the environmental review must recognize the harm caused by urban runoff and incorporate up-to-date best management practices to reduce that harm.

Diversion of Storm Runoff. Any project that spends \$2 million in Clean Water Bond funds must start with projects that bring the City into compliance with Water Board Order 70-14. Phase 1 of any hydrology changes should incorporate suitable automated storm gates on the Potter connections and a back-flow preventer on the Board-ordered diversion pipe. These upgrades would block toxic pollutants from entering the foraging habitat of the migratory water birds via the Potter Storm Drain. The Strawberry Storm Drain should be treated similarly. Modern storm water filters should be installed to treat runoff before draining to the diversion pipe, and the pipe itself should be updated to assure proper functioning.

Environmentally Responsible Storm Water Plans. We understand the City has limited capacity in its storm drains during high tides, but diversion of floodwaters to Aquatic Park is the worst strategy. It is also prohibited by the State and should be removed from further consideration. We urge you, instead,

to direct staff to seek funding for the demonstration project detailed by your consultant to catch and filter runoff in swales and basins east of the railroad tracks. We also recommend you direct staff to pursue pumping options that are used by other cities around the Bay. It may be possible to reduce costs by installing high-pressure pipes within your existing storm drains to increase their capacity when needed.

Low-cost, Low-risk Circulation Improvements. Tidal circulation improvements can be achieved with several strategies that do not increase pollutants in the lagoons. First and foremost, the City must guarantee annual cleaning of all the culverts that carry tidal flow in and out of the lagoons. In 1994, when City staff first proposed widening the storm drain outlets into the park, the toxic impacts of storm water were identified and you rejected the proposal in favor of regular cleaning of the culverts and upgrading of the connections. This approach needs to be restated and implemented. Barnacles and other marine growth must be pressure-washed away regularly in order to maintain flow levels in the culverts. Both ends of the tidal culverts should be armored to prevent collapse, and gates should be installed, making it possible to block the movement of toxic spills into the lagoons.

Hydrology Phasing. The proposed circulation changes carry risks and should be constructed in distinct, separate phases. The first phase should be at the north end, where tidal circulation is blocked by a concrete wall. We support the replacement of this weir on Strawberry Storm Drain with a one-way outbound gate, as recommended by the Water Board. This project would improve circulation in the area where it is most needed and would create the one-way circulation long sought by the City. A new tidal pipe between the Main Lagoon and the Model Yacht Basin could be added in a later phase if deemed necessary, as could changes to the Potter Storm Drain in a final phase.

Habitat Projects as Phase 1. We recommend that the habitat projects be moved to Phase 1 for implementation. Planting throughout the park would create more food, shelter, and screening for birds and other wildlife and has been called for in planning documents over the decades. Specific attention should be paid to developing a planting plan for the entire shoreline, interspersed with tiered seating decks to reduce visitor disturbance of birds in the lagoons. Vegetation should be installed along the east-side creeklets, the freshwater marsh, and as buffer planting around seasonal wetlands. Bird Island should be planted with cypress trees for roosting and possible nesting by egrets and herons. Additional habitat opportunities that are low in cost and high in potential value are the creation and enhancement of multiple islands as shorebird roost-sites that are unvegetated and are high enough to avoid being submerged by the highest of high tides.

Tidal Marsh. Aquatic Park is a singularly inappropriate place in which to create a tidal marsh, as the tidal range is measured in inches rather than feet and the elevation of the tide tube openings results in long periods of inundation and drying out that makes survival difficult for benthic organisms. New areas of shallow water would also act to exacerbate problems of high water temperature in the summer. These problematic conditions are detailed in both the Aquatic Park Natural Resource Management Plan (NRMS) and the Aquatic Park Master Plan of 1990. We therefore request that tidal marsh creation be dropped from further design development and consideration. Project proposals (such as Bird Island enhancements) that are described as related to the marsh construction should therefore be rewritten to reflect their status as independent projects.

Biofilter. Conversion of park land into any form of storm water treatment facility is problematic and should not proceed for environmental review without further development, an explanation of how it would handle all expected pollutants, and a proposed operational schedule including funding sources for costs of pollutant removal and disposal. The biofilter swales should rightly be built east of the tracks, where maintenance access would be easier and the swales would not conflict with the habitat and recreational uses of the park.

New Connection to Radio Tower Pond. It has been reported that the City has funds available from Caltrans to construct a connection between the Potter Storm Drain and the Radio Tower Pond. Since this project is closely related to the proposed APIP construction, is based on flow rates from the same pipes, and would have similar operational impacts, CEQA requires that this project undergo environmental review together with the APIP proposals. The CEQA document should address potential impacts on the large numbers of shorebirds, ducks, herons, and other water birds that use the Radio Tower Pond.

Council Workshop on Aquatic Park Proposals. We ask that you schedule a Council workshop on the full range of proposals for improving the wildlife habitat value of Aquatic Park. Allow our groups to show circulation improvements that do not allow storm water to enter the lagoons, as mandated by the State. Let us explain the importance of native plantings throughout the park and the high habitat value of islands and offshore roost sites. All project proposals that you wish to move forward for CEQA review should be non-controversial and have the united support of the environmental community.

Flood Control. We also acknowledge the challenges that you are trying to resolve regarding flooding in the upstream commercial, industrial, and residential areas. We think it preferable to address this problem as a separate project so that people seeking relief from that problem are not pitted against the important environmental considerations regarding Aquatic Park. However, if you feel it necessary to address the both issues within the same project, i.e. the health of Aquatic Park and the flooding in the proximal neighborhood, then the City must design a system that will securely protect Aquatic Park and the design of that system must be done within the parameters of what we have expressed within this letter. Less than that will damage the habitat in Aquatic Park.

Sincerely,

Patricia Vaughan Jones, Citizens for East Shore Parks (CESP)
Norman La Force, Chair Sierra Club San Francisco Bay Chapter
Mark Liolios, Aquatic Park EGRET