

Note to readers: This Supplemental item that was presented to the UC Regents for their May 14, 2014 meeting has been slightly amended: the header beginning on page 2 now identifies the meeting item as “GB4,” and the Background information section has been updated to reflect that there are six (and not five) organizational letters addressed in this Supplemental item.

Office of the President

TO MEMBERS OF THE COMMITTEE ON GROUNDS AND BUILDINGS:

For Meeting of May 14, 2014

GB4 Supplement #1

ADOPTION OF THE LONG RANGE DEVELOPMENT PLAN PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ACCEPTANCE OF THE PHYSICAL DESIGN FRAMEWORK, RICHMOND BAY CAMPUS, BERKELEY CAMPUS

BACKGROUND

A Final Environmental Impact Report (EIR) for the proposed Richmond Bay Campus’ (RBC) 2014 Long Range Development Plan (LRDP) will be considered by the Committee on Grounds and Buildings at the May 14, 2014 meeting of the Regents of the University of California. The Final EIR includes responses to all letters received during the public review period. After the close of the public review period and publication of the Final EIR, the University received eight additional letters from three public agencies and six organizations regarding the Final EIR and LRDP. The comment letters and the University’s responses to all comments therein pertaining to the Final EIR are attached to this Supplement #1.

The letters listed below and the University’s written responses are provided to The Regents for consideration in certification of the Final EIR, adoption of the 2014 LRDP, and acceptance of the Physical Design Framework as part of the administrative record.

Letters Received After the Close of Public Comment Period and Publication of Final EIR

Comment #¹	Commenter	Date of Letter	Supplement #1 Attachment
Post FEIR A-1	Department of Transportation, District 4 (Erik Alm, District Branch Chief)	May 6, 2014	1 ²
Post FEIR A-2	West Contra Costa Unified School District (Bruce Harter, Superintendent)	May 9, 2014	2
Post FEIR A-3	City of Richmond, City Manager's Office (William A. Lindsay, City Manager)	May 14, 2014	3
Post FEIR O-1	The Council of Industries (Katrinka Ruk, Executive Director)	May 7, 2014	4
Post FEIR O-2	Richmond Community Foundation (James A., Becker, President and CEO)	May 7, 2014	5
Post FEIR O-3	Adams Broadwell Joseph & Cardozo (Ellen L. Trescott representing the County Building and Construction Trades Council)	May 9, 2014	6
Post FEIR O-4	Scientific Art Studio (Ron Holthuysen, Creative Director)	May 10, 2014	7
Post FEIR O-5	Golden Gate Audubon Society (Phil Price / April Rose Summer)	May 13, 2014	8
Post FEIR O-6	The Smith Firm (Kelly Smith representing the Sustainability Parks Recycling and Wildlife Legal Defense Fund)	May 13, 2014	9

University Responses

Post-FEIR A-1, from the Department of Transportation, District 4 (“DOT”), **Attachment 1**, below, makes two follow-up requests of the University pertaining to Final EIR comment responses (see Final EIR comments and responses identified as “DOT-2” and “DOT-4”). The DOT letter is part of the on-going communications between the University and DOT throughout the Richmond Bay Campus (“RBC”) planning process; the University has

¹ Comment identifier “A” denotes agency letters; “O” denotes letters from organizations.

² In addition to providing a response to the Department of Transportation’s (DOT) letter in the “University Response” section of this Supplement, the campus prepared a letter to DOT, which is included as part of Attachment 1.

pledged to continue this close communication as the proposed RBC project moves forward.

In its first of two comments, the DOT asks the University to ensure that it would monitor traffic conditions following construction of any improvements at the at-grade rail crossings involving Regatta Boulevard, Meade Street, Meeker Avenue, 23rd Street, and Marina Bay Parkway.

In its May 12, 2014 reply (attachment 1), the University agrees that it shall conduct such monitoring and points out that it had already affirmed this commitment in the Final EIR. To wit, amended mitigation measure MM TRA-1 reads that "the University shall conduct traffic counts at key RBC gateway locations no less frequently than every 5 years to determine campus generated traffic... (and) ...may undertake such traffic counts in connection with specific development projects at the RBC in order to inform signal warrant analyses and to help guide the selection of improvements that would mitigate significant traffic impacts." (Final EIR p. 4-261) The University further assures DOT that its commitment to regular traffic counts would certainly include all of the intersections (intersections 4, 5, and 8) and associated at-grade rail crossings indicated in DOT's letter.

In its second of two comments, DOT requests that regular annual meetings be held between Caltrans, the City of Richmond, and the University of California to assess the status and progress of the RBC EIR Mitigation Monitoring and Reporting Program (MMRP). Such meetings would commence upon construction of the first major project facilities at the RBC.

In its May 12, 2014 reply, the University affirms that it is committed to regularly reporting on the status and progress of the RBC EIR MMRP. Furthermore, and as stated in the Final EIR, the University pledges that it would "report on implementation of adopted TDM strategies, whether defined in the LRDP or in a stand-alone TDM program, annually following completion of an initial traffic-inducing project under the RBC LRDP." (Final EIR p. 4-261) Finally, the University points out that UC "has also established and committed to a close working relationship with Caltrans and the City of Richmond on traffic-related issues, both in the language of the Final EIR as well as in meetings and correspondences that have already begun to take place. The University is pleased to meet annually with Caltrans as well as the City of Richmond and any other interested agencies to discuss the aforementioned topics once any traffic-inducing RBC construction begins."

Post-FEIR A-2, from the West Contra Costa School District ("WCCUSD"), **Attachment 2**, below, expresses the WCCUSD's "strong support" for the proposed RBC to be constructed in Richmond. The WCCUSD further suggests that the proposed full development of 5.4 million gross square feet would be supported by local plans that would "ensure that the campus' transportation and housing needs are met while maximizing the economic development potential of the area." In addition, the WCCUSD states that the proposed RBC would provide collaborative opportunities between the University and the WCCUSD, and that such partnerships would advance recreational, socio-economic, and educational opportunities for the development of local school children.

The WCCUSD makes no substantive comments on the adequacy of the EIR and therefore no response is needed.

Post-FEIR A-3, from the City of Richmond’s City Manager’s Office (“City Manager”), **Attachment 3**, below, affirms “the City’s strong support for the Richmond Bay Campus” project. The City Manager further acknowledges that the City is working diligently with UC Berkeley and UC LBNL to help the new campus achieve its maximum potential, and the City is further preparing local plans that would help facilitate the needs of the RBC while spurring nearby complementary development.

The City Manager makes no substantive comments on the adequacy of the EIR and therefore no response is needed.

Post FEIR O-1, from the Council of Industries (“the Council”), **Attachment 4**, below, expresses the Council’s “strong support” for the proposed RBC to be constructed in Richmond, which it considers to be the “ideal choice” for the University. The Council further suggests that the proposed full development of 5.4 million gross square feet would be supported by local plans that would “ensure that the campus’ transportation and housing needs are met while maximizing the economic development potential of the area.”

The Council makes no substantive comments on the adequacy of the EIR and therefore no response is needed.

Post FEIR O-2, from the Richmond Community Foundation (“the Foundation”), **Attachment 5**, below, expresses the Foundation’s “strong support” for the proposed RBC to be constructed in Richmond.

The Foundation makes no substantive comments on the adequacy of the EIR and therefore no response is needed.

Post FEIR O-3, from the law firm of Adams Broadwell Joseph & Cardozo representing the Contra Costa County Building and Construction Trades Council (“the Construction Trades Council”), **Attachment 6**, below, reflects a concern about public participation in future analysis and mitigation of RBC development projects. With regard to the Post FEIR O-3 comment at page 2, second paragraph, future review of projects proposed at the Richmond Bay Campus is addressed in the FEIR Responses to Comments (e.g., in Master Response 14, page 9-19 of Volume II of the Final EIR). As noted in the Final EIR, the University expects to provide notice of major projects proposed for approval, and the University recognizes the right of any individual or organization to comment on University activities. The University also notes that the Board of Regents (and its delegates) has a continuing obligation to comply with the California Environmental Quality Act (“CEQA”) and discretion to determine the nature and scope of additional analysis and mitigation measures for project-specific impacts, should such analysis and mitigation prove necessary and appropriate.

At page 2, third paragraph on the page, the Construction Trades Council makes a number of assertions with regard to CEQA requirements for future review. The University will comply with CEQA, including the provisions of Public Resources Code Section 21094. The commenter's assertion that impacts have not been examined at sufficient detail to be adequately mitigated is an unsupported assertion. Also, the Construction Trades Council's assertion that impact conclusions in a prior EIR are only valid for three years misinterprets Section 21094 (a)(2)(D), which makes reference to the finding of overriding considerations made by lead agencies pursuant to Public Resources Code Section 21081(b) and not to impact conclusions in a prior EIR. Once a specific project in furtherance of the LRDP is proposed, the University will review its proposed project description and evaluate the adequacy of existing environmental documentation in analyzing the impacts of the proposed project for purposes of determining what additional environmental documentation should be prepared, if any.

At Post FEIR O-3 page 2, third paragraph, the Construction Trades Council either misinterprets Public Resources Code section 21094(a)(2)(C) or misunderstands the RBC LRDP EIR. As stated in the Final EIR Section 4.6 on Greenhouse Gas Emissions and in section 4.13 on Traffic and Transportation, the determination of significant and unavoidable impact does not rely upon identification of mitigation measures in subsequent environmental review. Regarding greenhouse gas emissions, the EIR proposes mitigation requiring the University to develop a climate action plan ("CAP") for greenhouse gas emission reduction by the earlier of two times: within three years of adoption of the 2014 LRDP or before construction of the first project under the 2014 LRDP. Regarding traffic impacts, the EIR proposes mitigation requiring the University to adopt a transportation demand management ("TDM") program following approval of the 2014 LRDP. As shown in these sections of the EIR, no additional environmental review is necessary to implement these mitigation measures, and the EIR conservatively estimates that significant impacts would occur relative to greenhouse gas emissions and traffic impacts even with implementation of mitigation plans and programs. Public Resources Code section 21093(a)(2)(C) would not apply.

Post FEIR O-4, from the Scientific Art Studio ("the Studio"), **Attachment 7**, below, expresses the "full support" of the Studio's Creative Director for the "Joint Commitment..." document presented to The Board of Regents as part of the RBC LRDP-related materials for consideration.

The Studio makes no substantive comments on the adequacy of the EIR and therefore no response is needed.

Post-FEIR O-5, from the Golden Gate Audubon Society ("GGAS"), **Attachment 8**, below, "encourages the UC Regents to vote against" the RBC LRDP approval and EIR certification. The main reason cited is as follows (page 1, second paragraph):

"Our main objection to the project itself is that it proposes to eliminate a substantial portion of rare coastal prairie," including for athletic fields that are not essential.

The Final EIR addresses this and similar concerns regarding the coastal prairie grass, and proposed uses including athletic fields, in great detail. (The Final EIR and LRDP do not, however, commit the University to developing the Northwest Meadow, and any specific project proposals would receive the appropriate level of additional CEQA review when they are proposed for approval.) This is most notably addressed in Final EIR Master Response-16 (Coastal Terrace Prairie Grasslands), a 14-page response with 6 additional pages of exhibits, beginning on Final EIR page 9-22. Another notable discussion is Master Response-18 (Protection of Species and Habitat), beginning on Final EIR page 9-44. Furthermore, the LRDP indicates areas of the site that are developable and areas to be preserved as open space. The commenter appears to confuse the illustrative for the plan, as also explained at page 9-31 of Volume II of the Final EIR. No new issues are raised in this comment that have not already been fully addressed in the Final EIR, including the Coastal Terrace Prairie Management Plan, which sets forth the means through which the development of the RBC will result in enhancement of existing coastal terrace prairie and mitigation of impacts such as the potential development of the Northwest Meadow.

In its Post FEIR O-5 letter, the GGAS asserts that the EIR failed to identify two potentially significant impacts associated with LRDP related exterior night lighting that could adversely affect birds : the disruption on bird sleeping and feeding cycles and the advantage night lighting could give nocturnal predators in seeking prey. The GGAS takes issue with the EIR analysis, which says that night lighting levels would be similar to lighting at the LBNL main site such that it would be muted and restrained, by referencing a LBNL main site photograph showing what appears to be pronounced night lighting at sunset. From this photograph, the GGAS concludes that “lighting at this level can be reasonably expected to affect the sleep and feeding cycles of birds and other wildlife, and to provide an advantage to nocturnal predators.”

The Final EIR responds to concerns previously expressed by the GGAS in its comment letter on the Draft EIR in response GGAS-14 (Final EIR page 9-224) as well as in other locations, and concluded that the impacts from night lighting would not result in significant impacts to birds. In short, night lighting already exists at the RBC site; new lighting would be gradually emplaced and would be muted and restrained; new lighting and new construction would not be placed on or immediately adjacent to the sensitive marshlands; and, lighting practices would likely be similar to those currently employed at the LBNL main site, which has a thriving bird population. The photograph cited by the commenter, which depicts a panoramic view of the LBNL “Old Town” area at sunset, is not an accurate depiction of night lighting practices at the LBNL site and does not support GGAS’s assertions regarding night lighting. The photographer who took the photograph in December 2003 is well known to the University and used several exposure techniques and other methods to achieve a startlingly bright and somewhat surreal effect, including: he took the picture on an exceptionally clear winter evening; he asked the managers of the prominent buildings in the foreground to turn on all of their interior and exterior lights (most notably in the iconic ALS dome) that are not normally lit at night; he used a special daylight filter, which changed the color exposure on the artificial lights in the foreground and background; and he extended the shot over an exceptionally long period of approximately

eight seconds, which greatly over-exposed and made much more brilliant all of the light sources in the photograph, and exaggerated even the contrast between glare and shadows in the foreground. In short, this photograph is completely inaccurate as an example of LBNL night-lighting and therefore provides no evidentiary support for the GGAS' assertion. (Personal communication with photographer Roy Kaltschmidt, May 13, 2014). The commenter's assertion is therefore not supported by any credible evidence and the foregoing explanation by the University merely amplifies or makes insignificant modifications to the EIR analysis of potential lighting impacts. The Final EIR and substantial evidence, including studies by the University's experts, supports the University's conclusions.

In its Post FEIR O-5 letter, the GGAS refers to the University's response in the Final EIR (GGAS-15 on Final EIR page 9-225) to an issue the GGAS raised in its comments on the Draft EIR: that the RBC would generate edible trash that would attract animals (raccoons, rats, gulls, crows, etc.) that could then prey on the RBC site's native bird population (including their eggs and young). The GGAS asserts that the Final EIR response is not supported by substantial evidence because edible trash is reported to exist at both LBNL and UC Berkeley campuses, a GGAS member has anecdotally witnessed employees feeding food scraps to animals, and UC LBNL contracts with pest companies "to control the rat population."

The Final EIR response to this issue (GGAS-15, Final EIR page 9-225) points out that, as identified in the Draft EIR, there already is a strong human presence on the RBC site and there already are (or likely are) species such as "gulls, starling, crows, and raptors, and predatory mammalian wildlife such as raccoons, skunk, opossum, feral cats, and fox. The project would not be expected to attract or introduce predatory species that are not already present. That such populations would substantially increase ... is speculative." The Final EIR provides reasons why such populations would not be expected to substantially increase, including 1) the fact that there would be less habitat and movement opportunities for such species with more buildings and human presence; 2) the site would be a modern, very "green" site with closing lids on garbage receptacles and vermin-proof structures; 3) the culture of the site would discourage littering and irresponsible disposal of edible items; 4) because of the weather and nature of the working environment at the RBC site, most dining would likely take place indoors. Moreover, the RBC site would not be a host to "a collection of tens of thousands of people" as opined in the GGAS Draft EIR comment letter (up to 10,000 is the projected LRDP population). And, contrary to the Post FEIR O-5 letter, the Final EIR does not claim that "numbers of human-subsidized animals are not expected to increase." Rather, for the reasons stated above, the EIR concluded that impacts to wildlife associated with a potential increase in the "human-subsidized animal" population would be less than significant. Finally, on the GGAS point about UC LBNL use of pest control companies, those are mainly to control indoor pests, which are typically ants, mice, and occasionally raccoons that find refuge under the older, wood-frame buildings at the LBNL site. The commenter's assertion is therefore not supported by any credible evidence and the foregoing explanation by the University merely amplifies or makes insignificant modifications to the EIR analysis of impacts associated with the potential for the project to increase the presence of predatory species at the site.

The GGAS asserts in Post FIER O-5 that the EIR fails to comply with CEQA by not making a “good faith effort” in responding to GGAS’ Draft EIR comments. GGAS includes no acknowledgement of the fact that, as explained at page 9-225 of Volume II of the Final EIR, the Physical Design Framework, and therefore the LRDP project as proposed, includes provisions to minimize light intrusion in natural areas and ensure that lighting fixtures include full-cutoff to eliminate direct up-light, etc. (Physical Design Framework, page 4.54). Lighting is also addressed in the American Bird Conservancy’s Bird-Friendly Building Design recommendations, also referenced in the Physical Design Framework (see page 4.28); see American Bird Conservancy Bird Friendly Building Design publication, pp 28 through 32, downloaded from <http://www.abcbirds.org/newsandreports/BirdFriendlyBuildingDesign.pdf>, May 13, 2014.

As stated above, the Final EIR does respond to the issues raised by the GGAS in its Draft EIR comment letter. The EIR biological resource analysis was prepared by or based on reports prepared by several teams of expert biologists (e.g., refer to Master Response -6, (Biological Resource Surveys)). The GGAS’ suggestions regarding preservation of prairie grass meadow were addressed in Final EIR Master Response-16 (Coastal Terrace Prairie Grasslands) and Master Response-18 (Protection of Species and Habitat). The commenter’s assertion is therefore not supported by any credible evidence and the foregoing explanation by the University merely amplifies or makes insignificant modifications to the EIR analysis of potential lighting impacts.

Post-FEIR O-6, from the Smith Firm representing SPRAWLDEF **Attachment 9**, below, “encourages the UC Regents to vote against” the RBC LRDP approval and EIR An additional letter from The Smith Firm, representing the Sustainability Parks Recycling and Wildlife Legal Defense Fund (SPRAWLDEF), argues that all areas of coastal grasslands on the RBC should be preserved and connected under the LRDP. This position was expressed by commenters on the Draft Environmental Impact Report, and responded to in the Final EIR: see, for example, discussion beginning at page 9-23 of Volume II of the EIR. Scientific best practice considers whether the area around a resource is ecologically intact or native. The position of the commenter that any occurrence of grasslands, anywhere, however discontinuous, must be preserved and re-connected, is not supported by regulation, best practice, or the California Environmental Quality Act.

Nonetheless and although not required by CEQA, the University has taken a number of steps, including preparation of a Coastal Terrace Prairie Management Plan to guide protection and restoration of the Natural Open Space grassland areas. The Management Plan is fully enforceable both because it is a component of the LRDP through the LRDP’s policies, to which all development must conform, and because it is referenced in LRDP EIR Mitigation Measure BIO-5 a), which explains that implementation would begin “once the LRDP is approved for implementation”. The commenter expresses skepticism about this plan, but it was prepared and endorsed by a noted expert in California grasslands. The University looks forward to collaborating with community grassland supporters in further promoting the health of the core grassland preserve at the RBC.

DEPARTMENT OF TRANSPORTATION

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University of California
Lawrence Berkeley National Laboratory

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May 6, 2014

CCVAR015
SCH# 2013012007

Mr. Jeff Philliber
University of California
One Cyclotron Road, MS 76-225
Berkeley, CA 94720

Dear Mr. Philliber:

**Richmond Bay Campus Long Range Development Plan (LRDP) – Final
Environmental Impact Report**

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. We have reviewed the Final Environmental Impact Report and have the following comments to offer.

Response to DOT 2

Regarding the at-grade rail crossing at Regatta Boulevard / Meade Street / Meeker Avenue / 23rd street / Marina Bay Parkway (Intersection 4), the response states that the University of California (UC) plans to provide a fair-share contribution to the cost of necessary improvements, and this is to be determined by comparing the traffic conditions at the time of the LRDP's approval, as described and analyzed in the Draft Environmental Impact Report discussion of existing traffic conditions. Please ensure the UC will also monitor the traffic conditions after the project is built.

Response to DOT 4

Caltrans appreciates that "over the course of the LRDP, if this ongoing monitoring determined that an impact was triggered and mitigation was warranted, then the UC would commence negotiations with the associated transportation agency to ensure that applicable mitigation was funded and implemented on a fair-share basis." Caltrans requests that regular annual meetings between Caltrans, the City and UC / Lawrence Berkeley National Laboratory be held to assess the status and progress of the Mitigation Monitoring Reporting and Plan once construction begins on initial project facilities.

Mr. Jeff Philliber, University of California
May 6, 2014
Page 2

Should you have any questions regarding this letter, please contact Keith Wayne of my staff by telephone at (510) 286-5737, or by email at Keith_Wayne@dot.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erik Alm", with a stylized flourish at the end.

ERIK ALM, AICP
District Branch Chief
Local Development – Intergovernmental Review

c: Scott Morgan, State Clearinghouse

Mr. Jeff Philliber, University of California
May 6, 2014
Page 3

bc: / J Finney/ E Alm/ R Oto/ K Wayne/ File

May 12, 2014

Mr. Erik Alm
District Branch Chief
Department of Transportation, District 4
P.O. Box 23660
Oakland, California 94623-0660

Subject: Richmond Bay Campus Long Range Development Plan Final Environmental Impact Report

Dear Mr. Alm:

Thank you for your May 6, 2014 letter regarding the University of California's Richmond Bay Campus (RBC) Long Range Development Plan (LRDP) Final Environmental Impact Report (EIR). In your letter, Caltrans makes two requests of the University. These requests are in reference to responses to comments "DOT-2" and "DOT-4."

Caltrans asks the University to ensure that it will monitor traffic conditions following construction of any improvements at the at-grade rail crossings involving Regatta Boulevard, Meade Street, Meeker Avenue, 23rd Street, and Marina Bay Parkway. The University agrees that it shall conduct such monitoring and has affirmed this commitment in the Final EIR; see amended mitigation measure MM TRA-1, which reads that "the University shall conduct traffic counts at key RBC gateway locations no less frequently than every 5 years to determine campus generated traffic... (and) ...may undertake such traffic counts in connection with specific development projects at the RBC in order to inform signal warrant analyses and to help guide the selection of improvements that would mitigate significant traffic impacts." (Final EIR p. 4-261) The University's commitment to regular traffic counts would, of course, include all of the intersections (intersections 4, 5, and 8) and associated at-grade rail crossings indicated in Caltrans' letter.

Caltrans further requests that regular annual meetings be held between Caltrans, the City of Richmond, and the University of California to assess the status and progress of the RBC EIR Mitigation Monitoring and Reporting Program (MMRP). Such meetings would commence upon construction of the first major project facilities at the RBC. The University is firmly committed to regularly reporting on the status and progress of the RBC EIR MMRP. Furthermore, and as stated in the Final EIR, the University would "report on implementation of adopted TDM strategies, whether defined in the LRDP or in a stand-alone TDM program, annually following completion of an initial traffic-inducing project under the RBC LRDP." (Final EIR p. 4-261) The University has also established and committed to a close working relationship with Caltrans and the City of Richmond on traffic-related issues, both in the language of the Final EIR as well as in meetings and correspondences that have already begun to take place. The University is pleased to meet annually with Caltrans as well as the City of Richmond and any other interested agencies to discuss the aforementioned topics once any traffic-inducing RBC construction begins.

Mr. Erik Alm, Department of Transportation
May 12, 2014
Page 2

Thank you for Caltrans' continuing interest and involvement in the RBC project and CEQA process. The University looks forward to continuing this good working relationship to help ensure that the RBC project moves forward in the most environmentally responsible manner. If you have any questions or wish to discuss further, please contact me directly via e-mail (jgphilliber@lbl.gov) or by phone (510-486-5257).

Sincerely,



Jeff Philliber
UC LBNL Environmental Planner

c:
UC Office of the President, Charlotte Strem
UC Berkeley, Jennifer McDougall
UC LBNL, Doug Lockhart
UC LBNL Counsel, Nancy Ware



WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

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Superintendent

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May 9, 2014

Office of the Secretary and Chief of Staff to the Regents
1111 Franklin St., 12th floor
Oakland, CA 94607

RE: Action Item GB4³ - ADOPTION OF THE LONG RANGE DEVELOPMENT PLAN PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ACCEPTANCE OF THE PHYSICAL DESIGN FRAMEWORK, RICHMOND BAY CAMPUS, BERKELEY CAMPUS

Dear University of California Board of Regents:

On behalf of the West Contra Costa Unified School District, I would like to state our strong support for the Richmond Bay Campus project in Richmond, CA. We encourage the University of California Board of Regents to adopt the Long Range Development Plan (LRDP) Pursuant to the California Environmental Quality Act, and accept the Physical Design Framework that will serve as the guide for the future development of the campus.

The proposed LRDP for the Richmond Bay Campus indicates the allocation of approximately 5.4 million gross square feet of research and development space on the site. This will be supported by the City of Richmond's South Shoreline Specific Plan and South Richmond Transportation Connectivity Plan to synergistically develop the surrounding 220 acres of the proposed campus. These plans will ensure that the campus' transportation and housing needs are met while maximizing the economic development potential of the area.

The expansion of the Richmond Bay Campus will provide opportunities for collaboration between UC Berkeley, Lawrence Berkeley National Laboratory, and WCCUSD. These partnerships support our community's goals—as outlined in our district's strategic plan and Local Control Accountability Plan, two documents created in collaboration with our community to guide our work—of serving the whole child and preparing every student to succeed in higher education, career, and life. The academic opportunities in the STEM fields are obvious, but this expansion promises to deliver recreational and socio-economic opportunities necessary to the positive development of our children.

Approving the LRDP and Physical Design Framework is the first critical step to creating a world class campus expected of the University of California. We look forward to seeking continued support from the University of California Board of Regents in supporting this project and advancing the future of the University of California, Lawrence Berkeley National Laboratory, West Contra Costa Unified School District, and the Richmond community.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Harter".

Bruce Harter
Superintendent



May 14, 2014

University of California Board of Regents
c/o Office of the Secretary and Chief of Staff to the Regents
1111 Franklin St., 12th floor
Oakland, CA 94607

**RE: Action Item GB4³ - ADOPTION OF THE LONG RANGE DEVELOPMENT PLAN
PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND
ACCEPTANCE OF THE PHYSICAL DESIGN FRAMEWORK, RICHMOND
BAY CAMPUS, BERKELEY CAMPUS**

Dear Boardmembers:


On behalf of the City of Richmond, I would like to affirm the City's strong support for the Richmond Bay Campus (RBC) project. We sincerely hope that the Board of Regents will adopt the Long Range Development Plan (LRDP) pursuant to the California Environmental Quality Act, and accept the Physical Design Framework that will serve as the guide for the future development of the campus.

The City of Richmond recognizes the remarkable opportunity that this project represents for the University of California, Lawrence Berkeley National Laboratory (LBNL), and the Richmond community, as well as the regional and national economic potential of this campus. The City is diligently working with representatives from UC Berkeley and LBNL to ensure that the Richmond Bay Campus will reach its maximum potential to promote academic excellence, cutting edge research, social, and economic development over the next forty years. As part of this work, the City of Richmond is preparing the South Shoreline Specific Plan and South Richmond Transportation Connectivity Plan, which will guide the land use development surrounding 220 acres of the proposed campus. These two plans will work in conjunction with the LRDP to meet the campus' transportation and housing demands and spur development that will serve to complement the project.

UC Berkeley and LBNL currently have outstanding campuses and world class research opportunities; however, they are constrained by a lack of space for expansion. The 5.4 million gross square feet of research and development space proposed for the Richmond Bay Campus is critical to attracting premier research talent, and will facilitate technology transfer and private partnership by providing abundant, high quality developable space not available at existing locations. Such a facility can be effectively, and beautifully, accommodated along Richmond's south shoreline. Your approval of the LRDP and Physical Design Framework will lead to development of a world class campus designed to meet the high standards exemplified by the University of California at Berkeley and Lawrence Berkeley National Laboratory.

We appreciate that the leadership at UC Berkeley and LBNL made a strong commitment for access and inclusion by the Richmond community in the planning process for the campus, and in seeking to bring broad economic opportunity to local residents. We look forward to continuing to work with the University of California to fulfill the maximum potential of the Richmond Bay Campus.

Sincerely,



William A. Lindsay
City Manager



THE COUNCIL OF INDUSTRIES
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www.councilofindustries.org

May 7, 2014

Office of the Secretary and Chief of Staff to the Regents
1111 Franklin St., 12th floor
Oakland, CA 94607

RE: Action Item GB4³ - ADOPTION OF THE LONG RANGE DEVELOPMENT PLAN PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ACCEPTANCE OF THE PHYSICAL DESIGN FRAMEWORK, RICHMOND BAY CAMPUS, BERKELEY CAMPUS

Dear University of California Board of Regents:

On behalf of the Council of Industries Board of Directors, I would like to state our strong support for the Richmond Bay Campus (RBC) project in Richmond, CA. We strongly encourage the University of California Board of Regents to adopt the Long Range Development Plan (LRDP) Pursuant to the California Environmental Quality Act, and accept the Physical Design Framework that will serve as the guide for the future development of the campus.

The proposed LRDP for the RBC indicates the allocation of approximately 5.4 million gross square feet (gsf) of research and development space on the site. This will be supported by the City of Richmond's South Shoreline Specific Plan and South Richmond Transportation Connectivity Plan to synergistically develop the surrounding 220 acres of the proposed campus. These plans will ensure that the campus' transportation and housing needs are met while maximizing the economic development potential of the area.

UC Berkeley and Lawrence Berkeley National Laboratory (LBNL) do not currently have adequate locations to develop the office and research space necessary to continue to attract top talent researchers to new programs. Nor is there currently the ability to partner with private industry to facilitate and enhance the transfer of technological innovation. The central, waterfront location, which offers a wide-range of transportation

options, along with support from the City of Richmond to sustainably develop the surrounding areas to support the campus needs, make the Richmond Bay Campus the ideal choice for the expansion of the UC Berkeley and LBNL.

Approving the LRDP and Physical Design Framework is the first critical step to creating a world class campus expected of the University of California. We look forward to seeking continued support from the University of California Board of Regents in supporting this project and advancing the future of the University of California, Lawrence Berkeley National Laboratory and the Richmond community.

Sincerely,

Katrinka Ruk

Executive Director





May 7, 2014

**Richmond
Community
Foundation**

Office of the Secretary and Chief of Staff to the Regents
1111 Franklin St., 12th floor
Oakland, CA 94607

James Becker
President and CEO

Board Officers:

**RE: Action Item GB4³ - ADOPTION OF THE LONG RANGE DEVELOPMENT PLAN
PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ACCEPTANCE
OF THE PHYSICAL DESIGN FRAMEWORK, RICHMOND BAY CAMPUS, BERKELEY
CAMPUS**

Joshua Genser
Chair

Dear University of California Board of Regents:

Patricia Jones
*Immediate Past
Chair*

On behalf of the Richmond Community Foundation, I would like to state our strong support for the Richmond Bay Campus (RBC) project in Richmond, CA. We strongly encourage the University of California Board of Regents to adopt the Long Range Development Plan (LRDP) Pursuant to the California Environmental Quality Act, and accept the Physical Design Framework that will serve as the guide for the future development of the campus.

James Goins
*Vice Chair,
Treasurer*

Roxanne Cruz
Secretary

The proposed LRDP for the RBC indicates the allocation of approximately 5.4 million gross square feet (gsf) of research and development space on the site. This will be supported by the City of Richmond's South Shoreline Specific Plan and South Richmond Transportation Connectivity Plan to synergistically develop the surrounding 220 acres of the proposed campus. These plans will ensure that the campus' transportation and housing needs are met while maximizing the economic development potential of the area.

Directors:

Leonard Berry

Stephanie Forbes

Erica Goode

Laura Johnson

Ken Maxey

Bielle Moore

Rebecca Ross

Marsha Tomassi

UC Berkeley and Lawrence Berkeley National Laboratory (LBNL) do not currently have adequate locations to develop the office and research space necessary to continue to attract top talent researchers to new programs. Nor is there currently the ability to partner with private industry to facilitate and enhance and the transfer of technological innovation. The central, waterfront location, which offers a wide-range of transportation options, along with support from the City of Richmond to sustainably develop the surrounding areas to support the campus needs, make the Richmond Bay Campus the ideal choice for the expansion of the UC Berkeley and LBNL.

Approving the LRDP and Physical Design Framework is the first critical step to creating a world class campus expected of the University of California. We look forward to seeking continued support from the University of California Board of Regents in supporting this project and advancing the future of the University of California, Lawrence Berkeley National Laboratory and the Richmond community.

Sincerely,

James A. Becker
President and CEO

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May 9, 2014

VIA U.S. MAIL AND E-MAIL

University of California, Board of Regents
Office of the Secretary and Chief of Staff
1111 Franklin St., 12th floor
Oakland, CA 94607
E-mail: regentsoffice@ucop.edu

Re: Agenda Item GB4 of the UC Regents Meeting on May 14, 2014: Adoption of the Long Range Development Plan Pursuant to California Environmental Quality Act, and Acceptance of the Physical Design Framework, Richmond Bay Campus, Berkeley Campus

Dear Board and Committee Members:

Please accept these comments on behalf of the Contra Costa County Building and Construction Trades Council ("Council"), its affiliated unions, and their members and their families. Individual members of the Council and its affiliated unions live, work, recreate, and raise their families in the City of Richmond and surrounding communities. They would be directly affected by the environmental and health and safety impacts of implementing the proposed Richmond Bay Campus Long Range Development Plan ("Plan"). The Council has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. The UC Board of Regents Committee on Grounds and Buildings has been asked to consider the Final Environmental Impact Report ("EIR") for the Plan.¹

¹ The staff report for Agenda Item GB4 recommends that the Committee certify the EIR, adopt a Mitigation Monitoring Plan, Findings, and Statement of Overriding Considerations, and make a recommendation to the Board of Regents to approve the Plan. If the full Board of Regents is the "decision making entity" who will approve the Plan, it is not appropriate for the Committee to certify the EIR. (Cal. Code Regs. Title 14 ["CEQA Guidelines"], § 15025(b); *POET, LLC v. California Air Res. Bd.* (2013) 218 Cal.App.4th 681, 731 ["CEQA is violated when the authority to approve or disapprove the project is separated from the responsibility to complete the environmental review"].)

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The EIR for the Plan is a “program” level EIR prepared under the California Environmental Quality Act (“CEQA”), Public Resources Code § 2100 et seq. The EIR only analyzes the environmental impacts of developing the Richmond Bay Campus on a broad or “macro” scale. Like many others in the Richmond community, the Council is concerned about the public’s ability to participate in the future analysis and mitigation of individual campus development projects as they are proposed. The EIR acknowledges that future projects will receive individual analysis, but is vague about what level of review and public participation might occur. The EIR states that project-level analyses may take the form of “tiered, focused, supplemental or subsequent CEQA documentation,” may “not require additional documentation,” or may require “an addendum to the EIR, likely in the form of an initial study checklist or CEQA findings.”²

The public should be afforded the maximum opportunity for future involvement in reviewing the project-level implementation of the Plan. The Board of Regents should also have the flexibility to further analyze and mitigate the impacts of individual development projects when they are proposed. The Council hereby reserves its right to provide future comments and suggestions for appropriate mitigation of project-specific environmental and health and safety impacts.

The EIR is drafted in a way that will support the need for detailed environmental review and mitigation of individual construction projects. Many impacts that may be created by a particular development project have not been examined at a sufficient level of detail to be adequately mitigated without further CEQA review.³ In some areas, such as air quality, greenhouse gas emissions, and traffic, the EIR finds that impacts will be “significant and unavoidable.” These findings will only be valid for three years.⁴ These findings will also not be applicable where the EIR has required the development of future mitigation measures during subsequent project review, such as the proposed preparation of emissions reduction plans, a Climate Action Plan, and a traffic mitigation program.⁵

² Final EIR, p. 9-19.

³ See CEQA, Pub. Resources Code § 21094(a)(1)(B).

⁴ *Id.*, § 21094(a)(2)(D).

⁵ *Id.* § 21094(a)(2)(C); Final EIR, pp. 2-11, 2-21, 2-28.

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Finally, the EIR acknowledges that new policies and standards may apply at the time a future project is developed, and that further studies may be necessary, depending on the type of project and its location on the Richmond Bay Campus.⁶

The Council appreciates the consideration of the Board and the Committee with respect to these comments, and the willingness of UC Berkeley and the Lawrence Berkeley National Laboratory to continue working with the community to address community concerns about the Long Range Development Plan for the Richmond Bay Campus.

Sincerely,



Ellen L. Trescott

ELT:ljl

cc: Jeff Philliber, Environmental Planner (via e-mail, rbc@lbl.gov)

⁶ Final EIR pp. 9-7 (the most “up-to-date” science and regulatory policies for the clean-up of soil contamination will be followed when new projects are initiated); 9-289 (project-specific wetland mitigation plans may be necessary); 2-35 (tree planting plan may be warranted); 9-25 (grassland management plan will be updated as projects are proposed); 2-36 (plans for the diversion and recycling of construction waste will be prepared on a project-specific level); 2-21 (erosion control measures will be project specific).



Board of Regents
University of California

Concerning:
Community Partnership Commitment
LBNL Campus Richmond

10 May 2014

To whom it may concern,

Over the past months I have attended several work meetings concerning the Richmond Bay Campus and Richmond Community Partnership Discussion.

The process was as thorough as the time allowed and the UC team showed intense interest in the comments from the community. The resulting Commitment document represents this process well.

Therefor I want to express my full support for the Commitment Document that has been presented to you.

Yours Sincerely

Ron Holthuysen
Creative Director
Scientific Art Studio

SCIENTIFIC ART STUDIO



*inspiring people to protect
Bay Area birds since 1917*

May 13, 2014

To: UC Regents

From: Golden Gate Audubon Society

Re: EIR for LBNL/UC Richmond Campus is legally inadequate and must not be certified

The Golden Gate Audubon Society (GGAS) encourages the UC Regents to vote against the approval of the Lawrence Berkeley National Laboratory (LBNL) LRDP for the Richmond campus, and against certification of the accompanying EIR.

Our main objection to the project itself is that it proposes to eliminate a substantial portion of rare coastal prairie – much of it for athletic fields that are not required by the campus’s scientific mission – in spite of the EIR’s assertion that this habitat is “scientifically and ecologically invaluable, and virtually impossible to recreate.” Additionally, at least two significant impacts of the project are not identified in the EIR, one is identified and unjustifiably dismissed; if these impacts are not acknowledged, and mitigations developed, the project will have substantial negative environmental effects on species in the adjacent wetlands. Finally, the reasoning behind accepting a significant avoidable impact is not explained as required.

Impacts are not identified in the EIR in spite of being pointed out in comments on the DEIR

Two impacts that are not identified are:

1. Exterior lighting has been shown to disrupt bird sleep and feeding cycles. This is of great concern to GGAS because, as documented in the EIR, the project site is immediately adjacent to wetlands that are home to many birds, including endangered species such as the Clapper Rail. GGAS noted this in our comments on the Draft EIR, but the final EIR does not even mention this impact.
2. Lighting also allows nocturnal predators to more easily find prey. This impact, too, was noted in GGAS comments on the draft EIR but is not discussed in the final EIR.

The only impacts of lighting that are discussed in the EIR are the increased risk of bird collisions with windows, and the effect on navigation of migrating birds. The EIR says “Lighting levels, design, and practices at the RBC site would be similar to lighting employed at the LBNL main site where the campus is lit at night with restrained building lights and muted outdoor lighting. Thus any adverse impacts from lighting on special status species birds are expected to be negligible.” The final statement of that paragraph is unsupported and unjustified, especially in light of the sentence that immediately precedes it: lighting levels at the LBNL main site, though arguably ‘restrained’ and ‘muted’, are not negligible, and the lights are bright enough to cast shadows hundreds of feet away. This can be seen, for example, at <http://lbl.webdamdb.com/viewphoto.php?&albumId=129362&imageId=7418981> Lighting at this level can be reasonably expected to affect the sleep and feeding cycles of birds and other wildlife, and to provide an advantage to nocturnal predators.

An impact is unjustifiably dismissed in spite of substantial evidence of harm

GOLDEN GATE AUDUBON SOCIETY

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An impact that is dismissed is the effect of garbage. Any assemblage of thousands or tens of thousands of people generates some edible litter, which attracts and subsidizes some human-tolerant species (such as rats, raccoons, crows, and gulls), which also prey on the young and eggs of other species. This impact was noted in GGAS comments on the draft EIR, and a few astonishing sentences were added to the final EIR in response (p. 4-82):

“Thus an increase in trash can threaten special status bird species. Raccoons, skunks, and gulls are examples. These and similar species are already present at the RBC site and are not expected to increase. The campus would be primarily an institutional workplace and not a recreational area. Most dining would likely occur indoors at a cafeteria facility. Outdoor dining would occur, weather permitting, but the culture of the RBC would be similar to that among the professional and scientific staff already at the UC Berkeley and LBNL main campuses, where recycling and environmentalism are the norms and leaving garbage behind and/or littering is generally not tolerated. Facilities would be modern and kept very clean, and dumpsters and other trash collecting receptacles would be equipped with closing lids and wildlife-proof structures.”

One of the authors of this letter, GGAS Board Member Dr. Phillip N Price, is an LBNL employee and is of course extremely familiar with the situations at UCB and at the LBNL main campus. Price notes that (1) edible trash can be found on both campuses, (2) he has seen employees feeding food scraps to sparrows and squirrels at both campuses, and (3) LBNL contracts with a pest control company to control the rat population. Although it is true that both UCB and LBNL are well-maintained campuses where littering is not tolerated, it is also true that if a scrap of food falls out of someone’s sandwich they do not necessarily pick it up. This is a factual matter that can be easily confirmed with a site visit...as is the fact that squirrels, crows, and sparrows are subsidized by these food sources. The EIR errs in claiming the numbers of human-subsidized animals are not expected to increase when its own example demonstrates that such an increase is expected. Indeed, to dismiss this effect in spite of the evidence of its significance at the existing campuses calls into question the good faith of the project’s proponents: no reasonable person could argue that these effects are negligible.

The current EIR is legally inadequate

LBNL did not make a good faith effort to respond to GGAS’s public comment on the DEIR with reasoned analysis and GGAS directs the Regents to review its comment, attached to this letter, for further detail on the above-listed concerns. Below, we briefly summarize two of the ways in which the EIR fails to comply with CEQA.

“In the course of preparing a final EIR, the lead agency must evaluate and respond to comments relating to significant environmental issues. (§ 21092.5, subd. (a); Guidelines, §§ 15088, 15132, subds. (b - d).) In particular, the lead agency must explain in detail its reasons for rejecting suggestions and proceeding with the project despite its environmental effects. (Guidelines, § 15088, subd. (b).) ‘There must be good faith, reasoned analysis in response [to the comments received]. Conclusory statements unsupported by factual information will not suffice.’ (Ibid.)” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1124 (Laurel II).)

In this case, the EIR disregards the impact of lighting and edible garbage on wildlife and has not, therefore, fully responded to public comment.

In defense of its failure to address lighting as a significant impact, the EIR states “Projects under the LRDP would not introduce lighting where there is none as lighting already exists on the site and

adjacent properties.” (EIR 4-82, 9-224.) This is an indefensible position given that the LRDP plans for significantly more developed acreage and accompanying lighting than currently exists. The question is not whether lighting already exists on site, it is whether the increased lighting generated by the project will have an impact.

LBNL similarly dismisses the impact of edible garbage basically claiming that a greater human population would not result in more edible garbage because professional and environmental staff don't litter and “the campus would be primarily an institutional workplace and not a recreational area.” (EIR 4-82.) This is ridiculous where development is planned to increase the human population on the RFS 33-fold, from 300 to 10,000 and where the LRDP specially includes “Amenities such as dining, short-term accommodation facilities (for visitors), retail, and recreation facilities” (LRDP 4.4) including a sports field to replace irreplaceable “high quality” coastal terrace prairie.

As the EIR did not address significant environmental concerns of lighting and edible garbage on the large number of protected species present at RFS, the EIR is legally insufficient. (*See The Flanders Foundation v. City of Carmel-By-The-Sea* (2012) 202 Cal. App. 4th 603 (Where an EIR certification was overruled based on the agency's failure to respond to a single argument in a single comment letter.)

Additionally, the EIR does not address the direct impact of the permanent loss of 59% of the “‘sensitive natural community of limited distribution’ under protocols prepared by CDFW” (EIR 4-58) or the permanent loss of 1/3 of this plant community the EIR itself identifies as “high quality.” Pursuant to California Code of Regulations, Title 14, section 15065 a “threat to eliminate a plant or animal community is a mandatory finding of significance.”

LBNL did not make a finding of significance, instead claiming, “Implementation of the 2014 LRDP and the mitigation measures below would result in a net benefit to the quality and continuing preservation of the sensitive natural coastal terrace prairie community at the project site, over existing conditions.” (EIR 4-86.) This is precisely the type of “conclusory statement[] unsupported by factual information” prohibited by *Laurel Heights Improvement Assn. v. Regents of University of California*. The EIR does not explain how a net loss of greater than half of the coastal terrace prairie could possibly result in a net benefit.

GGAS suggested in its public comment that a far greater amount of this habitat should be preserved, specifically the “high quality” Northwest Meadow. LBNL did not “explain in detail its reasons for rejecting suggestions and proceeding with the project despite its environmental effects.” LBNL has provided no reason why the Northwest Meadow will not be protected as Natural Open Space area in spite of its acknowledgment that “the Northwest Meadow, unlike the eastern meadows, is considered high-quality coastal terrace prairie. . . . Upon removal of the existing building 280 at the proposed RBC site, the meadow would be largely contiguous with the Natural Open Space area.” (EIR 9-31.)

The EIR has not presented any viable mitigation measures. The only proposed mitigation is to take plants from rare and sensitive grassland communities prior to permanently destroying the communities. This does not address the permanent destruction of the communities and does not realistically portray the ability to recreate the destroyed plant community. As the EIR makes quite clear, there is no other place to develop or restore this invaluable sensitive plant community. “A 1993 study concluded that ‘the remnant coastal prairie grassland at Richmond Field Station is scientifically and ecologically invaluable, and virtually impossible to recreate’ (Amme 1993).”

(DEIR 4-56.) “According to David Amme (2005), there are no other sites that match the soils and hydrology that occur at the RFS.” (DEIR Appendix C iv)

“Judicial review of an agency’s decision to certify an EIR and approve a project ‘shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.” (*Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1352.) Here, LBNL has abused its discretion in failing to respond to public comment, failing to make required findings of significant impact, and basing its conclusions upon less than substantial evidence. The Regents have a duty to direct LBNL to amend the EIR to fully address public comment and to cure its many failings.

Conclusions

We urge the UC Regents to vote against certifying the EIR in its current state. The EIR fails to meet its required legal standards by failing to identify potentially significant impacts related to lighting and trash, failing to respond adequately to public comments on the draft EIR about those matters, and failing to explain why athletic fields must be built on the site of the ‘ecologically invaluable’ Northwest meadow.

The impacts of lighting and edible trash should be identified as significant or potentially significant and mitigations should be identified. GGAS would appreciate the opportunity to help identify such mitigations, although ultimately this is the responsibility of the project’s proponents. And the proposed athletic fields should be eliminated from the plan, moved to another site, or located elsewhere on the site, in order to preserve rare coastal prairie.

Golden Gate Audubon Society
Prepared by Phillip Price and April Rose Summer

THE SMITH FIRM

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May 13, 2014

The Regents of the University of California
Submitted via email to: regentsoffice@ucop.edu

RE: Richmond Bay Campus LRDP FEIR, Clearinghouse no. 2013012007

Dear Sir/Madam:

The many pages of the final environmental impact report (FEIR) prepared for the University of California's Richmond Bay Campus long range development plan (LRDP) fail to disguise the project's still-significant impacts to prairie grassland.

I write representing Sustainability Parks Recycling and Wildlife Legal Defense Fund. SPRAWLDEF focuses on maintaining the natural spaces of the Bay Area and Northern California.

The Richmond Bay site contains many acres of coastal grassland, some large, some small. All such areas should be preserved and connected under the plan.

While the final EIR provides a new "management plan" for the grasslands (Appendix G), at last recognizing the need for a comprehensive plan, it is defective for several reasons.

Mitigation means more than simply a plan to monitor impacts:

"Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design." CEQA Guideline §15126.4 (14 CCR §15126.4)

No funding is dedicated in the FEIR to implement the grassland plan. Nor is the plan as presented "fully enforceable." There are no legally-binding aspects of the plan.

Therefore the grassland plan would do nothing more than monitor the continued degradation of a finite remaining area of the grasslands. Mitigation that does not reduce the impacts of the project is not mitigation.

In spite of the grassland plan, the FEIR acknowledges that feasible mitigation is purposefully ignored. This is especially the case with the failure to describe and analyze habitat

corridors which provide the perfect connection between the various grassland meadows. See Response CNPS-8 at FEIR p. 9-103.

Finally, the grassland plan to “transplant” small areas of coastal prairie to the remaining larger ones will undermine any mitigation such that the impacts to grassland are significant. “Transplanting” as described in Appendix G amounts to nothing more than the eradication of smaller areas of grassland. Replacement on rooftops is not preservation of the prairie.

Any claim that such “relocation” will be an offset, improving the remaining larger areas of grassland, is factually unsupported. Grassland prairies are more than a clod here and a clod there; they are interconnected species knit by the contiguous habitat that is the prairie.

Again, removing smaller grassland areas is a net loss of grassland.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Smith', with a long horizontal flourish extending to the right.

KELLY T. SMITH

cc: Client